

DISCLAIMER: Any views expressed in this document are preliminary views of the Commission services and may not in any circumstances be regarded as stating an official interpretation of third countries' domestic law.

1. My promotion programme targets Mainland China. Does it mean that I have to follow any particular regulations applicable in China with regards to promotion of agri-food products?

Any information and promotion programme implemented in any country must comply with respective domestic law.

The Commission has been informed that in China, certain implementing bodies have been made aware by local authorities in Shanghai of the need to ensure that the proposing organisations on behalf of which the implementing body carries out promotion activities comply with the 'Law of the People's Republic of China on Administration of Activities of Overseas Non-governmental Organizations in the Mainland of China', adopted by the National People's Congress Standing Committee on 28 April 2016 and in force since 1 January 2017 (hereafter: the NGO Law). An unofficial translation of the law is available [here](#).

The NGO law seems to aim on regulating the activities of non-governmental organisations (NGOs) from outside Mainland China, i.e. so-called overseas NGOs. According to the NGO Law, an overseas NGO engaging in activities in Mainland China shall register an established representative office. Where an overseas NGO has not registered an established representative office but needs to carry out temporary activities in the Mainland of China, it shall do so in cooperation with an entity under Chinese law ("Chinese partner") and submit documents to this effect in accordance with the NGO Law.

When a foreign NGO has not registered an established representation office or has not submitted documents stating that it intends to carry out temporary activities, it shall not carry out any activities in Mainland China nor shall it entrust any organisation or individual to carry out activities on its behalf.

2. My organisation has a promotion programme targeting China. How can I determine whether it falls subject of application of the China NGO law?

Article 2 of the NGO law defines overseas NGOs as non-profit, non-governmental social organisations such as foundations, social groups and think tanks, which are legally established overseas.

Article 3 states that foreign NGOs may work in the areas as the economy, education, science, culture, health, sports, environmental protection as well as poverty alleviation and disaster relief.

Consequently, trade associations and producer organisations not registered as subject of commercial law in their Member State and who carry out information and promotion measures in Mainland China are likely to be considered as falling in the scope of the NGO Law.

As reported to the Commission by some concerned organisations, the Chinese authorities seem to consider any proposing organisation not registered as subject of commercial law in its respective Member State as overseas NGO. Such organisations are then required to either

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registers in China in order to carry out their activity or to cooperate for their information and promotion actions with an entity registered under Chinese law (“Chinese partner”).

It is crucial to understand that the NGO law applies to the status of the proposing organisations, and not their implementing bodies in China.

It is the responsibility of a proposing organisation to determine to what extent laws in the third country where the promotion campaign will be implemented apply to them and to effectively comply with the applicable regulations.

3. What are the implications of compliance with the China NGO law?

The NGO Law seems to provide for two possibilities, i.e. proposing organisations may either register as NGOs in China or declare temporary activity. For the latter option, the organisations are required to first identify a supporting organisation in China which conforms with the provisions of the law and then to file an application. Full NGO registration status in China (i.e. with “permanent” representation office) may prove more substantial, yet allows for “long-term” activities for promotion projects.

The registration process for any option is anticipated to last several months. While filing the registration itself is free of charge, establishing a relation with a Chinese partner organisation may entail costs and obligations to be negotiated between the parties.

More information about compliance with the law is available on the official website <http://gaj.sh.gov.cn/ngo/>. The European Commission is not in the position to provide any further details or interpret the available information and invites proposing organisations to reassess their capacity to implement programmes in China in accordance with the Law.

4. Can programmes targeting Mainland China be suspended or changes made to them as a result of application of the NGO law?

Programmes targeting Mainland China can be suspended in accordance with Article 33 of the grant agreement. In particular, the beneficiary may suspend the execution of the action or any part of it if exceptional circumstances, in particular cases of force majeure, make such execution impossible or excessively difficult (see Article 33.1.1).

The beneficiary notifies the competent authority (of the Member State in the case of a single programme, or REA in the case of a multi programme) who will analyse the circumstances on a case-by-case basis (see FAQ 2.3.17 on the REA website: <https://ec.europa.eu/chafea/agri/faq.html>).

Introducing changes to the grant agreement, such as introducing a new target country or adjusting the budget allocation from one target country to another, are likely to call into question the decision to award the grant or infringe on the principle of equal treatment of applicants, which would therefore go against the conditions set out in Article 39.1 of the grant agreement.

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5. In general, which proposing organisations are eligible for EU promotion programmes?

Trade or inter-trade organisations, established in a Member State or at Union level, and representative of the sector(s) concerned in that Member State or at Union level, and groups of producers and processors active in geographical indications. A trade or inter-trade organisation shall be deemed to be representative (i) where it accounts for at least 50% as a proportion of the number of producers, or 50 % of the volume or value of marketable production of the product(s) or sector concerned, in the Member State concerned or at Union level; but lower percentages may be accepted if justified or (ii) where it is an interbranch organisation recognised by the Member State.

Producer organisations or associations of producer organisations that have been recognised by a Member State.

Agri-food bodies involved in a mission of public interest in charge of promotion. Those bodies must have been legally established in the Member State in question at least two years prior to the date of the call for proposals. They shall be representative of the product/sector by means of having representatives of product/sector among its memberships (with the exception of programmes carried out after a loss of consumer confidence).

Only applications from entities established in EU Member States are eligible.

The proposing organisation shall have the necessary technical, financial and professional resources to carry out the programme effectively.

In order to boost competition and ensure the widest access possible to EU funding, a proposing organisation shall not receive support for information for the same campaign more than two consecutive occasions. This means that a campaign can last for a maximum of six years.

6. I am a private company, am I eligible for EU funding for promotion programmes?

In general no, as only the proposing organisations listed under FAQ 1.2.6 on the REA website: <https://ec.europa.eu/chafea/agri/faq.html> can be eligible. The promotion policy is not aimed to finance the advertising of a private business company. It is designed to have generic campaigns on products or schemes benefiting to a whole sector. Nevertheless, in certain cases, it is not excluded that some of the eligible proposing organisations may be registered as private companies. This could be for example the case of a private company that would be considered as a group under Regulation (EU) No 1151/2012 thus eligible proposing organisation in accordance with Article 7(1) of Regulation (EU) No 1144/2014.