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Acquisitions by Chinese Companies of American Companies

There will be growing efforts at acquisitions of major American companies by Chinese companies. The economics are compelling. China has accumulated enormous reserves of dollars, its companies have significant cost advantages, and they need access to commodities, global brands and distribution and technology. Chinese companies will make use of the takeover and merger expertise that has been developed by American banks, law firms and public relations advisors over the past 40 years. American companies and their advisors can expect Chinese companies to:

- Carefully select the right advisors — bankers, lawyers, public relations consultants — for the particular acquisition.
- Carefully select a very experienced team leader who will coordinate the work of the advisors and the analysis, approach, negotiation and consummation of the acquisition.
- Avoid hostile takeovers or interfering with a deal being pursued by another company.
- Make patient efforts to establish a relationship with incumbent management before opening discussion of a deal.
- Offer to negotiate a full price at the outset in order to achieve a friendly negotiated deal.
- Recognize, and accommodate from the outset, the concerns of employees, customers, suppliers, communities and other stakeholders.
- Recognize, and from the outset deal with, local, state and national social and political issues.
- Recognize and accommodate technical issues (such as enforcement of contracts and judgments in China) that could complicate negotiations.
- Use a U.S. subsidiary, with a board of directors having a substantial number of U.S. citizens and a prominent American as non-executive chairman, as the acquisition vehicle.
- Use a company (parent or subsidiary) that has shares traded in the U.S. as the acquisition vehicle.
- Avoid use of government assistance (such as low-cost financing) that could create objections by competitors.
- Use a minority stakeout (10% to 49%) with the right overtime to increase to a full acquisition.
- Pursue joint ventures or partnerships with U.S. private equity firms.

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