

visions introduced in the new merger and acquisition rules. He stressed the impact of competition issues on such transactions, which allow for a wide scope of authority discretion in the approval process. It became clear that in future competition issues may in fact have a bearing on foreign investment to China and that foreign investors need to become more aware of these issues when looking at new or the expansion of their existing investment in China.

Professor Peter Rhodes presented an analysis of the impact of China's economic rise on the Southeast Asia economy. By comparing the threat and the opportunities that China has imposed and provided to the neighboring countries, Peter Rhodes suggested that development strategies of ASEAN's countries should be integrated alongside China's economic development. With its high demand for technology and know-how, its growing domestic market as well as its growing exports into the Asian region, and its large tourists source, China offers opportunities for the whole Asian region and is deemed to be the new engine for Asian growth. As to the impact of SARS on the Asian economy, Peter Rhodes expects that it will only have a short-term effect, but no long-lasting consequences. Despite the impact of SARS, most of the Asian economies are still expecting a significant GDP growth in 2003.

Workshop-Summary: "The China Challenge"

(Note from the editor: As our President Jörg Wölle noted in his opening speech, the two speakers Hans Jakob Roth and Jürg Lauber formed a "Dream Team". Yet, it was Jürg Lauber's last public appearance in his function as Economic Counsellor before leaving the Swiss Embassy in Beijing to start at the Swiss Mission to the United Nations in New York in August. The Chamber would like to thank him for his great contribution and continuous support during the past three years and wishes him all the best in his future endeavours.

For all those, who missed this last opportunity, we are pleased to present an abstract of this full-day seminar.)

by Regi Preiswerk

June 19th, a hot and sunny day in the city of Zurich. While the majority of inhabitants was dreaming of a day at the lakeshore, around 50 people of all walks of business and academic life attentively followed the excellent and inspiring speeches of two high profile China experts at the Zunfthaus zur Zimmerleuten. Invited by the SCCC and in cooperation with the Swiss Chinese Society, OSEC, Swissmem, Economiesuisse and the Swiss-South East Asian Chamber of Commerce, Hans Jakob Roth, Consul General of Switzerland in Shanghai and Jürg Lauber, Economic Counsellor at the Swiss Embassy in Beijing, gave insight into the current political and economic situation in China as well as into "the Chinese mind".

For the 4th time, the meanwhile well-established forum provided again a platform for pooling information and sharing views on the related legal issues regarding China trade and investment. The Zurich Legal Chapter looks forward to meeting and discussing these issues with a growing number of interested business people at the next Zurich International Forum on Chinese Business Law or at the Legal Chapter's regular meetings.

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Next Event Legal Chapter

Wednesday, 19 November

Time: 10:30 till 13:00 h (sandwich lunch)

Venues and topics to be announced later.

Mr. Roth first commented in his introduction on the **importance of Asia in the 21. century**, not in the sense, he stressed, that Europe would decline and be crushed by the emerging powers of Asia, but in the sense that you actively will have to take into account these new global players, no matter what you do. Genuine interest in China and intercultural competence, however, are prerequisites for a sustainable economic and political partnership with China.

Mr. Lauber then took over to summarize current political and economic trends and their implications for companies in the China business.

Politics: The 16th Party Congress last year as well as the Peoples Congress in March 2003, made clear that the generation shift of the political leadership in China has been successful. Although the power struggle behind the scene has been as impenetrable as ever, the change itself has been smooth so far. The focus of the new leadership clearly lies in the maintenance of political and social stability which is estimated to be only possible, if the impressive economic growth can be kept on a rate above 7%. Therefore the new government is willing to continue the process of economic reform in several important points: they plan to further pull apart state owned enterprises from governmental institutions, encourage Chinese investment abroad, build up an independent court system and acknowledge the importance of the private

sector. Moreover, they already reorganized some relevant commissions in the economic field, merging for example the Ministries of Foreign and Domestic Economy and trade into the new Ministry of Commerce.

Challenges: For sure, there are a lot of enormous challenges to be met, be it the gap of wealth and development between cities and the countryside, or East China and West China, the growing unemployment rate, corruption, environmental pollution and unfavourable demographic changes. Still, the political stability, the commitment to economic growth, the self-confidence of Chinese people and the optimism of the Chinese urban middle class seem to make it possible to deal successfully with these problems.

Consequences: For foreign investors and trade partners this situation implies that, while local unrest still is a possibility to be considered, they can expect general stability. That the segmentation of the Chinese market, due to unequal development, will continue and ask for according market strategies. And that the costs of labour will rise with growing living standards. Interestingly enough, most western investment in China nowadays is not so much driven by cost advantages any more but by the aim to enter this market.

Foreign relations seem mostly aimed at creating stability and favourable economic conditions, especially in the Asian region itself. Although the relation to Japan remains very much sensitive, China generally tries to be a reliable non-aggressive neighbour and supports economic cooperation in the Asian region including Central Asia. The Taiwan issue still produces a lot of fuss without having any serious consequences, though. Regarding global politics China, supports a multipolar power system to oppose the hegemonial tendencies of the USA, but has kept a very low profile in the Iraqi war. Problems with the USA are currently rather on the economic side since the implementation of the WTO agreements up to now has mostly benefited China and not the USA. Switzerland maintains regular high level diplomatic contacts, will intensify contacts on a more operational level and supports many exchange activities in the field of culture and education. The recent visit of Mrs. Calmy-Rey despite of SARS has been especially well perceived in Beijing.

Economy: First of all, Mr. Lauber stressed the point that a positive economic development of China will also be beneficial for Switzerland after all. Political stability, continuing impressive growth rates, the effects of WTO with increasing foreign direct investment and rising exports and the "China dream" newly nurtured by the Olympics Beijing and the World Expo Shanghai are producing a positive over-all environment. Official support for the private sector (although state enterprises will still be privileged) and the emergence of a consumer and leisure society (or class) adds to this picture.

SARS: On the negative side, there is of course SARS, which had a terrible impact on the tourism industry and some urban retail businesses. But also rural income suffered, since a lot of migrant workers lost their jobs or fled to their hometowns. Industrial production was not af-

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ected directly, but exports and domestic sales and distribution were hampered to a certain extent. Since the government will back the economy in case of losses by investing more itself, it is possible that, as a consequence, necessary reforms (for example in the banking sector) will be put off for a while. Still, as a whole, China seems to have gotten off rather cheaply. On the other hand, it showed the risks for those companies in the West depending (too) heavily on China.

Administrative restructuring has recently resulted in several new institutions: the new Ministry of Commerce, the State Owned Assets Supervision Administrative Commission, the State Development and Reform Commission and the China Banking Regulatory Commission. This move is meant to better separate the sphere of responsibility between different commissions, to be more efficient in granting permissions, to better control the state banks and to further withdraw the government from the management of state owned enterprises.

WTO: While there have been a lot of expectations from the West regarding the entry of China into the WTO, you can observe so far that laws have not become more transparent nor has the rule of law augmented. On the other hand, competition has aggravated and new mechanisms of warding off Western enterprises have evolved. On the positive side, WTO has rather strengthened the process of reform and the situation of private enterprises in China.

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Perspectives for the China business: Privatisation of state owned enterprises will go on and will also create new opportunities for M&A. In this field the biggest problem to overcome is missing transparency and unreliable data on these enterprises. The Chinese market will further decentralize due to different speeds of development which asks for differentiated market strategies from the part of Western market players. The opening up of the market will continue, but at the same time Chinese competitors will also grow stronger, sometimes due to government backing (see the mobile phone market, for example). To ensure elevated growth rates, China has to create more added value, which is at the same time a risk as well as an opportunity for the Swiss industry. While urbanisation and the forming of a consumer society will go on, the market entry costs are getting higher, the margins are coming down.

Consequences: At the end of his speech, Jürg Lauber stressed the need for several measures. First of all, Swiss enterprises have to take into account China as an important player in global economics, no matter whether they want to be active in the Chinese market or not. Therefore, everybody has to develop some kind of China strategy. The Swiss business community, together with the administration, has to do research concerning the impact of the China challenge for Switzerland and its industrial base. And the instruments of private and public promotion of export and investment have to be better coordinated and further enhanced.

Hans Jakob Roth continued the workshop with the discussion of the “soft facts” involved in China business, the Chinese mind on one side and the own cultural patterns of acting and thinking on the other. He stressed the fact that a longer stay in China is a challenge to ones own identity, making self-conception, self-criticism, but also self-assertion an important part of the experience.

Crucial for the understanding of Asian collective societies in opposition to Western individualistic societies is the notion of **density** in a physical sense which does not allow for individuals to develop outside or in opposition to the community.

Related to the notion of community, there is strict separation between **inside and outside** resulting in different ethical standards towards people of your own group and outsiders. Doing business with a Chinese partner can therefore be successful only, if you manage to establish a relationship of personal trust, which means that you are considered to be a member of the group. The same is true for an enterprise having Chinese employees: you can expect loyalty from their side only, if you manage to create some sort of “family atmosphere” which means that the company’s leaders have to take better care of employees than in Switzerland.

At the core of all social activities is the **personal relationship** between people. Therefore, loyalty towards a certain matter or aim is inferior to loyalty towards a person which, in the worst case, can create serious contradictions. Building up a stable, trustful relationship, however, is estimated to need about two years effort.

There is also the question of **corruption** coming up in this context. It is not advisable to bribe! In the first place, you will be dependent on these people, not knowing whether they will survive the next political struggle inside the party, for example. With anti-corruption campaigns taking place here and there, you actually also endanger your Chinese partner. If you feel that you cannot get around it, try to arrange a trip to Europe or something of this sort.

Collective societies are based on homogeneity, **harmony** and discipline. Once you know this, the hard part is not necessarily the creation of harmony but to assert yourself all the same. If you are too soft, people will not respect you and take advantage of it without any remorse!

The **Chinese mind** is very much influenced by the realities of a mass society living very densely. What they perceive is rather close to themselves and is perceived with all senses. The entire person is seen as part of the process, which means that a Chinese partner not only is interested in your company but also in yourself as a person. Therefore, he will ask you questions we normally don’t in a business context and expects the same from your side.

Reality is perceived as a **process** and not as a status which means, for example, that contracts may be remodelled every other day to suit new developments. In this context it is important that the Western partner of a contract also uses this possibility for his own ends.

The advantages of the Chinese mind lie in its **flexibility and pragmatism** while the Western mind is rather suitable for long-term strategic thinking.

Mr. Roth closed his speech with the advice that professional business must have an ethical basis. The best deal is not necessarily the one resulting in the highest possible profit, but the one creating a win-win situation since it guarantees a sustainable, long-term commitment from both sides.

For further information or to order the documentation, please contact the Chamber at info@sccc.ch

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