



ReLaTe - Law and business in China in the framework of the EU and China investment and trade relations: the challenges of digital-tech age

EU-CHINA LEGAL COOPERATION ON IPR. HISTORICAL EVOLUTION AND RECENT DEVELOPMENTS

Pre-print, December 29, 2025

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DOI: 10.6092/unibo/amsacta/8719

This article was subject to an anonymous peer review.



**Co-funded by
the European Union**



ALMA MATER STUDIORUM
UNIVERSITÀ DI BOLOGNA | DEPARTMENT
OF LEGAL STUDIES

EU-China Legal Cooperation on IPR. Historical Evolution and Recent Developments*

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Summary: 1. General Framework of EU-China Cooperation on Intellectual Property – 2. A change in Chinese approach: the national intellectual property strategy and the policies of indigenous innovation – 3. EU-China cooperation programmes on IPR: IPR1, IPR2, IPKEY – 4. The aftermath of IPKEY and the new era of EU-China Cooperation on IPR – 5. Conclusion

1. General Framework of EU-China Cooperation on Intellectual Property

The legal reform process in China, initiated in the late 1970s, was characterised by an increasing role for international cooperation.

Between the end of the twentieth century and the beginning of the next, in particular, there has been an international bounce towards legal exchanges with the People's Republic of China: almost a competition that saw state agencies, international development bodies, non-governmental organizations, foundations, States and supranational entities such as the EU, all concerned to provide their own as a reference model for the reform of Chinese legal system¹.

Within this context, the issue of protecting and enforcing intellectual property rights is emblematic. The first framework agreement relevant for EU-China cooperation on intellectual property rights protection is the EU-China Trade and Economic Agreement of 1985². In the agreement, there is no specific section on intellectual property rights. Yet, it still serves as a reference framework for the various actions in the field, such as the Agreement for Scientific and Technological Cooperation between the European Community and the Government of the People's Republic of China, signed in 2000³. In the latter, there is an annexe specifically dedicated to the protection of intellectual property rights and their regulation, which essentially reiterates the provisions of the TRIPS Agreement⁴ and establishes particular reciprocal rights and obligations for the parties.

Another important legislative act in this field is the Agreement between the European Community and the Government of the People's Republic of China on Cooperation and Mutual

* This contribution has been realized within the activities for the Jean Monnet Module ReLaTe -Law and business in China in the framework of the EU and China investment and trade relations: the challenges of digital-tech age funded by the European Union. Views and opinions expressed are however those of the author only and do not necessarily reflect those of the European Union or the European Education and Culture Executive Agency (EACEA). Neither the European Union nor EACEA can be held responsible for them.

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¹ For a complete reconstruction of the phenomenon, see NOVARETTI (2011), *Le ragioni del pubblico: le "azioni nel pubblico interesse" in Cina*, Napoli, pp. 110 ff, and the large bibliography there cited.

² COUNCIL REGULATION n. 2616/1985 concerning the conclusion of a *Trade and Economic Cooperation Agreement between the EU and China*, in OJ L 250, of 19 September 1985.

³ *Agreement for Scientific and technological cooperation between the European Community and the Government of the People's Republic of China*, in OJ L 06 of 11 January 2000, p. 40. The EU-China cooperation on science and technology as well as having, as it is known, remarkable connections with IPR matters, is the subject of a highly structured dialogue developed especially starting from the years 2000. Since 2006, however, China has begun to focus its energy no longer on the copy industry, but on indigenous innovation, a term which appears for the first time in the speech that Hu Jintao delivered to outline the National Strategic Plan for Science and Technology to be realized between 2006-2020.

⁴ The Agreement on Trade Related Aspects of Intellectual Property Rights is one of the compulsory agreements administered by the World Trade Organisation (WTO) with the purpose of setting minimum standards for international intellectual property (IP) protection, and to the necessity for dialogue in IP matters. See <https://www.wipo.int/wipolex/en/treaties/details/231> (last visit on December 20, 2025) for the complete text.

Administrative Assistance in Customs Matters, signed in 2004⁵. This agreement constitutes the general framework for cooperation and mutual administrative assistance at the level of customs and establishes the Customs Joint Cooperation Committee, which is tasked with ensuring the proper implementation of the act. On this topic, the EU-China Action Plan Concerning Customs Cooperation on IPR (2014-2017) was launched, signed during the seventh meeting of the Joint Customs Committee in 2013⁶.

Since 1998, the various EU-China Summits have devoted themselves, from time to time, to matters concerning the protection of intellectual property rights. At the September 2012 meeting, the *EU-China Dialogue on Innovation* was launched⁷.

In 2004, the *EU-China IP Dialogue Mechanism* was launched, a structured dialogue implemented through annual meetings held alternately in Brussels and Beijing, involving the participation of the European Union's DG Trade and the PRC's Ministry of Commerce. During these meetings, the parties have the opportunity to exchange information and plan high-level actions for the protection of intellectual property rights, as well as analyse national laws and practices in the field to identify priority issues, examine proposals, and amendments to various disciplines⁸.

Besides the *EU-China IP Dialogue*, the *EU-China IP Working Group* was established in 2005, with a pragmatic vocation aimed at focusing the discussion on the more practical aspects of intellectual property rights. In fact, these meetings, which take place twice a year, are attended not only by politicians but also by experts, companies and other intellectual property rights stakeholders.

The described strategy, primarily politically motivated, is supported by technical assistance, through which the EU aims to establish a working environment with the Chinese government that is based on the values of transparency and equality, shared by both partners.

This kind of cooperation was launched already in 1985, when the first cooperation agreement between the Patent Office of the EU and the Chinese Patent Office was signed. For the first concrete initiative, though, it was necessary to wait until 1993, when the Spanish Patent and Trademark Office launched the first *EU – China IP Training Programme*, conceived as a program for institutional

⁵ *Agreement between the European Community and the Government of the People's Republic of China on Cooperation and Mutual Administrative Assistance in Customs Matters*, in OJ L 375/20, of 23 December 2004.

⁶ It is important to note that the EU-China cooperation on customs matters is particularly structured. The first formal act of customs cooperation was signed in 2004 at The Hague and it is the *Agreement between the European Union and the Government of the People's Republic of China on Cooperation and Mutual Assistance in Custom Matters*. This agreement provides the framework on the subject and establishes the Joint Custom Committee, a committee of mixed composition which has the task of supervising the implementation of an agreement had. On the basis of the agreement of 2004, Chinese and European customs authorities work together on the protection of intellectual property rights, as well as on a number of other activities ranging from the fight against illegal drug trafficking to security of trade. In 2010 the *Strategic Framework for Cooperation – Enhancing EU-China Customs Cooperation to Promote Legitimate Trade* have been signed, with the specific aim of increasing the synergy of institutions responsible for customs protection. During the seventh summit of the Joint Meeting, in 2014, two documents have been processed, one of which specifically on customs protection of intellectual property rights: the *Action Plan Concerning EU-China Customs Cooperation on IPR* (2014-2017) and the *Ensuring Smooth and Safe Trade between the EU and China Strategic Framework for Custom Cooperation*, which is also intended to cover the time span between 2014 and 2017. For further information see the web site of the Commission,

http://ec.europa.eu/taxation_customs/customs/policy_issues/international_customs_agreements/china/index_en.htm (last visit on December 20, 2025) where all the mentioned documents can be find.

⁷ Furthermore, During the meeting of June 2015, a *Memorandum of Understanding on Reinforcing the EU-China IP Dialogue Mechanism* was signed. Further information can be found on the web sites <http://www.ipkey.org/en/activities/upcoming-activities/item/3321-10-year-anniversary-brussels-flagship-event-3321> and <http://www.ipkey.org/en/about-ip-key/eu-china-cooperation-on-ipr-issues>. For a report of the meeting see http://europa.eu/rapid/press-release_IP-15-5279_en.htm. Last visit on December 22, 2025.

⁸ The Dialogue was established in 2003 when the EU Commissioner for Trade Pascal Lamy and Vice Minister Wei Jianguo, Ministry of Commerce, agreed the establishment of a structured EU-China dialogue on intellectual property rights. See https://ipkey.eu/sites/default/files/legacy-ipkey-docs/201510-a-decade-of-discussion_ip-key_final.pdf last visit on December 21, 2025. See also EUROPEAN COMMISSION, *Bilateral Interaction with China*, of June 28, 2013 available at http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150992.pdf. Last visit on December 22, 2025

training on patents and trademarks⁹.

The turning point for European cooperation in the area of IPR is represented by the entry of China into the WTO. To fulfil the various commitments imposed by the WTO on China, the Chinese government has implemented a significant package of reforms in the field of intellectual property protection, with the aim of realising which the Sino-European cooperation sought to make a difference.

In this context, what Europe could no longer ignore was the concrete change of direction that interested the Chinese's approach towards the research and development policy¹⁰. The old certainty that China had an inadequate legal system, where copy and intellectual property rights infringement was tolerated is no longer true. Chinese efforts are now focused on the promotion of the so called "indigenous innovation"¹¹, to which the following paragraph will be devoted.

2. A change in Chinese approach: the national intellectual property strategy and the policies of indigenous innovation

As it has already been pointed out, with the entry of China into the WTO the protection of intellectual property rights began to play a central role in the industrial policy of China¹². However, considering the setting of Chinese the economic model, the most urgent issue was to create infrastructures and standards that were able to protect authors and inventors as well as to facilitate the exploitation of intellectual property products: namely to develop "strategies"¹³.

These "strategies" took place, starting from the local side and following a typical Chinese model, more systematically since 2005 when annual action plans for the protection of intellectual property rights were drawn up, along with White Papers and various campaigns for better protection of these rights¹⁴: in 2010, 22 provinces had adopted local strategies for the protection of the rights in

⁹ On this program see WEI SHI (2008), *Intellectual Property in the Global Trading System. EU-China Perspective*, Berlin-Heidelberg, p. 237.

¹⁰ See GREATREX (2008), *The Authentic, the Copy and the Counterfeit in China: an Historical Overview*, in TIMOTEO (ed.), *Sistema giuridico romanistico e diritto cinese. Regimi e tutela della proprietà intellettuale in Cina*, Rome, pp. 115 ff.; MANDERIEUX (2008), *The Emergence of China as a Key Intellectual Property Player: New Dynamic International Patenting Policies of Chinese Innovative Companies*, in TIMOTEO (ed.), *Sistema giuridico romanistico e diritto cinese. Regimi e tutela della proprietà intellettuale in Cina*, cit., pp. 193 ff.

¹¹ On indigenous innovation see SIYUAN AN-PECK (2011), *China's Indigenous Innovation Policy in the Context of its WTO Obligations and Commitments*, in *Georgetown Journal of International Law*, pp. 375 ff.; DIETER (2010), *Indigenous Innovation and Globalization – the Challenge for China's Standardization Strategy*, available at www.talkstandards.com/indigenous-innovation-and-globalization last visit on December 22, 2025; XIAOLAN FU, GONG YUNDAN (2011), *Indigenous and Foreign Innovation Efforts and Drivers of Technological Upgrading: Evidence from China*, in *World Development*, vol. 39, pp. 1213 ff.

¹² For further information on China's accession to WTO see CAVALIERI (2003), *L'adesione della Cina alla W.T.O. Implicazioni giuridiche*, Lecce; ESPLUGUES (2009), *China's Accession to WTO*, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1952779, accessed on 18 June 2015; HOLBIG, ASH (eds.) (2002), *China's Accession to the World Trade Organisation*, London; YUEFEN LI (2002), *China's Accession to WTO: Exaggerated Fears?*, in *UN Conference on Trade and Development – Discussion Paper*, n. 165, available at http://unctad.org/en/Docs/osgdp165_en.pdf, accessed on December 29, 2025; FARAH (2006), *Five Years of China's WTO Membership: EU and US Perspectives About China's Compliance With Transparency Commitments and the Transitional Review Mechanism*, in *Legal Issues of Economic Integration*, vol. 33, n. 3, pp. 263 ff.

¹³ See WIPO, *National IP Strategies*, available at: <http://www.wipo.int/ipstrategies/en/>, visited the last time on December 22, 2025. On Chinese strategies see ZHANG ZHICHENG (2014), *Roadmaps of China's National Intellectual Property Strategy Outline*, in KEN SHAO, XIAOQING FENG (eds.), *Innovation and Intellectual Property in China. Strategies, Contexts and Challenges*, Cheltenham-Northampton, p. 34; BOUMIL (2012), *China's Indigenous Innovation Policies Under the TRIPS and GPA Agreements and Alternative for Promoting Economic Growth*, in *Chicago Journal of International Law*, n. 2, p. 758.

¹⁴ See *China IPR Action Plan*, available in English on the web site <http://www.qbpc.org.cn/list.php?cid=218>, visited the last time on December 23, 2025. For the *White papers* on the protection of Intellectual property in China see the Information desk of Chinese State Council. For 1994 *White paper*, see <http://china.org.cn/e-white/intellectual/index.htm>;

question¹⁵.

At the national level, the highlight of China's policy towards intellectual property rights has been the development and adoption of a National Intellectual Property Strategy, formally approved on 5 June 2008¹⁶. The Strategy addresses several problems concerning intellectual property, such as the need to improve the protection and enforcement of intellectual property rights, the enhancement of talent and ingenuity, the raising of the awareness of the general public. With this document, for the first time, the State Council has raised the issues on intellectual property to the rank of policies priorities, thus giving precise instructions on what were the positions of the Chinese government on the subject¹⁷.

The National Intellectual Property Strategy should be considered in relation to the Medium and Long-Term Plan on Scientific and Technological Development (MLP) elaborated in 2006 and intended to cover the time period between 2006 and 2020¹⁸.

The Plan proposes the full implementation of a national strategy on intellectual property and of a technical standardization in order to safeguard the national progress of science and technology. With this Plan, the government announced its clear intent to abandon the position of a counterfeiter country and become an innovative nation. To achieve this goal, China has significantly increased its investment in research and development¹⁹.

In undertaking the path of systematic regulation of intellectual property rights, by adapting to international standards, China has gone further and has pursued a purely "internal" goal: the so-called "indigenous innovation"²⁰.

The mentioned strategy explicitly recognizes that the progress of a nation depends on innovation; the previous stage, based fundamentally on technology transfer from abroad, was necessary because it clarified the significant role that intellectual property rights play in the innovation process, or even

for the text of 2005 *White paper* see http://www.chinadaily.com.cn/english/doc/2005-04/21/content_436276.htm, visited the last time on December 23, 2025.

¹⁵ See WECHSLER (2011), *Intellectual Property Law in the People's Republic of China: a Powerful Economic Tool for Innovation and Development*, in *China-EU Law Journal*, p. 37.

¹⁶ See the *Notice of the State Council on Issuing the Outline of the National Intellectual Property Strategy*, in *Gazette of the State Council*, 2008, No. 17, pp. 12–18. For further information on the *Intellectual Property Strategy*, see <http://english.ipr.gov.cn/en/iprspecials/IPRStrategy/index.htm>, visited the last time August 7, 2015. According to the World Intellectual Property Office, a strategy on intellectual property consists of a set of measures formulated and implemented by a government to encourage and facilitate the effective creation, development and management of intellectual property at the national level. The strategy should outline what are the tools used to develop suitable infrastructure to give support to intellectual property rights holders. A strategy can also be defined as a systematic document with national significance that highlights how the government intends to coordinate the various policies and the various implementation techniques in a coordinated national framework. See WIPO, *National IP Strategies*, available at http://www.wipo.int/ipdevelopment/en/strategies/national_ip_strategies.html, visited the last time on December 27, 2025.

¹⁷ On the Chinese intellectual property strategy see CARPI (2015), *First copy then innovate: the National Intellectual Property Strategy for China of Third Millennium*, in TIMOTEO (ed.), *Law and Sustainable Business in China*, BUP, Bologna, pp. 133 ff.

¹⁸ *Guojia zhong chang qi kexue he jishu fazhan guiha gangyao*, issued by the State Council on February 9, 2006. See http://www.gov.cn/jrzq/2006-02/09/content_183787.htm, visited the last time on December 27, 2025. This is the eighth medium and long term strategic plan developed by the Chinese government. The working group on science, technology and education of the State Council, headed by the Prime Minister Wen Jiabao, has enacted the above mentioned plan in cooperation with the Ministry of Technology, the National Commission for the Development and Reforms, the Ministry of Finance and the Ministry of Industry and Information Technology. This plan is one of several national programs that underpin economic planning, as the most famous five-year plan. In 2015 the 13th Five-Year Plan, that will cover the years 2016-2020, has been approved. See XIAOLAN FU, GONGYU-DAN (2011), *Indigenous and Foreign Innovation Efforts and Drivers of Technological Upgrading: Evidence from China*, cit., p. 1215.

¹⁹ See WILSDON (2007), *China: the Next Science Superpower?*, in *Engineering and Technology*, p. 28; MICHAEL, QIAN, BOUTENKO (eds.) (2007), *Beyond the Great Wall: Intellectual Property Strategies for Chinese Companies*, Boston.

²⁰ The expression was used for the first time in 2006 by President Hu Jintao during his speech for the presentation of the Medium and Long-Term Plan on Scientific and Technological Development and summarize the new approach of Chinese government for the promotion of local innovation.

“self-innovation”. This preference, also known as indigenous innovation (*zizhu chuangxin*), i.e. a series of investments and industrial policies addressed to strengthen the role of innovation in economic growth of China, was formally introduced in 2006 with the abovementioned National Strategic Plan for Science and Technology²¹, where it is clearly underlined how the lack of innovative capacity is seen as a weakness of the economic system and China was asked to become an innovative country (*chuangxing guojia*) by 2020²².

An essential first step towards the implementation of the indigenous innovation policies has been the increasing of government fundings for research and development: the National Strategic Plan for Science and Technology, in fact, provides for an increase of the costs for this sector of 2.5% of the country’s gross domestic product by 2020²³. The goal has not been reached yet, however, in the two years following the entry into force of the Plan, the funds provided to this sector increased by 54%²⁴.

This is the sign of a change of course, but it is not the only one. The Government has also implemented a series of industrial policies to provide strategic advantages to national companies in order to promote growth and future development. Precisely, these industrial policies are at the heart of the “indigenous innovation” approach²⁵.

Furthermore, for the first time, a systematic policy of government actions aimed at supporting local enterprises has been established, the core of which is represented by the preference in public contracts granted to a number of products classified as “indigenous innovation”²⁶. The rationale behind implementing this system stems from the assumption that guaranteeing the aforementioned products a market will increase the profits of the companies that produce them, which can be reinvested in new research and development projects to enhance the production of innovative products²⁷.

²¹ See STOIANOFF (2012), *The Influence of WTO over China’s Intellectual Property Regime*, in *Sydney Law Review*, vol. 34, p. 88. See also CARPI (2022), *EU-China Legal Cooperation on IPR: New Strategies for the Protection of Wealth*, in ONZA, SACCOCCIO (eds.), *Production and Circulation of Wealth. Problems, Principles and Models*, Torino, Giappichelli, pp. 175 ff.

²² At § 1 of the Plan, “Guiding Principles” it is said: “(...) The guiding principles for our S&T undertakings over the next 15 years are: indigenous innovation, leapfrogging in priority fields, enabling development, and leading the future. Indigenous innovation refers to enhancing original innovation, integrated innovation, and re-innovation based on assimilation and absorption of imported technology, in order improve our national innovation capability”. Furthermore, at § 2, “Development Goals”, it is stated: “The general objectives for the nation’s S&T development (2006-2020) will be to: noticeably enhance indigenous innovation capability and S&T level in promoting economic and social development and in maintaining national security, in an effort to provide powerful support for the building of a well-to-do society; noticeably improve comprehensive strength in basic research and frontier technology development; and attain a series of high world impact S&T achievements and join the ranks of innovative countries, thus paving the way for becoming a world S&T power by mid 21st century”. See the English translation of the plan on http://www.most.gov.cn/eng/pressroom/200611/t20061106_37842.htm, visited the last time on June 20, 2016. Last visit on December 26, 2025.

²³ *Ibidem*, “By 2020, the nation’s gross expenditures on R&D (GERD) are expected to rise to 2.5% or above of the gross domestic product (GDP) with the rate of S&T contribution to the economy reaching 60% or above, and dependence on imported technology reduced to 30% or below, and the annual invention patents granted to Chinese nationals and the international citations of scientific papers moving into the top five countries”.

²⁴ NATIONAL BUREAU OF STATISTICS, *China’s Statistical Yearbook – 2009*, Beijing, 2009.

²⁵ See BOUMIL (2012), *China’s Indigenous Innovation Policies Under the TRIPS and DPA Agreements and Alternatives for Promoting Economic Growth*, in *Chicago Journal of International Law*, vol. 12, n. 2, pp. 762 ff.; SUTTMEIER, XIANGKUI YAO (2011), *China’s IP Transition: Rethinking Intellectual Property Rights in a Rising China*, in *The National Bureau of Asian Research Special Report*, n. 29, p. 7.

²⁶ See O’BRIEN (2010), *China’s indigenous Innovation. Origins, Components and Ramifications*, in *China Security*, 6 (3), p. 55. See also BAARK (2019), *China’s Indigenous Innovation Policies*, in *East Asian Policies*, vol. 11, n. 2, pp. 5 ff.

²⁷ See BOUMIL (2012), *China’s Indigenous Innovation Policies Under the TRIPS and DPA Agreements and Alternatives for Promoting Economic Growth*, cit., p. 764. To be classified as indigenous innovation, the product in question must meet all the following requirements (established in 2006 in the *Notification Regarding the Trial Measures for the Administration of the Accreditation of National Indigenous Innovation Products* and checked by the *China National Certification Administration*): it must be produced by a company that possesses full ownership throughout China, including in relation to intellectual property rights, it should be the bearer of a trademark registered in China and owned by a Chinese company, it must be highly innovative, it must be of high quality.

In 2009, the described actions for implementing measures to encourage indigenous innovation became more pressing, with the immediate, obvious consequence of drawing the attention of foreign governments to the verge²⁸. Several US industry representatives have publicly stated that indigenous innovation policies pose a greater threat to foreign enterprises in China than intellectual property infringement²⁹. As for European entrepreneurs, they are just as concerned as their American colleagues³⁰. A first step towards the improvement of the situation was taken in December 2010, during the twenty-first session of the United States-China Joint Commission on Commerce and Trade, during which the parties agreed that neither would adopt a discriminatory policy in respect of products or production processes developed in compliance with the intellectual property laws of the two countries³¹. Clearly, China's indigenous innovation policies have entered a new phase, and with them, the cooperation with China on IPR³².

3. EU-China cooperation programmes on IPR: IPR1, IPR2, IPKEY

In the above-described passage on the Chinese approach to protecting IP rights and the new trend in indigenous innovation policies, the role of cooperation with Europe has been, once again, central³³.

The first project of technical cooperation between the EU and China in the field of intellectual property was established prior to the formal change in the policy: it was launched in 1999 and was called the *EU-China Intellectual Property Rights Cooperation Programme* (IPR1). The project represents a crucial step in the construction of a more structured system of relations and cooperation between China and the European Union. On the European front, it finds its basis in the 1998 Communication, "*Building a Comprehensive Partnership with China*"³⁴."

The cooperation program was intended to support the process of adapting Chinese law to international standards of intellectual property protection, as marked by the TRIPS Agreement. The action was taken in view of the fact that the low level of Chinese enforcement of those standards could result in serious injuries for the European companies engaged in trade relations with Chinese

²⁸ The news had consequences on media. See BRADSHAW (2011), *Pentagon Must Buy American – Barring Chinese Solar Panels*, in *New York Times*, January 9; WEI (2010), *China's Indigenous Innovation Policies: No Easy Solutions*, in *Beijing Today*, April 15.

²⁹ See UNITED STATES INTERNATIONAL TRADE COMMISSION (2010), *China: Intellectual Property Infringement, Indigenous Innovation Policies and Frameworks for Measuring the Effects on the US Economy*, Investigation No 332-514, in STEWART (2010), *Evaluating China's Past and Future Role in the World Trade Organization. Testimony Before the US-China Economic and Security Review*, June 9, available at http://www.uscc.gov/hearings/2010hearings/transcripts/10-06_09_trans/stewart-testimony.pdf, visited the last time on December 27, 2025.

³⁰ See WEI SHI, WEATHERLEY (2007), *Harmony or Coercion - China-EU Trade Dispute Involving Intellectual Property Enforcement*, in *Wisconsin International Law Journal*, vol. 25, no. 3, pp. 439 ff. See also CHAUDHRI (2011), *Chinese industrial policies: indigenous innovation, intellectual property rights, and the trade issues of the next decade*, in *Jefferson Law Review*, 34 (1), pp. 1 ff.

³¹ See US TREASURY, *Second Meeting of the US-China Strategic and Economic Dialogue Joint US-China Economic Track Fact Sheet*, available at www.treasury.gov/initiatives/Documents/SEDjointeconfactssheets072910.pdf, visited the last time on December 27, 2025. See also US TRADE REPRESENTATIVE (2010), *China Agrees to Significant IP Rights Enforcement, Market Opening, and Revisions to Indigenous Innovation Policies that Will Help Boost US Export*, December 10, available at www.ustr.gov/about-us/press-office/press-releases/2010/december/us-china-joint-commission-commerce-and-trade-2010, last visit on December 27, 2025.

³² See BOUMIL (2012), *China's Indigenous Innovation Policies Under the TRIPS and GPA Agreements and Alternatives for Promoting Economic Growth*, cit., p. 767.

³³ For a general assesment of the cooperation between China and EU on IPR, see CROOKES (2014), *EU Soft Power with China: Technical Assistance in the Field of Intellectual Property Rights*, in *European Foreign Affairs Review*, vol. 19, pp. 77 ff.

³⁴ On the communication, see AA.VV. (2003), *Successful Move for Closer Cooperation in the Protection of Intellectual Property Rights*, in *European Patent Network*, Monaco, pp. 67 ff. In particular, with this communication, Europe intended to act as a privileged partner of China in view of Chinese entrance and integration into the international trading system.

partners. At the same time, there was a strong interest also from the Chinese government side: actually, an increasingly large proportion of Chinese companies had initiated training programs on the subject of intellectual property for their employees and had devoted substantial shares of their investment in terms of research and development, with a remarkable growth in the number of patents registered at the Chinese Patent Office³⁵.

The IPR1 program was then specifically targeted at assisting the Chinese government in adjusting its legal system on intellectual property, with a specific focus on enforcement at both the administrative and judicial levels. The administrative action was intended to maximise the operational effectiveness and impartiality of the procedures, while the legal action aimed to enhance the professionalism of Chinese judges and their independence in administration³⁶.

The evaluation of the activities carried out under the IPR1 program is quite complicated, since the data regarding these activities are, for the most part, unpublished. The website of the program is cancelled, and no sections on its results or detailed data are available on the websites of the ongoing programmes. This element is, in itself, symptomatic of the fact that this first cooperation program has not delved deeply into the dynamics of the Chinese legal process. From what emerges in the preparatory documents of the following program (IPR2), the centre of gravity of the action of IPR1 was heavily biased on Europe, locating many training and education courses for Chinese officials and judges in Europe, while not achieving adequate systematic coordination between the various actions on which the program had been set³⁷. In any case, the IPR1 program was overall positively evaluated, especially since it was considered a flexible tool “to provide the best European experts to support ongoing initiatives, new subjects and needs expressed by Chinese partners”³⁸, as well as an opportunity to set up a relational network between Europe, China and international organisations. The program also served as the starting point for a dialogue between the mentioned stakeholders regarding the provision of assistance for the legislative review of intellectual property matters. This activity was carried out within the context of the *EU-China Project for the Protection of Intellectual Property Rights in China*, also known as IPR2, which followed the IPR1 program.

Given the mentioned critical points of IPR1 and the launch of the National Intellectual Property Strategy, the new project launched by the European Commission under the *EuropeAid Cooperation*³⁹ had the specific task of ensuring a synergistic effect between the activities and the institutions involved at various levels of the project. Above all, the main goal was the shift of the epicentre of the action from Europe to China. Moreover, the attention of the first program, concentrated on the legislative formant, is considered limiting, having become necessary to deepen the perspective, both at a cognitive and at an operational level, in order to act on what is believed to be the most crucial

³⁵ See CUI NING, QIN JIZE (2004), *IPR Strategy to Define Government's Role*, in *China Daily*, June, p. 5.

³⁶ See EPO (2004), *Annual Report*, section “Forewords”, available at <http://www.epo.org/about-us/annual-reports-statistics/annual-report/2004.html>, last visit on December 27, 2025.

³⁷ Nevertheless, in terms of enforcement we must observe that IPR1 supported, with a series of training activities, the formation of specialized judges in the field of intellectual property, in particular on civil liability and damages. See EPO *Annual Report*, 2004, section “International affairs”, cit. Another important counseling activity was made in respect of the amendments over the Regulation on custom protection of IPR that led to the approval of new Regulation on Custom Protection of IPR, enacted by the National State Council on December 2, 2003.

³⁸ EUROPEAN COMMISSION, EUROPEAID COOPERATION OFFICE (2006), Financing proposal n. CHN/AIDCO/2006/018-178, p. 2 available at https://ec.europa.eu/europeaid/projects/eu-china-project-on-the-protection-of-intellectual-property-rights_en, last visit on December 27, 2025.

³⁹ The DG “Development and Cooperation” of the European Commission has the task to develop European policies on development and provide assistance around the world. *EuropeAid* delivers aid through a series of financial instruments, pledging to ensure the quality and efficiency of the European Union. As an active and proactive entity in the field of development, promoting good governance, human and economic development and tackles universal issues, such as fighting hunger and preserving natural resources. This is a complex of actions for cooperation and international development, centrally managed by the EU DG, but the development of which in the various regions of the world is enacted through diversified activities. As for China, its position is quite peculiar, since it has passed from receiving country to strategic European partner. For further information see the *EuropeAid* web site http://ec.europa.eu/europeaid/node/22_en, last visit on December 27, 2025.

element of the Chinese intellectual property system: the enforcement⁴⁰.

Following these premises, the IPR2 project was officially launched⁴¹ on November 27, 2007.

The IPR2 is qualified as a project of technical assistance and cooperation. Its overall final goal is the regulation of Chinese integration in the international trading system and the support of the transition of Chinese economy towards the global market. In view of these objectives, the project aims at contributing to the improvement of the legislative framework and procedures, at the administrative and judicial levels, in the field of intellectual property. The project also aims at ensuring European companies over the construction of a minimum level of protection of intellectual property rights in China and at building a sustainable network involving Chinese and European economic entities, in the presence of a common denominator, namely the protection of intellectual property rights⁴².

The *Overall Work Plan* of the project is based on a watchword: “IPR enforcement”⁴³. To achieve this target, an action is being carried out that, from the level of central bodies, will reach the local level, engaging all institutions in several Chinese provinces that are involved in enforcing intellectual property rights at both administrative and judicial levels. The action is conceived in a long-term perspective that should lay the foundations for the construction of an efficient protection system, capable of supporting the expectations of the international community.

Besides the effort on the legal framework⁴⁴, the other crucial focus of IPR2 is on case law. The *Work Plan* clearly identifies the lines along which the project will need to be developed in this area. First, at the level of authoritative law, the action of cooperation must focus on all the documents produced by the Chinese Supreme Court to support the implementation of laws on intellectual property. Additionally, training should be conducted at the judicial personnel level and focus on case law⁴⁵.

In the final report presented to the European Commission, the project was rated a success. To confirm this judgment, data on cases closed before the courts in a year, on the registration requests submitted by Chinese companies, on the abbreviation of some administrative procedures, as well as on the increase in the value of administrative fines granted, are presented. The positive aspects of the project are not only identified in terms of quantity, but also in terms of quality. The analysis of Chinese case law has shown how the familiarity of the operators with the technical aspects related to the protection of intellectual property rights has significantly increased⁴⁶. Furthermore, greater

⁴⁰ See the Financing Proposal n. CHN/AIDCO/2006/018-178, pp. 2-3.

⁴¹ See IPR2, *Press Release*, November 26, 2007, available at <http://ipr2.org/document-centre/document.php?id=295#>, last visit on December 27, 2025. For further information on the project, see the official web site www.ipr2.org, that is still active. For further information on the administrative structure of the project, led by a team leader, Carlo Pandolfi of the *European Patent Office* (for the EU side) and by a project director, Qian Liyong (for Chinese side), see http://www.ipr2.org/index.php?option=com_content&view=category&layout=blog&id=63&Itemid=196, last visit on December 28, 2025.

⁴² See in particular the web page <http://www.ipr2.org/aboutipr2.html>, visited the last time on July 2, 2016.

⁴³ See IPR2, *Overall Work Plan*, of August 5, 2008, available at http://www.ipr2.org/storage/IPR2_OWP_Final_5_August_2008-en392.pdf, last visit on December 28, 2025.

⁴⁴ The legislative text on which the IPR2 project acted in a substantive way is Patent Law of the PRC, amended in 2008. For a deep analysis over IPR2 action plan, see CARPI (2015), *Innovazione, sviluppo, riforma giuridica. Uno studio di diritto comparato sulla cooperazione Europa-Cina in materia di proprietà intellettuale*, cit., pp. 91 ff.

⁴⁵ See IPR2, *Overall Work Plan*, cit. pp. 35 ff.

⁴⁶ On case law, in the last year of the project, a translation and comment work was sponsored by IPR2. This work ended with the publication of two volumes, one dedicated to the translation in Chinese language and comment of European leading cases on intellectual property and the other one dedicated to the translation in English language and comment of Chinese leading cases on intellectual property. The two volumes have the value to let the reader get in touch with the legal reasoning of the European and Chinese courts, to follow the argumentative paths and to frame operational rules expressed by the cases within the same reference system. Moreover, the interesting aspect of this work is the fact that Chinese and European scholars and judges, have shared setting and job processing on the respective parts. This permitted the starting of a dialogue that went beyond the simple exchange of data on legal solutions and that allowed a comparison of the different legal mentality, which, even in a hyper-technical matters such as the intellectual property, end up affecting the final form of the rules. See the two mentioned volumes: STRAUS, MEIER, BECK (eds.) (2011), *Leading Court Cases*

transparency has been achieved through the online publication of civil judgments on IPR.

Of course, there have also been some critical points: regarding enforcement, it is worth noting that some Chinese authorities have shown a lack of interest. Furthermore, several expected training activities were not carried out, and the target of creating an online database on IPR issues that would serve as a common platform for coordination among the various institutions involved was not met⁴⁷. Nevertheless, the overall judgments are very positive on several issues, starting with the great attention paid to the local legal process in implementing the strategies set out by the program.

Finally, in January 2014, a new cooperation project on IPR was launched, named “IP: A Key to Sustainable Competitiveness” (IPKEY)⁴⁸.

The transition from IPR2 to the IP Key program signified a critical evolution in the EU’s approach, moving away from a developmental model toward one centered on partnership and the promotion of European interests.

This project is framed in a different way than the previous one, since it is no longer a program of cooperation to development: it is not based on an assistance plan made by the EU toward China, but on an equal basis. IPKEY is a platform for cooperation that acts as a bridge between EU and Chinese agencies, creating an IP landscape that benefits both Chinese and EU industries operating in China. The development of the project is achieved through cooperation on a number of activities, including in-depth studies, peer-to-peer exchanges, the development of databases and tools, seminars, workshops, training, and high-level events⁴⁹.

Another important difference from the previous projects is that the Chinese government is not involved as a key actor. Indeed, IPKEY is “managed by the Beijing-based Technical Experts’ Team, who receives administrative and technical backstopping support from the IP Key Action Team at the EU Intellectual Property Office’s headquarters in Alicante, Spain. An EU-China Joint Platform, co-chaired by China’s Ministry of Commerce (MOFCOM) and the EU Delegation to China, identifies and oversees implementation of mutual-interest activities under IP Key”⁵⁰. As far as economic resources are concerned, in addition to the EU’s contribution to the project, Chinese counterpart agencies also contribute to the project’s individual activities.

So far, within the IPKEY, the work on enforcement and Chinese justice, if present, is considered less structured and less stringent than in previous projects.

4. The aftermath of IPKEY and the new era of EU-China Cooperation on IPR

The IPKEY project came to its conclusion in 2017 and has now entered into a new phase: phase II, as it is called in EU documents, to identify two different, overlapping parts of EU-China cooperation.

“IP Key China – Phase II (2017–2022)”⁵¹, where EUIPO and IP Key materials describe a Phase II running 2017–2022, following earlier cooperation programmes.

A newer “IP Key China II” action under the umbrella title “IP KEY / IP KEY II” (Oct 2022–Sep 2025), which EUIPO financial reporting also refers to “IP Key China II” as an EU action whose implementation ran from 1 October 2022 to 30 September 2025 with a total budget of €4,666,667. The agreement was signed on 13 December 2021⁵².

on European Intellectual Property, Tongji IP Series, Beijing; ZHENG SHENGLI, TIMOTEO, GONG HONGBING (eds.) (2011), *Leading Court Cases on Chinese Intellectual Property*, Beijing.

⁴⁷ See SEMPI (2015), *Cina e globalizzazione giuridica nel prisma della proprietà intellettuale*, cit., pp. 152-153.

⁴⁸ See the official web site of the project www.ipkey.org, last visit on December 29, 2025.

⁴⁹ See the web site <http://www.ipkey.org/en/about-ip-key>, last visit on December 29, 2025.

⁵⁰ *Ibidem*.

⁵¹ See the details of the project on the website https://ipkey.eu/sites/default/files/ipkey-docs/2023/IPKEY-CHINA_EN_2023_0.pdf?utm_source=chatgpt.com, last visit, December 29, 2025.

⁵² See EUIPO, *Annual Accounts 2024* (Final version of 23/06/2025), available at https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/about_euiipo/the_office/annual_accounts/annual_accounts_2024

Phase II (2017–2022) is the second phase of the EU-China cooperation project, while “China II” (2022–2025) can also mean the *second-generation IP Key action package* in EU budgeting language.

The programme core function is still the support of the EU–China IP Dialogue and working groups, i.e., the structured policy/technical discussions with Chinese counterparts. It also promotes gradual convergence toward European approaches in IP legislation, protection, and enforcement, aiming to improve transparency and the fair implementation of China’s IP system. This may result in the help of EU right-holders doing business in China via trainings, stakeholder events, comparative studies, and cooperation formats involving courts, enforcement bodies, and agencies.

The latest version of the IPKEY program evolved in a moment of change in the balance of EU-China relations. The period since 2019 to present has ushered in a fundamentally different era for EU-China relations, replacing the language of cooperation with the calculus of strategic competition. This new reality provides the overarching framework for all current and future IP-related engagement⁵³.

The EU-China relationship has been undermined by several key factors, amongst which can be mentioned geopolitical alignment and economic shifts, as well as systemic rivalry. The latter strongly influenced the cooperation process, since China’s increasingly anti-Western foreign policy aims to alter the international rules-based order, placing it in direct opposition to EU values and interests. As of the economic shift, China’s structural economic deceleration and increasing self-reliance have reduced its value as a market for EU firms, while the EU’s critical dependence on China for its green and digital transitions has deepened⁵⁴.

This confluence of factors led to the EU’s landmark 2019 strategy, which defines China as a partner in some areas, an economic competitor, and a systemic rival in matters of governance⁵⁵.

In response to this new reality, the EU has developed a “de-risking” strategy, crystallised in the 2023 European Economic Security Strategy⁵⁶. To implement this, the EU has armed itself with a new “defensive toolbox” of legislative instruments, most of which are country-agnostic but clearly developed with China in mind⁵⁷.

This new strategic environment fundamentally recasts the role of IP in the EU-China relationship.

[4_en.pdf](#), last visit on December 28, 2025.

⁵³ See GARCÍA HERRERO, VASSELIER (2024), *Updating the EU Strategy on China: Co-existence While Derisking Through Partnerships*, Bruegel Policy Brief, n. 27/2024, Bruegel, Brussels, p. 4-5.

⁵⁴ See WYZYCKA, HASMATH (2017), *The impact of the European Union’s policy towards China’s intellectual property regime*, in *International Political Science Review / Revue internationale de science politique*, Vol. 38, No. 5, pp. 549-562.

⁵⁵ This definition can be found in the Joint communication to the European Parliament, the European Council and the Council issued by the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy *Eu-China. A Strategic Outlook*, Strasbourg, 12.3.2019, JOIN(2019) 5 final. Available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52019JC0005&utm_source=chatgpt.com, last visit on December 29, 2025.

⁵⁶ The European Economic Security Strategy, launched in 2023 and evolving into a more assertive doctrine in 2025, aims to build EU resilience against geopolitical risks (like economic coercion, supply chain shocks, tech leakage) by balancing openness with security, focusing on promoting competitiveness, protecting critical areas (tech, infrastructure, supply chains), and partnering with like-minded nations, all while addressing strategic dependencies, especially in key tech/raw materials, to ensure an open yet secure European economy. See the Briefing of the European Parliament *New EU Economic Security Doctrine*, 2025, available at [https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/772915/EPRS_BRI\(2025\)772915_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2025/772915/EPRS_BRI(2025)772915_EN.pdf), last visit on December 29, 2025.

⁵⁷ Amongst the various policies, can be mentioned the Foreign Subsidy Regulation of 2023, that allows the European Commission to investigate and counter distortions caused by foreign subsidies in the single market, the Anti-Coercion Instrument (2023), that aims to deter economic coercion by foreign powers through retaliatory measures like tariffs and trade barriers, the Corporate Sustainability Due Diligence Directive (2024), that requires companies to manage human rights risks in their supply chains. See GARCÍA HERRERO, VASSELIER (2024), *Updating the EU Strategy on China: Co-existence While Derisking Through Partnerships*, cit., p. 10.

Intellectual property is no longer merely a trade or legal issue but a central component of economic security and technological sovereignty. The protection of core technologies from theft or forced transfer is paramount.

The open-ended, cooperative model of the IPR2 era is obsolete. Future engagement on IP will be conditional, carefully balanced against the risks of dependency and the realities of systemic rivalry. Cooperation cannot come at any price.

The EU is now more likely to rely on its defensive instruments, such as investigating subsidies or screening outbound investments to prevent technology leakage, rather than relying solely on technical assistance programs. The goal is to manage “co-existence” while protecting EU interests, principles, and values⁵⁸.

5. Conclusions

As China deepened its reforms and the EU completed its single market, the relationship became more structured. In the mid-1990s, the EU adopted two major policy papers on China, showing its intention to move from a purely economic partnership toward a more comprehensive one.

After China joined the WTO in 2001, bilateral trade entered a true “golden era”. The two sides established a Comprehensive Partnership, which was upgraded to a Comprehensive Strategic Partnership in 2003. That same year, the EU released EU–China: A Maturing Partnership and launched the High-Level Economic and Trade Dialogue. Between 2001 and 2010, China–EU trade grew nearly fourfold, making the EU China’s largest trading partner and China the EU’s second-largest source of imports.

But from 2010 onwards, things began to change. Economic interdependence remained deep, yet structural tensions increased.

In 2019, the EU formally characterised China as “a cooperation partner, an economic competitor, and a systemic rival,” marking a clear strategic shift in the European approach to China.

Since 2021, China–EU economic relations have entered a new stage shaped by high interdependence but low mutual trust. At this stage, the EU has advanced concepts of “strategic autonomy” and “de-risking,” aiming to reduce critical dependencies while remaining open to global trade. At the same time, the rapid rise of the digital economy has reshaped the priorities and tensions within the relationship. Both sides increasingly view digital technologies, data governance, and platform regulation as central to economic competitiveness and national security. Consequently, contemporary China–EU economic interactions are now defined not only by trade in goods, but also by regulatory standards, technological autonomy, and the governance of digital markets⁵⁹.

From the regulatory side, the EU has introduced new instruments, such as the Digital Markets Act (DMA) and the Digital Services Act (DSA), reflecting its ambition to govern global digital and green value chains. China, in parallel, modernised its own governance framework through the Data Security Law (2021) and the Personal Information Protection Law (2021), emphasising the centrality of data sovereignty, national security, and technological self-reliance.

⁵⁸ The shift in the EU approach to China is evident also considering that in February 2022 the EU requested consultations with China, arguing that it had adopted an unwritten policy on anti-suit injunctions (a remedy that prevents one party from initiating or continuing legal action in another jurisdiction) that violated Articles 28, 41 and 44 of TRIPS and Section 2(A)(2) of its Accession Protocol. In July 2025, on appeal, it was ruled that the EU had successfully proven the existence of an unwritten ASI policy on behalf of China and the alleged TRIPS violations were confirmed. See the dispute on the WIPO website (https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds611_e.htm, last visit on December 29, 2025). See MAXIA (2025), *The EU-China IP Dialogue Mechanism: A Casualty of Growing Geopolitical Rivalry, or a Possible Path Forward?*, on *European Guanxi*, available at <https://www.europeanguanxi.com/post/the-eu-china-ip-dialogue-mechanism-a-casualty-of-growing-geopolitical-rivalry-or-a-possible-path-f>, last visit on December 29, 2025.

⁵⁹ See LU CHUANYING (2025), *EU AI Strategy and Prospects for China-EU Cooperation on AI Governance*, in *China Watch*, vol. 5, n. 5, available at <https://china-cee.eu/2025/09/22/eu-ai-strategy-and-prospects-for-china-eu-cooperation-on-ai/>, last visit on December 29, 2025.

Following these regulatory shifts, China and the EU have significantly expanded their government-to-government interactions in the digital domain. At the political and economic levels, the 10th High-Level Economic and Trade Dialogue in 2023 firmly placed digital trade, data flows, market access, supply chain transparency, and regulatory cooperation on the bilateral agenda. The HED effectively set the strategic direction for more specialised digital-policy engagement.

Building on this momentum, the two sides relaunched the EU–China High-level Digital Dialogue later in 2023—the first comprehensive digital-policy exchange since the pandemic⁶⁰. This dialogue acknowledged that digital governance had become central to economic relations and provided the political framework for deeper regulatory and technical cooperation.

Under this framework, a set of more specialized mechanisms emerged, such as the EU–China Cross-Border Data Flow Communication Mechanism, launched in 2024, which serves as the first dedicated bilateral channel for discussing the legality, security, and interoperability of data transfers between the two jurisdictions⁶¹.

The journey of EU-China IP relations charts a course from tutelage and norm-building to the guarded management of a systemic competitor. While the technical assistance of the IPR2 and IP Key programs successfully helped erect a modern IP legal framework at China’s national level, they failed to resolve the deep-rooted problem of sub-national enforcement. Today, that persistent challenge is compounded by a geopolitical landscape defined by mistrust and strategic rivalry.

The EU’s future approach to IP in China will be dictated by its broader de-risking agenda. Engagement will be pragmatic and assertive, leveraging a new suite of defensive economic tools and prioritizing partnerships with like-minded nations to reduce strategic dependencies. While dialogue will continue, the era of assuming that technical cooperation alone can reshape China’s IP environment is over. The new imperative is to manage an entangled yet complex coexistence, where the protection of both European and Chinese innovation is a non-negotiable element of their economic strategy.

⁶⁰ The ICT Dialogue has been jointly run by the Directorate-General for Communications Networks, Content and Technology (DG Connect) and the Chinese Ministry of Industry and Information Technology since 2009. See details on the European Commission website at <https://digital-strategy.ec.europa.eu/en/policies/asia-pacific>, visited last time on December 29, 2025.

⁶¹ This mechanism was jointly launched by the DG Trade at the European Commission the Cyberspace Administration of China. See the website https://policy.trade.ec.europa.eu/news/eu-and-china-launch-cross-border-data-flow-communication-mechanism-2024-08-28_en, last visit on December 29, 2025.