



August 2013  
AK Position Paper

# EU-China Investment Agreement

## About us

**The Federal Chamber of Labour is by law representing the interests of about 3.2 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership.**

**The AK EUROPA office in Brussels was established in 1991 to bring forward the interests of all its members directly vis-à-vis the European Institutions.**

### **Organisation and Tasks of the Austrian Federal Chamber of Labour**

The Austrian Federal Chamber of Labour is the umbrella organisation of the nine regional Chambers of Labour in Austria, which have together the statutory mandate to represent the interests of their members.

The Chambers of Labour provide their members a broad range of services, including for instance advice on matters of labour law, consumer rights, social insurance and educational matters.

Rudi Kaske  
President

More than three quarters of the 2 million member-consultations carried out each year concern labour-, social insurance- and insolvency law. Furthermore the Austrian Federal Chamber of Labour makes use of its vested right to state its opinion in the legislation process of the European Union and in Austria in order to shape the interests of the employees and consumers towards the legislator.

All Austrian employees are subject to compulsory membership. The member fee is determined by law and is amounting to 0.5% of the members' gross wages or salaries (up to the social security payroll tax cap maximum). 560.000 - amongst others unemployed, persons on maternity (paternity) leave, community and military service - of the 3.2 million members are exempt from subscription payment, but are entitled to all services provided by the Austrian Federal Chambers of Labour.

Werner Muhm  
Director

## Executive Summary

- The Austrian Federal Chamber of Labour (AK) requests the Republic of Austria, both at Council level as well as with regard to the European Commission, to argue the case to **make important documents** of public interest, such as the drafts for the negotiating mandates to the European Commission, **available** for a wide-open public debate.
- Both contracting parties must be required to **ratify all eight ILO Core Labour Standards, to implement these in national law and to effectively comply with them in their whole territories**. The AK therefore requests that any conclusion of negotiations in respect of an investment agreement with China will be tied to the requirement that China adheres to these obligations.
- The AK requests for the draft mandate to include a **“carving-out”** which has to precede the investment provisions. It shall clearly and bindingly stipulate that **governments with regard to decision-making** have available **sufficient policy space concerning legal and other regulatory measures**. We request to generally **exclude sensitive sectors** such as for example education, health, culture, public services and public passenger transport as well as **policy areas** such as labour and social affairs, environment, financial market regulation and tax policy **from the scope of the Investment Agreement**.
- The AK clearly rejects to extend **investment protection to market access**.
- The present references to **cross-border provision of services by workers** (“mode 4”) in the draft mandate for the Investment Agreement with China must be **strictly rejected**.
- The new EU investment policy must be based on a **clear and narrow definition of foreign direct investments** which promotes sustainable investment behaviour and future-oriented investments from a social-ecological perspective in the recipient countries. Portfolio investments may under no circumstances fall within the scope of the Agreement.
- The **investment protection provisions** (among other the standards of treatment) have to be sufficiently **specified** to exclude any far-reaching and questionable interpretations.
- The Agreement has to be balanced in that it ensures that **investor rights go hand in hand with obligations for investors** in order to promote positive investment behaviour.

- The contracting parties shall be obliged **not to undermine social and environmental standards** in order to attract foreign investments.
- In addition, we are **opposed to including an investor-state dispute settlement mechanism**. In view of the recent excesses in arbitration cases of international investment protection, one has to caution against high compensation payments which the EU or its Member States might incur within the scope of investor-state dispute settlement proceedings based on measures of public interest.

Should you have any further questions  
please do not hesitate to contact

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