



Introduction

by

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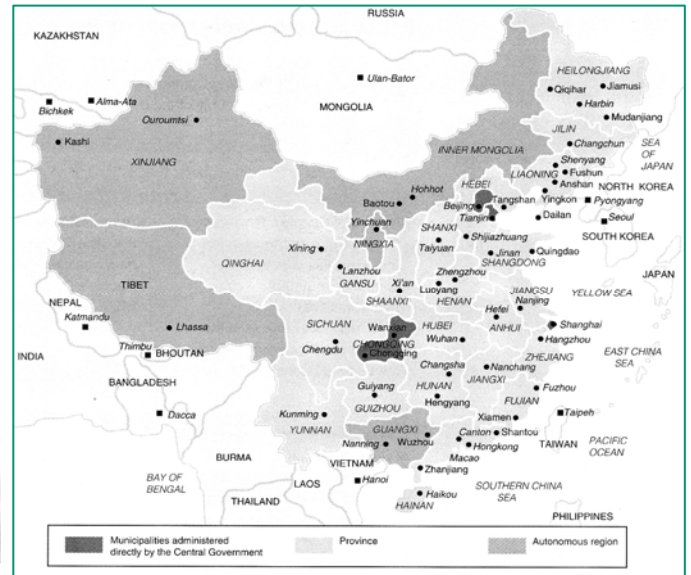
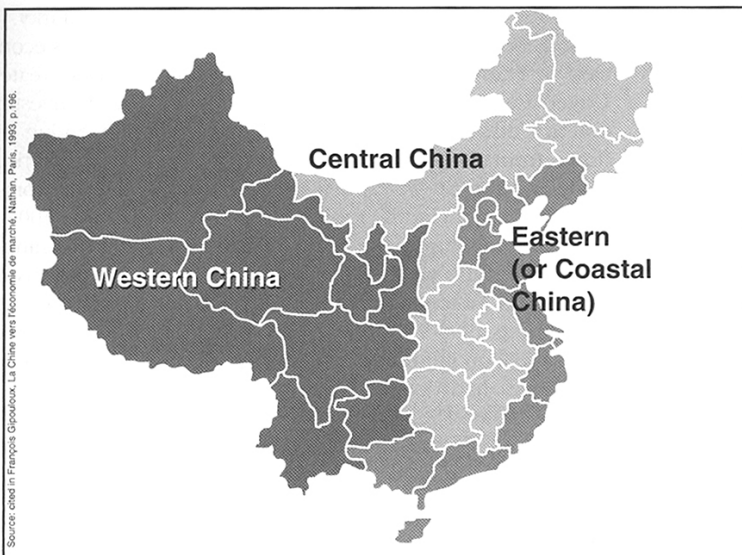
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The “Three Chinas”. It is sometimes helpful for foreign business people to think of China as comprising three major regions, each with distinct social economic characteristics, going from the most populous, most developed and most outward-oriented provinces on the East coast to least populated, least developed and least outward-oriented provinces in Western China.

Even prior to 1949, China had not developed a stable national legal system along the modern models of Western Europe, North America and Japan. By the end of the Cultural Revolution in 1976, the practice of law and its teaching in universities had practically ceased.

Since 1978, China’s leaders have launched a historic process of restructuring the national economy and gradual opening of the borders to flows of goods, technology, services, capital, people and ideas.

In many of the initial reforms, the laws served as little more than the form of expression of the new rules. But the Chinese leadership has attached great importance to spawning a complete, efficient and just legal system. Increasingly, the quality of the country’s legal system is recognized as a distinct and significant contributor to economic and social development.

1. Economic reform and development

Since 1978, China has traded in its international autarky, instituted a socialist market economy and propelled itself into a principal role in the global economy.

During his watershed trip to the South of China in 1992, Deng Xiao Ping explained how the socialist market economy does not represent the road to capitalism:

The proportion of planning to market forces is not the essential difference between socialism and capitalism. A planned economy is not equivalent to socialism, because there is planning under capitalism too; a market economy is not capitalism, because there are markets under socialism too. Planning and market forces are both means of controlling economic activity. The essence of socialism lies in the liberation and development of the productive forces, the elimination of exploitation and polarization, and the ultimate achievement of prosperity for all.¹

He also justified the opening up to “the achievements of all cultures . . . including the developed capitalist countries” as a means to obtain “advanced techniques of management”.² Whether socialism can make use of any particular capitalist technique, such as, in Deng’s example, stock exchanges, is an empirical question and is answered by “experimentation” over a couple of years with the idea of expanding the application of successful experiments.³

In August 1980, as an experiment in the attraction and exploitation of foreign investment, the PRC adopted regulations to permit the opening of special economic zones (SEZs) in Shenzhen, Zhuhai, Xiamen and Shantou. The Zones benefited from streamlined access to the central authorities bypassing those at the provincial level. Foreign enterprises were allowed exceptionally to invest with Chinese firms in joint ventures that benefited from preferential treatment in areas such as taxation, labor law, social regulation. As the experiment proved successful, it was extended in November 1984 to Hainan Island and to 14 other coastal cities. In October 1986, the State Council allowed cities, provinces and autonomous regions to promulgate investment incentives for foreign enterprises manufacturing for the export market and incentives for technologically advanced enterprises. By 1988, some 33 preferential areas had been opened. As of 2004, there were 54 Economic and Technological Development Zones (ETDZs), 15 export procession zones (EPZs) in specified cities, 15 Free Trade Zones (FTZs), 14 National Border and Economic Cooperation Zones (NBECZs) and 53 New and High Technology Development Zones (NHTDZs).

1.1. From autarky to a global role

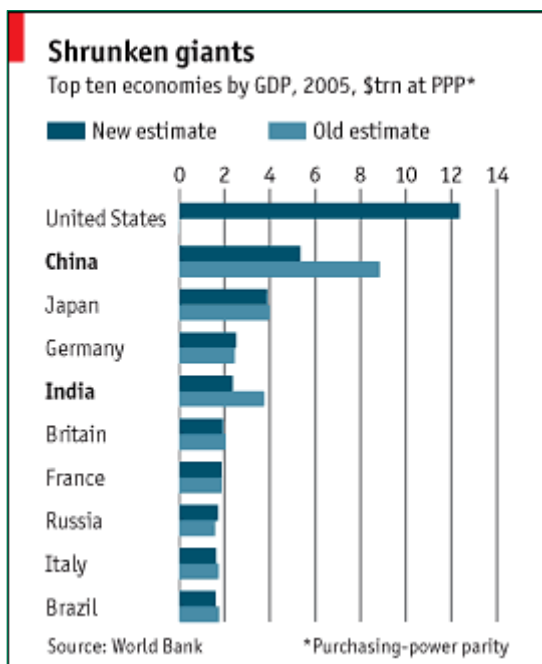
Considering that in 1978 exports and imports reached respectively USD 9.8 and USD 10.9 billion, China’s international trade sector has grown by more than 100 times with exports and imports corresponding in 2007 respectively to USD 1.218 trillion and USD 955 billion.⁴ While the international sector now accounts for only some 10% of gross domestic product (GDP) (compared with 2-3 times more in Hong Kong and Singapore),⁵ net exports in 2007 accounted for more than a quarter of China’s 11.9 percent GDP growth.⁶

China's share of world trade (at current USD in millions)

	World		PRC				Hong Kong	Macao	Taiwan
	Trade	Exports	Share of world trade (%)	Imports	Share of world trade (%)	PRC imports + exports as share of total (%)	Imports + exports as share of total (%)	Imports + exports as share of total (%)	Imports + exports as share of total (%)
Agricultural products	944 531	32 543	3,4	51 653	5,5	8,9	1,8	0,1	1,5
- food	754 837	27 864	3,7	22 917	3,0	6,7	1,7	0,1	1,1
Fuels and mining products	2 277 120	38 606	1,7	158 273	7,0	8,6		0,0	3,0
Manufactures	8 256 850	895 433	10,8	579 502	7,0	17,9	7,4	0,1	1,8
- iron and steel	374 006	32 519	8,7	21 618	5,8	14,5	1,6	0,0	4,8
- chemicals	1 247 775	44 530	3,6	87 047	7,0	10,5	2,9	0,0	3,8
- pharmaceuticals	310 919	4 486	1,4	2 715	0,9	2,3	0,7	0,0	0,5
- machinery and transport equipment	4 363 956	456 343	10,5	357 021	8,2	18,6	8,1	0,0	4,2
- office and telecom equipment	1 451 376	287 331	19,8	197 948	13,6	33,4	17,5	0,0	7,3
- electronic data processing and office equipment	514 828	134 507	26,1	40 692	7,9	34,0	15,0	0,0	3,6
- telecommunications equipment	544 204	123 615	22,7	35 534	6,5	29,2	16,4	0,1	2,9
- integrated circuits and electronic components	392 345	29 209	7,4	121 722	31,0	38,5	22,3	0,0	18,1
- automotive products	1 015 941	14 411	1,4	18 580	1,8	3,2	0,4	0,0	0,7
- textiles	218 594	48 683	22,3	16 358	7,5	29,8	12,8	0,4	5,0
- clothing	311 410	95 388	30,6	1 724	0,6	31,2	15,2	0,7	0,8
Commercial services (excluding those of government)	2 765 700	91 421	3	100 327	4	7			

Source: WTO, International Trade and Tariff Data, http://www.wto.org/english/res_e/statis_e/statis_e.htm.

In 2005, the country's annual GDP adjusted for purchasing power parity propelled it to the rank of second largest economy in the world at USD 5.3 trillion, passed only by the United States. In October, 2007, China placed five of its companies, all State-owned enterprises (SOEs), among the world's top ten in terms of market capitalization.⁷ Combined issues of equity in 2007 by Chinese companies corresponded to some USD 100 billion, with an estimated USD 65 billion raised by listings in Shanghai and Shenzhen and the bulk of the remainder in Hong Kong.⁸ In 2006, companies raised more on the Chinese exchanges than was raised on any other national market.⁹ Chinese imports of raw materials push up world prices of natural resources while its exports push downward world prices of manufactured goods.¹⁰ And the country is already moving up the scale of value added. In 2006, China was the world's leading exporter of information and communications equipment with a total of USD 298 billion surpassing the second-ranked United States by USD 129 billion.

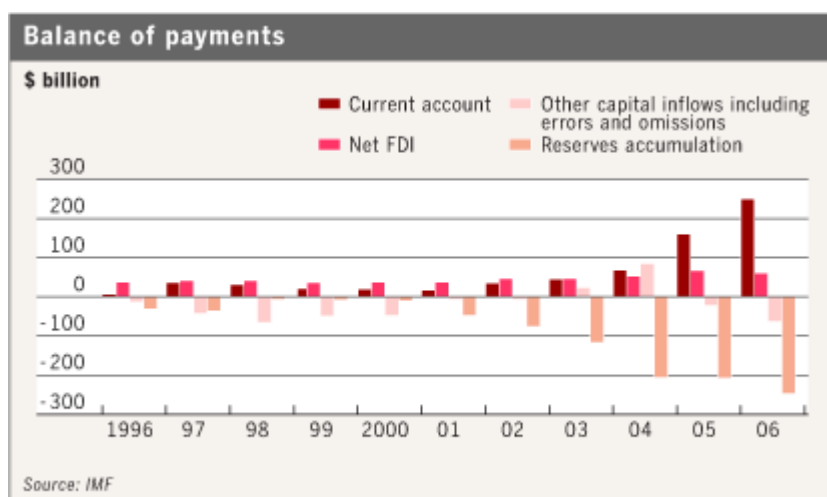


By the end of 2005, some 552,960 foreign enterprises had made direct investments in China worth an accumulated USD 634.51 billion.¹¹ In 2006 and 2007, China drew respectively USD 69.4 billion and a record USD 74.7 billion in foreign direct investment,¹² and in 2007 it was ranked third most attractive country in the world after the United States and Britain.¹³

In addition, through 2006, Chinese companies have raised more than USD 100 billion from offerings of their shares on foreign markets. The USD 2.2 billion listing in 2006 in Hong Kong and Shanghai by China's Industrial and Commercial Bank of China (ICBC) was the largest in history.¹⁴

Not only is China a magnet for investment, it has become a major participant on overseas financial markets. With USD 2.2 trillion held in deposits in China,¹⁵ and a savings rate corresponding to 50% of household income, China will soon become a world-leading exporter of capital.¹⁶

In the second quarter of 2008, its accumulated reserves of international currencies were racing past USD 1.8 trillion.¹⁷ Even conservative estimates place China's stake in United States treasuries in 2005 at USD 400 billion,¹⁸ and that figure had probably more than doubled by July 2008. In 2006, overseas investment by Chinese firms totaled USD 16.1 billion, up 31.6 % year-to-year. Their total investment in international markets is predicted to reach at least USD 66 billion by 2010.¹⁹



In 2003 and 2004, TLC acquired operations from Thomson and Alcatel and in 2004 Lenovo acquired IBM's personal computer unit. In June 2007, China's sovereign fund, China Investment Corporation (CIC), which is the world's third largest such fund with a capital of USD 200 billion,²⁰ paid USD 3 billion for a 9.3% of Blackstone Group's initial public offering. In December of the same year, it spent USD 5 billion for a 9.9% stake in Morgan Stanley. When the Aluminum Corporation of China acquired a 9% stake in Rio Tinto in February 2008 for USD 14 billion, the State-owned company carried off the biggest ever overseas investment by a Chinese group and the largest ever raid on the London stock market.²¹

Altogether, about 120,000 mainland-funded enterprises have set up overseas establishments and the number is growing by about 35,000 a year.²²

1.2. Internal economic reform and development

Within China, non-State owned organizations are gradually gaining ascendancy in the determination of economic choices. By 2003, 96% of retail sales were carried out at market prices, as were 96% of sales of agricultural products and 87% of manufactured goods.²³ As of 2003, 59.2% of GDP was produced by the private sector.²⁴ Between 1998 and 2003, the share of private enterprises in their total number increased from about 35% to more than 70%.²⁵ During the same period, the private sector's share of total employment jumped from about 20% to more than 50%.²⁶

ROLE OF THE PRIVATE SECTOR						
	% of GDP	of which is private	Private as a % of GDP			
Agriculture	14,6	96,0	14,0			
Industry-large	35,1	52,0	18,3			
Industry-small	10,2	90,0	9,2			
Construction	7,0	76,0	5,3			
Transportation, post, telecommunications	5,7	16,0	0,9			
Distribution	7,7	80,0	6,2			
Miscellaneous commercial services	13,3	39,0	5,2			
Public administration services	6,4	0,0	0,0			
Total	100,0		59,0			
OVERVIEW OF THE DISTRIBUTION OF CONTROL OVER CHINESE ENTERPRISES						
Type of enterprise	Type of shareholder				Total	Share of total value added (%)
	State control		Collective control	Private control		
	Direct	Indirect				
	(%)	(%)	(%)	(%)		
State-owned enterprises (SOEs)	73,6	26,4	0	0	100	13,8
Collective-owned enterprises	0,1	1,3	61,7	36,9	100	6,3
Enterprises with mixed shareholdings	45,9	15,9	12,7	25,5	100	0,7
Companies wholly owned by the State	80,3	19,7	0	0	100	5
Other limited liability companies	19,7	19,7	6,2	54,4	100	14,1
Companies limited by shares	26,4	47,3	2	24,3	100	15
Cooperative enterprises	1,2	2,8	15,6	80,4	100	2,2
Private companies	0	0,2	2,7	97,1	100	13,3
Other Chinese invested companies	1,6	2	12,7	83,7	100	0,1
Coenterprises with non-mainland investors	9,1	20,6	3	67,3	100	17,5
Companies wholly owned by non-mainland investors	0	0,7	0,1	99,2	100	12
Other categories	22,9	18,5	6,4	52,2	100	100

Source: Organisation de Coopération Economique et de Développement, Chine, Paris, 2005, p. 140-1.

In fact, the State still dominates certain sectors such as energy, transportation, finance and media. The State also retains the majority interests in almost all companies quoted on China's stock exchanges.

The Chinese authorities have sought to separate ownership of State assets from control over their management, retaining ownership while investing management powers in independent entities. Enterprise reform has gone through several phases.

In the second half of the 1980s, the so-called contract responsibility system was used to make SOEs responsible for their profits and losses. But when the system proved prone to abuse, attention was shifted instead beginning in the 1990s to corporatization.

By the end of the 1990s more than half of the SOEs had been transformed into companies with independent management organs, leaving the central and local governments as owners. In the course of that decade, more than 1,000 SOEs issued shares to the public and listed them for trading on stock exchanges in Shanghai and Shenzhen. Often SOEs were split into a parent and a subsidiary company, with the subsidiary assuming the productive assets before getting listed, and the parent intended to serve as a resolution clearing center for liabilities and redundant personnel. Thus, substantial majorities of the shares of the listed SOEs remained in the hands of the central and local governments. Not only has this configuration generated opportunities for profit seeking at the expense of minority shareholders, but also the overhang of State-held shares has weighed like a sword of Damocles on stock market prices.

Since 1999, the government has been committed to privatizing all activities except those involving State security, natural monopolies, high and new technologies and a limited number of important goods and services.

Table 3 : Economic and social Indicators

Economic indicators	2003	2007	
GDP current prices (RMB billion, current prices)	13 582.3	24 661.9	
GDP per capita (USD current)	1269.8	2458.8	
GDP growth (% in current prices, RMB billion)	10.0	11.4	
Inflation of the consumer price index	1.2	4.8	
Gross domestic investment (% of GDP, current and market prices)	41.2	44.5	
Gross national saving (% of GDP, current and market prices)	43.0	48.7	
Government budget balance (% of GDP)	-2.2	0.5	
Current account balance (% of GDP)	2.8	10.9	
Exchange rate (RMB/USD, average)	8.3	7.6	
External services (% of exports of goods and services)	7.6	2.0	
Total external debt (% of GDP)	12.7	10.7	
Social indicators	1990	Latest year	
Maternal mortality ratio (per 100,000 live births)	95	50	2001
Infant mortality rate below 1 year/1,000 live births)	37	23	2005
Life expectancy at birth (years female)	70	74	2005
Life expectancy at birth (years male)	68	71	2005
Secondary school enrollment	66.7	95.1	2005
Child malnutrition (% below age 5)	31.3	10.4	2004
Population below poverty line (%)	31.3	10.4	2004
Population with access to safe water (%)	71	77	2004
Population with access to sanitation (%)	35.5	48.5	2004
Public education expenditure (% of GDP)	2.2	4.2	2006
Urban wastewater treated (%)	NA	43.6	2004
GDP/Unit of energy Use (PPP USD/kgoe)	2.1	4.4	2004
Carbon dioxide emissions in millions of tons	2 399	5 007	2004
Carbon dioxide emissions in tons per capita	2.1	3.8	2004
Human development index rank	101	81	2005
Source: Asian Development Bank, Country Partnership Strategy, People's Republic of China, February, 2008, p. 41-43.			

1.3. Governance

Problems of governance remain the principal obstacle to the achievement of a modern industrial and financial system. The omnipresent requirement of administrative approvals and licenses as conditions of access to activities and the plethora of State organs exercising overlapping and sometimes conflicting jurisdictions multiply the opportunities for the abuse of administrative powers. Legal certainty is sapped when any of the local government units acts outside the bounds of national laws and regulations, but frequently local regulations have innovated in the interstices of national rules and, when successful, have anticipated national reforms, of which the evolution of China's financial markets provides an eloquent example.

The World Bank, in its reports *Doing Business*, benchmarking national performances according to selected criteria measuring the ease of doing business, ranked China in terms of corporate governance between New Zealand, Hong Kong and the United States as models and slightly above Mexico.²⁷

According to Transparency International, China ranks 72nd in terms of perceptions by risk agencies and country analysts of its vulnerability to corruption. It is common for employees to be involved in purchasing and sales corruption, kick-backs, thefts of confidential information as well as treating on behalf of their employers with enterprises in which they have interests.²⁸ Nepotism and favoritism have resulted in transfers to insiders of State-owned assets at abnormally low prices, grants of credit and other advantages without due regard for counterparty risks, the awarding of concessions and contracts without due preference for the most competitive offers, appointments and designations without due regard for individual abilities.

While some observers within and outside China are inclined toward tolerance or indulgence,²⁹ the Chinese authorities have adopted an arsenal of legal weapons to combat corruption that meets international standards in terms of the conduct that is proscribed³⁰ and goes well beyond the severity of punishment practiced in most countries.³¹

2. Legal reform

The weakness of the rule of law in contemporary China is a major source of concern. In particular, the judicial system's submission to political influence,³² especially that of local government officials, its vulnerability to corruption³³ and its weak expertise³⁴ exacerbate the lack of legal remedies,³⁵ the inadequacy of the available sanctions³⁶ and the randomness of their enforceability.³⁷

2.1. The rule of law

While still a work in progress, the Chinese legal system has been among the most breathtaking achievements of the reform movement launched in 1978. Even the fact that the early reforms were adopted by the use of recognized legal sources represented a variance with respect to prior politicized processes. In 1997, the 15th National Congress of the Communist Party adopted the rule of law as a “basic strategy” and an important goal for socialist modernization and it committed itself to the task of building a socialist legal system with Chinese characteristics. In 1999, the Constitution was amended to include protection for the rule of law. At its 17th National Congress in 2007, the Communist Party renewed its call for “comprehensive implementation” of the rule of law.

In its February 2008 report on “China’s Efforts and Achievements in Promoting the Rule of Law”, the State Council reaffirmed the country’s commitment to the rule of law as a “fundamental principle”.

The intertwining of legal reform with economic reform is illustrated by the adoption as early as in 1980 of the Provisional Regulations with respect to Lawyers. At first, lawyers were State workers expected to give priority to their duty to protect socialism and the Chinese State over their duties toward their clients. But in the manner typical of the reform movement, the State has fostered a gradual transformation toward independence of the legal profession.

After seven years of preparation, a national Law with respect to lawyers was adopted on May 15, 1996 and it entered into effect on January 1, 1997.³⁸ It was amended on December 29, 2001³⁹ and again on October 28, 2007 with effect as of June 1, 2008.⁴⁰ A main issue of contention as regards the independence of the legal profession arises because of the exposure of lawyers under the law’s article 37 to administrative and criminal sanctions for their defense of causes that touch upon national security, for their use in court of arguments that constitute slander and for their conduct that causes courtroom disruptions.

Since 1985, the Standing Committee of the NPC has adopted five decisions and four five-years plans to promote the dissemination of knowledge of law among the people. More than 300 television stations carry programs on the law.

As of the end of 2006, 603 institutions of higher learning offered bachelor’s degrees in law to some 300,000 students majoring in the subject. Some 333 institutions awarded master’s degrees in law and 29 doctorate degrees.

Within three decades of the launching of the reform movement, China's accomplishments in the building of legal institutions enabled it, in 2001, to join the World Trade Organization (WTO) with the intentions not only of submitting to its rules because of their demonstrated effectiveness in promoting international trade and development, but also to use it as a forum in which to press its own claims for equal treatment in accordance with international law.

In the process of building a modern legal system compatible with the constraints in the WTO's substantive agreements, China adopted, amended or repealed within a few years some 3,150 laws and regulations. China's reform of the regulatory frameworks of its trade and financial sectors have won the praise of the WTO and of the International Monetary Fund (IMF).

2.2. A modern legal system with Chinese characteristics

The implementation of legal reform since 1978 has entailed a deliberate effort to draw inspiration from the best results achieved by other countries in regulating economic activities. Delegations of Chinese officials, experts and scholars have sought encounters with their correspondents in foreign countries to discuss their solutions to all aspects of social engineering within the purview of the law. Large numbers of the country's youth have enrolled in the finest foreign law schools, business schools and universities. As China has joined all the major international economic conventions, Chinese-origin personnel within international organizations have worked with their peers from other countries and are assuming ever more important responsibilities. By way of just one illustration, the World Bank has appointed a scholar from China as its chief economist, Justin Yifu Lin, founder and director of the China Center for Economic Research at Peking University⁴¹. While some foreign jurists attach considerable importance to the classification of the Chinese legal system as belonging either to the common law legal tradition or to that of the civil law, the State Council has clearly described the country's pragmatic approach to the integration of foreign rules of law:

China pays attention to making reference to and learning from other countries' experience in legislation. In the field of civil and commercial legislation, the basic systems of both common law countries and continental law countries have influenced the general principles of civil law, as well as the contract and the property laws, and inspiration has been drawn from the spirit of the principles of private law and legislation applicable throughout the world . . . China has adopted the principle of legal certainty and the principle of proportionality applicable in modern administrative law . . . The Criminal Law and the Criminal Procedure Law have adopted the basic principles and spirit of the law applicable in other countries . . . Regarding legislation for the protection of intellectual property rights and environmental protection, China has also learned much from foreign experience.⁴²

3. Outlook

For the Chinese authorities, the major challenges currently arise from the effects of development on the environment, from frictions in the transformation of working and living conditions and from risks due to legal insecurity and to shortcomings in government and business governance. Despite the accomplishments of legal reform, much remains to be improved. Among the many subjects that could be evoked to illustrate the need for continued efforts to improve the legal system are the questions of the perpetuity of property rights in land, the transfer of State shares to the investing community, the reform of the internal labor market and the implementation of adequate systems of social protection, increased independence of the judiciary, improved governance among all sectors of society, and in particular within government and business where special efforts are required to reduce incidents of corruption, nepotism, corporate fraud, insider trading, and criminal-scale violations of intellectual property.⁴³

For legal experts and scholars around the world, the Chinese experience in the building of a legal system is unique, at least in our times, for its departure from the proverbial blank page. It may be seen as an experiment in the optimization within a national context of the experience accumulated over several centuries in overseas legal systems. In developing their country's legal system, China's experts have not sought to emulate as a matter of principle either common law or civil law traditions, but instead have opted for the most practical, effective and adaptable solutions from whatsoever country or foreign legal tradition they may originate.

Notes

- ¹ Selected Works of Deng Xiao Ping, Volume III, Foreign Languages Press, Beijing, 1994, p. 361.
- ² Selected Works of Deng Xiao Ping, Volume III, Foreign Languages Press, Beijing, 1994, p. 361-2.
- ³ Selected Works of Deng Xiao Ping, Volume III, Foreign Languages Press, Beijing, 1994, p. 361.
- ⁴ China Exports (WSJ), Dow Jones Newswires, March 3, 2008.
- ⁵ China's GDP Grew 11.9% in 2007, Closing In on Third-Largest Economy, (WSJ) Associated Press, April 10, 2008; according to the National Statistics Bureau, China's gross domestic product in 2007, in nominal terms, reached RMB 24.95 trillion, or USD 3.61 trillion at then current exchange rates.
- ⁶ Exports wilt but mighty China barely winces (Reuters), April 24, 2008, Simon Rabinovitch.
- ⁷ China Overtakes U.S. in Top 10 Companies as China Life Surges (Bloomberg), Chua Kong Ho, October 29, 2007. Admittedly, the Chinese stock markets had just peaked after a two-year six fold rise and in the following six months, the markets dropped by some 50%. The companies were: China Life, The People's Bank of China, PetroChina Co., China Mobile Ltd., and Industrial and Commercial Bank of China Ltd..
- ⁸ In 2006, USD 42 billion were raised in Hong Kong and a further USD 17 billion on the mainland exchanges. China's IPO juggernaut thunders on (FT), Sundeep Tucker, December 18, 2007.
- ⁹ Goldman Sachs, China Partner Discuss a Split (WSJ), Peter Stein and James T. Areddy, September 18, 2007.
- ¹⁰ China is the world's largest producer and consumer of steel and the second-biggest user of energy, Clipping the dragon's wings (The Economist), December 19, 2007. In 2007, China became the world's largest producer of gold, La Chine est le premier producteur d'or (Le Figaro), Perrine Créquy, January 18, 2008.
- ¹¹ An overview of China's absorption of foreign direct investment in 2005, Invest in China, http://www.fdi.gov.cn/pub/FDI_EN/Statistics/AnnualStatisticsData/AnnualFDIData/FDIStatistics2005/t20060906_61535.htm. The OECD provides a more modest estimate of the stock of foreign direct investment at the end of 2005 corresponding to USD 471 549 million, <http://stats.oecd.org/wbos/viewhtml.aspx?queryname=488&querytype=view&lang=en>.
- ¹² Foreign inflow hits record US\$ 74.7b (SCMP), Frederick Yeung, January 21, 2008.
- ¹³ Foreign direct investment inflows (The Economist), September 13, 2007.
- ¹⁴ The race is on to be Asia's number one for finance (FT), Sundeep Tucker, July 5 2007.
- ¹⁵ China Overtakes U.S. in Top 10 Companies as China Life Surges (Bloomberg), Chua Kong Ho, October 29, 2007.
- ¹⁶ The right way to respond to China's exploding surpluses (FT), Martin Wolf, May 29 2007.
- ¹⁷ In the interest of keeping proper perspective, it is useful to recall that in February 2000, a few months before the bursting of the internet bubble, 15 of the 20 largest companies in the world were involved in telecommunications, media or technology-related activities. In 1989, prior to the crash of the Japanese markets, 16 of the 20 largest companies in the world were Japanese. Huit sociétés chinoises parmi les vingt premières capitalisations mondiales (les Echos), October 25, 2007.
- ¹⁸ China Reserves to Favor Strong Currencies, Cheng Says (Bloomberg), Josephine Lau, November 7, 2007.
- ¹⁹ Record forex reserves keep heat on yuan, (SCMP), Guo Aibing, July 12, 2007.
- ²⁰ U.S. Pushes Sovereign Funds To Open to Outside Scrutiny (WSJ) Treasury Has Talks With Abu Dhabi, Seeks Set of Rules, Bob Davis, February 26, 2008.
- ²¹ China's champions: Why state ownership is no longer proving a dead hand (FT), Geoff Dyer and Richard McGregor, March 16, 2008.
- ²² Foreign inflow hits record US\$74.7b (SCMP), Frederick Yeung, January 21, 2008.
- ²³ Organisation de Coopération et de Développement Economiques, Chine, Etudes Economiques, Paris, 2005, p. 29.
- ²⁴ Organisation de Coopération et de Développement Economiques, Chine, Etudes Economiques, Paris, 2005, p. 40.
- ²⁵ Organisation de Coopération et de Développement Economiques, Chine, Etudes Economiques, Paris, 2005, p. 105.
- ²⁶ Organisation de Coopération et de Développement Economiques, Chine, Etudes Economiques, Paris, 2005, p. 105.
- ²⁷ The Bank's evaluations are based on the answers of national panels of professionals to hypothetical cases; the corporate governance problem tests a national legal system's degree of protection of minority investors against abuses by the majority. World Bank, Doing Business in 2006, p. 25.
- ²⁸ Samuel Porteous, Doing Business in China: Corruption and Internal Fraud, March 16, 2005.
- ²⁹ The too frequently advanced and spurious argument that corruption is endemic to the Chinese culture is proved wrong by Hong Kong which now ranks 14th on the Transparency International Index, http://www.transparency.org/policy_research/surveys_indices/cpi/2007.

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- ³⁰ Chinese law proscribes corruption in both its public and private manifestations and has also outlawed money laundering for a range of offences including corruption and tax evasion. China has also ratified the United Nations treaty to combat corruption and that to combat international economic criminal activity. See the chapter on Business Criminal Law.
- ³¹ PRC officials defend the execution of corrupt officials as proportionate with national conditions, Beijing defends execution of corrupt officials, IHT, August 2, 2007. Zheng Xiaoyu, former director of China's State Food and Drug Administration, was executed in July of 2007. He was the fourth senior official of his rank to be sentenced to death in recent years, following former vice-chairman of the Standing Committee of the NPC Cheng Kejie and two former provincial deputy governors Hu Changqing and Wang Huaizhong. Cheng and Hu were sentenced in 2000 and Wang was sentenced in 2004, Former head of China's drug watchdog executed, (Xinhua) Beijing, July 10, 2007. In 2001, China executed an official who spent nearly USD 5 million of public money on a gambling spree. The former deputy mayor of the north-eastern city of Shenyang, Ma Xiangdong, was put to death, along with the city's public property chief, Guo Jiushi, BBC News, China executes corrupt officials, December, 19, 2001
- ³² In accordance with article 11 of the Organic Law of the People's Courts, democratic centralism is imposed by the judicial committees that must be constituted by courts at all levels.
- ³³ According to China's Chief Procurator between 1993 and 1997, 17,214 judicial officials were investigated for corruption, OECD, Governance in China, Paris, 2005, p.107.
- ³⁴ While official figures indicate that 80% of the country's 220,000 judges have a college education, other sources estimate that in 2002 the number of trial judges alone was some 300,000 but only 29% held university degrees, Xin Chunying, Chinese Courts – History and Transition, Law Press China, 2004, Beijing, p. 197.
- ³⁵ In 2001, the People's Supreme Court ordered the suspension of hearings of hundreds of actions brought by wronged shareholders for fraud, insider trading and market manipulations, Jiangyu Wang, Dancing with Wolves: Regulation and Deregulation of Foreign Investment in China's Stock Market, Asia-Pacific Law & Policy Journal, Vol. 5 (2004), p. 43.
- ³⁶ Among the most vociferous critics in this regard are the foreign owners of intellectual property that reproach the Chinese authorities for their unwillingness to press criminal charges against apparently commercial-scale infringements and for the insignificant damages obtained in civil suits, International Intellectual Property Alliance, 2007 Special 301 Report, http://www.iipa.com/2007_SPEC301_TOC.htm.
- ³⁷ According to the People's Supreme Court, there were in 1998 some one million judgments worth RMB 190 billion that had not been implemented. On the national level, in 2004, 30% of all judgments remain unenforced, Xin Chunying, Chinese Courts – History and Transition, Law Press China, 2004, Beijing, p. 205.
- ³⁸ It was adopted by the 19th Session of the Standing Committee of the Eighth NPC.
- ³⁹ he amendment was adopted by the 25th Session of the Standing Committee of the Ninth NPC.
- ⁴⁰ The amendment was adopted by the 30th Session of the Standing Committee of the Tenth NPC.
- ⁴¹ World Bank Taps China (WSJ), Scholar Lin Is Named As Chief Economist Upending Tradition, Bob Davis and Andrew Batson, January 21, 2008.
- ⁴² State Council, China's Efforts and Achievements in Promoting the Rule of Law, Beijing, February 2008, p. 30.
- ⁴³ For instance, the World Bank has criticized the extent of operations at abnormal and unfavorable prices, of the appropriation of resources for personal ends, of fraud in the issue and trading of shares, of nepotism and favoritism including involving the Communist Party, World Bank, China Corporate Governance Report 2003.