Handbook

November 2013

How to establish a Europe-China Joint Research Structure?

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Research and innovation collaboration between Europe and China has been developing dramatically over the last years. Taking advantage of the development of information and communication technologies and the emergence of new global players, several European countries and companies have "invented" with China new forms of cooperation, named Joint Research Structures, linking Research and Innovation entities from both sides.

These Joint Research Structures can themselves take different configurations, connecting physically or virtually public and / or private units, to carry out Research and Innovation activities in various fields of common interest and mutual benefit. The establishment of Joint Research Structures between European countries and China can be considered as one of the successful examples of such cooperation.

This brochure presents the main practical steps to set up a Joint Research Structure within the Chinese legal framework, highlighting key issues to pay attention to before establishing such a structure. Thus we hope to contribute facilitating the creation of new Joint Research Structures, make them work together and encourage their access to EU funding instruments, such as the European Union's Framework Programme for Research and Innovation, Horizon 2020.

1.Overview

By the end of 2012, there were approximately 60 EU-China Joint Research Structures established through public funding. However, this number did not yet include possibly numerous private joint research structures.

At that time, some 15 Member States and Associated Countries had established at least one Joint Research Structure (mainly joint research laboratories) in China. France, Germany and the Netherlands have been particularly active in implementing Joint Research Structures. Most of these identified structures are located in China's coastal areas. Shanghai and Beijing remain the most active research hubs, accounting for 14 joint research Structures alone.

2.What are the benefits of opening a JRS in China?

•Based on mutual interests, a Joint Research Structure aims to combine the research potential of both sides, including the sharing of research facilities, major infrastructure and scientific knowledge.

•Connecting researchers to work together and move quicker on well-defined goals. Bringing together key competences to speed up the progress of research (or the discovery and development of industrial solutions).

•Obtaining structural access to relevant data, research funding, modern research facilities and talents in China.

Providing a unique opportunity to understand the issues and challenges in China. Being part of the Chinese scientific community through these partnerships allows EU researchers and industries to become major players in the field.

•Creating a joint laboratory can open the door to other opportunities for international cooperation in China: to foster academic collaboration but also industrial and SME partnerships.

3.What are the legal statuses a JRS can take?

There is no clear legal definition of an
EU-China joint research Structures ("JRS") under Chinese law.

A JRS is allowed to be established, however, in line with Article 42 of the Scientific and Technological Progress Law of China that states "overseas organisations or individuals may independently establish scientific and technological research and development institutions within the territory of China […] and they may establish such institutions jointly with organisations or individuals within the territory of China according to law".

**In practice, a JRS may also be called
a joint research laboratory or joint research centre.**

As JRS are still relatively new in China, most of the legal provisions governing them are of policy nature. According to Chinese law and common practice, it is possible to distinguish three different legal forms through which a Joint Research Structure can be established.

A) As a platform or a network between partners ¬– without an independent legal entity

The legal basis includes:

(a) "Selecting some universities to build a number of international joint structures and research centres, encouraging colleges and universities to establish overseas research and development centres, to form long-term stable partnerships with advanced research institutions in the world, to jointly conduct scientific research and personnel training. Promoting international cooperation and open share on large scientific equipment."

(b) A "Key Laboratory is a research entity constructed on the base of universities and research Structures. A Key Laboratory has a relatively independent human resource and financial management, and an 'open, mobile, joint, competitive' operating mechanism."

1. Article 6 of the Agreement of the Ministry of Science and Technology and the Ministry of Education on Enhancing Universities' Technology Innovation Ability and Strengthening Collaborative Innovation

2. Article 4 of Administrative Measures for Construction and Operation of State Key Laboratory

(c) An “International joint research centre is an international technology cooperation base-constructed relying on domestic institutes with high level science research and technology development capability [...] and with a view to promoting the development of long-term cooperation with first class foreign scientific research institutes”.3

B) As an enterprise

“The State shall encourage non-government entities to set up scientific research and technological development institutions independently, and shall guarantee inviolability of their legitimate rights and interests”..

C) As a private non-enterprise unit

Differing from a majority of viewpoints stating that “scientific and technological research and development institutions that are established by foreign organisations or individuals can only be enterprises”, a private non-enterprise unit can yet be another legal form for a JRS.

The legal basis includes:

(a) “Non-profit scientific and technological research and development institutions established by non-government entities shall enjoy preferential tax policies in accordance with the relevant regulations of the State” . There are no provisions to preclude foreign organisations and individuals from being considered as non-government entities.

(b) Private non-enterprise units are defined as social organisations which are established by enterprises, institutions, associations or other non-government entities as well as individual citizens, using non-state assets and conducting not-for-profit social service activities. There is no restriction that foreign organisations are precluded from enterprises or other non-government entities.

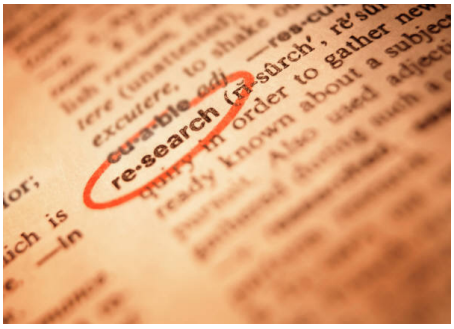
(c) The Regulations on Sino-Foreign Cooperative Operation of Educational Institutions in China give a definite example that foreign organisations can form private non-enterprise units with Chinese partners, i.e. joint education and research centres , which are categorized as private non-enterprise units under these regulations.

(d) There are no other regulations which expressly regulate JRS in the form of private non-enterprise unit in other industries. However, it is at least one option that foreign organisations or individuals may explore. In practice, foreign organisations and individuals can consult competent authorities such as the branch of the Civil Ministry regarding the possibility of establishing a JRS in the form of private non-enterprise units.

3.Article 47 (3) of the Scientific and Technological Progress Law of China

Regarding the Notice of the Ministry of Foreign Trade and Economic Cooperation on Questions Concerning the Establishment of Research and Development Centres with Foreign Investment, the JRS can also take the form of an internal department or branch company of an established foreign invested enterprise ("FIE"). The approval include research or development in the FIE's activities shall be obtained from the appropriate MOC branch.
There are also administrative measures of construction and operation of key laboratories in different provinces including Shanxi Province, Gansu Province, Hubei Province, as well as under different Ministries such as the Ministry of Health, the Ministry of Agriculture, the Ministry of Transportation, the Ministry of Water Resources etc. According to the Administrative Measures for Construction and Operation of State Key Laboratory and the Temporary Administrative Measures for Construction of State Key Laboratory Relying on Enterprises, a JRS with the qualification of provincial or ministry key laboratory can apply for a 'State key laboratory'. Corresponding to the different qualification, a JRS can enjoy the preferential treatment and support local or central government provides including funding and taxation.

4.How to establish and develop a JRS



Key points for establishing a JRS

There are of course plenty of details to be paid attention to when establishing a JRS in China. The guidelines provided below are not exhaustive; however, they include the major steps that should be taken before setting up a JRS.

→ STEP 1: Define your research area and find the right Chinese partner

*Carefully select and get to know your Chinese partner

*Systematically sign a NDA (Non Disclosure Agreement) with any potential Partner, before starting any negotiation. It is an important step and therefore the support of an appropriate expert, lawyer or patent attorney might be helpful.

*Identify a good project with common interests

*Try to build a solid partnership to guarantee mutual understanding and trust

*Make sure that your research goals are well-defined

→ STEP 2: Be aware of the Chinese regulations governing the establishment of a JRS in the proposed industry sector, including the provisions on obtaining government funds and preferential treatments such like taxation.

The laws and regulations in this aspect in China are mainly of a guiding and policy nature. Some of the most important ones are listed below.

1.Scientific and Technological Progress Law of China
2.National long-term Scientific and Technological Development Plan (2006-2020)
3.Administrative Measures for Construction and Operation of State Key Laboratory
4.Agreement of the Ministry of Science and Technology and the Ministry of Education on
5.Enhancing Universities' Technology Innovation Ability and Strengthening Collaborative Innovation
6.Administrative Measures of the Ministry of Health Key Laboratory
7.Administrative Measures of the Ministry of Agriculture Key Laboratory
8.Administrative Measures of State International Technology Cooperation
9.Notice of the Ministry of Foreign Trade and Economic Cooperation on Questions Concerning
10.the Establishment of Research and Development Centres with Foreign Investment
11.Temporary Administrative Measures for Construction of State Key Laboratory Relying on Enterprises

As mentioned above, there is, however, no clear definition of a JRS or joint lab/centre under Chinese law. That is why it is highly recommended to pay close attention to both ministry and local rules, and to seek legal advice.

→ STEP 3: Establish an agreement for the JRS and precise the details of your cooperation

* the scope of research, the organisation and the management

This agreement should include the research area you agreed on beforehand. The research area should be carefully delimited from the beginning as it usually impacts the scope of rights and liabilities set by the agreement. Special care should also be given to the definition of the objectives of the agreement, as well as to the organisation of your future joint structure, from an administrative point of view. Insufficient or inappropriate identification and distribution of administrative and governance rules is a frequent cause of later misunderstanding and potential breaking-up. You should agree with your Chinese partner on a certain number of human resource issues. You should pay particular attention to the Chinese visa procedures, as well as to the different programs that exist regarding the researcher's mobility. These issues should be prepared and solved in advance via early discussions with your Chinese partner.

* the contribution and the responsibilities of each party

You should also agree with your Chinese partner on what the contribution of each party will be: you need to decide the financial contribution of each side, as well as who will pay for the equipments, where the researches will be conducted (sites) and who will be involved (staff).

In view of the potential values and consequences of a JRS, a joint research agreement should always be established with the assistance of an expert knowledgeable in both laws and practices in China having an understanding of the scientific issues at stake.

Establishment of the three different types of JRS

a) Platform or network between partners – without the form of independent legal entity

It is important that a joint project is seen to be promoting scientific exchange and high on the national agenda. A national priority possibly remains the leading factor for institutions to compete for a project and to receive funding.

Most Chinese partners involved in this type of JRS are Chinese universities or scientific research institutions with a government background or categorised as public institutions. That is why this type of Joint Research Structures is the most common in China.

A successful case of such an EU-China JRS is presented in the final part of this brochure and highlights practical aspects of their structure and collaboration in China. Through this case study, you might get a better understanding of how to set up a JRS and what to consider in the process.

b) Enterprise

A JRS can take the form of Sino-foreign equity joint venture ("EJV") or Sino-foreign cooperative joint venture ("CJV"), therefore the establishment of such a JRS shall be governed by the regulations related to Sino-foreign EJVs or CJVs in China.

These regulations include the Catalogue for the Guidance of Foreign Investment Industries, the Chinese Sino-Foreign EJV Law and its implementation rules, or Chinese Sino-Foreign CJV Law and its implementation rules among others.

The general procedure begins with a name reservation with the relevant branch of the State Administration for Industry and Commerce (SAIC), followed by approval from the appropriate branch of the Ministry of Commerce ("MOC"). Then you should register with the SAIC branch, but also various relevant authorities such as technical supervision, tax, foreign exchange, finance, statistics etc. You should also open both a RMB and a foreign currency bank account. For details, please refer to our guideline on how to establish a foreign invested enterprise in China at:
www.eusmecentre.org.cn/content/establishment-foreign-invested-enterprise-china

4.According to the Notice of the Ministry of Foreign Trade and Economic Cooperation on Questions Concerning the Establishment of Research and Development Centres with Foreign Investment

There are still some special conditions for establishing such a JRS:

(1) You shall have clearly defined research and development projects, as well as some instruments and equipments necessary for carrying out scientific research. The funds for carrying out research and development by such a JRS shall be no less than USD 2 million.

(2) This type of JRS shall employ full-time management, research and development personnel. The personnel directly involved in the research and development activities, , and with educational background of at least undergraduate or equivalent, shall constitute at least 80% of the total staff of the JRS.

c) Private non-enterprise unit

So far the current regulations only govern the procedures and requirements for establishment of a JRS in the education field.

(1) Steps:

According to the Regulations on Sino-Foreign Cooperative Operation of Educational Institutions in China, the establishment of a Sino-Foreign CJV Educational Institution shall be divided into two steps, i.e., first a preparatory establishment and then a formal establishment.

(2) Contribution:

The Chinese and foreign sides may invest either with funds, physical items, land use rights, intellectual property rights, and other properties in the establishment of an educational institution.

Investment made in the form of intellectual property rights by the Chinese and foreign sides shall not exceed one third of their respective total investment, unless the foreign educational institution is invited by the State Council's education administrative department. However the Chinese party can still contribute no more than one third of its investment in the form of intellectual property rights.

(3)Documents required for the preparatory establishment of a Sino-Foreign CJV educational institution:

A. An application report: including the Chinese and foreign counterparts, the name of the Sino-Foreign CJV educational institution to be established, the educational targets, scale, and level, the form of the institution, the conditions for operating the institution, the internal management system, and the financing, management and use of the funds,

B. A cooperation agreement: including the duration of the cooperation, as well as a dispute resolution clause,

C. The sources of the assets: the amount of funds, valid certification documents of the assets and funds (their ownership has to be clearly stated)

D. A donation agreement: stating the name of the donors; the value, the purpose of use, and the management methods of the donated assets, as well as the relevant valid certification documents,

E. A certificate: demonstrating that the start-up funds are available (minimum 15% of the investment of the Chinese and foreign counterparts).

The approving authority shall then decide whether to give approval or not within 45 working day after reception of all the application materials. Once the preparatory establishment is approved, the application for a formal establishment shall be filed within three years after the date of approval.

(4) Documents required for the formal establishment of a Sino-Foreign CJV educational institution:

A. Written application for formal establishment;

B. Written approval of the preparatory establishment;

C. Report on the status of the preparatory establishment;

D. Articles of association of the Sino-Foreign CJV educational institution and a name list of the members of the board of governors, board of directors, or joint management committee;

E. Valid certification documents of the assets of the Sino-Foreign CJV educational institution;

F. Qualification certification documents for the President, teachers, as well as financial and accounting staff.

The time limit for an approval of the formal establishment is three months in case the proposed Sino-Foreign CJV educational institution offers non-diploma education services, and six months in case the proposed Sino-Foreign CJV educational institution offers diploma education services. Granting of an approval shall be accompanied by the issuance of a permit for Sino-foreign cooperative operation of an educational institution that is printed in a standard format and coded with a uniform numbering.

Once the permit for a Sino-foreign cooperative operation of an educational institution is obtained, registration with the Civil Ministry or its competent branch shall be made.

5.Intellectual property rights (IPR) protection

European researchers involved in cooperation with Chinese partners are likely to face various IPR issues, especially since most R&D co-operations have innovative content. This part of the brochure introduces very briefly the Chinese IPR system of most common interest to researchers and gives a general overview of how IPR can be protected and enforced in China. For more information, please refers to the brochure prepared by the European Commission and Euraxess "IPR in China: Guidance for Researchers" or contact the China IPR SME Helpdesk (see contacts below).

I) IP issues and research

IPR should not be seen as a problem but as one of the pillars upon which a solid and fruitful research cooperation should rest, especially from the perspective of the actual exploitation of the R&D results.

Different IPRs exist depending on the nature of your creation. For researchers, the most common IPR will be copyright, which protects literary publications (articles), and patents, which protect a new technology. Other key IPRs include database protections, know-how, etc...

IPRs can also be the object of operations, in particular in the framework of international cooperation. EU researchers engaging in research cooperation with China might want to be particularly careful about technology transfers and licensing.

Accordingly, it is highly recommended to include as an Annex to the partnership contract, a list of the scientific and technical background (patents, copyrights, know-hows, other intellectual assets) brought by the team to the partnership. It should be observed that many Chinese researchers have also become intense and wise users of IPRs, which is both a challenge for the professionalism of European researchers, but also a guarantee of a pragmatic and efficient cooperation if both parties play the rules.

II) Copyright in China

Copyright protects creative works such as articles and any kind of scientific publication, but also photographs, movies and other works of art, as well as certain aspects of software or know-how, at least indirectly.

When creating a JRS in China, the European and the Chinese side shall make sure that their agreement clearly states who will own the copyright of each element of the research works.

Copyright is an inherent right, which means that there is neither a legal requirement to apply for or register your copyright. However, to be able to claim a copyright, in most cases, it is necessary to have taken specific measures timely, to be able to evidence the nature, scope and ownership of the copyright.

Copyright registration is presumptive evidence of ownership and greatly simplifies the preparation of evidence when enforcing your rights. Copyright registration in China is inexpensive, easy, and generally recommended, depending on the nature of the work. In certain cases it is recommended to register only parts of the work, to avoid full disclosure of the work while allowing identification of the full scope of the copyright.

However, if your copyright is not registered or you do not plan on registering it, it is important to keep solid evidence of the full extent of the work, and of the creation and ownership so that you can prove your ownership of the copyright. Always indicating the author's name, date of creation, and using the © symbol on the work (including on all drafts) are simple steps you can take. However, legally opposable copyright requires however that you will have timely registered the work, date of creation and evidence of ownership with a suitable legal officer (bailiff, notary public or equivalent, as recognized by international conventions), in the country of creation. China is very demanding in terms of legal evidence. Demonstrating to your partners that you have taken all necessary steps might be a useful way of avoiding problems at a later stage.

III) Patents in China

Innovation patents, a form of registered IPR, are used to protect technological inventions. An innovation patent gives the inventor temporary (20 y. maximum) exclusive rights over the invention.

As in Europe, in China an invention patent is granted for new technical solutions or improvements to a product or process, provided that the technical solutions have a practical applicability.

Utility Model Patents (UMs) are very similar to invention patents; however UMs only protect products with new shape or structural physical features. Literally, the level of inventiveness required for a utility model patent (substantive features and represent progress) is not as high as for invention patents (prominent substantive features and represent a notable progress), and additionally UMs only require the ‘formality examination’ or ‘preliminary examination’, while invention patents require ‘substantive examination’, which takes longer and is much more detailed. The registration for UMs lasts 10 years. UMs are an important way to also protect incremental improvements of certain high technology inventions .

In order to obtain patent protection in China, the inventor shall file a Chinese patent application, either directly or as an extension to China of a National, Regional (European) or International (PCT) patent application. A patent application shall have to be filed before any disclosure of the invention to third parties, and/or within a prescribed time period from the date of the first filing in a first country (usually 1 year maximum). The Chinese State Intellectual Property Office (SIPO) is the government authority that receives and examines patent applications. The examination of patent applications by the State Intellectual Property Office (SIPO) currently takes around 3 years.

Every patent owner engaged in activities related to the technology protected by the patent in China is strongly advised to use the Chinese patent system. It is absolutely crucial to apply for patent protection in China for each and every innovation, even if the launch of the respective product on the Chinese market is not yet on the horizon. It should also be noted that foreign patents (e.g. a European patent) have no legal effect in China. The details regarding the ownership of the patents in case of an eventual decisive discovery should be therefore discussed before coming to any agreement.

It is also worth noting that China has now become the first country of the world in terms of first filings of patents of invention, which means that Chinese parties are now generally well aware about their own IP-related interests, and about IPR procedures.

IV) Trade Secrets in China

Trade secrets are a valuable and highly useful form of IPR. In China, by definition of law, a trade secret is 'any non-public information with actual or potential commercial value and that is guarded by confidentiality measures'. In a JRS, trade secrets can refer to un-patentable technology, know-how, formulations, and experimental data and as well information learned during R&D on what not to do or what does not work. To enforce your trade secrets you will need to provide the following evidence:

-the full content of your trade secret/know how etc.., by having drafted it as precisely as possible, and recorded it in a timely fashion under legally opposable procedures ;

-Demonstrating that you have taken sufficient measures to keep your trade secrets secret and safe, including :

(*) physical barriers: marking documents "CONFIDENTIAL", limiting and monitoring access and copying of sensitive technical documents and sensitive areas of your laboratories,

(*) technical barriers: IT security methods like encryption/password;

(*) contractual barriers involving the use of NDA (non-disclosure agreements) or confidentiality agreements and provisions, which should be actively deployed in every section of negotiation and establishment of the JRS, with your Chinese partners, both foreign and Chinese researchers and any third parties if possible. Marking documents "CONFIDENTIAL" is not a protection in itself, and can only be so as an implementation of pre-existing contractual provisions.

V) Technology transfer in China

Technology transfer is the process of transferring knowledge, technologies and know-how among institutions to ensure that scientific and technological developments are accessible to a wider range of users who can then further develop and exploit the technology. Cooperation in research can involve transfer of technology from one partner to the other.

EU research institutions keen to enter the Chinese market and develop long term partnerships in China might be willing to transfer their latest technology to Chinese collaboration partners. At the same time, key policies in China stress the need for technology transfer and innovation within China. As a result of this situation, former Chinese partners of European institutions or firms are already or will be soon operating as competitors within China and in other countries. In this context, the recommended form of technology transfer is licensing, as supposed to ownership transfer.

VI) Licensing in China

Once a party has become the owner of a patent over a technology, it can license it for others to make and sell, in return for the payment of royalties.

When licensing, different strategies can be adopted to lower the risk of IP leakage. In the framework of research collaborations, a perhaps more adapted strategy is the phased implementation: the partner is first tested out with limited licensing before licensing/transferring additional technology

Before entering into a formal licensing to the JRS or your Chinese research partner, you should always consult the Catalogue for Prohibited and Restricted Technology Imports (the 'Technology Import Catalogue') and the Foreign Investment Catalogue that clearly state what technologies are restricted, prohibited (needs special permission by Ministry of Commerce on base of application and case by case) and freely importable.

During the operation of a JRS, there inevitably is creation of improvements to the licensed technologies by either party or jointly. Consequently, the ownership of such newly generated inventions and know-hows should be considered and negotiated beforehand and well drafted in the agreement. It is worthy to note that (1) provisions on restricting other party from making improvements or using improvements are invalid; (2) provisions on automatically granting back the improvements to the licensing party is not supported legally and is unenforceable in China.

If IP licensing is adopted in R&D activities, registration and recordal requirements may be necessary under Chinese laws and regulations. Technology licences may need to be registered or recorded with local government authorities such as the Chinese Ministry of Commerce (MOFCOM) and the State Intellectual Property Office (SIPO) to comply with several legal requirements.

VII) Overall IP strategy

Creative and innovative research should systematically produce IPRs. However, this positive nature of IPRs and related issues such as licensing and technology transfer can only be exploited fruitfully in a cooperation if both partners have a clear understanding on how to manage them and of their reciprocal obligations. Hence the importance of establishing a good research cooperation agreement, including in what regards IPR issues.

In order to minimize the risks linked to IPRs and to their utilization, EU research institutions and entities should pay attention to the following points when engaging in research cooperation in China. Though it should be noted that the few tips provided below should not be a substitute to expert advice from a specialized expert, lawyer and/or patent:

i)Before establishing the agreement

•Conduct due diligence of a potential Chinese partner, local industrial policies and laws. This is particularly important in China as directors of Chinese research institutions and professors of well-known Chinese universities are often partners of private companies or other institutions, and as Chinese research institutions may lack the capacity to fully act autonomously. Other Chinese legal entities must be involved, as (third) contracting party. Make sure the contracting partner has the capacity to engage in the collaboration (if technology transfer is involved for example, it must have technology export and import rights). Conducting patent mappings and crosschecking whether the potential partners have already filed patents of invention in the field of research can also provide a good indication of their ability to conduct sound joint research and protect/control joint results.

•Make sure you have filed for appropriate IPR protection within China (patents, trademarks, utility models etc.) before entering into negotiations, and disclosing confidential information.

•Sign a suitable NDA beforehand with any potential partner and then reach a common understanding with him/her about the scope and aim of the collaboration. In particular, examine the goals of a potential partner, the ownership (State involvement?) and the positioning of other entities in the same field.

•Anticipate the rules of “Foreign Investments“ that shall apply before entering into “real“ cooperation, which means that certain registrations and approvals are necessary and a limited amount of possible legal structures are available.

ii)When establishing the agreement:

• Clearly define in writing with your chosen or designated partner the scientific technical background brought by each party, whether such background is licensed for later exploitation if any or for joint research only, and the extent of technology transfer requested, including future improvements.

• Wherever possible, keep ownership and grant licenses to the joint venture instead of transferring rights of ownership. Make sure that any relevant documents, drawings and oral communications are well documented and are covered by the agreement.

• Clearly define ownership of rights of inventions and creations made in the collaboration and the rights of use in case of termination of the collaboration. Pay special attention to unpatented know-hows and trade secrets which can be protected only by ad-hoc confidentiality provisions and other measures.

• Be aware of the legal framework of your collaboration with a Chinese partner as it will have an impact on the ownership of IP.

• The terms of ownership of R&D results can be freely negotiated within the limits of the legal framework. Contractual clauses contradictory to legal dispositions have no legal effect. Therefore you need to be aware of the legal framework applicable to your cooperation. If the research is conducted in China, especially in regard to IP, only the Chinese laws and regulations apply.

•Sign employee confidentiality agreements, invention assignment, reward agreements and non-competition agreements with employees.

iii)After establishing the agreement:

• Ensure that all individual researchers involved in the cooperation are aware of their basic obligations, and of basic IPR principles and think of providing regular training on IPR issues.

• Make sure all on the project are aware of obligations relevant to them.

• The best and most long lasting agreements are those that are properly policed by both sides. There should be no embarrassment to ask for proof of compliance by the other party, and the corresponding process should advantageously be provided for in the agreement itself.

• Obligations under agreement may not apply to information provided or work done outside the scope of the cooperation agreement. Check and, if necessary, expand the scope or negotiate new agreement.

• In case of dispute, arbitration or litigation should be a last resort. Agreement should have a dispute resolution clause, specifying under which conditions dispute should be resolved. Validity and enforceability of the dispute resolution clause need to be considered

Resources:

European Delegation to China and Mongolia
http://eeas.europa.eu/delegations/china/index_en.htm
Euraxess "IPR in China: Guidance for Researchers"
http://ec.europa.eu/research/iscp/pdf/ipr-in-china-guidelines_en.pdf
China IPR SME Helpdesk
Copyright Protection in China – A Guide for EU SMEs:
http://www.china-iprhelpdesk.eu/docs/publications/EN_Copyright_guide_Aug_2010.pdf
Guide to Patent Protection in China:
http://www.china-iprhelpdesk.eu/docs/publications/China_IPR_Guide-Guide_to_Patent_Protection_in_China_EN-2013.pdf
Guide Protecting your Trade Secrets in China:
http://www.china-iprhelpdesk.eu/docs/publications/EN_Trade_Secrets_Nov_2010.pdf
Technology Transfer to China Guide:
http://www.china-iprhelpdesk.eu/docs/publications/Technology_Transfer_to_China_Guide.pdf
Enforcement Guide:
http://www.china-iprhelpdesk.eu/docs/publications/EN_Enforcement_Aug-2013.pdf
Guide to R&D in China for European SMEs:
http://www.china-iprhelpdesk.eu/docs/publications/EN_RnD_April-2012.pdf
IPR2 Project
IPR2 Copyright Protection in China Roadmap:
http://www.ipr2.org/images/stories/lay_roadmap_copyright_protection.pdf
IPR2 Patent Protection in China Roadmap:
http://www.ipr2.org/images/ipr2_lay_roadmap_patent-en-updated_feb_2010691.pdf

6.Example of a successful EU-China joint lab: LIAMA

Jointly created in 1997 by INRIA (National Research Institute for Information Technology and Automation - FRANCE) and the Institute of Automation of the Chinese Academy of Sciences (CAS-CHINA), LIAMA is the oldest collaborative research organization in China in the area of Information Technology and Communications.

Over its 15 years of existence, the organization has grown to incorporate more partners, initially from France (CNRS, INRA and CIRAD), and other institutes from CAS.

In 2008, LIAMA opened its structure to become a Sino-European lab with new European members from Belgium and Netherlands, and new Chinese universities such as East China Normal University, Peking University, Tsinghua University and Xi'An Northwest Polytechnic University.

LIAMA is managed by a consortium of strategic partners that form its Steering Committee, mandating a Directorate, consisting of a Chinese Director, a European Director and a Scientific Coordinator.

LIAMA runs collaborative scientific project. Each project is hosted by a LIAMA Chinese member institution that provides office space and resources, and is scientifically led by two Principal Investigators from respectively from China and Europe.

There are currently 11 ongoing projects at LIAMA, hosted by 5 institutions. These projects belong to three different domains:

• Information Technology for Earth and Life science. These projects are pluri-discplinary projects involving experts in other sciences such as medicine, weather forecast, agriculture and forests.

• Scene understanding. Projects in this area address the issue of understanding and modeling situations from data captured from live scenes through sensors, which may be audio-visual sensors or other such as radar, laser, infra-red, etc. It also includes 3D modeling and representation.

•Trustworthy computing grouping projects for the development of safe and reliable cyber-physical systems, information security (cryptography) and future computer architectures.

LIAMA has been selected by the Chinese Ministry of Science and Technology as a “National Center for International Research” in 2008 to reinforce the cooperation potential in the fields of ICT.

LIAMA’s missions are:

• setup research projects involving Chinese and European scientists ;

• strengthen relations between the academic and industrial communities in China and Europe ;

• reinforce Chinese participation to European technological projects and conversely ;

• develop training through research of Chinese and European students and scientists.

Since it has become a Sino European-consortium, LIAMA has organized over 40 bilateral scientific events, has published more than 150 joint scientific publications between Chinese and European authors, and over 40 PhD students graduated as part of LIAMA projects either from European or Chinese institutions.

For more information about LIAMA, please visit their website:
http://liama.ia.ac.cn/wiki/

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