

MEMORANDUM OF UNDERSTANDING

On reinforcing the EU-China IP Dialogue Mechanism

On 30 October 2003, during the 6th EU-China Summit held in Beijing, EU and China agreed to set up a structured EU-China Dialogue on intellectual property (IP) coordinated by DG Trade and the Ministry of Commerce (MOFCOM). On 14 July 2005, both sides agreed to complement the IP Dialogue with an EU-China IP Working Group. The EU-China IP Dialogue Mechanism is based on these two components.

During the past decade, the IP Dialogue Mechanism has proved to be a very useful and reliable platform for both sides to have extensive discussions and cooperation on a wide range of IP-related issues with a view to fostering a better understanding of the two sides IPR systems and their development and to reducing potential trade frictions. The technical cooperation programs between EU and China have played a significant supporting role to these bilateral exchanges and served as a good example in the field of international IP cooperation.

During the 16th EU-China Summit from 20 to 21 November 2013, both sides jointly adopted the EU-China 2020 Strategic Agenda for Cooperation and agreed to handle bilateral trade friction through dialogue and consultation as a preferred option and to reinforce the IP Dialogue Mechanism so as to strengthen cooperation for combating counterfeiting and piracy as well as make full use of the new technical cooperation programme in that regard.

In order to implement this political commitment, DG Trade and MOFCOM, assuming their role as designated primary interlocutors for EU/China IP cooperation and thus responsible for ensuring appropriate coordination on their respective sides, intend to reinforce the EU-China IP Dialogue Mechanism by clarifying its objectives and developing its structure and content.

Objectives of the IP Dialogue Mechanism

Both sides clarify that the main objectives of the IP Dialogue Mechanism are as follows:

1. Enhancing cooperation between DG Trade and MOFCOM on dealing with IP protection and enforcement issues, in coordination with IP agencies, enforcement authorities and judiciary bodies;
2. Improving the IP environment in the EU and China as one of the key conditions to promote creativity, innovation and investment;
3. Deepening the mutual understanding between the EU and China on IP issues;
4. Raising public awareness of IP issues in the EU and China;
5. Handling IP issues capable of generating bilateral trade frictions through dialogue and consultation with a view to finding, where possible, mutually acceptable solutions.

Structure of the IP Dialogue Mechanism

Both sides envisage to develop the structure of the IP Dialogue Mechanism in the following way:

DG Trade and MOFCOM will coordinate the IP Dialogue Mechanism. The agenda of each session will be decided by joint agreement between both parties. The precise composition of each delegation will be decided by each party in consultation with the other one. Both parties will coordinate the follow-up of each session, including the draft of joint minutes.

The level of the IP Dialogue will be upgraded to be co-chaired by Vice-Minister level representatives from both sides. This IP Dialogue will facilitate a regular exchange on IP issues and each year identify priority areas proposed by each side for the EU-China cooperation related to IP protection and enforcement. It will consist of at least a half-day session once a year with the venue alternating between Brussels and Beijing, preferably before the annual EU-China High Level Economic and Trade Dialogue (HED). If agreed by both sides, sessions may be organised in other cities in the European Union or in China. The IP Dialogue is to report once a year jointly on the development of cooperation to the HED.

The IP Working Group will be co-chaired by the Head of Unit in charge of IP matters at DG Trade for the European side and by the Deputy-Director General in charge of IP matters at MOFCOM for the Chinese side. The IP Working Group continues to concentrate on the exchange of information on all IP matters, with particular focus on priority areas identified during the IP Dialogue, and aims at finding solutions to specific problems without interfering in ongoing administrative or judicial procedures. It will consist of one-day sessions at least twice a year in Beijing or in Brussels or in other cities in the European Union or in China. The venue will be decided by both sides in advance.

Content of the IP Dialogue Mechanism

In order to reach the above-mentioned objectives, both sides envisage that the IP Dialogue Mechanism will in particular focus on the following components:

1. Regular updates and exchange of information on experiences, developments and legislative progress in all areas relevant to IP protection and enforcement, including the sharing of practices and technical tools;
2. Development of joint initiatives aiming at supporting the protection and enforcement of IP rights, including trade secrets, and the fight against counterfeiting and piracy in the digital environment;
3. Development of increased exchange and cooperation between IP agencies and enforcement authorities at central and sub-central level;
4. Promotion of cooperation between judicial bodies and between universities and academic institutions, with a view to stimulating exchange of experiences and practices in the area of IP and joint academic researches;
5. Where appropriate, making use of the technical IP cooperation programme in support of agreed initiatives and priority areas, and exploring its possible extension.

This Memorandum of Understanding reflects the intention of both sides to reinforce the EU-China IP Dialogue Mechanism based on shared objectives, and does not create rights or obligations under international law.

This Memorandum of Understanding has been prepared in both English and Chinese language. Both language versions shall apply equally.

Done in Brussels on 29 June 2015.

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