

United or Divided We Stand? Perspectives on the EU's Challenges

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Accessing the vertical incoherence of the EU vis-à-vis China: the cases of the AIIB and the MES

Abstract

The article examines the positions and interests of the European Union (EU) and four member-states (United Kingdom, France, Germany and Italy) towards one of its most prominent and challenging strategic partners—People’s Republic of China. While recognising the coherence of the EU—or the lack thereof—can be studied from a multiplicity of perspectives, this research focuses explicitly on the vertical dimension, namely, the (in-)coherence between the EU and the four large member-states. Predicated on the empirical observation that in the face of China strong member-state competition seems to be a defining feature, this research attempts to trace the vertical incoherence of the Union vis-à-vis China, with particular reference to two illustrative cases: the recent participation of member-states in the Beijing-led Asian Infrastructure Investment Bank (AIIB) and the ongoing deliberation on granting China the coveted Market Economy Status (MES). It finds that the pursuit of powerful national interest by large member-states, as far as the two cases at hand are concerned, clearly impedes the formulation or articulation of a definite position at the EU level.

Introduction

EU foreign policy, traditionally a *domaine réservé* for member-states, is an interesting case to study the vertical dimension of coherence. As the Union’s second largest trading partner after the United States (US) and one of its most prominent strategic partners, China constitutes a good litmus test for the overall unity and solidarity of the Union. Recently, the ill-coordinated rush to partake in the AIIB and the bitter division on granting China MES have once again brought into the limelight the oft-inevitable disagreement between member-states, notably the United Kingdom, France, Germany and Italy (hereafter referred to as the EU4). Competition between the EU4 prevents the Union from punching above its weight in the international arena and undercuts its relevance, credibility and *raison d’être* as a global actor. While aware of the multi-faceted coherence intrinsic in the EU’s polycentric institutional framework, the article looks instead exclusively at the vertical dimension between the Union and the EU4 with the aim of ascertaining the main cause for such incoherence. To this end, it deliberately selects two exemplifying cases in EU-China relations wherein the Union was or will be hard-pressed to articulate a common position, let alone reach a general consensus. The simple question at the core of this research is: what hinders the EU from developing a common position? To this end, the article further develops the vertical dimension of earlier theoretical perspectives on coherence before applying it to assess the missing or inadequate vertical coherence of the EU towards China in the two specific cases.

Coherence in EU external relations: an unfulfilled quest?

In view of the EU’s multi-faceted, multi-method and multi-level governance system,¹ coherence is compelling, critical and yet difficult to achieve. As an overriding objective for the Union, coherence has systematically found its way to treaty provisions, political speeches, and policy-oriented and academic works. The Treaty of Lisbon of 2009, successor to the ill-fated Constitutional Treaty, has set high expectations for greater overall coherence in EU decision-making with its newfound legal instruments and institutional arrangements. In the area of EU external action, several articles spell out the prescription for promoting coherence. The general reference is Article 21(3) of the Treaty on the European Union (TEU) that stipulates: “The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High Representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.” A more specific provision can be found in Article 26(2) TEU, which states, “The Council and the High Representative of the Union for Foreign Affairs and Security Policy shall ensure the unity, consistency and effectiveness of action by the Union.” With regard to

¹ Keukeleire, Stephan, and Tom Delreux. *The Foreign Policy of the European Union*. Palgrave Macmillan, 2014, pp. 11-18.

² De Jong, Sijbren, and Simon Schunz. "Coherence in European Union External Policy before and after the Lisbon Treaty: the cases of

institutional reforms, the Treaty of Lisbon expanded the remit of the High Representative for Foreign Affairs and Security Policy (HR) created under the Treaty of Amsterdam, and mandated the HR to also sit in the European Commission (EC) as the Vice-President in charge of coordinating the Union's foreign policy instruments and preside over the Foreign Affairs Council (with the exception of trade) with a view to fostering consensus between member-states. The triple-hatted HR, assisted by the European External Action Service (EEAS) and the 139 EU delegations worldwide, is charged to ensure and enhance coherence of EU foreign policy at the political, diplomatic and operational levels.

Nevertheless, setting objectives is not akin to meeting them. As substantiated by empirical studies in EU external policies such as energy security and climate change,² development cooperation,³ human right promotion,⁴ and Common Security and Defence Policy (CSDP),⁵ various measures in the post-Lisbon Treaty institutional setting aiming to promote policy coherence leave much to be desired. Despite the revamp of EU legal and institutional framework, substantive follow-ups have been limited to date. Seismic events such as the Greek debt crisis, Ukrainian crisis and refugee influx have brought into sharp relief the fault lines across the EU, and more worryingly, the re-nationalisation of politics and the resolve of member-states to pursue national interest to the detriment of the Union. The disappointing reality was pithily summarized by the famous comment of the EC President Jean-Claude Juncker in his first-ever State of the Union address of 2015, "there is not enough *Europe* in this Union. And there is not enough *Union* in the Union (emphasis added)." Fragmented competences, coupled with the strong disposition of member-states to pursue purely national policy, often result in unilateral moves that undermine unity of the Union and hamper collective action.

The EU vis-à-vis China: too divided, too fragmented

Over the past few decades, China has become a pivotal economic and political actor attending its phenomenal growth and increased integration into the international community. As the world's largest trading nation and second largest economy, China now pursues a proactive and comprehensive foreign policy and pushes along with other emerging economies for meaningful global governance reforms. Meanwhile, its engagement with the EU has made steady headway since the establishment of diplomatic relationship in 1975. As the bedrock of the relationship, bilateral trade has been prospering, especially in the wake of China's entry into the World Trade Organisation (WTO) in December 2001. In 2015, trading volume in goods between the two formidable trading powers reached a staggering amount of €520.9 billion with an average daily volume well above €1 billion.⁶ Solid partnership has grown well beyond trade to encompass cooperation in a variety of domains such as global security, development, climate change, energy security, environment protection, urbanisation, research and education. In parallel with growing bilateral cooperation, European and Chinese officials increasingly coordinate positions in multilateral settings like the global climate change negotiations.⁷

As a function of deepening and widening cooperation and exchanges, Sino-European relations has gradually been institutionalised. Under the overarching framework of Strategic Partnership established since 2003, an ever-expanding architecture of institutional mechanisms ranging from annual summits, high-level ministerial dialogues to a whole gamut of sectoral dialogues have been created to facilitate and further strengthen

² De Jong, Sijbren, and Simon Schunz. "Coherence in European Union External Policy before and after the Lisbon Treaty: the cases of energy security and climate change." *European Foreign Affairs Review* 17.2 (2012): 169-186.

³ Carbone, Maurizio. "Mission Impossible: the European Union and Policy Coherence for Development", in Maurizio Carbone (ed.), *Policy Coherence and EU Development Policy*. Routledge, 2013, pp. 1-20.

⁴ Verdonck, Lieselot. "Coherence in the EU's External Human Rights Policy: The Case of the Democratic Republic of the Congo." *European Foreign Affairs Review* 20.3 (2015): 379-397.

⁵ Menon, Anand. "European defence policy from Lisbon to Libya." *Survival* 53.3 (2011): 75-90.

⁶ European Commission. "European Union, Trade in Goods with China", Brussels, 14 April 2016, http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113366.pdf.

⁷ Bäckstrand, Karin, and Ole Elgström. "The EU's role in climate change negotiations: from leader to 'leadiator'." *Journal of European Public Policy* 20.10 (2013): 1369-1386; Cooper, Andrew F., and Ramesh Thakur. *The Group of Twenty (G20)*. Routledge, 2013.

cooperation.⁸ During the last EU-China Summit in June 2015, aside from the ambitious rhetoric to implement the Strategic Agenda for 2020 and reinforce partnerships for peace, growth, reform and civilisation, the two sides initiated the EU-China Connectivity Platform, a forward-leaning project aiming to explore synergies between China's 'Belt and Road Initiative' and Europe's €315 billion Investment Plan.⁹ Three months later, China became the first non-EU country to announce its contribution to the Plan.¹⁰ Beijing will reportedly offer between €5 billion to €10 billion the European Fund for Strategic Investments (EFSI) via the Silk Road Fund.¹¹

Substantive achievements and political commitments notwithstanding, the relations have been weighed down by periodic trade frictions as seen in the high-profile solar panel disputes, political-normative differences over issues like multilateralism, sovereignty and human rights.¹² Put simply, the strategic dimension of the Strategic Partnership remains elusive.¹³ From the EU perspective, one of the most daunting tasks when confronted with an increasingly resourceful China is the intense competition between member-states for economic interest. In particular, the EU4 governments have repeatedly ignored the agreed policy line (e.g. solar panel disputes) and sidelined the Union (e.g. AIIB participation). Sometimes, significant member-state variations have simply blocked the formulation of a common stance (e.g. arms embargo on China). Constant failure to act a coherent whole when confronted with China not only undermines the bargaining position of the EU in individual cases, but also dents its external image as a credible international actor.

Analytical framework: (in-) coherence

A burgeoning array of literature has been devoted to examining the cohesion, consistency or more precisely, coherence of the EU.¹⁴ Among the relatively copious academic research, Carmen Gebhard provides an extensive conceptual framework for analysing EU-specific coherence, characterising it as 'a high stage of structural harmonization' and 'a synergetic procedural whole' that ought to be differentiated from secondary conditions or requirements like 'comprehensiveness, completeness, continuity and consistency.'¹⁵ For greater conceptual clarity, Gebhard specifies two dimensions of coherence—'strategic' (in relation to objectives or political agendas) and 'procedural' (at administrative-bureaucratic level), four types of coherence—vertical (between the Union and member-states), horizontal (between the intergovernmental Common Foreign and Security Policy (CFSP) and supranational external policies, and by implication, between their governing institutional bodies), internal (within the CFSP and the external policies of the Community) and external

⁸ European External Action Service. "Diagram: EU-China Dialogue Architecture", Brussels, February 2015, http://eeas.europa.eu/china/docs/eu_china_dialogues_en.pdf.

⁹ European Council. "EU-China Summit Joint Statement: the way forward after forty years of EU-China cooperation." Brussels, 29 June 2015, <http://www.consilium.europa.eu/en/meetings/international-summit/2015/06/29/>.

¹⁰ European Commission. "Press Release: Investment Plan for Europe goes global: China announces its contribution to #investEU." Brussels, 28 September 2015, http://europa.eu/rapid/press-release_IP-15-5723_en.htm.

¹¹ Valero, Jorge. "Brussels clears way for China to pour billions into Juncker Plan", *EurActiv*, 13 April 2016.

¹² Men, Jing. "Between Human Rights and Sovereignty: an examination of EU-China political relations." *European Law Journal* 17.4 (2011): 534-550; Scott, David A. "Multipolarity, Multilateralism and Beyond...? EU-China Understandings of the International System." *International relations* 27.1 (2013): 30-51.

¹³ Holslag, Jonathan. "The Elusive Axis: assessing the EU-china strategic partnership." *JCMS: Journal of Common Market Studies* 49.2 (2011): 293-313;

¹⁴ Duke, Simon. "Consistency, Coherence and European Union External Action: the path to Lisbon and beyond", in Panos Koutrakos (ed.), *European Foreign Policy, Legal and Political Perspectives*, Cheltenham: Edward Elgar Publishing, 2011, pp. 15-54; Gebhard, Carmen. "Coherence", in Christopher Hill and Michael Smith (eds.), *International relations and the European Union*, Oxford: Oxford University Press, 2011, pp. 101-127; Marangoni, Anne-Claire, and Kolja Raube. "Virtue or Vice? The coherence of the EU's external policies." *Journal of European Integration* 36.5 (2014): 473-489; Nuttall, Simon. "Coherence and Consistency", in Christopher Hill and Michael Smith (eds.), *International relations and the European Union*, Oxford: Oxford University Press, 2005, pp. 91-112; Portela, Clara, and Kolja Raube. "The EU polity and foreign policy coherence." *Journal of Contemporary European Research* 8.1 (2011): 3-20.

¹⁵ Gebhard, *op.cit.*, p. 106.

(between the Union and third parties), and three faces of coherence—banal (contradiction-free), malign (internal power struggle), and benign (a desirable way of interacting).¹⁶

Reflecting on the decades-long debate on coherence, Anne-Claire Marangoni and Kolja Raube present a thorough literature review and define coherence as both ‘the absence of contradictions’ and ‘synergies in pursuit of a single objective.’¹⁷ Leveraging earlier studies particularly the work of Nuttall, they also proffer a four-part understanding of coherence. While their definition of the vertical dimension is similar to that of Gebhard, Marangoni and Raube refer to horizontal coherence as between various policies, the objectives or regional focuses of these policy strands, add third actors’ perception of coherence to the external dimension, and separate the institutional dimension into inter-institutional and intra-institutional coherence.¹⁸ This further disaggregation is relevant for EU foreign policy, as conflicts exist not only between the Council, EC, European Parliament (EP) and EEAS, but also emanate from policy-makers in a single organisation adopting diverging approaches and policy priorities (e.g. between EC’s Directorate-Generals (DG) for Trade and for Development).

Hartmut Mayer puts forward an even more nuanced conceptualisation of coherence in EU foreign policy. Mayer describes a coherent foreign policy as “a tension-free and transparent interaction between all the agents that contribute to the EU’s multi-level foreign policy formation [...that] include harmony on values, substance, aims and process of individual policies.”¹⁹ He postulates a detailed five-tier typology of coherence—vertical, horizontal, strategic, narrative and external.²⁰ Despite considerable overlap with previous accounts, Mayer holds that the ideal-type coherence should unfold along another indispensable pillar—narrative coherence between the declaratory (what the EU aims and claims to achieve) and the operational (what are the concrete measures, tools and outcomes). The addition is warranted in light of the underlying contention between EU values-based agenda and interest-focused approach as evidenced by the prioritisation of economic, energy or security interest over democracy or human rights promotion,²¹ but also between EU policies and how they align with the actual situation of the target country.²²

Overall, three common aspects can be identified from the aforementioned conceptual insights on coherence. First, there seems to be a broad consensus that coherence should be differentiated from consistency, although both emphasise the need for continuity and coordination. Coherence, which implies a desirable way of interacting, is considered to subsume consistency, generally understood as the absence of contradictions. Second, for a bureaucratic apparatus like the EU, coherence inexorably manifests in various forms as a function of issue-areas and policy-making procedures and institutional actors involved. Thanks to well-developed institutional set-up, substantive competences and various instruments, it is easier to forge a consensus for external policies falling under the Community method like trade policy and development cooperation than for the CFSP and CSDP subject to the intergovernmental method. Third, coherence does not necessarily translate into success, efficiency and effectiveness. Apparent coherence stemming from member-states’ lowest common denominator often comes at the expense of substance and functional depth, as seen in the 2003 European

¹⁶ *Ibid.*, pp. 106-113.

¹⁷ Marangoni, Anne-Claire, and Kolja Raube. "Virtue or Vice? The coherence of the EU's external policies." *Journal of European Integration* 36.5 (2014): 473-489, p. 475.

¹⁸ *Ibid.*, pp. 475-476.

¹⁹ Mayer, Hartmut. "The Challenge of Coherence and Consistency in EU Foreign Policy", in Mario Telò and Frederik Ponjaert (eds.), *The EU's Foreign Policy: what kind of power and diplomatic action?* Ashgate Publishing, 2013, pp. 105-120, p. 107.

²⁰ *Ibid.*, pp. 107-108.

²¹ Balducci, Giuseppe. "The Limits of Normative Power Europe in Asia: the case of human rights in China." *East Asia* 27.1 (2010): 35-55; Hoffmann, Katharina. "The EU in Central Asia: successful good governance promotion?." *Third World Quarterly* 31.1 (2010): 87-103; Pace, Michelle. "Paradoxes and Contradictions in EU Democracy Promotion in the Mediterranean: the limits of EU normative power." *Democratization* 16.1 (2009): 39-58.

²² Keukeleire and Delreux, *op.cit.*, p. 115.

Security Strategy.²³ Moreover, to be effective EU positions and policies need to be taken up and accepted by third actors, but this is often not the case.²⁴

Admittedly, the conceptualisations of coherence, as shown above, are fairly comprehensive and operational. Yet their interpretations of vertical coherence is almost exclusively contingent on the prior existence of an agreed EU position. It remains questionable whether and/or to what extent they can be extended to the recurring cases where a common position simply does not materialise in the first place. The persisting problem with EU foreign policy is that vertical coherence, albeit much sought after, is often unrealistic and unattainable in practice due to pronounced differences in member-states' respective national foreign policy and the ingrained intergovernmental decision-making. For this reason, the article integrates this under-specified dimension into the vertical part of (in-) coherence conceptualisation (see Table 1) and employs it for the subsequent case studies. In what follows, the article leverages this analytic framework to trace the vertical incoherence of the Union vis-à-vis China with reference to two typical cases—the participation in the AIIB and the deliberation on granting MES. Given the dominant position and disproportionate weight of the EU4 in EU foreign policy-making, this study will look into their respective positions to assess whether they diverge and block a common view, or whether they are consistent with and/or conducive to enhancing the already-defined EU position. As for methodology, the study uses for the purpose of triangulation a soft version of process-tracing, document analysis and elite interviews to uncover the main cause for EU vertical incoherence vis-à-vis China in these two cases.

Table 1. Conceptualise vertical incoherence in EU external action

Disunity	Inconsistency	Incoherence
Differences between member-states result in the EU's failure to formulate or even articulate a common position	Positions and policies of member-states contradict and undercut the already-defined policy line of the EU's institutions	Positions and policies of member-states and the EU are poorly coordinated and unable to achieve concertation and synergy

Incoherence in the EU and the case of joining the AIIB: no common position

According to official documentation of the Council, the EC and the EP, there had been little discussion on the AIIB at the Union level preceding the decisions of the EU4 to join. The issue was debated perfunctorily once at the working-group level in the 'Economic and Financial Sub-Committee on the International Monetary Fund and Related Issues' but was never raised to the ambassadorial level of Permanent Representatives Committee (Coreper), let alone the Economic and Financial Council. Hence, it can be cautiously concluded that there was neither a common view nor a clear guideline at the European level regarding the participation of member-states in the Beijing-proposed initiative. Nonetheless, from treaty provisions and political declarations, it is not difficult to speculate about what the EU authorities were expecting. Article 24(3) under the provisions on the CFSP stipulates, "The Member States shall work together to enhance and develop their mutual political solidarity. They shall refrain from any action which is contrary to the interests of the Union or likely to impair its effectiveness as a cohesive force in international relations." The decision of the UK, followed within days by Germany, France and Italy, to join the AIIB as a Prospective Founding Member (PFM) with no coordination either with Brussels or other member-states, clearly disregarded their obligation to respect 'mutual political solidarity.' In his State of the Union address in September 2015, EC President Juncker chided member-states for competition and made a poignant plea for European solidarity. "How can it be that a strategically important

²³ Toje, Asle. "The 2003 European Union Security Strategy: a critical appraisal." *European Foreign Affairs Review* 10.1 (2005): 117-133.

²⁴ Thomas, Daniel C. "Still Punching below Its Weight? Coherence and Effectiveness in European Union Foreign Policy." *JCMS: Journal of Common Market Studies* 50.3 (2012): 457-474; Smith, Karen E. "The European Union at the Human Rights Council: speaking with one voice but having little influence." *Journal of European Public Policy* 17.2 (2010): 224-241.

new Infrastructure Investment Bank is created in Asia, and European governments, instead of coordinating their efforts, engage in a race who is first to become a member? We need to grow up and put our common interests ahead of our national ones." It is evident that member-states were both legally obligated and politically expected to coordinate their position before taking part in the AIIB.

At the member-state level, there had been a state of dubiousness and indecision after China delivered an invitation to join the AIIB to individual national governments. After inconclusive talks in the Group of Seven (G7) and unproductive meetings among the EU4 officials with no involvement of the EC and smaller member-states, the prevailing view was that since China was planning to establish the AIIB anyway, it would make more sense to be on the inside shaping the rules than staying on the sidelines suspicious about the Beijing-initiated lender's ability to uphold common standards.²⁵ Also, the Asia-focused infrastructure bank represents a timely opportunity for European enterprises and investors to boost their presence in the world's fastest-growing region via infrastructure projects. Additionally, given the EU4's prioritising of amicable trade and investment with China, how could they miss out on building closer economic ties and risk estranging Beijing? As a Brussels-based national official put it bluntly, "Europe has got nothing to lose."²⁶ The real debate was on the tactics and the timing of participation in order to maximise their influence on the AIIB. While German, French and Italian political establishments were hesitating and hoping for a coordinated position, the British leapt first and unveiled the landmark decision to partake in the AIIB.

It is conceivable that the decision of Downing Street came as a surprise for the White House, as few in the Obama administration had unanticipated that London would disregard their 'special relationship' and defy forceful warnings from Washington on such a contentious foreign policy issue.²⁷ By contrast, London's unilateral decision to join without consulting Brussels and other national capitals should not in the least be surprising, especially considering its track record in undercutting Brussels' position in relation to Beijing. A quick look at Sino-British relations before and after the 'unexpected' announcement can put things into perspective. For years London has been active in courting Beijing in the hopes of attracting more lucrative Chinese investment and tapping into the vast commercial potential of the Chinese market. However, the private meeting in May 2012 of Prime Minister David Cameron and then Deputy Prime Minister Nick Clegg with the Dalai Lama—dismissed by the mouthpiece of the Chinese government *People's Daily* as a 'secessionist in disguise',²⁸ prompted outrage from Beijing and causing the authorities to halt all ministerial contacts with their British counterparts.²⁹ In an effort to appease Beijing and end the political standoff, Cameron offered a tacit admission of defeat one year later and clarified the government's stance on Tibet during a debate in the House of Commons by saying, "The Chinese Government are aware of our policy on Tibet. We recognise Tibet as part of China. We do not support Tibetan independence, and we respect China's sovereignty."³⁰ This was followed by a second visit of the Prime Minister along with six government ministers and a large trade delegation to China in December 2013,³¹ thus putting an end to the frozen diplomatic relations.

In an opinion-piece published during his visit on *Caixin* (Chinese-equivalent of *Financial Times*), Cameron went to great lengths to portray the UK as the ideal Western partner for China. He wrote, "There is no country

²⁵ Taylor, Paul and William James. "How Europe and U.S. Stumbled Into Spat Over China-Led Bank", *Reuters*, 22 March 2015, <http://www.reuters.com/article/china-bank-europe-idUSL6N0WM3PO20150322>.

²⁶ Interview with a national official, Brussels, 21 March 2016.

²⁷ Perlez, Jane. "With Plan to Join China-Led Bank, Britain Opens Door for Others", *The New York Times*, 13 March 2015, <http://www.nytimes.com/2015/03/14/world/asia/asian-infrastructure-investment-bank-britain-china.html>.

²⁸ "Dalai Lama, a secessionist in disguise", *People's Daily*, 20 March 2009, <http://en.people.cn/90001/90780/91342/6618962.html>

²⁹ Grammaticas, Damian. "China halts UK ministerial meetings over Dalai Lama row", *BBC News*, 14 June 2012, <http://www.bbc.com/news/world-asia-china-18440767>

³⁰ Malcolm Rifkind MP asked for direction of UK-China relations, House of Commons Debate, 8 May 2013, Column 22.

<http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm130508/debtext/130508-0001.htm>

³¹ Prime Minister's Office. "UK and China: building a long-term relationship", London, 1 December 2013, <https://www.gov.uk/government/news/uk-and-china-building-a-long-term-relationship>

in the western world more open to Chinese investment, more able to meet the demands of Chinese consumers or more willing to make the case for economic openness in the G8, the G20 and the European Union.”³² More significantly, he championed ‘an ambitious and comprehensive EU-China Free Trade Agreement’ (FTA) and promised his full political support.³³ Of course, there was nothing wrong with advocating openness and seeking closer links with Asia’s largest economic powerhouse. After all, Britain needs foreign investment funds to upgrade infrastructure and its exports, not least services, will benefit from a maturing consumption-driven Chinese economy. And London, as the world’s largest hub of global foreign exchange trading, can consolidate its prowess by carving out a larger slice of the growing offshore RMB trading. Yet, the Prime Minister irritated both Brussels and other national capitals by prematurely expressing his backing for an EU-China FTA at odds with the EC and overtly casting Britain as more open than other economies on the Continent.

On 12 March 2015, the Chancellor of the Exchequer George Osborne, supported by the Prime Minister and the Conservative Party, announced the UK’s decision to become a PFM of the AIIB, making the UK the first G7 leading economy to join the China-led multilateral financial institution. The imperative to seek stronger ties with China and Asia was resoundingly underscored in the Treasury’s press release and joining the China-led lender was viewed as “an unrivalled opportunity for the UK and Asia to invest and grow together.”³⁴ Yet such a significant decision was rather poorly coordinated at the national and European levels. Eager to anticipate other European countries and seize first-mover advantage, the Chancellor not only ignored the advice of the Foreign & Commonwealth Office not to break ranks with the US,³⁵ but also pressed ahead without notifying his counterparts in the Continent. With Germany, France, Italy and 10 other member-states following the UK’s lead to individually join the AIIB, the Union was painted into a corner and excluded from decision-making, dashing any hopes of gaining collective bargaining outcomes against a powerful China, at least prior to Europe’s participation in the Beijing-led project.

To the dismay of EU officials, such a jostle for advantage symbolises an emblematic strand of pragmatism in the China policy of the EU4, not least the UK in this case—act in its own interest and pursue purely national policy to clamour for investment and commercial deals, irrespective of the considerations of the Union and smaller member-states. Facing China such a pragmatic approach of large member-states and resultant paucity of intra-EU coordination have prevailed till now and will continue to prevail for the foreseeable future. In fact, this has already been foreshadowed in a recent speech of the British Chancellor at the Shanghai Stock Exchange in September 2015 wherein he avowed to “make Britain China’s *best* partner in the West (emphasis added),” entailing vying with Germany and other European economies for business opportunities with China.

Incoherence in the EU and the case of granting MES: heading down a bumpy road?

The awaited decision of eurozone countries to form a single constituency at the China-led bank has temporarily brought down the curtain on the drama with the AIIB, whereas the disagreement on giving China the coveted MES at the WTO is yet to come to an end. To make better sense of MES—a technical term used in anti-dumping cases, it is important to bring in some background information. When China entered the WTO in December 2001, a great many of WTO members did not accept the communist country as a market economy on the grounds that its domestic prices were not reliable due to excessive government interventions. In consequence, a transitional arrangement was inserted under Section 15 ‘Price Comparability in Determining Subsidies and Dumping’ of China’s Accession Protocol, which permits several derogations from the WTO anti-

³² Prime Minister’s Office. “PM champions EU free trade deal with China”, London, 2 December 2013, 2013<https://www.gov.uk/government/news/pm-champions-eu-free-trade-deal-with-china>

³³ *Ibid.*

³⁴ HM Treasury. “UK announces plans to join Asian Infrastructure Investment Bank”, London, 12 March 2015, <https://www.gov.uk/government/news/uk-announces-plans-to-join-asian-infrastructure-investment-bank>

³⁵ Anderlini, Jamil and Kiran Stacey. “George Osborne rejected diplomatic advice to join China-led bank”, *Financial Times*, 26 March 2015, <http://www.ft.com/intl/cms/s/0/c256e788-d3bc-11e4-a9d3-00144feab7de.html>

dumping rules. This clause entitles other WTO members to determine according to their national law whether China is to be considered as a market economy in anti-dumping investigations, if Chinese producers cannot clearly prove that market conditions prevail in the industry in China. Therefore, they can use an alternative method to calculate the margin of dumping that allows for higher punitive duties to be levied on Chinese products.³⁶ Since certain provisions introduced under Section 15 are to expire on 11 December 2016 after 15 years, Chinese authorities contend that other WTO contracting parties are legally obligated to treat China as a market economy thereafter. So far, over 80 countries such as Australia, Brazil, New Zealand, Russia, Singapore and Switzerland, have already recognised China's MES for either economic or political reasons.

Nevertheless, economic heavyweights including the EU and the US think otherwise and refuse to confer China MES on legalistic or political grounds, arguing that the Chinese government still exerts disproportionate influence on its economy. Back in December 2014, EU Trade Commissioner Cecelia Malmström already made it clear that there would be 'no automaticity' with respect to China's MES,³⁷ contrary to the idea floated by her predecessor Karl De Gucht in 2013.³⁸ The prudent position has been justified by Beijing's failure to fulfill the five cumulative criteria³⁹ of a market economy specified in Article 2.7(c) of EU anti-dumping regulation.⁴⁰ Relatedly, China's controversial practice of subsidising industrial exporters does not align with EU anti-subsidy regulation.⁴¹ On the other side, Chinese officials have been pushing the EU to respect the WTO rules and grant MES. For instance, Foreign Ministry spokesperson Lu Kang on 30 December 2015 stated, "Pacta sunt servanda (Latin for 'agreements must be kept') is a basic principle and obligation in international law. No signatory party can evade its obligations under international treaties by citing domestic laws as an excuse, and treat Chinese enterprises in an unfair, unjust, unreasonable and discriminative manner."⁴²

At this stage, it is essential to underline the difference between two interrelated but distinct questions: whether China is a market economy, and whether the EU should recognise China as a market economy after December 2016. On the first question, few would concur with the view that China has fully adhered to the WTO rules and Chinese enterprises operate under market economy conditions. Most of its strategic sectors including telecommunications, finance, media, energy and transport remain off limits to foreign investors and firms. Also, the Chinese government appears to have backtracked from much-heralded economic reforms to give a freer rein to market forces, as demonstrated by the state interventions in the stock market in 2015. As for the second question, the picture is less clear-cut given the interdependence of EU-China economic relations and the politics of EU trade policy. By withholding MES, it is quite possible that Brussels will provoke retaliation and WTO litigations from Beijing and risk major strains in diplomatic relations or even a full-blown trade war, not to mention China's contribution to the EFSI. To decide on whether to grant the MES, the EC needs to take into account the stance of a wide range of actors including *inter alia* national governments and members of the EP (MEPs),⁴³ business groups, and its most consequential strategic partner the US. After the EC submits the legislative proposal, the Council and the EP will co-decide through the Ordinary Legislative Procedure.

³⁶ Dumping is calculated against appropriate external benchmarks (of a replacement market) rather than prices or costs in China.

³⁷ Dalton, Mathew. "Malmstrom: No Automatic Market Economy Status for China in 2016", *The Wall Street Journal*, 11 December 2014, <http://blogs.wsj.com/brussels/2014/12/11/malmstrom-no-automatic-market-economy-status-for-china-in-2016/>

³⁸ De Gucht, Karl. "Modernisation of Trade Defence—Getting the Job Done", Speech at the European Parliament, Brussels, 7 November 2013, http://trade.ec.europa.eu/doclib/docs/2013/november/tradoc_151873.pdf

³⁹ The five criteria are: market-based allocation of economic resources and corporate decision-making; an absence of distortion in the operation of the privatised economy; adequate corporate governance; effective legal framework including intellectual property rights and bankruptcy law; open financial sector.

⁴⁰ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

⁴¹ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community.

⁴² Chinese Ministry of Foreign Affairs. "Foreign Ministry Spokesperson Lu Kang's Regular Press Conference", Beijing, 30 December 2015, http://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1328793.shtml

⁴³ On 15 March, 5 members of the EP's MES China Action Group initiated a counter-consultation on granting China MES alternative to the one launched by the Commission. More details at: <http://www.meschinawhynot.eu>

The EC's legal service has reportedly recommended that the EU grant China MES, but it has hitherto refrained from making a formal recommendation. After the College orientation debate in 13 January 2016 regarding how to treat China in anti-dumping proceedings, the proposal was again postponed and Juncker was quoted saying, "the issue has to be looked at from all important angles given the subject's importance for international trade and also for the EU's economy."⁴⁴ In anticipation of the lengthy institutional procedures to draft new trade legislation, there is little doubt that the MES saga will persist even after the executive branch of the Union defines its position in the second half of 2016.

Early 2016, DG Trade launched a public consultation (concluded on 20 April 2016) and commissioned a report on the economic and social impacts of possible change in anti-dumping methodology concerning China, so as to identify the most suitable actions. According to a recent speech by Cecilia Malmström, three options have been put on the table: take a tough line and keep intact the extant anti-dumping regulation; remove China from the list of non-market economies with no further conditions; grant China MES but introduce necessary amendments to the anti-dumping and anti-subsidy regulations.⁴⁵ Based on the cost-benefit analysis embedded in the speech, it seems that the course of action preferred by the EC is to accept China as a market economy but accompany it with additional measures (e.g. transitional or sectoral safeguards) that enable the Union to redress distortions on the Chinese market if circumstances warrant. Even so, the politicisation of the sensitive issue in light of the steel crisis may complicate the EC's deliberation. For the moment, the Union has 19 (out of 31 in total) ongoing anti-dumping complaints against China, 6 of which involve Chinese steel products.⁴⁶ According to Juncker's address to the EP plenary session in April 2016, more anti-dumping proceedings are expected to follow in this strategic sector since the EC is investigating alleged Chinese steel dumping.⁴⁷

On EU estimates, Chinese share of global steel production climbed to 50 percent in 2015 and its steel overcapacity reached 350 million tonnes as a result of waning construction boom and flagging domestic demand.⁴⁸ The surge in imported Chinese steel and the plunge in steel prices have precipitated ominous predictions about the impending collapse of the beleaguered European steel sector, imperiling 360,000 jobs across Europe. Aside from the European Steel Association, many other trade unions have raised grave concerns about granting China MES and demanded drastic measures at an EU-wide level against Chinese products dumped at unfairly prices. Shortly before the EC's orientation debate in early 2016, AEGIS Europe⁴⁹ spokesperson Milan Nitzschke solemnly warned EU officials, "Europe simply cannot grant Market Economy Status to a country that does not merit it. Doing so would have an immensely negative impact on European industry."⁵⁰ An oft-cited report by the left-leaning Economic Policy Institute concludes that unilateral MES for China and subsequent deprivation of effective trade defence instruments will cause a glut of cheap manufactured imports from China, truncate annual EU output by between €114.1 billion and €228 billion, and endanger 1.7 million to 3.5 million EU jobs.⁵¹ Given China's humongous industrial overcapacity and its inevitable economic slowdown, the decision to grant MES will render EU anti-dumping weaponry toothless against Chinese imports, exacerbating Europe's economic woes and triggering widespread unemployment.

⁴⁴ Heath, Ryan. "Secret legal opinion inflames China trade fight", *Politico*, 13 January 2016, <http://www.politico.eu/article/secret-legal-opinion-inflames-china-trade-fight-market-economy-wto/>

⁴⁵ Malmström, Cecilia. "Trade Defence and China: Taking a Careful Decision", Brussels, 17 March 2016, http://trade.ec.europa.eu/doclib/docs/2016/march/tradoc_154363.pdf

⁴⁶ See details at: <http://trade.ec.europa.eu/tdi/completed.cfm>

⁴⁷ Juncker, Jean-Claude. Speech by President Jean-Claude Juncker at the European Parliament Plenary Session, Strasbourg, 13 April 2016, http://europa.eu/rapid/press-release_SPEECH-16-1381_en.htm

⁴⁸ European Commission. "Fact Sheet—Steel: Preserving sustainable jobs and growth in Europe", Brussels, 16 March 2016, http://europa.eu/rapid/press-release_MEMO-16-805_en.htm

⁴⁹ It represents approximately 30 strategic European manufacturing sectors.

⁵⁰ Milan Nitzschke. "Stop China Dumping: EU industry alliance says no to Market Economy Status", *AEGIS Europe*, 12 January 2016, <http://www.aegiseurope.eu/news/stop-china-dumping-eu-industry-alliance-says-no-to-market-economy-status-mes>

⁵¹ Scott, Robert E., and Xiao Jiang. "Unilateral grant of market economy status to China would put millions of EU jobs at risk", 18 September 2015, Washington D.C.: Economic Policy Institute, <http://www.epi.org/publication/eu-jobs-at-risk/>

While discussions on this incendiary issue are already heating up at the European level, the 28-state bloc finds itself again in difficult waters and unable to arrive at a common position. As regards the general stance of EU member-states on trade agenda, northern countries steered by the UK tend to favour trade openness, whereas southern states led by France and Italy are more inclined to adopt a protectionist strategy. Germany, trapped between the two opposing camps, has been treading carefully. Berlin's predicament on China's MES has been laid bare by Chancellor Angela Merkel's ambiguous message during her meeting with Chinese Premier Li Keqiang in October 2015. Europe's most powerful leader stated subtly, "Germany supports, in general, China's claim to get the market economy status. At the same time China has to do some homework, for example in the area of public procurement."⁵² Specifically, Merkel called for better protection of EU steel and solar industries against intensifying global competition while stating she would wait for the EC's proposal before revealing Germany's official position.⁵³ Her conditional support for China's MES can be seen as a compromise to accommodate the interest of both European industries and China. Understandably, Germany as the largest steel producer in Europe and a major solar panel manufacturer can neither leave its import-sensitive sectors defenceless against Chinese imports nor brush off Beijing's lobbying for MES for fear of adversely affecting its privileged trade links with the world's second largest economy. But as the steel crisis worsens, Germany's position seems to have shifted and its economy minister Sigmar Gabriel recently expressed support for a tough stance with China over low steel prices and conditioning MES upon China curbing steel overcapacity.⁵⁴

By contrast with the equivocal stance of Brussels and Berlin, as a staunch advocate London has expressed its strong support for Beijing's bid to seek EU recognition as a market economy. In fact, as far back as 2004 the UK already indicated that it would back such a bid.⁵⁵ More recently, during Osborne's trip to China in September 2015, the British Chancellor of the Exchequer sent positive signals by referring to the need to support China's commitment to market liberalisation and by siding with the assessment of the International Monetary Fund Chief Christine Lagarde with regard to China's transition to a more market-based economy.⁵⁶ Also, the Conservative government has continually blocked efforts from other member-states to set increased tariffs against dumped and subsidised exports, undeterred by mounting pressure and scathing criticism from the Labour Party and domestic trade unions amid Tata's decision to dispose of its entire UK steel operation. In February 2016, British business secretary Sajid Javid was among the signatories of a seven-country⁵⁷ joint letter to three Commissioners⁵⁸ and the Dutch economy minister Henk Kamp (Chair of the Council), calling for 'every means possible' to shield the ailing European steel industry from China and Russia.⁵⁹ Rhetoric aside, the UK has cobbled together a blocking minority in the Council much to the annoyance of France, Italy and Germany and repeatedly thwarted the proposals to scrap the so-called 'lesser duty rule' (LDR). Under the LDR, the EU is to impose duties at a minimum level adequate to remove injury but lower than the margin of dumping. Lifting the LDR would therefore remove restrictions on higher duties and allow the Commission to impose tougher

⁵² "Germany's Angela Merkel backs more favourable 'market economy status' for China – with certain conditions", *South China Morning Post*, 30 October 2015, <http://www.scmp.com/news/china/policies-politics/article/1874192/germanys-angela-merkel-backs-more-favourable-market>

⁵³ Wu, Wendy. "Difficult to predict: German ambassador on China's bid for market economy status with EU", *South China Morning Post*, 10 January 2016, <http://www.scmp.com/news/china/diplomacy-defence/article/1899791/difficult-predict-german-ambassador-chinas-bid-market>

⁵⁴ Martin, Michelle. "EU must take tough stance in steel dispute with China-German economy minister", *Reuters*, 28 April 2016, <http://uk.reuters.com/article/uk-germany-steel-china-idUKKCN0XP0UB>

⁵⁵ Peterson, Chris. "Support China to gain market economy status", *China Daily*, 15 January 2016, http://www.chinadaily.com.cn/opinion/2016-01/15/content_23097208.htm

⁵⁶ Osborne, George. "Let's create a golden decade for the UK-China relationship", Speech at Shanghai Stock Exchange, Shanghai, 22 September 2015, <https://www.gov.uk/government/speeches/chancellor-lets-create-a-golden-decade-for-the-uk-china-relationship>

⁵⁷ The 7 countries are: the EU4, Belgium, Luxembourg and Poland.

⁵⁸ Jyrki Katainen Commission Vice-President for Jobs, Growth, Investment and Competitiveness, Elżbieta Bieńkowska Commissioner for Internal Market, Industry, Entrepreneurship and SMEs, and Cecilia Malmström Commissioner for Trade.

⁵⁹ See details at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/507051/letter-eu-actions-steel-sector-5-feb-2016.pdf

penalties.⁶⁰ Yet, Javid defended the UK's position by arguing unapologetically that such a decision could have triggered a spike in steel price for British consumers and affected other sectors such as the car industry other.⁶¹

On the opposing camp, Rome and Paris have been leading the fight against granting China MES. As the second and third largest steel producers in the EU (after Germany), Italy and France have been taking issue with the UK and calling for a tougher stance against stiff Chinese competition to protect their steel industry. Italy's Ilva Steel, Europe's biggest by output capacity, was hit hard by the 2008 financial crisis and forced to cut back production well below its full capacity because of plummeting demand and harsh competition.⁶² Amid the current steel crisis, the Italian government has allegedly allocated to the troubled plant financial support amounting to €2 billion to keep it afloat artificially, a controversial measure currently under EC investigation for potentially violating EU state aid rules.⁶³ Important to note that the giant steelwork is a major employer in southern Italy and constitutes part of the government's sustained efforts to narrow the gap between the prosperous north and the impoverished south. In this context, EU recognition of China as a market economy will not only throw into disarray Ilva and uncompetitive Italian steel in general, but also put at jeopardy thousands of jobs and socio-economic stability in the blighted south. Similarly, France has been wary about the implications of such a bold move. In addition to initiating the seven-country joint letter in February 2016, French economy minister Emmanuel Macron tried to rally support from MEPs two months later in Strasbourg to come to the rescue of the struggling European steel industry, and called on the EC to move faster in anti-dumping cases and lashed out at the UK and other member-states for playing double game and blocking measures against low-cost Chinese steel.⁶⁴

Conclusions

To conclude, the two cases demonstrate that analytically it is important to incorporate as a core component into the conceptualisation of vertical (in-) coherence the oft-neglected situations wherein member-state variations hinder the articulation of a common EU position, and empirically, the stance of the EU4 towards China has been mostly driven by their domestic economic agenda with little regard for the interest of the Union and other member-states. In respect of the involvement of European countries in the AIIB, Britain's self-interested decision followed soon by other member-states on an individual basis, effectively elbowed aside the EU and rendered it impossible for the Union to develop a common stance. As regards the ongoing deliberation on granting MES, the failure to act together could become an inevitable consequence of the intra-EU stalemate with the UK (and potentially Germany) on the one side and France and Italy on the other. Ultimately, vertical coherence hinges on the willingness of the EU4 to coordinate their diverging positions in order to increase their leverage vis-à-vis China.

⁶⁰ To put things into perspective, the tariffs of the EU on dumped Chinese steel are 9 percent and those of the US are 266 percent.

⁶¹ Mason, Rowena and Rob Davis. "David Cameron accused of failing UK steel after EU proposal rejected", *The Guardian*, 10 February 2016, <http://www.theguardian.com/business/2016/feb/10/david-cameron-accused-failing-uk-steel-industry-blocking-eu-lesser-duty-proposal>

⁶² "Italian government steps in to save Ilva steel plant", *BBC News*, 24 December 2014, <http://www.bbc.com/news/business-30599821>

⁶³ European Commission. "Press Release—State aid: Commission opens in-depth investigation into Italian support for steel producer Ilva in Taranto, Italy", Brussels, 20 January 2016, http://europa.eu/rapid/press-release_IP-16-115_en.htm

⁶⁴ Robert, Aline and Cécile Barbière. "Emmanuel Macron urges MEPs to save Europe's steel industry", *EurActiv*, 12 April 2016, <http://www.euractiv.com/section/all/news/emmanuel-macron-urges-meps-to-save-europes-steel-industry/>