

# Legal Perspective on China's Business Environment and Future Development



## CHINA FORUM

**Richard G. Goetz**

**International Practice  
Group Leader**

**Dykema Gossett PLLC**

**April 5, 2006**

# A Legal Perspective

- A Look Back
  - Incredible changes have occurred in a short number of years which have brought China to
- The Dynamic Present
  - The current state of China's business environment and challenges to
- Future Development
  - Some projections for the future
- Conclusions

# A Look Back

- Creating a legal infrastructure to open the economy to foreign investment
  - A body of law
  - Rule of law
- A dynamic between central economic control and local development interests permitted some experimentation
  - Degree of ambiguity
  - From mutual suspicion to mutual benefit

# A Look Back 12 Years

- Different laws governed foreign/domestic cos
- Dual exchange rates
- Forex self-sufficiency – swap markets
- Emphasis on exports
- No WTO – annual MFN reviews
- Restrictions on investment in the auto sector
- Concerns with IP protection
- Average foreign investment under \$1MM

# Dynamic Present

- Major progress toward establishing a common legal infrastructure for national and foreign companies (e.g. company and contract laws)
- More lawyers, judges and related professionals trained – broader application of the rule of law
- A greater delegation or elimination of approval authority for foreign investment projects
- Major foreign investments in all types of projects with a wide range of ownership percentages

# Dynamic Present (Cont.)

- Less concern with foreign exchange and exports – a new exchange rate concern
- IP protection improving but still a concern
- Increased consolidation in auto industry
- More internal investment from one province to another
- Auto industry still under foreign ownership percentage restrictions, separate PD requirements and greater central control

# Future Development

- Companies in China will increasingly invest abroad acquiring international vehicle and component capacity and technology
- IP protection will improve as legal infrastructure expands and the cost and value of IP rights become more important to Chinese companies
- Auto sector regulation over ownership, new capacity and products may continue

# Future Development (Cont.)

- Increasing emphasis on Sustainability
  - Environment
  - Safety
  - Working conditions
  - Legal compliance
- Transparency and a level playing field
- The internal search for lower costs
- Pursuit of the right model for the auto industry

# Conclusions

- Much progress has been made very quickly even with difficult issues
- Pace of change will accelerate
- Some recurring legal issues like IPR protection will improve over time
- China's industrial base and internal market will support a dynamic auto industry from which Chinese companies will play a major role in the global auto industry