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The Dragon's grip: Chinese presence in ports along the Belt and Road

The case of the port of Trieste

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序言

“要想富先修路”。人们可以用这句中国谚语三言两语解释中国在过去三十年中令人目眩的经济增长。事实上，凯恩斯主义观念的同化，导致中国政府当局动用大量公共投资建设公路、公路、铁路和大型基础设施，以提高国内生产总值，自上世纪 80 年代末以来，中国经济一直在稳步增长。但北京的战略肯定没有停留在国家层面的举措上，因为 2013 年，中国政府为世界历史上最大的经济发展项目之一提供了午餐，这一项目也被纳入了中国宪法，被称为“一带一路”。这一由中国主导的国际项目将于 2040 年完成，旨在将整个地球包裹在一个密集的基础设施网络中，使新丝绸之路上的贸易更快、更有效。

本论文拟从意大利港口体系的作用和北京对其的重视两个方面，分析意大利参与“一带一路”建设战略的全过程。

第一章专门介绍中国项目。一带一路大致可分为两条路径：海路和陆路。这两条主要路线产生了一系列小的分支，涉及几个国家，有时连接在一起，连接海上和陆地走廊。尽管这一重大项目的主要目的是促进中国与世界之间的贸易，但本节还将探讨发起这一倡议背后的其他原因，这些原因涉及地缘政治的、金融的和国家稳定的问题。弄清楚哪个金融机构正在使这个项目成为现实也将是至关重要的。

由于本文的目的是从海洋的角度分析一带一路项目，因此将有更多的空间用于深化这个中国倡议海事部分，被称为“二十一世纪海上丝绸之路”。

此外，本文还提到了国际海运。随着时间的推移，国际海运经历了许多变化，彻底改变了运输逻辑，中国将成为其中的绝对主角。

具体而言，本文将考虑从中国延伸至地中海中心的主要商业海运航线，重点介绍确保中国港口和物流运营商在这条航线的港口管理中占据优势的投资和收购。对中国来说，经营一个外国港口意味着什么？投资这个行业会有什么好处？这些都是本章将要回答的问题，本章还将考虑到中国港口公司在中东和北非国家（所谓“MENA”国家）的存在，特别是巴基斯坦、吉布提、埃及、以色列、土耳其、阿尔及利亚和摩洛哥港口的中国港口公司的存在。事实上，中国利用港口企业的业务优势，开始了向地中海和港口码头渗透的战略，以两种不同的方式进入市场：第一方式是通过定向投资，旨在收购港口基础设施的整体股份（如欧洲比雷埃夫斯港）、第二方式是通过收购某些港口码头管理公司（如收购苏伊士运河码头 20%的股份）

本章最后将简要提及欧盟对这一新举措的反应。欧盟机构内部的担忧很快被证明是多方面的。

中国与一些欧盟国家的亲和力、透明度不足、违反欧盟环境保护和产品质量条例的中国行为、中国融资模式不足，这些都是导致欧盟委员会提出中欧互联互通平台（Eu-China Connectivity Platform）备忘录的驱动因素。这些平台旨在改善一带一路与欧盟互联互通倡议之间的协同作用，并协调基础设施计划的实施。

第二章论述了意大利参与“一带一路”倡议，分为两个部分。第一部分重构了意大利与中国伙伴关系的整个过程。中国与意大利的“求爱”发生在 2019 年谅解备忘录签署前几年，两国签署了一份关于共同努力“一带一路”的正式合作协议。过去 10 年来，意大利政府接连上台，各自都为加强中意外交关系做出了贡献，使未来与这个亚洲国家在港口领域的谈判浮出水面。

出于历史延续性的考虑，但最重要的是由于意大利处于地中海中心和南欧心脏地带的战略地理位置，意大利及其港口体系为中国物流战略带来了附加值。因此，第二章将回顾依赖意大利港口体系的优势，强调其物流效率 and 专业化，以及其局限性。

此外，上述备忘录的签署使中国交通建设公司（CCCC）与意大利两个港口管理局达成了两项合作协议。这两个港口管理局正式称为“西利古里亚港口网络管理局”（Port System Authority of Western Ligurian Sea）和“东亚得里亚海港口网络管理局”（Port System Authority of Eastern Adriatic Sea）。本章的任务将是查明中国在与港口当局签署的其中一项协议中的利益，即关于热那亚港口系统的协议；以及中国中远公司进入瓦多利古尔港的码头管理。

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另一方面，本章第二节详细阐述了意大利有关港口系统的立法。本部分的主要目的是对港口协定签署后的批评作出全面回应。批评是针对向中国“出售”意大利港口的愿望，尽管我们将看到，意大利港口管理局的公共性质不允许这种可能性。1994 年第 84 号改革法生效后，意大利港口不再被简单地理解为属于国家财产的资产，而是将其活动委托给私人行为者的公共资产。

还将对港口网络管理局的作用进行调查。这局是一种公共行政机构，其任务是将国家控制与私人主动权的概念结合起来，以维护社区的利益。正是这些机构的性质，以及赋予其主席的角色和权力，对中国在意大利港口体系中的渗透战略产生了重大影响。

这些意大利港口立法的特殊性使中国无法采用在不同法律制度国家采用的相同做法。因此，

意中私营部门和公共部门之间的合作必须选择不仅完全符合意大利法律框架，而且也符合欧洲法律框架的合作。

第三章详述了与的里雅斯特港进入一带一路轨道有关的事件，我们将看到，这一进入从未正式发生过。在过去几年里，的里雅斯特港经历了一个新的繁荣时期，在其交通量大幅增长和从港口本身延伸出来的多式联运物流网络扩张之后，的里雅斯特港得以在国际舞台上重新定位。的里雅斯特港的优势很多，包括它的战略地理位置、深水区、密集的铁路网络、靠近中欧和东欧市场。但最重要的特色是它是一个自由港。自由港的好处主要有两个：过境自由和不征税。这意味着从任何其他国家抵达的里雅斯特港的货物完全免除关税和其他税收。不言而喻，所有这些优势将使的里雅斯特成为中国在新丝绸之路框架沿线与欧盟国家贸易的特权门户。

中国企业与的里雅斯特私营部门运营商的谈判始于 2016 年，随后东亚得里亚海港口网络管理局在机构层面举行了一次对话。此外，2019 年 3 月，在意中谅解备忘录签署仪式上，东亚得里亚海港口网络管理局总裁森娜·达古斯蒂诺通过签署合作协议，使与中交的合作关系正式化。达古斯蒂诺签署这一合作协议引发诸多争议。在对港口管理局工作提出的许多批评中，有人指称其总裁达戈斯蒂诺在与中国的 CCCC 进行谈判时非法。然而，事实表明，的里雅斯特港口管理局的行动严格遵循了欧盟为这种合作制定的体制框架。

本论文的目的在于分析所有这些方面，试图对发生的事情提供一个批判性和公正的看法。

最后，本文将讨论一家德国物流企业（所谓汉堡 HHLA 公司）收购的里雅斯特港新建物流平台运营公司的多数股权。值得注意的是，这一基础设施长期以来一直是中国物流企业梦寐以求的。

鉴于发生了什么，中国对该港口的投资是否只是被推迟，还是有逆转方向，将特里斯特和意大利从与龙的伙伴关系中带走？

Introduction

“If you want to get rich, build a road first”, 要想富先修路 (*yao xiang fu xian xiu lu*). One could use this proverb to explain in a few words the dizzying economic growth experienced by China over the last thirty years. As a matter of fact, the assimilation of Keynesian concepts has led the Chinese government authorities to resort to a massive dose of public investment to build roads, highways, railways and large infrastructure to boost GDP, which has been growing steadily since the late 1980s. But Beijing’s strategies have certainly not stopped at national level initiatives, as in 2013 Chinese government have launched one of the largest economic development projects in the world history, among other things included in the Chinese Constitution, called “One Belt One Road”, 一带一路 (*yi dai yi lu*). This China-led international project, due to be completed in 2040, aims to envelop the entire planet in a dense network of infrastructures that will make trade on the New Silk Road faster and more functional.

This paper proposes to analyse the whole story of Italy’s involvement in one of the two strategic plans regarding the Initiative, the one relating to infrastructure (which is called “Belt and Road Initiative”), with particular reference to the role of Italian port system and the attention that Beijing has paid to it. The first chapter is devoted exclusively to the presentation of the Chinese project. The Belt and Road can be roughly divided into two paths: the sea path, and the land path. From these two main routes arise a series of small offshoots, involving several countries and sometimes linking up together, joining sea and land corridors. Although the primary intention of this major project is to boost trade between China and the world, this section will also look at the other reasons behind the launch of the initiative, which relate to geopolitical, financial and national stability issues. It will also be crucial to shed light on which financial institution are making this project a reality.

As this paper aims to analyse the OBOR project from a maritime point of view, more space will be devoted to the deepening of the BRI maritime section, known as 21st Century Maritime Silk Road 二十一世纪海上丝绸之路 (*ershiyi shiji haishang sichou zhilu*). A mention will also be made of international maritime transport, which over time has undergone numerous changes that have revolutionised transport logics, in which China is set to become an absolute protagonist. Specifically, we will consider the main commercial maritime route stretching from China and leading to the heart of Mediterranean Sea, highlighting the investments and acquisitions that have ensured Chinese port and logistic operators a strong presence in harbours management along this lane. What does it mean for China to operate a foreign port, and what would be the benefits of investing in this sector? These are all questions that will be answered in this chapter, which will take into consideration Chinese presence in the ports of MENA (Middle East and North Africa) countries, and in particular those of Pakistan, Djibouti, Egypt, Israel, Turkey, Algeria and Morocco. The chapter will then close with a brief mention of the EU response to this new initiative.

The second chapter deals with Italy's involvement in the Belt and Road Initiative, and is divided into two sections.

The first section reconstructs the whole story of Italy's approach to the partnership with its Chinese counterpart. The Chinese “courtship” took place several years before the signing of the 2019 Memorandum of Understanding, with which the two countries signed a formal cooperation agreement

for joint efforts on the BRI. Italian governments coming in succession over the past 10 years have each contributed to tightening the bolts of Sino-Italian diplomacy, bringing to surface the hypothetical future negotiations with the Asian country on the port sector.

For reasons of historical continuity, but above all thanks to its strategic geographical position at the centre of the Mediterranean and in the heart of southern Europe, Italy and its port system represent an added value for Chinese logistics strategies. This second chapter will therefore review the advantages of relying on Italian harbours, highlighting their logistical effectiveness and specialisation, as well as their limitations.

What is more, the signing of the aforementioned Memorandum with China brought with it the conclusion of two cooperation agreements between the China Communication Construction Company (CCCC) and two Italian port authorities, the Port System Authority of Western Ligurian Sea (AdSPMLO) and Port System Authority of Eastern Adriatic Sea (AdSPMAO). The task of this chapter will be to detect Chinese interests in one of the agreements signed with port authorities, that concerning the Genoese harbour system; and the entry of the Chinese company COSCO in the terminals management of Vado Ligure port.

On the other hand, the second section of the chapter sets out in detail the Italian legislation relating to the harbour system, in an attempt to provide a comprehensive response to criticism that have followed the signing of port agreements. Criticism was levelled at the desire to “sell-off” Italian ports, even though, as we shall see, the public nature of port authorities in Italy does not allow for this possibility.

After the entry into force of the 1994 reform law No. 84, Italian ports are no longer simply understood as assets belonging to State property, but as public assets whose activity is entrusted to private actors. A survey will also be conducted on the role of Port System Authorities, public administration bodies whose task is to combine State control with the concept of private initiative, in the interest of the community. It is precisely the nature of these bodies, as well as the role and powers entrusted to their President, that has a significant impact on Chinese penetration strategies in the Italian port system, a discussion that needs to be explored in depth before moving on to the third and final chapter of the essay, concerning the case of the port of Trieste.

The third chapter dwells on the affair linked to the entry of the port of Trieste into the BRI orbit, an entry which, as we shall see, never took place formally.

Over the last few years, Trieste port has experienced a period of new flowering, having been able to reposition itself on the international scene, following a powerful increase in its traffic and the expansion of the intermodal logistic network branching off from the port itself. After all, the Triestine harbour can count on numerous strengths: its strategic geographical position, its deep waters, its dense network of rail links, the proximity to the markets of Central and Eastern Europe, and above all its characteristic of being a free port, would make Trieste the privileged gateway for Chinese trade with the European Union nations, along the New Silk Road framework.

Negotiations between Chinese companies and private sector operators from Trieste began in 2016, echoed by the opening of a dialogue held at institutional level by the Port System Authority of Eastern Adriatic Sea, which President signed a cooperation agreement with CCCC in 2019. Among the many criticisms that have been levelled at the work of the Port Authority is the alleged illegitimacy of its President Zeno D’Agostino in conducting the negotiations with CCCC. The aim of this paper is to analyse all of these aspects, in an attempt to offer a critical and impartial view of what happened.

Finally, the essay will discuss the acquisition by a German logistic enterprise, the HHLA from Hamburg, of a majority stake in the company operating the newly built logistic platform in Trieste port, an infrastructure long coveted by some Chinese logistic companies. In the light of what has happened, are Chinese investments in the port just being postponed or is there a reversal of direction taking Trieste and Italy away from the partnership with the Dragon?

Chapter I

The Belt and Road and its impact in Mediterranean ports

1.1 The New Silk Road project

1.1.1 Birth of the “great undertaking”

In 1949, eager to strengthen the presence of China in East Asia and lift its critical economic and social conditions, chairman Mao Zedong decided to leave China and visit Russia, in order to start a fruitful partnership with President of the Soviet Union Iosif Stalin. That was Mao’s first and only trip abroad. After 64 years, in a world characterized by hyper-connection and globalization, the current president of People’s Republic of China, Mr. Xi Jinping, chose the capital city of Kazakhstan to launch one of the greatest initiative for coordination between infrastructures of the world history, called “Belt and Road initiative”. Facing hundreds of students at the Nazarbayev University, Xi Jinping said *“to forge closer economic ties, deepen cooperation and expand development space in the Eurasian region, we should take an innovative approach and jointly build an economic belt along the Silk Road. This will be a great undertaking, benefitting the people of all countries along the route [...] the proposed economic belt is inhabited by three billion people and represents the biggest market in the world with unparalleled potential”*¹.

An initiative of colossal dimension that covers 35% of the entire world’s surface area, with over \$1400 billion to be invested over 10 years, was ready to take off. The Belt and Road initiative, also known as One Belt One Road, is a clear reference to the ancient Silk Road, term invented by German geologist Ferdinand von Richthofen in 1877, whose trade networks crossed all the Central Asian countries, as Kirghizstan, Kazakhstan, Afghanistan and Pakistan before reaching the West Asian countries and joint Europe, in Rome. This time, the New Silk Road encloses two separate routes: the “Silk Road Economic Belt” (丝绸之路经济带, *sichou zhilu jingjidai*) and the “21th century Maritime Silk Road” (21世纪海上丝绸之路, *21shiji haishang sichou zhilu*). In actual fact, the “Silk Road Economic Belt” is not a single route but instead a mixture of six terrestrial corridors, branching out from Southeast Asia to Northern Europe and Middle East. These six corridors, all of them currently under planning or construction, are the following:

- *China-Mongolia-Russia corridor* (Cmrec);
- *New Eurasian Land Bridge* (Nelbec);
- *China-Central Asia-Western Asia corridor* (Ccwaec);
- *China-Pakistan corridor* (Cpec);
- *Indochina Peninsula corridor* (Cicpec);
- *Bangladesh-China-India-Myanmar corridor* (Bcim)

¹ Quote by H.E. Xi Jinping President of the People’s Republic of China speech at Nazarbayev University:
https://www.fmprc.gov.cn/mfa_eng/wjdt_665385/zyjh_665391/t1078088.shtml

All of these six corridors play an important role in the New Silk Road project, since each of them has been designed for a specific function.

The *New Eurasian Land Bridge* aims to connect Pacific Ocean with the Atlantic Ocean, going from the Chinese coastal cities of Lianyungang and Rizhao (between the coastal cities of Tsingtao and Shanghai) to Rotterdam and Antwerp, respectively Holland and Belgium. The rail link is 10.800km long and crosses Russia, Belarus, Poland and Germany, serving over thirty other countries. Several railway connections from Central China easily reach Northern Europe and go back the other way, proof of this is the fact that every week, after twelve days of travelling, forty freight trains reach Duisburg, in Germany, whose goods will then be sorted throughout Europe².

The *Indochina Peninsula corridor* has been thought for dampening tensions related to sovereignty issues in South China Sea. Starting from Guangdong province, it extends towards Singapore, crossing Vietnam, Laos, Cambodia, Thailand, Myanmar and Malaysia. But the CICPEC plays an even more important role in the internationalization of the Chinese currency, Renminbi. As a matter of fact, between China and Vietnam are the provinces of Guangxi and Yunnan, which both constitute the “Border Pilot Zone for Comprehensive Financial Reform”. Specifically, this zone is a pilot area to promote the use of the Renminbi currency with Asean countries³, which has already seen the adoption of that currency for cross-boarder payments in Guangxi.

As for the *China-Pakistan economic corridor*, its importance lies in the fact that it provides a shorter route between Middle East and China, especially for the transport of oil and goods to Chinese harbors. With its base in Xinjiang province, the corridor reaches the Pakistani port of Gwadar, access point to the Arabian Sea and Africa. Collaboration with Pakistan is also part of the Chinese attempt to ensure stability in the Baluchistan province, where terrorist militias have attacked Chinese workers in 2018⁴, and above all in an attempt to help stabilise and develop neighbouring Afghanistan, which is still struggling with a long civil war. Another important characteristic of this area is that it is located exactly at the point of convergence between the two main branches of the OBOR initiative, namely the terrestrial and maritime routes. By using an euphemism, Middle East can be viewed as “the place where the Belt joints the Road”⁵.

The connection of two of Asia’s most important expanding markets, the Indian and Chinese one, is at the basis of the creation of the *Bangladesh-China-Myanmar-India corridor*.

The initiative has a constitutive and programmatic manifesto issued by the National Development and Reform Commission, Ministry of Foreign Affairs and Ministry of Commerce of the People's Republic of China, entitled “*Vision and Actions on Jointly Building Silk Road Economic Belt and 21st Century Maritime Silk Road*”. According to the document, the BRI primary official goal is to promote and develop the connectivity of Asian, African and European continents and strengthen partnership at every level between countries along the Belt and Road⁶. To do this, nations

² China Daily, *Duisburg’s port is China’s gateway to Europe*, 4 April 2020

<https://global.chinadaily.com.cn/a/202004/10/WS5e9036f1a3105d50a3d155eb.html>

³ Asean, the Association of South-East Asian Nations, is a regional intergovernmental organization which comprises ten countries: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam.

⁴ Reuters, *Five wounded in attack on bus ferrying Chinese workers in Pakistan*, 11 August 2018

<https://www.reuters.com/article/us-pakistan-blast-china-idUSKBN1KW05B>

⁵ Shi Zhe, Yang Chenxi, *China’s Diplomatic Efforts to Promote Energy and Resources Cooperation Along the “One Belt One Road”*, CIIS report, No.5, May 2015.

⁶ As reported by the manifesto, Belt and Road Initiative is based on five cooperation priorities: Policy coordination, Facilities connectivity, Unimpeded trade, Financial integration and People-to-people bonds.

participating in the BRI initiative should cooperate with China for the creation of a web made of gas and oil pipelines, bridges, railways, industrial parks and harbors, in order to wrap the planet in a dense network of infrastructure that makes trade faster and cheaper. The project concerned is a huge proposal to boost Chinese-led global economy that is part of what a renowned Indian political scientist, Parag Khanna, sees as the “*arms race of the 21st century*”⁷: the global connectivity.

Actually, the New Silk Road project is even more than this. It is a complex set of economic, financial and geopolitical actions, which have different objectives depending on the geographical area of reference and on purposes pursued with them. Thus, it can be seen as a diversified and dynamic system which does not propose a standardized and fixed package of actions but indeed accepts the possibility of revisiting visions of interventions, projects or ideas. BRI plan is conceived by Chinese authorities “*as a work in progress that is continually evolving, and which may over time, encompass every country in the world*”⁸.

As many scholars have pointed out, the launch of the Belt and Road Initiative by the Chinese government is mainly motivated by economic, financial and energy-related reasons. If we were to summarize them in a few points we should list the following:

- Industrial overcapacity is a problem that China is now facing, after the opening policies of the 1980s led by Deng Xiaoping changed the country into the “factory of the world”. Unable to reduce production levels to keep Chinese middle-class incomes high, political leadership hopes to lighten the market by placing products and services through the trade channels of New Silk Road;
- Implementation of the internationalization process of Renminbi currency and diversification of the great amount of Chinese foreign exchange reserves. If the Chinese Yuan were an internationally accepted reserve currency, this would enable China to play a more effective role in a more balanced monetary and financial system, lessening the power of US dollar. In order to internationalize the Rmb, more commercial and financial transactions are needed. That is what is happening along the Belt and Road initiative: around 41 countries out of 65 involved in OBOR use the Chinese Yuan in economic exchanges, and seven cross-boarder agreements have been taken as a Chinese strategy to use an official non-convertible currency⁹. As an example, in the United Arab Emirates, a country involved in the BRI Initiative, Renminbi is increasingly being used by local businesses for direct payments to China and Hong Kong, reaching a share of over 70%¹⁰;
- The control of energy supply lines. Chinese economy has led the country to be the largest energy consumer and producer in the world¹¹, and Chinese government has been seeking ways to attract private investment in this sector, implementing policies to improve and build new energy transmission infrastructure. The idea is to create three multimodal transport corridors under the BRI umbrella, to allow a constant flow of energy from the Middle East and Caspian

⁷ Parag Khanna, *Connectography: Mapping the Future of Global Civilization*, New York, Random House, 2016

⁸ Alice Ekman, *China in the Mediterranean, an emerging presence*, Notes de l’Ifri, Ifri, 2018.

⁹ Sole 24ore, *Così la Via della Seta crea un’internazionalizzazione dello Yuan*, 17 March 2019

<https://www.ilsole24ore.com/art/cina-cosi-via-seta-crea-un-internazionalizzazione-yuan-ABjdCQeB>

¹⁰ Diego Angelo Bertozzi, *La Nuova Via della Seta (Il mondo che cambia e il ruolo dell’Italia nella Belt&Road Initiative)*, Reggio Emilia, Diarkos editore, 2019.

¹¹ U.S. Energy Information Administration, *International Energy Statistics*.

region. The corridors extend overland from the ports of Bandar Abbas in Iran, Gwadar in Pakistan and Kyauk Pyu in Myanmar, to China, allowing reserves to be transported by integrating different modes: by sea, pipeline or rail.

- Public infrastructural investments in the province of Xinjiang country have two main goals: on one hand, providing the Chinese Western area an opportunity to growth (still too “poor” if compared to the coastal area of the country) by placing it inside a network of infrastructure and reserving to the province of Xinjiang the role of departure hub for trains along the China-Central Asia-Western Asia corridor (the province is also crossed by two other corridors, Nelbec and Cpec). Xinjiang is slowly becoming one of the obligatory steps for the dragon strategy, just think that it produces over 80% of China's cotton and has the largest coal and natural gas reserves in China and one fifth of its oil reserves¹². On the other hand, the emergence of new infrastructure in Xinjiang will enable the central government to control the province more closely than it does today. The riots of the Uyghur ethnic independence movement in the area frightens the Chinese government, which would like to tighten control over the population to avoid terrorist attacks and maintain stability;
- The last and most important reason of the implementation of BRI project is the geopolitical rebalancing design, with which China wishes to project itself into the 21st century as a world power in competition with US and Europe.

1.1.2 The wallet of Belt and Road: institutions financing the initiative

It goes without saying that such a wide-ranging project needs huge investments in every single sector functional to the initiative: telecommunication, energy and transport are the areas of primary interest of BRI plan. During the year of the real estate crisis in 2008, China itself has adopted the Keynesian concept on infrastructural investments to alleviate poverty, improve standard of living of million people and boost economic growth, and now seems to have integrated these investment policies into the New Silk Road plan¹³.

A strong apparatus of financial institutions supports China’s rise worldwide, even though in the long run BRI should diversify its sources of projects funding, most of which have come from Chinese state banks, as the red country alone cannot bear the entire financial duty¹⁴. The institution funding BRI-related projects can be classified into four distinct categories: international financing institution, sovereign wealth funds, policy banks and state-owned banks.

The most important international financing institution supporting the financial branch of BRI is the Asian Infrastructure Investment Bank (AIIB, 亚洲基础设施投资银行, *yazhou jichu sheshi touzi yinhang*).

¹² Congress Research Service, *Uyghurs in China*, CRS report, 5 October 2020. Available at: <https://crsreports.congress.gov/product/pdf/IF/IF10281>

¹³ The English economist John Maynard Keynes strongly recommended investments in public works as a tool for creating job opportunities and support to aggregate demand.

The three Chinese policy banks (China Development Bank, Agricultural Development Bank of China, Exim Bank of China) have remained government owned, have played and continue to play an important role in financing big infrastructural projects. As an example, China Development Bank is one of those banks financing large Belt and Road related projects.

¹⁴ Deloitte, *Embracing the BRI ecosystem in 2018: navigating pitfalls and seizing opportunities*, Deloitte Insight, 2018.

The AIIB is a multilateral development bank¹⁵ born from a Chinese initiative, which began operations in January 2016, growing up to 103 approved members worldwide. Its core mission is improving infrastructure and connectivity both within and toward Asian countries, as a report of the Asia Development Bank found that demand for infrastructure in Asia is estimated at around \$26 trillion until 2030¹⁶. Up to now, almost all the investments financed by AIIB are located in Asia, although article 11(1) of the bank Statute does not specify that investments must be necessarily be made in Asia. Proof of this is that the first investment directed in a “non-regional”¹⁷ country is the one made in Egypt, for the construction of 11 greenfield photovoltaic power plants, already operational.

With regard to the voting power and the capital subscribed by members, it is worth noting that China is the largest shareholder with 30,8% of the subscribed capital, a privileged position that gives it a veto right over all bank’s strategic decisions. Italy has subscribed to 2.65% of the shares of the Bank for a counter value of \$2.57 billion of dollars, it ranks 11th among shareholders, the fourth of the European Union countries¹⁸. Almost 60% of the overall AIIB approved projects are co-financing operations, by virtue of the fact that the bank has signed several cooperation partnership and co-financing with other multilateral institutions, including two agreements with the World Bank and the ADB in 2016¹⁹.

AIIB has already contributed in financing BRI projects providing \$1.7 billion for 9 projects in Belt and Road participating countries, albeit, as we saw, the bank was not created for the sole purpose of financing the Chinese initiative.

Among the others international financing institutions taking part in projects through BRI we found the Asian Development Bank and the World Bank Group, which have mostly been working conjointly with AIIB, as well as the New Development Bank²⁰.

Sovereign wealth funds (SWF) are state-owned investment funds which invest mainly in financial assets as bonds, stocks, metal and real estate. Among those supporting BRI projects is the Silk Road Fund (SRF, 丝路基金 *silu jijin*), which was created with the specific scope of facilitating BRI investments, in December 2014. SRF was establish with huge resources from China Investment Corporation (CIC), the State Administration of Foreign Exchange, China Development Bank (CDB) and Export-Import Bank of China (EXIM), rising its initial capital of \$40 billion to invest in BRI transport infrastructure. From the date of its creation in 2014 to the first Belt and Road Forum for International Cooperation in 14 May 2017, President Xi Jinping said the SRF made \$4 billion of investment within the initiative²¹. Furthermore, by the end of October 2019 it has funded 34 projects,

¹⁵ A multilateral development bank is a supranational institution created by sovereign states, which are its shareholders, providing loans of different natures to borrower countries, in order to encourage their development. It has as its core business the promotion of economic development and poverty alleviation.

¹⁶ ADB, *Meeting Asia’s Infrastructure Needs*, 2017 <https://www.adb.org/publications/asia-infrastructure-needs>

¹⁷ AIIB Statute provides for two classes of membership: regional members and non-regional members. The former are those countries belonging to the Asia/Oceania area, according to United Nations definition; the latter are those outside the previous definition.

¹⁸ Above Italy rank United Kingdom (3,15%), France (3,48%) and Germany (4,63%). AIIB, *Members and Prospective Members of the Bank* <https://www.aiib.org/en/about-aiib/governance/members-of-bank/index.html>

¹⁹ Source of data: World bank <https://www.worldbank.org/en/news/press-release/2016/04/13/world-bank-and-aiib-sign-first-co-financing-framework-agreement> ; <https://www.adb.org/sites/default/files/institutional-document/185034/adb-aiib-mou.pdf>

²⁰ The NDB is a financial institution born from interstate agreements among BRICS countries, in 2014. It has pledged \$100 billion to BRI projects. It has financed several projects, but none of these was directly connected to the BRI.

²¹ Xinhua News, *Full text of President Xi’s speech at the opening of Belt and Road forum*, 14 May 2017 http://news.xinhuanet.com/english/2017-05/14/c_136282982.htm

with a total commitment of \$12.3 billion investments.

Apart from the infrastructure one, SRF also provides funds in other sectors as resources and energy development, industrial capacity and financial cooperation. As an example, in 2016 SRF has financed the development of the Yamal liquefied natural gas (LNG) terminal in Russia, by acquiring 9.9% stake for £1.2 billion. The project is the first mega-energy cooperation implemented in Russia after the Belt and Road initiative has taken hold.

China Development Bank (CDB , 国家发展银行, *guojia fazhan yinhang*) and Export-Import Bank of China (EXIM, 中国进出口银行, *Zhongguo jinchukou yinhang*) are the two Chinese policy banks, the major players in financing New Silk Road projects. They have both received an injection from the People's Bank of China of around \$30 billion to assist the projects²².

CDB usually finances infrastructure, energy and transportation, and it is often described as the engine powering China's economic development policies. During his speech at the second Belt and Road Forum, President Xi Jinping declared that CDB would have provided special lending schemes worth 250 billion Rmb to support BRI infrastructure projects, production capacity and financial cooperation. The role of primary importance played by CDB can be inferred from its 2019 annual report which declares that at the end of 2019, 400 billion Rmb equivalent worth of contracts were signed under the bank's BRI special lend scheme, and over 240 billion Rmb loans had been granted, giving a strong support under the initiative. Furthermore, CBD granted more than \$20 billion loans related to BRI project, in support for infrastructure interconnectivity, industrial capacity, financial cooperation and development of overseas industrial parks²³.

EXIM implements China's overseas development strategies in the industry, foreign trade, diplomacy, investment and international economic co-operation, first and foremost for the BRI initiative. The Bank signed all the loan agreements on the 130 billion Rmb equivalent special lending scheme by the end of 2018, rising up to £149 billion loans to more than 1800 BRI projects until April 2019²⁴.

The latest are the state-owned banks, especially Industrial and Commercial Bank of China (ICBC, 中国工商银行 *Zhongguo gongshang yinhang*), China Construction Bank (CCB, 中国建设银行 *zhongguo jianshe yinhang*), Agricultural Bank of China (ABC, 中国农业银行 *Zhongguo nongye yinhang*), Bank of China (BOC 中国银行, *Zhongguo yinhang*), increasingly involved in the financing of BRI related projects because of their link with Chinese major state-owned enterprises.

As the main promoter of the initiative, China is still the first funder of BRI projects. From what we have seen, apart from the relative financial freedom of Chinese state controlled entities (Chinese sovereign wealth funds, policy banks and state-owned banks), even where the very nature of a financial institution prevents it from being owned by a government, China can count on a high percentage of subscribed capital that gives it broad decision-making power. After all, the key to success of these new international financial institutions will be the moderation with which the dragon

²² Reuters, *China to inject FX reserves into policy banks: Caixin*, 20 April 2015 <https://www.reuters.com/article/us-china-economy-banks-idUSKBN0NB0YY20150420>

²³ China Development Bank 中国开发银行, 2019 Annual Report 2019 年度报告, 2019 <http://www.cdb.com.cn/English/bgxz/ndbg/ndbg2019/>

²⁴ Reuters, *China's Exim Bank provides more than \$149 bln for Belt and Road projects*, 18 April 2019 <https://www.reuters.com/article/china-bank-beltandroad-idUSL3N2202TI>

country will exercise this enormous power.

One last consideration is to be made. The growth of international operations that China-led financial institutions are experiencing especially in developing countries stems from the perception by many governments that traditional multilateral development banks have moved away from their original mission of financing big infrastructure works. As Maria Adele Carrai writes: “*They [China-led financial institutions] also manage to address the dissatisfaction of a developing countries with the lack of representation and with the too invasive conditionality imposed by the Bretton Woods’ institutions*”²⁵.

²⁵ Maria Adele Carrai, *It Is Not the End of History: the Financing Institutions of the Belt and Road Initiative and the Bretton Woods System*, in “The Belt and Road Initiative: Law, Economics, and Politics”, Leiden-Boston, Brill-Nijhoff Editor, 2018.

1.2 The maritime Silk Road and changes in the maritime industry

1.2.1 The Chinese maritime route and the new centrality of its ending point

The 21st Century Maritime Silk Road is the sea route of the Belt and Road Initiative, running principally from the South China Sea, through the Indian Ocean and Middle East area into the Eastern Mediterranean²⁶.

The arrival point of the Maritime Silk Road has been and still is the Mediterranean, a sea which has recently found a new centrality. After centuries of commercial obscurity by the “two oceans”, first the Atlantic ocean and then the Pacific one, the Mediterranean Sea has experienced a considerable increase in its traffic, mainly due to the expansion of Suez Canal in 2015. Besides, the changes taking place in the global maritime transport sector are also influenced by the unstoppable evolution of the phenomenon of naval gigantism and the policies of the great alliances in the containerized transport. Beyond that, the renewed centrality of the Mediterranean Sea can also be attributed to the presence of certain endogenous factors from which ports located on the southern coasts of Europe are beginning to benefit. One of these factors is climate change. In the last three years, for example, the northern European ports have experienced numerous problems in the forwarding of goods via the waterways, as has happened to the port of Rotterdam, which has lost some of its former freight forwarding capacity during the summer periods.

1.2.2 Suez Canal expansion

On August 2014 Egyptian President el-Sisi and the Suez Canal Authority (SCA) board announced a project to double the canal by digging an additional lane to allow the transit of ships in both direction simultaneously. The new Canal reaches 72km in length with a depth 24m and 320m width. The creation of this additional lane helps minimizing the waiting time for transiting ships and increases the numerical capacity of the Canal. The addition has thus made it possible to double the potential traffic from 49 to 97 ships, shortening transit times from 18 to 11 hours and also reducing waiting times from 11 to 3 hours. If we look to the daily average number of ships crossing the Suez Canal, we can see an increase by 4.7 vessels, from 47 in 2014 to 51.7 in 2019; on the other hand, if considering the trend of cargo tonnage per year the number increases almost by 209 million, from 822mln in 2014 to 1031mln in 2019²⁷.

Among the countries benefitting from the enlargement work is China, which has given Suez Canal an important role for the passage of its goods directed to Europe, along the maritime route of the Belt and Road Initiative. At a first glimpse, the latest available data from Suez Authority Canal shows that in the South-North direction, the total shipload in tonnes of goods transited annually is constantly increasing, going from 366.6mln in 2013 to 458.8 in 2019. South-East Asia is the prevailing origin of the ships that crossed the Suez Canal during the whole year 2019, with a percentage of 36.25% of the total cargo tons, with another 14.61% coming from South Asia. As regards the destination of goods coming from the South, the highest percentage is attributed to North/West Europe and U.K

²⁶ Specifically, the above-mentioned sea route descends from the Chinese coastal areas to Hanoi, Vietnam, Jakarta, Singapore and Kuala Lumpur, crossing the Strait of Malacca. It then reaches Sri Lanka and the Indian coasts and then turns towards Malè and Mombasa. From there it goes up the coast to Gibuti and then through the Suez Canal, there via Haifa, Istanbul and Athens, in the middle of Mediterranean. The project is built mainly on maritime expedition routes of the admiral and government official Zhang He (1371-1433) who carried out seven sea expeditions on behalf of the Ming Emperor Yongle, in order to assert the power of Chinese empire and spread its tributary system abroad.

²⁷ Suez Canal Authority - Navigation Statistics

<https://www.suezcanal.gov.eg/English/Navigation/Pages/NavigationStatistics.aspx>

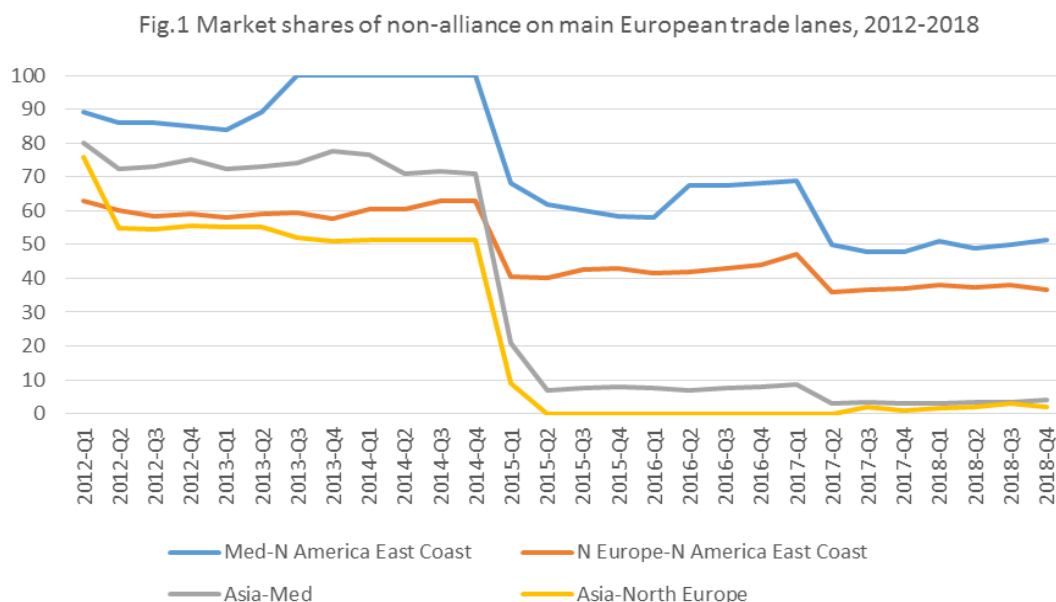
with 33.75% and East/South East Mediterranean with 24.08%²⁸. However, the European market is far from being the sole target of Chinese interests in the Mediterranean Sea, as over the years China's attention has been particularly focused on the Middle-East and North Africa region (MENA). If we take as an example the total value of China's trade in the Mediterranean in 2019, we could see that almost \$329 billion on a total of \$505 derive from the exchange with the countries of the MENA region²⁹. Moreover, China is engaged in the realization of numerous infrastructural projects, railways, industrial parks, special economic zones, buildings and entire cities that make the Asian country a strategic partner for the entire MENA area.

1.2.3 Naval gigantism and global alliances

Another factor reshaping the global maritime transport, which also contributes to the strengthening of the Far East-Europe maritime route competitive advantage, is certainly the phenomenon of naval gigantism and the emergence of global alliances, mechanisms within which China is proving its ability to adapt rapidly.

When working internationally, shipping companies know about the possibility of bearing high risks and costs, related to their business operations. That is why a new tendency of cooperation agreements between container lines has been taking hold since 2017, in order to share risks, reduce costs and foster the extension of maritime routes.

Three big alliances were born: *2M*, *Ocean Alliance*, *THE Alliance*³⁰. From what the data shows in figure 1, the market share of shipping companies not taking part in any alliance on many European trade lanes began to decline from the last quarter of 2014, and then plummeted again in the first quarter of 2017, following the consolidation of the Big three. Market shares on Asia-Mediterranean trade lane show the loss in percentage of non-allied companies from a maximum of 80% in the first four months of 2012 to less than 5% in the last quarter of 2018.



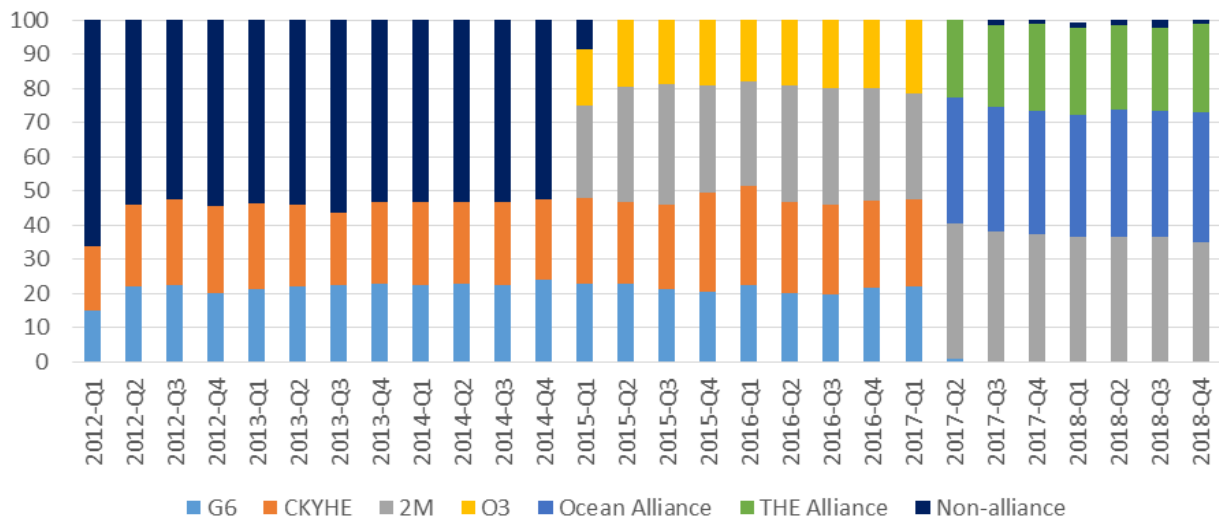
²⁸ Ibidem

²⁹ Own elaboration based on data from ChinaMed: <https://www.chinamed.it/chinamed-data/mediterranean-region>

³⁰ Carriers within the *2M* alliance are Maerk Line, MSC and Hyundai Merchant Marine. Cma-Cgm, Cosco Container Lines, Evergreen Line and OOCL form the *Ocean Alliance*, while *THE Alliance* sees the participation of Yang Ming, Hapag-Lloyd, ONE (K-Line, MOL, NYK group).

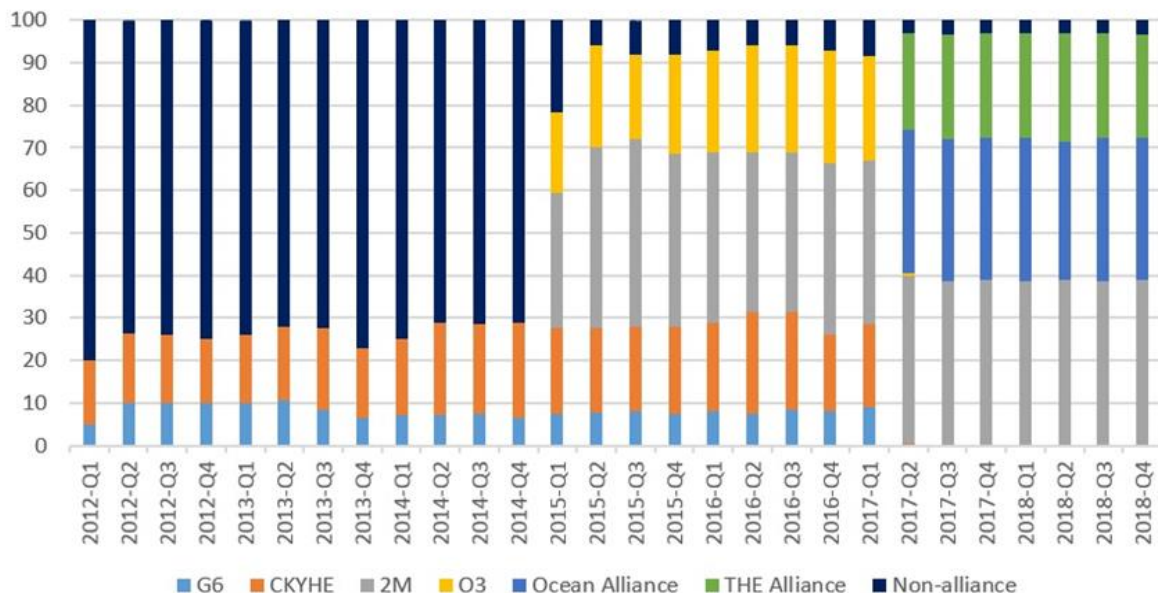
As shown in figure 2 and 3, the alliance with the largest market share on the Asia-Med trade lane is 2M, with a percentage of almost 40%, while the Asia-North Europe trade lane is controlled by Ocean Alliance, with a 38% share by the end of the same year. These three global alliances essentially hold an oligopoly in trade along the East-West route, as they occupy the 93% of overall container trade, constituting de facto a barrier to entry the market, as only the biggest companies will be able to compete on price. Participation in a global alliance can thus offer carriers high market power.

Fig.2 Market shares on Asia-North Europe trade lane, 2012-2018



Source: Sea Intelligence

Fig.3 Market shares on Asia-Med trade lane, 2012-2018

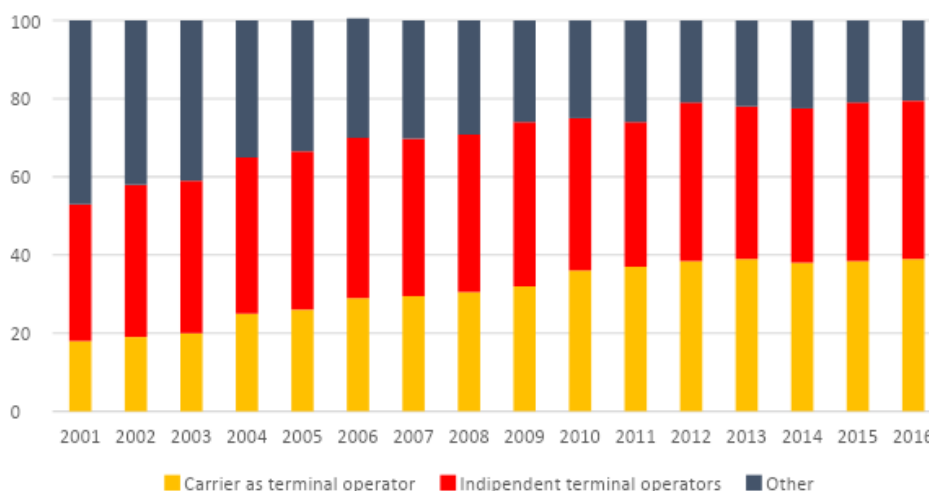


Source: Sea Intelligence

Furthermore, a process of horizontal merging is taking place between ship-owners' alliances and terminal operators. Actually, the share of carrier-controlled terminal operators has grown steadily since 2001, gaining points in percentage from the large share of over 80% held at the time by

independent and other terminal operators (e.g., public operators). By the end of 2017, the percentage held by the former is 38%, while the latter have seen a reduction of more than 20%.

Fig.4 Emergence of carrier-dominated terminals, 2001-2016



Source: International Transport Forum’s elaboration based on data from Drewry (2002-2017)

The maritime economy is even more concentrated: “While in 2000 the first twenty companies controlled less than 50% of the available hold capacity, by 2008 this percentage had risen to almost 70%, while by the end of 2017 it had risen to 90%. Looking at the top 10, the percentage is 79%”³¹. These data highlight the need of the carriers to adapt to a market that is now strongly oriented towards building large ships for the containerized transport sector, a phenomenon known as naval gigantism. Between 2014 and 2018, in the pressing contest of an economy of scale that aims to increase the load in order to lower costs, the average capacity of the world's container fleet grew by 25%, with the number of vessels exceeding 10,000 TEUs of cargo accounting for 23.1% of the total fleet in 2018. As for the worldwide containership capacity, this has more than doubled since 2008, going from a total of 10.6mln to 21.1mln TEUs at the beginning of 2018.

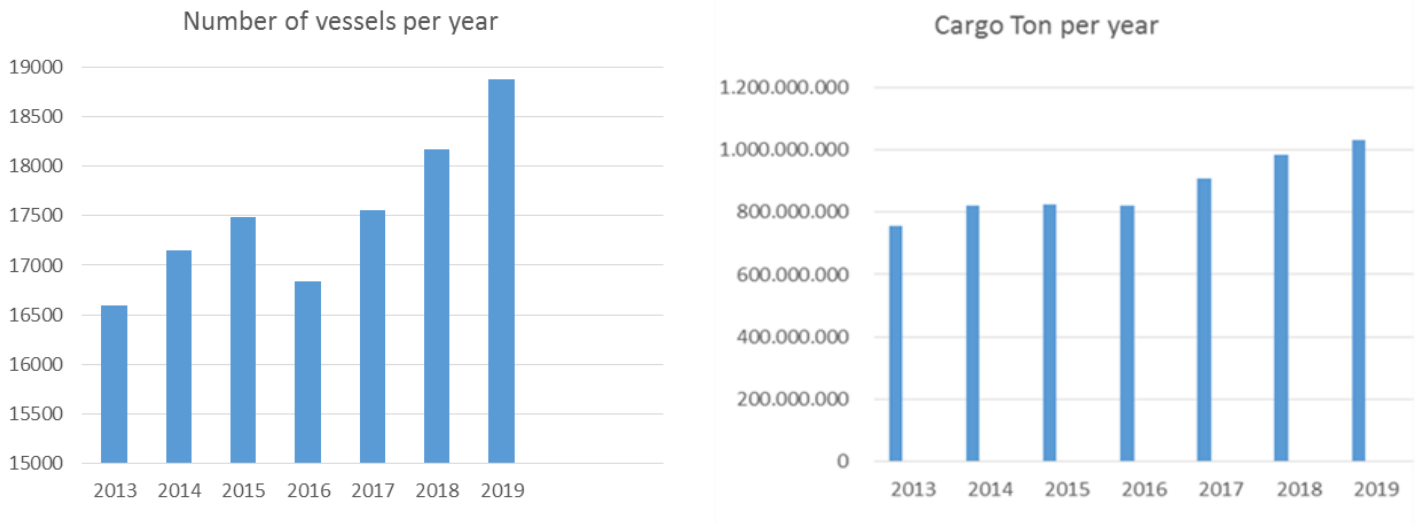
The years 2019 and 2020 saw the construction of the first four largest containerships. When the whole globe was engaged in the fight against the spread of Novel Coronavirus pneumonia disease in May 2020, the world’s largest containership, named HMM Algeciras, officially left Shanghai with a cargo of 19.621 TEUs, on its way to Europe. What is surprising is not the quantity of goods in the hold, but the fact that the maximum capacity of the same ship can be filled up to 4000 TEUs more than the inaugural load, thus reaching a cargo of 23,964 TEUs³².

It goes without saying that the “big ship/big alliance” strategy is essential nowadays. Even governments of the countries along the routes most travelled by these seas giants are aware of this phenomenon and work to implement policies aimed at increasing maritime traffic, bearing in mind the needs of gigantism: this is what happened with the work of the Egyptian government to enlarge

³¹ SRM Italian Maritime Economy, *Cina, corridoi energetici, porti e nuove rotte: geomappe di un Mediterraneo che cambia*, 5° Rapporto Annuale, Napoli, 2018 (onw translation)

³² In addition to the HMM Algeciras, three other newly built container ships are closed to that cargo capacity: HMM Oslo and MSC Gülsün and MSC Mina.

the Suez Canal. From the data available, it can be seen that the average size of ships that crossed the channel in 2018 increased by 12 % if compared to 2014³³. Likewise, the number of ships and the quantity of cargo in tonnes passing through the Suez Canal has been steadily increasing since 2016, highlighting the effectiveness of the measures taken. While there were 16.833 ships crossing the strait in 2016, totaling 819 million tonnes of cargo, in 2019 the number of ships rose to 18.880, with a record load of 1031 million tonnes.



Source: Suez Canal Authority - Navigation Statistics

1.2.4 The emergence of Chinese maritime giants

The way China has gained ground within this contest deserves further investigations.

Prior to the creation of big alliances in 2017 and the rise of naval gigantism, Chinese port and shipping companies were relatively small, if compared to Western logistics giants such as the Danish A.P. Møller-Mærsk, today the largest containership operator in the world³⁴. However, in 2016 Beijing's strategy was to create a colossal State-owned conglomerate, generated by the merger of two companies: China Ocean Shipping, a State-owned company founded in 1961, and China Shipping Company, establish in 1997. By the union of these two players was born China COSCO Shipping Corporation limited (中国远洋海运集团有限公司, *Zhongguo yuanyang haiyun jituan youxian gongsi*), a top international State-owned enterprise whose total fleet comprises of 1371 vessels with a capacity of 109.33 million DWT, ranking 1st in the world. Its container ships total capacity amounts to 3.16 million TEUs, placing third in the world according to the ranking drawn up by Alphaliner³⁵. The international consolidation of the companies group was in turn favored by the acquisition of Orient Overseas International Ltd. in July 2018, with a \$6.3 billion investment. Through this operation, COSCO has actually absorbed one of the world's top 10 largest container carriers, increasing its weight internationally.

It is worth noticing that COSCO configures itself not as a simple company, but rather as a group of several companies with distinct areas of competence. As a matter of fact, the group's activities include

³³ Pietro Spirito, *Il future del Sistema portuale meridionale tra Mediterraneo e Via della seta*, Catanzaro, Rubettino, 2018.

³⁴ Source of data: Alphaliner website <https://alphaliner.axsmarine.com/PublicTop100/>

³⁵ Ibidem

the maritime transport, logistics and terminal sectors. The transport is entrusted to COSCO Shipping Lines (中远海运集装箱运输有限公司, *zhongyuan haiyun jizhuangxiang yunshu gongsi*); management of terminal is entrusted to COSCO Shipping Ports (中远海运港口有限公司, *zhongyuan haiyun gangkou youxian gongsi*) and logistics to COSCO Shipping Logistics (中远海运物流有限公司, *zhongyuan haiyun wuliu gongsi*). Up to December 2019, COSCO Shipping Lines operates 401 international and domestic shipping routes, having the possess of 403 container vessels with a total capacity of 2.2mln of TEUs.

As at June 2020, COSCO Shipping Ports managed 360 berths in 36 ports all over the world, 60% of which are used for container traffic, with an annual handling capacity of 115 million of TEUs³⁶.

In addition to COSCO, another Chinese company sails the maritime route of the naval gigantism: China Merchants Ports Holdings (招商局控股港口有限公司, *zhaoshangju kong gangkou youxian gongsi*), a subsidiary of the smaller China Merchants Group (招商局集团, *zhaoshangju jituan*). The company has a network of 41 ports in 25 countries and regions, and when it comes to cargo handling, China Merchants Ports moves even more freight than COSCO. According to the operation data published by the two companies, for the year ended 31st December 2019, CMPorts handled a total container throughput of 111.721 million of TEUs in its ports business (up to +2.4% more than the previous year), while COSCO registered a total of 102,771 TEUs³⁷. Furthermore, it also holds important shares in some strategic overseas ports along the maritime BRI section, such as in Sri Lanka, Djibouti and Turkey.

One of the competitive advantage these two large shipping groups can rely on is the fact that the supporting-BRI financial system is a sort of “funding tank” for them to draw on. As an example, on January 2017, an announcement on the COSCO group’s website stated that China Development Bank pledged to provide a \$26 billion loan in the years through 2021 to support its business development³⁸. Nothing new when one considers that this is a well-oiled mechanism that the central government in Beijing has long adopted to finance Chinese enterprises in foreign operations through public banks, certainly a benefit that not all Western enterprises can boast and which constitutes a real competitive advantage for China in overseas market.

Taking advantage from the business of these companies, China has begun its strategy of penetration into the Mediterranean and port terminals, attacking the market in two different ways:

- Through targeted investments aimed at acquiring shares in ports infrastructure as a whole (as happened in the case of Piraeus Port), or in certain specific terminals (as in the case of the acquisition of 20% stake in the Suez Canal Container Terminal for Port Said), or by investing in ports management³⁹;

³⁶ Source of data: Cosco shipping port website

<https://ports.coscoshipping.com/en/AboutCSP/CorporateProfile/Overview/>

³⁷ Source of data: Cosco shipping port website and CMPort website, respectively
<https://ports.coscoshipping.com/en/Businesses/MonthlyThroughput/pdf/2019.pdf>;
<http://www.cmport.com.hk/EN/investor/Operation.aspx?p=6>

³⁸ Reuters, *China's COSCO secures \$26 bln financing pledge from CDB*, 12 January 2017
<https://de.reuters.com/article/cosco-china-development-bank-idUKL4N1F22SF>

³⁹ As an example, CMPorts owns 49% of Terminal Link, an international container terminal operator with interests in 13 terminals all over the world, while COSCO owns 51% of Noatum Ports Holdings (then rebranded COSCO Shipping Ports Spain Terminals).

- Through a strict policy of alliances to secure dominance over the maritime routes, the most strategic one is the above mentioned *Ocean Alliance*, which includes three Far-Eastern groups such as Evergreen Line, COSCO and OOCL, and a French one, Cma-Cmg group.

1.2.5 The Mediterranean Sea: why so appealing for Chinese initiative?

The vast economic potential of the Mediterranean is due to the fact that the “Mare nostrum” is a strategic crossroad of three continents, Europe, Africa and Asia, as well as the main (and most convenient) sea passage between West and East. It is the landing and departure point of billions and billions of dollars of goods that China exchanges every year with its first trading partner, the UE.

To understand the new centrality assumed by the sea today, it is enough to mention the fact that it absorbs over 20% of all world traffic and 27% of container liner services, with the value of world oil traffic of 30%. Most of all, in the Mediterranean basin, the energy component has played, and continues to play, a role of primary importance, both for the presence of oil and gas rich deposits and for maritime transport network, which have always been instrumental in ensuring the necessary supplies for countries benefitting from it. As an important gateway, the Suez Canal ensures the passage of liquid bulk in both directions, North/South and South/North, and has recently experienced a spectacular increase in its energy transits: the percentage of tankers in the total type of ships crossing the strait in both directions has grown steadily since 2011, when it stood at 18.5%. The year before the Suez Canal expansion work, it had reached 25%, and then grew up to 28.15% in 2016. In 2019 the trend remained stable at a percentage of 27.8. As far as the transit tonnage is concerned, it went from 37 million crude oil in 2011 to 91 million in 2016, and finally to 107 million in 2019⁴⁰.

It is therefore not surprising that China has concentrated large part of its investments in the countries bordering this sea, which is not only commercially important but also strategic from the point of view of energy supply. Not by chance, China is the world’s largest energy producer and consumer, and its energy demand is expected to grow significantly in the medium-long term.

As regard to crude oil, even though China is still a major producer, the country became an oil importer in 1993, when due to the incredible rise in demand, China turned into the world’s largest net oil importer. According to a research conducted by Energy Information Administration (EIA), China’s annual crude oil import has followed a constant increase from 2005, surpassing the United States by the end of 2016 and reaching a world record quota of 10.1 million barrels per day in 2019, an increase of 0.9% million b/d compared to the 2018 results⁴¹. According to some estimates, China’s foreign dependence on oil will exceed 80% in 2030⁴².

The strategies of such a giant energy-consuming country can only aim at providing the energy needed to meet the demand, by building solid connection networks under the BRI flag, organized to ensure the supply of energy product from the producer countries of the Middle East to the Dragon country. That is why, if China will be able to control the Mediterranean and its routes, it will be in a privileged position to access the rich oil deposits of the Arabian Gulf. Already now, the Middle East is of significant importance for energy sector, considering that in 2019, 55% of China’s crude oil import

⁴⁰ Source of data: Suez Canal website

<https://www.suezcanal.gov.eg/English/Navigation/Pages/NavigationStatistics.aspx>

⁴¹ U.S. Energy Information Administration (EIA), <https://www.eia.gov/todayinenergy/detail.php?id=43216#>

⁴² Wang Qiang, Li Shuyu, Li Rongrong, *China’s dependency on foreign oil will exceed 80% by 2030: Developing a novel NMGM-ARIMA to forecast China’s foreign oil dependence from two dimensions*, Amsterdam, Elsevier, 2018. Available at: <https://www.sciencedirect.com/science/article/abs/pii/S0360544218316633>

came from OPEC⁴³ countries, with Saudi Arabia and Iraq taking the lead (respectively, 1.7 and 1.1 million b/d).

1.3 The strategic nature of ports along the New Silk Road project

Maritime connections and fix infrastructure form a chain through which energy products and goods are exchanged globally, and if one consider that about 60% of Chinese trade and 80% of China's natural gas and oil imports take place by sea, the importance that ports play within this mechanism is fully understood.

Precisely, ports enter this competitive game as focal points for the distribution and exchange of energy products, as the reference point for the supply of maritime fleets, essential for the strengthening of international trade and growth of goods traffic. *“Ports are to containers and goods what airports are to people and their luggage”*⁴⁴, says Parag Khanna. They are channels for millions of crossings, transactions and daily deliveries. It is from ports that millions and millions of tons of oil products transit annually, and it is also thanks to these that the difficult passages from choke points (delicate from the point of view of the risks associated with terrorism, piracy or the precarious geopolitical balances of the areas concerned) can be avoided making goods transit by land after unloading them in the harbor.

Moreover, the creation or the upgrading of large infrastructures such as ports conceal many other advantages for China's strategies. Since financing for infrastructure projects are far from being non-returnable loans, China ensures an automatic debt repayment mechanism through the energy return generated by the infrastructure investment. As Roberto Pagani as pointed out: *“The financial return is guaranteed by the reserves and physical deposits; it is not randomly covered by the finances of sovereign countries; energy, as well as currency, can be transferred to China through the same infrastructure networks built, it allows for the construction of infrastructure in BRI countries, specially programmed to convert the repayments into direct utility”*⁴⁵.

However, the control and safety of energy supply lines covers only a part, although important, of the objectives of BRI initiative. When it comes to ports, it is worth noticing that China has heavily invested in the development of port infrastructure within the Mediterranean Sea, especially in Southern Europe and North Africa, especially for the facilitation of trade and the opportunity to develop maritime related services, such as insurance consultancy and compliments of industrial codes. Furthermore, among the additional benefits that port investments can generate, is the reduction of shipment time and trade costs, both worldwide and specifically with regard to countries involved in the BRI Initiative. A document from the World Bank Group states that, in the world, shipping times are reduced in percentage from 1.2% to 2.5%, while the reduction of aggregate trade costs places between 1.1% and 2.2%. For Belt and Road economies instead, the change in shipment times and

⁴³ Organization of the Petroleum Exporting Countries (OPEC) includes twelve countries that have joined forces to negotiate oil production, prices and concessions with oil companies. These countries are: Algeria, Angola, Saudi Arabia, Ecuador, United Arab States, Gabon, Iran, Iraq, Kuwait, Libya, Nigeria and Venezuela.

⁴⁴ Parag Khanna, 2016, *op.cit.*

⁴⁵ Pagani R., Connessioni energetiche sulla Via della Seta, in “Mondo Cinese: Rivista di Studi sulla Cina Contemporanea”, No. 165/166, ANNO XLVI, N° 2-3, Milano, Brioschi Editore, 2018 (own translation)

trade costs will range between 1.7% and 3.2% and 1.5% and 2.8%, respectively⁴⁶. This is certainly an ace up the Asian country's sleeve that can be played to its own advantage for the global trade extension project.

As far as the Chinese presence in the Mediterranean area is concerned, China is mainly active through COSCO and CMPorts, with substantial or minority shareholdings in the companies managing container terminals of several European, African or Middle Eastern ports. The most relevant ones, those located in strategic positions along or adjacent to the Maritime Silk Road, are 16. Those overlooking the Mediterranean are: Port Said in Egypt; Aifa and Ashdod in Israel; Ambarli in Turkey; Pireus Port in Greece; Vado Ligure in Italy; Port of Marseille in France; Valencia and dry ports of Zaragoza and Madrid in Spain; Tanger Med in Morocco, Cherchell port in Algeri; Marsaxlokk in Malta. Those located in the neighboring area, beyond the Suez strait, are the Port of Djibouti; Khalifa Port in Emirates Arab States and Pakistani port of Gwadar.



Points marked on the map indicate Chinese investments in ports management

1.3.1 Chinese presence in the MENA region: 9 ports for Belt and Road Initiative

The MENA area⁴⁷, which includes Middle East and North Africa, plays for China a real leading role in the success of its international project. As we have seen above, the rich oil and natural gas deposits are alluring the central government in Beijing, but they are not the only target. The attractiveness of this area is dictated by the fact that it covers a strategic geographical position for freight traffic; it also bears a growing financial capacity, determined by the increasing amount of investments, savings,

⁴⁶ Francois de Soyres, Alen Mulabdic, Siobhan Murray, Nadia Rocha, Michele Ruta, *How Much Will the Belt and Road Initiative reduce Trade Costs?*, World Bank Group working paper, No. 8614, 2018.

⁴⁷ The term MENA refers to a wide region, extending roughly from Mauritania to Pakistan, which includes most of the Middle Eastern and Maghreb states. MENA countries consist of Afghanistan, Algeria, Bahrain, Djibouti, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Pakistan Qatar, Saudi Arabia, Syria, Tunisia, United Arab Emirates and Yemen.

inflation, trade openness and financial liberalization⁴⁸. The demographic evolution of the area is another factor competing with the Chinese attention: according to United Nations forecasts, the world population will increase from 7.7 billion today to 9.8 billion in 2050, with a particularly strong growth in Africa (from 1.2 to 2.5 billion of people), a factor that can contribute to alter the weight of different continents.

By reversing the perspective, governments of the countries in question are seizing an opportunity to speed up investments, create employment, modernize their infrastructures or create new ones. Reducing dependence on oil export and promoting local industrialization will be the aim of some Middle Eastern countries such as Iran and United Arab Emirates, which are eager to become international trade hubs by exploiting the logistic corridors of the Belt and Road initiative⁴⁹. It is in the interest of both sides to ensure stability in areas most affected by conflicts, regional tensions, terrorism or piracy. Increased economic interests as well as the high number of its expatriate workers that live there can do nothing but pushing Chinese government to get more deeply into regional security affairs. As a matter of fact, Beijing has already taken part in some of the Middle East region conflicts to keep peace, as in the Syrian and the Israeli-Palestinian conflict, and has experienced the danger of turmoil when in 2011, due to the fall of Gaddafi regime, it was forced to withdraw 36.000 expatriate citizens from Libya, with the consequent cancellation of important economic deals. However, the delicacy in the matter of regional stability has led the Chinese government to adopt a formal neutral position of non-intervention, which is reflected in Xi Jinping's "three no's principles" (三不原则, *san bu yuanze*): *"Not seeking agents, but advising and mediating; not establishing spheres of influence, but inviting everyone to join the BRI; not seeking to fill a power 'vacuum', but expanding a mutually beneficial win-win cooperation network"*⁵⁰.

One of the official document that confirms Chinese interest in the MENA region is the "China's Arab policy paper"⁵¹, which follows president Xi Jinping's visit to Egypt, Iran and Saudi Arabia in January 2016. After a long introductory excursus on the history of relations between China and the Middle East, the document configures China as a country on an equal footing with Arab nations by stating that *"China upholds the Five Principles of Peaceful Coexistence, namely, mutual respect for sovereignty and territorial integrity, mutual non-aggression, mutual non-interference in each other's internal affairs, equality and mutual benefit, and peaceful co-existence. [...] China respects choices made by the Arab people, and supports Arab states in exploring their own development paths suited to their national conditions"*⁵². More importantly, the paper also mentions the joint efforts of the two sides with a view to the Belt and Road initiative on the basis of a model called "1+2+3 cooperation pattern". The term in question is explained as a cooperative platform, which includes the energy sector as the core ("1"); infrastructure construction and trade and investment facilitation as the two wings ("2"); fields of nuclear energy, space satellite and new energy as the three turns ("3").

⁴⁸ Sami Ben Naceur, Mondher Cherif, Magda Kandil, *What drives the development of MENA financial sector?*, in *"Borsa Istanbul Review"*, No. 14-4: 212-223, Amsterdam, Elsevier, 2014.

⁴⁹ Middle East Institute, *G.C.C., Iran Look to Sea Trade to Reduce Dependence on Oil*, 24 August 2016
<https://www.mei.edu/publications/gcc-iran-look-sea-trade-reduce-dependence-oil>

⁵⁰ Li Shaoxian, *China's response to the chaos in the Middle East and the 'Belt and Road Initiative* (中东大乱局及“一带一路”背景下中国的应对, *ZhongDong daluan ju ji "yidai yilu" beijing xia Zhongguo de yingdui*), in *"Lingdao kexue luntan da jiangtang"*, No. 9, 2016.

⁵¹ Usually Chinese scholars or government institutions address the MENA area as "Arab States", not to be confused with United Arab States

⁵² Full text of China's Arab policy paper available at:
http://english.www.gov.cn/archive/publications/2016/01/13/content_281475271412746.htm

All the points of common interest between China and the Middle East are thus included in a document which, although it does not provide specific policies for individual countries, outlines the guidelines for current and future cooperation.

Let us now deal with the aspect that interests us the most, that is the Chinese presence in the ports of Middle East and North Africa region. The major harbors located in this vast area that have received Chinese investments are 9. The ones in the Middle East area are 7: Gwadar Port in Pakistan, Khalifa Port in United Arab States, Port of Djibouti in Djibouti, Port Said in Egypt, Aifa and Ashdod ports in Israel and port of Ambarli in Turkey.

Djibouti

The port of Djibouti is located on the Bab el Mandeb strait, a strategic choke point between the Red Sea and the Gulf of Aden, placed exactly in the middle of the intersection of major international shipping lines routes connecting Asia, Africa and Europe. For this very reason, the Djibouti economy is driven more by the trade of its busy port system, whose port tariffs and land leases constitute important revenues for the small country. No other ports along the East African coast has such modern infrastructure to handle, store and trade cargo between ships.

The Chinese presence in the Djibouti ports system began to manifest itself in 2012, when China Merchants Port Holdings started a negotiation with the country's authorities for the construction of ports and economic zones adjacent to them. Subsequently, in February 2013 Djiboutian authorities accepted to sell 23.5% of port company Port De Djibouti S.A. (PSDA) to CMPort, ensuring China an indirect control over the port of Djibouti, 100% managed by the same PSDA⁵³. The construction of a new and first deep-water port in Djibouti, the Doraleh MultiPurpose Port, by China Civil Engineering Construction Company and China State Construction Engineering Corporation, began in 2014, for a total value of \$344 million. The new Chinese-operated port is able to handle up to 8 million tons of freight per year and has a handling capacity of 220.000 TEUs.

This gateway, just like the other seaports where China holds stakes, affords Chinese vessels priority handling and lowers docking fees, giving carriers an advantage in securing as much distribution of goods as possible in Europe. As Hu Jianhua, executive vice president of China Merchants Group, declared: *"With the completion of Doraleh Multi-Purpose Port, more cargo will be shipped to neighboring countries from the Port of Djibouti"*⁵⁴.

Undoubtedly, the strategies of commercial penetration are interwoven not only with objectives of the extension of commercial network, but also with projects for the construction of military garrisons to secure the junctions for the control of geopolitically sensitive areas (indeed 40% of Chinese imports transit the Gulf of Aden). Among the many other interventions undertaken, probably the most significant one is the establishment in 2017 of the first Chinese overseas military base close to Doraleh Port⁵⁵, in an area where other six nations including US and France have already installed military facilities. Li Weijian, Chinese professor at the Shanghai institute for International Studies, said that

⁵³ As shown by the CMPort website, the core assets of PSDA included also Doraleh Container Terminal (66.66%), off dock depot (23%) and Doraleh MultiPurpose Port.

⁵⁴ Xinhua News Agency, *Djibouti's Doraleh Port officially opens*, 24 May 2017
http://www.xinhuanet.com/english/2017-05/24/c_136312120.htm

⁵⁵ The military base is located by the Port of Doraleh to the west of Djibouti City and is 0.5 square kilometres, staffed by approximately 400 personnel. The existing contract provides for a lease of the site for a total duration of 10 years, at a cost of 20 million per year. In 2019 China has also constructed an additional 330metre long pier, as shown by satellite images <https://www.forbes.com/sites/hisutton/2020/05/10/satellite-images-show-chinese-navy-is-expanding-overseas-base/?sh=7dc69db36869>

*“the facilities in Djibouti serve to protect China’s economic interests in Africa and to help safeguard regional peace”*⁵⁶. Indeed, according to official sources, the role played by the People’s Liberation Army Navy (PLAN) is essentially aimed at sea control and support to anti-piracy operations in the Gulf of Aden, which stated since late 2008, as well as peace-keeping operations, humanitarian aid in Africa, evacuate and rescue programs. Although Beijing has reassured several times that the Chinese military presence in the Horn of Africa is different by nature from the Western one as it *“does not interfere in other countries’ internal affairs and will only intervene with the endorsement of the United Nations, regional organisations and concerned countries”*⁵⁷, the waters seem far from being calm. In May 2018 the US Department of Defense warned China about several incidents in which lasers pointed from the Chinese base in the direction of US military aircraft would have caused minor injuries to at least two American pilots’ eyes. China promptly denied all allegations⁵⁸.

Pakistan

However, the Djibouti port is just one of the many that combine to form the Beijing pearls necklace: another point of interest for China's maritime strategy is the port of Gwadar in Pakistan, located just outside the strait of Hormuz. The harbor is at the end of the main economic BRI branch, the China-Pakistan economic corridor, a project involving a total investment of \$62 billion (from an initial forecast of 46 billion), 10 billion of which has been allocated to finance the improvement of Gwadar port⁵⁹. On February 2013, the contract for the construction and operation of the Pakistani port was awarded to a Chinese state-owned enterprise, China Overseas Port Holding Company (COPHC). The contract signing ceremony, attended by Pakistani former President Asif Ali Zardari and Chinese former Ambassador Liu Jian, was essentially held to formalize the transfer of the concession agreement from the Port Singapore Authority (PSA) to the COPHC. When in November 2015 the port was officially leased to China, projects for its reinforcement took shape definitively, including the installation of \$130 million breakwaters; a \$360 million coal power plant adjacent to Gwadar Port; a \$27 million project to dredge berths in the harbor and the construction of a \$230 million new international airport. The 2015 projects with a value of \$1.15 billion were joined by further programs in 2016: the construction of floating liquefied natural gas facility at the Gwadar port as a part of the USD 2.5 billion Iran-Pakistan pipeline and a 2292 acre special economic zone to be developed adjacent to harbor, for a total investment of \$2 billion⁶⁰.

The economic return generated by the Pakistani port has provide to have a fair impact on the China-Pakistan corridor: in November 2017, former Federal Minister for Ports and Shipping, Mr Hasil Bizenjo, wanted to shed light on the aura secrecy surrounding the CPEC agreement plan, by saying that 91% of the revenues generated from the Gwadar port go to China, while the Port Authority retains

⁵⁶ The Diplomat, *China Experiment in Djibouti*, 5 October 2016 <https://thediplomat.com/2016/10/chinas-experiment-in-djibouti/>

⁵⁷ Wang Lei, *Djibouti can become a new window of military cooperation between China and the United States*, Shijie Zhishi (World Affairs) (16), pp. 56-57, August 2017.

⁵⁸ Reuters, *China denies U.S. accusation of lasers pointed at planes in Djibouti*, 3 May 2018 <https://www.reuters.com/article/us-usa-china-djibouti-idUSKBN11429M>

⁵⁹ The Economic Times, *Pakistan owes USD 10 billion debt to China for Gwadar Port*, 15 March 2019 <https://economictimes.indiatimes.com/news/international/business/pakistan-owes-usd-10-billion-debt-to-china-for-gwadar-port-other-projects-top-us-general/articleshow/68432415.cms?from=mdr>

⁶⁰ The Tribune, *Construction of industrial free zone in Gwadar begins*, 20 June 2016 <https://tribune.com.pk/story/1126021/gwadar-development-industrial-free-zone-construction-begins>

9%⁶¹. Over a period of three years, from 2016 to 2019, the total gross revenue of 358.151 million of Pakistani rupee has been generated from Gwadar port, 32 million of which went to local port Authority, while the rest to China⁶².

However, it is also true that the intention of central government in Beijing was not solely to absorb economic lifeblood from the Pakistani port: Gwadar opens up a strategic alternative route for the supply of oil from the Middle East, thus managing to solve the “Malacca dilemma”. The Malacca Strait is an 800km maritime corridor that separates Indonesia and Malaysia and connects the Indian Ocean with the South China Sea. Being one of the most important trade routes in the world, around 90.000 ships ply its waters every year and local piracy incidents are not uncommon. As Foreign Affairs has pointed out: “As of now, 60 percent of China's imported oil comes from the Middle East, and 80 percent of that is transported to China through this strait [Malacca strait, ed.], the dangerous, piracy-rife maritime route through the South China, East China, and Yellow Seas”⁶³. As we saw, energy security is a key concern for China and Beijing has thus decided to target land traffic from the port of Gwadar to bypass the strait and avoid the passage through the waters of the southern Chinese Sea, also and above all because of the pressing US and Indian maritime presence which could lead to face hostile actions in a near future.



The figure shows the current sea route through the Strait of Malacca coloured red and the alternative route from the port of Gwadar coloured green.

United Arab Emirates

The United Arab Emirates are among the main recipients of port investments and construction projects along the Belt and Road. In just a few years, China has become the first trading partner of the Emirates, holding the first place in the Arab country's imports with 15.5% of goods per year⁶⁴.

⁶¹ Dawn, *China to get 91pc Gwadar income, minister tells Senate*, 25 November 2017

<https://www.dawn.com/news/1372695>

⁶² Customs Today, *Gwadar Port generates Rs358.151m revenue during last three years: Ali Haider Zaidi*, 20 March 2019

<https://customstoday.com.pk/gwadar-port-generates-rs358-151m-revenue-during-last-three-years-ali-haider-zaidi>

⁶³ Foreign Affairs, *A Strategic Seaport*, 5 March 2015 [https://www.foreignaffairs.com/articles/china/2015-03-](https://www.foreignaffairs.com/articles/china/2015-03-05/strategic-seaport)

[05/strategic-seaport](https://www.foreignaffairs.com/articles/china/2015-03-05/strategic-seaport)

⁶⁴ Source of data: World Bank website <https://wits.worldbank.org/countrysnapshot/en/ARE>

The Arab Emirates can boast the title of the largest container operator of the region and its Khalifa port in Abu Dhabi is also the first semi-automated container port of all the Persian gulf, allowing more container capacity with minimal congestion and faster turnaround times. In September 2016, Abu Dhabi ports awarded a 35 years concession to COSCO Shipping Ports, for a total estimated value of around \$738 million⁶⁵. The agreement also provides for the construction of a new terminal, 90% managed by COSCO itself, at an initial cost of €400 million. The CSP Abu Dhabi Terminal has been operational since 2019 and has effectively expanded the accommodation capacity of Khalifa port, elevating it to an important logistic and commercial hub. The terminal has a design capacity of 2.5 million TEUs, with 1200 metres of quay, and its 18 metre depth waters allow it to accommodate mega-vessels typically carrying in excess of 20.000 TEUs. By virtue of its strategic geographical position, straddling the Middle East and Africa, and being endowed with extensive rail and sea connections, Khalifa port is a fundamental junction for the strengthening of trade between Central Asia and the MENA area.

Egypt

Egypt is also one of the MENA countries most involved in the BRI Chinese initiative, given its geographical position along the Suez Canal. The Asian country is estimated to have invested between \$16 and \$20 billion in loans, infrastructure and development projects⁶⁶. Strategically located at the northern entrance of the Suez Canal is the Suez Canal Container Terminal (SCCT) in Port Said (Egypt). The terminal has been in China's sights since 2007, when in October of the same year COSCO purchased 20% equity interest with a \$185.6 million investment in the SCCT, taking over the share from an A.P. Møller-Mærsk subsidiary. SCCT handles the largest containerships in the global container industry and has recently increased its annual capacity to 5.4 million TEUs. Stands in fact, the company has thus secured a priority advantage in the management of goods in transit across the straits, increasing its presence at the gateway to the Mediterranean.

Two of the most important Chinese construction companies, China Harbor Engineering Company and China Communication Construction Company, soon began a series of works to expand and build new infrastructure in order to increase the capacity of Egyptian ports, both those located north of the country and those south of the Canal. As an example, in 2012 CHEC invested \$219 million for the construction of a 1200-meter quay, including a full fendering system, crane rails, mooring bollards and associated furniture in Port Said East container terminal. Furthermore, in August 2018, CHEC began construction of a new terminal basin in the port of Sokhna, south of the Canal, to increase the annual number of containers to 2 million and attract more shipping lines for container transit.

Israel

Even though the Suez Canal and Egyptian ports represent a fixed point within the BRI initiative, China is nevertheless seeking alternative ways to access the Mediterranean. The reason for this is to be found, as in the case of "Malacca dilemma", in the desire to avoid any obstacles in the flow of goods.

The Egyptian revolution in the first two months of 2011, which finally saw the deposition of the long-

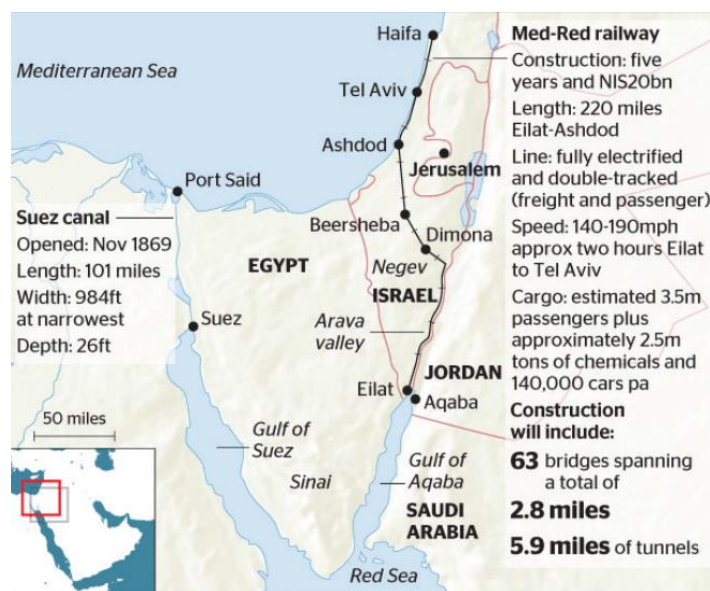
⁶⁵ Reuters, *China's Cosco to invest \$400 mln in new Abu Dhabi container terminal*, 28 September 2016

<https://es.reuters.com/article/cosco-shipping-emirates-idUKL8N1C439V>

⁶⁶ Tahrir Institute for Middle East Policy, *TIMEP Brief: China's Role in Egypt's Economy*, 21 November 2019

<https://timep.org/reports-briefings/timep-brief-chinas-role-in-egypts-economy/>

standing Egyptian president Hosni Mubarak, put Chinese interests in the country at risk. During those days of demonstrations, protests and clashes, the ports of Port Said, al-Adabiya and Sokhna closed and opened in fits and starts, causing a delay of 10 days in the work of the Chinese ships. On that occasion, Chinese ships were hijacked to the Israeli ports of Ashdod and Haifa to overcome the problem⁶⁷. That is why, over the years, the idea of building a railway project known as “Red-Med rail” has taken shape: it is a 220km-long railway line going from Eilat, an Israeli city on the edge of the Red Sea, to the port of Ashdod on the Mediterranean. Freights now transiting through the Suez Canal could thus be diverted to Israeli harbors, avoiding the strait in case of local turmoil. Under the 2012 Memorandum of Understanding signed by the Israeli former Minister of Transportation, Israel Katz, and his Chinese counterpart Li Shenglin, the State-owned China Communication Construction Company was initially chosen to build the railway in question. Despite several delays, mainly due to complicated legal processes and negative reactions from Israeli environmental organisations⁶⁸, in June 2020 the Southern District Planning and Building Committee has approved for deposit the first section of the plan, but the date of completion of the entire work is still uncertain.



A map of the Red-Med railway, source: The Times

When it comes to Israeli ports, 2014 was an important year for the rootedness of Chinese maritime presence in the country. In June of that year, a subsidiary of China Harbor Engineering Company won a \$870 million tender for the construction of the new port of Ashdod, whose project includes an extension of the existing breakwater by 600 meters, new 1500 meter secondary breakwaters, and reclamation and quay construction. In parallel, another Chinese company, namely Shanghai International Port Group (SIPG, 上海国际港口集团, *Shanghai guoji gangkou jituan*), won a tender to run the new Bayport terminal in Haifa for 25 years beginning in 2021, also ensuring an investment of around \$2 billion for building port facilities and purchasing related equipment. Upon completion,

⁶⁷ Emma Scott, *China's Silk Road Strategy: A Foothold in the Suez, But Looking To Israel*, in “China Brief, a journal of analysis and information”, Jamestown Foundation, Volume XIV, Issue 19, October 2014.

⁶⁸ The Society for the Protection of Nature in Israel website, *Eilat Railway SPNI is Working to Preserve the Negev's Unique Landscapes*, 2017 <https://www.natureisrael.org/EilatRailway>

the Bayport terminal will be able to handle 1.86 million containers per year, making it the largest port in Israel⁶⁹. Quoting the words of the former president of SIPG, Chen Xuyuan, investments in Haifa “will help strengthen relations between the Shanghai port and other ports along the maritime silk road and form a closer trade network between the Shanghai port and ports in Europe”⁷⁰, but that’s not all. Markets could be served beyond Israel’s borders through Jordan and as far as the Gulf countries, particularly Turkey, Syria, Iraq and Saudi Arabia, improving trade relations and helping to stabilize a region affected by many conflicts.

Turkey

As in the past, Turkey is an important stop-over for the connection between East and West along the Belt and Road initiative. As the head of commerce for the Chinese consulate in Istanbul, Huang Songfeng, once said it is “an obligatory point of passage”⁷¹, especially in order not to make China too dependent on Russia and those economic corridors in which it participates.

In 2015, a consortium formed by COSCO, CMPort and China Investment Corporation (中国投资有限责任公司, *Zhongguo touzi youxian zeren gongsi*), acquired 64.5% of shares in Turkey’s third largest container terminal, Kumport, thanks to an investment of \$940 million⁷². Located on the Ambarli coast of Istanbul, the terminal handled 1.3 million TEUs annually, growing up to 2.1 million by the end of 2017. As for the Chinese monthly throughput in terms of Turkish container terminal volume, it went from 665.000 TEUs by the end of 2016 to 1.281.000 TEUs in 2019; the annual bulk cargo tonnage handled in Kumport by Chinese operators is also increasing⁷³.

Better than any other country adhering to BRI, Turkey is however strategic above all for its role in multimodal transport: thanks to the new Baku-Tbilisi-Kars railway line connecting Azerbaijan, Georgia and Turkey, goods can be shipped from the port of Aktau (Kazakhstan) on the Caspian Sea and then on the Azerbaijani-Georgian tracks, to be delivered to Turkish ports and distributed in Europe⁷⁴. The route in question is part of the China-Central Asia-West Asia Economic Corridor, and in particular it belongs to the artery that starts from Western China and passes through Kazakhstan to the port of Aktau, the Trans-Caspian international transport route.

Even in the case of Turkey, one of Beijing’s objectives is to diversify the routes to reach its destination safely, now bypassing Russia, which is an allied country but still a geopolitical competitor.

⁶⁹ Journal of Commerce, *Chinese port operator signs deals to run Israel’s Haifa port*, 5 June 2015

<https://www.joc.com/port-news/international-ports/haifa-port/chinese-port-operator-signs-deal-run-israel>

⁷⁰ China daily, *Port project marks new achievement in China-Israel infrastructure co-op*, 29 May 2015

http://www.chinadaily.com.cn/business/2015-05/29/content_20856893.htm

⁷¹ InsideOver, *Il ruolo chiave della Turchia nella nuova Via della Seta della Cina*, 31 December 2019

<https://it.insideover.com/economia/il-ruolo-chiave-della-turchia-nella-nuova-via-della-seta-della-cina.html> (own translation)

⁷² Presidency of the Republic of Turkey, *Chinese consortium buys into Turkish port with USD 940 million investment*, 28 September 2015 <https://www.invest.gov.tr/en/news/news-from-turkey/pages/280915-cosco-pacific-buys-turkish-kumport.aspx>

⁷³ Source of data: CMPort website <http://www.cmport.com.hk/EN/investor/Operation.aspx?>

⁷⁴ The line is already operational as demonstrated by two shipping dating back to December 2019 and June 2020: in 2019 China shipped 44 containers full of dried fruit, while in 2020 43 containers loaded with Chinese electronic devices reached Istanbul along the Baku-Tsibili-Kars railway. <https://www.portseurope.com/china-and-turkey-use-baku-port-as-transit-point/> ; <https://menafn.com/1100410424/Port-of-Baku-operates-another-cargo-freight-from-China-to-Turkey>



The map shown the route of goods from the port of Aktau to Baku, then the Baku-Tbilisi-Kars railway line

The Chinese presence in North Africa instead passes through the Moroccan ports of Tanger Med and Somaport, and the Algerian port of Cherchell.

Algeria

In January 2016, Algeria’s national group of port services signed a loan agreement worth £3.3 billion with China Harbour Engineering Company and China State Construction Corporation, for the building of a commercial port at El Hamdania, west of Algeri. According to the existing agreement, the port will be constructed by a joint company under Algerian law, composed by Public Port Services Group and the two above-mentioned Chinese companies, while the operations after the construction will be entrusted to Shanghai International Port Group for the first 25 years. Although work in the harbor was interrupted in February 2019 due to the Hirak protest movement, the project is about to be relaunched after the President of Algeria Abdelmadjid Tebboune instructed the Prime Minister to *“make new contacts with Chinese partner and to study a new transparent bases to submit it a second time to the Council of Minister”*⁷⁵. The giant port will have a capacity of 25 million tons per year and 23 terminals capable of handling up to 6.5 million 20-foot containers. El Hamdania will serve as a commercial hub in the Mediterranean, and for China *“it is also an opportunity to develop value chains from Africa to Europe instead of playing a secondary role in the French-led production chain that extends from Morocco to Europe”*, said Michael Tanchum, Professor of International Relations of the Mediterranean and the Middle East at the University of Navarra⁷⁶.

Morocco

Morocco has recently overtaken Spain in terms of largest container capacity, and its Tanger Med port is the maritime flagship of the all North Africa. It is the first container port in the Mediterranean, in Africa and among the top 20 on a global scale, and boasts the country's first import-export platform

⁷⁵ Agence Ecofin, *L’Algérie relance le mégaprojet du port Centre d’El Hamdania financé par la Chine*, 2 July 2020 <https://www.agenceecofin.com/transports/0207-78104-1-algerie-relance-le-megaprojet-du-port-centre-d-el-hamdania-finance-par-la-chine> (own translation)

⁷⁶ Agenzia Nova, *La nuova Via della Seta della Cina compie un nuovo passo in Algeria*, 12 October 2020 <https://www.agenzianova.com/a/5fb3ef0a94dca1.20554837/3138522/2020-10-12/la-nuova-via-della-seta-della-cina-compie-un-nuovo-passo-in-algeria/linked> (own translation)

with flows of goods, totaling 30 billion euros⁷⁷. The port is also equipped with 4 container terminals, with a total capacity of 9 million TEUs and has managed to connect Morocco to 77 countries and 183 ports, contributing to establish the country on the international maritime scenario. After several attempts, China finally managed to indirectly penetrate the Moroccan port sector in June 2013, when China Merchants Holdings announced the acquisition of 49% equity stake in CMA-CMG's Terminal Link, for a total agreement of \$400 million⁷⁸. The acquisition of the shares in Terminal Link has allowed China to operate in Casablanca and Tangier Med through two port operators, Somaport and Eurogate Tangier, respectively. In this way, the Dragon country has secured an important presidium for the conquest of the seas: after having settled in Port Said through COSCO, China can also count on the presence at the entry of the Gibraltar Strait, thus controlling the two access points to the Mediterranean. Furthermore, the Moroccan port forms part of a bigger area called Tanger Med complex, including four export-oriented free trade zones, totally free of customs duties. The nature of these special economic zones located close to the port realities, which are not limited to the single Moroccan port but are also present in Egypt and Algeria, has the objective of attracting foreign investment and creating new job opportunities. In this sense, the Mou signed in 2019 by Morocco-based BMCE Bank and China Communication Construction Company/China Road Bridge Corp is precisely directed to the construction of an industrial and residential SEZ in the northern city of Tangier, called Tanger Tech Mohammed VI. The city will be built over a 10-year period, span over 2000 hectare and it will create more than 100.000 jobs, according to government estimates⁷⁹. Ilyas El Omari, head of the northern Tangier-Tetouan-Alhoceima region, told the work has already begun to connect the city to road, rail and electricity infrastructure, adding the tech city will also benefit from its Tanger Med port, increasing Chinese trade revenue in the area.

1.3.2 Chinese presence in Europe: the ports of Spain, France, Italy and Malta

Undoubtedly, the European market assumes significant importance for Chinese interests, and this goes hand in hand with the high concentration of investment in the transport and logistic sector of the Mediterranean basin, understood as a shore for both European and African countries. Indeed, the European Union is China's largest trading partner, with 13% of total import coming from EU countries in 2019, totaling €198 billion. Likewise, China remains the leading European trading partner, with an import of €316 billion⁸⁰. The reduction of costs and transport time thus appears to be an obligation for Chinese strategies, since about 80% of trade between the two sides takes place by sea⁸¹.

Until today, the Asian Dragon has managed to penetrate 7 European ports overlooking the Mediterranean, the most strategic of which is undoubtedly the Port of Piraeus in Greece. In addition to Greek terminals, Spain, France and Italy have so far been the favorite destinations of Chinese maritime expansion aims in Southern Europe.

In June 2017, COSCO acquired the majority stake in a Spanish terminal company, Noatum Port

⁷⁷ Agi, *Quello di Tangeri diventa così il porto più grande del Mediterraneo*, 29 June 2019

https://www.agi.it/estero/porto_di_tangeri_mediterraneo-5744488/news/2019-06-29/ (own translation)

⁷⁸ CMA-CMG website, *CMHI and CMA CGM complete the Terminal Link Transaction*, 11 June 2013

⁷⁹ Oxford Business Group, *Morocco's special economic zones and industrial parks attract more investment*,

<https://oxfordbusinessgroup.com/analysis/welcoming-environment-special-economic-zones-and-industrial-parks-are-attracting-more-sector>

⁸⁰ Source of data: European Union website https://europa.eu/european-union/topics/trade_en

⁸¹ Alice Ekman, 2018, *op.cit.*

Holdings (then rebranded Cosco Shipping Ports Spain Terminals L.S.U.), thanks to a deal worth €203 million. The takeover of the group allowed COSCO to penetrate the maritime terminals of Valencia (Noatum Container Terminal Valencia, rebranded CSP Iberian Valencia Terminal), the fifth container port in Europe in 2019; as well as the Madrid Dry Port in Coslada and Zaragoza (CSP Iberian Zaragoza Rail Terminal)⁸².

As in the case of Morocco, the acquisition of 49% of Terminal Link stake by CMPorts allowed the Chinese giant to operate in the Eurofos terminal in the port of Marseille and in the Malta Freeport Terminal in Marsaxlokk, the 11th European port by volume of TEUs moved annually⁸³.

The operations that saw the Chinese logistics companies entering the port of Vado Ligure (Italy) will be dealt deeply in the next chapter.

1.4 A “dragon’s head”⁸⁴ in the Mediterranean: the case of the Piraeus Port

The importance of Chinese investment in the Greek port is not only dictated by the increase in harbor operations, but also by the fact that the whole affair reflects the evolution of the China-EU relationship and serves as a model for the European investment plan of the former President of the European Commission, Jean-Claude Juncker.

The first hints of Chinese attention towards the Greek port date back to January 2006, when the President of COSCO, Wei Jiafu, expressed interest in becoming involved in Piraeus port operations, during the Greek former Prime Minister Kōstas Karamanlīs’ visit to China. Two years later, in June 2008, the same COSCO was named provisional winner of an international tender for Greece’s container terminal in the Port of Piraeus. According to the agreement, COSCO would have had access to operate in piers II and III of the container terminal⁸⁵ for a period of 35 years, with a total lease of €4.3 billion and an initial pay of €50 million due to the Greek state⁸⁶. The Chinese company also undertook works for the realization of the planned pier III and maximization of throughput of pier II, investing roughly €230 million. Results did not take long to come out: the annual throughput of Piraeus container terminals grew from 0.8 million TEUs in 2010 to 1.7 million in 2011, amounting to 2.8 million TEUs in 2012⁸⁷. In 2012 the Greek port was the world's fastest growing container port, net of a gain of 21 positions (from 77th to 46th) in the ranking of the top 100 global container ports⁸⁸. In the following years, the number of containers handled in Chinese terminals continued to grow, rising from 2.5 million TEUs in 2013 (3.1 million in total, including PPA containers) to 3 million TEUs in 2014 (3.6 million in total).

⁸² SRM Italian Maritime Economy, *China’s COSCO Shipping buys 51% shares of Spain’s Noatum Port*, 2017 <https://www.srm-maritimeconomy.com/chinas-cosco-shipping-buys-51-shares-of-spains-noatum-port/>

⁸³ PortEconomics, *Top 15 container ports in Europe in 2019: TEU volumes and growth rates*, 21 February 2020 <https://www.porteconomics.eu/2020/02/21/top-15-container-ports-in-europe-in-2019-teu-volumes-and-growth-rates/>

⁸⁴ Expression reported from Xi Jinping’s speech during his visit to the Greek port in November 2019. The Times, *Greek port is our ‘dragon’s head’ in the Mediterranean, says Xi Jinping* <https://www.thetimes.co.uk/article/greek-port-is-our-dragons-head-in-the-mediterranean-says-xi-jinping-xrd5nll0r>

⁸⁵ As agreed, pier I is operated by Piraeus Port Authority S.A. (PPA), the other two goes to Piraeus Container Terminal S.A. (PCT), a subsidiary of COSCO.

⁸⁶ Netherlands Institute of International Relations (Clingendael Institute), (edited by) van der Putten F., *Chinese investment in the Port of Piraeus, Greece: the relevance for the EU and the Netherlands*, Clingendael Institute report, The Hague, 2014.

⁸⁷ Ibidem

⁸⁸ Source of data: Containerization International magazine, *Top 100 Container Ports 2013*.

Deeply shaken by the financial crisis of 2008, Greece nation was in a severe state of economic recession at the time, and its government had been forced to accept emergency funding by the European Central Bank and the International Monetary Fund. For this very reason, government had been working for some time to find alternative sources of revenue in order to meet its debts, and the privatization of Piraeus port was identified as one of the main strategies to alleviate its finances. Chinese counterpart immediately showed interest in participating in a hypothetical call for bid, followed by an official visit of the Prime Minister Li Keqiang to the Greek port. However, also in this case, some events linked to political instability have delayed the achievement of Chinese interests at stake. Syriza, the winning leftist party in the Greek national elections of 2015, alarmed Beijing by threatening to cancel the forthcoming privatization of the Port of Piraeus⁸⁹, after all having based part of its election campaign against COSCO's presence in Greek port terminals. In spite of that, the Beijing government did not let go of its grip on the Piraeus. From a meeting in February 2015 between the Greek former Minister of Finance Gianīs Varoufakīs and the Chinese Ambassador Zou Xiaoli, the Chinese government tried, through the words of the latter, to reassure the newly elected majority on the possible advantages for Greek economy: *"Minister, you must understand that, from Beijing's point of view, COSCO is the mouth of the dragon. First of all, we have to make sure that the dragon plants its teeth well so that it can settle. Once it has done, no worries or doubts: the rest of the dragon will follow"*⁹⁰.

Finally, bids were submitted and in January 2016 COSCO became the preferred bidder by offering €368.5 million for 67% stake of Piraeus Port Authority. According to the agreement, the concession will expire in 2052 and the overall benefit of the transaction will reach €1.5 billion for Greek economy⁹¹.

Triggered by the new management, the port has continued its growth without hindrance: in 2017, in piers managed by COSCO alone, annual throughput amounted to 3.7 million TEUs, to be added to the 543.000 TEUs of pier I, for a total of 4.1 million TEUs moved in the harbor. In 2018, the same Chinese company saw a 19.4% increase in throughput compared to the previous year, which, when added to PPA operations, came close to 5 million TEUs overall. By the end of the same year, Piraeus became the second among the Mediterranean's highest-ranking commercial ports, just behind leader Valencia⁹². As regards 2019, it was the most successful year in terms of profitability not only because there was an increase in revenues of up to 150 million compared to 132 million of the previous year, but also because Piraeus container volumes continue to intensify reaching 5.6 million TEUs handled during the year, a new record for Greece⁹³.

The fact that Piraeus is the sole Chinese investment aimed at ensuring the control of a port authority (the PPA for the Greek case), and thus not directed to individual terminals, speaks volumes about the importance of the Greek port for Asian dragon's strategies along BRI. Its acquisition represents a pledge commitment to make Piraeus the major Chinese hub in the Mediterranean, playing the role of

⁸⁹ Global Times, *Greece Takes Realistic Approach to Chinese Investments after Election Wobble*, 4 March 2015 <https://www.globaltimes.cn/content/910227.shtml>

⁹⁰ Gianīs Varoufakīs, *Adulti nella stanza*, Milano, La Nave di Teseo, 2018 (own translation)

⁹¹ Global Times, *Chinese COSCO's bid for acquisition of Piraeus port accepted: Greek privatization fund*, 21 January 2016 <https://www.globaltimes.cn/content/964824.shtml>

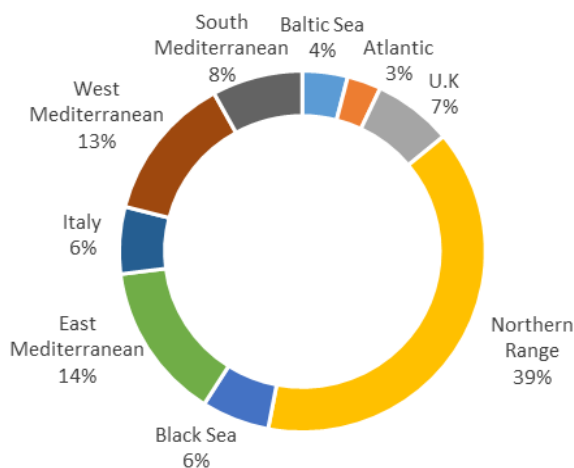
⁹² Seatrade Maritime News, *Piraeus becomes second largest port in the Med*, 7 January 2019 <https://www.seatrade-maritime.com/asia/piraeus-becomes-second-largest-port-med>

⁹³ Seatrade Maritime News, *Piraeus port container volumes continue to grow*, 27 May 2020 <https://www.seatrade-maritime.com/ports-logistics/piraeus-port-container-volumes-continue-grow-2019>

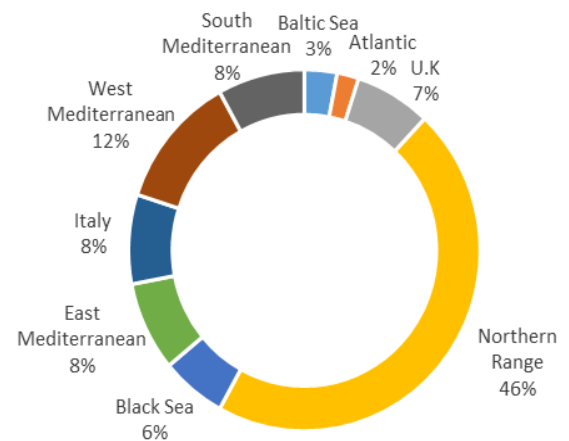
promoting China’s commodities in Southeast and Central Europe.

Furthermore, current transit time between Shanghai and Piraeus amounts to more or less 20 days, 10 days less than on the Shanghai-Rotterdam/Hamburg route, which has made the Greek port attractive due to the reduced shipping time⁹⁴. Besides, thanks to COSCO’s dedication in Greece, the maximization of port operations in Piraeus has made possible to absorb large volumes of traffic from the Northern European ports, enabling the Mediterranean to gain market share, as shown in figures below.

Container market share of port areas (in TEU) 2018



Container market shares of port areas (in TEU) 2008



Source: SRM Italian Maritime Economy, 6th annual report, 2019

Moreover, thanks to its strategic position, Greece guarantees the possibility of managing trade from and to the Black Sea, as well as to the MENA countries, playing the ideal role of hub for container carrier transshipment services, whose dimensions require a cargo transfer on vessels of dimensions compatible with the infrastructure and the financial dimensions of carriers, in order to reach the upper Adriatic coast⁹⁵. To exploit the full potential of Piraeus port as gateway to the European market, China is pursuing the integration of an additional transport method, linked to maritime one. The project is named “China-Europe Land-Sea Express Line” (中欧陆海快线, *ZhongOu luhai kuaixian*) and translates into a heavy modernisation of the existing 350km-long railway line connecting Hungary and Serbia, which will allow goods to travel at a speed of 200km per hour⁹⁶. In April 2020, Hungarian Finance Minister Varga announced a €1.8 billion worth loan agreement between Hungary and the Chinese EXIM bank, which will finance 85% of the project, although further details have not been disclosed as the Hungarian government has been keeping the railway agreements secret for at least

⁹⁴ Luo Zhongming, managing director of COSCO, from “China-Europe maritime and terrestrial express lines in smooth progress”, China Radio International website, 2017 <http://chinaplus.cri.cn/news/china/9/20170513/4588.html>

⁹⁵ SRM Italian Maritime Economy, *Nuovi scenari nel Mediterraneo: Suez e la Cina, le strategie dei grandi carrier, le nuove tecnologie e le rotte dell'energia*, Presentazione del 6° Rapporto annuale, Napoli, 2019.

⁹⁶ Global Times, *China-Europe land-sea transport takes shape*, 21 May 2020 <https://www.globaltimes.cn/content/1189061.shtml>

10 years⁹⁷. The express line is responsible for connecting the Greek port with the countries of Eastern and Central Europe, allowing a considerable reduction in costs compared to China-Europe freight trains that transferred their cargo via Poland on the way to Western Europe, also reducing delivery time by at least 7 to 11 days⁹⁸.

However, China and Greece continue to strengthen their economic ties, pursuing the common goal of turning the Port of Piraeus into the biggest commercial harbor in Europe. At the end of 2019, the two countries signed an agreement in which COSCO is committed to spend an additional €600 million, including a mandatory investment of €300 million by 2022 which will allow the acquisition of a further 16% stake in the port⁹⁹. Expansion work began in February 2020.



The map shows the route of Chinese goods entering Eastern Europe via “China-Europe Land-Sea Express Line”

1.5 Beijing’s new diplomatic strategies for the success of the Belt and Road

韬光养晦 (*taoguang yanghui*), “conceal one’s strengths and bide one’s time”, was the strategy that guided China’s economic growth process at the dawn of the 1900s, which lasted until 2008¹⁰⁰. According to this expression, China had to move in the shadows, without exposing itself internationally so that it could rise its head when time would allow. A change in strategy occurred towards the end of the 10’s of the new century, when Chinese diplomacy moved to 奋发有为 (*fenfa youwei*), “strive for achievements”¹⁰¹, projecting the country on an international stage and taking advantage of the financial crisis which paralysed Western countries in 2008. The launch of Belt and

⁹⁷ Global Construction Review, *Hungary signs \$1.9bn loan deal with China for railway to Belgrade*, 27 April 2020 <https://www.globalconstructionreview.com/news/hungary-signs-19bn-loan-deal-china-railway-belgrad/>

⁹⁸ Cooperation between China and Central and Eastern European Countries website, *Chinese investment turns Piraeus Port into an international hub*, 11 November 2019 http://www.china-ceec.org/eng/zdogjhz_1/t1717300.htm

⁹⁹ Reuters, *China, Greece agree to push ahead with COSCO’s Piraeus Port investment*, 11 November 2019 <https://www.reuters.com/article/us-greece-china-idUSKBN1XLIK>

¹⁰⁰ The term was adopted by President Deng Xiaoping after Tian’anmen square protests, to guide Chinese foreign policy in “keeping a low profile”.

¹⁰¹ Gudrum Wacker, *The Irreversible Rise. A New Foreign Policy for a Stronger China*, in Alessia Amighini, Alex Berkofsky (eds.), “Xi’s Policy Gambles: The Bumpy Road Ahead”, ISPI e-book, pp.67-77, 2015.

Road initiative itself needs to be contextualized within this framework, with a view to extending Chinese influence in existing institutions and ending the heavy European-US participation in international affairs.

Chinese diplomacy under BRI initiative is used to proceed through the inauguration of different bilateral or multilateral cooperation mechanisms (of general or themed nature) to seal “comprehensive” or “strategic” partnership with single or group of countries, without the need to conclude alliances in the strict sense. What strikes the most is the fact that these cooperation tools are very often created with reference to broader geographical regions rather than to a specific country, which can sometimes testify to the importance that Beijing attaches to certain areas. Over the years have been formed as follows: the Forum on China-Africa Cooperation (FOCAC); the China-Arab States Cooperation Forum (CASCF); the Cooperation between China and Central and Eastern European Countries (China-CEE, also 16+1 or 17+1) and the China-Community of Latin America and Caribbean States forum (China-CELAC). The forums are created on China's own initiative and meet on an annual basis, following a “*regionalization of Chinese priorities*”¹⁰². However, it should be noted that it is not so much a matter of developing a specific strategy for the region selected, but instead of using that region to internationalize and develop projects of interest defined by the central government. This is what scholars call 顶层设计 (*dingceng sheji*), the “top-level design”¹⁰³, which applies to as many regions as possible. Chinese activism in the Mediterranean reflects, for instance, the logic of this operational approach. The focus on the Mediterranean in the Belt and Road perspective has led China to launch several sub-regional low-profile events involving different countries overlooking the “Mare Nostrum”. As an example, in November 2015 at Xiamen, China’s State Oceanic Administration and the Ministry of Foreign Affairs held a ministerial-level conference with representatives from southern European countries as Cyprus, Italy, Greece, Malta, Portugal and Spain, focusing on maritime cooperation in order to strengthen collaboration on transportation, port construction, industrial parks, tourism and fishery.

In addition to these forums for multilateral cooperation, whether formal or informal, there is also a network of bilateral agreements between BRI countries and China, providing for more detailed commitments. This is the case of the numerous Memorandum of Understanding (up to 2019 there were 57¹⁰⁴), which China signed with the countries that wanted to join the initiative. As in the case of letters of intent, all these memorandum are legally non-binding documents that China wanted to put in place in its willingness to engage in dialogue with its counterpart, with the result of putting at ease each member country. However, China alone will be in command of the entire initiative, which it will be able to steer in a flexible manner in favor of its partners, complying with central government interests at the time. It is an example of what jurists call “soft law power”, a tool currently favored by the Dragon diplomacy as it makes easier to reach an agreement through the sharing of information

¹⁰² Alice Ekman, 2018, *op.cit.*

¹⁰³ *Ibidem*

¹⁰⁴ In 2015, MoU have been signed between China and Azerbaijan; Bulgaria; Czech Republic; Hungary; Poland; Romania, Serbia; Slovakia; South Africa; Turkey. In 2016: Egypt, Latvia. In 2017: Albania; Bosnia-Herzegovina; Israel; Croatia; Lebanon; Madagascar; Montenegro; Morocco; Panama. In 2018: Algeria; Antigua and Barbuda; Bahrain; Bolivia; Camerun; Chile; Costa Rica; Cote d’Ivoire; Ethiopia; Fiji; Ghana; Greece; Grenada; Guyana; Kenya; Libia; Malta; Nigeria; Oman; Portugal; Ruanda; Samoan; Senegal; Seychelles; Sierra Leone; Singapore; Somalia; Trinidad and Tobago; Tunisia; Vanuatu; Victoria (Australia). In 2019: Barbados; Italy; Jamaica; Luxembourg; Switzerland.

and persuasion, without the ratification of treaties giving rise to concerns in the contractor¹⁰⁵.

We are therefore faced with a new form of Chinese diplomacy that has introduced selective innovations with regard to BRI implementation mechanisms, establishing a “new type of major power relations” (新型大国关系, *xinxing daguo guanxi*)¹⁰⁶. If one considers that European countries as France, Germany or United Kingdom, historically known as the core nations of the UE, have not signed any memorandum with China, one understands that the strategy of Beijing prefers targeting countries considered as “small” and which, grouped together, can constitute an equal counterpart to balance the weight of the Dragon. In essence, Chinese diplomacy remains very flexible and at times informal, precisely in an attempt not to come across the reluctance of the countries involved and of Brussels on the possibility of institutionalizing BRI operational mechanisms, which would sometimes clash with European community legislation as shown in the next section.

1.6 Belt and Road and the UE response

Just after the “16+1” cooperation was initiated and the corresponding Secretariat was established in late 2012, EU High Representative of the Union for Foreign Affairs and Security Policy, Catherine Ashton, issued a warning statement containing an admonition to China and CEE countries not to form any kind of alliance bypassing the EU¹⁰⁷. However, concerns within the EU soon turned out to be manifold: prospect of getting too close to China, neglecting Brussels foreign policy; lack of transparency; violation of EU high standards regulations on environmental protection and product quality; inadequate financing model¹⁰⁸, were all driving factors that led the European Commission to propose and sign a Memorandum on EU-China Connectivity Platform, in order to improve synergies between BRI and EU’s connectivity initiatives and coordinate infrastructure plans implementation. Another important step in relations between China and the European Union has been the launch in 2014 of several negotiations for a reciprocal investment agreement (the “Eu-China Comprehensive Agreement on Investment”, CAI), which would improve Chinese market access for European companies by eliminating quantitative restrictions and creating a “level playing field” for them. After a dialog with President Xi Jinping in September 2020, the President of European Commission, Ursula Von der Leyen stressed: *“For us, with market access, it is not a question of meeting half-way, but it is a question of rebalancing the asymmetry and a question of openness of our respective markets. [...] So, we need China to move on these two issues and we need it to move if we are to achieve our shared objective of finalising negotiations this year. So in other words, China has to convince us that it is*

¹⁰⁵ Federico R. Antonelli, *Gli aspetti giuridici della Belt and Road Initiative*, in “Mondo Cinese”, *Rivista di studi sulla Cina Contemporanea*, 165-166, anno XLVI – N. 2-3, 2018.

¹⁰⁶ Alice Ekman, *China’s regional forum diplomacy*, European Union Institute for Security Studies (EUISS), 2016.

¹⁰⁷ Die Welt, *Divide, Conquer, Aim East: China Has A Sharp New European Trade Strategy*, 11 November 2012, in Worldcrunch website <https://worldcrunch.com/world-affairs/divide-conquer-aim-east-china-has-a-sharp-new-european-trade-strategy>

¹⁰⁸ As an example, a 2017 document from the European Parliament Research Service on the 16+1 cooperation format states that “[...] *the granting of funds has been tied to sovereign guarantees and to Chinese companies carrying out large parts of the 'loan and-build contracts'*. [...] *If used in EU Member States in the place of public tenders, it would constitute a breach of the EU's internal market rules (public procurement, environmental impact assessment, technical standards and so forth)*.” Document available at: [https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_ATA\(2017\)599313](https://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_ATA(2017)599313)

worth having an investment agreement”¹⁰⁹.

Irrespective of the success of CAI treaty, Germany, France and Italy were among the promoter countries in formulating a proposal for a European regulation establishing a framework for the control of foreign direct investment in the EU, in 2017. The proposed regulation was subsequently approved by measure of March 2019 (2019/452) and entered into force on 11 October 2020, applying to all member states¹¹⁰. The new regulation is EU’s first attempt to equip itself with a system for screening investments from third country, especially China. It is not only the member state that assesses the impact of investment in strategic sectors as technology or infrastructure, but also the Commission and other member states can express their views if the investment may affect security or public order. However, the European institutions have no deliberative power to approve individual investment projects, since the final decision is in any case up to the member state where the investment is proposed.

The European Union’s position toward BRI initiative remains rather critical when mention is made of another document published by EU Chamber of Commerce in China, in January 2020, named “*The Road Less Travelled*”. The document contains the analysis of a survey administered to 132 small and large companies belonging to different types of industries, aimed at understanding the role of European business in the Chinese initiative and ascertaining whereas there is room for improvements. The report lays bare several shortcomings linked to the whole initiative, from the bidding stage for BRI related projects, to the competitive disadvantages European companies suffer in competing with Chinese SOEs, and the marginal benefits the project offers. The document states that only 10% of bidding companies have got notice of BRI project from public tender information, while “*more than half of the companies that have bid on BRI-related projects list ‘insufficient information available’ as a top challenge, while nearly 40 per cent say they struggled with ‘non-transparent public procurement systems’*”¹¹¹. When asked about the impact of the BRI on their revenues, the vast majority of European companies say they have not felt any impact, and even one business indicates a decrease¹¹². The unfair competitive advantage that Chinese SOEs resort to when approaching to a BRI project is what the document calls the “*vertical integration, a recipe for Chinese dominance*”¹¹³. As reported by 40% of respondents, Chinese companies are able to procure everything needed to implement a project, from materials to financings, from construction service providers to post-construction services. This vicious cycle, made possible by the high degree of coordination between SOEs and Chinese government, certainly manages to be an excellent response for the achieving of very short-term results, but it “*is profoundly disconcerting to the European business community, as it removes meaningful competition and guarantees that contracts find their way into the hands of specific companies*”¹¹⁴.

In the final lines of the report, entitled “*An unwelcome ‘divide and conquer’ strategy*”¹¹⁵, the

¹⁰⁹ European Commission website, *Statement by President von der Leyen at the joint press conference with President Michel and Chancellor Merkel, following the EU-China leaders’ meeting via videoconference*, 14 September 2020

https://ec.europa.eu/commission/presscorner/detail/en/statement_20_1644

¹¹⁰ The entire text of the law is available at : <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32019R0452&from=IT>

¹¹¹ European Union Chamber of Commerce in China, *The Road Less Travelled, European Involvement in China’s Belt and Road Initiative*, EU Chamber of Commerce in China report, 2020, p.4

¹¹² *Ibid.*, p.13

¹¹³ *Ibid.*, p.14

¹¹⁴ *Ibid.*, p.15

¹¹⁵ *Ibid.*, p.44

European Chamber of Commerce seems to accuse China of seeking ways to finance BRI-related projects in countries of the 17+1 group (especially in those non-members of the EU than in those that are part of the Union, probably due to the growing demand for transparency in the former's tenders). As the EU abides by Once-China policy, "*China should reciprocate and adopt a One-EU policy, rather than trying to divide the EU through bilateral deals*"¹¹⁶.

It is therefore not trivial to reaffirm the importance of ensuring reciprocity of conditions in the development of BRI related infrastructure project, in terms of transparency regarding bidding for contracts, feasibility or sustainability standards, as to achieve a win-win cooperation between Europe and China. European companies must be able to compete on an equal footing with Chinese state-own or private enterprises, and the EU is fully aware of the priority of developing tools to address competition within European market from foreign state-owned and subsidised companies not subject to the same disciplines EU state-owned companies must follow.

Parag Khanna once said "*there are many reasons that help to keep countries strategically united. China is the new chapter that is added to this theme, because if Europe does not have a great common economic investment policy, China will manipulate it*"¹¹⁷. Certainly, the path for reaching this goal is far from being mapped out, but as Emmanuel Macron wanted to underline, the period of "European naivety" can be consider over¹¹⁸.

¹¹⁶ Ibid., p.45

¹¹⁷ Francesco De Filippo, 2019, *op.cit*

¹¹⁸ Reuters, *EU leaders call for end to 'naivety' in relations with China*, 22 March 2019
<https://www.reuters.com/article/us-eu-china-idUSKCN1R31H3>

Chapter II

Italy along the Belt and Road and Italian ports regulation

2.1 Italy towards the Belt and Road Initiative

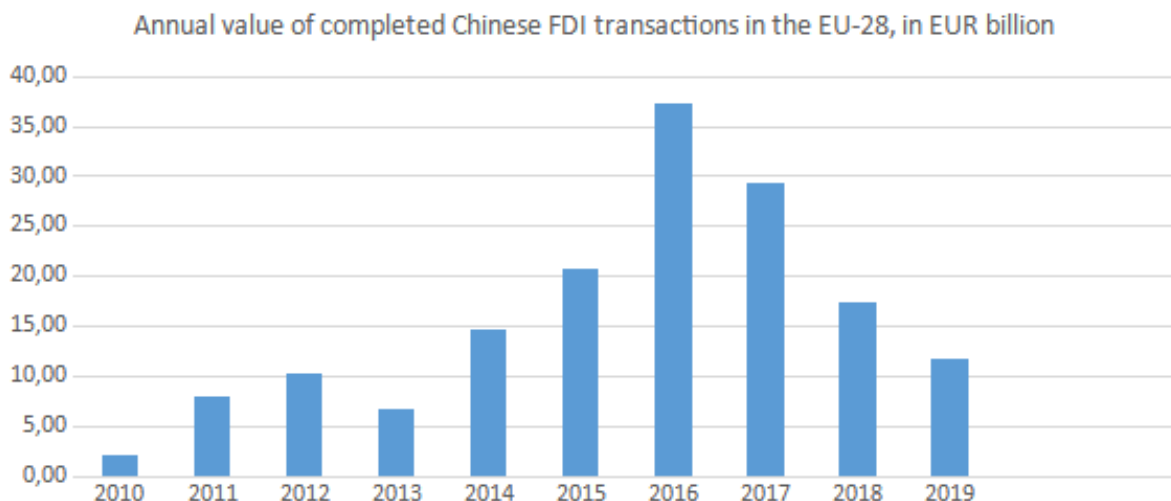
2.1.1 From the first courtships to the signing of the Memorandum

The process which led Italy to the inclusion in the Belt and Road Initiative has been slow and gradual, also marked by targeted investments, participation in forums and signature ceremonies that have helped to increase its significance and importance, sometimes provoking criticism from a part of public opinion opposed to the involvement in the Chinese project.

When firstly announced in 2013, BRI did not take directly into account Europe, as its scope of action extended mainly to neighboring countries like Vietnam, Japan and Philippines, in order to connect them within a network of infrastructure and rebalance the influence exercised therein by United States¹¹⁹. However, in early 2014 something started to change.

A series of trips made by President Xi Jinping in Europe began to probe the ground in search of possible collaborations. During his stay in France for the celebration of the 50th anniversary of Sino-French diplomatic relations, Xi Jinping took up the words of Napoleon Bonaparte, who compared China to a sleeping lion, adding that *“when she wakes, she will shake the world. In fact, the lion of China has awoken, but what the world sees now, is a peaceful, amiable, civilised lion”*¹²⁰.

And so, the “lion of China” proved its tame and friendly nature when Chinese financial institutions started to pour massive investments into European countries. As a matter of fact, while Chinese direct investment in Europe amounted to approximately €6.7 billion in 2013, the sum of the following year more than doubled (€14.7 billion), and then rose again to around €21 billion in 2015¹²¹.



Source: Mercator Institute for China Studies (MERICS)

¹¹⁹ Enrico Fardella, Giorgio Prodi, *The Belt and Road Initiative and its impact in Europe*, Valdai papers, March 2018.

¹²⁰ Quote by President Xi Jinping from: International Business Time, *China, The Sleeping Lion has Woken Up, Says Xi Jinping*, 29 March 2014 <https://www.ibtimes.co.uk/china-sleeping-lion-has-woken-says-xi-jinping-1442415>

¹²¹ Merics, *Chinese FDI in Europe: 2019 Update*, (edited by) Kartz A., Huotari M., Hanemann T., Arcesati R., 2020.

In parallel with its growing participation in international trade, China's integration into the world economy has also been consolidated through inward and outward foreign direct investment.

Italy, a rich manufacturing country hit hard by the 2008 financial crisis, became one of the main candidates for China's investment strategy¹²². If up to ten years ago Chinese investment in Italy were limited to few single cases, in 2014 the same country was the destination of a sudden flow of investments by People's Bank of China, which decided to acquire over 20% share of some strategically important Italian companies such as ENI, ENEL, Fiat-Chrysler, Telecom Italia, Mediobanca and Prysmian (a move that requires public disclosure and hence publicity).

The choices made by Beijing are part of a much broader strategy that has nothing to do with the individual interest in the aforementioned companies, as it is certainly a strong political message addressed to Italy itself as a candidate for future cooperation, as well as to all the other European nations wishing to have closer partnership with the Asian Dragon.

More importantly, in July 2014 the Chinese company State Grid, the world's largest electricity company, purchased 35% of CDP RETI, the company belonging to Cassa Depositi e Prestiti which owns 30% of Snam Spa and 29.8% of Terna Spa. The transaction, worth not less than €2 billion in total, enabled the Chinese company to get its hands on the Italian electricity grid through Terna and the gas supply system, thanks to Snam.

In March 2015 Italy took a first official step towards Beijing by joining the Asian Infrastructure Investment Bank, the BRI's main multilateral bank, together with France and Germany. Some days later the country again became the recipient of a further symbolic investment. Less than a week after its entry into the AIIB, China National Chemical Corporation and the Italian tyre maker company Pirelli announced an agreement worth over €7 billion, by which the Chinese company secured control of the Italian Pirelli through a financing of the Silk Road Fund, the abovementioned State-owned investment fund for the implementation of BRI related projects. The combination of these investments certainly affected the perception that some Italian business circles, and the general public, had of the Asian country. Some business leaders, including the same Pirelli's CEO, Tronchetti Provera, began to advocate a closer partnership with China, lobbying the actions of the Italian government and the Ministry of Foreign Affairs¹²³.

Relations between Italy and China are certainly not limited to the sole business transactions since the Italian government itself gave an important signal to Beijing when met together with 67 other nations for the first Belt and Road Forum for International Cooperation in May 2017.

It is widely recognized that in Asia gestures and form take on a profound meaning for an interlocutor, all the more reason if it is a country top government officials to do so. For this very reason, the Italian presence as the only G7 country at the first summit on BRI meant for Beijing the elevation of Italy to the status of European preferential counterpart, while the intentions of Gentiloni government are to be included in the hope of a strengthening of relations between the two countries.

Alliances along the Belt and Road Initiative proceeded at a rapid pace despite the fact that a tighter administrative controls in China on outward investment, together with a changing regulatory environment within the EU, have reduced Chinese firms' ability to finance overseas assets purchases.

¹²² As reported in a detailed analysis by ISPI (Institute for International Policy Studies), conducted by Alessia Amighini and Paolo Magri, Italy was the third European nation for investments received from China, totalling almost \$13 billion in stocks. Amighini A., *China Champion of (Wich) Globalization?*, Milano, Ledizioni-LediPublishing, 2018.

¹²³ Nicola Casarini, *Obor and Italy: Strengthening the Southern Route of the Maritime Silk Road*, in "Europe and China's New Silk Roads", ETCN Report, (edited by) van der Putten F., Seaman J., Huotari M., Ekman A., Otero-Iglesias M., December 2016.

In 2019, the Italian government wanted to formalize its participation in the Initiative through the signing of a Memorandum of Understanding subscribed at Palazzo Madama by Italian Deputy Prime Minister and then-Minister of Economic Development Luigi Di Maio and Chinese President Xi Jinping.

The signing of the Memorandum was not the result of an impromptu initiative, since several agreements had been reached beforehand: among these are the Memorandum of Understanding for cooperation in Africa with the aim of generating possible industrial synergies in multiple contexts and the Action Plan for the strengthening of economic, commercial, cultural and scientific-technological cooperation between Italy and China (2017-2020). It can therefore come as no surprise that Italy has previously surveyed the ground and set up a real “task force” to see straight from a BRI perspective. The outgoing president of Confindustria association¹²⁴, Vincenzo Boccia, has repeatedly mentioned the initiatives undertaken in this sense, which include: coordination between different institutions (Embassies, Ministry of Economic Development, Ministry of Foreign Affairs and International Cooperation, Ministry of Economy and Finance) with a view to BRI; the creation of a team of experts from Italian leading companies, with a strategic guidance role; the organisation of business meetings with Chinese state-owned companies and industrial groups leading BRI projects; the holding of meetings with financial institutions, including AIIB, to explore financing mechanisms and instruments.

However, the decision to sign the Memorandum of Understanding with China has raised intense controversy and concern, both politically and in the media, which partially dissipated after the publication of contents. As already stated in the first chapter, the Memorandum takes the form of a document of understanding, not an agreement nor a contract, on bilateral cooperation areas such as infrastructure, transport, finance, trade and environment¹²⁵. There are, therefore, no precise objectives or contents, but rather vague and generic expressions aiming at future collaborations between the countries. In this respect, paragraph VI quotes verbatim: *“The present Memorandum of Understanding does not constitute an international agreement from which rights and obligations under international law may arise. None of the provisions contained in this Memorandum shall be construed and applied as a legal or financial obligation or commitment for the parties”*¹²⁶.

Moreover, the MoU does not even provide for the establishment of a particular bilateral body as a direction for collaboration within the BRI since, as stated in paragraph IV, the parties will use the existing bilateral mechanisms (specifically, the Italy-China Intergovernmental Committee, chaired by the two Foreign Ministries). More importantly, the document does not provide for any diplomatic turnaround with respect to the common foreign policy in the EU. Several times in the document, the editors reiterated that the collaboration recalls the objectives set out in the *EU-China 2020 Strategic Agenda for Cooperation* and the principles guiding the EU Strategy for connecting Europe and Asia. As regards one of the BRI’s most functional sectors, infrastructure and transportation, the MoU specifies that joint efforts will prioritise the objectives of the Trans-European Transport Network

¹²⁴ The “Confederation of Italian Industry” (Confindustria) is the main organisation representing Italian manufacturing and service companies, including banks and public companies.

¹²⁵ Federico Roberto Antonelli, *Gli aspetti giuridici della Belt and Road Initiative*, in “Mondo Cinese: Rivista di Studi sulla Cina Contemporanea”, No. 165/166, ANNO XLVI, N° 2-3, Milano, Brioschi Editore, 2018.

¹²⁶ Memorandum d’intesa tra il Governo della Repubblica Italiana e il Governo della Repubblica Cinese sulla collaborazione nell’ambito della “Via della Seta Economica” e dell’ “Iniziativa per una Via della Seta Marittima del 21° secolo”, 2019 (own translation)

(TEN-T) expansion project¹²⁷, thus allowing for the skimming of investments that are subject to correct market logic from those with purely geostrategic aims.

The drafting of the text has therefore been the subject of a meticulous analysis that leaves practically no room for criticism regarding deviations from EU principles or policies, even at the expense of making the document too poor in content. However, the recent dispute for the signing of the Memorandum bears different interpretations (or reading keys) that are worth mentioning. For the Italian government, the agreement has a purely economic and commercial nature, while for the opposition, as well as for United States, there is the risk that Italy will be reduced to a pawn for Beijing with serious implications for national security and for Nato's stability.

2.1.2 Italian harbours in Dragon's crosshairs: early discussions and the MoU agreements

In parallel with the signing of the Memorandum, twenty-nine economic agreements worth €7 billion were signed. Prominent Italian companies that have signed collaborations with Chinese groups include Ansaldo Energia, a company active in the energy sector and one of the world's largest producers of power plants; Eni S.p.A, for a strengthening of collaboration with Bank of China on various financial instruments and Danieli & C., a leading multinational producer of steel plants that will be China's partner for the construction of an iron metallurgic integrated plant in Azerbaijan.

Facts show that interest in energy sector and other types of infrastructure other than ports is a constant in China's foreign investment strategy. To make an example, beyond the Piraeus negotiation, some Chinese energy firms, including State Grid Corporation of China, have submitted bids for stakes in Greek power grid and have also shown interest in investing in the Greek Public Power Corporation, the financing of power cables between Crete and Cycladic Islands, and other infrastructural projects¹²⁸.

What is interesting to underline is that the understandings reached in palazzo Madama include also two cooperation agreements between China Communication Construction Company and two Port System Authorities (*AdSP*), the Italian public body responsible for administering a system of one or more national ports. Specifically, the agreements in question involve the Port System Authority of the Eastern Adriatic Sea (Ports of Trieste and Monfalcone) represented by its President Zeno d'Agostino, and the Port System Authority of the Western Ligurian Sea together with the Extraordinary Commissioner for the Reconstruction of Genoa represented by President Paolo Signorini.

The inclusion of the two *AdSPs* into the collaborations alongside the Memorandum is an indicative act of the extreme importance China attributes to Italy as a reference point within the Maritime Silk Road, a feeling that has been confirmed many times by the statements of ambassadors, ministers and other subjects involved in the Initiative.

¹²⁷ The Trans European Network-Transport is the basis of a project launched by the European Union with Regulation No. 1315/2013 aimed at improving communication routes at EU and cross-border level. The project provides for intermodal corridors known as "core" corridors, which are 9 in total and cross the member states in order to streamline connection times and eliminate obstacles along existing communication routes at all levels. The network is also the basis for the movement of goods flows and the tool enabling citizens to move freely within the European Union.

¹²⁸ Clingendael Report, *The Geopolitical Relevance of Piraeus and China's New Silk Road for Southeast Europe and Turkey*, (edited by) van der Putten F., Clingendael Institute report, The Hague, 2016.

The high-level dialogues on the involvement of Italian ports along the *21st century Maritime Silk Road* were not launched close to the signing of the Memorandum, but rather dated back to a few years earlier, when the then-Minister of Infrastructure and Transport, Graziano Delrio, met the Chinese Ambassador to Italy, Li Ruiyu, to discuss opportunities for collaboration in the framework of the BRI project and the development of Italian harbors. Already at that time, the Minister illustrated to the Ambassador the measures of the National Strategic Plan for Ports and Logistics¹²⁹, presenting the opportunities offered by the Italian port system as a whole, and in connection with the major European transportation corridors affecting Italy.

China and Italy had the opportunity to catch up again in 2017, when at the conclusion of the first summit on the Belt and Road, the then Prime Minister, Paolo Gentiloni, revealed *“the intention to include Italian ports among the ports on which to invest, as terminals of the Silk Road”*¹³⁰, naming Trieste and Genoa as the first recipients of Chinese investments. What is more, the Ambassador Li Ruiyu made Beijing’s intentions even clearer when he stated in an interview: *“Italy is the terminal of the ancient Silk Road and occupies a unique and advantageous position in the Belt and Road project. This is primarily a political advantage for Italy to participate in the Initiative, for which President Xi Jinping and other Chinese leaders have expressed a genuine appreciation”*¹³¹. Hence a natural involvement of Italian logistics infrastructures and especially ports, whose position is placed as a node within the large global supply chains. The Ambassador then recalled the signing of the Sino-Italian four-year action plan for strengthening cooperation 2017-2020 as a document to consolidate the involvement of Italian logistics infrastructure, and in particular to create opportunities for cooperation with Italian ports¹³².

Far from being the exclusive interest of the Foreign Ministers of the respective countries, the dialogue on the participation of Italian harbors also involved the highest office of the State. Indeed, it was Sergio Mattarella, the President of the Italian Republic, who was one of the first to take the negotiations forward during a state visit to China in February 2017. Received in the National Assembly Building in Beijing by Xi Jinping himself, Mattarella was knee to emphasise how the Italian port system offers *“China the possibility to complete, in the most efficient and cost-effective way possible, the last precious stretch”* of the New Silk Road *“to the heart of Europe”*¹³³.

Italy remains thus one of the strategic terminals in China's projection in the Mediterranean, in political, commercial and security terms. In Chinese maps, for example, the port of Venice is often indicated as the target European terminal of the Maritime Silk Road, although, in all likelihood and considering

¹²⁹ The National Strategic Plan for Ports and Logistics is a strategic planning tool aimed at improving the competitiveness of the ports and logistics system, facilitating traffic growth, promoting intermodality in freight traffic and reforming port governance. Specifically, the second part of the document indicates 10 strategic objectives that include improving port efficiency by simplifying and streamlining procedures, upgrading connection infrastructures and promoting interventions to improve the logistics system. This Plan was the basis for the reform of port governance, carried out through Legislative Decree No. 169 of 2016.

¹³⁰ Sole 24ore, *Gentiloni: “Xi vuole inserire i porti italiani nella Via della Seta”*, 16 May 2017 <https://www.ilsole24ore.com/art/gentiloni-xi-vuole-inserire-porti-italiani-via-seta-AEjxHBNB> (own translation)

¹³¹ AGI, *Ambasciatore Li Ruiyu: “Belt and Road non è uno strumento geopolitico”*, 13 May 2017 <https://www.agi.it/estero/agichina/ambasciatore-li-ruiyu-belt-and-road-non-e-uno-strumento-geopolitico-3270976/news/2017-05-13/>

¹³² AGI, *Lo scambio commerciale con l'Italia non è l'unica cosa che interessa alla Cina*, 27 August 2018 <https://www.agi.it/economia/cina-debito-italiano-4315417/news/2018-08-27/>

¹³³ La Repubblica, *Mattarella a Pechino: “Italia affidabile, può portare la Cina nel cuore dell'Europa”*, 22 February 2017 <https://www.repubblica.it/esteri/2017/02/22/news/mattarella-in-cina-158941068/> (own translation)

the evolution of the events that we will discuss later, the ports involved would seem to be those of Trieste and Genoa, also considering their history, nature, conformation and vocation.

2.1.3 Why Italian ports?

If Chinese authorities have identified our ports as possible landing place for their goods, they have done so not for a simple reason of historical continuity (since Italy was the final destination of the ancient Silk Road), but because this would entail a series of advantages that should not be underestimated. Actually, China cannot and will not ignore the strategic role Italy's geographical position ensures for its ports, which play the role of both distribution platform for goods coming from the Asian country and collection point for goods to be distributed worldwide.

Many Italian ports are already connected to maritime routes departing from the Far and Middle East. In particular, it is interesting to note that several Italian harbours have for some time been receiving ships from the major carrier alliances, for a total of 22 regular services, and 7 of these ports already offer their docks to the Ocean Alliance, the alliance of shippers including Chinese COSCO¹³⁴.

Despite the collapse of world trade caused da Covid-19 pandemic, 2020 statistics on the volume of goods traffic in European ports reveal that Italy still occupies the third position in the EU for traffic handled, just behind Netherlands and Spain with 193 million tonnes in total, a fact that shows why China is aiming to intensify relations with the *Bel Paese*¹³⁵. The Italian shores along the busy Mediterranean Sea configure themselves as strategic outlets for connecting maritime trade from the Far East via the Suez Canal with the near Switzerland, Austria, Germany, Slovenia and Hungary, making all its ports a viable alternative to the major terminal in Northern Europe. Indeed, for some time now, several Chinese port authorities have been trying to establish partnerships with Italian counterpart, especially those located on the upper Adriatic and Tyrrhenian Seas.

Without the involvement of Italian ports, the transit time for a cargo shipped from Shanghai to Basel would take an average of 39 days, as moreover shown by the sailing schedules on COSCO Shipping Lines website¹³⁶. Should Chinese shipping companies had the alternative of directing their cargo to northern Italian ports, instead of circumnavigating European soil via the Strait of Gibraltar, transit time would be reduced by 7 to 8 days. Any way, the logistical advantage that the involvement of Italian ports would bring to Chinese shipping companies has been in turn theorised by different academic studies conducted over time¹³⁷.

In this regard, Italy's geo-economic advantage as a maritime access point to the rich markets of Central-Northern Europe has increased since the investment campaign for the acquisition of Piraeus. It is true that the Greek port can boast a huge competitive advantage in Chinese strategies, both

¹³⁴ Italian Maritime Economy, *Nuovi scenari nel Mediterraneo: Suez e la Cina, le strategie dei grandi carrier, le nuove tecnologie e le rotte dell'energia*, 6° Rapporto Annuale, Napoli, 4 July 2019.

¹³⁵ Source of data: Eurostat https://ec.europa.eu/eurostat/statistics-explained/index.php/Maritime_transport_of_goods_-_quarterly_data#Port_activity_in_the_reporting_countries

¹³⁶ COSCO Shipping Lines website, Sailing Schedules/Find Schedule by City Pairs <https://elines.coscoshipping.com/ebusiness/sailingSchedule/searchByCity>

¹³⁷ Among these, Joost Hintjens, *BRI effect on the gateway ports of the Hamburg-Le Havre range*, 2019; Dionisia Cazzaniga Francesetti, *Italian versus Northern Range port competitiveness: a transportation cost analysis in Chinese trade*, in "European Transport / Trasporti Europei", No. 30, Grumo Nevano, Giordano Editore, 2005; Dick Dunmore, Alberto Preti, Clémence Routaboul, *The "Belt and Road Initiative": impacts on TEN-T and on the European transport system*, in "Journal of Shipping and Trade" (JST), No. 4, Article number: 10, 2019; Filippo Fasulo, *La Belt and Road Initiative: implicazioni geopolitiche per l'Italia*, in "Mondo Cinese: Rivista di Studi sulla Cina Contemporanea", No. 165/166, ANNO XLVI, N° 2-3, Milano, Brioschi Editore, 2018.

because COSCO owns and operate it and because the same company has made it Beijing's major hub in the Mediterranean; but is also true that, for now, there is a potential disadvantage in terms of logistic. In fact, the Greek port has ample space and deep seabed, capable of accommodating the new generation of large ships (those with a capacity of more than 20.000 TEUs in the container hold), but shippers operating therein have to carry out an intermediate reloading in order to direct goods to the markets of central Europe. Following this logic, goods unloaded in the Port of Piraeus will then have to be loaded again onto smaller vessels to get closer to the destination markets, as transshipment by road or rail from Greek harbor to Northern Europe is not a competitive alternative, mainly because of additional transport, and secondly because of the impasse in the construction work of the Budapest-Belgrade railway.

This is where Italian ports come into play, which are strategic not only because of their geographical location, but also because they have some of the fastest customs clearance procedures in Europe, deep waters, large logistics areas behind them and, above all, an efficient rail system. A thought that Ettore Sequi, the former Italian ambassador to China, is keen to reiterate: *"From the Piraeus to get to Central and Western Europe, it is necessary to build very expensive infrastructure that passes through a number of countries, some of them European, with precise procurement rules. [...] Both the Upper Adriatic and Upper Tyrrhenian systems have ready-made, effective rail interconnections to make available"*¹³⁸.

However, in order to become a fully efficient hub in the interconnection system between Europe and Asia, Italy needs to invest in the modernisation of integrated infrastructure system (ports, railways, highways). Since there are no adequate economic and financial conditions for this to be done independently, it is therefore necessary for Italy to move within an Eu-wide transport development strategy, such as the one offered by the TEN-T programme.

Several scholars have pointed out the real possibility that the Chinese BRI project could "link up" with these European transport routes that are being structured. Specifically, China's New Silk Road will interact with infrastructure and services provided by the private sector, Member States and the European Union, including through the TEN-T network programme¹³⁹. Concerning this, the Italian peninsula is crossed by four of the nine "core network corridors" belonging to the TEN-T, essential for increasing connection between European markets: the Baltic-Adriatic Corridor, the Rhine-Alpine Corridor, the Scandinavian-Mediterranean Corridor and the Mediterranean Corridor. Once completed, this corridors would facilitate the flow of goods and people between the countries of Europe, lending themselves perfectly to Chinese trade moves.

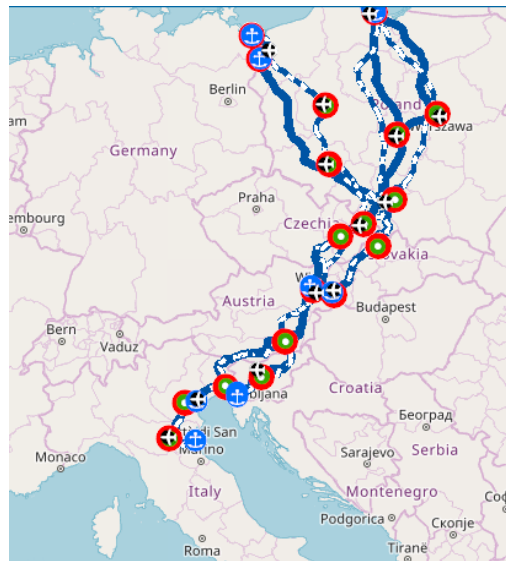
The Baltic-Adriatic Corridor is a road and railway axes linking the Baltic and Adriatic ports through Poland, Czech Republic, Slovakia, Austria, Slovenia and Italy. The points of access to Italian territory are the Tarvisio crossing, on the border with Austria, and above all the Villa Opicina pass, on border with Slovenia. Not by chance, some of the points agreed in the MoU signed between the Port System Authority of the Eastern Adriatic Sea and the China Communication Construction Company concern precisely a cooperation for the strengthening of the railway infrastructure in the large area between Villa Opicina, Trieste and Cervignano (which are part of the "Trihub" project, included in the EU-China Connectivity Platform).

¹³⁸ Quote from Ettore Sequi in *La Via della Seta può fare la fortuna dei porti italiani*, AGI, 2 February 2018 https://www.agi.it/estero/via_della_seta_italia_porti-3434786/news/2018-02-02/ (own translation)

¹³⁹ Dick Dunmore, Alberto Preti, Clémence Routaboul, 2019, *op.cit.* ; Ispi (Institute for International Policy Studies), *China's Approach to the Belt and Road Initiative and Europe's Response*, (edited by Giulia Di Donato), 2020.

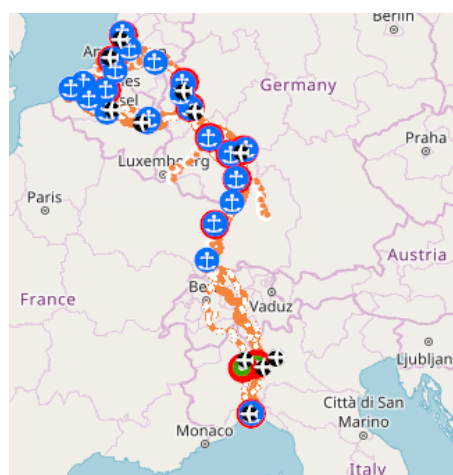
Of course, the projects concerning the development of infrastructures in the port hinterland do not stop at the only case mentioned. The parties, in fact, refer to the development of further intermodal facilities located in key areas of the target geographic market of the Eastern Adriatic ports, such as the case of the construction of a mega logistic-railway facility in Slovakia, in which the Triestine AdSP also wants to participate.

In this way, China takes advantage of its formal cooperation with Italy to improve those railway sections that would allow freights arriving at the port of Trieste to reach more quickly these large segments called “core network”, strategic for the capillary distribution of goods in Europe.



Baltic-Adriatic Corridor as shown by the TENtec Interactive Map Viewer on European Commission website

The Rhine-Alps Corridor is one of Europe's busiest freight routes, linking the North Sea ports of Antwerp, Rotterdam and Amsterdam with the Italian port of Genoa via the Rhine Valley, Switzerland and Milan. A key part of the Rhine-Alps Corridor is the “Terzo Valico dei Giovi” project, a new Italian railway line designed to improve the connections of the entire Ligurian port system with the main railway lines in Northern Italy and in the rest of Europe. Thanks to its technical characteristics, the new high-capacity line will allow the transit of trucks on cargo trains (“rolling highway”, Ro-La), thus guaranteeing reduced and tracked delivery times to the customers of companies deciding to take advantage of Ro-La opportunities. In addition, the new railway will allow the loading of heavier and larger containers, called “High cube containers”, able to increase the volume of goods handled. Chinese goods arriving at the port of Vado Ligure, for example, could travel as far as Netherlands or Belgium, taking advantage of the high transport capacity provided by this transport axis.



The Mediterranean Corridor connects the Iberian Peninsula with the Hungarian-Ukrainian border and involves all the countries located between these two extremes, following the Mediterranean coasts of Spain and France, crossing the Alps to northern Italy and leaving the Adriatic coast in Slovenia and Croatia. The corridor also offers the chance to strategically interconnect European ports under Chinese management or attention. Indeed, it links the ports of Algeciras, Valencia (where China has already granted access to its terminal operator, as seen in the first chapter), Tarragona and Barcelona on the Iberian Peninsula, passing through the south of France from the port of Marseille (another point of Chinese interest), and heading towards port of Trieste.

Far from being detached from those dense networks of connection that characterise modern societies, markets and economies, Italy's most sought-after ports show they are embedded in an ample European maritime supply chain network and transportation system that gives the country a central role. The efficiency of a port network, properly integrated in the transport chain, can be a point in favour for Chinese interests and Italian expectations, as it optimises investments in logistics and represents a driving factor for greater intermodality and the perfect functioning of distribution chains for shipping companies.

As the Executive Vice President of Italy's Politecnico di Milano in China, Giuliano Noci, pointed out, ports *“does not exist as such. Either they are strongly interconnected [...] to railway lines or they are cut off, since goods have to arrive in Europe”*¹⁴⁰.

As we saw, the Mediterranean region acquires value in Beijing's eyes due to its role as a crossroads for international sea routes and as a center for gas and oil energy routes. Precisely for this last reason, the multipurpose specialization of Italian ports (which involves not only container handling, but also liquid/solid bulk and Roll-on/Roll-off transportation) is another possible added value for refining Dragon's strategies. Dry and particularly liquid bulk is Italy's most important commodity category in terms of volume, and therefore an opportunity that should not be overlooked.

In view of China's considerable economic interests in Africa and the Middle East, together with the resulting trade and energy trafficking, it is not entirely inconceivable that the Asian giant's choices could fall precisely on the specialisation of Italian ports and the reliability of the production sites behind them, in order to entrust them with the processing of raw materials and oil and energy products. In this respect, it is noteworthy that in 2018, Italian ports have handled 184 million tonnes of liquid bulk (37.5% of total goods handled), with a clear predominance of imports, mainly related to the refining demand of petroleum products¹⁴¹. What is more, in the Short Sea Shipping sector¹⁴², Italy ranks second in terms of the volume of liquid bulk handled in the whole of Europe with 130.4 million tonnes, behind the Netherlands with 152.9 million tonnes¹⁴³.

As regard to another valuable sector of Italian port industry, mention must be made of Roll-on/Roll-

¹⁴⁰ Diego Angelo Bertozzi, *La Nuova Via della Seta (Il mondo che cambia e il ruolo dell'Italia nella Belt&Road Initiative)*, Reggio Emilia, Diarkos editore, 2019.

¹⁴¹ Source of data: Assoporti on Autorità di Sistema Portuale, Autorità Portuali and ASPO data. Autorità di Sistema Portuale – Movimenti Portuali anno 2018 <https://www.assoporti.it/en/autoritasistemaportuale/statistiche/statistiche-annuali-complesive/>

¹⁴² Short Sea Shipping, abbreviated to SSS, is the maritime transport of goods over relatively short distances, as opposed to intercontinental transoceanic transport. In practical terms, it works as any maritime transport of goods between ports in the EU, including candidate and EFTA countries on the one hand, and ports in the Mediterranean and the Black Sea on the other. The latest available data on Eurostat website show that Italy is the absolute leader in SSS in Europe with 312.8 million tonnes of goods handled in 2018, consolidating a trend that has been going on for at least 10 years.

¹⁴³ Source of data: Eurostat, <http://appsso.eurostat.ec.europa.eu/nui/submitViewTableAction.do>

off transportation (Ro-Ro)¹⁴⁴. The country enjoys a privileged geographical position which enables its port system to intercept Ro-Ro traffic by offering high-quality services and port terminals capable of accommodating the growing share of rolling stock traffic. European and non-European road haulage companies have long been using Italian ports as access points to markets in the Mediterranean, South-East Europe and even MENA region. In this regard, a study carried out by the Italian association *Studi e Ricerche per il Mezzogiorno (SRM)*, highlighted the high reliability of the ports of call on the Adriatic shores, in particular Trieste and ports of Bari and Brindisi, and on the Tyrrhenian with Genoa, Livorno and Naples, which can count on important shares of traffic related to rolling stock coming from the Mediterranean shores¹⁴⁵.

However, it must be acknowledged that, although China is the top vehicles producer country in the world, its production is set mainly to satisfy domestic demand, as only about 3.9% of vehicles manufactured in China were destined for export markets in 2019¹⁴⁶. Moreover, China's already small share of automotive exports primarily relates to emerging and developing countries such as Iran, India, Egypt, Algeria, Saudi Arabia and Iraq. Even though several Chinese car companies have made no secret of their determination to penetrate the European market, there is still a long way to go before China becomes a car export superpower exploiting the functionality of Italian ports.

Let's be realistic. We cannot anything but recognize the low probability that our ports will become favored destination for Asian cargos. A specific analysis carried out by Confetra explained that this limited chance is due to the increasingly dominant trend towards naval gigantism, which makes it more difficult to host the latest generation of ships of more than 20.000 TEUs capacity, but also because of our fragmented port system, which more than ever needs a governance reform and a governmental roadmap to define priority interests and goals¹⁴⁷.

In order to achieve the desired objective, Italian ports must work conjointly to offer Chinese carriers a broad portfolio of choices in terms of possible ports of call and, above all, logistics solutions to match the situation. Large shippers will therefore choose to entrust their goods to our shores only if they are certain of having more departure options during the week, as happens for services to Northern Europe. Instead of continuing to compete in vain on the deep sea with Northern Range counterparts (Rotterdam, Antwerp, Hamburg), which handle millions and millions of TEUs more than our ports, it would be better to make the most of our existing specialization and try to figure out which strategic vocations are the most appropriate for relaunching our harbours performance. In this sense, the Short Sea Shipping sector appears to be a strategic lever for the development of our economy and the competitiveness of our ports, also and above all with a view to the BRI maritime section, as it can support interchange with transport markets involving the Asian continent in relation to Europe and Africa.

However, we first of all need to reduce the rifts between ports and territories caused in past periods, when internal competition between neighbouring ports seemed to prevail at the expense of a more far-reaching strategy that would overcome widespread port regionalism.

In an effort to improve and enhance our port system, it is advisable to keep in mind what Nereo

¹⁴⁴ Roll-on/roll-off vessels are cargo ships designed to transport wheeled cargo, such as cars, trucks or railway wagons, which get on or off the ship using their own wheels or by means of SPMT platform vehicles.

¹⁴⁵ SRM, *Nuovi scenari nel Mediterraneo: Suez e la Cina, le strategie dei grandi carrier, le nuove tecnologie e le rotte dell'energia*, Presentazione del 6° Rapporto Annuale, Napoli, 2019.

¹⁴⁶ Source of data: China Association of Automobile Manufacturers (CAAM) website.

¹⁴⁷ Confetra, *Belt and Road Initiative Position paper*, Confetra position paper, Roma, 2018.

Marcucci, the former president of the Italian General Confederation of Transport and Logistics, Confetra, once said: “Goods are like water, they always look for the easiest way to reach their destination. They do so with the least possible expenditure of energy and time”¹⁴⁸. Well, if water is looking for the easiest way out, BRI strategies could also follow the currents best suited to the expectations of Italian ports, the priority is then to find the right channels through which to get those strategies across.

2.1.4 Chinese presence in Italy: the case of Vado Ligure port

A city with a strong industrial vocation, Vado Ligure is today in the middle of its economic development: from Valle di Vado, where there is a dynamic handicraft and industrial fabric, to the Vado Ligure harbour, a very important commercial port of call with a high degree of automation that gives it a special status throughout the Tyrrhenian Sea. Its characteristics make it a unique port in Italy and one of the most competitive in Europe, relying on a mixture of innovation, automation, intermodal connection and services such as cold storage, Ro-Ro, intermodal transport and project cargo.

The involvement of the port of Vado Ligure within the Belt and Road Initiative starts from July 2016, when the Chinese COSCO decided to give up their operations in the port of Naples and underwrote the sale of shares held in the container terminals “Conateco” and “Soteco” to MSC. The Neapolitan terminal did not allow the entry of the latest generation of container ships because of its shallow depths, the dock approaches and the unsuitable cranes, all reasons which, if added to the increasingly gradual “diversion” of Chinese traffic towards the newly acquired Port of Piraeus, are sufficient to explain the reasons for the change of course in Beijing strategies.

Two months after the withdrawal from the docks of Naples port, COSCO has succeeded in entering the management of two terminals belonging to the port of Vado Ligure by acquiring 40% of a company that already managed the piers previously, the APM Terminals Vado Ligure Spa¹⁴⁹. The latter company is now composed of COSCO Shipping Ports (40%), the Chinese Qingdao Port International (9.9%) and a company owned by the A.P. Møller-Mærsk group, namely APM Terminals, holding the majority shareholdings with 50.1%¹⁵⁰. According to Lloyd’s List, the transaction is worth about €9 million, €7.1 million for COSCO and €1.7 for Qingdao Port.

The two Chinese companies thus managed to get their hands on the two Vado terminals, Vado Gateway and Reefer Terminal.

Reefer Terminal is the main fruit terminal of the entire Mediterranean Sea¹⁵¹. More importantly, the terminal operates the largest refrigerated facility, whose doors are located only 50 m from the dock, a positioning that optimizes the cold chain process. The reefer warehouse is equipped with 14 temperature-controlled cells (from -2 to +14 degrees Celsius) and 4 air-conditioned areas, with a total storage capacity of 10,000 pallets.

Vado Gateway is instead the new deep-sea container terminal of the Vado port, it contributes to the

¹⁴⁸ Quote from Nereo Marcucci in *Via della Seta: il grande gioco inizia ora*, Port News website, 21 March 2019 <https://www.portnews.it/via-della-seta-il-grande-gioco-inizia-ora/> (own translation)

¹⁴⁹ The management of the new Vado Ligure container terminal has been entrusted in concession to APM Terminals by the Port System Authority of Western Ligurian Sea (*AdSPMLO*), for a duration of 50 years.

¹⁵⁰ Ansa website, *Cinesi Cosco al 40% in terminal di Vado*, 18 October 2016. https://www.ansa.it/liguria/notizie/2016/10/18/cinesi-cosco-al-40-in-terminal-di-vado_0cf15260-b490-4a4c-b4b2-0711a733ec05.html

¹⁵¹ Its volume of fresh products handled amounts to approximately 600,000 pallets in recent years.

creation of a stronger connection between the markets of Northern Italy, Switzerland, Germany and North-Eastern France with the rest of the world. The arrival of Chinese capital in the closing stage of 2016 contributed decisively to the development of the platform that had been under construction for several years. APM Terminals Spa has in fact invested a share near to €180 million, 50% of which were provided by the two Chinese partners, completing work on the new platform in December 2019¹⁵². An off-dock railway system with a capacity of 14 trains per day allows for goods arriving at the two terminals a rapid access to Central and Northern Europe such as Switzerland, Germany and France, as well as to the rest of Northern Italy. However, what certainly distinguishes Vado port from the rest of Italian harbors is its high degree of automation. Indeed, the terminal uses 14 automatic rail mounted gantry cranes, while a physical operator intervenes from a remote-control room for necessary operations only. Container handling from the dock to internal interchange areas, to the yard and to the interface with road transportation, is accomplished through hybrid-powered, manned straddle carriers that receive instructions directly from the Terminal Operating System (TOS).

Equipped with 700 meters long dock, a 17.25 metre depth at the quay's edge and a height of 4.5 metres above sea level, Vado Gateway can, unlike the port of Naples, receive without limitation even the latest generation of ships (the “Ultra Large Container Ships”, with capacities well above 10.000 TEUs), thus allowing the handling of up to 1.1 million TEUs per year.

The Vado Gateway terminal container inauguration took place on 12 December 2019, a full 12 years after the start of the project financing that saw its construction also thanks to Chinese investment. The new terminal became fully operational as of February 2020, when exactly on the 13th the “Maresk Kokta”, first of the seven ships of Maersk's ME2 shipping line connecting the Mediterranean with the Middle East and India, docked at the port.

The creation of the platform is aimed at absorbing as much traffic as possible and increasing the importance of the Ligurian and Italian port system, making the most of not solesy the existing specialisations (Short Sea Shipping and Ro-Ro transport), but also the possibilities offered by intermodal and multimodal transport. In connection with this, goods arriving at any harbours within the Ligurian port system will be able to benefit from the upgrading of those railway lines falling within the TEN-T project to reach central or northern Europe more quickly and easily.

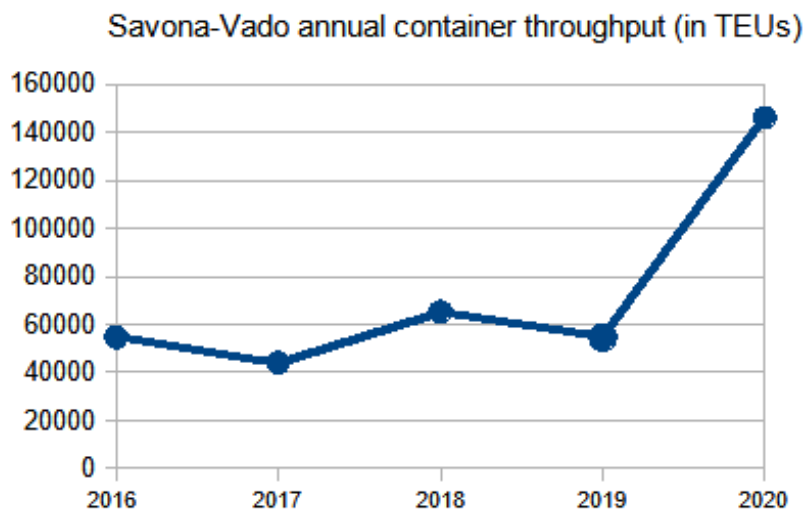
Although, at the moment, weighing up the effects of the new platform is a very difficult task, some estimates can be illustrated. According to data provided by the Italian Ports Association (*Assoporti*) and the Port System Authority of the Western Ligurian Sea, the traffic volumes in TEUs recorded in the ports of Savona and Vado are already increasing. If in February 2019 the two ports had jointly handled around 4.458 TEUs, the same month in 2020 saw an increase of 55.8% to 10.081 TEUs¹⁵³. Anyway, numbers become even more illustrative when referring to the annual container throughput of the same harbours. In line with the average maintained in previous years, container handling in the two ports for the full year of 2019 amounted to 54.542 TEUs. At the end of the first five months alone, the amount of annual TEUs totalled in the previous year was reached and exceeded (59.907 TEUs

¹⁵² Sole 24ore, *Vado Ligure inaugura in terminal hi tech finanziato dai cinesi*, 18 October 2019

<https://www.ilsole24ore.com/art/vado-ligure-inaugura-terminal-hi-tech-finanziato-cinesi-ACis8mm?>

¹⁵³ Source of data: Ports of Genoa website <https://www.portsofgenoa.com/it/chi-siamo/porto-numeri/dati-di-traffico.html> ; <https://www.assoporti.it/it/autoritasistemaportuale/statistiche/statistiche-annuali-complesive/autorita-di-sistema-portuale-movimenti-portuali/>

until May 2020); while the full year 2020 totalled a record 146.081 TEUs handled, a growth of 62,7% with respect to 2019¹⁵⁴.



Source of traffic data: Autorità di Sistema portuale del Mar Ligure Occidentale website

However, it must be recognised that the effects of the contraction of the world economy caused by the crisis triggered by the Covid-19 pandemic disease continue to have a strong impact on the entire Italian port system, with no exception for the two ports of Genoa and Savona/Vado Ligure. The total traffic commerce in the ports of Genoa and Savona/Vado at December 2020 shows a progressive decrease of 14.2% compared to 2019 (a loss of 9.664.605 million tonnes of goods handled), and a reduction of 5.4% compared to the single month of November 2019. With regard to container movements in the system's ports, the negative trend lasted until October 2020 (-4%) was overcome with +11.6 and +6.8 in months of November and December 2020 respectively. In December 2020, the port of Genoa alone handled 4.01 million tonnes of cargo compared to 4.36 million tonnes in the same month of 2019, a reduction of 8.0% that denotes a slight comforting recovery since the advent of pandemic in Italy, as the value fell below double-digits recorded in previous months (-10.6% in November, -20.1% in September, -10.3% in August and -21.7% in July).

On the other hand, as regard freight traffic in tonnes recorded in October alone, the ports of Savona/Vado Ligure registered an increase of 12.3% compared to the same month of the previous year. There was still an increase in November (+8.3%) and December (+5.6%), compared to the same months of 2019. Although numbers for cargo traffic in the ports of Savona/Vado alone seem to be growing month by month towards the end of year, 2020 recorded a 7.7% drop in total freight handled compared to 2019, certainly also due to pandemic impasse¹⁵⁵.

As we saw above, what is noteworthy is the fact that COSCO's target sector, the container one, is the only sector to have recorded positive results during the entire 2020 in the entire Ligurian port system.

¹⁵⁴ Source of data: *ibid.*

¹⁵⁵ Source of data: *ibid.*

This is certainly not solely due to the investments earmarked for its enhancement, but it is nonetheless an important foundation from which to build on in the new year of 2021.

An important step towards the growth of the newly established Vado gateway container terminal is the inauguration of the new VAX service, operated by Diamond Line (a COSCO group's company that handles all the intra-European connections). The new shuttle service connects the new port infrastructure of Vado Ligure with the port of Piraeus on a weekly basis. Among the priorities of this connection, the fast transit-time between the two container terminals allows Vado gateway to connect to the main lines to and from the Far and Middle East, India, Oceania and the Eastern Mediterranean. In this sense, the service would guarantee an increase in traffic at the Ligurian port and would also welcome ships from COSCO Shipping group, turning Vado into a new hub for Asian goods in Italy and Europe.

*"The launch of this new connection is the culmination of the partnership established in recent years and marks a fundamental stage in the growth of our airport and its positioning in the Italian and international markets"*¹⁵⁶, commented Paolo Cornetto, the managing director of APM Terminals Vado Ligure, followed by statements from the COSCO Shipping Lines General Manager for Italy, Marco Donati: *"Finally, after so many years, COSCO too has found its home in Italy"*¹⁵⁷.

In parallel with the signing of the March 2019 Memorandum, the *AdSPMLO*, together with the participation of the Extraordinary Commissioner for the Reconstruction of Genoa, signed a cooperation agreement with China Communication Construction Company whose purpose is to collaborate in the implementation of the "Extraordinary Programme of Urgent Investments for the Recovery and Development of the Port of Genoa" and its accessibility infrastructure.

The very presence of the Extraordinary Commissioner, Marco Bucci, as co-signatory of the aforementioned agreement is indicative of its importance, not only for the development of Ligurian port and the adjacent areas, but also for the Italian government and the region.

For a better overview, it should be recalled that following the collapse of a section of the Polcevera viaduct of the A10 highway in the Municipality of Genoa (known as the "Morandi bridge") on 14 August 2018, a decree of the Italian Prime Minister appointed an "Extraordinary Commissioner for Reconstruction", who was entrusted with tasks to ensure the activities for the design, entrustment and reconstruction of the infrastructure, including the restoration of the road system. As a matter of fact, the situation was particularly critical for Liguria's community and industrial fabric, and demanded immediate responses that could lift the region out of the economic decline into which it had sunk.

It was the Commissioner himself who approved the "Extraordinary Programme for the development of the port of Genoa", at the suggestion of the *AdSPMLO* President Paolo Emilio Signorini, which gathers together the measures to be implemented by 2021 in order to relaunch and develop the activities of the Ligurian port, including important initiatives as the new breakwater project, one of the Italian initiatives included in the EU-China Connectivity Platform project.

In so doing, not only would the Ligurian harbour system have availed itself of a strategic cooperation with Chinese counterpart for the development of its ports at its own interests, but the same agreement would have been part of those initiatives undertaken by the government and the region to cope with

¹⁵⁶ Il Nautilus, *Al via il nuovo servizio settimanale VAX che collega direttamente il nuovo Container Terminal di Vado Gateway con il porto del Pireo*, 24 October 2020 http://www.ilnautilus.it/porti/2020-10-24/al-via-il-nuovo-servizio-settimanale-vax-che-collega-direttamente-il-nuovo-container-terminal-di-vado-gateway-con-il-porto-del-pireo_80250/

¹⁵⁷ Ibidem

the impact caused by the collapse of the viaduct on the Genoese economy.

The increase in traffic, economic return and competitiveness of the Ligurian port system remains an absolute priority, to be achieved through major infrastructure works which, once completed, must necessarily be combined with the provision of services capable of meeting the needs of the international market. In this light, CCCC seems to be the perfect prototype for taking over those works that best meet the upgrading expectations of the Ligurian harbour system and the reconstruction needs of all Ligurian people, all while remaining within the newly created framework for cooperation along the Belt and Road Initiative.

From what is reported in the text of the cooperation agreement, the heads of the Ligurian port authority seem to appreciate the expertise possessed by Chinese construction company, “among the world’s largest companies in infrastructure sector, listed in Hong Kong and Shanghai stock exchanges and with an annual turnover in excess of \$90 billion. CCCC is engaged in the design, construction, financing and management of transport infrastructure, urban and industrial development in 155 countries [...]”¹⁵⁸. A real exchange of knowledge and know-how between the two parties is set as basis for the agreement signed, which reads as follows: “Given the urgency with which it is necessary to proceed with the implementation of the Programme and in view of the vastness and complexity of the interventions foreseen, the AdSP and CCCC will share their technical, professional and managerial skills to support the implementation of the Programme, evaluating the possibility of developing cooperation initiatives on specific projects, under the supervision of the Extraordinary Commissioner and in compliance with the Italian and EU legal framework”¹⁵⁹.

Even before the signing of the MoU, on the sidelines of a conference organized by Confindustria Genova, the President of the AdSPMLO, Paolo Emilio Signorini, had revealed: “We are working to set up a new company in partnership with CCCC, which will help us in the tendering phases of some major works relating to the port of Genoa”¹⁶⁰. This was certainly not an instant decision, as there have always been contacts between the two parties, but they accelerated after the port authorities executives attended the “China International Import Exhibition”, during which they also met the leaders of the CCCC, in late 2018. The agreement to be signed will be used “to draw on its [of the CCCC] extensive experience in preparing calls for tenders for some of the major works provided for by Commissioner Bucci’s Programme”¹⁶¹.

The “major works” President Signorini is talking about are precisely those that are part of the €1 billion plan to upgrade the port, including the works to move the breakwater and Fincantieri extension, which would have guaranteed an increase in revenue of up to €20 million per year thanks to the increase in taxes on goods and berthing fees¹⁶².

Despite public announcements, nothing more was subsequently heard about the partnership, even though the Chinese construction company has continued its operations. As a matter of fact, at the turn

¹⁵⁸ Accordo di cooperazione fra Comm. Straordinario Ricostruzione – Autorità di Sistema Portuale del Mar Ligure Occ – China Communication Construction Company Ltd., <https://www.portsofgenoa.com/it/component/content/article.html?id=2158:accordo-commissario-straordinario-ricostruzione-adsp-cccc&Itemid=104> (own translation)

¹⁵⁹ Ibidem

¹⁶⁰ Ansa, *Il porto di Genova si allea col gruppo cinese CCCC*, 6 March 2019

https://www.ansa.it/mare/notizie/portielogistica/news/2019/03/05/il-porto-di-genova-si-allea-col-gruppo-cinese-cccc_0a858240-d163-480d-8f37-e161c53064d1.html (own translation)

¹⁶¹ Ibidem

¹⁶² Ansa, *Via della Seta: Porto Genova, accordo per diga da un miliardo*, 24 March 2019

https://www.ansa.it/liguria/notizie/2019/03/23/via-della-seta-porto-genova-accordo-per-diga-da-un-miliardo_37c75f8f-b282-4da3-afb7-2b69396a4ae8.html

of 2018 and 2019, CCCC applied to take part in the selection process for the design of the new breakwater in the port of Genoa, as part of a consortium formed by other two Italia companies (3TI Progetti and e-Ambiente) called “4C3”. The economic bids submitted to Invitalia, the body responsible for defining the final ranking list, presented seven groupings consisting of design studios, engineering companies and qualified technical partners, both Italian and foreign, including, in addition to the Italo-Chinese consortium, also Italconsult (the future winner of the tender), Ove Arup, Technital and F&M Ingegneria.

However, having to carefully weight up the performance of the Chinese companies, the balance is all in all positive, as the two parties (APM Terminal together with COSCO and Qingdao port) agree to pursue a serious industrial project for the upgrading of Vado port terminals. We have seen how the arrival of Chinese funds has given a positive acceleration to the completion of construction work on the new platform, underling, as the Embassy of People’s Republic of China in Italy tweeted, “*the extraordinary uniqueness of Italy as a preferential corridor between East and West*”¹⁶³. Furthermore, we focused on the importance of the new shuttle service between the Vado Gateway terminal and the most relevant Chinese hub in the Mediterranean, introduced by the COSCO Shipping Group’s society, the Diamond Line.

Drawing conclusions, COSCO too deserves credit for providing Vado with funding and services that are essential for growth in the port sector, although they have certainly been put to the test by the overall drop in port performance of the entire Italian system, due to the crisis triggered by the Covid-19 pandemic. The readjustment of maritime traffic and the return to normal pre-crisis economic conditions will, over time, provide more indicative data that will help to evaluate COSCO's contribution to Genoese harbour.

¹⁶³ Embassy of People’s Republic of China in Italy on Twitter social platform, 3 September 2019.

2.2 The legal framework concerning Italian ports

2.2.1 The first step in the Chinese project implementation: a reasoned analysis

It is a fact, when it comes to strategies for the implementation phase of major projects, such as the Belt and Road Initiative, nothing is left to chance in the Chinese decision-making process, but everything is evaluated and put into practice to the last detail.

In order to pursue any objective within the BRI range, be it the strengthening of bilateral cooperation or the construction/improvement of strategic infrastructure, some basic steps are necessary. First of all, it must be remembered that the Chinese Initiative is not confined to the geographical limits of the Asian country, but rather falls within and is connected to the *go-global strategies* (走出去战略, *zouchuqu zhanlüe*), aimed at increasing outward foreign direct investment toward Asia, Europe and Africa. This is therefore an international project that starts from China but crosses and affects several countries before reaching Europe, which means that the moves decided by Beijing must be carefully considered in order to match the political, legal and cultural aspects of each nation involved into the Initiative. Precisely for this reason, the first compulsory step for Chinese decision-making bodies is to read up on the applicable law in the countries taking part in the Initiative (so far little studied in China). In this respect, a prominent role will be played by legal consulting firms, authorities, think tank and universities which will provide comparative legal knowledge of the BRI countries' legal systems¹⁶⁴.

In this respect, it is necessary to note that the same business in the same sector of interest to the Chinese Initiative would each time require a different approach: the construction of new harbours in Pakistan and Djibouti, the management of port operations or the agreements reached in Morocco and Algeria, everything took shape under a legal and political framework that differs from country to country, a situation that is certainly less “accommodating” (from the Chinese perspective) in countries like Italy, where stringent rules of the Code of Tenders and Community regulations on transparency must be strictly complied.

Interestingly, in the *Statement of the co-chairs of the Forum on the Belt and Road legal cooperation*¹⁶⁵ published on the website of the Chinese Ministry of Foreign Affairs on July 2018, no mention is ever made about the subject of public procurement, although the issue is later addressed during the drafting of the individual Memorandum of Understanding, especially if the legal system of the contracting country provides for it. Taking the MoU signed by Italy and China as an example, the text reads as follows: “*In the framework of the Belt and Road Initiative, the Parties will promote [...] open procurement procedures*”, and these are “*transparent and non-discriminatory*”¹⁶⁶.

In order to put Chinese operations in Italy into a clearer context, one cannot but make a brief mention of the Italian legislation relating to the port system, a sector which has recently found itself within a debate that has led to a legal re-ordering on the subject. Moreover, the reference to the legislation would make it possible to identify potential “operational limits” provided by the Italian law to the

¹⁶⁴ By the way of example, The Ministry of Foreign Affairs of the People's Republic of China has set up a database gathering all international and bilateral treaties signed by China and a survey of the internal regulations of the countries adhering to BRI.

¹⁶⁵ Full text available on the Ministry of Foreign Affairs of People's Republic of China website at: https://www.fmprc.gov.cn/mfa_eng/wjbxw/t1573635.shtml

¹⁶⁶ *Memorandum d'intesa tra il Governo della Repubblica Italiana e il Governo della Repubblica Cinese sulla collaborazione nell'ambito della “Via della Seta Economica” e dell’“Iniziativa per una Via della Seta Marittima del 21° secolo”*, March 2019 (own translation)

detriment of private company operations in port sector, and to better analyse some events involving the port of Trieste, the case of which is explored in the third chapter of this paper.

2.2.2 The historical evolution of ports nature and function in Italy

An investigation that has as its core subject the current management structure of Italian ports requires a brief introduction on the historical changes and related legal amendments that have taken place in this sector.

However, one of the first difficulties encountered when dealing with such a complex subject is the very identification of the legal notion of “port”. As a doctrine, this has been conceived as *“a complex of natural elements, a stretch of water and the surrounding dry land, and artificial elements, man-made structures, built to protect ships from the action of wind and sea while their landing and pause phase”*¹⁶⁷. On the other hand, for a legal definition of “port”, reference should be made to the judgement of the Court of Cagliari dated 8 November 1988, which stated that *“in the absence of a regulatory notion, the concept of port can only be the one derived from the common meaning of the lexicon: that is, a landing place protected from the action of wind and water streams by suitable natural structures and man-made works”*¹⁶⁸.

The lack of an unambiguous definition is also compounded by the succession of legislative sources characterised by the relationship "generality-speciality", issued in different and distant historical periods, which do not therefore facilitate a systematic interpretation of the term in question.

Before the second industrial revolution in 1870, ports played a different role from that of today: encapsulated within their own enclosure, they were perfectly integrated into the social fabric and urban landscape, and represented an outlet to the sea for production activities located near urban centers. However, industrialization profoundly changed their conformation and expanded their functions, requiring the construction of additional infrastructures (storage warehouses, piers, dry docks,..) in order to accommodate large merchant ships.

Towards the middle of 19th century, industrial plants began to be built mainly along the coast, favoured by the fact the transportation of raw materials by sea was more convenient and efficient (a consequence of enlarging the size of ships). The port areas were then enriched with specialised infrastructures to support the distribution chain, capable of transferring the goods produced from the ships to the transshipment vehicle and to the final markets. The industrialisation of the country began to require the relocation of production activities close to the coast and so it was that, in addition to the creation of industrial ports in the strict sense of the term, a large part of the areas of existing commercial ports (such as Trieste and Genoa) were used for industrial purposes.

At the same time, the container appeared on the shipping scene, which would express its full potential from the second half of the 1970s onwards. The increasing use of containers stimulated the structuring of a trade network on which today's economy is still based: for Sergio Bologna, the container takes the form of a *“travelling warehouse”*¹⁶⁹, the keystone of contemporary logistics that has enabled the transport function to be shifted from the distribution segment to the production cycle. Container

¹⁶⁷ Aa.Vv, *Enciclopedia del diritto. Vol. XXXIV*, 1985 (voce *Porto*, by Giuseppe Pericu); Costantino Murgia, *L'ordinamento giuridico dei porti. Disciplina attuale e prospettive di riforma*, 1988; Giuseppe Falzea, *Porto e funzione portuale (Premessa ad uno studio del bene porto)*, 1998.

¹⁶⁸ Massimo Deiana, *Considerazioni sulla definizione giuridica di porto e sulla tassa di sbarco*, (note to Trib. Cagliari, 8 novembre 1988), in *“Diritto dei trasporti”* magazine, I/1990, 285. 21.

¹⁶⁹ Sergio Bologna, *Le multinazionali del mare. Letture sul sistema marittimo-portuale*, Milano, Egea, 2010

transport has the advantage of eliminating the costs associated with load break, travelling either on board a ship, as a railway wagon, or as a truck trailer, directly from the place of manufacture of the products it contains to their destination.

As a result of these profound changes, only ports that had the right characteristics to meet the new needs of transshipment (self-propelled cranes, long quays, deep waters, etc.) were preferred, to the detriment of those ports that retained their “traditional” function.

At the end of the 1980s, the port reality was a distant memory of what it had been in the 19th century. It was no longer incorporated into the natural environment behind it, but had rather imposed itself on it. The port no longer represented the area where goods were processed, but was transformed into an essential logistical hub for the development of the economic and production system.

2.2.3 A brief outline of Italian legislation prior to Law No. 84/1994

Originally, maritime administration in Italy was entrusted by Article 1 of the *Codice della Marina Mercantile* of 1865 to the *Ministero della navigazione*, which provided for the administration of ports according to criteria of strong centralisation. With regard to aspects relating to commercial activity, maritime law was regulated by the 1882 *Codice del Commercio*.

With the approval of the *Codice della navigazione italiano* by Royal Decree No. 327/1942, the entire subject relating to maritime navigation was brought together in an autonomous and unified system¹⁷⁰. According to the Article 19 of the same *Codice*, “*in ports of major importance, certain port services relating to navigation may be entrusted to special bodies established by law*”, a provision which introduced the concept of decentralisation of management functions that had previously been in demand.

Actually, the origin of port management by “special bodies” dates back to the creation of the *Consorzio autonomo del porto di Genova*, established in the early 19th century by Law No. 50/1903, Article 1 of which reads as follow: “*A mandatory consortium is established, with the mandate to provide, with the special funds allocated to it, for the execution of works, management and coordination of services in the port of Genoa [...]*”. It was the first harbinger pointing to a subsequent rebalancing of powers within port realities, achieved in the mid-1990s.

The tendency towards decentralisation through the establishment of port authorities (called “*enti portuali*”) was based on various requirements. First of all, there was a need to achieve greater efficiency in the port area, guaranteeing certain services within the port itself and bringing together in a single entity competences that would otherwise be fragmented and distributed among various ministries. Nevertheless, it was necessary to implement all the measures needed to attract traffic and develop economic activities, bringing the management of the port closer to the local authorities, more directly involved and interested in its development.

With the establishment of the *enti portuali* in 1942, an attempt was made to achieve an even more modern configuration of ports and to establish a link between port, territory, local economic-social forces and port management, in an attempt to initiate public entrepreneurial management that would satisfy interests on port activities.

With Law No. 961/1967, a category of special entities, “*aziende dei mezzi meccanici e dei magazzini portuali*”, was then set up for the management of certain port services. These entities were initially entrusted with very limited tasks concerning the management of loading/unloading means,

¹⁷⁰ Francesco Querci, *Diritto della navigazione*, Padova, Cedam, 1989

warehouses, storage areas and real estate. However, the Law No. 494 of 10 October 1974 enlarged the tasks of the “*aziende*”, recognising them the possibility to exercise “*other commercial services related to the port and to take over the management of means and installations not owned by the State*”.

However, the configured system contained in the bud a strong contrast between the entrepreneurial activities carried out by the companies and the discipline to which they were subjected for the performance of their tasks, so that the entrepreneurial management of the ports of call remained a distant mirage. The failure to take into account the port as a profit-oriented sector has resulted in unsuitable organisational models for establishing a new management of ports according to economic criteria. Ports were places where different actors involved demanded maximum profitability for themselves, reluctant to invest in infrastructure, the onerous task of which was left to the State¹⁷¹.

It was precisely the progress towards European integration that created and continues to generate the need for domestic legislation to be brought into line with Community legislation, and this is why the State has later adopted a series of liberalisation measures. More specifically, the port sector, like other sectors where there was a need for effective liberalisation or “deregulation”, had long been in need of a change and serious reform. And this finally arrived in January 1994.

2.2.4 “*Riordino della legislazione in materia portuale*”: Law No. 84 of 28 January 1994

The conclusion of the Single European Act in 1986 and the entry into force of the Maastricht Treaty in 1993 gave new impulses for integration, impulses which in the port sector have been disregarded for years with the consequence of perpetuating low quality services to users and excessively high tariffs. At the beginning of the 1990s, the legal framework in the Italian port sector appeared rather obsolete and fragmented: the 1942 *Codice della navigazione* appeared to be unsuitable to regulate the modern maritime scenario, but rather contributed to the loss of reliability of Italian maritime ports on the international market and to delays in the elaboration of programmes. Moreover, the Italian port sector was marked by a lack of competitive criteria that made it inadequate with regard to the evolution of loading and unloading techniques and the recent development of container traffic.

In stark contrast with the principles of free competition were Codes 110 and 111 of the *Codice della navigazione* on port work, the former providing for the reservation of the execution of port works to port companies or group, and the latter requiring the concessionaire company to use workers from companies or groups for the execution of port works¹⁷². In this sense, business activity in seaports was de facto removed from market rules and organised in such a way that government and port authorities overlapped and confused each other.

The decisive impetus for an organic reform of the port sector in the Italian legal system is to be attributed to a famous judgment of the European Court of Justice (known as “Porto di Genova” sentence) which, ruling under Article 177 of the EC-Treaty, condemned in no uncertain terms the discrimination caused by Article 152 of the *Codice della navigazione*. According to this clause,

¹⁷¹ Gaetano De Martino, *Funzioni autoritative e ruolo imprenditoriale nei porti*, in “Porti Mare Territorio” magazine, No. 3-4, 1987.

¹⁷² Art. 110 of the *Codice della navigazione* decreed the “*reservation of port operations in favour of port workers (...), who constitute the only form of organisation to which is institutionally assigned the task of carrying out the material activity of handling goods in ports*”. Maria Luisa Corbino, *Le operazioni portuali*, 1979.

Article 111 of the *Codice*, on the other hand, stipulated that “*in order to carry out port operations, the concessionaire company must make use exclusively of the workforce of companies or groups of companies*”.

participation in port companies was reserved exclusively for Italian citizens, and was therefore branded as a “necessary source of abuse” as it facilitated the creation of real monopolies, in contrast with the Community principles on the free movement of goods¹⁷³. In the wake of this judgment, the European Commission intervened by letter 3158 of 31 July 1992, inviting the Italian Government to adopt the measures required to bring the legislative and regulatory provisions on port work in line with Community provisions. In the same month of July, the Italian Minister for the Merchant Navy, following the opinion expressed by the Council of State¹⁷⁴, reiterated the need for the administrative implementation of the Community decision in order to modify the monopoly structure, making it compatible with Community law.

The time was ripe for a reorganisation of port regulations, which finally came with Law No. 84 of 28 January 1994, which amended the provisions of the *Codice della navigazione* and also added specific regulations for the activities of port authorities.

The reform introduced a new entity to replace the old *enti portuali*, with the task of regulating and managing the maritime port, called *Autorità Portuale*. The law determines and regulates three classes of administrative subjects operating in the port sphere: port organisations, port authorities and maritime authorities, and establishes the “Port Master Plan” (*Piano Regolatore Portuale*)¹⁷⁵.

The regulatory framework outlined allowed for the first time the affirmation of two basic principles: the separation of administrative activities for the guidance, planning, coordination and control of operations or other port activities from the exercise of those activities that are economic or entrepreneurial in nature; the possibility of a full and free competition between companies operating in the port sphere.

The model of the port that came to life under this new modern vision increasingly took on a configuration that some legal scholars described as business oriented, a place that was home to group of companies capable of acting actively on the market¹⁷⁶.

A further salient point of the reform concerns the provisions on the qualification of harbours, which are inspired by the model introduced by Royal Decree No. 3095 of 2 April 1885, approving the “*testo unico della legge 16 luglio 1884, n. 2518, con le disposizioni del titolo IV «porti, spiagge e fari», della preesistente 20 marzo 1865 sui lavori pubblici*”¹⁷⁷. Articles 4 and 5 of the 1994 legislation divide national ports into two categories: ports for military defence and state security and ports of international, national, regional or interregional economic importance. Ports belonging to the second category are grouped according to their functions: commercial, industrial and oil, passenger service, fishing, tourism and recreational. This distinction is based on “specialisation” and meets the need for managerialism in port management, without neglecting the fact that the port is part of the maritime domain and respecting the directives dictated by national planning and the implementation of the Port

¹⁷³ Judgement of the European Court of Justice, 10 December 1991, in Case C-179/90 *Merci convenzionali porto di Genova SpA v Siderurgica Gabrielli SpA*, ECR I-05889, in “eur-lex.europa.eu”.

¹⁷⁴ Council of State, sec.II, n. 598, 13 May 1992. The Council of State ascertained the non-application of the internal rules in conflict with Community law, and therefore the illegitimacy of Articles 110 and 111, as well as Article 152 of Presidential Decree no. 328 of 15 February 1952 concerning the mandatory requirement of Italian citizenship for registration in the port workers registers.

¹⁷⁵ The intervention of the legislator has effected a separation of roles ensured by the separation between purely administrative activities (exercised by the *autorità portuale*) and operational management activities of an economic nature (which is a prerogative of companies carrying out entrepreneurial activities).

¹⁷⁶ Filippo Nunziata, *Natura giuridica dell’Autorità portuale*, in “Studi mar.”, n. 47/95; Sergio Maria Carbone, *La c. d. privatizzazione dei porti e delle attività portuali in Italia*, in “Dir.Mar.”, II/2000; Alessandra Xerri Salamone, *L’ordinamento giuridico dei porti italiani*, Milano, Giuffrè, 1998.

¹⁷⁷ Published in *Gazzetta Ufficiale del Regno d’Italia* on 24 July 1901, n.176.

Master Plan¹⁷⁸.

As regards another long-standing issue, the one concerning responsibility for financing major port infrastructural works, Article 5, paragraph 8 of the Law 84/94, provides that the State's financial burden is limited to ports belonging to category I and the construction of major infrastructure in ports belonging to category II, classes I and II (international and national economic importance). Major infrastructure works in category II, class III ports, are instead entrusted to regions.

2.2.5 Reorganisation and simplification of the rules governing port authorities: Legislative Decree No. 169 of 2016

As early as the legislature XVI (2008-2013), a wide-ranging debate took place on the reform of Law No. 84/1994, following a sharp increase in interest in the strategic nature of the Italian port system within national and international logistics.

The evolution of world maritime traffic, and above all the strong increase in goods coming from south-east Asia, had given the Mediterranean Sea a new centrality, promising a boom in traffic for the countries lapped by the Mare Nostrum. Under this context, Decree Law No. 133/2014 (called “*Sblocca Italia*”), provided for a new National Strategic Plan for port sector and logistics (*Piano Strategico nazionale della portualità e della logistica*), with the aim of “*improving the competitiveness of port and logistics system, [...] facilitate traffic growth and the promotion of intermodality in freight traffic, also in relation to the rationalisation, reorganisation and amalgamation of the existing Harbour Authorities*”.

Again in 2015, Article 8(1)(f) of Law No. 124 of 7 August 2015 delegated the government to provide for a simplification and reorganisation of the rules governing harbour authorities, thus laying the foundations for the most important reorganisation of Law no. 84/1994.

In line with the Strategic Plan, Legislative Decree No. 169 of 2016 implemented a reorganisation of the port system, introducing a reorganisation of governance, a reduction in the number of port authorities (which are now placed in charge of several individual ports) and a new programming of port investments, as well as master plans.

2.2.6 The Italian port as inalienable asset: no sales to Chinese counterpart

In spite of the various amendments, regulatory reorganisation and special laws issued from time to time, one point of which there can be no doubt is the fact that ports fall within the category of State property, under Article 822(1) of the Italian *Codice Civile*¹⁷⁹. This nature had already been provided by the Article 157 of the *Codice della Marina Mercantile*, dating back to 1877, and a similar regulation was dictated by the 1942 *Codice della Navigazione*. Article 28 of the *Codice* expressly provides that “*The maritime domain includes:*

a) *The lido, beach, ports, roadsteads;*

¹⁷⁸ Alessandra Xerri Salamone, 1998, *op.cit.*

¹⁷⁹ “*The seashore, beach, roadsteads and ports; the rivers, streams, lakes and the other waters defined as public by the relevant laws; the works intended for national defence belong to the State and are part of the public domain. If they belong to the State, roads, motorways and railways; airfields; aqueducts; buildings recognised as being of historical, archaeological and artistic interest in accordance with the relevant laws; collections of museums, picture galleries, archives and libraries; and, finally, the other assets that are subject by law to the regime of public property also belong to the State*” (own translation)

- b) *The lagoons, the mouths of rivers flowing into the sea, the basins of salt or brackish water at least during a part of the year freely communicating with the sea;*
c) *The water channels which may be used for public maritime use”.*

The inclusion of certain assets in the State domain was justified by the need to remove from the use of private individuals assets that were susceptible to general use, since the interest and value for the community was inescapable. With the intervention of the State in the economy, this conception was certainly destined to undergo serious changes as “*it was no longer a question of securing goods for the free use of citizens but of allowing the State, by means of these goods, to achieve its aims in the common interest*”¹⁸⁰. The legal status of the public domain contained in Article 283 of the *Codice Civile* provides that “*The property forming part of the public domain is inalienable and cannot be the subject of rights in favour of third parties, except in the manner and within the limits established by the laws concerning it*”, and in particular “*State property may be subject to rights for the benefit of a private individual by means of a measure, usually a concession, issued by the State or by the public territorial body that owns the property*”.

From these conditions, therefore comes a natural distinction between the regime of ownership of maritime state property, which is obviously the responsibility of the State, and the regulation of the modes of use of the same property, which may be the responsibility of third parties acting in the collective (*uti cives*) or individual (*uti singuli*) interest¹⁸¹.

At this point it is necessary to go back to the discussion of Italy and China collaboration within the Belt and Road Initiative, and understand whether, and how, the aforementioned foundations of Italian law constitute a sort of obstacle to Chinese interests in the Italian port sphere.

The day after the appearance of the first news revealing the strong Chinese concern in Italian ports, and their probable involvement in the BRI, a large part of public opinion, several renowned newspapers and Italian politicians had expressed a sincere fear for the possibility of a “sale-off” of Italian ports to the Chinese counterpart, probably imagining a scenario similar to what happened in Greece with the total control of the port of Piraeus by Chinese company COSCO. Very often and on several occasions, such as following the signing of the MoU, the Italian government has been harshly criticised because of the fear of a “Chinese threat”, which would have had repercussions all the way to our port system and would have ended with the conquer of those essential and internationally coveted logistical hubs.

However, the risk of a sale of our ports is an unrealistic hypothesis, as we have ascertained by making a brief reference to the legal framework of the Italian port system, which qualifies them as a State asset that cannot be traded or expropriated under no circumstances.

As mentioned above, another indispensable figure operating within the port reality is the Italian port authority, introduced primarily by the port law of 1994 and in their current configuration by Legislative Decree No 169/2016 (the so-called “Delrio reform”). Unlike the case of other European countries, and specifically with reference to the Greek case we have seen above, Italian port authorities are not private law companies but direct emanations of the State, which intervenes through the *Ministero delle Infrastrutture e dei Trasporti*. Italian port authorities do not therefore obtain the management of ports by concession, but rather administer the public domain on behalf of the State,

¹⁸⁰ Feliciano Benvenuti, *Il demanio marittimo tra passato e futuro*, in “*Rivista di Diritto della Navigazione*”, 1965, 154 (own translation)

¹⁸¹ Alessandra Xerri Salamone, 1998, *op.cit.*

entrusting it to the private entities that are best able to exploit it for the benefit of the community. An entirely different situation from that in Greece, since in 1999 the Greek government decided to reform the condition of the ports of Piraeus and Thessaloniki by removing them from the status of public entities and transforming them into joint stock companies, initially controlled by the State and then listed on the Athens stock exchange¹⁸². In 2002, the Greek government granted Piraeus Port Authority the exclusive right to commercially exploit the entire port area and to take all necessary measures to ensure its development, for a period of forty years. Subsequently, as a result of the privatisation programme carried out by the Tsipras government, COSCO managed to acquire a majority stake in Piraeus Port Authority, firmly establishing itself in the harbour terminals.

Accordingly, hypothesizing the occurrence of similar conditions such as the transfer of a port authority to private companies, like that experienced by Greece with COSCO, is a totally improbable scenario, given the impracticability of such an operation guaranteed by the current Italian regulatory framework in harbour matter.

However, the only channel that would allow China access to Italian ports is through the issuing of special authorising measures to foreign terminal operators, which would grant the latter permission to carry out various work services within the port. The regulation concerning these measures will be dealt later in this essay (see sections 2.5.1 and 2.5.2).

2.3 Port System Authorities

2.3.1 Italian port authorities nature and its framing into the BRI dialogues

Italian port authorities, understood as the public body in charge of the management of each port, or group of ports, have undergone several regulatory changes over the years, also modifying their formal name from “Port entities” (in Italian, *Enti portuali*) to “Port authorities” (*Autorità portuali*), and again to “Port System Authority” (*Autorità di Sistema Portuale*).

As seen above, the old *Enti portuali* were born out of the need to bring together in a single entity competences otherwise distributed among various ministries, and to ensure greater efficiency in the port sector. These entities were bodies with public legal personality which carried out an activity replacing and supplementing the State, combining the participation of public and private structures in order to achieve the best port management.

The establishment of a new body came with the 1994 reorganisation which introduced the so called *Autorità portuali*, initiating a different approach to port management. The idea behind the introduction of these new authorities was based in particular on the need to make a decisive split between the functions of governance and the management of business activities¹⁸³. As a consequence, the *Autorità portuale* held the task of providing for the administration and control of the port, leaving the economic activities relating to the exercise of port operations to other entities distinct and

¹⁸² Law 2688/1999 (Gov. Gazzette A 40/1.3.1999)

¹⁸³ The importance of the principle of separation of the harbour’s governance and operational functions helps to ensure the presence of a plurality of competing undertakings, as well as ensuring transparency and impartiality in the performance of the port authority’s functions. Sergio Maria Carbone, *Lezioni, casi e modelli contrattuali del diritto marittimo*, Torino, Giappichelli, 1997.

independent from it. Referring instead to the legislative system previously in force, the former Article 6(6) of the 1984 reorganisation Law imposed a clear prohibition on the *autorità* to exercise, directly or through participated companies, port operations and activities closely related to them.

One of the main innovations of Legislative Decree No. 169 of 2016, which did not alter the nature of the old *Autorità*, was the introduction of a new model of port authority, called *Autorità di Sistema Portuale (AdSP)*, overcoming the logic of the port authority as an administrative structure mostly coinciding with a single port structure, but rather based on the district model, i.e. as public body in charge of several ports.

Article 6, paragraph 1 of the new Law on the reorganisation of port legislation identifies 15 *Autorità di sistema portuale*, qualified by paragraph 5 as a non-economic public body of national importance with a special system, endowed with administrative, organisational, regulatory, budgetary and financial autonomy.

As we shall see, the very nature of Italian port authorities as state-owned public entities will play a fundamental role during negotiations with China, in the Belt and Road framework. The agreements signed by Chinese construction companies and countries along the New Silk Road often provided for the active participation of these building enterprises in the design, construction or modernisation of strategic infrastructure along the Far East-Mediterranean trade route. On other occasions, entire shares of port companies operating in the harbours of their countries were sold to the Chinese companies concerned, as done in Greece or Djibouti. Italian administrative law, however, prevents the bodies of the public administration from concluding contracts or agreements of a binding nature with a private entity (as is any foreign company, even if State-owned), from which revenue or expenditure is derived.

This particularity testifies the impossibility of the Chinese counterpart to adopt the same *modus operandi* exercised in countries with a different legal system. Sino-Italian cooperation between the private and public sectors consequently had to opt for collaboration that would fit perfectly not only within the Italian legal framework, but also within European one, choosing the joint signature of documents classified as “declaration of intent”, that could not therefore break the law, as in the case of the cooperation agreements between CCCC and the Port Authorities of Genoa and Trieste.

As far as the tasks of the *AdSP* are concerned, these are defined by paragraph 4 of the new Art. 6, which, to name but a few, assigns the functions of guidance, planning, coordination, regulation, promotion and control of port operations and services, concessionary activities as per Articles 16, 17 and 18, and other commercial and industrial activities.

The *AdSP* shall ensure that the activities of ordinary and extraordinary maintenance of the common parts in the port area, including the maintenance of the seabed, and those activities aimed at providing services of general interest to port users against payment are generally entrusted in concession by means of a public tender. These tasks are implemented through the selection of companies chosen on the basis of their efficiency and competitive capacity, whose activities should be consistent with the public interest, and in line with the objectives of functionality of the port system.

Further functions concern the coordination of the administrative activities carried out by public bodies and organisations in the port area (Art. 6(4)(d)); the exclusive administration of the areas and assets of the maritime domain in its own district (Art. 6(4)(e))¹⁸⁴ and the promotion of forms of connection with back-port and inter-port logistics systems (Art. 6(4)(f)).

¹⁸⁴ For the management of activities related to the functions on the maritime domain, the *AdSP* make use of the *Sistema informativo del demanio marittimo (S.I.D.)*.

As in the previous legislation, it is confirmed that *AdSP* cannot carry out, either directly or through participated companies, port operations and activities closely related to them. However, the new regulation provides that the *Autorità di Sistema* may regulate the carrying out of activities and services of common interest and useful for the more effective fulfilment of the functions assigned in cooperation with regions, local authorities and public administrations, including the assumption of minority shareholdings in public initiatives promoting the development of the port system (Article 6, paragraph 11).

Prior to the “Delrio reform”, the former *Autorità portuale* was divided into four bodies: the President, the Port Committee, the General Secretariat and the Board of Auditors. Nevertheless, Articles 7, 9, 10 and 11 of the new draft Legislative Decree (169/2016) established respectively the Management Committee (*Comitato di Gestione, CG*) instead of the Port Committee, the Secretary General instead of the General Secretariat, the *Organismo di partenariato della risorsa mare* and the *Organismo nazionale di coordinamento delle AdSP*.

2.3.2 The role of the President and its powers

At the top of the *Autorità di Sistema* is the President, who is responsible for the body, remains in office for four years and may be re-appointed once (Art. 8, paragraph 2). The President is appointed by a decree of *Ministero delle Infrastrutture e dei Trasporti*, following agreement with the President(s) of the region(s) concerned. The new reorganisation eliminates the provision contained in Art. 8 of Law 84/94, according to which the President had to be chosen “*from among a group of experts with the highest and most proven professional qualifications in the transport and port economy sectors*”. The “Delrio reform”, on the other hand, indicates as possible candidates also those citizens who are members of a European Union country with professional experience in the transport and port economy sectors, thus widening the target group to include those who do not have Italian nationality. However, the appointment remains subject to parliamentary opinion under Article 1 of Law No. 14 of 1978.

The President is the legal representative of the *Autorità di Sistema*. As manager of a public body, it is committed to pursuing the collective interest and it is vested with the powers to perform acts in the name and on behalf of the same *Autorità*, as well as to represent it in legal proceedings. It is, therefore, the President, as the representative of the port authority and its respective harbours, who concludes agreements for the improvement of port services and lead initiatives for the development of related logistics networks, having very wide-ranging powers corresponding to many of those which the law itself generically attributes to the port authority itself. The President is moreover entrusted with the power of managing the financial resources, as clarified by paragraph 2 of Article 8. In addition to appointing and chairing the Management Committee (or *Comitato di Gestione*), the President proposes the appointment of the Secretary General, submits the Three-year Operational Plan and the Port System Master Plan (or *Piano Regolatore di Sistema Portuale*) to the *Comitato* for their approval, submits the draft resolutions concerning the budget and its variations, and the consultative account. The President is also responsible for promoting infrastructure investment programmes with contributions from the State or national public or Community bodies; for issuing the authorisations and concessions referred to in Articles 16, 17 and 18 in compliance with the provisions contained in the decrees of the *Ministero delle Infrastrutture e dei Trasporti*; for ensuring navigability in the port area and for maintaining and deepening the seabed.

Exceptionally, the mandate of the President of an *Autorità di Sistema* may be revoked by ministerial order in the cases provided for by Article 7, paragraph 3 of Law No. 84/1994 concerning: failure to approve the Three-year Plan within the terms provided for by Article 9, paragraph 5, letter b); the emergence of a deficit in the final account; failure to approve the balance sheets within the term provided for by the regulations in force. In the event that the Ministry revokes the mandate, it must at the same time appoints a commissioner who will exercise the functions assigned to him for a maximum period of six months.

The latter provision was applied in June 2020, when the President of the Port System Authority of Eastern Adriatic Sea, Zeno D'Agostino, was temporarily suspended from his position due to “institutional incompatibility”. His position was subsequently entrusted by the *Ministero delle Infrastrutture e dei Trasporti* to an extraordinary commissioner, Mario Sommariva¹⁸⁵.

2.3.2 The Management Committee

The Management Committee (*Comitato di Gestione*) is the new name of the body to which the functions of the former Port Committee are attributed. It is appointed by the President of the *Autorità di Sistema Portuale* and its characteristics are defined in the new Article 9 of Law No. 84/1994.

Decree No. 169/2016 significantly reduced the number of members of this new body, which previously had an average of fifteen members each. The *Comitato*, whose term of office lasts four years and is renewable only once, is made up of the President of the Port Authority, who chairs it and whose vote prevails in the event that the body is made up of, or deliberates with, an even number of members; by a member designated by the region or by each region whose territory is included in the port system; by a member designated by the mayor of the metropolitan cities; by a member designated by the mayor of each of the municipalities formerly home to the port authority included in the *AdSP*, and by a representative of the maritime authority with the right to vote on the matter for which he is responsible. A representative for each port included in the *AdSP* also participates in the Committee's meetings. The representative is appointed by the mayor and has the right to vote only on matters falling within the competence of the represented port.

With regard to the functioning of this Committee, Article 9(6) of the amended Law No. 84/1994 states that it shall meet twice a month, when convened by the President, and at the request of one third of its members. The majority required for the validity of the meetings is half plus one of the members. Its planning functions are of considerable importance and concern in particular: the approval, on the proposal of the President, within ninety days of its installation, of the Three-year Operational Plan concerning the development strategies for port and logistics activities; the adoption of the system's strategic planning document, the Port System Master Plan and the technical-functional adjustments; the approval of the annual report on the port's promotional, organisational and operational activities; the approval of the budget, the notes on variations and the final balance sheet.

On the other hand, with regard to technical-managerial functions, the Committee shall decide, on the proposal of the President, on authorisations for the carrying out of port operations and on concessions of areas and quays for a duration of more than four years, determining the amount of the relevant fees, as provided in Articles 6, paragraph 10, 16 and 18.

¹⁸⁵ Sole 24ore, *Anac “cancella” il presidente del porto di Trieste. D’Agostino annuncia ricorso*, 5 June 2020 <https://www.ilsole24ore.com/art/anac-cancella-presidente-porto-trieste-d-agostino-annuncia-ricorso-ADNrUpV>

From what we have seen, the *Comitato Generale* performs mostly deliberative tasks, although it also handles advisory and monitoring functions.

2.3.4 The Board of Auditors

Article 11 of Law 84/1994 contains the provisions relating to the Board of Auditors (*Collegio dei revisori dei conti*), which appears to be an internal control body within the Port System Author, made up of three full members and two alternate members, appointed by decree of the Ministry of Infrastructure and Transport from among those registered in the statutory auditor register or among those with specific professional expertise. On the nomination of the Ministry of Economy and Finance, a full member acting as president and an alternate member are also appointed, in accordance with Article 11(1).

The Board of Auditors is convened by the President when deemed necessary, but at least once every three months. The tasks of the Board of Auditors are laid down in the third article of the law and range from controlling the management to ensuring that the books and records are properly kept, also carrying out a quarterly cash audit. The Board is also obliged to draw up a paper on the final account and report periodically to the Ministry of Infrastructure and Transport. The latter may also ask the President of the *AdSP* for information on the management of the Port Authority and also on individual issues, reporting any irregularities to the aforementioned Ministry.

Finally, Decree No. 169/2016 introduced the specification that the members of the Board may not in any way participate in activities pertaining to the competences of the *AdSP* or other bodies carrying out tasks related to the activities of the *AdSP*, subjecting the members of the *Collegio* to Article 2399 of the Italian Civil Code on the causes of ineligibility and disqualification.

2.3.5 The Secretary General

The technical-operational structure of the *AdSP* is embodied in the figure of the Secretary General, appointed by the *Comitato di Gestione* on the proposal of the President and chosen from among experts with proven managerial experience or professional qualification in administrative-accounting matters (Art. 10 paragraph 2). The Secretary is employed under a four-year private law contract which may be renewed once only, and may be removed from office at any time, on the proposal of the President and by resolution of the Management Committee.

The secretary's duties provides for him to be in charge of the technical-operating secretariat and to take care of the fulfilments necessary for the functioning of the *AdSP*. The Secretary also takes care of the investigation of the acts falling within the competence of the President and the Management Committee; it takes care of relations for the coordination of activities with State, regional and local administrations; draws up the *Piano Regolatore di Sistema Portuale*¹⁸⁶ and implements presidential and committee directives; reports to the Management Committee on the state of implementation of intervention and development plans for port structures and on the economic-productive organisation of port activities and keeps records.

¹⁸⁶ According to Art. 10 paragraph 5, in drawing up the Master Plan, the Secretary must make use of the technical-operational secretariat, which provides him with support and assistance.

2.3.6 The new bodies introduced by the Legislative Decree No. 169 of 2016

The new Article 11-bis, introduced by Legislative Decree 169 of 2016, establishes the *Organismo di partenariato della risorsa mare*. It is composed of the President of the *AdSP*, who chairs it, and the commander of the port or ports that are part of the *AdSP* system. The *Organismo* is a body that brings together the representation of the professional categories: in fact, it sees the participation of trade union and employer associations representing the categories operating in ports, for example, those of shipowners, industrialists, logistics and rail operators. According to some additions introduced with Decree No 232 of 2017, the body is also composed of a representative designated by the *Associazione Nazionale Compagnie Imprese Portuali* (ANCIP), or other trade unions representing port operators. The body is given advisory functions for the adoption of the Port System Master Plan, the Three-year Operational Plan, for the levels of services rendered in the *AdSP*, as well as for the organisation of work in the port and the approval of the budget and balance sheet.

The new Article 11-ter, introduced with the Delrio reform, establishes the National Coordination Conference of the *AdSPs*, as the body in charge of the national coordination of the new authorities. Specifically, the tasks belonging to it are those of coordination and harmonisation of strategic choices for large infrastructure investments; urban planning choices in the port area; strategies for the implementation of policies relating to maritime state concessions and marketing strategies for the promotion of the national port system on the international market.

The Conference is composed of the Presidents of the *AdSPs* and five other representatives appointed by the Unified Conference (of which three from the Regions, one from the Metropolitan Cities and one from the Municipalities).

2.4 The economic activities in ports

One of the most important parts of the port reform Law No. 84/1994, which remained unchanged after the issuance of 2016 Decree, concerns the reorganisation of the main business activities carried out in ports, mostly entrusted to private operators.

According to Vespasiani, these port services can be defined as the group of activities “*whose purpose is to enable the common use of the port or which consist in carrying out all the sequential operations connected with the transition from the mode of land transport of goods and passengers to the mode of sea transport and vice versa, and in the related logistical and organisational support activities*”¹⁸⁷. Within this set, we distinguish between services relating to the handling of goods, and services for assisting and supporting ships, in order to enable them to move and dock safely, with maximum protection of the port system.

Through the enactment of Law No. 186/2000, port services can be classified as: port operations, port services “*stricti iuris*”, services of general interest, technical-nautical services and the so called “unnamed” services (*servizi “innominati”*).

¹⁸⁷ Tito Vespasiani, *Le attività economiche nei porti. Profili normativi ed operativi e regime della concorrenza tra disciplina nazionale e diritto europeo*, Roma, Master Edizioni, 2005 (own translation)

2.4.1 The port operations

According to Art. 16, paragraph 1 of L.D. No. 84/1994, “*port operations are the loading, unloading, transshipment, storage, movement in general of goods and any other material, carried out within the port*”. The carrying out of the above operations is regulated and supervised by the *Autorità di Sistema Portuale* or, where not established, of the *Autorità Marittima*. The exercise of these activities is subject to the issue of a specific authorisation by the *AdSP*, or by the Maritime Authority, and may be limited, in the sense that, after consulting the local advisory commission, the *AdSP* may establish the maximum number of authorisations that may be issued, in consideration of the port's functional and traffic requirements.

It should also be remembered that the *AdSP* cannot, in any way, carry out economic activities relating to the exercise of port operations, which it entrusts to other distinct and separate entities. In this regard, the Article 6 paragraph 11 of the cited Law of reform, has clearly provided the prohibition for the harbour authorities to exercise, directly or through the participation in society, the harbour operations and the activities closely connected to it¹⁸⁸.

2.4.2 The port services “*stricti iuris*”

Within the category of port services, Article 16 of the 1994 Reform Law identifies another category of services (which doctrine usually defines as port services “*stricti iuris*”¹⁸⁹), relating to “*specialised, complementary and ancillary services to the cycle of port operations*”. The discipline governing them is essentially the same as the one governing port operations, in the sense that the services falling within this category are regulated and supervised by the *AdSP* or by the Maritime Authority, which in turn must issue an authorisation for the companies to exercise them.

Ministerial Decree No. 132 of 6 February 2001 states that the concrete identification of specialised port services is the responsibility of the Port Authorities (now *AdSPs*), or, where not established, by the Maritime Authorities.

To better clarify what these services actually consist of, it is useful to take into account ordinance No. 248 issued by the Venice Port Authority, on 19 December 2006¹⁹⁰, which identified certain port services falling within the category under consideration as “*filling/emptying containers; counting, separating, marking, sampling, measuring, weighing goods*”. However, it should be noted that Art. 2(5) of Ministerial Decree No. 132/01 confers on the “*competent authority*” the identification of the services in question, “*on the basis of the port's operational needs, of the authorised and operating companies, and the specific needs resulting from the the local organisation of port work*”. Article 2(3) of aforementioned decree states that the “*specialised nature*” of the port services *stricti iuris* is constituted by the particular technical competence of the supplier, which is also qualified by the availability of equipment and/or machinery specifically dedicated to the provision of the service. Furthermore, as implied in paragraph 4 of Article 2, even though they are considered as activities

¹⁸⁸ As we noticed, this prohibition originated from the implementation of the principle of separation between management tasks and operative functions that, at least ideally, should ensure the stimulation of competition and increase the quality of services.

¹⁸⁹ The choice of the legislator to define the services in question as “port services” may be confusing and misleading, since this expression is traditionally used to refer to all services carried out in the port environment. Hence the choice to differentiate them by inserting the Latin expression “*stricti iuris*”.

¹⁹⁰ Stefano Zunarelli, Alessandra Romagnoli, Alessio Claroni, *Lineamenti di diritto pubblico dei trasporti*, San Lazzaro di Savena, Bonomo Editore, 2011

distinct from the port operations, such services play a "servant" role to the latter¹⁹¹, inasmuch they are "functional" to the carrying out of the cycle of port operations, contributing to improving their quality (in terms of productivity, rapidity and slenderness) and being necessary to eliminate undesirable consequences.

2.4.3 The services of general interest

On the other hand, according to what is provided for by Article 6, paragraph 4, letter c) of Law No. 84/1994, the Port System Authority carries out the tasks relating to "entrusting and controlling the activities aimed at providing port users with services of general interest against payment, which do not coincide with, or are not strictly connected to, the port operations referred to in article 16, paragraph 1".

These services are controlled and entrusted in concession by the AdSP by means of a public procedure in accordance with the provisions of Art. 6(10) of Law No. 84/1994. Furthermore, also in those limited cases in which the AdSP is legitimized to continue to supply such services directly (see, for example, paragraph 5 of Art. 6 of the aforementioned Law), the business activity carried out and the administrative activity which is responsible for it must be obligatorily separated, at least from the organizational, managerial and accounting point of view, so as to avoid that the "administrative" section of the AdSP may subsidize the "business" one, with consequent distorting effects on competition¹⁹².

However, if we want analyse in detail what these services of general interest actually consist of, the answer was firstly provided by two Decrees of the *Ministero dei Trasporti e della Navigazione* of 14 November 1994¹⁹³ and 22 April 1996¹⁹⁴. These services have been identified as: lighting, cleaning and waste collection, water, maintenance and repair services, station management and passenger support services, IT and telematics services, services common to the port's industrial and commercial sector, such as the management of car parks, equipped berths, dry docks of industrial port areas and finally rail services within the port.

With Legislative Decree No. 232 of 13 December 2017 (the so-called "correttivo porti"), the Legislator has made further changes in the port regulatory framework. Of particular importance is of Article 15(12) of the text, which provides for the repeal of the aforementioned *Ministero dei Trasporti e della Navigazione* Decrees No. 275/1994 and No. 94/1994. By means of the aforesaid amendment, the corrective decree has in fact removed from the Ministry of Infrastructure and Transport the competence for the purpose of identifying services of general interest carried out by individual AdSP, consequently redefining their tasks and functions.

With regard to the awarding of these services, the new *Codice dei contratti pubblici* under Legislative Decree No. 56/2017 now applies.

Following the changes in the regulatory framework, and given the complexity of the legislation in force in the various sectors relating to port services, the *Autorità di Sistema* will have to "assess from

¹⁹¹ Gerolamo Taccogna, *I «diritti autonomi passeggeri» ed i corrispettivi per il servizio portuale di stazione marittima*, note to State Council, Sec. VI, 7 February 2014, No. 586, in "Il Diritto Marittimo", No. 2, 2015.

¹⁹² Sergio Maria Carbone, 1997, *op.cit.*

¹⁹³ Ministerial Decree No. 275 of 14 November 1994 ("*Identificazione dei servizi di interesse generale nei porti da fornire a titolo oneroso all'utenza portuale*").

¹⁹⁴ Ministerial Decree No. 94 of 22 April 1996 ("*Inclusione del servizio ferroviario svolto nell'ambito dei porti fra i servizi di interesse generali di cui all'art.6, comma 1, lettera c), della legge 28 gennaio 1994, n.84, recante riordino della legislazione in materia portuale*").

*time to time whether the activity they intend to regulate falls within their institutional competence and, if so, whether it can be qualified as a service of general interest, whether there is demand from the general public of potential users present in the port such as to justify the presence of the service itself, and, therefore, [...] identify the organisational arrangements in the light of the provisions in force [...]*¹⁹⁵.

2.4.4 The technical-nautical services

The services defined as "technical-nautical", or ancillary services to navigation, are identified in Article 14, paragraph 1-bis, as pilotage, towing, mooring and boating services. The regulation and organisation of these services are left by law to the competence of the *Autorità Marittima*, to be exercised jointly with the Port System Authorities in the ports they manage. In the absence of an agreement, Article 14, paragraph 1-ter, establishes that the Minister of Infrastructure and Transport shall dictate the regulation and organisation of the services in question. The Legislator has, therefore, intended to attribute the decisional responsibility and the priority competence in matters of navigation safety to a subject in a third party position, i.e. the *Autorità Marittima*, limiting the power of co-decision of the Port System Authorities and accentuating the priority of the needs of public safety. The regulation complements the rules laid down in the *Codice della navigazione* and its implementing regulations (i.e. arts. 98-137 for pilotage, arts. 139-139 for towing, arts. 208-214 for moorers, arts. 215-128 for boatmen); it expressly defines ancillary services as being "in the general interest", specifying the purpose for which they are so classified: they are "*designed to ensure safe navigation and berthing in the ports, where they are established*".

The qualification of technical-nautical services as services of general interest derives therefore from their being connected and instrumental to the general interest in safety, and specifically to ensuring that ships arrive, move, manoeuvre, moor, stop and depart in such a way as to limit potential damage to persons, marine environment, port facilities and goods transported¹⁹⁶.

As a result of the novelisation in port matters through Law No. 169/2016, the scope of performance of technical-nautical services has been spatially expanded. It has, in fact, extended the radius also to mooring facilities at which operations of embarkation or disembarkation of goods and passengers take place, such as quays, piers, wharves, platforms, buoys, towers, temporary storage vessels or floats and mooring points.

From the reading of the new provision, a new concept of port seems to be discernible, identified on the basis of the "*location of the activities aimed at transport and navigation (operations of embarkation or disembarkation of goods and passengers carried out also in the context of waters outside the outer defences), in relation to which the persistence of the monopolistic system for the provision of technical-nautical services and the prohibition of self-production [...], as a means to achieve safety (in an area no longer naturally restricted) could be not easy to justify*"¹⁹⁷.

The provision of technical-nautical services in each port may be made compulsory by Ministerial

¹⁹⁵ Circular letter of 17/04/2018 from *Ministero delle Infrastrutture e dei Trasporti*, addressed to all the Port System Authorities (own translation)

¹⁹⁶ Sergio Maria Carbone, 1997, *op.cit.*

¹⁹⁷ Elisabetta G. Rosafio, *Il quadro dei servizi tecnico-nautici alla luce della L. 1 Dicembre 2016 n.230 del Reg. UE 2017/352 del Parlamento europeo e del Consiglio del 15 febbraio 2017: prime osservazioni*, in " *Il Diritto Marittimo*", No. 4, 2017 (own translation)

Decree, even if the ships might actually be able to manoeuvre themselves¹⁹⁸. This is usually justified on the basis of the need to achieve not so much the security of the individual ship as the security of general navigation in the port area.

The debate on the recognition of the right of self-handling, i.e. the right of ships to use their own personnel to perform the services in question, has always been marked by a clear contrast of positions. In this respect it should be recalled that pilotage, towing, mooring and buoyage services "*must be provided in the port by service providers who are ready to provide the service upon request; readiness implies the existence of equipment and personnel available, irrespective of the actual need to provide the service and, therefore, of the actual request to use it*"¹⁹⁹.

2.4.5 The unnamed services

The so-called "*innominati*" port services are a residual category covering activities that take place within the port but do not fall within the activities dealt with so far. "Unnamed" services include on-board provisioning and refuelling (so-called bunkering), subject to the supervision of the harbour Master (*Comandante del porto*) under the ex Article 68 of the *Codice della navigazione*, and today to the one of the Port System Authority. As a matter of fact, Article 8(3)(m) of Law No. 84/1994, as amended by Legislative Decree No. 169/2016, assigns to the President of the *AdSP* the tasks of administering the areas and assets of the maritime domain, exercising the powers set out in articles 36-55 and 68 of the *Codice della navigazione*²⁰⁰.

2.5 The sources of funding for the *AdSP*

In outlining the *Autorità di Sistema portuale* characteristics useful for establishing the limits of managerial and operational autonomy, an essential element to bring out is certainly its financial autonomy, a principle postulated in Art. 6 paragraph 5 and 18-bis of the 84/1994 reform Law.

The normative structure concerning the resources necessary to the *AdSP* for its functioning is instead established by Art.13 of the abovementioned law, which identifies the origin of the Authority's revenues as follows:

- a) from the concession fees of the state-owned areas and quays which are included in the port area (Art. 18, paragraph 1), from the state-owned areas included in the territorial districts, as well as from the proceeds of authorisations for port operations referred to in Article 16 [...];
- b) any proceeds deriving from the sale of installations referred to in Article 18(1)(a) and (b);
- c) from the proceeds of taxes on landed and embarked goods [...];

¹⁹⁸ According to Article 14(1)(a). However, the compulsory nature can be understood in two ways: on the one hand, it can take the form of an obligation on the part of the administration to ensure the presence of a corporation of pilots, moorers, boatmen and a tugboat company in the port, which are required to provide services to incoming and outgoing vessels; and, on the other, it can be understood as a duty on the part of users to turn exclusively to the same operators present in the port in order to benefit from services ancillary to navigation.

¹⁹⁹ Alfredo Antonini, *Servizi tecnico-nautici e concorrenza*, in "Dir.Trasp.", p.121, 2012 (own translation)

²⁰⁰ Article 68 of the *Codice della navigazione* provides that "*those who exercise an activity within ports [...] are subject, in the performance of that activity, to the supervision of the Master of the port [Comandante del porto]*" and may be obliged to enrol in special registers, possibly with a limited number, as well as being subject to "*other special limitations*". (own translation)

- d) from contributions of regions, local authorities and other public bodies and organisations;
- e) from miscellaneous revenue;
- e-bis) from port charges.

In any case, among the main sources of revenue for *AdSP* are the income from authorisations for port works and fees for concessions of state-owned areas and quays. Let us now analyse these first two administrative measures, outlining the relevant legal framework in which they fall.

2.5.1 The authorisation

The solution found by the legislator with Law No. 84/1994 was the establishment of a new model of port administration. According to the provision, "operational" activities must be transferred either to commercial companies resulting from the transformation of the organisations themselves (art. 20 paragraph 2), or through the granting of concessions for the exercise of business activities in various sectors, including port operations, under conditions of market competition between entrepreneurs in the same harbour.

Port operations²⁰¹ can only be carried out by private undertakings under the system laid down by the 1994 reform Law²⁰²: the exercise of such activities is unequivocally subject to obtaining an authorisation, subject to verification of the possession of requirements of financial capacity, professionalism and industrial consistency by the *AdSPs* or Maritime Authorities, determined by a decree of the *Ministero dei Trasporti e della Navigazione* (Article 1(4)(a)). The regulation must also specify the criteria, procedures and deadlines for the granting of the authorisation, its suspension and revocation, as well as for the relevant checks. It further specifies the parameters for defining the maximum and minimum limits of the annual fees and of the security.

Authorised companies are entered in special registers kept by the *AdSP* or by the Maritime Authority in order to be controlled at all times, together with their employees by the same authorities.

From the moment the application is submitted, the *AdSP* or Maritime Authority have a period of ninety days to decide on the authorisation requests; after this period, in the absence of a reasoned refusal, the request is deemed to be accepted (Art. 16, paragraph 7-ter). Normally, the effectiveness of such authorization has a duration in relation to the operative programme proposed by the company or, if the authorized company is also holder of a concession pursuant to Art. 18, the duration is identical to that of the concession itself. The authorisation may be renewed in relation to new operating programmes or following a normal renewal of the concession.

In any case, the obligation remains for the *Autorità di Sistema* to verify compliance with the conditions of the programme at least once a year. In the event of non-compliance with the commitments undertaken, the Port Authority may suspend or revoke the authorisation by means of a reasoned measure.

Before shifting our focus to concessions, we might mention a first distinction between them and authorisations, observing that while an authorisation is an administrative measure which removes a legal limitation preventing the exercise of a pre-existing subjective right, a concession is intended to

²⁰¹ As defined before, port operations are the loading, unloading, transshipment, storage, movement in general of goods and any other material, carried out within the port.

²⁰² Prior to this reform, port operations were subjected to obtainig an administrative concession (Art.111 of the *Codice della Navigazione*)

confer new rights and powers which the addressee did not have before the act was issued²⁰³.

2.5.2 The concession, the figure of terminal companies and Chinese port operators

If the Law were limited to the granting of authorisation for port operations only, leaving them to the play of a market between several authorised undertakings, such a legal framework would entail that the *AdSP* would retain ownership of the areas, infrastructures and any fixed equipment of quayside. However, this competitive model would not correspond to current technical-logistical needs of transport companies and large shipping enterprises. In this regard, these two players need port areas to be managed by specialised companies, the terminal operators, that have full access to them and are able to organise the entire cycle of port operations autonomously and completely, otherwise they would lose competitiveness due to purely operational factors. In order to ensure the smooth running of operations, both for containerised transport and for other sectors which also require fixed quayside equipment (f.i., gantry cranes), the organisation and executions of port activities must be entrusted to single concessionaire for the area on which the superstructures are located. The availability of a port terminal has long become, among the other things, a factor of international competitiveness, not only for containerised trade in goods to be distributed internationally, but also for those types of traffic that do not require special fixed equipment during port operations, but simply space (industrial areas, parking or storage areas).

Obviously, China is perfectly aware of this necessity, and it is constantly seeking the perfect functioning of its production and distribution chains, to be achieved, also and above all, through the logistical help of ports scattered all over the world, including the Italian peninsula.

Article 18 of the Italian reform Law No. 84/1994 regulates the concession of port areas and quays to companies authorised in carrying out such operations. The competence to issue these concessions lies with the *AdSP* or, where not established, with the Maritime Authority. Similarly to what has been established for authorisations, the regulation of concessions is entrusted to a decree of the Ministry of Infrastructure and Transport²⁰⁴, in agreement with the Ministry of Finance, which shall also indicate the duration of the concession; the supervisory and control powers of the granting Authorities; the modalities of renewal of the concession or the concession of the facilities to a new concessionaire; the minimum limits of the fees that are required to be paid.

According to Article 18(6), in order for a concession to be granted, concession holders are required to present a programme of activities aimed at increasing traffic and productivity in the port; to possess adequate technical and organisational equipment, capable of meeting the requirements of a continuous and integrated production and operational cycle, on their own behalf and on behalf of third parties; and finally, to have a workforce in line with the programme of activities. The concessionaire must therefore be equipped with specific skills to ensure the completion of the entire operational cycle involving the handling of goods in the port. Undertaking which only carry out certain stages of the cycle are therefore not eligible for a concession.

²⁰³ Pietro Virga, *Diritto Amministrativo, Atti e ricorsi*, vol. 2, Milano, Giuffrè, 1992.

²⁰⁴ The regulation provided for in Article 18 has not yet been issued. However, jurisprudence has reconstructed a legal regime of the matter by resorting, in part, to the application of the rules on the concession of maritime property as contained in Articles 35 and 36 of the *Codice della navigazione*, and in part to the direct application of the provisions contained in the Article 18, which have an independent degree of incontrovertibility.

The procedures for awarding concessions are established by means of public tenders²⁰⁵, following the adoption of appropriate notices addressed to all citizens and economic operators belonging to the European Union²⁰⁶.

Coordination between the port activity planning, carried out by the *AdSP*, and the granting of concessions in the port area is essential, as the assessment of the tenderers' "programme of activities" will also take into account its complementarity with the development objectives set out in the Three-year Operational Plan (referred to in Article 9(5)(b)).

On the other hand, as regards the functions of control and revocation of the concession, these are entrusted by paragraphs 8 and 9 of Article 18, respectively, to the *Autorità di Sistema* or, where not established, by the Maritime Authorities. The first comma specifies that they "[...] are required to carry out annual inspections in order to verify the permanence of the requisites held at the time of the granting of the concession and the implementation of the investments foreseen in the activity programme [...]". The second, instead, governs the procedure for revoking the concession, which may be implemented in the event of non-compliance with the obligations assumed by the concessionaire and in the event of failure to achieve the objectives set out in the programme of activities referred to in paragraph 6(a).

From a logistical point of view, one of the most important figure for the proper functioning of port activities is precisely the port operator. As we have already mentioned, this player's functions essentially involve managing the movement of containerised goods between container ships, trucks and trains in order to optimise the passage of goods through customs and minimise the waiting time of ships in the port. A terminal operator often take the form of an undertaking which may be controlled by, or linked to, a shipping company (and thus reserve the provision of their services for that company's fleet), or be a pure terminal operator interested in providing their services to an indistinct number of users.

From the findings outlined in the first chapter, the majority of Chinese overseas terminal companies tend to fall into the first grouping. If we were to take the case of COSCO and CM Ports as an example, we would notice that the two companies are involved in a range of business including container and shipping business and, in our case, also port operations; while the Shanghai International Port group falls into that category of companies specialising in the management of port and port-related activities (port services, logistics, container terminals,...)²⁰⁷. The concession procedure is one of the way in which Chinese terminal operators could gain access to the management of Italian docks. Another way would still be the one of directly acquiring shares of the private terminal companies already operating locally, as happened in France, Morocco or Spain²⁰⁸.

²⁰⁵ However, in addition to the awarding of concessions by public tender, the law provides for a different modality, set out in Article 18, paragraph 4. For major initiatives, the President of the AdSP may conclude agreements in lieu of the state concession (which may include also the construction of infrastructure), after deliberation by the Management Committee, pursuant to article 11 of Law no. 241 of 7 August 1990.

²⁰⁶ The criterion to be followed for the awarding of concessions is that of the most advantageous offer, bound in any case to the requirements provided for by Art. 18 paragraph 6 letters a), b) and c).

²⁰⁷ By the way, Shanghai International Port group is the exclusive operator of all public terminals in the port of Shanghai.

²⁰⁸ For further information, see chapter I ("1.3.1 Chinese presence in the MENA region: 9 ports for Belt and Road Initiative"; "1.3.1 Chinese presence in Europe: the port of France, Spain, Italy and Malta").

2.6 The planning powers of *AdSP* and the competence for infrastructure works

2.6.1 The Port Master Plan

The historical evolution of the harbour we discussed earlier suggested how, over the years, the port has changed its functions, from a mere terminal port of call to the point of a complex intermodal network. In this context, the legislator has gradually given the port entity more and more of its own planning and regulatory functions, equipping it for its development process and its positioning on the international stage.

As time passes, these planning functions began to complement a dual concept of “port”: on the one hand as a finished good, configured on a spatial and material basis, and on the other hand as a reality to be contextualised with regard to both the adjacent urban areas and in connection with other transport infrastructures. This is why the body responsible for the development of a port, the Port System Authority, has been invested with a very effective and politically incisive power: the drafting of the Port System Master Plan, a crucial tool for adequately fulfilling the Authority’s tasks. But that’s not all. Thanks to careful port planning, the Port System Authority can indeed maximise the “performance” of a single port, linking it to the economic realities behind it, as well as placing it within a dense infrastructure network serving different markets. In this way, large shipping companies which manage to take advantage of the integrated services provided by the port in question will be guaranteed logistical benefits that will give them a true advantage over their competitors.

However, this aspect will be analysed later, supported by the case of the port of Trieste. Now let us look specifically at how the planning function of each *AdSP* are implemented and which subject is responsible for infrastructure work in port area.

On the basis of the Law No. 84/1994, the 2016 Legislative Decree introduced the *Piano Regolatore di Sistema Portuale* (Port System Master Plan), for the planning and implementation of port works in the *Autorità di Sistema*²⁰⁹. The new *Piano* goes beyond planning at the level of a single port of call, but instead implements an integrated model of several harbours belonging to the same territorial area. Specifically, it consists of two distinguished plans: the Strategic System Planning Document (SSPD) and the Port Regulatory Plan for each port (PRP).

The SSPD has the task of defining the development objectives and systemic contents of the *AdSPs* and of identifying and perimeter areas destined for strictly port and retro-port functions, areas of port-city interaction and last-mile rail infrastructure connections²¹⁰. The SSPD is submitted to the opinion of each territorially interested municipality and is adopted by the Management Committee of the *AdSP* and approved after agreement with the Ministry of Infrastructure and Transport (*Ministero delle Infrastrutture e dei Trasporti*), which expresses its opinion after further discussion with the National Conference.

On the other hand, in the single ports included in the territorial districts referred to the *AdSPs*, the scope and overall layout of the areas destined to strictly port and back-port functions and to the road and railway connection axes are identified by the PRP²¹¹, pursuant to paragraph 1-sexies of Art. 5. Already in accordance with the provisions of Law No. 84/1994, the Port Regulatory Plan no longer

²⁰⁹ Article 5 of the Law 94/1994.

²¹⁰ Pursuant to paragraph 1-bis of Article 5, the SSPD must be consistent with the *Piano Generale dei Trasporti e della Logistica* (PGTL), with European guidelines on ports, logistics and infrastructure networks and with the *Piano Strategico Nazionale della Portualità e della Logistica*.

²¹¹ This plan is not applied in ports with a tourist or recreational function, as well as in ports belonging to category I

referred only to the perimeter within which the functions and actions regarding the port as a terminal harbour are carried out, but also in reference to it as an "area", broadening its definition to include also those areas that had, and still have, necessary elements of connection with the harbour, especially from the point of view of rail and road infrastructures. The PRP is therefore a fundamental means of pursuing the objectives of defining the port as a major logistical node, fully integrated in a system based on multimodality and intermodality, and no longer the terminal point of a production process. According to paragraph 2 of the Art. 5 of the aforementioned law, the PRP must be drawn up in implementation of the *Piano Strategico Nazionale della Portualità e della Logistica* (National Strategic Plan for Ports and Logistics) and of the SSPD, as well as in compliance with the guidelines issued by the *Consiglio Superiore dei Lavori Pubblici* (Higher Council of Public Works) and approved by the Ministry of Infrastructure and Transport.

Paragraph 2-quater of Art. 5 establish that the Port Regulatory Plan, which may not conflict with existing urban planning instruments, is adopted by the Management Committee, after agreement with the municipalities territorially concerned with exclusive reference to the planning of the areas intended for port-city interaction. The Plan is also approved by the competent Region after obtaining the opinion of the *Consiglio Superiore dei Lavori Pubblici*.

A further planning document is the so called *Piano Operativo Triennale, POT* (Three-year Operation Plan). This plan is a three-year document, subject to annual revision, whose approval is the responsibility of the Management Committee, on the proposal of the President of the Authority. The *POT* outlines, at a local level, the initiatives and strategic actions for the development and growth of the port system, in line with the overarching policy instruments and in coordination with the territorial planning instruments.

The aim of the *POT* is to promote the development of the port from an economic, social, environmental and cultural point of view, and it is through its approval that the policy functions referred to in Art. 6, paragraph 4, letter a) of Law No. 84/1994 are operationally developed.

According to the provisions contained in paragraph 10 of Art. 5, this document must also be sent to the Ministry of Infrastructures and Transport in order to annually identify the major infrastructure works to be carried out in category II, classes I and II ports.

2.6.2 Who plans and finances a port project?

The design of a port project is part of the Port System Master Plan and must be subject to an Environmental Impact Assessment procedure (called *VIA, Valutazione di Impatto Ambientale*).

In the event we wanted to clarify, indicating precisely which are the infrastructural works authorised under the current legislation, Article 5 paragraph 9 of Law no. 84/1994 would come to our aid, specifying that: "*The following are considered major infrastructure works: the construction of sea canals, defence breakwaters, docks, basins and equipped quays, as well as the excavation and deepening of the seabed. [..]*".

As regards the relevant charges, i.e. responsibility for financing the projects, paragraph 8 of the same article states that the State is responsible for category I and category II, classes I and II ports²¹²; while the Region is responsible for category II, class III ports²¹³.

²¹² Specifically, ports aimed at military defence and state security (category I), and ports of international and national economic importance (category II, classes I and II).

²¹³ Specifically, ports of regional and interregional economic importance (category II, class III).

In addition, the law expressly provides for the possibility for the Port Authorities, the regions or the municipality concerned to intervene, with their own resources, in competition with or in place of the State, to carry out major infrastructure works in category II, classes I and II ports. According to Article 5(8), therefore, the right to intervene is also extended to the public entities most directly concerned. However, public funding is not the only way to finance port works. In order to facilitate the implementation of the works foreseen in Port System Master Plan or POT, as well as for the enhancement of the infrastructure network in road and rail connections in ports and other works, the *AdSPs* may resort to forms of private capital participation. As a matter of fact, in accordance with the provisions contained in Article 183 of Legislative Decree No. 50 of 2016²¹⁴, which regulates the technique of project financing, the *Autorità di Sistema* may enter into medium-long term financing contracts with qualified national or international credit institutions, such as the Italian *Cassa Depositi e Prestiti*, as set out in Article 18-bis of Law No. 84/94.

All of these funding sources are also supported by EU connectivity projects, which provide financial support for investments in port development by granting money from cohesion funds or bank loans. As regard financing, the Title XXII, Article 129 C(1) of the Maastricht Treaty of 1992 already provided financial support for investments in projects of common interest in the field of trans-European networks, which, in the specific field of transport networks, may take the form of financing through cohesion funds.

The radical revision of guidelines adopted by EU Regulation No. 1315/2013 is closely related to the transformation of the way in which TEN-T actions are financed by the contemporary Regulation of European Parliament and of the Council No. 1316/2013, which established the *Connecting Europe Facility* (CEF) funding instrument. Thanks to the CEF, the European Union guarantees the granting of financial support to “*actions contributing to projects of common interest in accordance with Regulation (EU) No. 1315/2013*”²¹⁵ and to projects identified through the route of the nine core network corridors, four of which, as already seen, pass through Italy. The network scheme they trace provides guidance, not only for the resources specifically dedicated to TEN-T from the EU budget, but also for any other form of direct funding for the implementation of transport infrastructure under European law.

By the way of example, the TEN-T project envisages a series of intervention to strengthen the basic infrastructure and ensure the future development of traffic and multimodal connections along two “core networks” comprising the ports of Vado Ligure and Trieste.

Specifically, the European Union contributed a sum of €200.500 to a feasibility study for the construction of the new breakwater in the port of Vado Ligure, envisaged in the Port Regulatory Plan of the Ligurian *AdSP* since 2005, and included in the 2019-2021 POT of the same Authority²¹⁶.

On the other hand, the objectives of the Port Regulatory Plan and the POT of the Triestine *AdSP* include the construction of a new logistic platform in the port of Trieste. Also for this case, the contribution of the EU came through the INEA (Innovation and Networks Executive Agency) and amounted to almost €16 million, in order to support the development policies of port and the transport

²¹⁴ With regard to project financing, paragraph 5 of Article 18-bis of Law no. 84/1994 still refers to Article 153 of Legislative Decree No. 163 of 12 April 2006, even though this has been repealed by the Art. 217 of Legislative Decree No. 50/2016.

²¹⁵ Article 7 paragraph 2 of Regulation (EU) No 1316/2013 of the European Parliament and of the Council.

²¹⁶ European Commission website, TEN-T projects section, <https://ec.europa.eu/inea/en/ten-t/ten-t-projects/projects-by-country/italy/2013-it-91049-s>

networks connected to it²¹⁷.

A combination of public and private funding therefore enables the realisation of works in the port area, both in terms of the perimeter within which traditional port activities and services are carried out, and in terms of areas allowing interconnection with rail and road links (both at national and European level).

²¹⁷ Autorità di Sistema Portuale del Mar Adriatico Orientale website, <https://www.porto.trieste.it/ita/2015-10-21/lunione-europea-finanzia-la-costruzione-della-piattaforma-logistica-del-porto-di-trieste-lapt-ricevera-158-mln-di-euro-dallinea-di-bruxelles.html>

Chapter III

An Italian case study: the port of Trieste

3.1 A glimpse of history

“We have granted, and bring to your free knowledge, the following special liberties to be applied in the above-mentioned free ports of Trieste and Fiume:

1. Every merchant, ship’s captain, owner, or the like, may enter and leave freely, without hindrance and without charge, the free ports [of Trieste and Fiume]; may buy and sell goods and effects; load and unload either personally, or by the aid of agents or personnel, as best and most conveniently seems to them, without having to pay anything to our officers for their stay, arrival or departure, by way of protection [..]”²¹⁸. This is what can be read in the famous “Free Port License”²¹⁹ of 18 March 1719, an edit by which Charles VI of Hapsburg met his empire’s need for a safe and fast maritime connection, making Trieste the Hapsburg Empire’s gateway to the sea. Even before the issuing of the aforementioned document, the Hapsburg had opted for the promulgation of a further edict, the “Trade License for Free Navigation in the Adriatic sea” of 1717, which was intended to assert the right to navigate freely in the upper Adriatic, ensuring protection for empire’s subjects from the “harassment” of other powers.

At that time, the Venetian Republic boasted a wide domain on the coasts of the upper Adriatic, having undisputed control of one end of the Gulf of Venice, the coasts of Istria and Dalmatia, as well as Corfu, which allowed it to guard the maritime entrance from below. Trieste, on the other hand, had been paying tribute to the Venetian Republic since the 13th century, when the Doge of Venice, Enrico Dandolo, took Trieste and demanded an act of submission, during the first expeditions of the fourth Crusade in the Holy Land (1202-1204).

As the Italian historian and jurist Pietro Kandler reports, navigation in the Adriatic by then was subject to several strict regulations: it was not allowed to hoist a flag other than the one of Venice; it was not possible to leave the Venetian port without a permit (to be paid for, even fraudulently) from the Chancellor of Koper; it was not possible to obtain a licence for navigation without communicating the place of destination and the nature of the cargo, and there was never a lack of ways to resort to abuses of various kinds to the detriment of merchants or seafarers²²⁰.

However, the decision to relieve the subjects of the Austro-Hungarian Empire of these restrictions was not an omen of war or hostility, but a vindication of a natural right of the principality that marked the sovereign’s desire to accelerate the economic development of Austrian possessions, to the detriment of decadent Venice.

²¹⁸ Pietro Kandler, *Emporio e Portofranco di Trieste (Puntata estratta dalla Raccolta CONTI delle Leggi speciali per Trieste): scritta dal Procuratore civico ad ordine speciale del Consiglio municipale*, Trieste, Tipografia del Lloyd austriaco, 1864 (own translation)

²¹⁹ The nature of free port meant that goods arriving and departing from the port of Trieste, without passing through the Hapsburg customs, were totally exempt from taxation, while goods deposited in special “emporiums” were not subject to taxation for the first nine months, except for the rent of warehouse for their storage.

²²⁰ Pietro Kandler, *Avviamento della navigazione e del commercio nell’Austria Interiore*, in “L’Istria” weekly journal, No. 72-73, 31 October 1846.

Further influence on the port and the city of Trieste was exerted by Maria Theresa of Austria, who came to the throne in 1740. With the patents of 1745 and 1769, Maria Theresa confirmed the nature of the Free Port, extending its privileges, e.g. through the extension of the free zone to all the city and the abolition of internal duty lines for consumer goods destined for the city and its territory, for the import of raw materials and the export of products from Trieste's factories to the provinces of the Empire.

In 1775 the Imperial Asian Company of Trieste (*Compagnia Imperiale Asiatica di Trieste*) was founded. It was a trading company very active in China for the trade of tea, porcelain and silk, and the only one of its kind to be based in a Mediterranean port.

During the second half of the eighteenth century, the measures adopted by the Hapsburg (not least, Joseph II's Edict of Tolerance, in 1781) encouraged the immigration of non-Catholic religious minorities to the Adriatic port, which in the course of the 19th century would constitute Trieste's multi-ethnic bourgeoisie, the city's authentic economic reference point.

In the first decade of the 19th century the port was the seventh port in the world and the second in the Mediterranean, after Marseille, in terms of goods handled²²¹. With the return of Trieste to Austria with the Restoration of 1814 (after having been occupied by Napoleon's troops from 1809), the city began a phase of intense demographic and economic growth, thanks in particular to the peaceful situation in the Mediterranean. The insurance companies that emerged in the 1830s became one of the main drivers of Trieste's economy. Generali (1831), Lloyd Adriatico (1833), Riunione Adriatica di Sicurtà (1838), strengthened the close link between the commercial, insurance and banking worlds, serving the large commercial companies that had founded them²²².

A second phase of development for Trieste and its port can be attributed to the turn of the 1850s and 1860s, thanks to the spread of the railway.

In 1857, Trieste saw the completion of the railway connection with Vienna via the "Südbahn" railroad. The harbour thus took on a predominantly transit function, which prompted and enabled the Hapsburg authorities to finance a first major plan to expand the port facilities. Between 1868 and 1883, based on a project by Engineer Paulin Talabot, the complex now known as the "Old Port" (*Porto Vecchio*) was built. The project involved burying the old basin next to the railway and expanding the railway facilities, with the subsequent construction of three piers and a breakwater²²³. After the opening of the Suez Canal in 1869, the port of Trieste benefited enormously as it was the fastest way to connect the Mediterranean to the Indian and Pacific Oceans. Heavy industry began to develop strongly in the port after the opening of the lines to the Far East, but the real transport revolution took place between 1870 and 1914, when the total capacity increased from 66.000 to 268.000 tons²²⁴.

In 1891 the free port status ceased as a result of industrial and customs innovations, and in the face of the changed financial system that made it no longer advantageous to the market. However, customs relief was limited to the area of handling and initial processing of goods.

In any case, the flourishing trade with the Middle and Far East led to a further expansion of the port facilities. The project was initiated in 1900 by the Government in Vienna, and was only completed

²²¹ Source of data: Port of Trieste website <https://www.porto.trieste.it/ita/il-porto/storia>

²²² Giulio Mellinato, *Crescita senza sviluppo: l'economia marittima della Venezia Giulia tra Impero asburgico ed autarchia (1914-1936)*, San Canzian d'Isonzio, Edizioni del Consorzio Culturale del Monfalconese, 2001.

²²³ Antonella Caroli, *Il Porto di Trieste: Cronaca e storia delle costruzioni portuali*, Trieste, Libreria Editrice Internazionale Italo Svevo, 2002.

²²⁴ Giulio Mellinato, 2001, *op.cit.*

after the transfer of Trieste from Austrian to Italian sovereignty in 1918. In 1930s the New Port (*Porto Nuovo*) was then born.

After the Second World War, Trieste port struggled to resume its traffic. Although the signing of the 1947 Peace Treaty returned the port to Italy, recognizing the existence of some port free zones, the fate of the Trieste harbour was affected, at least during the first years, by the occupation of the Allied Military Government, which established itself there from 1945 to 1954. In particular, the excessive militarization of port management left little room for trade unions, entrepreneurship and the normal flow of the market, with the consequent impossibility of starting commercial negotiations with the East²²⁵.

The turning point came in October 1954 when, after the signing of the London Memorandum between Italy, Yugoslavia and the Allies, the city of Trieste together with its free port came under Italian civil administration.

The volume of maritime traffic, severely affected for more than a decade (1956-1967) by the Arab-Israeli wars which led to the closure of the Suez Canal, returned to growth in 1967 after the opening of the Trans-alpine Pipeline²²⁶ and with the completion in the 1970s of the container terminals in the port of Trieste.

Over time, the port was enriched with new infrastructures dictated by the needs of modern logistics. Examples are the multi-functional terminal in the Old Port and the Ro-Ro/ferry terminal on the Riva Traiana²²⁷. Starting in the 1970s, the shipping company "Lloyd Triestino" began to operate a number of container connections on a regular basis, inaugurating in Trieste a practice and a tradition which subsequently took hold throughout the Mediterranean and in every port, the one of container handling. The advent of the new century brought with it a strong development of intermodal rail services, as witnessed in 2005 by the departure of the first combined sea-road-railway "Rolling Highway" railway convoy, known as RoLa (from the German *Rollende Landstraße*), serving traffic with Turkey.

The history of the city of Trieste and its free port tells us of a past immersed in a profound international context and in a reality often capable of determining the start of flourishing economic and financial activities, industrial processing and import-export that have made the port of Trieste the first Italian harbour in terms of traffic and railway movements, as well as one of the most active in Europe and the Mediterranean. With the advent of the new century, the port is experiencing a phase of great revival, also favoured by the "rebirth" of the Mediterranean Sea and the change in the trade axes consolidated in the last century. In addition, recent infrastructure development projects and, above all, the strategic geographical position of the port, gave Trieste a unique strength, which has already attracted international attention, for example from China, with regard to possible involvement in the Belt and Road Initiative.

²²⁵ Tiziana Persoglia, *Il porto e la classe operaia portuale a Trieste*, in Luigi Gnapini, "Anche l'uomo doveva essere di ferro... Classe e movimento operaio a Trieste nel secondo dopoguerra", Milano, Angeli Editore, 1986.

²²⁶ The pipeline, which is today in full operation, has a length of 753 km and connects the port of Trieste to the refineries in Central Europe. The SIOT (*Società Italiana per l'Oleodotto Transalpino*) is the company in charge of managing the Italian section of the pipeline and is the leading terminal operator in the port of Trieste, with over 40 million tonnes of crude oil unloaded on average per year.

²²⁷ Antonella Caroli, Giulio Mellinato, Pietro Spirito Francesca Trampus, *Trieste, una città e il suo porto*, Trieste, Soroptimist International d'Italia Club di Trieste, 2010.

3.2 The Trieste harbour strength: the legal regime of “free port”

The history of the city of Trieste, for a long time foreign property with extraordinary favourable conditions for merchants or industrialists, is unique in the whole national port scene. In this respect, one cannot fail to mention the particular legal regime of Trieste free port, a status that deviates from the “classic” nature of a harbour, as analysed in the previous chapter. Before bringing to fruition the evolution of the legal framework within which the port falls, it is necessary to outline briefly the meaning of the term “free port”.

A first definition of free port was offered by the French merchant and writer, Jacques Savary de Burlons, in 1750: “[...] *in maritime trade terms, a free port is a port where access is free for all merchants, whatever their nationality, to unload their goods, and collect them if they have not been able to sell them, without paying entry or exit fees*”²²⁸.

Although the definition dates back to the middle of 18th century, this type of franchise developed even before, between 17th and 18th century, as a way to boosting transit and increasing the inflow of tax revenues²²⁹. Some of the most recurrent features of the regulations on free ports were the reduction of taxes and customs tariffs and the encouragement of foreigners settlement, two conditions that were certainly present in Trieste, especially from 1800 onwards.

By exploiting synergy with neighbouring territories from which it was possible to draw personnel, the free port license allowed, and still allows, the establishment of industries that take advantage of duty-free access to process and handle raw material of foreign origin.

From what we have seen in the paragraph dedicated to the history of the port, it was Charles VI who established the free port in Trieste, by means of an edict dated 18 march 1719. However, apart from customs exemptions, the document provided for a series of additional privileges, frequently addressed to seafarers and merchants who wished to trade or even settle permanently within the city walls. Ships stationed in the free port, as well as licensed ships, were offered protection by the Austro-Hungarian Empire against maritime piracy or any other abuse. These vessels were also exempt from security checks, as long as they were in possession of regular ship documents. In order to be able to carry out their work properly, merchants of any nation were also allowed to purchase or even build their own house and shop, within or outside the walls of the city. Finally, Article XIII of the edict provided merchants, shopkeepers and their respective families with *“all the useful, profitable, real and personal liberties that have ever been granted to shopkeepers in other flourishing cities [...]”*.

In any case, during the early years and until the reign of Maria Theresa of Austria, the free zone was limited exclusively to the harbour area and not to the urban fabric. What is more, goods consumed in the free zone or shipped inland were not exempted from taxation. It was only later, in 1769, that the franchise was extended from the port area to the entire city.

As a result of customs and industrial innovations, the free port status was removed in 1891, as it was no longer considered economically advantageous²³⁰. Duty relief was therefore limited to areas where goods were handled and first processed, in the so called “free points”²³¹. This change hit small traders

²²⁸ Jacques Savary de Burlons, *Dictionnaire universelle du commerce*, 1750 (own translation)

²²⁹ Antonio Iodice, *L’istituzione del porto franco in un Mediterraneo senza frontiere*, 2016, in “Politics. Rivista di Studi Politici” magazine, No. 5, 1/2016.

²³⁰ Filippo Lodato, *Il porto franco di Trieste*, Trieste, EUT, 2000.

²³¹ The measure rationalising the regulation of free points was signed by Franz Joseph of Austria, on 23 June 1891. The document clearly stated that: *“the free point, together with the general warehouses existing therein (with the exception of warehouses possibly intended as storage in customs territory [par. 5]), shall be regarded as duty-free zone”*.

hard, since they lost the advantage of using their warehouses in the city and could no longer benefit from any tariff exemption.

With the passage of Trieste from the sovereignty of the Austrian Empire to that of Italy in 1918, the port's customs-free regime was not altered, but rather the authorities of the Italian Kingdom, under the leadership of Victor Emmanuel III, ensured that special characteristics were not lost, through Royal Decrees No.1356 of 1912 and No.225 of 1924. The "*Testo unico delle norme doganali*" (in English, Single Text of Customs Regulations) of 1925 then reaffirmed that: "*The free points in Trieste [...] and the free point in Fiume are considered to be outside the customs line. The foreign goods introduced there are considered to have definitively left the State and remain at free disposal of trade [...]*"²³².

The turning point came with the end of the Second World War. The port was, de facto, internationalised by the Peace Treaty between Italy and the Allied Powers (for a total number of 20 nations), signed in Paris on 10 February 1947 and ratified in Italy by Law No. 811 of 2 August of the same year²³³. The internationalisation of the port implied the loss of Italian sovereignty over the free zone, which territories were qualified as "*non appropriabile*"²³⁴.

The main contents of the Treaty, namely those relating to the port of Trieste, are Articles from 1 to 20 enclosed in Annex VIII ("Deeds relating to Free Port of Trieste), and Articles 34-35 contained in Annex VI ("Permanent Statute of the Free Territory of Trieste).

Articles 1-20 contain the fundamental principles of the Free Port regulation. Just to give some examples, Article 1 provides for maximum freedom of transit, as well as the customs-free status of the free points within the port, by stating that: "*In order to ensure that the port and transit facilities of Trieste are available for use on equal terms for all international trade [...], as is customary in other free ports around the world:*

a) *A duty free port shall be established in the Free Territory of Trieste within the limits arranged or established in accordance with Article 3 of the present Deed.*

b) *Goods passing through the Free Port of Trieste enjoy freedom of transit as stipulated in Article 16 of the present Deed*"²³⁵.

According to Article 5 of the same Annex: "*Merchant ships and goods of all countries shall enjoy complete free access to the Free Port for loading and unloading, both for goods in transit and for goods bound for or coming from the Free Territory [of Trieste]*". Also according to this provision, the Free Territory authorities shall not be entitled to levy any customs duty, or other charge, imposed on goods imported into, exported from, or in transit through the Free Port, other than in consideration of services rendered.

What is more, the Treaty of Paris of 1947 also contained a number of provisions concerning the Free Territory of Trieste (*Territorio Libero di Trieste*, TLT), the establishment of which as an independent State was provided for in Article 21 of the same Treaty. However, due to historical contingencies, the

²³² Article 1 of the *Testo unico delle norme doganali*, 1925 (own translation)

²³³ The law was inserted in the Official Journal on 2 September 1947, with No. 200.

²³⁴ Francesco A. Querci, Francesca Trampus, Filippo Lodato, *Internazionalità e Storicità del Porto Franco di Trieste*, Trieste, Edizioni Università di Trieste, 2001.

²³⁵ Indeed, freedom of transit was also postulated in the Permanent Statute of the Free Territory of Trieste, precisely in Art. 35, which reads as follows: "*Freedom of transit shall be ensured in accordance with customary international conventions by the Free Territory and by the States through whose territory goods transported by rail are transited between the port and the States it serves, without any discrimination and without transit between the Free Port and the States which it serves, without discrimination and without customs duties or costs other than those imposed for services rendered*".

Free Territory of Trieste never had the possibility of a concrete establishment since, from the end of the Second World War until 1954, the Free Port and the city of Trieste were administered by the military government of the Allies²³⁶.

In view of the impossibility of implementing the TLT clauses, the United Kingdom, the United States, Italy and Yugoslavia, signed a Memorandum of Understanding in London, on 5 October 1954. The MoU in question had the task of identifying two distinct zones whose administration and responsibility were entrusted to the Italian and Yugoslav governments. “Zone A” of the Territory, together with the city of Trieste and its free port, passed from Allied military administration to Italian civil administration, while “Zone B” passed from military administration to Yugoslav civil administration. In addition, Italy guaranteed Yugoslavia the preservation of free points in the above-mentioned port, without, however, being able to administer it directly²³⁷. In this sense, point 5 of the MoU contained the following: “*The Italian Government undertakes to maintain the Free Port of Trieste in accordance with the provisions of Articles 1 to 20 of Annex VIII of the Peace Treaty with Italy*”.

A national legal confirmation to this statement was provided by Decree No.29 of 19 January 1955, which reaffirmed the existence of the free port, and reiterated that: “*The Free Port is considered outside the customs line. Except for the limitations mentioned in the following article, within the port, it is possible to carry out, in complete freedom from any constraint, all operations concerning the landing, embarkation and transshipment of materials and goods; their storage and their trading, handling and processing, also of an industrial nature*”. As far as the geographical area of the Free Port of Trieste, the 1955 Decree identified it with some free zones existing in 1939: the “Old Free Zone” with the annexed piers 0 to IV, and the “New Free Zone” with piers V and VI. Anyway, according to Article 16 of the same document, the geographical area of the free port could “*be extended, if deemed necessary in the interests of traffic and the economic development of the port*”. In application of this article, the extension of the free zone was carried out a few years later, on 23 December 1959, by Commissioner's Decree No. 53. The new zone was thus created in the area of the Industrial Port of Trieste, exempting from customs taxation not only goods introduced in the above mentioned area, but also oil products and fuels in general destined for the consumption of the industrial plants located in the free port.

The London Memorandum then ceased to have effect in bilateral relations between Italy and Yugoslavia on 11 October 1977, when the Osimo Treaty came into force. The Treaty effectively sanctioned the territorial division between Italy and Yugoslavia as set out in the London Memorandum of 1954, making the borders separating the two countries definitive. The document did not affect in any way the regime of the Free Port of Trieste. On the contrary, since the Treaty reiterates the status of the free points, existing within the Port of Trieste, the signing of the agreement has implied that Italy still considered such regime as valid and appropriate.

With the advent of the new century, towards the end of 2014 the Italian government has shifted the international free port regime from the Old Port to other areas logistically linked to the harbour. In particular, Law No. 190 of 23 December 2014 provided for the removal of the Old Port from State ownership through paragraphs 618-620 of Article 1. The law in question states that: “*The*

²³⁶ Actually, the Allies only controlled certain parts of the Free Territory. While Yugoslavia exercised its military control over “zone B” of the Territory (namely, the strip of land running approximately from Koper to Novigrad), England and United States maintained military control over “zone A” (namely, the strip of land running from Duino to Muggia, including Trieste and its port). This division was maintained until 1954.

²³⁷ Antonella Caroli, 2002, *op.cit.*

Commissioner of Government for Friuli Venezia Giulia, after agreement with the President of the Friuli Venezia Giulia Region and the Mayor of Trieste, shall adopt, in agreement with the competent institutions, the necessary measures to move the international legal regime of free point from the Old Port of Trieste to other appropriately identified areas, functionally and logistically linked to the port activities". Paragraph 619 further specifies that the areas, constructions and all other remaining works belonging to the maritime State property, with the exception of the strip along the quays and the Adriaterminal port structure, shall be taken over from the State ownership and *"assigned to the available assets of the Municipality of Trieste, to be used for the purposes provided for by the urban planning instruments"*. The revenues related to the areas in question will subsequently be *"transferred to the Trieste Port Authority for the infrastructural works of the New Port and of the new areas destined to the international free point regime"*.

Subsequently, the plans annexed to Commissioner's Decree No. 19 of 16 December 2016, identified those areas where the international legal regime of free point should be moved. The identified areas were as follows: Trieste's Interport (Ferneti); Prosecco area; Terminal Teseco S.p.A.; coastal industrial area – navigation channel; area for industrial and logistical use in Noghere zone.

Reflecting on the purpose of the transfer of the duty-free regime of free points, it can be said that these respond, roughly, to two needs. The first of these is in the interests of international trade. The Old Port area appears to be located in a relatively central and busy zone, which is inconvenient for goods to leave or reach by road. The resulting congestion and slowdowns are certainly detrimental to international trade and, therefore, the relocation of international regime must be seen as an answer to this issue. On the other hand, this move seems a tactical scheme aimed at attracting new investors. By counting on the installation of new activities, production and logistics areas (such as FREEste) that can benefit from the special customs regime and logistical links, the port authority hope is to be able to attract investment from managers and entrepreneurs interested in exploiting the added value that will allow them to be more competitive.

It now remains to be defined the administrative organisation for the management of free points in the Port of Trieste, a need that has arisen since the reorganisation of port legislation in 1992. This organisation was regulated with the introduction of Ministerial Decree No. 368 of 13 July 2017, with the aim of *"adapting it [the Free Port of Trieste] to the objectives of developing maritime traffic and related activities"*.

From what we have seen, the set of rules that regulates and influences the functioning of the Free Port of Trieste differs significantly from the national legislation concerning the regulation of national harbours²³⁸. For this very reason, the 2017 decree²³⁸ should be credited with identifying the competences attributed to the port system authority and the President of the Free Port of Trieste, dispelling some of the doubts that had accumulated over the years.

The President of the Free Port is therefore vested with a series of powers that can be roughly grouped into three categories: those related to the administration of the Free Port (Art. 3, par. 1-2); those related to regulation (Art.3, par. 3); those related to promotion of the harbour (Art. 4). Article 5 also

²³⁸ In this regard, it is worth remembering that the regulation of the free points in the port of Trieste has a triple regulatory source:

- 1) at international level, it is regulated by Articles 1-20 of Annex VIII of Treaty of Paris;
- 2) at national level, several decrees and laws (such as the one of January 1955) implement the international precepts;
- 3) at European level, with the EU rules, and in particular with the European Union Customs Code which provides for a specific discipline for free zones (Articles 243-249).

attributes to the President the powers relating to extension and relocation of the free points, which are no longer under responsibility of the Government Commissioner in the Friuli Venezia Giulia Region.

3.3 The Friulian port performance: some growth figures

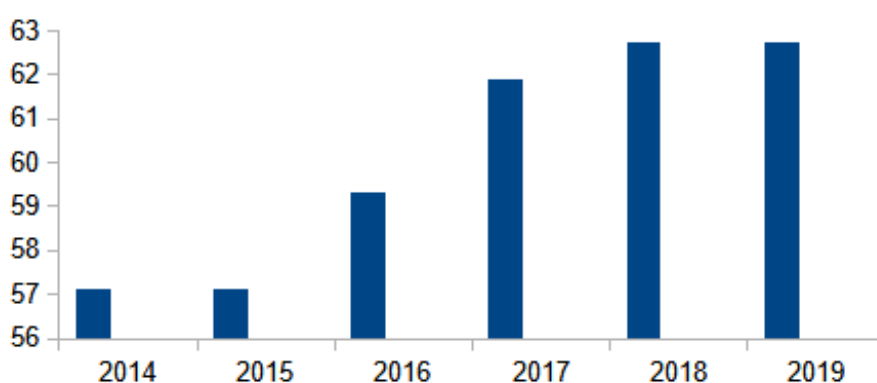
In recent years, the port of Trieste has been gaining international respect thanks to the management by Authority of Harbour System of Eastern Adriatic Sea, which has allowed it to increase its traffic and has launched a series of projects for infrastructural and logistic development, with the aim of involving and connecting the harbour to the main arteries of European and international trade. Not least because of this, the Free Port of Trieste is one of the primary targets of China's New Silk Road project.

The harbour is located in the heart of Europe, and it fits perfectly at the intersection of Baltic-Adriatic and Mediterranean TEN-T European corridors. As far as trade with Middle and Far East is concerned, the port is reached via the Suez canal, while land-sea trade flows involving Central and East European market make it an ideal hub for transport and distribution of goods.

Taking the tonnage handled in 2019 as a reference index, the port of Trieste ranks first on a national scale with a total of 61.997.445 tons, followed by ports of Genoa with 52.759.195 tons and Livorno with 36.715.346 tons²³⁹. Despite the contraction in world trade triggered by the Covid-19 pandemic, figures of 2020 show a decrease in numbers but still confirm the leading position for Trieste harbour, which can boast a total of 54.148.767 tonnes of freight handled²⁴⁰.

As can be seen from the table below, over the five-years period going from 2014 to 2019, the port has experienced an exponential increase in traffic, which has risen by 10%.

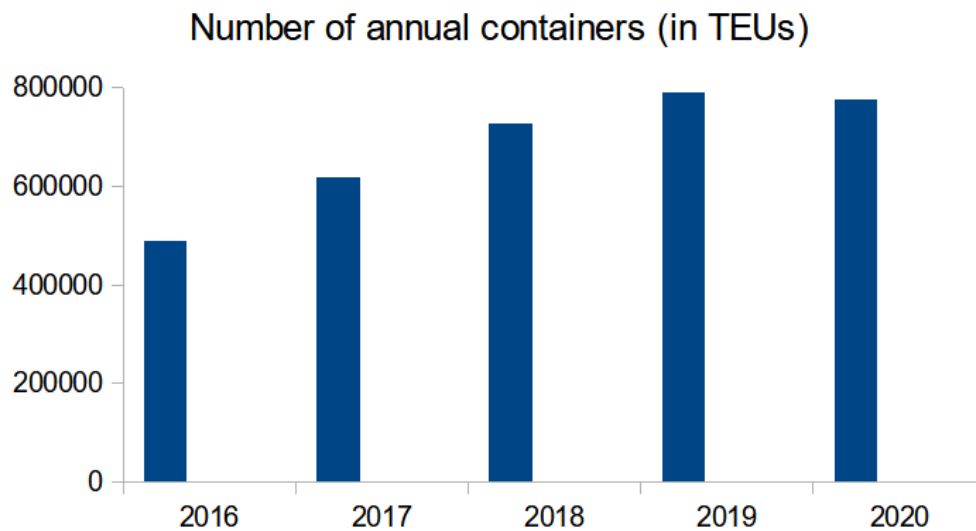
Annual tonnages handled in the port of Trieste
(2014-2019)



²³⁹ Source of data: Assoportori on Autorità di Sistema Portuale, Autorità portuale and ASPO data. Autorità di Sistema Portuale – Movimenti Portuali anno 2019 <https://www.assoportori.it/en/autoritasistemaportuale/statistiche/statistiche-annuali-comprehensive/>

²⁴⁰ Source of data: Assoportori on Autorità di Sistema Portuale, Autorità portuale and ASPO data. Autorità di Sistema Portuale – Movimenti Portuali anno 2020 <https://www.assoportori.it/en/autoritasistemaportuale/statistiche/statistiche-annuali-comprehensive/>

Containerised transport is undoubtedly one of the sectors that has experienced robust growth. In the four-year period from 2016 to 2019, the annual amount of containers in TEUs that transited through the port of Trieste recorded a +61.7%, going from 487.000 TEUs in 2016 to 789.594 TEUs in 2019. In spite of the global slowdown in traffic, 2020 kept the figure high, recording a total of 776.022 TEUs handled²⁴¹.



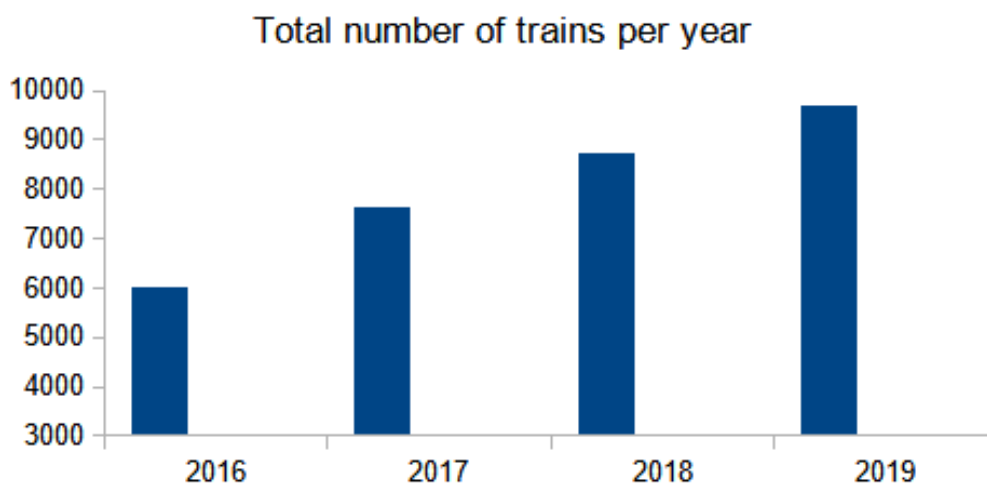
Source of data: AdSPMAO

More than anything else, the rail services offered by the port of Trieste represent the leading sector of the Italian harbour. More than 200 trains a week connect Trieste and its port with the manufacturing and industrial areas of Northern Italy and Central Europe, whose destinations include Austria, Slovakia, Hungary, Luxembourg, Germany, Belgium and the Czech Republic. To serve this mobility, the port experienced an increase from around 6000 trains per year in 2016 to almost 10.000 in 2019, figures close to doubling in volume over just a five years time²⁴². As the President of the AdSPMAO, Zeno D'Agostino, pointed out: *“In the container sector, linked to all international traffic with the Far East, as much as 55% of the goods that land or embark in Trieste use rail services. This indicator is growing steadily and already exceeds the 50% share that the European Union has set as a target for the modal shift of European freight traffic by 2050”*²⁴³.

²⁴¹ Source of data: Autorità di Sistema Portuale del Mar Adriatico Orientale, Porti di Trieste e Monfalcone (www.porto.trieste.it), Statistiche. <https://www.porto.trieste.it/ita/statistiche/stat-anno-2020>

²⁴² Source of data: Ibid.

²⁴³ Sole 24ore, *Porto di Trieste, maxi hub ferroviario tra Europa e Far East*, 27 December 2019 (own translation)



Source of data: AdSPMAO

Apart from the first place in terms of tonnage, the high number of daily rail services and the twelfth European position in terms of freight handled in 2019, the port of Trieste is the main oil port in the whole Mediterranean. In this context, the Trieste harbour is the only port in the Mediterranean and Central-Eastern Europe to be included in the list of European ports for handling of liquid bulk cargo, which sees the monopoly held by the Northern range ports. As a matter of fact, the port benefits from the construction of the Trans-alpine Pipeline, which supplies 40% of the oil needs of the whole Germany, 90% of Austria and 50% of Czech Republic, being of the most important infrastructure work for port's traffic.

According to data published on the website of the Trieste Port Authority, in the period between 2015 and 2019, tons of liquid bulk cargo transited through the port of Trieste grew by 4.7%, but the most surprising number is the dizzying increase of refined petroleum products transit, which reached +235% in 4 years²⁴⁴.

From the data relating to the last year of 2020, the port of Trieste seems to have faced the Covid-19 pandemic crisis without excessive losses, but even with some increases compared to the previous year. For example, with reference to vehicles, the annual result of the Ro-ro sector shows a percentage increase of 7%, with no less than 243.528 rolling stock transiting the port, a 25% increase if compared to December 2019. In the container sector, the port reported a loss of 2% compared to 2019, due to a "decrease in TEU traffic on ro-ro ferries to/from Turkey, and not to long-distance traffic with the Far East. In fact, the container terminal at Pier VII totalled operations of 692.800 TEUs, holding up very well to the crisis and settling at the values reached in 2019, without reporting any losses"²⁴⁵.

The port authority then made it known that the values of miscellaneous goods and especially liquid bulk (-13%) are mainly due to the collapse in demand that began with Covid-19 pandemic, while for

²⁴⁴ Source of data: Autorità di Sistema Portuale del Mar Adriatico Orientale, Porti di Trieste e Monfalcone (www.porto.trieste.it), Statistiche.

²⁴⁵ Ferpress (Information, local public transport and logistics agency), *Porto Trieste: nel 2020 buona performance del ro-ro (+7%). Movimentazione complessiva in calo del 13%*, 12 February 2021. (own translation)

solid bulk (-68%), the result is caused by the general decline in metallurgical products, minerals and coal, following the closure of the Trieste “Ferriera di Servola” steel plant²⁴⁶.

3.4 The intermodal network radiating from the port

“When I found out that the port of Trieste is a free port, I realised that it would be like having an oil field sleeping below the ground. [...] Therefore, that oil must add value to those who govern it, and we have no intention of giving it away to anyone”²⁴⁷. With this analogy, President D’Agostino often explains the importance of administering a free trade zone such as the one in the port of Trieste, a legal status which gives the harbour a very precise identity that has always been geared towards boosting connectivity between different nations and different markets. In fact, one of the prerogatives of D’Agostino’s governance has been the one to promote the interconnection of the port with a dense network of highway and railway lines leading into the heart of Europe. This idea is driven by the desire to set up a major infrastructural connectivity project that does not end once big shipping companies’ vessels dock at the port of Trieste, but continues to radiate throughout Central Europe. What helps to facilitate the realisation of this project is certainly the special transit regime enjoyed by vehicles entering and leaving the port of Trieste. That “oil field”, which is the regime of free port recognised within the harbour, indeed ensures free entry to trains and lorries inside the port, according to the regime of freedom of transit, guaranteed by two different provisions: Annex VIII of the Treaty of Paris and the Ministerial Decree of January 1981 (published in the Official Gazette on 20 February 1981, No. 51).

As regards the transit of any rail carrier, Article 16 of Annex VIII guarantees that “*freedom of transit shall be in accordance with customary international agreements, guaranteed by the Free Territory and the States whose territories are traversed by goods carried by rail between the Free Port and the States served, without discrimination and free from customs duties or charges other than those imposed for services rendered. The Free Territory and the States which have assumed the obligations of the present Deed, and through whose territories traffic passes in both directions, shall do all in their power to provide the best possible facilities respecting the speediest and most efficient movement of goods. The latter shall do so at a reasonable price and shall not apply to the movement of goods to and from the Free Port any discriminatory measures with respect to tariffs, services, customs, health, police or other provisions [...]*”.

Further confirmation comes from Article 3(4) of the implementing Decree of 2017, which indirectly reiterates the validity of freedom of transit, making its implementation subject to the President of the Trieste Port Authority.

On the other hand, as regards the exemption from the fixed charges on the circulation of vehicles, this is regulated by the Ministerial Decree of 17 January 1981²⁴⁸, according to which “*international road*

²⁴⁶ Ibidem

²⁴⁷ Quote by Zeno D’Agostino, extracted from an interview of Andrea Vardanega, Friuli Venezia Giulia regional news broadcast, *Via della Seta, i vantaggi dell’intesa con la Cina*, 29 March 2019.

²⁴⁸ Even before 1981, a Ministerial Decree dated 20 January 1960 (published in the Official Gazette on 26 February 1960, No. 49) stated that “*motor vehicles and trailers used for the international transport of goods, belonging to persons permanently resident abroad, temporarily imported into Italy in order to carry out the transport of goods to and from the territory or the port of Trieste are exempt, due to traffic requirements, from the payment of the fixed duty referred to in Article 1 of Law 28 December 1959, No. 1146.*”

haulage of goods in transit on Italian territory through the Brenner, Coccau (Tarvisio), Gorizia (Casa Rossa) and Ferneti border crossings, coming from or going to the port of Trieste, are liberalised. The international road haulage operations referred to are those carried out with foreign vehicles, loaded or empty, which transit through Italy to be loaded (whole vehicle or only semi-trailer) in the port of Trieste, or carried out with foreign vehicles, loaded or empty, which are unloaded in the Port of Trieste (whole vehicle or semi-trailer only) and destined to reach a foreign country through the crossing points indicated in the first paragraph of this Article".

The revamping of the Trieste harbour on international markets has always been one of the priorities since the new D'Agostino management took office in 2015. To do this, the management has carried out, and is still carrying, a series of works for the growth of traffic, rail connections (both at national and international level), back-port development and for the improving of logistics in a broad sense. From the logistics and rail services point of view, Trieste is one of the most important, if not the most important, rail port of the Southern Europe, with 70km of track connecting to each quay. The rail services available to goods arriving at the port of Trieste offer a wide range of destinations, with different frequencies, including both national arrival points, such as Milan or Bologna, and intra-european destinations, such as Austria, Germany, Hungary, Slovakia, Czech Republic, Luxembourg and Belgium. What is more, from 2018, the port authority is able to respond to market demand by taking advantage of other railway platforms located in the port's hinterland, those of Villa Opicina and Cervignano del Friuli, which are integrated and made available in the event of the railway to become overstretched²⁴⁹.

Investment in logistics is mainly linked to the ever-increasing movement of goods by rail, which is only possible thanks to a leading railway sector. A true flagship of this sector is the presence in Trieste of a private railway company operating within the port, Adriafer. The company, 100% owned by the Port System Authority of the Eastern Adriatic Sea, manages intermodal services and organises the intermodal transport of goods in the last mile of the port area. Until a few years ago, Adriafer only employed about thirty people, while today it employs more than one hundred people, and has also expanded its range of action by adding a freight shuttle service to Opicina and the Cervignano interport²⁵⁰. More importantly, the growth of this company has also allowed the expansion of the railway operators market: as a matter of fact, several Italian and foreign rail freight companies have now arrived in Trieste, such as Mercitalia Rail, Rail Traction Company, Captrain, Compagnia Ferroviaria Italiana and Rail Cargo Carrier Italy.

As we have seen above, the rail movement data for the period between 2016 and 2019 show a substantial increase in the number of train operated by the Adriafer company within the port, from 6000 to around 10.000 per year. This result is due to specific policy of increasing railway connections between the port of Trieste and Central-Eastern Europe, and it is part of a strategy perfectly framed in the attempt to enhance harbour's activities which the port authority has been working for years. The reason for moving in this direction is explained to us by President D'Agostino, according to a business-oriented vision open to the future: *"Ports are only the first link in a much more complex logistics chain. The infrastructures to enhance the port are important. A port cannot develop without land connections. That is why we are working both on optimising the internal rail network and on*

²⁴⁹ Autorità di Sistema Portuale del Mar Adriatico Orientale website, *Rail and Intermodal links*, <https://www.porto.trieste.it/ita/il-porto/descrizione>

²⁵⁰ Francesco De Filippo, *La nuova Via della Seta, voci italiane sul progetto globale cinese*, Roma, Castelvecchi, 2019.

*strengthening the intermodal and combined transport sector, with the aim of improving the frequency of rail services to North-Eastern Italy and Central-Eastern Europe in order to offer the best tariffs and travel times*²⁵¹.

An extremely interesting prospect involving the port of Trieste is the one offered by the intersection between the strategic axes of the motorways of the sea and the European corridors included in the TEN-T network development project passing through the port, namely the Adriatic-Baltic Corridor and the Mediterranean one. In this respect, in January 2017, the first real connection along the route of the Adriatic-Baltic Corridor was opened as part of the European TEN-T transportation project. Specifically, the new intermodal service departs from the port of Trieste and heads towards the Kiel-Göteborg route, transporting containers, semi-trailers and swap bodies, leaving or arriving by sea from Turkey, with the Baltic area as its destination or origin. Through this participation, the port of Trieste has consolidated its role as a preferential gateway port to the Central-Eastern European market and has expanded its market basin to the northern side of the continent, reaching Denmark, Sweden, Norway and Finland.

Two Memorandum of Understanding signed at the beginning of June 2019 have also laid the foundations for the development of the system of intermodal services that see Trieste as an alternative entry point from the south for goods destined to European markets. The agreements in question are the MoU signed by the AdSPMAO with the Luxembourg national railway company “CFL”, aimed at strengthening the intermodal connection Trieste-Bettembourg; and the MoU signed with the German intermodal transport company Kombiverkehr, to promote an intermodal corridor between the port of Trieste and the Neuss Trimodal terminal, located on the Rhine river.

Another initiative dedicated to the enhancement of the Trieste intermodal network is the birth of the new railway service driving directly to the productive heart of Germany. “Trinur” is the name chosen for the connection, which includes the initials of Trieste and Nuremberg, the German hub located North of Bavaria. The trains in transit on this line connect Pier V to Tricon Terminal in Germany, transferring traffic volumes generated by the Turkish and Greek markets, and at the same time offering a solution to the export needs of the Bavarian industrial system. The service was inaugurated in November 2020 with a weekly frequency, but is expected to increase to two services per week by the end of 2021.

As D’Agostino says, the key to proper logistics management in a port is also the “*team philosophy*”²⁵². It is precisely this spirit that has guided the port authority in its effort to integrate the various regional interports, scattered throughout the Friuli Venezia Giulia region, into a single system. In this sense, the capital increase of the Interporto Ferneti in Trieste has allowed the acquisition of a part of an industrial area for the construction of a new logistics center, wherein it is possible to carry out manufacturing and industrial activities in a free point, called FREEste. All these efforts testify that the port authority’s work is not only focused on improving the supply of transport infrastructure, but it is also trying to develop industrial and logistical incubators to help new companies set up and make the port grow.

²⁵¹ Quote by Zeno D’Agostino, extracted from AdSPMAO press release, *Il porto di Trieste alla fiera Transport Logistic di Monaco di Baviera*, 7 May 2015 (own translation) <https://www.porto.trieste.it/category/ita/informazione/comunicati-stampa>

²⁵² Francesco De Filippo, 2019, *op.cit.*



However, the effort of D’Agostino management are certainly not limited to agreements for improving railway connections with Central-Eastern Europe.

The geostrategic position of the port of Trieste gives it a natural role as a Central European crossroads, making it a perfect link between East and West, North and South, Central Europe and the lower Adriatic, which brings it to the forefront of the international scene. Then, it is not only European powers that are interested in interacting with Trieste, but also a number of extra-European nations that see it as an entry point for their trade with Europe.

Up to now, it seems that the attention has been specifically focused on cooperation with certain West Asia countries, considering traffic shares and port agreements with Azerbaijan, Turkey, Iran and Egypt.

In 2015, Trieste Port Authority had signed an agreement with the Iranian Free Zones High Council to develop an innovative intermodal free zone network to increase trade (oil firstly, but also containerised goods) between the two ports, taking advantage of the free zone legal regime existing in both harbours. However, the reintroduction of trade sanctions by the US against Iran had stalled the program, and the agreements expiring in 2019 have not yet been renewed. In the current situation, only road transport allows Iranian operators to exploit the free port regime in Trieste. However, this option entails costs that are 30% higher than those of transport by sea, which causes the stalemate in the agreements to continue, although the recent inclusion of the German logistics company HHLA in the port of Trieste (discussed below) can only make the partnership even more interesting in Tehran's eyes²⁵³.

Apart from the land intermodal connections, the integration with the motorway of the sea of South East Europe promotes the development of trade with certain Mediterranean countries as Egypt and Turkey.

²⁵³ Limes, Italian Journal of geopolitics, *Analisi delle relazioni internazionali di un proto con la geopolitica nel Dna*, 4 March 2021. <https://www.limesonline.com/una-strategia-per-trieste-prima-edizione-ricollocare-una-periferia-centrale-sullo-scacchiere-globale/122532>

Trieste and Egypt are strategically linked by a sea motorway called “Green Corridor” along which containers full of easily perishable Egyptian goods (vegetables, potatoes and pomegranates) destined to Italian and European markets travel until Trieste.

Among the first countries to exploit intermodal connections on the Adriatic route is Turkey, one of the leading exporters of liquid bulk, minerals, automotive components, aluminum, iron and steel to the port of Trieste. About one third of the total trade between Europe and Turkey passes through Trieste, including the transport of automotive components to Turkish assembly plants²⁵⁴.

Particularly significant in terms of Belt and Road Initiative is the Memorandum of Understanding signed in February 2020 between the AdSPMAO and the public company that manages the Baku International Sea Trade Port, during the Italy-Azerbaijan Business Forum. The agreement signed formalises an already existing cooperation between the port of Trieste and the port of Baku, both located along the Trans-Caspian traffic route connecting Far East (China first and foremost) through an intermodal rail and maritime route crossing Central and Northern Asia. The objectives of the MoU includes the development of synergies in traffic field and integrated logistics services, especially maritime and rail ones. Affected by a strong infrastructural growth, the area in question is crossed by one of the main corridors of the BRI, the China-Central Asia-West Asia Economic Corridor, but it is also crossed by several other regional transportation initiatives, in turn included in the list of BRI corridors. One of the latter routes is the one involving the port of Baku and continuing to Kars (Turkey), thanks to the new Baku-Tbilisi-Kars railway line we discussed in the first chapter of this essay.

The Director of the port of Baku, Taleh Zyadov, also commented on the importance of this new partnership, with reference to the New Silk Road project, saying: *“The protocol we signed with Trieste opens up new opportunities for both ports which will act as key hubs in the central corridor linking China and Europe via Azerbaijan”*²⁵⁵.

3.5 Why so appealing for Chinese interests?

The port of Trieste proves that it has what it takes to become a key hub, if not the ultimate arrival point, for Chinese goods arriving along the Maritime Silk Road to European markets. However, the reason why Trieste seems to be so interesting for Chinese strategy are manifold. Let’s analyse some of them, starting with basic characteristics of the port.

Big Chinese ships carrying materials from its ports or from its wide network of interests in Africa and Middle East should find a quick and low-cost solution to get its products to the heart of Europe, once through the Suez Canal. Therefore, the port of Trieste seems to have all the necessary requirements to accommodate those vessels, being able to boast on wide seabed with a depth of 18 meters, and a distance of about 1300 miles from the African Canal. Moreover, by virtue of the principle of extraterritoriality, Trieste can offer significant fiscal privileges to Chinese operators lading their goods there. The exemption regime existing within the port includes non-discriminatory right of entry

²⁵⁴ Sole 24ore, *Trasporto merci, passa dallo scalo il 13% del flusso nazionale*, 23 October 2020.

²⁵⁵ Quote by Taleh Zyadov, extracted from AdSPMAO press release, *Siglato accordo fra I porti di Trieste e Baku in occasione del Business Forum Italia-Azerbaijan alla Farnesina*, 22 February 2020. (own translation)
<https://www.porto.trieste.it/category/ita/informazione/comunicati-stampa>

for ships and cargo, deferred payment of duties and taxes on direct imports into the European Union market, the absence of customs control on goods entering and leaving the free points, as well as full tax exemption for the processing and transformation of goods. It is also well known that special economic zones (ZES) and free trade zones (FTZ) can be an important tool to stimulate investments in port logistics, but also in manufacturing. By the way of example, a research carried out by SRM on a sample of SEZs has shown that these productive areas can increase a country's exports by up to 40% overall, and would also have a positive impact on container traffic and value-added logistics processing²⁵⁶.

With regard to the location of the port, Trieste occupies a geostrategic position for trade between the Mediterranean and Suez Canal, Central-Eastern Europe and the new Arctic Route²⁵⁷. As we have seen, the harbour is perfectly located at the intersection of the Baltic-Adriatic and Mediterranean TEN-T corridors. Moreover, regular freight services to Austria (Vienna), Germany (Duisburg), Luxembourg (Bettembourg), the Czech Republic (Paskov), Slovakia (Dunajka streda), Poland and Hungary make Trieste the ideal junction between the land bridge connecting China and Europe coming from the East, and the transoceanic shipping routes going up the Suez Canal. All these countries with which Trieste is interconnected show strong economic growth, and are linked to the rest of the world, especially with Asia, with particular reference to the supply of raw materials, semi-finished products and components.

The key to opening the doors of these railway tracks is there for us to see, just by looking at the maps. *“If you look at the map you will realise that passing through Trieste you can reach all those countries faster than passing through the Northern range ports”*²⁵⁸.

Although proven by a rapid eye analysis, D’Agostino’s words are also confirmed by a study carried out by University of Antwerp Professor, Joost Hintjens, from the department of Transport and Regional Economics. Attentive to the role of ports in the supply chain, Professor Hintjens calculated that using the maritime route through Trieste would significantly cut costs when trying to reach the Center of Europe, as the harbour is closer to the industrial hinterland than any other China-linked Mediterranean ports. If we take Munich as the industrial destination city, a shipment leaving Shanghai will take about 33 days to reach the hear of the Europe via Trieste, 10 days less than the time it takes to reach its destination via the Northern European route. On the other hand, if the cargo were to leave from container terminals in Hong Kong, the travel time would be reduced from 37 to 28 days²⁵⁹.

However, Professor Hintjens was not the only one to theorise about this logistical advantage. A study carried out in 2005 by Professor Dionisia Cazzaniga Francesetti, a scholar of ports and international logistical systems, had prematurely shown that the sum of the costs for shipping containers by sea and land in European trade with China was favourable for a route including the Italian ports of Genoa and Trieste, to the detriment of Northern European countries. The reason why they were cut out of the game, despite the evident advantages in terms of distance and costs, was related to inefficiencies

²⁵⁶ Italian Maritime Economy, *Nuovi scenari nel Mediterraneo: Suez e la Cina, le strategie dei grandi carrier, le nuove tecnologie e le rotte dell’energia*, 6° Rapporto Annuale, 4 July 2019

²⁵⁷ In addition, a detail that should not be overlook is the fact that the port is the northernmost European harbour in a virtual line stretching from the mouth of the Suez Canal. This gives Trieste an advantage over the Greek port of Piraeus, much farther South.

²⁵⁸ Quote by Zeno D’Agostino, extracted from a documentary by Deutsche Welle (DW) broadcaster, *China’s gateway to Europe – the New Silk Road*, 8 December 2020. <https://www.dw.com/en/dw-documentary-examines-chinas-grip-on-europe/a-55847002>

²⁵⁹ Nikkei Asia, *China’s Italian advance threatens EU unity*, 25 March 2019. <https://asia.nikkei.com/Opinion/China-s-Italian-advance-threatens-EU-unity>

in their internal structure and inland transport²⁶⁰.

It should also be borne in mind that free zones existing in Trieste port are particularly attractive not only for logistics operators, but above all for the establishment of new industries and services. As a matter of fact, the stakes are much higher than a participation in the loading or unloading of goods. As President D'Agostino himself emphasises, "*the Belt and Road Initiative should not be seen as a question of logistical and transport strategy, but instead of industrial strategy*"²⁶¹.

These routes, the largest branches of the Belt and Road, as well as smaller links, will increase (but already do so) the accessibility to certain territories, re-configuring the positioning of large multinationals. In simple terms, it is the industry itself that will change, and the BRI will act as a catalyst for moving entire production apparatus by relocating the nodes on which large-scale industries are currently structured. At this point, the most important question must be asked: how can Trieste be useful to Chinese cause? The answer takes time, so it is good to introduce few premises first.

The port authority governing the port of Trieste has for some time now been following a very precise path based on that "*group philosophy*" mentioned above. All the initiatives undertaken by D'Agostino management are part of a specific strategy according to which everything must be networked, establishing a single direction and offering industrialists a highly organised territory. From this point of view, it is necessary to shake off the vision of the port as an infrastructure for its own sake, and project it within that system the Port Authority of Trieste itself is promoting, that is to say, a complex of ports, interports, production areas which are fully integrated with Central-Eastern Europe. Precisely because of the node's position within the large global supply chains and the type of resources made available, such as the excellent production sector (especially the manufacturing one), North-East Italy and Trieste firstly, can play a fundamental role in that phase of Chinese-led industrial relocation.

Actually, the discussion on industrial interests does not end there. As we have already mentioned, Trieste has an extensive network of direct rail services to various Eastern European countries, precisely where Western industries have extended their value chain recently. After the collapse of the Iron Curtain in the 1990s, European industrialisation shifted eastwards, with Southern Germany acting as a pole of attraction for a dense network of industries stretching from Poland to Hungary. From this perspective, it is not entirely utopian to imagine Trieste as the busy maritime terminal of a dense network of infrastructure connecting the European industrial heartland between Germany, Eastern Europe and Northern Italy, and the Chinese route in the Mediterranean.

²⁶⁰ Dionisia Cazzaniga Francesetti, *Italian versus Northern Range Port competitiveness: a transportation cost analysis in Chinese Trade*, in "European Transport / Trasporti Europei", No. 30, Grumo Nevano, Giordano Editore, 2005.

²⁶¹ Quote by Zeno D'Agostino, extracted from *La nuova Via della Seta, voci italiane sul progetto globale cinese*, Francesco De Filippo, 2019.

3.6 Trieste's entry into the BRI orbit

3.6.1 First meeting with the Dragon

Trieste's approach to Belt and Road Initiative circles began roughly a few months after D'Agostino's appointment as President of the Port System Authority of the Eastern Adriatic Sea.

When the management of Trieste harbour embarked on the road to internationalisation and the revamping of the port, the New Silk Road project had just been launched on the world stage and showed itself as an opportunity for a collaborative dialogue between the parts.

The chance for a confrontation came in June 2016, when a representative delegation headed by the Port Authority President D'Agostino formally presented Trieste harbour to logistics operators and companies active in the shipping sector, at an international logistics fair held in Shanghai, the Transport Logistic China. The initiative, entitled "The Port of Trieste meets the Logistic Community of Shanghai", specifically focused on presenting the wide range of advantages and special features offered by the free port complex to the Chinese, a potential strength for BRI that was slowly taking shape.

A real acknowledgment of Chinese interest in Trieste came from Jin Yu-Lai, the founder and managing partner of Shanghai Kai-Rong Law Firm²⁶², who said that Trieste is a port "*with many competitive advantages we did not know about*", and whose strategic position on the New Silk Road route "*may bring renewed interest from Chinese investors in the port*"²⁶³.

A year after that meeting, the Trieste Port Authority managed to negotiate a strategic cooperation agreement with Duisburg Hafen, the public company managing the river port of Duisburg, in order to increase traffic of goods between the two logistical poles, with a particular reference to the New Silk Road. Far from being a mere commercial port, Duisburg is the largest international hub operating in Europe. It is also a major hub in the land link with China, an intermodal gateway with river and railway connections to every corner of the continent²⁶⁴. By means of the agreement, the port of Trieste thus finally entered into connection with Chinese trade routes that had been established up to that time by offering an extension of route for goods arriving by train from China to Duisburg, and providing an alternative entry point for cargoes coming by sea from Greece or Turkey.

The logistical impact of this agreement should not be underestimated. As a matter of fact, if the movement of Chinese goods arriving in the Port of Piraeus by sea were to continue by road or rail to the North-Eastern Europe, this would mean choosing a non-competitive option for traffic along the New Silk Road, given the high costs of transportation and, above all, the orographic and social constraints of the Balkan peninsula. In this respect, it is worth recalling the words of Parag Khanna, who tries to explain the concept of transport "resilience": "*China wants to make sure that if there is a blockage in the Suez Canal, it can use railways; and if there is a blockage in railways, it can use*

²⁶² Kai-Rong Law Firm is a Shanghai based firm whose legal services cover a broad group of fields, including shipping, insurance, international trade and corporate management.

²⁶³ AdSPMAO press release, *Lo scalo giuliano si presenta alla comunità logistica di Shanghai e rilancia I vantaggi del porto franco*, 18 June 2016.

²⁶⁴ The Guardian, *Germany's 'China City': how Duisburg became Xi Jinping's gateway to Europe*, 1 August 2018. <https://www.theguardian.com/cities/2018/aug/01/germanys-china-city-duisburg-became-xi-jinping-gateway-europe>

ports, and so on. Thus, China's goal is resilience, different options to avoid all sorts of obstacles in the flow of goods''²⁶⁵.

3.5.2 The port of Trieste and the Cooperation Agreement with China Communication Construction Company

Before dealing with the signing of the cooperation agreement between the Port System Authority of Eastern Adriatic Sea and the China Communication Construction Company, of March 2019, it is necessary to introduce some important premises which, in my opinion, are necessary to bring order to an extremely complex and much-talked-about affair, which has seen the involvement of a large part of public opinion and even the promotion of a civil lawsuit against the Italian Government and the Trieste Port Authority.

The whole cooperation affair between the port system authority and the Chinese construction company is part of an attempt to improve the railway system in the port of Trieste on a national scale. As a matter of fact, since the railway system is the instrument that more than any other allowed, and still allows, the port of Trieste to be competitive with reference to Northern Range ports, the AdSPMAO has for some time now decided to increase its share of railway transport. To do this, the Authority has drawn up major investment plans to improve railway tracks, in coordination and partnership with the public company managing the Italian national railways, Rete Ferroviaria Italiana S.p.A (RFI)²⁶⁶.

Developed by AdSPMAO together with RFI, the "Trihub project" is one of these investment plans stemming from the desire to carry out a series of interventions aimed at improving Trieste's back-port rail network, and it was also at the centre of the discussion held with CCCC. Specifically, Trihub is an infrastructure development plan that involves and connects neighbouring railway stations such as Cervignano and Villa Opicina to the port of Trieste. Once the works are completed, these facilities will play a key role for the port as they constitute a logistic alternative from a railway point of view, in order to avoid hypothetical congestions of the port infrastructure due to accumulation of goods or other adverse events.

The realisation of these interventions obviously requires a certain financial coverage, which corresponds to about €200 million, 160 of which have already been financed by RFI²⁶⁷, while a further 39 have been granted through a loan from the European Investment Bank (EIB) within the TriesteRailPort project. These programmes, most of which have already been planned and financed, certainly have a national significance as they relate to a plan for the rehabilitation of inland national

²⁶⁵ Quote by Parag Khanna, extracted from *La nuova Via della Seta, voci italiane sul progetto globale cinese*, Francesco De Filippo, 2019.

²⁶⁶ Works involving cooperation between these two bodies included infrastructure improvements, adaptations and various type of renovation of the railway platforms at Trieste Campo Marzio, Servola (Legnami yard) and Aquilinia. Works involving cooperation between these two bodies included infrastructure improvements, adaptations and various type of renovation of the railway platforms at Trieste Campo Marzio, Servola (Legnami yard) and Aquilinia. Some of these upgrades had already been provided for in the 2017-2021 programme contract between the Italian Ministry of Infrastructures and RFI itself. The contract is available on RFI website at: <https://www.rfi.it/it/chi-siamo/Il-rapporto-con-lo-Stato-e-con-gli-stakeholder/il-contratto-di-Programma.html>; AdSPMAO press release, *Nuovo accordo RFI-AdSPMAO per incrementare la quota di traffico a servizio del porto*, 10 June 2019. <https://www.porto.trieste.it/category/ita/informazione/comunicati-stampa>

²⁶⁷ Sole 24ore, *Xi Jinping in Italia, perchè il porto di Trieste è così strategico per Pechino*, 21 March 2019.

railways, but they are also part of improvements to European transport network, as evidenced by another €6.5 million incentive from the Connecting Europe Facility fund²⁶⁸.

The agreement signed in March 2019 between the Port Authority President D'Agostino and the President of China Communication Construction Company, Song Hailang, laid the foundation for a collaboration between the two parties in various areas of infrastructure development and management, in Italy as well as in other countries.

The agreement is basically divided into three parts, each dedicated to different scenarios of collaboration: one focused on the system of Italian railway infrastructure pertaining to the port of Trieste in Friuli Venezia Giulia Region (Part A); another dedicated to shared projects in Eastern Europe and related infrastructures in port's hinterland (Part B); while the last one concerns shared projects in China (Part C).

- As regards Part A, namely the one relating to Italian territory, the agreement essentially concerns the possibility of collaboration between the two parties (AdSPMAO and CCCC) in relation to some of the railway infrastructure included in the Trihub project. Specifically, the text states that the focus of this partnership is directed toward those components, such as stations, where public and private objectives can converge. In any case, the railway infrastructures identified are the one of Servola, target of new construction, and Aquilinia, which needs a massive redevelopment. Finally, it should not be forgotten that any assessment of any possible cooperation framework with CCCC, in relation to the Trihub project, will be carried out in consultation with RFI, whose involvement as the manager of Italian railway infrastructure is one of the clauses of this agreement²⁶⁹.
- As far as Part B is concerned, namely the opportunity for cooperation on CCCC investment in Europe, the dialogue with the Chinese counterpart focused on the possibility of collaboration regarding the construction and management of a large intermodal inland terminal in Košice, Slovakia, a point of considerable interest for Trieste port railway market. In fact, the AdSPMAO has been dynamically operating for some time in several directions outside the national context, and the decision to collaborate in the development of a port reality outside the Italian territory stems precisely from the desire for internationalisation pursued by the port management. Moreover, this choice would also meet one of the port authority primary objectives, that is the development of forms of collaboration with important intermodal terminals located nearby. As a matter of fact, the platform being designed may be an important resource for the logistic pattern of the port of Trieste, both in terms of maritime traffic passing through the Italian harbour and the Eastern Europe area, and in terms of the fact that Košice can become a major logistic hub for trains arriving directly from China. Therefore, having a reference port in Eastern Europe would allow Trieste to expand its railway

²⁶⁸ AdriaPorts, *Port of Trieste, 39 million euros from EIB to reinforce railway*, 9 December 2019. <https://www.adriaports.com/it/node/892>; AdriaPorts, *TriesteRailPort, 6.5 million euros from the EU Commission*, 30 December 2019. <https://www.adriaports.com/it/node/898>

²⁶⁹ As President D'Agostino repeatedly stated RFI was kept informed in the phases leading up to the agreement and has already been officially invited to participate in the cooperation process. Source: *Audizione informale di rappresentanti dell'Autorità di sistema portuale dl Mare Adriatico orientale sulle prospettive del sistema portuale e sulle relazioni commerciali con la Cina*, Camera dei Deputati, IX Commissione, Roma, 17 aprile 2019.

network and strengthen the Mediterranean ports front, in competition with Northern European ports.

- The third and last section (Part C) concerns the possibility of developing forms of cooperation on activities and projects located entirely in China, such as the creation of logistic platforms, and functional to the export of Italian SMEs' products to the countries of South-East Asia. Nine months after the reaching of this agreement, AdSPMAO President, Zeno D'Agostino, signed a new Memorandum of Understanding with CCCC Executive Chairman, Jingchun Wang, in the presence of Italian Foreign Minister, Luigi Di Maio. The Memorandum sanctioned the opening of a new integrated Italy-China logistics channel, enabling Sino-Italian projects to be launched in Dragon's main harbours, as well as in Trieste's port warehouses. Specifically, the text of the agreement foresees that the Trieste Port Authority will support pilot projects of China Communications Construction Company in some areas of Guangzhou and Jiangsu and in the hinterland of the ports of Shanghai, Ningbo and Shenzhen, which will become starting points for routes to Trieste. In Italy, CCCC will have the right to install some warehouses within the Friuli Venezia Giulia region.

Since the Port System Authority of Eastern Adriatic Sea, which in Italy is a public authority, cannot in any way enter into contracts with a private entity or any other State-owned company (in this case, a Chinese State-owned enterprise), the undersigned document specifies that the AdSP will have no direct participation either in the development of logistics platform or in the construction of new warehouses located in Trieste's free zones, *“but will collaborate as an active partner by providing support to the technical definition of projects, their promotion with relevant Italian institutions and companies, and will plan or develop infrastructure, shared services, and trade facilitation tools to strengthen the Italy-China integrated logistics channel, including through the Trieste Free Port”*²⁷⁰.

3.6.3 Trieste in the eye of the storm: are the agreements legitimate?

The signing of these two agreements by President D'Agostino has immediately raised a number of harsh criticisms and concerns, both at national and European level. Among the first national dissenters was Giulio Camber, a veteran lawmaker from Trieste *“considered by many the political boss of Trieste”*²⁷¹, who had raised concerns about the lack of transparency in the arrangements between the port authority and the CCCC, and had carried out a campaign against the deal even months before the agreement was signed. Camber's solo voice was later joined by other representatives of the national moderate right parties, as well as a few Trieste personalities from the democrats.

However, national alarms were soon followed by international and EU ones. The former President of the European Parliament, Antonio Tajani, was seriously worried about the possibility that Italy might become a *“Beijing colony”*, and end up selling off the port of Trieste to its Chinese counterpart²⁷². Italy was soon to be target of EU reproaches and warnings for its rapprochement with China. Before

²⁷⁰ AdSPMAO press release, *The port of Trieste leads the development of logistics to bring “Made in Italy” goods to China*, 6 November 2019.

²⁷¹ New York Times, *A forgotten Italian port could become a Chinese gateway to Europe*, 18 March 2019.

²⁷² Il Tempo, *L'Europa “processa” l'Italia per l'accordo con la Cina*, 16 March 2019.

<https://www.iltempo.it/politica/2019/03/12/news/1-europa-processa-l-italia-per-l-accordo-con-la-cina-1115814/>

the signing of the Rome Memorandum and the agreements between the port authorities and the CCCC, an EU spokesman anticipated what Brussels' position would be, issuing a clear warning to Italy, as all member states needed to “ensure consistency with EU law rules and policies and to respect EU unity in implementing EU policies. [...] Neither the European Union nor any of its Member States can achieve its goals with China without full unity”²⁷³. In addition to these fears, European Commissioner, Günther Oettinger, soon joined the chorus of dissident, expressing his opposition to the fact that in Italy, and other European countries, infrastructures of strategic importance, such as ports, are no longer in European hands, but in Chinese hands.

Admonitions were not long in coming from overseas. The White House National Security Council Spokesman, Garrett Marquis, warned Italian government about the negative effects of “China's infrastructure diplomacy”²⁷⁴, while Trump administration officials, and separately the former White House Chief Strategist, Steve Bannon, met with the national right-wing party leaders, the League party, to clarify the dangers of the deal with China.

The great fuss raised after the bilateral agreements has not even spared the involvement of highest institutions, although, on closer inspection, the case related to the port of Trieste takes on very different contours.

What is portrayed as a servitude to Chinese interests in the port of Trieste, as the selling off of fundamental assets for our country, is instead shown to be an initiative framed within an institutional framework coordinated and managed by the European Commission itself, whose consent is taken from granted.

Regarding the controversy about the fact that the AdSP acted extemporaneously and independently, it should be said that the decision to cooperate with CCCC did not come from a personal initiative undertaken by the Authority President D'Agostino. The choice of cooperation with CCCC originates from the fact that the Chinese construction company has been invited to participate in the meetings of the EU-China Connectivity Platform²⁷⁵ by the European Union, an initiative in which the Port System Authority of Eastern Adriatic Sea is also involved as “Pilot Expert Group”, with its Trihub project.

“I think that anyone who looks closely at the project we are carrying out, cannot accuse us of anything unlawful”, said President D'Agostino²⁷⁶. As a matter of fact, the Eu-China Connectivity Platform, based in Brussels, is the only entity represented by European and Chinese government stakeholders responsible for maintaining relations between Europe and China, in relation to dialogue on potential investments the Dragon Country can make in Europe, and vice versa. It is precisely at this coordination table, placed under the guidance of European Commission, that each of twenty-seven member states are entitled to bring planned transport infrastructure projects China proposes on their territories, and discuss them in order to explore the possibilities for concrete cooperation²⁷⁷.

²⁷³ European Commission, *Joint communication to the European Parliament, the European Council and the Council: EU-China – A strategic outlook*, 12 March 2019.

²⁷⁴ Financial Times, *Italy set to formally endorse China's Belt and Road Initiatives*, 6 March 2019.

<https://www.ft.com/content/17f91d24-3f60-11e9-b896-fe36ec32aece>

²⁷⁵ To deepen Eu-China Connectivity Platform role, see chapter I of this essay (“1.6: Belt and Road and the EU response”)

²⁷⁶ Quote by Zeno D'Agostino, extracted from an interview of Andrea Vardanega, Friuli Venezia Giulia regional news broadcast, *Via della Seta, i vantaggi dell'intesa con la Cina*, 29 March 2019.

²⁷⁷ For more information, see European Commission website at https://ec.europa.eu/transport/themes/international/eu-china-connectivity-platform_en

This is exactly what happened in July 2018, when the Italian government officially presented two port projects at the European table, once handed over by the relative port authorities: the first one included the breakwater to be realised in the port of Genoa; the second one was the Trihub project. Since a portion of the Trihub project could have been financed by third parties other than RFI, the port authority or the Italian Government, the European Commission submitted it to the Chinese government through NDRC, within an Eu-China Connectivity Platform meeting held in July 2018. At a subsequent meeting held a few months after in Brussels, precisely on 21 November 2018, NDRC reported to Commission the Chinese Government's interest in a number of projects to be carried out in Europe, including Trihub²⁷⁸. At this point, after the European Commission had led and supervised the whole relationship with China, and had, above all, approved the inclusion of Trihub into the list to be submitted to NDRC, the CCCC, which supported the Chinese government during the negotiations, turned to the Port System Authority of Eastern Adriatic Sea, which appealed to its power to enter into dialogue with the Chinese company as a public body supervised by the Ministry of Infrastructure.

At this point, in order to formalise the possibilities of future negotiations, an agreement between the Trieste Port Authority and CCCC was necessary. As far as contractual activity is concerned, it should be recalled that Port System Authorities are in Italy public bodies of non-economic nature, and are prevented by law from entering into any binding agreement or award contract, without the fulfillment of a public tender. In this regard, Article 3 of Royal Decree No. 2440 of 18 November 1923 lays down the principle underlying contractual activity in public administration, stating that "*Contracts generating revenue for the State must be preceded by public tenders, unless for particular reasons [...] the administration does not intend to resort to competitive bidding or, in cases of necessity, private treaty. Contracts which give rise to expenditure for the State must be preceded by competitive bidding or by private treaty, at the discretion of the administration*". The principle of public tender encompasses all the contractual activity of the public administration, which falls within the State's competence in the field of the protection of competition (Art. 117, comma 2, letter E), of the Italian Constitution), as indicated by the Constitutional Court in judgment No. 401/2007.

Therefore, the path that Trieste Port Authority is following, as moreover dictated by the Italian Law, is the one of putting out to tender the possible proposal of China Communication Construction Company, for the realisation of an infrastructural work envisaged in the Trihub project, to be carried out on Italian soil. Nothing new, considering the precedent set by the involvement of CCCC itself in the implementation of the "Extraordinary Programme of Urgent Investments for the Recovery and Development of the Port of Genoa". Even in this case, the cooperation agreement signed between the Port System Authority of Western Ligurian Sea and the Chinese construction company was not the source of any advantage for CCCC, as the Asian company subsequently took part in the tender for the construction of the breakwater in the port of Genoa (here too, included among the works being examined by the Chinese Government in the framework of EU-China Connectivity Platform)²⁷⁹.

Finally, we recall that the agreement signed between the AdSPMAO and the CCCC is admittedly a

²⁷⁸ *Indagine conoscitiva sulle dinamiche del commercio internazionale e interesse nazionale*, Camera dei Deputati, III Commissione, 27 November 2019; Sole 24ore, *Xi Jinping in Italia, perchè il porto di Trieste è così strategico per Pechino*, 21 March 2019 <https://www.ilsole24ore.com/art/italia-cina-perche-porto-trieste-e-cosi-strategico-pechino-AB48zPgB>; Friuli Venezia Giulia regional news broadcast, *Via della Seta, i vantaggi dell'intesa con la Cina*, 29 March 2019

²⁷⁹ CCCC proposal for the construction of the dam was not successful. See chapter II ("2.1.4. Chinese presence in Italy: the case of Vado Ligure port").

"*declaration of intent*"²⁸⁰, and therefore does not impose any obligation on the parties, as it just has a preparatory function for future transactions. However, in the event that the decisions or activities contained in the agreement should be implemented, entrusted or carried out, the document safeguards adherence to Italian and EU national legislation, according to Article 2(4) of the same agreement.

However, criticism of the port authority's actions has gone even further, and has even led to a civil lawsuit being filed against several parties.

After learning of the Trieste Port Authority's involvement in an agreement with CCCC, the International Provisional Representative of the Free Territory of Trieste (I.P.R. F.T.T.)²⁸¹ sent two protest notes to the Italian Government, dated 11 and 26 March 2019, regarding the agreement signed in Rome with the Chinese construction company²⁸². The protest notes contained the reasons for the illegitimacy of the agreement in place, and therefore asked the Government to proceed to the restoration of legality in the management of the International Free Port. When this was not done, the representative decided to take legal action.

Civil lawsuit No. 5209/2019 filed in December 2019 at the Court of Trieste by the I.P.R. F.T.T. sues the Italia Government; the Government Commissioner for the Friuli Venezia Giulia region; the Trieste Prefect Office; the Ministry of Infrastructures and Transport; the Port System Authority of Eastern Adriatic Sea; the Ministry of Economy and Finance; the Italian State Property Agency; the Friuli Venezia Giulia region and the Municipality of Trieste, for the infringement of the legal and fiscal status of the Free Port. Specifically, the act accuses the Italian Government of violating the sub-mandate of provisional administration of the Free Territory of Trieste, administering the International Free Port as if it were one of Italy's national ports, and using it to favour the economic and political penetration of China into Europe. According to I.P.R. F.T.T.'s assumption, the agreement between AdSPMAO and CCCC would directly involve the management of the International Free Port of Trieste, which is actually sub-contracted to the civil administration of the Italian government by the allied powers of United States and Great Britain, through the aforementioned London Memorandum of 1954. As claimed by prosecution, the agreement signed in Rome is, however, based on the erroneous legal belief that the port of Trieste belongs to the Italian Republic, and as such, subject to the same national laws applicable to ports and railway networks. The railway networks within the Free Territory of Trieste would therefore not be the property of the Italian railway network of RFI, according to Art. 1 of Annex X contained in the 1947 Peace Treaty. The Italian railways would, in fact, only exercise provisional management under the above mentioned special trusteeship mandate of 1954. What is more, since the agreement between Italy and China was signed as a bilateral MoU, this act and the resulting concrete agreements cannot legitimately involve third countries, such as the current Free Territory of Trieste, claims the prosecution.

The enforceability, in the Italian law, of the agreement signed with CCCC is also precluded for a further reason, namely the alleged incompatibility of the figure and powers attributed to Port Authority's President, Zeno D'Agostino. According to I.P.R. F.T.T.'s complaint, D'Agostino does

²⁸⁰ Article 2(7) of *Accordo di cooperazione tra Autorità di Sistema del Mar Adriatico Orientale – Porti di Trieste e Monfalcone e China Communication Construction Company*

²⁸¹ The International Provisional Representative of the Free Territory of Trieste is a representative agency established in 2015 by proxy of citizens and enterprises of the Free Territory, which simultaneously defends Trieste, the economic interests of the international community and the Euro-Atlantic strategic balances.

²⁸² *Diplomatic notes addressed to Italian and Chinese authorities before and after the agreements signed in Rome on March 23rd, 2019 that do illegitimately involve the present-day Free Territory of Trieste*, <https://ipr-ftt.one/documents/italy-china-negotiations-diplomatic-protests>

not have the legal authority to sign such an agreement, since the port system authority in charge of managing the port of Trieste is a temporary body, acting provisionally in place of the legitimate Director of the Port, a figure provided for in Art. 18 of Annex VIII of the 1947 Treaty of Paris²⁸³. As a consequence, the current President of the Trieste Port Authority grants concessions on the basis of Italian legislation which is not valid in the Territory of Trieste. In this sense, only the Director of the Free Port appointed will be able to confirm, amend or declare provisions and concessions as null.

For the Representative of the Free Territory of Trieste, the signing of the unlawful agreement would then allow *“the entering of CCCC, a PRC State company, in the funding process, planning, construction, and management of strategic railroad facilities of the international Free Port and of the customs port of Trieste, with special attention to the planning of the intermodal platform of Servola, of the new intermodal platform of Aquilinia, and of the railway yards of Trieste, Opicina and of Cervignano del Friuli”*²⁸⁴.

Although the first hearing was scheduled for April 2020, the court in Trieste has not yet assessed the possible illegitimacy of the Italian government and the other entities sued. In any case, some reflections can be made.

First of all, the question of the sovereignty of territories which, according to the agreement of the Peace Treaty signed in Paris, were to form the Free Territory of Trieste has long been debated in the Italian legal scene. Among those who have analysed the matter there are some who maintain, as for example Benedetto Conforti, that the 1954 London Memorandum *“does not set any limits to the power of government of the Italian and Yugoslav states, in view of a future destination of the whole territory of Trieste: the only limits to the government's activity concern the safeguard of the interests of minorities in the two areas (art. 4 and Annex II) and, as far as the Italian State is concerned, to the implementation of the regime of free port in Trieste (art. 5); limits which (particularly the first), far from excluding a stable belonging of the territories in question to the two States, seem to imply it”*²⁸⁵.

In this regard, Giorgio Conetti pointed out that after the signing of the London Memorandum in 1954, *“the title of administering State or sovereign State, or the moment when one title changed into the other, is of little importance”*²⁸⁶, since the Italian State became internationally responsible for the application of the principles established in Articles 1 to 20 of Annex VIII of the Paris Peace Treaty, concerning the areas of the Port of Trieste.

In other words, the Italian State is therefore obliged to maintain the regime of the Free Port of Trieste in its founding principles emerging from the 1947 Peace Treaty (Annex VIII), but remains free to redetermine and define it, according to circumstances and changing needs. Once the Italian sovereignty over the territories of Trieste had taken over through the Memorandum of London of 1954 and especially after the 1977 Treaty of Osimo, which definitively sanctioned the territorial division between Italy and Yugoslavia (with Trieste remaining under Italian control), the management of the free port of Trieste was determined by the Italian internal regulations, although with due respect for the principles of Annex VIII of the 1947 Peace Treaty. Without undermining the guarantee of

²⁸³ Art.18 states as following: *“1. The administration of the Free Port shall be carried on by the Director of the Free Port who will represent it as a juridical person. The Council of Government shall submit to the Governor a list of qualified candidates for the post of Director of the Free Port. The Governor shall appoint the Director from among the candidates presented to him after consultation with the Council of Government. In case of disagreement the matter shall be referred to the Security Council. The Governor may also dismiss the Director upon the recommendation of the International Commission or the Council of Government. 2. The Director shall not be a citizen of Yugoslavia or Italy”*.

²⁸⁴ Court of Trieste, Writ of Summon registered with No. 5209/2019

²⁸⁵ Benedetto Conforti, *L'attuale situazione giuridica del territorio di Trieste*, in Riv. Dir. Int., 1955, 579.

²⁸⁶ Giorgio Conetti, *Il regime internazionale del porto franco di Trieste*, Trieste, s.n.,1986.

duty-free and non-discrimination principles, which are the primary features of the harbour, the management of the free port of Trieste and its autonomy were legitimately regulated by the Italian legislator in a different way from what was literally and provided for by Annex VIII of the 1947 Peace Treaty, and this because the Memorandum of London only provided for the respect of the principles (and not of the specific rules) contained in the Annex.

As for the Free Territory of Trieste and, therefore, all legal provisions relating to it, such as Annex X of the Treaty of Paris (“Economic and financial provisions relating to the Free Territory of Trieste”), the territory never had the opportunity to be established, due to historical contingencies.

Although there were those who, like Angelo Ermanno Cammarata²⁸⁷, argued that Italy had never lost its sovereignty over the territory of Trieste, since the Free Territory had never arisen; the predominant theory, led by Manlio Udina²⁸⁸, likewise considered the non-existence of a State definable as the Free Territory of Trieste, since this latter was subject to a regime of military occupation, without being in the meantime subject to a state sovereignty, to the establishment of a new body, or further rules amending the Peace Treaty²⁸⁹.

The flaw at the origin of the establishment of a truly independent state can be found in the asymmetry of administrations to which it was subjected. On the one hand, the so-called “Zone A” was entrusted to the military control of the non-neighbouring Allied powers (Great Britain and United States), while “Zone B” was under Yugoslav jurisdiction. The Free Territory of Trieste operation also depended on the appointment of a “Governor” by the United Nations Security Council. However, the various names proposed for the post were systematically vetoed by the Allied powers and the Soviets. This “legal stalemate” ceased, de facto, with 1954 London Memorandum, and, de iure, in 1977, with the introduction of Osimo Treaty.

The legitimacy of the role of president at the head of the Port System Authority of Eastern Adriatic Sea is provided for by the Italian port legislation²⁹⁰, to which the harbour of Trieste is also subject, being on Italian soil, but still retaining its special legal status as dictated by the Paris Peace Treaty.

In addition, fears about “*the entering of CCCC [...] in the planning, construction, and management of strategic railroad facilities*” appear to be unfounded, since, as seen above, Italian law prohibits any public body from awarding a contract to a private company, unless it has been publicly tendered.

According to Italian port legislation, President D’Agostino is then free to issue authorisations or concessions to private operators, be they European or Chinese, entrusting them with the management of certain port areas and docks.

In conclusion, Trieste Port Authority seems to have acted entirely within an institutional framework coordinated by Brussels, respecting the procedural guarantees in the context of the Trieste-Rome-Brussels-Beijing relationship, and always complying with Italian and European legislation on public procurement.

²⁸⁷ Angelo Ermanno Cammarata, *All’Italia la sovranità su Trieste*, Roma, Società editrice del Foro Italiano, 1950.

²⁸⁸ Manlio Udina, *Scritti sulla questione di Trieste*, Milano, Giuffrè, 1969.

²⁸⁹ On the actual non-existence of a State called Free Territory of Trieste, see also: Vittorio Favilli, *L’attuale Situazione Giuridica Internazionale Del Territorio Di Trieste*, in “Rivista Di Studi Politici Internazionali”, Vol. 17, No. 3, pp.339-372, 1950; Massimo Campailla, *Il regime giuridico delle zone franche del porto di Trieste*, in “Dir. Trasp.”, I, 47, 1998.

²⁹⁰ Powers relating to the President of Port System Authority of Eastern Adriatic Sea were also re-listed in the Ministerial Decree No. 368 of 13 July 2017. <https://www.gazzettaufficiale.it/eli/id/2017/07/31/17A05237/sg>

3.6.4 The arrival of the German company HHLA, a change in strategy?

The last piece to be added to the mosaic of the relations between the port of Trieste and China, probably the most important and significant one, concerns the control of a logistic platform whose construction was contained in the Trieste Port Master Plan since 2016.

The setting up of this new logistic platform (called “Piattaforma Logistica Trieste”, PLT) was carried out by the shipping company “Francesco Parisi Casa di Spedizioni” operating in Trieste since 1807, the construction company I.Co.P. and the Interporto Bologna S.p.A. The platform in question was created in response to the growing trend of cargo traffic in the Trieste harbour, the advantages of which include the provision of a new berth equipped for Ro/Ro ships, cargo and containers, and the possibility of using back-port areas for port operations.

Before the end of the construction of the PLT, its financiers and concessionaires began to look for an international industrial partner willing to acquire the majority of its capital and able to finance the construction of future Pier VIII, whose project was envisaged in the Port Master Plan of Trieste as the platform's projection towards the sea. The first interlocutor after some interest from other operators is China Merchants Port Holdings, whose vice-president, Huxiang Zhao, was in turn vice-President of the International Federation of Transport Associations (FIATA) during Francesco Parisi presidency, head of the homonym shipping company which set up the platform.

Although the two knew each other personally, Parisi, who was planning to bring new investors for Trieste port projects, wanted to stress the absence of any favouritism towards Chinese players: *“We are not giving preference to Chinese business partners rather than others. The reality is that China has grown and is the trading partner number one in the world. So, if we want to be involved in logistics, which is connected to international trading, we cannot simply close our eyes in front of what has developed. We just try to participate, this is the simple answer”*²⁹¹.

The negotiation between PLT and China Merchant Port was still prior to the dialogue initiated by the President of the Friuli Venezia Giulia, Deborah Serracchiani and Zeno D'Agostino, on the possibilities of investment in the port of Trieste, within a meeting with top management of CCCC held in Beijing towards the end of 2017. D'Agostino himself said that talks with companies from the People's Republic of China, with a view to the logistic platform, began in 2016, and the reason why nothing was still made official until 2019 was that the Asian counterpart wanted to see *“the terminal once finished, and the concession once regularised”*²⁹². Toward the end of that year, however, first turn-around signs began to appear.

After the signing of the MoU with China and the agreements between CCCC and Italian port authorities at Palazzo Madama in March 2019, the parallel confrontation between PLT and CMPH continued throughout 2019, albeit at a slow pace due to the Italian political instability and the media hurricane that swept through the deals. While part of the Italian political scene was advocating rapprochement with China, as the months went by, the Italian Government's enthusiasm for relations with the Country of the Dragon seemed waning, and even officials at the Ministry of Transport advised D'Agostino not to encourage dialogue with Chinese counterparts²⁹³.

²⁹¹ Quote by Francesco Parisi, extracted from a documentary by Deutsche Welle (DW) broadcaster, *China's gateway to Europe – the New Silk Road*, 8 December 2020. <https://www.dw.com/en/dw-documentary-examines-chinas-grip-on-europe/a-55847002>

²⁹² Sole 24ore, *Il porto di Trieste ai cinesi, sbocco per il made in Italy a Est*, 7 September 2019 <https://www.ilsole24ore.com/art/il-porto-trieste-cinesi-sbocco-il-made-italy-est-ACt6Fce>; Limes, *La vera storia dei cinesi a Trieste – Conversazione con Zeno D'Agostino*, 9 November 2020.

²⁹³ Diego D'Amelio, *Dal Dragone all'Aquila, il porto di Trieste parla di nuovo tedesco*, in “Limes: Rivista italiana di geopolitica”, No. 10, Roma, GEDI, 2020

When the exclusive agreement between the platform company PLT and Cmph expired, new parties entered into negotiations with Parisi, including the German logistics company “Hamburg Hafen und Logistik AG” (HHLA).

However, 2020 represents the tipping point for the development of the Italian-Chinese Memorandum on Trieste. In August 2020, the U.S. Department of Commerce added China Communication Construction Company to its blacklist, the so-called “Entity List”²⁹⁴, which includes a wide range of Chinese companies that are, de facto, excluded from the United States market: U.S. companies are allowed to do business with these foreign enterprises only after obtaining a government authorisation²⁹⁵.

Although this has no direct impact on the decisions of European governments in their further relations with China, the U.S. intervention is intended to act as a deterrent, prompting allied countries to reconsider their agreements with these banned companies.

American concerns about the possibility of the Port of Trieste entry into the BRI orbit began to become more manifest at the time of the U.S. Secretary of State, Mike Pompeo, visit to Italy, in September 2020. In a long conversation with Italian Minister of Foreign Affairs, Pompeo expressed his concern about the danger of the engagement with China, stating that “*the Chinese Communist Party is trying to leverage its economic presence in Italy to serve its own strategic purpose*”, and has warned the Minister about the “*risks to the national security and the privacy of citizens presented by technology companies with ties to the Chinese Communist Party*”²⁹⁶.

The day before the arrival of Pompeo in Rome, Italy welcomed him with a reassuring news: the negotiation between PLT and HHLA was in its final stages, and the German operator would have become the first shareholder of the logistic platform by the beginning of 2021. Chinese competition was practically won.

The arrival of Hamburg Hafen und Logistik company in Trieste definitively marked the demise of the negotiation between Parisi and CMPH, which seems not to have giving up, having tried to get back into the game twice in 2020. However, negotiations with the German counterpart were at an advanced stage and near to the closing, and, although no intervention by the Italian government was detected to guide the decision, Parisi confirmed the company’s willingness to sign with the Hamburg enterprise.

There is no doubt that the valuation of Parisi and the PLT company stemmed from the greater guarantees offered by HHLA, a logistics giant capable of handling more than 7.5 million TEUs per year and transporting almost 1.6 million containers, with a turnover of around €1.4 billion²⁹⁷. Nevertheless, it is also likely that Parisi’s decision is the result of a geopolitical balances restoration, carried out after Pompeo’s warnings. After Minister of Foreign Affairs Di Maio had reassured the American Secretary of State of the existence of golden power to block investments in strategic Italian

²⁹⁴ U.S. Federal Register website: <https://www.federalregister.gov/documents/2020/12/22/2020-28031/addition-of-entities-to-the-entity-list-revision-of-entry-on-the-entity-list-and-removal-of-entities>

²⁹⁵ The CCCC’s inclusion on the Entity List is formally motivated because of its role in the construction and militarisation of the South China Sea islands, part of a Chinese project to strengthen its presence in an area contested by its south-eastern neighbours and US interests.

²⁹⁶ Reuters, *Pompeo delivers warning to Italy over China’s economic influence*, 5G, 30 September 2020. <https://www.reuters.com/article/us-usa-pompeo-italy-idUSKBN26L2E9>

²⁹⁷ The data shown relate to 2019, as reported on HHLA website at: <https://report.hhla.de/annual-report-2019/>

assets, the CMPH bid would therefore have had a good chance of being rejected by the Italian Government, precisely through the help of this special tool.

In the light of what has happened, it is possible to talk about a change of strategy? Are there still spaces for strategic cooperation between the port of Trieste and its Chinese counterpart?

When in December 2018 the Italian and international press had revealed the negotiations between PLT and CMPH for the acquisition of shares in the company running the logistic platform in Trieste, the path seemed already marked, even though the whole deal sank in the space of only one year.

There is no doubt that the Chinese Belt and Road project was of interest to the President of the AdSPMAO, Zeno D'Agostino, not for purely personal gain or favouritism, but for simple national interest in his work of managing public affairs. After all, *"it would be suicidal to give up the function that Trieste can play in the world's most important transport corridor [the maritime corridor linking East Asia and Europe] in terms of value, tonnage and number of ships"*²⁹⁸.

The stakes were getting higher and higher, since, as D'Agostino himself confirmed, the new Silk Road project would not only have influenced the transport sector, but would have moved both goods and factories, in a perspective in which Italy and the North-East, also thanks to the port of Trieste, would have had a unique opportunity for growth²⁹⁹.

With time, transport and geopolitical logics seemed to take over Trieste, which thus found itself alone in a game in which the Italian government was slowly deflecting due to the opening of a political crisis. While the United States followed the Italian events from a distance, not failing to criticise the choice of signing the Memorandum with China and the related agreements, the European Commission did not outline any strategy for its ports, while the negotiations between PLT, CMPH and HHLA continued without government direction.

The change in perception towards the BRI was in part due to political factor, which was not long in reverberating privately in negotiations with Chinese counterparts. As a matter of fact, one of the first signals given by the new Italian government to Washington on the return to full Atlantic loyalty was the decision to extend golden power to the supply of G5 superfast telecom service by China's Huawei and ZTE Corporations, as one of the first acts.

At the closing ceremony for the signing of the PLT and CMPH, the Italian former Minister of Infrastructure and Transport, Stefano Patuanelli, remarked that *"the Chinese investments could have caused us and our American allies some concerns"*, on the contrary, the signing of the German HHLA was *"a sign of closeness to the Atlantic pact, to the strategic alliance with the United States"*³⁰⁰.

Faced with American pressure and reproaches from Brussels about the break-up of the European front, the new Italian Government returned to the nest of the Atlantic pact, and it was the same government representatives who presented the agreement reached in Trieste as a strengthening of relations with the U.S. D'Agostino himself explains that it was the battle between China and the United States that determined the fate of the new logistics platform, with Italy and the EU acting as spectators: *"Until two or three years ago, dealing with china had no geopolitical implications, and the logic was purely*

²⁹⁸ Quote by Zeno D'Agostino, extracted from Lorenzo Di Muro, Lucio Caracciolo, *La vera storia dei cinesi a Trieste – Conversazione con Zeno D'Agostino, Presidente dell'Autorità di sistema portuale del Mare Adriatico orientale*, in "Limes: rivista italiana di geopolitica", n.10, Roma, GEDI, 2020.

²⁹⁹ Francesco De Filippo, 2019, *op.cit.*

³⁰⁰ Quote by Stefano Patuanelli, extracted from *La piattaforma è tedesca, ora attende I traffici cinesi*, Friuli Venezia Giulia regional news broadcast, 30 September 2020. <https://www.rainews.it/tgr/fvg/video/2020/09/fvg-trieste-porto-piattaforma-logistica-amburgo-via-della-seta-42b45bfb-65b1-4951-b479-e13f5a321c65.html>

transport-related. [...] In recent years, the opportunity to deal on this axis with the main player, china, has sparked controversy. Today in Rome, when it comes to Beijing, many people stand aside, whereas at the beginning of last year the majority forces were pushing in that direction. This is not surprising, also in the light of growing American pressure”³⁰¹.

Parallel to the Chinese penetration strategy, it is emerging what D’Agostino called the “Third way” (as an alternative to Washington’s and Beijing’s), which is entirely European.

As a matter of fact, the German initiative in Trieste did not end with the deal concerning the logistic platform. In December 2020, Duisburger Hafen AG, the German enterprise managing the port of Duisburg (with which Trieste already cooperates), signed an agreement to enter the share capital of the Interporto di Trieste, as a minority shareholder with 15% of the shares. In this framework, although the agreements with HHLA and Duisport have a commercial value, at the same time they are also synonymous with a strengthening of EU cooperation in relation to the control and management of strategic European infrastructures, reaffirming that it is possible to do business with non-European countries, but without losing the ownership of strategic assets. What is more, the condensation of logistics chains and the shift of European industry to the East will certainly benefit Trieste which, thanks to this new European partnership, has become part of the German value chain and has also expanded its intermodal network.

With regard to this new “Third way”, the words of Angela Titzrath, CEO of HHLA, sound quite symbolic: *“Golden power was created to protect Italian interests, but we are Europeans and we share the same objectives and value system”*.

3.6.5 An ending yet to be written

Negotiations between Trieste Port Authority and CCCC as part of the cooperation agreement have been frozen since the advent of Covid-19 pandemic. Some planned events, as the meeting organised between wine producers of North-Eastern of Italy and Chinese companies, scheduled for February 2020, have been cancelled, and the same fate has befallen joint operations planned in Slovakia.

Understanding now the future of relations between the Italian port of Trieste and Chinese companies is a difficult task, especially in light of the downsizing of the Belt and Road Initiative, after the outbreak of the pandemic crisis. However, at the moment, some deductions can be made.

The first scenario would see the entry of Chinese logistics operators into the port of Trieste, through the indirect control of a new Hungarian-led multifunctional terminal.

In June 2020, the Hungarian public company Adriaport took over the property, and state concessions for a period of sixty years, of a 32-hectare area with a 300-metre shoreline in the port of Trieste, following its commitment to the Italian companies Teseco and Seastock to build a new multi-purpose terminal in the area formerly occupied by the Aquila refineries. Lately, some analysts have been speculating that the future Hungarian terminal may be an alternative for China to enter the shores of Trieste, since the initiative has been directly steered at government level, by Prime Minister Viktor Orbán. The new political and commercial axis between China and Hungary is helping to support this

³⁰¹ Quote by Zeno D’Agostino, extracted from *La vera storia dei cinesi a Trieste – Conversazione con Zeno D’Agostino*, Limes, 2020.

hypotesis, since the Hungarian government has entrusted the modernisation of the Budapest-Belgrade railway to Chinese companies, whose funding is covered for almost 90% by the EXIM Bank of China. We are not just talking about good international relations between Hungary and China, but about an even closer level of cooperation. The recent pandemic crisis has given Orbán the opportunity to distance himself even further from the European orbit, accusing the EU of delays in the vaccination campaign, and instead strengthening relations with Xi Jinping, after sending state planes to Beijing for the withdrawal of 550,000 doses of Chinese vaccine Sinopharm³⁰².

However, the size of the Trieste quay would be too small and its logistics inadequate for container traffic, which is of Chinese interest.

The second hypothetical scenario would see China Merchant Port and Cosco re-entering the Trieste affair, through a game of alliances between major logistics operators.

If the Belt and Road Initiative begins to slow down its expansion, trade relations between China and the rest of the world will remain, and the upper Adriatic basin will still be the arrival point for goods coming from the Far East. With this in mind, it cannot be ruled out that HHLA will resume talks with China Merchants Port for the takeover of the remaining 49.9% stake in the PLT, currently in hands of local Italian groups. After all, Germany and German logistics companies, such as HHLA, have been working closely for some time with Chinese logistics operators, whose seaports (first and foremost Hamburg) and land terminals (Duisburg) have found their place in the New Silk Road project. Specifically, HHLA can look back on 38 years of cooperation with COSCO³⁰³, which established its first regional management company overseas in Hamburg, at the end of 1980s. The hypothesis of a foreign alliance in Trieste would, therefore, be entirely legitimate.

However, there is something else to be noticed. Similarly to the Hamburg terminals, the logistic platform in Trieste will not be the privileged territory of German or European shipping companies. Conversely, it is more sensible to imagine that the platform will be offered as a base for the *Ocean Alliance*, one of the most active carrier groupings on the Asia-Mediterranean maritime route³⁰⁴. The China's return to the Trieste game lies in its presence within this alliance, directly through COSCO, and indirectly with Cma-Cmg (one of the other members of *Ocean Alliance*). French company Cma-Cmg is itself a key player in the management of the docks through "Terminal Link" company, of which the French own 51% and China Merchants port 49%. Should Terminal Link decide to open discussion with HHLA and PLT for a minority shareholding, China would thus find a second way into the Trieste port, exploiting the network of corporate relations created between carriers.

The uncertainty following the pandemic crisis and the Chinese government's unwillingness to leak information about its plans make it almost impossible to predict the future moves of the BRI decision-making bodies towards Trieste.

However, what we do know is that the game will be played on a much larger field than the Italian national one: the European field. The timely response of the German logistics operator HHLA, and the willingness to cooperate shown by the private shipping sector in Trieste, have almost cancelled the hopes of Xi Jinping government for a privileged relationship with Italian authorities, putting the

³⁰² Deutsche Welle, *Hungary gets first shipment of China's Sinopharm vaccine*, 16 February 2021.

<https://www.dw.com/en/hungary-gets-first-shipment-of-chinas-sinopharm-vaccine/a-56586599>

³⁰³ HHLA website, *First 20,000 TEU Container Ship at Tollerort*, 23 February 2018. <https://hhl.de/en/media/press-releases/detail-view/first-20000-teu-container-ship-at-tollerort>

³⁰⁴ For further information, see chapter I of this essay ("1.2.3 Naval gigantism and global alliances").

strengthening of ties between European countries before individual interests along the Silk Road. Nothing is closed yet, and the next move is up to the Dragon.

Conclusion

The whole story of Italy's involvement into the Belt and Road Initiative offers interesting conclusions for the future evolution of Italy-China and EU-China relations, with respect to the huge Chinese infrastructural project.

In order to be able to better reason on the subject, we will distinguish among two different levels of analysis: the one concerning relations at international level between China and the European Union, as the representative organisation of the twenty-seven member countries to which it belong; and the one concerning the national relations between Italy and China.

Although, as discussed at length in this paper, the EU has repeatedly shown a certain rigidity towards the Chinese project, not failing to admonish its member countries whenever they established individual relations with China, initiatives taken at local level by individual nations demonstrate a high degree of participation in the Belt and Road project. However, it should be noted that relationships with the Asian country and EU states do not all follow the same script, but are framed in different "discussion settings".

On the one hand, there are the countries most directly concerned by the Dragon's initiative, those involved in the China-Central and Eastern Europe cooperation initiative (also known as "16+1" or "17+1" cooperation format). Since the launch of this cooperation in 2012, relations between China and Eastern European countries, conducted without the European Union mediation, have grown in value and profile. Poland, Serbia and Hungary seem to be the nations boasting a privileged relationship with the PRC, sometimes even jumping outside the diplomatic framework of the 17+1 mechanism and maintaining direct bilateral relations with Beijing³⁰⁵. As dealt in the first chapter, China has paid lots of attention to transport infrastructural development in the Balkans, starting from the Piraeus in Greece, then moving on the construction and modernisation of the railway between Serbia and Hungary.

On the other hand, there are those countries that, although they have not signed any Memorandum or formal cooperation agreement with China, are interested in the Chinese economic initiative, for the achievement of their national interests. Germany and France are among the first. Thanks to the agreements reached in Duisburg, Germany has just become the land terminal of the Belt and Road Initiative, and its potential has expanded even further with the opening of an outlet in the Upper Adriatic with HHLA's investments. China is Germany's main trading partner thanks to a trade volume of €178.4 billion in 2020³⁰⁶, and the country can besides boast one of the few European trade surplus with China, demonstrating how much the German economy relies on its massive exports to the Asian country (the second largest in the EU by monetary value).

France instead ranks third in EU for trade volume with China, thanks to its privileged exports of cosmetics, beauty products, wines and aircraft. It also has tacitly secure its place on the BRI routes by granting the Chinese acquisition of ten terminals not located on the Mediterranean shores, without offering any resistance.

Although the governments of these countries have made no secret of their opposition to Chinese penetration of Europe, French and German trade and diplomatic relations cannot afford setbacks with Beijing. Warnings of supranational organizations and overseas states on the political and economic

³⁰⁵ Johan Van de Ven, *One Belt, One Road and the Balkan Dimension of CEEC 16+1*, in "The Geopolitical Relevance of Piraeus and China's New Silk Road for Southeast Europe and Turkey", Clingendael Report, December 2016.

³⁰⁶ Source of data: Eurostat, China-EU – international trade in goods statistics [https://ec.europa.eu/eurostat/statistics-explained/index.php/China-EU - international trade in goods statistics#Trade with China by Member State](https://ec.europa.eu/eurostat/statistics-explained/index.php/China-EU_-_international_trade_in_goods_statistics#Trade_with_China_by_Member_State)

non-reciprocity of relations with China are thus counterbalanced by the initiatives taken by individual states in their dialogues with the Asian Dragon, in a game in which the boundaries between what is allowed and what is not seem somewhat blurred. The only certainty that emerges is the clear European disunity, a condition that allows easy penetration of Chinese strategies, especially in the most troubled nations, as happened in Greece with the CCCC entry in the Piraeus management.

On the other side are the direct relationship between Italy and China. While a few years ago government's agenda seemed to include an intensification of Sino-Italian bilateral relations, time has radically changed expectations. The coalition governments of the past three years have seen the enthusiastic cooperation of the Five Star Movement, the outright opposition of national right-wing parties, and the cold scepticism of most democrats, all currents that are difficult to reconcile while engaging in an important dialogue with a world superpower. Our political and business choices have been influenced by the multitude of warnings, advice, dossiers (such as the COPASIR dossier on the risks to our national security from the use of Chinese technologies)³⁰⁷, which have gradually distanced us from participation in the Belt and Road project.

One of the lesson learned by China will undoubtedly be the difficulty of dealing with a politically unstable country, whose alternating governments and ideologies are detrimental to diplomatic relations and projects between them.

No one can predict what the next moves on the European and national Belt and Road chessboard will be, and consequently no one can say with certainty how many concrete possibilities there are to reopen the dialogue with Trieste, or other Italian ports. However, we can only express our opinions and hopes, based on what we have learned so far from the actions of the protagonists on the scene.

Let's start with an established assumption. It goes without saying that Sino-Italian or Sino-European cooperation in the field of connectivity should be conducted in full compliance with shared principles such as market rules, transparency, non-discrimination and adherence to EU or national laws of the countries concerned by BRI infrastructural projects. In this respect, China must commit to filling some of the gaps exposed by the EU Chamber of Commerce report, analysed in chapter one. Competitive disadvantages, lack of clarity in the public procurement system and discrimination are obstacles that need to be removed in order to achieve a true win-win cooperation and market opportunities for European industry.

However, Chinese demerits cannot be the only ones to be recognised. The European Union's effort to establish a strategic platform for collaboration with China is certainly a good starting point for deepening the Belt and Road dialogue, but criticisms and admonitions addressed to Italy in the aftermath of the signing of the cooperation agreements with the Dragon sound a little misplaced, if one takes into account the total compliance with national and EU laws in establishing dialogue with the Asian country and its State companies. What is more, the protection of a strategic asset, such as some ports, is surely fundamental for a country's finance, economy and security, but it would be also appropriate to ask to what extent the European Union, or any other external country, can intervene in matters regulated by bilateral agreements between two sovereign nations, or can put pressure on

³⁰⁷ On 12 December 2019, COPASIR (Parliamentary Committee for the Security of the Republic) forwarded to the Presidents of the Italian Chamber and Senate a report "on policies and tools for cyber protection and cybersecurity to protect citizens, institutions, critical infrastructure and businesses of strategic national interest". The document delves into the subject of 5G and the risk to Italian national security of using Chinese technologies (in particular, it mentions Huawei and ZTE), stating that COPASIR "cannot therefore but consider the concerns about the entry of Chinese companies into the installation, configuration and maintenance of the infrastructure of 5G networks to be largely well-founded", and advises against the supply of energy from them.

Comitato parlamentare per la sicurezza della Repubblica, *RELAZIONE sulle politiche e gli strumenti per la protezione cibernetica e la sicurezza informatica, a tutela dei cittadini, delle istituzioni, delle infrastrutture critiche e delle imprese di interesse strategico nazionale*, Doc. XXXIV, n.1, Camera dei Deputati, Senato della Repubblica, XVIII Legislatura.

individual governments and ministries to slow down the progress of negotiations with Beijing. The same fate befell the Greek government in 2013, when the former Greek Minister of the Economy, Gianīs Varoufakīs, negotiated a deal to sell a stake in the company that administers the port of Piraeus, in exchange for a loan to support Greek public debt. The deal fell through, at first, because of the intervention of the EU, which considered the Port of Piraeus a nerve centre of its own³⁰⁸. Nevertheless, Chinese investments in Greece are different from the hypothetical ones in Trieste, and do not involve any strategic assets sell-off, as the Italian port authorities are public bodies.

The EU's overly 'bureaucratic' and rather confrontational approach to China, as business man Andrea Illy³⁰⁹ defines it, dampens Italian growth opportunities, while our country needs growth through public and private investment that can trigger a virtuous cycle. The Belt and Road and the Chinese can offer a solution to this stalemate, and act as a “trend-setter” to reawaken international competition for foreign investment in Italy.

In order to seize these opportunities, the European Union should function as a kind of “balancer”, trying to weight advantages and disadvantages, and pursue the only thing that matters: the protection of the interests of the member countries. Very often, however, it seems that the interest of the member countries are subordinate to the wishes of the Union, clipping the wings of the economic momentum of a sovereign state. Brussels cannot, and must not, adopt an obstructive stance with respect to the wishes of a government, but should rather coordinate, mediate and negotiate with its Chinese counterpart as the representative of the interests of its member state. Following a practical example, if Italy really wanted to let the Chinese enter the port of Trieste, the European Union should make sure that for every established quantity of goods sold in Europe or Italy, along the reverse route that leads from Trieste to China, it must transit at least a minimum percentage of Italian goods, perfectly fulfilling the principle of reciprocity. The same goes for investments in infrastructures, the example of which can be provided by the cooperation agreement signed between CCCC and the Port System Authority of Eastern Adriatic Sea.

Finally, to the guiding principles suggested to China and Europe are added those addressed to Italy. When confronting one of the world’s most influential superpower, one cannot be unprepared. The dialogue with China on such a crucial issue for our country, harbours, and the logistical significance of this gigantic infrastructural project, requires our port system to respond to a clear national strategy. For this to happen, it is essential for our government to equip itself with a strategic planning tool, highlighting the priority objectives in negotiations with the Chinese counterpart and setting out our strengths. On the contrary, we have often seen a sort of national-level “internal competition”, sometimes even played between neighbouring ports, which did not encourage the development of an inclusive strategy aimed at building an adequate and competitive port system model based on interregional scale.

With a few exceptions, in recent decades Italy has been characterised by a high rate of “logistic chauvinism”³¹⁰, which has led to a fragmentation of the network design and has always ignored the necessity to determine a hierarchy of functions, indispensable for generating economies of scale. It is precisely from this disservice that difficulties in organising exports arise for Italian SMEs, since the lack of use of economies of scale and stable channels for promotion and distribution of their goods reduce their competitiveness in purchasing. As Spirito wanted to remark: “*The system is not the system of ports, it is not the system of motorways, roads, railways. No. This is wrong logic. The system*

³⁰⁸ Gianīs Varoufakīs, *Adulti nella stanza*, Roma, La Nave di Teseo, 2018.

³⁰⁹ Andrea Illy is the Chairman and CEO of Illycaffè and President of the Altagamma Foundation. His personal opinion on EU’s approach is expressed in Francesco De Filippo, 2019, *op.cit.*

³¹⁰ Term coined by Pietro Spirito in *Il futuro del sistema portuale meridionale tra Mediterraneo e Via della Seta*, Pietro Spirito, 2018.

*is the interconnection of networks, it is the network of networks, otherwise we are perpetuating what has displaced us competitively*³¹¹.

To seize the opportunities that may arise from the reorganisation of trade and routes, thanks to this new Chinese initiative, we certainly need a government roadmap that does not catch us unprepared, but we also need a new industrial policy that can attract new energies and stimulate the innovative sector. However, we are talking about a process that may take years, even decades, to reach completion, but it is a path that must be started. This is the gap that differentiates us from large exporting countries such as Germany and the Netherlands, which can boast, respectively, three times and two times the trade value with China, if compared to Italy. Objectively speaking, the goal to be pursued is not to emulate the numbers and specialisations these countries possess in their trade with the Asian country, which would be unthinkable given our country's vocation, culture and intrinsic productivity characteristics, but it would certainly be a matter of leveraging our strengths and specialisations in order to, at least, boost our exports and allow for a fairer exchange with our partner. No one can say for sure what the next steps in the design of the BRI Western ramifications will be, nor even does Beijing leave its strategies come out at public disposal. Chinese government's attitude seems, instead, to follow the lessons outlined in the treatise on the Art of War, attributed to the ancient Chinese military strategist Sun Tzu, which states: *"Let your plans be dark and impenetrable as night, and when you move, fall like a thunderbolt"*³¹².

³¹¹ Quote by Pietro Spirito, extracted from *Il futuro del sistema portuale meridionale tra Mediterraneo e Via della Seta*, Pietro Spirito, 2018.

³¹² Sun Tzu, *The Art of War* 孙子兵法, VII, No. 19.

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