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Why the EU and the USA react Differently to the Chinese investment wave.

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Contents

1. Abbreviations

CFIUS:	Committee on Foreign Investments in the United States
CFIEU:	Committee on Foreign Investments in the European Union (Theoretical)
CFSP:	Common Foreign and Security Policy (EU)
DG:	Directorate General (EU)
ECSC:	European Coal and Steel Community
EC:	European Communities
EP:	European Parliament
EEC:	European Economic Community
ESDP:	European Security and Defence Policy
EU:	European Union
FDI:	Foreign Direct Investment
M&A:	Mergers and Acquisitions
MEPI:	Macro Economic Planning Institute (China)
ODI:	Outbound Direct Investment
PRC:	People's Republic of China
UNCBD:	United Nations Convention on Biodiversity
UNFCCC:	United Nations Framework Convention on Climate Change
USA:	United States of America

2. Definitions

- ODI refers to Outbound Direct Investment, meaning companies or countries using funds to buy useful resources, enterprises or technologies in another country. The other country might object to this for various reasons. ODI can also be conducted through a merger with or acquisition of (M&A) a company producing and holding technology patents. Having completed such M&A, the investor has the legal right to use and distribute such resources, technology and related patents at its own discretion.
- FDI, meaning Foreign Direct Investment, refers to investments received from the country that conducts ODI.
- The EU or the European Union is the association of 27 countries that fall under the Treaty of Lisbon of 2009. They are cooperating for mutual benefit and act as a trade bloc on the international stage. Its political influence as a Union is arguably increasing. The Union operates through the Commission, the Council of Ministers, the European Council and the Parliament while the EU is externally represented by the High Representative for Foreign Affairs and Security Policy. Within the Union the Commission is the general implementer of EU policy in coordination with the Member States.
- In the paper, the term “Europe” will refer to the EU although Europe is normally considered to be a much broader group of countries than the EU.
- In this paper, China and the PRC will both refer to the government of the People’s Republic of

China. A Chinese company is also assumed to be an arm of the PRC and thus behaving within the same strategic framework of the Chinese government.

- This document will use the term “alarm system” referring to a system similar to or the same as CFIUS. CFIUS will be described in the document in detail.

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4. Executive Summary

Operating as it does from a unique commercial ethic, the PRC's increased, strategic use of ODI as part of its rising economic power challenges the USA and Europe, where reactions vary. This paper sets out how and why these 3 "States" differ in world view, history, structure, public opinion and so on as part of an attempt to answer the central question of why the USA and EU react differently to FDI from China.

The paper's central assumption is that Chinese companies operate as part of and on behalf of the PRC government. The examination of 5 theories reveals that 3 independent and 2 intervening variables explain FDI policies. These findings generate 4 hypotheses regarding the degree to which certain components of each State's world view impact FDI-reaction. The 4 hypotheses – that realist/constructivist orientation, negative public opinion, civil servants' alarm and institutional/legal competence predictably influence FDI-reactions – are examined and confirmed to be valid, via 21 interviews, FDI case studies, significant theorists and other research.

This process illustrates how differing world views, the distribution and prominence of 4 types of power, public opinion reacting to and shaping the debate, and a number of other potential factors largely explain the FDI-reaction variance. 4 powers (of finance, production, security and knowledge) are distributed and wielded unevenly among the 3 states, and to some extent explain the current situation. Each has some – but none has all – of the 4 types of power needed to be a hegemony. As a result the interaction, similarities and differences in world view between these 3 major players come to light and are directly tied to the FDI policies and history of each.

China is depicted as a realist, traditionally sovereign, non-liberal, rising power that uses international law and organisations strategically for its own interest. Its unique "business first" ethic worries the USA, concerned for national security and other perceived threats, more than the EU where the main discussion revolves around who will gain or lose capital or jobs, and reciprocity. Via ODI abroad and non-reciprocity at home, China is perceived more by Americans than by Europeans as aggressively dominating markets and power, and threatening economic and national security.

The USA is an established realist, traditionally sovereign power, liberal, legally FDI-competent and deals strategically for its own ends with international organisations and law. Its historical fears of potential foreign threats prompted creation of an *alarm system* or regulatory mechanism, CFIUS, in 1975 which it increasingly uses to block Chinese FDI in an emotionally charged atmosphere of political posturing among politicians and public outcry.

The EU is, uniquely, a young, constructivist, liberal, non-strategic, non-sovereign network of 27 inter-connected Member States grappling with a complex, organic growing process. It genuinely engages international organisations and law for which it advocates globally. It promotes multilateralism and supranational regulations. This and other factors explain why several EU Member States, but not the EU itself, have FDI alarm systems but these are generally not enforced, so the EU *per se* has not yet blocked Chinese FDI. Indeed it currently lacks a coherent, uniform public policy and will to block Chinese FDI, as well as the institutional/legal competence to do so, though some bureaucrats within it are considering future implications and debating the creation of an EU alarm system which would likely be more regulatory than political and practical than emotional. The EU evolved in a very different way from the USA, and citizens in its 27 Member States react less emotionally and politically, and more to practical considerations such as perceived job/capital gain/loss than to fears of foreign threats.

The paper concludes that a wide range of factors stemming from world views borne of very different historical evolutions of ideas and perceptions have come to shape FDI reactions in the USA and the EU. The exploration of these and the testing of the hypotheses via indicators and research answers the central question of why the EU's FDI-reaction differs from that in the USA.

5. Introduction

The People's Republic of China is, increasingly, a major actor on the international stage. Its huge population makes it the world's largest potential market and it holds a growing amount of foreign reserves[1]. The PRC political and economic influence is on the rise and is conducted with different commercial ethics than the West and thus sometimes frustrating for the United States of America (Visclosky, 2010) and the European Union (De Gucht, 2010).

The PRC has granted unfair advantages at home while securing competitive advantage abroad partly due to the way international investment agreements are made (Eden et al, 2004) and partly due to the unique features of its central government (Kaplan, 2006). Our central assumption, demonstrable throughout PRC dealings, is that Chinese companies operate as part of and on behalf of the PRC government. Thus that government, although it promises reciprocity, has more reason than any to break that promise. Over time, FDI agreements naturally experience a shift in the balance of power, from the guest company to the host country (Eden et al, 2004). Each in turn can breach or force renegotiation of contracts, as the PRC government is sometimes accused of doing. The PRC, which holds power partly due to its economic prowess, is more motivated to give advantages to its own companies than it is to guarantee reciprocity to guest companies.

The PRC has been buying into EU companies and resources to secure their exports and technology in the long term. It is

[1] http://www.economist.com/node/18560525

also implementing the "divide and conquer" approach in the EU by providing much-needed capital investments by buying state bonds in debt-deprived countries like Greece, Spain, Italy and Hungary, among others. The PRC has used these and other measures to ensure future cooperation where it foresees a need, including stated preconditions and hopes that these countries will veto any anti-dumping regulations in the future (Alderman, 2010). This obvious Outbound Direct Investment (ODI) trend (Economist, 2010) has been well covered in the media. This paper proposes to focus only on one aspect of it, that of the EU's reaction to it in perspective with the reaction of the USA.

The USA has reacted sometimes passionately, with strong political rhetoric. The government has specific systems in place allowing decisions to be made to conduct actual blocking of investments (Holt, 2010). Blocking of Chinese investments has already occurred where a unique American system was in action. This *alarm system* is a political action process where the autonomous "Committee on Foreign Investments in the United States" (CFIUS) investigates foreign investments, conducts reviews, effectively blocks foreign investment by communication with buyers and sellers or to the President himself.[2]

The EU reactions are less explicit and actual refusal of investments by the EU has not taken place thus far. The Union history, nature, politics and the type of relationship between the EU and the Member States make policy output inherently different from that in the USA. Europe, in general, is also more diplomatic, slow to act and the commission does still hope for reciprocity (Cabinet Trade, 2010) (Interview IV).

[2]http://cfius.us

Although Europe will always be different, we can estimate probable outcomes from recent history and current developments and suggest potential European-style solutions.

6. Theoretical Review

When reviewing extensive literature regarding trade and investment policies and the international political economy, one can conclude that a number of factors explain differences in how and why trade and investment policies are generated. Each time, when a different variable is added, different reasons are argued and explained. These are different in different countries and during different times. Reasons include mixtures of electoral systems, institutions, governmental and non-governmental actors, veto players, bureaucracies, ideas, public opinions and balances between strong and weak interest groups. Changing supranational and global trends or events caused or affected by natural disasters, war, economic booms and busts, terrorism and technological inventions all impact final decisions. Public opinions shaped by ideologies, anxieties, trends and media coverage putting various pressures on politicians. It is also shaped, to some degree, by the ebb and flow of financial markets and the forces influencing them.

Our research question remains, and is very specific; we want to investigate why the EU does not have an *alarm system* like the USA does. We shall limit our exploration to that question, without delving into ethical matters such as whether this disparity in reactions is positive or negative, desirable or undesirable. Besides the sometimes negative perceptions about China, Chinese money, currently during 2010 and 2011, seems to be a gift from heaven for some EU Member States such as Greece, Spain and Ireland. From a long term perspective it may seem unwise to unquestionably permit major economy-impacting investments from any new rising power primarily because the newer it is, the more of an unknown it is, and the type of impact it has on an economy is uncertain. Chinese investments, certainly on the scale engaged in recently, are a relatively new concept and thus consequences are difficult to forecast.

This paper is focusing on a few potential variables to answer our research question, derived from different theoretical works. The variables derived from these theories form the basis of the theoretical framework. Many variables will be discussed due to the complexity of the issue. In no way do we attempt to hint that the reality is as simple as the limited variables herein, but the ones discussed are assumed to be the most relevant.

We base this paper on one major assumption based on numerous facts. The assumption is that the PRC and the large Chinese companies operate under one strategy controlled by its central government, effectively alarming American government officials.

We commence this theoretical review by agreeing with the professors Ikenberry and Hall (1989:95-100) describing the well-known tradition from Alexis de Tocqueville that “liberal democracies find it difficult to conduct well-judged foreign policies, tending to swing between extremes of indifference and over-engagement”. (Buzan, 1993). The EU can hardly be accused of over-engagement regarding this issue, yet inaction is not necessarily a sign of indifference. Although Ikenberry and Hall were only referring in their work to security issues, their point is very relevant to this paper. It points out the linkage between a country’s or a region’s strategies and foreign policies which are determined by its system of government. It is further argued that internal weakness can lead to nationalist strategies. Here we can clearly distinguish the authoritarian state of China versus two democracies, the EU and the USA. In China there is a growing nationalism and as an authoritarian state it is focusing on pure economic strategies (which will be argued via numerous facts). This strategy triggers different reactions in the EU and the USA as democracies.

The importance of the world views of the 3 countries discussed is crucial to assess the reasons behind different reactions of the USA and the EU towards Chinese investments.
We base our theoretical framework on 5 theoretical findings to illuminate that point:

6.1 World View

The **<u>first</u>** theory, from Suzan Strange, argues that studies on economic issues need to include power issues to come to any valuable conclusions (Strange, 1994). The 4 different powers of finance, production, security and knowledge are thus relevant concepts that will or should be taken into account by any given government's decisions. When foreign direct investment (FDI) is conducted in a certain country, it is the perceived importance and the actual presence of these four powers that will determine a governmental reaction to it. A constructivist region may focus on the possibility of building a better world via multilateral action and international agreements, which can give rise to one type of world view, as arguably observed in the EU. A realist country, i.e. aware of the source of power, forces behind it, and their motivation for using it – in other words, aware of and oriented around the reality of potential threats – has quite another. In the realist world view, concerns about the investment backlash will be present, due to the history and high probability of such investments being used for multiple purposes, such as the investing country's geopolitical interests. Therefore we can conclude that for example militarily important technologies, infrastructure and locations will be important factors for realist-oriented societies or for a hegemonic country. When FDI is aimed at conducting such purchases a country with a realist world view will naturally react with alarm. In this way, a country's or region's world view, be it that of China, the USA, or the EU, is dependent on how it has and feels about these 4 powers, and in turn determines attitudes towards FDI in general, and FDI from a given source country in particular. We shall explore this concept and elaborate below.

6.2 Public Opinion

In our **second** theory, from Mansfield and Mutz (Mansfield, 2009), it is pointed out that there is little support for the Heckscher-Ohlin and Ricardo-Viner models in trade policy making. These models point at the importance in shifts in labour and sector factors when there is exogenous easing. They found that education of the people, however, does play a role. They find that the economic cycle of a country and the anxiety of the people towards involvement with foreigners are major factors that form public attitudes towards trade policies. What is important to us is what effects those attitudes have. But we can derive from this theory that general public opinion is a major force in trade and investment policy making. We know that the USA has an *alarm system* in place called CFIUS. When FDI enters a country, and public opinion plays a role, there will be an effect on the final policy outcome. Public opinion, shaped by anxiety and economic cycles does influence policies towards FDI, especially in democratic countries with relatively transparent governance and freedom of speech. China exercises greater control over its media, so it is free to shape public opinion to some degree regarding any given issue including that of FDI; yet that merely reinforces our point, that public opinion is an important factor in FDI reactions, so important that China feels the need to guide it, or attempt to.

6.3 Attitudes of Civil Servants

We build our paper further on a **third** theory, from Manger, saying that bureaucrats worry less than politicians about immediate political issues and thus are a significant political force on their own. (Manger, 2007). While a succession of politicians takes and surrenders the helm, bureaucratic careers enjoy greater longevity, and thus more continuity with which to achieve long-term goals. This is also the main focus of this paper's research, in that we provide empirical evidence by interviewing civil servants and related experts to illustrate the importance and potential impact of this variable. FDI policies can, to a large extent, be determined by bureaucrats as FDI is often a technocratic issue rendering public opinion, in that situation, relatively less determinative of FDI-attitudes. We hereby also reflect on Gries's theory, our **fourth** theory, and his call to bring back emotions to the study of International Relations. (Gries, 2005). Psychology and sociology do have important implications when it comes to security issues. Imagine, for example, that host countries/regions may be collectively plotted somewhere along a continuum from the paranoid to the naïve; in that case one perception is that the USA might be found toward the more cautious end and the EU the more accepting. Of course the psychology and sociology of an entire nation or region are impossible to typify or generalize about with any level of accuracy, but if one were to attempt to do so anyway, one might notice that countries where the public is more fearful of real or perceived security vulnerabilities are more likely to feel threatened by proposed FDI deals from suspect source-countries. It follows, then, that if the EU is less fearful or feels more secure, its reaction to proposed FDI deals will be less dramatic. This brings us back to our initial argument that democracies are able to have extremely opposite foreign policies, and here we can see one potential reason for them having such. When bureaucrats or civil servants do not see harm in FDI, they will not create and implement processes to call a halt to it.

6.4 Institutional Characteristics and Legal Competence

Finally, two intervening variables need to be considered, relating to types of government and resulting legal and bureaucratic structures that empower decision-makers to shape FDI policies. The **fifth** theory, as Manger discussed, illustrates that policy preferences and outcomes depend on institutional differences. The legal framework of governmental institutions determines the type of coalitions, access points and decision powers. Liberalization or non-liberalization is usually the focus. (Manger, 2007). Additionally, it stands to reason that in order to impact FDI policies a government or given institution within it needs to be legally able to take decisions in a policy area and have the power to implement legislation. We investigate the legal competences and institutional characteristics of the governments of the EU and the USA relevant to inward investments and conclude with possible guesses at the future evolution of the processes. If institutional characteristics and the legal competence do not provide a foundation on which to build FDI policies it is obvious that such policies will not be in place.

From these theories we come to the conclusion that 3 independent variables and 2 intervening variables are crucial to explain inward investment policies. The countries' general world views and public opinion are the first two important factors. The third factor, civil servants, is another variable. Finally we have two intervening variables, namely the institutional characteristics and their legal competences.

Given above framework we arrive at 4 hypotheses that we test in this paper:

H1: A realist-oriented country is more likely than a constructivist-oriented one to have an active alarm system for FDI.

H2: A country with a negative public opinion towards a particular source of FDI will have an alarm system in place designed to counteract perceived threats from that specific source.

H3: If civil servants do not feel alarmed by FDI, they will not propose any legislation to halt it.

H4: If the EU has no competence in the field of FDI due to its institutional characteristics or legal competence, it will have no alarm system in place.

7. Methodology

The investment strategy of China is the starting point to build further on the theoretical framework. In this paper we built on one major assumption based on numerous facts. The assumption is that the PRC and the Chinese companies operate under one strategy controlled by its central government, effectively alarming American government officials.

The world view of the 3 major actors is crucial and we argue, based on a few theories and several facts, that China and the USA are realist-thinking states while the EU operates from a constructivist perspective. The EU tends to focus on the goal of a relatively harmonious new global order through, among other things, the greater application of and increased prominence of an international rule of law, which necessitates sacrifice of a portion of sovereignty in the pursuit of larger, mutual goals (McQuire and Smith, 2008). By contrast, China[3] and the USA still retain traditional sovereignty as the basic organizing principle of their governments and hold world views likely to perpetuate that. Further along in this paper we describe the institutional characteristics and the historical legal competencies in investment policies in the USA and the EU.

The USA already has CFIUS operating and active mainly due to the pressure of public opinion. We describe these facts and look at EU public opinion in comparison. We see that in the USA many officials are using anti-China slogans to appeal to their constituents while in the EU this is not the case. The facts are delineated in this paper and our research in the EU

[3] http://www.youtube.com/watch?v=zKsZB3j9fE0&feature=related

identifies the attitudes of the EU government officials (politicians and civil servants).

With these theories, facts and research findings we have found causal linkages regarding why the EU has not reacted the same way as the USA has done in terms of creating and activating an *alarm system* for foreign investments.

With this design our research problem has been and will be addressed. We have made an assumption about China; described the CFIUS; and compared the American circumstances with the European ones to find the causal links within the EU for not having an active *alarm system*. Elements of this remain to be explored below, but that is the gist of it thus far.

In order to describe the CFIUS and the American characteristics that allowed its creation and the reason for triggering it, we used secondary data. Also secondary data was used to describe the EU institutions and their competences.

The public opinion surveys of the Commission, the Eurobarometer, PEW Research Center reports and consultancy reports were useful to identify public opinion trends related to investments. Articles of journalists and other media sources were consulted. Media articles are highly relevant as they eventually can influence political decisions and are a proxy for public opinion. Relevant official statements on FDI issues from the governments in the USA and the EU have been examined in order to understand official opinions.

To understand the attitudes, views and priorities of the people working in the EU institutions, we obtained primary crosssectional data from constructive open-ended questions put to qualified relevant persons in interviews. For validity reasons, questions have been adjusted according to the interviewee's scope of knowledge and experiences related to his or her professional position. Closed-ended questions were part of the interview to increase measurability and reliability on certain issues. The answers in these interviews are also used to ensure more robust findings based on the 3 other hypotheses regarding world view, public opinion and institutional characteristics and legal competences. To understand the attitudes, views and priorities of the American public, media, and politicians we obtained data from research and in ways described elsewhere herein.

Half of the interviewees requested confidentiality, thus for ethical reasons many names are not mentioned herein, so as to ensure the confidentiality is as promised. In those cases, a reference has been made to the organization as a whole.

The interviews were kept at 16 in person, 4 by email and one public due to time and budget constraints. Statistically this is not sufficient to generalize these interview results, especially not if we divide them per institution, to ensure representative validity. The limited information obtained, however, has high validity as confidentiality has been kept for those interviewees that requested it. The interviews have been conducted with civil servants in crucial and senior positions, voicing the general opinion of the Commission or other institution they represent. Due to the confidentiality they were free to express their real views and talked freely of the general atmosphere and general views that are present in their working environments.

8. Findings

8.1 China Assumptions and Facts

In international trade and investments, countries come to agreements with standard sets of expectations aiming for mutual benefits. Most countries want interaction in the spirit of fair trade and rule of law and thus anticipates reciprocity in trade and investments. China often fails to play by the rules[4] of fair commerce (De Gucht, 2010). It makes and breaks promises while favouring its local producers during governmental bidding and in terms of fair competition regulation implementation (Moleman, 2010). This effectively, via the cycle described above whereby the power to comply or breach shifts from the guest company to the host country over time, denies its international partners the reciprocity they were counting on.

We argue that the Chinese companies' behaviour can be attributed to the attitudes, instructions and long-term strategic plans of the Chinese government. The PRC as an authoritarian state does have some special features that need to be taken into account. The Economist interviewed executives of 11 large multinationals that have been bought up by Chinese firms and summed up their experience during the purchase negotiations: "The state was in ultimate control. "You can feel it," says one. "In China you're dealing with the government"". All ODI by private firms or state owned firms (as most of them are (Economist, 2010)) need to receive prior approval by the Macro Economic Planning Institute (MEPI) of the PRC

[4]http://www.msnbc.msn.com/id/8795682/ns/business-oil_and_energy

and thus are an integrated part of the overall strategy (Roijen, 2010). A central government like the PRC keeps tight control over the way ODI is spent as explained by the article in the Economist stating: “Although to set up a foreign bid a Chinese firm has to jump through lots of hoops, once it has done so it enjoys formidable advantages. It has access to cheap finance. It can ignore its share price, since its majority shareholder, the government, is onside.”(Economist, 2010) The CEOs are under control of the government (Interview V). The banks are state owned, the companies are state funded, and even their executives owe loyalty to the government. Out of 21 interviews conducted with officials and experts almost all confirm that the Chinese government has final control one way or another.

We accept the following assumption: countries expect one type of behaviour from China but receive another and all this is part of a strategic plan of the Central Government referred to as the “Beijing Census” (Godement, 2010) (Interview III). Therefore, we investigated why the EU and the USA, as recipients of ODI, react differently to that.

In 1978 the Chinese Premier Deng Xiao Ping announced the arrival of economic and political reform with his famous words: “Being rich is glorious.” This was a sharp departure from previous government policies. Although related trends were already evolving, this was the beginning of a new era. The masses were eager to follow a policy leading to an affluent life style. From that point onwards the pursuit of long term financial gain has been the main driving force for both private and public sectors and has determined China’s international behaviour. The country’s growth has since then and especially in the last 20 years been mind boggling for Western spectators. In the 1990s the PRC adopted a “going out” strategy (Hennigan, 2010) that only during recent years has shown clear effects. Gentelle talked about the PRC's return to the center of the world (Gentelle, 2000). The Economist edition of November 13th-19th 2010 emphasizes the relevance of the issue in its cover page "Buying up the world; the coming wave of Chinese takeovers" (Economist, 2010). IMF predicts that: "Chinese economy will surpass the USA by 2016."[5]

The strategic behaviour of the Chinese officials has been recognized by several EU officials. One official in the Council, for example, mentioned that Chinese officials are able to set long term goals and are able to accomplish them with limited constraint from public opinion (Interview I). China can steer its ODI in favour of its aggregated domestic needs. The Economic Strategy Institute of Washington DC report for the American government confirms that anything China does is in name of its national interests. "Anything else is far second" (Olson and Prestowitz, 2011) (Bremmer and Roubini).

To emphasize the importance of the issue, we would like to refer to a few expert theories on the matter. That ODI is an effective method to enrich a country and increase its political powers is supported by the conclusions made by Zhao and O. de Pablos referring in their paper (Zhao & de Pablos, 2010) to the fact that many theories ignore or fail to explain the significant advantages of developing countries conducting ODI to improve their industries' competitive advantage in the long run. They set out that ODI is extremely important to increase worldwide competitiveness by buying up resources and technologies. They also refer to Dunnings' theory which recognizes this and finds it especially true for China. Undoubtedly, Chinese ODI is growing in leaps and bounds.

[5] http://www.foxnews.com/politics/2011/04/25/imf-predicts-chinese-economy-surpass-2016

Although Chinese ODI in the EU is only 4 % of its global ODI according to 2009 numbers, it is a rapidly increasing trend (Salidjanova, 2011). Chinese ODI has more than doubled between 2007 and 2009 according to the 2009 ODI report of the Chinese Ministry of Commerce (MoC, 2009).

The PRC as an authoritarian government has an unwritten contract with its people (Dennison, 2010). That agreement promises a continued increase in wealth and GDP growth in order to stay in power (Interview XX). This study assumes such a statement as correct and therefore the motive to conduct ODI is to stay in power by achieving stunning financial gains. The goal is unlike Western countries as it is one of enriching the motherland and becoming self-sufficient at all costs (Interview VIII). Despite events like the awarding of the Nobel Price for Peace to the imprisoned Liu Xiao Bo who fights for Human Rights within China (BBC, 2010) and despite numerous small internal uprisings of the people (Lum, 2010) (Page and Areddy, 2011) the "unwritten contract" seems to be working in that the government has retained power and only a small portion of the population seriously opposes that.

In order to continue to improve the living conditions of the Chinese nationals, the government is feverishly searching for investments abroad in resources, organizations and locations it believes will bear fruit in the long term. This is one of China's strategic long-term political objectives (Scissors, 2010). This trend is firmly established and has been well documented in the media. Thus in this paper, we accept this progress as reality, and focus more particularly on how the USA and the EU have reacted to it.

As a final note, we want to emphasize that the power of China's money – its foreign currency reserves exceeded 3 trillion US dollars by the end of March 2011[6] – and of its market – 1.34 billion potential customers – make it a major international player. It goes without saying that using hundreds of billions to "buy in" to industries in other countries will have a major impact and that, depending on predispositions for or against such influence, this will foment strong reactions. Some people will be alarmed, and react accordingly. Therefore this paper attempts to find an answer to why the EU has, to this point, no real *alarm system* in place like the American CFIUS.

[6]http://www.economist.com/node/18560525

8.2 The Creation and Activation of CFIUS

This revives the question of why the EU and the USA react seemingly differently to the trend. The American reaction was by far the more heated, dramatic and emotional one. What began as a minor regulatory procedure came to be wielded as a potent weapon by an angry, politically active public.

The Committee on Foreign Investments in the United States called CFIUS is a set of procedures and processes within the USA that allow investigating of certain foreign investments that may potentially harm the host country in the long term. This alarm can be triggered because of security concerns or because economical, societal or political harm to the country is perceived to be possible as a result of the investment.

The USA unlike the EU is a Federal State. It has a Congress that is highly sensitive to public opinion and its decisions reflect majority voting, and thus to some extent the voice of the entire population. Public opinion is not diffused by the State like in the EU and Americans have strong national feelings which includes, as described above, a sort of collective emotional state based on a psychological predisposition to react strongly to potential threats. As well, the unique structure of the EU results in a dispersal of all manner of news, including media coverage of FDI-related events, very different from that in the USA. American news is national (not by state like in the EU), published nationally simultaneously by all major networks, and regarding potential external threats is taken seriously by people of different political stripes for different reasons. It will not be necessary to diverge into an explanation of the complex ways that the EU, with central governing action but virtually no dispersal of news, differs in the distribution of public information from that of its Member States. Media coverage in the Member States is tailored, each to its own country, and in that way limited in scope and world view. Suffice it to say that the end result is the very opposite to that in the USA, and it is possible that this is one explanation for the differences in how these major players react to FDI and to potential external threats in general. Another possibility is that in the EU there is still a feeling of separateness among Member States, whereas this is not the case in the USA because all States are part of one country and while they may quibble about federal funding and the like, they show remarkable unity in being concerned about anything that may affect the USA as a whole. The EU also has strong language and culture barriers that divide public opinion. Public opinion in the USA has influenced Congress in a faster and more direct way, immediately resulting in tangible action. It is this Congress that has played a major role in the making and shaping of CFIUS.

According to Heifetz, who has handled hundreds of CFIUS cases, the creation of CFIUS can be described in 6 steps (Heifetz, 2009):

1) CFIUS was established in 1975 by an Executive Order of President Ford. The purpose was to monitor foreign direct investments. It was the accumulation of the investments of Petroleum Exporting Countries also called OPEC petrodollars that triggered the setup of the Committee on Foreign Investments in the United States to investigate the danger of petrodollars buying critical assets in the USA. The power of CFIUS was limited to monitoring and reporting.
2) It was only in the late 1980s, due to the wave of Japanese investments, that CFIUS became more powerful. Some Japanese acquisitions where questioned by the defense department and could only be completed after the Japanese firms agreed to keep their production facilities in the USA (Jackson, 2010). The President received the authority from Congress in 1988 to block any perceived dangerous acquisitions on the ground of protecting national security (The Exon-Florio provision). This power was first used by President George H.W. Bush who rejected the Chinese acquisition of an American aerospace company in 1990.
3) During the 1993 to 2001 period, the Clinton era, CFIUS filings fell as times were relatively calm in terms of economic and security issues.
4) The 9/11 events put stress on stricter mitigation agreements. These agreements became very conservative and demanding. An example is the acquisition of USA telecommunications provider Global Crossing in 2003 by a Singapore government-owned company. The acquisition by this company, called Singapore Technologies Telemedia, was eventually approved by CFIUS but only

after a more lengthy and piercing review than one would ordinarily expect, given the nature of the company and of the USA-Singapore relationship, due to stricter criteria.

5) It is only since the 2006 Dubai Ports case that cases increased again significantly. Dubai Ports World acquisition of the British-owned Peninsular and Oriental Steam Navigation Company (P&O) created a lot of noise in Congress. Triggered by the fear of terrorism in the general public, the issue became crucial and showed up on high level meeting agendas. Dubai Ports World sold eventually to AIG due to public and Congressional pressure (Jackson J. K. 2010). It is since this case that the CFIUS process became high-profile and very political. Subsequent cases were then certain to be publicly sensitive.

6) The CFIUS practices are now more stable and predictable. It is now mainly the unknown motivation of China that will trigger concerns. One case was, for example, the attempted acquisition of Firstgold by a Chinese company in 2009. Due to CFIUS concerns the Chinese company eventually pulled back.

By 2005, CFIUS had reviewed 1,500 cases, forwarded 12 to the President and only 1 was rejected by Bush in 1990.[7] Although the number of rejections would be significantly larger if one were to take into account all the times that extra-committee action such as a quiet word in the ear of a relevant FDI-proposer might have resulted in a withdrawal of an FDI offer before matters ever got as far as the President, the fact remains that the vast majority of FDI cases are approved. This may indicate that CFIUS on its own is not inclined to block many cases, rather that public opinion and thus

[7] http://www.econstrat.org/inde.g.php?option=com_content&task=view&id=144&Itemid=59

Congress plays a major role in the success of foreign acquisitions. Some may argue that, due to China holding much American debt, and to the fact that the Treasury Department is taking the lead on CFIUS, matters are politically influenced. The Treasury does not want to alienate China by blocking acquisitions backed by Executive order (Greising, 2005). This certainly hints at a conflict of interest within the system and some officials are requesting an overall review.

The role of public opinion and Congress in actually blocking or stopping acquisitions from happening has been crucial. It is the fear of CFIUS action and public outcry that have pushed some companies to pull back. An example was the Chinese National Offshore Oil Corporation (CNOOC) bid for Unocal. The case was referred to Congress and George W. Bush had to review it. Due to the wave of media reports and strong public outcry against the deal CNOOC redrew the bid. Unocal finally merged with Chevron.[8] Three withdrawals by Chinese firms, on similar grounds, occurred in 2009 and 2010.

The institutional characteristics and competences of the American governmental system as a Federation with a Congress and a President allowed this evolution of CFIUS from a legal point of view. But it was public opinion that shaped CFIUS. Unocal, for example, is seen as an American company, rather than as, say, a Californian company. The acquisition is scrutinized regarding how it affects the USA as a whole. The public outcry was directly reflected in Congress which operates at Federal level. It had the competence to act regarding these investment concerns. All these variables are

[8]http://www.msnbc.msn.com/id/8795682/ns/business-oil_and_energy

quite different from the EU which will be discussed further in this paper.

Finally, as seen by looking at several cases we can conclude that CFIUS was created by Executive order and its influence has been strengthened over the last 2 decades. However, it is the potential public outcry and Congressional review that are driving the increase in CFIUS jurisdictional competence and may eventually block acquisitions in the future. Congress has shaped CFIUS and CFIUS, although investigating many cases, is less inclined to block acquisitions than is Congress itself. It is also striking, each time, how bipartisan the opposition to foreign acquisition is. Issues on which there is strong bipartisan support are rare in the USA but one can see why this would be one of them: people of all political stripes are likely to react strongly to any potential external threat, especially if it emanates from a source country that is a new rising power, as discussed above.

8.3 World View China, USA and EU

Our first Hypothesis is: *A realist-oriented country is more likely than a constructivist-oriented one to have an active alarm system for FDI.*

The unique world views, discussed above as well, of each of these three major players are expressed as a sort of ideological war. It is not a simple polarity, with two opposite clearly-defined sides. Rather, each player is similar to one other, and opposed to the other, on each of three different stances. Some would call it a struggle for power (Interview XIII and XIV). The world views of China, the USA and the EU also depend on the focus that is put on the four powers used in international political economy. These powers are the power of finance, production, security and knowledge (Strange

1994). Jonathan Holslag of the Brussels Institute of Contemporary China Studies (BICCS) mentioned: “International relations is about power balance, and ideologies are a product of power.” (Interview XIII). Depending on how one foresees the international relations evolving between these countries, through effective multilateralism or bilateralism, the power of knowledge might be the most important in the case of effective multilateralism. Knowledge and innovation will be the powerhouses of the future. History, however, has shown that only a combination of the 4 powers creates true hegemonies able to dictate international order. Each of our 3 major players has some – but none has all – of the 4 powers necessary for it to achieve that dominance.

The following points about the world views of the 3 major players are relevant:

8.3.1 The USA and China

The USA’s stance is, roughly, realist, liberal, and like China generally uses international law and organizations strategically for its own interest. The USA with its constructivist rhetoric is effectively acting as a realist, in that its rhetoric of peace and sustainability are not always matched by its actions around the globe (Mead, 2011). The USA still, rightly or wrongly, fears potential foreign threats, including the contamination and disruption of markets and ideas. This was shown by the reactions in the 1980s towards the rise of Japan and the Japanese investments as described above creating CFIUS, able to enforce investigations into foreign direct investments. The USA as the “police of the world” has the power of security and is still advanced in technology and thus holds great power of knowledge. The EU and the USA are very liberal. It is only the USA that has already blocked Chinese investments. This did not happen at an EU level yet.

China’s stance is, roughly, realist, non-liberal, and envisions using international law and organizations strategically for its own interest. A traditionally sovereign nation whose primary concern is for its own welfare rather than that of the global community, China’s engagement of international norms and organizations has been, thus far, limited. Currently, one can notice that the power of production and finance are increasingly moving towards China as the factory of the world and the main debt holder of the USA.

China has a completely different ethic, governmental structure and ideology. The EU and the USA are arguably not as one-track minded in that they combine human rights and democracy with business and see them as values that need to be reviewed and discussed with third countries when conducting business. The EU and the USA are in this respect similar.

The interaction, similarities, and differences in world view between these 3 major players begins to come to light. The level of liberalism is then also derived from those views. China is not a recognized market economy and is not liberal yet. The best proof of this is the list of 80 sectors in which foreign companies cannot invest (Interview XIII). China has embraced the free market economy and has an extremely capitalistic strategy: business is business (Keukeleire and MacNaughtan). Hereby we see a strategy of “business first”. Just one example is China’s willingness, despite diplomatic backlash, to oppose even rival military powers like the USA when profit is involved. This is illustrated by a statement in the Washington Post: "China now is the only country with a major oil and gas industry that's prepared to deal with Iran," the U.S. official said. "Everyone else has pulled out. They stand alone." (Pomfret 2010). Clearly, other examples abound. The foreign policy clash between the EU and China on issues in Africa is yet another example. China sees Africa as a source of energy and resources and, to put it mildly, does not share the EU views on intervention in local democratic problems; as mentioned in a report of the European Council on Foreign Affairs (Fox and Godement 2009, p. 18).

The Economic Strategy Institute in Washington concluded in its report to the US-China Economic and Security Commission on January 2011 that China and the USA approach international organizations in a similar way. They use these institutions to advance their national geostrategic, economic, and political interests (Olson and Prestowitz, 2011). There is a clear difference between the USA and China. China does not focus on upholding human rights as the West promotes them in the countries it cooperates with at a business level. China provides the most troops to the UN (Keukeleire and McNaughtan) but we are not in a position to speculate on whether it is doing so in order to buy international goodwill with surplus funds and troops or, perhaps, to contribute to stability in areas where they have long term economic interest such as for example the piracy issue of Somalia[9]. One can of course argue that the EU and American strategies regarding Cuba, the Middle East and Africa have not always been driven by altruism. But not to drift too far into this policy dilemma, one can say that the overall position adopted by the EU and the USA is still to combine the values of democracy, human rights and open markets with economic interests on the international stage. This does not change the fact that the USA and China are similar in the view of sovereignty. The USA upholds this principle regarding interference in its own country; China champions this principle regarding interference in any country including its own because it is the

[9] http://news.bbc.co.uk/2/hi/asia-pacific/8486502.stm

most reluctant, at home, to regard external value-pressure well. And whereas the EU believes in upholding international law as a first principle, China definitely does not share the normative view of human rights, democracy and international intervention.

8.3.2 The EU

The EU's stance is uniquely modern in that it is, roughly, constructivist, liberal, and non-strategic to a large extent. The EU believes in genuinely engaging with international organizations and spreading the rule of international law and respect for the international court to the global arena. The EU mainly thinks and operates as a constructivist, in that it tends to focus on a harmonious new global order through the spread of and respect for the international rule of law. The primary power it holds is, arguably, that of knowledge and ideas. Several authors also talk about the notion of "Civilian Power" and "Normative Power" where the EU is seen as the promoter of values in the international system. Authors like Manners talk about "Civilian Power Europe" describing the EU as promoter of values like the centrality of peace, the idea of liberty, democracy, the rule of law and respect for human rights and fundamental freedoms. In negotiations at the international level the notions of solidarity, anti-discrimination, sustainable development and principles of good governance are increasingly important (Manners, 2002). In international negotiations the EU begins with the principles of rule of law and reciprocity.

Several EU Member States have certain FDI alarm systems in place, but they are generally not enforced. Meanwhile, the EU has evolved in such a way that the Member States have increasingly given up some measure of sovereignty. They continue to have interests within a legal framework transferring certain specific aspects of sovereignty. During their negotiations internal values are less of a concern as they are set in an overarching, legally binding Treaty. The Member States have shifted their value concerns to the EU level. The EU has values but no national interest in the traditional sense (Leonard, 2005). Mr. Holslag from BICCS argues that the EU has no defined interests in terms of inwards investments due to its non-strategic culture (Interview XIII). In this environment, it is easy to see how, absent a coherent FDI strategy, the alarm systems individual Member States have on the books will be either weak or not well and consistently enforced. Finally, Leonard argues that the EU is a promoter of networks. According to him, networks or unions such as the EU, ASEAN, African Union etc., will be the next generation of international politics. The EU has had 50 years of experience with building such networks while the USA despite its creation of the UN, IMF and NATO is still wary of and less experienced with them.

The EU is promoting effective multilateralism and believes in supranational rules and regulations. These rules are set in international organizations and are of economic and political conduct. The EU is also comfortable with dispute settlement by order of legal procedures on an international level (Keukeleire and MacNaughtan). That framework of thinking is in contrast with many other countries, among them also China and the USA, who strongly believe in the principle of absolute sovereignty. We see this also expressed in the struggles during the negotiations in for example the UNFCCC and UNCBD. A significant indicator of this disparity in world views is the fact that China and the USA refused to sign many of the 25 core international treaties such as the International Criminal Court, the Kyoto Protocol, biological diversity, economic social and cultural rights, etcetera, while the EU ratified and signed nearly all of them.

Although the EU may wish or need, in some ways, to behave as a realist, for example in its drive to spread its values abroad, it has the desire to position itself as a “normative power” (Keleman 2010). It focuses on human rights, rule of law and quality of life. It is also driven, however, by strict rules on environmental issues and free market principles at home and thus wants to try to create a level playing field by enforcing these standards on other countries. Zimmerman argues that we need to regard this as a type of EU realist approach in international negotiations, and take it seriously. (Zimmerman, 2007). However, the EU is primarily constructivist, ethical, and sustainability-focused. The EU increasingly tries to position itself as a normative and ethical power (Manners, 2008) (Mayer, 2008). It pushes for such high standards because it believes in sustainable development and wants to promote this at an international level. Thus, in general, we can again conclude that the EU has a highly constructivist worldview as distinct from the realist world views of the USA and China.

8.3.3 The Balance of Power

Further comments regarding the balance of power are in order. The USA and the EU hold power to some degree by retaining relatively open markets. China and also many foreign producers in China are highly dependent on the openness of those markets to buy its products. Exports are the fundamentals of the Chinese economy. As Donald Trump mentioned in an interview with CNN in 2010[10]: “Setting high tariffs on Chinese goods would change behaviour immediately and solve USA debts very fast”, again a realist

[10] http://www.youtube.com/watch?v=AzjiW4U4V9g&feature=related

view. One indisputable conclusion from all of this is that the types of power we are talking about are not held in isolation, in that the world economies – and certainly those of these 3 major players – are intertwined and highly inter-dependent. Each of the three may be likely to attempt to maintain or increase its hold on what power it flexes. Therefore neither the USA nor China is likely to attain that status in the foreseeable future, rather they will probably remain interdependent and neither alone will be able to dictate international order.

Concepts such as worldview can only be explained by historical evolutions. Hegemonies need 4 powers and this has been proven throughout history. This explains how the worldviews in the EU and the USA have come to evolve in different directions, on this point. We can see this happening from the 1950s onwards. Before World War II, Great Britain was the unquestioned world hegemony (Bremmer and Roubini, 2011). The British Empire with its vast colonies and military presence was strong and omnipresent. After the War, Europe was torn apart and the USA, after proving its military power, came to rebuild Europe. The military power forced the European countries to capitulate to peace. The announcement of the Marshall Plan in 1947 started a new adventure. Through the Marshall Plan the USA promised financial and technological assistance for Western Europe. To strengthen the security aspect, the Treaty of Washington was signed, a North Atlantic Treaty, leading to the creation of NATO. The USA became the new hegemony with its power of security in Europe expressed by the existence of NATO. Its powers of finance and knowledge were used in the execution of its Marshall Plan and its power of production by providing products to rebuild Europe. This whole process gave the USA a realist view of the world, one wherein they needed to be present to keep world order. The USA was an example of a successful nation-state, while nationalism in the EU was perceived as destructive, as correctly observed by an American professor (Interview V). The ways in which the USA has forced globalization, to their detriment, on many regions that were not yet prepared for it and that could not but lose by it set disastrous precedents in the creation of an unsustainable 20th century world order. The USA as a nation-state arguably established itself successfully as a hegemony until the 21st century. The Iraq War, internationally stamped as an illegal War with no end in sight, threatens to crumple that status, though it is in keeping with the usual American stance and may only be the culmination of a process rather than its turning point.

American and EU markets are still the largest and hold lots of latent power. Comparing the USA to the EU for the moment, one can readily recognize the type of power being exercised in the global arena. Over the last 50 years the EU and the USA have had similar difficulties such as drugs, migration and international crime. The USA has sent its military troops abroad more than 50 times (Leonard , 2005 p. 67) while the EU success, along with its expansion strategy to Turkey and the Balkans was based on spreading standard laws. The Balkan Wars were, however, an exception prompting the EU to focus on creating its own European Security and Defence Policy (ESDP). The USA has failed in its policies towards, for example, Mexico, Guatemala and Colombia which has a completely different approach to regional influence, based on a different philosophy and world view.

Europe on the contrary can offer regional agreements and a varied market in ways the USA cannot and, within Europe itself, accession to the EU. Clearly the USA cannot offer anything like that; its markets, though large, are set, and more uniform, and a country cannot become part of the USA like a country can become part of the EU. The EU can also capitalize on the security provided by the USA and has done so historically. In 1951 the Treaty of Paris was signed creating the European Coal and Steel Community (ECSC). This was a pure constructivist approach, conducting international rule of law in order to make war practically impossible between Germany and France. Europe attempted to create the European Defence Committee in 1954 but failed. Soon afterward, in 1957, the Treaty of Rome created the European Economic Community (EEC), again a product of constructivist thinking where sovereignty was partly given up to an over-arching power (McGuire and Smith, 2008). The continued expansion of the EU until the final enlargement to 27 Member States has been a huge success. This process, supported by a legal evolution up to the current Treaty of Lisbon in 2009, has made the EU a successful constructivist and has created a basis for its principles and behaviour. It therefore takes a constructivist approach on the international stage. Leonard talks about the EU as a "Network Europe" (Leonard, 2005) which by definition is based on rule of law and sacrifice of sovereignty. The whole EU project is based on the principle of open markets and supranational rule of law within the region. Now an investment in France by Germany is meeting with those principles of free markets. If that investment comes from China, it is seen from that same viewpoint (Interview XI).

The EU has a new power, according to British foreign policy thinker Leonard, a silent revolution. It has created a biological concept of a "network" (Leonard, 2005) where there is no real hierarchy. International law is the primary weapon of the EU. The EU model wishes to hold law above power. The EU had by 2005 created an *acquis communautaire* of more than 80,000 pages that ranges from human rights to consumer protection. The EU has spread law and order successfully as has been seen with its expansion to 27 Member States.

8.3.4 World View Reflected in Global Action and FDI

To summarize, in general we can see that the EU operates from a constructivist point of view and China and, to a lesser but still dominant extent, the USA from a realist point of view. These world views give us an explanation for the different reactions between the EU and the USA towards Chinese investments. The USA as a recent hegemony and realist, despite its liberal principles, will more readily perceive investments, which can be used militarily or strategically, as potential threats. Investments in technology for weapons, harbours, etcetera are sensitive. The EU as a constructivist will be less inclined to perceive it this way. China may or may not be preparing for a bipolar or multipolar world (Foot, 2006) but an American professor, living in China and expert in business practice, mentioned that China is not yet willing to take up international responsibilities because of the rapid evolution it has experienced. (Interview V). This is also emphasized by an EU official that worked for the EU delegation in China pointing out that China, at an international level, acts from an old principle: "Don't take responsibilities onto yourself." China is a realist and we see that the EU and the USA, due to recent historical developments, view the world differently.

Returning to focus on ODI and FDI, we can state that the knowledge craved currently and thus most sought after by investors is technology. China is implementing a strategy to that end, and is feverishly looking for new technology and related acquisition deals globally. Being able to control the best technology in different fields (information storage, bio technologies, etc.) provides access to structural and relational power (Strange 1994).

The emerging powers, and especially China, are gaining global influence and are increasingly shaping international order in their preferred way (Keukeleire and Bruyninckx, 2010) (Interview II, III, IV and XIII). Clark to the contrary argues that China only operates in the existing international frameworks and thus does not shape international order as such (Clark, 2011). The view of an American professor and expert in business practices agrees, with a qualifier: "they do not shape world order "*yet*"" (Interview V). In fact, both contentions are accurate to some extent. In the economic arena China may be said to shape the international order, but despite its feverish grasping for and gains in the fields of technological knowledge, strategic and military knowledge, and military build-up, it lags behind the larger Western powers on those fronts and operates only in the existing international framework in that sense. In any case, given its rapid growth, we can claim that the USA sees China as a rival, as the USA has been a hegemony since 1945 (Clark, 2009) and operates as an outspoken realist. From that, it follows that the USA is the most likely of the 3 major players to perceive itself as threatened by China's expansion and thus to have and increasingly use an FDI alarm system.

We can conclude that our hypothesis: "A realist-oriented country is more likely than a constructivist-oriented one to have an active alarm system for FDI", can be accepted.

8.4 USA and EU Public Opinion

Our second Hypothesis is: *A country with a negative public opinion towards a particular source of FDI will have an* *alarm system in place designed to counteract perceived threats from that specific source.*

In public opinion, we identify a similar trend in the EU and the USA regarding Chinese ODI. The public in both places appears to assess each proposed FDI deal on its own merits, on a case-by-case basis, so its reaction ranges from harsh to non-existent, depending on a number of factors surrounding the proposed deal itself. It is very much case-based. The main difference in the EU is that public opinion, as discussed above, is at Member State level and thus public opinion is in many cases only expressed in a specific country at a specific time. They are not EU-wide opinions, while in the USA a public opinion is honed in the media country-wide and reflected immediately at a federal level, without regard to the specific state involved. Media is nation-wide and thus more powerful. These opinions are thus expressed in the US Congress more effectively.

At the EU level the policy statements are clear, Mrs. Catherine Ashton, Vice-President and High Representative of the Union for Foreign Affairs and Security Policy stated in her 2009 speech in Xiamen, China: "The EU welcomes foreign investment, as it drives innovation and growth. All we ask in return is that European investors enjoy the same openness and equal treatment in other markets, including China. Our companies want to be here, in order to create even more jobs and economic development." (Ashton, 2009). This statement clearly indicates the EU hopes for reciprocity and reflects its constructivist approach, as well as a generally positive view of Chinese investments and the welcoming of them into the EU. This statement also reflects the public opinion in 2010 in the EU. According to public opinion reports from the Commission and the Eurobarometer, interviewing 26,635 EU citizens in 27 Member States, EU civilians (61%) are mainly worried about job losses and want job creation to be the priority for the future while 65% believe the EU has benefitted from international trade. The multinationals' main worry is about reciprocity, receiving equal treatment when investing in China. They all want more legal certainty with respect to Member States Bilateral Investment Agreements (BITs) (Commission, 2010). Public and private organizations believe that tackling investment barriers in non-EU countries is the responsibility of the EU. The survey also reveals that the public expects, when attracting investments, standards regarding workers' rights, environmental protection and sustainable development will be upheld.

Mr. Karel De Gucht, Commissioner of Trade constantly urges China to grant reciprocity in return for open investment markets in the EU.

In reality, as well as the political rhetoric we also see differences of public opinion. These differ on a case-by-case basis as described above and vary per Member State. In some cases the public is largely unaware or ambivalent; in others, worried about job loss; in others still, won over by the promise of more jobs and the influx of capital. There is no coherent, unified policy or public opinion toward deals from any specific country, including those from China; rather, each is assessed on its own merits. To prove our point we have looked into several cases where local politicians and public opinion played a role. These cases were Belgium-Opel, Geely-Volvo (Sweden), Huawei, Draka and Port Piraeus (Greece) and recent Chinese investment trends in Poland, Italy, France and Portugal (See Appendix I for more details).

These case studies illustrate very clearly that the public opinion in Europe and more specifically in the individual Member States is in general not opposed to Chinese investments. Public opinion is also very divided by Member State and differs case by case, there is little uniformity. It is an increasing cautious behaviour of some EU officials and especially DG Industry and Enterprise that are facilitating the withdrawal of some Chinese investments as in the Draka case. There, public opinion did not play a role as the Dutch had no immediate opposition. It was the Italian rival hiring a lobby group that used the current discussion within the EU related to EU officials demanding reciprocity of China that triggered a strong reaction. It was an effective strategy clearly created by the cooperation between a lobby and the Commission.

In some Member States top politicians worry about national security issues as we can now increasingly see in the case of Huawei being blocked in its expansion endeavours in the UK. These decisions are, however, mainly made by technocrats. In the end, it is public opinion, or potential negative public opinion that has scared away Chinese investments. Fox and Godement also stated in their ECFR report of 2009 that China is concerned about its image and the public opinion of the EU and the USA do affect Chinese policies (Fox and Godement 2009, p. 44). The EU policy making towards Chinese investments has been influenced in a very limited way by public opinion over the last decade. Public opinion towards FDI has not been very negative and is a case by case issue. There is however, an increasing worry about job losses in the EU due to the financial and economic crisis, and that has triggered reactions against Chinese acquisitions. Where opposition arises, it usually does so due to a fear of job loss. Although general perceptions of China are increasingly negative, as d’ Hooghe of the Netherlands Institute of International Relations observes from PEW and PIPA statistics, Europeans are still intrigued and attracted to China (d’Hooghe, 2010). The current economic crisis has somehow modified negative opinions (Interview II). China is also to many a symbol of globalization.

We see in the USA a whole different scenario. Some politicians already position themselves as principled, i.e. anti-China. Even TV channels broadcast anti-China advertisements. [11] Politicians position themselves as anti-China and use that rhetoric to explain loss of competitiveness and jobs (Interview VIV). The public opinion is stronger against Chinese investments and increasingly negative. The USA is more cohesive, likely to react dramatically, and its citizens are simultaneously volatile and vocal, which shapes policy. As Manger described, the institutional differences are telling, here. The American public is more likely to object to all things, and particularly to Chinese FDI, *en masse* and in the media. It has reacted fiercely to lack of reciprocity and ethics of the Chinese government. Public opinion largely determines the outcome of CFIUS hearings as much as or more than the actions or intentions of the parties. Public opinion in Europe, by contrast, is muted, regionalized, divided and in some cases outweighed by financial desperation.

The largest blocked Chinese take-over attempts the last five years are the CNOOC bid for Unocal in 2005, Huawei bid for 3Com in 2008, the bid for FirstGold in 2009 and China Southern Media Group for Newsweek in 2010. Concerns of intentions, transparency and connections with the political elite in China were the main reasons.[12] As we have seen from the FirstGold deal and now also from the attempt to block

[11] http://www.finfacts.ie/irishfinancenews/article_1020919.shtml

[12] http://greenworldinvestor.com/2010/08/20/yet-another-chinese-company-anshan-steel-gets-blocked-from-acquiring-a-usa-asset

Anshan Iron and Steel Group investment in the Mississippi-bases Steel Development[13], it is members of Congress that urge the more powerful, later version of CFIUS to act.
From the history of the CFIUS creation we can see who has been mainly in charge. As an American expert mentioned, the Dubai Ports issue for example was not blocked by CFIUS but by Congress (Interview V). It was because of public outcry that CFIUS increasingly got more teeth. It is hot-button, emotional reasons that are well covered in the press that have pressured politicians to act. The increasing trend of Chinese ODI, growing USA debts held by China, trade imbalance, intellectual property issues, currency manipulation and Chinese strategies in Africa buying resources while ignoring human rights will only feed such negative opinions. These opinions will be reflected in Congress and will likely result in a stricter CFIUS as they have done historically. This will give Congress easier access to tools including CFIUS for blocking investments.

We see a growing negative attitude towards Chinese investments in the EU, mainly triggered by fear of job loss and by multinationals demanding reciprocity. In the USA we can see a more fundamental, principled attitude. There is already an overwhelming negative attitude towards Chinese investments in the USA, and it is a marketing tool for politicians.

We can conclude here that our hypothesis: A country with a negative public opinion towards a particular source of FDI will have an alarm system in place designed to counteract perceived threats from that specific source, can be accepted. We also can anticipate that the changing public opinion in the EU might trigger stronger political actions in the future, as has

[13] http://news.surfwax.com/worldcities/files/Anshan_China.html

been demonstrated by the Commissioner of DG Enterprise and Industry and during the long-lasting demonstrations in Greece and Sweden.

8.5 Attitudes of Civil Servants in the USA and the EU

Our third Hypothesis is: *If civil servants do not feel alarmed by FDI, they will not propose any legislation to halt it.*

In practice we can see that the EU reacts in a certain way towards Chinese investments. The report of the European Council on Foreign Relations (ECFR) puts it in two words: Unconditional engagement. We see that Europe conducts trade and investments with China without asking much in return (Fox and Godement 2009). The main reason is that until 2009, the EU competence was not at the level of investments. The report divides the EU Member States into 4 groups: Assertive industrialists (e.g. Germany, Poland), Ideological Fee-traders (e.g. Sweden, UK), European Followers (e.g. Belgium, Austria) and Accommodating Mercantilists (e.g. Greece, Portugal, Italy, Spain and previously France and Germany before Merkel) with the first three being more politically critical. The political attitudes and economic attitudes vary greatly where protectionist and liberalist ideas are divided between different Member States.

Knowing this, we find little difference between Member States and Brussels, where the attitudes of the civil servants are also mixed but are mainly in favour of free trade in general as it is a core principle of the EU. With China, there is still a general hope for reciprocity. The EU still sees China as a developing country and bases its relationship on a legal document from 1985 (Fox and Godement, 2009, p. 27) while the EU trade deficit with China adds up to 168 Billion Euro in

2010.[14] Mr. Vanheukelen, Head of Cabinet Trade, stated, during his presentation at the University in Leuven in November 2010, that EU officials don't see this deficit as a major issue as the overall trade of the EU (globally) is in balance.

When talking to civil servants in the EU institutions we find an underlying attitude not expressed in political rhetoric. There is an increasing awareness of the rise of China and potential long term consequences. During the interviews with officials of the Commission, more than half explicitly mentioned that it would be good for the EU to have a system in place that would screen investments. This system however, would not be to increase or promote protectionism but would be a tool to analyze potential future impacts from a less politicized point of view. It could simultaneously be used to pressure China for reciprocity. Other EU officials are convinced that the implementation of such a mechanism would send the wrong message and potentially lead to a trade war (Interviews XII and XVIII). Reasons for opposing deals in the EU range from corporate shareholders wanting reciprocity to the public wanting jobs. It is interesting to note that a major difference between the USA and EU on these points is that in the USA CFIUS is already in operation and the debate is between those eager for profit and those opposing deals, whereas in the EU there is no such system and the debate is about whether to even have one at all.

All officials see the increasing trend in Chinese investments, in general, as a positive evolution. Reasons range from job creation to engaging China in the international community.

[14] http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113366.pdf (report made in 2011, title link is misleading)

Through these investments, they reason, Chinese companies eventually will need to adjust to European standards.

Officials representing their Member States in Beijing feverishly look for methods to attract Chinese ODI to their country or region. Civil Servants in the Commission, the European Chamber of Commerce in China and in the Member State Embassies confirm that within the EU there is fierce competition between the Member States and even between the regions to attract investments (Interview III, VI, VII and XX). That also adds to the reason why there is little internal discussion on the subject. Nobody wants to “Miss the boat” (Interview IV) of opportunities the large pool of Chinese cash reserves presents.

Experts and academic analysts on the subject are more careful with the idea that any investment should be seen as positive. Although all interviewed civil servants in the Commission believe in the principle of open markets, half of them advocate for a realist approach and a system that can analyze long-term consequences. China is, after all, a rising power with the intention to become self-sufficient in terms of production, security, know-how and finance. Additional reasons to have a European CFIUS or CFIEU would be to understand China better as it is a new phenomenon (Interview II), to push for reciprocity (Interview III), to ensure EU economic interests (Interview XI) and for others just a general caution. Even some Members of Parliament recently sought a system to safeguard EU strategic interests[15].

[15] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2011-002640+0+DOC+XML+V0//EN&language=EN

Mr. Sterckx from the ALDE Group in the EP and Member of the Delegation on China affairs (D-CN) sees the issue as a test at a political level. It is about which ideology will prevail in the modern world, a liberal approach or a centralized national economic approach. These approaches and Chinese investments specifically have sometimes triggered emotional anti-China reactions in Parliament and in the Member States according to Mr. Sterckx. This is not the case in the Commission, which has a more technical and analytical approach (Interview IX).

Nobody contests that China has a completely different system of government. It is state capitalism, as an official representing the EU in China says: “I never saw a country more capitalistic than China” (Interview IV). That system is also inherently different than the American free trade ideology and the EU’s socially corrected free trade model (Interview XIV). The primary recurring issue for the EU, among others, is that there is not enough reciprocity from China’s side and that this is the main obstacle that needs to be addressed. Although one official talked about maintaining a self-sufficient military industry that in the USA plays a main role, in the EU it does not. The EU never had a self-sufficient military industry, as it relied on American security.

Especially in DG Trade the main focus is to find ways to convince China to open up its markets and to create a level playing field for Western companies. One case of public procurement in Poland has angered many EU officials. China won a bid on public procurement but refuses to have Western companies do the same back home[16][17][18].

[16] http://www.youtube.com/watch?v=AFSFqdCQflw

In FDI we see for example in the Geely case a clear difference between civil servants' attitudes and public opinion. The public feared job losses while the EU civil servants wanted to uphold the principle of open markets and strongly believe that investments will create jobs. Officials in some Member States tend to see Chinese investments as a saviour during a financial and economic crisis.

The fact that this open market principle is not upheld in China is a frustration that is growing among EU officials and fuelled by multinational lobbies. There is a growing trend among the EU officials from a positive to a negative perception when it comes to China, including at the level of the Commissioners.

The fact that the different Member States have opposite views makes this issue more complicated. In order to strategically tackle a third country, certain initiatives need to be taken. Such initiatives regarding China have only recently come to be debated within the Commission as China frustrates it. At a political level, demand for reciprocity prevails with only one threat from DG Industry and Enterprise to create an investment screening system. At the level of the civil servants, there is a growing consciousness that something needs to be done in a more fundamental way, not to create protectionism

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[17] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+QT+H-2010-0641+0+DOC+XML+V0//EN&language=EN

[18] http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2010-8404+0+DOC+XML+V0//EN&language=EN

but to show China that the EU is not naïve and needs to be taken seriously.

When talking to the officials in the Council Secretariat, the responsibility to handle investment issues is quickly pushed back to the Commission and the Member States. The Commission has, according to them, the sole competence to negotiate investment terms. When talking to civil servants of the Commission in charge of trade and investment, we hear that it is not appropriate nor within their competence to propose anything that would potentially block investments. This is also against the core principles of the EU Treaties.

The American civil servants have since the 1970s been alarmed by foreign investments and this has much to do with its strategic culture which the EU does not have. The fact that this fear was felt at the highest political level and transformed into CFIUS shows us a clear fixation on fear of potential domestic harm. Currently, certain officials in the USA are positioning themselves as anti-China and investments have been effectively blocked, mainly by Congress.

The EU does not have such outspoken results, therefore it is hard to accept or reject our hypothesis without some hesitation. The fact is that some EU civil servants and politicians do feel alarmed. As there is not a comparable system in the EU in action, we can only conclude that the fear of the civil servants is not at such level that it has resulted in specific action. Given the current evolution, and the build-up of frustration regarding Chinese reciprocity, one can only assume that political action will be the next step. This, however, needs a very strong message from many Member States. Given the fact that such a message is not very strong at the moment, we might not see a shift towards screening investments at the EU level soon. The public in Member

States is mainly worried about job loss while its officials prefer free markets. Multinationals, pushing for reciprocity from China, play a very important role at the EU level and this lobby influences civil servants and politicians significantly (Interview II, III, IV, VII, IX and XI). This force might push the civil servants and politicians towards the creation of an *alarm system* as a means to send a clear message to China.

Given the above facts we can probably conclude that our hypothesis: If civil servants do not feel alarmed by FDI, they will not propose any legislation to halt them, can be accepted. But we should add that there is certainly a threshold issue that eventually would trigger effective action.

8.6 Institutional Characteristics and Legal Competences of the USA and the EU

Our fourth and last Hypothesis is: *If the EU has no competence in the field of FDI due to its institutional characteristics or legal competence, it will have no alarm system in place.*

The EU institutions are also examined to discover why Europe has no such *alarm system* and thus reacts differently than the USA. According to Nugent, the EU has a complex structure built based on the institutional triangle of the Commission, the Council of Ministers and the Parliament, with yet another layer of government being the European Council. Its different competencies are laid out in the Treaties. They are divided between the first pillar and the second pillar, and include different authorities and voting methods within the EU and the Member States. All this complicates the EU's ability to act as a Union (Nugent, 2010). This complexity will also specify competences and attitudes of the politicians and the civil servants operating within this governmental framework. Under the Treaties, the EU has clear regulations regarding fair trade, competition, anti-trust, and the export of dual-use items and technologies. It is only under the Lisbon Treaty of 2009 that the investment negotiations are under the competence of the EU. [19] Since the Lisbon Treaty, the Commission is planning to renegotiate all bi-lateral investment treaties with third countries (Commission, 2010). This process has only just begun and as there are more than 1200 such agreements and treaties (Cabinet Trade, 2010), the time frame can be lengthy especially because so many actors are involved. This also includes renegotiating these agreements with relevant third countries which complicates the matter enormously. It is obviously not within the scope of this paper to even undertake a brief survey of these documents. It is, however, in order to take note of this reality.

It is only since the Treaty of Lisbon in 2009 that the EU got a legal status on the international stage and FDI fell under the competence of the Commission. The most important impact of the Lisbon Treaty will be the increasing role of the Parliament on trade policy (Woolcock, 2008). External Trade issue competences are no longer shared with the Member States but solely the responsibility of the EU, including foreign direct investments. An official of the Council Secretariat stated that the Council Secretariat does not hold any opinions on trade matters and defers to the Members States and the Commission to have an understanding on views and policies regarding FDI" (Interview XVI). The Lisbon Treaty consolidated text Article 207 (Appendix II) states

[19]http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-the-functioning-of-the-european-union-and-comments/part-5-external-action-by-the-union/title-2-common-commercial-policy/495-article-207.html

clearly the competence of the Union on foreign direct investment policy. Legislation needs Commission initiative but is passed only with unanimous approval by the Council (Lisbon Treaty, 2009). This unanimity requirement obviously makes it very difficult to agree on new policies and keeps the issue in principle still as an intergovernmental matter. Crucial to note is that Article 206 (Appendix II) sets out the principle of "…abolition of restrictions on…foreign direct investment…" (Lisbon Treaty, 2009). According to some officials this even means that DG Trade in the Commission does still not have the competence to propose mechanisms that can eventually block trade, even from third countries (Interview XII and XVIII). According to an official from the Council, there is since the Lisbon Treaty a huge power struggle going on within the EU as the EU is, to some, too intrusive (Interview I).

The USA as a Federal State since 1787[20] has a much longer history than the EU and as we have seen with the creation of CFIUS, operates like a unified state with all investment competences at the Federal level. The CFIUS system was created by Executive order, and thus binding on all states simultaneously in 1975. The President had the competence to do so and the institutional characteristics and legal competences allowed its actions while public opinion demanded it. The USA is more cohesive, which explains its unified, cohesive reaction to FDI.

We can summarize that the EU and the USA competences on foreign direct investments are fundamentally different as the USA operates like a Federal State on the matter and the EU, having the legal competences only since 2009, as an intergovernmental body with 27 potential vetoes.

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[20] http://www.gpoaccess.gov/constitution/index.html

As a conclusion we cannot state that the EU has no legal competence on the matter of foreign direct investments since it legally does since the Lisbon Treaty ratified in 2009. Therefore our second part of the fourth hypothesis, that the EU has no *alarm system* in place because it has no legal competence, can be rejected. The type of competence, however, is very restricted and thus definitely plays a major role and did have its impact on the lack of such *alarm system*. The Lisbon Treaty in Article 206advocates abolishing EU restrictions on foreign trade and investments. Although it provides competence on investment issues, it does not mention anything about blocking investments for certain reasons including national security. The EU, in order to implement a policy on foreign direct investment, needs to operate through the Commission. The Commission needs to come up with a legislative proposal that then needs to be approved by Parliament and the Council; and as the legal document states, in the Council, unanimity is necessary on this matter. Additionally, the Commission DG Trade does not feel competent to actually propose a law that potentially can block investments. Therefore the first part of our hypothesis, stating that not having an *alarm system* can be due to its institutional characteristics, can be accepted.

9. Significance of Findings

The EU is a young and unique structure creating a network between 27 states where many competences are transferred to a supranational identity.

We have, for the sake of argument, called the EU a “State”, which many would contest. We can see that the Tocqueville theory is correct as we see that two democratic states are effectively reacting in opposite ways. The EU principally wants to attract investments and abolish restrictions on trade and investments while the USA is increasingly imposing legislation to scrutinize and potentially block investments.

Susan Strange’s theory on the four powers of finance, production, security and knowledge is obviously taken very seriously by a country like the USA with a realist world view. The EU, due to its history, is not focused as the USA is on national security in the operation of military industries and has, rather, a constructivist view of the world based on rule of law. Specific circumstances related to these powers can be seen in the USA related to their huge debt with China. Trade deficits are in both states increasing with China but are more of a concern to American officials, and in other ways outlined above, the EU and the USA are coming from very different perspectives on FDI from China. Ultimately, the realist world view of the USA has clearly triggered the establishment of CFIUS while in the constructivist EU having such a mechanism is still far from a reality.

In line with what Manfield and Mutz concluded, we can notice that public opinion, shaped by anxiety and economic cycles, has played a major role in the USA and, more recently, is also having an impact in the EU. It is these public opinions, voiced through Congress, that have shaped CFIUS. In the EU, public opinion is diffused and only on a case by case situation taken into account by Member State officials regarding Chinese FDI. These weak signals have not urged the EU officials to take action although we see a gradual change in attitude towards Chinese FDI. This is however still mainly provoked by the frustration over Chinese lack of reciprocity and thus more a concern of multinationals. Multinationals, as confirmed by many officials, do have a strong impact on EU officials who are in the Commission mainly technical and analytical in their behaviour.

The officials in the USA have been concerned about foreign investments since the 1970s. Action was taken by Executive order. We note that Manger's theory about bureaucrats worrying less about immediate political issues is true. In the EU we see DG Trade as being less emotional and less politically influenced than its counterpart in the USA. They operate according to the legal letter of the Treaties and see political rhetoric as less relevant to their immediate decisions. Some say that implementing an *alarm system* would send a wrong message to China and would give rise to a potential trade war. The frustration on reciprocity issues with China does confirm Gries' theory, as this kind of atmosphere changes general attitudes towards China. Emotions, as Gries showed, do play a role, potentially creating an emotionally-charged anti-China atmosphere even within the Commission itself.

To conclude, we see that all above variables have influenced the process of creating CFIUS in the USA. The USA as a Federal State had also the institutional characteristics and legal competences to do so. This is not yet the case in the EU as it cannot be considered a Federal State. The Treaties, providing legal competence, are not specific on investments that can cause national security issues and the institutional characteristics create confusion on how to tackle such potential issues. Manger's theory that legal frameworks of governmental institutions determine policy outcome is clearly confirmed here.

10. Conclusion

We can conclude that world view, public opinion, civil servants' attitudes and institutional characteristics and legal competence all come together creating path dependencies and impacting balances of power. If we compare the EU and the USA we see an evolution in both "States" that are at different stages and were influenced by different events. One can argue that in the long run, there will be convergence, but that may require a change in the EU's treaties to clarify competence with regard to who may accept or reject FDI deals and how. European Federalists like Mr. Verhofstadt, the President of the ALDE Group in the European Parliament, are certainly in favour for a Federal Europe with the same competences as the USA (Verhofstadt, 2005). He foresees a similar evolution in the EU as historically happened in the USA. We currently also see a slow change in the attitudes of the civil servants and in public opinion towards Chinese investments. There is a general consensus that the EU should bring solutions in the end. All this might eventually change world views for the better, in the sense of free trade, or worse, in the protectionist sense, for international affairs.

During the last few years we do see a change at the EU political level, i.e. a shift from what Mr. Holslag from BICCS calls naïve constructivism towards infantile realism. Given the fact that the American executives have only had the power to block foreign investments since the late 1980s, the EU might still have a long way to go.

Via ODI abroad and non-reciprocity at home, China has cornered or is aggressively dominating ever-greater portions of the international market regarding finance and production and, increasingly, security. Will it be the USA that strengthens its CFIUS further or the EU that also comes up with a CFIEU sending a strong message to China and maybe provoking China? Or will the EU continue to believe that China will eventually change and become more liberal and grant reciprocity? Will it be China that first changes its approach towards foreign investments and opens up its markets and thus becomes more liberal? Or will China keep to its current course and create more frustration among foreign businesses and thus among governments? Does the acquisition of local industries in the EU and the USA by Chinese firms risk Chinese nationalization? In a century of increasing scarcity in commodities, how will any powerful country react to ensure the supply to its own citizens? Will the strategy of the EU "cradle to cradle" sustainable economy be implemented in time and thus change its economic model sufficiently to be independent? Coming to conclusions has created even more question marks. We can see that no matter how a country is structured, thinks or behaves, it is still the realist point of view that will eventually prevail when it comes to survival. One can only hope that the leaders making the final decisions are wise and aim for international order instead of national protectionism and a potential trade war. Unfortunately, this requires wisdom on all sides. If protectionism prevails, we can predict the future rather easily (Ahamed, 2011), especially when the world is running out of natural resources.

11. Limitations

As confirmed by many officials, the role of the lobby groups in the EU is crucial. We have not investigated the impact of this lobby but have taken note of spontaneous feedback hinting that the lobby influences the focus of the Commission in a major way. Some Commission officials even claim that public opinion is not crucial at the non-political levels of the Commission. Given the fact that the Commission has the power of initiative to propose legislation, the lobby factor can be crucial. This lobby factor has not been a focus of this paper.

Clearly a paper limited in length is limited in scope and must restrict itself within narrow confines. We do not pretend to have explored this theme from every possible angle or even from all the major ones. An example is the power and role of lobbyists in the FDI approval process. This is a significant and growing aspect of the debate and may change the minds of politicians at least, if not also the public in some cases. Lobbying is all about business and reminds us that path dependency and power are crucial. Knowing what they are pushing for is crucial (Rajan, 2011). It may be general reciprocity from China or the opposite, or it may be the lowering of social standards like wages (e.g. Germany), decreasing safety measures and clamping down on unions in the West (e.g. USA). The lobby in the USA is strong, and American public opinion is outspoken. The Members of Parliament and the officials in the Commission confirm that the lobby in the EU is very strong, but public opinion is restricted to Member States and thus diffused. In an authoritarian regime worshipping capitalism, one can assume that lobbies are extremely strong. China is a regime where in daily life pure capitalism prevails. Taken together, all this indicates that in all three states the role of lobbyists in a given case can have a serious and possibly determinative impact, but this is a complex and industry-specific topic best left for a more lengthy paper that can do it justice. As well, these lobbies may come to influence world developments as these developments need the capital to proceed. So a research question for another paper might be: “How has aggregated international capital evolved, and how is it likely to shape the future relationships between these 3 states in general, and this FDI aspect of them in particular?”

12. End Notes and Future Research

The Council defers to the Commission and the Member States when it comes to trade investment policies. The Parliament also defers to the Commission regarding matters of trade and investment policies as they need to take the initiative. Members of Parliament do have clear personal opinions and reflect in many cases their Member State public opinions. The Commission refers politics and competence beyond the Treaties to the Council and Parliament. We look at the Lisbon Treaty and we can see in Articles 206 and 207 that eliminating any barriers for free capital flow is the main principle. Given all these findings, we might have to wait a long time before the EU will think like the USA that sees the world in more black and white fashion.

According to several reports, we see that China will only grant reciprocity if it is in their national interests, and thus not just out of principle. No matter how beautiful the message of reciprocity is, in the end it was power to defeat raw aggression that saved the European Nations from ultimate disaster in the mid-1900s. It was a combination of the powers of security, production, finance and knowledge as discussed by Strange that could do so. That power in the USA came from hard currency which was able to build those powers. As people claim many times, history tends to repeat itself. Thus we want to ask ourselves the question, do we want to repeat history if the hard currency is increasingly on the other side of the isle, in the hands of a power – China – that prefers unquestioned and pure capitalism over solidarity, democracy and human rights? China is a copy of the Western economic model, a model the West is now struggling to change in name of sustainable development and solidarity. Sustainable development is a concept that hopes to opt for long-term thinking and principles over short-term liquidity (cash) on the books. Short-term liquidity on the books is the principle of pure capitalism. The question then remains, is a centralized government with national intentions or a liberalized government in dire straits the one that will be able to push forward these sustainable developments? Or it might be both, or neither, if it is true that the international owners of capital hold the fate[21] of global society in their hands (Rajan, 2011).

The EU has a dual-use trade policy for technology. The problem is, the USA and China might be fighting a duel, using a weapon the EU cannot intervene with, currency and weapons derived from cash-book policies. We cannot afford to have two powerful nation-states sniping at each other over currency and ultimate power, inevitably hurting bystander-nations, while others can not intervene because they are too weak or because their principle is that you should not battle each other over power, but promote competition, transparency and expect mutual respect and reciprocity.

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[21] http://www.youtube.com/watch?v=wqO1bHW5Q-k&feature=related

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Official of the European Commission Brussels, previously Beijing

Interview IV (Confidential)
Official of European Commission (Trade) Beijing

Interview V (Confidential)
American Professor at Qing Hua University, Expert in Business Practice

Interview VI (Confidential)
Official representing an EU Member State in Beijing

Interview VII (Confidential)
Official representing an EU Member State in Beijing

Interview VIII
Nasos Mihalakas, Trade Policy Analyst to the US government based in Washington

Interview IX
Dirk Sterckx, Member of European Parliament and the ALDE Group

Interview X
Guy Verhofstadt, Member of European Parliament and President of the ALDE Group, Former Prime Minister Belgium

Interview XI (Confidential)
Official of the European Commission (Trade) Brussels

Interview XII (Confidential)
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Official of the European Commission (Trade) Brussels

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14. Appendices

Appendix I

Belgium – Opel

During the Universal Expo in Shanghai of 2010 the Belgian delegation tried to convince Geely to buy its struggling Opel. Also during a following visit of President Hu to Brussels, the Belgian government offered Opel for sale. The Chinese, however, did not show interest in the deal (Mihalakas, 2011). A Belgian official promoting trade and investment in China was clear on the point that Belgium wants Chinese investments. These investments can be in any industry possible. He also emphasized that there is a great competition between the EU Member States and especially between the regions within the Member States to attract as much Chinese money as possible. According to him there is a general feeling of not wanting to miss the boat. He also mentioned that he was of the opinion that Europe should have an alarm system to alert it to opportunities (instead of dangers) and that the EU should engage in image building (Interview VI). Finally, the Minister of Economy Mr. Vanquickenborne does not believe that the electorate in general sees FDI with animosity (Interview XIV).

Geely – Volvo

The Chinese company Geely Automobile Holdings Ltd. from Zhejiang took over the Swedish company Volvo in 2010. An official approval was given by the Commission for the acquisition.[22] The deal was examined because at least three Member States asked for such procedure, on the grounds of regulation of competition. According to an official of Sweden representing the country in trade negotiations with China, the public opinion was quite negative towards this deal due to the fear of job losses (Interview VII). As an EU official of the EU delegation in China notes: "There was a general feeling of: "We will be taken over!"" (Interview IV). Geely, however, never planned to drop the brand name Volvo and its Swedish image. The job losses have not occurred to this point, and Geely's strategy is to keep the brand name and its image intact, and the production facilities in Sweden. The Swedish government officials were, contrary to the general public, in favour of the deal as they wanted to uphold the principle of international free trade and investments (Interview VII).

Huawei (Telecoms)

In November 2007 the Commission was notified by the Council that the Chinese company Huawei Technologies Co., Ltd., which originated from the Chinese military, was going to set up a new joint venture with Symantec Corporation in the EU. The Commission approved the deal.[23] In the years 2010 and 2011 Huawei tried to expand to the EU and the USA. Additional deals have been blocked by EU Member States like the UK[24] and by the USA (3Leaf, and 3Com) on national security grounds (Interview VIII). These blockages

[22] http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/904

[23] http://ec.europa.eu/competition/mergers/cases/decisions/m4765_20071218_20310_en.pdf

[24] http://www.chinasmack.com/2011/stories/huaweis-london-underground-bid-blocked-chinese-reactions.html

were mainly by Executive orders founded on fear of Huawei's strong governmental and military connections in China.

Draka

The bid of the Chinese company Xinmao S&T Investment Corporation Ltd. for the Dutch acquisition of Draka Holding NV in 2010 was withdrawn after that Mr. Antonio Tajani, Commissioner of DG Industry and Enterprise, voiced his wish for EU competence to block FDI. It was under the additional EU lobbying efforts by the Italian rival bidder Prysmian SpA, who wanted to buy the cable maker too, that pressure increased (Miller, 2011). They used the sensitive atmosphere regarding reciprocity to their advantage. The sensitivity is heightened with the EU officials pressuring China for more reciprocity and the opening up of its markets to foreign companies while ensuring fair competition domestically. This is an example of how a deal may be accepted or rejected, welcomed or opposed, for a variety of reasons depending on the particulars of the deal. In this case, rival bidders fighting over profits were more operative than any political motives. Generally it is primarily those, such as top corporate officers and major shareholders, who care and lobby about reciprocity, for they stand to gain most from it. They may stir up public opinion over it, but the public is usually more concerned about its own issues, such as jobs. China does not like uproar of public opinion, it wants to operate under the radar where possible (Interview III). The withdrawal was a direct response to the heated debate it created in the EU.

Port Piraeus

Greece has welcomed the purchase by China's Cosco of the port Piraeus and the deal has been welcomed by many Greeks aside from relevant labour unions. Especially the government was very much in favour of the deal.[25] The Labour Unions protested for three years but put a halt to their actions when job security was promised by the government.[26]

Poland

Historically speaking, China-Poland relationships are strong. Poland was one of the first countries recognizing the People's Republic of China in 1949. In 2004 President Hu was one of the first heads of state to visit Poland after its accession to the EU. The majority of the Polish people encourage globalization and the government welcomes and promotes Chinese investments (Palonka, 2011). This is despite a general anti-communist feeling in the country.

According to the Foreign Policy Blogs Network, the following countries have been welcoming Chinese investments:

Italy

Italy welcomed Chinese investments during Chinese Premier Wen Jia Bao's visit in October 2010. The port of Naples is under expansion by China's Cosco and investments will be made in the solar energy sector among other commercial agreements.

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[25] http://www.npr.org/templates/story/story.php?storyId=130280402

[26] http://www.eurofound.europa.eu/eiro/2009/12/articles/gr0912019i.htm

France

When President Hu visited France in November 2010, France welcomed investments in the nuclear power company Areva and cooperation in cellular telecommunication. China is also now buying French vineyards in Bordeaux. These investments are very much welcomed due to the urgent need of cash since the financial crisis in Europe (Willsher, 2011) Although a symbol of French culture, the investments are received with a warm welcome.

Portugal

In the same period Portugal welcomed investments in joint construction of optical fibre networks. This deal was made between Huawei and Portugal Telekom. Also Millennium and the Industrial and Commercial Bank of China will create a banking cooperation. China also wanted to purchase the Portuguese electricity company EDP but was refused.

Appendix II

Treaty of Lisbon (consolidated version)

Article 206
(e.g. Article 132 TEC)

By establishing a customs union in accordance with Articles 28 to 32, the Union shall contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and on foreign direct investment, and the lowering of customs and other barriers.

Article 207
(e.g. Article 133 TEC)

1. The common commercial policy shall be based on uniform principles, particularly with regard to changes in tariff rates, the conclusion of tariff and trade agreements relating to trade in goods and services, and the commercial aspects of intellectual property, foreign direct investment, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in the event of dumping or subsidies. The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action.
2. The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall adopt the measures defining the framework for implementing the common commercial policy.
3. Where agreements with one or more third countries or international organisations need to be negotiated and

concluded, Article 218 shall apply, subject to the special provisions of this Article. The Commission shall make recommendations to the Council, which shall authorise it to open the necessary negotiations. The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Union policies and rules. The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it. The Commission shall report regularly to the special committee and to the European Parliament on the progress of negotiations.

4. For the negotiation and conclusion of the agreements referred to in paragraph 3, the Council shall act by a qualified majority. For the negotiation and conclusion of agreements in the fields of trade in services and the commercial aspects of intellectual property, as well as foreign direct investment, the Council shall

act unanimously where such agreements include provisions for which unanimity is required for the adoption of internal rules.[27]

[27] http://register.consilium.europa.eu/pdf/en/08/st06/st06655.en08.pdf