Journal of the European Union Chamber of Commerce in China

EUROBIZ

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THE 11TH EU-CHINA BUSINESS SUMMIT

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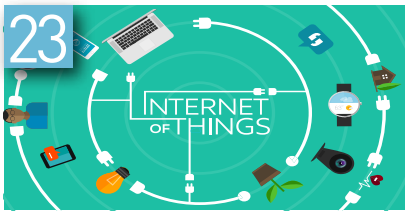

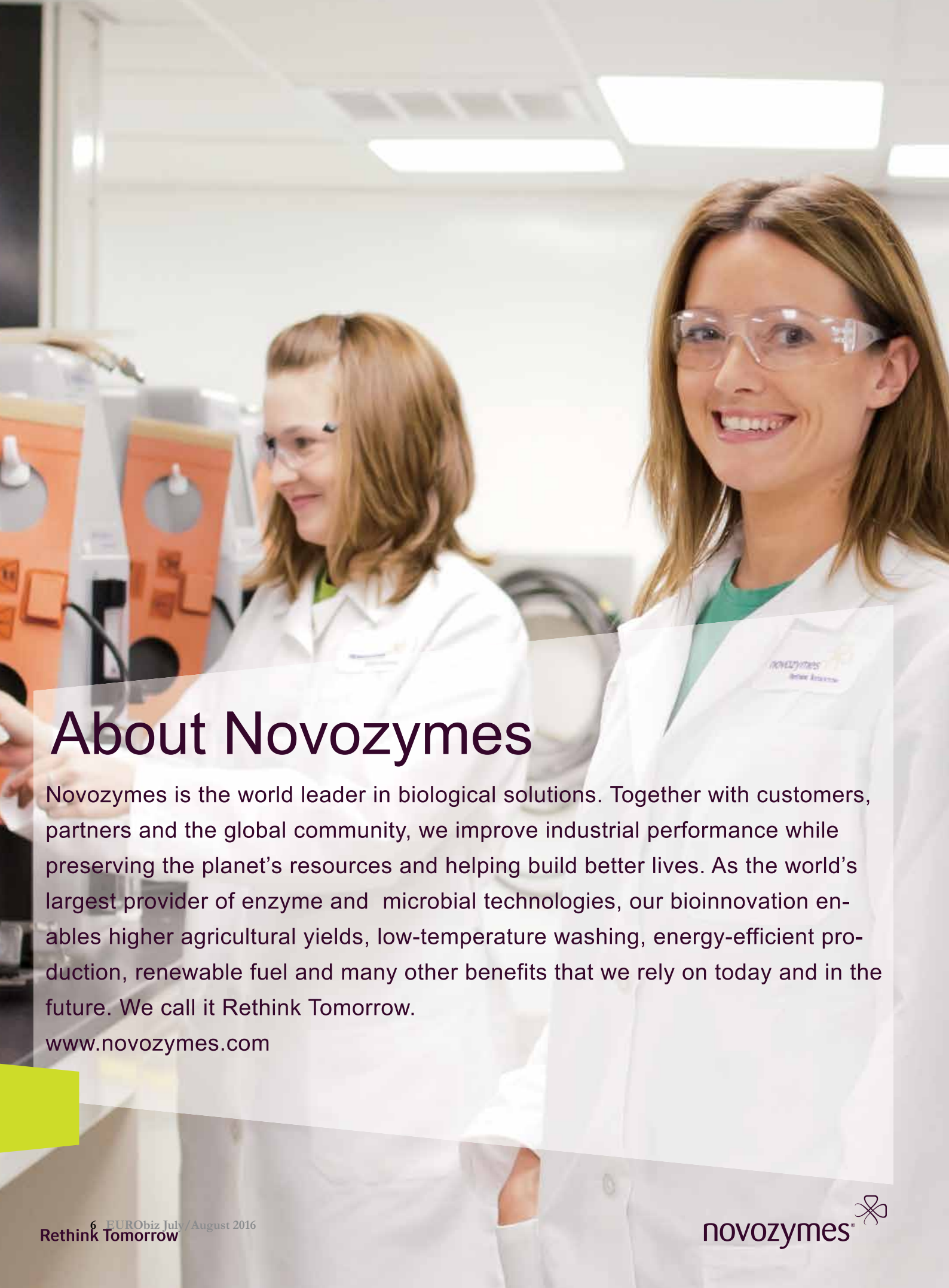

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Novozymes is the world leader in biological solutions. Together with customers, partners and the global community, we improve industrial performance while preserving the planet's resources and helping build better lives. As the world's largest provider of enzyme and microbial technologies, our bioinnovation enables higher agricultural yields, low-temperature washing, energy-efficient production, renewable fuel and many other benefits that we rely on today and in the future. We call it Rethink Tomorrow.

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Rethink Tomorrow

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CHINA CAN'T AFFORD TO DELAY REFORMS

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

Hopes that China will follow through on plans for urgently needed economic reforms are receding. In their place, fears are rising that the country will get stuck in the same kind of stagnation that has trapped Japan since the 1990s. The prospect of a failed economic transition in China poses a serious threat to global growth, dwarfing the impact of Brexit.

The Communist Party's Third Plenum meeting released the *Decision* in November of 2013, which appeared highly promising. It proposed a wide range of reforms aimed at curtailing the role of the government in the economy.

While previous plenums had described the market as having a "basic role" in the economy and allocation of resources, the *Decision* spoke of it playing a "decisive role." Market forces were hailed as the "invisible hand" that would catapult the Chinese economy past the dreaded middle-income trap.

But the *Decision* has yet to live up to more than a fraction of its potential to drive the sort of long-term and sustainable economic growth that China needs. Some reforms to the tax system have moved forward, but far more still needs to be done.

Achieving this will require taking on institutional reforms that are both difficult and necessary. China needs market rules that are fair, open and transparent, something Chinese investors enjoy in the EU while European companies remain straight-jacketed in numerous sectors of the Chinese economy. It needs to allow the market to determine prices more broadly, and reduce the dominant role of state-owned enterprises (SOEs). In short, more market forces.

China's 13th Five-Year Plan (2016–2020) recognises that the outdated investment- and export-driven economic model will not enable China to become a modern, industrialised economy. However, and in direct contradiction to the priorities established by the Third Plenum, the plan envisions the government playing an expanded role in the economy, especially when it comes to driving innovation.

This includes picking winners by deciding which high-technology industries are priorities for government support and investment. As Japan's experience shows, this approach is less effective than establishing an effective regulatory environment and leaving it to entrepreneurs and private investors to determine where the next big opportunity lies.

In its recent report *China's $5 Trillion Productivity Opportunity*, McKinsey outlined the vast opportunities that beckon if the country successfully transitions away from an investment-led economy to one driven by productivity instead. This would be in everyone's interests.

The fact that China has built up such high levels of total debt over the past decade is also in part attributable to the failure of reforms. Inefficient SOEs insulated from market forces continue to borrow on noncommercial terms. And with a rapidly ageing society, the country will not be able depend on comparatively low labour costs to drive growth for much longer.

Global economic growth remains fragile. If China does not live up to its full potential, the consequences would support doom and gloom scenarios. In short, China needs to win. The European Chamber continues to advocate for market-orientated reforms to be pushed through without delay.

A version of this article was originally published on the Opinion page of the **Wall Street Journal** *on Wednesday 13th July.*

THE 11TH EU-CHINA BUSINESS SUMMIT

The 11th EU-China Business Summit took place on 13th July, 2016, at the Great Hall of the People in Beijing. The event was jointly organised by the European Union Chamber of Commerce in China and the China Council for the Promotion of International Trade (CCPIT), under the patronage of the European Commission and the Ministry of Commerce (MOFCOM), and with collaboration from the EU-China Business Association and BUSINESS EUROPE.

This year's Business Summit was attended by more than 600 business leaders from Europe and China who listened to speeches given by European Commission President Jean-Claude Juncker and Chinese Premier Li Keqiang, and attended workshops on investment, the new industrial revolution and connectivity.

The EU-China Summit is the most important annual event for promoting and reinforcing EU-China relations.

Emerging Opportunities Need Enhanced Cooperation

This year's EU-China Business Summit, succinctly titled *Emerging Opportunities for Comprehensive Cooperation in a Changing Industrial Landscape*, opened with the Political Leaders Plenary Session. Speeches were delivered by Chinese Premier Li Keqiang; European Commission President Jean-Claude Juncker; Chinese Minister of Commerce Gao Hucheng; EU Trade Commissioner Cecilia Malström; CCPIT President Jiang Zengwei; and European Chamber President Jörg Wuttke.

The one message that unified all speakers was the need for even closer EU-China cooperation in these ever-challenging times.

Li Keqiang: peace and stability is needed

Premier Li noted that China has always viewed its relations with EU from a strategic and long-term perspective. Enhanced cooperation between China and Europe is not only in line with the common interests of both sides, he said, but also contributes to world peace and development.

He also spoke of China's willingness to join efforts with the EU to build a peaceful and stable environment, advocate peaceful settlement of disputes through negotiations and handle differences in a constructive way. He also advocated exploring the potential in bilateral trade cooperation and further opening markets on both sides: he urged both sides to speed up negotiations for a Comprehensive Agreement on Investment (CAI).

On the subject of overcapacity he said, "...only 10 per cent of the steel produced in China is exported, and most of it does not go to the EU. We do not encourage steel exports as it causes heavy environmental pollution. We will reduce another 100 to 150 million tons of steel production and 800 million tons of coal production over the next three years."

"We need to deepen trade cooperation," Premier Li concluded. "China and the EU's economies are complimentary, and if we further open our markets, our trade ties will reach a new level."

Jean-Claude Juncker: EU-China partnership should be deepened

President Juncker also spoke directly on the issue of overcapacity in the steel industry and the effect that it has had in Europe. He underlined the EU's commitment to protecting its steel industry and the use of trade defence measures it has at its disposal, warning against the spillover effect of overcapacity in the steel sector to other sectors. President Juncker also stressed that the ongoing reforms in both China and Europe create mutual opportunities including with regards to investment. He concluded by calling for the deepening of the EU-China partnership: "It is on this condition," he said, "that it will become the engine of prosperity and stability for both sets but also for the world economy."

Gao Hucheng: joint efforts required

Minister Gao highlighted that an EU-China CAI will help to provide the next breakthrough and called for an acceleration of the negotiations, noting that the EU and China are contributing to a higher level of cooperation. In order to facilitate trade development, he also said that connectivity between China and the EU needs to be developed. The digital economy and cyber security were two other areas that the minister identified that would benefit from strengthened cooperation and that joint efforts in the research and development of 5G technology can complement China's and the EU's relative advantages. He also mentioned that global capacity cooperation should be enhanced in order to fully

consolidate the EU-China value chain, and said that relations between both sides are at a new stage of stability and overall development.

Cecilia Malström: rule of law is crucial

Touching on the Brexit issue, Commissioner Malström, spoke of some of the challenges that the EU is currently facing, but noted that they are not alone in having to meet problems head on. "China too can only meet its own ambitions of continuing rapid development if the reform agenda set by Third Plenum of 2013 is met," she said.

She highlighted the overlap between China's and the EU's concerns, and said that they could only be overcome "through fostering transparency, predictability, non-discrimination and, above all, the rule of law." Commissioner Malström went on to list a number of examples of issues that could be tackled in this way, including overcapacity, meeting China's Manufacturing 2025 goals, China's path to the WTO's Government Procurement Agreement and the successful negotiations for an EU-China CAI.

"Reciprocity will be the guiding principle in our relationship," she said. "It's vital that we can show people that the EU-China relationship is a two-way street. Certainly, the strength of that relationship has helped both the EU and China to grow and develop of over the last three and half decades. By making sure that access is balanced on both sides, we can ensure that this relationship continues to bear fruit."

Jiang Zengwei: summit a vital platform

President Jiang said he was greatly encouraged by President Juncker, with respect to the list of the EU's and China's achievements that he reviewed during his speech, along with his expectations for future cooperation and entrepreneurship on both sides. He also spoke in glowing terms of President Li's "comprehensive and impressive" speech, saying that it clarified the direction of how to promote EU-China business and trade relations and enhanced the confidence of both sides. Of the event itself, he said, "The EU-China Business Summit is a vital platform that provides an opportunity for entrepreneurs from both sides to engage in comprehensive dialogue, enhance understanding and seek opportunities for cooperation. It contributes significantly towards promoting the launch of many business projects that optimise business cooperation between China and the EU."

Jörg Wuttke: we will be measured by our actions

President Wuttke talked of the huge challenges that both the EU and China face, stating that "the global economy is fragile, the ugly face of protectionism is rearing its head and populism challenges growth as well as the livelihoods of many of our citizens."

In typically frank fashion, he said that members of the European Chamber are known for "not mincing words while discussing overcapacity and remaining confident in China's ability to reform". President Wuttke said that the EU and China are "in this together", noting that, despite the difficulty of the current period of transition, the size and interdependence of the two regions means that failure is not an option.

"The world takes note when government and business representatives from two of the largest economies gather together," he said. "It does not care what we say here, but will instead measure us by whether or not we live up to the commitments that we make."

Business Leaders Plenary Session

During the Business Plenary Session Emma Marcegaglia, President of BUSINESS EUROPE, Charles-Edouard Bouée, CEO of Roland Berger, Ren Hongbin, Chairman of China National Machinery Industry Cooperation and Song Zhiping, Chairman of China National Building Materials Group Corporation, all spoke of the challenges that the EU and China face, but it was to the two themes of EU-China cooperation and stability that they returned.

Emma Marcegaglia: CAI negotiations are key

President Marcegaglia encouraged the EU and China to find new ways of linking the European Fund for Strategic Investments and the One Belt, One Road initiative in order to maximise investment opportunities. But she harked back to the speech she delivered at the 9th EU-China Business Summit in 2013, driving home the importance of a successfully negotiated EU-China CAI. "It is important for both sides that this is an ambitious agreement that removes market access barriers and provides a high level of protection to investors and investments in the EU and China," she said.

Charles-Edouard Bouée: EU and China can both win

During a speech in which Mr Bouée summarised some of key problems facing the EU and China in the years ahead, he too chose to focus on the areas for increased EU-China cooperation. These include supply-side reform, innovation and entrepreneurship, China Manufacturing 2025 and environmental and pollution issues. He spoke encouragingly about EU-China cooperation aimed at creating Chinese global champions, and also how the EU and China can cooperate to explore third markets together. "China's economy will face a tremendous transformation in the coming years but EU and Chinese companies can both win from this transformation: in China, in Europe and also in other markets," he said.

Ren Hongbin: potential for regional development

Mr Ren called for the exploration of more synergies between China's One Belt, One Road project and the EU's 2020 flagship initiatives with the aim of both sides contributing to overall regional economic growth. He pointed out that in terms of industrial structure and technology level, Chinese and European companies have their own distinct differences and strengths, which creates the opportunity for both sides to find complementary advantages. The two sides already have strong financial flows, he said, and their common interests can form the basis for expanding investments in the future.

Song Zhiping: two-way investment should be equal

Although China's technology levels are now world class, said Mr Song, there are still areas where it can learn from Europe. The implementation of the China Manufacturing 2025 initiative is a great opportunity for such cooperation to take place, as China looks to develop high-end manufacturing, shed excess capacity and adopt energy-saving and environmentally-friendly technologies, he said. Mr Song referenced the fact that more and more Chinese companies are choosing the EU as an investment destination, while EU companies continue to invest in China. As such, he said, Chinese companies and European companies should be treated equally in each other's markets.

From L-R: Li Ye, Markus Kerber, Bo Lianming, Xiao Hong and Eamon Zhao

Jointly Embracing the New Industrial Revolution

Dr Markus Kerber, CEO and Director General, Federation of German Industries (moderator)

Xiao Hong, CEO, Beijing Perfect World Network Technology

Eamon Zhao, Head of Public Affairs and Communications, Novozymes

Li Ye, Vice President Government Affairs, Merck

Bo Lianming, COO and President, TCL Corporation

Embracing the new industrial revolution for many companies will entail a process of localisation, for EU companies in China and vice versa. "We have our own R&D centre in China, with scientists who were born and grew up here, who went abroad to study and now came back to China," said Li Ye, "This is our development model." This sentiment was echoed by Bo Lianming, who explained that they approach the European market by cooperating with local partners, because "they have a better understanding of customers' needs."

Companies will also need to leverage worldwide capital—their people—to develop globalised products, according to Xiao Hong. "For example, a subsidiary in Japan employs designers from the US, French artists and Chinese engineers, all working together," he said. He later mentioned that direct communication between people is the most effective way to get products into different markets, citing immigration restrictions as a global challenge to the free flow of human capital that needs to be solved.

The transition towards the fourth industrial revolution will not be trouble free. In addition to cultural obstacles, differences in laws will also pose significant challenges. The complexity of Europe's legal environment, for example, meant that TCL had to pay a high "tuition fee" to accumulate experience. But in time, Bo acknowledged, these difficulties were overcome.

Promoting Two-way Investment

Wu Meng, Deputy Director-General, CCOIC (moderator)

Iris Jia, Group Vice President, AnBang Insurance Group

Xavier Denis, Chief Economist-Strategist Private Banking, Société Générale

Liao Feng, Senior President Assistant, China Minsheng Investment Group

Cathy Qian, VP Greater China, Sanofi

With increased EU-China cooperation comes a mutual responsibility to continue to open up trade and market access and successfully conclude the Comprehensive Agreement on Investment (CAI). The EU and China should

From L-R: Wu Meng, Iris Jia, Liao Feng, Xavier Denis and Cathy Qian

From L-R: Juha Järvinen, Patrick Horgan, Qiao Baoping, Xu Xinquan and Mark Gibbs

not only be driving investment activities in each other's markets, however, but also in third countries. An ideal starting point is the One Belt, One Road policy, which provides opportunities for Chinese companies and EU companies to invest together in other markets.

Greater opening of financial markets in China would contribute to economic development on a global scale. Internationalisation of the RMB has increased in parallel with Chinese companies going global. "By 2025, 25 per cent of the Fortune 500 will be in China," said Xavier Denis. "This expansion will require the help of global banks that will be in a position to boost growth by marketing RMB-dominated bonds to the global market, thereby boosting the RMB's internationalisation."

Accelerating company registration processes, improving IP protection and establishing incentive mechanisms are all seen as measures that will help to create a better environment for investment and innovation in China.

Factors surrounding Chinese investor interest in the EU are not limited to financial crises and cheap capital or properties, but also the high quality of capital and properties. In addition, the culture and history of EU Member States makes the single market an attractive option for those considering overseas investments.

Liao Feng noted that aside from regulatory barriers and protectionist policies, challenges to EU-China investment "include a lack of a common understanding and communication between government and business," adding, "This is where interest groups like the European Chamber of Commerce and CCPIT can be important in bridging the two sides."

Connectivity

Patrick Horgan, Vice President, European Chamber of Commerce (moderator)

Qiao Baoping, Chairman, China Guodian Corporation

Xu Xinquan, Vice President, Le Holdings

Juha Järvinen, Chief Commercial Officer, Finn Air

Mark Gibbs, Global SVP and President of Greater China, SAP

The Europe 2020 Strategy dovetails nicely with China Manufacturing 2025, said Mr Qiao, which lays "a solid foundation for [EU-China] cooperation on energy connectivity." He acknowledged that the EU-China Business Summit provides a good platform for high-level exchanges between Chinese and European business leaders, and went on to say that he expects that in the future working relationships with his EU business counterparts will become even closer.

Mr Järvinen asserted that air connectivity is the key to unlocking a country's economic growth potential, in part because it enables the country to attract business investment and human capital, and also spurs tourism, which is vital to many countries' economic prosperity. "Enhancing Connectivity is key to unlocking greater growth and maximising China's and the EU's economic potential," he said.

Within the context of digitalisation, Mr Xu listed the top-three connectivity trends as the restructuring of the value chain and closer sectoral integration; the development of the sharing economy; and increased globalisation. "The convergence of globalisation and digitalisation means that business leaders and policy-makers will need to reassess their strategies, and given that we are only in the very early stages of this phenomenon, enormous opportunities are still at stake," he said.

Mr Gibbs pointed out that the fourth industrial revolution is happening at a faster pace, across a wider area and is generating greater impact. Cooperation on connectivity still entails challenges, he said, with the tendency to overcomplicate being one of the key barriers to innovation and the transition towards digital. Consumers are, he said, willing to pay more for simpler experiences. Eb

EMBRACING THE FUTURE

Bio-Solutions for Quality Enhancement of Growth

As China looks for solutions to help it transition to a qualitative, balanced economic model, **Sara Dai,** Asia Pacific President for **Novozymes**, believes that the answer lies partly with industry – bio-solutions can help steer China on the path towards a sustainable, low-carbon approach to energy and production. But at the same time, she says, a pro-innovation institutional environment and inclusive and effective prudential regulation are crucial for realising the full potential of bio innovations.

The changing landscape

The global population is expected to reach nine billion by 2050, radically increasing demand for food and water, energy, and medicine. To accommodate the ever-increasing needs of a growing population, companies need to raise production output while also preserving the planet.

China shares this common concern and has its own unique challenges. Having experienced years of rapid growth, its economic development has now entered a slower phase of growth. While this slow-down is a significant part of the 'new normal', it is far from the whole story; of more relevance is the economic transformation and upgrading of infrastructure that China needs to undergo in order to ensure strong, sustainable and balanced growth.

So while the objective is clear, the question is, *how to achieve it?*

Greening the value chain in diverse industries

Biotechnology is already making the transition to a more ecologically sustainable economy possible by greening value chains in diverse industries such as detergent production, grain processing, food nutrition, textiles, wastewater treatment, bio-agriculture and bio-energy.

For Novozymes, everything begins with some of the smallest components on earth – enzymes and microorganisms. Enzymes are proteins that act as catalysts. This means that they speed up processes in every living organism. When used by industry customers, they reduce consumption of energy and chemicals. Like enzymes, many microorganisms have abilities that can be utilised in various processes. For example, Novozymes works to develop a number of microorganisms that will supply the world's farmers with a brand new biological toolkit. The microorganisms will act as biological boosters, increasing yield and protecting crops.

Innovation is not only about developing the new economy. It is also about transforming and upgrading traditional industries to give them new vitality. Greener detergents, textiles and other above-mentioned areas may seem unlikely flagships for innovation in a world of smartphones, aerial drones and robotic limbs, but the advances towards sustainable growth brought by bio-solutions are proof of technology that works. Bio solutions help business earn bigger profits, deliver savings to consumers and mitigate climate change. In 2015 alone, Novozymes helped customers reduce their CO_2 emissions by an estimated 60 million tons. It is their ambition to significantly contribute to the goal a 100 million ton reduction in CO_2 emissions in 2020.

Investing in localised innovation and talent

The Chinese market has become an important business growth engine, so Novozymes continues to invest especially in localised innovation and talent development. Together with local partners, Novozymes vigorously develops innovative solutions to cater to Chinese customer needs and help them to have better solutions with less investment.

Investment in talent development is another focus of Novozymes' strategy in China. Their talent development and pipeline programmes try to enrich the local talent pool and pipe this talent to the global pool by evaluating the high potentials, training them and engaging them in cross-sectoral and inter-regional projects. The company also works with Chinese universities to promote the application of bio-tech for a sustainable future among young people, investing for future talent.

Exploring inclusive and effective regulation

The benefits of bio-innovation include lower energy and resource costs for businesses, healthier food for millions of consumers, clean industrial production and a green infrastructure that fosters innovation, jobs and global growth. However, realising the full potential of biotechnology demands a supporting regulatory environment and an effective standards system.

The ongoing reform of the standardisation system in China is expected to build an effective and authoritative standardisation coordination mechanism and boost the level of internationalisation of Chinese standards. However, a significant number of standards organisations in China currently publish both mandatory and voluntary standards, with parts of these standards being neither properly aligned with each other nor with international standards. Existing standards development processes often lack transparency and can even exclude key stakeholders, especially foreign-invested enterprises.

China's Food Safety Law took effect last October. The industry fully supports the government's direction and efforts on food safety, and believes that food safety and bio-innovation are not contradictory but can be promoted simultaneously. However, slow approval of new food materials and food additives is becoming a common concern which impedes innovation and development of the food biotechnology industry and downstream industries.

For example, genetically modified fermentation strains can improve enzyme activity and reaction conditions, which will allow enzyme products to play a better role in the food process industry. Such a process is general practice when producing enzyme products around the world and is widely applied in industry. However, the registration for such new products has been pending for seven years in China.

Embracing the future

Modern biotechnology has developed rapidly in recent years, with new findings and applications emerging in an endless stream, such as genome editing technology. If China can explore a more inclusive and effective regulatory environment for modern biotechnology, especially for genetically-modified technology, which has been commercialised and generally applied for two decades, it will prepare China for embracing the greater benefits brought by continually updated modern biotechnology in the future. Eb

Novozymes *is the world leader in biological solutions. Together with customers, partners and the global community, Novozymes improve industrial performance while preserving the planet's resources and helping build better lives. As the world's largest provider of enzyme and microbial technologies, Novozymes bioinnovation enables higher agricultural yields, low-temperature washing, energy-efficient production, renewable fuel and many other benefits that we rely on today and in the future. NASDAQ OMX: NZYM-B ● 6,500 employees ● DKK 14 billion turnover ● 30+ industries ● 700+ products*

350 YEARS OF INNOVATION

The secret to Merck's success

Innovation and entrepreneurship have become the key driving forces of China's supply-side reform. How will **Merck** contribute to this as well as China's ambitious 13th Five-year Plan? The answer, says **Marc Horn**, Managing Director of **Merck Biopharma China**, lies in the vibrant innovation that Merck can trace back to its roots.

Innovating with profitable growth

The world's oldest pharmaceutical and chemical company is now a leader in science and technology with global reach. The history of Merck can be dated back to Emanuel Merck's reliable production of high purity alkaloids in 1827, which enabled scientists to repeat the same experiments again and again, a process that is the foundation of the 'scientific method' today.

Today, Merck is better positioned than ever before. In 2015, the company witnessed huge success. By acquiring Sigma-Aldrich and with the launch of a new brand, Merck successfully completed its transformation that started ten years ago. Net sales of the Merck Group rose sharply by 13 per cent to EUR 12.8 billion in 2015, a record high for the past three consecutive years. All three of our business sectors—healthcare, life sciences and performance materials—delivered organic growth. The

door to our future success has been opened with research advances and future-orientated investments. "We must recognise that the time to act is now and we must allow ourselves to think beyond classic business models," as Stephen Oschmann, CEO and Chairman of Merck's Executive Board said.

Merck wants to push the boundaries of knowledge in healthcare, life sciences and performance materials. This is why the company invests EUR 1.7 billion in research and development (R&D) every year. The new Innovation Centre is currently being built at our headquarters in Darmstadt, Germany. This state-of-the-art building will provide a space for exploring and sharing new ideas.

As of the end of 2015, Merck had launched 20 clinical trials designed to test the efficacy of an active ingredient avelumab. Lung, ovarian, gastric and bladder cancer are the most important indications. The results so far are promising and have been recognised by the regulatory authorities in Europe and the United States. We are convinced that Merck can make an important contribution in immuno-oncology and sustainably improve the lives of patients.

Unlocking a spirit of curiosity

In Merck, one belief is that culture inspires people and opens their minds to new possibilities. Various programmes are organised internally and externally to invest in the next generation of scientists. Living innovation is a culture at Merck. For instance, the Innovation Cup invites young scientists to share ideas and develop new approaches to medicine. Innospire is another global campaign that has been collecting ideas from within Merck since 2009 – it identifies outstanding product ideas and invests in the most promising projects that our employees have proposed. To date, the project has already collected more than 1,000 ideas from 50 countries with 30 patents filed. In 2015, the number of ideas from China ranked fourth globally, of which one idea even entered the 'bootcamp' phase for further processing.

In China, the 'customer innovation campaign' was launched from April to July, to collect ideas by actively listening to customers. The ultimate goal of this campaign is set to leverage the in-depth expertise of customers to improve Merck's existing product and service portfolio, to satisfy unmet customer needs and address outstanding customer issues.

In China, for China

Merck has been in China for over 80 years: China is part of Merck history, a key growth engine and one of the most strategically important markets in the world. It is fast becoming a global centre of technological innovation, and is a key hub in Merck's global R&D network. Merck has steadily increased investment in China, adding new facilities each year across the whole value chain.

In 2013, Merck opened the Liquid Crystal Centre China, a EUR 30 million investment that integrates liquid crystal mixture manufacturing, R&D and sales and marketing. In 2014, a EUR 80 million pharmaceutical manufacturing facility broke ground in Nantong, Merck's second largest facility, and is scheduled to begin commercial operations in 2017. In 2015, the expansion of a Liquid Crystal Lab was concluded in Shanghai. With the full portfolio of technical support, it greatly supports the full transfer of R&D, production and operations of Liquid Crystal to China.

Merck culture stands for the pursuit of innovation and its commitment to work closely with customers, and, in the case of Merck Biopharma, we work as one to provide leading healthcare solutions for patients. With our Beijing R&D centre established in 2009, Merck has started to work together with our global team, leading the rapid registration of global indications and simultaneous development of new molecules in China for local unmet medical needs. The release of TAILOR results form a good basis upon which approval could be extended to first-line metastatic colorectal cancer treatment in China. It is a fantastic result for the whole China R&D team. Merck will also continue to work with relevant authorities to make the metastatic colorectal cancer treatment Erbitux available for patients in China as a first-line treatment as soon as possible. Merck also intends to raise people's awareness of colorectal cancer in China, so that patients can seek help and start treatment at an early stage with the most appropriate therapies.

The 13th Five-Year Plan aims to address China's growing environmental concerns and increasing social pressures. The country is experiencing a rapid ageing of the population, as well as problems associated with dangerous levels of air and water pollution, caused by years of rapid industrialisation. With the 'new normal' in China, of slower, more sustainable economic development, Merck's focus remains firmly on delivering innovative solutions for patients and customers with ever greater efficiency, safety and quality across the full-value chain in China. Eb

Founded in Germany in 1668, and spanning thirteen generations ***Merck*** *has been a part of the first, second, third industrial revolution, and is now actively involved in the fourth. Its 3,000 employees in 96 cities across China make all of this possible for Merck. Across the nation, Merck people seek new solutions and the best answers for its customers. Through their passion for discovery, creativity and personal commitment, they build Merck's success each and every day.*

KEEP IT SIMPLE, STUPID

How the Digital Revolution will Redefine Business

What's the biggest impediment to business these days? Lack of capital? Skill shortages? Overcapacity? Regulation? **Mark Gibbs**, Senior Vice President, **SAP SE** and President of **SAP Greater China**, argues that it's actually complexity. Billions of dollars of potential corporate profit is buried under a mountain of inefficiency and waste, he says, resulting in missed business opportunities.

VELOCIT

VARIETY

FORMS OF DATA

ANALYSIS OF DATA-FL

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During the JP Morgan Global China Summit, I chaired a panel discussion with Kai-Fu Lee, Chairman and CEO of China's Innovation Works and Ken Hu, Deputy Chairman and Rotating CEO of Huawei. It seemed to us that both the problems that business faces these days, and the remedies they need to overcome them, are becoming increasingly clear.

If you were to design a business organisation from scratch, based on best possible practice, it would look considerably different to what exists in almost all companies today. This is simply a reflection of the fact that they have legacy systems, which make businesses difficult to run. Scattered information and data duplication create different versions of the truth. Archaic batch processing techniques lie at the heart of existing business processes. The data explosion illustrates the limits of current technology, not only to run day-to-day operations but also as a base for innovation.

Run simple

To get most out of this new digital era, organisations need to attack complexity at all levels and embrace digital transformation – i.e. use digital technologies to create enhanced, customer-centric business models. With the growing roster of breakthrough technologies available—such as hyper-connectivity, supercomputing, cloud, big data analytics, in-memory databases, the Internet of Things (IoT), machine learning and blockchain (the technology behind Bitcoin)—companies can re-imagine their business models, the way their business processes are designed and the way their employees work.

Clearly, to 'run simple' and digitise business, companies need to have the right technology platform in place. Driving massive simplification and innovation in critical areas such as finance, supply chain, R&D and manufacturing requires a platform aligned to desired outcomes. One that enables businesses to commutate and integrate with key elements of the business world – customers, suppliers, workforce and now devices.

Big Data to Big Insights

All these interactions with human constituencies and devices will create ever more data. In fact, we'll be drowning in data, which creates new data management and analytics challenges. Winners in the digital economy will meet these challenges and provide 'insights for all' – giving employees, partners and customers immediate access to the most relevant information they need to answer every question, understand their businesses and seize new opportunities.

Big data analytics, increasingly supported by the intelligence of machine learning, greatly expands the possibilities of transformation and growth by enabling businesses to understand the past and present in real time, and to predict the future. Companies can become a proactive and data-driven 'live business' – running at market speed and differentiating by being able to anticipate risks and opportunities in the moment.

Heralding the digital business framework

The right digital technologies ensure speed, agility and a rich environment for re-imagining business models. Companies need to develop an end-to-end digital business framework that can help digitise the entire value chain, including the core (ERP).

The framework enables companies to build their digital strategy across various areas:

- Drive a truly omni-channel customer engagement and commerce platform.
- Migrate from a simple sourcing and procurement model to a fully integrated business network model.
- Create workforce engagement strategy to address diversity and multi-generational workforce needs, and focus on attracting and retaining young talent.
- Harness big data, the Internet of Things and artificial intelligence to drive business insights through tight integration with core business processes and systems.`

With a structured digital framework in place, companies can drive competitive advantage by expanding beyond traditional industry boundaries, transforming themselves from being asset-based to being service/outcome-based organisations. Eb

As market leader in enterprise application software, ***SAP*** *(NYSE: SAP) helps companies of all sizes and industries run better. From back office to boardroom, warehouse to storefront, desktop to mobile device – SAP empowers people and organizations to work together more efficiently and use business insight more effectively to stay ahead of the competition. SAP applications and services enable customers to operate profitably, adapt continuously, and grow sustainably.*

AIR CONNECTIVITY AS AN ENABLER

Air connectivity is the key to unlocking a country's economic growth potential, according **Juha Järvinen**, Chief Commercial Officer of **Finnair**. In part because it enables the country to attract business investment and human capital, but also because it spurs tourism, which is vital to many countries' economic prosperity. Enhancing connectivity, he says, will play a major role in strengthening ties between the EU and China.

In an increasingly interdependent world, it has become crucial that we succeed in maximising the means by which we are connected: in this context, the airline industry has a fundamental role to play.

A pioneer in establishing air links between Europe and China, Finnair became the first Western European airline to have a non-stop route between Europe and China, in 1988. We also became the first European airline to establish direct links to Chongqing and Xi'an. Throughout this time, we have seen an increase in connectivity, not just between China and Finland, but with Europe as a whole.

Connectivity is becoming increasingly important when assessing today's relationship between the EU and China. China is at a critical juncture as it transitions to a new growth model – a model based on the notion of better quality growth. This internal change in China is likely to have an external impact on both trade and investment flows. China is seeking space and a voice, while its policy of 'going global' picks up pace. Its companies are being encouraged to trade and invest abroad, and find resources as never before.

The EU has been pragmatic in recognising this trend. Through its New Strategy on China, its Transport Policy and the new EU-China Connectivity Platform, the EU is looking to create synergies between EU policies and projects and China's 'One Belt One Road' initiative, in the field of transport and infrastructure. It is "aiming to

connect the Eurasian continent via a physical and digital network through which trade, investment and people-to-people contacts can flow". [1]

The fact of the matter is that improving connectivity—whether through infrastructure, technology, culture, people or transport—between the EU and China would boost the economic, and other, prospects for all concerned.

Connecting regions – unleashing potential

Connecting communities and enhancing exchange is the key to unleashing potential, particularly in challenging locations. As such it is important that we strive to help open up greater regional opportunities through enhanced regional connectivity.

An example of this is Finnair's expanded routes to other regional hubs in China such as Xi'an and Chongqinq, and connecting remote Nordic regions such as Rovaniemi in Lapland or Bergen in Norway. Today, we are helping connect previously unconnected areas, regions and cities in both Europe and China, which can only help spur ever greater collaborations and partnerships.

Enabling sustainable tourism

Region-to-region connectivity is also paving the way for greater tourism between the two regions. Chinese tourists visiting Europe is estimated to reach around 13.5 million in 2016. This is compared to just over eight million in 2013. In 2015, Finland itself experienced a growth rate of 40 per cent year-on-year of Chinese tourists, and nearly five million Europeans visited China last year.

However, true long-term business sustainability requires not only consideration of commercial needs, but also an evaluation of its impact on society and the environment. We will all need to be actively involved in understanding and nurturing these areas in order to meet the today's requirements, without compromising the needs of tomorrow. It is important we find ecologically-, financially- and socially-sustainable solutions when considering the development tourism.

Boosting new economies

Enhanced connectivity helps boost economic growth by opening up new and emerging industries.

Air cargo plays a particularly important role in the world today, serving as a key engine of economic growth and development. For Finnair, China is becoming a crucial source of traffic: in 2015, 25 per cent of all cargo revenues originated in Greater China for Finnair Cargo, with identified growth segments including high-tech goods, e-commerce parcel traffic and pharmaceuticals.

Thanks to increased bilateral investments, Greater China is now Finnair's largest sales region outside of its home market. In Finland for example, we have witnessed a growing number of Chinese investments in new growth industries, notably in renewable energy, mobile technology or software development – as seen in Tencent's recent purchase of Supercell.

Huawei, perhaps one of China's most internationally-recognised brands, has increasingly invested in Finland, which epitomises the growing relations between the two countries, and encapsulates the benefits that arise from greater connectivity. Having opened a sales office in 2008, Huawei founded an R&D centre in Helsinki in 2012. Its original goal was to employ around 100 ICT professionals in Finland, but that goal has already been exceeded, with it now employing over 220 people and looking at further expansion. Today, Huawei has investments of EUR 70 million in Finland.

There has also been increasing Finnish investments in China, including in areas such as cleantech, where there is a nationwide Sino-Finnish cleantech programme currently being rolled out, having been launched in 2013. Also in mobile technology: the President of Nokia China recently confirmed that Nokia is working on a number of Android-powered smartphones, which are to be manufactured in factories in Sichuan, starting from this year, with a view to permanently re-locating Nokia's R&D centre to Sichuan. Furthermore, the FinChi Innovation Center, a platform for China-Finland cooperation, which began operations in Beijing 2012, is expected to attract more leading high-tech companies from Finland to set up operations in Zhongguancun, Beijing Software park, and serve as a bridge of innovative cooperation between the two sides.

Greater connectivity between China and the EU is fuelling greater and greater results – results that are both far-ranging and beneficial for all. We at Finnair are proud to have helped play some part in strengthening EU-China bonds through air travel. It is about sparking a bond between people, a bond between cultures and regions. It is about creating an environment where fruitful exchanges and associations can be made through technology and through innovation, and where both sides can witness greater exchanges of tourists and students, which themselves bring wider benefits. Ultimately, enhancing connectivity is key to unlocking greater growth potential and maximising China's and the EU's economic potential. Eb

Finnair *flies between Asia, Europe and North America with an emphasis on fast connections via Helsinki, carrying more than ten million passengers annually and connecting 17 cities in Asia with more than 70 destinations in Europe. The airline, a pioneer in sustainable flying, is the European launch customer of the next-generation, eco-smart Airbus A350 XWB aircraft. The only Nordic carrier with a 4-star Skytrax ranking, Finnair has also won the World Airline Award for Best Airline Northern Europe for the past six years running. Finnair is a member of oneworld, the alliance of the world's leading airlines committed to providing the highest level of service and convenience to frequent international travellers.*

[1] http://trade.ec.europa.eu/doclib/press/index.cfm?id=1515

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STARTING SLOW DOESN'T MEAN YOU CAN'T THINK BIG

The Internet of Things or the 'Internet of a Thing or Two'?

World-leading organisations are embarking on Internet of Things (IoT) initiatives that focus less on the underlying sensors, devices and 'smart' things, says **Joseph Chu** of **Deloitte China**, and more on improving the ecosystem for data management, infrastructure development and creating brand new business models. Meanwhile, he says, others are developing human-impact cases, with a view to boosting agricultural production, cutting pollution and transforming health services.

The IoT has grown rapidly in the Chinese market over recent years. Featuring a world-leading rate of technology adoption, and with Baidu, Alibaba, and Tencent (BAT) leading the way, the IoT has taken China by storm. From wearables to machine tools, from extension cords to vehicles, rapidly increasing numbers of devices are being embedded with sensors and tracked. Gartner, Inc. forecasts that 6.4 billion connected things will be in use worldwide in 2016, up 30 per cent from 2015, and that the number will reach 20.8 billion by 2020.[1]

The value created by the IoT lies in the data it generates. The sheer magnitude of data growth arising from all connected devices is mind-boggling. Once-familiar terms such as Gigabyte, Terabyte and Petabyte are being replaced by Exabyte, Zettabyte, and even Yottabyte. To explore the full potential of this massive data generation, companies should start small, plan big and scale fast. Strategically deployed analytic efforts that help organisations to transform the IoT's digital data into useful insights should be the priority for any IoT organisation. Such data insights can be used to develop new products, offerings and business models that expand beyond the traditional scope of business, and to help corporate leaders and decision-makers gain an ever-clearer understanding of their customers, products and markets.

Analytics has become a key topic on the agendas of most companies' IT meetings. In our 2015 *Global CIO Survey*, which polled 1,200 IT executives, respondents identified analytics as both a top investment priority and the IT investment that would deliver the greatest business impact. In a similar survey of a broader executive audience, 59 per cent of participants either included data and analytics among the top five issues or considered it the single most important way to gain a competitive advantage.

While both public and private organisations are taking steps to implement the IoT's component parts, such as sensors, software and connectivity, most of them are still at the initial stage of passive monitoring of operational data. Many enterprises have unused IoT infrastructure as a result of following the concept of 'start big and finish bigger'. While there is nothing wrong with starting big, companies often start *too* big and end up getting lost. With few detailed use cases, the sheer number of IoT possibilities makes it difficult to scope initiatives properly and achieve momentum. Many companies are starting to realise that IoT might not be the 'Internet of Everything', but rather the 'Internet of a Thing or Two', and are focusing on specific, actionable business processes, functions and/or domains.

The time has come for organisations to think more boldly about the IoT's possibilities, and about the strategies that can help them realise its full disruptive potential. The focus must shift from sensing to doing, and the question must be addressed: *how do inputs from sensors drive closed-loop adjustments and innovation to back, middle and front-office business processes?*

Deloitte China *is one of the leading professional services providers with 23 offices in Greater China. We have nearly 13,500 people working on a collaborative basis to serve clients, subject to local applicable laws. The Deloitte China network of firms, backed by the global Deloitte network, deliver a full range of audit, tax, consulting and financial advisory services to local, multinational and growth enterprise clients in China.* ***Joseph Chu*** *is Deloitte Analytics Institute Leader and Computer Audit Service Line National Leader in China, and can be contacted at josechu@deloitte.com.cn.*

[1] *Gartner Says 6.4 Billion Connected "Things" Will Be in Use in 2016, Up 30 Percent From 2015*, Gartner, 10th November 2015, viewed 7th July, 2016, <http://www.gartner.com/newsroom/id/3165317>

SHAPING UP

Creating a Better Legal Environment for Investment

Increasing concerns over national security alongside the domestic ambitions of the China Manufacturing 2025 (CM2025) initiative have triggered increasing pessimism among foreign investors regarding China's attitude towards future foreign investment. In general, though, there are more positive developments than setbacks, say **Dr Michael Tan** and **Lynn Zhao** of **Taylor Wessing**. In this article they share their insights, bringing an on-the-ground perspective on this topic.

Foreign direct investment (FDI) has long been viewed as crucial to boosting China's fast-growing economy, and has quite often been associated with preferential policies introduced by governments at different levels. Now, after more than thirty years' rapid development, China has become the world's second largest economy and its growth has reached a turning point: some growth deceleration is now being observed. This has led to a perception that the days of rolling out the red carpet for FDI are coming to an end, particularly with sensitive topics like national security and CM2025 now frequently hitting the headlines. This may be true to an extent, but it very much depends on the specific business case and there is always a positive side to the story, for example the constant liberalisation of China's investment environment.

Negative List

The 'negative-list concept' was first introduced in China with the launch of the China (Shanghai) Free Trade Zone (CSPFTZ) when the *Special Administrative Measures for Foreign Investment Access in the China (Shanghai) Pilot Free Trade Zone (Negative List)* was released in late 2013. As indicated by its name, it generally means that foreign investment in areas included on the list will be subject to access control (i.e. approval requirements), while those that do not appear only need follow a simple procedure such as filing. Given that foreign-investment projects in China have historically required approvals, this concept is almost a complete turnaround. Its introduction reflects China's plan to take a more market-orientated approach, like in the West, which becomes increasingly important as it continues to participate in various global trade and investment treaty negotiations. The 'negative-list concept' was recently adopted by the other pilot free trade zones (FTZs) operating in Tianjin, Guangdong and Fujian.

In a move aimed at consolidating all market-access restrictions (both domestic and foreign) into one piece of legislation, the National Development and Reform Commission and the Ministry of Commerce (MOFCOM) jointly rolled out the national-level *Market Access Negative List (Trial Version)* on 2nd March, 2016. Initially it will apply only to the four abovementioned FTZs until the end of 2017, but eventually it is supposed to be extended nationwide. While there are currently many questions regarding the interaction between the local and the national negative lists, the direction that is being taken is generally positive. This is further reflected by the CSPFTZ's *Negative List,* which has undergone a number of reductions since its launch.

Encouraged FDI

For many years, China has been using the so-called *Foreign Investment Guidance Catalogue* (*Catalogue*) to regulate foreign investment. The *Catalogue* specifies business sectors in which foreign investment is either 'prohibited', 'restricted' or 'encouraged'. For those that are not explicitly addressed by the *Catalogue*, it generally means that foreign investment is permitted. This mixture of a positive/negative list approach currently remains the prevailing practice for regulating foreign investment in China.

The *Catalogue* is regularly adjusted by the Chinese Government, with the most recent revision being released on 10th March, 2015. Compared with the previous (2011) revision, the updated *Catalogue* shows a trend towards a more liberalised investment environment: restricted items have been reduced almost by half (from 79 to 38); items subject to equity joint ventures (JVs) or cooperative JV restrictions have been reduced by almost two thirds (from 43 to 15); and items subject to Chinese majority control have also been reduced from 44 to 35.

Taking a closer look at the *Catalogue* there is another finding that may actually address some concerns associated with CM2025. An instinctive reaction towards the plan seems to be that China is going to focus more on indigenous products in the future by reducing its demand for foreign solutions, so as to improve and strengthen its global position. However, there are also good reasons to say that this pessimism is unnecessary – to do everything by oneself, without external support or collaboration, would be neither economical nor even possible in today's globalised world. A typical example is China's jetliner C919 project, which has become a new source of profit boosting many foreign suppliers' sales. The *Catalogue* reflects other such demands in China. The ten priority industries highlighted under the CM2025 roadmap can easily find relevant hits for foreign investment under the 'encouraged' category, such as new advanced information technology, automated machine tools and robotics, aerospace and aeronautical equipment, and new-energy vehicles and equipment.

Streamlined Procedures

The whole FDI regime in China is quite complicated. The simple establishment of a limited liability company may involve different FDI laws and regulations depending on its business scope and share structure. Most significantly, almost all investment requires governmental approval, which can sometimes develop into a time consuming, bureaucratic journey. This picture is expected to change in the foreseeable future, when the MOFCOM finally releases the new Foreign Investment Law, a draft of which was released for public comments on 19th January, 2015.

This draft law introduces several new mechanisms which may overhaul the existing FDI regime. It will first abolish the present complex arrangement under which different laws and regulations apply to the incorporation of different types of foreign investment projects, like equity JVs, contractual JVs, wholly

foreign-owned enterprises, foreign investment holding vehicles, companies limited by shares and so on. The law will focus on regulating foreign investment access and post-supervision, without further interfering with those areas that are already addressed by the more general Company Law, such as incorporation form, corporate governance structure and operational issues.

Another major breakthrough presented by this draft law is the general abolishment of approval requirements now applicable to all foreign investment projects, except for those addressed by a negative list, which will still require governmental approvals. The general idea behind this approach is the same as the negative lists now being utilised in the various FTZs, but it will have more significant procedural implications by granting easier investment access. Future FDI approvals will also be granted with more flexibility: besides a straight forward 'yes' or 'no', as currently practiced, there will also be the possibility for a conditional approval in the future.

In general the draft law will bring some quite positive developments related to the facilitation of FDI in the future. There are still some technical concerns that remain to be clarified and discussed, but its final enactment is expected in the near future.

Prospect

Foreign direct investment has been, and will still be, an important pillar of China's growth. The ambition of China to become a global manufacturing power, as reflected by CM2025, indicates not so much a threat to foreign companies, but rather more opportunities. Slower economic growth has pushed China to shift to a more sustainable model. Many measures taken so far have been aimed at further improving the government's efficiency and capability to better serve business, such as the piloting of the FTZs, the ongoing anti-corruption campaign and developing more transparent legislative processes.

Liberalisation can also be observed at the operational level, like flexible incorporation funding requirements; the replacement of annual inspections by annual reporting; permission of direct inter-company lending; relaxed foreign exchange control over the use of equity funds; and cross-border security arrangements. Indeed there *are* still problems and even new problems to come, but there is no reason to deny the fact that the country is working hard to offer a more business-friendly environment to investors, including those from abroad. Eb

Taylor Wessing *is a full service law firm with over 1,200 lawyers in 33 offices in Europe, the Middle East and Asia, including two representative offices (Shanghai and Beijing) in China. For more information please visit www.taylorwessing.com.*

THE RIGHT TO PRIVACY

The present and future of data protection in China

As global connectivity increases, so does the importance of effective data protection. **Omar Puertas** and **Chesy Chen** of law firm **Cuatrecasas, Gonçalves Pereira** analyse the still-developing data protection regime in China. They advise enterprises dealing in data-intensive industries to be on top of their game, increase awareness among all staff of the rules governing data protection in China and tighten up internal security controls.

As technical innovations have developed to enable us to store more data for a longer time, companies and governments have been focusing on the implications of big-data, turning their attention to the rules that govern data collection, processing and, eventually, transferring. While some countries and regions have already developed comprehensive regulations that provide a stable framework to address these issues, China has only just started the process. The immaturity of Chinese laws and the scattered nature of the rules applying to data protection preclude proper analysis of the country's data protection regime.

Instead, when studying the wide array of laws, regulations and administrative provisions to determine what kind of protection is provided and how it can be reasonably expected to be enforced, we find a number of principles and stipulations of Chinese national law—criminal, civil and tort laws—and sector-specific provisions enacted by administrative, judicial and local authorities (financial, health and consumer protection regulations).

Within this normative diversity there is a certain degree of homogeneity under the umbrella of "freedom and privacy of correspondence" established in Article 40 of the 1982 Constitution of the People's Republic of China. However, although Article 40 acts as a general guiding principle[1] to protect the 'right to privacy'—which is the essence of data protection—such a generic postulate would be difficult to enforce in specific cases.

Therefore, the first question to be raised is, *what kind of data is protected?* Generally, except for state secrets, 'personal information' enjoys legal protection in China, as stipulated by the two main regulatory and supervisory authorities responsible for data issues:

- The Ministry of Industry and Information Technology (MIIT) considers that 'personal information' is defined as information that: (i) can be used to identify the user; and (ii) that concerns the user's time zone and location, including name, date of birth, identification number, address, telephone number, account number and associated passwords.[2]

- Reinforcing this basic definition, the *Measures for Punishment of Infringements on Consumer Rights and Interests* (15th March, 2015), enacted by the State Administration for Industry and Commerce (SAIC), adds that personal information is the information collected by business operators while providing goods or services, including gender, occupation, residential address, contact details, income, health conditions and consumer habits.

Only after 'data' is defined can we address the issue of general data protection. Protection is structured around two elements: principles and requirements of data protection. Both are considered to take place, at least, when data is collected and processed for any purpose or under any conditions, and additional principles and requirements take place when data is used in other ways, such as commercialisation.

The basic principles of data protection, which are not interconnected, comprise legality, legitimacy and necessity but also involve others that are more specific. For example, while legitimacy implies the existence of a reasonable purpose for collecting and processing data, necessity requires the amount of data collected to be within the range required for the provision of service. Also, consent from the individual whose data is being collected and confidentiality of that information are general principles that must always be taken into account.

Regarding data protection requirements, the MIIT imposes certain safety measures on telecom business operators and Internet information service providers (Articles 13–15) that, given the scarcity of general provisions, may well be considered as such. These safety measures include determining the responsibilities of every department managing personal information, establishing security measures to prevent leaks and taking the necessary measures to prevent intrusion.

A dual approach is necessary, as specific data protection rules in China depend on two variables: the type of data and how it is used. While regulations protect data because of its nature, e.g. health and financial data, they also protect it as a result of what the individual, entity or organisation does with it, e.g. data collection, transfer or analysis.

Based on how data is used three different situations should be considered. First, when the information is processed by third parties on behalf of the data controller, explicit consent is required. Second, when information has been lost or damaged (e.g. a data leak), the business operator must notify the authorities (although it is not required to inform the data subject). Third, article 253(a) of the Criminal Law prohibits the sale of individual's financial, educational or medical treatment information obtained in the performance of duties of certain key entities such as banks, hospitals and schools.

[1] See Articles 99-102 of the Civil Law, protection of the rights of 'reputation' and 'honour' in close connection with the right to 'privacy' provided by Article 40 of the Constitution. Similarly, Article 2 of the Tort Law reinforces this protection.

[2] *Internet Information Services Regulations* (MIIT 2011 Regulation); *Telecommunications and Internet Personal User Data Protection Regulations* (MIIT 2013 Regulation); *Information Security Technology - Guidelines for Personal Information within Public and Commercial Services Systems* (MIIT 2013 Guidelines).

Then there are specific data protection rules depending on the data's nature. They include different regulations and administrative provisions raising the protection standards for certain kinds of personal information, including medical records, population health information, information collected by commercial banks and credit information collected by credit reporting entities.

The competent administrative authorities in each sector establish additional requirements regarding this 'special data', which generally comprises the obligation to store, handle and analyse all the information collected within Chinese territory. However, since this information is mostly controlled by public or semi-public entities, most will have no effect on EU-based enterprises doing business in China.

Nonetheless, one exception should be noted: foreign commercial banks, whose business environment is highly regulated in China. In May 2011, the People's Bank of China issued the *Notice to Urge Banking Financial Institutions to Protect Personal Financial Information (Notice on PFI)* barring banks from storing, processing or analysing outside China PFI that is collected in China, and from providing PFI collected in China to entities abroad.

In addition, the banking sector is subject to the new rules introduced by the internal guidelines jointly issued by the China Banking Regulatory Committee (CBRC) and the MIIT on 3rd December, 2014, (Circular 317). These require banks' IT suppliers to hand over their source codes for in-depth examination and to build an interface for invasive checking (a backdoor) into their systems when necessary.

This example shows that, while China continues raising the standard for data protection—in particular, the information collected and processed in specific sectors—foreign businesses should be aware of the importance of compliance in this area. The fast-changing and vague nature of the currently applicable rules in China makes it advisable to increase awareness at management level and improve staff training on data protection.

Given the current stage of development of the Chinese regulatory environment, businesses operating in data-intensive industries should maintain a logging and reporting system to access protected data, review and update collection practices, develop their data processing and analysis departments within Chinese territory and provide sufficient protection by means of appropriate security measures. Eb

Cuatrecasas, Gonçalves Pereira *is a leading law firm in Spain and Portugal. Its 25 offices worldwide (including Shanghai since 2007) and over 950 lawyers offer added-value legal advice on all areas of business law. With a multidisciplinary team of Chinese, Spanish and Portuguese lawyers and first-hand understanding of China's legal system, business world and culture, it has been supporting and accompanying Chinese companies investing in Spain, Portugal, Latin America and Africa for the last two decades, as well as European and Latin American companies on their investments in China and Asia.*

LOOK BEFORE YOU LEAP

Taking stock of China Manufacturing 2025

When China overtook Japan as the world's second largest economy in 2011, labour shortages and rising wages were starting to emerge as serious concerns – many foreign and domestic manufacturers, still shaken by the 2008 financial crisis, started to suffer from the increasing costs of their Made in China production operations. Some enterprises chose to relocate to new, emerging Asian countries while others, like Foxconn, set in motion their plans to substitute human workers with robots, and automated their manufacturing systems. **Rosanna Terminio** of **AsecorpChina**, looks how this trend spurred China to develop its China Manufacturing 2025 initiative. She cautions that European companies must resist the urge to throw themselves headlong into investing in this plan before they have thoroughly taken stock of the reality.

The financial crisis served to emphasise just how strong the ties are that link our global economic system and profoundly impacted China's export-driven economy. Responding to this event, China's 12th Five-Year Plan, issued in 2011, set out the ambition to shift to a domestically-driven economy as a key goal for the country's future development. This implied, for the first time, a serious interest in upgrading the low-cost/low-quality value chain with innovation and technology and included the first call for the development of "indigenous innovation".[1]

Also in response to the financial crisis, a number of innovation-driven economies scaled up investment in research and development (R&D) in different fields. The ensuing developments in IT, robotics and automation worldwide gave rise to hope that there would be a re-settlement of a wider manufacturing base back in USA and Europe, boosting their economies and resulting in job creation.[2] Germany was the first to connect the dots and launch a project to promote a High-Tech Strategy 2020 Action Plan in November 2011.[3] In October 2012, as part of this plan, an Industry 4.0 Working Group was created. Several national industry leaders developed guidelines[4] to promote the 4th Industrial Revolution based on a 'smart factory' concept centred around so-called cyber physical systems (CPS).[5]

A CPS is the integration of "computation, networking, and physical processes...CPS integrates the dynamics of the physical processes with those of the software and networking, providing abstractions and modeling, design, and analysis techniques for the integrated whole."[6] One can only imagine, then, the huge impact that would result from the integration of CPS cloud technologies managing big data. It is this integration that has been defined in Germany as Industry 4.0. Following this trend, in 2014, the European Union launched Horizon 2020, an initiative aimed at accelerating the modernisation of European companies by funding innovation-driven projects until 2020.

A report released by the CRO Forum in December 2015, defines smart factories as "the convergence of the virtual and physical world...This integrates artificial intelligence, machine learning, automation of knowledge work and machine-to-machine communication with the manufacturing process."[7] The Internet of Things (IoT) will contribute to the creation of a dynamic ecosystem where things that were once 'silent' will provide a massive amount of information and where there will be increasing interaction between the biological (humans) and the artificial (machines). All state-of-the-art technologies will converge and be integrated in the new factory.

The original vision of this automation trend was to allow production to take place closer to the final market, thanks to a reduction of labour-related costs. For China, this represented a threat to its future development and stability. Chinese leaders realised that the country urgently needed a strong transformation of their domestic industries to keep up or stay ahead.

In May 2015, China launched the 10-year plan known as China Manufacturing 2025 (CM2025) to promote industrial modernisation and a comprehensive upgrading of domestic manufacturing systems, supported by the plan known as Internet+.[8] The CM 2025 plan identifies ten major fields as priorities: new advanced information technologies; automated machine tools and robotics; aerospace and aeronautical equipment; maritime equipment and modern shipping; new-energy vehicles and equipment; power equipment; agricultural equipment; new materials; and biopharma and advanced medical products.

Intelligent manufacturing (based on the concepts of CPSs, the IoT and the Internet of Services) will be the major contributor to China reaching its goals to become a technology leader. Germany and its Industry 4.0 concept is considered the model to follow. It is expected that this will help Chinese manufacturers to increase efficiency, while producing higher quality goods for lower costs. In this sense China and Germany are already cooperating both as trade partners and in technology transfer projects.

At present, CM2025 is still just a general framework which lacks full integration within the different ministries and administrations, both at national and local level. Some key dates have been identified, though, which extends the life of the plan well beyond 2025: upgrade China's industrial base by 2025; realise the ability to compete globally with main players by 2035; be a world-leading manufacturing nation by 2049. China's 13th Five-Year Plan, which covers the period 2016–2020, further promotes innovation as a means to supporting a greener development of the

[1] http://www.britishchamber.cn/content/chinas-twelfth-five-year-plan-2011-2015-full-english-version

[2] http://www.innovation-prime.com/the-rise-of-smart-factories-in-the-us/

[3] http://www.wired.co.uk/article/factory-of-the-future

[4] http://www.acatech.de/fileadmin/user_upload/Baumstruktur_nach_Website/Acatech/root/de/Material_fuer_Sonderseiten/Industrie_4.0/Final_report__Industrie_4.0_accessible.pdf

[5] http://www.belden.com/blog/industrialethernet/The-Smart-Factory-of-the-Future-Part-1.cfm

[6] http://cyberphysicalsystems.org/

[7] http://www.agcs.allianz.com/assets/PDFs/risk%20bulletins/CROF-ERI-2015-The-Smart-Factory.pdf

[8] The application of Internet based technology to all industry fields.

economy and the overall wellbeing of the population: the 'Chinese Dream'.

This initiative should involve China's industrial sectors in all its fields and cover processes, standards, systems, methodologies and human resources education. A change in management mind-set, which hasn't yet progressed from a traditional short-term, cost-control approach toward a long-term cost/quality balance, is also necessary. The main challenges that China will face are related to the fact that most of the technologies required for this modernisation must be imported and the scale of investment in R&D that is required is still out of reach for many local manufacturers. Further opening up will also be necessary for China to successfully create an environment that stimulates innovation. This gives European companies and professionals a competitive advantage to become preferential partners for Chinese manufacturers in their race toward modernisation: China needs us now to upgrade and learn.

However, this is potentially a dangerous path to follow for European countries if it is not taken with a balanced compromise with respect to roles and responsibilities. We should not forget that the ultimate goal of CM2025 is to promote *indigenous* (meaning Chinese) innovation and become a global manufacturing leader in innovation by 2049.[9] Improving access to data and Internet speed, as well as a number of cyber security concerns, are also major issues that need to be addressed, together with a real enforcement of intellectual property laws and ethical practices. At the same time, European companies—and countries—should not be solely motivated by headlines and a hunger for short-term profit. Making a conscious and strategic decision is necessary; continuous innovation must become a main priority for European companies if they don't want to be out of the game by 2049. For evidence of this, we only need remind ourselves of the increasing international competition of Chinese railway manufacturers. Eb

AsecorpChina *is a strategic advisory firm with 10 years presence in China. We cover three main areas of advisory: market access and investment, administrative/operational procedure design and supervision, and human resources and organisational strategy. Trust, personal approach and flexibility are what makes us our European clients' choice for the different transition stages of their China ventures.*

[9] The 100th anniversary of PRC foundation and the estimated time for a significant pick in labour shortage.

INDUSTRY 4.0: BUSINESS WITHOUT PEOPLE?

The utopian vision of Industry 4.0 inspires as much trepidation as it does promise for business. The prospect of robots and automation replacing human operators and reducing social interaction naturally generates a sense of foreboding – what will happen to the workforce that is no longer needed? **Michael Adick**, Managing Director of **Articulate** and **Totuba** says that business leaders need to embrace this reality now and begin preparing their workforce for the future.

According to a German consultancy firm the purpose of Industry 4.0 is to "increase process efficiency", provide "new ways to create value through new service products and business models", offer options to "organize...work, taking social and demographic factors into account" and enable the integrated "management of enterprise process, products and people". Industry 4.0 thereby "connects embedded system production technologies and smart production processes to pave the way to a new technological age" and—ushering business into the 4th Industrial Revolution—it "enables autonomous products and decision-making processes, controlling value-adding networks in almost real-time."[1]

In real terms, this means that in the future both business-to-business customers and consumers can specify their individual needs for products and services online. The required parts and components will then be purchased, processed and delivered to the manufacturer. Production and component assembly of the product—according to the customer's requirements—will happen automatically, with the final product being shipped to the customer without human interaction.

The envisioned future of business within the framework of Industry 4.0 is thus one of vertical integration, horizontal integration, and ultimately engineering integration. If the aforementioned promises of Industry 4.0 hold true, this can only result in a reduction of human interaction in all functions and at all levels – this includes certain parts of marketing and sales, the entirety of order processing and logistics, incoming/outgoing quality control, production planning, change-over processing, packing, delivery and even commissioning.

Setting aside the socio-political ramifications that such a future may bring—fear of a future with mass unemployment, or perhaps elation over a future where everyone is only required to work 30 per cent of today's capacity—if one sees Industry 4.0 as inevitable, it poses profound challenges to the labour market and employers alike.

Currently it can be estimated that a given production facility consists of approximately 70–90 per cent shop floor employees, including warehouse management, quality control, packing and logistics. As with all former 'Industrial Revolutions', Industry 4.0 targets a stark reduction of this labour force, first. Depending on the level of complexity of produced goods, the scope of labour reduction will vary. Nevertheless, until we have reached the age of true artificial intelligence (AI) where computers are capable of making non-logical and ethical decisions, it can safely be assumed that even a production facility with full Industry 4.0 integration will need a base level of managers and operators, for monitoring, adjusting and emergency intervention.

The remaining 10–30 per cent of administrative and leadership functions are not unaffected either. The Internet and social media have already become a dominant factor in marketing – as a result, larger marketing agencies have merged to global giants, smaller ones have disappeared or become marginalised. Sales can simultaneously reach more and more customers than ever before from any given location. The finance and accounting function has already been widely automated, and the leadership function, in principle, can be focussed more on reviewing results, developing strategy and providing a vision for the future.

The labour force of the future will need to adapt to this new reality. When tasks such as preparing, machining, production, assembly and even production and material planning have become automated, workers qualified at this level only will no longer be needed. The labour force of the future will need to develop their knowledge and skills in systems thinking, integrative thinking, innovative thinking and critical thinking: in a fully integrated business environment, taking an isolated view of one's individual task will no longer be a viable proposition. The system would simply break down. Equally, administration and leadership, with the freedom to continually identify new ways to fulfil and increase customer value, will require the same knowledge and skills mentioned above.

The development of the knowledge and skills in the labour force is a socio-political task – government, institutes and schools need to prepare the labour force of the future, in close cooperation with business and industry. Meanwhile, employers are faced with an equal challenge – how do we prepare our existing labour force for the imminent 4th Industrial Revolution?

With a customer-value-centric approach, business and industry will need to reflect and assess the changing environment. Certainly business-to-business customers and consumers have already become more demanding, quality consciousness and perhaps impatient – it is much easier for them to switch from one supplier to another. At the same time, as with all changes, the existing labour force will be fearful of the future – about their jobs, income and the required qualifications for future roles within the framework of Industry 4.0. Businesses will need to build a central awareness of what new qualifications and competencies are needed, before they engage full-throttle in Industry 4.0. Required competencies may encompass the aforementioned

[1] Unity, *How can Industrie 4.0 help us in Chinese business*, 2016

'thinking skills', which are awareness and behavioural traits, and also new tasks, new roles, new activities around reporting and communication, which will be real-time, transparent, and require honesty. Businesses will also have to be resolute when it comes to eliminating knowledge, skills, behaviours, tasks and roles that are no longer needed.

It all starts with leadership. The necessity for change is often brought about by the base, or by economic and environmental factors. The concept of Industry 4.0 can be denied or belittled, yet a shift to a future that resembles all aspects of Industry 4.0 is already in full-wing – think: e-commerce and social media, drones, robotics, 3-D printing, virtual reality, customer demand shift (level of customisations, speed required, ability to switch suppliers). The leadership of businesses that are already affected, or most likely to be affected in the near future, need to take charge now: review the current business strategy bearing in mind the ramifications of Industry 4.0, and make it part of a new business strategy. Do not let the environment dictate to the business, make the business dictate to the environment – the labour force will be thankful for it.

Industry 4.0 is not about business without people. In fact, apart from the technological factors of making integration actually possible, people are probably the most important factor for Industry 4.0. Any development that promises higher efficiency and productivity eventually boils down to the reduction of labour force – this is inevitable. However, Industry 4.0 can also be an enabler for developing a higher qualified labour force, as it both requires it and feeds it. Every individual, including governments, institutions, schools and employers will need to prepare for an integrated, near-fully automated and fast-paced future in which a world where everybody works just 30 per cent of the current capacity—at a higher income level—may not just be an utopian vision. Eb

Articulate *consultants and* ***Totuba*** *trainers and coaches are experienced professionals with a deep understanding of doing business in rapidly growing economies and have a passion for helping organizations, who aspire to grow domestically, regionally and overseas, to achieve long-term sustainable success and to improve the effectiveness of their leaders, managers and staff.* ***Michael Adick*** *is a China Europe International Business School graduate and Executive MBA holder, with close to 20 years of experience in banking, industry and consulting. He can be contacted via michael.adick@totuba.com.*

OPPORTUNITY KNOCKS

China Manufacturing 2025 and Internet Plus: what's in it for FIEs?

To many, China Manufacturing 2025 (CM2025) appears to be an initiative purely for boosting domestic industrial capacity and creating national champions who can eventually dominate the global stage. To an extent, this sentiment was compounded by the frequent references to "indigenous innovation" in China's 13th Five-Year Plan. Some foreign-invested enterprises (FIEs) are wondering, quite rightly, '*are we part of this*?' **Kiran Patel**, Marketing and Communications Director, **LehmanBrown International Accountants**, says that there is a place at the CM2025 table for FIEs, and identifies eight areas where they could find opportunities.

Influenced by Germany's Industry 4.0, Premier Li commented at the official launch of the CM2025 initiative that it will "upgrade China from a manufacturer of quantity to a manufacturer of quality". A roadmap has since been established to build a thriving, innovation-led economy through to 2025 and beyond.

China's hand has been forced by a number of factors: cheaper manufacturing labour in South East Asia and other emerging economies; weakening demand for exports – particularly from the US and Europe; overcapacity; and—as shown in the *Global Innovation Index Report 2015*—an innovation gap between China and other, developed economies.

Consequently, industrial modernisation and reform now sits at the heart of the government's strategic agenda with President Xi and Premier Li identifying an explicit need for China to transition towards manufacturing high-tech machinery, and to be at the forefront of global innovation if it is to remain competitive in the face of the next wave of economic challenges resulting from its rapid growth.

Does this mean that there are opportunities for FIEs to thrive in this new environment? After all, China Industry 4.0 could be construed by certain quarters as a scheme to close the door more firmly on FIEs.

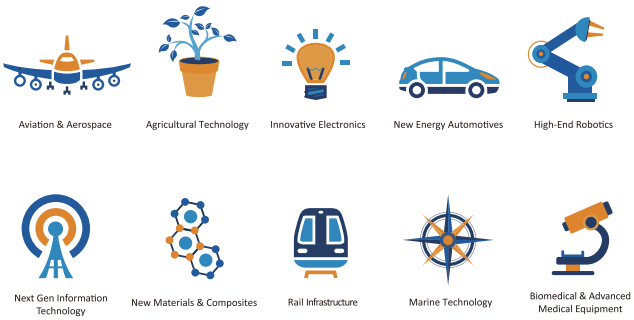
Why reform industry?

China has become synonymous with the negative branding of 'Made in China' and copycat technologies. With the slowdown of the global manufacturing sector in Europe and the US, China must successfully reform and modernise by stepping into high-end manufacturing if it is to position itself to lead global manufacturing beyond 2025, and become a leading exporter of domestic technology. This is essential for China's international expansion.

It is significant that China's labour costs are rising along with a workforce that, for the first time in the past two decades, declined in 2014. Increasing competition from ASEAN countries and Central Asia, who have both intensified their focus on manufacturing to compete with China—as well as providing both a cheaper workforce and a more supportive regulatory environment for foreign businesses—is providing further impetus for China's need to reform. In a move that would have been considered unthinkable five years ago, some companies have brought their manufacturing operations back to the US and Europe. While still the world leader in terms of output, China is still relatively weak in terms of innovation and core technologies. At the heart of CM2025's strategic goals is the objective to transform this.

Made in China 2025: 10 key focuses

China will focus industrial upgrading in 10 key sectors, thus creating channels of growth for FIEs across a broad range of industries and territories.



What is Internet Plus?

Internet Plus is a fully integrated component of the CM2025 initiative that will serve to integrate 'Internet' with the delivery of industrial and economic upgrading. China is expected to exceed well over 700 million netizens by the end of 2016, and exhibits phenomenal potential for further growth and penetration – currently just 52.2 per cent penetration compared to the UK's 93 per cent. The possibilities for growth within the tech innovation space are vast, with e-commerce both domestically and abroad being the key driver alongside big data, cloud computing, Internet finance and the concept of an Internet of Things (IoT).

One unique possibility of Industry 4.0 is the growth potential of the 'Industrial Internet' through linking manufacturing with IoT technologies. In order to make this possible, the government will be launching fiscal and tax policies to help selected industries grow, creating a platform for both domestic and foreign-invested SMEs to evolve within the Internet Economy.

Challenges for FIEs

Industry 4.0 in China will present both a new set of obstacles and opportunities for FIEs operating in China's high-end manufacturing space. Aligned with the government's drive to promote Chinese brands at the centre of China's innovation drive, foreign manufacturers will be confronted with increasing competition.

Factors of price, potential protectionism, a historically loose application of intellectual property (IP) laws, and incentives for and government subsidisation of local manufacturers are all areas that FIEs need to pay close attention to. Clearer standardisation, classification and further stimulation of the competitiveness of local Chinese manufacturers in core competency areas where FIEs have previously dominated will also become increasingly prevalent. Emulation of best practices and Western management techniques will be increasingly adopted in order to develop China's core manufacturing competencies further.

Opportunities for FIEs

Although the general perception is that CM2025 is primarily geared towards stimulating the growth of Chinese high-end manufacturing, it will create opportunities for FIEs, not only in primary cities but also across second- and third-tier cities. Foreign enterprises are still competitive and will remain a key component for China to realise its vision of economic transformation, at least in the medium term.

The following are the opportunity areas where FIEs can engage with China's evolving economy:

Export of High-End Manufacturing Equipment

Fuelled by China's drive to modernise manufacturing practices and propel itself up the manufacturing value chain, the demand for high-end robotics, automation technologies and high-end equipment in general will create an export opportunity for FIEs. Europe possesses world class equipment, best practice experience in manufacturing innovation, quality of output, lean practice and environmental standards to export to China.

Standards, Testing, Compliance and Certification

Coupled with the export of equipment and technologies to China, as Chinese companies move up the value chain, the importance of complying with international standards and achieving international certifications will only grow. This creates a continued opportunity for standards and benchmarking organisations to enable China to meet globally-acceptable criteria.

Manufacturing Consultancy and Expertise

CM2025 will strive to limit China's dependence on foreign technologies; however specific skills and consultancy to drive process improvement, project management, risk management and process engineering will be in high demand.

Environment and Green Tech

In order to improve the living standards of its citizens and deliver green growth, the Chinese Government is mandated to pursue a more environmentally-friendly economic model, thus providing an opportunity for FIEs to export first-class green technologies such as alternative energies, hybrid vehicles, waste management, and disposal and recycling technologies to address the issues caused by rapid, low-quality economic growth.

Financial and Professional Services Outbound Consultancy

Tied in with the Belt and Road Initiative (BRI) beyond the clear and explicit goals of CM2025, China is seeking to export its technology across borders and develop its own brand competence internationally. Financial services, particularly banking, insurance and leasing will be more sought-after by Chinese companies if their projects include an overseas element. With strong potential for M&A as China grows outwards, the full spectrum of professional services including accounting, M&A advisory, audit and due diligence, as well as legal services and marketing consultancy, is an area of strength that FIEs can leverage.

Collaborative R&D

Appetite for product innovation will lead to opportunities for collaborative R&D projects between domestic Chinese enterprises and FIEs.

Education and Vocational Skills Training

CM2025 and China Industry 4.0 as a whole will require a significant development of talent and a highly-skilled workforce to deliver. Vocational education is another key area for FIEs to leverage experience and ensure that China's industrial vision is realistically implementable from a human capital perspective

Retail, E-commerce and Leveraging IOT

It has been predicted by McKinsey that China's e-commerce market will reach GBP 3 trillion by 2020. This is larger than the US, UK, Japan, Germany and France combined and is not restricted to first-tier cities. According to a January 2016 survey by The Economist Corporate Network and Admaster, second-tier cities have overtaken first-tier cities in terms of purchases made on mobile devices. This creates a number of opportunities across the wider scope of established foreign consumer products within the field of retail, fashion and innovative product design. FIEs are therefore well positioned to leverage the new business models and distribution channels that the Internet Economy will provide.

In Summary

The business climate remains highly competitive for FIEs to thrive under China Industry 4.0's economic and industrial upgrading initiatives. Across the 10 key sectors identified in CM2025 there are already a number of successful cases whereby involvement of FIEs has been integral to China's success. This provides FIEs with a platform to continue operations in China. The creation of new opportunities through CM2025, and Internet Plus in particular, means that China should very much be on the agenda of FIEs for the foreseeable future, as long as the government carry out the necessary reforms to foster a thriving innovative and creative economy.

LehmanBrown International Accountants *is a China-focused and licensed full service accounting, taxation and business advisory firm. Through offering 'whole-of-life' services, LehmanBrown offers its clients assistance throughout every step of the China business life cycle—from preconception to afterlife—and is committed to enabling the business operations of both foreign-invested and domestic enterprises to thrive in China.*

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China Manufacturing 2025 and Intelligent Assembly

In recent years, the Chinese Government has taken a number of steps that have sent a strong signal to the market that there will be a breakthrough in the transformation of China's industries. **Zhu Qian** of **Desoutter Industrial Tools** details the progress that has been made so far, noting that China's route to the next Industrial Revolution will involve playing a great deal of catch-up.

The Ministry of Industry and Information Technology has stated that China's industrial transformation will take place in three stages and will see it evolve into a global manufacturing power over the next three decades. China Manufacturing 2025 is the first ten-year plan towards achieving this strategic goal and lays out the developmental framework and top-down guidance for the next ten years, which will move China into the 'second phalanx' of global manufacturing.

Three major reasons for proposing China Manufacturing 2025

First, the costs of labour and raw materials are increasing in China due to environmental concerns and resource limitations. To reduce costs, some home-grown manufacturing enterprises are now moving out of China, with a number of multinational companies turning to Southeast Asia and its cheaper labour market: China's position as the 'world's factory' is now being seriously challenged. At the same time, serious pollution issues and high energy consumption of the traditional manufacturing industry is now increasingly being questioned by the public.

Second, Germany's Industry 4.0 initiative and the reindustrialisation approach in the United States have inspired China to strengthen its resolve to upgrade its status from a manufacturing country to a manufacturing power.

Third, with a new generation of information technology becoming deeply integrated into modern manufacturing, we are seeing continuous innovation in manufacturing technology, which is pushing China to discover a new development path.

China Manufacturing 2025 is not the same as Industry 4.0

Some people have called China Manufacturing 2025 the Chinese version of Industry 4.0, as they both share the same ultimate goal and key methods for achieving it. However, it should be noted that the two strategies are not equivalent. China and Germany differ greatly in many ways, such as the overall state of each respective nation and their current level of manufacturing technology.

Germany is a long-time manufacturing powerhouse. While China is the world's largest manufacturing nation it currently lacks manufacturing strength. There is a paucity of innovation and guarantees in terms of base materials, basic technology and industry technology, and China still occupies the low-end of the global value

chain. On the whole, Germany is in a period of transition from Industry 3.0 to 4.0. The development of China's manufacturing industry, however, has been sporadic; some parts are already at 3.0, while some are still stuck at level 2.0. Therefore, China Manufacturing 2025 entails careful planning for Industry 4.0 and securing a space at the head of the technological table, while at the same time making up for an under-developed manufacturing base and compensating for a number of historical setbacks. In particular, there is a need to replace outdated production facilities and reduce excess capacity, which will help spur industrial development and could allow China to leapfrog other economies.

China Manufacturing 2025 and Internet Plus

In March 2015, during the 'two sessions' (*lianghui*) legislative meetings in China, Premier Li Keqiang, introduced the concept of Internet Plus in his government work report, which will open up a new way of thinking for the manufacturing sector.

Through the Internet Plus strategy, China will integrate manufacturing and Internet technology to promote the development of the Internet, big data and cloud computing. Internet-based manufacturing has the ability to respond quickly to market changes. Through restructuring and dynamic coordination, a manufacturer can allocate resources, improve the quality of products, reduce the time required for products to come to market and increase market share. At the same time, it can also share the expense of developing the right infrastructure as well as investment in equipment, which reduces operating risks.

The Internet gives rise to intelligent factories

The advent of the Internet era has shaken traditional manufacturing to its core and created information asymmetry between production departments and business departments. In the traditional industrial era, manufacturers had no low cost method to understand the individual demands of each customer, so they often adopted a one-size-fits-all approach, bringing the functions most in demand together in one product. The Internet has changed this, breaking down barriers between the manufacturing execution system (MES) and the enterprise resource planning system (ERPS). A new production system can bring changes, for instance, in customised manufacturing. This process, called Industry 4.0 in Germany and the Industrial Internet in the United States, is the same approach as the Internet Plus-led China Manufacturing 2025 initiative.

Intelligent assembly in intelligent factories

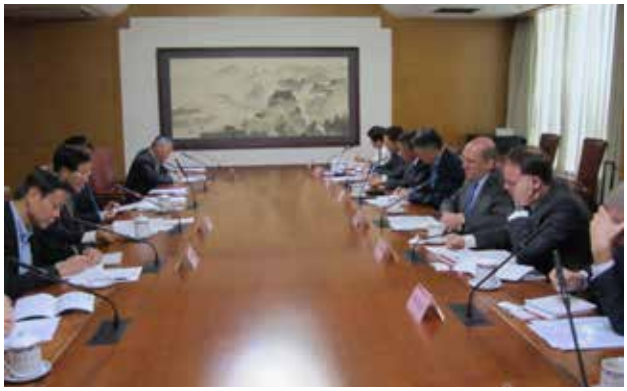
Intelligent assembly plays a particularly prominent role in the intelligent factory and contributes to its development on five levels:

- **Intelligent production:** In intelligent production, production equipment and raw materials are linked together. Through radio frequency identification (RFID) technology and visual control technology, among others, it is possible to customise production and build intelligent workshops.
- **Intelligent products:** Assembly tool manufacturers provide intelligent products which can be used to control manufacturing. Assembly data can be uploaded to the cloud, making it more convenient for users to manage.
- **Production services:** More and more companies are providing solutions instead of just products, transforming from manufacturers into service providers. Creating value through services, so as to generate profit, is giving rise to new business models. Information collected from intelligent products is resulting in human-orientated services.
- **Cloud-based factories:** Cloud-based factory management systems will be built. Through this system it will be possible to know which production line has completed assembly, which is at full capacity and which is idle. The idle tools can then be utilised to create more value, making full use of all resources. Producers do not even need to buy the assembly equipment; they only need to rent the equipment in the cloud, saving them from getting caught up looking for original equipment manufacturers or building a factory themselves. This will result in a wave of entrepreneurship and innovation.
- **Crossover impact:** Automation and information are deeply entwined. For example, as service providers to intelligent factories, assembly tools vendors can bring together all assembly information for that industrial sector, including the upstream plants, downstream factories and the parallel line producers, which can be used as a method of communication, providing crossover advisory and support. Crossover will become the norm, and business models will need to be redefined.

Founded in 1914 and headquartered in France, ***Desoutter Industrial Tools*** *is a global leader in electric and pneumatic assembly tools serving a wide range of assembly and manufacturing industries, including light and heavy vehicles, aerospace, automation, general industry, among other sectors. Desoutter designs, develops and delivers innovative and high-quality industrial tool solutions, including electric and pneumatic screwdrivers, a sophisticated screwfeeder system, advanced drill units and torque measurement systems. Find more information: www.desouttertools.com.cn.*

EUROPEAN CHAMBER LOBBYING HIGHLIGHTS

Chamber Members Raise Operational Issues with NDRC



A European Chamber delegation, led by Secretary General Adam Dunnett, joined counterparts from AmCham on 13th May, for a meeting with the National Development and Reform Commission's (NDRC's) Deputy Director General for Foreign Capital and Overseas Development, Liu Hongkuan. DDG Liu provided an update on the status of foreign investment in China in 2016, as well as his interpretation of the 13th Five-year Plan. European Chamber and AmCham participants then outlined the operational challenges that they face in China, such as market access barriers, unequal treatment, inconsistent implementation of policies and regulations by local government, security-related issues and IPR protection. DDG Liu welcomed the input and stated that he had taken note of the issues that had been raised. The NDRC would, he said, work to address those that they are directly responsible for and coordinate with other authorities on those that remain.

Exclusive Dialogue with Jiangsu Provincial Commission of Economy and Information Technology

The Chamber's Nanjing chapter held an exclusive dialogue with the Jiangsu Provincial Commission of Economy and Information Technology (JSCEIT) on 3rd June. After Deputy Director-General Mr Gao Qing opened the proceedings. Mr Liu Yaowu, Division Chief of Policy and Regulation Division, JSCEIT, gave a presentation on Jiangsu Province's action plan for China Manufacturing 2025, including its supporting

policies. European Chamber member companies outlined some of their experiences in Industry 4.0, which envisions a fourth industrial revolution built up around cyber-physical systems sharing information across the entire manufacturing chain. During a Q&A session, participants exchanged views on issues of mutual interest, with opportunities for European business in China's drive to upgrade its manufacturing capabilities discussed in detail.

New Updates and Insights: EU SME Annual Conference 2016

On 31st May, the EU SME Annual Conference gathered more than 40 SME managers, along with experts from the fields of law, IPR, HR and e-commerce, to explore the theme *How to Tackle a Changing China*. Chamber Secretary General Adam Dunnett and the Chair of the EU SME Centre's Board delivered opening remarks. Mr Zhou Pingjun, Assistant Director General of the China Centre for the Promotion of SME Development of the Ministry of Industry and Information Technology (MIIT) then provided an update on the Chinese Government's recent actions related to SMEs. This included progress in improving access to capital as well as raising awareness of the importance of IPR at both the provincial and local level.

Meeting with CAC on EU Data Protection Laws and Regulations

On 20th May, the European Chamber held a seminar on EU data protection laws and regulations with multiple Chinese government agencies. Attendees included Ms Yu Qing, Deputy Director-General, Cybersecurity Administration of China's (CAC's) Cybersecurity Coordination Bureau, and representatives from the Ministry of Public Security (MPS), the China Academy of Information and Communication Technology (CAICT) and the China Information Security Institute Ltd.
European Chamber representatives outlined the background and the key focus of the EU General Data Protection Regulation as well as the industry stance on data protection. There followed an involved discussion during a Q&A session. Both sides agreed to enhance future communication and cooperation on this topic.

Chamber and Shanghai DRC Review Shanghai FTZ Progress

European Chamber Vice President Mick Adams met with Deputy-Director General of the Shanghai Development Reform Commission (DRC) Mr Zhu Min on 18th May. Vice President Adams and DDG Zhu exchanged views on the progress and achievements of the China (Shanghai) Pilot Free Trade Zone (CSPFTZ) to date, and clarified the distinctions between the newly released Market Access Negative List and the CSPFTZ's Negative List.
As the CSPFTZ reaches the end of its first three-year phase, a series of events and seminars will be held in July and September. The Shanghai DRC invited European Chamber members to participate and Vice President Adams welcomed the invitation, stating his hope that members will be able to voice their concerns and recommendations through the events.

Q&A

MICHAEL CHANG, CHAIR, ICT WORKING GROUP

Michael Chang has worked in the ICT industry since 2000. He first became involved with the Chamber in 2010 when he began making valuable contributions to the *ICT Working Group Position Paper*. He successfully ran for the position of chair of the ICT Working Group in 2015 and again in 2016. Chang currently heads **Nokia**'s Industry Environment Department for the APAC region, dealing with technology regulations and standardisation.

Why did you decide to run for the position of chair?

The Chamber proved to be a really good platform for European industry in China to deliver our voice and communicate with the Chinese authorities in a constructive manner. After talking with other players in the ICT industry, you realise that the Chamber's advocacy efforts are an illustration of really good team work. It makes you want to do more, not just for your own company, but for the benefit of the European ICT industry overall, as well as Chinese consumers. I was very lucky that members of the working group put their trust in me when I first ran in 2015, and again when I stood for re-election in 2016.

What are the main issues that foreign ICT companies currently face in China?

I don't think the major issues have changed in the last decade. The ICT industry provides critical infrastructure in China and the Chinese Government has put a lot of effort into promoting the domestic market in that respect. So we have seen many citizenship and reciprocity challenges in front of us from very early on, from technological research and standardisation, R&D, funding issues, market access and certification, not to mention certain regulatory surprises. So there needs to be a lot of improvement in terms of communication and exchange to start removing some of the market access barriers, and it will take a great deal more lobbying.

Do you think the issues resulting from the recent spate of regulations that reference the need for technology—

particularly with respect to government procurement—to be 'secure and controllable' can be positively resolved?

It's a difficult question to answer because this is something new, for both sides. From the Chinese perspective, the need for technology to be 'secure and controllable' stemmed from the national regulatory requirements for cyber security. We recognise that this is a very important future issue, not just for China but for the rest of the world as well. We strongly encourage open and transparent communication between government and industry on issues of policy before things are put in place that directly affect the market.

This is not an issue that affects just the ICT industry either, it affects important vertical sectors like banking, insurance and even manufacturing – its influence is very broad. We need to work with these other industries to really tackle this issue with the government.

Do you expect the China Manufacturing 2025 initiative to open up new opportunities for foreign-invested ICT companies?

The magnitude and scope of the plan is really attractive, and it presents a huge opportunity for the whole industry. To revitalise China's economy, I think there is an awareness that global practices need to be followed to achieve global economies of scale, and this is one advantage that European companies can provide to China, by working together with and supporting Chinese authorities in this initiative to ensure that they win, and of course that we win too. That's the spirit.

Which areas hold the most potential for EU-China cooperation in the ICT industry?

In September 2015, we made huge progress in terms of EU-China cooperation when we signed a 5G collaboration joint declaration. This is huge. An MOU was also signed with the objective of promoting bilateral cooperation in 5G development in terms of improving R&D, technology and standardisation. As far as China's transformation of its infrastructure and the digitalisation of its economy is concerned, 5G is a key element. Beyond that there is also big data and the IoT, which also hold huge potential for EU-China collaboration.

What would you consider to be lobby successes of the ICT Working Group?

For many years we have been discussing with the Chinese Government the importance of having global standards. As European companies we have historically have had no, or at best restricted, access to China's standards technical committees – so either no voting rights or we are excluded completely. After lobbying continuously on this issue for more than 10 years we have made some really good progress. Technical Committee 260, which is a standardisation organisation that deals with security matters, is starting to open up to foreign industry. Honestly, it is still not quite what we want, there are still some limitations in the membership, but we will keep trying.

Another success is related to access to government-funded R&D projects. European industry was previously excluded from this, but now we are making solid progress. Starting from this year we are seeing companies start to take part in projects and get funding for them. Although it is only a small number of companies, it is still a positive step. Credit really has to be given to those engaged in dialogue at the government level.

The working group also helped to facilitate discussions on EU-China collaboration on 5G.

What are the priorities for the ICT Working Group this year?

I think looking to the future, 5G and IoT will be extremely important to the European ICT industry's development in China. So we will be prioritising lobbying on matters related to the coordination of research and standardisation. We already have an MOU signed and in place regarding 5G collaboration, which is great, but we need to concentrate now on the implementation of this cooperation. The ultimate goal is to drive for global harmonisation of the ICT eco-system, which will benefit global markets as well as end-consumers from both sides. Second, the cyber security issue is growing into the most important topic in China, so we are going to drive for open and transparent communication and coordination on this issue, in terms of policy-making and implementation. Third, we need to focus on making China's standards-making procedures open and transparent as well to ensure the reciprocity — the European ICT industry should have equal access to and influence in China's standards technical committees, and should enjoy equal access to government funding programmes as well. Finally, we need to try and enhance coordination on ICT regulatory activities that are crucial for market access.

INVESTING IN THE FUTURE

The shape of things to come – China's opportunity to shape a better environment for investment[1]

Max Merkle, Business Manager of the European Chamber's new **Investment Working Group**, provides an overview of China's current investment environment.

1 This article is based on the European Chamber's Investment Working Group's forthcoming *Investment Position Paper 2016/2017.*

China's economic growth is decelerating and will, according to a number of expert opinions, likely be following an L-shaped recovery trajectory[2] over the foreseeable (forecasted) future. To ensure that this deceleration doesn't lead to stagnation—let alone a Japan-style 'lost decade'—increases in the productivity level of the Chinese economy are needed.

Such increases have to come from more productive investments. Achieving this goal is given great prominence in China's *13th Five-Year Plan* (2016-2020) (13FYP). To this end, the Chinese Government has laid out two industrial policies—China Manufacturing 2025 and Internet Plus—to harness new technologies, such as the informatisation of manufacturing. The full productive force of private investment, including foreign investment, will need to be harnessed if this aim is to be achieved.

It is therefore somewhat encouraging that the 13FYP talks about "opening development", an increased openness to foreign investment.[3] 'Somewhat' must be used here, though, as such announcements have also been made in the past—most recently in the Third Plenum's Decision—and yet the song remains the same: the current investment environment still holds an inherent bias against foreign participation. The European Chamber's member companies attested to this in our *Business Confidence Survey 2016*, where 57 per cent of respondents stated their belief that foreign-invested enterprises (FIEs) tend to receive unfavourable treatment compared to domestic Chinese companies.[4] With its *Foreign Investment Catalogue*, China still prescriptively lays out the areas where investment is allowed, with many legitimate areas still being off-limits to foreign investment.

The (draft) Foreign Investment Law ((draft) FIL) that was published by China's Ministry of Commerce on 19th January, 2015, is another case in point, even though it would represent a slight improvement over the status quo.[5] The (draft) FIL is intended to enable the legal system to treat FIEs equally to Chinese companies and contains several fundamental changes to the foreign investment regime. However, to have a separate law in place to ring-fence foreign investment in a negative and discriminatory fashion runs counter to the very idea of attracting foreign direct investment (FDI). In response to this situation the Investment Working has advocated in one of its position paper's Key Recommendations that either the FIL be re-drafted so that it fully aligns foreign and domestic investors, or that it be replaced altogether with a new Company Law that applies equally to all companies, irrespective of whether they are domestic or foreign-owned. Either of these solutions would provide an even bigger boost to FDI because of the legal certainty it would give investors, although the latter would be preferable.

The same holds true for the *(draft) Document on Market Access Negative List (Pilot) (MANL)*, which the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) jointly issued on 12th April, 2016. It will initially be piloted in Tianjin, Shanghai, Fujian and Guangdong until the end of 2017, and then rolled out nationwide in 2018.

While a shorter version of the *MANL* applied nationwide should, on balance, be seen as favourable, it would substantially benefit China—as the second biggest economy in the world—not to have any restrictions on foreign investment at all. This becomes ever more apparent now that vast differences emerge between the transaction volumes of Chinese and European investors in their respective jurisdictions: whereas Chinese companies invested EUR 20 billion in the European Union (EU) in 2015—a 44 per cent leap compared to 2014's EUR 14 billion[6]—over the same period the annual value of EU FDI transactions into China fell to EUR 9.3 billion, a drop of about nine per cent from 2014.[7]

The EU, owing to its economic size, predictable legal system and vast single market, now appears to be the more attractive destination for investment, particularly for investors seeking to acquire advanced technology. This is a trend that the competent Chinese government departments should look at carefully.

In conclusion, while China still has the opportunity to shape its domestic investment environment for the better, this should encompass an overall restructuring of the system it has in place to regulate foreign investment. Foreign participants can provide a much-needed impetus to China's continued economic growth and ought to be allowed to play an integral part in this drive, in the same way that Chinese companies already do in the EU. Eb

Introduction to the Working Group

*The **Investment Working Group** was born out of the European Chamber's Private Equity and Strategic M&A Working Group in March, 2016, in order to provide a lobbying platform for all European investors in China (foreign direct and portfolio investment). Its prime objective is to obtain a level playing field for European investors in China in terms of both regulation and market access. Addressing these systemic concerns is particularly important in light of the ongoing negotiations for the China-EU Comprehensive Agreement on Investment.*

*This is an open working group. If you are interested in joining the working group please contact **Max Merkle** at mmerkle@europeanchamber.com.cn or +86 (21) 6385 2023 ext.104.*

2 An L-shaped recovery involves a sharp decline followed by a long period of flat or stagnant growth.

3 *13th Five-Year Plan for Economic and Social Development of the People's Republic of China*, National People's Congress, 17th March, 2016, viewed 19th April, 2016 <http://news.xinhuanet.com/politics/2016lh/2016-03/17/c_1118366322.htm>

4 *European Business in China – Business Confidence Survey 2016*, European Union Chamber of Commerce in China, 2016, viewed 28th June, 2016, <http://www.europeanchamber.com.cn/en/publications-business-confidence-survey>

5 People's Republic of China Foreign Investment Law (draft), People's Republic of China Ministry of Commerce, 19th January, 2015, viewed 25th April, 2016, <http://tfs.mofcom.gov.cn/article/as/201501/20150100871010.shtml>

6 *A New Record Year for Chinese Outbound Investment in Europe*, Rhodium Group, February, 2016, viewed 19th April, 2016, <http://rhg.com/wp-content/uploads/2016/02/A_New_ Record_Year_for_Chinese_Outbound_Investment_in_Europe.pdf>

7 *Rhodium EU China Investment Flash*, Rhodium Group, 18th January, 2016.

WINDS OF CHANGE

How the PRC Law on Overseas NGOs will impact foreign NGOs operating in China

China's regulation of foreign non-governmental organisations (NGOs) has been the subject of much recent debate in the lead up to 1st January, 2017, when the new Law on Overseas NGOs (NGO Law) will come into effect. **Ludmila Hyklova**, Legal Advisor at the **EU SME Centre**, highlights key provisions included in the new law that will affect the establishment and operations of foreign NGOs in China.

The NGO Law focuses on foreign/overseas NGOs, which it defines as "non-profit making and non-government social organisations such as foundations, social organisations and think-tanks incorporated overseas". Some of the institutions mentioned in the definition, such as foreign foundations, have so far been grouped with domestic foundations only on a level of regulation, which carries lower legal force than actual law.

Foreign NGOs can carry out activities that are conducive to the development of public interest in areas such as the economy, education, science and technology, culture, health, sports and environmental protection, as well as providing financial assistance during disasters; however, engaging in or funding profit making activities or political activities, or engaging in or funding religious activities illegally is prohibited. This sets out clearly the areas in which foreign NGOs are or are not permitted to operate. They can be present in China in the form of a representative office or, in case of temporary activities, they can cooperate with a Chinese partner as long as the project is filed.

If a foreign NGO wishes to set up representative offices in China the law stipulates several requirements, which include, among others:

- the NGO must have been in existence for more than two years;
- it must possess the ability to bear civil liability independently; and
- its purpose and scope of business must be deemed conducive to the development of public interests.

The process of establishing a representative office includes two steps—approval and registration—which is similar to the current foreign investment system. The registration authority is China's Public Security Bureau (PSB), which, when reviewing applications, can employ experts to carry out assessments of the application as needed.

After successful registration, the representative office of the NGO will obtain a registration certificate that will contain, among others, the scope of business and areas of activities. The representative office must then apply for tax registration, a seal or chop and open a bank account within Chinese territory.

The law pays quite a lot of attention to the funding and financial aspects of running an NGO representative office as a main means of control. Activities in China can only be funded by:

- a lawful overseas source;
- interest on bank deposits in China; and
- other funds obtained by legal means within China.

Soliciting donations within China is forbidden and all funds must be managed through the bank account filed by the representative office.

For temporary activities, the funds must be managed through a bank account of the Chinese co-operator. So far, it is not very clear who can act as the Chinese co-operator, the NGO Law only mentions that it can be a Chinese state body organ, organisations of citizens recognised by government, public institution or social organisation.

The law stresses that neither a foreign NGO or its Chinese co-operator, nor an individual may receive funds or make payments for project activities in whatever form through any channel other than the registered bank account, and that financial statements have to be audited by a certified accounting firm.

In terms of HR, all employees working for the representative office must be filed with the competent administrative department and the registration authorities for their records. Developing membership of foreign NGOs within China is prohibited.

Representative offices are required to submit a plan of activities for the following year, including the NGO's project implementation strategies and its proposed use of funds. At the end of the year they have to produce a report on its previous year's work and submit it to the relevant administrative department. Such reports will then be affixed with the opinions issued by the competent administrative department before being submitted to the PSB for annual inspection. The report also has to include audited financial/accounting statement and any changes to the NGO's personnel or organisational structure before being made publically available on the PSB's website.

It is clearly stipulated in the law that no entity or individual may act as an agent for an overseas NGO without having either registered a representative office or filed notice of temporary activities; nor can an entity or individual act as the agent in a disguised form by accepting the entrustment and funding by such overseas NGOs.

A section of the law that deals with "convenient" measures says that the state will protect and support overseas NGOs, and relevant departments at all levels are obliged to provide NGOs that conduct activities in accordance with the law with a convenient level of service.

Respective authorities have the task of developing a catalogue that will list the fields and projects that overseas NGOs can be involved in, along with the directory of the competent administrative departments who will be responsible for providing overseas NGOs with the guidelines for carrying out such activities. Authorities will also provide overseas NGOs with policy consulting and activity guidance services. Foreign NGOs are entitled to tax incentives by law.

In the event of a public security organ, in its role as a supervisory and administrative authority for a foreign

NGO, identifying any act it suspects of violating any provisions of the NGO Law, it may:

- hold talks with the NGO's chief representative and/or other persons in charge of the representative office;
- conduct onsite inspections;
- conduct an inquiry into the entities and individuals relating to the incident under investigation;
- consult or copy documents and other materials;
- seize any documents that it deems are likely to be transferred, destroyed, concealed or altered; and
- seal up premises, facilities or property.

Public security organs may also query the bank accounts of overseas NGOs. The law contains provision related to legal liability and measures which the competent authority can adopt in case of illegal activities, such as confiscating illegal earnings and issuing warnings. In serious cases, authorities may take more extreme measures, such as filing criminal liability, revoking the NGO's registration certificate, banning the NGO's activities, detaining for 10 or 15 days (depending on the case) the person(s) that are directly liable or even deporting them. Sanctions may also be imposed on supervising authorities for neglecting their duties or engaging in malpractice for private gains.

Overall, the NGO Law is a complex piece of legislation, governing the establishment, operations, funding, legal liability and supervision of overseas NGOs, and provides authorities with great power to bring sanctions against NGOs whose activities are deemed to be in breach of the law.

If you have any further questions, please contact the EU SME Centre's legal team at www.eusmecentre.org.cn/expert. Eb

The EU SME Centre *in Beijing provides a comprehensive range of hands-on support services to European small and medium-sized enterprises (SMEs), getting them ready to do business in China. We provide support in four areas – business development, law, standards and conformity and human resources. Collaborating with external experts worldwide, the Centre converts valuable knowledge and experience into practical business tools and services easily accessible online. From first-line advice to in-depth technical solutions, we offer services through Knowledge Centre, Advice Centre, Training Centre, SME Advocacy Platform and Hot-Desks.*

The Centre is funded by the European Union and implemented by a consortium of six partners - the China-Britain Business Council, the Benelux Chamber of Commerce, the China-Italy Chamber of Commerce, the French Chamber of Commerce in China, the EUROCHAMBRES, and the European Union Chamber of Commerce in China.

To learn more about the Centre, visit website www.eusmecentre.org.cn

MANUFACTURING AN IP STRATEGY

IPR Protection for the Mechanical Engineering Sector

China's demand for machinery, tools and related technologies is still robust, and looks to remain that way. In the European Chamber's *Business Confidence Survey 2016*, 56 per cent of respondents in the machinery industry indicated that they were optimistic about growth in China over the next two years, the highest of any industry sector. China therefore remains an important marketplace for Europe's high quality products and innovative technologies – particularly in light of its shift in emphasis towards high-end manufacturing (read China Manufacturing 2025). In the following article the **China IPR SME Helpdesk** outlines the proactive measures that companies in the mechanical engineering sector will need to take to protect their IP.

China's economic success has been built on manufacturing on a massive scale, and despite the economic slow-down manufacturing is still growing. For example, in the five years up to 2015, electrical equipment and machinery manufacturing revenue has been increasing 10.1 per cent annually to EUR 7.8 billion. [1]

The mechanical engineering sector is expected to see increased growth and opportunities for European SMEs in the coming years following the unveiling by the Ministry of Industry and Information Technology of its China Manufacturing 2025 plan, which aims to lift China from the 'big industrial country' to the 'powerful industrial country'. China Manufacturing 2025 sets an agenda for upgrading China's manufacturing industry by making greater use of technologies like cloud computing. It will be particularly beneficial for the mechanical engineering sector: through the plan the government has prioritised many related industries like automated machine tools and robotics, aerospace and aeronautical equipment, new-energy and power equipment and agricultural equipment. These are the areas where European SMEs can expect most opportunities.

Unfortunately, IP infringements are still a major problem in China. However, as China's market develops, legislators and enforcement authorities have made progress in updating IPR practices and educating Chinese manufacturers. As a result, patent applications have rocketed and new IP registration procedures and IPR courts have made application and enforcement of IP rights more accessible for foreign players. Furthermore, the China Manufacturing 2025 plan is expected to lead to improvements of the IPR environment.

IP Challenges

The mechanical engineering sector presents some unique challenges when it comes to IPR protection in China, and requires a proactive approach and an ongoing IPR strategy, well after registration has taken place.

Along with the usual issues of brand infringement and unauthorised use of trademarks, manufacturers also have to consider the infringement of their patents, whether they apply to an entire machine or individual parts. Counterfeiting of components and whole pieces of machinery has been a common complaint of companies operating in this sector in China, and is made possible due to reverse engineering.

As in the EU, reverse engineering is a perfectly legitimate means of obtaining business secrets through lawful research. This makes registration of patents and utility models for parts and mechanisms essential for proper IPR protection.

Trademarks: brand protection

First on any company's list of priorities before entering the Chinese market, should be the protection of their core brand. This is achieved through registration of the company name and/or logo and any other distinguishing visual marks which are associated with the brand and itsproducts as trademarks.

China operates a 'first to file' system which makes early application essential before entering the Chinese market in order to avoid potential issues of trademark hijacking by domestic companies seeking to take advantage of the target brand's reputation or make a profit selling the mark back to the EU SME that has the registered trademark.

Registration of trademarks in China can be done through the China Trade Mark Office (CTMO) with the aid of a local trademark agent, or through an international registration under the Madrid protocol. However, there are some issues to bear in mind when seeking registration in China which can make or break a brand in the Chinese marketplace:

- China has a narrower specification of classes of products and services than required by the Nice Agreement used in the EU to designate the use of trademarks. In essence, China has divided the classes of the Nice classification further into subclasses.
- Foreign language names are rarely used in China, and if you do not designate your product a Chinese name, consumers will likely come up with their own. Once this has been done there is nothing stopping competitors from registering the Chinese name as a trademark.

Trade secrets: loose lips sink ships

A trade secret is any commercially-exploitable information which is not public knowledge and is protected by confidentiality measures. To receive trade secret protection in China, EU SMEs need to take physical protection measures, technological protection measures and contractual measures.

Trade secrets are especially important to bear in mind when negotiating with potential partners in China and when hiring staff to work with sensitive material. Successful protection can be achieved through control of information and by requiring employees and manufac-

[1] *Electrical Equipment and Machinery Manufacturing in China: Market Research Report,* IBISWorld, December 2015, viewed 8th July, 2016, <http://www.ibisworld.com/industry/china/electrical-equipment-and-machinery-manufacturing.html>

turing and distribution partners to sign comprehensive non-disclosure agreements (NDAs) before transferring any information.

Non-disclosure agreements are extremely important and SMEs should always insist on signing one. There have been reports of domestic companies claiming that NDAs run against 'local business practice' and act as a sign of distrust, but if a Chinese counterpart is sincere, experience shows that they will sign the NDA.

Patents: protect your portfolio

Any SME seeking to operate in China's mechanical engineering sector must secure its domestically-registered patent portfolio in order to succeed. It is important to remember that patents registered in the EU do not provide automatic protection in China; instead a Chinese patent is needed. A patent needs to be new, inventive and industrially applicable. The requirement with regard to novelty means that the invention cannot be disclosed anywhere in the world before the patent application in China is filed. If you do not meet this requirement, your patent can be invalidated at any time.

There should be no hesitation amongst EU SMEs entering the Chinese market when it comes to registering patent protection for their core technologies, either via invention patents (maximum 20 years) or as utility models (maximum 10 years).

Design patents are also a key area of IPR protection for EU SMEs, especially in component manufacture. Components which are unsuitable for trademarking such as handles and fittings, or small machinery components can be protected by design patents, which cover the visual characteristics of products. The novelty requirement also applies to design patents.

Copyright

Whilst copyright may not seem immediately applicable in the mechanical engineering sector it is an important tool for protecting your marketing material, manuals and packaging.

Most common copyright infringements in this sector consist of copied product images featured on the infringer's website to advertise their products. However, other examples include copies of sections and occasionally entire brochures, product descriptions, packaging and also manuals and instruction materials.

Whilst copyright is an automatic right in China and does not require registration, any evidence of copyright ownership brought to courts in China must be notarised, or registered with the China Copyright Protection Centre (CCPC).

As such, it is often easier to make a voluntary registration of copyright with the CCPC, which will provide the owner with a certificate of copyright usable as evidence in enforcement actions.

Enforcement

In China, IP actions can be enforced both before a civil court and through specialised administrative bodies. Where certain thresholds are met as to the extent and value of the infringement, criminal proceedings may also be actioned. Additionally, where IP is registered with Chinese customs authorities, exports of infringing goods may be prevented from leaving the country.

Take away messages

- Before you take any action, make sure you have notarised proof of the infringement.
- Civil courts are the only forum through which IPR owners can claim economic damages.
- Judicial decisions in civil courts take longer to reach but act as a stronger deterrent to future infringement.
- Civil court action can be expensive and time consuming, requiring well documented evidence which has been legalised, notarised and translated.
- Customs authorities can provide an effective bar to the export of counterfeits.
- Enforcement is an ongoing practice, SMEs must be proactive in monitoring their IP. Eb

*The **China IPR SME Helpdesk** supports small and medium sized enterprises (SMEs) from European Union (EU) member states to protect and enforce their Intellectual Property Rights (IPR) in or relating to China, Hong Kong, Macao and Taiwan, through the provision of free information and services. The Helpdesk provides jargon-free, first-line, confidential advice on intellectual property and related issues, along with training events, materials and online resources. Individual SMEs and SME intermediaries can submit their IPR queries via email (question@china-iprhelpdesk.eu) and gain access to a panel of experts, in order to receive free and confidential first-line advice within 3 working days. The China IPR SME Helpdesk is co-funded by the European Union. To learn more about the China IPR SME Helpdesk and any aspect of intellectual property rights in China, please visit our online portal at http://www.ipr-hub.eu/.*

EUROPEAN CHAMBER EVENTS GALLERY

BEIJING CHAPTER

Exclusive Dialogue with NDRC on the Draft Negative List (1)
On 25th May, the Chamber facilitated an Exclusive Dialogue with Mr Song Gelong, Deputy Director General of Department of Economic System Reform, NDRC to learn more about the Draft Negative List and its effect on foreign investment in China.

Business Confidence Survey 2016 Launch Event (2)
On 7th June, the European Chamber and Roland Berger launched the *European Business in China: Business Confidence Survey 2016.*

People Matters: Diversity Conference (3)
On 13th June, the Chamber hosted a conference on how companies view the diversity issue from a broader perspective.

The 11th EU China Business Summit (4)
The 11th EU-China Business Summit 2016: *Emerging Opportunities for Comprehensive Cooperation in a Changing Industrial Landscape*, took place on 13th July. We would like to thank our sponsors Merck, Novozymes, SAP, Roland Berger, Sanofi, FINNAIR and Xinjiang Asia-Europe Intl Expo.

NANJING CHAPTER

Nanjing Government Dialogue (1&2)
On 3rd June 2016, the Nanjing Chapter held an Exclusive Dialogue with Jiangsu Provincial Commission of Economy and Information Technology (JSCEIT) who provided in-depth information on Jiangsu's Made in China 2025 plan and its supporting policies. Chamber members BSH and Siemens, shared their experiences in Industry 4.0.

SOUTH CHINA CHAPTER

Annual Party: Gala of Thrones(1)
On 21st May, more than 300 corporate guests gathered for the South China annual party *Gala of Thrones*, to celebrate the 10th anniversary of the South China Chapter. The dress code was Kings and Queens.

Health industry in china: technology, manufacturing and services (2)
On 22nd June, the South China Chapter organised a seminar discussing the growing healthcare market, medical equipment and the Chinese medical system in general.

3

Business Confidence Survey 2016 Launch (3)
The *Business Confidence Survey 2016* was launched on 23rd June in Guangzhou. South China Board Chair, Alberto Vettoretti, led the launch event and presented the survey's key findings to members.

4

Working-level Meeting with Guangdong Department of Environmental Protection
On 21st July, the European Chamber met with the Department of Environmental Protection of Guangdong Province. This working-level meeting provided member companies with an opportunity to learn about the planned environmental protection policies and developments in Guangdong province.

SHANGHAI CHAPTER

1

Digital Healthcare Conference (1)
On 16th June, Shanghai Chapter organised its first Digital Healthcare Conference, which was sponsored by Bayer.

2

Business Confidence Survey (2)
The Business Confidence Survey 2016 was launched in Shanghai on 7th June.

TIANJIN CHAPTER

1

Policy Interpretation: Foreigners' Work Permit Application Process in Tianjin 12th July, 2016 (1)
The Tianjin Chapter held a joint seminar on 12th July, on policy interpretation of regulations regarding the application process for foreigners' work permits in Tianjin. The seminar facilitated the communication between the enterprises and government officials from Tianjin Administration of Foreign Experts Affairs.

2

Executive Briefing Dinner: Insights on 2016 Global Pricing Study (2)
The Tianjin Chapter held an exclusive introduction to the newly launched 2016 Global Pricing Study on 19th July.

The 5th China-Eurasia Expo

Name: The 5th China-Eurasia Expo

Theme: Mutual discussion, joint development and sharing Silk Road: Opportunities and Future

Time and location:

Time: September 20 to 25, 2016 Location: Xinjiang International Convention & Exhibition Center, Urumqi, China

Scale:

The 5th China-Eurasia Expo will cover a total exhibition area of 140,000 square meters (including 100,000 square meters of indoor exhibition area and 40,000 square meters of outdoor exhibition area).

Pavilions:

1. Investment & Cooperation
2. International and Hong Kong, Macao & Taiwan Exhibitions
3. Textiles and Garments
4. Agricultural Products and Food
5. Grape Wines
6. Smart Life
7. Logistics & Informatization (China-Eurasia Logistics Expo)
8. Building Materials
9. Jewelry and Jade Articles
10. The 2nd China-Eurasia Publishing Expo
11. Machinery & Equipment (small machines, packaging machines, textile processing, food processing and hardware tools)
12. Engineering Machinery & Vehicles
13. Agricultural Machinery & Equipment
14. Auto Life

Press Conference for the Fifth China-Eurasia Expo held in Beijing

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The press conference of Xinjiang Economic and Social Development and the Fifth China-Eurasia Expo was held at the Information Office of the State Council on the morning of June 22.

The conference was chaired by Hu Haihong, vice director-general of the Press Bureau and spokesman of the State Council Information Office. Attending the conference are Shohrat Zakir, vice secretary of the Communist Party Committee and chairman of the Xinjiang Uygur Autonomous Region as well as director of the organizing committee of the China-Eurasia Expo, Shi Dagang, vice-chairman of the Xinjiang Uygur Autonomous Region and director of executive committee of the Fifth China-Eurasia Expo, and Tong Daochi, assistant to the Minister of Commerce. Shohrat Zakir introduced the situations of the economic and social development in Xinjiang, the construction of the core area of the Silk Road Economic Belt and the Fifth China-Eurasia Expo and answered questions from the Chinese and foreign correspondents.

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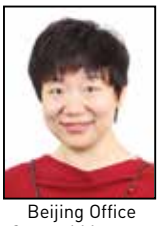

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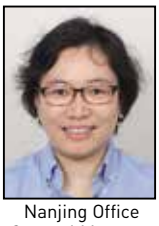

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