

Journal of the European Union Chamber of Commerce in China

EURObiz

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COMPLIANCE

THE COST OF NON-COMPLIANCE
Competition law in China

THE IMPOSSIBILITY OF COMPLIANCE?
China's Cybersecurity Law

WORKING INSIDE THE LINES
Remaining compliant with Chinese labour law

Also in this issue:

REASONS TO BE CHEERFUL?
The European Business in China Business Confidence Survey 2017

GOODBYE TO ALL THAT
60 minutes with former Chamber President Jörg Wuttke



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THE NECESSITY OF COMPLIANCE



Mats Harborn
President of The European Union
Chamber of Commerce in China



The European Chamber has long been established as an influential institution that makes a real difference in improving the business climate for European companies in China. I was therefore honoured and humbled when the members of the Chamber elected me as the new president on 12th May, at our Annual General Meeting. I am relishing the challenge of building on the solid foundation that I have inherited, and I would like to extend my sincere gratitude to Jörg Wuttke, the rest of the Executive Committee and other board members who are stepping down this year, for leaving the Chamber in such fantastic shape. I am extremely fortunate to have the support of a strong team in the newly elected Executive Committee and local boards, as well as our extremely capable secretariat, to help me continue the good work.

My motivation for taking on this responsibility is the belief that we have a unique window of opportunity in the coming years to influence policy even more. China has pledged to enable market forces to play the decisive role in resource allocation – its fulfilment of this promise is now essential for the creation of sustainable economic growth. However, this can only happen if there are common rules and regulations in place which are equally applied to all market participants.

This fits well with the theme of this issue of *EURObiz*. The requirement to comply with rules and regulations is one of the core components for establishing a level playing field for business. In efficient markets, competition is based on the innovativeness of products and services, price and reputations. In weak markets, where cheating, bribery and other illegal actions are tolerated, weaker companies and products succeed, which results in less prosperity overall.

When President Xi Jinping took office in 2012, he vowed to crack down on corruption, an endemic problem in China that is widely recognised as having put long-term sustainable economic development at risk. Since then, the number of investigations has continued to increase at an unprecedented rate, particularly with respect to corruption within the Communist Party and government. President Xi reiterated his commitment to stamp out corruption in his speech at the Chinese Communist Party's 95th Anniversary Conference in Beijing on 1st July, 2016.

As a result, the importance of compliance programmes has increased for business in China, whether multinational, local-private or state-owned. It has rightly caused companies to look more closely at their own internal compliance procedures and has facilitated the acceptance of compliance protocols by third parties.

While the European Chamber welcomes these developments as a positive step in China's reform process, much uncertainty and inconsistency remains in both the enforcement of laws and the focus of the government's efforts. Business leaders must therefore not only maintain high standards, but also continue to improve compliance systems in order to protect their respective companies and demonstrate their best efforts to the regulators. While ultimately concrete actions are required, the Chamber is at least encouraged by the clear statement included in Notice of the State Council on *Several Measures on Promoting Further Openness and Active Utilisation of Foreign Investment* (Guofa (2017) No. 5) that "Regions and departments at all levels shall strictly implement national policy and regulations so as to maintain consistency in implementation."

If fully enforced, this will further contribute to the establishment of a consistent and transparent anti-bribery enforcement mechanism in China, as well as creating a better environment in which to develop and implement compliance efforts. The Chamber will continue to engage with the authorities to ensure that this aspiration becomes a reality. Regardless, analysing the government's agenda and the risk of investigations to the sector one operates in, as well as preparing company protocols on how to handle investigations, should be on the 'to do' lists of all European enterprises operating in China.

Compliance should never be viewed as a necessary burden or the price of doing business. Drawing on our extensive experience in international markets to lead on best practices in China presents European business with an invaluable opportunity to highlight its enduring value to the authorities, employees and customers. Fostering a business culture of ethics and integrity should therefore always be at the core of how we operate in China. Not just because it is the right thing to do, but also for our bottom lines and future growth. This special issue of *EURObiz* presents some of the latest thinking on how we can continue to excel at doing so.



THE COST OF NON-COMPLIANCE

Competition law in China

In this article, **Adrian Emch**, Partner at **Hogan Lovells** Beijing, looks at how to ensure competition law compliance in China: first, what rules need to be complied with and, second, what measures do companies need to take to ensure compliance?

Compliance with Chinese law is important. Compliance with Chinese competition law is particularly important. Just look at the consequences in the case of a compliance failure: in 2014, US chipmaker Qualcomm was fined over EUR 810 million by the National Development and Reform Commission (NDRC) and, in 2016, the State Administration for Industry and Commerce (SAIC) imposed a fine of close to EUR 90 million on European multinational Tetra Pak – in both cases, for alleged infringements of the Anti-Monopoly Law (AML), China's main competition law.

What rules to comply with?

Competition law, is a strange animal. Some of the rules can be quite complex. But other rules are very straightforward. In particular, the prohibition to engage in cartels with competitors is a very obvious offense, and many people (including non-lawyers) intuitively know that cartels are illegal.

But the cartel prohibition is broad. Cartel conduct does not only mean that competitors are prohibited from fixing prices, allocating territories or customers, and so on. The scope of the cartel prohibition has expanded over time, including in China, and in a certain way has lowered the thresholds for authority intervention. Today, exchanges of sensitive information among competitors—sometimes, only one-directional—can also be deemed to amount to cartel-like conduct, and be sanctioned in the same way. For example, in Europe, shipping companies were alleged to have breached competition law by “signaling” to each other their future prices by way of public announcements.

Beyond the relationship between competitors, competition law contains many rules which apply to a company's ‘vertical’ links: with suppliers, distributors, customers and so on. One no-go area for vertical links is resale price maintenance (RPM).

RPM exists where the supplier of a product sets the price (or minimum price) at which the buyer (distributor) resells the product to a third party. The AML contains a general prohibition of RPM. While Chinese courts look at the prohibition generally in a flexible way (using a ‘rule of reason’ approach), the NDRC seems to treat it as a strict prohibition. Therefore, for companies doing business in China, this means RPM should be generally off-limits. In practice, many companies in China have resale price policies for distributors so the impact of the RPM prohibition has had a great impact.

To an extent, some relief may be coming through: the NDRC's draft guidelines for the automotive sector suggest that agents (which do not take ownership and

risk in the product), and other intermediaries playing a subordinate role, may not fall under the RPM prohibition.

Apart from RPM, there are other restrictions the AML imposes on companies' vertical relationships, but these only apply to companies with a “dominant market position”. For these companies, the AML sets out a number of restrictions but—broadly speaking—they can be classified into two categories. On the one hand, dominant companies cannot behave anti-competitively to exclude competitors from the market. An example of this first category is the imposition of exclusivity on customers. On the other hand, dominant companies are prohibited from engaging in certain conduct which directly harms customers, in particular consumers. Examples of this second category are excessively high prices or discrimination between customers.

What measures to take?

Companies generally need to take a variety of measures to ensure a high level of competition law compliance. The most obvious measure is to review the company's written contracts and amend the risky clauses, if needed. For example, over the past few years, many companies have had to revise their distribution agreements to eliminate clauses forcing resale prices on their distributors.

However, contract review is clearly not sufficient to ensure full compliance. To a large extent, competition law is ‘effects-based’. This means that it is the effect, not the form, of the conduct that counts. So it is not necessary to have a ‘smoking gun’ clause written into a contract to have a competition law problem.

The resale price example mentioned above clearly shows this: at the beginning of China's modern competition law history, many RPM cases involved resale price restrictions imposed on distributors in writing through formal agreements. However, the RPM cases which the NDRC has brought in more recent months or years often did not involve written clauses, but other types of conduct – for example, oral warnings and threats to distributors by the companies' sales teams. In this case, the legal assessment—including the fines imposed—is basically the same as for RPM clauses in written agreements.

One of the main focuses of competition law compliance is to eliminate or reduce the risks of there being illegal cartel activities by company employees. In most cases cartel activities are—almost by definition—secret (the stereotyped image is that of a smoke-filled room where business people discuss their prices). Generally, there are no or few traces of written communications (although in recent cases, some cartelists were found to have used Wechat, Whatsapp and other electronic means to conduct illegal price discussions).



So what measures can be taken apart from contract review? This depends on the company's needs, culture and risk appetite. A relatively far-reaching measure is to conduct an internal investigation/audit, with an aim to double-check employees' competition law compliance.

Another compliance measure is to conduct interviews with selected employees whom the company deems are potentially more exposed to competition law issues than others, such as employees from the sales team, for example. Many times outside counsel conducts these interviews, as the absence of a hierarchical and day-to-day relationship may allow a more frank discussion.

Furthermore, training and written guidance documents (such as competition law manuals and 'dos and don'ts' lists) are frequently among the competition law compliance measures which companies take. Ideally the training and documents should be tailored for the different groups within the company (for example, an employee from the sales team may face different competition law issues than a factory manager) and should be short and illustrative, so that the takeaways can be easily remembered. Legalese is not a welcome language here.

Beyond compliance with substantive competition rules, companies can also take a variety of other measures to make sure they are prepared in the event that a Chinese competition authority starts an investigation.

For example, companies can prepare for the eventuality of a 'dawn raid' (an unannounced inspection) by the authorities. Past enforcement cases in China have shown that many things can go wrong during competition law dawn raids, ranging from employees shredding documents to managers sipping coffee next door while the office is raided. Hence it is important for companies

to have protocols or guidelines in place for such an eventuality, so that different groups of employees (such as the receptionist, the IT department, top management) know exactly what to do.

Certain companies even take it a step further and organise mock 'dawn raids' at their China business premises. These exercises can genuinely test the employees' reaction to this situation, but they need to be very carefully organised in order to avoid false rumours and other risks.

Take-aways

Failure to comply with China's competition rules can be costly. But companies have a wide range of measures available to increase compliance levels among their employees.

Beyond individual measures, the level of competition law compliance will also depend on the company culture in general and its legal compliance culture in particular. Obviously, changes of culture can be slow to take root and hence a regular and consistent effort is required to ensure effective competition law compliance across companies' China operations. [Eb](#)

Hogan Lovells is a global law firm with over 2,800 lawyers across close to 50 offices around the world, including in Beijing, Shanghai and Hong Kong. Hogan Lovells has one of the largest and most experienced competition law teams on the ground in China. The lawyers in the China competition law team have supported a wide range of companies – including European consumer goods and technology companies, a large Japanese conglomerate and one of China's largest state-owned enterprises – in their competition law compliance efforts, including internal investigations, mock dawn raids, preparation of manuals and guidelines, etc.



BY THE BOOK

Building a robust compliance programme in China's pharmaceutical industry

In China, most multinational companies (MNCs) in the pharmaceutical industry have established compliance departments, with dedicated full-time compliance professionals. Many of the top ten MNCs have even designated their compliance heads vice presidents, giving them equal status with many business unit heads. **Clarissa Shen** of **Sanofi** provides further details of how far pharmaceutical companies in China are going to ensure compliance throughout their entire business.

Implementing written policies and procedures

Compliance policies may evolve depending on industry expectations and prevailing practices. Take China's cultural gift policy as an example: prior to 2015, many member companies of the Research and Development Based Pharmaceutical Association Committee (RDPAC) allowed cultural gifts to be given during traditional Chinese holidays – the RDPAC 2012 Code allowed cultural gifts with a monetary value of no more than CNY 200 (approximately EUR 25) to show respect and appreciation from the company. Only one or two member companies set a higher standard, and did not allow gifts to be given to healthcare professionals (HCPs). The code was subsequently amended in 2015, prohibiting the provision of such gifts.

Conducting effective training and education

Given the sheer size of sales forces in the China market and its average turnover rate of around 20 per cent per year,¹ it is very important that every sales professional, prior to his/her starting, has obtained adequate compliance training. This can protect both the company and individual from non-compliant behaviour including, but not limited to, off-label promotion.

Conducting internal monitoring and auditing

A combination of desk monitoring and onsite live monitoring is deemed the most effective monitoring method. Since the summer of 2013, many MNCs began engaging either additional internal resources or external accounting firms to perform a larger portion of invoice checking (some companies even check 100 per cent of business expenses) to prevent fake invoice/fapiao issues. Today, more than half of the top 10 pharma companies are known to perform onsite live monitoring as well to sample-check that meeting activities are always adhered to from every compliance aspect.

Enforcing standards through well publicised disciplinary guidelines

According to local labour law, companies have the right to discipline employees on the condition that the disciplinary matrix of the company has been well publicised across the organisation through a certain process. Embedded in their employee handbooks, companies normally publicise the disciplinary guidelines and require the employee's signature as acknowledgement and commitment. Despite this, it is highly recommended that the disciplinary guidelines be part of employees' training, in particular that line managers enforce standards as a deterrent.

Responding promptly to detected problems and undertaking corrective action

Upon closure of an investigation case where allegations are confirmed fully or partially, compliance officers, in collaboration with other leadership executives, may advise of any loophole and/or internal control weakness in the existing management process to ensure systematic approaches are being taken to avoid similar issues.

The O2O model

Online-to-offline is a business strategy that draws potential customers from online channels to physical stores. Online-to-offline commerce, or O2O, identifies customers in the online space, through emails and internet advertising, and then uses a variety of tools and approaches to entice the customer to leave the online space. This type of strategy incorporates techniques used in online marketing with those used in bricks-and-mortar marketing.² According to a research report, the O2O market size will expand to CNY 660 billion in 2016, a growth of 55 per cent compared to 2015.³

The O2O business has changed lots of industries in the last two to three years in China's market, which also gives the opportunity to improve compliance management in many aspects:

a) Meals

It has been historically almost impossible to track and monitor medical reps' hospitality expenses in a country that has many hundreds of thousands of restaurants. Fake invoices, fake POS slips, fake consumption breakdowns, accompanied by fake meals, represent the majority of the compliance issues in China.

With developments in O2O, it is now possible to work with O2O service providers in the restaurant industry to:

- **Establish a qualified restaurant pool**

Not all the restaurants are venues qualified for conducting business meetings. With certain criteria, like eligibility for issuing invoices, allowing corporate payment and accepting spot-checks, we can establish and maintain a qualified restaurant pool close to the healthcare organisations to host any meetings.

- **Transparency of hospitality costs**

Although most pharma MNCs in China have implemented a corporate credit card programme, if an individual intends to collude with a restaurant, the money

1 How to Improve Employee Engagement, Aon Hewitt, http://www.aon.com/thought-leadership/china-connect/april-2011/engagement_in_pharmaceutical_industry.jsp

2 What is 'Online-To-Offline Commerce', <http://www.investopedia.com/terms/o/onlinetooffline-commerce.asp>

3 2016 O2O market in China will be expanded rapidly to RMB66bn <http://www.fjess.gov.cn/dzswwhy/20494.jhtml>

may technically be transferred from the corporate credit card account to the restaurant account using a T+1 (one day following the transaction date) method, and afterwards find its way into an individual's pocket with a certain discount using a T+2 method. With the advent of O2O platforms, business expenses can be paid to the platform first, with the transfer between the O2O platform and the restaurant then being blocked for 7–15 days for further validation. This provides more transparency when checking hospitality costs.

- **Visibility of onsite spot-checks**

Also, with the O2O platform, we can easily filter out last-minute reservations, or reservations at a venue that do not appear to be rational, e.g. a venue place far from the healthcare organisation, to allow onsite spot-checks to validate the authenticity of a business meeting.

b) Event logistics services

Engaging a travel agency to provide package services for quotations for air tickets, conference rooms and accommodation, is a common practice for the industry when organising events. More and more pharma MNCs have now begun to split the package and centralise the procurement of each component. Today, we are able to differentiate O2O with packaged offline logistics services:

- **Transparency of bidding and quotations**

In China's O2O event logistics business, we see an emerging capacity of some of the largest platforms that can offer more than 600 conference venues in one bid, with predefined criteria like location and number of participants. Such O2O platforms can easily filter out the most cost-effective selections and at the same time provide companies with a transparent quotation.

- **Payment centralisation**

Centralised management of event logistics is what companies have been endeavouring to do to control operational risks. As far as hotel management is concerned, it is too challenging for an affiliate to manage several hundred hotels. The benefit of an O2O platform is that it can serve as a bridge between the corporation and the hotels yet retain the transparency of downstream suppliers' (e.g. hotels) prices.

c) Local transportation services

Similar to UBER in Western countries, online taxi services are now becoming popular in China. According to the consulting firm Roland Berger, these services reached a market size of CNY 7.7 billion in 2015, and are expected to grow to CNY 500 billion in 2020.⁴


Up until now, fake taxi invoices have been a problem in third- and fourth-tier cities in China. With the development of O2O alongside the accessibility of online taxi services, regardless of the location where companies engage local transportation services, fake invoices are becoming a thing of the past.

One lump-sum invoice with as many service breakdowns as a company wishes can prevent fake invoice risks in a corporation's booking and accounting system. Journey routes and duration can even be tracked in real time.

Big data

Big data has the potential to allow pharmaceutical companies to assemble much more compliance-related information from a wide variety of sources, and to extract actionable insights from it. Putting together relevant historical big data into an automatically designed analytical tool to allocate data abnormalities can also help to identify compliance risks.

Why make the effort?

E&Y's Asia-Pacific Fraud Survey 2015 reveals: "Life sciences employees say they will leave or refuse to join companies involved in bribery and corruption. This adds a new dimension to compliance. Not getting it right will put retention and recruitment of top talent and growth strategies at risk." This underlines the additional incentive that companies and executives have to operate their business in an ethical manner. A culture based around ethics and business integrity protects a company's reputation, attracts and retains talent, and ensures sustainable business growth. Leadership teams and business managers, therefore, must set an example of ethical behaviour, walk the talk, communicate and proactively foster a compliance culture. 

***Sanofi**, a global healthcare leader, discovers, develops and distributes therapeutic solutions focused on patients' needs. Sanofi is organized into five global business units: Diabetes and Cardiovascular, General Medicines and Emerging Markets, Sanofi Genzyme, Sanofi Pasteur and Consumer Healthcare. Sanofi has a strong commitment to China. In 1982, Sanofi became one of the first foreign pharmaceutical companies to open offices in China. Today, Sanofi has around 9,000 employees in China and is one of the fastest-growing healthcare companies in the country.*

The views expressed in this article are personal opinions of Clarissa Shen Yanrong, and do not necessarily represent those of her employer.



⁴ <http://mt.sohu.com/20160322/n441511292.shtml>



THE IMPOSSIBILITY OF COMPLIANCE?

China's Cybersecurity Law

China's much-anticipated Cyber Security Law (CSL) finally came into effect on 1st June, 2017. While technology companies have long felt pressure stemming from China's national security concerns, the CSL actually impacts a wide swath of industries. **Carly Ramsey**, regulatory risk specialist, and **Ben Wootliff**, head of cybersecurity, Asia, for **Control Risks**, explain that the move by China to beef up its laws and regulations governing cyber activity is leaving companies unsure as to how they can comply with this vague and potentially onerous law.

Who will be captured by this law?

It is very likely that many multinational companies (MNCs) will feel the heat. The brunt of the CSL currently falls on "critical information infrastructure" (CII) operators. The broad definition of CII encompasses not only traditional critical industries such as power, transport and finance, but also other infrastructure that could, as outlined in the law, harm "people's livelihoods". This

means that any foreign company that is a key supplier to a 'critical' sector, as well as any company that holds significant amounts of information on Chinese citizens, could become a prime target for regulators seeking to enforce the CSL.

The lack of clarity in the definition of CII is significant because of the potential obligations for these companies, for example, localising data to China and undergoing in-

trusive onsite inspections of cybersecurity systems and procedures. Certain technologies must pass a “national security review” to ensure they cannot be illegally controlled or interfered with before CII operators are able to use them. The CSL gives broad authority to the Cyberspace Administration of China, China’s powerful cyberspace watchdog, and other industry regulators to conduct these reviews.

What is covered by the law?

There is a particular focus on “personal information” and “important data”, both of which are vaguely defined. This is significant as network and CII operators will be required to localise this information to China, and a security self-assessment or approval from the relevant regulator will be required before transferring this data abroad.

Under the CSL, personal information is defined as information that, taken alone or with other data, is sufficient to ascertain an individual’s identity, including birth dates, phone numbers, addresses and identity card numbers. Other personal information guidelines indicate that regulators consider political, religious and genetic information to be sensitive. Similar to the State Secrets Law, the definition of ‘important data’ is extremely vague; it is described as data closely related to national security, economic development and social public interests. Regulators will likely focus on whether companies have any data that could contradict official numbers, such as industry or population health statistics.

What are the risks for MNCs?

The sheer scope of the CSL is mind boggling. And, as mentioned, it is also extremely vague. This means that it is currently impossible to be ‘compliant’, and companies will need to focus on how the CSL will be enforced by regulators. From a resource perspective, regulators will need to prioritise certain sectors, aspects and companies over others, with those priorities changing over time. Moreover, the presence of multiple industry regulators will result in patchy interpretation, conflicting signals and unpredictable enforcement.

Overall, MNCs are experiencing progressively active and often aggressive regulatory enforcement in China across several areas, including pricing, corruption and product quality. These enforcement actions are a result of China’s increasingly sophisticated bureaucracy, industrial policies that aim to change the market and geopolitical disputes. While the CSL will certainly be applied for legitimate cybersecurity concerns, including protecting key domestic infrastructure from internal and external cyber-attacks, foreign companies need to be aware that the CSL will be another tool in the enforcement toolbox and could be utilised for reasons only tangential to cybersecurity.

Companies should also be aware that the CSL potentially provides the government with the legal ability to obtain intellectual property and a view into an organisation’s cyber gaps and vulnerabilities. The operational costs and

risks of localising data to China are likely to be significant for most MNCs, particularly the loss of the ability to conduct global big data analytics if the China data has to be housed separately. There is also significant risk that foreign technologies that are uncertified under the CSL could be shut out of the China market in order to benefit domestic versions, impacting companies that currently rely on them.

How can companies prepare to be compliant with a moving target?

Companies need to ask themselves if they are an enforcement target for regulators: Is my company critical in keeping certain sectors running? What is the extent of my view into the lives of Chinese citizens? Do I have a strong domestic competitor that will seek to use this law to their advantage?

Here are some practical steps that companies can take today to answer these questions and mitigate the impact of this law:

- **Understand:** Overlay your business against government priorities for network operators and CII, including suppliers, distributors, competitors, and technology vendors. Map your data to learn what could be considered personal and important to regulators.
- **Prepare:** If your business or data is an enforcement priority, prepare for key CSL provisions, including data localisation and the national security review. In addition to assessing gaps in cyber policies and procedures vis-à-vis the CSL, preparing for the investigator’s unique methods and motivations will be key to mitigating risks from the review process.
- **Engage:** Regulators across industries are currently developing rules that will put flesh on the bones of the CSL. What are you doing about it? Applying strategic and targeted government engagement strategies will help mitigate impact of the CSL on your business. [Eb](#)

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Control Risks is an independent, global risk consultancy specialising in helping organisations manage political, integrity and security risks in complex and hostile environments. Control Risks provides strategic consultancy, expert analysis and in-depth investigations, handling sensitive political issues and providing practical on-the-ground protection and support. Visit www.controlrisks.com.



EMPLOYMENT LAW COMPLIANCE

The challenges of the new supervision system

In China, the Ministry of Human Resources and Social Security (MOHRSS) and the Human Resources and Social Security Bureaus are the competent labour administrative authorities responsible for supervising the implementation of PRC employment law at the state and local levels respectively. In a move to increase compliance with employment law, a new supervision system was introduced at the beginning of this year. **Jeanette Yu**, Counsel and Head of Employment & Pensions Practice Area Group, **CMS**, takes us through what it entails, and what foreign enterprises in China need to be aware of.

Starting from 1st January, 2017, the MOHRSS established a new supervisory system for enterprises for enforcement of the PRC employment law, which consists of a so-called ranking system, a random checking system and a 'name and shame' system.

Ranking system

This system was established according to the *Methods on Ranking of Credits of Enterprises in Compliance of PRC Labour Law*,¹ issued by the MOHRSS on 25th July, 2017. Labour administrative authorities now divide enterprises into three different levels—A, B or C—subject to their relative compliance with PRC employment law. The ranking will be decided by the competent labour administrative authority every year, based on the information they obtain from daily random inspections or specific examination results, written documents submitted by the enterprises and any reports or complaints from employees, according to the following scenarios:

- An enterprise that is in compliance with PRC labour law and has not been punished by the labour administrative authority will be ranked level A.
- An enterprise that has been punished by the labour administrative authority but has not committed a severe offence will be ranked level B.
- An enterprise that has been punished by the labour administrative authority for a severe offence of the law will be ranked level C.

Random checking system

Based on the *Notice on Promotion of Making Random Inspections Relating to Human Resources and Social Security Matters for Supervision Purposes*,² issued by the MOHRSS on 1st August, 2016, all labour administrative authorities at the provincial level must set up: a check-up list stating the employment matters to be inspected by the authorities; a database containing the basic employment-related information of all enterprises; and a name list of supervisory officers holding supervisory certificates. Random inspections may be conducted by supervisory officers who are randomly selected from the name list by the competent labour administrative authority on enterprises that are also randomly chosen from the database.

'Name and shame' system

Based on the *Methods on the Public Announcement of Severe Violations of PRC Labour Law*,³ issued by the MOHRSS on

1st September, 2016, labour administrative authorities are authorised to publicly announce severe offences against PRC employment law that occur within their jurisdiction. These announcements can be made every season, or every half a year on the authorities' official website, or through other major public media such as newspapers or TV stations in the area.

Under this new supervisory system, enterprises ranked levels B or C will become major targets for supervision, and will likely encounter more regular random inspections, while enterprises ranked level A will expect fewer inspections. If a serious offence is uncovered during a random inspection, the competent labour authority may impose administrative punishments on the enterprise, and make a public announcement about the offence through the 'name and shame' system. Of course, the offence will affect the ranking of the enterprise in the following year under the ranking system.

Furthermore, the above ranking information, the information about the random inspection results of the enterprises and the 'name and shame' list will be shared among all related administrative authorities such as the Administration of Industry and Commerce, finance departments, tax authorities and trade unions. Any records of an enterprise with poor compliance with PRC employment law may affect its creditworthiness with other administrative authorities.

Challenges for enterprises

The establishment of the new supervision system is a clear signal that the Chinese Government is strengthening the enforcement of PRC employment law. Enterprises must pay attention and remain compliant with PRC employment law in their daily work, especially with respect to: setting up internal rules and regulations; concluding written contracts with employees; following labour dispatch regulations; complying with the regulations on protecting female and juvenile employees; leave and rest; and duly and fully paying salaries and social insurance contributions, which is the major focus of the labour administrative authorities when evaluating the ranking of enterprises.

Enterprises should specifically avoid: being punished three or more times by the labour administrative authorities; conducting any illegal behaviour leading to mass disturbances; extreme events or other accidents with serious adverse social impacts; using child labour; refusing rectification upon receiving orders or administrative decisions from the labour administrative authorities; and unreasonably hindering or resisting supervisory inspections from the authorities. The occurrence of any of these circumstances will cause an enterprise to be ranked level C, and its responsible person may be called before

1 http://www.mohrss.gov.cn/gkml/xxgk/201608/t20160801_244618.html

2 http://www.mohrss.gov.cn/gkml/xxgk/201608/t20160808_245088.html

3 http://www.mohrss.gov.cn/gkml/xxgk/201609/t20160909_246849.htm




the authorities. Furthermore, in the event of an enterprise deliberately deducting a large amount of remuneration from employees; delaying payments or even refusing to pay remunerations; not participating in the social insurance scheme or failing to pay social insurance contributions for its employees; breaching the regulations on the protection of female and juvenile employees; seriously abusing the regulations on rest and leave; or violating the regulations prohibiting the use of child labour, the enterprise might appear in the 'name and shame' list in the public media.

During an event held by the European Chamber on 12th January, Mr Song Zhihong, Head of the Labour Protection Supervision Administration Department of the Shanghai Human Resources and Social Security Bureau, explained that there are around 600 supervisory officers in charge of the inspection of all enterprises in Shanghai.

In order to avoid potential risks, enterprises should conduct an internal check of their compliance with PRC employment law and make adjustments on their internal employment policies if necessary. If an inspection is carried out by the authorities, the enterprise should actively cooperate with the supervisory officers, by answering questions and providing true information and necessary documentation. If the authorities request any rectification or make any order or decision, the enterprise should follow these requests unless otherwise indicated by law.

Under PRC law, for any administrative order or decision made by the labour administrative authority, such as making rectification within a prescribed time or paying penalties, if an enterprise is not satisfied with it, it must

apply for administrative review at the People's Government at the same level, or the competent labour administrative authority at the upper level within 60 days.⁴ If the enterprise is not satisfied with the result of the administrative review, it may raise administrative litigation at the competent People's Court within 15 days.⁵ If an enterprise wishes to contend its appearance in the 'name and shame' list, it may apply for re-examination at the labour administrative authority responsible for making the decision. The respective authority should re-examine its decision within 15 working days and rectify the issue within 10 working days if necessary.⁶ However, the ranking of an enterprise is fully subject to the decision of the labour administrative authority, and no complaint procedures can be adopted by enterprises if they are not satisfied with their ranking. 

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4 PRC Administrative Review Law <http://law.npc.gov.cn/FLFG/flfgByID.action?flfgID=34882090&keyword=%E8%A1%8C%E6%94%BF%E5%A4%8D%E8%AE%AE%E6%B3%95&zlsxid=01>

5 PRC Administrative Litigation Law <http://law.npc.gov.cn/FLFG/flfgByID.action?flfgID=34655736&keyword=%E8%A1%8C%E6%94%BF%E8%AF%89%E8%AE%BC%E6%B3%95&zlsxid=01>

6 Methods on Public Announcement of Severe Violations of PRC Labour Law [http://www.mohrss.gov.cn/gkml/xxgk/201609/t20160909_246849.htm](http://www.mo hrss.gov.cn/gkml/xxgk/201609/t20160909_246849.htm)



WORKING INSIDE THE LINES

Remaining compliant with Chinese labour law

As China's economy slows down after decades of breakneck growth and enters a new era of industrial upgrading, mass lays-offs are becoming more common, bringing with them risks of lawsuits for both domestic and foreign companies. **Agathe Dauphin-Carnevillier, Karen Huang, Marine Le Moigne** and **Eric Tarchoune** of **Dragonfly Group** advocate carrying out regular HR audits in order for companies to remain fully compliant with Chinese labour law, to reduce the risk of costly litigation.

The national statistics released by China's Supreme People's Court (SPC) revealed a recent sharp increase in labour disputes: in 2015, 483,311 disputes arising from employment relationships were accepted by courts, representing a 25 increase compared to 2014.

Suing an employer has become more socially acceptable and the attitude towards litigation has changed. Before the adoption of the PRC Labour Contract Law, which came into effect on 1st January, 2008, it was not an obligation for employers to provide employees with a written contract, and employees were unable to file lawsuits directly against their employers. The striking evolution of the Labour Law in favour of employee protection has led to an increased awareness among employees of their rights and how they can be enforced. The Chinese Government is also encouraging a more protective approach towards employees, and HR is becoming a major concern in China. In this context, compliance with HR regulations is a must if companies are to avoid any risk of a lawsuit.

HR challenges for foreign companies

The HR challenges that foreign companies are facing while doing business in China can be divided into three main areas: legal, cultural and strategic.

Legal

Chinese labour law complicates HR issues due to its constantly evolving nature, with new rules and regulations being frequently enacted. Therefore, it is crucial to be attentive to any changes. Another reason why the HR regulations are sometimes difficult to understand and to apply within foreign companies stems from the different interpretations of how the law is applied at the provincial level – for instance, wage contributions and severance payment ratios vary from one province to another.

Chinese labour law also provides some particularities regarding industrial relations. Employers are not able to prevent employees from forming unions, and Chinese employees are becoming increasingly used to uniting together to take advantage of this provision of the law. According to official government statistics, 80 per cent of all foreign firms in China were unionised by the end of 2008.

Understanding Chinese etiquette and ethics

Fluently navigating the local culture is key to successfully engaging team members. This can be illustrated by the following examples. As China progresses towards a 'socialist' market economy, it still retains some characteristics of the socialist conception of work, including the expectation of jobs lasting a lifetime (the 'iron rice bowl' mentality). 'Face' is a fundamental sociological concept in China. It can be most simply explained as the respect of the other's

pride. 'Loyalty' is another important value – vertical or personal relationships are important, which means that loyalty to one's manager is often stronger than to the company. Consequently when a leader quits, he or she may be followed by team members as a show of loyalty. As a result of having lived within a 'collective tradition', Chinese tend to value harmony and do not like to initiate conflicts, and individualism is often perceived to be negative behaviour. That said, millennials have grown up with a more individualistic mind-set, so, with more of them joining the professional market, managing intergenerational conflict is becoming a more common phenomenon in people management.

Strategic HR management

HR departments have three main missions. Recruitment of the right talent is one of them. A major challenge in China is finding employees that are considered innovative from a 'Western perspective' – Chinese students are taught by top-down methods, which tends to hinder the development of a creative-thinking-and-feedback culture.

Working with legal and professional recruiters that hold a Chinese recruitment licence can help since they possess a strong knowledge of the talent market and protect their clients from the risks they face when working with non-licensed recruiters.

China is still lacking talent with adequate international and domestic experience in the areas of marketing, sales, technology, HR and management, and the competition for talent from local companies is resulting in increased compensation demands.

HR departments are also challenged with the retention of talent through engagement. Employees who change jobs are mostly attracted by better compensation packages, better career development and learning opportunities. Creating a people-centric, corporate culture and developing leaders that can have a positive impact on their teams is therefore crucial.

An ever-changing labour law

Chinese labour law restricts companies' ability to impose disciplinary action against their employees. Salary reductions or demotions are not permitted without employees' consent.

Moreover, except in cases of very serious violations, if an employee is found guilty of misconduct, the company will first have to issue a warning letter, immediate dismissal carries significant risks in China. The employee may challenge the dismissal before a labour arbitration commission or court, with the company then having to provide a lot of strong evidence to justify the dismissal. If



the company fails, it could lead to the reintegration of the employee to his/her original position.

The burden of proof being on the employer is another illustration of this uneven dynamic – the employee's allegations are irrefutable, without him/her having to prove it.

With new mass layoffs being announced in China, mainly in the manufacturing sector, it is important for business managers to be careful of the fragility of these proceedings. Especially since the Chinese Government influences the process of termination through its regulations. HR managers that don't follow the rules are taking risks, which can lead to costly problems, such as labour disputes and a lack of cooperation from government officials.


Moreover, in January 2017, a new law came into force, instituting a 'name and shame' approach. This system will lead to public disclosure of the companies that fail to comply with the regulations and those that are found to have committed a serious breach of the law.

Recommendations to ensure HR compliance

Labour disputes can be very costly in terms of both money and reputation. It is regrettable that they often result from a lack of HR oversight. Therefore, labour disputes could in large part be avoided by appropriate HR monitoring.

HR professionals need to play the role of watchdog, keeping themselves cognisant of the most recent regulations and the internal requirements of the Chinese labour law. The Employee Handbook should be regularly reviewed and updated as it represents a supplemental layer of protection for the company. If an employment contract contains

provisions about working hours, wages, mission and responsibilities, the employee handbook develops other subjects not always covered by the employment contract (overtime rules, performance standards as well as the company code of conduct). If an employee commits a breach of the company code of conduct, gets fired and then files a lawsuit against his former employer, it then becomes easier to demonstrate that the employee breached a company rule, since the burden of proof is on the employer. The employee handbook must be bilingual and proper communication must accompany any changes.

HR practitioners should also consider conducting a full HR audit after any crucial changes to HR law. Such audits can reveal inconsistencies and determine whether a company may actually face any legal risks. Thus, this is a healthy mechanism to diagnose and prevent any risks, all the more since the 'name and shame' law came into being in 2017. In the wake of financial audits, a HR audit is an independent and objective evaluation of the current state of a company's HR policies, practices, documentation, and processes. It can alert a company about hidden HR issues concerning sensitive subjects such as monthly payroll, proper employment documentation and valid work permits. Although it can be conducted in-house, it should preferably be carried out by a qualified independent and objective third-party. This mechanism should be widespread to encourage good practices in HR compliance. 

*Founded and managed by **Eric Tarchoune**, in China since 1993, Dragonfly Group is an HR consultancy delivering innovative talent acquisition and development (executive search and recruitment, assessment, coaching, talent development and cross-cultural trainings).*



BUILDING A BETTER TOMORROW

Social and environmental compliance in the manufacturing industry

Compliance is a very broad topic and takes on many meanings. It can cover quality systems, environmental friendliness, product safety regulations, social responsibility and payment of taxes, among other things. **David Collins**, COO at China **Manufacturing Consultants**, looks at what it means in a manufacturing context, and explains that adherence to strict standards is one of the most effective ways of guaranteeing compliance.

Most companies get lawyers and accountants to help out with their taxes. Outside contractors are often involved in ISO 9001 certification. Yet the most important issue for a factory is social and environmental compliance. While it is true that both social and environmental compliance can also be audited—and certified—these two topics differ in that they are both part of each and every minute of what goes on in a factory. So, while these issues clearly demand attention, what are the *advantages* of ensuring you afford them high priority?

First, social responsibility – a very difficult topic. One of the most informative documents to look at in this respect is the Electrical Industry Code of Conduct (EICC). It covers the following categories:

- How to handle labour issues (e.g. a limit on the number of hours worked)
- Personal safety
- Business ethics
- Management systems
- Respect for the environment

While this code has been signed by the biggest electronics companies in the world, along with most of their suppliers, could it be realistically adopted in China, and, if so, at what cost?

A management system is a proven way to make sure your company runs well. The system can be adjusted as new conditions arise and the needs of the business change. A strong management system is the basis of ISO 9001 – if you use that standard to your benefit, rather than as just a piece of paper.

It is of paramount importance to always ‘do what you say and say what you do’ – your employees are continuously looking to you to see consistency in management. Do you treat people equally? Do you work to the company rules for finance and payments? Is there a consistent quality system for employees to follow or work towards? How do you sell and turn that into profit?

Of course the most important component of a management system is performance management. Many studies published in the *Harvard Business Review* have demonstrated that it helps your business be profitable and keeps employees motivated. When employees know the company’s direction, as well as its strategy, they can work together to make improvements. Without this, everyone goes their own way and chaos ensues – this happens frequently at companies in China,

whether they are local or foreign.

Now let’s look at safety. It goes without saying that it should always be taken seriously. A person should go home in the same condition as they came to work, and that should be a fundamental moral issue that any manager can agree with.

If for whatever reason economic justification is needed, you only need look at the cost of poor safety. In China, safety issues can cause an employer to be jailed, to lose their business and to pay for the lifetime of a worker’s wages, among other penalties.¹ In 2014, there were 66,000 industry deaths in China, with a possible fine of USD 800,000 per incident of a safety violation.²

The cost of your reputation is very clear in the case of safety violations, and this is even true if you use contract manufacturers – it is your brand that is being built and your brand that takes the hit. Think of the Walmart clothes that were found on the site of a deadly factory fire in Bangladesh in 2012. Since that incident, Walmart has taken a much stronger stance on worker safety, and on undisclosed subcontracting, throughout their supply chain.

Business ethics are of course a problem in China. The old expression that “if a purchasing manager (or senior manager) cannot buy one house every year they are not very good” is sadly still true. But with the Chinese Government’s crackdown on corruption the situation is improving.

As pointed out in the *European Chamber’s Position Paper 2016/2017*, “Compliance programmes have increased significance for business in China, whether multinational, local private or state owned. It has caused companies to look more closely at their own internal compliance procedures and has facilitated the acceptance of compliance protocols by third parties, especially state-owned enterprises (SOEs).”

In particular, clear policy and internal audits of financials will help companies save money. Clear standards for product quality, a bidding process for procurement needs, and having an ERP fed with accurate data, create an atmosphere of ethical behaviour that help companies truly make more money.

To be a good citizen, environmental compliance is critical, and it does not always have to be costly. There are many ways to save money, for example by using recy-

1 Elsinga, Steven, *China Briefing*, Dezan, Shira & Associates, 9th June 2015, viewed 12th May, 2017, <<http://www.china-briefing.com/news/2015/06/09/employee-china-gets-injured.html>>

2 An, Baijie, Workplace death toll ‘too high’, *China Daily*, updated 11th March, 2015, viewed 12th May, 2017, <http://www.chinadaily.com.cn/china/2015twosession/2015-03/11/content_19776066.htm>



clable containers with key suppliers, recycling waste from paint shops and other operations, or setting up electricity-saving devices on machines. There are many such examples provided in the article *Lean and Green Manufacturing* that we had published in *EURObiz* in February 2016.

Air and water quality compliance can be costly, but if one really looks into how this can relate to employee health—absenteeism rates due to sickness and social insurance costs imposed by the government to pay for a health system that is being stretched by pollution issues—it is easy to see that environmental compliance is in the best interest of companies, and of the country in general. Conservative estimates by the World Bank put the cost of air pollution alone in 2003 at CNY 157 billion in China, due to premature deaths and other issues. Water scarcity due to pollution costs another CNY 147 billion, as much of the water in China is unusable.³

The Chinese Government is stepping up its efforts – at a national level it is playing a greater role in enforcing environmental regulations, and it is holding officials accountable at the local level. Again from the Chamber's *Position Paper*: "China's revised Environmental Protection Law, in effect since 1st January, 2015, is the single most important environment-related legislation that has been published to date. It is perceived as the most progressive and stringent piece of legislation in the history of environmental protection in China, with harsher penalties for environmental offences, and provisions for tackling pollution, raising public awareness and protecting whistle-blowers. The law places a higher degree of responsibility and accountability on local governments and sets higher standards for enterprises."

As pollution becomes a risky political issue, and as greater emphasis is put on compliance, it is in the best

interests of companies to get ahead of the issue so they can take advantage of tax credits and lower costs of facilities. Once it is a must, the cost of new facilities for pollution prevention will probably increase greatly.

On the topic of labour, providing staff with good food and safe working conditions helps to keep them working for you. In many factories, a turnover rate of 25 per cent or higher means the activities of recruiting and training are quite expensive. Basic compliance should therefore be an important objective.

What is really difficult in China is labour law compliance with respect to working hours. Companies that work very hard to comply with this standard get hurt more often than not. Most production operators think, *if I cannot work here for 6-7 days a week for 10-12 hours, and get the corresponding salary, I will go to a company that will give me that.*

As we all know, operators and, more generally, the people closest to the processes, are always the best people to listen to for ideas on how to improve operations. Jack Welch, the long-time CEO of General Electric, always credited the success of the company during his tenure to open communication and listening to the people who did the actual work.

How to solve the labour-hours issue in China, however, is still a major challenge, and there is not one good solution to suit all cases. **Eb**

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³ Cost of pollution in China: economic estimates of physical damages, World Bank, 2007, <<http://documents.worldbank.org/curated/en/782171468027560055/Cost-of-pollution-in-China-economic-estimates-of-physical-damages>>



ISO IDMP

Another compliance project or a new way of conducting business?

In this article, **Rune Bergendorff** of **NNIT** discusses Identification of Medicinal Products (IDMP) as a new way of conducting business, the benefits gained by adopting the IDMP model and how IDMP can be implemented to help businesses run more efficiently.

To support the continuous improvement of pharmacovigilance oversight within the EU, the European Commission mandated pharmaceutical companies to submit product information according to ISO IDMP standards. The standards are global and other health authorities are to follow suit.

ISO IDMP has many of the characteristics of a regulatory affairs compliance project. There are legislative aspects and external requirements and a need for submitting information according to a certain standard based on existing structured and unstructured data. However, ISO IDMP is much more than a compliance project. It is an opportunity for developing a new way of conducting business, as well as a new way for designing the processes in, and defining the culture of, a pharmaceutical company. It may also be a catalyst for tearing down traditional silos within the company and integrating various business units.

Historically, pharmaceutical companies have struggled to integrate their processes throughout the product lifecycle and across divisions, making it difficult to track the history of a given product at any given point. Master Data Management (MDM) has emerged as one way to tackle this challenge, but has traditionally sparked internal battles between the various silos within the company and led to numerous fights with other companies, while trying to define what master data really is and exactly which values—product names, country codes, dosage forms, etc.—are the right ones. To date, no genuine winner has been declared with the manufacturing domain as a runner-up. As a result, MDM has acquired a ‘rusty’ reputation and has only been taken to the level of ‘domain data management’.

Data domains

Achieving limited success in integrating processes and application landscapes supported by a strong data management concept is partly due to the traditional silos within a company, coupled with a lack of a sense of urgency and a business case that is difficult to explain.

IDMP: the first step towards an integrated company

In many ways, IDMP is one piece of a much bigger legislation puzzle requiring companies to connect data and processes. Several colliding initiatives, including the EU clinical trial regulation, ISO ICSR, 520/2012, Article 57, are meant to reveal a pharmaceutical company’s data to the authorities, which requires connecting that data.

To consider IDMP as just another compliance project is a very short-sighted strategy that could result in a pro-

cess and IT setup that will soon need changing in order to adapt to future requirements.

What benefit does IDMP offer? It offers a set of information models consisting of fields, conformance and relationships that have been defined. This effort could be seen as a blueprint for storing and managing data. Although IDMP does not support all data points throughout the company, it is still a good starting point and a model for building other data domains.

Agreeing on scope and content is the largest challenge with MDM. However, with IDMP this challenge has been met and is now controlled externally by standardisation organisations (SDOs). Pharmaceutical companies no longer need to debate proper values. The SDOs will maintain the agreed upon vocabularies to which the company must adhere.

The IDMP information model contains data from different company domains, such as safety, regulatory affairs; manufacturing clinical; chemistry, manufacturing and controls (CMC); and regulatory affairs CMC, among others. This requires companies to work across various silos and provide an opportunity to integrate processes defining the sequence, roles and responsibilities, overlaps and missing links. It is, of course, possible to become IDMP-compliant without integrating the processes, but companies may not want to do this after considering the many benefits of integration.

The starting point and solution

Companies typically face several scenarios when encountering IDMP challenges. One scenario is represented by a company that is primarily paper based (including PDFs). Another scenario arises when a company has good IT support, a well-used Regulatory Information Management (RIM) application, one or perhaps multiple ERP instances and a CTA application.

Meeting the IDMP challenge depends on which scenario fits a given company’s profile. The common denominator between the scenarios will be that your IDMP solution must be flexible. Supporting the journey towards an integrated company, one should not develop the path as yet another siloed application.

If the company is primarily paper-based, that is not necessarily a deficit with respect to IDMP implementation. This type of company will have some advantages as there are no legacy systems to factor in when designing the technical setup. Splitting the set-up into at least two parts should be considered: one should be for entering and maintaining your information; a system which ultimately could act as your RIM system as well. This solution must support an interface divided by roles to let the various parts of the organ-

isation enter their specific data without having to look through multiple pages of content before finding five fields to maintain. Furthermore, the users should not be able to see all the data as some data will be confidential and restricted to only the areas maintaining the data.

A second part of the setup based on IDMP should be a data hub for storing your blueprint data model. The hub must be made available and separate from the application in order to ensure that data is accessible from other internal applications and processes. Furthermore, the data hub will be a starting point for integration. The information model must not depend on an application, but should support the organisation's need to integrate new data domains. The blueprint data model should initially focus on IDMP, but must be able to evolve as requirements change.

Data hub concept

For companies already supported by applications, the challenge is slightly different. They will still need an IDMP application, as described above, and a data hub. However, the requirements for the data hub will be more extensive. These companies will have to decide if and when to comply with the data standards in the source systems. Furthermore, they will have to decide where to include the additional data elements required by IDMP. It would be useful to include it in the source application if the strategy is to remain with the application. This means adding information to the labelling system and expanding the use of the RIM system. In the short term, this is the more difficult way of doing things, but in the long run having data in the applications designed to contain information regarding a specific area through an existing process is preferable. The alternative is having employees maintaining the same information in two different systems, supported by different processes. This is not only time consuming and increases the risk of error, it will also impact employee satisfaction and prevent the company from gaining the benefits of having data readily available.

Regardless of whether the company fits scenario one or two, the following are key points to address to have IDMP enable a new way of conducting business and help the company meet future requirements in an easier and less costly manner:

- Understanding IDMP is the first stepping stone towards MDM, driven by the authorities.
- Use controlled vocabularies (do not adopt them

blindly) making sure they are integrated as widely as possible.

- Put a solution in place enabling evolution with the external requirements, building on one pool of data to be used for different reporting purposes. The EU clinical trial regulation, ISO ICSR and ISO IDMP, should be used as the starting point when building the regulatory data hub.
- Identify processes supporting IDMP as a starting point and make sure every contributor is aware of at least the step prior to and after his part of the process. The person filling in the electronic application form in Europe should be aware of the consequences of his/her choice of values regarding the full IDMP submission.
- Understand the data. Make sure the pool of data generated from IDMP and other requirements are understood and used internally for safety purposes, trending purposes and for controlling the pipeline.

If IDMP is not perceived as a new way of conducting business, there is risk the authorities will know more about the company than you do. They will connect the dots at their end as well as conduct trending and analysis. They will be able to pinpoint gaps in company processes by pointing out data inconsistencies in the company's data submissions through the lifecycle of products. The company would have built yet another silo, with its own governance and processes, putting more tasks on staff, requiring them to run faster. Further, IDMP would have been a pure cost for your company without harvesting any benefits. Worse, the next time a regulatory requirement emerges, tying into IDMP and ICSR will require performing the same tasks again.

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ZERO TOLERANCE FOR BACKHANDERS

An effective approach to anti-commercial bribery compliance

The compliance mechanisms of foreign-invested enterprises (FIEs) are usually designed for compliance with foreign anti-corruption laws, such as the United States' (US') Foreign Corrupt Practices Act (FCPA) or the United Kingdom (UK) Bribery Act, and ignore the more extensive requirements under Chinese anti-commercial bribery laws. **Kevin Gao**, Working Group Coordinator for the European Chamber, cautions against this approach and recommends that FIEs cover themselves fully by building up effective prevention and supervision systems with regard to anti-commercial bribery compliance under the new regulatory environment of China. The penalties for not doing are simply too great.

Feasible and effective anti-commercial bribery policies are the cornerstone of effective anti-commercial bribery systems, which can systematically guarantee the compliance of enterprises' daily operations with the relevant laws, and prevent, supervise and punish non-compliance. Some enterprises merely lay down in the employee handbook requirements that forbid employees to accept bribes, without setting up and effective 'prevention and control points' or systematic precautions against 'risk factors'. Such anti-commercial bribery policies are nothing more than slogans.

A set of systematic anti-commercial bribery policies normally include a general summary and specific sections. The summary provides for general compliance policies and the arrangement of 'prevention and control points', such as departments of approval, supervision and investigation. The specific sections detail rules and unambiguous precaution and supervision mechanisms. They also introduce the common types of red flags for various 'risk factors', and lay down, among others, approval procedures and relevant forms, compliance undertakings and contract templates applicable to enterprises generally.

Summary of policies

The summary usually includes details on the abstract of policies, legal rules, responsibilities and supervision, whistleblowing, investigation, training and policy promulgation rules. The abstract sets out the determination and stance of the enterprise to curb commercial bribery—the 'tone from the top'—and the core framework of compliance policies. For example, a compliance statement issued by the CEO of a company may prohibit any employees or senior management personnel from engaging in, directly or indirectly, any corrupt behaviour with government officials or business partners for the purpose of obtaining improper benefits, and assert the company's zero tolerance approach to any non-compliance. This section also explains that the policies are aimed at providing behavioural guidance to enterprise employees and representatives with regard to 'risk factors'.

The section for legal rules briefly explains the legal framework that must be followed. Relevant laws and regulations under this framework include the Anti-unfair Competition Law and its implementation rules, and the Criminal Law and its judicial interpretations. It also includes other relevant anti-corruption and anti-commercial bribery regulations and policies in China, including industry rules and bidding regulations. US-listed companies or FIEs must also briefly introduce foreign anti-corruption laws that are applicable

to them, such as the US' FCPA and the UK Bribery Act. This section should also outline to employees the potential damage to the company and individuals that could be brought about by non-compliant behaviour – both the individual and the company deemed to have violated anti-bribery laws may be liable for punitive action, such as fines, criminal imprisonment and even the death penalty in extreme cases. It can also have a knock-on effect, for instance the company may be barred from participating in government procurement, or its import and export level might be downgraded.

The section for responsibilities must specify 'prevention and control points', the responsibilities of each department and the person whose duty it is to enforce compliance policies, as well as relevant policies to ensure the effective performance of such responsibilities. For example, a manager of a company, such as the CEO, has the responsibility to make sure that relevant compliance departments can effectively enforce compliance policies (i.e. the availability of manpower and resources); the compliance committee and audit committee are responsible for supervising the effective enforcement of anti-commercial bribery policies; the risk control committee is responsible for identifying compliance risks of the company in a regular and timely manner. The legal/compliance department is responsible for, among other things, ensuring the timely updating of compliance policies, effective training of employees, prompt responses to compliance-related inquiries, and effective supervision of compliance enforcement. The human resources (HR) department is responsible for, among other things, ensuring the provision of compliance training of employees when they join the company and, from time to time, the effective enforcement of policies regarding the hiring of children or other relatives of former or current government officials or of business partners, and the prompt punishment of non-compliant persons.

The section dealing with supervision must specify the personnel and team responsible for policy supervision and should lay down reasonable and effective supervision policies. Detailed policies regarding expenditure in relation to high-risk factors should also be set out. The compliance department or internal audit department must conduct selective examinations of marketing and sponsored events to ensure the authenticity and compliance of expenses being charged. The company must also conduct periodic internal audits to scrutinise procedures for anti-commercial bribery compliance, selective examination, and training and supervision of third parties.

There should also be a section that clearly defines

whistleblowing procedures and complaint rules, as well as an 'anti-retaliation' policy. The whistleblowing policy encourages current or former employees, outsiders and business partners to blow the whistle or complain about any non-compliant conduct of employees and business partners, and ensures the anonymity and confidentiality of such individuals, for instance, by setting up a separate hotline or mailbox for whistleblowing. The personnel responsible for managing whistleblowing and complaints should be independent of business departments. The 'anti-retaliation' policy ensures that the company does not allow any retaliation against whistleblowers. In the case of any retaliatory conduct, the company must protect the whistle-blower and severely punish the retaliator.

The section on investigation sets down principles and basic mechanisms regarding investigation, for instance, which department is responsible for handling compliance issues identified through compliance whistleblowing, government investigation or otherwise. Employees are required to cooperate with the company during investigations, and relevant departments should conduct investigations in a timely manner, keep in contact with whistle-blowers and notify whistle-blowers of final decisions. This section should also include, among other things, the punishments that may be imposed by the company, along with employees' consent to the company's dismissal of any employee by reason of his or her violation of anti-commercial bribery policies.

There should also be a section that deals with training and promulgation of policies and undertakings of employees relevant to anti-commercial bribery policies. Employees should sign letters to confirm that they will comply with relevant policies. The HR or compliance department should keep the records of attendance for training, training materials, training appraisal results, confirmation letters and other relevant information.

'Risk factor' policy


The content of the specific sections can vary depending on the circumstances of different companies, but generally covers prevention and control systems regarding the following risk factors: gifts, entertainment and sponsored trips, marketing and promotional activities; charitable donations; sponsorship events; the retention and management of third parties; the hiring of children and other relatives of former or current government officials or of business partners; expense application and reimbursement; anti-corruption compliance due

diligence for investment, merger and acquisition projects and post-merger supervision; and the free delivery and supply of products.

'Risk factor' policies usually contain basic principles, approval procedures and authority regarding the prevention and supervision of 'risk factors', 'risk signals', standard forms, compliance undertakings and contract terms. For example, with regard to the retention and management of third parties, there are usually three types of third parties: downstream suppliers, customer-end distributors or agents and special service suppliers such as law firms, consulting firms, and travel agencies. The management of third parties can be divided into three phases, namely the early-, mid- and late-stages.

Early-stage management refers to a series of procedures to examine and verify a third party before retaining it. For example, a company should specify selection standards and approval procedures for third parties, which should be done in cooperation with business departments. Anti-corruption due diligence on third parties should be conducted. Third parties are required to sign anti-commercial bribery undertakings, and relevant anti-commercial bribery provisions should be contained in contracts. Anti-commercial bribery training should also be provided to third parties.

Mid-stage management refers to the mechanisms of supervision and examination for third parties during the period from the execution of the retaining agreement until the termination of the business relationship, for instance, the establishment of a supervision system, whether it be periodical supervision or random inspection. A rating system also needs to be established whereby third parties are rated according to their performance in the supply of products and services, especially their performance in enforcing anti-commercial bribery provisions. Investigation against a third party should be initiated after the company receives any whistleblowing against such third party, or it is found to be suspected of any violations.

Late-stage management refers to the mechanisms of punishment and treatment for third parties after the verification of their violations. For example, terminating cooperation with the third party, consulting with the third party, imposing punishment on relevant persons, giving a warning to the third party or making a claim for indemnification, in which case consultations with the third party are also required, and it would be better if relevant provisions are set out in agreements with the third party. 

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EUROPEAN CHAMBER LOBBYING HIGHLIGHTS

Advocating for Market Forces to CBRC

On 30th March, European Chamber President Jörg Wuttke led a delegation to meet with Vice Chairman Wang Zhaoxing of the China Banking Regulatory Commission (CBRC). President Wuttke briefed Vice Chairman Wang on the Chamber's latest publications and commented on the importance of market forces in driving economic reform in China. Representatives from both the Banking and Securities and the Consumer Finance and Non-banking Financial Institutions working groups voiced their concerns and recommendations on behalf of their respective industries. Vice Chairman Wang provided some suggestions to foreign financial institutions on how they can expand their market share in China and stated that the CBRC will work with the People's Bank of China (PBoC) on relevant issues. As the meeting concluded Vice Chairman Wang was presented with a copy of the Chamber's *Position Paper 2016/2017*.



Working to Open New Opportunities in Liaoning Province

Chamber President Jörg Wuttke and the board of the Chamber's Shenyang Chapter met with Liaoning Vice Governor Wang Dawei on 6th April. Vice Governor Wang gave an overview of Liaoning's general business environment, welcomed foreign investment to the region and highlighted the fact that Liaoning had recently been selected as one of the locations for the new round of free trade zones. President Wuttke gave a preview of some of the local data from the Chamber's forthcoming *Business Confidence Survey*, which indicates that European business is mostly concerned by practical issues like attaining visas for essential employees and access to international education. He also outlined how European companies can participate in the development of Liaoning Province with respect to State Council Document No.5 on improving China's business environment for foreign investment and companies' operations. President Wuttke advised Vice Governor Wang that Liaoning could do more to promote its unique history and the events taking place in Shenyang in order to develop a reputation as a destination for culture and tourism.



Southwest Chapter Meets Governor of Sichuan Province

On 6th April, Paul Sives, Chairman of the Chamber's Southwest Chapter, led a group of Advisory Council members to meet with Sichuan Provincial Governor Yin Li. Governor Yin gave a brief introduction of the province's business environment and welcomed further foreign investment into the region. Chairman Sives outlined the Chamber's current interest in China Manufacturing 2025, State Council Document No.5 and potential opportunities for foreign business to participate in the Belt and Road Initiative.



Advocating for a Level Playing Field to Guangdong Government

European Chamber President Jörg Wuttke and members of the South China Chapter met with Director General Zheng Jianrong of the Guangdong Provincial Government's Department of Commerce on 12th April. Director General Zheng presented an overview of economic developments in Guangdong Province and emphasised that strengthening cooperation with Europe is one of their top priorities. President Wuttke pointed out that in 2016, Chinese investment into Europe was more than four times the level of funds flowing in the opposite direction. In order to attract more European investment into

President Wuttke stressed the need for a level playing field to be established. The need to establish less restrictive visa requirements in order to stimulate the movement of professionals between China and Europe was also outlined. Following this, individual Chamber members outlined some of the practical business challenges that they face in Guangdong province. Director General Zheng thanked the delegation for their input and committed to conducting further investigations into how conditions can be improved and challenges can be addressed.

In-depth Discussion with Former MOFCOM Minister

On 13th April, President Wuttke hosted a meeting with Chen Deming, former Minister of the Ministry of Commerce (MOFCOM) and current Chairman of the China Association of Enterprises with Foreign Investment (CAEFI), at the Chamber's Beijing office. The occasion provided an excellent opportunity to discuss opportunities to better implement State Council Document No.5, and the potential for the increase of investments by European business into China that would result from doing so. Other issues discussed included the Belt and Road Initiative, difficulties faced by foreign employees in China in attaining work visas, the state of bilateral EU-China trade and investment relations and concerns



over unfair competition and compulsory technology transfers. As the exchange covered such a wide range of topics, the two sides agreed to maintain further active communication.



NO PLAYING AROUND

China's safety compliance for toy manufacturers

Alongside the rapid growth of China's e-commerce market, Chinese consumers are becoming more sophisticated and have increasingly higher expectations of product safety:¹ they expect imported and foreign branded products to fully comply with both Chinese regulations and overseas standards. Consumers are also becoming more aware of their rights, says **Dr Martina Gerst**, Market Access Advisor at the **EU SME Centre**, and are demanding to be informed about the authenticity of products purchased via e-commerce, regardless of whether these products are domestically produced or imported from abroad.

1 Wei, Daniela & Einhorn, Daniel, *China's Name-and-Shame TV Show Puts Household Brands on Edge*, Bloomberg, 15th March, 2017, viewed 27th April, 2017, <<https://www.bloomberg.com/news/articles/2017-03-14/china-s-name-and-shame-tv-show-puts-household-brands-in-hot-seat>>

The EU is China's biggest source of imports, and between the two blocs they currently trade more than EUR 1 billion a day.² For manufacturers on both sides this means that compliance with respective local or regional regulations and mandatory standards (the so-called [GuoBiao] GB standards) is essential. No compliance, no sales.

So, what implications do European companies face when planning to export to China?

The regulatory world – a brief intro

In a nutshell, market access for products and services to China is generally not free. For many product categories,

government approval is required before goods can be imported – this is the first big difference European companies have to face when thinking of exporting to China. These approvals come in various forms, such as licences, certifications, registrations, marks and even individual approval of shipments. They are issued by the government itself or by appointed bodies acting on behalf of the government. All of these approvals have one thing in common: they will be regularly checked at the borders or, in the case of China domestic production, by inspection authorities.³

The scale and thoroughness of inspections relating to product safety probably exceed those of any other economy worldwide. As such, it is of utmost importance

2 China (2017), European Commission, last updated 4th April, 2017, viewed 16th May, 2017, <<http://ec.europa.eu/trade/policy/countries-and-regions/countries/china/>>

3 More details can be found on the Product Safety and Conformity Assessment for Consumer Products guideline, available on the EU SME Centre's website which will be updated soon.

that any organisation planning to export consumer goods to China becomes familiar with the Chinese regulatory framework, standards and conformity assessment environment.

Regarding product safety, in order to be compliant with China's solid but complex regulatory environment, a company needs to get familiar with the web of product safety laws, regulations for supervision and administration of products, ministerial orders and, last but not least, compulsory and voluntary standards, instructions and other rules.

In general, there are three 'must-know' government organisations related to product safety in China that European companies should be aware of.

The highest government unit responsible for implementing the product safety law is the Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), a ministry under direct supervision of the State Council. The AQSIQ has an overarching function to regulate, coordinate and supervise the respective activities across all ministries.

Directly under the AQSIQ, two vice-ministerial government agencies are worth noting – the Standardisation Administration of China (SAC) and the Certification and Accreditation Administration (CNCA). Both bodies have regulatory power and control over all nationwide activities in their respective areas.

At the local level (provinces, autonomous regions, and municipalities), regional governments are in charge of implementing and administering the activities of the AQSIQ. Most provinces have two authorities in place for performing this task: the Bureau of Quality and Technical Supervision (BQTS), and the China Inspection and Quality Service Bureau (CIQ). These provincial-level institutions are also in charge of the practical operations of all market surveillance activities in China.⁴

One important element of China's product safety system that is of high relevance to EU companies, is the China Compulsory Certification (CCC). The CCC is particularly important for consumer products, since it covers many types of electrical and electronic household appliances.

The basics of CCC

The system consists of a compulsory certification, issued by a government-appointed certification body, and a mark, controlled by a government agency. The product

categories that require CCC certification are listed in the CCC catalogue. For products not listed in the catalogue, it is not possible to obtain CCC certification. The CCC system is not a self-declaration and is not comparable with Europe's CE-marking.

The CCC system unifies the certification process for many products and ensures that the same rules apply both for imported and domestically manufactured products. Current requirements of the CCC system are basically built on a one-size-fits-all system, not always related to the level of risk inherent to the products.

Core elements of the CCC consist mainly of four steps: watertight technical documentation already provided in the application, shipping of samples, type testing and factory inspection.

If all goes well during the certification process the CCC certificate will ideally be issued after a year. It is valid for five years, under the condition that regulations for maintenance of the product certificate are met.

Step-by-step approach to compliance⁵

Children's toys are one European product that is currently very popular with Chinese parents and are frequently purchased online. They are therefore very closely monitored for CCC compliance.

For a toy manufacturer, it should ensure that its products comply with quality, safety, labelling and the CCC certification.

A systematic approach is required to find a proper path through the maze of Chinese compliance regulations. Such an approach should cover not only the products themselves, but also the most common components and relevant spare parts if required. Depending on the responses to the questions below, it may be advisable to source some of the components in China rather than subjecting existing components to a complicated and costly certification and licensing process:

- Does the product fall into the catalogue for prohibited or restricted goods?
- Does the product fall under the scope of the Law of Product Quality?
- Does any other compulsory certification, licensing or labelling scheme apply?
- Which compulsory and voluntary standards apply to

⁴ For more details about China's regulatory bodies across different sectors, see the 'Who-is-who' guideline on the Centre's website.

⁵ For more details about CCC and compliance, further information can be found in the Centre's CCC and product conformity guidelines.

my product?

- Is any voluntary certification and labelling scheme available?
- Is the product listed in the product catalogue for import and export controls?
- Is the product documentation compliant with the applicable regulations?

The CCC catalogue lists six toy categories to be certified and to carry the CCC logo before the toy can be sold in China:

- Electrical toys
- Plastic toys
- Metal toys
- Dolls
- Toys that can be launched
- Child carriers

For most toys, the most important mandatory standard is GB 6675-2014, defining the safety requirements. The standard consists of four parts addressing basic safety concerns, and the physical, flammability and chemical safety.

Electrical toys, for example, will also have to meet the additional mandatory standard GB 19865-2005 for electrical toy safety.

Key recommendations to consider when navigating the system:

- Any importer of goods into China must be familiar with the key elements of the system.
- Any importer must be able to properly document the safety of its products.
- Pay attention to the details of documentation, and ensure that instructions are in Chinese.
- Never ship a product before all licences and certificates are secured.
- Be aware of the standards used in China, and the differences to the respective international or European standards.
- Compliance in the EU does not imply compliance in China.

In general, the system is very different from Europe and compulsory standards are the key to compliance.

Compliance in Europe does not necessarily mean access in China, although many requirements are similar. The Chinese system demands expertise on the ground and time-to-market, and the costs involved are not negligible, even for products that are manufactured in small volumes. Last but not least, it should be taken into consideration that compliance and certification have an impact not only on the manufacturer and the importer, but also on the entire supply chain.

Many companies have paid a high price for ignoring both the importance that China pays to product safety and the effectiveness of its enforcement mechanisms. The ACSIQ regularly posts pictures on the Internet showing the destruction of imported consumer goods that have failed to meet Chinese safety regulations. For the companies involved, this has consequences beyond the financial losses incurred due to the confiscation of goods. They must also pay fines and deal with the additional costs of increased inspections for future exports to China. [Eb](#)

The EU SME Centre in Beijing provides a comprehensive range of hands-on support services to European small and medium-sized enterprises (SMEs), getting them ready to do business in China.

Our team of experts provides advice and support in four areas – business development, law, standards and conformity and human resources. Collaborating with external experts worldwide, the Centre converts valuable knowledge and experience into practical business tools and services easily accessible online. From first-line advice to in-depth technical solutions, we offer services through Knowledge Centre, Advice Centre, Training Centre, SME Advocacy Platform and Hot-Desks.

The Centre is funded by the European Union and implemented by a consortium of six partners - the China-Britain Business Council, the Benelux Chamber of Commerce, the China-Italy Chamber of Commerce, the French Chamber of Commerce in China, the EUROCHAMBRES, and the European Union Chamber of Commerce in China.

To learn more about the Centre, visit website www.eusmecentre.org.cn





IPR4F&B

Intellectual property protection in China's food and beverage industry

China's vast F&B market is hugely attractive to foreign exporters. However, before they consider dipping their toes in the water they must ensure their IP is fully protected. The **China IPR SME Helpdesk** explains that failure to do so can result a brand's reputation being ruined.

In 2011, China surpassed the US as the world's largest consumer market for the food and beverage (F&B) industry. Chinese demand for imported F&B products, fuelled by food safety concerns involving domestically produced products such as the 2008 'tainted milk scandal', has continued to rise, with around 60 per cent of Chinese consumers preferring foreign brands.

This increased demand serves as a boon to potential F&B producers looking to break into the China, however there are many pitfalls to avoid, and it is important for importers and producers to make sure their brand and their products are properly protected before entering the Chinese market.

The F&B industry is a highly regulated sector under Chinese law, with numerous hoops for foreign companies to jump through before they are able to introduce their products into the Chinese marketplace. While compliance with these legal requirements is mandatory for market entry, it is perhaps just as important to ensure comprehensive IP protection in order to protect brand and product reputation among Chinese consumers.

Trademarks

Concerns about product quality and safety in China, and the high number of counterfeit or fake goods in the market, has resulted in many Chinese consumers relying heavily on trusted brands to determine their purchases. A trustworthy brand and good business reputation are therefore critical to success in China's F&B market.

China uses the 'first-to-file' system, meaning that legal protection cannot be gained if a similar mark has already been registered within China. It is therefore essential to register trademarks before entering. It is also recommended that companies file a separate registration for a Chinese trademark, keeping in mind the message that is intended to be conveyed by the brand instead of just translating word-for-word.

The Chinese Trademark Law also allows registration of 3D marks as trademarks. It may be the shape of product or its container or packaging; however, they must be distinctive from common shapes or packaging. Although there are various forms of protection for shapes under copyright or design patents, the rights granted by trademark registration are very strong as they can be renewed an indefinite number of times.

Rights relating to packaging

The way companies package their goods plays a crucial role in customers' purchasing decisions in the F&B sector. As a result, an increasing number of copies are

emerging in the Chinese market. Foreign brand owners are therefore challenged to take actions if they do not want to lose market share to poor copies of their products wrapped in good copies of their packaging.

Packaging can be protected in China under various types of IP: the Trademark Law, the Patent Law, the Copyright Law and the Anti-unfair Competition Law. While technical features of packaging could be protected as utility models or invention patents, packaging is most commonly protected via design patents. Design patents are defined by the external features of a product that should be visually distinct and appealing, while able to be created through industrial application. This can include the shape or pattern of a product, the shape and colour of a product, or a combination of these (though the colour of a product alone cannot constitute the design of a product).

Copyright can also be a valuable option for protecting packaging in China. As the object of copyright protection is broad it can cover original shapes and ornamental features or works of applied art or fine art (such as 2D or 3D visual works), as well as images of each product (including single images of packaging), brochures and catalogues, website content, labels and various marketing materials. Although a work is automatically protected by copyright when created, voluntary registration for copyright is available in China with the Copyright Protection Centre of China (CPCC). This can provide strong proof of ownership during an enforcement action.

Trade secrets

A trade secret is non-public information with actual or potential commercial value that is guarded by confidentiality measures. F&B companies may have trade secrets that are critical to the taste, composition, appearance, or other aspects of their goods (a famous example is the Coca-Cola recipe). Further kinds of trade secrets in this industry could be quality control methods, production techniques and knowledge relevant to the testing of a product.

A typical theft of trade secrets case generally involves an employee leaving the company to work for a competitor, shortly after which the company discovers that its competitor is selling a product that looks suspiciously familiar. A good approach to prevent this is to import inseparable ingredient combinations or other semi-finished parts of products. Moreover, China-based employees should sign confidentiality agreements and all trade secret documentation (for instance a recipe or formula) should be clearly marked with a notice of confidentiality. It is also recommended to require any



potential partner in China to sign a Non-Disclosure Agreement (NDA) before revealing any commercial or technical information.

When foreign companies import F&B products into China, they often fear they have to give away their trade secrets in the form of the product formulas when going through the product registration process in China. However, although the list of ingredients has to be disclosed to the China Food and Drug Administration (CFDA), a ministerial-level agency, the exact formula does not have to be submitted. Despite this, European SMEs have to be careful in selecting accredited and trustworthy Chinese agents to conduct the mandatory product registration in China on their behalf.

Reputation is the key

The food and beverage sector is moving fast in China now, as consumers look for new trustworthy brands. This presents huge opportunities for foreign businesses, particularly in the wake of recent Chinese food safety scandals. However, it should not be underestimated how important brands and packaging are to the success of companies operating in the F&B industry. Mandatory requirements for product and label registrations are very different things from IP registration, and failure to address the latter can result in a completely failed venture. For food and beverages, reputation is almost everything, and reputation is kept safe through

registered intellectual property. 

The China IPR SME Helpdesk supports small and medium sized enterprises (SMEs) from European Union (EU) member states to protect and enforce their Intellectual Property Rights (IPR) in or relating to China, Hong Kong, Macao and Taiwan, through the provision of free information and services. The Helpdesk provides jargon-free, first-line, confidential advice on intellectual property and related issues, along with training events, materials and online resources. Individual SMEs and SME intermediaries can submit their IPR queries via email (question@china-iprhelpdesk.eu) and gain access to a panel of experts, in order to receive free and confidential first-line advice within 3 working days.

The China IPR SME Helpdesk is co-funded by the European Union.

To learn more about the China IPR SME Helpdesk and any aspect of intellectual property rights in China, please visit our online portal at <http://www.ipr-hub.eu/>.





REASONS TO BE CHEERFUL?

The European Business in China Business Confidence Survey 2017

The purpose of the European Chamber's *European Business in China Business Confidence Survey* is to take an annual snapshot of European companies' successes and challenges in China. Published since 2004, the survey has enabled the European Chamber to build a rich data set to serve as a broad indicator for how European companies judge the business environment in China, both now and in the future.

Launched on 31st May, 2017, in this year's survey members report that despite some improvement to their financials in 2016, conducting business in China did not become easier.

Executive Summary

In the *Business Confidence Survey 2017*, many European businesses report operating difficulties that remain unique to China, and a range of economic worries that have the potential to scale-back corporate profits and growth if not carefully managed. Yet despite these varied and often-repeated problems, this year's survey also shows that in some areas there is cause for more optimism than before.

Amid recent gloomy predictions about China's slowing economy, European companies reported that business improved last year, with over 50% of enterprises achieving higher sales than in 2015. Among those, information and communications technology (ICT), automotive, machinery, cosmetics, environmental and retail firms all saw growth in revenues. More notable still was that more businesses reported profitable earnings before interest and tax (EBIT) than at any other time since 2010. Sectors such as travel, aerospace, education, pharmaceuticals and engineering reported sharp increases in profits that ranged from 70% to 100%. These improvements were possible in part due to increased demand as well as careful cost management.

There is other good news. Although China's technocrats still have much work to do, its intellectual property rights (IPR) protection regime saw some improvements, and President Xi Jinping's anti-graft campaign has had a noticeable impact. Concerns waned over both the lack of legal recourse and labour disputes, too.

That said, respondents' improved financial performance can largely be attributed to the major financial stimulus that the Chinese authorities injected into the economy during the first half of 2016. On a wide range of indicators, respondents' sentiments rebounded from the lows of the fourth quarter of 2015 and first quarter of 2016, when China's economy was facing severe downward pressure and last year's survey was conducted. By contrast, this year's survey was conducted after the stimulus had worked its way through China's financial system.

European companies therefore remain rightly apprehensive about the future of China's economy. More than 60% of respondents rank China's slowing economic growth as their number one cause for concern, which is closely followed by the ongoing struggle to find and retain qualified employees, a problem aggravated by demands for higher compensation among local hires.

This anxiety over China's economy is intensified by the encroaching shadow of China's egregious debt burden. As cautioned by George Magnus of

Oxford University's China Centre and former UBS Investment Bank advisor: "[China's] level of debt to GDP, variously estimated at between 260-300 per cent of GDP, the speed with which it has risen, and the 8 or so years in which it has been continuing all make China a classic risk case for a fall, with all its attendant consequences on growth for several years after."¹

Conducting business in China also remains a challenge – in fact, nearly 50% of member firms report it became more difficult in 2016. The World Bank's ranking of China in 78th place out of 183 countries in terms of the ease of doing business² reflects this reality, and is a poor showing given the economy's global importance.

Respondents' doubts over whether China is truly committed to creating a simpler administrative environment and ensuring a level playing field continue to deepen. European companies are succeeding in areas where they have more freedom to operate, but cumbersome regulations and vaguely-worded laws—often subject to arbitrary interpretation—continue to pose a range of challenges.

In many cases, missed opportunities due to regulatory obstacles are resulting in a significant loss of revenue for European companies in China. More than 40% of respondents state that these missed opportunities equal 10% or more of their annual revenue, a figure which can determine whether they are loss-making. In this regard, small and medium enterprises (SMEs), as well as law firms and financial services—two of China's most tightly regulated sectors—have been hardest hit. These two industry sectors are particularly susceptible to China's draconian control of the Internet, which also affects their performance. Furthermore, only 4% of respondents saw significant market opening for foreign companies in 2016, with 31% of respondents in the important ICT sector pointing to market narrowing or even closure.

The much-touted economic reform agenda outlined in the Third Plenum's *Decision* in 2013 is also yet to meet expectations. European companies' disappointment is highlighted by the following figures:

- Half report feeling less welcome compared to when they first entered the market.
- Over the last four years, more than half have consistently reported that compared to domestic Chinese companies foreign-invested enterprises

¹ Magnus, George, *China Has Regained Economic Stability, But Clues are in Weeds of Finance*, Georgemagnus.com, 21st March, 2017, viewed 15th April, 2017, <<http://www.georgemagnus.com/china-has-regained-economic-stability-but-clues-are-in-the-weeds-of-finance/>>

² Ease of doing business index (1= most business-friendly regulations), The World Bank, viewed 16th April, 2017, <<http://data.worldbank.org/indicator/IC.BUS.EASE.XQ>>



European Chamber President Mats Harborn fields media questions at the launch of the BCS 2017

(FIEs) are treated unfairly.

- 61% believe that environmental regulations are strongly enforced against foreign companies, while only 14% and 17% report that they are strongly enforced against Chinese privately-owned enterprises (POEs) and Chinese state-owned enterprises (SOEs) respectively.
- After another year to reflect upon it, 37% still report that national security legislation discriminates against FIEs.

President Xi Jinping's Davos speech in January 2017, and the promulgation the same month of the State Council's Document No.5—geared towards improving the environment for foreign business and investment—suggest that China remains committed to free trade and openness, perhaps more so than ever, at least rhetorically. Yet respondents display little optimism that China's economic reform agenda will make much progress in the short term – only 15% of respondents believe that regulatory barriers will decrease over the next five years, while 40% believe that they will actually increase.

Reciprocity in bilateral trade and investment relations between Europe and China remains a bone of contention. As outlined in the June 2016

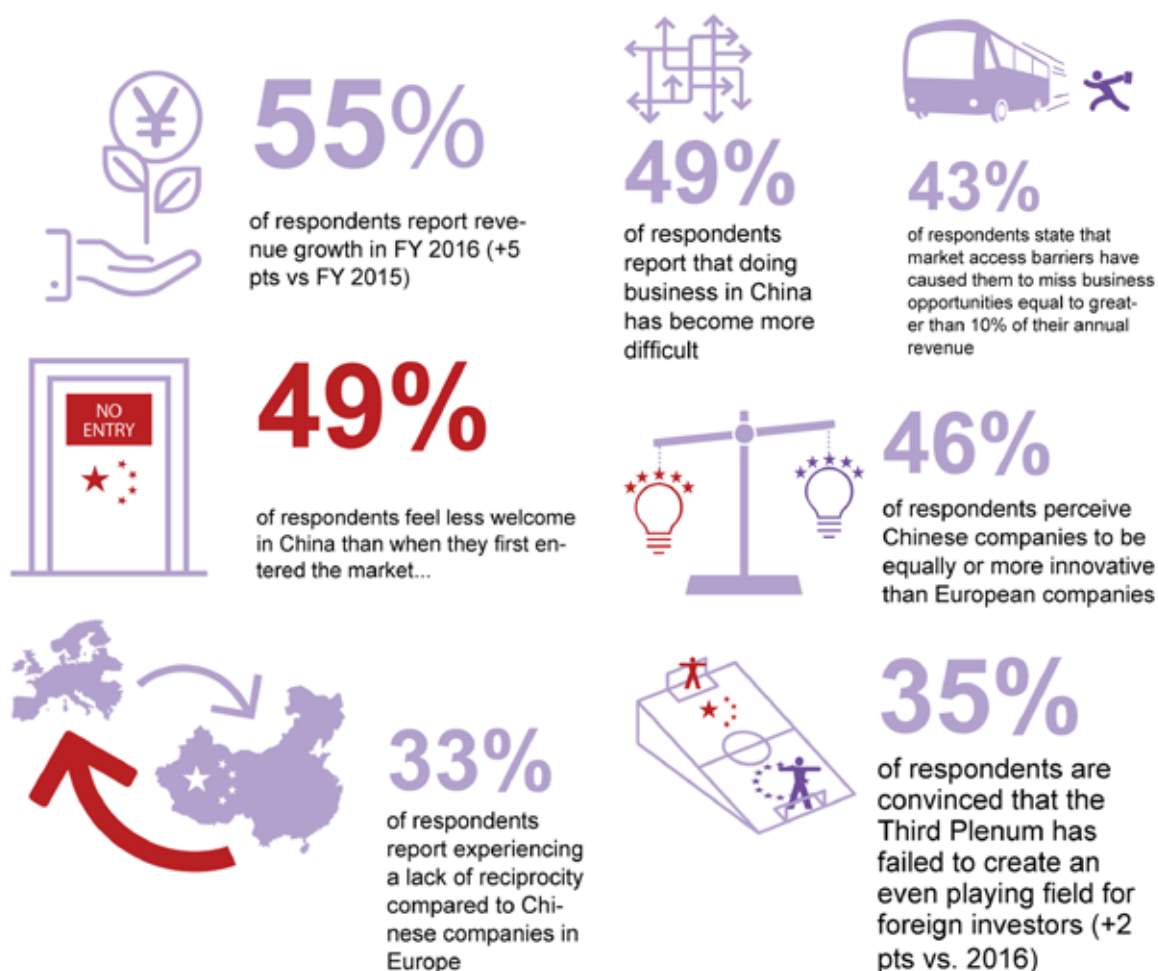
European Commission paper *Elements for a New EU Strategy on China*, the EU is China's largest trading partner, representing about 15 per cent of its trade – China clearly needs the EU as much as the EU needs China.³ It is therefore concerning that while Chinese investment into the European Union (EU) in 2016 leaped 77% y-o-y to more than EUR 35 billion, funds flowing in the opposite direction declined by 23% to EUR 8 billion over the same period.⁴ As a useful point of reference, European investment into the US in 2016 was approximately USD 277 billion.⁵

This imbalance is compounded by the fact that 54% of respondents state that FIEs are treated

3 Joint Communication to the European Parliament and the Council: Elements of a new EU Strategy on China, European Commission, Brussels, 22nd June, 2016, viewed 23rd June, 2016, p. 5, <http://eeas.europa.eu/china/docs/joint_communication_to_the_european_parliament_and_the_council_-_elements_for_a_new_eu_strategy_on_china.pdf>

4 Hanemann, Thilo and Mikko Huotari, Record Flows and Growing Imbalances: *Chinese Investment in Europe in 2016*, MERICS and Rhodium Group, 10th January 2017, no. 3, viewed 16th April, 2017, <<http://rhg.com/reports/record-flows-and-growing-imbalances-chinese-investment-in-europe-in-2016>>; *EU-China FDI Monitor 4Q 2016 Update: Public Version*, Rhodium Group, January, 2017, viewed 16th April, 2017, <http://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155234.pdf>. While the European Chamber's *Business Confidence Survey 2016* stated the figure for 2015 to be EUR 9.3 billion, this has been updated to EUR 10 billion in the latest available figures.

5 Hamilton, David and Joseph Quinlan, *The Transatlantic Economy 2017: Annual Survey of Jobs, Trade and Investment Between the United States and Europe*, Center for Transatlantic Relations Johns Hopkins University and American Chamber of Commerce to the European Union, 2017, viewed 20th April, 2017, p. vii, <http://transatlanticrelations.org/wp-content/uploads/2017/03/170223_FULL-BOOK-2.pdf>



unfavourably compared to domestic Chinese companies, and 79% report that the most damaging manifestation of this lack of reciprocity is market access barriers. European investment in China is simply being held back. Meanwhile, Chinese businesses in Europe face few, if any, obstacles to expansion.

Due to restrictions on M&As by foreign business in China, current expansions primarily take place through organic growth. Lowering barriers would see an influx of foreign capital into the Chinese economy, with 56% of respondents reporting that they are prepared to ramp-up investment if better market access were granted.

The European Chamber's members understand that key to growing trade between the EU and China is a successfully negotiated Comprehensive Agreement on Investment (CAI), with a strong market-opening component forming part of any deal. It needs to be completed soon, as early as the next 12 months. The top issues that European businesses want to see the CAI address are:

- A simplified regulatory environment (36%);
- Freedom to enter into new business areas or

product segments (16%);

- A reduction of barriers to making acquisitions in China (13%); and
- More leeway to take control of their China operations by reducing the need for a local business partner or joint venture (13%).

Finally, this year's survey includes a wake-up call to the whole of Europe. Competition in China has stiffened and respondents feel that Chinese POEs have become a lot more innovative,⁶ primarily in the areas of go-to-market and business-model innovation. Although in industrial goods less progress is perceived to have been made on product/service and process innovation, by about 2020, 60% of European companies in China expect Chinese firms to have closed the innovation gap. [Eb](#)

To download a copy of the Business Confidence Survey 2017, please go to: www.eurochamber.com.cn/

6 Innovation can be defined as the introduction of new things and methods that create value in the market: Fast and Furious, The Economist, 12th September, 2015, viewed 14th April, 2017, <<http://www.economist.com/news/special-report/21663325-chinese-private-firms-are-embracing-innovation-fast-and-furious>>



GOODBYE TO ALL THAT

60 minutes with former Chamber President Jörg Wuttke

Jörg Wuttke has just stepped down as President of the European Chamber, after serving a second, prolific three-year term. In the following interview, he recalls some of the lows that inspired him to keep going, as well as some of the highs that made the job rewarding. He also talks about the importance of media engagement, his love of jazz and how he once subjected a Chinese official to a 45-minute speech in order to make a point.

What moved you to become a founding member of the European Chamber in 2000, particularly as you were then on the board of the German Chamber?

In 1999, when China was negotiating its WTO accession with Europe, Pascal Lamy, who was EU Trade Commissioner, attended a meeting at the EU Delegation and said something along the lines of, “I don’t want to meet Germans or Italians or French, I want to meet insurance, I want to meet chemicals and I want to meet banking.” I and others felt that this approach made a lot of sense, and that we should try to establish something along those lines. So 51 of us determined Europeans founded the European Chamber, which then was agreed to be complementary with the national chambers.

How does your first presidency compare with your second?

The first term was much more chaotic...then we had the global financial crisis. Many members dropped out and we had real financial challenges. But I would say it was much easier in terms of the topics we were dealing with. We had just come out of the implementation phase of WTO, and there was a palpable belief then that China was changing, and more accommodating to our members’ wishes than it is now.

This second term, with respect to finances and the management team at the Chamber, was far smoother. There was more maturity to the setup so I felt that I could challenge the Chamber more in terms of substance, to take it to the next level.

Do you find the access that you have to the Chinese authorities now is different to when you were first in office?

I think in my first term the access we had was in many ways easier. China was not as big and complex—and content—as it is now. Really, after the 2008 Olympics, the 2010 Shanghai Expo and the financial collapse of the West in 2009 and the rise of China, perceptions changed. Before, there was far more openness to Western ideas, the Washington Consensus. Now the West has possibly discredited its own economic and political system, and hence I find making my points far more difficult because China believes it has a better scheme, so what am I now selling to them? I think China now feels to an extent that it is getting away with this rhetoric about free trade, when actually it is closing up.

After having launched six position papers, did they really make any difference?

I think that they have made little difference to the Chinese authorities when you really look into what’s been implemented. But they have had a huge impact on the Chamber’s self-confidence and pride, and we speak the truth. China may need a crisis to arrive at the point where it recognises the need to change, and when it does we have the recommendations ready.

What kind of reception did you receive from the various Chinese authorities over the years?

I guess it has been quite apparent those who are reformers and those who are not. The CBRC [China Banking Regulatory Commission], in particular chairman Liu Mingkang, was always stellar in inviting us to visit him, to learn about the financial sector reforms that we were proposing. Others were polite – our normal docking station, MOFCOM [Ministry of Commerce], has always had a gracious attitude towards us. We have not always been easy on them, but they have always received us and listened to us. Unfortunately we never got any traction with the Ministry of Environmental Protection. It’s strange, we thought that they would be our ally, yet they never graced us with a meeting, it’s something I could never figure out. So it varies greatly. Where I really feel that we have really had an impact, and where I felt we are a real part of this, is among the reformers, the Leading Group of the Party, and the State Council DRC [Development Research Council], who are inspiring in their demands for us to speak up.

I must say, that whoever I met were polite and extremely well briefed. Rarely did I have a meeting like the one in 2009, where a minister decided he would speak for 55 minutes, assuming that he would leave me just five to respond. So I deliberately spoke for 45 minutes, to make a point. I found his approach offensive, that for nearly the entire hour he wanted to take the propaganda line. So I felt for the dignity of our organisation, and the dignity of the office of the president, I wanted to make him realise that he cannot deal with us this way. We were never invited back.

Were there any meetings that took you by surprise?

I had a big run-in with the NDRC [National Development and Reform Commission] in late 2014 on the Anti-monopoly Law. Director General Xu Kunlin—known as ‘the enforcer’—of the NDRC’s price supervision and anti-monopoly bureau was livid about us going public on NDRC’s way of dealing with Anti-monopoly Law investigations. The first part of the meeting resembled what I can only imagine people went through during the Cultural Revolution. But then I realised that actually he was trying to accommodate us. Suddenly

things changed in the final 10 minutes of the meeting and we managed to part on amicable terms.

The one who really touched me with his earnestness, and the promptness of his responses, was Mr Pan Gongsheng, Administrator of the SAFE [State Administration of Foreign Exchange], over the recent issue with capital outflow. I went public on the issue and we caught the *Financial Times* headlines on 7th December. SAFE were not happy about this, but he was genuinely keen to understand why we went public in this way.

Why did ExCo decide in 2014 that less members would be ok – we now have 200 less than in 2013?

When I took my second office in 2014, I realised that the management and staff were chasing members. It was like Sisyphus pushing that huge stone up the hill, and one year later the stone was back down in the valley. I could sense huge frustration and also resources were being wasted. I was keen to have a strategy that ExCo could agree upon, and communicate that it's okay to have less members because it is the membership quality and the engagement level that really matters.

What were your happiest moments as president?

I think there were two. During my first term with Trade Commissioner Ashton, and in my second term with Vice President Jyrki Katainen, I was asked to join the meeting with the Chinese Vice Premier and all the ministers in the EU Commission's seat in Brussels, the Berlaymont. The Chamber was also given the chance to cherry pick all the global CEOs who would be sitting around the table. I felt like the European Chamber had really made it to the top – we were relevant, we were credible and we had the content. The fact that the Commission felt strongly that we should decide who is at the table, and that we could do the messaging, that was perhaps the happiest I felt.

The most recent happy moment was at the 2017 AGM in Shenyang, a chapter we have all thought at one point or another that we should maybe close – for a while it looked more like a fiefdom and not like a chapter at all. Its turnaround story over the last two years has been incredible. For the AGM, three times more people turned up than they have members. I cannot express how happy I felt when I saw how full the room was.

Given that you have a day job as head of a multinational company in Beijing, how did you manage the work load?

Over my six years as president, one thing was always very clear: BASF came first. I never dropped the ball there. They pay my salary, they put faith in me and they gave me the time to engage in the Chamber's activities. It takes a lot of discipline to focus. I grew accustomed to an 80:20 rule – do things 80 per cent perfect and then move on.

So what do you do to relax?

First of all, I have small children, and they could not care less about status or discussing intellectual topics or any of the things we have talked about here. They have immediate needs—they want Lego—and that really grounds you. Trust me, once you've changed a diaper you don't feel very presidential. Second, I have a very warm-hearted wife who has a lot of patience, and also the ability to give me the time I need to feel a sense of privacy.

Then it's books – I'm a ferocious reader, but I probably buy more books than I could read in a lifetime, but my curiosity is something that is never ending. It's mostly non-fiction and poetry. I love poetry, and given my time constraints a Haiku really helps!

What about music?

I'm a big jazz fan. I watch Ken Burns on jazz and love to listen to Miles Davis and others, but only when I have the time to listen. Jazz for me has always had a liberating effect – it is very telling that autocratic systems never struggled with classical music, but they always did with jazz.

When US presidents leave office, they leave behind a letter to their successor in the oval office. What would you write?

First of all, work very hard, but read a lot to make it look easier. Try to compress your messaging into a very clear narrative – this is sometimes hard to do. China is very complex, yet when you meet the media you only have 20 to 40 seconds to get your point across, and I found this very daunting and challenging.

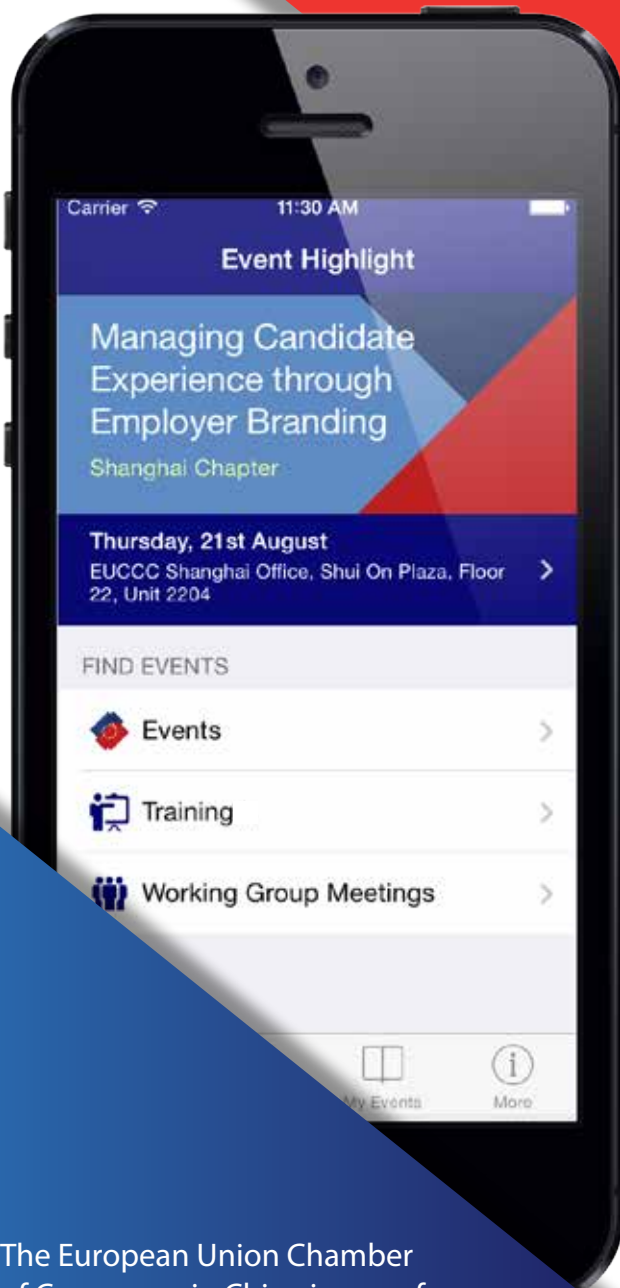
It should also be remembered that when you speak to a journalist you aren't just talking to the person with the microphone across the table, you are communicating with a million people. Accessibility is very important, so trust the person with the microphone has a genuine interest not to put you into an awkward position. You can always refuse journalists, but I think to engage with them is vastly important.

A final point to make is, the buck stops with you. If something is a success it's about the team; if something gets screwed up, it's you.

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EUROPEAN CHAMBER IN THE MEDIA

Guangzhou and Nanjing Local Media Report on China Manufacturing 2025



The Chamber's South China and Nanjing chapters both organised roundtables to present the China Manufacturing 2025 report in April, resulting in a number of mentions from local media. Coverage of the report highlighted the positive impact that CM2025 could have on China's economy while also cautioning against some of the negative aspects, which could result in a lack of domestic innovation in China's manufacturing industry. The recommendations from the report, that EU enterprises need to establish long-term strategies that align with China's industrial upgrading and work to maintain their leadership in innovation, were also outlined.

President Wuttke's Comments on Capital Outflow after SAFE Meeting



On 5th April, President Wuttke and representatives from three of the Chamber's member companies attended a meeting with Mr Pan Gongsheng, Deputy Governor of the People's Bank of China and Administrator of the State Administration of Foreign Exchange (SAFE), to address concerns on cross-border RMB flows.

"Joerg Wuttke, the president of the European Union Chamber of Commerce in China, told the Post that the meeting this week had been extremely encouraging. 'Pan is very keen to know the technical issues that foreign industries have encountered in China,' he said." (SCMP)

President Wuttke's interview with People's Daily



President Wuttke commented on his experience in China over the past 30 years and his expectations for the Two Sessions, as well as opportunities for China to open up and boost cooperation with the EU. He also highlighted the importance of equal treatment of foreign companies under the CM2025 initiative. The article was placed on the third page of the print edition under President Wuttke's name.

Chairman of the South China Chapter discusses Guangzhou's cost of living and Quality of Life with NEWSGD



According to the latest cost-of-living survey released by the Economist Intelligence Unit, Guangzhou ranked 69th worldwide and proved to be China's most affordable leading city.

"Rent in Guangzhou is relatively cheap in comparison. In some extreme cases you can expect to pay double for a similar apartment in Shanghai," said Alberto Vettoretti, Chairman of the European Chamber's South China Chapter.

South China Chapter GM Comments on European Businesses in Bao'an District, Shenzhen to Bao'an Daily



"Over half of the Chamber's 300 members in the South China region are in the manufacturing industry, with a lot of them registered in Bao'an district," said Francine Hadjisotiriou, the general manager of the European Chamber's South China Chapter. She also mentioned that the European Chamber has already built a relationship with the District's Economic Promotion Bureau and hopes to further upgrade their collaboration."

President Wuttke's statement on the imbalance in EU-China investment relations



The EU's foreign affairs representative and the vice president of the European Commission Frederica Mogherini attended the 7th EU-China Strategic Dialogue in Beijing from 18th to 20th April, discussing cooperation on global challenges like climate change as well as regional and security issues in preparation for the 19th EU-China summit in Brussels. President Wuttke was approached by SCMP to share his view on EU-China investment relations.

"Despite Chinese and European leaders' shared public criticisms of protectionism, trade disputes between the two sides are not uncommon. Joerg Wuttke, the president of the EU Chamber of Commerce in China, has said that trade and investment between the two had not been reciprocal and was "below potential" due to China's lack of market openness."

President Wuttke Speaks to Germany-Russia relationship on CCTV



On 2nd May, President Wuttke joined a discussion about Chancellor Merkel's visit to Russia in CCTV's *World Insight* programme, with Cui Hongjian from the China Institute of International Studies. President Wuttke said that he believed the visit to be symbolic, with Chancellor Merkel looking to continue cooperation with Russia and to welcome President Putin to attend the G20 in July in Germany. Also, as an international mediator between Russia and Europe, Merkel is trying hard to find a balance and not play a dominate role in government affairs, but focus on economic issues instead, he said. German companies are convinced it is the right time to recover economic cooperation with Russia. From Russia side, President Wuttke said that President Putin looked to use the opportunity to show he's not just engaged in the east with China, but also has a Western partner.



TAKING THEIR LEAD

The European Chamber's election results 2017

Executive Committee

The European Union Chamber of Commerce in China is pleased to announce that member company representatives elected Mats Harborn as president during the European Chamber's Annual General Meeting (AGM) on 12th April. Patrick Horgan and Lars Eckerlein were re-elected as vice president and treasurer respectively, with Massimo Bagnasco and Michael Chang elected as new vice presidents to the Chamber's Executive Committee.

In the days leading up to the AGM, local board elections were held in the European Chamber's six chapters across China. On 9th May, Carlo D'Andrea was elected as the new chairman of the Shanghai Chapter, and on 12th April, George Lau was elected as the new chairman of the South China Chapter. Both will also sit on the Executive Committee.

The complete line up for the European Chamber's Executive Committee 2016/2017 is:

President

Mats Harborn, Scania

Vice Presidents

Patrick Horgan, Rolls-Royce

Massimo Bagnasco, Progetto CMR

Michael Chang, Nokia

Carlo D'Andrea, D'Andrea and Partners

George Lau, TÜV Rheinland

Treasurer

Lars Eckerlein, ABB

On 25th May, the 28 EU National Representatives on the Supervisory Board also confirmed three Member State representatives to serve on the European Chamber's Executive Committee.

States' Representatives

Bruno Weill (France) – BNP Paribas

Sara Marchetta (Italy) – Chiomenti

Javier Warletta (Spain) – Mapfre

Nanjing

The local board elections for the Chamber's Nanjing Chapter were held on 18th April with the following results:

Chairman

Bernhard Weber, BSH Home Appliances Holding (China) Co Ltd

Vice Chairman

Andreas Risch, Fette (Nanjing) Compacting Machinery

Board members

Dr. jur. Markus Hermann, BASF-YPC Co Ltd

Fons Lamboo, NBSO Nanjing

Frank Redecker, Global Casting (Xuzhou) Ltd

Shanghai

The European Chamber Shanghai Chapter completed its elections on 9th May, with the following results:

Chairman

Carlo D'Andrea, D'Andrea and Partners

Vice Chairman

Serafino Bartolozzi, MAHLE Technologies

Marcus Wassmuth, Unicredit S.p.A.

Board members

Stephen Lo, Covestro Polymers

Andreas Odrian, Deutsche Bank

Clarissa Shen, Sanofi China

Brigitte Wolff, EIM China



Shenyang

Taking place on the 6th April, the elections for the Chamber's Shenyang Chapter returned the following results:

Chairman

Harald Kumpfert, Smartheat

Vice Chairman

Sarah Miller, Michelin Shenyang Tire Co Ltd

Board Members

Jeremy Aniere, Sofitel Shenyang Lido

Stephane Gonnetand, Dalian ODC Marine Manufacture Co Ltd

Maximilian Hauk, BMW Brilliance Automotive Ltd.

South China

Held on 12th April, the South China Chapter elections returned the following results:

Chairman

George Lau, TÜV Rheinland (Guangdong) Co Ltd

Vice Chairman

Peter Helis, Helis & Associates

Klaus Zenkel, Imedco Technology (Shenzhen) Co Ltd

Board Members

Danny Hong, BASF Polyurethanes (China) Co Ltd

Thomas Rosenthal, Digital Bros

Ivan Shang, Siemens Ltd, China, Guangdong Branch

Maurizio Zanatta, Miele DG, Dongguan Hong Da Electric Products Co Ltd

Southwest

The local board elections for the Chamber's Southwest Chapter took place on 26th April, returning the following results:

Chairman

Paul Sives, Proton Products

Vice Chairman

Luc Semeese, Volvo Car Chengdu

Chongqing Representative

Dominik Widmer, Sino Swiss Holding

Board Members

Chris Drew, PuringLiving China (Chengdu)

Joachim Kässmodel, Ferrante & Partners, Ltd

Aimee Zhang, UniGroup Relocation Chengdu

Tianjin

The local board elections for Tianjin were held on 24th April, returning the following results:

Chairman

Gabriele Castaldi, Flexbo (Tianjin) Logistic System Hi-tech Co Ltd

Vice Chairman

Christoph Schrempp, Airbus (Tianjin) Delivery Centre Ltd

Board Members

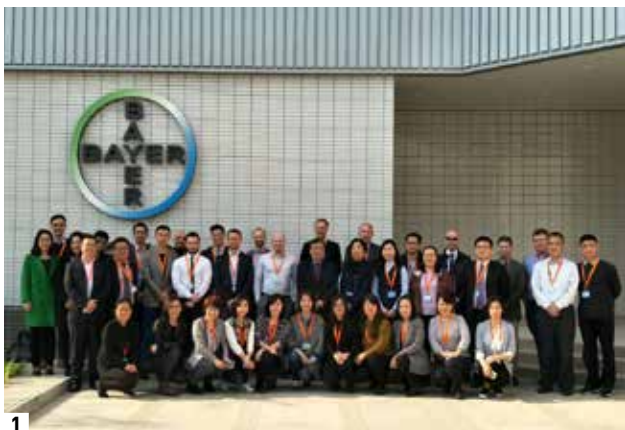
Cheung Yup Fan, Standard Chartered

Emanuele Nespoli, Loto Enterprise Tianjin Co Ltd

Oliver Stitou, Volkswagen Automatic Transmission (Tianjin) Co Ltd

EUROPEAN CHAMBER EVENTS GALLERY

BEIJING CHAPTER



1



2



3

Site Tour to Bayer China Supply Centre Beijing (1)

On 28th March, the Beijing Chapter visited the Bayer China Supply Centre Beijing to conduct a tour of its pharmaceuticals packaging site.

Capital Beat | Two Sessions: Signposting the 19th Party Congress (2)

On 19th April, Capital Beat discussed key outcomes of the Lianghui meetings.

Exclusive Dialogue with SAIC and CAA on Advertising Legislation in China (3)

On 20th April, Ms Wang Xiaodong, Director of Regulation Division, Department of Advertising Regulation, State Administration of Industry and Commerce and Ms Meng Yajuan, Head of Legal Affairs Department, China Advertising Association, provided the Chamber with an exclusive session on understanding the enforcement of the Law and the Interim Measures and helping FIEs with their compliance in this area.

NANJING CHAPTER



1



2

Spring Garden Party (1&2)

On 26th March, the Nanjing Chapter held its annual Spring Garden Party, attracting around 40 people to enjoy music, drink and food.

SHANGHAI CHAPTER



1



2



3

HR Excellence Conference: Building a game-changing talent strategy (1)

The HR Excellence Conference took place on 23rd March, with HR leaders sharing best practices and new approaches to better manage talent.

5th CSR CEO Talk: CSR Vs Profitability with H&M (2)

On 27th March, the Shanghai Chapter hosted the 5th CSR CEO Talk focused on best practices to drive sustainability as part of the core business development.

Mitigating risks during employee retention and termination (3)

On 7th April, the Shanghai Chapter hosted the event *Mitigating Risks During Employee Retention and Termination*, where the discussion tackled challenges that arise with employee termination.

SOUTHWEST CHAPTER



1

Southwest China (1)

The Southwest China Chapter held its Board Election on 26th April in Chengdu, with over 100 VIP guests from local government, consulates, media and member companies attending. President Wuttke attended and presented *China Manufacturing 2025: Putting Industrial Policy Ahead of Market Forces*.

TIANJIN CHAPTER



1



2



3

Factory Tour - TEDA Visit: Volkswagen & West Zone of TEDA (1)

On 20th April, the Tianjin Chapter took its members and friends to visit Volkswagen and the west zone of TEDA.

WeChat Marketing Training – Release the Power of WeChat Marketing (2)

On 21st April, the Tianjin Chapter invited a trainer from Tencent to deliver a special training course on how to utilise WeChat for company branding and promotion.

New Board Members Elected for Tianjin Chapter 2017-2019 (3)

The Tianjin Chapter held its Board Election on 24th April. The newly elected board will serve a two-year term from April 2017 to March 2019.

EXECUTIVE COMMITTEE OF THE EUROPEAN CHAMBER



President
Mats Harborn,
Scania



Vice President
Patrick Horgan
Rolls-Royce



Vice President
Massimo
Bagnasco
Progetto CMR



Vice President
Michael Chang
Nokia



Vice President
Carlo D'Andrea
D'Andrea &
Partners



Vice President
George Lau
TÜV Rheinland



Treasurer
Lars Eckerlein
ABB



States'
Representative
Sara Marchetta
Chiomenti



States'
Representative
Bruno Weill
BNP Paribas



States'
Representative
Javier Warletta
Mapfre



Secretary
General
Adam Dunnett

NANJING BOARD



Chairman
Bernhard Weber
BSH Home
Appliances
Holding (China)
Co Ltd



Vice Chair
Andreas Risch
Fette (Nanjing)
Compacting
Machinery Co Ltd



Frank Redecker
Global Casting
(Xuzhou) Ltd



Markus Hermann
BASF-YPC



Fons Lamboo
NBSO Nanjing

SHANGHAI BOARD



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Carlo D'Andrea
D'Andrea &
Partners



Vice Chair
Serafino
Bartolozzi
MAHLE
Technologies



Vice Chair
Marcus Wassmuth
Unicredit S.p.A.



Stephen Lo
Covestro Polymers



Andreas Odrian
Deutsche Bank



Brigitte Wolff
EIM China



Clarissa Shen
Sanofi China

SHENYANG BOARD



Chairman
Harald Kumpfert
Smarthead



Vice Chair
Sarah Miller
Michelin



Maximilian Hauk
BMW



Stephane
Gonnetand
ODC Marine



Jeremy Aniere
Sofitel Shenyang
Lido

SOUTH CHINA BOARD



Chairman
George Lau
TÜV Rheinland



Vice Chair
Peter Helis
Helis & Associates



Vice Chair
Klaus Zenkel
Imedco Technology
(Shenzhen) Co Ltd



Danny Hong
BASF
Polyurethanes
(China) Co Ltd



Thomas
Rosenthal
Digital Bros



Maurizio Zanatta
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