Sector-specific opportunities in China

Research
You should carry out as much market research and planning as possible before exporting to China, using both desk research and visits to the market. You need to determine if there is a market for your product or service and whether your pricing is competitive.

DIT's trade specialists can help you identify local representatives for your products in China. See: https://www.gov.uk/overseas-customers-export-opportunities.

DIT provides free international export sales leads from its worldwide network. Find export opportunities in China at: https://opportunities.export.great.gov.uk/.
Financial and professional services sector – briefing

The UK's well-developed services sector ideally place the country positively, to provide expertise to Chinese businesses as services begin to make up a greater portion of the country's economy. Currently, China is still in the process of liberalising access for foreign companies but progress is being made in a number of areas.

The service industry can broadly be divided into two groups: financial services and professional services. These can then be further divided into various sub-sectors.

Financial services can be split into:

- banking (commercial and retail banking, securities and private wealth management)
- insurance (insurance and reinsurance, broking and asset management)
- asset management / institutional investment
- private equity / venture capital
- alternative finance

Professional services can likewise be broken up into:

- legal services
- accounting and tax
- corporate services
- management consulting

- specialist consulting

Generally speaking, the domestic market for financial services is dominated by the large state-owned enterprises (SOEs), which are given preferential treatment by government policy. As such, dealing with the SOEs and the major regulators will be an important aspect of any foreign company's involvement in financial services in China. Key bodies include (but are not limited to) the regulatory commissions for banking (CBRC): http://www.cbrc.gov.cn/english/index.html; insurance (CIRC): http://circ.gov.cn/web/site45/tab2727/; and securities (CSRC): http://www.csrc.gov.cn/pub/csrc_en/; as well as the central bank (PBOC): http://www.pbc.gov.cn/english/130437/index.html.

In recent years foreign banks operating in China have experienced a decrease in market share in the face of SOE and local competitors' growth. Nonetheless China's strong growth has meant that despite a decline in market share there has been opportunity for enormous growth in real terms:

- One area where foreign financial services companies have been able to establish themselves more easily is in cross-border work. Typically, when working in a foreign jurisdiction, a Chinese investor or acquirer will use the services of local advisors and bankers. The UK has positioned itself well as a hub for these third-party services for Chinese companies investing into other countries. Another area where foreign companies have found success is in alternative finance platforms which, by their nature, reach beyond the regulated large-cap players directly to SMEs and consumers, such as currency platforms or alternative lending.

- Professional services, which are by-and-large advisory in nature, are more open for foreign entrants. Again, foreign services are widely used for cross-border transactions of any sort, but many companies – including China's large private sector – are increasingly keen to use high-quality western companies for some domestic work.

The nexus of financial & professional services can be viewed through the prism of several key themes:

- Domestic reform – the government is continuing the process of reforming the economy and streamlining regulation and the management of SOEs. This can be seen in recent moves such as the creation of the Shanghai Free Trade Zone (FTZ), an area useful for experimenting with changes which may be rolled out to the rest of the country. There are also numerous other zones and provincial experiments currently being executed.

- Capital account liberalisation – China has been overt in its aims to relax currency controls, leading to themes such as RMB Internationalisation. This is being done directly through reforms such as QFII / RQFII and QDII / RQDII, but also indirectly through developments such as the Hong Kong-Shanghai Stock Connect.

Conversely, the UK has seen the results of such a move, as Chinese banks establish themselves increasingly in London.

- Overseas expansion – the overall “Going Out” policy, with Chinese investment and acquisitions overseas, is still a major driver for consumption of foreign services. China has evolved from its historic focus on natural resources through infrastructure and real estate towards an increasing focus on consumer, retail and manufacturing industries, all supported by the government where possible.

All three of these major themes offer the chance for specialised foreign services, both financial and non-financial, to generate revenues through new clients in China as well as previous international clients who are investing in the country.

A firm knowledge of the situation on the ground, including the legal, regulatory and political environment in which the economy is operating, is essential. The CBBC is ideally placed to assist foreign firms entering into the Chinese services market, as well as companies looking to establish a business in helping Chinese companies go abroad. We are also an essential forum for meeting and discussing developments and trends within the industry, as well as looking at new business leads.

Contact the China-Britain Business Council (CBBC) at: http://www.cbbc.org/, or email: enquiries-beijing@cbbc.org.cn for more information on sector opportunities in China.

[Source – China-Britain Business Council]
Legal sector advice for British nationals and UK companies in China – briefing

Overview

Disagreements and disputes can occur in the business community in China, particularly involving small companies which may be perceived as vulnerable to pressure. Disputes may arise between companies or between a company and the authorities. These incidents are generally referred to as business or commercial disputes. Whilst the majority of foreign-owned businesses in China operate successfully, commercial disputes can damage confidence and cause concern in the business community.

The UK Government can offer advice and consular assistance to British nationals, including dual nationals who are not Chinese nationals. They can offer support to UK-registered companies but cannot offer assistance to British National (Overseas) (BN(O)s) passport holders in China as the Chinese authorities regard BN(O)s as Chinese nationals. They also may not be able to help you if you have arrived in China on a Chinese Government-issued travel document, including a Mainland Travel Permit for Hong Kong and Macau Residents (usually known as a “Home Return Permit” or ¸57¾63q05°21•45~00F05\60H032D114E701) card.

However, they can offer basic advice and information on the local legal system and offer a list of English-speaking lawyers at: https://www.gov.uk/government/publications/china-list-of-lawyers, although this list may not always include law practices specialising in commercial disputes.

Where to find advice

The FCO travel advice at: https://www.gov.uk/foreign-travel-advice/china provides information and views to help British nationals form their own judgments about travelling to or working in China. This advice is updated regularly.

The FCO also provide overseas business risk guidance at: https://www.gov.uk/government/publications/overseas-business-risk-china which covers issues relating to the political, economic and business security environments in China. This advice is also regularly updated.

The EU SME Centre at: http://www.eusmecentre.org.cn/ is an EU-funded body providing free advice to EU companies trading with China, including advice on handling commercial disputes. In addition you can contact the China-Britain Business Council at: http://www.cbbc.org/, who may have further experience and useful contacts for commercial disputes issues.

The Confederation of British Industry (CBI) at: http://www.cbichina.org.cn/ is the UK’s premier business lobbying organisation, providing a voice for employers at an international level.

Legal advice

The most appropriate option will always depend on the circumstances of the case. In general, settling a dispute in a way that avoids litigation or an arbitration procedure is the best way to avoid potentially unnecessary high costs and risks. Companies should carefully consider whether the legal costs are worth the potential benefits, especially since not all these costs are recoverable. Settling disputes through the legal process should not be carried out without the advice of a lawyer who specialises in the laws of the People’s Republic of China.

Before entering into a contract in China you should take appropriate legal advice, both in the United Kingdom and in China. Your lawyer should advise you on including dispute resolution clauses and governing law clauses in the contract to plan in advance how, where and under what law, you want any disputes to be resolved. Chinese law restricts both the choice of law and the types of resolution mechanisms that can be used in China-related commercial contracts, so the contract needs to be drafted carefully. Contracts entered into in the United Kingdom are not generally enforceable by Chinese courts.

Contract fraud is treated as a crime in China and a defendant may be held in custody until the dispute is resolved. There is a distinction in Chinese between fraud in civil law ("qi zha"/¬72E710 in Chinese) and criminal law ("zha pian"/E710M227); the latter is taken much seriously. A company representative or individual accused of "zha pian" may be arrested, placed under a travel ban or held in custody until trial (or until the dispute is resolved). Be clear on who is the company's legal representative. Each company in China must have a "legal representative" (³25n32;43D150:72; fading daibiaoren) – an individual broad powers and potentially unlimited liability. An individual appointed as a legal representative may be held personally liable in Chinese law for their company's debts.

Many foreign enterprises are reluctant to bring litigation in China because they fear local jurisdictions will favour local companies, or that the legal process will be susceptible to outside influence. The People's Court system has installed an online compliance hotline where parties can report complaints over discrimination in court: http://jubao.court.gov.cn/. If you do decide to take your case to court in China, you should be prepared for a long process. Even if a court finds in your favour, you may find it difficult to have any award enforced.

Where legal action is necessary, most foreign companies operating in China choose to resolve disputes by arbitration rather than litigation. Companies have the option to plan ahead for potential disputes and consider arbitration. Although it is possible for parties to reach arbitration agreement after a dispute arises, in most cases an arbitration clause is better included from the outset.

If the contract has an arbitration clause, it may specify things like: the parties choice of arbitration commission, the place of arbitration and the language of arbitration. The contract may also contain a governing law clause. This gives effect to the choice of law by the parties.

Many companies choose to arbitrate outside mainland China. However, this is not always an option. Chinese law requires certain disputes to be arbitrated in mainland China.

In particular it is important for foreign parties to be aware that joint ventures operating within China are considered to be domestic Chinese entities. Disputes involving joint ventures will therefore mostly be considered to be domestic disputes.

The China International Economic and Trade Arbitration Commission (CIETAC) is one of the most frequently selected organisations for arbitration held in China. Details of its fee schedule can be found on their website at: http://www.cietac.org/?l=en.

Under CIETAC's arbitration rules, in the absence of any agreement by the parties to the contrary, the arbitration will be conducted in the Chinese language.

Business disputes are primarily a matter for arbitration or the courts. Chinese companies or the authorities may react badly to what they perceive as 'foreign interference' in Chinese law. Your first point of contact should therefore be a reputable lawyer with appropriate experience and knowledge of law and business practice in the People's Republic of China.

See also the 'Business risk' information in the 'What are the challenges?' section of this guide: http://484.shang-beij-shenz_484_china.doingbusinessguide.co.uk/the-guide/what-are-the-challenges/

[Source – https://www.gov.uk/guidance/commercial-disputes-in-china (Jan 2018)]

China's logistics and distribution sector – briefing

According to China's National Development and Reform Commission (NDRC) in March 2017, combined Chinese logistics expenditures in 2016 totalled CNY 11.1 trillion, up 2.9% from the previous year. The figure accounted for 14.9% of China's GDP, down 1.1 percentage points from that in 2015.

China is currently the world's second-largest economy and the European Union's second-largest trading partner behind the US. Whereas China has been known as the source of much of Europe's imports, its rising economy and its huge population are now key drivers of European exports to China.

In order to reduce its dependency on exports and investment, the Chinese Government is pushing to increase domestic consumption as a percentage of GDP. The intended transition will bring about more opportunities for European companies with products in demand amongst China's new middle and upper classes for consumer products.

Chinese companies' increased purchasing power and the gradual relaxation of protectionist policies is also creating additional opportunities for trade between Chinese and European companies. There was a sharp rise in Chinese imports from the EU from 2009 to 2013.

European companies that are seeking to export to China face many exciting possibilities and prospects, but they also face challenges, including logistical issues involved with getting physical goods from Europe to the Chinese customer over 8,000 km away.

Logistics is more than transportation of goods, and a solid strategy will need to be in place in order to get goods to China in the right time, for the right price. Logistical planning is a very complex process and any European exporter will need professional logistical support services to help them to get their strategy right.

Whether shipping by air, land or sea, it would be ill-advised for any European exporter not to have an end-to-end understanding of their own supply chain, and the options which are available to them. The EU SME Centre has partnered with the China-Britain

Business Council to prepare a free guide and introduction to China-related logistics and distribution issues which European SMEs will need to navigate.

This report looks at the following aspects of logistics and distribution for European SMEs exporting to China:

- physical routes into China
- issues with ports and customs
- the role of third party logistics providers
- logistical issues related with an e-commerce based export strategy

As logistical and regulatory issues vary so greatly depending on the sector and product in question, this report draws particular attention to specific issues for three focus areas: medical devices & pharmaceuticals, green-tech products as well as certain issues in the food & beverage sector.

A copy of the full report can be downloaded at: http://www.cbbc.org/sectors/china-logistics-distribution-guide/

[Source – mostly CBBC Business Guide – China Logistics and Distribution Guide]

Free Trade Zones (FTZs) in China

Background

The UK is co-operating closely with the Chinese authorities on the development of free trade zones (FTZs) in Shanghai, Fujian, Tianjin and Guangzhou. The new pilot Shanghai FTZ has the potential to change the way UK companies operate in China.

In addition there are a number of other free trade zones across the country, in Liaoning, Zhejiang, Henan, Hubei, Sichuan, Shaanxi and Chongqing provinces, plus a further 32 state-level economic and technological development zones, and 53 new and high-tech industrial development zones established in large and medium-sized cities.

You can read the CBBC's practical guide to China's 'Free Trade Zones', at: http://www.britishchamber.cn/content/china-britain-business-council-publishes-practical-guide-shanghai-free-trade-zone-uk-compani.

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;

Contact IMA
International Market Advisor
IMA House
41A Spring Gardens
Buxton
Derbyshire
SK17 6BJ
United Kingdom
Email: info@ima.uk.com
General enquiries switchboard:+44 (0) 1298 79562
Website: www.DoingBusinessGuide.co.uk