

**KEY MARKET ACCESS BARRIERS IN CHINA  
(January 2017)**

**MAAC – 2017/001**

	<p align="center"><b>Priority actions</b> <i>(these actions are indicative without being an exhaustive list)</i></p>
<p><b>Restrictions on Foreign Investment (FDI)</b></p> <ul style="list-style-type: none"> <li>• Open up sectors closed to FDI or subject to joint venture requirements (including where Chinese majority ownership is a condition or where foreign ownership is restricted) e.g. ICT services , environmental goods and services, financial services (banking, insurance, securities, pensions) services, express delivery services, legal services, healthcare, automotives, railway, construction, advanced engineering, oil and gas.</li> <li>• Remove other restrictions such as technology transfer, local content requirements and administrative pre-approvals.</li> </ul>	<p>Ongoing negotiations (EU-China Bilateral Investment Treaty).</p>
<p><b>Public Procurement</b></p> <ul style="list-style-type: none"> <li>• Encourage China to speed up its accession to the Government Procurement Agreement (GPA) by promptly submitting a significantly more ambitious market access offer to the GPA partners and by bringing Chinese legislation in line with the GPA.</li> <li>• Request China to make tendering and complaints resolution processes under China's Tendering and Bidding Law more accessible to foreign companies.</li> <li>• Ensure equal treatment of foreign and foreign-invested enterprises (FIEs) with Chinese-invested enterprises in China's public procurement market.</li> <li>• Avoid mandatory local content requirements (notably indigenous innovation) in government procurement.</li> </ul>	<p>Ongoing negotiations for China's accession to the Government Procurement Agreement (GPA).</p> <p>EU-China Public Procurement Regulatory Dialogue.</p>
<p><b>Intellectual Property Rights (IPR)</b></p> <ul style="list-style-type: none"> <li>• Avoid registration of patents and utility models of low quality and of trademarks applied for in bad-faith, <u>or including geographical indications.</u></li> <li>• Ensure implementation of WTO commitments on Regulatory Data Protection.</li> <li>• Simplify burdensome administrative and judicial proceedings and requirements for legalising foreign documents.</li> <li>• <u>Enhance efficiency of enforcement measures by administrative, judiciary and customs authorities against IPR infringements and violation of trade secrets. Ensure effective, efficient and timely protection against IPR infringements through administrative, judiciary and customs authorities (enforcement) including against online counterfeiting and piracy.</u></li> <li>• <u>Encourage e-commerce and social media platforms to implement preventive and proactive solutions tackling automatically obvious and recurring online counterfeiting and piracy. Enhance legislative and judicial protection for trade secrets.</u></li> </ul>	<p>EU-China IP Dialogue. Meetings take place on an annual basis around end of Spring.</p> <p>EU-China IP Working Groups take place twice a year.</p> <p>Ongoing negotiations on Geographical Indications (GIs).</p> <p>Technical cooperation programme in the area of IPR (IP Key).</p> <p>Raise issues, if necessary, during the Joint</p>

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	Committee and High Level Economic Dialogue (HED).
<p><b>Sanitary and Phytosanitary (SPS) measures</b></p> <ul style="list-style-type: none"> <li>• Lift existing bans on EU beef and sheep meat and accelerate market opening.</li> <li>• Simplify and speed up overall approval procedures for other products of animal origin (e.g. pork (including processed hams, intestines, stomachs) and dairy products) and plant products.</li> <li>• Accept EU regionalisation conditions whenever an important animal disease outbreak occurs instead of imposing a country-wide ban (e.g. African swine fever, avian influenza)</li> <li>• Accept systems-based approach to audits, including prelisting for meat and dairy exports.</li> <li>• For agricultural products (e.g. for exports of alcoholic beverages, processed products, animals and animal products) align food safety and animal health legislations with international standards.</li> <li>• Lift unjustified trade restrictions imposed by China on bovine genetic material from the EU due to Schmallenberg virus.</li> </ul>	<p>EU-China SPS Dialogue. Meetings take place on an annual basis during Autumn.</p> <p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p> <p>WTO/SPS Committee including bilateral side meetings. Meetings take place three times per year.</p> <p><b>Special focus in the short term on monitoring the implementing measures of China's Food Safety Law.</b> Manage the possible negative impacts of this Law with special attention on safeguarding existing market access. Advocate for requirements that are truly justified from a health and safety perspective as well as proportionate and practicable formalities for low-risk food products (avoid the use of general health certificate). Raise issues with relevant Chinese authorities at all levels.</p> <p>Important to coordinate and share information, including on progress achieved on specific issues by Member States. In coordination with DG Sante and DG Agri use high-level visits to China and related meetings to raise key issues.</p> <p>Ongoing project funded under the Partnership Instrument (EU-China cooperation on Food</p>

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	<p>Safety regulation)</p> <p>Raise issues, if necessary, during the Joint Committee and High Level Economic Dialogue (HED).</p>
<p><b>Technical Regulations, Standards and Conformity Assessment including the Compulsory Certification System (CCC)</b></p> <ul style="list-style-type: none"> <li>• Remove unnecessary burdensome certification procedures, <u>and in particular in-country testing requirements,</u> notably for the automotive sector, machinery, electrical <u>and electronic</u> equipment, ceramics, <u>IT products,</u> civil aircraft, <u>and</u> textiles, clothing and footwear products</li> <li>• Ensure alignment <u>of technical and testing requirements with international standards, as well as notification to WTO of all mandatory standards in line with the</u> WTO/TBT agreement, <u>and in particular</u> Ensure that product certification procedures cannot be <u>ab</u>used for 'technology theft' from foreign companies.</li> <li>• <u>Align health and safety requirements for registration of products with international standards and practices, such as in the case of infant formula.</u></li> <li>• Ensure equal participation of foreign-invested companies in standard-setting <u>and certification</u> at central and provincial levels, as well as industry and sectorial levels.</li> <li>• <u>Ensure that the Draft New Energy Vehicles (NEV) regulations do not lead to forced transfer of technology to Chinese companies and authorities.</u></li> </ul>	<p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p> <p>EU-China Consultation mechanism on industry and WTO/TBT.</p> <p>WTO/TBT Committee including bilateral side meetings. Meetings take place three times per year.</p> <p><b>Special focus in the short term on China's standardisation reform as well as the possible upcoming reform of the Compulsory Certification System (CCC).</b> Continue to advocate for an approach that leads to more transparent and stakeholder driven processes. The Seconded European Standardization Expert in China (SESEC) will continue to contribute to this objective<sup>1</sup>.</p> <p>On the NEV regulations follow up on the TBT comments submitted by the EU and monitor that China takes them on board.</p>

<sup>1</sup> SESEC is a project co-financed by the European Commission the European Free Trade Association secretariat and the three European Standardization Organizations (CEN, CENELEC and ETSI). This expert collects intelligence on China's Standardization and Technical Regulations.

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	<p>Monitor and remind China of its WTO TBT notification obligation.</p> <p>Follow up on China's positive progress on the participation of foreign-invested companies in standards organisations such as TC260 and CCSA (China Communications Standards Association).</p>
<p><b>Licensing requirements and procedures for Services</b></p> <ul style="list-style-type: none"> <li>• Improve the clarity, speed and transparency of licencing approval processes in services sectors such as financial services, telecom, postal/courier, construction and computer reservation systems (CRS) and ensure proportionality and non-discrimination. A negative licencing decision should be subject to independent review.</li> </ul>	<p>Ongoing negotiations (EU-China Bilateral Investment Treaty).</p> <p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p>
<p><b>Security-related measures in the IT and digital sectors</b></p> <ul style="list-style-type: none"> <li>• <del>Implement</del> <u>Ensure that requirements introduced in IT-security related legislation are clear, transparent, limited, proportionate and based on international</u> standards, licensing, testing and certification practices. Avoid excessive requirements such as unjustified data localisation and data storage requirements, mandatory disclosure of source code, or encryption solutions, and forced technology transfer. Avoid disproportionate interpretations of national security as well as vague and non transparent concepts such as "secure and controllable" being included in national-security related legislation.</li> <li>• <del>Allow participation of foreign-invested companies in standard-setting bodies.</del> <u>(note: point included in barrier CCC)</u></li> <li>• Update the OSCCA regulations for commercial encryption products by removing the prohibition to use foreign technology in encryption products and the obligation to disclose proprietary confidential information.</li> <li>• Remove discriminatory provisions and ensure transparency in the implementation of the Multi-Level Protection Scheme (MLPS).</li> </ul>	<p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p> <p>EU-China High Tech Working Group (HTWG). Meetings take place on an annual basis in Spring.</p> <p>EU-China ICT Policy Dialogue. Meeting take place on an annual basis at the end Spring/Summer.</p> <p>Continue to monitor China's legislative initiatives involving cybersecurity. Submit comments to these legislative initiatives when relevant via public consultations, TBT or other channels. Continue to submit <i>demarches</i> when appropriate to relevant Chinese authorities and in coordination with Member States and industry when necessary. Raise issues with</p>

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	<p>relevant Chinese authorities at all levels.</p> <p>Monitor the upcoming publication of the OSCCA Regulations.</p>
<b>Raw materials</b> <ul style="list-style-type: none"> <li>Remove remaining WTO-inconsistent export restrictions and other potential trade distortive measures applied on raw materials.</li> </ul>	<p>Dispute settlement case launched against China's unfair export duties and export quotas on 12 raw materials.</p>
<b>Pharmaceuticals</b> <ul style="list-style-type: none"> <li>Align the new pharmaceutical regulatory system with international standards and practices used by the ICH (e.g. on issues such as requirements on clinical trials for registration of medicinal products) and the OECD (e.g. accepting OECD Mutual Acceptance of Data Programme), as well as the definition of "new drug". Eliminate discriminatory import requirements for Active Pharmaceuticals Ingredients (APIs).</li> <li>Improve transparency and predictability in the decision-making process of drug pricing and reimbursement, <u>both at national and provincial levels</u>, thus avoiding any de facto exclusion of innovative products. Provide adequate patent protection. <u>Ensure separation between approval of drugs and any price commitment</u>.</li> </ul>	<p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p> <p>EU-China Pharmaceuticals Working Group. Meetings take place on an annual basis.</p> <p><b>Special focus in the short term to closely follow up on the draft Drug Registration Regulation (DRR)</b> released on July 2016. Closely monitor the upcoming implementing rules and other related documents on important issues that are absent from this Draft. Submit comments to these legislative initiatives when relevant via public consultations, TBT or other channels. Raise issues with relevant Chinese authorities at all levels.</p> <p>In coordination with DG Sante and DG Grow use high-level visits to China and related meetings to raise key issues.</p> <p>Raise issues, if necessary, during the Joint Committee and High Level Economic Dialogue (HED).</p>

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<p><b>Medical Devices</b></p> <ul style="list-style-type: none"> <li>Align the new medical devices regulatory system with international standards and practices on issues such as: accept clinical trials conducted in foreign countries members of IMDRF and exempt low hazard medical devices from clinical trials; eliminate the requirement of registration of medical devices in the country of origin, accept Electromagnetic Compatibility (EMC) testing carried out by foreign ILAC/IAF accredited labs <u>or under the IECEE-CB scheme</u>; simplify the format of the registration certificate; abolish/limit the obligation of new registration in case of minor software updates.</li> <li>Remove “Buy China policy”: guidelines for publicly owned hospitals requiring them to preferentially equip and utilise domestic medical equipment and apparatus.</li> </ul>	<p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p> <p>EU-China High Level Meeting/Annual Regulatory Dialogue. Meetings take place on an annual basis in Autumn.</p> <p><b>Special focus in the short term on “Buy China Policy”</b> with specific attention on the analysis of the possible discrimination element of this measure. Raise issues with relevant Chinese authorities at all levels.</p> <p>In coordination with DG Grow use high-level visits to China and related meetings to raise key issues.</p> <p>Raise issues, if necessary, during the Joint Committee and High Level Economic Dialogue (HED).</p>
<p><b>Cosmetics</b></p> <ul style="list-style-type: none"> <li>Improve the registration process for new cosmetics ingredients and limit the registration process to higher risk ingredients. Bring regulations on testing (animal and alternative methods) in line with international standards. <del>Remove the requirement to prove manufacturing and sale in the country of origin through the Free Sales Certificate.</del> Remove the discrimination between domestic 'non-special cosmetics' and imported 'non-special' cosmetics (which are subject to pre-market registration with CFDA).</li> </ul>	<p>EU-China Economic and Trade Working Group (ETWG). Meetings take place on an annual basis in Spring.</p> <p>EU-China High Level Meeting/Annual Regulatory Dialogue. Meetings take place on an annual basis in Autumn.</p> <p>In coordination with DG Grow use high-level visits to China and related meetings to raise key issues.</p>