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## The EU-China Relations: Rhetoric versus Reality

### Introduction

Last week, China cancelled the EU-China Summit which was supposed to be hosted by the French EU Presidency in Lyons on December 1<sup>st</sup>.

This headline was the breaking news last Wednesday. The cancellation was the Chinese reaction to French President Nicolas Sarkozy's decision to meet the Dalai Lama in the city of Gdansk on 6 December, when Poland will mark the 25th anniversary of the awarding of the Nobel Peace Prize to Lech Walesa.

'China', Chinese foreign ministry spokesman Qin Gang told the press in Beijing last Wednesday, 'opposes any foreign leaders having any contact with the Dalai Lama' explaining Beijing's decision to cancel the 11<sup>th</sup> EU-China Summit at such short notice.

As it is practice in international diplomacy on those occasions, the EU 'took note' regretting this decision by China adding, a few hours later that 'the ball is now in China's court' to propose a new date for the summit.

Earlier in October the EU 'offended' China's political leaders when the European Parliament awarded the Sakharov Prize for Freedom of Thought to imprisoned Chi-

nese political activist Hu Jia<sup>1</sup> and it remains yet to be seen whether Beijing agrees with Brussels that the ball is really in China's court after last Wednesday.

Meeting the Dalai Lama, Beijing has always insisted, is an 'interference' in China's internal affairs questioning its territorial integrity and sovereignty and realistically it can be expected that Beijing will take its time (possibly a lot of it) to propose a new date for the summit.

Either way, the summit's cancellation will without a doubt dominate the EU-China relations agenda in the weeks and months ahead possibly (but hopefully only temporarily) overshadowing pretty much everything that was achieved on the Brussels-Beijing agenda in recent years.

### Deepening Institutional Ties

The very recent bad news on the EU-China agenda aside, the expansion of EU-China institutional links and bilateral cooperation (at least on paper) has been second to none in recent years, and the so-

<sup>1</sup> See European Parliament - Sakharov Prize 2008 awarded to Hu Jia; [http://www.europarl.europa.eu/news/public/story\\_page/015-39965-294-10-43-902-20081020STO39964-2008-20-10-2008/default\\_en.htm](http://www.europarl.europa.eu/news/public/story_page/015-39965-294-10-43-902-20081020STO39964-2008-20-10-2008/default_en.htm).

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## Abstract

Notwithstanding the recent cancellation of the EU-China summit, the amount of EU political and diplomatic energy and resources invested into expanding relations with Beijing is second to none on the EU's external relations agenda.

Through the so-called EU-China 'sectoral dialogues' Brussels and Beijing have over recent years institutionalized cooperation and exchanges in areas such as energy, environmental protection, nuclear non-proliferation, intellectual property rights and many others.

As regards international politics and security, Brussels and Beijing have set up a number of regular dialogues seeking to identify common interests and approaches to international issues and crisis.

So far the good news. The bad news is that the many problems on the bilateral agenda will continue to remain unresolved: above all, the growing trade deficit in China's favor, persistent and numerous market access obstacles in China and alleged violations of European intellectual property rights costing European business 20 billion Euros per year.

Tangible EU-China cooperation in international politics and security will remain the (rare) exception as opposed to the rule. In fact, the more the EU and China seek to cooperate, the more the fundamentally different approaches towards and priorities of respective foreign and security policies come to light.

The EU's overall policies towards Beijing are often uncoordinated due to quasi-absence of day-to-day policy coordination between the EU Commission and the EU Council.

The EU is not speaking with one voice to Beijing and given the number of actors, interests groups and institutions involved, it probably never will.

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called EU-China 'sector dialogues' are part of this.

The by now 27 'sectoral dialogues' take place on either working or ministerial levels and cover areas such as energy, environmental protection, consumer product safety, civil aviation, competition policy, education and culture, employment and social affairs, intellectual property rights (IPR), consumer product safety, maritime transport, regulatory and industrial policy and others<sup>2</sup>.

Various stakeholders are involved in these dialogues, including officials, politicians and business. The dialogues take the form of working groups, conferences, annual formal meetings or regular informal meetings. Representatives from nineteen Directorates General in the European Commission and their respective counterparts in China are involved in these dialogues institutionalizing day-to-day EU-China cooperation.

Although not the same level of progress is being achieved in all dialogues yet, some of them have in recent years produced concrete results such as the one on the environment: EU-Chinese talks on car exhaust emission standards recently resulted in Beijing adopting EU rules and standards in this area.

In sum, 'the EU-China relationship is much broader and

<sup>2</sup> See European Commission, *An Overview of the 'sectoral dialogues' between China and the European Union*; [http://ec.europa.eu/external\\_relations/china/sectoraldialogue\\_en.htm](http://ec.europa.eu/external_relations/china/sectoraldialogue_en.htm).

deeper than the US-China relationship'. The top politicians may not be aware of the 27 dialogues, but experts in these various fields understand the true nature of the relationship. This kind of dialogues changes real life slowly and quietly', confirms the influential scholar Zhou Hong, head of the Europe Institute at the government-financed and Beijing-based Chinese Academy of Social Sciences (CASS)<sup>3</sup>.

The fact that the EU and China talk about their bilateral problems does not mean that they are about to find quick solutions to all of them.

Brussels' policymakers have surely learned in recent years that talking about problematic issues on a regular basis with Beijing is still not the same as finding and implementing solutions, especially with issues such as the rapidly growing trade deficit in China's favor, persistent market access obstacles and the alleged violation of European intellectual property rights in China on the top or very close to the top of the EU-China agenda<sup>4</sup>.

<sup>3</sup> Quoted in C. GRANT, K. BARYSCH, *Can Europe and China Shape a New World Order?*, Centre for European Reform, London, 2008; [http://www.cer.org.uk/pdf/p\\_837.pdf](http://www.cer.org.uk/pdf/p_837.pdf).

<sup>4</sup> See also A. BERKOFISKY, *The EU-China honeymoon is over*, in «ISN Security Watch; International Security Network (ISN)» Zurich, May 29, 2008; <http://www.isn.ethz.ch/isn/CurrentAffairs/Security-Watch/Detail/?ots591=4888CAA0-B3DB-1461-98B9-E20E7B9C13D4&lng=en&id=88403>.

### Whose trade deficit is it anyway?

Europe became China's biggest trading partner in 2004, but the EU still exports more to Switzerland than to China, which is – according to the Commission – also a result of market access obstacles for European business in China.

While EU-China trade amounted to Euro 300 billion in 2007, the trade deficit in China's favor has reached Euro 160 billion in the same year. This, the Commission warns, translates into a deficit in China's favor that is growing by Euro 15 million per hour.

However, approaching the EU-China deficit in isolation, economists (and the EU Commission for that matter) agree, would be misleading not doing justice to the quality and scope of Beijing's trade surplus with Brussels. Asia's share of EU imports has remained fairly stable at 20-25% over the past decade and the growing trade deficit with China hides to some extent the fact that exports from China have partly replaced exports from other Asian countries.

Economists further confirm that the EU trade record is very healthy, arguing that the deficit with China matters only so much as Brussels maintains a comfortable overall global trade surplus. Besides, foreign multinational companies (many of them European) are responsible for roughly 65% of exports out of China de-facto meaning that the EU (and ultimately European consumers who enjoy the cost

benefit of products made in China) actively contribute to the trade deficit in China's favor.

### The trouble with intellectual property rights and fakes

According to the EU's October 2006 China trade paper, China's insufficient protection of intellectual property rights (IPR) such as patents, copyrights and trademarks is a 'pressing challenge' for European businesses in China<sup>5</sup>. Unfortunately, IPR violations in China remain equally pressing in 2008 and EU statistics indicate that European business has lost up to Euro 20 billion in China through copyright and trademark infringements in 2007. Beijing has in recent years adopted a number of (at least on paper) effective laws and regulations related to the protection of intellectual property rights, but the enforcement process remains slow, far from transparent and quite simply without tangible progress as 60% of counterfeit and pirated

products sold in Europe are still made in China.

EU business and its representative in Beijing—the European Chamber of Commerce in Beijing—complain in regular reports<sup>6</sup> about a number of tariff and non-tariff trade barriers on its exports, as well as restrictions on investment in manufacturing and services. In non-compliance with World Trade Organization (WTO) rules and regulations, the Chamber's recent 'EU Business in China Position Paper' argues, that Beijing continues to maintain a number of high tariffs in industries of particular importance such as textiles, clothing, footwear, leather and ceramics.

As regards Chinese non-tariff barriers, European exporters face an increasing number of non-tariff barriers such as product certification, labeling standards, import-approval requirements and customs clearance delays<sup>7</sup>.

What's more, Brussels and the EU Chamber of Commerce in Beijing also request the Chinese authorities to abolish government-initiated so-called 'China-first approaches' in what Brussels and the Chamber refer to as 'key sectors', such as steel,

automobiles, shipbuilding and semiconductors.

However, given that China has only recently introduced these policies aimed at aiding and protecting local industries and limiting EU (and US) exports in the above sectors, it remains very unlikely that Beijing will revise or even abolish them as the EU Chamber of Commerce in Beijing requests.

While the effective process of enforcing intellectual property rights in China will remain (very) slow as far as Beijing is concerned, the EU will continue filing anti-dumping cases against China at the WTO in Geneva on a (very) regular basis. Currently, roughly 120 EU cases against China are waiting to be resolved in Geneva.

The Chinese authorities for their part insist that enforcing intellectual property rights all over China will take time and market access obstacles will be removed at a pace 'appropriate' (translate: 'very long') for a developing as opposed to developed economy.

### EU-China High Level Economic and Trade Dialogue Mechanism (HLM)

The so-called EU-China High Level Economic and Trade Dialogue Mechanism (HLM)<sup>8</sup>,

<sup>5</sup> See European Commission, October 24, 2006, *Closer Partners, Growing Responsibilities A policy paper on EU-China trade and investment: Competition and Partnership*; [http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc\\_131234.pdf](http://trade.ec.europa.eu/doclib/docs/2006/november/tradoc_131234.pdf); for a critical assessment of the EU's China October 2006 trade paper see also A. BERKOFKY, *The EU Unleashes a Paper Tiger*, in «The Asia Times», February 3, 2007; [http://www.atimes.com/atimes/China\\_Business/IB03Cb06.html](http://www.atimes.com/atimes/China_Business/IB03Cb06.html); see also A. BERKOFKY, *Europe Gets Tough on China*, in «The Far Eastern Economic Review», February 2007; [www.feer.com](http://www.feer.com). <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2006:0632:FIN:EN:PDF>.

<sup>6</sup> For details on EU complaints with regards to what the EU refers to as unfair trade, investment and business practices see the *European Business in China Position Paper 2008/2009* published at the European Chamber of Commerce Beijing; see: <http://www.eurochamber.com.cn/view/media/publications>.

<sup>7</sup> For a recent analysis on EU-China trade frictions see also J. THORNHILL, *Trading Strains*; in «The Financial Times», October 1, 2008.

<sup>8</sup> For details see Europa Press Releases 25 April 2008, EU and China start high-level economic and trade talks; <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/648&format=HTML&aged=0&language=EN&guiLanguage=en>; 9 EU Commissioners led by Commission President Barroso traveled to Beijing for the dialogue's inaugural session in Beijing this year.

inaugurated in Beijing this April, is envisioned to deal with these and many other issues, at least as far as the EU Delegation in Beijing is concerned. While the EU Commission stresses (as usual in fairly vague terms) the promotion of trade and investment cooperation, technology transfer trade and trade facilitation as the rationale of that dialogue, the EU Delegation in Beijing has been more upfront about what European business investing in China wants the dialogue to be.

'The dialogue will be a 'new tool for dealing with the problems confronting European companies trying to establish themselves in China, especially in the fields of investment, market access and protection of intellectual property rights', an April delegation press release read. In other words: a forum to remove the remaining WTO non-compliant market access obstacles and violations confronting European businesses in China.

Many of the EU complaints will continue to be dealt with at the WTO in Geneva and the HLM's function and importance will continue to be perceived very differently in Brussels and Beijing. While Brussels hopes that the dialogue will eventually lead to concrete and measurable progress on the above mentioned issues and problems on the EU-China trade and investment agenda (just like the US hopes that the so-called 'US-China Strategic Economic Dialogue'<sup>9</sup> will one

day become an instrument to make progress on the same issues), Beijing on the other hand chooses to point to the HLM's informal (as opposed to legally-binding) character.

### **Not Speaking with one Voice**

The EU Commission's mandate and authority to implement one set of European policies towards China on behalf of the Union's 27 Member States is yet fairly limited and will continue to remain so in the years ahead.

Up to date, there is very little (essentially none, say some of the critics) coordination between the EU Commission (in charge of the Union's overall trade and economic policies) on the one and the EU Council (in charge of the EU's foreign and security policies) on the other hand.

Indeed, there are no inner-EU mechanisms aimed at coordinating respective Commission and Council policies towards China which is not only slowing down the EU decision-making process related to policies towards Beijing, but has in the recent past resulted in inconsistent and contradictory European policies towards China. The controversy and inner-European disagreement in 2004 and 2005 on whether to lift or not lift the EU weapons embargo imposed on China after Tiananmen in 1989 is an example in this context. Throughout 2004 and 2005 the Commission and Council were sending contradictory messages to

Beijing and other interested parties (such as the US and Japan which until today urge Brussels not to lift the embargo) on the Union's preparedness to lift the embargo making itself vulnerable to (admittedly justified) criticism of not speaking with one voice on the Union's foreign and security policies<sup>10</sup>.

'If there is ever a case for having a single EU foreign minister to replace the jobs now done by Solana and Benita Ferrero-Waldner-the commissioner for external relations-it is the way the EU handles China', a senior EU official was quoted in a recent Centre for Economic Reform (CER) paper on EU-China relations<sup>11</sup>.

Beijing is clearly aware of these and other EU shortcomings when formulating and implementing its foreign and security policies towards China and Beijing will continue to choose dealing with either EU institutions or individual EU Member States' governments according to what suits its interests best.

It remains very unlikely that Beijing is prepared to change or re-adjust its foreign, foreign economic and security policies because Brussels is advising Beijing to do so in the

<sup>10</sup> The controversy of the weapons embargo has led to the establishment of the so-called EU-US (2004) and EU-Japan (2005) 'Strategic Dialogue on East Asian Security'.

<sup>11</sup> See e.g. C. GRANT, K. BARYSCH, *Can Europe and China Shape a New World Order?*, Centre for European Reform, London, 2008; [http://www.cer.org.uk/pdf/p\\_837.pdf](http://www.cer.org.uk/pdf/p_837.pdf)

<sup>9</sup> See U.S. Department of the Treasury, *US-China Strategic Economic*

*Dialogue*; <http://www.ustreas.gov/initiatives/us-china/>.

framework of a growing number of annual or bi-annual dialogues covering international politics and security.

### Discussing Africa and Human Rights, Sort of

Brussels has very recently stepped up its efforts to seek to coordinate its policies toward Africa with those of China. This October, the Commission published a paper titled 'The EU, Africa and China: Towards trilateral dialogue and cooperation' seeking to lay the basis for further EU-China cooperation on respective Africa policies<sup>12</sup>.

Beijing's reception of the EU's October 2008 paper, however, has so far been lukewarm at best and there is without a doubt suspicion amongst Chinese policymakers that the paper's main objective is to 'interfere' with China's foreign, foreign economic and most importantly energy policies towards Africa. Indeed, China's policymakers will continue to consider its Africa policies a matter between themselves and Africa as opposed to policies which would need to be coordinated with Brussels<sup>13</sup>.

<sup>12</sup> See European Commission, October 17, 2008, *The EU, Africa and China: Towards trilateral dialogue and cooperation*; [http://ec.europa.eu/development/icenter/repository/COMM\\_PDF\\_COM\\_2008\\_0654\\_F\\_C\\_OCOMMUNICATION\\_en.pdf](http://ec.europa.eu/development/icenter/repository/COMM_PDF_COM_2008_0654_F_C_OCOMMUNICATION_en.pdf); for an analysis of the paper see B. BERGER, *EU puts Africa ball in China's court*, in «The Asia Times Online», October 30, 2008; <http://www.atimes.com/atimes/China/JJ30Ad01.html>.

<sup>13</sup> This author's recent conversations with Chinese officials and scholars confirm this.

Driven by EU concerns about China's alleged 'value-free' diplomacy in Africa, Brussels and Beijing had earlier this year already set up a dialogue to discuss Beijing's Africa policies.

While such a dialogue is a positive initiative as such, the recent track record of Beijing's Africa policies indicate that China will remain as unwilling as ever to make requested adjustments to its Africa policies such as linking the provision of economic and financial support to the respect of and protection of human rights.

Indeed, Beijing continues to insist implementing its regional and global foreign and foreign economic policies according to what Beijing refers to the principle of 'non-interference' in internal affair of other countries. China, the official rhetoric goes, refuses to get involved in internal political affairs of states it is doing business with explaining e.g. the fact that Beijing has no problems with actively expanding political and economic ties with Sudan, Zimbabwe, North Korea, Burma and other failed or failing states<sup>14</sup>.

The cancellation of the December 1<sup>st</sup> EU-China summit in Lyons demonstrates that Beijing is still very sensitive

<sup>14</sup> China is still and despite a UN weapons embargo providing the regime in Sudan with weapons and weapons technology and for reasons which admittedly go beyond the comprehension of non-Chinese policymakers and analysts, Zimbabwe's dictator Robert Mugabe was in 2005 awarded an honorary doctor's degree from the China Foreign Affairs University (CFAU) in Beijing.

about what it considers to be interference in its own 'internal affairs' and European advice on human rights in China too fall into the category of 'interference' as far as Beijing is concerned.

Since 1996, the EU discusses human rights with Beijing twice a year in the framework of the so-called EU-China Human Rights Dialogue.

The results of this dialogue, EU Commission officials involved in the dialogue admit, must be described as very limited at best, not least because Brussels and Beijing do not agree on what exactly constitute human rights.

Whereas freedom of speech and expression, political and civic rights fall under the EU's (and admittedly pretty much the rest of the world's democracies and non-autocratic regimes) definition of human rights, China defines human rights above all as so-called 'economic rights', i.e. the right to leave poverty and economic misery behind.

These 'Chinese-style' human rights (as opposed to human rights Western-style), Beijing's authorities insist, are the rights the Chinese people are more interested in than 'Western-style' human rights centered around political and civic rights as well as the freedom of speech expression.

What's more (and worse for the prospects of making progress), Beijing has in the past been very clear about its limits to talk about human rights with others. Back in April 2007, Beijing decided to unilaterally cancel the track II

(i.e. the non-official) part of the EU-China human rights dialogue after the EU and Berlin invited a Beijing-'blacklisted' NGO.

### Upgrading the Partnership, Maybe

In other (non-controversial and non-political fields) China is much more open to EU assistance and advice. The EU-China *Country Strategy Paper* sets out three main areas for cooperation and the multi-annual indicative programme is allocating €128 million for the first four years (2007-2010)<sup>15</sup>. These funds will be invested in areas covered by EU-China policy dialogues, including the ones dealing with trade, socio-economic development, support for China's internal reform process, climate change, the environment and energy.

In addition to the EU's assistance and aid programs a number of EU Member States maintain individual and well-funded assistance programs in the areas of poverty reduction, energy, healthcare, rule the law, environment and others. With regards to know-how and technology transfers to China, it is being estimated that up to 80% of newly-introduced technology in China already comes from Europe.

European generosity to provide China with technology

<sup>15</sup> For details see European Commission, *External Cooperation Programmes-China*; [http://ec.europa.eu/europeaid/where/asia/country-cooperation/china/china\\_en.htm](http://ec.europa.eu/europeaid/where/asia/country-cooperation/china/china_en.htm); the full version of the EU's China Strategy Paper is downloadable at: [http://www.asiaprogramming.eu/wc/m/dmdocuments/draft\\_CSP\\_China.pdf](http://www.asiaprogramming.eu/wc/m/dmdocuments/draft_CSP_China.pdf).

and know-how made in Europe, critics fear, might one day come back to bite Europe which could be losing its high-tech competitive edge to China before too long, as a result of Chinese copyright and trademark infringements.

But China wants more from the EU, with the lifting of EU arms embargo imposed after Tiananmen in 1989 and the EU's official acknowledgement as China market economy (the so-called 'Market Economy Status', MES) on top of Beijing's EU wish-list. Given the inner-European disagreements on both issues, however, the embargo is likely to stay in place in the years ahead and in view of the EU's numerous (and steadily rising) anti-dumping cases filed against China, Brussels granting Beijing market economy status any time soon is all but obvious.

Either way, the so-called 'EU-China Partnership and Cooperation Agreement (PCA)' will be the next 'big bang' on the bilateral agenda, Brussels has been announcing for more than 2 years.<sup>16</sup> However, apart from reading on the official record that the PCA will take EU-China relations to the 'next level', there is very little information available how bilateral relations will change in scope and quality once the PCA gets adopted.

<sup>16</sup> There is yet fairly limited information available on the new envisioned partnership agreement other than announcing that the new agreement will take EU-China relations to (a yet to be defined) 'new level'; for some limited information see [http://ec.europa.eu/external\\_relations/china/dialogue\\_en.htm](http://ec.europa.eu/external_relations/china/dialogue_en.htm).

Admittedly, as shown above the EU and China are already co-operating actively in all thinkable policy areas and sectors indicating that the PCA might simply be the replacement of the existing bilateral co-operation agreement dating back to 1985<sup>17</sup>.

However, it is very unlikely that China will be willing to sign the envisioned agreement before the lifting of the EU weapons embargo which Beijing considers the kind of 'political discrimination' not worthy of 'strategic partners'<sup>18</sup>. Brussels' policymakers are well aware of the Chinese strategy to link the lifting of the embargo to the signing of the PCA, but chooses not to make that connection on the official record just yet.

### Conclusions

The EU is attaching great importance to the expansion of relations with Beijing and the intensification of institutional relations in recent years is indeed impressive.

The EU-China partnership have come a long way on recent years although it is also becoming increasingly clear that political rhetoric on what Brussels and Beijing are able and willing to jointly achieve and implement in international politics is very unlikely to catch up with political reality any time soon.

As shown, this is above all due to the fundamentally dif-

<sup>17</sup> See also A. BERKOFKY, *The Great Brussels-Beijing Disconnect*, in «The Asia Times», July 8, 2008.

<sup>18</sup> Numerous conversations between this author and Chinese officials and scholars confirm this.

ferent approaches towards and priorities of respective regional global foreign, foreign economic and security policies in Brussels and Beijing. Consequently, tangible EU-China cooperation in international politics will continue to remain the exception as opposed to the rule, even if the official rhetoric in Brussels and Beijing might at times suggest otherwise.

As regards bilateral trade and investment relations, issues such as the enforcement of intellectual property rights and Chinese trademark and copyright infringements will remain an EU priority in the years ahead. To be sure, with every passing month without visible progress, Beijing's on paper promises to enforce intellectual property rights and respect of European copyrights will increasingly sound as empty ones. Despite the problems and the slow progress the EU is well advised to continue assist China in enforcing its rules and regulations related to intellectual property rights.

Furthermore, EU and EU Member States' policymakers should continue actively encouraging and promoting more Chinese Foreign Direct Investment (FDI) as one means to reduce the rapidly growing trade deficit in China's favor. Some EU Member States (above all the UK and Germany) have set an example in this context in recent years having attracted a growing number of Chinese investors.

Market access obstacles in China remain a major concern for Brussels' policymakers who are intend to make full use of the recently estab-

lished EU-China High Level Economic and Trade Dialogue Mechanism (HLM) to continue to abolish obstacles and tariffs in non-compliance with WTO rules and regulations.

As far as human rights, freedom of speech expression and press as well as the rule of law in China are concerned, the EU should continue to urge China to make visible and measurable progress in all these areas even if Beijing will continue to insist that human rights and freedom of press are strictly 'internal' Chinese affairs.

The above mentioned assistance programs towards China are a crucial part of the EU's policies towards China and assistance should be intensified and expanded in the years to help China achieve more balanced and sustainable economic growth in the years ahead. Furthermore European know-how and technology enabling China to reduce environmental pollution should be made available to China beyond the current level.

Last but not least policy coordination between the EU Commission and the EU Council must be improved dramatically to make sure the EU will one day be beginning to speak with 'one voice' when talking to Beijing. China' cancellation of the EU-China Summit is without a doubt a setback to the EU-China working relationship. Realistically, however, canceling a summit is not an event 'dramatic' enough to question everything that was achieved between Brussels and Beijing in recent years.

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