BRITISH CHAMBER OF COMMERCE IN CHINA
中 国 英 国 商 会

BRITISH BUSINESS IN CHINA: POSITION PAPER

2024

ABOUT THE BRITISH CHAMBER OF COMMERCE IN CHINA

The British Chambers of Commerce in China is a membership organisation in the Chinese mainland focused on providing advocacy, knowledge and community for British businesses in China. We operate as an independent, not-for-profit organisation with a strong and diverse membership. With decades' worth of business experience in China, we are the independent voice of British business in China, bringing the British business community together and helping them thrive in one of the world's fastest growing markets.

As the voice of British business in China, the Chamber advocates on behalf of our members to both the British and Chinese governments for the purpose of better directing trade relations. The dialogues we foster raise the core concerns of our members, making their voice heard in government and the wider China business environment.

Our major policy initiatives are our annual Position Paper and Business Sentiment Survey, two authoritative overviews of the needs of British businesses in the China market. Both documents examine the impact of China's regulatory system on the ability of British Chamber members to thrive and provide a full range of products or services to market and provide both policy recommendations and an overview of opportunities for British business in China. Other reports provide more focused analysis on particular facets of China's regulatory landscape. Through our engagement with the British and Chinese government we aim to foster a strong, resilient UK-China trade relationship.

BRITISH CHAMBER OF COMMERCE IN CHINA
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ABOUT THE POSITION PAPER 2024

The British Business in China: Position Paper 2024 represents the views of the British Chamber of Commerce's members across China on the regulatory challenges for companies operating in the business environment. It offers solutions to regulatory challenges for both the Chinese and British government which can help level the playing field for British companies in a range of areas. It also identifies areas of mutual opportunity where businesses can complement the sustainable development of the economy. The cross-sector challenges addressed in this report were drawn from the regulatory challenges identified in the British Business in China: Sentiment Survey 2023-2024 as well as taking note of policy progress in the last year.

Analysis within the paper is drawn from the data provided in the Business Sentiment Survey 2023-2024 and industry roundtables and interviews. Roundtables and interviews were held with British companies from Beijing, Shanghai, Guangdong, Chengdu and other regions between February 2024 and April 2024, providing input from companies across various revenue profiles and years of experience in the market. After a year of seeing the Chinese government prioritise foreign investment, British businesses still shared uncertainty about the market in the Chamber's 2023-24 Sentiment Survey.

The recommendations in this Position Paper are indicative of priority areas as expressed by members during the data collection period and are not an exhaustive assessment of the issues faced by foreign businesses in China. The British Chamber of Commerce in China does not assume legal liability or responsibility for the accuracy and completeness of the information provided in this paper.

CHAIRS’ FOREWORD

Welcome to the sixth *British Chamber of Commerce in China Position Paper*. This annual policy document serves as an advocate for our members, offering a comprehensive overview of the current business landscape in China for both the Chinese and British governments, as well as other stakeholders. Through an exploration of challenges faced by companies operating in the country, we seek to identify solutions that promote a better business environment, benefiting both the UK and China. We are encouraged by the positive feedback we have received on the paper’s effectiveness in fulfilling this purpose.

This paper is a highly collaborative effort, led by the Chamber’s advocacy team and key members of the Chamber board. Its sole purpose is to support member companies and it would not be possible without their insightful and considered contribution.

Last year’s paper called for bolstering business confidence and fostering optimism, and we acknowledge the efforts of the Chinese government in this regard. Engagement between businesses and the government has reached unprecedented levels, with the British Chamber frequently called upon to share insights and advice.

However, despite progress, significant challenges persist. Whilst China has made strides in improving the environment for foreign entities, two issues remain over effective communication and the role of business in China.

Firstly, we emphasise the importance of open and transparent dialogue. It is concerning that some British businesses have opted not to highlight certain challenges in this paper. We must collectively examine why this reluctance exists and underscore the importance of addressing difficulties openly, even when solutions may seem elusive.

Secondly, there is a pressing need to clarify China's stance on international investment. While initiatives such as free trade zones and assurances of openness are welcomed, they are juxtaposed with concerns over regulatory unpredictability and fluctuating sentiments towards foreign entities.

For British businesses, who have long championed open global trade with China, the current ambiguity is frustrating. Despite this, we recognise the remarkable progress in areas such as intellectual property rights and legal support for international businesses. China today is a far more positive place to do business than it was in the recent past.

China is evidently charting a new course in its relationship with businesses, but clarity regarding the role of businesses is essential. British companies are eager to contribute to this evolution, provided it is accompanied by transparency, clarity, and consultation.

As an organisation committed to advocating for free, fair, and open markets, the British Chamber of Commerce in China will continue to champion these principles to both the Chinese and UK governments. In doing so we remain, conditionally, optimistic about the future of British business in China.

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EXECUTIVE SUMMARY

In 2023 the British Chamber asked the Chinese government to take concrete steps to open up, with a particular focus on addressing key regulatory issues such as those relating to data, whilst improving communication and transparency. The government deserves credit for many of the steps it has taken to tackle these issues in the past year, but these have yet to lead to a clear return of confidence among British businesses.

The last ten months have seen China push to attract international investment in the country through its *24 Point Guidelines* and *24 Point Action Plan to Encourage Foreign Investment.* These documents reference many of the key challenges facing British businesses in the country at a macro level and have already seen some measures introduced to address them. This comes as the Chinese government shifts its growth plans to centre on *new quality productive forces*, an initiative that also presents multiple opportunities for British companies to bring their expertise to the China market.

Despite this, the findings of the *British Business in China: Sentiment Survey 2023-2024* indicate that British companies are yet to see government measures translate into "meaningful opening-up", with an anticipation that regulatory obstacles will increase rather than a decrease in the next five years.[1] British business confidence is further constrained by the growing risk of increased trade tensions due to a complex geopolitical environment, which further discourages companies from making new investments in key areas.

There are signs that China is taking tangible steps to implement some of the changes outlined in their guidelines, including recent progress over the facilitation of cross-border data flows. British companies anticipate more opportunities in the market if the implementation of these measures fosters a clear, transparent and predictable business environment.

A TRANSPARENT AND PREDICTABLE REGULATORY ENVIRONMENT TO IMPROVE BUSINESS CONFIDENCE

The British Chamber of Commerce in China was encouraged to see China's *24 Point Guidelines for Attracting Foreign Investment* call for enhanced transparency and predictability in new policy measures.[2] Issues around transparency and the implementation of policy were the second- and third-largest regulatory issues for British businesses in our *2023-2024 Business Sentiment Survey*, notably in areas like technology, education and the built environment.

Despite this, this year has continued to see examples of policies introduced without warning and with insufficient support to ensure compliance. This includes the introduction of trade restriction threats such as the anti-subsidy investigations into French brandy, a sector which faces no domestic competition.[3] Official measures implemented without adequate signposting to international business inevitably undermine investor confidence in making long-term business plans in the Chinese market.

If the government can introduce greater predictability, clarity and transparency when implementing policy, it will go a long way to restoring business confidence in the market.

IMPROVE CONSULTATION WITH BUSINESS FOR BETTER POLICY SOLUTIONS

Another issue core to transparency and predictability of policy centres on how the Chinse government consults with businesses in the policy development process. Consultation with key stakeholders is an absolute necessity when developing effective regulation, not least because it reduces the need for numerous revisions after implementation. This will be particularly important for many areas of priority for China's growth, including clean energy and AI – both rapidly-developing and complex sectors. Such consultation can help ensure policies are feasible

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

2 Opinions of the State Council on Further Optimising the Foreign Environment and Increasing Efforts to Attract Foreign Environment,' State Council, August 2023

3 China targets French brandy imports in escalating trade disputes,' Financial Times, January 2024

and practical, with companies made aware in advance of any changes which might impact their operations.

The development of China's policy on data-sharing is a case in point. The introduction of the Chinese *Cybersecurity Law* in 2017 without comprehensive consultation with business weakened investor confidence as unclear regulation prompted many companies to minimise cross-border activity or overspend on compliance.[4] Subsequent measures to adjust back and improve the ease of cross-border data transfer are welcomed by British businesses though many feel that earlier consultation would have reduced cost and improved confidence.

China's shift to an economic growth model focused on *new quality productive forces* will likely see changes to regulation on key areas such as innovation for pharmaceuticals. In this sector, British businesses have been encouraged to see early consultation on new changes to pricing and reimbursement. Ensuring that such consultations are comprehensive and transparent, with subsequent changes accompanied by clearer implementation of timelines and compliance guidelines, will significantly improve business confidence in the China market, in turn creating mutual benefits.

CONSTRUCTIVE ENGAGEMENT IS NEEDED AROUND OVERCAPACITY

British business welcomes the economic development measures outlined at the Two Sessions, including the opportunities for investment presented by the *new quality productive forces* initiative. However, continuing tensions – notably in relation to issues around Chinese overcapacity - are undermining business confidence in relevant sectors.

Our *2023-2024 Business Sentiment Survey* showed that British companies increasingly invest in China due to alignment with the country's strategic objectives. China's plan to focus development in key areas such as clean energy in principle presents multiple opportunities for British companies in the country, with Britain at the heart of innovation over the decarbonisation of multiple sectors including healthcare and construction.

British companies are eager to engage in growth opportunities in China's key sectors. However, uncertainty over the long-term feasibility of the current investment landscape and the potential for increased trade barriers makes them cautious. There are also concerns in relevant sectors over the potential impact on profit margins in the Chinese market, following complaints by international companies in the automotive and energy sectors that prices have been driven down.[5]

To ensure British companies can have confidence in long-term investments into China, constructive engagement and dialogue are essential.

4 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

5 'Nissan locked in 'survival game' in China, warns chief executive,' Financial Times, May 2024, China's Solar Panel Giants Say Prices Are Near the Bottom,' Energy Connects (Bloomberg), May 2024

OUR POSITION ON IMPROVING CONFIDENCE AND ATTRACTING FOREIGN INVESTMENT INTO CHINA

British business welcomes the government's ongoing efforts to improve the operating environment for international businesses, notably through last year's guidelines and action plan.

Our members look forward to further progress in addressing sector-specific issues that hamper their ability to do business in the country. Long-term issues around obtaining key licences in areas such as the built environment sector have still not been addressed, with other sectors seeing slow progress. At the moment many companies are taking a wait-and-see approach that could easily become a move away from China as a core strategic market.

Based on the findings of our position paper, the British Chamber of Commerce in China believes there are multiple mutual growth opportunities if the Chinese government can take the initiative on key issues. Each of our positions make recommendations to support British businesses in realising their full growth potential in China for the benefit of both countries. We look forward to working with key stakeholders to ensure continuing progress in the coming year.

Key Recommendations for 2024-25:

- Follow up on guidelines to ensure a level playing field for British companies through clear actionable policies;
- Ensure a predictable and transparent policy development environment to enable British companies to realise their full potential in China;
- Improve clarity in policy formulation to give companies the confidence to invest;
- Improve the workability of legislation through clear and defined consultation and feedback mechanisms in the development of new legislation;
- Increase dialogue with governments and businesses alike to ensure that the *new quality productive forces* plan is seen as an opportunity by businesses;
- Reassure investors by continuing to provide more clarity over the sharing of data for British companies through the expansion of pilot zones.

AT A GLANCE: INDUSTRY REPORTS

PROFESSIONAL SERVICES

SUB SECTORS

Financial Services | Legal Services | Business Advisory | Public Affairs | Risk Management

OUR POSITION

- Provide greater legislative clarification of what constitutes ‘sensitive personal data’ in data security regulation, with improved consultation of businesses in this process
- Offer greater transparency to businesses in how legislation related to security issues is enforced in practice

FINANCIAL SERVICES

SUB SECTORS

Insurance | Asset Management | Banking

OUR POSITION

- Expand pilot plans introducing investment-friendly zones with easier access to capital and fund flows
- Implement further action on data flow facilitation in targeted zones or between designated regions
- Clarify rules for domestic cloud application usage, beginning with pilot programs
- Facilitate the standardised digitalisation and streamlining of the payment system for insurance products
- Streamline and clarify the application and approval processes for insurance providers to obtain branch licences
- Formulate and introduce unified green finance and transition finance standards

LEGAL SERVICES

OUR POSITION

- Streamline the approval process for appointing a chief representative
- Enable a more streamlined and fairer process for foreign law firms opening new offices in China and further improve the joint law operation (JLO) model
- Eliminate the unfair tax treatment of foreign law firms by allowing them to structure as partnerships
- Permit foreign law firms to practise Chinese law on a trial basis in non-sensitive areas
- Grant exemptions from the existing two-year experience requirement for work visas by allowing trainee solicitors to spend part of their training contract in China
- Harness the expertise of foreign law firms by granting them participation in government meetings

AUTOMOTIVE

SUB SECTORS

Automotive Component Suppliers | Original Equipment Manufacturers

OUR POSITION

- Accelerate the implementation of the outbound data whitelist to facilitate the free flow of data between foreign companies and their global headquarters
- Help China to become a more welcoming market for foreign car companies by recognising global testing requirements
- Increase dialogue over supply chain concerns amidst growing global trade tensions
- Allow luxury car manufacturers to maximise their appeal and brand image through the importing of vintage cars into China

BUILT ENVIRONMENT SERVICES

SUB SECTORS

Architecture | Construction | Engineering | Project Management

OUR POSITION

- Introduce trials allowing select companies the ability to operate in China with licence exemptions
- Expand recognition of international accreditations, qualifications and standards
- Ensure greater transparency and a more level playing field in the public procurement process

FOOD AND BEVERAGES

SUB SECTORS

Alcoholic Beverages and Soft Drinks | Agriculture

OUR POSITION

- Ensure authorities are empowered to act on *24 Point Guidelines* to disrupt counterfeiting and uphold IP rights
- Ensure that lot codes are directly and clearly protected under Chinese regulations
- Reintroduce an exemption for "easy open" spirits in China's mandatory labelling revision
- Prevent monopolistic behaviour on e-commerce platforms

EDUCATION

SUB SECTORS

Early Years Education | K12 | Higher Education | English Language Training | EdTech | Certification and Accreditation Bodies

OUR POSITION

- Ensure education providers can continue to provide exams within China
- Formalise the recognition of international qualifications in all-round education
- Loosen work experience and country of origin requirements for teachers
- Cancel proposed Income tax reform to ensure long-term business commitment
- Bolster international student numbers by allowing under-18s to study in China
- Provide access to key international professional qualifications

ENERGY

SUB SECTORS

Green Energy | Critical Minerals | Natural Gas | Power | Carbon Market | Hydrogen Technology | Carbon Capture

OUR POSITION

- Boost demand and infrastructure for green energy
- Promote diversified development in advanced energy storage
- Develop key mineral supply chains and propel China's green transition
- Encourage developments in allowing end pipeline access and flexible infrastructure for natural gas to ensure competitive usage cost
- Encourage investment into EV infrastructure to service China's rapidly increasing number of electric cars
- Strengthen the carbon market through a consistent timeline and greater standardisation to drive innovation in hard to abate industries
- Develop a stronger investment environment for key technologies for China's energy transition
- Create incentives for developing the supply of green hydrogen
- Support alignment with international reporting standards and investment frameworks for climate disclosure

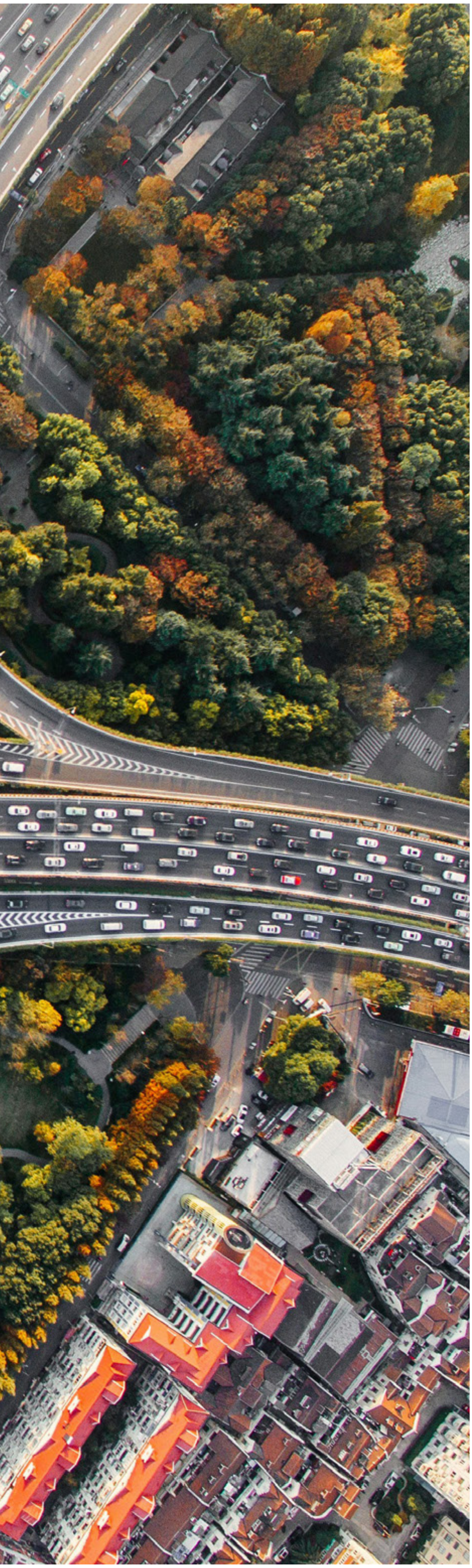
HEALTHCARE

SUB SECTORS

Pharmaceuticals | Over the Counter Medicines | Multivitamins | Medical Services

OUR POSITION

- Speed up approvals so that Chinese patients have faster access to new medicines
- Improve the harmonisation of standards and coordination to accelerate Chinese patient access to innovative medicines
- Introduce measures to improve China's focus on the prevention of diseases to support life-cycle protection of people's health
- Relieve pressure on hospitals through a China plan for self-care
- Ensure the reform of medicine pricing sufficiently encourages innovation
- Expand the definition of unmet clinical need to ensure patients have access to lifechanging medicines
- Upgrade Chinese health infrastructure to support patients with rare diseases, relieve pressure on healthcare systems and encourage innovation
- Support the development of rare diseases medicines through clear definitions and incentives
- Expand the availability of private medical insurance in China to patient access to medicines



CROSS-SECTOR CHALLENGES

NAVIGATING CYBER AND DATA SECURITY REGULATIONS

OVERVIEW

Cybersecurity regulations and IT restrictions became the top multi-sector regulatory issue faced by Chamber business members on aggregate in our *British Business in China: Sentiment Survey 2023-24*.[1]

The ability to transfer data across borders is a substantial global issue that has become vitally important to businesses, whilst posing a challenge to governments seeking to protect the public. Unfettered data flow is crucial for multinational businesses, who need to move data generated in one country office to their headquarters as part of daily operations. This issue has become particularly pressing in China, with companies noting increasing challenges navigating a complex and rapidly evolving regulatory landscape since the issuance of data protection legislation, including the 2017 *Cyber Security Law* (CSL), 2021 *Data Security Law* (DSL) and 2021 *Personal Information Protection Law* (PIPL).[2]

The services sector has been particularly challenged, due to the importance of effective data transfer, storage and access for everyday operations. 17% of service sector members cited reduced operational efficiency and additional compliance costs as a key negative consequence resulting from these regulatory issues, making it the key challenge for members, followed by increased difficulty in accessing online resources located outside of the Chinese mainland (15%). A number of businesses have adapted to regulatory changes by localising their data and reducing cross-border data activity, with several lowering investment as a reflection of faltering confidence in the business environment.

The government has sought to address this through increased regulatory flexibilities and clarity, notably through exemptions, pilot zones and provisions to provide systematic categorisation standards. The British Chamber welcomes these changes and encourages further action in the coming year to expand pilot zones, improve consultation mechanisms and clarify guidelines. By building upon and expanding their existing toolkit, Chinese authorities are well-positioned to further improve the clarity of compliance and boost foreign confidence and investment in tandem.

REGULATORY UNCERTAINTY SURROUNDING PERSONAL INFORMATION AND DATA PROTECTION LAWS

A perceived lack of clarity in laws around the protection of personal information is a core issue that hampers business operations, with many British firms in insurance, healthcare and other sectors requiring smooth handling of sensitive personal data in day-to-day operations. China has looked to alleviate this through several measures in recent years, with each change seeing foreign businesses endeavouring to keep afloat of new regulations to ensure compliance.

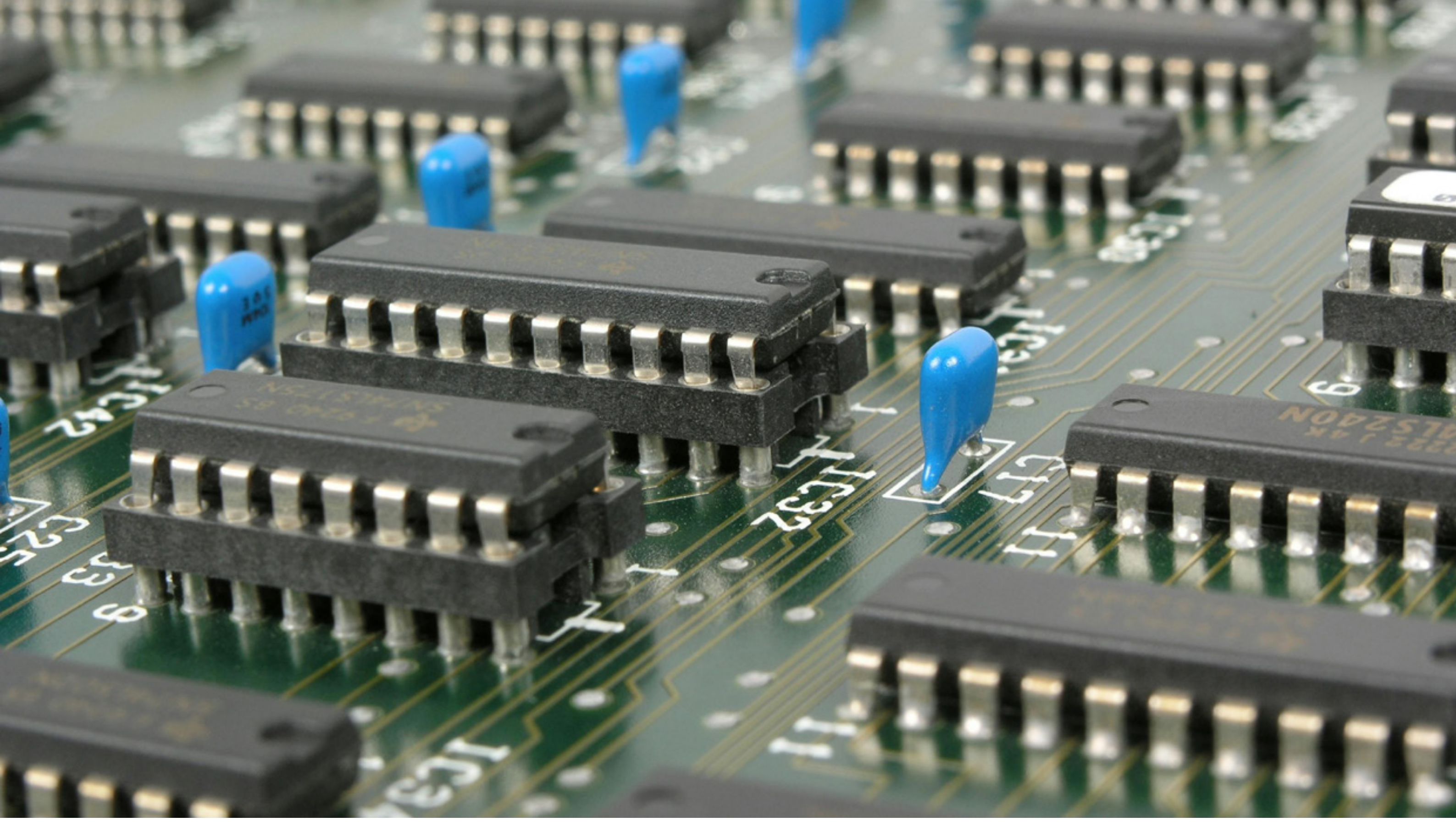
2023 saw major regulatory changes transform China's data protection landscape. The release of the *Standard Contracts for the Outbound Cross-Border Transfer of Personal Information* and associated guidelines created new restrictions on data transfers, resulting in considerable compliance costs.[3] Businesses rapidly identified ambiguity surrounding the scope of important and sensitive data within this new legislation as a crucial issue, with resulting delays in security assessment review approvals hindering business operations.

The integration of data regulation innovation into pilot free trade zones in Shanghai in late 2023 was a remarkable

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

2 'China's emerging data protection laws bring challenges for conducting investigations in China,' DLA Piper, July 2022; 'Cyber Security Law of the People's Republic of China,' Cyberspace Administration of China, June 2017; 'Data Security Law of the People's Republic of China,' Cyberspace Administration of China, June 2021; 'Personal Information Protection Law of the People's Republic of China,' Cyberspace Administration of China, August 2021

3 'Standard Contract for the Outbound Cross-Border Transfer of Personal Information,' Cyberspace Administration of China, February 2023



step forward in this domain. The Lingang New Area is expected to facilitate the development of expedient and secure transfer frameworks, provide clarity through categorisation and data lists and ensure greater efficiency through a cross-border data service centre. Projects in the pipeline for new standard contracts and mutual recognition of international data-related rules within these pilot zones are also welcome developments, enabling foreign businesses to adapt rapidly to the local business environment and optimise business operation efficiency. The Chamber sees pilot free trade zones as a vital channel to progressively scale flexible secure data flow regulation and strongly encourages further progress on expanding and increasing targeted zones.

The Chamber has been pleased to see several breakthroughs that considerably improve the regulatory landscape for cross-border data transfers in the first half of 2024. Notably, the release of the final version of the *Regulations to Promote and Standardise Cross-Border Data Flows* constitutes a major advance in addressing obstacles in cross-border data flows and further clarifying the compliance requirement framework of the *PIPL*.[4] The *Regulations to Promote and Standardise Cross-Border Data Flows* provide companies with long-sought-after clarity on data, specifically setting out compliance pathways. Higher thresholds of data volume for export compliance procedures provide greater flexibility and associated investment incentives for foreign businesses. Enterprises also welcomed further clarity on data classification standards with the April 2024 release of the *Data Security Technology - Rules for Data Classification and Grading*.[5] These standards provide more effective guidance to businesses navigating compliance assessments, ultimately boosting operational efficiency. Further, the release in March 2024 of the *24-Point Action Plan* boded well for future increased regulatory flexibility, with the promotion of potential establishment of a cross-border data flow 'whitelist' system – although as of yet this "whitelist" has not been released or further clarified.[6]

Despite notable improvements, the implications of this evolving data regime remain significant for all companies acquiring or merging with a mainland China company or one with substantial affiliates in mainland China. They will need to take into close consideration the potential impacts on regulatory compliance and operations in light of a more explicit cross-border data transfer framework. Despite this progress, it is important to underline that larger volumes of data are still subject to compliance procedures, alongside CIIOs and all data classified as 'important'. This means that larger multinationals, especially

4 'Regulations to Promote and Standardise Cross-Border Data Flows,' Cyberspace Administration of China, March 2024

5 'Data security technology — Rules for data classification and grading [GB/T 43697-2024],' State Administration of Market Regulation (SAMR) and the Standardization Administration of China (SAC), April 2024

6 'Action Plan to Solidly Promote High-Level Opening Up and Make Greater Efforts to Attract and Utilize Foreign Investment,' State Council, March 2024

those in consumer-facing industries, will likely continue to be constrained by compliance procedure thresholds and therefore impacted by the time and costs associated with ensuring compliance. The proposal of a data whitelist, while a potentially invaluable development if implemented, continues to hang in the balance, maintaining ambiguity for businesses assessing investment risk.

China's fluctuating data and cybersecurity landscape poses a particular challenge for SMEs as they grapple with uncertainty about the worthiness of their investments. Larger corporations can deploy necessary resources to navigate this ever-changing legal environment, specifically by expanding their internal teams or outsourcing to ensure compliance with applicable laws and regulations. Yet, by contrast, SMEs may struggle to determine whether compliance investments made today will remain relevant a year later if regulations evolve. Some are indeed opting to exit the Chinese market, perceiving that the disadvantages currently outweigh the advantages.

The Chamber appreciates the significant progress made on this front, yet encourages relevant authorities to further the development of a consistent and stable legal environment for personal information laws, general data and IT regulations. Such stability would restore confidence among SMEs, encouraging them to invest more willingly in the Chinese market. The further expansion of free trade pilot zones and channels with independently-facilitated data flow regulations would be another major asset in boosting the attractiveness and competitiveness of the Chinese market in specific targeted areas.

Recommendations:

- Provide further clarification of the personal data exemption regulation, as well as greater legislative detail on what constitutes 'sensitive personal data', with increased consultation of businesses in this process;
- Expand targeted pilot program zones characterised by defined flexibilities for data transfer;
- In advance of the release of the full whitelist, release a preliminary catalogue which provides flexible channels for the transferral of data in strategic key areas, such as R&D data for Internet and Connected Vehicles (ICVs), together with detailed requirements and suggested management approach;
- Apply initial compliance waivers for SMEs entering the market, scalable through an incremental requirement process.

DATA LOCALISATION

Aligning the safeguarding of citizens' security with continued pushes for growth is a key challenge affecting many sectors represented by the Chamber. Measures such as the 2017 CSL and 2021 PIPL constitute China's response to this challenge through requiring data localisation for the storage of all 'personal information and important data'. Though the 2024 *Technical Standards Guiding the Classification of "Important" Data* may have provided greater clarity as to what qualifies as important data, businesses are still stymied by a lack of clarity with regards to the scope of 'personal' information and associated storage systems.

The implications of these measures have also created considerable ambiguity as to whether the use of mainland Chinese cloud-based applications instead of on-premises systems is allowed. Erring on the side of caution, many businesses have resorted to expanding the use of on-premise data storage solution systems, which present significant costs as well as potential greater risks with regards to data leakage or hacking.

The elaboration of more explicit, comprehensive clarification as to the regulations surrounding access to Chinese and international cloud-based applications would be beneficial to a number of key stakeholders: first, it would ensure improved safeguarding of citizens' personal information as well as of information potentially relevant to national security. Second, such measures would facilitate the expansion of a global client base for domestic cloud technology providers to develop their global client base, boosting their competitiveness. Finally, the businesses concerned would be able to optimise operational efficiency, through outsourcing to a specialised storage provider.

Businesses further suggest that administrative access authority should remain the remit of the global headquarters; production and manufacturing data from domestic joint ventures would accordingly be stored at the headquarters and kept separate from data from other Chinese factories.

Recommendations:

- Clarify the ability to access Chinese and international cloud-based applications, potentially enabling domestic and international cloud technology providers to develop their global client base and boost their competitiveness;
- Develop more explicit regulation clarifying requirements as to data storage in cloud-based platforms.

FORMULATION AND ENFORCEMENT OF LAWS AND REGULATIONS

OVERVIEW

British companies consistently call out issues with transparency and the formulation and enforcement of laws and regulations as core challenges when engaging in business in China. The last year has seen the Chinese government commit to enhanced transparency and predictability in its *24 Point Guidelines for Attracting Foreign Investment*. Despite this, these issues still remain large concerns for British businesses, with transparency of the business environment and enforcement of legislation listed as the second and third highest rated challenges in our *Business Sentiment Survey 2023-24*.[1]

The main issues in this regard are a perceived lack of transparency and predictability in the formulation of policy, a lack of collaboration and consultation in the development of policy and a lack of consistency in the implementation of policy.

In the last year, the Chinese central government's *24 Point Guidelines* suggested moves to improve the transparency and predictability of legislation, with the subsequent *24 Point Action Plan* focusing on improving the enforcement of regulations.[2] At the regional level, the Beijing government has issued a *Call for Comments on the Regulations on Foreign Investment,* with the objective of attracting foreign investment, enhancing regulatory compliance and safeguarding the legitimate interests of foreign investors. [3]

British businesses anticipate the government to act firmly upon these promising policies and to further address the following challenges surrounding law enforcement and regulations discussed below. Acting upon the following recommendations will increase foreign firms' investment confidence, increase efficiency and unlock greater productivity in China.

PREDICTABLE AND TRANSPARENT POLICY DEVELOPMENT

Transparency and predictability in the business environment has a substantial impact on business confidence, with many companies less inclined to invest in a country with any perceived risk or unpredictability. British companies are excited to see China making commitments to enhance transparency and predictability in policy formulation.

Despite this, transparency of the business environment ranked second among British businesses in our *Business Sentiment Survey 2023-24*, in a year where companies have been increasingly delaying decisions on investment into the country. This indicates that more work is needed to improve transparency. In recent years, many British goods and services providers have reported the introduction of policies which have significantly impacted their business operations in China without warning or due process, disrupting confidence in the market.

To give an example of goods, one British consumer health company reported that a policy introduced at short notice and without consultation banned one of their products from sale over ingredient safety. Whilst maintaining public safety should be a key priority, the short notice of the change and lack of communication left the company unclear over what steps where required for compliance, with the issue also rendering much of their stock already in China unsellable. Such policies are regularly reported back to the UK and have a substantial impact on business confidence in the market. In addition, the hastily announced subsidy investigations into (French) brandy, a sector without local competition; reinforces the idea that China is unpredictable and serves to undermine business confidence. Greater transparency on the process and reasoning behind such policies, coupled with reasonable timeframes for implementation, would go a long way

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

2 'Opinions of the State Council on Further Optimizing the Foreign Investment Environment and Intensifying Efforts to Attract Foreign Investment,' State Council, July 2023; 'Action Plan to Solidly Promote High-Level Opening Up and Make Greater Efforts to Attract and Utilize Foreign Investment,' State Council, March 2024

3 'Announcement on the Public Collection of Opinions on the Beijing Municipal Regulations on Foreign Investment (Draft for Opinion),' Beijing Municipal Bureau of Commerce, September 2023

towards restoring business confidence in the market and encouraging further investment.

In the services sector, many British education providers have raised concerns over the recent update of the negative list for services.[4] The new policy, which companies suggest was released without prior consultation or notice, has left companies with many unanswered questions over compliance with the new restrictions, which were implemented within weeks of publication.

Transparency in the implementation of policy has also been raised by British companies in the energy sector. There is a lack of transparency surrounding how the National Emissions Trading System (NETS) will be implemented, particularly regarding the inconsistent timeline which has made long-term planning for investment in China difficult. Moreover, discrepancies in payment for appropriate carbon credit VAT practices, stemming from a need for greater clarification, have created an unequal carbon trading market.

British companies are excited by Chinese plans to foster a more transparent and predictable policy environment, but it will be vital that there can be demonstrable changes to ensure British companies become less inclined to raise such concerns moving forwards.

ENSURING CLEAR AND EFFECTIVE CONSULTATION IN THE FORMULATION OF POLICY

British businesses consistently raise challenges regarding a lack of consultation in the formation of policy. Clear consultation with industry in policy development is key to advancing feasible and practical policies, as well as ensuring that companies are made aware of any changes within reasonable timelines.

China's next stage of economic development is seeing new areas of technology prioritised for growth as underlined in the "new quality productive forces". Many of these areas are understood to be particularly complex and difficult to regulate. Unsurprisingly, this has led British companies in the advanced manufacturing and technology sectors to rank the enforcement of regulation as the most important issue faced in our *Business Sentiment Survey 2023-24*.

The issue of cross-border data transfers provides a textbook case on the importance of such inclusion in policy formulation. Members reported that previous policies to address the cross-border sharing of data through the 2017 *Cybersecurity Law* were introduced quickly and with limited consultation. With many companies seeing these regulations as complex and unclear, members looked to minimise cross-border activity, localise data or simply reduce the data they use. Others spent substantial sums of money on compliance. British businesses have been positive about measures introduced in 2024, which have made data usage clearer. Despite this, many feel effective consultation at an earlier stage would have reduced cost and improved confidence in the market.

China's shift to growth focused on *new quality productive forces* will likely see changes to regulation on complex and changing areas of technology. Ensuring that any future changes are accompanied by clearer implementation timelines, compliance guidelines and open consultation would drastically improve business confidence in the market, in turn facilitating mutual benefits.

4 'China releases first nationwide negative lists for cross-border services trade,' Global Times, March 2024

CONSISTENT ENFORCEMENT OF THE LAW

Finally, multiple British businesses have raised concerns over the consistency and robustness of law enforcement in China. These tend to relate to the robustness of administrative-level law enforcement, the avoidance of duplicate inspections and hastened correction of non-standard administrative law enforcement. Members have also suggested issues where new policies put in place at national level are not implemented in a timely fashion at local level.

British companies have suggested that the lack of enforcement of regulations puts them at a disadvantage compared to domestic firms, with foreign invested companies often more cautious in the face of any new rules.

The enforcement of intellectual property laws is a persistent challenge. Despite developing substantial legal frameworks protecting firms' proprietary assets such as trademarks, copyright and patents, enforcement lags behind. This damages the investment climate in China, particularly in the consumer goods sector which is especially vulnerable to IP infringement.

Recommendations:

- Act to implement the proposed greater consultation and integration of the views of British companies and chambers of commerce in regulation formation;
- Take measures to ensure the uniform enforcement of laws and regulations across central to local government;
- Ensure relevant authorities have the requisite power and funding to enforce regulations such as intellectual property protection.

OBTAINING CERTIFICATES AND LICENCES

OVERVIEW

Obtaining licences and certificates has long been a major concern for foreign companies entering the market in China. Ensuring foreign companies are able to obtain relevant licences should be a vital piece of the Chinese government's plans to foster a level playing field for foreign businesses, but foreign firms are still encountering barriers in getting the necessary licences for daily operations. Members are also concerned about the lack of recognition of international certificates, which impedes their ability to compete fairly.

According to our *Business Sentiment Survey 2023-2024*, 'obtaining certificates and licences' is the fifth largest regulatory issue across all sectors represented by the Chamber. In previous years, the education and financial services sectors were most affected by issues in licensing, however, this year saw many more sectors facing challenges. It became the second most important issue for education companies and was reported by multiple other sectors as a priority challenge.

Despite its widespread impact, the issue of licensing and certification has not received much attention in the government's plan to increase foreign direct investment and improve the current business environment. Though promising to comprehensively improve services for foreign-funded enterprises, the *24 Point Guidelines* released last August only briefly touched upon the issuance of certificates of origin under free trade agreements but showed less support for tackling unfair treatments beyond the free trade zones.

Encouragingly, the subsequent *24 Point Action Plan*, issued six months later, offered more clarity and detail, affirming the government's commitment to combat behaviours, policies and measures that violate fair competition, stating that 'the discriminatory behaviours against foreign-funded enterprises in government procurement, bidding and tendering, qualification licensing, standard development, subsidies and other respects reported by business entities will be handled in a timely manner and responsible entities will be notified and be ordered to conduct rectification within a prescribed time limit.'[1] However, while the plan acknowledges the issue of unfair treatment in the issuance of certificates and licences, it lacks a systematic policy framework to address this concern, opting instead for a case-by-case approach.

RECOGNITION OF INTERNATIONAL CERTIFICATIONS

One of the most significant barriers to foreign business operations in the past year was the limited recognition of internationally-accredited qualifications. Foreign firms are often unable to use these certifications to show equivalence with Chinese qualifications, often causing workers to require additional training or examinations to obtain a local licence regardless of their experience abroad. This can significantly restrict their ability to participate in the Chinese market and contribute their expertise.

Education and the built environment sector are affected most severely in this regard. The insufficient recognition of international qualifications has limited the available talent pool for educational institutions and hindered the introduction of innovative approaches, while foreign architects and engineers face difficulties participating in architectural design for projects in China. In addition, foreign companies may incur additional costs and delays to meet local qualification requirements, making it more difficult for them to operate profitably in China.

Reassuringly, Beijing has shown a clear emphasis in the last year on bolstering vocational education in China. Its latest edition of the *Foreign Vocational Qualifications Approval Catalogue of Beijing (Version 3.0)* recognised 122 (mostly international) vocational qualifications, in

1 'Notice by the General Office of the State Council of Issuing the Action Plan for Steadily Advancing High-level Opening up and Making Greater Efforts to Attract and Utilize Foreign Investment,' The General Office of the State Council of People's Republic of China, February 2024

areas including science, technology, finance and art.[2] The new recognition of these qualifications represents an important shift towards a more holistic policy approach to China's educational landscape and has brought crucial benefits to British vocational education providers. Beijing's direction has also been followed by a number of other provinces and municipalities.

BURDENSOME LICENCE PROCEDURES

In the past year, British companies continued to report frustrations with the complexity and opacity of licence application procedures. Companies have reported that these procedures can be slow, bureaucratic and lacking in transparency, leading to delays, frustration and additional costs. Notably, this year saw some businesses in the consumer healthcare and financial services sectors decide against entry into the China market due to difficulty obtaining licences.

One of the continued major obstacles in the last year was where there is unequal treatment for foreign businesses. For example, companies in the built environment sector encountered serious impediments in obtaining Class A design licences. In most cases, these licences are currently procured through the cooperation with a local firm due to the requirement of high associated registered capital – a resource that foreign companies, especially SMEs, typically have in lesser amounts, which has placed them in a disadvantageous position. Similar problems also cause difficulty in the technology sector. Many licences surrounding audio-visual technology and education are generally unavailable for foreign companies despite the fulfilment of the outlined requirements and criteria. They may only be granted to state-owned entities or those with a state-owned background.

Alongside this, obtaining licences has remained a highly complicated and tedious process. Insurance companies in particular need to apply for specific licences from the National Financial Regulation Administration (NFRA) for engagement in online insurance activities, for sales in specific regions and for exclusive sales and distribution of products through online platforms.

Licence obtainment is still a complex, costly and lengthy process for foreign businesses operating in China. We see opportunities for more streamlined licence procedures and clearly defined and standardised requirements, which would help ensure a level playing field.

OPERATIONAL LICENCE ISSUANCE

British businesses have also found it difficult to obtain operational licences, particularly in rural parts of China. This problem has been most salient in financial and legal services. Insurance companies have found it difficult to insure people in more remote provinces, as they can only get an operational licence if they have a permanent office there. Yet setting up an office for a small group of customers is unlikely to be cost-effective. Similarly, British legal firms have also encountered problems in setting up businesses in more than three provinces, which has significantly hindered their ability to expand their national presence. Further exacerbating these concerns is a perceived lack of transparency in the licensing process and slow bureaucratic procedures by local officials. This has made it difficult for foreign businesses to plan their operations and has led to delays and frustrations.

By outlining the challenges above, we look to see the facilitation of a more streamlined and efficient licensing system for the year to come and just as importantly, a level playing field. This would make it easier for foreign businesses to establish and operate in China, fostering a more open and competitive business environment.

Recommendations:

- Publish clear and standardised guidelines with specific requirements for each licence type, including all necessary documentation, fees and processing times;
- Roll out an upgraded design licence pilot scheme, together with a designated platform which provides clearer guidance and timelines for licence applications;
- Add specific provisions in licence requirements for SMEs, lowering the threshold for registered capital for businesses under a certain size.

2 "Foreign Vocational Qualifications Approval Catalogue of Beijing (Version 3.0)", the People's Government of Beijing Municipality, September 2023

HIRING CHALLENGES AND TALENT DEVELOPMENT

OVERVIEW

As China continued to shift away from pandemic-era restrictions on travel, vital opportunities in talent recruitment have opened up for British businesses in China. Despite this, hiring concerns have remained amongst businesses looking to plan a long-term strategy for the Chinese market. This impacts both foreign and domestic talent, with an ongoing reduction in the international talent pool diminishing the opportunities for exchanges of knowledge between foreign and local personnel.

ACTION FROM THE CHINESE GOVERNMENT

In light of this, the Chinese government's distinct policy emphasis in the last year on foreign recruitment and knowledge transfer has been critical. This includes the government's pledge within last year's *24 Point Guidelines* to continuously optimise entry and exit policy measures for foreign visitors, a pledge which has been repeated this year in the updated Ministry of Commerce *24 Point Action Plan*. On top of this, there is now an increasing list of countries whose citizens are permitted to enter China without a visa for short stays, which has empowered foreign businesses to bring over key skilled personnel or executives on short notice and without any delay.

Just as importantly, clear steps continue to be taken to make China more accessible and convenient to non-PRC citizens, including the acceptance of foreign bank cards on mobile pay apps like Alipay and WeChat Pay and increases to foreign card transaction limits. These changes represent pivotal steps in ensuring that China is seen as an inviting and accessible destination by prospective international talent. Building on this progress will be essential; prolonged restrictions on travel resulted in a substantial amount of China's foreign community leaving the country indefinitely and have more generally served to undermine China's appeal for potential foreign talent. Geopolitical tensions are also likely to have played a hand in this.

HIRING FOREIGN STAFF

During the Covid-19 pandemic, the hiring of foreign staff was heavily disrupted and many businesses were entirely blocked from relocating foreign talent to China. In 2022, during this disruption, 56% of businesses reported that they did not have enough foreign talent employed.[1] Fortunately, in the wake of China's reopening, businesses have increasingly been able to access the foreign talent they need and flights have slowly returned to pre-pandemic levels. However, other restrictions have remained, which are preventing businesses from hiring enough foreign staff – particularly regarding visas and work permit restrictions.

Businesses looking for talent continue to be restricted by qualifying requirements for work visas, such as restrictions on accepted qualifications which prevent those with certain degrees and vocational qualifications from working in China. While the UK has pathways for the recognition of Chinese credentials including by converting them into UK equivalents, foreign businesses continue to report there being a lack of the same in China. For example, in the education sector, businesses state that there is limited acceptance for qualifications such as diplomas in early childhood education or non-degree level certifications for computer scientists.

The administering of work visas is also contingent on an applicant having at least two years of prior work experience. This requirement prevents recently qualified professionals who are interested and knowledgeable about China from laying their professional foundations in the country, such as in the case of newly employed lawyers who could have had the opportunity to undertake a portion of their 2-year training contract at law firm located in China. Additionally, existing restrictions inhibit international companies from transferring their junior staff into and around China, or granting visas to short-term interns who are keen to experience China's professional landscape.

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

INCOME TAX REFORM

China's proposed income tax reform was set to be implemented in January 2024 and raised immense concern amongst foreign workers and businesses. Fortunately, this proposal has been delayed until 2027 following widespread advocacy, however long-term concerns remain amongst British businesses. Under the existing tax framework, foreign companies operating in China can entice overseas talent with fringe benefits such as housing allowances and general reimbursements, all of which are non-taxable. These attractive incentives have positioned China as an appealing hub for skilled professionals across the globe. However, the proposed reforms would subject these benefits to taxation, which would result in foreign talent facing an increased tax burden. This change would serve not only to undermine the attractiveness of China as a destination for foreign talent but also shift much higher costs onto foreign businesses to pay their staff.

The effects of the pandemic for foreign business have not only been economic; they have also undermined China's attractiveness for prospective foreign staff. Incentives such as income tax fringe benefits are central in this continued reputational recovery and it is crucial in this light that China continues to implement measures to attract foreign staff. Under the planned arrangement, the new looming 2027 deadline for the removal of individual tax benefits for foreign talent will heavily undermine long-term planning for foreign businesses across all sectors in China. Such a change would have particularly affect international schools, which have thousands of students across China and are amongst the largest employers of foreign staff.

HIRING LOCAL STAFF

The continued undersupply of foreign professionals in China has had notable knock-on effects on local talent, particularly in terms of the knowledge and skills transfer between foreign and local staff. This knowledge exchange is most crucial in highly advanced industries, where foreign personnel play an important role in training local staff. In the Chamber's *Business Sentiment Survey 2023-24,* 68% of businesses who reported challenges in hiring or retaining Chinese talent put this down to a lack of the required skills and qualifications.

Foreign companies in China have continued to struggle to find staff who have both the requisite skills and the knowledge to effectively work in an international company. This is particularly true in less developed parts of the country, where there may not be much pre-existing international presence. This issue invites opportunities for reform, such as closer collaboration in vocational education which ensures that workers are trained in the requisite skills to work in both domestic and foreign companies. As China continues its rapid high-end and high-tech manufacturing expansion, the knowledge and expertise offered by foreign sectoral experts is an important asset that should be promoted.

Recommendations:

- Enable an increase in newly qualified professionals moving to China with the introduction of flexible exceptions to two-year visa requirements and by better recognising non-degree qualifications when granting visas;
- Remove the individual income tax reform to help ensure that China remains an attractive destination for foreign talent;
- Promote knowledge and information sharing opportunities between foreign and local staff;
- Facilitate continued global interactions with China by growing the list of countries whose residents can enter China without a visa for tourism and business;
- Continue to make China more accessible to foreigners in day-to-day life, including through increased flexibility on payment apps.

INTELLECTUAL PROPERTY

OVERVIEW

Major changes in 2021 and 2022 saw China implement tough punitive damages for IP infringements in civil courts, significantly increasing the upper limit for both statutory and punitive damage payments those found guilty of infringing IP rights must pay to the rights holder. China has continued a long-term trend in strengthening intellectual property protection in the last year, with the issue specifically referred to in two points from the *24 Point Guidelines* and following *24 Point Action Plan*.[1] The guidelines make multiple commitments on major IP issues faced in the market by British companies, whilst the action plan suggests the alignment of Chinese IP rules with international high standards.

One area in the guidelines focuses on improving consistency in the regional administrative enforcement of IP laws and regulations. The policy encourages regional IP workstations, which could reduce any regional disparity in how IP infringements are prevented and reacted to. Regional courts across China have been increasingly operating with this focus on lowering ruling disparities, particularly by paying closer attention to previous rulings by the Supreme People's Court or Higher Courts when formulating their own.

Other commitments surround improving the communication and consultation between relevant departments and companies over products involved in IP disputes. Both of these issues have been consistently raised as long-term issues that foreign companies face when it comes to protecting their IP in China, so such measures are well received. This is particularly important when considered alongside pledges to either not purchase or cancel the qualification of selection for products

1 Opinions of the State Council on Further Optimising the Foreign Environment and Increasing Efforts to Attract Foreign Environment,' State Council, August 2023; 'Action Plan for Solidly Promoting High-level Opening to the Outside World and Making Greater Efforts to Attract and Utilise Foreign Investment,' State Council, March 2024

that have been determined as patent infringement by IP departments.

PROTECTING IP IN THE PHARMACEUTICAL SECTOR

Much of the progress in the last year has come in the pharmaceutical industry. Implementations of the new patent linkage measures by courts and administrative authorities provide more clarity on how companies can take action over potential patent infringement before any potential imitation medicine comes to market. This helps protect patent owners, who have more recourse to intervene in such circumstances. There have also been pledges to strengthen the protection of IP rights in the procurement of pharmaceuticals and medical consumables, with requirements for enterprises participating in procurement activities to ensure that there are no violations of patent law and other laws and regulations.

Despite this, pharmaceutical companies still wish for more clarity on medicine trial data protection, particularly regarding protection subjects, protection contents, protection periods and protection procedures. Companies also suggest that compensation for first-marketed medicines should not just be limited to indications approved at the first time of application, with all indications covered. Others have suggested that imported innovative medicines should receive the same patent extension, data protection and market exclusivity rights as those first launched in China.

PARALLEL IMPORTS

This year has seen many British companies raise concerns about parallel imports, with businesses seeing their own products sold through legal channels at much lower prices than their own. Generally, China allows parallel imports and there haven't been many recent changes in the law regarding them. Despite this, these imports impact the ability of companies to enter the Chinese market and upscale. One concerning trend is that parallel importers are increasingly tampering with the labelling of goods to limit their traceability by, for example, tampering with lot codes for spirits. Many companies use these lot codes to ensure consumers are able to trace their products in case of any problems, with the codes also making it easier to spot counterfeiters. This means the legalised protection of the codes can protect consumer confidence and safety.

Recommendations:

- Ensure that *24 Point Guidelines* commitments to improve transparency and improve consultation between relevant departments and companies is carried out.
- Carry out plans to improve consistency in the regional administrative enforcement of IP laws and regulations through IP workstations, with each of these stations equipped to step in to stop IP infringements.
- Legislate for the protection of lot codes in packaging to improve the traceability of imported goods.
- Align IP rules with international standards.
- Strengthen the investigation and handling of cases of IP infringement, with authorities given the power to crack down on violations of IP rights.

Pharmaceuticals:

- Continue to improve intellectual property protection in the pharmaceutical sector, particularly surrounding the extension of data exclusivity rights where appropriate.
- Grant imported innovative drugs the same rights and interests as domestic innovative drugs, such as patent extension, data protection and market exclusivity.
- Expand the term 'compensation effect' to cover all indications of an innovative medicine first marketed so it is not limited to the indications approved at the time of application.

RECOMMENDATIONS

CROSS-SECTOR CHALLENGE	RECOMMENDATION
Navigating Cyber and Data Security Regulations	1. Provide further regulatory clarification to businesses over the use of sensitive personal data through increased consultation and widened pilot program zones. 2. Clarify the permitted channels for data transferral through a preliminary catalogue, while also clarifying the permissible uses for cloud-based platforms.
Formulation and Enforcement of Laws and Regulations	3. Take measures to ensure the uniform enforcement of laws and regulations within China to improve predictability in the legal landscape. 4. Ensure there is sufficient consultation in the development of new policies, with the introduction of new policy accompanied by clearer implementation timelines and compliance guidelines.
Obtaining Certificates and Licences	5. Publish clear and standardised guidelines for each licence type, with specific provisions for SMEs that lower the registered capital threshold. 6. Roll out an upgraded design licence pilot scheme, providing clearer guidance and timelines for licence applications.
Hiring Challenges and Talent Development	7. Continue to facilitate the movement of foreign talent into China, including through the relaxing of visa requirements, reversing of planned tax policies and improvements to the convenience of day-to-day activities for foreigners in in China. 8. Promote knowledge and information sharing opportunities between foreign and local staff to promote the increased upskilling of workers throughout China.
Intellectual Property	9. Improve consistency in regional enforcement of IP laws and regulations and ensure that relevant authorities are given the power to ensure violations of IP rights are effectively cracked down upon. 10. Continue to improve IP protection in the pharmaceutical sector, including by extending data exclusivity rights where appropriate and by protecting imported innovative drugs in an equal manner to domestic innovative drugs.

INDUSTRY REPORTS

PROFESSIONAL SERVICES

SUB SECTORS

Financial Services

Legal Services

Business Advisory

Public Affairs

Risk Management

OUR POSITION

1. Provide greater legislative clarification of what constitutes 'sensitive personal data' in data security regulation, with improved consultation of businesses in this process;

2. Offer greater transparency to businesses in how legislation related to security issues is enforced in practice.

STATE OF SECTOR

LOOKING BACK

The UK has a global reputation as a high-quality services provider, with British companies helping develop legal and financial services around the world as well as being active in the business advisory sector. Services are also vital to UK industry, accounting for 80% of the country's economic output. British services companies play a crucial role in helping to improve the landscape for foreign investment in China, thereby helping to support economic growth and drive domestic consumption – priorities for the Chinese government.

The year 2023 proved especially challenging year for British services companies in China. In our most recent *2023-24 Sentiment Survey,* more than 70% of professional, legal and financial services sector respondents reported that 2023 had been more difficult than 2022 from an operations perspective.[1]

For this reason, we have integrated the three into a lead piece clarifying the importance of addressing regulatory challenges for the services sector.

The top two challenges identified by British professional services businesses this year were 'navigating cybersecurity and IT regulations' and 'transparency of the business environment.' Given the nature of work carried out by professional service businesses – including public-record checks and broader risk management operations - their operations have been particularly constrained by China's increased scrutiny in this area and tightened regulation around data security and personal information protection.

FUTURE OPPORTUNITIES

A strong international professional services sector is vital in any business landscape, but particularly so in the context of China's evolving investment environment. British and other professional service firms can provide advice to international clients entering the Chinese market. Increased operating challenges for professional services companies themselves inevitably has a knock-on effect in the broader foreign business community and potentially weakening international business confidence in and engagement with China.

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

British and other professional services companies also offer invaluable global expertise to Chinese businesses looking to grow their operations beyond China, providing key insights and strategies for often complex markets overseas. In this context, professional services firms play a vital role in the transfer of knowledge and upskilling of Chinese workers, imparting the skills and experience necessary for Chinese companies to engage with and succeed in the international market. Strong government support for British professional services firms in China can therefore bring benefits to the Chinese economy both at home and abroad.

1 PROVIDE GREATER LEGISLATIVE CLARIFICATION OF WHAT CONSTITUTES 'SENSITIVE PERSONAL DATA' IN DATA SECURITY REGULATIONS

Many British professional services companies need to regularly conduct risk assessments as a key element of their business operations, be it in legal services, insurance or public affairs. In the course of conducting these risk assessments, companies may have to deal with sensitive personal data. Many such businesses remain unclear about the precise definition of 'sensitive personal data' in existing regulations. They therefore tend to be overly cautious in order to ensure compliance, which inevitably impacts the efficiency of their day-to-day business operations.

While recent clarifications have helped to reduce regulatory ambiguity among British professional service firms, the British Chamber would welcome precise definitions for key categories, notably 'sensitive personal data'. British companies would also welcome an opportunity for consultation as part of this process. The Chamber believes that consultation with a wider variety of stakeholders - both established multinationals and SMEs - would more effectively identify compliance issues and so help to encourage not only new market entrants but also expansion by existing operators.

Recommendations:

- Increase consultation with foreign companies to clarify what exactly constitutes sensitive personal data;
- Continue to encourage the introduction of pilot zones with increased ease in dealing with personal data in the services sector specifically.

With revenues heavily reliant on comprehensive risk assessment, such a measure would have a stabilising effect on financial services businesses, restoring confidence by setting up explicit 'red lines'. This would in turn incentivise businesses to continue developing operations in China, providing more effective and competitive services to the Chinese consumer market.

2 OFFER GREATER TRANSPARENCY TO BUSINESSES IN HOW LEGISLATION RELATED TO SECURITY ISSUES IS ENFORCED IN PRACTICE

British businesses operating in China recognise the importance of protecting national interests through effective regulations governing cybersecurity, data privacy and national security. British companies would welcome greater clarity over the implementation of national security legislation – particularly in the field of data security - so that they can ensure more effective compliance.

British businesses in the professional services sector dealing with company or personal data have found that a lack of transparency around legal implementation has created significant uncertainty about how they are permitted to conduct business. In some cases this has led to the withdrawal of professional services from mainland China.

Recommendations:

- Maintain clear channels of communication with foreign businesses about updates to national security law legislation and/or enforcement;
- Where possible, improve the flow of information following incidents related to national security that involve foreign companies so that all businesses can comply more effectively with local legislation.

British and other foreign professional services companies have a key role to play in strengthening the business environment both for foreign companies operating in China and for Chinese companies investing globally. Support for British services companies will not only bolster business confidence, but also ensure stronger local compliance by international companies in China, thus strengthening national security.


Ocean Cruiser

FINANCIAL SERVICES

SUB SECTORS

Insurance

Asset Management

Banking

OUR POSITION

1. Expand pilot plans introducing investment-friendly zones with easier access to capital and fund flows;
2. Implement further action on data flow facilitation in targeted zones or between designated regions;
3. Clarify rules for domestic cloud application usage, beginning with pilot programs;
4. Facilitate the standardised digitalisation and streamlining of the payment system for insurance products;
5. Streamline and clarify the application and approval processes for insurance providers to obtain branch licences;
6. Formulate and introduce unified green finance and transition finance standards.

STATE OF THE SECTOR

LOOKING BACK

2023 was a difficult year for British businesses working in financial services, with 70% of the Chamber's *Business Sentiment Survey 2023-24* respondents from the sector indicating that it was harder than 2022.[1] Alongside geopolitical concerns, China's prolonged economic growth slowdown has evidently exacerbated investment concerns. After an initial burst of economic activity and optimism which followed China's reopening and easing of COVID-19 restrictions, underwhelming domestic demand has had a dampening effect on investors' spirits, with consideration of higher yields elsewhere. Foreign direct investment in China hit a three-decade low in 2023, decreasing by approximately 80% from 2022.[2]

Despite this, China's overall financial services sector continued to enjoy strong growth in 2023, with the combined assets of financial institutions in China increasing by 9.9% year-on-year at the end of 2023 for a total of RMB 452.82 trillion (GBP 49.7 trillion).[3] Within this sector, the insurance industry saw the most significant growth with total assets increasing by 10.4% and the banking industry increasing assets by 10%. The People's Bank of China reported a 5.6% increase in total assets for securities institutions.[3] In contrast to this steady growth for domestic institutions, the market share of foreign banks' total assets has continued to stagnate. Continuous decline since peaking in 2007 reflects slow asset growth and lower profitability, though a slight increase from 1% in 2020 to 1.25% in Q3 2023 may be cause for optimism.[4] Foreign banks cite their capped legal access to the China Foreign Exchange Trade Systems (CFETS) as an issue hampering further expansion.

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

2 'Foreign direct investment in China falls to 30-year low,' Nikkei Asia, February 2024

3 'China's financial institutions report 9.9 pct growth in assets,' Xinhua News, March 2024

4 'China is a relevant market for foreign banks, but there are hurdles beyond market entry,' Alicia Garcia-Herrero, February 2024

FUTURE OPPORTUNITIES

Despite concerns over the last year, China's vast market remains a steady factor attracting investment from financial services businesses, with British businesses confident in strong demand for international equities and fixed income products among Chinese consumers. In the insurance sub-sector, both the protection gap (the difference between the amount of insurance that is economically beneficial and the amount of coverage purchased) and demographic factors such as an expanding middle class remain pertinent pull factors for potential and existing investors. Macroeconomic concerns are expected to be alleviated to an extent in the coming year, with a potential US interest rate cut anticipated to reduce pressure on the renminbi and associated restrictions on outflow.

Clear government-driven pushes to facilitate and incentivise foreign direct investment have been noted with enthusiasm by businesses in the financial services industry, signalling the Chinese government's interest in boosting foreign investment confidence as well as resolving persistent regulatory concerns. Several recent policies to attract FDI, including the 2023 *24 Point Guidelines*, touch upon core issues for Chamber members. The Chamber appreciates clear direction from the Chinese government to address the major issues of data security, data mobility and capital mobility. Recent government initiatives facilitating data flow in designated zones and 'green channels' are significant improvements which support foreign businesses in navigating complex compliance scenarios.

Model pilot programmes in Shanghai, Beijing and across the Greater Bay Area have been good starts to improving investment conditions on localised levels; further development of similar targeted zones and channels would be welcomed by businesses, strengthening investor confidence by reducing compliance risk and associated operational costs. Increased clarification on data and capital flow restrictions and exemptions in these zones are areas in which the Chamber looks forward to further regulatory progress.

The Chamber further welcomes an emphasis on financial services in the 2024 State Council *24 Point Action Plan* – particularly commitments to expand the business scope for foreign financial institutions operating in the domestic bond market and to boost market access in banking and insurance sub-sectors.[5] These are positive initiatives which our members are keen to see further development and implementation of in the coming year.

5 'Action plan to promote high-level opening-up, attract foreign investment,' State Council, March 2024

CROSS-BORDER PAYMENTS

1 EXPAND PILOT PLANS INTRODUCING INVESTMENT-FRIENDLY ZONES

Businesses welcome movement towards addressing the key challenge of China's cross-border payments regulations in the last year. China's 'closed' capital account policy creates obstacles for efficient capital and fund transfer into and out of China for foreign businesses, disincentivising the expansion of activities in Mainland China.

Chamber members are positive about the introduction of municipal work plans promoting the establishment of foreign-invested technological R&D centres in Shanghai and Beijing respectively. These centres present strong opportunities to ease cross-border financial services issues relating to capital and fund flow.

Members have called for these plans to be expanded beyond these two cities, as well their coverage beyond the technological R&D sector into other industries such as asset management and insurance, with improved access for free trade accounts to ease regulations on foreign exchange.

Recommendations:

The British Chamber calls on local authorities to encourage more foreign investment and financial services sector growth by:

- Continuing to establish and expand targeted zones with free trade accounts;
- Providing defined flexibilities, with relaxed regulation over foreign exchange and cross-border payments;
- Clearly defining what kind of data can be used and transferred.

Such policies could align with existing best practice standards such as those put forward through the G20-endorsed Financial Stability Board Roadmap for Enhancing Cross-Border Payments. This policy planning guideline provides clarity as to key priorities and solutions in cross-border payments, with an incremental strategy to reduce exchange costs.[6]

These measures would restore confidence among existing and potential investors, garnering FDI in other key sectors for the Chinese economy. The creation of additional zones in other Tier 1 and Tier 2 cities would promote targeted, dynamic growth in emerging business hubs, creating potential for new globalised centres of innovation.

6 'Enhancing Cross-border Payments,' Financial Stability Board, October 2020

DATA SECURITY & DATA TRANSFERS

2 IMPLEMENT FURTHER ACTION ON DATA FLOW FACILITATION IN TARGETED ZONES OR BETWEEN DESIGNATED REGIONS

China's 2023 *Draft Easing Regulations*, fully enshrined in the highly anticipated May 2024 final regulations, made cross-border data transfer significantly easier for companies operating in China, with multiple exceptions to earlier data transfer legal requirements.[7] These were established by the *2023 Measures for Standard Contracts for Cross-Border Transfer of Personal Data* (China SCC Measures) and initially clarified by the *Standard Contracts for Cross-Border Filing Guidelines* (SCC Filing Guidelines). These introduced measures for improving data transfers through 'green channels' for Qualified Foreign Investors alongside and municipal-level pilot zones of freely transferrable general data have also been positively received by foreign financial services companies.

Despite this move to clarify and streamline regulation, cybersecurity and data security measures still continue to be flagged as a major point of concern for British businesses operating in China. In 2023, 83% of financial services companies in the British Chamber reported cybersecurity and IT regulations as one of their top five challenges. Compliance risks and operational costs associated with data flow between foreign enterprises and their headquarters increasingly affected investment decisions, particularly for SMEs.

Further clarification of the regulatory scope within these targeted zones and of the regulatory environment outside of these zones, would be vital to further incentivise FDI and maintain market competitiveness, ensuring that the mainland Chinese market remains attractive and accessible to financial services businesses.

Recommendations:

With the financial services sector awaiting further clarification in the final version of the regulation, the Chamber recommends the following actions:

- Provide specific definitions of what constitutes exemptible data;
- Include compliance waiver provisions in specific local areas;
- Clearly define flexibilities on what kind of data can be used and transferred in pilot zones.

Similar clarification mechanisms have proved successful in the EU, with guidelines put forward by the European Data Protection Board's Data Protection Guide as well as the Commission website providing precise definitions targeted at businesses as to what constitutes exemptions from the General Data Protection Regulation.[8] Further, targeted 'general data' pilot zones pioneered in the municipalities of Beijing, Tianjin, Shanghai and the Greater Bay Area set strong examples which the Chamber hopes to see further expansion of.

The Chamber can see that progress is being made in this regard and is excited to see further changes in 2024 to improve access to foreign expertise and investment.

7 'Regulations on Promoting and Regulating Cross-border Data Flow (Draft Regulations),' Cyberspace Administration of China, September 2023. 'Regulations on Promoting and Regulating Cross-border Data Flows,' Cyberspace Administration of China, March 2024

8 'International data transfers,' European Data Protection Board, n.d. 'What rules apply if my organisation transfers data outside the EU?,' European Commission, n.d.

3 CLARIFY RULES FOR DOMESTIC CLOUD APPLICATION USAGE, BEGINNING WITH PILOT PROGRAMS

Balancing the protection of citizens' security along with grasping opportunities for growth is the defining conundrum in many sectors represented by the Chamber, with the financial services sector particularly facing challenges in this regard.

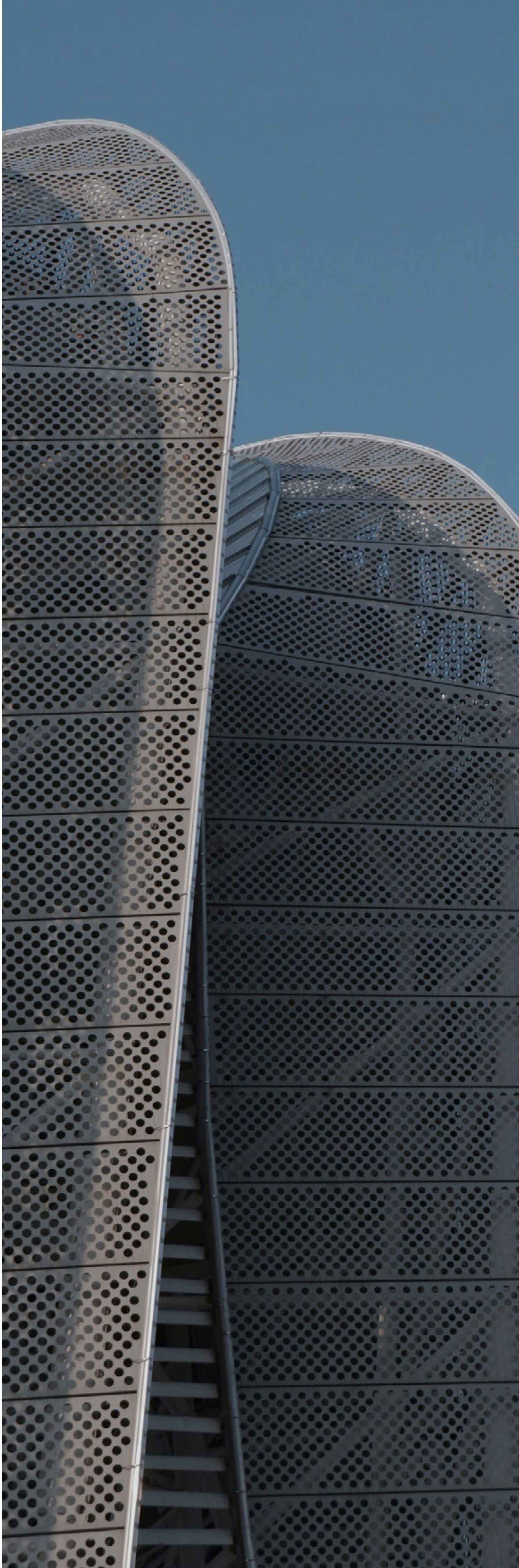
One way China has sought to address data privacy issues is through its 2017 *Cyber Security Law* and 2021 *Personal Information Protection Law*, which both require the storage of all 'personal information and important business data' to be localised.[9] Members have questioned whether this law allows firms to use Chinese cloud-based applications instead of on-premise systems. This has led to the expanded use of on-premise systems for storing data, which many suggest represents a greater risk for the leaking or hacking of data.

Recommendations:

- Clarify the ability to access to Chinese and international cloud-based applications, potentially enabling domestic and international cloud technology providers to develop their global client base and boost their competitiveness;
- Develop more explicit regulation clarifying requirements as to data storage in cloud-based platforms.

Building upon existing regulation to explicitly authorise and promote the use of domestic Cloud application usage would bring major benefits to not only financial services companies, but also the Chinese public and Chinese cloud service providers. Such changes could improve security in the management, processing and protection of consumer data, marking a significant upgrade from current on-site data storage set-ups whilst significantly restoring the confidence of financial services sector businesses in China. Business opportunities would increase for both domestic and international cloud technology providers with possibilities for expansion of their global client base and increased business competitiveness.

9 'Cyber Security Law of the People's Republic of China,' Cyberspace Administration of China, November 2016



INSURANCE

4 FACILITATE THE STANDARDISED DIGITALISATION AND STREAMLINING OF THE PAYMENT SYSTEM FOR INSURANCE PRODUCTS

As part of the broader trend of digitalisation, insurers are seeking to expand their online services be it through online insurance and digitalised payments systems. Foreign insurers recognise the unique potential of China's highly digitalised market, which is receptive to technology application in large-scale user scenarios. In 2023, technological innovation was ranked by British business as the main benefit of doing business in China, with 44% of our members citing it as a key positive factor.

However, the legislation currently in place requires insurance businesses to apply for a specific licence from the National Financial Regulation Administration (NFRA) if engaging in online insurance activities.[10] Specifically, insurers cannot distribute insurance products in regions which are not listed in its insurance licence through online sales. Exclusive sale and distribution of products through online platforms also requires specific licences be obtained from NFRA, burdening international businesses, particularly smaller ones.

Although domestic companies already provide digital payments platform for domestic insurance companies, foreign insurers are limited in their capacity to integrate recurring mobile payments system into their business model. Expanding existing digital payment infrastructure to cover foreign insurance products would capitalise on China's existing advantage in large-scale user scenarios for digitalised products, reinforcing its position as a global leader in digital finance while highlighting new opportunities for foreign investors.

Recommendations:

- Introduce greater regulatory flexibility relating to the provision of online insurance products;
- Standardise digitalisation and streamlining of the payment system for insurance products and facilitate private insurers to collect premiums online through a recurring mobile payments system;
- Improve access to digital payment systems for foreign insurance products, as a beneficial extension to the existing, dynamic payment systems technology which spans other sectors in China.

5 STREAMLINE AND CLARIFY THE APPLICATION AND APPROVAL PROCESSES FOR INSURANCE PROVIDERS TO OBTAIN BRANCH LICENCES

The Chamber acknowledges and welcomes recent efforts at the municipal level to promote greater streamlining of filing processes in the establishment of foreign-invested R&D centres and suggests that authorities extend such initiatives to other sectors in the financial services industry.[11] This would align with the recent State Council *24 Point Action Plan* initiative to improve market access for financial institutions in the insurance industry and reinforce confidence in implementation of the plan.[12]

For British companies in the insurance sector, the ability to set up operations is significantly impacted by the requirement to set up a branch in every locality where services are provided, with implications for operational costs and compliance risks. This has resulted in services not being provided in less developed Chinese provinces and has even seen foreign-invested insurers pulling out of the Chinese market, with fewer newcomers being willing to invest so heavily in initial operations.

10 'Digitalization in Insurance Guide,' Baker McKenzie Resource Hub, n.d.

11 'Circular of the General Office of Shanghai Municipal People's Government on the Issuance of the Shanghai Foreign-funded R&D Centre Enhancement Plan,' Shanghai Municipal People's Government, March 2024

12 'Action plan to promote high-level opening-up, attract foreign investment,' State Council, March 2024

Recommendations:

- Allow companies to provide insurance products to clients in provinces where they do not have a permanent office under clear provisions;
- Introduce measures which streamline and clarify the application and approval processes for insurance providers to obtain branch licences.

Such measures would be majorly beneficial to foreign insurers seeking to enter China's financial services market. Specifically, improved clarity, communication and efficiency in these processes would foster a more welcoming business environment for foreign companies (specifically insurers) and attract foreign expertise. This aligns closely with China's current ambitions to boost FDI and promote greater growth in the sector alongside more beneficial competition, innovation and efficiency.

6 FORMULATE AND INTRODUCE UNIFIED GREEN FINANCE AND TRANSITION FINANCE STANDARDS

China has effectively developed a multi-level and diversified green finance market, with achievements in green loans and green bonds. As part of this, many 'green' sectors have been categorised as 'encouraged industries' in the foreign investment catalogue, which can be a positive driving force for foreign investment. Many British firms have accumulated advanced and mature expertise in green manufacturing and green finance and are eager to localise their expertise to the China market as an emerging business opportunity area, but many feel there is a lack of guidance and have concerns around standards.

When it comes to unifying standards, many financial instruments require clearer guiding criteria to support green and low-carbon industry development. Unified carbon accounting methods, data pool and standards for financial institutions to follow are needed to facilitate the further utilisation and growth of green finance instruments.

Similar issues are also found in transition finance. Local trail catalogues or standards for transition finance have been issued and implemented by some local governments, but there is no national-level transition finance catalogue. The need to introduce unified definition standards, enhance incentive mechanisms, expand the scope of information disclosure and supervision requirements and enrich the variety of financial instruments for transition finance, is becoming more urgent.

Currently, many Chinese authorities, including stock exchanges, ministries and ministry-affiliated associations, issue different types of ESG disclosure guidance and standards aimed at different target audiences. There are concerns there are now too many ESG disclosure-related reporting formats and terms for companies to follow. Confusion and discrepancies in compliance and evaluation procedures are now commonly seen in ESG report developments.

Recommendations:

- Establish unified and mandatory ESG disclosure standards, with explicit indications as to where Chinese standards differ from international and multilateral standards such as the Sustainability Disclosure Standards developed by the International Sustainability Standards Board (ISSB);
- Introduce concrete and cohesive rules to effectively facilitate foreign investment in green finance through clearer guidance.

LEGAL SERVICES

OUR POSITION

1. Streamline the approval process for appointing a chief representative;

2. Enable a more streamlined and fairer process for foreign law firms opening new offices in China and further improve the joint law operation (JLO) model;

3. Eliminate the unfair tax treatment of foreign law firms by allowing them to structure as partnerships;

4. Permit foreign law firms to practise Chinese law on a trial basis in non-sensitive areas;

5. Grant exemptions from the existing two-year experience requirement for work visas by allowing trainee solicitors to spend part of their training contract in China;

6. Harness the expertise of foreign law firms by granting them participation in government meetings.

STATE OF THE SECTOR

LOOKING BACK

Foreign law firms and lawyers have a critical role to play within China's legal market and the domestic economy, providing expert legal advice to facilitate foreign investment and complex transactions. Beyond their technical expertise in areas including cross-border transactions, IP protection and compliance, foreign law firms are a global legal compass. UK law firms bring with them a deep understanding of English and Welsh law and are aptly placed to advise on international legal matters and best practices. They are also crucial if China remains set on upskilling its domestic workforce, with years of experience handling complex legal issues which can be readily passed on.

However, foreign law firms in China are currently confronted with a highly restrictive market which puts them at a significant competitive disadvantage compared to their domestic counterparts. There has been little progress in addressing these barriers since foreign law firms were first allowed to operate in China. Figures from the Ministry of Justice reveal a 16% decline in foreign law firms with representative offices in China between 2017 and 2022.[1] It looks as though this trend will continue, with a number of global law firms recently announcing the closure or downsizing of their China practices. This largely reflects growing economic uncertainty in China, geopolitical tensions and a deteriorating business environment for foreign companies.

FUTURE OPPORTUNITIES

Improving the operating environment for foreign firms in China's legal services market would send a strong signal to British and other international investors that China is open for business. Multinational companies usually look to their trusted lawyers before investing internationally and so restoring the confidence of foreign law firms in China will be key to stabilising overall foreign investment. In doing so, addressing the restrictions detailed in this chapter will be a pivotal step.

1 'Last US Firms in China Now Face Slow Economy, Local Competitors,' Bloomberg Law, February 2024

KEY RECOMMENDATIONS

1 STREAMLINE THE APPROVAL PROCESS FOR APPOINTING NEW REPRESENTATIVES

Foreign law firms are currently hamstrung by lengthy and bureaucratic approval processes for appointing chief and general representatives of their China offices. Whilst general representatives must have two years' experience outside of China, chief representatives must have at least three years' experience and have been domiciled in China for six months. In addition to this, representatives are prevented from holding positions within more than one office, meaning foreign firms need to appoint different representatives for each office. Registration of these representatives is a lengthy and time-consuming process for firms, taking an average of 9-12 months – but with frequent reports of approvals now taking as long as 18 months.

These lengthy delays make it difficult for firms to operate in the interim and often add additional costs of temporarily resettling the new representatives in nearby regions while waiting for approval. Long waits for approval also put firms in an uncertain position due to recent proposed changes to the PRC *Company Law* whereby, when a legal representative leaves a company, a new one must be appointed within 30 days.[2]

Recommendations:

- Implement clear and reasonable timelines for each stage of approving new representatives and streamline this process where possible;
- Reduce the number of years of experience required to register as a representative.

These proposed measures to speed up approvals of new representatives would make it substantially easier for foreign law firms to operate and would prove pivotal in increasing China's attractiveness to foreign law firms and their clients.

2 ENABLE A MORE STREAMLINED AND FAIRER PROCESS FOR FOREIGN LAW FIRMS OPENING NEW OFFICES IN CHINA AND FURTHER IMPROVE THE JOINT LAW OPERATION (JLO) MODEL

Restrictions on the ability of foreign law firms to open new branch offices and JLO offices notably limit the scope of legal work they can undertake in China. To open a representative office, foreign law firms need approval from the Chinese Ministry of Justice (MoJ) and they must demonstrate an 'actual or genuine need' for establishing the office.[3] After opening a representative office, they must then wait three years before opening a second office and they are capped at opening a maximum of three representative offices in mainland China. No such limits are imposed on Chinese law firms, the largest of which operate dozens of offices across the country. Similarly, Chinese law firms face no restrictions on the number of branch offices they can open in the UK.

The JLO model has also not meaningfully evolved in China since its introduction in the Shanghai Free Trade Zone (FTZ) and onerous restrictions placed on JLOs continue to limit the range of opportunities for Chinese and foreign law firms to collaborate.[4] For instance, the local Chinese partner must have been operating for a minimum of three years and employ more than 20 full-time lawyers and one of the partner firms must be based in the Shanghai FTZ. The foreign firm must also have already operated in China for three years through a representative office before being permitted to form a JLO. At present, JLO offices cannot even open a joint bank account in the firm's name and bill clients in this way, despite initial hopes that the regulations would advance and the firms would be able to establish a joint entity.

2 'Changing the legal representative in China is about to become much easier,' April 2024, Hogan Lovells

3 'Doing Legal Business in China,' Law Society, August 2023

4 'Shanghai Free Trade Zone Launches Pilot Scheme for Sino-Foreign Law Firms,' China Briefing, November 2014

In recent years, foreign law firms have also experienced lengthy delays in receiving approval from the MoJ to open new representative offices and JLO offices. This is particularly prevalent in larger cities such as Beijing and Shanghai, where applications by some firms to open new offices appear to have been put on hold. It is unknown if this reflects a deliberate change in policy towards foreign law firms in China.

Recommendations:

- Remove or at least reduce the existing three-year waiting requirement between opening new offices;
- Increase the limit on how many offices foreign law firms are allowed to open, particularly outside of Tier 1 cities;
- Ease the requirements to form a JLO, including reducing the required number of lawyers the partner firm must employ;
- Resume granting approvals for new representative offices or JLOs.

3 ELIMINATE THE UNFAIR TAX TREATMENT OF FOREIGN LAW FIRMS BY ALLOWING THEM TO STRUCTURE AS PARTNERSHIPS

Within China, foreign law firms are structured as representative offices. By law, this means that they are subject to two layers of taxation – one placed on any profit of the representative office and another on individual income from representatives and employees. On the other hand, domestic law firms operate as partnerships and are taxed solely on partnership income – which is at a much lower marginal rate than the individual income tax faced by foreign firms. In turn, as these partnership tax benefits are not available to foreign firms, PRC firms are able to generate the same net income as foreign firms while charging lower fees to clients. This significantly disadvantages foreign firms in the Chinese market and makes it considerably more difficult for them to hire Chinese lawyers.

Recommendations:

- Allow foreign law firms to structure as partnerships, which would align the tax treatment of foreign law firms with domestic law firms.

Given the Chinese government's focus on attracting foreign investment, clearly evidenced by the *24 Point*

Guidelines and *Action Plan,*[5] a revaluation of the existing discrepancies around taxation would not only signal a government commitment to ensuring a level playing field, but would also attract investment and contribute to the growth of China's legal profession.

4 PERMIT FOREIGN LAW FIRMS TO PRACTISE CHINESE LAW ON A TRIAL BASIS IN NON-SENSITIVE AREAS

Under China's current legal framework, foreign law firms are prohibited from practising Chinese law. Likewise, PRC-qualified lawyers hired at a foreign firm must surrender their practising certificate for the entire duration of their employment at that firm. Chinese lawyers working for foreign firms are therefore generally referred to as 'Chinese legal consultants' and are not permitted to interpret, advise, or represent their clients on Chinese law. This effectively limits them to only being able to provide 'information on the impact of the Chinese legal environment' with a disclaimer that this does not constitute a legal opinion. Similarly, foreign nationals are not permitted to take the China National Judicial Examination which is required in order to practise PRC law.

By contrast, local law firms are free to offer advice on not only PRC law, but also English and Welsh law. This offers Chinese law firms a distinct competitive advantage in being able to provide their clients with a one-stop shop of legal advice. These regulations significantly inhibit the ability of foreign law firms to attract and retain top-level Chinese lawyers given the restrictions placed on their ability to practise.

The introduction of the Greater Bay Area (GBA) Legal Professional Examination that allows lawyers to provide legal services on specified civil and commercial matters in the nine mainland municipalities in the GBA is an important area of progress here. This scheme has been broadly welcomed by UK law firms, some of which have subsequently encouraged their colleagues in Hong Kong to sit the exam. However, at present only Hong Kong permanent residents with PRC nationality are allowed to sit the exam, thereby still excluding foreign lawyers.

Recommendations:

- Introduce a pilot scheme allowing PRC-qualified lawyers to keep their practicing licence when joining a foreign firm in certain areas that are non-sensitive and most relevant to international law firms, such as commercial and corporate work (particularly M&A, investment, funds formation, financial regulatory and anti-trust areas);
- Allow experienced foreign lawyers qualified in Hong Kong to sit the GBA Legal Professional Examination on a trial basis.

5 'Opinions of the State Council on Further Optimising the Foreign Environment and Increasing Efforts to Attract Foreign Environment,' State Council, August 2023, 'Notice of the General Office of the State Council on Issuing the "Action Plan for Solidly Promoting High-level Opening to the Outside World and Making Greater Efforts to Attract and Utilise Foreign Investment,"' Office of the State Council, March 2024

5 GRANT EXEMPTIONS FOR TRAINEE SOLICITORS FROM THE EXISTING TWO-YEAR EXPERIENCE REQUIREMENT

Over the past year, the Chinese government has shown a clear commitment to enhancing the avenues for foreign talent to come to China, emphasising it across numerous areas of their *24 Point Action Plan*. Foreign law firms in China are a promising conduit for this ambition to be enacted in practice, specifically in regard to trainee lawyers from the UK.

In order to become fully qualified, aspiring solicitors in England and Wales are required to spend two years working under a training contract at a law firm, which often sees them working across different legal departments during the two years. For large law firms with an international presence, this training contract period is often used as an opportunity to send trainees abroad for a few months in order to provide them with exposure to the firm's legal practice in a foreign jurisdiction. However, due to China's existing work visa requirements which necessitate two years of full-time work experience, these trainees are often prevented from coming to China as they have not yet worked for two years. This limits the opportunities for cross-cultural exchange between firms' Chinese offices and international offices. As such, many international firms instead choose to send their trainee lawyers to other regional jurisdictions such as Singapore or Japan.

Recommendations:

- Grant exemptions from the existing two-year experience requirement for work visas by allowing trainee solicitors to be sent to China during their training contract.

Altering the existing visa requirements through this exemption would allow skilled young professionals to be able to engage with China from an early point in their career, potentially influencing them to return to China upon qualification to continue working.

6 HARNESS THE EXPERTISE OF FOREIGN LAW FIRMS BY GRANTING THEM PARTICIPATION IN GOVERNMENT MEETINGS

Foreign firms in China continue to be generally prohibited from appearing or participating in meetings between their clients and mainland Chinese government authorities. Where permissibility is not clear, firms typically err on the side of caution and decline the opportunity. In practice, these restrictions mean that prospective clients are pushed to select a lawyer or law firm on the basis of whether they can appear before government agencies, rather than who will best serve their needs. This can be especially problematic in cross-border transactions where a client has a preference for a foreign firm with experience in the non-China market but needs to bring in an additional counsel who is not familiar with the case, resulting in inefficiencies and additional costs.

Recommendations:

- Allow lawyers from foreign firms to represent their clients in meetings with government agencies where a client requires it.

China's business environment would stand to benefit from China-based foreign lawyers being able to appear before certain government agencies, particularly in areas such as product licensing, regulatory compliance, approvals and registrations and intellectual property protections.

AUTOMOTIVE

SUB SECTORS

Automotive Component Suppliers

Original Equipment Manufacturers

OUR POSITION

1. Accelerate the implementation of the outbound data whitelist to facilitate the free flow of data between foreign companies and their global headquarters;

2. Help China to become a more welcoming market for foreign car companies by recognising global testing requirements;

3. Increase dialogue over supply chain concerns amidst growing global trade tensions;

4. Allow luxury car manufacturers to maximise their appeal and brand image through the importing of vintage cars into China.

STATE OF THE SECTOR

LOOKING BACK

British car companies have had a mixed experience over the last year in the Chinese market. The relative share of UK car exports to China saw a decline in the first half of 2023, slipping to 7.4% of the total export volume.[1] This drop in car exports has been caused by high inventory resulting from weak demand during Covid, meaning that car dealers have prioritised destocking.[2] Import barriers and the cost brought by burdensome car testing requirements have also limited the number of models manufacturers could introduce into the Chinese market, thus creating extra challenges. Further, the Chamber's *Business Sentiment Survey 2023-2024* also showed that the automotive sector had a high rate of companies reporting last year to be more difficult for business, predominantly due to the complex economic and geopolitical landscape.[3] Having said that, several luxury and premium British car companies reported success in the last year through well-adapted market strategies.

FUTURE OPPORTUNITIES

Despite persistent challenges, China is still the third-largest export destination for the British car industry. In addition, China's advancement in electric vehicles and battery production presents opportunities for the UK's sustainability initiative. The UK has rolled out its plan to eliminate tailpipe emissions from all new cars and vans by 2035, to which a further adoption of EVs could make a significant contribution. Chinese EV makers have been providing large numbers of vehicles to the UK market, with their market share jumping from less than 2% in 2019 to 33.4% in the first half of 2023.[4] As well as single-vehicle exports, China is increasing investment in battery manufacturing in the UK.[5]

A growing car culture in China also reveals further potential of the Chinese market. The recent return of the F1 Chinese Grand Prix to Shanghai after five years and its soaring popularity could unlock a new wave of car culture promotion. Given the close historical ties between many British car companies and F1, this presents a decisive opportunity to further increase brand awareness within China.

The rise in popularity of F1 is augmented by the announcement by the Guangdong Development and Reform Committee to build an FIA Grade 1 Formula 1 circuit and supporting facilities in Guangzhou, with an estimated total investment of 20 billion yuan.[6]

1 'UK AUTOMOTIVE TRADE REPORT 2023 OPEN ROADS: Driving Britain's global automotive trade,' the Society of Motor Manufacturers and Traders (SMMT), October 2023

2 'China's Vehicle Inventory Alert Index (VIA) was 53.7% for December 2023,' China Passenger Car Association (CPCA), January 2024

3 'British Business in China: Sentiment Survey 2023-2024,' British Chamber of Commerce in China, December 2023

4 'UK AUTOMOTIVE TRADE REPORT 2023 OPEN ROADS: Driving Britain's global automotive trade,' the Society of Motor Manufacturers and Traders (SMMT), October 2023

5 'Chinese EV battery maker in talks to invest £1bn in new UK gigafactory,' The Guardian, March 2024

6 'Guangzhou planning to invest 20 billion yuan to build a new F1 circuit,' The Paper, April 2024

OUR POSITION

1 ACCELERATE THE IMPLEMENTATION OF THE OUTBOUND DATA WHITELIST TO FACILITATE THE FREE FLOW OF DATA BETWEEN FOREIGN COMPANIES AND THEIR GLOBAL HEADQUARTERS

The Chamber is glad to see some progress being made on data transfer issues, having long been a major market issue for the automotive sector. The *24 Point Guidelines* addressed some of the issues in this area, including data review efficiency, legal support and issues with the outbound data whitelist – all long-awaited changes for foreign businesses. In the first half of 2024, the release of the *Regulations to Promote and Standardise Cross-Border Data Flows* and the *Regulations to Promote and Standardise Cross-Border Data Flows* improved clarity over compliance pathways.[7] The *Data Security Technology – Rules for Data Classification and Grading* released in April also took a huge step forward in delineating classification standards.[8] These measures were also enacted through important regional policies, with Beijing and Shanghai both introducing action plans.[9]

Whilst British automotive companies appreciate these improvements, they continue to report a lack of clarity in many areas, especially concerning data classification and operational procedures. The definition of personal data still remains unclear, with little practical guidance on legal compliance. As a result, many companies have considered localising their data at a soaring operational cost, rather than taking the risk of breaching regulations when transferring their data.

Recommendations:

- Implement a data whitelist for outbound transfers by automobile companies;
- Allow unrestricted outbound data transfers for whitelisted items, provided. that companies adhere to clearly defined legal and regulatory compliance standards and implement appropriate data transmission measures;
- Exclude data classification requirements in the whitelist, with a list of the data items of critical importance to automobile companies, such as vehicle identification numbers (VIN), R&D data, accident investigation data and maintenance data.

These recommendations delineate the scope of the data whitelist – an important step to providing the clarity that the automotive industry have previously requested. Implementation of this whitelist will be important in facilitating improved data sharing between foreign automotive companies in China and their headquarters, leading not only to a reduction in operational costs but also helping to make China a more accessible market for foreign automotive businesses.

7 'Regulations to Promote and Standardise Cross-Border Data Flows,' Cyberspace Administration of China, March 2024

8 'Data security technology — Rules for data classification and grading [GB/T 43697-2024],' State Administration of Market Regulation (SAMR) and the Standardization Administration of China (SAC), April 2024

9 'Shanghai Government release an action plan to upgrade R&D centres,' The People's Government of Shanghai Municipality, March 2024, 'Beijing Government announce measures to support R&D centre development,' The People's Government of Beijing Municipality, August 2023

2 HELP CHINA TO BECOME A MORE WELCOMING MARKET FOR FOREIGN CAR COMPANIES BY RECOGNISING GLOBAL TESTING REQUIREMENTS

While China continues to grow as a crucial market for foreign and British car manufacturers, they have reported being increasingly challenged by China's unique car testing requirements and non-recognition of global standards. This year, 'standards related challenges' was a prominent issue in the automotive sector in the Chamber's *Business Sentiment Survey 2023-2024*, showing that British businesses seek better alignment on international standards and practices to ensure operational efficiency and value for money.

Specifically, businesses have noted that, since China does not recognise international standards such as those from the UK or EU, vehicle imports into China must redo testing procedures for crash testing, emissions testing, field experiments and other areas. These regulations, arising from the *Regulations of the People's Republic of China on Certification and Accreditation* and the *Description and Definition Table for the Catalogue of Compulsory Product Certification*, have proved particularly burdensome for British manufacturers who do not have their own testing facilities in China, as they must pay a premium for third-party testing facilities.[10] Moreover, following testing, if a manufacturer is found to not align with specific Chinese standards, they are forced to tweak their cars at the point of production in order to access the Chinese market. This poses major issues for alignment of product offerings across the global market.

Recommendations:

- Recognise specific areas of international testing requirements and locations, such as crash and emissions testing;
- Offer economic and practical support to car manufacturers if they are required to undergo standards testing within China;
- Permit the use of certified non-Original Equipment Manufacturer (OEM) owned testing facilities outside of China.

Crucially, these measures would not only make China a more economically viable and appealing market for foreign car manufacturers, but would also bring China closer to its neighbours such as Japan and Singapore, which currently recognise EU vehicle testing requirements.

3 INCREASE DIALOGUE OVER SUPPLY CHAIN CONCERNS AMIDST GROWING GLOBAL TRADE TENSIONS

The Chinese supply chain is of vital importance to British automotive companies. In particular, joint ventures between British and Chinese automotive companies source a significant proportion of their parts domestically and hence are highly dependent on local Original Equipment Manufacturers (OEMs). Equally, while non-partnered British manufacturers rely predominantly on their UK-based operation to manufacture cars, their third-party suppliers regularly utilise Chinese manufacturing in parts sourcing.

As Covid pandemic measures have subsided and the number of Chinese OEMs has continued to increase, British car manufacturers have found domestic sourcing to be more accessible and have demonstrated confidence in the domestic supply chain for spare parts. However, continued geopolitical tensions have raised concerns among automotive businesses that parts sourced in China will no longer be accepted into foreign markets. The concern arises in the wake of numerous countries adopting regulations which prevent the importing of cars with parts manufactured in China, including the *EU Supply Chain Act* and the *US Entity List*.[11] The risk of this trade barrier heavily affects any British car companies that have parts of their supply chain tied to China. Being blocked from these markets could lead to heavy economic burdens and could force a shift away from producing in China, as well as harm company reputation by lowering product visibility.

Recommendations:

- Increase dialogue between government and businesses in order to facilitate effective communication, as well as introduce mechanisms to address industry concerns and identify collaboration opportunities.

10 'Regulations of the People's Republic of China on Certification and Accreditation (2023),' State Council of People's Republic of China, July 2023, 'Description and Definition Table for the Catalogue of Compulsory Product Certification,' National Certification and Accreditation Administration of the People's Republic of China, September 2023

11 'Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive,' European Union, February 2022, 'Export Administration Regulation (EAR), Supplement No. 4 to Part 744—Entity List,' Code of Federal Regulations, April 2024

4 ALLOW LUXURY CAR MANUFACTURERS TO MAXIMISE THEIR APPEAL AND BRAND IMAGE THROUGH THE IMPORTING OF VINTAGE CARS INTO CHINA

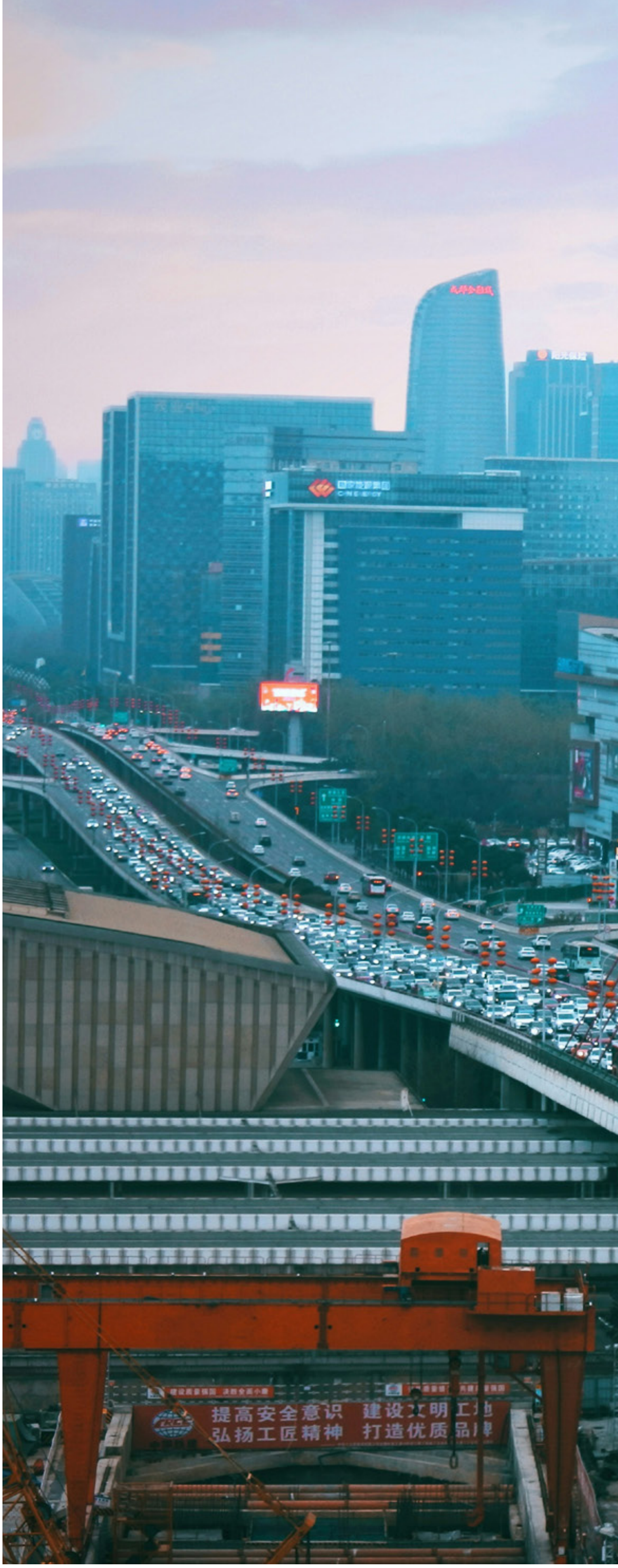
For British luxury vehicle manufacturers, brand heritage and brand history are crucial for market success, with the exhibiting of vintage cars traditionally being a central strategy in this regard. However, due to existing restrictions on all second-hand car imports into China, manufacturers are currently prevented from importing luxury vintage cars as they fall broadly within the second-hand categorisation. These import restrictions for general second-hand cars under Administrative *Measures for the Import of Key Used Mechanical and Electrical Products* (2019) and the *Catalogue of Old Electromechanical Products Prohibited from Importation* serve important purposes with respect to road safety and the minimisation of emissions domestically.[12] However, their extension to vintage cars puts China at odds with other key global markets, in which the importation of vintage cars is permitted to at least some degree.

This current 'one-size-fits-all' approach at customs undermines the brand visibility of British car manufacturers in China, who for decades have relied on vintage car showcases globally to curate their specific and renowned brand images. Such showcases, including public displays and demonstrations at racing events, are also imperative in instilling a greater passion for cars amongst members of the public, something which can prove highly beneficial for the car market more generally.

Recommendations:

- Establish a unique exception for vintage car imports within customs regulations, exempting them from the typical regulations that apply to all other used cars.

These changes would align China with other large car markets like the US and UK that permit vintage imports through import standards exemptions for cars over the ages of 25 and 30 respectively. Moreover, these changes could help to invigorate the growing car culture within China, building on popular existing cultural activities like the Shanghai F1 and Macau Grand Prix – events which have attracted upwards of 150,000 visitors respectively – and benefiting other OEMs with rich brand heritage in general.



12 'Administrative Measures for the Import of Key Used Mechanical and Electrical Products (2019),' Ministry of Commerce of People's Republic of China, November 2019, 'Catalogue of Old Electromechanical Products Prohibited from Importation,' Ministry of Commerce of People's Republic of China, December 2018

BUILT ENVIRONMENT

SUB SECTORS

Architecture

Construction

Engineering

Project Management

OUR POSITION

1. Introduce trials allowing select companies the ability to operate in China with licence exemptions;

2. Expand recognition of international accreditations, qualifications and standards;

3. Ensure greater transparency and a more level playing field in the public procurement process.

STATE OF THE SECTOR

LOOKING BACK

For the built environment sector, disruption from the pandemic exacerbated existing issues with the domestic property sector, leaving the sector with a more negative outlook for 2024 than any other in our *Business Sentiment Survey 2023-24*.[1] Despite China's COVID-19 reopening, the sector remains shaken, having transitioned from the major driver of China's GDP growth to a sector adapting to fallout from the evolving landscape of the Chinese property sector. 2023 saw national investment in real estate development drop by 9.6% on the previous year – a second year of decline in a row.[2]

Additionally, muted recovery in consumption was a setback for the sector. Sales of commercial real estate plummeted by 8% year-on-year, with real estate prices falling in an increasing number of cities.[3]

For British businesses, there is also concern that many of the key regulatory issues raised through Chamber advocacy have continued to be unaddressed. This may be understandable as the Chinese government seeks to navigate a complex environment, but it also comes at a time when British businesses are willing to share key knowledge on emerging expertise in the sector.

FUTURE OPPORTUNITIES

Some of this positivity is linked to the prospect of government assistance in the sector, including through stimulus-boosted infrastructure investment, a stronger pivot towards green infrastructure, sustainability-centred growth and logistics-related construction.[4]

At the municipal level, major cities such as Beijing and Shanghai have already relaxed purchasing curbs to entice homebuyers, alongside adjustments to purchasing policies to promote home trading. Businesses are now expecting that authorities take more steps to progressively reduce risks in the sector and support its development through increasing investment in social housing, public infrastructure and urban renewal projects.[5]

In addition, with China promoting investment in green construction, a number of British businesses see strong prospects in supporting China's burgeoning sustainable construction industry.[6] Sustainability in construction is still in its early stages of development in China, but signs of considerable growth are emerging, supported by evidence of increased government backing. As China pivots towards a green, high-tech growth model, there is opportunity to leverage British business expertise in the areas of low-carbon and high-tech construction as well as sustainability accreditation for mutual benefit.[7]

Britain's mature real estate market and infrastructure industry has particular strength in its years of experience adapting and upgrading buildings to optimise life cycle performance. British built environment businesses have much to offer to the restructuring Chinese infrastructure sector in this regard. Closer collaboration could be achieved through the development of joint projects and the establishment of technical skills exchange channels or platforms. With strong expertise in repurposing retrofitting and adaptive re-use, British businesses are well positioned to contribute to this sectoral pivot.

Despite British companies standing ready to help accelerate Chinese plans to retrofit old buildings and ensure sustainability in the sector, businesses continue to feel

1 'British Business in China: Sentiment Survey 2023-2024,' British Chamber of Commerce in China, December 2023

2 'Investment in Real Estate Development in 2023' , National Bureau of Statistics in China, January 2024

3 'China's 2023 Economy: Growth recovers, real estate lags,' NHK World Japan, January 2024

4 '2024 China Real Estate Market Outlook,' CBRE, February 2024

5 'China reduced investments in real estate by 9.4% y/y in January-November,' GMK Centre, December 2023; 'China economic focus January 2024: sectors to watch,' Wood Mackenzie, January 2024

6 'China - Country Commercial Guide,' International Trade Administration, April 2024

7 Beyond property: China looks to Tech, Manufacturing, and Infrastructure, Citigroup, January 2024

persistent regulatory constraints and a lack of transparency as a barrier to market entry, with many raising concerns that the sector is weighted against foreign firms.

British companies understand that high levels of regulation are natural in a sector of such strategic importance to the domestic economy. However, with foreign firms unable to obtain key design licences and only able to engage in development projects in joint ventures with Chinese partners, market restrictions are not conducive to encouraging foreign investment. This has seen multiple international companies in the sector deprioritising activities in China.

Our position sets out several reasonable and actionable policies to loosen burdensome licensing requirements, streamline complex contracting processes and improve the recognition of international qualifications, standards and experience. With a number of pilot projects sending encouraging signals over potential facilitation of businesses' licences upgrades, we see a number of opportunities to encourage foreign companies into the Chinese market.

OUR POSITION

1 INTRODUCE TRIALS ALLOWING SELECT COMPANIES THE ABILITY TO OPERATE IN CHINA WITH LICENCE EXEMPTIONS

Though some progress was made to streamline licence registration processes to foreign businesses in 2016, built environment sector companies continue to be unable to obtain design licences and feel there has been little impact on operations. One of the main obstacles to procuring these licences is that they are linked to registered capital, which foreign companies – particularly SMEs – have less of. Foreign companies must therefore often work with local partners to secure said licences.

The Chamber sees vast mutual opportunities in further opening up the built environment sector to British businesses. The sector is unique in its potential to facilitate skill exchange, joint innovation, technology transfer and standards alignment. This is particularly true in areas of rapidly emerging significance for China such as adaptive re-use, retrofitting and sustainable design standards, in which the UK enjoys global repute for its best practice.

Recommendations:

- Introduce trials allowing capable bodies to trial one year of operation without requiring a design licence, effectively allowing companies to tender project with licence exemption;
- Continue to progress the roll-out of an upgraded licence pilot scheme;
- Insert specific provisions in licence requirements for SMEs, lowering the threshold for registered capital for businesses under a certain size;
- Create a designated platform providing clearer guidance and timelines for licence applications.

The incremental development of an upgraded licence pilot scheme would encourage British businesses to invest and innovate in China, attracting FDI, new technology and skills transfer. Inclusion of a specific provision for SMEs, with a local required threshold for registered capital, would be vital to promote further growth and dynamism in the sector. Putting forward a designated platform which clarifies guidelines and timelines would also likely improve the transparency of the regulatory environment for businesses in the built environment sector, highlighting China as an attractive destination for investment.

2 EXPAND RECOGNITION OF INTERNATIONAL ACREDITATIONS, QUALIFICATIONS AND STANDARDS TO ALLOW BRITISH FIRMS TO SHARE EXPERTISE

British businesses in the built environment sector are keen to bring their expertise and best practice standards to Chinese projects and seek collaboration with Chinese players, particularly in areas such as sustainability in construction. Yet, in their efforts to integrate into the Chinese market, they have consistently been challenged by a perceived non-level playing field. In particular, they struggle with international qualifications and standards not being recognised or taken into account in government procurement.

For example, despite Chamber members having obtained certified Royal Institution of Chartered Surveyors (RICS) membership, which guarantees they adhere to designated international standards to protect consumers and businesses, businesses feel there is lost potential in a lack of recognition or prioritisation of said standards.

Recommendations:

- Expand recognition of international accreditations, qualifications and standards in government procurement;
- Encourage greater cooperation and alignment in standards-setting and disclosure practices around areas such as sustainability in the built environment sector;
- Facilitate the accreditation of a greater number of professional institutions (both Chinese and foreign) to monitor the sustainability practices of companies in China.

Facilitating the development and increased recognition of accreditation systems would see higher standards of domestic infrastructure, bolstering the reputation of China's built environment globally. This would benefit consumer safety as well as aligning with China's path towards green development, with more guarantees in place to ensure sustainable standards in infrastructure. There have already been notable examples of this, including the US LEED rating system, which is recognised in China. Extending recognition to other professional institutions to ensure further accreditation of built environment sector products and services would be key to unlocking market potential and bringing in new foreign investment and exchange opportunities.

3 IMPROVE ACCESS CHANNELS AND TENDER SYSTEM, AS WELL AS GIVING CLEARER GUIDANCE ON THE REQUIREMENTS ASSOCIATED WITH TENDERS

The Chamber welcomes government initiatives to facilitate and safeguard the participation of foreign businesses in government procurement activities, as emphasised in Point 6 of the 24 Point Guidelines. Clear signals that governments are willing to explore greater cooperation with foreign business firms, specifically in the built environment sector, are encouraging, though members in the built environment sector still await further action on implementation to boost transparency in the domain of procurement tenders and standardisation.

Recommendations:

- Streamline contracting processes through the standardisation of boilerplate contracts in public procurement; These could draw upon standardised contracts such as the Royal Institute of British Architects (RIBA) or AIA (American Institute of Architects) templates used by architects in the UK and across the world;
- Develop and refine access channels to information about available public sector projects through a designated public tender platform;
- Ensure greater clarity and transparency of the documentation requirements associated with tenders, potentially through the aforementioned platform.

Standardisation in contracting improves the transparency in government procurement processes, speeding up applications and ultimately loosening burdens on both Chinese and international companies. Further, improved access channels to information about available projects, potentially through a platform outlining public tender processes, would lead to greater foreign business buy-in, ensuring greater market competition and thereby increased skill and best practice standard sharing.

EDUCATION

SUB SECTORS

Early Years Education

K12

Higher Education

Non-Profit Organisations

English Language Training

Edtech

Certification and Accreditation Bodies

OUR POSITION

1. Ensure education providers can continue to provide exams within China;
2. Formalise the recognition of international qualifications in all-round education;
3. Loosen work experience and country of origin requirements for teachers;
4. Cancel proposed Income tax reform to ensure long-term business commitment;
5. Bolster international student numbers by allowing under-18s to study in China;
6. Provide access to key international professional qualifications.

STATE OF THE SECTOR

LOOKING BACK

China's departure from lockdown measures in 2023 has restored some confidence amongst British education companies, but business sentiment remains mixed as core regulatory issues continue to challenge the sector. Two years ago, amongst education sector respondents to our Business Sentiment Survey 2022-2023, optimism for the year to come was at 38%, while last year it saw an uptick to 50%.[1] This is slightly above the cross-sector average of 46%.

The top reported regulatory challenges amongst education sector respondents have also seen notable change as 'enforcement of laws and regulations' has this year been cited as the largest issue. Last year's top issue of 'employing foreign staff' is no longer the top concern, likely helped by China's shift away from Covid measures. In terms of investment, only 36% of British education companies report they are willing to invest further in China over the next year, as some in the sector have continued to shift their regional focus beyond China.

Despite this mixed sentiment, this year the British Chamber of Commerce has been very pleased to see the impact of our advocacy in the education sector, with numerous crucial policy changes being implemented. Following consistent advocacy in recent years on behalf of vocational education, last year the Chinese government announced that 115 (mostly international) vocational qualifications would be added to its whitelist, resulting in them becoming legally recognised. This change has brought crucial benefits to a wide array of British education providers and represents an important shift towards a more holistic policy approach to China's educational landscape.

Additionally, following our advocacy last year, there has been a vital delay to the proposed individual income tax reform until the end of 2027. This was among members' top concerns last year and the delay will relieve pressure, particularly on international schools that educate the children of foreign nationals in China. Beyond this, the *24 Point Guidelines'* emphasis on areas including foreign investment, vocational training and pathways for employing foreign staff are all highly welcomed.[2] It is important that these guidelines are turned into tangible actions to support the continuing improvement of education in China.

British education companies across the board remain under pressure to ensure their curriculums are compliant with shifting national regulations amid frequent visits from regulators. Moreover, the Double Reduction Policy of 2021 has brought continued challenges to the sector, particularly for providers of both academic and non-academic tutoring who face tough crackdowns and issues with classification. Education companies in China are also uniquely affected by a continuing decrease in the birth rate, which continues to increase competition throughout the sector and put pressure on providers.

FUTURE OPPORTUNITIES

British businesses in the education sector stand ready to invest in China, but issues persist which are holding confidence back, especially concerning the long-term taxation landscape and ease of access to foreign talent. Sector respondents maintain that China continues to be regarded as a less attractive destination when compared to surrounding regions. This is the case for both prospective foreign talent, but also for parents who are considering bringing their children to China. In some cases, due to geopolitical and school curriculum concerns, parents may either send their children abroad to study or avoid moving to China altogether.

Educational institutions are the beating heart of both local and foreign communities in China and it is crucial that they are supported accordingly by the government through continued and constructive open dialogue.

1 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

2 'Opinions of the State Council on Further Optimising the Foreign Environment and Increasing Efforts to Attract Foreign Environment,' State Council, August 2023

OUR POSITION

1 ENSURE EDUCATION PROVIDERS CAN CONTINUE TO PROVIDE EXAMS WITHIN CHINA

In April this year, the Chinese government released a 'negative list' for services that laid out the business activities in which foreign businesses are restricted or prohibited from engaging within China.[3] While a large amount of the list serves to repeat or clarify existing restrictions for foreign businesses within China, it has also forwarded restrictions regarding the education sector. Specifically, it states that foreign education services providers are to be expressly prohibited from 'holding educational examinations independently' in China.

The breadth of this restriction has left international education services providers seeking clarification as to its scope.

Recommendations:

- Offer clarity regarding what constitutes 'educational examinations' and what is meant by "educational examination organisations in China;"
- Offer clarity regarding what the specific intention and scope of this prohibition is and how education companies can stay compliant;
- Provide a clear timetable for the implementation of the restrictions so that businesses can plan accordingly;
- Ensure that there is a transparent line of communication between businesses and government to ensure compliance with the regulations.

The high-quality exams and qualifications offered by British education businesses play a vital role within China's educational landscape. Should this measure be rolled out as intended, It will be paramount that this is done so with ample consideration of its effects on these education providers and their students.

3 'Clear negative lists to speed up services trade,' State Council, April 2024

2 FORMALISE THE RECOGNITION OF INTERNATIONAL QUALIFICATIONS IN ALL-ROUND EDUCATION

British businesses offering holistic education are amongst the world's best providers of accredited extra-curriculum learning contents and qualifications, however within China continue to be on the *Negative Admission List* with no formal recognition for their qualifications.[4] Providers of these 'non-academic' subjects serve a crucial role within China's education landscape, offering long-established and accredited teaching that is supportive of the learning objectives issued by the Ministry of Education. The joint efforts of Chinese and British educators in music, performing arts and drama have also created equal opportunities for students in China to have an opportunity to access high-quality learning materials which are recognised through rigorous assessment procedures. Formally recognising the accreditations offered by these providers is imperative.

Following *Double Reduction*, several formerly 'academic' tutoring organisations have switched their offering to creative tutoring in order to stay in operation, but are now delivering an unaccredited and potentially low standard of teaching to students. However, at current, there is no official mechanism or recognised label to distinguish longstanding and higher-quality organisations from these.

With respect to these issues, it is pertinent that long-standing and highly experienced providers of holistic education can stand out by having their qualifications recognised. This would ensure value for money on behalf of parents when selecting educational organisations and crucially would also maximise the educational and professional opportunities available to students who receive these accredited qualifications. In this light, we officially recommend the following:

Recommendations:

- Create a whitelist of international all-round education qualifications; like the whitelist issued in 2023 that recognised international vocational qualifications.

China's huge strides in recognising over one hundred vocational education providers' qualifications last year demonstrate the ability to enact these changes. Working towards recognising more holistic qualifications will be imperative in continuing to empower students.

3 LOOSEN WORK EXPERIENCE AND COUNTRY OF ORIGIN REQUIREMENTS FOR TEACHERS

In the last year, the Chinese government has demonstrated a clear focus on improving the pathways for foreign talent to come to China, emphasising it within multiple areas of their *24 Point Guidelines*. These are helpful initial steps which the Chamber hopes to see continued effort on.

Among education providers, visa requirements that require two years' work experience and restrictions on hiring qualified teachers from 'non-native English speaking' countries are still in place. There are also limitations on accepted specialist qualifications (especially for early years specialists) including diplomas and non-degree level certifications. Across the board, these limitations continue to undermine education providers' ability to hire staff, with further potential implications on the suitability of hired staff for their role.

Recommendations:

- Grant talented educators from non-native English-speaking countries a visa pathway to China;
- Offer opportunities for talented international graduates who don't yet have two years of work experience to work in China;
- Accept a broader list of qualifications for education specialists than just undergraduate degrees when granting work visas;
- Allow trailing spouses and other non-work visa foreign residents to take short-term contracts or part-time work; especially useful for schools who need supply teachers when full time staff are sick, on maternity/paternity leave, or temporarily absent;
- Introduce a short-term internship visa for recent high school or university graduates to experience working and engaging with young people in China.

Amongst education sector respondents to last year's Business Sentiment Survey, 33% said that visa restrictions had directly affected their hiring prospects.[5] In addition, facilitating the travel to China of more foreigners as interns, recent graduates, talented specialists and

4 '2021 Negative List for Foreign Investment Access,' National Development and Reform Commission and the Ministry of Commerce, December 2021

5 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

experts from non-native speaker countries will continue to improve long-term people-to-people engagement.

4 CANCEL PROPOSED INCOME TAX REFORM TO ENSURE LONG-TERM BUSINESS COMMITMENT

China's proposed income tax reform was set to be implemented in January of 2024 and last year ranked amongst our top two concerns for the education sector. Encouragingly, these concerns were taken on board and this reform has now been delayed until December 2027.

Under this current tax system, schools can attract foreign teachers through fringe benefits which grant housing subsidies, school fees and numerous other reimbursements, all of which are non-taxable. These unique incentives have made China an attractive destination both for foreign talent in business and high-quality teachers to educate their children. Equally, they recognise that foreigners in China have different education and healthcare needs; unable, for example, to access or cope with free public education.

The proposed reform would make these benefits taxable, which would see teachers losing more than 40% of their current income in some instances. This would not only decrease teachers' wages and lower China's appeal for international talent, but simultaneously may force schools to raise fees to keep their salary offerings competitive. In practice, international schools would be most affected by this, given that, on average, upwards of 40% of staff at these schools come from foreign countries.

While the delay is happily welcomed, the new 2027 deadline will continue to undermine future planning for businesses and schools; neither can operate in a constant state of uncertainty.

Recommendations:

- Cancel the proposed income tax reforms altogether to restore long-term confidence among foreign businesses and international schools.

China has some of the best international schools in the world that have, for many years, inspired foreign talent to work and remain in the country. The stability of the sector has been deeply shaken by the pandemic and subsequent challenges that have undermined international parents' willingness to remain. The existing tax benefits for foreigners are vital in ensuring that international talent still wishes to come to China above any other potential foreign job market.

5 BOLSTER INTERNATIONAL STUDENT NUMBERS BY ALLOWING UNDER-18S TO STUDY IN CHINA

Every year, thousands of Chinese students go overseas to boarding schools to benefit from an international education experience. These schools are in countries such as the UK, US, Switzerland, Singapore and Australia. With the high-quality and global renown of many foreign passport-holder schools in China, it is important that China is added to the list of 'destination' countries with the best boarding and international schools in the world; for this to happen, young people must be able to apply to and attend all schools in China.

Currently, only public or private schools can issue a JW202 invitation letter, which allows for the application of X1 visas allowing under eighteens to live in China without a parent or guardian. There is an opportunity here to make sure all schools offer the same provision.

Recommendations:

- Allow foreign passport-holder schools to issue JW202 invitation letters, which allow for the application of X1 visas;
- Release data on the number of foreigners and their dependents city by city across the whole of China to schools; this information is essential to operations.

Since the pandemic, foreigner numbers have dropped dramatically and this has put foreign passport-holder schools in an incredibly difficult position. Giving them the ability to offer their schooling to families overseas would support the schools but, more importantly, it would bring a new generation of young people to live and learn in China, providing a formative experience for teenagers from a range of different families and backgrounds who see the advantage to having their children educated in the country.

6 PROVIDE ACCESS TO KEY INTERNATIONAL PROFESSIONAL QUALIFICATIONS

British companies oversee numerous qualifications offering legal, financial and sustainability-based skills gained through clear and effective training. Many international companies require such qualifications for hires or encourage them to existing staff. But currently, due to dated regulations, many of these qualifications are not available to Chinese nationals, which either limits the ability to obtain them or forces Chinese professionals to sign up for classes and exams outside of the Chinese mainland. This is particularly true of newer qualifications, many of which are directly related to core areas of emerging technologies such as clean energy, sustainability and AI.

With few new qualifications approved in China since 1998, many companies are having to either operate in grey areas or withdraw offerings from China. For one of our members, who has representative offices in 160 countries and offers their full suite of qualifications in 159, China is the only market without comprehensive access due to complex approvals.

There are also issues around training, with regulations around classroom sizes and full-time teachers obsolete in a world where much training is conducted online by senior practitioners embedded in the global industry they provide expertise and training on.

Recommendations:

- Allow for the registration of new qualifications in the Chinese market;
- Update regulation around the provision of training relating to full time staff and classroom size to empower more flexible training with options to take classes online;
- Continue to add more qualifications to the vocational and professional training whitelist allowing foreign providers to improve their in-China provision.

ENERGY

SUB SECTORS

Green Energy

Critical Minerals

Natural Gas

Power

Carbon Market

Hydrogen Technology

Carbon Capture

OUR POSITION

1. Boost demand and infrastructure for green energy;
2. Promote diversified development in advanced energy storage;
3. Develop key mineral supply chains and propel China's green transition;
4. Encourage developments in allowing end pipeline access and flexible infrastructure for natural gas to ensure competitive usage cost;
5. Encourage investment into EV infrastructure to service China's rapidly increasing number of electric cars;
6. Strengthen the carbon market through a consistent timeline and greater standardisation to drive innovation in hard to abate industries;
7. Develop a stronger investment environment for key technologies for China's energy transition;
8. Create incentives for developing the supply of green hydrogen;
9. Support alignment with international reporting standards and investment frameworks for climate disclosure.

STATE OF THE SECTOR

LOOKING BACK

2023 marked the half-way point for China's 14th *Five-Year Plan* (FYP). Since the publishing of the Plan, China has set out a clear roadmap for achieving its dual carbon goals of peaking carbon emissions by 2030 and reaching carbon neutrality by 2060. However, the National Development and Reform Commissions (NDRC)'s December 2023 *Mid-Term Evaluation Report* on the 14th FYP's implementation revealed major challenges for China's energy industry and decarbonisation; crucially, China is currently off-track for all of its core 2025 climate targets including energy and carbon intensity.[1]

This should not overshadow major progress for green development in China over the last year. In 2023, the contribution of clean energy to the PRC's economy reached RMB 11.4 trillion (GBP 1.25 billion), marking a significant 30% increase compared to the previous year. Here, clean energy accounted for all of China's 2023 growth in investment, with solar being the largest contributor.[2] This reflects the government's efforts to pivot investment away from the slowing real estate sector and towards green growth, in order supercharge manufacturing. In 2023, China saw its solar capacity soar by 60.4% (261 GWDC),[3] accounting for over 50% of the global capacity increase,[4] while overall wind capacity increased by 20.8% (76 GW). This trend has continued in 2024 with predicted installed capacity increasing at 43.3% and 21.8% for solar and wind respectively.[5] This rapid growth of renewable energy, alongside the ongoing energy transition process in China, has presented both opportunities and challenges for businesses, particularly in hydrogen, electrochemical storage, aviation and grid connectivity. This has fostered a sense of conditional optimism. Our *Business Sentiment Survey 2023-2024* found that two thirds of British energy firms were optimistic about their operations in China.[6] This is reflected in investment. The *Business Sentiment Survey 2023-2024* found that 54% of British energy firms were increasing investment, with no British energy firms decreasing investment. The other 46% of British firms were found to be adopting a 'wait and see approach', maintaining current levels of investment. Regarding this, the Chamber's *Business Sentiment Survey 2023-2024* found key cross-cutting challenges surrounding standards, intellectual property rights, and the enforcement of law to be major sticking points for the energy sector.

FUTURE OPPORTUNITIES

Renewables are set to continue their rapid growth. With current 2024 installed capacity estimated at 993 GWDC, solar is predicted to see the largest growth at 33.8% over 2024-2025, followed closely by wind currently estimated at 537 GW, which is expected to grow by 17.7%.[7] Hydrogen development has also been highlighted in the 2024 *Report on the Work of Government* as an area to be 'stepped up'.[8] Thermal energy also remains important to the PRC's energy plans. The *2024 Government Work Report* highlighted the importance of energy security, with initiatives to step up the exploration and development of natural gas and oil. For 2024, natural gas installed capacity is estimated to be 133 GW and is predicted to increase by capacity by 9% to 145 GW by 2025. Emphasised as 'crucial', coal is set to continue as the main energy source for meeting economic growth demands. Although the largest source of China's energy in 2024, estimated at 1220 GW, projected growth is modest at 6.6% over 2024-2025, indicating a shifting landscape for energy preferences.[9]

1 'Analysis: Record drop in China's CO2 emissions needed to meet 2025 target,' Carbon Brief, February 2024

2 'Analysis: Clean energy was top driver of China's economic growth in 2023,' Carbon Brief, January 2024

3 'CRU Power Transition Service,' CRU, May 2024

4 'Renewables 2023: Analysis and forecast to 2028,' International Energy Agency, January 2024

5 'CRU Power Transition Service,' CRU, May 2024

6 'British Business in China: Sentiment Survey 2023-24,' British Chamber of Commerce in China, December 2023

7 'CRU Power Transition Service,' CRU, May 2024

8 'Full Text: Report on the Work of the Government,' The State Council, March 2024

9 'CRU Power Transition Service,' CRU, May 2024

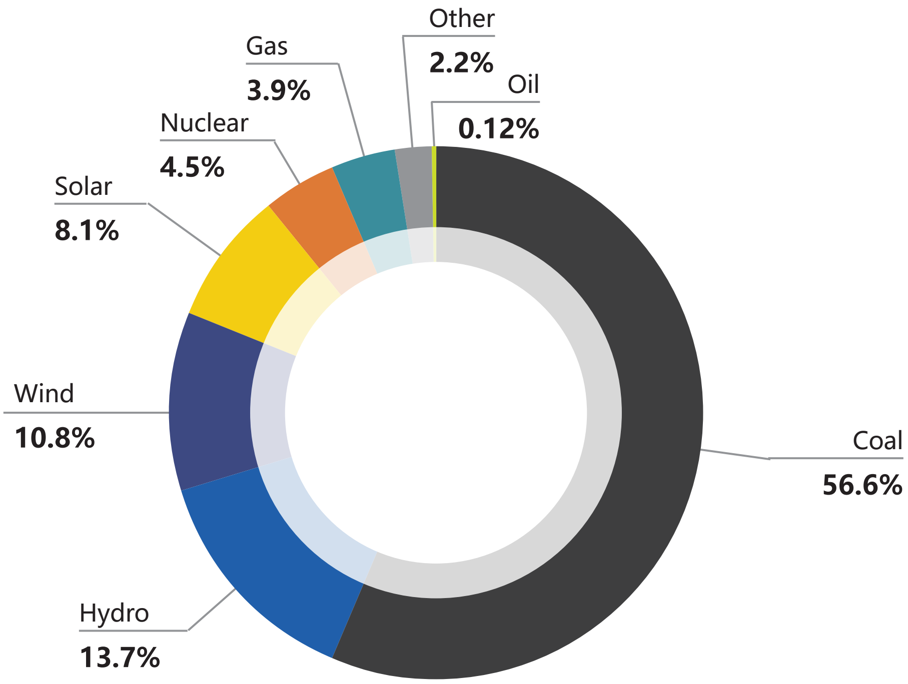


Figure 1: China's Power Generation in 2024
Source: 'CRU Power Transition Service', CRU, May 2024.

Significant changes are expected in China's carbon markets. In March 2024, the Ministry of Ecology and Environment (MEE) issued guidance for greenhouse gas accounting measures for the aluminium smelting industry, indicating its potential inclusion in the national emissions trading system (NETS).[10] Furthermore, the MEE has reportedly issued a tighter deadline for emissions reporting in the cement, electrolytic, iron and steel sectors, implying their addition to the system later in 2024.[11] is will add a further 30% of the country's total CO2 emissions to the domestic carbon market, for 70% total coverage. The NETS is crucially looking to develop compliance with the EU's Carbon Border Adjustment Mechanism (CBAM). Alongside this expansion, new regulations introduced in January will combat falsification of carbon emissions data to strengthen the national carbon market. Driven by these actions, prices have reached record highs of RMB 103.3 per ton this April.[12] Concurrently, as recommended in the *Position Paper 2023*,[13] Certified Emission Reductions (CCER) were relaunched in January after a 7-year hiatus.[14] The CCER spot market is projected to reach RMB 20 billion (GBP 2.18 billion) by 2025.[15]

The UK is often cited as an example of a country which has uncoupled GDP growth from CO2 emissions.[16] British business is at the heart of this transition, developing pioneering technologies in green hydrogen, wind, carbon capture utilisation and storage (CCUS), EV ultra-fast charging and transitional natural gas. British firms have simultaneously developed world-class expertise in advising net-zero acceleration, ESG reporting, critical minerals and growing green premia. With increased policy support from government in the key areas for progress discussed below, British businesses can increasingly become an invaluable partner towards supporting China's policies of 'ecological civilisation' and dual carbon goals, to grow the economy, while respecting planetary boundaries.

10 'Notice on the public solicitation of opinions on the "Enterprise Greenhouse Gas Emissions Accounting and Reporting Guidelines for the Aluminium Smelting Industry" and "Enterprise Greenhouse Gas Emission Verification Technical Guidelines for the Aluminium Smelting Industry",' Ministry of Ecology and Environment, March 2024

11 'Commodities 2024: China's domestic carbon market set for revamp; Article 6 in limbo' S&P Global Commody Insights, January 2024

12 'National Carbon Market Daily Comprehensive Price Quotations and Transaction Information 20240425' Shanghai Environment and Energy Exchange, April 2024

13 'British Business in China: Position Paper 2022-2023,' British Chamber of Commerce in China, May 2023

14 'MEE Releases Four Methodologies for Voluntary Greenhouse Gas Emission Reduction Projects,' Ministry of Ecology and Environment, October 2023

15 'China's carbon credit system to restart this year,' Dialogue Earth, June 2023

16 'Many countries have decoupled economic growth from CO2 emissions, even if we take offshored production into account,' Our World in Data, December 2021

OUR POSITION

GREEN AND SECURE TRANSITION

1 GREEN ENERGY AND POWER MARKETS

China's move towards carbon neutrality relies heavily on overhauling its power market. Establishing a national market is crucial for integrating renewable energy and ensuring fairer access to electricity across regions. However, grid connectivity, low green power consumption, the lack of a unified power market structure and varying provincial policies all pose substantial challenges. Green power trading is also vital for driving renewable energy adoption, yet navigating its complexities within China's fragmented regulatory landscape is difficult for investors, including British firms.

Renewable energy generation offers promising collaboration opportunities, but limited transparency in investment opportunities for Foreign Invested Enterprises (FIEs) hinder British firms from developing projects. Additionally, compulsory investments in underutilised 'behind the meter' energy storage and unreasonable costs for load balancing further complicate the situation.

The British Chamber acknowledges the government's efforts to promote interprovincial trading and standardisation of the market, especially with initiatives like the issuance of the *Basic Rules for Electricity Spot Markets* and the *Regulatory Measures for the Electricity Spot Market* by the NEA.[17][18] These measures aim to extend spot market pilots nationwide and improve consistency and efficiency across the power market. The British Chamber also recognises the substantial scale of unifying power markets as a long-term national project, requiring great investment and resources, and anticipates its implementation.

Recommendations:

- Boost incentives for green electricity consumption on the demand side, such as assigning renewable energy electricity consumption obligations to key industrial enterprises;
- Enhance the construction of a nationally unified electricity market through developing cross-provincial and cross-regional green electricity trading and investment in ultra-high voltage transmission lines;
- Drive up the demand for Green Electricity Certificates (GECs) and expand the application scenarios and reinforce their acknowledgment both domestically and internationally, such as the EU Carbon Border Adjustment Mechanism (CBAM);
- Require local governments to provide greater clarity and easier access to information regarding energy pricing, particularly for foreign firms;
- Increase policy foreseeability and price foreseeability to facilitate long-term contractual arrangements for green electricity procurement.

Boosting demand and infrastructure for green energy will be crucial for China to meet its dual carbon goals. Moreover, encouraging local governments to provide clarity and easy access to information and resources on electricity pricing and related regulation is actionable, as is developing greater foreseeability in policy and price for green power. These actions will support British businesses looking to invest in the green energy transition to help China meet its dual carbon goals.

17 'Notice from the NDRC and the NEA on Issuing the "Basic Rules for Electricity Spot Market (Trial)",' National Development and Reform Commission, September 2023

18 'Decree of the National Development and Reform Commission of the People's Republic of China,' National Development and Reform Commission, April 2024

2 ENERGY STORAGE

The rapid development of renewables in China has created enormous opportunities for developing energy storage capacity. However, thus far, energy storage has been a secondary priority behind EV industry development. This focus is shifting. Energy storage has a crucial role to play in creating more efficient use of solar and wind surrounding reduced curtailment. Currently, pumped hydro storage remains the predominant storage technology in China. However, vulnerabilities highlighted by the reduced rainfall of 3.9% during 2023,[19] alongside hydro-storage's negative impacts to biodiversity, mean there is potential for other technologies to drive progress within the green and secure energy transition. Electrochemical storage is one such area witnessing rapid growth with a compound annual growth rate of 61% between 2021 and 2027 for installed capacity – twice that of the energy storage industry as a whole.[20]

In order to unlock the substantial potential of electrochemical storage, a number of challenges must be addressed. Battery chemistries for energy storage and its associated infrastructure, operating expenditures and capital expenditures are all widely different from those used in EVs. Therefore, despite the promising long-term prospects of energy storage plants, the high set-up costs create uncertainty regarding the economic feasibility which acts as a barrier to entry and innovation in the sector. Moreover, the single revenue model creates low-price competition which endangers high quality development and environmental sustainability within the industry.

Recommendations:

- Combine policy guidance and market mechanism optimisation to reduce energy storage costs and facilitate the transition from initial commercialisation to sustainable scalability.

This recommendation aligns with the *Energy Work Guidance Opinion for 2024* which underscores the need to promote diversified development in advanced energy storage and enhance policy measures to facilitate the grid integration and operational scheduling of advanced energy storage systems.[21]

3 CRITICAL MINERAL SUPPLY CHAINS

Access to critical minerals underpins China and the world's decarbonisation efforts. China is leading in critical minerals supply chains and has a vital role in ensuring stable supplies of critical minerals in China and globally. China is opening up, but there is still some distance to go towards unlocking the potential of the mining sector and critical mineral supply chains. With other countries introducing relevant strategies,[22] China has introduced its own policy restricting foreign ownership through its negative list and export controls on key minerals, such as gallium and germanium, critical to developing renewable energy for their use in heat resistant semiconductor wafers and fibre optic cables. These actions will hamper the energy transition by creating shortages in raw materials, increasing price volatility and risk firms reducing investments in innovation and technology in China.

If these restrictions are lifted, British mining MNCs can play a decisive supporting role in supply chains for metals – key to China's energy transition. These include high purity quartz for solar modules, rare earths, phosphates, niobium and many more, as outlined in Figure 2.0. Such cooperation can be extended to third-party countries, where the UK and China can work together to develop critical mineral deposits and support infrastructure to reduce supply chain risks. UK firms can also further support China's mineral supply chains with their expertise in services including due diligence for projects.

Recommendations:

- Provide further policy support for collaboration and joint ventures to develop mineral deposits domestically and abroad, especially those that are either not critical to China but critical to the UK, or critical to China and not critical to the UK (please see Figure 2 for details).

19 'China Climate Bulletin 2023 is rolled out,' World Meteorological Organization, February 2024

20 'New Energy Storage Technologies Empower Energy Transition (synopsis),' KPMG, China Electricity Council, May 2023

21 'Notice from the NEA on Issuing the "2024 Energy Work Guideline",' National Energy Administration, March 2024

22 'Critical Minerals Strategy 2023–2030' Australian Government Department of Industry, Science and Resources,' July 2023

Figure 2: Overlaps between the UK's and China

Source: CRU Group Official Website,' CRU Group

4 NATURAL GAS

Natural gas is an important element for China's green and secure transition. Globally, the shift from coal to natural gas has cut in excess of 500 Mt of CO2 emissions over the last decade.[23] Simultaneously, natural gas is a flexible option alongside solar and wind, providing the required security to support the green transition. Use cases for natural gas in industry are burgeoning, particularly in steel production, such as direct reduced iron smelting, where natural gas use is expected to significantly increase in China and its overseas investments. Opportunities also lie in essential fertiliser production, such as ammonia and urea, where production is currently predominantly coal-based, and will require gasification to raise CO2 efficiency.

Natural gas therefore presents substantial opportunities for increasing efficiency and attracting foreign investment, though such foreign investment is currently limited. The British Chamber recognises efforts made by the Chinese government, including through greater third-party access and increased fairness and transparency in China's natural gas market through PipeChina. However, British firms are not currently able to participate in upstream businesses, such as exploration and drilling, due to a lack of licences and approvals. Compared to SOEs, foreign businesses are at a distinct disadvantage here, making the market less economical to complete in. Challenges remain in the creation of a level playing field, as bid selection is not only based on price and value; domestic firms benefit from pre-established relationships with local governments, and often there are no publicised auctions for projects.

Recommendations:

- Increase efforts to raise the number of developments in allowing end pipeline access, enabling diverse and flexible infrastructure usage offers and ensuring competitive usage costs;
- Increase policy support to develop demand side forces and the transition to natural gas in industry.

5 ELECTRIC VEHICLE CHARGING

China's rapid expansion of renewable energy capacity presents significant opportunities for the development of green industries and ecosystems. A prime example is the establishment of ultra-fast charging station infrastructure to accommodate the nation's rapidly expanding fleet of EVs, which accounted for over 60 per cent of new electric

23 'The Role of Gas in Today's Energy Transitions,' International Energy Agency, July 2019

car registrations worldwide in 2022.[24] However, British businesses are encountering hurdles in upscaling their operations, particularly in ultra-fast charging and service provision to ensure comprehensive access across China.

The EV charging sector faces several challenges that require addressing to unlock greater investment. Firms are facing narrow profit margins in certain markets due to unhealthy competition, insufficient incentives for the advancement of high-quality charging stations and cumbersome operational requirements often linked to local entities. These challenges result in redundant procedures and expenses, particularly for foreign firms. In the broader context of transitioning toward a green and secure energy future, EV charging assumes a crucial role in power market dynamics and initiatives for green power trading. Demand for energy has increased in line with greater adoption of EVs, compelling the integration of renewable energy sources into the power market.

Recommendations:

- Remove price ceilings and establish a minimum price to deter hostile price reductions at public charging facilities to encourage innovation and high-quality market development;
- Further promote the adoption of 'peak-valley' electricity pricing, especially for charging stations, to incentivise charging during off-peak hours;
- Provide incentives for the development of high-quality charging stations by linking subsidies to operational performance and offering preferential terms to stations that meet higher technical and safety standards.

CARBON MARKET

There has been substantial progress in increasing the price of carbon, which averaged RMB 82.80 (GBP 9.11) per tonne in March 2024, a significant increase of 7.6%, compared with the average daily closing price of RMB 76.94 (GBP 8.46) in February 2024.[25] However, there is still some way to go in order to release productivity stemming from investment in climate innovation. Building on this momentum, the price of carbon needs to rise substantially to facilitate innovation and investment in urgently needed technologies further along the carbon abatement curve, such as hydrogen, CCUS and energy storage.

The British Chamber appreciates the complex balance in maintaining economic growth alongside the sustainable expansion of the carbon market to decarbonise and applauds the announcement of the expansion of the carbon market reported by the government. Additionally, there have been indications from the MEE's request for several new industries to follow a tighter deadline for emissions reporting in 2024. However, there needs to be greater clarity and consistency in the timeline for the inclusion of these and other industries in the expansion of the carbon market, as current uncertainties make it difficult for firms to plan for the long-term. This will provide greater incentives for firms further along the roadmap and hasten their investment in key technologies to increase efficiency and decarbonise, while bolstering the price of carbon. This is supported by the International Chamber of Commerce's carbon pricing principles two and three, to establish a predictable framework for national, subnational

24 'Sustained boom in market for electric vehicles: worldwide total 10.8 million,' The Centre for Solar Energy and Hydrogen Research Baden-Württemberg, August 2023

25 'Up to 90 Yuan per Ton: Why Does the National Carbon Market Continuously Hit New Highs?,' Securities Times, March 2024

and international cooperation and promote consistency between climate, energy, trade and taxation policies.[26]

Regarding the gradual expansion of industries, there are further opportunities to develop the NETS and increase participation and transaction volume. Currently only emitting firms may open trading accounts. This limits parent companies' abilities to direct intra-group resources and make investment decisions. Expansion to include non-emitting firms would increase efficiency for firms at a group level. Furthermore, facilitating Chinese firms' participation in international carbon markets and cross-border payments would increase expertise in carbon trading, and is supported by ICC carbon pricing principle six to promote the linking of carbon pricing instruments internationally.

By 2026, the European Union's *Carbon Border Adjustment Mechanism* (CBAM) will formally introduce carbon tariffs. This poses new challenges that will potentially limit China's export opportunities. Compared with RMB 130 (GBP 14.30) in China,[27] the price of carbon in Europe closed at around EUR 64.15 (RMB 499.44, GBP 54.94) for April. [28] The discrepancies in price may be reflected in carbon tariffs in order to create a level playing field by the EU. Additionally, there is a need to further enhance the Measurement, Reporting and Verification (MRV) system, such as the calculation of emissions beyond the production stage, in order to align with EU standards. This can be supported by the development of supporting technologies to mitigate cross-market disputes and through establishing examining equivalence, as presently there are inconsistent carbon pricing mechanisms operating differently in different jurisdictions.

Standardisation in tax practices in domestic carbon credit trading would also further mature the market and bolster confidence. Presently, some firms are paying 6% VAT on sales of carbon credits, treating them as intangible assets and issuing VAT Special Invoices. Other firms are treating these transactions as transfers of financial products, with VAT paid based on the price difference without issuing VAT Special Invoices. Greater standardisation will promote the development of a fair carbon market and support growth in the price of carbon needed for innovation.

Finally, with the reintroduction of the CCERs in 2024, investors are concerned about the authenticity of credits given historical challenges surrounding legitimacy and verification. The British Chamber supports plans for independent MEE verification of projects and suggests further legal mechanisms are necessary to ensure reliability outlined below.

Recommendations:

- Implement a clearer and more consistent timeline outlining the inclusion of industries in China's carbon market expansion efforts;
- Decrease emission quotas for National Emission Trading Systems (NETS) to stimulate carbon prices;
- Develop a carbon abatement curve to provide a forecast of CO2 prices to decarbonise industries and enable authorities to calculate the CO2 price, required to reduce a specific volume of CO2;
- Permit non-emitting firms to participate in the NETS;
- Issue guidelines permitting Chinese firms to engage in international carbon markets and facilitate cross-border payments, enabling them to acquire global expertise in carbon trading and enrich the dynamics of the domestic market;
- Improve the Measurement, Reporting and Verification (MRV) system to ensure the accuracy of organisations' emission data and the alignment with international standards;
- Issue potential exemptions and clear tax rules to standardise VAT treatment on domestic carbon credit trading, including CCERs;
- Ensure that CCER Exchanges align with international standards by implementing Anti-Bribery and Corruption (ABC), Anti-Money Laundering (AML) and Sanction clauses;
- Develop mechanisms through inclusive and transparent consultation with business and other key stakeholders.

These measures will encourage greater investment from British firms in key decarbonisation technologies. Simultaneously, implementing these measures and strengthening and expanding the carbon market will allow exporting firms to waive more liabilities under CBAM.

26 'ICC Carbon Pricing Principles: Mobilising markets for the net-zero transition,' International Chamber of Commerce, October 2021

27 'National Carbon Market Daily Comprehensive Price Quotations and Transaction Information for 20240430,' Shanghai Environment and Energy Exchange, April 2024

28 'European Union Allowance: EUA Spot Price,' Homaio, April 2024

GREEN TECHNOLOGY

1 HYDROGEN FOR AVIATION AND TRANSPORT

Hydrogen is an exceptionally promising technology for sustainably decarbonising and unlocking efficiencies in logistics and the aviation industry. E-fuels are one such opportune use case for hydrogen, with its ability to reduce emissions from aviation by 50 percent.[29] China has enormous potential to become a world leader in sustainable transport and aviation through harnessing its unique competitive advantages in solar capacity to create green hydrogen. However, in addition to the need for greater increases in the price of carbon, several obstacles are hindering progress.

China risks missing a tremendous opportunity for being a low-cost producer of green hydrogen for the world. In the *2024 Government Work Report*, hydrogen was only briefly mentioned once, despite its huge potential. Moreover, of the subsidies that have been promised at local levels, many have yet to be distributed, with firms reporting high receivables, leading to a reduction in investor confidence. This is especially problematic given the increasing global cost globally of producing and installing electrolysers for green hydrogen production, with a rise of 50% in China, US and Europe over 2023-2024.[30] With its predicted trajectory of reaching USD 4.60 (RMB 33.12, GBP 3.63) per kilogram by 2025 and USD 4.00 (RMB 28.8, GBP 3.16) by 2030,[31] hydrogen's costs remain too great to unlock its potential as a competitive decarbonisation solution.

Recommendations:

- Create a clear incentive for developing the supply of green hydrogen such as lower tariffs for renewable energy used in the creation of green hydrogen and the increase of green hydrogen quotas;
- Encourage the execution of pledged subsidies at the local level by offering incentives;
- Increase end-user demand for hydrogen through greater policy support for developing hydrogen-fuelled vehicles in aviation and transportation;
- Prioritise infrastructure development for green hydrogen production, critical materials for hydrogen fuel cells, hydrogen refuelling stations and pipeline networks to drive the growth of hydrogen applications;
- Tailor the deployment of the hydrogen industry to local conditions by providing effective policy guidance that considers regional resources and addresses challenges related to the cost of long-distance and large-scale hydrogen transportation.

With the above support in place, China can replicate its success in clean energy development, as seen in renewable energy and electric vehicles, to develop long-term competitiveness in hydrogen on the global stage, grounded in its strong solar capacity, and drive productivity growth. These measures will critically support China's aims to increase domestic consumption of sustainable aviation fuel to 50,000 tonnes by 2025 and reduce industrial energy intensity by 13.5% during the 2021-2025 period, while boosting efficiency and growth in transport and aviation.[32]

29 'Hydrogen: An important decarbonisation pathway,' Airbus, April 2024

30 'Cost of electrolysers for green hydrogen production is rising instead of falling: BNEF,' Hydrogen Insight, March 2024

31 'CRU Sustainability & Emissions Service,' CRU, May 2024

32 'Civil aviation green development special plan during the 14th Five-Year Plan Period,' Civil Aviation Administration of China, December 2021

2 CARBON CAPTURE UTILISATION AND STORAGE

Carbon capture, utilisation and storage (CCUS) is a critical technology for China's decarbonisation strategy and transition period. Without CCUS, China's hard-to-abate industries, such as non-renewable energy, cement and steel, would struggle to decarbonise due to a lack of substitute materials or fully matured decarbonisation technologies. China has made great leaps in CCUS research and application and has built Asia's largest coal-fire CCUS facility.[33] However, CCUS remains in the industrial demonstration phase and the scale of existing projects remains small. Unlike solar and wind, CCUS has only very slowly decreased in price[34] and remains expensive with firms hesitant to increase investment.

The UK and other early adopter nations such as Canada and Norway have recognised the importance of CCUS by releasing comprehensive funding schemes, including capital grants and support with pre-FID expenditure recovery, to drive the carbon capture market.[35] For example, the UK's *Energy Security Bill 2022*, sets to capture 20-30 MtCO2 by 2030, alongside a GBP 1 billion (RMB 9.15 billion) investment, while supporting the development of business models for transport and industry.[36]

Currently, there is an underdeveloped regulatory framework for CCUS in China. For CCUS to thrive, it requires essential prerequisites that encompass the regulation of pore space rights, long-term liability, Measurement, Monitoring, and Verification (MMV) and CO2 quantification. These are currently absent from China's regulatory framework, in contrast to the UK, EU, US, and Canada which have these prerequisites in place. Such regulation plays a pivotal role in developing CCUS initiatives, providing businesses and industries with the certainty and predictability necessary for making informed investment decisions and managing risks. Additionally, robust regulation enhances investor confidence and facilitates the attraction of financing for large-scale CCUS deployments.

Recommendations:

- Provide incentive policies for increased investment in the construction scale of CCUS;
- Carry out large-scale CCUS demonstration and industrial cluster construction while promoting the construction of CCUS industrial clusters, utilising approaches similar to UK's development model;
- Develop the carbon market to drive the price of carbon and incentivise further private investment;
- Promote the development of CCUS regulation in China through cooperation with the UK and other early movers to integrate existing international CCUS regulatory frameworks into Chinese domestic legislation.

33 'China launches Asia's largest carbon capture project for coal-fired power sector,' State Council Information Office, June 2023

34 'Why the Cost of Carbon Capture and Storage Remains Persistently High,' International Institute for Sustainable Development, September 2023

35 'Carbon Capture, Usage and Storage Industrial Carbon Capture business models: Update for Track-1 Expansion and Track-2' Department for Energy & Net-Zero, April 2024

36 'Energy Security Bill factsheet: Carbon dioxide transport and storage regulatory investment model' Department for Business, Energy & Industrial Security, September 2023

CLIMATE RELATED STANDARDS

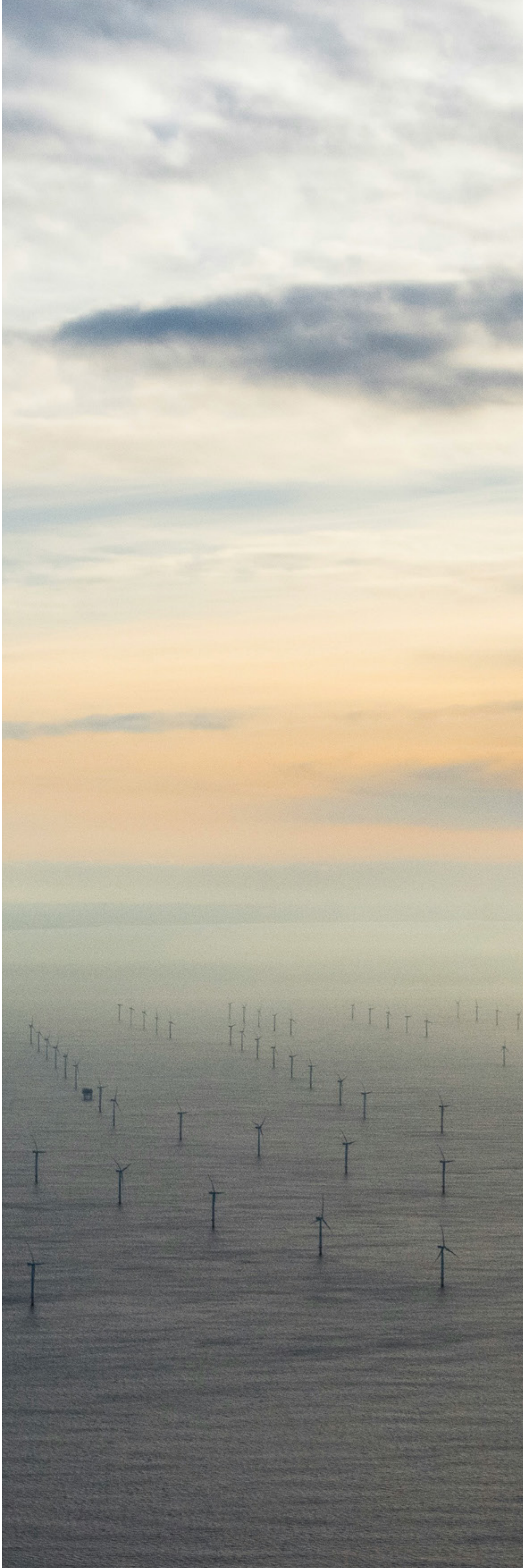
Developing common reporting standards on climate is critical for business to understand risks from climate change and transition risks from the shift to net-zero. Currently there are substantial challenges to climate related standards and reporting in China.

There is a great need for more consistent reporting and uniform application of rules across market sectors in China. The British Chamber recognises the progress made with the release of the *ESG Reporting Guidelines for Listed Companies* which aim to improve the standardisation of ESG reporting, while promoting high-quality development of listed firms.[37] However, Chinese firms are currently less prepared than international counterparts for recording and disclosing CO2 emissions, all the while facing increasing complexity and costs from implementing international and domestic ESG reporting frameworks. Further challenges are likely to arise for firms when measuring and disclosing Scope 3 emissions or conducting climate scenario analyses. Additionally, the *ESG Reporting Guidelines* may present issues surrounding discrepancies in understanding their application.

Recommendations:

- Develop educational and training materials to enhance listed firms and stakeholders' understanding of the 'ESG Reporting Guidelines for Listed Companies';
- Support the interoperability and alignment with international reporting and investment frameworks, such as the International Financial Reporting Standards' Sustainability Disclosure Standards;
- Encourage the phased disclosure of Scope 3 emissions and climate scenario analysis.

The above recommendations will not only support China with its dual carbon goals and aims to build an 'ecological civilisation,' but will also increase listed firms' access to international capital and attractiveness to investors through enhanced reputation and comprehensive risk management.



37 'KPMG China Strongly Supports Three Major Exchanges in Releasing Sustainability Reporting Guidelines, Recommending Companies to Start Preparing Immediately,' KPMG, March 2024

FOOD AND BEVERAGE

SUB-SECTORS

Alcoholic Beverages and Soft Drinks

Agriculture

OUR POSITION

1. Ensure authorities are empowered to act on 24 Point Guidelines to disrupt counterfeiting and uphold IP rights;

2. Ensure that lot codes are directly and clearly protected under Chinese regulations;

3. Reintroduce an exemption for "easy open" spirits in China's mandatory labelling revision;

4. Prevent monopolistic behaviour on e-commerce platforms.

STATE OF THE SECTOR

LOOKING BACK

After suffering more during the years impacted by the pandemic, 2023 was a success story for the British food and beverage (F&B) sector in China. Total UK goods exports to China amounted to £21.4 billion in the four quarters to the end of Q4 2023, representing a notable decrease of 26%, or £7.5 billion, on the previous year.[1] Despite this, China still sits as the UK's 5th largest trading partner and the F&B sector last year became the most positive in its outlook for 2024 in our *Business Sentiment Survey 2023-2024*, with 75% of respondents indicating optimism.[2]

Such optimism presents a strong opportunity for China to foster an environment to attract investment in the sector, particularly with British companies increasingly looking to introduce China-specific products for domestic consumers. Such attraction has seen multiple British alcoholic beverage companies opening distilleries in southwest China.

The regulatory environment for the industry has also seen improvements, alongside continued prioritisation by the Chinese government in sustaining consumption to promote economic growth in the country. There has also been government focus on the key issues for the sector surrounding intellectual property (IP) and the enforcement of regulations and customs procedures, both included in China's *24 Point Guidelines*.[3]

Alongside this, within draft legislation, China is set to formally recognise the use of lot codes as a method of demonstrating production date for spirits, after years of advocacy from the Chamber on this issue. This step will serve to instil confidence among British businesses here, though further opportunities exist if their use can be expanded to improve the traceability of products, most importantly in the interests of food safety.

FUTURE OPPORTUNITIES

There are multiple opportunities for the year to come linked to China's *24 Point Guidelines* and *24 Point Action Plan*.[4] The guidelines have seen calls for China to provide a more transparent policy and regulatory environment, which would give companies the confidence to invest in the market.

However, concerns have been raised by businesses over the potential threat of trade restrictions following hastily announced measures such as the anti-dumping investigations into (French) brandy,[5] a sector category without local competition. Such measures will only undermine confidence in a market in which British firms are upscaling their investments.

With guidelines now in place to address many of the issues raised by British businesses, there is encouragement going into the next year. British businesses stand ready to work with the Chinese government to ensure core issues faced by the sector can be effectively solved through the formulation and implementation of clear policies and regulations.

1 'Trade and Investment Factsheet, China,' Department for Business and Trade, May 2024

2 'British Business in China: Sentiment Survey 2023-2024,' British Chamber of Commerce in China, December 2023

3 'Opinions of the State Council on Further Optimising the Foreign Environment and Increasing Efforts to Attract Foreign Environment,' State Council, August 2023

4 'Notice of the General Office of the State Council on Issuing the "Action Plan for Solidly Promoting High-level Opening to the Outside World and Making Greater Efforts to Attract and Utilise Foreign Investment,"' Office of the State Council, March 2024

5 'China targets French brandy imports in escalating trade disputes,' Financial Times, January 2024

OUR POSITION

1 ENSURE AUTHORITIES ARE EMPOWERED TO DISRPUT COUNTERFEITING AND UPHOLD IP RIGHTS

Concerns around IP have consistently ranked among the top concerns for British business in China and the Chamber greatly appreciates the pledge included in the *24 Point Guidelines* to resolutely crack down on infringements. IP issues were raised as the single biggest challenge for businesses in last year's *Business Sentiment Survey*; concerns around counterfeiting were highlighted in particular.

Counterfeiting in the F&B sector damages both business and public interests in China, empowering criminal groups and endangering consumers with unlicensed and unregulated goods which could be harmful to health. For British businesses, inaction on counterfeiting is a key consideration when making investment decisions in the Chinese market.

With the Chinese government now having specifically called for measures to rapidly improve IP rights protection, it is crucial that agencies are sufficiently empowered to intervene to cut off supply chains for counterfeit goods. On this, the Chamber recommends to:.

Recommendations:

- Ensure an active response to reports made regarding the sale of counterfeit or illicit products through online distributors, with steps for action and the removal of such products from sale;
- Introduce clear penalties for distributors found guilty of the sale of illicit or counterfeit products.

These measures, whilst supporting British businesses, also sit alongside the Chinese government's strategy to support foreign investment into the country. The Chamber would like to see the application of these guidelines clearly disrupt counterfeiting in China, ultimately protecting consumers and ensuring they are in possession of a regulated and safe product.

2 ENSURE THAT LOT CODES ARE DIRECTLY AND CLEARLY PROTECTED UNDER CHINESE REGULATIONS

Lot or batch codes, a code fixed onto a bottle at its point of production, have long been commonplace in the international alcohol trade. These labels mean alcoholic beverages can be traced back through the supply chain, which can protect consumers from illicit trade and ensure rapid recall for faulty products.

After years of advocating for the use of lot codes to protect Chinese consumers, the Chamber welcomes the Chinese government recognising lot codes as a method of demonstrating production date in the latest revision draft of the National Food Safety Standard General Standard for the Labelling of Prepackaged Food (Regulation GB 7718). Whilst this is a positive step, this policy should be extended to grant lot codes direct and clear protection from removal or damage – an issue which persists despite this new draft regulation.

Illicit alcohol sales endanger thousands of Chinese consumers each year and decrease government tax revenues. The OECD suggests that the illicit market makes up over a quarter of alcoholic beverages consumed globally.[6] China currently has stringent penalties for the smuggling or counterfeiting of alcoholic beverages, but is yet to introduce clear measures to prohibit the tampering of lot codes. This means that the illicit alcoholic beverages market is still present, with vendors able to tamper with lot codes and use legal online distribution channels.

Likewise, lot code tampering has been reported as an issue in the context of parallel importing, in which genuine goods are imported into the country through a third country without the express permission or authorisation of the manufacturer or IP rights holder. While such parallel imports are technically legal in China, importers conducting this practice should be prevented from tampering with lot codes to ensure full traceability of products for consumers.

Countries have successfully cracked down on this by introducing simple measures aimed at improving the traceability of beverages.

Recommendations:

- Open a consultation with industry and other stakeholders on the safe and effective use of lot codes, with opportunities to share best practices used in other markets;
- Give legalised protection of lot codes with clear measures penalising any tampering, defacing or removal of them;
- Introduce education campaigns on lot codes across the supply chain, both for distributors and consumers;
- Ban the sale of goods with tampered lot codes at any source, with clear penalties outlined for the sale of such products.

Such policies have been successfully introduced in the Comprehensive and Progressive Agreement for

6 'Illicit Trade in High-Risk Sectors: Implications of Illicit Alcohol for Public Health and Criminal Networks,' OECD, June 2022

Trans-Pacific Partnership (CPTPP) and in the US.[7] They can help ensure the safety of Chinese consumers and minimise government revenue lost to the illicit alcohol trade.

3 REINTRODUCE AN EXEMPTION FOR "EASY OPEN" SPIRITS IN CHINA'S MANDATORY LABELLING REVISION

British businesses continue to be concerned about changes to China's packaging and labelling requirements prescribed by *GB 7718-2011*.[8] Previously, Article 3.11 of the regulation allowed an exemption, whereby boxed products did not need an outer label on the box if the inner label could either be easily seen through the outer wrapper, or where the outer wrapper could be easily removed to see the label. A proposed removal of such an exemption would add unnecessary burdens, complexity and increases costs for business operators.

Currently, many foreign spirits have firm outer packaging to prevent any risk that a bottle can be removed and repackaged into another outer packing. Any repackaging could occur at the hands of distributors, retailers or consumers and it would be extremely difficult to identify the causes and responsible parties. A new suggestion calls for an exemption in cases where bottles and packaging have the same unique lot code, which would create substantial complexities and production related costs for importing into China. Currently, companies have separate production lines for bottles and packaging, so any changes would require substantial supply chain reworking to comply with this requirement.

Recommendations:

- Reintroduce an exemption for labelling requirements on the outer packaging for any packaging which can be easily opened;
- Increase training and education efforts for SAMR officials to ensure consistent interpretation and enforcement of packaging and labelling requirements.

4 PREVENT MONOPOLISTIC BEHAVIOUR ON E-COMMERCE PLATFORMS

The pandemic saw British exporters use e-commerce platforms to provide solutions for Chinese consumers unable to buy products in person. The use of such platforms makes sales easier for companies without permanent facilities in China and is continuing to grow as a major source of income in the F&B sector. As the sector has grown, however, there are concerns that large platforms may currently have the power to use non-competitive tactics - either through the use of non-public data on other marketplace sellers or by prioritising their own products.

Such practices would not be conducive to a fair and level playing field for the sector and, with consumers increasingly looking online for new products and services, could have a significant impact on British and Chinese companies. Such complications would disproportionately impact smaller businesses and discourage many international firms from entering the Chinese market.

Under Article 85 of China's existing *E-Commerce Law*, a business is banned from operating in a way that 'abuses its dominant market position.' To guarantee that this is enforced in practice, it is important that Chinese regulators maintain communication with e-commerce sites. Such lines of dialogue have proved successful in the European Union, with the European Commission having pushed for commitments from Amazon over multiple marketplace concerns.[9]

Recommendations:

- Better enforce existing measures that prevent e-commerce platforms from prioritising their own products over those of third parties, with clear opportunities for sellers to raise concerns over unfair treatment,
- Introduce measures to prevent e-commerce companies from using non-public data from independent sellers to benefit their own retail businesses.

Such measures could effectively help guarantee a fairer environment for new F&B products entering the market, which could not only help shore up confidence amongst sellers, but also produce stable employment in China and drive further consumption online.

7 'Countering Illicit Alcohol Trade Worldwide,' World Spirit Alliance, June 2022

8 'General Rules for the Labelling of Prepackaged Foods,' USDA Foreign Agricultural Service, May 2011

9 'Commission opens investigation into possible anti-competitive conduct of Amazon,' European Commission, July 2019

HEALTHCARE

SUB SECTORS

Pharmaceuticals

Over the Counter Medicines

Multivitamins

Medical Services

OUR POSITION

1. Speed up approvals so that Chinese patients have faster access to new medicines;

2. Improve the harmonisation of standards and coordination to accelerate Chinese patient access to innovative medicines;

3. Introduce measures to improve China's focus on the prevention of diseases to support life-cycle protection of people's health;

4. Relieve pressure on hospitals through a China plan for self-care;

5. Ensure the reform of medicine pricing sufficiently encourages innovation;

6. Expand the definition of unmet clinical need to ensure patients have access to lifechanging medicines;

7. Upgrade Chinese health infrastructure to support patients with rare diseases, relieve pressure on healthcare systems and encourage innovation;

8. Support the development of rare diseases medicines through clear definitions and incentives;

9. Expand the availability of private medical insurance in China to improve patient access to medicines.

STATE OF THE SECTOR

LOOKING BACK

With much of the world facing an ageing population crisis which is piling pressure on healthcare systems, investment in the sector is increasingly seen as a priority worldwide. Innovation in healthcare is seen as one of the key tenets of China's "new quality productive forces," with the country's ambitious objectives acknowledged by stakeholders in Europe.[1] In particular, the British pharmaceutical industry has praised China's streamlined regulatory processes and increased innovation.[2]

Such ambition has fostered high levels of positivity in our *Business Sentiment Survey 2023-2024*.[3] Out of the nine sectors surveyed, the healthcare sector had the second highest level of business optimism in China after the energy sector. In interviews for this paper, British Chamber members reported successfully streamlined approvals alongside positivity over the *Healthy China 2030* plan and the country's *24 Point Guidelines* for attracting foreign investment. With China having rapidly matured its innovation ecosystem for healthcare in previous years, the country has also outlined its ambition to ensure access to high-quality healthcare across the country.

FUTURE OPPORTUNITIES

Enthusiasm around new opportunities for research in China has seen additional attention from British companies in key innovative areas such as medtech, AI and biotech. Despite this positivity, a number of changes could accelerate interest, furthering China's opportunities to harness its access to new technology and clean energy to create one of the most agile systems globally.

One such opportunity concerns China's levelling up of healthcare access across the country. British businesses observe that China could leverage its new investment in hospitals by simultaneously upgrading research infrastructure and incentivising innovation, with specific R&D facilities designed into upgrade packages. This would systematically support innovation on key areas such as rare diseases, vaccinations and biotech. To ensure these opportunities are grasped, China should look to use international standards and best practices to improve its innovation landscape, with proportionate spending on new medicines to encourage innovation.

British businesses also perceive the Chinese population as having a greater interest in health following the Covid-19 pandemic, which has led to increased demand for private medical care, over-the-counter (OTC) medicines and vitamins. Access to these can all assist the Chinese government as it looks to reduce pressure on healthcare systems and improve healthcare access country wide. With this in mind, there are clear benefits to an increased emphasis on helping these sectors grow in China.

There are also multiple opportunities to use China's competitive advantage in areas such as green development to incentivise cleaner medicines. Other countries are looking to harness the opportunities from health data sharing and environmental technology to develop new medicines for a sector with changing priorities, with many British companies already building carbon-neutral manufacturing in the sector. China should look to encourage a collaborative approach on clean energy in healthcare, with improved incentives for companies to use China as a launchpad for more environmentally friendly healthcare products.

1 'EFPIA responds to the European Parliament plenary vote,' EFPIA, April 2024

2 'Clinical research in the UK: an opportunity for growth,' ABPI, Autumn 2021

3 'British Business in China: Sentiment Survey 2023-2024,' British Chamber of Commerce in China, December 2023

OUR POSITION

1 SPEED UP APPROVAL PROCESSES TO ENSURE CHINESE PATIENTS HAVE FASTER ACCESS TO NEW MEDICINES

China increasingly views healthcare as a core area for growth, as reflected by its status as a priority sector for foreign investment. This has seen the introduction of fast-track approval processes for many medicines which has been commended by British businesses, who are keen to see these expanded to cover more medicines. Despite this, companies still see China as held back by unnecessarily complex and slow approval processes for some new prescription and OTC medicines. This means patients are often unable to access new treatments and globally trusted medicines, in turn discouraging companies from entering the market.

At the same time, complexities surrounding the Covid-19 pandemic have seen other countries seek to streamline the approval processes for medicines, with the UK's Medicines and Healthcare products Regulatory Agency (MHRA) commended for introducing new measures to speed up clinical trials and reduce unnecessary complexity without compromising on safety. This presents opportunities for China to increase collaboration internationally on standards surrounding medicine reviews and approvals, which would improve the attractiveness of a country for clinical trials. This in turn helps foster an environment conducive to innovation.

Recommendations:

- Speed up the approvals process for new medicines through the introduction of clear timelines, in particular for both prescription and OTC medicines already approved by certain key international regulators;
- Improve science-based classification, standardisation and consistency in the approval processes for new medicines;
- Expand the breakthrough therapy drug review procedure 'fast lanes' to include considerations for the sensitivity of the patient population, improved compliance, reduced medication frequency and reduced patient burden;
- Enable use of global clinical data to facilitate early and late-stage development, with wider acceptance of decentralised trial design and adoption of new approaches to evidence generation;
- Increase engagement with other regulatory bodies like the British MHRA, with formal mechanisms for knowledge sharing and standards alignment.

2 IMPROVE THE HARMONISATION OF STANDARDS AND COORDINATION TO ACCELERATE CHINESE PATIENT ACCESS TO INNOVATIVE MEDICINES

China has made efforts to improve its regulatory framework and increase alignment with international practices. A greater move towards global regulatory harmonisation and coordination is a strong enabler to accelerate Chinese patients' access to innovative medicines.

In the realm of clinical trials, the inability to utilise global clinical data places a considerable financial burden on medicine development and hampers the pace of patient access. Companies have also reported that multiple different authorities oversee cross-border transfer of clinical data, which further complicates processes. This challenge could be mitigated by establishing an efficient and effective mechanism for data sharing, thereby facilitating both early and late-stage development of medicines. Additionally, the advance adoption of real-world evidence, where medicines are already deployed in other countries, could significantly bolster regulatory decision-making processes. Such policies would simplify clinical trials, rendering China more appealing to medicine producers.

Harmonisation in standards could also be accelerated in the manufacturing and quality development of medicines. Currently China Pharmacopoeia (ChP) still lacks convergence with international standards which limits patient access to innovative medicines. Other areas of alignment would be important the country's science and risk-based approaches, quality control and alignment with global practices, including for testing and supply.

Recommendations:

- Encourage harmonisation of the Chinese Pharmacopoeia with global standards and implementation of ICH guidelines;
- Establish an efficient and effective mechanism for the sharing of clinical data;
- Align Chinese standards with global science and risk-based approaches to supply, including for quality data, as well as standards, testing and implementation for post approval changes and sites of supply.

of key vitamins. There is still a substantial opportunity to improve public health through preventative measures to encourage healthy ageing and support healthy lifestyles, thus reducing the risk of various diseases.

In addition, an ageing population expands high-risk categories for multiple diseases, including many diseases that can be simply prevented or treated if detected and treated early through access to medicines. Early screening and an effective adult immunisation strategy can be vital to prevent diseases and patients from long and expensive procedures in hospitals whilst also freeing up hospital capacity and relieving pressure on healthcare systems. Where authorised, the government should take measures to improve awareness of access to such screening and prevention measures to encourage their uptake. This should include the development of mature adult immunisation ecosystem, for example through policies to encourage Community Health Centres to prescribe vaccines. Such measures could serve to drastically reduce pressure on healthcare systems.

3 INTRODUCE MEASURES TO IMPROVE CHINA'S FOCUS ON THE PREVENTION OF DISEASES TO SUPPORT LIFE-CYCLE PROTECTION OF PEOPLE'S HEALTH

With ageing populations around the world subjecting healthcare systems to shifting challenges, more and more countries are emphasising prevention as a strategy for ensuring provision of healthcare can remain sustainable in the long term. For China, this issue is particularly prominent, with its population ageing at an unprecedented rate for such a large population, which will massively burden a still-maturing healthcare system due to the complex and health challenges faced by older and high-risk patients.[3] This makes it vital for China to shift its healthcare culture to be more proactive around prevention, with a focus on education and the availability of preventative medicines.

In terms of education, there should be an increased focus on improving awareness around healthy ageing and screening for diseases in high-risk individuals. Covid-19 has raised Chinese consumer awareness when it comes to the prioritisation of healthy ageing, with the public looking to invest in their health. Such trends have seen a push for more healthy lifestyles, through increased exercise and a focus on healthy dieting, with sufficient consumption

Recommendations:

- Introduce education campaigns around healthy ageing, with a focus on healthy lifestyles and ensuring a balanced diet;
- As part of such campaigns, increase awareness of screening and preventative medicines among high-risk groups to ensure diseases are prevented or treated as early as possible;
- Introduce a national adult immunisation strategy to ensure patients have access to vaccines which can prevent diseases, relieve pressure on healthcare systems and achieve societal well-being and economic prosperity.

OVER THE COUNTER MEDICINES

4 RELIEVE PRESSURE ON HOSPITALS THROUGH A CHINA PLAN FOR SELF-CARE

With the Chinese healthcare system facing growing pressure over its ageing population, the country will need to find ways to alleviate pressures. One such method being rolled out globally is the upscaling of self-care, with more patients empowered to deal with conditions themselves rather than taking up the time of medical professionals. Any plan would need to drive education among pharmacists and the broader public to support self-management of individual health, equipping patients with the key skills and confidence to manage their own health.

Such plans can free up vital time and financial resources for healthcare systems. In the UK's National Health Service, strategies to bring in supported self-management have led to 19% fewer GP appointments and 38% fewer emergency appointments.[4] A similar focus on introducing peer support, education and training for targeted chronic conditions would be one of the most promising, evidence-based and cost-effective solutions to relieve pressure on the Chinese healthcare system. Supporting self-care can also lead to better patient outcomes, with greater health literacy likely decreasing multimorbidity, slowing disease progression and helping patients live longer, healthier lives.

Recommendations:

- Introduce a strategy for Chinese self-care, focusing on increasing health literacy in among the public to empower patients with the knowledge, skills and confidence to better self-manage their everyday health;
- Introduce additional training at pharmacy levels, so pharmacists are empowered to effectively and appropriately distribute OTC medication when a patient does not require a hospital visit;
- Improve procedures for the introduction of OTC drugs with a proven record from overseas markets, including branded medicines.

PHARMACEUTICALS

5 ENSURE THE REFORM OF MEDICINE PRICING SUFFICIENTLY ENCOURAGES INNOVATION

An ageing population and increased pressure on hospitals has seen many look to the pharmaceutical sector to encourage the innovation needed to ensure healthcare systems remain sustainable in the future. In China, the sector is understood to have been earmarked as a key driver of growth as part of the *'new quality productive forces.'*

The main determinant of innovation in life sciences globally is the pricing of medicines. Developing new medicines not only requires substantial time and investment, but also entails a high risk of failure. As such, governments have looked to support medical innovation through incentives linked to pricing and reimbursement. Such incentives usually see medicine prices determined by market forces, such as the demand for medicines, the availability of other treatments and how much has been spent on research and development.

Historically, pricing in the China's healthcare system has not been competitive compared to the US and Europe. Due to this, innovation in the country has been supported to a great extent by high-risk capital investment which many companies feel is unsustainable.

With China's healthcare system now maturing, the country is looking to introduce new measures on pricing, which could represent a permanent shift in how medicines are developed there. Any such measures will reinforce China's ambition for the sector as a driver for growth in the country, marking an opportunity to demonstrate that investment in the Chinese market will see sufficient returns through appropriate pricing.

The recent draft *Notice on Establishing an Initial Price Formation Mechanism for Newly-Listed Chemical Drugs to Encourage High-Quality Innovation* proposes the introduction of a self-evaluation scheme which would see companies benefit from a better return on investment for medicines. British companies were pleased to receive this draft, with many providing comprehensive feedback. On this, many companies have outlined concerns that the draft may not allow medicine pricing to be sufficiently determined by the market forces. If pricing and reimbursement are not sufficiently linked to market forces, any return on investment will become less predictable, increasing the risk companies make in the market.

With all this considered, China should seek to provide clarity that any new rules on pricing should support the long-term feasibility of investment in innovation, with companies sufficiently rewarded for bringing new products to market. Any such move would greatly encourage longer term investment in the country, expanding the market and ultimately benefiting patients worldwide.

Recommendations:

- Ensure that any new pricing system for medicines sees pricing and reimbursement sufficiently linked to market forces;
- Continue consultation with businesses over the development of any new pricing plans for innovative medicines.

4 'Comprehensive Model of Personalised Care,' NHS, November 2018. 'Supported Self Management,' NHS, n.d.

6 EXPAND THE DEFINITION OF UNMET CLINICAL NEED TO ENSURE PATIENTS HAVE ACCESS TO LIFE-CHANGING MEDICINES

Companies bringing a new medicine to market in any country need to prove that it meets an 'unmet clinical need,' meaning that it does something no current medicine on the market can do. Globally, the definition of what constitutes an unmet clinical need has slowly evolved, with many countries increasing engagement with patients over symptoms in the evaluation of new medicines. A large proportion of countries are even using this as an opportunity to incentivise environmentally-sustainable medicines.

In consultation with British businesses, many raised concerns that China's current definition of unmet clinical need excludes a number of key areas which have longstanding impacts for patients and healthcare systems. This includes the introduction of medicines with a longer-lasting effect, which can reduce the frequency of medication and improve patient lives.

Recommendations:

- Expand definition for unmet clinical need to include sensitivities to different patient groups, long-lasting effects to improve compliance, reduction of the frequency of medication, reduction of patient burden, etc;
- Include considerations for these groups as part of expanded 'fast lanes' in the breakthrough therapy drug review procedure;
- Improve patient representation in the approval processes for new medicines, particularly over discussions around meeting unmet needs, using England's National Institute for Health and Care Excellence (NICE) procedures as an example.

7 UPGRADE CHINESE HEALTH INFRASTRUCTURE TO SUPPORT PATIENTS AND RELIEVE PREASURE

Increasing pressure on healthcare systems due to an ageing population has driven companies to invest in new treatments for chronic diseases. However, there is a risk that such investment isn't being sufficiently targeted towards rare diseases, with currently less than 5% of the 7000 rare diseases in the world having effective treatment. Due to this, lawmakers worldwide have acted to improve the investment landscape and encourage the innovation of rare diseases medicines.

China has already shown that addressing rare diseases is a core national issue in public health. China has one of the largest number of patients with rare diseases globally, with an estimated 20 million people suffering from such diseases. With China concurrently facing complex health challenges due to its ageing population, Chinese authorities have sought to improve access to key treatments for its growing rare diseases population through speeding up approvals and improving incentives.

Despite this, there are strong opportunities to accelerate the growth of this market in China. When it comes to research, some of the key tools required to unlock innovation in rare diseases are areas which China has already prioritised for growth and benefits from a competitive advantage in. These include the use of AI and technology in developing personalised medicine.

Despite this, multiple issues are pushing companies to invest elsewhere. China currently lacks the requisite infrastructure to support the development of rare disease medicines and patient treatments. Currently hospitals have limited capabilities for treatment of rare diseases – a relevant issue even in the context of newly developed high-quality hospitals. Any such lack of capabilities can lead to patients receiving the incorrect treatment, with large sums of money wasted on incorrect medicines and procedures. In addition, the lack of facilities for screening means that many Chinese patients with rare diseases do not receive a timely diagnosis, leading to diseases being treated later and at a greater cost to the Chinese taxpayer.

The expansion of treatment centres specific to rare diseases and relevant infrastructure not only improves patient outcomes, but can also help to harness an environment for innovation, with many British companies keen to work with such facilities to develop new treatments.

Recommendations:

- Introduce initiatives to promote the standardisation of diagnosis and treatment of rare diseases, in turn strengthening consultation, referral and follow-up systems;
- Include rare disease capacity building as a key part of the assessment criteria for the development of high-quality hospitals;
- Introduce national policies to promote the inclusion of rare disease screening into newborn screening and child health examinations;
- Promote the construction of provincial rare disease medical centres and regional medical centres;
- Introduce clear incentives to encourage companies to establish R&D centres around such centres, through subsidies and tax reductions;
- Establish an online referral and consultation model from prefecture-level and county-level municipal hospitals to regional rare disease diagnosis and treatment centres as part of the tiered medical system reform planning.[5]

8 SUPPORT THE DEVELOPMENT OF RARE DISEASES MEDICINES THROUGH CLEAR DEFINITIONS AND INCENTIVES

As mentioned, China has made vast strides to speed up approvals for rare diseases medicines and improve reimbursement practices. Despite this, the country lags behind other key markets in its incentivisation of innovation in the area. With China already possessing much of the technological expertise to unlock new remedies, there is an opportunity to unlock new investment in rare diseases medicines through improving incentives.

One area limiting investment is a lack of clarity over the definition of rare diseases in the country. For example, a 2023 update to China's rare diseases list only listed 207 diseases compared with a global estimation of 7,000-8,000.[6] This limited list and lack of clear definition constrains prioritisation to only a small number of rare diseases, leaving many patients without medication.

In addition, China currently lacks a scientific and suitable medical insurance access mechanism for high-value rare disease medicines. Such a mechanism would allow

5 'China releases medical-security plan to deepen health reform,' State Council of China, September 2021

6 'China releases second catalogue of rare diseases,' National Medical Products Administration, September 2021

patients with rare diseases to access key new medicines at high speed. On this, there are opportunities to draw on international experience in areas like the UK. For example, China can look to work alongside NICE, who currently collaborate with many parallel bodies to share best practices and find efficiency gains.

Companies have praised improvements in China's attitude towards rare diseases but feel there is more work to do to incentivise the development of new medicines. Given the smaller patient group, medicine sales are naturally fewer for such areas, meaning countries have prioritised incentivising the development of such medicines through additional regulatory data protection and streamlined approvals. Such incentives should be extended further for paediatric medicines.

In addition, due to smaller patient sizes, some companies struggle to find appropriately sized batches for clinical trials, meaning approval processes prove difficult even when medicines have already been approved and marketed successfully abroad. This leaves Chinese patients unable to access medicines which could have a life-changing impact.

Recommendations:

- Introduce a clear definition for rare diseases closer to those used in the UK, Europe and US through a strengthened, regularly updated rare diseases catalogue;
- Increase market exclusivity periods for rare disease medicines to 7 years or more years, with an additional 12 months for paediatric medicines;
- Introduce a separate clinical registration and evaluation system for rare diseases reflective of a smaller population size, with more leeway over the number of clinical trial cases, registration inspection batches and approval methods;
- Consider exemptions or priority reviews for rare disease drugs that have been marketed abroad;
- Grant corresponding exemptions for sample batches or considering accepting the inspection data and reports from trusted third-party institutions;
- Re-assess current cost-limit on high-value rare disease medicines to narrow the gap with European and American markets;
- Increase collaboration with health technology assessment (HTA) bodies such as NICE to share best practices.

If China can introduce such measures alongside a scaling up of infrastructure, it can make vast strides towards addressing its patient needs on rare diseases whilst up-scaling its capability through new R&D.

9 EXPAND THE AVAILABILITY OF PRIVATE MEDICAL INSURANCE IN CHINA TO IMPROVE PATIENT ACCESS TO MEDICINES

The Covid-19 pandemic increased demand for high-quality healthcare provided by the private sector. In recent years, the rapid emergence of city-based customised commercial health insurance has rapidly improved patient access to medicines. At present, 10% of China's population is privately insured, representing approximately 140 million individuals. This makes it one of the largest reimbursement commercial health insurance types at a time when public healthcare systems face increasing pressure.

However, work still needs to be done to support China's commercial healthcare insurance market and private hospitals to care for patients. Expanding this market is particularly pressing for patients who need access to many rare disease and oncology medicines which often are often not covered in national plans.

Recommendations:

- Strengthen the protection of commercial medical insurance for the screening of major diseases and promote the integrated development of health insurance and health management;
- Integrate of commercial insurance and chronic disease management through innovate service supply;
- Strengthen government support and guidance to accelerate the development of commercial medical insurance;
- Introduce tax exemptions for insurance premiums for private medical insurance;
- Allow individual buyers to deduct all or part of their insurance premium from taxable income.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