EU-CHINA COMPREHENSIVE AGREEMENT ON INVESTMENT

21 January 2021
European Commission, Directorate General for Trade
CONTENT

1. What is the EU-China Comprehensive Agreement on Investment?
2. EU-China Investment relations
3. The Agreement section by section
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1. WHAT IS THE EU-CHINA COMPREHENSIVE AGREEMENT ON INVESTMENT (CAI)?
In December 2020, the European Union and China concluded in principle negotiations for a comprehensive investment agreement.

The agreement will:

- Improve market access for EU companies in China
- Improve the level playing field for EU companies in China
- Promote sustainable development
- Help strengthen rules-based global trade environment
Key milestones in the CAI negotiations

- **02/2012** Political Agreement between EU-China to launch negotiations
- **10/2013** Adoption of the EU’s negotiating mandate
- **01/2014** First round of negotiations
- **02/2016** Agreement on the scope and establishment of a joint negotiating text
- **07/2018** Exchange of first offer (market access and discriminatory measures)
- **04/2019** EU-China Summit 2019 setting 2020 as a target date for the conclusion of CAI
- **07/2020** 8th EU-China HED identifying outstanding areas
- **09/2020** EU-China Leaders’ meeting confirming the progress on level playing field provisions
- **12/2020** EU and China reach agreement in principle on investment agreement
- **12/2019** Exchange of revised offers
- **06/2020** EU-China Summit stressing the need for progress
CAI in context of the overall EU toolbox

1. Rebalance market access and level the playing field
   - EU-China Comprehensive agreement on Investment (CAI)

2. Promote our values
   - Due diligence legislation, EU Global Human Rights Sanctions Regime

3. Security
   - Investment Screening, 5G toolbox, Dual Use Regulation

4. Protect our internal market
   - Foreign subsidies instrument

5. Open third country markets
   - International Public Procurement Instrument
2. EU-CHINA INVESTMENT RELATIONS
EU Foreign Direct Investment in China per sector

Source: Rhodium Group.
Chinese Foreign Direct Investment in the EU per sector

EU-27

- Automotive: 17%
- Transport and Infrastructure: 15%
- ICT: 13%
- Industrial Machinery: 11%
- Energy: 7%
- Consumer Products and Services: 7%
- Real Estate and Hospitality: 7%
- Financial and Business Services: 6%
- All Others: 17%

Source: Rhodium Group.
An agreement with high economic significance

From 2000 to 2020, the cumulative value of annual EU FDI transactions in China reached €148 billion. The cumulative value of annual Chinese FDI transactions in Europe in the same period was €117 billion.

Source: Rhodium Group
3. THE AGREEMENT SECTION BY SECTION
General content of the agreement

Level Playing Field  Sustainable Development  Market Access

Implementation and enforcement
# The Structure of the Agreement

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<thead>
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<th>Section I: Objectives and general definitions</th>
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<td>Section III: Regulatory Framework</td>
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<td>Section IV: Investment and sustainable development</td>
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<td>Section V: Dispute Settlement</td>
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<tr>
<td>Section VI: Institutional and final provisions</td>
</tr>
</tbody>
</table>
I. Objectives and General Definitions

- To facilitate investment between the Parties
- Right to regulate to achieve legitimate policy objectives
- Focus on Foreign Direct Investment (enterprises engaged in substantive business operations)
II. Investment liberalisation (Market access)

Comprehensive sectoral scope for services, including:

- Financial
- Telecom & computer
- Health
- Maritime & air transport
- Professional & business
- Environment
- Manufacturing
- Renewable energy (wind and solar)

And non-services, in particular:
Comparison of market access offers by China

<table>
<thead>
<tr>
<th>Service Type</th>
<th>General Agreement on Trade in Services (GATS)</th>
<th>Asia-Pacific (RCEP**)</th>
<th>US-China (Phase One Deal*)</th>
<th>Additional market access for EU companies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturing</td>
<td>Not covered</td>
<td>below CAI</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Autos/electric cars</td>
<td>Not covered</td>
<td>below CAI</td>
<td>-</td>
<td>Yes, for electric cars</td>
</tr>
<tr>
<td>Financial services</td>
<td>Below CAI</td>
<td>Same as CAI</td>
<td>Same as CAI</td>
<td>No</td>
</tr>
<tr>
<td>Health</td>
<td>Below CAI</td>
<td>below CAI</td>
<td>-</td>
<td>Yes, private hospitals in Tier-1 cities</td>
</tr>
<tr>
<td>Telecommunication/Cloud services</td>
<td>Below CAI</td>
<td>below CAI</td>
<td>-</td>
<td>Yes, cloud services</td>
</tr>
<tr>
<td>Computer services</td>
<td>Below CAI</td>
<td>below CAI</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>International maritime transport</td>
<td>Below CAI</td>
<td>Same as CAI</td>
<td>-</td>
<td>No</td>
</tr>
<tr>
<td>Air transport-related services</td>
<td>Below CAI (unbound)</td>
<td>below CAI</td>
<td>-</td>
<td>Yes, computer reservation systems</td>
</tr>
<tr>
<td>R&amp;D (R&amp;D in biological resources)</td>
<td>Not committed</td>
<td>Not committed</td>
<td>-</td>
<td>No, binding future liberalisations</td>
</tr>
</tbody>
</table>

* Phase One Deal is a US-China trade agreement signed on 15 January 2020.
** RCEP stands for the Regional Comprehensive Economic Partnership, a free trade agreement signed on 15 November 2020 between Australia, Brunei, Cambodia, China, Indonesia, Japan, Laos, Malaysia, Myanmar, New Zealand, the Philippines, Singapore, South Korea, Thailand, and Vietnam.
### CAI compared to US-China & Asia-Pacific deals

<table>
<thead>
<tr>
<th></th>
<th>EU-China (CAI) Investment agreement</th>
<th>US-China (Phase 1 Deal*) Trade agreement</th>
<th>Asia-Pacific (RCEP**) Trade agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Market access</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Financial services</td>
<td>Yes (same as Phase 1)</td>
<td>Yes</td>
<td>Yes (same as Phase 1)</td>
</tr>
<tr>
<td>- Other economic sectors</td>
<td>Yes</td>
<td>-</td>
<td>Yes (below CAI)</td>
</tr>
<tr>
<td><strong>Level playing field</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>- State owned enterprises</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>- Subsidies</td>
<td>Yes (transparency)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>- Forced technology transfers</td>
<td>Yes</td>
<td>Yes</td>
<td>-</td>
</tr>
<tr>
<td><strong>Intellectual Property</strong></td>
<td>-</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Sustainable development</strong></td>
<td>Yes</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Purchase commitments</strong></td>
<td>-</td>
<td>Yes</td>
<td>-</td>
</tr>
<tr>
<td><strong>Enforcement</strong></td>
<td>SSDS; monitoring of implementation</td>
<td>- (political process)</td>
<td>SSDS</td>
</tr>
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Market access in services

Main purpose:
• Rebalance China’s low GATS binding versus EU’s high and opening new markets
• Open new markets in targeted areas

Key elements:
• GATS plus commitments in services sectors of EU interest
• financial, health, telecommunication, environmental, computer, construction, auxiliary air transport services and international maritime transport
Market Access in services - benefits

1. No backsliding on the commitments

2. Dynamic binding in case of further openings in the future

3. Commitments subject to dispute resolution

4. Market Access extended to World Trade Organization (WTO) members on Most Favoured Nation (MFN) basis
Overview of China’s Commitments in Services

**Financial:** No more joint venture requirements and foreign equity caps for banking, trading in securities and insurance (including reinsurance), asset management.

**Health:** No more joint venture requirements for private hospitals in key Chinese cities, including Beijing, Shanghai, Tianjin, Guangzhou and Shenzhen.

**ICT:** Lifting investment ban for cloud services. EU investors up to a 50% equity cap. Binding market access for computer services.
## Overview of China’s Commitments in Services (2)

<table>
<thead>
<tr>
<th>Category</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>International maritime transport:</strong></td>
<td>Investment in land-based auxiliary activities (cargo-handling, container depots and stations, maritime agencies, etc.).</td>
</tr>
<tr>
<td><strong>Air transport-related:</strong></td>
<td>Computer reservation systems, ground handling and selling and marketing services.</td>
</tr>
<tr>
<td><strong>Business services:</strong></td>
<td>No more joint venture requirements in real estate, rental &amp; leasing, repair and maintenance for transport, advertising, market research, management consulting/translation, etc.</td>
</tr>
</tbody>
</table>
Overview of China’s Commitments in Services (3)

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Environmental services:</strong></td>
<td>Removal of joint venture requirements.</td>
</tr>
<tr>
<td><strong>Construction services:</strong></td>
<td>No the project limitations currently reserved in GATS</td>
</tr>
<tr>
<td><strong>Specialists’ mobility:</strong></td>
<td>Mobility of business personnel linked to the establishments</td>
</tr>
</tbody>
</table>
Market Access in non-services

Manufacturing (autos, transport & telecommunication equipment, chemicals, health equipment, textile, etc.)

Reciprocity based incentive for more market openness in China in renewable energy (wind & solar)
New openings in services/non services

auxiliary air transport (computer reservation systems)

telecommunication (cloud services)

health (private hospitals)

manufacturing of electric cars.
Making EU business visits to China easier

<table>
<thead>
<tr>
<th>WHO</th>
<th>HOW LONG</th>
</tr>
</thead>
<tbody>
<tr>
<td>Business visitors for establishment purposes</td>
<td>Up to 90 days in any twelve-month period</td>
</tr>
<tr>
<td>Intra-corporate transferees – need to be specialists</td>
<td>up to 3 years</td>
</tr>
</tbody>
</table>

- Domestic labour standards and visa requirements unaffected
III. Regulatory Framework and level playing field

1. Disciplines on State-owned Enterprises
2. Transparency of subsidies → Services + Subsidies with potential to harm EU investment interest
3. Prohibition of forced transfers of technology
4. Standard setting, authorisations & licencing, transparency
Disciplines on State-Owned Enterprises (SOEs)

• Broad definition of SOEs + coverage of entities at all levels (central and sub-central)
• SOEs to act according to commercial considerations
• SOEs not to discriminate in sales and purchases against EU investors
• Transparency obligations and tailor made consultation mechanism
Disciplines on Subsidies (transparency)

- Publication obligation for subsidies in the services sectors (WTO plus as later limited to goods)
- Consultation mechanism on all subsidies
- China obliged to share information on adverse effects
- Enforcement through state to state dispute settlement (SSDS)
Prohibition of forced transfer of technology

- Prohibition of several types of investment requirements compelling transfer of technology
- Prohibition of interfering in contractual freedom in technology licencing
- Protection of sensitive information from unnecessary collection or unauthorised disclosure
Standard setting, authorisations & licencing, transparency

- Obligation of equal treatment of investors in participation in State led development of standards
- Transparency and fairness in authorisation & licencing procedures
- Transparency obligations for regulatory and administrative measures
- Procedural fairness and right to judicial review, including in competition cases
Sustainable Development - Labour

- Commitment to effectively implement the ratified ILO Conventions
- Commitment to respect the core ILO principles (including on forced labour)
- Commitment towards ratification of ILO fundamental Conventions on forced labour (‘continued and sustained effort’)
- Cooperation on Decent Work agenda
Sustainable Development – Environment and Climate

- Respect ratified multilateral environmental agreements
- Effectively implement UNFCCC and the Paris Agreement
- Support green growth and cooperation agenda
Sustainable Development – Enforcement

• Tailor-made and high standards as in EU trade agreements
• Review by independent Panel of experts
• High level of transparency (involvement of civil society, publication of Panel report, open hearings, amicus curiae etc.)
V. STATE TO STATE DISPUTE SETTLEMENT

**Purpose**

- Secure enforcement of agreed commitments
- Legal certainty and predictability
- Favor mutually agreed solutions
- Provide for rules-based resolution

**Key elements**

- Binding
- Comprehensive
- Transparency
- Rules of procedure
- Code of conduct
- Retaliation
VI. INSTITUTIONAL AND FINAL PROVISIONS

• **Institutional setting**
  - Investment committee (IC) - monitoring of implementation (1x year)
  - Working Group on Sustainable development
  - Regular dialogue with stakeholders

• **Rapid reaction mechanism** (ad hoc, at the level of IC)

• Exceptions (general, security, taxation etc.) – space for autonomous measures
Continued investment protection and dispute settlement negotiations*

* to be concluded within 2 years from signature (taking into account UNCITRAL WG III developments)