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Transparency;
The Theory and Reality in the Case of China

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Abstract

This study examines the aspect of transparency within policies in China. I argue that even though theoretically transparency is seen as a requirement in order to attract foreign businesses and foreign direct investments (FDI) it is hardly so in the case of China. Transparency in the policy making process of the economic development of China has been and are still very much absent. Still China has so far not had much problem to attract foreign businesses and FDI's. The findings found in this study suggest that the possibility of economic profit overshadows the international communities demand and the foreign businesses and FDI need for transparency in policy making in China.

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1. Introduction

Transparency has become an increasingly common word in the political and economic vocabulary. It has become to believe something of an essential factor in the modern economic regime of today and so it is also a requirement for joining the international trade regime, the World Trade Organization (WTO). Openness and clarity is believed to assure just governance and better possibilities for a healthy and competing economy. It is therefore believed that this again is essential to attract businesses and investors.

In this paper I would like to look closer at the case of China and to examine the aspect of foreign businesses operating in the country and at the situation of transparency within Chinese policy making. China is witnessing an enormous interest from foreign businesses that are poring into the country to make their investments there. One would therefore deductively assume that there also would be a high degree of transparency within China. This assumption collides however with the political aspect. China has an authoritative political regime, even communistic in name, which one would not expect could provide the necessary degree of transparency.

The aim of this study is to first of all, in Part I, to establish the theoretical aspect of transparency in order to know how and why it is regarded as important in order to attract businesses to its economy. This part proves, from a theoretical perspective, that transparency is necessary in order to attract foreign businesses. Secondly, in Part II, I will look closer at the situation in China today. This part gives a grim look at the present situation in China today when it comes to transparency. Thirdly, in Part III, I will therefore examine foreign businesses interest in investing in China given the fact that the degree of transparency in the country does not meet the demand from the theoretical point of view at the same time as I also look closer at the international communities look at the transparency situation in China.

My research questions for this paper are as following;

How is transparency important, according to the theory, in order to attract foreign businesses?

How is the level of transparency in China today?

Why is there a difference between the theory and the reality in the case of China when it comes to the importance of transparent measures in order to attract foreign companies?

The first research question will be sought answered through an outline of the literature on the matter. The second question will be examined by looking at concrete

examples of what the situation is when it comes to transparency within certain sectors in China today. Transparency in government procurement is a good way of examining how well the transparency works in practice from the government's side in China. It also shows that the western politicians strong concern for transparency in China is rather limited when it comes to reality. As China still has a large state owned sector in the industry and where in some sectors the state owned companies still have monopoly it is essential to take a closer look at how the government policies complies towards procurements. I will examine this against the political motivations in the Chinese government and economic motivation in the western powers.

Another aspect I will examine is the laws and the judicial system, which should in theory should enhance transparency, but which in fact in the case of China is doing the opposite. The existence of laws and a judicial system creates only a false feeling of protection.

I will also examine the practise of governmental statistical data and the publication of these data in China. This shows that the government and officials of China deliberately tries to falsify the statistics, which raises questions of even the elementary practice of transparency in China.

Because transparency can be applied to a numerous of sectors I will limit my paper to look more closely at these areas which are highlighted by the WTO. I will also give an outline of the WTO's requirements for transparency in these sectors and examine what China had to do in order to be accepted as a WTO member.

At last I will answer my last research question by looking at the perception of foreign businesses in China and their view of transparency in China and what they view as necessary requirements of transparency for their own businesses. This part shows that when it comes to reality transparency seems not to be among the highest of concerns among foreign businesses when they are about to enter the Chinese market.

1.2 Methodology and selection

This paper is a non-experimental design that consists of three parts where different types of methodology has been adapted. The first part is a general study of the importance of transparency in the policy making process in order to attract foreign investments. This part will be studied from a theoretical framework point of view and will be examined through an empirical study.

Based on the theoretical assumption that transparency is needed in order to attract foreign investments and based on the fact that China is a country with an

impressive growing economy, which does in fact attract increasingly more foreign investments, the deductive conclusion should be that there is transparency within the policy making process of China. To test this deductive conclusion it will be necessary to examine more closely the actual situation of transparency within China.

In my second part I will go on and examine the reality of transparency within China. By so doing I will be able to establish whether China, theoretically speaking, should be able to attract foreign investments according to the theory. I will especially focus on the process of how laws are being made, implemented and used in practise in China. Laws are needed to protect and enforce transparency within policy making, but if transparency is absent in the process of making, implementing and enforcing the laws it would be highly unlikely that transparency would exist and be able to function in other policy making processes. I will also look closer at statistical data that the Chinese government present to make a better picture of the reality. This will also be based on empirical studies and on one qualitative interview.

The second part of my study will show that there is a major misfit in the relation between what the theory say and the reality of what I find in part two. In the third part it will therefore be necessary to conduct an in-depth study into what the perception of the international community and the foreign investors in China is when it comes to transparency there and if they perceive transparency as necessary for their investments in China. The research of this part will be a qualitative one, based on interviews of foreign businesses operating in China. These interview objects have wanted to remain anonymous, mostly because they perceive all information that they give as possibly sensitive and could have negative impact on their presence in the Chinese market.

I have applied case study method in my research as this allows me to retain “holistic and meaningful characteristics of real life events” and in this particularly case on political and institutional processes as in transparency within the policy making process¹. I have used “how” and “why” questions as these are more explanatory and more likely to lead to the use of case study as research strategy². Yin indicates that the process of defining the research questions is one of the most important factors in a research study and the form of these questions will have an

1 Yin, R. (2003) *Case Study Research: Design and Methods*, London, Sage Publications, p.2

2 Yin, R. (2003) *Case Study Research: Design and Methods*, London, Sage Publications, p.6

impact on which strategy one chooses³. Developing and identifying my research questions have therefore been crucial for my type of research.

I have used empirical theory for the two first parts as I have sought to establish causal relationships between two concepts, transparency within the policy making process and the foreign businesses perception of transparency, in an effort to explain the occurrence of observed political and economic phenomena⁴.

This is mainly a qualitative research project. Alvesson and Sköldberg point out that “the consideration of open, equivocal empirical material, and the focus on such material, is a central criterion” for qualitative method. Another important feature with qualitative research, which they point out, is that it starts from the perspective and actions of the subjects studied⁵. By using qualitative data it has been a research mainly devoted to a preliminary explorative phase resulting in tentative hypotheses⁶.

I have searched for empirical facts to my thesis through mainly secondary sources, which have been academic articles, news articles and public data and information mainly. My empirical sources have been chosen because of its focus on FDI and transparency. These sources have mainly been taken from economical and political journals, such as China Quarterly and China Business Review. Besides I have used WTO, OECD reports and material accessible to me at the Norwegian Embassy in Beijing. The gathering of secondary sources has been conducted through what Alvesson and Sköldberg refer to as library research. This has allowed me to gather more information on my limited time and has been cost efficient⁷. For much of the information I needed it was also the only solution as it was impossible for me to get access to high ranking officials within China who I, if possible, could have interviewed about the policy making process in China.

For the last part of the paper I had to supplement my secondary sources with qualitative interviews of scholars and international businesses that are operating in China. I have had access to local scholars at Fudan University and through my internship at the Norwegian General Consulate in Shanghai and the Norwegian

³ Yin, R. (2003) *Case Study Research: Design and Methods*, London, Sage Publications, p.7

⁴ Landman, Tod (2000). *Issues and Methods in Comparative Politics: an Introduction*, Routledge, p. 15

⁵ Alvesson, M. and Kaj Sköldberg (2003). *Reflexive Methodology: New Vistas for Qualitative Research*, London: Sage Publications, p. 3-4

⁶ Alvesson, M. and Kaj Sköldberg (2003). *Reflexive Methodology: New Vistas for Qualitative Research*, London: Sage Publications, p.18

⁷ Alvesson, M. and Kaj Sköldberg (2003). *Reflexive Methodology: New Vistas for Qualitative Research*, London: Sage Publications, p.21

Embassy in Beijing I have had access to diplomats with expertise on the economic situation in China and to international businesses operating in China, though this have mostly been Norwegian companies.

Research interviews as a method have helped me find the subject of studies conception of the situation, which has been alternative from what I have perceived from the social sciences. This has provided alternative understanding and conception of social knowledge, of meaning, reality, and truth in social science research⁸. The subjects interviewed have not only answered to my questions, but also taken part in a dialogue where they have formulated a conception of the situation.

The foreign business interview objects have been all with Scandinavian medium and small size businesses in Shanghai and Beijing. The more easy access to the Scandinavian businesses, and then particularly Norwegian businesses, in these cities is the reason for these specific interview objects. I do not believe that the geographical limitation of my interview objects have had any influence of the outcome of my research and conclusion.

In summary my intention has been to conduct a case study where I examine mainly the differences from the theory and the reality of transparency within the policy making process. I have mostly applied qualitative methods in form of library research and interviews, and transparency theory in the research.

Part I: *How is transparency important, according to the theory, in order to attract foreign businesses?*

2. Transparency

Transparency is an essential requirement of western administrative law regimes, and, like non-discrimination, it is one of the fundamental norms of the trading system. One can trace transparency as being a part of the western law all the way back to the seventeenth century.⁹ In to day's global structure, transparency has also become one of the central norms of the regime. *“This norm is based on the principled belief that democratic governance and efficient markets are both enhanced when participants know what is going on. Within the politics of the World Trade Organisation (WTO) and within the transparency theory itself, transparency is now seen not just as an*

⁸ Kvale, Steinar (1996) *Interviews: Introduction to Qualitative Research Interviewing*, London, Sage Publications

⁹ Wolfe, Robert. 2003. *Regulatory transparency, developing countries and the WTO*. World Trade Review 2:2. 157-182. p. 159-161

aspect of good governance, but as a regulatory tool in itself".¹⁰ The transparency theory claims that developing countries that are not capable of developing such a regulatory system will find it hard to integrate into the trading system. The reason for why transparency is so highly valued is said to be because it supplies the demand for high-quality information about the parties to an international bargain.¹¹

However, transparency theory goes far beyond only this part and it covers as well areas such as corruption and bribery, both from the governmental side and from the business side, property rights, conduct of economic policies *per se* and lack of transparency within private institutions that play an important role in providing public information, just to mention a few. To be looking at transparent economic policy-making one should be looking at the entirety if economic policies are to be seen as truly transparent. In this paper, however, we will be looking at transparency mainly in the context of the legal system through the laws and regulations set up by the political institutions, through the practice of transparency when it comes to government procurements and transparency when it comes to accuracy in giving information in the case of production of statistical information.

According to the transparency theory itself the phrase "transparency" has become one of the most popular words among businessmen and policy makers. It is a term that one could say has become overused and are being constantly put forward out of context or without a specific meaning. The term has become too general and one needs therefore to be clear about what specifically one are discussing when one use it. In this paper the term refers to the "*clarity and effectiveness of activities with impact on public policy*".¹² In a political system, this simply means public decisions are made openly, in the context of competing interests and demands.¹³

In the political science literature the discussion has mostly been focused on the activities of the government and their institutions. This relates to the level of inefficiency and poor enforcement of the rule of law within the governmental and bureaucratic system.¹⁴ The theory here argues that an economy will be exposed to an additional risk if the quality of government policies is irregular. If the nature of the

¹⁰ Wolfe, Robert. 2003. *Regulatory transparency, developing countries and the WTO*. World Trade Review 2:2. 157-182. p. 158

¹¹ Wolfe, Robert. 2003. *Regulatory transparency, developing countries and the WTO*. World Trade Review 2:2. 157-182. p. 159

¹² Drabek, Zdenek. 2001. *The Impact of Transparency on Foreign Direct Investment*. Staff Working Paper ERAD-99-02 p. 4

¹³ Broz, Lawrence. p. 867

¹⁴ Drabek, Zdenek. 2001. *The Impact of Transparency on Foreign Direct Investment*. Staff Working Paper ERAD-99-02 p. 5

policies of the government is irregular it will be increasingly hard for the economy to cover against it as well.¹⁵ Therefore the theory claims, generally speaking, that businesses will stay away from countries where the system is in lack of political transparency.

In the ongoing period of transparency, terms like protectionism and self-sustainability seem to be foregone government policies. However, the countries that have left the path of protectionist and isolated development have found that there are rules one has to follow to be let allowed playing at the global table. The old players of the developed western economic powers have set these rules. These economies have also to a high degree been protectionists through high levels of tariffs and subsidies. On the other hand their economic system has been gradually forced to change through, amongst others, numerous of painful financial crisis's, which often have been caused by financial scandals, made possible because of lack of transparency. The realisation that the lack of transparency has been a factor in causing these financial crises has helped the development and implementation of transparent measures in their economies. This is a process that seems to be continuing even today, one can just take the Enron scandal as an example where the policy makers afterwards sharpened the financial laws to open up for more transparency.¹⁶

Through an interaction between the financial interests and the policy makers has there also developed a cause for transparency in the society. Openness and transparency within the legislative institutions help create a favourable environment for FDI. With stable and open legislative institutions one has, through the more open access to information, the possibility to predict the development of the economy more easy. Legislative institutions have to be coherent between national and local levels and to have internationally recognised standards such as WTO.¹⁷

Similarly a sound legal system with a fair and transparent practice is necessary to ensure FDI that it is safe to invest in an economy. The legislative system will represent a guarantee for the FDI. It is therefore necessary that the legislative system is transparent so that FDI knows what guarantees it represents to them upon investing in an economy.¹⁸

¹⁵Gelos, Gaston R. 2002. *Transparency and International Investor Behavior*. International Monetary Fund. p. 5

¹⁶Fung, Archon. 2003. *The Political Economy of Transparency What Makes Disclosure Policies Sustainable?* Harvard University: John F. Kennedy School of Government. p. 11-12

¹⁷OECD. 2003. *China: Progress and Policy Reviews*, p.16

¹⁸OECD. 2003. *China: Progress and Policy Reviews*, p.16

By letting different segments of the society take part in the policy making process I would argue that one allows for the possibility of all parties to influence the process. By so doing one would also allow for the system of check and balances meaning that one better can prevent drastic changes causing unwanted costs on the economy for example. Democratic governance is central here, where the possibility for the accountability elected officials arises.¹⁹ It also opens the system so that one better have the possibilities of a free and competitive economy. This again prevents unwanted circumstances like corruption.²⁰ This is the idealistically speaking ideal way of how things should be. However no system shows it self to be foolproof and systems are being manipulated, but this is not to be discussed in this paper.

It is however important to notice that FDI are classified into two categories by the theory; export-oriented and market oriented FDI.²¹ In the first category the need for transparency is much more limited than it is for the second category. So far the majority of foreign businesses and investments have been aimed at the cheap production in China and export back to the west. However, I would argue that as the Chinese market is rapidly developing one will see increasingly more foreign businesses investing to compete in the Chinese market as well and gradually the demand for more transparency might rise because of this growth. This will probably become more important as sectors like communication, insurance, bank and finance will be liberalised for foreign investments according to Chinas agreement for accession to the WTO. These are sectors recognised to have higher demands for transparency especially within laws and regulations than other sectors.²²

3. Why is transparency important for FDI?

There are several reasons for why the theory thinks so highly of transparency when it comes to foreign businesses. However, in the broad picture, a transparent political system is considered to prevent the costs of opportunism among the governments when they have greater difficulties hiding their actions.²³ This prevents foremost corruption, which again would create an unfavourable business environment where

¹⁹Global Governance. July 1999. *The United Nations and Democracy*, p.12

²⁰Global Governance. January 2001. *Transparency International and Corruption as an Issue of Global Governance*

²¹OECD. 2000. *Main Determinants and impacts of Foreign Direct Investment on China's Economy*, p.11

²²OECD. 2000. *Main Determinants and impacts of Foreign Direct Investment on China's Economy*, p.12

²³Broz, Lawrence p. 867

one would have the extra cost and uncertainty of having to pay extra to get access and business deals.

In a non-transparent system there will also be an extra cost in addition due to lack of information. Because of lack of or even falsified information, foreign business does not get the proper information they need to be able to understand the economic environment and situation to invest in a country. Statistical data is one such example where such available data gives good and valid information for foreign businesses, but if these data does not exist it will be difficult to get a perception of the situation. If the data are wrong or even falsified they will create a false perception that could easily make the situation different for the business than expected. If the government has not implemented policies that opens up for outside parties to get access to valid information the parties will either have no chance, or they might have to go a long way around, to calculate the cost which again will bring on an extra cost. At the same time the theory argues also that foreign businesses acquire transparent protection of their property rights.²⁴ It can become costly for them if their product are being copied and becomes a competition to their own product. I will however later in this paper come back to this point and argue from my own findings that protection of property rights is not that much required from foreign businesses nor much the other points mentioned above.

Lack of information being made publicly does not necessary mean that no one knows anything. Instead it is very likely that in such a situation one part will know more than the rest. This again causes a gap between the ones that posse's information and the ones that does not.²⁵ In such a situation we can easily conclude it will be very difficult to enter the market and the competition between the businesses will be unfair.

Another argument is that transparent policies positively influence business attitude in order to invest in an economy. Drabek claims in his paper that, "*virtually all surveys of business attitudes convincingly show that companies base their decisions to invest abroad on their perceptions of what economists like to call fundamentals*".²⁶ The fundamentals include numerous of factors but most importantly is the need for a country to have clear, open and predictable economic policies that minimizes the risk of unpleasant and costly surprises in order to convince foreign

²⁴Drabek, Zdenek. 2001. *The Impact of Transparency on Foreign Direct Investment*. Staff Working Paper ERAD-99-02 p.8

²⁵Gelos, R. Gaston. 2002. *Transparency and International Investor Behavior*. International Monetary Fund. p. 3

²⁶Drabek, Zdenek. 2001. *The Impact of Transparency on Foreign Direct Investment*. Staff Working Paper ERAD-99-02 p.8

businesses to invest in the country. Also, lack of legal provisions when it comes to how businesses are being practised is claimed to be important for foreign businesses. Corruption is a very important issue here and the thought is that the legal provisions should ensure a most possible open and competitive system for all parties. In today's global economy all countries are being closely monitored by outside agencies, such as IMF. What these agencies seem to think of a country has a huge influence on whether or not a business wants to invest in that country.²⁷ That would mean that if a country get published a bad report concerning the transparency of its economic policies it will of course not be a good advertisement towards attracting international investments.

However, one has to mention that even though transparency is being admired in principle it might frequently conflict with other societal values or powerful political interests. Disclosing information might harm efforts to protect public safety, proprietary information, guard personal privacy, or limit regulatory burdens, so in certain cases it is actually necessary to limit the transparency.²⁸

4. Transparency within the WTO requirements

The transparency requirements found throughout the WTO agreements are aimed at both providing clarity for other WTO members and predictability for economic actors.²⁹ This means that the aim is to provide an environment where open and free competition can flourish. This means that the policies should provide all the participants with, in theory, an equal chance to compete in the market and with the same possibilities accessible to them. At the same time the transparency policies should also protect the participants' rights, such as copyrights. This is what the theory, in simple words, claims foreign businesses demand when looking for markets to invest in and which subsequently policy makers should strive to meet. This is also enfolded in the WTO requirements.

In this case I am looking particularly at transparency within the political system of governance. Within the political system, transparency is a term that involves all different parts of the system such as laws, regulations, media etc. All of

²⁷ Drabek, Zdenek. 2001. *The Impact of Transparency on Foreign Direct Investment*. Staff Working Paper ERAD-99-02 p.7-9

²⁸ Fung, Archon. 2003. *The Political Economy of Transparency What Makes Disclosure Policies Sustainable?* Harvard University: John F. Kennedy School of Government. p.5

²⁹ Wolfe, Robert. 2003. *Regulatory transparency, developing countries and the WTO*. World Trade Review 2:2. 157-182. p. 159

which is important in creating a transparent system where information are being disclosed.

Within the framework of the WTO The General Agreement on Tariffs and Trade from 1947 (GATT) stipulates in Article X(1) that all laws and regulations concerning trade should promptly be published.³⁰ This is to make governments and traders up to date with them. Further on in Article X(3) the agreement states that

*“Each contracting party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article”*³¹

This means that the contracting parties are to set up independent judicial, arbitral or administrative tribunals or procedures that can run checks on the administrative actions and even make corrections in all aspects of trade regulation. At the same time it makes possible for all parties to have decisions reviewed. This of course needs to be done by an impartial judicial system.

The WTO itself sat up, during a working group session in 2003, 6 points for how they thought international laws for transparency in government procurement would benefit international trade. They claimed first of all it would lead to higher efficiency and increased innovation because of the enhanced competition that would come through a clear set of rules defined in advance. Secondly it would be more cost efficient because of effective competition. Thirdly it would lead to more investment from domestic and foreign businesses as well as more trans-national partnerships, which would help developing countries in particular through the possibility of economic and technological investments. Fourth it would reduce corruption. Fifth transparency would ensure good governance, which again is necessary for economic development. Last it would cause legal certainty, which would help investments. Through this working group it was also stipulated that through the experience of its members with transparency in governmental procurement has led to more international bidders and foreign investment.³²

The European Union focused in a working paper to the Working Group on Transparency on the *“positive effects of transparency in government procurement and its implementation”* at many of the same points. By strengthening transparency within government procurement one get a higher degree of competition between bidders. This again will have the positive effect of getting the best and cheapest bid, which

³⁰ The General Agreement on Tariffs and Trade (GATT 1947) Article X

³¹ The General Agreement on Tariffs and Trade (GATT 1947) Article X 3(a)

³² WTO, WT/WGTGP/7. p.3

again saves governments, and peoples tax money. This means the governments has a possibility to get more out of the money. The EU also pointed out that a higher degree of transparency within government procurement also would lead to more trans-national cooperation between businesses. This again would help improve research and technology.³³

The working group session of WTO pointed out that it is necessary for the participants in the global economy to have the legal rights to challenge any process.³⁴ I believe this would be a requirement in order to be able make transparency work, by ensuring all parties the possibility to fight for their rights to free and open competition. With this possibility all parties will also be aware that their decisions might be challenged and by so knowing will develop an obligation among the members of WTO to respect transparency.

5. What measures can be taken to improve transparency?

As a newly elected president, Franklin D. Roosevelt proclaimed, “*sunlight is ... the best disinfectant*”.³⁵ His comment came as a reaction to the economic crises and the great depression in the 30’s. His idea was simple; to strengthen the confidence in the market again he championed legislation to expose financial practices to public scrutiny. The situation then was very much like the situation that caused the Asian crisis in 1997. Then, a lack of a transparent system was thought to be one of the reasons for why investors did not see the red warning lights.³⁶

Because of the variety of different non-transparency elements the theory identifies that there are also different measures required to address the different elements. Drabek and Payne argue in their paper “The Impact of Transparency on Foreign Direct Investment” that by reducing the government’s role in the market one will also effectively enhance transparency. As measures to reduce the government’s role it is suggested that regulatory activities of governments should be reduced to only those activities that are absolutely necessary.³⁷

³³Communication from the European Communities to the WTO – *Working Group on Transparency in Government Procurement*, Brussels, 31 January, 2003, Ref. 031/03 Rev2

³⁴ WTO, WT/WGTGP/7. p.6-8

³⁵ Fung, Archon. 2003. *The Political Economy of Transparency What Makes Disclosure Policies Sustainable?* Harvard University: John F. Kennedy School of Government. p.7

³⁶Leuz, Christian. 2003. *Political Relationships, Global Financing and Corporate Transparency*. University of Pennsylvania: The Wharton School. p.16

³⁷Drabek, Zdenek. 2001. *The Impact of Transparency on Foreign Direct Investment*. Staff Working Paper ERAD-99-02 p.9

On the other hand I believe it is necessary for the government and policy makers to be active in implementing measures that provide clarity and predictability for all parties. Such measures would be to publicise international obligations. This gives an easy access to what the country has committed itself to and should follow. General clarity in domestic trade policy should also be enforced which would make it easier to follow the policies. Publication of laws and regulations are necessary to make all parties aware of them. Notification of new measures to all parties makes them updated and not unaware of new situation. An enquiry point for all parties makes it possible to get clarity in any question and an independent administration and adjudication ensures independent practice.³⁸ These are all easy and effective measures that could be implemented to enhance transparency.

Part II: *How is the level of transparency in China today?*

6. China's accession to the WTO – Consequences for the evolution of transparency in China

One of the most influential factors to the development of transparency within the policy making process has been the efforts China had to make in order to be granted membership in the WTO. This was a long lasting process and formally it took China 10 years from it applied to it was granted membership. However, I would argue that China's process to join the WTO could be traced all the way back to 1978 when the Chinese communist government decided to start with undertaking different types of capitalistic incentives. This was firstly implemented on a trial basis and then to begin with only on a major scale within the agricultural sector. As some of these incentives proved to be highly successful the process developed and more and more of the plan economy underwent a transition. As the transition took pace foreign direct investments started to flow into China, especially from Chinese businesses in Taiwan, Hong Kong, Singapore and other Chinese communities in South East Asia. However, more investments were to follow from the other industrialised nations and as China started to become a big exporter of cheap products it also started to become an important player in the global economy. As a rapidly increasing export economy China soon realised the strategic advantage of becoming a member of the WTO where it through trade agreements could obtain better possibilities of exporting its goods. To become a member of WTO also meant that China had to open up for foreign import,

³⁸Wolfe, Robert. 2003. *Regulatory transparency, developing countries and the WTO*. World Trade Review 2:2. 157-182. p.160

investments and businesses as well. To ensure an open as possible economy and ensure against discrimination against foreign investments and businesses China also had to agree to implement measures that would ensure transparency in the economic sector.³⁹

The general obligations to transparency that China committed itself to were seen as the most important.⁴⁰ This was also a point that most of the industrialised countries were sceptic to when it came to negotiating Chinas accession to the WTO. China had transformed its economy greatly to become capitalistic and even though the privatisation process had come far its bureaucracy and legal system was, and are still, far from meeting the standards of the industrialised economies or the WTO standard. This is especially evident when it comes to transparency. The legal system was in particular an area that raised questions concerning Chinas accession to the WTO.⁴¹ Laws were and are still being basically written in reality by the Chinese communist party. As examined previous in the paper, the communist party could before put into effect any law it wanted to, without any process of letting other parties have any influence on it. With the lack of transparency in this process the result can easily become that the laws turns out to be partial and unfair.

China had to, and is still working on, changing their legislation and administrative regulations on national and local level in order to meet the requirements of transparency within the WTO. Even though the will to do so is strong on the national and central political level, the problem has been to achieve coherence with the local and decentralised level. Many of the laws and regulations found on the local level have not been revised to compare with the national laws and standards. Many of these local laws and regulations are not even publicised.⁴²

In my view the writing of the laws will therefore not be the major obstacle in the process. To make them work in real terms will be the real challenge and there are two important elements to this. First of all, all parts of Chinas vast political and bureaucratic system needs to know of them and how they are to be understood. This goes for not only the central government and bureaucracy, but also down to the local level. Secondly, it is important that there is a qualified and not least an impartial

³⁹Potter, Pitman B. 2001. *The Legal Implications of China's Accession to the WTO*. The China Quarterly. p.596

⁴⁰Mattoo, Aaditya. 2003. *China's Accession to the WTO: The Services Dimension*. Journal of International Economic Law. p.301

⁴¹Potter, Pitman B. 2001. *The Legal Implications of China's Accession to the WTO*. The China Quarterly. p.592

⁴²OECD. 2003. *China: Progress and Policy Reviews*, p.19

judicial system that has the power to enforce these laws and regulations and the ability to understand them correctly.

Through the Uruguay Round China had to agree to implement provisions on several areas to ensure transparency. One of these measures were to implement transparency measures on import licensing procedures by “*publicising information concerning administration of restrictions, licences granted over the most recent period, and, where practicable, import statistics of the products concerned*”.⁴³ With such measures implemented one can ensure that the businesses have easy access to information concerning import and one will have a more similar practise on these matters for all businesses. On the Agreement on Technical Barriers to Trade, transparency procedures had to be implemented to guarantee, “*that industrial standardisation, safety, and environmental regulations are not used as non-tariff barriers to trade*”.⁴⁴ If these standardisations and regulations are easily and openly accessible it is easier to prevent that they will be used to set up obstacles to the foreign businesses in order to prevent competition to its own industry.

Another incentive from the Uruguay Round, that China had to implement to enhance transparency, was to set up an office where all parties could obtain information “concerning laws, regulations, and guidelines that affect trade covered by specific commitments”.⁴⁵ This would make it easier for foreign businesses upon investing in China to get the necessary information. This not only makes it easier, but it also limit the risks upon investing by knowing more clearly what the system is like and by so knowing is able to calculate the risks of investing. It also makes the government tighter to its hands and makes it far more difficult for the government to change the laws and regulations it has already implemented and enforces it more to follow them.

Even though China has agreed to these requirements the wanted effect of these measurements are still to early to see. This is mostly because China has an overlapping period before becoming fully integrated into the WTO system. Therefore these measures have not come far in being implemented, both because of a rigid political and bureaucratic system, and the relative little time that has passed since being accepted. The effects have therefore been little and of not much help to the foreign businesses and investors. It is therefore somewhat surprising that there already

⁴³ China Business Review, Jan/Feb 2000, WTO Special Report; WTO Basics, p.”4”

⁴⁴ China Business Review, Jan/Feb 2000, WTO Special Report; WTO Basics, p.”4”

⁴⁵ China Business Review, Jan/Feb 2000, WTO Special Report; WTO Basics, p.”5”

is such a massive inflow of investments before one knows for sure that these measures has been implemented and taken into practise.

Looking closer at two specific areas, the judicial system and statistical data collection will show how short China has actually come in elevating their transparency standard up to an international required and demanded level.

7. Transparency within the judicial power and the case of the Chinese legal system

By analysing the empirical findings in my paper I would argue that the best way to prevent irregular policies is to have a good judicial system, which again will ensure transparency. In order for such a system to be effect full it is important that there exist a set of laws that are of public knowledge to all parties and that these laws are being enforced by an impartial judicial power that ensures a fear and just practice of the law. Within this system it is essential to obtain transparency so that one can ensure the law is being used similarly towards all parties. At the same time one will also have the chance for all parties to have the ability to know of the requirements and to foresee how the system works.

On the basis of this argumentation we can go a step further and say that the process of making new laws has to be transparent as well. This means that it has to be an open process so that all conditions are being made known before the law is being decided and implemented. By so doing one allows for all parties to raise their objectives to prevent partial laws and unforeseen unwanted effects. By so doing, one can also prevent impartial interests being obtained in the law. A democratic system where representatives directly elected by the people ensures the process and finally makes the laws, is possibly the best way of maintaining a transparent judicial system. In such a system, all parties affected, at least in theory, will have the possibility to raise their concerns.

However in the case of China laws have not been created through a democratic political process. Even though the economic sector is being opened and decentralised the political part, where the law making process are, is still highly centralised and the laws have in practise been written, decided and implemented by the communist party.⁴⁶ On the other side I would argue that during the process of accession to the WTO China has had to implement new sets of laws and regulations to meet the demands of the trade regime and that these laws and regulations are a step in

⁴⁶[Http://www.isinolaw.com/jsp/CLSintro/LS_Procedure.jsp](http://www.isinolaw.com/jsp/CLSintro/LS_Procedure.jsp) found on internet 12.03.2005

the right direction towards transparency. Still they will have to be enforced by an impartial judicial power, which in China's case are still highly linked to the communist party and thereby controlled by an actor that is not transparent.

In 1999 China implemented the “Contract law” that was aimed at protecting FDI. The law is supposed to protect all parties and their legal rights. Even though the law is viewed as being a positive incentive in regard to transparency and procedure, the reality of enforcement of the law still has not evaporated the wanted effect.⁴⁷ For a large part of the foreign companies, who has set up joint ventures with Chinese companies, this law has in reality given them little assistance in the Chinese courtrooms. Foreign companies already operating in China gives a general warning to newcomers who wants to move into the Chinese market against setting up joint ventures, and many of the foreign companies that to day are well established in the Chinese market have already gone through the painful process of divorcing their Chinese partner. It is in this process of divorcing that the foreign companies find themselves in need of legal protection. This protection is however, from what I learned from my interviews, of rear existence. One of my interview objects, a Norwegian company operating in China since 1995 and who had gone through such a divorce from its Chinese partner, claimed the legal system was constructed to assist the Chinese part unconditionally. This has meant that in most cases where the foreign company has had to divorce the Chinese partner, the Chinese partner has continued the protection, because they, in most cases, has ended up keeping the production facilities and technology and become a strong competing company instead in the Chinese market. Many companies therefore find themselves struggling to break even in a market they were promised to be lucrative.

The reason for this situation, even though the existence of the “Contract law”, is, as a foreign scholar in Chinese law described to me, that the judicial system are set up and in practise closely controlled and linked to the communist party. Furthermore, he claimed that the judicial system is also understaffed, making it far from effective and it is as well a common problem that a high number of the judicial staff, this including the judges, have no judicial education, making the quality of the decisions highly questionable. This means that even though the laws themselves had been made transparent, which they are not, the practice and enforcement of them would still lack transparency, mainly because of the inadequacy within the judicial system. An

⁴⁷OECD. 2000. *Main Determinants and impacts of Foreign Direct Investment on China's Economy*, p.15

inadequate judicial system could also have the ironic effect that, even though a law has been published openly, parts of the judicial system might still not have any knowledge of them or how to interpret them. At the same time, because of the close connection to the communist party, who again has its many interests, the outcome of the verdicts might be highly dubious.

8. Chinese statistics – misleading information

An important issue for Chinese entry to the WTO was to provide statistical data on the economy. Statistical data enables businesses and investors to get a better picture of the economical situation. Foreign businesses and capital, as well as local businesses, has a big advantage of having such valid data accessible. It can show for example what sectors of the economy are expanding and developing, at the same time as it can give good indications on sectors that are facing difficulties and stagnation. It also shows how much that has been invested in different sectors of the economy as well as in different areas of the country. This also gives a good pointing finger on sectors that are starting to reach its limits for investments and where investment might still be useful. For example it would be very useful to know how much office space that already existed and how much of this office space that was being occupied. In Shanghai, new office towers seems to pop up every day, but there exist no statistics on how much of this space that are being used. Some businesspeople I talked to in Shanghai made estimates that there might be as much as 70% of the space not occupied. Such statistical data is important for businesses and investors to have knowledge of in order to limit their risks.

The National Bureau of Statistics (NBS) together with various other government departments is responsible for compiling the statistical data. Ever since the reform period started in 1978 the NBS has undergone a number of changes in organisation, ways of methods of collecting data and what types of data that are being collected.⁴⁸ Even though the changes have meant that the quality of the statistical data has somewhat improved there are still strong suspicion amongst scholars that the data presented have been fundamentally wrong and even suspected falsified. There are different reasons for this. One reason is because of wrong use of methods in gathering data and insufficient information for the NBS, but the most common reason are believed to be that the data compiled on the lower level often have been falsified by the local governments in order to be able to meet the set demands of economic growth

⁴⁸ OECD. 2005. OECD – China Governance Project, p.5

set by the central government. However, NBS seems also to be under pressure from the central government as well at times to falsify national GDP data.⁴⁹

Especially for the period between 1998 and 2001 it is highly believed that the official figures presented were incorrect. While the data published by NBS showed a growth of 7,8% and 7,2% for 1998 and 1999, it is believed, through alternative guesstimates that the real growth rates must have been around 0. For 2000 and 2001 it is believed that the real figures were about half of the official data of 7,1% and 7,3%. From 2002 and up to today it is believed the official data are actually greatly underestimated. The reason for falsifying these figures in such a manner has been firstly to give the assumption that the economy has been healthy and growing. Secondly, for the last years the central government has started to see signals that the economy is starting to overheat. Efforts have been taken in order to try to cool it down, but much indicates that these efforts have not helped much to ease the growth. Publicising misgiving data in an effort to show that the economic growth is slowing down is probably an effort to try preventing fear in the market and preventing FDI to be taken out of the country.⁵⁰

The background for arguing that data has been falsified, or at least has been wrong, was to look at energy, output quantities and transportation in these periods. The figures for these sectors would naturally follow the figures of the GDP growth. If the GDP raises it is also expected that the use of energy and transportation will rise. Similarly one would not see such a rapid raise in consumption of energy and transportation over the last two years, as the data indicate, if the GDP growth had been brought under control around 9% as the government says it has to day.⁵¹

These misgiving figures do far from provide transparency of the economy and rather helps mislead the judgement of the economic status for international businesses and investors. The present situation is particularly grave as the economy is highly believed to be overheating. Unless the government manage to cool the economy down there exist a very high risk for that the economy might crash and then certainly the losses will be major for the businesses and investors. The government has though tried to paint a misleading picture of that the economic growth is being controlled by falsifying the GDP growth data. This does of course not better the situation for the Chinese economy as only more investments will be poured into the economy as businesses and investors are made believe that the economy is healthy.

⁴⁹ OECD. 2005. OECD – China Governance Project, p.22

⁵⁰ OECD. 2005. OECD – China Governance Project, p.6-7

⁵¹ OECD. 2005. OECD – China Governance Project, p.6

Not only is this an example of the lack of transparency within the Chinese policy making processes, but it also show how the Chinese government tries to give a misleading impression that they actually are transparent by poring out statistical data. These data is however, as argued, of little validity which only makes matters worse if businesses and investors are to trust blindly in them.

Part III: Why is there a difference between the theory and the reality in the Case of China when it comes to the importance of transparent measures in order to attract foreign companies?

Comparing the theoretical evidence in Part I with the empirical findings in Part II should make room for the deductive conclusion that the Chinese economy should be of little interest to foreign businesses. It is also somewhat confusing that the international community does not put more pressure on China in order to become more transparent. In this part I will therefore examine why the case is not as it should be theoretically by looking closer at the western leaders agenda and the foreign businesses expectation upon investing in China.

9. The international political factor in Chinese government procurements

As mentioned earlier, in Part II, transparency within government procurements are being argued by the WTO as an important factor in creating a free and open economy, which also will help create positive side effects for a countries development as well for the global economy. China is still in a transitional stage in its economic development somewhere between a centrally planned economic system and a marked liberalised economy. It has still a long way to go before it becomes a capitalised economic system and so far no major industrialised countries have recognised China as a full marked economy within the WTO. The Chinese government have, and are still, continuously privatising the state owned enterprises, but in some sectors the government is still in full control. These are sectors that have been traditionally seen as strategic important sectors for countries in order to be able to control their national security and have therefore often been monopolised by state owned enterprises. These are sectors like transportation, telecommunication, energy and finance. The Chinese government have also seen these sectors as important for national security reasons and have therefore, until recently, been excluded from foreign competition and investment. These sectors are undergoing a dramatic development and transition,

as the rest of the economy, and are in constantly need for modernisation. However, the technology and expertise does not exist in China to build modern railways, power plants, airplanes and communication infrastructure. China must therefore rely on buying these products, constructions and technology from foreign companies in order to modernise these sectors.

The governmental procurements China has made, by giving big contracts to foreign businesses and buying from the international market, seems so far to not have followed the advice and suggestion from the WTO. Even though China has been looking to several different companies when it comes to ordering trains, planes, infrastructure projects and power plants, it does not seem like it has been looking for the best product or price. Instead many sources, both diplomatic and scholarly, argues that China seems to have been looking at what the politicians of the companies' origin can offer them of political incentives both nationally and internationally.

I would argue that the possibilities that comes with securing big contracts for the companies in the industrialised world and by so doing securing jobs, brings welcomed popularity for the politicians of the western countries. In 2004 both president Chirac and chancellor Schröder came to Beijing with expressed hope of bringing big contracts back to their countries industry. Both leaders were criticised by media and scholars for walking “cowtow” for the Chinese leadership. The state leaders were to a certain degree successful and brought back home billions of dollars of contracts to their countries companies, but no pressure on Chinas transparency situation was voiced. This is a situation that has become more and more common when western state leaders visits Beijing. One has therefore to ask; what is of most interest for the political leaders in the west, to criticise the lack of transparency or to obtain lucrative contracts?

These visits were noticed strongly locally and among the foreign diplomats in Beijing. The contracts these two state leaders brought with them back home were negotiated solely behind closed doors and not with any opposing bidders at all. Through the EU proposal on legal binding commitments within the WTO framework on governmental procurements one would have expected the two state leaders to supports the idea of transparency within governmental procurements. However, it seemed like they had no problems to look a side from this and rather view the big possibilities they had through the contracts to better their political position back home through securing jobs by bringing back contracts to the industry.

China, on its side, could most likely have saved lots of money by following the suggestion of the working group on government procurements in the WTO. The Chinese government had however their own political reasons to make these contracts, especially with France and Germany. At the same time as the two state leaders were granted the big contracts they also gave their strong support to lifting the EU weapon embargo against China that was put into function after the Tianmen Square crack down. China claimed it was embarrassing that they should be placed in the same group as countries like Burma, Sudan and Zimbabwe. USA on its side seems to be concerned that China is eager to have the embargo lifted so that they can go on a shopping spree for weapons that again could destabilise the situation in the region, especially towards Taiwan. No matter what the reason for Chinas eagerness to get the weapon embargo lifted was, they got the strong support from their recent visitors.

Not only did they get support towards lifting the weapon embargo, but the two state leaders made also sure not to raise the human rights issue at all during their visit, something that has become a kind of regular issue on the agenda when ever a western state leader has been visiting. The Chinese leaders did therefore not have to listen to embarrassing critique against their human right policies. To the opposite, the two state leaders praised the Chinese leaders for their efforts to develop China and bring its population out of poverty. They also gave China strong support in the Taiwan question and Chirac even went of the limb to criticise the separatist aspirations on the island.⁵²

I would argue this is a clear example on how politics are being mixed with business and where transparency is being placed in the background. For hard pressured western politicians it is easy to proclaim transparency to its own voters, which gives them popularity, but at the same time the possibilities that the Chinese market possesses through big contracts and subsequently jobs in their home countries makes it also easy to put these demands aside. For Chinas part its big market gives them the possibility to gain political leverage through making demands to obtain contracts. This means that even though transparency is being discussed and thought of as an important factor, it will never be enforced or even demanded for real of China as long as one can obtain lucrative contracts through political negotiations.

⁵² Kina. Besøk av president Chirac. Sino-franske forbindelser, Royal Norwegian Embassy, Beijing, 2004
&
Greens Criticize Schroeder's Policy Towards China, Spiegel Online web site, Hamburg, 5 Dec 04

10. International businesses view on transparency in China – a field study

Even though transparency is viewed by the theory as important to attract businesses to a country, the reality in the case of China is somewhat different. Through eight interviews with Scandinavian businesses, which were operating in or on the way to invest in China, a very unison look at transparency in China was given. First of all, all the businesses interviewed had no or very little knowledge of the transparency situation in China before moving into the market. That meant that they to begin with possessed a poor understanding of the term transparency and was mostly unable to relate how this could have any influence for their business in China. This meant also that they had no knowledge of what the requirements of the WTO was for China to implement transparent measures.

The knowledge of this situation became quickly apparent to me as I started of my research by trying to identify whether international businesses had preferences for either Hong Kong or Shanghai in their choice of investment, given the difference in transparency between the two cities. After only two interviews I quickly realised that businesses had generally very little knowledge of transparency and it did not seem to matter for them. It therefore became obsolete to study the choice of businesses on the grounds of where the best requirements of transparency existed. None of the companies I interviewed named transparency as a reason for where they would locate their business or investments. The interesting part for them was mainly to find the place where they could generate most profit through their business or investments. Production costs and distance to the market was then an important factor, but also good infrastructure was seen as necessary to be able to operate efficiently.

This was something they expected to find in China, but they also looked at China as a very promising marked, which they saw as very important to get into. The strategy for entering the Chinese market had in most cases not been based on knowledge of the Chinese marked, such as the transparency situation. Instead the general strategy for all companies had been or, for the ones that have just started to enter the market, was to use the strategy they were using in other markets. The companies that had operated in the Chinese market for a while admitted that this had been a naïve strategy. These strategies caused for the need of transparency in the market, such as a legal and judicial system that could come to assistance when contracts were not followed. Their strategies were based in the security a legal and judicial system could give and which they thought was there. However, as argued in

Part II, these systems were missing, or in most cases, just failed to protect their interests when the companies had the need for them.

One company who entered the Chinese market in the mid 90s experienced a very common experience. They entered the market by setting up a joint venture with a Chinese partner. The expectation was that this partner had the local knowledge and connections needed to be able to be successful. The partnership failed however quickly as the contract was broken from the Chinese side when this partner set up a competing company based on the technology from the Norwegian company, a practise that is not uncommon among joint ventures in China. When the Norwegian company tried to bring the case to the court they lost the case, which if the law had been followed would not have happened. Not only did they not manage to stop the competing Chinese company who were using illegally their technology, but they also lost all the production facilities to the Chinese partner. The general feeling among foreign businesses that have been in the Chinese market for a longer period is that the judicial system is there only to protect the interests of the Chinese businesses. Even though it could look like on the paper that their interests should be protected in the same way as the Chinese companies interests were, the reality is different. This gives a false picture of the reality for companies entering the market and obstructs transparency.

This company advised later other companies that were about to enter the Chinese market to not trust blindly on the contracts they set up. Most of them would not be worth the paper they were written on they explained, but interestingly nobody listened to their advice. All the new companies had an expectation that they could trust their contracts and that the market was so lucrative that the problems they would face would pay off. After all, the economic growth was incredible, an impression caused by falsified Chinese statistics. Most companies have struggled to brake even and few have found the market to be so promising as the impression suggested to them⁵³.

Another example was a medium size Norwegian maritime company who had recently started the construction of a gas freighter at a Chinese shipyard. This traditional Norwegian industry is a typical example of a sector where businesses move their production to China. To build the ship at a shipyard in Norway had become too expensive according to the company, but the knowledge and technology to construct

⁵³ *Norske bedrifter brenner seg i Kina; Balltre smøring og lekkasjer*, Dagens Næringsliv, Oslo, 30. July 2005

such a ship did not exist in China. This meant that the drawings were still made in Norway and the ship then built in China. However, this company soon discovered something most businesses experience in China. Not long after the construction of the ship had started at the shipyard the Norwegian company learned that another shipyard up the coast had started to build the exact same ship. The suspicion that the shipyard they had chosen to build their ship had sold the blueprints to other shipyards was strong. The company identified that they were the only ones that possessed the technology and knowledge to construct such a ship, but now their blue prints had been sold to other companies in China. In a transparent system with regulations and copyright laws this situation could have been stopped. However, the company's attitude to the situation, which seems to be somewhat of a common perception among fresh foreign businesses in China that runs into similar problems, was that the market was so big that for them it did not mean they would lose any money and they basically did not care. On the basis of this perception they had not investigated the laws of China on how or even if the copyrights laws would protect their investments before entering the market. It was therefore not an issue for them what form of transparency there existed in China at this moment.

On the issue of getting in to the market and entering, the companies seemed to have little previous knowledge on what laws and regulations there was in China and upon how these laws and regulations were administered. For these companies it had been crucial to find a local partner with, preferably, good connections. It seemed that the little knowledge these companies had on doing business in China was limited to the concept of "guanxi". This common expression in Chinese means to use one's connections to get things done. The awareness that one could not do business, as in the west, with open bidding and a regulated and set process was already understood and even expected, it seemed like amongst most companies. The connections seemed to be an accepted form to do business. Of course this has its clear advantages for the businesses that get to the right "guanxi" and are able to profit heavily on this. On the other hand, this means that there is no formal bidding round, which excludes many businesses, which again has its clear disadvantage for the businesses kept outside and for the bidder himself.

Other businesses that had started operating in China had merely invested in production for cheap production that again would be exported back to the west. Many of these businesses had been promised very good incentives to set up their factories in the cities and towns that they had. Because of a very high competition among

numerous of cities and towns along the west coast of China that wants to attract lucrative western businesses it is common that these cities or towns will offer free infrastructure, no tax for a certain period, in some cases free labour for a certain period as well and if not free then very cheap labour anyway. These were incentives that are very lucrative for the businesses. For them it seems to be most important to be able to have as low as possible production costs, something these cities and towns could offer them. It was therefore mostly irrelevant for these businesses what form of transparency there existed in China.

The little interest for transparency must be viewed in connection with the two different categories of types of foreign businesses and investments in China. Most of these companies aimed their presence in China at production of cheap goods for export to mainly industrialised countries. The requirements for transparency in this category are found to be not that big. However, most of these companies find that their products are being copied by Chinese companies and sold for a fraction of their prices. This could in time become costly for the foreign companies.

Part IV: Conclusion

In this paper I have examined the arguments from the literature on the importance of transparent policies in order to attract foreign businesses and FDI. This should in theory also apply to the case of China. Within the globalisation process the demand for transparency on the national level are also being claimed to be important. This has been seen as a requirement from the WTO and the international community. China has therefore implemented several measures in order to meet the demands from the WTO to obtain the accession to the organisation.

However, in the case of China one has to ask if the situation, as it appears on the paper, corresponds with the reality. Agreements have been signed from the Chinese side that requires it to implement regulations, laws and policies that should create a better transparent system. Even though it appears that these requirements have been implemented, it has turned out in many cases that the system itself cannot follow up what has been implemented.

Through my research I have demonstrate how the judicial system has its clear flaws that make the whole system far from transparent. Even though the laws being made might correspond with the requirements of the WTO there are little transparency surrounding the judicial system. There is literally no insight into the law making process where the communist party in reality has the full control. The judicial

system is neither independent nor qualified enough to ensure that the transparency requirements are being met. Its close connections to the communist party and its many uneducated judges do far from ensure that it is enabled to follow the transparency requirements.

The practice of deliberately falsifying statistics both on local and central level is one of the clearest signs of that there is a clear difference between words and action. China has a long way to go still before its level of transparency reaches a western standard. However, this does not seem to keep the foreign businesses away from investing.

Foreign companies expect that the contracts they make in China will have the same judicial validity as in the west, which they often experience later is not the situation. At the same time they do expect to find a market with Chinese characters, but at the same time they have not looked closer into the real situation when it comes to transparency. In my research I have identified that their main requirement, in order to invest in China, is to make a wealthy profit and that this requirement are believed to be easily met because of the low production costs.

One has to remember that this also has been the situation in the past and that this nonchalance attitude has proved to be critical before. One of the reactions after the Asian financial crisis was that the situation could have been prevented if there had been more transparency and one could have more easily detected the red warning lights. The fact was though that few demanded transparency as long as they thought the market was lucrative. The same situation could easily arise in China as well. To prevent a similar fate for the economy transparent measures have to be implemented. However as long as the state leaders are not following up their demands, are not behaving according to their official demands, and the foreign businesses investing in China is not demanding a fear and open economy, the Chinese government could with little interference continue their policy making process with the lack of transparency.

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