EXPORTING TO CHINA

A GUIDE FOR CANADIAN BUSINESSES

Canada

EDC
Export Development Canada | Exportation et développement Canada

About the Guide

Exporting to China is intended to help you learn about the Chinese marketplace and how your company can do business there. It concentrates on basic, practical information, but also refers you to dozens of other resources that will help you plan and carry out a Chinese export strategy, starting with your initial readiness assessment and basic market research, and ending with product delivery and payment methods.

A word of caution, however: if your company has never exported before, you probably shouldn't pick China as your first foreign market. The country is far too complex and there are far too many pitfalls for the inexperienced. But if you already have a solid foundation in exporting, a Chinese venture may work out very well for you.

Please note also that Hong Kong and Macau are Special Administrative Regions (SARs) of China, each with its own political system and laws. Except as given in the section on Hong Kong, the information in this Guide pertains only to mainland China and will frequently be inapplicable in the SARs.

Acknowledgements

EDC and the authors would like to acknowledge the assistance provided by the Canada China Business Council in the preparation of this guide, and specifically for permitting the adaptation of certain material that appears on the CCBC web site at www.ccbc.com.

How to Contact EDC

For a listing of EDC offices in Canada and China, please refer to the Appendix.

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A GUIDE FOR CANADIAN BUSINESSES

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China is home to the oldest civilization in the world. It has existed continuously since at least 2800 BC, and under the Tang, Song, Ming and other great ruling dynasties, its people created one of the most brilliant cultures in history. Among their inventions and discoveries are cast iron, the iron plough, the blast furnace, paper, gunpowder, printing, the compass, piped natural gas, astronomical clocks and the seismograph.

CHINA'S BUSINESS ENVIRONMENT

Photo: © John Lund / Getty Images

The Chinese also have a long tradition of producing canny entrepreneurs and resourceful merchants, and now, after an absence of several decades, the country is again doing business on the world stage.

1.1 The economic environment

When China's economic liberalization began in 1978, few could have foreseen the country's eventual transformation into an economic powerhouse. The process has left no sector of the country's economy untouched, and has resulted in sustained and rapid economic growth averaging around 10 per cent annually since 1993.

1.1.1 An accelerating economy

China's economic acceleration has been underway since the early 1990s. A major stimulus to development occurred in 2001, when the country formally joined the World Trade Organization (WTO) and, in consequence, lowered its tariffs and abolished a wide range of trade and market barriers. Since then, not only has its internal economic growth been extraordinarily vigorous, but the country's trade with the rest of the world has exploded. China now imports vast amounts of oil, chemicals, machinery, fertilizers, agri-food, vehicles and raw materials to feed its industries, which include:

- mining (especially coal) and ore processing;
- iron, steel and aluminum production;
- petroleum and electrical power;
- cement, chemicals and fertilizers;
- machinery;
- transportation equipment such as automobiles, railway cars, locomotives, ships and aircraft;
- textiles and apparel;
- consumer products; and
- electronics and telecommunications equipment.

Export Development Canada's direct representation in China

Recognizing the opportunities for Canadian companies to do business in China, Export Development Canada (EDC) has established representatives in Beijing and Shanghai. These representatives work closely with the Canadian Embassy and the Canadian Consulates in China to develop and enhance EDC relationships within the country, to gather current market intelligence and to help Canadian companies make sales into this market. For contact information, please refer to the Appendix.

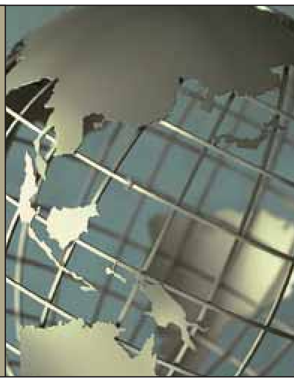


Photo: LWA/Getty Images

Agriculturally, China is also a giant; it's one of the world's largest producers of rice, corn, wheat, soybeans, vegetables, pork, cotton and oilseeds. On the export side, it sends enormous quantities of machinery, electronics, plastics, textiles and garments to countries all over the globe. Moreover, its expansion has shown no signs of slowing down. According to World Bank figures, China's GDP grew by 10.2 per cent in 2005 and 11.1 per cent in 2006, and it was poised to displace Germany as the second largest economy in the world by late 2007.

An additional catalyst for the country's economic growth has been its "Go Global Strategy," which the government began in 2000. The strategy's goal is to turn large Chinese domestic companies into global players, both through investing overseas and through mergers with, and acquisitions of, foreign companies.

1.1.2 Economic prospects

The recent expansion has been almost too rapid for the government's comfort, and in 2006 Chinese authorities took steps to slow investment and reduce inflationary pressures. Interest rates were raised, the reserve ratios required of banks were increased and various other measures were taken to slow growth. These strategies have had some success, but both domestic expansion and export growth have nevertheless remained very strong.

Although the government's response to the apparently overheating economy may have somewhat decreased the growth rate, it's very likely that China's economic momentum will maintain itself over the medium term and perhaps longer. Significantly, there have been no government changes to China's key development strategies of urbanization, industrialization and more open trade and capital flows. This strongly suggests that the authorities don't intend to undermine the country's economic expansion though any drastic actions, and that rapid growth will continue — although the government will continue to keep a close eye on its pace.

1.1.3 Demographics

With a population estimated at more than 1.3 billion in 2007, China has more people than any other nation on earth. Ethnic Chinese (Han Chinese) make up nine-tenths of the population, with most inhabiting the coastal regions and the southeast interior. There are more than 50 other ethnic groups as well, most living in the western part of the country. While more than half of China's people still reside in rural areas, the balance is shifting toward the cities as people migrate there in search of jobs and better economic conditions. According to the Asia-Pacific Economic Cooperation Forum, China's urban population is expected to grow to 750 million by 2020.

One result of the country's economic growth has been a steady improvement in living standards, although many tens of millions of people remain below the international poverty line. The country's average per-capita income is now more than US$1,700 annually, according to figures released by the Chinese government and confirmed by the World Bank. This figure is substantially higher in the rich, urbanized regions along the coast and in the southern part of the country.

Such increased wealth is behind one of the major economic forces in China's domestic development: the rise of a new middle class, loosely defined as households with annual incomes of between 25,000 and 100,000 yuan. While there were only 40 million such households in 2005, there will likely be at least five times that many by 2015.

Average life expectancy is 72 years, and current demographics indicate that by 2025, about 200 million Chinese will be 65 or older. This has substantial implications for the country's leadership because it will affect everything from the size of the workforce to the demand for healthcare.

1.1.4 The investment climate

In 2006, China was the world's third-largest foreign direct investment (FDI) destination, even though Ministry of Commerce statistics indicate that such investment fell about four per cent from its 2005 levels, finishing at US$69.5 billion. Most of this foreign investment was concentrated in China's coastal areas, including Guangdong, Jiangsu, Fujian and Shandong provinces, and Shanghai.

Foreign investment in service sectors lags behind manufacturing, although China is committed to phasing out barriers to service industries. FDI in banking is increasing rapidly as foreign banks obtain more licenses to operate in more cities. New sectors opening to foreign participation include insurance, architecture, engineering, urban planning and telecommunications. At the same time, however, tight regulations continue to restrict FDI in some newly opened service sectors, including education, culture, arts, radio, film and television broadcasting.

A further important development has been the government's stated intention that China will target investment in higher value-added sectors, including high technology R&D, advanced manufacturing, energy efficiency, and modern agriculture and services, rather than basic manufacturing.

According to EDC's Global Export Forecast of Spring 2007, China's economic expansion in the last year has been a result of investment and export growth. Fixed investment in China from 2001 to 2005 averaged 39 per cent of GDP, almost twice that of other emerging markets.

Beginning in mid-2006, in a bid to cool the economy, the authorities took steps to slow investment. Four principal mechanisms were used: raising interest rates; increasing lending and deposit rates; raising the reserve ratios required of banks; and implementing administrative measures to slow specific sectors of the economy that the authorities view as being overheated. Growth of real fixed investment may have cooled as a result, thus removing some inflationary pressures. Export growth, however, remained robust, growing by 27 per cent in 2006.

Although the overall policy-induced tightening may have moderated China's current economic growth, the probability of continued strong growth in the medium term means that the economy's underlying momentum is likely to sustain itself. Moreover, the fact that the authorities are not modifying the three legs of China's development strategy — urbanization, industrialization, and greater openness to trade and capital flows — means that the current measures taken to prevent overheating are selective. Momentum should remain relatively strong during the next 12 to 18 months.

Despite this economic robustness, however, the country's commercial environment can be risky for foreign investors. Potential difficulties include:

- a lack of legal protection for investor rights and intellectual property rights;
- inconsistent application of regulations;
- bureaucratic interference; and
- corruption

The authorities are aware of these difficulties and are attempting to deal with them through legislative and judicial changes such as the property laws promulgated in 2007, new bankruptcy laws and clearer regulations on mergers and acquisitions. Even so, inconsistencies in applying and enforcing these changes will likely continue for some time.

Such problems are aggravated by the way in which regulations and their interpretation can vary arbitrarily from region to region, and from industry to industry. For any given project, for example, various levels of government may be playing the roles of landlord, supplier, customer, or business partner. This means that foreign investors have to be very careful to find out exactly who is responsible for approving, licensing and regulating the projects in which they're involved, and what registrations are necessary to document investors' rights.

Another issue is related to China's Foreign Investment Catalogue, which defines the country's foreign investment objectives; this catalogue is periodically revised, and between revisions is supplemented by various government directives. Unfortunately, revisions to the catalogue sometimes appear to contradict official pronouncements and existing directives. This can make investment planning difficult as it leads to uncertainty as to which industries are being promoted as investment targets, and how long they will remain in that category.

Nevertheless, China presents many attractive opportunities for foreign investors, enhanced by special investment incentives available in the country's Special Economic Zones (SEZs), open coastal cities, open economic zones and other designated areas. These incentives include reduced corporate tax rates, tax holidays and low land-use fees. There are also tax incentives in some priority industries and in some economically depressed areas; note, however, that a new tax regime will come into effect January 1, 2008, which will ultimately equalize corporate taxes for foreign and domestic companies at a unified rate of 25 per cent. To most investors this will mean a higher tax burden as preferential tax treatment is gradually eliminated.

1.1.5 The relationship of politics and business

China has been structured as a socialist, one-party state since 1949. As a result, politics, government and business remain very closely intertwined despite the seismic shift toward private enterprise that has occurred during the past decade. In general, strategic commodities and industries remain state-controlled, while the commercial and private sectors operate in a market-oriented environment.

However, even apparently private companies can have an element of government involvement. Because this can affect how a Chinese business operates, part of your due diligence should be to establish whether your prospective customer or partner is a state enterprise or a private firm — and if the latter, how much government control still exists behind the scenes.

There are three main types of Chinese businesses:

- **Businesses owned by the state**

  These tend to be large, strategically important enterprises, such as communications, transportation, energy, heavy industry and resources. During the past few years, however, segments of these enterprises have been released from tight state control and function as independent firms with autonomous management and full responsibility for their finances. The consequence has been a decline in the number of enterprises that are wholly owned and controlled by the state.

- **Collectives**

  State-owned enterprises are commonly urban-based. Collectives are largely rural and are composed of small business organizations and individuals. Their numbers are declining because of the overall Chinese shift toward private enterprise.

- **Private businesses**

  Most private businesses are small, individually-owned firms operating in the service sector, in light industry and in general commerce. They now make up a large proportion of China's established companies.

1.2 The China-Canada trade relationship

Calculated on a percentage basis, Canadian exports to China have increased sharply during the past four years, making that country our fourth-biggest market; we sold about $7.2 billion worth of goods there in 2006, approximately double our 2002 exports of $3.6 billion. Canadian exporters are especially active in China in information and communications technology, transportation, aerospace and auto parts. We are also beginning to make inroads into other sectors, such as building products and construction materials, environmental equipment and services, agriculture, agri-food, energy, resources, mining and financial services.

In terms of market share, though, we're lagging. The growth rate of our exports to China is less than that of any other major trading nation and, according to recent figures, about 17 countries export more goods and services to China than we do. As of mid-2007, moreover, several countries had either completed or were negotiating free trade agreements with China. Canada is not currently pursuing such an agreement, but is instead working toward a Foreign Investment Protection Agreement (FIPA) with Beijing.

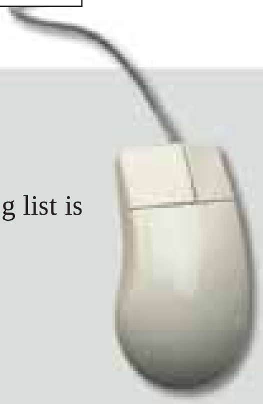


Photo: TRBfoto/Getty Images

1.3 Researching China

There are many sources of export-related information about China; the following list is far from exhaustive, but it will help you begin your market research.

1.3.1 China-specific resources for exporters

1

- The **Canada China Business Council** (CCBC) is a private, membership-based association that seeks to facilitate and to promote trade and investment between Canada and China. Its members represent many sectors of the Canadian economy, including financial services, legal services, information and communications technology, education, manufacturing, construction, transportation, mining and energy. It's at **www.ccbc.com**.
- **China.org.cn** is China's main government web site and presents the official view of everything from sports to business. You'll find it at **www.china.org.cn**.
- The **Hong Kong-Canada Business Association**, at **www.hkcba.com**, focuses on helping Canadian companies do business between Hong Kong and Canada, and through Hong Kong into China and Southeast Asia.
- The **Hong Kong Trade Development Council** is a good source of information for trade events, market intelligence, sourcing and small business resources. Its web site is at **www.tdctrade.com**.
- **BizChina** is a major source of official information about China's industry, agriculture, finance, trade and economic affairs in general. Operated by the Ministry of Commerce of the People's Republic of China (MOFCOM) it can be found at **www.chinadaily.com.cn/bizchina**
- MOFCOM also operates the **Doing Business with China** web site, at **http://english.mofcom.gov.cn/column/aroundchina.shtml**; it provides information about trade organizations, procedures for setting up a business presence, contact information and links to information about China's provinces and major cities.
- The **Asia Pacific Foundation of Canada** maintains a web site that includes news and information about China and the rest of the Asia-Pacific region. It's at **www.asiapacific.ca**.
- The ***CIA World Factbook*** has a useful chapter on China; see **www.cia.gov/cia/publications/factbook**
- ***Doing Business in China***, published by Ernst & Young, is a general tax, investment and business guide and is available online at **www.ey.com/global/content.nsf/International/Tax_-_Doing_Business_in_China**.
- The **Canadian Trade Commissioner Service** has a range of useful resources for China, located at **www.infoexport.gc.ca**

1.3.2 General resources for exporters

- **Export Development Canada (EDC)**, at **www.edc.ca**, is a Crown corporation that provides financial services and global market expertise to Canadian exporters. It's an invaluable resource for companies involved in foreign trade.

  EDC also offers a variety of online learning courses geared to the needs of small exporters. Find out more at **www.edc.ca/elearning**
- The **Department of Foreign Affairs and International Trade (DFAIT)** provides information about foreign affairs, foreign policy, travel information, the Canadian economy and international trade at **www.international.gc.ca**.
- **Canada Business** is one of the first places you should go for general export information. It's a collaborative network of federal (and in some cases provincial) government services that help Canadian entrepreneurs and exporters build their companies. It's at **www.canadabusiness.gc.ca**.
- ***Canada's International Market Access Priorities***, available at **www.international.gc.ca/tna-nac/cimap-en.asp**, describes the federal government's priorities for improving Canadian access to foreign markets.
- **CanadExport**, at **canadexport.gc.ca**, is a free, online magazine published by DFAIT (see above). It provides news about trade opportunities, export programs, trade fairs, business missions and more.
- For information about goods that require Canadian government export permits before they can be exported to China, refer to DFAIT's **Export and Import Controls** web site at **www.international.gc.ca/eicb**.
- **Industry Canada** is an excellent source of information, offering market reports as well as the Trade Data Online research tool. Refer to **www.strategis.gc.ca**.
- **Exportsource.ca** is one of Canada's most comprehensive online sources of export related information and resources. Visit **www.exportsource.ca** or call 1-888-811-1119 to find out more.
- **The U.S. Commercial Service**, at **www.trade.gov/cs**, has a range of useful research tools, including market reports and commercial guides related to world markets.

2

For a small- or medium-sized company, starting to do business in China can be a substantial undertaking. A successful venture will take time, financial commitment and human resources, and the costs of travel, research and marketing may be high. Nevertheless, many smaller firms have done well in China, and have found that they can sell to Chinese customers just as effectively as large companies.

ENTERING CHINA'S MARKETS

Photo: © Xiaoyang Liu/Corbis

However, if your business is completely new to exporting, you probably shouldn't pick China for your first foreign venture; the market is far too complex and there are far too many pitfalls for the inexperienced. But if you already have a solid foundation in exporting, a Chinese venture may work out very well for you.

2.1 China's many markets

China has about 50 distinguishable markets, but most of Canada's exporters to the country have concentrated on the geographical regions described in this section.

2.1.1 The Beijing-Tianjin corridor

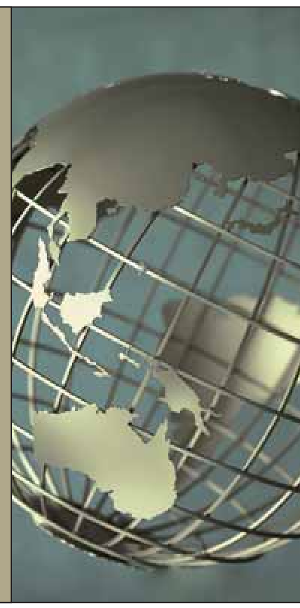
The adjacent cities of Beijing and Tianjin, and the corridor between them, are at the core of economic development in north-central China. Beijing's dense population and vigorous economy have made it into one of the country's major industrial complexes, with iron, steel, coal, machinery, chemicals, petroleum, textiles and electronics as its mainstays. Beijing is also a centre of culture, education, science and technology, and is home to 30 universities and more than 40 scientific research institutions.

Tianjin, being an export-processing centre for a wide range of products, has become an important part of the region's manufacturing base. Its major industries include automobiles, electronics, petrochemicals, metallurgy, medicine, building materials, plastic products, consumer goods and food. It is also a major transportation hub, lying as it does at the intersection of two main railway lines and possessing a seaport with the biggest container dock in China.

China and the new exporter

In some cases, China can be a suitable foreign market even for a company with no export experience. This may be the case if the company's product or service is uniquely suited to China, or if the company's management is familiar with the country through family ties or for other reasons. If this applies to your business, you might begin by consulting some guides that will introduce you to the basic mechanisms of exporting. Two useful ones are:

- The **Step-by-Step Guide to Exporting**, which you can obtain through the Export Source web site at **www.exportsource.ca,** select 'Export Guides and Tools.'
- Also available within the 'Export Guides and Tools' page is the Roadmap to Exporting, which provides a wealth of information to get you started. Many other general resources are available through the Export Source web site or call 1-888-811-1119.



2.1.2 Shanghai and the Yangtze River Delta

The Yangtze River Delta, which covers the Shanghai municipality and parts of the provinces of Jiangsu and Zhejiang, is a highly urbanized region with several major cities including Suzhou, Wuxi, Changzhou, Hangzhou and Ningbo. It has less than 1 per cent of China's land and 5.8 per cent of its population, but according to official 2005 statistics, it accounts for about 20 per cent of the country's GDP, 22 per cent of its tax revenues and 35 per cent of its imports and exports. Because of its huge industrial and manufacturing base, the region's companies need a wide range of natural resources and commodities such as wheat, pulp and paper, sulphur, iron ore, copper, nickel and potash.

The economic giant of the region is the municipality of Shanghai, which is now a leading financial and commercial centre. It's also an industrial hub, producing iron, steel, copper, lead, zinc, petrochemicals, fibres, pharmaceuticals, automobiles and electrical machinery. The municipality includes the Pudong Special Economic Zone, which in turn contains the Lujiazui Finance and Trade Zone; the latter is intended to become China's new financial hub and is already home to the country's biggest stock market.

2.1.3 The Pearl River Delta

The Pearl River Delta consists of the nine prefectures of the province of Guangdong, plus Macau and Hong Kong (treated separately below). The region has extensive mineral resources that include tungsten, tin, molybdenum and copper. It is also one of China's chief industrial areas, producing sugar, garments, leather, paper, stationery, pharmaceuticals, plastics, cement, consumer electronics, electrical machinery and communications equipment. Agri-food output includes meat, jute and tropical crops.

The region is well provided with seaports, airports and railway infrastructure, and is home to the Guangzhou Economic and Technological Development Zone (GETDZ), the Shenzhen SEZ, the Zhuhai SEZ and the Shantou SEZ.

2.1.4 Hong Kong

When approaching the Hong Kong market, keep in mind that its business environment is not that of mainland China. Hong Kong is a Special Administrative Region, and for historical reasons has its own political system, laws and money. This section pertains to Hong Kong, but note that the information given in the rest of this Guide is specific to mainland China and frequently will not apply to Hong Kong.

Hong Kong has always been something of a special case. Before China began to liberalize its trade policies, Hong Kong was the preferred launching pad for Canadian exporters wanting to enter the Chinese market. As liberalization has progressed and China has become more open, however, it has made more sense for many companies to go directly into China. As well, potential Chinese partners and customers sometimes see companies that access China via Hong Kong as lacking serious commitment to doing business in the country; this impression may be incorrect, but it can nevertheless influence how a Canadian exporter's interest in China is perceived.

Because foreign companies have been drawn away from Hong Kong, however, the authorities there are working hard to bring them back; as a result, the commercial environment has become even friendlier towards foreign businesses. Hong Kong, therefore, may offer significant advantages for small- and medium-sized Canadian exporters, including the following:

- **Foreign investment**

  Hong Kong welcomes foreign investment. It's committed to free markets, doesn't restrict inward or outward investment, has no foreign exchange controls and lacks restrictions on corporate or sectoral ownership. While it offers no special incentives to foreign companies, neither does it impose disincentives such as quotas, performance requirements, bonds or deposits.

  Hong Kong respects property rights and maintains a strong rule of law, which is applied consistently and without discrimination; moreover, the law does not distinguish between investments made by foreign-controlled companies and those made by local businesses. Hong Kong is also a member of the World Trade Organization in its own right.

- **Taxes, finance and infrastructure**

  Hong Kong levies almost no duties or tariffs on imports, the tax regime is simple and corporate taxes are low at 17.5 per cent. Hong Kong is an excellent source of financial and management services related to China; its banking facilities are excellent, it's a major source of equity funds for Chinese projects and is a major investor in every province of China. Its infrastructure is world class and it can provide excellent transportation, logistics and other services for Canadian exporters doing business there and on the mainland.

- **Establishing a local presence**

  To set up in Hong Kong, you'll need a local presence such as a branch office, agent or distributor. The business culture in Hong Kong is based on personal relationships, and these will develop only if you have people working on the ground.

  It's easier to establish a presence in Hong Kong than in mainland China. You can freely incorporate your business, register branches or set up representative offices, and there are no restrictions on the ownership of such entities. Your company directors don't need to be citizens of Hong Kong or even live there, and reporting requirements are straightforward. There is no distinction in law or practice between investment by foreign-controlled companies and those controlled by local interests.

  Using agents and distributors is a good strategy for getting started in Hong Kong, which has a wide range of companies that will be happy to work with Canadian firms. Hong Kong has no special legislation on agents and distributors, so contracts can be structured in any way that's agreeable to both parties.

  Franchising has become more common in Hong Kong during the past 10 years because of the region's relaxed legal framework and high per-capita income. There is no specific legislation governing franchised operations, nor are there anti-trust laws or laws that govern foreign equity participation and local equity participation.

  Joint ventures or strategic alliances can also be very helpful in entering the market and are particularly important if you intend to compete for a major project.

- **Selling to the government**

  When you're looking for opportunities in Hong Kong, don't overlook the possibilities of procurement through the Government Logistics Department (GLD), which is the government's central purchasing and supply organization. The GLD purchases by open tender and evaluates bids according to tender specifications, competitiveness in price, backup services and delivery. The GLD gives no preference to any particular source of supply from any country or organization.

- **Hong Kong as a market**

  Finally, Hong Kong is a significant market in itself. Among other goods and services, its companies and consumers purchase computer peripherals, plastics and resins, electronic components, drugs and pharmaceuticals, environmental technologies, mass transit equipment, architectural services, automotive parts, safety and security equipment, green building materials, and cosmetics and toiletries.

2.1.5 Southwest China

This region, comprising the provinces of Sichuan, Yunnan and Guizhou, is another large potential market for Canadian exporters.

- Sichuan is agriculturally important, being one of China's primary producers of rice, wheat, oilseed crops, meat and fruit. Its major industries produce coal, metals, petroleum, machinery, electric power, chemicals, electronics and textiles. Feeding into these industries are extensive deposits of minerals and natural gas. The capital, Chengdu, is the gateway to the rest of Western China and is becoming a major investment destination for multinationals.
- Yunnan, like Sichuan, possesses major mineral resources. It's also an important agricultural region, producing rice, tobacco, sugar cane, tea and tropical crops.
- The area around Guiyang, the provincial capital of Guizhou, is a centre for coal, metallurgy, chemicals, machinery, electrical power, textiles and papermaking. The province also produces rice, corn, tobacco and raw lacquer.

2.1.6 Special Economic Zones

China has several Special Economic Zones (SEZs) located in the cities of Shanghai, Shenzhen, Shantou, Zhuhai and Xiamen; the entire province of Hainan is also a SEZ. These, together with scores of development zones and designated cities, offer incentives to foreign investors that include reduced tax rates, tax holidays, lower tariffs and low land-use fees. However, when the new tax regime starts to take effect in 2008 (**see Section 6.2.2, "Changes in corporate taxes"**), the tax incentives offered in these zones may decline.

2.2 Preparing your market entry

Several basic strategies will help you prepare for the Chinese market. The following are some of the most important.[1]

2.2.1 Understand China's business environment

- Your credibility with potential customers will depend on your grasp of local market realities, so do everything you can to understand them before you go to China. China is regionally diverse, so it's not enough to know broad generalities about the country; you must be acquainted with the particular region in which you're interested.
- Be aware of the government's economic and social priorities at the national and regional levels, and of the regulatory environment as it pertains to your sector. Since China's accession to the WTO, government officials have had a lesser role in determining the business scope for foreign companies, but it's still important to develop a good understanding of local and national policy trends.
- Establish a range of contacts relevant to your market segment. These might include potential customers and suppliers, local government officials, Chinese competitors, western firms, industry experts, industry association officials, regulatory officials and Chinese consultants.
- Investigate and understand the strategy, strengths and weaknesses of your major Chinese and foreign competitors, and be sure you understand the potential competitive advantage that your product or service may have in China.
- Be aware that Chinese firms are tightly focused on price and value, and if you show a similar concern with the price-value relationship, they will be more receptive to your approaches.
- Identify the risks your proposed business will face in China and develop ways to mitigate them. For information about these risks, refer to **Section 7.6, "Risk management."**
- Don't overlook the possibilities of entry via Hong Kong. For reasons why this might be your best strategy, refer to **Section 2.1.4, "Hong Kong."**

[1] *The information in this section has been adapted, with permission, from material provided by the China Canada Business Council.*

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2.2.2 Use experienced, high-level negotiators

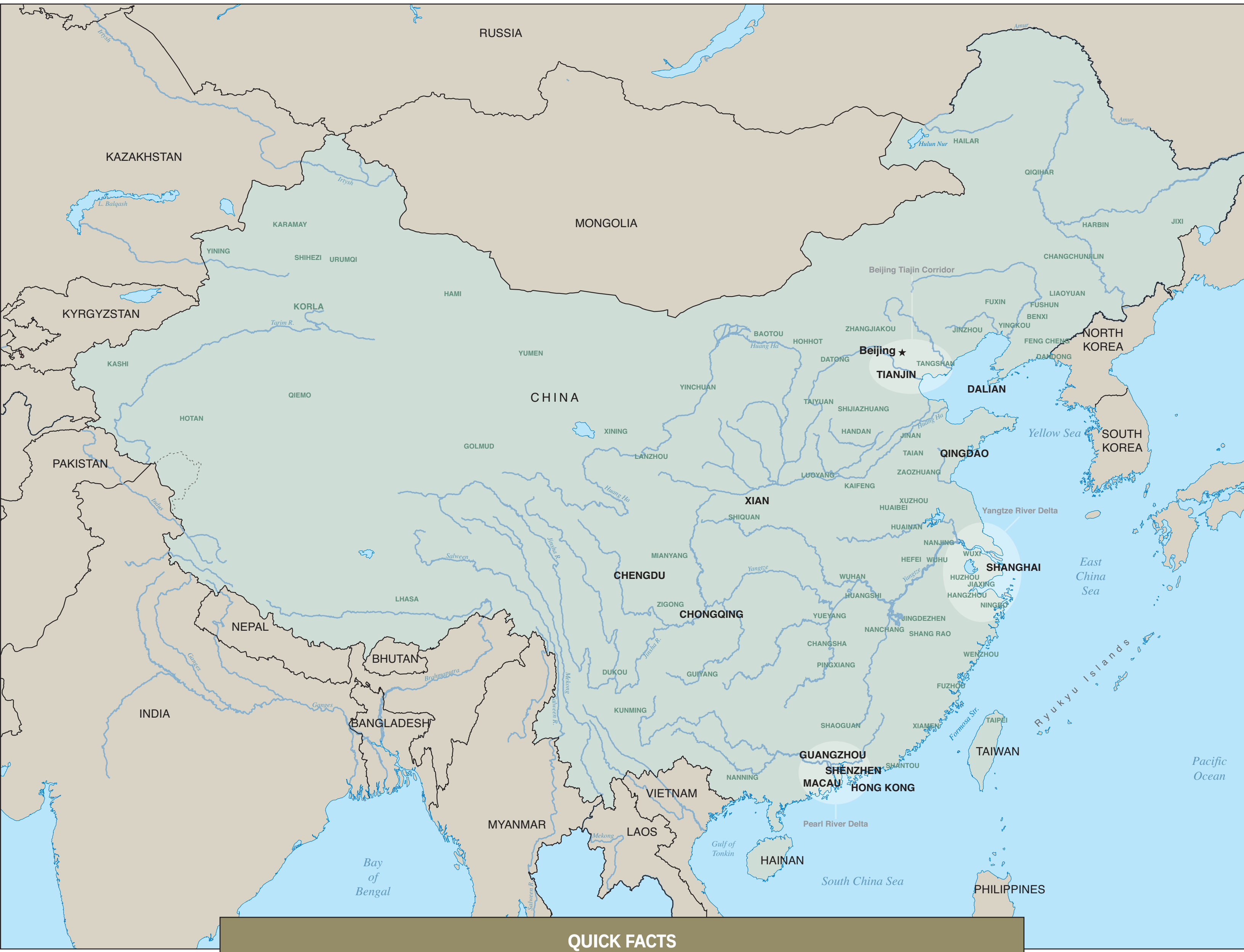
- You'll need staff with cross-cultural experience who can quickly learn how Chinese business people negotiate.
- Negotiations can be lengthy, and potential Chinese buyers or partners much prefer to deal with senior management. You may lose a great deal of credibility if you negotiate through a lower-level employee who has to refer all decisions to your head office; at worst, the Chinese may decide you're not serious about doing business with them, and will decline further contact.
- For a smaller Canadian company, this emphasis on high-level negotiations may mean that the CEO will have to be extensively involved.

2.2.3 Ensure adequate financial and human resources

- Gaining an adequate share of the large and complex Chinese market can require substantial, up-front investment. Be sure before going in that you can raise the capital resources you'll need. For information on financing options, refer to **Section 6.3, "Financing your exports."**
- Even if your business is ultimately successful, you may have to plan to operate at a loss for two or three years before your Chinese business begins to turn a profit, so your company will need the financial capacity to sustain operations during this period.
- Be sure the relevant people in your firm are prepared to make trips to China as frequently as necessary to provide training, service, marketing and sales support. Be sure you have enough resources to do this.

2.2.4 Establish a solid customer service infrastructure

- Make sure you have the people and the communications capacity to service your Chinese market. Also, don't become overly dependent on a single employee in either China or Canada; be sure you have properly trained backup who can communicate effectively with your customers.
- Some communications needs can't be adequately met with email or on paper — only talking will do. Consequently, you'll need Chinese-speaking staff who can work with your Chinese customers, partners and suppliers.
- Potential Chinese customers will usually be concerned about doing business with a supplier on the other side of the world. Be sure you have credible answers for these concerns, and that your people know how to communicate them.



QUICK FACTS

Population: 1.322 billion (2007)

Official language: Mandarin with many dialects throughout the country.

Main imports: machinery and equipment, oil and mineral fuels, plastics, medical equipment, organic chemicals, iron and steel.

Canadian exports: pulp and paper, industrial chemicals, auto parts, electrical machinery, agrifood.

Largest import partners: Japan 14.6%, South Korea 11.3%, Taiwan 10.9%, US 7.5%, Germany 4.6% (2006)

Climate: extremely diverse; tropical in south to sub-arctic in north.

Currency: Chinese yuan (CNY) note: also referred to as the Renminbi (RMB)

Time difference: +13 hours (eastern standard time)/ +12 hours (daylight savings time)

Business hours: Monday to Friday, 8:30 a.m. to 5:30 p.m. (with an hour for lunch).

Government office hours: Mondays to Fridays: 8:30 a.m. to 5:00 p.m.

3

There are several ways to set up a business presence in China. No matter which approach you choose, however, you'll need legal assistance to carry it out. For information about law firms operating in China, refer to the Canadian Trade Commissioner Service web site at www.infoexport.gc.ca.

ESTABLISHING YOUR PRESENCE IN CHINA

Photo: © Jacobs Stock Photography/Getty Images

For a good general resource that describes the range of Chinese business entities in detail, you can consult the Ernst & Young publication *Doing Business in China*, available online at **www.ey.com/global/content.nsf/International/Tax_-_Doing_Business_in_China**.

3.1 Canadian direct investment in China

For Canadian companies, the most common forms of direct investment in China are wholly foreign-owned enterprises (WFOEs) and joint ventures (JVs). Using either means, you can set up a business presence in China that will allow you to sell into the domestic Chinese market, to export goods from China to other countries, or both.

3.1.1 Wholly foreign-owned enterprises

Wholly foreign-owned enterprises have become the preferred way for companies to set up a permanent presence in China. A WFOE is not considered to be a branch or subsidiary of the foreign company that established it, but rather a Chinese limited-liability company that is wholly owned by a foreign investor. The major advantage of a WFOE is that you have complete control over the company, its strategies and its profits, and no Chinese partner is involved. The drawback is that you don’t have a Chinese partner to furnish the local knowledge that can contribute to your venture’s success.

The procedure for getting your WFOE approved and set up can vary across China, so be aware that the following is a considerably simplified overview of how it works.

Preparing to apply

1. Be sure you can comply with the minimum registered capital requirements for setting up your WFOE. The revised Company Law that came into effect in 2006 sets the minimum registered capital requirements for a limited liability company to RMB30,000, and for a company limited by shares to RMB500,000. At least 30 per cent of a company's registered capital must be in the form of cash contributions. You can pay these in instalments, provided the first instalment is at least 20 per cent of the registered capital and provided you contribute the balance within two years after incorporation.

2. Next, reserve your new WFOE’s name through the local Administrative Bureau for Industry and Commerce (SAIC). You’ll have to propose both a preferred name and two alternatives.

Project approval

1. Prepare a project proposal and all necessary supporting documents, such as feasibility studies and articles of association. The proposal must be a thorough description of your intentions for your WFOE, including the scope of its business, its intended products or services, its financing, its personnel, the equipment and technology it will use, and its requirements for land and public utilities.

Be sure that your proposal completely defines what your WFOE is going to do in China, not only at start-up but also in the longer term. You'll encounter problems later on if you define your business scope too narrowly and you later want to change it, for example by moving into a related business, selling to other companies or exporting your goods out of China. These new operations may be prohibited by SAIC if they're not included in the original project proposal, and you'll likely have to set up a whole new WFOE if you want to implement them.

2. When you've completed the proposal, submit it to the approval authority in the region where you intend to operate.

3. When the authorities have approved the project — they're required to issue a decision within 90 days — you can proceed to the next stage, the registration for the business licence.

Business licence registration

1. Within 30 days of receiving approval for your project, you have to apply for a business licence from the local SAIC office. You'll have to submit documentation to SAIC that is similar to the paperwork you provided in the project approval phase.

2. SAIC will issue your licence in 30 days or less. Make sure the licence accurately reflects the scope of your project proposal and that it will allow you to operate as planned in both the short and long terms.

3. Once you have the licence, your WFOE is deemed to exist under Chinese law and can operate in China within the scope of your licence.

Registration with foreign exchange control and other authorities

1. If you haven't already done so, you must apply for foreign exchange registration with the State Administration of Foreign Exchange (SAFE) within 30 days of receiving your licence.

2. Assuming you meet all financing requirements, you'll be issued a Foreign Exchange Registration Certificate, which allows you to open bank accounts with banks that are allowed to deal in foreign exchange. You'll need accounts denominated in both RMB and foreign currency.

3. Finally, register as required with other government authorities such as the tax bureau and China Customs.

3.1.2 Joint ventures

In a joint venture (JV), you and a Chinese partner carry out manufacturing and sales operations together. There are two main types of JV's: Equity Joint Ventures (EJVs) and Cooperative Joint Ventures (CJVs).

Note that the registration and approval procedures for both of these entities are very similar to those for WFOEs, as described in the previous section.

Equity Joint Ventures

An equity joint venture (EJV) is a limited-liability firm set up by your company and a Chinese company. It is legally separate from both your firm and your partner's. You and your partner share the EJV's profits and losses according to your respective contributions to the EJV's registered capital.

The minimum required participation from you as the foreign partner will be 25 per cent of the total registered capital, but there is no upper limit on your participation. Capital contributions may be made in one lump sum or in instalments, and can be in the form of cash or, in some cases, as tangible or intangible assets such as equipment or intellectual property. Note that you have to pay your contribution according to a timetable set out in the contract; if you don't, your business licence may be revoked.

Cooperative Joint Ventures

A cooperative joint venture (CJV) is usually an arrangement wherein you and a Chinese partner agree to carry out a project with a specific objective and a limited timeframe, such as building an office complex. If desired, you and your partner can operate as separate legal entities and bear any liabilities independently. CJVs can be preferable to EJVs because they provide greater flexibility in capital contributions, profit sharing and investment strategies.

You must contribute capital to the venture in a ratio agreed on by you and your partner, although there is no minimum contribution required. It may be in cash or in the form of tangible or intangible assets, similar to the practice with EJVs. Profits in a CJV are divided according to the terms of the contract rather than by investment share, allowing for more flexible scheduling of returns on investment.

Be aware that joint venture companies with a foreign ownership not exceeding 25 per cent must follow China's foreign debt regulations as applied to Chinese domestic companies. This may significantly impede the joint venture's ability to borrow funds from outside China.

3.2 Chinese holding companies

A WFOE or an EJV can be a vehicle for establishing a Chinese holding company (CHC). As of the MOFCOM rule amendments of 2006, the total assets of the foreign investor must be at least US$400 million, and the minimum registered capital of the CHC must be at least US$30 million. The US$30 million must be forthcoming within two years of incorporation.

You can make your capital contributions in convertible foreign currencies or in RMB. The RMB contribution should derive from your Chinese operation's profits, or from proceeds obtained through activities such as share transfer or liquidation. The RMB contribution must be verified by SAFE and must have proof of tax clearance.

The foreign debt of foreign-invested holding companies is limited by the following:

- If the company's registered capital is at least US$30 million but is less than US$100 million, the total amount of foreign debt (the sum of short-term foreign debt plus cumulative mid- and long-term foreign debt) cannot be greater than four times the company's registered capital.
- If the company's registered capital is at least US$100 million, the total amount of foreign debt (the sum of short-term foreign debt plus cumulative mid- and long-term foreign debt) cannot be greater than six times the company's registered capital.

3.3 Representative offices

If you only need a minimal Chinese presence — for example, if you're a service company and you merely need liaison between your new Chinese operation and your head office in Canada — you could set up a representative office (RO). An RO gets you into China without much investment; on the other hand, the RO can't engage in any business operations except client relations, market research and product promotion.

3.4 Subcontracting

You can subcontract to a Chinese manufacturer to produce your products in China, thus making it unnecessary to set up a plant there yourself. Note that the subcontractor must be licensed to export the product; if this isn't the case, you'll need the services of a Chinese export-import company as well.

Alternatively, you can engage an intermediary company who will find a subcontractor for you, help you negotiate the contract, ensure quality control and arrange payments. But no matter which alternative you select, be sure to carry out your due diligence. Engaging an intermediary who turns out to have a bad human-rights record, for example, or uses substandard or fraudulent manufacturing inputs, can do your company considerable damage.

3.5 Outsourcing

Outsourcing from China can be a very useful strategy for a Canadian company. By obtaining raw materials, components, subsystems or other goods or services from Chinese suppliers, and using these to manufacture your finished product in Canada, you can strengthen your competitiveness both at home and abroad.

When choosing suppliers, due diligence is again the watchword. Look for Chinese companies that not only offer advantageous terms and pricing, but also have a solid financial history, adequate production capacity, experience with Canadian buyers and a good reputation for customer and after-market service. You'll also need to visit your outsourcer from time to time to monitor product quality and to continue building the business relationship.

3.6 Agents and distributors

The Chinese market is so complex that you will almost certainly need the help of a domestic agent. Your best option may be a Chinese trading company, which will have the local knowledge and contacts to promote your products and services, and can help you deal with institutional, language and cultural barriers. The larger firms are authorized by MOFCOM to deal in a wide variety of goods, but China's size means that no single trading company will have the capacity to represent you throughout the country. If you're starting out in a single regional market, of course, this won't present any immediate problems.

Unfortunately, there is no registry in English of MOFCOM-authorized distributors and agents, but Canada-China and Canada-Hong Kong business councils and associations may be able to help you find suitable candidates. You can also contact the Canadian consulate in the region where you'll be doing business, and ask the trade commissioner team for information about reputable firms.

3.7 Advantages of Special Economic Zones

When you're deciding where in China to establish your business presence, be sure to consider the potential of the country's various types of economic zones. These include the Special Economic Zones (SEZ's) of Shenzhen, Shantou, Zhuhai, Xiamen and Hainan; 14 coastal cities; various free ports; hundreds of development zones; bonded zones; national science parks; and many designated inland cities. China is also promoting economic development outside its wealthy coastal areas by encouraging foreign investors to establish operations in Central, Western and Northeast China, which have shared less in the country's increasing wealth.

At present, these zones give preference to government-designated sectors including transportation, communications, energy, metallurgy, construction materials, machinery, chemicals, pharmaceuticals, medical equipment, environmental protection, energy conservation and electronics. All of them offer exporters and investors a range of incentives that vary from industry to industry and place to place. These incentives are numerous and may include:

- reduced import/export duties;
- reduced land use fees;
- priority for obtaining infrastructure services;
- streamlined government approvals;
- funding support for start-ups; and
- reduced corporate taxes (note, however, that a new tax regime comes into effect in 2008, which will ultimately equalize corporate taxes for foreign and domestic companies at a unified rate of 25 per cent).

4

If you're going to export to China, you'll definitely be spending time there. The following sections examine the essentials of travelling to the country and making the most of your visit.

For up-to-date information about travel to China, including health and security issues, you can refer to Canada's Consular Affairs web site at www.voyage.gc.ca.

GOING TO CHINA

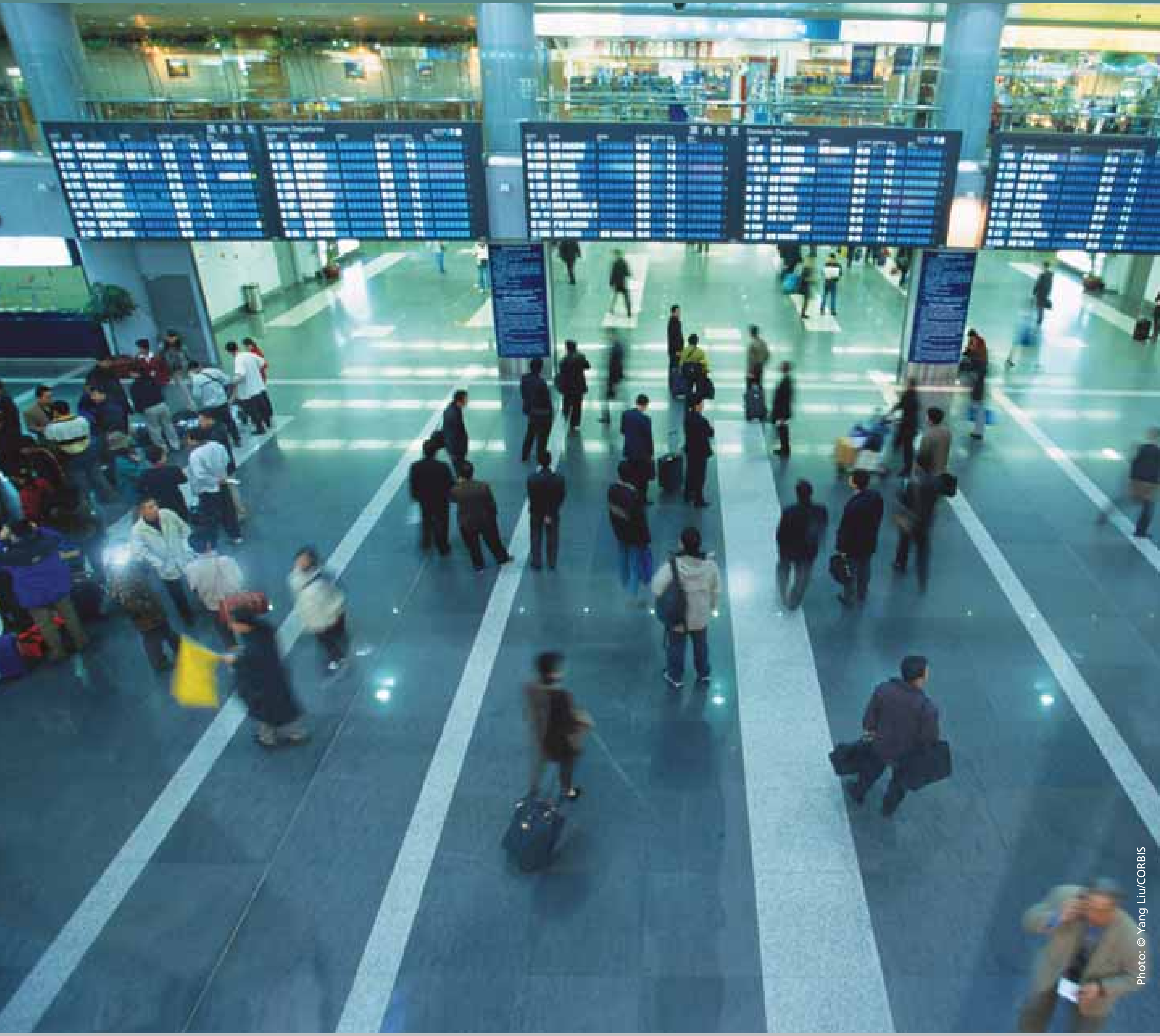


Photo: © Yang Liu/CORBIS

4.1 Entering the country

To enter China, you'll need a Canadian passport that will be valid for at least six months. You must also obtain a Chinese business visa, called an "F" visa. These come in three types: single entry, double entry and multiple entry (valid for 24 months). To obtain an "F" visa, your application must include an official invitation letter from an authorized Chinese government department, company or institution.

Visas to China are normally issued for a single entry into the country. However, if you expect to travel to Hong Kong after you have entered China, and then return to the mainland, be sure to obtain a double-entry visa. Canadians travelling to Hong Kong directly from Canada do not need a visa if staying there for less than three months. You can obtain visa applications from the following Chinese embassy and consular offices:

Embassy of the People's Republic of China
515 St. Patrick Street
Ottawa ON
K1N 5H3
Tel.: 613-789-3434
Fax: 613-789-1911
www.chinaembassycanada.org/eng

Consulate-General of the People's Republic of China in Toronto
240 St. George Street
Toronto ON
M5R 2P4
Tel.: 416-964-7260
Fax: 416-324-6468
Consular Service District: Ontario and Manitoba

Consulate-General of the People's Republic of China in Vancouver:
1338 West Broadway
Suite 288
Vancouver BC
V6H 1H2
Tel.: 604-734-0704
Fax: 604-734-0311
Consular Service District: British Columbia and the Yukon

Consulate-General of the People's Republic of China in Calgary
Suite 100, 1011-6th Ave. S. W.
Calgary AB
T2P 0W1
Tel.: 403-264-3322
Fax: 403-264-6656
Consular Service District: Alberta, Saskatchewan, Northwest Territories and Nunavut.

4

4.2 China: The basics

No amount of reading or research can adequately prepare a visitor for the experience of China, but some of the basic information is simple enough. Here are a few things you'll need to know.

4.2.1 Climate

China's climate is extremely diverse. Beijing, in the northerly part of the country, has the four seasons familiar to Canadians; winter temperatures drop to about -4.6°C, while summer temperatures reach an average high of about 26°C. In Harbin, farther north than Beijing, winter lows are around -25°C and summer highs are in the region of 28°C.

Hong Kong, by contrast, is subtropical, with February lows down to 10°C and August highs of 31°C, accompanied by high humidity. Temperatures in Chongqing, one of the major inland cities of southwest China, range from about 6°C in January to 34°C in August. In Shanghai, January lows are around freezing, while August brings high humidity and temperatures of up to 33°C.

4.2.2 Languages

Chinese has seven major language groups, and every region has its own dialects and variants. Mandarin (Standard Chinese) is the national language. In Hong Kong, however, Cantonese is more prevalent.

4.2.3 Time zones

China's great size means that it extends across several international time zones. Internally, though, it uses only one time zone, so that 9 a.m. on the east coast is also 9 a.m. on the western edge of the country. The time for this internal zone is set at Greenwich Mean Time plus eight hours (GMT+8). China does not use Daylight Saving Time.

4.2.4 Business hours

- Chinese business and government offices are open Monday through Friday from 8 a.m. to 5 p.m., with a one-hour lunch break at noon.
- Banks in major cities are open seven days a week from 8 a.m. to 5 p.m. (some close between 12 p.m. and 2 p.m., though).
- Retail establishments are open every day.

4.2.5 Public holidays

Late January and early February are the time of the spring festival. The pace of business slows considerably, and many Chinese take several days off work. The other public holidays are:

- New Year's Day (January 1)
- International Labour Day (May 1–7)
- International Women's Working Day (observed by women only, on March 8)
- National Day (October 1–3)
- The Chinese New Year, which is based on the lunar calendar and changes from year to year. Festivities can last for 15 days.

4.2.6 Money

China's official currency is the renminbi (RMB). The RMB is denominated in units of fen, jiao and yuan (¥). Ten fens equal 1 jiao, and 10 jiaos equal 1 yuan. In early 2007, the exchange rate was about seven yuan per Canadian dollar.

You're not allowed to use foreign currency in China, so you'll have to exchange Canadian money for yuan. Traveller's cheques or cash can be exchanged at most banks, and hotels always have an exchange counter. Be prepared to show your passport when changing money. Also, change only what you'll need, since converting yuan back to Canadian dollars can be difficult. Be sure to change back any remaining funds to Canadian or U.S. dollars before leaving China.

As for credit cards, American Express, MasterCard and Visa are widely accepted in major cities, but you probably won't be able to use them in rural areas or smaller cities and towns. ATMs are rare outside airports, large tourist hotels and major shopping centres.

4.2.7 Local travel

Don't plan to drive in China. Your Canadian or international driver's licence isn't valid there, and to obtain a Chinese driver's licence, you have to have a foreigner's residence permit and meet local regulations. Even if you could legally drive in China, it would be dangerous to do so because of low driving standards and poor roads.

To travel within cities, taxis are the best option. However, drivers don't usually speak English; to make sure you get to your destination, have a Chinese-speaking person write out the address in Chinese and show it to the taxi driver. Tipping is not expected. In some of the largest cities, you can rent a car with a driver.

China's passenger-train system is well developed and quite reliable. Express trains on heavily travelled routes are fast, but on the less-used lines, the trains can be considerably slower. You can buy tickets at major train stations and hotels.

There's also regular air service to most major Chinese cities. The most convenient way to book a flight is through the travel desk in your hotel.

4.2.8 Telephones

You can make international and domestic phone calls with relative ease, especially from hotels in major cities. If you have a cell phone, though, it won't work in China unless it is of a type that can connect to the 900 MHz and 1800 MHz services that China's cell network uses. BlackBerries do work, however.

You might consider renting a cell phone that will allow you to communicate both within China and internationally; this will also provide you with a local number where your contacts can reach you. Several international companies provide these phones, but you might want to check with your Chinese contacts to find out which one will best meet your needs.

4.3 Dealing with China's business culture

Many Chinese companies have English-speaking staff, but these people will not likely be the individuals with whom you'll be negotiating. Even if they are, the differences between the two languages can lead to misunderstandings that can greatly hamper the progress of a deal.

As a result, you should expect that most of your business negotiations and formal communications in China (except possibly in Hong Kong) will be done through an interpreter. This is more than just a communications issue; being on good terms with your interpreter, and familiarizing him or her with your business prior to discussions with your Chinese counterpart, can be an invaluable asset in negotiations.

You can find a list of interpreters and translators on the Canadian Trade Commissioner Service's web site at **www.infoexport.gc.ca/ie-en/DisplayDocument.jsp?did=41239.**

4.3.1 General behaviour

If you understand and conform to certain cultural nuances, your Chinese counterparts will appreciate it. Here are some things to be aware of:

- You should address people as Mr., Mrs., or Miss, plus the family name (this usually appears first on the business card), or by their professional titles. Married women retain their maiden names.
- When meeting people, the first person to greet is the oldest individual or the individual with highest seniority. The Chinese will often nod as an initial greeting. Bowing is seldom used except in ceremonies.
- "Face" is a crucial concept in China. It helps denote one's place and status in society, and the esteem in which one is held by others. Causing a person to "lose face," even accidentally, is a serious breach of courtesy and can permanently damage personal and business relationships. In the wrong circumstances, for example, making a well-meaning, good-natured joke at someone's expense can cause the person to lose face.

- At the same time, you should also take advantage of opportunities to subtly "give face" by enhancing the prestige of your Chinese counterparts within their own business milieu; one effective tactic is to compliment their work to their colleagues and superiors.
- Don't talk politics unless you know the person very, very well, and don't criticize the Chinese government.
- Remember that the Chinese, like people in many other cultures, will try to avoid a direct "no" if they're unwilling to agree to something. Consequently, be alert for prevarications or oblique ways of refusing a request or suggestion.

The above doesn't cover nearly all the nuances, but numerous web sites provide information on cultural and business behaviour in China and elsewhere. A good one is Executive Planet at **www.executiveplanet.com**. Your best advisor, of course, is likely to be a native Chinese person.

4.3.2 Business and negotiation behaviour

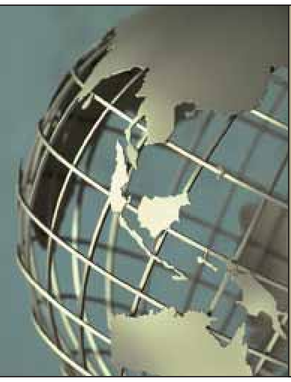
The usual Western business practice is to negotiate a transaction and then construct a relationship around it. The Chinese, however, reverse this; they prefer to start out by building a relationship with you. Once that has been successfully established, they will be ready to begin business negotiations.

Keeping this in mind, here are some tips for navigating the Chinese business environment:

- Business meetings start on time. Being late is considered a serious insult.
- Conservative dress for both men and women is the norm for business meetings. Bright colours are considered inappropriate.
- Bring your own interpreter; don't rely on one provided by the other party.
- Chinese negotiators think strategically and will take every opportunity to assess your weaknesses and strengths. Be sure you do the same with them.
- Be patient. Chinese negotiators are prepared to go on negotiating indefinitely, or so it can seem. Sometimes important points will be left unresolved, in the hope of gaining concessions, until you're on the point of returning to Canada. If this happens, you can sometimes turn the tables by unexpectedly extending your stay.
- Delays on the Chinese side can be intended to wear you down until you're ready to concede more than you should. Expect these delays and ride them out.
- As mentioned earlier, the Chinese don't like giving or receiving negative replies, so "perhaps" may in fact mean "no." Conversely, if you want to say "no," do so in a politely vague way, by saying "That idea may require more study," or "That would be very difficult."

- Take notes summarizing important meeting points and get agreement on what both sides have committed to at each meeting.
- Chinese-speaking people often understand written English better than spoken English, so ensure they know exactly what it is they have agreed to.
- Double-check translations of any documents and contracts with your own people to make sure they commit you to the same things in both languages.
- Never assume anything. Verify everything.
- Be prepared to walk away from the deal if necessary.
- Never cause anyone to lose face.

All this aside, remember that although the Chinese are skilled businesspeople and expert negotiators, they're also seeking to understand you and your business and to build a long-term relationship with you.



More negotiation tips

For further pointers on negotiating deals in China, refer to the Canadian Trade Commissioner's "**Getting to Know Business Customs — China**" at **www.infoexport.gc.ca/ie-en/DisplayDocument.jsp?did=49864.**

The Canada China Business Forum magazine on the CCBC web site at **www.ccbc.com** is a source of information about building business relationships in China.

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In the following sections, we'll examine the Chinese market segments that hold the most promise for Canadian businesses. These segments aren't necessarily the ones from which Canada currently gleans its highest Chinese export revenues, but rather those in which smaller Canadian companies are most likely to find business opportunities.

OPPORTUNITIES FOR CANADIAN EXPORTERS

Photo: © Jack Hollingsworth/Getty Images

5

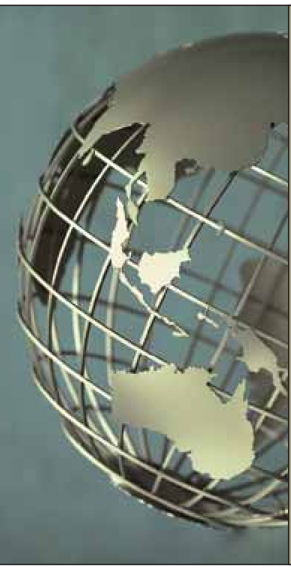
5.1 Agri-food

During the next 10 to 20 years, China is expected to become the world's largest importer of agricultural and food products. The country's rapidly expanding middle class presents excellent opportunities for Canadian agri-food exporters.

According to Agriculture and Agri-Food Canada, consumption in this market segment is trending toward more organic and health foods, and toward packaged, processed, ready-to-eat and takeaway products. The most promising cities for agri-food exporters are in high-growth regions and include:

- Qingdao, which has one of the country's biggest ports and thus is very accessible to Canadian agri-food exporters;
- Dalian, which enjoys both a high per-capita disposable income and a reputation for consumer spending, plus a taste for American food that implies opportunities for Canadian products;
- Chengdu, which is one of western China's most affluent cities and, because of its location, remains an untapped market with little awareness of non-Chinese foods; and
- Shenzhen and Shanghai, whose extremely affluent citizens have developed a liking for foreign foods, which they consider superior to Chinese products in quality, safety and nutrition.

For more information about the sector, refer to Agriculture and Agri-Food Canada's Agri-Food Trade Service section on China, located at **www.atn-riae.agr.ca/info/asia-e.htm#China.**



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5.2 Automotive

In 2006, China became the world's second-largest automobile market, with sales of seven million units. Rapidly increasing purchases of passenger vehicles, a result of the rise of the country's middle class, are a major driver for the market. Increased competition, leading to lower prices for vehicles and vehicle parts, is also spurring growth. Tariff cuts in 2006 (25 per cent on imported vehicles and 10 per cent on imported parts) have also produced a positive effect on the market.

The double-digit expansion of China's automotive market suggests that it will be the world's biggest by 2015. The industry is dominated by three companies — Shanghai Automotive Industry Corporation (SAIC), First Auto Works (FAW) and Dong Feng Auto (DF) — and sales of Chinese-made parts and components have been growing steadily year-over-year. Foreign-invested businesses and Chinese-foreign joint ventures are also increasing their presence in the market.

The industry's growth presents many opportunities for Canadian parts and aftermarket suppliers; among the products needed are gearboxes, vehicle body parts, steering system products, mounted brake linings, automotive electronics and other sophisticated components. Maintenance products are also in demand, such as filters, lubricants, fluids, batteries, and wiper blades. China's recent commitment to reducing air pollutants and greenhouse gases implies a rapidly increasing need for emissions-control systems and parts, as well as equipment for emissions testing.

Major Chinese parts suppliers are Wanxiang Group, Weichai Power, Yuchai Group, Dongfeng Honda Automobile, Norstar Automobile Industrial Holdings and Torch Automotive Group. Major foreign parts suppliers are Germany's Bosch Group, the United States' Delphi Corporation and Visteon Corporation, Canada's Magna International Inc., and Japan's Denso Corporation.

5.3 Construction materials and technology

China is largely self-sufficient in basic construction materials such as cement, but there are large potential markets for advanced Canadian materials such as wall materials, doors, windows, lighting equipment, and heating, ventilation and air conditioning systems.

China's Ministry of Construction plans to reduce the energy consumption of Chinese buildings by 50 per cent by 2010; as a result, demand for energy-efficient, environmentally friendly building materials will see an upsurge during the next few years.

China's real estate market is developing rapidly, so Canadian exporters may find an increasing number of opportunities for the sale of wood and wood products for residential construction. The "Dream Home Canada" demonstration centre in Shanghai confirms this potential. A joint initiative of Canadian lumber trade associations, forestry companies and governments, the demonstration centre is intended to help overcome the Chinese prejudice against wood as a residential construction material, an aversion based on the belief that it is flimsy and prone to fire, termites and rot. For more information, refer to **www.dreamhomechina.com**.

5

5.4 Environment

China's spectacular growth has come at a steep cost to the environment. Most of the country's rivers are severely polluted, urban air quality is hazardous to human health and Chinese industry is very inefficient in its use of energy. The government, however, has promised to take action on all these fronts, especially in the area of greenhouse gas (GHG) emissions.

This commitment, added to the government's previously announced intention of investing US$192 billion in the environment between 2006 and 2010, indicates China's enormous potential as a market for Canadian environmental services and technologies.

The country's chief needs lie in the following sectors:

- **Air pollution and GHG control:** Canadian technologies, such as air handling equipment, dust collectors and chemical recovery systems, incinerators and scrubbers, and filtration and emission controls may find that China's industrial regions are a rich market.
- **Water and wastewater management:** China's capacity for wastewater treatment remains inadequate. There is a demand for technologies and equipment for membrane manufacturing, anaerobic biological reactors, organic wastewater treatment, microfiltration, waterless production, water-treatment agents and water-quality monitoring.

  In 2002, the government opened up the entire municipal service sector to domestic and foreign private companies. Since then, the number of deals signed for water projects in China far exceeds the total in any other country.
- **Solid-waste management:** China's huge urban populations require advanced technologies for managing solid wastes, and low-cost resource recovery and waste-handling systems offer good export prospects.
- **Alternative and renewable energy sources:** China's need to cut air pollution and GHG emissions, while increasing its energy supply, promises a key role for alternative and renewable energy sources. Canadian companies in this sector, especially those with expertise in biomass conversion, blended hydrogen fuels, fuel cells, clean coal technology, natural gas conversion and energy-from-waste systems should definitely look into the Chinese market.

5.5 Health care

China's need for medical devices and health care is increasing rapidly because of its aging population; by 2050, about 30 per cent of the population will be more than 60 years old, and governments at all levels are already paying more attention to this population segment. In addition, millions of physically and mentally disabled people need various levels of care.

The importance of this sector is evident in the growing demand for advanced-technology products such as orthopedic equipment, assistive devices, rehabilitation equipment, hearing aids, specialized beds, advanced prosthetics, accessibility products and stair and bathing lifts. In the clinical instruments subsector, market growth for imported reagents and analytical laboratory equipment is expected to increase by about 20 per cent annually over the next five years. Easy-to-use and inexpensive diagnostic technologies that can be used in China's rural and poorer areas also present opportunities.

5.6 Large infrastructure projects

Highway, rail, airport and marine port construction continue to lag behind China's development rate, and this lack of infrastructure has created bottlenecks in economic growth. China's highway network is being expanded rapidly, but can't keep pace with the economy's growing needs and remains very underdeveloped. The country's maritime ports likewise need enlargement and upgrading to deal with the ever-growing volume of coastal and deep-sea traffic. On the air transport side, China has announced enormous spending increases on airport development during the next five years: 42 new airports will be built and existing ones will be upgraded. Rail is traditionally China's chief means of transportation and the system is quite well developed, but the network still needs extensive upgrades in reach and capacity.

These are undertakings on a vast scale, and there is room for Canadian construction and engineering companies in many market segments. Many large transnational construction firms like to hire subcontractors who can provide unique, high-quality services that will ensure their projects' efficient and profitable execution. Some are interested in forming partnerships to carry out specific projects, which gives Canadian businesses another way into the market. Canadian manufacturers can also supply machinery and equipment to these large companies.

5.7 Logistics and distribution

Domestic Chinese logistics companies are usually small local firms with a handful of trucks, and Chinese logistics in general are very fragmented and inefficient. Most Chinese manufacturers recognize that better logistics services can help them reduce costs and increase competitiveness. This can create opportunities for Canadian transportation firms that can provide integrated supply-chain management, logistics systems for foreign-operated manufacturing operations, and systems for retail distribution.

5.8 Oil, gas and mining

Despite partial privatization of the petroleum industry, the Chinese government retains a majority stake in the sector through the China National Petroleum Corporation (CNPC), the China Petroleum and Chemical Corporation (Sinopec), China Gas Holdings Ltd. (CGH) and the China National Offshore Oil Corporation (CNOOC). Many foreign companies have been contracted to undertake oil exploration and production activities in the country; however, the national oil companies are entitled to take up to a 51 per cent stake in any commercial discovery.

Natural gas has not so far been a major fuel in China, but its share is increasing. The state-owned oil companies mentioned above are the dominant players in this sector. The largest gas reserves are in western and north-central China, and several recent discoveries promise to increase China’s natural gas production. Xinao Gas, China Gas, Towngas and Beijing Gas are some of the country’s major suppliers of natural gas.

China’s mining industry faces numerous challenges, such as low efficiency, environmental degradation and low competitiveness in world markets. Depletion of known ore reserves is a concern, so acquiring foreign investment in locating and developing new resources is an important priority for the government. There can be considerable risks for foreign investors engaging with the sector, particularly in the areas of safety and of corporate and social responsibility.

The coal sector has some of the most severe problems. Coal provides almost 70 per cent of China's primary energy output, and while some coal mines are state-owned, thousands of others are owned and operated at the municipal or even village level. This fragmentation, together with low investment, outdated equipment and safety problems, has led to a government push to consolidate the coal industry, which will continue to open the sector to foreign investment.

Canadian oil, gas and mining companies have decades of experience in the areas where China needs the most help. Coupled with our advanced expertise, technologies and equipment, this makes China an attractive export opportunity. Companies should be aware, though, that the rules pertaining to the transfer of rights from the exploration stage to the development stage are not at all clear. A Canadian company could conceivably invest a great deal in finding a valuable deposit, but lose the right to develop it in favour of a Chinese firm.

5.9 Telecommunications

China is already a major player in the global telecom market and, for next few years, is expected to account for most of the sector's growth in the Asia-Pacific region. The country is already the world's largest mobile and wireless market, and much of the growth will continue to be in this subsector.

As is true for most emerging markets, the demand for equipment and services is expanding faster for the wireless subsector than it is for wireline. However, the country's wireline infrastructure is by no means complete, and Canadian wireline companies may find possibilities there.

Value-added wireless services such as SMS are also expanding rapidly; third-generation networks are coming on as well, which will provide vast opportunities for Canadian firms with 3G expertise.

5.10 Services

While exporting services to China is made somewhat complicated by the barriers of language and culture, it nevertheless offers many potentially lucrative markets.

- **Architectural services:** China's architectural market has some of the strongest potential in the world, and the booming infrastructure and construction sectors provide good opportunities for architecture firms.
- **Banking and insurance:** China has removed many restrictions on the banking and insurance sectors. Canadian providers of private banking and wealth management services may find good opportunities here.
- **Engineering and urban planning services:** Project management and other engineering services can be attractive in China because of the surging construction sector.
- **Environmental services:** China's environmental problems need urgent attention. Canadian environmental services firms should look for opportunities in air pollution and GHG monitoring; water and wastewater management; solid-waste management; and the development of alternative and renewable energy sources.
- **Financial training:** Under China's World Trade Organization (WTO) commitments, the country's financial sector was fully opened to foreign participation in 2007. These changes in the country's business environment are creating a demand for financial training for government regulatory personnel, financial institutions, academic agencies, students and senior executives.

- **Language training:** The English-language training market, currently valued at approximately $2.7 billion, is projected to increase to $4.3 billion by 2010. More than 50,000 English-language schools are already operating, and demand is high for enhanced training in oral English.
- **Oil, gas and mining services:** Canadian expertise in the oil, gas and mining industries means that service companies in this sector are well placed to find opportunities in the burgeoning Chinese energy and extractive sector.
- **Safety and security consulting:** Security consulting is becoming a growth sector as China's safety and security market expands from the financial, insurance, customs, police, airport and IT sectors to the construction, transportation, and education fields.
- **Services related to equipment sales:** In many cases, Canadian companies selling machinery and equipment into China can also obtain the servicing and training contracts for their products.
- **Telecommunications:** China's telecom operators are now focusing on not only building infrastructure but also on developing value-added services that will enhance their competitiveness in the Chinese market. As a result, they are very open to partnerships with foreign service providers.

6

The financial and taxation aspects of doing business in China are quite complex, and the details are well beyond the scope of this guide. The fundamentals are straightforward, though, and this chapter provides some basic information about the country's financial system and its tax regimes and about the types of financial assistance available to Canadian exporters.

FINANCES AND TAXATION

Photo: © Mike Kemp/Corbis

6.1 China's financial system

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China's financial system consists of the following institutions:

- The People's Bank of China (PBOC) is the central bank and makes decisions about monetary policy. It is relatively independent but must ultimately answer to the State Council, which is responsible for the country's administrative affairs.
- The China Banking Regulatory Commission regulates banks, both local and foreign. The China Securities Regulatory Commission regulates brokerage and securities firms, while the China Insurance Regulatory Commission regulates insurance companies.
- The Ministry of Finance, supervised by the State Council, deals with economic strategy, enforces financial policies and manages state revenue and spending.
- Specialized commercial banks, which include the Industrial and Commercial Bank of q Bank, provide a full range of commercial banking services. A number of regional commercial banks have also been established during the past decade.
- There are three policy banks that handle low-interest, long-term loans made to firms in strategic sectors. These are the State Development Bank, the Export-Import Bank of China, and the Agricultural Development Bank.

6.1.1 Foreign-owned banks

Regulations that took effect in 2006 now allow foreign-owned banks to acquire legal status as corporate banks in China. Foreign banks must still incorporate locally to gain full access to the retail market, but then have the same status as Chinese corporate banks and can accept deposits from the public; issue short, medium and long-term loans; accept bills; trade in government bonds and other currency portfolios (except stocks); and carry out foreign and domestic settlements.

6.1.2 Accounting standards in China

In general, Chinese accounting principles follow the International Accounting Standards (IAS). China's most recent accounting regulations are the Accounting Standards for Enterprises (ASE), which came into effect at the beginning of 2007.

How export financing works

If you've never used export financing, you might want to consult EDC's online **EXPORTFinanceGuide** for an introduction to the subject; you'll find it at **www.edc.ca/english/tools_12185.htm.**

6.2 Taxes

This section gives you an overview of the Chinese tax system. Since the country's tax regime tends to be a work in progress, **be sure to consult legal and accounting professionals before you make assumptions about how Chinese taxes will affect your export business.**

6.2.1 China's tax system

China's tax authorities levy a range of direct and indirect taxes at the national, provincial and municipal levels. These include:

- corporate taxes (these rates are changing; see next section);
- personal income taxes (progressive, up to 45 per cent);
- VAT (17 per cent on most products);
- business tax (3–5 per cent for most services);
- withholding taxes (rates vary); and
- miscellaneous levies such as construction, consumption, land use and urban real estate taxes.

All foreign companies must pay income tax. Resident companies are taxed on their worldwide income, with a credit for foreign tax; non-resident companies are taxed only on their income from Chinese sources.

The tax year is the calendar year, and tax quarters are calendar quarters. Final tax settlements must be made within four months of the end of the year.

6.2.2 Changes in corporate taxes

In early 2007, the National People's Congress approved a new corporate income tax law that equalizes corporate tax rates for foreign and domestic companies. Under the previous tax regime, foreign companies could pay as little as 15 per cent in taxes, depending on where they operated in the country. Domestic companies, by contrast, could pay taxes of up to 33 per cent.

The new tax regime, which will begin to take effect in 2008, will eventually tax both domestic and foreign firms at a unified rate of 25 per cent. This is comparable to average worldwide corporate income tax rates, and will level the playing field for Chinese and non-Chinese companies. The change in rates is being phased in over five years, with the tax rate for foreign firms rising by 2 percentage points each year until it reaches the target of 25 per cent.

6.3 Financing your exports

As any small or medium-sized exporter knows, it can be hard to finance a foreign initiative solely from company resources. But if you're intending to do business in China, you can tap into a substantial range of financial resources.

6

6.3.1 Types of financial assistance

From time to time, you may need one or more of these three types of financial help:

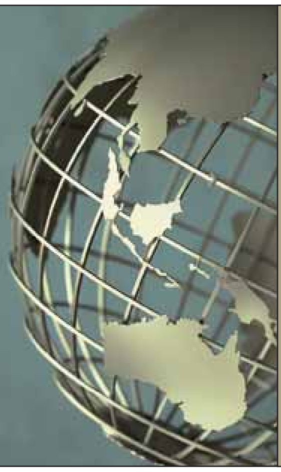
- **Pre-shipment export financing:** This provides you with the means to provide the goods or services your customer wants. You'll need to show the lender that you have a firm export sale and a contract that is acceptable in terms of repayment risk, payment terms, production timeframes and recourse conditions.
- **Post-shipment export financing:** This covers your financial needs from the time you ship the goods until you're paid.
- **Medium-term export financing:** This is often used with capital goods exports and can be obtained for terms of 180 days to two years, sometimes more.
- **Foreign investment support:** Canadian companies interested in making a new investment in a foreign country can take advantage of EDC's Canadian Direct Investment Abroad (CDIA) financing solutions. For more information, refer to **www.edc.ca/CDIA**

Service exporters tend to have different financial needs than goods exporters. You'll find information about this in Export Source's *Export Finance Guide*, located at **www.exportsource.ca/finance**.

6.3.2 Sources of financial assistance

Financial institutions and government institutions such as export credit agencies are the most common sources of export financing.

- **Export Development Canada:** Export Development Canada (EDC) is the export credit agency of the Government of Canada. EDC provides a wide range of financial tools for Canadian exporters and investors, particularly small- and medium-size companies. These include:



EDC and China

EDC has been active in China since 1979, making it one of the first export credit agencies to establish business ties with that country.

China is one of the key countries in EDC's strategic business development plans. During the last five years, EDC has supported more than $5 billion worth of exports to Chinese buyers in several key sectors. These include advanced technology, base and semi-manufactured goods, forestry, mining, infrastructure development and services. In 2006 alone, EDC facilitated $1.8 billion in export and investment transactions in China and Hong Kong on behalf of more than 240 Canadian companies.

- *Export Guarantee Program:* Through this program, EDC encourages Canadian financial institutions to advance pre-shipment loans to Canadian companies exporting goods or services. This can give your company the financial strength to close and fulfill a Chinese deal.
- EXPORT*ExpressCredit:* EDC and Mercantile Finance Services Ltd. are collaborating to create an unsecured small-business loan program to help businesses promote their companies in a new market, attend a trade show or increase their production capacity.
- *Foreign Buyer Financing:* EDC offers a range of financing solutions for foreign buyers of Canadian capital goods and services. This can allow you to win more business by offering your Chinese customers flexible options for financing and payment.
- *Master Accounts Receivable Guarantee (MARG):* MARG lets you use your foreign receivables to increase your operating line of credit up to a maximum of $500,000. EDC provides a guarantee to your financial institution that insures you against a loss should you fail to repay your operating line.
- *Canadian Direct Investment Abroad (CDIA):* If you want to expand your facilities in China or make a new investment there, you may be able to take advantage of EDC's CDIA financing instruments. These can include direct financing to your company to support your foreign investment, project financing to a foreign affiliate or subsidiary, or working capital financing to a foreign affiliate or subsidiary.

For more information about these and other forms of EDC financial assistance, refer to **www.edc.ca/EDCfinancing**. Note, however, that the jurisdiction of the transaction, or the parties to the transaction, may affect the availability and attractiveness of EDC products, depending on the region in China where the transaction takes place. This also applies to Hong Kong and Macau.

- **Business Development Bank of Canada (BDC):** BDC provides flexible financing for the development of international markets, R&D, product modifications and new production equipment or technology. Refer to **www.bdc.ca** for more information.
- **The Canadian Commercial Corporation (CCC):** The CCC acts as prime contractor in export sales by Canadian suppliers to foreign governments, international agencies and other overseas buyers. It can help your company close a deal by guaranteeing your contract performance, and can help you prepare and transmit bids, assess risks, and negotiate, execute and manage contracts. For more information, visit **www.ccc.ca**.
- **Canadian banks in China:** All major Canadian commercial banks are active in China, particularly in the area of trade finance. They accept and confirm Chinese bank letters of credit, and can provide operating loans and term loans for appropriate projects. EDC is often involved in these transactions.
- **Chinese banks:** Many Chinese banks have correspondent banking arrangements with Canadian banks, and issue letters of credit for confirmation by Canadian banks. For Canadian exporters, the four main Chinese banks are the Bank of China, the China Construction Bank, the Industrial and Commercial Bank of China and the Bank of Communications.

6.3.3 Foreign Buyer Financing

China's State Administration for Foreign Exchange (SAFE) places strict controls on the borrowing abilities of China-based companies. If the company that the exporter is selling to is fully Chinese-owned (for example, a domestic Chinese entity), then that Chinese company must obtain permission from SAFE in order to borrow foreign exchange. In practice, such permission is nearly impossible to obtain, so most Chinese companies are restricted to dealing solely with domestic banks when it comes to receiving loans.

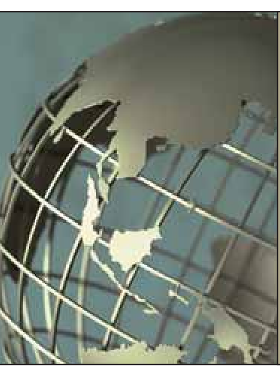
Joint ventures and wholly foreign-owned enterprises (WFOEs) do not have to seek authority to borrow foreign exchange from overseas sources, but when the loan is made they must still register the debt with SAFE. The amount of the loan must also be within the borrowing ceiling imposed on the borrower by SAFE.

Consequently, if you're faced with a request for buyer financing, first determine the ownership of the buyer. If they are fully Chinese-owned, be sure to request evidence that they have the SAFE authority to borrow. Most Chinese-owned companies are fully aware that they can't arrange a loan, so such a request for financing can actually be a veiled request for better payment terms, such as a letter of credit on longer terms or payment on open account.

If the buyer is a WFOE or joint venture, EDC will consider the buyer for potential financing. However, since China's domestic banking system is flush with foreign currency, most China-based companies have ready access to funding from banks at home. EDC would nevertheless be happy to explore financing solutions separately or in partnership with a company's China-based bank. However, inability to borrow from the local banks (domestic or foreign) may indicate a credit risk or be a sign that the company has already reached its borrowing limit.

6.4 Payment

The Chinese Government, through the State Administration of Foreign Exchange (SAFE), regulates all international payments. At present, only Chinese companies that possess import/export business licences are allowed to transfer money out of China.



EDC and Sinosure

Sinosure, China's export and credit insurance agency, offers a range of insurance and guarantee services to promote exports from China. In 2005, EDC and Sinosure developed a joint Risk Sharing Agreement that offers EDC clients access to Accounts Receivable Insurance for their affiliate export sales business in China, as well as potentially better access to working capital from China-based banks.

Before funds can be transferred overseas, Chinese importers must present their banks with all required documentation, such as shipping documents and customs declarations, as required by SAFE. As part of your due diligence, always verify that your prospective Chinese customer has the required import/export licence, and that the necessary documentation can be obtained. You will probably need professional legal assistance to carry out this verification.

Exporters should also be aware that extending deferred payment terms greater than 90 days may fall under the foreign debt management regulations imposed by SAFE and require your Chinese buyer to have the approval of SAFE prior to being able to make payment. If asked for terms greater than 90 days (and certainly more than 180 days) by your buyer, you should undertake due diligence to ensure any necessary approvals from SAFE are in place prior to agreeing to such terms. A China based lawyer should be easily able to inform you if special permits are needed by the Chinese buyer.

6.4.1 Letters of credit

If you export to the U.S., you may be accustomed to being paid by the open account method. Many of your financial transactions with your Chinese buyers, however, will be done though Letters of Credit (LCs). LCs are the most prevalent form of payment in China and offer the best protection for exporters because they designate banks to receive and check shipping documents, and to guarantee payment. Consequently, they should be the first form of payment you seek when entering into a business relationship with a new buyer in China.

There are two major types of LCs: confirmed LCs and unconfirmed LCs. A confirmed LC has been issued on behalf of the customer by the customer's bank, and its validity has been confirmed by a domestic Canadian bank. If you have a confirmed LC, you are reasonably assured of receiving payment from the Canadian bank even if the foreign customer or the foreign bank defaults.

An unconfirmed LC is less secure, since it has been guaranteed only by the bank that issued it, not by a receiving bank in Canada. The issuing bank merely informs you that the LC has been opened, and tells you what the credit terms and conditions are.

LCs can also be irrevocable. This means they can't be cancelled or amended without your approval. The most secure form of payment is an LC that's both confirmed and irrevocable.

Unconfirmed LCs are the usual payment instrument for Chinese companies. Despite this, you should do your best to get a confirmed, irrevocable LC from your customer. If you can't, try to ensure that the LC is issued by one of the four Chinese banks that are most commonly used by Canadian exporters and are least likely to cause problems. These are the Bank of China, the China Construction Bank, the Industrial and Commercial Bank of China and the Bank of Communications.

6.4.2 Tips for using letters of credit

Keep the following in mind when using letters of credit:

- If your Chinese customer intends to pay you via an LC issued by a Chinese bank, check with your Canadian bank to ensure that it accepts LCs from the Chinese bank.

- Ensure that the LC allows partial shipments and transhipment.
- Make sure you can prove that you shipped the goods by the date specified in the LC.
- Always check shipping conditions with your freight forwarder to make sure that nothing will cause a delay in delivery.
- Present all documents by the dates specified.

Note that most letters of credit are subject to the Uniform Customs and Practice for Documentary Credits (UCP), which is the universally recognized set of rules governing the use of documentary credits in international trade.

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6.4.3 Payment on open account

In some sectors, larger and well-established Chinese buyers may press for payment on open-account terms — that is, the buyer orders the goods, you ship them, and the buyer pays you at a pre-determined time after receiving the shipment. This obviously offers you very little security and very little recourse if the buyer fails to pay. You should avoid agreeing to open-account terms unless the buyer has established a history with you of reliable payment via LCs. Even then, do credit checks and exercise due diligence. You would also be very wise to purchase Accounts Receivable Insurance from EDC; this will protect you if the buyer fails to pay.

6.4.4 Holdback of payment

Your Chinese customer may request a holdback of 5 to 10 per cent of the total payment, to be disbursed upon final acceptance of the goods or service. This exposes you to the risk of delayed payment of the holdback, and there have been cases where the holdback was never paid at all.

If you can't avoid a holdback, protect yourself by insisting on a separate LC for the amount. This LC should have a specific date for final approval of the goods or services, at which time the holdback must be paid out. Also include "deemed acceptance" clauses in your commercial contract, based on contract milestones, in order to limit the amount of time that your holdback will be outstanding. In other words, don't permit an open-ended timeframe for disbursing the holdback.

If you can't get an LC for the holdback, and the buyer fails to pay it after a reasonable time, you may have to take further action. Refer to **Section 7.5 "Litigation and arbitration,"** for more information.

6.4.5 Cash deals

In some cases, your Chinese customer may be unwilling to pay via LC because the funds specified by the LC will be temporarily frozen by the customer's bank, and this will affect the customer's cash flow. Instead, the customer may suggest working on the basis of a cash advance or cash on delivery. You're more likely to encounter this if you're in a sector characterized by strong cash flows.

7

The Chinese legal system is considerably different from ours, so Canadian exporters to China will need local legal counsel if they want to avoid difficulties.

THE FINE PRINT

Photo: © Jack Hollingsworth/Brand X/Corbis

Some of the general issues that Canadian exporters might have to deal with include the following:

- China's courts and officials have a good deal of leeway in how they apply laws and regulations. Laws and regulations in China are much less specific than they are in Canada, which means that they can be interpreted in different, and possibly inconsistent, ways.
- In some cases, it may be difficult to determine whether you are in fact complying with a particular regulation, especially if it has been inconsistently interpreted by different regulators.
- Multiple levels of government have the authority to establish regulations. Sometimes the regulations issued at one level may contradict those issued at another.
- If you want to appeal an official ruling or the official interpretation of a regulation, it may be difficult to do so because there are no clear appeal procedures.
- Be aware that even though a law or regulation may exist, it isn't necessarily enforced in a consistent way (or sometimes at all).

7.1 Obtaining legal services in China

China regulates foreign law firms rather strictly when they operate in China, and they can practice only on a limited basis. According to information on the Canadian Trade Commissioner's website:

Foreign law firms are not permitted to provide legal advice relating to Chinese law; however, they are permitted to provide legal advice necessary as a "bridge" between foreign and international law and Chinese domestic law. As well, most foreign law firms provide general advice concerning foreign investment law and practice in China.

Foreign law firms are not permitted to employ Chinese lawyers, although in practice most law firms employ Chinese lawyers who have surrendered their Chinese licences. Most foreign law firms have close working relationships with local firms to whom purely domestic legal issues are referred.

Chinese law firms are not required to carry professional liability insurance, although some may.

The Canadian Trade Commissioner provides a list of law firms operating in China, which you'll find at **www.infoexport.gc.ca/ie-en/DisplayDocument.jsp?did=41197**.

7.2 Due diligence

As a company that's already exporting, you'll be acutely aware of the need for due diligence when dealing with foreign customers. This is especially true when you're exporting to China, which can be a hazardous market for the unprepared or unwary. While most Chinese firms are reputable, a handful are not; moreover, the differences between our cultures and business attitudes can sometimes lead to misunderstandings that can sabotage a promising business deal, or make an existing one go very wrong. Such misunderstandings can be aggravated by the lack of transparency and consistency in the Chinese regulatory and legal systems.

The most crucial part of due diligence is checking out your customer; for more information about how to do this with Chinese businesses, refer to **Section 7.6.1, "Customer risk."** Other areas requiring due diligence include (at the minimum):

- making sure you have a sound understanding of the Chinese market in which you're working;
- verifying that your buyers have the required import-export licences and that you understand Chinese foreign-exchange regulations (if you don't make sure of this, you may not get paid);
- verifying that distributors or agents (as distinct from end-use customers) are reputable and that they can actually provide the services you need; and
- ensuring that you know what customs documents are required for the import of your product into China, and about any regulations that may affect your products.

Finally, be sure to visit your market regularly; agents are no substitute for your personal presence, and your visits will demonstrate your interest and involvement in your Chinese operations.

7.3 Coping with contracts

The first rule is to have a written contract. Don't rely on other instruments such as purchase orders; they are legally worthless. The second rule is that you should never sign any contract until it has been carefully reviewed by competent legal counsel; this is especially important when doing business in China, partly because Chinese and Canadian attitudes to commercial law are quite different, and partly because of the divergence between our legal systems. If you do sign without legal advice, you risk disputes and possibly litigation related to payment, breaches of contract or guarantees, unclear ownership of intellectual property, violation of creditors' rights and other difficulties too numerous to mention.

Here are several things to keep in mind when dealing with contracts in China. Note, however, that these pointers are in no way a substitute for competent legal advice.

- Does the contract establish clearly what is expected of everyone? This is a very important point, because a major intention of any Chinese contract is to avoid a misunderstanding among the contracting parties. Chinese courts can deem a contract unenforceable if one party did not clearly understand its terms. The language used should therefore be clear and straightforward, as this reduces the risk of misunderstanding and mistranslation.
- Is the contract detailed enough? Covering all the details is crucial, even if this results in a very long contract. Short contracts may be short because they've left things out, and what's been omitted may later cause you great difficulties.
- Does the contract clearly identify the contracting parties, and have the right people signed it? A contract is unenforceable in China if it's signed by the wrong people. Note that an agent for a Chinese buyer may not be a valid signatory.
- Does the contract require any government approvals or import/export licences? If so, who is responsible for obtaining them?
- What are the terms for payment, inspection and delivery?
- What is the contract completion date?
- What warranty and/or maintenance terms and conditions apply?
- Are there contract performance security requirements, such as bank letters of guarantee or surety bonds, and what are they?
- What remedies are available if the customer defaults or cancels?
- Does the contract establish clearly which country's law will govern the terms of the contract and any disputes that might arise from it? This is called, in legal jargon, "the proper law" of the contract.
- What provisions exist for independent mediation or arbitration to resolve disputes, and in which jurisdiction would this take place? If the contract doesn't specify this, a Chinese court will decide any disputes. You should stipulate that any mediation or arbitration must take place outside China.
- Does the contract specify the currency of payment, and is this the correct currency given the nature of your business presence in China? If you don't have a Chinese presence, so that the deal is effectively between a Chinese company and a non-Chinese company (yours), the currency of payment *cannot legally* be in RMB—it must be in a hard currency such as U.S. dollars. In other words, it is against the law in China to sign a contract denominated in RMB unless both companies have legally established business presences within the country, for example as WFOEs.
- Chinese businesspeople much prefer standard-form Chinese contracts over foreign contracts and will usually avoid the latter. However, adding special clauses to a Chinese contract is not usually a problem. Be sure, though, that these are clearly understood by everyone involved.

7.4 Performance guarantees and bonding

Your Chinese customer may require some kind of contract performance security to ensure that you'll fulfill your end of the bargain. These securities are usually referred to as "bonds" and include standby irrevocable letters of credit, letters of guarantee and contract surety bonds.

A bond is a financial guarantee to your customer that your company will abide by the terms of the contract. Before issuing a bond, the bank will require you to provide security by freezing cash in your account. This protects the bank if the company fails to perform and if the customer calls the bond — that is, if the customer demands that the value of the bond be paid out.

This, of course, means that the frozen funds are inaccessible to you. EDC can help you by guaranteeing to the bank that it will be reimbursed if your customer demands that the bond be paid. This means that the bank won't freeze your funds, which frees up your company's cash flow.

EDC provides a range of bonding instruments, including:

- **Performance Security Guarantees**

  Performance Security Guarantees cover 100 per cent of losses incurred by your bank when a foreign customer makes a call on a bonding instrument, such as an irrevocable letter of credit or a letter of guarantee.

- **Surety Bond (re)Insurance**

  Surety Bond (re)Insurance gives surety companies a reinsurance capacity of 100 per cent, enabling them to provide your company with the bonding support you need to conduct business overseas.

- **Financial Security Guarantees**

  A Financial Security Guarantee replaces the collateral that you usually must provide to secure operating lines of credit with foreign banks, or letters of guarantee for suppliers. It provides a 100 per cent, irrevocable and unconditional guarantee to your bank, and is equivalent to the amount of the letter of guarantee for a period of one year.

- **Foreign Exchange Facility Guarantees**

  A Foreign Exchange Facility Guarantee allows your company to free up working capital when you purchase forward contracts from your financial institution, thus enabling you to lock in the exchange rate as protection against foreign currency fluctuations.

  For more information, refer to **www.edc.ca/EDCbonding**.

If you do arrange one of these bonding instruments, make sure that your contract clearly stipulates your performance obligations, as well as the conditions under which your customer can make a valid call for non-performance and thus have the security paid out. The chief risk associated with a bond is that of a "wrongful call"; for more information on this, refer to **Section 7.6.3, "Wrongful calls."**

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7.5 Litigation and arbitration

The most common disputes between Canadian and Chinese businesses include:

- breach of contractual payment obligations;
- irregularities in accounting practices;
- financial mismanagement;
- undisclosed debt; and
- conflicts over the control of joint ventures.

If you have these or other legal problems with a Chinese customer or partner, don't be in a hurry to begin litigation. No matter how justified your position, litigating in a Chinese court will be time-consuming and expensive, and may not be in your best interest. Your opponent, moreover, is very unlikely to allow the case to be decided in a non-Chinese court. There is also no treaty between Canada and China for the reciprocal enforcement of judgments; in consequence, a Chinese court will likely not recognize a foreign judgment, so any legal action you undertake would have to be in China (assuming your opponent has no assets outside China). Challenges that foreigners face in Chinese courts include corruption, case backlogs, lack of independence in the judiciary, local protectionism, poorly trained judges and somewhat unpredictable court decisions.

A better choice might be arbitration. Also called alternative dispute resolution, arbitration uses a tribunal to consider the questions over which the parties are in conflict and to decide how to resolve them. China is a signatory to the New York Convention on the Recognition and Enforcement of Arbitral Awards, so a foreign arbitral award is enforceable in China pursuant to the convention. However, if enforcement is required, it will still be necessary to begin an action in a Chinese court in the jurisdiction of the Chinese party to the arbitration.

7.6 Risk management

Doing business abroad is inherently more risky than operating in Canada. But you can minimize and manage these risks, provided you know what they are, and if you understand the level of threat they represent. The major dangers in China include:

- customer risk (for example, bad credit or insolvency);
- failure of the customer to pay;
- wrongful calls of bonds;
- theft of intellectual property;
- Internet fraud;
- corruption; and
- other risks.

7.6.1 Customer risk

The more you know about your potential Chinese customer or partner, the better. You should be aware of the company's creditworthiness, its financial record, the quality of its management, its business history and its reputation in the Chinese and international marketplace. You must also be sure that you know who controls the company, and who has the authority to undertake binding legal agreements and who does not.

All Chinese companies and foreign companies operating in China have to register with the local State Administration of Industry and Commerce (SAIC) office to obtain a business licence. These licences can be examined by the public and will tell you the identity of the company's legal representative, the amount of its registered capital and the scope of its business.

Many apparently private Chinese companies are still linked to the state, although this may not be immediately obvious; many used to be state-run businesses that are now under private management. Some are in fact subsidiaries of government ministries. If you're dealing with one of these, check with its parent ministry to verify the validity of its business licence.

However, the business licence won't necessarily tell you who really owns the company — hiding assets and using proxies for the legal owner is common in China. Finding out who the real owner is may not be easy, but you have to do it, since this knowledge may be crucial to receiving payment.

You can get assistance with your customer checking in several ways. Legal firms and accountants are a good place to start; for a list of these, refer to the Canadian Trade Commissioner Service web site at **www.infoexport.gc.ca/ie-en/DisplayDocument.jsp?did=41197**.

As an exporter, you're likely accustomed to using credit checks with prospective customers. China, however, doesn't have a centralized source of credit information, so carrying out a thorough credit check can be a challenge. At the very least, you should obtain banking references for the customer's company and as much of its relevant banking history as possible. You may be able to get references from other companies that have done business with the customer, although concerns about breaching confidentiality may be a barrier here.

That said, there are several non-government credit agency services to which you might refer. Note that the following firms are not endorsed in any way by EDC; they are simply presented for your reference.

- SinoTrust: **www.sinotrust.cn**
- China Chengxin Credit Management Ltd.: **www.ccx.com.cn**
- China Company Research Services: **www.ccrs.info**
- Coface Greater China Services Ltd.: **www.coface.com.hk**
- Coface Services North America Inc.: **www.coface-usa.com**
- Huaxia International Business Credit Consulting Ltd.: **www.huaxiacredit.com/en**
- SinoRating: **www.sinosure.com.cn/English.html**

7.6.2 Failure to pay

A customer's failure to pay can jeopardize the very survival of your business. Even if you know a company well and it has always paid you promptly, it still could collapse without warning and leave you unable to meet your bills. EDC has a range of products to protect you against this and other unfortunate events, such as customer insolvency, cancellation of import or export permits, cancellation of contracts, refusal to accept goods, and war, revolution and insurrection. These products include:

- **Accounts Receivable Insurance**

  EDC's Accounts Receivable Insurance (ARI) will cover up to 90 per cent of your losses if your Chinese customer doesn't pay because of bankruptcy, or refuses to pay for no good reason. It also covers you if the customer refuses to accept the shipment or if your import permits are cancelled. And while neither revolution or war is likely in China, ARI will cover you for these, too. You can visit **www.edc.ca/EDCinsurance** to apply online or request a free quote, or you can call 1-800-368-6664 to learn more.

- **Single Buyer Insurance**

  On contracts worth up to US$250,000, EDC's Single Buyer Insurance can be used to cover an unlimited number of sales to the same customer for six months. The policy insures up to 90 per cent of your losses against non-payment after your customer has accepted the goods. Refer to **www.edc.ca/EDCsinglebuyer**.

- **Contract Frustration Insurance**

  EDC's Contract Frustration Insurance (CFI) will cover up to 90 per cent of your losses in relation to a specific export contract for services, capital goods or projects. Refer to **www.edc.ca/cfi**.

7.6.3 Wrongful calls

Suppose you've worked with a bank to post a contract performance bond in the form of a standby irrevocable letter of credit, or a letter of guarantee. Your Chinese customer was satisfied by this assurance, and you've fulfilled the contract in all respects. (For information on bonds and what they do, refer to **Section 7.4, "Performance guarantees and bonding."**)

But instead of paying you, the customer "calls the bond" — that is, alleges that you haven't met the contract conditions, and demands that your bank pay them the value of the bond. The bank complies, and then comes back to you to recover its loss. The customer's action in this case is known as a "wrongful call" and can cause no end of financial problems.

However, you'll be protected in this situation if you have EDC's Performance Security Insurance (PSI), which will cover up to 95 per cent of your loss when a customer issues a wrongful call and there proves to be no legitimate reason for doing so. For more information, refer to **www.edc.ca/PSI**.

7.6.4 Theft of intellectual property (IP)

Many businesses own proprietary technology such as industrial processes, patented machine designs and other types of intellectual property such as computer software code. These IP assets may comprise most of a company's value, and losing control of them can have severe repercussions.

China's record for IP protection has improved during the past few years. The country signed the WTO Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) in 2001, and now has laws that protect virtually all forms of IP including patents, trademarks, business secrets and copyrights. Enforcement of these laws is not all it might be, however; in consequence, you need to protect your IP rights very carefully when doing business in China.

The essentials for protecting your IP include the following:

- Consult a law firm familiar with Chinese IP law to identify the intellectual property that your company needs to protect. Then take measures appropriate to the type of IP, such as registering a patent.
- If you are licencing IP to a Chinese company, make sure your contract is very precise about the licencee's rights and where these rights are valid. Vagueness about these rights can create serious problems; for example, if the licencee uses your technology to create other technologies, this can severely undermine the value of your original technology.

- Ensure that all employees, partners and distributors sign enforceable non-disclosure and confidentiality agreements as to the ownership and use of your IP.
- Make sure your patents and trademarks are registered in China under Chinese law. You must do this even if you have registered them in Canada, because a Canadian patent or trademark has no legal standing in China.
    - *Patent registration:* Like Canada, China is signatory to the Patent Cooperation Treaty. Therefore, when you apply for a patent in Canada, you may also submit an application for a Chinese patent. You can do this either within Canada, via the Canadian Patent Office under the Patent Co-operation Treaty (PCT), or directly to the patent office in China. For more information, refer to the Canadian Intellectual Property Office (**www.cipo.gc.ca**), the World Intellectual Property Office (**www.wipo.org**) or China's State Intellectual Property Office (**www.sipo.gov.cn**).
    - *Trademark registration:* To register trademarks in China, you have to go through the Trademark Office of the State Administration for Industry and Commerce (SAIC). You should contact the Trade Section of the Canadian Embassy in China for a trademark agency approved by the State Intellectual Property Office.
    - *Copyright registration:* Copyrights are protected in China under international copyright law once they are registered in Canada, so you don't have to register a Chinese copyright. You can, however, register voluntarily through the Chinese-only web site of the National Copyright Administration at **www.ncac.gov.cn**.

It should be clear from the above that if you do need to take legal action on IP infringement in China, registering your IP there is a prerequisite; failure to register negates your right to legal recourse. The catch is that to register your IP in the first place, you'll usually have to provide the Chinese with detailed information about the very IP you are trying to protect. In addition, it may be expensive and difficult to obtain a judgment against a Chinese company.

7.6.5 Internet-based fraud

In early 2007, the Canadian Trade Commissioner Service in China issued a warning to Canadian exporters about fraudulent business approaches via the Internet. These typically begin with an unsolicited email and progress to elaborate business negotiations for a large order, sometimes complete with a proposed contract. If the Canadian company follows up with a visit to China, it will be asked to cover a range of fees for staff payments, commissions, gifts, expensive banquets and so on. Once these fees are paid, the Chinese "negotiators" vanish. Needless to say, the contract vanishes as well. For more information about avoiding this and other frauds, refer to **http://infoexport.gc.ca/ie-en/DisplayDocument.jsp?did=70467**.

7.6.6 Corruption

The Chinese government is aware of the problems presented by corruption and has introduced sanctions to curb it, including anti-money-laundering legislation and the dismissal and prosecution of corrupt officials. The government has stated that approximately 20,000 people were punished for corruption in 2006.

Corruption in China is mostly related to local officials who demand bribes in exchange for favourable business decisions. Most Canadian companies will never encounter this, but there are always exceptions. Your best protection is to carry out careful due diligence before you engage in any business with a Chinese firm.

Although it hardly needs to be said, you should walk away from any sale that suggests even a hint of impropriety. No exporter should ever do business with a Chinese company that makes such overtures, and pursuing the relationship can lead to long-term, expensive and damaging repercussions.

7.6.7 Special risks in extractive sectors

Risks related to corporate and social responsibility can be high with Chinese mining, oil and gas companies. At least one major Chinese oil firm, for example, has had serious environmental, human rights and safety problems with its operations outside China. In consequence, a Canadian company that considers working with a Chinese extraction company should exercise extreme due diligence in checking the other company's corporate social responsibility (CSR) record. Failing to do so could ultimately cause considerable harm to the Canadian firm.

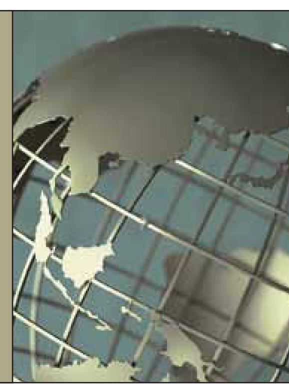
7.6.8 Other risks

Other kinds of risk include foreign exchange risk, which you have to factor into your plans and pricing to allow for fluctuations in the value of the Canadian dollar. A financial professional can advise you on various methods for handling these risks, such as forward contracts and exposure netting.

Another obvious risk is the loss or damage of goods in transit. Shipping insurance is covered in **Section 8.10, "Insurance."**

Guarding against corruption

Canada has laws against corruption, including laws against the corruption of foreign officials. This legislation is set out in the **Corruption of Foreign Public Officials Act**, which provides for the prosecution of Canadians in Canadian courts if they break the anti-corruption laws or counsel other people to break them. For a plain-language guide to this legislation, download EDC's pamphlet, **Keeping Corruption Out**. It's at **www.edc.ca/anti-corruption.**



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China's import regulations are complex and are evolving quickly. The following overview will give you a broad outline of what's involved in getting your goods into China, but you'll need professional advice and assistance to smooth the way when you're actually making your deliveries. As an exporter, you're likely already aware that customs brokers and freight forwarders specialize in this sort of help, which is outlined in Section 8.11, "Customs brokers and freight forwarders."

DELIVERING TO CHINA

Photo: © Liu Liqun/CORBIS

For detailed information about import rules, regulations, licencing, tariffs and other import-related matters, you should contact one of the Chinese offices of the Canadian Trade Commissioner Service. These are located in the Canadian Embassy in Beijing and in the Canadian Consulates in Shanghai, Guangzhou, Chongqing and Hong Kong (for contact information, please refer to the Appendix).

8.1 Import regulations

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Because of China's commitment to trade liberalization, there are no restrictions on the import of most products. However, some commodities are subject to tariff rate quotas, and a few products require a special import permit issued by MOFCOM.

Don't make assumptions, though. Always verify the relevant import requirements with your Chinese buyer, and cross-check these requirements with MOFCOM.

8.2 Standards and certification

There are three main government bodies for establishing and overseeing Chinese product standards, and for verifying that both domestic and imported goods conform to these standards. These are:

- The General Administration of Quality Supervision, Inspection and Quarantine of the People's Republic of China (AQSIQ), the umbrella organization that oversees a wide range of functions in this area. Its English web site is at **http://english.aqsiq.gov.cn/**.
- The Standardization Administration of the People's Republic of China (SAC), which is under the AQSIQ and is responsible for standardization of goods. Its English web site is at **www.sac.gov.cn/english/home.asp**.
- The Certification and Accreditation Administration of the People's Republic of China (CNCA), also under the AQSIQ, which deals with the certification of goods. Its English web site is at **http://219.238.178.8/20040420/column/227.htm**.

8.2.1 Certification and the CCC mark

Certification is compulsory in China for about 150 kinds of products. These products must have a China Compulsory Certificate (CCC) quality and safety mark before they can be imported into the country. If they don't have one, they will be refused entry at Chinese Customs.

Among the products requiring a CCC mark are:

- electrical equipment such as cabling, motors and tools;
- household electrical appliances;
- audio and video equipment;
- telecommunications and information technology equipment;
- motor vehicles and parts;
- agricultural machinery; and
- medical devices.

8.2.2 Obtaining the CCC mark

The CCC mark is administered by the CNCA, which has designated the China Quality Certification Center (CQC) to process CCC mark applications. The CQC's web site is at **www.cqc.com.cn/English**.

Information about the CCC mark is also available at the CCC Certification Online Service Centre web site, located at **www.ccc-cn.org/cccindex.htm**. DFAIT also provides extensive information about the CCC mark and how to obtain it. Refer to "Certification Regulations for Canadian Exporters — China" at **www.infoexport.gc.ca /ie-en/DisplayDocument.jsp?did=50167**.

If you need a CCC mark, you'll have to submit a product sample with extensive technical documentation to an accredited Chinese laboratory, which will carry out the required tests. Your factory must also be inspected (at your expense) by Chinese officials who will determine whether the goods being produced match the samples you provided. Be prepared to wait at least 60 to 90 days for your certification, and possibly several months. The total cost of certification can be upwards of $5,000.

8.3 Tariffs and duties

China Customs collects the tariffs on imports. Tariffs vary depending on the category of the goods. Duties to be paid are assessed mainly on an ad valorem basis or as a percentage of the cost, insurance and freight value of the goods.

Import tariff rates are divided into six categories: general rates, most-favoured-nation (MFN) rates, agreement rates, preferential rates, tariff-rate quota rates and provisional rates. Because Canada is a member of the WTO, our exports are assessed at the MFN rate. The five Special Economic Zones offer a range of duty reductions or exemptions.

As a general principle, ask your Chinese importer to disclose all customs and tariff requirements for your goods and then verify these requirements independently with China Customs. Its web site is at **www.customs.gov.cn**.

8.4 Temporary entry of goods

If you need to bring products to Chinese trade shows and exhibitions, you can do so without paying duty, provided you comply with some fairly complicated Customs rules. A much simpler alternative is to use an ATA Carnet.

An ATA Carnet is an international customs document recognized by most of the world's nations, including China. You present it when you enter the country with equipment or merchandise that you'll be re-exporting within 12 months, and the Carnet exempts the equipment or merchandise from duties or taxes. For information about acquiring an ATA Carnet, refer to **www.atacarnet.com**.

8.5 Non-tariff barriers to trade

Non-tariff barriers are government measures or policies, other than tariffs, that restrict or distort international trade. In China, these may include the barriers outlined below; before you close a sale, be sure to find out whether any of them may affect your exports.

- Standards, testing, labelling and certification requirements exist to make sure that imported goods meet a country's health, safety and quality standards. China, like most countries, requires conformity assessment licences, quality and safety licences, sanitary and phytosanitary testing, and labelling verification for imported goods. However, these standards are sometimes applied to imports more rigorously than they are to domestic products. This obviously gives the domestic producers an advantage over Canadian companies.
- China is prone to using anti-dumping measures to protect its domestic industry from foreign products. Among the products it has targeted in this way are chemicals, paper products, agricultural products and pharmaceutical products.
- China applies tariff-rate quotas (TRQs) to imports of wheat, barley, corn, rice, wool, cotton, sugar and fertilizer. Under this system, China restricts the amount of these commodities that can enter at a low tariff rate. Imports above that quota are charged at much higher rate.
- Liberalization has expanded the opportunities for non-Chinese companies in China's service sector, including financial, insurance, telecommunications, distribution and professional services. At the same time, some of the new regulatory structures that have accompanied these developments can obstruct foreign access by requiring high capital commitments and limiting expansion.

8.6 Labelling and marking

As noted in the "Standards and certification" section above, products requiring the CCC mark must have this mark physically applied before they can enter China. Be sure you comply with any applicable CCC requirement and any other labelling and marking specifications for your product, since an error can stop your shipment on the dock and leave it in a customs limbo.

Labelling regulations and requirements vary according to the goods being imported. Prepared foods, for example, must be labelled in Chinese and must include trademark, food name, list of ingredients, net content, name and address of manufacturer and distributor, production and expiry dates and country of origin. In general, ask your Chinese customer to specify exactly what should be on the labels, and try to have a sample label approved as part of your contract.

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8.7 Documentation

The usual documentation procedure is for the Chinese importer to collect the required paperwork and submit it to Chinese Customs. Depending on the product, documentation can include:

- bill of lading
- invoice
- shipping list
- customs declaration
- insurance policy
- purchase and sale contract
- import quota certificate as applicable
- import licence as applicable
- inspection certificates as applicable

8.8 Canadian export controls

Some Canadian goods and technologies can't be exported to certain countries unless you have an export permit to do so. Examples are military equipment and technology, nuclear equipment and technology, munitions, firearms, sensors and lasers.

Export of these goods and technologies is overseen by the Export and Import Controls Bureau (EICB), which is responsible for issuing the necessary export permits. The EICB web site is at **www.international.gc.ca/eicb**. For detailed information, download the EICB's *A Guide to Export Controls*, available at **www.international.gc.ca/eicb/military/documents/exportcontrols2006-en.pdf**.

8.9 Packing

For general information and instructions on packing and stowage for international cargo, you can download a pair of useful guides from the Canadian Trade Commissioner Service's web site. One is *Safe Stowage: A Guide for Exporters*; the other is *Export Packaging: A Guide for Exporters*. You'll find them at **www.infoexport.gc.ca/shipping/menu-e.htm**.

8.10 Insurance

A shipper assumes only limited liability for goods in transit, so you'll be primarily responsible for your shipment until it arrives at the Chinese port of entry. The Canadian Trade Commissioner Service web site provides an overview of shipping insurance at **www.infoexport.gc.ca/shipping/insureship-e.htm**. You can usually obtain insurance through a freight forwarder (see the next section), which is often preferable to doing it yourself.

8.11 Customs brokers and freight forwarders

For most Canadian exporters, shipping goods to China and dealing with Chinese Customs is a process better handled by customs brokers and freight forwarders. Some customs brokerage firms are also freight forwarders, and can provide you with convenient one-stop shopping.

Canadian companies exporting to China usually engage a licenced customs broker based in Canada, who then works with a broker based in China. The latter handles the documentation and logistics required to clear goods through Chinese customs. The Canadian Society of Customs Brokers (CSCB) offers a list of questions you should ask when choosing a customs broker; you'll find it on the CSCB web site at **www.cscb.ca**.

Freight forwarders are primarily responsible for moving goods, although many offer customs brokerage services as well. You can select from among a forwarder's various services or have the company manage the whole process, starting at your loading dock and ending on your customer's doorstep.

Choosing a freight forwarder requires its own brand of due diligence. The most important thing to find out is whether the forwarder is experienced in clearing goods into China. Even if it passes this test, you should also:

- ask the forwarder for a list of customers and ask those customers about the forwarder's quality of service;
- check the forwarder's credit references;
- find out if the forwarder is experienced in handling your type of product; and
- make sure the forwarder can handle the volume of shipping you expect.

You can obtain more information about freight forwarders from the Canadian International Freight Forwarders Association web site at **www.ciffa.com**.

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EDC contacts in Canada

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Fax: 403-537-9811

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One Bentall Centre, Suite 1030
505 Burrard Street, Box 58
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Tel.: 604-638-6950
Fax: 604-638-6955

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360 Main Street, Suite 2075
Winnipeg MB
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1-888-350-0127
Tel.: 204-975-5090
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Shanghai 20040
China
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Fax: 011-8621-6279-8437
Email: china@edc.ca

Beijing Canadian Embassy
19 Dongzhimenwai Street
Chayoang District
Beijing 100600
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Email: china@edc.ca

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Canadian Embassy, Beijing
19 Dongzhimenwai Street
Chaoyang District
Beijing 100600, China
Tel.: 86-10-6532-3536
Fax: 86-10-6532-4311

Canadian Consulate General, Shanghai
Shanghai Centre, Tower 4
Suite 604
1376 Nanjing Xi Lu
Shanghai 200040, China
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Fax: 86-21-6279-7456

Canadian Consulate General, Guangzhou
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China Hotel Office Tower
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Canadian Consulate, Chongqing
Suite 1705, Metropolitan Tower
68 Zou Rong Lu, Yu Zhong District
Chongqing 400010, China
Tel.: 86-23-6373-8007
Fax: 86-23-6373-8026

Canadian Consulate General, Hong Kong, SAR
13th Floor, Tower 1, Exchange Square
8 Connaught Place
Central, Hong Kong
Tel.: 852-2847-7414
Fax: 852-2847-7441

Major Chinese Ministries

General Administration of Customs
www.customs.gov.cn

Ministry of Commerce
www.mofcom.gov.cn

Ministry of Foreign Affairs
www.mfa.gov.cn

State Administration for Industry and Commerce
http://gsyj.saic.gov.cn/wcm/WCMData/pub/saic/english/default.htm

State Administration of Taxation
www.chinatax.gov.cn

Key China-related business organizations

Asia Pacific Foundation of Canada
www.asiapacific.ca

Canada China Business Council
www.ccbc.com

China Council of International Trade
http://english.ccpit.org

Hong Kong-Canada Business Association
www.hkcba.com

Hong Kong Trade Development Council
www.tdctrade.com

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