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December 2004 Report on China's World Trade Organization Compliance

On December 11, 2004, the United States Trade Representative ("USTR") presented the third annual Report to Congress on China's World Trade Organization ("WTO") Compliance (the "2004 Report").¹ Like the 2003 and 2002 Reports, the 2004 Report notes some achievements made by China in implementing its WTO commitments; however, the 2004 Report primarily highlights the failures of China's implementation efforts and reports the areas of concern.

¹ Whenever the 2004 Report's own language concisely and clearly describes a particular point, we quoted the language directly. In other instances, we paraphrased the 2004 Report.

The following is a review of selected topics addressed in the 2004 Report.² Please refer to the January-February 2004 issue of *China Insights* for our selected review of the 2003 Report on China's WTO Compliance.

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² The sections not covered by this selected review are: Agriculture (Tariffs, China's Biotechnology Regulations, Tariff-rate Quotas on Bulk Agricultural Commodities, Sanitary and Phytosanitary Issues, Inspection-related Requirements, Export Subsidies), Services (Financial Services, Legal Services, Telecommunications, Express Delivery Services, Construction and Related Engineering Services, Aviation Services, Maritime Services, Other Services), and Legal Framework (Transparency, Uniform Application of Laws, Judicial Review).

An Anniversary Note

We began assisting our clients with their China-related legal and business matters in the late 1980s. This work began expanding in the late 1990s and at the beginning of this decade. By the beginning of 2004, the volume and sophistication of our client's China-related work expanded to the point that we decided to formally establish a China Group within Benesch. January, 2005 marks the first anniversary of the establishment of our China Group, and we thought it would be an appropriate time to report to our clients and friends. During 2004, we:

- Assisted clients in a number of industries in establishing Representative Offices, joint ventures and wholly foreign

owned enterprises (WFOEs) in China, as well as assisted clients in connection with various types of sourcing arrangements.

- Had five of our lawyers spend more than 100 person/days in China on behalf of clients, and to establish and strengthen relationships that help us to better serve clients.

- Increased the size of our China Group to ten lawyers, including the addition of Yanping Wang, who is licensed to practice law in both in China and Ohio, and named Peter Shelton as Vice Chair.

--Allan Goldner, Chair of Benesch's China Group

Cleveland:

2300 BP Tower
200 Public Square
Cleveland, OH 44114-2378
Phone: 216.363.4500
Fax: 216.363.4588

Columbus:

88 East Broad Street
Suite 900
Columbus, OH 43215-3506
Phone: 614.223.9300
Fax: 614.223.9330

www.bfca.com

In 2004, the U.S. and China pledged to cooperate in resolving a number of problems with the U.S.-China trade relationship. Most notably, the Joint Commission on Commerce and Trade (“JCCT”) meeting in April 2004 and subsequent exchanges resolved many areas of dispute. Still, implementation and enforcement problems remain in the areas of Intellectual Property Rights (“IPR”), Trading Rights and Distribution Services, Import Regulation, Export Regulation, and Internal Policies Affecting Trade.

INTELLECTUAL PROPERTY RIGHTS

China’s lack of protection of foreign intellectual property continues to be the U.S.’s biggest disappointment and concern. U.S. rights-holders report that IPR infringement in China is “rampant” and some commentators suggest the situation has actually worsened.

The enormous financial impact of IPR infringement pervades numerous industries including films, music, publishing, software, pharmaceuticals, chemicals, information technology, consumer goods, electrical equipment, automotive parts, and industrial products.

China has recognized the damaging effects of IPR infringement and has implemented steps to combat its effects. As part of the Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) Agreement, China committed to adhere to various internationally accepted norms of protection including minimum standards of protection for copyright, trademark, and other intellectual property rights. While China has satisfactorily overhauled its framework of laws, regulations, and implementing rules to comply with the TRIPS obligations, China’s enforcement of these measures remains generally ineffective throughout the country.

The USTR attributed China’s shortcomings in IPR enforcement to: (1) lack of

coordination among Chinese government ministries and agencies, (2) high thresholds for criminal prosecution, (3) lack of training for enforcement officials, and (4) inadequate punishments.

Lack of Coordination

The 2004 Report acknowledges local governments including Beijing,

Shanghai, Guangzhou, and Zhejiang have taken steps to improve IPR protection.

However, China has not yet implemented a focused, nationwide effort designed to coordinate central, provincial, and local enforcement into a cohesive scheme necessary for effective reduction of IPR infringement. When IPR infringement is found, China’s laws and regulations are unclear as to whether the prohibited activity warrants administrative, civil, or criminal enforcement. As a result, criminal enforcement is rarely sought and infringing entities are free to continue with business as usual.

The USTR reports that coordination on the national and local levels remains problematic as different agencies are using different standards to determine whether criminal conduct exists and some agencies are apparently unwilling or unable to work together.

High Thresholds for Criminal Prosecution

The USTR advocates a change in the criminal liability thresholds against IPR infringers since, currently, these thresholds are exceedingly high and seldom met. For example, under Chinese law, there must be evidentiary proof of infringing sales totaling RMB 200,000 (\$24,100) for enterprises and RMB

50,000 (\$6,030) for individuals. The evidentiary proof of sales requirement essentially acts as a bar to recovery since, under the rules, it does not apply to counterfeit or pirated goods discovered in a warehouse but not yet sold.

Furthermore, infringers generally do not leave a paper trail of their unlawful sales, which is needed as evidence of the sales threshold.³

“China’s lack of protection of foreign intellectual property continues to be the U.S.’s biggest disappointment and concern.”

Lack of Training

Many enforcement officials are not equipped with the necessary knowledge, skills, or resources to prosecute infringers. Generally, the Chinese police have the authority to prosecute IPR infringers, however, too often local police are either not interested in pursuing counterfeiting and piracy cases, or simply lack the resources and training required to investigate these types of cases effectively.

Similarly in civil actions, IPR holders often encounter judges who are still learning and building upon their own knowledge of China’s developing IPR laws and regulations. The lack of consistent and fair enforcement of laws and regulations by IPR courts makes judgments unpredictable. Additionally, court rules regarding evidence, expert witnesses, and protection of confidential information are vague or ineffective.

Inadequate Punishments

While there have been a large number of seizures of infringing material as a result of government campaigns against IPR violations, the fines levied by administra-

³ Note that on December 8, 2004 (after the 2004 Report was completed), China’s Supreme People’s Court and the Supreme People’s Procuratorate promulgated the *Interpretation on Several Issues of Concrete Application of Laws in Handling Criminal Cases of Infringing Intellectual Property*. This Interpretation, which became effective on December 22, 2004, lowered (i.e., made it easier to impose) the revenue thresholds for imposing criminal penalties on infringers, and addressed infringing goods located in warehouses.

tive authorities are often too low to serve as a deterrent. For example, when determining the appropriate fine, administrative authorities do not treat the infringing goods as having the value of the higher priced genuine article. Instead, the value is established based on the price charged for the counterfeit goods. As a result, the infringers consider the seizures and the modest fines simply a cost of doing business, and they are usually able to resume their operations without much difficulty.

U.S. and China Cooperation on IPR Enforcement

The most significant developments in intellectual property protection will come from a combination of U.S. advocacy and China's continued diligence. When the JCCT convened in April 2004, China committed to: (1) significantly reduce IPR infringement levels; (2) take steps by the end of 2004 to increase penalties for IPR violations by (i) subjecting a greater range of violations to criminal investigation, (ii) applying criminal sanctioning to the import, export, storage and distribution of pirated and counterfeit products, and (iii) applying criminal sanctions to on-line piracy; (3) crack down on IPR violators by conducting nationwide enforcement actions and increasing customs enforcement actions; (4) improve protection of electronic works; and (5) launch a national IPR education campaign. China also agreed to establish an IPR working group that would function under the auspices of the JCCT to consult and cooperate with the U.S. on the full range of issues described in China's IPR action plan.

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In early 2005, the U.S. will conduct an out-of-cycle review to monitor China's progress on the JCCT commitments. The USTR, in preparation for the review, will examine China's entire IPR enforcement regime and solicit comments from U.S. manufacturers and businesses.

TRADING RIGHTS AND DISTRIBUTION SERVICES

Trading Rights

Trading rights commitments refer to the right to freely import goods into China and the right to export goods from China without having to use a middleman. In April 2004, China issued the final *Foreign Trade Law* which clarified and revised the rules by which domestic and foreign entities and individuals may register for automatic trading rights. Under the current rules, the minimum registered capital for Chinese manufacturing enterprises is RMB 0.5 million (\$60,300), and

the minimum registered capital for Chinese trading enterprises is RMB 1 million (\$120,600), except in the Central and Western regions, where the requirement was RMB 0.5 million.

U.S. companies have reported few problems with the new trading rights registration process, however, the liberalization of trading rights will only become meaningful once China implements its related commitments to liberalize its rules on distribution services.

Distribution Services

Without distributions rights, trading rights have very limited value. Following the April 2004 JCCT meeting, China issued regulations eliminating national

treatment and market access restrictions on joint ventures providing wholesaling services, commissions agents' services, direct retailing services (other than sales away from a fixed location), and franchising services. The regulations established a timetable for extending this liberalization to wholly foreign-owned enterprises on December 11, 2004. Similarly, in April 2004, China issued regulations in the commercial sector which lifted market access and national treatment restrictions on joint ventures engaging in wholesale services effective June 1, 2004 and in retail services (with certain exceptions) effective June 1, 2004. However, to date, no implementing rules have been published. For an additional discussion of distribution rights, please refer to the March-April 2004 issue of *China Insights*.⁴

IMPORT REGULATION

Tariffs

Upon accession to the WTO, China agreed to implement various tariff reductions by January 1, 2004. Tariff reductions contributed to a significant increase in U.S. exports, which rose approximately 35 percent from January through September 2004, compared to the same time period in 2003. The reductions benefited sectors such as machinery, construction equipment, chemicals, and medical and scientific equipment.

While the USTR does not quantify exports to China by sector, strong growth in U.S. exports suggests that China's tariff reductions have had a significant impact. Machinery exports increased by 42 percent from January through September 2004, with a projected year-end total of \$6.5 billion. U.S. medical

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⁴ As of January 14, 2005, Chinese authorities have not issued any updates concerning the rules of distribution services for wholly foreign owned enterprises.

and optical equipment exports, meanwhile, increased by 34 percent from January through September 2004, with a projected year-end total of \$2.1 billion. U.S. chemical exports increased by 36 percent from January through September 2004, with a projected year end total exceeding \$5.3 billion.

Customs and Trade Administration

On January 1, 2002, China issued the *Measures for Examining and Determining Customs Valuation of Imported Goods*, designed to standardize the methodology of customs valuation. Presently, customs officials are not implementing these regulations uniformly. U.S. exporters continue to encounter valuation problems at many ports. For example, the 2002 regulations provide that imported goods should be valued on the basis of their transaction price, *i.e.*, the price the importer actually paid. However, customs officials are still improperly using “reference pricing,” which usually results in a higher dutiable value. Furthermore, officials are still automatically adding royalties and license fees to the dutiable value of software, a practice contrary to the 2002 regulations.

Rules of Origin

Without circulating a draft for public comment, China issued regulations intended to bring its rules of origin into conformity with WTO rules for import and export purposes in September 2004. The regulations were scheduled to take effect on January 1, 2005. However, necessary implementing rules are still being drafted.

Import Licensing

In its accession agreement, China committed not to condition the issuance of import licenses on performance requirements such as local content, export performance, offsets, technology transfer or research and development, or on whether competing domestic suppliers exist. The

U.S. is continuing to urge China to provide greater clarity regarding the regulations on automatic and non-automatic licensing.

Non-Tariff Measures (“NTMs”)

On July 1, 2004, China eliminated the last of the NTMs including import quotas, licenses, and tendering requirements, which cover hundreds of products. In 2004, China eliminated import quotas on crude oil, refined oil, natural rubber and tires. Auto quotas officially ended on January 1, 2005, marking the end of any import quotas in place.

Tariff-Rate Quotas (“TRQs”) on Industrial Products

China has agreed to implement a system of TRQs designed to provide significant market access for three industrial products, including fertilizer, a major U.S. export. Under the TRQ system, a set quantity of imports is allowed at a low tariff rate, while imports above that level are subject to a higher tariff rate. The U.S. will monitor developments in 2005 to ensure that China complies with its commitments and administers its TRQ system in a transparent and fair manner.

Antidumping and Countervailing Duties

According to U.S. antidumping experts, the greatest shortcomings to date in China’s antidumping practice relate to transparency and fair procedures. Lack of disclosure and information severely impairs the ability of U.S. companies to mount an effective defense against China’s antidumping investigations. No parties in an antidumping investigation have sought

judicial review, therefore, antidumping judicial review rules have never been tested.

“...the greatest shortcomings to date in China’s antidumping practice relate to transparency and fair procedures.”

China has not initiated a countervailing duties investigation since it was admitted to the WTO.

Safeguards

China has established rules determining whether increased imports of a given product cause a corresponding injury to the domestic industry. China committed to revising its regulations and procedures for conducting safeguard investigations

to make them consistent with

WTO requirements. China’s regulations and procedural rules generally track WTO safeguard requirements, however, certain omissions and ambiguities remain. The U.S. will continue to seek clarity from China on these matters.

EXPORT REGULATION

WTO members are prohibited from maintaining export restrictions (other than duties, taxes, or other charges), although certain limited exceptions are allowed. Since its accession to the WTO, China has imposed restrictions on exports of a few raw materials and intermediate goods, some of which the U.S. considers to be improper export regulations - including certain duties imposed by China on exports of blast furnace coke, a key steel input. In September and November 2004, the U.S. continued to press China for complete elimination of the annual export quota on coke. The U.S. will continue to pursue this issue vigorously in 2005.

INTERNAL POLICIES AFFECTING TRADE

Non-discrimination

China has agreed to the non-discrimination rules, or principles of Most-Favored Nation ("MFN") treatment and national treatment rules. The MFN rule attempts to put the goods of all of an importing WTO member's trading partners on equal terms with one another by requiring the same treatment to be applied to goods of any origin. It provides that if a WTO member grants another country's goods a benefit or advantage, it must immediately and unconditionally grant the same treatment to like goods imported from all WTO members. The national treatment rule complements the MFN rule. It attempts to put the goods of an importing WTO member's trading partners on equal terms with the importing member's goods by requiring, among other things, that a WTO member accord no less favorable treatment of imported goods than it does for like domestic goods.

China does not appear to have observed MFN and national treatment requirements in all areas. U.S. pharmaceutical manufacturers continue to raise national treatment concerns in the areas of price controls on medicines and drug reimbursement. Actions taken by China in these areas often appear to be designed to benefit domestic pharmaceutical manufacturers at the expense of foreign pharmaceutical manufacturers. Similarly, China's border trade policy gives preferential import duty and value added tax ("VAT") treatment to certain products, often from Russia.

Taxation

Certain aspects of China's VAT system continue to raise serious national treatment concerns, particularly with regard to the discriminatory rates being applied to imports versus domestically produced semiconductors and fertilizer.

To stimulate China's developing domestic integrated circuit industry, China provided for the rebate of a substantial portion of the 17 percent VAT paid by domestic manufacturers on their locally produced integrated circuits. A similar VAT rebate was available to imported integrated circuits, but only if they had been designed in China. China charged the full 17 percent VAT on all other imported integrated circuits.

After several negotiations and talks between U.S. and Chinese officials, the U.S. initiated dispute settlement in March 2004 by requesting formal consultations with China regarding its differential tax treatment of imported integrated circuits. In July 2004, a settlement was reached. China agreed to immediately cease adding Chinese integrated circuits manufacturers to the list of entities eligible for the VAT rebate and to issue regulations to eliminate the VAT rebate entirely by November 1, 2004, effective no later than April 1, 2005.

Still, several U.S. industries have complained about the unfair operation of China's VAT system, pointing to Chinese producers who are able to avoid payment of the VAT as a result of poor collection procedures, special deals, or fraud.

China's consumption tax regulations, which apply to products such as alcoholic beverages, tobacco, cosmetics, rubber, motorcycles, and automobiles, also raise national treatment concerns. Under the regulations, China uses different tax bases to compute consumption taxes for domestic and imported products, with the result being that the effective con-

sumption tax rate for imported products is substantially higher than for domestic products.

Subsidies

The WTO Subsidy Agreement requires a member to provide notification to other WTO members regarding its subsidy program. Such notification satisfies the rights of other WTO members to know and understand the range and operation of a member's subsidy program and to be assured that the member is not maintaining any prohibited subsidies. However, after three years of WTO membership, China still has not fulfilled this notification requirement.

"China is required to...accord no less favorable treatment of imported goods than it does for like domestic goods."

Price Controls

China agreed that it would not use price controls to restrict the level of imports of goods or services except in a limited list of products or services. In 2004, China's price controls continued in the form of absolute mandated prices or specific pricing policy guidelines as directed by the government. Products such as pharmaceuticals, natural gas, transportation (including freight transportation), and tobacco are subject to the price controls.

Standards, Technical Regulations, and Conformity Assessment Procedures

With its accession to the WTO, China also assumed obligations under the Agreement on Technical Barriers to Trade, which established rules and procedures regarding the development, adoption and application of voluntary product standards, mandatory technical regulations, and the procedures used to determine whether a particular product meets such standards or regulations. This agree-

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ment established rules that help to distinguish legitimate standards and technical regulations from protectionist measures.

Since 2002, China has made significant progress toward its goal of having 70 percent of its nearly 20,000 technical regulations based on international standards within 5 years of its accession to the WTO. However, China is currently developing a set of unique requirements for products such as automobiles, telecommunications equip-

ment, wireless local area networks, and fertilizer, despite the existence of international standards for these products.

In 2001, China issued a new Compulsory Product Certification System. Under the system, one safety mark called the "China Compulsory Certification" or "CCC" mark is issued to both Chinese and foreign products, replacing the old system that required two different marks.

"...distinguish legitimate standards and technical regulations from protectionist measures."

However, the CCC regulations lack clarity regarding the products that require the CCC mark. In addition, China is applying the CCC mark requirements inconsistently and many domestic products which require the mark are being sold

without it. Furthermore, U.S. companies in the telecommunications sector have registered complaints about duplication in certification requirements.

To date, China has granted 68 domestic enterprises accreditation to test and

certify for purposes of the CCC mark. Despite commitments to allow for other conformity assessment bodies, China to date, has not granted accreditation to any foreign-invested enterprises.

Internal Policies for Government Procurement

China has agreed that all of its central and local government agencies would conduct their procurements in a transpar-

ent manner. China has also agreed that if a procurement were opened to foreign suppliers, it would provide MFN treatment by allowing all foreign suppliers an equal opportunity to participate in the bidding process.

In 2003, China's software market totaled \$3.3 billion and was projected to grow by more than 50 percent annually. Since central and local governments are the largest purchasers of software in China, the Chinese government drafted rules requiring government software to be developed in China to the extent possible. After a series of negotiations, government officials state that they are considering a broad interpretation for the definition of "domestic product" to include products of foreign companies with established roots in China.

The foregoing is a brief overview of selected areas addressed in the 2004 Report. Due to space limitations, there is a great deal of information not covered. For additional information contact Daniel Lok at 216.363.4448 or dlok@bfca.com or Yanping Wang at 216.363.4664 or ywang@bfca.com.

Current Events

February 11, 2005, Cleveland, Ohio

Yanping Wang will speak at "China: Training Executives To Do Business-Better." This Benesch co-sponsored training conference is for executives with 1-5 years experience in doing business in China. Register for this conference in the events section at www.chinaresourcenetwork.com

February 28, 2005, Phoenix, Arizona

Allan Goldner will be moderating a China panel discussion at the Plastics News' Executive Forum. Steve Auvil and Megan Mehalko will also present on "Capitalizing on your Intellectual Capital" at the Supplemental Session for Managers.

March 17, 2005, Los Angeles, California

Allan Goldner and Yanping Wang will be speaking before a national meeting of the YPO on "The Perils, Pitfalls and Opportunities of Doing Business in China."

March 18, 2005, Fremont, Ohio

Peter Shelton, Greg Kolocouris and other members of the China Group will be presenting and co-sponsoring "The China Challenge: How To Compete and Win" at Terra Community College. Contact Megan Thomas at 216.363.4174 for additional information.

China Group Welcomes New Lawyer



We are very pleased to introduce Yanping Wang. Yanping joined Benesch's China Group in October 2004.

Yanping received her L.L.B with honors from the Political Science & Law University of China in Beijing in 1991, and her L.L.M. degree in Civil and Commercial Law from Renmin University of China in Beijing in 1994. She received her J.D. from the University of Kansas School of Law in 2000.

Yanping was admitted to practice law in China in 1992 and in Ohio in 2000. Her practice in China included real estate, commercial contracts, intellectual property and business litigation. From 1996-1997, she served as the legal counsel for a printing company in Beijing. In this position, she was primarily responsible for its trademark strategy, trademark application and protection, and its day-to-day operations. From 1992-1994, while a graduate student at Renmin University, she served as the legal counsel to a biotechnology company in Beijing. In this position, she was responsible for company's patent applications and other day-to-day legal matters. She also successfully litigated against licensees who violated license agreements.

Yanping is a prolific author. She recently co-authored a book, **Law Codes in Dynastic China**, which will be published by Carolina Academic Press in February, 2005. While in China, she published several books and articles regarding Chinese commercial law, contracts and property law.* She is a frequent speaker on various aspects of doing business in China.

As a member of Benesch's China Group, Yanping assists our clients in a wide range of China-related legal and business matters.

--Allan Goldner, Chair, and Peter Shelton, Vice Chair, Benesch's China Group

* Selected Publications

- John W. Head, Yanping Wang, *Dynastic Law from Qin to Qing*, North Carolina Academy Press (to be published in February 2005)
- "Insurance," "Negotiable Instruments" and "Guarantee Law" chapters of *Bar Review* (Legal Publishing Company, 1997)
- Civil Law Institute, "Property Law" chapter of *Civil Law* (Chinese People's Public Security University Publishing Co., 1997)
- Yanping Wang, *Business Law*, Jingji Guanli Publishing Co., 1997
- Yanping Wang, "Business Torts," 2 *Guangdong L. Rev.* (1996)
- Yanping Wang, "Void and Voidable Contracts" 4 *Gongan Daxue L.J.* (1996)
- Yanping Wang, "The Land Use Right Mortgage in China" (Gongan Daxue L.J., 1995 (Chinese); reprinted in *The New Developments in Civil and Commercial Law*, Court Publishing Company, 1995(English))
- Ansheng Dong, Wenqin Wang, Yanping Wang, *Chinese Commercial Law*, co-author of three chapters on commercial law and merchandising legislation (Jilin Renmin Publishing House, 1994)
- Daqi Zhu, *Economic Law*, Yanping Wang is the co-author of three chapters on advertisement and unfair competition (Jilin Renmin Publishing House, 1993)
- Yanping Wang, "Is the price clause a necessary clause of a contract?" 6 *Guangdong L. Rev.* (1993)
- Yanping Wang, "Mortgage Collective Land" 6 *Yunnan L. Rev.* (1993)

Benesch Lawyers' Third China Trip in One Year

On October 19, 2004, three members of Benesch's China Group embarked on a two week visit to China. Allan Goldner, Peter Shelton and Rob Marchant were joined by clients and business associates from the steel processing, polymer and resin concentrates, and logistics business on a trip that took us to key commercial and financial centers in several of China's coastal provinces.

Our trip began with a four day stay in Shanghai, a thriving metropolis and the financial hub of China's economy. While in Shanghai we met with officials at the U.S. Chamber of Commerce, representatives at the American Chamber of Commerce, as well as strategic consultants and attorneys with whom we discussed trends in foreign investment and the business and legal climate in China generally. In addition, we toured a number of factories in the Shanghai region, many of which were located within the Jinshan Shanghai District, a rapidly developing special economic zone.

We were hosted by the Vice Governor of the Peoples' Government of the Jinshan Shanghai District and a number of her colleagues at their offices, where we had an opportunity to discuss investment opportunities in Jinshan. During our visit, we toured automotive, steel processing, textile, specialty chemical and plastics plants. (On December 2, 2004, Benesch hosted a conference at our office in Cleveland with the Jinshan Shanghai District officials and numerous clients and business associates considering initiating or expanding their investments in China. This was the first visit to the United States for the Vice Governor. While in Cleveland, the officials met with local government officials to discuss how the respective cities could work together to improve U.S.-China economic relations.)

From Shanghai we traveled about an hour and a half by car to Suzhou, where

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we spent three days. In Suzhou, we were hosted by government officials from both the Suzhou National New and High Tech Industrial Development Zone (commonly known as SND) and the Suzhou Industrial Park (commonly known as SIP) to discuss foreign investment opportunities. Suzhou is situated in the south of the Jiangsu Province, approximately 120 miles northwest of Shanghai and is known for its beautiful gardens as well as its rapid growth as a key commercial center. While in Suzhou we visited factories in the automobile, appliance, medical device, and roller bearing industries.

Our next stop was Beijing, an hour and half by plane from Shanghai, where we spent two days. While in Beijing, we met with representatives of a local investment banking firm to discuss business opportunities in China and toured a soft drink bottling facility. Not wanting to pass up the significant cultural offerings of Beijing, we managed a very early morning visit to Tiananmen Square and a side-trip to the Great Wall.

From Beijing we traveled to Guangdong Province, a thriving industrial area in southern China known for, among other things, the manufacture of consumer products. Our first stop was Guangzhou and the Chinese Export Commodities Fair, also known as the Canton Fair. The semi-annual Canton Fair is a week long exposition, and it is the largest trade fair in China. While in Guangdong, we visited a number of factories in the plastics, office supplies, textiles and printing industries, and, on behalf of various U.S.-based clients met with a number of potential manufacturing sources. We also met with officials from the Nanhai Science and Technology Industry Park to

discuss foreign investment opportunities in their special economic zone. Nanhai is just west of Guangzhou and is located in the heart of the Pearl River Delta. Our visit to Nanhai included tours of several plants in the automotive and plastics industries.

After spending some time in Shenzhen, we took the ferry to Hong Kong, during which we had an opportunity to view the Shenzhen and Hong Kong harbors and their immense container shipping operations. Meetings in Hong Kong included the Managing Director of the State of Ohio's trade office for Southeast Asia to discuss how that office can aid Ohio-based businesses with their China strategy, and also Hong Kong-based lawyers to discuss the current legal and business climate in the region.

While our entourage was glad to return to the U.S. after two very busy weeks on the road, all of the participants came away with a significant amount of information and a much better current understanding of China's ever changing business climate. Lawyers from our China Group expect to be on the ground in China often during 2005. While any earlier trips will focus on specific client matters, we are planning a late April trip that will likely include major automotive shows in Shanghai and Qingdao (Shandong Province), as well as stops in Suzhou, Beijing and Guangdong Province.

For further information regarding this article or our upcoming travels to China, please contact Peter Shelton at 216.363.4169 or pshelton@bfca.com or Rob Marchant at 216.363.4489 or rmarchant@bfca.com.

How We Work With Clients

We help U.S. companies: (1) develop U.S.-based solutions to competition from China; (2) source components and products from China, and deal with related logistics issues; (3) establish China-related strategic alliances and joint ventures for assembly, R&D, manufacturing and distribution; and (4) establish wholly owned manufacturing and other business operations in China.

We help clients structure, negotiate and document China-related transactions, and provide counsel with respect to capital structure, operating control, governance and other issues.

In the area of intellectual property, we are experienced in working with our China-based colleagues and governmental officials to maximize the protection of our clients' valuable patents, trademarks, know-how, trade secrets and other intellectual property rights.

Our established network of highly competent, experienced and reliable U.S. and China-based service providers enable us to help produce complete China business/legal solutions. Together we provide U.S., China and other international legal, tax, governmental relations, import/export, construction, operational and other solutions for our clients in a cost effective manner.

FOR MORE INFORMATION OR TO DISCUSS ANY ASPECT OF YOUR CHINA STRATEGY, CONTACT ANY MEMBER OF OUR CHINA GROUP:

Allan Goldner, Chair at 216.363.4623
or E-mail: agoldner@bfca.com

Joseph N. Gross at 216.363.4163
or E-mail: jgross@bfca.com

Daniel Lok at 216.363.4448
or E-mail: dlok@bfca.com

Yanping Wang 216.363.4664
or E-mail: ywang@bfca.com

Peter K. Shelton, Vice Chair at 216.363.4169
or E-mail: pshelton@bfca.com

Douglas E. Haas at 216.363.4602
or E-mail: dhaas@bfca.com

Robert A. Marchant at 216.363.4489
or E-mail: rmarchant@bfca.com

Steven M. Auvil at 216.363.4686
or E-mail: sauvil@bfca.com

Gregory S. Kolocouris at 216.363.4453
or E-mail: gkolocouris@bfca.com

Megan L. Mehalko at 216.363.4487
or E-mail: mmehalko@bfca.com