



Ca' Foscari
University
of Venice

Master's Degree Programme

in Languages, Economics and Institutions of Asia and North Africa
(D.M. 270/2004)

Final Thesis

Chinese M&A abroad: OBOR and Africa, a second Belt in this continent

Supervisor

Ch. Prof. Giorgio Stefano Bertinetti

Assistant supervisor

Ch. Prof. Adriano Boaretto

Graduand

Gaia Manzoni

Matriculation Number 840705

Academic Year

2017 / 2018

*A Ianna,
Il mio Angelo più bello,
la mia Soluzione*

摘要

在过去几年中，中国在海外的投资占据了大多数国际贸易，让中国成为世界大国中的领导者。中国投资的主要项目之一是“一带一路”计划。这个项目会通过一系列新的基础设施将亚洲和欧洲市场联系起来。许多非洲国家也参与其中并发挥重要作用。由于这个原因，在过去几年，中国公司一直在非洲进行投资。

我们应该说中国企业在国外投资的时候，会面临许多困难和挑战。为解决这些问题，中国政府实施了新的法律和法规，以减少中国企业的长期投资，保障中国经济安全。

最重要的市场是美国市场，但最近，美国政府已经开始控制中国的投资，这是因为美国政府想保护美国的经济。但美国市场并不是中国投资者选择的唯一目的地。由于欧洲市场的弱点，中国公司对欧洲投资的兴趣越来越大：2015年，他们投资超过230亿美元，远远超过投资于美国市场的价值；投资的主要领域是基础设施和运输。这是因为在欧洲投资更容易：如果一个欧洲国家不接受中国投资，中国公司可以通过另一个国家进入欧洲市场。

但在海外投资方面，中国企业有一些责任：为了公司的利益，他们必须以明智和可持续的方式进行投资，将其战略与中国的国家投资重点相结合。

我们不得不说，如果一个企业想在国外投资，它的投资必须得到中国商务部的批准；特别是如果投资部门涉及敏感国家（如与中国发生冲突的国家），或电信和跨境使用水资源。如果一个公司要投资的领域与上面提到的领域不同，那就必须申报。但多年来，由于全球化和国家需求的发展，中国政府的战略发生了变化。

但是，随着中国投资者决定走出国门，他们必须首先面对一些难关：不守规矩的工会，独立法院，记者和大众媒体。此外，根据许多企业的说法，在不熟悉的多党政治水域中航行，并面对舆论的力量，使得一切都很难被面对。

当中国公司冒险进入其他国家的时候，尤其是外国民主国家时，他们必须面对的第一个困难就是文化冲击；他们发现，在国外开展业务并不像他们所

认为的那么简单。其实，在中国投资者进入的世界上所有国家中，都有一长串代价高昂的错误。

但并非所有外国都认为中国是一个威胁，例如，许多非洲国家认为中国的投资是一个利用的机会。但也在非洲，中国投资者不得不面对困难。事实上，很难用一把刷子描绘中国和非洲之间的关系。例如，一些非洲人早就开始抱怨这种做法的弊端，因为他们失去了创造就业岗位的机会，因为所有的工作都是由中国人在中国制造的。非洲本身由不同的国家组成，每个国家都与中国达成独立协议，并经历自己的经济起伏。尽管如此，由于中国的政策和发展援助，整个非洲大陆都发生了积极的变化。

中国在非洲的投资水平正在快速增长。中国推动增加对非洲国家投资的主要动机包括希望获得坚实的原材料基础以推动中国自身快速增长的经济，增加中国全球政治影响力的愿望，以及新兴市场经济体带来的主要增长机会。

在非洲，采矿和石油仍然是中国投资的主要焦点；然而，中国的投资几乎遍及每个市场领域，包括从基础设施到食品加工的所有领域。中国对非洲国家基本上未开发的基础设施的投资特别强劲，包括公用事业，电信，港口建设和运输等关键领域。

中国投资者前往非洲必须面对许多挑战。最近的经济成功很大程度上归功于非洲增加进入中国市场的机会。

不幸的是，许多非洲国家错过了制定这一变革的重要机会，同时它们的经济显示出有希望的增长。换句话说，许多非洲国家未能利用在自然资源基础上创造的财富来促进经济转型。他们尚未将其国家的基础设施和/或技能水平升级到足够的程度。尽管经济增长放缓，但过去几年非洲国家一直在风化这种局面。

这篇论文的主要目的是分析中国在外国投资的方法以及与北京在世界各地的行动有关的因素，主要集中在国外的并购，“一带一路”计划和外国公司对它们的反应。这篇论文还将分析中国政府近年来面临的中国政府新政策所带来的困难和随后的变化。此外，非洲将在这项工作的内容中发挥重要作用，因为分析的一部分与中国在非洲国家的投资完全相关，涉及动机，反应和考虑与西方和更现代国家投资的差异。

考虑到中国企业在海外投资的主要原因，我们可以说中国企业的目标是完全在中国建立其产品的价值链。中国投资者希望从“中国制造”的产品转向“中国设计”的产品。中国企业需要获得新增长领域的专业知识，以支持经济的再平衡，从而成为世界基础制造业和重工业以及高端经济活动的中心。在这些部门收购那些较发达国家的公司是一种方法。为了实现这些目标，中国公司被鼓励在国外寻求合并目标，受到政府政策的鼓励，这些政策减少了文书工作并放宽了对外国投资的限制。事实上，中国政府认识到创新对于维持中国经济发展的势头至关重要，所以，支持创新是中国政府关注的重点。

中国政府正在推行“大规模创业和创新”计划，并为中小企业提供了许多激励措施。这包括建立特殊创新示范区，扩大风险资本税收激励措施，以促进对初创企业的投资。

这篇论文分为四章。每章都涉及中国在国外投资的信息，方法，数据和分析。信息和数据来自网络，主要的世界投资数据库和主要报纸。

第一章是关于中国企业将注意力集中在收购海外其他公司的主要原因，考虑和评估可能的价值，这可能是由于收购公司或创建新实体所致。这一章可以分为两个部分。第一个部分还解释了对外国的投资和一般的并购；然后它说明中国对外投资的“故事”，它可以分为三个历史时期。第二个部分是关于“一带一路”项目的介绍，解释了中国政府的思想，动机和目标。“一带一路”是2013年诞生的一个项目。它应该从国家的角度改变中国经济，然后这个项目旨在出口中国的技术和工程标准。

这篇论文的第二章介绍了中国对外投资分析的法律方面。多年来，根据时期，国家和国际背景的变化，中国的投资强度发生了变化。在中国投资的“繁荣”期间，中国的企业和中国投资者决定进入并投资于各个可能的领域；主要目的是赚更多钱，以成为国际市场上的有效竞争者。多年来，作为市场领导者，中国的投资被许多外国视为威胁，而不是利用的机会。这个想法给中国经济带来了一些问题；因此，中国政府选择对外国投资法规进行一些改变。有些部门被排除在外，其他部门已被提升；中国政府旨在保护和加强国民经济。

第三章分析了“一带一路”计划。它考虑现在项目本身所触及的那些国家的观点和贡献。根据许多国家的看法，这个项目可以在全球范围内带来财富

和“普及”，但许多其他国家都担心环境问题。当然，许多国家反对中国投资并不仅仅因为“一带一路”计划。开始国外旅行的中国投资者必须面对许多挑战，首先是指文化和法律制度的区别。

这篇论文的第四章和最后一章重点关注非洲案例和中国在非洲国家的投资。第一部分解释了中国投资者决定在非洲投资的原因以及他们在非洲大陆实现目标的主要方法。最后一部分是对“一带一路”计划的分析，从非洲的角度来看。这是因为“一带一路”计划倡议被视为欧亚计划，但实际上，中国正在建设和融资的基础设施带是一条重要的走廊，有助于实现“一带一路”计划的目标。

Table of contents

List of abbreviations	p. 9
Abstract	p. 11
Introduction	p. 12
1. Chinese investments abroad	p.15
1.1. Investments in foreign countries: Chinese companies are not pioneers.....	p.16
1.1.1 Motivations for investing abroad: why do Chinese firms go outside China?.....	p. 18
1.2. M&A: Mergers and acquisitions and acquisition value.....	p. 21
1.2.1. Chinese acquisitions abroad.....	p. 27
1.3. Major fields of investment and figures: how much does China invest abroad?.....	p. 32
1.3.1 “One Belt, One Road” project.....	p. 35
1.4. Concluding remarks.....	p. 40
2. Chinese government and its regulations on investments	p. 44
2.1. Foreign Investment Law in the People’s Republic of China.....	p. 45
2.2. Incentives by Chinese government to Chinese firms.....	p. 61
2.3. New regulations on overseas investments.....	p. 66
2.4. Concluding remarks.....	p. 68
3. Foreign countries’ reactions to Chinese investments	p. 72
3.1. Do overseas countries accept Chinese investments? How do they face them?.....	p. 73
3.2. Foreign countries’ contributions to OBOR.....	p. 79
3.3. Concluding remarks.....	p. 90

4. Case of Africa: Chinese investments in the African continent.....	p. 94
4.1. Fields of investment: Why Africa?.....	p. 95
4.2. Methods used to invest in Africa.....	p. 101
4.3. African government and firms' reactions.....	p. 110
4.3.1. Africa and OBOR: a second belt in this continent.....	p. 113
4.4. Concluding remarks.....	p. 128
Conclusions.....	p. 120
References and on line sources.....	p. 122
Acknowledgments.....	p. 130

List of abbreviations

AIB	Asian Infrastructure Investment Bank
ALL	Administrative Litigation Law
AVIC	Aviation Industry Corporation of China
BOC	Bank of China
BRI	Belt and Road Initiative
BRF	Belt and Road Forum
CFIUS	Committee on Foreign Investment in the United States
CHEXIM	Export-Import Bank of China
CIT	Corporate Income Tax
CNOOC	China National Offshore Oil Corporation
COSCO	China Ocean Shipping (Group) Company
CSRC	China Securities Regulatory Commission
EC	European Commission
EETC	Egypt Electricity Transmission Company
ETDZ	Economic and Technology Development Zone
FCIT	Foreign and Colonial Investment Trust
FDI	Foreign Direct Investment
FECL	Foreign Economic Contract Law
FMV	Fair Market Value
GDP	Gross Domestic Product
GPCL	General Principles of Civil Law
G20	Group of Twenty
ICCT	Industrial and Commercial Consolidated Tax
ICT	Information and Communication Technology
IDE-JETRO	Institute of Developing Economies Japan External Trade Organization
IFRI	French institute of International Relations
IMF	International Monetary Fund

M&A	Mergers and acquisitions
MERICs	Mercator Institute for China Studies
MIIT	Ministry of Industry and Information Technology
MINICOM	Ministry of Commerce
MOF	Ministry of Finance
MOFTEC	Ministry of Foreign Trade and Economic Co-operation
MoU	Memorandum of Understanding
NDRC	National Development and Reform Commission
NPC	National Planning Commission
NPL	Non-performing Loan
NPV	Net Present Value
OBOR	One Belt, One Road
OECD	Organization for Economic Co-operation and Development
OFDI	Out forward Foreign Direct Investment
PBC/PBOC	People's Bank of China
PRC	People's Republic of China
R&D	Research and Development
RMB	Renminbi
SAEC	State Administration of Exchange and Control
SAFE	State Administration for Foreign Exchange
SAIC	State Administration for Industry and Commerce
SDG	Sustainable Development Goal
SEZ	Special Economic Zone
SOE	State-owned Enterprise
TPP	Trans Pacific Partnership
UNDP	United Nations Development Programme
UNOCAL	Union Oil Company of California
WTO	World Trade Organization
3GPP	3rd Generation Partnership Project

Abstract

Chinese presence in international market and “Made in China” label. These are the main elements which have dominated the international trade and businesses over the last years. In almost every country of the world, Chinese enterprises have made many steps in order to increase China’s power in the global economic environment.

Chinese companies have strengthened their presence by investing and acquiring in many countries of the world, from the richest to the poorest ones, aiming at reaching a unique scope: making more money and achieve more power.

The final Beijing’s purpose is the realization of one of the biggest and most important plans designated by China over the last years: the “One Belt, One Road” (OBOR) project. The final idea will be the creation of a new Silk Road, which should link China mainly to Europe and part of Africa, in order to make the People’s Republic of China (PRC) closer to these markets and their opportunities, basically in terms of trade and raw materials.

Without any doubts, Chinese investors investing abroad have been facing many challenges and difficulties, which have led to some changes in Chinese government’s policies, in order to protect Chinese national economy.

Furthermore, the African continent will play an important role in the realization of the OBOR project, in fact, Chinese investments in African countries have increased over last years. Chinese investors’ main aims are the fulfillment of raw materials’ needs and the creation of new infrastructures, useful to the realization of the plan.

Introduction

Over the last years, Chinese investments abroad have been covering the majority of international trades, leading China to the leader position among the world powers. One of the main projects into which the PRC is investing is the “One Belt, One Road” plan, concerning a route, which should link Asian and European markets, through a series of new infrastructures. Concerning this project, also many African countries are involved and play an important role; this is also the main reason why Chinese firms have been investing in the African continent over the last years. Therefore, it is important to mention that Chinese companies have been facing many difficulties and challenges when investing in foreign countries. Also because of this reasons, Beijing’s government has implemented new regulations and laws, in order to reduce Chinese enterprises’ out forward investments and keep Chinese economy safe.

The main purpose of this thesis is the analysis of Chinese methods in investing in foreign countries and the elements linked to Beijing’s actions around the world, focusing mainly on mergers and acquisitions abroad, the OBOR project and foreign firms’ reactions to them. Part of the attention will be focused also on the difficulties and the subsequent changes, which Chinese investors have faced in the last years, driven by Chinese government’s new policies.

Furthermore, as already said, the African continent will play an important role in the content of this work, since a part of the analysis is completely related to Chinese investments in African countries, concerning the motivations, the reactions and considering the differences with investments in Western and more modern countries.

This paper is divided into four chapters, each of them concerning information, methods, data and analysis about Chinese investments in foreign countries. Information and data have been obtained mostly from the Net, from the major world investments databases and from the most important newspapers.

The first chapter is about the main reasons why Chinese enterprises focus their attention on acquiring other firms abroad, considering and evaluating the possible value, which could result from the acquisition of a company or the creation of a new entity. This part of the chapter explains also investments in foreign countries and mergers and acquisitions in general; then it gives information about “the story” of Chinese out forward investments, which is divided into three historic periods. The last part of the first chapter concerns the presentation of the “One Belt, One Road” project, explaining Beijing’s ideas, motivations and aims about it. It is a project born in 2013, not realized yet, which would start in changing Chinese economy first from a national point of view and would aim at exporting China’s technological and engineering standards abroad.

The second part of this work introduces the legal aspects of the analysis on Chinese out forward investments. Over the years, the PRC’s investments have changed in their intensity, according to the period, the country and the changes in the international environment. During the “boom” of Chinese investments, the PRC’s enterprises and Chinese investors decided entering and investing in every possible sectors; the main aim was to make more money as possible, in order to become a valid competitor in the international market. Over the years, after having obtained this position, as market leader, Chinese investments have been perceived as a threat by many foreign countries, rather than an opportunity to exploit. This caused many problems to the Chinese economy; consequently, Beijing has chosen to make some changes in foreign investments’ regulations. Some sectors have been excluded, others have been promoted, aiming at protecting and enforcing first the national economy.

The third chapter concerns another analysis of the OBOR plan, but now considering the point of view and the contribution of those countries touched by the project itself. According to many countries, this project could bring wealth and “popularity” in the global context, but many others are worried about environmental issues. Of course, the refusal many countries show against Chinese investments does not concern only the OBOR project. Chinese investors starting their journey abroad have to face many challenges, above all referring to the differences in culture and legal systems.

The fourth and last chapter of this thesis focuses the attention on the African case and Chinese investments in this continent. The first part explains the reasons why Chinese investors have decided moving their investments in Africa and the major methods they use to reach their goals in this continent. The second and last part of the chapter is an analysis of the OBOR project, seen by an African point of view. This is because the Belt and Road Initiative is most seen as a Eurasian plan, but, in reality, the belt of infrastructures China is building and financing in Africa is an important corridor, useful to reach OBOR aims.

This work was born from my passion about Chinese world and, as a Language and Management to China student, my intention was to deepen and analyze Chinese methods in approaching mergers and acquisitions in foreign countries and try to understand how the notions Chinese investors have learnt over the years could help in realizing a project like OBOR, which does not involve only the PRC, but many other countries, which should cooperate with China, overcoming their prejudices against Beijing's investments.

1. Chinese investments abroad

Summary: 1.1. Investments in foreign countries: Chinese companies are not pioneers; 1.1.1. Motivations for investing abroad: why do Chinese firms go outside China?; 1.2. M&A: Mergers and acquisitions and acquisition value; 1.2.1. Chinese acquisitions abroad; 1.3. Major fields of investment and figures: how much does China invest abroad?; 1.3.1. “One Belt, One Road” project; 1.4. Concluding remarks.

In the last decades, China has turned continuously, becoming the major country which exports capital abroad. Since 2003, foreign investments have continued growing, leading the average annual growth of rate to an increase of 30%.¹ Up to 2014, 18.500 Chinese firms have invested in 30.000 companies in foreign countries.²

The most important market is without doubts the American one but, recently, the American government has started to control Chinese investments, which head toward its countries. However, the American market is not the only destination chosen by Chinese investors. Due to the weaknesses of the European market, Chinese companies are demonstrating a growing interest in investing in Europe: in 2015 they invested over 23 billion American dollars, much more than the value invested in the American market; and the major fields of investments regard infrastructures and transportation.³

Due to the global competition, the accumulation of Chinese capital and the force of the “One Belt, One Road” plan, investors have increased the necessary confidence in investing abroad and, today, this kind of operations and possibilities cannot be missed. But when investing abroad, Chinese firms have some

¹See Carlo Diego D’ANDREA, *Investimenti cinesi all’estero*, in “D’Andrea e Partners”, 2016, <https://eastwest.eu/it/east-4/ecco-perche-la-cina-investe-all-estero>.

² *Ibidem*.

³ *Ibidem*.

responsibilities: they have to invest wisely and sustainably for the sake of their companies, integrate their strategies with China's national investment priorities.

This chapter will focus first on what an acquisition is and the possible value generated by it. The second part will analyze the main reasons why Chinese investors go abroad, their methods and major projects in foreign countries (such as the OBOR plan), analyzing some data of the last decades, compared to the investments made in the People's Republic of China.

1.1. Investments in foreign countries: Chinese companies are not pioneers

As already mentioned in the introduction above, this chapter's aim (and the general purpose of this thesis) is the analysis of Chinese companies' investments abroad. However, Chinese firms are not the first actors moving to foreign countries due to economic reasons. Pioneering operations (similar to nowadays investments abroad) can be dated as far back as the half of the 19th century, during one of the most important periods of colonialism. When we use the expression *exploitation colonialism*, we focus on the exploitation of national resources or local population as labor, typically to satisfy home country's needs and to bring benefits to it. So, in a certain way, we can say that colonialism was the forerunner of modern FDI.⁴

An example was the Foreign and Colonial Investment Trust (FCIT)⁵, the oldest closed end fund in the world, which made its first investments in 1868, fully half a century before such first funds appeared in the United States of America. The early success of FCIT derived from its identification of a missing market, when domestic

⁴ Foreign Direct Investment. It is a practice through which companies go international. The two methods concerning this way to go abroad are green field investments and acquisitions.

⁵ The Trust is the world's oldest collective investment fund. Its aim is to generate long-term growth and income by investing primarily in an international portfolio of listed equities. The Trust is highly diversified and cautiously managed, with exposure to over 450 individual companies from around the world.

securities were yielding low returns. It depended also on the fact that the fund maintained investments focused on emerging markets. And these are concepts which today are at the basis of successful acquisitions in foreign countries.

In the following years, international trade grew remarkably. Over the course of the 19th century, technological advances triggered a period of marked growth in world trade. The period before the First World War was of remarkable capital mobility, whereby a restricted group of nations, such as the UK, France, Germany, Belgium and the Netherlands exported a significant share of their national savings to the emerging market countries of the time. This process of growth stopped and was eventually reversed in the interwar period; but since the Second World War, international trade started growing again and, in the last decades, trade expansion has been faster than ever before. In the last couple of decades, transport and communication costs have decreased across the world, and preferential trade agreements have become more and more common, particularly among developing countries. In fact, trade among developing nations increased more than three times in the period from 1980 to 2011.⁶

The last few decades have not only seen an increase in the volume of international trade, but also an increase in the number of preferential trade agreements, through which exchanges take place. A preferential trade agreement is a trade pact, which reduces tariffs between the participating countries for certain products.

Over the years, after the Second World War, a main role was played by two important nations, which started to expand their markets outside their home countries: Great Britain and America, later followed by many other European countries. In fact, during the first and the following waves of globalization, China did not play an active role in internationalization procedures as today, and this means it was the first main objective of foreign firms investing abroad, since it was one of the new foreign emerging markets of the period. Thanks to investments and acquisitions in their local market by foreign enterprises, Chinese companies

⁶ See Esteban ORTIZ, Ospina ROSER, Max ROSER, *International Trade*, in "OurWorldInData", 2018, <https://ourworldindata.org/international-trade>.

were able to accumulate experience, knowledge, technology, methods and capital; indispensable tools to face future investments outside China.

Therefore, it is true that in the last years China has been one of the first countries investing a lot of money in foreign acquisitions, but we have to remember that this phenomenon has been just a consequence of what Chinese companies experienced as passive actors in the previous periods, as object of foreign enterprises' plans of investments abroad.

1.1.1. Motivations for investing abroad: why do Chinese companies go outside China?

For Chinese companies, investments in foreign and developing countries are an intermediate stage, necessary to gradually obtain managerial and commercial expertise in different markets and to train for trading in the rest of the world, particularly in the West.

One of the main reasons for selecting a foreign investment is the presence of particular advantages which may be helpful for a company to overcome the problems linked with operations in a foreign market.⁷ In the case of China, this kind of advantages can be initially found in other developing markets or in manufacturing plants which can be relocated in China in order to benefit of low costs of labor. But without any doubt, the leading reason to invest abroad is making money. Chinese companies are investing in foreign countries to increase their incomes. Among Chinese citizens and government alike, social harmony is valued above all else and at this point in history, harmony equals economic growth.⁸ Investing abroad (above all in the American and European markets) was initially encouraged by China's former President Jiang Zemin in 1997, through the

⁷See Stefano CHIARLONE, *This is Why China is Investing Abroad*, in "Eastwest.Eu", 2013, <https://eastwest.eu/it/east-4/ecco-perche-la-cina-investe-all-estero>.

⁸See Sophie MEUNIER, *Top Ten Factors Driving Chinese Foreign Direct Investment*, in "Huffington Post", https://www.huffingtonpost.com/sophie-meunier/china-foreign-investment_b_1705349.html.

“Go out” slogan.⁹ This evolved from a simply slogan to a policy to follow in China’s subsequent 10th, 11th and 12th Five-Year Plans.¹⁰ Each Plan more specifically defined in which areas Chinese companies had to invest. Also nowadays investments are supervised by the Chinese government. It means that if an investor intends to invest abroad, he or she shall get approval of Ministry of Commerce, where investment industry involves sensitive countries, regions or sensitive industry, such as country with conflict, basic telecommunication trade, news media, cross-border water resources development and utilization; or shall put on record if it is not foresaid situations.

Another reason is the demand of resources, both material and immaterial, not available at home. In the case of China, it is not possible to overlook the fact that some foreign investments are driven by political choices or by the desire to create national champions in each of the sectors considered to be strategic. These aims are favored by the availability of foreign currency reserves (those in dollars exceed \$600 billion)¹¹, which stimulate investments also in order to reduce the pressure on the revaluation of the Renminbi.¹²

An important motivation is the search for low cost labor and the relocation of mature productions; other investments of the same type include those aimed at avoiding export quotas and excise duties.¹³ However, in the last years, many companies, which started trading by supplying unbranded products to multinationals or to distribution chains, are now trying to develop their own brands and move up the value chain. For example, Huawei, the largest Chinese manufacturer of telecommunications equipment, began its development in Africa

⁹ Slogan used by the former President of the People’s Republic of China Jiang Zemin in 1997 to encourage Chinese companies to invest abroad.

¹⁰ China's Five-Year Plans (中国五年计划, Zhōngguó Wǔnián Jìhuà) are a series of social and economic development initiatives, shaped by the Communist Party of China, which feature targets for economic growth and objectives.

¹¹ See Stefano CHIARLONE, *This is Why China is Investing Abroad*, in “Eastwest.Eu”, 2013, <https://eastwest.eu/it/east-4/ecco-perche-la-cina-investe-all-estero>.

¹² Chinese currency.

¹³ An excise or excise tax is any duty on manufactured goods, which is levied at the moment of manufacture, rather than at sale. Excises are often associated with customs duties (which are levied on pre-existing goods when they cross a designated border in a specific direction); customs are levied on goods which come into existence – as taxable items – at the border, while excise is levied on goods which came into existence inland.

and the Middle East, gradually strengthening its managerial, financial and technological expertise, before facing the competition in more advanced markets.

Chinese companies often follow this strategy in the infrastructure and plant engineering sectors, as well.¹⁴ The major Chinese players have grown strong abroad, mainly in Asia, Africa, Eastern Europe and South America, while are still facing some problems in Western countries. In more advanced markets, it is necessary to obtain high-level distribution chains, either through green field investments or acquisitions.

Other investments are aimed at the acquisition of brands in order to ensure a premium price for those products which could be produced at a lower cost in China. These acquisitions are not, however, driven only by the search for well known brands, but also by an extreme need for advanced technologies, still scarce in many Chinese companies, to improve productivity or tap into a rapid growing industry in the country. China has already invested in this area, setting up Research and Development centers in Western countries.

Another core reason concerns the building of brands; in fact, China desperately needs global brands. According to a recent survey conducted by Millward Brown¹⁵, 83% of consumers beyond China's borders cannot recall a single Chinese brand.¹⁶

China would like also to diversify its investments. The country has already invested more than three trillion American dollars foreign-exchange reserves into the U.S. economy. A majority of the investment is held in dollar-denominated assets, such as government and institutional bonds. China also manages another estimated US \$400 billion through its sovereign wealth fund, China Investment Corporation (CIC).¹⁷ China, rich in foreign currencies, is trying to diversify these

¹⁴ See Stefano CHIARLONE, *This is Why China is Investing Abroad*, in "Eastwest.Eu", 2013, <https://eastwest.eu/it/east-4/ecco-perche-la-cina-investe-all-estero>.

¹⁵ Millward Brown is a British multinational firm, whose aim is the research for advertising effectiveness, strategic communication, media and brand equity in the global market.

¹⁶ See Sophie MEUNIER, *Top Ten Factors Driving Chinese Foreign Direct Investment*, in "Huffington Post", https://www.huffingtonpost.com/sophie-meunier/china-foreign-investment_b_1705349.html.

¹⁷ China Investment Corporation (CIC) was founded in 2007 as a wholly state-owned company incorporated in accord with China's Company Law. The company was established as a vehicle to diversify China's foreign exchange holdings and seek maximum returns for its shareholder within acceptable risk tolerance. <http://www.china-inv.cn>.

holdings in order to escort more Chinese capital into equity markets and infrastructure investments in the rest of the world. Through foreign investments, Chinese companies try to find some help by a highly educated and skilled workforce to learn how to move up the value chain in China. Furthermore, another idea is the one of servicing Chinese companies abroad. As Chinese state-owned banks help provide M&A¹⁸ consulting services and finance of Chinese companies expanding abroad, the banks themselves are also going global, that is to say, they follow their clients in foreign countries.

Least but not last, the official Party's line is that China wants to rise peacefully, but most Chinese businessmen and women will tell that China's rise is about regaining the country's place in the world. The central issue here is respect. Many Chinese believe that the financial crises in the American and European zones have opened a window of opportunity to prove themselves and gain a stronger foothold in the global economy.¹⁹

1.2. M&A: Mergers and acquisitions and acquisition value

Mergers and acquisitions, or M&A for short, involve the process of combining two companies into one. The goal of combining two or more businesses is to try to achieve synergy – where the whole (new company) is greater than the sum of its parts (the former two separate entities). Mergers occur when two companies join forces. Such transactions typically happen between two businesses which are about the same size and which recognize the advantages the other firm can offer in terms of increasing sales, efficiencies and capabilities. The terms of the merger are often fairly friendly and mutually agreed to and the two companies become equal partners in the new venture. Acquisitions occur when one company buys another company and folds it into its operations, instead. The purchase could be

¹⁸ Mergers and acquisitions.

¹⁹ See Sophie MEUNIER, *Top Ten Factors Driving Chinese Foreign Direct Investment*, in "Huffington Post", https://www.huffingtonpost.com/sophie-meunier/china-foreign-investment_b_1705349.html.

friendly or hostile, depending on whether the company being acquired believes it is better off as an operating unit of a larger venture.²⁰ The end result of both processes is the same, but the relationship between the two companies can differ, based on whether a merger or acquisition occurred. In fact, properly structuring the deal is one of the most complicated steps in the process. There are many factors which need to be considered: antitrust laws, securities regulation, corporate law, rival bidders, taxes, accounting issues, contacts, market conditions, forms of financing and specific negotiation points in the M&A deal itself. The *Overseas M&A* means that a firm A in a country, in order to reach its strategic and commercial goals, buys capitals and shares of a firm B in another country. At the end of the process, firm A totally controls and manages firm B.

As far as acquisition values are concerned, they give rise to prices in the market for corporate control²¹ and they are at the basis of the fair market value²² dynamics. Now we can briefly summarize the control transfer modalities. If the target-society²³ is a listed company²⁴, in presence of a shareholder, the control transfer has to occur under his or her consent; so the buyer is obliged to negotiate directly with the shareholder. In countries where the *Market Rule*²⁵ is applied (United Kingdom and United States of America), minority shareholders need just to be informed about the future transaction. In other countries where the *Equal Opportunity Rule*²⁶ is into force, the buyer is obliged to offer also to minority shareholders the possibility to transfer his or her securities at the same conditions

²⁰ <https://www.shopify.com/encyclopedia/mergers-and-acquisitions-m-a>.

²¹ This expression describes the acquisition market of enterprises, in contrast to the market of products and services.

²² Fair market value (FMV) represents the price of an asset under the usual set of conditions: prospective buyers and sellers are reasonably knowledgeable about the asset, behaving in their own best interests, free of undue pressure to trade and given a reasonable time period for completing the transaction. Given these conditions, an asset's fair market value should represent an accurate valuation or assessment of its worth.

²³ Society whose securities are object of the purchase.

²⁴ Firm whose shares are listed on a stock exchange for public trading.

²⁵ The Market Rule permits market makers to trade outside quoted ranges. The purpose is to maintain an orderly market during a time of chaos. Under the rule, market makers are required to make firm quotes.

²⁶ The Equal Opportunity Rule is seen as protecting investors in the event of a transfer of control.

offered to the main company's shareholder. In case of non-listed companies²⁷, control transfer occurs through direct contacts with each shareholder, instead.

The net value²⁸ created by an acquisition is equal to the difference between the present value (the result flows after the acquisition) and the cost paid for the target-society's capital. The present value of result flows is defined as *investment value*, so:

$$NPV_{acq} = W_{acq} - P$$

[1]

Where:

NPV_{acq} = net present value²⁹ after an acquisition;

W_{acq} = acquisition value of target-society's capital;

P = cost paid by the buyer for target-society's capital.

The acquisition value determines also the price limit, which the buyer should not overcome, so it is one of the main elements useful to lead the negotiation and sign the final deal with the selling part.

An acquisition should be evaluated considering the effects it will produce in the enterprise system. Every new initiative has implications for company's result flows and tends to modify the relationships at the basis of the enterprise organizational structure and the relationships between the firm itself and the environment surrounding it. In order to identify and appreciate the effects of the possible future acquisition, financial analysts apply a scheme relying on a comparison between a base-case scenario (which refers to the enterprise in absence of acquisition) and an innovative-scenario (represented by the modified firm after the acquisition). The analysis can be run focusing on three different

²⁷ Firms whose shares are not listed on a stock exchange for public trading.

²⁸ It is the value of the assets in a company, an estate or an investment portfolio, after accounting for all liabilities.

²⁹ Net present value (NPV) is the difference between the present value of cash inflows and the present value of cash outflows over a period of time.

value drivers. The first is a quantity differential effect, that is to say, the flows which will be produced on the part of the buyer. The second driver is about a quality differential effect and it concerns the buyer's risk profile. The third and the last value driver is the differential effect in the capability of obtaining credit, which is about the possibility to increase the leverage after the acquisition. Now we can say that the target-society's acquisition value can be represented by the following equation:

$$W_{acq(B)} = W_{A+B} - W_A \quad [2]$$

Where:

$W_{acq(B)}$ = target-society's acquisition value;

W_{A+B} = new reality's value, after the integration of activities carried out by A and B;

W_A = buyer's value without acquisition.

During the evaluation, the three drivers can be studied synthetically or they can be the object of a specific estimate. Of course a specific estimate is better when considering and analyzing acquisition risk areas.

When an acquisition does not concern the entire capital, but a proportion which is sufficient to guarantee the control, the maximum price that the buyer may pay must be estimated by the following equation:

$$W_\alpha = (W_s + W_d) \cdot \alpha + W_{pb} * + (1 - \alpha)W_{pb} \quad [3]$$

Where:

W_α = acquisition value;

W_s = target-society stand alone value³⁰;

³⁰ Stand alone value refers to the enterprise's capital economic value as it is, regardless any consideration concerning strategic, operative and financial synergies, expected with the acquisition.

W_d = value which refers to synergies and opportunities classified as divisible;
 W_{pb} = value of private benefits subtracted from company's flows;
 W_{pb}^* = values of private benefits which do not give rise to flows reductions;
 α = capital percentage (it must be enough to guarantee control).

The quantity $(W_s + W_d) \cdot \alpha$ can be defined proportional value to control participation. The third component (W_{pb}^*) is a constant. The addend W_{pb} is decreasing function of α .

From an economic point of view, an acquisition or a fusion can be considered as a mutual investment by participating enterprises. If they are independent, the exchange ratio³¹ is one of the prices negotiated by the parties. If they negotiate in transparency, the exchange ratio will be in the range defined by:

- the maximum value of the exchange rate, which makes the fusion neutral according to the acquiring part (enterprise A);
- the minimum value of the exchange rate, which makes the fusion neutral according to the acquired part (enterprise B).

Therefore, the maximum and the minimum values of the exchange rate define the limits among which the enterprise will have positive net present value. Consequently, the maximum value of the exchange ratio has to satisfy this equation:

$$w(A)_{A+B} = w(A) \tag{4}$$

Where:

$w(A)_{A+B}$ = unit value of buyer's actions after acquisition;

$w(A)$ = unit value of enterprise A's actions in absence of acquisition.

³¹ The exchange ratio refers to the number of shares of the acquiring part, obtained for any share of the incorporated one.

Therefore:

$$w(A)_{(A+B)} = \frac{W(A) + W(B) + W_d}{N_A + N_B \cdot RC}$$

[5]

Where:

$W(A)$ = buyer's value in absence of acquisition;

$W(B)$ = acquired part's value in absence of acquisition;

W_d = result flows current value after acquisition;

N_A e N_B = number of actions that shape buyer's and acquired part's share capital;

RC = exchange ratio.

From the previous equation, we can obtain the RC value which satisfies the equality [4]:

$$RC_{max} = \frac{W(A) + W(B) + W_d}{w(A) \cdot N_B} - \frac{N_A}{N_B}$$

[6]

If we identify ourselves with the shareholders of the acquired part, the acquisition will result profitable, or at least neutral, if the following condition is satisfied:

$$w(B) \cdot 1/RC \leq w(A)_{A+B}$$

[7]

Where:

$w(B)$ = B actions' unit value.

It implies that the values of enterprise A titles in exchange for enterprise B titles must be greater than or equal to the “sacrificed” value of the operation. Therefore, if we include the equality [7] in the formula [5] we obtain:

$$RC_{min} = \frac{w(B) \cdot N_A}{W(A) + W_d}$$

[8]

The negative aspect is that merger synergies are overvalued. In fact, if the expected benefits are over evaluated, both enterprises’ shareholders may be damaged by the acquisition, and the same may be respective creditors. This risk will occur if the valorization of expected benefits works in favor of only one part. The situation is still more critical if a company acquires another firm, whose capital is controlled, but not entirely owned by the acquiring part. In this case, in fact, in absence of a free negotiation among the parts, acquired company’s minority shareholders may be penalized by an exchange ratio favorable to the buyer.

In practice, the problem of the exchange ratio evaluation can be solved through two approaches: the first is the estimation of “sacrificed” values in the acquisition; the second is the estimation of “brought” values in the operation. In the first case the exchange rate should be defined according to the fair market value. In the second idea, the estimation problem is technically more complex, because companies’ contribution to the merger synergies development has to be evaluated.

It is interesting underline that, when the exchange ratio is determined on the basis of the stand alone values, the merger synergy value results to be linked to the companies involved in the acquisition, in proportion to their stand alone values.

1.2.1. Chinese acquisitions abroad

As already said at the beginning of the chapter, over the last decades, China has initiated a “Going out” investment strategy for SOEs³², in order to acquire assets and gain greater access to foreign markets. Over time, this policy has evolved in order to include both state and private Chinese companies in a diversified number of economic sectors. In 2016 Chinese companies spent US \$227 billion on acquiring foreign companies (six times what foreign companies spent acquiring Chinese firms).³³ These “outbound” M&A volumes grew up 33% per year for the past five years, though regulatory controls on foreign exchange slowed growth.³⁴ Despite all the attention paid by media, many myths around Chinese outbound acquisitions still persist.

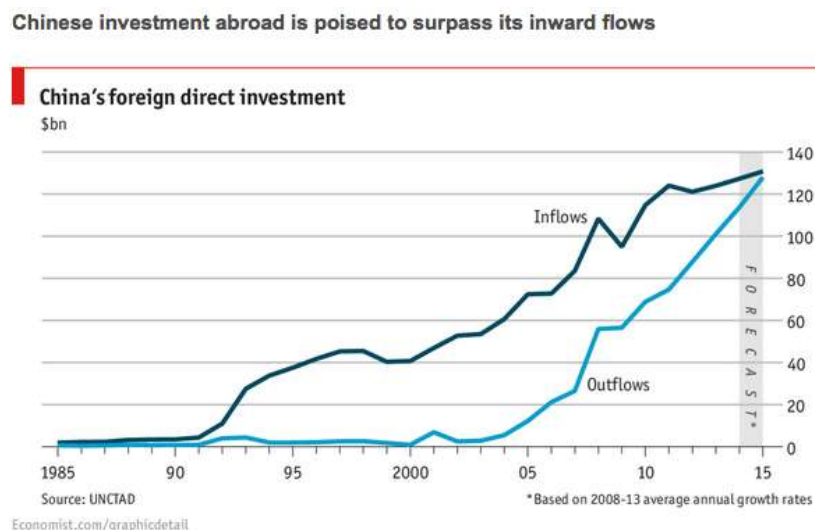


Figure 1: China's foreign direct investment from 1985 to 2015

Source: UNICTAD, 2015.

Chinese companies have almost unlimited firepower for overseas acquisitions, which makes them willing to pay unrealistically high prices for high-profile megadeals. It is important to put this supposed wave of money into context. The

³² State-owned enterprises.

³³ See David COGMAN, Paul GAO, Nick LEUNG, *Making sense of Chinese outbound M&A*, in “McKinsey&Company-Strategy&CorporateFinance-”, 2017, <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/making-sense-of-chinese-outbound-m-and-a>.

³⁴ *Ibidem*.

total amount of China outbound acquisitions has grown dramatically, from US \$49 billion in 2010 to US \$227 billion in 2016.³⁵ However, the absolute level is still very low. For example, in 2015, Chinese companies spent around 0.9% of GDP³⁶ on outbound acquisitions; European companies spent 2%; American companies spent 1.3%.³⁷

By the end of 2008, 70% of overseas M&A by Chinese enterprises failed³⁸, whereas the volume of such M&A increased nearly twenty fold between 2000 and 2005. Despite the high profile cases of failure and the widespread problems in post-purchase integration, Chinese investments continued to grow.³⁹ The 2008 financial crisis did not appease Chinese appetite for foreign targets, even though global M&A fell by 65% (or by 34% in value) in 2009.⁴⁰ The drop was particularly serious in the industrialized countries (-44%) and also for MNEs in the emerging markets (-26%).⁴¹ Nevertheless, China was an exception: M&A grew by 41% in 2009, with an estimated 300 new deals concluded in 2009 and a surge in Chinese acquisitions reported in 2010.⁴²

A critical issue is the effective ability of Chinese enterprises operating abroad to absorb new technology, to use new brands, to invest in marketing and intangible assets and to become accustomed to Western standards in terms of management practices and corporate governance regulations. These problems have become increasingly striking in the case of international mergers and acquisitions, where there may also be cultural problems, especially if M&A are not

³⁵ See David COGMAN, Paul GAO, Nick LEUNG, *Making sense of Chinese outbound M&A*, in "McKinsey&Company-Strategy&CorporateFinance-", 2017, <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/making-sense-of-chinese-outbound-m-and-a>.

³⁶ Gross domestic product.

³⁷ See David COGMAN, Paul GAO, Nick LEUNG, *Making sense of Chinese outbound M&A*, in "McKinsey&Company-Strategy&CorporateFinance-", 2017, <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/making-sense-of-chinese-outbound-m-and-a>.

³⁸ See Francesca SPIGARELLI, Ilan ALON, Attilio MUCELLI, *Chinese Overseas M&A: Overcoming Cultural and Organizational Divides*, Rollins College, Rollins Scholarship Online, Faculty Publications, 2013, p. 3, PDF.

³⁹ See J. BATTAT, *China's outward foreign direct investment*, Foreign Investment Advisory Services, World Bank Group, Washington, DC., 2006.

⁴⁰ See Francesca SPIGARELLI, Ilan ALON, Attilio MUCELLI, *Chinese Overseas M&A: Overcoming Cultural and Organizational Divides*, Rollins College, Rollins Scholarship Online, Faculty Publications, 2013, p. 3, PDF.

⁴¹ *Ibidem*.

⁴² *Ibidem*.

accompanied by an adequate training program for the managerial and professional classes. An analysis by the International Institute for Management Development (IMD)⁴³ shows that China ranks at the bottom of 57 countries in terms of managerial skills in the international arena. This creates enormous operational problems for both multinationals and locally-owned companies. Furthermore, China's ranking in terms of management practices is also low, indicating that Chinese managers need to acquire more leadership qualifications and develop soft skills.

Focusing on problems Chinese companies face in managing overseas M&A, there are some critical issues, which need to be underlined, such as handling relationships with skeptical regulators and stakeholders before, during and after the deal. There are also issues related to globalizing the brand, the supply chain and the sales network. Chinese firms face unfamiliar environments where business practices and routines differ completely from those in China. In any event, the most critical factor in managing overseas acquisitions seems to be the need to integrate people and to bridge the cultural gaps between Chinese investors and the acquired companies.

Considering the success of an acquisition, it is strictly related to the management of the phases which follow the transaction itself. Key choices involve both the level of integration between the two parties (whereby the company that has been acquired either loses its identity or maintains its independence) and the opportunity to replace the managerial resources of the purchased firm. Researches show that in most cases the buyer follows a structural-integration approach by fully integrating the acquired firm. The acquired company loses its identity and its senior executives are replaced. However, recent studies show that such an approach is frequently not followed in the case of M&A from emerging countries, where buyers tend to allow the target firm to remain structurally separate. By keeping the acquired company's identity and retaining its senior employees, the buyer is hoping to preserve routines, expertise and knowledge. As a result, the acquisition is somewhat more a kind of a strategic alliance. To

⁴³ International Institute for Management Development is a business education school located in Lausanne, Switzerland. It only offers MBA and Executive MBA programs.

promote synergy and leverage interdependence, buyers must follow a “partnering approach to acquisitions”. Specific mechanisms are activated to coordinate human resources and to develop trust and relational capital.⁴⁴

But the real question is: why does China invest in foreign countries through M&A?

The main reason why Chinese companies go abroad mostly through M&A is because this kind of investment permits to enter quickly into the global market and it accelerates globalization procedures.

We can divide the Overseas M&A development in three phases. The first phase was the period before 1990. This was the “Research phase”. In 1984, China Resources (Holdings) Co., Ltd., together with the Bank of China Group Investment Limited, bought Hong Kong Kangding Investment Co., Ltd. A year later, in 1985, Shougang Group bought 70% of Mesta’s shares, in the United States, for US \$3 million 400 thousand. In 1986, with the foundation of Zhingxin Bank in Hong Kong, many Chinese companies built the so called “windows”, that is to say subsidiaries in Hong Kong, founded to study the preparation, strategies and techniques to go abroad, especially to overseas countries. The second phase was from 1990 to the end of 20th century. During this phase, Chinese companies literally started going abroad and, through the activities experienced in this period, more and more enterprises tried global management through Overseas M&A method. The majority of companies which realized Overseas M&A were state-owned enterprises, so that was made in order to satisfy Chinese state strategy, rather than companies’ strategies. The third phase, from 2000 to nowadays, is still in progress and development. It has been the period of the fastest development of Chinese companies’ Overseas M&A. Activities have been experienced in all major economic countries and regions. Especially after China’s entrance to WTO⁴⁵ in 2001, the use of this method to invest in foreign countries increased a lot.

⁴⁴ See Francesca SPIGARELLI, Ilan ALON, Attilio MUCELLI, *Chinese Overseas M&A: Overcoming Cultural and Organizational Divides*, Rollins College, Rollins Scholarship Online, Faculty Publications, 2013, p. 8, PDF.

⁴⁵ World Trade Organization. It is composed by 157 countries and it establishes the main rules for commercial activities among the participants. The aim is to increase countries’ citizens’ life value and GDP growth, by safeguarding world resources and environment.

Chinese companies' major overseas M&A method is the "transversal M&A". This type of acquisition is the one among enterprises which have got homogeneity in production and products. In few words it is the cooperation between competitors. This model can easily lead to economies of scale (increasing production and lowering costs), improve technology and work division and favor raw materials purchase and sale of products. Furthermore, through this method, it is easier to avoid commercial barriers and to expand in the global market. It is important to mention that Chinese companies are more likely to buy departments or enterprises which are going out from businesses of global market. Chinese companies are very important buyers for those firms. As already said before, by acquiring foreign enterprises, Chinese companies' objective is to reach raw materials, technology and expand their presence in the global market. Another reason is their interest in foreign brands value; so even if foreign firms abroad are facing a decline, Chinese companies are willing to buy them.

1.3. Major fields of investment and figures: how much does China invest abroad?

Previously, it was mentioned that China changed from capital importing country into capital exporting country. Since 2003, investments abroad have continually grown for thirteen years. The average growth annual rate has been over 30%.⁴⁶ At the end of 2014, the stock of FDI was 0.88264 trillion dollars, which was in the top ten of the world. Up to 2014, around 18.500 Chinese investment companies invested almost 30.000 foreign direct investment enterprises.⁴⁷ As already said, the most notable market is the American one. In 2014, Chinese companies purchased over 100 companies in America and in 2015, up to 142

⁴⁶ See Carlo Diego D'ANDREA, *Investimenti cinesi all'estero*, in "D'Andrea e Partners", 2016, <http://www.dandreapartners.com/chinese-invest-abroad/?lang=zh-hans>.

⁴⁷ *Ibidem*.

ones.⁴⁸ According to the data analysis, the rate of Chinese non state-owned enterprises investing in America has increased. Chinese enterprises have invested mostly in service industry. In 2017, due to different reasons, among them the government control, the speed of Chinese enterprises investing in America slowed down, as United States are suspected of subordinating economy to safety considerations. There are factors weighing against a huge increase in Chinese purchases of private American assets. The PRC itself effectively has imposed some restrictions. From the U.S. perspective, national security–related technology is off the table. That leaves finance, resources, and manufacturing broadly construed.

As far as finance is concerned, China has already invested extensively in the American financial sector with no problems beyond conventional market fluctuations. Market conditions will determine future spending. In the energy sector, America has a great deal of coal and gas. The CNOOC–UNOCAL⁴⁹ fiasco has suggested to the Chinese side that no resource investment would be permitted. This was an overreaction, and in late 2010, CNOOC proceeded with a multibillion-dollar share investment with Chesapeake Energy.⁵⁰ This crucially involved a minority stake and met no objections. More investments followed. They should be done carefully, since China has been shown vulnerable to the countercharge that American companies cannot freely invest in China’s energy sector. Also land itself is a possible investment target. Individual Chinese have bought personal properties in various American cities, a phenomenon which is very likely to continue. The PRC has struggled to buy large tracts of lands for agriculture in many countries, but the U.S. is arguably the most land-rich country in the world and will likely be more accepting. A remaining problem is that most Chinese agriculture enterprises are

⁴⁸ See Francesca SPIGARELLI, Ilan ALON, Attilio MUCELLI, *Chinese Overseas M&A: Overcoming Cultural and Organizational Divides*, Rollins College, Rollins Scholarship Online, Faculty Publications, 2013, p. 9, PDF.

⁴⁹ CNOOC (China National Offshore Oil Corporation) is a major national oil company in China. It focuses on the exploitation, exploration and development of crude oil and natural gas in offshore China.

UNOCAL (Union Oil Company of California) is a company which was a major petroleum explorer and marketer in the late 19th century, through the 20th century, and into the early 21st century. It was involved in domestic and global energy projects.

⁵⁰ See Derek SCISSORS, *Chinese Outward Investment: More Opportunity than Danger*, in “The Heritage Foundation”, July 13 2011, <https://www.heritage.org/asia/report/chinese-outward-investment-more-opportunity-danger>.

uncompetitive, so joint ventures with American companies or acquisitions may be helpful. The last sector in which China has invested is manufacturing. Some investments, such as AVIC⁵¹ in auto parts, are proceeding quickly and uneventfully. Others, such as Anshan in steel, became controversial and suffered delays. There is no apparent logic to what is permitted and what is not, and the process by which some transactions are delayed is in a certain way extremely obscure.

In technology, America has both a policy position and a formal review process, centering on the Committee on Foreign Investment in the United States.⁵² With respect to manufacturing, there is no policy stance and the review process can become driven by politics in unpredictable fashion. This is a flaw in the American investment environment which should be fixed. Reviews of Chinese manufacturing investments should be quick, clear and typically grant approval as long as specific security issues are not involved.

On the PRC's side, dramatically greater transparency is needed. Fraud inquiries into stock exchange listings of China-based firms are dangerous with respect to access to many foreign markets in general, not just the American one. More important are direct subsidies provided by effective transfer of foreign exchange from the government to acquiring firms, usually in the guise of loans which are closer in nature to grants. State firms will not acknowledge these or the huge internal subsidies, which are provided through regulatory protection, free land, cheap energy, and so on. This is a difficult issue even in government-to-government relationships. For inward investment, some subsidies benefit the U.S. by boosting the prices Chinese entities are willing to pay American asset holders. Indeed, the PRC overpays for many of the assets it acquires.

However, subsidies also matter to post-acquisition behavior, giving Chinese firms the potential to distort American markets. U.S. competition laws and regulations need to be able to prevent such distortions and must be stringently applied. It is incumbent upon Chinese firms to be well prepared and willing to

⁵¹ AVIC (Aviation Industry Corporation of China) is a Chinese state-owned aerospace and defense company.

⁵² Committee on Foreign Investment in the United States (CFIUS) is an inter-agency committee, authorized to review transactions which could result in control of a U.S. business by a foreign person, in order to determine the effect of such transactions on the national security of United States.

comply fully with all laws and regulations. Failure to do so will not be reasonably excused by claims of sovereign compulsion or other poor defenses offered to date and will properly result in severe penalty.

But the American market is not the only destination of Chinese investors. As far as European market is concerned, Italy, France, the United Kingdom and Germany get the most investments as the four major European economies, in energetic and manufacturing sectors. In 2015, ChemChina invested €7.1 billion to acquire Italian company Pirelli and Lenovo purchased Germany Medion AG. In 2016, Sino-Europe Sports purchased Italian AC Milan Club spending €0.72 billion. In the same year, Desaiye, a famous French lace maker, was bought by Hangzhou Yongsheng Group.⁵³ In this kind of operations, economic intelligence is very important. It is necessary that services are provided with financial and technological capabilities. In fact, they are the main elements for competitiveness.

As mentioned in the previous paragraphs, the main sectors in which Chinese companies invest abroad are those of infrastructures, transportation, energetic and manufacturing. Without doubts, the most important project in which Chinese government and all China are going to invest is the “One Belt, One Road” plan, described in the following paragraph.

1.3.1. “One Belt, One Road” project

“One Belt, One Road” (OBOR) plan, announced in 2013, is one of the new methods of investments, which embraces President Xi Jinping’s views on overseas investments. It aims to strengthen Beijing’s economic leadership through a vast program of infrastructure buildings throughout China’s neighboring regions. The slogan is supported by development approaches in Eurasia, which points out China’s desire to forge a new model of globalization, built on mutual cooperation.

⁵³ See Carlo Diego D’ANDREA, *Investimenti cinesi all’estero*, in “D’Andrea e Partners”, 2016, <http://www.dandreapartners.com/chinese-invest-abroad/?lang=zh-hans>.

The initiative will have a heavy domestic focus. Chinese government also wants to use OBOR as a platform to address the country's chronic excess capacity. It will be more about migrating surplus factories than dumping excess products. One of the least understood aspects of OBOR is Beijing's desire to use this initiative to export China's technological and engineering standards. All levels of Chinese government, from the national economic planning agency to provincial universities, are scrambling to get involved in this project. Nearly every Province in China has developed its own OBOR plan to complement the national blueprint. Also major state-owned policy and commercial banks have announced generous funding plans to fulfill President Xi Jinping's ambitious vision. It is important to underline that this plan has also geographical motivations: it will use OBOR to assert its regional leadership through a vast program of economic integration. The aim is to create a regional production chain, within which China would be the centre of advanced manufacturing and innovation and the standard setter. Finally, three main economic challenges are important to understand the key aims of OBOR: encouraging regional development in China through better integration with neighboring economies, upgrading Chinese industry while exporting Chinese standards and addressing the problem of excess capacity.

The regional development aspect of OBOR is perhaps one of China's most important economic policy objectives. It is likely that Chinese domestic components of OBOR projects will be built before any overseas components for the simple reason that Beijing can enforce its plans much more effectively within its own jurisdiction. However, if Chinese government fails to connect its domestic projects with overseas components, OBOR will be little different from other domestic infrastructure programs, greatly diminishing its economic and strategic value.

Furthermore, inequality between inland Western regions and prosperous Eastern seaboard states is a huge challenge for the ruling Party. The government has tried to close the gap between these provinces. Since 1999, Chinese government has pursued the so-called "Western development strategy"⁵⁴ to

⁵⁴ China's "Western development strategy" was launched in 1999, through the stipulation of ten measures for the further development of the Western region, covering six provinces, five

revitalize chronically underperforming provinces. Despite Beijing's preferential policies, large-scale fiscal injections and state-directed investments, the Western provinces' share of China's total GDP increased only marginally from 17.1% in 2000 to 18.7% in 2010.⁵⁵

OBOR is also expected to play an important role in revitalizing economically underperforming provinces in the North East, as well as other poor regions in the South West, bordering South East Asia. In fact, all Chinese Provinces are keen to be involved in the national project. Many see it as a golden opportunity to obtain cheap funding and political support for their own infrastructure projects under the banner of OBOR.

Furthermore, Chinese leadership wants to capture the higher end of the global value chain. To do this, China will need to upgrade its industry. This has become one of China's most important domestic economic goals. It is reflected in the so-called "Made in China 2025 strategy", drafted by the MIIT.⁵⁶ The strategy was inspired by Germany's "Industry 4.0" plan. Its primary goals are to make the country's manufacturing industry more innovation-driven, emphasize quality over quantity and restructure China's low-cost manufacturing industry.

Beijing expects OBOR to play an important role in facilitating the export of higher-end Chinese manufactured. However, China is not just trying to export higher-end goods through OBOR, but also to encourage the acceptance of Chinese standards. Chinese government's focus on exporting its technological standards must be understood in terms of its broader ambition to become an innovation based economy and a leader in research and development. Chinese government is also using OBOR to push for Chinese standards in other sectors, such as energy and telecommunications. Huawei, ZTE⁵⁷, and China Mobile⁵⁸ are closely involved in

autonomous regions and one municipality, with a combined population of about 370 million. The aim was to help underdeveloped Western region catch up with the more prosperous Eastern region.

⁵⁵ See Peter CAI, *Understanding China's Belt and Road Initiative*, Lowy Institute for International Policies, March 2017, p.6, PDF, https://www.lowyinstitute.org/sites/default/files/documents/Understanding%20China%E2%80%99s%20Belt%20and%20Road%20Initiative_WEB_1.pdf.

⁵⁶ Ministry of Industry and Information Technology.

⁵⁷ ZTE Corporation is a Chinese multinational telecommunications equipment and systems company.

⁵⁸ China Mobile, officially China Mobile Communications Corporation, is a Chinese state-owned telecommunication corporation, which provides mobile voice and multimedia services, through its nationwide mobile telecommunications network across mainland China. China Mobile is the largest

developing 5G technology, which includes setting and designing international technical standards. These companies are becoming active participants in many international telecommunication industry bodies and associations, such as the International Telecommunications Union, the 3rd Generation Partnership Project⁵⁹, and the Institute of Electrical and Electronics Engineers.

But this initiative will face multiple and formidable challenges. First, there is a significant lack of political trust between China and a number of important OBOR countries. A second problem is that nearly two-thirds of OBOR nations have a sovereign credit rating below investable grade. Some key OBOR regions (such as Pakistan) are unstable, which poses significant security risks to Chinese companies as well as personnel working there. A third issue is caution on the part of over-leveraged and risk-averse Chinese financiers.

Once President Xi Jinping announced OBOR, Chinese state-owned financial institutions followed with a raft of policies which echoed the President's grand vision. China Development Bank, which is expected to play a key role in financing OBOR, says it is tracking more than 900 projects in 60 countries worth more than \$890 billion.⁶⁰ Bank of China, which has the largest overseas networks, pledged to lend \$20 billion in 2015 and no less than \$100 billion between 2016 and 2018. Industrial and Commercial Bank of China (ICBC) has been looking at 130 commercially feasible OBOR related projects worth about \$159 billion.⁶¹ Despite these public pledges of support, many Chinese bankers, and especially those from listed commercial banks such as ICBC, are concerned about the feasibility of OBOR's projects. They are worried about many risks associated with overseas loans, including political instability and the economic viability of many projects.

The reservations of Chinese financiers and businesspeople about the plan also need to be seen in the context of the worsening debt problem within China's

mobile telecommunications corporation by market capitalization and also the world's largest mobile phone operator by total number of subscribers.

⁵⁹ The 3rd Generation Partnership Project (3GPP) is a collaboration between groups of telecommunications standards associations. The initial scope of 3GPP was to make a globally applicable third-generation (3G) mobile phone system specification.

⁶⁰ See Peter CAI, *Understanding China's Belt and Road Initiative*, Lowy Institute for International Policies, March 2017, p.7, PDF, https://www.lowyinstitute.org/sites/default/files/documents/Understanding%20China%E2%80%99s%20Belt%20and%20Road%20Initiative_WEB_1.pdf.

⁶¹ *Ibidem*.

financial system, especially the number of non-performing loans on banks' balance sheets. Influential economic policymakers in China are also concerned that the political impetus behind OBOR could drive China into investing in white elephant projects⁶² abroad. They are worried that some countries will take advantage of OBOR and sign up to Chinese projects with no intention of paying the loans back. In fact there are some indications that Chinese financiers are demanding tougher terms to ensure that OBOR projects are financially viable over the longer term.

Chinese enterprises are taking these investment cues seriously. By 2020, China's overseas assets are forecast to triple, to \$20 trillion, from \$6.4 trillion today.⁶³ But moving quickly to invest in overseas projects, while appealing to many, carries great risks. In fact, if Chinese companies, both state and privately owned, are to benefit from the leadership's new vision, they must learn from past failures and adapt their priorities for the long term. The OBOR has a commitment to long-term partnerships at its core and investments which presuppose many years of engagement will complement the framework. Only if the financial base is solid and growth prospects sustainable, this government's strategy will be supported.

Another priority in considering new overseas investments is to look attentively at the goals of "international production cooperation." The aim here is to encourage the transfer of production capacity to other countries, in order to strengthen the "global industrial chain" in mutually beneficial ways. It is imperative to avoid using direct Chinese investment for the short-term export of production capacity, which would not be in China's interest (and often not in the recipient's interest, either).

For most equity investors, the value of any project depends to a large extent on effective post-investment management. Clear rights and obligations must therefore be carefully worked out at the start of an investment, something which has been all but absent previously.

⁶² A white elephant is an investment whose costs of upkeep are not in line with how useful or valuable the item is. From an investment perspective, it refers to an investment, property or business which is so expensive to operate and maintain that it is extremely difficult to actually make a profit.

⁶³ See Liu JIAHUA, *A new model for Chinese Overseas Investments*, in "PS, The world's opinion page", May 12, 2017, <https://www.project-syndicate.org/commentary/new-model-chinese-outward-investment-by-liu-jiahua-2017-05?barrier=accesspaylog>.

As Chinese firms invest overseas, they have a responsibility not only to invest wisely and sustainably for the sake of their companies, but also to integrate their strategies with China's national investment priorities. Those are not mutually exclusive goals, especially if business leaders adhere to the newly articulated principles of sustainable investment and long-term engagement.

As far as foreign investments are concerned, China has already clarified the trajectory the OBOR initiative has to follow. Considering outgoing investments, Chinese government has decided to give priority to operations in strategic sectors, linked to state-owned enterprises, in order to promote national interests. At the same time, the government has stopped investments promoted by private enterprises, which are perceived as risky, specifying in which sectors they cannot be made. Furthermore, some directives have been emanated in order to stimulate incoming foreign investments, without renouncing at their control. The first two actions are useful to ensure a major government control on large scale economic operations; the third one is necessary to make Chinese market attractive again, now considered not much available, above all by Western investors. After all, an M&A is only the first step on a long road.

1.4. Concluding remarks

In the last decades, China has become the major country which exports capital abroad. But Chinese companies have not been the first actors moving abroad due to economic reasons. In fact, colonialism can be considered the first forerunner of modern FDI. It is important to mention that, in the first globalization period, China did not play an active role. It was considered one of the most important new emerging markets of the period, on which foreign investments were focused. This means that China's today experience is based on what it learnt in the past from foreign investments in its market.

From a Chinese perspective, investments abroad are a stage to obtain expertise in different markets and to train for trading in the rest of the world, especially the West.

Of course, the leading reasons why China invests in other countries are to make money and to increase incomes. Another important incentive which leads Chinese companies to invest abroad is the need of resources, both material and immaterial, not available in its home market. Technology is one of the major gaps China is trying to fill through these operations. Furthermore, China wants to gain a stronger foothold in the global economy.

One of the main methods through which Chinese firms go abroad is represented by mergers and acquisitions. M&A involve the process of combining two companies into one and the aim is to achieve synergy. A merger occurs when companies join forces, while an acquisition occurs when one company buys another one. When we talk about overseas M&A, we refer to a merger or an acquisition made by two enterprises which are in two different countries.

An acquisition should be evaluated considering the effects it will produce on the enterprise system and, from an economic point of view, an acquisition or a fusion can be considered as a mutual investment by participating firms.

By the end of 2008, 70% of overseas M&A throughout the world failed. Despite the high profile of failures continued, Chinese investments increased. In fact, when 2008 financial crisis made global M&A fall down, China was an exception and continued signing new economic and financial deals.

A critical issue is the ability of Chinese enterprises operating abroad to absorb new strategies and techniques, in order to become accustomed to Western standards. These problems become more serious when acquisitions are not accompanied by adequate training programs for managerial and professional classes. In fact, the most critical aspect in managing overseas acquisitions seems to be the need to integrate people and bridge cultural gaps. The most successful method is remaining structurally separated; in this way the acquisition is more a kind of strategic alliance and there are fewer problems. Another reason why Chinese firms prefer to use M&A is because this type of investment permits to enter quickly into the global market.

There are three phases of overseas M&A development. The first was before 1990 and it was called the “Research phase”. In 1984 a Chinese company bought a firm located in Hong Kong, making one of the first investments out of the mainland. The purchase was followed by the creation of “windows”, subsidiaries in Hong Kong founded to study more and more strategies to go abroad. The second phase was from 1990 to the end of the 20th century. During this phase, Chinese enterprise started going literally abroad, through overseas M&A method. The third phase, from 2000 to today, is still in progress and development.

Chinese companies’ major M&A method is “transversal M&A”. It is among enterprises which have got homogeneity in production and products. The reason why enterprises use this method the most is because it can easily lead to economies of scale and, through it, it is easier to avoid commercial barriers and to expand in the global market.

The main market on which Chinese investments are focused is the American one, above all its service industry. Other sectors of interest are financial, energy and manufacturing sectors. But in 2017, also due to government control, Chinese investments slowed down. Also the PRC itself imposed some restrictions. Related to this, of course, on Chinese’s side, transparency is needed.

American market is not the only destination of Chinese investors. Also the major European economies (Italy, France, the UK and Germany) get many investments in the energetic and manufacturing sectors. In this kind of operations, economic intelligence is very important and it is necessary that services are provided with financial and technological capabilities.

Without any doubts, the most important project in which all China is going to invest is the “One Belt, One Road” plan. It was announced in 2013 by Chinese President Xi Jinping and it aims to strengthen Beijing’s economic leadership through a vast program of infrastructure buildings, throughout China’s neighboring regions.

The initiative will have a heavy domestic focus; in fact early every Province of China has developed its own OBOR plan to complement the national blueprint. There is also a strong desire to use the project to export Chinese technological and engineering standards. But there are also some geographical motivations: the aim

is to use OBOR to assert regional leadership through a program of economic integration. However, if Chinese government fails in connecting its domestic projects with overseas components, OBOR will be different, diminishing its economic and strategic value. In fact, any domestic component will be built before, as Beijing can enforce its plans much more effectively within its own jurisdiction. All Chinese Provinces are keen to be involved in the national project: one of the main domestic goals is to capture the higher end of the global value chain.

This initiative will face multiple challenges. First there is a lack of political trust between China and some OBOR countries. A second problem is that two-thirds of OBOR nations have a sovereign credit rating below investable grade. A third issue is caution on the part of over-leveraged and risk-averse Chinese financiers. Many Chinese bankers are concerned about the feasibility of OBOR's projects. Influential economic policymakers in China are also concerned that the impetus could drive China into investing in white elephant projects.

But Chinese enterprises are taking these investments seriously; but only if the financial base is solid and growth prospects sustainable, this government's strategy will be supported. As Chinese firms invest overseas, they have the responsibility not only to invest wisely for the sake of their companies, but also to integrate their strategies with China's national investment priorities.

China has already clarified the trajectories the OBOR project has to follow. Considering outgoing investments, Chinese government has decided to give priority to operations in strategic sectors. As far as incoming foreign investments is concerned, some directives have been emanated in order to stimulate them. But considering all these variables, M&A is only the first step on a long road.

2. Chinese government and its regulations on investments

Summary: 2.1. Foreign Investment Law in the People's Republic of China; 2.2. Incentives by Chinese government to Chinese firms; 2.3. New regulations on overseas investments; 2.4. Concluding remarks.

In the previous chapter, I have already mentioned that Chinese government controls both Chinese investments abroad and foreign investments toward China. In fact, if an enterprise wants to invest in foreign countries, it has to obtain Chinese Ministry of Commerce (MINICOM)'s approval; in particular if the investment sector concerns sensitive countries (such as those countries in conflict with China), telecommunications and cross-border use of water resources. If the sector the firm is going to invest in is different from those nominated above, it has to declare it. However, over the years, due to the development of globalization and national needs, Chinese government's strategies have changed.

This chapter will concern the legal aspects of Chinese investments abroad. The first part will focus first on the regulations imposed by Chinese government to foreign companies investing in China, then it will analyze the rules which are specific for Chinese enterprises (both private and state-owned), which aim at investing abroad. Secondly, it will analyze inputs, incentives and some limitations decided by Chinese government to firms investing in foreign countries. Finally, the attention will be focused on the new regulations Chinese companies have to respect, after the restrictions imposed by the government, concerning both incoming and out coming investments.

2.1. Foreign Investment Law in the People's Republic of China

A common theme in the East Asian development experience has been the role of the state in fostering the establishment of export-oriented industries, while also developing indigenous technology and infrastructures.⁶⁴

The legal regime for foreign investments in the People's Republic of China, over the past fifteen years, has reflected a basic tension between encouraging foreign business activities and maintaining state control over them (both inside and outside China). While Chinese policies may be viewed as attempts to pursue an independent path toward development, neo-classical⁶⁵ and critical perspectives on the role of the state in economic development provide useful contexts within which to view the PRC's efforts at controlling foreign investment in pursuit of economic growth.⁶⁶

China's *Foreign Investment Law* regime is based on a regulatory ethic which posits the state as the primary agent for economic and social development and it may be examined by reference to other perspectives on the role of the state in the development.⁶⁷

Critical theories about development have challenged the role of the state. Theories of dependency⁶⁸, in particular, have given rise to a multitude of complementary and sometimes conflicting approaches, in order to understand the relationship between the State and foreign capital in developing economies. These theories offer useful approaches to analyze the role of the state in managing foreign investments.⁶⁹

⁶⁴ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 155, February 2009, PDF.

⁶⁵ Neoclassical perspectives argue that, in the long run, the economy will adjust back to its potential GDP level of output through flexible price levels. Neoclassical economic relates supply and demand to an individual's rationality and its ability to maximize utility or profit. Neoclassical economics also uses mathematical equations to study various aspects of the economy. This approach was developed in the 19th century and became popular in the early 20th century.

⁶⁶ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 156-157, February 2009.

⁶⁷ *Ibidem*.

⁶⁸ Dependency theories state that resources flow from a poor and underdeveloped state to a wealthy state, enriching the latter at the expense of the former.

⁶⁹ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 158, February 2009.

Early proponents of dependency portrayed the state rather crudely as a corporatist ally of foreign capital.⁷⁰ This alliance is said to be facilitated by the co-optation of local elites, who serve as conduits for investment and also the primary local beneficiaries. Their commercial and consumption activities are seen to support the objectives of foreign investment, by substituting short-term goals for the long-term development priorities of building the technological and infrastructural foundations for long-term economic growth.⁷¹

The corporate state⁷² is seen to rely on a formalistic and authoritarian legal system to retain power, while repressing reformist efforts to establish legal regimes, aimed at pursuing national development goals.⁷³ Despite its authoritarian power, however, the corporate state remains weak. More sophisticated critiques of law and development focus criticism on liberal approaches to law and development.

Liberal economic policies limit state involvement in economic life; they aim at establishing free market systems supported by private law rules and institutions, instead.⁷⁴ However, critics have suggested that this approach may contribute to underdevelopment. Critical studies suggest that the use of a liberal private law system may itself contribute to wake the state's capacity to control corporate behavior and promote social welfare.⁷⁵ As indicated by many European countries' experience, unregulated investment flows are seen to contribute to uneven economic growth distribution and potential political instability.⁷⁶

In summary, the role of the state in Chinese development may be analyzed from different perspectives. The state's role may be problematic, either as a corporatist ally of foreign capital or an ineffective bystander constrained by liberal economic policies and private law. While the PRC is unlikely to fit neatly within any particular perspective, other development experiences suggest that the state is an

⁷⁰ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 158, February 2009.

⁷¹ *Ibidem*.

⁷² A corporate state is a state governed by representatives not of geographical areas, but of vocational corporations of the employers and employees in each trade, profession or industry.

⁷³ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 158, February 2009.

⁷⁴ *Ibidem*, p. 159.

⁷⁵ *Ibidem*.

⁷⁶ *Ibidem*.

appropriate focus of inquiry in studying China's development effort. The foreign investment regime of the PRC is an important indicator of the prospects and dilemmas which attend this process.⁷⁷

The Chinese legal regime for foreign investment has evolved significantly since its inception following the Third Plenum of the 11th Central Committee of Chinese Communist Party in 1978.⁷⁸ The first Foreign Investment Laws governed only equity joint ventures. Implementing regulations were gradually added and efforts were made to enact basic laws on contracts, taxation, foreign exchanges and other matters. Chinese government gradually came to approve a broader variety of foreign investment enterprises: contractual joint ventures (known as co-operative enterprises) and wholly foreign-owned enterprises.

More recently, efforts have been made to remove disparities in the legal treatment of foreign and Chinese businesses. The tax system is undergoing reform to harmonize the treatment of foreigners and Chinese, both as individual taxpayers and in business operations. China's foreign exchange system has been reformed and the dual currency system eliminated. The enactment of the *Company Law* of the PRC heralds an effort to unify the corporate legal status of Chinese and foreign businesses.⁷⁹

China's foreign investment regime has attempted to steer foreign investments towards the establishment of export industries and technology acquisition. The *Joint Venture Law* and its *Implementing Regulations* specifically encouraged joint ventures to export their products. The importation of technology was encouraged by provisions, permitting industrial property rights to be contributed as capital by foreign investors. Approval of joint ventures was to be contingent on their ability to satisfy criteria, emphasizing export industries and technology development. Incentives in the form of tax holidays were offered in an effort to induce foreign investors to comply with these requirements. Similarly, the regulations governing

⁷⁷ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 159, February 2009.

⁷⁸ The conference marked the beginning of the "Reform and Opening Up" policy. The session discussed questions in agriculture and let Party concentrate energies and efforts on advancing agriculture.

⁷⁹ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 159-160, February 2009.

wholly foreign owned enterprises emphasized that approval would be conditional on their use of advanced technology or exporting all or most of their products.⁸⁰ Beside these basic provisions, there were various additional incentive measures. The establishment of the Special Economic Zones (SEZs)⁸¹ was predicated on their role as export platforms for foreign firms. The subsequent establishment of Economic and Technology Development Zones (ETDZs)⁸² focused the attention on technology development, although export-oriented production was also emphasized.⁸³ Tax incentives were provided for business located in the SEZs and ETDZs, including a provision that all foreign investment enterprises were scheduled for operation in the production sector.⁸⁴ In addition, withholding taxes⁸⁵ were reduced or waived and exemptions and reductions from payments due under Industrial and Commercial Consolidated Tax (ICCT) were available.⁸⁶

In summary, China's foreign investment regime has permitted an increasingly broad array of investment vehicles. Primary, emphasis was given to foreign direct investment in joint ventures and wholly foreign owned enterprises. As indicated by the investment incentive system, the intended goals continue to centre on export promotion and technology acquisition. All these are presumptions about the role of the state in controlling foreign investments and ensuring the pursuit of national development goals.⁸⁷

⁸⁰ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 159-160, February 2009.

⁸¹ Special economic zones which are located in mainland China. The government uses special economic policies and flexible governmental measures. This allows SEZs to utilize an economic system which is more attractive for foreign and domestic firms to do business there.

⁸² Chinese National Economic and Technological Development Zones are People's Republic of China's special areas, where foreign direct investment is encouraged. They are usually called "Economic and Technological Development Zones" or simply the "Development Zones". These national level programs started with the Special Economic Zones for three cities in 1978, as part of China's economic reform, and were extended to the Economic and Technological Development Zones in 14 cities in 1984.

⁸³ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 166, February 2009.

⁸⁴ *Ibidem*.

⁸⁵ A withholding tax is withheld from employees' wages and paid directly to the government by the employer. The amount withheld is a credit against the income taxes the employee must pay during the year. It also is a tax levied on income (interest and dividends) from securities owned by a nonresident as well as other income paid to nonresidents of a country.

⁸⁶ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 167, February 2009.

⁸⁷ *Ibidem*.

The Chinese government has always made clear its intent to supervise foreign business activities closely. Although reform policies enacted in 1978 permitted China to develop greater ties with the international systems of commerce and finance, the state control over foreign businesses has remained a singular norm of the regulatory regime till nowadays. The aim of Chinese legal system's expansion regarding foreign investments has always been to strengthen China's managerial role.⁸⁸

The conduct of investment transactions with the PRC is subjected to laws and regulations of general application. The *Foreign Economic Contract Law*, the *General Principles of Civil Law* and the *Administrative Litigation Law* of the PRC are particularly important. These measures seek to entrench state control as a precondition for economic behavior by Chinese and foreign businesses alike.⁸⁹ The *Foreign Economic Contract Law* (FECL)⁹⁰ sets the legal foundations for state intrusion in all foreign business transactions in China. The FECL aims at strengthening the management of foreign economic relations and requires that foreign investment contracts comply with China's laws and policies and they must not harm state or public interest. It underscores the role of state control by reiterating that contracts, which require state approval, are valid only after the receipt of it. The range of approval processes contemplated by the FECL permits Chinese regulatory organs to review both contract terms and processes in order to determine compliance with Chinese law and social and public interests. Moreover, the requirement that all Chinese parties receive approval before entering into foreign economic contracts encourages an informal degree of regulatory review as a precursor to the grant of such approval.⁹¹

A second law of general application is the *General Principles of Civil Law* (GPCL)⁹², which contains provisions for contracts and property relations that have application to foreign investment transactions. While in some respects, the GPCL

⁸⁸ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 168, February 2009.

⁸⁹ *Ibidem*.

⁹⁰ This law was adopted during the Tenth Session of the Standing Committee of the Sixth National People's Congress in 1985.

⁹¹ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 169, February 2009.

⁹² This law was adopted during the Fourth Session of the Sixth National People's Congress in 1986.

represents an effort to afford foreign parties more autonomy from state control, this is limited by FECL provisions, requiring that foreign investments and natural resource development projects remain subject to Chinese law.⁹³ More importantly, the GPCL reiterates principles stated in the FECL, requiring enforcement of the interests of the Chinese state and society. The GPCL also authorizes state supervision and approval over foreign investment activities, both through the provision for state approval of foreign business enterprises as a condition for their enjoying legal capacity, and through the provision limiting the activities of these enterprises to state-approved scopes of business. The role of state approval of foreign investment projects is also underscored by the GPCL provisions permitting the validity of civil legal acts to be conditional.⁹⁴

The *Administrative Litigation Law* of the PRC (ALL)⁹⁵ was part of a larger effort to make China's administrative bureaucracy more accountable and formalize the authority of the People's Courts to review administrative agency decisions. Although the principle that administrative decisions could be appealed to the courts had been recognized previously in the context of specific regulatory areas such as taxation and customs, the ALL extends this principle to a broader range of administrative decisions and provides procedural rules for appeals. Under the ALL, foreign business enterprises may challenge the legality of decisions by Chinese administrative organs. The types of bureaucratic decisions subject to judicial review under the law fall into several categories of administrative conduct, many of which have significance for foreign businesses. These include administrative decisions imposing fines, restricting or infringing on property rights, intervening in business operations and denying licenses. In addition, the ALL may permit challenges against administrative agencies to be filed as a result of individual officials abusing their authority to elicit graft from business enterprises. While it appears to subject the state to a modicum of judicial restraint, the ALL reinforces the state's power to make arbitrary decisions that intrude on foreign business

⁹³ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 169, February 2009.

⁹⁴ *Ibidem*.

⁹⁵ This law was adopted during the Second Session of the Seventh National People's Congress on in 1989 and then amended during the Eleventh Session of the Standing Committee of the Twelfth National People's Congress in 2014.

activities.⁹⁶ The statute does not permit review of discretionary decisions which, in light of the textual ambiguities in Chinese laws and regulations generally, are widespread. In addition, ALL review does not extend to the lawfulness of the underlying regulations upon which administrative decisions are based. This not only restricts the scope of judicial review, but it also permits administrative agencies to legislate their own immunities from ALL review. The ALL's provisions on exhaustion of administrative remedies, which are strengthened by the *Regulations of the PRC on Administrative Reconsideration*⁹⁷, further shield administrative decisions from judicial review. Finally, it does not extend to Party decisions, thus prohibiting judicial scrutiny of the most fundamental sources of state intrusion. Thus, even though it appears to subject administrative decisions to legal challenge, the ALL tends to further strengthen the power of the state.⁹⁸

The proposed extent of state control is particularly evident in regulatory requirements governing the formation and operation of foreign investment enterprises. The approval and supervision of foreign investment projects entail significant degrees of state control. Even before the actual foreign investment contract is executed, preliminary agreements and a feasibility study must be concluded and approved. A project commencement letter is then issued by the Chinese Party, granting permission to commence formal negotiations on the project. The foreign investment contract and the articles of association which represent the rules for operation of the project must also receive approval from the Ministry of Foreign Trade and Economic Co-operation (MOFTEC).⁹⁹ These documents then provide the basis upon which the State Administration for Industry and Commerce (SAIC)¹⁰⁰ issues the project's business license. A critical

⁹⁶ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 169-170, February 2009.

⁹⁷ It was adopted during the 177th Executive Meeting of the State Council in 2007.

⁹⁸ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 170, February 2009.

⁹⁹ The Ministry of Commerce of the People's Republic of China (MOFCOM) is a Cabinet-level executive agency of Chinese State Council. It is responsible for formulating policy on foreign trade, export and import regulations, foreign direct investments, consumer protection, market competition and negotiating bilateral and multilateral trade agreements.

¹⁰⁰ The State Administration for Industry and Commerce (SAIC) is the authority in the People's Republic of China responsible for advancing legislation concerning the administration of industry and commerce in China.

issue addressed in the business license involves the scope of business. This provision is generally derived from the text of the investment contract and articles of association, which in turn derive from the original feasibility study and project commencement letter. The scope of business provision in the SAIC license will influence significantly the treatment the project receives by other regulatory organs on such issues as availability of investment inducements, import/export licensing, customs duties, personnel, market access, taxation and other matters. Once in operation, investment projects are subject to an additional range of regulatory controls on matters such as environmental protection and labor management.¹⁰¹

State control over ingoing and outgoing foreign investments has also been promoted through financial controls, primarily in the areas of foreign exchange and taxation. Prior to the foreign exchange reforms which came into force in 1994, China had a dual currency system where domestic Chinese currency coexisted with foreign exchange certificates.¹⁰² All foreign exchange transactions were required to comply with the foreign exchange plan, prepared by the Ministry in Charge and the State Administration of Exchange and Control (SAEC), approved by the State Council and supervised by the Bank of China (BOC). All foreign exchange accounts were closely monitored and required additional government approvals. The *Twenty-two Articles* on encouraging foreign investments extended the concept of adjusting foreign exchange surpluses and deficits by allowing all foreign investment enterprises, regardless of their equity or corporate structure, to engage in currency adjustments with each other. However, all these activities were subject to SAEC, thus permitting the state a mechanism for close monitoring of the financial activities of foreign businesses. While the unification of the exchange rates has raised the possibility of reducing the state control, the planned use of an inter-bank foreign exchange market has not done away with state monitoring.¹⁰³

Financial control has been maintained as well through the tax reporting system. Prior to 1991, the Chinese foreign taxation system gave separate

¹⁰¹ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 171, February 2009.

¹⁰² *Ibidem*.

¹⁰³ *Ibidem*.

treatment to foreign enterprises and foreign investment enterprises. The *Joint Venture Tax Law* and its *Implementing Regulations* subjected all world-wide business income of equity joint ventures to tax at an effective flat rate of 33%. Withholding taxes were imposed on profits remitted outside China by foreign equity participants. All foreign businesses in China rather than equity joint ventures were taxed under the *Foreign Enterprise Tax Law* and its *Implementing Regulations* at progressive rates ranging from 20% to 40%, plus a local 10% surcharge.¹⁰⁴

However, what are the main Chinese actors in policymaking? A number of central government administrative departments in China are responsible for that. A compilation of policies on overseas investment and an analysis of the agencies responsible for issuing these policies indicate that twenty-six central government agencies have been involved in the policymaking process.¹⁰⁵ These central government agencies can be classified into four general levels.

The top decision making agency is the State Council, which is responsible for overall management of China's government and significant decisions affecting the economy and the society.

The second level is made up of the core ministry-level agencies, involved in overseas investments management: the Ministry of Commerce (MOFCOM) and the State Administration for Foreign Exchange (SAFE). These agencies developed most of the policies until recent days. Given its importance, the National Development and Reform Commission (NDRC), which historically had key responsibilities for approving overseas investments and was informally called the "small State Council", may also be considered part of this second level.

The third level consists of functional departments responsible for various fields such as finance and taxation. Their roles are mainly to assist the core ministries to ensure that the policies are coordinated with other existing policies and to assist in issuing and implementing them.

¹⁰⁴ See Pitman B. POTTER, *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, Vol. 141, p. 172-173, February 2009.

¹⁰⁵ See Wenbin HUANG, Andreas WILKES, *Analysis of China's overseas investment policies*, Working Paper 79, p. 2, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

The fourth level comprises line ministries, such as those responsible for mining, agriculture and forestry. Each of these ministries is in charge of policies in its own sector but is less influential in determining overseas investment policies affecting its sector. In addition to the above, departments subordinate to each ministry at the provincial level also play important roles, since they are the primary agencies charged with executing these policies.¹⁰⁶

An examination of the roles of each agency in issuing relevant policies during the past thirty years shows that MOFCOM and SAFE are the most important agencies, having issued more than 50% of these policies. If the NDRC is included as a core ministerial agency, then this second level of authority accounts for 56.1% of the total number of OFDI¹⁰⁷ related policies issued. Although the State Council issued only 5.9% of policies, its influence is tremendous. Departments in the third level – the Ministry of Finance (MOF), China Securities Regulatory Commission (CSRC) and the People’s Bank of China (PBC) – are also important, accounting for nearly 20% of the policies issued.¹⁰⁸

As far as China’s overseas investment policy is concerned, there are different phases related to its development over the years. In fact, the frequency with which China’s overseas investment policies are issued and their strategic direction has varied over time. In the first two stages, from 1979 to 2001, the frequency of new policies was low, at around four per year. The economic planning system led to restrictive management processes and a lack of investment resources, resulting in very limited investment activities. However, overseas investment gradually became a greater focus in the national economy and, as I already mentioned in the previous chapter, China formally developed its “Going out” strategy.¹⁰⁹

From a policy perspective, the first phase, from 1979 to 1990, can be divided into two periods. The period from 1979 to 1982 was a tentative phase. China formally recognized the legal status of international investments and made some attempts at investing overseas.

¹⁰⁶ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 2, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹⁰⁷ Out forward FDI.

¹⁰⁸ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 2, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹⁰⁹ *Ibidem*.

This is reflected in the State Council's Fifteen economic reform measures¹¹⁰ issued in 1979, in which the 13th measure explicitly allowed companies to establish firms overseas. During the second period of the first phase, from 1983 to 1990, the government actively encouraged overseas investments, publishing several favorable policies which facilitated companies' investment activities. These policies also laid the preliminary foundations for the overseas investment management system in place today.¹¹¹

In 1983, the State Council designated the Ministry of Foreign Trade and Economic Cooperation (MOFTEC), the predecessor of MOFCOM, as the approving authority for OFDI, and preliminarily set the procedure for enterprises to make overseas investments. In 1985, to simplify the procedures and reduce the approval time, MOFTEC published the "Approval procedures and administrative method for establishing non-trade management joint ventures overseas", which defined the procedures for applying for and approving overseas investments. To apply, companies needed to complete complicated procedures and submit, among others, the project proposal, a feasibility report and the company by laws.¹¹²

As far as SAFE is concerned, its function in foreign exchange management determined its role in overseas investments. SAFE published the systematic policy "Foreign exchange management method for overseas investments" in 1989 and issued implementation regulations in 1990. These documents established the foreign exchange management system for Chinese overseas investments and

¹¹⁰ The Chinese economic reform refers to the program of economic reforms termed "Socialism with Chinese characteristics" in the PRC that was started in 1978 by reformists within the Communist Party of China, led by Deng Xiaoping. Economic reforms were carried out in two stages. The first stage involved the decollectivization of agriculture, the opening up of the country to foreign investment, and permission for entrepreneurs to start businesses. However, most industries remained state-owned. The second stage of reform involved the privatization and contracting out of much state-owned industries and the lifting of price controls, protectionist policies and regulations, although State monopolies in sectors such as banking and petroleum were still in force.

¹¹¹ See Wenbin HUANG, Andreas WILKES, *Analysis of China's overseas investment policies*, Working Paper 79, p. 7, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹¹² Company bylaws are the rules of a corporation, established by the board of directors during the process of starting a corporation. Basically, they are the rules which direct the company's operations. When a corporation is formed, one of the first tasks of the new corporation is to have corporate bylaws formed.

established the key role of SAFE in approving overseas investments both before and after their approval by MOFCOM.

Before a company could seek for the approval from MOFCOM, SAFE would review its foreign exchange resources and evaluate the investment risks based on the resources certification provided by the company itself. After obtaining the permission by MOFCOM, when transferring the foreign exchange abroad, the company had to lodge several documents with SAFE, including MOFCOM's approval documents, the findings of the foreign exchange resources review, the project contract and certification materials related to the foreign exchange amount. SAFE also required that companies keep 5% of their foreign exchange as a profit deposit. This regulation was in force for more than ten years and had a strong influence on foreign exchange management.¹¹³

To strengthen the accounting administration, in 1989 the People's Bank of China published the "Temporary management method for foreign trading, financial and insurance companies" and the Ministry of Finance (MOF) published the "Temporary method for non-trade foreign exchange accounting management for overseas units". These regulations defined the scope of state-owned capital, benefit sharing methods and accounting management procedures for companies with overseas investments and supplemented the emerging overseas investments management system.¹¹⁴ The strict and complicated application and approval procedures limited the enthusiasm of Chinese companies to a certain extent. On the other hand, these policies laid the foundations for China's overseas investments management system. MOFCOM and SAFE were identified as the main actors and they continued to exert their influence over the following twenty years.¹¹⁵

As far as the second phase is concerned, it goes from 1991 to 2001 and also this one can be divided into two periods. In the first period, from 1991 to 1998, the Chinese government published several restrictive policies and strengthened control over large-scale investments. From 1989 to 1992, the reaction to the

¹¹³ See Wenbin HUANG, Andreas WILKES, *Analysis of China's overseas investment policies*, Working Paper 79, p. 7, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹¹⁴ *Ibidem*.

¹¹⁵ *Ibidem*, p. 8.

overheated economy resulted in recession and high inflation. Under these economic conditions, the Chinese government began to adjust the economy and implemented policies in order to limit imports and encourage exports and to control the scale of domestic investments. Meanwhile, it was realized that the number of failed overseas investments was increasing and a lack of controls resulted in some serious losses of state-owned capital. In response, in 1991 the State Council published an “Opinion on the National Planning Commission reinforcing control of overseas investment projects” in order to control the scale of overseas investments. This document set the trend in OFDI over the next seven years.¹¹⁶ In particular, this policy tightened requirements for approval of large-scale investments and the application and approval procedures were completely changed. Some of the approval rights for overseas investments were transferred from MOFTEC to the National Planning Commission (NPC)¹¹⁷ and the State Council also became part of the approval management system. The policy made the NPC responsible for reviewing investment project proposals and project feasibility reports for ordinary projects (to a value of less than US \$1 million), with the State Council taking responsibility for approving significant projects (more than US \$30 million).¹¹⁸ MOFCOM was responsible only for reviewing the project contract and the companies’ bylaws and for issuing the approval documents. For projects valued at less than US \$1 million, the provincial government could appoint its subordinate departments to review and approve the proposal, which should be submitted to and filed also by NPC. These regulations greatly affected large overseas investments but gave small projects more room to maneuver. Under the influence of these regulations, MOFTEC, SAFE, the NPC and SASAC published policies separately to control overseas investments. In 1991, the NPC published the “Regulations on developing and approving project proposals and feasibility reports for overseas investments”. These regulations announced the NPC’s

¹¹⁶ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 8, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹¹⁷ Nowadays it is the National Development and Reform Commission of the People’s Republic of China (NDRC) and it is a macroeconomic management agency under the Chinese State Council, which has broad administrative and planning control over the Chinese economy.

¹¹⁸ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 8, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

important role in approving overseas investments. The approval implementation regulations from the State Council and the importance of developing and approving investment project proposals and feasibility reports were also emphasized in these regulations.¹¹⁹

As a response to the “Opinion” of the State Council, in 1991 SAFE published the “Circular to unify the specification of overseas investment risk and foreign exchange resource reviews”, which standardized the application materials required for reviews. In 1993, they also published the “Specification of overseas investment risk and foreign exchange resource reviews”, in order to adjust the foreign exchange approval procedures based on the foresaid “Opinion”. In 1992, MOFTEC published the “Temporary regulations on approval and management for establishing non-trade overseas companies” to strengthen control over non-trade overseas companies. SASAC also published the “Temporary management method for overseas state owned assets” and related implementation regulations to strengthen the supervision of overseas state-owned assets. Consequently, MOF published the “Temporary method on overseas accounting management” in 1996, to regulate and supervise the accounting management of overseas projects.¹²⁰

During this period, investments in the newly independent Eastern European countries were encouraged for both economic and political reasons. Markets in these countries were seen as a good opportunity for Chinese economy. Furthermore, it was believed that improved relationships with these countries could help consolidate China’s political status. All of these factors were reflected in the “State Council suggestion on strengthening economic and trade relationships with former Soviet countries”, issued in 1992, which encouraged Chinese companies to engage in international trade and investment in that region.¹²¹

In the second period, from 1999 to 2001 the strategy to “Develop international economy cooperation and trade” was initiated and related policies were published. This stimulated the development of overseas investments in processing and assembly businesses. This was a transition period which incubated

¹¹⁹ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 8, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹²⁰ *Ibidem*, P.9.

¹²¹ *Ibidem*.

China's "Going out" strategy. With China coming to appreciate the importance of overseas investments and seeing its potential to drive domestic economic development, the Chinese government issued many favorable policies. Outward trade was an important economic growth point for China and its contribution to economy was increasing. However, the Asian Financial Crisis in 1997 seriously affected China's exports, since market demand in Southeast Asia fell in the second half of 1998.¹²² The weak currencies of these countries reduced the competitiveness of Chinese products because of the relatively strength of RMB. To address this situation while also driving the development of the domestic economy, Chinese government developed a strategy which aimed to make use of cheap overseas labor resources and raw materials to drive exports; this strategy indirectly boosted overseas investment. In 1999, the State Council published the "Opinion on encouraging companies to carry out overseas material processing and assembly". The core concept of this policy was to make use of China's advantages in some industries to promote exports and to accelerate adjustments to the industrial structure. The slogan "Going out" was first mentioned in this document.¹²³ In this policy document, the approval rights for this overseas investment mode were returned from the NPC to MOFTEC, a transfer which also overcame some previously strict limitations. From then on, overseas investments in this field increased and overseas processing and trade became a new economic growth point for China. Subsequently, MOFTEC and other related departments published twelve policies to encourage companies to develop overseas processing and assembly operations, each policy addressing different aspects such as finance, fiscal and taxation issues.

In 2000, the Fifth Plenary Session of the 15th Congress of the Chinese Communist Party was held, which issued the "Suggestion to develop the 11th Five Year Plan for national economic and social development". It was decided at this event to initiate the "Going out" strategy. The "Suggestion" listed four main investment types that were to be encouraged (processing, trade, resources

¹²² See Wenbin HUANG, Andreas WILKES, *Analysis of China's overseas investment policies*, Working Paper 79, p. 9, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹²³ *Ibidem*.

extraction, project contracting) and proposed to give overseas investments policy support through credit, insurance and other facilitative services. The 11th Five Year Plan outlined policy directions for the following five years and created a sound environment for overseas investment.¹²⁴

In 2001, the “Going out” strategy was incorporated into the “Outline of the 11th Five Year Plan for national economic and social development”, which highlighted seven needs:

- encourage overseas investments to enhance China’s competitiveness and expand the scope and modalities of China’s international economic and technical cooperation;
- continue to develop overseas projects contracting and labor service cooperation and encourage competitive companies to explore processing and trading overseas, thereby promoting export of products, services and technology;
- support companies in exploring resources overseas which were in short supply domestically and promote adjustment of the structure of resources trade;
- encourage the use of foreign intellectual property resources to establish research and development and design operation centers overseas;
- support capable companies in developing transnational operations to achieve internationalized development;
- improve the overseas investments service system and create a good investment environment for companies through improvements in systems governing finance, insurance, foreign exchange, taxation, intellectual property rights, laws and regulations, information services and entry and exit management;
- improve corporate governance structures and internal regulatory mechanisms to regulate and supervise overseas investments.

This document marked the birth of Chinese “Going out” strategy and the comprehensive development of China’s overseas investments. It also set the trend for policies in the succeeding ten years and began a new chapter for overseas

¹²⁴ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 9, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

investments by China. Supported by this new strategy, overseas investments grew significantly, attracting the attention they receive today.¹²⁵

The third and last phase goes from 2002 to nowadays. In 2002, the 16th National Congress of the Chinese Communist Party was held in Beijing. At this meeting, the then Chinese President Jiang Zemin emphasized the importance of the “Going out” strategy. He described it as a “significant event” within the longer-term national reform and liberalization strategy and he encouraged and supported companies with comparative advantages to make overseas investments, in order to promote commodities and labor service exports as a means of establishing competitive multinational companies and international brands.¹²⁶ Based on the report of the 16th Congress, China reformed its overseas investments policy system and published a set of policies to further stimulate the development of China’s overseas investments. With the implementation of these positive policy measures, China also strengthened its regulatory activities and took measures to improve the profitability of Chinese overseas companies, especially from 2006 onwards. The number of failed investments increased during these years, including high-profile investments by China Aviation Oil in 2004, CITIC Pacific in 2008 and Sinosteel in 2009. In general, however, policies issued during this period tended to be highly favorable to OFDI.¹²⁷

2.2. Incentives by Chinese government to Chinese firms

As already mentioned, Chinese companies look upon mergers and acquisitions as a way to acquire know-how to help the country in its transition from a focus on “Made in China” to “Designed in China”. Chinese companies need to acquire the know-how of new growth sectors, in order to support the economy’s rebalancing away from being the world’s hub for basic manufacturing and heavy industry and

¹²⁵ See Wenbin HUANG, Andreas WILKES, *Analysis of China’s overseas investment policies*, Working Paper 79, p. 10, 2011, http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf.

¹²⁶ *Ibidem*.

¹²⁷ *Ibidem*.

toward high-end economic activities; M&A with companies of those more developed economies in those sectors is a way to do that. In order to reach these goals, Chinese companies are being encouraged to seek merger targets abroad, buoyed by government policies which have reduced paperwork and eased restrictions on foreign investments.¹²⁸

The Chinese government recognizes that innovation is essential to sustain the momentum of China's economic development and, in fact, supporting innovation is a key focus of the government 13th Five Year Plan (from 2016 to 2020).¹²⁹ President Xi Jinping has emphasized the determination of the government to develop the national innovation system in which enterprises are the main players. In this context, the Chinese government will seek to ensure that the maximum synergies result from the joint efforts of enterprises, universities and research institutes.¹³⁰

Over the past two years, China has made enhancements to its two flagship corporate income tax (CIT) innovation incentives. The resulting enterprise tax savings have been available for reinvestments into expanded R&D activities, equipment and recruitment, in order to increase enterprises' core competitiveness.¹³¹ The Chinese government is pushing a program of "mass entrepreneurship and innovation" and has tailored many of its incentives to support small and medium sized enterprises. This includes the establishment of special innovation demonstration zones, the expansion of venture capital tax incentives to foster investments in start-ups.

The Chinese government has already reached some goals in order to promote out forward investments. Among these objectives there are expanding higher education from one million to seven million graduates a year over the last 15 years; deepening the available talent pool to work in R&D enormously; encouraging

¹²⁸ See Chris PETERSON, *Chinese businesses are investing even more abroad*, in "The Telegraph", 2016, <https://www.telegraph.co.uk/news/world/china-watch/business/chinese-businesses-foreign-investment/>.

¹²⁹ *Ibidem*.

¹³⁰ See Yang BIN, Rachel GUAN, Josephine JIANG, Henry NGAI, *Better smart than lucky: China R&D incentives 2.0*, in "International Tax Review", 2017, <http://www.internationaltaxreview.com/Article/3772303/Better-smart-than-lucky-China-R-D-incentives-20.html>.

¹³¹ *Ibidem*.

multinationals to set up R&D centers in China in which many Chinese graduates could learn the disciplines needed to innovate and to commercialize innovations at scale; allowing people to get wealthy: successful innovation leads to large scale wealth creation. The government has embraced this when it has occurred in the private sector.

Another point was providing access to state funded research teams. The government also achieved in encouraging the development of the venture capital and growth capital sectors. Many global and local venture capital funds have successfully brought to Chinese entrepreneurs not only capital, but also the experience needed to grow and relevant networks. Another objective has been the creation of competition among local governments. Competition between cities to attract and grow companies has always been intense. This has created the opportunity to play off cities against each other to get the best possible mix of incentives and market access and then use the same strategies abroad in foreign countries and markets.¹³²

To develop a more diverse and innovative industrial portfolio, the Chinese government has laid out ambitious blueprints, which aim to create a better business environment and attract talent. National and local governments have issued various work incentive policies for talent at home and abroad, since several economists have highlighted the important role of human resources for the economic transformation.¹³³

Over the last years, the idea of the Chinese government was to change the economical set of the country. At the beginning, the economy of the country was based on export; recently the government has decided to focus on an economy of consumption, more sustainable in a long term view. In fact, the Chinese government is now focusing not only on the diversification of Chinese foreign investments abroad, but also on the diversification of the internal economy. The purpose of this plan is to achieve a more sustainable development model and a

¹³² See *9 Ways The Chinese Government Promotes Innovation*, McKinsey China, December 2014, <http://mckinseychina.com/9-ways-the-chinese-government-promotes-innovation/>.

¹³³ *Ibidem*.

more equal distribution of benefits among the population. In fact, in these years, the consumption has increased of 20%, becoming the major growth promoter.¹³⁴

The Chinese government has chosen to focus on internal consumption because of the export difficulties due to the economic and financial crisis. Therefore, among the measures adopted by the government there were a better distribution of income and a consequential increase of it. A transition toward an economy of consumption will depend on families' income, so, aware of this, the Chinese government has increased the minimum level for wages between 15% and 25% a year.¹³⁵

One of the most important incentives concerns the financial field. Many financial plans have been raised by the Ministry of Finance, in order to encourage outgoing investments by Chinese enterprises in foreign countries. In particular, it will increase the number of Chinese enterprise's foreign divisions, which will be exempted from the payment of taxes, in order to reduce the financial weight and to avoid the phenomenon of double taxation. These new rules will be applied to those companies with at least 20% of working capital shared by Chinese firms. In case of investments in more than one foreign country, these companies will have a major autonomy in the allocation of tax credit in different countries and they will be able to loosen the pressures concerning the cash flows.¹³⁶

A critical role has been played by Chinese banks. The progress toward foreign countries has been pushed above all by Chinese banks, which have already built many subsidiaries and linked institutions in forty-two countries, sustaining Chinese enterprises' "Go global" slogan.¹³⁷

As already clarified in the paragraph dedicated to the OBOR project in the previous chapter, the Chinese government has already specified that, as far as outgoing investments are concerned, Beijing will promote first operations in

¹³⁴ See Martina DESOGUS, *Cina: investimenti esteri per un'economia di consumo*, in "Il Caffè Geopolitico", 2015, www.ilcaffegeopolitico.org/31120/cina-investimenti-esteri-uneconomia-consumo.

¹³⁵ *Ibidem*.

¹³⁶ See *9 Ways The Chinese Government Promotes Innovation*, McKinsey China, December 2014, <http://mckinseychina.com/9-ways-the-chinese-government-promotes-innovation/>.

¹³⁷ See Rita FATIGUSO, *La corsa cinese agli investimenti esteri*, in "Il Sole 24 Ore", 2018, <http://www.ilsole24ore.com/art/impresa-e-territori/2016-09-30/la-corsa-cinese-investimenti-esteri--092556.shtml?uuiid=ADbjFrTB>.

strategic sectors.¹³⁸ According to the rules released by Beijing, among the investments under “restrictions” (investments which require special permissions by the government), there are those regarding furniture, hotel, cinema and sport sectors. Among forbidden investments, there are those regarding military technology, gambling, sex industry and all those investments which may damage the national safety and those which violate international agreements signed by the Chinese government.¹³⁹ The restrictions do not hit those investments aimed at developing the New Silk Road, regarding energy, infrastructure, new technologies, commerce, culture and logistic sectors.¹⁴⁰ Information on new regulations and restrictions on foreign investments will be clarified in the next paragraph.

The Chinese State Council has already issued many directives in order to define an opening plan toward foreign countries and enterprises in specific sectors, such as electric energy, ships design, sea transportation, call center, banking and insurance ones. Even if these measures have already been discussed in the past, this is the first time the State Council orders their effective implementation.¹⁴¹

By the end of 2018, the Chinese government would like to transform all the state-owned enterprises into limited liability companies; in order to adopt the “mixed participation” solution, which involves the access of private enterprises to state-owned enterprises’ quotes in order to restore these last’s debts.

Furthermore, the government would like to encourage the fusion between big and small state-owned enterprises, in order to build bigger and more efficient companies, deleting the unprofitable ones called “zombie firms”. This strategy meets many difficulties. The dismissals of employees working in those “zombie firms” may increase the dissatisfaction and consequently the internal instability; the presence of few big enterprises may damage smaller ones and, furthermore, it is not clear how much the market law will affect the business logics.¹⁴²

¹³⁸ See Giorgio CUSCITO, *Le imprese di Stato guidano la Cina lungo le nuove vie della seta*, in “Limes -Rivista italiana di geopolitica”, 2017, <http://www.limesonline.com/rubrica/le-imprese-di-stato-guidano-la-cina-lungo-le-nuove-vie-della-seta>.

¹³⁹ *Ibidem*.

¹⁴⁰ *Ibidem*.

¹⁴¹ *Ibidem*.

¹⁴² *Ibidem*.

In both outgoing and ingoing investments, Beijing's main aim is to ensure the economic stability of the country. The government would like also to open up the internal market through foreign intellectual and technological property. From a Chinese point of view, this would help consolidating the global and inclusive value, which is at the basis of OBOR plan and the New Silk Road project.

2.3. New regulations on overseas investments

China decided to implement restrictions on outgoing investments by enforcing new regulations on foreign investment by private firms. The *Code of conduct* for private firms seeks to ensure that overseas deals are rational and legal. This is part of an effort to regulate outbound investments, in order to reduce internal risks. In fact, the National Development and Reform Commission released rules which require private enterprises to invest in overseas agreements which are genuine and not meant to be used for transferring assets abroad or for money laundering. Of course, investments in projects that fit within the scope of the "One Belt, One Road" plan are strongly encouraged.

These regulations have become necessary due to China's struggle to reduce its debt load and due to the threat of currency depreciation. While the former represents a clear and present threat to financial stability, the latter has largely disappeared, but apparently remains on the radar of government officials.¹⁴³

Acquisitions which are funded by debt must ensure that overseas investments are productive, so that firms can repay the debt in time. The Chinese government's main aim is to ensure no assets transfer. The use of overseas investments to transfer assets abroad could potentially threaten the value of the RMB. Capital flight has presented a distinct challenge to regulators, with an estimated US \$3.8

¹⁴³ See Joe BACKALER, *Chinese Companies Choose M&A To Accelerate International Expansion*, in "Forbes", 2016, <https://www.forbes.com/sites/joelbackaler/2016/04/18/chinese-companies-choose-ma-to-accelerate-international-expansion/#5bbd98d37eac>.

trillion lost in the past decade.¹⁴⁴ Tighter capital controls were implemented and foreign currency reserves were used to save the value of RMB before it stabilized in 2017.¹⁴⁵ The main aim is to reduce the banking system debt and systemic risks for the all financial system.

Even though the Chinese government has released new regulations and restrictions on investments abroad, the long march toward the American and the European markets continues. However, Beijing has divided overseas investments into three categories: forbidden, limited and encouraged investments. Forbidden investments, as already said before, are all those investments regarding military technologies, gambling, the sex industry and all those investments which may damage the national security and safety. Limited investments are those regarding the real estate and the housing sector, the entertainment industry, the sport sector and those investments against the international environmental rules. Encouraged and sustained investments are those which follow the expansion of the “One Belt, One Road” plan.

In 2003, the Chinese government already recapitalized those banks which were in difficulty due to many sufferings. In the last years, fear in China has increased. Chinese banks’ NPL¹⁴⁶ increased of 61% in two years and reached US \$231 billion.¹⁴⁷ All the new rules and regulations imposed by the Chinese government must be read in this way. In the first seven months, compared to 2016, outgoing investments decreased of 44.3%.¹⁴⁸ According to Zhou Xiaochuan, the Central Bank’s Governor, the main aim is keeping financial institutions in good health.¹⁴⁹

¹⁴⁴ See Joe BACKALER, *Chinese Companies Choose M&A To Accelerate International Expansion*, in “Forbes”, 2016, <https://www.forbes.com/sites/joelbackaler/2016/04/18/chinese-companies-choose-ma-to-accelerate-international-expansion/#5bbd98d37eac>.

¹⁴⁵ *Ibidem*.

¹⁴⁶ Non-performing loans. They are banks’ credits (such as loans) that debtors are not able to pay anymore.

¹⁴⁷ See Riccardo BARLAAM, *Cina, nuove regole sugli investimenti esteri: aumentano i limiti e i divieti*, in “Il Sole 24Ore”, 2017, <http://www.ilsole24ore.com/art/finanza-e-mercati/2017-08-18/cina-nuove-regole-investimenti-est-eri-aumentano-limiti-e-divieti-213743.shtml?uuiid=AEGo7gEC>.

¹⁴⁸ *Ibidem*.

¹⁴⁹ *Ibidem*.

However, how do Chinese firms react to this situation? A clear example is the case of Dalian Wanda Group.¹⁵⁰ The Wang Jianlin's conglomerate is the biggest society in the real estate sector and it is the first group in the world for cinematographic distribution. It has got also a sportive division, which now is thinking to sell due to the debts. In order to avoid a bankruptcy, the big company is considering selling its assets. Behind these ideas, there is the effort to rearrange a portfolio, now enormous. But this portfolio doesn't fit Beijing's development plans lines anymore. This is just an example of how enterprises investing out of China are facing the restrictions imposed by the Chinese government. Managers are studying a way to recover toward the slope and get the reputation lost in China back.

2.4. Concluding remarks

In the first part, this chapter has focused on the legal part of Chinese ingoing and outgoing investments, considering the changes made by the Chinese government over the years. The main element which has stood out among the legal analysis is that the Chinese government has always been an important presence in the economy of the state, concerning both methods and rules Chinese enterprises had and have to follow in order to reach companies' personal goals and not to interfere with national safety.

In this part it is important to mention the "Going out" strategy, which led China considering the whole global market, making it one of the most powerful countries in the world. Due to Chinese culture and Chinese government's closure to an economy focused also outside China, this plan arose only in the late 20th century. In 2001, the "Going out" strategy was incorporated in the 11th Five Year Plan and it focused its attention on encouraging overseas investments, developing overseas projects and supporting companies going abroad. With the

¹⁵⁰ Dalian Wanda is an important Chinese society with investments in many areas of the world in the entertainment, housing and tourism sectors.

implementation of this positive policy's measures, China also strengthened its regulatory activities and took measures to improve the profitability of Chinese overseas companies, especially from 2006 onwards.

Chinese government has always been present in the country's economy. Over the years, it has developed different regulations in order to make investments, both outside and inside China, controlled. The main idea was to change customers' vision about Chinese product: it wanted to turn from a "Made in China" into a "Designed in China" product. Of course, the major project which can help implementing this transformation is the OBOR plan, toward which Chinese government is investing its forces. In order to carry out this program, over the last years, Beijing has adopted new regulations, concerning both incentives and limitations, on overseas investments. As far as incentives are concerned, fiscal and taxation systems have played an important role, while limitations have been imposed on those economy sectors which could threat national safety and security and which could lead China waste big amounts of money abroad.

A part from considering the legal aspect of foreign Chinese investments and incentives and restrictions given and imposed by the government during the past years, the main aim of this chapter was to consider and analyze the internal changes Chinese companies faced and are still facing right now, conforming to new regulations, but also to the global changes of economy.

This kind of situation has not occurred only in China in these last years, but it already happened in the past in other countries, which were world economic powers. Some scholars have explained this phenomenon as a fact of hyper competition. Chinese enterprises' power, once considered unbridgeable, has been torn by competitors. This is due to the fact that, every day, new technologies are generated; new competitors enter into global markets; new markets arise and then disappear; enterprises get restructured again and again. In this kind of scenario, old rules and strategies used to elaborate new strategic plans are not valid anymore. Traditional principles, used to obtain competitive advantages, do not guarantee long term safety.¹⁵¹

¹⁵¹ See Richard D'AVENI, Robert GUNTER, *Hyper competition: Managing the Dynamics of Strategic Maneuvering*, Simon&Schuster, p. 1, 1994.

This aggressive competition does not affect only more dynamic sectors, but also quieter activities. The competition has intensified enormously. The product life cycles have reduced, but speed in discovering new technologies has increased. The entry barriers have collapsed and now enterprises are defenseless. Economies of scale, product differentiations and capital investments represent weaker and weaker barriers in respect of competitors. All of this is due to hyper competition. Hyper competition requires a deep change in strategy's goals. In a hypercompetitive environment, the strategy should aim at the development of temporary advantages.¹⁵² These advantages last only until competitors copy or overcome them. The global competition has affected the powerful positions; therefore company enjoys the advantage of feeling safe.¹⁵³ Trying to defend an advantage could be dangerous for enterprises, because it can divert attention from the creation of other possible competitive advantages. Attempting to defend an old benefit could swallow resources which should be used to make the following step, letting competitors attack the business. In hypercompetitive situations, it is better to make strategic attacks. Linking this short term advantages, an enterprise could create long term benefits in the current market.¹⁵⁴

Some studies on different types of firms have revealed that, in a dynamic strategic guideline, there are seven elements, which base on a strategy of market research and market disruption, rather than maintaining old advantages. They also allow to set the strategic planning in a more flexible and dynamic way. These seven elements are: superior stakeholder satisfaction, strategic soothsaying, positioning for speed, positioning for surprise, shifting the rules of the game, signaling strategic intent and simultaneous and sequential strategic thrusts. If companies do not exploit the possibility of new initiative offered by the previous elements, at the end of a downward spiral, they can also go bankrupt.¹⁵⁵

These are the reasons why companies, not only Chinese ones, have to consider the global environment in which they operate and not focus only on long

¹⁵² See Richard D'AVENI, Robert GUNTER, Hyper competition: *Managing the Dynamics of Strategic Maneuvering*, Simon&Schuster, p. 5-9, 1994.

¹⁵³ *Ibidem*, p. 33.

¹⁵⁴ *Ibidem*, p. 11.

¹⁵⁵ *Ibidem*, p. 297; 394-396.

term strategies. They have to consider the idea of being more dynamic and able to build different competitive advantages day by day, in order to be better than their competitors and offer continuously new opportunities to customers.

3. Foreign countries' reactions to Chinese investments

Summary: 3.1. Do overseas countries accept Chinese investments? How do they face them?; 3.2. Foreign countries' contribution to OBOR; 3.3. Concluding remarks.

The "Made in China" label. Nowadays, this is what customers are worried about when they buy an item. We all do know that consumers are really frightened when their purchases concern the Chinese world: they are worried about quality and safety of products.

But when talking about enterprises, is the prejudice the same? Do Western companies worry about Chinese investments in their countries and sectors just because they are Chinese? The analysis of this aspect will be the main element of this chapter.

As I already explained in the paragraph dedicated to the OBOR plan in the first chapter, this project does not concern only China's involvement, but it needs many countries' help in order to be realized. However, the "One Belt, One Road" program is just one of the last plans implemented by the Chinese government in order to make China the strongest power in the global market. First, we should consider other types of investments made by Chinese enterprises abroad and foreign enterprises' reactions and contribution to them.

In the first chapter I already analyzed the major method used by Chinese companies when investing in foreign countries, that is to say M&A. In this chapter the attention will be focused on other countries' behavior, when involved in agreements with Chinese firms and investments. In the last part I will analyze countries' contribution to OBOR, their implementation plans and the consequences on the relationships with the Chinese government and possible future co-operations.

3.1. Do overseas countries accept Chinese investments? How do they face them?

We already saw how, in the last decades, Chinese entrepreneurs have been seeking for foreign markets as never before. But as they decide going abroad, they have to grapple for the first time with many obstacles: unruly trade unions, independent courts, journalists and mass medias. Furthermore, according to many enterprises, navigating the unfamiliar waters of multiparty politics and confronting the power of public opinion make everything very difficult to be faced.

China's rise usually has two opposite reactions: on one hand there is the fear of "the Asian Giant" as opposed to the Western collapse, while, on the other, there is a blind faith that the "Chinese bubble" will explode like the Japanese one in the Eighties, when people were worried about an overtaking of Japanese GDP on the American one.¹⁵⁶ Both visions have emotional reasons behind them, rather than an analytical perception of Chinese system's intentions and capabilities. China's economic dimension, its integration into the world trading system and its ability to innovate cannot be compared to the case of Japan, due to the mere presence of the common denominator of lack of enough energy resources in the respective territory.¹⁵⁷

Chinese system's resources are consciously mobilized in protecting the strategic interests of the world, naturally supporting the efforts of the private sectors, which increasingly are searching for assets and foreign markets in order to satisfy their needs. As the Great War (World War I) acted as a catalyst in changing the world's equilibrium, giving the nascent power of the United States a new dimension, the endless European economic crisis and the slow American recovery have accelerated the Chinese system's global dimension.¹⁵⁸

As Chinese companies venture into other countries, above all foreign democracies, the first difficulty they have to deal with is the culture shock. Having made their money in a one-party state, where political connections are the key to

¹⁵⁶ See Federico BARBUTO, *Cina, investimenti ed equilibri globali*, in "Il Caffè Geopolitico", 2014, <https://www.ilcaffegeopolitico.org/24129/cina-investimenti-ed-equilibri-globali>.

¹⁵⁷ *Ibidem*.

¹⁵⁸ *Ibidem*.

a successful business, they find out that making businesses abroad is not as simple as they believed. In all the countries of the world into which Chinese investors have entered, there is a long list of costly mistakes.

In foreign countries, where the public often demands greater transparency and courts enforce stricter environmental and labor laws, it is a steep learning curve for many Chinese companies, which mirror the challenges foreign companies faced when they first entered China more than two decades ago.¹⁵⁹ It was extremely difficult for non-Chinese enterprises to adjust and Chinese companies are now going through the same process, but for them it is even more complicated, because the regulatory environment in which they grew up is so vastly different compared to overseas markets.

Another difficult challenge is the reciprocity issue. Year after year, the European Chamber of Commerce in China has pointed out the lack of market-access in China, while European markets have remained fairly open to foreign investments, including those from China, leading to massive investments from Chinese actors. This lack of reciprocity has become a sticking point in the European Union-China relationships. Although major Chinese deals are taking place in Europe, many European companies are finding it more difficult than before to access the Chinese market. According to the Mercator Institute for China Studies (MERICS)¹⁶⁰, European investments in China amounted to just US \$8 billion in 2016, one quarter the volume of Chinese investments in the European zone in the same year.¹⁶¹ The lack of investment reciprocity harms European interests and leads to the perception of China as a bad faith trade partner. Furthermore, according to MERICS,

¹⁵⁹ See Simon DENYER, *Chinese companies face culture shock in countries that aren't like China*, in "The Washington Post", August 2015, https://www.washingtonpost.com/world/chinese-companies-face-culture-shock-in-countries-that-arent-like-china/2015/08/14/a048eb64-3bbd-11e5-88d3-e62130acc975_story.html?noredirect=on&utm_term=.1435300c03b0.

¹⁶⁰ The Mercator Institute for China Studies (MERICS) is a leading German think tank with an exclusive focus on China. The non-profit organization was founded in 2013 by Stiftung Mercator, one of Germany's largest private foundations. MERICS conducts researches and fosters dialogue on the ascent of China as a key global player. The institute's focus is on political, economic, social, technological and ecological developments in China and their global impacts.

¹⁶¹ See Philippe LE CORRE, *On Chinese Investment and Influence in Europe*, in "Carnegie Endowment for International Peace", May 2018, <https://carnegieendowment.org/2018/05/23/on-chinese-investment-and-influence-in-europe-pub-76467>.

The perception of China as a free rider undermines popular support for economic cooperation with China and for an open, liberal economic order in Western democracies.¹⁶²

From a financial point of view, the flow of capital out of the PRC has begun to make it expensive for China's Central Bank¹⁶³ to maintain the RMB's value against the dollar. This devaluation will push up the price of foreign investments for Chinese companies, but, if investors think that the currency will weaken further over time, it could encourage some of them to invest abroad in this period, before the exchange rate falls further.¹⁶⁴

Another aspect which makes Chinese investors feel in a difficult position is the employment issue. In fact, all over the world, Chinese companies face a political backlash for bringing their own workers in foreign countries and acquired enterprises, rather than employing local employees and for mistreating those locals they finally employ.

As far as the legal systems and processes are concerned, the challenges Chinese investors have to face concern both taxation and conveyance, but also visas and residency. These could present a whole range of issues for many Chinese property investors, who may find themselves entirely baffled by various fee payments, property tenure rules, required legal checks and surveyor reports, which they may have never even heard of before.¹⁶⁵ Facing with such complications, it is easy to understand why some first-time Chinese buyers may feel intimidated and give up investing in foreign countries. Therefore, having an international agent, who not only understands these challenges, but is also well-prepared, can be a good solution; in fact it can make a whole lot of difference for Chinese homebuyers when investing overseas.

¹⁶² See Philippe LE CORRE, *On Chinese Investment and Influence in Europe*, in "Carnegie Endowment for International Peace", May 2018, <https://carnegieendowment.org/2018/05/23/on-chinese-investment-and-influence-in-europe-pub-76467>.

¹⁶³ The People's Bank of China (PBC or PBOC) is the central bank of the People's Republic of China, responsible for carrying out monetary policy and regulation of financial institutions in mainland China, as determined by Bank Law.

¹⁶⁴ See Simon DENYER, *Chinese companies face culture shock in countries that aren't like China*, in "The Washington Post", August 2015, https://www.washingtonpost.com/world/chinese-companies-face-culture-shock-in-countries-that-arent-like-china/2015/08/14/a048eb64-3bbd-11e5-88d3-e62130acc975_story.html?noredirect=on&utm_term=.1435300c03b0.

¹⁶⁵ See *Juwai Chinese Consumer Survey*, May 2017, <https://list.juwai.com/it/news/2017/05/3-biggest-challenges-chinese-face-when-buying-property-abroad>.

On the other hand, there are also many situations in which Chinese investors are seen in a positively way. In some countries, there are related provincial, regional and municipal investment agencies which work very closely with companies in these countries and China. These associations proactively approach Chinese enterprises and Chinese investors going abroad by offering them some assistance. For instance they organize meetings in both China and foreign countries, in order to make the creation of relationships easier for each party. Through these meetings in China, Chinese firms get to know more about countries abroad and receive practical information and advice, in order to reduce the shocks which can arise by moving from China to a different country. Right from the initial stage, Chinese enterprises are supported by governmental agencies, external service providers and consultancy firms.

As far as Europe is concerned, the reciprocity issue is not the only element regarding relationships with China. Since the onset of the economic and financial crisis in 2008, and still today, many capitals and economic centers across the European zone have looked at China and Chinese investors as a source of opportunity and growth. Indeed, promoting investment relationships has risen to the top of many bilateral agendas. Chinese investments serve to create and/or maintain job; to provide capital for researches, development and innovation; to generate wealth and tax revenue for cash-strapped governments; to create new market opportunities for European firms both in China and in third markets; to build and improve infrastructures and even to introduce technology and innovative business models into Europe. Moreover, at a broader level, China and Europe face similar, pressing challenges, such as climate changes, inequality and calls for protectionism and there is an increasingly urgent need for joint solutions which can facilitate cross border investments. Due to these reasons, Chinese investments, from some people's points of view, should be encouraged.¹⁶⁶ Given these advantages, European countries actively seek out Chinese investments, but the magnitude and certain patterns of investments have also raised (and are still

¹⁶⁶ See John SEAMAN, Mikko HUOTARI, Miguel OTERO-IGLESIAS, *Chinese investment in Europe: a country level approach*, French institute of International Relations (Ifri), 2017, https://www.pism.pl/files/?id_plik=23889.

rising) concerns. Finding the right balance between addressing these concerns and holding to the principles of economic openness have proven a serious challenges both in the context of Europe-China relationships and for the European Union more generally. European concerns are related to a combination of issues which are often hard to disentangle and are prone to hype and politicization. For instance, these issues concern the role of the Chinese state in the economy; as already mentioned, a lack of reciprocity and fair competition; a national competitiveness and technological leadership; the uncertainty about security-related critical infrastructures and sensitive technologies; the fact that investments are considered as a source of political and geopolitical influence; broader regulatory concerns; and intra-European competition for investments.¹⁶⁷

In light of these growing concerns, the debate over how to respond has heated up, with many policy makers expressing increasing hesitation over security risks, loss of technological leadership and national economic competitiveness. The formal letter submitted to the European Commission¹⁶⁸ in February 2017 by the Ministers of Economy from Germany, France and Italy highlights growing concerns about Chinese investments into strategic assets across Europe. In September 2017, the Commission formally proposed a new legislation for establishing a common European framework in order to screen foreign direct investments into the European Union. The proposed screening mechanism concerns primarily strategic assets, which are critical to EU security and public order, including foreign acquisitions of critical technologies, infrastructures, inputs or sensitive information. The proposal would also create a cooperation mechanism between Member States¹⁶⁹ and the Commission, which can be activated when a specific foreign

¹⁶⁷ See John SEAMAN, Mikko HUOTARI, Miguel OTERO-IGLESIAS, *Chinese investment in Europe: a country level approach*, French institute of International Relations (Ifri), 2017, https://www.pism.pl/files/?id_plik=23889.

¹⁶⁸ The European Commission (EC) is an institution of the European Union, responsible for proposing legislation, implementing decisions, upholding the EU treaties and managing the day-to-day business of the EU.

¹⁶⁹ State of the European Union.

investment in one or several Member States may affect the security or public order of another.¹⁷⁰

One of the main problems in the current status about EU-China relationships concerns the controversies about the safety of products, above all food items. In our more and more globalised world, food products are traded every day. In many countries, accurate food analysis techniques have been put into practice in order to verify the safety of foods which come from foreign countries. Every country has different rules about the standards a product must respect in order to be considered safe for consumers. The European Union, for example, has very detailed regulation about food safety. Being at the same time both the largest importer and the largest exporter of food and beverages (at the end of the last decade, exports amounted to US \$58 billion and imports to US \$57 billion), with more than 310.000 companies involved in this sector, the supervision of food quality has always been a priority.¹⁷¹

Of course, identifying the grey areas in countries abroad and adopting appropriate measures will lead to improved business relationships between China and foreign enterprises and governments. Also preparation, integration and adaptation to the markets may help to maintain good business relationships and will lead to future prosperity.

The next paragraph will deal with the contribution of foreign countries to the OBOR initiative and the different reactions, positive and negative ones, related to this issue.

¹⁷⁰ See John SEAMAN, Mikko HUOTARI, Miguel OTERO-IGLESIAS, *Chinese investment in Europe: a country level approach*, French institute of International Relations (Ifri), 2017, https://www.pism.pl/files/?id_plik=23889.

¹⁷¹ Eurostat. (2009) EU-27 consistent world leader in trade of food. Luxembourg: Office for Official Publications of the European Communities.

3.2. Foreign countries' contribution to OBOR

The announcement of the “One Belt, One Road” program has generated a lot of interest all around the world. The potential outcomes for countries and private enterprises have attracted many actors' enthusiasm. However, there are not many details about the project yet and its actual implementation is thought to need many decades in order to be realized. And even if the return for China in terms of image and influence on the neighboring countries seems to be high, there are several possible drawbacks which may slowdown or even definitely block the plans.¹⁷²

It is true that the program has arisen the interest of many countries all over the world, but it is also true that many countries are not directly “touched” by the initiative, due to their geographical position. Even though they are not active characters in the project, many governments give their personal supports.

An example of a country, passive actor in the plan, is represented by the United States of America. In fact, America has already recognized the importance of China's Belt and Road Initiative. It is a move which will likely be seen as signaling acceptance of one of the initiative's underlying strategic aims, in order to secure a greater leadership role for China in Asia. This development comes at a time of heightened uncertainty in Asia over the US administration's commitment to the region¹⁷³ in light of President Donald Trump's decision to pull it out of the Trans Pacific Partnership (TPP).¹⁷⁴

¹⁷² See François GODEMENT, *“One Belt, One Road”: China's Great Leap Outward*, in “China Analysis”, European Council on Foreign Relations, p. 5, 2015, PDF, https://www.files.ethz.ch/isn/191753/China_analysis_belt_road.pdf.

¹⁷³ See Joshua P. MELTZER, *China's One Belt One Road initiative: A view from the United States*, in “The Asan Forum”, 2017, <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>.

¹⁷⁴ The Trans-Pacific Partnership (TPP) is a trade agreement between Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, Vietnam, and United States, signed in 2016, which was not ratified as required and did not take effect. After the United States withdrew its signature, the agreement could not enter into force. The remaining nations negotiated a new trade agreement called Comprehensive and Progressive Agreement for Trans-Pacific Partnership, which incorporates most of the provisions of the TPP. The original TPP contained measures to lower both non-tariff and tariff barriers to trade and establish an investor-state dispute settlement mechanism. Many observers have argued the trade deal would have served a geopolitical purpose, namely to reduce the signatories' dependence on Chinese trade and bring the signatories closer to the United States.

The US-China trade deal is not a trade agreement as we normally consider this term. Unlike a free trade agreement, it is not legally binding, nor does it include a mechanism for settling disputes should either side fail to implement the agreement. On substance, the agreement only addresses limited specific market access issues. The deal is instead a political agreement: it addresses a subset of US-China trade issues and is an outgrowth of the 100-day plan to improve trade ties to which America's President Donald Trump and Chinese President Xi Jinping agreed in one of their summits.¹⁷⁵ A TPP inclusive of the United States would have buttressed America's broader diplomatic and military rebalancing towards Asia, by supporting the economic development of allies and reaffirming America's commitment to the region. Finally, the impact of the TPP would have been magnified as more countries joined.¹⁷⁶

In important respects, a TPP which included the United States would have supported countries in the region which want to ensure that BRI (Belt and Road Initiative) happens in ways which minimize economic risks and limit its strategic heft. For instance, even in the absence of China's participation in TPP, the agreements' rules, disciplining how SOEs compete domestically and overseas, created a legal baseline that countries, such as those of Southeast Asia, could have applied to Chinese SOEs when investing in BRI projects.¹⁷⁷

Moreover, by providing preferential access to the American market, the TPP offered the possibility for these countries to grow and stabilize trade relationships with the United States. Providing these countries with another way for growth in trade and investments would create more strategic space for TPP parties to push back and demand that BRI projects only proceed in ways consistent with their best interests. Instead, while BRI was in part China's response to TPP, over the years, it has become a key initiative for expanding China's trade and investments across the region.

¹⁷⁵ See Joshua P. MELTZER, *China's One Belt One Road initiative: A view from the United States*, in "The Asan Forum", 2017, <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>.

¹⁷⁶ *Ibidem*.

¹⁷⁷ *Ibidem*.

Having withdrawn from TPP, the US administration has failed to articulate a trade and investment agenda for Asia, which can compare to the TPP or China's ambition for BRI.¹⁷⁸

The decision by the American administration to recognize the BRI in the US-China trade agreement would, in the presence of TPP, have been a pragmatic move to make space for a personal initiative of Chinese President, recognizing the win to win¹⁷⁹ nature of the trade liberalization brought about by TPP and BRI's goals of investing in needed infrastructures. With TPP on shaky ground at best, this recognition of BRI compounds the uncertainty in Asia caused by the US withdrawal and it raises further questions about US economic and strategic goals for the region.¹⁸⁰

As far as OBOR's active players are concerned, there are key areas of co-operation which must be satisfied in order to realize the project through the Asia-European corridor. The five major goals of the Belt and Road Initiative are: policy co-ordination, facilities connectivity, unimpeded trade, financial integration and people-to-people bonds.

In terms of specifics, policy co-ordination means that countries along the Belt and Road will, via consultation on an equal footing, jointly formulate development plans and measures for advancing cross-national or regional co-operation; resolve problems arising from co-operation through consultation; and jointly provide policy support to practical co-operation and large-scale project implementation.¹⁸¹

Facilities connectivity refers to prioritizing areas of construction as part of the Belt and Road strategy. Efforts will be made to give priority to removing barriers in the missing sections and bottleneck areas of core international transportation

¹⁷⁸ See Joshua P. MELTZER, *China's One Belt One Road initiative: A view from the United States*, in "The Asan Forum", 2017, <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>.

¹⁷⁹ A win to win negotiation strategy happens when both parties gain roughly equal advantage. The parties agree to act in both their own interest and in the interest of the group. The basis for any win-win situation is that compromise and cooperation must be more than or at least as important as competition.

¹⁸⁰ See Joshua P. MELTZER, *China's One Belt One Road initiative: A view from the United States*, in "The Asan Forum", 2017, <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>.

¹⁸¹ See HKTDC RESEARCH 经贸研究, 2018, <http://china-trade-research.hktdc.com/business-news/article/The-Belt-and-Road-Initiative/The-Belt-and-Road-Initiative/obor/en/1/1X3CGF6L/1X0A36B7.htm>

passages; advancing the construction of port infrastructure facilities; and clearing land-water intermodal transport passages. The connectivity of infrastructure facilities (including railways, highways, air routes, telecommunications, oil and natural gas pipelines and ports) will also be promoted. This will form part of a move to establish an infrastructures' network connecting various Asian sub-regions with other parts of Asia, Europe and Africa.¹⁸²

In order to facilitate unimpeded trade, steps will be taken to resolve investment and trade facilitation issues; reduce investment and trade barriers; lower trade and investment costs, as well as to promote regional economic integration. Efforts will also be made to broaden the scope of trade, propel trade development through investment, and strengthen co-operation in the industry chain with all related countries.¹⁸³

With regard to financial integration, actions will be taken to enhance co-ordination in monetary policies; expand the scope of local currency settlement and currency exchange in trades and investments between countries along the route; deepen multilateral and bilateral financial co-operations; set up regional development financial institutions; strengthen co-operation in monitoring financial risks and enhance the ability of managing financial risks through regional arrangements.¹⁸⁴

In terms of people-to-people bonds, efforts will be made in order to promote exchanges and dialogues between different cultures; strengthen friendly interactions between the people of various countries and heighten mutual understanding and traditional friendships. These will all form the basis for the advancement of regional co-operation.¹⁸⁵

Considering the co-operation mechanisms, the OBOR plan upholds the principles of jointly developing the program through consultations with all interested parties. Existing bilateral and multilateral co-operation mechanisms will be used to promote the integration of the development strategies of the countries

¹⁸² See HKTDC RESEARCH 经贸研究, 2018, <http://china-trade-research.hktdc.com/business-news/article/The-Belt-and-Road-Initiative/The-Belt-and-Road-Initiative/obor/en/1/1X3CGF6L/1X0A36B7.htm>

¹⁸³ *Ibidem.*

¹⁸⁴ *Ibidem.*

¹⁸⁵ *Ibidem.*

along the route. Steps will be taken in order to advance the signing of co-operation memorandums of understanding or co-operation plans for the establishment of a number of bilateral co-operation demonstration projects. Efforts will also be made to set up a sound bilateral joint work mechanism and to devise implementation plans and action roadmap for advancing the Belt and Road strategy.¹⁸⁶

But what is the real impact of China's One Belt One Road Initiative on developing countries?

Trade between China and countries along the OBOR routes constitutes a quarter of China's total trade value, exceeding US \$1 trillion in 2015.¹⁸⁷ Indeed, Chinese exports to these countries exceed those to the US and the European Union. This trend will continue as ongoing investment in supporting infrastructure encourages trade flows.

Many countries along the OBOR need to improve their infrastructure stock. Pressures on the existing stocks continue to mount as populations rise, urbanization continues and ongoing industrialization and economic development require supporting infrastructures. These factors, combined with the need to catalyze future economic growth with infrastructures' high quality, necessitate ongoing investments. However, many countries along the OBOR lack the financial capacity to develop their infrastructures through public coffers and, in the meanwhile, the private sector is unable to meet the shortfall.¹⁸⁸

Better integrating the private sector into the construction industry, rather than relying predominantly on the public sector, can bring a number of benefits to those countries along the Belt and Road corridor, including mitigating the financing burden placed on the governments; increasing productivity and improving the quality of public services and facilitating knowledge transfer and sharing of best-practice experience and expertise from the private to public sector.¹⁸⁹

¹⁸⁶ See HKTDC RESEARCH 经贸研究, 2018, <http://china-trade-research.hktdc.com/business-news/article/The-Belt-and-Road-Initiative/The-Belt-and-Road-Initiative/obor/en/1/1X3CGF6L/1X0A36B7.htm>

¹⁸⁷ See Nathan HAYES, *The Impact of China's One Belt One Road Initiative on Developing Countries*, in "LSE: London School of Economic and Political Science", 2017, <http://blogs.lse.ac.uk/internationaldevelopment/2017/01/30/the-impact-of-chinas-one-belt-one-road-initiative-on-developing-countries/>.

¹⁸⁸ *Ibidem*.

¹⁸⁹ *Ibidem*.

Therefore, what we can understand and affirm through the analysis of the project is that the OBOR plan is positive for developing countries and it is also an opportunity to improve their physical infrastructure stocks. The initiative will also serve to strengthen the private sector in many countries, create positive spill-over effects beyond the initial projects and facilitate further investments. Risks abound, however, particularly when trade volumes decrease and the terms are no longer competitive.

As OBOR develops, markets along its routes will open up and diversify. Barriers to trade will come down and business environments will become more conducive to overseas investments. Western firms offering consulting, management and other professional services will see the demand for their services increasing, while industrial sectors such as telecommunications, finance and energy will all require Western technologies and expertise.¹⁹⁰ But, on the flip side, working with many Chinese companies is likely to remain a challenge. In many of Chinese firms, especially state-owned enterprises, decision-making structures and incentives remain opaque. Competition with Chinese companies in many areas will be stiff, since they can often operate in riskier environments at lower costs.¹⁹¹

Even though these possible drawbacks, the global response to the OBOR initiative has been guardedly positive. With more than fifty countries joining the AIIB¹⁹², one of the main financial platforms for facilitating OBOR, there is much enthusiasm among Western and non-Western countries for the initiative and the opportunities it may create in the future.¹⁹³

¹⁹⁰ See Daniel ALLEN, *New Opportunities in China's "One Belt One Road" Initiative*, in "Reach Further: Connecting Your Business to Emerging Opportunities", 2015, <https://www.eastwestbank.com/ReachFurther/News/Article/New-Opportunities-In-Chinas-One-Belt-One-Road-Initiative>.

¹⁹¹ *Ibidem*.

¹⁹² The Asian Infrastructure Investment Bank (AIIB) is a new international financial institution (created in 2015), which aims at meeting infrastructure needs in Asia. AIIB is financing the construction and improvement of infrastructures, particularly in the energy and transport sectors, in order to ensure development in the Asia-Pacific region. This investment bank is a Chinese initiative. Although not officially associated, the AIIB and the OBOR are complementary. AIIB will be able to finance infrastructure projects which will allow trades to increase in Asia, but also between Europe and Asia.

¹⁹³ See Daniel ALLEN, *New Opportunities in China's "One Belt One Road" Initiative*, in "Reach Further: Connecting Your Business to Emerging Opportunities", 2015, <https://www.eastwestbank.com/ReachFurther/News/Article/New-Opportunities-In-Chinas-One-Belt-One-Road-Initiative>.

As far as the situation in Europe is concerned, in the following paragraphs, the attention will be focused on European countries' contribution to the OBOR plan and European Union's concerns about this project launched by Beijing.

As already mentioned many times in the previous paragraphs, European countries will be the main way through which the Chinese government will reach its economic objectives. In China's mind, most roads lead to the 500 million-strong European Union consumer market, the world's largest and richest one.¹⁹⁴ During previous summits on the OBOR project, China insisted it wanted to share "*growth, development and connectivity*" and "*collaborate more closely on concrete projects*" with the EU¹⁹⁵, but the European Commission made some different points. It confirmed that any scheme connecting Europe and Asia should adhere to a number of principles including market rules and international standards and, furthermore, should complement existing networks and policies.¹⁹⁶

However, while the battle over market economy status is going on, China has been steadily increasing its presence in Eastern and Central Europe. In 2012 it created the "16+1" mechanism¹⁹⁷, a platform where the Chinese Prime Minister meets (usually once a year) the leaders of 16 countries including EU members, as well as non-EU members. This framework has become a launch pad for the Belt and Road Initiative and has helped China to build (or in some cases rebuild) close relationships with Eastern European countries (both European Union Member States and not). After some complaints from Brussels, the European Commission was eventually admitted as an observer of the "16+1" group.¹⁹⁸

¹⁹⁴ See Philippe LE CORRE, *Europe's mixed views on China's One Belt, One Road initiative*, in "Brookings", 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/05/23/europes-mixed-views-on-chinas-one-belt-one-road-initiative/>.

¹⁹⁵ *Ibidem*.

¹⁹⁶ *Ibidem*.

¹⁹⁷ The 16+1 format is an initiative by the People's Republic of China aimed at intensifying and expanding cooperation with eleven EU Member States and five Balkan countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Macedonia, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia) in the fields of investments, transport, finance, science, education and culture. In the framework of the initiative, China has defined three potential priority areas for economic cooperation: infrastructures, high technologies, and green technologies.

¹⁹⁸ See Philippe LE CORRE, *Europe's mixed views on China's One Belt, One Road initiative*, in "Brookings", 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/05/23/europes-mixed-views-on-chinas-one-belt-one-road-initiative/>.

Major BRI infrastructure projects are now starting to take shape in Europe, but not without controversy. An example of infrastructure is the high-speed railway between Belgrade and Budapest, built by one of China's top state-owned enterprises. However, Hungary is currently under investigation for possible violations of EU transparency requirements in public tenders in relation to the project.¹⁹⁹

Athens's Piraeus Harbor is another major piece of infrastructures which has become representative of China's "offensive" in Europe. Since 2016, the Greek harbor has been controlled by China Ocean Shipping Company (COSCO)²⁰⁰, which acquired 51% of the Port Authority and will be able to acquire a further 16% by 2021, following substantial investments. The idea is quite simple: through the "Maritime Silk Road"²⁰¹ and the extension of the Suez Canal, China will be able to reach the Mediterranean Sea and will use Piraeus as a platform for Chinese companies and goods. In fact, COSCO intends to turn Piraeus into one of the largest container transit ports in Europe.²⁰²

In 2016, Chinese foreign direct investments in the EU reached 35 billion euro, a 77% increase over the previous years. While some Eastern and Southern European States (non EU members) often have little alternative to Chinese capital, Western Europe has a different, more nuanced perception of China, hence the determination to protect sensitive technologies which could affect Europe's long-term strategic independence and/or security.²⁰³

¹⁹⁹ See Philippe LE CORRE, *Europe's mixed views on China's One Belt, One Road initiative*, in "Brookings", 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/05/23/europes-mixed-views-on-chinas-one-belt-one-road-initiative/>.

²⁰⁰ China Ocean Shipping (Group) Company, known as COSCO or COSCO Group, is a Chinese state-owned shipping and logistics services supplier company. It is the largest dry bulk carrier in China and one of the largest dry bulk shipping operators worldwide. In addition, the Group is the largest liner carrier in China.

²⁰¹ Maritime Silk Road (or Maritime Silk Route) refers to the maritime section of historic Silk Road which connects China to Southeast Asia, Indonesian archipelago, Indian subcontinent, Arabian Peninsula, Somalia and all the way to Egypt and finally Europe. It is nowadays part of the OBOR implementation plan (and complement to it) as a way to reach OBOR countries and expand Chinese economic strength also through maritime routes.

²⁰² See Philippe LE CORRE, *Europe's mixed views on China's One Belt, One Road initiative*, in "Brookings", 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/05/23/europes-mixed-views-on-chinas-one-belt-one-road-initiative/>.

²⁰³ *Ibidem*.

As already mentioned in the previous paragraphs, reciprocity is a very delicate issue. In fact, Brussels is concerned about it and its consequential access to the Chinese market for European companies. Despite several years of negotiations, there is still no bilateral investment treaty, and European companies have found it increasingly difficult to do business in China over the last years.

However, there has been no unified European Union's policy toward BRI yet. Several EU countries and cities have been particularly receptive to Chinese investors, while others have been more cautious; seeking for guarantees from China which can assure that it will follow international standards and not pursue exclusively its geostrategic interests. It is fair to say that the OBOR represents many opportunities for Europe, but we have also to say that it is primarily a Chinese project which will help China to expand its influence in the vast Eurasia region in future decades. Another question mark is about foreign countries' effective participation. In fact, it is not clear what level of control China's "partners" will have. For the past few years, China demonstrated its ability to divide European countries by creating new entities such as the "16+1" mechanism and by encouraging European Union members to join the Beijing-run Asian Infrastructure Investment Bank (AIIB). In 2015, the U.K. broke ranks with other EU members (and the United States) by announcing it was joining the AIIB, forcing others to follow without delay.²⁰⁴

As already explained, foreign countries are worry about many issues concerning the OBOR project. The environmental and energy sector issues are main topics in this context. China's Belt and Road Initiative could have major implications for the future of energy across many parts of the world. The Chinese government has issued guidance on promoting a "Green Belt and Road," in order to highlight how to incorporate the principles of resource efficiency and

²⁰⁴ See Philippe LE CORRE, *Europe's mixed views on China's One Belt, One Road initiative*, in "Brookings", 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/05/23/europes-mixed-views-on-chinas-one-belt-one-road-initiative/>.

environmental awareness into the whole program, touting the need to develop a global energy interconnection and achieve green and low-carbon development.²⁰⁵

However, the question is: are these environmental protections real? Global energy demand has been expected to rise 30% between 2017 and 2040, but Southeast Asia, one of the focus regions in the Belt and Road effort, is looking at growth in energy demand of nearly 70% over the next 25 years. This growth will require an enormous investment in new infrastructures; and while domestic policies in Southeast Asian nations will be paramount, the Belt and Road will undoubtedly influence whether new power plants in Southeast Asia and other high-growth regions are coal or clean.²⁰⁶

Outside its own borders today, China is involved in more than a hundred coal-fired power plant projects, both in active planning and construction phases. Coal plant planning and construction timelines are long, and Western countries were supporting coal projects in many of these countries long time before Chinese involvement, so at least some of the large number of coal plants in the pipeline can be explained by inertia in the system.²⁰⁷

Belt and Road related coal projects declined last year, but today, the data does not show a clear trend. The coal slow-down could be sustained even if China's infrastructure investments continue apace, as the result of many factors, not the least of which is the fact renewable energies have been beating coal on cost alone, but also a strengthening connection between the green promises and the actions of the Belt and Road Initiative.²⁰⁸

Last year, as coal investment slowed, China also issued nearly \$25 billion worth of green bonds for infrastructure investments (in the context of \$188.8 billion in outward foreign direct investment). The proceeds of those bonds are being used for clean energy, clean transport, resource conservation and recycling, pollution prevention and control, and energy efficiency, in approximately equal

²⁰⁵ See Sonia AGGARWAL, *The China Belt And Road Initiative Could Help - Or Hurt - Clean Energy In Emerging Economies*, in "Forbes", 2017, <https://www.forbes.com/sites/energyinnovation/2017/12/04/the-china-belt-and-road-initiative-could-help-or-hurt-clean-energy-in-emerging-economies/#2e1b2871506e>.

²⁰⁶ *Ibidem*.

²⁰⁷ *Ibidem*.

²⁰⁸ *Ibidem*.

shares (17-21% each). A smaller share (8%) of proceeds is going to ecological protection and climate change adaptation.²⁰⁹

China intends to spend more than \$360 billion through 2020 on domestic solar and wind power, but given the current policy and market framework in China, energy from these new resources is often crowded out on the grid by coal-fired generation, despite being less expensive on a marginal cost basis.

Due to domestic policies and market advancements, the Chinese grid is already getting better at maximizing energy from renewable resources, but this could be further helped by building out transmission lines within China as well as better integrating with neighboring regions. Furthermore, if excess power generation persists on China's grid, it could be exported to neighboring regions to meet growing energy demand. Certainly, using the Belt and Road-related overseas investments to build clean power plants, rather than coal would help solidify China's leadership in the global energy industry of the future.²¹⁰

These recent developments are promising for the green future of the Belt and Road Initiative. Just as the United States looks to be forfeiting its seat at the negotiating table for international trade deals, China is stepping into the lead, going beyond the old-fashioned trade agreements to emphasize infrastructures and better energy connectivity over much of the globe. Of course, if China's Belt and Road Initiative is truly green, it will have global benefits.²¹¹

Although connectivity is both a Chinese and a European concept, it is easy to understand why certain European leaders are reluctant to give China carte blanche to invest in the continent's infrastructures. To sum up, we can affirm that Europe and China have similar aims: preserving jobs; fueling economic growth and maintaining social stability. The main issue is that they may not achieve these goals in the same ways.

²⁰⁹ See Sonia AGGARWAL, *The China Belt And Road Initiative Could Help - Or Hurt - Clean Energy In Emerging Economies*, in "Forbes", 2017, <https://www.forbes.com/sites/energyinnovation/2017/12/04/the-china-belt-and-road-initiative-could-help-or-hurt-clean-energy-in-emerging-economies/#2e1b2871506e>.

²¹⁰ *Ibidem*.

²¹¹ *Ibidem*.

The OBOR plan is often referred to as a Eurasian infrastructure network initiative, but it is in fact much more than that. The African involvement in the world, concerning Chinese investments in this continent, many times is underestimated and considered not worthy of attention.

3.3. Concluding remarks

In this chapter, I have analyzed both positive and negative reactions foreign countries and enterprises show when they are the object of Chinese investments. My attention has focused above all on the OBOR plan, in order to understand project passive and active players' contribution to it.

We can say that there is always a kind of prejudice when talking about China and Chinese investments in the rest of the world. The issues which make customers, companies and foreign governments worry about Chinese economic moves abroad concerns many themes, such as products' safety and security, quality and the lack of knowledge about a different culture and about a country which, we already know, hides many issues about its business routines, economic purposes and laws. These are the reasons why Chinese entrepreneurs have to face many challenges when investing in foreign countries.

These difficulties are stronger to face when talking about the initiatives and projects related to the OBOR plan. Generally speaking, we can say that this new economic route designed by the Chinese government has been positively accepted by the majority of countries all over the world, above all developing economies, which see in the OBOR initiative a good way to reach resources and technologies, in order to develop their internal economies and global agreements. However, concerning this project, foreign countries are more worry about their legal and economic contribution and international standards, concerning above all environmental issues.

Most Chinese enterprises have little or no awareness of the differences they will face prior to their arrival in foreign states. Chinese enterprises tend to have a

short-term focus with respect to the establishment of operations abroad. Initial over-simplistic tax planning provides a good example of this short-term view. Most Chinese enterprises do not possess any depth knowledge of the markets abroad. Furthermore, most enterprises express that they did not have a detailed understanding of other countries' business rules, nor of tax, legal, financial, human resources and immigration issues. Marketing and branding are underestimated strategies to penetrate these new markets. Relating to this fact, I would advise a Chinese enterprise to ask advice and work with professional advisors. They cannot just set up a company without any local knowledge. They need a good preparation concerning all the differences, from cultural to legal frameworks. Therefore, a good method could be developing a robust expansion plan with the assistance of local external professional advisors.

There are of course many precautions Chinese companies could follow when investing in foreign countries and enterprises, in order to facilitate their setting and receiving acceptance.

First of all, a good perform market research, or feasibility studies to gain knowledge about the market prior to investment could be the first step when deciding entering a new and unknown market.

The "Be where your customers are" is the mantra which most successful companies use for their global expansion. However, Chinese companies many times find it very difficult due to the cultural differences. Being closer to customers gives companies a chance to observe and learn about their clients' needs and behaviors, and to develop suitable products for that specific market. This is the same when we refer to companies and possible acquisitions or other types of investments.

Market presence in some countries (above all open economies) provides Chinese companies with the advantage of learning more about those markets and customers, anticipating their needs by modifying existing products or rolling out entirely new ones for each market. Moreover, starting a business in a country in a continent different from Asia will provide an opportunity to help serve other Chinese customers in that continent as well. The same mental process can be followed when talking about companies and industry sectors. Most managers

stress the fact that they want to serve their clients around the world and retain the high quality of service.

As far as competition is concerned, the fact that Chinese enterprises face increasing competition in both local and international markets has become a major driver for them to choose some specific countries and/or industry sectors. Chinese enterprises face stiff competition from all over the world and most of the major players have a strong foothold above all in the European and American markets. In order to reap the early mover advantage, more and more Chinese enterprises are building either manufacturing units or distribution centers in these countries. Chinese enterprises are also directing more attention to producing goods which suit the host country's taste and needs, rather than trying to sell "one-size-fits-all" products. Benchmarking their operations and strategies with global competitors gives Chinese businesses an opportunity to fine-tune their products and services to cater to the specific needs of the new markets. Competition between SOEs which are operating in the same industry in China is fierce, and abroad they fight for the same piece of cake with the competition.

One of the main issues Chinese companies should consider the most is to build a global image. Many Chinese companies' managers interviewed for a study mentioned that they want to show both clients and competitors that they are global companies. Many of them declared that if the company does have an image in Europe and America, it means that it has a global image and can be defined a global firm.

The distribution and logistics network around the new markets is considered an important driver for Chinese enterprises which are operating in industries related to the trading of goods and services. Chinese companies should exploit the most the infrastructures around the world, but respecting international standards in order not to make other countries worry about their presence. This is what Chinese government would like to do in order to realize the OBOR project.

Another method should be using all kinds of means to learn about the laws and regulations. Build a network to keep informed and updated on regulatory changes. Participate in organizations which work closely with the foreign countries' governments. An essential step is mingling with the local business community and

including locals and experts in your team. Hiring local staff, where possible bilingual or trilingual employees, is an effective way to overcome language barriers. To avoid tax and legal risks, as well as penalties, Chinese companies should engage external providers on a regular basis.

All these problems and possible solutions mentioned above seem to be far one from the others, but they are all linked, and this is the reason why Chinese entrepreneurs and companies face many challenges (and also prejudices) when going abroad. In my opinion, a mutual and reciprocal effort should be made by both parties, the Chinese and the foreign one, because a good, but above all fair and transparent cooperation, can bring positive feedbacks and results to both parties, in terms of profits, businesses and also open-mindedness for future possible relationships and cooperation.

4. Case of Africa: Chinese investments in the African continent

Summary: 4.1. Fields of investment: why Africa?; 4.2. Figures and methods used to invest in Africa; 4.3. African government and firms' reactions; 4.3.1. Africa and OBOR: a second Belt in this continent; 4.4. Concluding remarks.

Africa is no stranger to exploitation. After decades of colonial rules under major Western powers, the continent was left with a legacy of harsh, imperialist rules, which set it back years in modernization. As a result, Africa has become the focus of mountains of developmental assistance from countries hoping to foster social, institutional and infrastructural changes, totaling over US \$ 300 billion since 1970 alone.²¹² This assistance was often conditional, with aid dependent on a country's human rights track record. The West, however, has ceased to be Africa's only option when we refer to aid and development. Recently, a number of African countries have become increasingly drawn to China's "no-strings attached" development assistance and promises of growth. While these policies certainly create economic gains for Africa, the vestiges of colonialism evident in these relationships raise questions about the true cost of realizing these benefits.²¹³

Despite criticisms of colonialism, these kind of agreements have provided Africa with significant benefits. China, for its part, has gone out of its way to deny claims of colonial abuses. Wang Yi, China's Foreign Minister²¹⁴, insisted that China absolutely will not take the old path of Western colonists and that absolutely the

²¹² See Elizabeth MANERO, *China's Investment in Africa: The New Colonialism?*, in "Harvard Political Review", 2017, <http://harvardpolitics.com/world/chinas-investment-in-africa-the-new-colonialism/>.

²¹³ *Ibidem*.

²¹⁴ He is the leader of the Ministry of Foreign Affairs of the People's Republic of China. The Ministry of Foreign Affairs of the People's Republic is an executive agency responsible for foreign relations between the People's Republic of China and other countries in the world.

PRC will not sacrifice Africa's ecological environment and long-term interests. Indeed, this relationship is not as black and white as it may first seem.

It is difficult to paint the relationship between China and Africa with one broad brush. Africa itself is made up of diverse countries and each of them strikes independent deals with China and goes through its own economic ups and downs. Despite this, the continent as a whole has seen positive change as a result of Chinese policies and developmental aid.

This is the last chapter of my thesis and it will analyze Chinese investments from an African point of view, focusing the attention on the main reasons why China has decided going to Africa in the last decades and on the methods used to invest in this country (considering the possible differences when investing in America and Europe). Another topic of this chapter will be African countries' benefits in giving Chinese enterprises the possibility to exploit their resources. The last part will be focused on the features of the African Belt, a contribution to the Chinese OBOR project, considering the investments and agreements made by Chinese and African parties, in order to build a network of infrastructures to realize the plan.

4.1. Fields of investments: why Africa?

Since 2000, China has emerged as Africa's largest trading partner. Chinese direct investments in and lending to African countries have grown rapidly as well. This Chinese engagement in Africa has no doubt led to faster growth and reduce poverty in the continent. Per capita growth rate of the average African economy surged from 0.6% per year in the 1990s to 2.8% in the 2000s.²¹⁵ African countries have strengthened their institutions and macroeconomic policies, and that is one of the main factors in the growth acceleration. However, demand from China for

²¹⁵ See Wenjie CHEN, David DOLLAR, Heiwai TANG, *Why is China investing in Africa? -Evidence from the firm level-*, p.2, 2015, PDF, <https://www.brookings.edu/wp-content/uploads/2016/06/Why-is-China-investing-in-Africa.pdf>.

the continents' main exports – oil, iron, copper, zinc, and other primary products – led to better terms of trade and higher export volumes, other important factors in the growth accelerations.

The level of Chinese investments in the African continent is increasing at a rate fast enough to raise concerned eyebrows in the West. Primary motivations which lie behind China's push toward increased investments in African nations include the desire to secure a solid base of raw materials to fuel China's own rapidly growing economy; the desire to increase China's global political influence and the major growth opportunities presented by emerging market economies in Africa.²¹⁶

China's total investments in African nations are still at a lower overall level than that of some Western and developed countries; but the pace at which China's investments in Africa are growing completely dwarfs that of any other country. Mining and oil remain a primary focus of China's investments; however, Chinese investments extend throughout virtually every market sector, including everything from infrastructures to food processing. China's investments in the largely undeveloped infrastructures of African nations are particularly strong, encompassing key areas such as utilities, telecommunications, port construction and transportation.²¹⁷

Firstly, China started investing in Angola in 2004, when a Chinese program of road investments was agreed in exchange for a share of Angola's vast oil reserves. Five years later, China became the biggest trading partner not only for Angola, but for the whole African continent. In 2014, China pledged investments of US \$ 20 billion in African infrastructures alone. However, there is much more than roads and bridges: Chinese investments in Africa are in the tens-of-billions of dollars, and cover everything from real estate to minerals, to financial services.²¹⁸

Chinese investments, as already said, are mainly intended at sourcing raw materials to feed China's manufacturing sector, with almost no other local

²¹⁶ See J.B. MAVERICK, *The 3 Reasons Why Chinese Invest in Africa*, in "Investopedia", <https://www.investopedia.com/articles/active-trading/081315/3-reasons-why-chinese-invest-africa.asp>.

²¹⁷ *Ibidem*.

²¹⁸ See Stefano POZZEBON, *China has crossed a major investment threshold that is going to change the entire world*, in "Business Insider (UK)- Politics-", 2015, <http://uk.businessinsider.com/statistics-on-chinas-investment-abroad-2015-2?IR=T>.

processing than shipping them from the mine to the harbor. Africans, however, early started complaining of the drawbacks of this practice, since they lose the opportunities to create job positions, because all the jobs are made by Chinese in China.

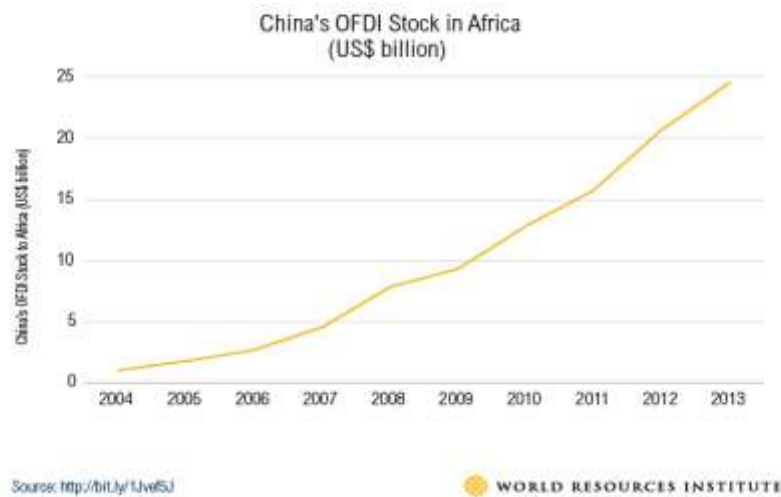


Figure 2: *China's OFDI in Africa from 2004 to 2013.*

Source: WORLD REOSOURCES INSTITUTE, 2015

However, Chinese investments are not driven only by the need of raw materials to import inside the PRC, but Chinese investors are also thinking about possible future opportunities of investments in the African continent, above all referring to the infrastructure sector. In fact, Africa's population, since 2010, has officially surpassed one billion. It is projected to be more than two billion by 2050, and possibly more than four billion by the end of the century, almost as much as in Asia. This demographic growth will likely produce a faster-growing domestic demand, which will also be supported by an increased purchasing power thanks to remittances from the diaspora. In the face of this challenge, the continent's leaders understand that the private sectors must play a forward-looking role. To facilitate that, African governments are making efforts to create a suitable

environment for private sector-led activities and hence, encouraging also foreign direct investments.²¹⁹

On the other hand, over the past two decades, China's robust economic growth and rapidly expanding presence in global markets have greatly intensified its trade ties with sub-Saharan Africa. China's remarkable 10% average growth rate between 2000 and 2012 has fueled a steadily rising demand for oil, minerals and other primary commodities, many of which are abundant in sub-Saharan Africa.²²⁰ China has now become a major development partner for countries throughout the continent, and its trade, investments, diplomatic and political relationships with sub-Saharan African countries continue to strengthen.²²¹

Business services, sales, marketing & support and manufacturing were the top three business activities for FDI projects into Africa in 2015. Despite being the fastest-growing business activity by capital investments in 2014, the value of extraction projects dropped from 32% in 2015 to US \$15.1 billion. Infrastructure-related business activities such as electricity, construction and ICT & Internet infrastructures made up 13% of all projects into Africa and accounted for 44% of capital invested. Electricity, in particular, saw a 49% increase in capital investment and a 91% increase in project numbers.²²²

Much of China's outbound direct investment in sub-Saharan Africa is closely linked to trade. Official figures from the Chinese Ministry of Commerce suggest that ODI to sub-Saharan Africa reached US \$2.52 billion in 2012 and US \$3.4 billion in 2013. In 2012, the total stock of Chinese ODI was US \$20 billion, yet this accounted for just 5% of the total inward foreign direct investment stock in Africa. Meanwhile, the importance of sub-Saharan Africa and Africa as a whole in China's total ODI stock remains below 5% and has not changed very much since 2006. In other words, Africa has benefited from China's rising ODI outflows, but no more so than other regions.²²³

²¹⁹ See Sarah NASSIRI, *China's investment in Africa*, in "How we made it in Africa- Africa business insight", 2017, <https://www.howwemadeitinafrica.com/chinas-investment-africa/58480/>.

²²⁰ *Ibidem*.

²²¹ *Ibidem*.

²²² *Ibidem*.

²²³ *Ibidem*.

As far as sub-Saharan Africa is concerned, China is investing most heavily in energy sector and in the extractive industries; it is a pattern similar to its investment strategy in other parts of the world. Considering West Africa, however, Chinese investments are concentrated more in the transportation sector. In fact, from 2005 to 2012, the West African transportation sector received 36% of China's total ODI flows to the region, substantially higher than the 14% average worldwide. Transport equipment is above all related to mineral extraction, a sector where Chinese firms are highly concentrated. Transportation is followed by the mining and metallurgy sectors, with 32% of total regional investments, also well above the 16% average worldwide. Energy attracted the third-largest share of Chinese ODI at 28%, lower than the 46% worldwide average.²²⁴

Chinese investors' run to Africa has to face many challenges. Given that much of the recent economic success has been due to Africa's increased access to Chinese markets, as China's economy slows, projections for African growth do as well. In 2015, Chinese imports from Africa dropped 40% and price fluctuations in oil and food prices made economic prospects harder than before. Successful development cannot only depend on the prosperity of foreign actors, but it will require also meaningful policy initiatives, which focus on long-term economic sustainability.²²⁵

Unfortunately, many African nations have missed a vital opportunity to enact this change while their economies were showing promising growth. In other words, many African countries have not been able to use the wealth created on the basis of natural resources for economic transformation. They have not upgraded their country's infrastructure and/or skills levels to a sufficient degree. Despite this slowdown, African nations, over the last years, have been weathering the situation.

A part from Angola, at the beginning of its "journey" in Africa, China has focused its attention above all on Egypt, in order to create strong relationships and to control a strategic route for international trade, that is to say the Suez Canal.

²²⁴ See Sarah NASSIRI, *China's investment in Africa*, in "How we made it in Africa- Africa business insight", 2017, <https://www.howwemadeitinafrica.com/chinas-investment-africa/58480/>.

²²⁵ See Elizabeth MANERO, *China's Investment in Africa: The New Colonialism?*, in "Harvard Political Review", 2017, <http://harvardpolitics.com/world/chinas-investment-in-africa-the-new-colonialism/>.

Beijing wanted to invest in this country also because the Egyptian government had affirmed its intentions to open up to foreign countries' investments.

Even though this African country has a strong workforce and many advantages given by the geographic position, there are many internal problems. These last are caused by an obsolete system of infrastructures and inadequate levels of industrial and manufacturing sectors. In order to improve the situation, the Egyptian government would like to set up an economic plan, which includes the built of thousand industrial facilities.²²⁶ Between 2015 and 2016, diplomatic exchanges between Cairo and Beijing intensified and in 2015 the two governments signed an agreement on Sino-Egyptian cooperation to strengthen industrial production in the North African country.²²⁷

At the beginning of 2016, the China Electric Power Equipment and Technology and the Egyptian Ministry of Electricity and Energy have ratified an agreement for the EETC (Egypt Electricity Transmission Company) with the aim of achieving the 500kV Transmission Lines Project. It should be developed in the area of the Nile Delta and it involves the construction of 1.210 kilometers of electric cable line and a power output of 500kV; the works should end in eighteen months at the price of US \$650 million. When completed, it will increase the efficiency of the Egyptian national electricity system. The project will promote the economic and energy development of the country.²²⁸

These agreements, which aim at consolidating the relationships between China and Egypt, will give Chinese investments a new impetus to Egyptian development in order to make Egypt one of the first countries of the New Silk Road, which is the ultimate goal of Chinese interventions in Africa.

As we already affirmed at the beginning of this chapter, the need for raw materials is not the only factor pushing China to invest in African countries. In fact, other reasons are covered by political motivations. The African continent is a logical place for China to look to extend its geopolitical influence. China is already

²²⁶ See Francesco CIRILLO, *La Cina "colonizza l'Africa investendo miliardi di dollari*, in " Notizie geopolitiche –quotidiano indipendente on line di geopolitica e politica estera-", 2017, <http://www.notiziegeopolitiche.net/la-cina-colonizza-lafrica-investendo-miliardi-di-dollari/>.

²²⁷ *Ibidem*.

²²⁸ *Ibidem*.

the preeminent power in Asia. India, a historically traditional rival of China, is not a realistic choice for China to look for an increase in political influence, but the largely undeveloped countries of Africa represent a prime opportunity for China to significantly expand its global presence and influence in the world. The nature of China's political motivations are partially revealed by its extensive investments in African infrastructures. If China can rise to a position where it exerts major control over essential economic elements, such as the utilities sector and telecommunications in African countries, then it also holds considerable political influence in those nations.²²⁹

Africa is reaping economic benefits, but there is no doubt that China's interests in the continent go beyond mere altruism. Economically, both the private and public sector in China are benefiting from this developing relationship. Chinese companies are getting new business investments and the country as a whole gets steady access to much needed natural resources.

Beyond these obvious gains, however, China also receives a number of less easily quantifiable benefits. In terms of great power rise, Africa carries an enormous amount of diplomatic weight in shifting China's diplomatic and political influence away from U.S., Western dominated world order.²³⁰

4.2. Methods used to invest in Africa

As already explained in the previous paragraph, it is against the backdrop of its growing thirst for energy supplies that China in recent years has emerged as one of the most active foreign powers on the African continent. After its initial misconceived ideological foray into the region during the 1960s and 1970s, China became a marginal player on the continent during the 1980s and early 1990s.

²²⁹ See J.B. MAVERICK, *The 3 Reasons Why Chinese Invest in Africa*, in "Investopedia", <https://www.investopedia.com/articles/active-trading/081315/3-reasons-why-chinese-invest-africa.asp>.

²³⁰ See Elizabeth MANERO, *China's Investment in Africa: The New Colonialism?*, in "Harvard Political Review", 2017, <http://harvardpolitics.com/world/chinas-investment-in-africa-the-new-colonialism/>.

However, the collapse of communism and China's rapid shift to a market oriented economy saw the return of Beijing into Africa with a much more determined strategic outlook focused on the development of trade, new markets and the acquisition of new energy/commodity resources.²³¹

The keywords "China", "Africa" and "infrastructures" are often associated with the "Angola model", which is a special model for a development partnership. The term was coined in 2008, when Angola preferred an oil-backend credit from China's Exim Bank²³² over a credit from the IMF.²³³ In that occasion, China's benefit was not only the oil, but also the requirement that 70% of the infrastructure projects realized thanks to the credit had to be assigned to Chinese companies thus creating jobs for Chinese.²³⁴

Infrastructure projects play a very important role in the Chinese-African Union relationships. The African union's dream has always been connecting all fifty-four capitals via high speed railways. China would like to help to make that dream come true. Already in 2015 and 2016, both parties signed Memorandum of Understanding (MoUs)²³⁵ on cross-continental infrastructure development, including railways, highways and aviation.²³⁶

China's official statistics on the country's overseas direct investments in Africa reveal a number of paradoxes. China's investment in Africa is both big and small. It is small in the sense that China is a latecomer to Africa and accounts for only a very small share of the total stock of foreign investments on the continent. On the

²³¹ See Ide-Jetro (Institute of Developing Economies Japan External Trade Organization), *China in Africa*, http://www.ide.go.jp/English/Data/Africa_file/Manualreport/cia_05.html.

²³² The Export-Import Bank of China (Chexim - China Exim Bank) is one of three institutional banks in China chartered to implement the state policies in industry, foreign trade, diplomacy, economy and provide policy financial support so as to promote the export of Chinese products and services. It was established in 1994 and it is subordinated to the State Council.

²³³ The International Monetary Fund (IMF) is an international organization headquartered in Washington, D.C., consisting of 189 countries, working to foster global monetary cooperation, secure financial stability, facilitate international trade, promote high employment and sustainable economic growth and reduce poverty around the world.

²³⁴ See Julia BREUER, *Two Belts, One Road? The Role of Africa in China's Belt & Road initiative*, in "Stiftung Asienhaus- Blick Wechs", p. 2, PDF.

²³⁵ A memorandum of understanding (MoU) is a type of agreement between two or more parties. It expresses a convergence of will between the parties, indicating an intended common line of action. It is often used in cases where parties either do not imply a legal commitment or in situations where the parties cannot create a legally enforceable agreement.

²³⁶ See Julia BREUER, *Two Belts, One Road? The Role of Africa in China's Belt & Road initiative*, in "Stiftung Asienhaus- Blick Wechs", p. 2, PDF.

contrary, it is big in a relative sense, however. The world as a whole has six times as much direct investment in the U.S. as in Africa, reflecting the fact that most FDI goes to advanced economies. China's pattern of investments is different, however. In the end of 2013, China had more ODI in Africa (US \$26 billion) than in the U.S. (US \$22 billion). So, China's relative focus on Africa is large, though it is still a small player in investment overall.²³⁷

Chinese officials have been looking towards Africa since the Cold War, notably for political reasons. Since then, China has rapidly increased its ties to the African continent, due to the strategic importance of this area for the Chinese economy.

China's economic scramble into Africa follows a mercantilist approach using state resources to underpin state controlled business entities with economic objectives at variance with traditional Western multi-national corporations. For instance, Chinese state corporations seek more than just profit for their shareholders.

Underpinning China's entry into the African energy and telecommunications sectors has been a calculated effort to create close economic alliances with local state-owned enterprises. By doing so, China has been able to move closer to the political elites which dominate the decision-making process of such SOEs and they are able to influence broader strategic decisions pertaining to the development of the local energy and telecommunication sectors. Alliances between state companies are invariably based upon bilateral arrangements underpinned by aid and to marriages of convenience between minnows and majors, each trading political connections for capital, technical expertise and legitimacy.

As mentioned before, one of the main efforts made by Chinese investors is investing in African infrastructures, in order to create bases for future relationships. One of the most clear example of this approach is the investment in the Suez Canal, making the relationships between China and Egypt stronger and stronger.

A concrete example of the strong economic relationship between the two countries is the China-Egypt Suez Economic and Trade Cooperation Zone, launched

²³⁷ See Wenjie CHEN, David DOLLAR, Heiwai TANG, *Why is China investing in Africa? -Evidence from the firm level-*, p.5-6, 2015, PDF, <https://www.brookings.edu/wp-content/uploads/2016/06/Why-is-China-investing-in-Africa.pdf>.

in 2009 in the North Western part of the Gulf of Suez. It is an area located 120 kilometers from Cairo and it is close to the area affected by the expansion of the canal. In short, it is positioned at an ideal point for the transfer of the Chinese productivity surplus. In 2013, the investments amounted to about US \$90 million, the 58 companies that had set up had attracted about US \$610 million of investments and created about two thousand jobs.²³⁸

A clear example of Chinese infiltration in Egypt can be seen in the business of Jushi Group Corporation, one of the world's leading glass fiber companies, which settled in Egypt in 2012. After two years, the company invested US \$223 million and planned the production of nearly eighty thousand tons of glass fiber per year.²³⁹ Currently, the Jushi Group Corporation is the largest Chinese company present in Egypt. This company's actions will modernize the Egyptian industry in the production of composite materials; it will make a huge contribution to employment and to the rise in management and the increase in foreign exchange reserves in Cairo. At the beginning of 2016, Chinese president Xi Jinping signed two five-year programming agreements, in order to strengthen the Sino-Egyptian partnership. The planned initiatives range from electrical, infrastructural, commercial, space, technological and cultural sectors, for a total value of US \$15 billion.²⁴⁰

These agreements, which aim at consolidating relationships between China and Egypt, will give Chinese investments a new impetus to Egyptian development in order to make Egypt one of the first countries of the New Silk Road, which is the ultimate goal of Chinese interventions in Africa. A goal that, if implemented, will bring great economic benefits to both China and the African countries concerned. However, this will be the central focus of the next paragraph.

Why are Chinese investors more willing to invest in African countries than Western powers? If Africa's economy is projected to expand by 3.7% in following

²³⁸ See Francesco CIRILLO, *La Cina "colonizza" l'Africa investendo miliardi di dollari*, in "Notizie geopolitiche –quotidiano indipendente on line di geopolitica e politica estera–", 2017, <http://www.notiziegeopolitiche.net/la-cina-colonizza-lafrica-investendo-miliardi-di-dollari/>.

²³⁹ *Ibidem*.

²⁴⁰ *Ibidem*.

years according to the OECD²⁴¹, the continent will be severely indebted and will face problems, such as political instability, corruption and poor infrastructural development. From this point of view, Chinese investors have a competitive advantage towards more risk-averse European or American investors. As banks are mostly state-owned, Chinese investors do not consider an investment through the same framework as international investors.

Now we consider the specific allocation of China's investments among African countries. To see clearly the differences between Chinese ones and Western investments, we will use the data on the stock of Chinese ODI in forty nine African countries at end of 2012 from the Ministry of Commerce. A useful point of departure is the allocation of the overall stock of FDI among those forty-nine countries. Globally, the allocation of FDI can be explained quite well by a parsimonious set of variables which measure the market size (total PPP²⁴² GDP); natural resource rents as a share of the economy and governance. It is important to mention that also population seems to matter as a measure of economic size, not just total GDP.

Generally speaking, we can affirm that the allocation of FDI across forty nine African countries follows the global pattern. FDI is attracted to larger markets with an elasticity²⁴³ of 0.74. Other things equal, resource rich countries receive more FDI. The standard deviation across African countries of the resource rents variable is 17.6, so that the coefficient indicates that one standard deviation richer in resource wealth attracts 49% more FDI. Finally, FDI prefers an environment of

²⁴¹ The Organization for Economic Co-operation and Development (OECD) is an intergovernmental economic organization with thirty six member countries, founded in 1961 in order to stimulate economic progress and world trade. It is a forum of countries describing themselves as committed to democracy and to market economy, providing a platform to compare policy experiences, seeking answers to common problems, identifying good practices and coordinate domestic and international policies of its members.

²⁴² The purchasing power of a currency refers to the quantity of the currency needed to purchase a given unit of a good, or common basket of goods and services. Purchasing power is clearly determined by the relative cost of living and inflation rates in different countries. Purchasing power *parity* means equalizing the purchasing power of two currencies, by taking into account these costs of living and inflation differences.

²⁴³ Elastic is a term used in economics to describe a change in the behavior of buyers and sellers in response to a price change for a good or service. How the demand for the good or service reacts in response to a change in price determines the demand elasticity or inelasticity for that good. The elasticity of a good or service can vary according to the number of close substitutes, its relative cost and the amount of time that has elapsed since the price change occurred.

good property rights and rule of law.²⁴⁴ Across African countries the standard deviation of the rule of law index is 0.49, so one standard deviation better on rule of law attracts 31% more investments.²⁴⁵

Chinese ODI is positively correlated with market size and natural resource wealth, with coefficients similar to those in the equation for overall FDI. Furthermore, Chinese ODI is positively correlated with the index of political stability. China has a modestly stronger attraction to natural resources and in terms of governance favors political stability over property rights/rule of law. This relationship makes sense given that some significant part of the volume of Chinese investments in Africa is tied up in state-to-state resource deals. China is more concerned with the political stability of the government, rather than with the environment of rule of law in the domestic economy. Political stability and rule of law are fairly highly correlated. Still, there are countries which are rated to be significantly better on political stability than on rule of law. Some examples are Angola, Eritrea, Madagascar, Zambia, and Zimbabwe, all of which have significant Chinese investment relative to their total FDI.²⁴⁶

Since Chinese investment is indifferent to the property rights/rule of law environment, there are similar amounts of Chinese investments in good governance countries and poor governance countries. For example, if we divide the forty nine African countries into three groups based on the Rule of Law index in 2012, the stock of Chinese ODI is nearly the same in the good governance countries, as in the poor governance ones.²⁴⁷ For the stock of FDI, on the other hand, nearly 60% is in the good governance environments, compared to 25% in the poor governance environments. These patterns together mean that the countries

²⁴⁴ The rule of law is the "authority and influence of law in society, especially when viewed as a constraint on individual and institutional behavior; the principle whereby all members of a society (including those in government) are considered equally subject to publicly disclosed legal codes and processes". The phrase "the rule of law" refers to a political situation, not to any specific legal rule. The rule of law implies that every person is subject to the law, including people who are lawmakers, law enforcement officials, and judges. In this sense, it stands in contrast to an autocracy, dictatorship, or oligarchy where the rulers are held above the law.

²⁴⁵ See Wenjie CHEN, David DOLLAR, Heiwai TANG, *Why is China investing in Africa? -Evidence from the firm level-*, p.7, 2015, PDF, <https://www.brookings.edu/wp-content/uploads/2016/06/Why-is-China-investing-in-Africa.pdf>.

²⁴⁶ See *Ibidem*, p. 8.

²⁴⁷ *Ibidem*.

in which China's share of inward investments is large tend to be ones with poor governance.²⁴⁸

Considering the data of MOFCOM mentioned above, there is, however, no information on the amount of the deals or the name of the target for mergers and acquisitions. The raw data contains 2005 deals at the firm level, covering forty nine countries on the African continent.²⁴⁹ Deals tend to be more concentrated in the East and South African regions, whereas Central and West Africa, with the exception of Nigeria, have relatively fewer deals. In East Africa, countries such as Ethiopia, and to some extent Kenya and Tanzania, are relatively resource poor compared to some of the Southern African countries such as Zambia, Angola, and South Africa. Some of the reasons why East Africa stands out as a popular destination for these private Chinese investments are its relatively more developed infrastructures, including ports, and its relative closeness to China.²⁵⁰ Within each transaction, we categorize the types of projects Chinese investing firms are conducting in the destination countries. Experts usually categorize projects into different industries. The most common are manufacturing, service and mining sectors.

Data show that about 60% of the projects are in service sectors, with the remaining portion almost evenly split between manufacturing and natural resources. The two sectors which received the most Chinese ODI in terms of the number of deals are business service (1053 deals) and import and export (539 deals).²⁵¹ While choosing the sectors, Chinese investors measure variables. For the sector characteristics, they explore the varying factor intensity of production across sectors. They measure labor intensity²⁵² of a sector as the ratio of total wage bill²⁵³ to value added of all firms in the sector itself. Capital intensity²⁵⁴ is

²⁴⁸ See Wenjie CHEN, David DOLLAR, Heiwai TANG, *Why is China investing in Africa? -Evidence from the firm level-*, p.8, 2015, PDF, <https://www.brookings.edu/wp-content/uploads/2016/06/Why-is-China-investing-in-Africa.pdf>.

²⁴⁹ *Ibidem*, p. 9.

²⁵⁰ *Ibidem*.

²⁵¹ *Ibidem*, p. 10.

²⁵² Labor intensity is the relative proportion of labor (compared to capital) used in a process. It is the contrary of capital intensity. (See the following notes).

²⁵³ The total wage bill is the total amount of money a company or organization pays to its employees.

²⁵⁴ Capital intensity is the amount of fixed or real capital present in relation to other factors of production, especially labor. It is the contrary of labor intensity.

defined as one minus labor intensity. Skill intensity is defined as the share of non-production workers in the employment of the sector, multiplied by its labor intensity.

To a lesser extent, this also applies to Chinese private companies, which are more used to evolve in risky set-up, notably politically, than Western investors (laws are more protective of private owned assets). This makes Chinese entrepreneurs more risk-takers than their European or American counterparts.

Moreover, similarly to China, Africa is a strongly price-sensitive market due to the purchasing power of most of the population. Chinese investors were able to enter various markets, from low-prices consumer goods to infrastructure programs, needed by Africa, in order to steer economic growth.

To ensure low prices, Chinese firms benefit in some industries from a low wages workforce. If Chinese companies have been under great criticism for employing in some expensive industries Chinese workers, some other firms leverage on the benefits of the cheap labor available. In some cases, indeed, they hire locals who represent up to 99% of the total workforce, while the management usually remains in Chinese hands.

China has also been using its aid strategically. While China's aid is proportional to how poor a country is, there is a strong correlation between the amount of aid given and the support for China's foreign policy objectives. In fact, AidData²⁵⁵ calculates that for every 10% increase in voting support within the United Nations, China increases aid by an average 86%. This strategy is actually working. African countries have supported China in its foreign policy pursuits on numerous occasions.

Considering aid investments, the Chinese government is providing them, mainly through financial help, in order to support its implementation in Africa. The Forum on China-Africa Cooperation (FOCAC)²⁵⁶, created in 2000, is the main

²⁵⁵ AidData is a research and innovation laboratory located at the College of William & Mary (Virginia, USA), which seeks to make development finance more transparent, accountable and effective. The AidData website provides access to development finance activity records from most official aid donors.

²⁵⁶ The Forum on China–Africa Cooperation (FOCAC) is an official forum between the People's Republic of China and all the countries in Africa (with the exception of Eswatini, the last African state with which the PRC currently does not have diplomatic relations, since it recognizes Taiwan).

institutional vehicle set for the Chinese strategic engagement in Sub-Saharan Africa, especially regarding financial support. The Chinese intervention is hard to circle, due to its lack of transparency and the complex articulation between investments and aid.

However, the US \$ten billion provided to Africa from 2009 and 2012 (an amount which doubled in the period between 2013 and 2015 under President Xi Jinping), in the form of “concessional loans”, fall under the definition of “aid” by the OECD. Those aids are a way for China to manage its long-term relationships with African countries, since most of the financing is driven through the state-owned banks.

Although Chinese efforts to invest in Africa, Beijing has always followed a noninterference policy. Since 1990, the Chinese government has recalibrated its approach by focusing on economic relationships and heralding a policy of noninterference in African governmental affairs. China’s noninterference policy and respect for sovereignty allow assistance to be allotted with few to no strings attached, providing repressive governments in countries like Sudan and Zimbabwe with much-needed financing.

However, this noninterference has been tested. Experts say that, while the central government continues to talk up the merits of noninterference, it has become clear that Beijing is gradually abandoning this stance. For instance, this shift is notably visible in Sudan, a major oil exporter to China, where conflicts there, and subsequently in South Sudan, led to changes in China’s policy in Africa. Beijing has also increased its commitment to UN and African Union peace missions and established its first overseas military outpost in Djibouti.

In March 2017, more than 2500 Chinese troops, police, and military experts had been dispatched to six UN peacekeeping missions in Africa.²⁵⁷ Chinese president Xi Jinping pledged US \$100 million in military aid to the African Union in 2015, and China supports African countries’ capacity buildings in areas like defense and counterterrorism.²⁵⁸

²⁵⁷ See Eleanor ALBERT, *China in Africa*, in “Council on Foreign Relations”, 2017, <https://www.cfr.org/backgrounder/china-africa><https://www.cfr.org/backgrounder/china-africa>.

²⁵⁸ *Ibidem*.

The killing of Chinese peacekeepers in Mali and South Sudan, the kidnapping of Chinese workers in Cameroon, and the spread of the self-proclaimed Islamic State in Africa have contributed to a growing Chinese security presence. Since 2008, China has supported counter piracy operations in the Gulf of Aden, off the North Eastern coast of Africa. Djibouti, already home to other foreign military bases (such as the only American military base on the African territory), is the site of Chinese first permanent naval installation overseas; Chinese troops set sail for Djibouti in July 2017 to set up the base.²⁵⁹

One of the most critical questions facing African policymakers as a whole, and West African policymakers in particular, is how to maximize the benefits of their increasingly tight financial and trade integration with China. It is true that Africa has benefited from a higher ODI inflow from China, however, it did not get more attention than other regions of the world; numbers and figures are there to prove it.

Relating to this situation, in the following paragraph, I will analyze the effects of Chinese investments on African countries and enterprises. Considering the nature of these countries, they are different from those of American and European regions'. Furthermore, the positive or negative reactions depend on the country in which China invests, since each African region has its own deals with Beijing.

4.3. African government and firms' reactions

Basically, regarding Chinese investments, we can divide African opinions in two halves: people who support Beijing activities and people who think that Chinese are just the colonists of the new era.

As far as opponents are concerned, they assert that it is exploitative for China to finance African infrastructure projects in exchange for the continent's natural

²⁵⁹ See Eleanor ALBERT, *China in Africa*, in "Council on Foreign Relations", 2017, <https://www.cfr.org/backgrounder/china-africa><https://www.cfr.org/backgrounder/china-africa>.

resources. In fact, these people have accused China of “neo-colonialist” behaviors, since it acquires the raw materials urgently needed to fuel its own economy. Supporters, on the other hand, affirm that China’s initiatives undertaken in order to build and improve infrastructures such as roads, railways and telecommunication systems have been a boon to Africa’s manufacturing sector; furthermore they have freed up domestic resources for other critical needs such as health care and education and, finally, they have aided everyone doing business on the continent.

African in favor of Chinese investments are more welcoming of them, since China, as seen in previous paragraphs, does not impose its political or foreign policy will on African countries. Even though in the last period something has changed, China takes its commitment to non interference seriously and it is only concerned with trade and investment, which is quite different from the past neocolonial mindsets of Western governments, who sought to actively intervene in local African politics and impose their values on reluctant populations.

On a deeper level, to a certain extent, China sympathizes with Africa. Both regions were brutalized by Western expansionism and, in some regards, many African nations are now where China was thirty years ago, that is to say, they lack infrastructures and need poor and desperately help. Africa can look to China for help and sees the PRC as a beacon of hope. This is another reason why supporters of Chinese investments continue to endorse them: they see China as a way to achieve development. In fact, the idea that China is “colonizing” Africa sounds ironic when comparing this kind of “colonization” to the one run by Western colonists decades ago.

As already analyzed previously, Chinese companies are also diversifying their business pursuits in Africa in infrastructure, manufacturing, telecommunications, and agricultural sectors. However, China’s activity in Africa has faced criticism from both Western and African civil societies over its controversial business practices, as well as its failure to promote good governance and human rights. Yet a number of African governments appear to be content with China’s policy. At the same time, Beijing’s complex relationship with the continent has challenged its policy of noninterference in the affairs of African governments, as I showed before.

Referring again to the half in favor of China's economic presence on the African territory, many opinion surveys, conducted in thirty six countries by Afrobarometer, a Pan-African research network, have shown that the majority of respondents in African countries view China in a very positive way, both in terms of its influence as well as its contributions to the continent's development. On average, 63% of Africans view China's economic and political influence as somewhat or very positive.²⁶⁰

Considering also politicians' points of view, many African leaders have lauded the benefits of Chinese investment to support growth in their countries. Many of them have affirmed that China has a greater sense of personal urgency of development in Africa than many other Western countries.

However, China's presence in Africa has not been without controversy. Some countries have pushed back against Chinese development activities. This is due to grievances range from poor compliance with safety and environmental standards to unfair business practices and violations of local laws. In fact, the impression that China has exploited resources without building up local economies has triggered fierce criticism from some leaders.

African workers have also begun to fault Chinese companies for unfair labor practices, including disputes over wages and working conditions. Beijing has less and less ability to control these companies, thus undermining China's official stance promoting Chinese investments in Africa as "win to win."

Environmental concerns have been raised by international and local non-governmental organizations. They point to a lack of resource transparency and limited efforts to ensure animal and environmental protection. However, a number of regional experts affirm that the perception of China's environmental performance in Africa is more negative than the reality, though improvements can be made.²⁶¹ Furthermore, governance systems in African countries are often ill-equipped or too weak to protect against potential environmental damage.

Accusations of exploitative behavior by China in Africa have prompted questions about the future of the relationships. However, experts suggest that

²⁶⁰ See Eleanor ALBERT, *China in Africa*, in "Council on Foreign Relations", 2017, <https://www.cfr.org/backgrounder/china-africa><https://www.cfr.org/backgrounder/china-africa>.

²⁶¹ *Ibidem*.

while the Chinese economic footprint in Africa is growing, it represents only a fraction of China's economic activity around the world.

On the African side, many African governments maintain a "wish lists" of infrastructure projects, although they are not necessarily compiled with China in mind. When it is time to develop the details of big projects with China, many scholars believe that Africa is the country which faces most disadvantages.

Many analysts are now wondering what the future will hold, but there are no doubts that the Chinese slowdown is impacting Africa; in fact, the IMF and World Bank's²⁶² projections reduce African growth to less than 4%, much lower than rates seen across the continent two years ago.²⁶³

Considering future Chinese projects in African countries, Beijing is not going to give up its investments: the PRC is going to strengthen its relationships in order to realize the OBOR plan, according to which Africa could give a special contribution, referring to the route on sea China wants build as a mean to reach Europe. The analysis of this aspect will be the focus of the next paragraph.

4.3.1. Africa and OBOR: a second belt in this continent

During the EU-Africa Summit²⁶⁴ and the G20 Summit²⁶⁵ in 2017, the African continent was one the major focus areas, and China's engagement in Africa seems

²⁶² The World Bank is an international financial institution which provides loans to countries of the world for capital projects. The World Bank's stated goal is the reduction of poverty which its Articles of Agreement define as commitments to the promotion of foreign investment and international trade and to the facilitation of capital investment.

²⁶³ See Aubrey HRUBY, *China's Investments in Africa: What's the Real Story?*, in "Knowledge@Wharton- Wharton University of Pennsylvania", 2016, <http://knowledge.wharton.upenn.edu/article/chinas-investments-in-africa-whats-the-real-story/>.

²⁶⁴ This summit focuses on the definition of future directions in the relationship between the two continents.

²⁶⁵ The G20 (or Group of Twenty) is an international forum for the governments and central bank governors, founded in 1999. The G20 aims to discuss policy pertaining to the promotion of international financial stability. It seeks to address issues which go beyond the responsibilities of any organization. The G20 heads of government or heads of state have periodically conferred at summits since their initial meeting in 2008 and the group also hosts separate meetings of finance ministers and foreign ministers, due to the expansion of its agenda in recent years.

more relevant than ever. Chinese OBOR plan is often referred to an Eurasian infrastructure network initiative, but it is in fact much more than that.

The maritime silk road is supposed to go past the coast of East Africa, where several ports are being and will be built. Furthermore, ports are not only planned and under construction on the maritime silk road's direct way along Africa's East coast through Suez Canal, but also on coast of Central and West Africa. In addition, some of those ports are planned to be connected to Africa's hinterland by roads and railways. Thus, OBOR is not only about Eurasia, but also to a significant extent about Africa. In fact, there is even a second belt on the African continent.²⁶⁶ This will be the focus analysis of this final paragraph.

In 1955, high level politicians from twenty nine African and Asian countries met to send a clear signal against imperialism after many decades of colonialism. The participants of this conference agreed to base their cooperation on the five principles of peaceful coexistence, mutual respect for sovereignty, equality, mutual benefit and non-interference into the inner affairs of the other state. These principles are still emphasized by Chinese politicians to contrast China and Western countries in their development approaches to Africa.

In contrast to many Western countries, China's approach to development partnership is rather trade than aid. The Belt and Road initiative perfectly fits into this approach.

In May 2017, observers closely watched the events around China's first Belt and Road Forum (BRF) in Beijing. During the BRF, China signed economic and trade cooperation agreements with thirty countries, among them two African ones: Kenya and Ethiopia.²⁶⁷ In fact, the Exim Bank of China signed loan agreements with the National Treasury of Kenya, at least one company from Egypt and with the Ethiopian Ministry of Finance.²⁶⁸

At the BRF in Beijing, the Global Energy Internet Development Cooperation Organization signed A MoU on energy cooperation with the African Union.

²⁶⁶ See Julia BREUER, *Two Belts, One Road? The Role of Africa in China's Belt & Road initiative*, in "Stiftung Asienhaus- Blick Wechs", p. 1, PDF.

²⁶⁷ *Ibidem*, p. 2.

²⁶⁸ See "China Daily", 2016-05-16, <http://www.chinadaily.com.cn/>.

Nowadays, Egypt, Ethiopia, South Africa and Kenya are the only African countries which have signed high-level BRI MoU's with the PRC.²⁶⁹

The hotspots of China's engagement in Africa within the scope of OBOR are Djibouti, Egypt, Ethiopia, Tanzania, Zambia and Angola. In fact, no other countries invests more in the development of Egypt's Suez Canal Corridor than China.²⁷⁰

Over the years, many Chinese enterprises have signed contracts on the construction of many ports, railways and other "linking" infrastructures among these countries. All these projects give a big contribution in creating an extension of the Maritime Silk Road, planned by China. This will create many advantages not only for China, but also for African countries "touched" by the initiative.

In this case, we cannot talk about a "One Belt, One Road", because, apparently, there will be a second belt, connecting African countries and cities on the coasts to the inner continent, gaining renewed vigor from the infrastructures sector point of view.

East African countries, such as Egypt, Djibouti, Sudan and Ethiopia, are of particular strategic importance for the Maritime Silk Road due to their geographical location. However, Chinese infrastructure projects are working their way from the port at the coasts through their Hinterland, crossing the continent. In fact, infrastructure are expanding all over Africa, from the East coast to the West one.²⁷¹

In fact, connecting the ports with the inland provides several profits for China. Products or resources from the inland can be transported to the respective coast to be exported later to China. Furthermore, the most important thing is that Africa serves as an export market for Chinese materials and work force. China accounts for about 1% to 2% of African countries exports, but for more than 10% to 20% of the imports. However, products made in Africa are increasingly produced in Chinese owned companies: in the scope of restructuring its economy, China started to outsource labor-intensive branches (for instance shoes and clothing

²⁶⁹ See Julia BREUER, *Two Belts, One Road? The Role of Africa in China's Belt & Road initiative*, in "Stiftung Asienhaus- Blick Wechs", p. 3, PDF.

²⁷⁰ *Ibidem*.

²⁷¹ *Ibidem*, p. 5.

manufacturing) to African countries, which makes some railways, such as the Ethio-Djibouti one, essential.²⁷²

Actually, what is the real impact of OBOR in Africa? Of course, there are many negative aspects, for instance, many buildings were demolished and people had to relocate. They had to leave their farms and houses due to the construction of some infrastructures.

There are also many problems concerning the environment and the ecosystem. Several projects and works may have ruined many animals' homes and/or habitat, so this is the reason why many initiatives were stopped by some African countries.

As already mentioned before, another problem is the employment: the share of African workers in Chinese infrastructure projects is often perceived to be too low.

In fact, Africa is not rich only in natural resources, but also a huge market to be tapped. To ensure that the local population benefits more from China's infrastructure projects in Africa, African countries need strong laws regarding (foreign) labor, laws which need to be implemented consistently.²⁷³

Despite all concerns that China might attempt to exploit Africa, there are linings, such as the MoU China signed in 2016 with the UNDP²⁷⁴ and the PRC's government, regarding the implementation of the Belt and Road Initiative and the 2030 Agenda for Sustainable Development.²⁷⁵ Recently, the Memorandum has been complemented by an action plan which was signed during the Belt and Road Forum for International Cooperation in 2017. Simultaneously, the China Center for

²⁷² See Julia BREUER, *Two Belts, One Road? The Role of Africa in China's Belt & Road initiative*, in "Stiftung Asienhaus- Blick Wechs", p. 5, PDF.

²⁷³ *Ibidem*, p. 6.

²⁷⁴ The United Nations Development Programme (UNDP) is the United Nations' global development network. It advocates for change and connects countries to knowledge, experience and resources to help people build a better life. It provides expert advice, training and grants support to developing countries, with increasing emphasis on assistance to the least developed countries. UNDP promotes technical and investment cooperation among nations.

²⁷⁵ The Sustainable Development Goals (SDGs) (or Global Goals for Sustainable Development) are a collection of 17 global goals set by the United Nations in 2015. The formal name for the SDGs is: "Transforming our World: the 2030 Agenda for Sustainable Development", which has been shortened to "2030 Agenda". The goals are broad and interdependent, yet each has a separate list of targets to achieve. Achieving all 169 targets would signal accomplishing all 17 goals. The SDGs cover social and economic development issues including poverty, hunger, health, education, global warming, gender equality, water, sanitation, energy, urbanization, environment and social justice.

International Economic Exchanges²⁷⁶ and the UNDP jointly published a Global Governance Report emphasizing the nexus between the OBOR plan and the Sustainable Development Goals. Since many African countries would be among those who benefit the most from reaching the SGDs, these are good news. However, whether this plan will be put into action and if so, where about the world, remains to be seen. Synergies between OBOR and the African Union's Agenda 2063²⁷⁷ could be created in this regard.²⁷⁸

Building infrastructures does not just harm nature, but it can also help to protect it. For instance, the construction of cargo trains networks shifts the transport of goods from trucks to railways and thus reduces pollution and CO₂ emissions. However, it is incontestable that improved infrastructures can increase the amount of transported goods and thus traffic in total, and of course it is positive for African countries, which can be included in the international trade, not only exploited.

The construction of infrastructures is one thing, but operating ports provides the operator with the power of deciding which cargo ships will receive preferential treatment. The G20 and the European Union, whose increased interest in Africa is a positive signal, should also take such economic and strategic considerations into account when engaging with Africa, and perhaps with China in Africa.²⁷⁹

²⁷⁶ The China Center for International Economic Exchanges is a think tank based in Beijing. Founded in 2009, its self-described mission is "promoting international economic research and exchanges and providing consulting service".

²⁷⁷ The African Union's Agenda 2063 is a strategic framework for the socio-economic transformation of the continent over the next fifty years. It seeks to accelerate the implementation of past and existing continental initiatives for growth and sustainable development.

²⁷⁸ See Julia BREUER, *Two Belts, One Road? The Role of Africa in China's Belt & Road initiative*, in "Stiftung Asienhaus- Blick Wechs", p. 7, PDF.

²⁷⁹ *Ibidem*.

4.4. Concluding remarks

Africa is a country which in the past already got used to exploitation and colonization. It is important to mention that Chinese action in this continent cannot be considered colonization, since the Asian Giant's intervention is far from those of Western countries centuries ago. In fact, Chinese interjection is seen more like help and contribution to rise the African countries. Of course the PRC follows this line because in this way it can obtain some advantages; it is not mere altruism.

The main reasons why China is focusing on Africa are the need of raw materials and opening Chinese possibilities through African routes, so it is not just a way to enlarge the Chinese presence in the international market, like in the American or European ones, since in the African continent there are no real mergers and/or acquisitions. Therefore, the speed of growth reflects Chinese methods used in other parts of the world, in fact China has become, in few years, Africa's largest partner.

The first African countries into which China invested at the beginning of its journey in this new continent were, of course, those nations willing to open up to foreign countries and their possible investments, following the possibility to develop infrastructure systems and open to a more international trade and market.

We can affirm that Chinese intervention in developing African infrastructures is basically a way for China to enter into this continent and realize in the near future the New Silk and Road Initiative, by exploiting some ports and maritime ways of African countries (such as the Suez Canal).

Affirming that African countries are not reaping economic benefits from this relationship would be a mistake. In fact, generally speaking, African countries accept and welcome Chinese investments and Chinese presence in their territory more than they did in the past with Western countries. This is because the PRC has always played an important card during its journey in Africa, that is to say, the non interference position in political and internal affairs.

Although Africa is in general happy with Chinese investments and presence in its countries, also in this continent companies and workers have to face the same

problem as in other countries of the world: employment. Chinese firms entering new countries usually employ Chinese employers and this, in Africa, make African people losing an important opportunity to find job, since the unemployment rate is very high. But Africa does not worry about Chinese investments as other countries do, because Chinese contribution can be more a push to development, rather than a ruin for the economy. This is, of course, due to the fact that Africa has not much to lose, in contrast to other countries of the world, which already find themselves in an international and global contexts and environments.

As already mentioned in the paragraphs before, Chinese investments in the African continent are at the beginning. China is going to strengthen the relationships with African countries, in order to exploit the future possibility of making Africa one of the main countries touched by the Belt and Road Initiative, to link Asia and Europe and, in this way, enlarge its power also on another part of the world.

Conclusions

All along my dissertation, I analyzed the methods used by and the reasons pushing Chinese enterprises investing in foreign countries, mainly through mergers and acquisitions. However, it is difficult to give a singular answer, in order to explain this phenomenon. The only thing which is sure about this issue is that everything is projected in the future; in fact, although the changes occurred over the years, Chinese investors are not going to stop the economic and global conquest of the world.

Considering both a national and firms' points of view, Beijing government and Chinese investors themselves want to make many changes in the internal economy and then outside China, in order to move from "Made in China" products to "Designed in China" ones.

The most important and useful issue in reaching these goals is the control of the value chain, from the raw materials to the technologies needed to develop an item. This is, in fact, the scope Chinese enterprises are going to reach: they aim at controlling each economic sector in most areas of the world, in order to import in China the right resources, needed to produce the most of products.

Consequently, in my opinion, the second step taken by Chinese firms will be working on the creation of national brands, with the scope of exporting Chinese products, instead of acquiring companies abroad or investing in something already existing. However, I think these actions will require long time, because it is not easy build a strong brand in consumers' mind, above all when Chinese names and methods have to face many prejudices abroad.

This is the reason why I analyzed also the OBOR plan all along my thesis. In my opinion Beijing is going to exploit the creation of this project, in order to reach the control it needs to become the most powerful country in the global economic environment. Furthermore, considering the changes this big event is going to bring, it should be useful consider that the international economy itself will face transformations, even though many countries are not directly part of the project.

Therefore, the fact that many governments are changing their policies in terms of ingoing forward investments, or Chinese investments in particular, is, in a certain sense , understandable.

This is the reason why Africa plays a very important role all along my dissertation. Chinese investors running in Africa have been very careful in giving opportunities to African countries, rather than only exploit them as Western countries in the past. Of course also many African countries are changing their minds about Chinese investments, but the help the PRC is giving to this continent in terms of infrastructures and other important sectors is too much important to them.

In the future realization of the OBOR initiative, China is going to use any possible mean to reach it, and Africa seems to be a good point of start, without losing too much global power.

However, it is difficult make predictions on how this project will work and on China will manage it. Therefore, I think that Chinese government, which in the past developed the “Going out” strategy, will adapt a new one, in order to strengthen again and again its power. So, the phases of Chinese Overseas M&A have not come to an end, but there will be a continue development, but how the world will react to it? There is no a definitive answer for the forthcoming future, nor a secure measure to properly reply to this question. Everything today can change very quickly, the life cycle of products is an example of it. The only clear thing is that every country tries to be stronger than the others and tries to reach advantages in a quicker way, in order to be the sector, area or industry leader. And China will exactly do this, trying to be the best country in each sector, area and industry, in order to become the world leader.

References and on line sources

- AGGARWAL, S., *The China Belt And Road Initiative Could Help - Or Hurt - Clean Energy In Emerging Economies*, in "Forbes", 2017, <https://www.forbes.com/sites/energyinnovation/2017/12/04/the-china-belt-and-road-initiative-could-help-or-hurt-clean-energy-in-emerging-economies/#2e1b2871506e>, accessed May 05, 2018.
- ALBERT, E., *China in Africa*, in "Council on Foreign Relations", 2017, <https://www.cfr.org/backgrounders/china-africa><https://www.cfr.org/backgrounders/china-africa>, accessed June 11, 2018.
- ALLEN, D., *New Opportunities in China's "One Belt One Road" Initiative*, in "Reach Further: Connecting Your Business to Emerging Opportunities ", 2015, <https://www.eastwestbank.com/ReachFurther/News/Article/New-Opportunities-In-Chinas-One-Belt-One-Road-Initiative>, accessed May 03, 2018.
- ALON, I., MCINTYRE, J., *The Globalization of Chinese Enterprises*, New York, Palgrave MacMillan, 2008.
- BACKALER, J., *Chinese Companies Choose M&A To Accelerate International Expansion*, in "Forbes", 2016, <https://www.forbes.com/sites/joelbackaler/2016/04/18/chinese-companies-choose-ma-to-accelerate-international-expansion/#5bbd98d37eac>, accessed February 20, 2018.
- BARBUTO, F., *Cina, investimenti ed equilibri globali*, in "Il Caffè Geopolitico", 2014, <https://www.ilcaffegeopolitico.org/24129/cina-investimenti-ed-equilibri-globali>, accessed April 22, 2018.

- BARLAAM, R., *Cina, nuove regole sugli investimenti esteri: aumentano i limiti e i divieti*, in “Il Sole 24Ore”, 2017, <http://www.ilsole24ore.com/art/finanza-e-mercati/2017-08-18/cina-nuove-regole-investimenti-esteri-aumentano-limiti-e-divieti-213743.shtml?uuid=AEGo7gEC>, accessed April 15, 2018.
- BATTAT, J., *China’s outward foreign direct investment*, Foreign Investment Advisory Services, World Bank Group, Washington, DC., 2006.
- BIN, Y., GUAN, R., JIANG, J., NGAI, H., *Better smart than lucky: China R&D incentives 2.0*, in “International Tax Review”, 2017, <http://www.internationaltaxreview.com/Article/3772303/Better-smart-than-lucky-China-R-D-incentives-20.html>, accessed April 05, 2018.
- BREUER, J., *Two Belts, One Road? The Role of Africa in China’s Belt & Road initiative*, in “Stiftung Asienhaus- Blick Wechs”, PDF.
- BUCKLEY, P.J., CLEGG, L.J., CROSS, A.R., LIU, X., VOSS H., ZHENG P., *The determinants of Chinese outward foreign direct investment*, in “Journal of International Business Studies”, Vol. 38, 2007, PDF.
- CAI, P., *Understanding China’s Belt and Road Initiative*, Lowy Institute for International Policies, March 2017, https://www.lowyinstitute.org/sites/default/files/documents/Understanding%20China%E2%80%99s%20Belt%20and%20Road%20Initiative_WEB_1.pdf, PDF, accessed March 03, 2018.
- CHEN, Q., LI, D.S., *Annual Report on the Development of China’s Large Enterprise Groups: Cross-border M&A and China’s Large Enterprise Groups*, Development Press, Beijing, 2006.

CHEN, W., DOLLAR, D., TANG, H., *Why is China investing in Africa? -Evidence from the firm level-*, 2015, <https://www.brookings.edu/wp-content/uploads/2016/06/Why-is-China-investing-in-Africa.pdf>, PDF, accessed June 11, 2018.

CHIARLONE, S., *This is Why China is Investing Abroad*, in “Eastwest.Eu”, 2013, <https://eastwest.eu/it/east-4/ecco-perche-la-cina-investe-all-estero>, accessed February 02, 2018.

CHINA DAILY, (2016), <http://www.chinadaily.com.cn/>, accessed February, April, May 2018.

CIRILLO, F., *La Cina “colonizza l’Africa investendo miliardi di dollari*, in “ Notizie geopolitiche –quotidiano indipendente on line di geopolitica e politica estera-“, 2017, <http://www.notiziegeopolitiche.net/la-cina-colonizza-lafrica-investendo-miliardi-di-dollari/>, accessed June 11, 2018.

COGMAN, D., GAO, P., LEUNG, N., *Making sense of Chinese outbound M&A*, in “McKinsey&Company-Strategy&CorporateFinance-“, 2017, <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/making-sense-of-chinese-outbound-m-and-a>, accessed February 04, 2018.

CUSCITO, G., *Le imprese di Stato guidano la Cina lungo le nuove vie della seta*, in “Limes -Rivista italiana di geopolitica“, 2017, <http://www.limesonline.com/rubrica/le-imprese-di-stato-guidano-la-cina-lungo-le-nuove-vie-della-seta>, accessed April 12, 2018.

D’ANDREA, C., *Investimenti cinesi all’estero*, in “D’Andrea e Partners“, 2016, <https://eastwest.eu/it/east-4/ecco-perche-la-cina-investe-all-estero>, accessed February 02, 2018.

D'AVENI, R., GUNTER, R., *Hyper competition: Managing the Dynamics of Strategic Maneuvering*, Simon&Schuster, 1994.

DENYER, S., *Chinese companies face culture shock in countries that aren't like China*, in "The Washington Post", August 2015, https://www.washingtonpost.com/world/chinese-companies-face-culture-shock-in-countries-that-arent-like-china/2015/08/14/a048eb64-3bbd-11e5-88d3-e62130acc975_story.html?noredirect=on&utm_term=.1435300c03b0, accessed April 25, 2018.

DESOGUS, M., *Cina: investimenti esteri per un'economia di consumo*, in "Il Caffè Geopolitico", 2015, www.ilcaffegeopolitico.org/31120/cina-investimenti-esteri-uneconomia-consumo, accessed April 10, 2018.

EUROSTAT (2009), *EU-27 consistent world leader in trade of food*, Luxembourg: Office for Official Publications of the European Communities, accessed May 02, 2018.

FATIGUSO, R., *La corsa cinese agli investimenti esteri*, in "Il Sole 24 Ore", 2018, <http://www.ilsole24ore.com/art/impresa-e-territori/2016-09-30/la-corsa-cinese-investimenti-esteri--092556.shtml?uuid=ADbjFrTB>, accessed April 12, 2018.

GODEMENT, F., *"One Belt, One Road": China's Great Leap Outward*, in "China Analysis", European Council on Foreign Relations, 2015, https://www.files.ethz.ch/isn/191753/China_analysis_belt_road.pdf, PDF, accessed May 02, 2018.

HAYES, N., *The Impact of China's One Belt One Road Initiative on Developing Countries*, in "LSE: London School of Economic and Political Science", 2017, <http://blogs.lse.ac.uk/internationaldevelopment/2017/01/30/the-impact-of-chinas-one-belt-one-road-initiative-on-developing-countries/>, accessed May 03, 2018.

HKTDC RESEARCH 经贸研究, 2018, <http://china-trade-research.hktdc.com/business-news/article/The-Belt-and-Road-Initiative/The-Belt-and-Road-Initiative/obor/en/1/1X3CGF6L/1X0A36B7.htm>, accessed May 03, 2018.

HRUBY, A., *China's Investments in Africa: What's the Real Story?*, in "Knowledge@Wharton- Warton University of Pennsylvania", 2016, <http://knowledge.wharton.upenn.edu/article/chinas-investments-in-africa-whats-the-real-story/>, accessed June 11, 2018.

HUANG, W., WILKES, A., *Analysis of China's overseas investment policies*, Working Paper 79, 2011, Center for International Forestry Research (CIFOR), http://webdoc.sub.gwdg.de/ebook/serien/yo/CIFOR_WP/WP79.pdf, PDF, accessed April 08, 2018.

IDE-JETRO (Institute of Developing Economies Japan External Trade Organization), *China in Africa*, http://www.ide.go.jp/English/Data/Africa_file/Manualreport/cia_05.html, accessed June 11, 2018.

JIAHUA, L., *A new model for Chinese Overseas Investments*, in "PS, The world's opinion page", May 12, 2017, <https://www.project-syndicate.org/commentary/new-model-chinese-outward-investment-by-liu-jiahua-2017-05?barrier=accesspaylog>, accessed March 03, 2018.

- JUWAI, *Juwai Chinese Consumer Survey*, May 2017, <https://list.juwai.com/it/news/2017/05/3-biggest-challenges-chinese-face-when-buying-property-abroad>, accessed April 30, 2018.
- LE CORRE, P., *On Chinese Investment and Influence in Europe*, in “Carnegie Endowment for International Peace”, May 2018, <https://carnegieendowment.org/2018/05/23/on-chinese-investment-and-influence-in-europe-pub-76467>, accessed April 30, 2018.
- MANERO, E., *China’s Investment in Africa: The New Colonialism?*, in “Harvard Political Review”, 2017, <http://harvardpolitics.com/world/chinas-investment-in-africa-the-new-colonialism/>, accessed June 11, 2018.
- MASSARI, M., ZANETTI, L., *Valutazione. Fondamenti teorici e best practice nel settore industriale e finanziario*, Mc Graw Hill, 2008, Cap. 12.
- MAVERICK, J.B., *The 3 Reasons Why Chinese Invest in Africa*, in “Investopedia”, <https://www.investopedia.com/articles/active-trading/081315/3-reasons-why-chinese-invest-africa.asp>, accessed June 11, 2018.
- MCKINSEY&COMPANY, *9 Ways The Chinese Government Promotes Innovation*, McKinsey China, 2014, <http://mckinseychina.com/9-ways-the-chinese-government-promotes-innovation/>, accessed April 08, 2018.
- MELTZER, JP., *China’s One Belt One Road initiative: A view from the United States*, in “The Asan Forum”, 2017, <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>, accessed May 05, 2018.
- MEUNIER, S., *Top Ten Factors Driving Chinese Foreign Direct Investment*, in “Huffington Post”, https://www.huffingtonpost.com/sophie-meunier/china-foreign-investment_b_1705349.html, accessed February 02, 2018.

- NASSIRI, S., *China's investment in Africa*, in "How we made it in Africa- Africa business insight", 2017, <https://www.howwemadeitinafrica.com/chinas-investment-africa/58480/>, accessed May 03, 2018.
- NOLAN, P., *China and the Global Economy: National Champions, Industrial Policy, and the Big Business Revolution*, New York, Palgrave, 2001.
- ORTIZ E., ROSER O., Roser M., *International Trade*, in "OurWorldInData", 2018, <https://ourworldindata.org/international-trade>, accessed March 03, 2018.
- PETERSON, C., *Chinese businesses are investing even more abroad*, in "The Telegraph", 2016, <https://www.telegraph.co.uk/news/world/china-watch/business/chinese-businesses-foreign-investment/>, accessed April 04, 2018.
- POMFRET, R., *Investing in China: Ten Years of the Open Door Policy*, Ames, Iowa University Press, 1991.
- POTTER, PB., *Foreign Investment Law in the People's Republic of China: Dilemmas of State Control*, The China Quarterly, Vol. 141, Cambridge University Press, London, February 2009, PDF.
- POZZEBON, S., *China has crossed a major investment threshold that is going to change the entire world*, in "Business Insider (UK)- Politics-", 2015, <http://uk.businessinsider.com/statistics-on-chinas-investment-abroad-2015-2?IR=T>, accessed June 11, 2018.
- SEAMAN, J., HUOTARI, M., OTERO-IGLESIAS, M., *Chinese investment in Europe: a country level approach*, French institute of International Relations (Ifri), 2017, https://www.pism.pl/files/?id_plik=23889, accessed May 02, 2018.

SCISSORS, D., *Chinese Outward Investment: More Opportunity than Danger*, in "The Heritage Foundation", July 13 2011, <https://www.heritage.org/asia/report/chinese-outward-investment-more-opportunity-danger>, accessed February 23, 2018.

SINGER, M., *Weak States in a World of Power: the Dynamics of International Relationships*, New York, Free Press, 1972.

SPIGARELLI, F., ALON, I., MUCELLI, A., *Chinese Overseas M&A: Overcoming Cultural and Organizational Divides*, Rollins College, Rollins Scholarship Online, Faculty Publications, 2013, PDF, accessed February 04, 2018.

UNCTAD (2015), *China's foreign direct investment from 1985 to 2015*, New York and Geneva, accessed February 04, 2018.

WORLD REOSOURCES INSTITUTE (2015), *China's OFDI in Africa from 2004 to 2013*, accessed June 11, 2018.

Acknowledgments

This dissertation represents the final product of my University education and the conclusion of a particularly evolving and self-determining itinerary, which improved me as a person.

I will never forget what Ca' Foscari has taught to me, both in terms of didactic, but also in terms of moral teaching.

I would like to thank my Professor Giorgio Bertinetti, for having accepted my project and my thesis' proposal, with enthusiasm and interest, and for having been available in helping me through the decisional schedule of the dissertation.

I will always be grateful to my whole family for the support they gave me over these years, always believing in me and being my companions in this difficult journey. They are my remedy.