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THE EU-CHINA COMPREHENSIVE STRATEGIC PARTNERSHIP IN CONTEXT OF EU GENERAL CONCEPT OF THE „STRATEGIC PARTNERSHIP“

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Abstract. Strategic (Comprehensive) Partnership, as a general concept and also as a specific foreign policy instrument for developing the European Union's relations with key world countries (strategic partners), involves not only equivalent, mutually beneficial and institutionalized cooperation in many areas but also a joint solution to strategic (security and defense) issues and issues of regional and global governance where parties not only cooperate but also share responsibility. The objective of this article is to analyze the legal instruments (criteria) of the EU-China Strategic Partnership and to compare its character with the general legal concept of the EU Strategic Partnership. Based on this analysis we will answer the question whether the EU-China Strategic Partnership shows evidence of unclarity, imperfection and elusiveness of the EU's Strategic Partnership.

Keywords: Cooperation, Partnership, Comprehensive Partnership, Strategic Partnership, EU, China, EU-China relations, Policy Papers

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1. Introduction

In previous research, we dealt with the general concept of the European Union's (EU) Strategic Partnership. Based on the study of the founding treaties of the regional groupings as well as the documents of EU secondary legislation, we concluded that the foundation of this important instrument of EU external policies was not defined in such documents. Due to the fact that this tool is an instrument for promoting European goals and interests to key partners around the world (the United States, Canada, Japan, Russia, South Korea, China, India, Brazil, Mexico and South Africa). As the concept of the EU Strategic Partnership is often described as “unclear” (Sautenet, 2008: 11), “imperfect” (Pałasz, 2015: 7) or “elusive” (Maher, 2016: 959), we therefore tried to specify this concept ourselves. We did so on the basis of the elements typical for the EU's practical approach to the Strategic Partnership, the context of the terms used in the Commission, Council and the European Parliament (Commission Policy Papers) and the European Security Strategy as well as the approaches of other authors (including Chinese).

Strategic (Comprehensive) Partnership, which expresses the high degree of maturity of relations between the two parties, is recognised as „a foreign policy concept, including both mutually beneficial and institutionalized cooperation of partner countries in many economic and non-economic areas, both, joint solutions to difficult

and strategic issues and challenges of global governance that have emerged as a result of mutual cooperation and concern only the specific issues and problems in which both parties work together but also share responsibility. Assumption of mutual cooperation between the parties, as well as common solutions to the challenges of different types, is to promote sustainable development, peace and stability, conformity in values (principles) and strategic interests of both sides, their common goals, commitments and procedures, all of those in the long-term and fundamental character. It is a response of global powers to the growing interdependence of the world, where cooperation of key partners is needed to maintain their shared values and interests on a global level “(Cihelková - Nguyen, 2017: 6).

In the European Union, the unspecified substance of the Strategic Partnership as a general category, on the one hand, and the fundamental consideration of the EU institutions and Member States on how to build up the Strategic Partnership with the key countries to create an instrument which would be “pivotal for addressing global challenges and safeguarding the EU’s core interests and objectives – mostly security and prosperity“ (Renard, 2015), and, on the other hand, gradually improve interconnectedness Strategic Partnerships with legal documents that have determined the values, forms and content of the EU Strategic Partnership. These instruments have become: the way which the Strategic Partnership was formed in, the type of existing bilateral treaty base for mutual relations, the accepted normative concept, the areas and intensity of cooperation, and the concept of a multilateral international command. The general specification of these legal criteria of the EU Strategic Partnership concept was based mainly on such authors as: Carmen-Cristina Cirlig (2012); Urszula Pałasz (2015); Thomas Renard (2015); Antoine Sautenet (2008). However, the EU’s fundamental documents - the Treaty of Lisbon (2009) / Consolidated version of the Treaty on European Union and the Treaty on the Functioning of the European Union, as well as the original (ESS, 2003) and innovated (ESS, 2009), Security Strategy - A secure Europe in a better world.

The application of the above-mentioned sub-instruments (criteria) to individual EU strategic partners has demonstrated a variability in possible partner approaches, hence the differentiation of key EU Strategic Partnerships with individual countries, which the EU itself classifies as: the essential; the pivotal - crucial at global level (Russia, China, Brazil, India); the natural allies - like-minded countries and traditional allies (Canada, Japan, South Korea) and regional partners - potential leaders in their regions (Cirlig, 2012: 3). Moreover, this differentiation affects not only the strategies which the EU is approaching and must approach to these partners with, but also shows the factual (real) lack of a unified form of the EU Strategic Partnership (compared to the unified general definition of the Strategic Partnership - see its own definition).

The objective of this article is:

- to analyze the EU-China Strategic Partnership on the basis of the legal instruments (criteria)
- to compare its nature with the general legal concept of the EU Strategic Partnership

Based on these steps, we will be able to answer at the end of the article whether the EU-China Strategic Partnership shows evidence to the unclearness, imperfection and elusiveness of the EU’s Strategic Partnership.

2. The legal fundamentals of the EU-China (Comprehensive) Strategic Partnership

2.1 The concept of creation of the EU-China Strategic Partnership

The creation of the EU-China Strategic Partnership in 2003 enabled the adoption of two Policy Papers. The first one was the Policy Paper “A maturing partnership - shared interests and challenges in EU-China relations” (COM (2003) 533 final), which was adopted by the European Commission in September 10th, 2003 in fact as its fifth announcement. The second was one the “Policy Paper on the EU” (CHG, 2003), adopted by the Chinese government on October 13th, 2003¹. The EU and China defined their relations as “maturing” and “more

¹ While the European Commission adopted the Policy Paper already as its fifth announcement to the EU Council and the European Parliament, China has adopted the Policy Paper as the first document ever of its kind towards a foreign subject.

strategic”. The EU’s Policy Paper on China states that „EU and China have an even-greater interest to work together as strategic partners to safeguard and promote sustainable development, peace and stability; the importance of both attach to the role of the UN in physical and environmental security and (to gain from) further trade liberalization. “ (COM (2003) 533 final: 3). The China Policy Paper on the EU states that the EU will play an increasingly important role in both regional and international affairs. “The Chinese Government appreciates the importance of the EU and its members in developing relations with China. The same time it states that EU-China relations are dominated by agreements over disagreements, and emphasizes that China’s next goal is to enhance China-EU all-round cooperation and promote a long-term, stable and full partnership with the EU. (CHG 2003: 1-2).

While the EU’s policy paper included an evaluation of a new maturity in EU-China relations, and proposals updating the EU’s approach to China, China’s Policy Paper chose a different approach. This is not typical for the communities of many states with the Common Foreign and Security Policy, mostly of an interstate type², instead, it represents a common foreign and security policy of a national state. It is based on Chinese foreign policy, which on the one hand shares common interests with the EU, but on the other hand it insists on the application of principles that arise from different historical and cultural backgrounds, the political system and the level of economic development. For example, it unambiguously defines strict adherence to the “One Country, Two Systems” principle approach towards Hong Kong and Macao and the “One China” principle approach towards Tibet and mainly to Taiwan. EU proposals are designed to help drive policies and take EU action over the next two to three years, although China’s proposals are less elaborate but clearly defined by area of cooperation. According to the Chinese side, there is no fundamental conflict of interest between the EU and China, and both documents are commensurate and compatible (Cihelková - Nguyen, 2016).

Council of the EU endorses the Commission Policy Paper on Transmission to the Council and the European Parliament “A maturing partnership - shared interests and challenges in EU-China relations” on the same day as China adopted its Policy Paper. The EU-China Comprehensive Strategic Partnership was then reaffirmed at the 6th EU-China Summit at the end of October 2003. The Sixth China-EU Summit Joint Press Statement (Presse 298) brought an overview of existing relations in different areas, proposed a direction for the future development of EU relations China Summit and included a discussion on the different views and opinions of both parties. In terms of the establishment of the Strategic Partnership, China was the first country with which the EU established a partnership on a formal procedure basis in 2003.

2.2 The type of existing bilateral agreement framework for mutual relations

The Bilateral Framework which the development of the EU-China Partnership is based on, is the „Trade and Economic Cooperation Agreement“(TECA)³, which was signed in May and came into force in October 1985⁴. This agreement is non-preferential and is automatically renewed on an annual basis. It is an open agreement that does not exclude any form of economic cooperation linked to the EU’s competence. Economic cooperation covers several sectors and fields, including: industry, mining, agriculture, science and technology, energy, transport and communications and environmental protection. In order to fulfill the content of economic cooperation, various instruments are set up, among others the implementation of joint ventures, exchange of

² Within the Common Foreign and Security Policy, EU Member States are almost always unanimous. The influence of the Commission is significantly reduced; the European Parliament has in fact no influence at all and the European Court of Justice is completely excluded from the CFSP. Implementation of specific decisions is largely in the competence of Member States.

³ OJ L 250 (1985). Agreement on Trade and Economic Cooperation between the European Economic Community and The People’s Republic of China. Official Journal L 250, 19/9/1985, p. 0002-0007.

⁴ Until 1974, economic relations between the European Economic Community and China were developed based on bilateral agreements between member states of the EEC and China. However, as the EC Commission was already in charge of the EC in 1974 and was responsible for economic relations, the Trade Agreement was negotiated in 1978 and came into force in June of the same year. It was a non-preferential five-year trade agreement, automatically renewable on an annual basis, where both parties granted most-favored nation treatment. It also included the Joint Committee. However, this agreement could not be considered effective taking into account the Chinese establishment and direction of the economy at the time.

economic information, joint research, cooperation between financial institutions, technical cooperation, seminars and symposiums, investment support and networking between entrepreneurs, business and industry officers, etc. The scope of the agreement is part of the program to assist developing countries in Asia and Latin America. In order to ensure the fulfillment of the agreement, the Trade and Economic Joint Committee was set up, on the level of European Commissioner for Trade and Chinese Minister of Commerce, its main task is to discover and verify new opportunities for the development of trade and economic cooperation and to elaborate relevant recommendations (For more information see Cihelkova, 2003 : 508).

TECA was at the time of the establishment of the EU-China Comprehensive Strategic Partnership only for the purpose of the development of trade and economic cooperation; there is no mention of partnership in this agreement. In addition, in the Commission Announcement in 2003, the partnership is defined as an aim, not a stage mutual relationship. For this reason, the Strategic Partnership, both on the basis of the indicative documents and on the evaluation of its development at the annual summits, has gradually become a „soft law“ instrument that helps to complete and re-evaluate the legal framework for relations between the EU and China. It is part of the EU's generally used instruments towards strategic partners, unilateral global acts, sectoral bilateral acts and sectoral dialogues and political dialogues, including Human Rights. TECA, although it is the basis for the development of trade and economic cooperation between the two parties, has long been overcome by real cooperation and does not reflect the nature of the mutual relationship. The development of the EU-China bilateral relationship so far requires a more comprehensive agreement covering not only all-dimensional, wide-ranging and multi-layered cooperation, but also, in particular, specific strategic and security activities developed in partnership.

Taking into account the fact that the development of the EU-China bilateral relationship so far requires a more comprehensive agreement, the parties decided on the 9th summit in 2006 to commence negotiations on a new Partnership and Cooperation Agreement (PCA) to create the base of EU-China relations for the 21st century. The PCA should “reflect the full breadth and depth of today's comprehensive strategic partnership between the EU and China ... encompass the full scope of their bilateral relationship, including enhanced cooperation in political matter” (Presse 249). Efforts to create the basis of the EU-China relationship on a more comprehensive legal framework motivated both parties to reach positive outcomes in the negotiation. After successful initial negotiations, “the negotiation turns out to be less than straightforward and has been deadlocked for years” (Shaohua, 2015). Yan Shaohua sees the causes of this situation in the factors that “restrain the win-sets of the two parties”.

The very immediate reason of the agreement was the very complexity of the agreement, which should be a mixed agreement negotiated and ratified by both the EU institutions and the EU Member States institutions, each of them has veto power. Inconsistent country approaches and disagreements between countries and EU institutions complicated negotiations and weakened the EU as a trustworthy partner of China. Several external factors linked to the year 2008, has led to the freezing of the negotiations: the Tibetan disturbance in the spring of 2008 and their conviction by European countries, Europe's call of the boycott of the Olympic Games in Beijing, and President Sarkozy's meeting with the Dalai Lama contributed to the freezing of the negotiations. The main obstacle to the PCA's negotiation is the different preferences of the EU and China regarding the form and content of the agreement.

From the EU point of view favors for a single comprehensive agreement that will upgrade the 1985 TECA and encompass both the commercial and political dimensions of the relations. For China, it is more advantageous than concluding a comprehensive legal-binding bilateral agreement, either maintaining the current status of a mutual or negotiating two treaties. EU-China relations have achieved a high degree of institutionalization, inter alia through multi-level dialogues, various bilateral agreements and policy documents. The cost of creating a new institutional framework would therefore be higher for China than the cost of no-agreement. Due to the content sensitivity of a number of negotiated issues, China seeks to separate the trade and economic issues from the political agreement. It would therefore like to have two agreements, and updated TECA and PCA, with the essence of TECA being incorporated into the chapters of the PCA. This approach is not corresponding with the European approach, but even if China succeeded in convincing the EU to negotiate a separate economic and separate political agreement, there are large content obstacles to compliance in both areas (Shaohua, 2015).

The EU's commercial and political interests are different from Chinese. In terms of trade and commerce the major interest of the EU is to press China to fulfill the WTO obligations, and protect its trade and investment in China. The EU would like to deal with trade deficit, exchange rates, export restrictions on raw materials, market access, Intellectual Property Rights, service, investment, subsidies, government procurement, norms and standards. In regards the political dimension, there are also some very sensitive issues regarding democracy, human rights, the rule of law, Taiwan, the arms embargo, non-proliferation, disarmament, and the International Criminal Court. The EU also links trade with political matters of human rights and democracy. All of these issues do not belong to China's priorities; China approaches them with limits and with different emphasis. In particular, China deal with EU's anti-dumping measures, anti-subsidy, safeguards, technical barrier to trade and other restrictions. Especially China aims to obtain the EU Market Economy Status (MES) and elimination of the arms embargo. The EU refuses to grant the MES to China due to political considerations and the large trade deficit with China. The EU does not even think about elimination of the arms embargo linked with the human rights issues. Regarding the political area, China is sensitive on "sovereignty issues" regarding Taiwan and Tibet. (Shaohua, 2015).

All these facts are decreasing the EU's as well as China's win-set. Therefore, in 2013 the negotiation of at least a more specified agreement was initiated- a comprehensive EU-China Investment Agreement; formally commenced in January 2014. The agreement will provide for the progressive liberalization of investment and the elimination of restrictions to investors to each other's market. It will provide a simpler and more secure legal framework for investors of both parties by securing predictable long-term access to EU and Chinese markets, and providing strong protection to investors and their investments. This agreement should replace the existing 26 Bilateral Investment Treaties between EU Member States and China (EU, 2016).⁵

2.3 Accepted normative concept

The European Union and the ROC are very different partners which differ in cultural, political and economic terms. The EU is an individualist, democratic, postmodern and economically developed society, based on values such as democracy, the rule of law, human rights and the recognition of the principles of international law. China is a collectivist society based on a leading party dictatorship of Leninist origin, which does not fully accept the individual rights and freedoms of citizens and ethnic and cultural minorities, and a post-totalitarian society experiencing its lagged economic development. Differentiated character of both sides means also the difference of shared normative concepts by both parties. The EU recognizes so-called "normative convergence", which identifies respect for the fundamental values on which the EU is established, is developing, and is also one of the aims of its foreign policy (the spread of values in the world). China rejects several standards, principles and values defined the identity of EU and profess the unconditional engagement, where the basis for the development of mutual cooperation becomes enduring and mutually beneficial relationship of equals.

Despite of certain steps taken by China towards political liberalization (partial loss of state control over the economy, overcrowding of political reforms, continued political stability, industrial development, national loyalty and social cohesion, a more open and democratic system), we cannot expect that a western-style political system will appear soon here. The Communist Party of China (CPC) considers democracy to be inappropriate for China and Western values to be dangerous and subversive to China's social cohesion and stability. Richard Maher (2016) states that in Document No. 9, the CPC specified the "seven dangers" that pose a threat to party authority, including, in particular, western constitutional democracy; the promotion of universal values of human rights; western-inspired ideas of news media independence and civic participation; strong pro-market or neo-liberal economic policies; and nihilist criticisms of the Communist Party's past. The organization "Freedom House" rated China as "not free" in its 2016 World Freedom Report, with one of the lowest scores in the world regarding the elections, political pluralism and the government participation and performance (see Table 1).

⁵ The 13th Round of Negotiations took place in May 2017. The next round of negotiations is scheduled for July 2017.

Table 1: The level of freedom in selected countries in 2016

Country	Stand for political rights (PR)	Stand for civil liberties (CL)	Aggregate Score (AS)	Freedom Status
Sweden*, Norway*, Finland*, Iceland*	1	1	100	Free
Japan*	1	1	96	Free
Germany*	1	1	95	Free
USA*	1	1	90	Free
Taiwan (ROC)*	1	2	89	Free
India*	2	3	77	Free
Hong Kong	5	2	63	Partly Free
Singapore*	4	4	51	Partly Free
Russia	6	6	22	Not Free
China	7	6	16	Not Free
North Korea	7	7	3	Not Free

PR, CL – 1 represents the most free and 7 the least free rating.
 AS – 1-100 A larger aggregate score indicates a greater level of freedom.
 * – Indicates a country’s status as an electoral democracy.
 ROC – Republic of China.

Source: Freedom House (2016: 20-24)

Different political values, shared by both sides, create a dilemma for European policy-makers whose task is to reconcile the values, which underpin EU identity and foreign policy with attempts to create a Comprehensive Partnership with a non-liberal country. The conflicting values and principles are reflected in the differentiated strategic interests and priorities of both parties, in diverging views on current security issues and visions of the future world order (Filip, Filipová, Kabát, 2016). While ten years ago China perceived the EU as an emerging political force, a potential pole in the multipolar world, today it is aware of the EU’s limited position as a strategic partner in world politics, and of the fact that there is no common opinion among the EU Member States on the extent, Of EU-China relations. That is why China seeks to deepen cooperation with individual EU members than with the EU as a whole encouraging political contradictions in Europe and openly following a divide-and-rule strategy. Also, member states often prefer individual advancement of relations with China, even at the expense of common policies and initiatives within the EU. While the EU and China have made significant progress in the past two decades, notably in the growth of mutual interdependence, the Strategic Partnership remains the instrument by which the EU tries to deepen and broaden its trade relations and to support China in reducing its export subsidies and opening up the domestic market For foreign investment, rather than persuading Chinese leaders that such standards and principles, such as democracy, human rights and the rule of law, are in China’s own long-term interest, or that instead of changing the current international order, China should Into this order to integrate. The Strategic Partnership should also lead to the management of tensions and disputes between the EU and China in areas where their strategic interests and priorities do not overlap or are inconsistent (Maher, 2016: 975-976).

2.4 Areas and intensity of cooperation

Since 1995, when the EU adopted its first China Policy Paper “A Long-Term Policy for China-Europe Relations”, by the end of 2002, where implemented the Comprehensive Partnership with China and steps has been taken to pursue for future and effective policy towards China; an institutional basis for the development of EU-China partnerships has been established and developed cooperation on a wide range of issues at both bi-lateral and multilateral levels. Since 2003 to the present, the concrete results of mutual cooperation have been derived from “soft law” acts negotiated within the EU-China Strategic Partnership.

As a result of the EU-China trade dialogue, developed since 1996, conclusions have been reached on specific

bilateral sectorial agreements in areas of common interest. It was especially science and technology, trade and nuclear safety, maritime transport, air transport and customs. In 1997, both parties signed the EU-China Memorandum of Understanding on the Programming of EU-China Cooperation Projects. In 1998 it was signed and in 2000 the Agreement on scientific and technological cooperation came into force. This specific agreement should be concluded in order to enhance and expand cooperation in fields such as energy, environment, life sciences etc. In this context, the Commission proposed in 2000 to transform the current Telecoms Working Group into an Information Society Working Group. In 2000 also started dialogue on a potential China-Euratom Cooperation Agreement on the Peaceful Use of Nuclear Energy Safety in the framework of the Euratom Treaty. An EU-China Maritime Transport Agreement was signed in 2002 to improve market access conditions for European operators in China. The Memorandum of Understanding between the Commission, China and the European Association of Aeronautical Industries on Industrial Cooperation in the Aeronautical Sector launched cooperation in the field of air safety, environment and infrastructure; they commenced negotiations concerning China's participation in Galileo Satellite Navigation Program. The Commission was also mandated to negotiate an agreement on customs cooperation and mutual administrative assistance. This agreement should provide the basis for facilitating trade and combating customs fraud. (COM (1998) 181 final: 16-17).

The Sixth China-EU Summit Joint Press Statement (Presse 298) brought an overview of existing relations in various fields, suggested direction for future development of EU-China relations and included discussion of the various views and concerns of both sides. The strategic nature of the partnership can be seen not only in the above-mentioned statements of both parties, but also in the instruments through which the subsequent cooperation has been realized. It was on such acts as; Agreement on cooperation in the Galileo Satellite Navigation Program (2003); Industrial Policy Dialogue; Dialogue on Intellectual Property Rights (2003); The Memorandum of Understanding on the Approved Destination Status (2004). Based on defined guidelines for the future development of EU-China relations were in late 2004 signed a Joint Declaration on Non-proliferation and Arms Control; EU-China Customs Cooperation Agreement; Agreement on R & D Cooperation on the Peaceful Use of Nuclear Energy; and in 2005 a Memorandum of Understanding on Labor, Employment and Social Affairs; Joint Statement on Cooperation in Space Exploitation; Science & Technology Development and Joint Declaration on Climate Change. At the end of 2005, 1st EU-China Strategic Dialogue took place in London. In 2006, followed by the signing of the Memorandum of Understanding on Food Safety and Memorandum of Understanding on Cooperation on Near-Zero Emissions Power Generation Technology (on that occasion, held the first consultations under the Climate Change Partnership); It was initiated by the EU-China Dialogue on Regional Cooperation and created Dialogue on Africa's peace, stability and sustainable development. The Joint Press Statement (Presse 298) revealed that the Sino-European Strategic Partnership should not only be clear and obvious issues but also issues that have so far had a negative impact on the development of mutual relations. These include, for example, an arms embargo age in China, the position of the market economy in China under anti-dumping investigations, respect for international human rights standards, etc. During PCA negotiations and even after the interruption, develop other instruments, such as the Macroeconomic Dialogue (2006); EU-China Civil Society Round Table (2007); High Level Economic and Trade Dialogue (2007); Between the EAEC and the Government of the PRC for R & D Cooperation in the Peaceful Uses of Nuclear Energy (2008); High Level People-to-People Dialogue (2012); Partnership on Sustainable Urbanization (2012); Join the EU-China Innovation Cooperation Dialogue (2012), the EU-China Higher Education Platform for Cooperation and Exchanges (2013) and others.

Another milestone was reached in 2013, when at the 16th EU-China summit held on 21 November agreed by the EU and China, "EU-China Strategic Agenda 2020", which is currently a key document for the development of mutual relations. The Strategic Agenda provides a list of key initiatives that should be achieved. It covers every possible aspect of cooperation: human rights, trade, oceans security, agriculture, space and aerospace and many other areas. After introduction of this document mutual cooperation became more institutionalized and developed. The following signal for closer bilateral political cooperation, leading to a coordinated strategic approach to addressing global challenges and threats, became the 17th EU-China summit, which was held on 29 June 2015. Both sides agreed on the priorities for strengthening bilateral cooperation and deepening the global dimension of their Strategic Partnership.

The institutional basis, which has been gradually emerging since 1995, has resulted in the EU becoming China's largest trading partner and China's second largest trading partner in the EU. The EU and China have become the two largest trading partners in the world. At the same time, they represent two major investment partners. Business and investment relations are the basic source of economic growth, employment, development and innovation for both parties. Since the Strategic Partnership means not only equivalent and mutually beneficial cooperation between partners but also a joint solution to the challenges that arise as a result of the changing conditions of the bilateral, regional and global dimension and the sharing of responsibility for this solution, the EU-China Strategic Partnership is also witnessed by a number of Joint efforts to work together on global issues, including jointly strengthening United Nations' role in promoting world peace, security and sustainable development, strengthening human rights co-operation, coping with trans-national challenges in the field of justice and home affairs, Chinese reforms, developing dialogues in key sectors such as energy, environment, regulatory and industrial policy, information society, competition, intellectual property rights, macroeconomic issues, health, employment and education. (Zhou, 2016).

Strategic partnership gradually included foreign affairs, security issues and international challenges such as climate change and global economic governance. In general, the basic elements of the Strategic (Comprehensive) Partnership are both shared interests in global and regional issues, as well as common and diversified approaches in the context of mutual ties. EU-China coordination should be strengthened in particular in such areas such as the G20, security and defense, the fight against terrorism, illegal migration, transnational crime, nuclear non-proliferation, global and regional security, cyber-security, weapons of mass destruction, energy security, global financial sector and market regulation, climate change as well as urban development, development and aid programs and sustainable development (Kováč, Hudáková, 2015). From the above it follows that Strategic Partnership allows EU-Chinese relations to move forward. In many areas, there are both convergence and divergence between the two sides. It is these differences, which affect mainly trade relations, the implementation of human rights and the arms embargo mean that China is among countries so-called: Pursued with WTO countries, interest-driven and limited cooperation.

2.5 Understanding the multilateral international order

While the EU Strategic Partnership perceived generally as a tool for the development of effective multilateralism (system with well-functioning international Institutions and rule-based order), China Strategic Partnership is considered primarily as instrument to achieve multipolarity⁶ in the world. Chinese officials suggested the use of this term in 1998, when it included in the 1st EU-China Summit Joint Declaration. Term was rejected mainly by representatives of Great Britain, defending more than other EU countries, the interests of the United States; but other EU Member States do not trust this term either. Before 2003, China's Foreign Ministry said, according to Jing Mena (2007: 9) that multipolarity "helps weaken and curb hegemonism and power politics, serves to bring about a just and equitable order and contributes to world peace and development." China has made it clear, without naming anyone, that multipolarity policy is designed to balance American power. After 2003, China began to trust more in the multilateral system and move from a purely bilateral to a multilateral approach. The Chinese government has changed the interpretation of this category by highlighting such elements of multilateralism as the democratization of international relations and the strengthening of coordination and dialogue that bring it closer to the EU's understanding of international relations. With this changed approach, China began to focus more on multilateralism in international politics in the 21st century.

Nonetheless, significant differences can be found between the EU-China approaches to multilateralism. The EU identifies multilateralism by respecting universal values, shared sovereignty, and normative foreign policy that leads other countries to change their behaviors through agreement and conditionality. China attaches great importance to the principle of state sovereignty and non-interference in the internal affairs of other countries

⁶ Multipolarity means the distribution of power between more than two participants of the system. These participants concluded between alliances based on common interests and objectives, as well as the agreed rules. These alliances are constantly changing. No participant has the power to control the entire system, although there are attempts to achieve such an objective.

on human rights and humanitarian intervention. The difference is also what the two partners understand as “effective multilateralism”. In the case of the EU, it is a general reference to “rule-based multilateralism,” in the case of China only “multilateralism that works”. Different concepts, such as the concept of democratization or security, are perceived differently by both parties. When Europeans speak about democratization, they focus on everything that strengthens civil society, the rule of law, and respect for human rights, whereas the Chinese mean responsibility, responsiveness, and the responsibility of the authorities. Europeans have a more comprehensive concept of security than China and also have a wider range of tools to react to (particularly in the area of civilian crisis management), including mediation. (See, for example, Grant, 2012, or Geeraerts, 2013).

Sovereignty of the state understands both the EU and China as the right of the state to exercise unlimited power in its territory. However, in the case of the EU (and some other international organizations and regimes), the territorial sovereignty has ceased in the 20th century, when the Member States transferred part of their decision-making power to supranational institutions, when, as a result of increasing internationalization and globalization and deepening institutionalization, corporate decisions are made at a global level, and policies of other states, due to interdependence, have significant influence across borders (Keohane, 2002: 74). While China shares the original interpretation of sovereignty, based on sovereign states, national interest, and the use of military force as a legitimate means of political struggle, the EU is an organization with legislative powers within the community and legal subjectivity to other states and organizations. So today, neither the individual Member States nor the EU as a whole has sovereignty in the original sense. That is why the EU is often referred to as a post-sovereign (post-Westphalian) arrangement where sovereignty is divided between different territorial levels. There are very intense discussions⁷ about the effectiveness of this state and attitudes of citizens, which result, among other things, in Brexit.

Regarding the admissibility and legitimacy of interfering with the internal affairs of other states regarding human rights and humanitarian foundations, in the EU’s view, foreign intervention can be necessary to prevent or halt gross violations of human rights and related crimes. In China’s view, any interference with the internal affairs of states is unacceptable. China builds on its own experience of intermingling foreign powers into its internal affairs, which remains a source of national humiliation and resistance, and it is itself exposed to external criticism regarding both the Chinese political system and some practices such as political depression, denial of religious liberties, treatment of the Tibetan and Uighur ethnic minority, etc. According to the principle of non-interference in international relations, China seeks to assist the needy countries without interfering in internal conflicts. This is particularly evident in the case of civil war in Syria. Commercial agreements or financial loans to other countries are not linked to human rights requirements or governance institutions (strictly separates business from politics). This fact is also considered in the provision of development cooperation in Africa, Asia or Latin America, which it provides without any conditions. For this reason, some of the countries that originally addressed the request for EU development cooperation are now increasingly asking China. This principle also means that China is ready to protect its export markets and ensure access to raw materials through partnerships with regimes which the EU and other Western countries avoid (e.g. Angola, Sudan, Venezuela and Zimbabwe). On the other hand, China, as a permanent member of the UN Security Council, was forced to make decisions interfering in internal affairs. He is the largest contributor to UN peacekeeping operations and mediates peace talks between the Taliban and the Afghan government during the Civil War.

The above differences are reflected in the foreign policies of both parties.

In the case of the EU, it is a “Common Foreign and Security Policy” (CFSP), from which it is necessary to distinguish the “EU’s external relations”. The main fault line between CFSP and external relations is the different way of involving the EU institutions and a different way of decision making. Although the Lisbon Treaty abolished the pillar structure of the EU and tried to unify the external representation of the EU’s external activities across, different rules for deciding the CFSP, of course, retained. Under the CFSP, the EU cannot take

⁷ This discussion was strengthened especially in the context of overcoming the financial and debt crisis in the Eurozone, when the nature of the crisis and the difficulties in resolving it again confirmed the absence of sovereign power in the EU.

any legislative action. This means that all decisions apply only to specific situations and do not have general validity. EU Member States are almost always unanimous about decisions. The impact of the Commission is significantly reduced, the European Parliament has virtually no influence at all and the European Court of Justice is completely excluded from the CFSP. Also, the implementation of specific decisions lies primarily with the Member States. For Member States, they are binding, but given that European law does not know any penalties for violations, the pressure on them is only political - the states are driven by an effort to remain a reliable partner. Differences, overlaps and even conflicts of interest between individual EU Member States weaken the EU's position as such in this area. In external relations, the EU has a legitimate power, including the presence of legislative institutions, standing above national states, both in regional and global issues. The manifestation of this sovereignty is the encouragement of regional cooperation with other parts of the world for which the group-to-group approach has come, and the support of international multilateral institutions. Yet in external relations with partner countries involved in essentially different way than they do other world powers, which are nation-states. The difference is both in the usefulness of these relationships (the partners are not chosen by the Member States, but by the European institutions according to their advantage, and they are trying to change them to their own image - the principle of cross-compliance) and inconsistent with the substance of the EU foreign policy, which is the result of compromises between Member States, but is carried out by non-state EU representatives. (Filip, Filipová, Supeková, 2016).

China's foreign policy is a policy that relies on the traditional (territorial) concept of state sovereignty (which is even called the hyper-statist state). It consistently maintains the principle of respect for China's sovereignty, independence and territorial integrity and non-interference in China's internal affairs, on which the relationship with Tibet is based. The transition of Hong Kong under the Chinese government in 1997 and Macao in 1999, and the restoration of Chinese control over both territories, as well as the sensitive issue of Taiwan's independence, need to be assessed in the context of a long-term and continuous state-building process. In the case of Hong Kong and Macao, the Chinese government applies the "One Country, Two Systems" principle and the provisions of the Basic Law, meaning that for the next 50 years (until 2047 and 2049 respectively), the so-called "Special Administrative Areas of the PRC" The capitalist system and lifestyle, the administration will be carried out by their inhabitants and a high degree of their autonomy will be preserved. China considers Taiwan one of its provinces and pursues a policy of "One China", which recognizes the unity of Taiwan with mainland China. The principle of sovereignty is very important for China, since it is considered to be a state that is not only developing economically but also promoted in certain territories. Therefore, it is prepared not only to acquire, maintain, but also by power to control its territory. This applies not only to the relationship with its closest neighbors, but also to the territorial disputes in the South China and East China Sea as well as to the global regimes. Otherwise, China seeks a non-conflicting international environment, primarily driven by economic priorities; the concept of conflict (peaceful), foreign policy (except Taiwan), preferring called Soft-power (the ability to influence the behavior of others through challenges, not coercion, using standards, cultural and political values and foreign policy) before the hard power (military force - coercive diplomacy, war, alliance using threats, intimidation and protection; economic power - aid, bribes and economic sanctions to coercion). The distinction between Chinese foreign policy is evident not only in the applied principles and strategic intentions, but also in the characteristics of this policy (conservatism, self-esteem, use of personal knowledge, non-quantitative economic policy).

It follows from the above that the EU and China have different attitudes to the key aspects of global policy. They are converging to a certain extent, but they are increasingly leading to tensions and disagreements. See, for example, Fürst (2007: 7-11). Richard Maher (2016: 971) questions the extent to which China has so far adopted the current international order, including the institutions and world-wide rules, and to what extent it will seek to change or even replace it in order to reflect better its growing economic and political significance. The answer is based on China's role in international organizations, the emergence of the Chinese model of authoritative capitalism, which embraces some emerging and developing economies as an alternative way to modernization, and other arguments.

Regarding the United Nations (UN), the only universal international organization, China became in 1945 a Memorandum country. Until 1971, the only representative of China in the United Nations and related organiza-

tions of the international community was the Republic of China, which at the time of the United Nations had dominated mainland China, and even after the civil war and the departure of Kuomintang to Taiwan, it represented the interests of all of China. The new stage of Chinese influence on the international community began in 1971, when the People's Republic of China replaced China in the seat of the General Assembly and the UN Security Council. After the reform effort and the opening of the country in the late 1970s, it gradually changed its approach to the organization, from hesitant engagement to support the international multilateral system. In this arena, the EU and China in principle support in terms of peace and security issues and the fight against terrorism. They support each other in other matters that are in accordance with the above general principles (e.g. solving the North Korean nuclear crisis). On the other side if the issues discussed do not correspond to the general principles, EU and China policies differ (such as the resolution of the Iranian nuclear crisis at the end of 2005). China is keen to cooperate with the EU, not only in matters of self-interest, but also in addressing key strategic issues of international politics that lead to a peaceful and stable world environment (Men, 2007: 10-11).

China's membership in other international organizations has increased rapidly since 1978. While in 1977 there were total of 21 governmental organizations and approximately 71 non-governmental organizations, in 2000 numbers increased to 50 governmental and more than 1,200 non-governmental international organizations.⁸ As far as the major international financial organizations are concerned, their authorities as well as the formation of international rules are in the hands of the US, the EU and other developed countries. These include, in particular, the International Monetary Fund (IMF), the World Bank and the Asian Development Bank (ADB), whose leadership has long been dominated by Europeans, Americans and Japanese. China's role is not reflecting its current economic and political power, so Chinese officials are calling for the redistribution of decision-making powers. Significant progress was achieved in 2010, when the G20 leaders' summit reached agreement on IMF quota and governance reform which would have raised China's IMF quota share from 3,65% to 6,19% (Maher, 2016: 974), therefore changing the base for leadership position in terms of nationality. In 2015, the IMF also decided to add the Chinese yuan into the main world currencies basket. Chinese Yuan will have a 10.92% share in the basket. It will have more weight than the Japanese yen and the British pound. The share of the euro will be reduced to 30.93% from the current 37.4% as a result of the basket expansion. The share of the dollar will fall only slightly to 41.73% from 41.9% (iDNES.cz, 2015). By the end of the 1980s, the PRC was effectively an ally of the United States. In the 1990s and especially after 2000, China's initiative on international issues has grown with China's economic influence - not just on the UN soil. On one hand, unilateral US foreign policy, military intervention under the auspices NATO and, on the other hand, the common interests and principles of foreign policy of Russia and China have led to the convergence of both countries also in the UN Security Council negotiations, in which (not a priori) they oppose United States more frequently. As a consequence of the increase of China's membership in international organizations, as well as the first steps to strengthen China's position in IMF, China was increasingly involved in international affairs and showing its willingness to participate in global decision-making, for example, by the establishment of The New Development Bank BRICS (NDB BRICS), or the Asian Infrastructure Investment Bank (AIIB). Both banks, which create an alternative to the World Bank and the International Investment Fund (with the USA playing a decisive role), started their operations in 2015 and China will play a decisive role in both projects. NDB BRICS's purpose is to finance development projects in the BRICS and other developing countries, for instance in Africa. AIIB's purpose is to finance road constructions, railways, power stations, or telecommunications networks in Asia in order to accomplish the "One Belt, One Road" project. We assume that the impetus for the creation of these banks, especially the first one, is the dissatisfaction of developing countries with a slow reform of both international organizations, especially with regard to the redistribution of votes in favor of less advanced economies. Another reason is that both international organizations are under strong influence of developed economies. Moreover, while the World Bank reallocates its votes according to the capital invested, in NDB each member has one vote, and no one has the right to veto. In AIIB, China, along with new members, is likely to be able to block some decisions. Currently, China itself holds 26% of the vote share. A two-thirds majority of votes is needed to adopt the AIIB's key decisions.⁹

⁸ China has been a member of WTO since 2001.

⁹ Available at: http://ekonomika.idnes.cz/asijska-infrastruktura-a-investicni-banka-aiib-prijme-nove-cleny-10e-eko-zahranicni.aspx?c=A170124_164733_eko-zahranicni_rts.

2. Conclusion – Does the EU-China Strategic Partnership demonstrate the ambiguity, imperfections and imperfections of the EU Strategic Partnership?

Deeper examination of the nature of the EU-China Strategic Partnership allows us to draw a few conclusions on the second objective of this paper, its comparison with the general concept of the EU Strategic Partnership. Regarding the foundation of Strategic Partnerships, the EU's objective is to build these partnerships *on the basis of a formal procedure*, which started with the Commission making a formal proposal, usually through a Commission communication. Then, the proposal was transferred to the Council of the Member States for their approval to establish the partnership. The EU Parliament was asked for its opinion, and then, in agreement with the partner, a joint statement was made to formally announce the partnership (Pałłasz, 2015: 5). The EU-China Strategic Partnership was launched as the first partnership based on such formal procedure. Some earlier partnerships have been announced without any formal document or procedure (US, Canada, Japan, Russia), and there is also a strategic partnership that was announced only within the summit of both parties in the Joint Statement Declaration (South Korea). The formal procedure has also become the basis of several other EU strategic partnerships with emerging countries (India, South Africa, Brazil, Mexico), but it is also a way towards a unified way of establishing future EU Strategic Partnerships.

The EU's objective is to develop a strategic partnership with each country *on the basis of a single regulatory framework based on three agreements*: the Free Trade Agreements (FTAs), all-inclusive political agreements (the Strategic Partnership Agreements (SPAs) and the Security Agreements, which would enable partners to participate in the Framework Participation Agreement (FPA), see Renard (2015). As far as China is concerned, its bilateral contractual framework is very far from the EU's vision. In bilateral relations, the Trade and Economic Cooperation Agreement prevail from 1985, which does not reflect the scale and depth of the current EU-China Strategic Partnership. The EU-China Strategic Partnership, therefore, since beginning has become a soft law tool that Sautened (2008: 12) defined as „rules of conduct which lie in a sphere which is legally non-binding (in the sense of restrictions and sanctions), but which according to the intention of their author, must be considered as being part of the legal sphere“. These instruments, as mentioned above, are unilateral global acts (communications, country strategy papers, multi-annual programs), bilateral global acts (joint declarations during the annual summits), sectoral bilateral acts (Memorandum of Understanding, sectoral agreements), and sectoral (economic) and political dialogues. In this sense, the EU-China Strategic Partnership has a parallel status with the EU legal system. The new FTA faces a number of content barriers for consensus, for instance the fulfillment of obligations resulting from China's WTO membership, and therefore a tighter EU-China Investment Agreement is being negotiated. PCA talks were frozen during the first decade of the 21st century. For the negotiation of the bilateral FPA, no objective conditions have yet been created, although in 2016 both sides confirmed their intention to strengthen consultations and cooperation on foreign and security policy in the Framework of the EU-China High-Level Strategic Dialogue (disarmament and non-proliferation; fight against terrorism; regular exchanges on Africa, the Middle East, Central Asia and Latin America). China and the EU will help to binding a stronger and more effective multilateral system based on the UN Charter and international law to face increasing global challenges and promote the peaceful settlement of international disputes. (EU-China Summit joint statement, 2015). However, not all EU Strategic Partnerships are based on a contractual basis (USA, Japan). If a contractual arrangement exists, it is very diverse. Agreements range from second-generation agreements that take the form of either the Partnership and Cooperation Agreements (Russia) or the various types of Framework Agreements for Trade and Cooperation (Brazil, India, South Africa) through the Comprehensive Third-Generation Free Trade Agreements (Canada) Association Agreement (Mexico). The only country that has signed all the “ideal-type” agreements with the EU is South Korea. (Cihelková – Nguyen, 2017).

The keystone of the EU's Strategic Partnerships should be based on a shared concept of “normative convergence”, for example *respecting values* (democracy, rule of law, human rights, principles of international law), on the basis of which the EU has emerged, developed and further developed on a global scale. Together with the EU, the same values are shared by the United States, Canada, Japan, South Korea, although not all partners have common strategies. Mexico, Brazil, India and South Africa are also based on normative convergence

but interpret common values in a different way. The different nature of the EU and its partners from a political, economic, cultural and other point of view leads to the sharing of different normative concepts. China underscores “unconditional engagement” by the EU and considers the “enduring and mutually beneficial relations of equals” as the values it intends to apply. Russia is based on its normative concept of “unconditional engagement” and considers common interests as the core value. Sharing different political values between partners, in their nature, results in differences in their strategic interests and priorities, in opinions on security issues in the world, and the vision of the world order. These differences are manifested in various disagreements and tensions. In doing so, the Strategic Partnership should be the main tool for overcoming disputes and coordinating efforts to promote common interests over the interests of individual parties. Strategic partnership is a tool that improves *quantitative and qualitative development of involved parties*. The EU strives for an all-dimensional, wide-ranging and multi-tiered cooperation with all its partners. Given that China is based on political values and norms that limit not only mutual cooperation but are also reflected in the political and strategic dialogue on regional and global relations and governance, its relations with the EU are generally limited. Some areas of cooperation and partnership are insufficiently addressed; others are in principle difficult to solve. Especially such difficulties reduce, eventually eliminate (win-sets) relations of the two parties. The EU-China Strategic Partnership is not as effective as those partners who have achieved and have a very comprehensive partnership with the EU in many areas and are “irreplaceable” (USA), “like-minded” with “all-inclusive cooperation” (Canada), with “high degree of coordination and cooperation in multilateral fora” (Japan, South Korea, Mexico). China, however, is not the only partner with which the EU achieves limited cooperation. These partners include four other countries that do not fully exploit the potential for mutual relations, either in principle for the same reasons as China (Russia) or for reasons of different interests (India, Brazil) or regional interests of partner (South Africa).

Finally, the EU considers the Strategic Partnership as a commitment to global governance, based on well-functioning international institutions, international law and shared rules. China is one of the EU’s partners who perceives partnership and comprehensive partnership as a means of achieving multipolarity and balancing the hegemony / dominance of the United States of America. China’s pro-economic economic role in the 21st century as well as the approach of its strategic partners gradually shaped China’s international policy towards multilateralism. But China perceives it differently than the EU. The basic difference is, as mentioned above, the principles of identifying multilateralism and effective multilateralism as well as the concept of democratization and security. The fundamental difference between the EU and China is the views on the sovereignty of the state and the admissibility and legitimacy of interfering with the internal affairs of other states, Humanitarian foundations. These differences are reflected in the diversity between the EU’s CFSP and China’s foreign policy. In particular, the differences in applied principles and strategic intentions lead to the EU and China adopting different attitudes towards key aspects of global politics. They are converging to a certain extent, but they are also increasingly leading to disagreements that can strengthen China’s drive to change / replace current international order to better reflect China’s growing economic and political significance. Although most strategic partners understand multilateralism as well as the EU, there are also countries that agree with China’s (Russia, Brazil) approach, or multilateralism is seen as a way of promoting their specific national interests (India). Countries sharing this approach tend to interpret their national interests strictly and prefer non-binding agreements.

For an overview of the comparison of the general concept of the EU Strategic Partnership with the reality of the EU-China Strategic Partnership, see Table 2.

Table 2: Comparison of the general concept of the EU Strategic Partnership with the implementation of the EU-China Strategic Partnership

Criteria	General concept EU	EU-China Strategic Partnership
Formation of the Strategic partnership	Formal procedure	Formal procedure applied by the EU (2003).
Bilateral Relations Framework	Common regulatory framework using three agreements: FTA, SPA/FA a FPA.	Trade and Economic Cooperation Agreement (1985) plus use of „soft law“instruments. Negotiations about PCA halted. A comprehensive Investment Agreement is being negotiated.
Accepted normative concept	Normative convergence	Unconditional engagement – enduring and mutually beneficial relations of equals.
Areas of cooperation	All-inclusive cooperation: - Trade and economic cooperation; - Political dialog and cooperation; - Strategic cooperation and multilateral global governance	Country with pursued WTO membership, interest-driven and limited cooperation.
Multilateralism understandig	Commitment to global governance, based on functioning international institutions, law and shared rules.	Means to achieve multipolarity. Different understanding of contemporary multilateralism. The different nature of the EU CFSP and foreign policy of China.

Source: Own elaboration based above mentioned text

According the above mentioned results as well as from the summary overview in Table 2, China and likewise some other strategic partners do not share the general set of standards and values of the EU Strategic Partnership concept in all criteria. As can be seen in Table 2, it is clear that China meets the EU’s vision fully in one criterion - the emergence of the Strategic Partnership, and partly in another one of the criteria - Areas of cooperation. In the other criteria, both approaches to the Strategic Partnership differ. A similar result would emerge when comparing the general EU concept and the concepts of other strategic partners (especially other countries of the BRICS informal group). The diversity of strategic partners and the diversity of their approaches to the general concept of the EU Strategic Partnership therefore not only casts doubt on some partnerships and the EU’s effectiveness in enforcing its standards and values towards these partners but also the ambiguity, imperfections and insincerities of the real EU Strategic Partnership itself. Limited common elements Partnerships and highly specific characteristics of the EU and China approach and each of the partners demonstrate not only the limited identifiable objectives, common interests and priorities in each of the partnerships, but also open content issues related to the EU strategy towards the partners and the coordination of their relations.

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