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EU-China Relations and Implications for Taiwan

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Introduction

It is well-known that the European Union is facing a whole landscape of crises, internally and in its neighborhood, ranging from the still unresolved European debt crisis (most prominently Greece), the rise of rightist populism (Hungary, Poland, Austria, France, also including Germany), the surprising referendum result in the UK to leave the EU ("Brexit"), the situation in Ukraine and the strained relationship with Russia under Putin's leadership, the developments in Iraq and Syria with Isis or Isil, Libya etc. Moreover, there are two issues connecting the internal and external crises, namely the number of refugees fleeing from war or unstable conditions in neighboring countries and small and large-scale terrorist attacks in European cities. It is far from clear whether and in what form the European Union can survive this onslaught of challenges to its coherence and solidarity.

All these problems and the lack of capacity the EU has demonstrated in solving any of them have changed the Union's image and reputation outside of Europe, including in China. While official statements of Chinese leaders still express confidence in the ability of the EU to survive the crises, such optimism does not prevail anymore in academic analyses and media reports. Some of the developments, most importantly probably the referendum in the UK to leave the EU, will also have a direct impact on China.

In light of the overall situation in Europe and its neighborhood, it is hardly surprising that the EU has not paid a lot of attention to the election results in Taiwan. If we look at developments in EU-China relations, two topics have taken center-stage in 2016, namely the question of Market Economy Status and the award of the tribunal in The Hague concerning the South China Sea. The EU has also published a new China strategy paper (as well as a new global Security Strategy). The following paper will address important developments in EU-China relations over the last year.

New Communication by the EU on China

On June 22, 2016, shortly before the EU-China summit, the European Commission and the High Representative of the Union for Foreign Affairs and

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How the European crises are perceived by Chinese official and social media is analyzed in Jasmin Gong / Bertram Lang / Kristin Shi-Kupfer: Questioning not the EU, but the "Western System". European crises through the lens of Chinese media, 12 July 2016, MERICS China Monitor No. 33, http://www.merics.org/fileadmin/user_upload/downloads/China-Monitor/MERICS_China_Monitor_33_EU_crisis_in_chinese_media_web.pdf.

Security Policy issued a Joint Communication to the European Parliament and the Council under the title *Elements for a new EU strategy on China*². This is the first EU China paper in ten years and it particularly takes note of the changes which have taken place during this period.³ The paper itself is divided in seven parts, an introduction (executive summary and providing some background on developments in China) and parts on principles of engagement, prosperity and reform agenda, finding common interests on foreign policy and security, global governance and cooperation in a multilateral context. The sixth part on a more joined-up approach towards China focuses on the cohesion among EU and member states and a brief final section on "next steps", announces future recommendations for following up. Overall, the tone of the paper is constructive, but it also expresses concerns about the lack of progress in China in several areas like giving the market a greater role, the introduction of new restrictions on foreign operators in China and limiting or undermining the rule of law. The paper confirms the EU's clear commitment to a one-China-policy. At the same time it underlines that European China policy should be embedded in a comprehensive approach towards the Asia-Pacific and the EU's partners in this region, including the US.

The longest part of the paper is the one on "Prosperity and Reform Agenda", with sub-sections on the EU as a partner in China's economic, environmental and social reforms; boosting trade and investment, research, innovation and digital economy and finally connectivity and people-to-people links. In the area of foreign policy, the paper sees potential in cooperating with China for example in Afghanistan, Syria and Libya as well as on migration. At the same time, the EU paper expresses concerns with respect to the East and South China Sea and encourages China to contribute more to regional stability. In terms of EU-China security and defense cooperation, potential for a closer interaction is seen on the African continent, where China is already engaged in peace-keeping and anti-piracy operations. Opportunities for working together are also identified on the global level on climate change, energy architecture, fishing, the G20 and on the 2030 Agenda and SDG.

For the first time, a China policy paper explicitly addresses the question of coherence and cohesiveness of the EU and its member states and suggests clearer prioritization and a review mechanism to be introduced in the EU's China policy. A first annual progress assessment of the EU-China 2020 Agenda was conducted in April 2016. Whether all the goals listed in the China policy paper can be

² Full text at

http://eeas.europa.eu/china/docs/joint communication to the european parliament and the council - elements for a new eu strategy on china.pdf

See European Commission Press release: "The European Union sets its sights high on ambitions with China", 22 June 2016, http://europa.eu/rapid/press-release IP-16-2259 en.htm.

achieved and will actually lead to a more strategic approach of the EU remains to be seen. In light of the different interests within the EU and the many other challenges the Union is facing, it will not be an easy task.

China-EU Summit

In the run-up to the EU-China summit, Eurostat published figures for trade and investment between both entities. According to these statistical data, the EU had a record trade deficit of 180 billion €with China in goods, while it had a surplus of ca. 10 billion €in trade in services. In 2015, China remained the biggest source of imports, accounting for more than 20 % of the EU's overall imports, and China was the second largest partner of the EU for exports, absorbing 9.5 % of all exports. With the exception of Germany and Finland, every single member state had a trade deficit with China. Although Chinese FDI in the EU have gone up over the last years, EU countries are still investing more in China than the other way round, and in terms of FDI stocks, EU FDI in China is still seven times bigger (144.2 billion €) than Chinese stocks in the EU (20.7 billion €). Nevertheless, one of the biggest issues from the perspective of the EU is the lack of reciprocity in market access: While there are hardly any obstacles for Chinese investments in the EU, European companies still face restrictions in many sectors of the Chinese economy.

The summit took place in Beijing on 12-13 July 2016, when the UK had already voted in favor of leaving the EU and just when the arbitral tribunal in The Hague handed down its final ruling on the South China Sea case initiated by the Philippines. Main topics at the summit were Market Economy Status (MES), connectivity (One Belt One Road/Connectivity Platform), Brexit, over-capacities in steel production and the Bilateral Investment Treaty (BIT). Concerning steel production, both sides agreed to establish a common working group to further discuss the issue. With respect to MES, Commission Head Juncker revealed that no final decision had been made yet, but that the EU would stick to its international obligations.

Some topics and results were announced after the summit meeting (concerning international cooperation based on rules, migration as a global issue to be discussed at the G20 summit in Hangzhou, another round of human rights consultations), but no joint statement has been issued so far.

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⁴ See http://ec.europa.eu/eurostat/documents/2995521/7553974/6-12072016-BP-EN.pdf/67bbb626-d55f-4032-8c24-48e4c9f78c3a.

Market Economy Status for China?

One problem with the question of granting China Market Economy Status has been and still is the fact that it plays out in different dimensions which are often mixed up and not discussed separately. One dimension is the legal aspect (a subsection of article 15 of China's accession protocol to the World Trade Organization); a second dimension is more technical and concerns the preconditions which the EU Commission formulated for a country to fulfill market economy standards; and a third dimension is the political one: granting China MES ultimately as a question of political will of European leaders. It comes as no surprise that the issue is highly controversial among the EU institutions, between different member states and within member states between different industry sectors. Think tank studies⁵ and op-eds⁶ in major media outlets also contribute to the debate.

On the legal question, the European Parliamentary Research Service published an in-depth study in November 2015 which also looked at the legal and political positions of selected other WTO members like the US, India, Mexico, Canada and Japan. ⁷ Concerning the second dimension, the EU Commission more than a decade ago had formulated five criteria and had for several years met with Chinese counterparts regularly to assess the progress made. But these meetings were discontinued after 2008, maybe due to a lack of interest on the Chinese side, which came to the conclusion that MES would be granted automatically in December 2016. On the political dimension, China had argued all along that the EU has

The European Council on Foreign Relations (ECFR) published two analyses: Francois Godement: China's Market Economy Status and the European Interest, June 2016 (= ECFR http://www.ecfr.eu/page/-/ECFR_180_-_CHINA_MARKET **Policy** Brief 180), ECONOMY STATUS AND THE EUROPEAN INTEREST (002).pdf; Special Issue: Time's Up: China's Coming Battle For Market Economy Status, June 2016 (= ECFR China http://www.ecfr.eu/page/-/ECFR_177_-_TIMES_UP_CHINAS Analysis 177), _COMING_BATTLE_FOR_MARKET_ECONOMY_STATUS.pdf. The Mercator Institute for China Studies (merics) also published a study: Mikko Huotari, Jan Gaspers, Olaf Böhnke: Asserting European interests: How Brussels should deal with the question of China's Market Economy Status, January 2016 **MERICS** China Policy Brief), (= http://www.merics.org/fileadmin/user_upload/downloads/China_Policy_Brief/China_Policy_ Brief January 2016.pdf.

E.g. Jan Gaspers, Mikko Huotari: "EU should not rush into granting China market economy status", 11 Feb. 2016, EUobserver, https://euobserver.com/opinion/132222; Kerry Brown: "Why the EU Should Grant China Market Economy Status", *The Diplomat*, 5 Jan. 2016, http://thediplomat.com/2016/01/why-the-eu-should-grant-china-market-economy-status/.

European Parliamentary Research Service: *Granting Market Economy Status to China. An analysis of WTO law and of selected WTO members' policy*, November 2015 (PE 571.325) (http://www.europarl.europa.eu/RegData/etudes/IDAN/2015/571325/EPRS IDA(2015)5713 25 EN.pdf). The Policy Department of the Directorate-General For External Policies also published an analysis on the issue of MES: Barbara Barone: One year to go: The debate over China's market econ omy status (MES) heats up, December 2015 (PE570.453) (http://www.eesc.europa.eu/resources/docs/one-year-to-go.pdf).

granted MES to Russia, which it cited as proof that this is a political decision and not one based on fulfilling a specific set of criteria.

In May 2016, the European Parliament voted for a non-binding resolution not to grant China MES. European negotiators, for example Juncker at the EU-China summit, have linked the question of over-capacities (especially steel, aluminum) and the question of state subsidies in China to granting MES. While China denied that overcapacities in steel production can be blamed on one country alone, both sides agreed to set up a "steel platform" which would observe and verify Chinese steel exports.

In July 2016, after discussing the issue of MES, the EU Commission decided that while the EU had to meet its WTO obligations, it would focus on strengthening the trade defense mechanism of the EU (independently of China). This would constitute a "third way" and the EU would abolish the list of non-market economies altogether. It the EU Commission comes up with a formal proposal on how to proceed, first the Council (namely, the EU member states) and then the European parliament will have to endorse the recommendation made by the Commission.

South China Sea Ruling by Tribunal on July 12, 2016

The developments in the South China Sea and the verdict by the arbitral tribunal in The Hague, which had already been topics in 2015, were commented on by the EU and by several member states.

In their declaration on maritime security in Hiroshima, the Foreign Ministers of the G7, including not only EU member states France, German, Italy and the UK, but also the High Representative of the EU Federica Mogherini, followed up on the Lübeck declaration of the year before. But this time the declaration went further by expressing "strong opposition" to specific activities more explicitly and in more detail. Although China is again not mentioned by name, there can be little doubt that it is the main cause of concern and the main addressee of this declaration. ¹¹ In a separate statement on behalf of the EU one month earlier,

[&]quot;European Parliament resolution of 12 May 2016 on China's market economy status", P8_TA-PROV(2016)0223 (http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0223+0+DOC+XML+V0//EN).

[&]quot;EU dodges China 'market economy status' question", EurActiv, July 20, 2016 (https://www.euractiv.com/section/trade-society/news/eu-sidesteps-mes-question-with-promise-of-strong-trade-defence/). https://thediplomat.com/2016/07/market-economy-status-for-china-the-views-from-brussels-and-beijing/

R. Höltschi: "EU sucht dritten Weg im China-Streit; Brüsseler Kommission regt neues Verfahren gegen unfaire Importe an", *Neue Zürcher Zeitung*, 12 July 2016, p. 25.

[&]quot;G7 Foreign Ministers' Statement on Maritime Security April 11, 2016 Hiroshima, Japan", April 11, 2016 (http://eeas.europa.eu/statements-eeas/2016/160411_05_en.htm)

Mogherini had expressed concern about the deployment of missiles on islands in the SCS.¹²

A few weeks after the G7 declaration, the Defense Minister of France Jean-Yves Le Drian in his speech at the IISS conference in Singapore (Shangri-La Dialogue) proposed that the European Union should undertake patrols in the South China Sea to promote freedom of navigation and overflight. France is one of the EU member states which actually has some military assets in the region, mainly in the South Pacific. Apparently, the French proposal to step up the EU's military profile in the SCS had not been coordinated with other EU member states, and it is unclear whether there has been any follow-up.

As mentioned above, the ruling by the arbitration tribunal in The Hague coincided with the EU-China summit, but at least in the published material on the summit, the decision of the tribunal is not mentioned at all. Since the date of the ruling had been announced beforehand, the EU and member states had time to prepare a statement. However, it took the EU several days before it published its statement on the award. 14 While it had been widely believed that a consensus on the exact wording of the declaration had been reached before the tribunal announced its decision, if such a consensus existed, it apparently fell apart quickly. One reason could be that every observer was taken by surprise by the clarity of the final award, i.e. nobody had expected that the tribunal would rule in favor of the Philippines on practically every single issue. In the end, a joint EU declaration was issued, but it turned out to be a rather weak one. For example, the award by the tribunal was merely "acknowledged". A weak consensus among the member states still has to be seen as better than no joint statement at all. But the problems in coming up with a consensus demonstrate how divergent the positions are within the EU when it comes to China policy. From the perspective of Brussels, a part of these problems have to do with the 16+1 format and its European members – and this is also the reason why the new communication on China underlines more explicitly than ever the necessity that EU and its member states stick to some core messages in their dealings with China.

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[&]quot;Declaration by the High Representative on behalf of the EU on Recent Developments in the South China Sea", March 11, 2016 (http://www.consilium.europa.eu/en/press/press-releases/2016/03/11-hr-declaration-on-bealf-of-eu-recent-developments-south-china-sea/)

See Ankit Panda: "French Defense Minister to Urge EU South China Sea Patrols", *The Diplomat*, June 6, 2016 (http://thediplomat.com/2016/06/french-defense-minister-to-urge-eu-south-china-sea-patrols/).

[&]quot;Declaration by the High Representative on behalf of the EU on the Award rendered in the Arbitration between the Republic of the Philippines and the People's Republic of China", 15 July 2016 (http://www.consilium.europa.eu/press-releases-pdf/2016/7/47244644320 en.pdf).

Elections in Taiwan: Reactions of EU and Member States

The EU and some member states, for example the UK, France and Germany, issued short statements acknowledging the election results and the consolidated democracy in Taiwan. ¹⁵ In all of these statements, foreign ministries also expressed the hope that the dialogue across the strait will continue and that the differences between both sides will be settled constructively and peacefully. According to press reports in Taiwan, for example France congratulated Tsai on her victory and expressed the hope that dialogue and cooperation will be continued between both sides of the Taiwan Strait. ¹⁶

Mogherini's statement was the shortest and reads as follows:

Today, the people of Taiwan have voted. Respect for democracy, the rule of law and human rights underpin the successful conduct of these elections.

The EU reiterates its support for the continued peaceful development of cross-Strait relations.¹⁷

The European Parliament Taiwan Friendship Group also issued a statement to congratulate Tsai Ing-wen for her election. It called Taiwan a "mature and stable democracy" and expressed the hope that the new government would continue the successful policy of President Ma.¹⁸

All these statements show that while the EU and its members respect the election results and acknowledge the democratic system in Taiwan, the main interest and hope is for stability and peace in cross-strait relations.

Human rights situation in China

The human rights situation in China, especially the large-scale arrests of lawyers and human rights defenders as well as the disappearance of HK publishers, was perceived with concern in the EU and member states. The spokesperson of the EEAS made several statements during 2015 and 2016 commenting on the arrests of lawyers and human rights defenders, the detention of an EU citizen working for

"Philippines, France congratulate Tsai on election victory", January 17, 2016
http://www.chinapost.com.tw/taiwan/foreign-affairs/2016/01/17/456332/Philippines-France.htm

See press release "Foreign Minister Steinmeier on the elections in Taiwan", 16 January 2016, http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2016/160116_Taiwan_html; UK: "Foreign Secretary Statement on Taiwan Elections", https://www.gov.uk/government/news/foreign-secretary-statement-on-taiwan-elections.

EU/Mogherini: "Statement by High Representative/Vice-President Federica Mogherini on the elections in Taiwan", 16 January 2016, http://eeas.europa.eu/statements-eeas/2016/160116 03 en.htm.

http://www.werner-langen.de/presse/pressemitteilungen/single/article/statement-on-election-of-dr-tsai-ing-wen-as-president-of-the-republic-of-china-on-taiwan.html

a human rights NGO in China, public confessions of EU citizens on Chinese TV and the sentencing of lawyers.¹⁹

Several EU member states – namely Denmark, Finland, Germany, Ireland, the Netherlands, Norway, Sweden and the UK - co-signed a joint statement at the UN Human Rights Council in Geneva expressing concern over developments in China. ²⁰ To my knowledge, this is the first time since the late 1990s that European member states participated in publicly pointing a finger at China criticizing the human rights situation.

One factor playing a role here is the new set of security laws in China – National Security Law, Anti-Terrorism Law and Cyber Security Law as well as the Law on Foreign NGOs in China – which have not only raised concerns among human rights specialists and organizations, but also among businesses who fear that the cyber law could negatively affect or limit their business activities in China.

Implications of Brexit for the EU and for China

2016).

The implications of Brexit for the EU itself are far from clear, since so far the new Prime Minister Theresa May only keeps repeating the sentence "Brexit means Brexit". But negotiations between Brussels and London on the UK leaving the EU can only start *after* the UK invokes Article 50 of the Treaty of Lisbon, and the new British government has not done that yet.

In some first media reactions China was called the winner of Brexit, because this would weaken the EU position vis-à-vis China and broaden China's economic opportunities. ²¹ However, as a short essay by Andrew Small of the German Marshall Fund²² pointed out correctly, Chinese leaders had made clear that they are not in favor of a Brexit vote and that its outcome might not be as beneficial for

²⁰ "Item 2: Joint Statement – Human Rights Situation in China, Delivered by U.S. Ambassador to the HRC Keith Harper", March 10, 2016, https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/.

See Andrew Small: "China is Not 'the Winner of Brexit", GMF Blog, July 1, 2016 (http://www.gmfus.org/blog/2016/07/01/china-not-%E2%80%9C-winner-brexit%E2%80%9D).

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See http://eeas.europa.eu/statements-eeas/2015/150715_03_en.htm (July 15, 2015); http://eeas.europa.eu/statements-eeas/2015/151022_02_en.htm (Oct. 22, 2015); http://eeas.europa.eu/statements-eeas/2016/160122_02_en.htm (Jan. 22, 2016); http://eeas.europa.eu/statements-eeas/2016/160805_03_en.htm (Aug. 5, 2016);

See e.g. Michael Schuman: "Who Wins From Brexit? China", Bloomberg View, June 24, 2016 (https://www.bloomberg.com/view/articles/2016-06-24/china-could-be-the-biggest-winner-from-brexit); "Why China in a potential Brexit winner", CBS News, June 27, 2016 (http://www.cbsnews.com/news/why-china-is-a-potential-brexit-winner/). According to a new ECFR paper, initial reactions in China also see China as a potential winner from Brexit: Special Issue: China and Brexit: What's in it for us?, Sept. 2016 (= ECFR China Analysis 187), http://www.ecfr.eu/page/-/CA MES 2016.pdf.

China as claimed in the press. First, with the UK, China has lost the strongest supporter in Brussels for Market Economy Status, open trade and unrestricted investment. With populist forces and Euro skepticism on the rise in several EU member states, globalization is under attack and protectionist demands become louder – with China one of the targets of anti-globalization forces. Second, China has all along supported EU integration and a strong European Union developing into a strong actor at the global level, even though it has been frequently accused of "divide and conquer" tactics. It is clear, however, that the outcome of the referendum with its anti-elitist thrust is perceived in China as additional proof of the dysfunctionality of Western democratic systems.

In sum, while there might be some economic gains for China in a Brexit in the future, it is not in its longer-term interests to see the EU further weakened (especially if Brexit sets a chain reaction in motion).

Conclusion

In the last years, the dialogue between China and the EU has been expanded to the area of regional and global peace and stability. However, practical cooperation in some fields, most notably anti-terrorism and cyber-security, remains limited due to fundamental differences in interpreting certain concepts (statehood, sovereignty, universality of fundamental rights etc.). ²³ On non-traditional security challenges like climate change, food and energy security or crisis response, it is less difficult to find common ground and go forward with practical cooperation. Concerning economic issues (trade in goods and services, investment), the positions on both sides have hardened: the EU criticizes the lack of reciprocity and of a level playing-field, China demands to be granted MES and defends its competitiveness²⁴. While catchwords like innovation or OBOR on the surface provide a broad and shared framework for partnership, it seems to be difficult to translate this framework into concrete projects which both sides see as beneficial. There is also concern in the EU and member states concerning the set of new security laws in China and the new law regulating foreign Non-Governmental Organizations.²⁵

While the new EU communication on China policy puts forward important ideas like streamlining the European message on central issues, clearer prioritization of goals and regular assessment of progress, it remains to be seen how the EU will be able to translate this agenda into action. More generally, the

²³ See EU-China Think Tank Dialogue, Beijing, 6-7 April 2016, Mission Report Summary.

See e.g. the interview of China's ambassador to Germany Shi Mingde: "Wir sind längst eine Marktwirtschaft", *Handelsblatt*, 25 May 2016.

See e.g. Marjietje Schaake: "Digital diplomacy: trade and human rights in China's internet revolution", 13th July, 2015 (ECFR Commentary), http://www.ecfr.eu/article/commentary_digital_diplomacy_trade_and_human_rights_in_chinas_internet_revo.

question has to be asked whether the optimism to go forward with the European project expressed by the leaders of the EU institutions in spite of the manifold challenges it is facing will be justified.