S&D

POSITION PAPER

FOR BALANCED TRADE EU - CHINA

S&D conditions for a balanced trade EU - China

The EU on the world stage

Date: 08/03/2016

S&D Group of the Progressive Alliance of Socialists & Democrats in the European Parliament

European Parliament
Rue Wiertz 60
B-1047 Bruxelles
T +32 2 284 2111
F +32 2 230 6664
www.socialistsanddemocrats.eu

TABLE OF CONTENTS

1 S&D CONDITIONS FOR A BALANCED TRADE EU - CHINA

The S&D Group supports strengthening EU-China relations based on a level playing field. Therefore we would like the EU-China commercial relations to be based on certain conditions.

The EU should speak with **one voice**. The EU impact of the EU commercial policy towards China is often undermined by diverging national interests pursued by the Member States. We privilege a **single coherent approach** towards China.

China often breaches **IPRs legislation** or its enforcement. Trade in counterfeit goods is not only a criminal activity but, most importantly, it may seriously affect consumers' health (for instance fake medicines) or the environment (chemicals).

Our groups requires the EU to closely work with China to properly implement and enforce IPRs laws.

Our group opposes any unilateral concession to China on MES in 2016 in the current circumstances. It is therefore necessary for the EU to find a way to comply with its WTO commitments while ensuring that European workers are protected from unfair trading practices.

Our group urges the European Commission to cooperate with the other WTO members in order to strategically coordinate a common approach in the framework of the WTO, before taking any action.

Any decision on MES should be based on a solid and comprehensive impact assessment in order to evaluate the consequences on jobs and sustainable growth in all EU sectors and on China fully complying with the five criteria set by the European Commission.

There is an evident need for the EU to maintain an effective anti-dumping instrument mechanism that takes the real market situation in China into account. We should also not wait until the damage from unfair practices becomes irreversible for our industry and we should follow the example of other economies in the World.

Within the scope offered by the EU Basic Anti-dumping Regulation, the Commission should be prepared to open investigations “ex officio” and to set up measures on the ground of the “threat of injury” where the evidence justifies this. The Commission should also quicken the pace of investigations before imposing trade defence measures and make use of the full range of trade defence instruments.

In particular we would welcome the elimination of the lesser duty rule which is not an obligation under WTO law and that puts us at a competitive disadvantage vis-a-vis our trading partners such as the US who do not apply it and, as a consequence, may impose higher anti-dumping duties.

Our group should urge the European Commission and the Council **to unlock the modernisation and strengthening of EU Trade Defence Instruments**. In this sense, we should make possible the referral to the Commission in order to open anti-dumping investigations by all European social partners including not only business leaders (as it is already the case) but also trade unions.

We call for the Commission to take effective action **to ensure better market access based on reciprocity**. China is rather satisfied with the market access granted by the EU and its member states but this openness should not be taken for granted. China has always criticised the imposition of trade defence measures on its products and considers the EU anti-dumping measures a protectionist tool. The procedure to award state aid to companies operating on the Chinese market should be totally transparent.

China should bring its state subsidy programmes into line with the WTO but also improve its social and labour conditions as well as environmental standards to avoid any social /environmental dumping, it should refrain from discriminating against foreign operators and from piling-up technical rules and burdensome conformity assessment procedures that are used as protectionist tools to prevent European producers to put their products on the market. It should guarantee transparency when assessing compliance at the borders and rely on international accredited test reports in order to ease customs clearance.

Although **Chinese investments** into the EU went up to €1.1 billion in 2013 (+1100% compared to 2009) and China has announced its participation to the European Fund for Strategic Investments, they only count for a small part of the total foreign direct investment made in Europe. The share of total EU flows of FDI to China remains higher, with the EU´s 28 Member States investing €8.2 billion in China in 2013.

Therefore we support the talks for an ambitious and balanced **EU-China investment agreement with conditions attached.** China has heavily invested so far in countries - rich in natural resources but it is increasingly turning to developed countries as it moves in the economic ladder. It can be expected that the EU will be in China's radar very soon.

Our group requires the European Commission to better define our strategic areas of interest, which should be coherent with an ambitious EU wide industrial policy**.**

Any such EU-China investment agreement has to be fully in conformity with our Group position as adopted 4 March 2015.

2 BACKGROUND

2.1 China has been the world's largest trading nation since 2013

The European Union is the world's largest trading bloc, while China has been the world's largest trading nation since 2013. China's share in world trade in goods reached 14.2 % in 2014, following a decade of impressive increases in both imports and exports.

The latest release of annual trade data reveals that China's total trade reached EUR 3 508 billion in 2014, a 2.3 % increase over the previous year. While exports accounted for EUR 1 910 billion – an increase of 4.9 % – imports decreased by 0.6 %. As result, China's trade surplus reached EUR 312 billion by the end of 2014. This reflects a continuous drop in domestic demand stemming from China's economic rebalancing, away from manufacturing and industrial development. The trend has continued in early 2015, with imports dropping further in the first quarter, giving China a EUR 54 billion surplus.

The country's recent economic slowdown and the downward adjustments in its heavy industry have sharply cut China's demand for some commodities, in particular oil, coal and petroleum products. Weaker domestic consumption, coupled with overcapacity in some industries (for eg: overcapacity for the steel industry is estimated in between 300 and 400 million tons, which more than doubles the total European production), prompted high increases in the export of steel products, up by 50 % in volume with respect to 2013 and by more than 30 % in value.

The total **merchandise trade** between the EU-28 and China increased in 2014 for both imports and exports. Total exports from the 28 EU Member States to China accounted for EUR 164.7 billion in 2014 – an increase of almost EUR 16.5 billion from the previous year. Imports from China increased during the same period from EUR 280.1 billion to EUR 302.5 billion. In total, the EU- 28's trade deficit with China slightly increased, from EUR 131.9 billion in 2013 to EUR 137.8 billion in 20146, largely due to the recovery of EU consumption.

The **trade in services** between the EU and China has grown continuously since 2010, yet still presents enormous potential for future expansion.

The EU-28 exports of services to China jumped by 27% between 2012 and 2014, from € 25.1 billion to € 31.7 billion.

In 2013, the EU-28 exported services to China valued at EUR 29 billion – mainly surplus activity in the areas of travel and 'other services', including royalties and license fees, computer and information services, and other business services.

Imports of services from China were valued at € 22.6 billion, with 'other services' experiencing a steady increase. In total, the services trade provided the EU-28 with a surplus of € 9.2 billion in 2014, growing by € 4.0 billion over the last three years.

In an effort to diversify its foreign assets, which amounted to nearly EUR 5.8 trillion in 2014, China has progressively removed all restrictions on overseas direct **investment** by its companies. As a result, Chinese overseas direct investment, in the form of large mergers and acquisitions, has surged. Europe was not, however, one of Chinese investors' preferred destinations until 2010. With the financial crisis, and later the euro crisis, opportunities have opened in Europe. Indebted European countries, plagued by a lack of liquidity and private companies' difficulties in accessing credit, welcomed Chinese investors. These investors have, in turn, become increasingly keen to diversify their portfolio and acquire technologies, R&D capability, talent and brands, and have invested in sectors in which Europe holds a comparative advantage (e.g. automotive, rail equipment, aerospace and aviation, high-precision machinery).

The trend of incoming Chinese investment in the EU – which reached an average annual inflow of about USD 10 billion over the last four years – peaked in 2014, when it reached USD 18 billion.

While Chinese large-scale acquisitions were once concentrated in energy and natural resources, Chinese investors have come to focus on food, real estate, technology transport, telecommunications and other advanced services sectors, especially in the first quarter 2015.

- 2015 marked the 40th anniversary of diplomatic relations between the EU and China and was considered as a source of inspiration to strengthen the Strategic Partnership; this Strategic Partnership is of key importance to relations between the EU and the People's Republic of China (PRC) and to finding mutual answers to a range of global concerns

- it is necessary to actively seek synergies in each other's flagship initiatives, namely the Investment Plan for Europe, and The Belt and Road Initiative with a view to develop pragmatic cooperation in various fields, including through a possible China-EU co-investment vehicle;

2.2 EU-China investment agreement

At the 16th EU-China Summit held on 21 November 2013 both sides announced the **launch of negotiations of a comprehensive EU-China Investment Agreement**.

The Agreement will provide for progressive liberalisation of investment and the elimination of restrictions for investors to each other's market. It will provide a simpler and more secure legal framework to investors of both sides by securing predictable long-term access to EU and Chinese markets respectively and providing for strong protection to investors and their investments.

There have been seven rounds of talks but negotiators did not exchange offers yet. The EU is very keen in having market access in order to have an added value (all member states, except Ireland, have already signed a BIT with China so EU industry is already protected) while China would like to have one set of rules instead of dealing with 28 Member States.

China hopes the investment agreement will pave the way for a deep and comprehensive FTA. The European Commission, however, does not consider that the necessary conditions to launch a feasibility study for a EU-China FTA are met, let alone to formally open trade negotiations aimed at the FTA.

2.3 Trade irritants

Trade and investment volumes between the EU and China will continue to grow and the two sides need to improve policy conditions for economic integration to avoid frictions and disputes.

There are indeed several trade irritants with China.

Access to the Chinese market, although improved in recent years, remains difficult. China has only partially implemented its obligations under the WTO protocol of accession and does not hesitate to protect its industry and service sectors. Economic activity and the allocation of resources in China continue to be predominantly determined by a broad array of governmental programmes, subsidy schemes and arrangements to punish or promote specific behaviours.

It should be recalled that on 31 March 2015, the EU had 53 definitive anti-dumping and countervailing duty measures against Chinese products in force (two fewer than in 2014), . The Commission argues that these measures affect less than 2 % of EU trade with China (1.38%), but this figure is measured in relation to imports after the duties are imposed. The 53 measures represent about 50 % of all the trade defence measures enforced by the EU. In 2015, the EU initiated six new investigations into Chinese products.

China has always criticised the imposition of trade defence measures on its products and considers the EU anti-dumping measures a protectionist tool.

Foreign companies face a number of trade barriers in China
China increasingly uses country specific standards which foreign competitors find hard to meet. China also applies export restrictions on raw materials. Other issues that concern international business in China are the lack of a level playing field for foreigners, subsidies and financing issues, localisation requirements, transparency and predictability in government and rulemaking. According to a recent survey, 45% of EU companies operating in China reported missed opportunities owing to market access and regulatory barriers.

China's public procurement market is very difficult to access for foreign companies
It is difficult for European companies to access the Chinese market in the area of public procurement. A recent study from the European Chamber of Commerce in China points out problems regarding lack of transparency, unfair implementation of public procurement awards, and unsatisfactory appeals procedures.

Other issues involve transparency in laws and regulations; serious infringements of intellectual property rights (copyrights, trademarks and patents) and subsidies creating overcapacity in difficult sectors such as steel and chemicals.

64% of all fake goods seized at European borders in 2012 came from China
Intellectual property rights infringement remains a serious problem for European businesses in China. In 2012, four out of every five European businesses operating in China rated Beijing’s enforcement of IPR laws and regulations as inadequate.

China's accession protocol, signed in 2001, allows WTO members to treat China as a **non market economy**. But even fifteen years after the accession to the WTO, China has not met all the criteria to be a market economy.

The European Union has unilaterally set a series of criteria to define a Market Economy: a country must have a floating exchange rate, a free market, a non-intrusive government, effective business accounting standards and, lastly, a clear definition of property rights and bankruptcy laws.

In a 2011 report, the Commission concluded that China had only fulfilled one of the five criteria required by the EU to gain MES status — the 'absence of barter trade and absence of state-induced distortions in the operations of enterprises linked to privatisation'. Since the Commission's report was published four years ago, China has made no appreciable progress in the other areas and still doesn't qualify for market economy status.

Yet China has often criticised the EU's persistent refusal to recognise the country as a full-fledged market economy. Beijing considers this issue a serious obstacle to the development of closer commercial relations with Europe.