Journal of the European Union Chamber of Commerce in China

EURObiz

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November/December 2014

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European Chamber
中国欧盟商会

ANSHAN:
PEARL OF NORTHEAST CHINA

Amidst the revitalisation of Northeast China, Anshan is displaying great ambition. Located in the middle-south of Liaodong Peninsula, and rich in mineral resources, it has the reputation of being the 'Steel Capital of China'. With the famous port city of Dalian to its south and the Liaoning provincial capital city of Shenyang to its north, Anshan has three counties and four urban districts under its jurisdiction. Covering a total area of 9,252 square kilometres, Anshan is home to 4 million people, including 2.3 million people living in the urban area which covers 800 square kilometres. The gross domestic product (GDP) of Anshan hit RMB 263.8billion in 2013. It is the third largest city in Liaoning, and the fifth largest in Northeast China.

Geographical Advantages

Anshan owns obvious geographical advantages and has a well-developed transportation network. High-speed railways and highways running through Anshan include the Harbin-Dalian high-speed railway, the Beijing-Shenyang high-speed railway, the Beijing-Harbin Highway and the Shenyang-Haicheng highway. Anshan is only 260 kilometres from Dalian Port, 90 kilometres from Taoxian International Airport and 90 kilometres from Bayuquan Port. Anshan airport operates daily direct flights to a range of cities including Beijing, Shanghai and Guangzhou.

Abundant Mineral Resources

Anshan possesses one quarter of China's iron ore reserves, one quarter of the world's magnesite ore reserves and one quarter of China's talcum ore reserves. It also has dozens of kinds of non-ferrous metals, rare metals and non-metal mineral resources such as gold, oil, manganese, copper, marble and mica.

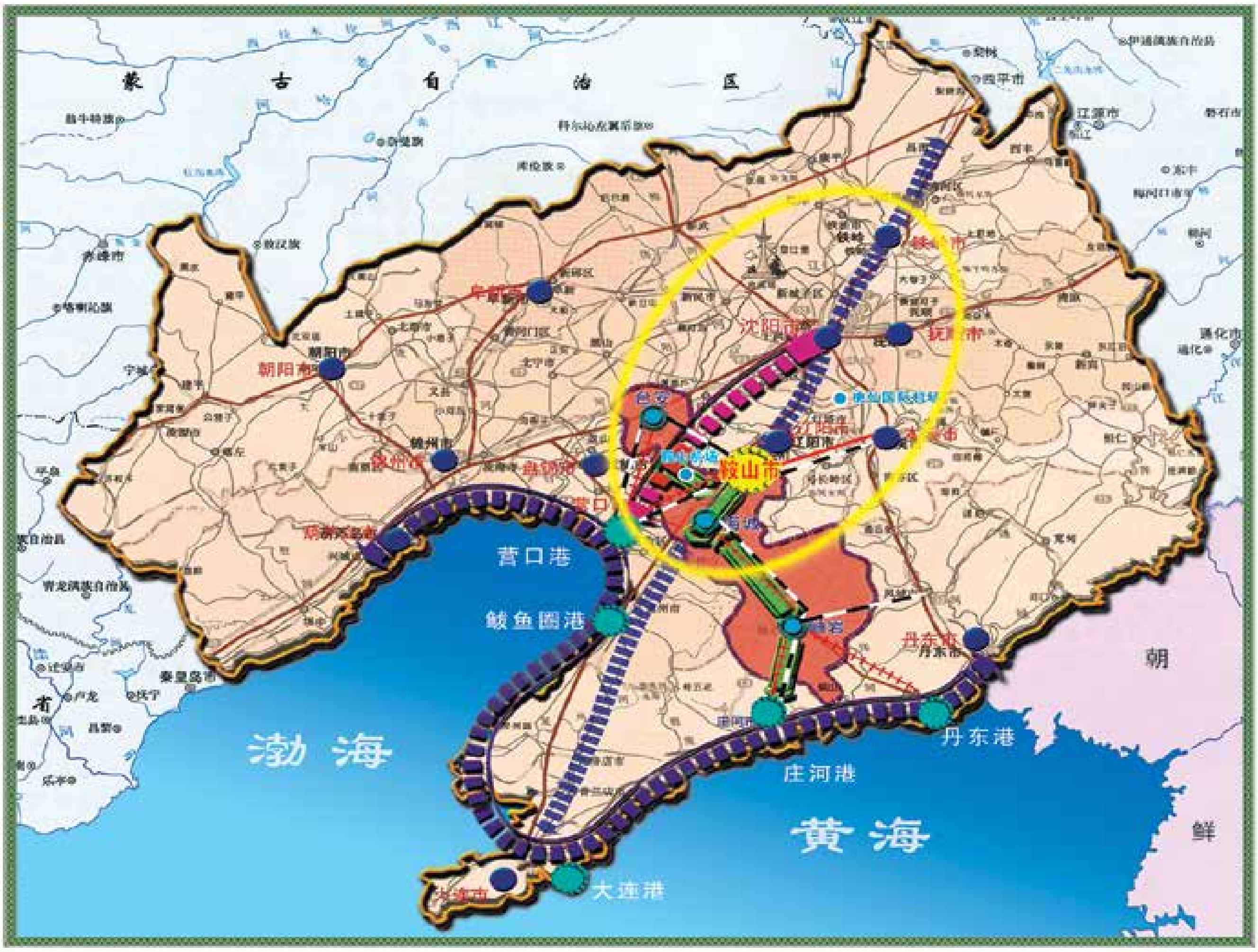
Solid Industrial Foundation

As a strong industrial city, Anshan houses 1,229 enterprises with annual sales revenue reaching over RMB 20 million, including 30 large enterprises whose annual sales revenue exceeds RMB 1 billion with combined assets value of RMB 375.2 billion. Such large companies as Rongxing, Julong, Senyuan, Anshan Heavy Duty Mining Machinery Co Ltd and Zizhu are listed in China's A-share market.

Investment Opportunities

Anshan is keen to attract investments in the following sectors.

Valued-added Steel and Iron Products Manufacturing: The focus is to promote the development of such products as specialised steel products, steel plates, steel pipes, heavy section steel



products, cold-rolled silicon steel, auto steel sheets, galvanised steel sheets and colour-coated steel sheets.

Advanced Equipment Manufacturing: To encourage the development of such sectors as high-end valves, metallurgical mining equipment, electric power equipment, energy equipment, engineering machinery, auto parts and general machinery.

New Magnesium Materials: To focus on the following five sectors – magnesite refractories, magnesite alloys, magnesite building materials, magnesite pharmaceuticals and magnesite chemicals.

Fine Chemicals: To promote the development of leading products, such as processed coal tar products, processed crude benzene products, wall materials, carbon materials, dyes, chemical additives and polymer materials.

Laser Technology and Information Technology: To focus on such sectors as laser cutting, laser welding, laser 3D printing, laser communications, laser processing, medical applications of laser technology and Opto-mechatronics.

Advanced Battery Products Manufacturing: The focus is on such sectors as battery manufacturing, battery raw materials, applications of batteries, battery recycling and equipment for battery manufacturing.

Health Industry: To focus on the development of diversified health industry centering on such sectors such as bio-medicine, healthfood products, cosmetics for special use, precision medical equipment and high-end health-care devices.

Energy Conservation and Environmental Protection: The focus is to promote the development of sectors including solid wastes recycling, hazardous wastes treatment, industrial wastes recycling, energy-saving equipment and resources recycling.

Driven by the national strategy to rejuvenate Northeast China and backed by its sound economic foundation and broad development space, Anshan is offering great investment opportunities for potential investors. With preferential policies and quality services, Anshan is waiting for investors around the world to step into the win-win future. Please visit our website, ***www.aswjm.gov.cn*** *or contact us at* ***aswjmjwlc@163.com.***

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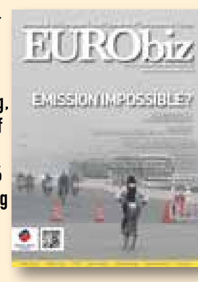
24th December, 2013: citizens travelling on Chang'an Street, Beijing, under a thick blanket of smog. That day, the air quality index (AQI) in 16 Chinese cities, including Beijing, exceeded 300.



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Chief Editor
Carl Hayward

Art Director
Vincent Ding

For European Chamber Membership:

National Membership Manager
Remei Lluch Pont
Tel: +86 (21) 6385 2023 ext 106
rlluch@europeanchamber.com.cn

For advertising in EURObiz:

Advertising and Sponsorship Coordinator
Erica Wang
Tel: +86 (10) 6462 2066 ext 27
ewang@europeanchamber.com.cn

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European Chamber Chapters:

Beijing
Beijing Lufthansa Center, Office C412
50 Liangmaqiao Road
Beijing, 100125, PR China
北京市朝阳区亮马桥路五十号
燕莎中心写字楼C-412室
Tel: +86 (10) 6462 2066
Fax: +86 (10) 6462 2067
euccc@europeanchamber.com.cn

Nanjing
Zhujiang Building 1
30/F, E1
1 Zhujiang Road
Nanjing, 210008, PR China
南京市珠江路1号
珠江1号大厦30楼E1座
Tel: +86 (25) 8362 7330 / 8362 7331
Fax: +86 (25) 8362 7332
nanjing@europeanchamber.com.cn

Pearl River Delta (PRD) – Guangzhou
Unit 2817, 28/F, Tower A, China Shine Plaza
9 Linhe Xi Road
Tianhe District
Guangzhou, 510613
PR China
广州市天河区林和西路9号
耀中广场A座2817室
Tel: +86 (20) 3801 0269
Fax: +86 (20) 3801 0275
prd@europeanchamber.com.cn

Pearl River Delta (PRD) – Shenzhen
Rm 308, 3/F Chinese Overseas Scholars Venture Bld
South District, Shenzhen Hi-tech Industry Park
Shenzhen, 518057
PR China
深圳高新区南区
留学生创业大厦3楼308室
Tel: +86 (755) 8632 9042
Fax: +86 (755) 8632 9785
prd@europeanchamber.com.cn

Shanghai
Unit 2204, Shui On Plaza
333 Huai Hai Zhong Road
Shanghai, 200021
PR China
上海市淮海中路333号
瑞安广场2204室
Tel: +86 (21) 6385 2023
Fax: +86 (21) 6385 2381
shanghai@europeanchamber.com.cn

Shenyang
Room 1606, Office Tower C, Shenyang Land Centre international Plaza,
No. 2-3 Wuai Road,
Shenhe District,
Shenyang 110016,
PR China
辽宁省沈阳市沈河区五爱街2-3号，地王国际C座，1606室。邮编110016
Tel: +86 (24) 2334 2428
Fax: +86 (24) 2334 2428
shenyang@europeanchamber.com.cn

Southwest – Chengdu
04-A, F16, Tower 1 Central Plaza
8 Shuncheng Avenue
Jinjiang District, Chengdu
成都市锦江区顺城大街8号
中环广场1座16楼04-A
Tel: +86 (28) 8527 6517
Fax: +86 (28) 8529 3447
chengdu@europeanchamber.com.cn

Southwest – Chongqing
Lobby Gallery, 1F, Hilton Chongqing, 139 Zhongshan San Lu, Yuzhong District,
400015 Chongqing
重庆市渝中区中山三路139号重庆希尔顿酒店1楼大堂精品廊
Tel: +86 (23) 8832 9803
chongqing@europeanchamber.com.cn

Tianjin
41F, The Executive Center, Tianjin World Financial Center, 2 Dagubei Lu,
Heping District, Tianjin
300020, PR China
天津市和平区大沽北路2号天津环球金融中心41层德事商务中心
Tel: +86 (22) 5830 7608
tianjin@europeanchamber.com.cn


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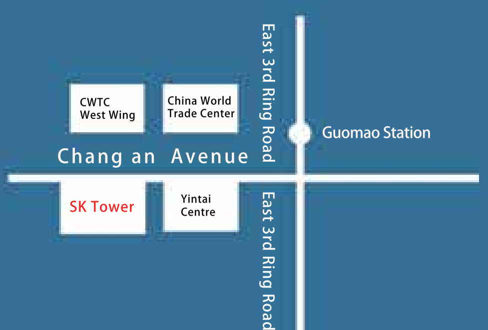
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China World
Trade Center
East 3rd Ring Road
Guomao Station
Chang an Avenue
SK Tower
Yintai
Centre
East 3rd Ring Road

EMISSION IMPOSSIBLE?

Jörg Wuttke
President of The European Union Chamber of Commerce in China

Besides laying out impressive economic reforms, last year's *Third Plenum Decision* also underlined the importance of China's environment and how the country's ongoing economic development must not be to its detriment. While China's economy was still growing in the double-digits, the damage this caused to the country's ecosystem was all too often gravely neglected.

The Chinese Government has now acknowledged that the soundness of China's ecosystem is an intrinsic prerequisite for the ongoing harmonious development of the country and the health of its population.

The European Chamber greatly appreciates the increasing emphasis placed on environmental protection. Facing China's environmental challenges requires increased cooperation among all stakeholders and healthy market competition in order to bring about the best and most innovative solutions China needs.

In this issue of *EURObiz* we revisit environmental issues in China, having previously examined the topic in the January/February 2012 edition. First up is an in-depth article on the pervasive problem of China's air quality, a subject that continues to draw the attention of domestic and foreign media, and remains a hot topic on social networks.

Air pollution *can* be controlled as events in Beijing such as the 2008 Olympics and the recent APEC 2014 summit have demonstrated – though at what cost? Often municipal governments issue orders to shut down industrial plants in advance of such meetings, only for pollution to increase markedly as these plants revamp their operations after their outage. During such spikes, air pollution often reaches levels that are off the scale – a worrisome occurrence.

It is a very positive development that the National People's Congress Standing Committee approved revisions of China's Environmental Protection Law (EPL) earlier this year – the first change to the law in 25 years, since it took effect in 1989. The amendments are due to come into effect on 1st January, 2015. The revised EPL will place greater emphasis on environmental data transparency and public participation in environmental governance, and will increase public access to environmental data. It also promises to hold authorities to greater account and impose stricter fines on environmental polluters. The European Chamber is looking forward to the revised EPL coming into effect. This is a very positive development that bodes well for the future health of China's ecosystem.

European industry stands ready to leverage its expertise and technology to help China achieve its environmental goals. In order to see how this is done in practice, we will look at three EU-China environmental projects: the EU-China Environmental Governance Programme, the Supporting the Design and Implementation of Emissions Trading Systems (ETS) in China project and the development of the EU-China TEEB (The Economics of Ecosystems and Bio-diversity) Platform by the EU-China Policy Dialogue Support Facility.

Besides our focus on the environment, this edition of *EURObiz* also includes a special EU Focus, with a 'Who's who?' in the new European Commission and an article by DG TRADE on the EU-China Bilateral Investment Agreement (BIA). We are also particularly proud to present an exclusive interview with the new Ambassador of the European Union to China, HE Hans Dietmar Schweisgut, who answers questions on China's reform agenda, China's role in the World Trade Organisation and the importance of the ongoing BIA negotiations.

While the last issue of *EURObiz* was extensively devoted to the Fourth Plenum and its reaffirmation of 'rule of law', we will revisit the topic in this issue with further in-depth analysis of the *Fourth Plenum Decision* and what it means for foreign business in China. There are two perspectives provided – a legal overview and a special piece by Jonathan Fenby who looks more closely at the language of the *Fourth Plenum Decision*. Mr Fenby finds that there is not as much to be positive about as many media and commentators have made out.

On a personal note, I am particularly glad to have recently visited our Chapters in Southwest China and the Pearl River Delta, and am glad to be returning to Guangzhou again at the end of this month for our next Executive Committee meeting. Close contact with all the Chamber's chapters and members is particularly important for me, in our efforts to speak with 'One Voice' for European industry in China.

European industry is glad to be in China and will continue to make its contribution to China's economic growth in a clean, environmentally-friendly and sustainable way. The European Chamber is proud of our members' contributions and we stand ready in our advocacy effort to support our members, and the Chinese Government, in any way we can.

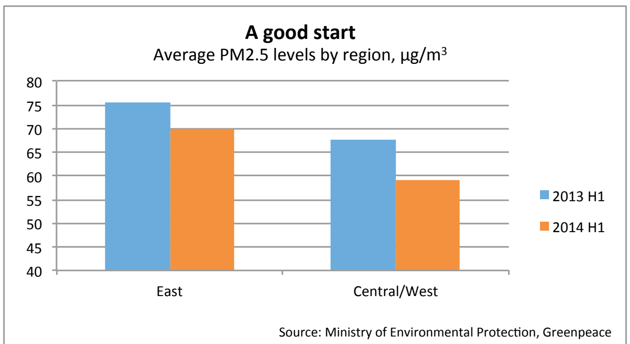
AIRPOCALYPSE NOW

After Beijing's infamous 'airpocalypse', Premier Li Keqiang declared war on air pollution. Official data show surprising progress in the past year. But to sustain this progress the Chinese Government must embrace more systemic and market-orientated approaches, says **Calvin Quek**, head of the Sustainable Finance Programme at **Greenpeace** in Beijing.

Beijing's skies have long been dirty, but the 'airpocalypse' was something else. On 13th January, 2013, the average concentration of fine particles in the capital's air hit a record of 755 micrograms per cubic metre ($\mu g/m^3$), about double the level for a really bad Beijing smog and more than 30 times the World Health Organisation's (WHO's) upper limit for safe air. The choking darkness at noon made global headlines and sparked domestic outrage – including at the normally sedate National People's Congress, whose nearly 3,000 deputies loudly booed their incoming environmental protection committee at a meeting in March that also took place under a thick blanket of smog.

The 'airpocalypse' spurred the government into long-delayed action. Premier Li Keqiang ordered his bureaucrats to "declare war" on pollution. D-Day came on 13th September, 2013—exactly six months after the capital's skies darkened—when the State Council and six key ministries released a comprehensive strategy against air pollution. Enforcement followed, with the closure of coal-fired power plants and other heavy industrial polluters, especially in Beijing and surrounding Hebei.

Official data suggest the 'war' is going well: the national average concentration of fine particles fell nine per cent in the first half of 2014 compared with a year earlier, to $65\mu g/m^3$ – a big improvement, though still far above the aspirational national standard of 35 $\mu g/m^3$ (which in turn is still higher than the WHO's $25\mu g/m^3$ ceiling). The progress is probably exaggerated: it is hard to believe that nine months of enforcement could produce such good results so quickly, and there are plenty of ways for local governments to fudge the numbers. But there is no doubt localities face intense and rising pressure to clean up their skies.



Beijing is finally serious about tackling the problem, but it still relies too much on clumsy administrative sanctions, rather than systemic measures to shift the economy on to a greener path. And there is real risk that the cleaning the air in rich cities like Beijing and Shanghai will simply lead to a transfer of pollution to poorer inland areas.

This time, we mean it

China's air pollution strategy is a serious document. Although China suffers from various air pollution problems, the current campaign focuses on particulate matter (PM)2.5 – fine particles less than 2.5 micrometres in diameter, which are the biggest contributors to North China's smog and by far the most serious health risk. The strategy set ambitious PM2.5 reduction targets for greater Beijing, greater Shanghai and Guangdong's Pearl River Delta region; more modest targets followed for most other provinces.

The plan makes some effort to move beyond the top-down enforcement approach that traditionally characterises Chinese government campaigns. Of its six focus areas, three directly address the key sources of PM2.5 in the usual way, but two relate to improving the incentives of local officials and—perhaps more surprisingly—create a bigger role for civil society organisations. The sixth requires major cities to set up emergency response plans to deal with one-off events like Beijing's 'airpocalypse'.

FROM EACH PROVINCE ACCORDING TO ITS ABILITY: TARGET ANNUAL DECREASE IN KEY POLLUTANTS, 2014-17

PM2.5	-25%	BEIJING, TIANJIN, HEBEI
	-20%	SHANGHAI, JIANGSU, ZHEJIANG, SHANDONG, SHANXI
	-15%	GUANGDONG, CHONGQING
	-10%	INNER MONGOLIA
PM10	-15%	HENAN, SHAANXI, QINGHAI, XINJIANG
	-12%	GANSU, HEBEI
	-10%	SICHUAN, LIAONING, JILIN, HUNAN, ANHUI, NINGXIA
	-5%	GUANGXI, FUJIAN, JIANGXI, GUIZHOU, HEILONGJIANG
UNSPECIFIED IMPROVEMENT		HAINAN, TIBET, YUNNAN

SOURCE: MINISTRY OF ENVIRONMENTAL PROTECTION

The first three goals are to eliminate old and excess capacity in polluting heavy industries (notably steel, cement, glass and bricks) and the installation of environmental-protection equipment in the capacity that remains; accelerating the shift away from coal-fired power plants to cleaner gas-fired ones; and imposing higher emission and fuel-efficiency standards on motor vehicles. All these objectives have been around for a decade or more; the new pollution strategy simply sets more aggressive targets and invites one to accept that Beijing is now *really serious* about enforcing standards that it had difficulty making stick in the past.

Of the two incentive-based goals, one is a hoary old chestnut: making environmental targets a bigger part of local officials' performance reviews. This has been talked about, and allegedly implemented in some places, over the past decade with little visible impact. Officials still tend to assume they will be judged on economic growth and maintaining social stability, and that tricky, growth-retarding policies like environmental protection are not in their interests. The new rules, which the government published in May 2014, provide very specific benchmarks for assessing officials' performance in reducing air pollution.

The more interesting goal is increased transparency. In essence, the government is pushing for more air-quality data to be collected and released, and seems comfortable with non-governmental organisations (NGOs) using this data to put pressure on polluting companies and local governments.

Another important element of the pollution plan is an effort to integrate it with the national energy plan, which makes sense given that coal burning contributes 45–50 per cent of national PM2.5 emissions, and transport fuel emissions account for another 15–20 per cent. In theory, huge progress toward reducing PM2.5 emissions could be achieved by shifting the national energy mix away from coal and towards cleaner fuels (such as natural gas, nuclear and renewables), and by improving the efficiency of the transport fleet.

The problem with targets: hitting them

This is all well and good, but Beijing has promulgated plenty of energy and environmental plans and targets in the past, and its record in hitting them is less than stellar. The country fell short of meeting its much-heralded, energy-intensity reduction target of 20 per cent in the *11th Five-Year Plan (2006-2010)*, which was the focus of intensive enforcement efforts; and it only got as close as it did (-19 per cent) by temporarily shutting down large swathes of energy-hogging factories in the plan period's closing months.

MOVING TARGETS: TARGETS FOR CHANGES IN CHINA'S ENERGY STRUCTURE, 2013-2017			
	2013 ACTUAL	2015 (ENERGY 5-YEAR PLAN)	2017 (AIR POLLUTION PLAN)
COAL, % OF PRIMARY ENERGY CONSUMPTION	66-67%	65% +/-	< 65%
NATURAL GAS, % OF ENERGY CONSUMPTION	5.9%	7.0%	9.0%
NON-FOSSILS, % OF ENERGY CONSUMPTION	9.8%	11.5%	13.0%
NATURAL GAS SUPPLY, BILLION M^3	121	250	330
COAL-DERIVED SYNTHETIC NATURAL GAS, BILLION M^3	3	9	32
NON-FOSSIL ELECTRICITY GENERATION CAPACITY, GW			
HYDROPOWER	280	290	330
WIND	76	100	150
SOLAR	18	35	70
NUCLEAR	15	40	50
SOURCE: GREENPEACE			

The industrial-closure approach creates the temptation to shift pollution from more to less visible locations. This is evident from a comparison of Hebei and Jiangsu. Hebei, which surrounds Beijing, endured a draconian clean-up of its steel, power and coke industries[1] and saw its reported PM2.5 level fall by seven per cent year-on-year in the first half of 2014; Beijing's level fell 10 per cent (these figures are reasonably consistent with power-consumption data and with the visible reduction in the number of dire smog days in Beijing). But Jiangsu, in east-central China, was one of eight provinces reporting an increase in PM2.5 levels. This appears to have been a direct result of a heavy industrial boom: the province's industrial production rose 10 per cent in the first half of 2014, and steel production grew eight per cent. Press reports suggest that as steel plants closed in Hebei, new production fired up in northern Jiangsu. In other words, the steel industry's PM2.5 emissions are being moved around, but not eliminated.

1 Cleaning Up Coketown: Can air pollution be controlled?, *China Economic Quarterly*, March 2014, http://research.gavekal.com/content.php/9819-China-CEQ-Q1-2014-Cleaning-Up-Coketown-Can-Air-Pollution-Be-Controlled

The problem with systems: building them

Examples like this suggest that a more systemic approach would be more preferential to the 'strike hard' enforcement tactics that Xi and his colleagues favour.

Historically, China has relied heavily on administrative measures, while doing a poor job with regulatory, market and institutional levers. The current war on pollution is so far not much different: most action has come through administrative enforcement. More needs to be done to embed pollution control in China's economic and political systems.

Little progress has been made on market mechanisms: a higher tax on coal, and a new comprehensive carbon tax have been discussed for years but there is no sign of imminent implementation of either. Experimental cap-and-trade programmes, with markets for carbon emission permits, are piloting in seven cities, but the chances of expanding beyond the pilot stage any time soon are dim. The Ministry of Environmental Protection (MEP) remains bureaucratically weak and under-resourced, and the concrete impact of a revised Environmental Protection Law (to take effect in January 2015) is unclear.

There are two bright spots. One is the move towards greater collection and disclosure of air pollution data, and the willingness (so far) to let NGOs use this data to gin up public pressure against polluters. A second is the recognition that air pollution is a regional issue that cannot be solved within the limits of individual administrative jurisdictions.

Yet even here caution is advisable. There is still wide variance in both the availability and reliability of air pollution data, and it remains to be seen how long Xi's government (which in general has tried to tightly control both the media and civil society) will tolerate unregulated citizen pressure on polluters.

Adding it all up, the likely verdict is that like many items on Xi Jinping's reform agenda—anti-corruption, SOE restructuring, residence permit reform—the war on pollution will end neither in outright victory nor defeat. The key difference between this 'war' and previous environmental efforts is that this time the government acknowledges that air pollution is not simply a by-product or necessary evil of economic growth, but rather is an exemplar of unhealthy trends that directly threaten China's ability to keep its economy growing over the next couple of decades. Eb

Calvin Quek *heads the Sustainable Finance Programme at* ***Greenpeace*** *in Beijing. This article is adapted from his piece* Bringing Back the Blue Sky Days, *which was first originally published by Gavekal Dragonomics in their publication* China Economic Quarterly.

How reliable are the numbers?

In August 2014 the government released its first PM2.5 statistics since the beginning of the 'war' on air pollution, and the progress was dramatic. Twenty-three of the 31 province-level jurisdictions reported declines in their average PM2.5 level in H1 2014 compared to a year earlier. Fifteen provinces reported declines of more than 10 per cent. The average level for all provinces dropped by 9.6 per cent, to 65μg/m^3.

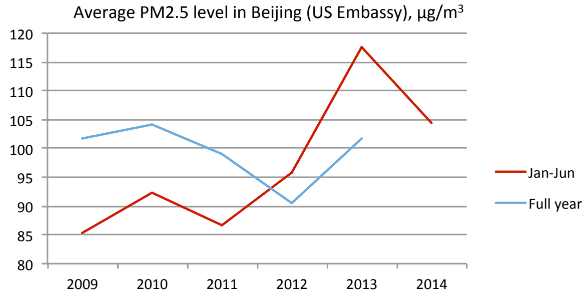
Sceptics have grounds for doubting these figures. For one thing, the number of air quality monitoring stations more than doubled between January 2013 and January 2014. So the year-on-year comparison is clearly not like-for-like. Optimists can argue that the more comprehensive coverage gives us a more accurate, and somewhat lower, baseline. Improved accuracy, rather than reckless polluting, probably also explains why Anhui's reported PM2.5 level rose by nearly 15 per cent.

Another possibility is that localities deliberately moved their monitors into more salubrious locations in order to produce lower numbers. This may have occurred, but it's worth noting that independent monitoring stations run by the US Embassy and consulates roughly confirm the official figures. These stations found that PM2.5 levels in Beijing, Shanghai and Chengdu fell by 11 per cent, 14 per cent and 16 per cent respectively in H1, while the level in Guangzhou rose a modest one per cent.

Alas, the US Embassy's time-series data for Beijing, which go back to 2009, show that this year's gain only partly reverses a severe deterioration in 2013 when the PM2.5 level rose by more than 12 per cent. The average level for the first half of this year is about the same as the average for 2010. So China may be making progress against pollution, but it clearly has a long way to go.

A step forward after a step back

Average PM2.5 level in Beijing (US Embassy), μg/m^3



Source: US Embassy Beijing

WATER WISE

EU-CHINA COLLABORATION FOR DELIVERING BETTER URBAN WATER INFRASTRUCTURE IN CHINA THROUGH INTEGRATED ECO LOW CARBON URBAN PLANNING.

In Europe our cities and their basic infrastructure are generally well developed and, though continuously evolving, they grow and change at a measured rate. Nonetheless, pressure on resources and greater environmental awareness has led to policies and regulations that drive change towards more resource-efficient and ecological urban development. In response to this European researchers and companies have worked together to develop many innovative, integrated solutions and technologies for more efficient urban infrastructure. **Simon Spooner** of **Atkins Water & Environment International**, and Honorary Professor at Nottingham University UK and Ningbo, explains what some of these solutions and technologies are, and how they are helping China to reach its sustainable urbanisation goals and build better cities.

In China the rate of urban transformation is much faster than in Europe, with new cities and districts being planned and constructed every year and older urban areas re-constructed. Urbanisation is driving economic development and there is increasing demand for better, ecologically-integrated and resource-efficient plans for building more liveable cities to meet the Chinese Government's goal of building an 'ecological civilisation'. This target was set in March 2014 in the *National New Type Urbanisation Plan (2014-2020)*.

Planning a well-functioning and prosperous city is a complex task, doing so in a way that fully integrates the elements of the infrastructure to maximise efficiency and resource recycling, and create a beautiful living space is even more challenging. To help with this, Atkins, in conjunction with the China Society for Urban Studies (CSUS), China's Ministry of Housing and Urban-Rural Development (MOHURD) and the UK Foreign and Commonwealth Office (FCO), prepared an Eco Low Carbon (ELC) urban planning methodology,[1] combining Chinese and international best practice. This was launched in Beijing on 28th May, 2014,[2] and is freely available for download. Chris Birdsong, CEO of Atkins Asia Pacific region said, "Our methodology, which is closely aligned with Atkins' 'Future Proofing Cities'[3] initiative, provides a clear, practical approach for ELC urban planning based on international best practice tailored for Chinese urban planners." [4]

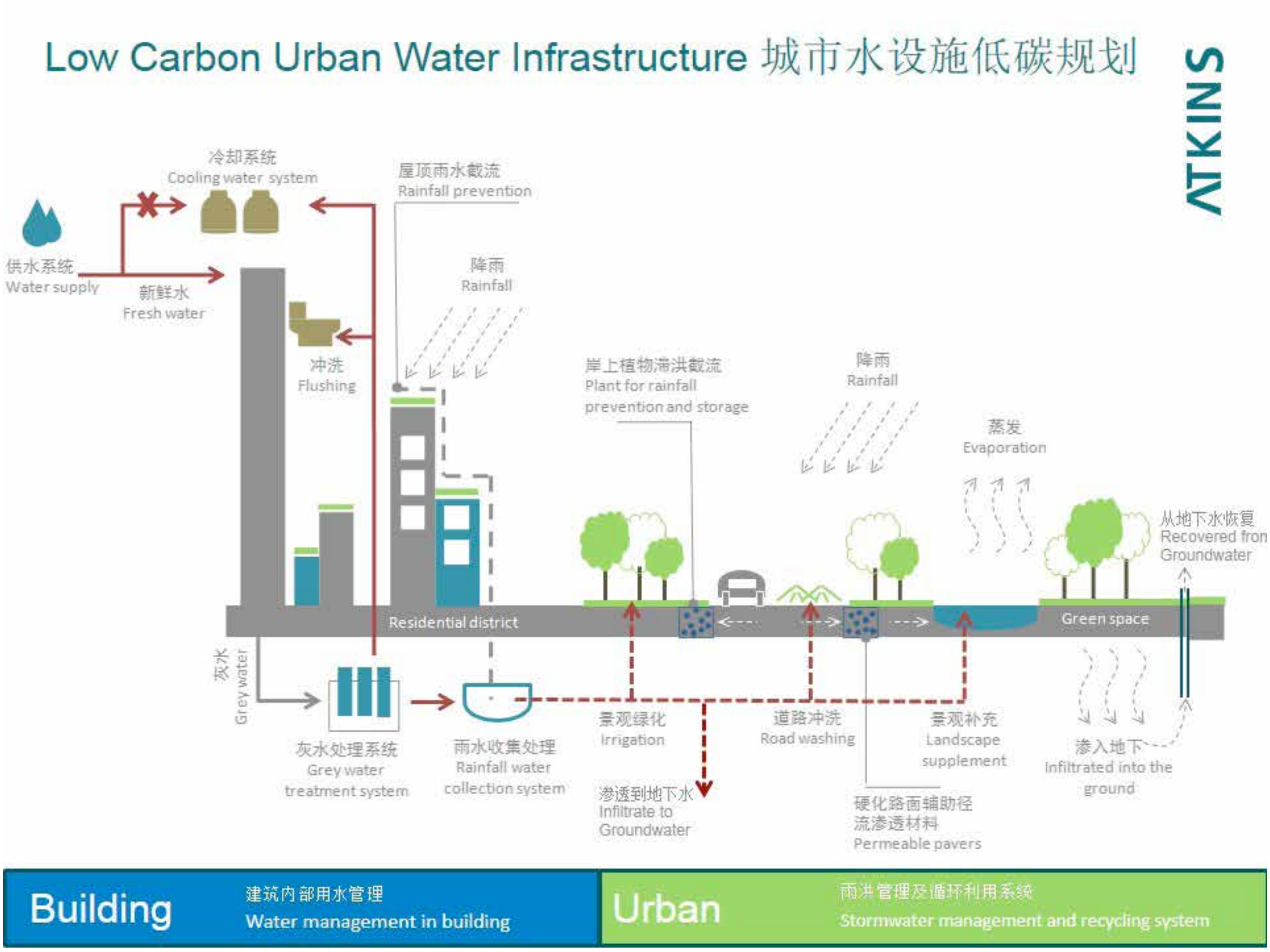
The ELC urban planning methodology provides a blueprint for European and Chinese policy-makers and practitioners to work collaboratively to deliver the *National New Type Urbanisation Plan*. The methodology is focused on the early planning stages of urban development. In the construction phase many of the agreed plans and solutions can end up being set aside for more conventional and familiar solutions, so more work is required to extend this type of practical guidance into the implementation phase. Parts of the methodology cover the integrated planning of water and other utility infrastructure.

1 http://www.atkinsglobal.com/en-GB/group/sectors-and-services/services/future-proofing-cities/china

2 The Atkins-led 'Eco- Low-Carbon Urban Planning Methodology' was formally launched at an event in Beijing on 28th May during which the contract for a new pilot phase was signed. Leaders from Atkins, MOHURD, CSUS and the FCO were in attendance along with Vince Cable, UK Secretary of State for Business, Innovation and Skills and Andrew Key, Minister and Deputy Head of Mission at the British Embassy in Beijing.

3 www.atkinsglobal.com/fpc

4 For more information go to http://www.eurobiz.com.cn/sustainable-development-urbanisation-drives-innovation/.



European companies have great experience and technologies for implementation of innovative solutions for water-saving infrastructure that integrate buildings with their urban surroundings to locally capture, treat, store and recycle water leading to water savings of 30 per cent or more, reductions in pollution discharges and energy savings. Water carries heat energy and with modern heat exchanger systems this can be recovered and reused for space heating and hot water. Waste water contains chemical energy and resources that can be recovered as natural gas and fertilisers. The provision of urban water services consumes significant amounts of energy where, with better design and operational practice, there is scope for energy saving and reduced costs.

Through the China Europe Water Platform (CEWP) and other EU-China collaborations it is planned over the coming years that these types of solutions can be developed further, specifically for the Chinese urban development market to help European and Chinese businesses work together to build better cities. This will happen much faster and more effectively if there is a coordinated approach to bringing innovations from research into the market and in developing step-by-step guidance in how to incorporate innovative solutions in the design and construction phases of development through the project procurement and contracting phases.

Through the Horizon 2020 programme the EU can support the application of innovative technologies to provide real solutions and through coordinated action between European and Chinese government and industry more cooperative and mutually beneficial ways can be developed for the implementation of such solutions. The upcoming project on Policies, Innovation and Networks for Enhancing Opportunities for China Europe Water Cooperation (PIANO) will facilitate this process, and Atkins are a partner in this, together with European and Chinese universities and institutes. This will support the promotion of European technical and business innovation in China.

However, technical expertise alone is not enough. The policy, institutional and financial conditions surrounding the viability of the implementation of any integrated solution are also important. The greatest resource and financial savings can only be realised when multiple stakeholders cooperate and coordinate their infrastructure. Getting the drivers, economics and mechanisms right for this type of coordination is actually more challenging than the purely technical challenges of design and construction. The researchers and companies focussing on the technology need to be supported by programmes to develop institutional and business solutions and support dialogue. This type of integrated action is particularly challenging within the current processes of urban development in China, but with an innovative and cooperative approach China has the opportunity to take new and much more sustainable directions. Collaborative working between European and Chinese government, academia and industry experts can help bring this about. Eb

Atkins *is one of the world's leading design, engineering and project management consultancies, employing some 17,700 people across the UK, North America, Middle East, Asia Pacific and Europe. Over 75 years, from post-war regeneration and the advent of nuclear engineering to high speed rail and the integrated sustainable cities of the future, our people's breadth and depth of expertise and drive to ask why has allowed us to plan, design and enable some of the world's most complex projects.*

ENVIRONMENTAL UPGRADE – THE PRC ENVIRONMENTAL PROTECTION LAW REVISION

On 24th April, 2014, the Standing Committee of the National People's Congress of the People's Republic of China (PRC) promulgated the revised PRC Environmental Protection Law (EPL). The original EPL had been in force and remained unchanged for 25 years since its first promulgation in 1989. The revised PRC EPL will come into force as of 1st January, 2015. **Li Huini,** Partner of **ADAMAS,** looks at this long-overdue revision and explains some of the more significant aspects.

The revised EPL contains 70 articles, which is a large expansion compared to the original 47. It imposes a wide range of responsibilities on public authorities and market operators, and notably also grants enormous possibilities for the participation of non-government organisations (NGOs) and individual citizens. By bringing together efforts from all stakeholders, the new EPL promises to become a more functional tool for the protection of China's environment.

1. Strengthening responsibilities and updating administrative measures of public authorities

With regard to environmental protection, the EPL imposes extensive responsibilities on public authorities. Any breaches of the law may lead to political and administrative punishment of any officials deemed responsible.

In addition, the new EPL also updates or upgrades environmental protection-related administrative measures, granting them a high level of legal effectiveness and enforceability. Of these measures, pollutant discharge fees and the pollutant emission licence are already well known to any enterprises that have been found guilty of discharging pollutants; pollution taxes have not yet been brought into use, with the draft Pollution Tax Law still under discussion at the legislative level.

Some new measures that have proven to be important and necessary during recent years' environmental protection endeavours have been absorbed in the new EPL. For instance, the coordination mechanism for joint prevention and control in key regions is of great importance in the prevention and control of atmospheric pollution. Due to the irregular characteristics of atmospheric pollution, in the Yangtze Delta region and Beijing and its surrounding areas, where heavy pollution is frequently reported, isolated planning and prevailing standards are clearly not sufficient for effective pollution prevention. The new mechanism could prove to more effective in the fight against against atmospheric pollution.

2. Increased liabilities for enterprises

- Enterprises shall formulate emergency response plans to environmental incidents.
- The Environmental Protection Bureau (EPB) and other relevant competent authorities will record information on violations of environment-related laws committed by any enterprises and make the list public in a timely manner.
- Key pollutant-discharging enterprises must make public: the names of its major pollutants; the methods of emission; emission concentrations and total volume; whether the emissions exceed relevant limits; and any construction and operation of control facilities they have put in place to prevent pollution. They must also accept social supervision.
- When formulating an environmental impact report, the owner of a construction project must sufficiently explain relevant situations to the public and solicit public opinion. The EPB must make the full text of these reports public as soon as it receives them. Where it discovers that public opinion has not been sufficiently solicited, project owners will be ordered to solicit further public opinion.

In short, this means more public divulgation of business activities; more time spent on, and a higher threshold for, obtaining necessary approvals; and ultimately higher costs.

Enterprises should also note that a planned construction project may be suspended due to pollution problems of a whole geographical area. When making business plans this is a new element that must be taken into consideration.

3. Financial and other incentives

Besides imposing more liabilities, the new EPL also provides incentives to encourage enterprises to carry out their business activities in an environmentally-friendly way. The EPL provides explicitly that the State adopts fiscal, taxation, price and government procurement measures to encourage and support the environmental protection industry:

- When conducting procurement, public authorities must give priority to environmentally-friendly and energy-saving products.

- Enterprises that reduce pollution levels lower than the mandatory legal requirements may receive fiscal, taxation, price and other governmental incentives.

Foreign enterprises that already apply high environmental standards when carrying out production in China should pay close attention to the implementation rules pertaining to these incentives pursuant to the new EPL.

4. Enhancing transparency and encouraging public participation

In recent years a lack of public information on socio-environmental affairs has threatened to harm social stability in China. The public's right to be informed undoubtedly became an important concern that contributed to the need to revise the EPL.

The new EPL establishes a number of mechanisms that improve public dissemination of information on environmental and pollution issues. Public authorities and enterprises are both obliged to provide relevant information:

- The relevant authorities must publicise early warning information and start emergency response measures promptly when the environment is polluted and likely to affect public health and environmental safety.

- The public is entitled to access environmental information, and to participate in and supervise environmental protection in accordance with the law. The government shall disclose information and facilitate the implementation of rights for the public to access this knowledge.

- The public shall be provided with information from enterprises as mentioned in item 2 above.

All information to be disclosed according to the new EPL will definitely increase social awareness of environmental issues and consequently contribute to forming a healthier and more rational natural and social environment in China.

5. Law enforcement

Public authorities are granted more effective measures to enforce the new EPL, which is aimed at changing the current situation whereby the costs of violating the law are lower than the costs of being in compliance:

- Where an enterprise is fined and ordered to make corrections due to the illegal discharge of pollutants, but refuses to make corrections, authorities may impose consecutive fines on a daily basis according to the original amount of the fine, which shall be determined based on the operational cost of pollution prevention and control facilities, direct loss caused by the illegal act, illegal gains or other factors.

- The EPB has the power to seize and detain devices and equipment where enterprises discharge pollutants in violation of the law that result in, or might result in, serious pollution.

- Any social organisations that are registered with the civil affairs authority, or engage specifically in the public service activities in environmental protection for five consecutive years without any record of violation of laws, may file lawsuits with the people's courts against acts that pollute the environment, cause ecological damage and harm public interests.

The consecutive daily fines enormously increase the costs of violating the law. The legal instrument of class action is now widely granted to a large range of social organisations, which means more citizens may now participate in law enforcement. Eb

*Founded in 1969, **ADAMAS** advises major European companies, institutions, public entities and governmental authorities on business and public law matters and assists them in litigation. In Mainland China, ADAMAS is the oldest existing foreign law firm licensed by the PRC Ministry of Justice to practice in the field of law. ADAMAS now has representative offices in Beijing and Shanghai, and partner offices in Chengdu, Guangzhou and Wuhan.*

With its professional practical experience and expertise developed over four decades, ADAMAS has become now one of the leading European law firms in this dynamic and largest economic entity of Asia. Especially in the fields of environment, energy, construction and infrastructure ADAMAS successfully integrated its European expertise into its China practice and shares the best know-how with its clients and partners.

ECO-OPERATION

The European Union (EU) and China cooperate extensively, both at the political and technical level, based on the EU-China Strategic Partnership. The main channel for cooperation on environmental issues is the Environment Policy Dialogue (ministerial level) that meets regularly since 2003, alternating between Brussels and China.

Additionally there are a number of environment-related programmes and initiatives, mechanisms that allow the EU to collaborate with and provide technical assistance to China. The aim of these projects is to leverage European expertise and experience to assist China in strengthening its environmental governance and reaching its overarching policy goal of moving towards the creation of an 'eco-civilisation', a concept that emerged from the Third Plenum in November 2013. This concept broadly looks to:

- Establish and reinforce property rights over natural resources;
- Confront scarcities by introducing resource extraction payments;
- Establish ecological 'red lines' that delineate carrying capacity thresholds;
- Implement 'eco-compensation' mechanisms; and
- Control emissions quotas from industry.

Over the following pages we look at three EU-China environmental projects – the EU-China Environmental Governance Programme, Supporting the Design and Implementation of ETS in China and the EU-China TEEB Platform.

EU-China Environmental Governance Programme

The framework for the **EU-China Environmental Governance Programme** (EGP) was negotiated from 2008–2009, with the programme eventually being launched in December 2010. The EGP is a EUR 15 million, EU-funded programme implemented with China's Ministry of Commerce and the Ministry of Environmental Protection (MEP). The programme is carried out by the Policy Research Centre for Environment and Economy (PRCEE) and runs until December 2015.

Objective

The objective of this programme is to enhance environmental governance in the People's Republic of China based upon the principles of the Aarhus Convention. It comprises four themes, which promote: public access to environmental information; public participation in environmental consultation and decision making; access to justice in environmental matters; and proactive engagement of the private sector in sustainable practices.

Overview

The programme, which is a pure cooperation project between the EU and China, comprises two parts: a national-level component, which received EUR 3.5 million of funding; and a local component, which received EUR 11.5 million.

The national-level component acts as an umbrella to the local component and extracts and brings the results and policy implications of the partnership projects to a platform set by the MEP. These are used for consideration in policy modification and for replication in other parts of China. It also supports policy development in the MEP by conducting studies and introducing aspects of European environmental policy, emphasising the four aforementioned themes. To do so it organises policy dialogues, seminars, discussion papers and workshops. Further, it brings European experts to China to discuss European approaches to environmental policy implementation.

The local component comprises 15 local partnership projects in which European entities work together with local governments in different parts of China. Each partnership project introduces a European approach to one of the four themes in order to test and put into practice new ideas on environmental governance.

Achievements

Over the past four years, the EGP team has worked very closely with central and local policy-makers and environmental professionals. The programme's four themes are widely spread and have been integrated into some policy-making. Also, by working with media and other stakeholders, the EGP has helped to raise awareness among the public that they should participate in and contribute to environmental governance.

Policy support

- Two seminars and a field visit took place with the Supreme People's Court and the NPC Legislative Affairs Office, to support the development of the new Environmental Protection Law (issued by the State Council on 21st April, 2014, and coming into effect on 1st January, 2015) and the *Opinions on Environmental Public Interest Litigation* (to be issued by the Supreme Court soon). These activities were very well received by policy-makers.

Local partnership projects experience-share

- There is a strong link between the national component and the 15 local partnership projects. The national component evaluated 'expressions of interest' for the extension of the partnership projects and so far has positively recommended five projects for extension. It also provides consultation on and coordination of their policy recommendation and case study reports.
- The 15 local partnership projects have 15 different areas of focus on environmental governance, such as soil remediation, Pollutant Release and Transfer Register (PRTR) regulation localisation and capacity building of environmental judges. Each of them has provided very practical observations and policy suggestions in their own field for both policy-makers and institutions.

Visibility

- The EGP has gained extensive visibility through mass media channels, including appearances and interviews with national media such as CCTV2 Dialogue, Xinhua News and China Radio International, to promote the concepts of the four key themes.

For more information on the Environmental Governance Programme please visit http://www.ecegp.com/index_en.asp.

Supporting the Design and Implementation of ETS in China

The project **Supporting the Design and Implementation of Emissions Trading Systems (ETS) in China** was officially launched on 20th January, 2014, and will run for three years. It is a technical assistance (TA) project with the purpose of helping China meet its emissions reduction targets and assisting with its low carbon development through the design and implementation of successful emissions trading pilots that will eventually lead to nationwide action.

Objective

The overall objective of this project is to support China in meeting the environmental, energy- and carbon-intensity targets defined in the *12th Five-Year Plan* (FYP), and the targets anticipated in the *13th FYP* (2016–2020). Its project work plan has been designed to deliver sustainable results that guarantee alignment with China's political priorities.

Overview

The implementation phase of this project coincides with an important point in the development of China's ETS. Processes are now underway that will benefit from in-depth knowledge sharing, training and capacity building based on the European Union (EU) and other global ETS experience.

China's national ETS is entering a more active phase of design. This provides an opportunity for this project to support China's ETS designers and other policy-makers as they move forward with development of the national ETS system. Most of China's seven ETS pilots have been in operation for about one year, and key stakeholders across those pilots require training and practical TA to help implement these schemes in practice.

The project's proposed TA activities are organised under two major components:

Component 1: Training workshops and information materials

- **General/regional training** covering four regional areas, providing general ETS knowledge and experience to: local level authorities; research institutes; other authorities; enterprises/sectoral associations; third parties from both pilot and non-pilot regions.

- **Specific/in-depth training** to enhance the capacity of China's regulators, experts (e.g., research institutes) and practitioners (including Industry) that have already previously learned about and/or worked on ETS.

- **Senior experts/high-level officials' training**, which will take place in a small group format (roundtable discussions or working groups).

- **Materials for training and information**, focused on developing linked training course materials and related information materials for dissemination during the training events to participants and to a larger group of stakeholders post-event.

Component 2: Study assignments and experts exchange

- Participants will include mid- to senior-level government officials and/or notable Chinese experts in their fields as recommended by the National Development and Reform Commission (NDRC) and approved by the EUD.

- It provides further intensive learning, as well as specific study assignments and exchange views on the evolving status of knowledge and capacity in different ETS building blocks.

- Chinese and EU International Technical Assistance Team (ITAT) members accompany Chinese representatives during study assignments.

- All study assignments in the EU are followed by a dissemination workshop in China upon arrival of the group.

- Two study assignments to the EU under the topics ETS Cap Setting, allocation and regulatory framework are planned for up to 20 participants and up to 20 days each (including travelling time).

- The ITAT will make use of IT tools and web-based platforms to create a magnifier effect of these activities.

EU-China TEEB Platform

The EU-China **Policy Dialogue Support Facility** (PDSF) has been mobilised to develop a platform to share European and Chinese approaches, methods and experiences regarding the value and implementation of TEEB (The Economics of Ecosystems and Biodiversity) elements. To this end a seminar was organised in Beijing, from 10th–11th July, 2014, involving EU and Chinese partners to help establish a platform for mainstreaming the values of nature into economic and social development policy, planning regulatory and institutional frameworks at regional, national and local levels.

Background

The Chinese Government has committed to an investigative initiative on ecosystem services, which is part of their wider ambition to establish an 'eco-civilisation'. To this end, the Chinese Ministry of Environmental Protection (MEP) has dedicated RMB 4.2 million, shared between five institutions, to work towards the implementation of a TEEB China National Action Plan.

Concept

The Economics of Ecosystems and Biodiversity is a global initiative focused on drawing attention to the economic benefits of ecosystem services and biodiversity. It presents an approach that can help decision-makers recognise, demonstrate and capture the values of ecosystem services and biodiversity, complementing existing management and decision-making tools. The TEEB initiative was started in 2007 by the environment ministers of the G8+5 countries who wanted to "initiate the process of analysing the global economic benefit of biological diversity, the costs of the loss of biodiversity and the failure to take protective measures versus the costs of effective conservation."[1]

It identifies three tiers for using economic valuation of ecosystems and biodiversity. The first is recognising value or a qualitative acknowledgement of the benefits that ecosystems and biodiversity provide. The second is demonstrating value and requires quantifying ecosystem services – possibly their economic value in monetary terms. The third is capturing value, which consists of a detailed analysis for policies that provide incentives for ecosystem conservation and sustainable use of their services. For each decision-making context the need for detail in the economic assessment of the value of ecosystems and biodiversity will be different. In some cases the recognition of value may be sufficient to initiate conservation efforts, whereas in other cases a full biophysical and economic assessment that demonstrates and captures ecosystem service values may be needed to align the interests of all parties involved.

TEEB applications should address the issue of sustainability of high economic growth in China. The assessment of a natural capital balance sheet to identify potential limitations to economic development would help address this by indicating where stocks of natural capital are being depleted without corresponding investment in substitute capital.

High rates of urbanisation are creating pressure on the demand for ecosystem services inside and on the outskirts of cities. The increasing scarcity of amenities, through land conversion, is reducing the quality of life. In this regard an enhanced system of land-use planning (including zoning and protected areas) that arbitrates more clearly over the competing values of (e.g. residential) property and ecosystem services and a system of effective policy implementation enforcement is needed. Eb

*The **EU-China Policy Dialogues Support Facility** (PDSF) supports 60+ ongoing sectoral dialogues. These dialogues are in turn supported by three high-level pillars of Strategic, Trade and Economic, and People-to-People. The PDSF acts on proposals from the dialogue partners (DGs on the EU side and line Ministries on the Chinese side) who jointly submit requests based on the needs of their specific dialogue.*

1 http://www.unep.org/pdf/LinkClick.pdf

A CLEAN SHEET

There is increasing pressure on China's manufacturing industry to make concerted efforts to minimise their impact on the environment. Although the paper industry is seen by many as a major contributor to environmental degradation, **Mrs Yuan Xiaoyu**, Head of Public & Government Affairs for **UPM China,** says that many countries around the world with strong paper manufacturing bases have proven that this needn't be the case. The key is to place environmental sustainability as a top priority and to ensure that executive management teams take environmental issues into strategic considerations.

As we brace ourselves for another winter season the issue of heavily polluted skies raises its ugly head once more. Air pollution in China has long been a growing concern, but it was the 'airpocalypse' event in January 2013 that really brought this issue into sharp focus. Increased public attention on the root causes of air pollution has pushed the issue high on the Chinese Government's agenda, and more is now expected from industry to take responsibility for the environment, with polluters being held more accountable than before. For example:

"For those enterprises, institutions and other producers/operators that illegally discharge pollutants and are fined and ordered to take corrective actions, but yet refuse to take corrective actions, government departments that originally issued the punishment can impose continuous fines calculated on a daily basis (according to the original fines) from the second day after the date of the ordered correction."[1]

China has emerged as a manufacturing powerhouse with the world's largest industrial output of steel, cement and paper, among others, in the past few years. Therefore, in addition to the emissions caused by power generation and automobiles, emissions from manufacturing industries in China are now acknowledged as one of root causes of the China's deteriorating environment. From 1st January, 2015, companies will need to be more transparent with their disclosure of emissions data, or face more serious consequences. Enterprises found guilty of not disclosing emissions data, or disclosing false information, will face fines and have their violation made public.[2]

The paper industry in China has come under particular scrutiny following its rapid expansion as it is one of the largest consumers of power, uses huge amounts of water resources and has generated significant amounts of pollution. Does it have to be this way though? If we look at countries such as Finland, Sweden and Denmark, they all have strong manufacturing bases for various products, including paper, yet they are ranked among the most liveable places in the world. How is this possible? It's because enterprises engaged in manufacturing in these countries are equally engaged with the development of environmental protection technologies. In Finland, for example, the pulp and paper industry has remained a pillar industry in its national economy for decades without negatively impacting the environment.

Finland is home to UPM, and for more than a hundred years we have been treating environmental sustainability as a top priority in our daily operations, and our executive management team have always taken environmental issues into strategic considerations.

1 Environmental Protection Law of the People's Republic of China, Article 59, translated by EU-China Environmental Governance Programme, 24th April, 2014.

2 Environmental Protection Law of the People's Republic of China, Article 62, translated by the EU-China Environmental Governance Programme, 24th April, 2014.

This same practice was adopted when we first started to invest in China in 1998. It is important that we, and all of our subsidiaries, follow the same standards across the globe.

When Kim Poulsen, Executive Vice President of UPM Paper Asia, moved to China in early 2013, the heavy smog in Shanghai later that year made him concerned about the health of his daughter, and he temporarily sent her back to Finland. It led him to understand that environmental protection in China requires all parties—companies, organisations and the general public—to take actions to minimise emissions and reduce negative impacts on the environment. He then started to think about the investment plan to build a new boiler in Changshu, Jiangsu Province, that UPM approved in 2012, which he had been asked to analyse before the company went ahead with the project. After serious consideration, the company finally decided not to build the new boiler and instead made the existing boilers more environmentally friendly by adding world class filtration technology.

"We are hungry to deliver short-term profits but are not willing to do it by compromising UPM group values, policies and our long-term strategy. We don't like to come to China and take the resources, land, water and air for granted. We treat the air as if it were our own air," says Poulsen.

Over the years investment in the Changshu Mill has been made to optimise production and reduce raw material consumption, lower emissions and increase energy efficiency. Stricter monitoring of waste water and air emissions has been adopted, and third-party environmental audits have been carried out once or twice a year. On top of that, annual water discharge and air-emissions-improvement targets have been set. Since 2010, the mill at Changshu has been publishing annual environmental performance reports in accordance with the EU's Eco-Management and Audit Scheme (EMAS) requirements.

Based on these efforts, the amount of energy used to produce 1 ton of paper at UPM's mill in Changshu is 65 per cent lower than it was 10 years ago, and the plant now uses only 25 per cent of the amount of water set by the China paper industry to produce one ton of paper.

Many leading manufacturing companies from Europe have proven that sustainable practices can bring favourable outcomes for both the economy and the environment; with the right approach and application this can be true in China too. Eb

Through the renewing of the bio and forest industries, ***UPM*** *is building a sustainable future across six business areas: UPM Biorefining, UPM Energy, UPM Raflatac, UPM Paper Asia, UPM Paper Europe and North America and UPM Plywood. The group employs around 21,000 people with annual sales of approximately EUR 10 billion. Since 1998 UPM has invested nearly USD 2 billion in its Changshu mill in Jiangsu Province.*

EUROPEAN CHAMBER LOBBYING HIGHLIGHTS

Position Paper Presentation to CAAC Vice Commissioner

President Wuttke with Vice Commissioner Wang Zhiqing of the Civil Aviation Administration of China.

On 20th October, Chamber President Joerg Wuttke led a group of representatives, including the Aerospace and Aviation Working Group Chairs, to meet with Vice Commissioner Wang Zhiqing, of the Civil Aviation Administration of China (CAAC) to present the *Position Paper 2014/2015*. During the meeting President Wuttke and Commissioner Wang discussed the major issues confronting China's civil aviation sector, and expressed aspirations for establishing a regular industry-government dialogue with the CAAC to formalise exchanges and promote mutual understanding of respective priorities. Commissioner Wang acknowledged the importance of building up a communication channel with the EU business community and expressed his appreciation of the Chamber's instrumental role in bridging communication and promoting EU-China collaboration on civil aviation-related matters.

Position Paper presentation to DRC President

President Wuttke (centre) with State Council Development and Research Centre President Li Wei and representatives of the Advisory Council

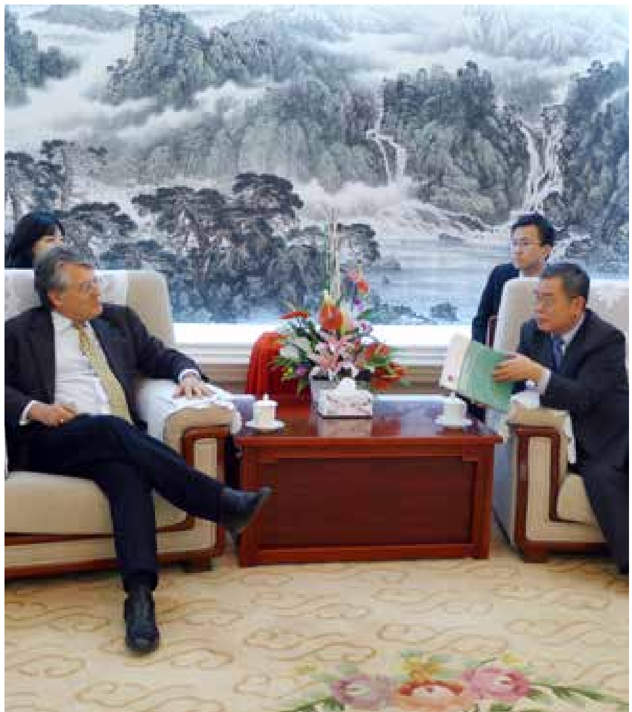
On 29th September, President Joerg Wuttke led a delegation of the European Chamber's Advisory Council members to meet with the State Council Development & Research Centre's (DRC) President Li Wei, and present the *Position Paper 2014/2015*. President Wuttke and President Li discussed opportunities to further promote EU-China economic and trade ties, and President Li shared his insights on China's emerging reform agenda with the Chamber's Advisory Council members. President Wuttke in turn briefed the DRC on the European Chamber's *Position Paper* and other recent activities and priorities.

Position Paper presentation to NPC Legislative Affairs Commission

President Wuttke presents the *Position Paper 2014/2015* to Vice Commissioner Zheng Shuna.

On 22nd September, President Joerg Wuttke presented the *Position Paper 2014/2015* to Vice Commissioner Zheng Shuna of the Legislative Affairs Commission of the National People's Congress (NPC). Following President Wuttke's presentation, the conversation turned to the key issues of China's Food Safety Law. Vice Commissioner Zheng shared her insights on China's economic reform agenda and both parties agreed to explore a further deepening of the bilateral engagement.

Position Paper presentation to CASS Vice President



President Wuttke discusses the Chamber's *Position Paper* with Vice President Li Yang of the CASS.

On 3rd November, President Joerg Wuttke presented the *Position Paper 2014/2015* to Vice President Li Yang of the China Academy of Social Sciences. Vice President Li listened with interest to some of the *Position Paper's* recommendations and shared his comments in turn. After a fruitful discussion, both President Wuttke and Vice President Li agreed to explore avenues for further cooperation and engagement.

Other Lobby Activities - Position Paper Presentations to Ambassdors:

Russian Ambassador to China

On 1st October, President Wuttke presented the *Position Paper 2014/2015* to HE Andrey Ivanovich Denisov, Ambassador of the Russian Federation to the People's Republic of China. The meeting developed in a very cordial fashion and both sides exchanged their thoughts on the current business climate in China.

Portuguese Ambassador to China

On 1st October, President Wuttke presented the *Position Paper 2014/2015* to HE Jorge Torres Pereira, Ambassador of Portugal to China. During the meeting both sides exchanged opinions on the business climate and President Wuttke debriefed the Ambassador on his recent trip to Portugal in order to present the *Position Paper 2014/2015*.

Finnish Ambassador to China

On 10th October, President Joerg Wuttke attended a VIP dinner at the Residence of the Finnish Ambassador and presented the *Position Paper 2014/2015* to HE Jari Gustafsson.

CHINA'S GREEN BUILDING SECTOR

Although the concept of 'green building' has been in Europe for more than two decades, it only landed in China 10 years ago. Motivated mainly by energy concerns the Chinese Government are now starting to catch up, say the **EU SME Centre**. Here they provide some recommendations to help European enterprises get a leg up in this growing sector.

Increased government focus on green building has led to an optimistic forecast for this sector in China. The graph below shows the governments' ambitious plan, which indicates an increase in green building construction from just one per cent in 2012 to 25 per cent in 2020.

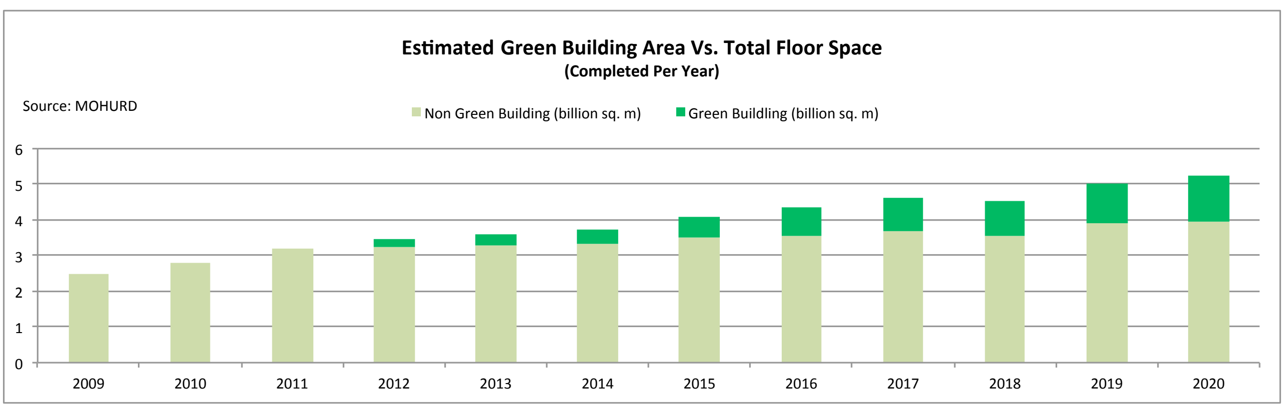
Additional incentives have also been introduced to encourage more green building, including tax benefits, special financial services for residential green building purchasers and land policy adjustment for green building projects. On a regional level, five provinces (Guangdong, Liaoning, Hubei, Shanxi, and Yunnan) and eight cities (Tianjin, Chongqing, Shenzhen, Xiamen, Hangzhou, Nanchang, Guiyang, and Baoding) were required to include low-carbon development models in their *12th Five-Year Plans*.

In tandem with this movement, 'eco-cities' have started to gain more popularity in China. One of the best-known examples is the Tianjin Eco-City, a project in partnership with the Singaporean Government.

LEED versus China's 3-Star standard

Over 600 standard systems for green building exist worldwide. Some relate to individual systems and products such as air conditioners and heating systems, while others are intended to cover the overall standards for the whole building. Today, most green building projects in China follow either the LEED (Leadership in Energy & Environmental Design) standard or the Chinese 3-Star standard.

Introduced in China in 2003, the LEED standard had an initial small uptake in showcase real estate projects of some A-class offices and industrial buildings run by foreign companies. It was not until 2007 that the standard started to develop in China, showing strong and stable growth since then.



Meanwhile, the Chinese Government developed its own standard, the 3-Star system which was introduced in 2006. Contrary to LEED, the 3-Star system incorporates only two categories (residential and public buildings) and takes into account a different set of criteria.

The government's push towards green buildings and its own standard has led to a greater application of the Chinese 3-Star standard over the past few years. However, as LEED carries a stronger brand name, especially in high-class private residential buildings, it is expected to remain a strong player in the 'specification war' between the two standards in China.

Key areas of opportunity

The know-how and technologies of European companies are still ahead of current Chinese building practices. As the market matures, there will be increasing demand for the products and technologies in the areas listed below:

Products

- Specialised construction technology
- High-tech consumer products (e.g. LED lighting, heating devices)
- Specialised insulation techniques and products (e.g. high-humidity environments, fire retardant)
- Building elements (e.g. cold bridges)
- Water management systems (both for drinking and rain water)

Services

- Retrofitting know-how and services
- Green city development engineering services
- Green building calculation services (e.g. forecasting energy usage)

Energy generation

- Energy storage and generation systems (e.g. heat pumps, geothermal systems)
- Energy service companies (ESCOs) paying for energy-saving equipment in exchange for part of the savings
- Smart systems for measuring and controlling energy and water consumption

Recommendations for SMEs

The challenges for SMEs in the green building sector are, in principle, no different from those in other sectors. However, the prevailing culture, the overwhelming dominance of Chinese companies in many markets and rapid growth create challenges that are, in most cases, unfamiliar to European SMEs. Here are some recommendations to help SMEs get prepared for developing business in this sector:

Identify the right time for entering the market: SMEs' entry strategies will differ dramatically depending on the market situation and positioning of the specific product or service on the S-curve. Understanding the market, the position on the curve, growth rates, and success factors are crucial for identifying the right timing. Entering too early will cause you to spend a disproportionate amount of time convincing the market; entering too late will make it difficult to exploit your branding.

Evaluate potential partners: Developing personal relationships and conducting basic due diligence with potential partners is time-consuming but crucial in China. The wrong choice can damage your market entry.

Adapt your business model: Experiment with different offerings, pricings, and sales channels to find out which model suits your local market best.

Pay close attention to government regulation updates: China's government can be very efficient and quick in issuing new regulations and policies, which can create opportunities or break business models overnight.

Take early steps to protect intellectual property: Register brands and website addresses, prepare non-competition contracts with employees as early as possible. For further advice, contact the China IPR SME Helpdesk in Beijing (www.china-iprhelpdesk.eu).

Prepare for relentless price competition: A business model based on price competition is difficult in the Chinese environment where local competitors are capable of cost-cutting and sales practices unavailable to western companies. SMEs need to build a business model based on niche products, brand names and marketing, as well as European quality. Eb

To get more advice on developing business in China's green building sector, download the full report from the EU SME Centre's online Knowledge Centre.

*The **EU SME Centre** helps European SMEs to get ready for China. Financed by the European Union, the Centre provides practical information, confidential advice, training and business tools to better equip SMEs to develop their business and tackle challenges faced in the Chinese market. All services are available on the Centre's website after registration, please visit: www.eusmecentre.org.cn.*

EUSME Centre

CLEANTECH IN CHINA

IP STRATEGIES FOR A RAPIDLY EXPANDING MARKET

China is the fastest growing market for wind and nuclear power generation, and is investing heavily in exploring alternative, renewable means to address its immense energy needs. With a large potential market, and strong government support for the development and adoption of new clean technologies, the **China IPR SME Helpdesk** says that China presents great opportunities for European cleantech SMEs.

China's large market potential means that cleantech businesses cannot risk losing a strategic foothold in China by waiting to act. However, cleantech businesses that enter China need to understand that while good execution, effective management and access to financing is critical to maintaining a competitive advantage, protecting technology is equally important. Although technology transfer can be structured in a way that minimises risks to intellectual property (IP), additional preparation and measures directed at the IP environment in China need to be considered as well.

How IP fits into an overall business strategy will depend on whether the firm is a start-up or a growth business, and also whether the technology itself is new and untested in the market, or mature and 'off-patent' (technology that is no longer protected by patent). Different businesses will use IP to achieve different objectives, such as maximising revenue-generation by monetising their IP portfolio through licensing, increasing opportunities for partnerships and cross-licensing or barring new market entrants.

For example, a manufacturer of wind turbine components might consider focusing efforts and resources towards obtaining patent protection of component designs because infringement by counterfeit components can be easily demonstrated and proven in court. They may then also focus on budgeting sufficiently for enforcement campaigns to actively identify counterfeiters. On the other hand, a cleantech business that has developed a biomass on-site power generation system for livestock farms, and is looking to license the technology to farms across China, may want to obtain patent protection and explore ways to 'black box' (i.e. to withhold or keep secret by fragmenting production) key parts of the technology. This could be done by supplying specialised equipment or by having a trusted contractor perform the installation because the technology will need to be taught to and practiced by the licensee.

Building a valuable cleantech patent portfolio

Patent protection is perhaps the most common form of IP protection in the cleantech sector. This is because many clean technologies are capital-intensive and take a long time to achieve market acceptance, especially for those that are currently too expensive to be commercially viable. As a result, cleantech investors often demand patent protection as a way of securing monopoly profits. Having a cleantech patent portfolio can bring other tangible business benefits such as stability, credibility, increased valuation, access to investment and financing, availability of defensive patent strategies (filing patents primarily to block competitors from using similar technology), opportunities for partnerships and/or cross-licensing. Being able to leverage exclusive rights can influence strategic decisions and the direction of investment. Thus, for many cleantech businesses, investing in the development of a valuable patent portfolio can be a smart move if it is directed at achieving specific business objectives.

Cleantech businesses will need to decide whether to protect inventions as patents or keep them as trade secrets and know-how. Inventions that are protected by patents become public knowledge, which can allow competitors to refine, design-around, or re-invent the technology so that it can no longer be protected by the patent. Cleantech inventions with a commercial shelf-life of significantly longer than 20 years should be considered for trade secret protection, but only if the business is confident in its capacity to protect its trade secrets.

Building a valuable cleantech patent portfolio requires devoting a substantial amount of financial and management resources. 'Shot gun' approaches (setting a target number of patents and allocating a certain amount of money for each one) to filing and prosecuting patents are attractive to businesses with limited budgets, but fail to deliver quality patents more often than they succeed. Rather, new inventions need to be qualitatively evaluated on their merits to determine how much of a business' limited resources need to be devoted to tasks such as drafting of claims and application filing so that a strong patent is obtained.

A more fundamental question facing cleantech businesses is when to file for a patent. When a new invention is developed it can often be difficult to predict the direction in which the technology will develop, as well as shifts in market trends. Filing too early may result in a patent that is not directed at how the technology will eventually develop several years later. However, filing too late can risk someone else filing a patent for the same invention, or risk losing patentability if the secrecy of the invention is lost. This issue is even more important in China which operates a 'first-to-file' system, making it easier for other parties to block you from using your own IP in China by registering it before you. It is also important to note that the registration process can be very lengthy, and your patents can only be protected in China once a registration has been completed. Alternatively, it may be worth considering whether combining invention patents with utility models can be used to provide additional flexibility.

The utility model option

Although some clean technologies are cutting-edge, many are based on technology that has been in existence for many years (so-called 'legacy technology'). As a result, the cleantech sector is characterised by incremental innovation and a convergence of existing technologies in many areas. It is important to recognise that such new technologies can be protected, with a utility model patent if not an invention patent, and should not be overlooked by development teams as insignificant innovations.

China differs from many Western jurisdictions by

providing patent protection for utility models, which protects the shape, structure, or the combination of shape and structure of a physical product (methods and compositions can only be protected by invention patents) for a term of 10 years (compared to 20 years for invention patents). Obtaining a utility model patent, sometimes requires a lesser degree of 'inventiveness' (the degree of innovation over known technology) than needed to obtain an invention patent. Utility models are inexpensive and quick to obtain, on average within nine to 12 months, and are well suited to protecting products with shorter product life spans.

Utility models are often viewed as a weak form of IPR because utility model applications are not substantially examined for patentability, and are often discounted by foreign businesses because they are unfamiliar with them. However, Chinese businesses have been taking advantage of utility model patents for years and have successfully used them to block foreign competitors and obtain huge pay-outs. Combining utility models with invention patents can also be a smart way to deal with clean technology based on legacy technology.

Take-Away Messages

European cleantech SMEs need to be proactive in understanding and taking measures to minimise IP risk when doing business in China. Often SMEs get caught up in fast-moving deal opportunities and do not adequately address critical IP issues. Cleantech businesses can avoid incremental losses to competitiveness by thinking strategically about IP, including how to build a robust patent portfolio and ensuring that no single party can practice the complete technology by keeping core processes and components separate. It is also important to remember that legal protection is available for incremental innovations via utility model patents, allowing for an extra level of protection and a stronger market position in a sector where rapidly evolving technology is the norm.

Pick up the next issue of Eurobiz for the second part of this article, which will address the licensing and sale of cleantech IP.

*The **China IPR SME Helpdesk** is a European Union co-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, e-mail your questions to: question@china-iprhelpdesk.eu. You will receive a reply from one of the Helpdesk experts within three working days. The China IPR SME Helpdesk is jointly implemented by DEVELOPMENT Solutions and the European Union Chamber of Commerce in China.*

A PEEP AROUND THE CORNER

A LEGAL ANALYSIS OF THE CPC'S 4TH PLENUM DECISION

The Fourth Plenary Session of the 18th Central Committee of the Communist Party of China (CPC) was held in Beijing from 20th–23rd October, 2014. As one of the most influential political events in China, the theme of this year's meeting—the rule of law—has drawn broad attention. Although it was incorporated into the People's Republic of China (PRC) Constitution in the 1990s, this was the first time the doctrine was taken as the theme of a Party central meeting.

The outcomes of the meeting, and the CPC's decisions, have been published in the document *Decision on Major Issues concerning Comprehensively Advancing Rule of Law* (*4th Plenum Decision*). Below, **Tang Yunyun** from **Taylor Wessing**, introduces and analyses key information from the document, to help you prepare for what's around the corner

The Fourth Plenary Session of the 18th Central Committee of the Communist Party of China

Moving toward good Laws

The 4th *Plenum Decision* makes it clear that good laws are a precondition for establishing rule of law. Measures to move towards good laws include constitutional examination, public participation in law-making, entrustment of legislation and enhancement of statutory interpretation.

Constitutional examination requires all 'normative documents' to be filed and checked in terms of their compatibility with the PRC Constitution. 'Normative documents' include laws, regulations and government orders which are not legislation but are still universally binding. Any provision failing the examination will be rescinded or rectified. Given foreign experience, such a system can be very punchy, especially when safeguarding private rights against public power.

Public participation in legislation already exists to some extent, but will be taken further. Entrustment of legislation, which will involve third parties in law drafting, however, is quite new. Hopefully, these steps will bring more democracy and rationality to legislation.

Statutory interpretation plays an indispensable role in the application of law. Legislation contains uncertainties for a variety of reasons, including vagueness of legislative language and the emergence of unforeseen circumstances or situations. Statutory interpretation helps clarify the original meaning of prescriptions and fill in the gaps between legal text and real life. The enhancement of statutory interpretation will no doubt contribute to mitigation of arbitrary law application.

The focal points of legislation are also made clear, with a focus on a market economy, anti-corruption and environmental protection. The latter two were no surprise, and the details should be in place before too long. Under the heading 'market economy', the CPC sets out its aims for property rights to be secured by a fairness-centred legal system, and makes clear that land, energy, resources and finance are the priority areas for sound regulation, while admitting that monopolising remains a thorn in the side.

Government under law

"The vitality of law lies in its implementation and the authority of law is established during the implementation," said President Xi Jinping, CPC Central Committee General Secretary: the *4th Plenum Decision* echoes this opinion in pursuit of a government under law.

It starts by restricting governmental power. A list detailing powers afforded to the government will be published, and any not listed are unauthorised. Government will not be able to make decisions without merit that will undermine the legitimate rights and interests of, or impose any additional obligation on, citizens, corporations or other organisations.

Additionally, major administrative decisions within government will be stringently regulated. Statutory procedures are required to be followed, including public participation, expert discussion, risk evaluation, legitimacy review and group discussion. An accountability system will hold government officials responsible for their decisions on major issues for a lifetime. Lawyers and experts are expected to be engaged as the government's legal counsels for better compliance.

Also, the system of administrative enforcement will be optimised. The enforcing team is to be integrated and enforcement rights will be modestly granted, and only to certified personnel. The discretion of enforcing personnel will be subject to set standards. Enforcement regarding food and drug safety, product quality inspections, public health, workplace safety, environment and resources and transportation will all be strengthened, the document states.

Transparency of administrative affairs is asked to be further promoted, especially in the field of budget, allocation of public resources, approval and performance of major construction projects and social public welfare undertakings.

Judicial justice

Echoing the judicial reform that's already underway, the *4th Plenum Decision* brings forward quite a few new measures to tackle problems which are impeding judicial justice.

The independence of judges and prosecutors will be enhanced. Party and government organs, and their officials, will be prevented from poking their noses into judicial procedures. Offenders will get a bad record and a public criticism notice, and will be held accountable. Judicial functionaries will be placed under the shelter of a duty protection mechanism, while judges and prosecutors will not be transferred, discharged or degraded unless with a statutory cause and through a statutory procedure.

Meanwhile, judicial functionaries are also under regulation and supervision. They are required to obey statutory procedures and law application standards and are responsible for the quality of their cases. Transparent justice will expose their work to public scrutiny, and any corruption in the justice system will be vigorously punished.

In order to 'professionalise' its judicial system, China will recruit judicial officials from the legal sector.

As for new action regarding the structure of judiciary institutions, circuit courts of China's Supreme People's Court will be established; while courts and procuratorates with jurisdictions over cross-region cases are being contemplated. This move aims to eliminate local interference and local protectionism.

Enforcement of judgement is not overlooked, and specific laws will be issued to tackle what is currently a chronic problem.

Comments

The fourth plenary session was billed as a milestone in China's political reforms as it gave prominence to the topic of 'rule of law', which is essential as the Chinese economy becomes increasingly sophisticated. With people expecting more fairness and justice and looking forward to the country's prosperity and long-term stability, the *4th Plenum Decision* functions as a pacifying blueprint.

According to the *4th Plenum Decision*, the country's situation has been thoroughly evaluated and assessed. The Party's commitment to a powerful legal basis, a compliant government with constrained power and impartial justice is greatly inspiring, reflecting China's updated ruling philosophy, which is steering the country towards being 'rule-orientated'.

In legislation, constitutional examination and democratic legislation are quite impressive. Their value in the protection of human rights and the control of public power has been proven, and their implementation is the foundation of 'rule of law', as opposed to 'rule of men'.

It is anticipated that China will continue the process of building a law-abiding and capable government. The government is to be put on a legal trajectory: new measures should be effective in squeezing out room for power rent-seeking and restraining the abuse of power. Government power lists and the life-long accountability system are considered ground-breaking and give an indication of the Party's determination.

Judicial justice is a refreshing topic that's been anticipated for a long time. China is aware of the key elements required to reach its goal: independence, integrity and professionalism. Only a clean and capable judicial system standing on its own can bring China real justice.

Nevertheless, despite this thorough plan, now is not the time to jump to the conclusion that China has evolved into a nation under the rule of law. Implementation is what matters most, and only time will tell. Eb

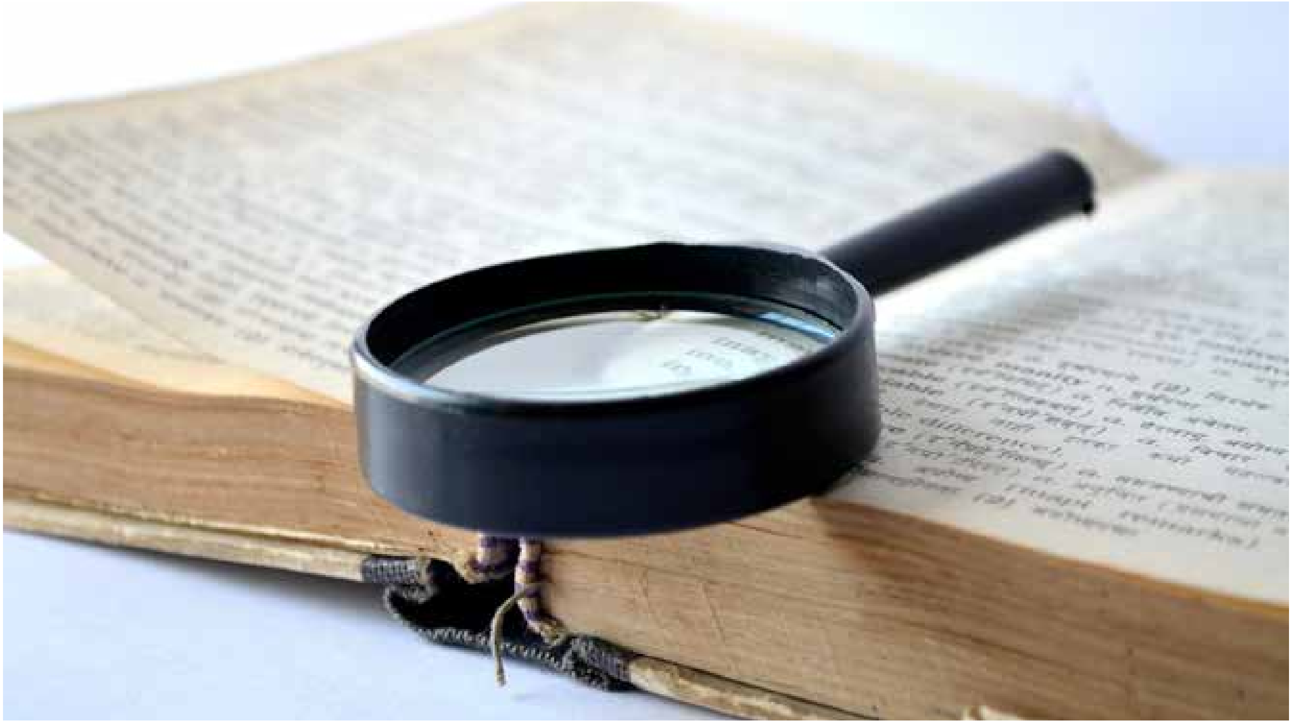
***Taylor Wessing** is a full-service international law firm, working with clients in the world's most dynamic industries. Its 26 offices around the world blend the best of local commercial, industry and cultural knowledge with international experience.*

From L-R: Zhang Gaoli, Liu Yunshan, Zhang Dejiang, Xi Jinping, Li Keqiang, Yu Zhengsheng and Wang Qishan

UNDER THE MICROSCOPE

SCRUTINISING THE LANGUAGE OF THE 4TH PLENUM DECISION

The *4th Plenum Decision* (*Decision*) was positively received by many domestic and foreign media, analysts and commentators. On the face of it, it appears to signal the Chinese Government's intent to step back from its legal institutions, thereby ushering in a new era of judicial independence, but is this the complete picture? **Jonathan Fenby**, China Director of **Trusted Sources**, delves deeper into the language of the *Decision* and although he finds some positives, he finds much less to write home about.



Reports of the latest Chinese Communist Party Plenum have made much of a drive by the leadership in Beijing to improve the 'rule of law'. If that were the case, it would represent a major positive step in the process of change promised by the previous plenum in November 2013. Establishing a strong, independent legal system is an essential step in enhancing the rights of individuals and providing a level playing field for companies and investors.

Boosting hopes that this may be on the leadership's agenda, official Chinese media, along with some investment bank analysts and foreign media commentators, have hailed the plenum as, in the words of one of the former, "a blueprint for the law of law". This is playing with words.

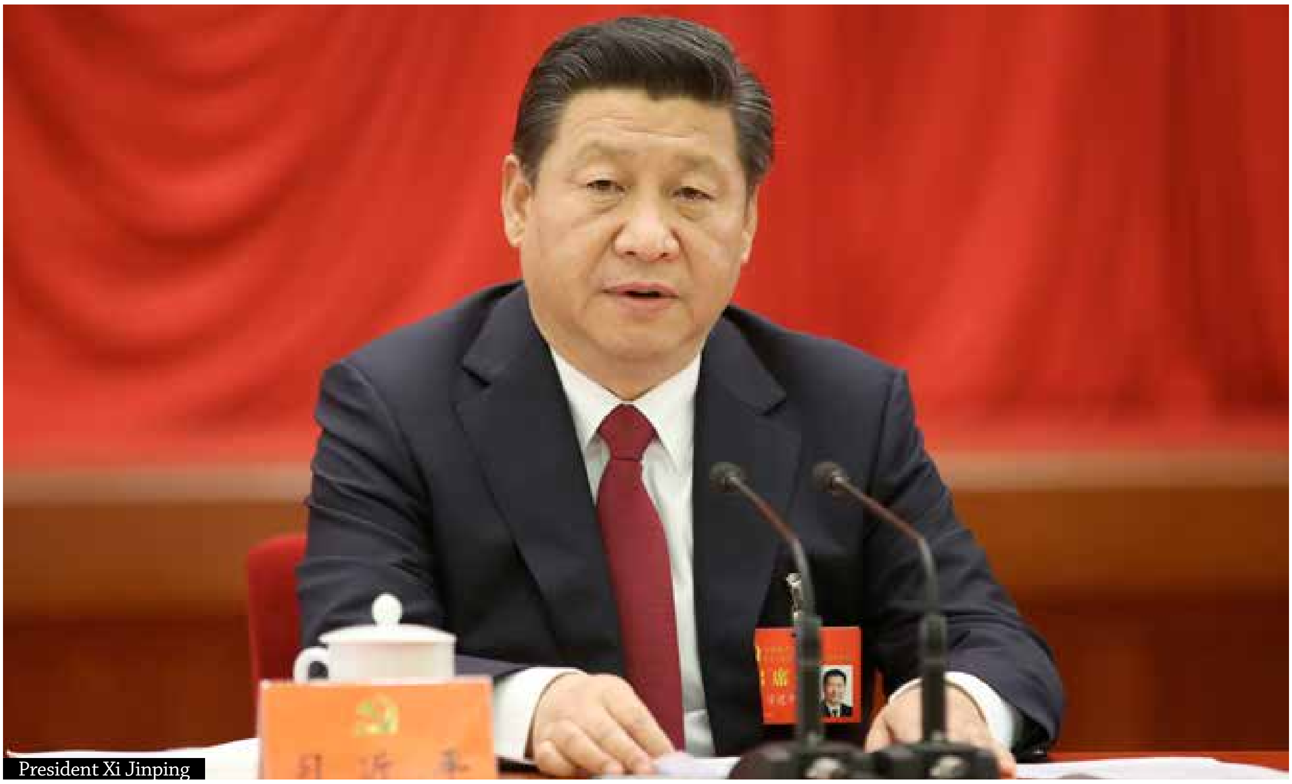
As has been the case for more than 2,500 years, the view from the top in China is that the country needs rule *by* law – not rule *of* law. No doubt, Xi Jinping, the president, and his colleagues want the law to operate more effectively. But their aim is to make the system more responsive to the Party and its wishes, not to empower it in such a way that it can make the regime and its organs more accountable. Law is too important to be left to the courts. Ever since the First Emperor more than two millennia ago with his doctrine of Legalism, the use of law to keep the people in line has been seen as an essential plank of top-down rule.

Reflecting the desire to strengthen the Party State, which one might think contradicts the desire for market-led reform expressed in last year's plenum 'Sixty Decisions' statement, a communiqué from this year's plenum drew attention to the need for the law to ward off dangers to the regime and maintain stability. (It also called for strengthening of security and "social management" together with the enactment of anti-terrorism legislation in reaction to the rising tide of violence involving Muslims in the western territory of Xinjiang).

To allay any doubt, the plenum made plain its view that "persisting in party leadership is the basic requirement for the socialist rule of law ... party leadership and the socialist rule of law are identical". To give a better spin for foreigners, however, these words were not included in Xinhua News Agency's English translation. But the Chinese original added that "China's constitution establishes the leading status of the Chinese Communist Party."

This is not to say that there were no proposals for change in line with Xi's drive to improve efficiency and centralise authority. A decision was taken to streamline the court structure with the establishment of circuit courts under the Supreme People's Court, plus courts and prosecutors' offices that will cut across jurisdictions at the local level. The aim is to sever direct connections between local judges and local Party leaders and thus enhance Beijing's control. For foreign companies operating on the mainland, this could make it easier to avoid rulings by county-level bureaucrats with their own agenda. But the high-level officials who will now be empowered to deal with local-level cases are usually political appointees who are unlikely to be any less defensive of the party state, even if they do not let local interests guide them. "Adjudication committees", which meet in secret to determine the outcome of cases that do not go to open court, will continue to be a preferred instrument for reaching decisions.

Awareness of the poor quality of many legal officials was evident in a pledge by the plenum to try to recruit "law-


President Xi Jinping

makers, judges and prosecutors who are qualified lawyers and law experts". It also said that officials would be judged on their effectiveness in upholding the law, which would be a "significant index" in evaluating promotions and demotions. Prosecutors will be allowed to file class action-style lawsuits in the public interest, and there was talk of making the government more transparent. But the 'dualist' system that allows some openings for companies to take action against private firms, but continues to protect those connected to the state or the Communist Party, is likely to remain in force.

Under "the Socialist rule of law with Chinese characteristics", the courts remain under political supervision – judges are required to swear an oath of loyalty to the Party. Most important at the moment is the way the big anti-corruption campaign initiated by Xi two years ago is being conducted through the Central Commission for Discipline Inspection. This body acts independently of the legal system and without any public accountability. Before a recent meeting of the Commission, its Secretary, Wang Qishan, said the fight against graft would never end.

Though it did not pronounce on the highest-level anti-corruption case, that of former internal security boss Zhou Yongkang, the plenum showed the way the system works by announcing the expulsion from the Communist Party of four of his associates. They were former Deputy Public Security Minister Li Dongsheng, a former head of the SASAC (the umbrella body for big state enterprises) Jiang Jiemin, Deputy General Manager of the CNPC oil group, Wang Yongchun and former Deputy Party Chief of Sichuan Li Chuncheng. The absence of an announcement on Zhou indicates that the case against him is not complete. As Zhang Sujun, a Deputy Justice Minister, said recently: "The investigation is still ongoing because we are going to review and investigate the case according to the law and also pay attention to evidence, so this process may be a long process, but also a more serious and responsible process."

Thus, for all the references to rule of law, it is rule *by* law that prevails, with party organs like the Discipline Commission acting outside the law, empowered to detain people without charge and hold them in secret without reference to the courts, which only enter the picture once the accused have been thrown out of the Party. That balance of power says a great deal about the way the system works and will continue to work as China's leaders stick to the Legalist tradition of using the law for control, not as recourse for the ruled. Eb

This article was originally published at http://blogs.ft.com/beyond-brics/2014/11/06/guest-post-small-word-big-difference-in-chinas-rule-by-law/?Authorised=false, and is republished here with the author's permission.

***Jonathan Fenby** was a co-founder of **Trusted Sources** in 2006. He is a leading analyst on China with a strong following in the investment community. His specialist area is policy interpretation, politics and the broader political economy. He was formerly editor of* The South China Morning Post, The Observer *and* Reuters World Service *as well as a senior correspondent for* The Economist. *He is the author of eight books on China, most recently* Will China Dominate the 21st Century?

He blogs on China at http://www.trustedsources.co.uk/blogs/china and is on Twitter @JonathanFenby

ALL EYES ON EUROPE

The European Union (EU) underwent significant change recently. A new European Commission was confirmed by the European Parliament in October, while in Beijing a new EU Ambassador to China, HE Hans-Dietmar Schweisgut, took up his post in September. These changes come at a crucial point in the EU's engagement with China as they negotiate a Bilateral Investment Agreement (BIA), which, in the words of Ambassador Schwesigut, is the "'flagship project' of our trade relationship."

Change on this scale can produce feelings uncertainty, as the potential outcomes are likely to be complex and far-reaching. To allay some of this uncertainty we have decided to introduce you to some of the new faces of the EU in this special EU Focus.

Over the next few pages we get to know Ambassador Schweisgut who shares his ambitions for his tenure in Beijing and speaks in depth about the EU-China relationship.

We also profile three key figures from the new Commission – President of the European Commission Jean-Claude Juncker, High Representative of the Union for Foreign Policy and Security Policy, Vice President Federica Mogherini, and Commissioner for Climate Action and Energy, Miguel Arias Cañete.

Finally, we are pleased present an overview of the BIA, written by DG TRADE. They describe in detail the purpose of the agreement, and answer the crucial question: what's in it for you?

HE Hans Dietmar Schweisgut at a lunch meeting with members of the European Chamber's Advisory Council.

MEET THE AMBASSADOR

In this exclusive interview the new Ambassador of the European Union to the People's Republic of China and Mongolia, **HE Hans Dietmar Schweisgut**, speaks to *EURObiz* about the *4th Plenum Decision*, the EU-China Bilateral Investment Agreement and the importance of EU Member States saying the same thing.

You were previously posted to China and a lot has changed since then, what changes do you find most striking?

I left Tokyo at the end of my previous posting as Austrian ambassador in 2007, a year before the Beijing Olympics. China's further development since then has been impressive. It is not so much the new buildings and the infrastructure which I find striking, it is more the awareness that China has become not only an economic giant but also a global political power. At the same time you can feel that the present growth model is no longer suitable for a mature economy. Traffic congestion and pollution in Beijing have reached unsustainable levels. So, in a nutshell, what I find the most striking change are the enormous challenges which are the result of China's phenomenal economic growth and which were not quite as visible a few years ago as they are today.

What are the goals that you wish to accomplish during your tenure?

I hope to be able to contribute to further enhance relations between the EU and China. These have intensified in a way that they now really merit the label of a comprehensive strategic partnership. At the last EU-China Summit we agreed on a Strategic Agenda 2020 – a blueprint for cooperation in trade, transport, urbanisation, green growth, energy security, food safety, agriculture, but also with regard to migration, foreign and security policy as well as security, rule of law and human rights. The challenge will be to focus on the right priorities and ensure that we will be able to achieve practical results. I hope that next year's 40th anniversary of EU-China diplomatic ties will provide the opportunity to push in this direction. An early EU-China Summit with the new EU leadership would be an occasion to drive this ambitious agenda forward.

In the trade and investment area, we should build on the successes of this year, where we have resolved frictions through amicable discussions and negotiation. It is important to ensure trade is a two-way street, where our companies enjoy a level playing field, ample market access, full IPR protection and equal treatment cemented in the rule of law. This allows us to keep a positive agenda, reflecting the essential advantages of our deeply interdependent relationship. The main focus of this positive agenda is the negotiation of an ambitious investment agreement, which is progressing apace.

How would you describe relations between EU institutions and the European Chamber?

The European Chamber has become a very powerful institution with about 1,800 member companies in China. It now is truly 'the voice' of European business. The EU Delegation strongly supported the creation of the Chamber when China was about to join the WTO and we consider it as a natural partner with whom we closely cooperate.

The Chamber's yearly position papers have become important inputs into policy-making, and the last one, which was published in September, was particularly relevant as it focussed very much on the importance of translating the decisions of last year's Third Plenum into concrete market-opening and a level playing field.

I look forward to the Chamber's continued input into our policy-making and action. Aside from market-access issues, the Chamber's contribution to the investment agreement negotiations will be of the utmost value. The EU Delegation will continue to support the Chamber's excellent work in Beijing and throughout the country.

How does the EU perceive China's reform drive, and what are you views on the outcome of the CPC 4th Plenum?

The reform drive is as ambitious as it is necessary for China to become an innovative, sustainable, socially-inclusive, high-income economy. A more decisive role of the market and the further opening-up of the economy will also help European companies, but they are above all in China's own interests. We are ready to support these reforms.

In implementing the reforms announced at the Third Plenum, the decisions taken at the Fourth Plenum of the CPC, which was held at the end of October, were of great importance. A mature society and economy can only function within a predictable, impartial and non-discriminatory legal framework – something which we call the rule of law. It is too early to assess the full scale of the legal reforms envisaged. The extent to which China's Constitution was emphasised as the supreme law of the country was certainly noteworthy.

From a European perspective, a predictable and non-discriminatory atmosphere for foreign business is of the essence. There is no better message that can be passed in this context than the importance of the rule of law. We welcome the attention the Fourth Plenum has paid to this issue and see elements of progress we can build on. Implementation, again, will be crucial, and we stand ready to share our extensive experience with China in this regard.

How important are the EU-China Bilateral Investment Agreement negotiations in the EU trade agenda and what concrete outcome do you foresee for EU companies?

The EU-China investment negotiation is the 'flagship project' of our trade relationship. The untapped potential in the area of two-way investment is simply immense.

This is why both the EU and China attach great importance to these negotiations. Our level of ambition is high. To start with, the agreement would ensure the highest level of investment protection, no matter which EU Member State this investment originates in (or, for Chinese companies, to which Member State the investment is directed). And,


Ambassador Schweisgut (centre) stands with Chamber President Joerg Wuttke and members of the European Chamber's Advisory Council.

crucially, it would cover market access for our investments, eliminating many of the uncertainties and barriers our investors face today. As I have said, negotiations are progressing apace, and comprehensive discussions will take place in the upcoming fourth round of talks. The stakes are of the highest order for EU business, and we welcome the Chamber's input throughout these negotiations so we can maximise the benefit for our companies.

How do you characterise China's action in the WTO context?

WTO work may seem remote to many companies, but it remains the central mechanism to ensure markets are more and more open across the world. WTO accession provided a fundamental boost to China's openness, and was at the centre of China's remarkable economic success. Another round of ambitious opening would be fundamental for the success of China's reforms, as acknowledged by the Third Plenum.

We welcome China's increased and constructive action in trying to shape global trade rules in the WTO, but equally look forward to an engagement in favour of liberalisation that is commensurate with China's global stature. This leadership will be important to tackle the remaining issues in the Doha Round, and to advance in the many areas of plurilateral work (extension of the information technology agreement by the end of this year, green goods agreement, definition of rules on export credits). We have also supported China's willingness to enter into negotiations of a plurilateral agreement on services.

Partners are looking for unequivocal signals that China is ready to exercise that leadership. An important signal would be a credible, comprehensive revised offer to enter into the Government Procurement Agreement, which China already committed to join at the time of its accession to the WTO in 2001. China's full implementation of its commitments is necessary for the credibility of the WTO system as a whole.

The European Chamber is the voice of the European business community in China. Yet, when it comes to diplomatic relations with China, there are as many voices as European countries. Do you have a plan to ensure Europe speaks with one voice?

The important thing is not so much that we speak with one voice; the important thing is that we say the same thing. The European Union is not a super state but a union of 28 democratic countries. Many important areas of our external relations are the exclusive competence of the EU, trade policy being the most prominent example, and the Treaty of Lisbon has further enhanced the scope of the EU's competences.

I feel that divergences between Member States are often exaggerated. We all know that no single European country counts among the big ones in today's world. Only a united Europe has the weight and the influence to protect our interests. All our major positions with regard to strategic partners such as China have been agreed by all Member States. All support the strategic direction of this policy, including the objectives of the Agenda 2020. Let me also add that we have excellent EU coordination among ambassadors here in Beijing. I am quite confident that this shared interest in projecting unity in the interests of everyone will become more visible as we deepen the network of our relations with China.

Photo © European Union, 2014.

WHO'S WHO IN THE EUROPEAN COMMISSION?

In the first of this 'Who's who?' series, **Jules Meunier**, Business Manager in the Chamber's Shanghai Chapter, introduces **Jean-Claude Juncker**, **Federica Mogherini** and **Miguel Arias Cañete.**

Jean-Claude Juncker

Position: President of the European Commission

Age: 61

Nationality: Luxembourg

Party: European People's Party (centre-right)


Photo © European Union, 2014.

President Juncker is an extremely experienced politician on the European scene. From 1995 to 2013, he served as Prime Minister of Luxembourg, and was also President of the Euro Group—the informal meeting of Ministers of Finance from the Eurozone—from 2005 to 2013.

Following his confirmation by the European Parliament on 15th July, he became the first elected President of the EC and will lead the European Union (EU) executive body for the period 2014–2019.

He set up a team of Commissioners that should "put Europe back on the path to jobs and growth"[1] and, to achieve this, he defined a new working structure for the EC based on key roles given to each of the seven vice presidents.

In theory, 28 European Commissioners share the power to initiate legislation. In the new EC, each vice

1 http://ec.europa.eu/about/juncker-commission/docs/pg_en.pdf

president will lead a project team that is supposed to mirror political guidelines, such as Energy Union; Jobs, Growth, Investment and Competitiveness; and Digital Single Market. All vice presidents will have the power "to stop any initiative, including legislative initiatives"[2] of commissioners working under their watch. This new organisation is expected to be a major evolution compared to the previous EC, and should drastically impact the foreign and trade policies of the EU.

The new Commission's agenda will focus on ten priorities:

- A new boost for jobs, growth and investment;
- A connected digital single market;
- A resilient energy union with a forward-looking climate change policy;
- A deeper and fairer internal market with a strengthened industrial base;
- A deeper and fairer economic and monetary union;
- A reasonable and balanced free trade agreement with the US;
- An area of justice and fundamental rights based on mutual trust;
- A move towards a new policy on migration;
- A stronger global actor; and
- A union of democratic change.

President Juncker is considered to have a good understanding of China from his dealings with three Chinese Premiers preceding Li Keqiang and his ten visits to the country. His first tour to China was in 1996 as the Luxembourg Prime Minister. He is expected to advance peaceful cooperation between China and the EU and advance negotiations on a bilateral investment and free trade agreement. He has asked his right-arm, Frans Timmermans, in his role as First Vice President in charge of the Rule of Law and the Charter of Fundamental Rights, to advise him on the matter and publicly said that, "There will be no investor-to-state dispute clause in TTIP if Frans does not agree with it too."[3]

The Chinese Government expects Europe to adjust its foreign policy to a multi-polar world by being less dependent on the United States, and be more open to collaboration and negotiation with China. Furthermore, President Juncker's ambition to create a digital single market for consumers and businesses has been greeted enthusiastically by Chinese multinational corporations seeking to advance their standing in the EU market.

2 http://www.euractiv.com/sections/eu-priorities-2020/dutch-eu-nominee-wield-veto-right-over-excessive-bureaucracy-308344

3 http://europa.eu/rapid/press-release_SPEECH-14-705_en.htm

Federica Mogherini

Position: High Representative of the Union for Foreign Policy and Security Policy/Vice President of the European Commission

Age: 41

Nationality: Italian

Party: S&D – Socialists & Democrats (centre-left)

Photo © European Union, 2014.

Prior to her appointment by the European Council at the end of August, High Representative Federica Mogherini was a Member of the Italian Parliament, following her election in 2008. She became Italy's Foreign Minister in February 2014.

She is a political scientist, proficient in English and French, and her cabinet will be based in Berlaymont, the EC's headquarters in Brussels. She is expected to play a major role in the new Commission alongside President Juncker and first Vice President Timmermans. Indeed, moments after his confirmation, President Juncker emphasised the need for the next High Representative to be a "strong and experienced player to combine national and European tools, and all the tools available in the Commission, in a more effective way than in the past."[4]

As vice president of the EC, Mogherini will be responsible for steering and coordinating the work of all commissioners with regard to external relations. In order to cover the wide range of issues with an international dimension, she will be able to deputise other commissioners when appropriate. In particular, she will work closely with Cecilia Malmström, Commissioner for Trade.

Acting in concert with the Trade Commissioner could mark an important step towards a better-coordinated European approach to foreign policy, in which the EU is able to speak with one voice towards the Chinese Government. Mogherini will thus face a formidable challenge to achieve the objective of representing a unified European front towards China.

Before taking up her new position, she attended the Asia-Europe Meeting (ASEM) summit in Milan on 16th and

4 http://ec.europa.eu/about/juncker-commission/priorities/09/index_en.htm

The Juncker Commission

17th October, in the presence of Premier Li Keqiang. On this occasion the leadership of both sides renewed their commitment to maintain the high level of engagement and cooperation, aiming at an ambitious bilateral investment agreement and successful outcome of the 21st Conference of the Parties to the UN Framework Convention on Climate Change (COP21) in Paris in 2015.

Miguel Arias Cañete

Role: Commissioner for Climate Action & Energy

Age: 64

Nationality: Spanish

Party: EPP – European People's Party (centre-right)

Miguel Arias Cañete is a trained lawyer but has carved a career as a politician focused heavily on agriculture. After serving in the Andalusian parliament, he became Member of the European Parliament (MEP) upon Spain's accession to the EU in 1986. He remained an MEP until 1999, heading the Committees on Agriculture, and Regional Development during his tenure. In 2000, he was appointed Minister of Agriculture and Fishing for the Spanish Government.

Before being nominated in July for commissioner by the Spanish Government, Cañete was once again an MEP. He brings experience in the private sector and in the energy business having served on the board of several different Spanish oil companies.

Addressing the European Parliament, President Juncker defined his guidelines for the Climate Action & Energy Commissioner to develop a "resilient energy union with a forward-looking climate change policy"[5] and to ensure that the EU plays a leading role in international climate negotiations.

Energy and Climate Action used to be separate portfolios at the Commission, having been merged into one by President Juncker. As a consequence, Directorate General for Climate Action (DG CLIMA) and Directorate General for Energy (DG ENER) will report to Commissioner Cañete, giving him important resources at his disposal. However, under the new Commission organisational structure, Commissioner Cañete will work under the supervision of Vice President for Energy Union Maroš Šefčovič and Vice President for Jobs, Growth, Investment and Competitiveness Jyrki Katainen.

Cañete is expected to focus his efforts on the completion of the European internal market for energy, increase Europe's energy security by diversifying sources and routes of energy imports and to strengthen and promote the European emissions trading system (ETS). The European ETS is currently the largest carbon market in the world, although China is expected to soon overtake it with a national scheme. All of these objectives will make him an important interlocutor in international forums negotiating directly with the Chinese authorities. Considering the current crisis in Ukraine and the lack of progress on climate change in the multilateral negotiations, Commissioner Cañete will have to be strongly involved in the international scene, especially to convince countries, such as China, to commit to binding objectives of CO_2 emissions reduction.

From the very beginning of his mandate, his two initial priorities include steering the preparation of the legislative instruments following political agreement of the 2030 energy and climate framework as well as supporting Vice President Šefčovič to achieve a successful outcome of the 2015 international climate conference in Paris. Eb

5 http://ec.europa.eu/about/juncker-commission/docs/arias-canete_en.pdf

WHAT'S IN IT FOR YOU?

THE EU-CHINA BILATERAL INVESTMENT AGREEMENT

Companies investing abroad can encounter problems which, for a variety of reasons, cannot always be solved through domestic legal systems. These problems range from the rare, but dramatic, occurrences of expropriations without proper compensation, discrimination and unfounded revocation of business licences, to not being able to make international transfers of capital or payments necessary for the making or the operation of an investment.

This situation is clearly detrimental to companies investing abroad, but it doesn't benefit recipients of foreign direct investment (FDI) either – China's challenging investment environment is causing a number of European companies to scale back investment plans[1] or even look elsewhere.[2]

The EU-China Bilateral Investment Agreement (BIA) currently under negotiation is aimed at addressing these issues for the mutual benefit of both sides. In this article the European Commission's **DG TRADE** describe the BIA in more detail and explain what the benefits will be for your company.

1 European Chamber of Commerce in China, Business Confidence Survey 2014, P. 27, http://www.europeanchamber.com.cn/en/publications-business-confidence-survey

2 European Chamber of Commerce in China, Business Confidence Survey 2014, P. 33, http://www.europeanchamber.com.cn/en/publications-business-confidence-survey

Photo © European Union, 2014.

Chinese Minister for Trade Gao Hucheng shakes hands with former EU Commissioner for Trade Karel De Gucht, 21st November, 2013

European authorities want to make sure our companies present in China can tap into the full potential of the world's second largest economy. But for this they need to be treated fairly and benefit from an environment that is transparent and predictable. They need access to the market equal to that afforded to domestic companies, and appropriate legal protection.

For this reason, the European Commission wants to establish with China an investment protection treaty for all companies from across the European Union (EU).

What can an investment treaty do to protect your investment?

We want China to commit to a number of fundamental principles that will apply to each European investor. We talk about:

- non-discrimination;
- fair and equitable treatment;
- free transfers of funds related to investments; and
- a prohibition of direct or indirect expropriation without compensation.

What do these principles mean in practice?

Non-discrimination: The objective is to ensure a level playing field. European Union investors based in China should be treated the same way as Chinese or other foreign investors in China. Any justified exceptions from this rule will need to be specified in the agreement.

Fair and equitable treatment: This commitment serves to prevent use of force, threats or harassment against investors. Foreign companies need to be granted access to justice and treated in accordance with due process of law, in a transparent and non-arbitrary fashion.

This does not mean that laws cannot change in a way that affects investors. It means, though, that any measure taken by the legislator, administration or judiciary follows the rule of law.

Free transfers related to investments: EU investors will be able to transfer capitals and payments relating to their investment freely in and out of China. Any exceptions to this rule, such as temporary safeguard measures or difficulties with the balance of payments, need to be clearly specified beforehand.

Protection against unlawful expropriation: Expropriation as such is not illegal. However, it cannot be done arbitrarily. It can only happen for a public purpose, in a non-discriminatory fashion, in accordance with due process of law, and against payment of compensation. Be it direct expropriation with a formal transfer of property title or only a de facto measure that deprives the investor of his ability to use or dispose of his assets, the company should be appropriately compensated.

What will happen if the host state does not respect the rules?

If an investor believes that the host state has breached one of these key guarantees, he or she will be able to ask for an external and politically neutral arbitration known as investor-to-state dispute settlement (ISDS).

Before such a tribunal, investors will have to prove that the host state has breached one or more of the key guarantees causing significant economic damage. If the ISDS tribunal agrees with the investor, the host country will need to pay compensation.

In many countries investment agreements are not directly enforceable in domestic courts. An investor who gets in trouble cannot invoke the specific investment protection rules before the domestic court to get redress. That's the main reason why we include ISDS in our international treaties. It allows investors to rely on the rules that were specifically designed to protect their investments.

European Union investors, and especially companies from the Netherlands, Germany and the United Kingdom, are amongst the most frequent users of the ISDS system accounting for more than half of all the ISDS cases worldwide.

Will the BIA improve market access opportunities for EU investors?

Better and more access for EU investors to the Chinese market is our number one priority. We want to get rid of quantitative restrictions and discrimination against European services providers and investors active in other sectors such as manufacturing and mining. Also, we want to make sure the authorisations and licences are delivered without discrimination or opaque procedures.

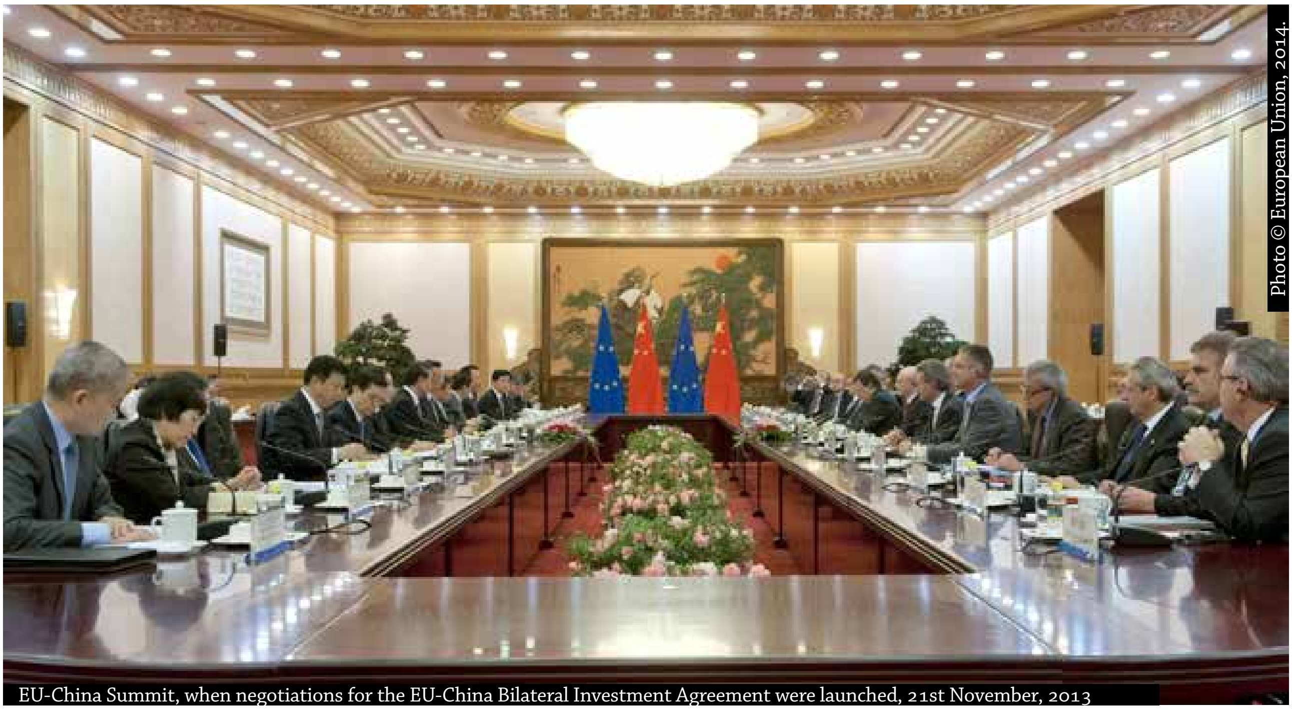
Will small companies also benefit?

The legal framework will improve for all companies, big or small.

Small and medium-sized businesses (SMEs) will be able to use all the enforcement possibilities offered by the ISDS mechanism, including potentially some specific SME-friendly arrangements.

For instance, the EU wants to offer SMEs an option to use mediation that is generally less costly, more consensual and easier to use for an SME. We are also supporting the idea of offering SMEs arbitration tribunals composed of a single arbitrator, instead of the usual panel of three. This should lower costs and help to ensure that small companies benefit from the agreement that we negotiate.

Are there already any existing measures to protect investors in China?



EU-China Summit, when negotiations for the EU-China Bilateral Investment Agreement were launched, 21st November, 2013

All EU Member States, except Ireland, already have bilateral investment protection treaties with China. These agreements include the typical investment protection standards described previously. However, they grant different levels of protection for EU investors depending on where they come from in the EU. These agreements apply only to companies already established in China and do not help potential newcomers. Once the EU-wide agreement is ready, it will replace the existing national treaties to ensure equal treatment and broader rights for all EU investors in China.

What is the timeline of the negotiations?

The negotiations started in November 2013. After three rounds of negotiations, the EU-China discussions are still at a very early stage. It would be premature to indicate a specific timeline for their conclusion. As the real negotiation phase is certainly still ahead of us, emphasis is put on the quality of the outcome rather than on speed.

Can EU industry do anything to support the negotiations?

We want to make sure the deal reflects the real needs of our investors in China. For this reason the European Commission would welcome your comments:

- What are your first-hand experiences regarding the investment environment?
- What specific barriers and difficulties did you face when first entering the Chinese market and/or in your daily contacts with Chinese authorities?
- Which are the sectors that need to be considered as priority? Eb

You can send your comments to the Trade Section of the EU Delegation in Beijing: Francisco.Perez-Canado@eeas.europa.eu, or Radek.Wegrzyn@eeas.europa.eu and to DG TRADE in Brussels: Alexandra.Koutoglidou@ec.europa.eu

Chamber News

As our members know, the European Chamber is a people-based organisation whose operational success depends on the hard work and dedication of its staff. In particular the Chamber is proud to honour those staff who are celebrating milestones in service to the Chamber. In this edition we recognise and thank:

Francine Hadjisotiriou,
PRD General Manager
10 Years of Service

IS PRODUCTION IN CHINA SAFE?

A number of serious workplace accidents in recent months led to building concern over the safety of production in China.[1] These unfortunate incidents added pressure to the Chinese authorities to update the Safe Production Law, which was enacted in November 2002. The law was finally revised on 31st August, 2014, and came into effect on 1st December, 2014. Below, **Carlo D'Andrea** of **D'Andrea & Partners and Chair of the Legal and Competition Working Group** in Shanghai, highlights the key changes in the law.

1 Jilin Dehui Poultry Factory accident, 3rd June, 2013 – 21 dead; Shandong Qingdao oil pipeline blast, 22nd November, 2013 – 62 dead, 138 injured; Jiangsu Kunshan explosion, 2nd August, 2014 – 75 dead, 185 injured.

The new Safe Production Law places more emphasis on workplace safety by increasing the penalties that can be handed down to negligent employers and empowering enforcement authorities.

The main modifications of the Safe Production Law are as follows:

More power to Labour Unions (Article 7)

Trade unions shall, in accordance with the law, supervise work safety. If a production or business unit of a company wishes to formulate or modify regulations related to production safety, unions will have the right to comment.

Increased Penalties (Section 6)

Where the principal leading member of a production or business unit fails to perform his/her duty related to work safety as stipulated by the law, he/she shall be fined not less than RMB 5,000 but no more than RMB 20,000. Fines for illegal performance by the organisation in charge of assessment, authentication, testing and inspection related to work safety of the production or business unit are also increased.

Empowerment of Authorities (Article 64)

The new law entitles authorities to stop electricity, water and heat supplies to any company that refuses an order to stop production or construction that is deemed to be potentially unsafe.

Blacklist (Article 72)

The Administration of Work Safety Supervision will keep records of any companies that have violated production safety according to the law. In serious cases these records will be made public.

Work-related injuries

It is important that employees clearly understand under what circumstances an injury can be deemed to be work-related.

According to Article 14 of the *Regulation on Work-Related Injury Insurances* an employee shall be determined as having a work-related injury if:

- He/she is injured in an accident at work during working hours in the workplace;
- He/she is injured in an accident while engaging in preparatory or finishing-up work related to work before or after working hours in the workplace;
- He/she is injured by violence or other accident in his/her performance of job duties during working hours in the workplace;
- He/she suffers from an occupational disease;
- He/she is injured at work or is involved in an accident in any other location during work-related travel;
- He/she is injured in a motor vehicle accident while going to or returning from work; or
- He/she is in any involved in other circumstances that shall be determined as a work-related injury according to the provision of laws and administrative regulations.

According to these points, regardless of whether they took place in the workplace or not, injuries can still be deemed to be work-related.

An occupational disease is broadly defined as any chronic ailment that occurs as a result of work or occupational activity. For special occupations, such as polishing, painting and any work related to the phosphorous chemical industry, employers shall organise health checks for any employees with potentially serious occupational hazards before beginning work, during the period of work and before leaving work.[2] If a worker has contracted a disease due to his/her working conditions, it will be deemed to be an occupational disease and will entitle the employee to work-related injury insurance funds and compensation from the employer.

According to the *Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Administrative Cases on Work-Related Injury Insurance*, "going to or returning from work" is defined as a reasonable route from work to domicile or from domicile to work within a reasonable time. If, for example, someone goes grocery shopping on the way home from work, it shall be deemed as "returning from work", which is to say, if an employee is injured while grocery shopping it may be considered a work-related injury.

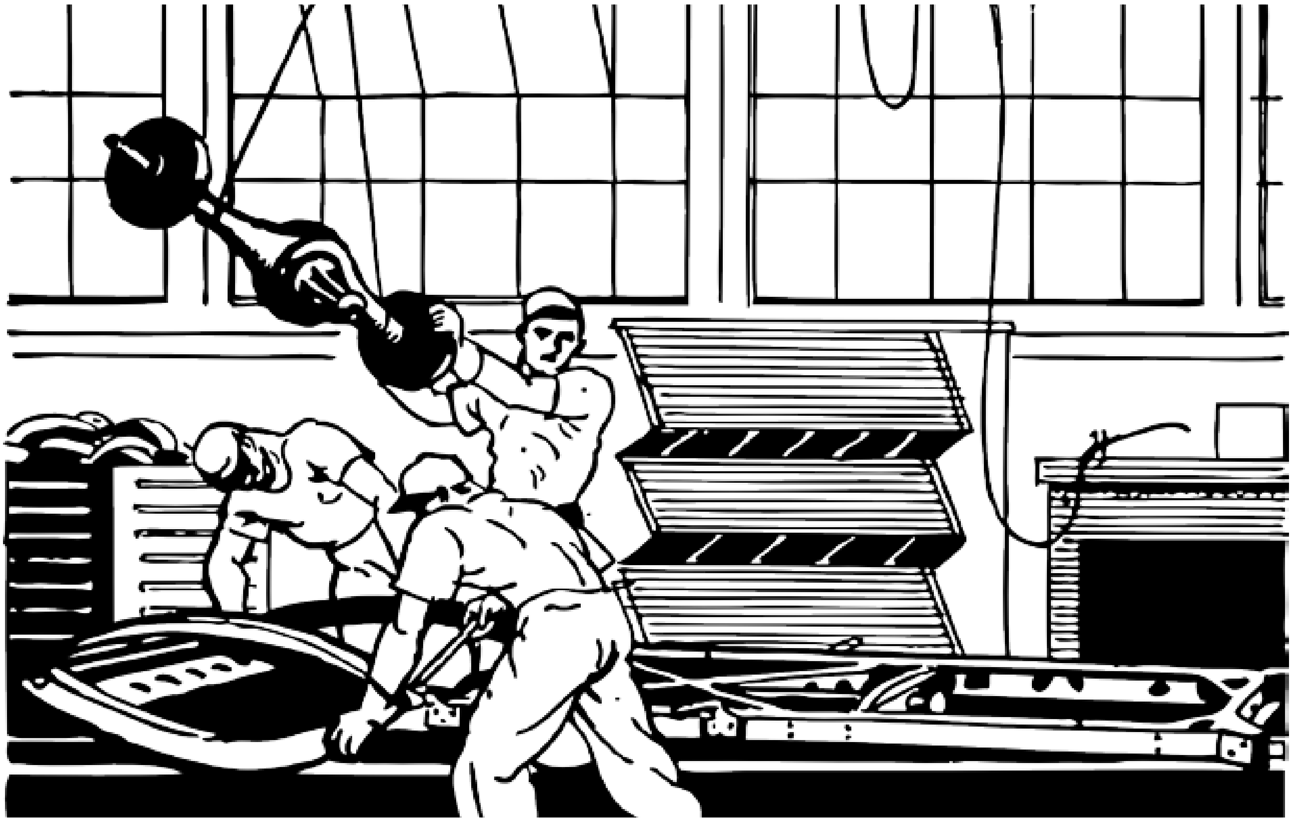
Employer liabilities

In accordance with the effective laws and regulations an employer's liability for the workplace safety is divided into three levels – civil, administrative and criminal.

1. Civil

Employees who suffer work-related injuries or occupational-diseases have the right to demand compensation from units where they work, in addition to enjoying social insurance for industrial injuries in accordance with law. The *Regulation on Work-Related Injury Insurances* confirms that necessary costs and compensation of the employee shall be paid from work-related injury insurance funds and the employer.

2 In accordance with the *Provisions on the Supervision and Administration of Occupational Health at Work Sites* and the PRC Prevention and Control of Occupational Diseases Law.



2. Administrative

In accordance with Section 6 of the Safe Production Law, the principal leading member of a production or business unit where any work-related injury occurs, or which commits a violation of laws or administrative regulations, will be punished or fined by the administrative authorities.

3. Criminal

If an accident involving heavy casualties occurs in a factory, directors, legal representatives or senior managers will assume personal liability.

Where the facilities for operational safety of a factory, or any other enterprise or institution, fail to meet State requirements and no measures are taken to remove hidden dangers that caused the accident after a warning has been given by the departments concerned or employees of the unit, so that an accident involving heavy casualties occurs or other serious consequences ensue, there are severe penalties. According to Article 135 of the Criminal Law, the person who is directly responsible for the accident shall be sentenced to fixed-term imprisonment of not more than three years criminal detention. If the circumstances are especially flagrant, he/she shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years.

An employer's liability for work-related injuries is a 'non-fault liability', which is to say, whether the employer is found at fault for the accident or not, they are still liable to pay the necessary costs related to the injuries.

Conclusion

Employers should always ensure that safety comes first. In order to mitigate work-related accidents and related injuries to employees, employers should:

- Raise safety awareness, improve self-protection capabilities and provide regular employee training, especially for new employees;
- Implement protective measures for safe production;
- Conduct regular checks of machinery and the working environment;
- Include a section on safe working practices in the employee handbook; and
- Insure the company against work-related accidents and sign a civil liability insurance contract based on the *Regulation on Work-Related Injury Insurances*. Eb

With offices in China in Shanghai, Nanjing and Zhuhai and a network of professionals around the world, ***D'Andrea & Partners*** *assists European companies in China as well as Chinese companies wishing to enter the global market through the establishment of foreign-invested enterprises or by mergers and acquisitions. The team is composed of both Chinese and European professionals, many of whom have experience of legal practice outside their home country.*

ANNUAL CONFERENCE 2014: SADDLING UP FOR REFORMS

The European Union Chamber of Commerce in China's biggest event of the year will take place on 16th December, 2014, at the Four Seasons Hotel Beijing.

The Annual Conference 2014: *Saddling up for Reforms* will deliver incisive comments and opinions on China's reform agenda from chief economists, think tanks and business experts from the EU and China in the form of interviews, panel discussions and Q&A sessions.

In 2013, our annual conference attracted more than 200 attendees, including: high-level officials from Chinese and EU governments – such as Dr Markus Ederer, then EU Ambassador to China, Wei Jianguo, Secretary General of the China Centre for International Economic Exchanges and officials from the NDRC and the PBoC; Chinese and EU executives from companies representing a diverse range of industries – ADB, Amadeus, BASF, BNP Paribas, GDF Suez, Nokia and ZTE; and representatives from international organisations – such as the IMF and the World Bank; as well as prominent domestic and international media.

Why should you attend?

Watch presentations, listen to original and insightful views and engage in dialogue with experts from politics, business and academia covering the following critical issues that lie ahead for China:

- China's transitions and reforms: one year after the 3rd Plenum
- Can China innovate?
- Quality of life: the impact of reforms on China's citizens
- The business environment in the EU and China and economic outlook for 2015

Confirmed speakers so far

HE Hans Dietmar Schweisgut, Ambassador, EU Delegation

Mr Li Wei, Director, Development Research Center of the State Council

Joerg Wuttke, President, European Chamber of Commerce in China

Hamid Sharif, Country Director, PRC Resident Mission, Asian Development Bank

Andrew Polk, China Economist, The Conference Board

Confirmed moderators so far

Gady Epstein, Beijing Bureau Chief, *The Economist*

Tom Mitchell, Beijing Correspondant, *Financial Times*

The European Chamber has also invited senior representatives from the Ministry of Commerce, the National Development and Reform Commission, the Chinese Academy of Social Sciences, and the Development & Research Council of the State Council to participate in this event.

This event is sponsored by SK:

For information on sponsorship packages available for this event, please contact Erica Wang at ewang@europeanchamber.com.cn or 010-64622066 ext 27.

SHANGHAI: THE ECONOMIC NEXUS OF CHINA

With a population of over 25 million, Shanghai, often referred to as the 'Paris of the east', is the economic centre of China. Situated in the Yangtze River Delta (YRD) in east China, the city aims to be a global financial, trade, shipping and economic centre by 2020. In this article, **Rainy Yao** from **Dezan Shira & Associates** takes a closer look at this modern metropolis with its well-developed infrastructure and improving investment environment.

Economic overview

Shanghai accounts for one-eighth of China's total financial income while taking up only 0.06 per cent of the nation's land. In 2013, the city's gross domestic product (GDP) exceeded RMB 2.16 trillion, the highest in all of China. Of this total, the city's primary industry contributed RMB 12.9 billion and its secondary industry RMB 802.7 billion (up 6.1 per cent from 2012). The most notable contribution was from the service sector – a monumental RMB 1.34 trillion, or 62.2 per cent of total GDP. In the first half of 2014, the city's GDP stood at RMB 1.09 trillion with a stable, annual growth rate of 7.1 per cent.[1]

1 http://www.stats-sh.gov.cn/sjfb/201402/267416.html

The finance sector has also played a key role in Shanghai's economic development, with an added-value in 2013 of RMB 282.3 billion (up 13.7 per cent from 2012). By the end of 2013, 215 foreign-invested financial institutions and 198 representative offices had been established in the city.

From January to September 2014, Shanghai has witnessed a sharp increase in foreign direct investment (FDI). Over 400 foreign-invested projects were introduced in September alone – a year-on-year growth rate of 34.1 per cent.[2]

Development zones

There are seven national-level development zones in Shanghai:

Caohejing Hi-tech Park

In 1991, Caohejing New Technology Park was upgraded by the State Council to Caohejing Hi-tech Park (CHJ). Aimed at becoming China's answer to Silicon Valley, the park is designated for high-tech enterprises. Major industries include microelectronics, photoelectrons, software and new materials. [3]

Lujiazui Finance and Trade Zone

Approved in 1990, Lujiazui Finance and Trade Zone is the first of its kind in China. Designed to bolster the finance, insurance and trade sectors, the Lujiazui region is home to several major multinational corporations (MNCs) such as Siemens and Alcatel.[4]

Zhangjiang Hi-tech Park

Zhangjiang Hi-tech Park is a national-level industrial development zone established in 1992. After years of accelerated growth, Zhangjiang gradually established its own innovative industrial clusters, focusing on areas such as integrated circuits, bio-tech & pharmaceuticals, software and innovation. By the end of 2010, the park was home to more than 6,000 enterprises and total revenue stood at some RMB 102.1 billion.[5]

Investment opportunities

In order to attract foreign investment and MNC headquarters, Shanghai provides various preferential policies such as tax incentives and rent subsidies. Enterprises are highly encouraged to invest in the 'cultural and creative' industry, high-end equipment manufacturing and environmental protection. Shanghai has been chosen as the site of the BRICS (Brazil, Russia, India, China and South Africa) New Development Bank (NDB), providing even more opportunity for investment in the finance industry.

2 http://www.investment.gov.cn/shlywjqk/20141022/55314.html

3 http://www.shanghai.gov.cn/shanghai/node2314/node2318/node9364/node23120/node23121/index.html

4 http://www.sidp.gov.cn/2009/0627/4187.html

5 http://en.zhangjiang.net/Default.aspx?tabid=476#aboutus1

Preferential policies for multinational headquarters

In July 2014, the Shanghai Government launched a so-called 'Quasi-HQ Policy', aimed at relaxing the requirements for MNCs to establish regional headquarters (HQs). Under the new policy, eligible wholly foreign-owned enterprises (WFOEs) and their branches can still enjoy the preferential policies offered to MNC HQs, even if they don't qualify as such, as long as they meet certain criteria including headcount, total assets and office space.

Newly-registered investment holding companies and management companies identified as regional HQs can receive start-up and rental subsidies. Additionally, regional HQs that have made a prominent contribution to local economic development will receive bonuses. The city also offers financial support to encourage MNCs to upgrade their existing regional HQs to pan-Asia, pan-Asia-Pacific or global HQs. Other incentives on offer include easier customs clearance, simplified entry/exit formalities and simplified employment permit formalities.[6]

China (Shanghai) Pilot Free Trade Zone (CSPFTZ)

The China (Shanghai) Pilot Free Trade Zone (CSPFTZ), officially approved in 2013, is a testing ground for market reforms and the smoother facilitation of foreign investment into China. It consists of the Waigaoqiao Free-Trade Zone, Waigaoqiao Bonded Logistics Park, Yangshan Bonded Port Area and Pudong Airport Comprehensive Bonded Zone. The zone adopts a negative-list approach to FDI restrictions, under which foreign investors enjoy equal treatment as Chinese domestic enterprises in any industry not explicitly restricted or prohibited in the list.

To unburden investors from China's tedious administrative approval procedures, the CSPFTZ has established a unique 'one-stop application processing platform' for corporate establishment. This means applicants can obtain all necessary documents for company establishment in one place, significantly reducing the time taken to establish a company in the zone.

By 15th September, 2014, 1,677 foreign-invested enterprises (FIEs) had been established in the CSPFTZ, accounting for 13.7 per cent of the total number of enterprises in the zone. By comparison, at the end of 2013, only 228 FIEs had been set up in the zone, with a total registered capital of USD 980 million. Eb

***Dezan Shira & Associates** is a specialist foreign direct investment practice, providing corporate establishment, business advisory, tax advisory and compliance, accounting, payroll, due diligence and financial review services to multinationals investing in emerging Asia. Since its establishment in 1992, the firm has grown into one of Asia's most versatile full-service consultancies with operational offices across China, Hong Kong, India, Singapore and Vietnam as well as liaison offices in Italy and the United States.*

For further details or to contact the firm, please email china@dezshira.com or visit www.dezshira.com.

6 http://www.china-briefing.com/news/2014/07/23/shanghai-raises-stakes-attract-multinational-headquarters.html

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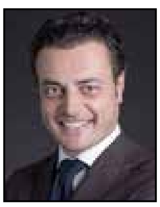
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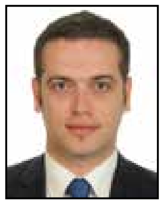
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Star Mall
Real Estate
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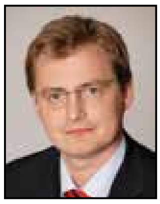
Consenec Ltd
(ABB Group)


Paul Sives
Proton
Products


Steven Fan
Willis Insurance
Brokers Co Ltd


Frank Stefan
Gottwald
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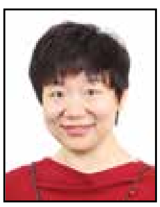
EUROPEAN CHAMBER OFFICE TEAM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Nanjing Office
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Mirella Savegnago


Pearl River Delta Office
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Francine
Hadjisotiriou


Shanghai Office
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Oliver Schlaebitz


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Sally Huang


Tianjin Office
General Manager
Kitty Wang


Secretary
General
Adam Dunnett
European
Chamber

EUROPEAN CHAMBER EVENTS GALLERY

BEIJING CHAPTER


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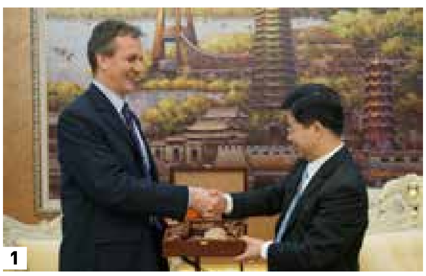
Study on Foreign Investment Environment in China (1)
On 4th September, the European Chamber and the EU Delegation co-organised the presentation of a comprehensive report on restraints on foreign investment in China that was commissioned by DG TRADE. The event was sponsored by SINODIS.

European Business in China Position Paper Launch 2014/2015 (2)
On 9th September, the European Chamber Beijing Chapter held the official launch of the *Position Paper 2014/2015* at the Four Seasons Hotel.

M&A Conference 2014: Inbound Session (3)
On 16th September, this half-day conference focused on recent inbound M&A activity. It was sponsored by TEDA and the Jiu Shang Group.

European SME Forum 2014: Marketing and Branding your SME throughout China (4)
On 29th October, the European Chamber and the China IPR SME Helpdesk co-organised the fourth EU SME Forum in Beijing. It was sponsored by AMAZON.

NANJING CHAPTER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Nanjing Board Chair meets Changzhou Vice Mayor (1)
On 27th September, Nanjing Board Chair Helmut Guesten met Vice Mayor, Mr Fang Guoqiang.

Talent Management trends and Chinese Talent Market Analysis (2)
Data and trends of the labour market and salary analysis in Asia and China were presented by Mercer on 24th October, with 15 member companies in attendance.

PRD CHAPTER


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Guangzhou Position Paper Launch (1)
The Chamber's *Position Paper 2014/2015* was launched in Guangzhou on 4th November at the Mandarin Oriental Guangzhou.

Shenzhen Position Paper Launch (2)
The Chamber's *Position Paper 2014/2015* was launched in Shenzhen on 5th November at the Grand Mercure Shenzhen Oriental Ginza Hotel.

SHANGHAI CHAPTER

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China Investment Conference 2014: China Business in a Nutshell (1&2)

The Shanghai Chapter's annual China Investment Conference, was held on 25th September at the Longemont Hotel. Shanghai Caohejing Hi-Tech Park Development Corp and Zhejiang Tongxiang Economic Development Zone were Diamond Sponsors; Pinghu Economic-Technological Development Zone was Gold Sponsor; Tianjin Free Trade Zone was Silver Sponsor; and TEDA was Bronze Sponsor.

Robotic and automation trends in China (3)

On 21st October, the European Chamber held a seminar on robotics and automation trends in China.

SOUTHWEST CHAPTER


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Position Paper Launch (1&2)

On 21st and 22nd October 2014, the Chamber's Southwest Chapter launched the *Position Paper 2014/2015* in Chengdu and Chongqing respectively.

IPR Workshops (3)

On 22nd and 23rd October 2014, the Chamber and the China IPR SME Helpdesk organised two IPR Workshops in Chengdu and Chongqing. Helpdesk IP expert Reinout van Malenstein shared his insights on protecting innovation and sustainable development of IP.

TIANJIN CHAPTER


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2014 European Business Gala Dinner – Castle Night (1&2)

The European Chamber's Tianjin Chapter hosted the 9th Annual Business Gala Dinner on 17th October, at the The Ritz-Carlton Tianjin. We would like to thank all our sponsors: Airbus, Alliance Francaise, Asia Power Systems, Goglio, Heng An Standard Life, Ritz-Carlton, SIP, Vantone, Wago and Wellington.

The Leadership Incubator Training: Essential Communication Skills (3)

This training course took place on 23rd October.

Global Ready Leadership-How to Develop Your Capability as a Global Leader (4)

The Tianjin Chapter held this workshop on 29th October.



First Corporate Social Responsibility Award and Green & Clean Forum

GREEN, CLEAN AND SOCIALLY RESPONSIBLE

Foreign companies in China have opportunities to contribute to more than just the economy. By bringing advanced technologies and systems they can have a positive effect on the environment and help China to reach its environmental goals; they can help to cultivate an improved workplace by introducing work practices that are safe and responsible; they can also have a positive impact on society at large by cultivating social programmes that reach out to the local communities where they are based. The European Nanjing Chapter brought all of these ideas together when they hosted the Chamber's first **Green & Clean Sustainability Forum** and **Corporate Social Responsibility (CSR) Awards** ceremony on 16th October, 2014.

Green & Clean Sustainability Forum

The event was jointly opened by Mr Cao Wentang, Vice President of the Nanjing People's Association for Friendship with Foreign Companies and Mirella Savegagno, General Manager of the Chamber's Nanjing Chapter.

The forum attracted 180 participants who listened to six keynote speeches on topics such as reducing energy consumption, sustainability, corporate social responsibility (CSR) and Jiangsu's future environmental plans. A Q&A followed, moderated by Bernhard Weber, Board Member of the Nanjing Chapter, who engaged all speakers, attending government officials and audience members in the discussion.

CSR Awards

An impressive 200 people gathered to participate in the Chamber's first CSR Awards ceremony. We were delighted to have Chinese companies participating in the event as CSR and sustainability are not only issues for our member companies, but also for the greater community in China. Categories were divided into companies with more than 250 employees (>250) and those with less (<250). Below are the list of winners in their respective categories:

- Human Resources & Work Safety (>250 employees)

  MAN Diesel & Turbo China Production Co Ltd for their programme promoting Safety Culture Cultivation

- Sustainable Growth & Environmental Protection (<250 employees)

  Nanjing International School for their Green Report Card project

- Sustainable Growth & Environmental Protection (>250 employees)

  Bosch and Siemens Home Appliances Co Ltd - Anhui Province for their programme on resource efficiency

- Community Programmes & Social Innovations (<250 employees)

  Shaoxing, Keqiao District, **Quanneng Education and Training Centre** for their programme promoting music and arts education in underprivileged communities

- Community Programmes & Social Innovations (>250 employees)

  Siemens Ltd China for their i-Green Education programme

For a complete list of all winners, as well as a list of those who sat on the selection panel, please go to http://www.europeanchamber.com.cn/en/local-news/2178/first_corporate_social_responsibility_award

We would like to thank our sponsors: **BASF-YPC** (Platinum Sponsor); **Omega Zeta** (Gold Sponsor); **Hilton Riverside Nanjing** (Venue Sponsor); and **Epermarket, Jointek** and **Lillydale Estate** (Wine Sponsors).

THE ADVISORY COUNCIL OF THE EUROPEAN CHAMBER

The 30 members of the European Chamber's Advisory Council are particularly active in representing and advising the Chamber, and make an enhanced contribution to the Chamber's funding.

ABB	AIRBUS	AkzoNobel
amadeus Your technology partner	Ansaldo STS A Finmeccanica Company	BASF The Chemical Company
Bayer	BNP PARIBAS 法国巴黎银行	Deutsche Bank 德意志银行
ESI Euro Sino Invest	EVONIK INDUSTRIES	GDF SUEZ
KPMG cutting through complexity	Linklaters	MAERSK
米其林轮胎 MICHELIN	nsn for a world in motion	novozymes Rethink Tomorrow
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SIEMENS	法兴银行 SOCIETE GENERALE	ThyssenKrupp
TOTAL 道达尔	VEOLIA	VOLKSWAGEN GROUP CHINA