



**Tuesday, October 20**  
**2:30 pm–4:00 pm**

## **307 How the Global Financial Crisis is Affecting Foreign Direct Investment in Asia**

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**Brian Walters**  
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## Faculty Biographies

### **Max Laun**

Max W. Laun is senior counsel for Alcoa Inc., located in Pittsburgh, PA. He focuses on international transactions, including acquisitions, dispositions, and joint ventures. While at Alcoa, he has worked on deals around the world, including in the US, Canada, Brazil, Venezuela, Hungary, Italy, Spain, Germany, the UK, Russia, China, and Iceland. Mr. Laun is also the head of the Alcoa legal department's energy practice and its pro bono coordinator.

Mr. Laun serves on the board of directors of Neighborhood Legal Services Association; the board of ACC's Western Pennsylvania Chapter; the advisory board of the University of Pittsburgh School of Law's center for international legal education; and is a member of the Allegheny County Bar Association's public service committee.

He received his BA cum laude from Rice University, was a Fulbright Scholar in Romania, and received his JD magna cum laude from the University of Pittsburgh School of Law.

### **Paul Marcela**

Vice President, General Counsel & Secretary  
The Traxis Group

### **Dennis Unkovic**

Dennis Unkovic is a partner with Meyer, Unkovic & Scott LLP in Pittsburgh. He is involved in negotiating complex commercial transactions such as mergers and acquisitions, strategic alliances, joint ventures; corporate restructuring; and inbound and outbound foreign investment. He works closely with U.S. companies as well as foreign entities on international activities and investments. He has traveled to 45 countries, with significant involvement in China, India, Japan, Southeast Asia, and Europe.

Prior to joining Meyer, Unkovic & Scott, Mr. Unkovic served in Washington D.C. as the legislative director for Hugh D. Scott, former U.S. Senate Minority Leader; he simultaneously served as assistant counsel to the U.S. Senate Judiciary Subcommittee on Patents, Trademarks and Copyrights.

Mr. Unkovic is frequently invited to brief business executives, trade associations, and government and academic leaders on high-profile issues. He has authored six books, edited and contributed to three other books, and written over 150 articles for domestic and international publications. He is affiliated with numerous courts and professional organizations and was elected for inclusion in The Best Lawyers in America (Woodward/White, 2001~2009).

Mr. Unkovic received his BA with distinction from the University of Virginia and his JD from the University of Pittsburgh.

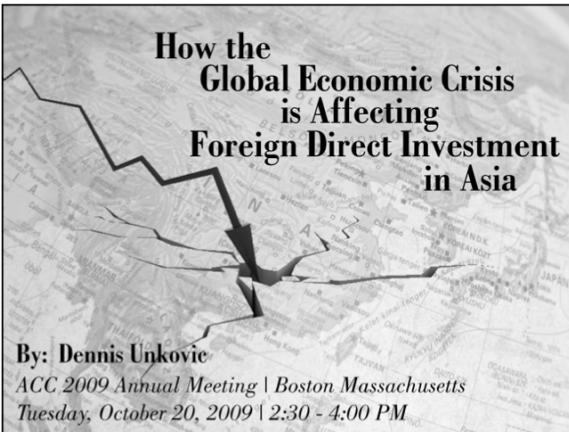
### **Brian Walters**

Brian D. Walters is the vice-president and general counsel of Matthews International Corporation headquartered in Pittsburgh. Matthews, Pittsburgh's oldest company in continuous operation since 1850, employs in excess of 5,000 people worldwide, including Europe and Asia. Mr. Walters is responsible for coordinating all legal operations for Matthews' two business segments, memorialization and brand solutions, both domestically and internationally. In his current capacity, Mr. Walters also manages Matthews' global acquisitions, including recent transactions in Beijing, China and Vreden, Germany.

Prior to joining Matthews, Mr. Walters was a litigator in private practice for two different firms in Pittsburgh wherein he also served as president of the Pennsylvania Defense Institute and testified before the Pennsylvania House Labor Relations Committee regarding litigation reform. He also argued numerous cases before the appellate courts of the Commonwealth of Pennsylvania, including several published decisions. He continues to maintain an AV rating by the Martindale-Hubbell Legal Directory.

Previously a member of the board of directors of Pittsburgh Cares, the Crossroads Scholarship Foundation, and Seton-LaSalle Catholic High School, Mr. Walters currently serves as the president of the Boston College Alumni Association of Western Pennsylvania.

A graduate of Boston College, Mr. Walters received his law degree from Duquesne University School of Law where he served as an editor of the *Duquesne Law Review* and was selected by faculty to the Order of Barristers.



## How the Global Economic Crisis is Affecting Foreign Direct Investment in Asia

By: Dennis Unkovic  
ACC 2009 Annual Meeting | Boston Massachusetts  
Tuesday, October 20, 2009 | 2:30 - 4:00 PM

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## Overview

- How deep and wide is the 2009 economic crisis?
- Southeast Asia: "30 miles of bad road"
- China: Back on track
- India: Is it really bucking the trend?
- The next five years

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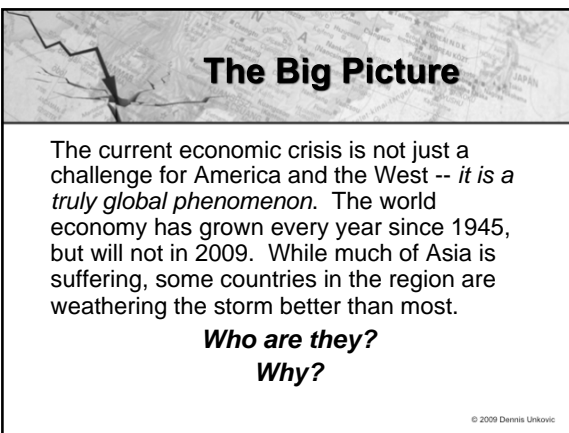
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## The Big Picture

The current economic crisis is not just a challenge for America and the West -- *it is a truly global phenomenon*. The world economy has grown every year since 1945, but will not in 2009. While much of Asia is suffering, some countries in the region are weathering the storm better than most.

**Who are they?**  
**Why?**

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**January 2009**

**A Three-Headed Monster:**

- Stock markets in freefall
- Fluctuating Currencies
- Stagnating GDPs

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**Southeast Asia**

**Thailand**

Thailand's economy will contract sharply in 2009 as the global economic slowdown negatively impacts exports. Ongoing concerns about political stability will continue to hinder major improvements in consumer and investor sentiments. Export growth will be particularly weak in 2009-2010.

***Prognosis = Poor***

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**Southeast Asia**

**Malaysia**

Malaysian economy is expected to contract by 3% in 2009 and experience mild deflation.

***Prognosis = Poor***

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**Southeast Asia**

**Taiwan**

Taiwan's merchandise exports plummeted in early 2009. GDP is expected to drop 6%-7% in 2009. Economic growth may accelerate to an annual average of 4.8% a year during 2011-13.

*Prognosis = Poor to Fair*

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**Southeast Asia**

**Indonesia**

Indonesia finds itself better off than most of its neighbors in Southeast Asia. Its annual average real GDP growth rate is expected to fall 4.1% in 2009-2013 as external demand in the country's exports weakens. Domestic consumption and foreign investment remains sluggish.

*Prognosis = Fair*

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**Southeast Asia**

**Singapore**

Economy contracted sharply in early 2009. GDP dropped 2.7% in second quarter. It may plunge further before growing by 1.9% in 2010. What will help Singapore in the long run is its large foreign currency reserves and a stable political system.

*Prognosis = Fair*

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**Asia**

**Japan**

- January to February 2009: Exports fall at fastest rate in 50 years
- GDP shrank in second quarter of 2009
- Yen likely to fall further in coming months against other currencies
- OECD forecasts Japan's GDP will shrink by 6.4% in 2009 as a whole

***Prognosis = Poor***

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**Asia**

**Korea**

- Badly hurt by the economic recession
- CPI fell from 2% in June to 1.6% in July, the lowest rate in 9 years\*
- GDP began to rise in second quarter

***Prognosis = Poor to Fair***

\* *The Economist*, August 8, 2009

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**China**

***"It's all about trade."***

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### China Is Back

- GDP growth for China in second quarter of 2009 – 7.9%
- Manufacturing is up
- Chinese banks are lending
- Domestic economy is beginning to replace exports

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### Why China Is Back

**Stimulus Package – Chinese Style**

- In effect since November 2009
- Shovel-ready projects
- Banks lending aggressively
- Focus on domestic economy

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### China's Three Greatest Challenges Over the Next Decade

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**China**

**Challenge #1:**

Rich China / Poor China

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**Rich China / Poor China**

- There is a vast disparity in income throughout China which places significant pressures on the Chinese government to spread the benefits of national economic growth.



The map shows China divided into two regions: 'Poor China' in the western and northern parts, and 'Rich China' in the eastern and southern parts. Major cities like Beijing, Shanghai, and Hong Kong are marked in the rich region, while others like Urumqi and Lhasa are in the poor region.

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**China**

**Challenge #2:**

China's Vast Geographic & Economic Diversity

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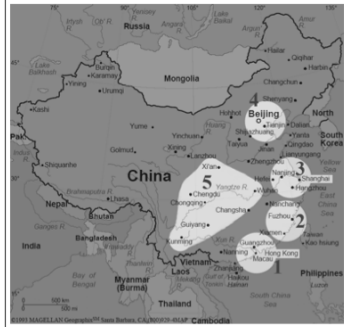
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### The Extent of Geographic & Economic Diversity in China

1. Hong Kong and the Pearl River Delta
2. The East Coast and Fujian Province
3. The Shanghai Economic Region
4. Beijing and Tianjin in Northern China
5. Central China: Wuhan, Chengdu, Kunming, Xian




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### Challenge #3:

China's Widespread Infrastructure Needs

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Is India really bucking the trend?

What is behind India's resilience in light of the current economic crisis?

*The Good – The Bad – The Ugly*

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### India: The Good

First quarter of 2009, India grew at 5.8%. While most of the world's economic prospects plummeted, GDP figures for 2009 are projected at 5.5%.

*Reason:* Ironically, India's historically inward-looking economy and complex governmental regulatory structure insulated much of the Indian economy from exposure to bad loans and failing banks.

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### India: The Bad

In 2009, both India's agricultural and manufacturing sectors are responding to external and internal pressures. With agriculture still the major driver of the Indian economy, a downturn here will have economic as well as political implications. Because India's manufacturing companies have become more export-focused, the trend toward a weakening manufacturing sector may accelerate.

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### India: The Ugly

Unlike China, India's rate of population growth is out of control. Unless the Indian government quickly adopts effective measures to permanently slow the population explosion over the next few years, even the otherwise positive growth figures in India will be erased by the demands of its population bubble.

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**The Next Five Years**

**Southeast Asia**

A basket case in the short run

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**The Next Five Years**

**India**

- Growth for 2009 projected at 5.5%
- Population explosion is the major threat to India
- In late 2009, expect increased manufacturing growth supplemented by a rapidly expanding Indian middle class

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**The Next Five Years**

**China**

Prospects are strong. Should continue to grow even if export-driven sectors of economy do not return to prior levels.

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## Two Strategic Developments in China

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### Development #1: Consolidation

The Chinese government is encouraging the consolidation of key industries such as automobiles and steel.

**Result:** Fewer outlets for suppliers.

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### Consolidation in the Steel Industry

- The top five Chinese steel makers now have 28.5% of the Chinese market
- Within three years after government-forced consolidations, 45% of market will be controlled by the top five
- The Baosteel Group, Anben Iron and Steel & Wuhan Iron and Steel are expected to be the three big winners

**Source:** The Financial Times

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### Consolidation in the Chinese Automotive Industry

- 14 Chinese car makers control 90% of the Chinese market in 2009
- Expect 14 to be reduced to 10 within three years
- The big winners are likely to be Shanghai Automotive Industry Corp., FAW, Changan, and Dongfeng.

Source: The Financial Times

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### Development #2: Infrastructure

- China will accelerate infrastructure projects in 2009 as a way to combat economic slowdown caused by export declines
- Projects such as highways, railroads, bridges and port construction will create and sustain a demand for ferrous and non-ferrous metals

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### The Bottom Line

China and, to a lesser extent, India hold the greatest promise for boosting Asia's economic potential in both the short and long term.

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**How *the* Global Financial Crisis is Affecting Foreign Investment in Asia**

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*“America’s economy and the world’s (economy) are now inextricably bound up with China”*

*China, Inc. - Copyright 2005 by Ted C. Fishman*



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**China 2009**

- Foreign direct investment in China during the first half of 2009 was approximately 20% less when compared to the first half of 2008.
- Foreign investment in greenfield projects declined during the first three quarters of 2009.
- Foreign acquisitions in China also remained relatively inactive during the same comparative period.



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- China and India have not been as adversely impacted as the American and European markets.

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### Exceptions to the Trend



- Foreign investment in specific business sectors and, in particular, retail and telecommunications, remained surprisingly active in China as several multinational corporations continued to expand their operations in Asia.
- International sports apparel maker NIKE announced plans in the first half of 2009 to invest \$99 million USD to build a new distribution center in Jiangsu, further reinforcing its ongoing commitment to development in China.

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*“Opportunities continue to exist for innovative companies operating in China.”*

*-Based on the experiences of a mid-cap company headquartered in the U.S.*



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**Actively Pursuing Investment?**

Certain companies headquartered in the United States are still actively pursuing investment in Asia.

**Two primary factors:**

- Customer demand/expectations; and
- Increased competition resulting in continued operating profit margin pressure.

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**Customer Demand/Expectations**

Many goods and service providers continue to observe their largest customers cutting their domestic investments and increasing their investments in Asia.

- Several large retail brand companies continue to focus their spending initiatives in Asia as they search for growth opportunities in "emerging markets". One such company recently **REQUIRED** all of its suppliers to produce their permanent in-store fixtures in Asia because of the perceived cost savings to the retailer.

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**Customer Demand/Expectations**

- If your company is one of the suppliers which provides goods to or services for that retailer, then your company will need to commit resources to Asia. Otherwise, failure to do so will result in the loss of the opportunity to service that mega-brand retailer.

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**Pressures on Suppliers**

Multinational corporations DEMAND increased sensitivity from their business partners regarding:

- Timeliness
- Language
- Culture

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**Pressures on Suppliers**

The foregoing sensitivities reflect the increased effort by multinational corporations to standardize their purchasing systems globally.

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**China: Offensive and Defensive Business Strategies:**

- OFFENSIVE – Goods and service providers recognize opportunities to secure additional or entirely new business by committing resources to China. A distinct competitive advantage exists to servicing customers with an actual “on the ground” presence in Asia.

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**China: Offensive and Defensive Business Strategies:**

- DEFENSIVE – Investing in China and developing production and/or service capabilities in Asia may need to be pursued (sometimes reluctantly) in order to avoid losing existing business. Specifically, it is not uncommon for current customers to require their producers of goods and services to open and maintain operations in Asia. Failure to do may result in the customer transitioning the existing business to a goods/services provider committed to China.

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**What to Expect Moving Forward**

- Foreign investment in Asia generally remains more “risky” than investment in other foreign markets.
- Notwithstanding the foregoing, U.S. companies will likely continue to significantly invest in Asia. It still remains an inescapable eventuality.

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**Why Will Foreign Direct Investment Continue to Occur in Asia?**

- The market place and, more specifically, large customers of goods and service providers will continue to demand it.
- The current global recession has resulted in a re-setting of the price and cost of products and services in the marketplace.
- During a prolonged recession, manufacturers remain determined to further cut costs and will, as a result, need to address over-capacity issues by closing manufacturing facilities.

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**Conclusion**

- Asia remains a desirable market for businesses and the Asian investment experience continues to improve for U.S.-based companies.
- The market place will most certainly continue to compel businesses to invest in Asia (although perhaps not at the prolific pace of prior years).



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## ACC Extras

Supplemental resources available on [www.acc.com](http://www.acc.com)

Is India or China the Savior to the Worlds Economy Needs?

ACC Docket. June 2009

<http://www.acc.com/legalresources/resource.cfm?show=306067>

The Benefits of Legal Outsourcing.

ACC Docket. July 2009

<http://www.acc.com/legalresources/resource.cfm?show=422427>

China Trends: 2008 Perspective.

Quick Reference. November 2008

<http://www.acc.com/legalresources/resource.cfm?show=158217>

Succeeding in China and India: The Next 10 Years.

Program Material. October 2008

<http://www.acc.com/legalresources/resource.cfm?show=163782>

Please note, these additional resources are provided by the Association of Corporate Counsel and not by the faculty of this session.