

**EUROPEAN UNION**

DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND MONGOLIA

The Head of Trade Section

LIMITED

Beijing, 25<sup>th</sup> February 2015

**NOTE FOR THE ATTENTION OF EU TRADE COUNSELORS, BEIJING**

**Subject: Minutes of the Meeting of Trade Counsellors, 15<sup>th</sup> January 2015**

Dear colleagues,

Please find attached the aforementioned minutes for your records, which I hope will be helpful.

Warm regards,

*(signed)*

[Art. 4.1(b)]

**Minutes – Meeting of EU Trade Counsellors on 15<sup>th</sup> January 2015**  
**EU Delegation – Trade Section**

**1. Adoption of agenda**

See annex 1 for participants' list.

**2. First impressions of the 5<sup>th</sup> Chinese GPA offer** [Art. 4.1(b)]

The main steps of China's accession process to the Government Procurement Agreement (GPA) were recalled: China committed to join GPA when accessing WTO and submitted a 4<sup>th</sup> revised offer in December 2013 and the latest one (5<sup>th</sup> offer in December 2014).

[Art. 4.1(a) third and fourth indents]

A comprehensive Commission's assessment of China's 5<sup>th</sup> offer will be discussed in the Trade Policy Committee (Deputy members) of 30 January, before the GPA parties meeting in Geneva on 11 February.

For the presentation, see annex 2.

**3. Revised market access priorities for China** [Art. 4.1(b)]

The Market Access Advisory endorsed in December 2014 a revised list of the key market access barriers in China. EUDEL thanked the TCN delegates as well as EUCCC for their valuable contributions to this exercise, which are reflected to a very large extent in the updated list of priorities.

EUDEL presented the main changes, consisting chiefly in either re-focusing or merging key priorities, and outlined for each new priority the necessary adjustment of the scope and working arrangements of the corresponding market access team.

In parallel, DG Trade is currently revisiting and updating the underlying 'fiches' of the Market Access Database (<http://madb.europa.eu>)

For the presentation, see annex 3.

**4. Rare earths– export tariffs, quotas and licences** [Art. 4.1(b)]

EUDEL recalled the clear outcome of Dispute Settlement DS 432 ("*China – Measures related to Exportation of Rare Earths, Tungsten and Molybdenum*") which led the WTO to rule out that China's (1) export duties, (2) export quotas as well as (3) certain quota administration requirement were in breach of WTO rules. China has been granted a "reasonable period of time" to implement the ruling up to 2 May 2015.

A new export duties catalogue for 2015 was issued by MOF on 12 December 2014. The catalogue maintains unchanged all those tariff lines subject to the dispute. [REDACTED]

[Art. 4.1(a) third and fourth indents]

By contrast, China lifted in 2015 its export quotas on rare Earths, Tungsten and Molybdenum, which is a positive first step in bringing Chinese legislation in compliance with the WTO ruling. Responding to a question, EUDEL deemed that the re-introduction at a later stage of quotas on RE was quite unlikely, as this measure had a limited market impact in year 2014 (the quotas were not exhausted).

Those products however remain subject to an export licensing mechanisms, but China contends that the only requirement for obtaining such a license is the presentation of a sales contract with a buyer outside China. The implementation of these mechanisms should be closely monitored.

EUDEL finally recalled the wider context, namely

- the ongoing industry consolidation process,

[REDACTED] [Art. 4.1(a) third and fourth indents]

- the ongoing MIIT campaign to crack down illegal rare earth mining.

For the presentation, see annex 4.

## **5. What you missed when you were gone: highlights of salient developments over Christmas break (Trade Section)**

A WTO compliance mechanism was made operational by MOFCOM with the release of more detailed rules. The mechanism aims at providing a vehicle for partners to complain about WTO compatibility of laws, and at enhancing attention to WTO compatibility in law-making. As in many other areas, implementation will determine whether the benefits of this tool.

China's largest train manufacturers (and state-owned companies) CSR Corp and China CNR announced that they would merge to create a global giant. The two companies (which receive significant State support to "go global") had been criticised for undercutting each other by slashing prices in bidding processes abroad. This follows the intention of the Third Plenum to create more powerful state-owned national champions adds muscle to the China's "transport diplomacy" drive, with exports of transport products and services across the world.

The Shanghai Free Trade zone will be significantly expanded, and three new zones will be set up in Guangdong and Fujian provinces and Tianjin municipality. This responds to the need to boost growth and reinvigorate the reform drive, after the Shanghai Free Trade Zone had not lived up to expectations. As for the Shanghai Free Trade Zone, only implementation will tell whether more meaningful market opening is created for foreign investment. The potential is certainly there.

The State Council released its Action Plan for the implementation of the National Intellectual Property Strategy (2014-2020), with the following targets (i) facilitation of IP creation and utilization in support of industry restructuring and upgrade; (ii) reinforcement of IP protection to improve market environment; (iii) enhancement of IP management to

increase management efficiency; (iv) expansion of international IP cooperation to enhance international competitiveness. After Beijing and Guangzhou, the third specialised IP Court has been established in Shanghai. The original feature of this IP Court is the enlarged competence of the procurator-which will have a "cross administrative" range of competences, including but not limited to IP matters.

**6. Exchange on recent and upcoming bilateral events (Trade Section, Member States)**

[All redactions in Section 6 under Art. 4.1(a) third and fourth indents]

informed about the on-going visit of the Minister of finance. He is meeting with the Chinese minister of finance as well as the Party to discuss the current financial reform that is taking place in China. The minister will also visit Chengdu ( premises) and the Sichuan Finish Center Park. Moreover warned about the visit of Minister of foreign Affair that should take place early in 2015.

The Minister should also meet with CCPIT and businesses on food and ICT.

informed about the 16+1 high-level meeting in Belgrade on 16 December. The meeting was held at very high level, including Premier Li, but the Prime Minister could not attend and was replaced by the vice-PM and Defense Minister. The next "Summit" will take place in Beijing in 2015. In parallel to the high-level meeting, an economic forum was held, focused on the promotion of bilateral trade, investments and the development of transport and logistics to increase trade potential, in the framework of the "new Silk Road".

informed on three high level visits that took place in December. The visit of the Minister of Education, the visit of Minister of Agriculture to discuss with MOA, AQSIQ, FOA regarding food safety, seafood companies... and finally the State visit of Chinese President with the Minister of Finance and Foreign Affairs (06/12/2014).

**EU Delegation** informed about the coming 40<sup>th</sup> Anniversary of the EU and China Diplomatic Relations. Various events will take place in course of the year 2015. EU Delegation also informed Member States about the willingness of the EU Ambassador to be more interactive with local authorities and to more often meet with Member States' consulate in cities such as Shanghai and Guangzhou.

**7. AOB**



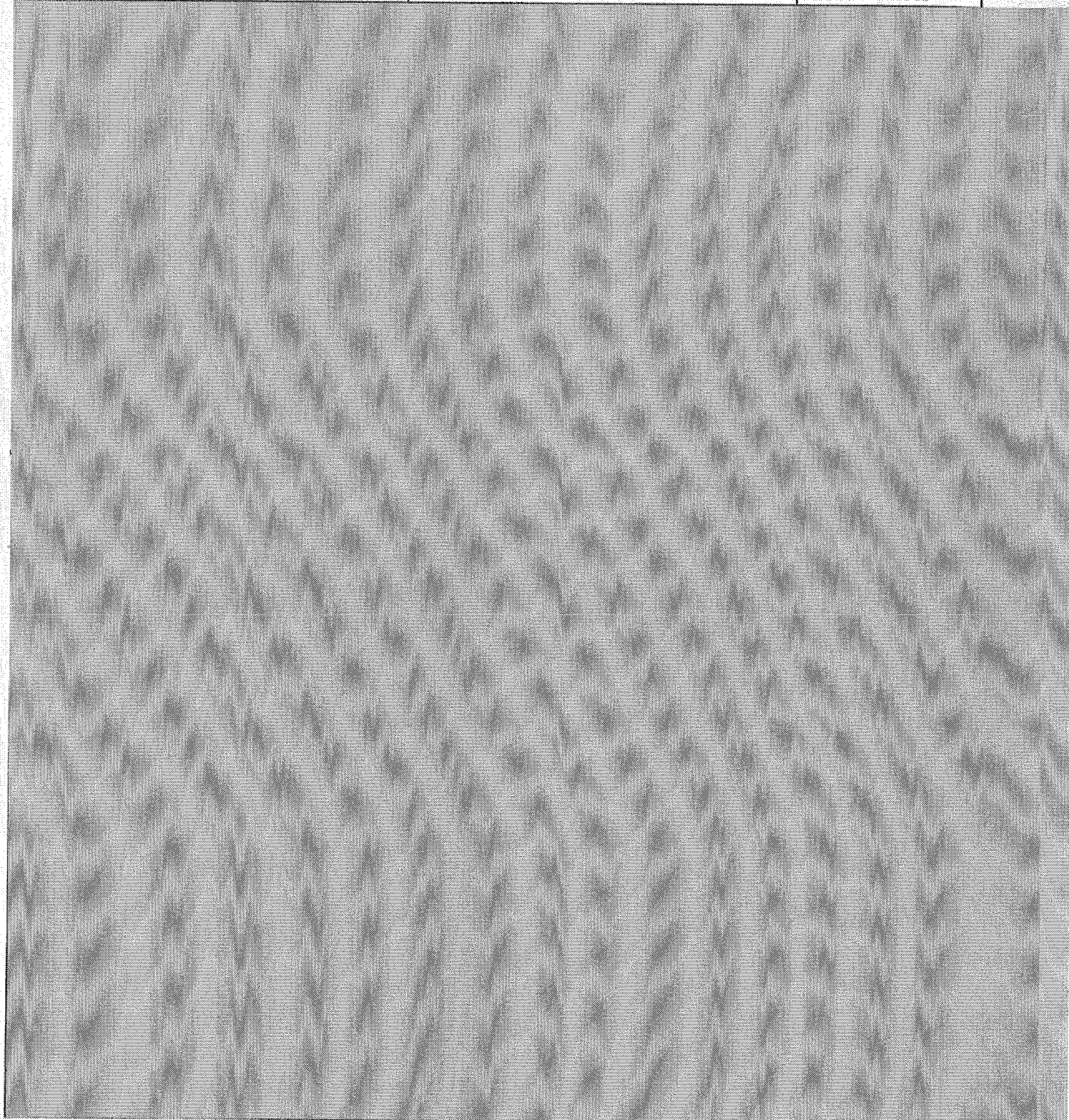
List of Participants, TCM 05.12.2014, Beijing

IS. 012015

Annex 1

4.1.b

Name	Member States	Email Address	Phone Number
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[Unless otherwise indicated redactions are made under Art. 4.1(a) third and fourth indents]

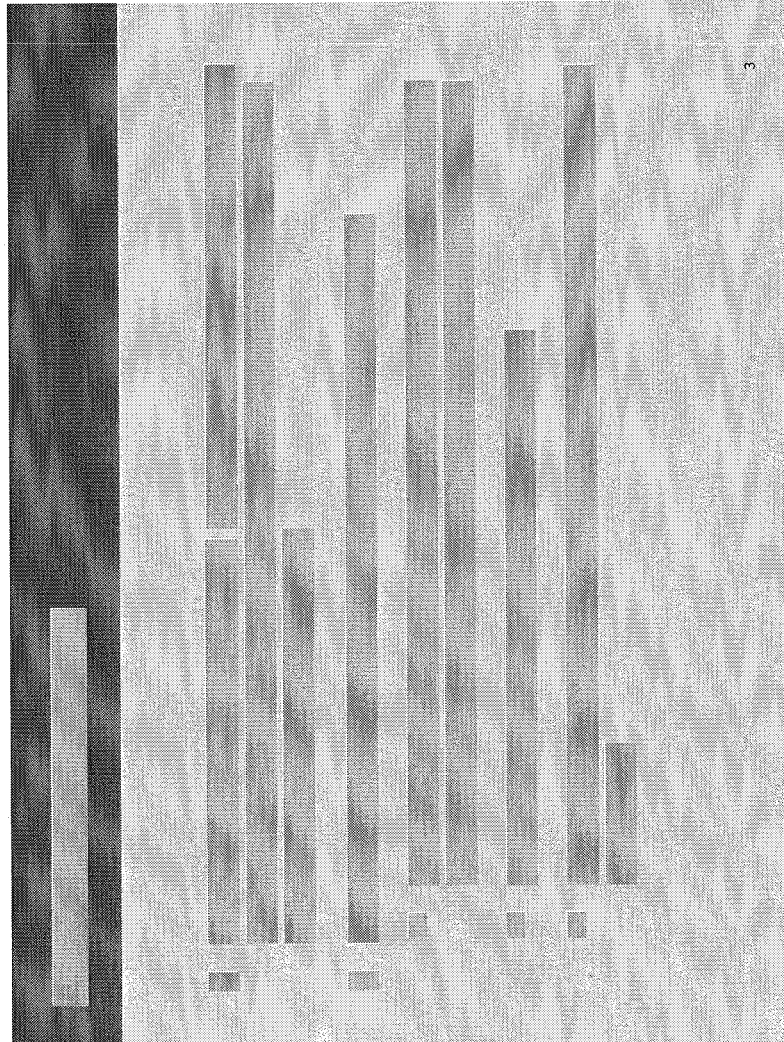
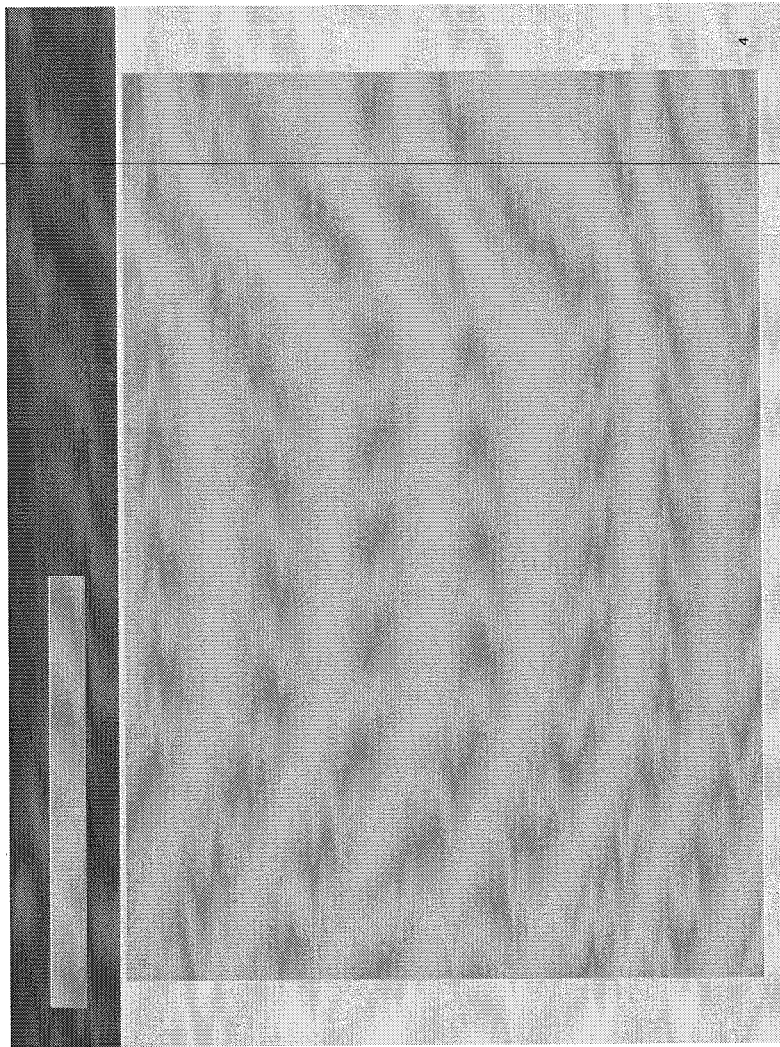
# First considerations on China's 5<sup>th</sup> revised offer to accede GPA

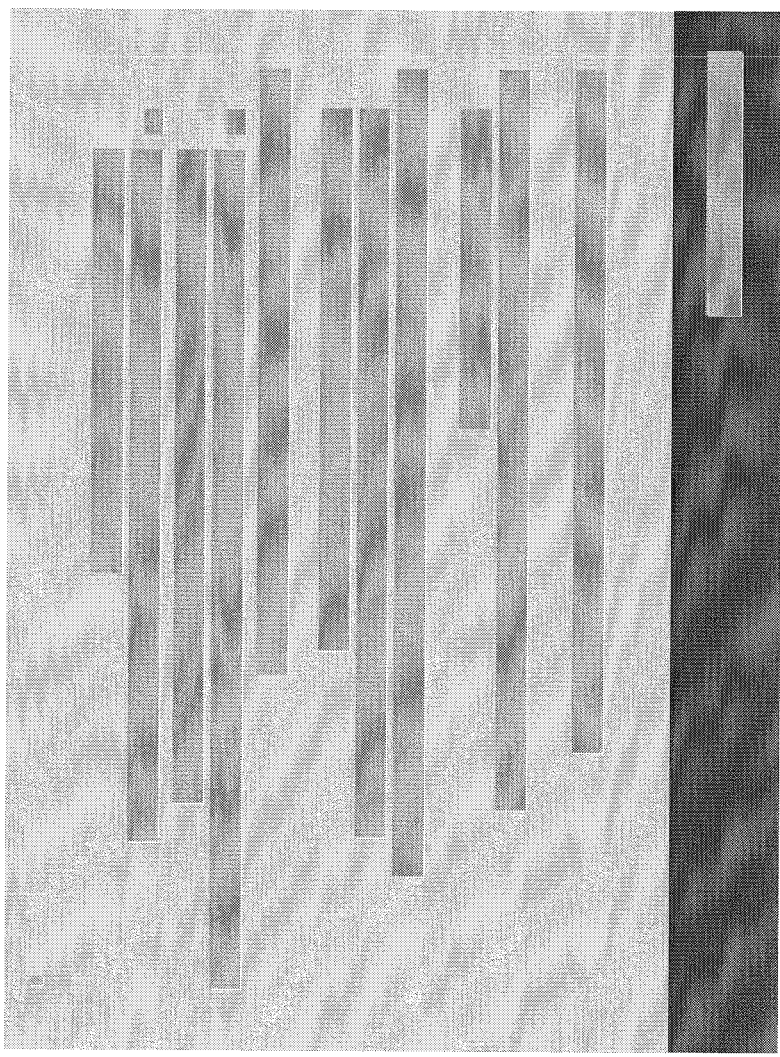
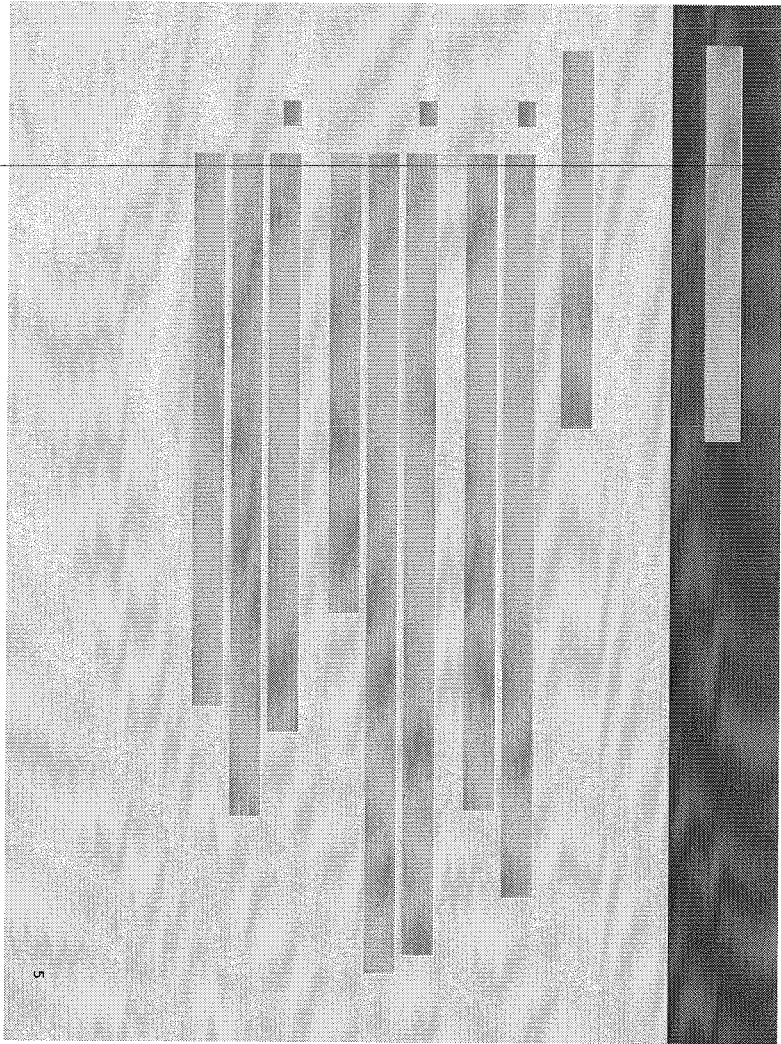
Presentation by [Art. 4.1(b)]  
EU Delegation to China

15 January 2015

- China committed to join GPA when accessing WTO;
- 1<sup>st</sup> Chinese offer in December 2007; 4<sup>th</sup> revised offer in December 2013 and latest one (5<sup>th</sup>) tabled by China on 22 December 2014







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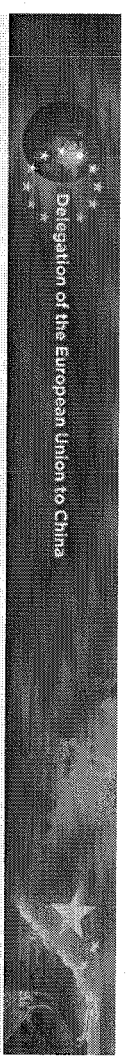
Delegation of the European Union to China

# EU's Market Access Strategy

4.1.b

Trade Section – January 2015

Trade section



Delegation of the European Union to China

## Key Market Access barriers – Prioritisation

Market Access Database : <http://madb.europa.eu/>

From the 41 Market Access Barriers in China, about 10 obstacles are typically regarded as 'key' to access the Chinese market.

⇒ a so-called **Market Access Team** brings together interested EU Member States, EU industry and EU Del.

*Regular updates + re-focus priorities*

Trade section

## Update of the priorities - timeline

- 24 October 2014:  
First assessment of priorities (taking i.a. into account latest position paper of EUCCC) send for input to TCN delegates and industry [deadline for comments 5 November]  
⇒ EUCCC + 4 MS provided suggestions
- 20 November 2014:  
First assessment by MAAC  
[deadline for comments 4 December]
- 16 December 2014:  
Second assessment and  
final list of key barriers/MAT adopted by MAAC
- Follow up : Revisit the scope / mandate of the MATs  
Update fiches / 'hymnsheets'

Trade section

## Key Market Access barriers

### 1. Restrictions on Foreign Investment (FDI)

#### *Old: Investment catalogue*

- Open up sectors closed to FDI or subject to joint venture requirements, including where Chinese majority ownership is a condition e.g. ICT, environmental goods and services, financial services, express delivery services, legal services, healthcare, automobiles, railway, construction, advanced engineering, oil and gas.
- Remove other restrictions such as technology transfer, local content requirements and administrative pre-approvals.

= *extended scope*

Continuation of the existing MAT – possible subgroups on dedicated issues

Trade section



Delegation of the European Union to China

## Key Market Access barriers

### 2. Public Procurement

- Encourage China to join the Government Procurement Agreement (GPA) as soon as possible by submitting before the end of the year (2014) an ambitious market access offer to the GPA partners and by bringing Chinese legislation in line with the GPA.
- Request China to make tendering and complaints resolution processes under China's Tendering and Bidding Law more accessible to foreign companies.

≈ *same scope*

Continuation of the existing MAT

Trade section



Delegation of the European Union to China

## Key Market Access barriers

### 3. Intellectual Property Rights (IPR)

- Avoid registration of patents and utility models of low quality and of trademarks applied for in bad-faith.
- Ensure effective implementation of WTO commitments on Regulatory Data Protection
- Simplify lengthy registration proceedings and burdensome procedure for legalising foreign documents.
- Ensure more effective and efficient protection against IPR infringements through administrative, judiciary and customs authorities (enforcement).
- Ensure more certainty about sufficient protection for trade secrets, which must be shared with Chinese authorities/companies.  
= *no drastic change in scope but objectives re-focused*

Continuation of the existing MAT

Trade section



## Key Market Access barriers

### 4. Sanitary and Phytosanitary (SPS) measures

- Lifting of ban on EU beef and sheep meat imports.
- Simplify and speed up accreditation proceedings.
- Acceptance of systems-based approach to audits, including prelisting (meat and dairy exports).
- Acceptance of international standards (animal health, food safety, e.g. for exports of alcoholic beverages, animals and animal products, (such as porcine, poultry, dairy, etc.)  
= objectives re. focused

Continuation of the monthly meetings held by the  
SANTE / AGRI section

Trade section

## Key Market Access barriers

### 5. Compulsory Certification System (CCC)

- Remove unnecessary burdensome certification procedure notably for the automotive sector, machinery, electrical equipment, ceramics, and IT products.
- Ensure that product certification procedures cannot be used for 'technology theft' from foreign companies.
- Ensure equal participation of foreign and foreign-invested companies in standard setting.
- Ensure recognition of internationally-recognised standards, testing and certification.

→ same scope

Continuation of the existing MAT

Trade section

## Key Market Access barriers

### 6. Licensing requirements and procedures for Services

*Merge of the financial services + postal/ courier services fiches + extension to other service sectors*

- Improve the clarity, speed and transparency of licensing approval processes in services sectors such as financial services, telecom, postal/courier, construction and computer reservation systems (CRS). Licensing requirements should be non-discriminatory and proportionate. A negative licensing decision should be subject to independent review.

*= extended scope*

Continuation of the existing MAT – possible subgroups on dedicated issues

Trade section

## Key Market Access barriers

### 7. IT Security Chinese licensing practices and approaches to information security deviating from the international standards and global practices

- Recognition of internationally-recognised standards, testing and certification.
- Participation of foreign and foreign-invested companies in standard-setting.
- Updating OSCCA regulations to answer longstanding EU concerns such as the prohibition to use foreign technology in encryption products and the obligation to disclose proprietary confidential information for commercial encryption products.
- Removing discriminatory provisions and ensuring transparency in implementation of Multi-Level Protection Scheme (MLPS).

*≈ same scope*

Continuation of the existing MAT

Trade section





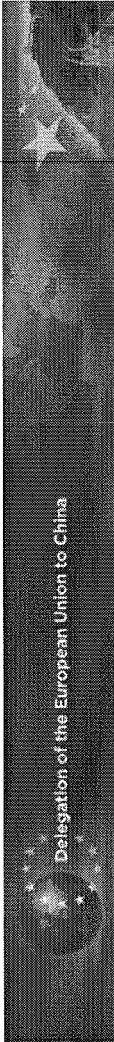
## Key Market Access barriers

### 8. Raw materials

- Full implementation of the ruling(s) of the WTO Dispute Settlement Body.

Continuation of the existing MAT

Trade section



## Key Market Access barriers

### 9. Health and Cosmetics Sectors

*merge of two fiches (medical devices – pharmaceuticals)  
+ cosmetics*

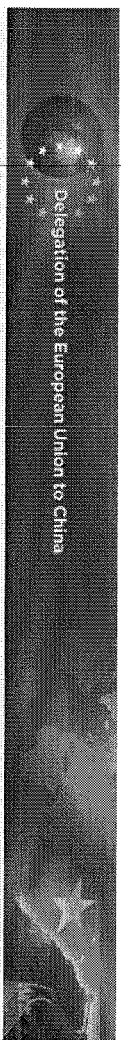
**Medical Devices:** implementation of the new regulatory framework in China for Medical Devices:

- Align the new medical devices regulatory system with international standards and practices on issues such as: accept clinical trials conducted in foreign countries members of IMDRF, eliminate the requirement of registration of medical devices in the country of origin, accept Electromagnetic Compatibility (EMC) Testing carried out by foreign ILAC accredited labs, simplify the format of the registration certificate, abolish/limit the obligation of new registration in case of minor software updates

*= updated fiche*

Trade section





## Key Market Access barriers

### 9. Health and Cosmetics Sectors (*continued*)

**Pharmaceuticals:** new regulatory framework in China for Pharmaceuticals.

- Align the new pharmaceutical regulatory system with international standards and practices such as ICH on issues such as requirements on clinical trials for registration of medicinal products and animal testing.

**Cosmetics:**

- Improve the registration process for new cosmetics ingredients and limit the registration process to higher risk ingredients. Remove the requirement to prove manufacturing and sale in the country of origin through the Free Sales Certificate. Allow labelling of cosmetics by stickening. Bring regulations on testing (animal and alternative methods) in line with international standards.

= *fiche re-focused + extended*

Trade section



## Key Market Access barriers

### 9. Health and Cosmetics Sectors (*continued*)

Continuation of the existing MAT-possible subgroups on dedicated issues

41b

Trade section



**Thank you**

416

Trade section



Delegation of the European Union to China

# Rare Earths State of progress

4.1.b

Trade Section – January 2015

Trade section



Delegation of the European Union to China

## Rare Earths

### Dispute Settlement – Dispute DS 432

*"China – Measures related to Exportation of Rare Earths, Tungsten and Molybdenum"*

Panel report:

20 March 2014

Appellate Body:

7 August 2014

WTO ruled out that China's

- (1) export duties,
- (2) export quotas and
- (3) certain quota administration requirements

were in breach of WTO rules

Trade section



## Rare Earths

### 1. Export duties

Not justified under Article XX(b) GATT

("necessary to protect human, animal or plant life or health")

+ do not the requirements of the chapeau

("it is not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, and is not a disguised restriction on international trade")

## Rare Earths

### 2. Export quotas

Not justified under Article XX(g) GATT

("relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption")

Panel ⇨ \* "designed to achieve industrial policy goal rather than conservation"

\* "conservation does not allow Members to adopt measures to control the international markets of a natural resource"

\* "the measure encourages domestic extraction and secure preferential use of those materials by Chinese manufacturers"



Delegation of the European Union to China

## Rare Earths

### 3. Administration of the quotas

#### Not justified under Article XX(g) GATT

("relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption")

Panel ⇨ "China has not satisfactorily explained why its trading rights restrictions were justified"

Reasonable period of time to implement the ruling

= 2 May 2015

Trade section



Delegation of the European Union to China

## Rare Earths – Where do we stand ?

### 1. New export duties catalogue for 2015

(published by MOF – 12 December 2014)

- 343 tariff lines (e.g. ores, rare earth, tungsten, molybdenum, fertilisers, wood & paper products, steel products and other metals...)
- All those tariff lines subject to the dispute remained unchanged compared to 2014

= extra time used to reinstate WTO incompatible measures

Trade section

## Rare Earths – Where do we stand ?

### 2. No export quotas anymore in 2015 on Rare Earths, Tungsten and Molybdenum

+ export licence (published by MOFCOM – 31 December 2014)

Only requirement = presentation of a sales contract  
with abuyer outside China

*Implementation to be monitored*

= positive first step in bringing the Chinese legislation in compliance  
with the WTO ruling

## Rare Earths – wider context

- Ongoing industry consolidation process  
into two state-owned conglomerates

*to maintain China's monopoly power & pricing power for rare earth  
products ?*

- A new resource / sales tax ?

- 35% on the ion-absorbed-type middle and heavy rare earths in  
the southern areas
- 22% on the light rare earths in the northern areas

- Ongoing MIIT campaign (+ 7 Ministries) to  
crack down illegal RE mining



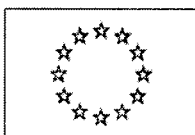


Delegation of the European Union to China

## Rare Earths - Conclusion

China will probably implement the WTO ruling but is unlikely to release its strict control of Rare Earths products.

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**EUROPEAN UNION**

DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND MONGOLIA

The Head of Trade Section

LIMITED

Beijing, 25<sup>th</sup> February 2015**NOTE FOR THE ATTENTION OF EU TRADE COUNSELORS, SHANGHAI****Subject: Minutes of the Meeting of Trade Counsellors, 21<sup>st</sup> January 2015**

Dear colleagues,

Please find attached the aforementioned minutes for your records, which I hope will be helpful.

Warm regards,

*(signed)*

[Art. 4.1(b)]

**Minutes – Meeting of EU Trade Counsellors on 21<sup>st</sup> January 2015  
Shanghai**

**1. Adoption of agenda**

See annex 1 for participants' list.

**2. First impressions of the 5th Chinese GPA offer and Rare earths– export tariffs, quotas and licences**

The main steps of China's accession process to the Government Procurement Agreement (GPA) were recalled: China committed to join GPA when accessing WTO and submitted a 4th revised offer in December 2013 and the latest one (5th offer in December 2014).

[Art. 4.1(a) third and fourth indents]

A comprehensive Commission's assessment of China's 5th offer will be discussed in the Trade Policy Committee (Deputy Members) of 30 January, before the GPA parties meeting in Geneva on 11 February.

[Art. 4.1(a) third and fourth indents]

For the presentation, see annex 2

EUDEL recalled the clear outcome of Dispute Settlement DS 432 ("*China – Measures related to Exportation of Rare Earths, Tungsten and Molybdenum*") which led the WTO to rule out that China's (1) export duties, (2) export quotas as well as (3) certain quota administration requirement were in breach of WTO rules. China has been granted a "reasonable period of time" to implement the ruling up to 2 May 2015.

A new export duties catalogue for 2015 was issued by MOF on 12 December 2014. The catalogue maintains unchanged all those tariff lines subject to the dispute.

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By contrast, China lifted in 2015 its export quotas on rare Earths, Tungsten and Molybdenum, which is a positive first step in bringing Chinese legislation in compliance with the WTO ruling. Responding to a question, EUDEL deemed that the re-introduction at a later stage of quotas on RE was quite unlikely, as this measure had a limited market impact in year 2014 (the quotas were not exhausted).

Those products however remain subject to an export licensing mechanisms, but China contends that the only requirement for obtaining such a license is the presentation of a

sales contract with a buyer outside China. The implementation of these mechanisms should be closely monitored.

EUDEL finally recalled the wider context, namely

- the ongoing industry consolidation process,  
[Art. 4.1(a) third and fourth indents]
- the ongoing MIIT campaign to crack down illegal rare earth mining.

For the presentation, see annex 3.

### **3. Revised market access priorities for China**

The Market Access Advisory endorsed in December 2014 a revised list of the key market access barriers in China. EUDEL thanked the TCN delegates as well as EUCCC for their valuable contributions to this exercise, which are reflected to a very large extent in the updated list of priorities.

EUDEL presented the main changes, consisting chiefly in either re-focusing or merging key priorities, and outlined for each new priority the necessary adjustment of the scope and working arrangements of the corresponding market access team.

In parallel, DG Trade is currently revisiting and updating the underlying 'fiches' of the Market Access Database (<http://madb.europa.eu>).

Due to the amount of EU companies in Shanghai, participants were asked whether EUDEL should reach out more actively in terms of Markets Access.

For the presentation, see annex 4.

### **4. What you missed when you were gone: highlights of salient developments over Christmas break (Trade Section)**

#### **- Investment**

The New draft on Investment Law was released and it has been sent immediately for translation. However, a quick assessment has been done highlighting as follows,

- 1) Foreign companies will receive pre-establishment national treatment under the new Law.
- 2) The current case-by-case approval system would be replaced by a "negative list" management approach. The "negative list" is stipulated in the Law as the "*Catalogue of Special Management Measures*", which will be drafted and published by the State Council. Prohibited and Restricted areas will be listed for foreign investors in this Catalogue (reminiscent thus of the current *Catalogue of Industries for Guiding Foreign Investment*—without a list of encouraged sectors). Restricted areas will contain a list of requirements applicable to the restriction. To note that all investments above a certain threshold will be considered as "restricted" irrespective of the sector.
- 3) They have established the approach of one-stop-shop. There is a time limit of 30 days for a decision on applications received, which can be extended by a further 30 days. This is for cases where the national security review does not apply. If it applies the additional time limits are explained in the next point (an additional 30 days which can be extended by another 30 days).

4) The State Council will set up a joint ministerial mechanism to carry out security reviews on foreign investment, which is a completely new rule compared with three previous laws. According to the Law, foreign investors can apply for the review proactively if they feel that their investment threatens China's national security. Also industrial associations and even Chinese Competitors in the same industry or in the production chain can make suggestions to the central government to conduct such reviews on foreign investors, and the joint ministerial mechanism will make the decision on whether a review is necessary or not.

- WTO compliance mechanism within MOFCOM active

The WTO compliance mechanism is active within MOFCOM since December. Participants were asked to inform EU DEL in case they find out laws, practices et al. that are not WTO compliant so they can be reported to MOFCOM. It has also centralized a sort of coordination between MOFCOM and other departments. Currently, all laws with trade implications should be filed with MOFCOM.

In principle, companies are allowed to submit their comments. However, in practice, only WTO countries can use this mechanism.

- State council announces 3 new Free Trade Zones following Shanghai model

At the end of December, the State Council announced the launching of three new Free Trade Zones following the "success" of the Shanghai Free Trade Zone. It has also announced the extension of the Shanghai Free Trade Zone to three areas. Therefore, most of the EU companies will now find themselves in the Free Trade Zone as soon as this extension becomes effective.

According to participants, in Shanghai, EU companies that have moved to the original SHFTZ are disappointed as they have not seen any gain from the effort of moving there. They are claiming some kind of reimbursing policy.

According to participants, this will obviously put all FTZs in competition. However, in the case of Shanghai it will not affect that much as Shanghai is a SOE city. The biggest investor in Shanghai is Japan not EU.

Overall, business community is not very enthusiastic about the SHFTZ. However, there are positive developments as the "single window" or "one-stop-shop"

**5. Exchange on recent and upcoming bilateral events (Trade Section, Member States)**

On 29<sup>th</sup> January the Trade and Investment Policy Dialogue (TIPD) will take place in Beijing with MOFCOM. The agenda will touch, *inter alia*, on Investment, Free Trade Zones, and multilateral related topics (e.g. GPA, Trade Defence Cases...etc).

On 16<sup>th</sup> of March the 5<sup>th</sup> round of the Bilateral Investment Agreement will take place in Beijing

**6. AOB**



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Presentations attached:

1. First impressions of the 5th Chinese GPA offer [Art. 4.1(b)]
2. Rare earths– export tariffs, quotas and licences [Art. 4.1(b)]
3. Revised market access priorities for China [Art. 4.1(b)]

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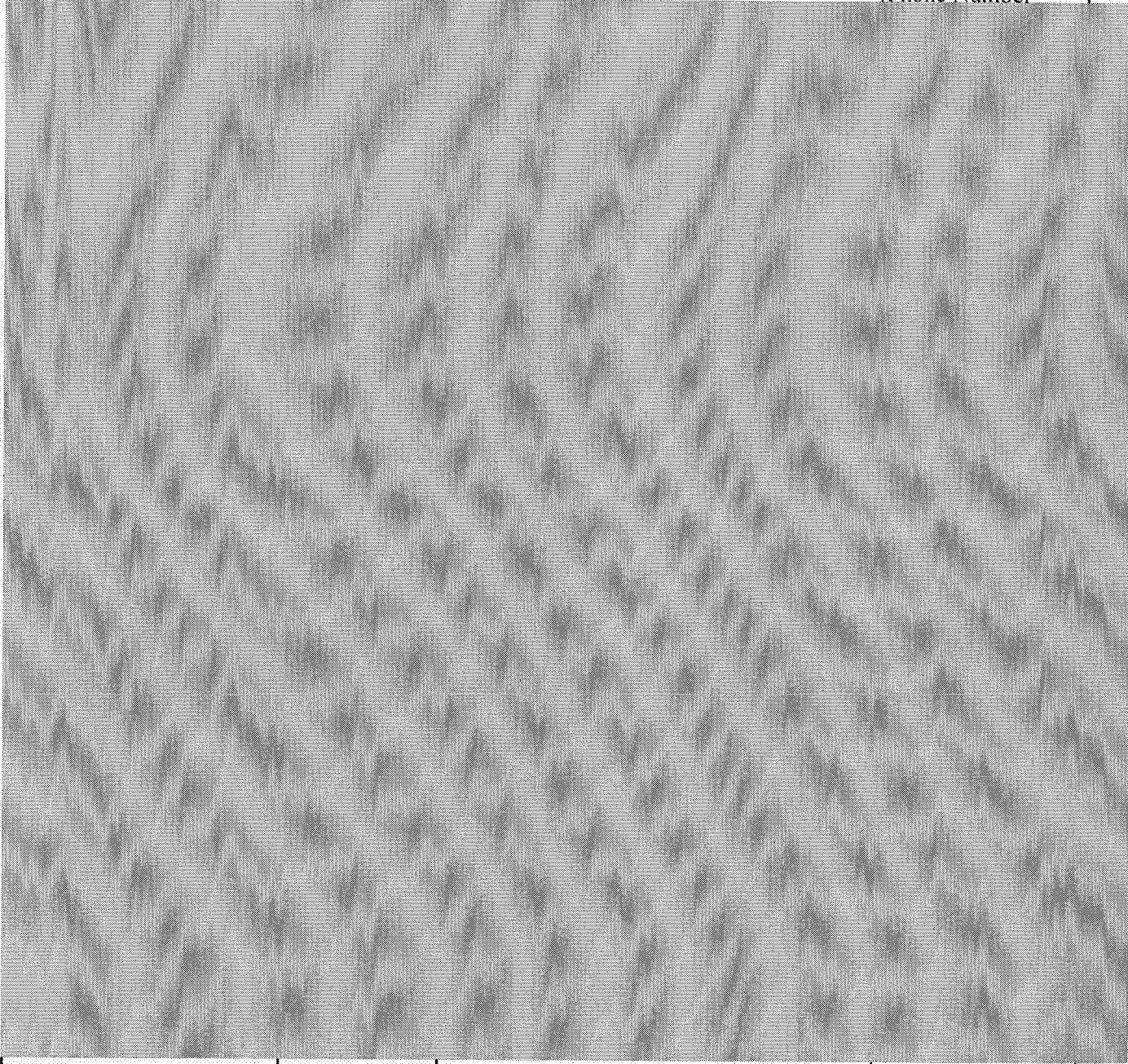


List of Participants, TCM 21.01.2015, Shanghai

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Annex 1

4.1.b

Name	Member States	Email Address	Phone Number
			

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**EUROPEAN UNION**

DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND MONGOLIA

The Head of Trade Section

Beijing, 14th April 2015

*Limited*

**NOTE FOR THE ATTENTION OF EU TRADE COUNSELORS, BEIJING**

**Subject: Minutes of the Meeting of Trade Counsellors, 12<sup>th</sup> February 2015**

Dear colleagues,

Please find attached the aforementioned minutes for your records, which I hope will be helpful.

Warm regards,

*(signed)*

[Art. 4.1(b)]

**Minutes – Meeting of EU Trade Counsellors on 12<sup>th</sup> February 2015**  
**EU Delegation – Trade Section**

**1. Adoption of agenda**

See annex 1 for participants' list.

**2. Debrief of the Trade and Investment Policy Dialogue [Art. 4.1(b)]**

The 8th EU China Trade and Investment Policy Dialogue (TIPD) took place in Beijing on 29<sup>th</sup> January. CB introduced the point by mentioning that EU MS were already debriefed by DG Demarty on 29 January, in the Trade Policy Committee (TPC) meeting of 6 February in Brussels, and have received the TPC report. Rather than going through the details of the meeting, 4.1(b) highlighted the following main take-aways.

[Art. 4.1(a) third and fourth indents]

**3. Developments regarding the legal framework for foreign investment**

[Art. 4.1(b)]

- [Art. 4.1(b)] give a general presentation on where we stand with preparing EU's comments to the Call for Comments launched on the 19<sup>th</sup> of January with deadline 17<sup>th</sup> of February 2015 on the new draft Foreign Investment law.

First, EU thanked all the MS for their timely comments which in the end made a compilation of more than 30 pages of comments. These comments fed into the comments which were prepared by experts in Headquarters of DG Trade and other relevant DGs. Most comments of MS were taken up even if this was worded slightly differently and/or other nuances were put.

[Art. 4.1(a) third indent, 4.2 first indent, and 4.3 first subparagraph]

In summary, the following initial comments were shared with MS at the TCM (please note that in the meantime EU's comments have been finalized and the final comments as send to Chinese authorities were distributed by mail of 17 February 2015): The EU shares the objective of the Chinese government to provide through this law for an *open, unified and transparent regulatory framework to govern foreign investments and welcomes the Chinese efforts towards that objective*. In principle, nevertheless, the EU fails to see the need to establish such framework though legislation that specifically concerns foreign investors and their investments.

In the absence of a genuine right to equal treatment, the proposed draft FIL can be a positive step towards more openness and non-discrimination, notably with respect to the following: (i) China's effort to simplify the applicable regime by replacing the three current laws -- the Law on Chinese-Foreign Equity Joint Ventures, the Law on Chinese-Foreign Contractual Joint Ventures, and the Law on Wholly Foreign-Owned Enterprises -- with one New Foreign Investment law; (ii) there is the stated *intention* to provide pre-establishment national treatment for foreign investments; and (iii) the *intention* to replace the current case-by-case approval system by a "negative list" approach. The EU's final assessment inevitably depends on the exceptions to be introduced to the national treatment principle through the Catalogue of Special Measures, which has not yet been published. In the same vein, the value of the promulgated single legal framework for all foreign enterprises largely depends on whether China will actually follow suit as to the issuance of numerous guidelines, which may equally result in a fragmented framework in practice.

The EU therefore considers that this draft FIL, as it stands currently, may become a missed opportunity to reach its stated goals and ensure legal certainty. In particular, EU salient comments are as follows:

- 1. The new legal framework should further improve (and in no case worsen) conditions for foreign investment:** The EU is particularly concerned with a number of new elements that appear to backtrack compared to the current foreign investment regime.
- 2. The promise of pre-establishment National Treatment (Article 6) should be real.** No unnecessary limitations should be kept on foreigners. Hence, excessive requirements for foreign investors such as maintaining or introducing several systems and procedures which only apply to foreign investors should be avoided. By means of example, the EU sees no reason why Chapter 5 [Information Reporting], Chapter 8 [Coordination and Handling of Complaints] or Chapter 9 [Supervision and Inspection] shall not apply to domestic companies or why foreign investors shall be treated differently from domestic investors in these areas.
- 3. Everything should be put into one Law:** Intentions are very good but there are still several references to more specific details which will be put in guidelines. EU encourages China to put all issues governing foreign investment in one law.
- 4. There should be a grandfathering clause for existing JVs as they should not be touched.** Hence, there should be a guaranteed fair transition for existing companies. The EU encourages China to provide adequate means to all Joint Ventures as to how they could comply with the requirements of the new legal framework in a way that is not either de facto or de jure biased in favor of domestic joint venture partners and within a reasonable time. In particular, under the current regime the control of existing joint ventures in China lies with the board of directors. Under Chinese domestic company law, the control of companies lies with the shareholders. The current proposal (article 157), according to which a change of organizational form and structure has to take place within three years after the entry into force of the draft FIL, appears to imply that in case joint venture partners do not agree within the three year-long period, the effective control of an

enterprise and the related economic interests could change and the actual majority control of a company could hence be altered by law. The EU considers this highly undesirable and finds worrying the jeopardy into which existing and acquired rights and interests are put.

In the light of this, the EU proposes that joint ventures already existing before the entry into force of the law should be free to maintain their current structure or adapt or have a preferred channel of liquidation.

**5. Ongoing process:** This draft FIL is an ongoing process of which China is only at the beginning. The EU welcomes the opportunity to help, assist and advise, and be fully involved in all the subsequent steps of the process, inter alia by commenting on further drafts in the following procedural steps of this future law.

**6. Concerning different chapters,** EU will obviously make a comment on the **National Security Review** (chapter 4 : The EU considers worrying the significant expansion to cover also greenfield investments and to allow, at any time and even ex officio, for the review of investments that have already been approved and established in accordance with the law and the indications of Chinese authorities. This is even more worrying as the factors to be taken into account are not exhaustively listed and certain amongst them do not appear limited to pure national security concerns. In the EU's opinion, such approach opens the door to even more discretionary power, which seems contradictory with intentions unveiled at the Third and Fourth Plenum. The EU would, as a consequence, favor a review of Chapter 4 in its entirety and a proposal for a complete redraft to ensure clarity, legal certainty and a right to judicial review by foreign investors. **Chapter 7 on Investment protection** is not well drafted and provides in any case a very weak protection.

[Art. 4.1(a) third indent, 4.2 first indent, and 4.3 first subparagraph]

- [Art. 4.1(b)] give a presentation on the state of play concerning the FTZ's.  
For the presentation, see annex 2.

#### **4. Intellectual property strategy** [Art. 4.1(b)]

With the background of the 10<sup>th</sup> anniversary of the creation of the IP Dialogue Mechanism, the EU Delegation presented its thoughts in view of enhancing its global strategy. This revise strategy should be based on three main pillars (1) upgrading institutional cooperation to start a new partnership; (2) develop a business to business approach; (3) reinforce cooperation with academia and creation of a Think Tank.

[Art. 4.1(a) third indent and 4.3 first subparagraph]



[Art. 4.1(a) third indent and 4.3 first subparagraph]

**5. Gateway China: update about the programme preparation ([Art. 4.1(b)])**

Reference was made to the previous briefing delivered on Gateway China pilot project to be launched within the Partnership Instrument (meeting of EU Trade Counsellors held on 6/11/2014). One of the priorities of the Partnership Instrument is to improve access to third country markets and boost trade, investment and business opportunities for European companies. Focus is put on increasing the EU business capacities to expand outside their traditional markets, and this is precisely the objective of the 4 business missions to be organised for EU companies into the Chinese market over the two years of the pilot.

[Art. 4.1(a) third indent and 4.3 first subparagraph]

**6. Exchange on recent and upcoming bilateral events (Trade Section, Member States)**

LUXEMBOURG: Jan 21<sup>st</sup> – Jan 23<sup>rd</sup> 2015: Visit of Francois Bausch – *Luxembourg Minister for Sustainable Development and Infrastructure*. Visit to Beijing and Zhengzhou.

In Beijing, Francois Bausch and the Administrator of the Civil Aviation Administration of China, Li Jiayang, signed a MoU concerning the air traffic rights between the two countries. The signed MoU is the next step to give Cargolux (the Luxembourg-based

cargo airline which is also one of the world leaders in the field) abilities to combine Zhengzhou with other cities in China, and also to combine Zhengzhou with the United States. This is of importance to Cargolux's competitiveness.

In Zhengzhou, The Party Secretary of Henan Province, Guo Gengmao reiterated the determination of Chinese authorities to ensure the success of the Luxembourg–Zhengzhou's Dual Hub strategy. A MoU was signed for the development of economic relations between the two countries, among which an e-commerce platform.

**SLOVAKIA: Feb 2nd – Feb4th 2015: Visit of Miroslav Lajčák - Slovak Deputy Prime Minister and Minister of Foreign and European Affairs**

Promotion of bilateral investments. Mutual cooperation interest on business projects of high-added value such as industrial automation, robotics and the use of renewable sources of energy. Both sides pointed out to future potential cooperation in the electro-technical and telecommunication industries.

A meeting took place between Minister Lajčák and the Vice-President of Huawei Technologies, which is active in Slovakia. A meeting took place between Minister Lajčák and the Vice-President of the Farm of Chinese-Czechoslovak Friendship. The farm, originally established as an agricultural cooperative in the Hebei province, is now a developed industrial zone. Important Sino-Slovak projects that are part of the farm include the creation of a business zone by a Slovak architecture company and a joint-venture in the wine industry which represents the first Slovak wine business established in China.

In May 2015, the second Confucius institute in Slovakia will open. In 2015, Slovakia will host the second seminar on Technological Innovation Cooperation and International Technology Transfer between Central and Eastern European countries (CEE) and China.

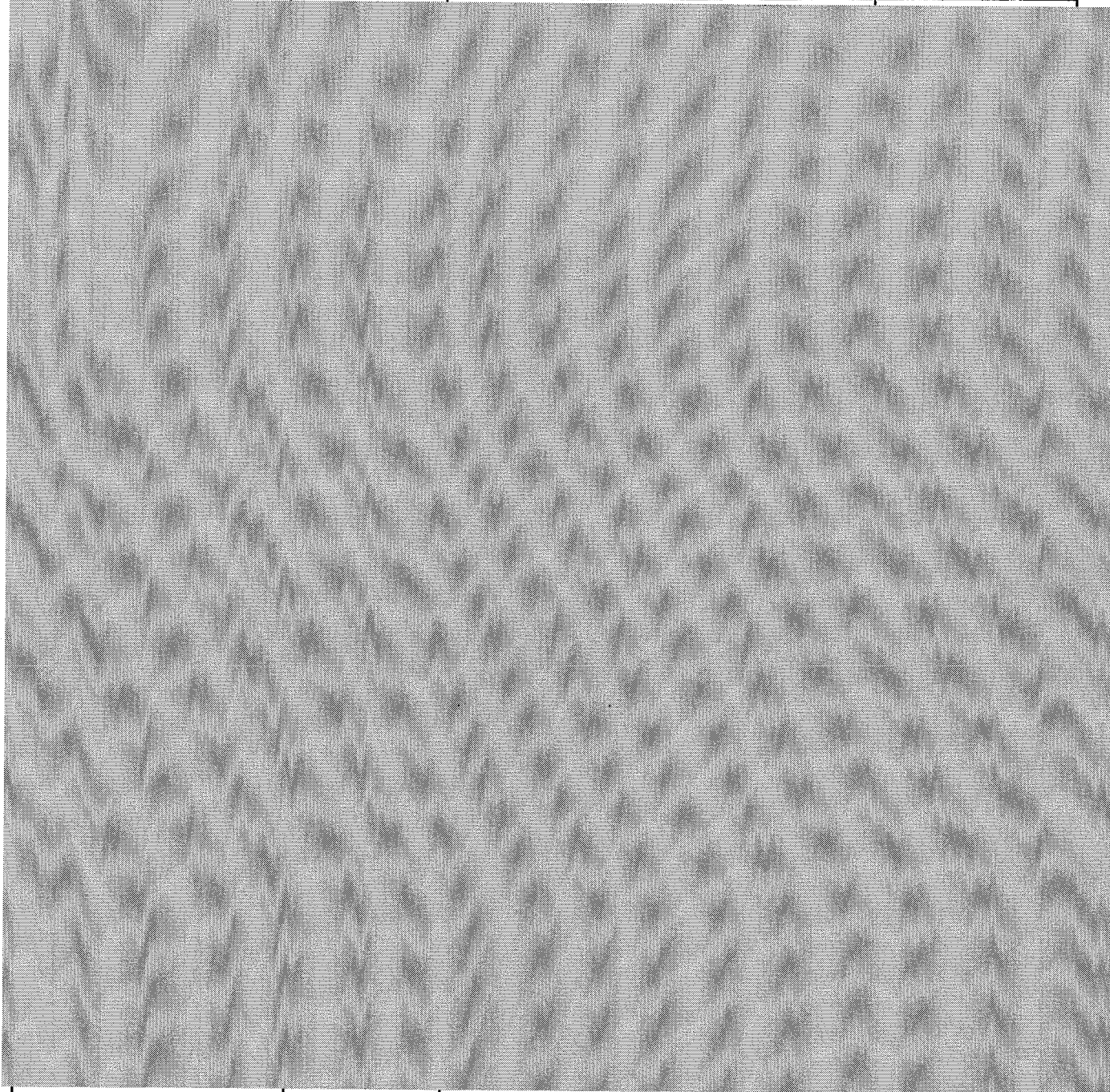
## **7. AOB**

**List of Participants, TCM 12.02.2015, Beijing**

3  
Annex 1

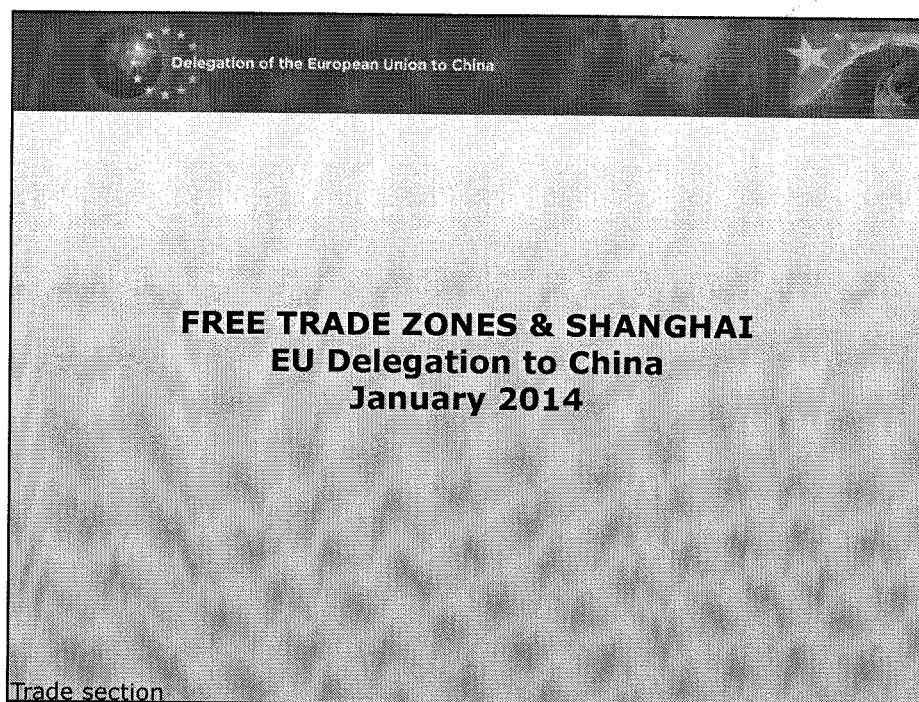
4.1.b

Name	Member States	Email Address	Phone Number
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Delegation of the European Union to China			
1 MARCH			
SHANGHAI	GUANDONG	FUJIAN	TIANJIN
EXTENSION	HONG-KONG - MACAU	TAIWAN	KOREA FTA
3 YEARS – SEPT 2016	3 YEARS – MARCH 2018		
INSTITUTIONAL INNOVATION	HIGH-END SERVICES SECTOR	HIGH-PROFILE SERVICES	FOCUS ON LEASING SHIPS AND AIRCRAFT
- ROLE OF GOVERNMENT	- FINANCE	- LOGISTICS	MANUFACTURING.
- NO EX-ANTE CONTROL	- TECHNICAL RESEARCH	- SHIPPING	
- FINANCIAL			
NEGATIVE LIST			
SH: REVISION 2016? , OPENING SERVICES			
REFORM : TOP-DOWN (anti-graft campaign)			
GRADUAL OPENING		TIGHTER CONTROL OF THE GOVERNMENT	
<u>List of measures for nationwide replication</u>			
- prioritization			
- clear deadlines & responsibilities			
- awareness of certain difficulties			
- broad range of measures:			
investment management-service liberalization-trade facilitation - financial sector			
Trade section			



Delegation of the European Union to China

## EU BUSINESS IN SHANGHAI

EU business confidence is deteriorating : High regulatory barriers  
(lack of legal predictability and proper enforcement of regulations)

EU industry has also called for:

- more market access to financial and other services,
- opening up the stock market,
- easing of visa applications for foreign talent,
- equal access to transshipment services.

Trade section



Delegation of the European Union to China

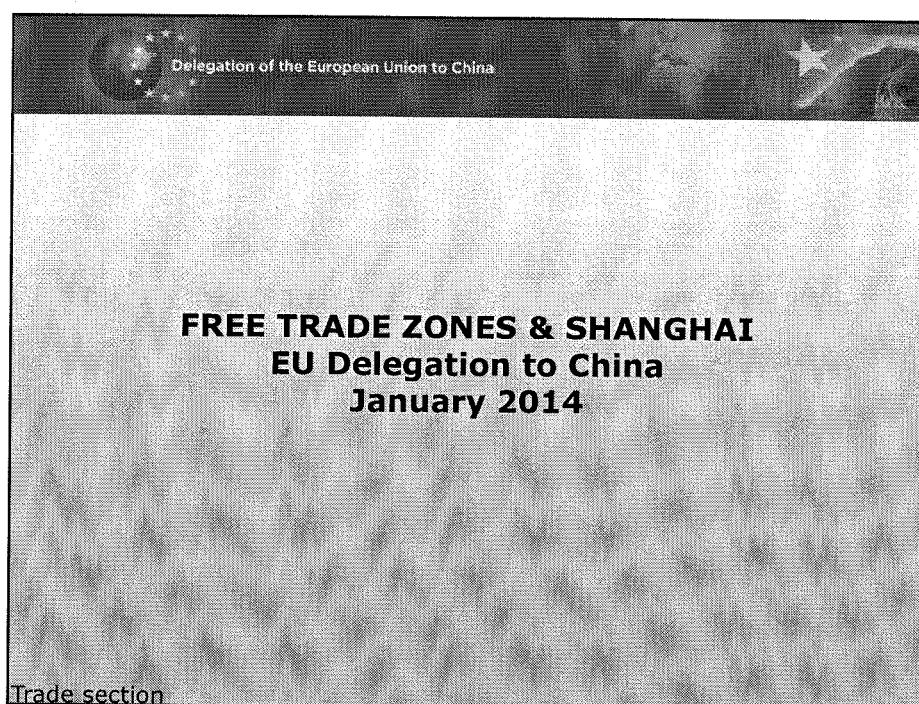
## THANK YOU VERY MUCH !!!




4.1.b  
EU Delegation to China  
4.1.b

中欧关系 1975-2015  
EU-CHINA RELATIONS

4



Delegation of the European Union to China			
1 MARCH			
SHANGHAI	GUANDONG	FUJIAN	TIANJIN
EXTENSION	HONG-KONG - MACAU	TAIWAN	KOREA FTA
3 YEARS – SEPT 2016	3 YEARS – MARCH 2018		
INSTITUTIONAL INNOVATION	HIGH-END SERVICES SECTOR	HIGH-PROFILE SERVICES	FOCUS ON LEASING SHIPS AND AIRCRAFT
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- FINANCIAL			
NEGATIVE LIST			
SH: REVISION 2016? , OPENING SERVICES			
REFORM : TOP DOWN (anti-graft campaign)			
GRADUAL OPENING		TIGHTER CONTROL OF THE GOVERNMENT	
<u>List of measures for nationwide replication</u>			
<ul style="list-style-type: none"><li>- prioritization</li><li>- clear deadlines &amp; responsibilities</li><li>- awareness of certain difficulties</li><li>- broad range of measures:</li></ul>			
investment management-service liberalization-trade facilitation - financial sector			
Trade section			




**EU BUSINESS IN SHANGHAI**

EU business confidence is deteriorating : High regulatory barriers  
(lack of legal predictability and proper enforcement of regulations)

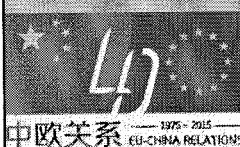
EU industry has also called for:

- more market access to financial and other services,
- opening up the stock market,
- easing of visa applications for foreign talent,
- equal access to transshipment services.

Trade section



**THANK YOU VERY MUCH !!!**



4.1.b EU Delegation to China  
4.1.b

中欧关系 1975-2015 EU-CHINA RELATIONS

4



## Gateway China Pilot: Sector Definition

Green and Clean	Services	Agro-food products
Air pollution control, Environmental monitoring	Architecture and Construction services	Agricultural products
Construction and green building technologies	Business services	Dairy products
Energy efficiency	Education services	Food products
New energy	Elderly care services	Organic products
New environmental technologies	Environment consulting services	Wine & Spirits
Renewable energy	Medical services	
Waste management	Services opened up in the Free Trade Zones	
Water treatment		

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## SERVICE PRIOR INFORMATION NOTICE

### EU Gateway to China Location - China

**1. Publication reference**

EuropeAid/136385/DD/SER/CN

**2. Procedure**

Restricted

**3. Programme title**

EU Gateway to China

**4. Financing**

Partnership Instrument 2014 Annual Action Program (ref. C/2014/7423 of 16.19.2014); Budget line BGUE-B2014-19.050100

**5. Contracting Authority**

European Union, represented by the European Commission

**6. Nature of contract**

Global price

**7. Contract description**

Gateway to China will organize business missions for EU companies (mainly SMEs) which aim to venture into the Chinese market. Participating companies will benefit from an attractive package of coaching, strategic and logistical services as well as financial support. Gateway to China has a sectorial approach and operates cyclicly; this means that each targeted sector conducts a business mission of one week (or two if needed to cover more than one region) to a specific market per year.

The Program will be implemented in 2 Lots:

**Lot1**

A recruitment and Coaching Network based in Europe and with offices in China, responsible for the recruitment of EU companies; pre-selection; coaching of EU companies during the entire business mission period and preparation as well as creating links with China business leads.

**Lot2**

An operational and Logistics unit based in China which is responsible for the coordination and logistics of activities in China as well as promotion to potential business visitors in China.

**8. Indicative budget**

EUR 4,200,000.00.

**9. Intended timing of publication of the contract notice**

March 2015

**10. Additional information**

NA

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**11. Legal basis**

Regulation (EU) N°236/2014 of the European Parliament and of the Council of 11 March 2014 laying down common rules and procedures for the implementation of the Union's instruments for financing external action. The eligibility criteria are laid down in article 9 of the said Regulation.

Regulation (EU) No 234/2014 establishing a Partnership Instrument for cooperation with third countries.

**Remarks:**

There must be a minimum period of 30 calendar days between the publication of this prior information notice and the publication of the corresponding contract notice.

No applications or requests for information should be sent at this stage.





**EUROPEAN UNION**

DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND MONGOLIA

The Head of Trade Section

Beijing, 14<sup>th</sup> April 2015

*Limited*

**NOTE FOR THE ATTENTION OF EU TRADE COUNSELORS, SHANGHAI**

**Subject: Minutes of the Meeting of Trade Counsellors, 27<sup>th</sup> February 2015**

Dear colleagues,

Please find attached the aforementioned minutes for your records, which I hope will be helpful.

Warm regards,

*(signed)*

[Art. 4.1(b)]

**Minutes – Meeting of EU Trade Counsellors on 27<sup>th</sup> February 2015  
Shanghai**

**1. Adoption of agenda**

See annex 1 for participants' list.

**2. Debrief of the Trade and Investment Policy Dialogue [Art. 4.1(b)]**

The 8th EU China Trade and Investment Policy Dialogue (TIPD) took place in Beijing on 29<sup>th</sup> January. [Art. 4.1(b)] introduced the point by mentioning that EU MS were already debriefed by DG Demarty on 29 January, in the Trade Policy Committee (TPC) meeting of 6 February in Brussels, and have received the TPC report. Rather than going through the details of the meeting, [Art. 4.1(b)] highlighted the following main take-aways.

[Art. 4.1(a) third and fourth indents]

**3. Developments regarding the legal framework for foreign investment ( [Art. 4.1(b)] )**

[Art. 4.1(b)] informed the EU Trade Counsellors on the main developments on the three new free trade zones (FTZ) to be established from 1 March. As the government tries to boost slowing growth, three new free trade zones modelled on the one established a year ago in Shanghai, will be established in the southern and eastern provinces of Guangdong and Fujian and in the northern port city of Tianjin. [Art. 4.1(b)] made a detailed presentation of the specificities of the three zones in particular. Whether the range of benefits (such as foreign exchange liberalization and faster customs clearance) given to investors in the Shanghai FTZ will be reproduced in the three new FTZs remains to be seen. It is likely, however, that the new zones will compete with one another (and with the Shanghai FTZ) to offer the most preferential policies.

[Art. 4.1(b)] give a general presentation EU's responds on the Call for Comments launched on the 19th of January with deadline 17th of February 2015 on the new draft Foreign Investment law.

First, EU thanked all the MS for their timely comments which in the end made a compilation of more than 30 pages of comments. These comments fed into the comments which were prepared by experts in Headquarters of DG Trade and other relevant DGs. Most comments of MS were taken up even if this was worded slightly differently and/or other nuances were put.

[Art. 4.1(a) third indent, 4.2 first indent, and 4.3 first subparagraph]

In summary, the EU shares the objective of the Chinese government to provide through this law for an open, unified and transparent regulatory framework to govern foreign investments and welcomes the Chinese efforts towards that objective. In principle, nevertheless, the EU fails to see the need to establish such framework through legislation that specifically concerns foreign investors and their investments.

In the absence of a genuine right to equal treatment, the proposed draft FIL can be a positive step towards more openness and non-discrimination, notably with respect to the following: (i) China's effort to simplify the applicable regime by replacing the three current laws -- the Law on Chinese-Foreign Equity Joint Ventures, the Law on Chinese-Foreign Contractual Joint Ventures, and the Law on Wholly Foreign-Owned Enterprises -- with one New Foreign Investment law; (ii) there is the stated intention to provide pre-establishment national treatment for foreign investments; and (iii) the intention to replace the current case-by-case approval system by a "negative list" approach. The EU's final assessment inevitably depends on the exceptions to be introduced to the national treatment principle through the Catalogue of Special Measures, which has not yet been published. In the same vein, the value of the promulgated single legal framework for all foreign enterprises largely depends on whether China will actually follow suit as to the issuance of numerous guidelines, which may equally result in a fragmented framework in practice.

The EU therefore considers that this draft FIL, as it stands currently, may become a missed opportunity to reach its stated goals and ensure legal certainty. In particular, EU salient comments are as follows:

1. The new legal framework should further improve (and in no case worsen) conditions for foreign investment: The EU is particularly concerned with a number of new elements that appear to backtrack compared to the current foreign investment regime.
2. The promise of pre-establishment National Treatment (Article 6) should be real. No unnecessary limitations should be kept on foreigners. Hence, excessive requirements for foreign investors such as maintaining or introducing several systems and procedures which only apply to foreign investors should be avoided. By means of example, the EU sees no reason why Chapter 5 [Information Reporting], Chapter 8 [Coordination and Handling of Complaints] or Chapter 9 [Supervision and Inspection] shall not apply to domestic companies or why foreign investors shall be treated differently from domestic investors in these areas.
3. Everything should be put into one Law: Intentions are very good but there are still several references to more specific details which will be put in guidelines. EU encourages China to put all issues governing foreign investment in one law.
4. There should be a grandfathering clause for existing JVs as they should not be touched. Hence, there should be a guaranteed fair transition for existing companies. The EU

encourages China to provide adequate means to all Joint Ventures as to how they could comply with the requirements of the new legal framework in a way that is not either de facto or de jure biased in favor of domestic joint venture partners and within a reasonable time. In particular, under the current regime the control of existing joint ventures in China lies with the board of directors. Under Chinese domestic company law, the control of companies lies with the shareholders. The current proposal (article 157), according to which a change of organizational form and structure has to take place within three years after the entry into force of the draft FIL, appears to imply that in case joint venture partners do not agree within the three year-long period, the effective control of an enterprise and the related economic interests could change and the actual majority control of a company could hence be altered by law. The EU considers this highly undesirable and finds worrying the jeopardy into which existing and acquired rights and interests are put.

In the light of this, the EU proposes that joint ventures already existing before the entry into force of the law should be free to maintain their current structure or adapt or have a preferred channel of liquidation.

5. Ongoing process: This draft FIL is an ongoing process of which China is only at the beginning. The EU welcomes the opportunity to help, assist and advise, and be fully involved in all the subsequent steps of the process, inter alia by commenting on further drafts in the following procedural steps of this future law.

6. Concerning different chapters, EU will obviously make a comment on the National Security Review (chapter 4 : The EU considers worrying the significant expansion to cover also greenfield investments and to allow, at any time and even ex officio, for the review of investments that have already been approved and established in accordance with the law and the indications of Chinese authorities. This is even more worrying as the factors to be taken into account are not exhaustively listed and certain amongst them do not appear limited to pure national security concerns. In the EU's opinion, such approach opens the door to even more discretionary power, which seems contradictory with intentions unveiled at the Third and Fourth Plenum. The EU would, as a consequence, favor a review of Chapter 4 in its entirety and a proposal for a complete redraft to ensure clarity, legal certainty and a right to judicial review by foreign investors. Chapter 7 on Investment protection is not well drafted and provides in any case a very weak protection.

[Art. 4.1(a) third indent, 4.2 first indent, and 4.3 first subparagraph]

ES requested a bit more information on the relation with ongoing EU-China Bilateral Investment negotiations which EU provided.

For the presentation, see annex 2.

#### **4. Intellectual property strategy [Art. 4.1(b)]**

With the background of the 10<sup>th</sup> anniversary of the creation of the IP Dialogue Mechanism, the EU Delegation presented its thoughts in view of enhancing its global strategy. This revise strategy should be based on three main pillars (1) upgrading institutional cooperation to start a new partnership; (2) develop a business to business approach; (3) reinforce cooperation with academia and creation of a Think Tank.



[REDACTED]

[REDACTED]

[Art. 4.1(a) third indent and 4.3 first subpara graph]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

5. **Gateway China: update about the programme preparation (Trade Section)**  
See annex3.

6. **Exchange on recent and upcoming bilateral events (Trade Section, Member States)**

7. **AOB**



#### 4.1.b

4.1  
Annex 1

Name	Member States	Email Address	Phone Number
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The image shows a dark, heavily textured surface, likely the cover or endpaper of an old book. The texture is grainy and uneven, with various shades of dark gray and black. A vertical strip of lighter, possibly white or light gray, material is visible along the left edge, suggesting a hinge or a different material used for the spine. The overall appearance is aged and worn.[illegible]

## 4.1.b

[illegible]



**Subject:** Gateway info  
**Attachments:** b1\_priorinfo\_en.doc

**Subject:** Gateway info

Many thanks for the update to the trade counsellors in Shanghai on Gateway.

As promised, these are the links to the gateway project and info on the forecast. I believe this is the only information we can disclose at this stage as they have already received the ppt on the gateway to China project presentation last October

1. to the previous projects EU gateway to Japan and Korea (same methodology) <http://www.eu-gateway.eu/home>
2. to the Wikipedia general entry on EU Gateway programme [http://en.wikipedia.org/wiki/EU\\_Gateway\\_Programme](http://en.wikipedia.org/wiki/EU_Gateway_Programme)
3. Forecast/ Prior notice [http://ec.europa.eu/dgs/fpi/announcements/tenders/20150204\\_1\\_en.htm](http://ec.europa.eu/dgs/fpi/announcements/tenders/20150204_1_en.htm)

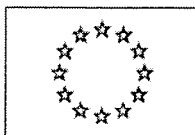
Delegation of the European Union to China and Mongolia (欧洲联盟驻华代表团)  
4th floor, Entrance D, Qian Kun Mansion, 6  
Sanlitun Xi Liu Jie, Beijing, 100027, China  
Tel: (86 10) 84 54 80 00  
Fax: (86 10) 84 54 80 11  
E-mail (电邮)



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**EUROPEAN UNION**

DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND MONGOLIA

The Head of Trade Section

Beijing, 14<sup>th</sup> April 2015

*Limited*

**NOTE FOR THE ATTENTION OF EU TRADE AND AGRI COUNSELORS,  
BEIJING**

**Subject: Minutes of the Meeting of Trade Counsellors, 20<sup>th</sup> March 2015**

Dear colleagues,

Please find attached the aforementioned minutes for your records, which I hope will be helpful.

Warm regards,

*(signed)*

[Art. 4.1(b)]

**Minutes – Meeting of EU Trade Counsellors on 20<sup>th</sup> March 2015**  
**EU Delegation – Trade Section**

**1. Adoption of agenda**

See annex 1 for participants' list.

**2. Debrief on the 5th round of negotiations of a comprehensive agreement on investment**

EU and China just concluded the 5th round of the Comprehensive Agreement on Investment week (from 17 to 19<sup>th</sup> March 2015) here in Beijing. The discussions were intense and constructive.

[Art. 4.1(a) third indent and 4.3 first subparagraph]

This demonstrates the resolve and commitment of both sides to make as much progress as possible. The intention is to have the next round before the EU-China Summit at the end of June 2015. On Monday 16<sup>th</sup> March, detailed workshops with EU industry (EUCCC) were held in morning and afternoon

[Art. 4.1(a) third indent and 4.3 first subparagraph]

**3. Debrief on WTO negotiations**

DG TRADE Acting Director Fernando Perreau de Pinninck provided details on the meetings with MOFCOM and the MoA. The objective was to discuss potential ways forward to successfully conclude the DDA by the end of the year.

The discussion explored possibilities for a realistic package, based on simplification, flexibility, and recalibration, and using elements of the 2008 modalities as far as possible, to avoid starting all over from scratch.

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]

China showed readiness to engage and explore possibilities.

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph] Discussions will continue in Geneva.

ITA was also raised, [Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]



#### 4. Debrief on agricultural/SPS issues

The context of the visit of DG TRADE Director Marc Vanheukelen was explained: notably the importance of the China market for EU exports of Agri-food in particular as alternative market due to the Russian ban imposed in August 2014 on main EU Agri-food for a total value of €5.2 billion.

In 2014, the EU exported for a total amount of more than €7.4 billion of agriculture products to China. It is one of the few export products where the EU records a surplus with China. In addition, it should be noted that, in 2014, the EU exported for a total value of €4.5 billion to Hong Kong. China, together with Hong Kong, is the second biggest destination in value for exports of the EU of agriculture products. The first destination remains the USA with a total value of over €16.3 billion. In 2014, exports of agriculture products to Russia were decreased with €2 billion and reached a value of over €9 billion.

[Art. 4.1(a) third and fourth indent, Art. 4.3 first subparagraph]

DG TRADE Director Marc Vanheukelen thanked EU Member States for the input received in preparation of this mission. Detailed information on SPS issues is available in the EU's Market Access Database (<http://madb.europa.eu/mkacddb2/indexPubli.htm>).

DG TRADE Director Marc Vanheukelen had meetings with the following departments: Ministry of Agriculture (MOA), General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ), and the National Health and Family Planning Commission (NHFPC).

[Art. 4.1(a) third and fourth indent, Art. 4.3 first subparagraph]

DG TRADE Director Marc Vanheukelen pushed for more transparency on procedures and rapid follow-up by China on applications received from Member States.

On the draft Food safety Law, EU comments were submitted earlier this year. In the margins of the WTO SPS Committee, the EU will remind China of EU comments

The main points of the meetings of DG TRADE Director Marc Vanheukelen are:

[Art. 4.1(a) third and fourth indent,  
Art. 4.3 first subparagraph]

[Art. 4.1(a) third and fourth indent, Art. 4.3 first subparagraph]

The next steps are as follows: the Commission will follow-up in writing with China, repeating concerns and requests. In particular, the Commission will attach overview tables of applications by Member States for each type of commodity, and request feedback from the relevant Chinese authority. Member States in Brussels will be debriefed extensively. SPS issues will be on the agenda of the Economic and Trade Working group (ETWG) on 6-7 May 2015 in Beijing.

## **5. Latest on ICT and cyber issues**

### Banking rules:

[Art. 4.1(a) third and fourth indent, Art. 4.3 first subparagraph]

The matter was formally raised by the US, the EU, Canada and Japan in the TBT Committee of 18-19 March.

[Art. 4.1(a) third and fourth indent, Art. 4.3 first subparagraph]

The Chinese general approach can be summarized as follows: (1) China has the right to improve its cyber security and will do so, (2) EU businesses are not the targets of these measures; (3) EU businesses should not worry too much, as there will still be considerable market opportunities for them.

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subparagraph]

6. AOB

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4.1.b

No.	Name	Country	Institution
[Redacted Table Content]			

[illegible]



**EUROPEAN UNION**

DELEGATION TO THE PEOPLE'S REPUBLIC OF CHINA AND MONGOLIA

The Head of Trade Section

Beijing, 14<sup>th</sup> April 2015

*Limited*

**NOTE FOR THE ATTENTION OF EU TRADE COUNSELORS, SHANGHAI**

**Subject: Minutes of the Meeting of Trade Counsellors, 23<sup>rd</sup> March 2015**

Dear colleagues,

Please find attached the aforementioned minutes for your records, which I hope will be helpful.

Warm regards,

*(signed)*

[Art. 4.1(b)]



**Minutes – Meeting of EU Trade Counsellors on 23<sup>rd</sup> March 2015  
Shanghai**

**1. Adoption of agenda**

**2. Debrief on the 5th round of negotiations of a comprehensive agreement on investment**

EU and China just concluded the 5th round of the Comprehensive Agreement on Investment week (from 17 to 19th March 2015) here in Beijing. The discussions were very intense and constructive.

[Art. 4.1(a) third indent and 4.3 first subparagraph]

This demonstrates the resolve and commitment of both sides to make as much progress as possible. The chief negotiators will have a teleconference soon to decide on when the next round will take place with a view to the EU-China Summit at the end of June 2015. On Monday 16th March, detailed workshops with EU industry (EUCCC) were held in morning and afternoon

[Art. 4.1(a) third indent and 4.3 first subparagraph]

**3. Debrief on WTO negotiations**

DG TRADE Acting Director Fernando Perreau de Pinninck provided details on the meetings with MOFCOM and the MoA. The objective was to discuss potential ways forward to successfully conclude the DDA by the end of the year.

The discussion explored possibilities for a realistic package, based on simplification, flexibility, and recalibration, and using elements of the 2008 modalities as far as possible, to avoid starting all over from scratch.

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]

China showed readiness to engage and explore possibilities.

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]

Discussions will continue in Geneva.

ITA was also raised,

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]

#### 4. Debrief on agricultural/SPS issues

The context of the visit of DG TRADE Director Marc Vanheukelen was explained: notably the importance of the China market for EU exports of Agri-food in particular as alternative market due to the Russian ban imposed in August 2014 on main EU Agri-food for a total value of €5.2 billion.

In 2014, the EU exported for a total amount of more than €7.4 billion of agriculture products to China. It is one of the few export products where the EU records a surplus with China. In addition, it should be noted that, in 2014, the EU exported for a total value of €4.5 billion to Hong Kong. China, together with Hong Kong, is the second biggest destination in value for exports of the EU of agriculture products. The first destination remains the USA with a total value of over €16.3 billion. In 2014, exports of agriculture products to Russia were decreased with €2 billion and reached a value of over €9 billion.

[Art. 4.1(a) third and fourth indents]

DG TRADE Director Marc Vanheukelen thanked EU Member States for the input received in preparation of this mission. Detailed information on SPS issues is available in the EU's Market Access Database (<http://madb.europa.eu/mkacodb2/indexPubli.htm>).

DG TRADE Director Marc Vanheukelen had meetings with the following departments: Ministry of Agriculture (MOA), General Administration for Quality Supervision, Inspection and Quarantine (AQSIQ), and the National Health and Family Planning Commission (NHFPC).

[Art. 4.1(a) third and fourth indents]

DG TRADE Director Marc Vanheukelen pushed for more transparency on procedures and rapid follow-up by China on applications received from Member States.

On the draft Food safety Law, EU comments were submitted earlier this year. In the margins of the WTO SPS Committee, the EU will remind China of EU comments

The main points of the meetings of DG TRADE Director Marc Vanheukelen are:

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]



[Art. 4.1(a) third and fourth indents and  
4.3 first subparagraph]

The next steps are as follows: the Commission will follow-up in writing with China, repeating concerns and requests. In particular, the Commission will attach overview tables of applications by Member States for each type of commodity, and request feedback from the relevant Chinese authority. Member States in Brussels will be debriefed extensively. SPS issues will be on the agenda of the Economic and Trade Working group (ETWG) on 6-7 May 2015 in Beijing.

#### **5. Latest on ICT and cyber issues**

Banking rules:

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The matter was formally raised by the US, the EU, Canada and Japan in the TBT Committee of 18-19 March.

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]

The Chinese general approach can be summarized as follows: (1) China has the right to improve its cyber security and will do so, (2) EU businesses are not the targets of these measures; (3) EU businesses should not worry too much, as there will still be considerable market opportunities for them.

As far as the banking rules are concerned, the implementation details are still being discussed, but the measure will enter into force this year. The roll out of similar measures in other key sectors is furthermore highly likely [REDACTED]

[Art. 4.1(a) third and fourth indents and 4.3 first subparagraph]

Anti-terrorism draft law: The draft law has not been adopted during the Two Session. The EU delegation intends to seize the opportunity of this delay to formally submit an EU position on the trade-related impacts of the draft law. Delegations are reminded that they have been invited to provide us with their input.

## 6. AOB

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