

CALL FOR TENDERS FOR SUBCONTRACTING EXPERTISE

This is a call for a subcontractor to provide expertise as part of the implementation of the ETUC project “**EU-China Investment Policy – consequences for workers**”.

In order to ensure a large visibility of this call for tenders, the ETUC will publish the tender specifications on its website, on Friday 27 February 2015, and keep it online for 24 calendar days (deadline for submission of bids: Monday 23 March 2015).

I. Context of the project and description of the objective(s)

At the 16th EU-China Summit, held on 21 November 2013, the launch of negotiations of a comprehensive EU-China Investment Agreement was announced. Since then, two rounds of negotiations have been held. These negotiations are part of a broader EU strategy for securing EU engagement in growth markets as set out in the 2006 Global Europe paper and the 2010 Trade Growth and World Affairs statement, which sought to negotiate Free Trade Agreements with the major emerging markets. As pointed out by DG Trade: “The Agreement will provide for progressive liberalisation of investment and the elimination of restrictions for investors to each other's market. It will provide a simpler and more secure legal framework to investors of both sides by securing predictable long-term access to EU and Chinese markets respectively and providing for strong protection to investors and their investments.” Europe is China's most important trading partner, while for the EU, China is second only to the United States. Trade between the EU and China has doubled since 2003 to more than 1 billion euros (\$1.4 billion) a day.

Despite the prospects of such an agreement, the ETUC is particularly concerned about the lack of labour rights in China. China has been an attractive destination for European corporations due to its low wage rates and labour laws that disallow independent trade unions and limit the right to strike. The official All-China Federation of Trade Unions (ACFTU) is the sole legal representative of China's workers due to a ban on independent unions. Nevertheless, Chinese workers are becoming more active and outspoken in their efforts to improve wages and conditions despite the absence of meaningful union representation. Recently, there have been a series of strikes and activities demanding better working conditions and pay increases.

This project is a continuation and a follow-up of the extensive work done in the field of EU foreign investment policy (particularly the ETUC resolution on EU investment policy adopted by the ETUC executive committee in March 2013: http://www.etuc.org/documents/etuc-resolution-eu-investment-policy#.VONf0_nF9Pk) and of the ETUC project “Investment, Development and Labour Rights”, carried out in 2014. While the focus of that project was to raise awareness among European trade unions on the importance of EU foreign investment policy in general - notably after the reform of the Lisbon Treaty which made foreign investment policy an exclusive competence of the EU – this current project will aim at building on that positive experience to allow ETUC members to focus more specifically on the EU-China investment relations. It will thus take a close look of both possible positive and negative consequences on employment and on workers' rights in the EU and in China. Incidentally, it is important to note that some of these concerns were already pointed out by civil society organisations and trade unions in the 2010 European Commission's “Public Consultation on

the future EU-China investment relationship”
(http://trade.ec.europa.eu/consultations/?consul_id=153).

The choice to focus on China is also explained by a global shift in the governance of international investment policy. In fact, the international economy is observing a change in the balance of Foreign Direct Investment (FDI) flows with an increase in FDI flowing into the EU from emerging markets, notably China. Therefore, the growth of China as a capital exporter moves the traditional balance of interest between creditor states (OECD countries) and developing states. The importance of a possible EU-China investment treaty would extend well beyond the bilateral relationship itself. Indeed, such an agreement and the provisions agreed upon therein would influence and shape global rules of investment. It is also likely that it would set the stage for the conclusions of subsequent treaties with or between other trading partners, although it will also depend on the outcome of negotiations on the Transatlantic Trade and Investment Partnership (TTIP), the US-China BIT and the Trans-Pacific Partnership (TPP) Agreement.

Methodology

As part of the implementation of this project, the ETUC is hereby commissioning an external expert to produce a study of approximately 60 pages on the EU-China agreement and its impact in terms of EU employment and workers' rights. The end date of the project is 31 January 2016, so the work must be carried-out and delivered by the subcontractor before this deadline.

The results of this project (see specific section below) will be presented during a final conference which will take place in Brussels at the end of the project. The main recipient of the study will be the ETUC Trade and Globalisation Working Group which is formed by ETUC's affiliates dealing with external trade. The project is therefore aimed at trade union officials responsible for trade, investment and development, at confederal, sectoral and company level. While the seminar will be limited in the number of participants, it is planned that the study will allow the engagement of a larger number and will ensure the awareness raising of trade union actors across Europe on how to address concerns related to EU investment policy towards China. The main added-value of the project will be to develop the competences and skills on EU investment policy acquired through the previous project into a more specific case study of EU investment policymaking. The EU investment treaty with China will be of such importance that it is relevant for the European trade union movement to assess in advance its possible effects on the economy and on labour rights. Discussing investment relations with China will be key for our members to get a clearer picture on the changes occurring in the Chinese economy and on the state of play in order to effectively address globalisation.

The workshop and conference will be organised with the support of a steering committee. The report should be eventually published online and printed in 150 copies for dissemination: English (60 copies), French (25 copies), German (25 copies), Spanish (20 copies) and Italian (20 copies). The study will thus serve as a basis to support the ETUC's position that engagements undertaken by both parties in the context of the bilateral investment agreement, particularly within its investment protection dimension, should not lower labour standards in order to attract foreign investment. In addition, the study will be used to help develop ETUC policy on the matter and to influence European policymakers involved in the investment negotiations, also at national level whereby our affiliates have better access to national ministries. A graphist will take care of the layout of the online and printable version of the study.

The ETUC expects that an important aspect of the EU-China agreement will be its sustainable development pillar, which as in other EU FTAs, foresees civil society participation in

implementing and monitoring provisions concerning sustainable development and labour rights. EU trade unions have been particularly involved in the implementation process of EU FTAs, notably within the Domestic Advisory Groups established in the framework of the EU-South Korea FTA and the EU-Colombia Peru FTA, providing ETUC with valuable experience on the topic. Therefore, through this project, ETUC will consider ways of strengthening the sustainable development chapter of the agreement with China.

Regarding ISDS, the prospect of state-owned Chinese companies acquiring ‘strategically’ important companies in the EU has raised the question of what sort of exceptions there should be to liberalisation under international investment agreements to defend the EU’s ‘commercially strategic’ interests. Moreover, with the growth of acquisitions by state-owned Chinese companies it will be relevant to further explore the issue taking into account the possibility for Chinese state owned enterprises to sue EU governments through arbitration courts set up by ISDS. The ETUC has been closely following the negotiations of an ISDS provision within the TTIP and it has responded to the public consultation launched by DG Trade (http://www.etuc.org/sites/www.etuc.org/files/press-release/files/etuc_public_consultation_on_modalities_for_investment_protection_and_isd.pdf).

The report will also monitor the consistency between the EU external policy and its investment policy to China. The Lisbon treaty sets out the fundamental principles on which EU external action should be based, namely democracy, the rule of law, the universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, the principles of equality and solidarity. Specifically, According to Article 208 of the Treaty on the Functioning of the European Union, the implementation of the Millennium Development Goals and the reduction of poverty is an overarching foreign policy objective.

The report will be an opportunity to explore and assess new trends developing within China and its national economic model, as it is slowly switching from export and investment led to a consumption-driven model. Moreover, China has been undertaking major economic reforms giving markets a decisive role.

Concretely, it is proposed to use this project as a means of informing workers’ representatives and union officials on how the EU-Chinese trade and investment is developing and to understand how trade unions can effectively engage in the development of its rules.

Tentative timetable

Date	Venue	Type of event
February/March 2015	Brussels – ETUC headquarters	Launch of a call for tender to select an external expert to carry out the study
April 2015	Brussels – ETUC headquarters	1st meeting of the steering group
May 2015	Brussels – ETUC headquarters	1st workshop (20 pp) with the external expert in charge of providing the study. This meeting will allow the researcher to explain his/her approach on how to conduct the study and to have exchanges with our members of the Working group. Interpretation (EN, DE, FR).
June 2015	Brussels –	2nd meeting of the steering group to assess the

	ETUC headquarters	advancement of the study and to prepare the final full day workshop.
November 2015	Brussels – ETUC headquarters	Final full day conference (30 pp) to present the study (to be published in FR, EN, DE, ES, IT on the internet and 150 copies for dissemination) and to discuss possible strategies to influence the negotiations at European and Member State level. The final workshop will be held after the ETUC Congress scheduled for September 2015. This project will form a relevant part of the ETUC trade strategy following the Congress.

II. Tasks to be performed by the subcontractor¹

Description of tasks

The expert will have to fulfil the following tasks:

- Assessing the likely costs and benefits for the EU of the EU-China agreement, with a particular focus on consequences to EU employment and workers' rights.
- Exploring the agreement's potential side effects to an effective implementation of an industrial policy in Europe, taking into account the current industrial relations practices of EU investors in China and vice-versa.
- Analysing the existing Chinese and European investment treaty practices and trends in order to allow our members to understand and anticipate how the negotiators will conduct the negotiations.
- Exploring how OECD guidelines on Multinational Enterprises and the ILO Tripartite Declaration on Multinational Enterprise and Social Policy could fit into the agreement, as it was outlined by the European Parliament resolution of 9 October 2013 on the EU-China negotiations for a bilateral investment agreement².
- Reflecting on the effects of the inclusion of an Investor-to-State Dispute Settlement (ISDS) in the agreement.

In terms of product, the subcontractor will have to compile the above-mentioned items into a report (approximately 60 pages) to be published, translated and widely disseminated.

In performing these tasks, the subcontractor will work under close supervision of the project steering group, chaired by ETUC.

III. Expertise, experience and skills required

Sound expertise is required on the following issues:

- Expert knowledge of Chinese and European investment treaty practices;
- Good understanding of the trade union movement and ETUC.

Sound experience is required in the following areas:

¹ Important note: references to "expert" in the text are synonymous to "subcontractor"

² European Parliament resolution of 9 October 2013 on the EU-China negotiations for a bilateral investment agreement (2013/2674(RSP))

- Formulating and carrying out a tailored methodology in order to conduct research on the theme of investment policy in China, including its social and legal implications;
- Writing research reports containing sound analysis and meaningful policy recommendations;

Skills required:

- Proven research and presentation skills (in English);
- Report drafting skills (in English or French);
- Ability to work within specified deadlines and to respect budgetary limits;
- Ability to work in a multicultural context and understanding of different industrial relations culture & traditions;
- Good administration and project management skills.

IV. Time schedule and reporting

The subcontractor will be asked to perform the work during the eligible project period, which runs until **31 January 2016**. The subcontractor will be responsible for submitting the above-mentioned deliverables within the above time frame.

V. Payment

The total maximum budget available for the fees of the subcontractor is the following:

Contract with ETUC	
Main activities and Meetings	
<ul style="list-style-type: none"> ➤ Conducting the research and drafting a report ➤ Taking part in the workshop and the final conference ➤ Taking part in 2 steering group meetings 	
Total budget for the Expertise	€
40 days x 600 euro	24,000 € (all taxes included)

The subcontractor will be remunerated in various instalments (advance and final payment).

This budget does not include the travel costs for attending the project meetings. These will be covered on a case-by-case basis by the ETUC, within the limits of the project budget and of the EC rules.

VI. Selection criteria

Subcontractor

The offers will be examined against the following criteria:

- Ability to propose a tailored methodology to prepare and conduct the study on the EU-China bilateral investment agreement, including its social and legal implications;

- Proven track record of ensuring the quality of written materials prepared, both in terms of content and format (i.e. previous publications)
- Ability to write research reports containing sound analysis and meaningful policy recommendations;
- Ability to conduct meetings and draft documents in English or French;
- Ability to make presentations in English;
- Project management experience and administration skills;
- Respect of the budgetary and time constraints.

VII. Form, structure and content of the tender

Tenders must be written in either English. They must be signed by the tenderer or his duly authorised representative and perfectly legible so that there can be no doubt as to words and figures. Tenders must be clear and concise and assembled in a coherent fashion.

Since tenderers will be judged on the content of their written bids, they must make it clear that they are able to meet the requirements of the specifications.

All tenders must include at least two sections:

i) Technical proposal

The technical proposal must provide all the information needed for the purpose of awarding the contract, including:

- Specific information covering the technical and professional capacity as required in particular:
 - Description of relevant academic and professional experience with emphasis on the specific fields covered by the invitation to tender;
 - Detailed curriculum vitae of the expert (or possible other team members);
 - A selection of the main works and/or articles published by the expert, in relation to the relevant subjects specified in this tender.
- A proposed methodology for delivering the tasks listed in point II, and any other specific information covering the above-mentioned selection criteria.

ii) Financial proposal

Prices of the financial proposal must be quoted in euros, including the countries which are not in the euro-area. As far as the tenderers of those countries are concerned, they cannot change the amount of the bid because of the evolution of the exchange rate. The tenderers choose the exchange rate and assume all risks or opportunities relating to the rate fluctuation.

Prices must be fixed amounts and not include travel expenses and daily allowances for the interviews and meeting attendance (which will be covered by ETUC on the basis of EU rules & thresholds).

The maximum amount available for this contract is EUR 24,000 (all taxes included).

Prices shall be fixed and not subject to revision during the performance of the contract.

VIII. Award Criteria

The contract will be awarded to the tender offering the best value for money, taking into account the specific objectives, requirements and selection criteria of the tender. The principles of transparency and equal treatment will be respected with a view to avoiding any conflicts of interest.

IX. Content and selection of the bids

Offers must be sent within 25 days of the date of publication of this call for tender on the ETUC website, **by 23 March 2015**. Offers must be sent to ETUC, **in both formats: electronic (by e-mail to amartin@etuc.org and dbasso@etuc.org) and as a paper copy (see contact details below).**

Concerning the paper copy, to ensure confidentiality, bidders must submit their offer in a double envelope. Both envelopes must be sealed and the inside envelope shall not only bear the name of the department for which it is intended (see below), but also the words "*Tender – not to be opened by the Mail Department*" (Appel d'offres – à ne pas ouvrir par le service du courrier). If self-adhesive envelopes are used, they must be sealed with adhesive tape crossed by the signature of the sender.

A committee will be formed comprising three representatives of the ETUC Secretariat. One or more members of this committee will initial the documents, confirming the date and time of each bid. The committee members will sign the report on the bids received, which will list the admissible bids and provide reasons for rejecting bids owing to their failure to comply with the stipulations of the tendering process.

This committee will also evaluate the tenders that have been deemed admissible. An evaluation report and classification of participation requests will be drawn up, dated and signed by all the members of the evaluation committee and kept for future reference.

This report will include:

1. The name and address of the contracting authority, the purpose and value of the contract or framework contract;
2. The names of any excluded candidates and the reasons for their rejection;
3. The names of candidates selected for consideration and the justification for their selection;
4. The names of candidates put forward and justification of their choice in terms of the selection or award criteria.

The contracting authorities will then make their decision.

Candidates must send their bid electronically – to the following e-mail address: amartin@etuc.org – as well as submitting a paper copy of their bid, either delivered by hand or by registered mail or special courier service to:

<p>ETUC Tom Jenkins Senior Advisor International Trade Union House Boulevard du Roi Albert II, 5 B – 1210 Brussels BELGIUM</p>

For bids sent by registered mail, the postmark will serve as proof of the date of dispatch.