

## **USCBC Comments on the Charity Law (Draft Revision)**

January 28, 2023

Since its release in 2016, the Charity Law of the People's Republic of China has been leading, promoting, and regulating the development of the charity industry in China. It has also provided an important legal foundation and guidance for many multinational companies seeking to land or extend their corporate social responsibility efforts in the country. On this basis, this draft revision of the Charity Law intends to further strengthen the supervision of the environment for philanthropy in China by civil affairs departments, optimize the coordination mechanisms between the government and the public to guide charitable partnerships, and encourage international exchanges of charitable work, pushing forward goals of common prosperity in the “post-poverty-alleviation” and “post-pandemic” era. The US-China Business Council (USCBC) supports and appreciates this effort.

The approximately 280 member companies of the USCBC have long been interested in the development of China's charity industry. As increasingly more member companies start embracing the strategy of “In China, For China” to root and grow their businesses in China, they also start looking for opportunities and channels to contribute to the country's social progress and philanthropic development. In the interim, USCBC understands that members have also been encountering practical policy barriers and challenges when undertaking charitable activities in China, and that the existing laws and regulations lack institutional guidance on relevant issues, thereby hindering their incentive to engage more deeply in charity in China. USCBC hopes this draft revision will take into account these practical difficulties and provide clearer provisions on these issues.

The specific issues faced by USCBC members are as follows:

- 1) **Lack of channels for overseas charitable funds to enter China:** Article 13 and Article 108 of the draft revision encourage international exchanges of charity work yet have not specified measures of encouragement, which could risk practical operability. Currently, there is neither a mechanism for international foundations, foreign companies or individuals to directly send their overseas charitable funds to China, nor a policy allowing international charitable organizations to set up

independently registered charities or branches of its overseas establishment in China. The lack of such channels has made the process of giving to China for charitable causes complex and unpredictable for many foreign companies. Members report cases where individual donations took as long as two years to reach beneficiaries and where the final donation amount received by beneficiaries was smaller than expected due to the complex transfer process. This has been limiting them from carrying out more charitable activities in China, as well as discouraging them from providing financial support to domestic charity projects. This, in turn, could negatively impact China's involvement in international charitable exchanges.

- 2) **High limitations in charity program design:** Although the current Charity Law places little restriction on charity projects, there are frequent occurrences in practice where professional supervisory units request limiting of project scope and content. As a result, companies find themselves with rigid project design, constrained project flexibility and diversity, and sometimes renounced innovation and narrowed scale of implementation to meet the requirements of professional supervisory units.
- 3) **Functions of charity information platform pending improvement:** We support and appreciate the establishment of a unified charity information platform by the State Council's civil affairs departments as proposed in this draft revision (Article 27 and Article 28). At present, although domestic mainstream charity information platforms (National Charity Information Platform; China Foundation Center) provide information related to charitable organizations and public fundraising plans, information on service-oriented charitable activities is lacking. For companies regularly organize charitable services and volunteering participation for employees, the absence of an authoritative information platform means head-scratching muddle when they seek local partners and try to arrange for employees from various localities in China to get involved in a unified manner.

In response to the above issues, we would like to propose policy recommendations as listed below and encourage relevant government departments to make corresponding changes to this draft revision of the Charity Law or release complementary regulations at the implementation level in the near future.

- Designate Chinese charities to interface with overseas charitable organizations and receive overseas charitable funds, thereby helping to broaden the channels of fundraising for Chinese charities and allowing foreign companies in China to attain more charitable funding from their global headquarters and have greater incentive to participate in charitable activities.

- Establish a dialogue mechanism between civil affairs departments and foreign companies to address issues pertinent to conducting charitable activities in China. Pragmatic and efficient exchanges on obstacles faced by companies during project initiation and landing phases and timely follow-ups on project development would provide great help and guidance for companies to start and practice charity work in China. It would also be a supportive platform for civil affairs departments to better coordinate international charitable exchanges.
- Suggest civil affairs departments issue clearer guidelines to professional supervisory units to reduce unnecessary restrictions on project scope and content of private foundations. Flexible and diversified charity projects can incentivize philanthropic innovation, provide more well-rounded charitable coverage, and enhance support to beneficiaries, contributing to social progress.
- Timely update the national unified charity information platform and disclose more information about service-oriented charitable activities in conjunction with information related to charitable organizations and public fundraising plans. This would be valuable support for foreign companies as they search for local partners to implement charity initiatives in China.

USCBC and our member companies will continue to pay close attention to the policy challenges and recommendations mentioned above. We look forward to maintaining communications with relevant decision-making departments. Contact person: Mingyue Li, landline: 010-65920727; Email: [mli@uschina.org](mailto:mli@uschina.org).