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WORKING WITH CHINA TOWARDS 2060

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- Facilitating coordinated efforts among the Chamber's membership
- Working with China to achieve its 2060 carbon neutrality goal

Contents

ISSUE 70
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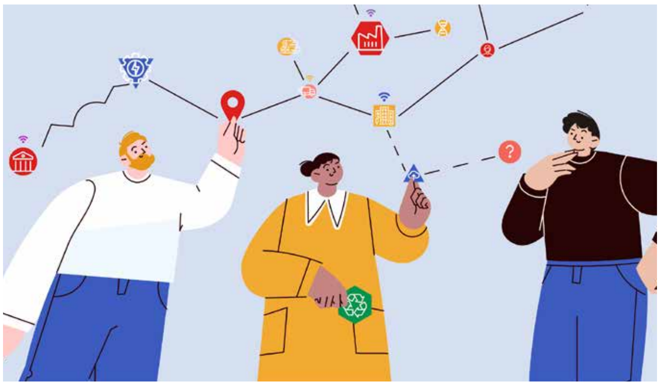

Features

Cover Story

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Regulars

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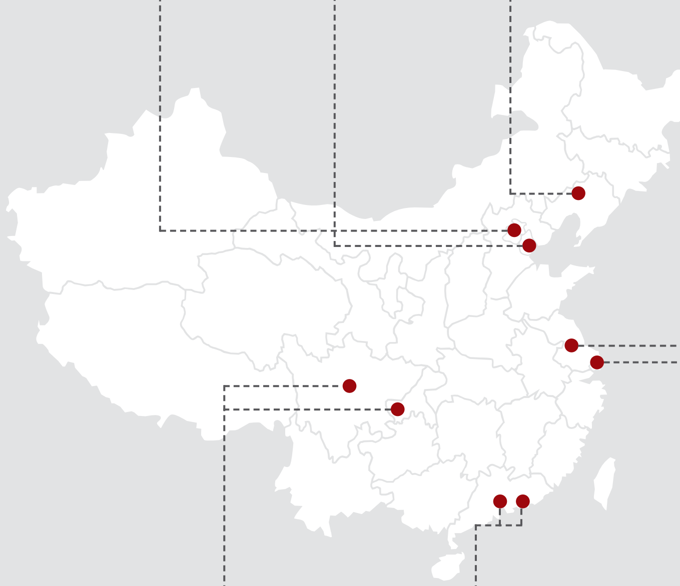

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President's Foreword

China needs to find its way back to the path of opening up

Jörg Wuttke

President

European Union Chamber of Commerce in China

While the rest of the world has largely resumed pre-pandemic levels of 'normality', China remains reluctant to open its doors. The country's 'splendid isolation' not only makes travelling in and out tedious, but also holds China back from showcasing its potential to foreign investors.

Inbound investment flows from the European Union (EU) are declining:[1] the bulk is contributed by a handful of large companies, and prevalent access barriers deter potential newcomers to the market.[2] The present mix of multinational companies and 'hidden champions' is stable, but there is increasing discrepancy between market potential and the actual market share of European companies.

Widespread regulatory barriers—both visible and invisible—continue to constrain the ambitions of European companies operating in the Chinese market. Challenges will only intensify as firms face increasing scrutiny from EU stakeholders, governments, non-governmental organisations and media over a range of issues. One major topic that came under the spotlight recently was Russia's invasion of Ukraine, which subsequently raised questions over whether China could take similar actions against Taiwan and what the impact might be on companies' global operations.[3]

A diversification debate is also intensifying. With China staying largely closed, European companies are increasingly weighing up the possibility of shifting planned or future investments to places that are perceived to provide greater reliability and predictability.[4] This presents opportunities to other emerging markets that are ready to welcome new investment and jobs.[5] Meanwhile, China's push both for increased 'self-reliance'[6] and 'buy China'[7] are only easing the country into deeper isolation.

The European Chamber needs China to fulfil its huge economic potential. To that end, we have just launched our *Position Paper 2022/2023*, containing 967 constructive recommendations based on the expertise of our member companies in our 35 working groups and sub-working groups. It remains our primary tool to help us advocate for a level playing field for all companies operating in China, and to illustrate to Chinese decisionmakers how much the country would benefit from getting back on the path towards opening up.

On a separate note, as you may already know, our Vice President Guido Giacconi sadly passed away in September. A page has been created on our website for him, where messages of condolences are displayed. We have also dedicated our *Carbon Neutrality* report posthumously to him. Guido is dearly missed and his loss is a good reminder of the importance of family, health and friends.

On 18th September 2022, European Chamber Vice President Guido Giacconi passed away peacefully while visiting family in his native Italy.

1 Garcia Herrero, Alicia, Dieu Nguyen, Trinh and Xu, Jianwei, *Natixis Asia M&A Monitor: Inbound Declined and Reshuffled, with Covid–19 and Geopolitics Boosting Bids to Southeast Asia,* Natixis, 18th August 2022, viewed 5th September 2022, <https://www.research.natixis.com/Site/en/economics/latest–publications/publication/l7DI9AWcu6cVogD9F2tquw%3D%3D>

2 Between 2006 and 2015, the concentration of European foreign direct investment (FDI) in China was more or less evenly distributed between the top 10 investors and the rest. However, in the last four years, the top 10 investors contributed more than 70 per cent of European FDI in China: Kratz, Agatha, Barkin, Noah & Dudley, Lauren, *The Chosen Few: A Fresh Look at European FDI in China*, Rhodium Group, 14th September 2022, viewed 14th September 2022, <https://rhg.com/research/the–chosen–few/>

3 Sevastopulo, Demetri & Edgecliffe–Johnson, Andrew, *Executives seek briefings on Taiwan war risk, Financial Times*, 12th July 2022, viewed 5th September 2022, <https://www.ft.com/content/8c753573–b2d7–42a9–810f–25ab37eb0099?utm_source=substack&utm_medium=email>

4 *European Business in China Business Confidence Survey 2022*, European Union Chamber of Commerce in China, p. 12, 20th June 2022, viewed 5th September 2022, <https://www.europeanchamber.com.cn/en/publications–business–confidence–survey>

5 Garcia Herrero, Alicia, Dieu Nguyen, Trinh and Xu, Jianwei, *Natixis Asia M&A Monitor: Inbound Declined and Reshuffled, with Covid–19 and Geopolitics Boosting Bids to Southeast Asia*, Natixis, 18th August 2022, viewed 5th September 2022, <https://www.research.natixis.com/Site/en/economics/latest–publications/publication/l7DI9AWcu6cVogD9F2tquw%3D%3D>

6 Wu, Wendy, Wang, Orange & Cai, Jane, *'Two sessions' 2022: self–reliance highlighted as China's top economic priority amid turbulent geopolitical times, SCMP*, 6th March 2022, viewed 5th September 2022, <https://www.scmp.com/economy/china–economy/article/3169405/self–reliance–chinas–top–economic–priority–turbulent>

7 Zipser, Daniel, Seong, Jeongming & Woetzel, Jonathan, *Five consumer trends shaping the next decade of growth in China*, McKinsey, 11th November 2021, viewed 5th September 2022, <https://www.mckinsey.com/cn/our–insights/our–insights/five–consumer–trends–shaping–the–next–decade–of–growth–in–china>

INVISIBLE MARKET ACCESS BARRIERS

Examples from the European Business in China Position Paper 2022/2023

Agriculture, Food and Beverage Working Group

Implement the Measures for Registration of Overseas Manufacturers Reasonably, Without Creating Either Excessive Constraints for Companies or Trade Disruption

"Although the *Regulations on the Administration of Registration of Overseas Food Manufacturing Enterprises (Decree 248)* came into effect in January 2022, food importers still face difficulties in completing registration."

Automotive Working Group

Unify Policies Related to Vehicle Data Security Administration and Permit Cross-border Transfer of Data for Research Purposes

"There have been circumstances where local authorities in different regions are unable to specify report requirements, or where two authorities in the same area—for example, the [Cyberspace Administration of China] in Shanghai and the Shanghai Communications Administration—have different requirements for annual report submissions."

Banking and Securities Working Group

Address Funding Limitations for Foreign Banks 15

"Foreign banks face funding restrictions due to stringent regulatory approvals, have limited access to the China Foreign Exchange Trade System interbank market and also encounter problems associated with the issuance of *renminbi*-denominated debt instruments in China, all of which stifle their growth."

Construction Working Group

Allow European Companies Greater Access to the Bidding Process for Government Procurement Work 12

"The European Chamber's *Business Confidence Survey 2022* registered that 28 per cent of civil engineering and construction companies reported missing business opportunities due to market access restrictions and regulatory barriers, which include barriers to government procurement processes."

Cybersecurity Sub-working Group

Ensure that Chinese Security Legislation Does not Create Discriminatory Market Access Barriers 6

"The Cybersecurity Sub-working Group perceives that certain requirements under Chinese security legislation, notably the Cybersecurity Law, the Data Security Law, the Personal Information Protection Law and the Cryptography Law, may present *de facto* market access barriers for international businesses, and calls for a change."

Energy Working Group

Ensure European Companies Have Equal Access in the Renewable Energy (RE) Sector and Provide a Minimum Quota per Province

"Currently, most operational RE projects in China are controlled by a mere handful of companies, particularly state-owned enterprises, with foreign enterprises facing more constraints to develop, own or operate renewable assets."

Environment Working Group

Increase the Transparency and Predictability of Environmental Protection Enforcement 4

"Many European companies report that they encounter unexpected requirements to reduce their environmental impact through the procurement of energy from renewable energy sources, occasionally beyond what is realistically possible. For companies that are already operating in authorised locations, such as designated industrial parks, and that adhere to the highest standards in order to comply with applicable regulations, such unexpected requirements and 'one-size-fits-all' policies bring exactly the kind of business uncertainty that they try to avoid when choosing where to invest and manufacture."

Fashion and Leather Working Group

Allow Enterprises to Not Display Recommended Product Standards on Imported Apparel 2

"Although existing laws do not clearly state whether or not imported apparel and leather products should display a product standard number, some market surveillance agencies require it for use in product inspection, which is unnecessarily burdensome for enterprises."

Food for Special Medical Purposes (FSMP) Sub-

working Group and Paediatric Nutrition Desk

Continue to Explore Alternative Plans for Overseas Onsite Inspection to Address Challenges Faced by Overseas Manufacturers in Infant Formula and FSMP Registration

"Manufacturers of infant and young children milk-based formula and FSMP are facing operational challenges due to both unclear regulations related to onsite inspections and the fact that the product registration process has been suspended indefinitely because onsite inspections are no longer taking place as a result of the COVID-19 pandemic."

Healthcare Equipment Working Group

Harmonise with International Practices Regulatory Requirements for Relocating Manufacturing from Overseas to China 2

"Though the [National Medical Products Administration] simplified the policy for the registration of products whose manufacture has been moved to China, it stipulates that the legal manufacturer of such products must be the enterprise established in China by the licence holder of the imported products, which is not common practice for multinational companies."

Information and Communication Technology Working Group

Open up Value-added Telecoms Services (VATS) and Internet Sectors to International Companies 13

"Although many European companies have attempted to enter or expand into the Chinese VATS and internet market, VATS and internet business operation licences act as a major barrier to their participation."

Insurance Working Group

Allow Foreign-invested Insurers to Shape Their Distribution Networks as They See Fit 20

"It is challenging for foreign insurers to obtain approval from the [China Banking and Insurance Regulatory Commission] and its local offices to open or close provincial branches."

International Liner Shipping Sub-working Group

Adhere to the Principle of Reciprocity when Issuing Cargo Relay Permissions and Simplify Customs Declaration Procedures

"A lack of reciprocal treatment with regard to cabotage rights between China and both vessels' countries of registration and their home countries, in combination with complex customs rules, are resulting in difficulties implementing international relay."

Logistics Working Group

Simplify the Licensing and Management Requirements for International Express Companies

"The geographical scope requirement for obtaining international express licences in China and applying the management requirements of the franchise model to the agency model constitute access barriers to the industry for international express companies."

Maritime Manufacturing and Industrial Services Working Group

Increase Foreign Companies' Access to Green Demonstration Projects and Pilot Projects

"Decarbonisation of inland and coastal water transportation will be key to reaching China's 2060 carbon neutrality goal, yet European companies are largely prevented from participating in green maritime demonstration projects and other pilot projects because of unclear tendering processes and other relevant information."

Non-banking Financial Institutions Working Group

Clarify the Basis for Value-added Tax (VAT) Deductions Between Headquarters and the Branch Office of an Equipment Leasing Company (ELC) 2

"Inconsistency among tax authorities in interpreting VAT regulations not only increases the tax burden on ELCs but also hinders the development of the industry by forcing companies to change their business model or even give up their operations."

Quality and Safety Services Sub-working Group

Ensure Equal and Fair Treatment in Government Procurement Activities for Foreign-invested Testing, Inspection and Certification (TIC) Agencies 3

"Certain unreasonable conditions set in government procurement activities constitute invisible barriers that exclude foreign-invested TIC agencies from obtaining equal and fair treatment during the process."

Rail Working Group

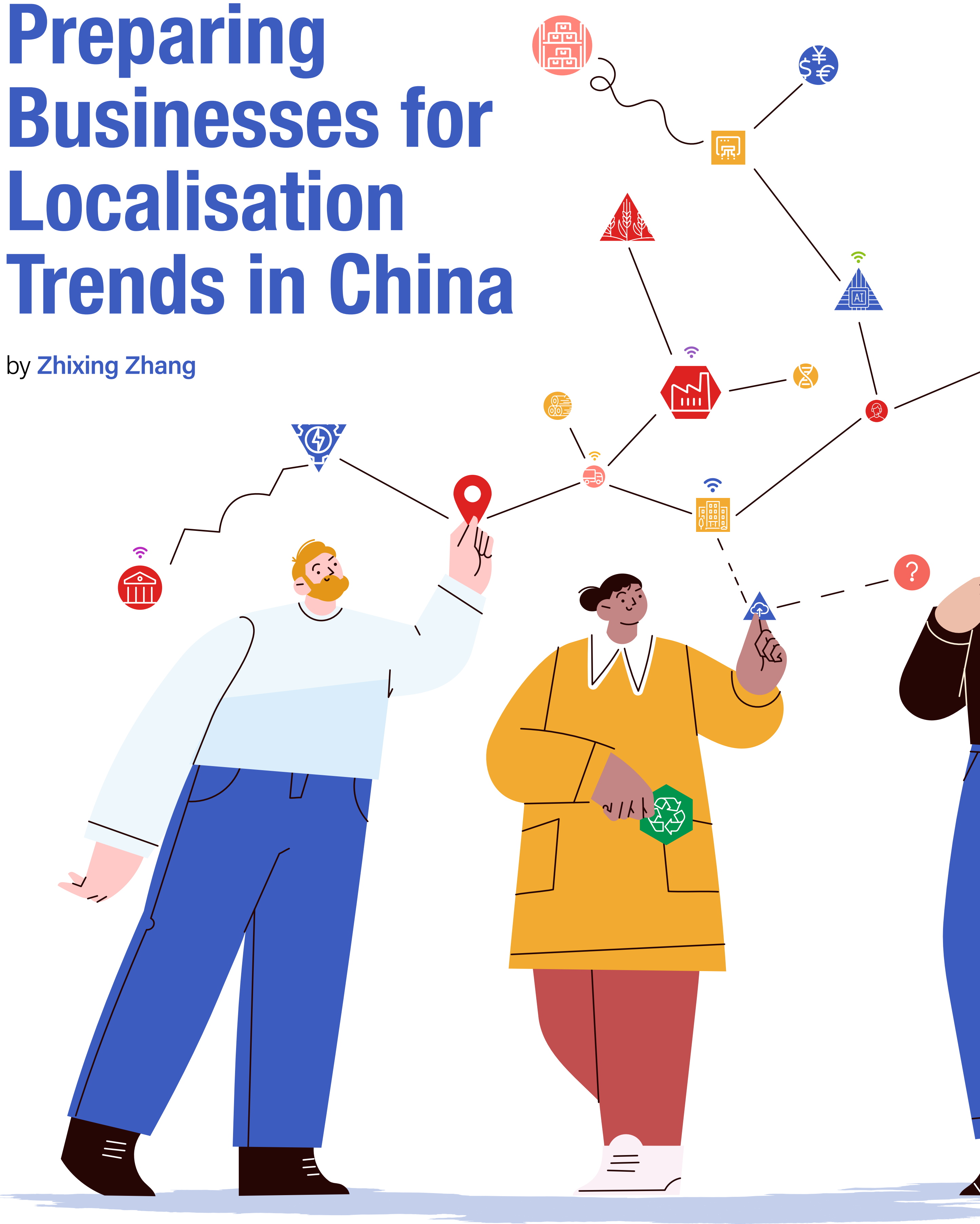
Continue to Expand Market Access and Improve Fair Competition in the Rail Industry

"Wholly foreign-owned enterprises and joint ventures controlled by foreign investors are at a disadvantage to domestic enterprises under the requirement for 'autonomous and controllable' technology in the Chinese rail industry."

Scan the QR code to download the *Position Paper 2022/2023*

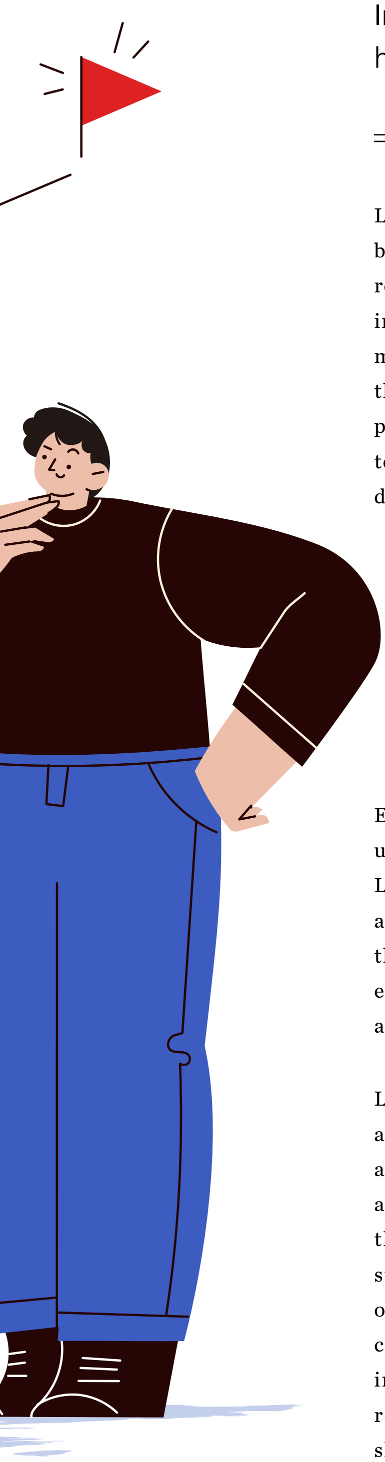
Preparing Businesses for Localisation Trends in China

by **Zhixing Zhang**



International trade was badly shaken when the COVID-19 pandemic wreaked havoc on global supply chains, causing anxiety around the world over governments' and companies' ability to maintain access to vital components and products. This led to a surge in calls for 'self-sufficiency' in important goods like medical masks and semi-conductor chips. However, the trend towards localisation had in fact already been established pre-COVID, as China's dual circulation and Trump's 'Make America Great Again' policies cast shadows over the prospect of continued globalisation.

In this article, **Zhixing Zhang** of **Control Risks** examines localisation in China, and how it may continue to affect European businesses operating in the country.



Localisation has been a central theme for foreign businesses in a range of industries in China in recent years. Beijing has pushed for localisation in certain sectors, particularly technology, for more than a decade. Nonetheless, tensions with the United States (US)—along with increasing politicisation of supply chain security and technology export restrictions to China—have dramatically hardened Beijing's resolve to increase the scale and speed of localisation. These dynamics will only intensify with the ongoing fallout from the war in Ukraine, which will bolster determination to increase technology supply chain resilience in the European Union (EU) and the US, and especially in China.

Ensuring supply chain security therefore underpins China's localisation strategy. Localisation policies and requirements are also influenced by other priorities: upgrading the domestic industrial value chain, growing employment opportunities and revenue at home, and supporting wider industrial reforms.

Localisation should not be simply interpretated as a means to advantage domestic companies and products. China's intention is not to drive all foreign businesses out of the market. Instead, the government has used various incentives—such as preferential tax and land, funding or informal support—to encourage foreign companies to set up more localised operations in China, especially in the manufacturing, research and design of critical technologies. In short, China's overall localisation trends will increasingly shape the future competitiveness of foreign businesses.

At the same time, localisation pressure is often signalled informally through regulators or customers. In some cases, Mainland China-based companies—particularly state-owned firms—are required by regulators to source local alternatives where available. In other instances, products or services that are not produced locally are disadvantaged through lengthy approval processes, disincentivising tax policies and, increasingly, discriminatory procurement requirements.

Localisation variances

Localisation will continue to evolve and will almost certainly expand in terms of both sectors and scope in the coming years alongside continuing geopolitical developments, China's technology advances and the maturation of domestic competitors. Nonetheless, localisation policies are not uniform across industries, products or local jurisdictions. Understanding these variances forms a first step for businesses to assess their localisation exposure.

- **Sector variances:** Factors such as a sector's importance, supply chain vulnerabilities, domestic substitutability and local political priorities greatly influence localisation priorities and scope. In some cases—particularly in more sensitive sectors—localisation requires that products are not just physically made in China, but are also made by Chinese companies. In less strategic areas or where domestic alternatives are not available, localisation is understood as products being manufactured in China regardless of the origin of the companies. This therefore leaves broad discretion for regulators—as well as customers—to interpret localisation.

- **Local variances:** In sectors where central authorities do not provide specific policy guidance, highly varied and localised implementation exists, including within individual provinces. Local political priorities, financing or connections with local businesses can influence how localisation is interpreted, explaining loose, tight or over-zealous implementation. Such differences are most apparent between the coastal regions, where authorities apply greater flexibility, and inland areas, but approaches across sectors and businesses are not always consistent either.

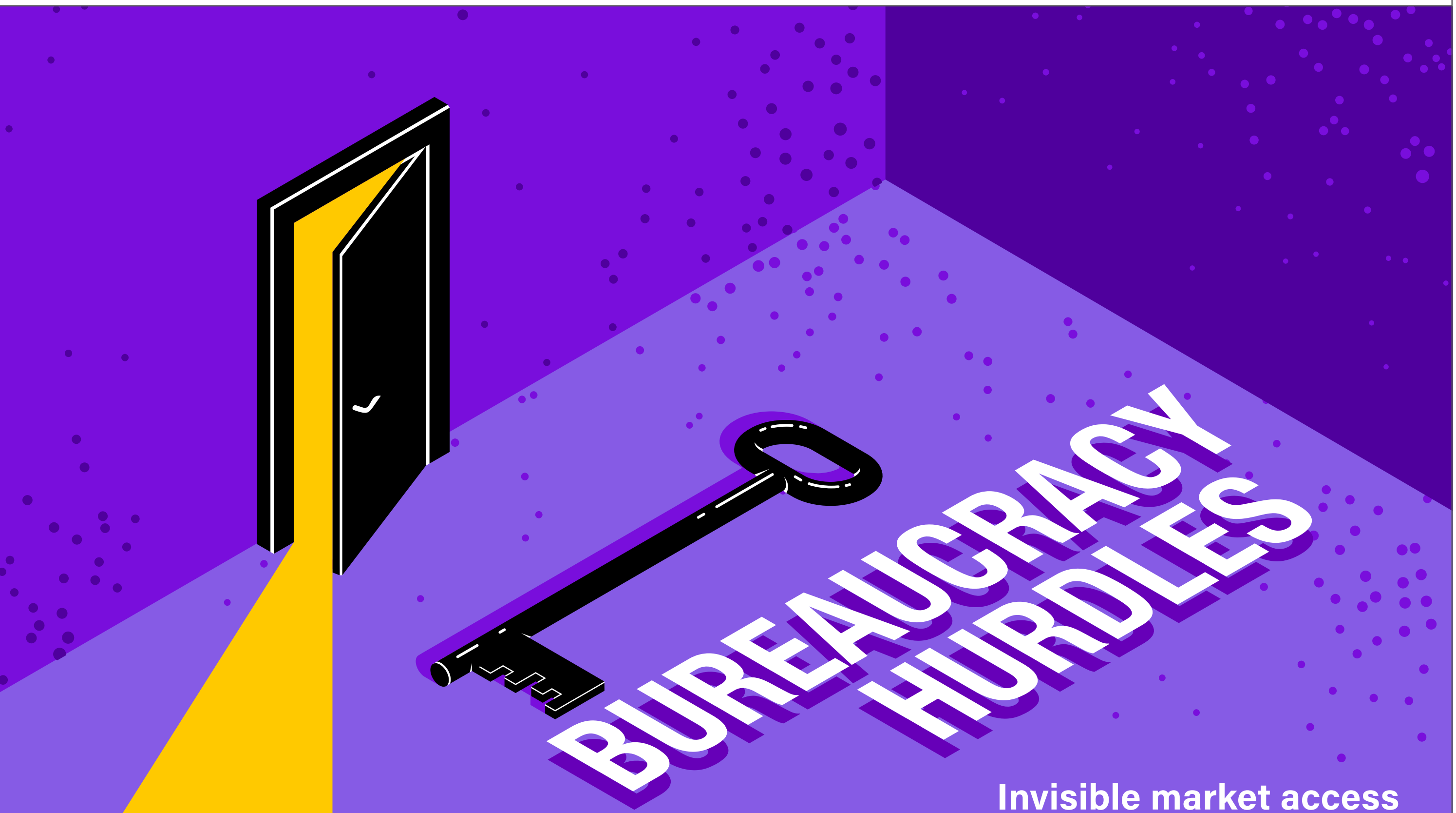
Assessing localisation strategies

As businesses decide how, whether and when to implement localisation strategies, key factors to consider include:

- **Localisation exposure:** Assess whether your sector, business or core products and services are considered priority areas for localisation under China's policy framework. The answer may be "no" for the moment, but analysis of the future trajectory of industrial policies is important and helps prepare businesses for potential changes in exposure. Sectors that are considered strategic, sensitive or relevant to national security and stability generally face higher localisation exposure.
- **Competitiveness:** Identify core products and services that are most likely to maintain technological or market competitiveness, determine the timeframe for how long such competitiveness is likely to continue, and evaluate the legal and regulatory framework related to supplying such products and services in China.
- **Implementation trends:** Monitor industry standardisation as well as informal implementation of how localisation is defined, conscious of local and sector variances. Closely track the localisation strategies of domestic and international competitors, and assess how these efforts affect your localisation status and market competitiveness.
- **Benchmark:** Benchmark the positioning of your business and key products. Assess the degree of localisation of your business, your main products and services supplied or to be supplied to China, and the products and services of your main competitors.
- **Assessing options:** Assess the feasibility of different localisation strategies (such as manufacturing, supply chain and core components), including both the advantages and the potential risks, as well as the time and resources required for each strategy. Don't forget to include broader, often overlooked, risks such as geopolitical, data security and reputational challenges associated with localisation in China. Identify and conduct due diligence on potential local partners.
- **Perception audit:** Map key stakeholders, including the government, regulators and customers. Where applicable, identify areas where marketing, government affairs and product development strategies can be strengthened to elevate the perception of your business'local status'.

Zhixing Zhang is an associate director at Control Risks. Based in Shanghai, she is responsible for delivering and developing Control Risks' analytical products and providing consulting services in geopolitical, political, security and operational risks pertaining to China and North-East Asia.

Control Risks is a specialised risk consultancy committed to helping clients build organisations that are secure, compliant and resilient in an age of ever-changing risk and connectivity. We have unparalleled experience in helping clients solve the challenges and crises that arise in any ambitious organisation seeking to convert risk into opportunity globally. The insight and depth of experience we have gained over more than forty years proves invaluable in giving our clients the intelligence they need to grasp opportunities with greater certainty.



BUREAUCRACY HURDLES

Invisible market access barriers when doing business in China

by **Sebastian Hoffmann**

Expanding into unknown markets can be time-consuming, risky and complex. These concerns increase even more in times of a global pandemic, when movement is limited and bureaucracy hurdles remain. Invisible barriers often present themselves to European companies looking to enter the Chinese market. This article by **Sebastian Hoffmann** from **Hawksford** highlights the obstacles that remain in place, despite the Chinese Government having made some improvements to the business environment for foreign direct investment in recent decades.

Limited movement continues

Before the outbreak of COVID-19, business owners and senior managers were able to fly into China on a regular basis to check and engage in the business activities of their local entities. Even though citizens from most European Union (EU) Member States are once again able to apply for M, F and Z visas without needing PU letters to be issued—as previously required since the beginning of the pandemic—the biggest obstacle lies in finding suitable flight connections. The few flights available are generally overpriced, costing up to Chinese yuan (CNY) 50,000 or more for a one-way journey. Besides, anyone travelling to China will still be asked to complete a 10-day quarantine. These travel restrictions continue to have a huge impact on investors who have ambitious expansion plans in China and are keen on meeting their contacts face-to-face.

High administrative threshold

Unlike in most European countries, where you can easily register various types of companies, business owners in China must first go through a rigorous application process to gain approval for registration. Such barriers make it more difficult to access the Chinese market in comparison to many other markets of interest.

Although companies are encouraged to complete some of the application procedures—such as bank account opening and tax registration—via online systems and digital formats, these methods are not always straightforward for non-local residents. This is because the process involves a step called ‘real-name verification’, a procedure that non-local residents can only complete during an in-person visit to the bank and the local tax bureau. Few Chinese banks currently allow real-name verification via a real-time video conference as an alternative, leaving limited alternatives for foreign passport holders.

External assistance often unavoidable

When registering a business in China, companies must appoint individuals to fulfil the roles of their legal structure, such as a 'legal representative', a 'financially responsible person' and a 'supervisor'. These roles do not necessarily have to be filled by local Chinese residents, but do require a Chinese mobile number to proceed with the various documentation and procedures requested by local governments. Since Chinese mobile numbers for individuals are all real-name authorised and only available for purchase at the counter of telecommunication providers in China, foreign companies may face some difficulties here. Without an existing local mobile number, they will most likely be unable to open a bank account or register with the tax bureau, and are therefore unable to independently complete the required business registration steps.

However, foreign companies can appoint a reliable third-party corporate service provider that is based in China and able to provide nomination services of the aforementioned roles. As part of the procedure, the appointed service provider will authorise local staff to assist foreign companies with the entire real-name verification process. However, this can lead to extra costs, as well as the efforts needed to find a trusted service provider.

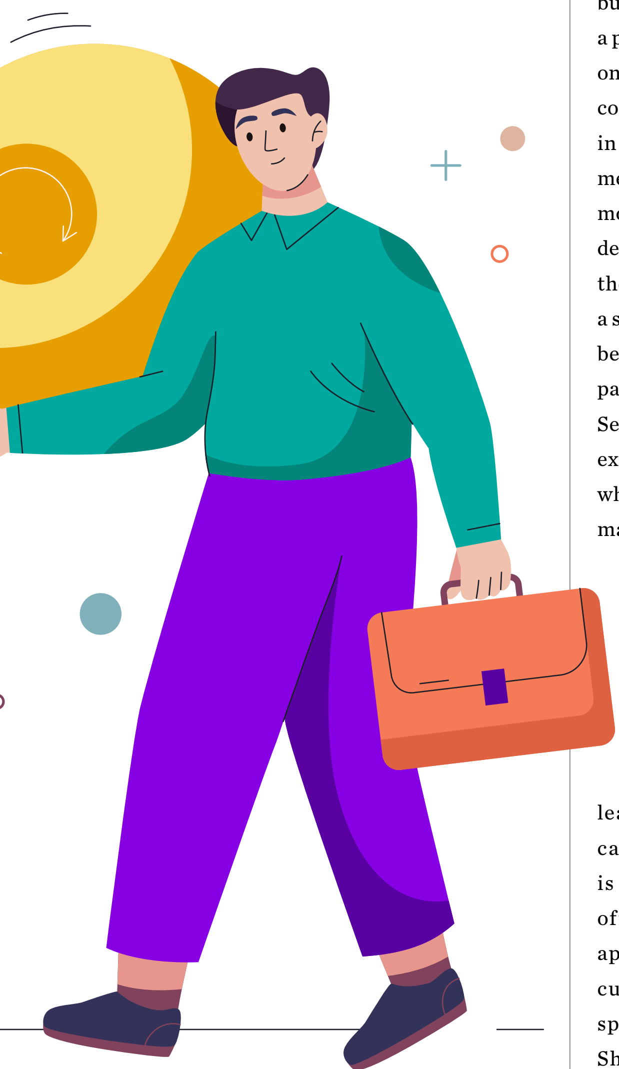
Challenges in financing and capitalising the business

Financing and capitalising a business in China can be a challenging task, with the main difficulty being access to loans. Micro enterprises encounter great difficulties in securing financing from banks, due to a low return on profit from such businesses. Even if a foreign-invested small business is able to obtain loans from a bank, the interest rate of various service charges is usually significantly higher than that offered to local companies. Business owners should define their financial needs and make cash flow projections before registering their companies in China to assess the suitable registered capital value. Cash flow projections can also help companies understand when they are most likely to need additional funds and plan how to procure them. Meanwhile, capital increases and intercompany financing can be considered valid alternatives to a bank loan.

Difficulties in transition to electronic functions

With the aim of digitalising and modernising business registration, the Chinese Government has been promoting the use of electronic business licences and company seals that have the same legal effect as paper/physical ones. When

registering a new business in the cities involved in the pilot programme, such as Shanghai, the adoption of e-business licences and e-company seals becomes a must. Applying for e-business licences and company seals is done on WeChat or Alipay, for which a Chinese mobile number is needed. If the legal representative is a Chinese identification card holder, this step can be done quickly online. However, in the case of a foreign passport holder, a legal representative is



required to either visit the local State Administration for Market Regulation office in person, or to authorise a local agent to apply for the e-business licence. The latter can be done by signing a confirmation letter and providing an email address to receive the QR code issued by the authorities. Although the digital formats and online systems are intended to improve working efficiency, they present difficulties for non-local residents looking to register businesses.

Registered address and cash reserves remain crucial

When setting up a company in China, business owners are required to submit a physical registered address to be stated on the business licence. To comply, companies need to rent an office space in commercial premises, which usually means having to pre-pay up to three months of rent, on top of the standard deposit required by the landlord. It is therefore highly recommended to ensure a strong and healthy cashflow from the beginning, as running out of cash can pause or postpone market access plans. Securing rental space also requires extensive documents from the landlord, which often takes time and is difficult to manage from abroad, especially when language barriers exist.

As an alternative, a virtual office can be used as a company's registered legally binding address. Through this, and upon providing all relevant lease paperwork, a business licence can be issued even though a company is not able to provide its own physical office premises at the time of application. However, this solution currently only applies to selected special economic zones, such as in Shanghai or Shenzhen. Significantly, certain industries—such as food and beverage or chemicals—are not eligible for this option. This is because those ventures require separate permits or have warehouse facilities, which lead to additional requirements (like pre-approvals, licences), due to the nature of their business activities.

Conclusion

While the Chinese administration has made a lot of efforts to support foreign businesses, accessing the Chinese market is still quite complex. Increased localisation is therefore regarded as a necessity and an opportunity to effectively meet growth needs. Businesses should be ready to observe further policy implementation and continuously adjust their expansion strategies towards more flexibility by reducing their dependence on certain administration procedures affecting their business in the long run. While doing so, it is necessary for companies to work with a trusted partner who can plan ahead for each step in entering the market and ensure sustainable growth.

Disclaimer

Current regulations are constantly changing based on the epidemic prevention and control situation. Our writing does not represent the view of the authorities. Kindly be reminded that stated policies are subject to constant changes and modifications. Therefore, by the time of reading, above rules and regulations might have been adjusted already.

Sebastian Hoffman is a senior sales and business development associate in charge of Hawksford German Desk in China. His areas of expertise are: trade and business development in Asian markets; entry strategies in Asia Pacific; manufacturing operations; and German cross-border trade.

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On the Perimeter of the Economic Circle

Market access barriers in the burgeoning market of Southwest China

by **Shane Farrelly**

The eastern and southern regions of China have long been the traditional powerhouses for foreign investors, leading to a large disparity with more inland regions in terms of market development. China has sought to rectify this imbalance through initiatives such as the Western Region Land-Sea Corridor, Belt and Road projects and the Western Region Development Strategy. From January to August 2022, the western region reported a 43 per cent surge in foreign investment. However, such levels need to be placed in context: the low base of foreign investment in the region the previous year is a factor in this disproportionately high level of growth.

The implementation of the Chengdu-Chongqing Economic Circle, identifying Chengdu, 27 districts and counties in Chongqing, and 14 other Sichuan cities as China's fourth economic city cluster, indicates further strengthening of the region's economic influence is envisioned. Despite this, certain market access barriers still exist in the region. **Shane Farrelly, chair** of the **European Chamber Southwest China Chapter's Investment Working Group**, discusses what can be done to tackle them to alleviate the concerns of European investors.

Involvement in policymaking and public procurement

The creation of the Chengdu-Chongqing Economic Circle (Economic Circle), announced by the National Development and Reform Commission in June 2021, is supposed to create more business opportunities. The plan is to achieve this through improved regional coordination by aligning policies and regulations, and expanding key infrastructure (especially transport, telecommunications and utilities), among other goals.

For the plan to be effective, the two cities need greater levels of cooperation in all areas to ensure that any Economic Circle policies developed are sound and implementable. This will entail soliciting input from businesses operating in the region, both Chinese and foreign.

However, although one of the overarching goals of the Economic Circle is to become a centre of reform and opening-up, none of the high-level policy documents published mention the role that foreign investment can play in the development of the region.

Therefore, the European Chamber recommended in its *Southwest China Position Paper 2021/2022* that an Economic Circle Task Force involving policymakers and businesses—both Chinese and foreign—from Chongqing and Chengdu be established, in addition to establishing an official channel for sharing information on the Economic Circle, including on tenders for new projects.

Implementing these policies would go a long way towards helping to build business confidence as well as allowing foreign capital to contribute to the development and construction of the advanced infrastructure needed to successfully complete the Economic Circle.

Lack of formal communication platforms

In the European Chamber's *Business Confidence Survey 2021,* a mere 28 per cent of respondents based in Chengdu reported that the information available on local government websites was easy to find and met their companies' needs in terms of updating and maintaining up-to-date information, with respondents in Chongqing indicating that difficulties communicating with the local government had become the highest concern for local member companies. For example, in Chongqing, while certain information regarding local government policies is easily accessible online, there are often mismatches between the details provided on municipal government websites and that provided on district-level government websites. There are also discrepancies between the policy information made available in Chinese and English, with the English version often providing more of an overview of the policy than a comprehensive translation. This means foreign companies have to cross-check the details available to obtain a clear picture, which creates additional administrative burdens and costs, as well as difficulties in formulating strategies with their headquarters.

Local government sites can be critical in ensuring European companies feel welcome and valued when doing business in China. The absence of effective communication channels between government and industry is likely to lead to damaged business sentiment, as European companies are being deprived of opportunities to provide feedback to the authorities on the local business environment, which can help it develop and internationalise as well as attract further investment.

Establishing increased channels of communication would also assist the region in meeting goals outlined under the Economic Circle initiative, namely to become a new spearhead for reform and opening up. In addition, it would be beneficial for all concerned if government departments designated a single, clear contact point for foreign businesses to liaise with. This would allow concerns on both sides to be communicated and addressed more efficiently, and provide more certainty for foreign investors.

In this regard, thanks to the continuous efforts of the European Chamber Southwest China Chapter, there has already been some progress on the key recommendations of the *Southwest China Position Paper 2021/2022*, as the Chongqing Commerce Commission recently established a website to provide services to foreign companies and strengthen relations with business chambers. Companies can now submit information online if they encounter issues or barriers that affect their operations.

Having a platform for submitting comments and reviewing feedback from stakeholder groups increases transparency in policymaking. It also helps in the formulation of concrete policies that leverage industrial expertise and technology to meet common challenges.

Conclusion

Difficulties in communication with government authorities, and the perceived lack of involvement in initiatives to develop China's southwest region, are identified by local member companies as market access factors in both Chongqing and Chengdu. Such concerns underpin some of the content of the key recommendations presented in the *Southwest China Position Paper 2021/2022*. This report presents a comprehensive overview of the market, which (like most other regions in China) has gone through a multitude of changes in terms of access. These issues may have been been elevated in prominence by the establishment of the Chengdu-Chongqing Economic Circle, which has alerted both domestic and foreign companies to the market potential, as well as some of the current disadvantages, of doing business in the region.

Should the local authorities continue to involve and take into consideration input from foreign enterprises operating in the region, Southwest China's ability to achieve its development goals and reach new untold heights would increase. However, significant work remains to be done to realise such cooperation.

Shane Farrelly is chair of the Southwest China Chapter's **Investment Working Group,** and one of the main participants in the drafting of the *Southwest China Position Paper 2021/2022.*

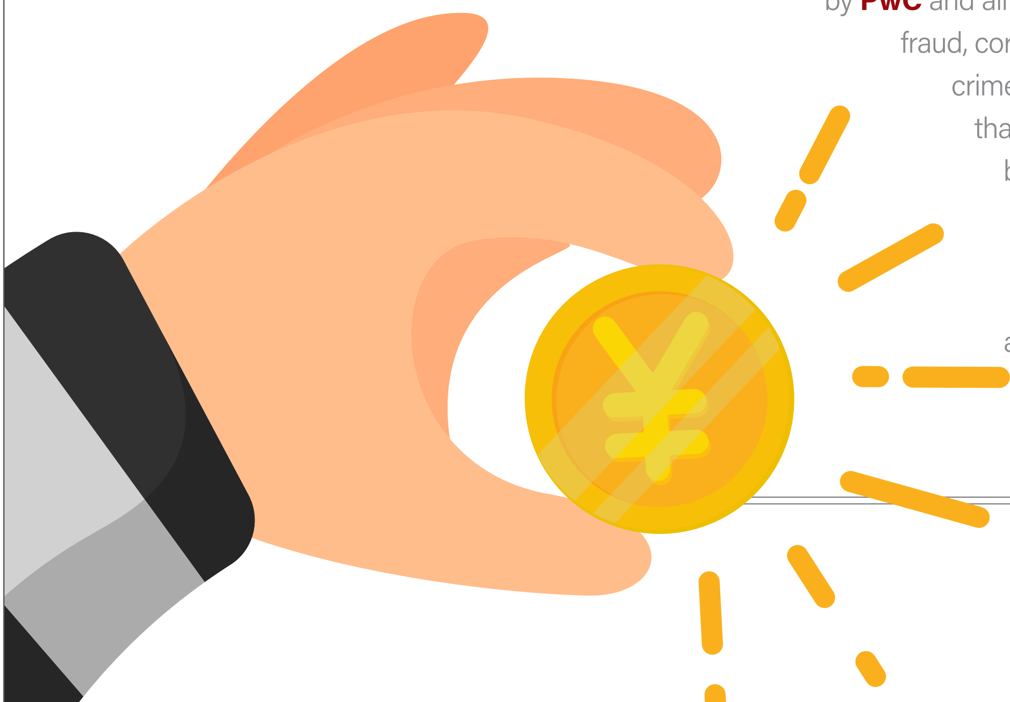
He is also legal advisor with **D'Andrea & Partners Legal Counsel (DP Group)**. DP Group services encompass a full range of foreign/overseas direct investment-related matters, with a special focus on business relationships between Europe and Asia, inclusive of topics such as cross-border mergers and acquisitions; scouting, relocation and negotiation with local government authorities; dispute resolution and corporate governance; intellectual property protection, litigation and arbitration; and employment and labour law, among others.

THE CHINA FRAUD LANDSCAPE

Has anything changed?

by **Paul Tan**

As COVID-19-related challenges and trade tensions have occupied the larger share of business leaders' attention in the past two years, some may have taken their eye off the regular problems encountered when conducting operations, such as administrative issues, workforce diversity and fraud prevention. The *Global Economic Crime Survey 2022*, a biennial survey undertaken by **PwC** and aimed at better understanding fraud, corruption and other economic crimes at companies, highlighted that external fraud continues to be a threat on a global basis. On behalf of PwC, **Paul Tan** outlines the common trends observed in fraud and corruption committed in China, as well as in Europe and other jurisdictions.



Globally, 46 per cent of respondents reported that they had experienced some form of fraud or other economic crime within the last 24 months. Cybercrime was reported as the most common and disruptive type of fraud experienced by organisations across most industries, after the impact of hackers rose substantially over the past two years. Furthermore, 21 per cent of respondents said they experienced cybercrime as a new type of fraud as a result of the disruption caused by COVID-19.

One outlier was the energy, utilities and resources sector, in which procurement fraud was cited as the biggest threat, rather than cybercrime. This perhaps reflects the sector's smaller digital footprint and fewer customer interactions.

Financial fraud continues to prevail in China

While a similar proportion of China respondents, 48 per cent, said they had experienced fraud or other economic crimes compared to the global average, it is notable that more traditional fraud issues continue to prevail in China. Instead of cybercrime, accounting and financial statement fraud was reported as the most common type experienced, and asset misappropriation as the most disruptive.

Prevalence of financial fraud in China continues to both pose a threat to the integrity of financial statements and to undermine trust in employees in key positions. As such, in recent times, there are high levels of scrutiny by external auditors when suspicions of fraud arise.

When fraud is detected, in addition to any direct financial statement impact, the external auditors are concerned about whether internal controls can be relied upon, as well as the integrity of management. They will expect an adequate and objective investigation into the matter. Key questions to be addressed include the pervasiveness of any issues, whether all bad actors have been identified, any deficiencies in the internal controls, and whether appropriate remediation steps are taken. In addition, the auditors will need to consider whether any laws or regulations may have been violated by the company and the consequent implications on the financial statements.

Fraud perpetrated through collusion remains top concern

In contrast to Europe, where 56 per cent of respondents reported that the most disruptive fraud incident was as the result of an external perpetrator (in the absence of collusion with internal parties), 43 per cent of global respondents said the same, versus only 24 per cent of China respondents.

Fraud hits companies from all angles, but collusion is particularly common in China. At least half of all China respondents reported that the most disruptive fraud they experienced was perpetrated through collusion between internal and external parties (up from 40 per cent two years previously).

As many companies rely heavily on third parties for doing business in China, fraud and corruption relating to collusion with external parties has long been an issue. It continues to be a key issue identified in risk assessments and is a top concern for many risk and compliance functions covering China. The issues most often encountered are: conflicts of interests (especially with service vendors and distributors); inflated procurement costs and vendor

Of China respondents who identified supply chain fraud as one of their key concerns,

44%

reported that they are facing heightened fraud risk exposure because of insufficient resources in managing fraud risks.

kickbacks; channelling of improper payments through dealers and agents; and payments for fictitious services in order to evade tax, manipulate financial statements or to generate cash.

One type of fraud scheme involving third parties commonly encountered by enterprises is collusion between employees and marketing vendors to misuse a company's marketing budget. The root cause of this is usually inadequate controls and monitoring over large marketing budgets, leading to opportunities for abuse. Examples of poor controls include lack of segregation of duty (often the same person effectively selects the vendor, works with the vendor throughout service delivery, and confirms service completion); lax enforcement of purchase order requirements; and failure to retain adequate documentation that can later be audited.

Is fraud on the wane?

In China, strikingly, the 48 per cent of respondents that reported having experienced fraud or other economic crimes in the last 24 months was a significant drop from 60 per cent in 2020.

This might be perceived as good news but, more likely, it could also suggest that companies have been less effective in detecting fraud and hence are less aware of fraud issues. Fewer China respondents reported having conducted routine internal audits over the past two years, which could be related to cross-border travel restrictions as a result of COVID-19. Another factor could be resource constraints. Of China respondents who identified supply chain fraud as one of their key concerns, 44 per cent reported that they are facing heightened exposure because of insufficient resources in managing fraud risks. Another 39 per cent shared that they have moved resources away from fraud controls in order to manage other issues.

Based on whistleblower reports received by multinational companies, fraud has not been on the wane in China. On the contrary, the traditional fraud schemes continue to be commonplace, often perpetrated through a combination of use of related parties or collusion with third parties, falsified documentation, fictitious or inflated transactions, and off-book transactions.

Furthermore, the shift towards digital platforms and online activities creates more opportunities for fraud. For instance, recent trends include falsification relating to virtual seminars in order to justify meeting expenses, 'manufactured' digital user activity to inflate reported user numbers, and tender manipulation through exploiting loopholes in online bidding systems.

The impact of change

Companies should anticipate that any economic disruption will lead to more fraud taking place. As businesses struggle to keep their lights on during times of economic disruption, resources and controls that were in place to mitigate fraud risk might have been altered or relaxed in order to expedite business processes, lower costs and to stay agile in an unstable market. In addition, management and employees may face greater difficulty in reaching targets legitimately, as well as increased financial pressure, creating incentive to commit fraud.

Fraud typologies often evolve over time as the external environment changes and technologies advance. However, fraud will not suddenly go away. It is, as a result, important for companies to stay aware of emerging trends in the local market and be vigilant for signs of smoke.

With respect to technology-enabled fraud, the best means of defence and detection, naturally, is digital technology and analytics. However, organisations should also bear in mind that any solutions deployed should be fit-for-purpose and tailored according to their business size and nature, and the local market. EB

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, legal or other professional advice. Please refer to your advisors for specific advice.

Paul Tan is a partner in the Forensic Services practice of PwC China. **PwC China's Forensic Services** team, based out of Shanghai, Beijing, Shenzhen and Hong Kong, has extensive experience in assisting clients to address fraud and other economic crime issues, in performing risk assessments, and in managing third party risks. We are a team of nine partners and approximately 100 professionals, and we leverage technology, analytics and digitisation to solve client issues more efficiently and effectively.

China M&A

Regulatory trends affecting the market in 2022

by **Qian Zhou**

The last three years have seen relatively new regulatory trends hugely impact the mergers and acquisitions (M&A) market in China. Among other requirements, antitrust and national security reviews are becoming more commonplace in M&A deals. In this article, **Qian Zhou** of **Dezan Shira** summarises how these regulatory trends are affecting M&A transactions in 2022 and explores how dealmakers can prepare in advance.

Antitrust review in M&A

The completion of any M&A deal in China is subject to a series of legal and governmental regulatory conditions, the most important of which is the antitrust review.

With China stepping up its efforts to curb the disorderly expansion of capital from the end of 2020, the antitrust review has become increasingly stringent, impacting the scope of M&A transactions.

The antitrust review in M&A transactions comes under the "anti-monopoly declaration on concentration of undertakings (经营者集中反垄断申报)" as stipulated in China's Anti-monopoly Law.

Accordingly, if an M&A deal has attained the standard for which a declaration is required, the relevant party should make a declaration to the anti-monopoly enforcement agency of the State Council in advance. The anti-monopoly enforcement agency shall examine the M&A deal and decide whether to prohibit the deal within a stipulated period. The transaction should not be made prior to the declaration or during the examination period.

M&A transactions in violation of antitrust provisions could be stopped by the anti-monopoly enforcement agency. Non-compliant deals that have been completed may be ordered to dispose of shares/assets or transfer business within a stipulated period, or adopt other necessary measures to restore ownership to the pre-deal state. Moreover, monetary penalties shall be imposed on such antitrust violations.

Even prior to the establishment of the State Anti-monopoly Bureau in November 2021, repercussions of failures to make the anti-monopoly declaration on concentration of undertakings had already intensified. In 2021 alone, the anti-monopoly enforcement agency issued 107 fines for such violations, which was eight times higher than that in 2020.

While the initial anti-monopoly crackdowns focussed on platform companies, enforcement has since expanded to other industries. It has been reported that the anti-monopoly bureau has begun sending letters of investigation to companies in traditional industries, based on tip-offs and other clues, to verify M&A transactions suspected of not being declared in accordance with the law.

In late June 2022, China passed the *Amendment to the Anti-monopoly Law* and released six draft antitrust regulations supporting rules that govern antitrust enforcement. This amendment significantly expands the scope of M&A transactions that are subject to antitrust reviews, and increases the penalties for not complying with the antitrust provisions.

Currently, to trigger the antitrust review, both parties in the M&A deal must have annual revenue in Mainland China of over Chinese yuan (CNY) 400 million (approximately United States dollars (USD) 60 million), among other stipulations. One of the proposed draft regulations seeks to lower this threshold to CNY 100 million (approximately USD 15 million), with antitrust reviews permissible even when just one party reaches this level. This means that more M&A deals could be subject to antitrust review, even if the target company is small. As for penalties, the revised Anti-monopoly Law has increased the maximum fines on the illegal concentration of undertakings from the previous CNY 500,000 (USD 75,000) to:

- 10 per cent of the sales amount of the preceding year against the undertaking on top of other corrective measures, where the concentration has the effect of eliminating or restricting competition; or
- CNY 5 million (USD 750,000), where the concentration has no effect of eliminating or restricting competition.

The increased damage is expected to make M&A dealmakers more conscious of the imperative nature of the antitrust reviews.

These amendments demonstrate China's determination to eliminate unfair competition, with the country striving to narrow the wealth gap among various groups. Under this circumstance, the antitrust review is expected to be highly relevant to M&A transactions in China for a long time.

National security review in M&A

The national security review, or security review, is another legal procedure that impacts whether the M&A deal can be successfully completed or not. Different from the antitrust review, which affects both foreign and domestic M&A, the national security review only happens in M&A transactions involving foreign investors.

On 1st January 2020, the Foreign Investment Law came into force and established the foreign investment security review system. This applies when "a foreign investor acquires shares, equities, property shares or any other similar rights and interests of an enterprise within the territory of China"; that is, foreign M&A. Then, in December of the same year, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) released the *Measures for Security Review of Foreign Investments* (*Security Review Measures*), which further clarified the type of foreign investments that would be subject to security review, the institutions, the scope and procedures of security review, as well as how to deal with unlawful investment activities.

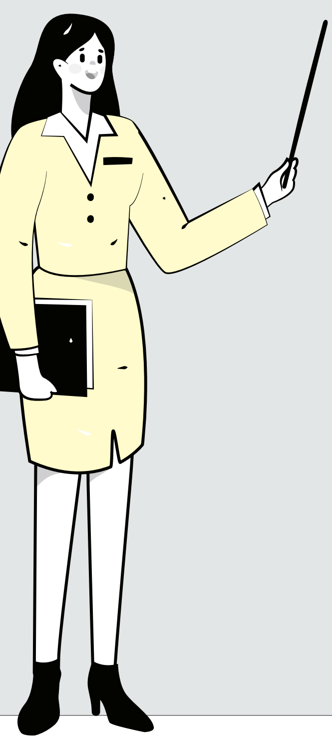
The national security review on foreign M&A transactions is, however, not recent. It has been in existence since the 2010s when the matter was subject to the following regulations:

- 2009: *Provisions on Foreign-funded Mergers and Acquisitions of Domestic Enterprises*;
- 2011: *Provisions of the Ministry of Commerce on Implementation of Security Review System for Mergers and Acquisitions of Domestic Enterprises by Foreign Investors (MOFCOM Announcement [2011] No. 53)*; and
- 2015: *Notice of the General Office of State Council on Promulgation of the Trial Measures on National Security Review for Foreign Investments in Pilot Free Trade Zones* (Guo Ban Fa *[2015] 24)*.

The Foreign Investment Law and the *Security Review Measures* have integrated and consolidated the rules previously scattered across multiple regulatory provisions.

According to the *Security Review Measures,* for foreign investments

The Chinese Government sees the foreign investment security review system as an important tool in preventing risks and safeguarding national security... leaving no room for foreign investors to circumvent national security reviews by designing the structure or form of the deal for this purpose.



(including foreign M&A transactions) that affect or may affect national security, the foreign investors or the relevant parties in China should take the initiative to make the declaration to the Office of the Working Mechanism for the Security Review of Foreign Investments (Office of the Working Mechanism) under the NDRC.

Foreign investments within the following categories are subject to security reviews:

- **Category I:** Investments in military industry, investments in the supporting industries of the military industry and other fields relating to the security of national defence, and investments in areas surrounding military facilities and military industry; and

- **Category II:** Investments in other important fields relating to national security (such as important agricultural products, important energy and resources, important equipment manufacturing, important infrastructure, important transport services, important cultural products and services, important information technology and Internet products and services, important financial services, and key technologies), where the foreign investors obtain the actual controlling stake in the investee enterprise.

Regarding Category II, while the *Security Review Measures* enumerate multiple important fields, it provides no guidance on how to determine whether the investments are ‘important’ or not.

Meanwhile, while the *Security Review Measures* lists three circumstances where foreign investors are regarded as “obtaining the actual controlling stake”, it lacks specific standards on determining whether the foreign investors have a “significant impact” on the investee company. Such issues shall be subject to the discretion of the Office of the Working Mechanism before more detailed rules are released.

According to the *Security Review Measures*, for foreign investment falling into the scope but which failed to declare, the Office of the Working Mechanism has the right to order relevant parties to dispose of their equity or assets within a specified time and take other necessary measures to restore the original state, and this right has no time limit.

The Chinese Government sees the foreign investment security review system as an important tool in preventing risks and safeguarding national security. That’s why relevant rules on the security review of foreign investment are so stringent, leaving no room for foreign investors to circumvent national security reviews by designing the structure or form of the deal for this purpose.

Note:

This is an excerpt from an article first published by China Briefing, which is produced by Dezan Shira & Associates. The original article contains further details on regulatory trends relating to digital data compliance and environmental, social, and corporate governance.

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China ShortCuts

The European Chamber launched its new, short-format podcast series in October 2022.

China ShortCuts is a five-minute weekly catch-up about the Chinese business landscape.

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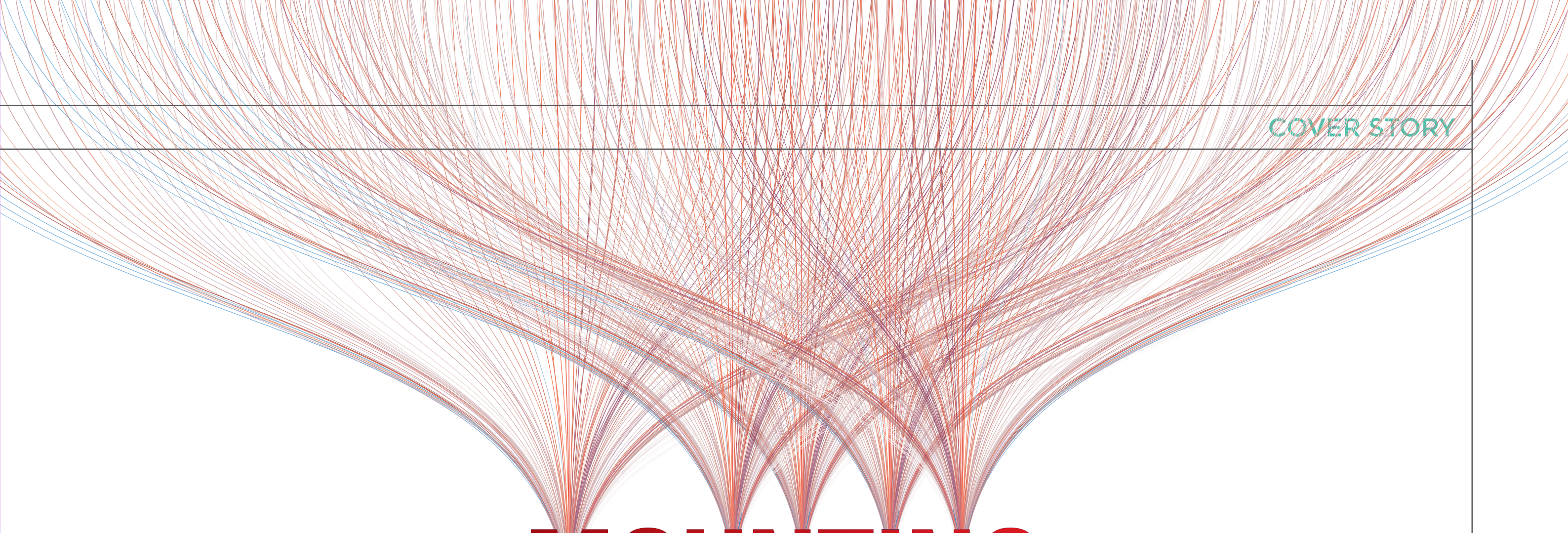


MOUNTING OBLIGATIONS

China's cybersecurity, data and personal information compliance for EU SMEs

by **Arvid Tilner** on behalf of the **EU SME Centre**

In recent years, China has made significant efforts to strengthen its governance system for cybersecurity, data and personal information (PI) protection. Complementing the 2017 Cybersecurity Law (CSL), the Data Security Law (DSL) and the Personal Information Protection Law (PIPL) came into effect at the end of 2021, stipulating a series of obligations not only for actors based in China but also for those based overseas that process data or personal information generated in the country. In a recent report on cybersecurity, data and PI compliance, the EU SME Centre focussed in particular on data storage and cross-border data transfer procedures, as well as practical issues and scenarios commonly encountered by European Union (EU) small and medium-sized enterprises (SMEs). This article by **Arvid Tilner** of the **EU SME Centre** outlines some of the advice included in that report.

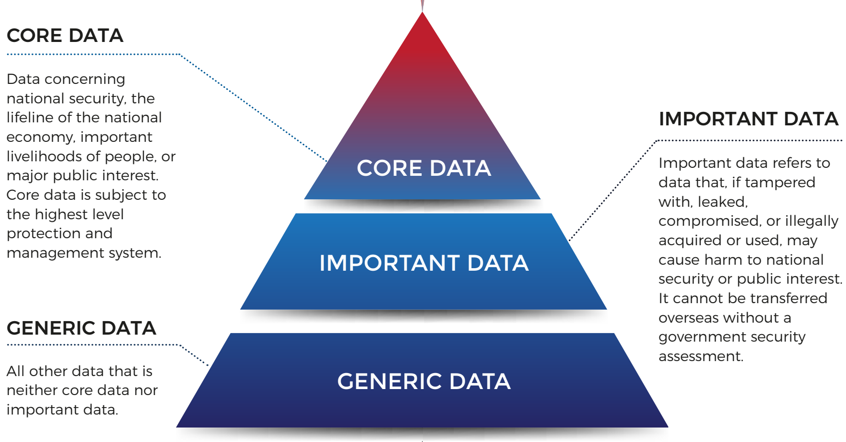
Background and legal framework

In line with the concept of cyber sovereignty, where the Chinese Government has the ultimate authority over domestic cyberspace, China developed and strengthened its governance system for cybersecurity, data and PI protection for any company operating within the territory of China – including foreign enterprises. At the same time, the three main laws have an extraterritorial reach, extending their scope to overseas entities based abroad. Hence, EU SMEs falling under their scope, including those without a legal presence in China, will need to comply with these Chinese laws and the related regulations and standards.

The specific obligations and requirements stipulated by these laws and relevant standards distinguish among different subjects and roles, specifically:

- **network operators (NOs):** Owners and administrators of networks and network service providers, such as enterprises operating an intranet or an enterprise resource planning system;
- **critical information infrastructure (CII) operators:** Entities operating important network facilities and information systems in key areas that may endanger national security, the economy, people's livelihoods or public interest; and
- **providers of network products and services:** Providers, manufacturers and integrators of network products and services, such as computers and communication equipment, among others.

Foreign-invested enterprises (FIEs) operating in China with EU companies



as shareholders may fall under the scope of these definitions, though—especially in the case of CII operators—few SMEs are likely to be affected.

In addition, different definitions, classifications and grades of data and PI are stipulated by the legal framework, and require specific levels of security and protection mechanisms to be implemented by the relevant processors.

Cross-border transfer of data and personal information

It is essential for FIEs operating in China with EU companies as shareholders to familiarise themselves with the latest specific requirements and procedures for transferring overseas data and PI processed in China, which vary depending on the nature of the processor and the type of data. Table 1 outlines the three legal mechanisms for lawful transfers of data and PI outside of China that have been laid down by law.

Method 1: Cyberspace Administration of China (CAC) security assessment

The cross-border transfer of certain data and personal information outside of China requires prior Chinese Government approval through a CAC security assessment for:

- any entity transferring important data from China overseas;
- CII operators, as well as non-CII operators transferring personal information above the threshold of one million individuals; and/or
- any entity transferring important data or a cumulative amount (counted from 1st January of the previous year) of PI of more than 100,000 individuals, or sensitive PI of more than 10,000 individuals.

After conducting a self-assessment evaluating the risks involved in the transfer, the applicant will undergo the formal security assessment conducted by the CAC. This will be carried out within 45 working days—or even more in complex cases—and will focus on seven key targets, such as the purpose, scope and method of data transfer, the impact of the legal environment of the receiver's country on the security of the data, and the alignment of the receiver's protection level with Chinese laws and regulations. Afterwards, the applicant is formally notified on whether a re-examination will be necessary or if approval to sign the relevant contract and begin the cross-border transfer process has been granted.

Method 2: Standard Contract Provisions

In circumstances where a security assessment prior to cross-border data transfer is not mandatory, PI exporters that process PI should follow the *Standard Contract Provisions* issued by the CAC. At the time of writing, only draft versions of

Table 1

	CII operators	Non-CII operators *(processing PI ABOVE the threshold of 1 million individuals)*	Non-CII operators *(processing PI BELOW the threshold of 1 million individuals)*	
Important data	Security assessment	Security assessment	Security assessment	
Personal information	Security assessment	Security assessment	_Exceed cumulative threshold of PI transferable overseas?**_ _** 100,000 personal information or 10,000 sensitive personal information since 1st January of the previous year_	_Yes:_ Security assessment
				_No:_ _Standard Contract Provisions_ or certification scheme

the specific requirements and obligations have been made available, but they imply that eligible PI processors must first conduct a PI protection impact assessment. This risk self-assessment seems to follow the same six elements that are required for the CAC security assessment. In addition, the contract signed with the overseas receiver must follow six standard provisions or, ideally, the standard template provided by the CAC can be used. Within 10 days of the enforcement date of the contract, the PI exporter must file the results of the impact assessment and a copy of the signed contract with their local CAC.

Method 3: Certification scheme

As an alternative to the *Standard Contract Provisions*, non-CII operators processing PI below the threshold of one million individuals may choose to apply for certification for a cross-border transfer of personal information. Specifically, certification can be obtained for:

- cross-border transfer of PI between subsidiaries and affiliated companies of multinational companies or other economic organisations; and
- PI processing activities subject to the PIPL's extraterritorial reach.

The application for certification can be submitted by the China-based subsidiary, which acts as the PI exporter, or by a designated agent in China for foreign companies subject to the PIPL's extraterritorial clause. The certification process focusses on both the PI processor acting as the exporter and the offshore PI receiver, and usually reviews four key elements: (i) the legally-binding agreement signed by both parties; (ii) the two parties' compliance in appointing a responsible officer and setting up relevant departments; (iii) their abidance with the same PI cross-border processing rules; and (iv) a PI security impact assessment that must be carried out before the data transfer. No list of designated certification bodies has been released as of September 2022, and further uncertainties remain. This method of cross-border PI transfer is therefore currently not an option for SMEs.

Compliance tips for EU SMEs

The new governance framework for cybersecurity, data security and PI protection brings a paradigm shift in the way EU companies have been operating their businesses in China. Depending on their specific business, market share, risk tolerance and integration within the Chinese ecosystem, as well as the level of integration of their China-based activities into global value chains, EU SMEs may face many changes and uncertainties regarding compliance with the CSL, DSL and PIPL. Violating the obligations and requirements of cybersecurity, data and PI protection may trigger administrative, civil or even criminal liabilities – depending on the specific circumstances and the impact on the rights of China's citizens, organisations, public interest and national security. Hence, a series of actions must be taken to ensure EU SMEs' compliance and to prevent disruptions to their businesses in China:

- Conducting data mapping of all data and PI processing activities done in China and the extraterritorial reach. This mapping should clearly identify the amount and extent of outbound flows of such data and PI, as well as the nature of companies' relationships with their Chinese partners.
- Identification of requirements and security measures based on the purpose, nature and amount of data and PI flows resulting from the mapping. This data assessment should also clearly identify any data flows at risk of non-compliance for future development.
- Establishing a sound emergency plan targeting different scenarios in the case of incidents such as network attacks or data breaches.
- Reviewing all current contracts/ policies with Chinese partners and even employees to see if they are aligned with the relevant provisions, inform them about any changes and integrate amendments.
- Regularly training personnel involved in data flows both in China and at company headquarters in Europe on cybersecurity and data protection policies.

Note:

This article is based on the report, *Cybersecurity, Data and Personal Information Compliance for EU SMEs in China* by the EU SME Centre, available to download from their website, www.eusmecentre.org.cn.

The **EU SME Centre** is a non-profit initiative funded under the European Union's Single Market Programme (SMP). The EU SME Centre provides a comprehensive range of hands-on support services to European SMEs, assisting them to establish, develop and maintain commercial activities in the Chinese market. By offering support through the provision of information, confidential advice, networking events and training, the Centre focusses on the crucial early stages of SMEs' market penetration strategy. The Centre also acts as a platform facilitating coordination amongst European Member State and public and private sector service providers to EU SMEs.

29TH JUL.
BEIJING

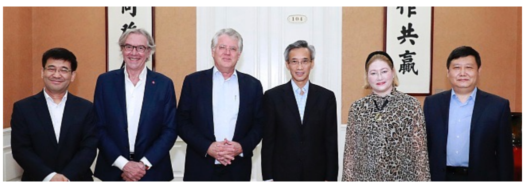
President heads Advisory Council delegation to EU-China Business Leaders Forum

The EU–China Business Leaders Forum, jointly hosted by the European Chamber and the China Centre for International Economic Exchanges (CCIEE), took place in Beijing.
Photo: European Chamber

On 29th July, the European Union (EU)-China Business Leaders Forum, jointly hosted by the European Chamber and the China Centre for International Economic Exchanges (CCIEE), took place in Beijing. European Chamber President Jörg Wuttke and CCIEE Executive Vice Chair and Chief Executive Officer Zhang Xiaoqiang, delivered opening remarks. The forum luncheon was hosted by Timothy Harrington, chargé d'affairs at the Delegation of the EU to China, with Ning Jizhe, vice chair, Committee of Economic Affairs of the 13th National Committee of the Chinese People's Political Consultative Conference (CPPCC), delivering a keynote speech. Chamber Vice President (VP) Guido Giacconi and several representatives of Advisory Council members attended the event.

2ND AUG.
BEIJING

President, VP convey members' concerns to the Chinese People's Association for Friendship with Foreign Countries



President Wuttke and VP Giacconi met with Mr Lin Songtian, president of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC).
Photo: European Chamber

On 2nd August, President Wuttke and VP Giacconi met with Mr Lin Songtian, president of the Chinese People's Association for Friendship with Foreign Countries (CPAFFC), in Beijing. The two sides conducted a candid discussion on a series of topics, including China's COVID-19 containment policy, the war in Ukraine and geopolitical realities. President Wuttke presented the Chamber's latest reports and stressed the potential for EU-China cooperation in many areas, such as in combatting climate change and fostering innovation.

24TH AUG.
NANJING

Chamber's key messages delivered during Jiangsu Government Dialogue 2022

Nanjing Chapter hosted the Jiangsu Government Dialogue 2022, with seven local government departments in attendance.
Photo: European Chamber

On 24th August, the European Chamber's Nanjing Chapter hosted the Jiangsu Government Dialogue 2022, with seven local government departments in attendance. Mr Sun Jin, deputy director general of the Jiangsu Department of Commerce, delivered a speech on deepening EU-China cooperation. Bettina Schoen-Behanzin, European Chamber VP and Shanghai Chapter chair, shared the *Business Confidence Survey 2022* (*BCS 2022*) national-level results while Dr Andreas Risch, chair of the Nanjing Chapter, delivered the local findings. A discussion among government representatives and company representatives followed, focussing primarily on difficulties with talent attraction and access to renewable energy.

29TH AUG.
GUANGZHOU

VP Zenkel meets with Guangzhou mayor, discusses local business environment

At the GAICC VIP Reception, European Chamber VP and South China Board Chair Klaus Zenkel met with Mr Guo Yonghang, mayor of Guangzhou.
Photo: European Chamber

On 29th August, at the Guangzhou Annual Investment Conference China (GAICC) VIP Reception, European Chamber VP and South China Chapter Chair Klaus Zenkel met with Mr Guo Yonghang, mayor of Guangzhou. The two discussed the *Business Confidence Survey* 2022, and the mayor expressed his hopes for further European investment in Guangzhou. VP Zenkel also met with Mr Hong Qian, director general of the Guangzhou Municipal Commerce Bureau, and Mr Chen Yuehua, deputy director general of the Guangdong Department of Commerce, on local business environment challenges faced by member companies.

30TH AUG.
BEIJING

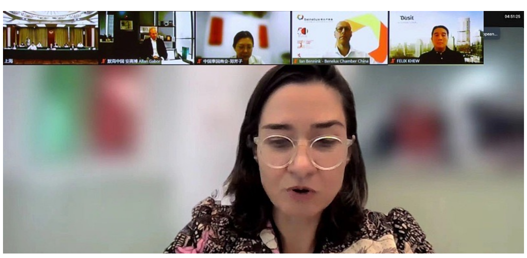
President Wuttke raises European companies' top challenges under 'zero-COVID' to CCPIT and MOFCOM

President Wuttke attended a roundtable with foreign chambers and enterprises held by the CCPIT in Beijing.
Photo: European Chamber

On 30th August, President Wuttke attended a roundtable with foreign chambers and enterprises held by the China Council for the Promotion of International Trade (CCPIT) in Beijing. CCPIT Chair Ren Hongbin hosted the event, and Chen Chunjiang, director general of the Department of Foreign Investment of the Ministry of Commerce, gave the opening remarks. President Wuttke raised the top challenges European companies are facing under China's 'zero-COVID' policy, and re-emphasised the Chamber's recommendations for a possible exit strategy, as outlined in a letter to the State Council in April. President Wuttke also briefly introduced the European Chamber's upcoming *European Business in China Position Paper 2022/2023*.

30TH AUG.
SHANGHAI

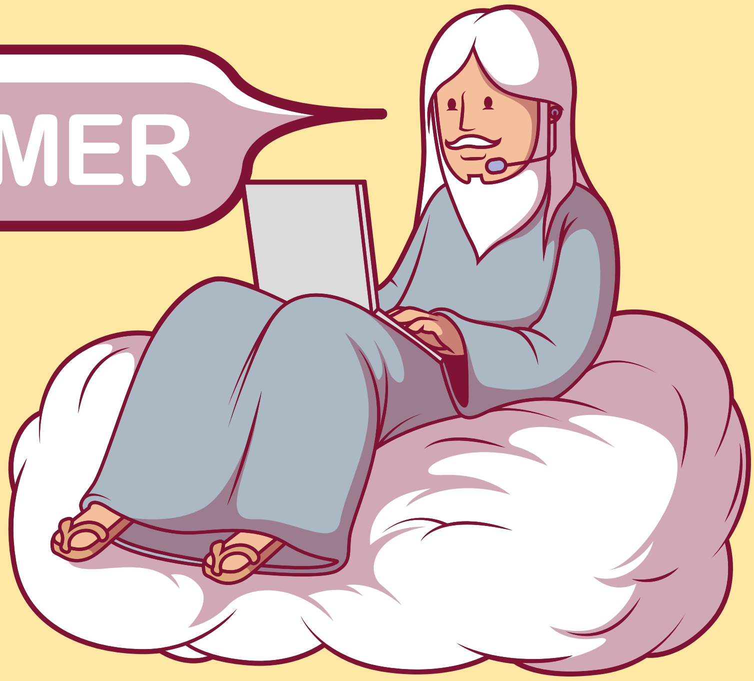
Post-lockdown challenges facing EU firms outined to CPPCC Shanghai Committee



Shanghai Chapter GM Ioana Kraft participated in an online meeting with the CPPCC Shanghai Committee.
Photo: European Chamber

On 30th August, Dr Ioana Kraft, general manager of the European Chamber Shanghai Chapter, participated in an online meeting with the CPPCC Shanghai Committee, led by Vice Chair Li Yiping and with opening remarks from CPPCC Shanghai Committee Chair Mr Dong Yunhu. Dr Kraft highlighted issues such as the lack of support for foreign small and medium-sized enterprises; continued mass testing and localised lockdown pressures; and the ongoing foreign employee exodus, and presented findings from the *Business Confidence Survey 2022*. Other attendees included senior officials from the Shanghai Municipal Development and Reform Commission, Municipal Health Commission, Municipal Commission of Economy and Informatisation, Shanghai Customs and Shanghai International Port.

THE CUSTOMER IS GOD



Updates to the draft *Measures on Consumer Rights Protection for Banking and Insurance Institutions*

by **Colette Pan, Yian Wei, Alex Roberts** and **Roger Li**

There is a saying in China, "顾客就是上帝" or "the customer is god". The country's financial industry authorities are now bringing in regulations to remind firms—including banking institutions—that the customer is always right and should be protected accordingly. Having sought industry comments on the draft *Measures on Consumer Rights Protection for Banking and Insurance Institutions* back in July 2021, the China Banking and Insurance Regulatory Commission (CBIRC) released an updated draft in May 2022 for further consultation. This refined draft seems closer to a finalised version, so financial institutions should be alert to the possibility of the formal rules coming out soon. Compared with the initial draft, some detailed operational requirements have been lifted or loosened, possibly to leave some flexibility for market players. Meanwhile, the coverage of the rules has been expanded and regulatory penalties hiked. **Colette Pan, Yian Wei, Alex Roberts** and **Roger Li** of **Linklaters Zhao Sheng** summarise some of the key changes.

Expansion of coverage

The latest draft removes the limitation contained in the initial version on protections applying only to individual customers, meaning that market players will need to observe these rules for financial products and services provided to both individual and corporate customers.

The coverage of 'banking and insurance institutions' has also been expanded. In addition to traditional banks and insurance companies, other CBIRC-regulated entities such as consumer finance companies, auto finance companies, wealth management companies, trust companies and professional insurance intermediaries will also be caught by the rules – making the name of the measures somewhat misleading.

Penalty thresholds more than triple

The latest draft raises the cap on regulatory penalties from Chinese yuan (CNY) 30,000 to CNY 100,000 (approximately United States dollars (USD) 4,500 to USD 15,000). However, much stricter penalties are in place under high-level legislation referred to in the draft rules.

On top of the penalties that may be imposed on banking and insurance institutions, the latest draft adds penalties for directors and senior management. If a banking or insurance institution commits a serious infringement of consumer rights—i.e., the number of customers involved and the amount of money is large, or the infringement lasts for a long duration, and has a material adverse social impact—the members of its board and its senior management will be subject to warnings and penalties of up to CNY 100,000 (approximately USD 15,000).

Special care for 'ordinary consumers'

The latest draft adds a category of 'ordinary consumers', defined as consumers other than the 'professional investors' identified under other applicable laws. This categorisation might be more relevant to asset and wealth management businesses. Institutions will need to pay more attention when onboarding this type of consumer, in particular by conducting customer suitability tests in a more prudent manner and not by providing such consumers with multi-layered products or products with complicated structures.

Loosening of operational requirements

A number of detailed 'dos' and 'don'ts' proposed in the initial draft have been removed, such as requirements for consumer consent and written agreement for fee increases through specific arrangements or endorsements, 10 per cent concentration limits for asset management products, and prohibitions on providing products that may result in unlimited losses, as well as the outsourcing of debt collection for arrears of less than 30 days, among others.

The internal audit cycle for consumer protection work has been prolonged from three years to five years, and the auditing coverage has been narrowed down from all branches to first-tier ones only.

It seems that this relaxation of the requirements might be the result of absorbing industry comments on the last draft, so as to ensure that the rules are workable for business. It also fits with the broadening of the rules' coverage – to allow for different practices across all types of financial services rather than a one-size-fits-all approach.

Slight adjustment of consumer information protection

Chapter 6 of the draft rules remains dedicated to the protection of consumer information. Only limited changes have been proposed to this chapter compared with the initial draft, which indicates the CBIRC's determination to protect consumer information within its jurisdiction in line with the broader regulatory and enforcement trend after the Personal Information Protection Law took effect in November 2021.

On the other hand, two obligations imposed on banking and insurance institutions are deleted in the latest draft of this chapter – namely, the requirements that:

- consumer consent must be collected separately (rather than as general or 'bundled' consent); and
- once cooperation with a partner is terminated, consumers' personal information must be completely deleted and the partner's access rights promptly removed.

These proposed changes suggest that the CBIRC has accepted feedback from industry to leave some operational flexibility in respect of consumer data.

What's next?

Consumer protection continues to be one of the CBIRC's top priorities, given the importance of expanding retail financial services in a sustainable manner to ensure that the service sector is able to become the next economic driver in China's growth.

Recently, the CBIRC has repetitively stressed the importance of consumer protection under the current pandemic, and revealed that more rules related to this aspect would come out.[1] There is also a trend towards intensifying regulatory enforcement against infringement of consumer rights.

While waiting for the rules to be finalised, market players may wish to do a preliminary self-assessment against the draft rules to locate any potential non-compliance in their operations.

Linklaters is a renowned global law firm, supporting clients in achieving their strategies wherever they do business around the world. It has more than 40 years' experience of advising Chinese and international corporates, Chinese state-owned enterprises and financial institutions on their cross-border strategic deals. Their rich experience in China and strong track record have provided the Linklaters' team an exceptional understanding of the local legal and economic landscape. They are able to not only call on the expertise of lawyers from the firm's 30 offices globally, but also to get support for PRC legal advice through Linklaters Zhao Sheng, its joint operation office with Zhao Sheng Law Firm, which brings together Linklaters' long-standing international experience and Zhao Sheng's PRC-law capabilities, offering a 'one-stop shop' service of both international and PRC legal advice seamlessly to clients.

1 *The banking and insurance industry has further promoted the protection of financial consumers*, CBIRC, 15th March 2022, viewed 9th September 2022, <http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=1042867&itemId=920>

European Business in China

POSITION PAPER 2022/2023

Ideology trumps the economy

Over the last year, there has been a significant shift in focus at the headquarters (HQs) of European companies when evaluating China. Where discussions once centred primarily on investment opportunities, they are now focussed on supply chain resilience, the challenges of doing business, the risk of reputational damage and global compliance.

How did China, the architect of the greatest economic growth story in history, lose its allure as an investment destination so quickly?

After China embarked on its programme of reform and opening up in the late 1970s, its economy came to be guided predominantly by pragmatic principles, as state planners sought to ensure stability.[1] Immense economic returns followed, and reforms facilitated significant inflows of foreign direct investment.

International companies recognised China's enormous market potential and its increasingly stable business environment.

The picture has now changed. With China confronting mounting internal and external challenges, policymakers' attention has been drawn away from implementing a market reform agenda.

One of the most immediate internal challenges the country faces is justifying its stringent COVID-19 policy at the expense of economic growth and stability. Mass lockdowns and strict quarantines saw China's economy slump in 2022,[2] while unemployment rates among key groups have risen sharply.[3] China's debt crisis, the unravelling of the country's real estate sector, demographic headwinds and stalling

[1] China's accession to the World Trade Organization in 2001 saw it abolish, revise or introduce more than 2,300 national laws and nearly 200,000 local regulations, which led to further market opening: *China and the World Trade Organization*, State Council Information Office of the People's Republic of China, June 2018, viewed 16th September 2022, <http://english.www.gov.cn/archive/white_paper/2018/06/28/content_281476201898696.htm>; and *China's Economic Rise: History, Trends, Challenges, and Implications for the United States*, Congressional Research Service, 25th June 2019, viewed 17th September 2022, <https://sgp.fas.org/crs/row/RL33534.pdf>

[2] China's National Bureau of Statistics reported 0.4 per cent year–on–year growth for Q2 2022, the lowest since Q1 2020. Sorkin, Andrew Ross, Giang, Vivian, Gandel, Stephen, Hirsh, Lauren, Livni, Ephrat & Gross, Jenny, *China's Shuddering Economic Engine, The New York Times,* 15th July 2022, viewed 16th September 2022, <https://www.nytimes.com/2022/07/15/business/dealbook/chinas–shuddering–economic–engine.html>

[3] For instance, in July 2022, China's youth unemployment rate (amongst 16–24–year–olds) reached 19.9 per cent. Cheng, Evelyn, *China's consumer and factory data miss expectations in July, CNBC,* 14th August 2022, viewed 16th September 2022, <https://www.cnbc.com/2022/08/15/chinas–consumer–and–factory–data–miss–expectations–in–july.html#:~:text=Retail%20sales%20grew%20by%202.7,growth%20of%203.1%25%20in%20June.>

consumption growth also weigh heavily on the economy.

Key external challenges include rising geopolitical tensions, stemming primarily from the trade war with the United States (US), and growing calls for China to address alleged human rights abuses, most notably in its Xinjiang region. Changes in global consumer demand and a growing number of global regulations present additional challenges.

In the past, China would have confronted these challenges with the same kind of pragmatism that accelerated much of its development over the decades. Instead, Beijing has turned inward to increase its level of self-reliance, as described in its 14th Five-year Plan, and is moving away from the rest of the world as embodied by the restrictions imposed under its COVID policy. Whereas policy once focussed on ensuring economic growth and a stable business environment, ideology now trumps the economy.

Consequently, China's business environment is becoming more challenging. For example, COVID-related restrictions have had a crippling effect on the attraction and retention of talent and added impetus to the exodus of foreign nationals that was already underway. Companies' China operations are becoming increasingly isolated, with China-based staff unable to travel freely to European HQs for regular business exchanges, networking and training, and senior decision-makers from company HQs are being deprived of first-hand China experience.[4] These challenges look set to continue indefinitely as China continues to focus on mass testing campaigns and dynamic local lockdowns while vaccination rates remain low.[5]

The nature of how European firms engage with China is changing as company HQs respond to these difficulties. In order to mitigate their exposure to potential shocks, many companies are beginning to localise and silo their China operations. An increasing number are creating two separate systems, one for China and one for the rest of the world – an expensive and inefficient solution. Several businesses are also now looking into the options of reshoring, 'nearshoring' and 'friend-shoring',[6] in order to retain a foothold in this important market while avoiding over-reliance.

European investment into China is set to remain below its potential in the medium term. While the very largest players continue to invest, most European companies already in China are putting their operations on autopilot, seeking to maintain a presence while making future investments elsewhere.[7] Perhaps most tellingly, despite China being the world's second largest economy, as the challenges of doing business proliferate, virtually no new European firms entered the Chinese market in recent years.[8]

This all comes at a substantial cost to China. Not only is the country opening the door for other regions to attract investment, but the chances for miscommunication and misunderstanding—including at the political level—are increasing. The closing-off of people-to-people ties is coinciding with a rise in negative public opinion towards China internationally, something that is pushing foreign governments to take harsher stances towards the country and which risks locking everyone into a path of less engagement and cooperation should it go unchecked.

China's longer-term economic trajectory also looks less optimistic, particularly as the authorities stall on implementing market reforms needed to shore up the business environment. Analysis from the World Bank indicates that if China were to implement comprehensive market reforms, its gross domestic product (GDP) per capita would reach US dollars (USD) 55,022 by 2050, over 63 per cent higher than if it were to follow a path of limited market reforms. It is yet to be seen whether China is willing to sacrifice USD 22,000 per capita GDP on the altar of ideology.

Still, it would be premature to write off China's ability to respond. The country is proficient at reacting and adapting to tectonic shifts and turning a crisis into an opportunity. The stage is set for it to do so again, with much of the world expected to face strong economic headwinds in the second half of 2022 and into 2023. This could provide the opportunity for China to roll out its proven toolbox from the 1990s and turn its attention back to reform and opening up, and reaffirm its credentials of being a reliable, predictable and efficient market.

Scan the QR code to download the *European Business in China Position Paper 2022/2023*

4 *European Business in China Business Confidence Survey 2022*, European Union Chamber of Commerce in China, 20th June 2022, viewed 17th September 2022, <https://www.europeanchamber.com.cn/en/publications–archive/1020/Business_Confidence_Survey_2022>

5 As of April 2022, only half of those aged 80+ had received two vaccine doses and more than 50 million people aged 60+ were yet to receive two jabs. In addition, the rate of vaccination in China is lacklustre. As of mid–July 2022, the rate was around 610,000 shots per day, far below its peak of 20 million shots per day during the summer of 2021. *Reuters COVID–19 TRACKER: Mainland China, Reuters,* last updated 15th July 2022, viewed 16th September 2022, <https://graphics.reuters.com/world–coronavirus–tracker–and–maps/countries–and–territories/china/>; *Why so many elderly Chinese are unvaccinated: Some are complacent, others are afraid, The Economist,* 2nd April 2022, viewed 16th September 2022, <https://www.economist.com/china/2022/04/02/why–so–many–elderly–chinese–are–unvaccinated>

6 Reshoring is the act of bringing manufacturing from a remote location to the company's home country; nearshoring is the act of bringing manufacturing nearer to the point of use; friend–shoring is the act of relocating manufacturing to a country that is considered a trusted partner to the company's home country.

7 European investment into China has become more concentrated over the past decade and a half. A handful of large companies increasingly account for the vast majority of total European investments made in absolute value terms. Between 2017–2021 the top ten largest investors alone accounted for nearly 80 per cent of all European FDI into China, up from an average of 49 per cent between 2008–2017. Kratz, Agatha; Barkin, Noah & Dudley, Lauren, *The Chosen Few: A Fresh Look at European FDI in China,* Rhodium Group, 15th September 2022, viewed 16th September 2022, <https://rhg.com/research/the–chosen–few/>

8 Ibid.

#BECAUSE OFUS

Helping China to build a regulatory system for high-end medical devices

As the independent voice of European business in China since 2000, the European Chamber actively participates in China's legislative process and our advocacy activities are widely recognised by the Chinese authorities.

We launched our #becauseofus campaign in 2019 to show our gratitude for the joint advocacy efforts of all stakeholders: governments, think tanks, member companies and our own working group and desk managers. In *EURObiz* in 2022, we will present four examples of our successful advocacy work.

In this edition, we look at **how the European Chamber is helping China to build a regulatory system for high-end medical devices.**

Background

High-end medical devices—such as software/artificial intelligence (AI)-based medical devices—continue to advance rapidly, and are now widely used in healthcare systems around the globe.

Each medical device imported into China needs to undergo pre-market registration with the National Medical Products Administration (NMPA). In the last few years, the NMPA has implemented further reforms to the review and approval process for medical products, and the registration process has been accelerated considerably. However, the current regulatory system is still based on high-risk, hardware-based medical devices, which causes problems for manufacturers of software and AI-based high-end medical devices.

Such devices are developed using an iterative design process, meaning that they are continually tweaked, updated and improved. However, the current regulatory system requires that when medical devices undergo even minor modifications they must be re-registered, which usually takes a long time, despite international regulatory experience showing that medical software updates pose a low risk to patient health.

Until the regulatory system is updated, Chinese patients may experience delays in accessing software and AI-based medical devices that have undergone critical software updates.

Advocacy efforts

The European Chamber's Healthcare Equipment Working Group has been advocating for this improvement to the regulatory system for high-end medical devices, and engaged in comprehensive

and continuous exchanges with relevant parties, both in China and overseas.

As early as 2011, the European Chamber and its partner, the European Association of Radiology, Electronic Medicine and Health Information Technology (COCIR), established cooperation with the State Food and Drug Administration (SFDA) to organise the European Union (EU)-China Medical Device Expert Roundtable and set up a special Independent Software Medical Device Working Group. Based on the problems encountered and experience gained by EU Member States in the process of health informatisation, the working group investigated both the EU's and China's respective digital health regulatory systems, regulations and guiding principles, and provided analysis and suggestions to the SFDA.

The Healthcare Equipment Working Group continued to submit professional industry opinions in the fields of software, cybersecurity and AI to the regulatory authorities, such as the Medical Products Administration, through the Chamber's annual *European Business in China Position Paper*. It also participated in calls for comments on relevant laws, regulations and guidelines.

The Healthcare Equipment Working Group promoted the application of international standards by relevant Chinese regulatory departments, and submitted combined stakeholder opinions, in order to help in the development of an innovative registration review guideline for digital health products that can meet China's regulatory needs and which is in line with international standards.

Results

In March 2022, the NMPA published three major guidelines: the *Guidelines for Technical Review of Medical Software*; the *Guidelines for Technical Review of Medical Device Cybersecurity*; and *the Guidelines for Registration Review of Artificial Intelligence Medical Devices.*

Several of the Healthcare Equipment Working Group's recommendations were incorporated into these guidelines, including: 1) abolishing the requirement to repeat vulnerability assessments in China; and 2) non-fundamental changes to a device's security capability being added to the scope of minor cybersecurity updates that do not require the product registration to be amended.

The release of these guidelines has made pre-market registration for high-end medical devices much easier, thereby increasing their accessibility in the Chinese market.

Media Watch

President Wuttke gives insights on 9th EU-China High-level Trade and Economic Dialogue

On 19th July, the ninth round of the European Union (EU)-China High-level Economic and Trade Dialogue (HED) took place. The meeting was led by Valdis Dombrovskis, executive vice president of the European Commission, and Liu He, vice premier of China. They were joined by senior representatives from the EU and China covering areas including financial services, agriculture, customs, industry and healthcare.

On 20th July, a *Global Times* article on the HED quoted European Chamber President Jörg Wuttke as stating: "The heatwaves blistering across the Northern hemisphere this summer should serve as a warning for leaders on both sides, prompting them to implement more ambitious policies." On 29th July, President Wuttke was interviewed live by *Phoenix TV* on the HED. He noted that both sides made "some progress, particularly on the financial side," and highlighted the current uneven EU-China trade balance.

President Wuttke was interviewed live by *Phoenix TV* on the ninth round of the EU–China HED
Media: *Phoenix TV*
Date: 29th July 2022

Screenshot from President Wuttke's interview with *Phoenix TV* on the ninth round of the EU–China HED
Media: *Phoenix TV*
Date: 29th July 2022

President Wuttke was interviewed by *CGTN* on the impact of China's zero–COVID policy
Media: *CGTN*
Date: 28th July 2022


The Wire China

Jörg Wuttke on China's Self-Destruction

The EU Chamber of Commerce in China president talks about China's self-inflicted problems; how he gets away with being so outspoken; and why he believes in China's comeback gene.

President Wuttke's exclusive interview with *The Wire* on zero–COVID
Media: *The Wire*
Date: 14th August 2022

President Wuttke discusses China's zero-COVID policy after wave of lockdowns

Locally transmitted cases of COVID-19 were reported in many provinces from the end of July to the middle of August, leading to several lockdowns. On 28th July, President Wuttke took part in a panel discussion on *CGTN*'s *The Hub* on China's zero-COVID policy. He said, "COVID has been overcome basically in the rest of the world. We have a resumption of normal [life] with notably the exception of China." On 3rd August, *Bloomberg* cited President Wuttke saying that, "Zero-COVID will remain in place for at least another year because it's now inextricably tied to Xi. My guess is China can at the earliest open up in late 2023." President Wuttke outlined in an exclusive interview with *The Wire* on 14th August how zero-COVID is leading companies to consider putting China investments on hold, noting: "[E]xecutives cannot enter China properly, even though now they are happily able to travel in Southeast Asia. So future investment might actually end up in these countries because China is simply not reachable, and that should be concerning to Beijing."

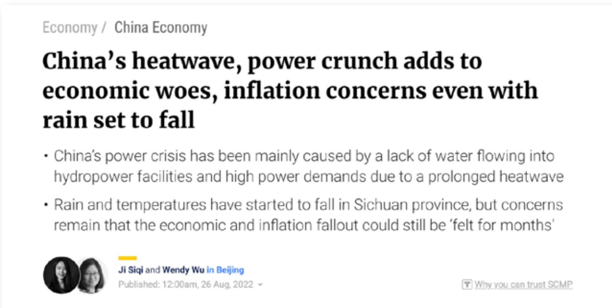

KLIMAKATASTROPHE

Neuer Schock für deutsche Firmen in China: Dürre löst Stromengpässe aus

Erst Lockdowns und Immobilienkrise, jetzt eine hitzebedingte Energieknappheit: China muss die Wirtschaft erneut mit Milliardenhilfen stützen. Deutsche Unternehmen sind besorgt.

Sabine Gusbeth

Handelsblatt quotes President Wuttke in article on the impact of China's power shortages
Media: *Handelsblatt*
Date: 25th August 2022


Economy / China Economy

China's heatwave, power crunch adds to economic woes, inflation concerns even with rain set to fall

- China's power crisis has been mainly caused by a lack of water flowing into hydropower facilities and high power demands due to a prolonged heatwave
- Rain and temperatures have started to fall in Sichuan province, but concerns remain that the economic and inflation fallout could still be 'felt for months'

Ji Siqi and Wendy Wu in Beijing
Published: 12:00am, 26 Aug, 2022

Why you can trust SCMP

President Wuttke is also quoted in an article by the *SCMP* on China's energy supply difficulties
Media: *SCMP*
Date: 26th August 2022

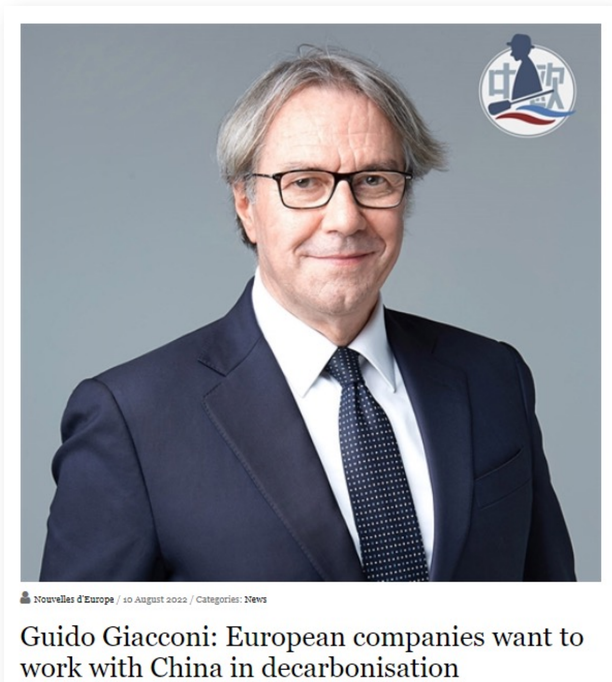
Chamber's views on Southwest China's power shortages sought by media

On 25th August, *Handelsblatt* ran a piece against the backdrop of China's heat-related energy shortages, which had a particularly heavy impact on Southwest China. President Wuttke was quoted as saying, "The worst is yet to come [as] the rainy season in southwestern China is now coming to an end, and the water level is 'shockingly low'."

President Wuttke also told the *SCMP* on 26th August that the economic impact of Southwest China's power shortages will likely be felt for many months. He said they have "added another layer of uncertainty to the business and economy which has already been dealt with heavy blows in recent years ranging from Covid controls, travel restrictions, crackdowns on real estate and tech companies, inward-looking policies, as well as geopolitical tensions and risks of global recession."

Chamber VP lays out decarbonisation concerns

On 10th August, *China Minutes* held an exclusive interview with European Chamber Vice President (VP) Guido Giacconi on China's decarbonisation efforts. VP Giacconi stated that while China will very likely peak carbon emissions before 2030, enhanced international cooperation will be needed for China to achieve carbon neutrality by 2060 and the world to avoid the worst impacts of climate change. VP Giacconi said, "The fight against climate change is the only global issue where all the powers agree that they must cooperate. The European Chamber recommends that Europe and China deepen their dialogue on the cross-border adjustment mechanism, which will be introduced in 2023."


Nouvelles d'Europe / 10 August 2022 / Categories: News

Guido Giacconi: European companies want to work with China in decarbonisation

VP Giacconi speaks to *China Minutes* on China's road to carbon neutrality
Media: *China Minutes*
Date: 10th August 2022

Events Gallery

BEIJING, 20TH JULY 2022

Complying with China's Key Regulations on Cross-border Data Transfer

- There are four major reasons to regulate cross-border data transfers: data security, protection of individuals, public policy objectives and national security.
- Potential risks in cross-border data transfers include inconsistent subjects, inconsistent laws, inconsistent supervision and national security issues.
- Data localisation approaches include system localisation, portal localisation plus data local storage, and local replication of data.

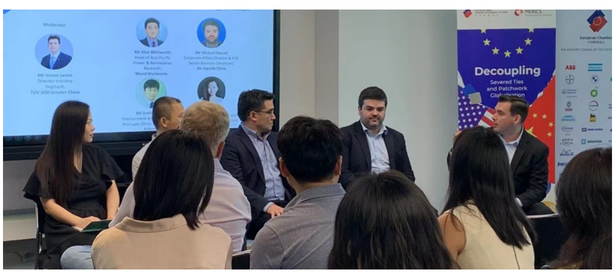
BEIJING, 24TH JULY 2022

The EU Carbon Border Adjustment Mechanism and its Impact on China

- The Carbon Border Adjustment Mechanism (CBAM) is expected to replace the European Union's (EU's) Emissions Trading System, starting from high-emission fields such as steel, cement, and fertilizer.
- Chinese enterprises are likely to find themselves in a disadvantageous position, as they lack the ability to accurately calculate suppliers' emission data.
- The implementation of the CBAM calls for product-level accounting methods in China, which will be implemented in the next two to three years.

SHANGHAI, 18TH AUGUST 2022

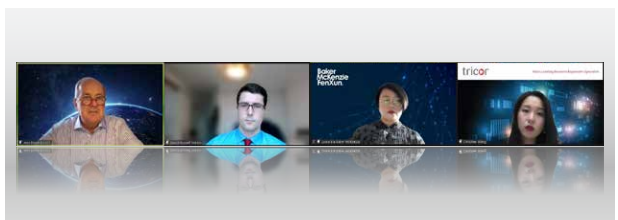
China's Power Crunch: Opportunities and Challenges Ahead in the Renewable Energy Landscape



- China built three times as much offshore wind-farm capacity as the rest of the world put together during 2021, overtaking the United Kingdom as the world's leader in capacity terms.
- Due to the urgency of building out wind power generation at scale, the European Union needs a market design that offers several options at the same time.
- The carbon peak schedule in Shanghai has been delayed by five years.

SHANGHAI, 30TH AUGUST 2022

China's Capital Market Development: Navigating the Road Ahead Amid a New Regulatory Landscape



- There has been a notable uptick in divestments in 2022, with the continued uncertain outlook for global and Chinese economy likely to mean this elevated level will continue or increase.
- Stricter penalties for non-compliance with the Anti-monopoly Law include administrative fines targeting senior leadership and employees directly responsible for competition law infringements, and potential criminal liability for both companies and individuals
- The private fund sector in China has developed rapidly, and is expecting outstanding growth as China continues to open up the finance sector.

TIANJIN, 28TH JULY 2022

Business Confidence Survey 2022 Launch Dinner

- Local businesses performed well financially in 2021, but challenges also grew.
- Tianjin has become an attractive research and development (R&D) centre due to its government incentives, particularly for foreign enterprises and higher R&D productivity.
- Companies in Tianjin have more localised work forces than in other regions.

SOUTH CHINA, 25TH JULY 2022

Manufacturing Seminar: Decoding the Metaverse

- As blockchain involves tokens—secure storage devices—the metaverse blockchain increases users' trust in the ecosystem, as confidential data will not be available to third parties.
- Smart contracts make it possible to effectively regulate economic, legal, social and other relations between ecosystem participants within the metaverse.
- Before committing to a platform, it is recommended to engage a lawyer as early as possible, particularly before signing any agreements.

SOUTHWEST CHINA, 24TH AUGUST 2022

Business Confidence Survey 2022 Launch in Chongqing

- The cover of this year's report shows that we are not losing hope: the lighthouse still stands firmly and shines in the torrents, even though the huge black swan is waving its powerful wings and the water below is growing choppier.
- The survey data shows that 30 per cent of the member companies of the Southwest China Chapter saw positive growth in 2021.
- Local member companies believe that there are still great opportunities for European small and medium-sized enterprises to develop in China.

NANJING, 3RD SEPTEMBER 2022

Badminton Summer Tournament

- Champion Group: 1st place: BASF-YPC; 2nd place: Epiroc; 3rd place: Tietoevry
- Cup Group: 1st place: DB Schenker; 2nd place: Diehl Controls; 3rd place: SUSPA

Advisory Council News

D'Andrea & Partners strengthens ties in southern China with new Shenzhen office

1st September 2022 - The Chinese central government has increasingly focussed attention in recent years on the importance of the Greater Bay Area (GBA) as a leading region in China for technology, finance, medical devices and an array of other innovation heavy areas. In this respect, the establishment of a new office in Shenzhen further reinforces D'Andrea & Partners' position as one of the few international firms duly authorised by the Ministry of Justice of the People's Republic of China to operate as a representative office of a foreign law firm in China. We felt it was imperative to be present in Shenzhen in order to assist our clients in the best and most efficient way possible.

Atlas Copco Industrial Gas Equipment China R&D and Production Base officially settled in Suzhou

16th August 2022 – The signing ceremony for the new Atlas Copco Industrial Gas Equipment China Research and Development (R&D) and Production Base was held on 11th August 2022. Leaders of the Suzhou

Photo: atlascopco.com.cn

High-tech District Government and representatives from Atlas Copco attended the ceremony. The planned base in the Suzhou High-tech District will specialise in R&D and production of gas manufacturing equipment for a broad spectrum of industries, including metals, petrochemicals, marine and electronics.

Stora Enso survey finds physical books still favoured over e-books

26th July 2022 – A new survey commissioned by Stora Enso in March 2022 among 2,400 book readers and listeners in the United Kingdom, France, Germany and the United States showed that people still overwhelmingly prefer physical books (65 per cent) to e-books (21 per cent) or audiobooks (14 per cent). Furthermore, consumers are willing to pay a premium for carbon neutral books.

Boehringer Ingelheim site in Zhangjiang becomes first certified carbon-neutral pharmaceutical plant in China

19th August 2022 – Global biopharmaceutical company Boehringer Ingelheim has announced that its human pharma production and supply site in Zhangjiang, Shanghai, Boehringer Ingelheim Shanghai Pharmaceuticals Co Ltd (BISPL),

Photo: boehringer–ingelheim.com

Photo: bmwgroup.com

has recently been certified by both the China Emissions Exchange and TÜV Rheinland Germany as a carbon-neutral plant. The site has thus become the first carbon-neutral pharmaceutical plant to be certified by both Chinese and overseas agencies.

BISPL is one of Boehringer Ingelheim's most important production sites in the Asia-Pacific. As a key pilot project under the company's global sustainability strategy, the site peaked carbon emissions in 2014. With a holistic site-wide decarbonisation plan on energy use, manufacturing processes and logistics management, the site achieved its zero-carbon target after eight years.

Round battery cells for the Neue Klasse

9th September 2022 – The development of the Neue Klasse marks a turning point for the BMW Group. The all-electric models planned from 2025 are making giant strides in the development of electromobility, circularity and digitality. The batteries for the Neue Klasse are considered a key success factor for electric vehicles, with the initial technical specifications showing the scale of the potential of the new development. Frank Weber, member of the Board of Management of BMW AG, Development, reveals the initial details: "The range will improve by up to 30 per cent with the sixth generation of our lithium-ion cells, and the charging speed will be up to 30 per cent quicker. We are also reducing CO_2 emissions in cell production by up to 60 per cent and putting the focus on recyclability. These are big steps in terms of sustainability and customer benefit."

As well as the new design and the changed format of the cells, the Neue Klasse energy storage units also have an increased voltage of 800 volts. One of the benefits is that this higher voltage speeds up the recharging of energy at direct current fast-charging stations. Compared to the current strength of up to 500 amps in these stations, the new units will reduce by about 30 per cent the time needed to charge from 10 to 80 per cent battery power.

Knorr-Bremse makes major contribution to protecting the environment, decarbonising commercial vehicles

13th September 2022 – As the global market leader for braking systems and a leading supplier of other systems for rail and commercial vehicles, Knorr-Bremse is a driving force behind sustainable mobility. This is reflected not least in the company's sustainability ratings. In 2022, Knorr-Bremse was once again awarded 'gold' status by EcoVadis. And in the automotive and supplier industry's self-assessment questionnaire (SAQ), the sustainability management at 17 Knorr-Bremse plants was given a score of between 80 and 93 per cent.

In Knorr-Bremse's ongoing efforts to boost sustainability, climate action is a key strategic focus. In 2021, as part of the Group's Climate Strategy 2030, Knorr-Bremse attained its target of carbon neutrality across all Group sites worldwide. Green power agreements and certificates ensured that 98 per cent of the electricity supplied to Knorr-Bremse globally was generated from renewables. The company is also firmly on track to reach its second key climate goal: to halve carbon emissions by 2030. By 2021, Knorr-Bremse had already achieved a 73 per cent reduction in carbon emissions compared with 2018.

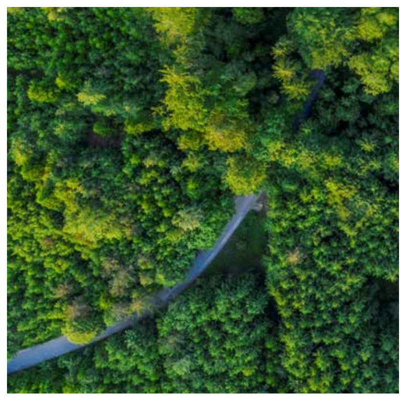


Photo: Knorr–Bremse technologies and solutions help to decarbonise the commercial vehicle industry © Knorr–Bremse

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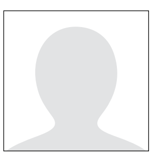
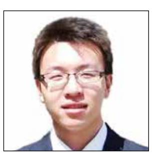


General Manager



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