



Q&A: EU-China Comprehensive Agreement on Investment (CAI)

Brussels, 30 December 2020

What are the benefits of the CAI for the EU?

- It will significantly improve the market access conditions for EU companies in China, in terms of predictability and new market openings; it will help to rebalance the current asymmetry in our respective market openness; it will help to level the playing field for our companies operating in China; it will promote sustainable development, including the respect of fundamental labour rights.
- It will provide for a formal and binding framework to discuss and address concrete problems our investors face in China as well as state-to-state dispute resolution if China does not comply with its CAI obligations.

What has the EU committed to in the CAI?

- Our commitments as regards transparency, level playing field, and sustainable development are rules and principles already embedded in EU law.
- On market access, our objective was to rebalance the existing asymmetry and bring China closer to us in terms of level of openness and level playing field, given China's market is far less open than the EU's.
- Our sensitive areas such as public services, critical infrastructure and technologies remain fully preserved.

How will the EU ensure that China implements its commitments?

- Firstly, the CAI will include a robust state-to-state dispute settlement mechanism.
- In addition, it also foresees an institutional framework for monitoring the implementation of the commitments, including regular political oversight. This is an important part to ensure that China follows through its commitments in practice.
- We have also included an ad hoc mechanism for fast engagement at political level in case of serious and urgent issues.
- Regular dialogue and stakeholders' involvement (business, civil society and other organisations) will be part of the implementation process. As regards sustainable development, a specifically tailored implementation and enforcement mechanism will address possible differences, with a high degree of transparency and participation of civil society.

What about negotiating a trade agreement between the EU and China?

- There is no authorisation from the Council of the EU to negotiate a trade agreement with China. It is important that we focus on delivering fully on the commitments that we have undertaken as part of our bilateral agenda before exploring additional means to enhance the bilateral trade and investment relationship.
- Apart from concluding the investment negotiations, we need to advance on strengthening international rules at multilateral level, notably on industrial subsidies.

What is the rationale for the recently launched EU-US Dialogue on China?

- The Dialogue will provide an opportunity to discuss with the U.S. the common challenges we face as democracies, open societies and market economies when dealing with China. This dialogue will also allow us to explore possible joint efforts to engage with China on key issues of common interest.

What will be the impact of the recent Regional Comprehensive Economic Partnership (RCEP) on the CAI?

- RCEP has no impact on the CAI.

- We expect it to contribute to a rules-based trading system, to the integration of the Asian market and to the facilitation of trade flows in the region.
- It should benefit not only Asia, but also Asia's trading partners, like the EU.
- RCEP, which is a regional free trade agreement, does not include commitments on environment, climate and labour nor on State-Owned Enterprises or subsidies such as those included in the CAI.

What was agreed in the CAI on sustainable development?

- Prohibition of lowering the standard of protection in the areas of labour and environment in order to attract investment.
- Commitment to support the uptake of corporate social responsibility and responsible business practices by EU and Chinese companies, wherever they operate.
- Commitments on environment and climate, including the commitment to implement the Paris Agreement to tackle climate change effectively.
- Commitments with regard to the ratification of the outstanding ILO fundamental Conventions, specific commitments on the ratification of the two fundamental Conventions on forced labour.
- All these provisions are subject to a specifically tailored enforcement mechanism including an independent panel of experts, as well as a high degree of transparency and participation of civil society.
- How long do you give China to ratify and implement this Conventions, and what retaliation measures will you take if it doesn't?
- Ratification is a sovereign act of each member of the ILO expressing the State's intention to be bound by the terms of an International Labour Convention. This process is in the hands of China; we cannot put a firm deadline to it. That being said, China has decided to send a very strong signal in CAI to ratify the ILO fundamental Conventions on forced labour (C29 and C105); the EU is prepared to support China's efforts in this regard. Such efforts will be key to the successful adoption and ratification of CAI.
- The relevant commitment is also subject to an enforcement mechanism like the one which has been activated in the case of the EU-Korea FTA (concerning among other things the failure to ratify ILO Conventions). Obviously, resorting to enforcement tools is a matter of last resort, which we hope, will not be needed. The institutional framework provided by the CAI, including a specific working group to discuss matters related to sustainable development, including labour, should play an important role here.

How will the CAI address the issue of forced technology transfers?

- The rules consist of:
 - direct prohibitions of forced technology transfers;
 - prohibition of any state interference into the licencing of technology;
 - enhanced protection of Intellectual Property sensitive business information and trade secrets in the administrative processes.

What did you achieve on State-Owned Enterprises (SOEs)?

- Consistent with our practice in trade agreements, the CAI requires from SOEs engaged in the market to act according to commercial considerations.
- That means that they should behave as any private business would, and not to discriminate against our companies in their sales and purchases.
- It also imposes transparency obligations if there are problems with the behaviour of SOEs.
- We will also be able to enforce these obligations, in case of breach, via the dispute settlement mechanism.

What are the rules on subsidies in the CAI and how does this relate to the WTO?

- The CAI improves the transparency of subsidies, essentially by extending the current WTO transparency disciplines for industrial goods to also cover services sectors.
- Transparency is a first step to tackle the distortive effects of subsidisation; the CAI is therefore an important piece of our efforts in this regard.
- In addition, it also establishes a two-stage consultation mechanism between the parties allowing to collect the necessary information to assess the effects of specific subsidies on the investment interests of a party.

- In the WTO, we aim to update the disciplines for industrial goods contained in the Agreement on Subsidies and Countervailing measures.
- Both processes in the area of subsidies, the provisions in the CAI and the WTO reform, are complementary and mutually reinforcing.
- These commitments do not affect the adoption of autonomous measures by the EU to address distortions in the European internal market created by foreign subsidies.

Have you dropped negotiations on investment protection?

- No we have not. China and the EU take a clear commitment in the CAI to try to complete the negotiations on investment protection and investment dispute settlement within 2 years of the signature of CAI. The common objective is to work towards modernised protection standards and a dispute settlement that takes into account the work undertaken in the context of UNCITRAL on a Multilateral Investment Court.

QANDA/20/2543

Press contacts:

[Miriam GARCIA FERRER](#) (+32 2 299 90 75)

[Sophie DIRVEN](#) (+32 2 296 72 28)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)