CHINA-EU: LIVING UP TO THE TEN ACTIONS?
EXECUTIVE SUMMARY

A year ago, the EU branded China a ‘Systemic Rival’. The adoption of its Strategic Outlook was a watershed moment in EU policy towards the new global power. It sought to jointly address Beijing’s more assertive posture and growing footprint in Europe, while finding avenues of cooperation that could strengthen trust.

The EU’s ten actions - to be delivered within one year – and the Strategic Outlook fed into the Council’s deliberations and position, with a majority of the points reflected in the final EU-China communique. One year on, the role of China is again in the spotlight following the Covid-19 outbreak. We look back over the ten action points to see the successes and failings of Europe’s new approach to China.

Even though the EU has built more safeguards vis-à-vis China’s economic practices, it has failed to alter Beijing’s economic and foreign policy postures. Only one of the ten actions has been fully delivered, cooperation on a number of international issues has stalled, and an EU-China bilateral investment agreement has been stymied mostly by Chinese inertia.

- One year later, China and the European Union have not seen closer cooperation on international fora, like the United Nations. Cooperation on key issues like Iran has either stalled or, like on human rights issues, worsened as China has vetoed EU-sponsored human rights resolutions in the UN.
- Although the geographical indicators and the aviation safety bilateral agreements were signed in November and May 2019 respectively, the biggest agreement, the Bilateral Investment Agreement remains far away from completion. The burden on Chinese authorities is the main reason why, and negotiations even before the COVID-19 outbreak were painfully slow. Now it is highly unlikely it will be finished by the end of 2020.
- The EU’s legislative agenda putting a check on Chinese economic influence by closely assessing Huawei’s participation in the 5G rollout, implementing FDI screening, scrutinizing take-overs by state-subsidized foreign firms, reviewing public tenders or passing the International Procurement Instrument has had a mixed-to-positive result. In fact, some of those measures have gained higher priority during the COVID-19 outbreak due to fears of Chinese purchases of cash-strapped European assets.

How those trends will develop in 2020 will largely depend on the COVID recovery. But it is already clear that China has lost some of its shine as a global cooperation partner for the EU. Its systematic disinformation campaign targeted at some key Member States has largely back-fired. China’s state opacity vis-à-vis the COVID crisis has given succor to those already concerned about giving Chinese companies the keys to European 5G networks.

It is however equally evident that after the lockdown, Europe will be scrambling for fresh investments. The divide between and within each EU Member States on hardening Europe’s economic safeguards regarding China’s investments and trade practices or returning to business as usual will be a defining battle in Europe’s post-COVID recovery.
INTRODUCTION

In just a decade, China has transformed itself from the world’s largest factory for low-cost goods into a high-end manufacturer and assertive geopolitical actor. Under the leadership of President Xi Jinping and his Made in China 2025 agenda, Chinese private and state-owned enterprises have pursued aggressive investment and acquisition strategies across the world, especially in Europe, to move the Chinese economy up the value-added chain.

Furthermore, these strategic acquisitions have helped China establish a geo-political footprint in those countries and in some cases even shape their foreign policies. Post-2008 cash-strapped Europe has been a target of choice. In less than ten years, between 2008 and 2015, Chinese investments in Europe in sectors as broad as critical infrastructures, transport to high technology have increased tenfold.

European Member States and business leaders recently woke up to this new reality, departing from the traditional language of cooperation and engagement by coining China a ‘systemic rival’. To back this up, European leaders agreed, together with the Chinese leadership, ten actions seeking to rebalance the EU-China relationship. Half of them cover cooperation on global issues such as Iran nuclear program, climate change, while the other half include more contentious measures to set a fairer economic level playing field between the two economic powers. Actions 1, 2, 3, 5 put the onus on China. Actions 4, 6, 7, 8, 9, 10 are for the EU to take in order to re-balance the relationship.

One year later, the question is whether Europe and China have lived up to those ten action items. Based on the March 2019 EEAS Strategic Outlook and the April 2019 Joint EU-China Communiqué, this report seeks to map out progress and failure. While the COVID-19 crisis has dramatically changed Europe’s outlook, it has also made China an even more critical factor.

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The EEAS laid out in its March 2019 Strategic Outlook ten concrete actions to guide the EU’s China policy. These were subsequently endorsed by the European Council in March 22.

1. Strengthened EU-China cooperation across the UN’s three pillars of Human Rights, Peace and Security; and Development.

2. EU calls on China to reach peak emissions before 2030 in line with the Paris Agreement to which both parties are signatories.

3. Deepening EU-China engagement on peace and security on the JCPOA model.

4. The EU will apply more robustly existing bilateral agreement and financial instruments to preserve its interest in stability, sustainable economic development and good governance in partner countries; and will work with China to follow these principles by implementing the EU Strategy on Connecting Europe and Asia.

5. EU calls on China to deliver on joint EU-China commitments, including WTO reform, especially on subsidies and forced technological transfers. Also to conclude a bilateral agreement on investment by 2020 and on Geographical Indicators and aviation safety swiftly within weeks of March 12, 2019, the document’s release date.


7. The Commission sets out to publish guidance on foreign bidder participations and goods in the EU procurement market by mid-2019. An overview of the current framework’s implementation to identify shortcomings before the end of 2019.

8. The Commission sets out to identify how to fill gaps in EU law to address distortive effects of foreign state ownership and state financing in the EU Internal Market before the end of 2019.

9. Common EU approach to 5G security is needed. The Commission sets out to issue a recommendation following the European Council.

10. Member States to ensure the swift, full and effective implementation of the Regulation on the screening of FDI. Together with these various actions, the EEAS also recommended in the communication a series of more specific policies to deal with various issues, specifically under various headings assigned to the actions.
As Action items 1, 2, 3 and 5 largely rely on China itself to meet what the EU calls on it to do, they are hard to assess. After all, these goals may be met because China already planned to meet them on its own, and the degree of European influence behind Beijing’s decision is hard to measure. Likewise, even if the EU fails to cooperate closer with China on some of the action items, it is hard to put the blame on the European institutions, regardless of their actions, if Beijing’s policy goes in a different direction.
Action 1 of the EEAS Strategic Outlook builds on China’s professed commitment to upholding the rules-based international order, although warning that for China to be coherent, it needs to stop “selectively upholding some norms at the expense of others”. According to the EEAS, the way to move forward is by **jointly supporting effective multilateralism** in light of their shared commitments in global sustainable development and the 2030 Agenda.

It also seeks to engage with China to **improve the country’s appalling track record in guaranteeing human rights**, particularly for human rights defenders and in the Muslim-majority province of Xinjiang. This action however only specified that cooperation should be strengthened on Human Rights, Peace and Security and Development.

**Status: Failed**

European Union-China cooperation has deepened in some ancillary areas, like research cooperation or water management, but these are the result of bilateral agreements outside the common framework of the United Nations. Although hard to measure, there has been little progress in non-bilateral cooperation and therefore it is hard to deem it achieved.

On human rights, the last EU-China Human Rights Dialogue took place behind closed doors in April 2019. The Commission did however specify which human rights violations in China were specifically addressed during the meeting. Besides that meeting, there has been no progress on the area. China has also vetoed EU-sponsored UNGA resolutions dealing with human rights.

Internally, some Member States like Greece and Hungary have watered down or blocked China-critical human rights resolutions due to large-scale Chinese investment in their economies. For instance, the Chinese state-owned COSCO Shipping owns a majority stake in Greece’s largest port.
EU CALLS ON CHINA TO REACH PEAK EMISSIONS BEFORE 2030 IN LINE WITH THE PARIS AGREEMENT TO WHICH BOTH PARTIES ARE SIGNATORY

Aim:

Action 2 calls on China to commit to reach peak emissions before 2030. By signing the 2015 Paris Agreement, China had already committed to reaching peak CO2 emissions around 2030, but not before that year.

Status: Partially Achieved

The Chinese government is officially committed “to achiev[ing] the peaking of carbon dioxide emissions around 2030 and making the best efforts to peak early” according to the country’s Enhanced Actions on Climate Change. However, the country has not explicitly committed to the goal of reaching peak emissions before 2030.

Both Chinese academics and Western think tanks agreed that based on the country’s shift away from manufacturing and investment in renewable sources of energy that the country is likely to reach peak emissions before 2030. The sharp decline in economic output during the COVID-19 crisis and the slow recovery will also impact China’s emissions projections before 2030.
DEEPENING EU-CHINA ENGAGEMENT ON PEACE AND SECURITY ON THE JCPOA MODEL

**Aim:**

Under Action 3, the Strategic Outlook envisioned a deepening EU-China engagement in the field of peace and security cooperation along the lines of the JCPOA agreement with Iran.

This aim is overall vague. However, the EU does mention specific instances of some satisfactory pre-existing arrangements like EU and Chinese anti-piracy operations in the Horn of Africa. Likewise, it identified areas of potential future cooperation, like the peace process in Afghanistan or addressing of the Rohingya crisis in Myanmar.

**Status: Failed**

Diplomatic engagement between China and the European Union on peace and security cooperation since April 2019 has not deepened. Indeed, based on our consultations, there is considerable internal frustration in the EEAS with China, as even before the outbreak, there had not been any significant progress on any of the portfolios. Even on the issue of the JCPOA, there is dissatisfaction over progress and degree of commitment from Beijing even on an issue where EU and China's positions and objectives are very close.

Taking as a basis the identified cooperation fields, the EU and China have not intensified cooperation in the Horn of Africa between the PLN and the EU NAVFOR’s Operation Atalanta contingent. In Afghanistan, China played a secondary role in attaining a peace agreement in the country, aiming to increasing its influence after the US withdrawal. The EU was only marginally involved.

On Myanmar, China has actively worked against the European Union’s policy goals – which are to put an end to Myanmar’s ethnic cleansing of the Rohingya minority. For instance, China blocked EU-sponsored resolutions in the UN.

China is also not a priority country for the EEAS’ Security Cooperation enhancement project, which instead focuses on various Asian democratic countries.
Chinese influence in least developed and developing countries has grown considerably in the last decade through debt-funded investment that increases Chinese influence in the economy and gives China leverage over these countries by owning their debt or strategic infrastructure (debt-trap diplomacy), and without regard for economic, environmental and financial sustainability.

To address this issue, Action 4 seeks to fully implement the EU foreign and development policy principles of stability, good governance and sustainable economic development through its existing bilateral agreements and financial instruments. Likewise, it would seek to address concerns around the Belt and Road Initiative by following through on G20 Operational Guidelines on Sustainable Financing and similar principles through the EU Strategy on Connecting Europe and Asia and the EU-China Connectivity Platform.

In the EU’s immediate neighborhood (Western Balkans, North Africa, Caucasus countries), the Commission sought to fully implement various pre-existing agreements, like Stabilization Agreements as well as Association Agreements and Deep and Comprehensive Free Trade Areas’ agreements. To do so, the Commission argued for a swift agreement on the neighborhood and enlargement policy instruments in the 2021-2027 MFF.
Action 4 is particularly hard to assess owing to the complication in assessing how “robust” an agreement is being implement as no precise criteria were given for what constitutes ‘robustness’.

More concretely, on Chinese loans, international pressure moved the Chinese government to announce a new, fairer Debt Sustainability Framework in late April 2019, in line with World Bank and G20 recommendations. However, the framework remains optional and does not directly impact Chinese loans, diminishing its potential effectiveness in improving investment outcomes and reducing debt non-sustainability.

China has agreed to the EU’s terms on stability, good governance and sustainable economic development for common transportation pilot projects in the Terms of Reference for a Joint Study on Sustainable Railway for EU-China connectivity transport corridors. It was expected that project planning, construction and promote cooperation agreements would be signed by the end of 2019, but as of April 2020, none have.

The EU’s new, proposed mechanism for investment in developing and neighborhood countries, the Neighborhood, Development and International Cooperation Instrument (NDICI) will focus on promoting good governance, sustainability and stability. The original proposal gave NDICI a budget of €89.2 billion. After the first reading in the EP, the budget was increased to €93.2 billion. But as of April 2020, negotiations between EP, Council and Commission are still ongoing.

In the case of the accession candidate countries, the EU is undertaking a reform process to improve its ability to implement its core principles, beginning with North Macedonia and Albania. The new methodology is also an opt-in for the two countries, Serbia and Montenegro, already engaged in the enlargement negotiations. In the MFF Commission proposal, the IPA III, the main instrument for enlargement, would be budgeted at €14.5 billion. Council proposals would, however, lower the amount. MFF negotiations are ongoing.
EU CALLS ON CHINA TO DELIVER ON JOINT EU-CHINA COMMITMENTS, INCLUDING WTO REFORM, ESPECIALLY ON SUBSIDIES AND FORCED TECHNOLOGICAL TRANSFERS. ALSO TO CONCLUDE A BILATERAL AGREEMENT ON INVESTMENT BY 2020 AND ON GEOGRAPHICAL INDICATORS AND AVIATION SAFETY SWIFTLY WITHIN WEEKS OF MARCH 12, 2019, THE DOCUMENT’S RELEASE DATE

Aim:

Action 5 aims to produce a more balanced trade relationship between China and the EU, particularly to address the imbalances in terms of market access and unfair competition and the lack of legal certainty. The Chinese public procurement market is largely closed off to foreign firms, whereas Chinese firms operate in the EU's at an advantage thanks to the state-financing and backing by the Chinese state.

Significantly, it signaled as important elements to attain a comprehensive agreement on investment, on Geographical Indicators, on aviation safety and to work through the WTO to address these issues.
Before the coronavirus outbreak, there were expectations that the Comprehensive Investment Agreement could be signed during the German Council Presidency (second half of 2020). However, EU sources recognized that China was moving very slowly. With the coronavirus outbreak, it will be near impossible to reach an agreement by the end of 2020.

On the Comprehensive Investment Agreement, the burden of compliance is on Beijing. As a result, changes have been glacially slow, and, internally, there is an impression that China is not serious about the agreement.

An agreement on mutual recognition of Geographical Indicators was reached on November 2019. Internally, the conclusion of the agreement was considered a “minor win” for the EU. The Aviation Safety Agreement was signed by both parties on May 2019.

China reported in October 2019 to the WTO’s GPA changes in its public procurement legislation to adapt to its standards. As of January 2020, they are under review.

Overall, Action 5’s secondary priorities have been reached. The EU-China Comprehensive Investment Agreement, the main element of Action 5 will not be finalized by the self-imposed deadline of late 2020. Official bilateral meetings have been postponed. Nevertheless, it remains to be seen if EU Trade Commissioner Hogan will try to revive negotiations after the lock-down.
Complementing Action 5, Action 6 called for the adoption of the Commission’s International Procurement Instrument (IPI) by the end of 2019.

**Status: Failed**

The Commission proposed the IPI in 2016 but it met with stiff opposition in the Council and in the Parliament. The draft bill has remained stuck since 2018 in Parliament since then, with very limited progress. During his confirmation hearings, Trade Commissioner Hogan spoke of the need to move forward, but there has been no progress since.

In particular, divisions in the Council over the IPI reflect the traditional division in the Council between those Member States, like the Nordic countries, that are more favorable to free trade and open competition versus those who favor a more state-centric dirigiste approach, like France and also a hardening German stance.
THE COMMISSION SETS OUT TO PUBLISH GUIDANCE ON FOREIGN BIDDER PARTICIPATIONS AND GOODS IN THE EU PROCUREMENT MARKET BY MID-2019 AND AN OVERVIEW OF THE SHORTCOMINGS OF THE CURRENT FRAMEWORK BEFORE THE END OF 2019

Aims:

Action 7 would address anticompetitive behavior by Chinese firms, as a result of both state-backing and inferior labor or environmental regulations in China, resulting in “abnormally low tenders”. Specifically it addressed the European public procurement market, estimated at a value of over €2 trillion a year. To do so, Action 7 prompted the Commission to release guidelines on foreign public tenders by mid-2019. By late 2019, the Commission and the Member States would conduct an overview of the current framework’s shortcomings.

Status: Partially Achieved

The Guideline on foreign public tenders, officially known as the “Guidance on the participation of third country bidders and goods in the EU procurement market” was released on July 25, 2019.

As of April 2020, no overview identifying the shortcomings of the current legal framework has been released by the Commission.
Action 8 was complementary to Action 7 by committing the Commission to identify holes in the EU legal framework to prevent distortive effects caused by Chinese state-backed or state-owned firms operating in the EU’s internal market before the end of 2019.

**Status: Failed**

As of April 2020, the European Commission has not yet issued a document. In late 2019, the Juncker Commission started considering new measures to better scrutinize the acquisition of European firms by foreign companies receiving state aid. This concept was fleshed out in a Dutch Trade Ministry non-paper that was endorsed by Commission Vice-President Margrethe Vestager. Nevertheless, the proposal is still at a conceptual stage and does not clarify the level of scrutiny and authority that might be bestowed to the Commission.

However, on its 2020 Work Programme, the Commission announced the release of a White Paper on an Instrument on Foreign Subsidies in the second quarter of 2020 leading to a legislative proposal due in 2021.

Based on our consultations, the Instrument on Foreign Subsidies has become a much greater priority for the Commission. The proposal will potentially be issued before summer 2020. This is a reflection of both its relevance for the Commission, as publicly reflected by a recent interview by Margrethe Vestager, and of pressure from the Member States.

The specifics on the proposal remain unclear, but it would work similarly to competition policy, putting the burden of proof on third country companies to prove that they have not received state subsidies.

Diverging positions in the Council are reported, which will make it harder for a compromise to be reached. There is a growing divide between foreign investment-reliant southern European countries and north-western European states. German position is reportedly hardening on this issue.
Action 9 sets out with the medium-term goal of developing a common EU approach to 5G rollout security, and in the (very) short-term to release a Recommendation on a common approach shortly after the March 2019 European Council.

The Recommendation on a common EU approach to the security of 5G networks was adopted on March 26, 2019.

The Member States were too divided to adopt an outright ban of Huawei on security grounds. Particularly, Portugal has already contracted Huawei for its 5G infrastructure rollout. Incremental steps as a mechanism was suggested to RG in August 2019. Indeed, on January 2020, the Council agreed, and the Commission endorsed a joint toolbox to address 5G security concerns. This would allow flexibility while enabling Member States to stop Huawei while, in words of an RG source, "hide behind process".

This "hiding behind process" approach reflects the debate in Germany, whose government has been very ambiguous on the issue due to their economy's reliance on exports to China.

There are important internal divisions between Angela Merkel and the Economic Affairs Minister, Peter Altmaier on the one hand, and the Defense, Interior and Foreign Ministers, Annegret Kramp-Karrenbauer, Horst Seehofer and Heiko Maas respectively, on the other. The latter three, together with the chairman of the Foreign Affairs Committee, Norbert Röttgen, the Federal Intelligence Service and a transversal alliance of MPs have come out against Huawei involvement in the 5G rollout due to security concerns.
Following the adoption of the March 2019 Regulation on establishing a framework for the screening of foreign direct investments into the Union, Member States are expected to follow suit by adopting their own national FDI screening mechanisms in a swift manner.

The 2019 Investment Screening Regulation provides for an 18-month transition until full application begins on October 11, 2020. As of April 2020, only 14 of the EU’s 27 Member States have in place some kind of FDI screening mechanism, whether comprehensive or sector-specific. These 14 countries add up to 85% of the EU’s GDP.

Italy, France and Germany amended their previous legislation in 2019 to toughen pre-existing rules. Countries like Denmark and the Netherlands are currently exploring the implementation of more comprehensive FDI screening rules. Meanwhile, others like the Czech Republic and Sweden have bills to create FDI screening mechanisms under review in parliament. In some instances, sub-national entities, like the Belgian region of Flanders have implemented FDI screening.

In light of the 2020 coronavirus outbreak, some Member States have adopted more stringent measures on FDI screening to prevent hostile takeovers. The Commission also released a Communication to guide Member States on FDI Strategic Sector Screening on March 25, 2020.

Based on our consultations, officials acknowledge that the Regulation, although lacking teeth, is already having the desired effects in terms of determent.
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