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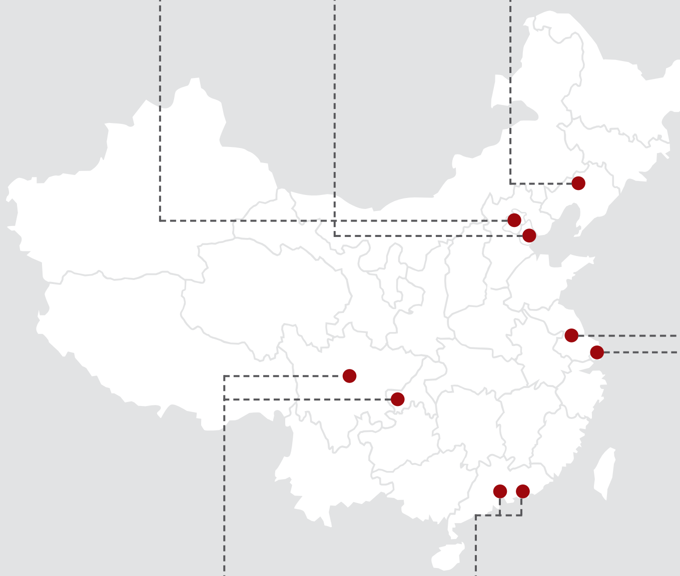

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President's Foreword

The Politicisation of Business: A Game of Political Chess We All Lose

Jörg Wuttke

President

European Union Chamber of Commerce in China

There is little doubt that the European Union (EU)-China business environment has become increasingly politicised in recent years. With nationalistic boycotts, mutually exchanged sanctions and the freezing of the Comprehensive Agreement on Investment, relations have taken a sharp turn for the worse. Negative public sentiment towards China is now at historic highs in many western economies.

Among European companies in China, concerns are rife that tensions will increase. The United States (US)-China trade war continues to spill over and impact EU-China relations; China has expanded its legislative arsenal, with the Anti-Foreign Sanctions Law highlighted as a key tool at this year's 'Two Sessions'; and differing perspectives on atrocities taking place in Ukraine risk becoming another point of contention.

Foreign companies operating in China remain caught between a rock and a hard place. If they comply with home government measures (such as export controls) or engage in activities perceived to be 'anti-China', they run the risk of being subjected to Chinese extraterritorial measures. If they fail to comply with measures introduced back home, then they risk coming under huge political and consumer scrutiny from the European governments or public. European companies increasingly fear being used as sacrificial pawns in a game of political chess.

For their part, Chinese companies also risk coming under fire, and not just from overseas elements. Should the geopolitical situation take a turn for the worse, Chinese buyers may be further pressured to cease using European suppliers or forgo entering into partnerships with European companies altogether. This despite the fact that there are clear opportunities for synergies and further cooperation to the benefit of both sides.

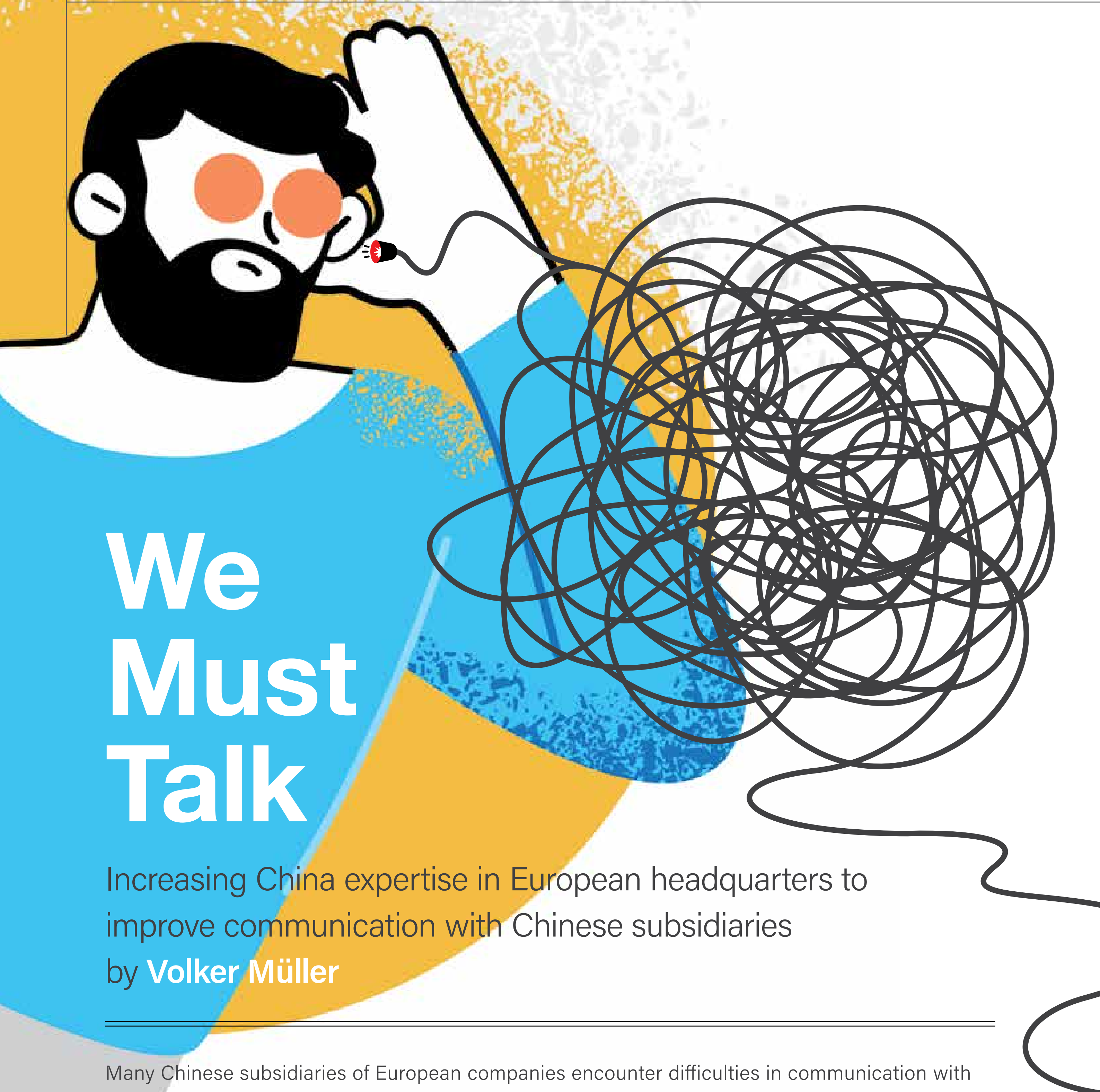
European and Chinese companies have complementary expertise and competencies. In the area of research and development for example, while European companies excel in industrial innovation, China's innovation is chiefly at the consumer-end of value chains. This provides clear scope for both sides to learn from one another and add value.

There are also areas where there is a clear overlap of interests. Take fighting climate change for instance. Not only is this a top priority for the EU, European businesses and the Chinese Government alike, but European businesses have much expertise in decarbonisation to share. They have cutting-edge technology and experience working with industry and governmental stakeholders in their home markets on similar challenges, putting them in prime position to work with China to achieve its 2030/2060 decarbonisation goals.

To make progress in the many areas that are ripe for cooperation, a de-escalation of tensions is needed. One can only hope that April's EU-China Summit will present the opportunity for both sides to have a frank conversation on the current challenges they face, and to explore ways of addressing them in a pragmatic way. To help make this happen, the European Chamber and its member companies remain ready to engage in constructive dialogue with stakeholders from both sides to help deepen the EU-China relationship.

[1] Owen Churchill, *Negative views of China continue to dominate its international image, survey finds, South China Morning Post*, 30th June 2021, viewed 11th March 2022, <https://www.scmp.com/news/china/diplomacy/article/3139241/negative–views–china–continue–dominate–its–international–image>

[2] First adopted in 2021, the Anti–Foreign Sanctions Law, together with the Ministry of Commerce's *Provisions on the Unreliable Entity List and its Rules on Counteracting Unjustified Extraterritorial Application of Foreign Legislation and Other Measures*, aim to improve China's legal system for opposing foreign sanctions, interference and long–arm jurisdiction.



We Must Talk

Increasing China expertise in European headquarters to improve communication with Chinese subsidiaries

by **Volker Müller**

Many Chinese subsidiaries of European companies encounter difficulties in communication with their European headquarters (HQ). 'Communication' in this context is less a question of how to use online tools and write emails efficiently, but instead one of how to build up China expertise in HQ as a basis for mutual understanding. **Volker Müller**, senior business manager at the European Chamber, previously spent more than two decades working in Chinese subsidiaries of European companies, both small and medium-sized enterprises (SMEs) and multinational companies (MNCs). In this article, he gives recommendations on how to build and maintain China expertise, as well as a case study on how lack of basic China know-how may lead to costly mistakes.

A lot of academic research has been done on headquarters–subsidiary (HQS) relations, much of it with a focus on China. Poor HQS relations have long been known to be a key factor in the failure of MNCs in China. As a result, European companies increased their investment in training staff members of Chinese subsidiaries, and awareness of cultural differences has grown. However, in many companies, communication is still asymmetrical; there is a constant flow of information and directives from HQ to the subsidiary, but little communication back 'upstream'.

Case study: why China knowledge should be built up before establishing a subsidiary

A European SME, a manufacturer of high-end medical devices, decides to set up their first subsidiary worldwide in China. The SME already sells their products there through a distributor; now they plan to manufacture devices in China for China and other emerging markets, and take local sales and service into their own hands.

As no one in the SME has any significant China know-how, the management entrust a European China-consulting company to set up the subsidiary. While the consulting company has a good reputation, it has no experience in China's medical device industry. They rent a very cheap factory floor and process all the formalities to register the subsidiary. Once registered, the SME employs an 'old China-hand' as a general manager (GM) in China.

On the first day on the job, the new GM discovers that the company is registered in an export-processing zone in a bonded area. This means that its business licence allows manufacture for export only, not for sales in China. After some intense advocacy efforts, the China subsidiary manages to get special permission from the Chinese authorities to sell their locally-manufactured devices in China.

The SME plans to start selling their devices within six months of company registration. A severe miscalculation: the company's medical device registration licences issued by the National Medical Products Administration (NMPA) are valid for imported devices only. In China, registration of locally-manufactured devices is completely separate from that of imported ones. The SME must re-register each type of device they plan to manufacture in China. It takes more than a year to obtain these additional registration licences.

To bridge this gap, the SME continues to sell imported devices manufactured in Europe. The issue is, as the subsidiary is registered in the export-processing zone, it cannot apply for the medical device trading licence required to do sales in China. The only feasible workaround is to set up an additional second subsidiary as a medical device trading company.

Conclusion: mistakes in the early stages of a project are often the costliest ones. It may be a good approach to employ a consulting company, but some industries have very special requirements that general consultants are not aware of. Therefore, it is necessary to build up in-house China expertise before deciding on a strategy to establish a subsidiary in the country. In this case, it would have been favourable to employ the GM first and develop the China strategy together.

Better communication tools and harmonisation of business practices versus increasing requirements

Improved communication tools may give company heads the impression that all their employees worldwide are working in one large virtual office. Indeed, 30 years ago, much of the communication between European headquarters and Chinese subsidiaries was done by fax; to send a few megabytes of data, a computer disk was burnt and sent to China by express mail. In comparison, modern tools make communication much easier. On the other hand, products have become incredibly complex, safety and efficacy requirements (particularly in the case of medical devices) are constantly increasing and regulatory requirements are becoming stricter worldwide. Moreover, time-to-market is much more important than in the past, and China's consumers have become accustomed to top-class customer service.

The development over time in the ways European headquarters and Chinese subsidiaries communicate can be depicted as a neck-and-neck race between better tools and increasing requirements. The communication style has changed completely, but the stress levels have remained the same.

Good practices: diversity is difficult, but enlightening

For some companies, especially SMEs located in smaller towns in Europe, founding a subsidiary overseas may result in culture shock: a transformation from uniformity to diversity. A rather typical scene in the initial stages: a female Chinese engineer travels to the European HQ on a business trip, and finds herself in an all-white, all-male European factory. Individuals and organisations may resist change when introduced but, if handled well, the cultural shock will be a healthy one. Below are suggestions on a few ways to improve HQS communication.

When a subsidiary is established in China, knowledge transfer will initially be a one-way street: the Chinese subsidiary must grasp the technology developed in the headquarters. But over time, both sides should be willing to learn from each other. For example, Chinese dedication to work, aggressive sales tactics, less confrontational ways to handle conflicts, to name just a few – there are quite a lot of strengths that the Chinese subsidiary may be able to contribute. Employees in HQ for their part may be proud to see their company go international, with potential business trips to China of course being a great incentive.

Modern communication tools still can't fully replace face-to-face meetings. From experience, online communication becomes much more efficient and the number of misunderstandings decrease if the employees on both sides know each other well. Therefore, it is good practice to let China and Europe-based team members work together at one location for some time, either in China or at HQ, to become acquainted with each other's personality and communication style.

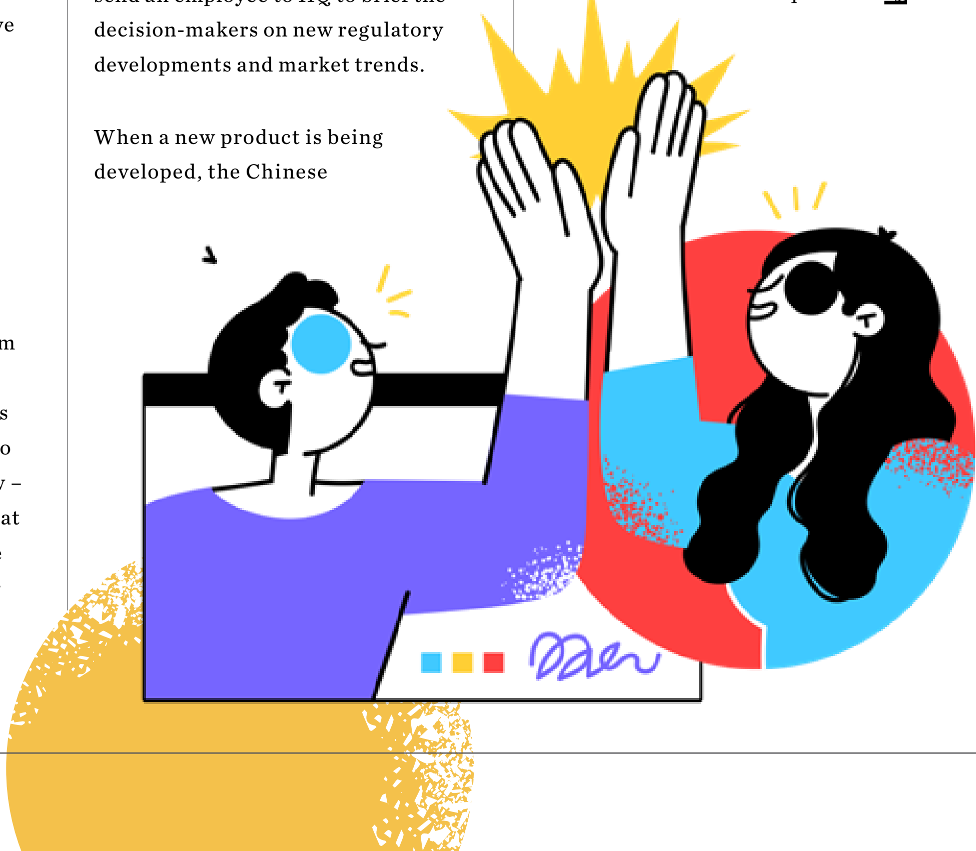
In larger companies, it is important to have a 'Mr or Ms China' at HQ, an employee who is responsible for solving problems on behalf of the Chinese subsidiary, whatever department may be involved.

China is developing fast, with the consequence that China expertise will just as quickly become obsolete, making its maintenance essential. For example, when business travel becomes normalised again, the Chinese subsidiary should regularly send an employee to HQ to brief the decision-makers on new regulatory developments and market trends.

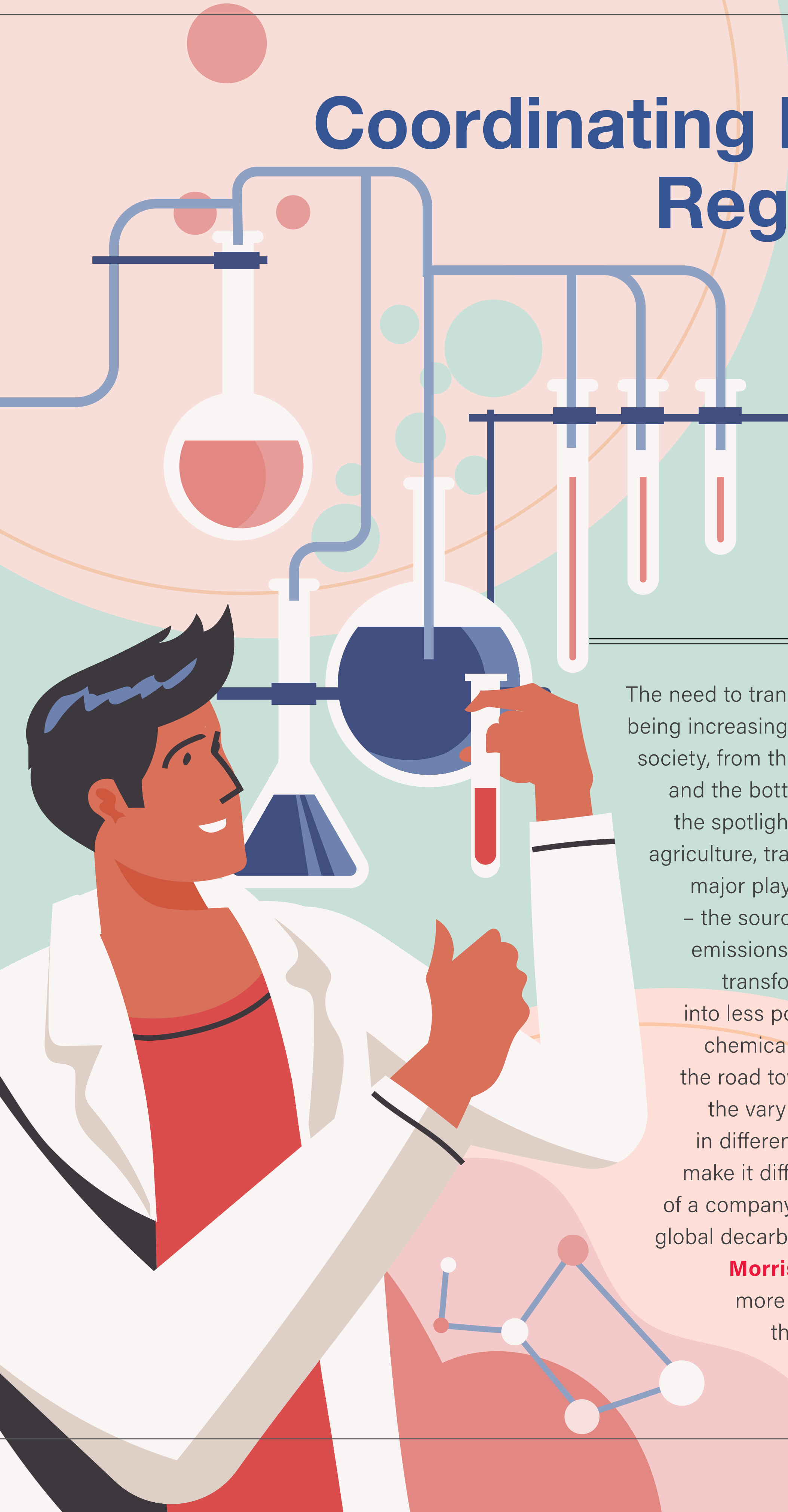
When a new product is being developed, the Chinese subsidiary should be involved from the very beginning in defining the specification. Any significant related Chinese standards and local customer preferences should be taken into account to ensure that the new product fits both the European and the Chinese market.

Most international companies have trainee programmes for employees from China at their HQ. However, what is often missing are trainee programmes for junior employees and middle management from HQ at the Chinese subsidiary. Such programmes would allow companies to build up their China know-how. When the trainees return to the headquarters, they can act as 'ambassadors' for the Chinese subsidiaries.

Working on HQS communication is a challenging job, and snags can never be avoided. However, this fact should not discourage those trying to get started. If communication with the Chinese subsidiary is balanced in terms of knowledge flow, it will not only drive sales but may also inspire the company's headquarters.



Coordinating National Regulations Globally



The path to a carbon-neutral chemical industry

by **Dr Bradley Morrison**

The need to transition to carbon neutrality is being increasingly accepted by all sectors of society, from the top down by governments and the bottom up by consumers. While the spotlight is often put on sectors like agriculture, transport and fashion, another major player is the chemicals industry – the source of a large share of carbon emissions as well as the innovation to transform materials and processes into less polluting options. The leading chemicals companies are already on the road towards carbon neutrality, but the varying systems and regulations in different countries and regions can make it difficult for individual branches of a company to comply with the group's global decarbonisation goals. **Dr Bradley Morrison** of **BASF Group** tells us more about the inherent tensions this is causing for companies.

The world embarks on a journey to a low carbon and sustainable future

Global climate change and scarce resources are the greatest and most urgent challenges of our time. It concerns the wellbeing not only of our generation, but also of the many generations that will inherit the legacy we are creating for them today.

Climate protection is top of the agenda for both the public sector and the private sector. Countries are setting their roadmaps to reach carbon neutrality, part of their contribution to the 2015 Paris Agreement. In 2019, the European Commission unveiled its European Green Deal with a long list of policy initiatives to reach net-zero emissions by 2050. In 2020, China announced its goals to reach carbon peaking by 2030 and carbon neutrality by 2060. In 2021, during the United Nations (UN) Climate Change Conference (COP26), China and the United States (US) pledged in a joint declaration to act to boost climate cooperation over the next decade.

Chemical and material innovations empower the transformation of all industries

The business sector also has a key role to play in the journey to a low carbon and more sustainable future. How it implements innovative technologies, processes and economic models will be a gamechanger. Take the chemical and materials industry as an example – this industry is centuries old, but has always been innovating to make life more modern and sustainable.

Not only will the chemical industry be able to produce in a carbon-neutral way, but chemistry will also provide the innovation in materials for the decarbonisation of many other industries. Innovative products and solutions offered by chemical companies are important raw materials that will be applied in all downstream industries. These materials enable a reduction in greenhouse gas emissions in many areas, and contribute to the transformation of all industries into a low carbon future.

In other words: no upstream decarbonisation, no downstream decarbonisation. For example, innovative battery materials make electric vehicles charge faster and run further; innovative insulation materials make buildings more energy-efficient; innovative use of chemical components make wind turbines and solar panels more robust and durable.

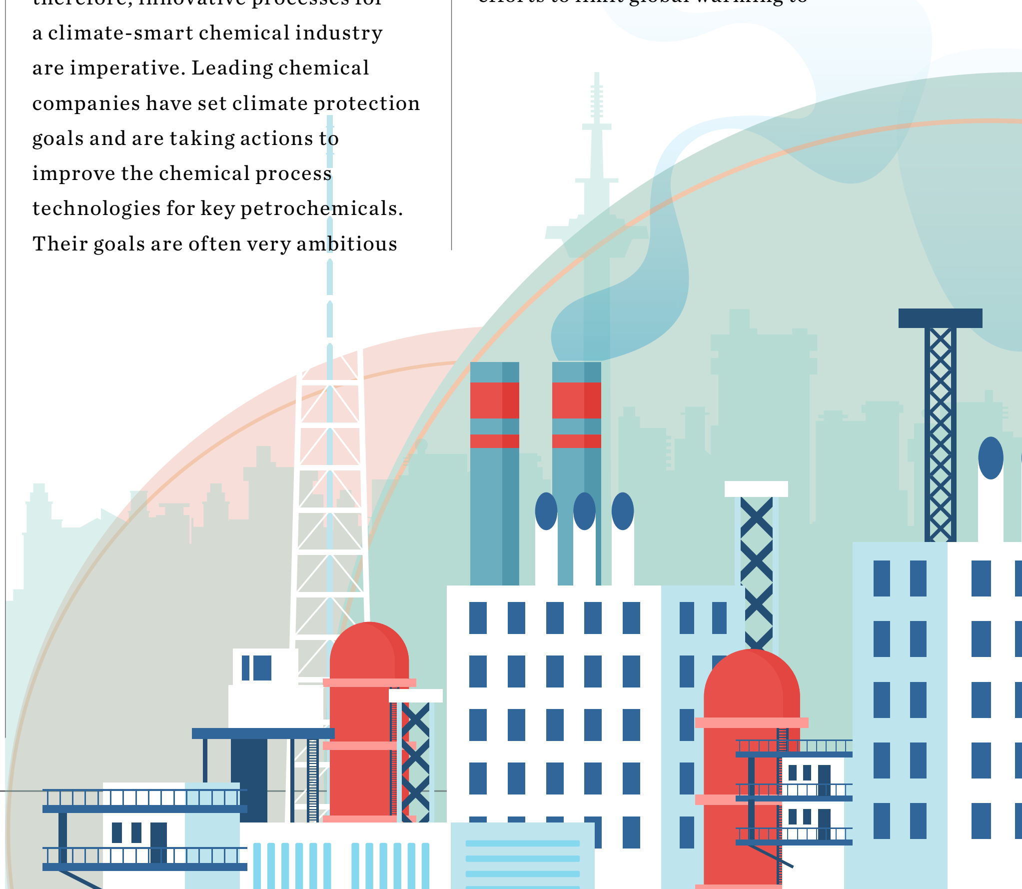
A climate-smart chemical industry needs renewable energy

Chemical production is highly energy- and carbon dioxide (CO_2)-intensive; therefore, innovative processes for a climate-smart chemical industry are imperative. Leading chemical companies have set climate protection goals and are taking actions to improve the chemical process technologies for key petrochemicals. Their goals are often very ambitious and in alignment with—or even exceeding—the European Union's (EU's) targets.

Due to their commitment and research, for some of these leading chemicals companies, it would be technically possible to eliminate CO_2 emissions almost entirely if—and only if—large amounts of renewable energy could replace energy sources based on fossil fuels. The ultimate lever to reduce CO_2 emissions is electrification of the entire value chain.

Different timelines set in different countries bring inherent tensions

Among the growing wave of governments around the world setting targets for reaching carbon neutrality, no pledge is as significant as China's. The country is the world's largest energy consumer and carbon emitter, accounting for one-third of CO_2 emissions worldwide. The pace of China's emission reductions will be an important factor in international efforts to limit global warming to



1.5 degrees Celsius (°C) above pre-industrial levels.

China is still a fast-growing economy, and therefore its timelines for carbon neutrality differ to Europe's. It is very difficult for European companies with operations in China and other locations to break down their global carbon neutrality goals by country, which brings a lot of inherent tensions between branches.

This is also the case in the chemical industry. Due to the nature and status of its manufacturing sector, China is the world's largest chemical market, whose growth rate continues to outpace, by far, other major chemical-producing regions. Chemical companies are continuing to expand their business in China to meet the increasing customer demands. When building or expanding their production sites, these companies design them from the ground up to have the lowest possible CO_2 emissions in order to achieve their global carbon neutrality goal. However, in order for the new plant to be as carbon neutral as is technically possible, a supportive legislative and regulatory framework in China is also necessary.

In addition, the cost of carbon emissions in every country differs because of the varied approaches to carbon taxes and emission trading schemes. Even within China there is still not a consistent national approach to carbon emission pricing for all industries and provinces. This makes the relative economics of investments across China and the globe significantly less predictable.

A supportive legislative and regulatory framework will get double the result with half the effort

In recent years, the Chinese Government has been driving significant changes in domestic legislation and law enforcement on sustainability and environmental protection across industries, proving the country's determination to transition toward climate neutrality. In the energy sector, China's National Development and Reform Commission (NDRC) launched the Implement Scheme of Renewable Electricity Pilot Trade in September 2021.

However, when demand outstrips supply, prices increase. The energy market is no exception. Demand for renewable energy is increasing sharply due to the electrification of all major industrial sectors, including the chemical industry. Electric vehicles, and the heating and air conditioning of buildings, also contribute to the pressure on the grid.

This is why building additional renewable energy capacities at an accelerated pace in China is strongly advocated. Even without putting a price on carbon emissions, solar and wind power is often now cheaper than fossil-fuel-generated electricity, especially given the recent high volatility of coal and oil prices. Additional renewable energy capacities at competitive prices are a precondition for a successful energy transformation of the Chinese economy. Moreover, stability in the availability and pricing of renewable energy will do more to ensure the long-term investment needed than the different goals that governments have committed to.

This will drive the innovation needed to electrify many core technologies, from steam crackers (the machinery used to produce base chemicals such as olefins, ethylene and propylene, which are raw materials for thousands of downstream products) to transportation, ultimately contributing to our journey to a carbon-neutral world.

Dr Bradley Morrison has been senior vice president of BASF Group since 2013, in charge of Operations and Site Management in Greater China. He began his career at BASF in Germany as a post-doctorate in 1993. Over the past 30 years, he has worked at diverse positions in research, marketing, business, site management, product and supply chain management in BASF, with rich cross-regional / cultural experience in Europe, Australia, and Asia. Dr Morrison holds a PhD in Physical Chemistry from the University of Sydney.

Communicating with HQ: a six-step approach

Implications of China's Personal Information Protection Law and Data Security Law for cross-border data transfers

by **Alex Roberts** and **Tiantian Ke**

For multinational corporations (MNCs) with local subsidiaries and affiliates in Mainland China, one of the most important business needs in everyday operations is the ability to freely share business data—including personal information relating to employees, customers and business contacts—between those local entities and their headquarters (HQs). Now that the People's Republic of China (PRC) Personal Information Protection Law (PIPL) and the Data Security Law (DSL) both went into effect in 2021, MNCs should assess their information flows to ensure compliance with these important new data laws.

This article by **Alex Roberts** and **Tiantian Ke** of **Linklaters Zhao Sheng** summarises six key steps for handling the cross-border data transfer requirements under the Chinese data protection legal regime.

Step 1: Map your data flows

MNCs should map their data flows in and in and out of Mainland China, if they have already not done so when refreshing their data compliance strategies following the upheaval of the *Schrems-II* case on personal data protection in the European Union (EU) in 2020.[1] One of the key issues in mapping data flows for the PRC is to understand what constitutes a cross-border data transfer under Chinese law and, in particular, that it covers remote access from overseas to data stored in Mainland China. Although the PIPL is silent on the definition of a cross-border data transfer, guidance released in 2017 and instructions from officials have indicated a broad scope should be applied, covering both (i) the provision of PRC-originated data to an overseas entity directly or through business operations and provision of services or products; and (ii) remote access to PRC-originated data by an overseas entity.

For in-scope cross-border data transfers, MNCs should consider how to implement steps 2 to 6.

Step 2: Determine your role

There are two types of data recipients under the PIPL:

- A 'personal information processor' is defined as a person able to independently determine processing purposes and methods in personal information processing activities, which is akin to the concept of a 'data controller' under the EU's General Data Protection Regulation (GDPR).
- Another type of data recipient is an 'entrusted party' that is commissioned by a personal information processor to process information in accordance with that processor's instructions. This role resembles a 'data processor' under the GDPR.

As personal information processors and entrusted parties have different responsibilities

[1] Sharp Cookie Advisors, *Schrems II: a summary – all you need to know,* GDPR Summary, 23rd November 2020, viewed 17th March 2022, <https://www.gdprsummary.com/schrems–ii/>

and obligations pursuant to the PIPL in a cross-border data transfer scenario (see steps 4–6 below), MNCs should consider the roles their HQs and Chinese business presences play, and put in place compliance measures accordingly.

Step 3: Classify your data

Depending on the types of data involved, their 'transfer' may be subject to special conditions under the PIPL, the DSL and other PRC laws. Most of these conditions apply to personal information. However, if a transfer involves certain regulated data—such as data subject to certain industrial or sectoral rules, 'important data' or 'core data' as regulated in the DSL—further data localisation and security assessment requirements could apply.

Step 4: Conduct an impact assessment and/or a security self-assessment

A personal information processor should conduct a personal information protection impact assessment on the cross-border transfer. This assessment is similar to a data protection impact assessment under the GDPR. In addition, a set of draft measures released by the Chinese authorities further proposes requiring a security self-assessment before a data export. To satisfy the PIPL's requirements, MNCs should carry out any necessary assessments before sharing PRC-originated data with overseas recipients.

Step 5: Disclose prescribed information and obtain separate consent

Before a cross-border transfer, MNCs' local entities in Mainland China must clearly inform the individuals that the personal data belongs to of the details of the proposed transfer, and obtain their "separate consents", unless other legal processing conditions are applicable. A vital—though challenging in practice—action point would be to update an MNC's current privacy notices/policies with prescribed supplementary details describing overseas data recipients, and to obtain 'unbundled' consents from individuals to the transfer of their data to these recipients.

Step 6: Implement one statutory transfer mechanism

For MNCs that process data as critical information infrastructure operators in Mainland China, process important data, or process amounts of personal information over a certain threshold, they must pass a government-led security assessment before completing any cross-border data transfer. The assessment will remain valid for two years providing there are no changes to the circumstances. MNCs not subject to this burdensome requirement can choose one of the following transfer mechanisms:

i. obtaining a personal information protection certification;

ii. contracting with the foreign receiving party based on the 'standard contract' formulated by the Cyberspace Administration of China; or

iii. as otherwise stipulated in the law.

Likely based on the GDPR's 'standard contractual clauses' already familiar to companies, the 'standard contract' mechanism is expected to become the most popular approach for MNCs. However, almost half a year since the PIPL was launched, the template contract is yet to be released by the authorities. Once it becomes available, MNCs will need to prepare and execute revised data transfer agreements with overseas vendors and affiliates.

While none of these steps should prove insurmountable for international businesses, internal functions need to cooperate to ensure efficient implementation of the PIPL, so as to allow smooth communication with their HQs. Legal and compliance teams monitoring for developments and release of the pending templates and guidelines have an important role to play as gatekeepers and project managers in an increasingly regulated—even if ever more connected—international business environment.

Linklaters is a well-known global law firm, supporting clients in achieving their strategies wherever they do business around the world. It has more than 40 years' experience of advising Chinese and international corporates, Chinese state-owned enterprises and financial institutions on their cross-border strategic deals. Their rich experience in China and strong track record have provided the Linklaters' team an exceptional understanding of the local legal and economic landscape. They are able to not only call on the expertise of lawyers from the firm's 31 offices globally, but also to get support for PRC legal advice through Linklaters Zhao Sheng, its joint operation office with Zhao Sheng Law Firm in the Shanghai Free Trade Zone. This joint operation brings together Linklaters' long-standing international experience and Zhao Sheng's PRC-law capabilities, offering a 'one-stop shop' service of both international and PRC legal advice seamlessly to clients.

The Fallout from COVID Travel Restrictions

Are China-based companies losing experienced staff, or does localising the workforce have its own benefits?

by **Mirko Turrina**

In the initial stages of the COVID-19 pandemic, particularly after China closed its borders to most non-Chinese nationals in March 2020, many China-based European companies struggled to get back to operating as normal. Key staff members were locked out of China, business travel to Europe became impossible and, even within China, travel between different provinces was a logistical nightmare. **Mirko Turrina** of **Goglio (Tianjin) Packaging Co, Ltd** offers his own experiences as a case study of the ramifications, before looking at some best practices for multinationals.

The small picture: Impact on staff and working arrangements

As with most other companies, the sudden outbreak of COVID-19 disrupted our normal working rhythm. The travel restrictions in particular affected both the management and manufacturing departments. I was in Italy when the borders were closed, which made communication and the general reporting on activity difficult, while manufacturing staff were impacted by lockdowns and quarantines, which affected our normal shift-work schedule.

Restrictions on travel within China meant business travel plans for the purposes of after-sales services, customer visits or to attend forums and seminars had to be postponed, or sometimes even cancelled.

Fortunately for us, our employees are all locals, and I am the only foreign

national, so our disruption from the closure of China's borders was reduced in comparison to other European companies. For established lines of production, any interruptions to training could be dealt with through utilising new communication technology options. This was not always the case for new products though. Eventually, staff were able to travel to Italy for training, but the long quarantine times and the fact that there was just one flight a week between China and Italy meant the time left for training was just a third of pre-pandemic levels.

Apart from the impact on normal working patterns, the travel restrictions and general instability caused by the pandemic also had an effect on staff morale in the early stages. Our global chair usually travels to China to join the annual parties, but not only was he not able to travel, the entire event had to be cancelled due to restrictions on large public gatherings. As the situation dragged on, we found ways to adapt and work with what was possible.

Headquarters/subsidiary decision-making divide

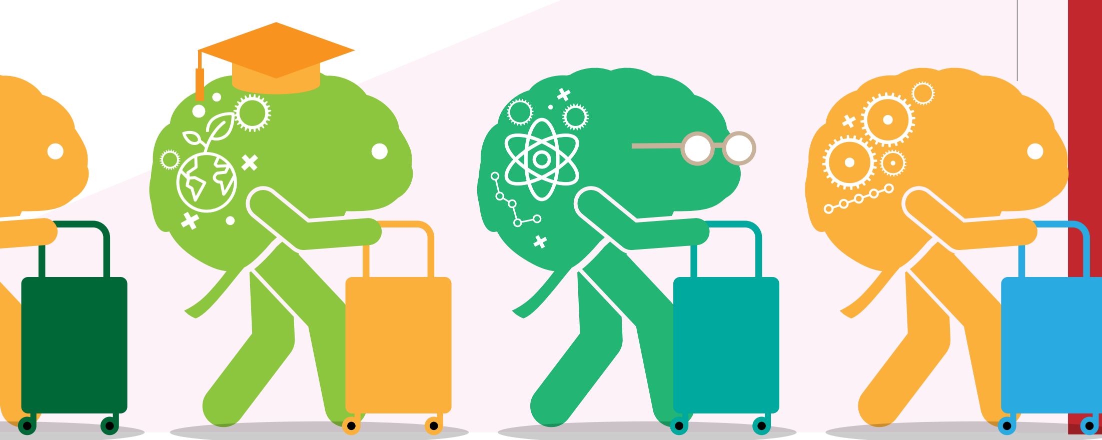
Decisions within the global organisation on how to deal with the fallout from the pandemic were made by prioritising compliance with local requirements. Decisions on operations-mode adjustments—like switching to remote working, policies on business travel—could be made by local management, while responsibility for strategic and investment decisions was shared with the board of directors in Italy. In addition, as our local financial department employees have been with us for a long time and are very reliable, our HQ could give us more autonomy on that side of things.

One interesting observation was that while the inability of the directors to travel to China made the decision process for very important topics slower, it actually had the opposite effect on minor issues, which began to be dealt with much faster.

In terms of intellectual property, as our staff in China are all local, we are accustomed to transferring knowledge locally. The travel restrictions meant that IP for new products could not always be done in person, so secure online systems had to be found.

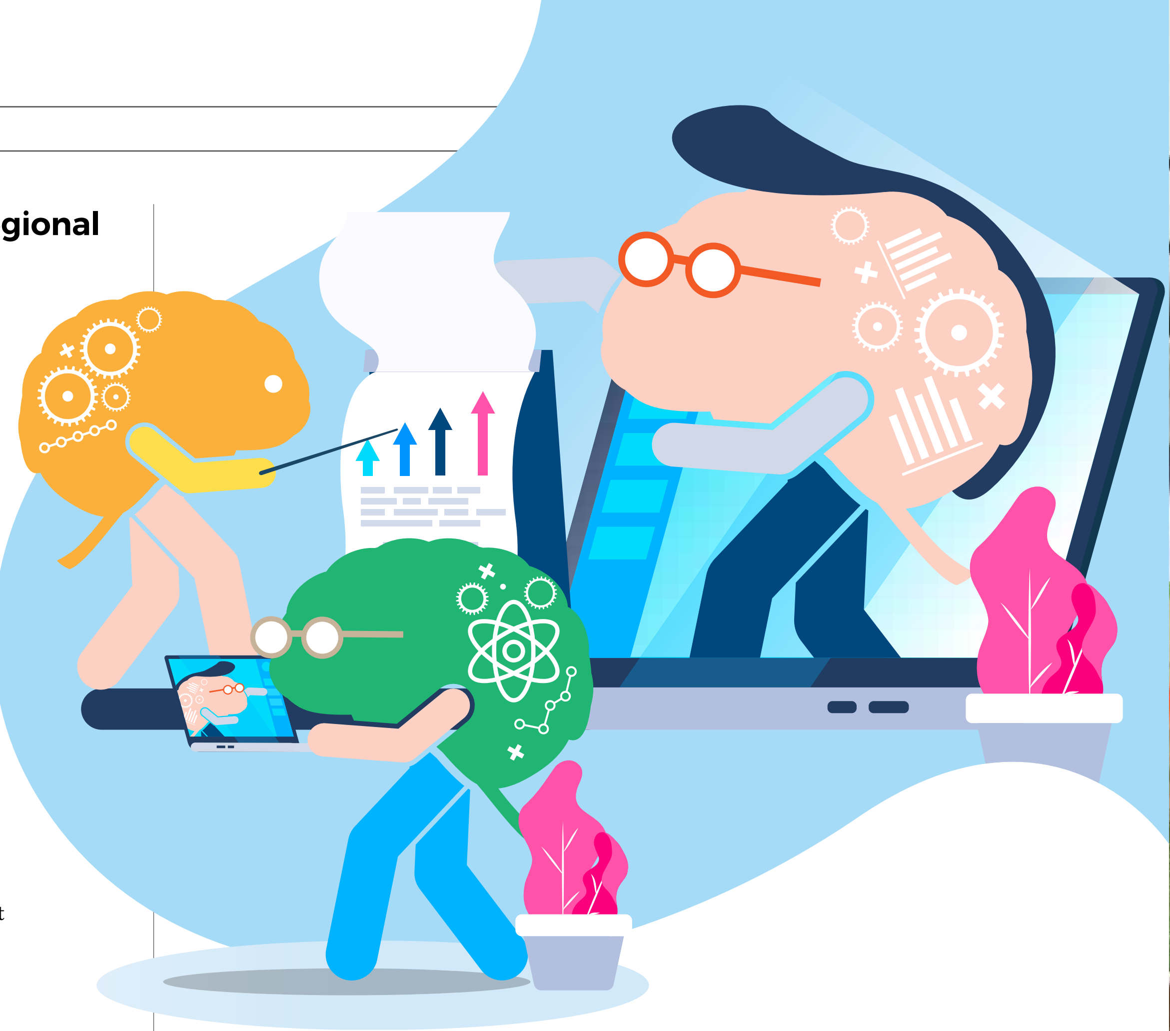
The big picture: HQ concerns over transferring knowledge, responsibilities to local staff

With or without the pandemic and travel restrictions, China is such an attractive market with so many smart entrepreneurs that it is almost impossible to effectively protect patents and technology advantages. However, the risks of IP theft can be minimised in two ways; a) by having a good incentive plan in place for the core staff and b) being able to execute plans at 'China speed'. In many ways, "attack is the best defence", but this approach needs a strong commitment to the local market, and not the 'expat' mentality that this is only something temporary before you leave to return 'home'.



Autonomy for regional branches

Legally, any company is an entity on its own with obligations to the authorities and society (employees, customers and suppliers), even though ownership may be in the hands of an overseas entity. Therefore, the local management team has a duty to utilise the local company's assets to the utmost, and in line with the articles of association and any market separation agreements.



Regional branches should have autonomy on all aspects that involve cultural traits or sensitivities, from product development to localisation to market development, but also important is autonomy on local human resources management and related incentive plans. Scientific research, global economies of scale, supply chain integration, compliance, financial controlling and management of key global accounts are activities where coordination with HQ is valuable for both the bottom line and for branding. Coordination with other overseas regional branches is definitely useful in terms of learning about market trends happening elsewhere, and for sharing improvements to operations and lessons learned.

In the past, China absorbed technology and knowledge from overseas and adapted them to its own needs. Nowadays, it is perceived as arrogant when a product is promoted only based on its positive track records overseas. The domestic market is a lot more confident.

The balance between autonomy and control should be based on a thorough risk assessment. Many HQs tend to retain more control over regional branches in an attempt to reduce the costs of mistakes of local teams, which creates a very negative loop for HR retention and development. Companies' ability to retain and motivate local talent is clearly linked to cultural traits. It is no secret that great talents target companies that will empower them and provide them with opportunities to grow in tandem.

The future for HQ/subsidiary communication

Digitalisation is the main trend, and has been embraced by most companies. It has its benefits and drawbacks. In terms of benefits, remote working—apart from reducing infection rates—saves staff time commuting to and from work – surveys have shown the average commuting time is around 70 minutes.

The drawbacks are remote working is not suitable for all companies or all job functions. Furthermore, work efficiency can be low, as it depends on individual employees' self-discipline. Remote working can also hinder projects that require teamwork or face-to-face communication. EB

Mirko Turrina is general manager of **Goglio (Tianjin) Packaging Co, Ltd.** Prior to joining Goglio, Mirko mostly worked in the machinery sector, with some experience also of the automotive and plastic packaging sectors. During his two decades in China, Mirko developed a proven track record in industrial small and medium-sized enterprises. **Goglio Group,** established in Milan, Italy, in 1850, is a family-owned multinational company, and a leader in flexible packaging solutions, well-known for its Fres-co system for processed coffee and fruit products. Goglio (Tianjin) Packaging Co, Ltd. opened in January 2006. The company's vision is to create solutions to keep food fresh and healthy during storage and transportation through continuous improvement of technology.

FACE-TO-FACE IS ESSENTIAL

The impact of China's closed borders on regional headquarters

by **Stephanie Sam**

With the recent conclusion of the Two Sessions, which took place against a backdrop of the Beijing Winter Olympic games and a resurgence of COVID outbreaks around the country, it is apparent that a U-turn on China's zero-COVID policy is still not on the horizon. Pandemic control and prevention measures are expected to continue, raising concerns over the ongoing travel restrictions and its implications on European businesses operating in China. **Stephanie Sam**, communications and business manager with the European Chamber, explains the impact the closed borders have had so far on the foreign business community.

Prior to the outbreak of the pandemic, cross-border business travel between multinational companies' (MNCs') European headquarters (HQ) and their regional offices in China was a common occurrence. Yet, with China's current stringent quarantine measures, which vary from province to province, it has now become an unobtainable corporate luxury. China's outbound travel is still extremely limited, with the availability of international flights down by 95 per cent compared to pre-COVID-19 levels.[1] For inbound travellers, the issue is twofold: those 'lucky' enough to secure a coveted flight then face the mandatory '14+7+7' system that has been implemented since the start of 2021: a fortnight in centralised-hotel quarantine, followed by another week of home isolation and then seven more days of health monitoring – a lengthy and burdensome pause for a short-term business trip. For many executives, this is simply out of the question. The big issue now is: can this mass restriction on mobility remain feasible in the long-term?

Navigating the perception gap back home

For European HQs of China-based companies, a key component of communication with their China operations is regular visits and people-to-people exchanges. With the growing uncertainty regarding the resumption of cross-border travel and the lack of transparency on official decision-making, it is unsurprising that European HQs have been left frustrated, which strains the relationship between them and their China operations. Exacerbated by negative media coverage influenced by debates over the origins of the pandemic and heightened geopolitical tensions, negative perceptions about the Chinese market are at an all-time high.

Despite this, alongside the ongoing concerns over decoupling and China's apparent shift towards self-sufficiency, foreign investors remain enthusiastic about conducting business in China due to its economic bounce-back in recent

[1] Chen, Guang; Phillips, Matthew; Saxon, Steve; Yu, Jackey, *China's uneven travel recovery: Long road to international travel furthers domestic opportunities,* McKinsey, 30th August 2021, viewed 6th March 2022, <https://www.mckinsey.com/industries/travel–logistics–and–infrastructure/our–insights/chinas–uneven–travel–recovery–long–road–to–international–travel–furthers–domestic–opportunities>

years. This is illustrated by the Chinese market seeing double-digit growth in foreign direct investment (FDI) in 2021, hitting over United States dollars (USD) 173 billion.[2] The European Chamber's *Business Confidence Survey 2021* findings showed that only a mere nine per cent of respondents were considering shifting investment out of China – the lowest share on record.[3] However, it is inevitable that business confidence will become increasingly shaky the longer the travel restrictions remain, potentially impacting investment decisions in the long run.

Face-to-face is essential

Whilst the implementation of video conferencing is on the rise, the benefits of face-to-face communication in fostering intercultural understanding, building cross-border relations and the exchange of knowledge cannot be replaced by even the most advanced technology. According to a global survey conducted by *Harvard Business Review*, 95 per cent of the 2,300 survey participants indicated that face-to-face meetings are essential to building and maintaining long-term business relationships.[4] Face-to-face communication through international travel has also been found to be crucial in fostering innovation and technology transfer – both of which are essential factors in stimulating economic growth.[5] Arguably, it is the high impact of in-person meetings that deliver the level of understanding and confidence necessary to conduct business in a volatile market like China.

Impact on regional headquarters

Commonly referred to as China's 'gateway to the rest of the world', and as the city with the highest number of foreigners and the country's largest centre for multinationals (MNCs), Shanghai has been heavily impacted by the travel restrictions. The local authorities have highlighted the priority it places on innovation by increasing the number of foreign-invested research centres to 506, up 25 in 2021 alone.[6] This indicates that the city remains a top destination for foreign investment in expanding industrial chains.

Shanghai has also demonstrated its ambition to make the 'headquarters economy' a key component of its economic development, with a recorded total of 831 regional headquarters (RHQ) of MNCs in Shanghai, with an increase of 60 in 2021.[7] RHQ are seen as a bridge between local subsidiaries and global corporate HQ,[8] and location preferences tend to favour cities that are geographical controlling points of the global economy, offering a strategic location for global transport and communication as well as a transparent regulatory environment.

Whilst, according to the 2011 European Chamber *Asia-Pacific Headquarters Study*, Shanghai was once seen as a promising hub for RHQ,[9] its attractiveness has declined over the past decade due to ongoing difficulties with market access reforms and the lack of a transparent regulatory environment, which have only been aggravated by the travel restrictions that hinder cross-border business travel between China and the rest of the world. As long as travel restrictions remain, it is simply unthinkable to establish Asia-Pacific (APAC) RHQ in a location which does not allow for easy cross-border access and the free movement of employees.

The 'expat exodus'

The pandemic sent shockwaves through industries and economies across the world, but perhaps the greatest impact has been on a more personal level – uncertainty and loss of connection. The 'corporate Armageddon'[10] has not only affected business confidence but also left companies operating in China facing a mass 'expat exodus' as pandemic-induced restrictions leave foreign employees unable to reunite with family and friends overseas for over two years. This has resulted in a war for talent on two fronts – maintaining the competitiveness of China (Shanghai in particular) in attracting foreign talent, as well as retaining the current China-based foreign nationals who are growing increasingly weary of their everyday reality trapped in China.

The temporary logic of zero-COVID relies on an approach of unending emergency with severely restricted international travel, mass testing and intrusive large-scale lockdowns,[11] which is not sustainable in the long run. The effects from COVID-19's blow to business travel are expected to linger for years to come, but the challenge now is for China to bolster confidence through gradual opening-up measures. Only through the resumption of business travel and people-to-people exchanges will foreign direct investment be facilitated and innovation boosted, thereby guaranteeing long-term economic recovery and maintaining Shanghai's key role in China's internationalisation plans in becoming a hub for regional APAC headquarters.

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2 Zeng, Ziyi, *Expert: China remains a place of opportunities for foreign investment, CGTN,* 7th March 2022, viewed 9th March 2022, <https://news.cgtn.com/news/2022–03–07/Expert–China–remains–a–place–of–opportunities–for–foreign–investment–18cT8mGFyGQ/share_amp.html>

3 *European Business in China Business Confidence Survey 2021,* European Union Chamber of Commerce in China, 2021 <https://www.europeanchamber.com.cn/en/publications–business–confidence–survey>

4 *Managing Across Distance in Today's Economic Climate: The Value of Face–to–Face Communication, Harvard Business Review,* 20th April 2016, viewed 2nd March 2022, < https://hbr.org/resources/pdfs/comm/british–airways/hbras_ba_report_web.pdf>

5 Hovhannisyan, Nune; Keller, Wolfgang, *International Business Travel And Innovation: Face–To–Face Is Crucial,* VoxEU, 20th April 2010, viewed 1st March 2022 < https://voxeu.org/article/international–business–travel–and–innovation–face–face–crucial

6 Huaxia, *Shanghai Home to 831 Regional Multinational Headquarters, Xinhua,* 23rd January 2022, viewed 3rd March 2022 <http://www.xinhuanet.com/english/20220123/b009d1f3e1c4429ba46f5e64bb1d23f3/c.html>

7 Huaxia, *Shanghai Home to 831 Regional Multinational Headquarters, Xinhua,* 23rd January 2022, viewed 3rd March 2022 <http://www.xinhuanet.com/english/20220123/b009d1f3e1c4429ba46f5e64bb1d23f3/c.html>

8 Mahnke, Volker; Ambos, Björn; Nell, Phillip; Hobdari, Bersant, 2012, *How Do Regional Headquarters Influence Corporate Decisions in Networked MNCs?, Journal of International Management,* vol. 18, pp. 293–301, viewed 4th March 2022, <https://doi.org/10.1016/j.intman.2012.04.001>

9 *European Business in China Asia–Pacific Headquarters Study 2011,* European Chamber, 2011, <https://www.europeanchamber.com.cn/en/publications–asia–pacific–headquarters–study>

10 Kinder, Tabby; Lewis, Leo; Mitchell, Tom; Riordan, Primrose; Chan, Ho–him; *Zero–COVID policies threaten Hong Kong's place in the world, Financial Times,* 15th January 2022, viewed 6th March 2022 <https://www.ft.com/content/dd81844a–31a6–48de–9de5–235ade24c3b5>

11 Morisson, J Stephen; Kennedy, Scott; Huang Yanzhong; *China May Move Beyond Zero–COVID. That Could Benefit Us All.* Center for Strategic and International Studies, 9th February 2022, viewed 5th March 2022 <https://www.csis.org/analysis/china–may–move–beyond–zero–COVID–could–benefit–us–all>

20TH DEC.
JIANGSU

Nanjing Chapter manager selected as Jiangsu Youth Friendship Envoy

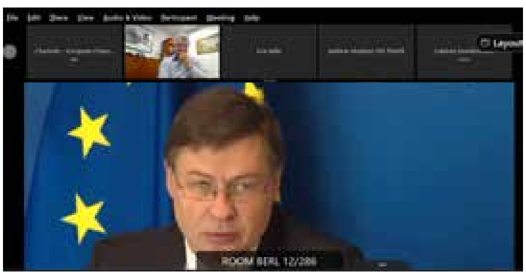
Haiyan You, GM of the European Chamber Nanjing Chapter, was one of the friendship envoys selected by the Foreign Affairs Office of the Jiangsu Provincial People's Government.
Photo: European Chamber

On 20th December 2021, Haiyan You, general manager (GM) of the European Chamber Nanjing Chapter, was one of 17 people selected as friendship envoys by the Foreign Affairs Office of the Jiangsu Provincial People's Government. The envoy programme was launched in 2011 to encourage and support young people in contributing to friendly exchanges between Jiangsu and foreign countries.

Since GM You joined the European Chamber in 2015, she has developed dynamic partnerships between the Nanjing Chapter and the public sector, the media, non-government organisations and other institutions, and created a dialogue mechanism between European business and Jiangsu government departments at different levels. This greatly improved mutual understanding on the importance of policy predictability and transparency, impartiality, inclusion and partnership, and fair competition, among others. GM Yao has also promoted European Union (EU)-Jiangsu cooperation by organising events such as the Bilateral Investment Forum.

21TH DEC.
ONLINE

President Wuttke discusses key Chamber messaging with EU Trade Commissioner



President Wuttke joined an online meeting with Valdis Dombrovskis, executive vice president and commissioner for trade at the European Commission.
Photo: European Chamber

On 21st December, Jörg Wuttke, president of the European Chamber, joined an online meeting with Valdis Dombrovskis, executive vice president and commissioner for trade at the European Commission. The discussion covered the key messages of the Chamber's Position Paper 2021/2022, decoupling, Lithuania, the Beijing Winter Olympics and other issues relevant to the EU-China relationship.

24TH JAN.
BEIJING

Chamber and MOF meet on tax, green fiscal policies and procurement

VP Giacconi led an online meeting with Yang Yingming, DG of the Department of International Economic Relations at the Ministry of Finance.
Photo: European Chamber

On 24th January, Guido Giacconi, vice president (VP) of the European Chamber, led a delegation—comprised of representatives from the Chamber's Finance and Taxation Working Group, Healthcare Equipment Working Group, Carbon Market Sub-working Group, and the Fashion and Leather Desk—in an online meeting with Yang Yingming, director general (DG) of the Department of International Economic Relations at the Ministry of Finance (MOF). Views were exchanged on value-added tax reform, fiscal incentive policies to support green development, government procurement and duty-free policies in Hainan. DG Yang explained that the MOF is currently drafting guiding opinions for the provision of fiscal support for green development as part of China's decarbonisation plan. He asked for more EU-China cooperation in this area.

26TH JAN.
BEIJING

Chamber explores decarbonisation collaboration options with MEE

President Wuttke met online with Zhao Yingmin, vice minister of the MEE.
Photo: European Chamber

On 26th January, President Wuttke met online with Zhao Yingmin, vice minister of the Ministry of Ecology and Environment (MEE), to present the *European Business in China Position Paper 2021/2022*, and discuss the potential for EU-China collaboration on decarbonisation. Vice Minister Zhao thanked the Chamber for its long-term support in promoting EU-China cooperation in trade, investment and environmental protection, and its engagement in MEE policy research. He concluded by saying that China's 'dual circulation' policy will not stop the reform and opening-up process. Representatives from the Chamber's Environment Working Group; Petrochemicals, Chemicals and Refining Working Group; Carbon Market Sub-working Group; and Quality and Safety Services Sub-working Group also attended the meeting.

10TH FEB.
CHENGDU

Southwest Chapter shares members' concerns with Chengdu Investment Promotion Bureau

VP and Southwest China Chapter Chair Bagnasco met with DDG He Li of the Chengdu Investment Promotion Bureau.
Photo: European Chamber

On 10th February, Massimo Bagnasco, European Chamber vice president (VP) and Southwest China Chapter chair, met with Ms He Li, deputy director general of the Chengdu Investment Promotion Bureau. VP Bagnasco shared local European business concerns relating to the 14th Five-year Plan implementation in terms of carbon neutrality, and regarding the Chengdu-Chongqing Economic Circle. Southwest China Chapter Vice Chair Paul Sives and General Manager Sally Huang also joined the meeting.

12TH JAN.
SHANGHAI

Shanghai Chapter GM joins local CPPCC Committee 'Riverside Meeting Hall'

Dr Ioana Kraft, GM of the European Chamber Shanghai Chapter, joined the 5th 'Riverside Meeting Hall' chaired by Mr Zhou Hanmin, vice chair of the CPPCC Shanghai Committee.
Photo: European Chamber

On 12th January, Dr Ioana Kraft, general manager (GM) of the European Chamber Shanghai Chapter, joined the 5th 'Riverside Meeting Hall' chaired by Mr Zhou Hanmin, vice chair of the Chinese People's Political Consultative Conference (CPPCC) Shanghai Committee. GM Kraft presented member companies' challenges and general recommendations on topics such as the availability of booster shots for foreign residents and travel restrictions impacts. She also emphasised the central role European enterprises play in increasing competitiveness and innovation capacity in Shanghai, and welcomed further opening – especially in the financial, value-added telecommunications and pharmaceutical sectors.

Corporate Social Responsibility

And the path to carbon neutrality
by **Chia-Lin Coispeau** and **Katell Le Goulven** in collaboration with **Yijun Wu**

On 2nd December 2021, the European Chamber hosted its 8th Corporate Social Responsibility (CSR) Awards and Forum in Nanjing. The event provided participants the opportunity to share viewpoints and case studies on the exercise of CSR.

Amidst lockdowns and re-openings worldwide, the COVID-19 pandemic has been challenging companies, and shuffling their priorities and initiatives when it comes to CSR. While dealing with the consequences of the pandemic has been the main area of focus, several other topics have also proven to be of great importance over the same period. **Chia-Lin Coispeau** of **Maverlinn Impact Innovation** and **Katell Le Goulven**, of the **INSEAD Hoffmann Global Institute for Business and Society,** in collaboration with **Yijun Wu** from the **Swiss Embassy** in Beijing, bring us the latest on developments in climate change and carbon neutrality during the pandemic.

Global business looks very different today than it did just a few years ago. The pandemic has been a major factor in this shift, but it is just one of a number of risks to emerge. As CEOs are expected to engage with societal challenges and take action, many have responded by integrating CSR actions into their business plans.

Leaders of business education say enterprises should be on the lookout for new socioeconomic risks as recovery from the pandemic slows and instability mounts. Inequality is also rising along with distrust in key institutions and calls for businesses to be held accountable for their role in society. These emerging risks, the experts says, are reasons to act.[1]

In China, one issue that has remained high on companies' agendas in recent years is diversity and inclusion. Numerous studies reveal that vulnerable segments of the population, such as women or part-time workers, took a harder hit from the pandemic. Access to digitalisation, especially for children and rural areas, also remains important amid the 'fourth industrial revolution'. In the environment arena, biodiversity and ocean protection are key, and have been given special focus in China in particular, due to the fact the country hosted the COP15 UN Biodiversity Conference in Kunming in 2021.

Another top concern is climate change. The path to carbon neutrality remains of upmost importance, and requires strong commitment and solid actions from corporations. In 2015, the Paris Agreement set out a global framework in an attempt to prevent dangerous climate change impacts. Many individual European Union (EU) Member States have announced specific timelines to achieve 'net zero' under this framework. The EU's objective of achieving climate neutrality by 2050 is at the heart of the European Green Deal, and in line with its belief that transitioning to a climate-neutral economy is both an urgent societal challenge and an opportunity to innovate for a better future for all.

Chinese President Xi Jinping made a significant pledge at the UN General Assembly in 2020 that China would become carbon neutral by 2060. Coupled with China's earlier commitment to peak carbon emissions by 2030, the '30/60' goal has become a driving force for the Chinese Government and companies alike. In October 2021, China released a key climate-related policy document; the *Action Plan for Reaching Carbon Dioxide Peak Before 2030*. The action plan focusses on areas such as reducing coal consumption, transitioning to renewable energy, reaching carbon peak in the most polluting industries—such as steel and construction—switching to green mobility and developing the circular economy.

Transitioning to a green economy comes with a cost. According to the International Energy Agency (IEA), achieving net-zero carbon emissions by 2070—which the Paris Agreement has deemed necessary to keep global temperatures under the agreed 2°C (degrees Celsius) limit—will require euro (EUR) 31 trillion additional investments above commitments already made by all countries.[2] Separately, the International Renewable Energy Agency (IRENA) estimates that investment in transforming the energy system needs to increase by EUR 117 trillion above the current plans.[3]

This does not mean that tackling climate issues is unprofitable for corporations. Many are already changing their business models to put sustainability at the heart of their operations and services. In this way, CSR becomes an effective tool for mitigating climate change. This can be achieved through actions such as research and development, design, environment-friendly manufacturing techniques, or adopting a green, transparent policy and environmental disclosure system. Global sustainable investment now totals EUR 31.5 trillion,[4] with investors increasingly being driven by environmental, social and governance (ESG)-related factors that have traditionally been excluded from a company's balance sheet.

[1] Ilian Mihov, Katell Le Goulven and Mark Stabile, *Six global trends in business and society,* The Edge Malaysia, 26th February 2022, <https://www.theedgemarkets.com/article/my–say–six–global–trendsbusiness–and–society>

[2] *Energy Technology Perspectives 2020,* IEA, 2020, viewed 25th February 2022, <https://www.iea.org/reports/energy–technology–perspectives–2020>

[3] Dr Patrick Schröder and Jan Raes, *Financing an inclusive circular economy,* Chatham House, 19th July 2021, viewed 25th February 2022, <https://www.chathamhouse.org/2021/07/financing–inclusive–circular–economy/02–sdgs–and–how–circular–economy–finance–can–0>

[4] Dominique Blanc and Ashnika Goyal, *Latest edition of the Global Sustainable Investment Review confirms strong growth of ESG assets all over the world,* Natixis, 29th July 2021, viewed 25th February 2022, <https://gsh.cib.natixis.com/our–center–of–expertise/articles/latest–edition–of–the–global–sustainable–investment–review–confirms–strong–growth–of–esg–assets–all–over–the–world>

When companies focus on ESG issues, it has a long-term impact on their financial success. Adopting sustainable innovation solutions can reduce operating costs substantially, while failure to tackle climate issues, on the other hand, may cost much more in the long run. Since 2000, according to the Energy Transitions Commissions, global warming has cost the United States and the European Union at least EUR 3.5 trillion each in lost output.[5] In addition, the increase of climate-focussed regulations around the world will eventually affect markets and change business models. For example, in Europe, large public-interest companies with more than 500 employees must now disclose information on the social and environmental impact of their activities.

The UN Climate Change Conference 2021, or COP26, took place in Glasgow in November 2021. In his speech to the assembly, with nearly 200 countries in attendance, UN Secretary General Antonio Guterres stated that while the Glasgow Climate Pact was an important step, it was not enough – climate action needs to be accelerated. He said the actions governments, companies and individuals take in the next decade will be crucial.

Many European companies and institutions are already stepping up efforts to align their core businesses with the call for a green future. Governments have sent a strong signal both at home and in the international arena and business education is preparing leaders to seize opportunities in the race to net zero. During COP26, the Business Schools for Climate Leadership initiative brought together eight of Europe's top management education institutions to discuss ideas and innovations that lead to net zero emissions and truly sustainable development.[6]

One central lesson learned from the health crisis of the past two years is the need to work together to achieve change on a global scale. China's green economy transition will for sure open new doors for international companies operating in the local market. Its 30/60 goal remains challenging, but can be viewed as an opportunity; innovation and cooperation between European companies and China's government, cities and organisations can lay the foundation for a sustainable and prosperous, zero-emission global economy.

Acknowledgements

Finally, we would like to take this opportunity to thank the European Chamber, the judges, the winners and all applicants, and the speakers of the 8th CSR awards for providing such an enriching discussion platform. Eb

[5] Ziady, Hanna, *Getting to net zero emissions could cost $2 trillion a year, report says, CNN Business,* 16th September 2020, viewed 24th February 2022, <https://edition.cnn.com/2020/09/16/business/net–zero–climate–energy–transitions–commission/index.html>

[6] Business Schools for Climate Leadership Toolkit, <https://sites.google.com/view/bs4cl/toolkit?authuser=0>

Winners of the 8th CSR Awards

MNCs CATEGORY

Leadership in CSR & Sustainable Growth (National):
BSH Home Appliances Holding (China)

Leadership in CSR & Sustainable Growth (Regional):
BASF-YPC

Excellence in Environment Conservation (National):
EnviroVest Industrial

Excellence in Environment Conservation (Regional):
University of Nottingham, Ningbo, China

Excellence in Carbon Neutrality (National):
Signify (China) Investment

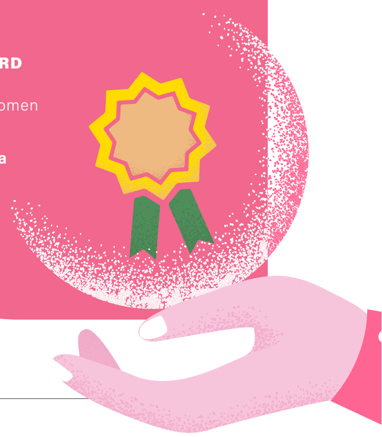
Excellence in Carbon Neutrality (Regional):
Philips (China) Investment

NGOs / Social Enterprise CATEGORY

Excellence in Social Innovation:
Netspring Green IT Programs

SPECIAL AWARD

Excellence in Women Empowerment:
SAP Labs China



Chia-Lin Coispeau is partner at **Maverlinn Impact Innovation**, an advisory firm which aims at reducing social and environmental issues in China and Europe. Our team craft innovative strategies to deliver superior value to industry leaders. Maverlinn is committed to promote a model of humane development through constant attention given to personal empowerment and the common good.

NOTE: The Chamber gratefully acknowledges the support of the sponsors of our CSR event: BASF-YCP, Arkema, University of Nottingham, Ningbo, Epiroc, Shui On Work & Innospace and Maverlinn.

After the Winter Olympic Games Beijing 2022,

WHAT'S NEXT?

By **Vicky Zhang**

Apart from skating, China has historically not been as successful in the Winter Olympics as it usually is in the Summer Games. Therefore, many people were skeptical when, as part of China's bid to host the 2022 Games, President Xi Jinping pledged that the event would encourage 300 million Chinese people to engage with winter sports. However, those numbers were realised. **Vicky Zhang**, events coordinator at the **European Chamber**, looks into what to expect from China's winter sports industry now that the Beijing Games are over.

"Today, thanks to this ambition, China is a winter sport country. Over 300 million people are engaged in winter sports in about 2,000 ski resorts and ice rinks. This extraordinary achievement opens a new era for global winter sport. It will raise the global participation to new levels, benefitting the Chinese people as well as winter sport enthusiasts around the world." A quote from the International Olympic Committee President Thomas Bach's speech during the opening ceremony of the Winter Olympic Games Beijing 2022. The following 16 days of thrilling competition meant Beijing fulfilled its promise to the world to host a "simple, safe and splendid" Olympic Games.

The question is, now that the Winter Olympic Games have ended, will the buzz around ice and snow sports last in China? In cooperation with the Ministry of Culture and Tourism, on 17th February 2022, Jilin University launched its *China Ice and Snow Economic Development Index Report*, which predicts the domestic winter sports industry will see a drastic rise. This means not just winter sports, but also ice and snow tourism, winter sports equipment, and winter sports culture, among others. According to the report, in 2021, China's ice and snow economy doubled compared to 2016 levels; in 2022, the momentum of strong and sustainable development is expected to continue, with the chain growth rate to exceed 30 per cent.

Alongside the positive forecast, the report also pointed out the current unbalanced development of China's ice and snow industry, especially in equipment manufacturing. At the launch of the report, lead author Professor Xin Benlu stated that no matter whether high-end equipment, field equipment or personal equipment, all are China's weak points at the moment. He illustrated this by pointing out that in the majority of large ski resorts in China, more than 80 per cent of the high-end equipment on site will be imported from Europe. However, he said that though this is a problem currently, it is also an opportunity for the Chinese market of the future.

In recent years, winter sports development has entered a golden period, and the sports industry has played an increasingly important role in the overall pattern of China's economy. Especially in the wake of the successful hosting of the Beijing 2022 Winter Olympics, a new chapter has opened for the sports industry in the development of winter sports in China. Significantly, at this year's legislative Two Sessions meetings in Beijing, many National People's Congress representatives put forward suggestions to help develop China's sports industry while ensuring the promotion of the national economy and people's livelihood.

So, to return to the opening question, the answer is yes, the buzz will last in many ways in China's ice and snow sports industry.

In 2005, when President Xi visited Huzhou in Zhejiang Province, he said "clear waters and green mountains

are as good as mountains of gold and silver" to stress that environmental governance and ecological restoration are as important as economic growth. Almost two decades later, President Xi again spoke about mountains of gold and silver, but this time saying "ice and snow are also golden mountains and silver mountains", indicating China's determination to continue developing the winter sports industry, even after the Olympic Games. But how to maintain people's enthusiasm for winter sports in the 'post-Olympic' era? To answer that, the China Tourism Academy, the Data Centre of the Ministry of Culture and Tourism, compiled the *China Ice and Snow Tourism Development Report (2022)*.

According to the report, the Beijing Winter Olympics will incentivise 71.7 per cent of tourists to maintain or increase their consumption of ice and snow tourism, and 68.4 per cent of those surveyed expect such tourism to increase due to the influence of the Games. A special survey by the China Tourism Academy shows that 90.1 per cent of respondents have experienced some form of ice and snow tourism activities. In terms of frequency, 63.3 per cent participate in ice and snow tourism once or twice a year, and about a quarter take part three or four times a year. High-frequency consumption is increasingly becoming the norm, as winter sports shift from "just to experience" to "have to experience" for more and more Chinese people.

The new pattern of ice and snow tourism has been shaped by the normalisation of epidemic prevention and control. The 'three pillars' of China's ice and snow tourism industry are located in the northeast region, the Beijing-Tianjin-Hebei region and in Xinjiang. By the end of the 14FYP period, the northeast ice and snow industry is expected to attract 300 million tourists, with large-scale consumption generating Chinese yuan (CNY) 500 billion. The Beijing-Tianjin-Hebei region has a target of 100 million people enjoying ice and snow tourism with expenditure of CNY 250 billion. In Xinjiang, by 2025, it is estimated that there will be 100 million people engaged in ice and snow tourism, leading to CNY 200 billion in winter sports revenue.

Although the increases in per capita income in China are the main driving force for the rising domestic demand for winter sports, it is also inseparable from the external strategic opportunities the Beijing Winter Olympics have brought.

"It may have started with government policy and the Winter Olympics, but now people see skiing as an enjoyment and a means to socialise," Chen Qian of Chinese consumer research firm Daxue Consulting said. Winter sports are attracting more and more young people to try it out for the first time, especially since popular Team China athletes Eileen Gu and Su Yiming won gold medals at the Games. No matter whether it is an Eileen Gu-related trend, or purely curiosity and passion, there is no doubt that more and more Chinese are engaging with winter sports and that China will continue to invest in the industry as a result.

1 Zhang Wenhan, *The 'China Ice and Snow Economic Development Index Report' is released, predicting that the ice and snow economy will experience explosive growth in the post–Winter Olympics era*, Jilin University, 18th February 2022, viewed 8th March 2022, <https://news.jlu.edu.cn/info/1211/55229.htm>

2 *China Ice and Snow Tourism Development Report (2022): "300 Million People Going on Ice and Snow" From Vision to Reality,* China Tourism Academy, 6th January 2022, viewed 8th March 2022, <http://www.ctaweb.org.cn/cta/gzdt/202201/0e0ee233eeb740f2bcd10d3936466a7a.shtml>

3 Zhang Xiaoke, *Looking at development through data – the Winter Olympics boosts the ice and snow industry into the fast lane*, General Administration of Sport, 3rd March 2022, viewed 8th March 2022, <https://www.sport.gov.cn/n20001280/n20067608/n20067635/c24059862/content.html>

4 Jess Ma, *Will China's Winter Olympics buzz last? Judging the success of the Beijing 2022 Games, South China Morning Post*, 24th February 2022, viewed 8th March 2022, <https://www.scmp.com/sport/china/article/3168158/will–chinas–winter–olympics–buzz–last–judging–success–beijing–2022>

Trade Secret Protection in China in the Civil Code Era

Illustrated by a recent trade secret infringement court case

by **Ivy Liang**

On 26th February 2021, the Supreme People's Court of China (SPC) handed down the second-instance judgment in the dispute between Jiaxing Zhonghua Chemical Company and defendants Wanglong Group over the infringement of technical secrets involving the chemical vanillin. The SPC ordered the defendants to cease the infringement and pay damages of Chinese yuan (CNY) 159 million, which is the largest compensation granted by the SPC in a trade secret infringement case to date. By providing an overview of this case, **Ivy Liang** of **Gowling WLG** examines how China's Civil Code will affect the protection of trade secrets in the country.

Case briefing

Jiaxing Zhonghua Chemical Company and its associated companies developed a new production process for vanillin and thereafter protected it as a trade secret. Prior to the infringement in this case, Jiaxing Zhonghua Chemical Company was the largest manufacturer of vanillin in the world, accounting for approximately 60 per cent of the global vanillin market. Following the infringement by Wanglong Group, this share fell to 50 per cent, and the Wanglong Group quickly became the third-largest producer of vanillin globally..

In 2010, a former employee of Jiaxing Zhonghua Chemical Company disclosed the trade secrets for the vanillin production process to the chair of Wanglong Group. This former employee subsequently worked at the Wanglong Group vanillin workshop.

WHAT IS VANILLIN?

Vanillin is a synthetic replacement for vanilla, and one of the most commonly-used food additives, often preferred by manufacturers to the natural substance. Apart from food production, it is also used in pharmaceuticals—as an anti-inflammatory agent, an antioxidant and an anticonvulsant—health and personal care products, and animal feed products, among other industries.

In 2018, Jiaxing Zhonghua Chemical Company initiated civil proceedings against Wanglong Group and its chair as well as the former employee, for the infringement of the technical secrets of vanillin. The plaintiffs sought a cease of infringement order and compensation of CNY 502 million.

Key takeaways

1. Natural persons associated with the infringing company can be held jointly liable

Natural persons—such as legal representatives, beneficial owners of the company, and key management staff—may be held jointly liable with legal persons and/or the company under certain conditions. For example, those who exercised their will by substantially 'controlling' the company, and have a common intention to carry out the acts of infringement with the company, might be held jointly liable. In this regard, the court will generally consider certain factors in determining joint liability, including the following:

- The legal representatives, beneficial owners and key management staff of the infringing company that have a history of infringement or other intellectual property (IP) disputes with the right holder;

- The persons who have established one or several companies mainly profiting from the infringement;
- The persons whose personal contact information is regularly used as the prime contact information in the advertisement, official website, microblog or WeChat public account of the infringing company; and
- The persons whose personal bank accounts are used for receiving payment on behalf of the company.

2. The alleged infringer shall bear the burden of proof of the trade secrets' non-existence

Initially, the preliminary burden of proof falls on the right holder until they provide a reasonable explanation of the distinctiveness of the secrets. At this point, the alleged infringer needs to prove that the information has entered the public domain and is therefore not a protectable trade secret.

In other words, the burden of proof will shift to the alleged infringer after the right holder proves the establishment of trade secrets with *prima facie* evidence.

3. Conduct not directly related to the infringement can affect the amount of compensation

When determining the amount of compensation, the court might take into consideration the defendants' conduct or acts during the proceedings. For example, this could include defendants refusing to provide relevant evidence, hindering the investigation, failing to comply with the ruling of the act or asset preservation order, delaying the procedure unreasonably, and so on.

Although the conducts mentioned above are not directly related to the infringement *per se*, they might be nonetheless considered as decisive elements in determining the amount of compensation by the court.

4. The breakthrough of 'civil prior to criminal' procedure

In judicial practice, the courts tend to handle criminal cases prior to civil ones in terms of infringement of trade secrets.

In the vanillin case, the Jiaxing Zhonghua Chemical Company initially reported the infringement to the Public Security Bureau (PSB) and attempted criminal proceeding, to no avail. Once the SPC had handed down its decision in this civil case that an infringement had occurred, it proactively transferred the case materials to the PSB. The PSB and the procuratorate are expected to start criminal prosecution procedures in the near future.

It can therefore be naturally inferred from this case that the 'civil prior to criminal' procedure, meaning starting civil proceedings before resorting to the criminal procedure, should also be considered as a workable choice for trade secrets right holders.

5. Punitive damages must be claimed in the first-instance proceeding

The Civil Code of the People's Republic of China, effective from 1st January 2021, extended the system of punitive damages for all types of infringements of IP rights. Punitive damages can be awarded in civil cases to plaintiffs on top of compensation damages if a defendant is found to have committed an offense. However, according to a judicial interpretation issued by the SPC, the plaintiff must actively claim punitive damages, and a court shall not impose punitive damages on a plaintiff *ex officio*. In addition, punitive damages should be claimed during the first-instance court proceedings.

In this case, as Jiaxing Zhonghua Chemical Company did not claim for punitive damages in the first instance proceeding (as the case was initiated in 2018), the court did not impose punitive damages on the Wanglong Group, despite the case being adjudicated after the Civil Code came into effect.

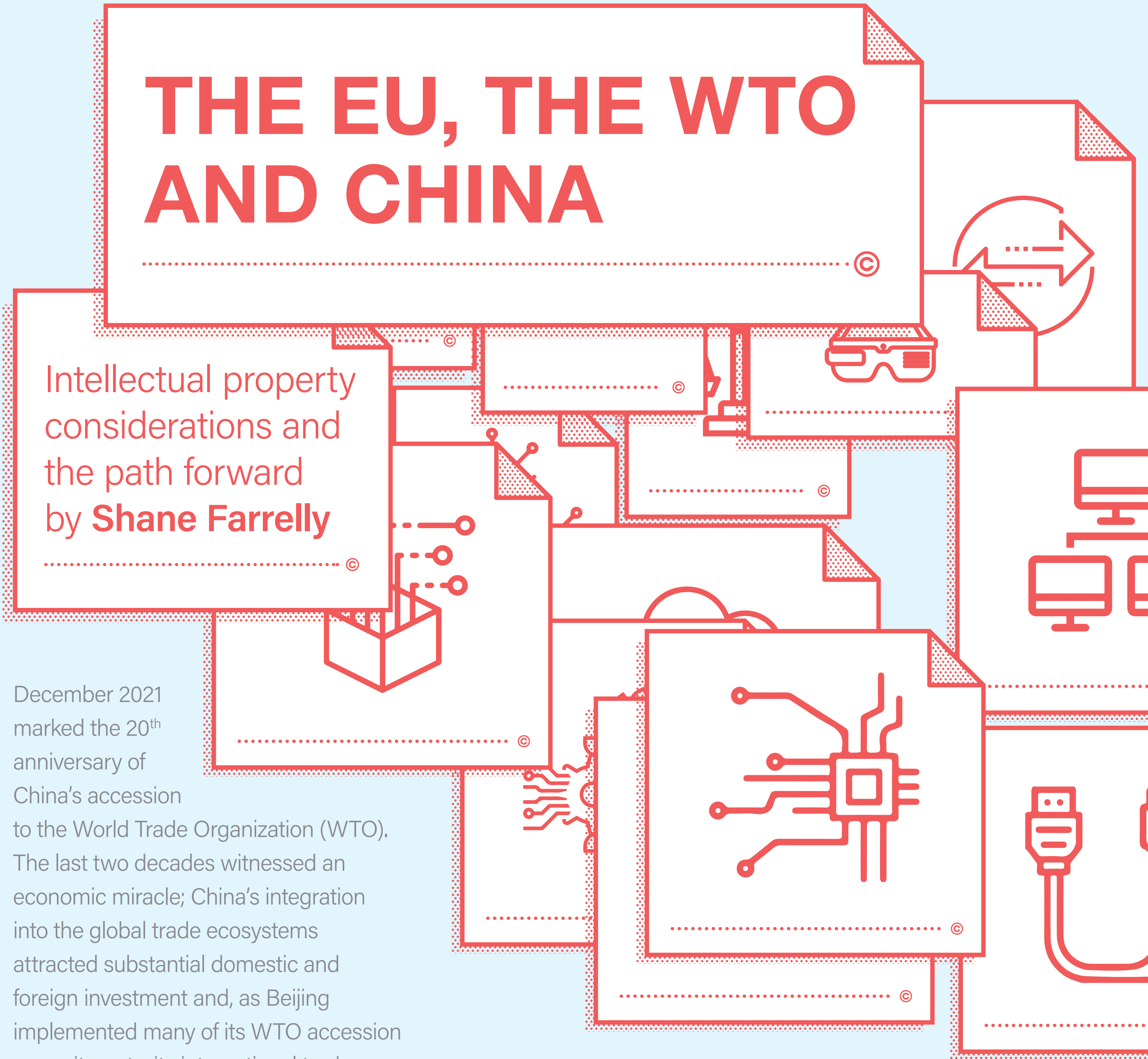
In trade secret civil cases, the court normally examines the following information below to determine whether an infringement has taken place:

- First, whether the plaintiff is entitled to claim the right to the information involved in the case;
- Second, whether the defendant carried out acts that may infringe the right holder's trade secrets; and
- Finally, deciding on the specific civil liability to be borne by the defendant.

As the plaintiff bears the primary burden of proof for the existence of the trade secrets, right holders should take the following measures to protect their valuable business and technical information:

- Establish a robust trade secrets protection system;
- Use a valid non-disclosure agreement when dealing with confidential matters or transactions with affiliated companies, employees, or business partners; and
- In the event of possible leakage of trade secrets, promptly approach the relevant professionals first for their assistance in handling the crisis and collecting evidence.

Ivy Liang is a former IP judge in China, with 16 years of experience in the judiciary before joining Gowling WLG. Ms Liang is qualified as a Chinese lawyer, and has extensive and practical experience of all aspects of the judicial system in Mainland China. She gained her LLM degree from the City University of Hong Kong, which equipped her with the horizon of both civil law and common law. Ms Liang excels in developing and enforcing comprehensive online and offline IP strategies in the clients' best interests.



THE EU, THE WTO AND CHINA

Intellectual property considerations and the path forward

by **Shane Farrelly**

December 2021 marked the 20th anniversary of China's accession to the World Trade Organization (WTO). The last two decades witnessed an economic miracle; China's integration into the global trade ecosystems attracted substantial domestic and foreign investment and, as Beijing implemented many of its WTO accession commitments, its international trade expanded dramatically. However, not all commitments have been enforced equally assiduously. On 18th February 2022, the European Union (EU) launched an infraction against China at the WTO, arguing that Chinese courts were preventing European companies from protecting their patents, particularly for telecom technology. **Shane Farrelly** of **D'Andrea & Partners Legal Counsel** examines how a lack of intellectual property (IP) enforcement in China may threaten innovation and cooperation with the EU and European companies on more than one front.

Foreign court deterrent and fines

In the latest WTO dispute, the European Commission filed the challenge on behalf of the EU's 27 Member States, claiming that European companies are being deterred from going to international courts outside the Chinese jurisdiction to safeguard their standard essential patents (SEPs)—patents involving a technology or process essential to comply with a standard—that have been used illegally or without appropriate compensation by Chinese companies.

In August 2020, China's Supreme People's Court decided that Chinese courts can impose 'anti-suit injunctions', which forbid patent holders from pursuing a case outside the Chinese jurisdiction. A notable example can be seen in the case of Huawei and ZTE's infringement of two of Conversant Deutschland GmbH's SEPs as ruled in the Düsseldorf Regional Court in 2020. The court prohibited the two Chinese companies from selling their mobile cellular systems in Germany. Meanwhile, the Supreme Court of China prohibited Conversant from enforcing the rulings before a final judgment was rendered in China.

Several SEP holders that went to international courts for redress were subsequently fined significant amounts (up to Chinese yuan (CNY) 1 million daily until the final judgment in the case) or issued criminal charges by Chinese courts. In addition, it has been alleged that judgments from foreign courts have been ignored.

Licensing Fees

According to the European Commission, Chinese courts have set licensing fees at around half the market rate previously agreed on between western technology providers and manufacturers.[1] In conjunction with the 'anti-suit injunctions', this means patent holders have been placed under intense pressure to settle for licensing fees below market rates. Licensing fees are traditionally reinvested into a company's research and development activities, therefore lower licensing fees ultimately lead to decreased levels of innovation, which is detrimental to the future competitiveness of the EU.

[1] *EU challenges China at the WTO to defend its high–tech sector*, European Commission, 18th February 2022, viewed 29th March 2022, <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2361>

Resolving the issue of forced technology transfers

China has long been accused by the EU and other parties of enacting policies and practices that allow forced / coerced IP disclosures. As far back as 2018, the EU initiated a previous challenge through the WTO against systemic practices in China that force European companies to give up sensitive technology and know-how (commonly referred to as 'forced technology transfers') as a precondition for doing business in the Chinese market.

China's Foreign Investment Law (FIL), an expansive piece of legislation that came into force in early 2020, sought to put an end to such forced technology transfers. Article 22 expressly forbids "administrative bodies from using administrative means to force technology transfer".

However, according to the European Chamber's *Business Confidence Survey 2021,* 16 per cent of respondents still feel compelled to transfer technology to Chinese entities – the exact same share as in 2020 when the FIL went into effect. Of that 16 per cent, 65 per cent say the compelled technology transfer took place within the previous two years, and 31 per cent report that the transfer was still taking place at the time the survey was being conducted (February 2021). These findings indicate that little has changed in this area despite the enactment of the FIL.

It is also worth noting that the EU-China Comprehensive Agreement on Investment (CAI) likewise sought to create a legal mechanism to prevent forced technology transfers. Its Section 2, Article 3, Clause 3 states: "Neither Party shall directly or indirectly require, force, pressure or otherwise interfere with the transfer or licensing of technology between natural persons and enterprises of a Party and those of the other Party." With the CAI seemingly permanently on hold, it is unlikely that this clause will be able to assist in the full implementation of the FIL in the near future.

Moving forward

Beijing has expressed regret that the EU decided to mount this latest WTO challenge, adding that China has always upheld the multilateral trading system. In a press release on the WTO challenge, the European Commission says it has raised the issue on a number of occasions with China, but without resolution. The US and Japan have also expressed similar concerns on forced technology transfers to Chinese companies, and are expected to join the EU's request for consultations on the WTO challenge.

Meanwhile, an EU-China Summit took place on 1st April. It is likely that this WTO dispute, as well as the EU's earlier challenge on China's trade restrictions on EU Member State Lithuania, were discussed, not to mention the CAI. Many stakeholders still hope for ratification of the CAI, a factor that may allow the agreement to act as a potential olive branch between the two sides (with perhaps special attention afforded to Section 2, Article 3, Clause 3).

D'Andrea & Partners Legal Counsel (DP Group) was founded in 2013 by Carlo Diego D'Andrea and Matteo Hanbin Zhi, both of whom have extensive backgrounds in Chinese and EU law. Our firm's services encompass a full range of foreign direct investment / overseas direct investment-related matters, with a special focus on business relationships between Europe and Asia, inclusive of topics such as cross-border mergers and acquisitions; scouting, relocation and negotiation with local and government authorities; dispute resolution and corporate governance; IP protection, litigation and arbitration; and employment and labour law, among others. DP Group currently has four service entities: D'Andrea & Partners Legal Counsel; PHC Tax & Accounting Advisory; EASTANT Communication and Events; and Chance & Better Education Consulting. DP Group has branches around the world, including in several major developing economies.

BEYOND PANDAS AND HOTPOT

Southwest China Position Paper 2021/2022

In recent years, the Chinese Government has announced several plans aimed at developing the Southwest China region, with the cities of Chengdu and Chongqing designated as key players. These plans include making the two cities and their hinterlands China's fourth city cluster and setting up logistics hubs for the Belt and Road Initiative. These developments have led the European Chamber Southwest China Chapter to launch its third local position paper, outlining how European businesses can contribute to the region, and the difficulties they encounter when trying to do so.

Chengdu-Chongqing Economic Circle

The two cities' most important development goals are intertwined through the Chengdu-Chongqing Economic Circle: a plan to develop a massive urban agglomeration in Southwest China that will provide high-quality living for millions of people, and serve as a high-technology innovation hub.

If the Economic Circle is to succeed in becoming a centre for science and technology with national influence, as well as a more innovation-driven economy—two aims of the initiative—local leaders will need to reform their approach to governance, which tends to favour local companies and especially state-owned enterprises (SOEs). Members of the European Chamber Southwest China Chapter indicate that not only are business opportunities for foreign small and medium-sized enterprises (SMEs) and start-ups scarce, but also that obtaining financing from domestic Chinese banks, though possible in theory, remains extremely difficult as larger companies are seen as less risky investments. This approach may have negative repercussions, as SMEs and start-ups are generally at the forefront of innovation.

Policymakers would also be well advised to provide foreign companies with fair and equal access to public procurement tenders within the framework of the Economic Circle, to ensure that projects are both sustainable and competitive.

In addition to hard infrastructure, the success of the Economic Circle will also require 'soft' infrastructure related to education, healthcare and social insurance. Without investment in these areas, it will be almost impossible to develop new communities around industrial clusters within the Economic Circle that can attract the high-skilled talent deemed central to the initiative.

Chengdu

While the development of the Economic Circle will present numerous business opportunities, challenges remain across all sectors of Chengdu's economy that need to be addressed. These include: increasing the involvement of foreign enterprises in policymaking; ensuring they have open and easily accessible lines of communication with the government; enhancing regulatory reform; boosting the internationalisation of Chengdu through policies that facilitate the attraction and retention of foreign talent; and laying the groundwork for a practical and implementable decarbonisation strategy.

Many of these challenges can be overcome by creating a more internationalised and diverse business environment, in which competition is encouraged to thrive. Key to this will be allowing private foreign companies, and particularly SMEs, to play a more pivotal role in Chengdu's economy. The government has already taken steps in this direction, with the State Council announcing in January 2022 that Chengdu will build a park city demonstration area for the new development concept.

Cultivating an active and engaged international community will also be crucial. However, although Chengdu is considered one of the top destinations for foreign nationals to live in China,

there is plenty of anecdotal evidence that their numbers in the city are declining, particularly since China introduced strict pandemic-related travel restrictions.

The creation of a high-quality living environment in Chengdu will provide another attraction for foreign talent. While Chengdu has improved the overall standard of its air quality—previously a major deterrent to foreign talent—more can still be done to ensure that foreign nationals have better access to healthcare and education. Introducing a holistic approach to decarbonisation, with a comprehensive roadmap, will also be key. Including local foreign enterprises in this process in a coordinated and proactive approach will help to ensure positive momentum, as they have the technology and expertise that can help Chengdu to become carbon neutral by 2060.

Chongqing

Chongqing remains a significant investment destination for European Chamber members, particularly given the comparatively rapid recovery of both the local and national economy from the impact of COVID-19. In addition, Chongqing—together the cities of Shanghai, Beijing, Guangzhou and Tianjin—has been selected to lead in developing into an international consumption centre.

The overall perception of Chongqing's business environment among Southwest China Chapter members remains positive, and 53 per cent reported revenue increases in 2020, according to data collected for the European Chamber's *Business Confidence Survey (BCS) 2021*. However, only 68 per cent of local member companies reported positive business earnings before interest and tax (EBIT), which is below the national average. Member companies cite administrative barriers and inefficiencies in the local business environment as reasons for this lower rate. In fact, 89 per cent of local member companies report that conducting business in Chongqing is difficult, and 94 per cent do not believe that current regulatory and administrative obstacles will decrease over the next five years.

One of the difficulties European companies in Chongqing face is a lack of accurate and transparent English-language information on government policies that impact business. Southwest China Chapter members also report that information provided on municipal government websites often does not match with that distributed on district-level government websites.

An additional, long-term challenge that could harm Chongqing's innovation ambitions is the problems businesses have in attracting and retaining staff, again compounded by the COVID-19 travel restrictions. It is therefore recommended that the local government find ways to engage with the business community to further develop and implement both training programmes that can provide junior talent with on-the-job skills, and preferential policies to attract suitable high-end talent.

Among the Chongqing Government's outstanding achievements in recent years has been the gradual improvements to local air and water quality. While this has boosted the city's liveability, the promulgation of China's 2030/2060 decarbonisation pledge means Chongqing must step up its environmental protection efforts and move towards a sustainable economy. Policies that focus on the sustainability aspect of industrial upgrading are required, with a concrete roadmap and timeline for implementation. Reliable infrastructure for green energy must also be developed, and a clear plan to transition away from fossil fuels generated.

Conclusion

The recommendations put forward in this local position paper are based on survey results, in-depth interviews and workshops that uncovered the main issues European firms currently face when conducting business in Southwest China. By addressing these recommendations, Chengdu, Chongqing and the Southwest China region as a whole will be better positioned to attract more international investment and talent with the knowledge, skills and technologies necessary to stimulate innovation and sustainable economic development. European business in Southwest China stands ready and willing to help the region achieve its goals.

To download the European Chamber's *Southwest China Position Paper 2021/2022*, please scan the QR code.

Media Watch

Extension of tax allowances seen as win for foreign business community

On 29th December 2021, the State Council announced that bonuses will continue to be taxed separately to wages at a preferential rate until the end of 2023, while on 31st December 2021, the Ministry of Finance and the State Administration of Taxation jointly announced a two-year extension of non-taxable allowances for foreign national employees. A *South China Morning Post* article described the extension as a last-minute decision praised by foreign companies, despite their lingering concerns over protectionism. European Chamber President Jörg Wuttke was quoted as saying that “we believe this solution provided by the Chinese authorities will stem the flow of foreign talent from China, which will help to maintain a high level of competition and innovation within the Chinese market, while also improving relations in general.”

Economy / China Economy

China’s expat tax breaks extension praised by Western companies, but business concerns remain

- European Chamber of Commerce in China says decision will ‘stem the flow of foreign talent’
- Protectionism, an opaque regulatory system and travel restrictions still frustrate multinationals

South China Morning Post article following the two–year extension of the non–taxable allowances policy.
Media: *South China Morning Post*
Date: 5th January 2021

Automotive Working Group Chair Zhang Hongzhuo in a live interview with *CCTV13*.
Media: *CCTV*
Date: 10th January 2022

Finance and Taxation Working Group chair lays out IIT issue for media

International media also reacted to the Chamber’s advocacy success. Finance and Taxation Working Group Chair Magnus Sprenger told *Bloomberg* that “a number of companies did reduce their foreign national headcounts in 2021, by re-assignment or by not renewing contracts, in expectation of the individual income tax treatment not being extended.” The *Bloomberg* article went on to say: “Most members of the European Chamber had contingency plans in place for the extension, Sprenger said. China’s strict COVID-related immigration policies have a greater effect on attracting and moving expatriate staff than does tax policy, he noted.”

China Expat Tax Reprieve Gives Companies Room to Reassess Pay

Article by *Bloomberg* following the extension of the non–taxable allowances policy.
Media: *Bloomberg*
Date: 20th January 2022

Automotive Working Group chair talks live to CCTV13 on updates to negative lists

On 27th December 2021, the National Development and Reform Commission and the Ministry of Commerce jointly released the *Special Administrative Measures for Foreign Investment Access (Negative List) (2021 Edition)* and the *Special Administrative Measures for Foreign Investment Access in Pilot Free Trade Zones (Negative List) (2021 Edition)*. The most significant update was the lifting of foreign ownership restrictions for manufacturers of passenger vehicles. On 10th January 2022, Automotive Working Group Chair Zhang Hongzhuo was interviewed live by *CCTV13* on the liberalisation measures. Zhang stated that a fully open automotive industry will speed up the formation of healthy market competition, increase technological innovation, optimise product mix and accelerate product introduction.

President Wuttke was invited to speak live on *Bloomberg* on findings of standardisation report
Media: *Bloomberg*
Date: 2nd December 2021


FINANCIAL TIMES
COMPANIES TECH MARKETS CLIMATE OPINION WORK & CAREERS LIFE & ARTS HOW TO SPEND IT
Opinion Global Insight
Lithuania shows China's coercive trade tactics are hard to counter

Financial Times article on Lithuania features President Wuttke quote
Media: *Financial Times*
Date: 15th December 2021


China's trade attack on Lithuania exposes EU's powerlessness
Companies from several EU countries that depend on Lithuanian supply chains are now finding they face blockades at Chinese ports.

President Wuttke quoted by *POLITICO* on Lithuania
Media: *Politico*
Date: 16th December 2021

President Wuttke comments on fallout from China-Lithuania frictions

Another hot issue has been China's dispute with Lithuania following the opening of a Taiwanese Representative Office in the EU Member State. Speaking with the *Financial Times* and *Politico*, President Wuttke stated that the trade attacks by Chinese authorities provide a stark warning to other EU Member States, and mark an "unprecedented" move by China to put pressure on the wider European business community. "It's complicating the supply chain situation, which has already been made difficult by the COVID-19 pandemic," President Wuttke added.

President Wuttke discusses standardisation report findings with global media

On 2nd December 2021, the European Chamber, in partnership with the Swedish Institute of International Affairs and the Swedish National China Centre, launched the thematic report *The Shape of Things to Come: The Race to Control Technical Standardisation*. President Wuttke spoke live to *Bloomberg* on European businesses' concerns of a global bifurcation of standards and China's deviation from the market competition-centric model of standards setting seen in Europe.

Chamber president interprets Brussels' 'systemic rivalry' view of EU-China ties for CGTN

On 14th December 2021, President Wuttke was interviewed by *CGTN*'s *The Hub* on European Union (EU)-China relations. He asserted that he did not see much likelihood of the Comprehensive Agreement on Investment being approved by the European Parliament any time soon, due to China's imposition of sanctions. However, he noted that despite this, investment opportunities for European business in China remain, especially in climate-related areas. When asked how we should interpret the EU's use of the term "systematic rivalry" to describe EU-China relations, President Wuttke stated: "we are definitely partners, good partners. We are competitors, particularly not only in our respective markets, but also on third country markets. And rivalry is systemic is just where we come from, we have a totally different political system than China."

President Wuttke joins *CGTN*'s *The Hub* to discuss EU–China relations
Media: *CGTN*
Date: 14th December 2021

Events Gallery

BEIJING, 22ND FEBRUARY 2022

China's Property Downturn: The Ramifications and What's Ahead

- As the Chinese Government is currently carrying out property tax trials in several regions, it is likely the government will roll out the policy on a nationwide level.
- The fiscal revenues of the Chinese Government are nearing the edge of the envelope, so it does need a sustainable source of physical revenue, such as property tax.
- Common prosperity is a long-term target, so it is not likely to trigger direct reform in the next three to five years.

BEIJING, 7TH MARCH 2022

Gender Equality Today for a Sustainable Tomorrow

- It is important to have enough female candidates in the pipeline when talking about the gender equality of a workplace.
- The top leadership should take responsibility to put the gender equality policy in place.
- Try different work or tasks, even those that are not part of your official duties or job description, to gain experiences and skills that will benefit you some day.

SHANGHAI, 9TH MARCH 2022

Tax Highlights: Policies and Incentives for Foreign Business and Individuals in China

- The extension of the Individual Income Tax policies—the annual bonus and the non-taxable benefits for foreign nationals—will last until 31st December 2023.
- Common hurdles encountered when companies apply for research and development-related tax incentives include a lack of documentation and inability to identify eligible projects.
- China provides major financial incentives for setting up a regional headquarters in Shanghai's Lingang Area and the Pudong Free Trade Zone (FTZ), Beijing's Chaoyang District and Tianjin's FTZ.

TIANJIN, 23RD FEBRUARY 2022

European Chamber SME Forum Tianjin 1st Roundtable Discussion in 2022

- The European Chamber Small and Medium-sized Enterprise (SME) Forum Tianjin is the first official forum established in Tianjin Chapter.
- A January 2022 survey to gauge topics of interest showed that human resources, decarbonisation, health and safety, tax and digitalisation were the main issues of concern.
- Going forward, the forum will focus on practical topics and hands-on experience-sharing.

SOUTHWEST CHINA, 18TH FEBRUARY 2021

Thoughts on Decarbonisation Roadmap from the Building Industry

- Construction accounts for 39 per cent of total carbon emissions.
- Operational carbon emissions can be reduced though better energy management, purchasing green energy and building onsite generators for renewable energy.
- Embodied carbon can be reduced through the circular economy by building less and building better, alongside certified carbon offset measures.

SOUTH CHINA, 2ND DECEMBER 2021

Talent in the GBA Yields Great Outcomes and Excitement

- Since the COVID-19 outbreak, the most in-demand roles are a) e-commerce business management; b) content producer, and: c) data analyst.
- Voluntary staff turnover has been on a general downward curve over the past decade, from 16.3 per cent in 2011 to 11.5 per cent in 2021.
- Shenzhen's population structure is relatively young among all the four first-tier cities, while ageing rates in Beijing and Shanghai is more serious.

NANJING, 14TH JANUARY 2022

China's Digital Laws Briefing and Discussion

- Under the Personal Information Protection Law, the processing of personal information should follow the so-called "as minimum and as necessary" principle.
- Under the Cybersecurity Law, operators of critical information infrastructure are required to store within China all personal information and important data collected or generated during their operations in China.
- In cases of cybersecurity breaches, companies must notify the relevant authorities as well as data subjects whose data may have been leaked or stolen.

Advisory Council News

Photo: www.loreal.com

L'Oréal recognised as a supplier engagement leader for fourth year

10th February 2022 – L'Oréal received—for the fourth consecutive year—recognition from the international organisation [Carbon Disclosure Project] CDP as a Supplier Engagement Leader for taking action to tackle climate change within the Group's supply chain. As an industry leader, L'Oréal considers that it is its role to contribute to building an inclusive and sustainable society. By 2025, all of the Group's manufacturing, administrative and research sites aim to reach carbon neutrality by improving energy efficiency and using 100 per cent renewable energy.

Roland Berger, Start-up Nation Central back cross-national projects in Middle East

10th January 2022 – Leading international consulting firm Roland Berger is partnering with Start-Up Nation Central, the independent non-profit organisation connecting global corporations, investors and governments to the Israeli technology innovation ecosystem. Together, the two organisations will advance commercial opportunities for Israeli technological innovation companies interested in operating within the Gulf Cooperation Council (GCC). Based on a recently signed Memorandum of Understanding, Roland Berger will collaborate with Tel Aviv-based Start-Up Nation Central on a series of strategic initiatives. The parties will also carry out joint research and analysis, marketing, and promotional activities.

Stora Enso-Koskisen Oy cooperation leads to bio-based materials breakthrough

17th January 2022 – Finnish plywood manufacturer Koskisen is the first company to start using the bio-based binder NeoLigno by Stora Enso in its new sustainable product family. Koskisen and Stora Enso's co-operation has resulted in the world's first entirely bio-based furniture board, called Zero Furniture Board. Koskisen uses Stora Enso's bio-based binder, NeoLigno, to replace fossil-based resins used in furniture boards. Both the furniture board raw material and the binder are sourced from the production process flows of both companies. This results in all raw materials of the Zero board being entirely bio-based.

Photo: usa.philips.com

Eni included in 2022 Bloomberg Gender-Equality Index

26th January 2022 – Eni has been included for the first time in the Bloomberg Gender-Equality Index, a modified market capitalisation-weighted index that aims to track the performance of public companies committed to transparency in gender-data reporting.

Eni obtained an above average total score of 75.7. The company ranked particularly high in the areas of anti-sexual harassment policies, equal pay and gender pay parity, and inclusive culture.

Eni is committed to integrating a gender perspective in its internal and external processes, at both national and international levels, to ensure that activities are truly inclusive and that women are both beneficiaries and leaders of corporate initiatives. The company is involved in education projects with its stakeholders to spread the culture of women's empowerment and encourage their access to STEM (science, technology, engineering and mathematics) careers. Eni has also activated an internal training programme to raise awareness of unconscious biases in the workplace.

Photo: www.eni.com

Knorr-Bremse certified top employer of engineers in Germany for ninth year

20th January 2022 – Exceptional working conditions, targeted professional development options and above-average benefits are typical of what German employees of Knorr-Bremse can expect. Consequently,

Klaus Remmler is delighted to be awarded "Top Employer of Engineers in Germany" certification once again. Photo: www.knorr–bremse.com

the company has been awarded the prestigious 'Top Employer Ingenieure Deutschland' certificate for the ninth year running. The Top Employers Institute has certified the excellence of Knorr-Bremse's human resources (HR) development programmes, which reflect the company's employee-friendly approach and above-average performance as an employer. The Institute surveyed six top-level HR domains covering a total of 20 key criteria including people strategy, work environment, talent acquisition, earning, wellbeing, and diversity and inclusion.

Nokia again rated by GlobalData as Managed Infrastructure Services leader

9th March 2022 – Nokia today announced that it has been rated a 'leader' in Managed Infrastructure Services by independent industry analyst firm GlobalData for the third consecutive time. The report concluded that Nokia is a leader in applying artificial intelligence (AI)/machine learning and webscale models to telecom network operations, as well as in security services and operational model transformation capabilities supported by Nokia's WING Internet of Things (IoT) service platform.

In GlobalData's annual assessment, Nokia was found to be ahead of competitors in incorporating public cloud integration into its operational capabilities. Additionally, Nokia network operations services were recognised as an innovator of new business models in the managed services area, driving efficiencies through AI and quality methodologies, and experimenting with applying webscale models to carrier operations. GlobalData also rated Nokia as a leader in proactive and predictive operations in multivendor environments, due to its applied cognitive approaches powered by Nokia AI & Analytics, Virtualisation and Automation's AI use cases. Through its extensive managed services portfolio, Nokia enables broader service ecosystems that allow carriers to offer managed IoT and security solutions with faster time to market, and lower risks and costs.

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