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Paris, January 20, 2021 – The EU-China Comprehensive Agreement on Investments (CAI) is to be imminently released, including with items that were - surprisingly enough - reportedly still under negotiation. The final text follows negotiations that concluded with breakneck speed on December 30, 2020. This is a testimony to the pressure now felt by the European Commission: promoting the agreement as a success for our "values and interests" - while not disclosing its content - was clearly not helping its cause.

In the policy paper "Wins and Losses in the EU-China Investment Agreement (CAI)" published today, Institut Montaigne provides one of the first think tank analyses of the Agreement. It states that the EU-China CAI has been both oversold and underpowered. Enough is known about its likely content that we can lay down criteria for judging where it promotes EU values and interests, and where it may be a defective attempt at bridging the enormous asymmetry between our market democracies and China's party-state driven economy.

"Given China's track record, it is impossible to rely on goodwill to implement commitments and unwise to believe that on key issues, a top-down political process between both parties can be substituted to legal arbitration. Absent a coordinated front among China's leading trade and investment partners, the CAI is stacked up against immense odds." François Godement, Senior Advisor for Asia to Institut Montaigne and author of the policy paper, comments.

Institut Montaigne's take on what has likely been gained or conceded for China

François Godement sees three main wins for China:

1. China obtains what it often calls "certainty", an implicit European endorsement against economic decoupling. Given the CCP's fear of a front on this issue, this is important.
2. In terms of public diplomacy, separating the EU from the US – even if it follows years of trade threats from the top of the outgoing US administration – is also a win, at least in the short term.
3. China can build on Europe's claims to have advanced its values while escaping enforcement and remedies on the issues that are at the heart of current public debates – environment and labor.

In exchange, China seems to have made minor sectoral openings on investment. They are part of a continuing process of investment liberalization that takes place once Chinese champions have been well established.
China has made important concessions in principle – national treatment, inclusion of state firms, transparency of subsidies, banning forced technology transfer, committing to move towards the ILO convention on forced labor.

Europe stands its ground for limited gains

The agreement has secured market access for Europe in a number of sectors, and has raised Europe's profile as a negotiating partner for China. This puts an end to seven years of negotiation during which China's off-hand attitude had seemed impossible to breach, because the EU has not enough negative leverage at its disposal. On WTO-plus issues, the EU fails to put a secure mechanism of implementation in place.This concerns many value-related issues such as labor norms and standards. But Europe has not renounced the possibility of retaliation for issues under WTO rules. And for the most part, the EU has protected its future legislation or "policy space".

Our policy recommendations for Europe

- Europe needs to fully use the liberty it has preserved to act unilaterally against unfair competition and continuing malpractices by PRC entities.
- It should reinforce its defensive toolbox, as prescribed by the March 2019 Joint Communication to the Parliament and Council, if only to gain leverage with respect to China.
- It must use the other window of opportunity offered by the start of a new US administration to find common interests and to act jointly on values. Going it alone by overestimating the present potential for "strategic autonomy" risks disaster over interests, and irrelevance over values.

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