

# **“After seven years of negotiations, it seems we will need another seven years for ratification”: the EU-China Comprehensive Agreement on Investment (CAI) as a Window into Evolving German Debate on China**

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## **Executive Summary**

The EU-China Comprehensive Agreement on Investment (CAI) proved short-lived. After seven years of negotiations, only five months passed between its in-principle agreement in December 2020 and the European Parliament voting to freeze ratification of the deal in May 2021. Despite its short tenure, the deal in many ways offers an ideal window into German debate on China in the post-Merkel period, as it would have deepened EU-China economic ties and, as this report shows, was not universally popular within Germany at the time – despite German Chancellor Angela Merkel’s leadership in pushing the deal through to conclusion, and suggestions by some European states that the CAI privileged the interests of Volkswagen and other German manufacturers. Drawing on semi-structured interviews and analysis of primary statements about the CAI among members of the German Bundestag (MdBs), civil society, and the business community, this report examines the landscape of reactions to the CAI within Germany.

In doing so, this report uncovers pressure points and key drivers at play as Germany dynamically seeks to reconcile its deep economic relationship with China with Beijing’s increasing tendency to act in ways that contravene European economic and political norms. Findings help distill guidelines for policymakers in Washington seeking to build transatlantic coordination vis-à-vis a changing China. The dynamics of the CAI suggest that while Germany is unlikely to mirror the U.S. in its approach to China in the near term, due to the enduring importance of the country’s economic relationship with China, the primary driver of German attitudes toward China is and will be the trajectory of a changing China. For these reasons, U.S. policymakers seeking to enhance goodwill and opportunities for joint efforts on China should increase formal and informal venues designed to regularly discuss goals with German and EU counterparts and share information on the ways in which Beijing’s behavior contravenes shared interests.

## **1. EU-China Comprehensive Agreement on Investment (CAI): Key Provisions**

Negotiations over the CAI began in January 2014 and spanned 35 meetings across seven years. The CAI would have replaced the individual bilateral investment treaties (BITs) that most EU member states hold with China. BITs regulate how host states treat foreign investors from the treaty partner. Brussels sought a comprehensive BIT to secure greater access and more predictable conditions for European firms and rectify the low levels of European investment in China: while bilateral trade in goods and services had grown substantially, China only accounted for 2.1% of overseas EU foreign direct investment (FDI) as CAI negotiations kicked off, “way below what could be expected from two of the most important economic blocks on the planet.”<sup>1</sup> For their part, Chinese policymakers were cognizant of China’s growing role as a capital exporter and were desirous to put regulatory mechanisms in place that would protect Chinese investment access abroad.<sup>2</sup>

After years of limited progress, negotiations proceeded particularly quickly in the final months of 2020, as Xi Jinping personally intervened to offer market access concessions and salvage the deal before a new U.S. administration desirous to work with allies and partners on China entered office.<sup>3</sup> German Chancellor Angela Merkel proved an eager partner in this eleventh hour push,<sup>4</sup> leveraging the final days of Germany’s EU Council presidency to secure an “in principle” agreement. During the last days of December, Merkel jointly announced the deal with European Commission President Ursula von der Leyen, European Council President Charles Michel, and Chinese President Xi Jinping. The CAI was put forth for ratification in the European Parliament (EP).<sup>5</sup>

The CAI had a relatively short tenure in public debate. In March 2021, Beijing sanctioned 10 individuals and four entities within the EU, in retaliation for EU sanctions of the same month targeting Chinese individuals and entities involved in the persecution and mass detention of Uighurs in Xinjiang.

This retaliatory move was a turning point in European debate on China, leading to a steep drop in strategic mistrust in Brussels and many EU capitals. As the EU representative for foreign and security policy Josep Borrell put it, Chinese retaliatory sanctions “created a new atmosphere... a new situation” in EU thinking toward China.<sup>6</sup> President of the European Chamber of Commerce (EUCC), Jörg Wuttke, observed a “mood shift” in Berlin by early 2021.<sup>7</sup> This move also pivotally shaped the trajectory of the CAI. In May 2021, the EP voted to suspend ratification while China’s sanctions remained in place.<sup>8</sup>

While the geopolitical context was an important part of debate over the CAI within Germany, as the next section shows, China’s concessions to EU investors under the CAI also proved controversial. The text of CAI was made public on January 22, 2021, and the specific market access commitments were released on March 12, 2021. The CAI’s core provisions can be split into three fields: market access, level playing field, and sustainable development provisions. Several provisions within the annexes are also worth introduction since they were hotly debated in ensuing discussion of the deal within Europe and Germany in particular.<sup>9</sup>

**Market access.** The CAI followed a “positive list” approach, specifying parts of the Chinese economy open for European investment.<sup>10</sup> For the most part, these were “almost entirely a confirmation of earlier openings by China, either under the aegis of the WTO, or through the successive issuance of several ‘negatives lists’ for foreign investment.” New market openings were limited.<sup>11</sup> Arguably, the CAI promised to “prevent...backsliding” by binding China under the power of an international treaty to preserve existing openings for EU firms in the future. EU negotiators also pointed to the “ratchet clause” as a win: the clause meant any further opening that China offered investors of other nations would automatically be extended to EU investors.<sup>12</sup>

**Level playing field provisions.** This section of the CAI was its most popular among European businesses and policymakers. China addressed several longstanding complaints of European businesses in China: banning forced technology transfer, mandating transparency over subsidies in services, requiring state-owned enterprises (SOEs) to act on commercial bases and not discriminate against foreign firms in their procurement and sales of goods and services, and granting EU firms access to Chinese standard setting bodies.<sup>13</sup> Some analysts were skeptical of such promises, given what they saw as China’s weak record of compliance with prior international commitments in some of these areas.<sup>14</sup>

**Sustainable development.** In the CAI, the EU secured commitments from China to not lower or fail to enforce certain environmental and labor standards to attract investment. Specifically, China agreed to renew efforts to combat climate change and implement its promises under the 2015 Paris Agreement, and agreed to make “continued and sustained efforts” to ratify outstanding International Labor Organization (ILO) conventions (No. 29 and No. 105) banning forced labor. As of the start of 2020, Beijing reportedly refused to make commitments in this realm.<sup>15</sup> As a result, EU negotiators presented this commitment as a “very strong signal” of China’s intent to improve practices in the environmental and labor domains.<sup>16</sup>

**Special provisions.** Two further provisions are worth noting since they featured extensively in debate about the CAI within Germany. The first related to NGOs: Annex II, Article 9 largely enshrined existing restrictions on European NGOs, business chambers, and foundations in China;<sup>17</sup> in it, China also reserved the right to demand senior executives of foreign non-profit organizations in China be Chinese citizens. The second provision restricted the rights of European law firms in China, specifying that foreign law firms were required to entrust Chinese law firms to deal with Chinese legal affairs on behalf of foreign clients, rather than provide representation or advisory services to them directly.<sup>18</sup>

## 2. Landscape of German Reactions to the CAI: 2020-21

When the CAI was announced, EU-China relations were in a far different state than they had been seven years earlier. Beijing was cracking down on democratic freedoms in Hong Kong through a series of new regulatory measures. The scale and nature of Chinese internment practices targeted at the Uighur population in Xinjiang were coming to light. Chinese wolf warrior diplomats were causing a stir on social media in many European capitals. And across 2020, as COVID-19 spread across the European continent, China profited financially and ideologically by selling PPE to Europe for a profit, spreading disinformation about the virus’s origins, and highlighting tragedies to suggest the West was in chaotic

decay.<sup>19</sup> Commenting on the CAI's suspension in May 2021, European Trade Commissioner Valdis Dombrovskis noted "we cannot ignore the wider context of relations between the EU and China."<sup>20</sup>

Meanwhile, a month before the CAI was announced in principle, President Donald Trump, who had ruffled feathers in European capitals for his "America first" rhetoric, was voted out of office in favor of Joseph Biden, whose appointees immediately began communicating a desire to work with partners and allies to preserve the liberal international order from threats – chief among them, China. The incoming U.S. administration made its hesitation to the CAI clear prior to inauguration day. Just eight days before the EU and China announced the agreement, Biden's incoming National Security Advisor Jake Sullivan implied reservations by sharing that the Biden team would "welcome early consultations with our European partners on our common concerns about China's economic practices."<sup>21</sup>

The CAI was introduced at this nexus: amid transformative changes in China's international and domestic policy behavior, and amid renewed prospects for transatlantic relations represented by the new U.S. administration. As a result, debate about the CAI within Germany and more broadly among national governments, industry associations, and civil society in Europe centered not only on the substance of the deal, but also its timing. The following sections examine how political, business, and civil society communities within Germany reacted to the CAI, drawing on both interviews with members of these communities and statements across 2021 from the major German political parties (CDU, SPD, FDP, Greens), key German business and industry associations, and German civil society organizations.

### **Political Reactions**

Political debate on China in Germany is driven by coalitional and interparty politics, industry and civil society positioning, geopolitical developments, and China's own foreign and domestic policy behavior. The approaches to the CAI within each major political party in part confirm that political debate on China is now broadly driven by what analyst Roderick Kefferpütz has described as a "tug of war": between those who favor Merkel's long-standing engagement-centered approach to China, and those who prefer a more values-driven foreign policy.<sup>22</sup> The two frameworks for China policy do not fundamentally disagree on the facts of the Sino-German relationship – for example, that China is an important trading partner or that its rising crackdowns at home and assertiveness abroad are concerning. But the two camps differ in how to engage China based on these facts. As parties, the Alliance 90/The Greens (herein "the Greens") and the Free Democratic Party (FDP) trend more toward the "dialogue and toughness" side of the debate, as German Foreign Minister Annalena Baerbock put it on the 2021 federal election campaign trail.<sup>23</sup> Within Germany's historically largest parties, the Christian Democratic Union (CDU) and Social Democratic Party (SPD), there is more debate between these positions.

As the following sections show, the reactions of these four major German political parties to the CAI highlight these dynamics. It is worth noting that all major parties had both detractors and supporters of the investment agreement: mirroring the diversity of policy positions found within the major U.S. political parties, each party had members that were more supportive or less supportive both of the CAI and of reevaluating Germany's approach to a changing China. Nevertheless, trends can be distilled.

#### *FDP and Greens Led Criticism*

Political attention to the CAI was limited upon the in-principle agreement – perhaps because it came over the winter holiday period – but grew in early 2021 after the full text was made available and China surprised by imposing retaliatory sanctions. None of the major parties were opposed to the CAI outright, but the Greens and FDP argued against ratification in its agreed form.<sup>24</sup> These parties viewed the timing with skepticism: the announcement came as a new U.S. administration eager to work with Europe on China-related trade and investment issues was entering office, and arguably delivered Beijing a diplomatic win amid concerning foreign and domestic policy developments noted above.<sup>25</sup> Beyond this, especially as the text was released, both parties concluded the CAI represented a missed opportunity to press for greater alignment with European values in China's market orientation and human rights practices.

Chinese countersanctions on European entities got the ball rolling on a coordinated FDP response, which in June resulted in a set of twelve demands (hereafter “12 demands”) written by Sandra Weeser, member of the Economic Affairs and Energy Committee in charge of trade policy, and Gyde Jensen, an FDP colleague who was serving as Chairwoman of the Committee on Human Rights and Humanitarian Aid.<sup>26</sup> Jensen and Weeser faced little internal pushback to their critiques within the FDP. As one interviewee argued, this reflected an increasingly skeptical party stance on China, owing not only to the party’s transatlanticist tendencies and growing concern about China’s human rights behavior, but also its core electorate, which included “Mittlestand” companies wary of growing competition at home from Chinese industrial policy.<sup>27</sup> According to the interviewee, inclusion of calls for other trade agreements, including with Canada (CETA) and Mexico (EU-Mexico FTA), in the “12 demands” report reassured the most ideologically pro-free trade elements of the party.

While the Greens did not produce a similarly formal standalone set of demands for the CAI, quite a few members spoke out against the deal. Reinhard Bütikofer, a German Greens politician serving as a Member of the European Parliament (MEP), immediately questioned its hasty conclusion and later, drew attention to a wide range of deficits he saw in the text.<sup>28</sup> As the following paragraphs show, Bütikofer was not alone in his criticism. However, it is worth noting that some Greens were less critical at the time. One interviewee pointed to prominent Green party MdB Jürgen Trittin as an exception in this regard.<sup>29</sup> Trittin reportedly saw the timing as unproblematic in a transatlantic context, because the U.S. had recently secured its own economic concessions from China.<sup>30</sup> That said, even Trittin felt that this “window of opportunity” in EU-China relations had not been utilized to its full advantage, and argued that certain provisions in the CAI were inadequate in light of recent developments in Hong Kong and Xinjiang.<sup>31</sup>

Upon reviewing the CAI, the Greens and FDP were primarily gripped with its chapter on sustainable development. China’s commitment to “make continued and sustained efforts to pursue ratification” of ILO conventions on forced labor were seen as insufficient, especially in light of China’s clear violations in this regard which had come to light in Xinjiang. In an April 2021 interview, then Chancellor candidate Annalena Baerbock argued that in the CAI, “the European side has not adequately addressed the issue of forced labor in relation to the oppressed Uyghur minority.”<sup>32</sup> Margarete Bause, then serving as spokeswoman for human rights and humanitarian aid for the Greens’ parliamentary group, called the CAI a “mistake” against the background of the human rights situation in China.<sup>33</sup> FDP lawmakers involved in organizing the party’s response to the deal, including Jensen and Weeser, had been following developments in the human rights situation within Hong Kong and Xinjiang for some time with concern.<sup>34</sup> In commentary on the CAI, the Greens and FDP repeatedly suggested more could be done to address Beijing’s forced labor practices in Xinjiang.<sup>35</sup> While demanding that the CAI’s sustainable development section be strengthened, including by forcing China commit to ratification of the relevant ILO conventions within a fixed timeline, many politicians from these two parties also advocated for additional initiatives to address these practices.<sup>36</sup>

Outside the sustainable development provisions, the FDP and Greens largely saw China’s market access and level playing field commitments as a step in the right direction, but inadequate to justify ratification. Members of both parties critiqued the continued lack of reciprocity promised by the deal, expressed skepticism at China’s track record observing WTO rules and argued that level playing field provisions needed to be combined with robust investment protection to ensure an improved situation for European firms.<sup>37</sup> Other concerns, expressed in the FDP’s “12 demands,” were the NGO provision and the provision prohibiting foreign law firms from practicing Chinese law, which enshrined what the FDP saw as overly restrictive Chinese laws in treaty form.<sup>38</sup>

#### *CDU and SPD: Grand Coalition Support, Amid Individual Critiques*

The CDU and SPD were more muted than the FDP and Greens when it came to China during the 2021 federal election campaign, which kicked off early that year as the CAI was still in play. A reflection of this is found in party election manifestos: China was mentioned 16 times in the FDP manifesto and 15 times in the Greens’, while the CDU/CSU mentioned the country only 7 times and the SPD only 3.<sup>39</sup>

Nevertheless, trends can be distilled from individual lawmaker statements about the CAI and party statements on China in general.

Under Merkel's leadership, the CDU supported the deal throughout the final year of her chancellorship. Despite individual criticisms of timing and substance, the CDU/CSU parliamentary group released an endorsement statement, wherein deputy chairwoman Katja Leikert cited "worrying" developments in the human rights situation in China but dismissed suggestions that the CAI should be used to force meaningful improvements.<sup>40</sup> Leikert argued it would be "naïve" to expect an investment agreement to "bring about a system change in China" and Chinese commitments of any variety on this front "must be seen as the positive intermediate steps that they are."<sup>41</sup>

The chancellery and top CDU ministers took steps to boost support for the CAI within Germany. Economics Minister Peter Altmaier, a member of Merkel's cabinet, immediately lauded the CAI as a "trade policy milestone" promising greater market access and legal certainty, and a better competitive environment in China.<sup>42</sup> Merkel's public defense of the deal was arguably limited, but she did undertake efforts to drum up support in more targeted settings. In a speech to CDU/CSU lawmakers in May 2021, just after Dombrovskis announced he would no longer actively pursue ratification, Merkel argued that despite human rights concerns vis-à-vis China, the CAI remained a "very important endeavor" promising German companies more reciprocity in terms of market access.<sup>43</sup>

Reflective of the party today, some CDU members expressed reservations with the deal's timing and what they saw as an inappropriate continuation of Germany's business-first paradigm. In the CAI debate, individual CDU lawmakers voiced concern about the ILO provision, a key concern of the FDP and Greens. Norbert Röttgen, a CDU politician who had led the push against Huawei in Germany's 5G infrastructure in 2019, expressed alarm from his vantage point as Chair of the Committee on Foreign Affairs in the Bundestag that allowing the CAI to proceed as is, with China merely committing to "efforts" to ratify the ILO conventions on forced labor, would be akin to concluding an agreement in which "forced labor is implicitly accepted."<sup>44</sup> Nevertheless, there was no organized opposition to the deal within the CDU.<sup>45</sup>

In government as a coalition partner of the CDU at the time, the SPD did not oppose the CAI upon its in-principle agreement. Some in the SPD were seeking to distance the party from Merkel's business-first approach to China, while maintaining dialogue and engagement at the center of its approach. Germany's muted reaction to Beijing's draconian crackdown in Hong Kong was an important turning point for this group. In the wake of this, Nils Schmid, the SPD's spokesperson on the Committee on Foreign Affairs who had played a role in Germany's 5G debate, critiqued Merkel's China approach for being "out of date," and argued it was time to retire the idea that "as we deepen our economic ties with China, it will become more liberal."<sup>46</sup> Spearheaded by Schmid, as well as by prominent SPD politicians Metin Hakverdi and Christoph Matschie, the SPD parliamentary group released a position paper on China in June 2020 calling for a tougher approach: while endorsing the EU's three-part approach to China as a partner, competitor, and systemic rival, the paper argued (according to one of the authors) that systemic rivalry should condition both partnership and competition, instead of Germany approaching China as "a partner on Monday, competitor on Tuesday, and rival on Wednesday."<sup>47</sup>

Nevertheless, there were certainly wings of the SPD in favor of continuing a pro-engagement approach akin to that of Merkel at the time – which had historically been the stance associated with the SPD.<sup>48</sup> As one, now Chancellor Olaf Scholz (who had a track record of promoting trade and investment with China from his years as Finance Minister and Mayor of Hamburg) arguably downplayed the need for a departure from past policy on the 2021 federal election campaign trail.<sup>49</sup> As a historically pro-labor party, many SPD members were particularly conscious of the employment and profit opportunities tied to trade and investment with China. As an example of this awareness, one interviewee pointed to the fact that SPD stronghold Lower Saxony holds an ownership stake Volkswagen, which employs nearly 300,000 Germans and remains heavily invested in China.<sup>50</sup> The SPD's 2021 federal election manifesto signaled the perceived importance of continuing to "conduct dialogue with China on cooperation and competition in a...constructive and critical manner."<sup>51</sup>

The SPD did not issue a formal party position on the CAI. Its lack of organized opposition arguably reflects the diversity of views about China and the deal found within its membership, but also suggests cautious optimism about deepened trade and investment ties with China despite geopolitical developments, in alignment with its then coalition partner. Individual lawmaker statements at the time support this conclusion. Even while expressing concern that China's behavior was running antithetical to CAI promises, SPD member and chair of the European Parliament's International Trade committee Bernd Lange argued that "a trade and investment agreement offers the possibility of dialogue and the gradual change of facts."<sup>52</sup> In an interview in September 2021 on what German trade policy toward China should look like, SPD parliamentary group economic and energy policy spokesman Bernd Westphal did not mention the then-frozen CAI, but emphasized that the SPD "see[s] China as an important trading partner" and Germany should focus its efforts on "integrating China into the rules-based world trade system."<sup>53</sup> Revealingly, FDP and Greens representatives answered the same question by discussing the various barriers they felt must be addressed before the CAI could even be reconsidered.<sup>54</sup>

### **Business Community**

Expectations for the CAI among German industry had been high. Even those China-invested companies most in favor of continued engagement and fearful of Chinese retaliatory behavior supported calls by the federal government and business associations for greater reciprocity and a more level playing field for German and Chinese companies in China. While they had long advocated for better operational conditions for their firms in China, major German associations such as the Federation of German Industries (BDI) and Association of German Chambers of Commerce and Industry (DIHK) intensified this push as Chinese firms began leveraging European economic openness to sell and invest within the EU, and as Beijing launched industrial policy plans such as Made in China 2025 targeting global leadership in fields of German economic advantage.<sup>55</sup> Accordingly, while encouraging progress in CAI negotiations, German industry associations cautioned European negotiators that quality would be as important as speed; as the DIHK put it, any agreement would require an "ambitious offer by China" leveling the playing field and reducing market asymmetries to be meaningful.<sup>56</sup>

By these metrics, German business associations found the CAI underwhelming. Despite calls for substance, "in the end, it was only speed," as BDI executive board member Wolfgang Niedermark put it in April 2021.<sup>57</sup> Few German firms found major "wins" to point to, especially in market access, a member of the business community shared.<sup>58</sup> Market access deliverables fell short of true reciprocity,<sup>59</sup> and in many cases duplicated existing openings, primarily serving to "legally safeguard access in market areas where liberalization has been under way for some time."<sup>60</sup> German business associations noted that longstanding complaints of their members in China had gone entirely unaddressed in the CAI – including in the fields of government procurement, IP protection, and cross-border data transfer.<sup>61</sup>

This did not prevent the community from officially supporting the CAI. Business associations saw the deal as an important symbolic, if marginal, step toward improving investment planning and security. The car industry (VDA) called the CAI an "important step...in a process towards ever-improving framework conditions for fair competition" in China and felt it "must be ratified as quickly as possible."<sup>62</sup> The chemical industry (VCI) "welcomed the agreement."<sup>63</sup> The mechanical engineering industry (VDMA) called the CAI a "bird in the hand" whose provisions represented "first step[s] in the right direction."<sup>64</sup> As a BDI representative put it in April 2021, "it's all a piece on our way to have rule-based cooperation between China and us. And we are not enthusiastic, but we think it is a good thing to have such an agreement."<sup>65</sup> Another member of the German business community held that despite its deficits, the CAI was "one part in an overall strategy that moves us forward in a certain direction."<sup>66</sup>

Indeed, German industry largely welcomed its core provisions as a step in the right direction, while acknowledging they were just that: a step, which would need to be combined with others to level the playing field for European firms in China. Almost immediately, the attention of these major business associations vis-à-vis the CAI turned to how to achieve additional business community objectives following its as-is ratification. Friedolin Strack of the BDI, for example, argued in April 2021 that a "CAI phase two" would be necessary: "we have reached a certain step, but we need more steps. We should

make clear at every occasion and we in BDI try to do that...that we do not leave China in this position of feeling comfortable in this role of a Party-driven economy.”<sup>67</sup>

Due to its perceived deficits, when the CAI was frozen due to tit-for-tat sanctions in the spring of 2021, the German business community did not see it as a big loss or organize to lobby against it. On balance, Chinese concessions were not seen as substantial, and businesses largely remained interested in the Chinese market with or without an EU-China investment agreement in place. As BDI’s Niedermark put it after China sanctioned EU officials, a failure of the CAI would “not mean that we have to stop our engagement or could not even invest more in China.”<sup>68</sup>

### **Civil Society**

German civil society – NGOs, foundations, think tanks – meaningfully entered the national debate on the CAI after March 2021, as the full text was published and China implemented retaliatory sanctions on EU entities. This group was in some ways the most outspoken in its criticism of deal. Civil society actors had not been extensively engaged during negotiations; the Directorate-General for Trade at the European Commission convened “Civil Society Dialogues” beginning in 2017, but these reportedly “served primarily as a communication tool and mostly attracted business representatives.”<sup>69</sup> As a result, the initial reaction was one of surprise at the NGO provision: as Bertram Lang, a researcher at Goethe University with expertise on civil society issues in China, shared, “when the Annexes were published...there was mostly astonishment, because NGOs didn’t really have the CAI on the radar.”<sup>70</sup>

Surprise among civil society was soon accompanied by criticism, if cautiously and privately expressed by some groups.<sup>71</sup> As Tagesschau reported, German political foundations – many of which had offices in China – found the provision “irritating” and “threatening,” a symbol that this community was not seen as important enough to be included in negotiations. But they were also immediately concerned about implications for their operations within China. According to Lang, foundations reacted strongly to this provision partially because “they read it as if the next day, they would have to appoint a [Chinese] senior executive” to lead their operations in China in order comply with Chinese law. As noted above, businesses and industry associations such as the BDI were also implicated by the NGO provision, and helped fuel media attention to the issue within Germany across the early months of 2021.<sup>72</sup>

Think tanks also drove criticism of the deal. For example, while seeing the market access and level playing field provisions as positive developments, Mikko Huotari and Max Zenglein of the influential German think tank MERICS argued that the “(geo)political context and what’s not in the agreement” meant that it was “not...the deal the European side had hoped for when negotiations started seven years ago.”<sup>73</sup> On the eve of the CAI’s in-principle agreement, a group of 14 EU-China experts at German and other European think tanks and research organizations suggested that concluding the CAI at the end of 2020 would symbolically endorse Beijing’s political trajectory after a year of shocking developments in its international and domestic policy and result in loss of leverage on “issues critical for [Europe’s] future competitiveness [and]...on fundamental value issues.”<sup>74</sup> According to Noah Barkin, Managing Editor at the Rhodium Group and a Visiting Senior Fellow at the German Marshall Fund, criticism grew over time, particularly after China lobbied sanctions at European entities including MERICS.

### **3. Takeaways for Transatlantic Cooperation on China**

Beijing remains interested in the CAI, particularly as support for stricter investment screening grows in many European capitals. The direct hurdles to the CAI are Chinese sanctions and the ILO provision, as attention in Europe has grown substantially over the past year toward Beijing’s human rights practices. These will be difficult to overcome as “promise fatigue” grows in European capitals: China’s commitments to uphold international economic and political norms are increasingly viewed with a degree of skepticism – a trend accelerated by Beijing’s tacit support for Russia during the Ukraine war, despite its stated support for sovereignty and territorial integrity.

This dynamic is evident in Europe’s reaction to more recent efforts China has made to signal its commitment to CAI ratification. In meetings with sanctioned EU organizations and individuals in fall 2022, Beijing reportedly communicated that outstanding restrictions would not be strictly enforced.<sup>75</sup>

Reflective of the wide range of concerns with China and the CAI, however, this did little to move the needle. Further, in April 2022, Beijing announced it would ratify ILO conventions 29 and 150, arguably following through on its promises to make “efforts” toward ratification.<sup>76</sup> However, many European policymakers did not see China’s ratification as a gamechanger: ongoing concern about China’s human rights practices, and an overall sense of skepticism when it came to promises from Beijing, had taken hold in many corners of the German and European parliaments.<sup>77</sup>

While a bilateral investment deal between Europe and China looks unlikely as 2023 dawns, the Biden administration will be seeking to maximize transatlantic coordination in the years ahead as U.S. strategic competition with China accelerates. The CAI’s trajectory suggests several realities about evolving German debate on China that U.S. policymakers would do well to keep in mind as they pursue this task going forward.

First, the primary determinant of German sentiment on China will be Beijing’s actions. Souring German (and European) sentiment toward China is not the result of U.S. pressure, despite Chinese assessments to the contrary.<sup>78</sup> Rather, the key driver is the trajectory of a changing China.<sup>79</sup> China’s ratification of ILO conventions in 2022 did little to convince European policymakers that Beijing was newly committed to improving its human rights practices, for example, because its policies in Xinjiang were telling another story.

Second, pull factors remain strong for German enterprises in China, preserving a pro-engagement voice in the national debate. Today, while German companies are wary of a growing set of risks to their business operations in China and increasingly exploring options for diversification, they remain interested in China as a production site, source of innovation, and market. Larger German firms (and their top suppliers) with meaningful China exposure continue to invest heavy sums into the country.<sup>80</sup> Many German firms are adapting to growing geopolitical tension by localizing staff, supply chains, and data flows and taking advantage of local R&D and partnerships with Chinese firms to tailor their products and services.<sup>81</sup> A representative of one business association observed that while the field itself may be shifting (given structural developments in the Chinese economy) and becoming less level (given rising Party-state intervention in shepherding economic resources toward strategic ends), “there is still a lot of political and economic will to...play on that playing field” among German companies.<sup>82</sup>

These pull factors explain why China-invested German corporate heavyweights recently “buted heads” with the Greens-controlled Foreign Ministry and Ministry of Economic Affairs over government missives to diversify away from China and the intensified government emphasis on systemic rivalry with China, which they see as risking retaliation from Beijing and jeopardizing profits in China.<sup>83</sup> It also suggests that this pro-engagement lobby will remain a player in German debate on China going forward. The fault line within the German business community in positioning on China, several members of this community suggested, may increasingly be between those companies with a China presence and those without, as investing in China gets harder due to German government pressures, market competition, and a changing regulatory environment in China.<sup>84</sup>

Nevertheless, among German businesses (and political officials), there is widespread support for an enhanced EU and transatlantic toolbox of defensive measures designed to level the playing field and bring China more in line with the multilateral rules-based system. German industry felt the CAI failed to secure comprehensive improvements in these areas, and associations called for additional instruments to level the playing field, such as stronger European investment screening and anti-foreign subsidy instruments.<sup>85</sup> As a representative of German business put it, “we’re all in heavy favor of sharpening our tools, because...it’s a much better diplomatic deterrent and a clearer way of working together.”<sup>86</sup> Another representative held that supranational tools were widely supported given prioritization on improving reciprocity and levelling the playing field: “China reacts to strength.”<sup>87</sup>

The Biden administration would do well to recognize these realities as it seeks to enhance transatlantic cooperation on China in the years ahead. Cooperative endeavors should be approached soberly and incrementally, with recognition that while risk assessments of China in the EU’s largest member state are evolving, they are doing so in an uneven and gradual way with significant disagreement over the speed and scale of policy change. Some of the largest businesses remain opposed to national



directives that push the country toward even targeted economic and technological decoupling from China, such as Germany's recent supply chain due diligence law, or proposals to eliminate government investment guarantees and screen outbound investment.<sup>88</sup> And as negotiations over Germany's China Strategy clarify, differences remain between and within the major German political parties regarding adjustments to German China policy. These realities do not mean German policymakers are inattentive to risks associated with a changing China, but – as in any democracy – will create pressures on political parties and lawmakers that may naturally condition the scope and speed of policy response to these risks.

Additional channels for U.S.-EU consultation about developments in China's foreign and domestic policies are needed. From the perspective of the EU, worrisome trends include (but are not limited to) China's expanding influence in international organizations (including those intended to protect and preserve human rights), increasing military assertiveness across the Taiwan Strait (a key maritime trading hub), economic coercion against European states as well as neighbors in the South China Sea, efforts to export Chinese policing and security practices to other authoritarian regimes, and growing influence operations in Europe – all of which overlap with U.S. concerns about China's rise. More frequent government exchanges on China, as well as regularized Track 1.5 and Track 2 dialogues, could serve as a basis for discussing Chinese actions that most contravene liberal values, determining which are most feasible to address jointly, and developing effective policy approaches.

The overall health of the transatlantic relationship will be vital for coordination on China, so ongoing efforts to preserve positive U.S.-EU relations will be needed. Recent U.S. export controls on China, and the U.S. Inflation Reduction Act (IRA), have triggered frictions with Europe not only because they affect the economic prospects of European firms, but also because they were reportedly carried out with insufficient consultation and communication about these consequences. Putting the merit of individual policies aside, regular attention to consequences for broader transatlantic ties in U.S. economic and technology policymaking – especially as this becomes a more important part of U.S.-China strategic competition – will preserve the goodwill needed for further coordination on China down the line.

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<sup>1</sup> European Commission, "EU and China Begin Investment Talks," January 20, 2014, [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_14\\_33](https://ec.europa.eu/commission/presscorner/detail/en/IP_14_33).

<sup>2</sup> Julien Chaisse and Matthieu Burnay, "Introduction – CAI's Contribution to International Investment Law: European, Chinese, and Global Perspectives," *The Journal of World Investment & Trade* 23, no. 4 (August 5, 2022): 497–520.

<sup>3</sup> William Yuen Yee, "Is the EU-China Investment Agreement Dead?," *The Diplomat*, March 26, 2022, <https://thediplomat.com/2022/03/is-the-eu-china-investment-agreement-dead/>.

<sup>4</sup> Hans Von Der Burchard, "Merkel Pushes EU-China Investment Deal over the Finish Line despite Criticism," *Politico*, December 29, 2020, <https://www.politico.eu/article/eu-china-investment-deal-angela-merkel-pushes-finish-line-despite-criticism/>.

<sup>5</sup> European Commission, "EU and China Reach Agreement in Principle on Investment" (Brussels, December 30, 2020).

<sup>6</sup> "Foreign Affairs Council: Remarks by High Representative/Vice-President Josep Borrell at the Press Conference" (EU External Action Service, March 22, 2021), [https://www.eeas.europa.eu/eeas/foreign-affairs-council-remarks-high-representativevice-president-josep-borrell-press-4\\_en](https://www.eeas.europa.eu/eeas/foreign-affairs-council-remarks-high-representativevice-president-josep-borrell-press-4_en).

<sup>7</sup> Bloomberg News, "China Tensions Spill Over as Europe Moves Toward Biden's Side," May 3, 2021, <https://www.bloomberg.com/news/articles/2021-05-03/china-tensions-spill-over-as-europe-moves-toward-biden-side?leadSource=uverify%20wall>.

<sup>8</sup> European Parliament, "MEPs Refuse Any Agreement with China Whilst Sanctions Are in Place," May 20, 2021, <https://www.europarl.europa.eu/news/en/press-room/20210517IPR04123/meps-refuse-any-agreement-with-china-while-sanctions-are-in-place>.

<sup>9</sup> For a useful chart of Chinese commitments, see Francois Chimits and Grzegorz Stec, "CAI - Looking beyond Market Openings" (MERICS, April 1, 2021), <https://merics.org/en/merics-briefs/cai-looking-beyond-market-openings>.

<sup>10</sup> "EU-China Comprehensive Agreement on Investment: Levelling the playing field with China," March 2021, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/679103/EPRS\\_BRI\(2021\)679103\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/679103/EPRS_BRI(2021)679103_EN.pdf).

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- <sup>11</sup> Francois Godemont of Institute Montaigne noted the market access section “follows a pattern where China first makes transactional case-by-case concessions, either because of a specific need or as part of a larger negotiating strategy, and later mutualizes the concession – first to a bilateral partner and then multilaterally.” According to Godemont, new market openings included digital consulting services, R&D services (with exceptions), personnel firms, company-level market research, many telecommunications and digital services including cloud services (with caps), private healthcare clinics (in certain cities), long-term leasing of land, and electric car plants (under certain conditions). Francois Godemont, “Wins and Losses in the EU-China Investment Agreement (CAI)” (Institut Montaigne, January 2021), <https://www.institutmontaigne.org/en/publications/wins-and-losses-eu-china-investment-agreement-cai>.
- <sup>12</sup> Chimits and Stec, “CAI - Looking beyond Market Openings”; European Commission, “Key Elements of the EU-China Comprehensive Agreement on Investment,” December 30, 2020, [https://ec.europa.eu/commission/presscorner/detail/es/ip\\_20\\_2542](https://ec.europa.eu/commission/presscorner/detail/es/ip_20_2542).
- <sup>13</sup> Sun Hong, “An Overview of the China/EU Comprehensive Agreement on Investment” (Norton Rose Fulbright, February 2021), <https://www.nortonrosefulbright.com/en/knowledge/publications/1a85b7c4/an-overview-of-the-china-eu-comprehensive-agreement-on-investment>.
- <sup>14</sup> Gary Clyde Hufbauer, “EU-China Investment Accord Fails to Resolve Subsidy Dispute” (Peterson Institute for International Economics, March 10, 2021), <https://www.piie.com/blogs/trade-and-investment-policy-watch/eu-china-investment-accord-fails-resolve-subsidy-disputes>.
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- <sup>16</sup> European Commission, “Q&A: EU-China Comprehensive Agreement on Investment (CAI),” December 30, 2020, [https://ec.europa.eu/commission/presscorner/detail/en/qanda\\_20\\_2543](https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2543).
- <sup>17</sup> China’s Overseas NGO Management Law (中华人民共和国境外非政府组织境内活动管理法), enacted in January 2017, had pivotally changed the landscape for foreign non-profit organizations operating in China. Kristin Shi-Kupfer and Bertram Lang, “Overseas NGOs in China: Left in Legal Limbo,” *The Diplomat*, March 4, 2017, <https://thediplomat.com/2017/03/overseas-ngos-in-china-left-in-legal-limbo/>.
- <sup>18</sup> European Commission, “China-EU Investment Agreement Negotiations - Schedules of China,” March 12, 2021, [https://trade.ec.europa.eu/doclib/docs/2021/march/tradoc\\_159483.pdf](https://trade.ec.europa.eu/doclib/docs/2021/march/tradoc_159483.pdf).
- <sup>19</sup> Andrew Small, *The Rupture: China and the Global Race for the Future* (London: The Hurst, 2022).
- <sup>20</sup> Euronews, “EU Suspends Efforts to Ratify Controversial Investment Deal with China,” May 19, 2021, <https://www.euronews.com/my-europe/2021/05/04/eu-suspends-efforts-to-ratify-controversial-investment-deal-with-china>.
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- <sup>22</sup> Roderick Kefferpütz, “Shifting Politics: The Future of Germany’s China Policy” (Institut Montaigne, April 7, 2022), <https://www.institutmontaigne.org/en/analysis/shifting-politics-future-germanys-china-policy>.
- <sup>23</sup> Annalena Baerbock, „Mit Dialog und Härte“, interview by Helene Bubrowski and Konrad Schuller, April 25, 2021, <https://www.gruene.de/artikel/mit-dialog-und-haerte>.
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- <sup>25</sup> Alexander Graf Lambsdorff, “Personenbezogene Sanktionen Der EU Sind Überfälliges Signal” (FDP, March 22, 2021), <https://www.fdpbt.de/lambsdorff-personenbezogene-sanktionen-eu-ueberfaelliges-signal>.
- <sup>26</sup> Gyde Jensen and Sandra Weeser, “Dem CAI neues Leben einhauchen – 12 liberale Forderungen für ein politisch tragbares Investitionsabkommen mit China” (12 demands), June 22, 2021.
- <sup>27</sup> Interview with author, September 22, 2022.
- <sup>28</sup> Butikofer subsequently commissioned research for the Greens/EFA group of the European Parliament into the “civil society blindspot” in EU-China relations as a result of the CAI’s surprise clause on non-profit organizations. He was also subsequently among the lawmakers sanctioned by China in March 2021. Reinhard Bütikofer, “Bütikofer (Grüne): Klauseln Zum Arbeitnehmerschutz Sind „wertloses Gerede“” (Deutschlandfunk, December 30, 2020), <https://www.deutschlandfunk.de/investitionsabkommen-mit-china-buetikofer-gruene-klauseln-100.html>; Reuters, “China Hits Back at EU with Sanctions on 10 People, Four Entities over Xinjiang,” March 22, 2021, <https://www.reuters.com/article/us-eu-china-sanctions-ministry/china-hits-back-at-eu-with-sanctions-on-10-people-four-entities-over-xinjiang-idUSKBN2BE1WB>.
- <sup>29</sup> Interview with author, October 6, 2022.

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<sup>30</sup> Johannes Bebermeier, “Das Abkommen Wird Sich in Der Praxis Beweisen Müssen” (t-online, December 30, 2020), [https://www.t-online.de/nachrichten/deutschland/id\\_89200966/eu-china-deal-juergen-trittin-abkommen-wird-sich-in-praxis-beweisen-muessen-.html](https://www.t-online.de/nachrichten/deutschland/id_89200966/eu-china-deal-juergen-trittin-abkommen-wird-sich-in-praxis-beweisen-muessen-.html).

<sup>31</sup> It is worth noting that in mid-December 2020, prior to the deal’s in principle agreement, Trittin and fellow Greens MdB Katharina Droege (now leader of the Greens parliamentary group in the Bundestag) had warned that a deal turning a “blind eye to human rights for a bit more market access...[would be] a rotten deal.” Jürgen Trittin and Katharina Dröge, “Investitionsabkommen Zwischen Der EU Und China,” December 18, 2020, <https://www.trittin.de/2020/12/18/investitionsabkommen-zwischen-der-eu-und-china/>.

<sup>32</sup> Baerbock, „Mit Dialog und Härte”.

<sup>33</sup> Margarete Bause, “EU-Vertrag Mit China: Das Investitionsabkommen Ist Ein Fehler,” Twitter, December 31, 2020, <https://twitter.com/MargareteBause/status/1344558746622713858>.

<sup>34</sup> Gyde Jensen has spoken about her transformative experiences visiting China and Hong Kong. Sandra Weeser is an outspoken human rights advocate and was a founding co-chair of the Inter-Parliamentary Alliance on China (IPAC). Gyde Jensen, *Watching China in Europe (Out of Order Podcast)*, interview by Noah Barkin, October 13, 2021, <https://www.gmfus.org/news/watching-china-europe-german-fdp-lawmaker-gyde-jensen>; Carl-Julius Cronenberg and Sandra Weeser, “Für Eine Einheitliche Europäische Lösung Zum Schutz Der Menschenrechte in Globalen Lieferketten,” October 6, 2020, <https://www.fdpbt.de/beschluss/fuer-einheitliche-europaeische-loesung-zum-schutz-menschenrechte-globalen-lieferketten>.

<sup>35</sup> Ringel, “Handelspolitik Mit China: Das Sind Die Ziele Der Parteien.”

<sup>36</sup> Reinhard Bütikofer and Olaf in der Beek, “Wie Man Einen Rivalen Zähmt: Neun Thesen von Grünen Und FDP Zum Umgang Mit China” (*Tagesspiegel*, June 13, 2021), <https://www.tagesspiegel.de/politik/neun-thesen-von-gruenen-und-fdp-zum-umgang-mit-china-6598135.html>; Omid Nouripour, „Unsere Demokratie steht auf dem Spiel“, *Table.China*, September 23, 2021, <https://table.media/china/professional-briefing/omid-nouripour-der-westen-ist-gescheitert-eu-kammer-kritisiert-abkopplung/>.

<sup>37</sup> Alexander Graf Lambsdorff, “Beim CAI besteht Ergänzungsbedarf,” *Table.China*, January 21, 2022; Jürgen Trittin, as cited in Johannes Bebermeier, “Das Abkommen Wird Sich in Der Praxis Beweisen Müssen” (t-online, December 30, 2020), [https://www.t-online.de/nachrichten/deutschland/id\\_89200966/eu-china-deal-juergen-trittin-abkommen-wird-sich-in-praxis-beweisen-muessen-.html](https://www.t-online.de/nachrichten/deutschland/id_89200966/eu-china-deal-juergen-trittin-abkommen-wird-sich-in-praxis-beweisen-muessen-.html).

<sup>38</sup> Jensen and Weeser, “12 demands.”

<sup>39</sup> SPD, “Aus Respekt Vor Deiner Zukunft: Das Zukunftsprogramm Der SPD,” 2021, <https://www.spd.de/fileadmin/Dokumente/Beschluesse/Programm/SPD-Zukunftsprogramm.pdf>; CDU/CSU, “Das Programm Fur Stabilität Und Erneuerung,” 2021, <https://www.csu.de/common/download/Regierungsprogramm.pdf>; FDP, “Nie Gab Es Mehr Zu Tun: Wahlprogramm Der Freien Demokraten,” 2021, [https://www.fdp.de/sites/default/files/2021-06/FDP\\_Programm\\_Bundestagswahl2021\\_1.pdf](https://www.fdp.de/sites/default/files/2021-06/FDP_Programm_Bundestagswahl2021_1.pdf); BÜNDNIS 90/DIE GRÜNEN, “Deutschland. Alles Ist Drin.,” 2021, [https://cms.gruene.de/uploads/documents/Wahlprogramm-DIE-GRUENEN-Bundestagswahl-2021\\_barrierefrei.pdf](https://cms.gruene.de/uploads/documents/Wahlprogramm-DIE-GRUENEN-Bundestagswahl-2021_barrierefrei.pdf).

<sup>40</sup> Katja Leikert, “Grundsatzeinigung Zwischen Der EU Und China Wichtiges Signal” (CDU/CSU, December 30, 2021), <https://www.cdusu.de/presse/pressemitteilungen/grundsatzeinigung-zwischen-der-eu-und-china-wichtiges-signal>.

<sup>41</sup> Leikert.

<sup>42</sup> “Altmaier: „EU-China-Investitionsabkommen Ist Ein Handelspolitischer Meilenstein“” (Bundesministerium für Wirtschaft und Klimaschutz, December 30, 2020), <https://www.bmwk.de/Redaktion/DE/Pressemitteilungen/2020/12/20201230-altmaier-eu-china-investitionsabkommen-ist-handelspolitischer-meilenstein.html>.

<sup>43</sup> “Merkel Wirbt Für EU-Investitionsabkommen Mit China” (EURACTIV Deutschland mit AFP, May 6, 2021), <https://www.euractiv.de/section/eu-aussenpolitik/news/merkel-wirbt-fuer-eu-investitionsabkommen-mit-china/>.

<sup>44</sup> There is evidence Röttgen found other elements, such as the lack of a public procurement provision, as a shortfall. Nicole Bastian et al., “Der Deal Steht: Bei Welchen Fragen Sich Die EU Durchgesetzt Hat – Und Wo China” (*Handelsblatt*, December 30, 2020), <https://www.handelsblatt.com/politik/international/investitionsabkommen-der-deal-steht-bei-welchen-fragen-sich-die-eu-durchgesetzt-hat-und-wo-china/26758948.html?ticket=ST-14345938-kb7sKoFuaqmWolHTwJLR-ap2>; Norbert Röttgen, *Twitter* (blog), December 30, 2020, [https://twitter.com/n\\_roettgen/status/1344366451415801856?s=20&t=NKmm3x1jPjlfQcUuvn-qyA](https://twitter.com/n_roettgen/status/1344366451415801856?s=20&t=NKmm3x1jPjlfQcUuvn-qyA).

<sup>45</sup> One interviewee surmised that while Röttgen had proved pivotal in the 5G debate and was critical of the CAI, the necessity of “picking battles” meant that he did not discuss the deal too much at the time. Interview with author, October 6, 2022.

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- <sup>46</sup> Guy Chazan, “Merkel Comes under Fire at Home for China Stance,” *Financial Times*, July 7, 2020, <https://www.ft.com/content/bf1adef9-a681-48c0-99b8-f551e7a5b66d>; Small, *The Rupture: China and the Global Race for the Future*.
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- <sup>50</sup> “Lower Saxony’s New Government Says Will Keep Volkswagen Stake,” *Reuters*, November 22, 2017, <https://www.reuters.com/article/us-volkswagen-lower-saxony/lower-saxonys-new-government-says-will-keep-volkswagen-stake-idUSKBN1DM1Y9>; Volkswagen, “Annual Report 2020: Employees,” 2020, <https://annualreport2020.volkswagenag.com/group-management-report/business-development/employees.html>.
- <sup>51</sup> SPD, “Aus Respekt Vor Deiner Zukunft: Das Zukunftsprogramm Der SPD.”
- <sup>52</sup> It is worth noting that subsequently, Lange critiqued China’s arrest of pro-democracy activists in Hong Kong as a “violation of the spirit of the EU-China investment deal sustainability commitments.” European Parliament, “MEPs Refuse Any Agreement with China Whilst Sanctions Are in Place”; Bernd Lange, ‘First time China has accepted any regulation on workers’ rights’, January 27, 2021, <https://www.ips-journal.eu/interviews/the-first-time-that-china-has-accepted-any-regulation-on-workers-rights-4936/>; Bastian et al., “Der Deal Steht: Bei Welchen Fragen Sich Die EU Durchgesetzt Hat – Und Wo China.”
- <sup>53</sup> Ringel, “Handelspolitik Mit China: Das Sind Die Ziele Der Parteien.”
- <sup>54</sup> Ringel.
- <sup>55</sup> An affiliate of German industry shared this (Interview with author, October 12, 2022), as confirmed in Wolfgang Niedermark, *Watching China in Europe* (Out of Order Podcast), interview by Noah Barkin, April 27, 2021, <https://www.gmfus.org/news/watching-china-europe-episode-two-wolfgang-niedermark>; BDI, “China - Partner and Systemic Competitor,” January 10, 2019, <https://english.bdi.eu/publication/news/china-partner-and-systemic-competitor/>.
- <sup>56</sup> “EU-China Investment Agreement: A Checklist” (DIHK, May 2020), <https://www.dihk.de/resource/blob/28234/fd4ca5e9dbc648682cf326712c897072/checkliste-eu-china-investitionsabkommen-englisch-data.pdf>. This position echoes that of the U.S. business during negotiations for a U.S.-China BIT. In October 2016, U.S. business associations similarly cautioned that “speed cannot trump substance” even while calling for negotiations to be quickly finalized to remedy some of the key issues plaguing foreign business expansion in China. “Tech Group Goes To Bat for US in China” (*International Business Times*, December 21, 2015).
- <sup>57</sup> Wolfgang Niedermark, *Watching China in Europe* (Out of Order Podcast), interview by Noah Barkin, April 27, 2021, <https://www.gmfus.org/news/watching-china-europe-episode-two-wolfgang-niedermark>.
- <sup>58</sup> Interview with author, October 12, 2022.
- <sup>59</sup> The deal did not deliver a narrow negative list approach, akin to the one in place in the EU, which restricted access for foreign investors only in sectors implicating national security or public order. “EU-China Investment Agreement: A Checklist.”
- <sup>60</sup> “EU-China Investment Agreement: A Checklist.”
- <sup>61</sup> “EU-China Investment Agreement: A Checklist.”
- <sup>62</sup> Bastian et al., “Der Deal Steht: Bei Welchen Fragen Sich Die EU Durchgesetzt Hat – Und Wo China.”
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- <sup>66</sup> Interview with author, September 27, 2022.

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- <sup>70</sup> Interview with author, September 15, 2022.
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- <sup>72</sup> Böhmer and Schiltz; Ruth Kirchner, “Deutsche Stiftungen Unter Pekings Leitung?” (Tagesschau, May 11, 2021), <https://web.archive.org/web/20210511183126/http://www.tagesschau.de/ausland/asien/china-deutsche-stiftungen-101.html>.
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- <sup>74</sup> A group of EU-China experts, “EU Should Not Rush Investment Deal with China” (EU Observer, December 18, 2020), <https://euobserver.com/opinion/150432>.
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- <sup>85</sup> *Impacts of the EU-China Comprehensive Agreement on Investment (SME Europe)*.
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