

EU-CHINA OBSERVER

DEPARTMENT OF EU INTERNATIONAL RELATIONS AND DIPLOMACY STUDIES



"EXCHANGING IDEAS
ON EU-CHINA RELATIONS:
AN INTERDISCIPLINARY
APPROACH"

College of Europe
Collège d'Europe

DEPARTMENT OF EU INTERNATIONAL
RELATIONS AND DIPLOMACY STUDIES

Baillet Latour Chair of
European Union-China Relations



EU-CHINA Research Centre
EU INTERNATIONAL RELATIONS AND DIPLOMACY STUDIES
BAILLET LATOUR FUND

2.18

TABLE OF CONTENTS

THE FORTIETH ANNIVERSARY OF CHINA'S REFORMS AND EU-CHINA RELATIONS

MATTHIEU BURNAY

04

FORTY YEARS OF CHINA'S OPENING: CHANGING THE POST WORLD WAR II INTERNATIONAL ORDER

GERHARD STAHL

09

COLOPHON

Baillet Latour Chair of EU-China Relations / EU-China Research Centre
Department of EU International Relations and Diplomacy Studies, College of
Europe, Dijver 11, BE-8000 Bruges, www.coleurope.eu

Views expressed in the EU-China Observer are those of the authors only and do not necessarily reflect positions of either the editors or the College of Europe.

ISSN 2506-8415

Professor Jing MEN

✉ jing.men@coleurope.eu

☎ +32 50 477 258

Dr. Anna Katharina STAHL

✉ anna.stahl@coleurope.eu

☎ +32 50 477 249

Francesco Saverio MONTESANO

✉ francesco.montesano@coleurope.eu

☎ +32 50 477 257

EU-China Observer Inbox

✉ EUCO@coleurope.eu



College of Europe
Collège d'Europe



DEPARTMENT OF EU INTERNATIONAL
RELATIONS AND DIPLOMACY STUDIES



College of Europe
Collège d'Europe



Baillet Latour Chair of
European Union-China Relations



EU-CHINA Research Centre

EU INTERNATIONAL RELATIONS AND DIPLOMACY STUDIES
BAILLET LATOUR FUND

ABOUT THE EU-CHINA OBSERVER

The electronic journal **EU-China Observer** is jointly published by the **Baillet Latour Chair of European Union-China Relations** and the **EU-China Research Centre** based in the Department of EU International Relations and Diplomacy Studies at the College of Europe in Bruges. The journal provides a platform for scholars and practitioners to further deepen the academic analysis and understanding of the development of EU-China relations from an interdisciplinary perspective.

The **EU-China Observer** publishes scholarly articles based on theoretical reasoning and advanced empirical research, practical policy-oriented contributions from all fields of EU-China relations, and conference reports on the annual conferences organised by the Baillet Latour Chair and the EU-China Research Centre. The journal targets academic audiences as well as policy practitioners, members of the business community, NGO representatives, journalists and other interested persons.

BAILLET LATOUR CHAIR / EU-CHINA RESEARCH CENTRE

With the financial support of the Baillet Latour Fund, the College of Europe established in 2008 the Baillet Latour Chair of European Union-China Relations and in 2014 the EU-China Research Centre. The **Baillet Latour Chair of European Union-China Relations** offers courses on EU-China relations at the College of Europe in both Bruges and Natolin. It also organises guest lectures, international conferences and promotes multidisciplinary research on the European Union's relations with China. At the end of each academic year, the Chair grants an award for the best Master's thesis on EU-China relations.

www.coleurope.eu/EUChinaChair

The **EU-China Research Centre** follows closely the development of the European Union-China relationship and its three institutional pillars: political dialogue, economic and sectoral dialogue, and people-to-people dialogue.

The Centre's research focuses in particular on economic questions such as China's New Silk Road initiative and its impact on EU-China relations, the negotiation of an EU-China investment agreement as well as the EU's and China's international influence, especially in Asia and Africa. More generally, the Centre seeks to

- undertake high quality research, preferably from an interdisciplinary perspective, on topics of major importance in the field of EU-China relations;
- publish the research results with well-known publishing houses and in reputable academic journals;
- develop cooperation and exchanges with universities and scholars who are specialised in EU-China studies;
- organise conferences, mainly in Bruges and Brussels; and
- host visiting scholars working on EU-China relations.

www.coleurope.eu/EUChinaCentre

Scholars and practitioners interested in contributing to the **EU-China Observer** should refer to the instructions on www.coleurope.eu/EUCO.



Prof. Jing MEN

*Director of the EU-China
Research Centre and Baillet
Latour Professor of European
Union-China Relations*

THE FORTIETH ANNIVERSARY OF CHINA'S REFORMS AND EU-CHINA RELATIONS

MATTHIEU BURNAY

Introduction

In 2018, the Chinese Communist Party (CCP) celebrates the 40th anniversary of the Third Plenary Session of the 11th Central Committee decision to transform China's economy in a way that would 'meet the needs of modernization'.¹ This decision to open up to the world initiated a learning and adapting process that has dramatically transformed the country and allowed for the (re-)emergence of China as a central political and economic force in contemporary global governance. Internally, China's reforms have been successful to maintain an average annual economic growth close to nine percent that has permanently transformed the national economic and social structure. This success is the fruit of a complex mix of political, economic, and social policies made of centralisation and decentralisation, regulation and de-regulation, as well as interventionism and liberalisation. Externally, China's reforms have enabled the country to become a central stakeholder in most institutions of global governance as best exemplified by China's accession to the WTO in 2001, which was the fruit of fifteen years of arduous negotiations.

Even without taking a position on the existence of a 'China Model' or the emergence of a 'Beijing Consensus',² the analysis of China's reforms cannot escape a reference to the notion of 'Chinese characteristics' that highlights all these aspects of China's reforms that do challenge Western political and economic theories.³ One could point to, for instance, the unchallenged control of State Owned Enterprises (SOEs) over the strategic sectors of the economy in

the 'Chinese corporate capitalism'⁴ or the 'resilient capacity and adaptability'⁵ the CCP has demonstrated throughout the process of limited political reforms. China's reforms have nevertheless also been deeply shaped by China's gradual inclusion in the dynamics of globalisation as well as its growing interdependence with the main stakeholders in global governance, including the European Union (EU). Interestingly, China's reforms have been taking place in a timeframe that has also been marked by both the deepening and widening of the European integration process. It is against this background that this paper aims to situate the evolution of the EU-China Strategic Partnership in the context of China's reforms and identify how recent changes in the nature of China's reforms can affect the future of the EU-China Strategic Partnership. It will be argued that the EU-China Strategic Partnership constitutes a testimony of the scope and limitations of both China's reforms process and the role of the EU as a global market and normative power. In a first part, this paper will highlight the importance of economic relations in the context of the EU-China Strategic Partnership confirming both the centrality of the economic aspects of China's reforms as well as the relevance of the EU as a 'market power'. In a second part, this paper will highlight the difficulty for the EU to emerge as a 'normative power' in the context of the EU-China Strategic Partnership. In fact, the relationship with China has tested the normative claim that the EU could strategically prioritise and promote Article 21 TEU values in a coherent way despite the strong limitations of China's political reforms. In a third part, this paper will argue that the uncertain future of China's reforms will require

the EU and China to reinvent their relationship in order to solve the rising number of contradictions that characterise the EU-China Strategic Partnership.

'Market Power Europe' and China's Reforms

Relations between the EU and China have gone a long way since the establishment of diplomatic relations between the PRC and the European Communities in 1975. Interestingly, China has proved to be a consistent supporter of the European integration process. In that sense, Zhou Enlai, then Chinese Premier, stated at the time of the establishment of bilateral diplomatic relationship:

*We... support the peoples of Europe in uniting themselves to safeguard their sovereignty and Independence. We are for the view that the cause of European unity, if it is carried out well, will contribute to the improvement of the situation in Europe and the whole world.*⁶

In a way China's economic reforms and the relationship between the EU and China have evolved hand in hand to a point where the EU is now China's main trading partner and China the second main trading partner of the EU.⁷ Very much in line with the overall economic nature of China's reforms and the European integration process, the relationship between the EU and China has always been mainly centred on economic and commercial issues.⁸ Despite the fact that the EU-China Strategic Partnership, as established in 2003, now covers more than sixty dialogues, it is still arguable that joint priorities remain very much focused on the promotion of trade and investment flows. In that sense, it is 'market power Europe' that constitutes a principal driver of the EU-China Strategic Partnership. 'Market power Europe' endorses as a fundamental premise that '[T]he EU's identity, both historically and presently, is crucially linked to its experience with market integration'.⁹ This has implications as to how the EU works internally but also

THE EU AND CHINA HAVE MADE AN INCREASING USE OF THE WTO DISPUTE SETTLEMENT MECHANISM (DSM) TO SOLVE THEIR TRADE DISPUTES SINCE CHINA'S ACCESSION IN 2001.

how it is able to project its power (of attraction) externally, including in its relationship with China.

At the multilateral level, the EU strongly supported China's accession to the WTO and the European Commission – that had the mandate to negotiate China's accession on behalf of the member states – adopted a consistent negotiating strategy primarily aimed at achieving 'relative gains against other great powers'.¹⁰ As importantly, the EU and China have made an increasing use of the WTO Dispute Settlement Mechanism (DSM) to solve their trade disputes since China's accession in 2001.¹¹ The fourteen disputes brought before the WTO DSM between the EU and China so far have hence contributed to the strengthening of China's legal capacity in the WTO. While a bilateral Free Trade Agreement (FTA) remains out of range for the time being,¹² the EU and China currently negotiate an investment agreement that should strengthen the regulatory framework governing bilateral investment flows and clarify the type of dispute settlement mechanism that will be used to solve investments disputes.¹³

It is not to say that everything is easy in the economic relationship between the EU and China. The significant trade deficit, the rise of protectionism in strategic sectors of economy, and challenges in terms of protection of intellectual property rights explain the strong politicisation of the bilateral economic relationship. Despite all these challenges, the evolution of EU-China economic relations testify to the joint commitment of China's reforms and 'market power Europe' in favour of the liberalisation of international trade in general, and the multilateral settlement of trade disputes in particular. This has been lately exemplified by a number of separate statements – despite some attempts to find a coordinated answer –¹⁴ denouncing the major protectionist moves in the United States foreign trade policy.¹⁵

'Normative Power Europe' and China's Reforms

From the very early years, the relationship between the EU and China has constituted a test case for 'normative power Europe'. 'Normative power Europe' is the widely-discussed notion developed by Ian Manners that refers to the shared norms at the heart of the *acquis communautaire* that define the EU's identity.¹⁶ The EU's success to use and operationalise these core values – i.e. human rights, democracy, and the rule of law – in its relationship with China has always been very much debated. In that sense, the sanctions imposed in the aftermath of the Tiananmen massacre (i.e. the arms embargo) have never been applied in a consistent way by the member states. The adoption of a less confrontational approach such as in the context

of the EU-China Human Rights Dialogue has also been described as a 'fig-leaf for member states' whose very limited commitment to the dialogue 'might inadvertently confirm to the Chinese partners that Europe's stand on values is extinct'.¹⁸ In that sense, the inability of the EU to come up with a joint statement to be delivered at the 35th session of the Human Rights Council (6 to 23 June 2017) was seen as a blatant failure of the EU to develop a coherent human rights policy.¹⁹ The increasingly visible division between member states is only one factor that explains the difficulties to meet the expectations set by the narrative on 'normative power Europe'.

This paper would also emphasise that challenges to 'normative power Europe' within the EU-China Strategic Partnership are primarily the product of false expectations regarding China's reforms. Since the very inception of China's reforms, there has indeed been the hope that the transformation of China's economy would be later accompanied and strengthened by a democratisation of China's politics.²⁰ While it is arguable that China's political reforms have constantly oscillated between periods of 'opening' and 'closing',²¹ they have nevertheless always taken place in the limited space allowed by the One-Party State. This does not mean that the EU has not been successful at all in influencing the evolution of China's normative framework. While the human rights dialogue constitutes a 'low-risk initiative' whose 'concrete influence is difficult to establish',²² the EU and its member states have nevertheless seen part of their respective legal standards and procedures successfully internationalised through processes of 'soft law legal transplants'. These 'soft legal transplants' - 'obtained through formal or informal good practices by? learning or sharing'²³ - are best exemplified by the 2007 Chinese Anti-Monopoly Law that has been deeply influenced by the EU Competition Law.²⁴ Hence the EU's ability to act as a 'normative power' should not only be assessed in view of the EU's success or failure to directly export its values but also to indirectly shape the evolution of China's domestic legal system in areas of common interests. The need for a more strategic and probably less normative engagement with China is partly reflected in the 2016

THE KEY ISSUE FOR NATIONS LIKE CHINA AT THIS STAGE OF DEVELOPMENT IS PRECISELY THE RELATIONSHIP BETWEEN ECONOMICS AND POLITICS.

Global Strategy that puts a great emphasis on the notion of 'principled pragmatism' as an attempt to reconcile the coherent promotion of EU values with the fulfilment of EU interests.²⁵

The EU-China Strategic Partnership and The Future of China's Reforms

Forty years after the start of China's reforms, there is a growing consensus on the fact that China has now reached an important turning point. In that sense, President Xi Jinping emphasised in his report to the 19th CCP National Congress that 'socialism with Chinese characteristics has entered a new era'.²⁶ Internally, the challenges facing China have become numerous and require urgent political and economic responses: 'The key issue for nations like China at this stage of development is precisely the relationship between economics and politics'.²⁷ The unaddressed challenges include the sustainability of such a rapid economic growth trajectory, the high level of income inequality and longstanding economic disparities across the country, as well as the necessity to reform an autocratic but consensus-based political system that has proved ill-equipped to address the more systemic challenges faced by China. Externally, China needs to respond to the crisis of the post-World War II international liberal order. Not only are this order and the global governance architecture in which it is embedded continuously challenged for their lack of legitimacy and efficiency, it is now the first time that the United States has elected a President who stands against the institutions and some of the basic values at the heart of liberal institutionalism.²⁸ In that context, China needs to strike a good balance between acting as a supporter of a multilateral-rules based international order - which has benefited China so much since the inception of the reforms process - and a challenger when it suits its national interests.

A significant part of this uncertainty relates to the question whether China might become more democratic or whether it is likely to become an even more authoritarian state in the future. In a monograph published this summer, Carl Minzner argues that recent developments mark 'China's authoritarian revival' and 'the end of an era'.²⁹ In the same line, Elizabeth C. Economy argues that the authoritarian revival in China challenges Xi Jinping's reform rhetoric.³⁰ A number of elements tend indeed to point in that direction. First, the 2018 amendment of paragraph 3 of article 79 of the PRC Constitution repealed the two five-year term limits for the Chinese President.³¹ This revision of the Chinese Constitution showcases the extent of 'Xi Jinping's power grab'³² and makes it clear "history has returned"³³ in

the sense that there is no longer room for intra-Party debate and opposition against the current Party line. Second, the adoption of a number of new laws aimed to protect China's 'national interests' strongly impede –the already limited- leverage left for checks and balances mechanisms to operate. These new laws include the 2015 National Security Law³⁴ as well as the 2016 Law of the People's Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China.³⁵ More generally, the increasing gap between the Party discourse on the rule of law and the reality of the Chinese legal system testify to the fact that 'the regime's commitment to law is partial and limited and law's full potential as an autonomous force is something the Party is deeply concerned with'.³⁶ Third, China has grown increasingly vocal against the promotion of 'universal values', 'civil society', as well as the idea of 'Western constitutional democracy' as emphasised in a 2013 Communiqué on the Current State of the Ideological Sphere, the so-called Document 9.³⁷ The rejection of these values has been translated into a number of crackdowns against individual and collective rights advocacy whose leverage has been very much shrinking since Xi Jinping came into power.³⁸ It has also conducted China to become increasingly active in promoting an alternative discourse on human rights internationally as best exemplified by the recent adoption of the Beijing Declaration on Human Rights.³⁹

Needless to say that this historical momentum in China's reforms will deeply influence the future of the EU-China Strategic Partnership. While the current authoritarian revival clearly impedes the leverage of the EU to engage into meaningful normative dialogues with China, the resurgence of trade protectionism in the United States and the possibility of a global trade war simultaneously call for a stronger economic cooperation between the EU and China. Hence, it remains to be seen how the success of 'market power Europe' can be reconciled with the weak performance of the EU as a coherent and strategic 'normative power'. No doubt that the EU and China will need to reinvent the nature of their bilateral relationship if this contradiction is to be solved.

At the end of the day, this contradiction and the different ways to address it nevertheless go beyond the very issues at stake in the EU-China Strategic Partnership. On the one hand, the contradiction relates to the future of the multilateral rules-based international order, which has not only shaped but also allowed the emergence of the EU as an

international actor as much as it facilitated the (re-)emergence of China as an economic and political powerhouse. The ability of the existing global governance system to avoid an even deeper fragmentation of international law will condition China's ability to commit to multilateral trade rules, for instance, while negating its commitments under international human rights law. On the other hand, the contradiction relates to the ability of the EU to resolve its normative crises in a context where the rule of law and democracy as they stand no longer seem to function as sufficient legitimising force in the governance of the EU and its member states.⁴⁰ Recent political and constitutional developments in Hungary and Poland tend, in fact, to indicate that the adoption of the *acquis communautaire* is not a sufficient guarantee to ensure Member States' compliance and commitment to EU values.⁴¹ Hence the growing lack of internal coherence deeply constrains the possibility for a coherent and credible promotion of values to develop in the EU external action.

Conclusions

The relationship between the EU and China gives us a clear picture of the scope and limitations of China's reforms and the ability of the EU to act as a market and normative power. The fact that China is now facing a turning point in its domestic reforms combined with the multiple calls for the EU and member states to reinvent the European integration process are only likely to reinforce the contradictions inherent to the EU-China Strategic Partnership. The growing disruption and multiple crises of the multilateral rules-based international order are nevertheless likely to affect negatively both the EU and China. It remains therefore to be seen how the EU and China will navigate (together?) this new normal. ☉

1 Communiqué of the Third Plenary Session Of the 11th Central Committee of The Communist Party of China, adopted on 22 December 1978, available at http://www.bjreview.com.cn/special/30yearsreform/2008-11/29/content_167170_2.htm (accessed: 23 June 2018). **xx** See generally W. Chen, *The Beijing Consensus? How China Has Changed Western Ideas of Law and Economic Development*, Cambridge University Press, 2017. **xx** R. Wang & G. Groot, 'Who Represents? Xi Jinping's Grand United Front Work, Legitimation, Participation and Consultative Democracy', 27 *Journal of Contemporary China* 569, 2018, p. 570. **xx** C. J. Millhaupt, 'Chinese Corporate Capitalism in Comparative Context' in W. Chen, *The Beijing Consensus? How China Has Changed Western Ideas of Law and Economic Development*, Cambridge University Press, 2017, p. 275. **xx** X. Li, 'The Endgame or Resilience of the Chinese Communist Party's Rule in China: A Gramscian Approach', 23 *Journal of Chinese Political Science* 83, 2017, p. 83. **xx** CEC delegation to Japan, 4.4.1975, "China and the E.C.", BAC 136/1987 n°624. **xx** European Commission, *Trade with China*, available at http://ec.europa.eu/trade/policy/countries-and-regions/countries/china/index_en.htm. **xx** G. Geraerts, 'EU-China Relations' in T. Christiansen, E. Kirchner & P. Murray (eds), *Handbook of EU-Asia Relations*, Palgrave Macmillan, 2013. **xx** C. Damro, 'Market power Europe', 19 *Journal of European Public Policy* 682, 2012, p. 683. **xx** H. Zimmerman, 'Realist Power Europe? The EU in the Negotiations about China's and Russia's WTO Accession', 45 *Journal of Common Market Studies* 813, 2007, p. 824. **xx** M. Burnay, *Chinese Perspectives on the International Rule of Law: Law and Politics in the One-Party State*, Edward Elgar, forthcoming 2018. **xx** A. García-Herrero, K.C. Kwok, X. Liu, T. Summers & Y. Zhang, 'EU-China Economic Relations to 2025 Building a Common Future', A Joint Report by Bruegel, Chatham House, China Center for International Economic Exchanges and The Chinese University of Hong Kong, 2017, pp. 12-13, available at http://bruegel.org/wp-content/uploads/2017/09/CHHJ5627_China_EU_Report_170913_WEB.pdf. **xx** D. Hallinan, 'The EU-China Bilateral Investment Treaty: A Challenging First Test of the EU's Evolving BIT Model', 5 *China-EU Law Journal* 31, 2016. **xx** See for instance: *Mission of the PRC to the European Union, China and the EU Have a Joint Responsibility to Uphold the Rules-based Multilateral Trade Order*, 5 April 2018, available at <http://www.chinamission.be/eng/mh/t1548272.htm>. **xx** See for instance: *Keynote Speech by H.E. Xi Jinping, President of the People's Republic of China At the Opening Session Of the World Economic Forum Annual Meeting 2017*, 17 January 2017, available at <https://america.cgtn.com/2017/01/17/full-text-of-xi-jinping-keynote-at-the-world-economic-forum> and **xx** I. Manners, 'Normative Power Europe: A Contradiction in Terms?', 40 *Journal of Common Market Studies* 235, 2002. **xx** O. Brauner, 'Beyond the Arms Embargo: EU Transfers of Defense and Dual-Use Technologies to China', 13 *Journal of East Asian Studies* 457, 2013, p. 476. **xx** F. Godement & A. Vasselier, 'China at the Gates: A New Power Audit of EU-China Relations', ECFR, 2017, p. 86, available at http://www.ecfr.eu/page/-/China_Power_Audit.pdf. **xx** H. Smith, 'Greece Blocks EU's Criticism at UN of China's Human Rights Record', *The Guardian*, 18 June 2017, available at <https://www.theguardian.com/world/2017/jun/18/greece-eu-criticism-un-china-human-rights-record>. **xx** S. Zhao, 'Political Liberalization without Democratization: Pan Wei's Proposal for Political Reform', 12 *Journal of Contemporary China* 333, 2003, p. 334. **xx** D. Shambaugh, 'Contemplating China's Future', 23 *Chinese Journal of Political Science* 1, 2018, p. 4. **xx** K. Kinzelbach, *The EU's Human Rights Dialogue with China: Quiet Diplomacy and its Limits*, Routledge, 2014, p. 196. **xx** M. Burnay, 'Soft Legal Transplants: EU-China Relations at A Glance' in J. Men & Annika Linck (eds) *The EU and China: Reform and Governance*, Routledge, 2017, p. 20. **xx** Q. Wu, 'EU-China Competition Dialogue: A New Step in the Internationalisation of EU Competition Law', 18 *European Law Journal* 461, 2012. **xx** M. Burnay and K. Raube, 'Strategy, Coherence and Legitimacy – Variations of a Theme in the Case of EU-China Relations', *Special Issue Legitimacy in EU Foreign and Security Policy, Global Affairs*, forthcoming. **xx** Report to the 19th National Congress of the Chinese Communist Party, *Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era*, 18 October 2017, available at http://www.xinhuanet.com/english/download/Xi_Jinping's_report_at_19th_CPC_National_Congress.pdf. **xx** D. Shambaugh, 'Contemplating China's Future', 1 *Journal of Chinese Political Science* 1, 2018, p. 2. **xx** See G. J. Ikenberry, 'The End of Liberal International Order?', 94 *International Affairs*, 2018. **xx** C. Minzner, *End of an Era: How China's Authoritarian Revival is Undermining Its Rise*, Oxford University Press, 2018. **xx** E. C. Economy, *The Third Revolution: Xi Jinping and the New Chinese State*, Oxford University Press, 2018. **xx** Presidium of the 1st Session of the 13th National People's Congress of the People's Republic of China, *Announcement of the National People's Congress of the People's Republic of China No. 1*, 11 March 2018. **xx** M. Pei, 'China's Return to Strongman Rule', *Foreign Affairs*, 1 November 2017. **xx** F. Godement, 'Xi's Rule of Life: What Does Our Anxiety Reveal?', *ECFR Commentary*, 28 February 2018, available at https://www.ecfr.eu/article/commentary_xis_rule_for_life_what_does_our_anxiety_reveal. **xx** The National Security Law of the People's Republic of China, as adopted at the 15th session of the Standing Committee of the Twelfth National People's Congress of the People's Republic of China on 1 July 2015. **xx** The Law of the People's Republic of China on the Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China, adopted at the 20th Meeting of the 12th Standing Committee of the National People's Congress on 28 April 2016 and entered into force on 1 January 2017. **xx** H. Fu, 'The July 9th (709) Crackdown on Human Rights Lawyers: Legal Advocacy in an Authoritarian State', 27 *Journal of Contemporary China* 554, 2018, p. 567. **xx** Document 9, *Communiqué on the Current State of the Ideological Sphere*, A ChinaFile Translation, 8 March 2013, available at <http://www.chinafile.com/document-9-chinafile-translation>. **xx** See E. Pils, *Human Rights in China*, Polity Press, 2018. **xx** South-South Human Rights Forum, *Beijing Declaration on Human Rights*, 8 December 2017. **xx** These crises will be at the heart of the H2020 Project 'Reconciling Europe with its Citizens through Democracy and Rule of Law'. See <https://reconnect-europe.eu/>. **xx** D. Kochenov, 'The Issue of Values' in R. Petrov and P. Van Elsuwege (eds), *Legislative Approximation and Application of EU Law in the Eastern Neighbourhood of the EU*, Routledge, pp 46–62.



Matthieu BURNAY

BIO

Dr Matthieu Burnay is a Lecturer (Assistant Professor) in Global Law at Queen Mary University of London. He is also a Visiting Professor at Beijing Normal University and an Associate Researcher at the Leuven Centre for Global Governance Studies. His main research interests are in global law and governance; the study of the political and legal aspects of EU-China relations; as well as the comparative study of the rule of law in Europe and Asia.

FORTY YEARS OF CHINA'S OPENING: CHANGING THE POST WORLD WAR II INTERNATIONAL ORDER

GERHARD STAHL

1. The beginning

After years of turmoil and infighting during the Cultural Revolution, the Chinese Communist Party under the leadership of Deng Xiaoping enacted in December 1978 a new policy of "Reform and Opening Up".¹ In 1979, Deng Xiaoping created the first Special Economic Zone (SEZ) in Shenzhen to open China to the global economy. Shenzhen, then a small fishing village just north of Hong Kong, welcomed foreign and national investors to build factories for goods to be exported to the world.

Fences protected the economic zone from the surrounding poverty and separated its functioning from the rest of China's economy: a planned economy based on directives, quotas, ration coupons allocating goods and services, resources, labour and investment. An island was created, opening a window to the world, in a country that was still closed. The foundation was laid for China to become the factory of the world. Shenzhen became within a few decades a modern innovative metropolis bigger than Paris. 'Shenzhen spirit' became the symbol of rapid change, economic development and entrepreneurship. The success of Shenzhen found followers. Shanghai was built into an international trade city. The Pearl River Delta attracted more and more international investment and foreign companies.

The global economy integrated China's factories into its supply chains and production networks. These factories occupied positions at the lower or middle levels of the international value chains. The globalisation process of the eighties and nineties benefitted from cheap Chinese labour, allowing American, European and Japanese companies

to control the production chain and to offer cheap products to their consumers. The new international division of labour increased efficiency and supported economic growth. It also contributed to an increase of the profit rate for capital and to a decrease of the share of labour income in the National Income in most of the western economies.²

Income inequality increased in the US and in Europe.³ In China the divide between the rural countryside and the coastal metropolitan areas increased and migrant workers began to flood the quickly growing cities. Millions of Chinese were lifted out of poverty. The rigid command economy of China moved step by step to a Socialist Market Economy with Chinese characteristics.

In 2001 China was accepted as a member of the World Trade Organization (WTO). At the height of neoliberal thinking and after the break down of the Soviet Union, many Western observers expected that China would conform to the model of Western liberal market economies. Some even forecasted, in the long term, a radical change of China's political system leading to the demise of the Communist party.⁴

The obligations stemming from the entry into the WTO were an important stimulus to deepen the reform of China's state-controlled economic system. After years of debate, the Chinese Communist Party confirmed that the market plays a decisive role in the allocation of resources.⁵ Further reforms of State controlled companies took place, more private companies were allowed and joint ventures with Western companies fostered the import of modern technologies and management methods.

However, the Chinese leadership was careful and did not opt for a 'big bang' transition to the market economy, but for a gradual, step by step approach. In deciding its policies it looked into the failures and the hardship caused by the quick introduction of market economy principles in the transition process of Russia and other former Soviet Union countries. Most importantly, it linked its market-oriented opening-up to the priorities laid down in its successive Five Year Plans with the aim of making China a moderately prosperous society by 2020. For today's China, the overarching objective is to develop so as to regain its status as a leading world civilisation. In the speeches of President Xi Jinping these objectives are described with the slogan of the "great rejuvenation of the Chinese nation".⁶

2. From a developing country to an economic powerhouse, a high tech leader and major international actor

There are still nearly 600 million Chinese living in rural areas. In a lot of villages, agricultural production has not changed very much over the years. Productivity is low and the specific rules for collective agricultural land are a barrier for modernisation. Although absolute poverty has been largely eliminated, there is still a big development gap between rural and urban areas, which needs to be addressed.

Under the leadership of President Xi Jinping, the government committed to reducing regional development gaps and to enable the rural populace to benefit from the wealth of urban China. The modernisation of agriculture and the incorporation of millions of rural citizens into the modern economic system will be a key task for at least another decade. As a consequence of the catch-up process of rural areas, China is expected to keep a relatively high economic growth rate for the years to come. The big difference in the GDP per capita of rural areas compared to prosperous dynamic metropolitan areas helps explain how China is still a developing country and a growth engine of the global economy at the same time.⁷ The growth potential of China is strengthened by the innovation drive coming from some of the internationally well-connected prosperous metropolitan centres. The prosperous urban class of China includes already around 400 million citizens.

This gives China a middle class and consumer base bigger than the population of the United States. The demand of this large and increasingly sophisticated internal market provides a good basis to prepare the fourth industrial revolution.

Modern societies and economies are at the starting point of the next technological revolution. The combination of robotics, artificial intelligence, Internet of things, big data and cloud computing creates the potential for unprecedented changes. Slogans like "Smart Manufacturing" or "Industry 4.0" try to raise awareness of the big changes to be expected in both the production and distribution of goods and services. More and more experts and stakeholders acknowledge that the fourth industrial revolution will reshape the dynamics of global competition. Supported by central and provincial governments, Chinese companies, universities and research centres have entered the race for new technologies and innovations. The education system is rapidly improving to provide the highly skilled human capital needed for the future. China's industrial policy plan "Made in China 2025" aims to turn the country into a "manufacturing superpower" over the coming decades.⁸

In some key areas, Chinese companies already succeeded in becoming market and technology leaders. Huawei, the largest maker of telecommunication infrastructure in the

world, replaced Ericsson as the market leader also in Europe. Huawei's innovation capacity can be seen by the fact that in 2016 it registered more patents than any of its competitors. In solar energy, Chinese companies have also become world market leaders. For electric cars, Chinese companies like BYD are leaders in the number of produced cars and in their experience with new technologies.

In the production of batteries, a key component of electric mobility, there is a fierce competition between Chinese, Korean and Japanese companies. Many commentators fear that European companies have already lost the technology competition in this area. In Internet-related services and products, Chinese companies like Alibaba and Tencent are leading market players and innovators. Chinese companies are prominent in the production of modern high-speed trains and are getting strong in robotics.

THE COMBINATION OF ROBOTICS, ARTIFICIAL INTELLIGENCE, INTERNET OF THINGS, BIG DATA AND CLOUD COMPUTING CREATES THE POTENTIAL FOR UNPRECEDENTED CHANGES.

The competitive strengths of China's economy can also be seen in the increased global presence of Chinese investors and companies. Whereas the first wave of Chinese direct investment was directed towards developing countries in Asia and Africa, in recent years Chinese investors have gained the confidence to enter developed markets. In Europe the globalisation process of the last several decades has been shaped by the European Union, creating the biggest internal market in the world for more than 500 million people, as well as the most important trading partner for China.

The importance of the EU for China is also reflected in the soaring levels of Foreign Direct Investments (FDI). China's annual FDI in the EU has become larger than European companies' FDI in China. In 2016, China invested 35 billion USD in the EU, whereas European companies only invested 8 billion in China.⁹ As shown by these examples, the situation where Western companies were at the commanding height of the production and value chains of the international economy has changed. China's successful opening policy was the major reason for the gravity shift of the world economy towards Asia. In 1980 half of the world GDP was created in the US and Europe. Since then this share has fallen to 36 per cent, whereas the Asia-Pacific region creates 45 per cent of the world GDP and China alone 19 per cent.¹⁰

In line with the increased economic strength of Chinese companies, the Chinese government has been intensifying its foreign policy activities. The new Silk Road or Belt and Road Initiative is the most visible and ambitious example. It is a long-term vision of infrastructure development and economic integration targeting Asia, Europe and even parts of Africa and Latin America. The creation of new international financial institutions like the Asian Infrastructure and Investment Bank (AIIB), the New Development Bank (formerly BRICS-Bank), and the upgrading of the Shanghai Cooperation Organizations (SCO) are other examples. The SCO is now an international organization representing, with new members like Russia, India and Pakistan, half of the world population and a quarter of the global GDP.¹¹

3. China's rise and the Post WWII International Order

The current international order, hinging on 'Western' international financial institutions (IMF, World Bank), the WTO and the strong role of the US Dollar as international reserve currency, reflects the economic and political situation after the Second World War. The US was the economic and political pillar of the post war international order for decades. The recent changes of the global economy and the rise of

China affect American business and American politics, and therefore impact the US' privileged position at the centre of the international system.

For many American and some European academic experts, China's rise poses a fundamental challenge. Some academics associated with "offensive realism" argue that China will attempt to dominate Asia; with the consequence that the US and some of China's neighbours will push back, thereby heightening the risk of confrontation and conflicts.¹² Other scholars focus instead on the advantages of China's development for mutually beneficial cooperation. Some proponents of a liberal international order see China strengthening this order and defend it against critical voices.¹³

Also in the political and policy debate two positions are present. The first sees a hegemonic competition between the US and China. The former US Assistant Secretary of State for Asia, Kurt Campbell said: the US "will not go quietly into the night".¹⁴ The Trump Administration and part of the political system of the US seem to belong to this school, fighting for an 'America first' policy. This can be seen in the difficulty to reform the IMF, where the American Congress has refused to allow reforms seeking to ensure an appropriate representation of China and some other countries, based on the increased economic strength of these economies.¹⁵ Some of the rhetoric used by the Trump Administration in the current trade conflict between the US and China gives the impression that the intention is not to solve clearly defined trade problems, but to engage in a more global confrontation about supremacy.

The other position underlines that in a globalised context countries have become so interlinked, that uncoordinated national policies or trade barriers are no longer able to address many of the world's common problems, such as climate change, oceanic pollution, global financial stability, and sustainable growth.

This can be seen in the statements of EU officials and national politicians rejecting an America first policy and defending the rules-based multilateral international system and an open global economy.¹⁶ European policymakers also understand that the economic rise of China must be reflected in the international financial architecture, and are generally in favour of a reform of the global governance system of the past.¹⁷ Therefore, European member states accepted the invitation of the Chinese government to join the AIIB, even against the wish of the US.

4. How to organise international cooperation and competition in an evolving international order?

European integration is the historical answer to centuries of deadly competition between European nations for supremacy. The experience of two world wars convinced European nations to accept a Union that is based on common rules and common legislation controlled by a European Court of Justice. A policy of "my nation first" was replaced by the search for policies representing the common interest and finding a compromise between different national positions. This method can be also of interest for the further development of the international economy.

For the future economic and political development it will be decisive which of the two schools of thought will prevail: hegemonic competition or international cooperation.

There is one big challenge for upholding free trade and developing further the global economy and international cooperation: how to organise international competition between very different economic and political systems? The difficulty can be seen in the controversy linked to the obligations of WTO membership for China and its market economy status.

The gradual approach of Chinese market opening disappoints some Western governments. As a consequence, these governments do not accept that China is regarded, even after the fifteen years transition period in the WTO, as a market economy. In the detailed report of the American trade representative to Congress on China's WTO compliance in 2017, the Chinese government is severely criticised:

"U.S. policymakers hoped that the terms set forth in China's Protocol of Accession (to the WTO) would dismantle existing state-led policies and practices that were incompatible with an international trading system expressly based on open, market-oriented policies and rooted in the principles of non-discrimination, market access, reciprocity, fairness and transparency. But those hopes were disappointed. China largely remains a state-led economy today, ..." ¹⁸

China is still partly a developing country and at the same time a powerhouse of the world economy. These two conflicting sides of the Chinese reality and the characteristics of the socialist market economy, with over 100,000 state-owned enterprises, make it difficult for international partners to find the best way to deal with China. In order for an open world economy to be defended

against critics and developed further in the interests of all, it is important to find a common answer to some fundamental questions. The starting point for any international cooperation must be to recognise the particular characteristics of a country and to respect the national institutional structures.

Looking to the economic and political development of China since the start of its opening-up policy, it is not evident why China should change a successful policy model. Why should China adopt a Western concept of the market economy, if its socialist market economy serves its specific development needs best? China has the right to organise its economy so that it can best achieve its objectives. This includes the role of state-owned enterprises.

The EU treaty is neutral to the ownership structure; it does not discriminate between state and private. In several EU-countries state-owned companies still play an important role. In the European internal market state-owned companies are allowed to participate like private companies. But it must be guaranteed that companies - whether state or private - do not enjoy unjustified competitive advantages through state action.

CHINA HAS THE RIGHT TO ORGANISE ITS ECONOMY SO THAT IT CAN BEST ACHIEVE ITS OBJECTIVES. THIS INCLUDES THE ROLE OF STATE-OWNED ENTERPRISES.

Of course, it raises questions when the European Chamber of Commerce in China notes that the initiative 'Made in China 2025' limits market access for foreign companies and provides state-support for the acquisitions of European companies. This is the core of European companies' request for reciprocity of investment conditions, and explains some of the critical voices against Chinese industrial policy and investment in the EU.

5. China's policy is crucial to the further development of the international trade system

It is in the interest of China and Europe to deepen their economic cooperation. Chinese companies and investors in European markets are an essential element to upgrade this

cooperation. Therefore, it is important to eliminate irritations linked to unequal treatment and to agree on common rules. Progress should therefore be made in the negotiations for a Comprehensive Agreement on Investment (CAI) between the EU and China. These negotiations started already in 2013 with limited progress up to now. However, it is reassuring that China and the EU agreed to put the investment agreement as a priority on the agenda of the 20th EU-China summit in Beijing, 16 and 17 July 2018.¹⁹ In the conclusions of the summit it is stated that “Both sides welcome the exchange of market access offers which should bring the negotiations into a new phase and are committed to accelerate the discussions.”²⁰

A success in the negotiations of the China-EU CAI could prove the commitment of China for further opening of its market and demonstrate the capacity to find an understanding between very different political systems. Especially at a time of increasing trade conflicts, this would be an important signal to maintain confidence in the positive development of the global economy. It would demonstrate joint Chinese and European support of a rule-based international system. ☺

1 Henry Kissinger, *On China*, Penguin Books, 2012, pp. 192 and 335. **2** Thomas Piketty, *Das Kapital im 21. Jahrhundert*, [The Capital], H. Beck, 2016, p. 294 **3** *ibid.*, p. 429 **4** Jochen Bitner, “Europe must embrace the Trump sole”, *The New York Times*, June 20, 2018. In this article the author states: “When the door was opened, in 2001, many in the West believed that a growing Chinese middle class... would eventually claim voice and suffrage, thereby democratizing China.” **5** Communiqué of the Third Plenum of the Chinese Communist Party’s, 18th Congress, 2013. **6** Li Wen, *Contemporary China’s Society*, China Intercontinental Press, 2014, pp. 35 and 36. **7** President Xi Jinping confirmed at the 19th National Congress of the CCP the official position: China is the world largest developing country. See *Xinhua*, June 5, 2018, “Why is China still a developing country?” (http://www.xinhuanet.com/english/2018-06/05/c_137231686.htm) **8** Jost Wübbeke, *Made in China2025, The making of a high-tech superpower*, *Merics*, No 2, 2016. **9** John Seaman, Mikko Huotari, *Chinese Investment in Europe*, ETNC Report, December 2017. **10** IMF World Economic Outlook, April 2018, based on PPP. **11** For the last SCO summit see the cover story of *China Daily*, *European Weekly*, June 15-21, 2018. **12** John J. Mearsheimer, *The Tragedy of Great Power Politics*, New York and London, W.W.WNorton, 2nd ed. 2014, p. 362. **13** See John Ikenberry, *The end of liberal international order?* *International Affairs* 94(1), 2018, pp. 7-24. **14** Cited in Gideon Rachman, *Easternisation: War and Peace in the Asian Century*, Bodley Head, 2016, p. 67. **15** In the report: ‘2016 G20 and China’ by the Chongyan Institute for Financial Studies, New World Press, Beijing, 2016, the IMF reform and American objections are summarized in the pp. 269 – 281. **16** French President Macron stated this position very clearly in his speech to the US Congress, 25 April 2018: “We can build the 21st century world order, based on a new breed of multilateralism. Based on a more effective, accountable, and results-oriented multilateralism. A strong multilateralism.” <http://www.elysee.fr/declarations/article/transcription-du-discours-du-president-de-la-republique-emmanuel-macron-devant-le-congres-des-etats-unis-d-amerique/> **17** Some ideas are presented in Chongyan Institute for Financial Studies, *op.cit.* pp. 132 – 134. **18** 2017 report to Congress on China’s WTO compliance, presented by the US trade representative in January 2018, p. 2. **19** Chinese EU-Ambassador Zhang Ming confirmed this intention for the 20th EU-China Summit in his *Handelsblatt* interview of 9 July 2018. **20** See for further details paragraph 13 of the joint statement of the 20th EU-China Summit: <http://www.consilium.europa.eu/en/press/press-releases/2018/07/16/joint-statement-of-the-20th-eu-china-summit/pdf>



Gerhard STAHL

BIO

Current Position: Professor at the Peking University HSBC Business School, Shenzhen; Former Secretary General, Committee of the Regions of the EU.

Academic/professional record: Gerhard Stahl is Professor at the Peking University HSBC Business School in Shenzhen in China (since 2014). He teaches Economics. Until April 2014 he was Secretary-General of the Committee of the Regions of the European Union (EC). Before he worked for years in the European Commission, namely in regional policy and in economic and monetary affairs. His last position in the EC was Deputy Head of Cabinet of the Commissioner responsible for Economic and Monetary Affairs. He started his professional career as economist at the Federal Ministry of Finance in Bonn. He is Member of the Advisory Committee of the IFO-Economic Research Institute in München and Member of the Scientific Council of the Foundation for European Progressive Studies.