

## **THE INSTITUTIONAL CHALLENGES FOR THE EUROPEAN UNION IN THE FACE OF THE NEW CHINESE INVESTMENT WAVE**

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### Abstract

By analysing the historical picture between China and the European Union, focusing on their trade and economic relations, and discussing the consequences of Chinese trade and investment in Europe, this paper aims to analyse the consequences of Chinese investment in Europe, how it is challenging the European unity, its institutional structure and its foreign policy towards China.

### Keywords

Sino-European relations; Chinese investment in Europe; European unity; European Union Foreign Policy; Belt and Road Initiative

### Resumo

Ao analisar o quadro histórico entre a China e a União Europeia, centrado-se nas suas relações comerciais e económicas, e discutindo as consequências do comércio e investimento chineses na Europa, este artigo pretende analisar as consequências do investimento chinês na Europa, como está a desafiar a unidade europeia, a sua estrutura institucional e a sua política externa em relação à China.

### Palavras-chave

Relações sino-europeias; investimento chinês na Europa; unidade europeia; política externa da União Europeia; Nova Rota da Seda

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### **Introduction**

The European Union (EU), in the previous figure of the European Economic Community (EEC), and the People's Republic of China (PRC) established their first diplomatic relations in 1975 still under the leadership of Mao Zedong. After 1978, onwards China's opening up and reforms policy, started a new framework of economic cooperation with Europe that gradually evolved to a comprehensive political partnership in multiple domains. In 1985, both parts signed their first agreement on trade and economic cooperation. This document was based on customs and tariffs issues having to do with markets access (Corre and Sepulchre, 2016: 11). The bilateral relations took great significance after the 1990s and both parts are presently two of the biggest trading partners in the world. In 2008, the sovereign debt crisis in Europe transformed the continent in a favourite destination for Chinese investors.

Facing intense China's economic offensive in Europe – particularly investment – some European governments have begun to express concern. However, there is an ambivalent stance in different moments. We find moments of assertive rhetoric and others of reservation in relation to China. This seem to reveal a clear lack of clear-eyed strategy, more defined by the spur of the moment. The EU ambivalence is entrenched in principles such as values and interests that affect the way to follow its external relations, (Christiansen et al. 2019: 29) and it expresses that the processes of Europeanization in the field of foreign policy has not been successful. This process refers to the political and policy changes caused by the membership in the EU (Wong, 2011: 150).

This paper aims to analyse the consequences of Chinese investment in Europe, how it is challenging the European unity, its institutional structure and foreign policy towards China. First, we analyse the historical picture between China and the European Union, the great moments of cooperation and their antagonisms. Then, we focus on trade and economic relations, presenting the main bilateral statistics on those domains. Finally, we discuss the consequences of Chinese trade and investment in Europe, including pressure on formal arrangements and administrative European routines.



## I. EU-China relations: general background

The bilateral relations between the EEC, the previous version of the EU, and China have developed fast since diplomatic ties were established in 1975. Engagement has become more intensive since the signature of the Agreement on Trade and Economic Cooperation between the EEC and the People's Republic of China in 1985. Annual EU-China summits were launched in 1998 and haven since taken place on an annual basis.

The creation of the EU-China Comprehensive Strategic Partnership in 2003 has deepened and broadened cooperation in a wide range of areas, and the EU and China have become highly interdependent as a result. They have also launched two senior-level forums to promote wider and deeper cooperation. The High-Level Economic and Trade Dialogue, initiated in 2008, focused on areas such as trade, investment, intellectual property rights and market access, and the High-Level Strategic Dialogue in 2010, which addresses issues ranging from climate change and nuclear proliferation to regional security.

Since 2013, the 2003 Strategic Partnership has been broadened and deepened, in line with the EU-China 2020 Strategic Agenda for Cooperation. This has led to a high degree of institutionalization of EU-China ties<sup>1</sup>, with an ever-growing number of dialogue formats that cover political, economic and people-to-people relations, but whose results vary significantly (Grieger, 2019).

This Strategic Agenda for Cooperation, which was considered the highest-level joint document guiding the EU-China Comprehensive Strategic Partnership, has the following sections:

- I. Peace and Security: the EU and China commit to enhancing dialogue and coordination at bilateral, regional and global levels, to meet regional and global challenges together, and work to make the international order and system more just and equitable;
- II. Prosperity: both sides commit to enhance further their trade and investment relationship towards 2020 in a spirit of mutual benefit, by promoting open, transparent markets and a level playing field. Particular importance will be paid to improving opportunities for Small and Medium Sized Enterprises (SMEs);
- III. Sustainable Development: the EU and China commit to strengthen bilateral cooperation in the areas of science, technology and innovation, space and aerospace, energy, urbanisation, climate change and environmental protection, oceans and social progress, among others;
- IV. People-to-People Exchanges: both sides commit to expand contacts between peoples in order to enhance common understanding and to foster cross-fertilisation between societies in the areas of culture, education and youth.

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<sup>1</sup> It was implemented through the annual Summit and three pillars directly underpinning the Summit (the annual High Level Strategic Dialogue, the annual High Level Economic and Trade Dialogue, and the bi-annual People-to-People Dialogue), as well as through the regular meetings of counterparts.



Nonetheless, the European Commission considered that the EU needed its own strategy, one that puts its own interests at the forefront in the new relationship with China (European Commission, 2016). Accordingly, and further to a previous Communication on China launched in October 2006, a Joint Communication to the European Parliament and the Council has been released in June 2016, proposing “elements for a new EU strategy on China”. The main proposals for this new EU strategy are as follows:

- Seize new openings to strengthen its relations with China;
- Engage China in its reform process in practical ways, which result in mutual benefits for bilateral relations in economic, trade and investment, social, environmental and other areas;
- Promote reciprocity, a level playing field and fair competition across all areas of cooperation;
- Push for the timely completion of negotiations on a Comprehensive Agreement on Investment and an ambitious approach to opening up new market opportunities;
- Drive forward infrastructure, trading, digital and people-to-people connectivity between Europe and China based on an open rules platform with benefits for all the countries along the proposed routes;
- Promote global public goods, sustainable development and international security, in line with the respective UN and G20 responsibilities;
- Promote respect for the rule of law and human rights within China and internationally;
- Maximize EU cohesion and effectiveness in its dealings with China (“whole-of-EU” approach).

More recently, the European Commission and the High Representative of the Union for Foreign Affairs and Security Policy prepared a Joint Communication to the European Parliament, the European Council and the Council, entitled “EU-China, a Strategic Outlook”, which was made public on 12 March 2019.

Although acknowledging that the 2016 Strategy on China remains the cornerstone of EU engagement, it is argued that there is a need to “ensure that relations with this strategic partner are set on a fair, balanced and mutually beneficial course” (European Commission, 2019).

Under this background, there is a growing appreciation in Europe that the balance of challenges and opportunities presented by China has shifted. In the last decade, China’s economic power and political influence have grown with unprecedented scale and speed, reflecting its ambitions to become a relevant global power: a China that would “stand more firmly and powerfully among the nations around the world” (Xi Jinping, 2012).

Apart from the need to continue to cooperate and negotiate with China, for the first time in these policy strategy papers, China is characterized as “an economic competitor in the pursuit of technological leadership, and a systemic rival promoting alternative models of



governance” (EU-China: A Strategic Outlook, 2019: 5), requiring a flexible and pragmatic whole-of-EU approach.

The EU’s response to these challenges should be based on three objectives:

- Based on clearly defined interests and objectives, the EU should deepen its engagement with China to promote common interests at global level;
- The EU should robustly seek more balanced and reciprocal conditions governing the economic relationship;
- In order to maintain its prosperity, values and social model over the long term, there are areas where the EU itself needs to adapt to changing economic realities and strengthen its own domestic policies and industrial base.

To fulfil these objectives, were identified ten (10) concrete actions. First, to strengthen the EU’s cooperation with China to meet common responsibilities across all three pillars of the United Nations, Human Rights, Peace and Security, and Development. Second, in order to fight climate change more effectively, the EU calls on China to peak its emissions before 2030, in line with the goals of the Paris Agreement. Third, the EU will deepen engagement with China on peace and security, building on the positive cooperation on the Joint Comprehensive Plan of Action for Iran. Fourth, to preserve its interest in stability, sustainable economic development and good governance in partner countries, the EU will apply more robustly the existing bilateral agreements and financial instruments, and work with China to follow the same principles through the implementation of the EU Strategy on Connecting Europe and Asia. Fifth, in order to achieve a more balanced and reciprocal economic relationship, the EU calls on China to deliver on existing joint EU-China commitments. Sixth, to promote reciprocity and open procurement opportunities in China, the European Parliament and the Council should adopt the International Procurement Instrument before the end of 2019. Seventh, to ensure that not only price but also high levels of labour and environmental standards are taken into account, Eighth, to fully address the distortive effects of foreign state ownership and state financing in the internal market, the Commission will identify before the end of 2019 how to fill existing gaps in EU law. Ninth, to safeguard against potential serious security implications for critical digital infrastructure, a common EU approach to the security of 5G networks is needed. Tenth, to detect and raise awareness of security risks posed by foreign investment in critical assets, technologies and infrastructure.

This paper was striking for at least two main reasons. First, it was the speed and the unusual way by which it came about. Even more striking was its bluntness, which is rare in official EU documents (Brattberg *et al*, 2020). Although three years have already passed, the EU considers that it remains valid (EEAS, 2022).

In a direct response, the Chinese minister of foreign affairs, Wang Yi delivered a speech in Brussels in December 2019, where he attacked virtually all the new elements of the European approach, having stated that “we are partners, not rivals”, and called on the EU and Beijing to draw up an “ambitious blueprint” for cooperation (Barkin, 2020). He added that Europe and China had to “get mutual perceptions right”. Failure to do so



would risk “unnecessary disruptions” to the relationship. This message was clear: if Europe wants smooth relations, it should stop criticizing China.

If bilateral relations were not in a good phase in 2019, they went even worse over the past two years, with a worldwide pandemic of unprecedented repercussions and, more recently, a geopolitical turmoil with the Russian invasion of Ukraine.

Consequently, EU-China relations have deteriorated, notably related to a growing number of political and economic irritants, including China’s counter measures to EU sanctions on human rights, Chinese economic coercion and trade measures against the single market, and China’s ambiguous positioning on the war in Ukraine (EEAS, 2022).

Josep Borell, the High Representative of the European Union for Foreign Affairs and Security Policy, has described the current status of the relationship in a clear and realistic way, following the last EU/China Summit, held in April 2022 (HR/VP Blog, 2022):

*“When it comes to EU-China relations, probably the most important thing for us is to keep doing our ‘homework’ and strengthen internal EU resilience. In recent years, we have taken significant steps on the defensive side of the ledger (investment screening, 5G toolbox, anti-subsidies, new procurement instrument) (...) We should always keep the door open to engage with China. Despite all the well-known difficulties, it is important that we recognise that we have a shared interest in managing this relationship in a responsible manner.”*

## **II. Trade and economic relations: the context of the EU debt crisis and the Chinese investment upsurge**

Since China joined the World Trade Organization in December 2001, the EU’s goods exports to China have grown on average more than 10 percent a year, and service exports by over 15 percent. This has resulted in ample benefits for EU producers and consumers but, as imports from China have also grown rapidly, it has also caused some degree of disruption in EU labour and product markets.

Currently, China is the EU’s second largest export market, behind the US, and is the EU’s biggest source of imports. Bilateral trade, on average, amounts to €1.9 billion a day.

China’s exports to the EU have grown even more rapidly and the EU is now China’s largest trading partner and the second largest export market for Chinese goods. In 2021, the EU exported goods worth approximately 223 billion euros to China, around 20 billion euros more than in the previous year (Statista, 2022).

Since 2002, the EU’s trade deficit with China has been growing consecutively and it registered € 249 billion in 2021, equivalent to more than 1 percent of the EU’s GDP. The widening of the bilateral trade deficit reflects a base effect: it has happened despite the EU’s exports to China growing more rapidly than China’s exports to the EU. The EU’s main imports from China are industrial and consumer goods, machinery and equipment, and footwear and clothing, and the EU’s main exports to China are machinery and equipment, motor vehicles, aircraft, and chemicals. Additionally, the EU-China trade in



services amounts to more than 10% of total trade in goods, and the EU's exports of services make up 19% of EU's total exports of goods (Statista, 2022). In 2020, the EU exported €47 billion of services to China, while China exported €31 billion to the EU (EEAS, 2022).

Certainly, Foreign Direct Investment (FDI) flows between the EU and China are closely related to trade, as FDI results in the development of marketing networks, provides financial and transport services and leads to production with a view to selling in global markets. FDI flows can also substitute for trade, for example when investors establish facilities to produce and sell in the same market. Furthermore, the purchase by investors of controlling interests in competitors or suppliers, including raw materials, often fosters global or regional value chains that tend to stimulate trade (Dadush *et al*, 2019).

The European Union (EU) became one of the most relevant destination for Chinese outbound investment. Among the things that Chinese investors seek in Europe are:

- Technology, to include established high-tech assets, emerging technologies and know-how;
- Access to the European market, for Chinese goods and services;
- Access to third markets through European corporate networks, especially in Latin America and Africa;
- Brand names to improve the marketability of Chinese products, both abroad and for the Chinese market;
- Integrated regional and global value chains in production, knowledge and transport;
- A stable legal, regulatory and political environment, particularly in a context of global disruption and political uncertainty;
- Political/diplomatic influence in a region that in aggregate terms remains the second largest economy after the US.

After the economic crisis of 2008-2009, a new wave of Chinese Foreign Direct Investment (FDI) entered in Europe. There have been a number of attractive assets, from financial entities to infrastructure and companies in economic difficulty (Brown, 2019: 165). In fact, in 2014 and 2015, the EU, estimated to be the largest market for Chinese acquisitions, in terms of value (Hellström, 2016: 13). Philippe Corre (2018), called this wave of investment as an "offensive", revealing some associated concerns in the European countries.

Since 2010, the Chinese investment received in Europe had been questioned (Christiansen, 2019: 98). There are some concerns with the so-called dual-use technologies in advanced fields, such as artificial intelligence, robotics and so forth (Freudenstein, 2019: 84). Germany is already blocking certain sectors to China investment — considered strategically relevant — such as defence, telecommunications, and energy. This happens when foreign investment involves at least a 10% share. In the past 10 years, China has invested at least \$318 billion in European assets (Bloomberg, 2018). Nevertheless, a decrease of 17% occurred in 2017 over the previous year (in



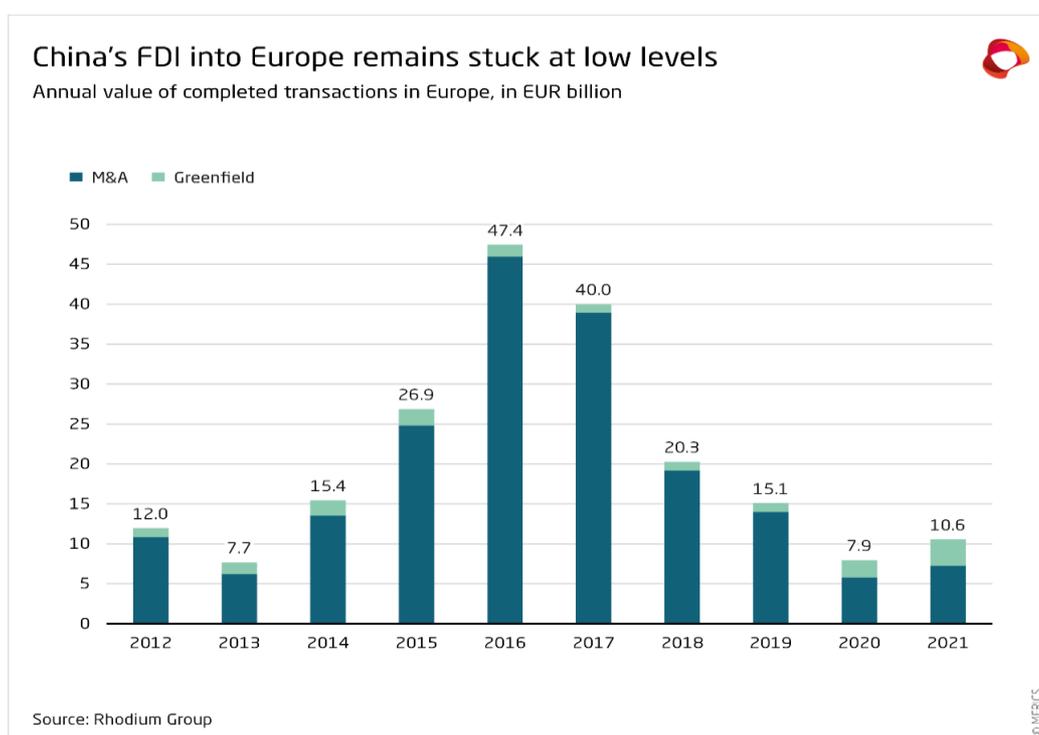
2016, China invested 34.9 billion euros in Europe, the highest level ever recorded), yet representing the second highest value ever, 28.5 billion euros (Hanemann et. al, 2018: 31).

Amidst a general downturn in Chinese overseas investments, the Chinese FDI in Europe declined 36 percent between 2017 and 2018. In 2019, the Chinese FDI in the EU reached €12.2 billion, which is consistent with the global trends in Chinese outbound FDI. It should be mentioned that the EU still fared better compared to other advanced economies, and received more than twice the amount of Chinese investment than the US did in 2019 (Rhodium Group, 2020).

During 2020, Chinese FDI flows in Europe were inevitably affected by the COVID-19 pandemic. In 2021, completed China’s FDI in Europe (EU-27 and the UK) increased 33 percent to €10.6 billion, from €7.9 billion in 2020. The increase was driven by two factors: a €3.7 billion acquisition of the Philips home appliance business and a record high greenfield investment of €3.3 billion. Still, 2021 was the second lowest year (only above 2020) for China’s investments in Europe since 2013 (MERICS, 2022: 3).

It is important to note, however, that the nature of Chinese investment in Europe is changing. After years being dominated by Mergers&Acquisitions (M&A), it has become more focused on greenfield projects. In 2021, greenfield investment reached €3.3 billion, the highest ever recorded value, making up almost a third of all Chinese FDI (MERICS, 2022: 3).

Figure 1: China’s FDI into Europe Remains Stuck At Low Levels – Annual value of completed transactions in Europe, in EUR billion





China's investment has reached the whole continent, but it continues to be focused on the big economies. The “Big Three” (UK, France, and Germany) jointly accounted for 39% of total investment in 2021. Even so, fear remains in Europe that weakened economies of the south and east could easily be captured and controlled by China.

In 2021, the share of Chinese state-owned enterprises (SOE's) decreased by 10%, compared with 2020. Their share of total Chinese investment also reached its lowest point in 20 years, at only 12 percent.

The primary sectors for Chinese FDI have been energy, the chemical industry, and infrastructure. This includes the acquisition of the Swiss pesticide company Syngenta, the investment in the port of Piraeus in Greece and the nuclear power company Hinkley Point C in the UK, and investment in the Italian tire company Pirelli. Cosco's participation in the Port of Piraeus represents a preferential entry for the EU and a major maritime transshipment hub for the Mediterranean (Putten, 2014, Putten and Meijnders, 2015: 11).

In 2021, consumer goods and automotive were the top sectors. Due to the Hillhouse Capital acquisition, investment in consumer products surged to €3.8 billion. Activity in automotive was driven by Chinese greenfield investments in electric vehicle (EV) batteries. Together, the two sectors accounted for 59 percent of total investment value. The next three biggest sectors were health, pharma and biotech; information and communication technologies (ICT); and energy (MERICS, 2022: 3).

The magnitude and certain patterns of Chinese investments in Europe have raised some concerns, namely related with:

- The role of the Chinese state in the economy;
- A lack of reciprocity and fair competition;
- National competitiveness and technological leadership;
- Uncertainty about security-related critical infrastructure and sensitive industries;
- Investments as a source of political and geopolitical influence, and divisions within Europe;
- Broader regulatory concerns;
- Intra-European competition for investment;
- A growing “promise fatigue”.

As a result of these increased concerns, in 2017 the first discussions started in the EU on the creation of a surveillance mechanism of foreign direct investment, which in reality was an attempt to control the increasing Chinese investment in Europe. In many cases conducted through state companies in strategic sectors such as energy, telecommunications, finance and high technology (artificial intelligence, robotics or semiconductors) (Santos Neves, 2018: 129).

This process was fostered and coordinated by the European Commission, further to the new status of Foreign Direct Investment as EU exclusive competence with its integration



in the Common Commercial Policy after the entry into force of the Lisbon Treaty (1 December 2009).

Consequently, two years after, and in line with similar initiatives adopted by other countries (e.g. Australia, Canada, United Kingdom and the United States), which are increasingly toughening their foreign investment controls, the EU Foreign Investment Screening Regulation ([Regulation 2019/452](#)) entered into force on 10 April 2019 and became applicable from 11 October 2020.

With this Regulation, the EU aims to safeguard Europe's security and public order by introducing the first EU-wide foreign investment screening cooperation mechanism and scrutinizing purchases by foreign companies (from all third countries, including China) that target the EU's strategic interests.

The key features of the Regulation (Meilin *et al*, 2020) are as follows:

- Creating a cooperation mechanism between the European Commission and the EU Member States to exchange information and raise concerns related to specific investments;
- Allowing the Commission to issue a non-binding opinion if (i) an investment poses a threat to the security or public order of more than one Member State, or (ii) an investment could undermine projects of interest to the whole EU, such as EU programs for energy, transport and telecommunication networks (TEN-T, TEN-E, Trans-European Networks for Telecommunications), Horizon 2020 and Galileo.

While the Commission will have no direct powers to block transactions, it may nonetheless have the opportunity to 'influence' the outcome of foreign investment screening by issuing an opinion to a Member State;

- Allowing EU Member States to provide comments to the Member States reviewing an investment, when they consider that the investment will affect their security or public order. The reviewing Member State must give due consideration to such comments. Member States may even provide comments where the Member State in which the investment takes place is not conducting a screening;
- Laying out a non-exhaustive list of factors that could trigger a screening process on the grounds of security or public order - and, thus, expanding the scope of investments to be reviewed;<sup>2</sup>
- Providing certain basic requirements for Member States who choose to introduce a screening mechanism at national level: (i) transparency and non-discrimination between third parties; (ii) established timeframes for screening; (iii) protection of

<sup>2</sup> This list includes, *inter alia*:

- Critical infrastructure (energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure and sensitive facilities).
- Critical technologies and dual use items (artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies, as well as nanotechnologies and biotechnologies).
- Critical inputs (energy, raw materials and food security).
- Access to sensitive information (personal data).
- Media freedom and pluralism.



confidential information; and (iv) possibility of judicial redress against the Member States' decisions.

The Regulation respects Member States' right to maintain, amend or adopt the screening mechanisms, as well as their decision-making power regarding any investment investigation in their territory. Accordingly, EU Member States' national regimes - not the Regulation - continue to regulate the validity of investments in each EU Member State.

It is important to note that, while the Regulation promotes a cooperation mechanism between the Commission and Member States to exchange information on investment screening, it does not create an EU-level regulator who could issue a binding opinion and block an investment.

This means that the Regulation does not provide any obligation for parties to notify their transactions to the Commission or to suspend them pending the outcome of the Commission's review. Nor does it require harmonization of EU Member States' national investment screening mechanisms, or even create an obligation for EU Member States to introduce such regimes.

However, the EU's new investment screening regime is likely to affect transactions in the following ways: (i) more scrutiny on foreign investments; (ii) longer review periods; (iii) more investments subject to screening.

Consequently, all potentially interested companies (including from China) will face a 'patchwork' of national foreign investment screening regimes in the EU with different jurisdictional regimes and notification requirements, as well as a reformed and more onerous EU framework. Therefore, they will face a dual-track system of merger control and foreign investment review. Planned acquisitions by competitors can also be brought to the attention of the European Commission and of the Member States' authorities anytime these investments present risks for the EU's interests and security.

In a landmark decision, the Dutch government decided to prevent China from acquiring one of its sensitive semiconductor equipment companies, after consulting a White House intelligence report on the dangers of China acquiring that firm. European governments should be able to make those assessments themselves, and European intelligence agencies should be raising similar concerns (Smith *et al*, 2020).

A key question will be whether the EU can learn to coordinate better on FDI screening, both internally and with Member States. There is also the need to increase cooperation with third countries. Now, the EU is already engaging actively with the US Treasury and the Japanese Ministry of International Trade and Industry. The new European Commission considers investment screening a top priority as part of an overall effort to strengthen European sovereignty (Brattberg *et al*, 2020), according to the principles contained in the Regulation 2019/452.

Further to the entry into force of the FDI Screening Regulation on 11 October 2020, the European Commission prepared the 'First Annual report on the screening of foreign direct investments into the Union', presented to the European Parliament and the Council on 23 November 2021 (COM(2021) 714 final).



One of the main conclusions is that, until November 2021, not all Member States have their FDI screening mechanism already in full implementation. Some Member States have adopted new legislation, others adopted amendments to an existing mechanism, or initiated a consultative or legislative process expected to result in amendments to an existing legislation.

There is no time limit to conclude this process, but one can expect that the European Commission might introduce some pressure in order to guarantee that all Member States are in a similar situation as regards FDI investment screening legislation, as it is stated in the conclusion of the report (COM(2021) 714 final: 20):

*"The Commission firmly expects that by the next Annual Report additional Member States will have adopted and strengthened national FDI screening legislation and related mechanisms for potentially risky foreign investments from non-EU countries and that it is merely a question of time before all 27 Member States have such legislation and mechanisms in place."*

### **III. Absence of European institutional answers toward China's economic offensive**

The strong wave of investment after the debt crisis created in some EU leaders concerns over China's growing economic presence in Europe. They fear the potential political influence on EU policymaking (CRS, 2019). Further to the surprising characterization of China as a systemic rival and economic competitor (European Commission, 2019). this new approach revealed a shift on how far European institutions were willing to go to face the challenges imposed by Chinese investment (Smith and Taussig, 2020). Following the EU strategy paper of March 2019, European leaders such as the German Chancellor Angela Merkel and French President Emmanuel Macron expressed arguments on the same direction.

The size of the Chinese market and the amount of money used by Chinese investors is a source of significant influence in Europe. The lack of unity in terms of foreign policy gives China an important advantage in negotiations (CRS, 2019). However, it is also highlighted that neither the EU nor individual European leaders have taken the meaningful steps needed to close existing vulnerabilities in Europe's relationship with China, to stand up for European values of democracy and human rights, or strengthen Europe's resolve against Chinese economic and political pressure.

Partly, this was due to significant distractions in the second half of 2019, as the EU had to cope with a leadership transition and the negotiation of the Brexit arrangement. On 31 January 2020, the United Kingdom ceased to be a Member State of the EU. At that moment, the Exit Agreement came into force, guaranteeing an orderly exit of that country from the organization, and a transitional period began, which ended on December 31, 2020. Also, there is domestic instability within Europe, and the coming months are unlikely to produce better results. The EU will continue to face domestic and regional challenges, including ongoing protests throughout France, a weakening coalition government in Germany, and the UK's formal exit from the Union on January 31, which will trigger months, if not years, of additional work to implement.



Whilst many factors contributed for the new EU strategy towards China, the influence of Donald Trump and Joe Biden tensions related to China are very relevant, with the EU recognizing the need to develop more independence from the United States in foreign affairs. Signs that the Sino-US trade war had begun to hurt the Chinese economy may have given the EU confidence that the time was right for a change in strategy towards challenging China for a reciprocal relationship (Quirk, 2020).

In a recent article at *The Economist* (2020), a dozen European ambassadors in Beijing were asked whether China was a source of unity or disunity in their continent. The question divided them. One diplomat calls the 17+1 grouping a mostly benign attempt by China to re-establish fraternal links with ex-socialist countries, and no more divisive than the endless bilateral exchanges that bigger countries, like Germany or France, have with China. Still, he concedes, if China sees a chance to get its way by driving wedges between EU members, it will. "The Chinese take the EU as seriously as the EU takes itself. They are taking advantage of the opportunities we give them," he says. Recent 17+1 drafts talk about cooperation on the basis of the sovereignty of participating countries, worries a diplomat, seeing a coded Chinese challenge to multilateralism and European values. Such papers are a "sneaky way to test how vigilant we are", he sighs.

In Central and Eastern Europe, the 16 + 1 initiative was launched in 2012 (renamed "17+1" after the inclusion of Greece), a new platform for dialogue between China and 16 so-called post-Soviet countries<sup>3</sup>, 12 of which belong to the EU (CEEC-China, 2017). China's Foreign Ministry has purposely set up a permanent secretariat for relations with this European area. However, there are no permanent representatives from the European states, which indicates an asymmetrical relationship.

China invested already many billions of dollars in the Eastern European region, which is less economically strong. The idea is to increase exports to this area, extend the BRI to the region, and gain greater capacity for influence, at a time when China and the US are experiencing commercial tensions. Europe can be a very relevant partner for Beijing's geopolitical aspirations, in a framework of overcoming American hegemony and building a multipolar world. In fact, while China defends a logic of multilateralism, it does not fail to exploit bilateral dynamics, especially with smaller countries, where it has strong negotiating power. These include the creation of a Chamber of Commerce, meetings of experts and think tanks, a Forum of Young Political Leaders, a forum for education, bilateral political dialogues, a Tourism Promotion Agency (based in Budapest), and an Investment Promotion Agency (based in Warsaw and Beijing) (Europe Now, 2018). Of particular note was the creation of the New Silk Road Institute (NSRI), an independent think tank created in Prague in September 2015 to strengthen ties between Asia and Europe, publicising BRI concepts in the country, led by Jan Kohout, former Minister of Foreign Affairs of the Czech Republic and adviser to the President (Economist, 2018, p.20; NSRI, 2018). The agreed rules and market rules complement EU projects and policies, avoiding divisions within the European bloc, and particularly harming relations with Germany (South China Morning Post, 2018).

<sup>3</sup> The 17 + 1 initiative joins China, the EU, Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary, Slovenia, Croatia, Romania, Bulgaria and Greece; and EU non-members (candidates to EU accession), Albania, Bosnia and Herzegovina, Macedonia, Montenegro and Serbia.



Not least significant, China has upgraded the “17+1” meeting, as the next one (initially scheduled for April 2020, it might be postponed further to the new coronavirus pandemics) will be chaired by Xi Jinping. European officials regard this as a Chinese move to undercut one of the goals of the Leipzig Summit, which Berlin had intended as a demonstration that Central and Eastern European states would gain more from China by working through EU formats (Small, 2020).

China's increasing investment in Southern Europe, such as Portugal, Spain, Italy, and Greece, has led countries like Germany to warn European partners about China. This contributed to a scenario of competition between Member States. Some EU members such as Greece became more complacent with China because of huge economic interests, meaning even more Chinese investment and perhaps more access to the Chinese market (ETNC, 2017). The lack of reciprocity and the restrictive practices of China on investment access makes Europe call on protectionist mechanisms. This creates a necessity of a common foreign policy and a new context of consensus.

China explores divergences in Europe in its favour and prefers to deal with national capitals rather than the EU as a whole, provoking and encouraging political divisions in Europe and openly pursuing a divide-and-rule strategy. And the EU Member States are often eager to upgrade relations with China individually, even at the expense of common EU policies and initiatives (Maher, 2016, p. 976). For instance, each Member State interprets projects such as the Belt and Road Initiative differently. The same happens with 5G technology. On 5G (fifth generation of mobile networks), and its security concerns, following a request from the European Council for a concerted European approach, the European Commission drafted a plan of legislative and policy instruments essentially involving three steps: a national 5G security risk assessment in each of the Member States, a coordinated European-level assessment, and a common toolbox of mitigating measures to address identified risks. The report on the coordinated risk assessment produced by the Commission's NIS Cooperation Group was released on October 9, 2019. On December 3, 2019, the European Council endorsed the findings and urged all Member States to develop responses. More recently, in January 29, 2020, the European Commission endorsed the joint toolbox of mitigating measures to address security risks related to the rollout of 5G. Through the toolbox, the Member States are committing to move forward in a joint manner based on an objective assessment of identified risks and proportionate mitigating measures. The Commission called for key measures to be put in place by 30 April 2020. In 2022, a new report by NIS confirmed previous security risks. They are mainly a “larger attack surface and more entry points for malicious actors, an increased risk of misconfiguration of networks and potential impacts on other network functions due to resource sharing” (European Commission, 2022).

Some European countries have delayed increasingly urgent decisions over whether Chinese telecoms equipment giant Huawei should be allowed to build their 5G mobile networks. The biggest countries, including Germany and France, are still debating whether Huawei should be given a role in their 5G rollout. After studiously avoiding decisions in 2019, the big European players will need to come down one way or another in 2020. Their decisions will have a ripple effect on smaller countries. In 2021, Bundestag through IT Security Law 2.0, restricted the role of unreliable suppliers of 5G technology. The new law requires digital companies to notify the government if they sign contracts



for critical 5G components. It also gives the government capacity to block them (Bundestag, 2021).

In a paper released in January 2020, the main European business association, Business Europe, sets out a strategy on how the EU and China can build a stronger and fairer economic relationship.

The paper first demonstrates that there is a shift in the balance of opportunities and challenges in the European economic relationship with China, which means that the EU should reconsider how it engages China. As a result, Business Europe advances four key objectives that the EU should pursue in order to seize the opportunities within the economic relationship and to address the systemic challenges that China's state-led economic system poses to Europe. The four key objectives are as follows:

1. Secure a level playing field between China and the EU;
2. Mitigate the impact of China's government-induced market distortions;
3. Reinforce the EU's own competitiveness;
4. Ensure fair competition and cooperation on third markets.

At official level, the EU has taken concrete steps in two key areas: procurement and subsidies. Having one of the world's largest open procurement markets, the EU has long called for a more level playing field with China in the area of public procurement. An International Procurement Instrument (IPI), proposed by the European Commission in 2012 and revised in 2016, was finally adopted by the EU Council in June 2022, following the green light from the European Parliament).

Under this new instrument, there will be limits of access from foreign entities to the EU procurement market if these same countries discriminate against European companies. The IPI is intended to increase the EU's bargaining to promote reciprocity, address protectionism, and provide new procurement opportunities for EU companies abroad.

Moreover, addressing excessive state subsidies is a top priority for the new European Commission. The new European Commissioner for Competition, Margrethe Vestager, has said the EU is considering fresh efforts to curb unfair Chinese competition. The main challenge for the EU is how to deal with state-driven subsidization of state-owned companies and subsidies of whole industries that are currently not regulated.

Consequently, on May 2022, the EU Member States agreed on a negotiating mandate to the Council for the regulation on foreign subsidies distorting the internal market.

The regulation aims to address the distortions created by subsidies granted by non-EU countries to companies operating in the EU's single market. It establishes a comprehensive framework for the Commission to investigate any economic activity benefiting from a third-country subsidy on the internal market and to set up a specific framework for subsidies granted by third countries in the context of large concentrations and large public procurement procedures.



Furthermore, after a long period of negotiations (started in 2013), on 30 December 2020, the EU and China concluded in principle the Comprehensive Agreement on Investment (CAI).

In the agreement, China commits to ensuring fairer treatment for EU companies in China, allowing them to compete on a more level playing field. These commitments cover state-owned enterprises, transparency of subsidies, and rules against forced technology transfer. The rules negotiated in the CAI set a high benchmark in terms of transparency, a level playing field, market access commitments and sustainable development (EU Commission DG Trade, 2022).

However, the CAI has not yet been ratified, and at this stage it is difficult to anticipate when that will happen. Consequently, it is not into force yet.

As things stand, the best-case scenario for Europe's approach to China would, *inter alia*, see the EU establishing: an ambitious industrial strategy and set of connectivity plans; a harder-edged approach to trade enforcement; a new China-centred antitrust instrument; reciprocity measures for government procurement; and a heightened security and values focus in its handling of telecoms, data and wider digital issues (Small, 2020).

## Conclusion

China is assuming a leading role in the globalized world, the most powerful trading power in the globe. The relations between China and Europe gained a particular importance in this context. After the 2008 European debt crisis, China started a new wave of investment in Europe. It acquired important companies in strategic sectors, and this provoked gradual worries on European countries. Additionally, the level playing field is still not a reality, as there are significant gaps in investment openness between both sides.

After a maximum of €47.4 billion in 2016 and €40 billion in 2018, Chinese FDI into Europe began to decrease in the latest years, and it is not expected to resume to those levels in the near future. There are a number of reasons that might help to explain this: the effects of COVID-19 pandemic, the increased regulatory scrutiny of FDI in the EU Member States, current EU-China political and trade tensions, and the geopolitical impact of the war in Ukraine.

To be sure, Europe will never settle on a single view of China, but it can make efforts to increase awareness of Chinese activities (especially political influence operations) in the EU countries, namely through the investment screening mechanism. It became fully operational last October 2020, but the Regulation is still in its early years, therefore it is too soon for a thorough evaluation on its effectiveness.

At the same time, Europe will have to continue to press Beijing for substantive improvements on reciprocity as regards market access conditions and level playing field (procurement and subsidies are two examples of this). There is no other option, and the EU and its Member States would only gain if they come up with a truly unified voice and strategy.



It is clear that the EU-China agenda was seriously compromised due to several factors, the effects of COVID-19 pandemics, trade and human rights irritants, as well as political issues (the war in Ukraine above all), and prospects are still uncertain for the time being.

Although the COVID-19 crisis revealed, once again, some fragilities of the EU project (the traditional North and South division), the war in Ukraine showed that a more concerted coalition-building efforts among liberal democracies is possible. Despite all their differences, they still have substantial areas of common ground on China, and are starting to face up the limits of what they can hope to achieve alone. This is true not only for trade, but for foreign direct investment as well.

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