Simple steps to minimise risks of being scammed when purchasing from China

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Simple steps to minimise risks of being scammed when purchasing from China

The challenges of the pandemic have put global supply chains under unprecedented pressure. Skyrocketing prices and disruptive lockdowns in multiple cities and ports across China have significantly impacted business sentiment of European companies operating in/with China – while some other alternative sourcing markets are becoming more mature and popular.[1]

Despite this, many EU SMEs continue to be interested in sourcing goods from China. But finding the right partner is not an easy task; careful analysis and due diligence are required. In fact, the **EU SME Centre continues to receive – on a weekly basis – emails from EU SMEs that encounter significant issues with purchases from China**. Although each case is unique and a commercial dispute might arise from genuine circumstances, cases of scams from Chinese suppliers remain very frequent, generally resulting in either one of two outcomes:

Goods purchased from China received but of lower quality or defective	Goods purchased from China never shipped/received

For instance, in May 2022, a Croatian company reached out to the EU SME Centre. They had ordered UV/LED lamps from a Guangdong-based manufacturer and made a payment of around 20 000 EUR. After the goods were received, the company realised that **all the lamps had serious defects**, becoming non-functional after a few days of use from its own clients in Europe – which in turn resulted in complaints or returns of the defect lamps to the Croatian company. In another case, a Bulgarian company purchased around 70 000 EUR worth of granite and stones from a manufacturer based in Xiamen. After the goods were received, the company realised that the **thickness of the plates received was not the same as that stipulated in the contract**; a laboratory was called upon to issue a testing report, which was not recognised by the Chinese seller. In both cases, the European companies requested their respective Chinese suppliers to send a new batch of products, or to issue a refund – their requests were ignored. In another very recent case, an Estonian company made an advance payment of around 30 000 EUR for a batch of alloy steel produced by a local manufacturer in Wuxi, Jiangsu province. After the advance payment was received, the Chinese manufacturer first delayed the shipment, citing COVID-19 restrictions and closures, until it finally **stopped responding to the company's emails, without shipping the goods** at all.

Other scenarios can occur. In July 2022, the EU SME Centre was contacted by a Polish SME that purchased three containers of steel and metal profiles from a manufacturer based in Wuxi, Jiangsu. An advance payment was made, while the remaining amount was transferred to the Chinese supplier when the goods arrived at the port of entry in the EU – in line with the sales contract signed. However, once the goods were transferred from the port to the company's premises, the company realised that **around 7 tonnes of steel were missing from each container**, corresponding to a difference of around 25 000 EUR. The Chinese supplier offered to provide the missing steel if the Polish company made a second order for new containers, based on the same sales terms (advance payment + settlement of remainder upon arrival of the goods at the EU port).

The cases above caused enormous challenges to the EU SMEs, as they needed the goods purchased from China to deliver other products to their own clients in Europe. **The companies not only lost the amount they paid to the scammer; they also incurred fines from their clients**, and probably a termination of these business relationships. Even worse, after falling victims to a scam, there is very little that EU SMEs can do: legal action in China requires a significant amount of money and time; EU SMEs often do not know where to start, and consequently may opt to

[1] As emerged from surveys that China-based chambers of commerce from various EU countries conducted among their members, some of which were anticipated in an article issued in April 2022 by the EU SME Centre: https://eusmecentre.org.cn/article/lockdowns-china-can-your-supply-chain-remain-resilient-against-crisis.

swallow the bitter pill instead of enforcing their rights. Scammers know this very well and indeed rely on this aspect to perpetrate their frauds.

The **EU SME Centre can assist EU SMEs to conduct, free-of-charge, basic background checks on Chinese companies**, trying to identify red flags for scams and other credit-related risks. EU SMEs may request this service through the **Ask-the-expert** section on our website, https://www.eusmecentre.org.cn/expert or by sending an email to info@eusmecentre.org.cn

The risk of scams and quality issues when purchasing from Chinese suppliers can be reduced, and in the majority of cases avoided, by taking **simple steps to conduct background checks and preliminary due diligence** on Chinese companies. The purpose of this article is to help and guide EU SMEs to do so. These are only basic indications and practical tips from real cases that the EU SME Centre came across. SMEs shall not rely on the following information as a substitute for legal advice, which should always be sought, as much as possible, for in-depth due diligence. This is especially important for bigger transactions for which detailed financial information is needed.

Common red flags for potential scams

Although each case is unique, scams may present one or more commonalities. The following is a list of red flags that characterised most of the cases that the EU SME Centre has collected from EU SMEs. It must be noted that **the presence of one or more red flags from this list does not necessarily indicate a scam; conversely, their absence does not necessarily indicate the reliability of a seller**.

Seller does not have a website, or their website does not have a version in Chinese	Company stamp used on the contract does not have any legal value	T/T payment in advance to the Chinese seller
Suspicious bank account provided by the Chinese seller	Registered capital of the Chinese seller has not been paid	More money asked by the seller to cover notary fees or additional fees

***Red flag 1**: The Chinese seller does not have an official website; or if they do, there is no Chinese version of the website, or there are inconsistencies between the Chinese and English versions*

EU SMEs buying from Chinese companies usually use platforms such as Alibaba, AliExpress or similar. On these platforms, Chinese sellers have dedicated e-shops where they display their products and contact details. Any reputable company would, in addition to these, have a specific company website and some presence on social media. Therefore, the first necessary step for EU SMEs is to conduct an organic search on internet browsers to see the website and reviews of the Chinese seller. The absence of search results may indicate that the company is not interested in establishing a reputation internationally.

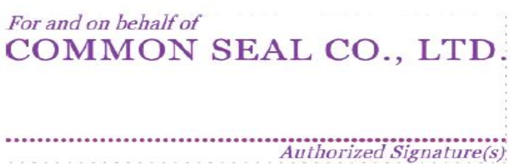
In some cases, a Chinese company might have a website, but only in English (and/or in many other foreign languages), not in Chinese. One may argue that a website in Chinese is not relevant for companies involved in international export; however, this also means that **key information on the company is not disclosed and thus not easily identifiable in case a dispute arises** (e.g., the company's legal name in Chinese and its registered address). If a Chinese version of the website is available, one should pay close attention to the consistency of information between the various versions.

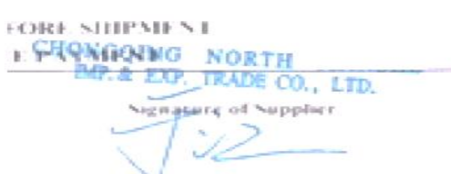
***Red flag 2**: The company's stamp used by the Chinese seller does not contain the standard elements stipulated by Chinese laws and regulations.*

In China, company stamps (or chops) are essential for any business contract – much more than in the EU. They are a symbol of the legal rights of the company; there are therefore very strict rules for their usage and storage. **Chinese company stamps have standardised elements which are clearly identifiable** (with very rare exceptions):

- Circular or oval shape
- Red ink
- Red star in the middle
- Company name written in Chinese characters
- Occasionally, bilingual chops in Chinese and English might be used; a 13-digit number might also appear, indicating the chop's registration number with the authorities.

Company stamps in any other shapes, sizes, colours or languages have no legal value in China. One may argue that other chops – especially those in English – are used to facilitate the foreign partner's understanding of the stamp; in practice, these are often a strong indicator that the **company does not want to disclose its legal information and thus may have something to hide**. Below are some examples of company stamps, used in some scams identified, with no legal value in China:





***Red flag 3**: T/T advance payment to the Chinese seller*

The key goal of a scammer is to have its victim pay for the goods in advance, even only a partial amount. **Once an advanced payment has been made, if anything goes wrong, it is impossible to receive the prepayment back without going through legal action** (more details on dispute resolution in the last section of this article).

Therefore, even if advance payments are a common business practice in China, it is recommended to limit this option to partners that are already known and trusted. **When buying for the first time from a Chinese partner, it is recommended to use other payment methods**, such as documentary collections or letters of credit: although more expensive, the transaction becomes safer through the involvement of banks as intermediaries; such payment methods are also relatively popular in China. The Chinese seller will probably attempt to resist these options but remember who is the client and that low- and medium-end goods can be easily sourced from many other suppliers in China or elsewhere.

Red flag 4*: The bank account provided by the seller does not seem to belong to the same company*

Another important element to pay attention to is the bank account indicated by the Chinese seller for the payment. EU SMEs should ensure that the account provided belongs to the same company as the invoicing company, thus excluding:

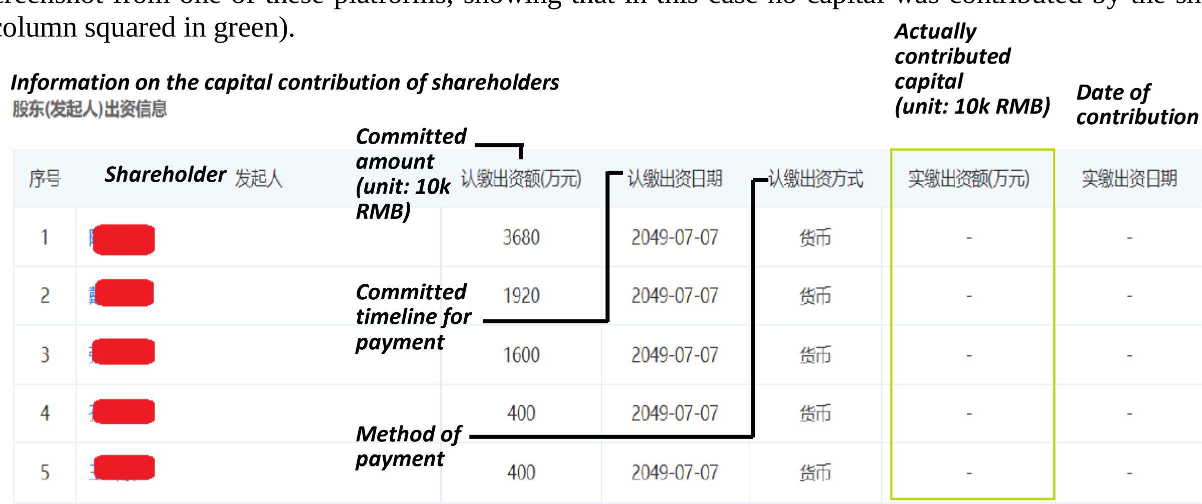
- Personal bank accounts (e.g., the account of the founder or general manager);
- Accounts with clearly different company names (e.g., even if the seller insists that it belongs to another entity within the same group);
- Accounts with bank branches located in other regions in China (e.g., if your interlocutor is based in Guangdong and provides an account from Jiangxi province).

In general, if the Chinese seller insists on using another bank account, then this intention must be confirmed in writing with the company's stamp (see Red Flag 2). In some occasions, a supplier might prefer to be paid to a bank account in Hong Kong: in principle, this could be a legitimate request, especially if the seller has very solid international operations; however, in such cases the payment is made only indirectly and not directly to the seller, making it challenging to determine who is responsible for the goods in the event of a dispute.

Red flag 5*: The registered capital of the company has not yet been paid*

Another essential aspect to check relates to the Chinese seller's **registered capital, and specifically how much of that amount has already been paid by the shareholders**. In China, any individual may incorporate a company for a very low fee, without actually contributing any of the company's registered capital at the initial stage (committing to do so over a 30-year period). In practice, if a company has not paid any of its registered capital, it means that it has **virtually no financial assets that could be frozen or sold** for compensation: this is often an indication of risk.

The paid-up capital is easy to check through annual reports of the company. Usually, the company's annual report is available on specialised credit and business information platforms – such as Qichacha (https://www.qcc.com/) and Tianyancha (https://www.tianyancha.com/), which however require a subscription; the EU SME Centre has access to these platforms and can help all EU SMEs to conduct such checks, free-of-charge. The following is a screenshot from one of these platforms, showing that in this case no capital was contributed by the shareholders (column squared in green).



序号	Shareholder 发起人	认缴出资额(万元)	认缴出资日期	认缴出资方式	实缴出资额(万元)	实缴出资日期
1	[redacted]	3680	2049-07-07	货币	-	-
2	[redacted]	1920	2049-07-07	货币	-	-
3	[redacted]	1600	2049-07-07	货币	-	-
4	[redacted]	400	2049-07-07	货币	-	-
5	[redacted]	400	2049-07-07	货币	-	-

Red flag 6: The Chinese counterpart asks for additional money to pay notary fees or other administrative fees

The EU SME Centre has received numerous emails from EU SMEs buying from China, complaining that their Chinese seller asked for the payment of notary fees before, or immediately after, signing a sales/purchase contract. In fact, in China **there is no mandatory provision requiring the notarisation of ordinary sales and purchase contracts**; it is required only for some contracts of special importance, e.g., real estate transfers.

Usually, this situation is more frequent in cases of European SMEs selling to Chinese companies, which request notarisation as a way for them to "secure funds" with their local bank, or to allow the bank to convert Chinese Renminbi currency into foreign currency. What should alert EU SMEs is the fact that such fees are requested to be paid to the Chinese company directly "in order to facilitate things". In one specific case of a scam received, a Chinese company interested in buying goods from an EU SME asked for a 1 500 EUR notary fee, and a 2 000 EUR currency exchange fee – both included in a contract that had just been signed between the two parties and to be paid 50% each. After the EU SME paid these fees, the Chinese buyer disappeared and never completed the payment for the goods in line with the contract terms.

Finally, in a few other cases that the EU SME Centre has recently received, there was a frequent reference to COVID-19 restrictions as a *force majeure* reason for not executing the sales contract as agreed with the European client. For instance, lockdowns or other restrictions making it impossible to complete the production of the goods, deliver them to the Chinese port, or have auditors inspecting the seller's premises. While **strict and unpredictable COVID-19 restrictions are indeed frequent and recurrent in all parts of China, certain companies might exaggerate their actual impact**, as their European counterparts have little means to verify the validity of their claims.

Preventive measures and steps

In addition to the tips provided in the previous section to recognise red flags for potential scams, there are other indispensable measures that EU SMEs must do before signing a purchase contract with a Chinese company.

Ask the Chinese seller for a copy of its business license	Check the company on specific business- and credit-related platforms	Verify that the contact person is authorised to negotiate on behalf of the seller
Contact the EU SME Centre and your representations in China	Hire an auditor for on-the-ground inspection of the goods in China	Hire a Chinese lawyer for in-depth due diligence

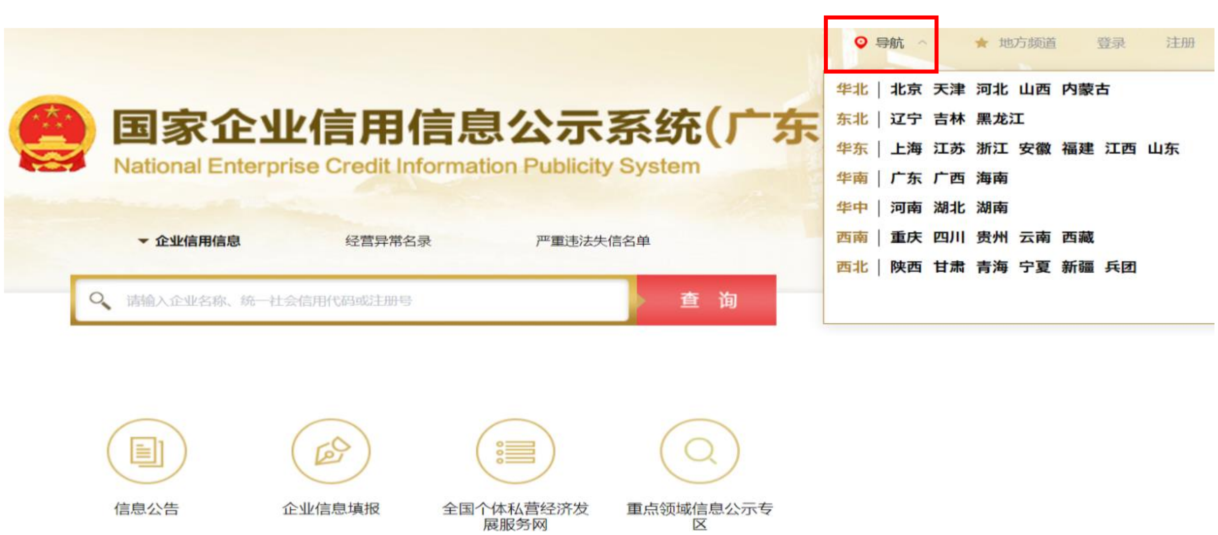
***Measure 1**: Ask for a copy of the business license of the Chinese company*

Every company legally incorporated in China possesses an official business licence, which acts as its ID card. The **first step EU SMEs should always take, regardless of the circumstances, is to request a copy of the Chinese company's business license** with the official company stamp affixed to it. This is a common business practice; if a company refuses to do so, then the advice is to immediately terminate any negotiation. The business license looks as follows, and contains the following key information:

It is noteworthy that the original business licence is often hung on the company's walls, so anyone would be able to take a picture of it, while the duplicate licence is stored somewhere safe.

***Measure 2**: Check the company's situation on the official government enterprise credit system, and on other relevant platforms*

After a copy of the company's business license has been received, the next step is to verify that all the information provided is true. This can be done through a dedicated platform established by the Chinese government, called National Enterprise Credit Information Publicity System (http://gsxt.gdgs.gov.cn/), which is available only in Chinese. The platform has different versions for each province: the province where the Chinese company is officially registered should be selected in the menu at the top of the page (circled in red in the screenshot below).



The next step is to check **whether the company has had any credit-related issues or legal disputes** recently. This can be done by inserting the company's name or unified social credit code on the Credit China government platform (https://www.creditchina.gov.cn/), from which a credit report can be downloaded for free. The same can be done on third-party specialised platforms – such as those already seen in *Red flag 5: The registered capital of the company has not yet been paid*. They offer, through a subscription (starting from around 100 EUR per year) a more in-depth analysis of business risks of all companies registered in China, as well as results of legal proceedings in which they were involved. An alternative is to reach out to the EU SME Centre for a free-of-charge background check.

Finally, if the company showcases relevant product quality and management certification from international bodies, it is useful to verify the veracity of these documents by browsing the company's name/certificate number on the certification body's online directory of certified clients and products. In some cases, certificates were found to have been photoshopped by the Chinese company, or to belong to companies with a different name.

***Measure 3**: Verify that your contact person is authorised to negotiate on behalf of the company*

In some circumstances, while the Chinese company is safe and reliable, the **contact person with whom EU SMEs are negotiating is not**. In recent years, the EU SME Centre has come across a few cases in which a scammer negotiates a deal on behalf of a Chinese company, without being authorised to do so – or worse, without even being employed by the company. If the scam goes through, this person can easily disappear. In addition to searching the name of your contact person on popular engines and social media, other measures to take to minimise such risks are:

- Ask for a business card with the name and title of your contact person in Chinese characters (it might not be easy to identify a Chinese person using an English name as this unofficial name can be changed as one wishes);
- Call or visit the company, confirming whether that person is actually known and employed by the company;
- When signing a contract, EU SMEs could require that the signature used next to the chop is the one of the legal representative of the company, rather than the one of the contact person. Since the legal representative is authorised by law to represent the company, there can be little doubt whether the stamp's use was authorised in such a case.

***Measure 4**: Check with the EU SME Centre and your national representations in China*

Our recommendation to EU SMEs is to contact the EU SME Centre as well as their national representations in China, such as embassies or chambers of commerce before entering any written agreement. These bodies might have **information on fraudulent companies** that have been involved in previous scams, and therefore be able to alert you of potential risks. While embassies offer assistance for free, chambers of commerce may do so only for their members or based on a service fee; some chambers of commerce may even be able to organise and participate on behalf of the EU SME in a meeting with the Chinese company.

Information on Chinese companies that have been involved in commercial disputes and/or scams with EU SMEs is available to the EU SME Centre, based on cases received in the past. EU SMEs may reach out to the EU SME Centre to check, **free-of-charge**, whether the Chinese partner they are negotiating with is known or not! Do so via https://www.eusmecentre.org.cn/expert or by sending an email to info@eusmecentre.org.cn

The contacts of EU Member States embassies and chambers in China can be easily found online; alternatively, EU SMEs can reach out to the EU SME Centre for an introduction.

Measure 5: Hire an auditor to conduct on-the-ground inspection in China of the goods

Because the pandemic makes it nearly impossible to travel between the EU and China, EU SMEs might not be able to visit the Chinese company themselves and **inspect the goods before they are shipped to Europe**. This exponentially increases the risk for EU SMEs of being scammed by their Chinese supplier: in fact, if the goods are in different condition than agreed in the sales terms, once the goods have left the Chinese port and entered Europe, there is very little that EU SMEs can do to enforce their rights without recurring to legal action in China.

Hiring professional auditors to inspect and test the goods in the factory of the Chinese seller, or at the port, before they are shipped, is a common practice in China to ensure that the terms of the contract regarding the product quality are met. The fees for such services depend on the type and number of tests needed but are not particularly high in case of simple testing that can be done within a day (e.g. a few hundred EUR). If the Chinese seller does not agree to have its premises or goods inspected, or claims it is unfeasible (for instance, invoking particular COVID-19 restrictions such as an impossibility for external personnel to enter certain areas) without offering other solutions, EU SMEs should consider this as a red flag.

National representations in China, especially chambers of commerce, may have among their network a **list of inspectors/auditors**, therefore EU SMEs are advised to contact them directly.

The EU SME Centre might also be able to assist!

Measure 6: Hire a Chinese lawyer for in-depth due diligence

All the red flags and preventive measures listed in this article refer mostly to simple scams that can be encountered on small transactions paid in advance, generally ranging from a few thousand to a few tens of thousands of EUR.

For larger transactions, or whenever necessary, EU SMEs should always consider hiring a Chinese lawyer for in-depth due diligence on the Chinese company. Chinese lawyers will have access to business identity documents and other key materials on Chinese companies filed with local market supervision authorities. They will also be able to verify a company's financial status and health, as inaccurate financial reporting remains a relatively common issue in China (preventive measures and steps on this aspect were intentionally not included in this article as they are more complex and require legal cooperation with specialised law firms and the Chinese partner itself). Law firms with experience in/with China will also provide precious insights on how to draft sales contracts to maximise one own's interests and protect against possible misconducts from the other party.

Finally, EU SMEs should always appeal to common sense and be alerted if a deal looks simply too good, remarkably standing out from the quotations received by other Chinese suppliers, or coming too suddenly or unsolicited.

Too late: what to do?

EU SMEs should always keep in mind that, once they become victims of scams, there is very little that they can do. Reporting scams to authorities in the EU or to local Public Security Bureaus in China is of little or no use in most cases; trying to appeal to the business ethics of the Chinese counterparts will also be a waste of time; an ethical supplier would not devised a scam in the first place. Chinese scammers know from the outset that their victims might come after them, they are therefore very experienced and careful to cover their tracks. It is different, of course, if there is a genuine business dispute or sudden issue with a regular supplier, as such cases may not involve premeditation.

Legal action in China is only the last stand and requires a significant amount of money and time. Often, EU SMEs do not know where to start, and consequently may decide to renounce enforcing their rights. General recommended actions to victims of fraud can be found below:

Continue to collect evidence of contraction violation	Work with a China-based law firm to send a Demand Letter	Work with a China-based law firm to initiate legal action in China

***Action 1**: Continue to collect evidence of contract violation*

The first indispensable action is to collect in written form all possible evidence of the contract violation or scam by the Chinese seller. This includes everything, from email communications and payment receipts, to test reports of professional auditors who completed the inspections on the goods. It is important that the evidence shows that the victim tried to solve the dispute through amicable negotiations and not assuming bad faith, and that further action was taken only after refusal or non-cooperation from the seller. At the same time, the EU SME can also try to contact another department of the same Chinese company to see if it leads to another outcome.

It is essential that enough evidence is collected on time, as if legal action is initiated, the parties involved are allowed to submit evidence only during a limited period.

***Action 2**: Work with a China-based law firm to prepare and send a Demand Letter to the Chinese seller*

Before escalating to legal action, EU SMEs might try to engage a China-based law firm to prepare a **Demand Letter** to be sent to the Chinese company. This letter demands the fulfilment of the terms agreed in the contract, threatening further action if nothing happens within a specific period. In general, **Chinese companies pay attention to Demand Letters from Chinese lawyers, as they show that the victim is familiar with dispute resolution mechanisms in China and is indeed determined to proceed in this way**. Over the years, China has strongly pushed for the establishment of a social credit system, through which companies (as well as individuals and other organisations) are rewarded or punished for their behaviours; losing credit may have significant implications for a Chinese company, e.g. losing existing clients and contracts, or being excluded from future business opportunities. Therefore, when facing a Demand Letter from a China-based law firm, some scammers might be prompted to discuss and negotiate: losing credit can be worse than losing money.

It is noteworthy that Demand Letters in China are not particularly expensive: based on previous cases seen by the EU SME Centre, these on average may cost around 1 500 to 3 000 EUR including some degree of follow-up.

***Action 3**: Work with a China-based law firm to initiate legal action in China*

If the Demand Letter has not changed the situation, the only option left is to initiate legal action against the Chinese company. How this can be done depends on the clauses included in the contract in terms of law and dispute resolution mechanisms applicable.[2] EU SMEs should keep in mind that, in general, **going through the Chinese judicial system by working with China-based law firms will lead to easier enforcement of a judgement or arbitration award**. China-based law firms might also apply to Chinese courts for an asset preservation order, which

[2] For more details and tips on how to draft sales contracts with Chinese firms, see the recording of a webinar organised by the EU SME Centre in August 2021: https://www.eusmecentre.org.cn/event/2021-08-26/drafting-sales-contracts-when-exporting-china.

will put further pressure on the other side and may help the plaintiff to secure the enforcement of the judgement or arbitration award.

Before initiating legal action in China, a significant amount of time is required to prepare, notarise, and legalise formality documents such as Power of Attorney, business identity documents, etc., so it is suggested to start this process as early as possible.

Most importantly, **legal action is a long and costly process[3] which often deters EU SMEs from initiating it**. This is the leverage that Chinese scammers have. By identifying the red flags and adopting the measures indicated in this article, EU SMEs will be better equipped to recognise in time potential scammers and thus reduce the likelihood of recurring to legal action.

Do you have any other questions? Would you like to share your case? Reach out to the **EU SME Centre's team of experts for free-of-charge assistance and background checks on Chinese companies**!
https://www.eusmecentre.org.cn/expert
info@eusmecentre.org.cn

Useful resources

The EU SME Centre's website offers many practical and free resources to guide EU SMEs to conduct preliminary due diligence on Chinese partners, to draft sales contracts and to prevent or deal with dispute resolution in China. A few examples are:

- Report (2018): *Knowing your partners in China* – https://www.eusmecentre.org.cn/report/knowing-your-partners-china
- Webinar (May 2022): *The ABC of commercial dispute resolution in China* – https://www.eusmecentre.org.cn/event/2022-05-25/abc-commercial-dispute-resolution-china
- Webinar (August 2021): *How to draft sales contracts when exporting to China* – https://www.eusmecentre.org.cn/event/2021-08-26/drafting-sales-contracts-when-exporting-china
- Webinar (May 2021): *Knowing your Chinese partner* – https://www.eusmecentre.org.cn/event/2021-05-26/knowing-your-chinese-partner-0

[3] There are important differences between litigation and arbitration in terms of costs and duration of the proceeding. For more details on this regard, see a webinar organised by the EU SME Centre in May 2022: https://www.eusmecentre.org.cn/event/2022-05-25/abc-commercial-dispute-resolution-china.

About the EU SME Centre

The EU SME Centre is a European Union initiative that provides a comprehensive range of hands-on support services to European small and medium-sized enterprises (SMEs), getting them ready to do business in China. Experts in the Centre provide advice and support in four areas – business development, law, standards and conformity and human resources. Collaborating with external experts worldwide, the Centre converts valuable knowledge and experience into practical business tools and services easily accessible online.

The EU SME Centre is now managed by four consortium partners and two associated consortium partners who guide the strategic development and management of the Centre through their knowledge and experience of the China market - China-Italy Chamber of Commerce in China, European Union Chamber of Commerce in China, Fondazione Italia Cina, Sociedade Portuguesa de Inovação as well as Trade Promotion Europe and EU-China Business Association.

For more information, please visit: www.eusmecentre.org.cn.

Consortium partners:

Associated partners:

Do you have a question about doing business in China?

Ask one of our in-house experts and receive practical and confidential advice within seven working days. We can provide information and advice relating to business development, market access, legal issues, and human resources.

To submit your enquiries directly to our experts go to Ask-the-Expert: www.eusmecentre.org.cn/expert,
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