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### Introduction: Import and Export with China

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## Panel 1: Import and Export with China

### Introduction

JOHN McDERMOTT\*

Typically, the first stage in the development of economic relations between two countries involves trade in goods. Not only is such trade less regulated than most forms of direct investment but it involves far less risk for both parties. This is because the use of an irrevocable letter of credit and an inspection certificate from a reputable third party will generally guarantee that both the seller and the buyer get what they bargained for.

For the trade in goods to proceed in a reciprocal fashion, each country must be able to produce something which the other country wants cheaper or better than it can be produced at home. As You-gang Xiao points out in his paper on the "Legal and Extra Legal Aspects of Exports to China," the United States exported nearly five billion dollars worth of goods to China in 1987, not an insignificant market for United States goods. Chinese exports to the United States have exceeded United States exports, demonstrating that a lively and growing export-import trade exists between the two countries.

At the risk of oversimplification, it would seem that the People's Republic of China ("PRC") would like to export to the United States consumer and other goods which, due to its large, productive, and relatively low cost labor force, can be produced far more inexpensively than they could be in the United States or in other developed or newly industrial countries. On the other hand the PRC would like to import high-technology goods which it is unable to produce at present. The inability to expand United States-PRC trade is not due to the inability to find both willing sellers and willing buyers in the United States but to American laws and regulations which may bar the sale of certain high-technology goods to China and punitive duties which have been imposed on imports from China which are found to violate one or more of the applicable United States trade laws.

Mrs. Susan Liebler, a former member of the Loyola Law School faculty, addresses the import side of the problem. She discusses the

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forms of import relief available to United States companies injured by imported goods, especially where the imports are being "dumped" on United States markets or are being subsidized by the exporting country. She then gives specific instances where imports of goods from the PRC have been subject to import relief. In his article, Mr. Xiao describes China's Foreign Economic Contract Law ("FECL"). The FECL is one of the few comprehensive pieces of legislation in China dealing with international trade.

Both speakers recognize the importance of increased United States-PRC trade from both economic and political perspectives and see few barriers which would inhibit growth in United States-PRC trade. Of course, no one could have foreseen the events of June 1989 and the impact they would have on United States-PRC trade. Whether the current Chinese leaders continue China's commitment to increased economic and political freedom for the people of China will undoubtedly affect the future of United States-PRC trade.

## Export to China—Legal and Extra-Legal Aspects

YOUNGANG XIAO\*

Great progress has been made in the last ten years in Sino-United States trade relations. News reports have painted a fairly exciting picture: the United States is the third largest trading partner of China, second only to Hong Kong and Japan; United States firms exported \$4.84 billion worth of goods to China in 1987; and many leading United States companies have committed themselves to the Chinese market. China engaged in a massive effort to build up its legal system, which was recognized by United States legal scholars as being absent ten years ago. The prospect of one billion Chinese continuing to advance their ambitious modernization program permits the American

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\* Youngang Xiao currently serves as a consultant in the law firm of Latham & Watkins, Los Angeles office. He works with the firm's International Practice Group.

Mr. Xiao was born in Chongqing, People's Republic of China and graduated from Southwest Institute of Politics and Law, and UCLA School of Law. He was an attorney with one of the largest People's Republic of China law firms and managed the firm's international department. He has served as a faculty member of international business transactions for his Chinese alma mater and as legal adviser for various leading Chinese companies and government agencies.