Journal of the European Union Chamber of Commerce in China

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CHINA-EURASIA EXPO
---Pearl on the Silk Road Economic Belt

Over 2,000 years ago, camel bells rang incessantly along the ancient Silk Road. As times have changed, the new Silk Road Economic Belt has again turned into an important passageway linking China and Eurasia, becoming the world's longest economic corridor with the greatest potential. Walking along this new dream road, the China-Eurasia Expo radiates confidence and youthful vitality.

The China-Eurasia Expo has been held three times consecutively since 2011. More and more heads of state and government, politicians as well as officials from international organizations meet in Xinjiang to discuss friendship and cooperation. More and more global 500 companies come here to seek business opportunities. Eurasian countries engage in talks, sign agreements and forge cooperative relations. High-profile forums on politics, economy, humanism, science, transportation, agriculture and finance are held to collect thoughts and plans for the future. Various colorful cultural activities open another platform for cooperation in different areas between China and Eurasian countries. The 5-day exhibitions display high-end technologies, products and investment projects from China and Eurasian countries, covering construction machinery, building materials, furniture, hardware tools, agricultural products, food, textiles and other areas. Over the three years, the China-Eurasia Expo has attracted over 70,000 domestic and 15,000 overseas merchants. 513 projects were signed by Chinese merchants while foreign trade volumes totaled 17.347 billion U.S. dollars. The number of visitors totaled 920,808.

In September 2014, the 4th China-Eurasia Expo will again be held. It will open a new page for exchange and cooperation between China and countries in Central, West and South Asia as well as Europe. The new Silk Road Economic Belt calls for friendship, cooperation, opening up, mutual trust and win-win development. A beautiful Xinjiang is ready to welcome visitors and hopes to give the world a new opportunity to observe Xinjiang closely and better understand the region. It hopes to work together with the Eurasian continent to create fresh prosperity. The China-Eurasia Expo sincerely welcomes friends and visitors from around the world!

September 2014, Urumqi of Xinjiang, China welcomes you!

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IN THE ZONE: SIX MONTHS ON

Mr Davide Cucino
President of The European Union Chamber of Commerce in China

Since its inauguration in September last year, the China (Shanghai) Pilot Free Trade Zone (CSHPFTZ) has arguably fallen somewhat short of the high hopes it inspired in the international business community in the beginning. While many initially applauded the new *Negative List* approach, it has yet to be reduced, despite official statements that the government would do so in a timely fashion.

The CSPFTZ still has the potential to be a ground-breaking test bed for economic reforms in China and a stepping board towards giving much greater play to market forces throughout the entire Chinese economy. In this respect, the bilateral meetings we have held with the Shanghai authorities over the past half year have convinced us of their determination to undertake the bold measures that are required to make the CSPFTZ a success—including a reduction of the *Negative List* by up to 40 per cent in due course. The Chamber, of course, remains very much committed to continue and further strengthen our communications with the relevant Chinese agencies during this exciting process.

In this edition of EURObiz we focus on the developments regarding the CSPFTZ over the past six months, with articles putting specific focus on topics such as foreign companies' tax treatment, logistics issues and banking sector reforms inside the zone.

The main topic of the January/February edition of EURObiz was information and communications technology (ICT), and we encounter the topic again in this issue in the context of the CSHPFTZ. Foreign companies are now able to engage in value-added telecommunication services and e-commerce, albeit under, as of yet, a lingering burden of restrictions.

There has been a lot of impetus on banking sector reforms recently, many of which are set to be piloted in the CSHPFTZ. The recent meetings of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC), collectively known as the *lianghui*, have shown the requisite political resolve in this regard as exemplified by People's Bank of China Governor Zhou Xiaochuan's statement that China's currently state-directed deposit interest rates would become fully liberalised in "one or two years." Interest rate liberalisation is an issue that the Chamber has long been advocating, as the use of market-price signals—in particular higher interest rates—would restrain the high levels of credit growth in the Chinese economy and incentivise economic efficiency.

In addition, we will take a look at the current state of the highly important EU-China Bilateral Investment Treaty (BIT) negotiations; the perspective on the BIT negotiations given herein comes from the Brussels office of a political consultancy.

On a personal note, this is my last time I will provide the foreword for EURObiz as the Chamber's President as I am about to complete my tenure after three extremely rewarding years. Please find an interview with me on page 28 of this issue in which I was given the opportunity to further elaborate on the joys of my presidency. I am grateful to both the members of the Executive Committee who have served with me and the Secretariat, past and present, without whom my work would simply not have been possible. I would like to give a special thanks to all the members that have supported the Chamber during my three terms, and particularly the members of the Advisory Council who have not only given extraordinary support but also helped to provide strategic guidance.

Finally, I would like to extend my very best wishes to my successor—who will be elected at our upcoming AGM on 24th April—as they prepare to take on this challenging yet rewarding role. I believe that organisational change can be an extremely positive force and I look forward with great anticipation to the future of the European Chamber—and indeed EU-China relations in general—as we enter the next exciting phase of development.

BANKING ON CHANGE

The China (Shanghai) Pilot Free Trade Zone, which was officially launched on 29th September, 2013, seeks to ease the administrative burdens and legal restrictions that both foreign and Chinese investors are currently faced with, at least within its confines.

In this article, **Richard Gu** and **Alex Roberts** from **Linklaters** introduce the most recent batch of rules which look to reform the banking sector, both in terms of business within the Zone and across the rest of China.

A visit to the China (Shanghai) Pilot Free Trade Zone (the Zone) might lead you to conclude that not much has changed within these former bonded zones, given the lack of sizeable construction activity. The statistics, however, would suggest otherwise. Within the first 100 days of its inception in late September 2013, the Zone saw more than 2,000 domestic and 100 foreign company registrations. In January, the gross value of imports and exports in the Zone totalled RMB 59.6 billion—an 18 per cent increase on the figure for the Zone's first month of operation.

The true impact of the Zone may not be seen primarily in bricks and mortar, but in its potential to transform the way that business operates in various service sectors in China.

Banking sector

The People's Bank of China (PBoC) issued its guiding framework for the Zone on 2nd December, 2013, followed by a clarificatory notice on 20th February, 2014. This was followed by detailed rules issued by the State Administration of Foreign Exchange (SAFE) on 28th February, 2014. The new rules introduce foreign exchange reform and conversion, interest rate liberalisation and provide a platform for the much-anticipated internationalisation of the *renminbi* (RMB). The changes are wide-ranging and have the potential to significantly benefit businesses and financial institutions within and outside of the Zone, some of which are highlighted below:

- **Cross-border RMB transactions:** The PBoC's reforms allow residents of the Zone, including European and other foreign-invested enterprises (FIEs), to open new RMB and foreign currency free trade accounts (FTAs) with a Shanghai-based bank. Specifically in terms of RMB from outside Mainland China, the FIE may freely transfer funds from its FTA to bank accounts outside the Zone for current account business (经常项下业务), debt repayment (偿还贷款), business investment (实业投资) or other approved purposes (其他符合规定的跨境交易). Any such transfer will be treated as "cross-border RMB business" with the result being that the RMB deposited into the recipient bank account will no longer be treated as foreign currency and can be deployed as RMB.

- **Cross-border foreign exchange transactions:** The SAFE reforms increase the amount that a FIE in the Zone can lend in foreign currency to affiliates outside China from 30 per cent to up to 50 per cent of the value of the equity held by the lender in the borrower, and remove, in the Zone, most of the restrictive conditions which apply to entities in China seeking to provide security or guarantees to beneficiaries outside China.

- **Securities and futures investments:** FIEs and other enterprises in the Zone will be permitted to invest on the Shanghai securities and futures exchanges.

- **Foreign individual investments within China:** Qualified foreign individuals who are employed in the Zone and open special investment accounts with Zone financial institutions will be permitted to make investments in the Chinese securities markets.

- **Raising loans outside China:** FIEs and other entities established under the Zone rules may borrow offshore RMB up to a monetary cap equal to the product of its registered capital and a factor to be determined by the PBoC; a wholly-owned FIE, which was set up in the Zone before its launch has been granted the additional flexibility to make a one-time irrevocable election to borrow in accordance with either (a) these new arrangements, or (b) the difference between the entity's total investment amount and registered capital. However, in either case, the offshore RMB may only be used in the Zone or outside China.

- **Cash management:** To encourage European companies and other multinationals to set up their global or Asia Pacific headquarters in the Zone, qualified Zone enterprises will be able to (a) establish a two-way RMB cash pooling arrangement for its parent company's group, and (b) maintain accounts to centrally manage the foreign exchange income and expenditure of their Chinese and non-Chinese subsidiaries, including by converting the foreign currency funds to RMB, and aggregating the respective subsidiaries' positive and negative net foreign currency balances for the purpose of current account payments.

- **Domestic bonds:** Overseas parents of Zone enterprises are to be permitted to issue RMB bonds in Mainland China as a means of raising funds. According to Credit Suisse, between 2007 and the end of last year approximately USD 48 billion of dim sum bonds (bonds denominated in RMB and issued in Hong Kong) had been issued. Shanghai hopes to take a slice of this market.

- **Convertibility:** European-invested and other enterprises in the Zone will, when the conditions are 'mature', be permitted to freely convert the foreign currency in its FTA. Without further implementation rules, it is not clear when conditions would be considered as 'mature' and whether a Zone enterprise would be given complete discretion in currency conversion without any quota or other restrictions. The SAFE reforms, however, go one step further towards convertibility by permitting FIEs in the Zone to convert their foreign currency capital into RMB on a discretionary basis, but controls on the use of the converted funds still apply.

- **Benefits to financial institutions:** The reforms

within the Zone will also create certain benefits and opportunities for financial institutions that do not exist in the rest of China, such as a platform for entering into international derivatives transactions to hedge their risk exposure.

Looking ahead

Although many of the rules for the Zone that have been released to date are still relatively high level and subject to further implementing guidelines, the majority of reforms have been published with the clear backing of the central governmental and political infrastructure. European and other overseas companies should be optimistic about the desire to remove regulatory red tape and facilitate a more market-orientated business environment within the Zone.

What is also particularly striking is the approach being taken by authorities of the Zone.

First, there is a certain amount of blue-sky thinking, with concepts such as the FTA or, as announced in February 2014, the Shanghai Judicial Bureau's plan to permit Chinese and foreign law firms, such as Linklaters, to form alliances. This would, for the first time in China (outside Mainland China's Closer Economic Partnership Arrangements with Hong Kong and Macau), permit foreign lawyers (together with their Chinese-qualified counterparts) to be mandated on Chinese law matters.

Second, the Zone authorities are markedly open to consultation with proactive foreign investors and representative bodies. The European Chamber, supported by local experts such as Linklaters, regularly attend meetings with central and Shanghai government officials and rule-makers to present the views of European companies, and lobby for reforms which will create a robust and transparent environment for investment and business operation. Given that the Zone is widely seen as a testing ground for wider economic reforms, such engagement is hoped to facilitate reforms that ultimately extend to the whole of the Chinese market.

Many European businesses already in, or looking into China, rightly have huge interest in the Zone because it continues to represent a significant milestone in the liberalisation of the Chinese economy. Further detailed rules clarifying the extent to which foreign investment will be allowed across all sectors and, importantly, the extent to which services may be provided from within the Zone to businesses and consumers outside the Zone are eagerly awaited over the coming weeks and months. Eb

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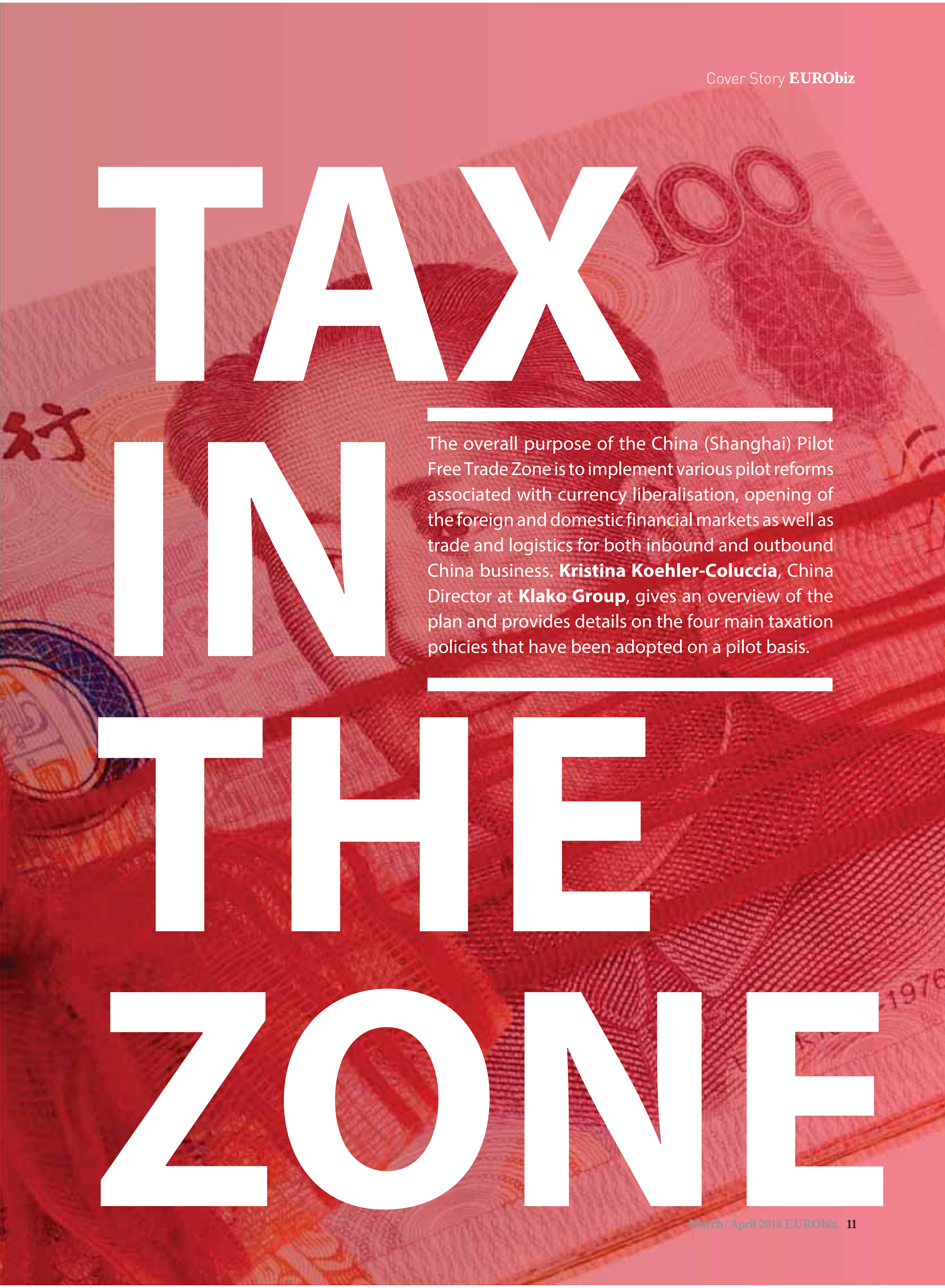


TAX IN THE ZONE

The overall purpose of the China (Shanghai) Pilot Free Trade Zone is to implement various pilot reforms associated with currency liberalisation, opening of the foreign and domestic financial markets as well as trade and logistics for both inbound and outbound China business. **Kristina Koehler-Coluccia**, China Director at **Klako Group**, gives an overview of the plan and provides details on the four main taxation policies that have been adopted on a pilot basis.

The Framework Plan for the China (Shanghai) Pilot Free Trade Zone (CSPFTZ or Zone) outlines four main principles:

1) Improvement of government administration

The Chinese Government has been frequently criticised for its overzealous bureaucracy. Complicated pre-approval and administrative processes have historically hindered businesses setting up operations, particularly foreign-invested enterprises. The SHFTZ aims to eliminate this bureaucracy and allow domestic and foreign companies alike to register via a simple filing procedure with local authorities, provided the business is not excluded in some way by the *Special Administrative Measures (Negative List) on Foreign Investment Access to the China (Shanghai) Pilot Free Trade Zone (2013)* (the *Negative List*).

2) The Negative List

This is the first time in China that a *Negative List* has been adopted for investment. Any sector not specifically prohibited by the list will be permitted and will only be subject to a simple filing process with the CSPFTZ authorities. Issued by the Shanghai Municipal Government on 30th September, the complete list includes 18 industrial categories. In the preliminary review, the list mainly followed the restricted and prohibited industries listed in the *Catalogue of Industries for Guiding Foreign Investment* (*Foreign Investment Catalogue*).

3) Free flow of capital

One of the main objectives of the CSPFTZ is to explore the free convertibility of the *renminbi* (RMB) between China and the rest of the world. It is clear that initially this will only be permitted between the CSPFTZ and the outside world but the actual implementation processes will take time to be properly defined.

4) Free trading and shipping

The CSPFTZ aims to liberalise and improve the efficiency of customs bureaux within its confines in order to make the Zone a transition centre of goods as well as a global trading hub.

One major difference between the CSPFTZ and all the other economic zones that have been opened and are operating in China is that it will not form a special regime to attract foreign investment. The goal, rather, is to reform the existing legal, tax, customs and financial systems in the Zone in order for it to be expanded and utilised throughout the country; the CSPFTZ will not adopt any preferential treatment or benefit that cannot be applied elsewhere in China. A perfect example of this is the Enterprise Income Tax rate. It had been rumoured that the rate would be lowered from 25 per cent to 15 per cent in the CSPFTZ, yet so far no circular has been issued on this. Instead, as predicted by some, tax reforms seem to be in the form of free trade and shipping as a way of benefitting investment.

The Ministry of Finance, the General Administration of Customs and the State Administration of Taxation issued the *Notice on Relevant Import Taxation Policies Application to the China (Shanghai) Pilot Free Trade Zone* on the 24th October, 2013. There are four main policies that have been/will be adopted in the zone on a pilot basis:

1) Lease/purchase of aircraft

Domestic leasing companies registered within the CSPFTZ or project subsidiaries shall enjoy the preferential value-added tax (VAT) policies described in the *Notice of the Ministry of Finance and the State Administration of Taxation on Adjusting Relevant Value Added Tax Policies Applicable to Aircraft Import* (*Cai Guan Shui [2013] No.53*) and the *Notice of the General Administration of Customs on Adjusting Relevant Issues Concerning Import-Value Added Tax on Aircraft Import* (*Shu Shuifa [2013] No.90*) for both purchasing overseas aircrafts whose empty weight is no less than 25 tons, upon approval by the State departments, and leasing the same to domestic airline companies for use. A five per cent reduced import VAT is applicable on overseas purchases of these aircraft.

2) Taxation on domestic sales

Goods produced, processed and assembled by companies in the CSPFTZ and sold to other regions in Mainland China will still be subject to import VAT, customs duty and consumption tax (if applicable) in accordance with the regulations. The principle rule is that the goods will be treated as imported if they are sold to the domestic market.

This regulation ties together with the new customs regulation of a supervisory system for the exit and entry of goods between the CSPFTZ and other areas within China. Under this system, a check-point and e-information network model will be adopted so as to provide an efficient and sound supervision system. Strict quality and safety risk controls will be promoted within the zone as well.

According to Circular 75, a pilot scheme will be implemented under which the import duty may be levied based on the corresponding imported materials or taxed based on its original customs declaration status, as opposed to being based on the finished goods.

Note that there is no specific information on the implementation rules. Once these are issued it will be interesting to make a comparison on how this differs with other bonded areas and export processing zones.

3) Importation of machinery and equipment

Certain imports of machinery, equipment and other such products necessary for the functioning of manufacturing companies and service-oriented manufacturing companies within the Zone will be exempted from tax, exclud-

ing goods imported by companies intended to produce daily life services. According to Circular 75 this policy does not build up a new duty free import regime and the policy in the CSPFTZ should still be within the framework of the existing policies in other zones.

4) Bonded exhibition trading platforms

This policy will impact the consumer retail industry more so than the industrial, trading and manufacturing sectors. Under the premise of strict compliance with import taxation policies on cargoes, bonded exhibition and transaction platforms are allowed to be established in designated areas. It is expected, and has been seen, that consumer products can then be sold/traded through this platform.

In addition the *Framework Plan for the China (Shanghai) Pilot Free Trade Zone,* released in September, outlines further policies and goals for theZone. This includes the following in respect to outbound investment from China and equity incentives for highly-skilled employees or employees in short supply:

1. For companies or individual shareholders within the Zone that carry out asset restructuring activities, such as investment by means of non-monetary assets, the income tax payable due to the increase in asset valuation can be paid by instalments within a five-year period.

2. Where companies within the Zone award highly-skilled employees or employees in short supply by means of stock options, the relevant individual income tax may be paid in instalments (this is similar to the policy in Zhongguancun High-Tech Park in Beijing and other districts where they allow the payment over five years).

Additionally, in line with the direction of tax reform and international practice, tax policies will be studied to support the development of overseas equity investment and offshore business, under the condition that such tax policies do not lead to base erosion or profit shifting.

The detailed stipulations in many aspects are still under development, particularly as we wait on the actual implementation guidelines, but in general foreign investors will see that the new policies really only affect certain sectors and certain industries rather than the full spectrum of companies permitted to establish in the Zone. The key is to wait on further circulars that will be issued in relation to the implementation guidelines. Eb

***Klako Group** is an international accounting and management consulting firm established in 1979. They provide a wide range of market entry consulting, incorporation, tax, accounting, human resource and trade services to organisations interested in entering and expanding throughout China, Hong Kong and Singapore. Klako Group is managed by an international and local team of over 120 certified public accountants, consultants and legal professionals who work in eight offices in China (including Beijing, Chengdu, Dalian, Guangzhou, Hangzhou, Shanghai, Shenzhen and Tianjin), Hong Kong and Singapore. Their International Desks speak English, German, Spanish, French, Italian, Portuguese, Russian and Japanese.*

GALLOPING TOWARDS TELECOMS LIBERALISATION

International investors looking to take advantage of China's vast telecoms market are faced with a multitude of regulatory restrictions. Although China initially opened up its telecoms market to international investors under its WTO accession commitments, international companies are only allowed to conduct telecoms services in a limited range of sectors and are subject to strict ownership restrictions.

In the Year of the Horse these restrictions are gradually lifting within the China (Shanghai) Pilot Free Trade Zone (CSPFTZ), and **Barbara Li** from **Norton Rose Fulbright** says that this may spur foreign telecoms players to get in the zone.

In the past ten years, China's telecoms industry has witnessed explosive expansion. The data from the Ministry of Industry and Information Technology (MIIT) shows that by the end of December 2013, China recorded over 1.2 billion mobile subscribers with mobile phone penetration rate increasing 6.7 per cent on a year-on-year basis. Internet access has seen similar growth; China now boasts 600 million internet users with 50 per cent growth projected in the next three years, and Chinese e-commerce companies often outperform their US competitors.

On 6th January, 2014, the State Council issued the *Guidelines on Interim Adjustment of the Administrative Approval in China (Shanghai) Free Trade Zone* (*Guidelines*). On the same day, the MIIT and the Shanghai Municipal Government jointly issued the *Opinions on Further Opening Value-added Telecommunications Services to Foreign Investors in China (Shanghai) Free Trade Zone* (*Opinions*). The *Guidelines* and *Opinions* are part of the rules issued by various regulators following the promulgation of the *Overall Programme for the China (Shanghai) Free Trade Zone* by the State Council on 27th September, 2013. These developments are an important step towards the liberalisation of China's telecoms industry.

State Council Guidelines

The *Guidelines* affect eight different sectors, with those relating to the telecoms and technology sectors being especially noteworthy. They state the broad intention to allow international companies to run designated value-added telecommunications services in the CSPFTZ; the ban on production and sales of gaming consoles in China that was imposed fourteen years ago has also been conditionally lifted.

MIIT Opinions

The *Opinions* set out objectives for promoting the liberalisation of value-added telecoms services in the CSPFTZ, further opening up the telecoms industry to foreign capital and maintaining a competitive telecoms market.

Compared to the current system, several breakthroughs emerged from the *Opinions*. The first notable breakthrough is that international companies will be able to invest in a broader range of sectors and the following fields are now open to foreign companies :

- call centre services
- internet access services
- multi-party voice and video communication services
- domestic internet virtual private network (VPN) businesses.

In the past, the MIIT has taken a relatively conservative approach in interpreting the scope of value-added telecoms services and the above fields have generally been closed to foreign capital.[1]

Another major breakthrough is that for the first time international companies are permitted to set up wholly foreign-owned enterprises (WFOEs) to conduct certain value-added telecoms services. This demonstrates a significant regulatory movement to open up the telecoms market to international companies. According to China's WTO commitments, international companies must set up a sino-foreign joint venture to engage in value-added telecoms services and the maximum equity interest an international company can hold is 50 per cent. Now, under the *Opinions*, there is no foreign ownership restriction and international companies can set up 100 per cent subsidiaries in the following sectors:

- online application stores
- storage and forward businesses
- call centre services
- internet access services
- multi-party voice and video communication services

The 50 per cent foreign equity restriction is now removed for online data exchange and transaction processing (i.e. operational e-commerce), although the foreign investor is still subject to the maximum 55 per cent foreign ownership. However, this relaxation means that international investors can hold a majority equity interest in the local company and will be able to exercise better control over the business operations of its local subsidiary.

Crucially, all telecoms business enterprises that register and base their service facilities in the CSPFTZ will be allowed to offer their services (excluding internet access services) nationwide.

Streamlining the Approval Process

A new simplified registration and processing system for company incorporation has been adopted in the CSPFTZ and this will apply to foreign-invested telecoms companies established there. Foreign investors used to be required to go through a time-consuming review process, which involved obtaining approvals and permits from several different governmental agencies. The *Opinions* provide that new implementing rules will be issued with a view to simplifying the approval process. From our consultation with the MIIT, it appears that the final draft of the new implementing rules will be issued soon. After the new implementing rules are adopted, the timeline required for incorporation of foreign-invested telecoms enterprises in the CSPFTZ will be greatly shortened.

Practical Implications

With opening up of new telecoms sectors to international investors and the relaxation of foreign capital requirements under the *Opinions*, international compa-

nies are expected to take proper actions to strategise and structure their business operations in China. The breadth of access given to companies registered in the CSPFTZ to sell to the greater China market will be a considerable pull factor for many international companies which previously held back from participating in the pilot scheme.

Although the *Opinions* are silent on some hot telecoms topics, such as cloud computing, internet data centre and virtual mobile network operator services, there is no doubt that they have sent out a plausible message that China's telecoms industry will be further opened up to international investment. More significantly, the CSPFTZ acts as an experimental field to develop and test drive the pilot scheme. The regulatory relaxations adopted in the CSPFTZ will be duplicated and implemented in other free trade zones to be established throughout the country; this should eventually lead to China's market reform and drive China's integration into deeper globalisation.

This year is the Year of the Horse—a Chinese symbol of progress and vitality. International companies that are quick and decisive in responding to the new regulatory movements in China will no doubt be able to lead the race to capture the greatest market share in their respective industries. There are, therefore, ample reasons for international companies to seize the reins of opportunity and ride the speeding horse of China's economy. Eb

For more information please contact the author, ***Barbara Li****, a partner of the Beijing office of Norton Rose Fulbright LLP, on +86 (10) 6535 3130 or email Barbara.li@nortonrosefulbright.com.*

Norton Rose Fulbright *is a global legal practice, providing the world's largest corporations and financial institutions with a full business law service. Norton Rose Fulbright has more than 3,800 lawyers based in over 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, Africa, the Middle East and Central Asia.*

[1] *Under the Closer Economic Partnership Arrangement IV, qualified Hong Kong service providers were permitted to establish joint ventures in China to provide value-added telecom services including: call centre services, Internet access services, Internet data centre services; content services and domestic IP-based VPNs, and store and forward services, subject to a 50% foreign investment limitation.*

PHONING IT IN

The opening up of telecommunications value-added services within the China (Shanghai) Pilot Free Trade Zone (CSPFTZ) is an important development for foreign companies. It is also perhaps indicative of the determination of the Chinese Government to continue to pursue opening up as a national policy. **Li Haiying** from the **China Academy of Telecommunications Research** (CATR) fleshes out the timeline for the progress made so far and provides their take on the new regulations.

On 27th September, 2013, the State Council released the *General Plan of the China (Shanghai) Pilot Free Trade Zone* (*General Plan*). It provided a list of 18 service sectors in six industries tabled for opening up. For telecommunications value-added services—which falls under Trade and Commerce Services—the *General Plan*:

"...allows foreign enterprises to run certain designated telecommunications value-added businesses in the Shanghai Free Trade Zone on the condition that they ensure network information security. Before deviating from the administrative laws and regulations the company must seek pre-approval from the State Council."

On 29th September, the Shanghai Municipal Government released the *Special Administrative Measures on Foreign Investment Access into the Free Trade Zone* (*Negative List*), which specified special regulations covering information transmission, software and information technology services. The setting up of the CSPFTZ was a significant decision on the part of the Party's Central Committee and the State Council, and the further opening up of telecommunications value-added services signifies an important step towards promoting development, reform and innovation.

On 6th January, 2014, the Ministry of Industry and Information Technology (MIIT) and the Shanghai Municipal Government jointly released the *Guidelines to Further Opening Up the China (Shanghai) Pilot Free Trade Zone's Telecom Value-added Services* (*Guidelines*). They promote the opening up of seven telecoms value-added services in the CSPFTZ, and feature these two noteworthy points:

1. Foreign companies who are committed to the WTO and originally had a foreign ownership of less than 50 per cent (before registering in the CSPFTZ) will benefit from further opening up in the areas of information services businesses, store-and-forward services, online data processing and transaction processing businesses. Of these, App Stores (information services businesses) and store-and-forward services will have no cap on foreign ownership. For online data processing and for-profit, e-commerce (transaction processing) businesses, foreign ownership will be capped at a maximum of 55 per cent.
2. Call centres, domestic, multi-party communications services, end-user internet service providers and IP-VPN are newly-added services. The first three have no cap on foreign ownership, while the foreign ownership for companies offering IP-VPN services will capped at 50 per cent. The *Guidelines* stipulate that any businesses that apply to offer any of these services must register and base their infrastructure in the CSPFTZ, but that these services may be made available nationwide, with the exception of home internet access services which must remain confined within the CSPFTZ.

This is significant for a number of reasons: first is the wide scope of the plan, with seven of the eight telecoms value-added services listed in the *Telecom Business Catalogue* being included; second, this is the first time that full foreign ownership has been permitted—albeit only under certain specific conditions; third, domestic, multi-party communications services were only formally commercialised in China in September 2013. The fact that this has now been opened to foreign investment with no cap on foreign ownership clearly illustrates the Chinese Government's determination to follow the path of opening up.

The progress made in opening up telecoms value-added services in the CSPFTZ so far will likely lead to a wider opening up of these services in the future. This should help to create new models and new commercial activities within the information services industry, such as cross-border e-commerce. In addition, the opening up of value-added services in the CSPFTZ should further simplify approval processes, shorten approval periods and create a better development environment for foreign investment. Eb

*The **China Academy of Telecom Research** (CATR) is a telecommunications research organisation attached to the Ministry of Industry of Information Technology (MIIT) of China. For more than 50 years, the CATR has organised the standardisation and industrialisation activities for China's telecoms industry, and also supported the MIIT to form China's telecoms policy and regulations. This article was translated from the original Chinese by **Gao Rui**.*

ON THE MOVE: CHANGES IN LOGISTICS LEGISLATION

Logistics legislation and regulations are changing inside the China (Shanghai) Pilot Free Trade Zone (CSPFTZ or Zone). Both on the water and in the air, China is aiming to build a competitive, international trading hub. **Giovanni Pisacane**, Managing Partner at **Greatway Advisory**, explains how the reduction of boarders and limitations for cooperation between foreign and Chinese companies, coupled with the new rules for customs, clearance, duty and transfer regulations is helping to create a more competitive market.

The CSPFTZ encompasses four customs supervision areas—Waigaoqiao Bonded Zone, Waigaoqiao Bonded Logistics Zone, Yangshan Bonded Port and Shanghai Pudong Airport Free Trade Zone. Bonded logistics zones are defined as areas where special legislation is applied and specific logistics activities are carried out; they have unique customs taxes and are normally located near ports or airports, as is the case in the CSPFTZ. These kinds of zones are becoming more common in China, where companies pay customs charges upon entering but not when exiting the zone. Rental prices within bonded logistics zones are normally kept high in order to deter factories from creating manufacturing bases within them.

The pilot scheme's logistics legislation aims to create a more level playing field for domestic Chinese companies, Wholly Foreign-Owned Enterprises (WFOEs) and joint ventures, and cooperation between these different entities is encouraged. The purpose of creating more universal legislation is to engender a more competitive environment within the Zone and to promote Shanghai as an international trading hub in accordance with the *Framework Plan for the China (Shanghai) Pilot Free Trade Zone*.

The CSPFTZ is creating new opportunities in the shipping and logistics sectors. International logistics companies can take a majority share if they are registered within the Zone, although they still need to be structured as joint ventures. All shipping companies are now permitted to transfer cargo within the CSPFTZ, and foreign companies are allowed to ship from the CSPFTZ to other domestic ports in Mainland China, something that was previously only possible for Chinese companies.

A new system with international standards for trade and investment will be set up in the CSPFTZ in order to simplify the process for outbound investments. For instance, the Shanghai Municipal People's Government will now be in charge of the filing procedure for general outbound investment. In addition, qualified foreign investors are going to be allowed to remit investment gains at their discretion.[1] This should lead to more equality between Chinese and foreign companies.

Different aspects within the shipping sector are encouraged, such as shipping financing, international shipping transportation, international ship management and international ship brokerage. The pilot is also developing freight index derivatives—freight derivatives are financial products that try to predict the price of transportation. Also, domestic companies will now be allowed to own non-Chinese registered flagships, and foreign ships are permitted to use a 'convenience flag'[2] to encourage qualified ships to register within the CSPFTZ. As a result of these conditions broader opportunities are opening up for international trade.

Shanghai Pudong International Airport is encouraged to increase the amount of international transfer flights, both for cargo and passengers, and in the interests of creating an international air hub passengers will now be able to make international transfers without requiring a visa. Moreover, financial leasing project companies do not need a minimum registered capital for aircrafts and vessels.

Another incentive that encourages investment in the new international hub is the simplification of customs administration procedures; clearance will no longer be required for each individual waybill. Thanks to the pilot legislation, clearance can be done monthly or even quarterly and goods can now be delivered to the warehouse before clearing has taken place. In these circumstances goods are actually cleared when they leave the CSPFTZ, a process which will only take two to three days. Therefore the new policies can be seen as a way to reduce the time needed to import goods as well as logistics costs. This will have particular importance for food cargoes, especially where the goods need to be temperature controlled or are easily perishable.

It is also now possible for goods to be delivered to the CSPFTZ before the receiving company has paid any duty. If the goods are shipped domestically duty need only be paid upon leaving the CSPFTZ; if the goods are being shipped internationally duty does not need to be paid at all and the company need not go through any complicated customs procedures. For goods that require duty to be paid, the payment can be deferred until all goods have been ordered.

Trading via e-commerce is also possible within the CSPFTZ but is currently restricted to domestic companies; however, it is possible that this will be opened up to foreign companies at a later stage—CSPFTZ policies are continuously evolving in ways that benefit the Chinese economy.

From a trading perspective, imported goods will be permitted inside the CSPFTZ before making any customs declaration, and direct trading for bonded goods will be allowed in specified areas of the zone. This represents quite a positive leap forward for Chinese customs practices, and further detailed regulations regarding customs, tax and foreign exchange administration are expected to be promulgated by the central and local government in the near future.

The taxation system for logistics operations will be modified, with a change in the policy for export tax refunds at the port of departure already slated in the pilot scheme. The new regulations aim to create tax policies, bonded equity investments and offshore businesses provided the profits do not leave China and the tax base does not decrease.

The aim of revising the legislation is to attract more investment and make international trade within the Zone possible for both foreign and domestic logistics companies alike. Although the exact outcome of these changes is not yet known, expectations are high that the logistics and shipping service sectors will become more accessible within the CSPFTZ and a more competitive, market-driven environment will emerge. Eb

***Greatway Advisory** is an international consulting firm operating in Asia since 2004 with offices in Shanghai and Beijing and correspondent alliances in Hong Kong and all over Europe. Their vision is to provide their clients with the highest professional services to assist them in maximising their international business objectives and attaining their goals.*

[1] *http://en.shftz.gov.cn/Frameworkplan.html*

[2] *A business practice of registering a merchant ship in a sovereign state different from that of the ship's owners, and flying that state's civil ensign on the ship.*

ADVOCATING CHANGE

Since its inception the European Chamber has been monitoring developments of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ or Zone) very closely. We have actively sought, and will continue to seek, opportunities for dialogue with the relevant authorities in order to positively contribute to its development. In this article we present a timeline illustrating the main government announcements relating to the Zone and the key meetings and events that the Chamber has held to date.

The establishment of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ or Zone) on 29th September, 2013, has been widely viewed as a step towards crucial economic reform, with the overall scope of this project not limited to just Shanghai. The most pertinent word in its long title is 'pilot'; the Zone has been planned to serve as a testing ground for piloting economic reforms which, if successful, would be extended to the rest of the country. This requires close cooperation and coordination between the authorities in both Shanghai and Beijing.

In the last six months following its launch bold reform steps were anticipated with a number of announcements paving the way to the release of detailed regulations and implementation details. Once this regulatory framework has been put in place businesses will be able to fully participate in this pilot project. Recent announcements that the revised *Negative List* might see a reduction of up to 40 per cent go beyond expectations and once again give an indication that the Chinese Government is committed to deep and comprehensive reforms.

The European Chamber has closely monitored the development of the Zone since the official announcement made by Premier Li Keqiang in July 2013, and we have actively engaged in dialogues with diverse government agencies involved with the drafting and implementation of regulations governing the CSPFTZ, providing crucial input into the regulatory development of this pilot scheme.

The European Chamber fully supports the Chinese Government in making the CSPFTZ a success, and we look forward to further positive developments over the coming weeks and months.

Timeline of Important Announcements and Government Meetings

Government announcements	Chamber advocacy

3rd July 2013: **Premier Li Keqiang announces the *Overall Plan for the CSPFTZ***

August 2013: **State Council approves the Overall Plan and the formal establishment of the CSPFTZ**

29th August 2013: **Meeting with the State Administration of Industry and Commerce**

The European Chamber met with the International Department to discuss the industrial and commercial policy framework in the CSPFTZ.

26th September 2013: **Meeting with the Shanghai Municipal Commission of Commerce**

Director General Ms Shang Yuying discussed the upcoming launch of the CSPFTZ and highlighted a number of changes that will apply to foreign investment in the Zone.

29th September 2013: **China (Shanghai) Pilot Free Trade Zone officially launched**

30th September 2013: **Release of the *Negative List***

The Shanghai Municipal People's Government release the *Special Administrative Measures on the Entry of Foreign Investment into China (Shanghai) Free Trade Zone* (*Negative List*).

16th October 2013: **Meeting with the Directorate General Taxation and Customs Union, European Commission**

The Intellectual Property Rights Working Group discussed the potential impact of the CSPFTZ for intellectual property enforcement with Caroline Edery, Head, and Isabelle de Stobbeleir, Policy Officer, Protection of Citizens and IPR Enforcement Unit.

24th October 2013: **Meeting with the Shanghai Entry-Exit Inspection and Quarantine Bureau**

The Cosmetics Desk met with Ms Wang Zhenyu, Deputy Head, Food Safety Supervision Department, to discuss the potential impact of the CSPFTZ on the cosmetics industry. The anticipated relaxation of regulatory controls in the Zone was also discussed.

5th November 2013: **Meeting with the Ministry of Commerce**

The European Chamber held its first thematic meeting on the CSPFTZ with the central government. A number of working group representatives shared a positive exchange with Deputy Director General Mr Huang Feng who assured them of the further relaxation of the *Negative List*. Mr Huang agreed to engage in consultation with the European Chamber in future policy and legislative developments related to the Zone.

14th November 2013: **Event with the China (Shanghai) Pilot Free Trade Zone Administration**

The European Chamber held its inaugural event on the CSPFTZ with Mr Jian Danian, Deputy Director General. More than 150 people attended to discuss the *Negative List*, registration procedures, financial sector reform and the investment policy in the Zone. During a Q&A session numerous audience questions were fielded, with a main focus on the benefits of registration in the Zone for foreign companies.

20th November 2013: **Meeting with the General Administration of Customs**

The European Chamber met with Mr Wu Haiping, Deputy Director General, Processing Trade and Bond Supervision Department; Mr Yang Zhuang, Director, Customs Special Supervision Division; Ms Cui, Bonded Logistics Division; and Mr Wang Xuping, General Affairs Division. Mr Wu expressed his hopes that, through improvement in information technology, the customs supervision system could be smarter, more convenient and more standard in the Zone, while stating that risk management policies will also be implemented to improve efficiency.

29th November 2013: **Meeting with the General Administration, Quality Supervision, Inspection and Quarantine (AQSIQ)**

The European Chamber met with Director General Mr Liu Deping to get related updates. Mr Liu outlined AQSIQ regulations and reforms in the Zone. He also mentioned that a single window for all services is being promoted and will be implemented.

2nd December 2013: **The People's Bank of China unveiled its plans for financial reforms in the CSPFTZ**

The People's Bank of China releases the circular *Opinions on Leveraging the Role of Finance in Supporting the Creation of the Shanghai Free Trade Zone*.

3rd December 2013: **Meeting with the Shanghai Commission of Commerce**

Working group representatives met with Mr Gu Jun, Vice Chairman of the Commission. Mr Gu outlined the main experiments of the Zone, namely the liberalisation of the six areas, access to foreign capital and trade facilitation and liberalisation. He also provided a few facts and figures on company registration and registered foreign capital.

6th January 2014: **Announcement to open up the telecoms sector**

The Ministry of Industry and Information Technology release a statement indicating the further opening up of the value-added telecoms sector in the Zone

21st January 2014: **Meeting with the China Banking Regulatory Commission**

The European Chamber met with Mr Qi Jianming, Deputy Director General of the Banking Supervision Department III; Ms Zhao Xin, Deputy Director, General Operations Division, Banking Supervision Department III; and Mr Ekin Yang, On-Site Examination Section II, Foreign Banks On-Site Examination Division. The Commission mentioned that the aim of the CSPFTZ is to open up for free cross-border trade and financing; the difficulty will be setting up a firewall between the Zone and the rest of China.

11th March 2014: **Meeting with the Shanghai Entry-Exit Inspection and Quarantine Bureau**

The Logistics Working Group met with Mr Pan Jie, Chief, Department of Machinery and Electronic Devices, Inspection Supervision Division, and Mr Liu Gang, Deputy Chief, General Administration, Inspection Supervision Division, to discuss the increased cooperation between the Bureau and Shanghai Customs in the Zone.

13th March 2014: **Meeting with the General Administration of Customs**

The European Chamber met with Vice Commissioner Mr Sun Yibiao to discuss, among other topics, the CSPFTZ. Mr Sun explained some of the innovative features of the Zone, highlighting more efficient clearance procedures. The implementation of the smart check-point was also mentioned.

14th March 2014: **European Chamber Member Comment on the *Negative List***

The European Chamber member companies provided comments on the *Negative List*. The European Chamber itself commented that, although the Zone creates a fairer competitive environment for foreign investment, it still includes almost all prohibited or limited fields mentioned in the *Catalogue of Industries for Guiding Foreign Investment*. European Chamber members still anticipate further substantial reforms.

21st March 2014: **Event with Shanghai Customs and the Bank of China**

Shanghai Customs Director General Mr Li Shuyu and Ms Shu Qingfang, Customs Expert First Class, gave a detailed presentation on Shanghai Customs' involvement in the CSPFTZ. Ms. Shu described the newest measures that have been implemented by Shanghai Customs as well as the progress in its cooperation with the Shanghai Entry-Exit Inspection and Quarantine Bureau. The second presentation by Mr Zhang Xinyuan, General Manager, Global Trade Services, Bank of China Shanghai Branch, provided an overview of financial updates in the Zone.

21st March 2014: **Meeting with the Shanghai Administration of Industry and Commerce**

Director General Mr Chen Xuejun provided updates on the recent developments on publicity of the annual report policy for registered companies in the Zone. A number of key points were raised regarding the recent concerns from the Shanghai-based European companies, including IPR protection and trademark supervision, collaboration and enforcement between parties, and the recently adopted annual report policy and registration process for foreign-invested companies. Eb

Policy Focus

The European Chamber has recently launched a Policy Focus section on its website that addresses different topics of current significance in more detail. Please visit the Policy Focus section for more information on the CSPFTZ http://www.europeanchamber.com.cn/en/shanghai-free-trade-zone.

PROTECTING YOUR INTELLECTUAL PROPERTY IN CHINA THROUGH CONTRACTS: PART 1

The first of this two-part article by the **China IPR SME** Centre outlines contract provisions to include and avoid to intelligently protect your intellectual property in China.

The establishment of the new China (Shanghai) Pilot Free trade Zone (CSPFTZ) presents an opportunity for the Chinese authorities to experiment with a new administrative system for enforcement of intellectual property rights. To this end, the Shanghai Intellectual Property Administration has stated that patent and copyright issues will be examined by a single administrative institute, rather than the current system in which copyright and patent issues are dealt with separately by two government agencies.

Nevertheless, in both the new CSPFTZ and wider China best practice for drawing up contracts to protect against infringement remains the same. It is one of the most important considerations for businesses from every industry operating in China and will remain so regardless of changes to the administrative structure relating to IP enforcement.

Tailoring contracts to suit your intellectual property rights (IPR) is an important way to ensure that your company's specific intellectual property (IP) assets are adequately protected. Since trade secrets and confidential information are critical to a company's business and operations, it is also essential to include provisions to protect them in contracts with third parties. In China, 'trade secret' is defined as "any non-public technical or business information with commercial value that is guarded by confidentiality measures". 'Confidential information', on the other hand, generally refers to "any non-public information pertaining to a company's business", and is therefore broader in scope than 'trade secret'. However, no protection is afforded to 'confidential information' under Chinese law, unless it is otherwise specified in a contract.

Important contract provisions to *include*

The key provisions in a licence agreement or employment contract should address the following:

- **Definition of licensed rights**

  These clauses define the scope and uses of the licence, and identify the IP subject matter and the type of rights being licensed.

- **Monitoring of the licensee's activities: prevent unauthorised use of the licensed rights**

  These clauses usually identify the parties who will have permission to use the licensed rights, as well as the security procedures that are in place to prevent unauthorised use or misuse of the IP assets.

- **Challenges of validity: ensure the validity of your agreement**

  It is important to include clauses on the severability of validity of the licence agreement. This will ensure that even if one or more of the licensed rights in the licence agreement expires, the validity of the entire agreement and the licence granted within that agreement may not be challenged.

- **Protection of new IPR generated: address ownership issues**

  In the absence of a clear contract on ownership rights, the law generally recognises the creator of a work as the owner. Under China's Patent Law, however, the party who makes improvements to a technology based on the licensed patent or technology automatically owns the IPR on such improvements.

- **Assignments or transfers: prevent your IPR from being transferred to third parties without your permission**

  Clauses can be included to restrict and prohibit the contract from being assigned and transferred without your express written authorisation, and you may add a further clause to bind all successive transferees and assignees to your agreement.

- **Warranties: guarantee your technology is fit for transfer**

  Warranties are a kind of guarantee that should be provided by the licensor on the licensed technology. You may need to guarantee in your contract that your product is complete, free from error, effective and capable of achieving the prescribed goals or, alternatively, specify that the warranty cannot be amended or omitted by the parties.

- **IPR produced by employees: avoid future disputes**

  It is important to make sure that the inventions of your employees will belong to you as the licensor, and that you, the licensor, will be entitled to grant a licence for such inventions.

- **Confidentiality: protect your confidential information**

  These clauses usually define the confidential information to be acquired or exposed and outline the exact nature and length of the protection. Alternatively, a separate and more detailed non-disclosure agreement (NDA) may also be entered into by the parties.

- **Dispute resolution: plan ahead, just in case**

  Like any other contract, the licence agreement should specify the law that governs the disputes of the agreement along with the chosen methods of dispute resolution. It is important to note that the sections in the contract relating to the protection and dealings with IPR in China specifically should be governed by Chinese law. If your contract adopts arbitration or other non-judicial methods of dispute resolution, it is also important to include a clause that permits you to file in courts where you can seek injunctive relief or claim damages against IP infringement.

- **Termination: specify what happens when the agreement comes to an end**

  You should always include terms on the consequences of termination.

Important contract provisions to *avoid*

A contract may be void in whole or in part if it contains any provisions in contravention of Chinese law or administrative regulations. Set forth below are examples of IP provisions you need to avoid in China, particularly in technology and employment contracts, because they may well be in contravention of the Chinese laws.

Technology contracts

Provisions to avoid in technology contracts include those that:

- Prohibit a licensee from making improvements to the licensed technology and using the improvements;
- Restrain a licensee from obtaining from other parties technology similar to, or competing with, the licensed technology;
- Under PRC law, a licensor cannot make any ‘unreasonable’ restraints on a licensee’s procurement channels, such as the sources from which the licensee purchases raw materials, equipment, etc;
- Prevent a licensee from making full use of the licensed technology in a reasonable manner as required by the market;
- Require a licensee to accept additional conditions that are unnecessary for the use or working of the licensed technology;
- Prohibit a licensee from challenging the validity of the IPR of the licensed technology or from attaching additional conditions to such a challenge.
- Waive the provision of warranty, which states that the licensed technology is complete, free from error, effective and capable of achieving the prescribed goals; and
- Include unfair terms for the exchange of improvements made to the licensed technology.

Employment contracts

Provisions to avoid in employment contracts include those that:

- State that the employer owns the patent rights and/or copyright of any non-employment-related work or creation made by employees on their personal time and using their own personal resources;
- Exclude any remuneration to an employee for his or her patented creation;
- Impose unreasonable non-compete and non-solicitation obligations upon employees; and
- Waive monthly compensation to employees fulfilling their non-compete obligations.

General contracts

Provisions to avoid in a general contractual context include those that:

- Exempt a party from liability for causing the other party bodily harm or property losses (resulting from wilful misconduct or gross negligence); and
- Require Chinese IPR to be governed or protected by the laws of other jurisdictions (i.e., non-Chinese law).

Take-away messages

- Tailor your IP contracts to suit the IPR you are protecting, and make sure you include sufficient specific detail in the contracts’ key provisions.
- Certain IPR protection provisions are unlawful under Chinese law, and may render a contract void if you include them in your agreement, so be cautious when drafting these provisions.

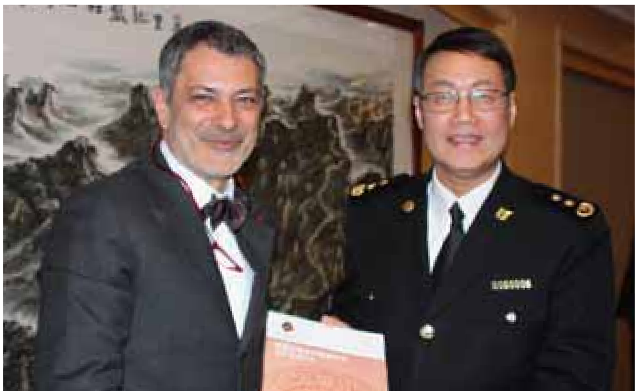
*The **China IPR SME Helpdesk** is a European Commission funded project that provides free, practical, business advice relating to China IPR to European SMEs. To learn about any aspect of intellectual property rights in China, visit our online portal at www.china-iprhelpdesk.eu. For free expert advice on China IPR for your business, email your questions to: question@china-iprhelpdesk.eu. You will receive a reply from one of the Helpdesk experts within seven working days. The China IPR SME Helpdesk is jointly implemented by DEVELOPMENT Solutions and the European Union Chamber of Commerce in China.*

European Commission

CHINA IPR SME HELPDESK

EUROPEAN CHAMBER LOBBYING HIGHLIGHTS

Meeting with Vice Commissioner Sun Yibiao of the GAC



President Cucino with Vice Commissioner Sun Yibiao

On 13th March, a Chamber delegation, led by President Cucino, met with Vice Commissioner Sun Yibiao of the General Administration of Customs (GAC) and presented the *Position Paper 2013/2014*. The meeting was joined by members from the Logistics, Quality and Safety Services, Maritime Transport, Rail and Aerospace working groups. Members raised issues on customs clearance, zone-to-zone movement and the new advanced manifest regulations among others. The China (Shanghai) Pilot Free Trade Zone and modernisation of China Customs were also discussed. Vice Commissioner Sun shared his appreciation of the regular dialogue with the European Chamber and the opportunity to engage directly with industry representatives.

Position Paper Presentation to the Beijing Vice Mayor

Beijing's Vice Mayor Madame Cheng Hong and President Cucino

During the Chamber's annual appreciation event with the Beijing Municipal Government on 26th February, President Cucino presented the *Position Paper 2013/2014* to Madame Cheng Hong, Vice Mayor of Beijing. Officials from various departments addressed working groups' concerns over Beijing's current air pollution, visa policies and market access to foreign quality and safety services (QSS) players. Madame Cheng encouraged European businesses to expand their investment in accordance with the city's future strategic position, stating that the Beijing city government will continue to push for deepened reforms and streamlined administrative approvals, whilst also promising that Beijing will tackle such urban challenges as air pollution by halving its coal usage and promoting public and clean transportation.

Meeting with the Chinese Academy of Governance

President Cucino and the Chamber delegation with the Chinese Academy of Governance

On the 21st March, President Cucino led a group of European Chamber Chairs and Vice Chairs representing the Insurance, Smart Grid, Water, Cosmetics, and Banking and Securities working groups to visit the Chinese Academy of Governance (CAG). The Chamber delegation was received by the CAG's Executive Vice President He Jiacheng and Vice President Chen Li as well as Director Generals from various departments, including Educational Planning, Policy-Making Consultation, Economics, Research and International Affairs. There followed an open exchange of views on the Executive Summary of the *Position Paper 2013/2014*. Both parties advocated increased cooperation and agreed to arrange working-level meetings to encourage further exchange between industry and academia.

Meeting with Vice Commissioner Yu Xinli of the SAC

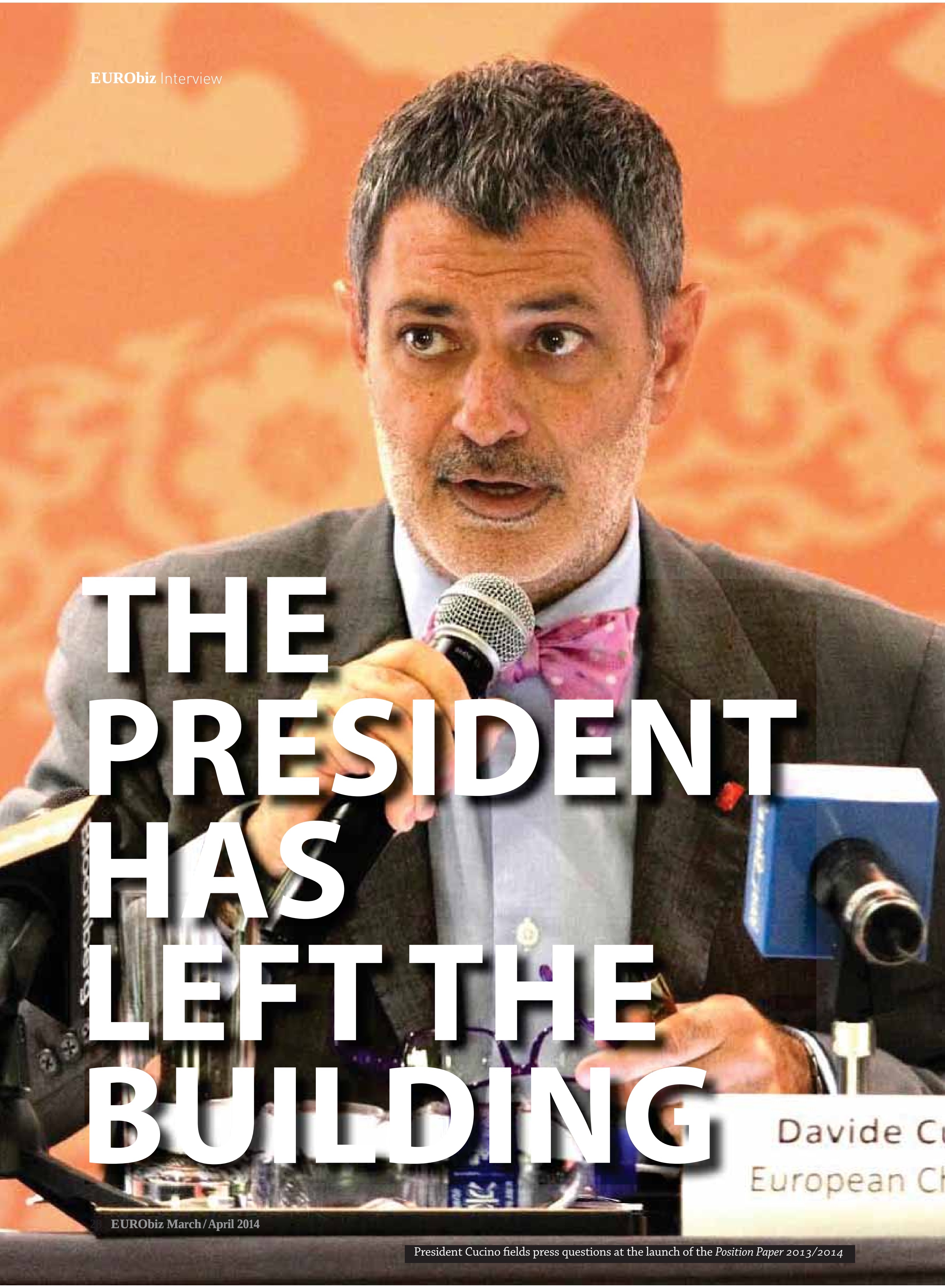
Vice Commissioner Yu Xinli with Chamber Vice President Mats Harborn

On 27th January, a delegation, led by Chamber Vice President Mats Harborn, met with Vice Commissioner Yu Xinli of the Standardisation Administration of China (SAC) and presented the *Position Paper 2013/2014*. The SAC shared its work focus for 2014 and held discussions with the Chamber on standard-related issues as well as the opportunity for building a direct communication channel with each other. Vice Commissioner Yu emphasised the importance and mutual benefit of a strong communication mechanism.

Other Lobby Activities:

On 14th March, representatives from the **Agriculture, Food and Beverage Working Group** and the **Paediatric Nutrition Desk** met with members of the **Sanitary and Phytosanitary Market Access Team, Hans Joosten** from **DG Trade** and **Thomas Langelaar** from the **European Union Delegation.** Food safety remains one of our top lobbying priorities this year and—due to recent concerns over such issues as alcoholic beverages—the issue is still topical within the public domain in China as well as Europe. During the meeting Mr Joosten agreed to further review industry comments on issues of agriculture and food trade.

This topic also tallies nicely with consumer safety in general; a month prior to the aforementioned meeting, European Chamber representatives met with the **China Food and Drug Administration's** (CFDA's) **Deputy Director General Ms Huang Min** and Director of the CFDA's Drug and Cosmetics Registration Department **Mr Qi Liubin.** The meeting had been requested by the CFDA with the purpose of clarifying recent Notice No.191 regarding the requirement for proof of market presence in the country of origin for cosmetics imported into China. As cosmetics is a huge industry in both Europe and China consumer safety is an extremely important concern, as well as a topic that is of great relevance to many of the Chamber's working group members.



THE PRESIDENT HAS LEFT THE BUILDING

President Cucino fields press questions at the launch of the *Position Paper 2013/2014*

Davide Cucino has lived in China for 26 years, having first come to study at Beijing University in 1988. Upon graduating he was offered a job in Beijing and so never fully returned to his native Italy.

He was serving as Chairman of the China-Italy Chamber of Commerce (CICC) when the European Chamber was being formed and he became involved to give input from an Italian perspective. He spent some time working on the Articles of Association and other relevant documentation to ensure it was taking the single national chambers into consideration. He had an interest, too, as a company representative of Fata who became one of the Chamber's 51 founding companies.

He has been active in the Chamber as a member, states representative, vice president and eventually president. He has also been involved in the Chamber's Public Procurement Working Group and was recently elected as its Chair.

After serving a maximum three consecutive terms as president, Cucino is now preparing to hand over the reins after the Chamber's April elections. EURObiz's **Carl Hayward** caught up with him to talk about his time at the Chamber, discuss some of his achievements and find out a bit more about the man behind the bow tie.

"I remember Davide's first full day as President. He showed up at the Chamber office in Beijing at 9am and went around to every individual to introduce himself. Davide immediately built an extremely strong rapport with the secretariat staff and continued it throughout his three-year term."— **Adam Dunnett**, Secretary General

On the Executive Committee...

What changes have you seen take place within the Chamber's Executive Committee (Exco) in the way that it functions and drives the Chamber?

I don't want to use this sentence, but I am going to: when I arrived I found a well-oiled machine. It was well organised in terms of format, and I tried to stick to some predefined rules, such as when to hold meetings and for how long, which generally, for a Southern European, is difficult because they are held from 8-10am! Everyone was expecting that I wouldn't be able to arrive on time, which I personally think was wrong because I have probably been the only one arriving on time since the very beginning.

Even earlier than the Germans?

Yes, even earlier than the Germans!

I would like to say that I have had three Excos with fantastic people. I am very proud of this last Exco because we have been able to share competencies and tasks among all of the Vice Presidents and its other members. Everyone was very much visible and able to share their own experience on a specific topic or task. This has enabled us during the last year to be able to organise more high-profile events than before.

On government affairs...

Which government affairs strategy stands out from others in terms of its success and impact?

I found a situation at the Chamber where we had already obtained a lot of credit from the Chinese authorities. I believe that we have tried to continue to have the same kind of relationship and dialogue with the most important ministries and agencies, while at the same time increasing our relations with bodies which were perhaps not very well covered, or not covered as

The newly elected Executive Committee after the 2013 AGM with the EU Ambassador to China, from L-R: Jens Ruebbert, Hogler Kuntz, EU Ambassador Marcus Ederer, Davide Cucino, Stefan Sack, Eduardo Morcillo, Francois Bernard and Mats Harborn

"Davide will remain, for me, the role model of a president. Thinking really European and putting the Chamber ahead of his own personal interests. He is not a 'show-man' but someone that is respected and sought after in China and Brussels."—**Stefan Sack**, Vice President

much as they are now, in terms of think tanks, foreign affairs and Party relationships.

On the European side, we have tried to increase the visibility of the Chamber. We succeeded in meeting the President of the Commission several times, and last year we achieved a record in terms of the number of commissioners that we met during the presentation of the *Position Paper* in Brussels, and also the number of ministers and prime ministers that we met during our visits to the other Member States' capitals.

On European unity...

Why did you make a concerted effort to focus more on Eastern European Member States?

The idea is to be as inclusive as possible. We already have a body that is inclusive because we have a Supervisory Board that includes one board member from each Member State Country, so we have 28

"I have now worked with Davide for more than four consecutive years on the Executive Committee and the last three years as his Vice President. As an Italian citizen he has brought much passion to the Chamber. He is committed and dedicated to his work and a reliable partner."—**Jens Ruebbert**, Vice President

Supervisory Board members.

But I also think we need more contact with the companies from those member states, and we need to secure their contributions to the Chamber. Not just in financial terms, but also in terms of ideas and in terms of the new challenges that we may face by having those companies as members of our organisation.

Why did you make so much effort to increase the number of cities in Member States that were visited on the European Tour?

It is extremely important that we go to these cities to deliver the messages of our *Position Paper* and the Chamber priorities to the various governments. The reason for making our reach as broad as possible is to send a signal to Brussels that we believe in unity. This is important because it demonstrates to Brussels that the Chamber is an important tool in helping to secure this unity.

On ethics...

You're known for your integrity in meetings, but has there ever been an occasion, or a meeting with a particular individual, where you've thought, *I'd really like to push my own agenda here*?

"Davide has always shown a very high level of commitment to the mission of the Chamber. Both in China, as in Europe, his personal style and contacts facilitated access to the highest level of relevant authorities. He made a point of involving all EU Member States in our work. His interaction with all Chamber staff had an inspiring and motivating effect. It was a privilege for me to work with Davide in his role as president of the European Chamber."—**Dirk Moens**, Secretary General (2009-2013)

Oh yes, not just once, but many times! At those moments you need to make a choice if you seriously respect the position you are holding. You have been elected by people who have interests that are sometimes different from yours—sometimes these views come from companies that are in competition with yours—so you cannot take advantage of this situation.

One thing that gets me nervous is when I bring people to meetings with me, and even before we have started to discuss industry issues they start to introduce themselves as a representative of their specific company. That really gets me crazy.

On progress…

Why was it so important for you to push the 'digital agenda' at the Chamber?

Times change and I don't think we should rely on past glories. Every time there is a situation in which things are going well, people and organisations tend to relax and take advantage of that moment, without being aware that society is continuously changing and developing. In spite of any success you attain, there is always a lot of room for improvement.

On doing more…

What were some of the biggest challenges during your time here?

We need to concentrate even more on delivering our message to a number of Chinese stakeholders and to increase our interaction with Chinese companies. We have had a lot of dialogue at institutional level but sometimes, as we have said many times in our *Position Paper*, some of the challenges that our member companies have, who have invested in China, are the same challenges that domestic Chinese companies are facing. So we don't need to always treat them as our competitors. We are often affected by the same regulations and the same practices and so we should try to find a way to set up a channel of dialogue with them.

On the future…

How much will you continue to be involved with the Chamber?

I think that the European Chamber is a fantastic organisation, and I will stay involved and continue to give my contribution, taking into account that one of the companies in our group is an Advisory Council Member. But you will never see me stood in a corner criticising anything that is not being done the way I used to do it, or other's actions that have been taken in a different way to how I would have done things.

Finally, have you got any tips for the next president?

I expect the next incumbent will be very different from me, and the way that I was president. I think this is the secret to keeping an organisation alive and moving forward. Having said that, I hope that they will take advantage of the fact that we have an number of enthusiastic people willing to work and to travel, to enlarge, even more than I did, our outreach to the various capitals during the European Tour. Last year in Brussels we had 35 people taking part, which is a signal that this can be done.

Also, one of the last things I hope to do as President is to initiate a process that will enable the Chamber to amend our Articles of Association with respect to how voting can be carried out for the elections of members of the Executive Committee and other changes that the current Executive Committee agree would be beneficial. As an outgoing president, this is the perfect time to start the ball rolling on this issue as it shows that the changes being recommended for consideration are not being proposed out of any vested interests on my or the current board's part.

The modifications that the outgoing Executive Committee would like to see brought in include bringing our voting processes into the electronic age. Doing so is in keeping with our 'One China, One Chamber' ethos as it would allow all of our members across China, irrespective of location, to be a part of the elections for our Executive Committee, thus further improving the Chamber's openness and inclusivity.

These constitute, more than tips for the next president, a legacy that I hope will be continued. Eb

Jose Manuel Barroso shakes hands with Li Keqiang after the announcment to commence negotiations on the EU-China BIT

EU-CHINA BIT NEGOTIATIONS: VIEWS FROM BRUSSELS

Following the first round of negotiations for the EU-China bilateral investment treaty (BIT), **Gabriela Matei** from **Hill+Knowlton** Belgium takes a look at some key factors that could influence the overall outcome of the agreement.

The first round of negotiations between the European Union (EU) and China on a BIT took place in Beijing from 21st to 23rd January. For the EU, it is the first ever investment agreement negotiated by the European Commission on behalf of its 28 member countries. While from a procedural perspective this is new territory, the BIT does not lack ambition. Indeed, in November 2013, upon the launch of the talks, the two sides pledged to increase bilateral trade from around USD 580 billion to USD 1 trillion by 2020. The deal would also provide a secure and predictable legal framework to investors in the long term. Typically, investment treaties aim at securing the same rights and advantages for foreign investors as for domestic ones, e.g. protection against expropriation without compensation or discriminatory legal treatment by the host country compared to local companies.

At present, EU-China trade amounts to over EUR 1 billion a day. While the EU is China's largest trading partner and China is the EU's second largest after the United States, investment flows are still relatively low by comparison. Chinese foreign direct investment soared following the outbreak of the financial crisis in Europe but EU investment to China has decreased despite the EU becoming the largest foreign investor in China.

At present, the EU believes it is premature to discuss a comprehensive free trade agreement with China. Instead, adding a market access component to the BIT seems the best vehicle to improve access to the Chinese market (and contribute to re-launching the European economy), although this will probably also be one of the most difficult elements in the negotiations.

Controversies and expectations

Does the joint push for the BIT mean that the negotiations will be easy? Not at all. As a rule, there are controversial aspects to all investment agreements, because both parties bring an agenda filled with demands from their respective constituents and, ultimately, a compromise has to be found that is endorsed domestically. On the EU side, the outcome of the negotiations will have to be ratified by the European Parliament whose members are already voicing their expectations in an attempt to put pressure on the European Commission negotiators. Human rights and sustainable development are high on the agenda. Equally, internationally recognised corporate responsibility standards form part of the EU's mandate. Intellectual property recognition and enforcement is another prickly item. But two specific issues draw most attention in the debates in Brussels: first, the reform of Chinese joint-venture requirements for foreign investors and the elimination of what is perceived as unfair competition between state-owned and privately held enterprises; and, second, the investor-state dispute settlement (ISDS) process.

The joint-venture requirement frustrates a number of EU investors, as no such conditions are placed on Chinese companies in Europe where there are no limits on foreign company ownership. In that respect, European investors expect a lot from the China (Shanghai) Pilot Free Trade Zone. It is hoped that, if successful, the Zone will increase confidence from those who until now were hesitant to move into China due to an arguably restrictive climate.

Dispute settlement mechanisms—which enable companies to directly bring cases against the state in which they have invested before an arbitrational tribunal—are part and parcel of existing investment treaties. Some non-governmental organisations (NGOs) and political groups in the European Parliament have expressed concerns that this mechanism could undermine existing social, health or environmental legislation if it were to qualify as a barrier to investment. These groups claim that only state-to-state dispute settlement is appropriate in trade agreements and that private parties should not be granted the means to attack legislation in place in the country where they are vested. In turn, the European Commission has gone to great lengths to explain that the ISDS will by no means allow for the abolition of regulation through arbitration, but that it could lead to the award of damages in the event of a breach of the investment agreement.

A year of changes

This year will see major institutional changes in Brussels. In May, a new European Parliament will be elected. Thereafter, the President of the European Commission, the College of Commissioners (including the Trade Commissioner) and the President of the European Council will be appointed. The outcome of the elections and the new leadership of these institutions may lead to different policy priorities, as well as a change in approach to the BIT negotiations. In any event, because of the focus on internal political developments, the EU political leadership will have less time to debate the technical details, and much will be left to the officials involved in the negotiations. Even so, they are bound by the negotiating mandate they received from the EU member states.

As for China, the Third Plenum in November set expectations for deep economic reforms in the coming years. The plenum called for economic transformation through giving more power to the market and limiting government. The market is to be given a 'decisive' role in the allocation of resources, an upgrade of the 'basic' role described in previous plenums. In the minds of many European businesses and investors, this has created expectations and hope for better market access and a regulatory environment compatible with international treaties.

That said, in the past, EU countries have held diverging views depending on where their commercial interests lie. Traditional, free-trade-minded countries, such as the UK, the Netherlands and the Scandinavian states, focus on market access but are also very welcoming towards Chinese investors. Even in countries traditionally more sceptical, where national safeguards remain very strong, the focus on growth and jobs during a precarious economic upturn has contributed to a more positive environment. Reciprocity of investment conditions has become the mantra.

It is also important to mention that, according to recent polls, the European elections could well result in a strong presence of eurosceptics or outright anti-EU representatives in the Parliament. Although that would probably not affect the clear majority of the leading political groups (the Christian Democrats and the centre-left), the presence of parliamentarians who are opposed to free trade and who advocate for protectionist measures and restrictions at borders will certainly colour the discussions. This is not unimportant in light of the fact that the European Parliament needs to approve the BIT once the negotiations are concluded.

Can business influence the BIT?

As the talks advance, both parties—the EU and China—will seek support from their economic backers. But business could do more to ensure a positive outcome. On top of providing respective negotiators and political leaders with information to bolster the agreement, investors and companies should seek support, or at least understanding, for the positions they wish to be taken into account by the other camp. Chinese companies would do well to form business platforms to engage with industry counterparts in Brussels, as well as with EU officials and members of the European Parliament. All the more so since personnel changes following the May elections will see many new faces take the stage. They will no doubt want to learn about the views of Chinese and European businesses alike on how to overcome investment barriers and reach a mutually satisfactory outcome for the negotiations. All parties would benefit from informed debates and decisions. Those who stand to win the most from the treaty would benefit from understanding and explaining both sides' points of view. Eb

Hill+Knowlton Strategies *is an international communications firm with 88 offices in 49 countries. With 2,000 consultants worldwide, we work for more than 185 of the Fortune 500 and are the leading consultancy in rapidly-developing markets. In mainland China, our offices in Beijing, Chengdu, Guangzhou and Shanghai serve a large number of domestic and international clients. We also have a presence in several 2nd tier cities.*

BUSINESS WITH A CAUSE: CORPORATE SOCIAL RESPONSIBILITY FOR SMES IN CHINA

Corporate social responsibility (CSR) is generally thought of as an add-on to the operations of large multinational corporations looking to improve their image by donating to worthy causes or organising charity events geared more towards the media than the actual beneficiaries. While this might be true in some cases, a recent report, published by **Jonas Rasch** of the **EU SME Centre**, shows how CSR done right can be much more than a marketing tool and can contribute to both social causes and the performance of a company.

On a basic level, a well thought-out, sustainable CSR programme can indeed help alleviate social and environmental problems. Besides improving visibility and sales, it can also serve as a way to identify and minimise compliance risks within a company and its network of partners. Moreover, internal programmes to reduce the environmental impact of a company's operations can significantly cut costs and improve efficiency. Finally, CSR initiatives are great opportunities to network with partners, stakeholders and customers, improve communication and discover new opportunities for cooperation as well as business. Thus, investing in CSR should no longer be seen as a playground for global players, but as a sensible step for any SME looking to strengthen its ties with the community in which it operates.

Before spending time and money on a specific project, however, SMEs should focus on developing clear goals and a straightforward strategy to reach them. Using scarce resources on something that is not directly related to your core business can only be justified if it is clear from the beginning what the company wants to achieve by investing in the project. The following five tips will help you get started.

Find the right cause

To develop a successful CSR strategy, you need to find the right cause for your company. Start by looking at all aspects of your business in China, from human resources to sales, office management and even your supply chain, to find out where your activities might negatively affect people or the environment and how your company can work effectively towards a solution. Once you have identified an area in which your efforts would be worthwhile, research it thoroughly to understand the underlying history, the players involved, existing programmes and the most effective strategies for change. This knowledge will help you come up with the best way in which you can contribute to the cause.

Leverage your strengths

Your contribution to the cause should depend largely on the nature of your business. If your company manufactures machinery tools and equipment, find a way to put your engineers to good use. If your speciality is IT, design a website for a charity or organise an IT class for the elderly in your neighbourhood. There are causes that naturally align to certain industries and professions—the better the fit between your company and the cause, the more effective and sustainable your CSR efforts will be.

Find the right partners

Chinese civil society is developing quickly and with it the number of charitable or environmental organisations looking for partners. To make cooperation as smooth as possible, you will have to work closely with your partner(s), so spend some time before you make your choice. Finding one that is as close as possible, both physically and 'mentally', will help. So will managing expectations right from the start. Be clear about what you can deliver and what you expect in return. However, keep in mind that organisations such as neighbourhood initiatives or NGOs have their own agenda and don't see themselves primarily as your service provider. Therefore, be ready to compromise.

Involve the whole team

As an SME, you will have to make the most out of what you have. Financial donations will certainly be appreciated by NGOs and other charitable organisations, but providing manpower and expertise is just as helpful and can have additional positive effects. Involving your staff early on will likely generate a number of ideas on worthwhile issues and partners. A personal relationship between your team and your company's CSR efforts will also increase the likelihood of long-term engagement, as working within one's own community is much more rewarding than helping a stranger living far away. Finally, involving your staff will lead to internal improvements, and collective action will likely strengthen team spirit and employee satisfaction, which will in turn improve your company's working atmosphere and productivity.

Share the results

Even though improving your company's image should not be your prime concern when engaging in CSR, it would be a waste to keep quiet about your contributions to the public good. Therefore, use all channels available to let your employees, stakeholders and customers know about your achievements. Mailings and dedicated websites are good ways to do so, but social media campaigns will generate the most attention. However, stay humble and truthful—only authentic reporting will lead to positive results, whereas exaggeration and boasting can do more harm than good.

If you are looking for more information on CSR in China, including ideas on where to start and tips on measuring and maximising the return on investment of CSR programmes, download the full report on Corporate Social Responsibility for EU SMEs in China from our website (www.eusmecentre.org.cn) or view the recording of our recent webinar on the topic. For real-life examples of successful CSR by SMEs in China, stay tuned for an upcoming series of case studies, which will be available for download in the coming weeks. Should you have any questions concerning CSR in China, please contact the Centre's in-house business development experts.

EUSME Centre

FIRST-TIER FORECAST

Demand for commercial real estate in China's first-tier cities started to flag in 2013. Factors such as a slowing economy and increasing competition from online sales platforms forced a dip in the retail market, while doubts over China's economic growth potential has caused some caution in the office market. **James Macdonald**, Head of **Savills China** Research, says that despite some optimism generated by the launch of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ) and the Qianhai economic zone, overall, the office and retail markets in China's first-tier cities are unlikely to experience a dramatic rebound over the coming year.

2013 market overview

Office market

The office markets in China reached a turning point, with less certain economic growth weighing upon companies' decisions on office expansions. Affordability concerns continued to plague the Beijing market, where rents have doubled in the last four years, while the Shanghai market is starting to come to terms with the surge in supply which is just around the corner. The southern markets coped slightly better, with Guangzhou, already a relatively inexpensive market compared with its first-tier city peers, managing to hold rents relatively stable, and Shenzhen receiving a boost towards the end of the year with some occupier demand being driven by expectations resulting from the Qianhai economic zone.

Retail market

The retail market faced slowing retail sales, initially led by the luxury sector, but spreading to other sectors of the industry with the slowing of the economy, oversupply in certain submarkets (especially decentralised) and rising competition from online sales platforms. This has led to an increasingly two-tier market.

2014 forecast

Office

While economic forecasts at the beginning of 2014 are not as dire as they were at the start of 2013, expectations for a significant rebound remain remote. Optimists will point to programmes such as the CSPFTZ or the Qianhai economic zone, as well as policy direction laid out at the third plenary session in Beijing in November; pessimists will point to unsustainable credit growth and overcapacity in certain sectors of the manufacturing industry. Demand for the office sector is closely linked to economic growth and, as such, demand prospects for the office sector remain uncertain. Expectations are that demand will remain moderate, vacancy rates will creep up as new supply enters the market and landlords will adjust rents based upon the slowing growth.

Shanghai

Nine new projects are expected to be completed in 2014, adding 669,000 square metres to the market. Significant supply in the face of sluggish demand is expected to result in a rise in the city-wide vacancy rate. Rising vacancy rates are expected to place more pressure on landlords to lower rents in order to secure healthy occupancy rates, especially in newly-handed-over projects in non-prime locations.

Beijing

After three years of limited supply, the Grade A office market is expected to witness a surge starting in 2014, with nine projects scheduled to launch, adding nearly 600,000 square metres of leasable office gross floor area (GFA) to the market. Sixty per cent of the supply will be in the eastern markets, with Wangjing accounting for nearly 40 per cent of the total supply. The surge in supply is expected to result in an increase in the city-wide vacancy rate and intensified competition between landlords, forcing rents down by more than two per cent by the end of 2014.

Guangzhou

Vacancy rates are expected to rise as five new projects, all located in Zhujiang New Town, add a combined office GFA of 687,000 square metres in 2014.

Shenzhen

Seven buildings are expected to be launched onto the market in 2014, totalling 638,380 square metres, and increasing the Grade A office stock by 21.7 per cent, with a leasable area totalling 377,560 square metres. With limited office supply in the Qianhai area, the strong leasing demand may push rents up in the city centre in 2014. Strata-title prices are expected to see some gains, as less than 100,000 square metres will be placed on the first-hand strata-title market.

Retail

An unpredictable and heavily regulated residential market, along with expectations that China will swiftly transition into a domestic-demand-driven economy, have meant that domestic developers have invested heavily in retail over the last three to four years, either as standalone projects or, more often than not, as a sizeable component of a mixed-use project. Many of these projects are beginning to be launched onto the market and are finding it increasingly challenging to find suitable tenants at reasonable rental levels given the wealth of opportunities available to retailers, along with slower sales, less aggressive retail expansion plans and competition from online platforms. Established projects in prime locations, on the other hand, are still able to sign leading retailers wanting to leverage visibility and footfall present in these projects.

Shanghai

Eleven projects with a total of one million square metres of retail GFA are expected to be launched onto the market in 2014. Expo (Pudong district) and Zhonghuan (Putuo district) areas will each see over 200,000 square metres of new supply. A two-tier market is starting to emerge, with well-managed malls in prime locations continuing to attract tenants and shoppers, while many malls in emerging locations, apart from the best, are finding it difficult to attract suitable retailers and shopper footfall. Base rental levels at existing projects are not expected to see a major correction but some new projects may have to lower their starting rents in order to achieve and maintain higher occupancy rates. The online shopping sector will continue to grow and evolve with more creative methods for operation, promotion and even payment. This will force landlords into spending time developing more flexible tenant mixes, and the greater adoption of online technologies.

Beijing

With four projects postponing completion dates to 2014 from 2013, a total of 11 projects are scheduled to open in 2014, adding 1.1 million square metres to the market and enlarging market stock by 12 per cent. Given that close to 70 per cent of the new supply will be located in non-prime or suburban districts, the rental divergence between prime and non-prime locations is expected to widen in 2014, with non-prime area landlords offering rental discounts to attract tenants, while prime projects with waiting lists should continue to see rental appreciation.

Guangzhou

Four new projects are scheduled to enter the market in 2014, with a combined retail GFA of 488,000 square metres. The combination of substantial retail supply and retailers' conservative expansion plans is expected to lead to rising vacancy rates, particularly in emerging areas. Rents are likely to come under increasing pressure from fierce competition between landlords for the limited pool of retailers.

Shenzhen

Three new high-end shopping malls, totalling 280,000 square metres, are expected to launch in 2014, pushing total stock up by 13 per cent. Eb

***Savills** entered the China market in the late 1980s. Through a network of offices in 13 key Chinese cities, and over 4,600 staff, they provide solutions to meet all real estate needs—commercial, retail, residential, hospitality, valuation, property management, asset management, investment, research and development consultancy, and marketing and communications.*

SUZHOU: VENICE OF THE EAST

Suzhou is a major city in the southeast of Jiangsu Province, Eastern China and part of the Yangtze River Delta. Known as the 'Venice of the East', Suzhou is considered one of the richest major cities in China. In this article, **Rainy Yao** from **Dezan Shira & Associates** takes a look at this picturesque city filled with opportunities for foreign investment.

Economic Overview

Suzhou is one of China's foremost destinations for foreign investment due to its proximity to Shanghai and comparatively low operating costs. Major industries include iron and steel, IT and electronic equipment manufacturing, and textile products. Suzhou is the second largest industrial city in China after Shanghai, and is home to 27 listed companies.

In 2013, Suzhou's GDP exceeded RMB 1.3 trillion, an annual increase of 9.6 per cent. Its primary industry contributed RMB 21.4 billion (a three per cent increase) and its secondary industry RMB 685 billion (a 7.5 per cent increase). The service industry contributed RMB 594 billion (a 10.7 per cent increase)—accounting for 45.7 per cent of the city's GDP.

Meanwhile, the city's gross industrial output reached RMB 3.57 trillion (a 3.4 per cent increase). Suzhou's emerging industries in the manufacturing sector contributed RMB 1.37 trillion (6.7 percent growth)—accounting for 45.2 percent of above-scale industries.

Suzhou's tourism industry also made a large contribution to the service sector, bringing in a total income of RMB 152 billion (11.9 per cent growth) for the city. Nearly two million foreign tourists visited the city in the last year alone.

Development Zones

Suzhou's main development zones include:

Suzhou Industrial Park

The Suzhou Industrial Park (SIP), a joint project between the Chinese and Singaporean governments, was established in 1994. It is located beside the beautiful Jinji Lake, which lies to the east of Suzhou's Old City. The SIP covers a total area of 288 square kilometres, of which an area of 80 square kilometres is designated for the China-Singapore Cooperative Zone.

Suzhou Wuzhong Economic Development Zone

Established in 1993, the Suzhou Wuzhong Economic Development Zone (SWEDZ) ranks among the top ten economic development zones in Jiangsu Province. Currently, the Zone hosts some 6,000 domestic and foreign-invested enterprises, featuring industrial clusters in precision machinery manufacturing, electronics and IT, bio-medicine, and new energy and new materials.

Suzhou National New & Hi-Tech Industrial Development Zone

This zone was established in 1990 and is now popularly known as the Suzhou New District (SND). In November 1992, the zone was upgraded to the status of a national-level, hi-tech industrial zone. Major industries in the district include information technology, electronics, pharmaceuticals, fine chemicals and auto parts.

Xiangcheng District

Established in 2012, the Xiangcheng District covers an area of approximately 50 square kilometres, with the Caohu Industrial Park at its centre. The district is located in northern Suzhou and borders the SIP to the southeast and the SND to the southwest. Industry is mainly concentrated in precision machinery, auto parts, energy saving and green technology.

Suzhou Industrial Park Export Processing Zone

The Suzhou Industrial Park Export Processing Zone, located inside the SIP, was approved by the government in April 2000, with a planned area of 2.9 square kilometres.

Investment Guidance

In order to promote the economic transformation and development of Suzhou, the municipal government offers various preferential policies to foreign investors (including tax incentives and financial support), and especially encourages foreign investment in the manufacturing and service sectors. Below are some key industries in which foreign investment is encouraged:

Manufacturing Sector

- Modern biological and pharmaceutical industry
- New materials
- Electronic and telecommunications manufacturing
- Automobile manufacturing
- Ship manufacturing
- Petrochemical and fine chemical manufacturing
- Fine steel manufacturing

Service Sector

- Banking
- Logistics
- Wholesale and retail trade
- Scientific research and comprehensive technology services
- Real estate
- Tourism
- Information and consulting
- Outsourcing

Preferential Tax Policy

A limited-partnership, venture-capital enterprise (VC Enterprise) established in the SIP, in accordance with relevant laws and engaged solely in capital investment, is entitled to preferential tax policies if it has invested in an unlisted small- or medium-sized, high-tech enterprise by way of equity investment for two years (24 months) within the pilot period.

Seventy per cent of the total investment by the partners of the VC Enterprise may be deducted from the taxable income distributed by the VC Enterprise. If a legal partner has invested in several qualified enterprises in the SIP, the deductible investment and taxable incomes may be calculated on a consolidated basis. Eb

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TALENT MANAGEMENT IN CHINA

Dan Zhu, Shanghai Chapter board member and **Chair of Shanghai's HR Working Group,** and **Jan Anne Schelling**, HR Vice President at **DSM**, provide an overview of talent management and look at some of the trends in China

The role of human resources (HR) professionals has transformed from that of mere back-office administrators to become something more akin to organisational capability architects. This is partly due to the emergence of the SoLoMo[1] model of doing business, increased expectations of the HR function from business leaders and the increasing trend of HR outsourcing. Human resources now drive the building of organisational competencies and in this way co-own and co-direct a company's strategy development and implementation.

These days many organisations complain of a talent shortage and a lack of know-how. At the Chamber's ninth annual HR Conference, talent management was a hot topic with discussion mainly focussed around the following three questions:

What is talent management?

Talent management involves the creation of a talent pool from the existing workforce and employing systematic succession planning by applying a standardised assessment of identified high achievers. Such assessments often involve a Development Centre to verify these high achievers' current level of capability, their future potential, leadership style and their problem-solving skills. Upon completion of the appraisal, HR and line managers will work with the assessed individuals to devise a personal development plan (PDP).

Talent management should go hand in hand with your business strategy, with the aim of defining and building your organisation's DNA through the development of people. With the application of Development Centres and PDPs, organisations often engage a third-party vendor to work alongside HR and line managers to contribute to the process. Since most line managers are not experts in this area training in talent management know-how is in constant demand. Such training can include how to observe Development Centre activities, how to conduct PDP discussions and how to conduct talent reviews.

What is going on in the talent acquisition market?

With the evolving growth model of China's markets there is an increased demand for talent with increased capabilities and skills; the market is in need of individuals who can drive performance efficiency while maintaining a strategic view. Employers are also seeking not just to secure talent for immediate vacancies, but to assess their potential for growing into positions that are one or two levels above their entry role.

This represents a significant shift from the previous practice of merely filling immediate vacancies, and entails much more detailed planning and long-term forecasting from HR and hiring managers. Hiring decisions also need to incorporate many other factors, and often will involve strategic workforce planning, which would previously have been carried out at headquarters rather than in China.

Due to the influence of social media, employer branding is increasingly built on word of mouth within trusted social circles. Human resources and hiring managers have had to become immediate company ambassadors, demonstrating the employer's values through their own conduct. Should the desired talent fail to be impressed by the approach of the interviewer(s) they may simply walk away. In this respect, it is the talent that is winning the war of talent acquisition.

What does leadership development mean for HR and line managers?

Leadership development encompasses a lot more than just classroom training in knowledge and skills. Around 70 per cent is devoted to flexible, stretched assignments on top of individual job requirements, turnarounds and new initiatives, 20 per cent on coaching and mentoring with just 10 per cent taking place in the classroom.

It is important that HR communicates this process clearly to line managers and employees. Clearly articulating an organisation's talent management strategy and practice is vital; it is a process that will involve the consolidation of global, regional and local needs and demands, best practices and country-specific priorities.

If third-party vendors are to be employed their selection is also critical, as Development Centre participants and senior management can be very demanding in questioning their validity and reliability. The design and follow-up of a certain talent's development plan should also be openly communicated. Another challenge is to cooperate with line managers to carefully understand the critical issues involved in understanding an individual's career-path development. Readiness, options, motivation, mobility and personal issues all need to be taken into consideration.

For line managers it is important that they understand how to be true people managers. Only by knowing how to motivate, engage and retain team members can they develop themselves while developing others. They should understand that a core part of their job as a manager is not executing tasks but rather coaching people to help them find their own path, their personal growth potential and their own solutions.

[1] Social-local-mobile: the convergence of social, local and mobile media, with particular emphasis on smartphones and tablets, where information is pulled by a user based on their location and activity on social media.

EUROPEAN CHAMBER EVENTS GALLERY

BEIJING CHAPTER

Insight China: China's Economic Outlook for 2014 (1)
On 16^{th} January the Chamber held 2014's 1^{st} edition of Insight China on China's Economic Outlook for 2014, with leading experts Andrew Polk (Conference Board) and Arthur R. Kroeber (Dragonomics) and moderator Mats Harborn.

Capital Beat: Updates on China's Central Economic Work Conference (2)
Taking place on 21^{st} January, 2014, this seminar featured a discussion on the results of China's Central Economic Work Conference and its implications on international businesses operating in China.

Exclusive Dialogue with Vice Mayor of Beijing (3)
The Chamber co-organised an exclusive dialogue with the Vice Mayor of Beijing, Ms Cheng Hong on 26^{th} February, 2014, with the Beijing City Government and the Beijing Investment Promotion Bureau (BIPB).

NANJING CHAPTER

InterChamber Gathering (1)
The European Chamber joined the Nanjing International Club and the Netherlands Trade Office to host its first social mixer after Chinese New Year at Brewsell's Belgian Bar.

Meeting with Nantong Municipal Government Delegation (2)
On 4^{th} March, Nantong Municipal Government's Foreign Affairs Office led a delegation to visit the Nanjing Chapter and members of the Foreign Representative Offices Forum.

PRD CHAPTER

Gala Dinner (1)
On the night of 1^{st} March the PRD Chapter held their Bond-themed Gala Dinner. More than 300 guests attended.

Factory Visit (2)
On March 14^{th}, Chamber members visited the factory of member company Axon Interconnect Limited in Foshan.

SHANGHAI CHAPTER

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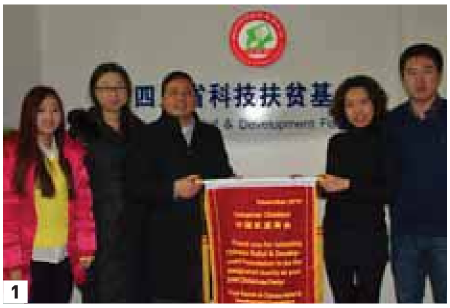
Discussion with Shanghai Environmental Protection Bureau (1)

On 19th February, Chamber members had the chance to discuss Shanghai's air pollution emergency response measures with Ms Huang Lei, Section Chief, Pollution Prevention and Control Division the Shanghai Environmental Protection Bureau (SEPB).

Senior Care: Technology, Investment Opportunities and Practices (2)

This seminar, held on 27th February, was run by Ms Ying Rong Du, Vice Chair of the Pharmaceutical Working Group. She was joined by Mr Zhang Naizi, Director of No. 3 Elderly Home; Ms Katherine Wang from Ropes & Gray; Chandlar Wang from KPMG; and Ms Jing Feng from NITA-Inbo.

SOUTHWEST CHAPTER



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Charity Donation (1)

On 12th February, Southwest Chapter GM Min Colinot delivered a cheque for RMB 125,800 to the Sichuan Relief & Development Foundation, a charity that helps the left-behind children of Sichuan. The money was raised during the 2013 InterChamber Charity Christmas Party.

Speed meeting (2)

On 26th February, the Southwest Chapter organised this unique event at ViaVia Travelers Cafe in Chengdu, with 50 participants joining the 3-minute 'speed' meeting experience.

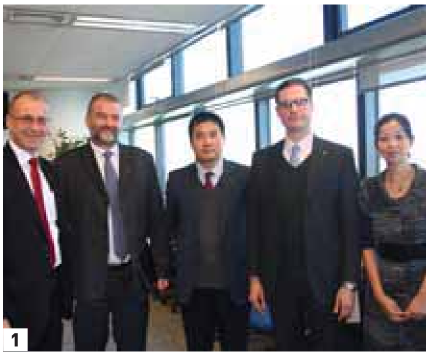
March VIP Dinner (3)

On 6th March, Guido Tielman, Netherlands Consul General in Chongqing, and Sergio Maffettone, Italian Consul General in Chongqing, gave presentations about investment policies and business opportunities in their respective countries.

FDI Workshop (4)

On 26th February, Jerry Tang of Deutsche Bank presented their view on new FDI policies and regulations in China, and shared case studies.

TIANJIN CHAPTER



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Working meeting with President Xu Datong (1)

On 21st January, the European Chamber Tianjin Chair Mr Castaldi, along with other board members and staff, met President Xu Datong, Commerce Commission of Tianjin Binhai New Area.

Asymmetry in the Development of EU and China (2)

On 23rd January, The European Chamber Tianjin Board welcomed HE Alberto Bradanini, Italian Ambassador to China, to Tianjin to deliver a speech during the GM Briefing dinner event with member companies.

The 7 Habits of Highly Effective People (3)

In cooperation with Right Management, the European Chamber Tianjin Chapter brought this workshop to Tianjin and shared the key issues with our members.

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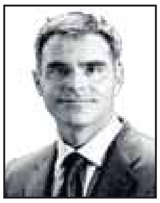
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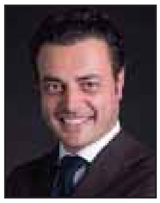
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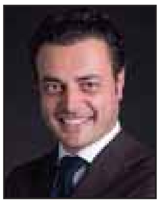
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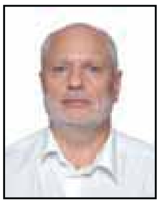
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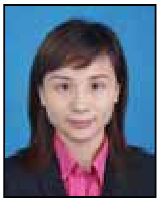
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THE EXECUTIVE INTERVIEW:

Mick Adams

Director, Somerley Investment Consulting (Shanghai) Ltd

Mick Adams, a former professional engineer, came to China in 2002, and has been working for **Somerley** in Shanghai since 2009. Established in Hong Kong in 1984, Somerley also has a representative office in Beijing. A leading independent investment bank, they offer a full range of financial advisory services. Adams was recently elected as Chair of the Chamber's Private Equity and Strategic M&A Working Group.

When and why did you make the switch from engineering to corporate finance?

I made a switch to become a more business-focussed person after being a consultant engineer for ten years. I felt that I wanted to be more involved in business management generally rather than a technical specialist. I did an MBA at INSEAD and then returned to the engineering industry, but in a project-development, project-finance role. From that time forward, which would have been 1990, I was very much in a management role and heavily involved in the financing of major projects.

Can you tell us about some of the recent deals that Somerley has been involved in?

We assisted an Italian company that had a 75 per cent joint venture in China, near Tianjin, which it wanted to exit. The company was in financial difficulties in Europe and the joint venture was also not performing well. They took us on to find a buyer for their 75 per cent. Within a fairly short space of time we had identified a Chinese company that was interested in buying out their share, and ultimately in buying out the whole thing.

In another deal, very early this year we helped to raise USD 175 million of capital from overseas investors for a foreign-owned company that has invested in domestically-operated hospitals in China. The capital raised is to allow them to acquire other hospitals in China.

Also, last year, with our US-based strategic partners, Harris Williams & Co, we helped the owners of an Israeli medical laser business sell their company, Alma Lasers, to Fosun in Shanghai for around USD 220 million.

When Chinese companies are looking for outbound investments in Europe, which sectors are most attractive for them to invest in?

It is very rare to see an outbound deal that is not driven by one or more of the following objectives for the Chinese investor: achieving greater resource security; becoming more competitive and expanding presence in the domestic market; expanding businesses internationally; and asset diversification to reduce risk.

In Europe, the relevant drivers tend to be either raising competitiveness and expanding market presence or asset diversification. Therefore, there is a lot of interest in acquiring European advanced manufacturing capabilities and consumer brands.

On the asset diversification side, you see the likes of China Investment Corporation (CIC) and the China Three Gorges Corporation, really I think acting as tools of government policy to diversify the portfolio of foreign assets held by the government.

Has Somerley seen an increase in activity due to the inception of the China (Shanghai) Pilot Free Trade Zone?

I don't think that is has led to an increase in activity, certainly nothing measurable, but I think that it is an encouraging development for M&A, particularly in two areas. First is the introduction of the *Negative List*, if it is actually followed through on and if the number of industries that are on it is significantly reduced over time, as is the stated intention. This could open up a lot of extra industries to foreign companies and potentially lead them to acquire businesses that are not available to them at the moment.

Then, in terms of outbound M&A, the Free Trade Zone makes it easier for domestic companies to invest overseas. If you're a company established inside the Zone you don't need to go through the same lengthy approval process as a company incorporated elsewhere in China, to buy a company offshore.

I was talking to one of our competitors quite recently and they've had a deal where the Chinese buyer deliberately set up an entity inside the Free Trade Zone to make an acquisition, and it all happened very smoothly and quickly.

In the past, we've seen deals not go through with Chinese buyers because the seller was not prepared to wait for the approval process to take place and/or take the risk that the needed approval would ultimately not be obtained.

So, if it's now possible for a Chinese buyer to remove these concerns, more deals should get done. Eb

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