

1. Introduction

The aim of this paper is to analyze trade and business cooperation between the EU and China, in order to make proposals for improving and expanding such trade and cooperation in the future. The paper mainly focuses on issues and questions that have achieved a particular prominence in recent times.

The paper is divided into three major parts.

In the first part we review the environment for trade and business relations. We address three issues that have gained special relevance:

- The uncertainties about the business climate for foreign companies, which have increased significantly in recent months, darkening the perception of the Chinese market among many European companies.
- The main irritants in bilateral trade. In this section we consider three issues: the EU trade deficit with China, EU protectionist measures against Chinese products, and the question of the exchange rate of the Chinese currency.
- Changes in the pattern of growth of the Chinese economy, which involve changes in business opportunities for European companies.

The second part is aimed at analyzing problems of access to the Chinese market. We discuss a number of issues: regulations, certifications, foreign investment restrictions, etc., with particular attention to restrictions that have recently emerged – such as the new policy favouring "indigenous innovation" in public procurement.

The third and last part contains some conclusions and identifies several windows of opportunity for the future in trade relations and business cooperation between the EU and China. We make some recommendations or suggestions to encourage greater use of these opportunities.

2. The environment for trade and business

2.1. Uncertainties on the business climate in China

In recent times many companies and business organisations have perceived a significant deterioration in the business climate in China for foreign companies. It is too early to make a precise assessment of the subject, but many foreign companies, including European companies, are concerned about what they perceive as worsening conditions for the conduct of their activities in the Chinese market.

What is new in comparison with former times is that, since 2009, companies have started to voice their discontent openly. In the past companies used to maintain a low profile in order to avoid angering Chinese authorities and suffering subsequent retaliation.

An important qualification is that complaints mainly affect technology-based, machinery and services companies, etc. Consumer goods companies face a much more favourable situation. For these companies, China has become a booming market. In the fields of luxury consumer goods, China is one of the world's most dynamic markets, and for many major international brands this has been a real lifeline in recent times of economic crisis.

Numerous reports in the press and from relevant institutions have pointed to this deterioration. James McGregor, former president of the American Chamber of Commerce in China, noted in the pages of Time magazine that "In more than two decades in China, I have seldom seen the foreign business community more angry and disillusioned than it is today (...) Anti-foreign attitudes and policies in China have been growing and hardening since the global economic crisis pushed the U.S. and Europe into a tailspin and launched China to its very uncomfortable stardom on the world stage. (...) CEOs' banquet-table chatter is now dominated by swapping tales of arrogant and insolent Chinese bureaucrats and business partners. The litany includes purposefully inconsistent and non-transparent enforcement of regulations, rampant intellectual-property theft, state penetration of multinationals through union and Communist Party organizations, blatant market impediments through rigged product standards and testing, politicized courts and agencies that almost always favor local companies, creative and selective enforcement of WTO requirements ... The list goes on"¹.

The Daily Telegraph headlined a story: "UK businesses threaten to pull out of China over protectionism", noting: "In the wake of Google's decision to stand up to the Chinese government, other firms have complained of a witch-hunt against foreigners that has targeted British, American and European companies with intellectual property theft, blocked market access, rigged tender processes and the deliberately inconsistent enforcement of regulations"².

European Union Trade Commissioner Karel De Gucht clearly referred to the difficulties that are increasingly facing European companies in China during his visit to the Expo in Shanghai in July 2010: "European companies are increasingly worried"³.

¹ James McGregor, "The China Fix", Time, 1 February 2010.

² "UK businesses threaten to pull out of China over protectionism", Daily Telegraph, 9 February 2010.

³ EUBusiness, 22 July 2010.

In 2009, the European Union Chamber of Commerce in China issued an important Position Paper that conducted a thorough analysis of the conditions for business. The report carried out a detailed review of the growing number of obstacles facing European companies for the development of their activities in China. In its Executive Summary, the European Chamber of Commerce summarized in a very clear way the concerns about this deterioration: “Right across industries, European businesses are still impeded by issues concerning market access, legal and political transparency and the protection of Intellectual Property Rights (IPR). The spectre of protectionism has also appeared, and European companies are increasingly concerned by the tendency for local companies to be favoured over foreign-invested ones”⁴.

Important figures of the business community have publicly expressed their frustration about the worsening conditions for business in China. In an article in the Financial Times, entitled eloquently “China is beginning to frustrate foreign business”, Joerg Wuttke, president of the European Chamber of Commerce in China, pointed out that “In the 10 years since the establishment of the European Union Chamber of Commerce in China, I have seldom seen market sentiment among members so bleak or pessimistic. After 30 years of progressive market reforms, many foreign businesses in the country feel as though they have run up against an unexpected and impregnable blockade (...) For the first time I hear of companies contemplating leaving the country altogether. They consider this not because they cannot compete with local rivals – but because they are weary of slogging through an unpredictable business environment where the odds seem deliberately stacked against them. I also hear of big companies preparing strategies to route part of their future investment away from China and into other Asian countries, where a more transparent and predictable market environment means safer and healthier investment opportunities”⁵.

“The Chinese authorities should not take the presence and commitment of European companies for granted,” said Jacques de Boisseson, president of the European Chamber of Commerce in China, at the end of June 2010. “This massive commitment to the Chinese market is not unconditional. If perceived risks materialise to a great extent, the presence and commitment of our members may disappear”⁶. Mr. Boisseson was speaking at the launch of the chamber’s annual survey of European businesses in China. According to this survey, 64% of companies said China was one of their top three destinations for investment. But 39% of European companies said they expected the regulatory environment would worsen over the next two years, with only 10% expecting an improvement.

Leading representatives of companies have raised their voices to present their concern over developments in the business climate in China. BASF's chairman and the chief executive of Siemens made statements almost simultaneously in July 2010, criticizing the restrictions on foreign investment in many sectors and the obligations on technology transfer that the authorities imposed on foreign companies⁷.

These concerns were reflected in one of the more important publications about the business climate in China, the Business Climate Survey 2010, prepared by the American Chamber of Commerce in China. In the introduction to the study, the chairman of the Chamber wrote: “This year’s findings show the complex challenges facing the US business community in China. While most American companies are doing well in China, they are concurrently troubled by a mounting number of policy challenges ranging from the inconsistent enforcement of laws, to China’s discriminatory domestic innovation policies and regulations

⁴ European Union Chamber of Commerce in China (2009), Executive Summary, p. 6.

⁵ Joerg Wuttke, “China is beginning to frustrate foreign business”, Financial Times, 7 April 2010.

⁶ Financial Times, 30 June 2010.

⁷ EU Observer, 19 July 2010.