European Chamber
中国欧盟商会

# Inter-Chamber Small and Medium-sized Enterprise Working Group



## Key Recommendations

### 1. Provide European Small and Medium-sized Enterprises (SMEs) in China with Better Access to Financing

- Enhance the implementation of lending strategies to assist all SMEs—both European and Chinese—operating in China.
  - Increase incentives to encourage commercial banks to grant short-term overdrafts to SMEs facing temporary cash shortages.
  - Publish focused credit risk assessment procedures or systems for the provision of SME loans.
  - Encourage China to establish a selective number of national funds for financing partnerships between European and Chinese SMEs.
  - Remove regulatory obstacles that limit SMEs', especially foreign-invested enterprises' (FIEs'), access to credit financing by relaxing the foreign exchange debt quota requirements.

### 2. Promote Coordination Between Different Administrative Departments and Improve the Transparency, Clarity and Integrity of All Relevant Regulations for SMEs

- Expand the 'one-stop-service' system to provincial/regional administration departments to support all SMEs—both European and Chinese companies—in fulfilling their multiple registration and regulatory obligations.
- Further develop official platforms—preferably online—to provide comprehensive and coherent information to SMEs.
- Alleviate the administrative burdens for SMEs by reducing government approvals and simplifying the remaining approval and filing procedures.

### 3. Ensure Reasonable Payment Terms and Enforce Timely Payments to Alleviate Cash-flow Burdens of SMEs in China

- Issue guidelines and impose industry supervision to ensure that government, state-owned enterprises (SOEs) and private sector players respect contractual payment terms.
- Set a maximum payment term that is lawfully allowed to be included in contracts.
- Encourage SOEs to sign contracts with negotiable payment terms with SMEs.
- Improve legal debt collection procedures.

### 4. Promote the Value of Intellectual Property Rights (IPR) Protection and Enforcement Systems at the Consumer, Business and Local Government Levels

- Involve the general public and business community in awareness-raising campaigns to promote respect for IPR.

The icons represent recommendations that relate to the following key development themes of the 13th Five-Year Plan:

Opening up

Balancing the economy

- Intensify efforts to tackle bad-faith registration of IPR among trademark agents, Chinese companies that register more than ten different foreign, non-registered trademarks for the same goods or services, clear-cut bad-faith registration cases and repeat offenders.
- Engage local enforcement agencies and local courts in effective actions against counterfeiting.



## Introduction to the Working Group

The Inter-Chamber Small and Medium-sized Enterprise (SME) Working Group was established in 2014, as a new advocacy element of the European Union (EU) SME Centre Phase 2,[1] with the objective of strengthening advocacy for European SMEs. The working group is based on the European Union Chamber of Commerce in China (European Chamber)'s existing Small and Medium-sized Enterprise Forum. It brings together European SMEs and creates a strong channel to express concerns over the challenges they face in conducting business in China. The working group's recommendations represent the concerns and interests of SMEs from all EU Member States.[2]

The Inter-Chamber Small and Medium-sized Enterprise Working Group organise regular working group meetings and policy meetings providing practical solutions and policy advice to European SMEs and European SME stakeholders. [3]

**Inter-Chamber SME Working Group Activity 2015–2016**

| | Working Group Meetings | Policy Meetings | Participation in Major Conferences in China, Asia and Europe |
|---|---|---|---|
| 1 | Visa Legislation and Developments in China | One Belt, One Road | B20<br>SME Development Taskforce |
| 2 | GM Roundtable | 13th Five-Year Plan | APEC<br>SME Workshop |
| 3 | Challenges of SMEs in China (Brussels Session) | China Manufacturing 2025 | EU SME Annual Conference |
| 4 | Managing SMEs in China | 'Jing-Jin-Ji' Development | European Business Organisation Conference |

1 The EU SME Centre is an EU-funded initiative helping SMEs get ready to do business in China. Located in Beijing, the centre provides practical information, confidential advice and training in the areas of business development, legal issues, standards and HR to facilitate market access for European SMEs. The centre also acts as a platform to facilitate coordination among EU Member States and European public and private sector service providers to SMEs. The EU SME Centre is managed by six implementing partners who through their knowledge and experience of the China market guide the strategic development and management of the centre. The six implementing partners are: the Benelux Chamber of Commerce in China, the China-Britain Business Council, the China-Italy Chamber of Commerce, EUROCHAMBRES, the European Union Chamber of Commerce in China and the French Chamber of Commerce in China. *About EU SME Centre*, EU SME Centre, viewed 22nd April, 2016, <http://www.eusmecentre.org.cn/about-centre>.

2 The *Inter-Chamber SME Working Group Position Paper* presents the recommendations of SMEs from 28 EU Member States regardless of their membership status with the European Chamber.

3 EU SME Centre implementation partners and EU State embassies <http://www.eusmecentre.org.cn>

**1. SME Definition in Europe and in China**

The official EU definition of SMEs limits them to a maximum size of 250 employees and a maximum annual turnover of euro (EUR) 50 million or total assets of EUR 43 million.[4] European SMEs play an important role in the European economy – they accounted for 71.4 per cent of the increase in employment in 2014–2015 in the non-financial business sector and accounted for 99.8 per cent of all enterprises in the non-financial business sector in the EU's 28 Member States.[5] In China, the definition of a SME varies by industry.[6] They represent 99.7 per cent of the total number of companies, contribute 60 per cent of gross domestic product (GDP) and 50 per cent of tax revenue.[7]

**2. EU SME Projects in China**

The EU SME Centre (Phase 2) runs from July 2014 to July 2018. Its main objectives are: assisting European SMEs to establish and develop a commercial presence in the Chinese market (through exports or investments) by providing EU added-value support services; improving synergies and increasing best practice sharing at the national and regional EU business association levels, with the ultimate goal of benefitting EU SMEs intending to do business in China; and strengthening advocacy efforts on behalf of the EU business community to help create a better business environment.

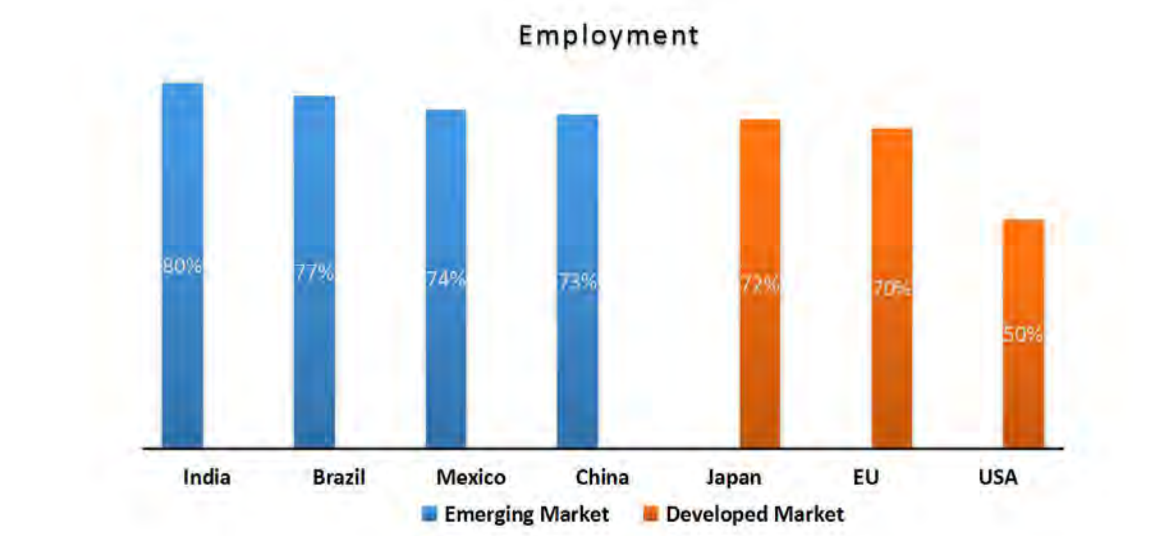
In addition to the EU SME Centre, the China Intellectual Property Rights (IPR) SME Helpdesk is another EU-funded project supporting SMEs in China with the objective of protecting and enforcing their IPR in, or relating to, China through the provision of free information and services.

## Recent Developments

**Overview of SMEs in China** [8]

- SMEs in China contribute over 60 per cent to GDP growth and create over 80 per cent of all employment opportunities.
- 60 per cent of all export and import activities are carried out by SMEs.
- SMEs are the major research and development (R&D) and manufacturing contributors – 25 per cent of all new products in the market come from SMEs.

SME employment contribution in major economies 2014



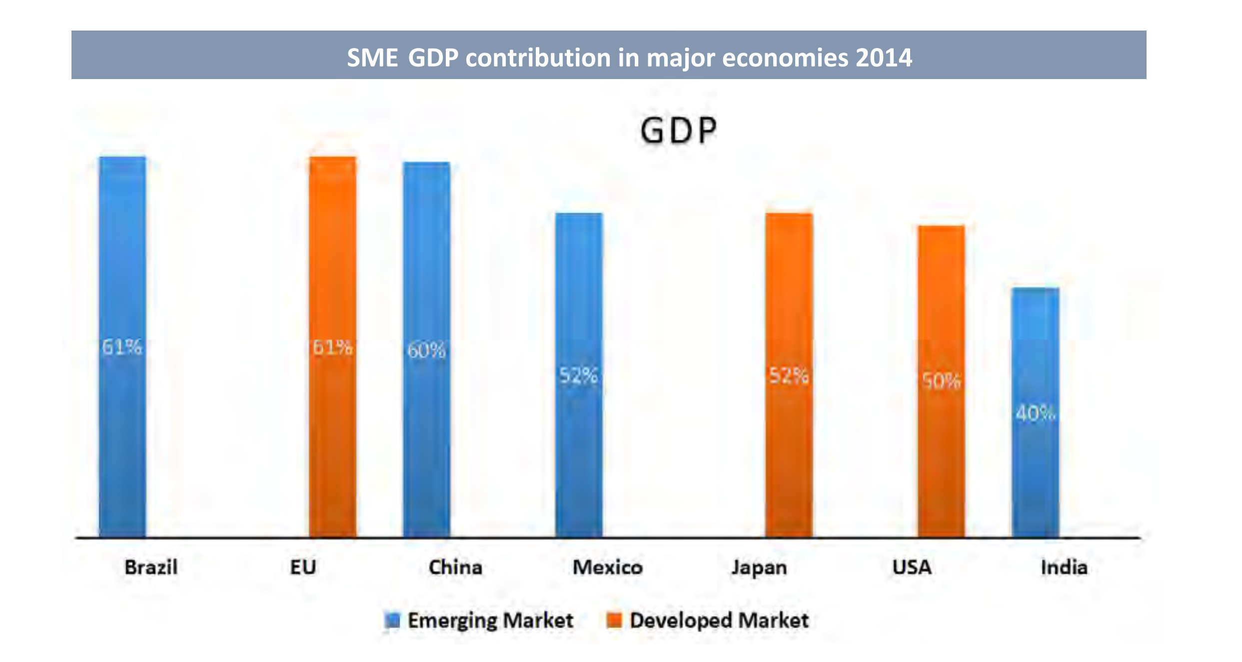

4 *What is an SME*?, European Commission, viewed 29th June, 2016, <https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en>

5 *Executive Summary, Annual Report on European SMEs 2014/2015*, European Commission, November 2015, viewed 29th June, 2016, <http://ec.europa.eu/growth/smes/business-friendly-environment/performance-review/index_en.htm#t_0_0>

6 *Notice on types and standards of small and medium-sized enterprises*, The Central People's Government of the People's Republic of China, 18th June, 2011, viewed 29th June, 2016, <http://www.gov.cn/zwgk/2011-07/04/content_1898747.htm>.

7 *Promote Small and Medium-sized Enterprises Development*, Ministry of Industry and Information Technology (MIIT), 22nd May, 2015, viewed 22nd April, 2016, <http://www.miit.gov.cn/n1146285/n1146352/n3054355/n3057527/n3057537/c3606671/content.html>.

8 Taken from a speech delivered by Mr Zhou Pingjun, Assistant Director General, China Centre for the Promotion of SME Development (MIIT), during the *EU SME Annual Conference: How to Tackle a Changing China*, which took place in Beijing on 31st May, 2016.




Source: B20 SME Development Taskforce Policy Paper, May 2016

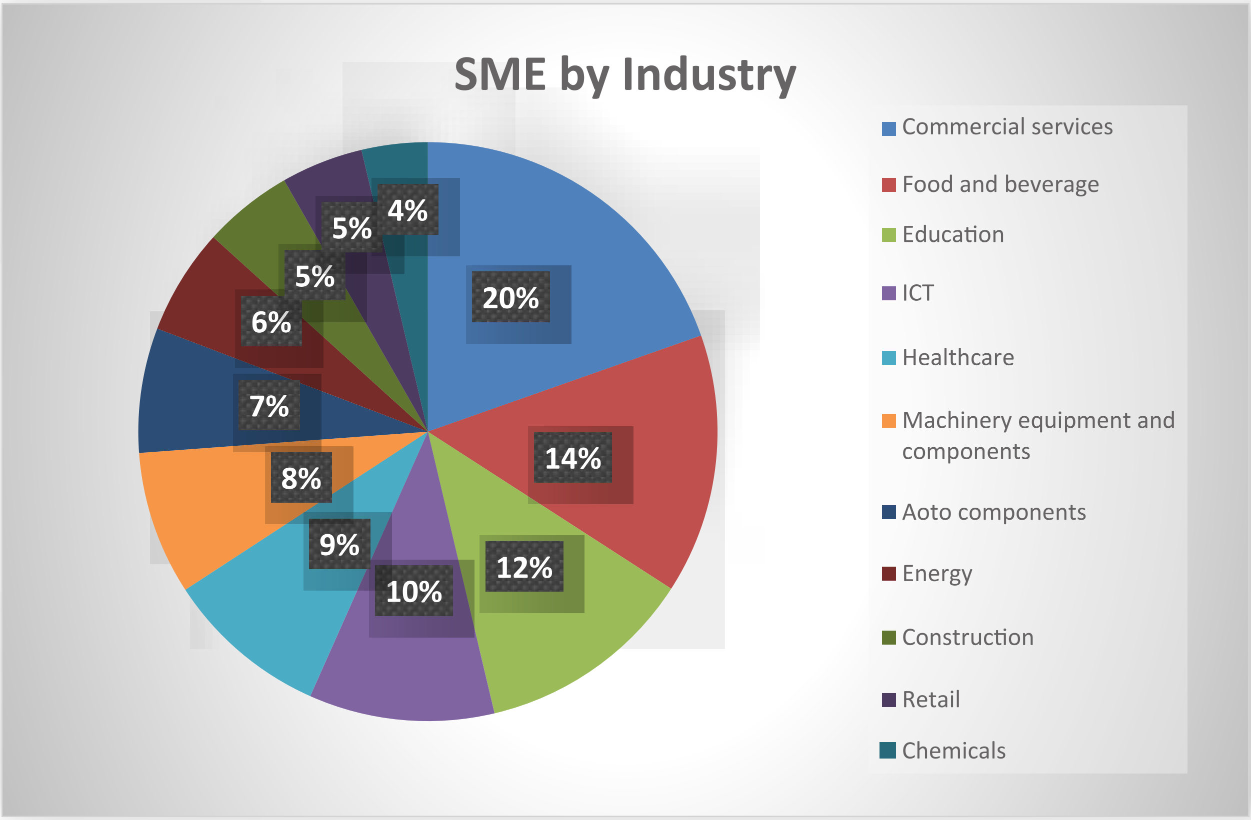
**European SMEs in China**

According to the EU SME Centre, most of the registered companies come from the commercial services, food and beverage, information and communication technology (ICT), healthcare and manufacturing sectors.

Of the more than 3,000 enquiries received by the EU SME Centre from 2007–2016, the most frequently asked questions include:

| Category | **Business Development** | **Legal** | **Standards & Conformity** | **Human Recourses** |
|---|---|---|---|---|
| **Proportion** | 35% | 35% | 25% | 5% |
| **Topic** | 1. Looking for Chinese partners | 1. Due diligence | 1. Customs clearance | 1. Salary |
| | 2. Market information | 2. Ways to enter the market | 2. Wine standards | 2. Termination |
| | 3. Different ways to sell products | 3. Business model feasibility | 3. Textile standards | 3. Recruitment |

Source: EU SME Centre, 2007-2016




Source: EU SME Centre, 2007–2016

**European Business in China Business Confidence Survey (BCS) 2016**

The *European Business in China Business Confidence Survey* (BCS) is one of the European Chamber's key annual publications. Conducted and written in cooperation with Roland Berger, the BCS 2016 surveyed 506 European companies based in China, 57 per cent of which were SMEs. Analysis of the survey shows that in terms of the financial impact of business opportunities that were missed due to government actions, SMEs are the hardest hit. This is perhaps not surprising considering that compared to multinational corporations (MNCs), SMEs "possess comparatively modest resources to invest in government affairs and the kind of research and/or consultancy that would keep them fully abreast of market conditions. Because SMEs are often market leaders in the class of products, technologies and services that they offer, this represents a real cost for China's economy."[9] Thus, a more open and transparent investment environment is welcomed by European SMEs based in China.

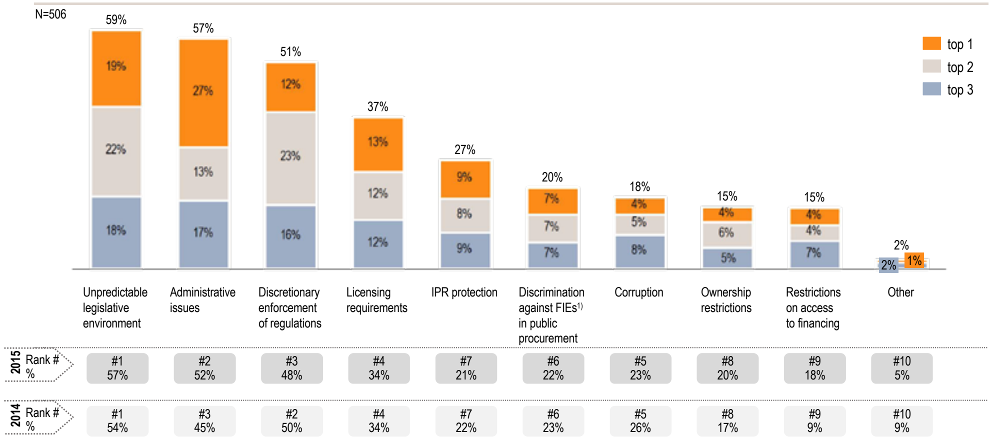
The survey asked respondents to rank as either a top-one, two or three challenge, the most significant regulatory obstacles they face in Mainland China; 51 per cent chose 'discretionary enforcement of regulations'; 37 per cent chose 'licensing requirements'; 27 per cent chose 'IPR protection'; and 15 per cent chose 'restrictions on access to financing'.[10] These issues are all critical to SMEs in their efforts to maintain financial sustainability. The *Inter-Chamber Small and Medium-sized Enterprises Working Group Position Paper* therefore builds on these concerns, providing methodical analysis and recommendations accordingly.

9 *European Business in China Business Confidence Survey 2016*, European Chamber, June 2016, viewed 1st July, 2016, p 20, <http://www.europeanchamber.com.cn/en/publications-business-confidence-survey>

10 *European Business in China Business Confidence Survey 2016*, European Chamber, June 2016, viewed 1st July, 2016, p 17, <http://www.europeanchamber.com.cn/en/publications-business-confidence-survey>

Figure 10: Most significant regulatory obstacles in Mainland china

What are the most significant regulatory obstacles for your company when doing business in Mainland China?




1) FIEs: foreign invested enterprises

Source: Business Confidence Survey 2016, European Chamber

**Key Takeaways from the Annual EU SME Conference**

On 31st May 2016, the EU SME Centre held the EU SME Annual Conference entitled *How to Tackle a Changing China*.

The conference addressed the positive economic and social impact of SMEs in China as leaders in entrepreneurship, innovation, competition and job creation. The conference highlighted the fact that, due to their size and characteristics, they face challenges in areas related to institutional support, financing, skilled labour, technology and access to international markets.

During the SME General Managers' panel discussion, there was unanimous agreement that due to the Chinese market being in a constant state of evolution, particularly in the last 10 years, the most critical challenge is adapting to the changing economic and business landscape. Issues related to access to finance, technology transfer, regulatory transparency, standards and red tape have been present for a long time. However, the panel pointed out that the business environment has become increasingly difficult due to a general increase in costs (labour, materials, rent), fiercer competition and the challenges of identifying the right business opportunities and partners.

The EU SME Annual Conference concluded with a call for further institutional support, particularly in the areas of funding, company registration and the simplification of visa application processes.

## 13th Five-Year Plan (13 FYP) [11]

**What's in the 13FYP?**

Both European and Chinese SMEs are encouraged to develop high-tech, export-orientated, and innovative businesses. The central government is concentrating on providing a healthy development environment for SMEs, facilitating administration and removing burdens in financing and technology transfer.

Projects/programmes:

1. China plans to proceed with a project involving a hundred innovative companies to cultivate a group of innovation-orientated leading enterprises with international competitiveness and bolster the healthy development of small and medium-sized hi-tech enterprises.

11 *The People's Republic of China Economic and Social Development 13th Five-Year Plan*, National People's Congress and Chinese People's Political Consultative Conference, 17th March, 2016, viewed 22nd April, 2016. <http://news.xinhuanet.com/politics/2016lh/2016-03/17/c_1118366322_2.htm>



Section Two: Horizontal Issues

2. China will launch a 'start-ups and innovation' action programme, encourage the development of low-cost, convenient and open service platforms that face the general public and provide services to small, medium and micro enterprises, and establish model bases and cities for 'start-ups and innovation'.

Internet:

1. China will guide large Internet enterprises to open innovative resources for small and micro enterprises as well as entrepreneurial teams, and encourage the creation of open, innovative alliances based around the Internet.
2. China will nurture an internet+ eco-system, and create new models for the collaborative division of labour.

Financing:

1. China will construct a multi-layered, distinct banking system with broad coverage, expand private capital flows into the banking sector, and develop inclusive financial services and financial organisations to support medium/small/micro size enterprises.
2. China will support the development of technology finance, green finance, regional medium and small finance, inclusive rural finance and preferential poverty reduction finance.



**Evaluation of Existing Measures**

On 5th July, 2016, the Minsitry of Industry and Information Technology (MIIT) launched the *SME Promotion and Development Guidelines 2016–2020*.[12] The guidelines specify targets and a strategy for the development of SMEs in China over the next five-year period. From the analysis of the working group, it is not clear whether the guidelines include both Chinese SMEs and foreign SMEs based in China.

Main Objectives:

- Upgrade SME quality and create 8 million new jobs annually.
- Enhance innovation capability.
- Uplift the level of SME management.
- Optimise the SME development environment (to provide an entrepreneurship sample base of 300 national and 3,000 provincial micro-SMEs).

The implementation strategy refers many of the concerns and expectations addressed in the key recommendations of this position paper:

- Keep opening the market, relax market access regulations, improve SMEs' operational environment and alleviate SMEs' financial burdens.
- Enhance international collaboration and promote SME internationalisation.
- Speed-up financial reform and provide SMEs with better access to financing

In other words, access to financing, market access, IPR protection, innovation and research are still acknowledged as areas of weakness for SMEs. Overcapacity, similarity (similar products), a lack of creativity and a lack of funding remain the most critical issues affecting SMEs' development in China.

**Industry Stance**

European SMEs are usually MSMEs (micro-SMEs), which are specialised in technology innovation, smart manufacturing and green development. However, the 13FYP implementation strategy still lacks concrete implementation measures for the plans that it puts forward. In order to accelerate SMEs' development in China, the Inter-Chamber Small and Medium-sized Enterprise Working Group strongly recommends that the

12 *Small-Medium Sized Enterprises Promotion and Development Guideline 2016-2020*, MIIT, 5th July, 2016. Viewed 5th July, 2016 <http://www.miit.gov.cn/n1146290/n4388791/c5081157/content.html>

implementation actions incorporate the following:
- Simplified visa application procedures for start-ups and SME entrepreneurs.
- Unified administrative registration services in each province in China.
- Accessible financing tools for SMEs.
- A concrete benchmarking mechanism for measuring financial reform and SMEs' collaboration.

## China Manufacturing 2025[13]

### What's in China Manufacturing 2025?

The China Manufacturing 2025 initiative emphasises the importance of IPR protection for SMEs, and encourages local authorities to alleviate burdens for SMEs in this respect. The plan also urges industrial structural reform to further facilitate the cooperation between large enterprises and SMEs. China Manufacturing 2025 stresses the importance of elevating innovation and international cooperation across multiple sectors, including smart manufacturing, high-technology and new materials.

### Evaluation of Existing Measures

China Manufacturing 2025 stresses implementation of the plan at local level, and raises the importance of SMEs' access to national funding. The Central Government expects banks and financial agencies to provide SMEs with a credit assessment system to facilitate better access to loans. The Inter-Chamber SME Working Group has noticed more proactive responses from the private sector to develop online solutions for SMEs. The digital economy is opening up, with online tools now available for SMEs to access short-term loans and credit assessment systems. However, these tools are not fully developed and lack proper supervision and regulation. Competent authorities should be appointed to ensure that there are no legal risks posed to SMEs who use these online financing services.

### Industry Stance

The Inter-Chamber Small and Medium-sized Enterprise Working Group appreciates the authorities' continuous efforts to enact decisions that support the development of SMEs. At the same time, we observe that European SMEs are still facing considerable challenges due to limited financing tools and lack of supervision. In order to proceed with the implementation of China Manufacturing 2025, concrete measures and policies should be announced as soon as possible.

**B20 China 2016: SME Development Taskforce and Asia-Pacific Economic Cooperation**

The key messages delivered at the major B20 conferences that have been held so far confirm that the global challenges that SMEs are facing are:
- a limited access to finance tools;
- exclusion from global value chains;
- HR issues and payroll; and
- a lack of business opportunities.

At the Group of 20 (G20) level, the Inter-Chamber Small and Medium-sized Enterprise Working Group welcomed the announcement by People's Bank of China (PBOC) Governor Mr Zhou Xiaochuan that China will advance the agenda of SMEs' financing at the G20 Summit in September 2016. China will ask the Global Partnership for Financial Inclusion (GPFI), an inclusive platform for G20 countries, to come out with a specific plan to implement the G20 action plan on SME financing, which was endorsed by G20 leaders in Turkey in 2015.[14]

The Inter-Chamber Small and Medium-sized Enterprise Working Group also welcomes the initiative launched during the 2016 B20, to focus on SMEs

13 *The State Council about Printing <China Manufacturing 2025>*, State Council, 19th May, 2015, viewed 22nd April, 2016. <http://www.miit.gov.cn/n11293472/n11293877/n16553775/n16553792/16594486.html>

14 *SMEs and Entrepreneurship*, SMEs and Entrepreneurship Task Force, B20 Turkey, viewed 4th July, <http://b20turkey.org/smes-and-entrepreneurship/>

and entrepreneurship. This has been continued by China with the creation of the B20 SME Development Taskforce, which has developed a policy paper containing recommendations for G20 political leaders. These policy recommendations include the following:

1. Endorse the Electronic World Trade Platform (eWTP), a new private sector-led and multi-stakeholder initiative to foster the right policy and business environment for cross-border electronic trade (eTrade1) development.
2. Develop coordinated capacity building and certification programmes to facilitate the inclusion of SMEs in global value chains (GVCs).
3. Facilitate SMEs' access to bank finance and alternative funding.
4. Improve the regulatory environment for SMEs through a reduction of compliance costs and a significant improvement of access to public procurement markets, especially through the digitalisation of government processes.

**SME Development Funding Update**

On 1st September, 2015, Chinese Premier Li Keqiang announced that China would set up a CNY 60 billion (USD 9.4 billion) fund to support SMEs' development.[15] The National SME Development Fund aims to alleviate financing difficulties for SMEs, intensify efforts to promote widespread entrepreneurship and innovation and create new growth momentum. The central government provides CNY 15 billion for the fund, while the rest is raised by private firms, SOEs, financial institutions, local governments and others, according to the statement. In February 2016, the first investment vehicle was established, securing CNY 6 billion in total capital commitments, of which CNY 1.5 billion comes from the central government, CNY 1.5 billion from the Shenzhen Government and the remaining coming from private companies.

The Inter-Chamber Small and Medium-sized Enterprise Working Group is looking forward to the MIIT issuing concrete instructions that assist SMEs in applying for the funding.

**Tax Update**

On 24th March, 2016, the Ministry of Finance (MOF) and the State Administration of Taxation (SAT) jointly announced that the last round of the value-added tax (VAT) system reform[16] would start from 1st May, 2016, expanding to construction, real estate, financial, lifestyle services and all other enterprises. With this extension of the VAT reform, the local tax burden for enterprises operating in these four sectors will be reduced, and both Chinese and European SMEs can now credit input VAT from service providers.

## Key Recommendations

### 1. Provide European Small and Medium-sized Enterprises (SMEs) in China with Better Access to Financing

**Concern**

European SMEs operating in China still experience difficulties in gaining access to financing.

**Assessment**

China's economic growth slowdown, coupled with the fact that European SMEs are facing increasingly fierce competition, means that financing now plays an even bigger role in business operations.

While both the 13FYP and Made in China 2025 aim to create favourable conditions for SMEs to gain access to financing, in practice it remains a major challenge. The key reasons for this are that SMEs are generally considered high-risk/low-return clients and local SMEs are preferred because of their closer relationships with local banks.

According to a survey initiated by the EU in 2015, the Survey on the Access to Finance of Enterprises (SAFE),[17] the sources of financing available to European SMEs are:

| Equity | Trade Credit | Leasing | Bank Loans | Credit Line |
|---|---|---|---|---|
| 14% | 36% | 47% | 50% | 55% |

Source: European Commission 2015

15 *Li Keqiang chaired a State Council executive meeting*, State Council, 1st September, 2015, viewed 12th June, 2016, <http://www.gov.cn/guowuyuan/2015-09/01/content_2923201.htm>

16 *Caishui [2016] No. 36 (Circular 36) State Administration of Taxation About the Implementation of VAT Reform*, Ministry of Finance and State Administration of Taxation, 23rd March, 2016, viewed 13th May, 2016, <http://www.chinatax.gov.cn/n810341/n810755/c2043931/content.html>

17 *The European Commission monitors developments in SMEs' access to finance through the joint European Commission/European Central Bank Survey on the access to finance of enterprises (SAFE)*, European Commission, Growth, viewed 4th July, 2016, <http://ec.europa.eu/growth/access-to-finance/data-surveys/index_en.htm>

Even in the EU, where there are multiple ways that SMEs can access financing, 10 per cent of the SMEs within the EU still consider access to finance to be their biggest challenge. In response, the EU has launched several projects to provide financial support to SMEs via local financial institutions. The working group hopes that the recommendations provided in this paper will help to draw the Chinese authorities' attention to the importance of creating more financial tools that SMEs can access.

The main sources of funding available to SMEs in the EU are internal profit-based financing or internal financing provided by related parties such as shareholders (capital or shareholder loans), management and employees; and external financing provided by non-banking financial institutions (e.g. financial leasing companies, credit guarantee companies and micro-loan companies) whose financing costs are extremely high for SMEs. Other types of financing include equity financing through business angels, venture capital and private equity funds.

Compared to the variety of financial tools available to SMEs in the EU, China has limited options for SME financing. For example, bank loans for foreign-invested enterprises (FIEs) can be obtained against guarantees from banks outside of China, which typically require further risk assessment by European headquarter entities. However, foreign exchange loans, which theoretically should be easier for FIEs to access, are limited by the so-called 'borrowing gap', which is the difference between the total investment and the minimum required capital corresponding to the amount invested.

**Table 1: Ratio between total investment and registered capital**

| Total Investment | Ratio of minimum registered capital of total investment |
|---|---|
| Up to USD 3 million | 70 per cent |
| USD 3–10 million | 50 per cent or USD 2.1 million, whichever is higher |
| USD 10–30 million | 40 per cent or USD 5 million, whichever is higher |
| >USD 30 million | 33.3 per cent or USD 12 million, whichever is higher |

Source: State Administration for Industry and Commerce (SAIC)[18]

On 29th April, 2016, the PBOC issued the *Notice on Nationwide Implementation of Macro Prudential Management of Cross Border Financing*,[19] which took effect on 3rd May, 2016. This notice fundamentally changes the regulation on the incurrence of cross-border debt by Chinese enterprises, including FIEs. For now, FIEs may choose to continue to apply the old regime—outlined in Table 1—for an undefined transition period, or they may move immediately to the new regime. Ultimately, though, all FIEs will be subject to the new rules.

The new rules use 'net asset value' instead of 'registered capital' to determine the headroom for foreign debt, but foreign debt will still be restricted for FIEs under the new regime. Since foreign SMEs have no access to domestic financing, the new rules will still prove to be problematic for SMEs.

### Recommendations

- Enhance the implementation of lending strategies to assist all SMEs—both European and Chinese—operating in China.
  - Increase incentives to encourage commercial banks to grant short-term overdrafts to SMEs facing temporary cash shortages.
  - Publish focused credit risk assessment procedures or systems for the provision of SME loans.
  - Encourage China to establish a selective number of national funds for financing partnerships between European and Chinese SMEs.
  - Remove regulatory obstacles that limit SMEs', especially FIEs', access to credit financing by relaxing the foreign exchange debt quota requirements.

## 2. Promote Coordination Between Different Administrative Departments and Improve the Transparency, Clarity and Integrity of All Relevant Regulations for SMEs

### Concern

The complex nature of China's regulatory system has created barriers for foreign SMEs in China in their efforts to access coherent regulatory information for

18 *Interim Regulation on Joint Venture Proportion of Registration Capital and Total Investment*, SAIC, 17th February, 1987, viewed 22nd June, 2015, <http://www.fdi.gov.cn/1800000121_23_69857_0_7.html>

19 *Expand Pilots Programme of Cross-border Financing Approval*, PBOC, 2016, viewed 12th June, 2016, <http://www.pbc.gov.cn/goutongjiaoliu/113456/113469/3009303/index.html>

their business; understand the frequent changes to regulations; manage the high volume of administrative work emanating from multiple regulating agencies; and efficiently obtain all investment approvals from various regulators in a timely fashion.

## Assessment

After acquiring approval from the Administration for Industry and Commerce (AIC) to establish a legal entity in China, FIEs are then required to obtain different permits or registration forms from additional government agencies before they can be operational. The whole process can last several months during which time temporary office rents and other expenses are incurred. After an enterprise starts operating, annual re-registrations also need to be carried out between several government agencies, which requires considerable resources. The complexity of the registration process necessitates that SMEs receive prompt and clear responses from competent authorities.



**Time schedule for establishing a manufacturing wholly foreign-owned enterprise (WFOE)**

| Steps | | Authorities | Time Estimation [20] |
|---|---|---|---|
| **WFOE Establishment Registration** | | | |
| Name pre-approval | | Administration for Industry and Commerce | 2–5 working days |
| Letter of approval | | Committee of Commerce | 15–20 working days |
| Business licence | | Administration for Industry and Commerce | 7 working days |
| **WFOE Post Registration (25–35 working days)** | | | |
| Stamp carving | | Public Safety Bureau | 1–3 working days |
| Account opening | | Client and Bank | 5–10 working days |
| Foreign trade recorder | | Committee of Commerce | 5 working days |
| Import and export licences | | Customs | 15–20 working days |
| **Post-Registration for Project Approval [21] (50–63 working days)** | | | |
| 1 | Record the investment project [22] | Management Committee of Economic and Technological Development Area | 3 working days |
| 2 | Pre-file the investment project | Development and Reform Committee | 10 working days |
| 3 | Environmental impact assessment and approval | Environment impact assessment institute and Environment Bureau | 30–40 working days |
| 4 | Energy conservation pre-assessment and approval | Energy conservation assessment institute and Development and Reform Committee | 30–40 working days |
| 5 | Apply for project approval | Development and Reform Committee | 10 working days |
| **Apply for Fitting-out Approval (40 working days)** | | | |
| 1 | File the design of the fitting-out project | Fire Station | 20 working days |

20 Estimated time required only takes into consideration the time for the competent authority to handle the application. It does not include time spent by third party law firms and their clients preparing application documents.
21 'Project' means the establishment of a workshop for manufacturing.
22 This record is unnecessary if the workshop is not in any of China's free trade zones.

| | | | |
|---|---|---|---|
| 2 | File the acceptance of the fitting out project | Fire Station | 20 working days |
| **Other Pre-assessments[23] (30–40 working days)** | | | |
| 1 | Work safety pre-assessment and approval | Work Safety Assessment Institute and Work Safety Supervision Bureau | 30–40 working days |
| 2 | Occupational hazard pre-assessment and approval | Assessment Institute and Work Safety Supervision Bureau | 30–40 working days |
| **After the above steps have been completed, the workshop is permitted to conduct trial production.** [24] | | | |



### Recommendations

- Expand the 'one-stop-service'[25] system to provincial/regional administration departments to support all SMEs—both European and Chinese companies—in fulfilling their multiple registration and regulatory obligations.
- Further develop official platforms—preferably online—to provide comprehensive and coherent information to SMEs.
- Alleviate the administrative burdens for SMEs by reducing government approvals and simplifying the remaining approval and filing procedures.

## 3. Ensure Reasonable Payment Terms and Enforce Timely Payments to Alleviate Cash-flow Burdens of SMEs in China

### Concern

European SMEs in China frequently face liquidity problems due to the absence of maximum contractual payment terms, non-negotiable payment terms with SOEs or private sector players, and late payments from clients.

### Assessment

As access to bank loans is limited for SMEs in general, and foreign SMEs in particular, substantial reserve assets are a prerequisite for business operations in China.

Usually, SMEs have limited bargaining power during negotiations, which often results in their customers imposing onerous contractual payment terms. In addition, many customers do not comply with these terms and pay late.

Unlike conducting business with international companies or Chinese privately-owned enterprises (POEs), SMEs who conduct business with SOEs have limited negotiating powers over payment terms. At the same time, SMEs are often required to pay a 30 per cent down payment and 70 per cent prior to delivery of the goods necessary for production to suppliers. When dealing with SOEs, there are a number of obstacles that limit the overall chances of success for SMEs. For example, SMEs in the industrial sector are paid a 20 per cent down payment, receive 30 per cent at delivery on site, 40 per cent at commissioning and the remaining 10 per cent at the end of the warranty period (24 months). This means that only 20 per cent of the total payment is secured while the remaining 80 per cent is fully dependent on the clients' willingness to comply with their payment obligations.

In China, most industries do not have guidelines to ensure that market players respect contractual payment terms and that set a maximum payment term that can be included in contracts (e.g. 30 calendar days if the customer is a public authority or state-owned company and 60 days if the customer is a private owned company, subject to certain exceptions) .[26] Small and medium-sized enterprises lack the means to put

23 After the trial production is complete the SME is required to conduct the final evaluation for work safety, energy conservation and occupational hazards and obtain final approval from the competent authorities.

24 After the trial production is complete, all the aforementioned assessments are required to be confirmed by the competent authorities for final approval before normal production can commence.

25 A 'one-stop-service' is a widely-implemented administrative service system across industrial parks or development zones, to help companies register and operate smoothly. It amalgamates several formal processes such as administrative registration, licensing, tax service and social insurance, business development and customs clearance, into one. Example: China-Singapore Suzhou Industrial Park, viewed 3rd June, 2016, <http://www.sipac.gov.cn/>

26 The EU uses the reference of 30 calendar days when customers are a public authority, and 60 calendar days when the customer is another company in order to determine when late payment interest can be claimed. *Late payment*, European Union, May 2016, viewed 3rd June, 2016, <http://europa.eu/youreurope/business/sell-abroad/late-payment-fees/index_en.htm >

pressure on unwilling debtors. Legal debt collection procedures are available, but these are often not practical given their length and, most importantly, the high costs for such services. China's Civil Procedure Law contains well-intended, low-cost summary proceedings for undisputed debts, but this procedure has several flaws and is therefore seldom used in practice.

### Recommendations

- Issue guidelines and impose industry supervision to ensure that government, SOEs and private sector players respect contractual payment terms.
- Set a maximum payment term that is lawfully allowed to be included in contracts.
- Encourage SOEs to sign contracts with negotiable payment terms with SMEs.
- Improve legal debt collection procedures.

## 4. Promote the Value of IPR Protection and Enforcement Systems at the Consumer, Business and Local Government Levels

### Concern

A lack of public awareness of the value of intellectual property (IP) and effective enforcement at the local level limits the impact of recent positive changes in the IPR legislative environment.[27]

### Assessment

European SMEs face a general lack of awareness of the IPR system at a grassroots level, and consequently do not often use it. China struggles with a low reputation in terms of its respect for IP due to the high amount of counterfeits sold and produced in China, which lowers levels of consumer trust in goods manufactured and distributed in China. The low level of respect for IP held by potential Chinese business partners often deters European SMEs from entering the Chinese market.

According to the European Chamber's *Business Confidence Survey 2016*, 27 per cent of European companies regard IPR protection among the top-three regulatory challenges they face in Mainland China.[28] This figure is even more concerning as it shows a five-point increase from 2015.

The lack of adequate enforcement of IPR poses a significant challenge for European SMEs that struggle to uphold their reputation and return on investment on innovation in an environment where counterfeit products being are sold online and offline, bad-faith registrations of IPR and inefficient enforcement proceedings are all still commonplace. This phenomena not only discourages European investment in China, but also casts a dark shadow over China's reputation and can prevent promising business relations from developing between Chinese and foreign enterprises.

Measures that can affect a general shift in the perception of IPR protection and enforcement are therefore recommended. The general public and the business community both acknowledge the value of IPR protection as an effective tool for boosting creativity. Effectively enforcing IPR protection also creates a transparent environment for business transactions to take place and can help to nurture EU-China business relations through licensing, technology transfer and joint R&D activities. Effective enforcement of IPR not only protects companies, but also serves as a quality and safety guarantee for consumers.

Despite the revision of numerous IPR laws and regulations, as well as the establishment of dedicated IP Courts in Beijing, Shanghai and Guangzhou, the enforcement of IPR remains a challenge for SMEs. The major concerns reported are the high burden of proof for infringements, complex and time-consuming administrative procedures as well as damages awarded that are significantly lower than the loss of reputation and market share experienced by the claimant company. Many SMEs face significant obstacles and a lack of cooperation from local enforcement agencies and local courts, which effectively discourages companies from doing business in China due to the associated risks to both their IP and their reputation.

### Recommendations

- Involve the general public and business community in awareness-raising campaigns to promote respect

27 The key recommendations related to Intellectual Property Rights(IPR) is in line with the experience of the *China IPR SME Helpdesk*, a project co-funded by the European Union and implemented by the European Union Chamber of Commerce in China to support European small and medium-sized enterprises (SMEs) in relation to IPR in China. For more information, visit http://www.china-iprhelpdesk.eu.

28 *European Business in China Business Confidence Survey 2016*, European Chamber, June 2016, viewed 1st July, 2016, p 17, <http://www.europeanchamber.com.cn/en/publications-business-confidence-survey>

for IPR.
- Intensify efforts to tackle bad-faith registration of IPR among trademark agents, Chinese companies that register more than ten different foreign, non-registered trademarks for the same goods or services, clear-cut bad-faith registration cases and repeat offenders.
- Engage local enforcement agencies and local courts in effective actions against counterfeiting.

## Abbreviations

| | |
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| 13FYP | 13th Five-Year Plan |
| APEC | Asia-Pacific Economic Cooperation |
| BCS | Business Confidence Survey |
| CNY | Chinese Yuan |
| CPC | National People's Congress |
| CPPCC | Chinese People's Political Consultative Conference |
| EU | European Union |
| EUR | Euro |
| eWTP | Electronic World Trade Platform |
| FIE | Foreign-Invested Enterprise |
| G20 | The Group of Twenty |
| GDP | Gross Domestic Product |
| GPFI | Global Partnership for Financial Inclusion |
| GVC | Global Value Chain |
| IP | Intellectual Property |
| IPR | Intellectual Property Rights |
| KPI | Key Performance Indicator |
| MIIT | Ministry of Industry and Information Technology |
| MNC | Multinational Corporation |
| MOF | Ministry of Finance |
| MOFCOM | Ministry of Commerce |
| MOST | Ministry of Science and Technology |
| MSME | Micro-Small-Medium-Sized Enterprises |
| OECD | Economic Cooperation and Development |
| PBOC | People's Bank of China |
| POE | Privately-Owned Enterprise |
| R&D | Research and Development |
| SAIC | State Administration for Industry and Commerce |
| SAT | State Administration of Taxation |
| SME | Small and Medium-sized Enterprise |
| SOE | State-Owned Enterprise |
| USD | United States Dollars |
| VAT | Value-Added Tax |

Section Two: Horizontal Issues