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Beijing Times Classifieds

BEIJING TIMES

American Chamber of Commerce • People's Republic of China • Beijing

Vol. 3 No. 7 ^{Sept} August 1995

August 16 AmCham Board Meeting Highlights

Highlights of the August meeting of the AmCham Board of Governors included a decision regarding the procedure for filling Board vacancies, a decision to organize a Washington Doorknock in early October, discussions regarding the licensing of AmCham chapters throughout China and decisions regarding participation in AmCham's monthly Ambassador's Roundtable.

Board Vacancy

At the July meeting, the Board directed staff to contact a number of the members who received the most votes in last year's Board election behind those who were elected to serve. Due to travel schedules in August, staff was unable to contact everyone on the list. At the August meeting, the Board decided to offer the open seat to the one individual who received highest number of votes among this group. Pending continued interest and a willingness to commit to participation a minimum number of Board meetings through the rest of 1995, this individual will be appointed to the Board. (At printing time, AmCham had been unable to confirm the appointment.)

The Board further asked the Nominating Committee to clarify and standardize the procedures for filling vacancies that occur throughout the year so that the membership may be notified before the coming election.

Fall Washington Doorknock Planned

Given the need to further educate members of Congress about the realities of doing business in China and the important role business in China plays in supporting the U.S. economy, the Board agreed to schedule a fall Washington Doorknock. Focus will be on the Congress, not the Administration.

Editor's note: "From the Chairman," by AmCham Chairman Bill Warwick, will resume in October.

The Public Policy & Public Affairs Committee was tasked with planning the Doorknock. Staff was directed to contact the Washington, D.C. firm that provided support for APCAC and Hong Kong AmCham on their doorknocks. Current plans are for an early October trip.

AmCham PRC Chapters Throughout China

Staff reported that AmCham had received a number of inquiries regarding procedures for registration as a Chamber and possibilities of organizing as a chapter of AmCham Beijing. Prior to the meeting, staff researched AmCham files and contacted CCPIT for guidance.

According to CCPIT, the Interim Provisions of the Regulation of Foreign Chambers of Commerce in China have been interpreted to mean that each foreign country may have only one Chamber of Commerce in China. Currently the American Chamber of Commerce, PRC (located in Beijing) is the official chamber for the U.S. According to the Liaison Department of CCPIT, AmCham PRC may have chapters or branches which may also be officially registered.

Mark Your Calendar

Ambassador's Briefing

Tuesday, September 12

4 p.m. - U.S. Embassy

Participation limited to members only.

(Bring your passports.)

Board of Governors' Meeting

Wednesday, September 20

4-6 p.m. - Capital Club

All members welcome.

Quest for the Best

Finding the best talent in Beijing

Date and Time TBD

(Watch your faxes.)

Staff provided a draft of step-by-step procedures for registering as a Chapter of AmCham. The Board agreed that this document should be provided to those Americans in other communities who wish to incorporate as a Chapter. The Board further directed staff to request that each group that plans to register provide AmCham Beijing a copy of registration application documents and constitution.

Ambassador's Roundtable Limited to Members Only

In follow up to discussions at the July meeting, the Board considered the costs and other issues regarding moving the Ambassador's Briefing away from the Embassy. Concerns had been expressed that the current venue is not large enough to accommodate all members who want to participate. The Board weighed the advantages of obtaining larger space against the potential cost factor of hotel meeting space, plus possibility that moving the meetings away from the Embassy may limit opportunities to interact with Embassy staff, including participation by the future Ambassador. After considering the matter, the Board voted to limit participation to AmCham members only, effective with the next briefing.

Business & Tax Update

Gain Deferral, Roll Over When Selling Your Home

One of the few remaining tax breaks in the U.S. tax law allows the gain on the sale of a 'principal residence' to be deferred and rolled-over into a new "principal residence." In order for the deferral of gain to take place, the new residence must have a purchase price in excess of the adjusted sales price of the old residence. Additionally, the purchase of the new principal residence must be within two years (before or after) the sale date of the old principal residence. *This two-year time limit is suspended for a maximum of two additional years while you are residing outside the U.S. and Puerto Rico.*

Gain on the sale cannot be deferred unless the former home is your principal residence at the time of sale and unless the new home becomes your principal residence within the specified time limit. If you sold your old principal residence before your assignment began, you must purchase and occupy a new home to make it your new principal residence in to which you can defer the gain. ("Occupy" is moving in family and furniture, changing forwarding addresses, etc. A suitcase for the weekend is not sufficient.)

If you rented your principal residence while overseas, the classification of the home may have shifted from principal residence to rental property depending on

your intent to reoccupy. As a general rule, the deferral of gain is not available on the sale of a rental property. If you can demonstrate that your intent is to reoccupy and that rental is only to provide for appropriate care and maintenance of your home, then it is considered to remain your principal residence.

However, once again, to defer the gain you must reoccupy the home before the sale. There is no prescribed time for the re-occupancy period prior to the sale. Facts and circumstances should demonstrate that the property has been re-established as the principal residence.

One final note: the deferral of gain is not an election. If a replacement home is purchased within the replacement period and the purchase price of the new home is at least equal to the adjusted sales price of the former home, the gain must be deferred.

AmChamRen...

WELCOME...AmCham welcomes the following new Corporate members this month: Jerry Lahr and Ernest N. M. Lam from Beijing Chang Gi Service Station Equipment Co., Ltd.; George Hayek and Adeline Xia from Beijing Metito Laurel; Eugene C. Cha and Ting Wang from Cha & Pan Attorneys At Law, Beijing Office; Pdraig Lehane from Dun & Bradstreet Int'l. Consultant (Shanghai) Co., Ltd.; Michael Sacharski and Regis Kwong from GTE China; Shangzhi Chen, Daniel R. Joseph, Shanlin Hao, Aiping Li and Chunqi Zhu from Kennametal Ltd.; Thomas Tan from Modern China Sciences Co.; Raymond J. R. Su from PUMC Pharmaceutical Co., Ltd.; John S. Williams and Sally Jones from Sedgwick Insurance & Risk Management Consultants; Wellington Chu from Shanghai SRG Ltd. Beijing Rep. Office and Ian Rysdale, Elaine King from Western Academy of Beijing

Also Mark Baldwin of Alliance Professional Services Ltd.; James Fan Qun of Greate Advertising Co., Ltd.; Knead Aunstrup of Novo Nordisk China; Edwin So, George Liu of Shandwick Asia Pacific Ltd., who all joined as Corporate Associate members.

And finally, Roberta Mae Girard and Lynne W. Hoopes, who join AmCham as individual members, and Linda Rose who joins as an individual associate member.

AmChamRen was designed to welcome new AmCham members and provide all members information on the Comings & Goings of existing members. If you have an item you would like included in AmChamRen, please submit it in writing to the AmCham office ten days prior to the beginning of each month.

Legal Brief

Annual Foreign Exchange Inspection Regulations

The following discussion of new legal developments is drawn from Baker & McKenzie's quarterly publication, *The China Legal Developments Bulletin*.

Provisional Regulations for Annual Inspections of Foreign Investment Enterprises were promulgated by the State Administration for Exchange Control on January 16, 1995, with effect from the same date.

The Regulations state that the State Administration of Exchange Control (the "SAEC") and SAEC local branches ("local foreign exchange authorities") are responsible for carrying out annual foreign exchange inspections of foreign investment enterprises ("FIEs"). Annual inspections must be completed by April 30 each year for the preceding year. Local foreign exchange authorities can entrust registered Chinese accounting firms to carry out the foreign exchange inspections. Eight main points are identified for inspection:

- ◆ the transaction situation of an FIE's Foreign Exchange Review Certificate (*waishang touzi qiye waihui dengjizheng*);
- ◆ implementation of obligations stipulated under the FIE contract and articles of association, including the paying in of registered capital and selling back of products to the foreign party;
- ◆ opening and use of FIE's foreign exchange account;
- ◆ foreign exchange receipts and balancing;
- ◆ circumstances of buying and selling foreign exchange for use;
- ◆ foreign exchange debts;
- ◆ settling of imports against exports; and
- ◆ compliance with submission of required statements.

Reporting Requirement

Prior to March 31 each year, an FIE is required to submit to the local foreign exchange authorities a foreign exchange annual inspection report for the preceding year period prepared by a designated Chinese accounting firm. The FIE must then, prior to April 30, take its Foreign Exchange Review Certificate to the local foreign exchange authorities to receive the annual endorsement. Enterprises that miss the inspection deadline are considered to have failed annual inspection.

Significance of Endorsement

Endorsement will allow an FIE to carry out buying and selling of foreign exchange on the "foreign currency exchange markets" for the coming year. If an FIE does not pass the annual review, it is subject to the onerous

requirement of having to apply to its local foreign exchange authorities for an approval slip for every foreign exchange transaction.

Explanations on Foreign Exchange Inspections

Explanations concerning implementation of annual inspections of foreign exchange of foreign investment enterprises were also promulgated by the SAEC on January 16, 1995. The explanations repeat and collaborate certain aspects of the foreign exchange review system described previously.

Specific Items for Inspection

The explanations state that an annual review is to include verification that documents such as the FIE contract, articles of association, approval certificate, business license etc. have been properly reported to the local foreign exchange authorities and that the FIE's Foreign Exchange Certificate has been properly obtained.

With regards to usage of the foreign exchange account, key items for checking include whether any foreign exchange accounts were opened or any private loans or transfers made in violation of regulations.

Foreign exchange debts must be verified to be in accordance with regulations. The distribution of profits situation is also to be checked.

Pass/Fail Criteria

The explanations set forth a pass/fail criteria for the annual inspection, with reference to the following list of eight main checking areas:

1. Documents filing
2. Compliance with obligations in contract and articles of association
3. Proper use of foreign exchange account
4. Foreign exchange receipts and payments and balance situation
5. Buying and use of foreign exchange situation
6. Foreign exchange debts situation
7. Setting off of imports against exports situation
8. Profit distribution situation

As a minimum to pass the annual inspection, an FIE must pass items 2, 3 and 6, and pass at least one of items 1, 4, 5, 7 or 8.

Where an FIE fails any of the eight checks, it must undertake corrective action within a set time limit or it will automatically fail the following year's inspection.

Inspection Period

The explanations clarify that the period subject to inspection is for the full year January 1 to December 31.

AmCham Poll Analyzes China Distribution Problems

By Bob Nichols

The Public Policy & Public Affairs Committee received 12 responses to its distribution poll. Companies in the perishable food manufacturing and distribution business reported that their China distribution costs are much higher (100 percent - 300 percent) than in other countries. All stressed three general reasons: 1) receiving spoiled/damaged goods from local shippers; 2) governmental tax and tariff policies which cause high, inconsistent burdens on imported raw materials; 3) and the lack of independent, foreign owned nationwide shippers and wholesalers which leads to an inability to back-haul and utilize modern warehousing and shipping methods.

Companies in the equipment and electrical component business almost uniformly reported problems in clearing customs and high tariffs on imported goods, as well as the inability to directly import their own or third party products as major problems. Manufacturers of small high value electrical components frequently experience stolen, lost, and damaged shipments.

All equipment manufacturers complained of the inability to set up distribution networks. Whether the company's problem was a lack of nationwide, independent, foreign owned shippers, or the lack of foreign owned wholesalers or retailers depended upon their product type. Several equipment manufacturers complained of unpredictable delivery times, the requirement that goods be invoiced and taxes collected in the city of sale and inadequate road systems. One stated that provincial governments insist that all taxes be paid locally. One manufacturer reported lower costs, two others reported that their distribution costs are respectively 15 percent and 60 percent higher than in other countries.

An international shipper stressed infrastructure problems such as the lack of adequate roads, warehouses, refrigerated trucks and independent or foreign-owned nationwide shippers. It also experienced delays in clearing customs, lost or stolen shipments, and receiving damaged/spoiled goods. Systemic problems such as the inability to move currency around China, and the insistence that goods be invoiced, provincial taxes paid and VAT collected at local levels also impacted its operations.

A company in the service industry complained about the inability to contract nationally, the lack of national distributors, the inability to move money around China and the government ministry that controlled his industry. A management consultant stressed the lack of nationwide distribution networks, high tariff barriers, localization requirements and tax and customs policies.

Marketing Forum Proposed

AmCham members who are involved with or interested in marketing in China and who would like an opportunity to meet, on a regular basis, with other members to discuss challenges, concerns and successes are invited to participate in a new Marketing Forum now being formed.

This Forum, suggested by a current AmCham member, would be a self-managing group of AmCham members who would work together to determine a meeting schedule and location. Activities could include monthly meetings among interested members to discuss common interests, concerns and activities. The group could be a source for ideas on AmCham programs and seminars. Interested members should contact Jane Drake in the AmCham office for more details.

From the U.S. Embassy

compiled by Stephanie Halford, Editorial Committee

5

In cooperation with the American Embassy's U.S. & Foreign Commercial Service, AmCham can provide to members information on various reports and other items of interest on a regular basis. Copies of the reports are available at the AmCham office for a nominal photocopy charge. Unclassified reports of interest include:

- ◆ Experimenting with Project Finance and Competitive Bidding in China's Power Industry
- ◆ Environmental Monitoring Systems in China
- ◆ Solid Waste Management in China
- ◆ Telemedicine Project Linking 500 Chinese Hospitals and Giving Patients an Electronic Health Card
- ◆ Food Additives in China
- ◆ China's Rubber Equipment and Synthetic Rubber Imports to Grow
- ◆ Market for Used/Refurbished Equipment in China
- ◆ China Welcomes US Investment in State-Owned Enterprises
- ◆ IPR Enforcement in China
- ◆ China Sets Up New Power Development Company
- ◆ Energy Briefs
- ◆ China: Regulations on Foreign Investment
 - ◆ New Restrictions on Foreign Borrowings
 - ◆ China's Ministry of Electronics
 - ◆ State Planning Commission: Key Approval Point
 - ◆ China Eliminates Controls on Imports
 - ◆ China Coal Industry's Hard Sell

AmCham members may pick up copies of these reports for a nominal photocopy charge (RMB 1 per page) at the AmCham office.

Here's Looking at Us!

An ongoing look at what the Chinese media is saying about the Americans, the U.S. and some of our top news, courtesy of SinoFile Information Services Limited.

✂ When the US is mentioned, the Chinese will immediately think of: 1) powerful, wealthy, and world police (40.4 percent); 2) drug abuse, unemployment, homelessness (7.5 percent); 3) famous scenic places (6.1 percent); 4) Motorola, IBM, and other high tech and name-brand products (5.0 percent)

Beijing Qingnianbao, July 19

✂ Most of Americans, especially whites, are frighteningly honest. They basically don't cheat others and can't tolerate people who cheat. They look at a liar as if he is incurable garbage. At such times you cannot believe you are actually in America, which is so full of all kinds of oddities and degenerates. Naturally, I don't include the immigrants of the recent 30 years. On the whole, the appearance of immigrants is definitely a fatal wound that has caused a sudden drop in the standard of American civilization.

Zhonghua Gongshang Shibao, July 22

✂ It is not hard to see, because in recent years more and more countries in the world are rejecting the American value system. This is especially true in Asia. Because of this, the *New York Times* and *International Herald Tribune* spared no effort to attach the small country of Singapore, trying to force it to change its stance. The Singapore government refused without hesitation the "freedom" and "human rights" concepts which the US media tried to force on it. This made the "liberal media," so used to poking their fingers into everything and selling their value system everywhere, very angry.

Gongming Ribao, August 4

✂ Dr. Kissinger and General Hague have, in the past, been Secretary of State in US Republican governments. Even after they retired from the political forum, they still poured much enthusiasm into the healthy development of US-Sino relations. Recently, they both aired some enlightening ideas concerning the strategic significance of US-Sino relations. This is perhaps a good dose of sobriety for those with rat's eyes and inch-long vision in US Congress.

Gongming Ribao, July 24

✂ Starting from a year ago, Sino-US relations began to deteriorate. American Congress made noises about sending an "ambassador" to Tibet; obstructed China from entering the WTO and imposed sanctions on Chinese products on the American market. Today, the adjustment of Sino-US relations is actually a re-adjustment under the larger background of the new world order of the 21st century. Taiwan is only a small ripple.

Gongren Ribao, August 5

✂ The toilets in the US have impressed me deeply. Differences are not great between toilets everywhere. They have all reached the wonderful state of not giving one bad sensual stimulations while allowing one to "relieve" oneself in relaxation. This trifling business indeed reflects the US government's concern over people's lives and health.

Jiankang Bao, August 3

✂ A comparison between the trial of O.J. Simpson and the trial the majority of ordinary people's cases allows one to see what the so-called "democratic and fair" US criminal justice system is all about.

Nanfang Zhoumo, July 28

✂ Finally America can't help but show good will to Vietnam. When Uncle Sam firmly shakes hands with the "old enemy" of 20 years ago with one hand, his another hand will be slipping into the former enemy's pockets for money. Facing such a wonderful prospect, though muttering to itself a bit uneasily about its concessions to Vietnam, how can the US not have a smile all over its face?

Nanfang Zhoumot, July 21

✂ The majority of several dozen thousand GI children were left behind in Vietnam. Now 20,000 of them have emigrated to US. However, when they arrive in the US, these orphans of war unexpectedly faced a very cruel reality. Many of their fathers refused to recognize them. In the American social environment, fathers consider only their own fame, position, and wealth. What do they care about personal relationships!

Zhongguo Fangzhibao, Aug. 13

Investment Fair for Chinese Development Zones Planned

The Information Center of All China Federation of Industry and Commerce and the editorial department of Commercial Express of Embassies & Overseas Agencies invites interested business representatives to an Investment Fair for Chinese Development Zones, scheduled for September 20-21 at the Beijing Friendship Hotel. Interested members may contact Yan Li at 204-4560 or 202-6611, ext. 4151, or fax 204-4560.

Help the AmCham office find more storage space. . .

. . .and get a great Polo or T-shirt in the process!

The shirts are slightly imperfect, but for the low-low price of RMB20 each, what a bargain! T-shirts in M, L, XL. Polo's in S, M, L, XL. Stop by the AmCham office and get yours today!