Central and Eastern Europe, Group 16+1 and One Belt One Road: The Case of 2016 Sino-Polish Comprehensive Strategic Partnership

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Abstract

The concept of the PRC’s co-operation with the Central and Eastern European countries (CEECs) in the sixteen-plus-one format (G16+1) first emerged in December 2011 when the PRC and Poland signed the strategic-partnership declaration, later formalised in April 2012. The obvious purpose of the G16+1 is to pave the way for the development of the land component of the One Belt One Road Project (OBOR), known as the Silk Road Economic Belt (SREB). Poland, thanks to its geographical situation, is predestined to be the SREB’s hub bridging land transportation routes coming to Europe via Eurasian Economic Union and from the South via Balkans.

However, as of late 2017, the prospects for the development of SREB’s hub in Poland look increasingly uncertain due to external factors for which such a scenario is not convenient, particularly for the EU/Germany who consider the CEE region to be essential as an industrial territory. Moreover, despite upgrading Sino-Polish relations to a comprehensive strategic partnership in June 2016, the actual stance of the Polish government on the SREB project has been rather averse in the light of Poland’s allegiance to the idea of the Trans-Pacific alliance, holding a strong interest in the US-led Three Seas Initiative (Trimarium) which directly competes with the G16+1 project.

1. Introduction

The idea of the co-operation between People’s Republic of China (PRC) and the Central and Eastern European Countries (CEECs) in the format of the 16+1 Group (G16+1) emerged during the visit of Poland’s president Bronisław Komorowski to Beijing in December 2011. Komorowski’s meeting with PRC’s president Hu Jintao produced the “Joint Declaration of the Republic of Poland and of the People’s Republic of China on the Establishment of the Strategic-Partnership Relations” (2011 Declaration). This idea was formalised in April 2012 in Warsaw by the PRC government’s unilateral declaration on “Twelve Measures for Promoting Friendly Cooperation with Central and Eastern European Countries” (Twelve Measures). The Twelve Measures included PRC’s commitment to establish the CEE-
focused secretariat in Beijing and were all addressed to sixteen CEECs including Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Estonia, Hungary, Latvia, Lithuania, Macedonia, Montenegro, Poland, Romania, Serbia, Slovakia and Slovenia. Subsequent annual summits of the G16+1 produced so-called guidelines including Bucharest Guidelines of November 2013, Belgrade Guidelines of December 2014, Suzhou Guidelines of November 2015, and Riga Guidelines of November 2016. Meanwhile, the year 2016 was also marked with the elevation of Sino-Czech relation to the strategic partnership in March 2016, and of Sino-Polish relations to the comprehensive strategic partnership in June 2016 (2016 Partnership).

This article looks at the relations of Poland, as the largest CEEC in terms of demography, territory and economy, and PRC in the context of the developments within the framework of the G16+1. This article continues to first offer the necessary background on the role of the G16+1 Group for the One Belt One Road initiative (OBOR) also known as the Belt and Road Initiative (BRI, section 0), and on Poland’s significance for the OBOR (section 0). This article subsequently reviews the Sino-Polish relations before Poland’s transformation to market economy including the period preceding the outbreak of WW2 (0) and the period of socialist Poland (section 0). Furthermore, this article reviews Sino-Polish relations after Poland’s transformation including the period preceding Poland’s accession to the European Union (EU, section 0), and the period following Poland’s accession to the EU (section 0). This article continually moves onto discussing these developments from the perspective of geopolitics of the OBOR (section 0), geo-economic determinism of Poland and other CEECs (in section 0), Poland’s developmental strategy (section 0), and EU’s stance on the OBOR (section 0).

2. OBOR and CEE

2.1. G16+1 format and OBOR

The obvious function of the G16+1 is to pave the way for the development of the one of the two components of the OBOR, i.e. its land component now commonly referred to as the Silk Road Economic Belt (SREB), the other being the Twenty-first Century Maritime Silk Road...
Noteworthy, the release of the 2012 Twelve Measures preceded PRC’s Xi Jinping’s ascendency to power and his OBOR-related visits in 2013, first to Kazakhstan in relation to the SREB and subsequently to Indonesia in relation to the 21MSR.\textsuperscript{11} Ergo, the actual works on the SREB must have then been well on track when the idea of the OBOR was announced to the public in 2013, contradicting the view that previous Hu Jintao’s administration did not go beyond ideas and did not take any actual actions as far as the SREB was concerned.\textsuperscript{12}

2.1.1. Twelve Measures

The highlights of the 2012 Twelve Measures in the field of trade and investment included:

- the establishment of the US$ 10b credit line, chiefly in order to finance projects related to infrastructure and new and high technologies with concessional loans, for which the central banks of the CEECs could apply to listed Chinese Banks (National Development Bank of China, Export and Import Bank of China, Industrial and Commercial Bank of China, Construction Bank of China, Bank of China, or China Citic Bank),\textsuperscript{13}
- the establishment of an investment co-operation fund aiming at raising at least US$ 500m in the initial phase of operation,\textsuperscript{14} and
- the exploration of possibilities as to setting up currency swaps/local currency settlements and establishment of bank branches in each other’s countries.\textsuperscript{15}

In addition, in the field of education and research, PRC’s concrete commitments included the establishment of research fund with PRC’s contribution of RMB 2m annually,\textsuperscript{16} and sponsoring of five thousand scholarships to CEECs’ citizens and inviting one thousand CEECs’ citizens to study in the PRC as well as sending one thousand Chinese citizens to study in the CEECs within following five years.\textsuperscript{17} Moreover, the secretariat of the G16+1 opened in Beijing in September 2012.\textsuperscript{18}

\textsuperscript{11} Du (n10), 30.
\textsuperscript{12} \textit{See} Peter Ferdinand, ‘Westward ho—the China dream and ‘one belt, one road’: Chinese foreign policy under Xi Jinping’ (2016) 92(4) International Affairs 941, 948. Nonetheless, despite the observation that “Hu Jintao had earlier evoked the possibility of some kind of new Silk Road initiative, but it had not gone anywhere” (\textit{see} ibid.), Ferdinand also notices that idea of ‘Chinese Dream’ closely related to the OBOR project and serving as its ideological foundation had already sprouted within communist party during the second half of Hu Jintao’s rule and, subsequently, it was only simply popularised. \textit{See} ibid., 942, 944.
\textsuperscript{13} Twelve Measures (n4), point 2.
\textsuperscript{14} \textit{ibid}, point 3.
\textsuperscript{15} \textit{ibid}, point 6.
\textsuperscript{16} \textit{ibid}, point 6.
\textsuperscript{17} \textit{ibid}, point 6.
\textsuperscript{18} Jurica Simurina, ‘China’s Approach to the CEE-16’ ECRAN (January 2014) Short Term Policy Brief 85 2010/256-524 1, 6.
2.1.2. Bucharest and Belgrade Guidelines

Subsequently, the Bucharest Guidelines did not add much to the 16+1 Group’s modus operandi, instead mostly listing planned summits, symposia and workshops. More concrete planned activities were listed in the Belgrade Guidelines, including the development of Serbo-Hungarian railway-connection in co-operation with the Chinese companies. In addition, in between Bucharest and Belgrade summits, the PRC and some CEECs actually managed to, to some degree, foster trade-facilitation such as by concluding 1) the currency swap agreement (between PRC, Hungary and Albania), 2) the “cooperation documents on peaceful use of nuclear energy” (PRC, Romania and Czechia), 3) the “understanding on nuclear energy” (PRC and Hungary), or 4) “cooperation agreements on quality inspection” (PRC separately with Hungary, Latvia, Serbia and Macedonia).

2.1.3. 2015 Vision

In March 2015, four months after the summit in Belgrade, the PRC government also published the assumptions of the OBOR initiative in the “Vision and Actions on jointly building the Silk Road Economic Belt and Twenty-first Century Maritime Silk Road” (2015 Vision) which were not inconsistent with previous actions taken toward CEECs. The 2015 Vision defined the SREB as the project focusing on:

- “bringing together China, Central Asia, Russia and Europe (the Baltic); linking China with the Persian Gulf,”
- “jointly building a new Eurasian Land Bridge and developing China-Mongolia-Russia, China-Central Asia-West Asia and China-Indochina Peninsula economic corridors by taking advantage of international transport routes, relying on core cities along the Belt and Road and using key economic industrial parks as cooperation platforms.”

Specifically, with regard to the SREB, the 2015 Vision accentuated that the project would focus on developing transportation infrastructure, by example by stating that:

- “countries along the Belt and Road should improve the connectivity of their infrastructure construction plans and technical standard systems, jointly push forward the construction of international trunk passageways, and form an infrastructure network connecting all sub-regions in Asia, and between Asia, Europe and Africa step by step,”
- “[w]ith regard to transport infrastructure construction, we should focus on the key passageways, junctions and projects, and give priority to linking up unconnected

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19 Belgrade Guidelines (n7), points 3.2, 3.6.
20 ibid, Appendix D (Implementation of the Measures of the Bucharest Guidelines for Cooperation between China and Central and Eastern European Countries).
22 ibid.
23 Ibid, part IV.
road sections, removing transport bottlenecks, advancing road safety facilities and traffic management facilities and equipment, and improving road network connectivity,” and

- “[w]e should build a unified coordination mechanism for whole-course transportation, increase connectivity of customs clearance, reloading and multimodal transport between countries, and gradually formulate compatible and standard transport rules, so as to realize international transport facilitation.”

2.1.4. Suzhou Guidelines

In line with the above point of the 2015 Vision, the Suzhou Guidelines listed further planned developments such as in the construction of the Budapest-Belgrade railway or the conclusion of the new agreement on the avoidance of double taxation between PRC and Romania. The trade-facilitation-related agreements actually concluded between Belgrade and Suzhou summits included 1) “customs clearance facilitation cooperation mechanism” (in January 2015 among PRC, Hungary, Serbia, Macedonia and Greece), 3) customs-related “Cooperation Action Plan for 2015-2016” (in May 2015 among PRC, Hungary, Serbia and Macedonia), and 4) further bilateral agreements on “quality inspection” (PRC with Bulgaria, Croatia and Poland).

2.1.5. Riga Guidelines and Declaration

Finally, the Riga Guidelines mentioned an already completed or still planned establishment of number of new G16+1-related institutions such as 1) the China-CEEC Secretariat on Logistics Cooperation located in Riga, 2) the “China-CEEC Secretariat for Maritime Issues” to be located in Poland, 3) the “China-CEEC Center for Dialogue and Cooperation on Energy Projects” to be located in Romania, 4) the “China-CEEC Technology Transfer Center” to be located in Bratislava, or 5) the “Sino-CEE Finance Holding Company Ltd” aiming at jointly promoting the PRC-CEEC cooperation on “connectivity and relevant industries” New connectivity projects mentioned in the Riga guidelines included the modernisation of the Bar (Montenegro)–Belgrade track section, as well as new air routes connecting Prague with Shanghai and Chengdu and Warsaw with Beijing.

The new political declaration determining the goals and directions of the G16+1 (Riga Declaration) clarified that the G16+1’s focus should be on “Adriatic-Baltic-Black Sea
Seaport Cooperation is developing transportation hubs involving ports and industrial parks in the coastal areas of the Adriatic, Baltic and Black Sea and along the inland waterways” and “working together to build industrial clusters in ports and establishing modern road, rail and river corridors to connect them”\(^35\). To this end, the G16+1 countries committed under the Riga Declaration to further co-operate on:

- “strengthen[ing] Adriatic-Baltic-Black Sea Seaport Cooperation, in line with geographical distribution of ports and their future development needs, by better using, developing and upgrading ports, (…)”\(^36\)
- the “development of industrial clusters in ports, strengthen cooperation in inland industrial parks as well as between sea and inland ports, (…) encourage enterprise cooperation in equipment and manufacturing industries and cooperate in facilitation of container cargo flows between China and Europe,” \(^37\)
- the “development of transportation corridors, facilitate movement of goods, so as to create favorable conditions for the development of ports and industrial parks, including new inland waterway and rail corridors.” \(^38\)

2.2. **Poland’s role**

A brief look at various maps depicting OBOR routes reveals that the success of this initiative is rather unlikely in absence of a proactive participation by Polish authorities, state-controlled enterprises (e.g. railways) and interest private from private Polish business in benefitting from the SREB.\(^39\) Geography determines that Poland must be a hub bridging various routs of the SREB, including railways coming from post-Soviet countries, railways coming from the Balkans, and the land connections with ports in Western Europe embraced by the 21MSR.\(^40\) It then comes as no surprise that the PRC’s efforts to reach out to the Polish government with regard to the SRREB and G16+1 precede the worldwide announcement of the OBOR project by almost 2 years.

Alternatives to the choice of Poland are rather scarce. The *faits accomplis*, like the ongoing infrastructural projects such as mentioned railway between Serbia and Hungary clearly directed further up North, exclude Germany as SREB’s hub.\(^41\) In turn, Czekia might be seen as the second-best choice for being SREB’s hub yet can be deemed nowhere as reasonable as Poland from logistical perspective.\(^42\) However, in the context of some idleness on the Polish side, one could consider the prior Xi’s visit to Prague in March 2016 (i.e. three months ahead of analogous visit to Warsaw in June 2016) as a yellow card shown to Polish policymakers.

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\(^36\) ibid.

\(^37\) ibid.

\(^38\) ibid.

\(^39\) See Jędrzej Górski,‘PRC’s Co-Operation with Central and Eastern European Countries in the Context of the One Belt One Road Initiative. The Case of 2016 Comprehensive Strategic Partnership between the PRC and Poland’ (September 2016) CUHK CFRED Working Paper No. 19 SSRN ID 2837546 100, 9-12.

\(^40\) See ibid.

\(^41\) See ibid.

\(^42\) See ibid.
Nonetheless, even with existing insufficient railway infrastructure and burdensome regulatory framework in place, entrepreneurs have managed to take matters into their own hands without counting on governments. Business took an interest in that, thanks to railway transportation, the time of sending cargo from the PRC to Europe could be reduced even by half from about thirty to about fifteen-sixteen days depending on the starting point in China. Some trains reportedly commenced operations as early as 2011 along the route starting in Chongqing and heading to Duisburg across Xinjiang.\footnote{Summers (n10), 1634; Uyanayev (n10), 22.} In April 2013, a regular cargo-railway-line was opened between Chengdu and Łódź in Poland,\footnote{Adriana Skorupska and Justyna Szczudlik-Tatar, 'Współpraca regionalna kluczem do strategicznego partnerstwa Polski i Chiń' (November 2014) PISM Strategic File 25 (61) 1, 3.} and was soon followed by the line between Zhengzhou and Hamburg in summer 2013, as well as between Yiwu and Madrid in December 2014 all passing through Kazakhstan, Russia, Belarus and Poland.\footnote{Uyanayev (n10), 21, 22.} Since then, many further regular cargo lines have been opened.

3. Before Polish transformation

3.1. Pre-WW2

The official political relations between various forms of Polish and Chinese statehood in the modern times can only be traced back to the period directly following the end of WW1 as Poland only regained full independence in 1918 after the 123-years long period of partitions by various forms of German, Austrian and Russian statehood.

3.1.1. Polish role in the Chinese Eastern Railway

It is worth mentioning that Poles played a key role in the development of the Chinese Eastern Railway because this had some influence on the relations between Poland and China in the interwar period. The railway was established based on the concession granted for eighty years by the Qing China to the Russian Empire in 1896, in exchange for the undisclosed defence-pact against Japan (so-called Li–Lobanov Treaty).\footnote{Mara Moustafine, 'Russians from China: Migrations and Identity' (2013) 5(2) Cosmopolitan Civil Societies: An Interdisciplinary Journal 143, 144; Liang Chia-pin, 'History of the Chinese Eastern Railway: A Chinese Version' (1930) 3(2) Pacific Affairs 188 at 188-189.} After a few decades of turmoil (including October Revolution, WW1, Russian Civil War, Sino-Soviet conflict of 1929 over the control of the railway, and Japanese control of the Manchukuo puppet-state), the railway was conclusively handed back by the Soviet Union to the PRC in 1952.\footnote{Sören Urbansky, 'A Very Orderly Friendship: The Sino-Soviet Border under the Alliance Regime, 1950-1960' (summer 2012) (Special Issue on China’s Post-Revolutionary Borders, 1940s-1960s) Eurasia Border Review 35.} While the Russian community sensu largo (citizens of the Russian empire as opposed to Chinese citizens) peaked at about one hundred twenty thousand in Harbin (and further about thirty five thousand elsewhere in Manchuria) in mid-1920s,\footnote{Moustafine (46),143, 146.} the maximum number of Poles there could have ranged anywhere between twenty and thirty thousand.\footnote{Marek Adamowicz, 'Utracona Kolonia' Dziennik Bałtycki (13 September 2013) 24, 24.] The outbreak of WW1, October Revolution in the Russian Empire and the Russian civil war brought a lot of chaos to the management of the Chinese Eastern Railway affecting the status of Poles who opted for the citizenship of independent Second Polish Republic, constituted in
November 1918 and recognized by China on 27 March 1920. Whilst the horrors of the revolution in Russia caused the last wave of influx of Poles to Harbin, the turn of 1920 and 1921 actually marked the beginning of the gradual repatriation to Poland or emigration to other places, especially Australia and the US. The major reason for the departures was that China’s Beiyang Government took the opportunity arising out of the chaos in Russia; the tormented conflict between communists and the White Government, with China’s government renegotiating the conditions of the railway concession in a way that, among others, the railway should from then on employ equal number of Chinese and Russians, forcing newly Polish citizens out of the jobs at the railway. The exclusion of Poles from those jobs left in Harbin mostly entrepreneurs and people too poor to leave, the number of which was estimated at about two and a half thousand in entire Manchuria after a group of four hundred had left in June 1925. However, even such small community continued to run Polish institutions and Polish Ministry of Religion and Public Education even recognised the diplomas issued by the remaining Polish secondary school in Harbin as documents allowing entry to Polish universities in 1923.

3.1.2. Sino-Polish trade agreements in the interwar period

The government of the Second Polish republic made efforts to regulate commercial relations with China, first by signing the Treaty on Friendship and Commerce (1928 Commercial Treaty) with the Beiyang Government in May 1928 which never entered into force because of the demise of the Beiyang Government. Subsequently, Polish government signed the Treaty on Friendship and Navigation (1929 Commercial Treaty) with the Nanjing Government in September 1929, which was ratified by the Second Polish Republic in 7 October 1931. The 1929 Commercial Treaty regulated, among others, diplomatic and consular relations, travels and legal status of citizens of one party residing in the other party, and conflicts of laws. With regard to trade relations, the 1929 Commercial Treaty provided that:

- parties would grant most-favoured nation treatment to each other in terms of import and export duties, subject to trade concessions granted by any country to any bordering country, custom-union concluded by any of the parties, and special arrangement between Second Polish Republic and German Part of Upper-Silesia region,
- most-favoured nation treatment will also apply to quantitative restrictions imposed on imports and exports of raw materials (produits bruts) and semi-manufactured

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50 See: Polish Information and Foreign Investment Agency('PAiIZ') and Polish Agency for Enterprise Development ('PARP'), 'Historia stosunków polsko-chińskich' <http://www.gochina.gov.pl/index/?id=35f4a8d465e6e1edc05f3d8ab658c551> accessed 15 August 2016.
53 Kim, Yong-Deog, 'Życie kulturalne Polaków w Mandżurii w latach 1897-1947' (2010) 6(2) Postscriptum Polonistyczne 117, 139; Winiarz (n51),352.
54 Kim (n53), 123; Jarosław Neja, 'Polacy w Mandżurii' (2002)(3) Biuletyn Instytutu Pamięci Narodowej 34, 34.
56 1929 Commercial Treaty (n55) See respectively, 1) arts 2 and 3, (ii) arts 5-7, and (iii) art 8.
57 ibid, art 10.
58 ibid. note 2 to art 10.
goods (manufactures), subject to restrictions justified with national defence or public health reasons, state monopolies or cattle’s infectious diseases,\(^5\)

- registered trademarks, and industrial designs shall be protected pursuant to laws of the parties,\(^6\)

- companies established based on the laws of one party shall have the right to operate on other party’s territory in accordance with local laws, and all provisions on the freedoms and rights of natural persons shall *mutatis mutandis* apply to such persons.\(^7\)

With regard to navigation, the 1929 Commercial Treaty 1) restricted cabotage and internal ship transport for each party’s own commercial fleet,\(^8\) 2) confirmed that sea ports open to free trade can be used by other party’s commercial fleet without restrictions,\(^9\) 3) regulated emergency issues.\(^10\) With regard to Poles living in China, Chinese government made a commitment that 1) Polish passports of such persons will be endorsed (visas will be issued) by local authorities and will replace Chinese documents of identity previously held by such persons,\(^11\) and 2) Polish churches and school will be protected and could count on Chinese government’s help.\(^12\)

Interestingly, the 1929 Commercial Treaty was much more conservative in terms of trade liberalisation than the 1928 Commercial Treaty would have been, had it been ratified and entered into force. The 1928 Commercial Treaty, for example, would have secured that 1) all arbitration clauses and awards in civil and commercial cases would have had to be recognised by the other party,\(^13\) 2) no customs of duties would have been imposed on imports or exports of raw materials and semi-manufactured goods,\(^14\) 3) the real estate (residential, storage, or commercial) of the citizens of one party located on the territory of the other party shall not be confiscated subject to case expressly permitted by laws of the other country equally applicable to citizens of the other party.\(^15\)

### 3.1.3. Manchukuo and WW2

Acting in the best interest of Polish citizens still remaining in Manchuria, the Second Polish Republic was soon forced to be among one of the first countries to recognise Manchukuo. However, this did not prevent expropriation of largest Polish enterprises, like vast forest holdings in the Greater Khingan mountains.\(^16\) In spite of the odds of Japanese occupation and

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\(^{5}\) ibid, art 11.

\(^{6}\) ibid, art 12.

\(^{7}\) Ibid, art 13. However, the additional protocol virtually negated the sense of this provisions by clarifying that the right to operate on other party’s territory is subject to obtaining governmental consent.

\(^{8}\) ibid, art 14.

\(^{9}\) ibid, art 15.

\(^{10}\) ibid, art 16.

\(^{11}\) ibid. note 1 to art 4.


\(^{13}\) 1928 Commercial Treaty, art 7.

\(^{14}\) ibid. art 9.

\(^{15}\) ibid. art 10.

\(^{16}\) Winiarz (n51), 354. However, Winiarz in his article neither specifies what soon meant nor gives a specific date whereas - according to the information published online by two Polish governmental agencies (the PALÍIz and the PARP) on a website devoted to Sino-Polish relations (see note 50) – Poland recognized Manchukuo on 18 October 1938. The source of discrepancies might lie in that some articles/memoires specifically related to Polish community in Harbin might refer to earlier more or less formal consular arrangements between 2nd Polish Republic and Manchukuo’s government.
declining population, Polish cultural and educational institutions continued operations in cooperation with the government in Warsaw.\textsuperscript{71}

Nonetheless, life was generally tough in the 1930s for ‘Westerners’ in Harbin because Japanese administration did a lot to uproot Soviet influence over the Chinese Eastern Railway.\textsuperscript{72} By the end of the 1930s, the number of Russians in Harbin decreased to about thirty thousand people because many moved to still existing international settlements in Shanghai and Tianjin or to the Soviet Union, yet in the latter case many of them in the middle of Great Terror were labelled as the Whites, foreign enemies or Japanese spies and persecuted.\textsuperscript{73} Thus, the vast majority of the Tsarist-Russia’s ex-citizens still preferred to remain stateless rather than accept Soviet citizenship.\textsuperscript{74} This altogether led to a paradox; by the end of the 1930s, Poles outnumbered Soviet citizens in Harbin with about one thousand five hundred people in 1938 against about one thousand Soviet citizens remaining in the city by the 1940s.\textsuperscript{75} Following the beginning of the war in Pacific in December 1941, the Polish government-in-exile located in London broke diplomatic relations with Manchukuo and closed Polish consulate in Harbin.\textsuperscript{76} However, a small Polish community lived there through the war without major perturbation until 1945.

3.2. Socialist Poland

3.2.1. Recognition of the PRC and final repatriation from Manchuria

At the Yalta Conference, Churchill and Roosevelt were simply presented by Stalin with a \textit{fait accompli} of the presence of Soviet troops liberating Polish land from the German occupation, and of the already operating governmental structures recognised by the Soviet Union. The Polish Provisional Government of National Unity was established in June 1945, and Western Powers as well as the Republic of China on 5 July 1945 recognised that institution thereby simultaneously withdrawing their recognition of London-based Polish government-in-exile.\textsuperscript{77} Meanwhile, on the other side of the former Russian empire, there were still 1308 Poles registered in Manchuria when Soviet troops entered that region in August 1945.\textsuperscript{78} The Republic China accepted the conditions imposed on it \textit{in absentia} by concluding the Treaty on Friendship and Alliance the Soviet Union in August 1945. But its enforcement, like the withdrawal of Soviet troops from Manchuria, combined with the takeover of control over the naval base in Dalian by Soviets moved chaotically,\textsuperscript{79} and Sino-Soviet problems in Manchuria were not resolved until the establishment of the PRC in October 1949.\textsuperscript{80}

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\textsuperscript{71} Kim (n53), 125.  \\
\textsuperscript{72} Moustafine (n46), 149.  \\
\textsuperscript{73} About forty eight thousand were arrested, out which thirty one thousand executed. \textit{See} ibid, 149, 150.  \\
\textsuperscript{74} \textit{See} ibid, at 148.  \\
\textsuperscript{75} Kim (n53), 117; Neja (n54), 34; Moustafine (n46), 151.  \\
\textsuperscript{76} Winiarz (n51), 359; Neja (n54), 35.  \\
\textsuperscript{78} Winiarz (n51), 359; Neja (n54), 35.  \\
\textsuperscript{79} George W. Atkinson, 'The Sino-Soviet Treaty of Friendship and Alliance' (1947) 23(3) International Affairs (Royal Institute of International Affairs 1944-) 357, 361-366.  \\
\end{flushleft}
The representatives of the Soviet-aligned Poland arrived in Harbin in March 1949 to co-ordinate the repatriation of the remaining Poles and, out of 1213 persons, 972 wanted to take advantage of that opportunity and left Harbin in July.\textsuperscript{81} After July, there were still about 450 Poles staying in the city, which eventually departed throughout the 1950s, half of which left for Poland and the rest for countries like Australia, US, Canada and Brazil.\textsuperscript{82} Soviet-aligned Poland recognised the PRC on 4 October 1949 and was the second to country after the Soviet Union to open its diplomatic mission to PRC’s government which also happened in October 1949.\textsuperscript{83} The first Polish ambassador to the PRC presented his letters of credence in June whereas the first PRC’s ambassador to post-war Poland presented his letters of credence in July 1950.\textsuperscript{84}

### 3.2.2. Setting the stage for centrally planned economic exchange

The socialist Poland, known since 1952 as the Peoples’ Republic of Poland (Polska Rzeczypospolita Ludowa, or PRL), soon set up the framework of centrally planned economic co-operation with the PRC. The 1951 Economic Exchange Agreement\textsuperscript{85} served as the template for analogous agreements which were concluded in the following years. It regulated mutual payments by deeming that 1) the exchange rate between Polish zloty (PLN) and China Yuan Renminbi (CNY) was fixed by the central bank of the Soviet Union,\textsuperscript{86} 2) clearing of both commercial and non-trade related payments was to be made via parties’ central banks,\textsuperscript{87} 3) all sea-freight-related payments were to be denominated in Soviet rubles but settled in ‘free currencies’, \textsuperscript{88} and 4) specific trade products and their quantity/volume was specified in attachments to that agreement.\textsuperscript{89}

Sino-Polish economic relations flourished as a result, as the PRC had been encumbered with the Western trade-embargo and the PRL was then among the most industrialised countries of the socialist block. Throughout the 1950s within the framework of the agreements on the economic exchange, PRL’s exports to the PRC mostly included whole sets of industrial-plants-equipment, heavy machinery, transportation equipment and steel.\textsuperscript{90} In turn, PRC’s exports to the PRL mostly included agricultural products such as canned fruits, tea and soya beans, plus tea iron ore and silk cloth.\textsuperscript{91} For example in 1958 the PRC was \textit{ex aequo} with Czechoslovakia the third largest purchaser of Polish goods with a 6.8% share in PRL’s total exports compared with Soviet Union’s share of 25% and East Germany’s of 10%.\textsuperscript{92}

\textsuperscript{81} Neja (n54), 39.
\textsuperscript{82} ibid, 41.
\textsuperscript{83} PAiIiZ and PARP (n50).
\textsuperscript{84} ibid.
\textsuperscript{85} Umowa o wymianie towarowej i płatnościach między RP a Chińską Republiką Ludową na 1951 rok [Agreement on the exchange of goods and payments between the Republic of Poland and the People’s Republic of China in the year 1951] (signed 29 January 1951). According the database of treaties run by the Polish ministry of foreign affairs (see <https://traktaty.msz.gov.pl/>) this agreement did not enter into force but the literature on Sino-Polish economic relations suggest that the trade between PRC and Poland based on the 1951 Economic Exchange treaty took place. See George P. Jan, 'Sino-Polish Relations, 1956–1958' (1961) 6(4) The Polish Review 93 (1951 Economic Exchange Agreement), 101.
\textsuperscript{86} 1951 Economic Exchange Agreement (n85), art 5.
\textsuperscript{87} ibid, arts 7 and 8.
\textsuperscript{88} ibid, art 9.
\textsuperscript{89} ibid, list 1 and list 2.
\textsuperscript{90} Jan (n85), 101-102.
\textsuperscript{91} ibid, 101-102.
\textsuperscript{92} ibid, 102.
3.2.3. CHIPOLBROK

1951 was also marked with the establishment of the Polish-Chinese Shipping Joint Stock Company under the Shipping-Company Agreement. The Shipping-Company Agreement is still in force and the company established thereunder still operates under the name of CHIPOLBROK. The Shipping-Company Agreement was originally concluded for twelve years but since then has been automatically extended in 4 years' intervals. The purpose of the company originally included the operation of cargo ships between PRL’s and PRC’s ports with an option to call at ports of third countries, and chartering ships and booking cargo space on the commission of Polish or Chinese authorities. The company was registered in the PRC with headquarter in Shanghai and its branch was registered under Polish law with the office in Gdynia. Capital contributions by both countries were equal, totalling eighty thousand Soviet rubles whereby the value of one ruble was fixed at 0,222167 gram of gold.

In the first five years of operations, all profits were to be assigned for purchasing further ships. Originally, every two years, ships owned by company were to change the country-of-flag and ship-register from Polish to Chinese or the other way round. The company’s personnel was to be half Polish and half Chinese. Both parties exempted company’s ships from registration fees as well as the company itself from income tax so that each party could internally tax its portion of the company’s net profit. Both parties agreed on granting state aid to the company in various form such as operational help by state authorities (with purchases of materials, fuel, handling real-estate matters etc.), credit lines (one million four hundred thousand Soviet rubles by each party’s central bank payable in parties’ local currencies), or national treatment (against other local state enterprises) with regard to prices for transportation services.

3.2.4. From Chinese intervention in 1956 to martial law in 1981

Sino-Polish relations of the 1950s soon proved to not only have economic but also geopolitical dimension. Namely, an increasing number of historians claim that in 1956 Warsaw, unlike Budapest was not pacified by the Soviet troops chiefly because of PRC’s diplomatic efforts to support transformation in the PRL in the wake of Stalin’s death and Khrushchev thaw. A few days after the Khrushchev’s speech on the 25th February 1956 concluding the 20th Congress of the Communist Party of the Soviet Union, Bolesław Bierut

93 Umowa między Rządem PRL a Centralnym Rządem Chińskiej Republiki Ludowej o utworzeniu Polsko-Chińskiego Towarzystwa Okrętowego Spółka Akcyjna [Agreement between the Government of the Polish People's Republic and the Central Government of the People's Republic of China on establishment of the Polish-Chinese Shipping Joint Stock Company] (signed and in force 29 January 1951)
94 Shipping-Company Agreement (n93), article 21.
95 ibid, art 2.
96 ibid, article 4.
97 ibid, article 7.
98 ibid, article 8.
99 ibid, article 12.
100 ibid, article 17.
101 ibid, article 18.
102 See: Shipping-Company Agreement, article 19.
the prime minister of the PRL died in Moscow and was replaced by Edward Ochab who, unlike Bierut, was much less of a pro-Soviet hardliner. The leadership of the Polish socialist party (Polska Zjednoczona Partia Robotnicza or PZPR) decided to print at least fifteen thousand copies of Khrushchev’s speech, and release about thirty five thousand prisoners, out of which one thousand political, within the framework of the amnesty announced in April 1956.

Tensions between Moscow and Warsaw were gradually mounting especially after Władysław Gomułka (previously imprisoned for right wing-reactionary deviation) had been re-admitted to the PZPR in August 1956 and eventually was restored to power. Thus, directly before the PZPR 8th plenum held 19-21 October 1956 during which Gomułka was elected a new PZPR’s first secretary, Soviets put a lot of efforts into threatening Polish leadership like by 1) moving Soviet and Polish yet Soviet-controlled troops closer to Warsaw in response to which Polish but Gomułka-aligned troops started preparations for the defence of Warsaw, and 2) sending Soviet naval ships toward the Bay of Gdańsk. In the early morning of 19 October 1956, the entire Soviet leadership landed in Warsaw to negotiate with Gomułka, including Khrushchev, Lazar Kaganovich, Vyacheslav Molotov, Anastas Mikoyan, and Ivan Konev.

This is where the Chinese footprint can be seen in the story of the Polish-Soviet wrestle. While the Soviet leaders were buying time by allowing the PZPR 8th plenum to elect Gomułka as the new first secretary, they were actually seeking satellite countries’ endorsement of the intervention. However, after securing support from Czechoslovakia and East Germany, they failed to secure the support for the intervention from the PRC’s government. The background of the PRC’s support for the reformist movement in the PRL could, perhaps, be traced to Ochab’s visit to Beijing in late September 1956, during which, according to New York Times, Mao reportedly told to Ochab that “the Poles should go ahead in their efforts to obtain internal independence and develop their own Socialist system as the Yugoslavs have done.” The reason for such PRC’s stance on the developments in the PRL apparently lay in that Beijing already then had been for some time drifting away from Moscow, opposing Soviet Union’s ‘great-power chauvinism.’

107 Granville (n103), ‘To invade…’, 445.
109 See: note 106, Persak, 1290. See also, Granville (n108), ‘Hungarian and Polish Reactions…’, 1054; Granville (n108), ‘Reactions to the Events…’, 266; Kemp-Welch (n105), 1272, Granville (n103), ‘To invade…’, 461.
1. See also, Jan (n85), 95; Kemp-Welch (n105), 1274.
111 Kemp-Welch (n105), 1274. See also, Jan (n85), 96;
Soviet leaders left Warsaw on 20 October in the morning. The next day, they decided that no military intervention would take place, and on 22 October even agreed that Soviet officers and advisors working within the structures of the Polish military could be recalled to the Soviet Union. Nonetheless, the strong foundations of the Polish-Soviet geo-political ties remained in place because the Soviet Union was to guarantee PRL’s Western border. To this end, Soviet troops had to keep stationing on the Polish territory and maintain their transit rights, but in many other respects Polish sovereignty with regard to socio-economic matters was largely restored. Under Gomułka’s rule, among other policy-changes, the process of farming-collectivisation was stopped, and subsequently gradually reverted, farmers’ cooperatives ceased to be mandatory. Relations between the government and the Catholic Church dramatically improved etc. Meanwhile, with regard to Sino-Polish relations, New York from 18 April 1957, in a non-authored article titled 'Warsaw-Peiping Axis’ observed that:

- “[t]he political romance between Communist Poland and Communist China has been one of the most remarkable, and most important developments of the past year,”
- “[t]hat the Soviet leaders are entirely pleased by these developments would seem highly dubious, yet they have had to accept them with only relatively minor public display of displeasure.”

Over next decades, the PRC and the PRL continued with the business-as-usual by trading based on subsequent economic-exchange agreements. Such status quo was not changed until the very eve of the Martial Law introduced in the PRL on 13 December 1981, ten days later followed by the US economic sanctions imposed on the PRL At that time, instead of the ordinary economic exchange agreement, the PRC and the PRL entered into a commodity credit agreement, according to which:

- the government of the PRC shall supply fifty thousand tons of frozen pork and grant a long-term interest-free loan for the purchase of that meat,
- the government of the PRL shall pay the loan back in two instalments in fully convertible currency agreed upon by the parties, whereby the payment for the supplies of meat delivered yet in 1981 will done until 30 November 1992 and the

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112 Kemp-Welch (n105), 1274.
113 Persak (n106), 1302.
114 ibid, 1303.
115 Kemp-Welch (n105), 1278.
117 'Warsaw-Peiping Axis' New York Times (1957) 28. See also, Jan (n85), at 94.
repayment for supplies of meat delivered in 1982 will be done until 30 November 1993.\textsuperscript{121}

- the inflation shall be factored-in in the amount of the repayment in the way that the parties shall first determine the interim FOB (‘free on board’) USD-denominated price of the Chinese pork and compare it with the market price on Amsterdam’s commodities exchange (as of September 1981 with delivery in October 1981) and subsequently, respectively in October 1992 and October 1993, parties shall use this ratio to determine the amount of loan’s repayment based on current prices of pork on Amsterdam’s commodities exchange (as of September with delivery in October of respectively 1992 and 1993).\textsuperscript{122}

In 1982 and in the following years, the PRC and the PRL again concluded standard economic exchange agreements. However, both countries also concluded further agreements on general and meat-specific trade credits. The loan agreement from 1983\textsuperscript{123} stipulated that 1) the government of the PRC shall grant a trade credit to the government of the PRL amounting to fifty million CHF with an annual interest rate of 5%,\textsuperscript{124} and 2) the government of the PRL will repay it in 1988 in kind, including mining machinery and other goods to be later agreed upon by the parties.\textsuperscript{125} The list of goods credited by the Chinese party included tea, rapeseed oil, cotton fabric, clothing including work-wear, rubber footwear, school/office stationary, and tires.\textsuperscript{126} In turn the agreement on meat supplies from 1983\textsuperscript{127} covered twenty thousand tons of frozen pork with repayment due in November 1994.\textsuperscript{128} The provisions on the calculation of the amount to be repaid was identical to analogical provisions of the agreement on meat supplies from 1981.\textsuperscript{129} This meat-related arrangement was again repeated under yet another agreement on meat-related trade credit, to be granted by the government of the PRC to the government of the PRL concluded in January 1984. Under this the PRC promised to deliver ten thousand tons of frozen pork but with shorter repayment period set for November 1989.\textsuperscript{130}

\begin{footnotes}
\item[121] ibid, article 2.
\item[122] ibid, article 3.
\item[124] 1983 Loan Agreement (n20), art 1.
\item[125] ibid,art 2.
\item[126] ibid,appendix to article 1.
\item[128] 1983 Meat Agreement (n127), arts 1 and 2.
\item[129] ibid, art 3.
\item[130] Porozumienie między Rządem PRL a Rządem ChRL w sprawie dostaw mięsa z Chin do Polski na warunkach długoterminowego, nieoprocentowanego kredytu [Agreement between the Government of the Polish People's Republic and the Government of the People's Republic of China on meat delivery from China to Poland on long-term, non-interest credit conditions] (26 January 1984), arts 1-3.
\end{footnotes}
3.2.5. 1986 Civil Aviation agreement

In March 1986, the PRC and the PRL concluded the Civil Aviation Agreement (still in force), under which each party was to choose one ‘designated’ airline, in which “[t]he substantial ownership and effective control of the airline designated by each contracting party shall remain vested in such contracting party or its nationals.” Designated airlines were to provide ‘agreed services’ and fly across ‘agreed routes’ as specified in the schedule to the agreement, and offer charter flights only upon receiving additional authorisations. At the airports of the other party to the agreement, the designated airlines were to be:

- “charged for the use of airports, facilities and technical services of other Contracting Party at fair and reasonable rate prescribed by the appropriate authorities of the other Contracting Party,”
- “[s]uch rates shall not be higher than those paid by airlines of other States engaged in international air services for the use of similar facilities and services.”

With regard to taxation, the Civil Aviation Agreement has exempted designated airlines’ 1) aircraft along with their regular equipment from all customs duties, inspection fees etc. on condition that such equipment remain on board until it is re-exported, and 2) profits achieved in connection with the carriage of passengers, baggage, cargo and mail.

With regard to tariffs, the 1986 Civil Aviation Agreement provided that “[t]he tariffs on any agreed services shall be established at reasonable levels, due regard being paid to all relevant factors including cost of operation, reasonable profit, characteristics of service (such as standards of speed and accommodation) and the tariffs of other airlines for any part of the specified route,”. The tariffs were to be in the first place determined by an agreement between designated airlines. If such agreement could not be reached, tariffs were to be determined by an agreement of ‘aeronautical authorities’ of the parties. And, if the agreement by aeronautical authorities could not be reached, the issue of tariffs was to be referred for governmental consultations. The original schedule to the agreement, specifying agreed services and agreed routes, listed one route between Warsaw and Beijing for designated airlines of each country.

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132 1986 Civil Aviation Agreement (n131), art 3.1.
133 ibid, art 3.2.
134 ibid, art 2.
135 ibid, art 5.2.
136 ibid.
137 ibid, art 6.1.
138 ibid, article 8.
139 ibid, article 12.1.
140 ibid, article 12.2.
141 ibid, article 12.3.
142 ibid, art 12.4.
143 ibid, schedule.
3.2.6. Last years of centrally-planned economy

In May 1986, the PRC and the PRL concluded the last trade agreement listing specific exported goods (until 1990) characteristic for centrally-planned economies. The agreement on legal assistance from 1987 (still in force), among many other things regulated the recognition of courts’ decisions and arbitration awards. With regard to court awards, the agreement covered 1) court decisions in civil cases, defined as also including moral and economic rights in the field of commercial, family and labour law, 2) court decisions in criminal cases which pertain to motions for civil compensation, and 3) decisions of public authorities competent to handle inheritance matters. In turn, with regard to arbitration awards, the agreement provides that the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards shall apply.

4. After Polish transformation

4.1. Prior to Poland’s accession to the EU

4.1.1. Wilczek Act

A true boundary line for the Polish transition from centrally-planned economy to market-economy was not any major political event but rather the adoption of the 1988 Act on economic activity which entered into force on 1 January 1989. It is commonly known as the ‘Wilczek Act’ named after Mieczysław Wilczek the then minister of industry in the cabinet of prime minister Mieczysław Rakowski. The Wilczek Act generally deregulated economic activities which could from then on would be conducted without authorization. Exempt from this would be activities related to mining, tooling and sales of gemstones and precious metals, production and sales of munitions, production and sales of pharmaceuticals and sanitary equipment, production of spirits or tobacco, sea transport, air transport, running pharmacies, and security services. Interesting, the Wall Street Journal from 19 July 1989 noted on Wilczek, among others, that:

“[a]s a Communist, it soon became clear, Mr. Wilczek has something in common with many of Poland’s Roman Catholics: He may belong, but he doesn’t believe. "There

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146 1987 Legal Assistance Agreement (n145), art 12.
147 ibid. art 16.
148 ibid, art 21.
150 “Chosen to head the Industry Ministry was Mieczyslaw Wilczek, a 56-year-old Communist Party member who left a lucrative job in state industry to found a successful animal-feeds company that employs 60 people. He is also part owner of an enterprise that buys rabbit skins for use in apparel.” See John Tagliabue, 'Poland Names New Officials to Bolster Economy' New York Times (14 October 1988) 7. See also, See: Oskar Kowalewski, and Krzysztof Rybiński, 'The hidden transformation: the changing role of the state after the collapse of communism in Central and Eastern Europe' (2011) 27(4) Oxford Review of Economic Policy 634, 637.
151 See: Wilczek Act (n149), Article 11.
haven't been Communists in Poland for a long time," he says. "Nobody wants to hear about Marx and Lenin anymore." Mr. Wilczek comes out foursquare for private ownership and dead set against unions. Among 19th-century thinkers he would seem to lean more toward Carnegie and Gould."

4.1.2. 1988 Taxation Agreement

In Sino-Polish relations, the strong Polish tide toward free market economy was reflected in the set of the agreements concluded between Poland and the PRC signed in Beijing in June 1988. For example, the agreement on the avoidance of double taxation (1988 Taxation Agreement – still in force)\(^\text{153}\) can be summarised as follows. The income of a resident of one party derived from immovable property situated in the other party shall only be taxed in the other party.\(^\text{154}\) As to business profits, an enterprise of one party shall only be taxed by the other party if it carries on business through a permanent establishment in the other party.\(^\text{155}\)

As to shipping and transport, the operation of ships or aircraft in international traffic shall only be taxed by the party on the territory of which the effective management of such transport enterprise is carried out.\(^\text{156}\) As to transfer prices, subjected to the control of such prices are associated enterprises where association is defined as 1) direct or indirect participation in management, control, or capital of an enterprise of the other party, or 2) sameness of persons involved in direct or indirect participation in management, control, or capital of an enterprise of the other party.\(^\text{157}\) As to dividends, the dividends paid out by an enterprise of one party to residents of the other party can only be taxed up to ten per cent by the first party.\(^\text{158}\) Likewise, as to interests, the interests arising in one party and paid to residents of the other party can only be taxed up to ten per cent by the first party.\(^\text{159}\)

As to royalties, the maximum amount of the tax imposed by the party (on the territory of which royalties arise) on such royalties paid to residents of the other party depends on the type of intellectual property rights. In the case of payment for “the use of, or the right to use any copyright of literary, artistic or scientific work, including cinematograph films, and films or tapes for radio or television broadcasting, or any patent, know-how, trademark, design or model, plan, secret formula or process” that shall be up to ten per cent whereas in the case of the payment for “the use or the right to use, any industrial, commercial or scientific equipment” that shall be up to seven per cent.\(^\text{160}\)

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\(^\text{153}\) Umowa między Rządem PRL a Rządem Chińskiej Republiki Ludowej w sprawie unikania podwójnego opodatkowania i zapobiegania uchylaniu się od opodatkowania w zakresie podatków od dochodu [Agreement between the Government of the Polish People's Republic and the Government of the People's Republic of China for the avoidance of the double taxation and the prevention of fiscal evasion with respect to taxes on income] (signed June 1989, in force 7 January 1989 (1988 Taxation Agreement)).


\(^\text{155}\) ibid, art 7.

\(^\text{156}\) ibid, article 8.

\(^\text{157}\) ibid, article 9.

\(^\text{158}\) ibid, article 10.

\(^\text{159}\) ibid, article 10.

\(^\text{160}\) ibid, article 11.
4.1.3. 1988 BIT

The bilateral investment treaty (1988 BIT – still in force)\textsuperscript{161} is a typical traditional BIT offering only state-state dispute settlement mechanism. The 1988 BIT defines:

- the investment as “every kind of asset made as investment in accordance with the laws and regulations of the Contracting party accepting the investment in its territory, including mainly (i) movable and immovable property and other rights in rem, (ii) shares in companies or other form of interest in such companies, (iii) a claim to money or to any performance having an economic value, (iv) copy right, industrial property right, know-how and technical process,”\textsuperscript{162} and
- the investor as “(i) any natural person who is a citizen of one of the Contracting Parties and has made in investment in the other Contracting Party’s territory; (ii) any juridical person, organization or association with or without legal personality, constituted in accordance with the legislation of one of the Contracting Parties, having its seat in the territory of this Contracting party and having made an investment in the other Contracting Party territory.”\textsuperscript{163}

As typical BITs concluded between post-communist economies, the 1988 BIT does not include national treatment clause, confining the standard of protection to “equitable treatment,”\textsuperscript{164} which “shall not be less favourable than accorded to investments and activities associated with investment of investors of any third state.”\textsuperscript{165} Investments can only be expropriated, nationalised or taken with similar measures “for security reason or public purpose” and the compensation “shall be equivalent to the value of expropriated investment assets at the time when expropriation is proclaimed.”\textsuperscript{166} Also typically for the post-communist BITs, the 1988 BIT also provides that:

- “[i]f and investor considers the expropriation […] incompatible with the laws of the Contracting Party taking the expropriatory measures, the competent court of the Contracting Party taking expropriatory measures may, upon the request of the investor, review the said expropriation,”\textsuperscript{167} and
- “[i]nvestors of one Contracting Party who suffer losses in respect of their investment in the territory of the other Contracting Party owing to war, a state of national emergency, insurrection, riot or other similar events, shall be accorded by the Contracting Party, if it takes relevant measures, treatment no less favourable than that accorded to investors of a third State.”\textsuperscript{168}

\begin{itemize}
  \item \textsuperscript{161} Umowa między Rządem PRL a Rządem Chińskiej Republiki Ludowej w sprawie wzajemnego popierania i ochrony inwestycji \textit{[Agreement between the Government of the Polish People’s Republic and the Government of the People’s Republic of China on the reciprocal encouragement and protection on investments]} (signed 7 June 1989, in force 8 January 1989) (1988 BIT).
  \item \textsuperscript{162} 1988 BIT, art 1.a.
  \item \textsuperscript{163} ibid, art 1.b.
  \item \textsuperscript{164} ibid, art 3.1.
  \item \textsuperscript{165} See: 1988 BIT, art 3.2. As always subject to “customs union, free trade zone, economic union, organisation of mutual economic assistance, any international agreement, arrangement or domestic legislation taxation, any regulation to facilitate the trade” \textit{See} ibid, art 3.2.
  \item \textsuperscript{166} ibid, art 4.1.
  \item \textsuperscript{167} ibid, art 4.3.
  \item \textsuperscript{168} ibid, art 4.4.
\end{itemize}
The disputes concerning the application or the interpretation of the 1988 BIT, which cannot be solved via diplomatic channels within six months, can be submitted to ad hoc arbitration. In the case the parties have failed to constitute an arbitration panel (three-person body) within four months from the notice of arbitration, the arbitration panel shall be appointed by the president of the International Court of Justice.\textsuperscript{169} The same rules apply to disputes merely related to the amount of compensation for the expropriated investment, subject to the arbitration procedure being preceded with maximum one-year period for solving the issue by the party receiving an investment instead of six-months period for consultation via diplomatic channels.\textsuperscript{170} Finally, the 1988 BIT applies to both investments made prior to or after its entry into force. In the case of this BIT’s termination, its provisions “shall continue to be effective for a further period of ten years from such date of termination.”\textsuperscript{171}

\textbf{4.1.4. Polish restrictions of foreign joint ventures}

The conclusion of the 1988 did not mean that the investors originating in the PRC or Poland could freely invest in the other country. The complexity of various restrictions imposed on foreign investment in the PRC is widely recognised. Interestingly, also Poland at its early stage of transformation introduced similar measures. The 1988 Foreign Companies Act\textsuperscript{172} stipulated that foreigners could hold a share of not less than twenty per cent of capital in Polish companies,\textsuperscript{173} and had to obtain a permit to do so.\textsuperscript{174} The 1988 Foreign Companies Act mandated granting permits in the case of foreign investments contributing to 1) the implementation of innovative technological/organisational solutions to the national economy, 2) exports of goods and services, 3) improvement of the supply of domestic market in modern and high-quality goods and services, and 4) environmental protection.\textsuperscript{175} The agency competent for issuing those permits could make its consent conditional upon specific proportion of share capital held by a foreigner, as well as allowing companies with foreign participation to seek equity investment through public offering.\textsuperscript{176}

Throughout the 1990s, the initially strict regulation of foreign participation in Polish companies was gradually liberated. The 1988 Foreign Companies Act was replaced with the 1991 Foreign Companies Act\textsuperscript{177} under which, subject to permits required from all persons regardless of citizenship/place of registration, foreigners should only obtain permits for the establishment or purchase (regardless of share in capital) of companies which were involved in 1) management of sea-ports or airports, 2) real-estate brokerage, 3) non-licensed military-related industry, and 4) providing legal advice.\textsuperscript{178} The 1991 Foreign Companies Act expired on 1 January 2001 and, thereafter, companies with foreign participation could operate on pretty much the same condition as companies without such participation, subject only to

\begin{itemize}
  \item \textsuperscript{169} ibid, art article 9.
  \item \textsuperscript{170} ibid, art article 10.
  \item \textsuperscript{171} ibid, art articles 8 and 11.4.
  \item \textsuperscript{172} Ustawa z dnia 23 grudnia 1988 r. o działalności gospodarczej z udziałem podmiotów zagranicznych [The 1988 Act on Economic Activity with the participation of foreigners] [1988] Polish Official Journal no. 41 item 325 (1988 Foreign Companies Act).
  \item \textsuperscript{173} 1988 Foreign Investment Act (n172), art 5.1.
  \item \textsuperscript{174} ibid, art 2.
  \item \textsuperscript{175} ibid, art 5.2.
  \item \textsuperscript{176} ibid, art article 8.
  \item \textsuperscript{177} Ustawa z dnia 14 czerwca 1991 r. o spółkach z udziałem zagranicznym [1991 Act on Companies with Foreign Participation] [1998] Polish Official Journal no. item 253 (1991 Foreign Companies Act).
  \item \textsuperscript{178} 1991 Foreign Companies Act (n177), art 4.
\end{itemize}
some restrictions on the purchase of immovable property, especially agricultural land and forests.

4.1.5. Sino-Polish trade agreement throughout the 1990s

In December 1989, the PRC and Poland eventually concluded that a non-centrally-planned trade agreement\(^{179}\) (1989 Trade Agreement) under which 1) parties granted a most-favoured nation treatment to each other subject to standard exceptions,\(^{180}\) 2) not only state-trading enterprises but also ‘other persons’ would to be allowed to trade,\(^{181}\) and 3) parties shifted to payment settlement through free floating currencies from previous clearing by central banks.\(^{182}\) Nonetheless, the 1989 Trade Agreement did not specify any tariff reductions. Nor did the subsequent 1993 Trade Agreement,\(^{183}\) which stayed in force until Poland’s accession to the EU on 1 May 2004. The 1993 Trade Agreement, in contrast to the 1988 Trade Agreement, provided for safeguard/countervailing measures, i.e. the provisions that the importing party can apply appropriate measures if the volume of imported goods and/or the conditions of import cause or might cause a serious damage to domestic producers of like products.\(^{184}\) Under such a regulatory environment, a few anti-dumping proceedings were opened and a few decisions were issued imposing anti-dumping duties on goods imported from the PRC such as lighters and footwear.

Notably, whilst the 1988 Trade Agreement and 1993 Trade Agreement did not reserve foreign trade to state-trading enterprises, the economic freedom granted to Polish entrepreneurs under the Wilczek Act did not pertain to foreign trade. The Wilczek Act allowed the introduction of an obligation to receive permits for foreign trade in virtually all goods.\(^{185}\) The original executive regulation required receiving permits for trading, among others, explosives various types of meat, grain, corn, grain of leguminous vegetables, rice, cattle, flock, other slaughter animals (sheep, goat, horses, donkeys), coal, briquettes, fuels, energy, steel products, nonferrous-metal-products, lumber, timber prefabricates, stationary, fabrics and clothes (with some exceptions), meat cans, cold cuts, furs, slaughtered and slaughter poultry, frozen fruits, eggs, butter, powdered milk, cheese, spirits, strawberry raspberry jams etc.\(^{186}\) Throughout the 1990s, the list was gradually reduced and the last list from January 2000 included only explosives, detonation fuses, arms (sports, hunting, non-lethal/neutralising along with accessories), cigars, fuels, natural gas and some parts of farming/forestry tractors.\(^{187}\)

\(^{179}\) Umowa handlowa między Rządem PRL a Rządem ChRL [Trade agreement between the Government of the PRL and the Government of the PRC] (1989 Trade Agreement).
\(^{180}\) 1989 Trade Agreement (n179), art 2.
\(^{181}\) ibid, art 3.
\(^{182}\) ibid, art 5.
\(^{184}\) 1993 Trade Agreement ibid (n183), art 5.
\(^{185}\) Wilczek Act (n149), art 11.9.
4.1.6. 1996 Maritime Agreement

The 1996 Maritime Agreement\(^\text{188}\) concluded in October of that year entered into force in April 1997 and is remains in force today. It applies to both cargo and passenger transport, yet it does not apply to warships, fishing vessels and vessels performing public functions,\(^\text{189}\) nor to cabotage or inland-water-transport.\(^\text{190}\) Under the 1996 Maritime Agreement, each party grants to other party’s vessels the most-favoured treatment with regard to:

- “port access, levying port dues and charges, treatment during staying in and departure from the ports when using port facilities to transport cargo and passengers, as well as access to all services and other port facilities,”\(^\text{191}\) and
- “establishment of shipping of representative offices by shipping companies of both contracting parties in the territory of the other Contracting Party in accordance with the laws and regulations of that Contracting Party.”\(^\text{192}\)

Importantly, the 1996 Maritime Agreement recognises the use of flag of convenience by parties’ vessels,\(^\text{193}\) and also overlaps with some previously concluded agreements. For example, as to taxation, in line with the 1988 Taxation Agreement, the 1996 Maritime Agreement provides that “[b]oth Contracting Parties agree that all revenues (including profits) derived from the operations of vessels in international maritime transport by shipping companies having the place of their effective management in the territory of one Contracting Party shall be exempted from double taxation in the territory of the other Contracting Party.”\(^\text{194}\) In turn, as to the status of the CHIPOLBROK (see section 12), the 1996 Maritime Agreement “shall not affect the provisions between Contracting parties concerning the activity of the joint shipping company established by the two Government – Chinese-Polish Joint Stock Shipping Company.”\(^\text{195}\)

4.1.7. Sino-Polish Polish financial co-operation throughout the 2010s

Another oddity in the Sino-Polish relations can be seen in that, still in the 2010s, Poland extended financial assistance to China. Yet it was a tied aid. Under the ‘2000 Financial Agreement,\(^\text{196}\) Polish government extended a USD eighty five million credit to the PRC’s government “for financing of environmental protection investment in China”\(^\text{197}\) whereas the minimum value of one project should be USD one million.\(^\text{198}\) The aid was tied in a way that 1) “[t]he credit will be used to finance 100% contract value for the deliveries from the


\(^{189}\) 1996 Maritime Agreement (n188), art 1.2.

\(^{190}\) However, “[w]hen vessels of one Contracting party sail from one port of the other Contracting Party to another to load cargo for foreign countries or discharge cargo from abroad, it shall not be regarded as cabotage or inland water transport.” See ibid, art 3.

\(^{191}\) ibid, art 3.

\(^{192}\) ibid, art 10.

\(^{193}\) ibid.

\(^{194}\) ibid, art 13.

\(^{195}\) ibid, art 14.

\(^{196}\) Agreement on financial cooperation between the Government of the Republic of Poland and the Government of the People's Republic of China (Umowa między Rządem RP a Rządem Chińskiej Republiki Ludowej o współpracy finansowej – the '2000 Financial Agreement')

\(^{197}\) 200 Financial Agreement (n196), art 1.1.

\(^{198}\) ibid, art 1.3.
Republic of Poland to the People’s Republic of China, of machinery, equipment and materials produced in Poland, as well as services including technologies,” 199 and 2) “[t]he input of Polish origin into the supply of machinery, equipment, material and services under the Agreement cannot be less than 80%,” 200 The repayment of each credit-utilization had to be done in twenty four equal semi-annual instalments payable along with interests in May and November each year after a two-year grace period, 201 at the annual interest rate of 1.98%. 202

Under the original version of the 2000 Financial Agreement, all means from the credit extended by the Polish government were to be used until December 2003. Nonetheless, the agreement was further extended and amended many times. For example, in May 2003 the parties agreed to 1) extend the application of the agreement to cover not only environment-protection-related projects but also to projects related to health care, education, infrastructure, transportation, mining, power industry, agriculture, food processing industry, or building materials. In January 2005, the parties reduced the Polish-input-requirement from eighty to sixty per cent. In April 2007, the parties agreed to increase the credit-line USD to two hundred eighty five million. Finally, in January 2011, parties agreed that all remaining means would be used until December 2013.

4.2. After Poland’s accession to the EU

After Poland’s accession to the EU on 1 May 2004, Poland lost a huge part of its sovereignty related to trade-policies. However, Poland continued to cooperate directly, rather than via European Commission, with the PRC in the fields other than trade concessions. Meanwhile, apart from such business-as-usual, Poland’s president Bronisław Komorowski paid a notable visit to Beijing in December 2011 at PRC’s president Hu Jintao’s invitation (see section 0). Some seedbeds for the SREB initiative could then be seen for example in that the 2011 Declaration signed during that visit provided that “Chinese side wants to increase imports of Polish goods and support Chinese entrepreneurs’ participation in infrastructural projects as well as privatisation transformation in Poland.” 203

4.2.1. Polish membership in the AIIB

Poland was at this time differentiated from other CEECs by the decision to join the Asian Infrastructure Investment Bank (AIIB). The decision was made despite the fact that the US government, which since the 1990s has held a strong influence over decisions made by governments of CEECs, made a lot of efforts to malign the idea of a participation the PRC-led development bank by expressing serious concerns about transparency, governance and sustainability of projects to be financed by the AIIB. Western critics were particularly frugal in pointing out environmental and/or social shortcomings of previous projects financed with

199 ibid.
200 ibid, art 2.2.
201 ibid, arts 5 and 6.
202 ibid, art 6.
203 “Strona chińska pragnie zwiększyć import polskich towarów oraz zachęcać i wspierać udział chińskich przedsiębiorstw w projektach infrastrukturalnych oraz w przekształceniach prywatyzacyjnych w Polsce.” See 2011 Declaration (n2), point 4.
China’s bilateral aid\textsuperscript{204} and prognosticated that the AIIB would finance undertakings rejected by other MDBs in a kind of race to the bottom.\textsuperscript{205}

Nonetheless, it became clear that this sort of criticism was a part of US’ larger geopolitical game in which a potential success of the AIIB could undermine existing system of development-aid dominated by World Bank and the IMF.\textsuperscript{206} Simply put, the US-led G7 nations\textsuperscript{207} had for decades refused to accept emerging economies’ criticism about these Bretton Woods institutions including, among others staffing policies and voting rights not reflecting emerging economies’ increasing share in global economy.\textsuperscript{208} Thus, the BRICS nations\textsuperscript{209} had eventually decided to circumvent the status quo by opening the New Development Bank (also known as the BRICS Bank) and the AIIB.\textsuperscript{210} And the US subsequently failed to prevent its allies from joining the AIIB,\textsuperscript{211} like by raising concerns about AIIB’s procurement standards.\textsuperscript{212}

Under the AIIB Articles of Agreement, Poland agreed to 1) subscribe USD 831.8 million constituting 0.8475 per cent of AIIB’s authorised capital, out of which it shall initially pay USD 166.4 million in cash in five annual instalments starting from 2016,\textsuperscript{213} and 2) have initial voting power set up at 0.98 per cent.\textsuperscript{214} This is generally comparable with Poland’s capital share in other multilateral development banks including 1) 0.65 per cent share in the capital of the World Bank, 2) 2.06 per cent share in the capital of the European Investment Bank, and 3) 1.28 per cent share in the capital of the European Bank for Reconstruction and Development.\textsuperscript{215}

4.2.2. 2016 Partnership

Previous developments, along with president Andrzej Duda’s visit to Beijing and Suzhou in November 2015 within the framework of the G16+1 have led to president Xi Jinping’s visit to Warsaw in June 2016, brought about the conclusion of the 2016 Partnership. In an op-ed written for the Polish Newspaper \textit{Rzeczpospolita} from 16 June 2016, Xi Ping literally confirmed Poland’s central role for the SREB project by stating that:

\begin{itemize}
  \item [204] Cecilia Torta Jada and Asit K Biswas, ‘New Bank a Challenge for Bretton Woods’ \textit{China Daily} (New York, NY, 24 October 2014) 16. See also, Jędrzej Górski, ‘Recent developments in procurement of projects financed by the Multilateral Development Banks. What can EU’s public procurers expect from the China-led financial institutions?’ (Hong Kong January 2016) CUHK CFRED WP no. 15 1,8-9.
  \item [205] Martin Khor, ‘Many in West Back Winds of Change in World’ \textit{China Daily} (New York, NY, 23 April 2015) 12; Jada and Biswas (n204), ibid. See also, Górski (n204), 8-9.
  \item [206] Dan Steinbock, ‘Beginning of AIIB Epoch Benefits All’ \textit{China Daily} (New York, NY, 1 July 2015) 12; Khor (n205). See also, Górski (n204), 8-9.
  \item [207] Canada, France, Germany, Italy, Japan, United Kingdom, United States
  \item [208] Steinbock (n206); Khor (n205); Jada and Biswas (204). See also Górski (n204), 8-9.
  \item [209] Brazil, Russia, India, China and South Africa.
  \item [210] Daniel Epstein, ‘New Development?’ (2014) 36 Harvard International Review 12, 13; Khor (n205); Jada and Biswas (n204). The very basic premise of the AIIB is that voting powers must reflect AIIB member’s current GDP. See Chunyan Zhang, ‘Laying Foundations for a Successful AIIB’ \textit{China Daily} (New York, NY, 15 April 2015) 15. See also, Górski (n204) 8-9.
  \item [211] Jada and Biswas (n204). See also, Górski (n204) 8-9.
  \item [212] Steinbock (n204). See also, Górski (n204) 8-9.
  \item [213] Projekt ustawy - o ratyfikacji Umowy o utworzeniu Azjatyckiego Banku Inwestycji Infrastrukturalnych, sporządzonej w Pekinie dnia 29 czerwca 2015 r. [2016] Polish Parliamentary Printed Matter no. 246 (submitted 8 February), point 2 at 6. See also, AIIB Article of Agreement, article 6.
  \item [214] Projekt Ustawy… (n213), point 2 at 6, 7.
  \item [215] ibid, point 2 at 6.
\end{itemize}
• “Poland is at the heartland of Europe,” 216
• “[i]t is also where the Amber Road and the Silk Road meet”, 217
• “[s]everal China Railway Express trains to Europe pass through Poland or are bound for Poland,” 218
• “[b]ased on the MOU signed between the two governments on joint building of the Belt and Road, the two sides should speed up the formulation of cooperation plans, identify and prepare for major projects and work for early harvest.” 219

The core document signed by Xi in Warsaw, i.e. the 2016 Declaration220 also includes references to the OBOR and the SREB, stating that:

“[b]oth Parties will make joint efforts toward promoting bilateral co-operation within the framework of the Action plan for responsible development of Poland presented by Poland and the Silk Road Economic Belt as well as the twenty-First Century Maritime Silk Road initiative (Belt and Road Initiative) presented by China. Based on the Memorandum on the Agreement between the Government of the Republic of Poland and the Government of the People’s Republic of China on the joint support for the Belt and Road initiative, both Parties will enhance ties between Belt and Road and the Action plan for responsible development of Poland, formulate assumptions of the plan for the Sino-Polish co-operation (…).”221

To this end, on 20 June 2012, the PRC and Poland concluded a set of very specific agreements and/or protocols. Apart from courteous matters such as cultural co-operation,222 the 2016 Aviation Taxation Agreement exempted “[i]nternational air transportation services provided by an air transport enterprise established in one of the States” from value added tax.223 In turn, the 2016 Academic Recognition Agreement,224 did not provide for automatic

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217 ibid.
218 ibid.
219 ibid.
220 Wspólne oświadczenie w sprawie ustanowienia wszechstronnego strategicznego partnerstwa między Rzecząpospolitą Polską a Chińską Republiką Ludową [Joint Declaration on the Establishment of the Comprehensive Strategic Partnership between Republic of Poland and People’s Republic of China] (2016 Declaration)
221 Originally in Polish: “Obie strony będą wspólnie dokładały starań na rzecz promocji współpracy dwustronnej w ramach Planu na rzecz Odpowiedzialnego Rozwoju przedstawionego przez Polskę oraz Inicjatywy „Ekonomicznego Pasa Jedwabnego Szlaku” i ”Morskiego Jedwabnego Szlaku XXI Wieku” (Inicjatywa Pasa i Szlaku) przedstawionej przez Chiny. W oparciu o Memorandum o Porozumieniu dotyczące wspólnego wspierania inicjatywy „Pas i Szlak”, obie strony będą wzmocniały powiązania dotyczącego wspólnego wspierania inicjatywy „Pasa i Szlaku” oraz Planem na rzecz Odpowiedzialnego Rozwoju, wspólnie sformułują założenia planu współpracy polsko-chińskiej.” See: 2016 Declaration (n220), point V.
223 Umowa między Rządem RP a Rządem Chińskiej Rep. Ludowej w sprawie wzajemnego zwolnienia usług międzynarodowego transportu lotniczego z opodatkowania podatkiem od wartości dodanej lub podatkiem o podobnym charakterze, poprzez wymianę listów [Agreement between the Government of the Republic of Poland and the Government of the People's Republic of China on the reciprocal exemption in international air transportation services from Value Added Tax or any tax of a similar nature] (2016 Aviation Taxation
recognition of diplomas/certificates etc, merely specifying which degrees/certificates issued in both countries allow to apply to higher-degree academic programs in the other country. The 2016 Academic Recognition Agreement did not set up any general framework for the recognition of diplomas/certificates for professional purposes or simply for the recognition of professional qualifications.

5. Discussion

5.1. SREB and geo-political determinism

5.1.1. Reversal of the age of discoveries

Recent dynamics in Sino-Polish relations must be seen entirely through the prism of the geopolitical consequences of the OBOR and SBER, namely the reversal of the results of the Age of Discoveries. These, to quote Mackinder, are to:

- “connect the western and eastern coastal navigations of Euro-Asia, even though by a circuitous route, and thus in some measure to neutralize the strategical advantage of the central position of the steppe-nomads by pressing upon them in rear,” and
- “reverse the relations of Europe and Asia, for whereas in the Middle Ages Europe was caged between an impassable desert to south, an unknown ocean to west, and icy or forested wastes to north and north-east, and in the east and south-east was constantly threatened by the superior mobility of the horsemen and camelmen, she now emerged upon the world, multiplying more than thirty-fold the sea surface and coastal lands to which she had access, and wrapping her influence round the Euro-Asiatic land-power which had hitherto threatened her very existence.”

Currently, some Chinese scholars speak openly in a similar line about the restoration or revival of European civilization should Europe explore all possibilities potentially stemming from increased land-trade with China across Russia. Chinese scholars also like to draw upon this Anglo-Saxon understanding of geopolitics shaped by Mackinder’s notions of Eurasia/heartland and rimland. For example, Wang Yiwen repeated after Mackinder and Brzeziński in saying that the integration of Eurasia would isolate the US, adding that in current conditions it would “allow Eurasia to return to the center of human civilization,

Agreement), Letter from Minister of Finance, Paweł Szalamacha to Mr Wang Jun, the Commissioner of State Administration of Taxation of the PRC dated 20 June 2016.
225 2016 Academic Recognition Agreement (n224), art 2.
226 ibid. arts 3-6.
228 ibid, 433.
229 Ferdinand (n12), 955. See also, Werner Fasslabend, ‘The Silk Road: a political marketing concept for world dominance’ (2015) 14(2) European View 293, 300.
230 See Mackinder (n227), 430.
231 See ibid, 433.
thereby reshaping global geopolitics and landscape.” Such statements are not exaggerated given that, for example Burrows and Manning in their contribution to *The National Interest* from August 2015 titled ‘America's Worst Nightmare: Russia and China Are Getting Closer’ noticed that Russia and China indeed “seek to realize MacKinder’s vision of a Eurasian heartland(…).”

5.1.2. Implications for the CEE

The consequences of the reversal of the Age of Discovery would also come along with significant economic consequences, particularly for the CEECs including Poland. Such consequences can partly be found between the lines of the 2015 Vision which stated that:

“[w]e should improve the division of labor and distribution of industrial chains by encouraging the entire industrial chain and related industries to develop in concert; establish R&D, production and marketing systems; and improve industrial supporting capacity and the overall competitiveness of regional industries.”

In continuation, the justification of the bill on ratification of Poland’s accession to the AIIB stated that:

“directly, through supporting development of infrastructure and growth in Asia, the membership in the Bank [AIIB] will have impact in Polish economy which increasingly participates in global chain of value and supplies.”

Clearly, Poland and other CEECs are to European Union/Western Europe what Western provinces are to the rest of the PRC. However, while the impact of the OBOR on the West of China remain well discerned, there is no similar academic or policy discourse on the CEE. In the case of the PRC, the accessorial function of the 21MSR against the potentially historic role of the SREB is obvious. The underdevelopment of PRC’s Western provinces not benefitting from the sea-trade is glaring. Given these circumstances, the 2015 Vision states that the PRC shall:

- “make use of the advantages of inland regions, including a vast landmass, rich human resources and a strong industrial foundation, focus on such key regions as the city clusters along the middle reaches of the Yangtze River, around Chengdu and Chongqing, in central Henan Province, around Hohhot, Baotou, Erdos and Yulin, and around Harbin and Changchun to propel regional interaction and cooperation and industrial concentration,”

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232 Yiwei Wang 'China’s “New Silk Road”: A Case Study in EU-China Relations' in Amighini, Alessia and Axel Berkofsky (eds), *Xi’s Policy Gambles: The Bumpy Road Ahead* (Edizioni Epoké, Novi Ligure 2015), 103 104. See also, Fasslabend (n229), 300.


234 2015 Vision (n21), Part IV.

235 Projekt Ustawy…(n213), point 3 at 7.

236 See Ferdinand (n12), 951.

• “build Chongqing into an important pivot for developing and opening up the western region, and make Chengdu, Zhengzhou, Wuhan, Changsha, Nanchang and Hefei leading areas of opening-up in the inland regions.”  
• “accelerate cooperation between regions on the upper and middle reaches of the Yangtze River and their counterparts along Russia's Volga River.” 
• “set up coordination mechanisms in terms of railway transport and port customs clearance for the China-Europe corridor, cultivate the brand of "China-Europe freight trains," and construct a cross-border transport corridor connecting the eastern, central and western regions (…).”

In addition, the shift from the sea-trade to land trade is also believed to facilitate the internationalization of RMB, and to also help to quell ethnic and religious tensions between Xinjiang and/or Tibet and rich coastal provinces of the PRC via economic means.

5.1.3. Role of Russia/EEU

Policymakers in Russia, which geographically bridges the PRC and Europe, place similar hopes on the success of the OBOR. On the one hand, Russian economic planners’ relatively easy task is to:

“create conditions where Chinese cargoes do not go to south Central Asia and the Near East, and thus bypass Russia, but bring in transit revenue by continuing to join up with Russian railroads, both along the western section of the Trans-Siberian Railroad (either the Barnaul-Novosibirsk-Yekaterinburg line or the more western Chelyabinsk-Ufa-Samara and Orenburg-Kazan-Nizhny Novgorod branches), and then travel on into East and West Europe.”

On the other hand, however, their much harder task is to find ways to alleviate Russian Far East’s underdevelopment by integrating as much of the east part of the Trans-Siberian Railway into the SREB as possible. There are also numerous gloomy predictions about unavoidability of the Sino-Russian conflict over the future of the Russian Far East along with its resources or of the Eurasian Economic Union (EEU’). Nonetheless, even Burrow and Manning in their mentioned contribution to The National Interest noticed that, for the time being, “Moscow and Beijing have avoided strategic competition in Central Asia. There appears to be at least a tacit Sino-Russian division of labour in Central Asia, with Moscow taking the lead on security and Beijing flooding the zone with aid and investment.”

In fact, Sino-Russian relations are more complex than that. Both countries contribute to both security and economic development as communicating vessels. On the one hand, economic

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238 ibid.
239 ibid.
240 ibid.
241 Ferdinand (n12), 952; Fasslabend (n229), 297.
245 See Ferdinand (n12), 952; Fasslabend (n229), 297; Gan and Mao (n244), 113-114.
246 Burrows and Manning (n233).
development propelled by investments coming from the PRC would quell ethnic and economic tensions not only in PRC’s Western provinces but also outside of the PRC like in Southern Caucasus.\(^{247}\) On the other hand, Russia’s heavy-handed rule over the huge part of the post-Soviet area through the EEU has already eliminated many customs controls along the PRC-Kazakhstan-Russia route, reducing the time of cargo delivery through that route by about six days.\(^{248}\)

5.2. Little divergence

The situation of Poland as a Western hemisphere’s peripheral region is very different to the situation of, say, Xinjiang or Russian Far East. The success of the SREB and the economic development of Xinjiang and Russian Far East is in the best interest of Beijing and Moscow. In the case of Poland though, various combinations of the success of the SREB and Poland’s economic integration with Eurasia along with Poland’s moving up the chain of value would never be consistent with the interests of various Western hemisphere’s centres of power.

The priority of the Western European centres of power is to keep the economic *status quo* existing in Europe ever since the Age of Discovery. Namely, since that time, a form of dual economy has existed in Europe split by the river of Elbe. A summarised by Hobsbawm, in the 17\(^{th}\) century:

- “French Levantine trade halved between 1620 and 1635, sank almost to zero by the 1650s and did not really recover from depression levels until after the 1670s,”\(^{249}\)
- “[t]he Baltic - the European colony of the western urbanized countries - changed its staple exports from foodstuffs to products like timber, metals and naval stores, while its traditional imports of western woollens diminished,”\(^{250}\) and
- “[a]fter 1650, the Mediterranean became like the Baltic an area exchanging locally produced goods, mainly raw materials, for the Atlantic manufactures.”\(^{251}\)

The Elbe-delineated economic dualism has meant that while in Western Europe a modern society accumulating capital was being gradually developed, east of river Elbe local variations of manorialism were embedded in the Polish–Lithuanian Commonwealth\(^{252}\) and estates hold by the ‘Juckers’ in Eastern part of Prussia.\(^{253}\) The latter, according to Perkins:

- “was analogous to the contemporary evolution of plantation economies in the Caribbean and the Americas, in which the growth of the progressive capitalist system in western Europe was similarly responsible for the emergence of a more backward social system based, in that case, upon black slavery.”\(^{254}\)

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247 Babayan (n242), 40.
248 'Hardly an oasis; The New Silk Road’ The Economist (15 November 2014 2014) 413 41. See also, Uyanaev (n243), at 22.
250 ibid, 35
251 ibid, 35.
254 Ibid, 296.
In the 17th century, the GDP per capita of Poland fell below levels of Asian countries and, despite catching up with Asia in 18th century, Poland has ever since continued to significantly diverge from Western Europe.255

The economic situation of the CEECs after the collapse of the Soviet block, and particularly after the accession of a number of CEECs to the EU from 2004 on (resulting in the re-orientation of CEECs’ economies from Soviet block to Western hemisphere) resembles the situation the Polish Commonwealth or East Prussia. It suffices to look at above-discussed annual agreements on economic exchange concluded between the PRC and the PRL between the 1950s and 1970s to see where the PRL then stood in the chain of value and production (see section 0) in order to envision how Poland’s and other CEECs’ economies could look like now; 1) if Poland/CEECs were economically integrated with Russia-led EEU, and 2) when none of Poland/CEECs, the PRC or post-Soviet republics have collectivised centrally-planned economies any more.

5.3. Polish Strategy toward SREB

5.3.1. Policy incoherence

The stance of various Polish centres of powers with regard to the OBOR/SREB is often divergent. It is true that since Autumn 2015, the president (Andrzej Duda), the largest parliamentary majority in Poland after the transformation and the government (led by Beata Szydło) all originate from the same political party (Law and Justice or Prawo i Sprawiedliwość). However, while the president Duda many times enthusiastically discussed the prospects for the development of the SREB’s hub in Poland,256 other politicians related to the Law and Justice party were largely tacit. Perhaps, the highest profile view against the OBOR was expressed by the defence minister Antoni Macierewicz, in November 2015, according to which the OBOR is essence a part of a comprehensive strategy of Western Europe, Russia and China, aiming at eradicating influences of the United States from the Eurasian space and at the liquidation of Poland as a sovereign subject.257 The Polish Press also widely reported in 2017 that the Polish Military Property Agency cancelled a planned sale of 33-hectare plot in Łódź, on which a Chinese investor hoped to develop a railway cargo terminal.258

Despite such situations which must have frustrated the Chinese side, Polish administration did not abandon the idea of proactively engaging in the SREB. At the turn of 2016 and 2017,


leaders of Law and Justice which usually unconditionally uphold the US geopolitical games against Russia, were without much exaggeration frightened by the plausible Russo-American appeasement looming on the horizon directly after Trump won presidency. That could have been an attempt to revive the memorable reset with Russia announced by Obama’s administration in March 2009, which has been curbed by the diverging interests of Russia and the US in Syria ever since about 2012. Thus, Law and Justice have had to look for alternative international strategic partners. On the one hand, on 5-6 July 2017, Polish government still hosted president Trump’s visit to Warsaw which was widely reported upon. Press worldwide and the White House itself admitted that sole goal of that visit was to market liquefied natural gas (“LNG”) produced in the US in CEE markets in place of much cheap gas supplied to Poland by Gazprom through pipelines. On the other hand, however, only one week later, Polish government hosted a four-days-long low-profile working visit paid by the chairman of the Standing Committee of China's National People's Congres Zhang Dejiang who continued to assure that the PRC was still eager to work with the Polish authorities on the SREB despite all previous difficulties.

5.3.2. Morawiecki Plan

The Morawiecki Plan mentioned in the 2016 Declaration (see section 0) is meant to be the core pillar of the Sino-Polish co-operation for the development of the SREB project on the Polish side. Not a single word within the Morawiecki Plan mentions the OBOR or the SREB, instead it only perfunctorily mentions the AIIB in one line with other multilateral development banks, merely stating that the participation in such institutions increases access to financing of investment on preferential terms.

The point of departure is that the document well identifies risks for the Polish economy. According to this document, they include the 1) the middle-income-trap, 2) the lack-of-balance-trap defined as the lack of balance between foreign and domestic investment, 3) the average-product-trap, 4) the demographic-trap, and 5) the trap-of-weak-institutions, as to which the official press release stated that:

“This trap exacerbates all others, since it defines the environment we live in. Until now there has been no comprehensive and long-term vision of Poland’s development and coordination of activities of the public administration (“ministerial Poland”).

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262 Morawiecki’s Plan (n261), point 7 at p 10.
increase in the operating costs of administration was not accompanied by an increase in its effectiveness.\footnote{263}

As far as the tentative solution to those traps are concerned, Morawiecki Plan covers anything from soup to nuts, including 1) reindustrialization, 2) development of innovative companies, 3) capital for development, 4) foreign expansion, and 5) social and regional development. Generally speaking, many points of the Morawiecki Plan can be found self-contradictory, and some its elements clearly clash with some elements of the SREB project. Specifically, one cannot present to the government of the PRC, in the SREB’s context, a plan which takes it as a premise that the future development of the country, in principle, should not be based on foreign investment,\footnote{264} seeing that the SREB would largely mean investments by PRC enterprises in Polish infrastructure.

5.4. SREB and the EU

5.4.1. G16+1 in Sino-EU relations

Ever after the collapse of the Soviet block, CEECs have been crucial for the US from the strategic/security-perspective, and even more importantly for the Germany-led EU for economic reasons. Apart from the EU which henpecks all CEECs either as member-states or candidates for EU’s membership, several institutionalised forms have also arisen in the form of co-operation between CEECs such as 1) the Central European Initiative,\footnote{265} 2) Central European Free Trade Agreement (CEFTA),\footnote{266} or most recently 3) the Three Seas Initiative, also known as Trimarium, established in August 2016 in Dubrovnik under US’ auspices. However, the EU calls the tune in the region, which the PRC and the CEECs acknowledged in the Belgrade Guidelines by stating that:

“[t]he participants reiterated that China-CEEC cooperation is in line with China-EU relations and reaffirmed their commitment to deepening their partnership for peace, growth, reform and civilization based on the principles of equality, respect and trust, thus contributing as appropriate to the implementation of the EU-China 2020 Strategic Agenda for Cooperation\footnote{267}”


\footnote{266} “Podpaskę braku równowagi to konsekwencja realizacji dotychczasowego modelu rozwoju gospodarczego, przyjętego po 1989 r. Napływ kapitału i technologii w formie bezpośrednich inwestycji zagranicznych przyczynił się do wzrostu gospodarczego Polski pod względem PKB, który jednak nie jest jedyną miarą jakości życia obywateli oraz zasobności firm.” [The lack-of-balance-trap is the consequence of the realization of the previous economic model adopted after 1989. The inflow of capital and technology in the form of foreign direct investment has contributed to economic growth of Poland in terms of GPD which, however, is not the only measurement of people’s life quality and of enterprises wealth.] See Morawicki Plan (n261), point ad.2 at p 3.

Likewise, the 2016 Declaration stated that 1) “[b]oth parties support full implementation of the EU-China 2020 Strategic Agenda for Cooperation, development of the EU-China partnership for peace, growth, reforms and civilization as well as deepening comprehensive strategic partnership of mutual benefits,” and 2) “[b]oth parties support timely completion of ambitious and complex EU-China investment agreement covering markets access and protection of investment.”

The EU-China 2020 Strategic Agenda, was adopted in November 2013, not long after some sketch of the OBOR’s vision was publicised. Therefore, likely because of timing, it did not cover potential developments in the land-transportation infrastructure between the PRC and the EU. With regard to ‘transport and infrastructure’ EU-China 2020 Strategic Agenda only very generally stated that both parties shall:

“[s]trengthen cooperation in developing smart, upgraded and fully interconnected infrastructure systems[, e]xpand cooperation in interoperability of seamless supply chain logistics networks between Asia and Europe, maritime markets and routes, rail services, logistics, safety, and energy efficiency.”

Subsequently, the EU paid much more attention to the G16+1 and SREB idea. The ‘Joint Communication to the European Parliament and the Council on Elements for a new EU strategy on China’ released on 22 June 2016 ahead of the 18th EU-PRC Summit held on 12-13 July in Beijing included EU’s stated that:

“[t]he EU must project a strong, clear and unified voice in its approach to China. When Member States conduct their bilateral relations with China – whether one-on-one or as groups of countries such as the 16+1 format – they should cooperate with the Commission, the EEAS and other Member States to help ensure that aspects relevant to the EU are in line with EU law, rules and policies, and that the overall outcome is beneficial for the EU as a whole.”

One could hardly say whether this statement was more addressed to the policy-makers of the PRC or of CEECs but the clear message from Brussels has been that the PRC and the CEECs should not ‘collude’ behind EU’s back. Symptomatically, the statement did not mention a single word about SREB’s specific geographical situation or about necessary co-operation


269 See EU-China 2020 Strategic Agenda for Cooperation 2013 (signed in Beijing on 21 November 2013 during 16th EU-China Summit).

270 Ibid, point 4.2.


272 ibid, point III.4 at 9. In the context of the G16+1, Turcsányi very aptly notices on the nature of relation between Western European Countries and CEECs that “[i]t may be understandable at first that the rest of the EU may look with suspicion at these developments. While Brussels officials may have gotten used to the fact that the UK, France or Germany address critical issues of foreign affairs bilaterally, it has not been a custom to see its poorest and newest member countries doing so.” See Richard Turcsányi, ‘Central and Eastern Europe’s courtship with China: Trojan horse within the EU?’ EIAS (January 2014) EU-Asia at a Glance 1.
with Russia. Instead, while referring to specific regions, that statement mentioned, for example, that:

“[f]urther afield, the EU’s strategy on Central Asia also provides opportunities to step up co-operation with China in areas such as security, connectivity, development assistance, and the sustainable use of water and energy resources.”

This hints that, despite all odds existing in Central Asia and Caucasus, the EU might be strongly pushing for the SREB’s Southern variant bypassing Poland as the SREB’s hub, in such case likely to be replaced by Germany. Indeed, no OBOR’s/SREB’s scenario might good for the US. However, Western European countries would look favourably at any scenario other but Poland becoming SREB’s hub in bridging railways from Russia (East) and the Balkans (South).

5.4.2. Lack of pragmatism on the EU side

Regardless of whichever SREB route the EU policymakers prefer, the most general obstacles to SREB-related development are of largely axiological nature on the EU’s side. Yet in 2003, the PRC and the EU concluded a number of bilateral agreements which have been commonly considered to be the birth of EU-PRC strategic partnership. Back then, the EU-PRC relations seemed to promise a great deal especially seeing that the developments in the EU-PRC relations coincided with the US invasion of Iraq which Western European countries very heavily criticised while the CEECs firmly supported. However, after a few years it appeared that both parties were incapable of solving a number of business matters. Those included 1) the waiver of the EU’s embargo on the sales of arms to the PRC in force since 1989 largely under the US’ pressure, or 2) the recognition of PRC’s market economy status by the EU. In turn, the PRC for example harshly reacted to Dalai Lama’s visits to Europe which even resulted in the cancellation of the EU-PRC summit in 2008.

A number of authors agree that sense of moral superiority as to rulemaking and governance on the side of the EU policymakers impedes the EU-PRC relations. For example, Men observed that 1) “[b]enefited from political democracy and capitalism, the EU advocates liberal values and regards itself as a normative power” and 2) “[b]elieving in the superiority of its norms and development model, the EU intends to transform China politically and economically and views such tasks both as a responsibility and as part of its

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273 Yet in 2011, generally with regard to EU-PRC relations, Holslag observed that: “[y]et what is missing, for example, is a common position towards Russia. It can be argued that compared to the United States, Europe and China do not have overlapping spheres of influence. Russia, however, is one of the rare countries that tie both parts of the Eurasian continent geopolitically and geo-economically together (see, for example, Lo, 2008).” See Jonathan Holslag, ‘The Elusive Axis: Assessing the EU-China Strategic Partnership’ (2011) 49(2) Journal of Common Market Studies 293, 298.
274 Ibid, point 4 at 11.
276 Ibid, 6.
277 Fallon (n267), 176, 179; Turcsányi (n272), 5.
278 Fallon (n267) at 176; Men (n275), 9.
279 Fallon (n267) at 176.
280 ibid,176; Men (n275)10.
281 Men (n275), 11.
ongoing efforts to extend its soft power globally.” 282 In turn Holslag observed that the EU “still assumes that by entangling the Asian power into a web of international institutions and rules, Beijing will adopt the norms that Europe has enshrined in its own political charters.” 283

At the same time, the PRC’s policy-makers have become increasingly assertive and hypersensitive to any interferences with PRC’s internal matters. 284 They also have in the first place been realist, meaning that they have believed in the balance of powers as international relations’ foundation.285 Therefore the EU, which is more liberal rather than realist286 according to Holslag, must be more realist too in order to take any advantage of opportunities potentially generated by the EU-PRC partnership because 1) “[t]here are sufficient shared strategic interests to underpin a more realist relationship,”287 and 2) “realism will also make relations less prone to setbacks over symbolical issues, permit Europe to reap larger gains from other powers, and form a worthy alternative for the EU’s defective soft power.” 288

The EU’s lack of realism also mixes with a strong prejudice against coequal EU-PRC relations, stemming from the allegiance to the transpacific alliance with the US. For example, former Austria’s Minister of Defence Werner Fasslabend conflated two issues at the same time by 1) warning that the realisation of Mackinder’s visions and the restoration of European civilisation “clearly sounds like a carrot to weaken the transatlantic partnership and to substitute it in part with enhanced China–EU relations,”289 and 2) expressing doubt “whether such a development would be favourable for the EU’s political visions and aspirations of a world based on Western values and democratic rule.”290 Meanwhile, the reality is that the EU and more generally Europe might be missing opportunities emerging under the circumstances whereby the PRC is gradually replacing the US-led post-cold-war unipolar world with a multipolar world in which the EU/Europe would counter-balance the US.291 In this context Holslag reproached the EU policy with that:

- the EU “has not determined how it should position itself between China and the US, or what the significance of closer co-operation with China can be in relation to Russia and other giants,”292 and
- “[i]ts penchant towards Washington seems to be more habitual than the result of strategic thinking, and this is perhaps the main proof that it has not outgrown its diplomatic infancy.” 293

Holslag suggested that the EU, in the lack of capability to carry out a realist policy toward the PRC, should allow its Member States to deal with the PRC bilaterally.294 However, it is clear that this will not happen any time soon as, despite greatly increased trade and economic

282 ibid.
283 Holslag (n273), 309.
284 See Men (n275), 11.
285 See ibid.
286 See ibid, (n275), 11,12.
287 Holslag (n273), 294.
288 ibid.
289 Fasslabend (229), 300.
290 ibid.
291 Men (n275), 14.
292 Holslag (n273), 310.
293 ibid.
294 ibid, 294.
interdependencies between the PRC and CEECs in the last thirty years, the PRC is not yet powerful enough to divide Western European countries and the CEECs.  

5.4.3. Trimarium

Whilst the Western European centres of power seem to downplay choices made by the PRC with regard to the G16+1 and Poland, the US recently seems to present a sort of “if-you-can't-beat-them-join-them” approach to the SREB and CEE. The US-led Three Seas An initiative platform also known as Trimarium was launched by Obama Administration in August 2016 in Dubrovnik, overlapping with the G16+1.  “as an informal platform for securing political support and decisive action on specific cross-border and macro-regional projects of strategic importance to the States involved in energy, transportation, digital communication and economic sectors in Central and Eastern Europe.” Not only does the Trimarium compete with the G16+1 in the CEE region but it also further subverts the EU’s unity as to its SREB-related policies.

Specifically, the language of the Dubrovnik Statement may seem to assure that the project was not aimed against the EU, emphasising that:

- “the importance of connecting Central and Eastern European economies and infrastructure from North to South, in order to complete the single European market, given that so far, most efforts served to connect Europe’s East and West,” and
- “by expanding the existing cooperation in energy, transportation, digital communication and economic sectors, Central and Eastern Europe will become more secure, safe and competitive, thus contributing to making the European Union more resilient as a whole.”

However, the actions of Trump’s administration, which inherited the Trimarium project, made it more clear that Trimarium’s purpose is to put Western Europe and CEECs further at odds. The aforementioned Trump visit to Warsaw in July 2017 (see section 0) also served as the second Trimarium summit, which Germany’s foreign minister Sigmar Gabriel refused to attend. As predicted, Trump’s agenda for the meeting was to urge CEECs to proceed with infrastructural projects allowing the imports of LNG from the US through terminals in Poland and Croatia. Crucially for the Germany-led EU, these plans would not only decrease exports of Russian natural gas to CEECs through existing land pipelines but would also undermine Germany’s plans to emerge EU’s hub for the deliveries and trading of gas imported from Russia through Nordstream directly to Germany.

The new US strategy toward CEECs emerges as a much more pragmatic plan than in the case than of the EU and Germany. The blueprint sketched in Washington appears to come down to an engagement in specific energy-related projects that, instead of being aimed at blocking or downplaying PRC’s OBOR-related infrastructural projects, actually look complementary

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295 Turcsányi (n272), 5.
296 It covers those G16+1’s members which are also EU Member States, plus Austria.
298 Dubrovnik Statement (n298)
299 ibid.
300 Oxford Analytica (n259).
upon Chinese activities in the CEE region. An enhanced investment by US business in the in the region could allow Washington to still have some guardianship of Chinese infrastructural investment. Not only that, such a presence could likely even lead to a participation by US enterprises in projects originally incepted in Beijing.

6. Conclusion

Geography dictates that Poland needs to connect railways coming to Europe from Russia/EEU across SREB’s northern corridor and from Balkans across Southern corridor. However, as of late 2017, the prospects for the development of SREB’s hub in Poland look uncertain as a result of external forces for which such a scenario is not convenient. This is nothing new seeing that, not unlike other CEECs, the territory of Poland has for centuries been played by neighbouring powers because of its strategic geographical situation. In addition, after the break-up of the Soviet Union, the control over the region has also been crucial for the Washington forced to find its ways of controlling Germany and preventing any form of a new Russo-German alliance. Furthermore, the stance of Polish government on the SREB project can be deemed as rather disappointing. Apart from the AIIB membership inherited from the previous cabinet, efforts to facilitate the development of the SREB on the Polish territory have so far been very mediocre. Poland’s current government’s allegiance to the idea of transpacific alliance remains strong, and policy-makers remain to look Westwards only. They seem to be incapable of scenario-thinking and, at least at present, seem to reject the hand reached out to them by the PRC.