

# The F&B market of China *A Sugar-Free look*

Riccardo Benussi – Shanghai – December 14, 2017  
*webinar*



- Dezan Shira & Associates Offices
- Dezan Shira Asian Alliance Members

## Our Global Presence

### CHINA

Beijing  
beijing@dezshira.com

Qingdao  
qingdao@dezshira.com

Dalian  
dalian@dezshira.com

Shanghai  
shanghai@dezshira.com

Dongguan  
dongguan@dezshira.com

Shenzhen  
shenzhen@dezshira.com

Guangzhou  
guangzhou@dezshira.com

Suzhou  
suzhou@dezshira.com

Hangzhou  
hangzhou@dezshira.com

Tianjin  
tianjin@dezshira.com

Ningbo  
ningbo@dezshira.com

Zhongshan  
zhongshan@dezshira.com

### HONG KONG

hongkong@dezshira.com

### INDIA

Delhi  
delhi@dezshira.com

Mumbai  
mumbai@dezshira.com

### SINGAPORE

singapore@dezshira.com

### VIETNAM

Hanoi  
hanoi@dezshira.com

Ho Chi Minh City  
hcmc@dezshira.com

### DEZAN SHIRA ASIAN ALLIANCE MEMBERS

Indonesia  
indonesia@dezshira.com

Thailand  
thailand@dezshira.com

Malaysia  
malaysia@dezshira.com

The Philippines  
philippines@dezshira.com

### DEZAN SHIRA LIAISON OFFICES

Germany  
germandesk@dezshira.com

Italy  
italiandesk@dezshira.com

United States  
usa@dezshira.com

# Numbers

**1992** Dezan Shira's establishment

**300+** Our team of legal, tax, accounting and audit professionals

**2000+** Multinational clients that have already chosen us

**80+** Countries served by our professional services

**24** Our offices in **China, India, Vietnam, Singapore**, liaison offices in **Italy, the United States and Germany**, and alliance offices in **Indonesia, Malaysia, the Philippines, and Thailand**.

# Services suite



**Pre-Investment and  
Entry Strategy Advisory**



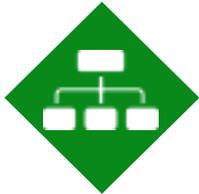
**Accounting, Payroll, and  
Treasury**



**Corporate and Tax  
Structuring**



**Tax and Compliance**



**Cross-border  
Transactional Support**



**Employment law and HR**



**Audit, Financial Review,  
Due Diligence**



**ERP and Financial  
System Advisory**

For starters...

Brief opening  
comment  
...on what we want to  
achieve in this  
webinar and on candy.



# More starters...

## What reason prompts China to import foreign F&B?

- A) **Geographical:** only 11% of China's land is now suitable for farming.
- B) **Chemical:** 20% of China's land and 40% of its rivers are polluted, further limiting its ability to produce foodstuffs within its borders.
- C) **Ethical/ scandals:** many Chinese worry over the quality of domestic food products (so do we all).
- D) **Cultural:**
  - a genuine and growing appetite for foreign cuisine, which has been made increasingly attainable;
  - Healthy habits (more exercise, more health-related services, devices) call for healthy food;



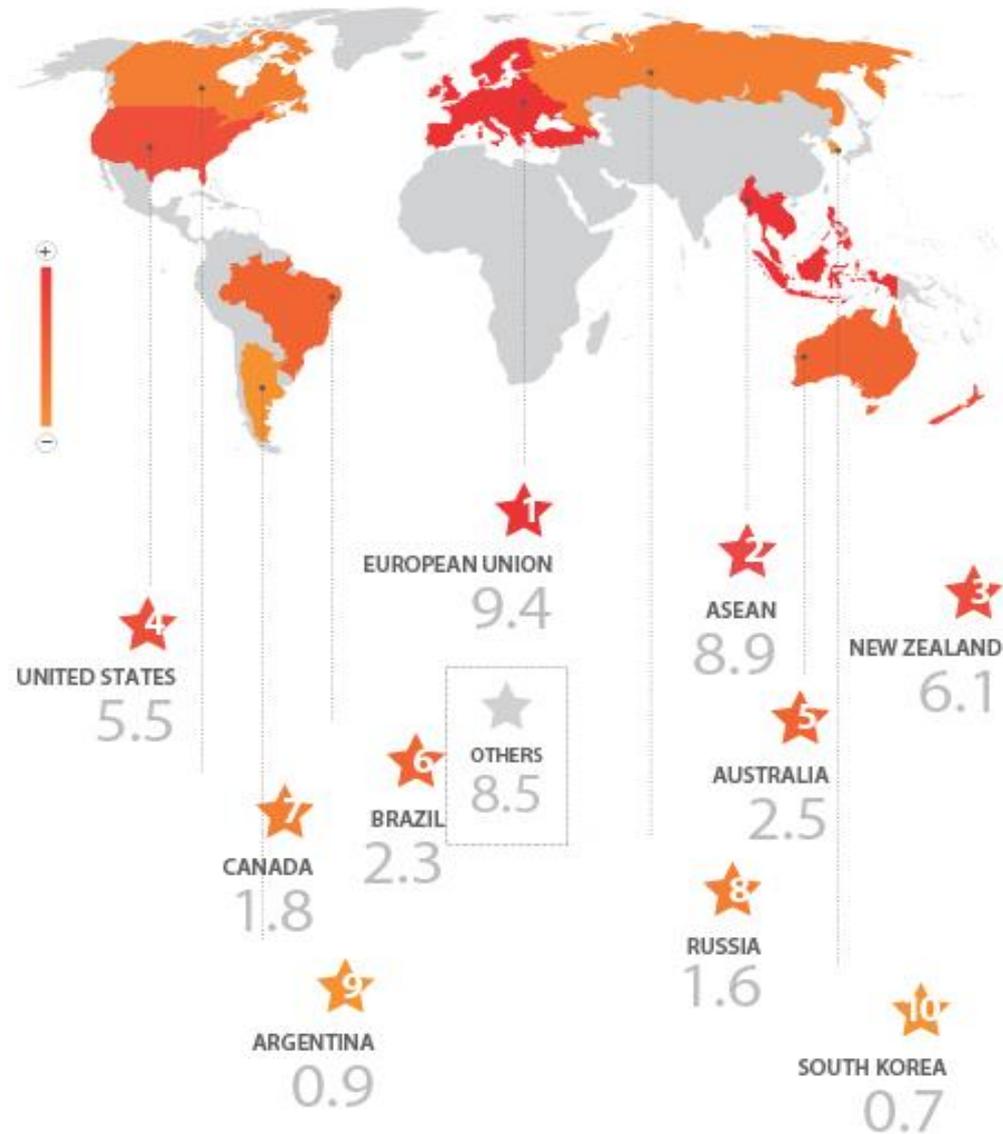
---

# Where does the food come from?

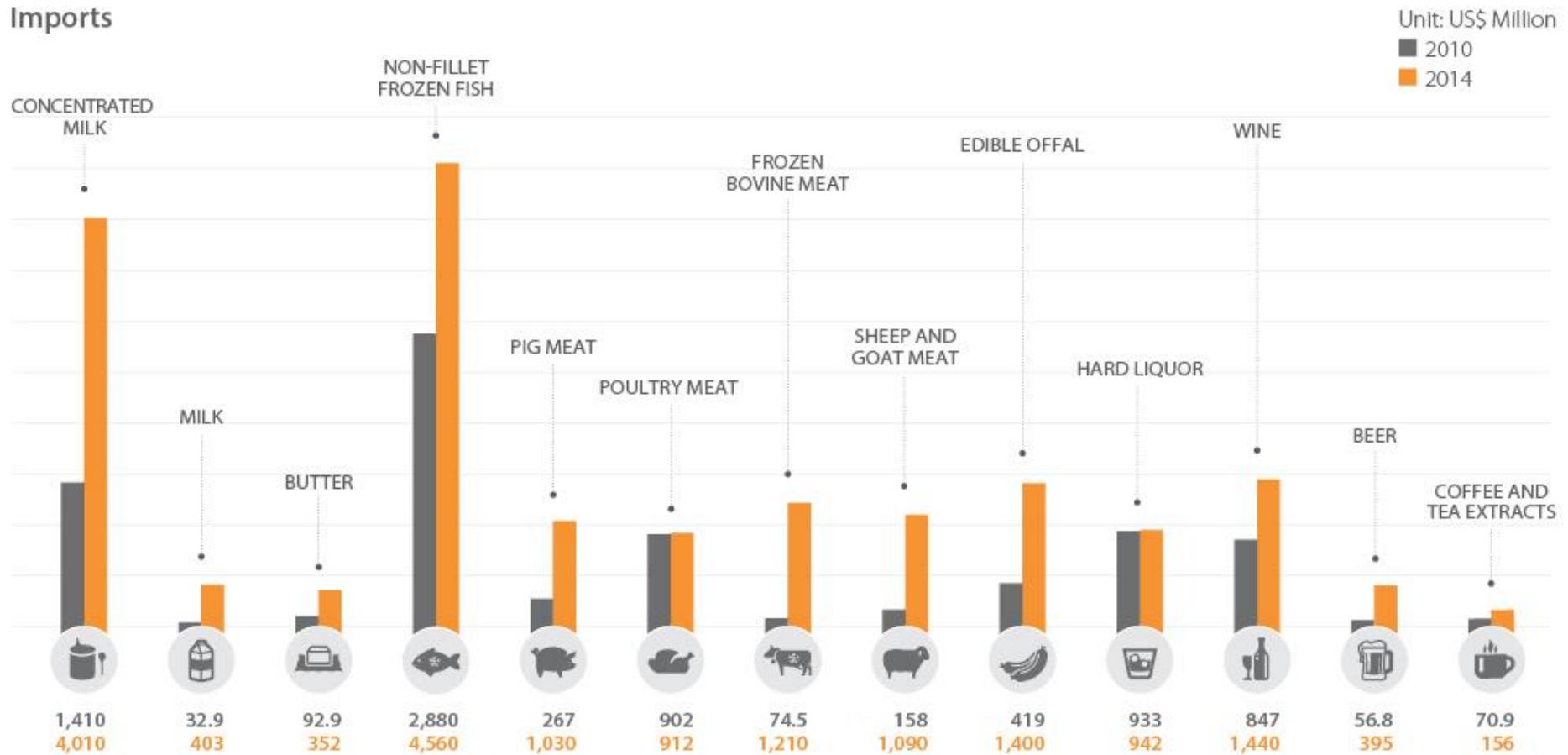


## Origin of Import for Food & Beverage Products In 2014

Unit: US\$ Billion



# Imports by type



# Organic Food Sales Growth

■ Unit RMB Billion



---

# It's mostly about the Food Safety Law of 2015 (FSL)

The revised law covers:

- Food production licenses
- Production and distribution
- Food-related products
- Warehousing and logistics
- Safety of additives
- Online sale of food
- *Health Products*

---

# Authorities

- **Chinese Food and Drug Administration: regulation and control purposes;**
  - State and local level;
- **Administration of Quality Supervision, Inspection and Quarantine – AQSIQ**
  - Control over safety of food products coming in and out of China;
- **Entry-Exit Inspection and Quarantine Bureaus – EEIQB**
  - 35 local level offices, dependent from AQSIQ, actively controlling goods;
- **National Health and Family Planning Commission – NHFPC**
  - Public health and pharmaceutical market functions and standards' registration;
- **Certification and Accreditation Administration of China – CAAC**
  - Control and certification of quality and food safety and for organic food;
- **General Administration of Customs – GAC**
  - Customs functions
- **Ministry of Agriculture – MoA**
  - Contributes to standards' creation (e.g. pesticides, slaughtering processes, etc.)

- 
- How has China's **2015 revised Food Safety Law** affected foreign businesses in China's food & beverage industry?

---

# Compliance when importing food & beverage

## Section VI (articles 91-101) New China Food Safety Law (FSL)

- **A shared and uniform treatment principle:**
  - All products entering China must meet *domestic standards*;
- **No standard? no access**, hence the standards registration procedure at NHFPC.
  - Bother the exporter and the importing agent must comply with the standard;
  - For any violation, the foreign producer and the local importer will be sharing the responsibility on product, packaging and labeling standards;
- **Food additives** have to undergo same procedure, if not previously registered in China;
- Obviously **labeling** must also be in Chinese;
- Exporters or agents and importers must file a record at AQSIQ;
- China-based manufacturers must register at AQSIQ.

---

# The importer

- The FSL heavily focuses on the importer with
  - **Heavier responsibilities:** shared responsibilities with Chinese suppliers;
  - E.g. must keep a **register** describing:
    - Name of product
    - Amounts
    - Production date
    - Lot number or other ID numbers
    - Expiration dates
    - Information regarding the exporter and the purchasing party.
  - Customs: customs conformity check;

---

# Customs – continued

To be promptly released into China, the goods must have obtained/ fulfilled:

## **1. Certificate of Inspection and Quarantine for Entry Goods through an application:**

- Sales contract
- Invoice from the exporter or agent
- Packing list
- Weight note
- Quarantine inspection document issued by the country of origin, and
- Certificate of Origin issued by the country of origin.

## **2. Fee payment for quarantine and inspections;**

## **3. Sampling;**

## **4. Quarantine;**

## **5. Clearance or measures to decontaminate/destroy/repatriate the goods.**

---

# Increased (and shared) sanctions

- 2015 revised FSL introduces higher sanctions:
  - Up **30+ times** the value of the goods;
  - **Life ban** from food-related activities;

Focus e.g.

Health foods



---

# Health foods in the Chinese market

There are several factors, both social and economic, contributing to this industry's rise:

- ***A rising health awareness:*** the Chinese middle class is more health-conscious because of information spread, more education, more awareness campaigns.
- ***Status:*** increased consumption of organic and health foods has contributed to a growing trend of healthy lifestyle products;
- ***The ageing population and local tradition:*** China's demographics are rapidly changing. It is estimated that more than 30 percent of the population will be 60 or above by 2050, and increased expense on health food consumption is expected.
- ***E-commerce:*** online sales models are leading sales and growing every year.

---

# Health foods - Regulatory Environment and Certifications

In China, food products can be labelled as a “health food” if they apply to one of two categories:

**Food with specific health functions:** suitable for consumption by specific groups of people with the aim of regulating different human body functions.

- Function foods cannot be used for treating diseases, but they are usually considered beneficial to health in ways that go beyond a standard healthy diet. For example, New Zealand honey is labelled as a health food due to its antibacterial features and positive effects on the digestive system.

**Nutritional supplements:** products that contain dietary supplements for human consumption. These are divided into single-ingredient and multi-ingredient, and include vitamins, minerals, herbs and sport supplements.

- According to estimates from June 2016, in China’s Health Food market, functional foods accounts for about 65% of the market while nutritional supplements account for the remaining 35%.

## **Health Food Certification**

- In order to be legally sold in China as health food, every functional food and nutritional supplement needs to obtain the Health Food Approval Certificate from the CFDA.
- Implemented on July 1, 2016, the new *Administrative Measure on Health Food Registration and Filing* released by CFDA stipulates the registration and filing procedures and requirements for all health foods produced or marketed in China.
- Manufacturers who plan to sell health foods in China must either have an office and licenses in China or appoint an authorized agent to obtain the certificate for them. If the product ingredients are not listed in the *Catalogue of Health Food Ingredients*, or if the product has been imported and does not contain vitamin or mineral supplements, then the registration procedure will require additional steps and scrutiny.

---

# Health foods – registration at a glance

- **To register a health food product**, applicants are required to submit the following materials:
  - The product's research and development (R&D) report;
  - Product's formula and related documents;
  - Production process and related documents;
  - Safety and health care evaluation report;
  - Three samples of the packaged products for sale; and
  - Additional documentation required when the Health Food is imported into China by an overseas manufacturer (such as the standards applied in the country of manufacture).
- The Health Food Certificate is **valid for five years**, and applicants needing to apply for renewal six months prior to expiry.

---

# Health foods – sales channels

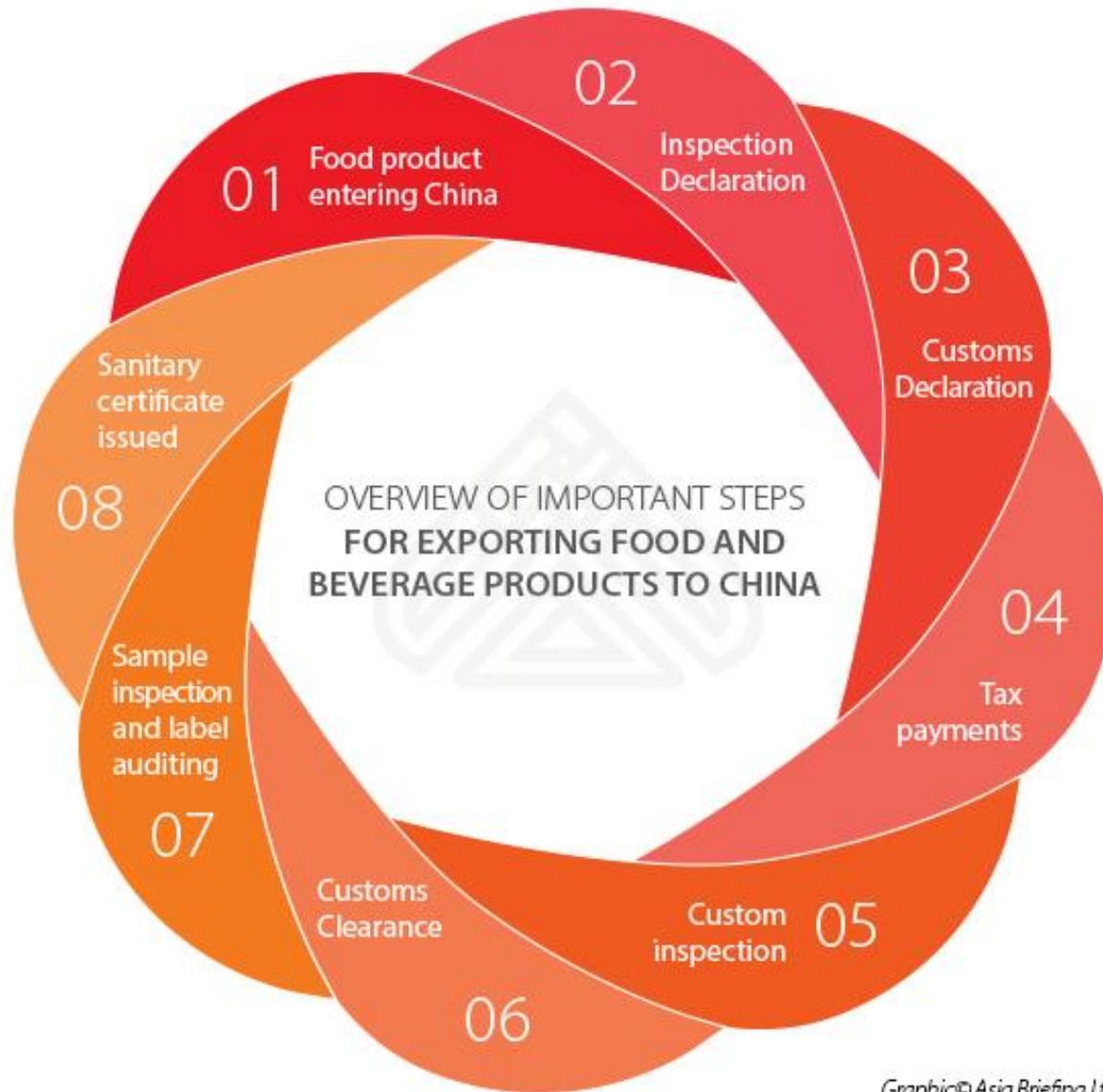
## Sales Channels

- **Direct sales** are a popular channel due to low operating costs. Sales are often supported by interactive events, conference marketing and traditional marketing campaigns through television and social media.
- **E-commerce** has become a more popular option in recent years, both through e-commerce platforms directly owned by the company (through a stand-alone e-commerce website) and through third-party platforms.
- Therefore, several large suppliers of health products have established their own **online platforms in addition to operating stores**. Through the online-to-offline (O2O) model, consumers are encouraged to try the products in the physical stores and place orders online, thus completing the experience and purchase process.

# Exporting to China



# Key steps – importing food into China



# Phase 1 - Complete exporters and importers registration

- As an overseas manufacturer and exporter of food, you must register with the **State Certification and Accreditation Administration (CAA)** if the food product being exported is on the '*List of Food Imports Subject to Enterprise Registration*'. Meat and health products require additional registration and bilateral agreement verification. The registration is valid for 4 years and is renewable.
- Moreover, as of October 2015, it is mandatory for exporters to register each shipment of food products online with the **Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)** department for tracking purposes. <http://ire.eciq.cn>

The screenshot shows the homepage of the 'Registration System for Importers and Exporters of Imported Food' (AQSIQ). The header features the AQSIQ logo and the system name in Chinese and English. Below the header, there are three main service areas, each with a 'login' button and a 'record list query' link:

- 境外生产企业信息记录系统** (Information Recording System for Manufacturer Overseas): Green background, includes a globe icon.
- 境外出口商或代理商信息备案系统** (Registration System for Exporters or Agents Overseas): Blue background, includes a globe icon.
- 境内进口商备案系统** (Registration System for Importers Within Borders): Blue background, includes a computer monitor icon.

At the bottom of the interface, there are links for '用户下载' (User Download) and '客户服务电话' (Customer Service Phone) 400-665-9988.

# Phase 1 - Complete exporters and importers registration (continued)



● 初次备案 Initial Filing

Information marked with an \* must be submitted

**第1项——企业资料 Section 1 - Applicant's Information**

\*企业名称 (英文)  
Name(in English) :

企业名称 (中文)  
Name(in Chinese) :

\*企业地址 (英文)  
Address(in English) :

企业地址 (中文)  
Address(in Chinese) :

\*国家/地区  
Country/Region :

境外生产企业注册号 (认监委)  
CNCA Approval(Registration) No. :

企业网址  
Manufacture Website :

\*联系人姓名  
Contact Name :

联系人电话 (请注明国家/地区代码及区域码)  
Contact Telephone(Include Area/Country/Region Code) :

联系人传真 (请注明国家/地区代码及区域码)  
Contact Fax (Include Area/Country/Region Code) :

**第2项——境外生产企业生产的食品化妆品种类 (多选题) Section 2-Food Category of Operation**

肉类 meat

水产及制品类 aquatic products and preserved aquatic products

粮油及制品类 grains and grain products

饮料类 soft drinks and drinking water

蔬菜及制品类 vegetable and vegetable products

干坚果类 dried fruits and nuts

罐头类 canned foods

蜂产品类 bee products

糕点饼干类 pastry biscuits and crackers

卷烟类 cigarette

调味品类 processed flavorings

特殊食品类 foods for special dietary uses

肤用类化妆品 Skin care products

美容类化妆品 Beauty cosmetics

口腔类化妆品 Oral care products

其他化妆品 Other cosmetic products

蛋及制品类 egg and e

中药材类 traditional Chinese medicinal and plant origin

油脂及油料类 oil and

糖类 sugar

植物性调料类 process

其他植物源性食品类

乳制品类 dairy products

酒类 alcoholic beverage

蜜饯类 candied (preserved)

茶叶类 tea

其他加工食品类 other

燕窝产品类 bird nest products

发用类化妆品 Hair products

香水类化妆品 Perfume

特殊功能化妆品 The special function products

同意(Agree)  不同意(Disagree)

**第4项——填表人信息 Section 4-Information of submitter(the person submitting this form)**

\*填表人类型 :  境外生产企业 Abroad producer/processor  境内进口商 Importer in China

\*填表人姓名 (印刷体)  
Name Of The Submitter (The Person Submitting This Form) (In Printing Version) :

填表人电话  
Submitter's Office Telephone :

填表人传真  
Submitter's Office Fax :

填表人手机  
Submitter's Office Cell Phone :

\*填表人电子邮箱  
Submitter's E-mail Address :

# Phase 2 - Complete documentation and pre-import licensing

- **Before the shipment of products, you are required to submit documents on products' quality, quarantine, origin, and import control, along with a detailed packaging list and a description of the packaging material, among other documents.** These documents are reviewed only after the shipment reaches China. Therefore, you must ensure that all your documents are complete and authentic to avoid any delay and storage cost.
- You may use the **Harmonized System (HS) codes** available on China Customs' website to check your product category and the associated import tax rates, documentation, licenses, and testing requirements. The HS nomenclature is the international system used for categorizing all products traded between countries.
- Although the documentation requirements vary between products and product categories, you should prepare the following documents to import food products into China:
  - Commercial invoice
  - A detailed packaging list
  - Bill of lading
  - Certificate for export from country of origin
  - Hygiene / Health certificate
  - Certificate of bottling date (for drinks)
  - Certificate of free sale
  - Sample of original label
  - Sample of Chinese label
  - Inspection certificate
- **Pre-import licensing**
  - In general, food products entering China do not require pre-import licensing. However, if you are importing poultry or dairy products, you need to obtain the Automatic Import License issued by the Ministry of Commerce. Food items subject to import tariff quotas such as wheat, corn, rice, and sugar are required to obtain the Agricultural Products Import Tariff Quotas Certificates.

# Phase 3 – Label compliance (and packaging *appeal*)

- Every food product imported in China must be **labelled** in **simplified Chinese characters** to complete the Customs clearance. The general rules of the labelling of pre-packaged food, **GB7718-2011**, (where GB stands for guobiao) specifies the labelling requirements:
  - Standard name of foodstuff;
  - List of ingredients as percentage;
  - Name and address of manufactures, local agent, or distributor;
  - Production date, best before, end date, and guidance for storage;
  - Country of origin;
  - Quality grade;
  - Code of national standard/industry standard for the production; and
  - Special contents, if any.
- ***Imported food will face a largely different consumer-type: a culturally-sensitive approach to packaging and general appearance may go a long way in China.***



---

# Phase 4 - CIQ food sanitary inspection and customs clearance

- Once the shipment arrives in China, the food products are **inspected by Customs**. The CIQ **sanitary certificate** is issued only if the documents are complete. This certificate is issued for every shipment of product.
- If you are exporting food products for the first time, the process is more complex though the procedure is relaxed after future exports. However, AQSIQ officials may still inspect labels and samples.

---

# Some politics and food

“From the press”

- **Lobbies from the US and EU** have harshly condemned this to Beijing complaining that – as someone said – “the road to invest in China is a rough and bumpy one, while Chinese companies have a smooth highway straight into Western markets”
- **E.g. Brie and Camembert** were banned in September 2017 because containing the “wrong bacteria” – of course cheese produced in China also has “the wrong bacteria”.
  - Possible assumptions:
    - “Shooting in the dark”, or
    - Blatantly protectionist measures.

# What about “bio” – organic food?

- China is struggling with recognition of international standards for organic food, imposes national standards;
- For every product meeting the GB/T 19630.1-19630.4 requirements, the green seal can be used
- 1-year validity
- Applies to the product rather than the producer.



---

“If you only do one thing”

## conduct a business intelligence study

- **Stating the obvious about consumer behavior:** in China consumers act and decide quite differently compared to the West. Understanding the objectives and demands of the Chinese consumer, regional differences in consumption, and the internal dynamics of the market structure is key.
- **Identify the right market**
  - Coastal areas are the wealthiest and more sophisticated;
  - 2<sup>nd</sup> and 4<sup>rd</sup> tier cities are harder but give *first-mover* advantage;
- **Identify**
  - Competitors, trends
- **Explore**
  - New marketing tools, platforms, brand awareness campaigns.

# Geographical Indications – GIs in China

“How can you govern a country which has 246 varieties of cheese?” – Charles de Gaulle

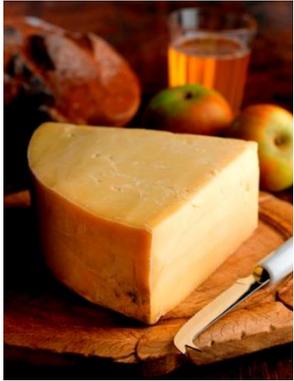


- **Foreign geographical indications** can be filed in China as a collective trademark.
- Same process as for “traditional” **trademark** filings.
- From the local consumers’ point of view, there is obvious **uncertainty** about what, e.g. an EU GI *means*, hence the GIs holder’s unclarity about how to deliver the message to the public in China. A pending matter...

# Some European Gis

(EU-PRC reciprocity project 2010)

<a href="#"><u>Comté</u></a>	France	cheese
<a href="#"><u>Grana Padano</u></a>	Italy	cheese
<a href="#"><u>Priego de Córdoba</u></a>	Spain	olive oil
<a href="#"><u>Prosciutto di Parma</u></a>	Italy	ham
<a href="#"><u>Pruneaux d'Agen/Pruneaux d'Agen mi-cuits</u></a>	France	dried fruit
<a href="#"><u>Roquefort</u></a>	France	cheese
<a href="#"><u>Scottish Farmed Salmon</u></a>	United Kingdom	salmon
<a href="#"><u>Sierra Mágina</u></a>	Spain	olive oil
<a href="#"><u>West Country Farmhouse Cheddar</u></a>	United Kingdom	cheese
<a href="#"><u>White Stilton Cheese/Blue Stilton Cheese</u></a>	United Kingdom	cheese



# Some Chinese GIs

(EU-PRC reciprocity project 2010)

Designation	Latin Transcription	Type of product
平谷大桃	Pinggu Da Tao	peach
盐城龙虾	Yancheng Long Xia	crayfish
镇江香醋	Zhenjiang Xiang Cu	rice vinegar
东山白芦笋	Dongshan Bai Lu Sun	asparagus
金乡大蒜	Jinxiang Da Suan	garlic
龙井茶	Longjing cha	tea
琯溪蜜柚	Guanxi Mi You	honey pomelo
陕西苹果	Shaanxi ping guo	apple
蠡县麻山药	Lixian Ma Shan Yao	yam
龙口粉丝	Longkou Fen Si	vermicelli/noodles



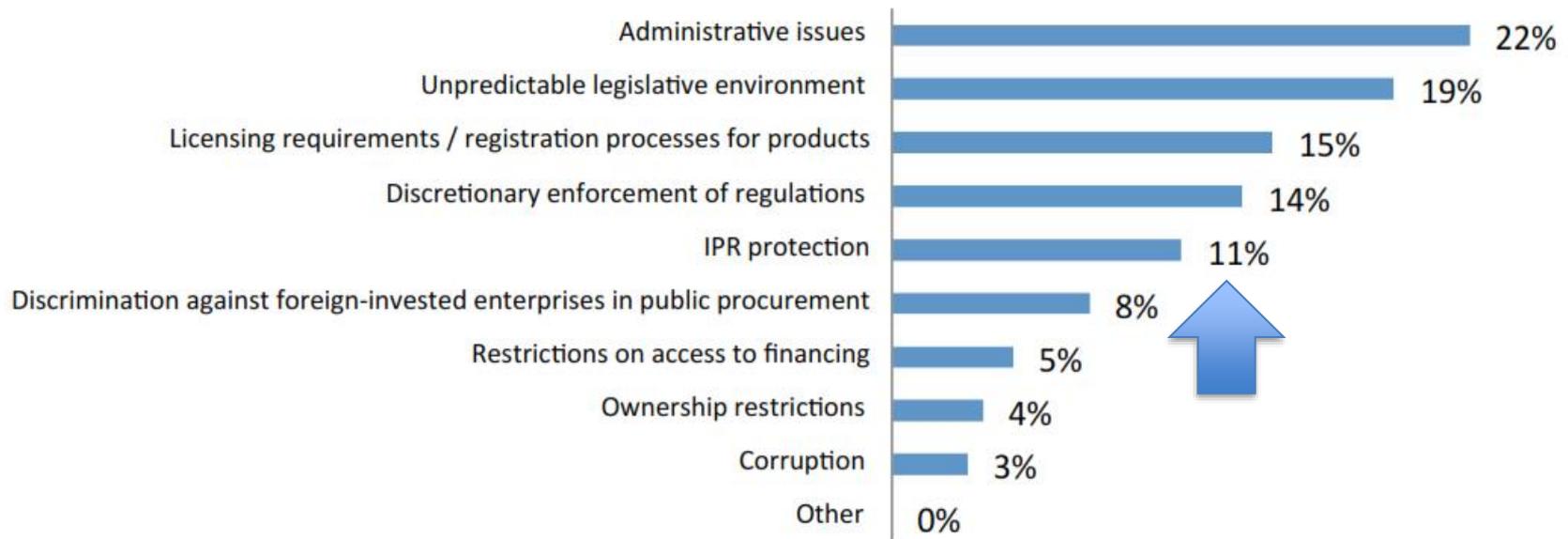
Trademarks in China

# Intellectual Property Protection



# How FDI in China is affected by IP issues

## Top Regulatory Barriers



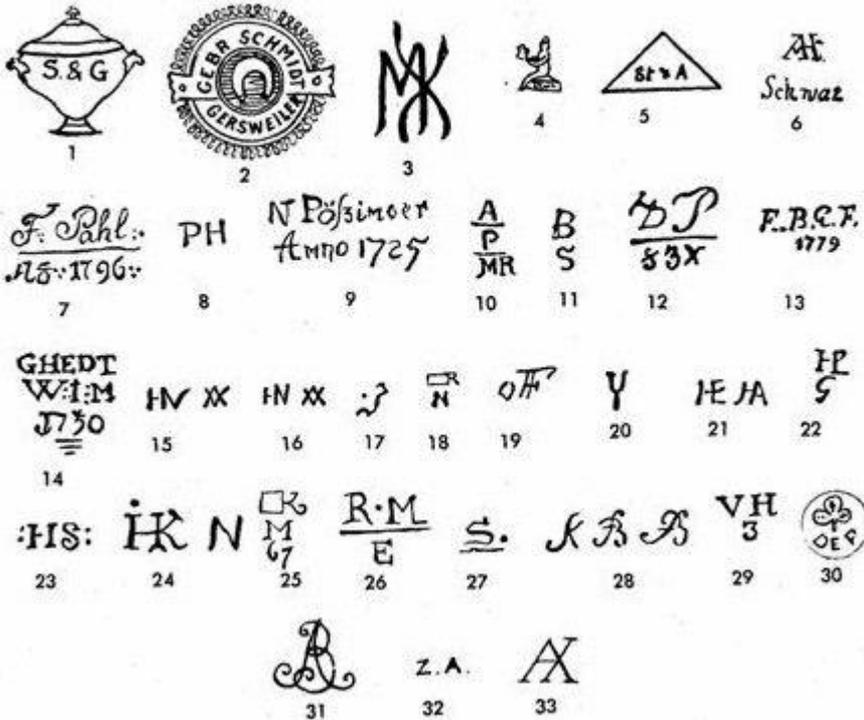
---

# Universally accepted definition of a trademark

- A **sign** that can be **represented graphically**, such as: words, drawings, letters, figures, sounds, form of the product or its packaging, the combinations or shades of color, which is **used by a body or a Company to distinguish itself and/or its products, and/or services** which it produces, and/or markets.

# Origins

## GERMANY



## Ming Dynasty Marks

武大年製洪

HUNG-WU  
HONGWU  
1368-1398

永樂年製

YUNG-LO  
YONGLE  
1403-1424

樂大年製

YUNG-LO  
YONGLE  
1403-1424

德大年製宣

HSUAN-TE  
XUANDE  
1426-1435

化大年製成

CH'ENG-HUA  
CHENGHUA  
1465-1487

治大年製弘

HUNG-CHIH  
HONGZHI  
1488-1505

德大年製正

CHENG-TE  
ZHENGDE  
1506-1521

靖大年製嘉

CHIA-CHING  
JIADING  
1522-1566

慶大年製隆

LUNG-CH'ING  
LONGQING  
1567-1572

曆大年製萬

WAN-LI  
WANLI  
1573-1619

啟大年製天

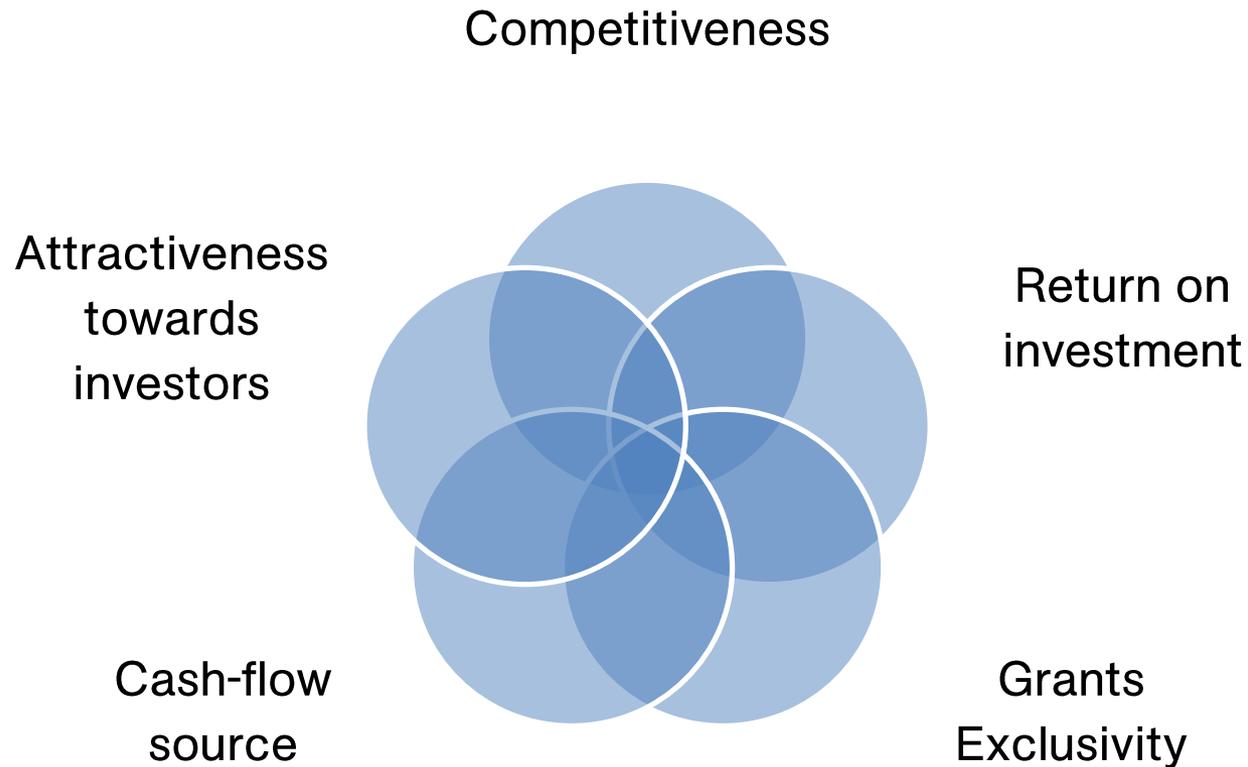
TIEN-CHI  
TIANQI  
1621-1627

禎大年製崇

CH'UNG-CHENG  
CHONGZHEN  
1628-1643

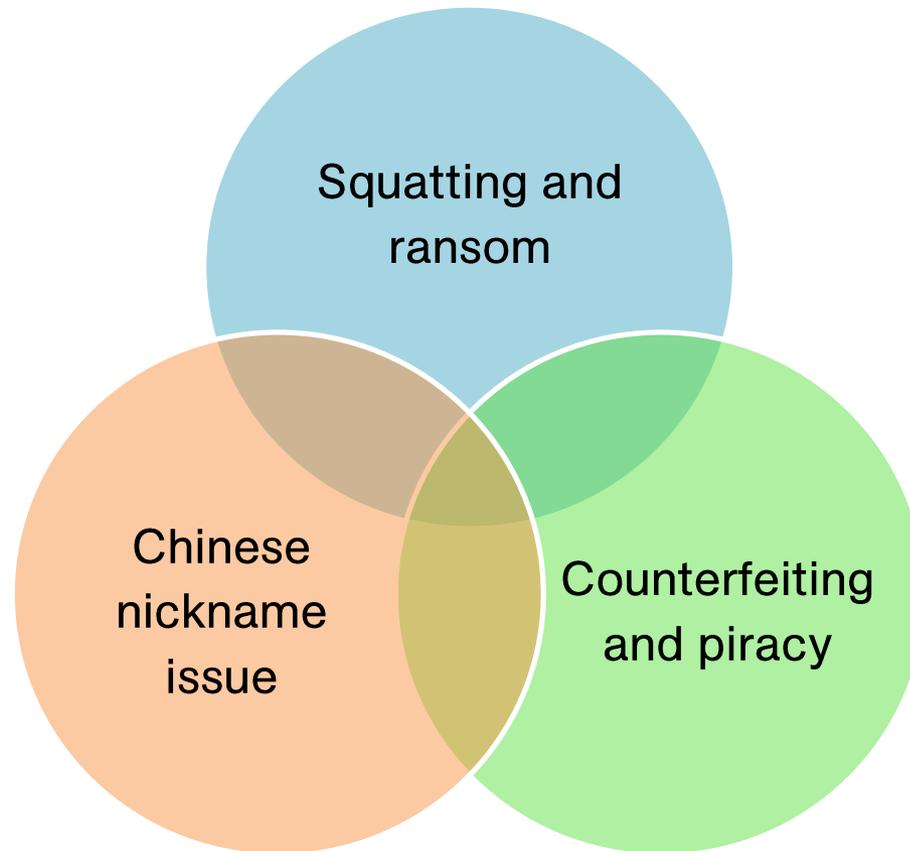


# Why bother with IPRs?

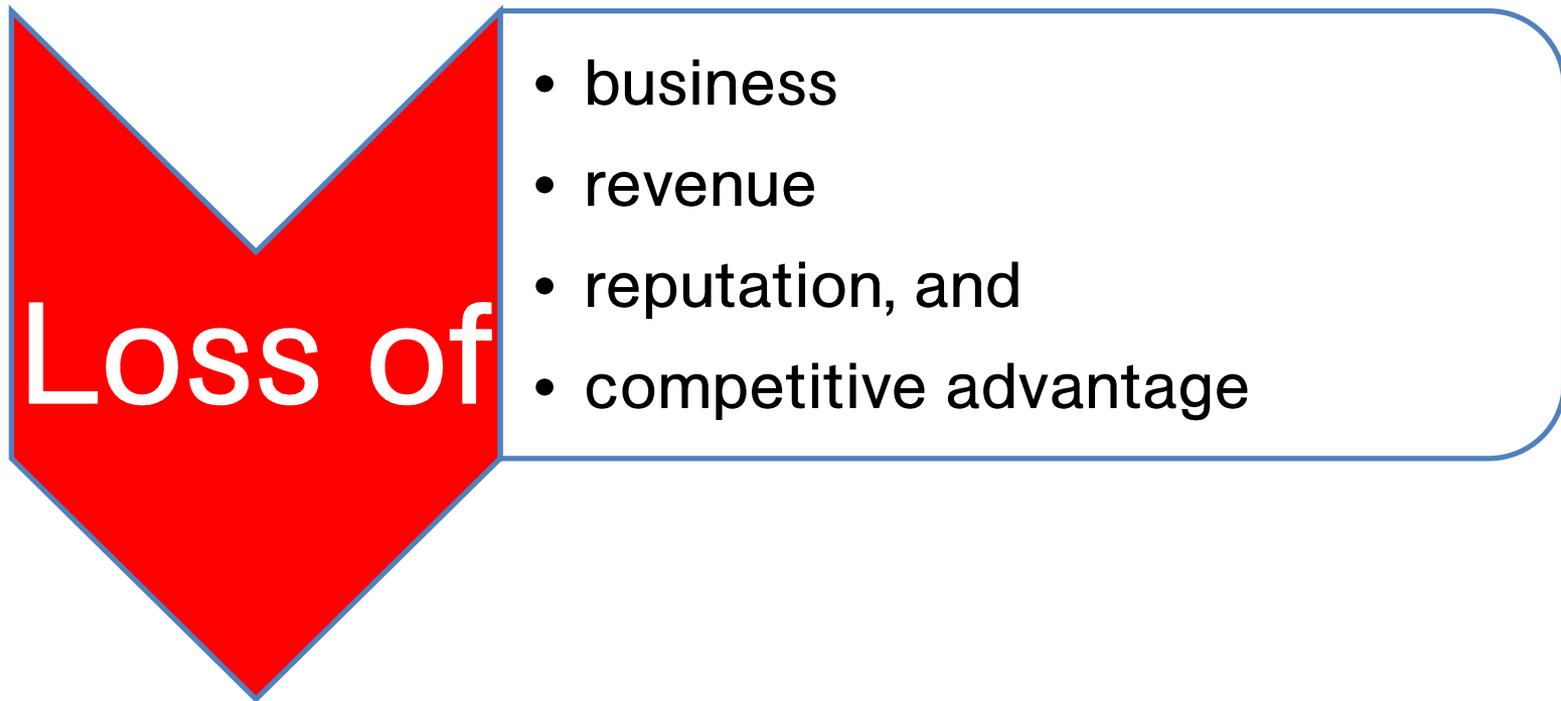


---

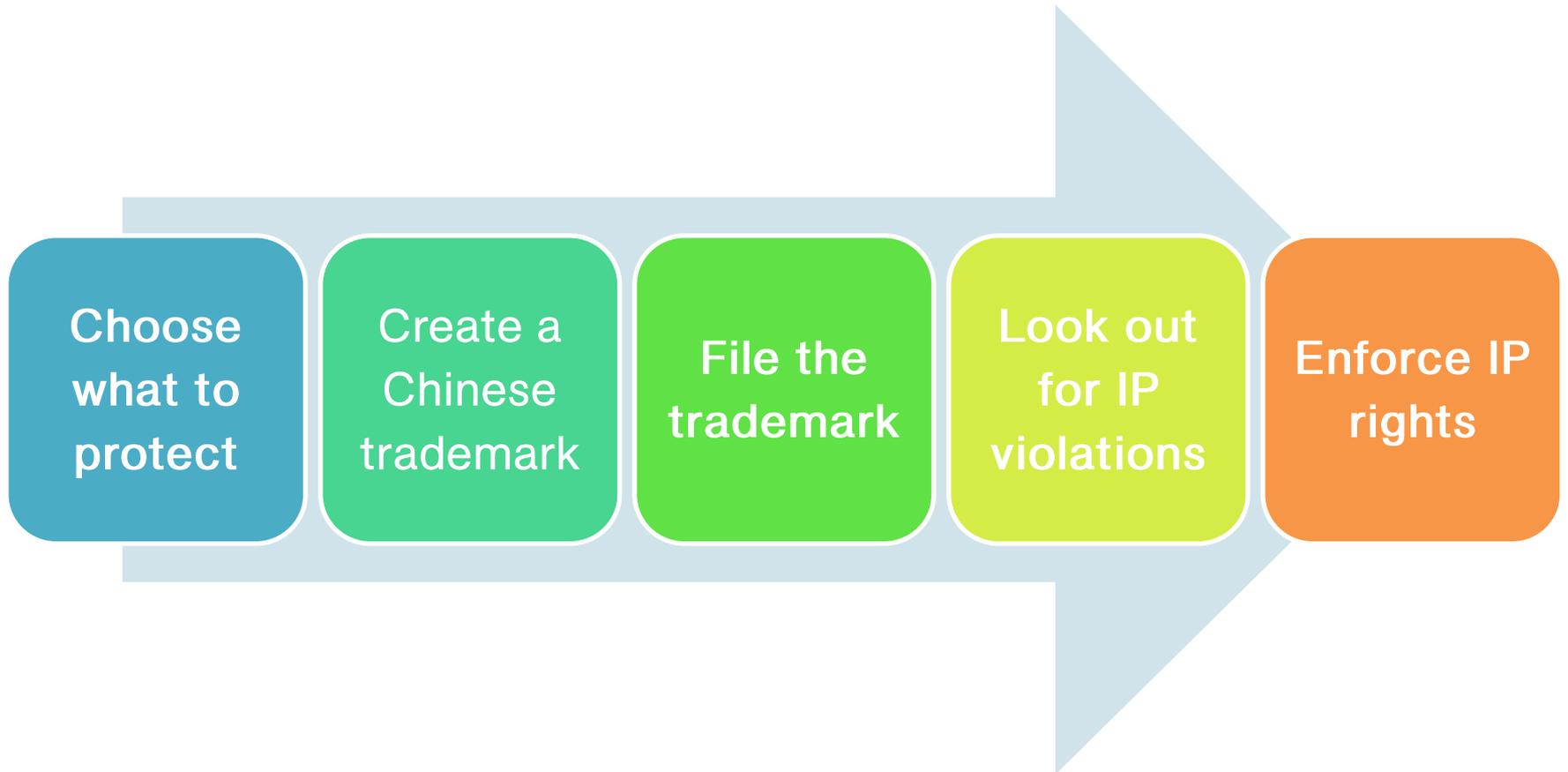
# What could happen to your trademark in China



# Consequences of poor IP management

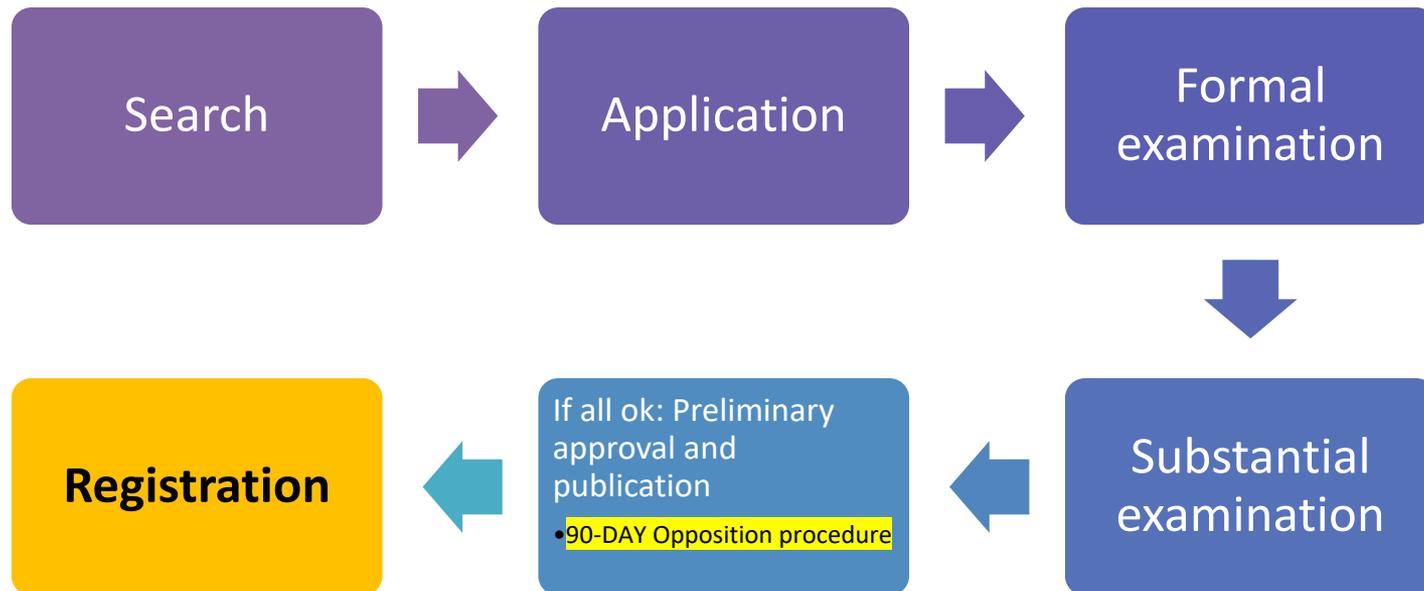


# To know and do in China



# Filing a trademark in China

- Select an agent/ firm and make as many applications needed for each class of goods or services
- Government fee ~125 USD per application for 10 **sub classes** of goods or services
- **Duration**: formally 9 to 18 months; in practice 12~22+ mo.



# Some classes to choose from

Most frequently used in the f&b industry

- Cl. 1: additives for f&b
- Cl. 2: coloring additives for f&b
- Cl. 5: baby food, infant formula
- Cl. 6: tin and other metal food containers
- Cl. 9: publications or advertisement for “modern services”
- Cl. 16: other publications and flyers
- Cl. 18: shopping bags
- Cl. 29: meat, fish, poultry and game, preserved, frozen, dried and cooked fruits, etc.
- Cl. 30: coffee, tea, cocoa and instant coffee; rice, tapioca, flour, bread, honey, etc.
- Cl. 31: unprocessed agricultural, aqua cultural, horticultural and forestry products, etc.
- Cl. 32: beers, mineral water, non-alcoholic beverages, juices, syrups, etc.
- Cl. 35: advertising, organization for exhibitions, marketing, etc.
- Cl. 39: transportation, packaging, travel arrangements, etc.
- Cl. 40: materials treatment, food processing;
- Cl. 43: f&b catering, temporary accommodation, etc.

---

# TM classes if planning on selling on-line?

- All Alibaba and JD platforms require a Cl. 35 registration;
- Class 35 is also always advisable when/if you have a trading company (aka FICE) in China, because “import and export agencies” is required to have filed for, for WFOEs who carry out their own customs clearance;
- “Printed matters” relates to labeling, hence filing in class 16 is suggested;

---

# IP considerations when entering new markets

1. Identify IP assets
2. Assess vulnerability
3. Clarity of ownership
4. Think about online protection
5. and trade fair protection
6. Know and adapt to local rules
7. File IP rights
8. Do not forget copyright
9. Establish key contracts and licenses
10. Spend for advisory
11. Be prepared to enforce your rights
12. Build internal awareness
13. Join forces and experiences on protecting your IP



**DEZAN SHIRA & ASSOCIATES**

Your Partner for Growth in Asia

**Thank you!**

**Riccardo.Benussi@dezshira.com**  
**Shanghai Office**



**Years**  
**1992-2017**



CORPORATE ESTABLISHMENT · DUE DILIGENCE · BUSINESS ADVISORY · TAX · ACCOUNTING · PAYROLL · AUDIT · COMPLIANCE

[www.dezshira.com](http://www.dezshira.com)