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ACADEMY OF CHINA COUNCIL FOR THE PROMOTION OF INTERNATIONAL TRADE

Business Environment of the European Union 2023/2024





**Business Environment of the European Union
2023/2024**

CCPIT Academy

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Preface

China and the EU are two major forces advancing multipolarity, two major markets in support of globalization, and two major civilizations championing diversity. Amid the increasingly turbulent international situation, the China-EU relationship has strategic significance and implications for global peace, stability and prosperity¹.

2023 marked the 20th anniversary of the establishment of the China-EU comprehensive strategic partnership. The two sides resumed exchanges at all levels, and held the 24th China-EU Summit in Beijing. The summit delivered consensus and outcomes on a range of important issues, and reaffirmed China and EU's opposition to decoupling, demonstrating the strong resilience and vitality of China-EU relations. China and the EU maintained sound trade and economic cooperation and remained each other's second-largest trading partner. In 2022, direct investment flows from Chinese enterprises into the EU reached USD 6.901 billion, ranking third among China's outbound direct investment (ODI) destinations around the world.

China and the EU share widespread common interests. China keeps stable and consistent policies towards the EU. In 2023, however, trade protectionism was on the rise in the EU. It hyped up and used the concept of "de-risking" to expand its policy toolbox along with some member states, raised market access barriers, abused the concept of economic security, intervened in the operation of foreign enterprises by non-market means. These moves caused a negative impact on Chinese enterprises in Europe.

To make the voices of Chinese enterprises in Europe be heard and urge the EU to improve its business environment, the CCPIT Academy has conducted surveys on the EU's business environment for six consecutive years. The research group has comprehensively reviewed the laws and policies of the EU and its member states, and surveyed Chinese enterprises in Europe via on-site visits, questionnaires, telephone interviews, and online and offline forums. The number of companies we surveyed accounted for 10% of the total number of Chinese enterprises established in the EU in 2022. Respondents generally acknowledged the attraction of the EU market, but pointed to four problems in its business environment.

First, trade protectionism is on the rise.

The EU has continued to generalize and instrumentalize the concept of de-risking. In the European

1 Source: Ministry of Foreign Affairs of China website, https://www.mfa.gov.cn/eng/zxxx_662805/202312/t20231207_11196623.html.

Economic Security Strategy, trade and investment control measures, which got increasingly rigorous in the past five years, were put under the general framework of “safeguarding economic security”. As a result, a growing number of member states have begun to interpret the concept of de-risking from a confrontational perspective and view Chinese-funded enterprises as a “common security threat”. For the so-called “de-risking” purpose, the EU has comprehensively strengthened export controls in key industries and paid close attention to dual-use items in sensitive areas, ranging from energy, aviation, and aerospace to defense and security, telecommunications, semiconductors, and computing. This has made it difficult to export software and technologies to China. The EU has also tightened restrictions on two-way direct investment in key and emerging technology sectors, creating barriers for Chinese enterprises to invest in these sectors or receive investments from European companies.

Second, the EU has expanded its policy toolbox to raise market access barriers.

In recent years, EU member states have continued to establish or update their foreign investment review mechanisms in accordance with the EU Regulation on Foreign Direct Investment Screening². Nearly 30% of Chinese enterprises believed that access to the EU market has narrowed. Due to the tightening of foreign investment review, nearly half of Chinese enterprises plan to hold back investments in the EU or switch to member states with less screening. The Rules for Implementing the Foreign Subsidies Regulation lowered the threshold for the declaration of business operators’ centralized and public procurement activities, putting foreign enterprises under more compliance obligations. In 2023, the European Commission, on its own initiative, launched an anti-subsidy investigation into imports of electric vehicles originating from China, while the EU itself increased the intensity and scope of subsidies for NEVs. This has directly hit the development of upstream and downstream enterprises in China’s new energy vehicle industrial chain, and undermined bilateral economic and trade relations.

Third, the EU has abused the concept of national security to make non-market intervention in business operation.

In its second progress report on the implementation of the EU Toolbox on 5G cybersecurity³, the European Commission, for the first time, declared Chinese companies Huawei and ZTE as “high-risk” vendors, limiting or prohibiting member states from using services from these two companies. In its first National Security Strategy and Strategy on China, Germany positioned China as a partner, competitor and institutional rivalry. While the two strategies emphasized that China is one of Germany’s partners, they noted that China is competing with Germany in a way that is not in line with its interests, and cautioned against China’s digital infrastructure expansion and the investments from Chinese IT service providers. The Italian government has expanded its “golden power” to strictly review production and investments by Chinese companies. The national screening mechanism for foreign direct investments⁴ of Luxembourg, which has been officially implemented, covers a plethora

2 Source: Norton Rose Fulbright website, <https://www.nortonrosefulbright.com/en/knowledge/publications/fe64bdfd/eu-regulation-on-foreign-direct-investment-screening>.

3 Source: European Commission website, <https://ec.europa.eu/newsroom/ECCC/items/791557/>.

4 Source: Bonn Steichen & Partners website, <https://www.bsp.lu/lu/publications/newsletters-newsflashes/newsflash-national-screening-mechanism-foreign-direct#:~:text=The%20national%20screening%20mechanism%20applies%20to%20foreign%20direct,portfolio%20investments%20that%20provide%20no%20means%20of%20control%29>.

of areas and puts 12 categories of activities involving national security under its scrutiny.

Fourth, geopolitical conflicts and weaker economic growth have brought systemic problems to the EU.

The crisis in Ukraine and broader geopolitical tensions are creating uncertainties for the EU economy. After the outbreak of the Ukraine crisis, national economies of some member states have been hit to varying degrees, due to the global financial market turmoil, disruption in the raw materials supplies, surging energy prices, and unstable logistics. In 2023, inflation in the EU and the eurozone fell slightly, but remained at a high level, and the pressure of stagflation lingered on. In its Autumn Economic Forecast, the EU said that heightened geopolitical tensions would add to the uncertainties and cast a shadow over the economic outlook.

We have summed up the ten main suggestions of Chinese enterprises for the EU to improve its business environment, and hope the EU and its member states can take their concerns seriously.

1. Practice true multilateralism and uphold free-market principles.

We recommend that the EU uphold the WTO-centered multilateral trading system, promote trade liberalization in accordance with relevant rules, and abide by the principle of national treatment. The EU should treat European and foreign companies alike in its preferential policies, leverage the positive role of foreign enterprises in its economic development, and ensure national treatment truly applies to foreign-funded enterprises.

2. Push for the signing and implementation of the China-EU Bilateral Investment Treaty.

We recommend that the EU push for the early signing of the Bilateral Investment Treaty, ease market access for two-way investment, provide more transparent regulation, apply economic and trade rules against higher standards, and deepen the economic and trade exchanges between China and the EU.

3. Eliminate the negative impact of “de-risking” on China-EU trade and economic cooperation.

We call on the EU to abandon the zero-sum game mentality, refrain from hyping up the “China threat” theory or formulating restrictive policies on Chinese enterprises, minimize the negative impact of the “de-risking” measures on trade and economic cooperation, and ensure orderly, smooth and efficient alignment of industries between China and the EU.

4. Ease access to the EU market.

We recommend that the EU keep the investment market open, refrain from expanding the factors and scope of investment screening, lengthening the screening procedures, or expanding the screening authority. The EU should formulate a reasonable screening list, shorten the review period, and reduce the room for discretion of the government in terms of foreign direct investment screening.

5. Use anti-subsidy investigations and other trade remedy measures with prudence.

We recommend that the EU refrain from abusing trade remedy measures on the pretext of “overcapacity”, encourage cooperation in new energy vehicles and other new energy industries, so

as to create favorable conditions for China-EU trade and protect the interests of EU consumers.

6. Clarify the scope of application of export control on dual-use items.

We recommend that the EU further clarify the scope of dual-use items and restricted activities, and remove natural persons from the definition of “exporters” to avoid over-regulation of research workers. The EU should abolish the requirement on individual or global export licenses for the affiliated enterprises of multinationals to transfer software and technology to China.

7. Guide member states on the need to oppose decoupling.

We call on the EU to refrain from using expressions like “decoupling” for ideological reasons, and guide member states on the importance of advancing globalization in the right direction and opposing trade protectionism and unilateralism.

8. Create a fair, non-discriminatory, and predictable market environment.

We recommend that the EU make active efforts to build a fair, non-discriminatory and predictable market, and refrain from imposing strict screening on foreign investment while increasing subsidies for its own industries. Only by doing so can the EU remain an attractive destination for foreign investment.

9. Provide fair and equitable opportunities for Chinese enterprises to participate in public procurement.

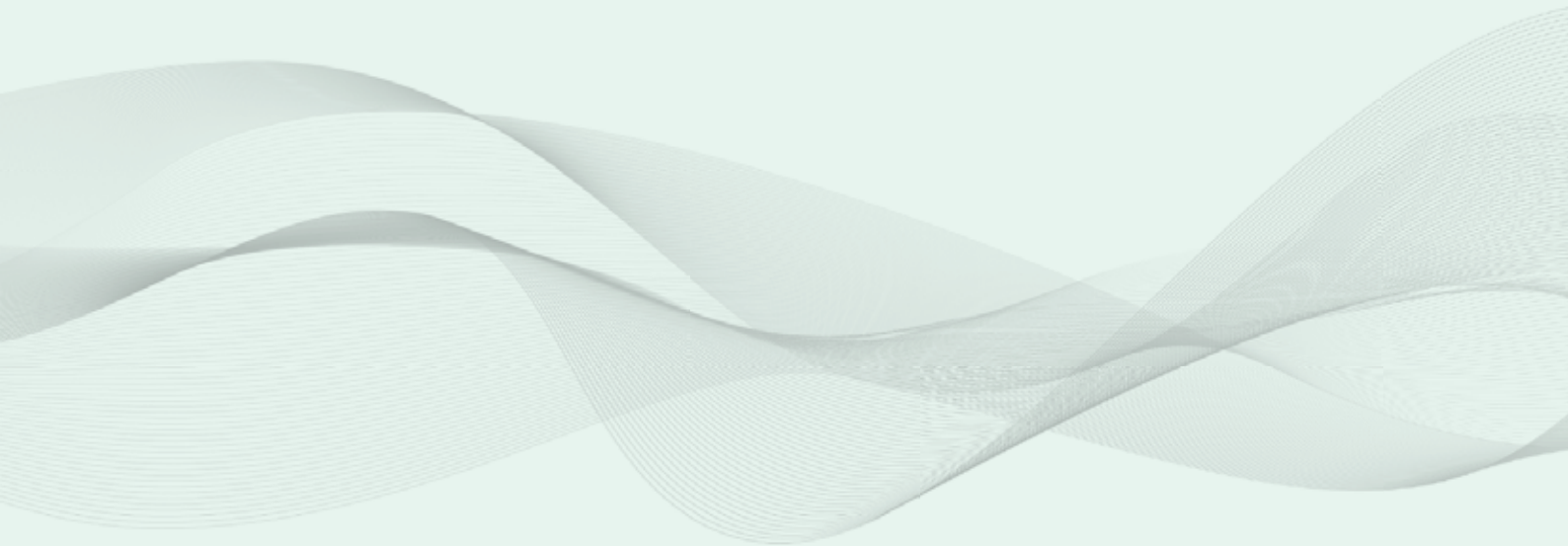
The EU should give Chinese enterprises a fair opportunity to participate in public procurement tenders, treat Chinese enterprises equally in the process of public procurement, and ensure that Chinese enterprises can participate in market competition fairly. The EU also needs to give clear explanations for prohibiting Chinese companies from investing in or engaging in public procurement projects in the EU.

10. Improve government services to protect the interests of Chinese enterprises in the EU.

We recommend that the EU and its member states improve service provision to businesses with enhanced awareness, greater efficiency, lower costs, and provide sound services throughout the entire life cycles of investment, from business establishment to de-registration.

Chapter I

Status Quo of China-EU Trade and Economic Cooperation



I. China-EU trade and economic cooperation maintains strong resilience

A. China and the EU are each other's second-largest trading partner

Global trade came under pressure due to multiple factors in 2023, with continued shocks from sluggish market demand. While total imports and exports between China and the EU both decreased compared with the same period of the previous year, there is still strong resilience. China remains the EU's second-largest trading partner, largest source of imports and third-largest export market while the EU is China's second-largest trading partner, second-largest source of imports and second-largest export market⁵. In 2023, trade in goods between China and the EU totaled USD 782.987 billion, down 7.1% year-on-year. In breakdown, China exported USD 501.233 billion worth of goods to the EU, down 10.2% year-on-year; China imported USD 281.754 billion worth of goods from the EU, down 0.9% year-on-year.

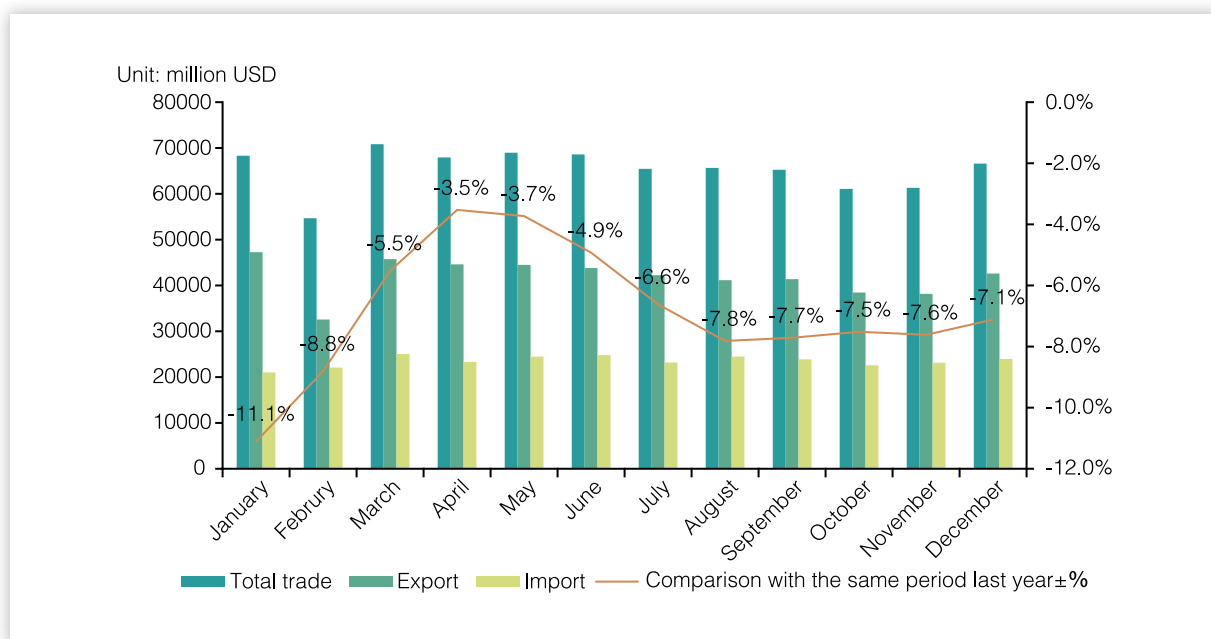


Figure 1-1: Overall trade in goods between China and the EU in 2023

Source: General Administration of Customs of China.

5 Source: (1) EU export data: Eurostat, https://ec.europa.eu/eurostat/databrowser/view/ext_st_eu27_2020sitc__custom_8304073/default/table?lang=en.

(2) EU import data: Eurostat, https://ec.europa.eu/eurostat/databrowser/view/ext_st_eu27_2020sitc__custom_8304307/default/table?lang=en.

(3) General Administration of Customs of China, <http://stats.customs.gov.cn>.

B. Direct investment from Chinese-funded enterprises to the EU fell slightly

In 2022, direct investment flows from Chinese enterprises to the EU stood at USD 6.901 billion, down 12.2 % year-on-year, ranking third among China's ODI destinations. In 2022, the cumulative direct investment from Chinese enterprises in the EU stood at USD 101.193 billion, accounting for 33.9% of China's investment stock in developed economies, the largest share of all. By the end of 2022, there were over 2,800 enterprises with direct investment in the EU, covering all 27 member states and creating over 270,000 local jobs⁶.

In terms of country distribution, Luxembourg, Germany and Sweden were the main investment destinations. In 2022, direct investment flows from Chinese enterprises to Luxembourg reached USD 3.25 billion, up 116.8% from the previous year, accounting for 47.1% of the total investment flows to the EU. The main areas for investment included finance, scientific research and technical services, residential services/repairs, other services, and manufacturing industries. China's direct investment in Germany amounted to USD 1.98 billion, down 27% year-on-year, accounting for 28.7% of China's investment in the EU, with the focus on industries such as manufacturing and electricity/heat/gas and water production and supply. The direct investment flow to Sweden reached USD 1.85 billion, up 44.5% year-on-year, accounting for 26.8% of China's investment in the EU, with the focus on sectors such as manufacturing, wholesale and retail⁷.

In terms of industry distribution, the manufacturing industry received more Chinese investment than other sectors—USD 3.86 billion, an increase of 4.6% from the previous year, accounting for 56% of the total. The main investment destinations were Sweden, Germany, and Luxembourg. The second-largest area of investment was the financial industry—USD 1.97 billion, an increase of 76.6% year-on-year, accounting for 28.6% of the total. The main investment destinations were Luxembourg, Germany, and Ireland. The third-largest area was the wholesale and retail sector, with an investment of USD 650 million, a ten-fold increase over the previous year, accounting for 9.4% of the total. The main investment destinations were the Netherlands and Sweden. The main sectors of Chinese direct investment in the EU in 2022 are shown in Figure 1-2.

6 Source: statistics bulletin of the Chinese foreign direct investment in 2022, <http://images.mofcom.gov.cn/hzs/202310/20231007152406593.pdf>.

7 Ibid.

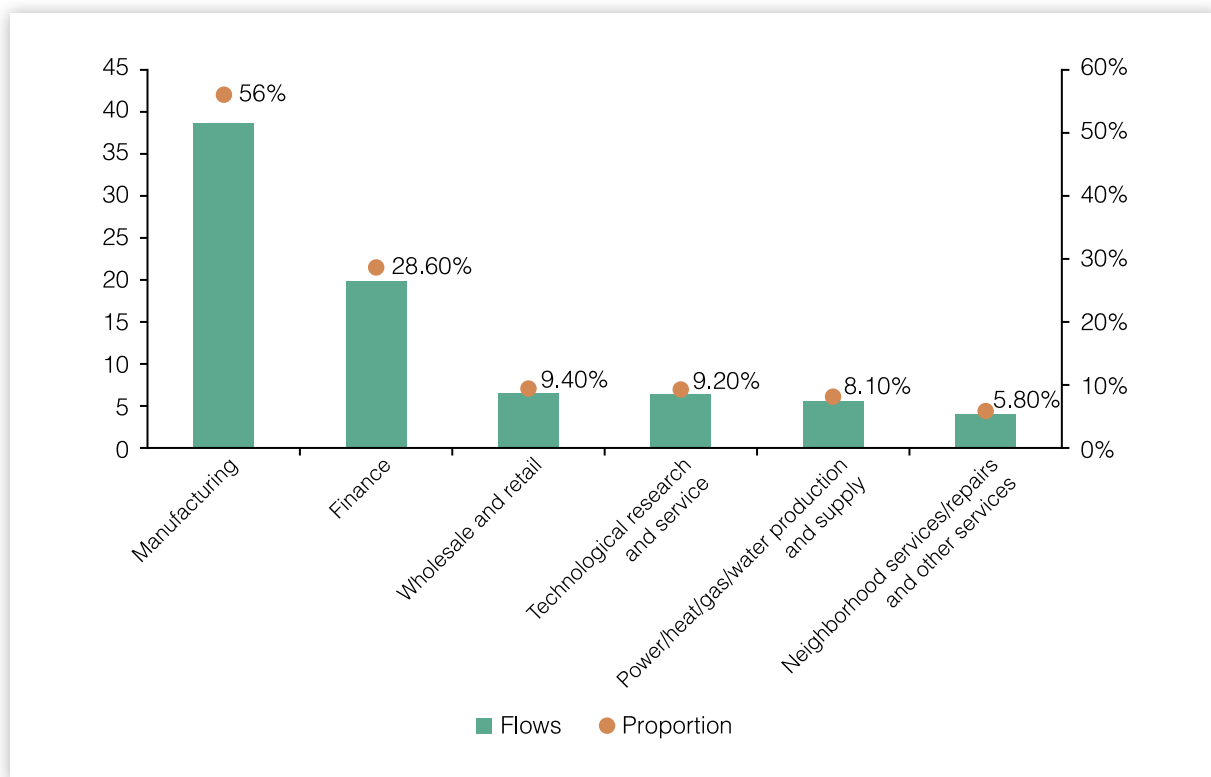


Figure 1-2: Flow and share of China's direct investment in major industries of the EU, 2022 (unit: hundred million USD)
Source: China's ODI Statistical Bulletin 2022.

II. China and the EU enjoy enormous space and opportunities in trade and economic cooperation

A. The meetings of leaders charted the course for China-EU trade and economic cooperation

As each other's important trading partners and both strong advocates of globalization and the multilateral trading system, China and the EU have great potential to strengthen bilateral and multilateral cooperation and enjoy bright prospects for the development of bilateral relations. In 2023, China and the EU continued to deepen high-level exchanges, which delivered fruitful results. Such high-level exchanges charted the course for bilateral cooperation and underlined the need to reinforce green, digital, and economic cooperation to jointly respond to global challenges.

On December 7, 2023, Chinese President Xi Jinping met with President of the European Council Charles Michel and President of the European Commission Ursula von der Leyen during their visit to China for the China-EU Summit at the Diaoyutai State Guesthouse.

President Xi Jinping said that China-EU relationship has shown a good momentum of consolidation and growth, and the China-EU high-level dialogues in the strategic, economic and trade, green, and digital fields have produced rich outcomes⁸, which serves the interests of both sides and meets the expectations of the two peoples. President Xi emphasized that there is a high degree of complementarity between the Chinese and EU economies. The two sides should do more to increase the breadth and depth of cooperation and tighten the bond of shared interests. The Chinese economy enjoys a good momentum of steady growth. As China pursues high-quality development and high-standard opening up, it sees the EU as a key partner for economic and trade cooperation, a preferred partner for scientific and technological cooperation, and a trustworthy partner for industrial and supply chain cooperation. China is ready to work with the EU for mutual benefit and common development. The two sides should leverage their complementary strengths in terms of market, capital and technology to upgrade traditional industries and foster emerging ones, explore new modes of cooperation, foster new areas of growth, and jointly improve industrial and supply chains⁹.

Michel and Ursula von der Leyen noted that the EU and China are two major forces of the world and important trading partners for each other. The areas of EU-China cooperation continue to expand. Such cooperation is based on mutual benefit and equality. Managing and growing EU-China relations has a direct bearing on the interests of the people of both sides, and also concerns global prosperity and security. The EU highly values its ties with China, and does not want to decouple from China. It seeks a long-term, stable, predictable and sustainable relationship with China, and hopes that the EU-China Summit will help reenergize EU-China relations. The EU side also acknowledged its satisfaction with the outcomes of the EU-China high-level dialogues this year, and sees the long-term, steady growth of the Chinese economy as in the interest of Europe. It hopes that the two sides will continue to strengthen dialogue and cooperation in the economic and trade, green, and digital fields, work together to keep supply and industrial chains stable and secure, and strengthen dialogue and cooperation on major global issues concerning the future of humanity, such as climate change and AI¹⁰.

B. The 10th China-EU High-level Economic and Trade Dialogue reached consensus on a number of issues

On September 25, 2023, the 10th China-EU High-level Economic and Trade Dialogue was held in Beijing. China and the EU focused on discussing topics such as macroeconomics, trade and investment, industrial and supply chains, and financial cooperation, and reached a series of consensus and outcomes on macroeconomic policy coordination, industrial and supply chains cooperation, business environment improvement, WTO reform, and two-way opening up and regulatory cooperation of the financial sector¹¹.

China and the EU affirmed the significance of dialogue and cooperation in promoting shared

8 Source: Ministry of Foreign Affairs of China website, https://www.mfa.gov.cn/eng/zxxx_662805/202312/t20231207_11196623.html.

9 Ibid.

10 Source: Chinese government website, https://www.gov.cn/yaowen/liebiao/202312/content_6918908.htm.

11 Source: The State Council Information Office website, http://english.scio.gov.cn/pressroom/2023-09/26/content_116710884.htm.

prosperity in the context of profound changes and sluggish economic recovery around the world. The two sides are ready to work together to implement the consensus between President Xi Jinping and President Michel and President von der Leyen, promote healthy and stable advancement in pragmatic bilateral cooperation to build up confidence in global development¹², and make preparations for the 24th China-EU Summit on the trade and economic front¹³.

Table 1-1: Topics and content of the 10th China-EU High-level Economic and Trade Dialogue

| Topics | Content |
|----------------------|--|
| Macroeconomics | The two sides agreed to strengthen communication and coordination on macroeconomic policies, work together to address global challenges such as climate change, food security, and energy security, maintain the stability of the global economy and financial markets, and inject more confidence into world economic growth. |
| Trade and investment | The two sides pledged to maintain mutual opening up and provide a fair and non-discriminatory business environment for each other's companies. China is ready to hold Economic and Trade Joint Committee meetings with the EU, make full use of dialogue mechanisms such as the China-EU Trade and Investment Policy Dialogue and the China-EU Economic and Trade Working Group to strengthen exchanges between China's Ministry of Commerce and the Directorate-General for Trade of the European Commission. |
| | The two sides agreed to jointly uphold and strengthen the rules-based multilateral trading system with the WTO at its core and oppose unilateralism and protectionism. The two sides agreed that the success of the 13 th WTO Ministerial Conference is in the shared interests of all WTO members, including China and the EU, and stand ready to push for tangible outcomes on the implementation of the WTO Agreement on Fisheries Subsidies ¹⁴ , food security, accession of new members, and preferential treatment during the transition period for LDC graduation. |
| | The two sides reaffirmed the need to advance the WTO reform, and reached consensus on multiple areas, including the reform of the dispute settlement mechanism, e-commerce, trade and environment, and review and oversight functions. The two sides welcomed the conclusion of the negotiations of the Investment Facilitation for Development Agreement ¹⁵ , and agreed to engage more members so that the outcomes of negotiations can be incorporated into the multilateral legal framework at an early date. The two sides pledged to continue to strengthen exchanges through the China-EU Joint Working Group on WTO Reform ¹⁶ to allow the WTO play a better role. |

12 Ibid.

13 Source: China's Ministry of Commerce website, <http://www.mofcom.gov.cn/article/xwfb/xwfyth/202309/20230903443098.shtml>.

14 Source: WTO website, https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_factsheet_e.pdf.

15 Source: WTO website, https://www.wto.org/english/tratop_e/invfac_public_e/factsheet_ifd.pdf.

16 Source: China's Ministry of Commerce website, <http://english.mofcom.gov.cn/article/newsrelease/significantnews/202109/20210903203580.shtml>.

Continued

| Topics | Content |
|------------------------------|--|
| Industrial and supply chains | The two sides agreed to build stable and mutually trusted industrial and supply chains, jointly maintain the resilience and stability of the global industrial and supply chains, and oppose decoupling. The two sides discussed the establishment of an early warning mechanism for the supply chain of raw materials between China and the EU, and agreed to maintain communication. |
| | The two sides agreed to establish a dialogue mechanism on export control to discuss export control policies and practices. |
| | The two sides recognized their sound cooperation in intellectual property protection, agreed to continue to strengthen dialogue and cooperation, and planned to hold the 26 th meeting of the EU-China Working Group on Intellectual Property in November 2023. |
| | The two sides recognized the role of the China-EU Agreement on Geographical Indications (GIs) in promoting trade of agricultural products between China and the EU, and agreed to accelerate the mutual review of the second batch of GIs, so that more GI products from the two sides can enjoy a high level of protection. |
| | The two sides welcomed the dialogue in the field of cosmetics between the National Medical Products Administration of China ¹⁷ and the Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs of the European Commission, and the plan to hold the EU-China Cosmetics Working Group meeting at an appropriate time to exchange views on ways to promote trade in cosmetics and address each other's concerns. |
| | The two sides agreed to speed up the process for quality EU agricultural and food products to enter the Chinese market and expand the scale of China-EU trade in agricultural products, so as to better meet the needs of the two peoples. The two sides agreed to resume the EU-China Working Group on Alcoholic Drinks. China stands ready to strengthen technical exchanges and cooperation with some EU member states in animal disease regionalization, and continue to conduct exchanges with EU experts to create conditions for cooperation on animal disease regionalization in the future. |
| | China attaches great importance to the EU's concerns over the registration of infant formula, and will send personnel more frequently to EU member states for on-site verification as soon as possible, and work to accelerate the registration review and approval procedures. |
| | China pledged to treat the products and services of domestic and foreign companies equally in government procurement, and looked to the EU for support for China's accession to the WTO Government Procurement Agreement (GPA) at an early date. |
| | China will invite the EU Chamber of Commerce in China and European companies to the Roundtable with Foreign-invested Enterprises, leverage the task force on key foreign investment projects to provide convenience and services for EU companies as they invest in China, and continue to support the participation of EU companies in green certificate trading and cross-provincial and cross-regional green electricity trading in a market-oriented, law-based, and fair manner. China will intensify efforts to brief EU companies on the country's green energy policies. |

17 Source: China's National Medical Products Administration website, <https://www.nmpa.gov.cn/>.

| Topics | Content |
|------------------------------|---|
| Industrial and supply chains | The two sides had an in-depth and candid exchange of views on the EU's recent trade policies such as international procurement tools, foreign subsidy review and carbon border adjustment mechanism. China expected the EU to use trade remedy measures with prudence, and encouraged deeper cooperation in the new energy industry, especially electric vehicles, to create a favorable environment for normal trade exchanges and green and sustainable development between China and the EU. |
| Financial cooperation | The two sides agreed to promote two-way opening up of the financial sector and encourage qualified financial institutions to invest in each other's markets. The two sides decided to set up a vice-ministerial level finance working group under the China-EU High-level Economic and Trade Dialogue to strengthen cooperation in financial openness, financial infrastructure, financial regulation, sustainable finance and fintech. |
| | The two sides agreed to strengthen cooperation on green and sustainable finance, promote the application of the Common Ground Taxonomy, and contribute to the green transformation of the Chinese and European economies. China expressed willingness to seriously consider the possibility of allowing more locally incorporated European banks to benefit from the carbon reduction supporting tools in China. |
| | The two sides agreed to strengthen exchanges and cooperation between the securities and futures regulators of China and the EU under bilateral and multilateral frameworks to jointly tackle international economic and financial challenges, and strengthen cooperation on the supervision of qualified central counterparties (CCPs). The relevant authorities of the China Securities Regulatory Commission (CSRC) and the European Commission will jointly evaluate the equivalence determination of the CCP supervision and regulatory framework, so as to create conditions for the Chinese futures exchanges to provide clearing services as qualified CCPs in the EU. |
| | The financial authorities of the two sides agreed to strengthen exchanges and cooperation to jointly promote the stable development of the financial market. The EU welcomed the achievements China has made in recent years in optimizing the regulatory requirements for foreign banks' branches in China. China expected the EU to fully take into account China's legitimate concerns when revising its policy guidelines on banking supervision, so as to provide a sound business environment for the development of Chinese banks in Europe. |

Source: Compiled by the CCPIT Academy based on publicly available information.

C. China and the EU have broad prospects in environmental and climate change cooperation

China-EU cooperation in environment protection and climate change enjoy an early start and well-developed mechanisms, with diverse players and extensive content. Since 2023, leaders of China and the EU have had frequent exchanges. The two sides have built consensus and enhanced mutual trust through cooperation mechanisms such as the Ministerial Dialogue on Environment Policy, the Ministerial Dialogue on Climate Change, the Carbon Emissions Trading Policy Dialogue, the China-EU Energy Dialogue, the EU-China Energy Cooperation Platform, the EU-China Bilateral Coordination Mechanism on Forest Law Enforcement and Governance, and the High-level Dialogue on Circular Economy. These mechanisms have played an important role in building consensus and mutual trust,

creating more space for China-EU cooperation on environmental technology and green industries, and enriching and expanding China-EU environment and climate cooperation.

In recent years, China and the EU have drawn on each other's strengths in technology, capital, and market, and implemented a large number of joint projects on environmental technology and green industries. Dozens of EU environment companies have started operations in China, and more advanced EU environmental protection technologies and equipment have entered the Chinese market. China has technological and cost advantages in renewable energy power generation, transmission systems and new energy batteries. As Chinese manufacturers enter the EU market, China's solar power and wind power products have been exported to Spain, Portugal, and other EU countries, contributing to green transformation in the EU.

As green and low-carbon transformation pick up steam around the world, China and the EU enjoy broad space for cooperation in green and low-carbon technological innovation. The two sides should strengthen technological exchanges and cooperation in key areas such as renewable energy, hydrogen energy, energy storage, energy conservation, carbon capture, utilization and storage, and industrial process reengineering, continue to advance the development of green and low-carbon technologies, and contribute to global response to climate change and sustainable development.¹⁸

D. Cooperation under the Belt and Road Initiative has brought development opportunities to the EU

Since the Belt and Road Initiative (BRI) was proposed a decade ago, China and some EU member states have strengthened exchanges and dialogue under the BRI framework, and engaged in deeper economic and trade cooperation with tangible results. China has worked with some EU member states to build railways, highways, airports, ports, and pipeline networks under the BRI framework, effectively promoting the flow of goods, capital, technology, and personnel between China and the EU, and contributing to the economic development, job creation, and people's livelihoods in these member states.

The EU and its member states hold a positive attitude toward the BRI, believing the initiative will help enhance connectivity on the Eurasian continent and promote economic and trade cooperation and people-to-people exchanges not only between China and the EU, but between the EU and other countries and regions as well. Most EU member states hope to share the enormous development opportunities brought about by the Belt and Road cooperation. At the third Belt and Road Forum for International Cooperation in 2023, China unveiled a new group of pragmatic cooperation projects, including the list of priority BRI cooperation projects between the Chinese government and the Hungarian government (second group), and bilateral cooperation documents between China and several EU candidate countries.

E. China-Europe Railway Express enhanced connectivity between EU countries along its routes

Since it was launched, the China-Europe Railway Express has maintained safe, stable and smooth

¹⁸ Source: Ce.cn, Ministry of Ecology and Environment: Promoting comprehensive improvement of climate change adaptation capacity in key areas and regions, <http://www.ce.cn>.

operation, created a new pattern of international transport across the Eurasian continent, built a new platform for economic and trade cooperation along the routes, ensured the stability of international industrial and supply chains, and injected new impetus into world economic development¹⁹. After more than 10 years of development, the China-Europe Railway Express has become a convenient, safe, stable, green, and economical new mode of international transport, and has brought new development opportunities to important transit points and cargo distribution centers such as Poland, Germany and other EU members.

In 2023, the China-Europe Railway Express made 17,000 trips and transported 1.9 million TEUs of goods, up 6% and 18% year-on-year. Statistics show that cargo transported by the China-Europe Railway Express as a share of the total trade between China and Europe increased from 1.5% in 2016 to 8% in 2022²⁰.

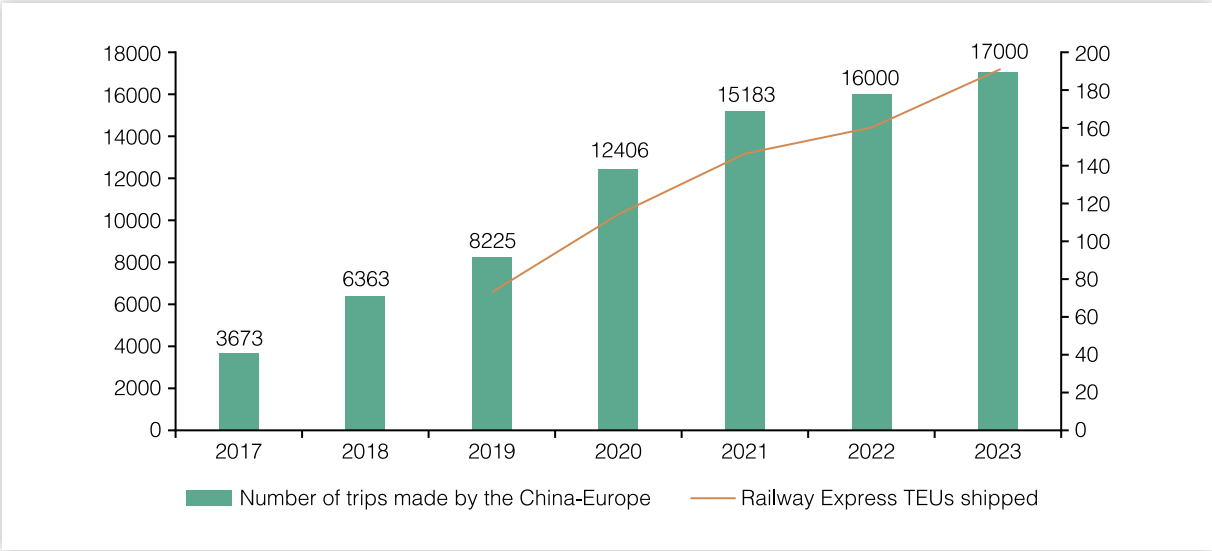


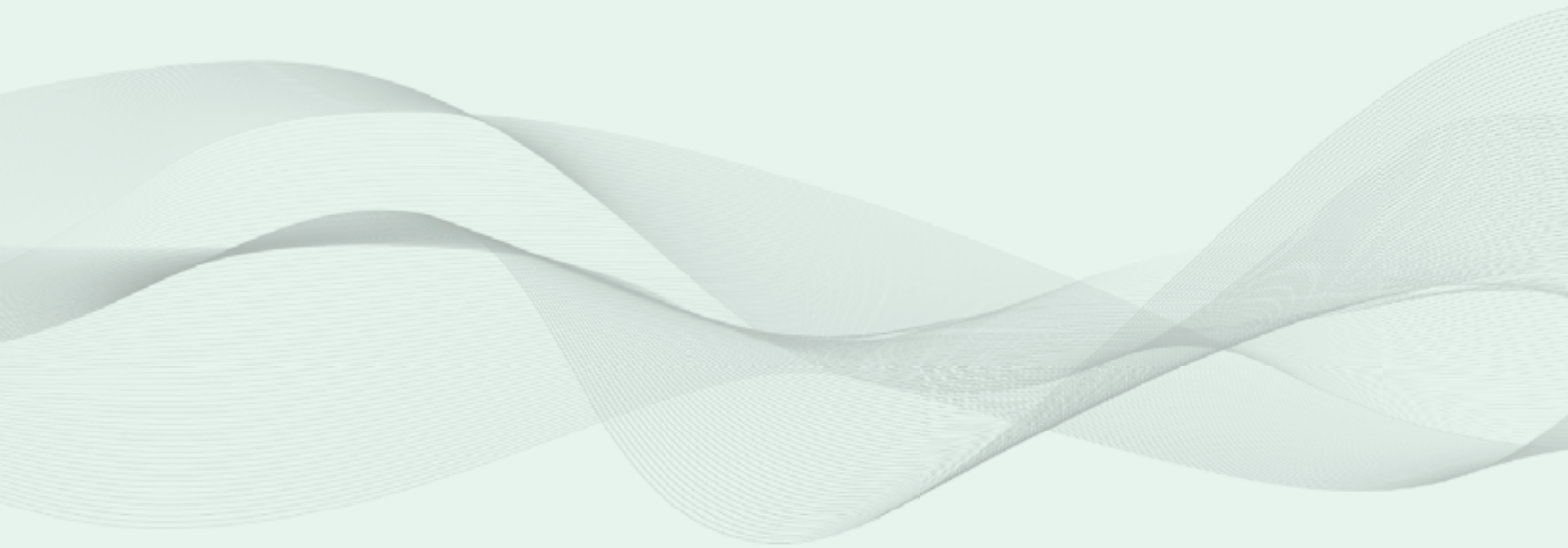
Figure 1-3: Number of China-Europe Railway Express trips and the number of TEUs transported from 2017 to 2023
 Sources: National Railway Administration of China and China Railway.

19 Source: quote from President Xi Jinping's congratulatory message to the China-Europe Railway Express Cooperation Forum.

20 Source: China Railway website, http://www.china-railway.com.cn/xwzx/mtjj/gmrb/gmrb/202401/t20240110_132609.html.

Chapter II

Overall Evaluation of the Business Environment in the EU



I. The EU's business environment has not improved significantly

A. 60% of Chinese-funded enterprises found the EU's business environment not entirely satisfactory

In 2023, the EU's business environment did not improve significantly. More than half of Chinese enterprises found it not entirely satisfactory. The EU has formulated a toolkit of protectionist policies, making it more difficult for foreign companies to invest, carry out mergers and acquisitions and participate in public procurement in the EU, and launched countervailing investigations without adequate evidence, disrupting industrial chain and supply chain cooperation within and outside the EU, while restricting the normal production and business activities of many Chinese companies in Europe. According to the survey, 60.74% of the respondents found the business environment in the EU not entirely satisfactory, while 34.07% thought it was good and 5.19% thought it was poor (Figure 2-1).

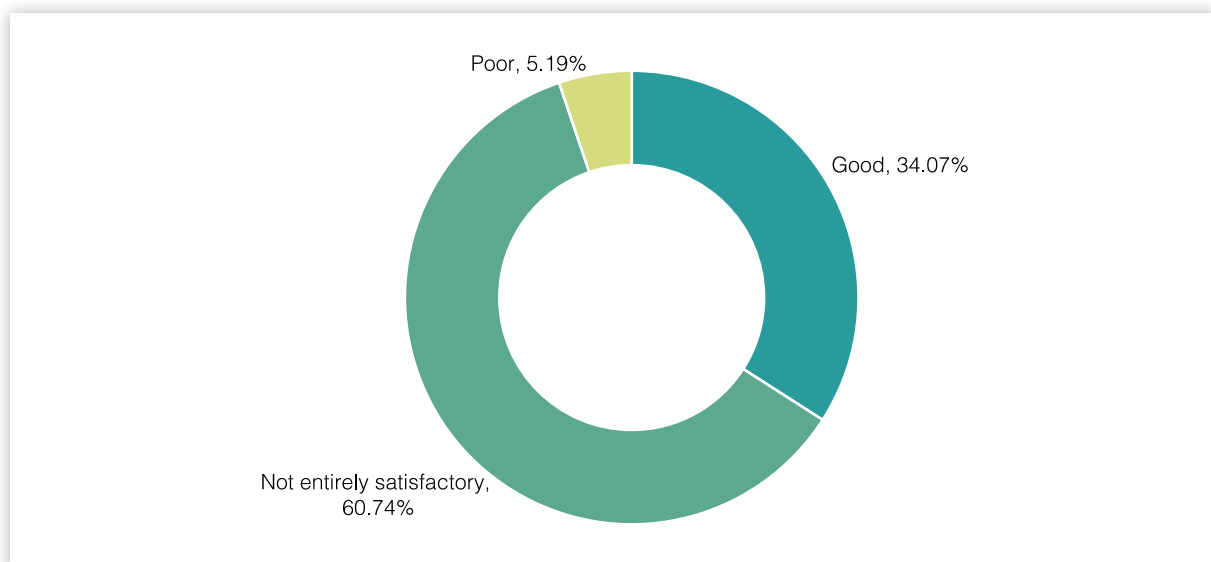


Figure 2-1: Chinese companies' overall evaluation of the EU's business environment in 2023

Source: CCPIT Academy.

50% of the surveyed companies believed that the business environment in the EU has not changed from the past. 32.84% believed that it had worsened, while only 17.16% thought it had improved (Figure 2-2).

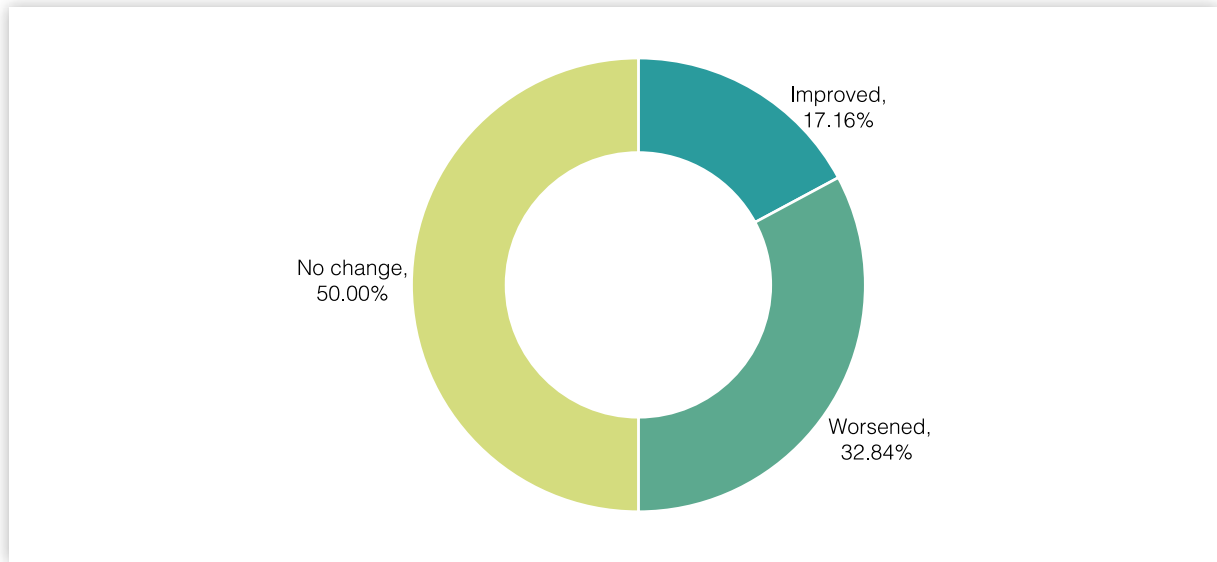


Figure 2-2: Chinese companies' evaluation of the changes in the EU's business environment in 2023
Source: CCPIT Academy.

Chinese enterprises in Europe believed that the most prominent problems with the EU's business environment were higher market access barriers, rising production costs, the impact of the Ukraine crisis on normal operations, and the politicization of economic issues. The enterprises underscoring the above four problems accounted for 41.04%, 38.06%, 38.06%, and 35.07% of the respondents, respectively (Figure 2-3).

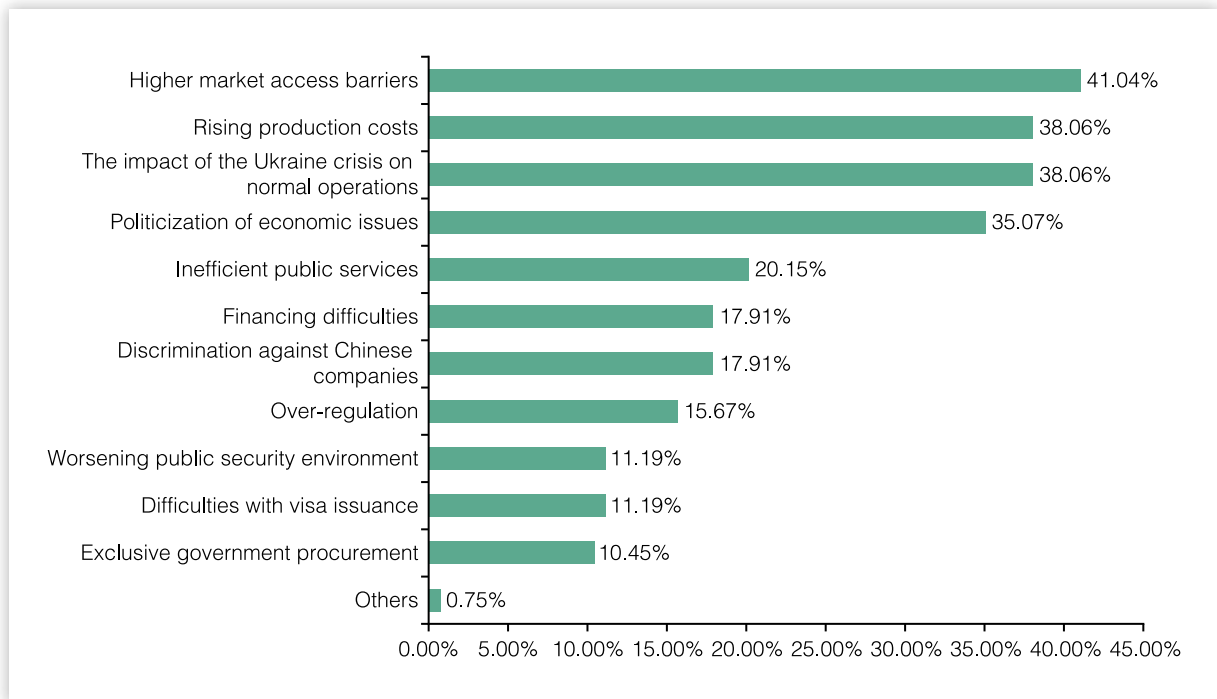


Figure 2-3: Chinese companies' major concerns with the EU's business environment
Source: CCPIT Academy.

B. Chinese enterprises' evaluations of the business environment in different EU member states vary greatly

According to the survey, 63.64% of the respondents believed that Germany had the best business environment among all EU member states, followed by France—62.12%, Italy—47.73%, Spain—31.06%, and the Netherlands—30.30% (Figure 2-4).

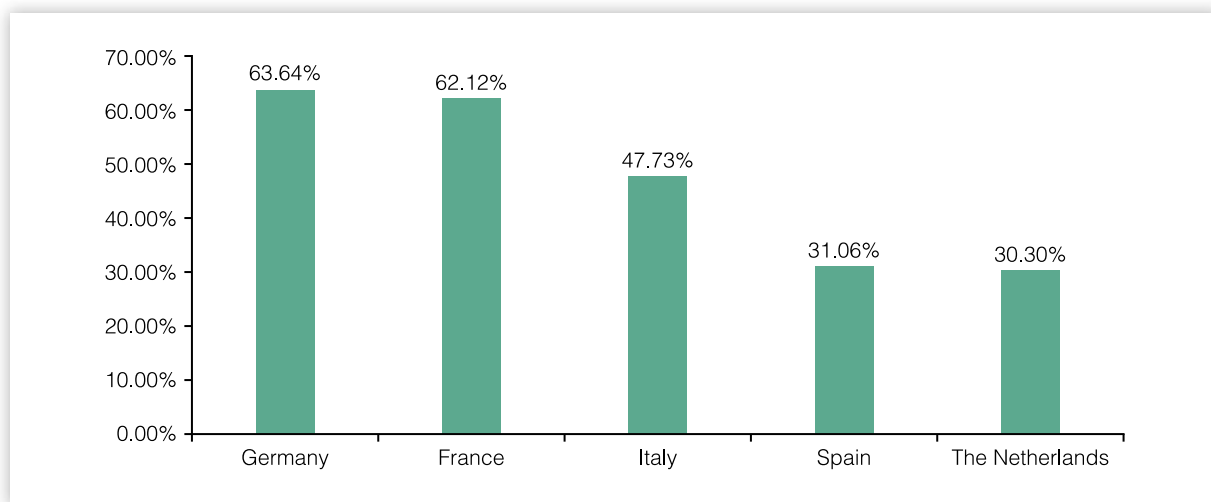


Figure 2-4: Chinese companies' ranking of EU member states with the best business environment

Source: CCPIT Academy.

According to the survey, companies rated Lithuania, Malta, Cyprus, Slovenia, Latvia, and Hungary as the least favorable countries for doing business, accounting for 61.16%, 26.45%, 25.62%, 24.79%, 23.97%, and 23.97% of the respondents, respectively (Figure 2-5).

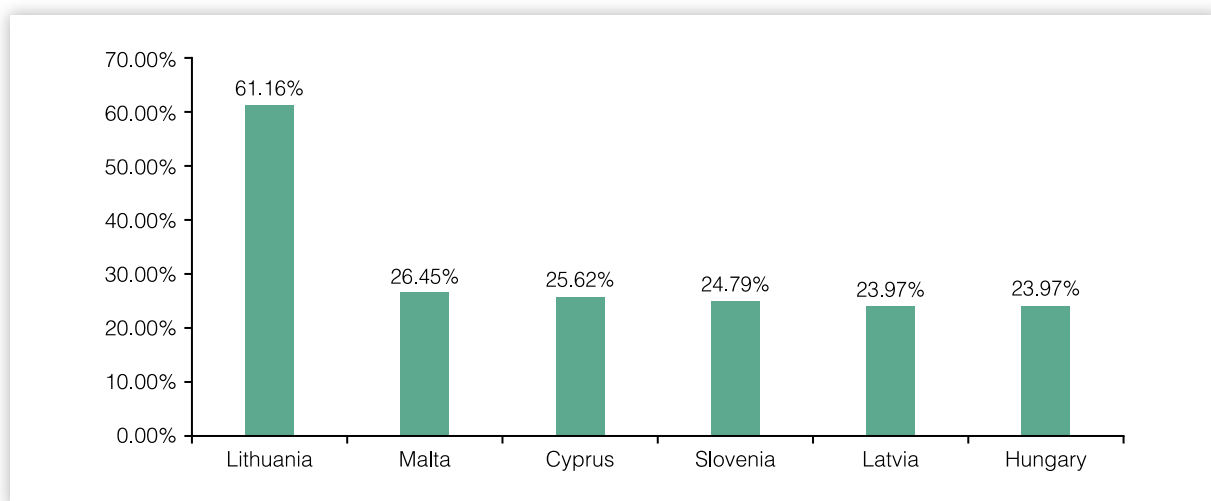


Figure 2-5: Chinese companies' ranking of EU member states with the worst business environment

Source: CCPIT Academy.

II. The European Economic Security Strategy tightens bilateral trade and investment restrictions

A. Intensify “de-risking” efforts

On June 20, 2023, the European Commission issued the European Economic Security Strategy²¹, in which the word “de-risk” appeared six times, putting “de-risking” and protection of the economic security of the EU under the same framework, and providing a basis for formulating and adopting more measures.

The strategy calls on EU member states to act together to cope with and mitigate the current economic security risks, and puts the EU’s tightening trade and investment control measures in the past five years under the broad framework of “maintaining economic security”. The priorities of the strategy include two aspects: on the one hand, working with other countries on similar “de-risking” paths; on the other hand, seeking cooperation with like-minded countries that share common economic security concerns and interests with the EU to achieve a more resilient and secure economic transition.

After the European Economic Security Strategy was published, the EU plans to continue to strengthen “de-risking” management. On January 17, 2024, the European Commission released the report *Understanding EU-China Economic Exposure*²². According to the report, the EU is operating an increasingly complex geopolitical environment. In this context, the EU aims to “de-risk”—not de-couple—from China. It is important for the EU to have a good understanding and evaluation of economic exposure towards China, as a basis for implementing the “de-risking” approach.

B. Comprehensively strengthen export controls and closely watch sensitive areas

The European Economic Security Strategy underlined the need to “prevent the leakage of sensitive emerging technologies, as well as other dual-use items, to destinations of concern that operate civil-military fusion strategies²³”. The strategy calls for more rapid and coordinated action at the EU level and more rigorous policies for export controls. The strategy also stressed the need to develop a more coordinated European approach to tackle economic risks in technology and trade.

The strategy requires member states to fully implement the EU Regulations for the Control of Exports of Dual-Use Items to prevent the outflow of core EU technologies. On this basis, the EU and its member states will comprehensively strengthen export controls on key industries, including energy,

21 Source: European Economic Security Strategy, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023JC0020&qid=1697249743744>.

22 Source: Understanding EU-China economic exposure, https://single-market-economy.ec.europa.eu/publications/understanding-eu-china-exposure_en.

23 Source: European Commission website, <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52023JC0020>.

aviation and aerospace, defense and security, telecommunications, semiconductors, and computing.

In the future, Chinese enterprises in Europe will have to apply for an individual export license or a global export license, which will drive up the operation costs and create obstacles to the technical exchanges between China and the EU. Chinese enterprises noted that while the European Commission reiterated its opposition to decoupling from China in early 2023, the positive impact has not been felt in reality. Only 14.39% of the surveyed enterprises said that the message had a positive impact that can help their investment and operation in the EU, and 53.03% did not feel any change. At the same time, 32.58% of respondents said they felt pressure from the EU's "de-risking" strategy.

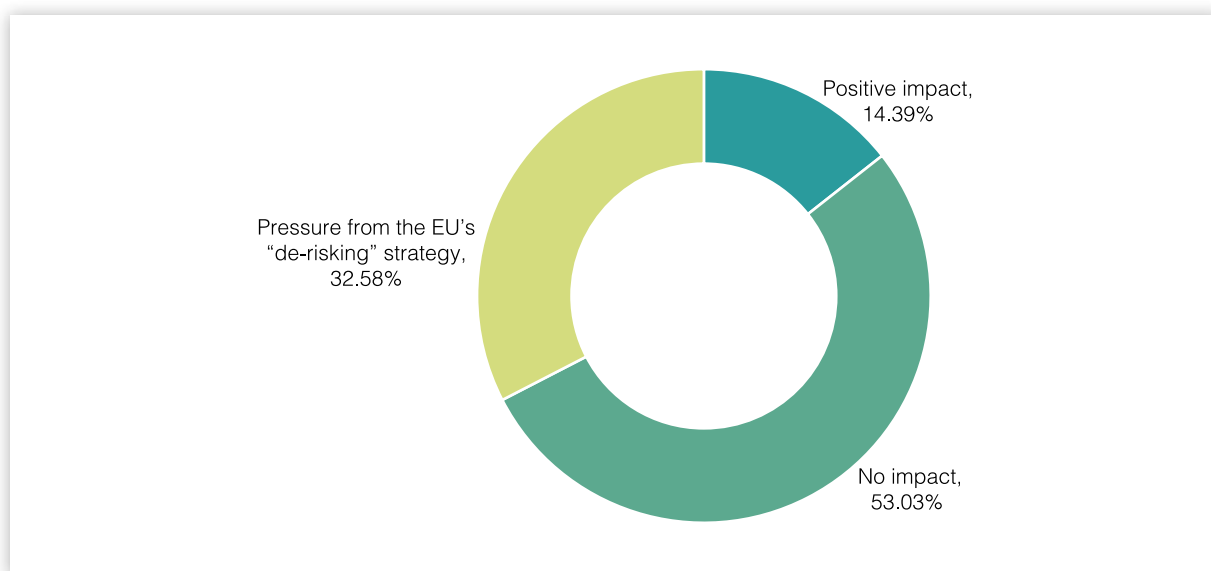


Figure 2-6: Chinese enterprises' reaction to the European Commission reiteration of opposition to "decoupling" with China

Source: CCPIT Academy.

C. Tighten two-way direct investment in key and emerging technologies

The European Economic Security Strategy focuses on strategic areas such as advanced semiconductors, quantum computing, biotechnology, net-zero industry, clean energy and critical raw materials. It calls for public-private cooperation to address economic security risks in Europe, and continues to tighten restrictions on two-way direct investment in critical and emerging technologies.

Previously, the EU had raised investment barriers for foreign companies by adopting a toolbox of protectionist policies, which disrupted enterprises' value chains both inside and outside the EU. Under this strategy, the measures to tighten two-way direct investment mainly include three aspects: (1) in terms of foreign investment inflows, the EU uses tools such as 5G/6G network security, foreign direct investment project screening, and other new policies to prevent economic security risks; (2) In terms of outbound investment, the EU strives to introduce measures to address the security risks of outbound investment before the end of the year, to avoid potential economic coercion in various forms; (3) in other areas, the EU engages in structured dialogue with the private sector as an important partner for "de-risking", encourage private businesses to conduct due diligence and risk management based on economic security issues, and seek resilient and diversified supply chains. The strategy also claimed that the private sector has made progress in "de-risking". In particular,

global asset managers have fundamentally transformed their capital allocation to cope with the rising and complex risks in the global economy.

III. The EU has raised market access barriers by expanding the policy toolbox

A. New foreign investment reviews have raised the market access barriers

In recent years, the EU member states have updated or established their own foreign investment review mechanisms in accordance with the EU Foreign Direct Investment Screening Regulation²⁴ (Table 2-1). By 2023, 22 out of 27 EU member states had established foreign investment review mechanisms. France published its first set of guidelines on foreign investment control²⁵, and Sweden plans to introduce a new foreign investment review system²⁶. This means that foreign investors will face more scrutiny and difficulties in investing in Europe or acquiring European companies.

Table 2-1: Establishment of foreign investment review mechanism in EU member states in 2023

| Establishment of the Foreign Investment Review Mechanism | Members States |
|---|---|
| Member states that have established foreign investment review mechanisms (22) | Austria, Finland, Malta, Poland, Portugal, Slovenia, Spain, Czech Republic, Denmark, Slovakia, France, Germany, Hungary, Italy, Latvia, Lithuania, the Netherlands, Romania, Belgium, Luxembourg, Estonia, and Sweden |
| Member states preparing for the establishment of foreign investment review mechanisms (4) | Ireland, Cyprus, Croatia, and Greece |
| Member state that has not announced plans to establish an investment review mechanism (1) | Bulgaria |

Source: Compiled by the CCPIT Academy based on available information.

Our survey showed that 32.84% of the respondents believed that the EU market access environment got worse in 2023. 50% found no significant change compared with the previous year. Only 17.16% believed market barriers had been lowered (Figure 2-7).

24 Source: Concurrences Antitrust Publications & Events website, https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2021/09/foreign_direct_investment_an_overview.pdf.

25 Source: Ministry of Economy, Finance, Industry and Digital Sovereignty of France website, <https://www.tresor.economie.gouv.fr/Articles/2022/09/08/publication-des-lignes-directrices-relatives-au-controle-des-investissements-etranangers-en-france>.

26 Source: Swedish government website, <https://www.government.se/press-releases/2023/03/new-act-will-stop-investments-in-companies-by-foreign-actors-that-could-harm-sweden/>.

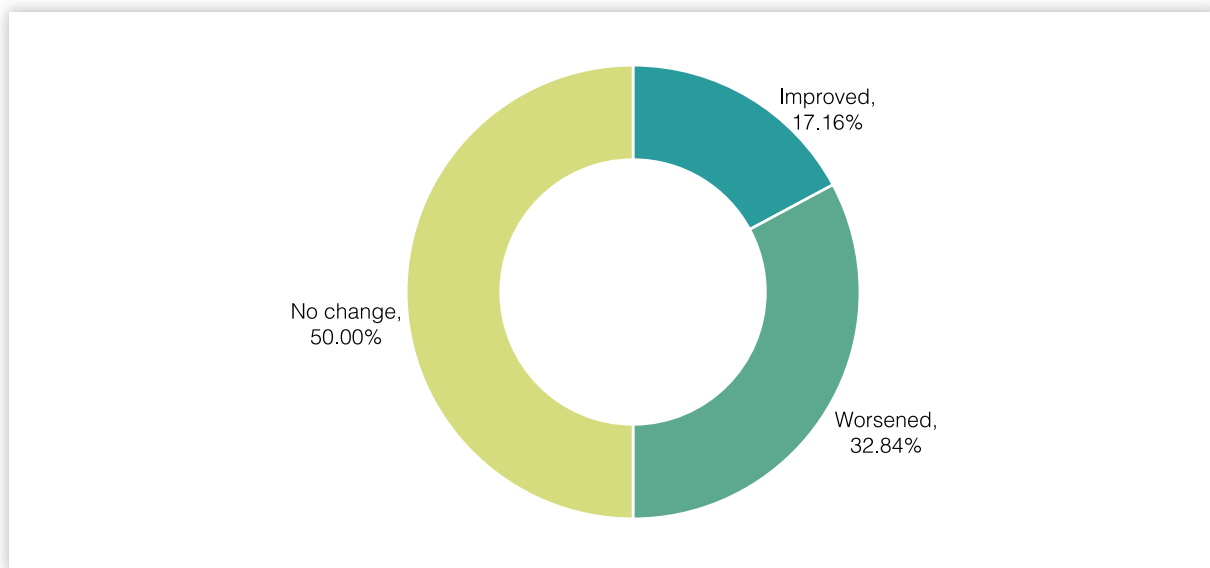


Figure 2-7: Chinese companies' evaluation of market access barriers in the EU in 2023

Source: CCPIT Academy.

As some EU member states tighten scrutiny over foreign investment, some Chinese companies are planning to adjust their investment strategies. According to the survey, 26.82% of Chinese enterprises planned to hold back investment in Europe. 20.80% planned to scale down investment and switch to member states with less screening. The remaining 52.38% said they would not change their investment plans (Figure 2-8).

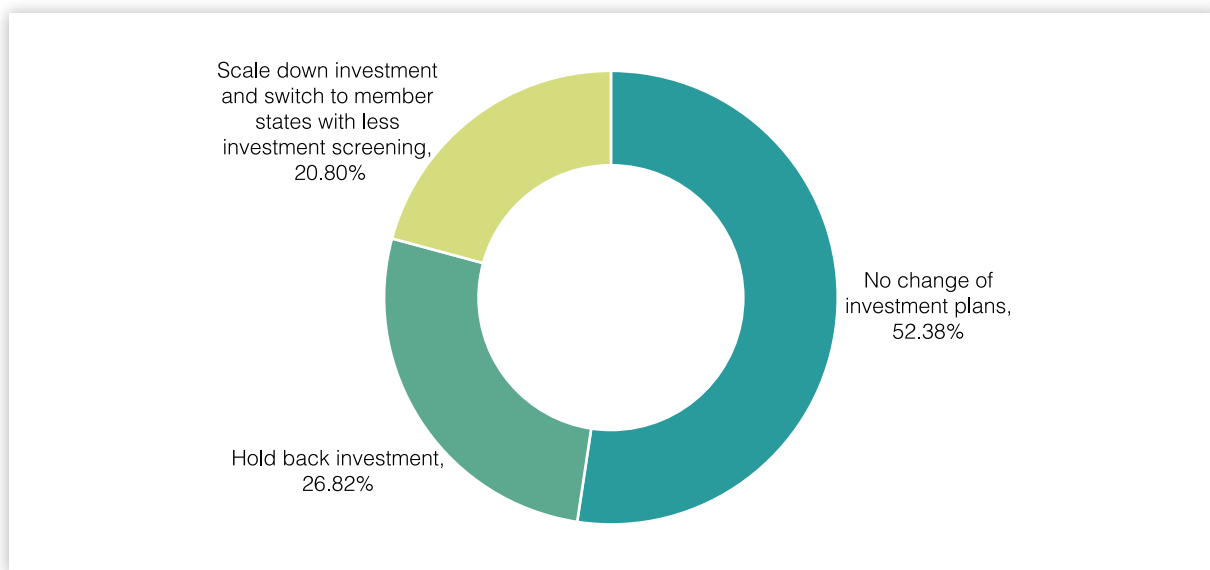


Figure 2-8: Investment adjustment plans as a result of the EU foreign investment review

Source: CCPIT Academy.

According to the survey, 55% of Chinese companies believed that they experienced discriminatory treatment in the EU's foreign investment review (Figure 2-9).

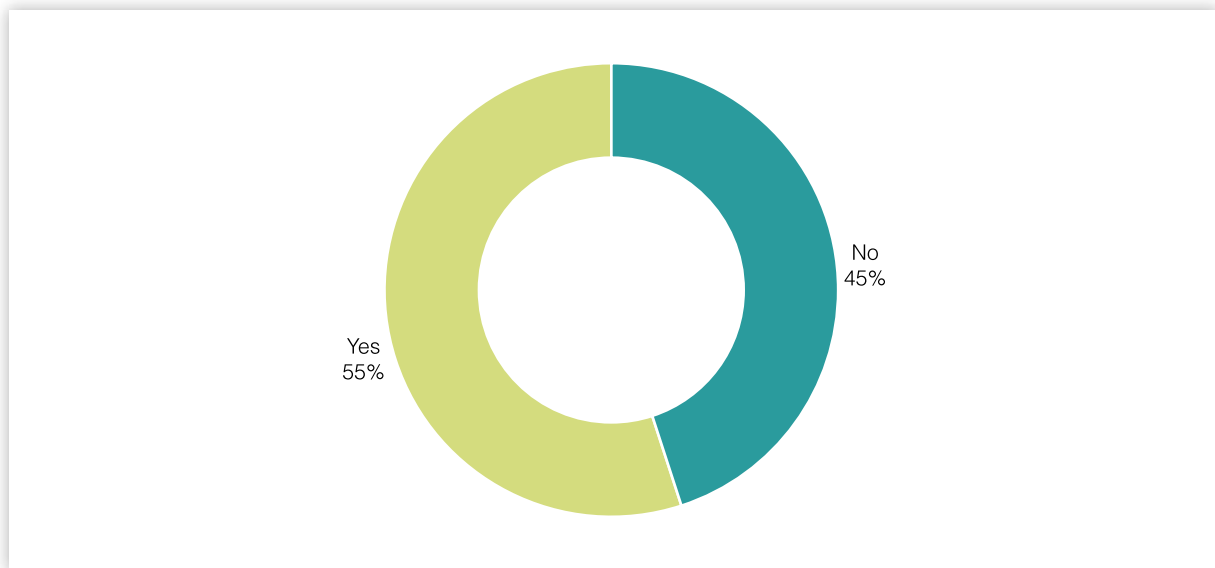


Figure 2-9: Whether enterprises encountered discriminatory treatment in EU foreign investment review in 2023

Source: CCPIT Academy.

B. The Foreign Subsidies Regulation makes it more difficult to invest in the EU

Under the Regulation on Foreign Subsidies Distorting the Internal Market²⁷ (FSR), foreign enterprises are subject to more compliance obligations than local companies in the EU and are therefore put at a disadvantage in competition.

The FSR came into effect on July 12, 2023. On July 10, 2023, the European Commission adopted the Rules for Implementing the Foreign Subsidies Regulation²⁸ (hereinafter referred to as the “Implementing Rules”), which lay out in detail the declaration obligations of the transaction parties and the investigation procedures of the European Commission. Since the FSR expanded the definition of foreign subsidies, the EU may treat any private entity whose conduct is attributable to a third country as a government, which means the special or exclusive rights of state-owned enterprises and “cross-subsidization” to allocate market resources according to product attributes can be regarded as receiving government subsidies. The Implementing Rules clarify the business operators’ centralized and public procurement activities that must be declared, the threshold of which is rather low.

The FSR gives the European Commission the authority to intervene in the participation of EU and non-EU bidders in public procurement activities in the EU.

Considering its wide coverage, the FSR is likely to have a significant impact on Chinese enterprises as they engage in mergers, acquisitions, and public procurements in the EU.

27 Sources: European Council website, Regulation <EU> 2022/2560 of the European Parliament and of the Council on Foreign Subsidies Distorting the Internal Market, <https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-approval-to-tackling-distortive-foreign-subsidies-on-the-internal-market/>.

28 Sources: European Commission website, Commission adopts rules for implementing the Foreign Subsidies Regulation, https://ec.europa.eu/appointed/presscorner/detail/en/ip_23_3747.

C. Countervailing investigations against new energy vehicles (NEVs) has hampered the development of the NEV industry

The abuse of countervailing investigations by the EU has exerted a direct impact on the industries under investigation and on the development of upstream and downstream enterprises in the industrial chain. Meanwhile, the EU itself has increased and expanded the scope of subsidies for climate response and energy conservation, distorting the EU market, and having a negative impact on global economic and trade relations.

On October 4, 2023, the European Commission, on its own initiative, launched an anti-subsidy investigation into imports of electric vehicles originating from China. Following the investigation, the EU may impose punitive tariffs, not only on electric vehicles of Chinese brands, but also on Volkswagen, Tesla, BMW, and other NEVs produced in China. This will disrupt the strategic planning and operation of Chinese and EU NEV enterprises, and distort global automobile industry chains and supply chains.

On October 25, 2023, the European Commission announced that, via a sampling mode, it has selected BYD, SAIC Motor and Geely Automobile as the targets of its anti-subsidy investigation. The investigation of subsidization and injury will cover the period from October 1, 2022 to September 30, 2023, and the injury reference period will last from January 1, 2020 to September 30, 2023²⁹.

The process and timeline of the investigation are shown in Figure 2-10:

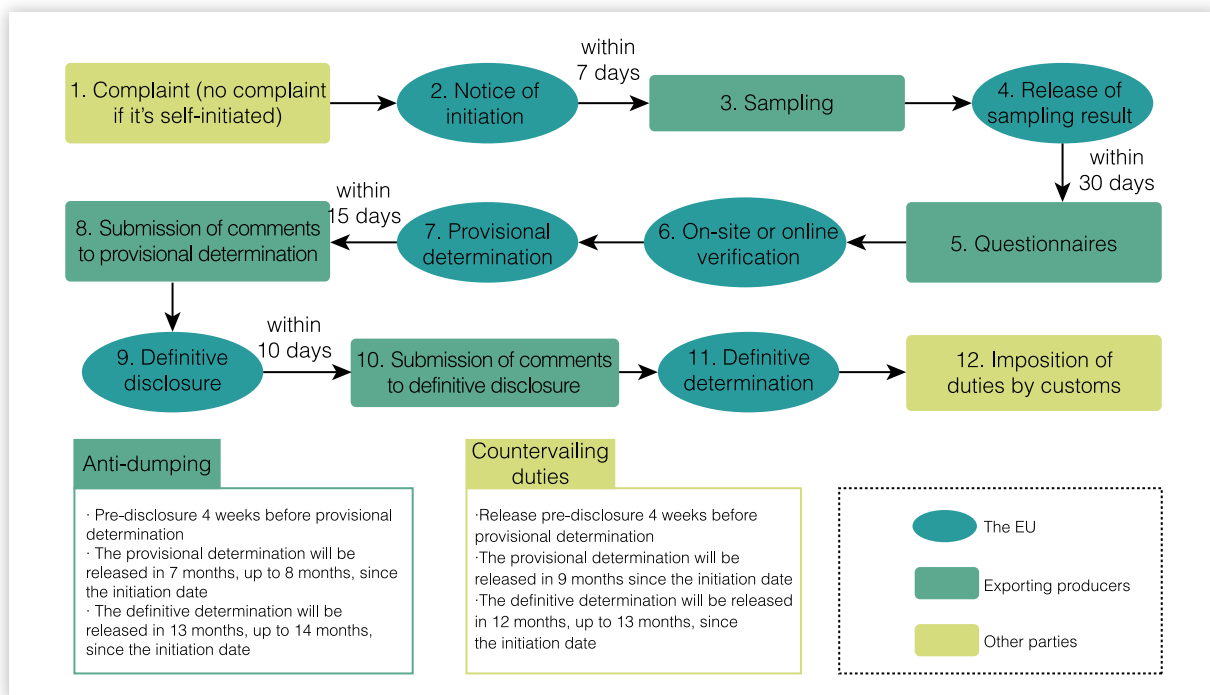


Figure 2-10: Main process and timeline of EU anti-subsidy investigation

Source: Deloitte Report.

29 Source: Deloitte website, <https://www2.deloitte.com/cn/zh/pages/tax/articles/eu-anti-subsidy-investigation-on-chinas-new-battery-electric-vehicles.html>.

IV. The EU has generalized the concept of national security to make non-market intervention in enterprises

A. Two German strategies position China as a competitor and rival

On June 14, 2023, the German federal government introduced its first National Security Strategy³⁰, which describes China as a partner, competitor, and systemic rival. On July 13, 2023, German federal government published its Strategy on China³¹, which also described China as a partner, competitor, and systemic rival.

The National Security Strategy and the Strategy on China recognized China's important role in the international community and still regard China as a partner. However, Germany believes that in the past few years, China has been competing with Germany in a unique way, and has been expanding its international influence in a way that is not in line with Germany's interests.

In its National Security Strategy, Germany stressed that its security is indivisible from that of its European partners and allies, and proposed measures to protect critical infrastructure, bolster cyber capabilities, promote effective diplomacy, and strengthen cooperation with allies. In the Strategy on China, the chapter on security policy made clear that the German government will closely watch the expansion of undersea fiber-optic cables, of the Chinese global satellite navigation system BeiDou, and of digital infrastructure, such as data centers. The German government believes that digital infrastructure that originates from China is accompanied by the exporting of China's technical standards and state media content and investments from Chinese IT service providers, which must be taken seriously. It also shows vigilance towards software that can be employed for the purpose of repression, surveillance and censorship.

B. Italy abused its “Golden Power” to interfere with the investments and operation of Chinese enterprises

Italy's Golden Power Decree³² allows the Italian government to scrutinize or veto foreign investment transactions that may harm or threaten the strategic interests of the country. Companies that violate the provisions of the Golden Power Decree will be subject to harsh sanctions and penalties, which may result in the transaction being deemed invalid, an administrative fine of up to twice the value of the transaction (in any case, not less than 1% of the turnover in the previous fiscal year), and an order of restitution and payment of the expenses incurred.

In recent years, the Italian government has arbitrarily expanded the “Golden Power” and used it

30 Source: National Security Strategy, <https://www.nationalesicherheitsstrategie.de/national-security-strategy-ZH.pdf>.

31 Source: Strategy on China, <https://china.diplo.de/blob/2608638/49d50fecc479304c3da2e2079c55e106/230713-china-strategie-data.pdf>.

32 Source: the Golden Power Decree, <https://www.normattiva.it/uri-res/N2Ls?urn:nir:stato:decreto.legge:2012;21>.

to scrutinize the production and investment of Chinese enterprises or even veto some projects. In fact, Italy has used its Golden Power Decree seven times to block foreign transactions, six of which originated from China. For example, in October 2020, the Italian government blocked Fastweb Telecom Group from signing a 5G core network equipment supply agreement with Huawei. In March 2021, it vetoed Shenzhen Invenland's acquisition of Italy's LPE.

In March 2023, tire manufacturer Pirelli (whose largest shareholder is China National Tire & Rubber Co., Ltd.) notified the Italian government the proposal for China National Tire & Rubber Co., Ltd. to occupy nine seats on Pirelli's 15-seat board of directors. After receiving the notification from Pirelli, the Italian government discussed the company's shareholding structure with Pirelli investors, and invoked the Golden Power Decree to veto the proposal, claiming that tire manufacturing is one of Italy's strategic industries, and "the data of the positioning equipment in the tires is important to national security". It is particularly concerned about the proposal for the appointment of the CEO by the board of directors from 2026, which will be controlled by China National Tire & Rubber Co., Ltd. The reaction of the Italian government violated international business practices. It not only impeded the investment and operation of Chinese enterprises, but also caused Chinese companies to lower their evaluation of the business environment in Italy.

V. Changes in the local social environment hinder the normal operation and development of enterprises

A. Media reports on China in some EU member states tend to be negative

In recent years, negative media reports on China in some EU member states have been on the rise. For example, in November 2022, the acquisition of German semiconductor company Elmos' wafer fab project by Sweden's Silex, a wholly-owned subsidiary of Beijing Sai Microelectronics Co., Ltd., was nearing completion, but was suspended by the German Federal Ministry for Economic Affairs and Climate Action on the grounds of national security. In August 2023, the project was acquired by Littelfuse of the United States. Some German media outlets and think tanks used the opportunity to deliberately smear China's image, stigmatize China's normal economic activities in Europe, vilify the Belt and Road Initiative, and hype up the "China threat" theory.

In early October 2023, the gas pipeline and communication cable of Finland and Estonia under the Baltic Sea had an accident when the Chinese ship Newnew Polar Bear³³ was passing by. Finland unilaterally claimed that the accident was a sabotage by external forces. Estonian local media also claimed that the damage to the submarine cable may be man-made. Reuters also published an article with the headline "Estonia seeks China's help over severed Baltic Sea telecom cables".

According to our survey, 53.4% of the respondents said that they often read about negative reports on China in the major media outlets and publications of their host countries.

33 Note: Newnew Polar Bear was a vessel with Chinese background suspected by the Finland police.

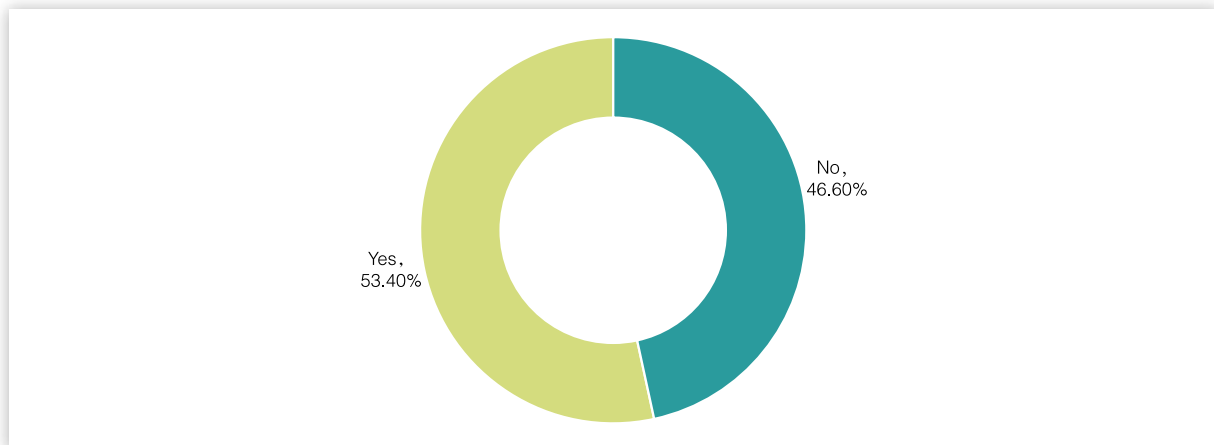


Figure 2-11: Whether Chinese-funded enterprises found negative information on China in major media and publications in the host countries

Source: CCPIT Academy.

B. Chinese-funded enterprises cannot enjoy the preferential policies equally

The preferential policies introduced by the EU and its member states do not treat domestic and foreign enterprises equally, and are especially discriminatory against Chinese enterprises. The most typical example is the European Green Deal—the “project of the century” that is committed to building a fair and prosperous society and a competitive modern economy. In order to achieve net zero greenhouse gas emissions by 2050 and wean economic growth off resource utilization, the EU has extensively engaged numerous players, but excluded Chinese companies from the preferential policies for green development.

Chinese enterprises said that while the EU has established a comprehensive system to support the development of green technology, energy and industry, they still find it difficult to benefit from the EU’s green preferential policies. According to the survey, 58.87% of the Chinese enterprises believed that they do not have a fair chance to participate in the major projects under the European Green Deal (Figure 2-12). 54.47% of the enterprises said that they cannot enjoy the EU’s green preferential policies and subsidies (Figure 2-13).

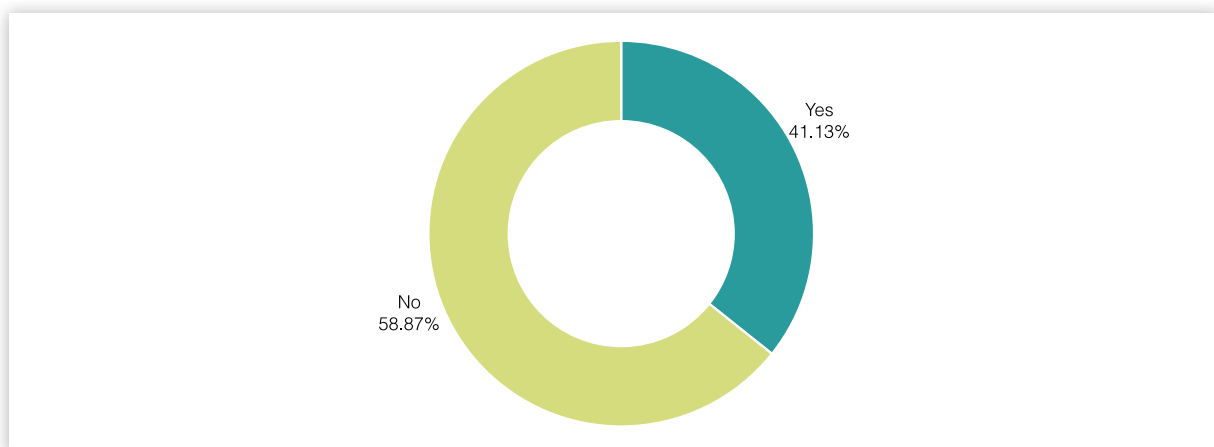


Figure 2-12: Respondents' views on whether they have a fair chance to participate in the major projects of the European Green Deal

Source: CCPIT Academy.

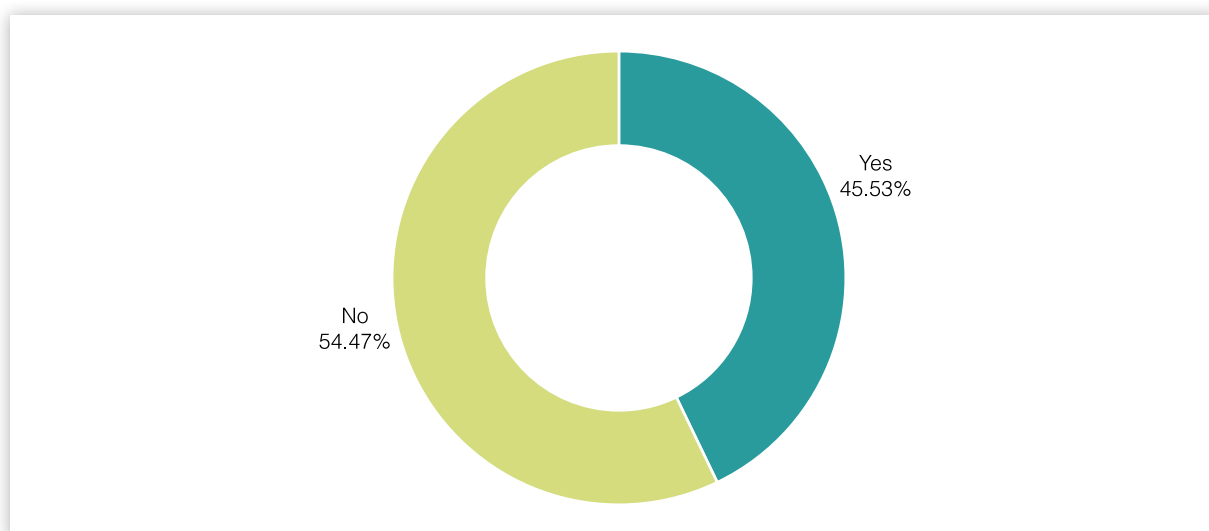


Figure 2-13: Respondents' views on whether they can enjoy the EU's green preferential and subsidy policies fairly
Source: CCPIT Academy.

C. The deterioration of the public security environment affects the production and business activities of enterprises

Public security is crucial to the business environment. The deterioration of public security environment directly threatens the personal safety of employees. In 2023, the public security environment in the EU worsened, with frequent public protests and demonstrations (Table 2-2), which had a negative impact on foreign companies' investment and operation.

Table 2-2: Protests and demonstrations in the EU since 2023

| Time | Location | Events |
|---------------|------------|--|
| January 2023 | Luxembourg | 2023 Lenin-Luxembourg-Liebkecht demonstration. |
| February 2023 | Denmark | Tens of thousands of Danes took to the streets of Copenhagen to protest against a bill proposed by the government to raise money for the defense budget by abolishing the more than 300-year-old Great Prayer Day holiday. |
| February 2023 | Germany | Large-scale demonstrations and protests broke out in the German capital Berlin. More than 50,000 people gathered in front of the Brandenburg Gate, holding signs such as "Negotiation not escalation" and "Diplomacy not arms supply", opposing Western arms supplies to Ukraine and calling for a peaceful resolution to the regional conflict. |
| February 2023 | Spain | Local residents and health workers staged a mass demonstration demanding improvements to the public health system in Madrid. |
| March 2023 | Greece | More than 10,000 people took to the streets of the capital Athens to protest against a train crash that killed 57 people, which the government described as a "man-made negligence" and cited lack of funding as an excuse to delay modernization of the railway system. |

Continued

| Time | Location | Events |
|----------------|-----------------|---|
| March 2023 | Belgium | Belgian farmers stormed into central Brussels in their tractors to protest against government policies that plan to close more than 40 farms to protect the environment, blocking roads in the city with tractors and starting to burn tires. |
| April 2023 | Czech Republic | Thousands of residents held a mass demonstration in the Czech capital Prague. Demonstrators criticized the government's poor response to high inflation, demanded an end to military aid to Ukraine, called for the Czech Republic's withdrawal from NATO, and demanded the government to step down. |
| June 2023 | France | Protesters clashed with police and attacked public buildings, shops and vehicles in the French city of Nanterre during a mass protest after a 17-year-old boy was shot dead by police for violating traffic rules and refusing to pull over. |
| July 2023 | Lithuania | Thousands of people protested against the discriminatory policy of prohibiting unvaccinated people from going to public places and using public transport, blaming the government for infringing upon people's freedom and human rights, and calling for the president to step down immediately. |
| August 2023 | Finland | Tens of thousands of Finns took to the streets in mass nationwide demonstrations demanding that the government take actions against Russia to reclaim territory lost during World War II. |
| August 2023 | Spain | Spain's Catalonia region witnessed a mass demonstration, with hundreds of thousands of people calling for independence from Spain to better manage and use its economic resources. |
| September 2023 | Cyprus | Hundreds of people marched through the streets of Limassol, Cyprus' second-largest city, attacking foreign-owned businesses and people who did not look like Greek Cypriots. The demonstrations evolved into a series of racist violence against migrants and refugees, the largest anti-migrant and anti-refugee violence in the EU in recent years. |
| September 2023 | The Netherlands | Dutch people staged a protest at Dam Square in central Amsterdam, urging Western countries to stop providing military support to Ukraine and seek a peaceful resolution of dispute to maintain world peace and stability and avoid further escalation of tensions. |
| September 2023 | Sweden | Hundreds of Swedes gathered in a square in downtown Stockholm to protest against the government's decision to join NATO under the theme "Stop the war, say no to NATO". |
| September 2023 | Spain | Around 60,000 people in Spain took part in a huge protest in central Madrid against the attempt of the PSOE, led by acting Prime Minister Pedro Sanchez, to grant amnesty to independents in exchange for their support for forming a government. |
| October 2023 | France | Thousands of pro-Palestinian protesters in France gathered on the streets of Paris, waving Palestinian flags and chanting slogans to express dissatisfaction with government policies and anger at social injustice. They also accused the police of abusing power and excessive use of force. |

Continued

| Time | Location | Events |
|---------------|--|---|
| October 2023 | Italy | Pro-Palestinian demonstrations broke out across Italy, from Milan and Rome in the north to Naples in the south. The demonstrators chanted "Act for the glory of Gaza", aiming to encourage pro-Palestinian people to take to the streets to defend the dignity and rights of Gaza. |
| November 2023 | France, Germany, Portugal, Poland, and the Netherlands | In Paris, about 7,000 people held a demonstration in heavy rain, holding banners reading "Stop the slaughter in Gaza and the West Bank and cease fire immediately". In Berlin, some doctors took part in a march to draw attention to attacks on hospitals and the killing of civilians in Gaza. In Lisbon, Amsterdam, and Warsaw, there were also large gatherings in support of the Palestinians. |

Source: Compiled by the CCPIT Academy based on available reports of official media.

According to interviews with Chinese companies, Germany, France, Italy, Spain, Greece, Romania, and Bulgaria, among other EU members, have experienced poor social security in recent years. Germany is facing some social security problems, with a series of terrorist attacks and social unrest arousing public concern over social security. France, which has more prominent social security problems than many other EU members, faces frequent security challenges such as terrorist attacks, criminal activities, and social unrest, which sparked widespread discussion and concerns over the past few years. Security problems, such as robbery, pickpocketing and drug trafficking in Italy, Greece, Romania, Bulgaria and other countries, have also aroused concerns.

VI. Systemic problems have emerged from geopolitical conflicts and weakening economic growth

A. The crisis in Ukraine has impeded the economic growth of EU members

The Ukraine crisis, which lingered on in 2023, is driving a profound readjustment of global powers and international landscape. The crisis has led to turbulence across global financial markets, disrupted raw material supplies, and resulted in high energy prices and poor logistics stability, hitting the economies of many EU members to varying degrees.

The assistance to Ukraine also caused turbulence in the European financial market, evidenced by capital withdrawal and the weakening of the euro. This led to greater supply chain difficulties and rising operating costs of EU companies, and dampened the momentum of economic recovery. EU member states that are highly dependent on energy supplies from Russia, especially the Central and Eastern European countries, used to have close economic and trade ties with Russia and a large number of energy-intensive industries. The surging energy prices after the outbreak of the Ukraine crisis has hit hard the domestic industries of these member states.

The European Commission's Autumn 2023 Economic Forecast³⁴ predicted heightened geopolitical tensions, adding to the uncertainties in the economic outlook.

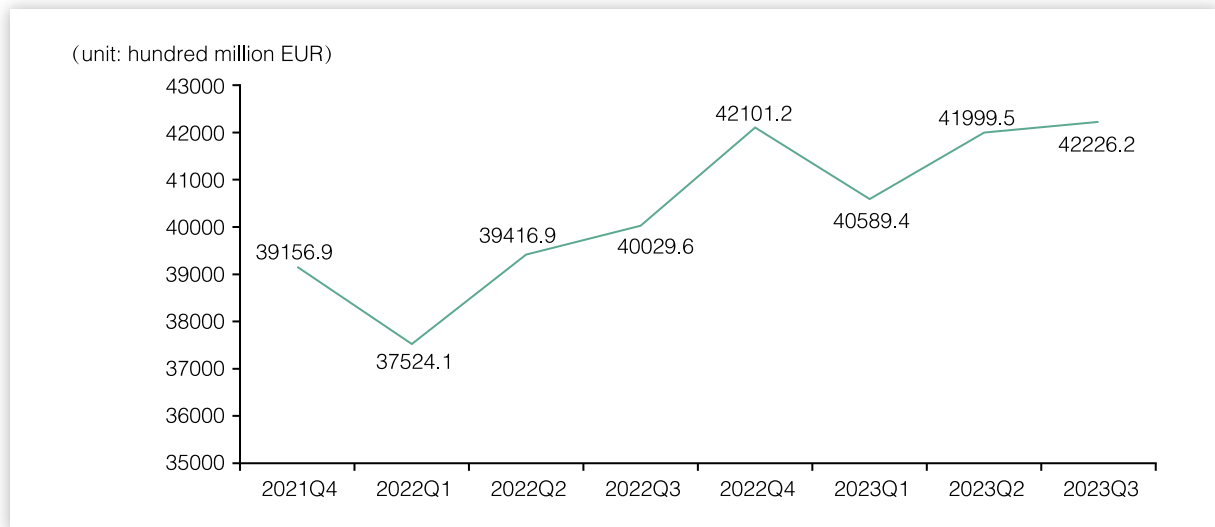


Figure 2-14: EU GDP from Q4 2021 to Q3 2023

Source: Eurostat.

B. Inflation in the EU has been controlled but remains high

In 2023, inflation in the EU and the eurozone declined to some degree, but remained at a high level, and the pressure of stagflation was not eliminated. In the first half of 2023, the economies of the EU member states grew by only 0.6% in real terms, adjusted for inflation, compared with the same period in 2022. High inflation has suppressed demand and consumption, and dampened economic growth momentum. Such a trend is likely to last in 2024.

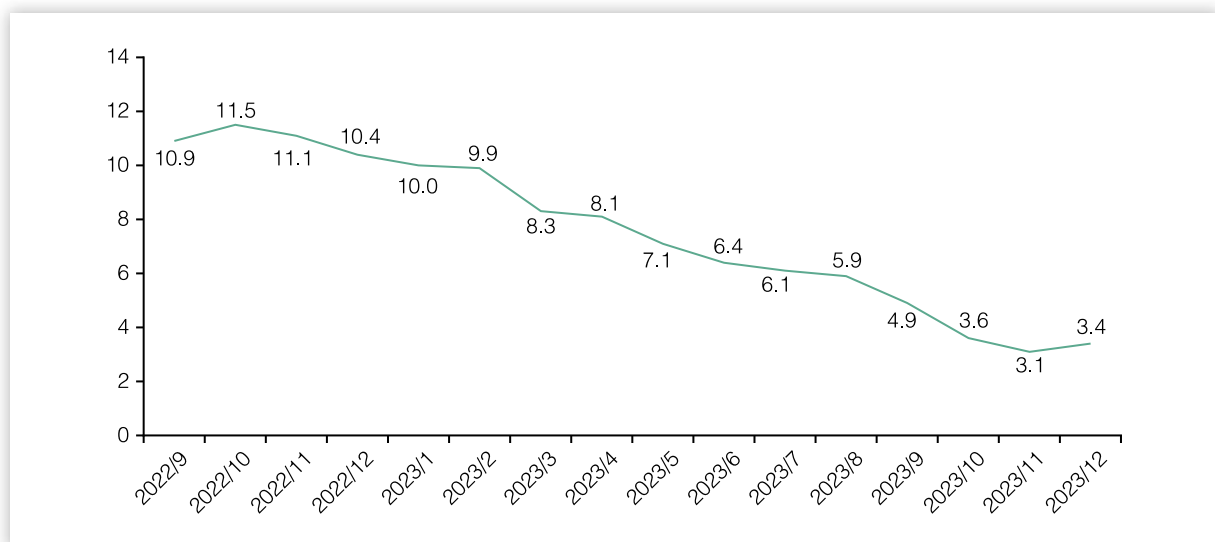


Figure 2-15: CPI changes in the EU from September 2022 to December 2023 (%)

Source: Eurostat.

34 Source: European Commission website, <https://ec.europa.eu/newsroom/representations/items/807550/>.



Figure 2-16: Energy CPI changes in the EU from September 2022 to December 2023 (%)

Source: Eurostat.

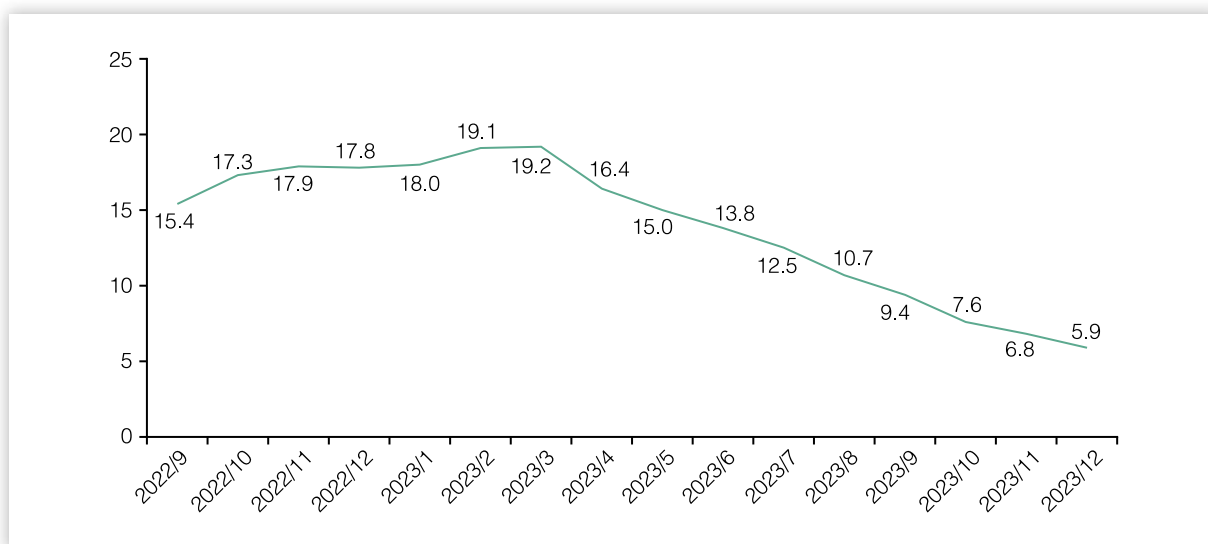


Figure 2-17: Changes in CPI for food and non-alcoholic beverages in the EU from September 2022 to December 2023 (%)

Source: Eurostat.

C. The problems arising from the Ukraine crisis affect the operation and development of foreign-funded enterprises in Europe

The EU has launched several rounds of sanctions against Russia, covering energy, trade, finance, and other sectors. At present, sanctions imposed by the EU and its member states continue to weigh on foreign-invested companies in Europe. 39.65% of the surveyed companies said that in 2023, the EU and its member states were less friendly to foreign investment (Figure 2-18).

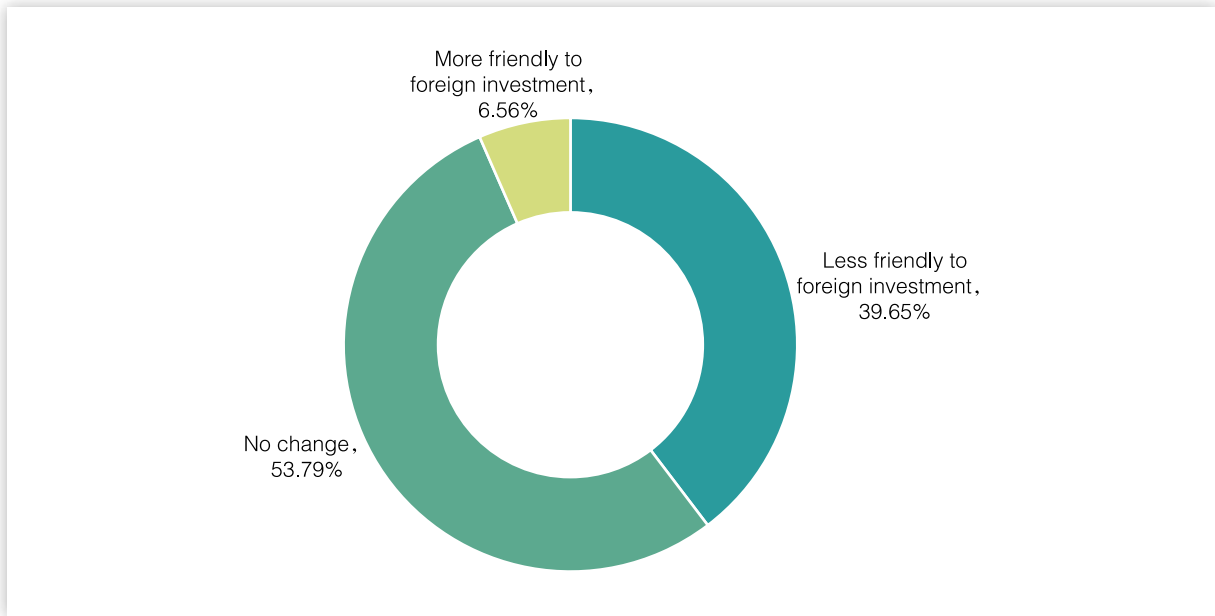


Figure 2-18: The impact of the EU and its member states' sanctions against Russia on Chinese enterprises

Source: CCPIT Academy.

According to the survey, 20.9% of the respondents believed that the biggest impact of the lingering Ukraine crisis is the increase in operating costs. 19.4% of them thought it was the loss of market share in the EU. 13.43% thought it was the logistics disruption (Figure 2-19).

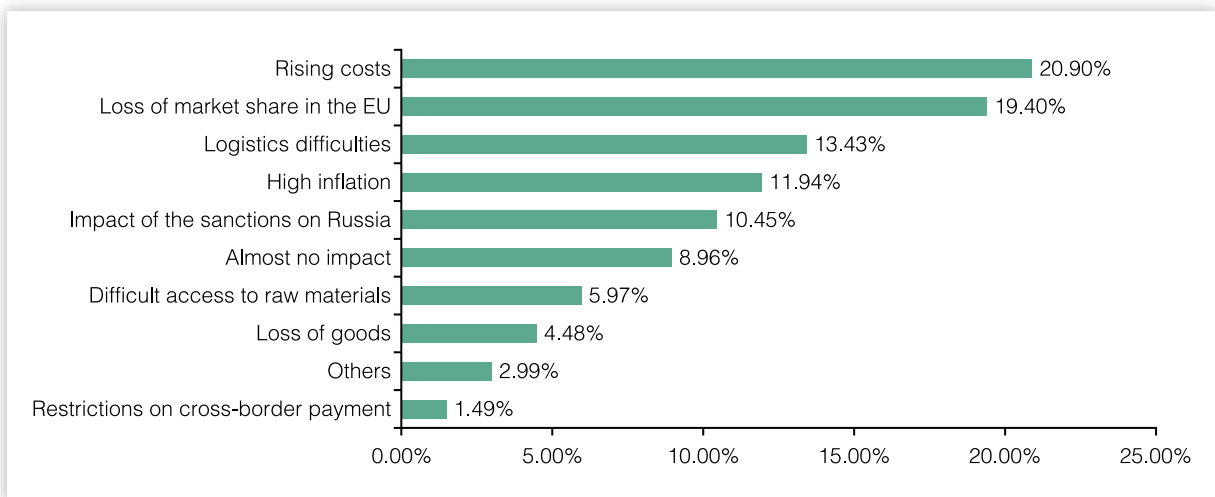


Figure 2-19: Main impact of the Ukraine crisis on Chinese enterprises in Europe

Source: CCPIT Academy.

Chapter III

General Recommendations



I. Putting true multilateralism into practice to safeguard the free market

A. Safeguarding the multilateral trading system centered on the WTO

We recommend that the EU adhere to its long-held concepts of openness and free trade, advocate and practice multilateralism, support and strengthen the multilateral trading system centered on the WTO, and promote the building of a system of fair, reasonable and transparent international economic and trade rules.

B. Liberalizing trade in accordance with WTO rules

We recommend that the EU abide by and implement its commitments made in relevant negotiations and liberalize trade on the basis of the common rules set by the WTO and in accordance with the principle of trade liberalization under the WTO agreements.

C. Ensuring foreign-invested enterprises enjoy national treatment in the EU market

We recommend that the EU and its member states abide by the WTO principle of national treatment, give equal treatment to foreign-invested enterprises (FIEs) in their preferential policies, value the important role of FIEs in the EU economy, and ensure national treatment of FIEs.

II. Eliminating trade protection in all forms and lowering market access barriers

A. Lowering the threshold for foreign-invested enterprises to enter the EU market

We recommend that the EU keep its investment market open, avoid expanding factors, scope, procedures and authority in security review, formulate a reasonable list of foreign investment review, shorten the period of foreign investment review, and reduce the space for governmental discretion in foreign investment review.

According to our survey, if foreign investment review by the EU is reasonable, 36.30% of the Chinese respondents said they would expand their investment in Europe, while 50.37% said they would maintain their existing business at the current level (as shown in Figure 3-1).

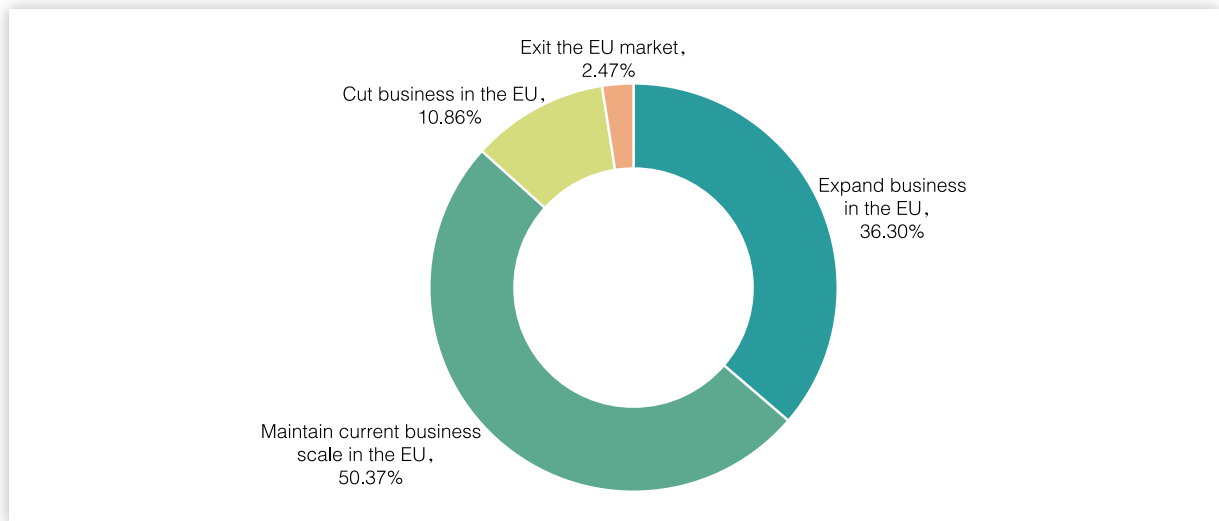


Figure 3-1: Chinese companies to invest in Europe under a reasonable foreign investment review

Source: CCPIT Academy.

B. Prudently using countervailing investigations to protect local consumers

We recommend that trade remedy measures be used prudently to encourage deeper cooperation in the new energy industry represented by electric vehicles, create favorable conditions for trade between China and the EU, and protect the interests of more EU consumers.

C. Following the legal principle of “non-retroactivity” in foreign investment review

We recommend that the EU and its member states adhere to the legal principle of “non-retroactivity” in foreign investment review, protect the legitimate rights and interests of FIEs, and provide reasonable legal protection to investment projects before the introduction of new regulations.

D. Protecting the interests of FIEs in geopolitical crises

We recommend that the EU respect business choices made by FIEs in Europe based on the laws of the market, not ignore their real voices and requests in geopolitical crises, and take concrete measures to lower barriers in market access, in order to stabilize their expectations and confidence in investing in the EU.

III. Lifting restrictions on Chinese-funded enterprises in Europe in the name of national security

A. Abandoning the “zero-sum game” mentality to share opportunities for cooperation

We recommend that the EU adhere to its strategic autonomy and independent and impartial

judgment, avoid ideological confrontation on economic and trade issues with China, focus on mutual benefits, and abandon the “zero-sum game” mentality by lifting restrictions on cooperation between Chinese and European businesses.

B. Removing the negative impact of “de-risking” on China-EU economic cooperation and trade

We call on the EU not to push for policies to curb Chinese enterprises under the framework of “de-risking”, do its best to eliminate the negative impact of “de-risking” and other measures on China-EU economic cooperation and trade, and maintain orderly connection and smooth and efficient flow between Chinese and European industries.

C. Adding no more barriers to Chinese-invested enterprises in the name of national security

We recommend that the EU and its member states not frequently update the scope of “strategic sectors related to national security”, which will subject Chinese-invested enterprises in Europe to additional scrutiny.

D. Clarifying the scope of export control on dual-use items

We recommend that the EU further clarify the scopes of dual-use items and controlled acts, and remove natural persons from the definition of “exporter” to avoid over-regulation on researchers. The EU needs to abolish the requirement of applying for a single export license or a global export license for the transfer of software and technology from the EU to China among affiliates of multinational companies.

IV. Providing fair and equitable treatment for Chinese-invested enterprises and improving government services

A. Creating a fair, non-discriminatory and predictable market environment

We recommend that the EU actively build a fair, non-discriminatory and predictable market and stop discriminatory enforcement against Chinese enterprises in Europe, so as to avoid discouraging Chinese enterprises from investing in Europe.

B. Providing Chinese enterprises with fair and equitable opportunities to participate in public procurement

The EU needs to give Chinese-invested enterprises fair opportunities to participate in its public procurement tenders, and treat them equally in the public procurement process, to ensure their

fair participation in market competition; the EU needs to make a clear case for its ban on Chinese investment or participation in its public procurement projects.

C. Improving government services to give more support to Chinese-invested enterprises in Europe

We recommend that the EU and its member states take seriously the problems in government services in their regions (countries), enhance the awareness of building service-oriented governments, improve their efficiency, and help reduce the cost of doing business, in order to give comprehensive support to Chinese-invested enterprises.

V. Taking effective measures to maintain the resilience and stability of global industrial and supply chains

A. Providing more guidance to member states to oppose “decoupling and chain-breaking”

We call on the EU to stop using rhetorics similar to “decoupling and chain-breaking” under the disguise of ideology, and guide its member states to uphold the right direction of globalization by resisting protectionism and unilateralism.

B. Promoting deeper cooperation on industrial and supply chains among various sectors

We recommend that the EU seize new opportunities in the new round of technological revolution and industrial transformation, promoting secure, stable, smooth, efficient, open, inclusive and mutually beneficial global industrial and supply chains built by all parties, and keep deepening international cooperation on various industrial and supply chains.

VI. Pushing for China-EU high-level cooperation in various fields

A. Working for the early signing and implementation of the China-EU Comprehensive Agreement on Investment

We recommend that the EU work for the early signing of the China-EU Comprehensive Agreement on Investment, providing more open market access, more transparent domestic supervision, and

higher-standard economic and trade rules for two-way investment, which will further deepen China-EU economic cooperation and trade.

B. Taking a host of measures to boost cooperation and development of Chinese and European green industries

We propose that the EU and China work together to build a green partnership, explore new modes of green economic cooperation, promote the building of a fair and reasonable global green governance system, boost cooperation in green industries, and encourage complementarity in technology, capital, and market.

C. Deepening cooperation in digital economy, communication technology, artificial intelligence, etc

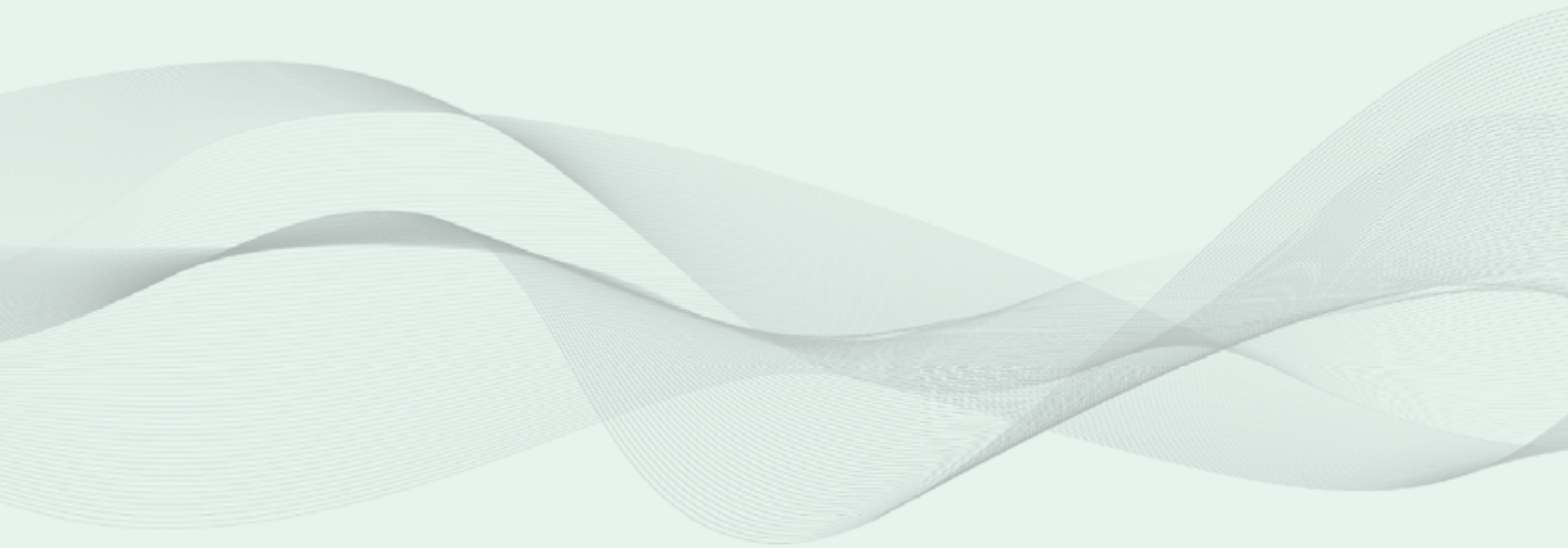
We recommend that the EU and China step up exchanges and mutual learning on standards in the field of digital governance, and align more standards and rules in digital economy, communication technology, artificial intelligence, and other areas; encourage mutually beneficial exchanges and cooperation among Chinese and European companies in the digital field, and jointly build a growth driver in digital economy and industry.

D. Further promoting two-way openness and regulatory cooperation in the financial sector

We recommend that the EU and its members remain committed to opening up in their financial markets, relax restrictions on the proportions of Chinese capital in their financial businesses, adopt an encouraging position on offshore market financial products, increase two-way financing channels for investments, and promote connectivity of the Chinese and European financial markets, especially bond markets.

Chapter IV

Market Access



I. Recent developments

A. New trade protection tools make it more difficult for foreign goods to enter the EU

Anti-dumping, countervailing, anti-circumvention investigations and safeguard measures have been the EU's main trade remedy tools to prevent other countries' products from entering its market. The current WTO-recognized trade remedies only include anti-dumping and countervailing investigations and safeguard measures. Anti-absorption investigation³⁵ pioneered by the EU has the same purpose as anti-circumvention investigation, and it is a trade protection tool developed by the EU after it expanded anti-dumping investigation. In recent years, anti-absorption investigations, as an extension of investigations to test whether anti-dumping duties are implemented effectively, have become a new tool for the EU to expand the coverage of barriers to trade in goods.

China is the main target of EU trade remedy measures. According to the annual report on trade defense activities³⁶ released by the European Commission on September 20, 2023, as of the end of 2022, the EU had a total of 177 trade remedies in force, including 151 anti-dumping measures, 25 countervailing measures, and one safeguard. Of the 151 anti-dumping measures in force in the EU, 102 were against China, accounting for 67.55% of the total, way higher than Russia (11, 7.28%) which ranked second. Of the 25 countervailing measures in force in the EU, 12 were against China, accounting for 48% of the total, considerably higher than India (4, 16%) which ranked second. The EU initiated one anti-absorption investigation in 2022, which was targeted at China's optical fibers and electrical appliances, with the investigation period covering the whole 2022.

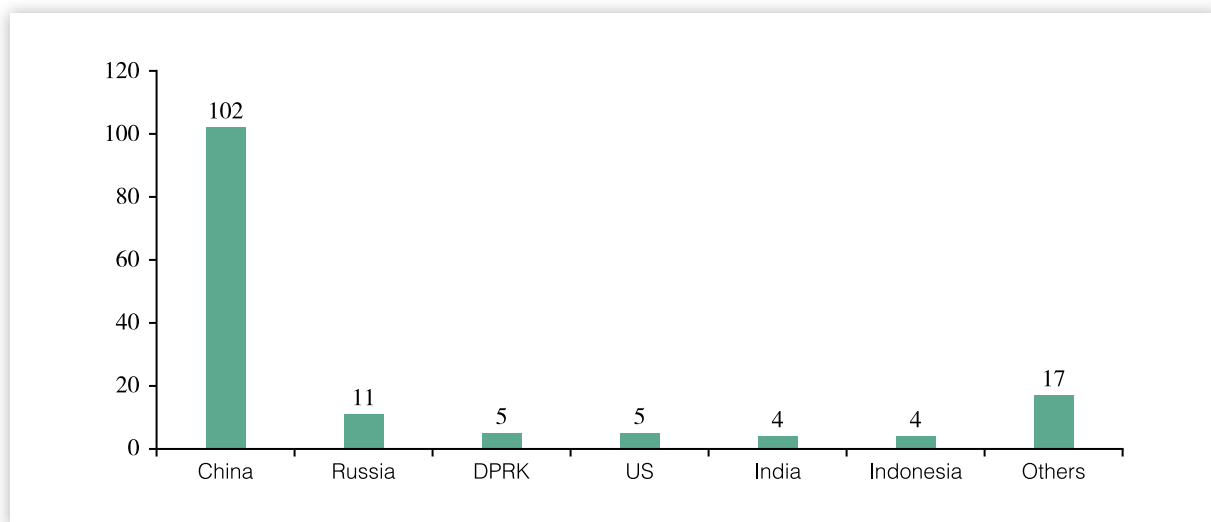


Figure 4-1: Distribution of Anti-Dumping Measures Implemented by the EU by Country (Region)

Source: Compiled by CCPIT Academy based on the European Commission working paper.

35 Source: See the knowledge box in this section for a specific definition of anti-absorption investigation.

36 Source: European Commission website, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023SC0287&qid=1696989626484>.

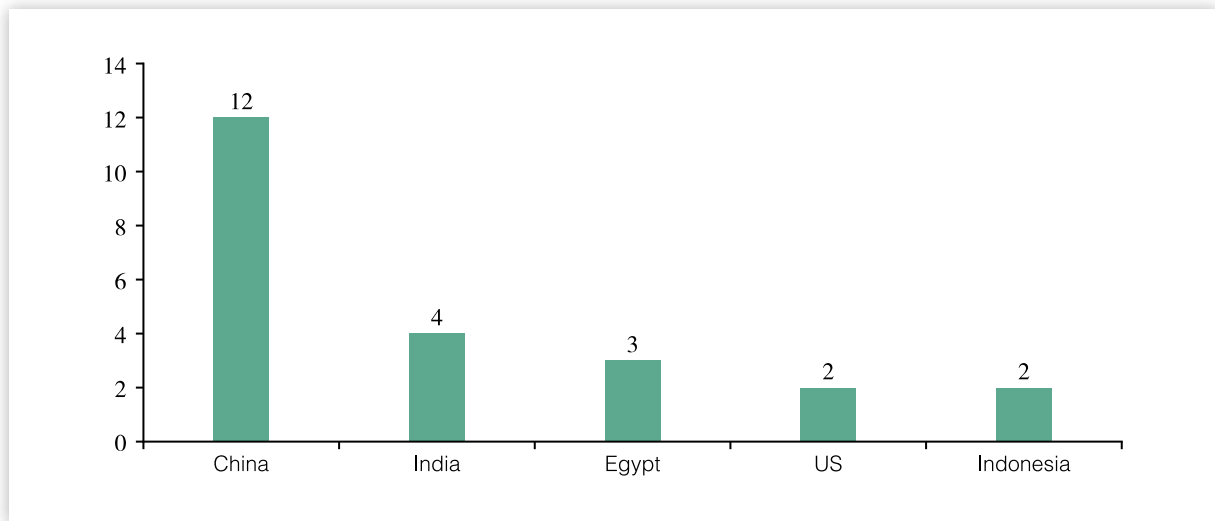


Figure 4-2: Distribution of Countervailing Measures Implemented by the EU by Country (Region)
Source: Compiled by CCPIT Academy based on the EC working paper.

In addition, according to the European Commission's annual reports on trade defense activities over the years, the EU has initiated a total of 46 anti-circumvention investigations from 2012 to 2022, of which as many as 36, or 85.37%, were against China, significantly higher than Egypt (2 cases) which ranked second.

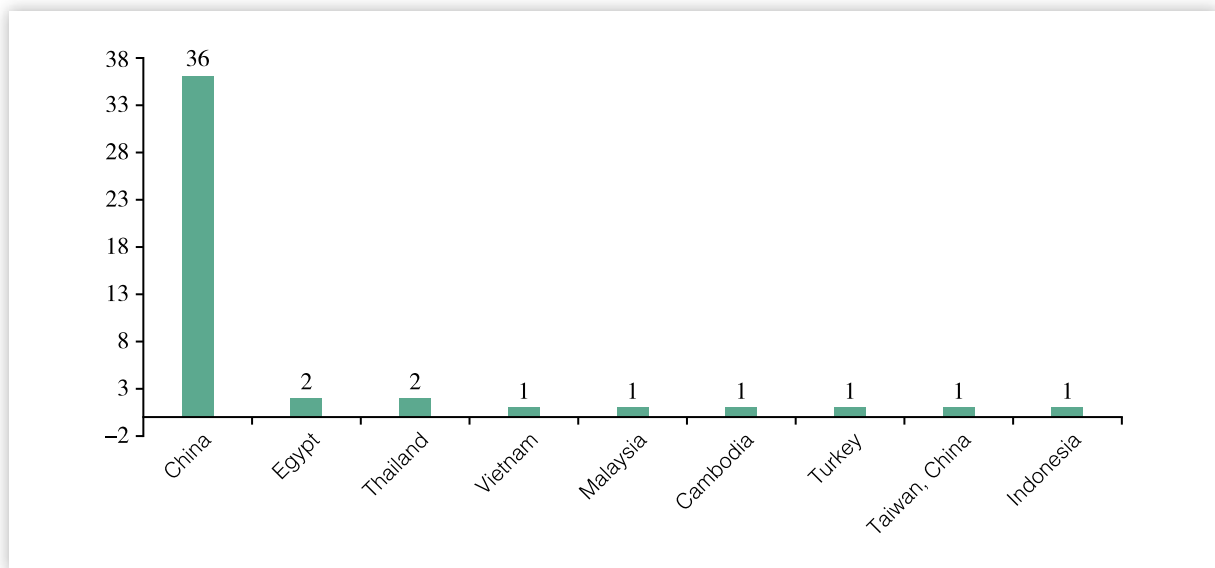


Figure 4-3: Distribution of Anti-Circumvention Measures Implemented by the EU by Country (Region), 2012-2022
Source: Compiled by CCPIT Academy based on the European Commission working papers.

“Absorption” in the context of “anti-absorption investigations”³⁷ refers to the practice whereby exporters under-declare their export prices in order to ease the burden of anti-dumping duties on the importer when anti-dumping duties have already been levied by the importing country on an imported product, thereby reducing the impact of anti-dumping duties on the market share of their products in the importing country.

“Anti-absorption investigation”, in the EU’s anti-dumping review, is aimed at sanctioning the exporter who proactively reduces the ex-factory price, to ensure that the export price does not increase after the imposition of anti-dumping duties. This investigation is designed to ensure that the effect of anti-dumping measures will not be “absorbed”.

B. German foreign investment review process discriminates against non-EU enterprises

The foreign investment review process in Germany applies different standards to EU and non-EU enterprises, which, in fact, constitutes a certain degree of discrimination against the latter. The German foreign investment review mechanism covers enterprises of other EU member states and non-EU enterprises. However, in terms of review outcomes, review rate and failure rate for non-EU enterprises including China are much higher than those for EU enterprises.

Germany’s review rate on investment projects of non-EU enterprises is way higher than that of EU ones. According to the 2022 FDI Report by Germany Trade and Investment (GTAI)³⁸, the top four investors by the number of projects in Germany in 2022 were the United States (279), Switzerland (208), the United Kingdom (170), and China (141), whereas the top four EU investors were the Netherlands (111), France (96), Austria (81) and Sweden (49). According to *Investment Screening in Germany: Facts & Figures*, in 2022, Germany reviewed 110 investment projects by the US, 40 by the UK, 37 by China, and 22 by other EU members states. This resulted in a review rate of 39.43% for the US, 26.24% for China, 23.53% for the UK in 2022, and less than 6.5% for other EU members³⁹.

37 Source: compiled on the basis of A legal Guide to EU anti-dumping, <https://www.herbertsmithfreehills.com/file/75628/download?token=3tb3Og4x>.

38 Source: GTAI website, <https://www.gtai.de/en/invest/business-location-germany/foreign-direct-investment/2022-fdi-report-999438#toc-anchor—3>.

39 Project review rate = number of projects reviewed / number of projects invested in Germany during the year. The number of reviewed investment projects by other EU member states in Germany was 22, with 337 investment projects by the Netherlands, France, Austria and Sweden. Investment projects by other EU member states were not announced. Based on the above data, the review rate for investment projects by other EU member states in Germany is extrapolated to be less than 6.5%.

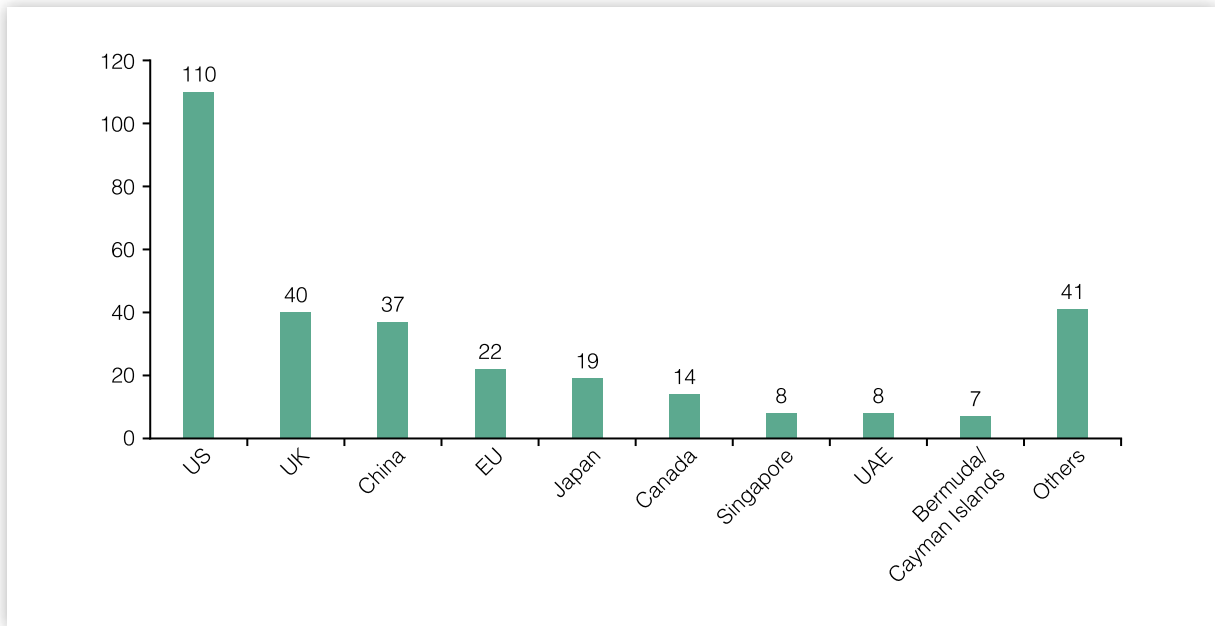


Figure 4-4: Main Sources of Reviewed Foreign Investment Projects in Germany, 2022

Source: Based on the 2022 GTAI FDI Report.

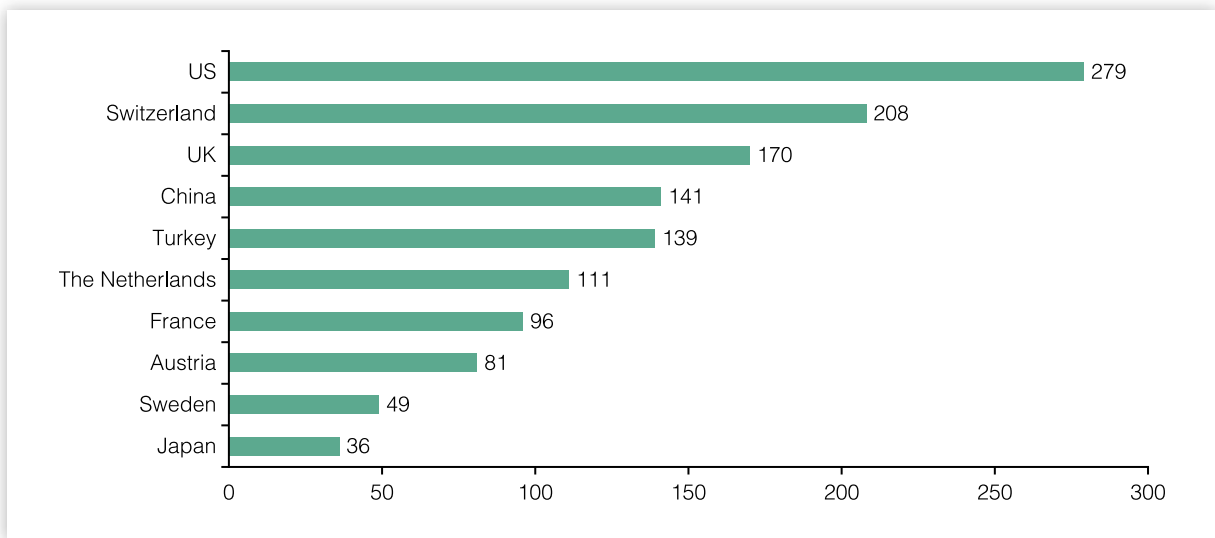


Figure 4-5: Main Sources of Foreign Investment Projects in Germany, 2022

Source: Based on *Investment Screening in Germany: Facts & Figures*.

C. Belgium keeps tightening its review on FDI

On July 1, 2023, the Belgian FDI screening mechanism came into force, with a new body—Interfederal Screening Commission composed of representatives of all levels of the Belgian

government to enforce the review⁴⁰. Acquisitions, mergers and acquisitions by non-EU investors in Belgium involving activities on the screening list and meeting the review thresholds need to be proactively declared and reviewed by the commission.

1. Scrutiny for non-EU investors

Belgium's foreign investment review regime is applied to all non-EU investors, including: (1) natural persons with a place of residence outside the EU; and (2) enterprises with their place of incorporation or principal activity outside the EU or whose ultimate beneficiaries have their principal place of residence outside the EU. Ultimate beneficiaries include natural persons who, directly or indirectly, own 25% of the voting rights of the enterprise or are otherwise able to exercise control of the enterprise.

2. Broad screening scope and low threshold for triggering the mechanism

The scope of the Belgian foreign investment screening is broad. Foreign companies are not only subject to scrutiny when they invest in Belgium, but also when they enter into investment agreements with non-Belgian companies that have control over Belgian entities.

The activities subject to foreign investment screening are divided into three categories, with thresholds of 25% or 10% applying: (1) The Belgian entity has business involved in the activities listed in Table 4-1, the foreign investor is subject to review when it acquires 25% of the voting rights in the Belgian entity or acquires no less than 25% of the voting rights in the Belgian entity from the enterprise controlling the Belgian entity; (2) If the Belgian entity is a biotechnology enterprise and its turnover exceeds 25 million euros in the year prior to the acceptance of the investment, the investment is subject to review; and (3) If the Belgian entity is engaged in activities related to energy, defense (including dual-use products), cyber technology and electronic communications or digital infrastructure, and the turnover of the Belgian entity exceeds 100 million euros in the year preceding the acceptance of the investment, the foreign investor acquires no less than 10% of the voting rights in the Belgian entity, or acquires no less than 10% of the voting rights from other enterprises controlling the Belgian entity, the foreign investor is subject to scrutiny.

Table 4-1: List of Businesses Involved in Category I Foreign Investments Subject to Screening

| No. | Business Type |
|-----|--|
| 1 | Critical infrastructure, including transport, health, communications, data processing or storage, etc. |
| 2 | Core technologies and raw materials, including artificial intelligence, semiconductors, cybersecurity, energy storage, quantum and nuclear energy technologies, nanotechnology, etc. |
| 3 | Critical product supplies, including energy, raw materials, food, etc. |
| 4 | Personal privacy, including detection or protection of people, goods, etc. |
| 5 | Media activities, including news organizations, broadcasting services, newspapers, etc. |

Source: compiled by CCPIT Academy based on the provisions.

40 Source: United Nations Conference on Trade and Development-Belgium's Foreign Investment Screening Mechanism, <https://investmentpolicy.unctad.org/investment-policy-monitor/measures/4343/belgium-introduces-screening-regime-for-non-eu-fdi-that-may-affect-national-security-and-public-order#>.

3. Investors required to fulfill the declaration obligation on their own initiative

Foreign investments involving activities within the scope of the review and reaching the corresponding thresholds are subject to the declaration obligation to be fulfilled by the investor on its own initiative. The declaration shall include, in great details, ownership structure of the foreign investor and the target enterprise, investment value, valuation, product, service or activity, the country in which activity is to be carried out, source of funds for investment, and expected date of completion of transaction.

4. The review process is cumbersome and can take up to 5 months

The screening process is divided into two parts, namely assessment and review, and can take up to five months.

Assessment. The maximum time is 80 natural days. Once it receives the notification, the Interfederal Screening Commission will conduct evaluation within 30 natural days. During this period, the commission will notify the European Commission and other EU governments, hold high-level assessment meetings, and may request additional information from the investor, during which time assessment will be suspended for 30 days. If there are no indications of risk, the investment will be approved and the investor will be notified; if there are indications of risk factors, the commission will initiate a second stage of the screening process. If no decision is made within 30 days (extended by 30 days if additional information is requested), the investment is deemed to have been approved at the first stage.

Review. The maximum duration is 3 months. The Belgian federal or local government will issue a draft opinion determining whether there is a risk within 20 natural days after the initiation of the review process is notified. In complex cases, the period may be extended by 2-3 months. The commission or the foreign investor may request an oral hearing within 10 natural days from the beginning date of the review procedure (The time limit of 20 natural days will be suspended).

5. The Interfederal Screening Commission retains a retroactive period of up to five years

The commission may launch the screening procedure on its own initiative without any notification. Depending on the outcomes, the commission has the power to prohibit investments, impose restructuring or take additional measures. This power remains in place for two years after the completion of the takeover, and can be extended to five years in the case of a clearly hostile takeover.

It is worth noting that even for agreements signed prior to the entry into force of the Belgian foreign direct investment screening regime (July 1, 2023), the commission can still make retroactive decisions.

6. Penalties or fines

The commission may impose fines and corresponding penalties if the foreign investor fails to comply with the provisions. In the following cases, the foreign investor may be subject to an administrative fine of up to 10% of the value of the direct investment:

(1) Providing incomplete information when declaring on its own initiative or when requested to provide

information;

- (2) Failure to provide additional information within the requested period;
- (3) Late notification of investment sent within 12 months after the completion of the investment; and
- (4) The commission's decision on a sanction by conducting a retroactive evaluation ex officio within 12 months after the investment is completed.

A foreign investor may be subject to an administrative fine of up to 30% of the value of the direct investment in the following cases:

- (1) Failure to fulfill the notification obligation (in addition to the fine, the commission may initiate the evaluation procedure on its own initiative or prohibit the investment);
- (2) Providing inaccurate or misleading information when notified or requested to provide information;
- (3) Failure to comply with a request to cease investment; and
- (4) Failure to implement corrective measures proposed by the commission within the prescribed period.

D. Luxembourg formally implements the Foreign Investment Security Review Mechanism

On July 14, 2023, Luxembourg established a national screening mechanism for foreign direct investments likely to undermine security or public order, which has come into force since September 1, 2023⁴¹. The foreign investment security review mechanism imposed an obligation to notify the Minister of the Economy of Luxembourg prior to an investment by an investor from a non-EU Member State in a key sector.

The mechanism is broad in scope, outlining 12 major areas of relevance to Luxembourg's national security. The threshold for triggering the mechanism is a 25% shareholding in the voting rights of a Luxembourg entity (as shown in Table 4-2). However, the boundaries set by the 12 areas are not clear, as any research and production activity related to these areas is subject to security screening.

Table 4-2: Areas Relevant to National Security under Luxembourg's Foreign Investment Security Review Mechanism

| No. | List of Key Activities |
|-----|--|
| 1 | Development, production and trade of dual-use goods. Dual-use goods as defined in Article 2.1 of the Regulation establishing an EU export control system adopted by the European Parliament and the Council on May 20, 2021 (CE 2021/821); |
| 2 | Energy: electricity generation and distribution, gas regulation and distribution, oil storage and trading; quantum and nuclear technologies; |

41 Source: Website of the Luxembourg Ministry of Economy, <https://legilux.public.lu/eli/etat/leg/loi/2023/07/14/a411/jo>.

Continued

| No. | List of Key Activities |
|-----|--|
| 3 | Transport: land, water and air transport; |
| 4 | Water: water collection, treatment and distribution, wastewater collection and treatment, and waste collection, treatment and disposal; |
| 5 | Health: healthcare and laboratories, nanotechnology and biotechnology; |
| 6 | Communications: wired and wireless communications, satellite communications, postal and courier services; |
| 7 | Data processing or storage: installation of technologies for data processing and storage, information and Internet hosting, technologies related to artificial intelligence, semiconductors and cybersecurity; |
| 8 | Aerospace: space operations and space resource development; |
| 9 | Defense: activities related to defense, production and trade of weapons and ammunition, explosive powders and substances for military use or war materiel; |
| 10 | Financial: central banking activities, and infrastructure and systems related to exchange, payment and settlement of financial instruments; |
| 11 | Media: printing, audiovisual and radio transmission activities; |
| 12 | Agriculture and food: food safety. |

Source: compiled by CCPIT Academy's based on Luxembourg's foreign investment security review mechanism.

A foreign investor is deemed to acquire control of a Luxembourg entity when it is involved in, or carries out activities related to, one of the above 12 sectors, whether directly or indirectly, by fulfilling one of the following four conditions. A foreign investor is subject to mandatory notification obligations and foreign investment scrutiny when: (1) it acquires 25% of the voting rights of the Luxembourg entity; (2) it holds a majority of the voting rights of the Luxembourg entity (with two notification obligations in the event that the foreign investor acquires 25% of the voting rights in the first instance and then more than 50% of the voting rights in the second instance); (3) the foreign investor is a shareholder or partner of the Luxembourg entity and has the right to appoint or remove a majority of directors, the management or supervisory board members of the Luxembourg entity; and (4) the foreign investor is a shareholder or partner of the Luxembourg entity and controls the majority of the voting rights of the shareholders or partners of the Luxembourg entity through an agreement with other shareholders or partners.

Under this mechanism, foreign legal entities may be penalized for violations of up to 5 million euros. If the investor fails to comply with the notification requirements or other provisions of the Luxembourg Ministry of the Economy, the Ministry of the Economy may take administrative measures to penalize the investor. The penalties may include ordering the foreign investor to modify the transaction or to reinstate the subject matter of the investment at its own expense. If the foreign investor fails to comply with the aforementioned obligations, the Ministry may impose a fine, the amount of which depends on the seriousness and duration of the violation and the degree of responsibility of the foreign investor. The maximum fine can be up to 1 million euros if the foreign investor is a natural person and up to 5 million euros if it is a legal entity.

II. Problem analysis

A. The EU has further increased barriers to market access from last year

Since 2023, the EU and its member states have increased the number of trade remedy tools, updated or formally implemented their national foreign investment review mechanisms, continuously expanded the scope of foreign investment scrutiny, and lowered the conditions for triggering the mechanisms, thus further raising market access barriers. According to our survey, 34.60% of the respondents believe that the EU market access environment has deteriorated compared with the past, 48.24% believe that there is no significant change, and only 17.16% believe that it has improved (as shown in Figures 4-6).

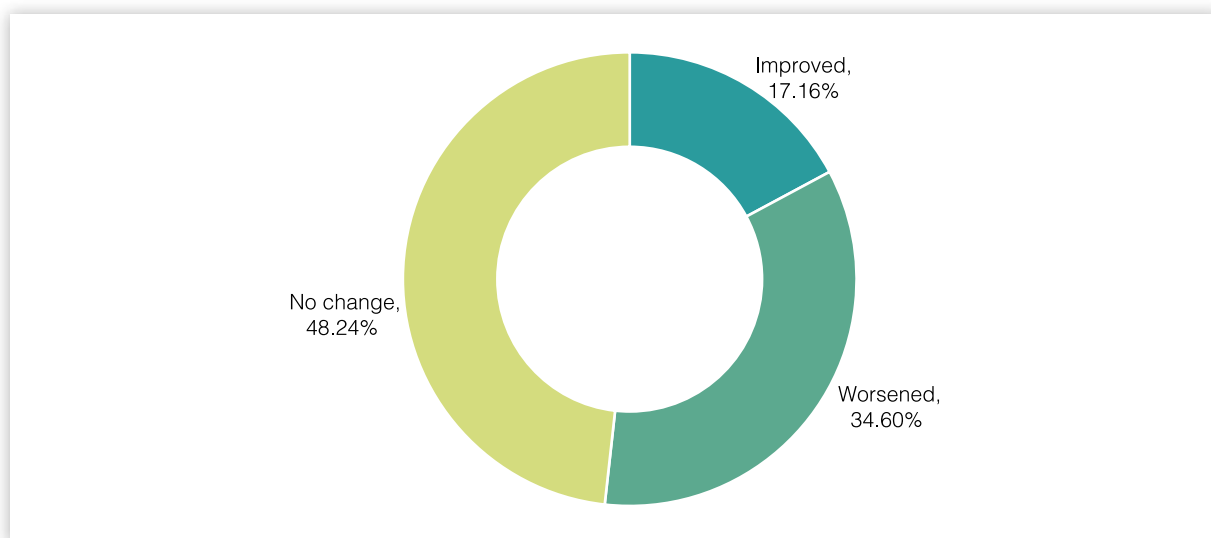


Figure 4-6: The Respondents' Views on EU Market Access

Source: CCPIT Academy.

B. Foreign investment screening remains the biggest obstacle to investment in Europe

In 2023, Belgium and Luxembourg, among the EU members, formally implemented their foreign investment review mechanisms. Non-EU investors entering the markets of the two countries will be required to fulfill the obligation of active review or notification, and to undergo cumbersome and time-consuming review procedures, which has brought difficulties to Chinese-invested enterprises in investment and M&A activities in the EU. According to our survey, 69.14% of the respondents indicate that EU foreign investment reviews have a great impact on their investment in Europe, which is about 4 percentage points higher than last year (as shown in Figure 4-7).

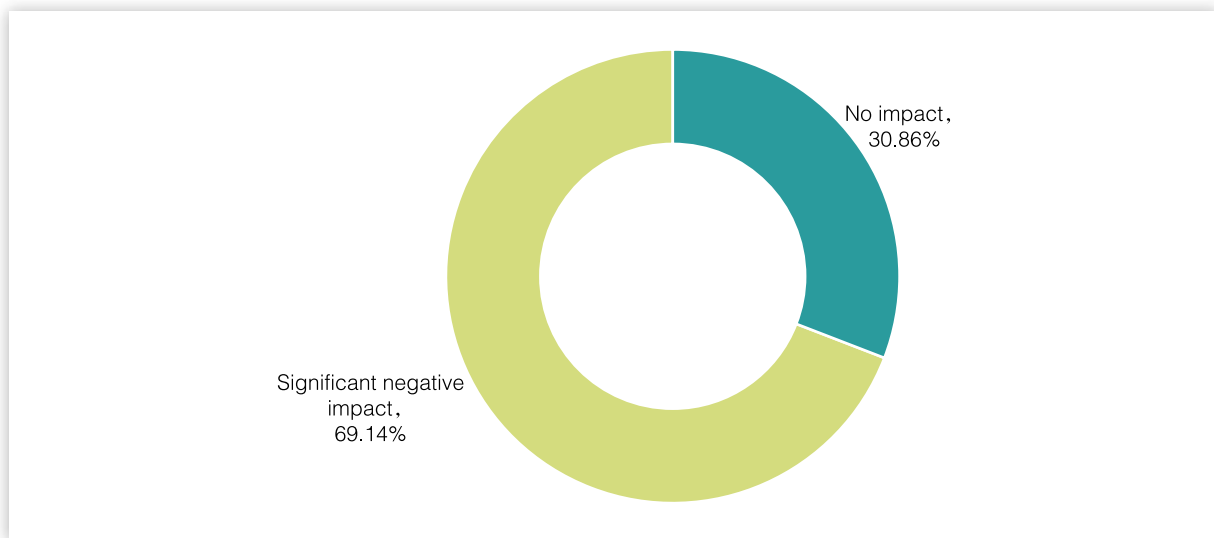


Figure 4-7: Impact of EU Foreign Investment Review on Businesses Investment in Europe

Source: CCPIT Academy.

Negative impacts are mainly observed in increased time and capital costs, and restrictions on the scope and field of operation of foreign enterprises. Our survey shows that 45.45% of the respondents believe that the foreign investment review has increased their capital cost, 40.91% believe that it has increased their time cost, and 36.36% believe that the scope and field of business have been restricted (as shown in Figure 4-8).

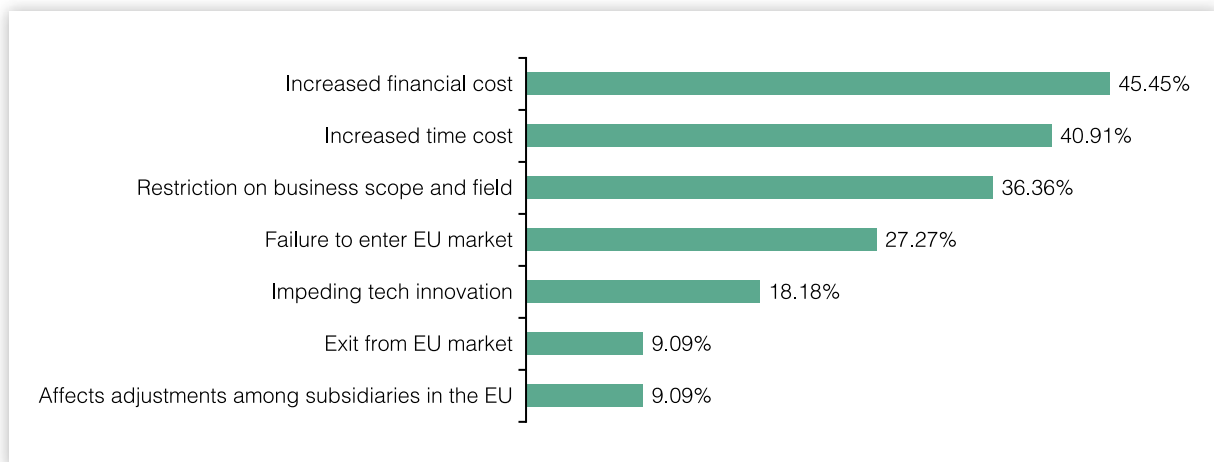


Figure 4-8: Specific Impacts of the EU Foreign Investment Review as Perceived by businesses

Source: CCPIT Academy.

Information transmission/software and information technology service enterprises, scientific research and technology service enterprises, and financial enterprises are more negatively affected by the EU foreign investment review. According to our survey, 82.66% of information transmission/software

and information technology service enterprises, 66.25% of scientific research and technology service enterprises, and 49.65% of financial enterprises indicate that the foreign investment review had brought about substantially negative impact on them, significantly higher than those in other sectors (as shown in Figure 4-9).

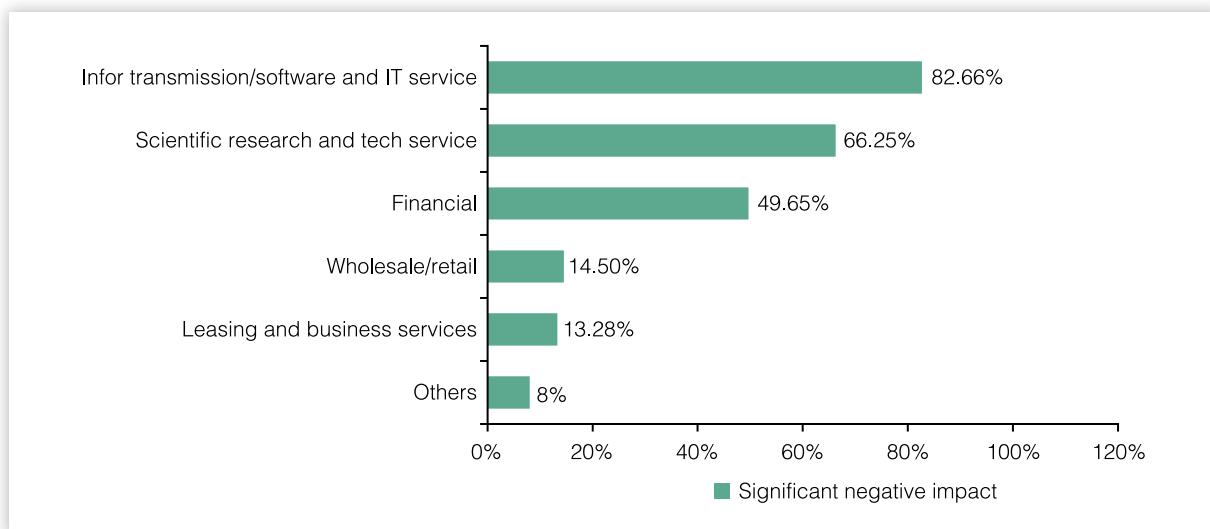


Figure 4-9: Impact of the EU Foreign Investment Review on Different Sectors

Source: CCPIT Academy.

C. The foreign investment review process remains unfair and untransparent

Non-transparency and unfair treatment of Chinese enterprises in the EU's foreign investment review process remains prominent. According to our survey, 65.27% of the respondents believe that the EU's foreign investment review process is not transparent, 8.13 percentage points higher than that of the previous year. Only 34.73% of the respondents say that the treatment of Chinese enterprises is fair and transparent.

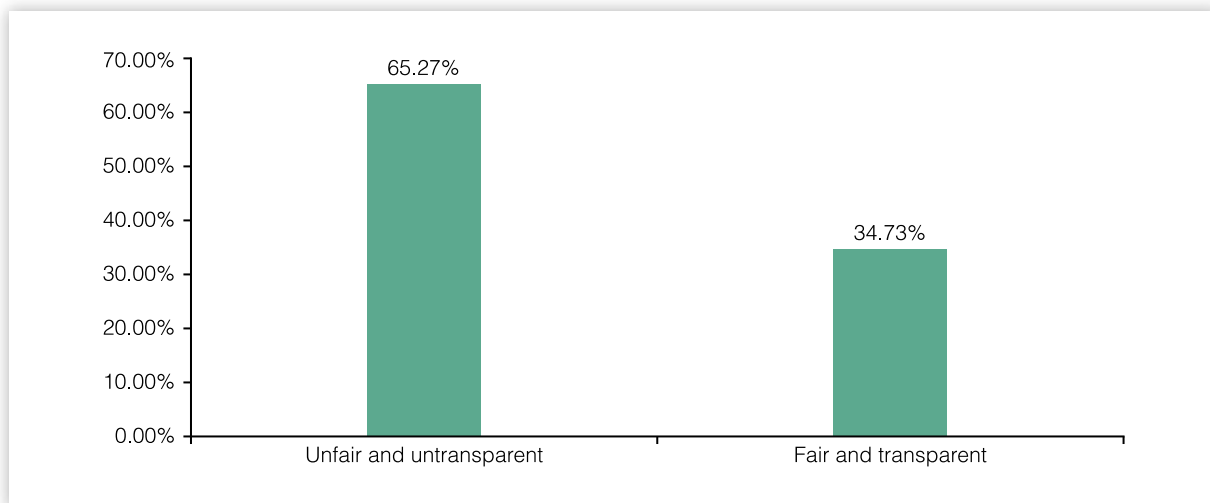


Figure 4-10: The Respondents' Views on the Fairness and Transparency of the EU Foreign Investment Security Review

Source: CCPIT Academy.

D. Germany's foreign investment review soars and nearly half of banned projects come from China

On January 12, 2023, the German Federal Ministry for Economic Affairs and Climate Action published *Investment Screening in Germany: Facts & Figures*, chronicling trends, countries and industry distribution of reviewed foreign investment cases in Germany since 2018.

According to the report, the number of reviewed foreign investment cases has increased rapidly since the German Federal Parliament lowered the screening threshold for security, defense, critical infrastructure, key technologies and media sector from 25% to 10% in 2018. In 2022, 306 foreign investment security cases were reviewed in Germany, 3.92 times higher than in 2018.

In 2022, nearly half of the investment projects vetoed by Germany in the foreign investment review mechanism were projects by Chinese companies. 25 foreign investment projects entered the substantive review process that year, of which 13 were prohibited, including six from China, in sectors such as information technology, infrastructure, and defense.

E. Belgium's foreign investment review mechanism has increased investment uncertainty

The overly broad scope of Belgium's foreign investment review has created more uncertainties for foreign companies investing there. This mechanism allows the Belgian authorities to review investments in non-Belgian entities, which may lead to "long-arm jurisdiction". The Belgian Interfederal Screening Commission may retain a retroactive period of up to five years. Even if the investment acquisition is finalized, the commission may launch an investigation on its own initiative. This provision contradicts the legal principle of "non-retroactivity" and may jeopardize the legitimate rights and interests of foreign enterprises that have already invested and operated legally and in compliance with the law in Belgium.

III. Our recommendations

A. Remove "anti-absorption investigation" out of the trade remedy toolbox

In adopting anti-absorption investigation, the EU may misjudge normal trade activities of foreign enterprises and violate the principles of the WTO. We recommend that the EU remove such trade protection tool out of the trade remedy toolbox, in order to create a level playing field for foreign enterprises.

B. Provide fair treatment to Chinese enterprises they deserve in foreign investment review

We recommend that the EU and its members uphold the principle of equal treatment in the process of foreign investment review. They need to demonstrate in review outcomes their equal treatment of

non-EU and EU enterprises, and stop discriminatory law enforcement.

C. Further enhance transparency in the foreign investment review process

We recommend that the EU and its member states publicize time posts and progress of the foreign investment review, provide an electronic platform for enterprises to make inquiries, and give full justifications and explanations for review outcomes, to enhance transparency of the foreign investment review.

D. Revisit the scope of foreign investment review and delineate a reasonable one

We recommend that the Belgian government revisit the existing foreign investment review mechanism, lower the barriers in foreign investment review, and eliminate non-essential investment project reviews, such as the requirement that foreign investment in non-Belgian enterprises also be subject to its foreign investment review.

E. Eliminate the regulations on the retroactive period for foreign investment in member states

We recommend that Belgium, Italy and other EU member states abide by the principle of “non-retroactivity”, abolish their regulations on retrospective period, and not conduct retrospective review on investment projects that have already legally entered into force, in order to protect the legitimate rights and interests of foreign enterprises investing there.

F. Clarify the scope of national security and introduce a specific industry list

We recommend that the Luxembourg government reevaluate the scope of national security and introduce a well-defined list of industries for foreign investment review, so that production, services, and products that are not related to core security will be excluded from the list, bringing more certainties to foreign investors.

G. Shorten the foreign investment review period and improve its efficiency

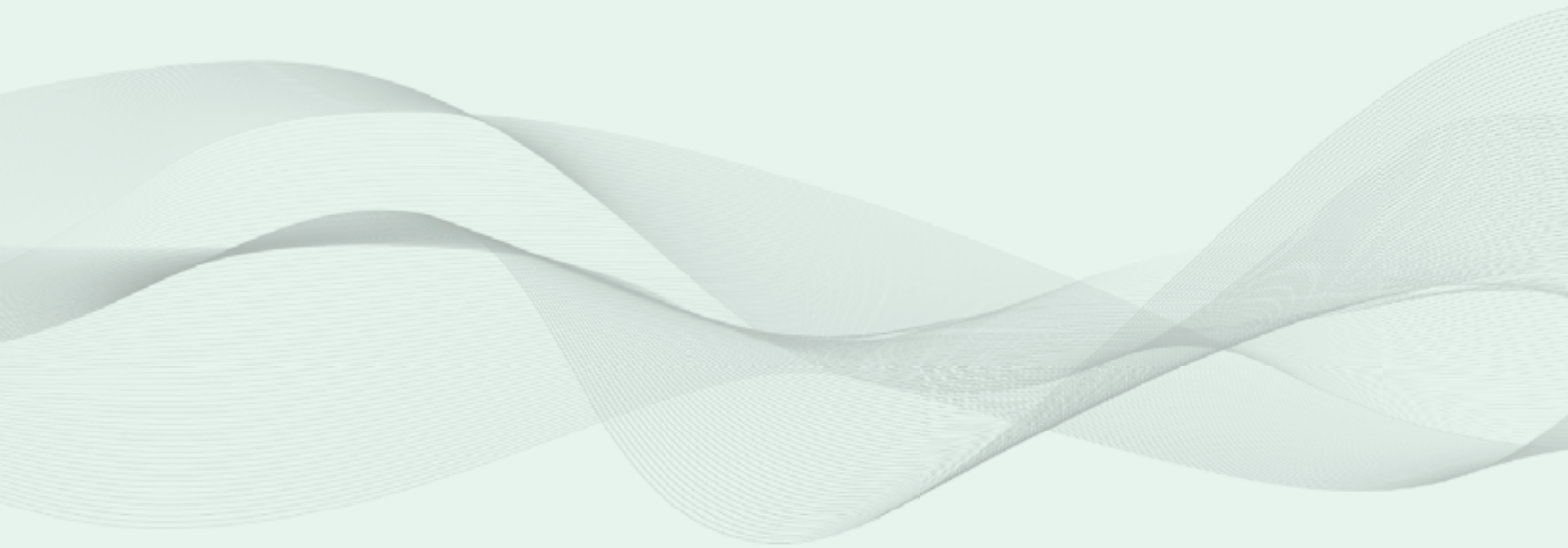
We recommend that the competent authorities of the EU and its member governments shorten the foreign investment review period as much as possible, improve their administrative services and work efficiency, so that protracted review process will not delay foreign investment projects and add unnecessary operational and compliance costs to foreign enterprises.

H. Provide comprehensive and diverse investment information to foreign-invested enterprises

We recommend that the EU and its member governments provide foreign enterprises with comprehensive and diverse investment information as far as possible, publicize new regulations and policies of the EU's foreign investment review through multiple channels, and create an open and transparent policy environment.

Chapter V

Competition Policy



I. Recent developments

A. Simplified filing procedures under the Merger Control Regulation

On April 20, 2023, the European Commission (EC) issued a revised Notice on Simplified Procedure of the EU Merger Control Regulation, which entered into force on September 1, 2023⁴². The Notice aims to streamline the filing process and simplify the procedure, and its main components include the following:

1. Clarifying the categories of transactions qualified for the simplified procedure. These include: (1) a transaction where the parties to the transaction compete, their combined market shares are below 50%, and the transaction would result in only a modest increase in concentration; (2) a transaction in an upstream supply market, and the parties' market shares are below 30% of the upstream market; and (3) a transaction in which the parties have a market share of under 50% in both the upstream and downstream market, and the transaction would result in only a modest increase in concentration in the upstream and downstream markets.

2. Expanding the scope for allowing simplified merger notifications (Short Form CO), reducing the various types of submissions, and no longer demanding paper copies of the notification documents. The standard Form CO, Short Form CO, referral requests (Form RS), and remedy proposals (Form RM) have been simplified and revised. The simplified and revised Form CO and Short Form CO ask for most of the information to be submitted in tabular form or in a "tick-the-box" format.

B. Revised horizontal rules to incentivize R&D and innovation

On June 1, 2023, the EC adopted the revised R&D Block Exemption Regulation, the revised Specialization Block Exemption Regulation, and the revised Horizontal Guidelines intended to provide greater clarity to firms in assessing whether horizontal cooperation agreements comply with EU competition rules. The two block exemption regulations entered into force on July 1, 2023, and the Horizontal Guidelines entered into force following its publication in the Official Journal of the EU.

The R&D Block Exemption Regulation and the Specialization Block Exemption Regulation focus on activities such as research and development between undertakings (including between competing undertakings) and provide that R&D cooperation between undertakings will not give rise to antitrust liabilities under the EU competition rules as long as certain conditions are met.

The changes to the R&D Block Exemption Regulation mainly include: (1) increasing the clarity on the calculation of market shares, stipulating that if the previous year is not representative of an undertaking's market share, the average of the undertaking's market shares over the past three years may be used, and that the "grace period" for exceeding the exemption threshold shall be two years; (2)

42 Source: European Commission website, Simplification of merger control procedures, https://competition-policy.ec.europa.eu/mergers/publications/simplification-merger-control-procedures_en.

authorizing the Commission and EU member states to withdraw block exemptions in individual cases. The Specialization Block Exemption Regulation, on the other hand, covers the circumstances where “existing or potential competitors with a combined market share not exceeding 20% withdraw from the existing market by switching to the production and supply of other products”.

The main changes to the Horizontal Guidelines include: (1) all horizontal agreements between a parent company and an undertaking over which the parent company can exercise decisive influence are generally considered intra-group and therefore exempt from the rules on horizontal monopoly agreements; (2) on joint purchasing, the distinction between joint purchasing and buyer cartels has been made; (3) on joint commercialization (sale, purchase, and distribution), a new provision on “joint tendering agreements” has been added, and the distinction between such agreements and collusive bidding has been made; (4) on exchange of information, incorporating the experience of case law and enforcement practice, new provisions have been made on the definition of commercially-sensitive exchange of information, types of information exchange for “unlawful purposes”, indirect exchange of information, and data tools, and undertakings are provided with mitigation measures to avoid unlawful exchange of information; (5) on the standardization agreement, it has been clarified that disclosure of the maximum cumulative royalty rate will not harm competition, and undertakings are required to disclose relevant intellectual property rights; and (6) sustainability agreements are added to clarify that the Commission does not prohibit horizontal agreements between competitors to achieve sustainability goals (e.g., combating climate change).

C. Revised vertical rules to support the development of platform economy

On May 10, 2022, the EC adopted a new Vertical Block Exemption Regulation (VBER)⁴³ and Guidelines on Vertical Restraints⁴⁴, which entered into force on June 1, 2022. One of the most important changes made by the EC was to the safe harbor⁴⁵ threshold.

1. Narrowing the scope of the safe harbor relating to “dual distribution” and “parity obligations”. “Dual distribution” means that a supplier sells its goods or services both through independent distributors and directly to end-customers. “Parity obligations” require a seller to offer the buyer the same or better terms and conditions as third-parties (e.g., other online platforms) and direct sales channels (e.g., its website). As a result of this change, some of the restrictions on “dual distribution” and some types of “parity obligations” must be evaluated on a case-by-case basis.

43 Source: European Commission website, Commission Regulation (EU) 2022/720 of 10 May 2022 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (Text with EEA relevance), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32022R0720>.

44 Source: European Commission website, Communication from the Commission COMMISSION NOTICE Guidelines on vertical restraints 2022/C 248/01, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2022.248.01.0001.01.ENG.

45 Note: VBER created a safe harbor for suppliers and distributors through dual market share restrictions: On the one hand, block exemptions are presumed to apply to distribution and supply agreements that qualify for the safe harbor. On the other hand, agreements containing hardcore restrictions are excluded from the application of block exemptions, and exclusions are set for specific behaviors. The Guidelines on Vertical Restraints provide assessment guidance on how to interpret and apply VBER.

2. Safe harbor expansion related to unsolicited sales and online sales

Under the previous rules, a supplier could not limit its distributors from making unsolicited sales to customers of other distributors, a situation that is now exempt under the new rules. Second, suppliers were previously prohibited from setting different wholesale prices for products resold online and offline by the same distributor or applying different criteria for online and offline sales in selective distribution systems. However, block exemption can now apply under the new rules.

D. Restricted access to “gatekeeper” case investigation information

On May 2, 2023, the Implementing Regulation on the Digital Markets Act (DMA) (the “Implementing Regulation”) entered into force. These regulations provided greater clarity on the rules for implementing the DMA. The rules were largely consistent with those for traditional antitrust investigations, but they imposed stricter restrictions on the “gatekeeper” in terms of access to information and rights of defense.

Specifically, whereas in traditional antitrust investigations, parties have the right to access documents held by the competition authority in a particular case after a statement of objections has been issued, the Implementing Regulation only allows the gatekeeper to access documents specifically referenced by the EC in its preliminary findings. Additionally, the gatekeeper will be provided with a list of documents that have been excluded from the preliminary findings, and if the gatekeeper wishes to gain access to such evidence, it must submit a request with a statement of reasons.

The Implementing Regulation does not allow for an oral hearing of the parties, and the gatekeeper is required to submit a defense or challenge to the EC’s findings in writing.

E. Enhanced obligation of non-EU firms to declare foreign subsidies

On November 28, 2022, the Council of the European Union approved the Regulation on Foreign Subsidies Distorting the Internal Market (“the FSR”)⁴⁶. On July 10, 2023, the EC adopted the Implementing Regulation on the FSR⁴⁷. The FSR and the FSR Implementing Regulation gave the EC and member state governments a new regulatory tool to regulate non-EU undertakings by collecting information on and assessing non-EU government subsidies.

The mandatory disclosure system in antitrust review under the FSR Implementing Regulation delegates two authorities to the EC: one to conduct a two-stage review of declared non-EU government subsidies and one to conduct ex officio reviews of other economic activities in the EU internal market. The FSR Implementing Regulation has refined the provisions on the specific requirements, processes, and deadlines of the aforementioned disclosure.

46 Source: European Commission website, Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32022R2560&qid=1673254237527>.

47 Source: European Commission website, Commission Implementing Regulation (EU) 2023/1441 of 10 July 2023 on detailed arrangements for the conduct of proceedings by the Commission pursuant to Regulation (EU) 2022/2560 of the European Parliament and of the Council on foreign subsidies distorting the internal market, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2023.177.01.0001.01.ENG.

1. Filing in the context of concentration of undertakings⁴⁸

The FSR Implementing Regulation has lowered the threshold for notifying subsidies in connection to the concentration of undertakings. The previous regulation stipulated that the threshold for a “notifiable merger and acquisition” was that “all undertakings involved in the merger or acquisition have received third-country financial contributions exceeding EUR50 million in aggregate in the past three years”. The FSR Implementing Regulation, however, requires the submission of summary information on subsidy programs in the M&A review when the filing party has received more than EUR45 million in subsidies from a single foreign government over the past three years in aggregate.

The FSR Implementing Regulation further specified the provisions on the notifying party to the EC, the scope of disclosure, the data format, and the timeframe. With regard to disclosure on the M&A transaction, the FSR Implementing Regulation requires the submission of an overview of the transaction, basic facts about the parties, detailed information on the transaction (especially the acquisition of control), and relevant supporting documents.

In the notification of concentration of undertakings, the notifying party is required to focus on information on subsidies received from foreign governments in the last three years. Information on subsidies must be provided in varying degrees of detail depending on the distorting effect of the subsidy program. A foreign subsidy is most likely to distort the internal market where it falls under one of the following categories: (1) a foreign subsidy granted to an ailing undertaking which will likely go out of business in the short or medium term; (2) an unlimited or open-ended guarantee; (3) an export financing measure that is not in line with the OECD Arrangement on officially-supported export credits; (4) a subsidy directly facilitating a concentration; and (5) a subsidy enabling an undertaking to submit an unduly advantageous tender for public procurements.

For the above subsidies, the FSR Implementing Regulation requires the notifying party to provide a detailed statement and supporting documents for any single foreign government subsidy exceeding EUR1 million in the past three years. Any single subsidy below EUR1 million, or third-country financial contributions not exceeding EUR50 million in aggregate in the last three years, are considered *de minimis* aid under the FSR Implementing Regulation and are exempt from notification.

2. Procedural rules on the notification of subsidy

The FSR Implementing Regulation also contains procedural rules on limitation periods for subsidy notification, the communication of information, confidentiality, and the submission of supplementary information.

3. Provisions on *ex officio* reviews

The FSR Implementing Regulation provides that the EC may initiate *ex officio* reviews into distortions to the EU internal market caused by foreign government subsidies received by undertakings in the EU. There is no mandatory notification requirement for such reviews, but the EC is empowered

⁴⁸ Concentration of undertakings refers to situations in which an undertaking acquires control over another undertaking or is able to exert decisive influence on another undertaking through merger, asset purchase, share purchase, contractual agreement (association or joint venture), personnel arrangements, and technological control.

to investigate subsidies received by undertakings over the last 10 years. The FSR Implementing Regulation further describes the tools and methods available to the EC's investigations. The EC may obtain evidence from interviews, on-site investigations, foreign governments providing the subsidies, and EU members in order to understand and review the subsidy programs, as well as the competitive dynamic in the internal market.

4. Enforcement actions and penalties

The FSR Implementing Regulation sets out the various ways in which the EC can resolve cases and the types of enforcement actions that can be taken in relation to the notification of concentration of undertakings and *ex officio* reviews. Depending on the circumstances, the EC may impose fines or periodic penalty payments of varying amounts on undertakings that fail to comply with the EC's decisions. For those that provided incomplete or misleading information in their notification, the EC may impose fines of up to 1% of the undertaking's turnover in the previous financial year. Failure to comply with the EC's decision may result in fines of up to 10% of aggregate turnover in the previous financial year.

II. Problem analysis

A. The FSR increased compliance obligations

The FSR and FSR Implementing Regulation have strengthened the EC's regulation of foreign companies in areas such as investment and M&A, and these have broadened the scope of undertakings and matters subject to review. The FSR regime which targets state-owned enterprises, state-owned bank loans, and private entities receiving so-called foreign financial contributions operates concurrently with the existing antitrust review and foreign investment review processes. It has introduced onerous administrative approval procedures for foreign investors in Europe and has significantly raised the barriers to entry. At this time, foreign companies operating in Europe will have to navigate a more complex regulatory environment and deal with substantially-enhanced compliance costs and obligations.

Under the FSR, many key concepts such as foreign financial contributions and distortions remain ambiguous, leaving excess discretion to the regulatory and law enforcement authorities and risking abuse of the FSR regime. Under the existing WTO framework, the burden of proof for subsidies is usually borne by the prosecutor, but the FSR and FSR Implementing Regulation have reversed this principle. Businesses (including competitors), governments, and private entities can report foreign subsidies to the EC. If the undertaking fails to provide sufficiently strong evidence to the contrary, the EC may assume that foreign financial contributions constitute an actionable subsidy. The excessively-long review periods and high compliance requirements increase the time commitment and compliance cost of the undertaking, thereby increasing uncertainty for foreign companies investing and operating in Europe.

Our survey shows that 78.65% of the respondents believe that the main impact of the FSR and FSR Implementing Regulation on their investment and operations in the EU is increased compliance costs

(Figure 5-1), and 47.62% of the respondents changed their investment plans due to the FSR (Figure 5-2).

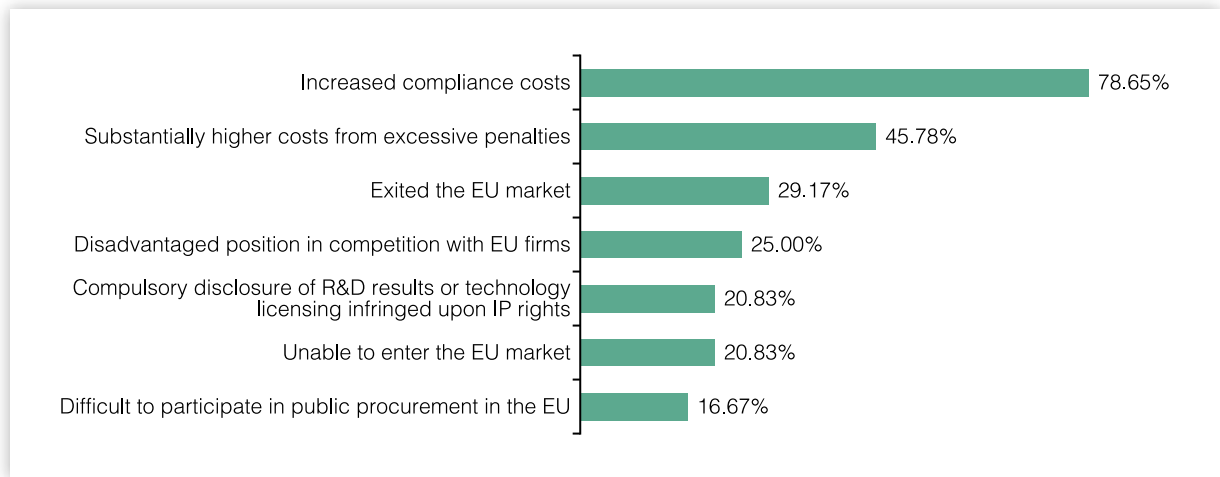


Figure 5-1: Implications of the FSR and FSR Implementation Regulation for the respondents

Source: CCPIT Academy.

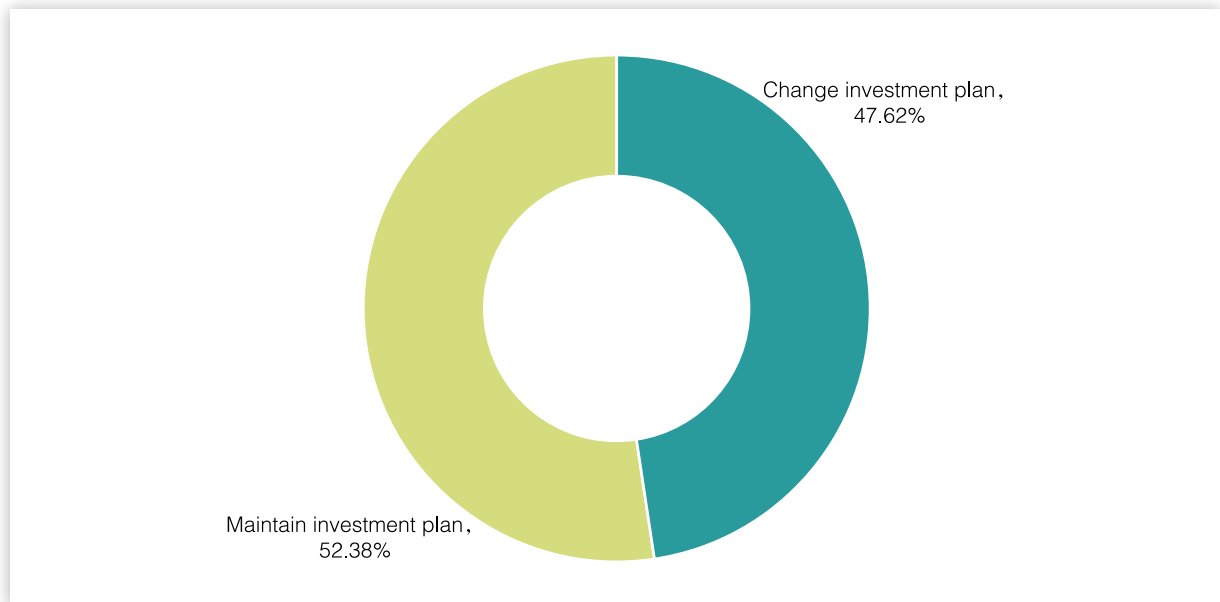


Figure 5-2: Whether respondents have changed their investment plans as a result of the FSR

Source: CCPIT Academy.

B. Technology firms are most affected by the FSR

Respondents believe that the FSR has become a new tool for the EU to restrict and contain competitors in new technology fields and industries. The concept of foreign subsidies is vaguely

defined, and the review authority is too broad. A series of subsidy reviews conducted by the EU will disrupt and distort the global supply chain.

The survey shows that respondents in various industries have been adversely affected by the FSR in varying degrees, with 86.57% of the respondents in research and technical services and 58.25% in information transmission/software and IT services being negatively affected (Figure 5-3).

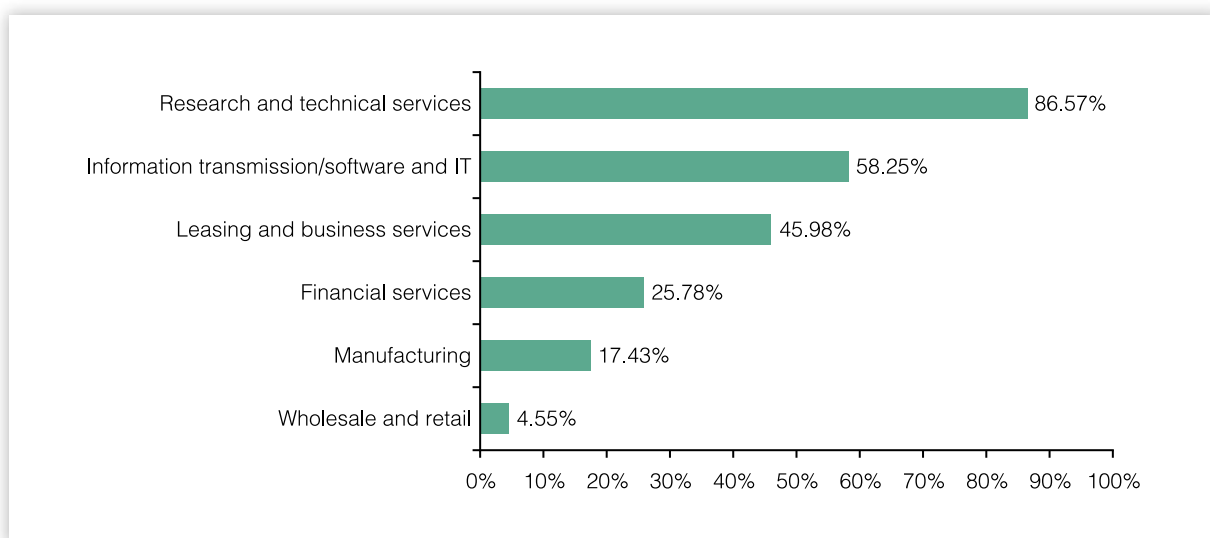


Figure 5-3: Impact of the FSR on different industries

Source: CCPIT Academy.

C. The DMA has become a new tool for EU protectionism

The DMA was intended to strengthen antitrust enforcement and support the development of small businesses, but respondents have reported that the DMA has clear protectionist traits, and its negative impact on market competition far outweighs its benefits. The DMA failed to achieve pro-competitive effects in the market. In fact, it created additional hurdles to fair market competition.

The DMA establishes specific obligations for certain undertakings by way of differential treatment, and it directly interferes with business operations through administrative and legislative actions, which runs counter to the underlying law of the market economy. In terms of market regulation, the DMA focuses too much on ex ante regulation, which not only disincentivizes business initiative, but also substantially increases compliance costs and operational challenges.

III. Our recommendations

A. Make prudent use of foreign subsidy review tools

We recommend that the EU act in the overall interest of maintaining the stability of global industrial and supply chains, as well as the China-EU comprehensive strategic partnership, and prudently use

the FSR regime to avoid arbitrary and unilateral trade interventions and the addition of unnecessary operating costs for foreign companies in Europe.

B. Clearly define the criteria for foreign subsidy review

We recommend that the EU clarify key definitions and concepts in the FSR regime, such as government subsidies and market distortions. We also recommend that the EC establish clear bases and criteria for determination so as to enable enterprises to distinguish between government subsidies and market-based activities.

C. Streamline foreign subsidy review processes

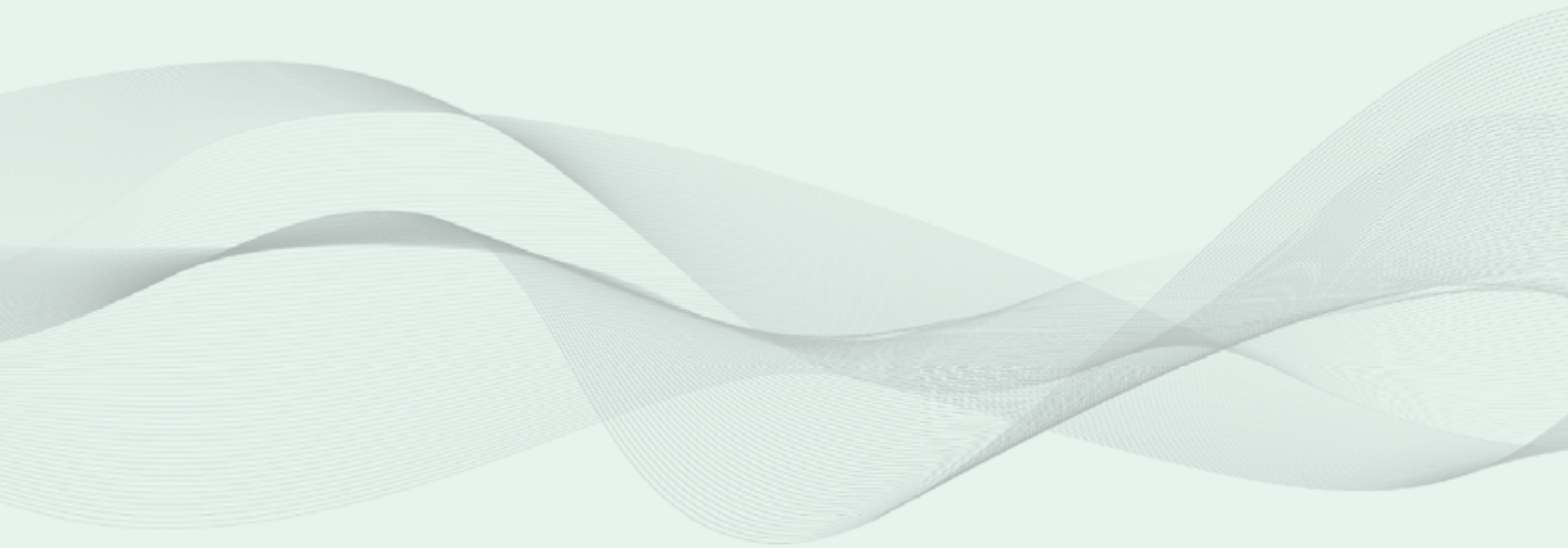
We recommend that the EU improve its FSR regime by clarifying the investigation procedures, scope, and criteria; ensure the legality and impartiality of the investigation; avoid abusing discretion in the review and enforcement processes; and protect the right of defense of the party under investigation.

D. Improve the criteria for establishing dominant market position

We recommend that the EU revise or reduce the subjective determination criteria in the DMA to avoid bias in the establishment of dominant market position. We also recommend that the EC minimize or eliminate the use of a static market determination approach and instead use dynamic market surveys to truthfully and accurately characterize the undertaking's operations and market position.

Chapter VI

Public Procurement



I. Recent developments

A. Guidelines on the implementation of International Procurement Instrument focus on circumvention

On February 21, 2023, the European Commission published the Guidelines to Facilitate the Application of the International Procurement Instrument (IPI) Regulation by Contracting Authorities and Contracting Entities and by Economic Operators⁴⁹ (hereinafter referred to as “the Guidelines”). The Guidelines provide specific operational rules to prevent the “circumvention of the IPI regulation by setting up shell companies in countries and territories that are not subject to the IPI measures” and set rigorous criteria for the following: (1) determination of the source of suppliers for public procurement; (2) determination of the source of services for public procurement; (3) determination of the origin of goods; (4) obligations of the successful bidder; (5) contracting authority; and (6) manner of implementation by the entity (see Table 6-1).

In determining the origin of a supplier for public procurement, the EU needs to determine whether the supplier has “substantial business operations” in countries and regions that are not subject to IPI measures. The basis for the determination includes: (1) the type of business operation of the enterprise in the country (region) (e.g., production facilities, representative offices, R&D centers, etc.); (2) the scale of the business operation; (3) capital investment; (4) the number of employees; (5) customers and customer information; (6) the period of establishment; (7) the mailing address; and (8) tax payment, etc.

Table 6-1: Key elements of the IPI Guidelines

| | Rules | Key elements |
|--|---|--|
| Determination of the source of operators | Elements of evidence that may be used to determine whether a legal person is engaged in “substantial business activities” in a particular country | These factors include, but are not limited to, the type of business operations in the country (region) (e.g., production facilities, representative offices, R&D centers, etc.); the scale of business operations; capital investment; the number of employees; customers and customer information; the period of establishment; mailing address; and tax payment, etc. The relevant department/agency or the procuring entity may also consider other factors according to the actual situation. |
| | Documentary evidence that may be used to determine “substantial business operations” | This includes, but is not limited to, business records, including invoices, receipts, commercial contracts, letters of credit, shipping documents, business plans, correspondence with suppliers and users, records of purchases of inventory and sales of goods; financial information, including audited accounts, financial statements, bank statements, tax returns, and appraisal reports issued by relevant organizations; and information on employees, including health insurance, pensions, and employment contracts. The contracting authority or entity may also request any other type of documentary evidence it deems appropriate. |

49 Source: European Commission website, Guidelines to facilitate the application of the IPI Regulation by contracting authorities and contracting entities and by economic operators, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.C_.2023.064.01.0007.01.ENG&toc=OJ%3AC%3A2023%3A064%3ATOC.

Continued

| Rules | Key elements |
|--|---|
| Determination of the source of services | The source of services is determined based on the supplier providing the services. |
| Determination of the origin of goods | Determination of the origin of goods according to the concept of "goods obtained exclusively in one country (region)" Goods obtained exclusively in a single country or region shall be deemed to have originated in that country or region. |
| | Determination of the origin of goods based on the concept of "last substantial transformation" for goods involving several countries (regions) Determination of the origin for products included in the UCC-DA: The rules for determining the origin of certain agricultural products (e.g., meat, coffee, milled grains), chemical products, textile products, apparel, footwear, as well as certain iron and steel products, metal tools, and machinery products, are set out in the Annex to the UCC-DA. Determination of the origin for products not included in the UCC-DA: Origin is determined on a case-by-case basis by evaluating any process or operation related to the concept of final substantial processing or work as defined in Article 60(2) of the UCC. |
| Obligations of the successful bidder | Subcontracting obligations during contract execution The economic operator awarded a contract for the provision of services (including public works) may not subcontract more than 50% of the total value of the contract to an economic operation from a third country subject to the IPI measures. |
| | Obligations relating to the origin of the goods used in the performance of the contract More than 50% of the goods used in the execution of the contract for the supply of goods must come from the EU or from third countries not subject to the IPI measures. |
| | Obligation to provide sufficient evidence upon request The supplier is obliged to provide, upon request by the contracting authority or entity, sufficient evidence of compliance with the threshold of the origin of the goods. It is sufficient to provide evidence that more than 50% of the total value of the contract originates from the EU or other third countries that are not subject to the IPI measures. |
| | Obligation relating to payment of proportionate costs If the contracting authority or contracting entity determines that the supplier has failed to meet the above obligations, or if there is reasonable doubt as to the reliability of the evidence submitted by the supplier, it may impose a sliding scale fee of between 10% and 30% of the contract value. The actual amount of the fee is determined on a case-by-case basis and may depend on, but is not limited to, the share of the goods or services for which reasonable doubt exists. |
| How and when should contracting authorities and contracting entities implement the IPI | The IPI shall only apply to public procurement procedures where the estimated value is higher than the thresholds established by the Commission on the basis of the results of the survey and consultation, taking into account the criteria set out in paragraph 3 of Regulation (EU) 2015/2446. The estimated value shall be equal to or higher than EUR 15 million net of VAT on works and concessions and EUR 5 million net of VAT on goods and services. The relevant estimated value of the contract shall be calculated in accordance with Article 8 of Directive 2014/23/EU, Article 5 of Directive 2014/24/EU and Article 16 of Directive 2014/25/EU, respectively. |

Source: Public information compiled by the CCPIT Academy.

B. The Net-Zero Industry Act introduces sustainability and resilience criteria

On March 16, 2023, the European Commission published the Net-Zero Industry Act⁵⁰, which aims to scale up the manufacturing of clean energy technologies and enhance the competitiveness of net-zero technologies in the EU, in order to ensure that at least 40% of the “clean” products the EU needs by 2030 are manufactured in the EU. Under the Act, “clean” products and technologies include solar photovoltaics, onshore and offshore wind power, batteries and storage, heat pumps and geothermal energy, electrolyzers and fuel cells, biomethane, carbon capture and storage, and grid technologies.

The Net-Zero Industry Act requires the introduction of sustainability and resilience criteria in public procurement to encourage the procurement of net-zero technology products. The sustainability of bidding contracts needs to take into account factors such as (1) environmental sustainability beyond minimum legal requirements; (2) quality of innovative solutions and implementation plans; and (3) contribution to energy system integration. The resilience of bidding contracts needs to take into account the proportion of products from a single source of supply, i.e. the value of the products from a single source of supply in the contract needs to be less than 65%. The contracting authority is required to set the scoring weight for sustainability and resilience between 15% and 30% of the total score of the tender.

C. Climate subsidy guidelines focus on enhancing the effectiveness of green public procurement

On January 1, 2022, the EU Guidelines on State aid for climate, environmental protection and energy came into force, with public consultation provisions effective from July 1, 2023⁵¹. The Guidelines aim to achieve carbon neutrality targets and implement the latest requirements in the field of energy and the environment by enhancing the effectiveness of the use of public procurement funds. The Guidelines cover subsidy measures for (1) renewable energy; (2) energy and environmental performance of buildings; (3) green mobility; (4) circular economy; (5) biodiversity; (6) environmental taxes; (7) security of electricity supply; (8) energy infrastructure; (9) district heating or cooling; and (10) intensive energy users.

The Guidelines feature five characteristics:

1. Increased subsidization. The Guidelines have basically eliminated the maximum subsidy limit, and the EU subsidies now cover the full additional costs of green investments. Subsidies can be applied for in a variety of ways, including through competitive bidding. Typically, the selection criteria for subsidy bids are based on the amount of subsidy requested by the applicant and on sectoral energy saving and emission reduction targets as set out in the Guidelines. In exceptional cases, the selection criteria may include other non-price criteria, such as environmental, technical or social criteria, but the weight of such non-price criteria must not exceed 25% of the total.

50 Source: European Parliament website, Net-Zero Industry Act, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747903/ EPRS_BRI\(2023\)747903_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747903/ EPRS_BRI(2023)747903_EN.pdf). Note: Net-Zero Industry Act and Critical Raw Materials Act are two key laws under the EU's The Green Deal Industrial Plan.

51 Source: European Commission website, Guidelines on State aid for climate, environmental protection and energy 2022, https://eur-lex.europa.eu/legal-content/EN/TXT/?toc=OJ%3AC%3A2022%3A080%3ATOC&uri=uriserv%3AOJ.C_.2022.080.01.0001.01.ENG.

2. Expanded scope of subsidies. The Guidelines expand the areas that can be subsidized, including renewable energy, industry, circular economy, biodiversity, etc. In particular, it introduces subsidy measures for new energy vehicles and buildings: first, vigorously developing new energy vehicles, stepping up the construction of charging infrastructure, and promoting the decarbonization of the transportation sector; and second, improving the energy efficiency of buildings, such as encouraging the renovation and repair of buildings, and supporting the procurement of green building materials, in order to expand investment in clean energy and reduce the use of traditional energy sources.

3. Introduction of safeguards. Competitive bidding is the default institutional arrangement for awarding contracts and setting subsidies. The Guidelines require that projects applying for maximum subsidies must undergo public consultation. For projects with an average annual subsidy of EUR 150 million or more, a minimum of eight weeks of public consultation is required. Projects with a subsidy of less than EUR 150 million are required to be advertised for public consultation for at least four weeks. In addition, three types of projects are subject to ex-post evaluation: those with large subsidy budgets; those with novel contents; and those that may involve market or regulatory changes. Ex-post evaluations are only applicable to projects with a total duration of more than three years.

4. Restrictive measures in some areas. The Guidelines explicitly call for the phase-out of fossil fuels and discourage subsidies for projects involving fossil fuels. The Guidelines recommend the closure of coal, peat and oil shale plants, among others, in order to facilitate the decarbonization of the power sector. Some natural gas investments may therefore be restricted. A project will only be supported if the supplier can demonstrate that the investment is in line with the EU 2030 and 2050 targets and does not impede the development of relevant clean technologies.

5. Reducing taxes on electricity for energy-intensive businesses. The transition of the EU economy is partly financed by taxes on electricity consumption. In order to realize the European Green Deal, EU members are required to develop corresponding decarbonization policies. In this case, member states may finance these policies by increasing taxes. However, the full payment of excise taxes on electricity could place an additional burden on energy-intensive enterprises, which rely heavily on electricity to create value, and thus hinder the decarbonization and electrification of their production processes. Based on these considerations, the Guidelines allow EU members to reduce the tax on electricity for energy-intensive enterprises.

D. Enhanced disclosure requirements under the implementing rules of the foreign subsidies regulation

The Regulation on Foreign Subsidies Distorting the Internal Market (hereinafter referred to as the “Regulation”), which is under implementation, provides for the mandatory declaration of non-EU foreign government subsidies when companies participate in public procurement in the EU, and for operators bidding for public procurement to apply for a foreign subsidy review in advance.

The Implementing Regulation of the Regulation further clarifies the information on foreign subsidies that needs to be provided to the tendering authority in public procurement. For obligated parties, the Implementing Regulation requires submission in the form of Form FS-PP, which sets out the content of the information to be provided by the enterprise, including (1) a brief description of the public procurement procedure, (2) basic information about the enterprise, (3) detailed information about the foreign financial subsidy, (4) proof that the subsidy will not result in a bidding advantage, (5) possible

positive impact of the subsidy, (6) relevant supporting documents, etc.

For detailed information on foreign financial subsidies, Form FS-PP categorizes subsidies as: (1) subsidies to troubled enterprises, (2) unlimited guarantees of enterprises' debts, and (3) arrangements that are not in line with OECD arrangements for officially supported export credits, and (4) enabling enterprises to submit inappropriate bids and other subsidies.

For each foreign financial subsidy equal to or exceeding EUR 1 million received within the previous three years, the enterprise must provide the following information and supporting documents: (1) the form of the subsidy (e.g., loan, tax exemption, capital injection, fiscal incentive, in-kind contribution, etc.); (2) the third country and its agencies or entities that made the contribution; (3) the amount of each subsidy; (4) the purpose and justification for the subsidy; (5) whether there are any conditions attached to the subsidy and its use; (6) the main elements and characteristics of the subsidy (e.g., interest rate and term of the loan); (7) whether the subsidy provides support to enterprises receiving other subsidies; (8) an explanation of whether the subsidy is limited to certain enterprises or industries de jure or de facto; and (9) an explanation of whether the subsidy is used only for operating costs associated with public procurement.

Form FS-PP sets out further requirements for foreign financial subsidies to troubled enterprises. The enterprise is required to determine whether, within the preceding three years: (1) it was a limited liability company and more than half of its contributed capital disappeared as a result of accumulated losses; (2) it was a company in which at least some of the members were unlimitedly liable for the debts of the company and more than half of the capital in the company's books disappeared as a result of accumulated losses; (3) whether it was subject to collective insolvency proceedings or whether it met the criteria under domestic law for being placed in collective insolvency proceedings at the request of creditors; (4) whether the book debt-equity ratio has been greater than 7.5 in the past two years, and whether the interest coverage ratio of EBITDA has been less than 1.0 (for non-SMEs) in the past two years.

E. New Romanian procurement regulations pose multiple risks to businesses

In 2022-2023, in line with the implementation of the country's National Recovery and Resilience Plan (NRRP)⁵², Romania has made several amendments⁵² to its public procurement law. The revised public procurement law has the following features.

1. The threshold amount is raised for contracts to which the "direct award of contract" rule applies. This includes, for example, contracts for goods and services (RON 270,120, approximately EUR 55,000), as well as contracts for works (RON 900,400, approximately EUR 180,000). The increased number of public procurement contracts that can be concluded directly through the "direct award of contract" rule is prone to abuse of power and reduces the transparency of the contract award procedure in the public procurement process.

2. New negotiation procedures are initiated without prior publication of the notice of award. In the

⁵² Source: website of Chambers and Partners, Public Procurement & Government Contracts 2023, <https://practiceguides.chambers.com/practice-guides/public-procurement-government-contracts-2023/romania/trends-and-developments>.

case of contracts for projects such as trans-European transportation infrastructure on core and integrated transportation networks, unilateral withdrawal or early termination due to the fault of the contractor, the contracting authority has the right to initiate a new public procurement procedure without prior publication of a notice of adjudication of contractual disputes.

3. Changes in the law on public notice of supplier conduct. The Romanian Law on Public Procurement, the Law on Sectoral Procurement and the Law on Concessions apply the grounds for exclusion provided for in the EU Directive (prohibition of participation of the enterprise concerned in the public procurement if the operator has demonstrated significant or persistent deficiencies in the fulfillment of the substantive requirements under previous public contracts, previous contracts with the contracting entity, or previous concession contracts, which resulted in the early termination of previous contracts, the award of damages, or other similar sanction), while requiring the contracting authority, at the end of a public contract, to publicly issue supporting documents (published on the e-procurement portal) detailing whether the relevant conduct exists in the performance of the contract. Amendment No. 75/2022 introduced a new right for the contracting authority to issue a certificate at least every 90 days during the execution of the contract.

4. The time is reduced for filing claims for relief in contractual disputes. The three-year statute of limitations generally applies to claims relating to the performance of contracts, but the highest appellate and judicial courts in Europe and the United States have recognized them as administrative actions that must be challenged under administrative law within 30 days of issuance. Therefore, a supporting document issued during the execution of the contract, containing a statement by the contracting authority on the execution of the contract, which is not challenged within 30 days, may hinder the supplier's right to submit a claim related to the execution of the contract. Shortened claim period may put pressure on the supplier.

5. The competence of the courts is changed in disputes concerning the performance of public contracts. With the publication of Amendment No. 208/2022, jurisdiction was transferred back to administrative courts.

6. The evaluation criteria for green procurement are adjusted. Amendment No. 336/2023 requires that the criteria of "best quality-price ratio" or "best quality-cost ratio" be applied to the procurement of full life-cycle products with an environmental impact, such as foodstuffs, textiles, photocopying paper, furniture, computers, imaging equipment, electrical and electronic equipment used in the healthcare sector, etc., with the "price" factor having a maximum weight of 40%.

II. Problem analysis

A. 40% of enterprises believe that the EU public procurement environment has deteriorated

The EU and its member states continue to erect barriers to public procurement, impose strict anti-circumvention measures, increase compliance obligations, and raise the threshold for entry and participation costs for enterprises, thus further deteriorating the public procurement environment

in the EU. According to the survey, 30.86% of the surveyed enterprises believe that the public procurement environment in the EU and its member states has deteriorated compared to the past (see Figure 6-1).

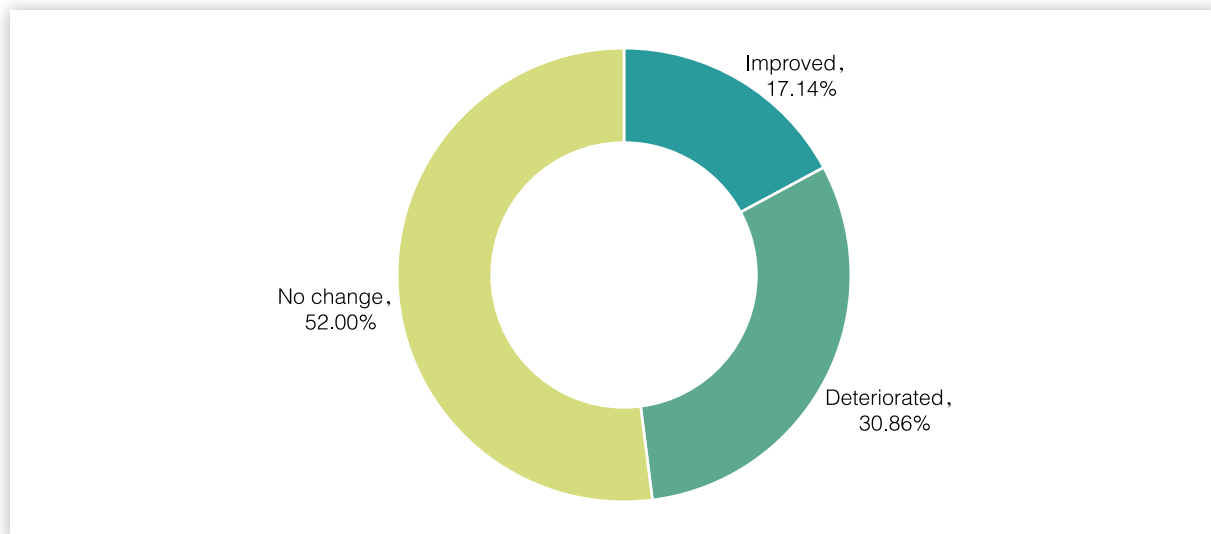


Figure 6-1: Business comments on the public procurement environment in the EU and its member states
Source: CCPIT Academy.

B. Foreign-invested enterprises cannot participate fairly in EU public procurement

According to the respondent enterprises, the problems in the public procurement environment of the EU and its member states are mainly reflected in the inability of foreign enterprises to participate fairly, untimely publication of public procurement information, non-award of contracts after winning them, discrimination against Chinese enterprises, etc. The proportions of enterprises holding the above views are 43.48%, 28.99%, 14.49% and 13.04% respectively (see Figure 6-2). Meanwhile, nearly 40% of the enterprises reported cases where the EU and its member states excluded foreign-invested enterprises through discriminatory standards (see Figure 6-3).

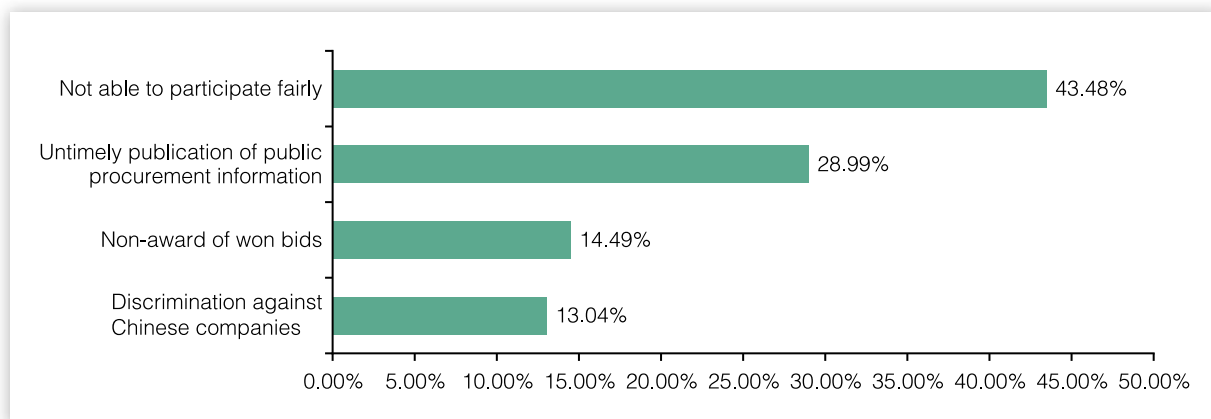


Figure 6-2: Main issues reported by business with the public procurement environment in the EU and its member states
Source: CCPIT Academy.

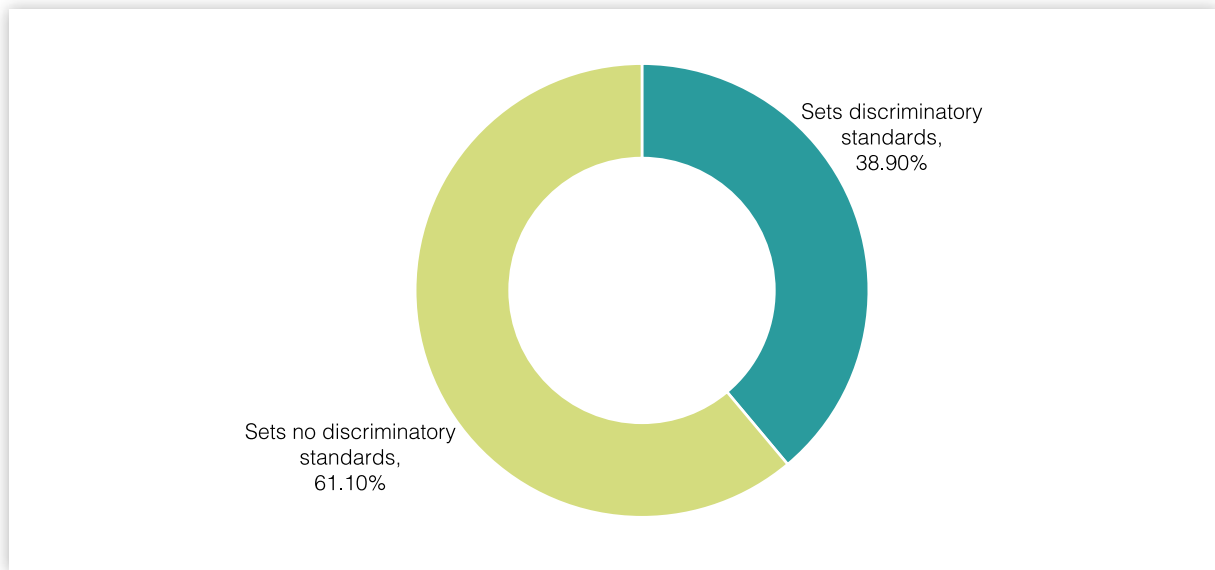


Figure 6-3: Business perceptions of whether the EU sets discriminatory standards in public procurement

Source: CCPIT Academy.

C. Negative impact of the International Procurement Instrument keeps rising

For the so-called “reciprocity” in the field of public procurement, the EU has introduced and applied a series of aggressive protectionist tools such as the International Procurement Instrument (IPI), which has made it difficult for foreign-invested enterprises in the EU to participate in public procurement in a normal manner. According to the survey, 50.68% of the respondents believe that the IPI is an obstacle to their participation in public procurement in the EU, an increase of 10.06% compared to the previous year (see Figure 6-4).

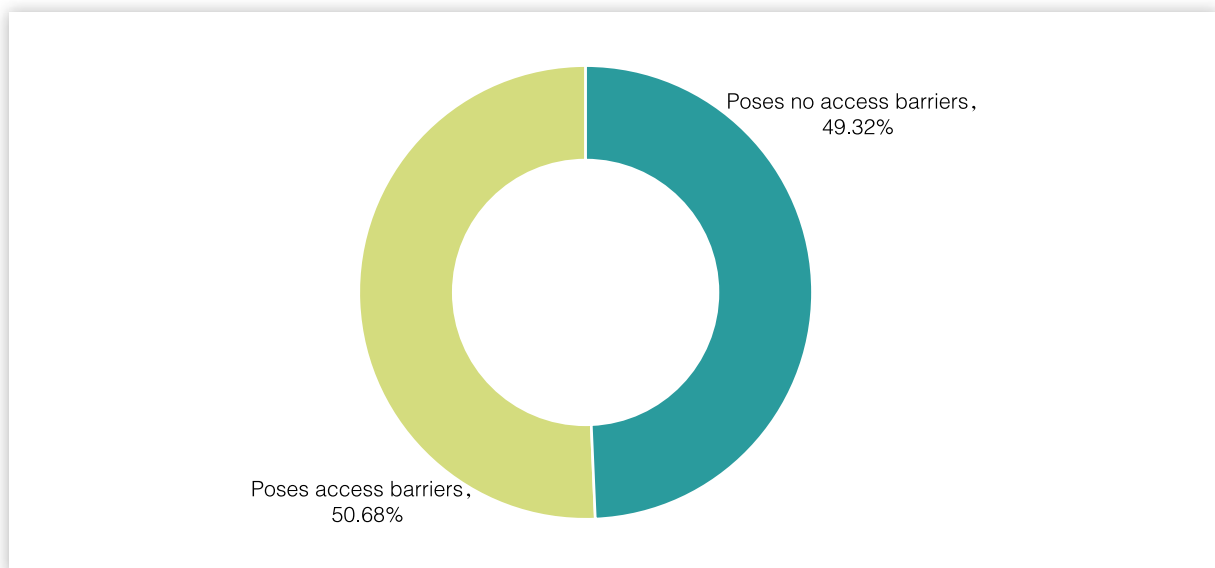


Figure 6-4: Business perceptions of whether the IPI poses access barriers

Source: CCPIT Academy.

D. Transparency of public procurement procedures in the EU needs to be improved

The EU and its member states have been accelerating the pace of introducing public procurement policies and strengthening their intervention in the public procurement market, but the transparency of their public procurement procedures has not improved. According to the survey, 47.37% of the enterprises think that the public procurement procedures of the EU and its member states are not transparent, which is higher than the previous year, an increase of 4.4 percentage points compared to the previous year (see Figure 6-5).

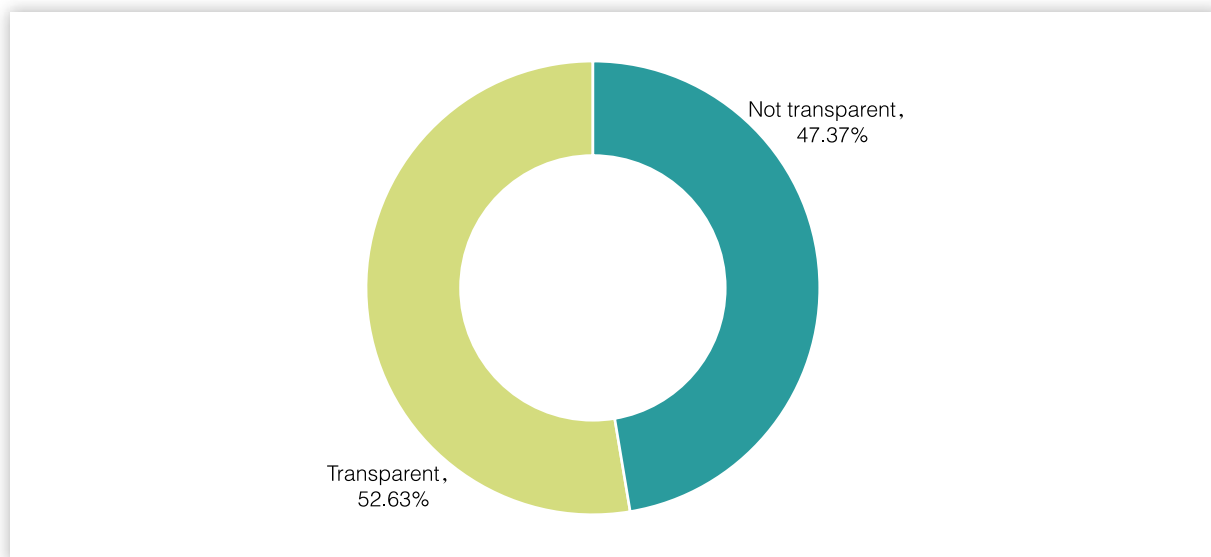


Figure 6-5: Business comments on transparency of EU public procurement procedures
Source: CCPIT Academy.

E. 40% of enterprises have pessimistic expectations for the public procurement environment in the EU and its member states

The discriminatory differential treatment, non-transparent public procurement procedures, and increasing compliance obligations in the EU public procurement sector have made enterprises pessimistic about the development of the public procurement environment. According to the survey, 44.1% of the enterprises have pessimistic expectations for the development of the public procurement environment in the EU and its member states (See Figure 6-6).

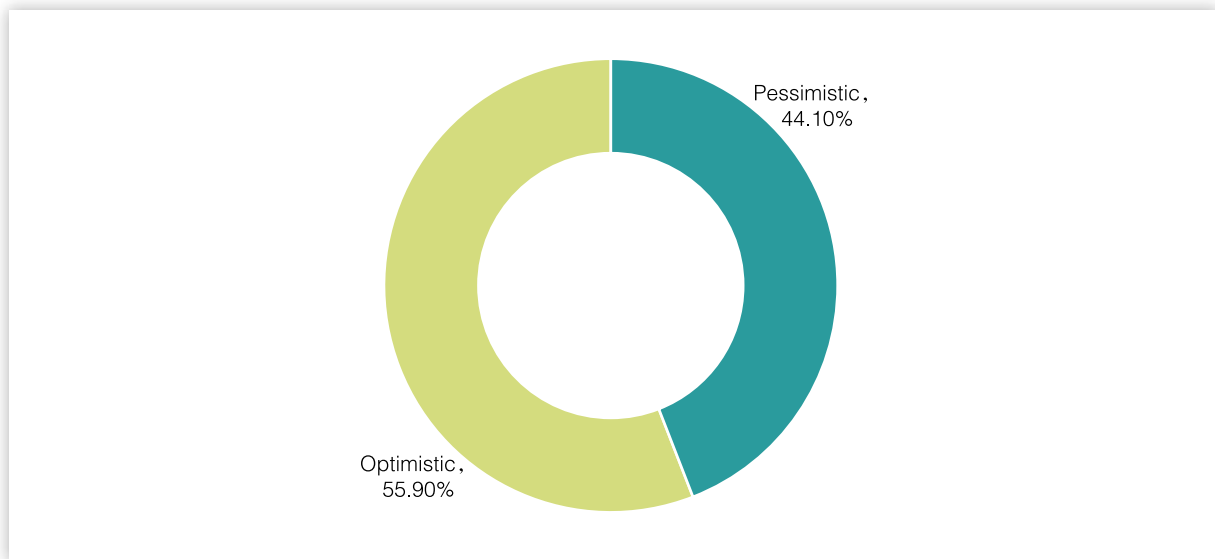


Figure 6-6: Business expectations for public procurement environment in the EU and its member states
Source: CCPIT Academy.

III. Our recommendations

A. Stop protectionist behavior in public procurement

We recommend that the EU and its member states uphold the principles of free trade and fair competition, and avoid the use of protectionist tools such as the International Procurement Instrument, so as to give foreign-invested enterprises fair access to EU public procurement.

B. Conduct fair and impartial subsidy review

It is recommended that the EU assess the market-distorting effects of its own subsidies in the areas of climate, environment and energy, and refrain from discriminating between internal and external subsidies in its subsidy review.

C. Enhance transparency and standardization of the public procurement processes

It is recommended that the EU and its Member States optimize the standards and processes of public procurement services, establish an open and transparent procurement information platform, and strengthen the supervision of the public procurement processes, and boost the transparency and standardization of the processes.

D. Treat foreign-invested enterprises in public procurement fairly

It is recommended that the EU and its Member States uphold the principle of non-discrimination,

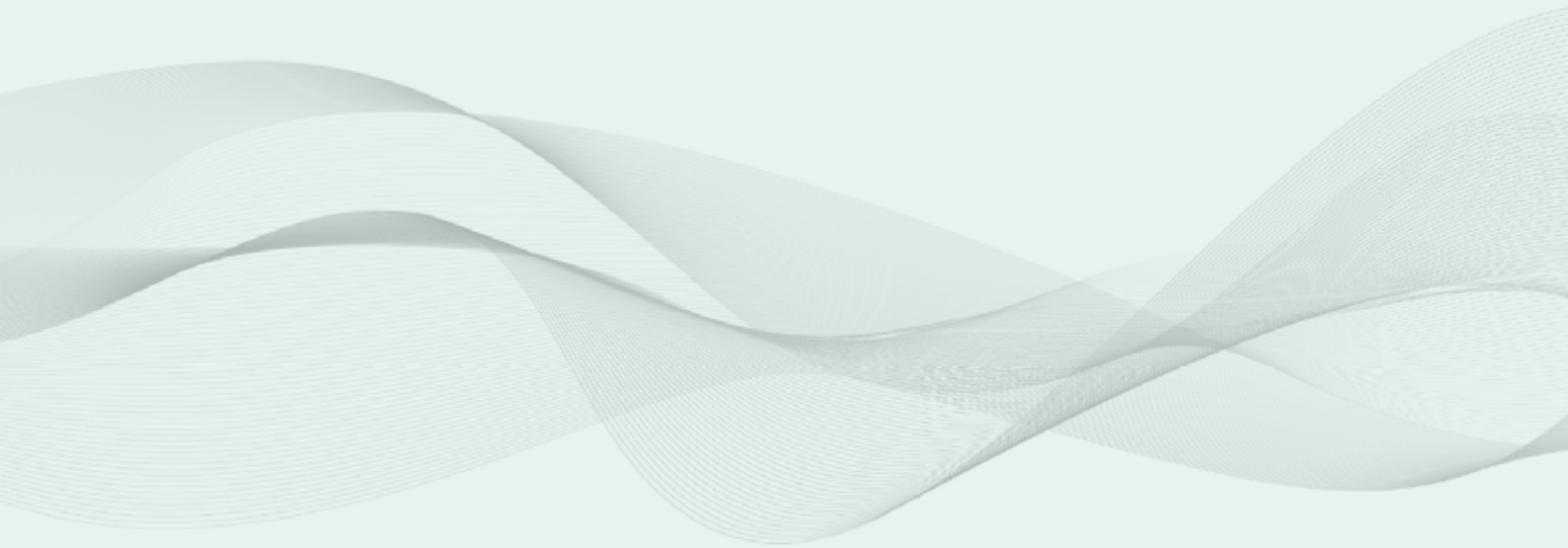
formulate fair procurement rules and policies, and establish a fair evaluation mechanism to ensure fair and non-discriminatory treatment of foreign-invested enterprises and maintain a level playing field in the public procurement market.

E. Continue to support China's accession to the Government Procurement Agreement

It is recommended that the EU and related parties continue to actively support China's accession to the Government Procurement Agreement and jointly promote the further liberalization and improvement of the government procurement market.

Chapter VII

Export Controls



I. Recent developments

A. The European Commission has updated the list of dual-use items

The EU controls the export, re-export, transfer, transit and brokering of dual-use items under the Regulation on Setting up a Union Regime for the Control of Exports, Brokering, Technical Assistance, Transit and Transfer of Dual-use Items which came into force on September 9, 2021. On September 15, 2023, the European Commission adopted a Delegated Regulation updating the EU dual-use export control list in Annex I to Regulation 2021/821⁵³.

This latest revision adds some items in the fields of electronics, semiconductors and computers, primarily concerning the regulatory guidelines for manufacturing machinery, high-performance computing systems and lasers, as well as including the propulsion engines for underwater vehicles and technologies related to the development of aircraft gas turbine engines according to relevant lists of the Wassenaar Arrangement (WA)⁵⁴.

The EU has established a unified list of dual-use items subject to export controls, including products, technology and software, covering 10 categories from 0 to 9 and 5 items from A to E (as shown in Table 7-1).

Table 7-1: EU List of Dual-use Items

| Category | Item |
|---|---|
| 0 Nuclear materials, facilities and equipment | A Systems, equipment and components |
| 1 Special materials and related equipment | B Test, inspection and production equipment |
| 2 Materials processing | C Materials |
| 3 Electronics | D Software |
| 4 Computers | E Technology |
| 5 Telecommunications and information security | |
| 6 Sensors and lasers | |
| 7 Navigation and avionics | |
| 8 Marine | |
| 9 Aerospace and propulsion | |

Source: CCPIT Academy.

53 Source: Urumqi Customs website, http://shanghai.customs.gov.cn/urumqi_customs/3983093/3983095/5437840/index.html.

54 The Wassenaar Arrangement is short for the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Good and Technologies, which has 40 participating states, including the U.S., Japan, the U.K. and Russia.

B. The Netherlands has tightened export control of advanced semiconductor manufacturing equipment

On June 30, 2023, the Netherlands promulgated a departmental rule based on the Article 9 of the EU's Dual-use Regulation and the Article 4 of the Netherlands' Strategic Goods Decree, introducing new export control measures for certain advanced semiconductor manufacturing equipment not incorporated in Annex 1 of the Dual-use Regulation⁵⁵. The above-mentioned rule took effect on September 1, 2023.

The rule states that the Netherlands plays an important role in the industry of global semiconductor manufacturing equipment. The uncontrolled export of dual-use items and technologies may have implications for the interest of public security, including international peace and stability. Therefore, certain advanced semiconductor manufacturing equipment to be exported from the Netherlands to outside the EU must apply for a license from the Dutch customs. The scheme covers advanced semiconductor manufacturing equipment including: (1) EUV pellicles, (2) lithography equipment, (3) atomic layer deposition (ALD) device, and (4) equipment for epitaxial growth, involving key technologies in the semiconductor manufacturing.

According to the rule, a license is required to export the EUV and DUV lithography machinery from the Netherlands. The rule also covers equipment, technologies and items that are not in the EU dual-use list, including (1) 3B001, (2) 3D001, (3) D002 and (4) 3E001, namely semiconductor components, equipment, software and technologies for manufacturing, and specially designed components and parts.

II. Problem analysis

A. The EU's export controls have a negative effect on foreign companies

The EU's ever-growing list of dual-use items to control their export, re-export, transfer, transit and brokering have a negative impact on enterprises globally. A growing number of foreign-funded companies in the EU have faced difficulties or restrictions in working with partners, choosing channels and using the items. The survey shows 48.45% of respondents believe the ever-tighter export control by the EU will bring negative effects (as shown in Figure 7-1).

55 Source: The Official Journal of the Netherlands, <https://zoek.officielebekendmakingen.nl/stcrt-2023-18212.html>.

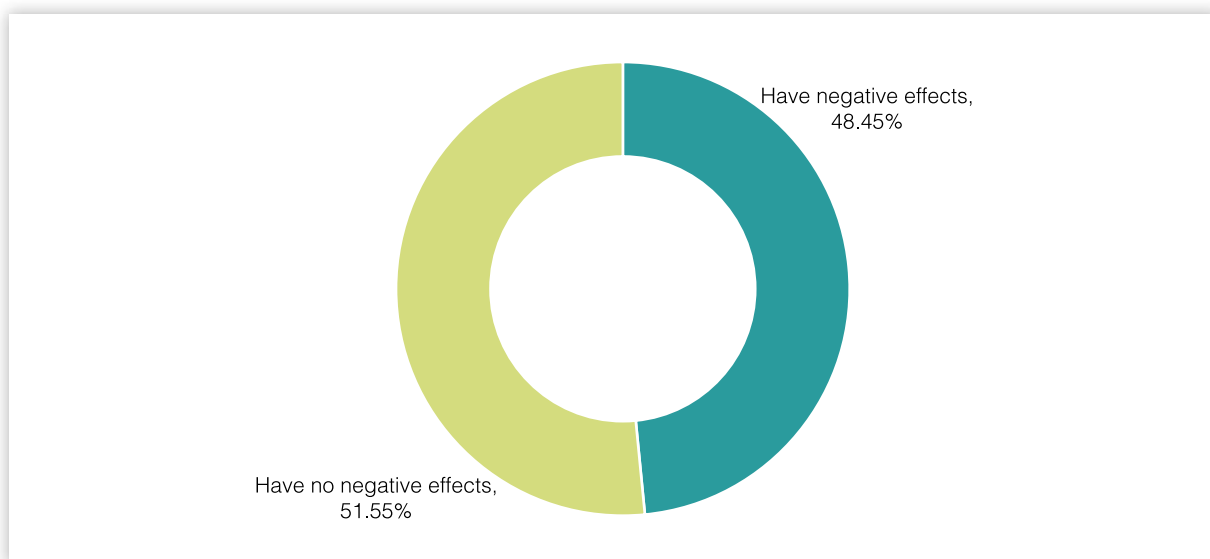


Figure 7-1: Whether the EU's Stricter Export Controls Have Implications on Enterprises

Source: CCPIT Academy.

B. China-EU technological cooperation may face severe pressure

The European Council on Foreign Relations points out in its report “The Power of Control: How the EU Can Shape the New Era of Strategic Export Restrictions” that the EU and the US need to gradually walk in lockstep when it comes to competing with China on technology. This may put China-EU technological cooperation under huge pressure. The report reflects the EU’s strategic intent on containing the exports of advanced semiconductor manufacturing items to China. Looking ahead, there may be more mechanisms restricting the semiconductor trade between the EU and China.

C. Chinese companies are not optimistic about the prospect of the EU’s export controls

The respondents believe the EU’s export controls are likely to have negative impacts in the future. The most serious concerns are as follows. 44.47% of the surveyed companies worry the expansion of export control scope may restrict their operation. 35.30% are concerned about the inaccessibility of raw materials and equipment. 30.45% think there may be a huge increase in corporate compliance obligations (as shown in Figure 7-2). The survey shows 42.56% of Chinese enterprises are not optimistic about the prospect of the EU’s export controls (as shown in Figure 7-3).

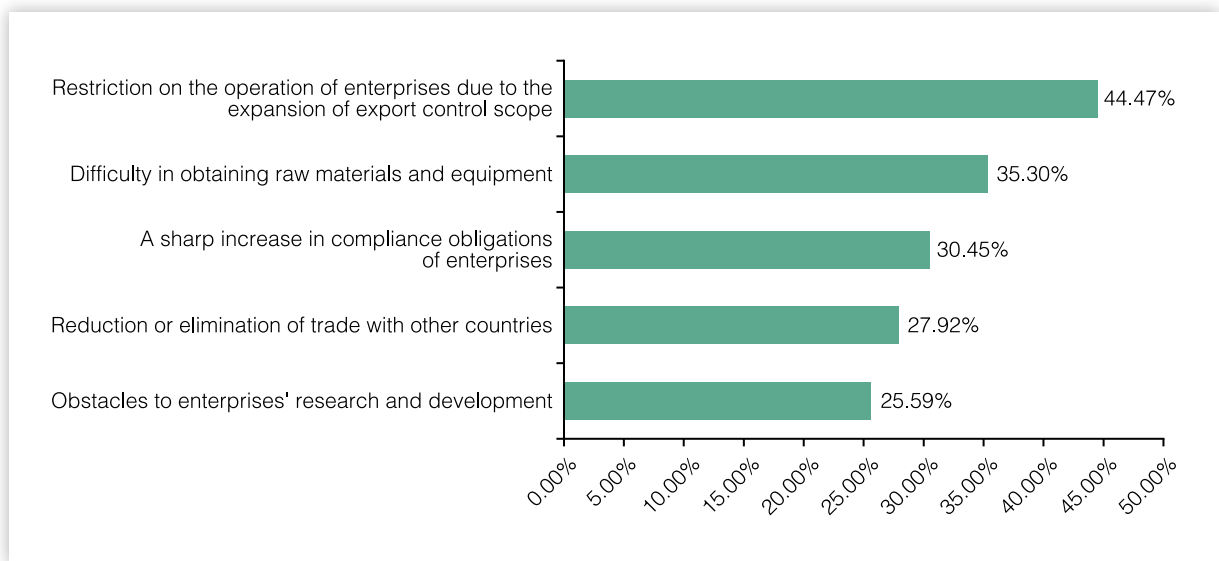


Figure 7-2: Specific Negative Impacts Enterprises Believe the EU's Stricter Export Control Will Have
 Source: CCPIT Academy.

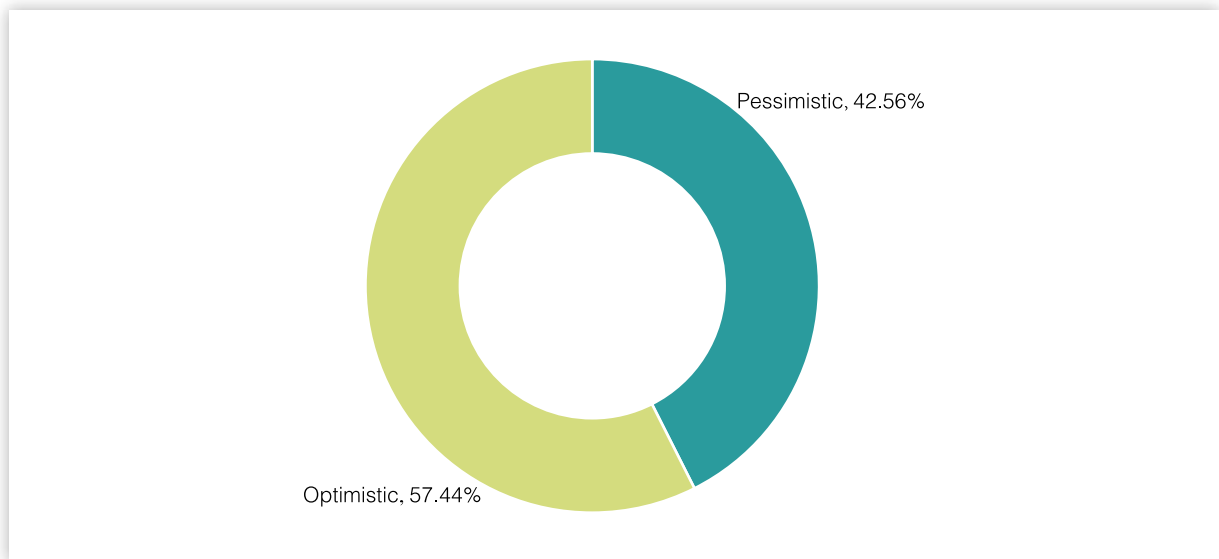


Figure 7-3: Business sentiment for the EU's Export Controls
 Source: CCPIT Academy.

III. Our recommendations

A. Avoid fragmenting the global market with export controls

We recommend that the EU should not divide the market and technology of the global high-tech industry through export controls.

B. Make reasonable adjustments to the content of export controls

We recommend that, in light of the development of the global industrial and supply chains, the EU avoid generalizing the export control items, reasonably adjust the items of advanced computing chips, supercomputers and semiconductor manufacturing equipment under the Regulation on Setting up a Union Regime for the Control of Exports, Brokering, Technical Assistance, Transit and Transfer of Dual-use Items, and relax the export restrictions on high-tech products to China.

C. Shift the mindset and advance China-EU cooperation on technology

We recommend that the EU adhere to strategic autonomy and make independent and impartial judgment in the field of science and technology, abandon the zero-sum game mentality, change the mindset of adversarial competition, focus on mutually beneficial and win-win cooperation, and step up practical science and technology cooperation between China and the EU.

Chapter VIII
Financial Services



I. Recent developments

A. The European Central Bank continued to raise interest rates

On September 14, 2023, the European Central Bank (ECB) decided to raise each of the three key interest rates in the euro zone, i.e., the deposit facility rate (DFR), the main refinancing operations (MRO) rate, and the marginal lending facility (MLF) rate, by 25 bps. The interest rates in the euro zone after the hike reached an elevated level since the introduction of the euro in 1999 (Table 8-1).

Table 8-1: European Central Bank's key interest rates⁵⁶

| Effective year | Effective date | DFR | MRO | | MLF |
|----------------|----------------|-------|------------|---------------|------|
| | | | Fixed rate | Floating rate | |
| 2023 | 09.02 | 4 | 4.5 | - | 4.75 |
| 2023 | 08.02 | 3.75 | 4.25 | - | 4.5 |
| 2023 | 06.21 | 3.5 | 4 | - | 4.25 |
| 2023 | 05.10 | 3.25 | 3.75 | - | 4 |
| 2023 | 03.22 | 3 | 3.5 | - | 3.75 |
| 2023 | 02.08 | 2.5 | 3 | - | 3.25 |
| 2022 | 12.21 | 2 | 2.5 | - | 2.75 |
| 2022 | 11.02 | 1.5 | 2 | - | 2.25 |
| 2022 | 09.14 | 0.75 | 1.25 | - | 1.5 |
| 2022 | 07.27 | 0 | 0.5 | - | 0.75 |
| 2019 | 09.18 | -0.50 | 0 | - | 0.25 |
| 2016 | 03.16 | -0.40 | 0 | - | 0.25 |
| 2015 | 12.09 | -0.30 | 0.05 | - | 0.3 |
| 2014 | 09.10 | -0.20 | 0.05 | - | 0.3 |
| | 06.11 | -0.10 | 0.15 | - | 0.4 |
| 2013 | 11.13 | 0 | 0.25 | - | 0.75 |
| | 05.08 | 0 | 0.5 | - | 1 |
| 2012 | 07.11 | 0 | 0.75 | - | 1.5 |

56 Source: ECB key interest rates, https://www.ecb.europa.eu/stats/policy_and_exchange_rates/key_ecb_interest_rates/html/index.en.html.

Continued

| Effective year | Effective date | DFR | MRO | | MLF |
|----------------|----------------|------|------------|---------------|------|
| | | | Fixed rate | Floating rate | |
| 2011 | 12.14 | 0.25 | 1 | - | 1.75 |
| | 11.09 | 0.5 | 1.25 | - | 2 |
| | 07.13 | 0.75 | 1.5 | - | 2.25 |
| | 04.13 | 0.5 | 1.25 | - | 2 |
| 2009 | 05.13 | 0.25 | 1 | - | 1.75 |
| | 04.08 | 0.25 | 1.25 | - | 2.25 |
| | 03.11 | 0.5 | 1.5 | - | 2.5 |
| | 01.21 | 1 | 2 | - | 3 |
| 2008 | 12.10 | 2 | 2.5 | - | 3 |
| | 11.12 | 2.75 | 3.25 | - | 3.75 |
| | 10.15 | 3.25 | 3.75 | - | 4.25 |
| | 10.09 | 3.25 | - | - | 4.25 |
| | 10.08 | 2.75 | - | - | 4.75 |
| | 07.09 | 3.25 | - | 4.25 | 5.25 |
| 2007 | 06.13 | 3 | - | 4 | 5 |
| | 03.14 | 2.75 | - | 3.75 | 4.75 |
| 2006 | 12.13 | 2.5 | - | 3.5 | 4.5 |
| | 10.11 | 2.25 | - | 3.25 | 4.25 |
| | 08.09 | 2 | - | 3 | 4 |
| | 06.15 | 1.75 | - | 2.75 | 3.75 |
| | 03.08 | 1.5 | - | 2.5 | 3.5 |
| 2005 | 12.06 | 1.25 | - | 2.25 | 3.25 |
| 2003 | 06.06 | 1 | - | 2 | 3 |
| | 03.07 | 1.5 | - | 2.5 | 3.5 |
| 2002 | 12.06 | 1.75 | - | 2.75 | 3.75 |
| 2001 | 11.09 | 2.25 | - | 3.25 | 4.25 |
| | 09.18 | 2.75 | - | 3.75 | 4.75 |
| | 08.31 | 3.25 | - | 4.25 | 5.25 |
| | 05.11 | 3.5 | - | 4.5 | 5.5 |
| 2000 | 10.06 | 3.75 | - | 4.75 | 5.75 |
| | 09.01 | 3.5 | - | 4.5 | 5.5 |
| | 06.28 | 3.25 | - | 4.25 | 5.25 |
| | 06.09 | 3.25 | 4.25 | - | 5.25 |
| | 04.28 | 2.75 | 3.75 | - | 4.75 |
| | 03.17 | 2.5 | 3.5 | - | 4.5 |
| | 02.04 | 2.25 | 3.25 | - | 4.25 |

Continued

| Effective year | Effective date | DFR | MRO | | MLF |
|----------------|----------------|------|------------|---------------|------|
| | | | Fixed rate | Floating rate | |
| 1999 | 11.05 | 2 | 3 | - | 4 |
| | 04.09 | 1.5 | 2.5 | - | 3.5 |
| | 01.22 | 2 | 3 | - | 4.5 |
| | 01.04 | 2.75 | 3 | - | 3.25 |
| | 01.01 | 2 | 3 | | 4.5 |

Source: ECB website, www.ecb.europa.eu.

B. The European Commission continued to strengthen the regulatory framework for sustainable finance

On January 1, 2023, the Regulation on Sustainability-Related Disclosure in the Financial Services Sector⁵⁷ adopted by the European Commission (EC) came into force. The Sustainable Finance Disclosure Regulation (SFDR) and the Regulation on Sustainability-Related Disclosure in the Financial Services Sector require financial entities to disclose how they incorporate sustainability risks into their decision-making and advisory processes, while also providing information on the sustainability of financial products.

On June 13, 2023, the EC published a new sustainable finance package⁵⁸ to strengthen the EU regulatory framework for sustainable finance, consisting of the following components:

1. The EU Taxonomy. First, the EC broadened the scope of economic activities contributing to climate change mitigation and adaptation by amending the EU Climate Delegated Act, in particular, these changes were focused in the manufacturing and transport sectors. Second, the first Environmental Delegated Act was introduced to define certain economic activities that made significant contributions to climate and environmental objectives, such as the sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and the protection and restoration of biodiversity and ecosystems. Third, the EU Disclosures Delegated Act was amended to define the disclosure obligations for the new economic activities.

2. Regulation of environmental, social, and governance (ESG) rating providers. The EC proposed regulations to improve the reliability and transparency of ESG rating activities. First, it required ESG rating providers serving EU investors and companies to be authorized and supervised by the European Securities and Markets Authority (ESMA). Second, ESG rating providers were required to use rigorous, systematic, objective, and validated rating methodologies to ensure the quality and reliability of ESG ratings, and ESG rating providers should review their rating methodologies on an ongoing basis and at minimum once a year. Third, the EC introduced organizational requirements to ensure the prevention and mitigation of potential conflicts of interests. ESG rating providers

57 Source: European Commission website, Regulation on sustainability-related disclosure in the financial services sector, https://finance.ec.europa.eu/sustainable-finance/disclosures/sustainability-related-disclosure-financial-services-sector_en.

58 Source: China's Ministry of Commerce website, <http://eu.mofcom.gov.cn/article/jmxw/202306/20230603416330.shtml>.

should ensure that the ESG ratings they provide are independent, objective, and of sufficient quality. Fourth, to enhance rating transparency, ESG rating providers should disclose information to the public on the methodologies, models, and key rating assumptions which those providers use in their ESG rating activities and in each of their ESG rating products. The providers should also offer more detailed information on the relevant content to subscribers of ESG ratings and rated entities. Fifth, the EC provided “safeguards” for smaller ESG rating agencies. These include the possibility for ESMA to exempt smaller rating providers from a number of organizational requirements if the providers meet certain criteria.

3. Transition finance. The EC paper describes how the sustainable finance framework covers transition finance and explains how companies, investors, and financial intermediaries can use the current sustainable finance framework to finance the transition to a climate-neutral, sustainable economy.

4. To enhance the usability of the EU sustainable finance framework, the EC published the EU Taxonomy User Guide. This will support the implementation of the EU Taxonomy and the sustainable finance framework by the business and financial sector and make these into key future priorities.

C. European Council approved the world's first crypto-assets act

The Markets in Crypto-Assets Regulation (MiCA)⁵⁹ was adopted on May 31, 2023, and entered into force as of December 30, 2024. The MiCA prescribes measures to track crypto-asset transactions and to combat tax evasion and money laundering. Issuers and traders of (1) crypto-assets, (2) tokenized assets, and (3) stablecoins in the EU and its member states are now required to obtain the appropriate licenses.

Under the regulation, the European Banking Authority and the ESMA are the competent supervisory authorities for crypto-assets. The regulation has a dual focus: first, stablecoin-based payment tokens (i.e., asset-referenced tokens and e-money tokens) and other crypto-assets; and second, various types of crypto-asset service providers, such as issuers, providers, and trading platforms.

Since entering into force, the MiCA has now become binding for all EU members. It will likely reshape the crypto-asset regulatory framework of each member state.

II. Problem analysis

A. No meaningful improvement in the EU's financial condition

Chinese enterprises in Europe reported that the EU's financial condition had not meaningfully improved in 2023. According to our survey, 53.12% of respondents believed that EU financial conditions remained unchanged, 25% reported improvement, but 21.88% reported worsening conditions in 2023 (Figure 8-1).

59 Source: The Markets in Crypto-Assets Regulation (MiCA) and amending regulations, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739221/EPRS_BRI\(2022\)739221_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2022/739221/EPRS_BRI(2022)739221_EN.pdf).

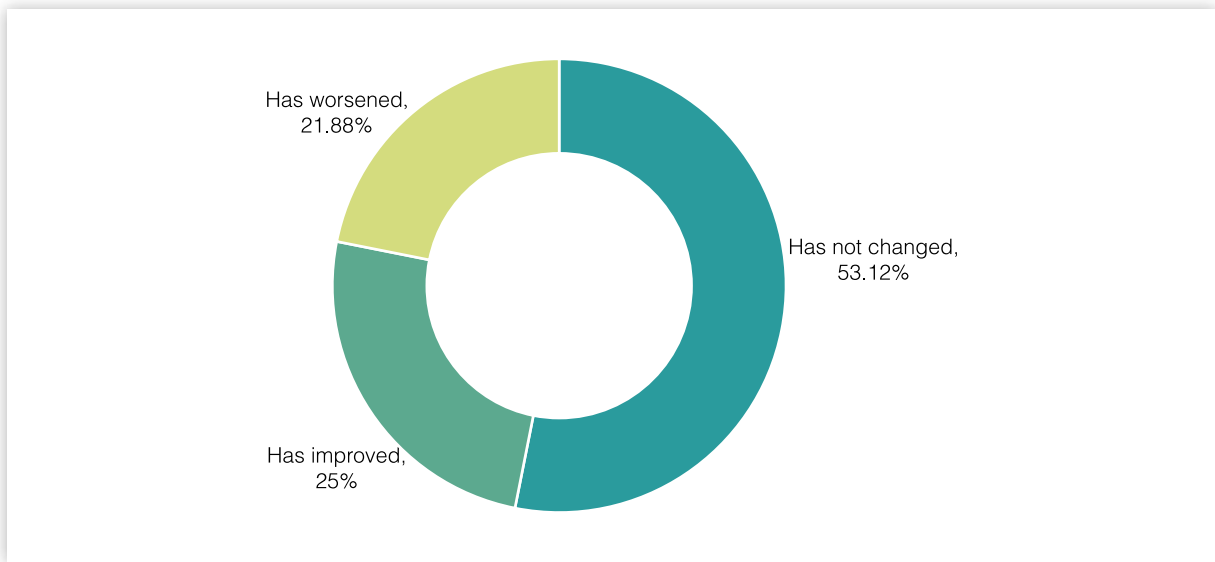


Figure 8-1: Perception of changes in the EU's financial condition
Source: CCPIT Academy.

B. Increased compliance costs from new financial disclosure regulations

The EU's SFDR and Regulation on Sustainability-Related Disclosure in the Financial Services Sector have tightened the regulation of non-EU financial entities and increased their costs in three areas: first, the compliance costs of investing in the EU; second, the financing costs in Europe for companies in specific industries; and third, the costs of corporate social responsibility fulfillment. According to our survey, 55.38% of the respondents reported increased compliance costs of non-EU financial entities as a result of the new disclosure regulations, while 44.62% reported no change (Figure 8-2).

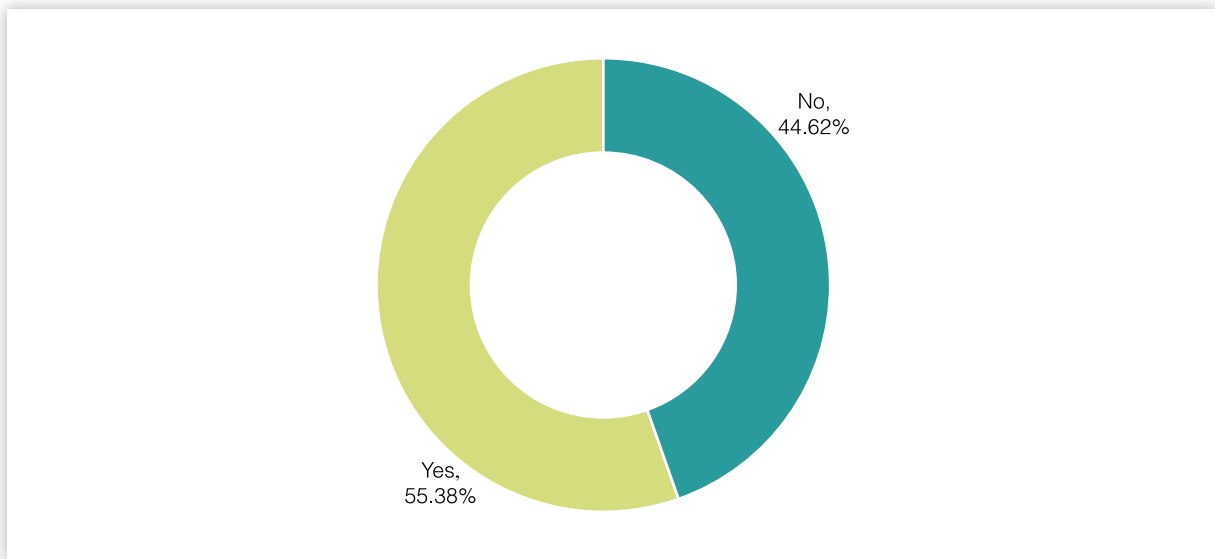


Figure 8-2: Did the EU SFDR and Regulation on Sustainability-Related Disclosure in the Financial Services Sector increase the compliance costs of Chinese financial institutions?

Source: CCPIT Academy.

C. Differential EU regulatory standards for EU banks vs. non-EU banks

On the grounds of eliminating “opportunities for regulatory arbitrage”, the EU has set specific entry conditions for foreign banks entering the EU market and requirements for lawful operation. The EU has also strengthened the supervision on third-country bank branches, which hinders the operation of foreign banks. According to our survey, 62.5% of the financial sector respondents believed that the EU has adopted differential regulatory standards for EU and non-EU banks (Figure 8-3).

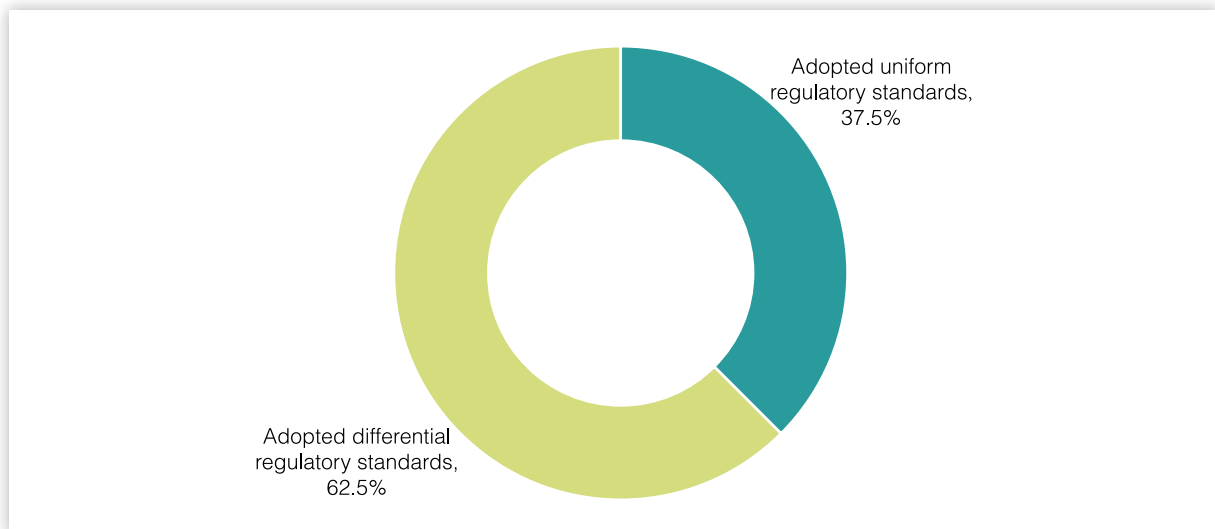


Figure 8-3: Chinese financial institutions' view on whether the EU adopts uniform regulatory standards for EU banks vs. non-EU banks
Source: CCPIT Academy.

D. Inaccessible and costly financing for Chinese enterprises in Europe

Inaccessible and costly financing is a major challenge to Chinese enterprises operating in the EU. According to our survey, more than half of the respondents complained about inaccessible financing in the EU (Figure 8-4), and 79.69% complained about the high cost of financing in the EU (Figure 8-5).

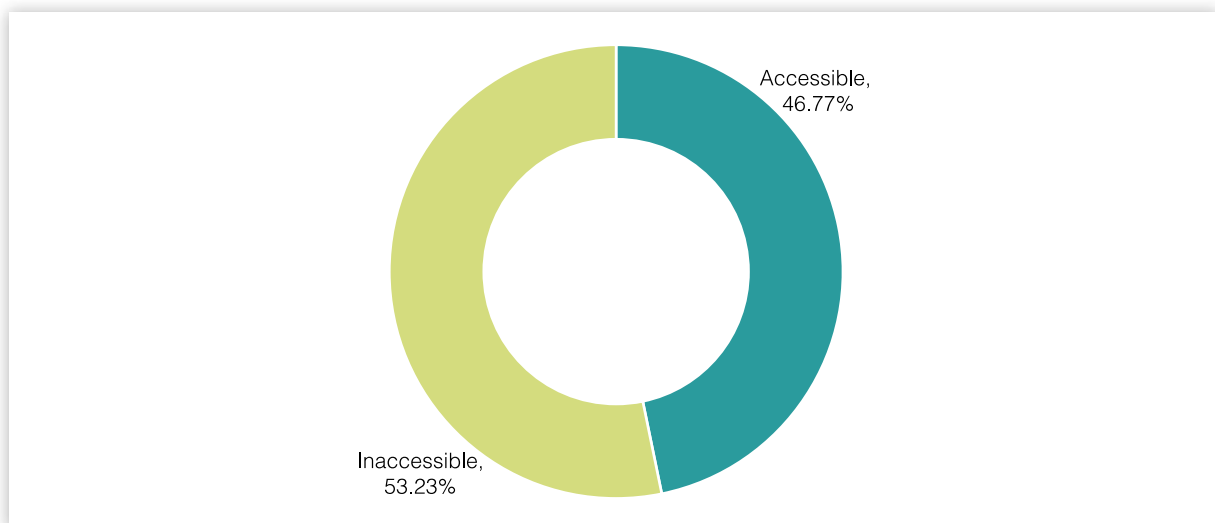


Figure 8-4: Ease of access to financing in the EU
Source: CCPIT Academy.

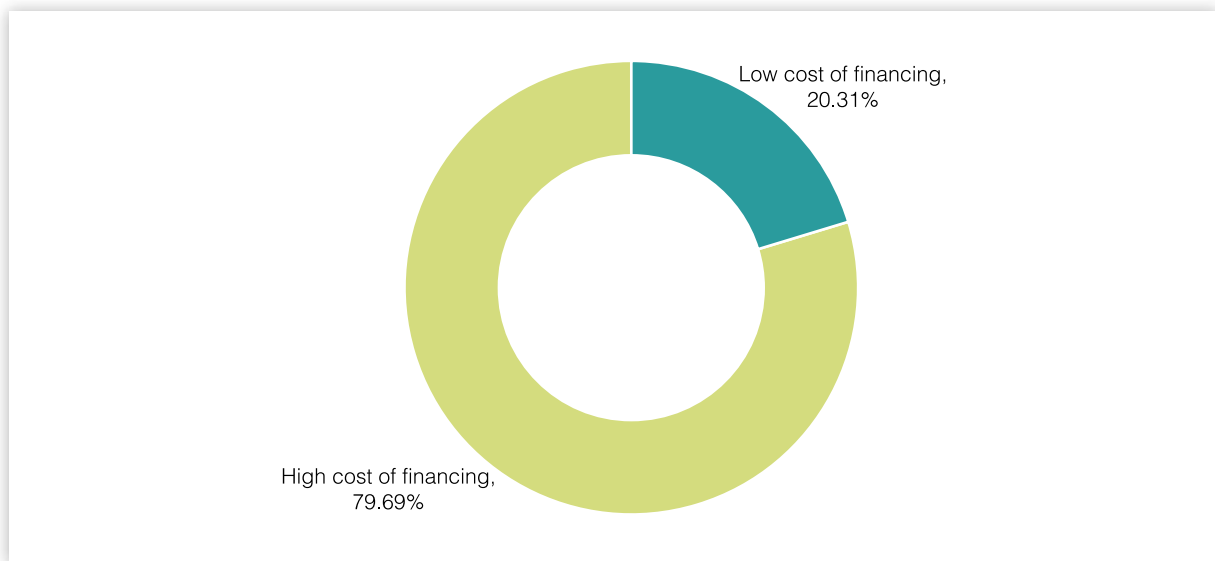


Figure 8-5: Cost of financing in the EU
Source: CCPIT Academy.

E. Dented outlook on EU financial conditions among some respondents

Our survey shows that 59.68% of respondents are optimistic about EU financial conditions, while 40.32% hold a pessimistic outlook (Figure 8-6).

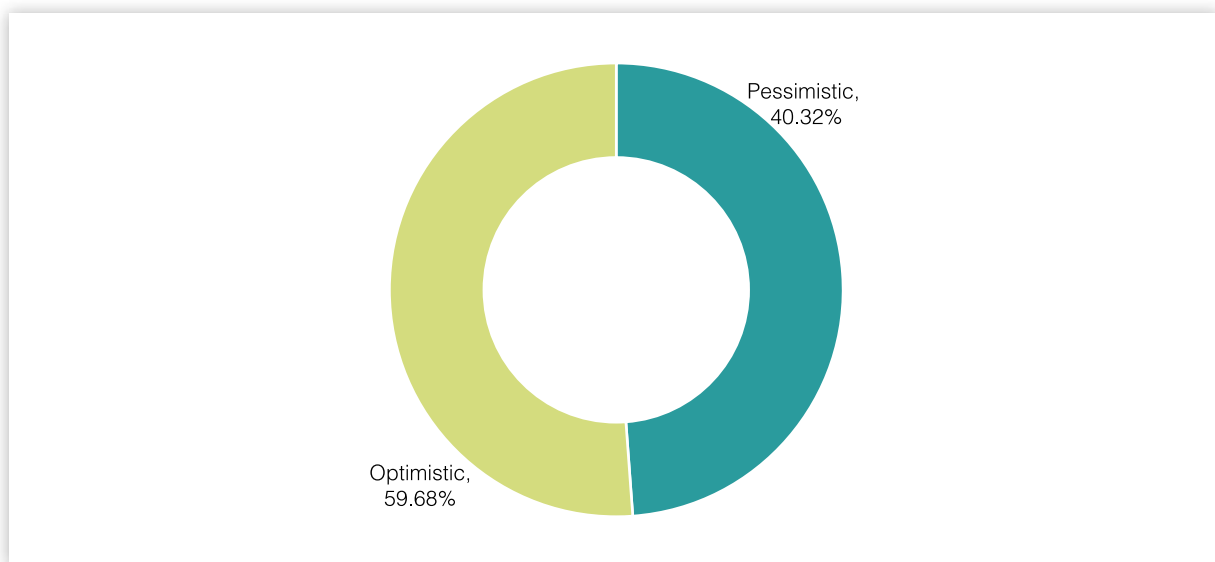


Figure 8-6: Business sentiment for EU financial conditions
Source: CCPIT Academy.

III. Our recommendations

A. Resolve regulatory issues in the financial market through dialogue and consultation

We recommend that the EU and its member states resolve regulation issues in the financial market by rationalizing the existing regulatory framework or through bilateral consultation. We also recommend that the EU fully leverage the China-EU macroeconomic policy dialogue and the China-EU Economic and Financial Dialogue, so as to avoid over-regulation in the financial markets of the EU and its member states.

B. Further promote two-way opening up of the financial sector

We recommend that the EU and its member states continue to liberalize the financial market, lift the restrictions on Chinese ownership in EU financial institutions, encourage financial products in the offshore market, diversify the financing channels for EU and Chinese investors, and promote the interconnection of the Chinese and European financial markets, especially the bond market.

C. Strengthen cooperation in high-potential financial sub-sectors

In view of the complex international economic and financial landscape, we recommend that EU financial institutions strengthen and deepen cooperation with their Chinese counterparts in areas with great potential for cooperation, such as wealth management, financial technology, green finance, and retirement finance; promote financial market security and innovation; and jointly resist global trade protectionism.

D. Afford fair and just treatment to non-EU financial institutions

We recommend that the EU and its member states treat non-EU financial institutions equally, harmonize regulatory standards for local and foreign banks, and refrain from targeting foreign banks with more stringent disclosure requirements or more frequent regulatory actions.

E. Avoid broad interpretation of sustainable finance disclosure rules

We recommend that the EU and its members adhere to the principles of prudence and proportionality in implementing the SFDR, reasonably limit the scope of disclosed information, and avoid adding compliance costs on foreign financial institutions through broad interpretation.

Chapter IX

Digital Economy



I. Recent Developments

A. The European Economic Security Strategy strengthens control in semiconductors and other sectors

On June 20, 2023, the European Commission published the European Economic Security Strategy. Adopting a comprehensive approach on identifying risks and “de-risking”, the European Economic Security Strategy proposes “de-risking” toolboxes of policies, legislation and actions. With regard to identifying risks, the European Economic Security Strategy bundles risks related to technology security and technology leakage, claiming that in some cases, leakage of dual-use technologies such as quantum, advanced semiconductors and artificial intelligence could exacerbate economic security risks. With regard to “de-risking”, the European Economic Security Strategy incorporates multiple existing tools. Table 9-1 lists details of the European Economic Security Strategy.

Table 9-1: Digital “de-risking” toolbox of the European Economic Security Strategy

| No. | Main aspects | Details |
|-----|---|--|
| 1 | Promoting the EU's own competitiveness | <ul style="list-style-type: none"> (1) Implementing the NextGenerationEU and the Cohesion Funds to invest in digital transition and critical infrastructure; (2) Launching industrial alliances in critical raw materials, semiconductors, cloud computing and other fields; (3) Supporting important projects of common European interest (IPCEI) to achieve major technological breakthroughs and commercialization; (4) Using the European Chips Act, the Critical Raw Materials Act and the Net-Zero Industry Act to scale up output of critical products and raw materials in the EU; (5) Establishing a Strategic Technologies for Europe Platform (STEP) to support development of critical and dual-use technologies. |
| 2 | Enhancing protection | <ul style="list-style-type: none"> (1) Developing a Toolkit on Tackling Foreign R&I Interference; (2) Introducing the Cyber Resilience Act; (3) Adopting the Directive on the Resilience of Critical Entities; (4) Launching the 5G Toolbox; (5) Introducing the Cyber Solidarity Act; (6) Introducing the Regulation on dual-use export controls. |
| 3 | Building broader economic and trade connections | <ul style="list-style-type: none"> (1) Stressing the need to reduce reliance on a single country in critical sectors by as much as possible; (2) Strengthening cooperation with the U.S. under the Trade and Technology Council (TTC); (3) Advancing supply chain cooperation under the EU-Japan High Level Economic Dialogue and the G7. |
| 4 | Others | <ul style="list-style-type: none"> (1) Formulating a list of critical technologies; (2) Restricting outward investment of European high-tech companies and strengthening export control of dual-use items. |

Source: Compiled by CCPIT Academy based on the European Economic Security Strategy.

B. The European Chips Act entered into force

On September 21, 2023, the Regulation of the European Parliament and of the Council establishing a framework of measures for strengthening Europe's semiconductor ecosystem (European Chips Act) came into force. The European Commission states in its announcement that the European Chips Act will strengthen Europe's chip manufacturing capacity, bolster Europe's competitiveness and resilience in semiconductor technologies and applications, foster a European chip design ecosystem, support innovation of the chips supply chain, and help achieve both the digital and green transition. The European Chips Act plans to increase European chips' market share from 10% to 20% in 2030⁶⁰.

The European Chips Act aims to improve such core competency as (1) technological research, (2) design and innovation, (3) manufacturing and packaging, (4) talent training, and (5) supply chain security, with its three pillars of action. The first pillar is to implement the Chips for Europe Initiative to facilitate the transfer of knowledge from the lab to the fab and promote the adoption of new technologies by European businesses. The second pillar is to incentivize public and private investments in manufacturing facilities for chipmakers, with clear indication that member states may grant aid to first-of-a-kind facilities. The third pillar is to establish a coordination mechanism between the member states and the European Commission to monitor the supply of semiconductors and estimate demand, to avoid supply chain disruptions.

The European Chips Act proposes a series of actions (see Table 9-2).

Table 9-2: Proposed actions of the European Chips Act

| No. | Detail |
|-----|---|
| 1 | Investments in next-generation technologies |
| 2 | Providing access across Europe to design tools and pilot lines for the prototyping, testing and experimentation of cutting-edge chips |
| 3 | Certification procedures for energy-efficient and trusted chips to guarantee quality and security for critical applications |
| 4 | A more investor-friendly framework for establishing manufacturing facilities in Europe |
| 5 | Support for innovative start-ups, scale-ups and SMEs in accessing equity finance |
| 6 | Fostering skills, talents and innovation in microelectronics |
| 7 | Tools for anticipating and responding to semiconductors shortages and crises to ensure security of supply |
| 8 | Building semiconductor international partnerships with like-minded countries |

Source: Compiled by CCPIT Academy based on publicly available information.

C. The Digital Markets Act designated “gatekeepers” for the first time

Entering into force on November 1, 2022, the Digital Markets Act⁶¹ adopts both ex-ante regulation

60 Source: European Commission website, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/european-chips-act_en.

61 Source: European Commission website, Digital Markets Act (DMA). https://competition-policy.ec.europa.eu/sectors/ict/dma_en.

and case-by-case adjudication, and imposes rules for Internet giants designated as “gatekeepers”. For instance, gatekeepers shall not: (1) exploit their dominance on the market to suppress, merge or acquire competitors, (2) provide ads or install applications without users’ consent, or (3) cross-use collected user data.

The Digital Markets Act applies to core services providers for EU business users or end users, whose market value amounts to EUR75 billion, achieves an annual turnover of EUR7.5 billion, and has at least 45 million monthly active users and at least 10,000 yearly active business users. Gatekeepers found not in compliance with the obligations under the Digital Markets Act shall be subject to severe punishments such as large-sum fines, notification in a short period of time, orders to reorganize their business, and even bans from entering the EU market.

On September 6, 2023, the European Commission, in accordance with the Digital Markets Act, designated Alphabet, Amazon, Apple, ByteDance, Meta and Microsoft as the first six gatekeepers. The designation covered 22 core platform services provided by the six companies (see Table 9-3).

Table 9-3: The 22 core platform services designated under the Digital Markets Act

| No. | Type | Services and Applications |
|-----|------------------|--|
| 1 | Social network | TikTok, Facebook, Instagram, LinkedIn |
| 2 | N-ITCS | WhatsApp, Messenger |
| 3 | Intermediation | Google Maps, Google Play, Google Shopping, Amazon Marketplace, App Store, Meta Marketplace |
| 4 | Video sharing | YouTube |
| 5 | Ads | Google, Amazon, Meta |
| 6 | Browser | Chrome, Safari |
| 7 | Search | Google Search |
| 8 | Operating system | Android, iOS, Windows PC OS |

Source: Compiled by CCPIT Academy based on publicly available information.

The six designated gatekeepers have six months (before March 2024) to adjust their respective business and operations to ensure that their core platform services comply with obligations under the Digital Markets Act; otherwise, they may be imposed fines up to 10% of their annual worldwide turnover and a periodic fine as high as 5% of their annual worldwide turnover.

D. The Digital Service Act steps up regulation on digital platform services

On August 25, 2023, the Digital Service Act, a groundbreaking EU digital legislation, entered into force. As one of the EU’s most important legal tool to curb tech giants and contain social problems, the Digital Service Act imposes strict regulations on intermediary service providers, focusing mainly on illegal content online and other content deemed harmful by the regulators. The Digital Service Act also includes new accountability standards and rules for online information, digital ads and application ecosystems.

The Digital Service Act requires large platforms and social networks operating in the EU to enhance review of illegal content, better protect user data, and remove illegal and harmful content online in a

timely manner, including hate speech, disinformation and counterfeit transactions.

To date, at least 19 online platforms (applications) have fallen under the scope of the Digital Service Act, including eight social networks (Facebook, TikTok, Twitter, YouTube, Instagram, LinkedIn, Pinterest, Snapchat), five online marketplaces (Amazon, Booking.com, Alibaba, AliExpress, Zalando), two application marketplaces (Google Play, App Store), and other platforms (Google Search, Bing, Google Map, Wikipedia)⁶².

The Digital Service Act also creates new obligations for smaller platforms, such as increasing digital service transparency and providing users with access to notice and redress functions, which will increase burdens on small companies.

E. The EU adopted the Data Act

On February 23, 2022, the European Commission published the draft Data Act, setting up new rules on who can use and access what data for which purposes across all economic sectors in the EU⁶³. On March 24, 2023, the Council of the European Union agreed on a common position on the Data Act, calling for amendments to the European Commission's proposed text related to the general data protection regulation, trade secret protection, data sharing requests by public sector bodies and international data transfer. On November 27, 2023, the Council of the European Union adopted the Data Act, which would enter into force the twentieth day after being published in the EU's official journal and apply 20 months from the date of its entry into force⁶⁴.

With the Data Act and other regulations, the EU seeks to strengthen the influence of its data regulation. However, the regulations have put heavy compliance burden on businesses. As the EU steps up efforts in digital legislation, digital companies outside of the EU will have to cope with a changing regulatory environment.

F. The European Commission proposed a Strategic Technologies for Europe Platform

On June 20, 2023, the European Commission proposed a Strategic Technologies for Europe Platform (STEP). STEP will expeditiously roll out financial support for business investment, while allowing the use of existing funds in critical technologies such as digital technology, to contribute to a level playing field for investments in the single market. The European Commission estimates that STEP could leverage EUR160 billion in new investments⁶⁵.

62 Not the final list; other platforms (applications) may be added in the future.

63 Source: European Commission website, Data Act-Questions and Answers. https://ec.europa.eu/commission/presscorner/detail/en/qanda_22_1114.

64 Source: Data Act, <https://data.consilium.europa.eu/doc/document/PE-49-2023-INIT/en/pdf>.

65 Source: China's Ministry of Commerce website, <http://chinawto.mofcom.gov.cn/article/ap/p/202307/20230703422306.shtml>.

II. Problem analysis

A. Chinese companies have divergent views on changes in the EU digital economic environment

Chinese companies in the EU have divergent opinions on changes in the EU's digital economic environment. Our survey shows that 29.27% of respondents find that the EU's digital economic environment improved, whereas 26.83% find the environment deteriorated, and 43.9% find it unchanged (see Figure 9-1).

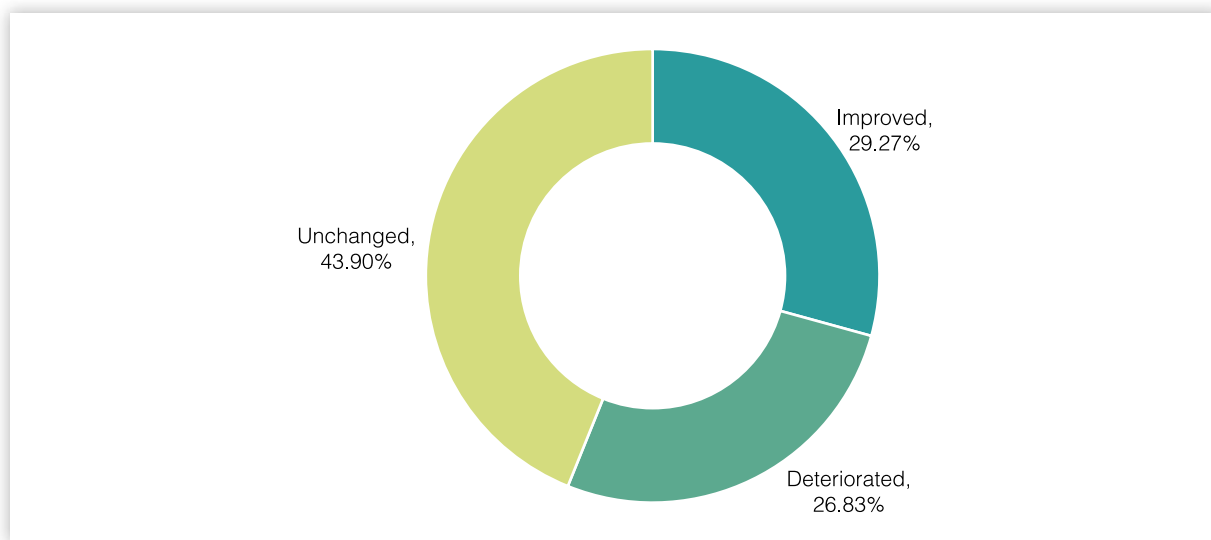


Figure 9-1: Business perception of changes in the EU digital economic environment

Source: CCPIT Academy.

B. EU cybersecurity review discriminates against Chinese companies

The surveyed businesses generally reported that the EU toolbox on 5G cybersecurity contains ideological elements and explicitly discriminates against Chinese companies. Our survey shows that 66.09% of respondents believe that the EU's cybersecurity review discriminates against Chinese companies, while 33.91% think otherwise thus far (see Figure 9-2).

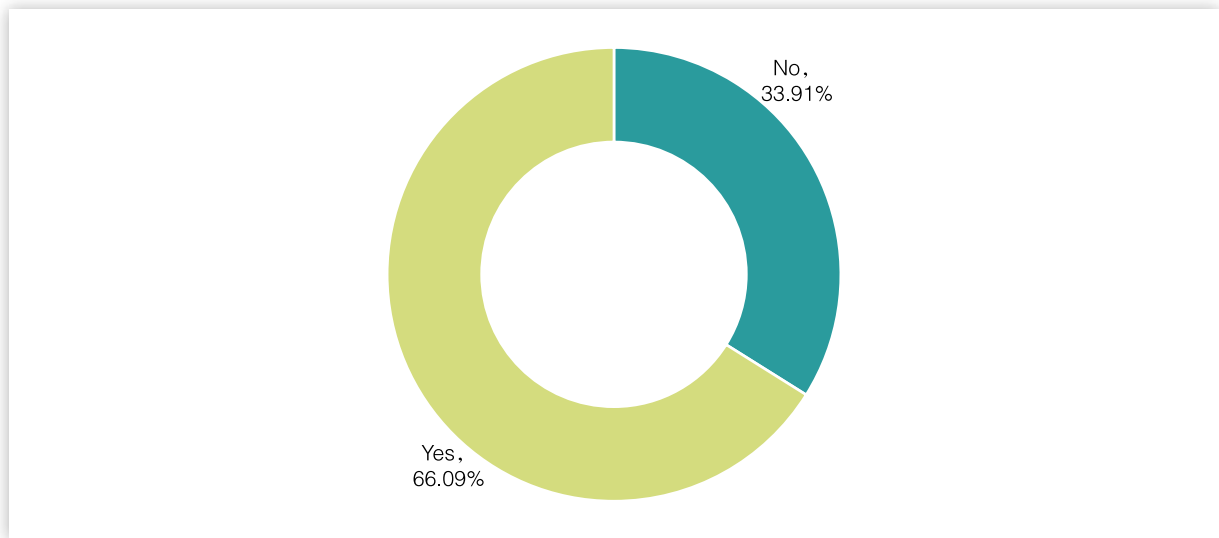


Figure 9-2: Whether EU cybersecurity review discriminates against Chinese suppliers

Source: CCPIT Academy.

C. Certain EU regulations on the digital economy affects business of non-EU companies

Some EU regulations on the digital economy have had an adverse effect on non-EU companies as they operate in the EU. In our survey, the General Data Protection Regulation (43.67%), the Digital Services Act (31.49%) and the Digital Markets Act (24.84%) are identified as top three sources of impact by digital companies (see Figure 9-3).

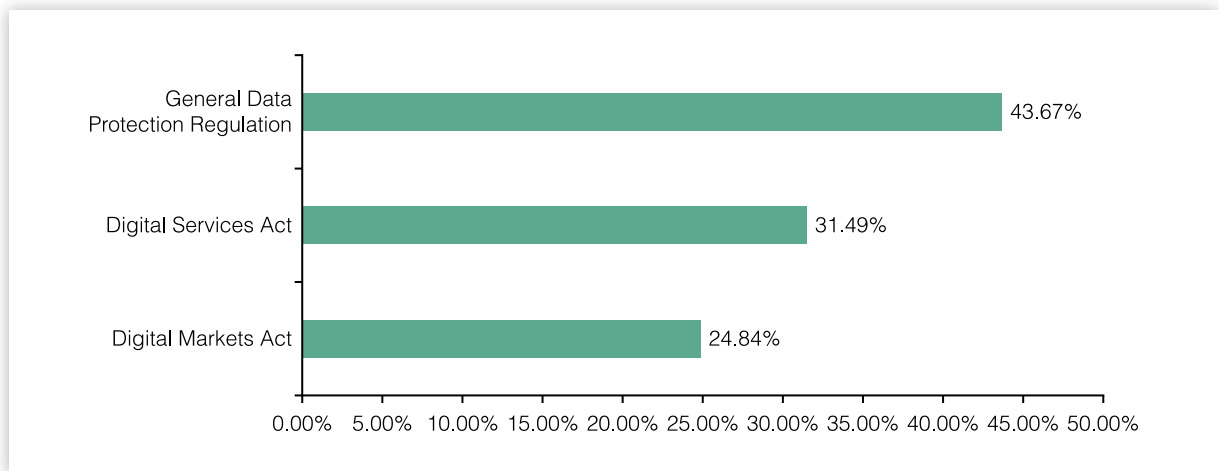


Figure 9-3: Companies consider EU digital regulations as biggest sources of impact

Source: CCPIT Academy.

D. The European Chips Act affects upstream and downstream industries

The semiconductor supply chain owes its development to complementarity between upstream

and downstream industries. As a result, no economy can boast a complete supply chain in this sector. Putting the semiconductor and chips industries under the scope of strategic competition, the European Chips Act disrupts upstream and downstream supply chains and companies and undermines business cooperation. Our survey shows that 76.67% of respondents believe the European Chips Act has an impact on upstream and downstream industries (see Figure 9-4).

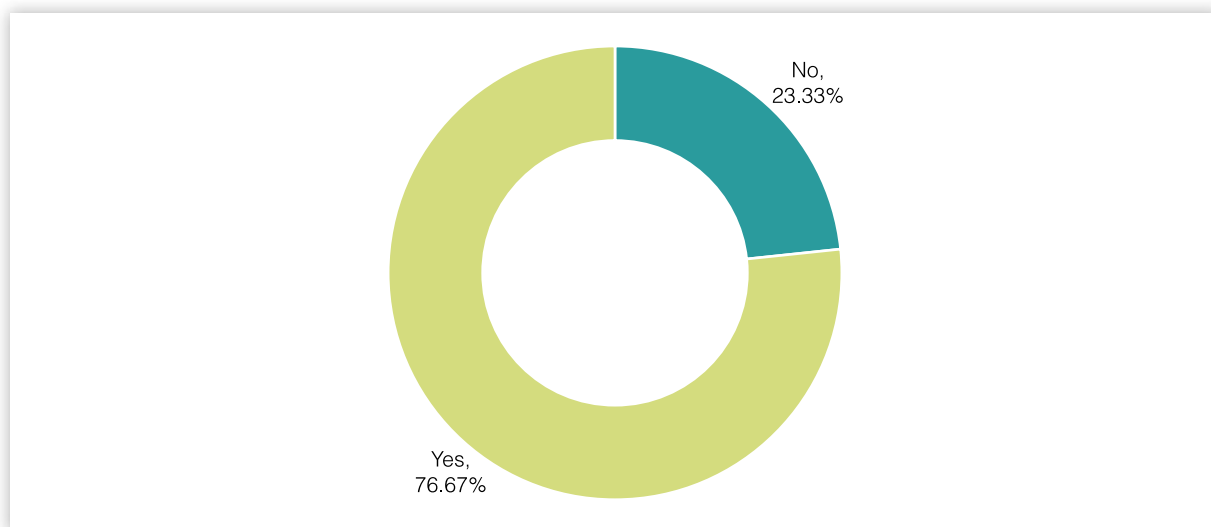


Figure 9-4: Whether companies think the European Chips Act has an impact on upstream and downstream industries
Source: CCPIT Academy.

E. Chinese companies find it hard to participate in the EU’s digital connectivity and transition initiatives

The European Commission expects greater non-EU investment through new cooperation modalities and shared investment to facilitate its digital connectivity and transition endeavors and drive the European digital industry. In light of potential benefits, some respondents say they support the European Commission in this regard. Still, some other respondents think it difficult for them to become part of the endeavors, as the EU may restrict participation of non-EU businesses.

F. Chinese companies have differing views on whether the EU digital economic environment will improve

Cooperation and containment are concurrent themes of the EU’s engagement with China in digital sectors. The EU has also been stepping up digital regulation and governance with new legislation. Therefore, Chinese companies have divergent views on whether the EU digital economic environment will change for the better. Our survey shows that 56.3% of respondents say they are optimistic, while 43.7% say they are pessimistic (see Figure 9-5).

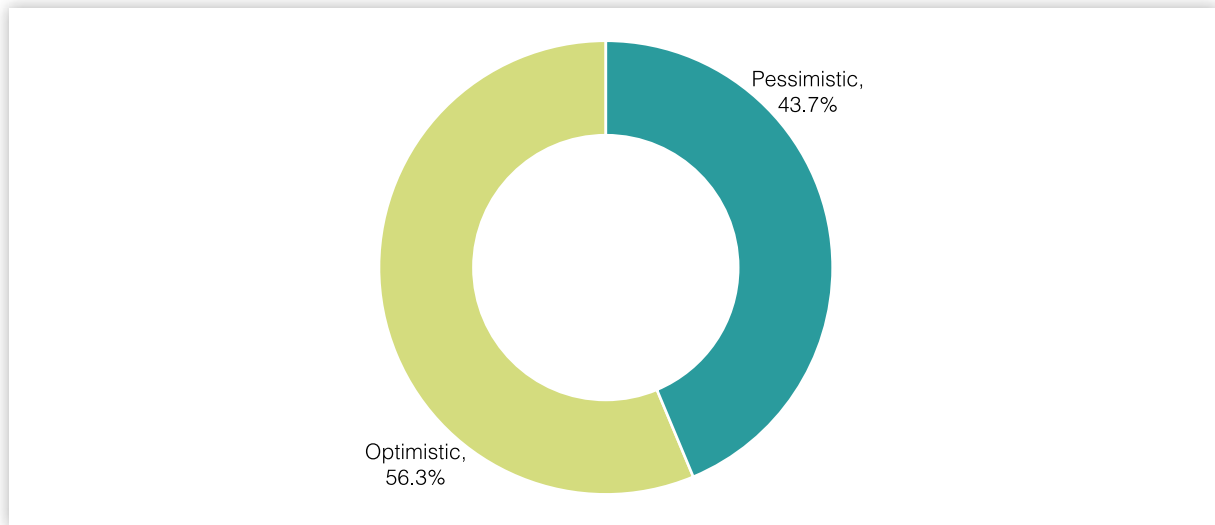


Figure 9-5: Views of companies on whether the EU digital economic environment will improve
Source: CCPIT Academy.

III. Our recommendations

A. Respect the sound division of labor in the global chips industry

Given the strong need of the chips sector for capital intensity, professional skills and connectivity, no single country or group of countries can be completely self-sufficient in this industry. It is recommended that the EU work with China on the chips value chain in an open and cooperative manner, and respect the sound division of labor in the global chips sector.

B. Advance China-EU high-level digital dialogues and cooperation

It is recommended that China and the EU step up exchanges, cooperation and mutual learning with regard to standards for digital governance, and use the institutional platforms of the China-EU High-Level Digital Dialogue and its supporting mechanisms for discussion and cooperation on online content monitoring of large businesses, cross-border data flow, data protection and privacy protection.

C. Regard Chinese businesses as an enabling force in the digital ecosystem

It is recommended that the EU address the ambiguity of definitions, scenarios and responsibilities in its current data regulations, to maintain a reasonable degree of competition on its digital market. It is also recommended that the EU improve its system of digital regulations as it builds a digital ecosystem, with a special focus on the enabling role of Chinese companies.

D. Conduct cybersecurity review in a fair and transparent manner

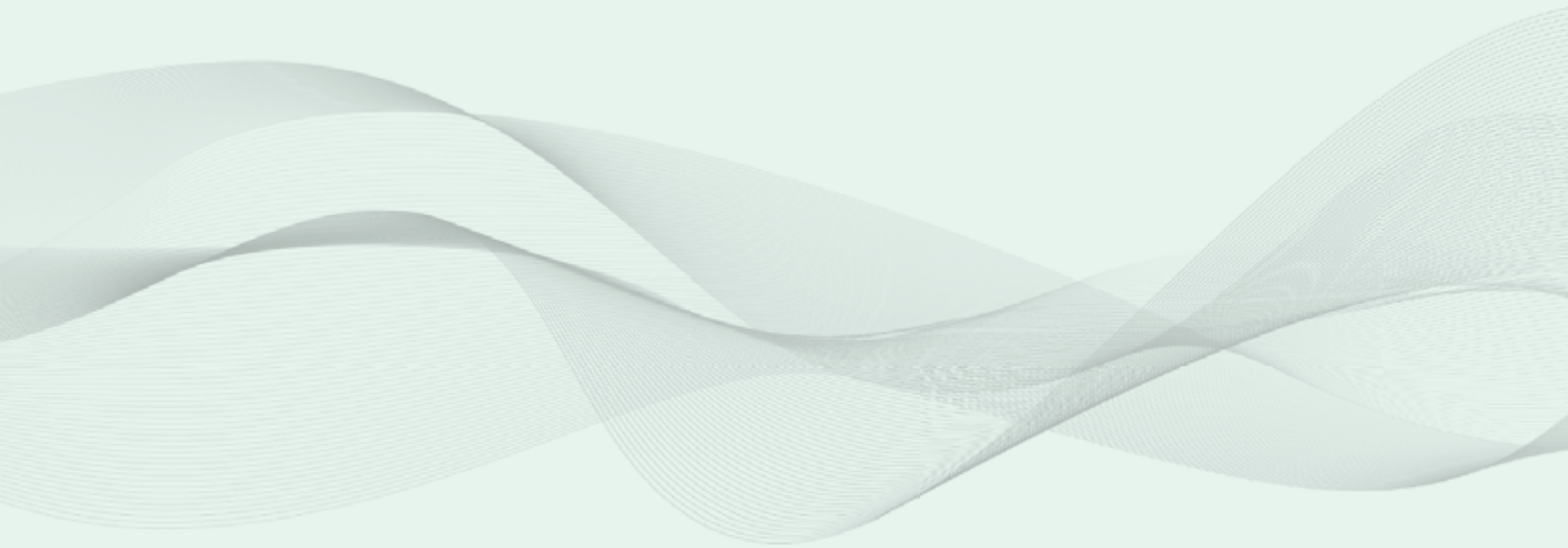
It is recommended that the EU and its member states refrain from discriminating against Chinese companies in cybersecurity review, restricting access of Chinese companies to the EU market, or incurring losses on Chinese companies due to cybersecurity review.

E. Enhancing coordination in global digital governance and cybersecurity

It is recommended that the EU perform a fair assessment of the impact of its digital regulations, foster a more open and secure digital ecosystem, stay committed to multilateral and multiparty participation, lend an ear to the comments and needs of non-EU companies, and improve policy coordination on global cybersecurity governance, so that the cyberspace is connected to all, shared by all and governed by all.

Chapter X

Green Economy



I. Recent developments

A. The Green Deal Industrial Plan supports green transition of industry⁶⁶

On February 1, 2024, the European Commission released the Green Deal Industrial Plan, aiming to provide a more enabling environment for the expansion of the EU production capabilities of net-zero technologies to meet its climate targets. It is a supplement to the European Green Deal and the REPowerEU Plan, playing to the strengths of the EU's single market. The initiative has four main pillars: (1) a predictable and simplified regulatory environment; (2) faster access to sufficient funding; (3) enhancing skills; and (4) open trade for resilient supply chains.

Pillar 1: A predictable and simplified regulatory environment. The Commission proposes to put forward a Net-Zero Industry Act which would provide a simplified regulatory framework, identify goals for net-zero industrial production capacity, pave the way for simpler and faster process of authorization of clean technology manufacturing bases and formulate European standards to scale up technologies across the Single Market. The Commission will propose a Critical Raw Materials Act to ensure the EU's access to critical raw materials (e.g. rare earth) and reform the electricity market design to make it cheaper for consumers to use renewables.

Pillar 2: Speeding up access to finance and investment in the EU's net-zero industry. The European Commission proposes to extend access to funding for the industry at two levels. National Funding. First, simplification of aid for renewable energy deployments and for decarbonizing industrial processes. Second, enhanced investment support schemes for production of strategic net-zero technologies, including the possibility of granting higher aid for new production projects in the net-zero value chains. Third, supporting measures in key sectors, such as carbon capture and storage, zero-emission vehicles, etc. Fourth, enlarging the scope of investment aid for recharging infrastructures. EU funding, including REPower EU, InvestEU Program and Innovation fund. Under the REPowerEU program, the European Commission proposes to accelerate and streamline the processes for obtaining the necessary approvals and permits for building and operating net-zero-tech projects, establish one-stop shops for permitting renewables and net-zero projects, and provide tax breaks or other forms of support for green net-zero technologies investments undertaken by businesses. The InvestEU Program supports research and development of battery technologies, critical raw materials recycling, demonstration plants for manufacturing materials in the supply chain of electric vehicle batteries, hydrogen propulsion technologies, innovative advanced biofuels plants, advanced manufacturing technology equipment in steel processing. The Innovation Fund supports the development of technologies and solutions that decarbonize energy intensive industry and boost renewable energy and energy storage. In addition, the European Commission proposes to allow further flexibility for the member states to grant aid until the end of 2025 to allow them to support the investment in renewable energy or decarbonization industry.

66 Source: European Commission website, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/green-deal-industrial-plan_en.

Pillar 3: Enhancing skills. Focusing on green and digital transition, the European Commission proposes to prioritize training and enhancing skills for well-paid quality jobs and establish Net-Zero Industry Academies to roll out up-skilling and re-skilling programs in strategic industries for the green transition, such as raw materials, hydrogen and solar technologies.

Pillar 4: Open trade for resilient supply chains. Adhering to the principles of fair competition and open trade, the EU hopes to make trade work for green transition through global cooperation. First, the European Commission will continue to advance the EU's network of Free Trade Agreements and develop other forms of cooperation with partners. Second, the EU will work to establish a Critical Raw Materials Club to bring together raw material consumers and resource-rich countries to deliver on a secure, sustainable and affordable global supply of raw materials with a competitive and diversified industrial base. Third, the EU will develop Clean Tech/Net-zero Industrial Partnerships promoting the adoption of net-zero technologies globally. Fourth, the EU will develop an export credit strategy and set up the EU export credit mechanism.

B. The Critical Raw Materials Act keeps ratcheting up protection of raw materials

On March 16, 2023, the EU introduced the Critical Raw Materials Act⁶⁷ to ensure the EU's access to a secure, diverse, affordable and sustainable supply of critical raw materials (CRMs). The EU believes CRMs are crucial for technologies across its green economy, digital ambition, defence and aerospace and the CRM supply risk is looming. The Act updates the CRM list and identifies the strategic raw materials (SRMs) list (as shown in Table 10-1).

Table 10-1: List of CRMs and SRMs in the Critical Raw Materials Act

| Category | Content |
|-----------------------------|---|
| CRMs in Annex II, Section 1 | (a) antimony; (b) arsenic; (c) bauxite; (d) baryte; (e) beryllium; (f) bismuth; (g) boron; (h) cobalt; (i) coking coal; (j) copper; (k) feldspar; (l) fluorite; (m) gallium; (n) germanium; (o) hafnium; (p) helium; (q) heavy rare earth elements; (r) light rare earth elements; (s) lithium; (t) magnesium; (u) manganese; (v) natural graphite; (w) nickel - battery grade; (x) niobium; (y) phosphate rock; (z) phosphorus; (aa) platinum group metals; (bb) scandium; (cc) silicon metal; (dd) strontium; (ee) tantalum; (ff) titanium; (gg) tungsten; (hh) vanadium. |
| SRMs in Annex I, Section 1 | (a) bismuth; (b) boron - metallurgical grade; (c) cobalt; (d) copper; (e) gallium; (f) germanium; (g) lithium-battery grade; (h) magnesium metal; (i) manganese - battery grade; (j) natural graphite - battery grade; (k) nickel - battery grade; (l) platinum group metals; (m) rare earth elements for magnets (Nd, Pr, Tb, Dy, Gd, Sm and Ce); (n) silicon metal; (o) titanium; (p) tungsten. |

Source: The European Parliament website.

The Act sets benchmarks for domestic capacities along the strategic raw material supply chain to be reached by 2030: (1) 10% of the EU's annual needs for extraction; (2) 40% for processing; (3) 15% for recycling; and (4) no more than 65% of EU's annual needs of each strategic raw material at any

67 Source: European Parliament website, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747898/EPRS_BRI\(2023\)747898_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2023/747898/EPRS_BRI(2023)747898_EN.pdf).

relevant stage of processing should come from a single third country.

The Act requires member states to collect, treat and recycle waste with high CRM recovery potential and encourages the recovery of critical raw materials from extractive waste facilities. Operators would have to assess the recoverability of CRMs contained in extractive waste and collect data of CRMs contained in the waste they produce or store. Member states should collect data through retrieving authorization documents and sampling and establish a database of all closed waste facilities, including abandoned ones.

C. The EU has introduced the Net Zero Industry Act to keep the EU technology in the lead

On March 16, 2023, the European Commission introduced the Net Zero Industry Act⁶⁸, aiming to ensure the EU's leading position in global green industry and technologies. According to the Act, by 2030, the manufacturing capacity in the EU of clean technologies reaches at least 40% of the EU's annual needs, including wind turbines, batteries, heat pumps, solar PV and renewable hydrogen.

The Act aims at addressing the following drivers of net-zero technology investments, including (1) improving investment certainty, (2) lowering administrative burden for projects, and (3) simplifying permitting procedures.

To diversify sources of supply of net-zero technologies, relevant agencies must take into account criteria related to sustainability and resilience of net-zero technologies in public procurement procedures and auctions. The Act proposes to set up the Net-Zero Industry Academies to ensure a skilled labor force in the sector.

D. The EU has implemented its Carbon Border Adjustment Mechanism on a trial basis

On August 17, 2023, the European Commission adopted the rules governing the implementation of the Carbon Border Adjustment Mechanism (CBAM) during its transitional phase⁶⁹, which starts on 1 October 2023 and runs until the end of 2025. Full implementation will be phased in from 2026 to 2034. Under the CBAM, the EU will impose additional carbon border adjustment fees on cement, aluminum, fertilizer, steel and other imports from abroad, known as the carbon tax.

The rules provide obligations for importers. During the transitional period, importers are to report carbon emissions of their imported goods without paying any fee or making financial adjustment. From January 1, 2026, importers will have to declare each year the quantity of goods imported to the EU in the preceding year and their embedded green house gas, and surrender the corresponding number of CBAM certificates. The price of the certificates will be calculated depending on the weekly average auction price of EU Emissions Trading System (ETS) allowances expressed in €/tonne of CO₂ emitted.

68 Source: European Commission website, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/european-green-deal/green-deal-industrial-plan/net-zero-industry-act_en.

69 Source: European Commission website, https://taxation-customs.ec.europa.eu/news/commission-adopts-detailed-reporting-rules-carbon-border-adjustment-mechanisms-transitional-phase-2023-08-17_en.

The EU ETS free allowances will be phased out from 2026 and disappear by 2034. The proportion of free allowances will be gradually reduced from 93% in 2027 to 25% in 2031 and phased out in 2032, three years earlier than previously proposed by the draft.

The rules provide the scope of the CBAM regulation. The first batch of sectors covered are cement, fertilizer, iron and steel, aluminium, electricity and hydrogen. As the application scope expands, the CBAM will eventually (during gradual implementation) cover over 50% of emissions in the ETS sectors.

E. The EU's new regulation on batteries regulates the entire life cycle of batteries

On August 17, 2023, the EU Regulation on Batteries and Waste Batteries (hereinafter referred to as the new Batteries Regulation) entered into force⁷⁰. The regulation applies to all batteries placed within the EU market (including those manufactured in the EU). From 18 months and 36 months after the entry into force of the regulation, electric vehicle batteries, light means transport (LMT) batteries and industrial batteries with a capacity greater than 2 kWh placed on the market shall be accompanied by a carbon footprint declaration and a label of carbon footprint performance classes. Companies are required to collect and calculate carbon emissions data at every stage of the life cycle of batteries, including upstream raw materials, manufacturing, transportation, end-of-life management and recycling, according to relevant standards. To a certain extent, the new Batteries Regulation will force enterprises to establish a carbon footprint management mechanism for the whole supply chains.

The new Batteries Regulation sets requirements on battery recycling and digital battery passport. First, from 2025, the EU will phase in policies to promote material recycling and recovery of all waste batteries to attain high levels of recovery of, in particular, cobalt, lithium, nickel and other critical raw materials. Second, from 2027, all batteries shall be provided with a digital passport and marked with a QR code that links to critical data and detailed information of the batteries.

F. France's new green eligibility rules for awarding electric vehicle (EV) subsidies will exclude most of the electric vehicles manufactured in China

In September 2023, the French government announced new green eligibility rules for awarding electric vehicle subsidies from January 2024. The carbon footprint of each electric car will be scored based on the materials, batteries, origin and other factors, taking into account the carbon dioxide emissions during the manufacturing process of the vehicle. The French government announced the list of electric vehicles eligible for subsidies under the new rules on December 14, and electric cars can receive a subsidy of up to €7,000. However, the top 3 most popular pure electric vehicles in France, the Dacia Spring subcompact electric vehicles, the Tesla Model 3 and the MG4 compact cars, are excluded. All three models are produced in China and sold in France.

⁷⁰ Source: European Council website, https://environment.ec.europa.eu/news/new-law-more-sustainable-circular-and-safe-batteries-enters-force-2023-08-17_en.

II. Problem analysis

A. The EU's green economy environment still has room for improvement

The survey shows 37.1% of the surveyed Chinese enterprises believe the EU's business environment for green economy is worse than before (as shown in Figure 10-1).

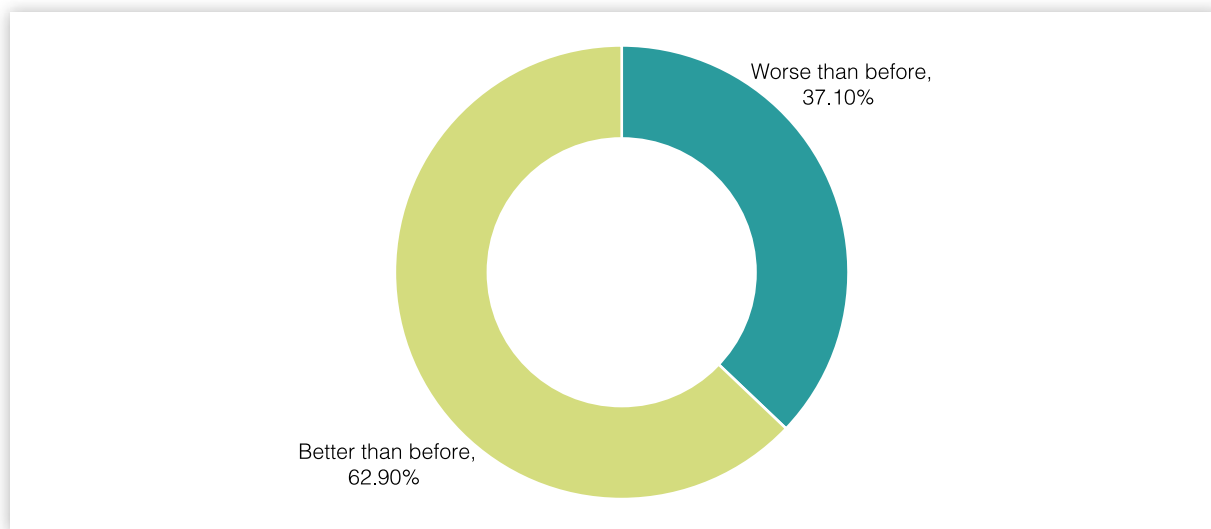


Figure 10-1: Chinese Enterprises' Evaluation of the EU's Business Environment for Green Economy
Source: CCPIT Academy.

B. The CBAM creates new trade barriers

As the implementation deepens, the CBAM will continue to create new trade barriers and will drive up the costs of foreign companies sharply. The survey shows 56.45% of the respondents think the CBAM has raised trade barriers (as shown in Figure 10-2).

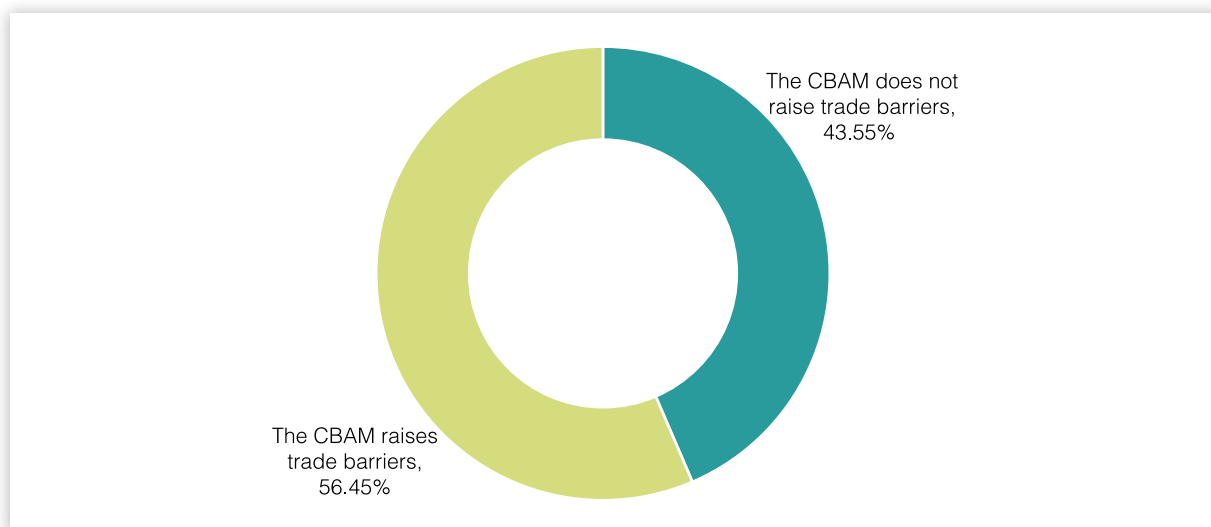


Figure 10-2: Enterprises' Perception of Whether the CBAM Raises Trade Barriers
Source: CCPIT Academy.

In 2022, China was the largest exporter of iron and steel and aluminum and the ninth largest exporter of fertilizer to the EU⁷¹. The implementation of EU carbon tax is bound to have a huge impact on Chinese enterprises and will significantly increase the total cost of Chinese exporters to Europe.

C. The new Batteries Regulation raises the compliance cost for foreign companies

As the new Batteries Regulation enters into force, global power battery makers will have to undergo low-carbon transition. Their exports to the EU need to meet more stringent requirements for carbon footprint, battery passport and battery recycling, among others, which will increase the total cost for businesses.

D. Chinese enterprises are excluded from the benefits of green incentives

The EU has put in place a comprehensive support system for the development of green technology, energy and industry, but it remains difficult for Chinese enterprises to enjoy the EU's green preferential policies. According to the survey, 61.48% of the surveyed Chinese companies do not think they have fair access to the EU's preferential loans to support carbon neutral transition (as shown in Figure 10-3).

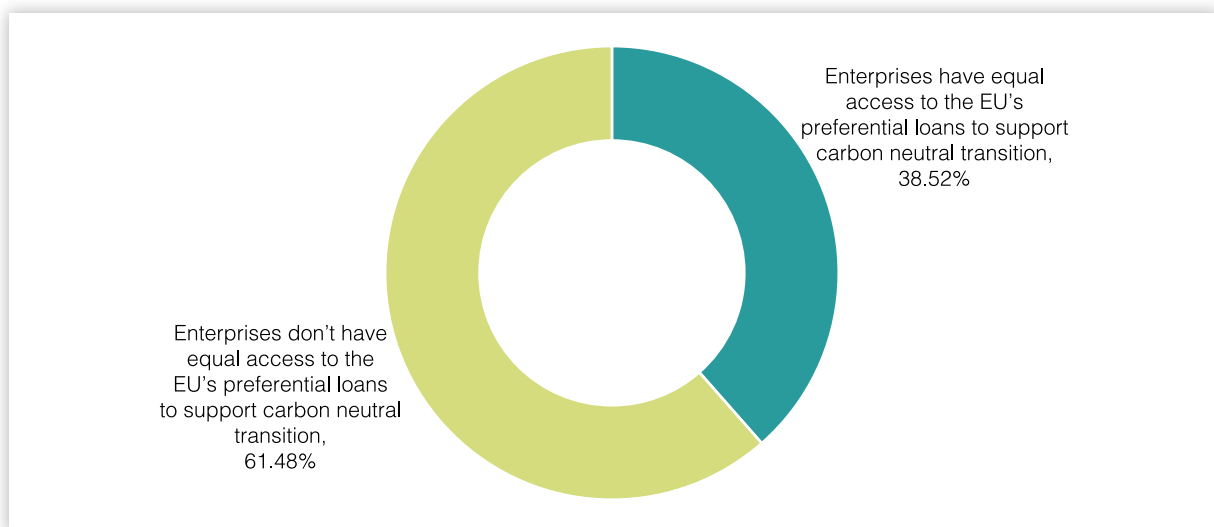


Figure 10-3: Whether Enterprises Have Equal Access to EU's Preferential Loans for Carbon-neutral Transition

Source: CCPIT Academy.

E. Chinese enterprises find it difficult to participate in the EU's green industry

The EU continues to raise trade barriers in the field of green economy and increase compliance costs for enterprises, making it more difficult for Chinese enterprises to enter its green industry. According to the survey, 82.11% of the companies surveyed do not plan to invest in the EU green industry.

71 Source: Eurostat, <https://ec.europa.eu/eurostat>.

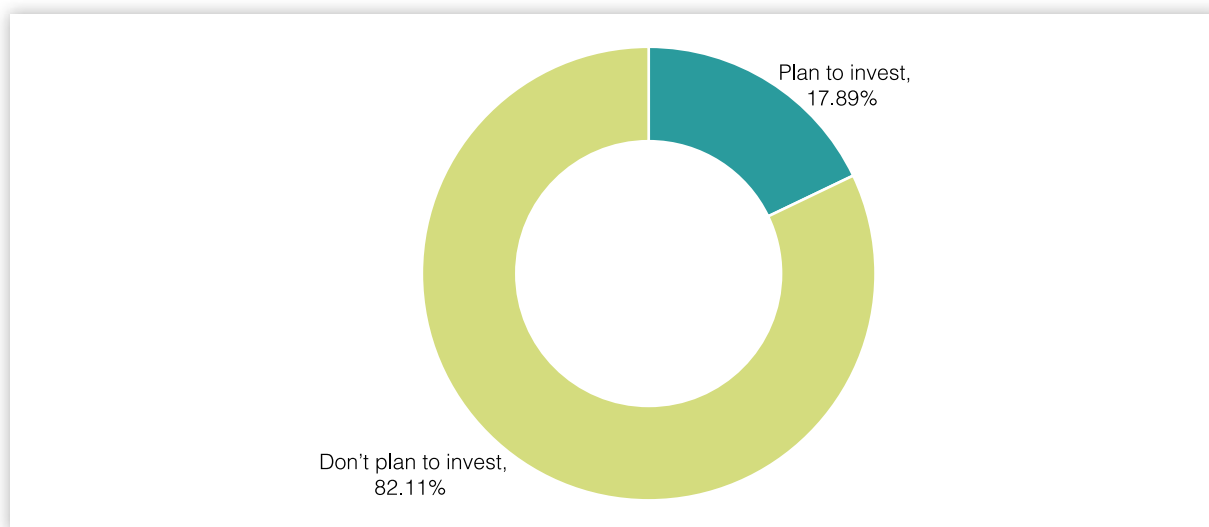


Figure 10-4: Whether Enterprises Plan to Invest in the EU Green Industry
Source: CCPIT Academy.

III. Our recommendations

A. Further enhance China-EU cooperation on green economy

We recommend that China and the EU continue to strengthen cooperation and coordination on carbon trading systems, exchange views and share experience on carbon pricing, and further develop their carbon trading systems. It is recommended to set up platforms such as a green economy cooperation summit to further deepen China-EU cooperation in the field of green economy.

B. Limit the scope of the CBAM

We recommend that the EU strictly limit the scope of application of the CBAM, ensure the stability and predictability of the policies, carefully evaluate and measure the impact and consequences of the expansion of the CBAM on various industries, so as to avoid greater disruptions to the industry and even the global value chains.

C. Alleviate foreign companies' burden incurred by the new Batteries Regulation

We recommend that the EU minimize excessive regulations in terms of battery sustainability, safety and end-of-life management, give foreign companies more time for transition and decarbonization, and reduce the compliance cost and negative impacts of the new Batteries Regulation on foreign companies. Regarding the policies on carbon footprint and carbon factor accounting methods, it is recommended that the EU fully listen to the suggestions and demands of foreign companies in the process of formulation and implementation.

D. Provide foreign enterprises with equal access to green preferential policies

We recommend that in terms of the green preferential policies, the EU give foreign enterprises equal access to the major projects of the European Green Deal and the equal right to enjoy green preferential policies and relevant support policies.

E. Streamline regulatory procedures for green industry financing

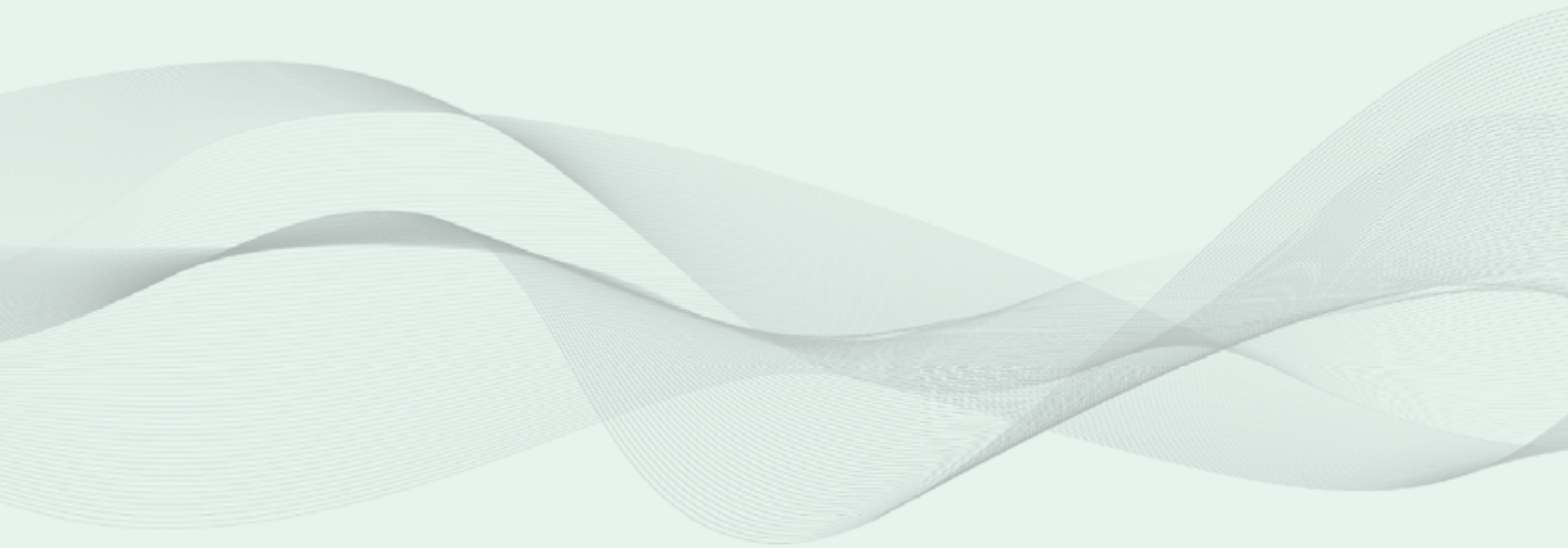
We recommend that in its efforts to grow green industry, the EU continuously create favorable conditions for green industry financing, simplify the regulation of green industry financing procedures, and avoid setting too many conditions, compliance requirements and reporting rules that make it difficult to implement the policy tools.

F. Recognize Chinese enterprises' contributions to emission reduction

We recommend that the EU give an objective and fair view of the efforts and achievements made by Chinese enterprises in reducing emissions and recognize the large amount of capital, talents, technology and other resources invested by Chinese enterprises as required so that Chinese enterprises are more willing to fulfill their social responsibilities actively.

Appendix I

Overview of the Research Process



I. Research methodology

In 2023, the CCPIT Academy launched research for the Report on the Business Environment of the European Union 2023/2024. In order to fully understand and reflect the demands of Chinese enterprises in the EU, the research team adopted various research methods including questionnaire survey, overseas research trips, business interviews, and policy analysis.

A. Questionnaire survey

The research team has widely distributed questionnaires through domestic and foreign channels, and the number of surveyed enterprises exceeded 10% of the total number of Chinese enterprises in the EU. The questionnaire was filled out by senior managers who had a clear understanding of their companies' operations in the EU. The topics of the questionnaire include basic information and business operations about enterprises, evaluation of the overall business environment, evaluation of market access, evaluation of competition policy, evaluation of public services, evaluation of export control, evaluation of public procurement, evaluation of the green economy, and evaluation of the digital economy. In the course of the questionnaire survey, the research team independently completed questionnaire preparation, and data organization and analysis.

B. Enterprise research

The research team researched enterprises operating in the EU through field visits, overseas visits, online and offline seminars, etc., and the targets of the research were all the senior managers in charge of the EU business of the enterprises. In order to have a more comprehensive picture of the operations of the enterprises in the EU from different perspectives, the research team also visited third-party intermediary service organizations such as law firms, accounting firms, and consulting firms.

C. Policy analysis

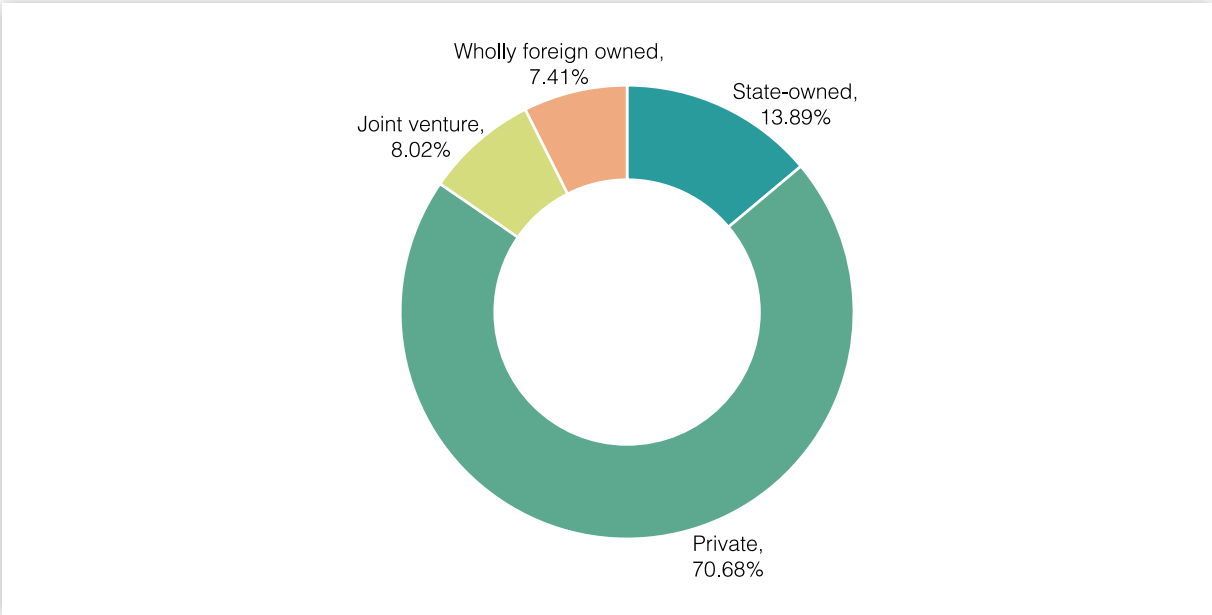
The research team comprehensively and systematically collated and analyzed the laws and regulations introduced by the EU pertaining to the business environment since 2023, covering such fields as trade remedies, foreign investment review, competition policy, public procurement, export control, financial policy, the digital economy, and the green economy, providing an in-depth analysis of the latest trends in the EU's business environment.

II. Questionnaire respondents

A. Ownership structure of the survey respondents

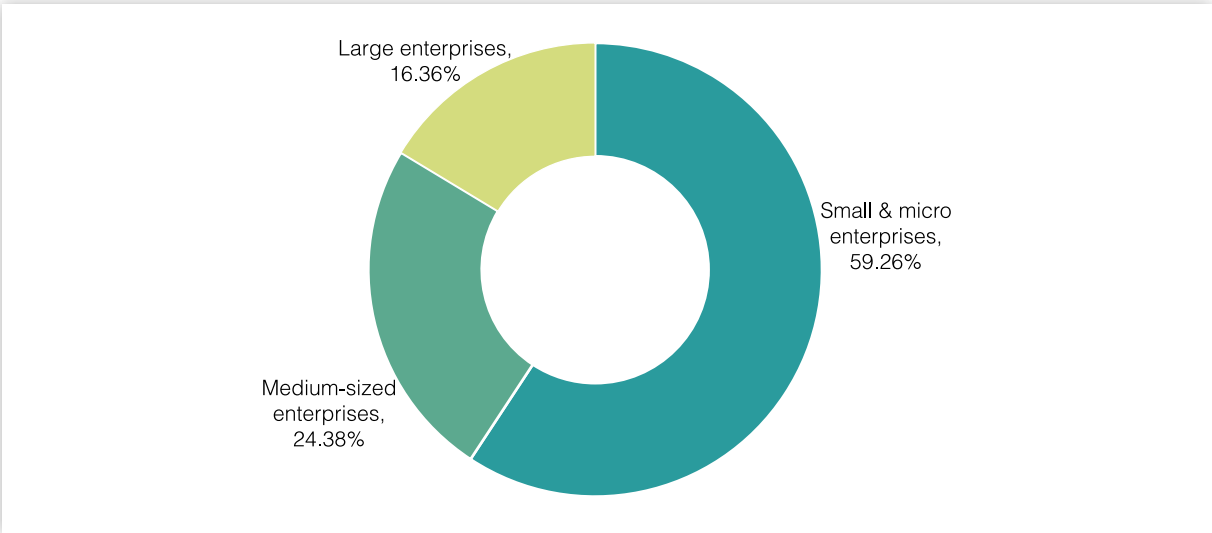
In terms of the ownership of the enterprises surveyed, private enterprises accounted for 70.68%

of the total surveyed enterprises; state-owned enterprises accounted for 13.89%; joint ventures accounted for 8.02%; and wholly foreign-owned enterprises accounted for 7.41%.



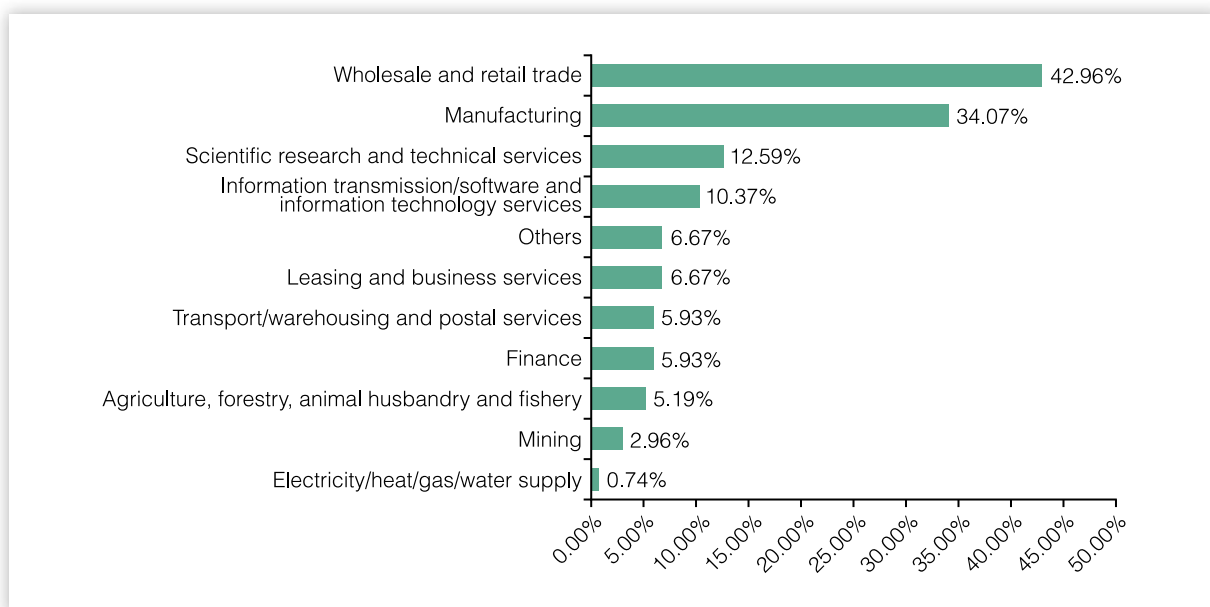
B. Size of the survey respondents

In terms of the scale of enterprises surveyed, large enterprises accounted for 16.36% of the total surveyed enterprises, medium-sized enterprises accounted for 24.38%, and small and micro enterprises accounted for 59.26%.



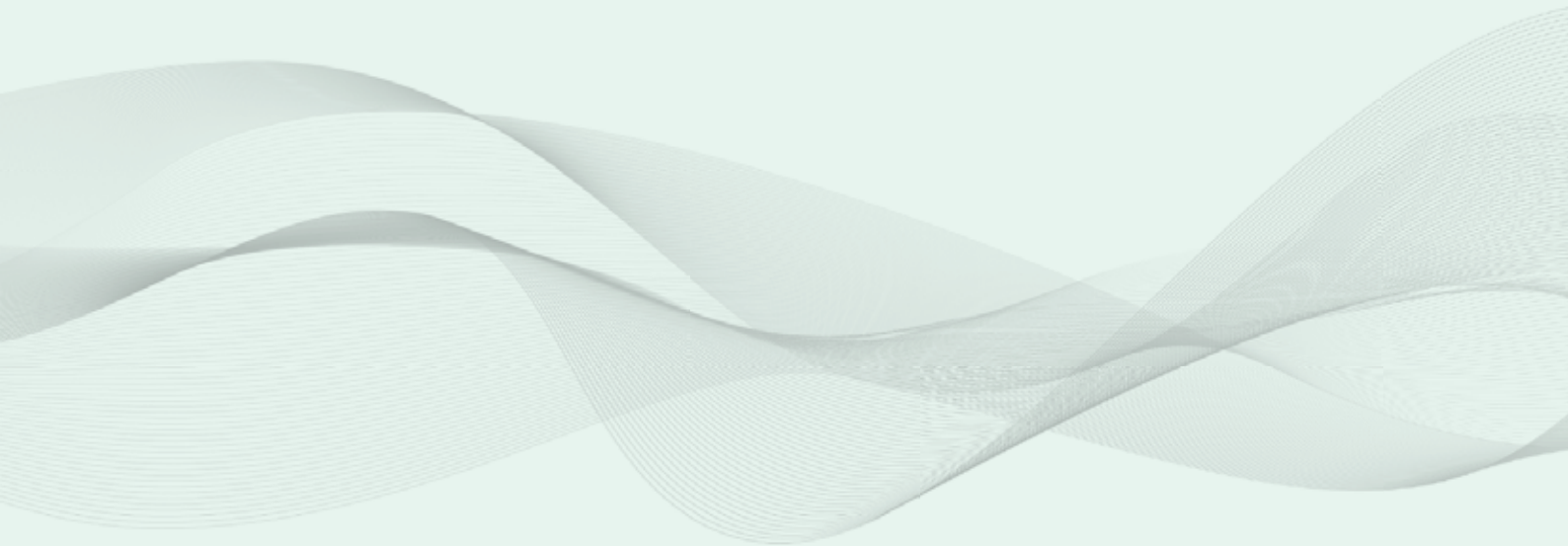
C. Industries of the survey respondents

The sampled enterprises covered: wholesale and retail trade, manufacturing, scientific research and technology services, information transmission/software and information technology services, leasing and business services, finance, transportation/warehousing and postal services.



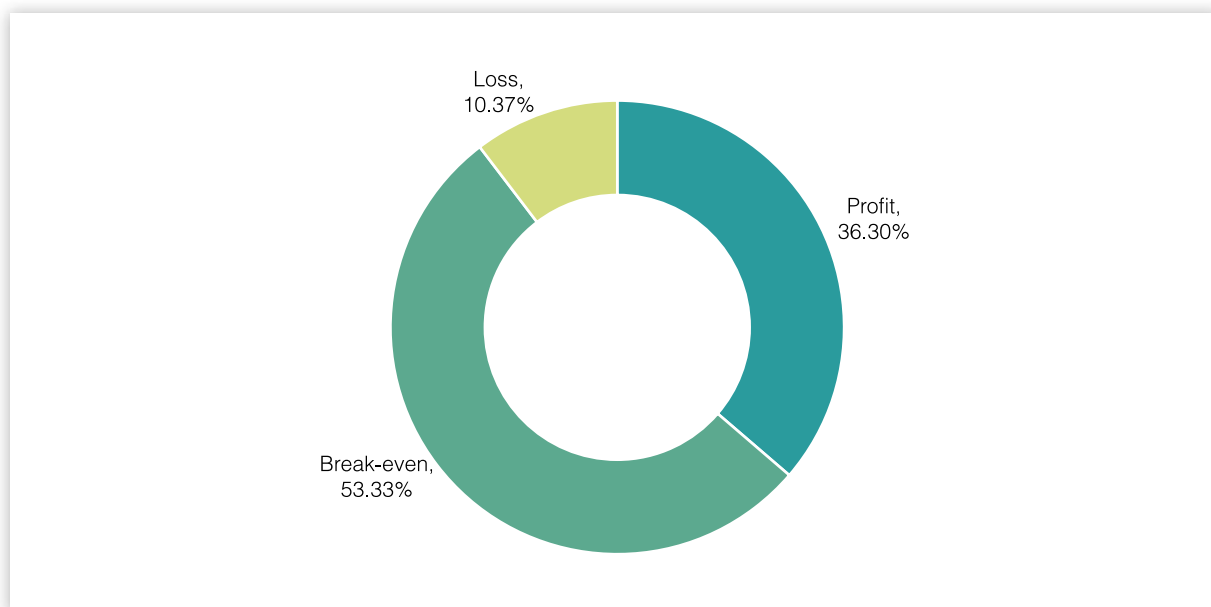
Appendix II

Business Conditions of Chinese Enterprises in the European Union in 2023



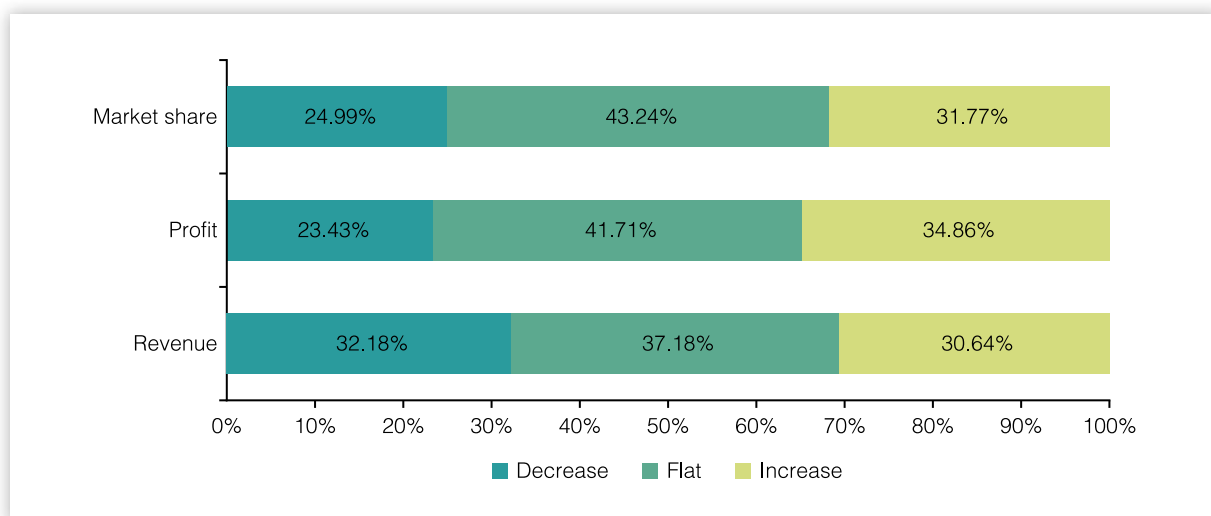
A. Decreased share of Chinese enterprises making profits in the EU

According to the survey, the proportion of enterprises expecting to operate at a loss in the EU in 2023 is 10.37%, down 8.76 percentage points from 2022; the proportion of enterprises expecting to make a profit is 36.30%, down 7.18 percentage points from 2022.



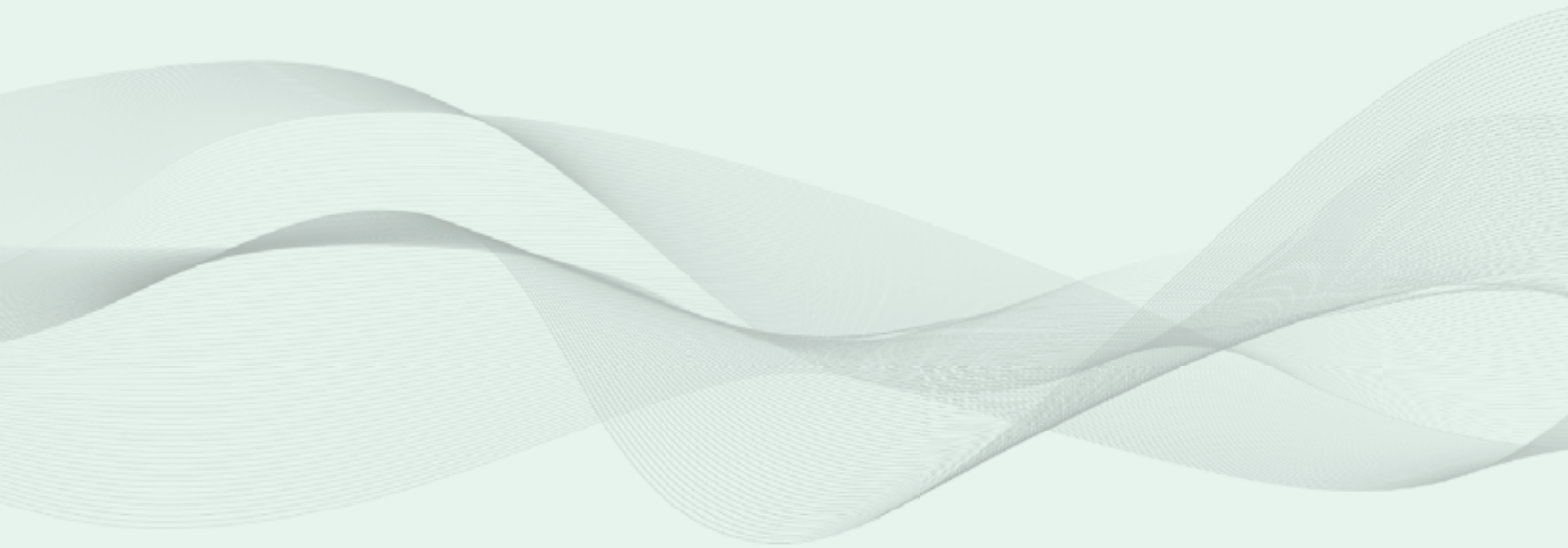
B. Deterioration of the business conditions for some enterprises

The survey shows that the business conditions of enterprises operating in the EU in 2023 have deteriorated compared to 2022, with 31.77%, 34.86% and 30.64% of the surveyed enterprises experiencing growth in operating revenues, operating profits and market share, respectively, down by 3.88, 0.71 and 0.66 percentage points compared to 2022.



Appendix III

Introduction to the China Council for the Promotion of International Trade Academy



The China Council for the Promotion of International Trade Academy (CCPIT Academy) is a research organization directly under the China Council for the Promotion of International Trade (CCPIT).

The CCPIT Academy is committed to being an economic and trade think tank with Chinese characteristics and international influence, based on academics, serving the government and speaking for the business. Focusing on the bigger picture of national economic development and foreign affairs, the CCPIT Academy carries out research in the fields of international trade, international investment, world economy, domestic and foreign markets, e-commerce, commercial law, etc. It undertakes projects commissioned by international organizations, governments at all levels, organizations in the CCPIT system, and industrial and commercial enterprises, and provides research and consulting services in policy making, local planning, industrial development, and business operation.

The CCPIT Academy not only has leading domestic experts who are specialized in both domestic and foreign trade, but also has a high-level research team focusing on international trade, foreign investment, e-commerce and market circulation.

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