



A SURVEY OF THE EU-CHINA DIALOGUE ARCHITECTURE

- PREMISE, STRUCTURE, FUNCTIONS, AND CASE STUDIES

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Abstract

The EU and China conduct their comprehensive strategic partnership through an architecture of engagement encompassing political, economic and sectoral, on trade and non-trade issues, as well as people-to-people dialogues. The total number of these dialogues accounts for more than 65 and is still growing. This paper explains the premise, the structure, and the functions of these dialogues, including 14 case studies. Both sides first established their dialogues on non-trade issues in the run up to China's WTO access in order to assist China to mitigate the impact of the sweeping societal changes as a result of the accession negotiations. A comparison between the US-China policy consultation and the EU-China dialogue finds that the former is more results-oriented, while the latter's focus is on China's policy changes with the aims of achieving shared standards on trade and non-trade objectives with broader and deeper engagement through dialogues.

¹ This paper received funding from the European Union's Horizon 2020 research and innovation program under grant agreement No 770680 (RESPECT). The author would like to express her deepest gratitude to Jacques Pelkmans, Associate Senior Fellow, CEPS, for his invaluable comments on the many drafts of this survey.

Contents

| | |
|--|----|
| Abstract | 1 |
| 1. Introduction and purpose | 4 |
| 2.The premise of the EU-China dialogue architecture | 5 |
| 3.The structure of the EU-China dialogue architecture | 5 |
| 3.1 Pillar I – Political dialogue | 6 |
| 3.2 Pillar II – Economic & Sectoral Dialogue..... | 8 |
| 3.2.1 History | 8 |
| 3.2.2 Structure | 10 |
| 3.2.3 Trade issues..... | 11 |
| 3.2.4 Non-trade issues | 12 |
| 3.3 Pillar III People-to-People Dialogue..... | 14 |
| 4.Other EU institutions’ dialogues with China | 15 |
| 5.EU member states’ dialogues with China | 15 |
| 6.Functions | 16 |
| 6.1 To tackle the practical challenges in bilateral trade..... | 17 |
| 6.2 To sustain a partnership, especially in time of frictions..... | 17 |
| 6.3 To align objectives where possible, elevate bilateral cooperation at global level | 18 |
| 6.4 To enhance the EU’s rule-making power in trade..... | 19 |
| 6.5 To further the EU’s strategic interests | 23 |
| 6.5.1 The foreign policy front..... | 23 |
| 6.5.2 The economic and trade front | 24 |
| 6.5.3 The people-to-people front..... | 26 |
| 6.6 To explore new areas of mutual interests to achieve a win-win situation for both.. | 26 |
| 6.6 A platform for capacity-building..... | 31 |
| 6.7 A platform for policy coordination, communication, exchange of information | 35 |
| 7. US-China policy consultation (vis-à-vis the EU-China dialogue architecture)..... | 35 |
| 8. Conclusion | 38 |

List of Case Studies

| | |
|---|----|
| Box 1: Employment & Social Policies Dialogue | 9 |
| Box 2: Sustainable urbanisation partnership | 13 |
| Box 3: Human Rights Dialogue | 16 |
| Box 4: High-level Economic and Trade Dialogue (HLETD) | 18 |
| Box 5: Competition Policy Dialogue | 19 |
| Box 6: EU-China Aviation Relations Dialogue | 20 |
| Box 7: From “best efforts” to “legally-binding” commitments on non-trade issues | 22 |
| Box 8: the EU-China Energy Dialogue | 24 |
| Box 9: EU-China cooperation on ITER, the world’s largest nuclear fusion project | 25 |
| Box 10: Environment Policy Dialogue | 27 |
| Box 11: Dialogue of IPR Protection | 32 |
| Box 12: Regulatory Dialogue on Public Procurement..... | 32 |
| Box 13: EU-China cooperation on geographical indications protection..... | 34 |
| Box 14: US-China cooperation on GI protection..... | 37 |

1. Introduction and purpose

The EU and China maintain their bilateral relationship through an architecture of dialogues which have been evolving, especially after the EU-China Trade and Co-operation Agreement was concluded in 1985. The relationship between the EU and China was upgraded to become a “comprehensive and strategic partnership” in 2003. Such a seemingly obscure ‘partnership’ is substantiated by more than 65 dialogues which steer the partnership in political, economic and sectoral, and people-to-people relations. This survey will depict this partnership, by discussing the depth and breadth of the bilateral dialogue architecture with a focus on its premise, structure, functions and a range of case studies to illustrate or illuminate how it works. The many deliverables that have been generated by the various dialogues will be highlighted throughout the survey.

This survey is undertaken within the framework of the EC-funded H2020 project: Realising Europe’s soft power in external cooperation and trade (RESPECT), which analyses how to best forge coherence between EU’s trade and non-trade policies in order to improve the effectiveness of EU external policies, with an emphasis on trade policy. Within this remit, this survey outlines the bilateral dialogues established between the EU and China over the past two decades, and describes how EU’s trade and non-trade policy objectives are promoted vis-a-vis China.

The EU possesses formidable rule-making power in external trade, which is premised on its vast single market. Thanks to that, the EU has acquired much ‘soft power’ in non-trade issues, in enforcing standards for labour rights, consumer and human rights protection, and sustainable development on its trade partners within the framework of applicable international commitments. These non-trade policy objectives, coined as EU’s values, are incorporated in the EU’s comprehensive trade agreements, such as free trade areas, as trade-related sustainable development provisions, in the light of the obligations of Article 21 of the Lisbon Treaty since December 2009. The provision obliges the EU to be guided by its principles, such as democracy, the rule of law, human rights, when developing relations and build partnership with third countries, etc. And it is reinforced as a component of EU’s external trade objective, thanks to the strategy Trade for All², published in 2015. In other words, the EU’s trade partners should agree with the EU, and deliver, their shared values when conducting deep and comprehensive trade relations, thereby the EU’s value-based trade strategy will be materialised. In reality, trade agreements have since become a conduit to export EU’s trade and non-trade policies and standards from the single market to third countries. Reflecting on the EU-China trade agreements concluded so far, the EU’s non-trade policy objectives are not included in the Agreement on Cooperation on, and Protection of, Geographical Indications, but they are in the provisional agreement (January 2021) of the Comprehensive Agreement on Investment (CAI), including China’s commitments on labour and environment protection. One explanation for that is that the CAI is a comprehensive trade agreement, while the former not.

² Available at: [Trade for All - Towards a more responsible trade and investment policy \(europa.eu\)](https://ec.europa.eu/economy_finance/Trade_for_All_-_Towards_a_more_responsible_trade_and_investment_policy_en.pdf).

This survey starts with a reminder of the legal premise upon which the bilateral EU-China dialogue architecture is being built. While describing the structure of the dialogue, the respective historic evolution of each pillar will be highlighted, too. After that, the functions of the dialogues will be illustrated, with case studies. Before conclusion, a handful of bilateral dialogues conducted between the US and China will be featured in order to compare with the EU-China dialogues for effectiveness.

2. The premise of the EU-China dialogue architecture

The comprehensive strategic partnership is described in detail by the Elements for A New EU Strategy on China, adopted by the European Commission and the European External Action Service (EEAS) in 2016, and is in line with the Juncker Commission's political guidelines, the Commission's "Trade for All" strategy (2015) and the Resolution on EU-China Relations adopted by the European Parliament in December 2015.³ This partnership is rolled out by a bilateral dialogue architecture under the pillars of political cooperation, economic and sectoral dialogues and people-to-people exchange. As will be illustrated below, evolving with times and circumstances, the objectives of these dialogues stay relevant to the status quo of current bilateral relations.⁴

3. The structure of the EU-China dialogue architecture

Initially, the bilateral dialogues were set up based on the necessities, following China's 'opening up' some 30-40 years ago. This was especially the case with regard to some of the economic and sectoral dialogues, such as the Dialogue on Technology Cooperation. After that, because of China's WTO membership bid, more dialogues were established under this pillar in order to assist China to transform its economic development model from centrally-planned to market-oriented. The themes of the dialogues established then therefore reflect China's reform directions in preparation of its WTO accession, as well as the 'by-products' of it, and [Industrial products & WTO / TBT Consultation is one of them](#). Many dialogues on non-trade issues were established, too, such as employment protection and environment protection, which was to help China develop a wholly new societal welfare structure after the country dismantled the old one installed intricately around state-owned enterprises (SOEs) and attached to localities. The old social welfare system was dismantled when China started to reform its SOEs through closing-down, or merger and acquisition. The EU rendered generous assistance of capacity-building to help China establish fund-based new social security system.

It is to be noted that a few trade and non-trade dialogues were first inaugurated as bilateral cooperation projects following the conclusion of the EU-China Trade and Co-operation Agreement in 1985. The [Industrial products & WTO / TBT Consultation](#) was an example of such cooperation project. The annual [Joint Trade Committee](#) was set up around the same time in the mid-1980s at ministerial level to take stock of policy developments in bilateral

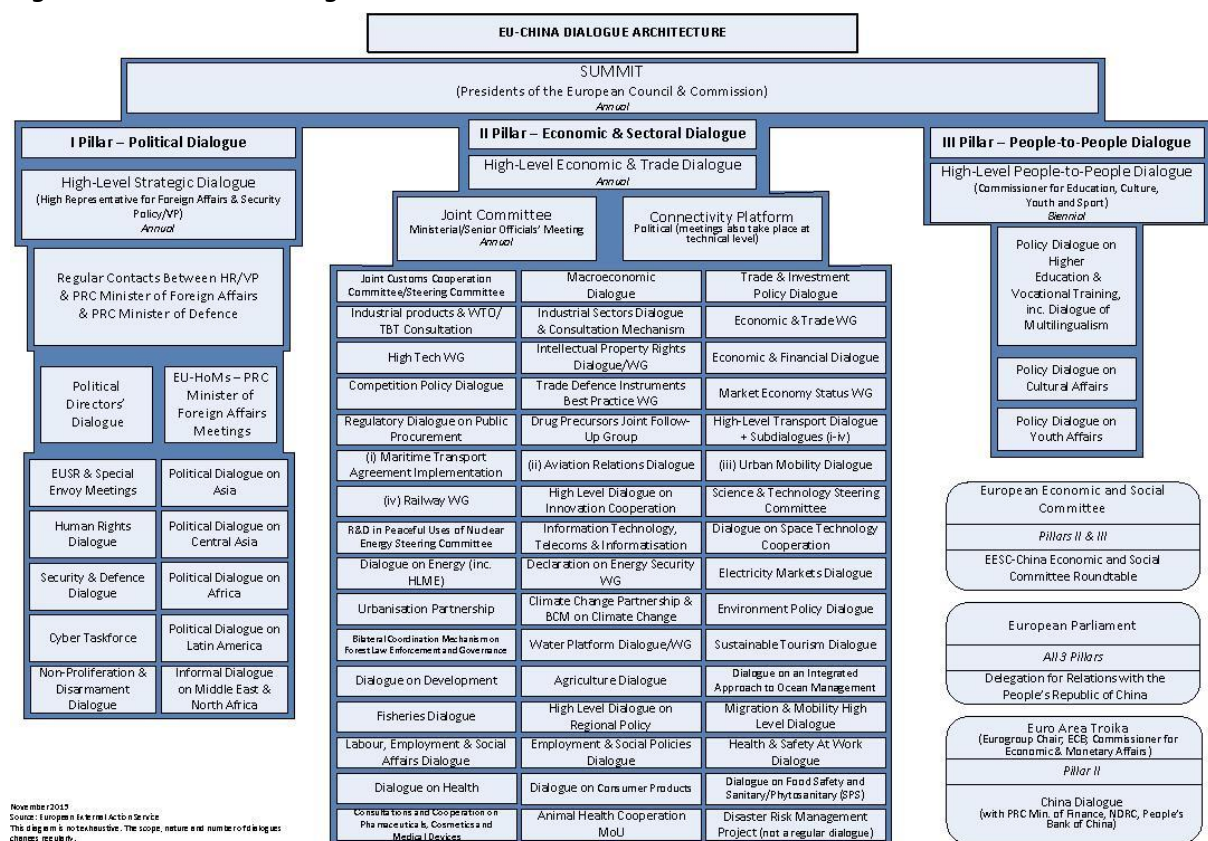
³ Available at: [Texts adopted - EU-China Relations - Wednesday, 16 December 2015 \(europa.eu\)](#).

⁴ According to the EEAS, the EU-China Dialogue Architecture is the only published source summarising the bilateral dialogues presently available. Dated November 2015, it is still valid today although a number of new dialogues have been added since 2015, such as the legal dialogue inaugurated in 2016, the state aid control dialogue 2017, and the circular economy dialogue 2018.

trade and investment, to review trade irritants arising between the two sides, and to help removing market access barriers in the relevant sectors. The annual Committee meeting also provides China and the EU with the opportunities to exchange views on important multilateral and plurilateral trade initiatives and on-going trade negotiations.

Over the years, as the bilateral relationship has deepened economically and politically, cooperation areas between the EU and China have become much broadened, so has the number of dialogues taking shape under the pillars of political, economic and sectoral and people-to-people dialogues. The formalities of the dialogues become more diverse, too, including summit, ministerial, working group meetings, experts' seminars, and projects designated to implement policy objectives for concrete deliverables.

Figure 1: EU-China Dialogue Architecture



3.1 Pillar I – Political dialogue

The mechanism of bilateral political contact was inaugurated in 1994, and upgraded to summit level in 1998. Gradually, because of necessity and demands, dialogues on specific subject matters were arranged and the pillar of political dialogue has grown as we observe today. For example, the [EU-China Cyber Task force](#) was set up in 2013 amidst the EU's increasing concerns over China's rampant cyber espionage and when both sides saw the needs for exchanging views on research, business and global standardisation in relation to the rapid 5G development. Also, as following the Lisbon Treaty the EU created the European External Action Service (EEAS) to undertake the Union's Common Foreign and Security Policy

led by a High Representative, in 2010 the [High-Level Dialogue on Strategic and Foreign Policy](#) was established between the High Representative of the Union and the Chinese counterpart of the Foreign Minister. This dialogue takes place usually just ahead of the annual summit, in the form of exchanging views and both sides will summarise the major progress the partnership has achieved through the dialogue architecture. The purpose of this exercise is to set the scene for the summit and to substantiate the summit joint statement, to inject political impetus to the partnership, including mapping out major cooperation programmes for the next year. For example, at the Strategic Dialogue that took place on 9 June 2020, the EU and China reviewed progress of bilateral relationship made in the past year, including the progress made in the negotiations of Agenda 2025 and the need to move forward the remaining areas; the concrete disagreements between the two sides were equally tabled.⁵ Hence, the high-level dialogue was concluded by both sides' shared determination towards the conclusion of a Comprehensive Agreement on Investment, the materialisation of China's commitments pledged in 2019, including eliminating market access barriers, improving the level playing field and reciprocity.⁶ In terms of international affairs, both sides reaffirmed their commitment to cooperate on a number of areas, such as climate change, non-proliferation, including to fully implement the JCPOA (Joint Comprehensive Plan of Action – the Iran nuclear deal), inter-Korean relations and support to reconciliation, as well as dialogue between DPRK and the USA, and bilateral cooperation in Afghanistan, Middle East incl. Syria and Africa.

It is observed that China attaches greater importance to the “One China” Policy in international affairs, including in its relations towards the EU, as China reiterates this principle in nearly every bilateral political document. This stance in effect records one motivation upon which the entire EU-China relationship was established. After China regained its permanent seat at the Security Council at the United Nations in 1971, the European Economic Community, as the EU was known at that time, recognised the People's Republic of China as the only legitimate government of China, paving the way for the establishment of the bilateral diplomatic relations in 1975.

The subject themes covered under the Pillar of Political Dialogue range from regional affairs, international affairs, security and defence, cyber security as well as human rights. The breadth of the bilateral political dialogues illustrates the many areas that both sides' share their common interests and recognise the mutual benefits could garner via cooperation. Their shared positions are sometime elevated to global level,⁷ yielding joint leadership on a number of specific global issues, including implementing the nuclear agreement with Iran and denuclearisation in the Korean Peninsula.

⁵ For details, see [EU-China Strategic Dialogue: Remarks by High Representative/Vice-President Josep Borrell at the press conference - European External Action Service \(europa.eu\)](#).

⁶ Grieger G. (2021), EU–China Comprehensive Agreement on Investment: Levelling the playing field with China, 17 February, European Parliament Research Service. Available at: <https://epthinktank.eu/2020/09/14/eu-china-comprehensive-agreement-on-investment-levelling-the-playing-field-international-agreements-in-progress-with-china/>.

⁷ Note that already in the draft European Security Strategy Paper in 2003, China has been recognised as one of the key partners for the EU's strategic security relationship.

Nonetheless, the political dialogue embodies a mixed picture of cooperation and challenges interwoven in the bilateral EU-China relationship overall. The institutionalised dialogue mechanism helps to sustain bilateral communication which is vital, especially in times of frictions. As to the policies of which each side upholds its own distinctive perspectives, the EU and China conduct their affairs in a manner of ‘agree to disagree’, therefore their policy divergence has been containable. This is evident as far as Africa development is concerned, as the EU prides itself on good governance and sustainable development, while China practises the “five principles”, including “non-interference”.⁸ Similarly, the EU and China acknowledge their conceptual differences in human rights protection, which are political rights to the EU and economic rights to China; nonetheless, the [Human Rights Dialogue](#) continues over the last decades with a “constructive, frank, forward-looking” outlook.

The geographical regions covered by the political dialogue pillar includes, practically, the whole globe. Additionally, there are dialogues on security and defence, covering the subjects of cyber security, and non-proliferation & disarmament. Some political dialogues concern very specific subjects, such as Human Rights Dialogue, and the EU Special Representative & Special Envoy Meetings. Besides, there is the mechanism for regular contact between the EU High Representative/Vice President and China’s foreign affairs minister as well as the minister of defence.

3.2 Pillar II – Economic & Sectoral Dialogue

The number of economic & sectoral dialogues conducted between the EU and China has reached around 55 to date. The subjects covered are all-encompassing, ranging from trade to non-trade issues, such as [research and innovation](#), [water management](#), [public procurement regulation](#) and animal health. Most dialogues combines policy dialogue meetings, expert seminars and implementation projects so that shared policy objectives could be implemented. Given the prolific number of the economic and sectoral dialogues we have, the depth and the breadth of the EU-China economic cooperation was probably foreseen because of China’s huge market size, its complex WTO accession process, as well as trade opportunities and frictions that should entail as this survey will explain in the following.

3.2.1 History

From the outset, initiating a pillar of economic dialogues reflected the EU’s aim of market access, through China’s integration in the world trade order. By applying the same market-driven trade rules, the EU envisaged that market openness would prevail and barriers would be lifted. Supporting China’s WTO membership bid was a strategic approach engaged by the EU to achieve this objective.⁹ Along the process, the fundamental WTO market principles, from national treatment, intellectual property rights (IPR) protection, to good governance models, such as transparency and independent judicial review, were expected to be installed in China. Dialogues, mainly for capacity-building in the beginning, were thus considered one after another as a means to achieve this purpose. Many ad hoc cooperation programmes were later developed into mechanism in order to assist China to further implement

⁸ See the Joint Declaration of the EU-China Summit, Helsinki, 2006.

⁹ See Building a Comprehensive Partnership with China, Communication from the Commission, Brussels, 25.03.1998 COM (1998) 181 final, p.11.

outstanding WTO commitments,¹⁰ while serving as cooperation platform for seeking trade opportunities and addressing irritants. Examples in this regard include market access for industrial and agricultural goods, services, market economy status, maritime transport, air transport, nuclear trade and safety, customs, science and technology and liberalisation of China's financial sector. Around the same time, as mentioned before, a few dialogues focusing on non-trade objectives, such as those on environment, [regional policy](#), were initiated. To this end, the EU's objective was to promote a sustainable development concept, new to China at the time, while helping China integrate environmental protection measures into its overall development strategy, and to foster transfer of know-how and technology in the energy sector in China. As to social cohesion, the EU assisted China to explore different policy options, drawn on the EU's experiences and expertise so that China may be able to mitigate the social impact as a result of the overwhelming SOEs restructuring exercise, incl. the dismantling of the old social welfare system. At the time, as a consequence of the restructuring, a massive number of Chinese SOEs workers were laid off, and left with no or insufficient social protection since the new social security system was yet to be completed (Box 1).

Box 1. Employment & Social Policies Dialogue

The [Employment & Social Policies Dialogue](#) was established in 2005 between the Chinese Ministry of Human Resources and Social Security, the Chinese Academy of Social Sciences and the DG Employment, Social Affairs and Inclusion of the European Commission.

The policy areas covered by the Dialogue range from employment, social security, demographic ageing, social dialogue and labour relations. The Dialogue was inaugurated in the wake of China's SOEs re-structuring exercise, which was conducted in order to subject them to market principles operating as a business entity, instead of as a government outlet. In the process, a few millions of workers were laid off, but the majority of them were then left without sufficient social security protection as the new system was not in complete operation, after the old one, attached to the SOE life-tenured employment, was demolished. As a result, overnight many laid-off SOE employees experienced a roller-coaster change from free to fee-paying medical coverage, and lost the community that they relied on from cradle. Those who fell ill were compelled to pay medical bills from their one-off unemployment compensation, often already meagre especially in view of bleak re-employment prospects.

The EU member states' models and experiences were offered as a reference, when China was building a new social security system, along with a new employment relations based on labour contracts.

¹⁰ For example, as seen in the Communication: Building a Comprehensive Partnership with China, the Commission identified as early as 1998 that without securing China's membership of the WTO GPA as part of the country's WTO accession package would reduce the overall value of the country's market access package. The Commission's both objectives failed to materialise. The Dialogue of Public Procurement was established in 2007, a year before China submitted its initial offer to negotiate its GPA accession.

From the outset, after the EEC took over from the member states the competence for all trade relations with state-trading countries, the trade relationship that the EEC and China embarked on was designed to be open and broad as illustrated by the 1985 Trade and Economic Cooperation Agreement. This relationship was intended to not exclude any subjects of economic cooperation as long as it fell within the Community's competence (Article 10). Back then, sectors for cooperation were industry, mining, agriculture, science and technology, energy, business management and biotechnology, etc. As to the forms of bilateral cooperation, they included exchange of economic information, people-to-people contacts between businessmen and trade officials, seminars, technical assistance programmes and trade/investment promotion.¹¹ As mentioned before, the Joint Committee was also established then as a platform for trade and business exchange activities conducted at expert level and for supervising the overall bilateral cooperation.

More bilateral cooperation programmes were launched in the run up to China's WTO accession, and gradually they evolved to become dialogues for long-term cooperation around the time when the EU-China annual summit mechanism was inaugurated in 1998.

Since then, as the EU-China trade volumes have been rising continuously and because China has become a world top economy presenting much more business opportunities, the scope of bilateral trade dialogues has expanded further to what it is today. Another motivation for such expansion was that bilateral trade relations had grown beyond goods and services, and moved also into investment and other regulatory areas, such as competition, therefore the dialogue themes have become ever more diverse compared to two decades ago.

3.2.2 Structure

The annual [High-level Economic & Trade Dialogue](#) (HLET) is the chapeau of the Second Pillar of the EU-China Dialogue Architecture. Every year, the HLET takes stock of the deliverables achieved by all the economic and sectoral dialogues ahead of a Summit. When the HLET was inaugurated in 2007 at the vice-president level, the aim was also to address the outstanding market opening pledges yet to be materialised by China against its WTO Accession Agreement. In practical terms, the HLET has the mandate to identify ways to reduce bilateral trade imbalances and to increase trade in a balanced way.

The agenda of the HLET varies little each year. It covers issues related to the multilateral global trading system, strategic bilateral trade and trade-related areas, investment, innovation, effective market access, IPR protection and high technology, environment protection and energy. For example, the agenda of the 8th HLET (July 2020) focused on the

¹¹ After the Community took over from the member states the trade responsibility for all trade relations with state-trading countries in 1974, the EEC-China Trade and Economic Cooperation Agreement was subsequently concluded in 1978. It was a non-preferential agreement with equal benefits and obligations for both parties, and provided them the possibility to accord each other most-favoured-nation treatment and to develop mutual trade. A component of economic cooperation was added to the 1978 Cooperation Agreement and therefore a new trade agreement was signed in 1985 when both sides felt the need to strengthen and broaden their cooperation. The 1985 Agreement was therefore an open agreement encompassing many subjects for trade and called for different and flexible forms of cooperation activities as we see today from the dialogues. See Press Release Joint Committee EEC/China, MEMO-86-26. See also Snyder F. (2009), *The European Union and China, 1949-2008, Basic Documents and Commentary*, Hart Publishing, Oxford.

joint response to Covid-19 and global economic governance issues, bilateral trade and investment concerns, and cooperation in the area of financial services and taxation. Both sides exchanged views on the CAI negotiations, and agreed to work towards the continued relevance of the WTO. Also, referring to the 2019 EU-China Summit Joint Statement, the EU urged China to engage in future negotiations on industrial subsidies. The EU also called upon China to start exploratory talks for an agreement with the EU covering administrative cooperation to fight VAT fraud.

Overall, the economic and sectoral dialogues are conducted under two groups which are trade and non-trade issues. Additionally, the [Connectivity Platform](#) was established in 2015 with a singular focus on China's Belt and Road Initiative (BRI), which was launched a year earlier. In relation to the BRI projects implemented in the EU single market, the Connectivity Platform aims to promote transparency and a level playing field based on the EU market rules and international norms with respect to public procurement, competition, environmental protection and technical standards, etc. The Platform in the meantime identifies synergies between China's infrastructure blueprint and the Juncker Investment Plan, as well as funding sources in transport and in other kinds of infrastructure. In this regard, in 2017 the European Investment Fund (EIF) and China's Silk Road Fund (SRF) signed a Memorandum of Understanding with the aim of jointly investing in private equity and venture capital funds that would, in turn, invest in SMEs located primarily in the EU. The total amount of the investment fund is expected to reach €500 million, of which the EIF and the SRF would each invest €250 million. The joint fund was a joint deliverable following China's pledge announced at the HLETD 2015 to contribute to the Investment Plan for Europe, the so-called "Juncker Plan", and to enhance cooperation with the EU on investment issues generally.¹²

In respect of the relationship between trade and non-trade related dialogues, it is generally assumed that the dialogues on non-trade issues would ultimately contribute to achieve EU's trade objectives. This assumption has been made more apparent by the EU's 2015 trade strategy Trade for All, when the EU pledged to reinforce value-based objectives as a component of its trade policy, and to use trade agreements and trade preference programmes as levers to promote among its trading partners around the world values like sustainable development, human rights, environmental protection, in accordance with Article 21(2)(a) of the Lisbon Treaty. In practice, provisions concerning environment protection, human rights protection and higher labour standards must be an integral part of a free trade agreement with third countries; while the EU aims to ensure that the applicable international standards are implemented as a condition for concluding a free trade agreement.

3.2.3 Trade issues

In the course of its WTO accession negotiations, China was obliged to redraft almost all the trade policies and legislation so that its economic model would be compatible with the market-driven WTO disciplines. The extent of this exercise may be gauged by the variety of bilateral sectoral dialogues established in the 1990s encompassing all the WTO trade areas, not only on goods and services but also on regulatory issues, such as agriculture, trade

¹² See the Press Release published after the EU-China Summit took place in Brussels in 2017.

defence instruments, food safety and sanitary/phytosanitary, and industrial products & TBT, and IPR.

Once bilateral trade volumes soared and trade relations deepened, the original scope of economic dialogues was extended to other sectoral areas based on necessity, such as competition policy, peaceful use of nuclear energy, aviation regulations. For example, since international cooperation is essential in fighting against the formation of international cartels and China can play a significant role because the country has become a must-visited jurisdiction in recent decades when examining cases of global merger and acquisition, the Competition Policy Dialogue was established. For China, it wanted to harmonise its vast domestic markets among the different levels of administration, and the EU wished to align China's competition policy with the EU's model. The bilateral [R&D cooperation in peaceful use of nuclear energy](#) brings about the EU's interests, too, as the research programme enabled researchers from both sides' mutual access to research facilities thereby EU nuclear researchers could access China's state-of-the-art nuclear facilities as in Europe they are either closed down or phasing out.

3.2.4 Non-trade issues

The difference in EU-China dialogues on non-trade issues between the past and the present is found in the purpose of conducting such dialogues. In the past, the purpose was to share with China the EU's expertise and experience, as a means for capacity-building, including reflecting on the "European model" of regional integration and good governance under the rule of law.¹³ However, nowadays the purpose of conducting dialogues on non-trade issues seems to be lifting China's ambition of sustainable development to match EU's level of standards in order to prevent China from taking (low) price advantages against EU goods, often due to compromised environmental and labour protection standards. In this sense, achieving a level-playing field is equally an assurance to tell EU citizens that Chinese goods and services are procured from workers employed under safe and fair conditions.

There is a presumption that since China pursues economic development "at all costs" and at the expense of the 'values' that the EU champions, as a result conducting dialogues with China on non-trade issues would only yield limited progress. Nonetheless, one reason that EU-China cooperation on non-trade issues could continue for nearly two decades is exactly because the Chinese government has become ardent in promoting environment and labour protection, in order to nurture a 'harmonious' society for stability, quality of life, job satisfaction, good governance, etc. This motivation may explain why the Chinese government has been engaging in discussions with the EU on non-trade issues, until China committed to implement its pledges on environment and labour protection as seen by the CAI provisional agreement.¹⁴ Similarly, in September 2020, President Xi reiterated that China would aim to hit peak

¹³ See Commission policy paper: A maturing partnership - shared interests and challenges in EU-China relations, Brussels, 10.9.2003 COM(2003) 533 final

¹⁴ For detailed analysis on China's commitments, see Hu W. (2021), The EU-China Comprehensive Agreement on Investment – an in-depth reading, No PI2021-07/ May 2021, CEPS Policy Insights.

emissions before 2030 and for carbon neutrality by 2060. This is being seen as a significant pledge China has undertaken to fight against climate change.¹⁵

Other bilateral dialogues on non-trade issues include dialogues on regional policy, and [occupational safety & health](#). The latter focuses on improving working conditions, reducing work-related accidents and illness, contributing to decent work for all while adhering to agreed international standards.

The EU's commitment in the overall bilateral economic dialogues was considerable, also in financial terms. In 2000, the amount that the EU allocated for conducting bilateral EU-China cooperation projects already totalled around €60 million per year. As may be expected, many business opportunities have emerged amidst such dialogues, too, and contributed to economic growth and job creations in the EU, which is an objective that the economic and sectoral dialogues are envisaged to achieve. On top of that, along the process, since China indeed has adopted a few of EU's policies and regulatory models, such as the Emission Trading System (ETS), the EU's normative power on trade is being reinforced on the world's stage.

The number of bilateral economic dialogues is expected to grow further when necessity prevails, including through 'organic growth' and for tackling trade irritants. For the former, the Dialogues on Sustainable Urbanisation Partnership (Box 2) is a case in point.

Box 2: Sustainable urbanisation partnership

[The Dialogue on Sustainable Urbanisation Partnership](#) was launched between China's NDRC (National Development and Reform Commission) and the EC DG Energy, in 2012.

The motivation for launching the Dialogue was for the EU to help China optimise the layout and new formation of urbanisation. Due to the quick speed and large scale of urbanisation that has been taking place in China, exceeding 50% in recent years, the Dialogue is expected to assist China attain sustainable development goals in expanded cities while at the same time, for example, promoting rural-to-urban migration. This objective of the Dialogue is crafted on the premise that the EU and its member states have rich experience in urbanisation, for which their know-how would be invaluable to Chinese policy-makers, either to accelerate an optimal urbanisation process, or to offer as possible policy alternatives via concrete consultation.

At the same time, European and Chinese cities nowadays may well face similar challenges for urbanisation in terms of, for example, energy efficiency, energy and natural resource conservation and reduction of greenhouse gas emissions. These common challenges call for common solutions, too. Within this context, specific projects, such as on promoting

¹⁵ Doubts nonetheless remain as to how China might manage this coal transition, also given the need to fuel a post-covid economic recovery which demands energy. As a result, it is perhaps of no surprise that the 14th Five-Year Plan did not announce any measures for coal consumption cap, unlike the previous Five-Year Plan. For example, as part of its 13th Five-Year Plan, China sought to cap coal consumption at the national level at 4.1 billion tonnes by 2020, or to less than 58 per cent of total energy consumption. It is also reported that after lifting a previous construction ban on new coal plants in 2018, China has rolled back policies restricting new coal plant permitting in each of the last three years. By mid-2020 China had permitted more new coal plant capacity than in 2018 and 2019 combined. This is going against the global shift away from coal: <https://climateactiontracker.org/countries/china/>.

energy efficiency buildings, research on energy technologies and finding ways to integrate renewable energy into urban areas, were undertaken in order to tackle these challenges.

Some programmes launched under the Urbanisation Dialogue were conducted in conjunction with other related dialogue programmes, such as the Mayors' Forum, the EC-Link project. The latter was set up in order to help China make its cities more energy and resource efficient, to launch the EU-China Emissions Trading Scheme, and the Satellite Cities and Metropolitan Governance Project. This approach is designed to tap into each programme's strengths for a holistic approach to improve China's overall urbanisation experience.

Another important component of urbanisation cooperation is twinning where twinning partnerships are forged between cities in the EU member states and China in order to work together on specific areas of urbanisation concerning, for example, energy (e.g. low-carbon), investment and trade, exploration and innovation. Forums, study trips, training activities, etc. are organised among policy makers and stakeholders, such as businesses, for generating understanding of urbanisation on the ground.

3.3 Pillar III People-to-People Dialogue

Most dialogues conducted under the pillar of People-to-People Exchange were first launched as cooperation projects, for mainly two purposes. First, at civil society level, it was for the EU to assist China in the country's overall social reform to promote the rule of law, strengthen the civil society, modernise the overall legal and administrative framework of the country by showcasing the EU model. Second, it was to raise the profile of the EU for greater visibility and to exert its soft power in China.

The [High-Level People-to-People Dialogue](#) was inaugurated in 2012 after having grouped all those bilateral dialogues initially conducted at civil society level, such as higher education, vocational training, culture, sports, gender equality and multilingualism. Some of the dialogues under this pillar of dialogues were established one or two decades earlier, including cooperation on higher education which has been flourishing since. For example, following the successful conclusion of the [EU-China Legal and Judicial Cooperation Programme \(2000-2005\)](#), the [China-EU School of Law at the China University of Political Science and Law](#) was established by EU-China joint funding. Regarded as a symbol of China's commitment to cooperating with the EU on legal affairs, the mission of the Law School is to improve the mutual understanding towards each other's legal systems, and to educate a great number of legal professionals who should acquaint themselves with the knowledge of both jurisdictions, with practical legal skills. Within this context, the cohorts of Chinese law students have subsequently brought a better understanding of, and a closeness to, EU laws, policies and legal practices to the Chinese judiciary and government institutions. As to the cooperation programme on business education, the China-Europe International Business School,¹⁶ which was co-funded by both the EU and China in 1994 in Shanghai, has experienced fast growth in

¹⁶ More information on CEIBS, see [The Best Business School in China | China Europe International Business School \(ceibs.edu\)](#).

global reputation and in student numbers, with campuses now established in Beijing, Shenzhen, Accra in Ghana, and Zurich in Switzerland.

Moreover, in 2005 the EU opened the “China window” of the Erasmus Mundus programme to Chinese students and scholars. Subsequently, China emulated the same model whereby since 2007, 100 scholarships are offered every year to EU students¹⁷ in a bid to provide EU students more educational opportunities in China.

4. Other EU institutions’ dialogues with China

The interlocutors of all the above-mentioned dialogues are usually the EEAS and the various Directorate-General (DG)s of the European Commission from the EU side, and their Chinese counterparts from the ministries and agencies of the State Council. Think tanks and industry associations may be lead interlocutors of the bilateral dialogues, too. The Chinese Academy of Social Sciences, a network organisation but also a think tank, is the lead interlocutor of the Employment & Social Policies Dialogue, together with the Chinese Ministry of Human Resources and Social Security. Relevant industry associations sometimes are dialogue partners as well. For example, the shipping industries from both the EU member states and China are institutionalised interlocutors of the [Dialogue on Maritime Transport Agreement Implementation](#), and the Chinese Ministry of Transport and EC DG Move are the interlocutors at policy level.

Other EU institutions conduct bilateral dialogues with their respective Chinese counterparts as well. Every year, the European Economic and Social Committee co-organises a [Roundtable](#) with its Chinese counterpart, the China Economic and Social Committee, in order to exchange views on usually controversial topics of concerns to both sides. Equally, in order to deepen mutual understanding, the [Delegation for Relations with China at the European Parliament](#) organises annual dialogues with the Chinese National People’s Congress on different subjects that are covered by the EU-China Dialogue Architecture. Moreover, the Euro Troika (Eurogroup Chair, ECB, and Commissioner for Economic & Monetary Affairs) conducts an [Economic and Financial Affairs Dialogue](#) on financial markets with China’s Ministry of Finance, National Development and Reform Committee (NDRC) and People’s Bank of China.

5. EU member states’ dialogues with China

EU member states conduct many dialogues and cooperation projects with China. For example, in the past the UK and Germany conducted their respective judicial dialogue with China’s Ministry of Justice to train Chinese judges, to broaden their exposure to other jurisdictions, including the handling of legal cases. There are also many joint Master of Law curriculum programmes launched between law schools in EU member states and China. As a result, these days more and more Chinese lawyers and government officials are familiar with EU laws, the civil law legal system and international law. Such cooperation in legal training has been long-standing. In fact, as early as 1983 China and Germany already concluded an inter-governmental agreement on the Project of Promotion of the Patent System of the People’s Republic of China, thanks to which many Chinese patent examiners were trained in Germany and a patent documentation database was installed so that patent applications

¹⁷ For more information on the Study in China programme, see [Study in China \(chinamission.be\)](#).

could be examined in China. The whole process of judicial exchange, whether at the EU or member states level, is particularly important to help instil the quality of transparency, fairness and impartiality when adjudicating in the Chinese judicial system and public administration. Notably, establishing an impartial judiciary is equally a commitment that China pledged at its WTO accession.

Education is a popular, often long-standing, cooperation area between the EU member states and China. For example, on 13 April 1995, China's Sichuan Province and the Brussels-Capital Region signed the Brussels-Sichuan Agreement of Cooperation, covering the cooperation areas of vocational training, student and cultural exchange programmes.

6. Functions

In the beginning, the EU-China bilateral cooperation programmes were usually of a capacity-building nature. They later evolved to become platforms for undertaking other functions, such as policy coordination, and forging more business opportunities. As a by-product of the dialogues, the EU seeks regulatory convergence where possible so that its rule-making capacity may be enhanced on the world stage. On the other hand, China has gained much know-how from the EU's experiences in many regulatory areas. The whole process has facilitated China's quicker integration into the WTO trading system bringing about a more market-driven economic development model. In the meantime, the funding pattern of the dialogues has transformed from a donor-recipient relationship between the EU and China to a co-funding pattern as far as cooperation projects are concerned.

In the past the EU and China assumed a mentor-student relationship between them, too, but these days it is more of a partnership as reflected by some dialogue agendas, such as the agendas of the Human Rights Dialogue (Box 3) took place in recent years.

Box 3: Human Rights Dialogue

Initially, the Human Rights Dialogue was engaged as an instrument for the EU to promote its values of human rights protection in China; while China's human rights record (or rather violations) was scrutinised by the EU on a yearly basis during such meetings. At recent meetings, the agendas are re-orientated towards a "two-way" dialogue for deepening not only mutual understanding on the differences sustained in each other's society and political systems, but also for highlighting the specific improvements require redress towards each other.

To date, though China's record on human rights is still regarded as poor by quite a few,¹⁸ over the decades China has been improving human rights protection gradually and installed a number of fundamental legal instruments in order to better safeguard citizen's human rights, including legal aid.¹⁹

¹⁸ Lederer E. (2020), Nearly 40 nations criticise China's human rights policies, 7 October, AP. Available at: [Nearly 40 nations criticize China's human rights policies \(apnews.com\)](https://www.apnews.com/story/nearly-40-nations-criticize-china-s-human-rights-policies/2020/10/07).

¹⁹ Kuhn R. (2020), Does China care about human rights? 24 October, CGTN. Available at: [Does China care about human rights? - CGTN](https://www.cgtn.com/news/2020-10-24/Does-China-care-about-human-rights/).

In parallel, the EU and its member states in recent years face persisting social challenges, such as irregular migration. This has granted China the opportunity to identify EU's weaknesses in human rights protection, and raise them to the EU at the Human Rights Dialogue meetings. As a result, the Human Rights Dialogue in recent years has replaced its China-focused agenda-setting by a two-way approach, because human rights protection challenges raised in China and in the EU are both discussed at the meetings. Though the EU has maintained the possibilities of listing some alleged individual human rights violations (e.g. death penalty, minority's rights) on the agenda, China equally uses the Dialogue to bring to the EU's attention on alleged human rights derogations in the EU, such as migrants' rights.

For example, during the EU-China Human Rights Dialogue in 2018, issues concerning business and human rights, disability rights and the status quo of women's rights were topics identified for China to make improvement. At the same meeting, the migration issues and protection of fundamental rights, and in particular protection of the rights of migrants and asylum seekers were raised by China to the EU.

6.1 To tackle the practical challenges in bilateral trade

A large number of dialogues under the Pillar of Economic and Sectoral Dialogue were established for tackling practical challenges, such as the [Dialogue on Consumer Products](#) for consumer goods safety. The RAPEX-China online system, launched by the Dialogue, serves for regular and rapid data transmission, where information on Chinese consumer (non-food) products identified as dangerous and consequently banned or withdrawn from the EU markets is transmitted to Chinese authorities. Since 2008, the same dialogue instrument became a component of the EU-US-China trilateral cooperation on consumer product safety issues for coordinated response.

6.2 To sustain a partnership, especially in time of frictions

Since the bilateral dialogues are not ad hoc but institutionalised, meaning that the EU and China are bound by the respective dialogue trajectories at political and/or working levels, with some of them also include contractual obligations for project deliverables, both sides are condemned to stay connected to carry on their work to make progress, however large their differences may be and frictions may exist. In this respect, the HLETD is a case in point (Box 4). Because of the ever-growing trade imbalances, and particularly for the lack of a level playing field and reciprocity, in 2008 HLETD was established hoping to redress these issues, and to identify practical ways to improve bilateral trade. In principle, HLETD had the aim to implement the outstanding commitments that China pledged to reform with regard to substantial market access for goods and services, as seen by the Joint Statement issued at the first EU-China Summit, in London, 1998.

Box 4: High-level Economic and Trade Dialogue (HLETD)

The annual agenda-setting of the HLETD corresponded with the trade frictions experiencing between the EU and China in recent years concerning disciplines, such as state aid, industrial subsidies.

For example, under the theme of “harnessing globalisation”, the agenda of the 7th HLETD in 2018 covered the subjects of WTO reform, including a new working group in order to tackle key reform areas, for example on industrial subsidies. During the meeting, the EU also urged China to submit an ambitious and comprehensive offer for its WTO Government Procurement Agreement accession. On trade and investment issues, both sides exchanged views on obstacles to market access. The issues related to digital economy, cooperation on climate change, environment protection and the Connectivity Platform were also discussed. Other agenda items included China’s steel and aluminium overcapacity and the high technology sectors covered by the Made in China 2025 Strategy, market access barriers to EU beef and poultry exports, the circular economy, the ETS, the Oceans’ Partnership (e.g. fisheries), and the market access barriers following the cybersecurity regulations, etc.

Trade frictions aside, HLETD in the meantime pushes to advance bilateral economic and trade relations. The bilateral WTO Working Group tackles WTO reforms in relation to the Appellate Body and other disciplines, such as industrial subsidies and transparency. For the former, after the Appellate Body ceased to function in December 2019, the EU, China and 17 other WTO members in March 2020 established a contingency multi-party interim appeal arbitration arrangement, as a separate appeal system to settle trade disputes. For the latter, nonetheless, it seems little progress has been made, except that the [Dialogue on State Aid](#) was established as a mechanism for the EU and China to conduct consultation, cooperation, and for transparency and legal certainty purposes, in the field of state aid control and Fair Competition Review. According to its [MOU](#), this new dialogue aims to enhance practical cooperation on transparency of China’s state aid control regime and establishing a Fair Competition Review System in China, so as to foster fair competition in the market, the so-called a level-playing field, for businesses of all countries.

6.3 To align objectives where possible, elevate bilateral cooperation at global level

When the EU and China are able to forge shared positions on a given subject, their cooperation would be facilitated at global level. This is often the case with regard to their cooperation on foreign policy and security issues. For example, as acknowledged by Federica Mogherini, the former High Representative of the EU for Foreign Affairs and Security Policy, at her meeting with China’s Premier Li Keqiang on 24 October 2019, EU-China cooperation was a major factor in first securing the Iran nuclear agreement and later in ensuring its full and effective implementation.

6.4 To enhance the EU's rule-making power in trade²⁰

With the sheer size of its single market, counting 450 million consumers and 22.5 million small and medium-sized enterprises (SMEs), the EU boasts a normative power in global trade. When China embarked on market-opening in order to qualify for its WTO membership, abundant opportunities were presented to the EU to shape China's various trade policies and to align them with the EU's, where possible. The success of the whole undertaking would yield enhanced rule-making power for the EU at global level. In reverse, EU's trade policy approaches and experiences (including market integration) could serve as examples for China to reflect upon and learn from. Indeed, many economic and sectoral dialogues, for example the [Competition Policy Dialogue](#) (Box 5) and the [IPR Dialogue](#), have served both sides.

Box 5: Competition Policy Dialogue

Competition policy is a crucial and complex issue for China both internally, in relation to its domestic markets among different administrative levels, and externally for international mergers and acquisitions reviews.

Domestically, as a by-product of China's judicial devolution, China's internal markets at different administrative levels were often subject to diverse regulations. Therefore, when transitioning from a central-planned to a market-oriented economy, to achieve China's 'internal markets' integration the regulatory barriers erected between central and local, and among provincial and municipality, governments had to be removed or minimised. Only after such integration, the (internal) market would be ready for fair competition on an equal footing. Besides, as a legacy of a central-planned economy, SOEs were bestowed with much privilege in terms of favourable policies and convenient access to public funds. In this context, achieving fair competition means eliminating SOEs' privilege and subjecting them to the same market rules applicable to all enterprises regardless of their ownership, whether SOEs, private, or foreign-invested. Only then, a level-playing field for competition would materialise.

Internationally, with its quick rise to become a huge market for foreign investments, China is increasingly a "must visit" jurisdiction for global mergers. But at the same time its Anti-Monopoly Law (AML), since in 2008, appears relatively young in comparison with other competition jurisdictions in the world, such as the EU's, and requires improvements in implementation, in particular.

The EU and China in 2004 agreed to set up a permanent consultation mechanism on competition policy. At the time, China's competition regime, including AML 2008,

²⁰ Seeking possibilities for greater influence and for enhanced market access ultimately is a strategy engaged by global market powers, the EU is not the only one. Recall, on 15 November 1999, Ambassador Barshefsky, then USTR, at the Press Conference on the U.S.-China Agreement said that on the question of financial securities, the Treasury Department in particular would have a forum in which to consult with China on the development of its securities market, which was underdeveloped. The Ambassador further said that while China typically turned to Hong Kong regulators for advice, the Treasury Department "...were very anxious to be able to participate in this kind of formulation of regulations and the development of capital markets generally in China, including with respect to market access in future..." Note that the Agreement, which paved the way for the U.S.' support to China's WTO membership bid, established a capital markets dialogue to cover the totality of banking issues as well as securities and regulatory issues.

administrative regulations and implementing rules, already started to follow the “European model” as China’s AML equally regulates against anti-competitive agreements, abuse of dominant position and concentration, echoing Articles 101 and 102 of the Treaty on the Functioning of the EU and the EC Merger Regulation. Depending on the investigated markets, since an international transaction outside China could be subject to AML’s scrutiny, coordinating with Chinese authorities on competition policy has become essential in order for both the EU and China to fight against international cartels.

Three different kinds of activities are therefore introduced to complement the EU-China Dialogue on Competition Policy, in order to harness uniform implementation and coherent and predictable enforcement. The three kinds of activities are, a “Competition Week” to enhance public awareness about competition policy, a “Competition Summer School” to conduct an intensive week-long study programme to train Chinese officials, a “Visitors’ Programme” which is a field trip to visit different competition authorities in the EU. At policy level, during the annual meeting of the Dialogue, officials from both sides will exchange views on good practices and discuss all areas of competition law, including state aid control.²¹

Similarly, within the framework of the EU-China IPR Dialogue which covers all subjects of IP protection, the EU has successfully helped to shape China’s legal framework of geographical indications (GI), including for the country to adopt the EU’s *sui generis* GI protection scheme. Established in 2004, the bilateral cooperation in civil aviation has yielded the same result for the EU to extend its single market principles to China (Box 6).

Box 6: EU-China [Aviation Relations Dialogue](#)

China has one of the fastest growing aviation sectors in the world; it is expected to be the largest growing domestic aviation market for the next 20 years, too. With a steady increasing number of potential customers in the country, new airlines and low-cost subsidiaries of existing full services carriers will enter the market, many opportunities are therefore presented for European aviation industry in China. This includes not only EU-manufactured aircraft and components, but also more flight frequencies between Europe and China.

As to EU’s aviation industry, it supports 5.1 million jobs and generates 2.4% of its GDP. Aviation is also one of the main driver for R&D, and for creating employment in Europe. Exports account for roughly 60% of its revenue.

Aviation trade between the EU and China has already generated more than EUR 10 billion.

²¹ With the dialogue as a platform, the EU shares with China its experience in enforcing state aid control. It can also be used to learn more about the implementation of the Fair Competition Review in China, which is designated to prevent public policies from distorting and restricting competition while maintaining fair market competition and promoting a unified market. The dialogue is seen as the Commission’s broad strategy to address the distortion that national subsidies policies engender on the promotion of a global level playing field where companies can compete on their merits. The dialogue is supported by cooperation with working groups at technical level. The dialogue will take place at least once a year, alternating between Brussels and Beijing.

The EU-China Aviation Relations Dialogue aims to strengthen the economic partnership between the EU and China in the civil aviation domain in relation to industry, technology and safety.

From the perspective of EU's rule-making power, replacing the traditional flight route setup based on nationality restrictions, the single market principle of destination has eventually been recognised by the Chinese aviation authority, as seen by the Horizontal Agreement signed in May 2019. This recognition extends the EU's internal aviation market to a third country.

As to safety, the objective of 'mutual acceptance' has been achieved as a result of the bilateral aviation dialogue. By signing the Bilateral Aviation Safety Agreement (BASA), the EU and China have established the mechanism of reciprocal acceptance of 1) certificates (airworthiness, environmental testing) and 2) findings of compliance issues by respective competent authorities. Such findings include design and production, maintenance, personnel licensing and training, operation of aircraft, air traffic services and management, etc. As to the 'mutual acceptance' arrangement, it will apply to a range of products, such as civil aircraft, aircraft engines, propellers, sub-assemblies, appliances, and part. In practical terms, it means automatic acceptance without any technical investigation or validation exercise, so that a certificate issued by the certifying authority is recognised by the validating authority as equivalent to its own certificate issued in accordance with its legislation and procedures.

The Aviation Dialogue is conducted through 1) exchange of information between regulatory authorities; 2) specific technological cooperation activities, including training, and secondment of short-term experts, in order to implement policy objectives.

It is to be noted that aviation cooperation was emphasised by the EU as "a matter of priority" in bilateral relations with China since 2004, for which the reasons were three-fold. Firstly, China's ever-growing civil aviation market, as mentioned above, embeds with substantial commercial opportunities, as mentioned above. Secondly, for the EU's principle of destination to be recognised by China, so that all EU airlines will be able to fly to China from any EU member states with a bilateral air services agreement with China if unused traffic rights are available. Without the agreement, only airlines owned and controlled by a given member state of its nationals could fly between that member state and China. Thirdly, on 'mutual acceptance', the EU perhaps did not want to lag behind the US since the U.S. and China signed the Agreement for Promotion of Aviation Safety in 2005 covering, among others, mutual acceptance of technical standards, including (a) airworthiness approvals and environmental testing and approval of civil aeronautical products, and (b) qualification evaluations of flight simulators. BASA also aims to facilitate mutual acceptance of the approvals and monitoring of maintenance facilities and alteration or modification facilities, crew members, aviation training establishments, and flight operations. Indeed, BASA brings the EU to an equal footing with the US on, among others, aircraft and related products trade. In the meantime, BASA removes the unnecessary duplication of evaluation and certification activities for aeronautical products by the civil aviation authorities and

therefore reduce costs for the aviation sector. BASA also promotes cooperation between the EU and China towards a high level of civil aviation and environment compatibility.

Both the Horizontal Agreement and the Bilateral Aviation Safety Agreement came into effect in September 2020.

Thanks to the bilateral dialogue mechanism, not only on trade issues, but also on certain non-trade issues, chiefly on environmental protection, the EU's rule-making capacity is seen to be working towards China, for which China has stepped up from "soft", e.g. exchanging views and sharing experiences, to "hard" commitments with legally-binding deliverables, as testified by the CAI. Based on the provisional text of the Agreement (January 2021), China has committed to implement the Paris Agreement on Climate Change and to ratify the ILO Conventions on Forced Labour. With these legally-binding obligations on non-trade issues, China departs from its previous approach undertaken in similar context which was only for "best efforts" as witnessed by the negotiations, and the eventual suspension, of the EU-China Partnership and Cooperation Agreement (PCA).

Box 7: From "best efforts" to "legally-binding" commitments on non-trade issues

In 2007, the EU and China launched their PCA negotiations, with a scope encompassing political cooperation, e.g. democracy, human rights, governance, and trade and investment liberalisation, mainly in the form of trade and investment facilitation. China's caution against "hard" commitments to real political deliverables was quoted as one reason for suspending the negotiations although a half of the 22 chapters had been finalised or close to finalisation.²²

However, at the end of 2020 China has changed its position against non-trade issues during trade negotiations and submitted to hard commitments to implement the Paris Agreement on Climate Change and to ratify the ILO Conventions on Forced Labour which are both with legally-binding effects.

More significantly, as far as the CAI is concerned, China has subjected its sovereign right of ratification to a consultation mechanism with the EU. This is a triumph for the EU over its rule-making power, as well as its value-based trade policy. No wonder China's hard commitments, grouped under the chapter of sustainable development of the CAI, were hailed as the "last piece that fell into the place" before the CAI was provisionally concluded.²³

In more detail, with regard to environmental protection, China's commitments under the CAI are two-fold. Firstly, China has committed to implementing the UNFCCC (United Nations Framework Convention on Climate Change) and the Paris Agreement on Climate Change. This means peak CO₂ emissions by 2030 at the latest, lowering the carbon intensity

²² For the motivation for launching the PCA negotiations and a brief explanation of the suspension of the negotiations, see Pelkmans J., Hu W. et al. (2018), *Tomorrow's Silk Road, Assessing an EU-China Free Trade Agreement*, Rowman & Littlefield (2nd ed.), pp.35-6, 218, 239

²³ Available at [tradetalkspodcast.com/148, the EU's new trade policy, with Sabine Weyand of DG Trade.](https://tradetalkspodcast.com/148-the-eu-s-new-trade-policy-with-sabine-weyand-of-dg-trade)

of GDP by 60% to 65% below the 2005 levels by 2030, increasing the share of non-fossil energy carriers of the total primary energy supply to around 20% by that time, and increasing its forest stock volume by 4.5 billion cubic metres, compared to the 2005 levels. Secondly, China has committed to a five-year action plan, known as Nationally Determined Contributions (NDC) under the Paris Agreement, to implement the aforementioned goals. Working on a five-year cycle since November 2016 when the Paris Agreement came into force was a commitment pledged at the conclusion of the Paris Agreement, China missed its first NDC submission deadline in 2020.²⁴

As to the labour protection commitment under the CAI, although – as far as the provisions are concerned – ratifying the two ILO Conventions on Forced Labour (Nos 29 and 105) will be on China’s “own initiative” with “continued and sustained efforts”²⁵ which appear rather a “best endeavour” kind of soft commitment, but the pledge is nevertheless legally binding, as confirmed by the Panel Report on the EU-Korea labour dispute, where the Panel decided that the wording “... respect, promote and realize...”, used by Article 13.4.3 of the EU-Korea Free Trade Agreement (FTA), also by Article 4 of Sub-section 3 of the EU-China CAI (Agreement text as of 22 January 2021), is legally binding.²⁶ Moreover, the provision that constitutes the “best endeavour”, where parties “will make continued and sustained efforts towards ratifying”, seen in the same Article in both trade agreements, is equally legally binding as established by the same Panel Report.²⁷

6.5 To further the EU’s strategic interests

The bilateral dialogues provide the EU with a ready instrument to advance its strategic interests vis-à-vis China, which is a global player in many dialogue areas under the Dialogue Architecture.

6.5.1 *The foreign policy front*

The EU-China bilateral political dialogues consolidate many of their shared positions in foreign policy in the geographical areas concerned, from Asia, Africa, Latin America, Middle East to North Africa. For example, at the 7th EU-China Summit in 2004, the Joint Declaration on Non-proliferation and Arms Control was concluded while both sides recognised each other as major strategic partners on arm control. This enhanced cooperation has been conducive in order to advance the multilateral non-proliferation process. The position shared by the EU

²⁴ In accordance with the Paris Agreement, a participating party is obliged to submit its NDC every five years to set out an action plan to implement its pledges under the Paris Agreement, to communicate its plans to build resilience to adapt to the impacts of rising temperatures, and to set out its long-term low greenhouse gas-emission development strategies.

²⁵ See Article 4 of Sub-section 3 on Investment and Labour of the EU-China Comprehensive Agreement on Investment (https://trade.ec.europa.eu/doclib/docs/2021/january/tradoc_159346.pdf).

²⁶ See Report of the Panel of Experts, Panel of Experts Proceeding Constituted under Article 13.15 of the EU-Korea Free Trade Agreement, 20 January 2021, pp 28-40.

²⁷ See Report of the Panel of Experts, Panel of Experts Proceeding Constituted under Article 13.15 of the EU-Korea Free Trade Agreement, 20 January 2021, pp 70-7. For an analysis on the challenges that China faces in order to ratify the ILO Conventions on Forced Labour, see Hu W. (2021), The EU-China Comprehensive Agreement on Investment – an in-depth reading, No PI2021-07/ May 2021, CEPS Policy Insights.

and China on the Joint Comprehensive Plan of Action (JCPOA) is another case in point, as mentioned above.

6.5.2 *The economic and trade front*

Many dialogues conducted under the Pillar of Economic and Sectoral provide the EU with opportunities to explore new terrains to advance its trade interests. For example, as one of the earliest bilateral cooperation projects, the Energy Dialogue was first established in 1994 in the forms of annual working group meetings and the bi-annual Conference on EU-China Energy Co-operation.

Box 8: the EU-China Energy Dialogue

When [the EU-China Energy Dialogue](#) was first inaugurated, the specific agenda included energy policy and development strategy, the evolution of energy markets, and security of supply and sustainable development.

As time evolves, and because China has since become simultaneously the world's largest renewable energy producer as well as the largest producer of hydroelectricity, solar power and wind power, and one of the world's largest greenhouse gas emitter, bilateral energy cooperation has been elevated to be a very strategic issue for both sides, especially concerning supply and innovation.

In September 2020, President Xi's pronouncement on "emission peak by 2030 and carbon neutrality by 2060" has injected new impetus to China's ambition of environmental protection. Nonetheless, achieving carbon neutrality suggests that China will become the world's biggest market for low-carbon technologies, and this potential has been indeed acknowledged for it presents concrete trade opportunities. After all, China has been the world's biggest investor in renewable energy since 2016.

However, aside from all the encouraging developments, one should not underestimate the considerable impediments in terms of a coal transition for clean energy that China must overcome before achieving its goals. It is noticed that, in the 14th Five-Year Plan delivered at the 'two sessions' (Beijing, 4-11 March 2021),²⁸ Premier Li Keqiang refrained from setting a cap on carbon intensity for the next five years (2021-2025) and from introducing a ban on building new coal-fired plants, which would have been a major step for promoting carbon reduction. As the world's largest coal producer accounting for nearly half of global production, China continues to depend heavily on coal domestically and invest in it overseas.

Presently, fossil fuels – mostly coal – account for about 90% of China's energy production and consumption. The government has been working to lower its reliance on coal, to cut down overcapacity, while expanding its renewable capacity and to gradually switch from

²⁸ The 'two sessions' refer to the annual meeting of the Chinese People's Political Consultative Conference (CPPCC) and the National People's Congress (NPC). The meeting is a window on the central government's priorities and plans for the coming year (<https://www.scmp.com/news/china/politics/article/3123587/two-sessions-2021-five-things-you-need-know-about-chinas>).

coal to gas as well as to renewable energy sources.²⁹ To peak CO2 emissions by 2030 is therefore to manage a coal transition.³⁰ Using the Covid-19 recovery package as a conduit, China announced that it would invest around CNY 17.5 trillion (€2.26 trillion) in 'new infrastructure' (e.g. 5G networks, charging stations for new energy vehicles). However, it is also reported that the country will likely ease the pressure³¹ on coal mines' closure to meet the rising demand of energy for economic recovery post-Covid.

Nuclear energy is another area where cooperation has generated tangible results, and benefits the EU since it could learn from China for its know-how. The [R & D in Peaceful Use of Nuclear Energy Steering Committee](#) (RD-PUNE) was established in 2008, after the agreement on R&D co-operation on the peaceful use of nuclear energy between the Euratom and the Government of China was signed at the EU-China Summit, in The Hague, in 2004. The Agreement launched research cooperation, including researchers' access to nuclear energy research facilities on both sides. This provision is particular important to EU researchers as they can access China's state-of-the-art nuclear facilities while those in Europe were closing down or being phased out.

The same spirit of cooperation on nuclear energy extends to international fora, too, for which for example on ITER the EU could advance its strategic interest in "advancing fusion science and preparing the way for the fusion power plants of tomorrow".³²

Box 9: EU-China cooperation on ITER, the world's largest nuclear fusion project

The EU and China are both parties of the inter-governmental multilateral agreement on fission-related research, and partners of the ITER³³ which is a multilateral cooperation project involves presently 35 nations on fusion research and participate in the R&D activities of Sodium Fast Reactor and the Very-High Temperature Reactor, within the Generation IV international Forum.

Recall around 2004 when the negotiation reached a deadlock among the six parties (China, Japan, Korea, the EU, Russia and the US) as to the location of the 10-billion-Euro science project, China (and Russia) supported the EU's choice of the South of France (as opposed

²⁹ For example, China's State Development and Investment Corporation pledged in 2019 to no longer invest in new thermal power plants, Bloomberg, (March 2019), China state funds join shift from coal power investments (www.bloomberg.com/news/articles/2019-03-20/top-china-fund-sdic-joins-global-shift-away-from-coal-investment).

³⁰ See also Teng, F. (2018), Coal transition in China: Options to move from coal cap to managed decline under an early emissions peaking scenario. IDDRI and Climate Strategies (www.iddri.org/sites/default/files/PDF/Publications/Catalogue%20iddri/Rapport/20180609_ReportCOAL_China_0.pdf).

³¹ Bloomberg, China Likely to Ease Coal Mine Closures to Meet Rising Needs, 15 June 2020.

³² Available at: <https://www.iter.org/proj/inafewlines>.

³³ In southern France, 35 nations collaborate to build the world's largest tokamak, a magnetic fusion device that has been designed to prove the feasibility of fusion as a large-scale and carbon-free source of energy based on the same principle that powers our Sun and stars. ITER will be the first fusion device to produce net energy, and to maintain fusion for long periods of time. ITER will also be the first fusion device to test the integrated technologies, materials, and physics regimes necessary for the commercial production of fusion-based electricity.

to a location in Japan, supported by the US and Korea). At the time, China even indicated that if negotiations were to fail it would be ready to join the EU to go ahead with the latter's choice of location.³⁴ The ITER Agreement was officially signed in Paris in November 2006, while India also joined as a party. France was eventually chosen as the location of the project.

6.5.3 *The people-to-people front*

The various dialogues undertaken at the people-to-people front help to deepen trust and mutual understanding between the peoples in the EU and China. Cooperation in this regard include many areas, such as education, youth, gender equality, sports and multilingualism. The whole exercise is designed to enhance EU's visibility, and soft power.

Though the dialogue themes of people-to-people exchange may appear light-hearted, they are of much importance when promoting EU's interests towards China. This is testified by, for example, the 2016 Joint Communication on Elements for a New EU Strategy on China which identified the Erasmus+ programme as an instrument to strategically promote the EU's interests concerning China.

Indeed, higher education has become increasingly a focal point for EU-China cooperation. China has already been the top beneficiary of the EU-funded "Erasmus+" programme and, since 2015 more than 4,000 Chinese students and staff benefitted from the programme in which 70 Chinese universities participated. Moreover, in 2017 both parties further agreed to boost researchers' mobility through the EC-funded Marie Skłodowska-Curie Actions, which is a programme promotes interdisciplinary research and international collaborations, and supports scientists across the globe. China has benefitted considerably from the various EU-funded academic exchange programmes whereby some of China's most brilliant minds of the future generation are also exposed to Europe's culture, values, science and technology, reflecting EU's soft power. Perhaps as an emulation of the EU's practice and the logic behind it, China launched an "EU-style" five-year Chinese Government Scholarship Program (EU Window) from 2007 onwards to provide 100 scholarships per year to young EU students to study in China. This programme continues to date.

6.6 To explore new areas of mutual interests to achieve a win-win situation for both

The examples above, such as on competition policy, already highlight the fact that dialogues can facilitate to achieve a win-win situation for both the EU and China. As the biggest consumer market in the world, China presents many business opportunities for EU businesses. This was indeed one reason that, since the very beginning, the scope of EU-China cooperation set no limits as witnessed by the 1985 bilateral Agreement on Trade and Economic Cooperation which also covers their cooperation in third countries. For this purpose, the number of dialogues between the EU and China has been ever growing to date, since new cooperation areas continue to emerge.³⁵ This phenomenon is applicable to dialogues on non-trade issues, too.

³⁴ See the Joint Statement of the 7th EU-China Summit, The Hague, 8 December 2004, at para.19.

³⁵ In this regard, EU's financial commitment has been considerable. For example, in 2004 the Hague Summit endorsed four financing agreements for EUR 61 million for four new cooperation projects under the programme

On the other hand, although the dialogues on non-trade issues, such as environment protection, have delivered many tangible results, that so far only took place in relation to “non-complicated” subject matters without the need for regime change. If the “complicated”, China may still be persuaded to change its stances, but that would require much longer time for materialisation. In this regard, China’s stance on forced labour is a case in point, since legislative changes in prison law and criminal law will be involved, although China already abolished forced labour camp in 2013.³⁶ Dialogues of other non-trade issues include [Regional Policy](#) and occupational safety & health. The latter focuses on improving working conditions, reducing work-related accidents and illness, in order to contribute to the objective of decent work for all and adhere to the agreed ILO standards.

Some sectoral dialogues are established in order to identify synergies between the EU and China for mutual benefits. The Climate Change Partnership, the [Dialogue on Aviation Regulation](#) and the [High-Level Dialogue on Innovation](#) are three such examples. The EU-China Climate Change Partnership includes an action plan of cooperation on clean coal, energy efficiency, renewable energies; working towards a more ambitious Paris Agreement within the remit of the UN Climate Convention is an objective of the Partnership, too. Under the High-Level Innovation Dialogue, both sides set up a co-funding mechanism 2018-2020 and the Flagship initiatives, such as food, agriculture, biotechnologies, environment protection, sustainable urbanisation, surface transport, safer and greener aviation, are topics identified for cooperation under the framework of the EU-financed H2020 programme. In reverse, the EU joins China's drive for innovation and taps into China's increasing innovation capacity for a win-win position for both sides. In recent years, China has been making inroads in innovation. In 2019, China’s R&D expenditure reached 2.17 trillion CNY (0.27 trillion EUR), equivalent of 2.19% of GDP, after the US.³⁷ It is the world’s second-largest producer of high-quality academic research and, seven of the world’s top 25 academic institutions, ranked by research output in the natural sciences, are in China.

Box 10: Environment Policy Dialogue

The EU and China started to collaborate on environment protection in 1999, when the [Environment Policy Dialogue](#) was inaugurated. The EU was committed to support China's wide-ranging social and economic reforms in the run up to the country’s WTO accession. Other projects established in the same period included education and training, science and technology, energy, agriculture, civil aviation, telecommunications, legal co-operation and public administration training, village governance and human rights.

In 2003, the Environment Policy Dialogue was upgraded to the ministerial level, with the overall objective of implementing the 2030 UN Agenda for Sustainable Development in

of supporting economic and social reform in China. The four projects were: the EU-China Information Society Project, the EU-China Managers Exchange and Training Programme, the EU-China Social Security Reform Project, and the Erasmus Mundus China Window project. The Information Society Project as well as the Social Security Reform project have both organically grown and established further concrete dialogues, while the Erasmus Mundus China Window project has become fully-fledged in recent years as mentioned above.

³⁶ For details, see Hu W., The EU-China Comprehensive Agreement on Investment – an in-depth reading, No PI2021-07/ May 2021, CEPS Policy Insights.

³⁷ Available at: [UKRI China – UKRI](#).

China. Since then, the topics covered under the Dialogue have experienced an organic growth. Because of the Chinese society's increased awareness of environment protection, the scope of bilateral dialogue has been extended to cover more cooperation areas over the years. And, when the importance of some policy areas, such as sustainable development, renewable energy, and water source management, grew in their own right, specific dialogues were launched accordingly. . Additionally, after the government has adjusted its policy focus from "development at all costs" towards environment-oriented, practical cooperation projects started to take off, too, in order to rollout environment protection policies, such as the ETS.

The topics of environment protection have since increased to include these days sustainable production and consumption, pollution control and management, natural resource management, river basin management, biodiversity conservation, international environment governance, emergency response to environmental accidents, chemicals management, and disposal and management of dangerous wastes, etc. Both the EU and China also pledged their support to promote clean technology transfer, and to encourage the adoption of stricter environmental standards in mutual investment.³⁸ In 2012, the projects on water pollution reduction, waste policy and reduction of heavy metal pollution were launched. Later, since the subjects of water, food and nutrition security garnered substantive interest from both sides under the umbrella of environmental and agricultural cooperation, the [EU-China Water Platform](#) was established in order to tackle on the issue of integrated water resources management in China.

More recently, green finance and circular economy were added to the agenda of bilateral cooperation on environment protection. On green finance, a shared objective is to harness private capital flows towards a more environmentally sustainable economy. As to circular economy cooperation, following the [MoU on Circular Economy Cooperation](#) signed in July 2018, both sides started to share with each other's best practices, to align key mechanisms, and potentially to set up product standards and policies, which may enable an effective circular economy, for example in the area of plastics.

Exchange of information concerning methodologies, policy tools, technology transfer and implementation as well as staff exchanges, etc. are the means engaged by the EU and China in order to roll out a comprehensive and dynamic environment protection partnership.

At policy level, a significant output of the bilateral Environment Policy Dialogue is China's adoption of the EU's ETS concept, extending the EU's rule-setting capacity and has strengthened the EU's leadership role as a global champion of environment protection.

In February 2021, China officially launched its national EU-styled ETS with the initial focus on the power generation sector involving 2,225 companies. Over time, the system would be extended to cover other sectors of high pollution, such as cement, steel and aluminium. The relevant companies covered during the launch phase can enter the process of buying and selling permits to emit carbon dioxide or other greenhouse gases. If a company is able

³⁸ See EU-China Joint Summit Declaration, Beijing, 2007.

to curb its emissions significantly, it can sell surplus permits in the market, but if it fails to limit its emissions, it has to buy unused allowances from other companies.

Prior to adopting the ETS, China implemented seven ETS pilot projects in five cities and two provinces, of which specific cooperation projects were undertaken between 2014 and 2017 within the remit of the EU-China Energy Dialogue.³⁹ With China's participation, the ETS is presently operating to cover an estimated 17-18% of global CO₂ emissions, compared to 9% before.⁴⁰ As a result, the EU's method of reducing CO₂ emissions is being promoted to a global level. China has also replaced the EU as now the world's largest environment credit trading market.

Once policy objectives on environmental protection are aligned after bilateral dialogues, the next step is to conduct concrete projects to deliver those objectives. One example of such project is the China-EU Water Platform (CEWP) Dialogue,⁴¹ a three-tiered dialogue founded in 2012. The CEWP was intended to implement 1) policy exchange activities, and 2) research and innovation activities such as the EU-funded Horizon 2020 project [PIANO](#) (Policies, Innovation And Network For Enhancing Opportunities for China-Europe Water Cooperation). According to its 2018-2019 work programme, the PIANO project covered four areas, which were river basin management and ecological security, rural water and food security, water and urbanisation, water and energy security, as well as the programme of a number of horizontal activities with an organisational dimension and three work packages (WP).⁴²

CEWP also helps to bridge business opportunities both in China and the EU. The Chinese market for water technologies was estimated at \$100 bn (€91.4 bn) in 2016 (Global Water Intelligence 2017) which was among the largest in the world, and with an expected growth rate of 28% between 2016 and 2020 (Global Water Intelligence, 2017) thanks to both public and private investments of a substantial scale. However, due to a variety of reasons, including language barriers, establishing and expanding operation in the Chinese water tech market could be a very difficult undertaking for European businesses. Chinese companies face similar difficulties when they try to access the European water tech

⁴¹ With the support of the EU Water Initiative (EUWI) and based on reciprocity and mutual benefit, the China-Europe Water Platform (CEWP) was established in 2012 to achieve the objectives of realising good governance in managing water resources, enhancing mutual understanding on approaches in integrated water resources policy development and implementation, promoting the exchange of innovative knowledge and technologies to meet common challenges, creating opportunities for private sector and research institutes on both sides to undertake business development and joint research programs of common interest. According to the Declaration signed at the CEWP high-level Conference in Finland in 2017, during the next two years the CEWP would focus on reaching the UN Sustainable Development Goals associated with water and on promoting a water-related circular economy. This initiative takes place via even deeper water partnership between the EU and China and by increased cooperation with other international players in the water sector, not only in Europe and China but also outside.

⁴² WP1 was to ensure coordination and coherence internally of the five project Lots, dialogue with key external stakeholders, and support for the Secretariat. WP2 focused on Business and Innovation and aimed to strengthen the business pillar of CEWP, in close cooperation with the four other Lots. Finally, WP3 focused on new and emerging policy issues, also in close co-operation with the four other Lots, e.g. the SDGs; the Source-to-Sea concept; Economic Instruments and Circular Economy; Emerging Policy Issues, e.g. climate change.

markets. Serving as a bridge, the CEWP organises business ‘matchmaking’ and provides key sources of information to promote business opportunities for companies from both the EU and China.⁴³ Within this context, it must be highlighted that public investments in water technologies were launched following the Chinese government’s regulatory initiatives which are accompanied with investment programmes.

On the other hand, under the Environment Policy Dialogue, the bilateral cooperation programmes on [Environment Governance](#) and [Environment Sustainability](#) were conducive to instil greater awareness of environment protection, both at government and grassroot levels.

Raising awareness requires long-term commitment in general. Awareness on environmental protection in China was initially poor and the governmental could not care any less because economic development was paramount “at all costs”, including environmental costs.

In recent years, though, improving environment, with specific targets such as carbon emission reduction levels,⁴⁴ has been an on-going policy priority for which the government also allocated much financial support for implementation. Accompanying this policy drive is the government’s financial schemes to support China’s green industry. Already in 2015, China became the world’s biggest investor of renewable energy, spending a total of \$103bn (€94.14bn), or 36% of the world total.⁴⁵ This overall commitment has generated significant opportunities for deepening EU-China cooperation on environment protection for clean technology transfer, and policy coordination at global level, etc.

The above policy re-orientation would not have been possible without enhanced awareness on environment protection, of which the EU and China launched the Environment Governance Programme (2010-2015) as a means to enhance awareness at both governmental and grassroots levels. The programme aimed to strengthening environmental governance in China through enhanced administration, public access to information, public participation, access to justice and corporate responsibility in the environmental field. Under the Environment Governance Programme, 15 projects with four themes were rolled out in order to enhance environmental governance in China based on

⁴³ For details, see <https://www.cewp.eu/organization>.

⁴⁴ The 14th Five-Year Plan includes a target to decrease carbon dioxide intensity by 18% by the end of 2025. China also set a goal to raise the proportion of non-fossil energy in total energy consumption to around 20% by 2025, which is a sign of progress compared to its NDC announced in 2015. The plan encourages early emissions peaking in some economically advanced regions, key sectors and enterprises. These goals complement China’s existing national emissions targets, although some could have been strengthened, such as including a clear reduction target for non-CO2 emissions as well as an ambitious target for CO2 emissions cap. Available at: <https://www.wri.org/news/statement-chinas-14th-five-year-plan-sets-foundation-climate-action-important-details-are#:~:text=The%20world%20will%20be%20watching,tar%20for%20climate%20and%20energy.&text=%E2%80%9CThe%20plan%20includes%20a%20target,the%2013th%20Five%2DYear%20Plan>.

⁴⁵ See China cementing global dominance of global energy and technology, 6 January 2017, the Guardian. Available at: <https://www.theguardian.com/environment/2017/jan/06/china-cementing-global-dominance-of-renewable-energy-and-technology>

the premise of the Aarhus Convention.⁴⁶ The Convention has four themes encompassing public access to environment information; public participation in environment planning and decision-making; access to justice in environment matters and corporate environment responsibility. The whole programme was funded by the EU for 15mio euros, and implemented by China's Ministry of Commerce and the Ministry of Environment.

Note that the same dynamism of partnership is found in the [EU-China Partnership on Climate Change and BCM on Climate Change](#), which was forged in 2005 at the same time when the country had become the world's largest carbon emitter.⁴⁷

The Dialogue on Climate Change is a platform for bilateral cooperation within the multilateral context of the UN Framework Convention on Climate Change, where both parties coordinate their political positions related to the Paris Agreement. The policy areas covered by bilateral climate change cooperation include domestic emissions reduction, carbon markets, low carbon cities, carbon capture and storage (CCS), greenhouse gas emissions from aviation and maritime industries and hydrofluorocarbons (HFC).

Within the context, to bring dialogue to action, the Action Plan adopted in 2018 seeks to address the issues related to clean coal, energy efficiency, as well as renewable energies. Subsequently, and in view of China's ambition to establish a nationwide ETS,⁴⁸ specific projects were undertaken to support the design and implementation of greenhouse gas emissions trading in China. Additionally, there was the project on [China-EU Near Zero Emission Coal \(NZEC\)](#) for developing and demonstrating carbon dioxide capture and storage technology in China by 2020, a project which turned out to be too optimistic for many years.

6.6 A platform for capacity-building

Among the EU-China economic and sectoral dialogues, capacity-building was in the beginning a major objective in order to facilitate China's WTO accession process and, later, most of the dialogues were transformed to become platforms to assist the country's further integration in the WTO trading system and to address trade irritants for example on fisheries. Since many of China's WTO accession commitments are WTO-plus in nature,⁴⁹ the technical challenges that China was facing against the economic transitions were high. EU's (and other countries') technical assistance programmes were conducive in order to help China comply with its WTO accession commitments. Thus, many working group and expert meetings, which are a component of many bilateral dialogues, were organised in order to transfer to China the EU's knowhow and to discuss practical issues encountered. Such dialogues, including the [Dialogue on Consumer Products, Industrial Products & WTO/TBT Consultation](#), have facilitated China

⁴⁶ The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters was adopted on 25 June 1998 in the Danish city of Aarhus (Århus). It entered into force on 30 October 2001. The Aarhus Convention establishes a number of rights of the public (individuals and their associations) with regard to the environment. The Parties to the Convention are required to make the necessary provisions so that public authorities (at national, regional or local level) will contribute to these rights to become effective.

⁴⁷ China became the world's biggest investor in renewables since 2012 when \$ 65 billion was invested.

⁴⁸ For details, see [EUCHINA-ETS \(eu-chinaets.org\)](#).

⁴⁹ Hu W. (2019), China as a WTO developing member, is it a problem?, No 2019/16, November, CEPS Policy Insights.

to implement WTO-complied legislation and practices. The functioning of the expert group meetings organised within the framework of the [Dialogue of IPR Protection](#) is such an example.

Box 11: Dialogue of IPR Protection

The Dialogue on IPR Protection, established in 2004, has over the years developed a comprehensive framework of dialogues at policy, working group and expert levels.

Besides conducting bilateral meetings for information-sharing on IPR legislation and practice, and policy coordination, the IPR Dialogue has the purpose to identify weaknesses in IP protection on both sides and present proposals for improvement.

To complement the bilateral IPR dialogue activities at policy level, the IP Working Group was established in 2005 and is an integral part of the IPR Dialogue. Taking place twice a year, the agendas of each Working Group meeting are drafted with consultations among stakeholders, including industries, academia and practitioners, in order to make sure that the discussions are ‘relevant’ to the IPR issues that the parties face in reality. The location of the Working Group meetings alternates between the EU and China.

At expert level, the overall activities, which cover all the technical issues in IP areas, such as copyright, trademark, patent, GI, are organised by the [IP Key Project](#) for already more than a decade. Participants of the activities, such as technical training, experts seminars and field trips, include policy makers, judiciary and academics from both the EU and China.

Note that, although in the beginning the IP Key Project was an EC-funded project, it is now co-funded by the Commission and the Chinese Ministry of Commerce. This change of the funding pattern may reflect the fact that on IPR protection China no longer requires aid for capacity-building, but has developed its ability to enact WTO-complied laws and policies. In this sense, the Dialogue may very well serve as a platform for consultation, too.

Another example of using the bilateral dialogue mechanism as a platform for the EU to conduct capacity-building activities is the Dialogue on Public Procurement. It was launched to assist China to deliver its WTO accession commitment, to accede to the WTO plurilateral Government Procurement Agreement (GPA) “as soon as possible”.

Box 12: Regulatory Dialogue on Public Procurement

It was only in 2000 that China enacted its first public procurement laws in order to pave the way to launch its WTO GPA negotiations and to accede to the Agreement “as soon as possible”, in accordance with its WTO accession pledge. Prior to that, public procurement activities were ‘centrally planned’ and had little relevance to trade but aimed at spending of public funds. Nonetheless, as public procurement has a ‘public’ dimension, the procurement activities were therefore linked closely to SOEs in the past and SOEs were usually favoured by procurement contracting authorities since they were all from the same “family”. For this reason, public procurement stood out from other trade disciplines, such as IPR protection, and has proven to be a difficult issue to tackle, as after all China has yet

to enforce SOE' market, instead of governmental/quasi-governmental, functions⁵⁰ in earnest. Fundamentally, public procurement was not a trade issue to China, but one of public finance whereby public funds would trigger the application of the public procurement rules as disciplines.

In 2006, one year before China submitted its initial GPA accession offer to the WTO, the [Regulatory Dialogue on Public Procurement](#) was launched between China's Ministry of Finance and the DG Markt of the European Commission. The Dialogue has the mandate to serve as a forum for policy consultation and discussion in order to enhance the technical expertise and capability in the area of government procurement policy of China's Ministry of Finance. The Dialogue is also expected to increase mutual understanding and awareness of current and forthcoming policy approaches, legislation and related issues, both in China and in the EU. To breakdown the mandate in details, the Dialogue should identify mutual interest that would enable China and the EU to share their experiences and to follow new developments in legislation, incl. enforcement of domestic government procurement rules, and in international fora such as the WTO GPA. To achieve these objectives, the Dialogue is undertaken by means of regulatory exchange and seminars. Over the years, a number of joint studies were conducted in order to explore ways for China to propose an ambitious offer for acceding to the GPA in an expeditious manner.

Though China has yet to submit an ambitious offer for its GPA accession,⁵¹ in recent years the Chinese authorities implemented a series of measures to improve the system domestically. For example, an e-procurement method was adopted so that public procurement opportunities available at central and local governmental levels are published on a dedicated website for everybody to see.⁵² After the quality of transparency is instilled, public scrutiny is brought out and the system is now subject to judiciary review. This progress is a great leap forward given the historical background of China's public procurement regime, where government expenditures were kept strictly within the governments, so did the procurement contracts, which were not for public consumption. Since now public procurement is subject to public scrutiny, the accountability of the governments is also enhanced.

Also, when the publication of public procurement opportunities at different administrative levels is centralised, it breaks down secrecy surrounding the system and thereby helping to eliminate possible nepotism and corruption.

Moreover, China implemented the public-private-partnership (PPP) model for efficiency when using public funds and in executing procurement contracts. This is a remarkable development, because the government relinquished some power, including monopoly.

⁵⁰ Hu, W. (2019), Industrial Subsidies, State-owned Enterprises and Market Distortions: Problems, Proposals and a Path Forward, 20 December, Institute of International Trade, University of Adelaide.

⁵¹ China's latest offer, the 7th, submitted in October 2019, was still considered inadequate because in a number of critical areas (incl. thresholds, entity coverage and offsets) the professed openness was not commensurate with what GPA parties offered. See United States Trade Representative (2020), 2019 Report to Congress on China's WTO Compliance, United States Trade Representative, p.38.

⁵² See [中国政府采购网 \(ccgp.gov.cn\)](http://ccgp.gov.cn).

This is a ‘revolutionary’ process, and the EU has contributed much expertise and influenced the modernisation of China’s public procurement regime through the dialogue platform.⁵³

Protecting EU GIs in the Chinese market under Europe’s *sui generis* system is another example where the bilateral dialogue mechanism has served as a platform for capacity-building, so that China was able to conduct a series of legislative undertakings to eventually roll out the *sui generis* GI protection scheme.

Box 13: EU-China cooperation on geographical indications protection

EU-China cooperation on GI is conducted under the Dialogue of IPR Protection.

China first provided protection to GI products by the trademark law, based on the so-called ‘new world’ scheme, advocated by countries like the US, Australia and Canada. China enacted the Provisions on the Protection of Geographical Indication Products in 2005, as a result of Sino-French cooperation on GI dating back to 1994. Subsequently, thanks to the technical cooperation pursued by the EU for decades, after aligning its GI protection regime with the EU’s a *sui generis* protection scheme was rolled out into reality in China. The whole process was long which was nonetheless to be expected because, apart from enacting the above-mentioned Provision, the Chinese legislature drafted the implementing rules, introduced a new corresponding GI registration system equipped with examination procedures, amended the Trademark Law (in order to stipulate the co-existence relationship between a GI product and its prior trademark), launched a new GI symbol which superseded three previous symbols (representing three different GI protection regimes in China, trademark, *sui generis* and raw agricultural GI products).

Alongside legislation, technical assistance in implementation and sharing the best practice are indispensable since the *sui generis* GI protection scheme is completely an European concept that the Chinese enforcement authorities had little idea about initially. Thus, the EU-China “10+10” joint pilot project was launched in 2012 in order for China to experiment the procedure of EU GI registration, including examination, publication, opposition, and appeal. After that, the EU and China published the “100+100” GIs (100 GIs from each side) in June 2017 so that the registration procedure was launched.⁵⁴ The publication of the 200 GIs was a technical but imperative procedure because the 200 GIs must be examined for their respective registrability in the market concerned before they could be included in the bilateral GIs Agreement as annexes. The additional technical complications that come along with the examination procedure are that “interested parties” are entitled to oppose a GI registration.⁵⁵

⁵³ Pelkmans J., Hu W. et al. (2018), *Tomorrow’s Silk Road, Assessing an EU-China Free Trade Agreement*, Rowman & Littlefield (2nd ed.), pp.157. 293-9.

⁵⁴ For details of EU-China cooperation on GI protection, see Hu W. (2018), “Reciprocity and Mutual Benefits: EU-China Cooperation on and Protection of Geographical Indications”, CEPS Research Report, No. 2018/04, June.

⁵⁵ See Article 1.16.1, US-China Economic and Trade Agreement,

When implementing the EU-style GI protection regime in China,⁵⁶ the EU-China IPR Dialogue has duly served as a platform for capacity-building and for the enforcement authorities to learn how to protect the GI/IP rights conferred. In this regard, capacity-building activities consisted of training, expert seminars, field visits and personal-exchange; and bilateral meetings at political level brought impetus to moving forward this process.

6.7 A platform for policy coordination, communication, exchange of information

Meetings conducted under especially the Pillar of Economic and Sectoral Dialogues often serve trade policy coordination both at bilateral and multilateral levels, as illustrated by the HLETD agendas in recent years in relation to, for example, identifying an interim solution after the WTO Appellate Body ceased to function.

Additionally, policy coordination means sharing information on respective policy strategies, legislation changes on both sides for consultation. The Dialogues on IPR, State Aid, Competition Policy, etc. are all embedded with a purpose of policy coordination.

Policy coordination, information-sharing, public consultation, etc. instil the quality of transparency in bilateral trade relations, which is equally a WTO commitment that China is obliged to implement. Therefore, at various dialogue meetings, public consultation takes place, too, and the EU can provide its input, or request for clarification, and the Chinese side can use the dialogue mechanism to better communicate to the EU motivations behind legislation, and *vice versa*.

7 US-China policy consultation (vis-à-vis the EU-China dialogue architecture)

The US and China conduct bilateral dialogues, too, but only three of them, which include the U.S.-China Joint Commission on Commerce and Trade (JCCT)⁵⁷, the U.S.-China Strategic and Economic Dialogue (S&ED)⁵⁸ and the U.S.-China Comprehensive Economic Dialogue.⁵⁹ It is

⁵⁶ For details, see Hu W., (2018), "Reciprocity and Mutual Benefits: EU-China Cooperation on and Protection of Geographical Indications", CEPS Research Report, No. 2018/04, June.

⁵⁷ The Joint Commission on Commerce and Trade (JCCT) is an annual dialogue that addresses commercial and trade issues between the US and China. The dialogue is co-chaired on the US side by the US Secretary of Commerce and the US Trade Representative, and chaired on the Chinese side by the Vice Premier responsible for trade and investment policy. Given the scope of the commercial relationship, other agencies not under the direct jurisdiction of the chairs frequently participate, such as the US Department of Agriculture and the PRC Ministry of Industry and Information Technology: <https://2014-2017.commerce.gov/tags/us-china-joint-commission-commerce-and-trade-jcct.html>.

⁵⁸ Since its establishment in 2009, meeting bi-annually, the U.S.-China Strategic and Economic Dialogue (S&ED) has served as a platform for the two sides to make progress on core issues in the economic relationship. Through the S&ED, the US has secured actions from China that level the playing field for U.S. workers and firms, deepen cooperation on global challenges such as a climate change, and promote critical market-oriented reforms in China.

⁵⁹ The U.S.-China Comprehensive Economic Dialogue (CED) was established by President Trump and President Xi in April 2017 to enable the two countries to address and resolve the comprehensive set of economic issues in their relationship, representing the highest-level bilateral economic forum. The dialogue is co-chaired by U.S. Treasury Secretary Steven T. Mnuchin and U.S. Commerce Secretary Wilbur Ross and their Chinese counterpart Vice Premier Wang Yang, who serve as Special Representatives of the two presidents on the economic relationship: <https://www.treasury.gov/initiatives/Pages/china.aspx>.

observed that two non-trade issues, i.e. climate change and social safety net, are incorporated into the mandate of the S&ED Dialogue, and the dialogues have led to tangible outcomes.

For example, on climate change, China and the US have committed to cooperate on a number of areas related to climate and energy, including to encourage the transition toward low-carbon technologies; the role of public finance in supporting low-carbon technologies, climate resilience, reducing greenhouse gas emissions internationally, and to rationalise and phase out inefficient fossil fuel subsidies by a certain date. This dialogues continue amidst the Sino-US trade war ignited in 2018, and the rising geopolitical tensions seen after the Biden Administration took office in 2021. On 17 April 2021, the US and China, the world's two biggest carbon polluters, released their [joint statement](#) for cooperation in multilateral processes in order to, among others, curb climate change (and enhancing domestic actions), and maximise international investment and finance to support the transition from carbon-intensive fossil fuel-based energy to green, low-carbon and renewable energy in developing countries. On other measures of strengthening the implementation of the Paris Agreement, both sides will continue their actions to decarbonise industry and power, including through circular economy, energy storage and grid reliability, low-carbon transportation, energy efficient buildings, etc., as they have committed before under the same framework of S&ED dialogue.

Equally, on social security, which is another non-trade issue discussed under the framework of the S&ED, in 2016 on the topic of “developing the social safety net to support household consumption”, China committed to better align the incentives at all levels of the government to support household consumption by improving local taxation so that local governments would have the access to revenues in order to support their growing social welfare spending responsibilities. Also, China committed to strengthen medical and pension benefits for all residents, build more sustainable social security funds, and lower insurance contribution rates.⁶⁰

Compared to the EU-China Dialogue Architecture, the smaller network of three US-China dialogues covers many trade and economic issues of bilateral interests. They aim at discussing issues in a longer perspective – the strategic track (e.g. non-proliferation, energy, global institutions, Iran, Afghanistan), but also trying to identify (near immediate) concrete solutions – the economic track (including climate change and social security) – when addressing trade and the financial services irritants, etc. On the economic track, the bilateral dialogue meetings seem to prioritise results over process, by using a “reverse engineering” approach to effect policy change after intended results are agreed upon by both sides. This may look an effective approach, but appears coercive, nonetheless. The consultations conducted between the US and China on GI protection is a case in point, of which results intended by the US were achieved at each meeting, reflecting a result-to-policy effectiveness.

⁶⁰ See 2016 U.S.-China Strategic and Economic Dialogue U.S. Fact Sheet – Economic Track, Press Release, 06 July 2017, US Department of Treasury: <https://www.treasury.gov/press-center/press-releases/Pages/jl0485.aspx>.

Box 14: US-China cooperation on GI protection

Because the Chinese market offers huge potential for US and EU farm exports now and in future, and since US farm exports' market access may be impeded by those EU GIs protected in China if a US farm good share a common name with an EU GI, the US has been very active in policy consultation with China as far as the latter's GI legislation is concerned. Such US-China engagement is also established through the bilateral dialogue mechanism between the two countries.

Indeed, what both sides have concluded on GI protection at a few annual US-China JCCT meetings were implemented in China's GI policy and strategy, and they are consequently incorporated in the EU-China GI Agreement. This outcome illustrates that bilateral policy consultation could be very effective for near-immediate rule changes.

In relation to the Chinese market, the US' policy objective on GI protection seems two-fold. It is, firstly, to guarantee its farmers' commercial interests in market access in China, and; secondly, to be 'EU-proof' meaning that opportunities for US farmers' agri-food exports should not be impeded if a good happens to share the common name with that of the EU GI's protected in China.

To achieve this objective, for example, in 2014 at the US-China JCCT meeting China agreed that:

- 1) a term, or its translation or transliteration, is not eligible for protection as a GI in its territory where the term is generic in its territory;
- 2) the relationship between trademarks and GIs is to be dealt with in accordance with relevant articles in the TRIPS Agreement and that legal means are available for interested third parties on the above grounds to object to and to cancel any registration or recognition granted to a GI;
- 3) where a component of a compound GI is generic in the Chinese territory, GI protection will not extend to that generic component.

Moreover, at the US-China JCCT meeting in 2015, China further reiterated that

- 1) the commitments agreed a year ago should apply to all GIs, including those protected pursuant to international agreements;
- 2) it would follow transparency procedures for developing cancellation procedures for already-granted GIs.

It is observed that, subsequently, perhaps on China's insistence all the above outcomes on GI protection are incorporated in the EU-China GI Agreement concluded in November 2019. Later, the same positions are reiterated in the US-China Economic and Trade Agreement, signed in January 2020,⁶¹ in which a set of factors that China must

⁶¹ For details of US' engagement with China on GI within the context of the JCCT, see USTR (2019), "2018 USTR Report to Congress on China's WTO Compliance, United States Trade Representative", February, p.137.

give due consideration when determining if a term is generic is also included in the Agreement.⁶² The set of factors is nothing new; it has been agreed by China following a previous JCCT meeting.

8 Conclusion

The EU-China Dialogue Architecture materialise the bilateral comprehensive strategic partnership in a substantive manner. The altogether around 70 dialogues, under the pillars of political, economic and sectoral as well as people-to-people exchanges, serve many functions, from aligning policy objectives (often with specific projects for concrete deliverables), solving irritants between the two parties, exploring trade and investment opportunities, to advancing the EU's value-based trade strategy. On the latter, after conducting more than a decade of dialogues on subjects such as environmental protection, China has since changed its approach to non-trade policy objectives from mere "cooperation" to binding obligation, as seen from the provisional text of the CAI on sustainable development. This is a victory for the EU, as it confirms the EU's capacity to advance its value-based trade strategy, even towards China, a world's great trade power.

The purpose for the EU to conduct dialogues on non-trade issues is supposedly to transpose EU's values to China through trade activities. However, such dialogues were mostly launched in order to assist China to mitigate the societal impact in the run up to the country's WTO accession. But in recent years, they have been re-styled as a means to advance the EU's values, within the framework of international obligations, including the Paris Agreement on Climate Change, and the eight ILO core conventions. It is worth pointing out that those EU-values benefit the Chinese society, and are in sync with the Chinese government's goal of establishing "a harmonious society", or "a well-off society in an all-round way". These shared objectives form the foundation for bilateral dialogue and cooperation, and later leading towards China's binding commitments for implementation. Undeniably, as a result of long-term engagement, many trade policy objectives are achieved for both the EU and China, chiefly in relation to environmental protection, an area that the EU champions also in technology.

In parallel to the so-called non-trade policy objectives, the bilateral economic and sectoral dialogues help bring about trade objectives, jobs and economic growth, to the EU. Not only that, on a couple of trade disciplines, such as geographical indications, aviation service and the ETS, the EU is successful in persuading China to adopt the EU's distinctive policy models, amplifying the EU's rule-making power in trade.

It is true that not all the non-trade policy objectives are achievable at least not in a foreseeable future, human rights protection is one area, eliminating forced labour is another. For the former, the dialogue remains a form of exchange of ideas, etc.; one may complain that it is "superficial", but transposing EU's concept of human rights protection, i.e. political rights, implies political regime change, so it is inadmissible for China as a matter of fact. For the latter, though under the CAI China's commitment to ratify the ILO Conventions on Forced Labour is legally binding, the ratification is expected to take a very long time to materialise, as in the

⁶² See Section F, US-China Economic and Trade Agreement.

first place the CAI must be signed between the EU and China and secondly due to judicial changes that will be involved such as to amend China's penal code.

The general purpose for conducting the dialogues under the Pillar of People-to-People Exchange is to enhance the EU's soft power, the effectiveness of this exercise would most likely remain subtle, but could be incremental in the long run among China's next generations. Nonetheless, already abundant commercial gains have been borne for the EU from the many people-to-people exchange activities, especially tourism and higher education.

Ultimately, the functions of the bilateral dialogues illustrate a multifaceted relationship between the EU and China in the same fashion as the EU articulated in its "A Strategic Outlook" in 2019 and, to advance its comprehensive strategic partnership, based on specific subjects, the EU should,

- 1) deepen its engagement with China to promote common interests at global level;
- 2) seek more balanced and reciprocal conditions to governing the bilateral economic relationship,⁶³

In this regard, the Dialogue Architecture will continue to serve as a platform to engage both sides. As China has become more sophisticated in policy-making and skilful in implementation, the functions of exchange views and consultation will become more prominent overall.

⁶³ The EU has then called upon itself to "adapt to changing economic realities and strengthen its own domestic policies and industrial base". See Joint Communication, "EU-China – A strategic outlook", JOIN(2019) 5 final, Strasbourg, 12 March 2019, p.1. The document "refines" the EU's approach to China, as laid down in the 2016 EU Strategy on China, to be "more realistic, assertive and multi-faceted". See the Foreign Affairs Conclusions of 18 March 2019. The EU Strategy on China was adopted by the Council on 18 July 2016, doc. 11252/16.