

European Business in China Position Paper 2013/2014

As the independent Voice of European Business in China, we seek greater market access and improved operating conditions for European companies

European Chamber Introduction



2013





Position Paper 2013/2014

13th edition

26 vertical industry working group papers

8 local papers



6 month consultative process

8 horizontal industry working group papers

Over 800 recommendations

Working Group Papers









ICT

Legal & Competition

Pharmaceuticals

Rail

Water



Agriculture, Food & Beverages



Banking & Securities



Cosmetics



Healthcare Equipment



Information Security



Logistics



Private Equity



Renewable **Energy**



Wood



Auto **Components**



Carbon Market



Energy



Heating



Insurance



Maritime **Transport**



Public Procurement



Smart Grid



Automotive



Construction



Environment



Human Resources



IPR



Petrochemicals, **Chemicals & Refining**



Quality & Safety Services



Standards &

Conformity

Assessment



Improvements

Area	Improvement
Foreign Investment	The removal of the need for central government administrative approval for foreign investment involving a number of items
Private Equity	Equity contributions involving FIEs
Banking & Securities	Steps towards liberalising the financial services sector ($i \& e$)
Insurance	Measures to liberalise the insurance industry (equity & branches)
ICT	Opening up the reselling service market for private participation
Healthcare Equipment	The removal of eight categories of medical devices from the CCC catalogue
Rail	Regulatory restructuring in the rail sector (regulator and operator)
Renewable Energy	Lowering grid connection fees
Energy	Opening up of shale gas industry & progress in power demand side management
Carbon Market	Steps towards establishing seven Chinese pilot emissions trading schemes and Chinese certified emissions reduction markets

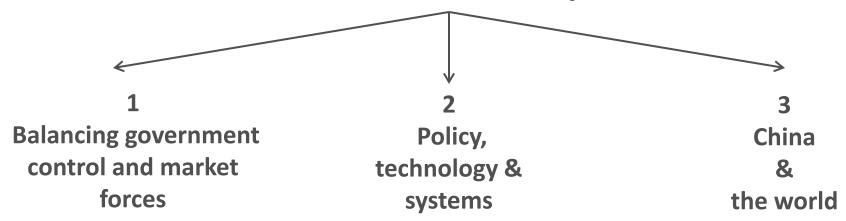
Deteriorations

Area	Deterioration
Insurance	Obstacles to geographical expansion due to high capital requirements and lower approval of branches
Petrochemicals, Chemicals & Refining	Lack of transparency in the implementation of hazardous chemicals registration & increasing difficulties to use in vitro test data
Logistics	Requirements to use local express firms for pick-up and deliveries for international express shipments
Quality & Safety Services	Resumption of <i>fajian</i> inspection fees
Construction	MPS repeal of the Notice on the Civil Insulation Materials Fire Supervision and Management No. 65
Renewable Energy	China's Golden Sun Programme under review
Carbon Markets	The partial rules and regulations for the seven Chinese pilot emissions trading schemes and Chinese certified emissions reduction markets prevent greenhouse gas emission reductions and growth of the carbon business in China

Agenda

Sustainable growth

A reassessment of the government's role in the economy



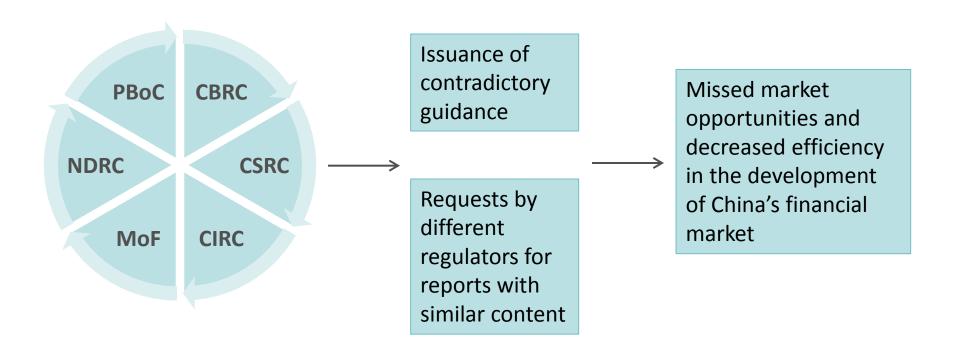
Pillar 1:
A new balance
between economic
control and market
forces

1.1: Strengthening the role of government

- 1. Administrative efficiency
- 2. Government independence
- 3. Legislation through implementing guidelines/measures
- 4. Transparency and consultation
- 5. Enforcement
- 6. Compliance through post-market surveillance

Strengthening... Administrative Efficiency

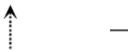
Fragmented responsibility in financial services sectors



Strengthening... Government Independence

Conflicts of interest in quality and safety services

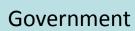
Restrict independent service providers from offering services





- Standards-developer
- Testing agency
- Certifier
- Inspector

- Rent-seeking opportunities
- Increased likelihood of poor services
- Increased likelihood of unsafe products entering the marketplace
- Incentives to develop more mandatory testing and certification





strengthening... Legislation/Guidelines

Social insurance law for foreigners

Revised
Social
Insurance
Law - 1st July
2011

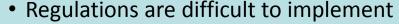
Implementation questions remain

- How to draw pensions?
- How to access unemployment benefits?
- Deadlines for decisions to uphold or refund payments?
- Treatment of elderly foreigners?
- Exemptions?

strengthening... Transparency & Consultation

Changes to tax regulations

Companies were not consulted on important changes in tax and social insurance regulations implemented during the last year and given tight deadlines or unclear instructions on how to comply



- Investors frequently have to rely on differing practices at local levels
- Industry compliance rates are lower

strengthening... Enforcement

Environmental enforcement

Lack of adequate enforcement of strong environmental regulations



- Administrative sanctions
- Civil remedy procedures
- Evidence rules
- Public interest litigation practices

High level of non-compliance

strengthening... Post-market Surveillance

Medical equipment post-market surveillance

Imperfect mechanisms for:

- monitoring adverse events
- recall
- complaints



Lacking supervision guidance standards for implementing medical device traceability systems



Weakened postmarket surveillance system for medical devices, alongside burdensome premarket approval processes

Recommendations to strengthen the role of government

Strengthen the independence of regulators at both central and local levels

Increase governmental resources to ensure corporate compliance with the regulatory framework

1.2: Reducing the role of government

- 1. Financial reform
- 2. Industrial policy reform
- 3. SOE reform

Financial reform

- Financial system strongly controlled to enable the government to allocate vast banking funds
- Banks should have the freedom and incentives to act as 'real banks'

Premier Li Keqiang:

"Reform is the biggest dividend for China"

Industrial policy reform

- Use of many interventionist measures to attempt to develop domestic industries
- Often function in practice as protectionism and favour SOEs
- Often include vast subsidies to national and local champions

Overcapacity in the wind industry



Injections of finance
into inefficient
SOFs

- Easy access to finance
- A forced build-up of production presence for local project tender eligibility

SOE reform

- Have morphed into profit-seeking commercial entities
- Control key sectors of the economy and fundamental resources
- Hold a privileged position with local governments and banks

Instead,

- SOEs could play an important role by providing public goods and services at affordable prices
- In sectors of special strategic interest, SOEs can play a role but should not be protected from competition or enjoy privileges to the detriment of the private sectors

Premier Li Keqiang:

"State-owned enterprises and private enterprises should be treated equally"

Recommendations to reduce the role of government

Further liberalise interest rates

Realign SOEs with the interests of society

Create a larger role for the private sector, including foreign-owned companies

Pillar 2:
Policy, technology
and systems

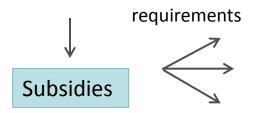
2.1: Re-evaluating indigenous innovation policies

- 1. Government-developed catalogues
- 2. National standards
- 3. Forced technology transfer
- 4. Requirements to disclosure proprietary technology
- 5. Promoting domestic technologies through public procurement
- 6. Unequal access to R&D funds and IPR ownership

re-evaluating... Government-developed Catalogues

Electric vehicles promotion

New energy vehicles a priority in the Strategic Emerging Industry Catalogue



- Produced in China
- Under a Chinese brand
- Key technological know-how is disclosed to authorities



re-evaluating... National Standards

National algorithms mandated in information security products

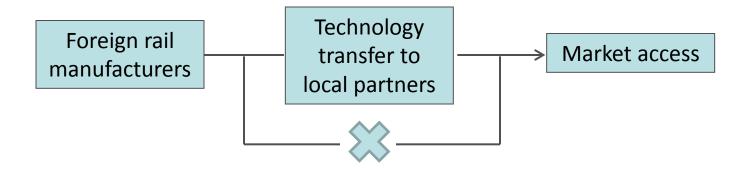
National algorithms review in international peer closed standardisation processes

International peer review in international standardisation organisations

Mandatory implementation in many information security products

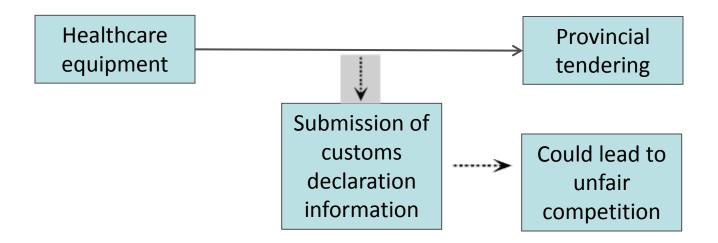
re-evaluating... Forced technology transfer

Rail technology transfer as a precondition of market access



re-evaluating... Requirements to Disclose Proprietary Information

Healthcare provincial tendering practices



re-evaluating... Promoting Domestic Technology through Public Procurement

Healthcare provincial tendering practices

no consistent
mandatory
regulations exist in
provincial tendering
practices on how a
tender should be
carried out at local
levels



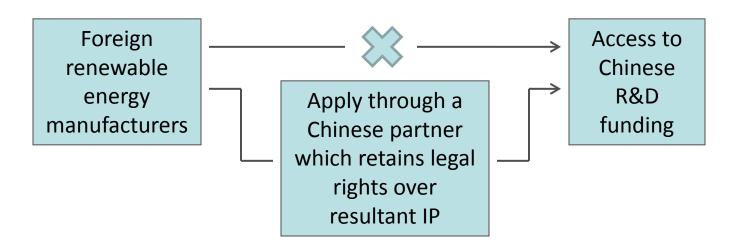
CIF price being taken as the ex-factory price for the implementation of price ceilings



Potential for local protectionism

re-evaluating... Unequal access to R&D funds

Renewable energy R&D funding



Recommendations to improve innovation

Discontinue nationalistic approaches to promote indigenous innovation

Publish and allow equal access to subsidies

2.2: Technology v Systems

- 1. Greater flexibility to industry in choosing technologies and applying them efficiently within systems
- 2. Standardisation powers tilted back towards industry

The role of standardisation

Energy efficiency in buildings

The energy performance of a building is measured by the individual performances of its components rather than the overall system performance

Choices made at the product level, not at overall building system level

Jeopardises energy efficiency targets

Recommendations to better utilise technology

Open strategic emerging industries to equal participation and contribution by private and foreign companies

Open standardisation processes to ensure that the best technologies reach the market

Use, and rely on the enforcement of, environmental/safety standards, certification, renewable energy quotas, resource taxes, and efficiency/emission targets etc., to promote and ensure better technology choices

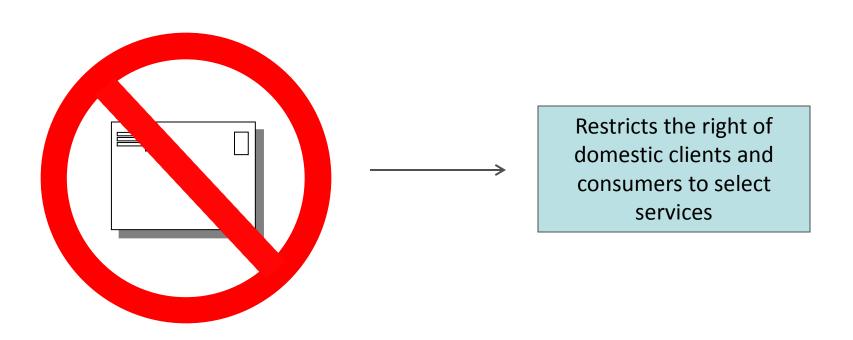
Pillar 3: China and the world

3.1: Market access: a two-way street

- 1. Wholly-protected sectors
- 2. Joint venture requirements
- 3. Licensing constraints
- 4. Public procurement discrimination
- 5. Excessive national security provisions

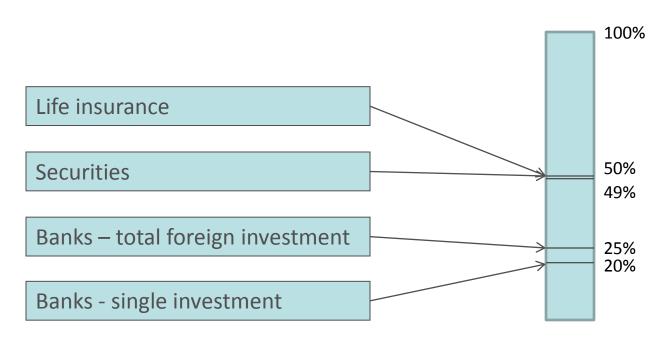
Wholly-protected sectors

Domestic express delivery services for letters



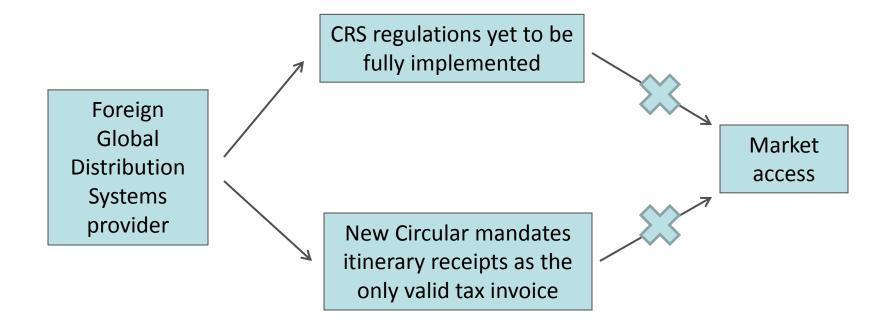
Joint venture requirements

Equity restrictions in financial services



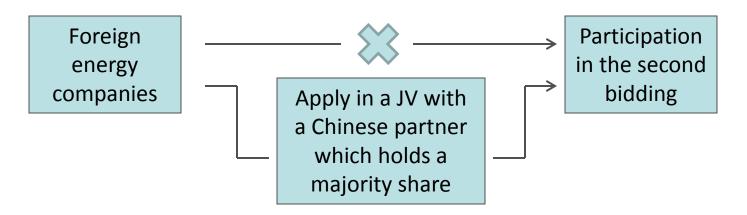
Licensing constraints

Computer reservation systems regulations



Public procurement discrimination

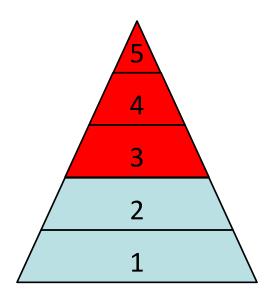
Shale gas project bidding



Excessive national security provisions

The Multi-level Protection Scheme

MLPS bars system
administrators for
enterprises and
administrations in level
three and above that the
government considers to
be of essential security
interest from using foreign
information security
products



The scope of extends
vastly beyond provisions
required to protect
essential national
security interests as level
three and above
encompasses
information systems in
non-security-related
areas

Recommendations to decrease market access asymmetries

Defuse tensions with trade partners by substantially reducing market access barriers

Abolish the Foreign Investment Catalogue

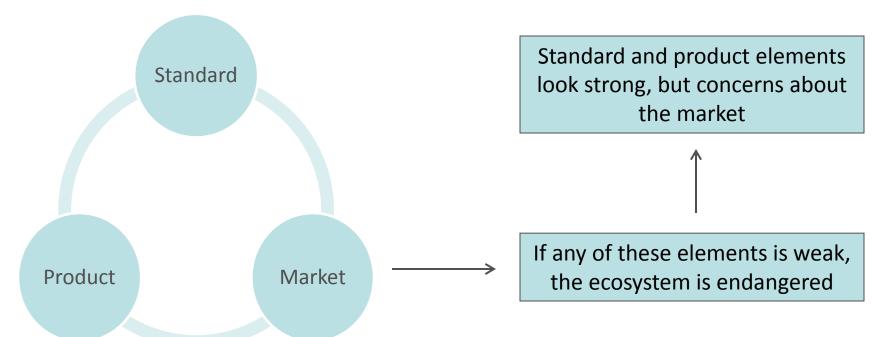
Issue a comprehensive GPA offer that includes local governments and SOE projects financed with state money

3.2: Integrating into the world economy

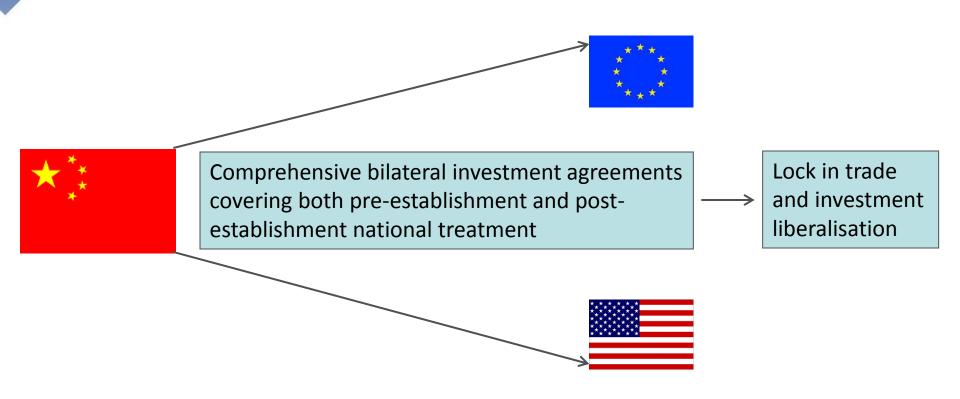
- 1. Taking a global leadership role in harmonisation
- 2. Taking a leadership role in international trading systems

Global harmonisation role

A healthy ecosystem for TD-LTE telecom technologies



Leadership in trading systems



Recommendations to take a greater leadership role

Engage more deeply and take a leadership role in international standardisation and regulatory harmonisation processes

Promote further liberalisation of global trade rules by promoting the expansion and evolution of the WTO in DDA and by negotiating bilateral investment agreements that cover both post- and pre-establishment national treatment

Conclusion

Conclusion

Less state involvement and better use of market forces

- Government: More enforcement and independence; less stateowned enterprise favouritism
- Systems approach: Less nationalistic policies, more market freedom
- Leadership: Discuss new trade agreements, participate in international standardisaton processes; and open up new markets



Thank you

http://www.europeanchamber.com.cn/en/chamber-publications