

The EU and its Member States: increasing securitisation moves vis-à-vis China

To what extent is the European Union successful in collectively securitising China in the economic domain?

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Abstract

The evolving EU-China economic relationship reflects a shift from cooperation to systemic rivalry, driven by China's increasingly assertive geoeconomic posture and the European Union's evolving focus on economic security. This article examines the EU's collective securitisation efforts, applying a political and legal lens to assess challenges and opportunities. While legal tools and strategic policy shifts in favour of "de-risking" signify progress, the Union faces substantial hurdles in aligning Member States' diverse interests and perceptions of China as a threat. Drawing on the evolution of EU-China relations in the past three decades, the analysis underscores the need for enhanced policy coherence and pragmatic measures to address economic security risks. The findings advocate leveraging existing Treaty provisions to foster resilience and strategic autonomy, emphasizing that coordinated action is critical to navigating the complexities of EU-China relations.

Keywords: EU-China Relations; Economic Security; De-Risking; Collective Securitisation; EU Foreign Policy

A. Introduction

The EU-China relationship was formally established in 1975 with the initiation of diplomatic ties and has evolved in various stages over the decades. Important milestones such as the 1985 Agreement on Trade and Economic Cooperation, the opening of an EU representation in China in 1988, and the 2003 Comprehensive Strategic Partnership marked phases of deepening engagement, particularly in trade and economic cooperation.¹

In the years after 2019, relations were increasingly strained although the EU did not cut ties with China.² This shift was underscored with the Commission's and High Representative's Strategic Outlook of 2019, which framed China in one go as a "partner," "competitor," and "systemic rival".³ This EU narrative reflects growing concerns about China's use of political influence and state subsidies to advance its strategic goals, often perceived as conflicting with European interests. The EU's 2019 Strategic Outlook explicitly highlighted "security concerns" regarding China.⁴ In 2023, European Commission President von der Leyen presented a "de-risk, not de-couple" strategy, citing risks to economic and national security from trade and

1 *Algieri*, *The China Quarterly* 2002/169, pp. 64–77; *Geeraerts*, in: W. Song & J. Wang (eds.), pp. 145–163.

2 *European Commission President von der Leyen*, Speech on EU-China relations, 29/3/2023, available at: https://ec.europa.eu/commission/presscorner/detail/en/speech_23_2063 (19/8/2025).

3 *European Commission/High Representative*, Joint Communication, EU-China – A strategic outlook, JOIN(2019) 5 final.

4 See *European Commission/High Representative*, Joint Communication, EU-China – A strategic outlook, JOIN(2019) 5 final, p. 3; *Politi*, *Asian Affairs* 2023/4, pp. 670–693.

investment with China.⁵ This strategy has guided EU policy-makers and to some extent also Member States in the past two years since its adoption.

However, recent months have seen significant developments in EU trade policy and diplomacy, particularly as tensions between the United States and China escalate. The Commission insists that EU-U.S. and EU-China relations are “two distinct matters” and will continue not to de-couple from China as a condition for reaching a trade deal with the U.S. It will only mitigate dependencies.⁶ The EU has even stepped up diplomatic engagement with China, particularly as U.S. tariffs on Chinese goods threaten to disrupt global trade flows. Still, the EU is not turning away from the USA as its most important trading partner either.⁷ Instead, it is continuing to pursue a nuanced, pragmatic approach – balancing its interests between both major powers, while emphasizing its own strategic autonomy.

Against that backdrop of increasing alienation within the West, the relationship between the EU and China must reflect the growing economic power and the self-centred trade interests of this Eastern rival. On the side of the EU, this has prompted efforts at *collective securitisation*, a concept in political science denoting a coordinated process of framing a perceived threat and mobilizing responses from the relevant audience. While the EU has increasingly attempted to collectively securitise China, these moves have faced challenges in gaining acceptance among Member States, complicating the translation of securitisation efforts into coherent common policies. This article explores these tensions through the lenses of political science and law, examining the theoretical and practical dimensions of EU collective securitisation vis-à-vis China.

B. The view of political science – theoretical framework

The theory of collective securitisation developed mostly out of the Copenhagen School of Security Studies in the 1990s, led initially by Ole Wæver and systematized afterwards by Wæver together with Barry Buzan and Jaap de Wilde.⁸ Traditional securitisation theory focuses on state actors at national level and neglects security dynamics operating across borders at a regional level.⁹ This gap inspired the development of *collective securitisation* as a concept.

5 *European Commission President von der Leyen*, Speech on EU-China relations, SPEECH/23/2063, available at: https://ec.europa.eu/commission/presscorner/detail/en/speech_23_2063 (19/8/2025).

6 *Liboreiro*, EU won't decouple from China as condition for reaching trade deal with Trump; Euronews, 22/4/2025, available at: <https://www.euronews.com/my-europe/2025/04/22/eu-wont-decouple-from-china-as-condition-for-reaching-trade-deal-with-trump> (19/8/2025).

7 See *Eurostat*, Principal partners for EU exports of goods, 2023, available at: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=International_trade_in_goods_by_partner (19/8/2025).

8 Wæver, in: Lipschutz (ed.), pp. 46–86; *Buzan/Wæver/De Wilde*.

9 *Sperling/Webber*, *European Journal of International Security* 2016/1, pp. 19–46.

I. Copenhagen School, Collective Securitisation Theory, and Six-stage Model

The Copenhagen School frames securitisation as a “speech act”, where threats are socially construed rather than objectively defined.¹⁰ Thus, the focus is less on “why” measures are adopted in reaction to a threat and more on “how” threats are framed by political actors and by the outer conditions.¹¹ As Buzan and Wæver note, securitisation involves presenting an issue as an existential threat requiring urgent, extraordinary measures.¹² Then, “by saying it, something is done”. That is to say, actors move issues into *being* security, claiming the right to use extraordinary means necessary to prevent the threats from materializing.¹³ However, the measures adopted ultimately depend on audience acceptance of such claims; without it, the collective securitisation attempt remains unsuccessful.¹⁴ The Copenhagen School emphasizes the dangers of securitisation leading to emergency measures bypassing democratic oversight, and advocates de-securitisation as a preferable approach.¹⁵

To address transnational threats, Haacke and Williams adapted securitisation theory to the cross-border context, identifying collective securitisation as when at least one national government frames an existential threat to regional security, demanding a collective response.¹⁶ Sperling and Webber expanded on this, distinguishing “thin” and “thick” collective securitisation. In the thin version, organisations serve as bargaining platforms, while in the thick version, organisations like the EU act as autonomous securitising agents capable of framing discourses and shaping policy through recursive interaction with member states.¹⁷ According to them, a successful securitisation move requires not only audience acceptance but also the formulation, implementation, and routinisation of common policies to address a shared threat.¹⁸ Thus, their idea is that the organisation (e.g., the EU) is enabled by its members as a securitising actor in its own right to frame security discourses and design subsequent common policy measures to counter threats through repeated interactions with the member states as the audience (recursive interaction).¹⁹

Sperling and Webber’s six-stage framework outlines collective securitisation, particularly in the EU context:²⁰

10 *Stepka*, in: *Stepka* (ed.), pp. 17–31.

11 *Eroukhmanoff*, in: McGlinchey/Walter/Scheinpflug (eds.), p. 104, 107.

12 *Buzan/Wæver*, p. 491.

13 *Wæver*, in: Lipschutz (ed.), p. 46, 55.

14 *Floyd*.

15 *Buzan/Wæver/De Wilde*, p. 26, 29.

16 *Haacke/Williams*, *Security Studies* 2008/4, p. 775, 785.

17 *Sperling/Webber*, *West European Politics* 2018/2, pp. 228, 236–237, 248.

18 See *Sperling/Webber*, *European Journal of International Security* 2016/1, pp. 19–46; *Sperling/Webber*, *West European Politics* 2018/2, pp. 228–260.

19 *Sperling/Webber*, *European Journal of International Security* 2016/1, p. 19, 21.

20 *Sperling/Webber*, *European Journal of International Security* 2016/1, pp. 19–46; *Sperling/Webber*, *West European Politics* 2018/2, pp. 228–260.

Stage 1	<i>Status Quo</i>	Existing security policies and discourse.
Stage 2	<i>Precipitating Event(s)</i>	Disruptions prompting the perception of heightened external threats.
Stage 3	<i>Securitising Move</i>	“Speech acts”, typically including official statements by authoritative actors (e.g. the Commission and the European Parliament), presenting an existential threat, and proposing how to respond appropriately.
Stage 4	<i>Audience Response</i>	Member states’ acceptance via negotiations and compromise.
The third and fourth stage are two analytically separated stages within the process. Still, they are interdependent due to the process of recursive interaction.		
Stage 5	<i>Policy Formulation and Execution</i>	Development of common policies addressing the threat.
Stage 6	<i>Routinization and new Status Quo</i>	Establishing a new status quo with adjusted language, strategies, and practices.

Table 1: Sperling and Webbers’ Six-stage Model of Collective Securitisation

II. EU Collective Securitisation (vis-à-vis China)

Sperling and Webbers’ model of collective securitisation has not been widely applied to the European Union so far, particularly in relation to China.²¹ However, it could be demonstrated using this model that the EU became a successful collective securitising actor in the aftermath of the 9/11 terrorist attacks, in readjusting the Schengen system following the 2015 migrant crisis, and in relation to cyberspace.²² Other studies have explored the EU’s collective securitisation efforts in energy policy, health security and infectious disease control, and the transnational threat of climate change.²³ These cases highlight the EU’s attempts to frame and address shared threats collectively, employing a common narrative and coordinated policies.

China’s rise as a security challenge to the Western liberal order has been examined using different methodologies as well, retracing the EU’s internal divergences over securitisation.²⁴ These divergences emerged notably with regard to an EU weapons embargo on China in the early 2000s: While some Member States, notably France and Germany, advocated for treating China as a trusted partner even in sensitive

²¹ However, see *Lucarelli/Sperling/Webber*.

²² *Kaunert/Léonard*, *West European Politics* 2018/2, pp. 261–277; *Ceccorulli*, *West European Politics* 2018/2, pp. 302–322; *Christou*, *West European Politics* 2018/2, pp. 278–301.

²³ See *Hofmann/Staeger*, *West European Politics* 2018/2, pp. 323–345 (energy); *Bengtsson/Rhinard*, *West European Politics* 2018/2, pp. 346–368 (health and disease control); *Dupont*, *West European Politics* 2018/2, pp. 369–390 (climate change).

²⁴ *Hellmann et al.*, *Journal of International Relations and Development* 2017/2, pp. 301–330.

areas like military cooperation, others, along with external partners like the United States, viewed China as an authoritarian threat to shared democratic values. The lack of consensus on whether China constituted an existential threat ultimately resulted in a compromise: security cooperation with China would only proceed under strict adherence to human rights and democratic principles. Commission President von der Leyen's 2021 address on the EU-Indo-Pacific strategy and its role as securitisation move against China was examined as well.²⁵ This research followed the Copenhagen School.

While the last-mentioned studies address the EU's securitisation efforts towards China, however, none of them systematically applies Sperling and Webbers' six-stage model of collective securitisation. Chen and Gao provide the most comprehensive analysis of EU collective securitisation vis-à-vis China, applying Sperling and Webbers' model to different policy domains.²⁶ They found that Member States gradually aligned with EU securitising narratives in the area of information technology and cybersecurity, but that the EU's securitising moves often failed to achieve unified audience acceptance in other domains. However, despite its merits, Chen and Gao's study suffers from certain limitations: It lacks a clear distinction in the analysis between different policy challenges and referent objects, provides insufficient empirical evidence, and omits a conclusive discussion linking its findings and offering explanations to why collective securitisation attempts failed to succeed.

This article aims to close the remaining gaps in applying Sperling & Webbers' model in relation to China. Its political analysis will focus on the EU's securitisation moves and the Member States responses. In this context, it will make use of Critical Discourse Analysis (CDA), a qualitative method that reveals power dynamics in texts, uncovering how agenda setters frame issues to shape perceptions and prompt action.²⁷ The legal analysis will focus on the interplay of EU and Member States' competences regarding economic and national security. The political and the legal angle must be seen together to accurately assess the scope of Member State support for EU policies, to identify limitations and draw conclusions on the effectiveness of securitisation moves to address the challenges posed by China for the Union.

C. The legal view: The EU Treaty framework on EU foreign policy

The EU derives its competences from the Member States, meaning that competences not conferred upon the Union in the Treaties remain with the Member States.²⁸ Hence, national security continues to lie within the exclusive competence of the Member States in the European legal framework (Art. 4(2) sentence 3 TEU).

25 *Cachia/DeBattista*, European Politics and Society 2022/5, pp. 703–719.

26 *Chen/Gao*, Asia Europe Journal 2021/2, pp. 195–216.

27 *Fairclough/Fairclough*, Critical Discourse Studies 2018/2, pp. 169–185; *Ruiz*, Forum Qualitative Sozialforschung/Forum: Qualitative Social Research 2009/2; *van Dijk*, Discourse & Society 1993/2, pp. 249–283; *van Dijk*, Belgian Journal of Linguistics 1997/1, pp. 11–52.

28 Art. 1(1) and Art. 4(1) TEU.

The term “national security” is not defined conclusively, which might suggest that the Member States have room for a broad interpretation. However, in the interpretation of the European Court of Justice (ECJ), the focus is on existential threats that could directly affect the state’s ability to act or the population.²⁹ Moreover, these reservations do not release the Member States from observing the Union’s competences in other respects.

The Treaties entrust the Union with the task of establishing an “area of freedom, security and justice without internal frontiers” (Art. 3(2) TEU). This area encompasses the internal market (Art. 3(3) TEU) and obliges the Union in “its relations with the wider world, [to] uphold and promote its values and interests and contribute to the protection of its citizens” (Art. 3(5) TEU). In those relations, the Union – or, more precisely, the European Council (Art. 22(1) TEU) and the Council in areas where the Treaties so provide – is empowered to “define and pursue common policies and actions” when taking “external action” (Art. 21(2) TEU). At the same time, however, both the Union and the Member States have competences regarding security according to what was said before: the Member States as to national security, and the Union when it comes to the common area of freedom, security and justice. Nevertheless, the policy-making still remains essentially intergouvernemental as it is for the Member States’ to agree on common action, thus raising the relevant question to Union level. The Treaties, hence, provide for a well-calibrated legal framework whenever the Union takes “external action” (Art. 21 ff. TEU, Art. 205 ff. TFEU). A closer look at this framework has merit as it allows to gain an understanding of how the EU institutions operate. It also allows to trace back how Member States are able to assert their own standpoints and policies in areas of Union competences and areas where the coordination of national security interests is needed.

The general framework is defined in the provisions on the Union’s Common Foreign and Security Policy (CFSP; Art. 23 ff. TEU). Particularities must be observed when it comes to the Common Security and Defence Policy (CSDP) as an element of the CFSP.³⁰ The CSDP will not be looked at in more detail in this article.³¹ A largely separate regime applies to the Union’s Common Commercial Policy (CCP). In times of major geopolitical shifts, both the CFSP and the CCP become increasingly interrelated, sometimes making it difficult to separate one from the other clearly. The CCP is an exclusive EU competence (Art. 3(1)(e) TFEU). The following sections will discuss the CFSP and the CCP in more detail.

29 EuGH, Case C-373/13, *HT/Land Baden-Württemberg*, judgment of 24 June 2015, ECLI:EU:C:2015:413, paras. 78–79.

30 See Art. 24(1), 26(1), 31(4) and 42 ff. TEU, Art. 346(1)(b) TFEU.

31 See: https://www.eeas.europa.eu/eeas/common-security-and-defence-policy_en (19/8/2025).

I. Common Foreign and Security Policy

The Union's competence in the CFSP is "guided by" the general principles of EU law, including the limited conferral of powers to the Union (Art. 23, 5(1), (2) TEU). Nevertheless, as a matter of principle, the competence covers "all areas of foreign policy and all questions relating to the Union's security" (Art. 24(1) TEU). In relation to this broad competence, the Treaty on European Union mainly defines the competences and responsibilities of EU institutions and the used legal instruments when the EU institutions are shaping the CSFP. That Treaty also defines the role of Member States as participants of the EU's external action, but it must be viewed in conjunction with the institutional provisions of Art. 235-243 of the Treaty on the Functioning of the European Union in that regard.

Among the EU institutions, the European Council and the Council are competent to define and implement the CFSP "acting unanimously, except where the Treaties provide otherwise."³² They cannot use legislative acts for that purpose. The European Council defines the broader objectives of the EU by way of general guidelines and decisions (Art. 25(a) and (b), 26(1) TEU). The Council then "frames" the CFSP and adopts "the decisions necessary for defining and implementing it" based on the prerogatives set by the European Council (Art. 25(b), 26(2) TEU). This includes decisions on "operational actions" and decisions on a "particular matter of a geographical or thematic nature" (Art. 28-29 TEU). The Council also concludes the international agreements of the Union, although here it acts based on Commission proposals and must involve the European Parliament (Art. 216 ff., particularly Art. 218 TFEU).³³ The negotiation of international agreements and the ongoing relations with international organisations and third countries, including when they relate to the CFSP (Art. 218(3) TFEU), are the task of the Commission and the High Representative of the Union for Foreign Affairs and Security Policy (Art. 17 (1) sentence 6; 27(2) sentence 1 TEU; Art. 220-221 TFEU). Otherwise, the individual CFSP policies are to be put into effect by the High Representative as well as the EU Member States.³⁴ The Member States and the High Representative (also with Commission support) may refer questions and submit initiatives or proposals to the Council (Art. 30(1) TEU).³⁵

The Treaty on European Union stresses the cooperation obligations of Member States. Thus, the Union institutions pursue the CFSP in the common interest and to develop "mutual political solidarity among Member States" (Art. 24(2) TEU). The Member States, in turn, "shall support the Union's external and security policy actively and unreservedly in a spirit of loyalty and mutual solidarity", which is to be ensured by the Council and the High Representative (Art. 24(3) TEU). Member States "shall consult one another within the European Council and the Council" on any CFSP matter to determine a common approach, in particular before taking ac-

³² Art. 24(2) para. 2, Art. 31(1) TEU, on the European Council also Art. 26 TEU.

³³ See also Sec. 3.2 below on the CCP.

³⁴ Art. 24(2) para. 2, 26(3) TEU.

³⁵ On the High Representative, see also Art. 27 TEU.

tion at international level that could affect the Union's interest and to ensure solidarity among them (Art. 32(1) TEU). Their coordination obligations also extend to actions within international organizations (with which the EU itself may conclude agreements and entertain relations) as well as Member State missions.³⁶

That being said, individual Member States do have a strong role in the CFSP framework. It is the Member States that form the European Council (Art. 15(1) TEU, Art. 235-236 TFEU) and the Council (Art. 16 TEU, Art. 237 ff. TFEU). Moreover, it was pointed out above that the unanimity principle is governing EU external action.³⁷ A qualified majority is mainly permitted when it comes to defining EU actions or positions based on a strategic European Council decision, implementing CFSP decisions, or where the European Council decides that qualified majority is sufficient (Art. 31(2) TEU).³⁸ This allows individual Member States to hinder EU action where Member States disagree and regardless of whether other EU institutions favour certain action in the common interest. Member States moreover have special opposition rights within the CFSP (Art. 31(2) subpara. 2 TEU).

In contrast, the role of the European Parliament and the Commission is very limited in relation to the CFSP.³⁹ Moreover, the ECJ generally has no jurisdiction on the (political) decisions under the CFSP, except for international agreements (Art. 218(11) TFEU) and where the issues involve powers of the EU institutions relating to Union competences outside the CFSP (Art. 40 TEU, Art. 275 TFEU).⁴⁰ All CFSP measures are supported by the Political and Security Committee, but this body only has a monitoring and advisory role (Art. 38 TEU).

A special regime applies where the Union takes operational action or decisions on a "particular matter in the form of restrictive measures" (Art. 28-29 TEU; esp. embargoes). These measures always require an initial decision of the Council within the CFSP framework (Art. 215 TFEU).⁴¹ Where they are adopted in relation to third countries, the Council decides based on proposals by the High Representative and the Commission whereas the European Parliament is (only) to be informed (Art. 215(1) TFEU). The Council may decide alone to impose measures on natural or legal persons and other entities (Art. 215(2) TFEU). The Member States do not have any role in those measures outside the Council and a full Court review of the

36 Art. 34, 37 TEU, Art. 216 ff., 220-221 TFEU and Art. 35 TEU.

37 Art. 22(1) para. 3, Art. 31(1) TEU.

38 See also Art. 238(2), (3) TFEU regarding the Council.

39 Art. 24(2) subpara. 2 TEU, on the European Parliament also Art. 36 TEU.

40 See also Art. 24(2) subpara. 2 EU. The ECJ, however, clarified that this exception does not apply where measures forming part of the CFSP coincide with the exercise of competences under the TFEU; see ECJ, Case C-130/10, *Parliament/Council*, judgment of 19 July 2012, ECLI:EU:C:2012:472, paras. 61-66 (re Art. 215 TFEU) and below section D.VI.

41 Cremer in: Calliess/Ruffert (eds.), Art. 215 TFEU para. 10.

Union measures is possible.⁴² However, the Member States may adopt their own measures (narrowly understood) as long as no Union action has been taken (Art. 346-347 TFEU).⁴³ Their obligations to consult apply also in this context.

II. Common Commercial Policy

The EU's CCP evolved separately from the intergovernmental CFSP, leading to different levels of exclusive EU competence and decision-making processes.⁴⁴ The CCP complements the EU's internal market policies with rules on the EU's external trade relations.⁴⁵ The internal market is an area marked by the free movement of goods, services, and capital (which are protected by individual rights; Art. 28 ff. TFEU), and the protection of a market economy characterized by undistorted competition (Art. 101 ff. TFEU; Prot. 27). The Union itself is empowered to engage in industrial policy only within these limits (Art. 173(3) subpara. 2 TFEU).

The CCP is conducted in the context of the principles and objectives of the Union's external action (Art. 207(1) TFEU).⁴⁶ In this context, the European Parliament and the Council adopt measures to implement the CCP (Art. 207(2) TFEU). Not all actions affecting trade with third countries fall into the CCP. Rather, an act does if it has a "specific link" to such trade in that it is essentially intended to promote, facilitate or govern such trade and has direct and immediate effects on it.⁴⁷ The relevant measures may comprise international agreements as well as autonomous measures, i.e., customs, trade defence and other measures.

A special legal framework applies to the extent that agreements with one or more third countries or international organisations need to be negotiated and concluded (Art. 207(3) in conj. with Art. 218(2) TFEU). Here, the Council authorizes the negotiations based on a recommendation by the Commission (Art. 207(3) subpara. 2 TFEU). The Commission conducts them in consultation with a special committee

⁴² ECJ, Case C-402/05 P and C-415/05 P, *Kadi and Al Barakaat International Foundation/ Council and Commission*, judgment of 3 September 2008, ECR 2008, I-6351, ECLI:EU:C:2008:461, paras. 285 ff.; Case, C-584/10 P, C-593/10 P and C-595/10 P, *Commission and others/Kadi*, judgment of 18 July 2013, ECLI:EU:C:2013:518, para. 119; Case C-872/19 P, *Venezuela/Council (Affectation d'un État tiers)*, judgment of 22 June 2021, ECLI:EU:C:2021:507, paras. 50-53. See also Cremer in: Calliess/Ruffert (eds.), Art. 215 TFEU para. 28.

⁴³ Arnold/Klamert in: Dausies/Ludwigs (eds.), K.I paras. 117-118.

⁴⁴ García-Durán *et al.*, Politics and Governance 2023/4, p. 168; Klein/Kunstein/Reiners, Mercury e-paper 2010/6, p. 8 ff., available at: https://static.sps.ed.ac.uk/europa/_data/assets/pdf_file/0005/206888/Mercury-Paper-6.pdf (19/8/2025).

⁴⁵ See Art. 206 TFEU.

⁴⁶ ECJ, Opinion 2/15, *EU-Singapore FTA*, opinion of 16 May 2017, ECLI:EU:C:2017:376, para. 35.

⁴⁷ ECJ, Opinion 2/15, *EU-Singapore FTA*, opinion of 16 May 2017, ECLI:EU:C:2017:376, paras. 36-37. See also Case 389/15, *Commission/Council (Revised Lisbon Agreement)*, judgment of 25 October 2017, ECLI:EU:C:2017:798, para. 65 according to which the action must have a "direct and immediate" effect on external trade to demarcate it from internal market policies.

appointed by the Council and reports also to the European Parliament (Art. 207(3) subpara. 3 TFEU). The Council concludes the agreement (Art. 207(3) in conj. with Art. 218(2), (5)–(6) TFEU). In the CCP, the Council adopts its decisions generally by qualified majority and only exceptionally by unanimity (Art. 207(4), 218(8) TFEU). However, since the Treaty of Lisbon also the consent or the consultation of the European Parliament is required (Art. 218(6)(a)(v) TFEU). Furthermore, the European Parliament has a right to be informed continuously of the state of negotiations (Art. 218(10) TFEU).

The Commission not only has the power to negotiate trade agreements, but it can also implement trade-defence measures based on autonomous EU trade legislation, including anti-dumping and anti-subsidy measures.⁴⁸ Its Directorate General (DG) for Trade collaborates with other Commission DGs (e.g., competition, internal market) if trade-related matters impact other EU policies. In the context of CCP measures, the Union institutions including the Commission must make sure that the delimitation of competences is not affected (Art. 207(6) TFEU). The Union's CCP measures are subject to Court review without limitations.⁴⁹

III. The relationship of CFSP and CCP when the EU adopts measures concerning China

The EU is obliged to ensure consistency between the different areas of its external action and between these and its other policies (Art. 21(3)(2) TEU). In particular, the EU must design measures relating to its CCP according to uniform principles in order to ensure a coherent trade policy.⁵⁰ While the EU has an exclusive legal competence and significant political authority in the CCP, its influence on China policy to some extent also depends on the Member States' contributions to the CFSP.⁵¹ This is because general security and regulatory exceptions play a role here, e.g., when it comes to accessing critical resources or materials or to the trade in dual goods. Another relevant matter is the control of foreign direct investments where state or economic security interests could be affected. The ECJ has established that security-related measures can be implemented within the framework of trade poli-

48 Art. 207(2)–(5), 218 TFEU; on trade defense, see also: Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (codification), OJ L 176, 30/6/2016, p. 21; Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (codification), OJ L 176 of 30/6/2016, p. 55. Moreover, see: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/negotiations-and-agreements_en; https://policy.trade.ec.europa.eu/enforcement-and-protection/trade-defence_en (19/8/2025).

49 ECJ, Opinion 2/15, *EU-Singapore FTA*, opinion of 16 May 2017, ECLI:EU:C:2017:376, paras. 33–37, 81–84, 302; Case 66/18, *Commission / Hungary (Enseignement supérieur)*, ECLI:EU:C:2020:792, paras. 69, 72–86, 91.

50 Art. 207(1) TFEU.

51 *Zanardi*.

cy.⁵² Security law may therefore also be regarded as a sub-area of trade policy, particularly when security-related aspects influence economic policy measures.

Consequently, particularly within the framework of the CCP, the question may arise how conflicts between the EU's competence and the national security interests of the Member States can be resolved. On the one hand, EU trade measures must balance proportionality and preserve the Member States' security interests without distorting the allocation of competences.⁵³ On the other hand, Member States retain significant autonomy to safeguard national security, provided these measures respect internal market freedoms and overarching EU trade objectives.⁵⁴ Regarding antidumping and anti-subsidy measures, any conflicts must be resolved at EU level. In other areas, EU has resolved the issue by defining the intervention standard non-conclusively to the extent that Union interests are involved. In addition, the Union foresees a cooperation mechanism but otherwise leaves to the Member States the procedures where the necessary balancing takes place. This is notably the case in Foreign Direct Investment (FDI) screening. Here, EU law defines "security and public order" as assessment benchmark, but procedure remains largely in the hands of Member States.⁵⁵ That said, debates persist on whether security aspects may justify national investment controls independently of economic considerations.⁵⁶

D. Combined political and legal analysis: collective securitisation vis-à-vis China

While Sperling and Webbers' six-stage theoretical model of collective securitisation has been applied to various transnational issues, its potential for analysing the EU's stance vis-à-vis China, particularly on economic security, remains underexplored. In the same vein, the role of the legal framework largely remains neglected when the model is applied. The following sections attempt to provide a combined analysis which closes the remaining gaps from the perspective of political science and embeds this analysis in the legal framework of EU competences. To this end, Sperling & Webbers' six-stage model will be applied on the EU's positioning towards China and the individual steps will be directly linked back to the law.

52 ECJ, Opinion 1/78, *International Agreement on Natural Rubber*, opinion of 4 October 1979, ECLI:EU:C:1979:224; Case C-83/94, *Leifer*, judgement of 17 October 1995, ECLI:EU:C:1995:329 ; Case C-402/05 P and C-415/05 P, *Kadi and Al Barakaat International Foundation v. Council and Commission*, judgement of 3 September 2008, ECLI:EU:C:2008:461; Case C-149/96, *Portugal v. Council*, judgement of 23 November 1999, ECLI:EU:C:1999:574.

53 Art. 5(4) TEU.

54 Art. 4(2) TEU in conj. with Art. 34 ff., 207 TFEU.

55 See, e.g., in Germany the legislative competences in Art. 73(1) No. 5, 74 Abs. 1 Nr. 1 GG and Bundesregierung, Entwurf eines Gesetzes zur Modernisierung des Außenwirtschaftsrechts, BT-Drs. 17/11127, p. 19.

56 See, e.g., *Malta-Kira*, CEBRI-Revista 2023/7, 99, pp. 102 ff.

I. Stage 1: Status Quo Discourse (from 1975 to mid-2000s)

As noted before, formal EU-China relations began 50 years ago in 1975. The trade agreement of 1978 was the actual starting point for developing the economic relationship between the European Economic Community (EEC) and China.⁵⁷ In 1985, the EEC and China signed the Agreement on Trade and Economic Cooperation, which extended the cooperation in trade to broader economic co-operation and is still in place today.⁵⁸ On this occasion, the partners emphasized “the development of friendly relations” and their willingness to “make every effort to foster the harmonious expansion of their reciprocal trade”.

Despite acknowledging differences (e.g., human rights), the EEC – which, as European Community (EC), was integrated into the EU by the Maastricht treaty⁵⁹ – viewed its engagement with China as largely positive until the mid-2000s. The EC believed China’s economic opening and integration would, with EC support, lead to improved human rights, democracy, and a market economy.⁶⁰ Thus, relations with China could not exclusively be based on economic considerations for the EU but had to be seen as a complex and often highly political relationship.⁶¹ Still, while acknowledging these challenges (“China is not always an easy partner”),⁶² EC communications emphasized a “comprehensive partnership” serving mutual political and economic interests.⁶³ This view was shared by EC Member States.⁶⁴ China’s economic strength and “re-emergence” were seen as beneficial to Europe.⁶⁵ This period’s political and economic discourse on European-China relations emphasized opportunities and mutual benefits, not security threats.

It should also be noted that in the relevant period from 1975 to 2000, the currently existing competence framework was not in place yet. The EEC and then the EC had powers for a common commercial policy (Art. 110 EEC Treaty) and to adopt trade policy measures. Still, the Member States (EC/EU) were the real driving forces of European commercial policy.⁶⁶ The common procedures for external ac-

57 *Algieri*, *The China Quarterly* 2002/169, p. 64, 69.

58 Agreement on Trade and Economic Cooperation between the European Economic Community and the People’s Republic of China, OJ L 250 of 19/9/1985, p. 2.

59 *Algieri*, *The China Quarterly* 2002/169, p. 64.

60 *Godement*, in: *Shambaugh* (ed.), p. 251, 254; *Shambaugh*, *Current History* 2004/674, p. 243, 245.

61 *Algieri*, *The China Quarterly* 2002/169, p. 64, 69.

62 *European Commission*, Communication: EU Strategy towards China: Implementation of the 1998 Communication and Future Steps for a more Effective EU Policy, COM(2001) 265, p. 7.

63 *European Commission*, Communication: EU Strategy towards China: Implementation of the 1998 Communication and Future Steps for a more Effective EU Policy, COM(2001) 265, p. 20.

64 See the the official record of the 1998 China-EU Summit Joint Statement, available at: https://www.fmprc.gov.cn/eng/zy/wjls/3604_665547/202405/t20240531_11367584.html (19/8/2025).

65 *European Commission*, Communication: EU – China: Closer partners, growing responsibilities, COM(2006) 631 final, pp. 2, 7, 12.

66 See Art. 11–28 TEU; Art. 113 ff. TEC.

tion had much stronger intergovernmental characteristics until the Treaties of Amsterdam (1997) and Nice (2001) introduced important institutional and procedural changes that increasingly enabled the EU (including the EC) to develop and conduct an effective and coherent foreign policy. The CFSP, as it exists today, would be established only on 1 December 2009 through the TEU.⁶⁷

II. Stage 2: Precipitating Event(s) (from late 2000s to 2019)

Until the mid-2000s, the relationship between the EU and its Member States and China was seen prosperous and rapidly intensifying. However, the 2008 global economic and financial crisis initiated a deterioration process in bilateral relations, significantly altering the European discourse on China.⁶⁸

The financial crisis exposed the interconnectedness of global economies, highlighting economic imbalances between the EC and China and the need for economic restructuring.⁶⁹ This external challenge coincided with the EU's internal struggles for reform. Representatives of the European institutions, hence, started to emphasize existing interdependence and the need for internal and external co-operation to resolve the crisis.⁷⁰ In relation to China, they emphasised China's "stake in Europe's recovery".⁷¹ Awareness grew that the crisis challenged the whole post-Cold War liberal economic order of the West, enabling China to pursue its own path, asserting itself as a global power.⁷²

The EU underwent substantial internal reform through the Lisbon Treaty (2009), which merged the EC entirely into the EU and, thus, established the European institutional and legal order still existing today. In parallel to this internal reform, external relations with China changed considerably. By the 2010s, China's growing presence within the EU, driven by economic, diplomatic, and geopolitical ambitions, became an increasing concern.⁷³ Anxieties arose about the EU's global pos-

67 See, e.g., *Algieri*, *The China Quarterly* 2002/169, p. 64, 67; *Marquardt/Gaedtke* in: von der Groeben/Schwarze/Hatje (eds.), *Vorb. Art. 23 bis 46 TEU* para. 1 on the historic development.

68 *Geeraerts*, in: Song/Wang (eds.), pp. 145–163.

69 *Geeraerts/Huang*, in: *Kirchner/Christiansen/Dorussen* (eds.), p. 187, 188–189; *Geeraerts*, in: *Christiansen/Kirchner/Murray* (eds.), p. 492, 501; *Geeraerts*, *Policy Paper Series* 2014, p. 1.

70 *European Commissioner Ferrero-Waldner*, *Europe and China: A Strategic Dialogue*, *SPEECH/09/270*; European Parliament resolution of 5 February 2009 on Trade and economic relations with China (2008/2171(INI)), *OJ C* 67E of 18/3/2010, p. 132.

71 *European Commission President Barroso*, "The EU and China – a crucial partnership", *SPEECH/12/95*.

72 *Roberts/Choer Moraes/Ferguson*, *Journal of International Economic Law*, 22(4)/2019, 655–676; *Politi*, *Asian Affairs* 2023/4, pp. 670–693; *Roy/Stroikos/Davidescu*.

73 *Godement/Vasselier*.

ition and identity⁷⁴ and conflicts concerning interests and values increased.⁷⁵ China's more and more assertive and sometimes confrontational foreign policy, coupled with President Xi Jinping's shift away from previous reform and opening-up policies and launch of initiatives aimed at gaining greater political influence abroad, like the Belt and Road Initiative (BRI) and the Asian Infrastructure Investment Bank (AIIB), further fuelled European concerns.⁷⁶ Chinese state-owned enterprises, particularly COSCO and China Merchants, acquired stakes in at least 15 European ports between 2013 and 2020, the most prominent case being COSCO's majority stake in Greece's Port of Piraeus, which became a flagship BRI project. COSCO also invested in terminals in the ports of Zeebrugge (Belgium), Valencia (Spain), and Vado Ligure (Italy).⁷⁷ For completeness, it should be noted that such investments continued also more recently, notably with COSCO's hotly debated acquisition of a 25% stake in Container Terminal Tollerort in the port of Hamburg, Germany.⁷⁸ Moreover, the Pelješac Bridge in Croatia, though funded by the EU, has been built by China Road and Bridge Corporation (CRBC).⁷⁹

In addition to the advances by Chinese firms in Europe, European businesses complained increasingly that the opportunities did not clearly outbalance the risks anymore. China's policies were not directed at mutual benefit (i.e., reciprocal in terms of trade policy). Instead, Chinese law and administrative action would force European investors into joint ventures irrespective of potential business secret concerns. Chinese competitors would violate European intellectual property (IP) whereas IP protection in China was deficient. Chinese firms would benefit from subsidies from state-controlled banks and non-bank entities. Access to critical raw materials depended on good relations with local governments. Businesses com-

74 Geeraerts, EU-China Relations, in: Christiansen/Kirchner/Murray (eds.), p. 492, 493; Geeraerts, in: Song/Wang (eds.), p. 145.

75 Bartsch/Wessling, in: Bartsch/Wessling (eds.), p. 8; *Politi*, Asian Affairs 2023/4, p. 670, 687–688.

76 Brinza et al., EU-China relations: De-risking or de-coupling – the future of the EU strategy towards China. European Parliament, PE 754.446, March 2024, p. viii, available at: [https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU\(2024\)754446](https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU(2024)754446); Andersson/Lindberg, in: Andersson/Lindberg (eds.), p. 18; *Godement*, in: Shambaugh (ed.), p. 251, 256; *Pavličević*, in: Pavličević/Talmacs (eds.), p. 67, 76.

77 Ghiretti et al., Research for TRAN Committee – Chinese Investments in European Maritime Infrastructure, European Parliament, Policy Department for Structural and Cohesion Policies, PE 747.278, September 2023.

78 See on this *Groening*, Bundesregierung stimmt Beteiligung des chinesische Staatskonzern Cosco am Hamburger Hafen zu, 11/5/2023, available at: <https://www.hamburg-zwei.de/news/HAMBURG-ZWEI-News/Bundesregierung-stimmt-Beteiligung-des-chinesische-Staatskonzern-Cosco-am-Hamburger-Hafen-zu-id889911.html>; *HHLA*, COSCO-Beteiligung am HHLA Container Terminal Tollerort, available at: <https://hlla.de/faktencheck-cosco-beteiligung> (19/8/2025); for a legal analysis and discussion: *Tietje/Reinhold*, The Control of Foreign Investment into Maritime Infrastructure in Europe, forthcoming in the Journal of World Investment & Trade, draft available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5145930 (19/8/2025).

79 See *Petkova/van der Putten*, Clingendael, Policy Brief, April 2020, pp. 6–8.

plained of persistent discriminatory practices: intellectual property theft, forced technology transfers, limited market access, and coercive economic strategies.⁸⁰

In the period up to 2019, a straightforward and common European position in relation to China did not exist. By 2018, the EU officially still emphasized the need for “win-win solutions and avoiding any scenario of lose-lose confrontation”⁸¹ in EU-China trade relations. In line with this, the EU institutions continued to call for reciprocity, balance in the bilateral relationship, and limited themselves to criticizing China’s trade-distorting practices.⁸² In particular export restrictions were described as “the most important challenge for EU trade policy”.⁸³ This view was shared by several Member States whereas others like, e.g., Germany remained undecided.

However, the perception of China was about to change fundamentally.⁸⁴ Awareness grew that Chinese investments might constitute security threats,⁸⁵ creating dependencies and exposing Europe to vulnerability, particular with regard to critical infrastructure.⁸⁶ In 2015, the EU had still entered into a 5G partnership with the growing superpower, focusing on reciprocity.⁸⁷ In contrast, the EU in 2019 openly stressed the security risks of foreign investment in strategic sectors like 5G.⁸⁸

The view of Chinese investments in the EU changed particularly after President Xi’s “Made in China 2025” plan and the BRI were implemented and their effects felt in Europe.⁸⁹ The European External Action Service (EEAS) emphasized that

80 Wright, Europe changes its mind on China, 2020, available at: https://www.brookings.edu/wp-content/uploads/2020/07/FP_20200708_china_europe_wright_v2.pdf (19/8/2025).

81 HR/VP Mogherini, speech at the plenary session of the European Parliament on the state of the EU-China relations, 11/9/2018, available at: https://www.eeas.europa.eu/eeas/speech-hrvp-mogherini-plenary-session-european-parliament-state-eu-china-relations_en (19/8/2025).

82 *European Commission*, EU and China to agree on opening negotiations for a new comprehensive framework agreement, press release IP/06/1161; *European Parliament*, Minutes, OJ C 305E of 14/12/2006, p. 163; EU and China: unbalanced trade?, Resolution, 2010/2301(INI), OJ C 264E of 13/9/2013, p. 33; Resolution, 2012/2137(INI), OJ C 36 of 29/1/2016, p. 126; Resolution on the EU-China negotiations for a bilateral investment agreement, 2013/2674(RSP), OJ C 181, 19/5/2016, p. 45; Resolution on EU-China relations, 2015/2003(INI), OJ C 399, 24/11/2017, p. 92.

83 *European Commission*, EU requests WTO consultations with China over export restrictions on raw materials, press release IP/09/986.

84 See, e.g., *Small*, Why Europe Is Getting Tough on China: And What It Means for Washington, Foreign Affairs, 3/4/2019, available at: <https://www.foreignaffairs.com/articles/china/2019-04-03/why-europe-getting-tough-china> (29/6/2025).

85 *Babić/Dixon*, The Chinese Journal of International Politics 2022/2, p. 111, 112; *Ghiretti*, in: Hillebrand Pohl et al. (eds.), p. 95.

86 *Rencz*, Asia Europe Journal 2023/21, p. 331; *Godement*, in: Shambaugh (ed.), p. 251, 267; *Pavličević*, in: Pavličević/Talmacs (eds.), p. 67, 76.

87 *European Commission*, The EU and China signed a key partnership on 5G, our tomorrow's communication networks, IP/15/57/15.

88 *European Commission/High Representative*, Joint Communication: A strategic outlook, JOIN(2019) 5 final, p. 9; *European Parliament*, Resolution on security threats connected with the rising Chinese technological presence in the EU and possible action on the EU level to reduce them, 2019/2575(RSP).

89 *Cristiani et al.*, p. 5; *Duchâtel*, China Trends 2024/20, p. 3; *Vangeli*, China-CEE Institute, Working Paper 2018/19, p. 6, 19.

Chinese investment must comply with EU law,⁹⁰ and the European Parliament expressed its concern “about state-orchestrated acquisitions” that “might hinder European strategic interests, public security objectives, competitiveness and employment”.⁹¹

III. Stage 3: Securitising moves in the economic domain (from 2019)

In accordance with the above developments, the EU institutions gradually moved away from viewing China as an opportunity to a threat.⁹² Already by 2015, the European Parliament called for a rapid reassessment of EU-China strategic priorities, “as a matter of urgency”.⁹³ In 2019, the EU Commission eventually abandoned the “major strategic partner” narrative which had guided the EU’s 2003 external action strategy on China. Instead, in its 2019 Strategic Outlook, the Commission highlighted “security concerns” and advocated a “tripartite” approach: China as a cooperation partner, economic competitor, and systemic rival.⁹⁴ In the subsequent Commission communications, which the Commission uses to set out CCP priorities, it stressed that considering the “unprecedented” rise of “China’s economic power and political influence”, the “balance of challenges and opportunities presented by China [had] shifted”. This finding was reflected also in statements of the EEAS and the Parliament of this time.⁹⁵

The Commission acted further. As a particularity of the EU legislative process under the Treaties (i.e., EU primary law), it is for the Commission to propose EU secondary legislation such as regulations and directives.⁹⁶ This is a powerful tool allowing the Commission to shape EU policies including the CCP. The Commission used this tool to propose several instruments which could serve to strengthen FDI control and to protect European businesses against unfair advantages of their foreign, particularly Chinese, competitors.

The first measure of relevance in this context was the FDI Screening Regulation.⁹⁷ The Commission had proposed a Regulation on FDI Screening already in 2017 in order to introduce a basic harmonization of intervention standards and

90 *European Commission/High Representative*, Elements for a New EU Strategy on China, JOIN(2016) 30 final, p. 7.

91 *European Parliament*, Resolution on the state of EU-China relations, 2017/2274(INI).

92 Pavličević, in: Pavličević/Talmacs (eds.), p. 67–92.

93 *European Parliament*, Resolution on EU-China relations, 2015/2003(INI).

94 *European Commission/High Representative*, Joint Communication: A strategic outlook, JOIN(2019) 5 final, p. 1, 3.

95 *European Commission/High Representative*, Joint Communication: A strategic outlook, JOIN(2019) 5 final; EEAS, EU-China Relations, April 2022, available at: https://www.eeas.europa.eu/sites/default/files/documents/EU-China_Factsheet_01Apr2022.pdf (19/8/2025); European Parliament, Report on a new EU-China strategy, (2021/2037(INI), A9-0252/2021.

96 Art. 288, 289(1) TFEU.

97 Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the Union, OJ L 79I of 21/3/2019, p. 1.

to establish a framework for cooperation. While some Member States, such as Germany, France, and Italy, had well-developed FDI screening mechanisms that scrutinized acquisitions particularly in critical infrastructure, technology, and sensitive sectors; others either lacked such frameworks or had only minimal measures in place. This patchwork of national approaches created gaps in the EU's ability to protect its collective security and economic interests. The Regulation sought to address these gaps by aligning FDI screening across the EU to ensure a coordinated and effective response to risks posed by foreign investments.⁹⁸ The Regulation was adopted by both the European Parliament and the Council on 19 March 2019 and entered into force 20 days later, in April 2019.⁹⁹

In the following years, economic competition and systemic rivalry between the EU and China further heightened.¹⁰⁰ The European Parliament called for an audit of EU reliance on China in critical sectors already in 2021.¹⁰¹ Hence, the Commission initiated or revived several legislative measures, in addition to the FDI Screening Regulation:

- In 2021, the Commission proposed a Regulation on foreign subsidies, which would introduce a control regime similar to the State aid rules (Art. 107 ff. TFEU) in relation to third countries.¹⁰² The Regulation was adopted in 2022 and entered into force in 2023.¹⁰³
- Also in 2021, the Commission proposed an Anti-Coercion Instrument, which was adopted as a regulation two years later. Although this instrument originally had been proposed in reaction to U.S. sanctions against companies that helped construct the Nord Stream 2 pipeline, the policy debate was fueled when Lithuanian companies encountered substantial difficulties in their China trade after Lithuania had announced it was improving trade relations with Taiwan.¹⁰⁴
- In 2022, the Commission succeeded in getting the International Procurement Instrument (IPI) adopted by EU legislature, which would allow the EU to restrict access to its procurement markets for companies from countries (notably China)

⁹⁸ See Rec. 4, 6 of Reg. 2019/452.

⁹⁹ Art. 289(1) TFEU, Art. 17 of Regulation (EU) 2019/452.

¹⁰⁰ *Brinza et al.*, p. viii.

¹⁰¹ *European Parliament*, Report on a new EU-China strategy, 2021/2037(INI), 26/7/2021.

¹⁰² *EU Commission*, Proposal for a Regulation of the European Parliament and of the Council on foreign subsidies distorting the internal market, COM(2021) 223 final.

¹⁰³ Regulation (EU) 2022/2560 of the European Parliament and of the Council of 14 December 2022 on foreign subsidies distorting the internal market, OJ L 330 of 23/12/2022, p. 1; see on the first cases thereunder: <https://competition-cases.ec.europa.eu/search?caseInstrument=InstrumentFS>.

¹⁰⁴ Regulation (EU) 2023/2675 of the European Parliament and of the Council of 22 November 2023 on the protection of the Union and its Member States from economic coercion by third countries, (OJ L 2675 of 7/12/2023, p. 1. On the Lithuanian case, see: *Duchâtel*, Effective Deterrence? The Coming European Anti-Coercion Instrument, 2/12/2022, available at: <https://www.institutmontaigne.org/en/expressions/effective-deterrence-coming-european-anti-coercion-instrument> (19/8/2025).

that did not offer EU firms similar access.¹⁰⁵ The Commission had proposed this instrument already in 2012 and submitted an amended proposal in 2016 after the “Made in China 2025” revealed that Chinese markets for the award of public contracts to undertakings would not be opened in a satisfactory manner.¹⁰⁶

Further, the Commission took steps to modernise the EU’s basic anti-dumping and anti-subsidy regulations to make them more effective and responsive. This would include a new anti-dumping methodology, faster investigations, and more support for small companies in pursuing cases.¹⁰⁷

The EU-China relationship was complicated further by open tensions on the international arena between the U.S. and China, reflected in repeated statements by presidential candidate Donald Trump in 2020 that the U.S. would “de-couple” its economy from China.¹⁰⁸ Under the impression of the global semiconductor shortage during the COVID-19 pandemic, which exposed Europe’s dependence on foreign supply chains, and taking account of the Commission’s own strategic autonomy goals as well as pushes by Member States and industry stakeholders (e.g., the Semiconductor Coalition), Commission President von der Leyen in 2023 opted for a more moderate approach, presenting a “de-risk, not de-couple” strategy. Nevertheless, she explicitly cited risks to economic and national security from trade and investment with China as being the reason for the policy change.¹⁰⁹ Von der Leyen highlighted dependencies on critical raw materials, high-speed rail, renewable energy, and emerging technologies, emphasizing the need for open strategic autonomy.¹¹⁰ With this, the EU’s objective had become to foster its open strategic autonomy against China, focusing on diminishing strategic dependencies, diversifying economic ties and supply chains, and mitigating risks arising from economic engagement with the superpower.¹¹¹

105 Regulation (EU) 2022/1031 of the European Parliament and of the Council of 23 June 2022 on the access of third-country economic operators, goods and services to the Union’s public procurement and concession markets and procedures supporting negotiations on access of Union economic operators, goods and services to the public procurement and concession markets of third countries (International Procurement Instrument – IPI), OJ L 173 of 30/6/2022, p. 1.

106 See *Monopolies Commission*, Biennial Report, Competition 2023, 2020, paras. 694–696 on the details. On the first case under the IPI, see below section D.V.

107 See for the details: Europe’s Trade Defence Instruments – Now stronger and more effective, 7/11/2022; available at: <https://circabc.europa.eu/ui/group/2e3865ad-3886-4131-92bb-a71754ffec6/library/a43ebafe-aefc-46f6-a56c-e3a4896a7c71/details> (19/8/2025).

108 See *Reuters*, Trump again raises idea of decoupling economy from China, 8/9/2020; see on this also *Liu*, *Journal of Information Technology & Politics* 2025/1, pp. 32–48.

109 *European Commission President von der Leyen*, Speech on EU-China relations, SPEECH/23/2063.

110 *European Commission President von der Leyen*, Speech on EU-China relations, SPEECH/23/2063.

111 *Bartsch/Wessling*, in: *Bartsch/Wessling* (eds.), p. 9; *Brinza et al.*, EU-China relations: De-risking or de-coupling – the future of the EU strategy towards China. European Parliament., PE 754.446, March 2024, p. 65, available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU\(2024\)754446_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU(2024)754446_EN.pdf) (both: 19/8/2025); *Gräff/Schmalz*, *Competition & Change*, 2023, p. 2.

Shortly after the Commission had announced the “de-risking” strategy, this strategy was formalized in two steps: first, in the Joint Communication of the Commission and High Representative on European Economic Security Strategy (EESS) of June 2023, and second, in a related package of five initiatives from January 2024. These initiatives focused on:

- Competitiveness (“promote”),
- Resilience in view of economic security risks (“protect”), and
- Cooperation with like-minded countries (“partnering”).¹¹²

The Joint Communication emphasized that the strategy would be developed “in full respect of Member States’ prerogatives” and underlined the need for a “cohesive and impactful common EU approach”.¹¹³

While the EESS has been formulated in general terms without explicitly mentioning China, the indirect references are discernible.¹¹⁴ In line with this, other EU policymakers and institutions have openly stressed that the EESS is driven by and aims to minimize risks from economic flows and dependencies on authoritarian regimes like China.¹¹⁵ In particular, China’s export restrictions on raw materials, such as on gallium and germanium, were identified as threats to the EU’s economic security on several occasions.¹¹⁶ Arguing that China was “clearly shifting the course of [EU-China] relations towards systemic rivalry”, the EU institutions called “to act in unity” in order to ensure the EU’s economic security.¹¹⁷

IV. Stage 4: Divergent audience response by EU Member States

The Member States – as the Commission’s audience – reacted in two *fora* to the shift in EU policies. One *forum* consisted in the EU institutions where the representatives of Member States with a nationally delegated mandate would come together, i.e., the European Council and the Council, here meeting as the EU Foreign Affairs Council (FAC). The second *forum* was formed by the Member States individually, as independent subjects of international law.

112 *European Commission/High Representative*, Joint Communication on “European Economic Security Strategy”, JOIN(2023) 20 final.

113 *European Commission*, Communication: Advancing European economic security: an introduction to five new initiatives, COM(2024) 22 final.

114 *Reiterer/Houng*, *The Journal of East Asian Affairs* 2023/2, p. 169, 176.

115 *European Parliament*, Report on the security and defence implications of China’s influence on critical infrastructure in the European Union, 2023/2072(INI), A9-0401/2023; *EEAS*, Economic security: a new horizon for EU foreign and security policy, 23/06/2023, available at: https://www.eeas.europa.eu/eeas/economic-security-new-horizon-eu-foreign-and-security-policy_en (19/8/2025).

116 *European Commission President von der Leyen*, 2023 State of the Union Address, SPEECH/23/4426, 12/9/2023; *European Commission President von der Leyen*, SPEECH/23/5851.

117 *European Commission President von der Leyen*, SPEECH/23/5851, 15/11/2023; *European Council*, Conclusions of meeting (29 and 30 June 2023), EUCO 7/23, ST-7-2023-INIT.

While the FAC broadly supported the EU's new China strategy just after it was released in 2019 and the European Council later in 2020 expressly reaffirmed the EU's retuned approach towards China, the reactions of individual Member States varied.¹¹⁸ France, Germany, and Austria expressed support for a more determined EU approach on China, sharing concerns about China exploiting divisions among EU countries.¹¹⁹ Germany, in particular, considerably shifted its stance on China, emphasizing national security concerns, missing reciprocity, and the erosion of German technological advantage, thus advocating for selective protectionism.¹²⁰ Sweden also aligned with the EU's new tripartite approach, perceiving China as a "long-term and growing threat".¹²¹ However, some countries, like Greece, did not openly perceive China as a threat. Hungary even continued to align with China-desired narratives, actively embracing de-securitisation rather than securitisation vis-à-vis the superpower.¹²²

A more or less aligned response among Member States developed in relation to critical infrastructure and here particularly 5G networks. A progressive securitisation of 5G unfolded in numerous EU countries, prompted by warnings from security authorities, intelligence services, and technical specialists.¹²³ The discourses here swiftly aligned with the EU's 2019 updated strategy on China, highlighting "risks to the EU's security" concerning FDI in "strategic sectors [...], such as the 5G network".¹²⁴ While some countries openly banned or limited Chinese 5G equipment due to security concerns (Portugal, Lithuania, Romania, Netherlands, Sweden, Germany), others refrained from official bans (Spain, Greece) but still discreetly sidelined Chinese suppliers.¹²⁵

In contrast, a more divergent response ensued where Member States' interest in controlling their national security regimes were affected. A striking example of this is the FDI Screening Regulation. The Regulation did even not require Member States to implement FDI screening mechanisms from the outset.¹²⁶ To the extent that Member States have kept or introduced them, the strictness and scope of these mechanisms vary. For example, the 11 Member States analysed in a recent study

118 See *Foreign Affairs Council*, Main results, 18/03/2019, available at: <https://www.consilium.europa.eu/en/meetings/fac/2019/03/18/>; European Council, Conclusions (1 and 2 October 2020), EUCO 13/20, ST-13-2020-INIT, on the support at the level of EU institutions.

119 Pavličević, in: Pavličević/Talmacs (eds.), p. 67, 69.

120 Cai/Efstathopoulos, *Asia Europe Journal* 2023/21, p. 291, 303; Gräff/Schmalz, *Competition & Change* 2023, p. 7. This would also impact German FDI screening; see, e.g., Bungenberg/Reinhold, in: Bungenberg et al. (eds.), p. 3, 8 ff.

121 Andersson/Lindberg in: Andersson/Lindberg (eds.), p. 14; Bartsch/Wessling, in: Bartsch/Wessling (eds.), p. 10.

122 Andersson/Lindberg, in: Andersson/Lindberg (eds.), p. 15; Jakimów, in: Roy et al. (eds.), p. 121, 136.

123 Friis/Lysne, *Development and Change* 2021/5, p. 1174, 1184.

124 *European Commission/High Representative*, Joint Communication: A strategic outlook, JOIN(2019) 5 final, p. 9.

125 Andersson/Lindberg, in: Andersson/Lindberg (eds.), p. 15; Friis/Lysne, *Development and Change* 2021/5, p. 1174, 1184.

126 Art. 3(1) of Reg. 2019/452.

now have measures to monitor and potentially block risky foreign investments, but only eight have specific regulations for critical infrastructure.¹²⁷ Moreover, mandatory notification triggers differ significantly, with five Member States failing to cover all EU-recommended infrastructure sectors. Other divergences remain, as reflected in the Commission's annual FDI Screening Reports.¹²⁸

Divergence between EU countries also existed until the announcement of the EESS in 2023 on the question of participating in China's BRI and the 16+1 formation. The European Parliament had critically noted the "Chinese interest in strategic infrastructure investments in Europe" concerning the BRI already in 2015, and had urged EU institution and Member States "to reflect on the impacts of China's global investments policy".¹²⁹ At EU level, this had resulted in the securitisation of Chinese "investment in strategic sectors, acquisitions of critical assets, technologies and infrastructure in the EU" as potentially "posing risks to the EU's security," in line with the EU's updated 2019 approach on China.¹³⁰ At Member State level, however, no uniform approach emerged: While some Member States remained considerably engaged with the BRI and the related AIIB, others exited completely, such as Latvia, Lithuania, and Estonia, or at least reduced involvement, like Bulgaria and Romania.¹³¹ Italy participated initially, but withdrew subsequently from the BRI.¹³²

The European Council endorsed the EESS formally in June 2023, reaffirming "the EU's multifaceted policy approach towards China, where it is simultaneously a partner, a competitor, and a system rival" and supporting the responsibility of the EU "to reduce critical dependencies and vulnerabilities" and "de-risk and diversify where necessary and appropriate".¹³³ The "de-risking" approach had not been developed by the Commission autonomously. In fact, this approach already had been emerging among EU Member States for some time, initially mentioned by German Chancellor Olaf Scholz at the end of 2022.¹³⁴ But after the formalization

127 *Stec/Legarda*, The Europe-China Resilience Audit: Insights for advancing European resilience, Mercator Institute for China Studies 2024, available at: <https://mercics.org/de/report/europe-china-resilience-audit-insights-advancing-eu-resilience> (19/8/2025).

128 See most recently *European Commission*, Fourth Annual Report on the screening of foreign direct investments into the Union, COM(2024)464. The reports can be found here: <https://circabc.europa.eu/ui/group/be8b568f-73f3-409c-b4a4-30acfc5283/library/8ee4993a-89c2-4680-a07a-872f24ca8708> (19/8/2025).

129 *European Parliament*, Resolution on EU-China relations, 2015/2003(INI).

130 *European Commission/High Representative*, Joint Communication: A strategic outlook, JOIN(2019) 5 final.

131 *Bartsch/Wessling*, in: Bartsch/Wessling (eds.), p. 13.

132 *Wright*, Europe changes its mind on China, 2020, p. 2.

133 *European Council*, Conclusions, meeting (29 and 30 June 2023), EUCO 7/2, ST-7-2023-INIT, Nos. 30 and 32.

134 *Benner*, Scholz's Asia month: Preparing Germany for a non-Western-centric world. ThinkChina, 10/11/2022, available at: <https://www.thinkchina.sg/politics/scholz-asia-month-preparing-germany-non-western-centric-world> (19/8/2025).

of the EESS and despite some reservations and divergences, Member States began to implement their national de-risking strategies.¹³⁵

Member States may be classified into four categories in responding to the EU's de-risking approach: early advocates, endorsers and followers, cautious adopters, and opponents.¹³⁶ Germany from the start emphasized strong support for de-risking in its national strategy on China, while avoiding decoupling.¹³⁷ At the same time, however, the Federal Chancellery treaded cautiously, stressing that de-risking should last with companies.¹³⁸ The de-risking agenda gradually found acceptance also with Greece, Italy, Belgium, Ireland, and Sweden, where leading political figures publicly supported de-risking with China.¹³⁹ However, some Member States, such as Austria, Portugal, Ireland, Greece, or Bulgaria, while endorsing the EU's "de-risking" strategy, expressed reservations about excessive de-risking, as it could negatively impact their bilateral relations with the superpower.¹⁴⁰ One Member State continuously setting itself apart is Hungary, whose Prime Minister Viktor Orbán publicly opposed de-risking measures against China, instead welcoming Chinese activities to diminish dependencies on Western markets.¹⁴¹

V. Stage 5: Development and execution of common EU policies

Following the 2019 Strategic Outlook, and reinforced by the Joint Communication introducing the EESS in 2023, the EU significantly increased its focus and resources on developing central defensive strategies to address perceived security challenges in its relationship to China.¹⁴² Aligned with its "China threat" narrative, the EU implemented measures to counter this threat, introducing new policies and protective measures previously off the table.¹⁴³ As noted before, these measures include defensive tools such as FDI Screening, the Foreign Subsidies Regulation, the International Procurement Instrument, and the Anti-Coercion Instrument. In fact,

135 *Brinza et al.*, EU-China relations: De-risking or de-coupling – the future of the EU strategy towards China. European Parliament., PE 754.446, March 2024, p. 65, available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU\(2024\)754446_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU(2024)754446_EN.pdf) (19/8/2025).

136 *Andersson/Lindberg*, in: *Andersson/Lindberg* (eds.), p. 11.

137 *Federal Government of Germany*, Strategy on China of the Government of the Federal Republic of Germany, 2023, p. 8, 10, 38, available at: <https://www.auswaertiges-amt.de/blob/2608580/49d50fecc479304c3da2e2079c55e106/china-strategie-en-data.pdf> (19/8/2025).

138 *Brinza et al.*, EU-China relations: De-risking or de-coupling – the future of the EU strategy towards China. European Parliament., PE 754.446, March 2024, p. 64, available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU\(2024\)754446_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU(2024)754446_EN.pdf) (19/8/2025).

139 See, on the Nordic states in particular, *Cristiani et al.*, p. 3.

140 *Andersson/Lindberg*, in: *Andersson/Lindberg* (eds.), pp. 13-14.

141 *Andersson/Lindberg*, in: *Andersson/Lindberg* (eds.), p. 14 on Hungary.

142 *Chimits/Ghiretti/Stec*, Updating the EU action plan on China: De-risk, engage, coordinate. Mercator Institute for China Studies, 2023, p. 1.

143 *Pavličević*, in: *Pavličević/Talmacs* (eds.), p. 67, 87; *Gräf/Schmalz*, Competition & Change 2023, p. 7.

the Commission has already conducted several investigations against Chinese firms under the Foreign Subsidies Regulation, concerning solar panels and wind turbines, scanners, and most recently car parts.¹⁴⁴ Moreover, the first investigation using the International Procurement Instrument, launched in April 2024, concerned discriminatory practices in the Chinese medical devices procurement market, aiming to rebalance EU-China trade and promote fair market access.¹⁴⁵ In 2023, the Commission also put forward proposals for a comprehensive reform of the Customs Union, which would tighten customs controls, remove duty exemptions for low-value parcels (most from China), and implement a surveillance system to detect trade diversion and market distortions.¹⁴⁶ In addition, it initiated trade defence probes concerning battery electric vehicles.¹⁴⁷

Adding to this is a new focus on more assertive industrial policy measures. This includes efforts to align State aid reviews with the EU's industrial policy objectives by way of Important Projects of Common European Interest (IPCEI).¹⁴⁸ In addition, the EU adopted its Chips Act, the Critical Raw Materials Act (CRMA) and the Net Zero Industry Act (NZIA).¹⁴⁹ The Chips Act aims to bolster Europe's semiconductor ecosystem by introducing EU and Member State subsidies for manufacturing facilities, funding for research and innovation, and measures to streamline administrative procedures for chip production projects. The Critical Raw Materials Act addresses supply chain vulnerabilities by setting targets for domestic

144 See 16/2/2024 CRR (China) in Bulgaria, 3/4/2024 Enervo/Longi (Romania) and Shanghai Electric (photovoltaics); *Vice President Vestager*, speech of 9/4/2024 (re wind turbines); Cases T-284/24 and C-720/24 P(R), Nuctech Warsaw (re scanners); EU probes Hungarian subsidies to BYD under new foreign subsidies rules, *Central European Times*, 24/3/2025, available at: <https://centraleuropeantimes.com/eu-investigates-hungarian-subsidies-to-byd-under-new-foreign-subsidies-rules/> (19/8/2025).

145 See on this investigation: https://policy.trade.ec.europa.eu/help-exporters-and-importers/accessing-markets/public-procurement/international-procurement-instrument/china-medical-devices_en (19/8/2025).

146 See for the details: https://taxation-customs.ec.europa.eu/customs/eu-customs-reform_en (19/8/2025).

147 *Grieger*, EU anti-subsidy probe into electric vehicle imports from China, 18/10/2023 (Euro. Parliament Members' Research Service, 4/7/2024), available at: <https://epthinktank.eu/2024/07/04/eu-anti-subsidy-probe-into-electric-vehicle-imports-from-china/> (19/8/2025).

148 *European Commission*, Communication: Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest, OJ C 528, 30/12/2021, p. 10.

149 Regulation (EU) 2023/1781 of the European Parliament and of the Council of 13 September 2023 establishing a framework of measures for strengthening Europe's semiconductor ecosystem and amending Regulation (EU) 2021/694 (Chips Act), OJ L 229 of 18/9/2023, p. 1; Regulation (EU) 2024/1252 of the European Parliament and of the Council of 11 April 2024 establishing a framework for ensuring a secure and sustainable supply of critical raw materials and amending Regulations (EU) No 168/2013, (EU) 2018/858, (EU) 2018/1724 and (EU) 2019/1020, OJ L, 2024/1252 of 3/5/2024; Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe's net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724, OJ L, 2024/1735 of 28/6/2024.

sourcing and recycling, facilitating permitting processes, and providing financial incentives for strategic projects. Finally, the Net-Zero Industry Act seeks to accelerate the transition to clean energy technologies by simplifying regulatory procedures, offering subsidies for green technology manufacturing, and prioritizing projects of strategic importance within the EU.

The driving forces behind the adoption of these measures were not only the Commission's own strategic autonomy goals and pushes by Member States and industry stakeholders (e.g., the Semiconductor Coalition), but also the global semiconductor shortage during the COVID-19 pandemic, which exposed Europe's dependence on foreign supply chains. Another important factor were foreign measures like the U.S. CHIPS and Science Act.¹⁵⁰ The Union's – again – rather defensive interest may explain why the EU started to develop more offensive policies under the “promote” limp of the EESS only with a time lag. Important measures to mention here include:

- The aforementioned¹⁵¹ Commission Communication on Advancing European Economic Security (January 2024), which places a focus on enhancing the EU's scientific, technological, and industrial base;¹⁵²
- The Proposal for a Council Recommendation on enhancing research security, which advocates support of R&D in strategic sectors such as advanced electronics and dual-use technologies.¹⁵³
- The Commission Recommendation on Reviewing Outbound Investments of January 2025, which militates in favour of actively monitoring and potentially restricting outbound investments to protect and promote strategic technological capabilities within the EU.¹⁵⁴

Overall, the implementation of the new EU policies at Member State level has not been straightforward, however. This is particularly true when it comes to FDI screening. The Commission's annual FDI screening reports show an increase in both the number of national screening frameworks and screened cases.¹⁵⁵ But still not all countries have shown the willingness to align national policies. Notably, Hungary, despite formally adopting a mechanism, has continued to prioritize attracting Chinese investment rather than assessing risks.¹⁵⁶

150 H.R.4346.

151 See Sec. 4.5.3 (on step 3) above.

152 *European Commission*, Communication: Advancing European economic security: an introduction to five new initiatives, COM(2024) 22 final.

153 *European Commission*, Proposal for a Council Recommendation on enhancing research security, COM(2024) 26 final.

154 *European Commission*, Recommendation (EU) 2025/63 of 15 January 2025 on reviewing outbound investments in technology areas critical for the economic security of the Union, C/2025/39.

155 ¹⁵⁵ *European Commission*, Third Annual Report on the screening of foreign direct investments into the Union, COM(2023)590.

156 ¹⁵⁶ *Andersson/Lindberg*, in: Andersson/Lindberg (eds.), pp. 14–15.

VI. Stage 6: Routinization and New Status Quo

The last years have clearly produced a shift from the status quo in EU-China relations through revised political agendas and practices to address the perceived threat from China both at the EU and Member State level. Since the 2019 China strategy, key EU institutions (European Commission, European Parliament, European External Action Service) have consistently employed the “tripartite” approach in their communications. President von der Leyen’s “de-risking” agenda, integrated into the EESS, has emphasized collective action.¹⁵⁷ These securitisation efforts are reflected in Member States’ national discourses and were reaffirmed by EU leaders in June 2023.

EU policies addressing economic imbalances and related concerns, such as the FDI screening mechanism, have been well-received by Member States, though divergences in the national interest and policy approaches could not be overcome completely. This also has contributed to a Commission proposal and subsequent discussion on another reform of European FDI rules.¹⁵⁸ National measures in line with EU policies have been taken in those areas where perceived economic and national security risks align, particularly concerning 5G networks and Chinese equipment. Still, persistent differences in Member States’ views on whether China constitutes a security threat hinder coherent implementation of EU policies. Consequently, a fully realized new status quo has not yet been achieved, in which China is uniformly perceived as an existential threat and all 27 Member States adopt corresponding measures of condemnation.

The lack of unity has more profound underlying reasons than the individual instances of opposition by Member States to EU policy advances may reveal. To some extent, it is due to fundamentally differing views on the state’s role in the market and its influence on business and investment.¹⁵⁹ Germany, for example, has historically opposed protectionist measures due to its export-oriented economy and strong economic ties with China.¹⁶⁰ Some Member States, e.g., France and Germany, but also e.g. Hungary, seem to believe that the responsibility for economic security and related tools for ensuring it still primarily lies within Member States’

157 *European Commission President von der Leyen*, Speech, SPEECH/23/2063.

158 *European Commission*, Proposal for a Regulation of the European Parliament and of the Council on the screening of foreign investments in the Union and repealing Regulation (EU) 2019/452 of the European Parliament and of the Council, COM (2024) 23 final; see most recently on this: *European Commission (DG TRADE)*, Interinstitutional talks begin on EU’s revised FDI screening mechanism, 17/6/2025, available at: https://policy.trade.ec.europa.eu/news/interinstitutional-talks-begin-eus-revised-fdi-screening-mechanism-2025-06-17_en (19/8/2025).

159 *Brinza et al.*, EU-China relations: De-risking or de-coupling – the future of the EU strategy towards China. European Parliament., PE 754.446, March 2024, p. 64, available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU\(2024\)754446_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXPO_STU(2024)754446_EN.pdf) (19/8/2025).

160 *Chan/Mennier*, *The Review of International Organizations* 2022/17, p. 513, 525 ff.

exclusive competencies.¹⁶¹ In any event, while Member States are willing to support EU measures protecting them against national security threats (cf. Art. 4(2) TEU, Art. 346 TFEU), they are wary about the EU expanding the scope of the CCP and economic security.

Moreover, some Member States have developed specific national China strategies, while others prefer a more decentralized approach or do not prioritize China domestically, which leads to varying degrees of implementation of EU-level measures. EU countries also generally differ on their risk perception and assessment of China due to significant variations in their degrees of vulnerability towards the superpower.¹⁶² Bulgaria, for instance, expresses little concern about China. Ireland and Slovakia, with substantial economic links to China, may be more cautious.¹⁶³ Some Member States also have reservations about EU policies to avoid escalating tensions with China and to distance themselves from the U.S. approach, which sometimes is perceived as overly aggressive and self-serving.¹⁶⁴

Finally, divergent economic dynamics between large Member States (France, Germany) among themselves and between large Member States on the one hand and smaller ones on the other are straining the Member States' ability to contribute effectively to the definition of EU common policies while decreasing political stability weakens their leaders' positions and limits their influence in EU discussions.¹⁶⁵

These divergences may eventually have to be accepted as reflecting the division of competences between the EU and its Member States. Some further alignment, however, may take place step by step through *ex-post* court review. The ECJ has only limited jurisdiction on matters affecting the CFSP. That being said, it has been using its jurisdiction on the CCP and its power to demarcate its jurisdiction where the issues involve powers of the EU institutions relating to Union competences outside the CFSP (Art. 40 TEU, Art. 275 TFEU) in order to navigate the division of competences between the EU and its Member States.

161 *Brinza et al.*, EU-China relations: De-risking or de-coupling – the future of the EU strategy towards China. Study for European Parliament., PE 754.446, March 2024, p. 65, available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXP_O_STU\(2024\)754446_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2024/754446/EXP_O_STU(2024)754446_EN.pdf) (19/8/2025).

162 *Stec/Legarda*, Mercator Institute for China Studies 2024, available at: <https://merics.org/en/report/europe-china-resilience-audit-insights-advancing-eu-resilience> (19/8/2025).

163 *Andersson/Lindberg*, in: *Andersson/Lindberg* (eds.), pp. 14–15.

164 *Puglierin/Zerka*, Keeping America close, Russia down, and China far away: How Europeans navigate a competitive world, 2023, available at: <https://ecfr.eu/publication/keeping-america-close-russia-down-and-china-far-away-how-europeans-navigate-a-competitive-world/> (19/8/2025); *Reiterer/Houng*, The Economic Security Tightrope: EU Economic Security Strategy, Friend-Shoring, and European Relations with Indo-Pacific States. *The Journal of East Asian Affairs* 2023/2, p. 169, 176.

165 *Buti/Messori*, Divergent economic dynamics grind down the Franco-German EU axis, *Bruegel*, 28/6/2024, available at: <https://www.bruegel.org/first-glance/divergent-economic-dynamics-grind-down-franco-german-eu-axis> (19/8/2025); *Hess*, Domestic political crises pose obstacles to Franco-German alliance, *euronews*, 12/11/2024; available at: <https://www.euronews.com/my-europe/2024/11/12/political-crises-pose-obstacles-to-franco-german-tandem> (19/8/2025).

Thus, the ECJ has held that “compelling reasons of public security” cover both internal and external security of a Member State, including threats “to the functioning of the institutions and essential public services and the survival of the population, as well as the risk of a serious disturbance to foreign relations or to peaceful coexistence of nations, or a risk to military interests”. According to the same judgment, “compelling reasons of public order” must go beyond an infringement of the law and involve a “genuine, present and sufficiently serious threat affecting one of the fundamental interests of society”.¹⁶⁶

This EU jurisprudence does not exclude that, based on their national constitutions, some Member States interpret those terms more broadly, encompassing a wider range of national interests and societal norms as well as elements of security specific to their national context and perceived threats. Nevertheless, it must be noticed that the ECJ has been extending its jurisdiction gradually in the CFSP: The ECJ has stressed repeatedly that derogations from the rule of general jurisdiction in Article 19 TEU must be interpreted narrowly.¹⁶⁷ In line with this, it has held that it can give preliminary rulings on questions concerning the demarcation of its competences.¹⁶⁸ Notably, this also covers the question whether EU institutions circumvent the Court’s jurisdiction by adopting legislative acts without use of a legislative basis where the Court would have jurisdiction.¹⁶⁹ However, the ECJ has also ruled that the principles of conferral and of institutional balance bind the Court and apply in the CFSP area.¹⁷⁰ They must still be observed where the concern is that Member States may be using their remaining powers in the shared-competence area of internal market policies (Art. 4(2)(a) TFEU) to circumvent EU law.¹⁷¹

E. Conclusion

As European Commission President Ursula von der Leyen publicly noted, EU-China relations have become “more distant and more difficult in the last few years.”¹⁷² The transformation from strategic partnership to systemic rivalry reflects deepening concerns over economic security and geopolitical tensions. Yet, despite an increased awareness of shared challenges, the EU’s ability to act collectively

166 ECJ, Case C-373/13, *HT v Land Baden-Württemberg*, judgment of 24 June 2015, ECLI:EU:C:2015:413, paras. 78–79.

167 ECJ, Case C-351/22, *Neves 77 Solutions SRL*, judgment of 10 September 2024, ECLI:EU:C:2024:723, para. 35; ECJ, Joined Cases C-29/22 P and C-44/22 P, *KS and KD*, judgment of 10 September 2024, ECLI:EU:C:2024:725, para. 62.

168 ECJ, Case C-351/22, *Neves 77 Solutions SRL*, judgment of 10 September 2024, ECLI:EU:C:2024:723, para. 43.

169 ECJ, Case C-351/22, *Neves 77 Solutions SRL*, judgment of 10 September 2024, ECLI:EU:C:2024:723, para. 45; see also *Giegerich*, ZEuS 2024/4, pp. 616–617.

170 ECJ, Joined Cases C-29/22 P and C-44/22 P, *KS and KD*, judgment of 10 September 2024, ECLI:EU:C:2024:725, paras. 68 ff.

171 ECJ, Case 106/22, *Xella Magyarország*, judgment of 13 July 2023, ECLI:EU:C:2023:568, para. 38 (there with reference to (Art. 3(6) of Regulation (EU) 2019/452).

172 *European Commission President von der Leyen*, Speech, SPEECH/23/2063.

remains constrained – not least due to divergent national interests among Member States.

These divergences are not merely political but grounded in differing economic exposures and dependencies on China. The varying reliance on Chinese trade or investment affects Member States' willingness to support the development and employment of robust EU-level economic security instruments. The difficult negotiations over the EU-China Comprehensive Investment Agreement and the stalled ratification process – blocked in part by opposition from the European Parliament and Member States¹⁷³ – highlight how EU interests, as well as national economic priorities and security concerns increasingly pull in different directions. This renders the formation of a coherent EU position on China a complex and fragile endeavor.

From a legal perspective, the Treaty framework offers important but underutilized tools to promote coherence. Initiatives like the European Economic Security Strategy illustrate how the Commission can use its legislative competences under the CCP to strengthen coordination among Member States. In addition, Articles 21(3)(2), 24(3), 32, and 34 TEU require Member States to coordinate and mutually consult in foreign policy matters, including those touching economic security. Yet, these provisions leave substantial political discretion and their application within the CFSP is still subject to a limited court review. This makes it difficult to compel coherence in practice where economic or national security interests diverge. Thus, in both the CFSP and CCP contexts, the EU's external posture is still shaped less by legal obligations and more by political will and internal consensus-building.

To move forward, the EU should focus on making better use of existing legal mechanisms to clarify Member State obligations and enhance practical coherence. This includes seeking judicial clarification from the ECJ where feasible, particularly regarding coordination duties under the TEU. It also requires sustained political efforts to build shared resilience, rather than short-term national advantage, into EU foreign and economic security policy. A nuanced approach that respects the principle of subsidiarity while enabling more decisive Commission action – especially in trade and investment regulation – may help to bridge the gap between political fragmentation and the need for strategic unity.

In sum, while the current legal and political architecture poses real limits, a more coherent and consistent EU foreign policy on China is possible. Its evolution depends on strategic agenda-setting and normative clarity, at both EU and national

173 See on this on this, e.g., *European Parliament*, MEPs refuse any agreement with China whilst sanctions are in place, press release, 20/3/2021, available at: <https://www.europarl.europa.eu/news/en/press-room/20210517IPR04123/meps-refuse-any-agreement-with-china-while-sanctions-are-in-place> (19/8/2025); *Le Corre*, Europe's China Challenge: The Narrow Path for France, Germany, and the EU, Asia Society Policy Institute, April 2023, available at <https://asiasociety.org/policy-institute/europes-china-challenge-narrow-path-france-germany-and-eu> (19/8/2025); *Telò*, JCMS 2021/1, p. 162; *Freeman*, in: Svetlicinii/Chen (eds.), p. 15 ff.

levels, creative use of existing instruments, and renewed political commitment to confronting systemic rivalry with a unified voice.

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