A quarterly summary of the key Chinese policies affecting UK business

This product aims to inform new and expanding UK businesses selling to or located in China about the commercial regulatory issues most likely to affect them. We are providing factual information rather than analysis. All feedback welcome.

CROSS-CUTTING POLICIES:

State Council announces a further 22 measures to open up the market to foreign investors (Notice 39)
As a follow-up to State Council Notice 5 (Jan 2017) and following a year-on-year decrease of foreign investment into China from Q1-Q3 China announced 22 measures to liberalise the restrictions on foreign investment. The Chinese government has delegated the responsibility of implementing these measures to a number of different authorities including the NDRC and MOFCOM. MOFCOM announced last week that 50 departments and 20 provincial governments have already submitted their implementation working plans. Further information here (English) and here (Chinese).

MOFCOM changes approval process for Mergers and Acquisitions
On 8 September, MOFCOM published the Measures for Undertaking Concentration Examination, draft for comments (deadline 9 October). For the first time, companies filing for a M&A deal are urged to explain the motivation of the deal when they file their documents. It is likely that the new Measures will come into effect at the beginning of next year. Further information here (Chinese).

National People’s Congress (NPC) calls for comments on second draft of the Anti-Unfair Competition Law
The second draft of the Anti-Unfair Competition Law was published earlier this month for comments. The draft included modifications on a number of articles including bribery and trade secrets. The deadline for comments has passed and the draft has been removed from the NPC website.

SECTORS:

AGRI-FOOD
Certificates for low risk imported food are required from 1 October, but a 2-year transition period has been granted
The General Administration of Quality, Inspection and Quarantine (AQSIQ) has ordered that all low risk imported food will need to be accompanied by export health certificates. These certificates were previously only required for those products classified as high-risk, such as meat and dairy. After extensive lobbying from China’s trading partners including the UK, AQSIQ has now agreed to grant a transition period of 2 years, from 1 October to 30 September 2019.

AUTOMOTIVE
New Energy Vehicle (NEV) legislation to be enforced by 2019
China’s Ministry of Industry and Information Technology published draft regulations for comment in 2016 to ensure companies rebalance their fleets towards NEVs. This will mean that UK firms selling into the mainland will need to ensure that 8% of their fleet is composed of NEVs by 2018, incrementally rising to 10% in 2019 and 12% the following year or companies will need to obtain credits from other e-vehicle manufacturers. If companies fail to rebalance their fleets they could be restricted from selling any of their vehicles to China. According to MIIT officials the formal regulations will be released by the end of 2017. Click here for the 2016 draft (Chinese).

ENVIRONMENT
Imports of 24 categories of waste product to be banned from the end of 2017; a further 34 to be subject to new standards
On 18 July China notified the WTO of a new import ban on 24 products including scrap plastics, wool and cotton waste, and scrap paper. The full list of HS codes can be found here (English). The new standards can be found here (Chinese).

RETAIL
Transition phase for cross-border retail regulations extended to end of 2018
On 22 September, the State Council announced that it would extend the transition phase for cross-border regulations.
This means that the increased taxes and additional regulations won't come into effect until the end of 2018. Further detail here (Chinese).

MEDICAL DEVICES AND PHARMACEUTICALS

National Health and Family Planning Commission announces new national pricing process for 4 categories of medical devices with deadline for company submissions due 9 October

On 7 September, China introduced a new purchasing process for medical devices which requires that all companies selling 4 categories (heart and hip related) of medical devices must submit technical and economic documentation on their products to NHFPC by 9 October or risk being precluded from selling to public hospitals (potentially for 2 years). The announcement can be found here (Chinese). Industry bodies are actively engaged in dialogue on this issue.

China joins the international regulatory harmonisation body for pharmaceuticals

China joined the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH) earlier this summer. This is a significant step forward towards the continued internationalisation of China's pharmaceutical market and brings Chinese regulations in this sector closer still to international best practice.

CHINESE INVESTMENT OVERSEAS:

State Council restricts Chinese overseas investment in 6 key sectors (Notice 74)

These new guidelines limit investment originating from mainland China into real estate, hotels, hospitality, entertainment, sports and casinos overseas. Capital that is already held in Chinese companies' overseas accounts are unlikely to be affected by these restrictions. Further information here (English) and here (Chinese).

REGIONAL SNAPSHOT: LIAONING

Liaoning is the 10th largest provincial economy in China and represents 50% of nominal GDP in Northeast China. It is known as China's heavy industrial base, with a focus on the production of machine tools and equipments, automotive, aviation, ships and petrochemicals. Shenyang (the capital) and Dalian (a port city) are the business and commercial centres for the whole region.

Liaoning slipped into recession in 2016 and central government is now focused on how to "revitalise" the north-east (Chinese). Significant funding and policy support from the State Council (China's Cabinet Office), including a new A Pilot Free-Trade Zone (Chinese) in Shenyang and improved GDP figures show that Liaoning's prospects are looking brighter.

Liaoning is twinned with Northern Ireland and Belfast with Shenyang. UK engagement is focused on advanced manufacturing prospects in Dalian and vocational education across the area. The Outreach team will coordinate a vocational skills training event in November in Dalian, there is huge demand for skilled workers. For more info on Liaoning or Northeast China, please contact He.tingting@fco.gov.uk

VIEW FROM THE BUSINESS COMMUNITY:

European business community in China suffering from 'promise fatigue'

The European Chamber released its annual Position Paper (paywall) last week. The report is structured around the lack of implementation of State Council Notice 5 (Jan 2017) despite significant high-level rhetoric championing economic reform and opening the market.

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