

欧盟中国商会《周·知》

WEEKLY UPDATES

Crossing Final Hurdles

Will China and EU hammer out their investment deal by the end of 2020?

Editor's note: China and the EU are in the final sprint to conclude their talks on an investment agreement, but it remains to be seen whether the two sides will close the remaining gap and clinch such a significant deal by the end of this year, as repeatedly promised by leaders of both sides since April 2019. In this issue of Weekly Updates, we focus on the progress the negotiations have registered and difficulties in this tough final stage. We hope you will enjoy reading and have a nice weekend.

Following the successful signing of the Regional Comprehensive Economic Partnership Agreement (RCEP), the intensive talks on the China-EU investment agreement, which entered the final juncture, have captured attention across China, Europe, and beyond. During the call on November 24, the leaders of China and Germany reiterated that China and EU will work further in a bid to seal a deal by year-end. The next round of the talks, the 35th version since launched in 2013, is slated for between December 7 and 11.

As talks stayed close-door, details have been by and large kept limited. European Commission executive vice-president, Valdis Dombrovskis, earlier said that negotiations “are at an advanced stage”; MEP Frangos Emmanouil also mentioned that 80% of the agreement has been confirmed, with 20% still needs progress. Head of the Chinese Mission to the European Union (EU) Ambassador Zhang Ming recently said in an interview that the negotiations registered “good progress on the text and the negative list” and breakthroughs were made on the level-playing field issues.

According to a report released by the European Commission’s Directorate-General for Trade, negotiations on sustainable development, notably the mechanism for addressing differences and labor, intensified during the latest round of talks last week. They also discussed market access and the institutional framework of the agreement, whilst technical discussions focused on taxation matters and horizontal exceptions.

The deal is of great significance to both Beijing and Brussels. As to China, if reached, it will very likely mark the country’s most advanced bilateral investment treaty. Furthermore, it is expected to benefit the Sino-EU partnership, unleash the great potential of two-way investment, and inject impetus into China’s “dual circulation” development pattern.

For the EU side, it will forge the bloc’s first EU-wide investment deal with a third country in its exclusive jurisdiction powered by the Lisbon Treaty which came into force in 2009, replacing the 26 bilateral investment protection agreements currently in place between China and 27 EU Member States (all but Ireland).

The official idea of such a deal came as early as February 14, 2012, at the 14th China-EU summit. More than a year later, during the 16th China-EU summit in Beijing, the two sides agreed to launch China-EU investment agreement negotiations. In January 2014, negotiators sat down for

their very first discussion. Since then, Beijing and Brussels have in turn witnessed almost all of their 30 plus rounds of negotiations. From January 2020 on, they have significantly sped up their meetings.



The China Chamber of Commerce to the EU (CCCEU) is a platform between China and the EU and it serves the best interests of Chinese enterprises investing in the EU. Established in August 2018, the CCCEU speaks on behalf of its 62 members and represents about one thousand Chinese enterprises.

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Here are some of the milestones outlined by the Commission:

March 2020: EU-China Summit

December 2019: Exchange of revised offers (market access and discriminatory measures)

April 2019: EU-China Summit setting 2020 as a target date for concluding an ambitious CAI

July 2018: Exchange of first offers (market access and discriminatory measures)

January 2016: Agreement on the scope and establishment of a joint negotiating text

Talks are indeed a tough row to hoe. Compared with traditional bilateral investment agreements, the China-EU investment agreement aims higher with items on investment liberalization, introducing pre-entry national treatment, a negative list, and so forth, which dramatically increased the difficulties. Since the 24th round of negotiations in November 2019, Brussels has renamed the agreement as to the "EU-China Comprehensive Agreement on Investment." The rebranding speaks volumes.

Regarding investment liberalization, market access matters most. According to [the Sustainability Impact Assessment](#) issued in 2018, the EU mainly focuses on six key economic sectors comprising transport equipment, mining and energy extraction, chemicals, manufacture of food and beverages, finance and insurance, and communication and electronic equipment. [The EU's key objective](#) is to significantly improve EU investors' access to the Chinese market, in particular by eliminating quantitative restrictions, equity caps, or joint venture requirements.

In this regard, China has made unprecedented efforts. The number of sectors that are off-limits for foreign investors was cut to 33 in the 2020 version while in pilot free trade zones, the number of prohibited industries slumped to 30 from 37. In terms of specific sectors, China has further eased the market access for agriculture, manufacturing, and mining, and expanded the opening up of service industries such as telecommunications and finance. Nevertheless, Brussels seems to be asking for more.

Han Bing, an associate research fellow at the Institute of World Economics and Politics (IWEP), Chinese Academy of Social Sciences (CASS), said that China should well consider how much it would like to compromise. Overall, the core function of the bilateral investment agreement should be investment protection.

For Chinese investors, there are many invisible barriers in the EU; in the past year or two, due to the rise of protectionism and the EU's cornerstone policy of "strategic autonomy", the political environment has become more inwardly in the bloc and the investment environment is becoming less favorable. Take the EU's FDI screening regulation, member states are on track to strengthen their screening mechanisms; in addition, the EU also mulls to adopt legislative measures against foreign subsidies; policies on telecommunications and 5G have also been tightened. As a result, more uncertainties are being created for Chinese investment in Europe.

Han suggested that China should improve its domestic security screening system and seek balance concerning potential entry barriers during negotiations; on the issue of state-owned enterprises or foreign subsidies, the negotiations should focus on the principle of non-discrimination.

Negotiation is the art of compromise. There are only dozens of days left this year, and we truly hope China and the EU will strike their investment agreement that will usher in a new era of bilateral investment for the two continents.

[Other Updates]

Euobserver: On November 26, Minister Xia Xiang, Head of the Economic and Commercial Office, Chinese Mission to the EU, published an Op-Ed named "China's Supply Chains and Markets Lend Strong Impetus to Growth of European Companies" on Euobserver.

He said the current global industrial layout is a manifestation of the objective laws governing economic operation; China is also dependent on the EU supply chains in many sectors, and the country's industrial chains and markets have created huge benefits and new sources of growth for European companies.

Associated Press: The federal government recognized President-elect Joe Biden as the “apparent winner” of the Nov. 3 election, formally starting the transition of power after President Donald Trump spent weeks testing the boundaries of American democracy.

Politico: In a round of phone calls with leaders in Brussels, U.S. President-elect Joe Biden spoke Monday with European Commission President Ursula von der Leyen and European Council President Charles Michel, who extended congratulations for his victory over Donald Trump. Michel invited Biden to Brussels to attend a meeting with EU heads of state and government.

China Daily: Chinese President Xi Jinping spoke by telephone with German Chancellor Angela Merkel on Tuesday evening, calling for greater progress in areas such as vaccines, bilateral cooperation and negotiations on the China-European Union Bilateral Investment Treaty.

CNBC: Chinese President Xi Jinping on Wednesday congratulated Joe Biden on winning the Nov. 3 U.S. presidential election, voicing hope the two countries could promote a healthy and stable development of bilateral ties, the official Xinhua news agency reported.

SCMP: Chinese Foreign Minister Wang Yi has told his French counterpart that Beijing supports Europe's push for “strategic autonomy”, amid calls for the EU to work with the new US administration to tackle China.

Euronews: European Commission President Ursula von der Leyen said Wednesday that the first European citizens might be vaccinated before the end of December.

《周·知》 | 中欧投资协定谈判进入冲线阶段，还有哪些“硬骨头”要啃？

编前语：中欧投资协定谈判进入最艰难时段，本期《周·知》重点关注谈判还有哪些讨价还价的余地和攻坚的“硬骨头”。我们还关注美国总务管理局通知拜登团队正式开始政府过渡进程后，跨大西洋伙伴关系尤其是经贸合作关系修复的机遇和挑战以及欧盟疫情最新进展。本期推荐中国驻欧盟使团经济商务处夏翔公使在欧盟观察（euobserver）网站发表的署名文章，他认为中欧产业格局现状是资本基于市场法则实现全球资源最佳配置的结果，中欧实质上是“正向依存”。感谢阅读，订阅请致信 info@ccceu.eu。祝您周末愉快！

继《区域全面经济伙伴关系协定》（RCEP）顺利签署后，进入最后关头的中欧投资协定谈判进程全球瞩目。中德领导人在 11 月 24 日通话时重申了政治共识：推动年内如期完成谈判。12 月 7 日至 11 日，双方将进行继 2013 年启动以来的第 35 轮谈判。

谈判一直处于闭门状态，可获得的详细进程资料很少。中欧双方对谈判进程最新描述如下：欧盟委员会执行副主席东布罗夫斯基说，目前谈判处在“高级阶段”（Negotiations are at an advanced stage）；欧洲议会议员 Frangos Emmanouil 提到，协议内容 80% 都确定了，只剩 20% 还需突破。

中国驻欧盟使团团长张明大使近日接受媒体采访表示，“谈判在文本和负面清单等方面取得积极进展，其中，双方在公平竞争议题上取得突破，更意味着谈判向前迈出了坚实的一步。当前，双方正围绕可持续发展及市场准入负面清单等议题进行磋商。

据欧委会贸易总司文件，上周刚结束第 34 轮谈判，双方就可持续发展，尤其是应对差异和劳工议题的机制上加大谈判力度。此外，谈判团队还讨论了市场准入和机制框架；技术讨论关注重点则是税务及例外条款。

中欧投资协定谈判对双方为什么如此重要？对于中方，这是我国在新时代开展的最为重要的经贸谈判之一，不仅有助于深化中欧全面战略伙伴关系、提升双边经贸合作水平、释放双向投资潜力，而且也会为我国深化改革、扩大开放、构建开放型经济和“双循环”格局提供动力。

对欧方来讲，这是在 2009 年“欧盟宪法”《里斯本条约》生效、欧盟将外商直接投资纳入其专属职权范围后，欧盟代表成员国对外开展的首部单独投资协定谈判。

新协定在生效后将理顺中国与欧盟 26 成员国的双边投资协定，这些投资协定于上个世纪 80 年代至 90 年代签署，已经不适应现有的投资水平、各国的经济现状、其国内利益以及在国际范围内的地位。欧盟现有 27 个成员国，爱尔兰因未曾与中国签署双边投资协定，将直接纳入中欧投资协定。

为实现各自战略目标，早于 2012 年 2 月 14 日，在北京举行的第十四次中欧领导人会晤期间，双方领导人同意，“一项内容丰富的中欧投资协定将促进和便利相互投资。”一年多后，在北京举行第十六次中国欧盟领导人会晤期间，“双方共同宣布启动中欧投资协定谈判。”2014 年 1 月，双方谈判团队坐上首轮谈判桌。自此，北京和布鲁塞尔几乎轮流见证了马拉松式谈判；今年双方明显加快了谈判进程。

在此过程中，中欧投资协定谈判已成功跨过数个“里程碑”，这包括：2016 年 1 月在第九轮谈判中，中欧就协定范围达成一致，开始以合同文本为基础推进实质性文本谈判；2018 年 7 月，双方交换投资协定负面清单出价，谈判进入关键阶段；2019 年 4 月，中欧领导人会晤时，双方承诺，“在 2020 年达成高水平的中欧

投资协定”；2019 年 12 月的第 25 轮谈判，双方交换了关于投资市场准入的清单改进出价。今年以来双方已举行九轮谈判，上周刚结束启动以来的第 34 轮。

从谈判内容、时间跨度和节奏等看，中欧投资协定谈判确实是场“硬战”。相比传统双边投资协议，中欧投资协定增加了投资自由化内容，引入了准入前国民待遇和负面清单的管理体制等，提高了协定水平，增加了谈判难度。这也可从 2019 年 11 月的第 24 轮谈判起，欧方把协议名“升级”为《欧中全面投资协定》（EU-China Comprehensive Agreement on Investment），可一窥端倪。

在中欧投资协定谈判中，投资自由化目标主要与市场准入相关。据欧委会 2018 年发布的《欧中全面投资协定》（CAI）可持续性影响评估报告，欧盟主要关注中国运输设备、采矿和能源开采、化工、食品和饮料制造、金融和保险、通信和电子设备等六个部门。欧盟希望在这些领域有更好市场准入和公平竞争环境，其关键目标是显著改善欧盟投资者进入中国市场机会，尤其是消除数量限制、股权上限或合资企业要求等。

反观中国，目前外资准入负面清单已经由 93 项减至 33 项，未来或将进一步缩小；而中国自贸区及海南自由贸易港外资准入负面清单则更短。具体部门来看，中国进一步放宽农业、制造业和采矿业市场准入，扩大电信、金融等服务业对外开放。

需说明的是，尽管中方作出很大努力，和欧方诉求的开放水平相比仍有一定差距。中国社会科学院世界经济与政治研究所副研究员韩冰认为，尽管中欧投资协定具有投资自由化目标，但谈判中应把握好“度”。双边投资保护协定核心功能是投资保护，中欧双方谈判中不应舍本逐末，忽视及时达成协定对既有投资保护的重要意义。

对中国投资者来说，欧盟境内存在很多隐形壁垒；近一两年内，受保护主义趋向抬头和“战略自主”基石政策影响，欧盟政治环境更趋内顾，投资环境下行。比如，今年 10 月 11 日，欧盟外资审查条例生效，进一步推动欧盟成员国强化本国审查机制；除安全审查外，欧盟也在酝酿针对外国补贴采取立法举措；在具体部门如电信、5G 等出台针对性措施，这些预计都将为中国在欧投资制造更不确定的投资环境。对此，专家认为解决欧盟外资审查趋严更好的方式是健全国内安全审查制度，在谈判中对潜在的准入壁垒，寻求“平衡博弈”；在国有企业/外国补贴问题上，谈判时应强调非歧视原则。

谈判是妥协的艺术。即便双方领导人今年在不同的场合注入了极强的政治意愿在年内达成协议，但谈判团队在最后阶段的“讨价还价”的激烈程度和“妥协”的难度也可想而知。

2020 年还剩下几十天，我们期待中欧投资协定如期落地。

【中美欧相互间互动频繁 美欧或将展示“团结”姿态】

本周中美欧相互间互动频繁。当地时间 23 日，美国总务管理局通知拜登团队正式开始政府过渡进程。11 月 25 日，国家主席习近平致电拜登，祝贺他当选美国总统。中欧高层互动本周也值得关注：11 月 24 日，中国国家主席习近平和德国总理默克尔通话；11 月 23 日，国务委员兼外长王毅同欧盟“外长”博雷利通电话。

目前跨大西洋关系正处在“修复”轨道：欧洲理事会主席米歇尔周一与美国当选总统拜登通电话，邀请拜登重建“强大的跨大西洋同盟”，并出席明年的欧盟 27 国特别峰会。“歇尔主席在通话中提议，基于共同利益和价值观重建强大的跨大西洋联盟，”米歇尔办公室在声明中称。“他欢迎当选总统拜登对美国盟国强有力的承诺，以及对欧洲合作的支持。”

在对跨大西洋经贸关系的预判上，中国国际问题研究院欧洲研究所所长崔洪建在接受《第一财经》专访时指出，美欧间第一步是要先清除现有障碍，即钢铝关税和航空补贴等；双方在经贸领域比较复杂是《跨大西洋贸易与投资伙伴关系协定》（TTIP），但欧美其实都没有能力去谈，因为奥巴马时期 TTIP 谈判中存在的障碍仍然存在，而且比以前还要大。但欧美会做出谈判姿态，将双边谈判与 WTO 改革问题相联系，这样不仅可塑造美国重返多边贸易机制形象，还能对其他国家施压，体现美欧“团结”。

【夏翔公使称中欧产业格局“正向依存”】

近期部分欧洲人士认为，应将欧洲关键产业供应链和产业链迁回本土或邻近地区，以减轻对中国供应链和市场依赖。对此，11月26日，驻欧盟使团经济商务处夏翔公使在欧盟观察（euobserver）网站发表署名文章指出，中欧产业格局现状更多是资本基于市场法则实现全球资源最佳配置的结果，中欧实质上是“正向依存”，双方产业利益相互交织、高度融合，中国产业链和中国市场给欧洲企业创造了巨大效益和新的增长点。

【欧盟防止疫情第三波；12月底第一批欧洲人可望打上疫苗】

在疫情方面，欧洲情况仍不乐观。欧盟寄重望于疫苗，目前已与6家制药公司达成新冠疫苗订购协议，欧委会主席冯德莱恩25日说，欧盟要防止疫情在圣诞后出现第三波暴发情景；欧盟新冠疫苗接种有望今年12月底前启动。虽然年底前大规模接种仍不现实，我们或可期待明年上半年欧盟境内疫苗供应将更为充足，将在下半年逐步走出疫情阴霾。

【商会本月主要动态】

11月25日，欧盟中国商会开展关于外国政府补贴“白皮书”培训。

11月23日，欧盟中国商会、雅典商会和希腊贸易理事会联合举办了线上中国-希腊欧洲新兴投资目的地经济合作论坛。

11月20日，北京大学-中国银行欧盟经济与战略研究中心举行首次线上课题研讨会。

11月16日，中国驻欧盟使团、欧盟中国商会和欧洲工商峰会联合主办主题为“打造中欧绿色引擎，助力全球经济复苏”的中欧绿色合作高级别论坛。

11月2-3日，由中国人民外交学会与法国法中基金会联合举办的第二届中法二轨高级别对话视频会议在北京举行。欧盟中国商会周立红会长在11月2日的会议上通过视频连线发言。