

**GWA**

# CHINA OVERLOOK 2017



Analysis and trends of Chinese economy



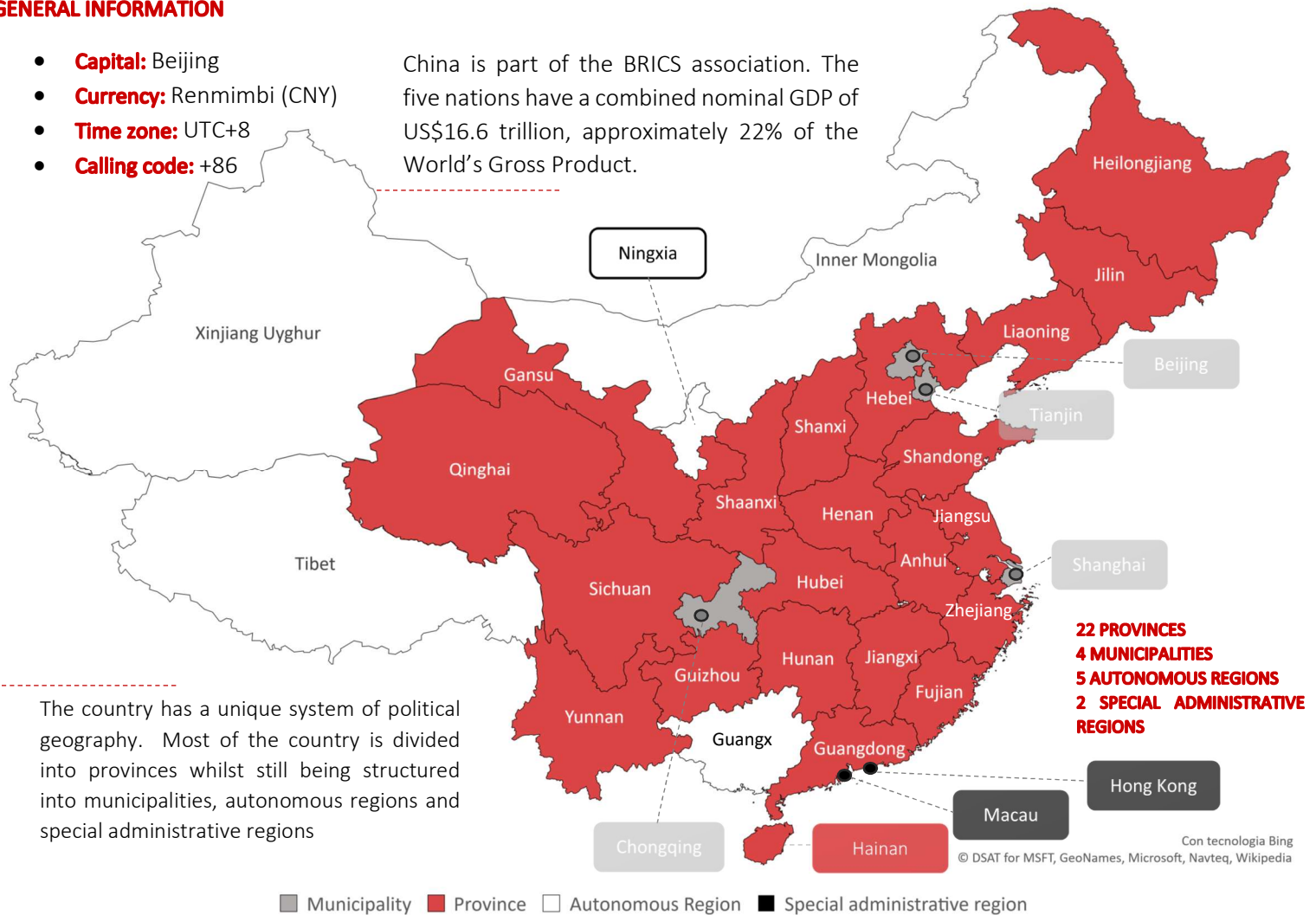
The People's Republic of China in the East Asian region is one of the World's fastest growing economies. China is the World's second-largest state by land area and it covers approximately 9.6 million square kilometres.

The country became a member of the World Trade Organization in 2001. Since then the country has played an increasing role in planning new deals and securing new pacts trying to intensify its connections beyond its borders.

## GENERAL INFORMATION

- **Capital:** Beijing
- **Currency:** Renminbi (CNY)
- **Time zone:** UTC+8
- **Calling code:** +86

China is part of the BRICS association. The five nations have a combined nominal GDP of US\$16.6 trillion, approximately 22% of the World's Gross Product.



The country has a unique system of political geography. Most of the country is divided into provinces whilst still being structured into municipalities, autonomous regions and special administrative regions

## TOP 6 BIGGEST CITIES IN CHINA

### Chongqing

- Municipalities of Chongqing
- Population: 28,85 M

### Shanghai

- Municipalities of Shanghai
- Population: 23,03 M

### Beijing

- Municipalities of Beijing
- Population: 19,62 M

### Tianjin

- Municipalities of Tianjin
- Population: 12,99 M

### Chengdu

- Province of Sichuan
- Population: 11,49

### Harbin

- Province of Heilongjiang
- Population: 9,92 M

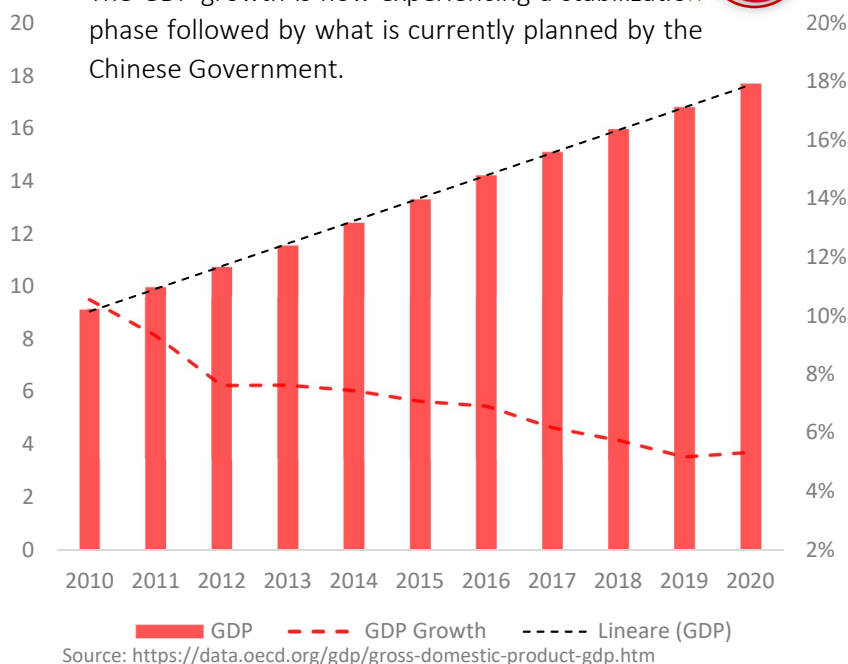
The population of China is over 1.388 billion, and still stands as the largest country in the World. Since 1950, the population of China has doubled and therefore highlighting its rapid increase. China is currently experiencing an aging population and it has been suggested that 11,8% of the population in 2020 will be aged 65 or more. Simultaneous process like an ageing population, growing richness, changing consumer orientations and an increased environmental awareness are driving the country through a massive change and are redirecting consumers taste.

Following the United States, China is the World's second largest economy by nominal GDP. Since the transition to a market based economy in 1978, the country has seen its ranking increase from the ninth position to the second. Its shares of global nominal GDP surged from 2% in 1980 to 15% in 2016. Nevertheless, observing the GDP level per person, the differences between China and the US remains large; at the end of 2016 the Chinese GDP

per capita was 6894\$ while the US one was 52195\$. It is evident that China has still got a long way to overtake the US as the largest economy but Oxford Economics has forecasted that in 2030, 9 out of 15 of the most contributing cities to global GDP will be Chinese .



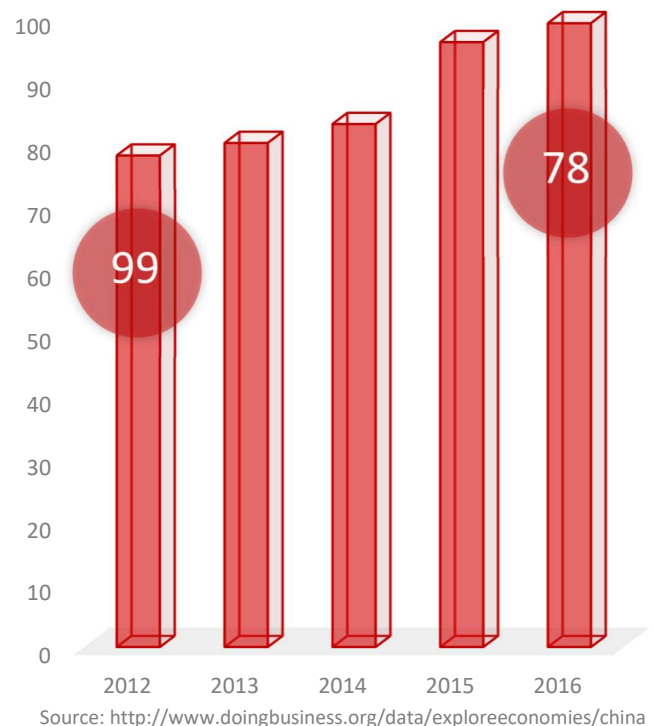
The GDP growth is now experiencing a stabilization phase followed by what is currently planned by the Chinese Government.



## Gross domestic product

China's 13th Five-Year Plan aims to open up new drivers of growth, new industries and opportunities. These guidelines are going to create an attractive environment and open new sectors of the Chinese economy for foreign businesses. The growth rate which has characterized the country in the past for three decades has now slowdown. In 2016 the growth rate was 6.8% and, despite OECD has predicted a relatively smaller 6,2% growth rate for 2017, in the second quarter of 2017 the country has grown up by 6,7% proving that all the expectations were wrong.

In 2017, China was rated 78th for its Ease of conducting businesses by Doing business Report. In the past 4 years the country has achieved great results and has climbed up the ranking position. The most appreciable improvement was linked to the feature "getting credit". The government is working hard to ease rules for foreign investment allowing hope for future improvements. The government, being coherent with its "open-up policy", has reduced the number of restrictive measures for the entrance of foreign investment inside the Catalogue of 2017 from 93 to 63. In the same way it has also reduced the number of items in the restricted category from 38 to 35 and those of prohibited category from 36 to 28.



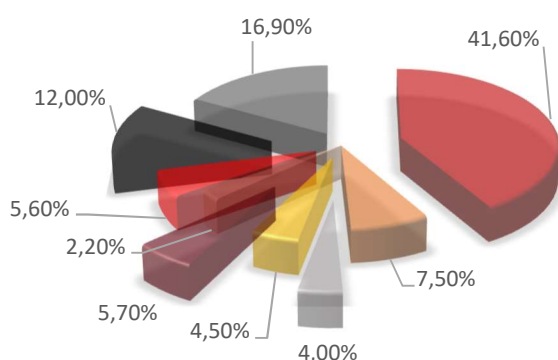
## Composition of gross domestic product

Since the transformation into a capitalist nation the country has witnessed tremendous alterations in the composition of its GDP. Despite the decreasing trend of the primary sector the country is still the World's largest agricultural economy. The industry is the biggest contributor of the overall composition of the Chinese GDP, the sector has seen just minimal change in its dominance. Last year, the Chinese service sector contributed to

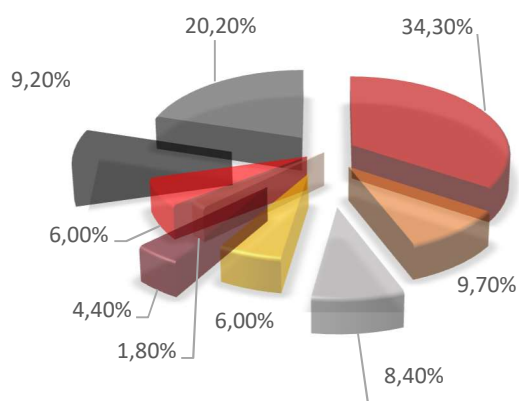
58,2% of country's economic growth, which is reinforced by 5.3% from the 2015. The service sector accounts for more than 50% of the overall GDP; it has surpassed the secondary sector in 2013 for the first time. In 2011 the five year's plan to prioritize its development was supported by the government.

### GDP COMPOSITION 2005 & 2015

2005



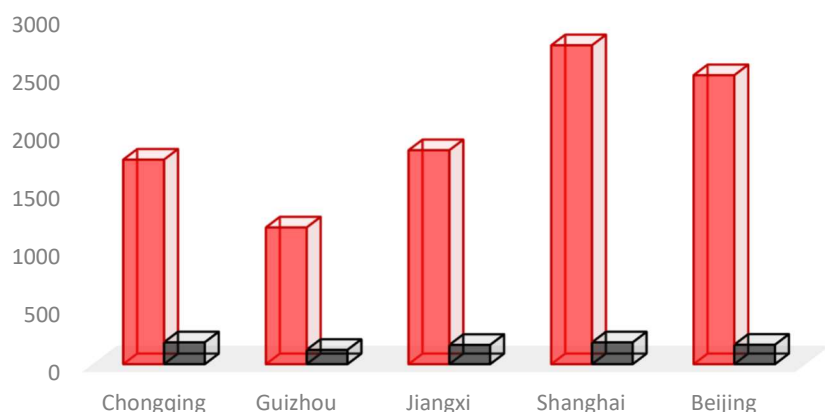
2015



Source: <http://www.stats.gov.cn/english/statisticaldata/AnnualData/>

■ Industry ■ Wholesale and Retail trades ■ Financial intermediation ■ Real estate ■ Transport, storage and post  
■ Hotels and catering service ■ Construction ■ Agriculture, Fishery industries and Forestry ■ Other

## GDP Provinces and Municipalities

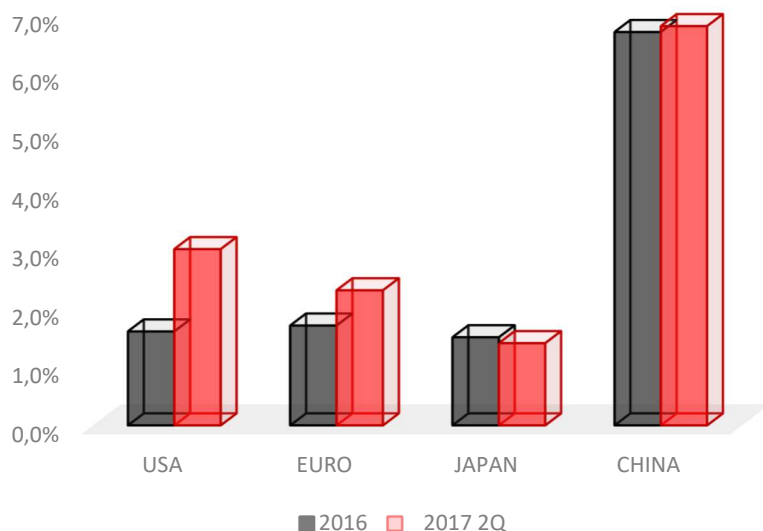


Source: <https://www.chinainternetwatch.com/19810/top-cities-gdp-2016/>

■ GDP ■ Value added

The graph shows the development and the value added of two consolidated municipalities (Shanghai, Beijing) with the municipality interested by the highest growth in 2016 (Chongqing) and the two provinces of greatest development (Chongqing, Guizhou). Despite the lower growth, the highest GDP is produced by Shanghai.

## GDP Growth rate

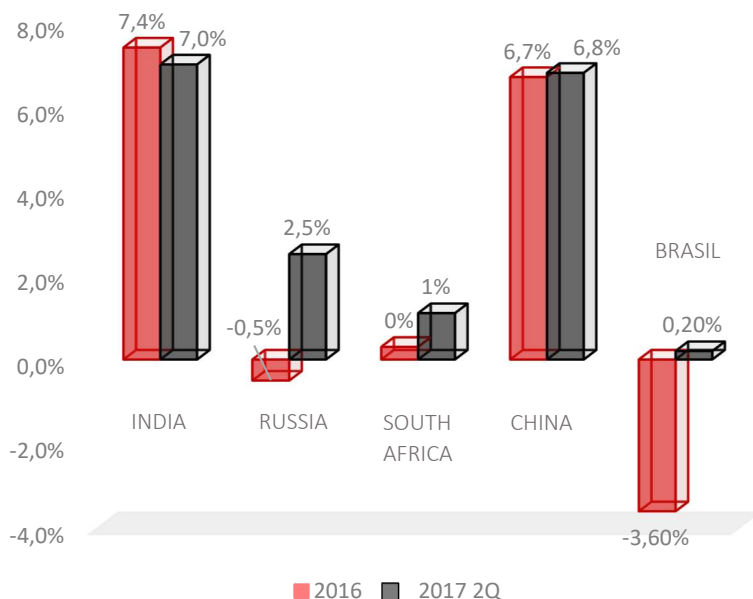


	2016	2017 2Q
<b>USA</b>	1,6%	3,0%
<b>EURO</b>	1,7%	2,3%
<b>JAPAN</b>	1,5%	1,4%
<b>CHINA</b>	6,7%	6,8%

Despite its currently stabilization phase, China is still definable as a economy in development, its growth consistent with that definition allowed it to ranked just after USA.

Source: <https://tradingeconomics.com/>

## GDP Growth rate (BRICS)

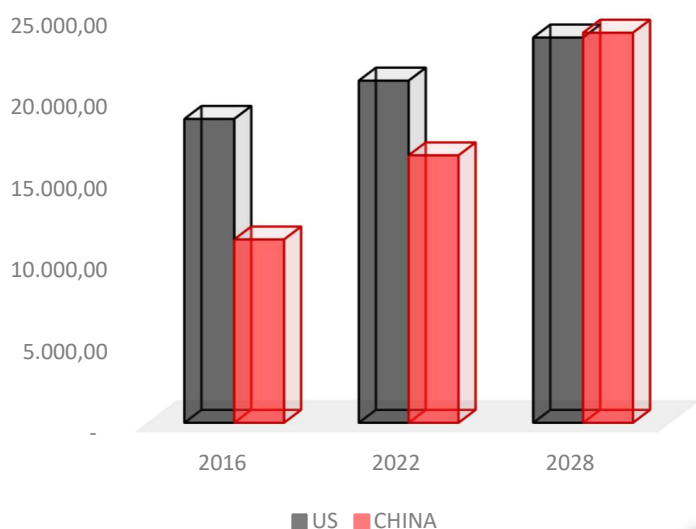


	2016	2017 2Q
<b>INDIA</b>	7,4%	7,0%
<b>RUSSIA</b>	-0,5%	2,5%
<b>SOUTH AFRICA</b>	0,0%	1,0%
<b>CHINA</b>	6,7%	6,8%
<b>BRASIL</b>	-3,6%	0,2%

The country, which is part of the BRICS, is the only one that today alongside India still grows significantly. Referring to the other members they are interested by a meager growth (South Africa) or are declining (Russia, Brazil).

Source: <https://tradingeconomics.com/>

## Usa/China Overtake (GDP)



YEAR	US	CHINA
<b>2016</b>	18.569	11.199
<b>2022</b>	20.911	16.341
<b>2028</b>	23.550	23.844

According to our prediction the overtake of China on United State is going to happen in 2028.

Source: <https://tradingeconomics.com/>

## Availability

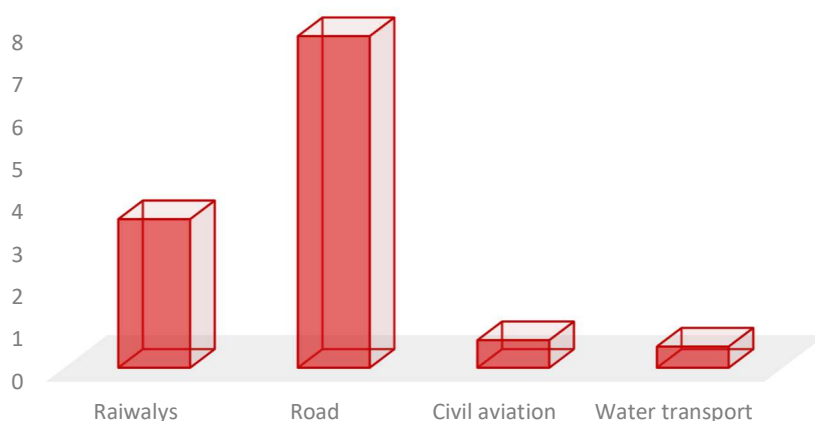
The development of the business value, the relatively cheap workforce, productivity and the easy access to physical infrastructure makes the country attractive for foreign companies. The government has planned to move billions of dollars in massive infrastructure projects providing a safe and fast transport for the companies and helping workers to commute. The country has a huge availability of workers who are skilled and able to create and produce goods and services capable to compete in the global economy.



**STEFANO CATOZZI**  
Chartered accountant

“This country has proven to have immense potential in the sectors of the future. The government continues to invest large amount of capitals in the construction of important infrastructure guided by the purpose of becoming the largest World's economy.”

## 13th Investment plan on transport (in trillion yuan)



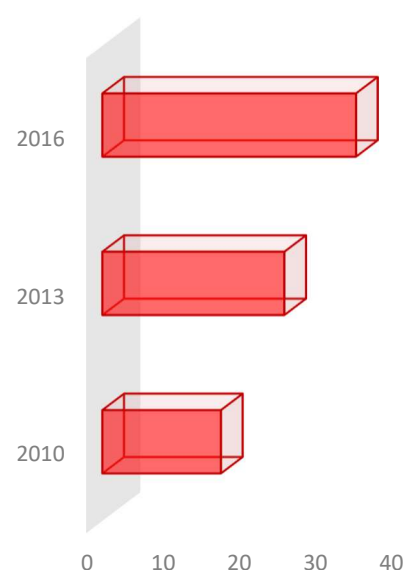
## Access

One important aspect that needs to be considered by investors is the fact that it is quite easy to get a loan in the country. Furthermore, it is really important for an investor to take into consideration the opportunity to benefit from tax exemptions or tax reductions. Catalogue for the guidance of foreign investment industries and CWR catalogue are both designed by the central government to attract new foreign investment. These two catalogues provide guidance for the establishment of foreign companies and list the industrial scope of certain incentives.

## New opportunities

Foreign investors have to deal with a different scenario compared to the past. The Chinese market has been characterized by a huge change in the consumer's taste due to an improvement in the consumer's purchase power and because of the shift in major consumer groups. The increased number of richness has led the consumers to not be price-driven but quality and experience oriented. This scenario will boost western products attracting new Foreign Direct Investment(FDI).

## National retail sales (in trillion yuan)



Source:  
<http://www.stats.gov.cn/english/statistical data/AnnualData/>

# How to start?

When an investor wants to expand his business into the Chinese market, he must ask himself if his company is eligible to invest or not. Previously the industries were divided into 4 different categories and the choice of one or another produced different effects. The new 2017 catalogue has just

three of these categories. The restricted and prohibited sectors are going to be placed into the "Negative-list".

The other decision that the investors have to consider concerns the option between various legal entity or other different ways to operate.

## ENCOURAGED

Investing inside an encouraged sector means taking advantage of the possible special incentives laid out by the government. Usually the agricultural and the high tech sectors are part of the encouraged sectors.

## PERMITTED

If an investor wants to find out whether the company is permitted or not, he must look at the sector inside the Foreign investment catalogue. All the activities that are not listed inside the catalogue are permitted. The possibility of starting up a "permitted" company could be low if the sector is uncommon.

## RESTRICTED

Restricted sectors are generally protected sectors; therefore this means that may be necessary to obtain a special license to start up a company in these field of activities. Operating in these sectors usually involves opting for a JV with a Chinese partner: this action is required to obtain the special license to operate.



## PROHIBITED

It is not possible to open a new company inside these sectors, all the activities in them are not allowed. The government has stopped all the investments inside these sectors due to national security.

## INVESTMENT VEHICLES

To invest in China the first choice to be carried out concerns the decisions whether to adopt a legal or a non-legal entity.

### Non-legal entity

In case the investor had chosen to use an agent or a distributor to sell his products or to create a representative office to promote or advertise his merchandising, both choices are characterized by the fact that the no new legal entities are established.

### Legal entity

Most of the legal vehicles that are used by foreign investors to enter into Chinese market are required to fund a separate legal vehicle.

**Agent**

**Distributor**

**RO**

**FICE**

**WFOE**

**PE**

**CJV**

**EJV**





**1°** Less investment, resource, personnel, risk and time.

**2°** No logistical difficulties associated with the language, cultural and regional differences



**1°** Costs and time of finding the right fit.

**2°** If the agent is big, it will most likely not be an exclusive arrangement .

**3°** Costs and risks deriving from all in-market activities are bared by the foreign

## Agent

The agency contract is used by foreign companies that hire an agent to sell its product inside the country, the conclusion of the contract doesn't lead to the constitution of a different legal entity. The contract itself may contain various clauses that are modifiable by the principal for example minimum sales target, exclusivity, protection of intellectual property(highly reccomended) and commission.

## Distributor

The distribution contract is used in China to regulate the relation between the investor and his distributor. The use of a distribution contract could represent an effective solution for medium and big companies that wish to make use of the marketing and sale skill of the Chinese distributor. The contract may contains various clauses modifiable by the principal like exclusivity, sales target, non competition commitment and protection of intellectual property right.



**1°** A Distributor has specialized sales and marketing skills.

A distributor will carries most of the in-market risks.

**2°** A distributor will maintain stock and inventory (therefore have more incentives of selling products quickly).



**1°** Suppliers often need to be able to absorb the distributor margin (to reduce the consumer price).

**2°** It is unlikely to be an exclusive arrangement.

**3°** Higher fees compared to the agents' fees.



**1°** Can hire foreign and local staff, manage product and supply chains from within China.

**2°** Easy to meet up with contacts and factories in China.

**3°** Able to physically be present and have your own office



**1°** Rappresentative offices can not issue invoices.

**2°** The RO cannot employ staff directly and must make use of an authorized agency.

**3°** Must be located in government-owned buildings.

## Representative office

Foreign companies specifically use representative office(RO) for non-direct profit business activities which usually involves product promotion, research of business' market and engaging as liaison Officer for your business. For a business to set up an RO, the company has to be at least two years old and the RO certificate will last for as long as the foreign parent company exists. With the help of an RO, companies can test the market to make sure of any investments or strategies before they decide to fully engage in the Chinese market.



## WFOE

WFOE (wholly foreign owned enterprise) is a limited liability company wholly owned by foreign investors. To operate in China by using WFOE its required to strictly follow its approved business scope, which is visible on its license. WFOE is the most common investment vehicle used by investors because it allows them to entirely control the company and to avoid lengthy negotiation with the hypothetical Chinese partner. WFOE also allows their users to carry out business' and send invoice, compared to RO.



- 1°** The company can be 100% foreign owned.
- 2°** FICE allows investors to carry out a wide range of activities.
- 3°** Fund's required are generally lower than fund's for a WFOE.



- 1°** Everything needs to be developed.
- 2°** The costs of the activity will not be shared.
- 3°** Development of China sales operations without a Chinese partner.



- 1°** Ability to uphold a company's global strategy free from interference by Chinese partners.
- 2°** There is no requirement for the minimum registered capital except for certain industries (hence a high amount is required/preferred to set up an WFOE).
- 3°** Transfer of equity shares are subject to less restrictions compared to JV.



- 1°** Everything needs to be developed.
- 2°** The costs of the activity of the company will not be shared.
- 3°** Development of China sales operations.

## FICE

The Foreign invested commercial enterprise (FICE) is considered as a variant of WFOE, generally used by investors to buy trade and to sell in China. The legal vehicle enables investors to perform different activities for example; wholesale business, retail business, franchise business and lastly an agency with commission. The other main characteristics are similar to the WFOE.

## Partnership enterprise

The partnership enterprise(PE) can appears in three different forms and structure. A general partnership where two or more partners bear unlimited joint liabilities, a limited partnership enterprise formed by a combination of general and limited partners which bears the liabilities for the debts to the extent of their capital contribution and finally a special general partnership enterprise, similar to the general partnership except for the fact that it must be a professional service institution.



- 1°** The distribution of the profit can follow an informal deal or what is contained inside the partnership agreement.
- 2°** No corporate income tax on partnership, partners pay considering their share.
- 3°** No requirement on the minimum registered capital.



- 1°** No limited liability, this doesn't apply to the general partnership.
- 2°** No corporate income tax, partners pay considering their share.
- 3°** It's hard to transfer property right to a third party.

## Equity joint venture

The Equity Joint Venture(EJV) is one of the two different types of joint venture's that an investor may choose from. The investors have to respect some specific rules concerning the management structure even if both the part (foreign and Chinese investors) can assume the role of a chairman. The equity of the new legal entity can include cash, buildings, equipment, materials and intellectual property rights. Referring to the composition of the equity, a 25% or more of this must be contributed by the foreign part.



**1°** Foreign investor can start up a company inside a restricted sector.

**2°** Foreign investor benefits from the Chinese partner experience.



**1°** It is required to take a long time to find the right fit.

**2°** The foreign business is more vulnerable to theft and abuse of its IP. Furthermore, its adequate protection is not established.

**3°** Conflicting management style may lead to disparity.



**1°** Foreign investor can start up a company inside a restricted sector.

**2°** Foreign investor benefits from the Chinese partnership experience.

**3°** Profits are paid according to their contractual agreement.



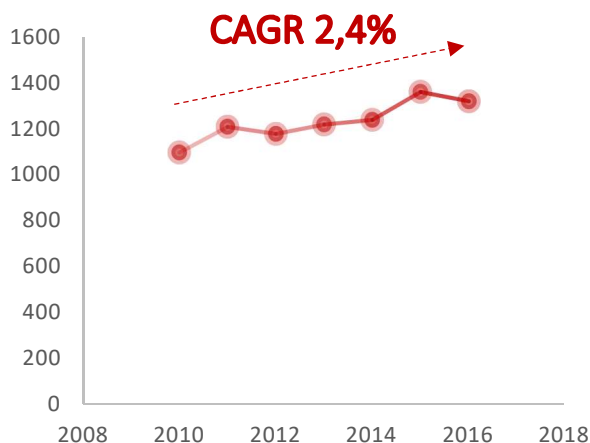
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**3°** Conflicting management style may lead to disparity.

## Cooperative joint venture

The cooperative joint venture (CJV) is one of the two different types of joint venture that an investor may choose. This variant allows investors to choose whether they want to bear liability together, creating a hybrid equity joint venture, or if they want to bear it separately. Multiple management structures may be applicable to the cooperative joint venture, "true" CJV tends to take the more flexible form of a joint management office.

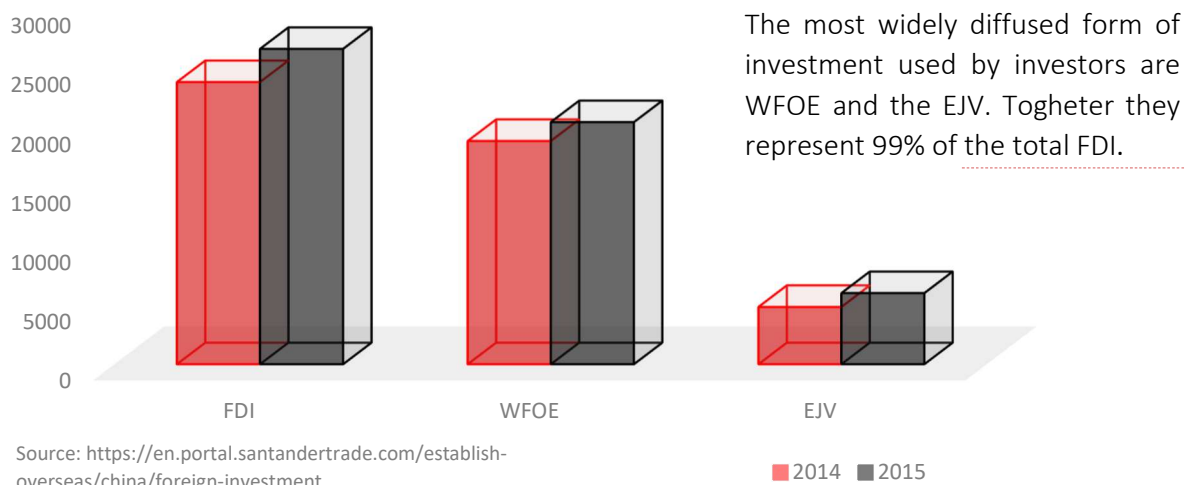


Source: <https://tradingeconomics.com/>

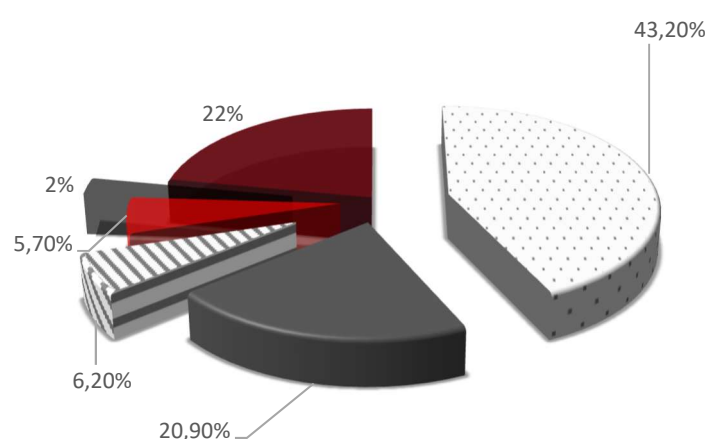
## Inward FDI

Foreign direct investments has played an important role in the development of the Chinese economy. On the left the graph shows the accumulated amount of foreign investments in domestic companies or entities in non financial sector from 2010 to 2016. Despite the slowdown that has been characterized the flows of inward investments in the past years, observing these data we can notice a consistent CAGR that shows how the country is still considered an attractive opportunity.

## FORM OF INVESTMENT (NUMBER OF PROJECTS)



## Foreign investment



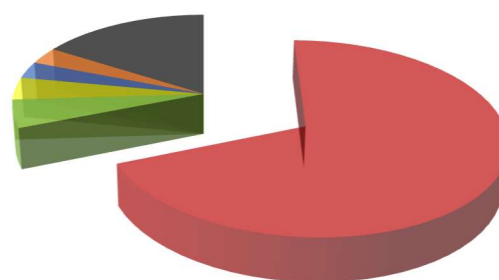
According to the 2017 World Investment Report published by the United Nations Conference on Trade and Development (UNCTAD), China has been ranked as the third largest recipient for Foreign direct investments (FDI) after the US and the UK. It is more than likely that with the implementation of the new “investor-friendly” policy, China will attract more foreign investments. Furthermore, the implementation of the new policy may increase the number of the encouraged sectors. It is important to acknowledge that the government will implement new measures to encourage the strengthening of foreign investments and in particular, the reinvested profits in China obtained by investors will be entitled to the tax deferral policy.

Source: <https://en.portal.santandertrade.com/establish-overseas/china/foreign-investment>

Legend: Manufacturing (Patterned), Transport, storage, telecommunications (Black), Other (Dark Grey), Business service and renting (Light Grey), Wholesale and retail trade (Red), Real estate (Dark Grey)

## Inward FDI countries 2016

Surprisingly the first country for investment in China is Hong Kong. The motive behind this statistic is that quite often the city as a vehicle to invest in Mainland China. This operation is usually carried out with the purpose of overcoming part of the Chinese bureaucracy. Currently the economic relationship between China and Hong Kong are governed by the agreement of CEPA. CEPA has strengthened the trade relationship in goods and service and fostered trade and investments between the two places.



Source: <https://en.portal.santandertrade.com/establish-overseas/china/foreign-investment>

Legend: Hong Kong (Red), Singapore (Green), South Korea (Yellow), USA (Blue), Macao (Orange), Other (Dark Grey)



The establishment of a foreign investment enterprise (WFOE, EJV, CJV) consists of 3 different phases.

All foreign investment projects are subject to approval by government authorities. The documents involved in this phase are: project proposal, feasibility study report, Joint Venture Contract and Articles of Association.

**(1)** The Project proposal is only required for Joint Venture projects. The Project proposal is usually written after the Joint Venture parties have achieved a basic agreement and its main purpose is to settle the conditions of the possible agreement.

**(2)** After that, Chinese and foreign parties carry out feasibility study research, instead wholly foreign owned may directly prepare that. A feasibility study report investigates and appraise major factors of a project.

**(3)** The last step of this phase is to fill out the Articles of Association that shall be submitted to the MOFTEC for approbation.

### Approval phase

60  
90 d

**(1)** Before Chinese and foreign investors submit any Joint Venture Contract or Articles of Association, they shall apply to the AIC for a reservation of the name of the FIE.

**(2)** Within thirty days after the approval, the authority recognises the establishment of the FIE, then the investors apply for the registration of the FIE with the AIC. The AIC shall decide if to approve the registration within thirty days after the acceptance of the application.

### Registration phase

15  
30 d

**(3)** After the registration of the FIE is approved by the AIC, the FIE obtains the business license.

**(4)** If the FIE is established by a foreign investor can be a Sino-foreign Equity Joint Venture (EJV) or Sino-foreign Cooperative Joint Venture(CJV) or a Wholly Foreign Owned Enterprise (WFOE);

**(5)** A fixed enterprise code, which is unique, and the Tax Registration Certificate are obtained at this moment.

20  
40 d

### Post-registration phase

**(1)** Within thirty days after the business license is issued, the FIE should apply for foreign exchange registration with the local foreign exchange authorities.

**(2)** Chinese law requires that every FIE apply for financial registration within thirty days after the AIC issues the business license.

**(3)** Chinese law provides that after the FIE is established, it must register with the local customs office.

**(4)** After the business license for the FIE is issued, the FIE may apply to the local Public Security Bureau to obtain the approbation to make chops.



## Pre-registration

The procedure to register a Representative Office in China starts with the application to local Administration for Industry and Commerce to obtain the Registration Certificate.

Please note that AICs in different locations might have different requirements for the application documents that a foreign enterprise shall submit. When a foreign enterprise applies to register a RO, it is strongly suggested to consult a local sponsor, a law firm or other agents as to fulfil specific documentation requirements. When the authority approves the registration of the RO, it issues also a Registration Certificate and Representative Cards to Chinese and foreign employees. The establishment date for a RO correspond with the issuance date of the Registration Certificate rather than the issuance date of the Approval Certificate.

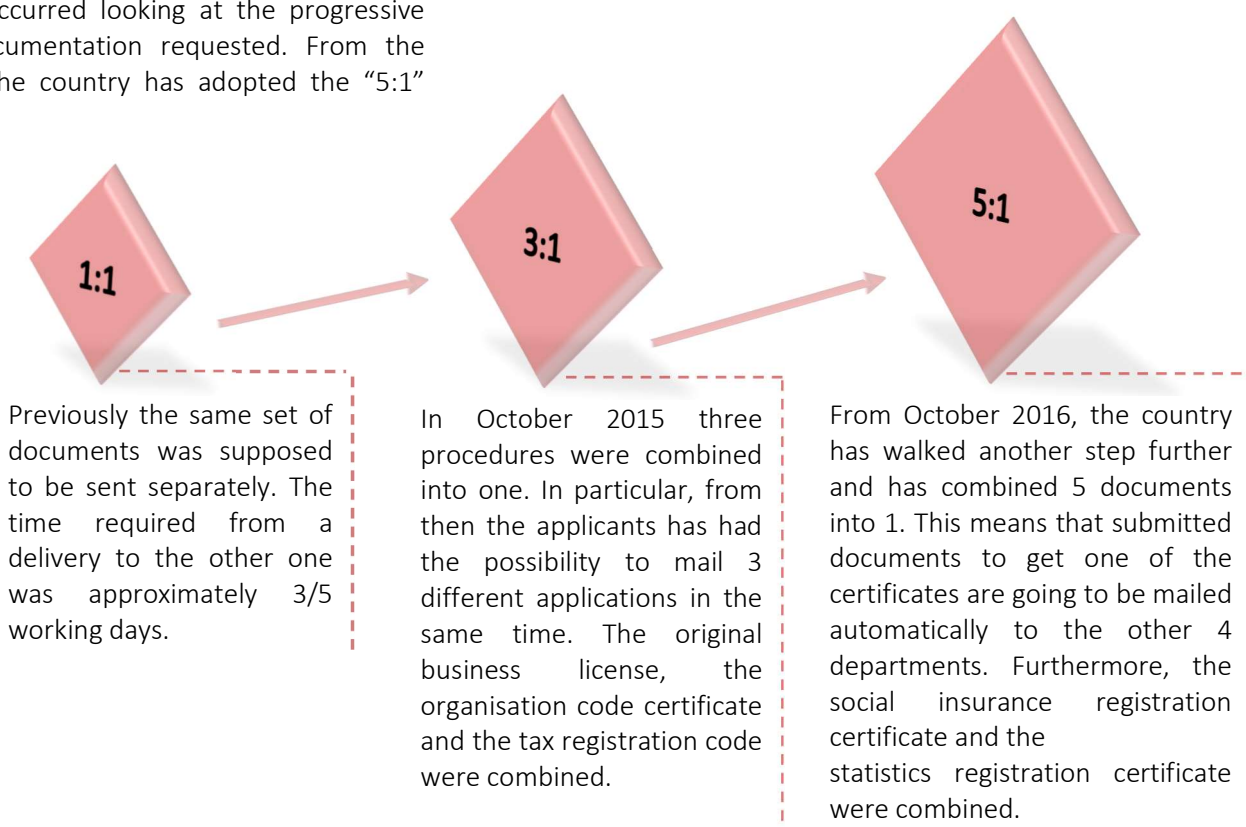
## Registration

After obtaining the Registration Certificate, the foreign company shall start other registration procedures handled by:

- 1- Public Security Bureau
- 2- Institute Code Centre
- 3- Foreign Currency Bureau
- 4- State Tax Bureau and local State Tax Office
- 5- Local Tax Bureau and Local Tax Office
- 6- Banks
- 7- Statistics Bureau and Local Statistics office
- 8- Customs

## FROM 1:1 TO 5:1

China is trying to **simplify procedures** for registrations. This is what has occurred looking at the progressive lower relevant documentation requested. From the "1:1" mechanism the country has adopted the "5:1" mechanism.



## Briefing

Despite the process of liberalization which is affecting the country, the Chinese bank system remains complex. Foreign investors must take into consideration several different options and opportunities starting from the choice of open a bank account in a Chinese or in an international bank. As a first step FIEs shall open at least two accounts, a RMB basic account and a foreign currency capital bank account.

## Domestic or Foreign bank?

To choose between opening a bank account with a Chinese bank or with an international bank could be complicated. Foreign banks have an advantage over their domestic peers, they tend to be more comprehensive about relationship management, technological sophistication and moreover. From another point of view local banks have a better capabilities of process transaction within Chinese national borders and at the same time they have a larger deposit base.



### RMB basic account

A foreign company that wants to enter Chinese market shall open a RMB basic account. This is necessary to make daily transaction and to withdraw RMB, otherwise inaccessible.



### Loan account

The specific aim of opening a Loan account is to obtain the possibility of lending or borrow money between company (intercompany).

### Foreign currency capital contribution account



A FIE needs to obtain the approval of SAFE to open a foreign currency account. This specific account is required in case the company intend to receive foreign capitals injection from its offshore head office.



### Special purpose account

A company may need to set up a Special purpose account for different reasons:

- Tax
- Loan
- Custom duty
- RMB reinvestment capital verification.



### Current account

A current account is opened by companies who intend to use it as a settlement account for trade and non-trade transaction.



### Regular account



A regular bank account could be considered as an instrument for integrating the functions of the basic account. In fact, the regular account is used in general for onshore collections and payments.

## Electronic payment

Latest data from the People's Bank of China shows the rapid increase of the use of electronic payments, compared to cheque and bills. The use of cheques is shrinking at a year-on-year rate of 29%. Who still relies on the payment in bill format should take into consideration that electronic bills have chalked up a 58% year-on-year growth. Despite these trends the bulk of the growth in the



Under the new PRC Company Law, issued in 2014, minimum registered capital requirements are eliminated and investors can now choose freely the amount of capital to inject. Furthermore, the flexibility of the system is grown up since the registered capital can be injected over the life of the FIEs (30 years most of the time).

$$\text{Total investment} = \text{Registered capital} + \text{Debts}$$

Despite the zero-duty limit linked to the minimum registered capital, foreign investors shall considerate as essential that the FIE should have enough Registered Capital to fund his growth in the first 3-5 years of his life. The reason why is that the registered capital of the company becomes a consistent part of its **Working capital** and running out of it can jeopardize company's life.

The previous limit imposed on the **cash contribution capital** (it had to be at least 30% of the registered capital) was removed in 2015.

**Registered capital** refers to the amount of capital that is registered by the relevant government agency. Total investment included both the initial capital injected and the debts.

The upper limit for financing from abroad has been increased from one time company's net assets to two times company's **net assets (paid up capital)**.

2x

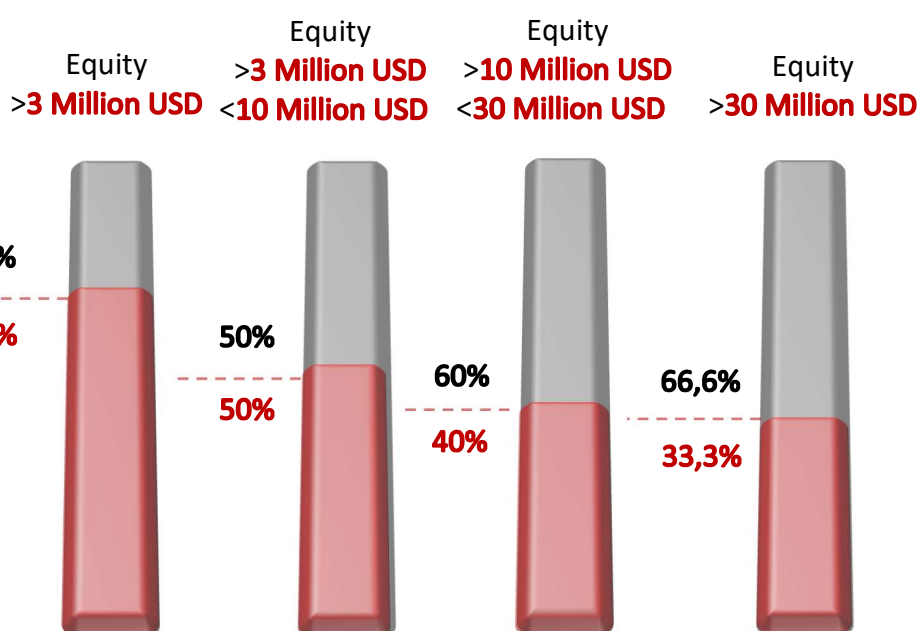
ASSETS

LIABILITIES

If a FIEs injects an insufficient initial capital to cover its operations it may encounter some problem if more capital is required later. Injecting **capital** beyond the registered one could be a complex purpose because of the stringent foreign exchange regulation.

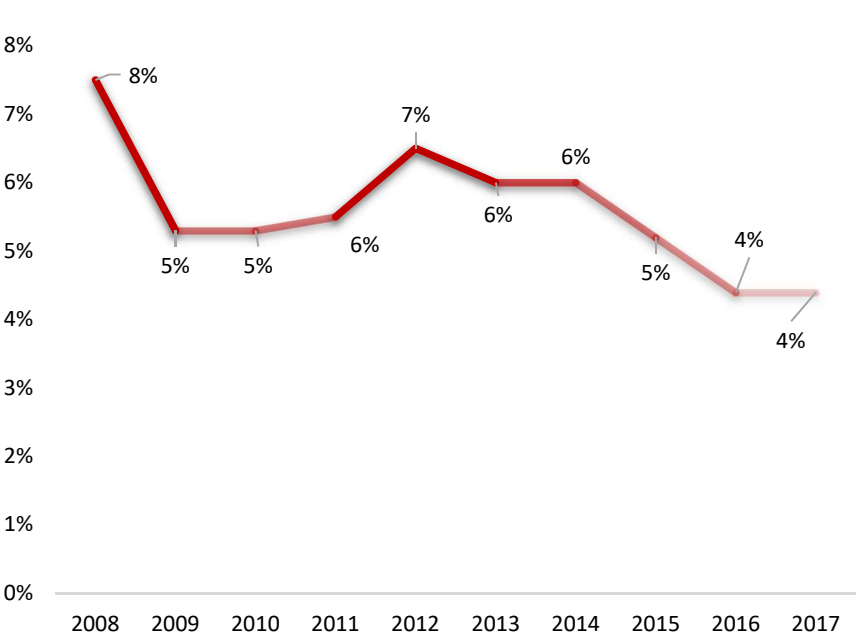
Following the rules promulgated by the SAIC, minimum capital requirements are imposed to Joint Ventures.

The capital to be injected could take the form of cash, machinery, equipment and intangible property. Foreign investor can also use what prior recouped from investments, liquidations etc.



$$\text{Total investment} = \text{Registered capital} + \text{Debts}$$

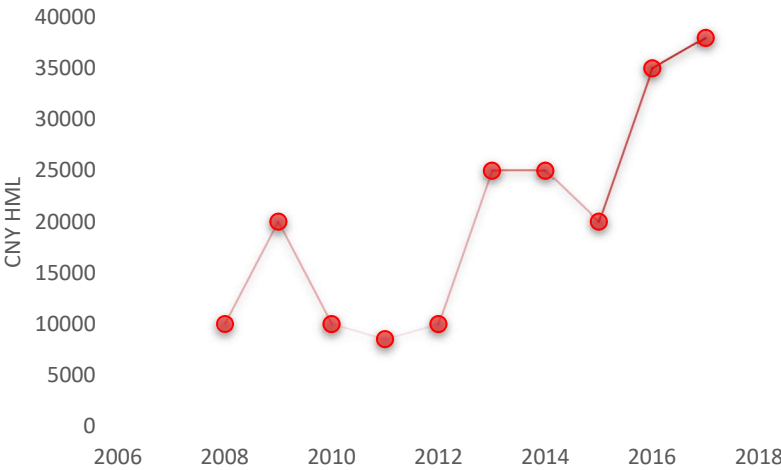
PRIME LENDING BANK RATE



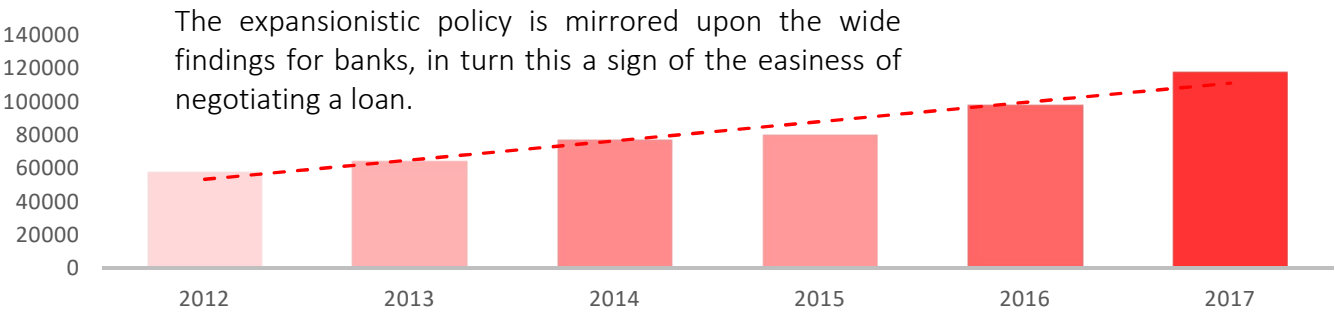
The prime lending bank rate is used as base to compute the interest rate applied to consumers and business. Since 2008 this rate had been characterized by a descendant trend. This data is a clear example of how the borrowing cost for business and consumers has been significantly lowered over the past ten years in China and both 2016 and 2017 rates represent the lowest pike of the series. This factor has a crucial importance because of the needs to use RMB to conduct business inside China.

CHINA TOTAL SOCIAL FINANCING, CHINA LOANS TO BANKS

The amount of loan granted to consumers and business have been substantially increased over the past ten years. These figures are coherent with the progressive greater ease of obtain a loan in China and they are related to the huge improvements achieved on the “ease of doing business” in China. Fundamentally given that is quite hard to work into the Chinese environment just by relying on foreign financing these figures must be taken into consideration as an incentive to invest in the country.



Source: <https://tradingeconomics.com/>



The expansionistic policy is mirrored upon the wide findings for banks, in turn this a sign of the easiness of negotiating a loan.

Source: <https://tradingeconomics.com/>

## THE IMPORTANCE OF INTELLECTUAL PROPERTY

“ Among the necessary steps to be preliminarily taken in order to build a solid business in China, the Intellectual Property Right's protection plays a key role. Despite the common stereotype that China's law favors copycats and intellectual property thieves, the Chinese government over the past three decades has been strengthening the enforcement method against the IPR violation. ”



**VITTORIO FRANZESE**  
IP Lawyer

## A changing scenario

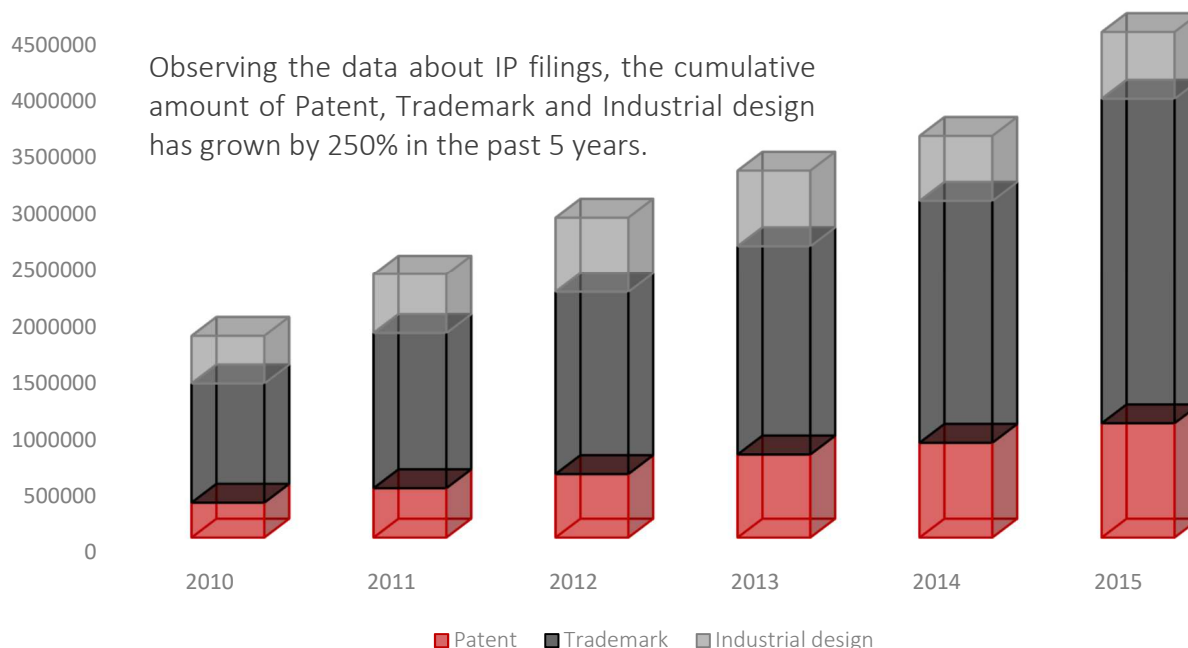
According to the Ministry of Science and Technology, the volume of technical contract's transactions in China has reached 1.1 trillion RMB (about 175 billion U.S. dollars) in 2016, beating the 1 trillion RMB mark for the first time.

Eighty percent of transactions occurred in fields such as electronic information, advanced manufacturing, new energy, environmental protection and bio-medical industries.



## IP filings

Source: <https://data.worldbank.org/>





## LEGAL FRAMEWORK

Following the entry into the World Trade Organization (WTO) in 2001, China has developed a comprehensive system of IP laws that generally match international standards. In addition, China is also party to major international agreements regarding intellectual property rights, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Paris Convention for the Protection of Industrial Property, and the Madrid Protocol concerning the international registration of marks, among others.



Source: <http://en.ndrc.gov.cn/>

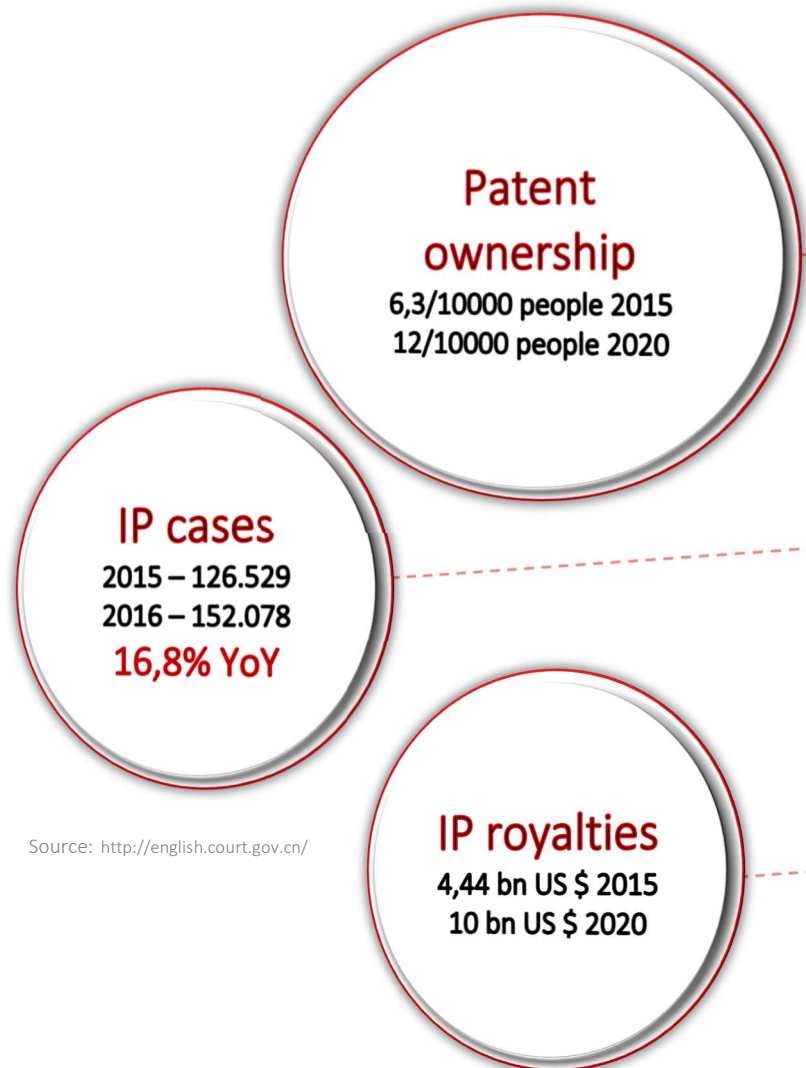
## Key points

Intellectual property creates more value now than ever in China. It also represents a major driving force to the brand-building of Chinese companies. China's invention patent ownership is expected to increase from 6.3 per 10,000 people in 2015 to 12 per 10,000 in 2020, according to the Plan on Intellectual Property included in the 13th Five-Year Plan (2016-2020), made by the State Council.

The value of the royalties earned abroad on the basis of IP rights transferred or licensed in China is expected to rise from 4.44 billion U.S. dollars in 2015 to 10 billion U.S. dollars in 2020.

In 2016, Chinese courts handled 152,072 IPR cases, up 16.8 percent from the previous year. Over 3,700 people were arrested and 7,000 were prosecuted due to IPR violation-related crimes.

Legal channels have been made more accessible, and public awareness has been consistently increased on IPR protection.



Source: <http://english.court.gov.cn/>

Source: <https://data.worldbank.org/>

## Outlook

Overall, through a mix of market incentives and political pressure, China appears to be emerging as a global IP leader. And with senior Chinese leadership continuing to support IP rights at conferences like “Summer Davos,” the cultivation of entrepreneurship and intellectual property in China shows no signs of slowing.

# Remitting money

China applies strict capital controls over companies transferring money out of China, including severe restrictions on how and when

money can leave the country. Business need to be aware of all regulations to not fall into unwanted “cash traps”.

## DIVIDENDS

1°

Companies must prove the following conditions to distribute dividends:

previous losses must be made up for.

If the balance is positive, 10 % of its after-tax profits need to go as statutory reserve, this needs to be done until the reserve reaches 50 % of registered capital.

A company may only issue dividends if it is on schedule with registered capital injections.

2°

A company may only issue dividends after the annual audit, for this purpose must submit a number of documents and reports to various government agencies to show compliance. Business must pay the corporate income tax (CIT), the value-added tax (VAT) and the business tax (BT), if applicable. Without having first paid all outstanding taxes, a dividend issuance will not be approved.

3°

The board of directors or the executive directors of a company are responsible for decisions relating to profits distribution where the shareholders agree.

4°

Business must pay the corporate income tax (CIT), the value-added tax (VAT) and the business tax (BT), if applicable. Without having first paid all outstanding taxes, a dividend issuance will not be approved.

5°

As of 30<sup>th</sup> of June 2015, eligible banks act as intermediates between the company and the SAFE. The investor can simply go to the bank and make the transaction without having to go through SAFE first. After the above steps have been completed, the company can wire the funds abroad.



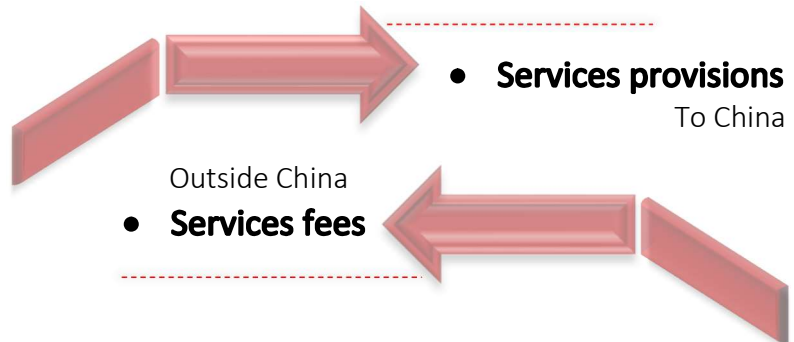
GUO FA N.39

The content of the circular GUO FA (2017) N.39 devotes a paragraph to the theme of the profits remittance. Its content assures the foreign investors about the freedom of remitting profits overseas. Profits, dividends and other returns on investment legally obtained by foreign investors within the territory of China may be freely transferred abroad either in Renminbi or in foreign exchange according to the law.



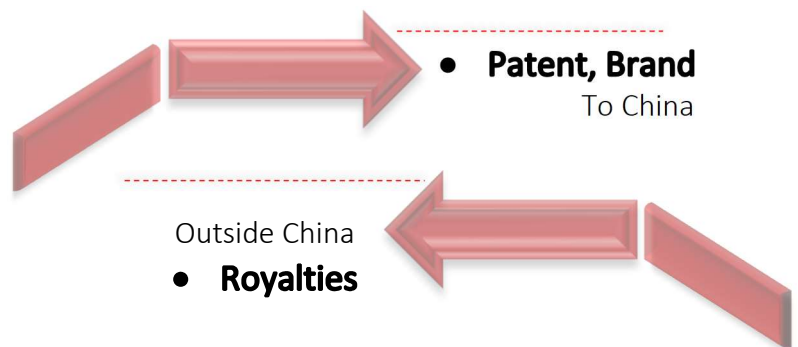
## SERVICE FEES

When an WFOE signs a services agreement with the holding company it can remit funds in the form of service fee. The service fee may be subject to VAT and CIT depending on whether a Permanent Establishment (PE) is constituted or not. Service fees paid to overseas related parties are deductible for CIT purposes providing they are directly related to the WFOE's business operations, and all applicable taxes have been withheld.



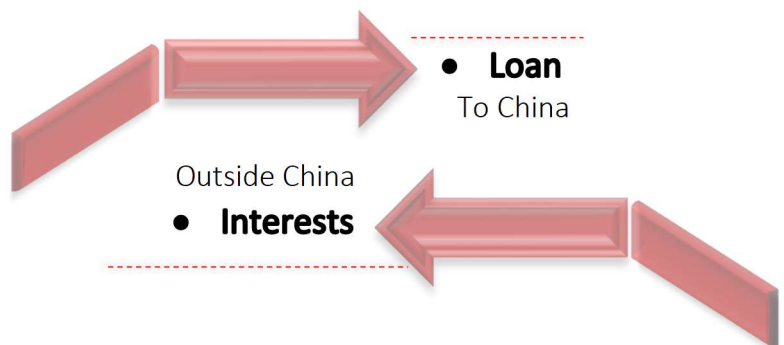
## ROYALTIES

Royalties are related to the use of Intellectual Property (IP) and are subject to a 10% withholding tax and a 6% Value-Added Tax (VAT) as well as UCMT, ES and LES. The remittance process is like remitting service fee but the key difference is that the royalty agreement shall be registered with the Trademark Bureau.



## INTER-COMPANY LOANS

Outbound loans, with an annual interest rate of 24% or less are permitted between non-financial legal entities in China. Inter-company loans have tax implications as well. The Foreign Invested Enterprise (FIE) needs to pay 25% CIT and business tax on the interest income, though the offshore borrower may offset the CIT paid by the lender if the applicable DTA provides for this.





# WHY WE ARE DIFFERENT

## ECLECTIC:

Our international team of more than 35 professionals combines many different cultures, backgrounds, skills and experiences. The Lawyers and Certified Public Accountants at GWA work together and solve complex, multi-disciplinary problems and issues.

## ACCREDITED:

Our Team is often engaged in holding seminars and lectures at Universities, and our lawyers and CPAs are authors of books and articles in Chinese and International publications. Our Firm has won several prizes and awards for excellence in its field, including the prestigious China Award promoted by Italy.

## CUSTOMERS DRIVEN:

We are focused on our clients' wishes and requirements and we support them using a step-by-step approach, providing high level consulting services, which focus on efficiently and effectively reaching solutions.

## RECEPTIVE:

GWA, with the support of its network and alliances worldwide, can provide comprehensive legal and tax solutions to both multinational and Chinese companies in a wide range of cross-border and domestic transactions. We operate in China Mainland from 2004 and we have satellite offices in Hong Kong, in the Middle East in cooperation with Izadi Law Firm, in Switzerland in cooperation with FLD Law Firm, in India in cooperation with Neeraj Bhagat & Co. and also in Singapore, Vietnam, Indonesia, Cambodia, Thailand and some further emerging countries in cooperation with DFDL.

# PARTNERS' STATEMENT



**Giovanni Pisacane**  
Managing Partner



**Daniele Zibetti**  
Partner

**“Our purpose is to drive your business step by step into the Chinese market and provide you our decade expertise to overcome every possible difficulty.”**

Today, investing in China is still a great opportunity. China is the second World largest economy and, despite the country has experienced a rapid and huge economic growth in the past years, we are expecting a lower but more lasting improvement in many sectors related to green economy. Furthermore, the legal environment is always implementing and becoming every day more international letting investors to operate more easily.

Giovanni Pisacane & Daniele Zibetti

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