



**COUNTRY  
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# **The Legal 500 Country Comparative Guides**

## **China**

# **ENVIRONMENTAL, SOCIAL AND GOVERNANCE**

### **Contributor**

Dacheng Law Offices



### **Gary Yang**

Partner, Shanghai | [gary.yang@dentons.cn](mailto:gary.yang@dentons.cn)

This country-specific Q&A provides an overview of environmental, social and governance laws and regulations applicable in China.

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# CHINA

## ENVIRONMENTAL, SOCIAL AND GOVERNANCE



**1. Climate - the law governing operations that emit Greenhouse Gases (e.g. carbon trading) is addressed by Environment and Climate Change international guides, in respect of ESG: a. Is there any statutory duty to implement net zero business strategies; b. Is the use of carbon offsets to meet net zero or carbon neutral commitments regulated; c. Have there been any test cases brought against companies for undeliverable net zero strategies; d. Have there been any test cases brought against companies for their proportionate contribution to global levels of greenhouse gases (GHGs)?**

a. In 2021, China State Council announced plans to achieve carbon peak by 2030 and carbon neutrality by 2060. Although net zero has not been incorporated into law, carbon emission reduction measures are provided in China Energy Efficiency Law. In additions, China has been active in making net zero and near net zero standards and guidelines, but they are not legally binding. In addition, high energy consumption companies are required by law to report carbon emission.

b. There is no express regulation of carbon offsets and their use to meet net zero or carbon neutral commitments. Regulatory regimes covering consumer protection or advertising standards may be relevant relating to unsubstantiated claims connected with carbon offsets, but these regimes do not directly regulate the use of offsets.

c. There is no statutory duty to deliver net zero strategies. However, when a company makes a voluntary net zero claim, China Advertising Law and Environmental Impact Assessment Law apply government penalty on the unsubstantiated claim.

d. There is no precedent for this basis of action in China at present.

**2. Biodiversity - are new projects required to demonstrate biodiversity net gain to receive development consent?**

New projects in China are not required to demonstrate biodiversity net gain to receive development consent. Nevertheless, risk assessment under *Environmental Impact Assessment Law* is required to assess biodiversity risks.

**3. Water - are companies required to report on water usage?**

There are no current mandatory requirements to report on water usage in China. Nevertheless, according to *China Water Efficiency Action Plan*, companies of annual revenue above CNY 20 million are monitored by the government for water usage. Illegal use of water will be penalized and recorded in company credit system.

**4. Forever chemicals - have there been any test cases brought against companies for product liability or pollution of the environment related to forever chemicals such as Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)?**

Forever chemicals, e.g. FPOA and PFOS, are no longer allowed to be produced, used or imported under *China New Pollutants Prevention Action Plan* and *List of New Pollutants Under Key Surveillance*.

**5. Circularity - the law governing the waste hierarchy is addressed by the Environment international guide, in respect of ESG are**

**any duties placed on producers, distributors or retailers of products to ensure levels of recycling and / or incorporate a proportionate amount of recycled materials in product construction?**

According to *China State Council Plan for Enforcement of Extended Producer Responsibility System*, by the end of 2025, some products, likely including electrical and electronic products, will need to use 20% recycled raw materials and recycle 50% of waste products. In addition, *China Sustainable Economy Law* provides compulsory waste recycling requirements on those products under List of Recycling Products.

**6. Plastics - what laws are in place to deter and punish plastic pollution (e.g. producer responsibility, plastic tax or bans on certain plastic uses)?**

China State Council has issued regulations that ban use of plastic microbeads and restrict use of nondegradable plastics bags. On November 16, 2022, China Ministry of Industry and Information Technology issued a draft Notice for public opinion, which requires companies to take specific actions in recycling wastes including waste plastics.

**7. Equality Diversity and Inclusion (EDI) - what legal obligations are placed on an employer to ensure equality, diversity and inclusion in the workplace?**

There are no legal obligations or liabilities on workplace diversity and inclusion, but the law of China protects equality and non-discriminatory treatment.

**8. Workplace welfare - the law governing health and safety at work is addressed in the Health and Safety international guide, in respect of ESG are there any legal duties on employers to treat employees fairly and with respect?**

*China Labour Law* provides that a worker shall enjoy the right to equal employment and shall not be discriminated in respect of nationality, race, gender or religious belief. Women and men shall be treated on equal footing.

**9. Living wage - the law governing employment rights is addressed in the Employment and Labour international guide, in respect of ESG is there a legal requirement to pay a wage that is high enough to maintain a normal standard of living?**

The law of China applies minimum wage requirements, providing the same amount to any worker in the city regardless of family size or location.

According to *Provisions on Minimum Wage Threshold*, when determining and regulating the monthly minimum wage threshold, factors will be considered including minimum living costs, child care, financial support to parents, etc.

**10. Human rights in the supply chain - in relation to adverse impact on human rights or the environment in the supply chain: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?**

a. The law of China does not require due diligence on human right and environment in the supply chain.

b. There is no test case in in China in relation to human rights or environment in the supply chain.

**11. Responsibility for host communities, environment and indigenous populations - in relation to adverse impact on human rights or the environment in host communities: a. Are there any statutory duties to perform due diligence; b. Have there been any test cases brought against companies?**

a. Environmental Impact Assessment Law requires due diligence and risk assessment in relation to environment impacts to host community.

b. An NGO, Friends of Nature, filed a lawsuit in relation to a former fertilizer factory causing soil pollution and harming health. Almost 500 students suffered symptoms

such as skin inflammation, eczema and bronchitis after taking lessons at the school adjacent to the fertilizer factory.

## **12. Have the Advertising authorities required any businesses to remove adverts for unsubstantiated sustainability claims?**

There are many examples of China authority penalizing and banning misleading adverts.

## **13. Have the Competition and Markets authorities taken action, fined or prosecuted any businesses for unsubstantiated sustainability claims relating to products or services?**

Administration of Market Supervision ("AMS"), being the in-charge authority with numerous branches in every city, often apply penalties on unsubstantiated claims. Whistleblowers to AMS are also encouraged and even awarded. The penalty can reach CNY 0.2-2 million. In case of false adverts, the penalty can reach 3-10 times of adverts expense.

## **14. Have there been any test cases brought against businesses for unsubstantiated enterprise wide sustainability commitments?**

Unsubstantiated sustainability commitments are mainly regulated by *Law on Protection of Consumer Rights and Interests* and *Advertising Law*. AMS has been very active in administering misleading claims on all kinds of products and services and applying penalties on unsubstantiated claims. AMS applies multiple penalties on leading pharma companies who made false claims on investing on pollution control facilities.

## **15. Is there a statutory duty on directors to oversee environmental and social impacts?**

Directors in China have a fiduciary duty to oversee company risks, although not specific on environmental risks. Nevertheless, in recent years, test cases can be found in relation to directors being held responsible for their oversight.

## **16. Have there been any test cases brought against directors for presenting**

## **misleading information on environmental and social impact?**

Yes, test cases against directors can be found in relation to presenting misleading information on environmental and social impact. A leading cement company disclosed waste discharge data but was found inconsistent with those from the auto monitoring facility. The company and responsible managers are all economically penalized.

## **17. Are financial institutions and large or listed corporates required to report against sustainable investment criteria?**

The law of China does not require financial institutions to report against sustainable investment criteria, although they are encouraged by the authorities to do so.

## **18. Is there a statutory responsibility on businesses to report on managing climate related financial risks?**

The law of China requires only a few companies to report on climate related risks, but not financial risks. Regulations focus more on the impact of the business to the environment, and less on susceptibility of the business to the effect of climate change.

*Regulations on Enterprise Environmental Information Disclosure* requires two types of companies to conduct assessment of climate change vulnerability. They are 1) some of the public companies or bond issuers, and 2) companies determined by environmental authority as high environmental risks.

## **19. Is there a statutory responsibility on businesses to report on energy consumption?**

The law of China requires businesses to report energy on consumption. The reporting companies include 1) any company making fixed asset investment and 2) high-energy consumption companies, e.g. companies whose annual energy consumption exceeds 5000 tons of standard coal equivalent.

## **20. Is there a statutory responsibility on businesses to report on EDI and / or gender pay gaps?**

The law of China does not require businesses to report

on EDI and / or gender pay gaps.

**21. Is there a statutory responsibility to report on modern day slavery in the supply**

**chain?**

The law of China does not require a business to have a statement or report on modern day slavery in the supply chain.

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**Contributors**

**Gary Yang**  
**Partner, Shanghai**

[gary.yang@dentons.cn](mailto:gary.yang@dentons.cn)

