An update on China's Ambitious Belt and Road Initiative

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1. Introduction

In 2012, the Russian President, Vladimir Putin, made a proposition to Germany about creating "a friendly economic community which would stretch from Lisbon to Vladivostok." The idea was to create a "unified continental market potentially worth trillions of dollars." While it seemed appealing to businesses at the time, the strategy was shelved due to events in Ukraine.

However, in 2013 China's President, Xi Jinping, reactivated President Putin's idea and proposed an even more ambitious "New Silk Road" strategy, entitled the "One Belt, One Road" (OBOR). This would be aimed at forging closer economic ties, deepening cooperation and expanding development in the Eurasian region and then linking Europe and Asia-Pacific through a network of motorways, high-speed rail lines, pipelines, ports and fibre-optics. China claimed that this would benefit around two-thirds of the world's economies.

The key difference to President Putin's original plan was that the Chinese proposal came with a commitment to provide massive financial backing, channelled through a new 'Silk Road Fund'. This was partly facilitated by the emergence of China's Yuan as one of the most attractive currencies for emerging countries' central banks.

2. Development

Following announcements by President Xi, the Central Committee of the Communist Party of China quickly drew up plans for the OBOR, which included the setting up of a coalition of financial institutions to help fund and build the necessary infrastructure. The alliance included the China Development Bank, the Asian Infrastructure Investment Bank (AIIB), the BRICS's (Brazil, Russia, India, China and South Africa) New Development Bank (NDB) and the Export Import Bank of China. As a result, more than 1,000 OBOR projects in 49 countries were funded, in quick time.

At a subsequent G20 meeting, President Xi explained how OBOR would be key to China's vision on how globalisation should develop. He explained he was confident that most countries across Europe and Asia would buy-in and profit from the project, rather than be involved in a 'lose-lose' battle.

What was also interesting, at the time, was that attendees of the same meeting commended the creation of a modern Eurasian integration plan, between Russia, China, Japan and South Korea. This would virtually result in a Russian-influenced Eurasia Economic Union. With this would come new Silk Roads between China and Europe, including the expansion of a high-speed Tran-Siberian railway, which would in effect create a modern Siberian Silk Road.

3. The Belt and Road Initiative

Since it's inception, in 2013, China's OBOR Strategy has been continually re-evaluated and adapted and in 2016, it was renamed as the "Belt and Road Initiative". This is an abbreviated term for the "Silk Road Economic Belt and 21st Century Maritime Silk Road. Key reasons for this were that China was concerned that the word "One" could be misinterpreted and that the word "strategy" had created undue suspicions about the overall purpose of the project.

The objectives of the Belt and Road Initiative (BRI) were set out in a strategy aimed at building a unified international market, which would bring domestic markets together. This would aim to ensure that better capital flows, shared talent and technology developments would be in place for the benefit of more than 68 countries. As a result, this has been considered, by many, to be one of the largest and most extensive investment projects in history, aimed at driving economic growth from Asia Pacific, through Africa, Central, Eastern and Western Europe. The projected cost will be over $1.3 trillion by 2027.

By 2019, the Chinese plan had already expanded to improve land travel and infrastructure, across almost 60 countries, on a route that closely matched the ancient Silk Road, between Asia and Europe. In reality China has now made much more practical progress than first imagined and by March 2020, 125 countries and 29 international organisations had signed 173 co-operation agreements, under the initiative framework.

BRI also has five clearer co-operation priorities to:

- coordinate policy,
- facilitate greater transnational connectivity,
- develop unimpeded trade,
- create greater financial integration and
- build stronger cultural bonds

The individual projects being developed and progressed to make this happen already include transport, construction and industrial infrastructure. On the latter aim, China has also commenced a project to develop ultra-high voltage electricity grids across China, North, South, East, Central and West Asia.

4. Transport

A key feature of BRI is of course transportation to connect and facilitate trade.

The original plan was to create three main routes:

- A northern corridor from Beijing to Helsinki
- A central corridor from Shanghai and Lianyungang to Paris and London
- A southern corridor from Guangzhou and the Port of Fangcheng to Karachi (to a newly developed deep-water port at Gwadar)

However, the plan has now been extended and today, it covers a:

- Eurasian land bridge – from Western China to Western Russia, Belarus, Poland and Germany, via Kazakhstan
- China, Mongolia, East Russia corridor
- China, Central Asia corridor from West China to Turkey
- China, Indo-China Peninsula from Souj China to Singapore
- China-Pakistan Economic corridor, which aims to modernise Pakistan's transport networks, including its economy and energy capacity

The new rail and road system will be further bolstered by both commercial and economic developments. These will see the introduction of trade agreements and transnational, pre-arrangements to ensure such agreements and trade dealings are managed in an acceptable manner and then governed correctly.

However, it should be remembered that BRI also includes a sea route, more commonly known as the "Maritime Silk Road". This links the South China Sea, the South Pacific Ocean and the Indian Ocean.

At an international conference on the "Development of the Shelf of Russia", China and Russia also agreed to extend the plans for maritime routes, by development of a Northern (Arctic) Sea Route ("the Ice Silk Road"). A key reason for this was that both countries were looking to cooperate on oil and gas exploration projects, scientific expeditions and greater opportunities for tourism.

The following map, compiled by the Union Des Fabrcant (Unifab), clearly shows the complexity of the Belt and Road transport routes, across the world.

http://umap.openstreetmap.fr/fr/map/unifab-one-belt-one-road-initiative-2020_433302#6/62.709/93.461

5. Belt and Road Routes and Terminals

Both the Belt and Road routes will now aim to connect all of the above mentioned corridors at different points along their courses. It should also be noted that many of the countries along the routes will be existing members of the Asian Infrastructure Investment Bank (AIIB), which is directed by China.

The "21st century Road" route will start in the ports of Fuzhou, Quanzhou, Guangzhou, Bethal and Haikou, in China. It will then connect with Singapore, Kuala Lumpur, Sri Lanka, Maldives, Seychelles and Africa (i.e. Tanzania through, Djibouti to Egypt), through the Suez Canal to Italy. On this, a meeting between China's President, Xi Jinping and Italy's Premier, Paolo Gentiloni, further established this strategy, by confirming that the ports of Trieste and Genoa would become key arrival points. This decision was made due to very effective connections between these two ports and other European rail and road corridors.

Moreover, China also invested in the development of the new Vado Ligure terminal. This was Italy's first semi-automated port, for which the original contract was awarded to the Netherlands based "APM Terminals" (part of the Maersk conglomerate). However, in 2016 APM Terminals transferred 40% of its shares to Cosco Shipping and then a further 10% to Qingdao Port International. Both are Chinese companies, which will also manage the nearby, Reefer Terminal (the most important terminal for fruit in the Mediterranean), for a period of 50 years.

All of these investments have led the US and some countries in Europe to be concerned that Italy could fall into a debt dependency situation and if this expanded it could threaten the sovereignty of Europe. However, the President of the Genoa Port authority does not believe this to be the case.

Other concerns are that China is increasing its overall sea trade capacity (by increasing maritime traffic, through the Suez Canal), which could present a huge threat to Western businesses in terms of counterfeiting, if illicit trade networks ship products to ports which are not governed effectively. Concerns about this have been continually raised by the US administration and the Ukraine Alliance Against Counterfeiting and Piracy (UAACP), which has reported that the Odessa port is increasingly being used by Chinese exporters to move containers of fake goods into Western Europe.

6. Other Challenges and Concerns

6.1. Rail Routes

Alongside its maritime plans, China is investing heavily in other transport systems, including railways.

Developments include:

The 142km Jakarta-Bandung, joint venture, to build a high-speed railway, connecting Jakarta and Bandung. This is the first line outside China, built to its high-speed railway standards and technologies and will be capable of transporting passengers and goods, between Jakarta and Bandung, in 45 minutes.

Ongoing work to connect South Croatia with the rest of the country, through a 2.4-kilometre bridge carrying a 4-lane expressway, is projected to open in 2022. Moreover, an Abuja-Kaduna line, started commercial operations in 2016 and was the first standard gauge railway in West Africa. This has already carried over a million passengers.

A $4 billion Ethiopia-Djibouti railway has been the first electric line in East Africa covering 750km and commenced operations in 2018. The line has reduced travel time from the port at Djibouti to Addis Ababa from three days to 12 hours. In this case the intention is to hand the line over to Ethiopia-Djibouti railway within five years.

In Bangladesh a 10 kilometre, 23 metre wide bridge cost over $1.5 billion and will shorten travel time between Dhaka and Khulna from 13 to 3 hours, while the 414-km China-Laos rail line running from Boten, in Yunnan, to Vientiane, the capital of Laos, is due to open in 2021. This will cost $7 billion and cover 400 kilometres and could be extended through Thailand, Malaysia to Singapore.

In Western Asia, in 2011, a rail link was created between China to Tehran and the network was further extended, in 2018, when a line was completed between China and Vietnam.

6.2. China – EU Rail Routes

In reality, the development of freight train services between China and Europe actually began earlier than many of the above projects. But in 2011, the network was enlarged to cover 48 Chinese cities, aimed at facilitating the exchange of goods with 42 European destinations. The 10,000th trip was completed on 26 August 2018 with the arrival of freight train X8044 in Wuhan, from Hamburg, Germany. The network was extended south to Vietnam, in March 2018.

In January 2017, came the first test of a central route to the UK, when a freight train, carrying 34 containers of small commodities, such as clothing, fabric and bags, left Zhejiang province and arrived at the city of Yiwu in eastern China in 18 days. It eventually took a total of two-and-a-half weeks to get to London, travelling through Kazakhstan, Russia, Belarus, Poland, Germany, Belgium and France.

The train also passed through Kyrgyzstan, Turkmenistan, Turkey and Iran and the latter has been said to have become a driving force of new businesses.

However, in reality, freight train trade is five times more costly than maritime cargo and currently, it only accounts for around 2% of trade volumes. Therefore, the aim is to create, at least, two maritime routes to further strengthen trade links between Asia, Russia and Europe.

6.2.1. Practical Rail Developments and Issues

As at March 2020, it is still necessary to change trains when consignments of goods enter Poland from members of the Eurasian Union, and before they travel between China and countries such as Kazakhstan.

In contrast, actual customs procedures have become, almost, universally standardised, at least amongst signatories to the Smart and Secure Trade Lanes (SSTL) pilot project.

6.2.2. SAFE Framework of Standards and the Smart and Secure Trade Lanes Project

In 2005, the SAFE Framework of Standards ("FoS") to Secure and Facilitate Global Trade was adopted by the World Customs Organisation ("WCO").

FoS is a non-binding instrument that covers supply chain security and the facilitation of standards for goods being traded internationally. This fosters integrated supply chain management for all modes of transport and strengthens networking arrangements between national customs administrations to improve their capability to detect high-risk consignments. It also promotes cooperation between customs authorities and the business community through the Authorised Economic Operators (See Annex 1 "AEOs"). In brief the concept supports the seamless movement of goods through secure international trade supply chains.

In relation to business partners, the project focuses on granting tangible benefits to participating companies, in particular AEOs. To this end, consignments within the SSTL would be subject to new and innovative Customs controls, which allow consignments to flow with no, or least possible, Customs interventions.

Briefly, the SSTL project is about minimizing administrative burdens in respect of international supply chains by introducing an end to end control mechanism, based on the one-time submission of quality data.

The SSTL control method allows for some random checking, but in general it results in the immediate release of all consignments to the country of destination. In this sense, SSTL contributes to the reduction of lead times, thereby enhancing trade flows and facilitating speedier delivery times for international business partners. However, this brings inherent risks, which are discussed later.

In 2006, the EU–China SSTL was launched. This pilot project set out to test the specific safety and security related recommendations of FoS for container traffic.

6.3. SSTL Developments

In 2016 a Joint Administrative Arrangement for a SSTL Pilot was signed at the WCO. The signatories included China, Hong Kong, the Directorate General for Taxation and Customs Union (DG TAXUD of the European Commission) and Customs administrations from 15 EU member states (Belgium, Czech Republic, France, Germany, Greece, Hungary, Italy, Lithuania, the Netherlands, Poland, Portugal, Romania, the Slovak Republic, Spain and the United Kingdom).

This "pilot" was considered to be a milestone development, as the scope of operations was extended from maritime transport to air travel and rail. It also brought in trial trade routes, which would offer quicker logistical processes for traders and more predictability in terms of the availability of goods for the end consumers.

Once Poland joined SSTL, it was no longer necessary to have a secondary EU Customs clearance process for most goods entering the country from China, or vice versa, because export data would be in a prescribed format and forwarded in advance to relevant Customs administration of the country to which a consignment of goods would be shipped.

This data could also be shared with other Customs administrations involved in the control of consignments. Moreover, there would be joint risk management rules and processes, which would result in one-off Customs controls.

In effect, if physical inspections would be needed, they would occur early in the logistical process; preferably at the time when containers are loaded. This would take place at either the exporter's premises or at any other secure location. Mutual recognition would ensure that controls would not need to be repeated in the destination country. Finally, reciprocal recognition of AEOs would reduce the time required for Customs clearance and would minimise any logistical follow ups, in the country of destination.

6.4. Rail Gauge Structures - Traffic to Europe from China and Eurasia

Poland is the gateway to western Europe for China and there are two major Customs check points along the way, one at Kazakhstan and the other between Belarus and Poland.

The railway track gauges used by China are broad, standard and narrow. "Standard" gauge is the Western European gauge of 1.435mm and is used for all high-speed rail lines across the world. However, Russia, and some ex-soviet bloc countries, generally use the "broad" gauge track (this includes Kazakhstan and Belarus). This means that when freight trains cross in or out of China, at some ex-Soviet state borders, containers need to be transferred to different trains. This laborious process needs to take place before trains enter Europe, via Kazakhstan or Belarus to Poland (i.e. at Siemianówka on the border).

In January 2018, the General Administration of Customs of China (GACC) issued the Belt and Road Customs Clearance Co-operation Action Plan (2018-2020). This Action Plan aimed to strengthen the establishment of the BRI customs liaison system with surrounding countries. It also supports a comprehensive BRI test area and cross-border economic cooperation zone.

GACC actively stimulated an Authorised Economic Operator (AEO) consultation exercise with the BRI countries and is aiming to complete a mutual recognition agreement with countries that are willing to cooperate with China, in an AEO certification program, before the end of 2020.

By the end of 2018, the China Railway Express to Europe had connected 108 cities in 16 countries in Asia and Europe. A total of 13,000 trains had carried more than 1.1 million TEUs (twenty-foot equivalent units/containers). However, as China has signed and adopted more convenient and efficient customs clearance procedures, the average inspection rates and customs clearance turnover times have both decreased by 50 percent.

At the time of writing, China has now signed the most AEO agreements in the world (42) and 18 are with BRI countries and regions, including, Russia, Kazakhstan and Belarus, but there is no information to confirm whether Poland is among them.

6.5. Free Trade Zones

Free Trade Zones (FTZ) have been a constant concern for Western rights holders for many years. In 2019. the Organisation for Economic Co-operation and Development (OECD) and the EU Intellectual Property Office (EUIPO), reported that the rapid growth and use of FTZ's is driven by reduced taxes, indifferent customs controls, light regulation and limited oversight. As a result, this has unintentionally fostered a rise in the trafficking of counterfeit goods.

It is no surprise then that there are growing concerns about the duty-free Trans-Eurasia railway, which is already in place and the fact that China and Kazakhstan are now developing a FTZ at Horgos. Horgos is on the Chinese side of the China / Kazakhstan border and has recently emerged as the first 'new city' of the New Silk Road. Moreover, as Kazakhstan is already a member of the Eurasian Economic Union (EEU) and trade between it and Uzbekistan is growing hugely every year, some rights holders have additional unease.

Finally, as part of the overall strategy to bring countries in central Asia closer together, discussions between Russia, Iran and members of the EEU have started on the creation of more FTZs.

6.6. Concerns about China's Economical Aims

As the Belt and Road initiative expands, so have some wider political concerns. Fears exist that China has been developing a wide-ranging, economic, enlargement strategy. Furthermore, western governments have held the view that BRI could become an instrument to allow China to gain economic, political and cultural leverage, control and influence over smaller and poorer countries.

In particular, there have been allegations that BRI is a "neo-colonial" project, based on a "debt trap" strategy. For example, if the financing of massive infrastructure developments involve federal loans or guarantees then, in some cases, these might not be sustainable. Therefore, BRI could bring risks and vulnerabilities for national economies. In many cases China would become the primary creditor. As a result, debts would be tied to China's banking system, where there may not be practical experience in dealing with debt liabilities related to national economies.

What adds to the above concerns is that there are systemic debt issues in many of the countries and regions within BRI and should a liability problem occur then other crucial public investments might be prevented. This could seriously hinder some countries' wider economic growth.

As an example of anxieties that can arise, the Malaysian Prime Minister Mahathir Mohamad cancelled China-funded projects, warning of "a new version of colonialism ". These cautions were later withdrawn. However, Government officials in India have also objected to BRI, specifically referring to the "China–Pakistan Economic Corridor" which, it claims, is disregarding New Delhi's rights of sovereignty and territory. Despite this, China is now one of the fastest-growing sources of Foreign Direct Investment (FDI) into India according to India's official FDI ranking system.[1]

Nevertheless, it is understandable why, some countries favour BRI investment. A study by the Asian Development Bank provides a background, when it assessed that $26 trillion would be needed for investment in Asia between 2016 and 2030, to ensure economic growth, overcome poverty and deal with climate change. Furthermore, while China may be using BRI to address excess capacity in its own industrial sectors, its claim is that whole production works and facilities would eventually be transferred out of China, into BRI countries This would provide stimulus and improved skills to help build vital structures for public services.

China has directly, responded to negative claims, maintaining that many adverse assertions are intended to create mistrust about the true aims of BRI, which in fact are aimed at creating improvements in capital flows, shared talent, cultural understanding, employment, better industrialisation, and increased technology developments and transfer. China adds that, in reality, developing infrastructure ties with neighbouring countries can actually reduce physical and regulatory barriers to trade.

In Europe, 18 countries agree and are already dealing with China as part of BRI. Italy was the first member of a European group of seven countries to join BRI, to foster investment in sectors in transport, logistics and ports. In fact, Guiseppe Conte, the Italian Prime Minister strengthened his trust in dealing with China, when he stated that "Cooperation is bigger than competition between China and Europe". It should also be remembered that many of these European countries are still suffering the effects of the 2008 economic crisis and therefore, they contend that BRI creates new and innovative opportunities. In 2019, Luxembourg and Switzerland also agreed and Poland's President went further by saying that "Polish companies would benefit hugely" from BRI.

6.7. Concerns about China's Political Aims

Political concerns about BRI are wide. In 2016, Japan, India and Australia partnered to create an alternative to BRI, through their "Blue Dot Network". Little was actually known about the initiative, except that it focused on the security of the Pacific Ocean and ensuring free trade in the region. Last year the US joined the alliance, which led to the "Free and Open Indo-Pacific strategy" (FOIP) covering three components: security, economics, and governance. The plan is backed by billions of

[1] A more visible reaction to BRI was in Sri Lanka, where conflict between people and police materialised over a specific zone within the Hambantota port.

dollars in loans and credit-enhancement mechanisms to encourage "private investment in regional infrastructure assets".

Moreover, South Korea has largely ignored China’s offers and has favoured attempts to create an alternative new Silk Road project through an, East-West, "Eurasia Initiative" (EAI). Korea has pursued a plan to foster more economic, political, and social relations with Europe. In fact President, Moon Jae-In, has announced a foreign policy, which seeks to strengthen relations with smaller powers in Southeast Asia and North Korea.

Clearly though, Europe is at odds on China’s political intent, with Italy stating that there is "nothing to worry about", but with France and Germany less enthusiastic, fearing that China can take advantage of a divide.

On this unity issue, there is a feeling that this could be weakened as a result of China’s increased political power in certain EU countries, where these have comparatively high debt. The EU position could also be further affected on the world “trade stage”, where China’s companies have become extremely successful. For example, the success of China’s digital companies is clearly challenging EU companies, which are competing against state owned companies, that are highly subsidised.

There is clear disagreement across European countries, but in response, China has stated that BRI will benefit every country within the initiative with many feeling that BRI will destabilise European standards and oppose the EU’s agenda for more open trade. As a result, the EU has asked for China to "respect the EU’s aspirations and the values it carries in the world". It has also stressed that the “silk road” should be a two-way programme and that European companies must gain "the same degree of openness in the Chinese market that Chinese businesses find in Europe." Germany has shown its apprehension by restricting the purchase of shares in German companies by Chinese businesses, based on national security concerns

Finally, China plans to set up international courts, in Shenzhen and Xi’an, to resolve commercial disputes related to BRI. In this, there are growing worries that this could establish institutions which would further favour Chinese interests to the extent that they could be used to become an instrument for China to write new rules. Unsurprisingly, all this is particularly alarming for rights holders, as the independence of China’s judicial system traditionally responds to the ruling Communist Party. Rights holders, therefore, have genuine fears that these courts would favour Chinese businesses.

6.8. Ecological Concerns

Environmental and ecosystem, related, issues are also topics that have arisen as platforms for concerns for countries in Europe and beyond.

Those most concerned have cited examples such as hydropower projects along the Mekong River, spanning Cambodia, Myanmar, Thailand and Vietnam. These have been said to have already affected river flows and fish populations, causing distress and damage to local communities, which rely on rivers for their livelihoods.

In addition, there have been reports of deforestation in areas such as the Pan Borneo Highway across Malaysia, Indonesia and Brunei, which has led to landslides and floods. Furthermore, the building of coal-fired power stations and other infrastructure projects have been reported as leading to excess greenhouse gas emissions, negative impacts on endangered species and soil erosion, due to over-grazing and over-farming. Reports of poor water management plus air and water pollution have all caused added concerns.

It is no surprise therefore, that many feel that BRI and poorly planned infrastructure projects need to be more closely monitored, and that tangible plans need to be in place to cover:

- mining developments
- moving energy production away from coal to renewable alternatives
- reducing contributions to climate change, as a result of large infrastructure projects
- promoting sustainable land use and greater fuel efficiency when shortening travel times and distances
- protecting the biodiversity of project areas
- calculating and including any ecological affects in plans for infrastructure projects so that traditional lifestyles, "local ethnic and indigenous groups" are negligibly affected

6.9. Intellectual Property (IP) and Counterfeiting

6.9.1. BRI and IP

What has become clear is that China is now more aware of the need for an effective IP system. As far back as 2008, it introduced a National Intellectual Property Strategy to improve its protection and administration of IP rights.

There have been major improvements in the Chinese IP system. However, criminal counterfeiting, has resulted in China and Hong Kong being the primary sources of a global crimewave. This is a universally recognised issue has been established in the 2019 OECD – EUIPO study and in the annual United States Trade Representative Special 301 process, which has resulted in China being subject to heightened scrutiny.

These may have led to greater clarity about BRI projects and more interest has also grown about infrastructure developments and trade relations. However, there is still less tangible scrutiny or assessment about how this huge initiative will affect IP across the world.

In truth, there have been some attempts to raise awareness on IP and BRI. For example, in 2016, a joint China-WIPO event for countries along the 'Belt and Road' transport system was held in Beijing. There, China called on countries to 'work together to prioritise IP as a system to promote innovation and to share the benefits of innovation.' The view was that BRI could provide real assistance in four key IP related areas, including:

- cooperation in IP-related services
- the harmonisation of IP rules,
- closer interoperability of databases, and
- joint training.

Following this, in 2017, China and WIPO joined an Agreement on Enhancing 'Belt and Road' Intellectual Property Cooperation. Further agreements, to cooperate, on IP education, publicity, training and information exchange, were signed with countries such as Vietnam, Laos, Philippines, Bangladesh, Kyrgyzstan, Kazakhstan, Armenia, Albania, Bulgaria, Latvia, Lithuania and Egypt.

Unfortunately, many observers still feel that there has been a serious lack of solid IP policy direction in terms of BRI.

6.9.2. Counterfeiting and China

In March 2019, the OECD and the European Intellectual Property Office (EUIPO) published the report mentioned earlier, on the Global Trade in counterfeit and pirated goods.

Their study concluded that the trade had grown steadily, despite a stagnation in legitimate trade. At the time, it was reported that counterfeiting and piracy had reached over 3% of global trade. This put the worldwide value of imported fake goods at $509 billion and for the EU alone, the counterfeit trade represented almost 7% of import.

83% of fakes were found to originate in mainland China and Hong Kong. With other major points of origin being the United Arab Emirates, Turkey, Singapore, Thailand and India. The countries most affected proved to be the United States, France, Switzerland, Italy, Germany, Japan, Korea and the United Kingdom, but unfortunately, a growing number of countries such as Singapore and Brazil had also become targets.

This has been particularly worrying for businesses based in Europe as the European Commission estimates that the EU will be the destination for at least a third of Chinese exports, making it the main trading partner with estimates of more than $600 billion of trade a year. This figure is forecast to reach $1 trillion during 2020.

The report also identified important transit points for the trade in counterfeits, including Singapore, the United Arab Emirates, Saudi Arabia and several other

Middle East economies including Yemen. Other significant transit points exist in Africa, Albania, Egypt, Morocco and Ukraine.

Fake goods arrive in huge quantities, from China, in maritime containers and are then sent on as small parcels by post or express courier services. This method has become a primary and growing conduit for counterfeit goods with small parcels accounting for 69% of total customs actions.

The OECD-EUIPO study also concludes that there are a number of visible factors that determine why certain countries have a propensity to become active in trading counterfeit goods. These include:

- Governance: where high levels of corruption and poor IP protection systems exist

- The existence of Free Trade Zones (FTZs) which offer a relatively safe environment for counterfeiters, such as a suitable infrastructure and limited oversight. Unfortunately, economies hosting 20 of the biggest FTZs prove this point, as the vulnerability to counterfeiting is twice as large as economies that do not host any FTZs. In this respect the existence, number and size of FTZs in a country correlate directly with increases in the value of counterfeit and pirated products exported by that country's economy.

- Associated production facilities are also an issue. Low labour costs and poor labour market regulations are important drivers of trade in counterfeit and pirated goods.

- Logistical capacities and facilities also play a part, including countries that have low shipping charges, fast, simple and predictable customs formalities and good quality trade and transport related infrastructure (e.g. ports, railroads, roads and information technology).

- Finally, countries which have corrupt economies, gaps in governance, and gaps in intellectual property rights enforcement, are crucial factors; multiplying the effects of FTZs, logistical facilities or poor trade facilitation policies.

6.9.3. Counterfeiting and the potential impact on BRI

China has clearly concluded that production is no longer a 'one-way street' and that manufacturing costs can often be lower in other South East Asian, Central Asian and African countries.

As we know, counterfeiters are nimble and are always exploring new opportunities to cut costs and heighten profits. They too will have recognised the possibilities of using a new and highly energised silk road. An integrated, fast, transport system, which joins together rail stops and sea ports with new and vulnerable production countries, would merge their aims to lower costs and offer new, promising and profitable openings for exploitation.

More FTZs along the way add to the attraction.

The effect combines the lowering of manufacturing costs and speed of transport along BRI routes, to give criminal counterfeiters even more opportunity and closer proximity to lucrative European markets.

6.10. UK and EU IP Enforcement Cooperation on BRI and following BREXIT

The first BRI train from China to London brought only 34 containers and although a regular service could eventually reduce the volume and cost of air cargo, rail freight will always be hugely less than the loads carried by large ships, which can convey over 10,000 containers at any one time. Nevertheless, rail traffic is far quicker than sea and could be more suitable for ferrying some lucrative but 'limited life' products, such as pharmaceuticals and foodstuffs.

In relation to customs checks, we also know that the first BRI train was not halted in the EU before arriving in the UK. Moreover, rights holders are now fearful about whether there will be any cooperation and intelligence sharing once the UK leaves the EU.

In this, the following operational concerns have been raised by UK and EU rights holders:

- Limited customs control capacity at ports, free zones and rail stops
- A lack of control, expertise and will in many SE Asia, Central Asia and Eastern European countries
- Limited access to shipping information (only dangerous shipments are declared in advance)
- Railway information management systems have not been developed as they have in the maritime sector
- The activities of organised crime:
  - infiltrating potential rail database information management systems
  - exploiting and potentially corrupting staff in rail and other logistic companies
  - developing new, innovative, concealment techniques and using them for rail travel.

Another major concern for rights holders is that when the UK exits the EU, China could be one of the first bi-lateral trade agreements that the UK achieves. With BRI on the horizon, there are both opportunities and threats. UK and EU partners need to be aware of the possible impacts on IP systems. Agreements with China can bring political and economic unrest if counterfeiting and piracy were seen to rise.

There is a growing view that policy-makers and enforcement decision-takers are still too unaware of the potential damage that counterfeiting and piracy can do to business, our economies, jobs, revenue and public safety. If more fakes are shipped through the advancement of BRI the impact could become critical.

So, if UK or EU partners fail to ensure that BRI does not facilitate a rise in fake goods, reaching our communities, this will have an international effect on our trade and reputation. To this end, effective precautions, laws and enforcement will be vital in safeguarding our safety, prosperity, creativity, innovation and culture.

Rights holders have strong concerns that the BRI development would be abused by counterfeiters and that current customs resources are too diminished to carry out more regular and rigorous checks, against a backdrop of competing priorities.

In addition, post Brexit cooperation between EU and UK customs authorities brings further uncertainties.

The overall intention on both sides of the UK-EU negotiations is to remain close and the UK is much valued in terms of law enforcement cooperation. But, the UK Government's "future partnership paper" contained little detail. This means that, at present, business can see no obvious "custom-made" plan.

One of the key concerns for brand/rights owners in the area of IP enforcement is intelligence sharing through existing and future EU wide databases. From industry discussions with EU officials there is very little or even no legal infrastructure to allow non-member states to gain access to some of the key enforcement related system and unless some formal agreement can be found, the UK will be cut off.

Finally, EU Border Regulation 608/2013 will need to be replaced in the UK. This currently covers all aspects of IP infringing goods entering the EU. The intention appears to be to operate under this regulation, until a suitable alternative can be implemented. However, rights owners are concerned as there has been little information or consultation on a revised version. A mistake here could affect both civil and criminal laws.

On a related concern, there is a high expectation in the UK that all consumer products must continue to be safe. This responsibility is placed on manufacturers/producers but is safeguarded in both UK civil and criminal law.

Being in the EU means that EU manufacturers must ensure that their products meet EU safety standards before they are placed in the EU market. Leaving the EU raises questions about the future of the UK domestic product safety regime. It has also created uncertainty for businesses and has raised concerns about potential risks for UK consumers if current "high levels" of EU product safety rules will not be adhered to. The UK government's white paper states that the UK intends to maintain "its robust programme of risk-based market surveillance to ensure that dangerous products do not reach consumers". But there has been no more detail. As a result, the worry is that the UK product safety framework will be under further threat.

7. Summary

To prevent the continuous growth of counterfeiting and piracy there is an urgent need for a joint public-private sector, long-term, policy in preparation for the continual development of the BRI strategy. Rights holders believe that this is vital.

As we have already seen, in the UK, Brexit was a difficult road and ensuring continued, high levels of enforcement cooperation is a genuine concern in industry. Once the UK withdraws from the EU it could effectively become a third country in EU eyes and would be unlikely to have direct access to many key databases. Rob Wainwright, the former head of Europol has said, "this can be an impediment to the speed and quality of service in exchanging of information."

Nevertheless, the UK has a strong history in terms of our alignment with EU enforcement, prosecution and judicial structures. The UK also has a very strong past in cooperation and collaboration with enforcement related agencies such as Europol and EUIPO and with individual Member States. Furthermore, both the EU and the UK face the same dangers in terms of serious and organised crime.

The hope is that both sides of the negotiation will be responsible about ensuring our joint safety and security. Meanwhile, the Anti-Counterfeiting Group (ACG) and our partner associations across the EU and further afield will continue to do their bit to preserve relations and build levels of communication and co-ordination, so that business and consumers across the world will be protected.

In the short term, we must try to ensure that cooperation and information sharing between EU and UK customs authorities continues and is further developed to tackle any wider threats.

Without the existence of agreed standards and regulations for IP, there could be major, detriment to international trade. We must ensure that we strengthen and harmonise our IP systems to handle any threats. In this way we are better able to ensure that the BRI brings tangible benefits without the baggage of international organised crime.

ANNEX 1

Authorized Economic Operators ("AEOs")

Establishing the role of an AEO is an important aspect of SSTL. AEOs include "manufacturers, importers, exporters, brokers, carriers, consolidators, intermediaries, ports, airports, terminal operators, integrated operators, warehouses and distributors". A key element in strengthening end-to-end security of supply chains to multiply benefits for traders is the mutual recognition of AEOs functions.

In brief, AEOs are parties involved in the international movement of goods in whatever function approved by, or on behalf of, a national Customs administration. In turn, these functions must comply with WCO or equivalent supply chain security standards.

In mutually recognising AEOs, two customs administrations will agree to AEO authorisations issued by each other and to provide reciprocal benefits to their respective AEOs. Such benefits include the following core elements:

- Fewer security and safety related controls
- Recognition of business partners during the application process
- Priority treatment at customs clearance
- Business continuity mechanism

The EU and China entered into a Reciprocal Recognition of AEOs Agreement, in May 2014. This took effect on 1 November 2015.

As at October 2019, there are about 3,100 Chinese AEOs (i.e. those approved by PRC Customs). Further details of AEOs in EU context can be found on the following website:-

https://ec.europa.eu/taxation_customs/general-information-customs/customs-security/authorised-economic-operator-aeo/authorised-economic-operator-aeo_en

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