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**Master's Degree Program in
Language and Management to China**

Final Thesis

HONG KONG AS A HUB FOR F&B TRADING WITH CHINA

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Matriculation Number 872886

Academic Year

2022 / 2023

*“Si realizzano sempre le cose in cui credi realmente;
e il credere in una cosa la rende possibile.”*

- Frank Lloyd Wright

To my family and my beloved Zio Migliorino.



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前言

本论文旨在分析香港作为打开中国市场突破口的重要性。这个城市的历史丰富多变，使其成为中国与世界其他国家的交汇点。155 年来，香港一直是英国的殖民地，直到 1997 年才回归中国，成为特别行政区。

香港地处东亚和东南亚之间，一直享有显著的地理优势，是主要的商业和经济中心之一，也是通往中国的优惠门户。香港是一个自由贸易港，除易腐物品、石油衍生产品和烟草等部分产品外，不征收进口关税。由于其优惠的税收法规、全球连通性和良好的商业氛围，近年来，许多国外的公司，尤其是意大利的公司，都决定在亚洲拓展业务。

如今，香港遗留有英国殖民地的影响，采取“一国两制”政策，这使得国家更加国际化和工业化。根据这一政策，自 1997 年起，香港正式成为中华人民共和国的一部分，但在其后的 50 年中，香港将保持其自主权和行政主权。

由于受到英国的影响，香港的商业发展迅速，英语的使用、国际化的商业模式、高效的官僚体制以及持续创新的环境，使香港成为世界上最自由的经济体，也是外国投资者在亚太地区开设公司或子公司的重要目的地。

香港在中国出口战略中扮演着重要角色，主要有三大功能：提供消费市场、转接口岸和促进者。此外，香港还以不同方式支持中国的出口，如作为技术转让的中介、市场准入和生产培训的枢纽，以及中国外汇收入的重要支持者。

中国将香港作为货物转运的转接口岸：这样，货物只需一次投保和融资，还可避开香港海关，减少延误和仓储成本。不过，产品也可以通过香港转口。中国在对外贸易中对香港的依赖有三个主要原因：国际政治关系、香港在转口贸易活动中的经济效益以及中国指令性经济中的各种扭曲现象。

本论文由三章组成，每一章都分析了香港从殖民地发展成为全球最重要的金融和航运中心之一的过程。论文特别关注外国餐饮公司选择在香港设立运营总部的情况，下文将对此进行阐述。这主要归功于香港良好的营商环境，以及海关和关税壁垒的减少，这无疑是刺激了外国餐饮公司在香港的投资。

第一章主要介绍香港作为亚太地区重要商业和金融中心的发展历程。它强调了香港作为中国与世界其他地区之间的贸易中介所发挥的关键作用；中国与香港于 2003 年签署的旨在促进两国经济一体化的《关于内地与香港建立更紧密经贸关系的安排》(CEPA) 也为这一作用提供了便利。

CEPA 的主要目的是支持两地之间的投资和贸易，同时透过减免关税，促进两地之间的改善。据此，香港对从中国进口的货物保持零关税政策，而中国则可对从香港进口的货物逐步取消关税。这是两国实现强有力的经济一体化的一种方法。

總括而言，CEPA 的主要目標是促進香港經濟融合，使香港經濟在 2004 至 2007 年間，經過一段衰退期後，得以顯著復甦，平均增長率達 7.3%。

此外，根据中华人民共和国第 248 号法令和第 249 号法令的规定，食品和饮料公司在中国出口食品和饮料时可能遇到的挑战也受到特别关注。因此，所有外国产品在进入中国市场之前都需要获得 GACC 的批准。任何不符合规定的行为，如标签不全、证书和许可证错误、缺乏必要的检验检疫，都将禁止这些商品在中国销售。

此外，还要深入分析关税壁垒和非关税壁垒，如知识产权风险、腐败和假冒伪劣，这些都是企业面临的另一个重要障碍。因此，出口商必须保证其商品符合中国的标准和规范。

第二章首先分析了自 1979 年中国改革开放以来，中国（尤其是珠江三角洲地区）与香港的经济融合情况。

自 1979 年改革开放以来，中国（尤其是珠江三角洲地区）与香港开始了经济一体化进程。作为中国与西方世界之间的全球枢纽，香港加强了其作为转口港的地位，通过中国与西方国家之间的转口贸易实现了繁荣；香港还在金融领域取得了成功，成为在中国运营的公司的主要金融提供者。

除了上述障碍外，中国市场还存在其他潜在障碍，如进口程序、税收、标签和食品安全等，这也是外国公司进入中国市场的主要障碍。

中国对进出口实行复杂的许可证制度，包括对某些商品的额外配额管理。中国的进口商品必须获得特定的质量认证，如“中国强制认证”，并符合各种中国标准。

在税收方面，香港和中国的税制不同；前者保留了稳定税和鲑鱼税，从而为外国企业的投资提供了便利。

税收的稳定性和低税率，特别是收益和利润税（EPT），发挥了至关重要的作用，因为这些税率变化不大，为商业活动建立了可靠的税收环境。这种稳定性与税收的不确定性形成了鲜明对比，在其他国家，税收的不确定性通常会阻碍投资积极性。

收益和利润税框架中的“标准”税率和公司税率都很低，这不仅有助于减轻总体税负，而且还使得没有必要引入额外的税收激励措施；进口税等间接税也相对较低，从1970年的约2%降至1970年代中期的1.5%，1986年进一步降至1%。

另一个重要主题是食品安全，它被认为是影响公众健康的关键点。《食品安全法》规定了国家食品安全管理的主要原则，旨在确保消费者的食品安全和健康。

在中国，食品安全是一个复杂的问题，也是中央政府监管部门面临的一个问题，因为它影响着人们的健康，并对中国的食品贸易及其在全世界的声誉产生着突出的影响。

例如，2015年实施的《食品安全法》修订案在不同领域进行了修改，如建立食品追溯体系并进行自查，将“食品相关材料”纳入食品原料监管方案，规定第三方电子商务平台有义务正式登记食品经销商的身份，通过这些平台销售其产品，并严格审查其许可资质。

中国正在迅速实现工业化和现代化，这对食品的供应和安全都产生了重大影响；因此，考虑到中国在全球经济中声名狼藉的角色，围绕其食品生产和消费的问题对国际市场和贸易伙伴来说都很有意义。

食品标签是外国公司在中国出口产品时需要面对的另一个挑战。根据该法，产品必须按照标签上的具体说明，遵守有关质量和安全的国家标准。

食品标签包括标注或印刷在食品或其包装上的文字、符号、数字和图片等各种项目，其主要目的是确定食品的主要信息、特征和属性。营养标签提供餐饮产品的营养成分信息，在许多国家，大多数预包装食品都必须使用营养标签。目前有各种类型的标签，但环境标签是最具生态可持续性的标签。

最后，第三部分也是最后一部分将简要介绍有关香港美达百威的案例研究。香港美达百威是一家国际品牌管理、进口和分销公司，专门从事亚太地区高品质食品和饮料产品的销售。2022年，METAGROUP成立了一家新的进口公司，即 Metabev 中国，直接进口，确保为可持续增长奠定定价、战略和品牌基础。该子公司设在上海，因为上海是中国商业最发达的大都市。

该公司凭借其精选的产品组合、量身定制的市场进入战略以及与新兴全球品牌的牢固合作关系，在亚洲市场站稳了脚跟。

Metabev 的目标客户主要是 HO-RE-CA、办公室和非营利组织，Metabev 希望向这些客户保证优质产品和高质量的客户服务。

自 Metabev 公司成立以来，已成功地在香港和澳门销售了优质西方产品，后来又在中国和韩国设立了两家新的子公司。

在本章的最后一部分，将重点介绍 Metabev 中国公司以及在中国分销产品的方法。这家在上海成立的外商独资企业直接从西方国家，特别是意大利和爱尔兰进口产品，并得到第三方的支持，即在整个分销过程中提供支持的代理公司。

选择的中介机构必须对投资市场有全面深入的了解，因此必须是中国人。

当西方国家想在社会经济条件不同的国家扩张时，应尝试与第三方合作，因为第三方可以在缓冲西方公司与当地同行之间的差异、加强伙伴关系内部沟通与协调方面发挥关键作用。在进军一个复杂的新市场时，公司必须事先对该市场有所了解，并寻求对该市场有深入了解并能提出相应战略建议的第三方中介。

正如案例研究所示，尽管进入中国市场面临各种障碍，但中国仍然是仅次于美国的全球第二大餐饮消费市场。适应性和灵活性仍然是希望成功投资该市场的外国公司关注的焦点。

INDEX

前言	4
INTRODUCTION.....	10
CHAPTER 1 - SELLING IN CHINA THROUGH DISTRIBUTION CONTRACTS FOR GENERAL INDUSTRIES, SPECIFICALLY FOR FOOD ONES	13
1.1 Hong Kong as a distributor to enter the Chinese market	13
1.2 Different distribution channels	17
1.3 Complexities in exporting food to China	22
1.4 Tariffs and Non-tariffs Barriers to export food to China	26
CHAPTER 2 - LEGAL ISSUES IN EXPORTING FOOD IN CHINA	30
2.1 Exporting from Hong Kong to China: general framework	30
2.2 Different regional administrations	34
2.3 Custom duties and taxes.....	37
2.4 Food Safety	39
2.5 Labeling	43
2.6 License.....	48
CHAPTER 3 – CASE STUDY ABOUT METABEV HONG KONG.....	53
3.1 About METAGROUP	53
3.2 Metabev approach	55
3.3 Metabev’s new subsidiary in China	57
3.4 Metabev’s distribution process in China	59
CONCLUSION	63

BIBLIOGRAPHY..... 67

SITOGRAPHY..... 71

INTRODUCTION

The aim of this thesis is to analyze the importance of Hong Kong as a gateway to enter the Chinese market. This country has been a British colony for 155 years, until 1997 when it was returned to China and became a Special Administrative Region.

Nowadays Hong Kong is still influenced by the English Common Law and still adopts the “one country, two systems policy” which led the country to be more internationalized and industrialized. According to this policy, from 1997 Hong Kong is officially part of the Chinese empire but it will keep its own autonomy and administrative sovereignty for other 50 years.

As a result of the British influence, its rapid commercial growth, the use of the English language, of international methods in business, its efficient bureaucracy and the adoption of an environment that sustains innovation made Hong Kong the freest economy in the world and an important destination for foreign investors who want to open a company or a subsidiary in the Asia-Pacific region.

This thesis is composed of three chapters, each of them analyzing Hong Kong’s development from a colony to one of the most important financial and shipping centers worldwide. A particular focus is given to foreign F&B companies that, as explained in the following chapters, choose Hong Kong to establish their operational headquarters. This can be attributed to its favorable business environment and the reduction of customs and tariff barriers which definitely represent an incentive for increasing investments in the country.

The first chapter mainly focuses on the evolution of Hong Kong as an important commercial and financial hub in the Asia-Pacific region. It underlines Hong Kong’s crucial role as a trading intermediary between China and the rest of the world; this is also facilitated by the CEPA Agreement signed between China and Hong Kong in 2003, with the aim of promoting economic integration between these two countries.

Furthermore, a particular attention is paid to F&B companies and the challenges they can find when exporting food and beverages in China, as specified in Decree 248 and Decree 249 of PRC. Hence, all foreign items require the GACC approval before entering the Chinese market. Any

non-compliance, such as inadequate labels, wrong certificates and licenses, absence of requisite of inspection and quarantine, will prohibit these goods 'distribution in the country.

A deep analysis is conducted also for both tariff and non-tariff barriers, such as intellectual property risks, corruption, and counterfeiting, which represent another important obstacle for companies. Therefore, it is necessary for exporters to guarantee their goods' adherence to Chinese standards and norms.

The second chapter starts by analyzing the economic integration between China, particularly the Pearl River Delta region, and Hong Kong since China's opening up in 1979.

A significant focus is given to the Chinese market, which, apart from the above-mentioned barriers, is characterized by other potential obstacles for foreign companies, such as import procedures, taxes, and food safety.

Concerning taxes, the system differs in Hong Kong and China; the former keeps stability and low taxes, thus facilitating foreign enterprises' investments.

The other important topic is food safety, which is considered a key point for the impact it has on public health. The Food Safety Law defines the main principles for the national food safety management, and it aims at ensuring customers about food security and healthiness.

Finally, the third and last part will briefly introduce a case study about MetaBev Hong Kong, an international brand management, importation, and distribution company, specialized in high quality food & beverage products in the Asia Pacific region.

The company is well established in the Asian market due to its selected portfolio, its customized market entry strategy, and strong partnerships with emerged and emerging global brands.

Its target is mostly aimed at HO-RE-CA, offices, and non-profit organizations to which Metabev wants to guarantee premium products and a high-quality customer service.

Since Metabev's creation, premium Western products have been successfully distributed first in Hong Kong and Macau and later also in China and Korea where two new subsidiaries have been set up.

In the last part of the chapter a particular focus will be given to Metabev China, and the methods used to distribute products in the country. This company, established in Shanghai as a wholly foreign owned enterprise, imports products directly from Western countries, in particular Italy

and Ireland, with the support of a third party, the agency, which provides support during the entire distribution process.

To sum up, as showed in the case study, despite various obstacles to enter the Chinese market, the country persists to be the second-largest F&B consumer market worldwide, only after the US. Adaptability and flexibility remain a key point for foreign companies that want to invest in this market successfully.

CHAPTER 1 - SELLING IN CHINA THROUGH DISTRIBUTION

CONTRACTS FOR GENERAL INDUSTRIES, SPECIFICALLY FOR FOOD ONES

1.1 Hong Kong as a distributor to enter the Chinese market

Hong Kong, (香港), is a Special Administrative Region¹ (SAR) of People's Republic of China. This country's history is rich and full of significant events, which have led it to become a meeting point between China and the rest of the world. Hong Kong was part of the Chinese empire until 1942, when the Treaty of Nanjing² was signed, and it was colonized by the British. This influence led the country to be more internationalized and industrialized, in fact its rapid commercial growth, the use of the English language, of international methods in business, its efficient bureaucracy and the adoption of an environment that sustains innovation made Hong Kong the freest economy in the world and an important destination for western migrants who described it as a flexible, dynamic, and achievement-oriented place.³

In the period of British colonization, Hong Kong also adopted a laissez-faire policy to promote a barrier-free trade, which represents one of the main advantages that contributed to make Hong Kong become a gateway to enter the Chinese market.⁴

Nowadays Hong Kong is considered one of the most important shipping and financial center but also an investor and key partner in trading; this turned the country into a crucial supporter for China's opening to the world.⁵

According to the UNCTAD⁶ World Investment Report 2012, Hong Kong, after Japan, is, in fact, the second most important source of FDI for China and Guangdong is its preferred investment

¹ A Special Administrative Region, (特别行政区 Tèbié xíngzhèngqū), is a region of a China with more autonomy and a separate political and economic system thanks to the "one country, two systems" principle.

² The Treaty of Nanjing is the treaty that stopped the Opium War between Britain and the Chinese Empire. Through this Treaty, in 1842 Hong Kong became a British colony until 1997.

³ Melissa KAYE PANG, *Hong Kong as a Base for Doing Business in Mainland China*, Business Law Today, 2013, 1-4.

⁴ *Ibidem*.

⁵ Naubahar Sharif and Mitchell M. Tseng, *The Role of Hong Kong in Mainland China's Modernization in Manufacturing*, Asian Survey 51, no. 4 (2011): 633-58, <https://doi.org/10.1525/as.2011.51.4.633>.

⁶ UNCTAD (United Nations Conference on Trade and Development) is the UN organization which deals with international trade, development, and investments, especially in developing countries.

destination. As a matter of fact, this province is one of China's main production centers, one of the country's growth engines but also the province with the highest propensity to export⁷.

Hong Kong was a British colony until 1997, when it finally returned to China. Nevertheless, this cession involved the establishment of determined rules under the Sino-British Joint Declaration (中英聯合聲明), signed in 1984 between China and the UK. As stated in the Treaty, Britain accepted to give Hong Kong back to China, while the People's Republic agreed to turn the territory into a Special Administrative Region promoting the "one country-two systems policy". As specified by this treaty, Hong Kong would have had the rights to keep its own economic and administrative system upholding and nurturing economic and cultural relationships with all the nations independently⁸.

Thanks to the "one country-two systems" policy, Hong Kong had the chance to acquire more legal and constitutional autonomy, under the international law, standing as one of the most liberal economies worldwide and, consequently, many foreign companies, still nowadays, use it as a mediator for doing business in China⁹.

Among the distinctive features that mark Hong Kong as a gateway to enter the Chinese market, there is certainly its status as a free and open economy which enables the country to attract financial resources in an easier way than other cities from Mainland China that are subjected to restrictions on capital movement. This led many Chinese companies to take advantage of Hong Kong's global position to raise funds.¹⁰

Another important trait is the possibility to manage foreign exchange transactions which involve the Chinese yuan. This makes Hong Kong the most important financial hub, even before Singapore or London, to entice people who want to trade the Renminbi.¹¹

⁷ ICE Guanzhou (Canton), *Cina: Breve Profilo della Provincia del Guangdong*, Italian Trade Agency, p.7, accessed on 10-09-2023.

⁸ Lorenz Langer, *Out of Joint? – Hong Kong's International Status from the Sino-British Joint Declaration to the Present*, Archiv Des Völkerrechts 46, no. 3 (2008): 309–44.

⁹ *Ways to enter the Chinese market*, EU SME Centre, p.25, 2018, <https://www.eusmecentre.org.cn/events/ways-to-enter-the-chinese-market/>, accessed on 30-09-2023.

¹⁰ Yen Nee Lee, *These Charts Show Why Hong Kong Is Important to China*, CNBC, June 18, 2020, <https://www.cnbc.com/2020/06/18/these-charts-show-why-hong-kong-is-important-to-china.html>, accessed on 30-09-2023.

¹¹ *Ibidem*

Hong Kong's role as a distributor to enter the Chinese market is also facilitated through the Closer Economic Partnership Agreement, also known as CEPA (内地与港澳关于建立更紧密经贸关系的安排), the first bilateral agreement signed between Hong Kong and China in June 2003. The main purpose of CEPA is to support investments and trade between the two parts promoting, at the same time, their improvements through the reduction or rejection of tariffs¹². According to this, Hong Kong keeps its zero-tariff policy for goods imported from China while the latter can enjoy a gradual tariff elimination towards goods imported from Hong Kong¹³. This is a method for these two countries to achieve a strong economic integration¹⁴. If, on one side, this agreement helps with the reduction of tariffs for both parties and also assists foreign companies registered in Hong Kong, on the other it benefits Mainland China for several reasons; first of all, with its increasing investments, Hong Kong encourages the country's economic development; secondly, its relationships with international business companies allow China to expand its foreign contacts and to create new business relations¹⁵.

To sum up, CEPA's main goal is to promote Hong Kong economic integration to the point that, between 2004 and 2007, after a period of decline, its economy recovered remarkably with an average growth rate of 7.3%.¹⁶

Nevertheless, some countries still want the fulfillment of China's World Trade Organization (WTO) accession obligations. This agreement was primarily a further move toward the integration of Hong Kong and China, with minimal consequences for the Chinese economy until the complete implementation of China-WTO agreements in 2007.¹⁷

China's entry in the WTO¹⁸ reduced Hong Kong 'role as trading intermediary between the

¹² Naubahar Sharif and Mitchell M. Tseng, *The Role of Hong Kong in Mainland China's Modernization in Manufacturing*, Asian Survey 51, no. 4 (2011): 633–58, <https://doi.org/10.1525/as.2011.51.4.633>.

¹³ Agata Antkiewicz and John Whalley, "China's New Regional Trade Agreements," *The World Economy* 28, no. 10 (2005): 1539–57, <https://doi.org/10.1111/j.1467-9701.2005.00746.x>.

¹⁴ Y.W. Peter Chiu, *CEPA: a milestone in the economic integration between Hong Kong and Mainland China*, *Journal of Contemporary China*, 15, no. 47 (May 1, 2006): 275-95, <https://doi.org/10.1080/10670560500534921>.

¹⁵ *Ibidem*.

¹⁶ Yew Chiew Ping and Kwong Kin-ming, *Hong Kong Identity on the Rise*, Asian Survey 54, no. 6 (2014): 1088–1112, <https://doi.org/10.1525/as.2014.54.6.1088>.

¹⁷ Agata Antkiewicz and John Whalley, *China's New Regional Trade Agreements*, *The World Economy* 28, no. 10 (2005): 1539–57, <https://doi.org/10.1111/j.1467-9701.2005.00746.x>.

¹⁸ *The World Trade Organization (WTO)* is an international entity which regulates trade among nations. It is the place where members can solve all the trade problems, they face with each other. This organization's main goal, in fact, is to guarantee trade to be free, reliable, and steady.

mainland and the rest of the world.¹⁹ According to some politicians, joining the WTO is a significant opportunity for China which, in this way, can directly attract foreign investments, increase its industries' competitiveness and promote the growth of the socialist market economy.²⁰ On one side this can lead to the growth of the Chinese economic competition but on the other, it hampers the development of the relations between China and Hong Kong.

However, in the post-colonialism phase Hong Kong was more closely tied to China's development.²¹ The implication of this new role for postcolonial Hong Kong is that, while it remains a part of China under its national sovereignty, it also serves as a global hub for international companies that want to open a business in the Asia-Pacific region; this means that the city would not align with the Chinese model of coordinated development.²²

China had the possibility to benefit from the significant arrangements stipulated by Hong Kong (i.e., CEPA) especially regarding capital transfer, knowledge, and skills.²³

In the late 1970s, by opening its economy, China could have access to capital and relevant expertise from Hong Kong.²⁴ This was achieved by granting preferential treatment to Hong Kong entrepreneurs over other foreign investors.

During colonialism Hong Kong was a crucial example for China's progressive steps toward capitalism; even in the postcolonial phase, while increasingly leaning on China's economic growth, it continued to position itself as a positive supporter and representative for China's capitalist development.²⁵ This is due to its strong foundation in areas such as the rule of law, effective monetary policies, protection of intellectual property rights, and professionalism across various fields.²⁶

¹⁹ Yen Nee Lee, "These Charts Show Why Hong Kong Is Important to China," CNBC, June 18, 2020, <https://www.cnbc.com/2020/06/18/these-charts-show-why-hong-kong-is-important-to-china.html>, accessed on 10-10-2023.

²⁰ Henry Gao, Damian Raess, and Ka Zeng, eds., *China and the WTO: A Twenty-Year Assessment: Volume Undefined: World Trade Forum* (Cambridge: Cambridge University Press, 2023), <https://doi.org/10.1017/9781009291804>.

²¹ Kwai-Cheung Lo and Laikwan Pang, *Hong Kong: Ten Years after Colonialism*, *Postcolonial Studies* 10, no. 4 (December 1, 2007): 349–56, <https://doi.org/10.1080/13688790701621383>.

²² Kwai-Cheung Lo and Laikwan Pang, *Hong Kong: Ten Years after Colonialism*, cit., pag. 350.

²³ *Ibidem*.

²⁴ *Ibidem*.

²⁵ *Ibidem*.

²⁶ *Ibidem*.

As Chinese leaders progressively endorse and adopt capitalist principles and as China's economy opens to the global market, Hong Kong's unique strategic-economic significance, is decreasing.²⁷ Other Chinese cities have emerged as rivals, striving for international investments and employment opportunities.²⁸

The implication of this new role for postcolonial Hong Kong is that, if on one side it follows the Chinese national sovereignty, on the other it works as a global hub for international enterprises, diverging from the traditional Chinese model of coordinated development.²⁹

1.2 Different distribution channels

Positioned between North and Southeast Asia, Hong Kong has always enjoyed a significant geographic advantage³⁰, resulting to be one of the main commercial and economic centers and a preferential gateway to China³¹. This country is a free trade port with no import duties, except for some products categories such as perishable goods, petroleum derivatives and tobacco.³² Due to its favorable tax regulations, the global connectivity, and the favorable business atmosphere³³, many foreign companies, especially Italian ones, within these years, have decided to expand their business in Asia, particularly in this territory.³⁴

This stems from the fact that they can easily set up their local headquarters, create branches or establish their operations without ownership restrictions but simply following the same rules as local firms with no limitation on foreign currency, quotas, bonds, or performance requirements.³⁵

²⁷ *Ibidem.*

²⁸ *Ibidem.*

²⁹ *Ibidem.*

³⁰ HKTDC Research, *Mainland China-ASEAN Economic Ties: Hong Kong, Asia's Trading Hub*, HKTDC Research, 2020, <https://research.hktdc.com/en/article/NjEwODc4MTMz>., accessed on 15-11-2023.

³¹ InfoMercatiEsteri, *Perchè Hong Kong (Punti di forza)*, InfoMercatiEsteri, updated in 2022, https://www.infomercatiesteri.it/perchepaese.php?id_paesi=127#, accessed on 15-11-2023.

³² InfoMercatiEsteri, *Perchè Hong Kong*, cit., p.21.

³³ Hong Kong Monetary Authority, *Hong Kong Monetary Authority - Dominant Gateway to China*, Hong Kong Monetary Authority, last update in 2023, <https://www.hkma.gov.hk/eng/key-functions/international-financial-centre/hong-kong-as-an-international-financial-centre/dominant-gateway-to-china/>., accessed on 16-11-2023.

³⁴ InfoMercatiEsteri, *Perchè Hong Kong*, cit., p.21.

³⁵ International Trade Administration, *Distribution & Sales Channels-Hong Kong & Macau*, 2022, <https://www.trade.gov/country-commercial-guides/distribution-sales-channels-hong-kong-macau>, accessed on 15-11-2023.

Furthermore, Hong Kong plays a crucial role in the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area, promoted in February 2019.³⁶ The Greater Bay Area (粤港澳大湾区), composed by Hong Kong, Macau and nine cities of Guangdong province, is China's richest region in terms of GDP per capita and a strategic hub for the nation economic growth.³⁷ The plan aims to bolster Hong Kong's position as a key global financial, and trade center, seeking to reinforce its role as a global offshore renminbi business hub and an international asset management and risk management center.³⁸ It draws the attention to innovation and technology industries' development, fostering emerging sectors and outlining Hong Kong as a leading center for international legal and dispute resolution services in the Asia-Pacific area.³⁹

The Guangdong-Hong Kong-Macao Greater Bay Area played a very important role as it has significantly boosted trade relations between Shenzhen and Hong Kong.⁴⁰ According to customs data, there has been a notable increase in the trade value between these two cities, reaching 722.54 billion yuan (\$107.81 billion) in 2021, ten times higher than 1997, as reported by the Shenzhen Daily.⁴¹

Despite the challenges faced during the COVID-19 pandemic, Hong Kong, as a leading international trade hub, has demonstrated resilience standing, in 2020, as the world's sixth-largest exporter in merchandise trade, as specified by the WTO.⁴²

Hong Kong's leading role as a global hub for foreign companies is also facilitated by the CEPA Agreement signed between Hong Kong and China in 2003. Due to this treaty, some specific categories of goods produced in Hong Kong can be imported to China freely, without the

³⁶ Italian Trade Agency, *Hong Kong Sar (Regione amministrativa speciale)* – Scheda congiunturale e di commercio estero, 2019, accessed on 18-10-2023.

³⁷ Italian Trade Agency, *Hong Kong Sar (Regione amministrativa speciale)* – Scheda congiunturale e di commercio estero, cit., p.4, accessed on 18-10-2023.

³⁸ HKTDC Research, *Outline Development Plan for Guangdong-Hong Kong-Macao Greater Bay Area Promulgated*, HKTDC Research, 2019, <https://research.hktdc.com/en/article/MzA3ODM5NjUx>., accessed on 19-10-2023.

³⁹ *Ibidem*.

⁴⁰ Global Times, *Over Past 25 Years, HK's Status as Global Trade and Shipping Hub Is Being Consolidated* - Global Times, <https://www.globaltimes.cn/page/202206/1269457.shtml>., accessed on 12-01-2024.

⁴¹ *Ibidem*.

⁴² *Ibidem*.

imposition of tariffs.⁴³ The Agreement also sets principles of trade facilitations by simplifying customs procedures, boosting these measures' transparency, and strengthening cooperation in significant areas.⁴⁴ On the 21st of November 2019 the Agreement Concerning Amendment to CEPA was signed as an implementation of CEPA for what concerns service trade. Both agreements' aim is to assist the Hong Kong business community in expanding the business and registering more experts sent from Hong Kong to China.⁴⁵

The liberalization measures include the removal or reduction of certain restrictions on shareholders, minimum share capital requirements and the foundation of new companies. They also establish less forceful requirements for Hong Kong professionals on service fees and restrictions on the export of services from Hong Kong to China.⁴⁶

As a global hub, when investing in Hong Kong, companies can choose different business structures; the most common ones are the Limited Liability Company (LLC), the Branch Company and the Representative office.⁴⁷ The first one is an independent legal entity with limited liability related to its share capital; it can be wholly owned by foreign individuals and it requires from 1 to 50 shareholders, a director and a Company Secretary, who don't necessarily need to be Hong Kong residents.⁴⁸ On the contrary, a Branch of a foreign company is an extension of the parent company in Hong Kong. The foreign company is directly liable for all the obligations incurred by the branch which must also designate a resident agent in Hong Kong and register with the local Business Registry.⁴⁹ The Representative Office, instead, has no legal personality and cannot be involved in any commercial activity; the only actions possible, in this case, are related to marketing, research and development.⁵⁰

When Western countries want to expand in socioeconomically different countries, they should try to collaborate with a third party which can play a pivotal role in cushioning the differences

⁴³ InfoMercatiEsteri, *Aspetti Normativi (HONG KONG)*, InfoMercatiEsteri, updated in 12/08/2020 , https://www.infomercatiesteri.it/aspetti_normativi.php?id_paesi=127., accessed on 24-10-2023.

⁴⁴ *Ibidem*.

⁴⁵ *Ibidem*.

⁴⁶ *Ibidem*.

⁴⁷ *Ibidem*.

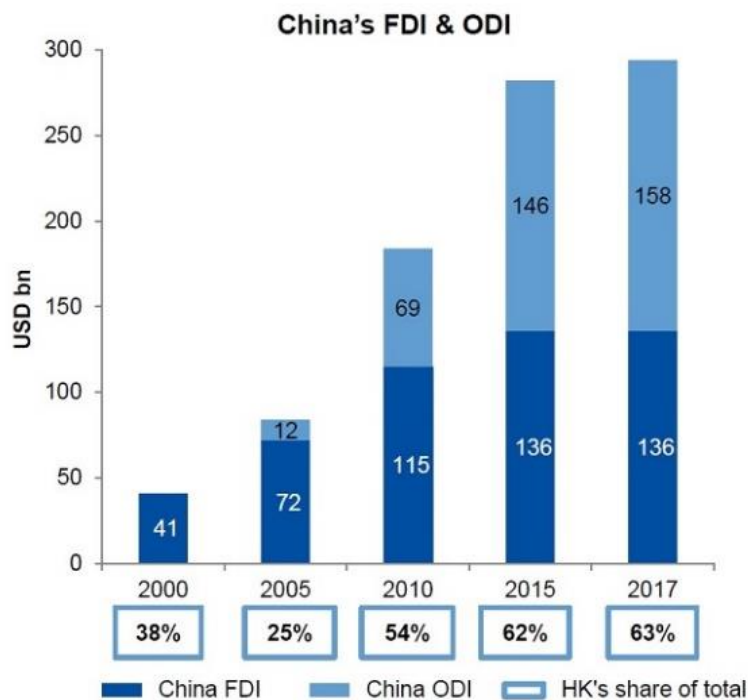
⁴⁸ CostituzioneSocietà, *Aprire Una Società Ad Hong Kong*, CostituzioneSocietà.It, <https://costituzionesocieta.it/aprire-societa-hong-kong#>., accessed on 24-10-2023.

⁴⁹ *Ibidem*.

⁵⁰ *Ibidem*.

between Western firms and local counterparts, enhancing internal communication and coordination within the partnership.⁵¹ In this case, the most useful strategies a foreign company should adopt to enter a new external market are entry mode, that influences the way companies face the challenges of entering a new market and developing new abilities to effectively promote the products, and entry timing.⁵²

Usually, foreign companies choose to have access to the Chinese market via Hong Kong because of its advantageous position as international financial center. Firstly, Hong Kong plays a significant role in promoting China's Foreign Direct Investments (FDI), both inbound and outbound, and financial investments.⁵³



Source: China's Ministry of Commerce

⁵¹ Jing Zhang, Wei Zhang, and Andreas Schwab, *Interorganizational Triads for Foreign-Market Entry: Partnerships among Western, Bridge-Economy, and Local VCs in Mainland China*, *Journal of Business Venturing* 39, no. 1 (January 1, 2024): 106363, <https://doi.org/10.1016/j.jbusvent.2023.106363>.

⁵² Joseph Johnson and Gerard J. Tellis, *Drivers of Success for Market Entry into China and India*, *Journal of Marketing* 72, no. 3 (May 2008): 1–13, <https://doi.org/10.1509/JMKG.72.3.001>.

⁵³ Hong Kong Monetary Authority, *Hong Kong Monetary Authority - Dominant Gateway to China*, Hong Kong Monetary Authority, <http://www.hkma.gov.hk/eng/key-functions/international-financial-centre/hong-kong-as-an-international-financial-centre/dominant-gateway-to-china/>, accessed on 25-10-2023.

Moreover, it benefits from exclusive opportunities for cross-border portfolio investments with China, such as Stock Connect, Bond Connect, and the Mutual Recognition of Funds program, which enable international investors to have access into Mainland capital markets through established links between China and Hong Kong markets.⁵⁴

Nevertheless, before 1979 China adopted a very closed economy toward foreign investments, in fact not so many foreign companies planned to operate there, nor China had external loans.⁵⁵

With Deng Xiaoping in power in 1978, the situation began to change, and China increasingly opened its horizons to the Western world.

At the 3th Plenary Session of the 11th Central Committee of the Chinese Communist Party (中共十一届三中全会) in 1978, the president focused on economic reforms in Beijing starting from the rejection of the Maoist policy which was completely against receiving capital inflows from capitalistic nations; with this policy, Deng wanted to emphasize the importance of foreign capital and advanced technologies for China's modernization and this led to the adoption of the "Open Door" policy.⁵⁶ Thus, in July 1979, during the 5th National People's Congress (全国人民代表大会), the Law of the People's Republic of China on Joint Ventures Utilizing Chinese and Foreign Investment (中华人民共和国中外合资经营企业法) was approved, conferring legal recognition to foreign investments in China.⁵⁷

FDI in China have been prosperous over the years with a growth rate of 91.5% per-year between 1983-93 especially under the following formats: equity joint ventures, contractual joint ventures, wholly owned foreign companies, and joint exploration.⁵⁸

However, in January 2015 China's Ministry of Commerce (中华人民共和国商务部) released a new law's draft concerning foreign investments in the country, the Foreign Investment Law ((新

⁵⁴ *Ibidem*.

⁵⁵ Takatoshi Itō and Anne O. Krueger, eds., *Financial Deregulation and Integration in East Asia*, (East Asia Seminar on Economics, Chicago: Univ. of Chicago Press, 1996), vol.5, *Foreign Direct Investments in China: Sources and Consequences*, p.79.

⁵⁶ Chung Chen, Lawrence Chang, and Yimin Zhang, *The Role of Foreign Direct Investment in China's Post-1978 Economic Development*, *World Development* 23, no. 4 (April 1, 1995): 691–703, [https://doi.org/10.1016/0305-750X\(94\)00143-M](https://doi.org/10.1016/0305-750X(94)00143-M).

⁵⁷ *Ibidem*.

⁵⁸ Takatoshi Itō and Anne O. Krueger, *Foreign Direct Investments in China: Sources and Consequences*, cit., p.79.

外商投资法) which would replace the three regulations that have ruled foreign investments in China for more than 25 years, i.e., the Sino-Foreign Equity Joint Venture Law, the Wholly Foreign Owned Enterprise Law, and the Sino-Foreign Contractual Joint Venture Law.⁵⁹

The Foreign Investment Law enables international companies to invest in new fields of the Chinese market benefiting from treatments that are like those of domestically governed companies.⁶⁰

The Foreign Investment Law, (FIL), was approved in March 2019 but has been formally applied from January 2020.⁶¹ This legislation is established in accordance with the Constitution and the aim is to broaden the scope of economic liberalization, to actively encourage foreign investments, to protect the legitimate rights of foreign investors, to standardize foreign investment regulations and to promote both new opportunities in economic openness and the growth of the socialist market economy.⁶²

1.3 Complexities in exporting food to China

Exporting in China has always had to face numerous challenges, especially regarding certain categories of products, such as food, which undergoes several restrictions and regulations when exported in the Chinese market. These obstacles are strongly linked to the industrial policies promoted by the nation, such as the gradual execution of the 12th Five-Year Plan (十二五规划), whose aim was to fortify and launch the domestic industry.⁶³

Exporting agri-food products to China entails having a complex set of procedures characterized by stringent sanitary regulations, elaborated administrative processes, and uncertain authorization timelines.⁶⁴ The sector is particularly affected by local regulations that mandate the

⁵⁹ “Investimenti Esteri: La Cina Presenta il Disegno di Legge della ‘Foreign Investment Law,’” China Briefing News, February 6, 2015, <https://www.china-briefing.com/news/investimenti-esteri-la-cina-presenta-il-disegno-di-legge-della-foreign-investment-law/>., accessed on 1-11-2023.

⁶⁰ *Ibidem*.

⁶¹ *Fare affari in Cina*, Ministero dello Sviluppo Economico & Italian Trade Agency, accessed on 28-10-2023.

⁶² UNCTAD Investment Policy Hub, *China - Foreign Investment Law of the People's Republic of China*, <https://investmentpolicy.unctad.org/investment-laws/laws/317/china-foreign-investment-law-of-the-people-s-republic-of-china>., accessed on 28-10-2023.

⁶³ Confindustria - Area Europa e internazionalizzazione, *Gli ostacoli commerciali nei principali mercati di riferimento dell'export italiano*, 2013, Info Mercati Esteri, 2013, p.26.

⁶⁴ Confindustria - Area Europa e internazionalizzazione, *Gli ostacoli commerciali nei principali mercati di riferimento dell'export italiano*, cit., p.27.

submission of a set of documents, with a focus on certifications, especially those of a sanitary nature.⁶⁵

Nowadays, with the enactment of Decree 248 and 249 by the People's Republic of China in 2022, it has been mandated that, for the purpose of exporting food products in the Chinese market, all foreign manufacturers are required to receive the export approval from the General Administration of Customs of the People's Republic of China, also known as GACC (中华人民共和国海关总署), in combination with the appropriate registration of their respective establishments.⁶⁶

Respectively, Decree 248, the Administrative Provisions on Registration of Overseas Manufacturers of Imported Foods (中华人民共和国进口食品境外生产企业注册管理规定), stipulates that all foreign producers of imported food products, exported in the Chinese market, must obtain an explicit approval from the GACC.⁶⁷ Besides, these producers must adhere to the procedures for the legitimacy of their production facilities and processes; any non-compliance with these stringent registration prerequisites will prevent these food products import into China.⁶⁸

Decree 249, Administrative Measures on Import and Export Food Safety (进出口食品安全管理办法), introduces a comprehensive and rigorous food safety evaluation process for foreign nations; it imposes new regulations related to the packaging and labeling of imported food products, specifically emphasizing the necessity of incorporating the GACC registration number on these products labels in accordance with Chinese standards.⁶⁹ Furthermore, exporters of these

⁶⁵ *Ibidem.*

⁶⁶ Ministero della Salute, *Export verso Cina*, 2021, https://www.salute.gov.it/portale/temi/p2_6.jsp?lingua=italiano&id=5761&area=sicurezzaAlimentare&menu=esportazione, accessed on 3-11-2023.

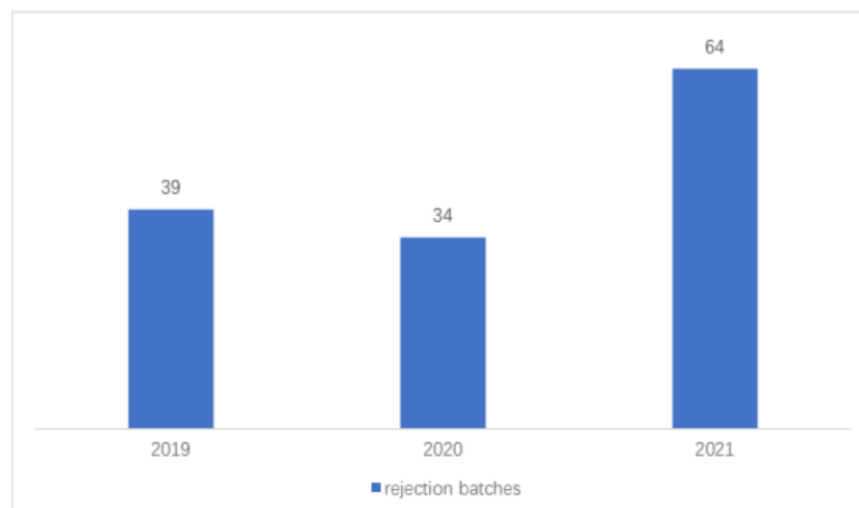
⁶⁷ Ministero della Salute, *Esportazione di prodotti alimentari verso la Repubblica Popolare Cinese – registrazione delle imprese di produzione alimentare che esportano verso questo paese Terzo ai sensi dei Decreti Cinesi n. 248 e 249*, Direzione generale per l'igiene e la sicurezza degli alimenti e la nutrizione, 2021, p.2, accessed on 4-11-2023.

⁶⁸ *Ibidem.*

⁶⁹ Ministero della Salute, *Esportazione di prodotti alimentari verso la Repubblica Popolare Cinese – registrazione delle imprese di produzione alimentare che esportano verso questo paese Terzo ai sensi dei Decreti Cinesi n. 248 e 249*, cit., p.2.

items are required to establish structured protocols aimed at ensuring food safety, implementing rigorous hygiene control measures, and conducting a systematic assessment of their suppliers.⁷⁰ Thus, the main difficulties a company can have when exporting food in China are mainly the utilization of certain ingredients, labeling, the microbiological content, and the approval for market access.⁷¹

According to data published by the GACC, in 2021, Chinese customs did not admit 2,894 food items coming from 85 distinct countries and regions; the principal cause of import disapprovals was the absence of requisite inspection and quarantine permits (16%), inadequately labeled products (15%) and the excessive deployment of food additives (14%).⁷²



Source: Graph 1 Lots of Italian Food Rejected by GACC

The excessive use of food additives stands as the primary cause for food non-compliance, comprising 21.9% of the total; additionally, 15.3% of products were rejected due to the absence of required certificates or supporting materials, and 13.1% faced rejection due to a lack of inspection and quarantine authorization.⁷³

⁷⁰ *Ibidem.*

⁷¹ ChemLinked, *Guida per l'esportazione di prodotti alimentari e bevande nella Repubblica Popolare Cinese*, Italian Trade Agency, 2022, PDF file, p.72, accessed on 6-11-2023.

⁷² ChemLinked, *Guida per l'esportazione di prodotti alimentari e bevande nella Repubblica Popolare Cinese*, cit., p.70.

⁷³ ChemLinked, *Guida per l'esportazione di prodotti alimentari e bevande nella Repubblica Popolare Cinese*, cit., p.71.

Food safety is a complicated matter in China and an issue for central government regulators as it affects people's health and has a prominent impact on China's food trade and its reputation all over the world.⁷⁴

For instance, the Food Safety Law (食品安全法) revision, implemented in 2015, introduced changes in different fields such as the establishment of a food tracing system and perform self-audits, the incorporation of "food related materials" in the regulatory scheme governing food ingredients and the imposition of an obligation on third-party e-commerce platforms to formally register the identities of food distributors, marketing their products through these platforms and rigorously scrutinize their licensing credentials.⁷⁵

The food safety management system in China, implemented in the 1980s, follows a segmented supervision model guided by eight official departments, and each one regulates distinct aspects of the food supply chain.⁷⁶ Although each department has a specific responsibility for overseeing certain parts of the food supply chain, the system's inherent lack of coordination and interconnection among these departments creates regulatory blind spots which emerge from functions that overlap, an excess of staffing, a separation of powers and responsibilities, and redundant law enforcement initiatives.⁷⁷ This structural fragmentation is an impediment to the effectiveness of the food safety chain.⁷⁸

Important regulations applied in this field include, for instance, the Inspection and Supervision of labelling for pre-packaged foods, which is an extension of the Food Safety Law, and the Administrative Measures on Imported and Exported Food Safety.⁷⁹

In compliance with this, Art. 94, and Art. 97 of the Food Safety Law play a pivotal role. Respectively, the first one stipulates that foreign producers and exporters bear the responsibility

⁷⁴ Xuli Wu et al., *Food Safety Assurance Systems in Hong Kong*, *Food Control* 37 (March 1, 2014): 141, <https://doi.org/10.1016/j.foodcont.2013.09.025>.

⁷⁵ Eric Chu, *Processed Food and Beverages Industry in Hong Kong*, HKTDC Research, 27-07-2023, <https://research.hktdc.com/en/article/MzExMzU2OTY5>., accessed on 7-11-2023.

⁷⁶ Xuli Wu et al., *Food Safety Assurance Systems in Hong Kong*, cit., pag.143, <https://doi.org/10.1016/j.foodcont.2013.09.025>.

⁷⁷ *Ibidem*.

⁷⁸ *Ibidem*.

⁷⁹ Jasmin Buijs, Bernd van der Meulen, and Li Jiao, *Food Information in Chinese Food Law: Legal Systematic Analysis of Labeling and Advertisement Requirements of Food Products in the People's Republic of China*, SSRN Scholarly Paper (Rochester, NY, October 14, 2018), pp. 21-22, <https://doi.org/10.2139/ssrn.3266140>.

of ensuring that their food products, additives, and associated items exported to China strictly adhere to pertinent legal provisions, whereas the second one specifically mandates that imported pre-packaged food must have labels and instructions written in Chinese before their entry into the country.⁸⁰ Once the label is created, it undergoes rigorous customs inspection; if the labeling examination is successful, a certificate would be released but if the inspection fails, the respective food products will be precluded from importation and may be subjected to disposal procedures.⁸¹

Unlike China, Hong Kong, as a free port, shows a more permissive stance with fewer stringent regulations governing imported food items.⁸² First, it doesn't establish import duties on the majority of products, except for petroleum derivatives, tobacco, and spirits with an alcohol content above 30%.⁸³ Moreover, excluding some perishable and high-risk product categories, the export of food in Hong Kong does not need an antecedent written authorization or licensing from the Food and Environmental Hygiene Department; the main principle of this regulations is that products intended for commercial distribution must be considered suitable for human consumption.⁸⁴

To sum up, Hong Kong, as leading “food paradise” has been classified among China's top 10 food safety cities in 2012 and its impressive capacity to keep a 99.7% overall food safety rate for the past six years is associated to its robust food safety assurance systems.⁸⁵

1.4 Tariffs and Non-tariffs Barriers to export food to China

Entering the Chinese market encounters many challenges caused by a wide range of tariff and non-tariff barriers, which are measures imposed by the Chinese government to regulate imports and exports.⁸⁶

⁸⁰ Jasmin Buijs, Bernd van der Meulen, and Li Jiao, *Food Information in Chinese Food Law*, cit., p.22.

⁸¹ Jasmin Buijs, Bernd van der Meulen, and Li Jiao, *Food Information in Chinese Food Law*, cit., p.23.

⁸² ICE Hong Kong, *Hong Kong: Il mercato Agro-alimentare*, Italian Trade Agency, April 2017, <https://www.infomercatiesteri.it/public/images/paesi/127/files/Food%20research%20-%20updated%20April.pdf>., accessed on 14-11-2023.

⁸³ *Ibidem*.

⁸⁴ *Ibidem*.

⁸⁵ Xuli Wu et al., *Food Safety Assurance Systems in Hong Kong*, *Food Control* 37 (March 1, 2014): 141–42, <https://doi.org/10.1016/j.foodcont.2013.09.025>.

Until 1970s, China did not play a pivotal role in global trade, as both imports and exports took place in a planned economy context⁸⁷ but, since China's reform and opening-up in 1978, there has been a remarkable increase in its total exports and imports starting to cover an important position in international value chains.⁸⁸ Its belonging to the World Trade Organization (WTO) in 2001, and consequently the setting up of bilateral and regional free trade agreements, have mainly contributed to a significant decrease in tariff rates which reduced from 39,7% in 1992 to 8,13% in 2011.⁸⁹

Even though by becoming a member of the WTO in 2001, China made significant improvements in deregulating its economy, tariff and non-tariff barriers were still persistent.⁹⁰

The most developed non-tariff barriers countries face when entering the Chinese market are the following:

- Cultural differences: despite the country's apparent openness to the Western world, it is still attached to traditional values.⁹¹
- Intellectual property risks: regarding trademarks, the adoption of the first-to-file principle over the first-to-use one, has promoted unauthorized registrations in the country, which caused substantial expenses and extended timelines to pursue legal remedies to solve the problem.⁹²
- Counterfeiting which is strictly linked to *fake market*⁹³ and *Italian sounding*⁹⁴ phenomena.⁹⁵

⁸⁶ SACE Education, *Tutte le barriere tariffarie e non tariffarie della Cina*, Guide Doganali Cina, p.13, https://www.sace.it/docs/default-source/e2e/sace_guide_doganali_cina_rev.pdf?sfvrsn=879d01b9_1, accessed on 23-11-2023.

⁸⁷ Michele Imbruno, *China and WTO Liberalization: Imports, Tariffs and Non-Tariff Barriers*, China Economic Review 38 (April 1, 2016): 222–37, <https://doi.org/10.1016/j.chieco.2016.02.001>.

⁸⁸ Li Mingcong and Yu Miaojie, "Non-Tariff Measures in China", in *Non-Tariff Measures in Australia, China, India, Japan, New Zealand and the Republic of Korea: Preliminary Findings*, (UNCTAD, 2020), pag.23, accessed on 21-11-2023.

⁸⁹ *Ibidem*.

⁹⁰ *La Cina e le nuove opportunita'*, 2020, Italian Trade Agency, p.10, accessed on 21-11-2023.

⁹¹ *Scheda Paese CINA*, Italian Trade Agency, p.14, accessed on 25-11-2023.

⁹² *Ibidem*.

⁹³ Fake market consists in copying technics realizing counterfeit products which look like the same as the originals. (Available at: <https://hbr.org/2018/05/8-ways-brands-can-fight-counterfeits-in-china>., accessed on 26-11-2023)

⁹⁴ The Italian Sounding phenomenon defines products that look like Italian, even in the sound, but that are not identifiable with the authentic Made in Italy production chain. This can cause a destabilization of the Italian consumer negatively affecting the Made in Italy reputation. (Available at: <https://www.cameraitacina.com/it/content/true-italian-taste>., accessed on 26-11-2023).

⁹⁵ *Ibidem*.

- Corruption: China is one of the most corrupted countries worldwide. This problem has emerged especially with the “reform and opening” policy in 1978.⁹⁶ The three different categories that characterized this issue are the Black Corruption (mainly linked to fraud and bribery), the Grey Corruption (encompasses all the practices used by leaders who exploit their institutional power illegally only to improve the institution’s revenue and the staff well-being) and the White Corruption (especially nepotism and favoritism in order to bend the law and benefit their own family and friends).⁹⁷

Joining the WTO allowed the country to apply the most-favored-nation tariff rates to all the organization’s members starting to reduce tariffs and eliminating the remaining non-tariff barriers to imports as quotas, licenses, and tendering requirements.⁹⁸

Unlike tariff measures, implemented at first for economic and trade purposes, non-tariff barriers were introduced to promote social, environmental, and political protection goals but also health and consumer protection. However, they became important in fulfilling economic goals, primarily addressing market inefficiencies stemming from information asymmetries and imperfect competition.⁹⁹

Despite that, many imported goods in China are still subjected to inspection, whose aim is to ensure these items adherence to Chinese norms and standards.¹⁰⁰ The most impacted sector is the agri-food industry, which is regulated by stringent administrative requirements related to health regulations.¹⁰¹

This sector is mainly affected by entry barriers such as customs duties, labelling and registration requirements, control and inspection procedures and import bans.¹⁰² According to these barriers, food products, imported in China, must show labels in the original Chinese language, must

⁹⁶ Zengke He, *Corruption and Anti-Corruption in Reform China*, Communist and Post-Communist Studies 33, no. 2 (2000): p.243.

⁹⁷ Zengke He, *Corruption and Anti-Corruption in Reform China*, cit., p.245

⁹⁸ Michele Imbruno, *China and WTO Liberalization: Imports, Tariffs and Non-Tariff Barriers*, China Economic Review 38 (April 1, 2016): 223, <https://doi.org/10.1016/j.chieco.2016.02.001>.

⁹⁹ Eyal Ronen, *Tariffs and Non-Tariff Measures: Substitutes or Complements. A Cross-Country Analysis*, SSRN Scholarly Paper (Rochester, NY, 2017), p.46, <https://doi.org/10.2139/ssrn.3010212>.

¹⁰⁰ SACE Education, *Tutte le barriere tariffarie e non tariffarie della Cina*, Guide Doganali Cina, p.13, https://www.sace.it/docs/default-source/e2e/sace_guide_doganali_cina_rev.pdf?sfvrsn=879d01b9_1_, accessed on 23-11-2023.

¹⁰¹ *Ibidem*.

¹⁰² Italian Trade Agency, *Scheda Paese CINA*, ICE Agenzia – Ufficio di Pechino, 2019, p.16, accessed on 23-11-2023.

undergo rigorous inspections and quarantine procedure (for instance certificate of origin, health and inspection certificates, invoices, shipping bills are required) and their exports have to register with the Administration of Quality Supervision (AQSIQ).¹⁰³

To sum up, in accordance with the Organization for Economic Cooperation and Development (OECD), both tariff and non-tariff barriers try to diminish the competitiveness of domestic companies in international markets.¹⁰⁴ These measures have a GDP reduction of approximately 66 cents for each additional dollar of protected goods, moreover they negatively affect global income curtailing the growth of average real wages in both developing and developed nations.¹⁰⁵

¹⁰³ *Ibidem.*

¹⁰⁴ Giovanni Caccavello, Blog | *Dieci anni dopo la grande recessione, il 'libero scambio' è un po' meno libero*, Econopoly, October 20, 2018, <https://www.econopoly.ilsole24ore.com/2018/10/20/grande-recessione-libero-scambio/>, accessed on 24-11-2023.

¹⁰⁵ *Ibidem.*

CHAPTER 2 - LEGAL ISSUES IN EXPORTING FOOD IN CHINA

2.1 Exporting from Hong Kong to China: general framework

Since China's opening up in 1979, a process of economic integration between the country, in particular the Pearl River Delta region, and Hong Kong has begun.¹⁰⁶ As a global hub between China and the Western world, Hong Kong has strengthened its position as an entrepôt, prospering through re-export trade between China and Western countries; Hong Kong has also succeeded in the financial field, becoming the main financial provider for companies operating in China.¹⁰⁷

Table 3 ► Trade involving outward processing in Mainland China (HK\$ million)

Estimated value of outward processing trade (HK\$ million)	1991	1994	1997	2000
Domestic exports to Mainland China	40,369 (76.5)	41,959 (71.4)	47,078 (76.1)	39,304 (72.7)
Re-exports from Mainland China	73,562 (48.2)	139,221 (43.3)	197,809 (44.7)	242,929 (49.7)
Total exports to Mainland China	113,931 (55.5)	181,179 (47.7)	244,886 (48.6)	282,233 (52.0)
Imports from Mainland China	197,384 (67.6)	354,912 (75.9)	491,142 (81.2)	567,000 (79.3)
Re-exports of Mainland China to other places	221,450 (74.1)	522,544 (82.0)	595,511 (88.4)	647,338 (85.1)

Source: Hong Kong Annual Digest of Statistics, 2001, Census and Statistics Department, Hong Kong SAR, Figures in brackets show the estimated proportion of outward processing trade (%).

This country has always cleverly used its resilience, adaptability, and entrepreneurial attitude to establish a unique position in the global economy; this has led to its evolvement from a trading

¹⁰⁶ Peter Y. W. Chiu, *Economic Integration Between Hong Kong and Mainland China: The Effect on Hong Kong of China's Entry into the WTO*, China Perspectives, no. 40 (2002): pag.62.

¹⁰⁷ *Ibidem*.

entrepôt to a manufacturing center, until today where it stands out as an international financial, shipping, and trade center.¹⁰⁸

The city's advantages, such as its efficient logistics, well-established capital market, and its geographical proximity to the mainland cities in the Greater Bay Area, allow Hong Kong to have many benefits.¹⁰⁹

Over the last 25 years, Hong Kong's role as a global trade and shipping center has lived moments of instabilities persistently supported by the mainland.¹¹⁰ Once becoming a global trade hub Hong Kong has gained significant benefits from its distinct role as it has been able to connect China to the rest of the world; this role has assumed increased importance, especially after China's accession to the WTO, aligning with a remarkable increase in the country's foreign trade.¹¹¹

Hong Kong plays an important role in China's export strategy due to three main functions: serving as a consumer market, acting as an entrepot, and functioning as a facilitator.¹¹² Moreover, the country supports Chinese exports in different ways such as an intermediary for technology transfer, a hub for a market access and the production training and a significant supporter to China's foreign exchange earnings.¹¹³

China uses Hong Kong as an entrepot for goods to be trans-shipped: in this way, goods are insured and financed only one time and they also avoid Hong Kong customs reducing delays and costs of storage.¹¹⁴ Nevertheless, products can be also re-exported via Hong Kong. China's reliance on Hong Kong for re-exports is linked to three main factors: international political relations, the economic effectiveness of Hong Kong in re-export activities, and various distortions within China's command economy, making direct exports very complicated without an intermediary.¹¹⁵ Thus, even after returning to China, Hong Kong will keep its own

¹⁰⁸ Global Times, *Over Past 25 Years, HK's Status as Global Trade and Shipping Hub Is Being Consolidated* - Global Times, <https://www.globaltimes.cn/page/202206/1269457.shtml>, accessed on 12-01-2024.

¹⁰⁹ *Ibidem*.

¹¹⁰ *Ibidem*.

¹¹¹ *Ibidem*.

¹¹² Yun-wing Sung, *The Role of Hong Kong in China's Export Drive*, *The Australian Journal of Chinese Affairs*, no. 15 (1986): pag.83, <https://doi.org/10.2307/2158873>.

¹¹³ Yun-wing Sung, *The Role of Hong Kong in China's Export Drive*, cit., pag. 84.

¹¹⁴ Yun-wing Sung, *The Role of Hong Kong in China's Export Drive*, cit., pag. 87.

¹¹⁵ *Ibidem*.

administration, tariff preferences and currency for at least other fifty years, joining General Agreement on Tariffs and Trade, also known as GATT (关税与贸易总协定) as a separate entity.¹¹⁶

The GATT, born after World War II, was an international agreement whose aim was to promote free trade among its member nations, establishing itself as an import legal structure to govern most of the global trade activities.¹¹⁷

However, to join GATT, China was required to eliminate non-tariff barriers (NTBs), such as import/export quotas and licenses, which represented a serious challenge for that treaty's main principle of promotion of free trade.¹¹⁸

Unlike GATT, the WTO, established in 1995, operates as a permanent body with a diverse range of functions; it serves as a platform for the negotiation of trade agreements, strives to settle trade disputes among the members and aids the developing countries.¹¹⁹

Regarding the relationship between China and Hong Kong, the remarkable aspect lies on the import of goods from Hong Kong: this import value increased from HK\$81 million in 1978 to HK\$61 billion in 1994.¹²⁰

Table 1. China's Trade with Hong Kong

	(Unit: HK\$ million)		
	1978	1984	1994
1. China's exports to Hong Kong	10,550	55,753	470,876
2. China's imports from Hong Kong	81	11,283	61,009
3. Hong Kong's re-exports to China	214	28,064	322,835
4. Hong Kong's re-exports from China	3,659	28,107	545,831

Source: Hong Kong Monthly Digest of Statistics, published by the Census and Statistic Department of the Hong Kong Government, 1995

¹¹⁶ Yun-wing Sung, *The Role of Hong Kong in China's Export Drive*, cit., pag. 97.

¹¹⁷ Thomas Yunlong Man, *National Legal Restructuring in Accordance with International Norms: GATT/WTO and China's Foreign Trade Reform*, *Indiana Journal of Global Legal Studies* 4, no. 2 (1997): pag.473.

¹¹⁸ Thomas Yunlong Man, *National Legal Restructuring in Accordance with International Norms: GATT/WTO and China's Foreign Trade Reform*, cit., pag 477.

¹¹⁹ HKTDC Research, *General Trade*, HKTDC Research, 2018, <https://research.hktdc.com/en/article/NDMxNDYwMTM1>, accessed on 13-12-2023.

¹²⁰ T. L. Tsim, *China-Hong Kong Relations*, *China Review*, 1995, 10.3.

As shown in Table 1, there is a perfect synergy between these two countries. What Hong Kong needs, like cheap labor, affordable raw materials, inexpensive rental, and an accessible market for its goods, is already available in China; on the other side, China can count on Hong Kong for financial resources, market presence and technological abilities.¹²¹

Recently, Hong Kong has benefited from its engagement in mainland China's rapid economic growth and liberalization process.¹²² This economic development is marked in the GDP data: particularly important is the contribution made by trade logistics and financial services, which represent 43.2% of the GDP, with the financial sector contributing for a total amount of 23.4%; this contribution emphasizes the widened access to the mainland's capital market.¹²³

However, as China's economy develops, the drivers of growth are changing, in fact, heavy industry and infrastructure investment have been replaced with technological innovation and domestic consumption.¹²⁴

Furthermore, the WTO establishment has the aim of creating an equal trade system including goods, services, and trade-related intellectual property rights.¹²⁵ The WTO actively strives for the liberalization of global trade and works as a platform to facilitate multilateral trade negotiations and to solve disputes among its member nations; the SAR has joined the WTO as a separate member; this, as guaranteed by the Basic Law, represents its autonomy in external commercial relations.¹²⁶ Hereby, the "one-country, two-systems" principle has not been affected by China's accession to the WTO.¹²⁷

China's access to the WTO generated two main outcomes which are relevant for its relationship with Hong Kong: these results respectively are the "business creation effect" and the "diversion effect": the former involves an increase in business prospects for Hong Kong due to intensified

¹²¹ T. L. Tsim, *China-Hong Kong Relations*, cit., pag 10.3-10.4.

¹²² David Liao, *Hong Kong Can Be Asia's Digital Command Centre for Trade* | Views | HSBC Holdings Plc, HSBC, <https://www.hsbc.com/news-and-views/views/hsbc-views/hong-kong-can-be-asias-digital-control-tower-for-trade>., accessed on 12-01-2024.

¹²³ *Ibidem*.

¹²⁴ *Ibidem*.

¹²⁵ Peter Y. W. Chiu, *Economic Integration Between Hong Kong and Mainland China: The Effect on Hong Kong of China's Entry into the WTO*, cit., pag.67.

¹²⁶ *Ibidem*.

¹²⁷ *Ibidem*.

trade between mainland China and the global community; the latter results in reduced business opportunities for Hong Kong, as mainland China is expected to engage more directly with the international market.¹²⁸

As a result, most manufacturers, who have shifted their production operations to mainland China, still have their corporate headquarters in Hong Kong. From this central hub, they supervise business management, source orders internationally, and access banking and financial services; Similarly, foreign investors, establishing manufacturing operations in mainland China, also choose to create their main offices in Hong Kong.¹²⁹

2.2 Different regional administrations

China has implemented an extensive food regulatory framework with the aim of ensuring quality and safety of imported food items.¹³⁰ However, significant quantities of imported food undergo rejection or disposal annually due to non-compliance with standards or quality differences.¹³¹ This implies substantial financial repercussions for both importers and exporters and can cause potential revocation of their import licenses and subsequent bans on future trading attempts.¹³²

Since joining the WTO in December 2001, and with the implementation of the Foreign Investment Law and the Regulation on the Implementation of the Foreign Investment Law in 2020, China has progressively diminished administrative trade barriers and opened its foreign trading system focusing on facilitating, protecting, and managing foreign investments.¹³³

¹²⁸ Peter Y. W. Chiu, *Economic Integration Between Hong Kong and Mainland China: The Effect on Hong Kong of China's Entry into the WTO*, China Perspectives, no. 40 (2002): pag.67.

¹²⁹ Peter Y. W. Chiu, *Economic Integration Between Hong Kong and Mainland China: The Effect on Hong Kong of China's Entry into the WTO*, cit., p.64

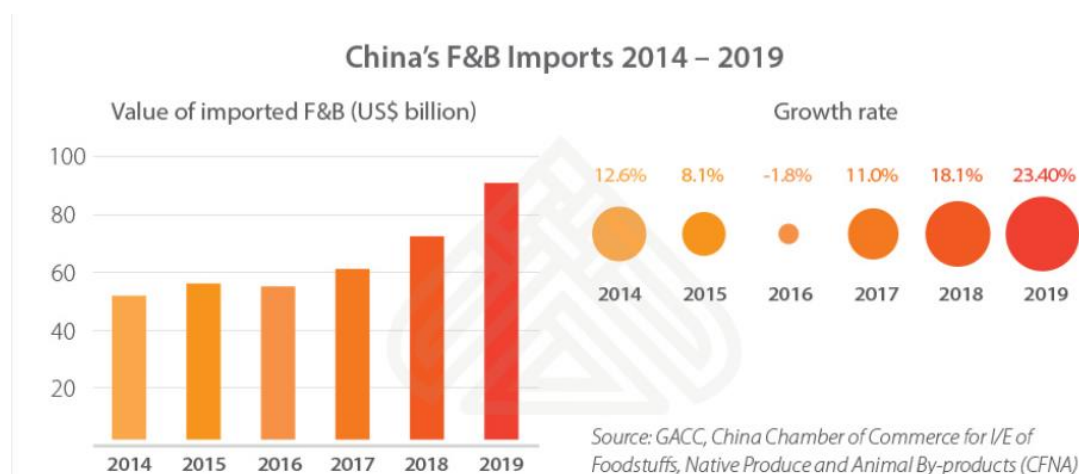
¹³⁰ *L'esportazione di Prodotti Alimentari in Cina: Guida Step by Step*, China Briefing News, July 19, 2021, <https://www.china-briefing.com/news/lesportazione-di-prodotti-alimentari-in-cina-guida-step-by-step/>. Accessed on 5-12-2023.

¹³¹ *Ibidem*.

¹³² *Ibidem*.

¹³³ C. H. Poon, "Trade Regulations of China," HKTDC Research, <https://research.hktdc.com/en/article/MzMONTEzMzcy>., accessed on 06-12-2023.

In 2016, China emerged as the world's second-largest importer of F&B after the US, with a continuous intensification in its demand and consumption; according to GACC, in fact, food imports in China have increased up to 17.4% over the past decade.¹³⁴



Source: GACC, China Chamber of Commerce for I/E of Foodstuffs, Native Produce and Animal By-products (CFNA)

Nevertheless, exporting F&B to China is very complex as it preserves an intricate and multi-layered food regulatory framework to guarantee food safety and quality.¹³⁵ Because of this sophisticated process, in 2019 many F&B products were rejected or demolished due to non-compliance issues, including food quality, certificates, labels, packaging, improper use of food additives, presence of micro-organisms, failure to undergo inspection and quarantine, non-compliance with ingredient standards, and other factors.¹³⁶

For this reason, food conformity and compliance with import procedures should be a priority for companies willing to sell into the Chinese market.¹³⁷

Indeed, Chinese enterprises that import goods, are required to own a Foreign Trade License, a regulatory authorization granted by the Ministry of Foreign Trade and Economic Cooperation, also known as MOFTEC (对外经济合作与贸易部).¹³⁸

¹³⁴ *L'esportazione di Prodotti Alimentari in Cina: Guida Step by Step*, China Briefing News, cit., accessed on 26-12-2023

¹³⁵ *Ibidem.*

¹³⁶ *Ibidem.*

¹³⁷ *Ibidem.*

Regarding Hong Kong, regulations are exclusive to that territory and are all specified by the Food and Environmental Hygiene Department, also known as FEHD (食物環境衛生署),¹³⁹ which is accountable for supervising food safety control, controlling live food animals, managing problems related to food, and administering environmental hygiene services and facilities.¹⁴⁰ The FEHD has multiple functions such as food surveillance, regulatory control, licensing issues and the delivery of environmental hygiene facilities and services; furthermore, the department tries to publish messages related to food safety and environmental sustainability through promotional and educational activities.¹⁴¹ To simplify the establishment of food businesses, the department has instituted a provisional license system; those that meet the requisite health, building, and fire safety criteria are granted a provisional license with a six months validity; within this frame, licensees must fulfill all outstanding prerequisites for the issuance of a full license.¹⁴²

In conclusion, over the last ten years, Hong Kong, operating as an open market economy, and Mainland China, as a transitional economy with active involvement from central and local governments, have showed the potential for a collaboration; this emphasizes that when there are favorable environmental conditions nurturing mutual incentives, dedicated leadership on both fronts to boost the collaborative efforts, and institutional arrangements simplifying cooperative dynamics, successful collaboration among stakeholders from different political and institutional backgrounds remains attainable.¹⁴³

¹³⁸ *Esportare prodotti eno-agroalimentari in Cina*, <https://mglobale.promositalia.camcom.it/dogane/tutte-le-news/esportare-prodotti-eno-agroalimentari-in-cina.kl>., accessed on 26-12-2023.

¹³⁹ *Ibidem*.

¹⁴⁰ *Food and Environmental Hygiene Department - Home*, <https://www.fehd.gov.hk/english/index.html>., accessed on 27-12-2023.

¹⁴¹ *Chapter I - Food and Environmental Hygiene Department*, <https://www.fehd.gov.hk/english/publications/annualrpt/2022/1.html>., accessed on 27-12-2023.

¹⁴² *Chapter III - Regulation of the Food Trade*, <https://www.fehd.gov.hk/english/publications/annualrpt/2022/3.html>., accessed on 27-12-2023.

¹⁴³ Peter TY Cheung, *Toward Collaborative Governance between Hong Kong and Mainland China*, *Urban Studies* 52, no. 10 (2015): pag.1929.

Nevertheless, despite the liberalization of the Chinese economy and its growth over the years¹⁴⁴, foreign goods and investments still face many restrictions when entering this market: the best option should be to establish a partnership with a well-connected Chinese company.¹⁴⁵

2.3 Custom duties and taxes

The main regulation governing customs valuation in China is declared in the Measures of China Customs on Determination of Dutiable Value of Imports and Exports (中华人民共和国海关审定进出口货物完税价格办法), GAC Decree No. 213, published in December 2013.¹⁴⁶ According to this measure, the dutiable value of imported goods is determined by evaluating the transaction value: this is defined as the comprehensive actual price of the goods, and this embraces both direct and indirect payments made by the buyer to the seller.¹⁴⁷

The process of importing goods into China includes three different types of taxes: consumption tax (CT), value-added tax (VAT) and customs duties whose imposition is determined by the features of imported goods and their categorization under specific CT classifications.¹⁴⁸

China imposes the Consumption Tax on companies related to the manufacturing, importation, or consignment of taxable products, as well as on those selling such goods (items harmful to health like tobacco or alcohol, luxury goods, and high-end products as cars and motorcycles); the tax rate for imported goods differs depending on the product type, and the calculation can be executed using the ad valorem method, quantity-based method, or compound tax method.¹⁴⁹

Value Added Tax, instead, is applied to sales, importation of goods, as well as processing, repairs, and replacement services in China and its valuation follows tariffs, incorporating the tariff value; in line with WTO regulations, the People's Republic of China needs to ensure equal tax treatment

¹⁴⁴ Massimo Castaldo, *La Cina e l'ordine Mondiale*, Rivista Di Studi Politici Internazionali 84, no. 4 (336) (2017): pag 493.

¹⁴⁵ Massimo Castaldo, *La Cina e l'ordine Mondiale*, cit., pag.504.

¹⁴⁶ KPMG, *Managing Trade & Customs in China*, 2016, pag.3

¹⁴⁷ *Ibidem*.

¹⁴⁸ Global Affairs Canada, *Import Regulations in China*, GAC, November 18, 2019, <https://www.tradecommissioner.gc.ca/tcs-sdc/china-chine/import-importation.aspx?lang=eng.>, accessed on 29-12-2023.

¹⁴⁹ *Customs Duties and Import-Export Taxes in China* - China Guide | Doing Business in China, <https://www.china-briefing.com/doing-business-guide/china/taxation-and-accounting/customs-duties-and-import-export-taxes-in-china.>, accessed on 30-12-2023.

for both domestic and imported goods.¹⁵⁰ Goods imported into China are accountable to import VAT, which is managed by local customs during the customs declaration process and its payment is generally accomplished by the consignee.¹⁵¹

The VAT is established at a standard rate of 17%; nevertheless, exporters are allowed only a partial refund of their VAT costs.¹⁵² Despite the zero rate being applicable to export goods, the VAT paid by exporters for domestically produced goods may not be fully reimbursed.¹⁵³ A distinct VAT refund rate is attributed to each commodity, differently from the standard VAT rate.¹⁵⁴ It is important that these refund rates show significant variations across diverse sectors and commodities.¹⁵⁵

On the other hand, custom duties can be divided into different categories: Most-Favored-Nation (MFN) duty rates (includes WTO members and countries with bilateral agreements), Conventional duty rates (standard tariffs applicable to import operations from countries outside the MFN category), Special preferential duty rates (reduced tariffs for specific types of goods with defined requirement and criteria), Tariff Rate Quota duty rates (tariffs depending on the quantity of imported goods) and General Duty Rates (standard tariffs applied to import generally).¹⁵⁶

Nevertheless, China has endorsed a set of regulations aimed at diminishing import-export taxes and duties with the purpose of promoting increased openness and domestic consumption; these regulatory adjustments have the potential to impact businesses related to the import and export of taxable goods and services to and from China.¹⁵⁷

¹⁵⁰ *China - Import Tariffs*, International Trade Administration, U.S. Department of Commerce, <https://www.trade.gov/country-commercial-guides/china-import-tariffs>., accessed on 30-12-2023.

¹⁵¹ *Customs Duties and Import-Export Taxes in China - China Guide | Doing Business in China*, <https://www.china-briefing.com/doing-business-guide/china/taxation-and-accounting/customs-duties-and-import-export-taxes-in-china>., accessed on 30-12-2023.

¹⁵² Julien Gourdon, Stéphanie Monjon, and Sandra Poncet, *Trade Policy and Industrial Policy in China: What Motivates Public Authorities to Apply Restrictions on Exports?*, China Economic Review 40 (September 1, 2016): pag.107, <https://doi.org/10.1016/j.chieco.2016.06.004>.

¹⁵³ *Ibidem*.

¹⁵⁴ *Ibidem*.

¹⁵⁵ *Ibidem*.

¹⁵⁶ *Sistema fiscale Cina*, Settembre 2023, <https://mglobale.promositalia.camcom.it/fiscalita/tutte-le-news/sistema-fiscale-cinese-panoramica-per-gli-esportatori-italiani.kl>., accessed on 30-12-2023.

¹⁵⁷ *Customs Duties and Import-Export Taxes in China - China Guide | Doing Business in China*, <https://www.china-briefing.com/doing-business-guide/china/taxation-and-accounting/customs-duties-and-import-export-taxes-in-china>., accessed on 28-12-2023.

Furthermore, imported food unable to clear Customs might undergo technical treatment under GACC supervision and a re-inspection or issuance of a Returns Handling Notice establishing a return of the goods or their destruction.¹⁵⁸

On the contrary, in Hong Kong the situation is different. The stability and low level of taxes, particularly the earnings and profits tax (EPT), play a crucial role as they have undergone marginal changes, establishing a reliable tax situation for business activities.¹⁵⁹ This stability contrasts with tax uncertainty which typically hampers investment incentives in other countries.¹⁶⁰

Both the "standard" tax rate and the corporate tax rate in the EPT framework are very low and this contributes to an overall reduced tax burden but also makes it unnecessary to introduce additional tax incentives; indirect taxes, such as import duties, are also relatively low as they decreased from approximately 2% in 1970 to 1.5% in the mid-1970s and further to 1% in 1986.¹⁶¹

2.4 Food Safety

Food supply and food safety represent significant global public health concerns in China.¹⁶² The quick industrialization and modernization taking place in the country have substantial impacts on both the provision and safety of food; thus, given China's notorious role in global economy, the problems surrounding its food production and consumption are interesting for international markets and trade partners.¹⁶³

China's food supply depends on several elements, including its population, the quality and quantity of arable lands, climatic conditions, water availability, micronutrient levels in soil, and other related factors.¹⁶⁴ Despite possessing only 7–9% of the world's arable land, China provides

¹⁵⁸ *Exporting Food Products to China: A Step by Step Guide*, China Briefing News, August 21, 2023, <https://www.china-briefing.com/news/exporting-food-products-to-china-regulation-and-procedure/>, accessed on 30-12-2023.

¹⁵⁹ Takatoshi Ito and Anne O. Krueger, *The Political Economy of Tax Reform* (University of Chicago Press, 1992), pag.38.

¹⁶⁰ *Ibidem*.

¹⁶¹ *Ibidem*.

¹⁶² Hon-Ming Lam et al., *Food Supply and Food Safety Issues in China*, *The Lancet* 381, no. 9882 (2013): [https://doi.org/10.1016/S0140-6736\(13\)60776-X](https://doi.org/10.1016/S0140-6736(13)60776-X), pag.2044.

¹⁶³ *Ibidem*.

¹⁶⁴ Hon-Ming Lam et al., *Food Supply and Food Safety Issues in China*, cit., pag.2045.

accommodation for more than 20% of the global population, resulting in a less arable land per capita than the worldwide average.¹⁶⁵ The limitations on productivity stemming from insufficient land and inadequate water supplies are compounded by intensive farming practices, which have led to a lack in soil micronutrients, further impeding agricultural productivity in China.¹⁶⁶

Safeguarding global food safety needs the formulation of international regulations grounded in mutually agreed-upon principles, successively implemented through country-specific legislation.¹⁶⁷ The Chinese Government has undertaken significant actions to revise food safety laws culminating in the publication of the Food Safety Law of the People's Republic of China in 2009; after the enactment of this law, the State Council Food Security Committee was instituted to further bolster regulatory efforts.¹⁶⁸

Besides, China has ratified the Agreement on the Application of Sanitary and Phytosanitary Measures, a World Trade Organization treaty in line with the recommendations of the Codex Alimentarius Commission (Codex).¹⁶⁹

The Agreement on the Application of Sanitary and Phytosanitary Measures, also known as SPS Agreement, (实施卫生与植物卫生措施协定) carries notable importance within the WTO regarding trading goods among its member nations.¹⁷⁰ The principal aim of the SPS Agreement is to prevent impediments arising from sanitary and phytosanitary measures among its member states, thus promoting the liberalization and facilitation of international trade.¹⁷¹ It checks health regulations of WTO members with the aim of avoiding their misappropriation for protectionist objectives.¹⁷² Besides, the negotiation and integration of the SPS Agreement into the legal framework of the WTO aimed to tackle the challenging issue of implementing trade-restrictive

¹⁶⁵ *Ibidem*.

¹⁶⁶ *Ibidem*.

¹⁶⁷ Hon-Ming Lam et al., *Food Supply and Food Safety Issues in China*, cit., pag.2049.

¹⁶⁸ *Ibidem*.

¹⁶⁹ *Ibidem*.

¹⁷⁰ China--CEEC Customs Information Center, <http://cceecccic.org/1354474665.html>., accessed on 6-12-2023.

¹⁷¹ *Ibidem*.

¹⁷² Denise Prévost, *Disciplining Health Regulations through the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures: Science and the Rule of Law*, European Journal of Risk Regulation, December 22, 2023, <https://doi.org/10.1017/err.2023.84>., pag.1.

measures, designed to protect health from potential risks related to traded agricultural and food products.¹⁷³

Conversely, the enactment of the Food Safety Law, in 2009, represented a transition from the management of food hygiene to the supervision of food safety governance.

This legislation defines the main principles and essential criteria for nationally food safety management, including a wide array of aspects related to food production, distribution, and labeling.¹⁷⁴

In 2015, revisions to the Chinese Food Safety Law endorsed the principles of social co-governance and industry self-regulation, increasing the commitment of societal entities such as the food industry association, consumer federation, and media in this field.¹⁷⁵

To boost coordination among diverse regulatory bodies, China also established the State Council Leading Group on Product Quality and Food Safety in 2007.¹⁷⁶

According to the 2015 Pew Global Survey, 71% of the population in China considers food safety a notable issue; besides Chinese citizens have a negative perception of the existing state of food safety; the challenges in this field not only pose risks to the health of Chinese people but they can also have broad societal and political implications.¹⁷⁷

Moreover, Food safety risks showed an unequal distribution, presenting distinctive vulnerabilities among individuals of different socioeconomic status; this discrepancy in risk distribution is related to the political dimensions of food safety challenges in China.¹⁷⁸ In fact, individuals with higher socioeconomic status exhibit superior financial and cognitive capabilities, giving them greater protection against risks; conversely, those with a lower status are more susceptible to health danger.¹⁷⁹ Given a multilayered governmental system, a unitary regulatory

¹⁷³ Denise Prévost, *Disciplining Health Regulations through the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures*, cit., pag.4.

¹⁷⁴ *China's Labeling Requirements for Food Imports*, China Briefing News, September 15, 2023, <https://www.china-briefing.com/news/china-labeling-requirements-food-imports-guide/>, accessed on 7-1-2024.

¹⁷⁵ Zhe Liu, Anthony N. Mutukumira, and Hongjun Chen, *Food Safety Governance in China: From Supervision to Coregulation*, *Food Science & Nutrition* 7, no. 12 (2019): pag.4131, <https://doi.org/10.1002/fsn3.1281>.

¹⁷⁶ Hon-Ming Lam et al., *Food Supply and Food Safety Issues in China*, cit., pag.2049.

¹⁷⁷ Guanghua Han and Yida Zhai, *Risk Society and the Politics of Food Safety Problems in China*, *Japanese Journal of Political Science* 23, no. 1 (March 2022): pag.73, <https://doi.org/10.1017/S1468109921000372>.

¹⁷⁸ Guanghua Han and Yida Zhai, *Risk Society and the Politics of Food Safety Problems in China*, cit. pag.75.

¹⁷⁹ *Ibidem*.

structure has difficulties in controlling food safety problems; for this reason, it was essential for the central and local governments to coordinate their regulations concerning food safety issues.¹⁸⁰

In this regard, the Food Safety Improvement Project for China was introduced with the aim of enhancing food safety management moderating its risks in specific value chains.¹⁸¹ The project encompasses four key components:

- The first component focuses on institution building and regulatory performance;
- The second one emphasizes the food safety supervision process giving support or regulatory authorities in planning and presenting original models for food safety supervision;
- The third component targets the overarching goal of ensuring food safety control across the entire value chain, encouraging investments in selected value chains to minimize food safety risks;
- Lastly, the fourth component provides support for the effective implementation of the project activities.¹⁸²

To efficiently solve the problem, it is essential to intensify the penalties for violations, as well as to build an honest-credit system of food safety.

Furthermore, a supervision model should be created to solve the food safety issues.¹⁸³ In October 2011, the China National Center for Food Safety Risk Assessment was created; this is the first professional organization aiming at offering national-level risk assessment to policy makers and the public, and is one of the few inter departmental centers in the world, showing an important phase of the Chinese government to strengthen food safety capability building.¹⁸⁴

To sum up, food safety is an important point to focus on when importing food in China because this can easily lead to an increase of imported food failures, especially in the last years, when China established itself as the largest food importer worldwide.¹⁸⁵

¹⁸⁰ Guanghua Han and Yida Zhai, *Risk Society and the Politics of Food Safety Problems in China*, cit. pag.77.

¹⁸¹ China - Food Safety Improvement Project (English). Washington, D.C.: World Bank Group. <http://documents.worldbank.org/curated/en/958471616983319964/China-Food-Safety-Improvement-Project>., accessed on 6-12-2023.

¹⁸² *Ibidem*.

¹⁸³ Yongning Wu and Yan Chen, *Food Safety in China*, Journal of Epidemiology and Community Health (1979-) 67, no. 6 (2013): pag.478.

¹⁸⁴ *Ibidem*.

¹⁸⁵ Dan Li et al., *Food Fraud of Rejected Imported Foods in China in 2009–2019*, Food Control 133 (March 1, 2022): 108619, pag.1, <https://doi.org/10.1016/j.foodcont.2021.108619>.

2.5 Labeling

With a population of approximately 1.4 billion individuals and a burgeoning middle class showing a keen interest in culinary experiences, China's food market has become a pivotal focus for entities looking for global expansion and market diversification.¹⁸⁶ Considering this, the increased significance of China's food labeling regulations for imported prepackaged foods is emphasized.¹⁸⁷

Food labeling is the main tool used by consumers to get information about food and its main components.¹⁸⁸

It includes various items such as words, symbols, numbers, and pictures marked or printed onto the food or its packaging; its primary objective is to define the main information, characteristics, and properties of food products.¹⁸⁹

Nutritional labels provide information about the nutrient composition of F&B products, and they are necessary for most pre-packaged food in many countries.¹⁹⁰

Various types of labels exist; however, the environmental one is the most ecologically sustainable.¹⁹¹

In 1993, the GATT Secretariat enlarged the purpose of environmental labels, categorizing them into three distinct types: eco-labeling involves awards based on the lifecycle analysis; single-issue labels focus on a product specific feature; and negative-issue labels, on the contrary, serve to delineate a product's safety and healthiness.¹⁹²

¹⁸⁶ *China's Labeling Requirements for Food Imports*, China Briefing News, September 15, 2023, <https://www.china-briefing.com/news/china-labeling-requirements-food-imports-guide/>, accessed on 8-01-2024.

¹⁸⁷ *Ibidem*.

¹⁸⁸ 于航宇, et al."中国消费者食品标签认知度调查及食品标签识读习惯研究." 中国食品学报 21.06(2021): pag.380., doi:10.16429/j.1009-7848.2021.06.045.

¹⁸⁹ *Brief Introduction Of SAMR's Food Labeling Measures - Food and Drugs Law - China*, <https://www.mondaq.com/china/food-and-drugs-law/981966/brief-introduction-of-samrs-food-labeling-measures>., accessed on 9-01-2024.

¹⁹⁰ Patricia Hepworth, Sarah Ward, and Lisa Schölin, "Alcohol Labelling in the Global Food System: Implications of Recent Work in the Codex Committee on Food Labelling," *European Journal of Risk Regulation* 12, no. 2 (June 2021): pag.542, <https://doi.org/10.1017/err.2020.60>.

¹⁹¹ Jimin Zhao and Qing Xia, *China's Environmental Labeling Program*, *Environmental Impact Assessment Review, Cleaner Production in China*, 19, no. 5 (September 1, 1999): pag.478, [https://doi.org/10.1016/S0195-9255\(99\)00024-4](https://doi.org/10.1016/S0195-9255(99)00024-4).

¹⁹² *Ibidem*.

In 1993 China created an environmental labeling initiative aimed at protecting the environment and expanding exports.¹⁹³ To manage this program, the China Certification Committee for Environmental Labeling of Products (CCELP) was founded in May 1994.¹⁹⁴

With these kinds of labels, individuals can make deeper decisions when purchasing a product as they take into consideration not only the price and functional features, but also the environmental qualities of the products.¹⁹⁵

According to China's environmental labeling, products are required to conform to national standards regarding both quality and safety.¹⁹⁶ The most important focus for consumers is these products 'quality and the efficiency of the labeling program which relies on satisfying consumers preferences.'¹⁹⁷

As specified by the OECD, a successful environmental program can, undoubtedly, influence consumers' purchasing behavior and improve the environmental quality.¹⁹⁸

Over the last years, the environmental label in China has been applied to 3.5 million products, allowing a widespread distribution of eco-friendly goods, and contributing to an increased awareness towards environmental topics.¹⁹⁹

These labels are useful for Chinese consumers to understand better foreign products as they provide essential details about the product's composition, origin, and safety such as product name, ingredient list, net weight or volume, shelf life, storage conditions, and usage instructions.²⁰⁰

Moreover, they play a pivotal role in nurturing trust and credibility among Chinese consumers, who are becoming increasingly discerning and health conscious.²⁰¹

In accordance with the General Rules on Pre-packaged Food Labelling, also known as GB7718-2011, (预包装食品标签通则), implemented on April 2012, production enterprises are required

¹⁹³ *Ibidem.*

¹⁹⁴ *Ibidem.*

¹⁹⁵ Jimin Zhao and Qing Xia, *China's Environmental Labeling Program*, cit, pag.479.

¹⁹⁶ Jimin Zhao and Qing Xia, *China's Environmental Labeling Program*, cit, pag.485.

¹⁹⁷ *Ibidem.*

¹⁹⁸ Jimin Zhao and Qing Xia, *China's Environmental Labeling Program*, cit, pag.488.

¹⁹⁹ Jimin Zhao and Qing Xia, *China's Environmental Labeling Program*, cit, pag.489.

²⁰⁰ *China's Labeling Requirements for Food Imports*, China Briefing News, September 15, 2023, <https://www.china-briefing.com/news/china-labeling-requirements-food-imports-guide/>., accessed on 8-01-2024.

²⁰¹ *Ibidem.*

to provide complete details related to the quality and safety of their products.²⁰² The stipulations of the General Rules regulate that the food label must include the following information: product name, list of ingredients, net content and specifications, name, address, and contact details of the manufacturer (or distributor), date of manufacture, best-before date, storage instructions, food production, license number, product standard number, and other essential content.²⁰³

It is important to note that these labeling standards are based on the type of imported food and are described in the GACC Decree 249, which took effect on January 1, 2022.²⁰⁴

All labeling information must adhere to precise specifications: first, it should be presented using simplified Chinese characters; the combination of English and Chinese is possible, yet the Chinese version must hold priority in terms of visibility and legibility.²⁰⁵

Clarity and ease of understanding are predominant for all textual, symbolic, and graphical elements, with colors offering contrast against the background.²⁰⁶

Nevertheless, some challenges in the translation process can appear: one of the most common is cultural disparity which can lead to a distinct connotation for determined expressions due to variations in languages.²⁰⁷

Ensuring a precise translation of food labels is essential to avoid misunderstandings and legal complications.²⁰⁸

Furthermore, other elements of adherence to Chinese standards for food labeling and regulations include:

- Declaration of ingredients: all ingredients, including additives and flavorings, must be specified.²⁰⁹

²⁰² HKTDC Research, *9.6 Regulations on Product Packaging and Labelling*, HKTDC Research, <https://research.hktdc.com/en/article/NDQwODY4MDQw>., accessed on 8-01-2024.

²⁰³ *Ibidem*.

²⁰⁴ *China - Labeling/Marking Requirements*, International Trade Administration, <https://www.trade.gov/knowledge-product/china-labelingmarking-requirements>., accessed on 8-01-2024.

²⁰⁵ *China's Labeling Requirements for Food Imports*, China Briefing News, September 15, 2023, <https://www.china-briefing.com/news/china-labeling-requirements-food-imports-guide/>., accessed on 8-01-2024.

²⁰⁶ HKTDC Research, *9.6 Regulations on Product Packaging and Labelling*, HKTDC Research, <https://research.hktdc.com/en/article/NDQwODY4MDQw>., accessed on 8-01-2024.

²⁰⁷ *China's Labeling Requirements for Food Imports*, China Briefing News, September 15, 2023, <https://www.china-briefing.com/news/china-labeling-requirements-food-imports-guide/>., accessed on 8-01-2024.

²⁰⁸ *Ibidem*.

²⁰⁹ *Ibidem*.

- Nutritional labeling: companies exporting food products to China should endow accurate information concerning energy, protein, fat, carbohydrates, and other nutrients according to national standards.²¹⁰
- Allergen information: the presence of common allergens such as peanuts, milk, soy, and wheat must be clearly indicated in the ingredient list.²¹¹

The non-compliance to Chinese standards leads to direct and concrete repercussions, such as the imposition of penalties and fines, which can vary depending on the gravity of the violation.²¹²

Consequently, a product recall can have plain financial implications, involving, for instance, the withdrawal of the product from the market; this can adversely impact a company's reputation and corrode consumer trust, presenting challenges in rebuilding their confidence; thus, persistent non-compliance can lead to wider consequences, including access restrictions.²¹³ This implies obstacles when attempting to export products to China or may even face the removal of its products from the market entirely.²¹⁴

Conversely, regarding the labeling of alcohol products, there are currently no global standards; alcohol does not receive the same treatment as other packaged food within the Codex food labeling system, neither it is subject to the labeling requirements applicable to psychoactive drugs under the International Drug Control Conventions.²¹⁵

Alcoholic items must have health warning labels, whose main purpose is to convey information regarding the potential harms linked to the consumption of alcohol.²¹⁶

From a public health position, historically, alcohol was not categorized as an "ordinary commodity" due to the health dangers linked to its consumption.²¹⁷ However, from the viewpoint

²¹⁰ *Ibidem.*

²¹¹ *Ibidem.*

²¹² *Ibidem.*

²¹³ *Ibidem.*

²¹⁴ *Ibidem.*

²¹⁵ Patricia Hepworth, Sarah Ward, and Lisa Schölin, *Alcohol Labelling in the Global Food System: Implications of Recent Work in the Codex Committee on Food Labelling*, *European Journal of Risk Regulation* 12, no. 2 (June 2021): pag.461, <https://doi.org/10.1017/err.2020.60>.

²¹⁶ Patricia Hepworth, Sarah Ward, and Lisa Schölin, *Alcohol Labelling in the Global Food System: Implications of Recent Work in the Codex Committee on Food Labelling*, cit., pag.463.

²¹⁷ Patricia Hepworth, Sarah Ward, and Lisa Schölin, *Alcohol Labelling in the Global Food System: Implications of Recent Work in the Codex Committee on Food Labelling*, cit., pag.465.

of international trade and food standards, there is an unpredictable alignment of alcohol with other food products, leading to challenges in the consistent application of standards.²¹⁸

Concerning fermented alcoholic beverages, such as wine and beer, and for liquors, labeling regulations need to include warnings and specification of alcohol content in percentage.²¹⁹

Besides, these products are granted an exemption from shelf-life labeling only if their alcohol content is not less than 10%.²²⁰

Moreover, in each of the abovementioned instances, apart from the product name, the manufacturer's name and address, and the manufacturing date, the outer packaging must also include information about the net content and total quantity of all individual unit packages.²²¹

Therefore, the manufacturer must carefully choose suitable Chinese characters; otherwise, they may discover, especially when considering intensified investments in the Chinese market, that their brand's appeal has already been compromised by an imprecise transliteration.²²²

Once the product is introduced into the Chinese market, the exporter, with the assistance of a Chinese intermediary, is required to present the product label to the CIQ (China Inspection and Quarantine) offices: this organization works directly under the authority of the General Administration of Quality Supervision, Inspection, and Quarantine, a renowned institute responsible for quality management in China.²²³

As soon as the label is approved and registered, strict adherence to the CIQ templates for printing and application onto the product is essential before transmitting it to China.²²⁴

In brief, in accordance with the Measures for Supervision and Administration of Food Labeling, also known as Draft for Comment, (食品标识管理规定), especially for imported food, an important requirement is the positioning of the Chinese label on the smallest selling unit without interrelating with the original foreign one, always keeping a direct correspondence between the

²¹⁸ *Ibidem*.

²¹⁹ ChemLinked, *Guida per l'esportazione Di Alimenti e Bevande Nella Repubblica Popolare Cinese*, Italian Trade Agency, 2022, accessed on 09-01-2024.

²²⁰ *Ibidem*.

²²¹ ChemLinked, *Guida per l'esportazione di alimenti e bevande nella Repubblica Popolare Cinese*, cit., pag.44.

²²² Mariagrazia Semprebon, *L'etichettatura del vino in Cina*, <https://www.agrilegal.it/approfondimenti/1-etichettatura-del-vino-in-cina>., accessed on 09-01-2024.

²²³ *Ibidem*.

²²⁴ *Ibidem*.

two; it is recommended for import agents to integrate the Chinese label during the production phase, as adding it later would be more expensive.²²⁵

Nevertheless, different challenges can be found by agents throughout this process: first, disparities in laws between China and other countries can arise; additionally, different labeling methods can create complexities in ensuring the correct correspondence between the original label content and the Chinese translation.²²⁶

2.6 License

After the United States, China emerged as the world's second-largest importer of food and beverages in 2016.²²⁷ Information provided by the GACC designates that food imports volumes into China have experienced an average annual growth rate of 17.4% over the past ten years.²²⁸

Every year, numerous F&B companies and exporters find obstacles in entering the Chinese market due to insufficient compliance; from January to July 2019, a hundreds of foreign products were returned or destructed because of non-compliance issues, including the absence of certificates, improper labels, and packaging, excessive or insufficient use of food additives, the presence of microorganisms, failure to undertake inspection and quarantine and use of non-compliant ingredients.²²⁹ This led to significant financial consequences for both importers and exporters. In case of serious violations, the import license can also be revoked, and the company can have potential prohibitions from future trade activities.²³⁰

When people want to trade with China, they should take into consideration that not every product is allowed to enter the country. China, in fact, classifies its imports into three categories:

²²⁵ *Brief Introduction Of SAMR's Food Labeling Measures - Food and Drugs Law - China*, <https://www.mondaq.com/china/food-and-drugs-law/981966/brief-introduction-of-samrs-food-labeling-measures>., accessed on 9-01-2024.

²²⁶ *Ibidem*.

²²⁷ Rita Fatiguso, *È corsa a registrare le aziende alimentari nelle dogane cinesi dal 1° gennaio*, Il Sole 24 ORE, December 25, 2021, <https://www.ilsole24ore.com/art/e-corsa-registrare-aziende-alimentari-dogane-cinesi-1-gennaio-AEK10b4>., accessed on 11-01-2024.

²²⁸ *Ibidem*.

²²⁹ *Ibidem*.

²³⁰ *Ibidem*.

- Permitted Goods: applicants must apply for an automatic license, and the goods import contract is mandatory.²³¹ Each automatic import license is valid for six months and, theoretically, should be used for a single batch of goods, apart from some exceptions.²³²
- Restricted Goods: China applies restrictions on specific items, and these goods are checked through either quotas or licenses.²³³
- Prohibited Goods: these items import into China is forbidden.²³⁴

Conversely, for goods subjected to export limitations, China applies a systematic export licensing administration introducing three different types of export licensing: Export quota license, export quota tender and export license.²³⁵

The export license is an official document delivered to companies by the Chinese Ministry of Foreign Trade and Economic Cooperation and it is mandatory for the shipment of goods from China.²³⁶ The lack of this license prevents the clearance of goods through Chinese customs.²³⁷

The validity period for an export license is six months and must be utilized within the same year; if an export license remains unused in its validity period, expansion can be requested by the operator.²³⁸

Usually, manufacturers who don't possess this export license are not directly exposed to foreign markets; they work as subcontractors.²³⁹ This means that they only focus on materials productions exclusively for a bigger company with a stronger orientation toward exports.²⁴⁰

In conclusion, food products entering China normally do not require pre-import licensing.

²³¹ *China's Import and Export Licensing Framework*, China Briefing News, March 19, 2013, <https://www.china-briefing.com/news/chinas-import-and-export-licensing-framework/>., accessed on 11-01-2024.

²³² *Ibidem*.

²³³ *China's Import and Export Licensing Management in 2023*, China Briefing News, January 30, 2023, <https://www.china-briefing.com/news/chinas-import-export-license-management-2023-list-goods-catalogues/>., accessed on 11-01-2024.

²³⁴ *China's Import and Export Licensing Framework*, China Briefing News, March 19, 2013, <https://www.china-briefing.com/news/chinas-import-and-export-licensing-framework/>., accessed on 11-01-2024.

²³⁵ *Ibidem*.

²³⁶ Filippo Orlandini, *Licenza per l'esportazione dalla Cina: La guida completa*, Cinainportazioni (blog), January 28, 2018, <https://cinainportazioni.it/blog/licenza-di-esportazioni-cina/>., accessed on 14-01-2024.

²³⁷ *Ibidem*.

²³⁸ *China's Import and Export Licensing Framework*, China Briefing News, March 19, 2013, <https://www.china-briefing.com/news/chinas-import-and-export-licensing-framework/>., accessed on 11-01-2024.

²³⁹ Filippo Orlandini, *Licenza per l'esportazione dalla Cina: La guida completa*, Cinainportazioni (blog), January 28, 2018, <https://cinainportazioni.it/blog/licenza-di-esportazioni-cina/>., accessed on 14-01-2024.

²⁴⁰ *Ibidem*.

However, if an item is listed in the 2023 Goods Catalogue for Automatic Import License Management, such as poultry or dairy products, importers are required to apply for an Automatic Import License issued by the MOFCOM.²⁴¹

Moreover, food products subject to import tariff quotas, such as corn, rice, and sugar, must get the Agricultural Products Import Tariff Quotas Certificate.²⁴²

Automatic Import License Management has a six-month validity, and it is applied to goods under restrictions, and, with specific exceptions, it should be used for a single batch of goods.²⁴³

According to the Food Safety Law, the government is required to establish a licensing system for food production and processing.²⁴⁴ Nevertheless, the sale of edible agricultural products and exclusively pre-packaged food is exempt from licensing obligations; in this case the required documentation must be submitted to the local food safety regulatory authority at the county level as stipulated by the law.²⁴⁵

The organization in charge is the MOFCOM, which is responsible for the supervision of import licenses, the negotiation and execution of free trade agreements, the distribution of tariff quotas for imported items and the advancement of Cross-Border E-Commerce (CBEC).²⁴⁶

On 30 December 2022, according to what was reported by MOFCOM, the National People's Congress approved an amendment to China's Foreign Trade Law, which eliminated some requirements for certain registration procedures for those involved in trade.

In compliance with MOFCOM announcement, local trade authorities will no longer require foreign importers and exporters to register; this means that import and export licenses,

²⁴¹ *Exporting Food Products to China: A Step by Step Guide*, China Briefing News, August 21, 2023, <https://www.china-briefing.com/news/exporting-food-products-to-china-regulation-and-procedure/>., accessed on 11-01-2024.

²⁴² *Ibidem*.

²⁴³ *China's Import and Export Licensing Management in 2023*, China Briefing News, January 30, 2023, <https://www.china-briefing.com/news/chinas-import-export-license-management-2023-list-goods-catalogues/>., accessed on 12-01-2023.

²⁴⁴ ChemLinked, *Guida per l'esportazione di prodotti alimentari e bevande nella Repubblica Popolare Cinese*, Italian Trade Agency, 2022, PDF file, pag.9, accessed on 11-01-2024.

²⁴⁵ *Ibidem*.

²⁴⁶ ChemLinked, *Guida per l'esportazione di prodotti alimentari e bevande nella Repubblica Popolare Cinese*, cit., pag.5.

technology import and export contract registration certificates, quotas, state trade qualifications and other pertinent certificates will no longer be needed to register foreign traders.²⁴⁷

The declaration from MOFCOM represents a significant reform regarding foreign trade practices, as it represents a decisive step toward trade liberalization and facilitation.²⁴⁸ According to the newly implemented regulations, foreign traders are granted automatic import and export rights upon the establishment of an entity and the acquisition of a business license; this process not only simplifies and accelerates the beginning of import-export activities in China but also plays a crucial role in cost reduction decreasing entry barriers for small and medium-sized enterprises.²⁴⁹

Furthermore, the exportation of goods to China is liable to a complex bureaucratic process, starting by verifying product compliance with regulations, including confirmation that it is neither prohibited nor subjected to restrictions such as quotas or licenses, thereby ensuring it is 'fully traded'.²⁵⁰ Furthermore, China has instituted administrative adjustments in export and import practices; these include the simplification of registration procedures for operators and the reduction of tariffs, with the aim of gradually simplifying and reforming procedural frameworks.²⁵¹

The trading partner must have 'Foreign Trade Rights', a foreign trade license issued by the Ministry of Foreign Trade.²⁵²

As stated above, a sophisticated licensing system governs imports and exports in China, encompassing additional quota management for certain items.²⁵³ Imported goods in the country are required to have specific quality certificates, such as the 'China Compulsory Certification', and comply with diverse Chinese standards. Even though, most products benefit from an automatic licensing system, China imposes restrictions or prohibitions on some imported

²⁴⁷ *La Cina Cancella La Registrazione Degli Operatori Del Commercio Estero, Semplificando Le Procedure Di Importazione Ed Esportazione*, China Briefing News, January 19, 2023, <https://www.china-briefing.com/news/cina-semplificando-le-procedure-di-importazione-ed-esportazione/>, accessed on 11-01-2024.

²⁴⁸ *Ibidem*.

²⁴⁹ *Ibidem*.

²⁵⁰ SACE Education, *Entrare in Cina: perche' avvalersi di una guida doganale*, Guide Doganali Cina, pag.3, accessed on 11-01-2024.

²⁵¹ *Ibidem*.

²⁵² SACE Education, *Pronti per esportare: procedure doganali e semplificazioni*, Guide Doganali Cina, cit., pag 9.

²⁵³ SACE Education, *Restrizioni e certificazioni*, Guide Doganali Cina, cit., pag 11.

goods.²⁵⁴ Annually, MOFCOM and the General Administration of Customs release a list with goods requiring import licenses and those which cannot be imported.²⁵⁵

Article 35 of the Food Safety Law of the People's Republic of China specifies the production licenses needed for food production activities in the country.²⁵⁶ The Food Safety Supervision and Administration Department is responsible for examining and conducting on-site verification of submitted documents; these certificates include details related to production sites, equipment facilities, personnel management, management systems, equipment layout, technological processes, and production and business sites.²⁵⁷ Additionally, according to article 8 of the Measures for the Management of Food Production Licenses, the State Food Safety Supervision and Administration Department must formulate general rules for the examination of food production licenses and detailed rules for various types of foods; these rules work as a guidance for food safety supervision departments supervising food production licenses.²⁵⁸

The situation is different in Hong Kong where a permission or a license from the Food and Environmental Hygiene Department, is not mandatory for food exports.²⁵⁹ The fundamental principle is that products destined for sale must adhere to the criteria of suitability for human consumption.²⁶⁰

Specific legal requirements necessitate the submission of permits, health certificates, and/or licenses for the importation of perishable products that may present health risks.²⁶¹ These products include meat, poultry, milk, and milk-based beverages; frozen or deep-frozen confectionery; ice cream; and fish products.²⁶²

In this case an import license must be applied at the Import Registration Unit of the local Food and Environmental Hygiene Department.²⁶³

²⁵⁴ *Ibidem*.

²⁵⁵ *Ibidem*.

²⁵⁶ Lei Wu, Lantian Zhang, and Yan Zhang, *A Review on Rules for Examination of Licensing Criteria for Producing Foods for Special Medical Purpose in China*, Food Science and Human Wellness 8, no. 2 (June 1, 2019): pag.106, <https://doi.org/10.1016/j.fshw.2019.05.005>.

²⁵⁷ Lei Wu, Lantian Zhang, and Yan Zhang, *A Review on Rules for Examination of Licensing Criteria for Producing Foods for Special Medical Purpose in China*, *cit.*, pag.107.

²⁵⁸ *Ibidem*.

²⁵⁹ *Hong Kong-Scheda Settore Agro-alimentare*, Italian Trade Agency, pag.7, accessed on 11-01-224.

²⁶⁰ *Ibidem*.

²⁶¹ *Hong Kong-Scheda Settore Agro-alimentare*, Italian Trade Agency, *cit.*, pag.10.

²⁶² *Ibidem*.

²⁶³ *Hong Kong-Scheda Settore Agro-alimentare*, Italian Trade Agency, *cit.*, pag.11.

CHAPTER 3 – CASE STUDY ABOUT METABEV HONG KONG

3.1 About METAGROUP

METABEV

PASSIONATE F & B PARTNERS

SINCE 1989



Metadesign, as part of METAGROUP, is an international brand management and distribution company born in 1989, 35 years ago, and was founded by the Italian man Angelo Pepe. It mainly focuses on high quality food & beverage products in Asia Pacific.²⁶⁴ The portfolio has been built through a tight selection, customized market entry strategies, and the establishment of close partnerships with worldwide emerged and emerging brands.

METAGROUP is constantly seeking for dynamic new brands and trends in the global market while ensuring a comprehensive approach to customer service excellence.

This company's customers mainly range from Ho-Re-Ca (Hotel, restaurants, and cafeterias), offices, private and non-profit organizations, offices, retail, and wholesale that commonly need high quality products, stability, and customer service.

Since the foundation of Metadesign, a lot of Italian premium projects were distributed in Hong Kong and Macau. The first important success was achieved in 1996 when the group launched Lavazza in Hong Kong and shortly expanded setting up offices in Singapore, Malaysia, Shanghai, and Beijing.

²⁶⁴ METABEV, METAGROUP, <https://www.meta-group.co/metabev..>, accessed on 10-01-2024.

From that year on, more and more goals were successfully reached. For instance, in 2004 the company started cooperating with Gruppo Campari in order to launch Jagemeister & SKYY in Hong Kong and China. In 2007 SVEKDA was also introduced in both markets.

2008 represented a crucial year, as Angelo Pepe, the founder, was replaced by the son-in-law Roger Chan along with the appointment of Group MD Mr. Ken Wathall.

In 2009 Metadesing decided to focus also on coffee and pastry by launching brands such as FABBRI, Ferrarelle, Amedei and ICAM. In 2011 a collaboration with Sab Miller was established with the aim of introducing PERONI in Hong Kong.

2012 is important for the renewal of the collaboration with Campari that led to the launch of Aperol and other brands in the country.

In 2015 a new company called Metabev was opened, and they started using that name to specialize in beverages including brands such as Jose Cuervo, The Bitter Truth, Grand Marnier, and Pilsner Urquell. Metabev is under METAGROUP, and it is used as a logo for the company business.

Nowadays, Metabev focuses on beverages, whereas Metadesign concentrates specifically on Coffee and Confectionary.

A year later in 2016, Kimbo Coffee was introduced; this represented one of the most important results as Kimbo has been one of the leading coffee brands in the Italian retail market for the past 20 years.

In 2017 an important strategic partner, mainly focused on F&B, invested in the group encouraging its growth and excellence in the markets for their principal brands.

In the same year another collaboration was established: the partnership with Asahi Europe led to the introduction of Grolsch.

In 2018 Metabev Korea was born through the acquisition of an already existing company.

2019 celebrated the company 30th anniversary and new brands, such as Pommery Champagne, Fernet Branca and Asian Craft Spirit, were launched.

After Korea, in 2022 they opened a subsidiary in Shanghai, China.²⁶⁵

²⁶⁵ I materiali relativi a queste due pagine si trovano all'interno di presentazioni power point fornite direttamente dall'azienda.



The picture above sums up all the main brands of the company.

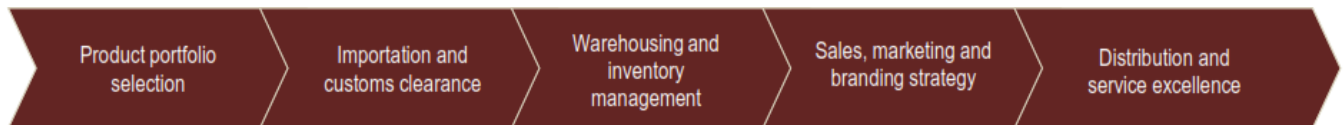
Along with Metabev, METAGROUP currently consists of two other important companies that offer different services: Eclipse Beverages and Hindsight Creative.

Respectively, the former manages exports and focuses on offering a differentiated market entry strategy to companies. With its 32 years of experience and investments in importation, brand management and distribution, it assures mixed relationships, experience, and networks with a strong presence in several cities between Asia and the UK, particularly London.²⁶⁶

The latter is an agency which deals with digital marketing and content production.²⁶⁷

3.2 Metabev approach

Metabev is different from a typical importation and distribution company as it brings a potential vertically integrated, regional, industry focused value proposition.



The business model is very efficient, and this contributes to making this company very dynamic in the global market. Besides, its Italian product portfolio selection is very strong, thus it intensifies its role as a key player in global trade. According to this, some distinguishable features of the company are its deepest relationships with principals and industry or regional

²⁶⁶ Eclipse Beverages, Eclipse Beverages, <https://eclipsebeverages.com>., accessed on 11-01-2024.

²⁶⁷ Hindsight Creative, Hindsight Creative, <https://www.hindsight-creative.com>., accessed on 11-01-2024.

specific country investment funds. These stable relationships play a crucial role for investment opportunities promoting cross-selling cross portfolio abilities.

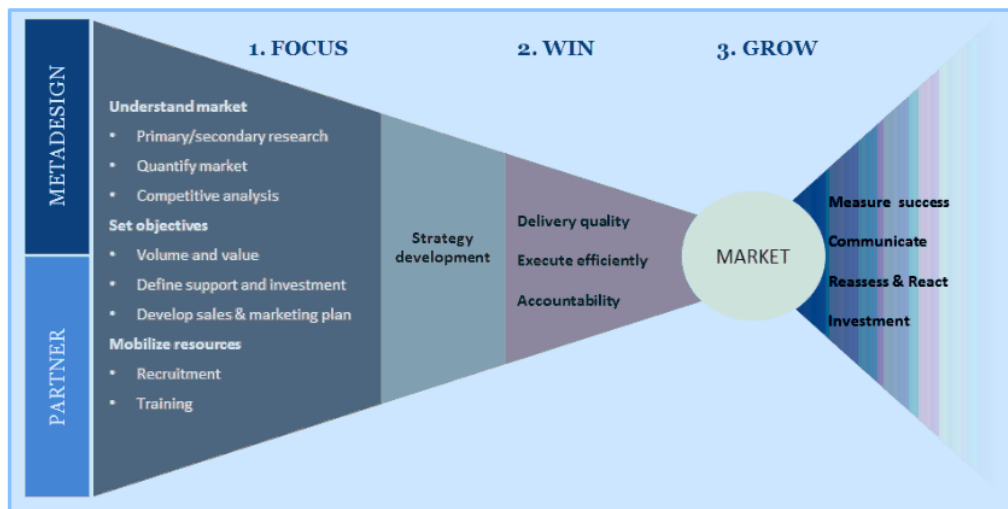
Furthermore, Metabev 29 years' experience in leading regional ports and customs led it to establish robust relationships with professionals in logistics and freight fields.

Concerning warehousing and inventory management, specific facilities, such as cold storage and frozen logistics, are very useful for preserving products throughout the supply chain.

To manage the brand, the company also activates track records with global brands. Nevertheless, to establish relationships with customers worldwide, it is fundamental to develop as many channels as possible; in this case Metabev is using all the sales strategies such as on and off trade, corporate and duty free in order to guarantee meaningful presence and impactful positioning.

Besides, the company must ensure strong access to outsource delivery enhancing customer satisfaction.

Finally, as already mentioned above, the company's main collaborations are with HO-RE-CA with the aim of operating concepts. This represents an opportunity to create potential merge and acquisitions.



Regarding the company's expansion into new markets, there is a sustainable and long-term-based approach. When entering markets, in fact, Metabev's team works closely with the chairman to guarantee the development of a long-term sustainable growth strategy focusing specifically on being both aggressive and realistic with market potential.

Nevertheless, if the company wants to expand in a new market, this must be studied in a detailed way by doing some deep research. In this case, some steps need to be followed. First, the market must be quantified, and a competitive analysis will help to clarify its actual situation, which will be very useful for a foreign company that wants to have access to it. After that, goals must be set, encompassing volume and value, the delineation of support and investments methods and the development of a marketing & sales plan.

The final step is to look for smart resources, who must be subsequently trained according to the company values and ways of working.

Once the right market is found, a strategy must be developed, always striving for accountability, quality, and efficiency.

Once the strategy and the plan are implemented, Metabev wants to analyze the results, whether they are positive or not, by collecting data. Therefore, data will be transparently communicated, and in case something does not go well, the strategy will be readjusted accordingly.

In relation to other local beverages distributors' approach, Metabev occupies a distinctive position blustering the reach and network of lager importers and distributors, but with the passion, focus and relationships of smaller players in the market.²⁶⁸

3.3 Metabev's new subsidiary in China

In 2022, METAGROUP set up a new importation company, Metabev China, where it directly imports ensuring that pricing, strategy, and brand foundation are established for sustainable growth.

This subsidiary is established in Shanghai, as it is the most commercial metropolitan city in China. Moreover, over the past 20-30 years, Shanghai has always been the best choice for F&B companies, as the environment is very industrialized and modernized; for this reason, many beverage brands, still nowadays, decide to open offices there. Depending on the city the company wants to register in, taxes, licenses, benefits, and regulations are slightly different.

²⁶⁸ I dati delle seguenti pagine sono stati forniti dall'azienda e vi e' una elaborazione di approfondimenti, con spiegazioni piu' dettagliate, forniti dalla manager delle risorse umane in data 22-12-2023.

Metabev Hong Kong decided to implement a particular strategy to open this new subsidiary in China by adopting a wholly foreign-owned enterprise, also known as WFOE (外商独资企业): this means Metabev China is 100% owned by METAGROUP which does not employ any Chinese investor to invest there.

To set up a foreign-owned company in China a capital investment must be fixed: this must be at least 1mln RMB with its entire fulfillment within 30 years. Moreover, since the Chinese business is very complicated, it is crucial to know that other essential documents, such as licenses, are required for a company establishment. Furthermore, among the bureaucratic documents required to open a company in China, it is essential to submit the Business Registration Certificate, which represents the first step to set up the company. This paper, in fact, verifies the company's legal existence and its compliance with local rules, allowing it to be engaged in business activities. These documents are all owned by Metabev HK which delegates a Chinese agency to apply them. Only after these documents' approval, it is possible to open the new company.²⁶⁹

Once the company is established, partnerships with specific brands start. Nevertheless, Metabev China requires specific features for the brands to collaborate with: firstly, a brand should already have a general overview about the Chinese market and the complexities for doing business there. Moreover, these brands must have a long-term commitment and understand the levels of investment demanded for growth ambitions. Lastly, it is important for them to be aligned with an on-trade channel.

Therefore, according to the abovementioned characteristics, Metabev is the only distributor in China for the following brands:

- Vecchia Romagna (brandy), Select (Liqueur), Montenegro (Liqueur) and Italicus (Liqueur) imported from Italy.
- Jiao-Yu (Dry Gin) and Ling-Lie (Vodka) imported from Laizhou.
- The Busker Whiskey (Whiskey) imported from Ireland.²⁷⁰

²⁶⁹ I materiali delle seguenti pagine sono una rielaborazione della conversazione, tenuta in data 28-12-2023, con il Commercial Manager di Metabev China.

²⁷⁰ I materiali relativi a queste pagine si trovano all'interno di presentazioni power point fornite direttamente dall'azienda.

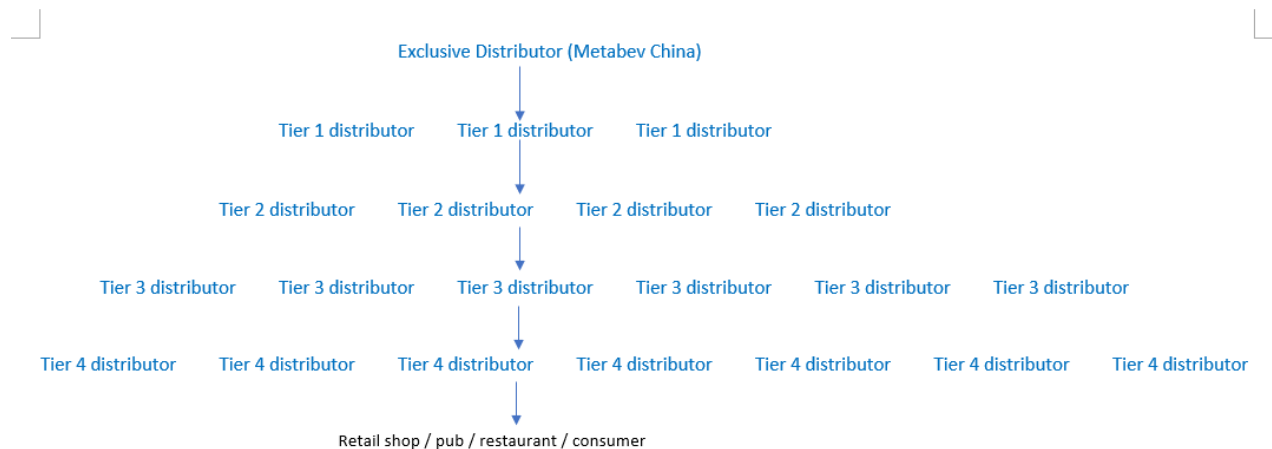
3.4 Metabev's distribution process in China

Distribution is the main channel used by the company to invest in China; Metabev is, in fact, the exclusive distributor for the previous products in the Chinese market. Any company seeking to purchase these specific products must come through Metabev.

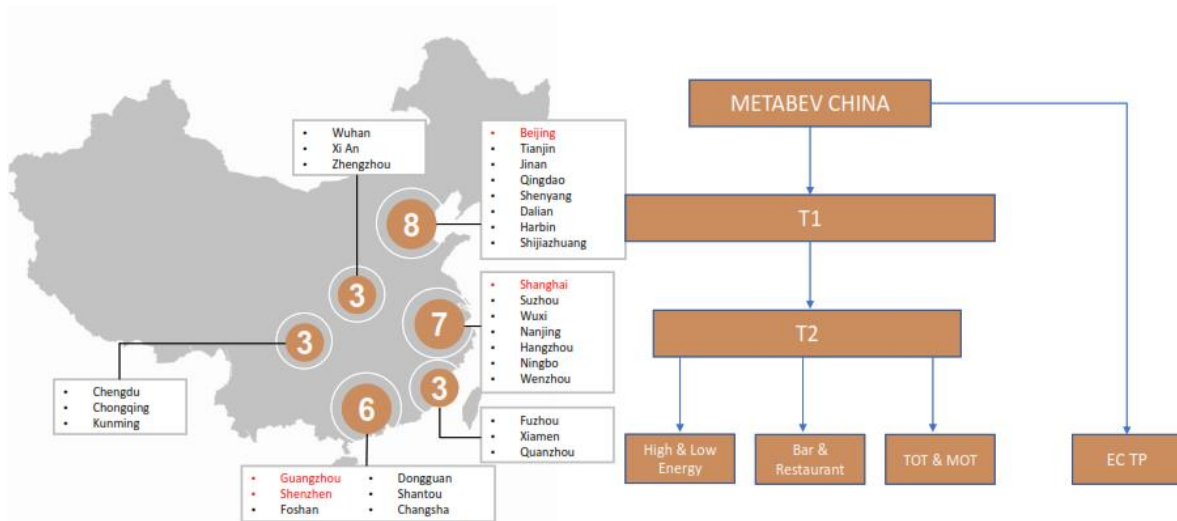
An important step in the distribution process is the importance of the Distribution agreement which must be signed with the brand that will be imported. Due to this agreement, Metabev China is legally authorized in importing and selling goods all over the country. However, products will be shipped to Shanghai through a forwarder, the shipping company.

Nevertheless, by importing directly to China, the company needs the help of a third party, an agency, to manage the distribution. The agency plays a crucial role providing vital support during the process. In this specific case, Metabev HK informs the agency about its background, its own business, and the amount available to be invested. The agency suggests the best investment strategy accordingly and verifies all the important logistics documents to let the goods be imported into China.

Differently from Hong Kong, which is relatively small, in China it is not possible to do direct sales; on the contrary, distribution is managed through different Tiers distributors.



As showed in the image above, there can be many Tiers distributors, depending on how big the business is but in the case of Metabev China, there are only Tier 1 and Tier 2 distributors which have different important functions in the distribution process.



Once the relationship with the foreign company is established, Metabev becomes the only distributor of that specific brand in China. Nevertheless, it does not sell products directly to HO-RE-CA; in this case, tier 1 distributors purchase goods as they were the local warehouse in China. Tier 2 distributors are the ones selling products directly to customers (in this case restaurants, cafeterias, and hotels); nowadays there are more than 30 tier 2 distributors as each of them manages the distribution in a specific city or district (See the above-attached image).

Metabev China has direct relationships with its customers, therefore it must also manage tier 2 distributors to make sure they are selling products at the right price and inventory.²⁷¹

However, before importing products into China, especially spirits, it is crucial for every company to pay taxes and obtain specific licenses and certificates, such as the Liquor License, to legally sell alcohol in the country.

Once products are ready to be imported, the agency manages custom clearance, code applications and the back label creation. The back label must always be attached to the product including a brief description of the item, ingredients, product category and the GACC Code, a mandatory code issued by the Chinese custom and essential to sell products in the country's market. All information in the label must be written in Chinese and translated in English, so that it can be clear for everyone.

²⁷¹ I dati delle seguenti pagine sono stati forniti dall'azienda e vi e' una elaborazione di approfondimenti, con spiegazioni piu' dettagliate, forniti dalla manager delle risorse umane in data 22-12-2023.

Nevertheless, in compliance with the Hygiene Department, some ingredients, such as the coloring level, cannot be specified.

Furthermore, after the company establishment in China, it was essential to create connections and increase its visibility within the market.

Since the Chinese e-commerce market is increasing a lot lately, the company wants to strengthen its digital position. Hence, Metabev crafts strategies for its clients' brands online presence through digital channels, such as Alibaba, Tencent, online shops and stores. However, to allow the process an E-commerce License is required.

The company also activates on-trade channels by organizing themed events in line with local trends to boost the brand reputation and increase sales volume. Moreover, Metabev launches some educational courses about the products to F&B owners and bartenders, ranking itself as one of the most influential in this field. Regular masterclasses are also organized. These events are aimed at increasing and improving their knowledge in this sector.

Lastly cooperation with other products' brands, such as alcohol with coffee or liquors with soft drinks, is created to attract customers to all these categories at the same time.



All these strategies are important and useful for the company's success.

Thus, when expanding into a new and complex market, it is fundamental for the company to have prior knowledge about it and to seek for a third-party intermediary, who knows the market deeply and can, consequently, suggest a strategy accordingly.²⁷²

²⁷² I materiali delle seguenti pagine sono una rielaborazione della conversazione, tenuta in data 28-12-2023, con il Commercial Manager di Metabev China.

CONCLUSION

During the redaction of this paper, I wanted to emphasize the importance of Hong Kong's role as a global hub, by focusing on its changes from a British colony to a Special Administrative Region of the PRC.

The British colonization highly influenced the country in fact, its rapid commercial growth, the adoption of international methods in business and the use of the English language led the country to be more industrialized and one of the most important destinations for western companies which aspired to invest in the Asia Pacific region. Its position was also strengthened by the adoption of the laissez-faire policy which promoted a barrier-free trade, thus bolstering Hong Kong's crucial role as a shipping and financial center and a key trade partner.

Its reintroduction to China in 1997 marked the one country-two systems policy, according to which Hong Kong is still part of the Chinese empire but keeps its own economic and administrative sovereignty.

Hong Kong's role as a facilitator for foreign companies, that want to enter the Chinese market, is also simplified by the *Closer Economic Partnership Agreement* (CEPA), which was signed in 2003 between Hong Kong and China. This treaty's main goal is to facilitate trade between the two parts by reducing or rejecting tariffs and barriers. Furthermore, Hong Kong plays an important role for China's capitalist development, establishing itself as one of its main supporters. As already mentioned in the previous chapters, Hong Kong's market, as a free trade port, has less restrictions than the Chinese one; its worldwide connectivity, the lack of import duties and the favorable tax regulations prompted foreign companies to choose this county to expand their businesses in the Asia Pacific region, having a facilitated access to the Chinese market.

Hong Kong, in fact, as an international financial hub, fosters China's Direct Investments, which have become more prosperous since the *Foreign Investment Law* promulgation in January 2020. According to this Law, foreign companies are encouraged to invest in China benefiting from the same treatments as domestically governed enterprises.

Furthermore, Hong Kong tax system is one of the most favorable worldwide; "standard" tax rate, the corporate tax and import duties are very low, thus reducing tax burden and encouraging investments in the country.

In contrast to Hong Kong, exporting in China has not always been easy, especially regarding F&B products, which is the main focus of this thesis.

Thus, even after China joined the WTO in 2001, imports have always been regulated by tariff and non-tariff barriers in the country, such as counterfeiting, intellectual property rights and corruption.

Additionally, other elements which contribute to discourage investments in China are customs valuation, taxes imposition and license. The former defines a very strict evaluation for foreign products to enter the Chinese market; taxes include consumption tax, value-added tax, and custom duties. The latter, instead, regards all the certificates products need to own before entering the Chinese market. The most used way is the Automatic Import License, which is applied to restricted goods, with a six-month validity. Nevertheless, China has a complex import/export licensing system: imported goods, for instance, need to have specific certificates such as the *China Compulsory Certification*. Non-compliant products are, consequently, returned or destroyed.

These factors turn importation to China a very challenging process for foreign companies reducing, at the same time, domestic companies' competitiveness in the international market.

Moreover, according to these barriers, these products' categories must undergo some strict sanitary regulations regarding, for instance, labeling, packaging, and other compulsory certificates, as specified in the *Administrative Provisions on Registration of Overseas Manufacturers of Imported Foods* and in the *Administrative Measures on Import and Export Food Safety*, respectively Decree 248 and Decree 249 of the People's Republic of China.

In this regard, it is fundamental to highlight the *Food Safety Law* enacted in 2009. This legislation must guarantee products' food safety, ensuring that content and ingredients adhere to Chinese standards. If these products are appropriate for human consumption, they can be distributed among Chinese consumers.

Concerning Hong Kong, food safety, licensing issues and environmental sustainability are managed by the Food and Environmental Hygiene Department, also known as FEHD.

All the important information, such as food safety, products' ingredients, their origin, storage conditions and volume, must be specified on the label in order to gain customers' trust and

credibility. Labeling must follow specific rules depending on the type of imported food, but one common feature is the use of simplified Chinese characters and the English translation.

The last part of my thesis concerns a case study about Metadesign, with a particular attention on Metabev, that focuses on beverages distribution in Asia and is used as a logo for the company business.

Metadesign is an international brand management and distribution company born in 1989, 35 years ago, and was found by the Italian man Angelo Pepe. It mainly focuses on high quality food & beverage products in Asia Pacific.

At the beginning Metadesign managed both beverages, coffee, and confectionary until 2015 when a new company, Metabev, was opened specializing only in beverages.

With this company's establishment, many western premium products were distributed first in Hong Kong and Macau and later also in Korea and China where, respectively in 2018 and 2022, two different subsidiaries have been set up.

Its business model is very dynamic as it brings a potential vertically integrated, regional, industry focused value proposition. Thus, over the years, thanks to off-trade and on-trade distribution channels, it has established several partnerships with brands worldwide.

It adopts a long-term approach paying accurate attention to the market to choose and the strategy to develop. The main goal is to ensure sustainable growth for the company, thus fortifying its worldwide relationships and its local position as a food & beverage partner in the distribution field.

The last crucial point of this thesis is the analysis of the subsidiary set up in China in 2022. To open this branch, a particular strategy has been implemented: first, it has been opened in the metropolitan city of Shanghai; secondly, this company is 100% owned by METAGROUP, by adopting the wholly foreign-owned enterprise.

Nevertheless, in this case spirits are directly imported from western countries to China through an intermediary, the agency. It plays a key role in this process as it manages distribution, providing support in choosing the best strategy to invest according to the company's requests.

Distribution is managed through Tiers distributors, which are divided into different levels; China only has tier 1 and tier 2 distributors.

To sum up, Hong Kong's multiple advantageous aspects have attracted numerous foreign companies, especially Italian ones, which choose this country to establish their Asian headquarters or branches. This strategic decision facilitates products distribution in the Asia-Pacific region, particularly in China and the Greater Bay Area.

Besides, if companies want to successfully expand into a new market, they must have prior knowledge about it and make sure products are adherent to the required standards.

Nevertheless, it is important to recognize the sociopolitical changing Hong Kong is experiencing nowadays. The recent pro-democracy protests are one the first symptoms of the country's change of atmosphere. Despite the repercussions these events can have on the territory, the F&B sector still appears flexible and adaptable to the multiple challenges posed by Hong Kong's identity crisis.

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