



FAR EAST STRATEGY

# CHINA

## WHAT OPPORTUNITIES FOR EUROPEAN LAW FIRMS?

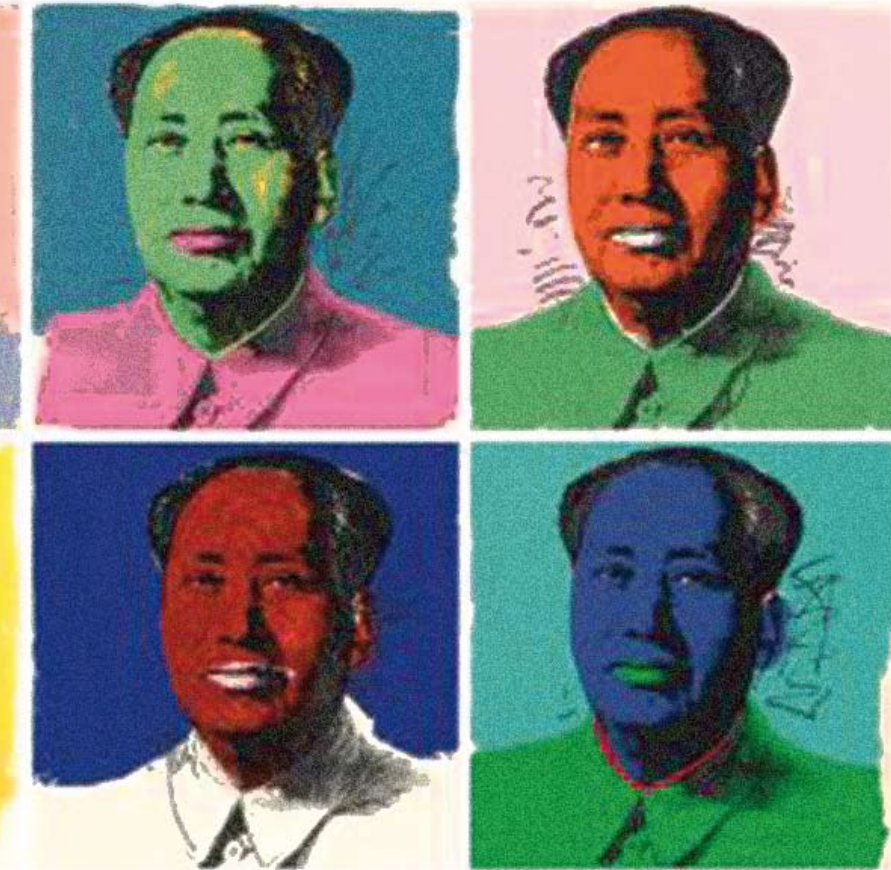
With around 140 foreign competitors in Shanghai alone, firms outnumber deals in China. Better, then, to forget the usual reasons for moving to the Far East and adopt a realistic strategy instead

BY ANTOINE HENRY DE FRAHAN AND ALAIN SEPULCHRE

IS there any law firm in Europe not pondering over China these days? The rise of China as an economic and political powerhouse is redesigning the global map and law firms with more than a regional ambition have no choice but to face the challenge, explore their options, strengths and weaknesses, and define a course of action.

Responding to the Chinese challenge means different things to different firms, because firms differ in background, client base, ambitions, resources and historic links with Asia and China. So, if having a China strategy is becoming a must for internationally-minded law firms, there is certainly no one-size-fits-all strategy.

And strategy is key. The market is already extremely competitive, and being in China simply because China is hot or because of a blind



## ABOUT THE STUDY

**A**NTOINE Henry de Frahan and Alain Sepulchre carried out an in-depth study in March 2010 on the strategy of foreign law firms in China. This study is based on interviews with 30 attorneys from Beijing, Shanghai, Hong Kong, Hangzhou and Guangzhou. The attorneys practise at leading European independent firms, City law firms, Wall Street law firms and prominent Chinese law firms.

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faith in the “high-growth story” about the Chinese economy will not make it. Strategy is not a big concern when there is plenty of legal work to do and when additional capacity automatically generates higher turnover and profit. But in a highly versatile market like China, where there are often more firms than deals, strategy becomes a matter of survival. In Shanghai alone, there are reportedly over 140 foreign law firms.



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Firms that do not exactly know their reason for moving to China, nor what they want to achieve once they get there and how, may be in for a severe blow. According to a foreign attorney established in Beijing, “It looks like we’ve got five new rep offices of US or European law firms opening up every week.” Strategy, differentiation and competitive advantage are of the essence.

So, what is driving law firms to China?

In some cases, there seems to be a “me-too” impulse. When all your competitors in London, New York, Madrid, Frankfurt or Paris are present in China, it may feel a bit odd to remain out of the loop. But that may not be enough to make a sustainable business case for opening up in China. As a foreign attorney said, “Fine, you have opened in China. And now

what?”

A similar trend was witnessed in Brussels in the early 1990s when, under the powerful leadership of **Jacques Delors**, the Single Market revamped the European landscape. Every firm with international ambitions wanted to set up an office in Europe’s capital, and many in fact did to get a share of the cake. Since then, a few have succeeded but many have closed shop.

Other firms are present in China for personal, accidental or historical reasons. For example, they happen to have a partner that has been based in Hong Kong or mainland China for many years, or they may have inherited one through a merger. The partner has no intention to return to his home base, and his partners are not willing to go confrontational about it, so the small China office

lives out its own life. Whether that makes a viable, focused, strategically meaningful presence is of course another question.

The more serious reasons for going to China are connected with “inbound” and “outbound” work. The domestic market, that is, doing legal work in China for Chinese clients, is just not readily accessible to foreign law firms who concentrate on off-shore work, either inbound or outbound.

For a long time, the reason for going to China was to follow industrial clients moving into the Far East. European and US companies were opening up in China and needed legal advice. Although foreign lawyers are formally prohibited from advising on Chinese law in China, they can as a minimum provide a useful interface between their clients and the Chinese legal system, teaming up

their national client base in their ventures in China. Gide Loyrette Nouel, for example, is well known for being a pioneer in China and serving CAC40 French companies in China.

Inbound investments from foreign companies into China have been, and to a large extent remain, the principal business case for the presence of many law firms in Europe. There is now a second wave of inbound work for law firms: rather than opening up in China, companies in Europe and the US are trying to buy existing businesses in China. Many pioneer entrepreneurs from Europe, who made it in China are now selling out to blue chip companies. This is providing some work to at least some law firms. With the financial meltdown of 2008 and the economic crisis since 2009, the flow of inbound investments have however considerably (if not structurally) slowed down, forcing foreign firms in China to look in the other direction.

Indeed, over recent years foreign law firms have been prompted to move to or remain in China (and especially Beijing) by the “outbound story”. More accurately, the expectation that outbound investments will translate into profitable mega-assignments for international law firms.

And securing access to natural resources – minerals, oil and gas, agricultural products and land – has indeed become a matter of national security for China. It is no secret that major Chinese State Owned Enterprises (SOEs) are involved, with varying degrees of success, in mega-investments abroad in natural resources, infrastructure (necessary for the transport of natural resources) and banking (necessary for organizing the financing of the entire operation). The



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extent to which private companies are engaging in outbound investments is not clear. Some foreign attorneys in China foresee a wave of private outbound investments from cash-rich Chinese entrepreneurs, while others believe that the internal Chinese market offers business opportunities of such a magnitude that investing abroad may not be such a priority for Chinese private businesses. For these businesses, going West means investing in the Western provinces of China rather than buying assets all over Europe and the US.

Identifying and measuring outbound investments is already difficult, but transforming these investments into lucrative assignments for foreign law firms is by no means any less challenging.

For all of these reasons, “outbound” is no magical term and of itself does not make a case for moving into China. The increase of outbound investments by Chinese SOEs and private companies may indeed materialize, but foreign law firms need a solid, well-tested strategy if they want to attract part of the work.

Does that mean that China is a lost cause for foreign law firms? Certainly not. It would be a folly to ignore the rising status of China in global affairs. But what European law firms need is a realistic, focused and sustainable strategy for China. ■

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## Investing abroad may not be a priority for cash-rich Chinese entrepreneurs; outbound investments are likely to target the internal market, not Europe or the US

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with Chinese lawyers to provide suitable assistance for their clients. A few prominent European firms have followed that strategy and have succeeded in serving