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The Diplomatic and Legal Arrangements under which China Cooperates with European Trade Partners on BRI Deals and Financing

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Key Points:

- China maintains extensive informal cooperation on Belt and Road Initiative (BRI) matters with developed countries despite the Initiative's focus on developing countries.
- The G20 plays an important role in cooperation between China and both Britain and France on BRI deals and financing. All three consistently reference the G20 as the source of the guiding principles for their cooperation.
- China, France, and the UK also make use of their national business organisations and finance agencies to establish mechanisms for informal business-to-business cooperation on BRI projects, in preference to formal bilateral cooperation at the government-to-government level.

Introduction

The Belt and Road Initiative (BRI) is one of the main pillars of the People's Republic of China's (PRC) foreign policy.¹ Functioning as a diverse portfolio of overseas investments for China's state-owned enterprises, a channel through which to direct domestic overcapacity, and a means to establish a new, China-led model for interactions between states, it is a "project of truly epic ambition."²

Indeed, when the UK's then Chancellor of the Exchequer Philip Hammond said those words at the Second Belt and Road Forum for International Cooperation in Beijing in 2019 – giving the British government's soft endorsement to the initiative – he was addressing a new multilateral forum that the Xi administration had created just two years prior in order to promote the BRI and China as an alternative to the Bretton Woods institutions and the US-led liberal order.³

¹ Eyck Freyemann, *The UK's Strategic Options: Belt and Road*, CHINA RESEARCH GROUP (Mar. 11, 2021), <https://chinaresearchgroup.org/research/belt-and-road>.

² Brenda Goh, *Britain Calls China's Belt and Road Initiative a Vision*, REUTERS (Apr. 26, 2019), <https://www.reuters.com/>

[article/us-china-silkroad-britain/britain-calls-chinas-belt-and-road-initiative-a-vision-idUKKCN1S20NZ](https://www.reuters.com/article/us-china-silkroad-britain/britain-calls-chinas-belt-and-road-initiative-a-vision-idUKKCN1S20NZ).

³ PENG BO, CHINA AND GLOBAL GOVERNANCE: A NEW LEADER? 312 (2021).

Now close to a decade old, “China’s Belt and Road Initiative represents one of the most significant frameworks for foreign capital investment around the world.”⁴ That is in no small part because the BRI’s very existence has provided Beijing with new avenues through which it can collaborate with trade partners.

Despite the focus of the BRI being on China offering assistance to developing countries, developed countries are also proactively seeking a role. Observing China’s increasing links with these developing countries, the justification developed countries often use for their participation in the BRI – formal or otherwise – is that it will allow them to curb Beijing’s influence from the inside rather than be passive observers from the sidelines.

Using the UK and France as case studies, this Research Brief (RB) considers the diplomatic and legal arrangements under which China cooperates with European trade partners on BRI deals and financing, particularly when they have not sought formal participation in the Initiative. It endeavours to shed light on how China’s interactions with the developing world correlate with its diplomacy with developed countries, and how developed countries’ interactions with developing countries are subsequently affected by the latter’s interest in the BRI and what China might have to offer.

Drawing on the policy outcome papers (POPs) of bilateral dialogues between the PRC and the UK and the PRC and France, this RB observes that, despite neither country being a formal partner in

the BRI, China maintains extensive cooperation on BRI matters with both nations.

POPs set out the diplomatic arrangements agreed by two countries concerning how and in which areas they will cooperate following a bilateral dialogue. They are not legally binding and do not necessarily commit either side to cooperate at the government-to-government level. Instead, POPs’ outcomes can include, for example, initiatives concerning common interests in third countries and tasks for their national business organisations to carry out at arm’s length from the state.

Anglo- and Franco-Sino POPs tend to focus on multilateral cooperation implemented through the G20, within the context of cooperation with third nations and in a third market, or via informal bilateral dialogues involving their respective national business organisations or regulatory bodies.

How the PRC secures European participation in the BRI

Ranking diplomatic engagement: MoUs, agreements, dialogues, and working groups

Disentangling European participation in the BRI is difficult. While some European trade partners have signed memoranda of understanding (MoU) with China specifying their intention to participate in the project, others have opted to conclude softer cooperation agreements that usually contain more general terms.⁵ There is then a third tranche of partners, the UK and France included, that have agreed to include language referencing the BRI, or cooperation with the PRC

⁴ Chi Yang, *Sustainable Finance and Green BRI Practice in Africa and South Asia: A Response to the Changing International Political Order*, CHINA, LAW & DEVELOPMENT RESEARCH BRIEF (Oct. 27, 2021), <https://cld.web.ox.ac.uk/files/zhangrbformattedfinalpdf>.

⁵ Jack Nolan & Wendy Leutert, *Signing Up or Standing Aside: Disaggregating Participation in China’s Belt and Road Initiative*, BROOKINGS (Oct. 2020), <https://www.brookings.edu/articles/signing-up-or-standing-aside-disaggregating-participation-in-chinas-belt-and-road-initiative/>.

in third markets along its route, in the POPs of their bilateral dialogues with China on economic affairs but will not formally endorse the initiative.⁶

In Europe, formal BRI participation comes to a hard stop along the German and French borders.⁷ And while trains, such as those that run from Yiwu to London or Taiyuan to Paris, continue to track deep into those markets that have no specific arrangement in place with the PRC concerning the Initiative, east of an arc running from Estonia to Italy, China's interactions with European trade partners on the BRI move to a different model consisting of numerous diplomatic mechanisms and sub-level working groups.⁸

The role of the Economic and Financial Dialogue and the Joint Economic Trade Commission

For Britain and France alike, two formal dialogues with China covering trade and investment determine their scope for BRI cooperation: their respective Economic and Financial Dialogues (EFD) and, to a lesser extent, their Joint Economic Trade Commissions (JETCo) with China. The diplomatic and legal arrangements under which both parties cooperate are negotiated and written into the POPs of these meetings.⁹ EFDs and JETCos should be annual occurrences, and the responsibility for hosting and setting the agenda alternates each year. The former concerns trade in

financial and professional services only, while the latter concerns the economic relationship in its entirety.

As neither Britain nor France opted to sign a BRI-specific MoU with China between 2017 and 2019 – a period during which the PRC proactively sought to recruit partners to the initiative – the POPs of these meetings are the paramount diplomatic agreement directing the scope and execution of cooperation between China and both countries on BRI matters.¹⁰ Bilateral government-to-government MoUs covering cooperation on BRI matters are nominally superior to POPs because the former are legally binding. However, as many of the MoUs China has agreed with participating countries are non-binding, one could argue that POPs are functionally equivalent to MoUs.

British and French cooperation with the PRC on the BRI seldom extends beyond the scope of financing projects in third markets along its route, although this alone provides plenty of opportunities to increase or scale back cooperation. Over the last decade, Britain and France have both extended cooperation with China to include promoting green investment principles and quality infrastructure investment as well as private sector financing of BRI projects, among other activities.¹¹ At other times, however,

⁶ Foreign Affairs Committee, *China and the Rules-Based International System*, 2019, HC, ch. 3, ¶ 35, https://publications.parliament.uk/pa/cm201719/cmselect/cmcaff/612/61206.htm#_idTextAnchor013 (visited Mar. 14, 2022).

⁷ Nolan & Leutert, *supra* note 5.

⁸ Hua Xia, *China's Shanxi Opens Freight Service to France*, XINHUA (Jul. 2, 2021), http://www.xinhuanet.com/english/2021-06/02/c_139985563.htm; Jonathan Josephs, *All Aboard the China-to-London Freight Train*, BBC (Jan. 18, 2019), <https://www.bbc.co.uk/news/business-38654176>.

⁹ E.g., HM Treasury, *Policy Outcomes Paper of the 7th UK-China Economic & Financial Dialogue*, 2015,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/462160/EFD_combined_POP_21_Sept_web.pdf (visited Mar. 14, 2022).

¹⁰ David Sacks, *Countries in China's Belt and Road Initiative: Who's In and Who's Out*, COUNCIL ON FOREIGN RELATIONS (Mar. 24, 2021), <https://www.cfr.org/blog/countries-chinas-belt-and-road-initiative-whos-and-whos-out>.

¹¹ This analysis is based on the author's close reading of the policy outcome papers (and other associated documents) of the PRC's bilateral economic dialogues with the UK and France going back to 2013.

cooperation has been scaled back. Indeed, at the time of writing, both Britain and France are experiencing a period of recalibration concerning their respective relationships with China. As a result, the BRI now only features in government policy documents in the context of initiatives the pair are party to within the G20 focussed on ensuring the PRC (and similar countries) adhere to internationally recognised investment standards overseas, particularly in the Global South.¹²

China-EU cooperation along the BRI in the context of the PRC's ambitions in global governance

The role of the G20

The G20 is a constant feature in government documents articulating how both the UK and France plan to cooperate with China on BRI deals and financing. While the extent to which the pair cooperate with the PRC can determine whether their POPs mention the BRI specifically or whether China and the UK or France merely agree to support each other's investment initiatives in

third markets, all three consistently reference the G20 as the source of the guiding principles for cooperation.¹³

Adding the G20's considerable political weight has long been a key focus for the PRC during these dialogues, and it tends to feature prominently in Chinese accounts of the negotiations.¹⁴ China's frustration at the G7 member states – the PRC is not a member – disregarding the significance of the G20 as a financial governance mechanism is well-documented in the literature coming out of the country on its new globalism.¹⁵ Equally, the UK and France have their own reasons for wanting to elevate cooperation with the PRC and the BRI to the G20, chief among them that they want to use the forum to hold China to account on its investment practices overseas.¹⁶

Note, neither side is legally bound to the other by underpinning their collaboration with the G20 Principles for Quality Infrastructure Investment. The G20 does not currently possess any powers to hold its members to account over violations. That may change in the near future, however, as a

¹² E.g., UK Government, *Global Britain in a Competitive Age: The Integrated Review of Security, Defence, Development and Foreign Policy*, 2021, CABINET OFFICE, ch. 3, p.26, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/975077/Global_Britain_in_a_Competitive_Age-the_Integrated_Review_of_Security_Defence_Development_and_Foreign_Policy.pdf (visited Mar. 14, 2022).

¹³ E.g., UK Department for Business Innovation and Skills, *Policy Outcomes Paper of the 12th UK-China Joint Economic and Trade Commission*, 2016, ch.9, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/504809/12th_UK-China_JETCO_Outcomes_Paper_FINAL_ENG.pdf (visited Mar. 14, 2022); Ministry of Economy and Finance of France (Ministere De L'Economie, Des Finances Et De La Relance), *The 8th France-China High-Level Economic and Financial Dialogue* (8ème dialogue économique et financier de haut niveau franco-chinois) 2021, <https://www.tresor.economie.gouv.fr/Articles/>

2021/12/13/8eme-dialogue-economique-et-financier-de-haut-niveau-franco-chinois (visited Mar. 14, 2022).

¹⁴ E.g., Guoji jingji guanxi si (国际经济关系司) [Department for International Economic Relations], Liu kun yu faguo jingji he caizheng buzhang lei mei er juxing shipin huitan (刘昆与法国经济和财政部长勒梅尔举行视频会谈) [*Liu Kun Held a Video Meeting with French Minister of Economic and Finance Lemme*], Zhonghua renmin gongheguo caizheng bu (中华人民共和国财政部) [MINISTRY OF FINANCE OF THE PRC] (Oct. 21, 2021), http://www.mof.gov.cn/zhengwuxinxi/tupianxinwen/202110/t20211021_3759809.htm.

¹⁵ See PENG BO, *supra* note 3 (for a good review of the Chinese language discourse on China's national role perception in global governance).

¹⁶ Independent Commission for Aid Impact, *Information Note – The UK's Aid Engagement with China*, 2021, ICAI, ¶ 35, <https://icai.independent.gov.uk/html-version/the-uks-aid-engagement-with-china/-section-1> (visited Mar. 14, 2022).

mechanism to track members' adherence to agreements is currently being discussed.¹⁷

Finally, it is worth pointing out that with China agreeing with both the UK and France to cooperate on BRI matters in the context of their work within the G20, one should not assume that cooperation always means the pursuit of mutually beneficial ends. While cooperation can provide opportunities to demonstrate how well countries can work together within the G20, it can also provide a route for countries to caution others if they do not approve of their conduct in, for example, third markets.

How China and European markets practically cooperate on BRI deals and financing

Business-to-business ties

Putting the high-level and, at times, abstract activities of the G20 to one side, analysis of Anglo- and Franco-Sino POPs from the last decade demonstrates that the PRC, as well as the British and French governments, have concentrated on establishing frameworks that allow their respective companies to cooperate on BRI deals and financing. Indeed, in the POP of the most recent UK-China EFD alone, the two countries agreed to no less than eight mechanisms for greater business-to-business cooperation along its route.¹⁸

Although agreed during bilateral government-to-government meetings, establishing these

mechanisms falls to each country's respective national business organisations or finance agencies, such as the Export-Import Bank of China, the City of London Corporation, and France's Caisse des Dépôts. These organisations are typically the subject of MoUs or cooperation agreements that are written into the POPs and that task them with finding ways to encourage Chinese and multinational companies to work together on BRI projects.¹⁹

Adopting such an approach enables the British and French governments to cooperate with China on the BRI without officially endorsing the Initiative or being accused by their respective business communities of providing insufficient support to corporate constituents looking to capitalise on assisting Chinese capital-exporting companies with projects along its route.²⁰ Meanwhile, the PRC achieves its goal of engineering scenarios where Chinese firms can work with and understand how multinational companies operate in third markets, particularly in parts of the world where they have less operational experience.²¹

For example, during the 2017 China-France EFD, it was announced that France's CDC International Capital, a subsidiary of Caisse des Dépôts, and CIC Capital, a subsidiary of China Investment Corporation, would create a joint investment scheme that would enable French and Chinese businesses to cooperate on underwriting deals

¹⁷ *Id.*

¹⁸ UK Treasury, *Policy Outcomes Paper of the 10th UK-China Economic & Financial Dialogue*, 2019, ch. 4, <https://www.gov.uk/government/publications/uk-china-10th-economic-and-financial-dialogue-policy-outcomes/uk-china-10th-economic-and-financial-dialogue-policy-outcomes> (visited Mar. 14, 2022).

¹⁹ *E.g.*, Ministère De L'Economie, Des Finances Et De La Relance [Ministry of Economy and Finance of France], *Déclaration conjointe dans le cadre du quatrième Dialogue*

économique et financier de haut niveau entre la France et la Chine [China-France Joint Fact Sheet on the 4th High Level Economic and Financial Dialogue] 2017, ch. 3, art. 33, <https://www.tresor.economie.gouv.fr/Articles/08eiff06-e135-4801-968f-f4b063b323a7/files/ddeb549c-f0ee-4310-b818-fe1f354dea62> (visited Mar. 14, 2022).

²⁰ Foreign Affairs Committee, *supra* note 6.

²¹ *Participation of Foreign Firms in the BRI*, HSBC (Jun. 19, 2018), <https://www.business.hsbc.com/belt-and-road/participation-of-foreign-firms-in-the-bri>.

along the BRI.²² Similarly, at the last UK-China EFD in 2019, UK Export Finance and the Export-Import Bank of China signed an MoU tasking them to work together on providing co-financing, syndicated loans, and guarantees to projects involving Chinese and British exporting companies along the BRI, as well as on personnel and information exchanges.²³

Regulatory exchange

The second approach used by the PRC to cooperate with European trade partners on BRI deals and financing is through regulatory exchanges, particularly concerning debt financing, promoting green investment principles, and ensuring that infrastructure projects in BRI countries have a purpose.

Once again, the PRC rarely engages with Britain or France bilaterally or at the government-to-government level. Instead, the POPs of their various dialogues task government-adjacent organisations, such as the China Council for the Promotion of International Trade, the Private Infrastructure Development Group (PIDG), and the Paris Club, with organising dialogues designed to allow participants to share their perspectives on supporting infrastructure projects in third markets along the BRI's route.²⁴ The PRC and the UK have agreed to MoUs tying government departments into cooperating on BRI regulatory affairs, but only on a multilateral basis where they work with the governments of third countries to advise on

improving their standards for receiving infrastructure investment.²⁵

As a close analysis of the regulatory exchange agreements within their POPs demonstrates, even when the UK and France agree to carry out regulatory exchanges with the PRC as an action intended to improve bilateral relations, they opt to do so within a multilateral framework. While China and the UK, for example, have established a record in regulatory exchange on infrastructure standards in African countries, these are predominantly carried out by the Private Infrastructure Development Group (PIDG), a UK-led finance organisation co-owned by the governments of Australia, Germany, the Netherlands, Sweden, and Switzerland, alongside the UK.²⁶ Meanwhile, the French Government structures most of its regulatory exchange activities with the PRC on BRI matters around the Paris Club, inviting Chinese representatives to join its 21 other permanent members for talks, primarily on China's approach to lending to low-income countries.²⁷

The UK appears to have had more success in engaging the PRC on regulatory exchanges concerning the BRI than France. Even though the PRC and France agreed a Joint Statement on BRI Cooperation in 2015 that set out the overall framework for potential cooperation in third markets, they have not yet settled on its terms and conditions, preventing them from carrying out

²² Ministry of Economy and Finance of France, *supra* note 19.

²³ The Export-Import Bank of China, *China Eximbank Signed MoU with UK Export Finance on Export Credit Cooperation*, EXIMBANK (June 20, 2019), http://english.eximbank.gov.cn/News/NewsR/201907/t20190724_11061.html.

²⁴ *E.g.*, UK Treasury, *supra* note 18, ch.4, ¶ 47, iv.

²⁵ ICAI, *supra* note 16, at figure 1.

²⁶ PIDG, *Our Owners*, <https://www.pidg.org/about-us/our-owners/> (visited Mar. 14, 2022); UK Treasury, *supra* note 24.

²⁷ *E.g.*, Zhonghua min gongheguo zhongyang renmin zhengfu (中华人民共和国中央人民政府) [State Council of the PR China], Di qi ci zheng fa gao jibie jingji cai jin duihua lianhe qingkuang shuoming (第七次中法高级别经济财金对话联合情况说明) [*China-France Joint Fact Sheet on the 7th High Level Economic and Financial Dialogue*] 2020, http://www.gov.cn/xinwen/2020-07/21/content_5528780.htm, ¶ 3 (visited Mar. 14, 2022).

projects together.²⁸ Meanwhile, the UK government has spent around £12 million on regulatory exchange activities involving the PRC and the BRI over the last five years.²⁹

Conclusion

As the UK and France demonstrate, not being a formal partner to the BRI does not prevent them from cooperating with China on its development. Both countries have managed to establish mechanisms allowing them to cooperate with China on BRI deals and financing across a wide range of areas; through less formal agreements written into the POPs of their broader dialogues on economic affairs or as part of their work within the G20. These areas include promoting green finance and infrastructure investment principles as well as improving accounting standards in third markets.

With both Britain and France currently reassessing the state of their relations with China,

whether this level of cooperation will continue remains to be seen—especially now that the EU has launched its Global Gateway initiative and the G7 its Build Back Better World initiative. Nevertheless, there are strong incentives to ensure that neither of these initiatives provokes China to the extent that it will no longer countenance the participation of European trade partners in the BRI. France has already indicated at its most recent EFD with China last December that it hopes both countries can continue to “find synergies” in third markets along the BRI.³⁰ The UK should look to agree on similar wording with Beijing when they hold their next EFD later this year.

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²⁸ Françoise Nicolas, *France and China's Belt and Road Initiative*, FRENCH INSTITUTE OF INTERNATIONAL RELATIONS (Apr. 8, 2019), <https://www.ifri.org/en/publications/publications-ifri/articles-ifri/france-and-chinas-belt-and-road-initiative>.

²⁹ ICAI, *supra* note 16, at ch. 6, ¶ 10.

³⁰ Ministry of Economy and Finance of France, *supra* note 13, at ch. 2.