

Resolution on the EU-China negotiations for a bilateral investment agreement

2013/2674(RSP) - 09/10/2013 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution tabled by the Committee on International Trade on the EU-China negotiations for a bilateral investment agreement.

Members recalled that trade between the EU and China has been growing rapidly and continuously in the last three decades, reaching a peak of total trade of EUR 433.8 billion in 2012. They also note that the imbalance in bilateral trade has been in China's favour since 1997 and that this trade deficit amounted to EUR 146 billion in 2012.

Parliament goes on to recall also that the EU's foreign investment stock in China in 2011 amounted to EUR 102 billion, while China's foreign investment stock in the EU in the same year amounted to EUR 15 billion. Furthermore, 26 Member States have individual bilateral investment agreements in force with China and this investment agreement is the first to be negotiated by the EU on the basis of its overall competence following the entry into force of the Treaty of Lisbon.

In this context, the resolution considered that the investment agreement with China should be based on best practices drawn from Member States' experiences, contribute to greater coherence and include the following standards:

- non-discrimination (national treatment and most-favoured-nation treatment for investors and investments in like circumstances);
- prohibition of manifest arbitrariness in decision-making;
- prohibition of the denial of justice and disregard for the fundamental principles of due process;
- the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings, in accordance with the principle of due process embodied in the world's principal legal systems;
- prohibition of abusive treatment of investors, including coercion, duress and harassment;
- protection against direct and indirect expropriation, and allowing for adequate compensation for any damage incurred in the event of expropriation;
- respect for the principle of legality in connection with nationalisations.

In general terms, Members called for the agreement currently being negotiated to cover both market access and investor protection.

IPR: Members pointed out that currently, the main form in which foreign companies are allowed to set up in China is through joint ventures, which were often associated with the transfer of strategic technologies that promoted China's competitive development to the detriment of European industry. Parliament was convinced that further openness on the part of China towards other legal regulations allowing foreign investors to set up, combined with **due protection of intellectual property rights (IPRs)**, industrial property, brands and geographical indications of products, was crucial and would be mutually beneficial.

It welcomed the efforts made by the Chinese authorities to improve respect for IPRs since China's accession to the WTO, but **still deplored their inadequate protection in China** and considered regrettable the lack of specific means available to European businesses, particularly SMEs, to counter IPR infringements effectively.

Fundamental rights and labour rights: lastly, Members stressed that investment agreements concluded by the EU **must not be in contradiction with the fundamental values that the EU wishes to promote through its external policies** and must not undermine the capacity for public intervention, in particular when pursuing public policy objectives such as social and environmental criteria, human rights, the fight against counterfeiting, security, workers' and consumers' rights, public health and safety, industrial policy and cultural diversity. In order to achieve this, Parliament called for the inclusion of the respective specific and binding clauses in the agreement. It also reiterated its call for an effective corporate social responsibility clause in line with the UN Guiding Principles on Business and Human Rights.