

National Security Review of Chinese FDI into the U.S.

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Executive Summary

OBOR forms an integral part of China's aspirational ascendancy in becoming an architect of the global financial and legal architecture. The core component of OBOR is massive Chinese outbound investment in infrastructure implicating the critical transport and energy sectors of participating nations thus triggering issues of state sovereignty and national security. Nations within OBOR's domain will increasingly focus on national security review of Chinese FDI. While reviewing FDI generally involves a careful cost-benefit evaluation and a rational balancing of interests, additional dimensions of complexity arises in terms of outbound Chinese investment into the UAE which impacts on this traditional balancing of interests: the incipient U.S.-China rivalry is underway which may force both the U.S. and China to utilize auxiliary power in a global game for hegemonic leadership and China's unique one-party political system which plays a prominent role in the governance of private companies. Most OBOR investment will be through Chinese State Owned Enterprises - thus raising the potential of non-financially motivated FDI (as it does with other nations' state-owned companies). In sum, China's outbound FDI into OBOR projects into the UAE will be more complicated given both the special relationship between the UAE and the U.S. as well as the unique nature of China's political system. This paper addresses the national security review challenges of China's OBOR investment in the UAE, namely, balancing the potential immense economic advantages - which positively aligns with the UAE Vision 2021 – and potential national security concerns. The issue of national security review of Chinese FDI will become increasingly important not just for the UAE but for the dozens of other nations which fall within OBOR's realm.

China's One Belt One Road ("OBOR"), is a trillion dollar grand strategy¹ envisioning a massive new network of inter-connected railways, roads, sea and airports throughout Asia, the

GCC, Africa and into Europe, substantially influencing the global economy.² OBOR forms an integral part of China's aspirational ascendancy both in Asia and in the global context³ and "will be a catalyst for shifting power alliances and the changing fortunes of nation states."⁴

The core component of OBOR is massive Chinese outbound investment in infrastructure⁵ inherently implicating the critical transport and energy sectors of participating nations thus triggering issues of state sovereignty and national security.⁶

In terms of scale or scope, OBOR has no parallel in modern history. It is more than 12 times the size of the Marshall Plan, America's post-World War II initiative to aid the reconstruction of Western Europe's devastated economies. Even if China cannot implement its entire plan, OBOR will have a significant and lasting impact.⁷

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¹ "Our Bulldozers, Our Rules," The Economist, July 2, 2016 (describing OBOR as a means "of extending China's commercial tentacles and soft power.... [President Xi] has endorsed his predecessors' view that China faces a "period of strategic opportunity" up to 2020, meaning it can take advantage of a mostly benign security environment to achieve its aim of strengthening its global power without causing conflict.").

² See Charlie Campbell, China Says It's Building the New Silk Road. Here Are Five Things to Know Ahead of a Key Summit <http://time.com/4776845/china-xi-jinping-belt-road-initiative-obor/> May 12, 2017 ("OBOR covers 65% of the world's population, three-quarters of global energy resources and 40% of GDP. China's annual trade with OBOR countries already exceeds \$1.4 trillion.")

³ "President Xi Jinping Delivers Important Speech and Proposes to Build a Silk Road Economic Belt with Central Asian Countries," PRC Ministry of Foreign Affairs, September 7, 2013, http://www.fmprc.gov.cn/mfa_eng/topics_665678/xjpfwzysiesgjtfhshzzfh_665686/t1076334.shtml (noting OBOR's critical importance to China).

⁴ See Alex Capri, China's Growing Influence On Middle East Shouldn't Be Lost On An Impulsive Trump Administration <https://www.forbes> June 21, 2017

⁵ [http://www.ey.com/Publication/vwLUAssets/EY-navigating-the-belt-and-road-en/\\$FILE/EY-navigating-the-belt-and-road-en.pdf](http://www.ey.com/Publication/vwLUAssets/EY-navigating-the-belt-and-road-en/$FILE/EY-navigating-the-belt-and-road-en.pdf) ("The "One Belt, One Road" initiative runs through more than 60 roadside countries in Europe, Asia and Africa, and is aimed at promoting cooperation in policy coordination, facilities connectivity, unimpeded trade, financial integration, and people-to-people bond."). Numerous initial questions have yet to be answered: how will the grand vision be implemented? Which infrastructure banks will be the lead lenders? What CSR standards will be used in projects? What dispute resolution mechanisms will be utilized?

⁶ See Bashar H. Malkawi, 'The Dubai Ports World Deal and U.S. Trade and Investment Policy in an Era of National Security', 7 The Journal of World Investment & Trade 443 (2006) (analyzing the issues from the perspective of United States national security concerns in the context of inbound FDI from the Middle East). China's OBOR similarly presents a dilemma for recipient nations in terms of possible strategic influence. See Charlie Campbell, China Says It's Building the New Silk Road. Here Are Five Things to Know Ahead of a Key Summit <http://time.com/4776845/china-xi-jinping-belt-road-initiative-obor/> May 12, 2017 ("But Beijing's overlapping disputes in the South and East China Seas have fed suspicions that OBOR is a Trojan horse for extending its geopolitical clout.")

⁷ Brahma Chellaney, China's Imperial Overreach, <https://www.project-syndicate.org/commentary/one-belt-one-road-china-imperialism-by-brahma-chellaney-2017-05?referrer=/TBsa5FyEfB> May 24, 2017

Over the long-term, OBOR will necessitate staggering FDI from China.⁸ OBOR-driven Chinese FDI is already increasing sharply.

China's foreign direct investment (FDI) is increasingly going along the Silk Road. In 2015, by official reckoning, its FDI in OBOR countries rose twice as fast as the increase in total FDI. Last year 44% of China's new engineering projects were signed with OBOR countries. In the first five months of 2016, the share was 52%.⁹

Located in the oil and gas rich Middle-East, the GCC¹⁰ is a natural strategic partner in China's OBOR plans¹¹ and China has sharply increased its economic investment and collaboration in the GCC.¹² The substantial wealth of the region and the resulting high standards of living and per capita wealth present an important and potentially lucrative market for trade and development. For example, out of the top richest nations on the basis of per capita millionaires, the oil and gas rich Middle-East dominates: the United Arab Emirates, Israel, Saudi Arabia and Qatar rank among the wealthiest nations.¹³ Moreover, the GCC's strategic location and proximity to both Europe and Africa re-enforce the importance of the GCC.¹⁴ In parallel, China, the second largest economy, is expected to continue growing sharply perhaps rivalling the United States in a couple of decades thus providing extensive mutually advantageous economic opportunities for both the GCC and China.

As a dynamic GCC member, the UAE will have an important role in OBOR and will likely be an anchor point of Chinese OBOR investment. A vital question will arise as Chinese FDI into the UAE intensifies; namely, whether China's FDI is "good" for the UAE. This question, framed in the context of "Chinese colonization", will be increasingly asked in other

⁸ Jane Perlez and Yufan Huang, *Behind China's \$1 Trillion Plan to Shake Up the Economic Order*, https://www.nytimes.com/2017/05/13/business/china-railway-one-belt-one-road-1-trillion-plan.html?_r=0 May 13, 2017 ("The initiative, called "One Belt, One Road," looms on a scope and scale with little precedent in modern history, promising more than \$1 trillion in infrastructure and spanning more than 60 countries.")

⁹ <http://www.economist.com/news/china/21701505-chinas-foreign-policy-could-reshape-good-part-world-economy-our-bulldozers-our-rules>

¹⁰ See <http://gccgov.org/en> (The GCC members are Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates.)

¹¹ Xi Jinping Attends Opening Ceremony of Sixth Ministerial Conference of China-Arab States Cooperation Forum and Delivers Important Speech Stressing to Promote Silk Road Spirit and Deepen China-Arab Cooperation

http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1163554.shtml (noting the vital role of GCC members in OBOR).

¹² See China's giant leap towards the GCC

<https://www.alaraby.co.uk/english/comment/2016/1/7/chinas-giant-leap-towards-the-gcc> ("Since 2014, China has been the single largest foreign business stakeholder in the Gulf Cooperation Council - and the dependence only set to grow.")

¹³ See

https://www.bcgperspectives.com/content/articles/financial_institutions_business_unit_strategy_global_wealth_2014_riding_wave_growth/?chapter=2#chapter2_section3 (ranking the UAE, Israel, Saudi, Qatar and other oil and gas rich MENA nations among the world's wealthiest nations).

¹⁴ Tian Jinchun, 'One Belt and One Road': Connecting China and the World,

<http://www.mckinsey.com/industries/capital-projects-and-infrastructure/our-insights/one-belt-and-one-road-connecting-china-and-the-world> (noting the importance to China of the Persian Gulf, the Mediterranean (through West Asia), and the Indian Ocean (via South Asia).

nations within OBOR's ambit grappling with the same concerns over Chinese FDI.¹⁵ How should the UAE consider the large wave of Chinese FDI that can be expected in the coming years?

Reviewing FDI generally involves a careful cost-benefit evaluation¹⁶ and a rational balancing of interests rather than a resort to blanket protectionism or curbs to discourage investment.¹⁷ The economic benefits of FDI are well-documented and protectionism and barriers to movement of capital is understood as bad economic policy, two additional dimensions of complexity arises in terms of outbound Chinese investment into the UAE which impacts on this traditional balancing of interests.

One, an incipient U.S.-China rivalry¹⁸ is underway which may force both the U.S. and China to utilize auxiliary power in a global game for hegemonic leadership. Inherently, a successful OBOR will further empower China and propel its rising influence¹⁹ much as the U.S.-led order has enabled U.S. exceptionalism over the prior 70 years.²⁰ This is potentially problematic inasmuch as the UAE enjoys close defense ties and cooperates closely with the United States – and hosts significant U.S. military assets.²¹ The UAE will need to take into account the possible deleterious effects on the relationship with the U.S. if for example the

¹⁵ Pakistan is another strategic player which is debating the role of China in the domestic economy. See Tayab Tariq Narula, Is China going to colonise Pakistan through CPEC? <https://www.pakistantoday.com.pk/2017/05/20/is-china-going-to-colonise-pakistan-through-cpec/> May 20, 2017 (discussing concerns and arguing that Pakistan should “play its cards wisely”; encouraging Chinese investment but simultaneously ensuring direct and concrete benefits to Pakistan to avoid being exploited). But see Athar Z Abbasi, OBOR Summit and Pakistan <http://nation.com.pk/columns/20-May-2017/obor-summit-and-pakistan> (supporting Pakistan's partnering with China and opining that Chinese motives are economic and peaceful and will help Pakistan integrate into the global economy).

¹⁶ Capital recipient nations also take into account strategic interests. See Mathieu Duchâtel et al., Absorb and Conquer: An EU Approach to Russian and Chinese Integration in Central Asia (London: European Council of Foreign Relations, May 2016), http://www.ecfr.eu/page/-/ECFR174_Absorb_and_Conquer.pdf. (“a number of Eurasian countries view OBOR as a politically critical initiative to guard against becoming dependent on Moscow.”)

¹⁷ But see the argument to ban all Chinese SOE investment in the United States. U.S. panel urges ban on China state firms buying U.S. companies <http://www.reuters.com/article/us-usa-china-idUSKBN13B1WQ>, Nov 17, 2016 (U.S. Congressional report calling for a total ban on Chinese SOE acquisitions of U.S. companies.)

¹⁸ <https://www.cato.org/publications/free-trade-bulletin/abyss-us-china-trade-war-inevitable>

¹⁹ See Giorgio Cafiero and Daniel Wagner, What the Gulf States Think of 'One Belt, One Road'

<http://thediplomat.com/2017/05/what-the-gulf-states-think-of-one-belt-one-road/> May 24, 2017 (“Many countries naturally see OBOR as Beijing's attempt to spread Chinese geopolitical influence, trade, and investment, rather than a purely benign embrace of free trade, as China's leadership maintains.”)

²⁰ Joel Slawotsky upcoming Chinese Journal of Global Governance or similar

²¹ <http://www.uae-embassy.org/uae-us-relations/key-areas-bilateral-cooperation/uae-us-security-relationship> (describing the strong military cooperation). See also https://www.washingtonpost.com/world/national-security/in-the-uae-the-united-states-has-a-quiet-potent-ally-nicknamed-little-sparta/2014/11/08/3fc6a50c-643a-11e4-836c-83bc4f26eb67_story.html?utm_term=.fc41af2fc594

Chinese military (or soft-power) becomes intertwined with the UAE. U.S. defense ties and bases serve as a deterrent to potential enemies and the UAE will need to take this factor into account.²²

Second, and both related and independent of the first factor, while OBOR has been compared to the US Marshall Plan without the *explicit* political linkage²³ to a particular governance order,²⁴ OBOR is inextricably linked with China's foreign policy²⁵ and is the lynchpin of "the great rejuvenation of the Chinese nation."²⁶ Strategic undertones exist and "[a]lthough China tends to impose fewer conditions for development assistance, it still has a clear political agenda in its lending, *though perhaps not as transparent as its Western counterparts*."²⁷ While these concerns would naturally exist over any nation's titanic infrastructure plan,²⁸ anxieties over OBOR are enhanced due to China's unique one-party political system which plays a prominent role in the governance of private companies. Most OBOR investment will be through Chinese State Owned Enterprises - thus raising the potential

²² We note that it is entirely plausible that overtime China will replace the US as an "anchor defense ally" thus obviating concerns about damaging the long-term mutual defense cooperation. This potential of course cuts against the claim that Chinese investment is purely driven by economic need and China has no intent on using OBOR to facilitate its military might.

²³ See Melvyn P. Leffler, The United States and the Strategic Dimensions of the Marshall Plan <https://doi.org/10.1111/j.1467-7709.1988.tb00477.x> (2007) (The Marshall Plan objectives were "American [] control of raw materials, industrial infrastructure, skilled manpower, and military bases. And from their viewpoint, the most fundamental strategic interest of the United States was to prevent any potential adversary or coalition of adversaries from mobilizing the resources and economic-military potential of Europe for war-making purposes against the United States.") Investment by the United States is sometimes viewed in the context of securing U.S. military advantage and projection of national security interests as opposed to helping build economies. See Charlie Campbell, China Says It's Building the New Silk Road. Here Are Five Things to Know Ahead of a Key Summit <http://time.com/4776845/china-xi-jinping-belt-road-initiative-obor/> May 12, 2017 ("The China-Pakistan Economic Corridor — connecting China's westernmost city of Kashgar to Pakistan's port city of Gwadar, some 2,000 miles away — will alone cost \$46 billion. (By comparison, the U.S. has spent \$33 billion in Pakistan since 2002, two-thirds on security.")

²⁴ Notwithstanding this purely economic context, as will be discussed infra, a natural outgrowth would logically encompass geo-political self-interest and extraction of political and military benefits. See <http://knowledge.wharton.upenn.edu/article/can-chinas-one-belt-one-road-initiative-match-the-hype/> (noting OBOR's military and strategic benefits to China).

²⁵ <http://www.economist.com/news/china/21701505-chinas-foreign-policy-could-reshape-good-part-world-economy-our-bulldozers-our-rules> ("In 2014 the foreign minister, Wang Yi, singled out OBOR as the most important feature of the president's foreign policy.")

²⁶ Robert Lawrence Kuhn, Xi Jinping's Chinese Dream, <http://www.nytimes.com/2013/06/05/opinion/global/xi-jinpings-chinese-dream.html> June 4, 2013. See also Brahma Chellaney, China's Imperial Overreach, https://www.project-syndicate.org/commentary/one-belt-one-road-china-imperialism-by-brahma-chellaney-2017-05?referrer=/TBsa5FyEfB_May_24, 2017 ("Some believe "Chinese President Xi Jinping's tenure has been marked by high ambition. His vision — the "[Chinese dream](#)" — is to make China the world's leading power by 2049, the centenary of communist rule.")

²⁷ See Simon Chesterman, Asia's Ambivalence about International Law and Institutions: Past, Present and Futures EJIL 27 (2016), 945, 976 (emphasis added).

²⁸ See Charlie Campbell, China Says It's Building the New Silk Road. Here Are Five Things to Know Ahead of a Key Summit <http://time.com/4776845/china-xi-jinping-belt-road-initiative-obor/> May 12, 2017 ("OBOR consists of \$900 billion of planned investments, making it probably the grandest investment drive put forward by a single country.")

of non-financially motivated FDI (as it does with other nations' state-owned companies).²⁹ Since Chinese SOEs exist at least in part to serve the interests of advancing the political aims of the state, the potential for non-economically-driven investment decisions further complicates the review of Chinese investment as government-controlled entities will be the conduits of capital.³⁰

In Western nations, Chinese investment has become increasingly viewed with suspicion based upon national security concerns.³¹ In particular, United States concerns have increased³² and are amplified because most Chinese companies are controlled or dominated by arms of the

²⁹See Greg Levesque, China's Evolving Economic Statecraft

<http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/> April 12, 2017 (discussing rising concerns that Chinese SOEs are employed as tools to advance CCP political and strategic objectives, transfer technology to China and make decisions based on non-financial factors).

³⁰See Charlie Campbell, China Says It's Building the New Silk Road. Here Are Five Things to Know Ahead of a Key Summit <http://time.com/4776845/china-xi-jinping-belt-road-initiative-obor/> May 12, 2017 (“In 2015, China **transferred** \$82 billion to three state-owned banks for OBOR projects. It also set up the Asian Infrastructure Investment Bank (AIIB) primarily to fund OBOR, of which the \$100 billion of initial capital may be doubled soon.”)

³¹ See Greg Levesque, China's Evolving Economic Statecraft, [http://thediplomat.com/2017/04/chinas-evolving-](http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/)

[economic-statecraft/](http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/) April 12, 2017 (“Governments in Tokyo, Taipei, and Seoul have effectively banned Chinese

investment in core sectors of their economy. Australia, the United Kingdom, and Canada have already implemented

more comprehensive investment review procedures in response to growing Chinese investment. “). See also Why

western countries are saying ‘no thanks’ to Chinese cash

<http://www.scmp.com/business/global-economy/article/2048217/why-western-countries-are-saying-no-thanks-chinese-cash> (noting heightened regulatory review and increased rejection of deals).

³² See Zhenhua Lu, <http://www.scmp.com/news/china/diplomacy-defence/article/2099622/us-aims-ramp-scrutiny-foreign-investments-defence> June 23, 2017 (noting a new Senate bill would be introduced soon to broaden and strengthen CFIUS oversight to “include foreign transactions such as joint ventures or minority investments designed to acquire equity stakes in companies with advanced technologies used in rockets, sensors, autonomous vehicles application in the military space and other projects.”). See also Keith Bradsher and Paul Mozur, *Political Backlash Grows in Washington to Chinese Takeovers* February 16, 2016

https://www.nytimes.com/2016/02/18/business/dealbook/china-fairchild-semiconductor-bid-rejected.html?_r=0

(“As Chinese companies try to snap up American tech businesses, they are setting off ripples of unease in the Obama administration and in Congress, inciting a backlash that has stopped the latest acquisition attempt.”); See Robert Fife and Steven Chase, U.S. rebukes Canada over Chinese takeover of Norsat,

<https://www.theglobeandmail.com/news/politics/us-rebukes-canada-over-chinese-takeover-of-norsat/article35294914/>

June 13, 2017 (noting strong condemnation from the U.S. over Canada's approval of a deal with a Chinese buyer over U.S. security).

Chinese state.³³ Indeed, China's unique one party political control and domination of private companies present exceptional challenges to the issue of balancing FDI and protecting national interests and has led some in the United States to call for a total ban on Chinese SOEs purchases of U.S. businesses.³⁴ Aside from potential long-term negative effects, embarking on a blanket protectionist agenda will also extract a current economic cost as rejecting more generous Chinese SOE offers may cause a loss to shareholders.³⁵

EU nations are also re-assessing national security review in light of recent expansion of Chinese acquisitions in the EU.³⁶

The economy ministers of France and Germany and Italy's industry minister voiced concern that a growing number of non-EU investors were buying up European technologies for the strategic objectives of their home country....At the same time, EU investors often face barriers when they try to invest in other countries.³⁷

In sum, China's outbound FDI into OBOR projects into the UAE will be more complicated given both the special relationship between the UAE and the U.S. as well as the unique nature of China's political system. This paper addresses the national security review

³³ https://www.nytimes.com/2017/04/07/business/us-china-toshiba-westinghouse.html?_r=0, ("Westinghouse is believed to have been targeted by Chinese spies. If a Chinese entity were to buy the company, China could obtain secrets without the cloak and dagger.") See also Jennifer Jacobs, Saleha Mohsin, and Jennifer A Dlouhy, Trump Team Takes Steps to Keep Chinese From Westinghouse, <https://www.bloomberg.com/politics/articles/2017-04-04/trump-officials-alarmed-chinese-may-bid-for-westinghouse-unit> April 5, 2017 ("The Trump administration is so alarmed that Chinese investors may try to purchase Westinghouse Electric Co.'s nuclear business that U.S. officials are trying to find an American or allied buyer for the company.")

³⁴ U.S. panel urges ban on China state firms buying U.S. companies

<http://www.reuters.com/article/us-usa-china-idUSKBN13B1WO>, Nov 17, 2016 ("In its annual report to Congress, the U.S.-China Economic and Security Review Commission said the Chinese Communist Party has used state-backed enterprises as the primary economic tool to advance and achieve its national security objectives. The report recommended Congress prohibit U.S. acquisitions by such entities by changing the mandate of CFIUS, the U.S. government body that conducts security reviews of proposed acquisitions by foreign firms.")

³⁵ See China's Ant hikes MoneyGram bid by over a third, beats rival U.S. offer, <http://www.reuters.com/article/us-moneygram-intl-m-a-ant-financial-idUSKBN17J02P> April 17, 2017 (Chinese bidder offers the highest price).

³⁶ See Macron wants limits on Chinese investments, takeovers in Europe's strategic industries <http://www.scmp.com/business/companies/article/2099613/macron-wants-limits-chinese-investments-takeovers-europes-june-23>, 2017 ("French President Emmanuel Macron vowed on Thursday to convince China's closest allies in Europe that curbing foreign takeovers in strategic industries was in their interest, warning EU governments not to be naive in global trade.")

³⁷ See France, Germany, Italy urge rethink of foreign investment in EU, <http://www.reuters.com/article/uk-eu-trade-france-idUKKBN15T1ND?il=0> (February 14, 2017)

challenges of China's OBOR investment in the UAE, namely, balancing the potential immense economic advantages - which positively aligns with the UAE Vision 2021 – and potential national security concerns. The issue of national security review of Chinese FDI will become increasingly important not just for the UAE but for the dozens of other nations which fall within OBOR's realm.

I Overview of China's OBOR: Economic and Strategic Implications

A. The Economic Rise of China and OBOR

China's rising economic preeminence has been stunning,³⁸ firmly ensconcing China as the second most powerful world economy³⁹ replacing previously second-ranked Japan.⁴⁰

With a population of 1.3 billion, China is the second largest economy and is increasingly playing an important [and influential role in development and in the global economy](#). China has been the largest contributor to world growth since the global financial crisis of 2008.⁴¹

In a remarkably short span, less than 15 years, the US economy has experienced a relatively huge decline vis a vis China on a nominal GDP basis: In 2001, the US economy was eight times bigger but by 2015 it was only 1.6 times bigger than China's.⁴² To put the decline into context, in 2001 the total GDP of the United States was nearly equal to the combined GDP of the next six top nations.⁴³ Moreover, China is on-track to surpass the United States within

³⁸ See <http://www.worldbank.org/en/country/china/overview>

³⁹ See <https://www.weforum.org/agenda/2015/07/brief-history-of-china-economic-growth/> (“China’s meteoric rise over the past half century is one of the most striking examples of the impact of opening an economy up to global markets. Over that period the country has undergone a shift from a largely agrarian society to an industrial powerhouse. In the process it has seen sharp increases in productivity and wages that have allowed China to become the world’s second-largest economy.”)

⁴⁰ Joel Slawotsky, The Virtues of Shareholder Value Driven Activism: Avoiding Governance Pitfalls, 12 Hastings Business Law Journal, 521, 555 (2016) (“However, Japan’s performance has been so lackluster that it has fallen behind China, and is now the world’s number three economy. Japan is perilously close to slipping to the fourth position and being replaced by India. By some measures India has already taken the number three position from Japan.”). See also <http://databank.worldbank.org/data/download/GDP.pdf> (noting that China is in fact nearly triple number three ranked Japan).

⁴¹ <http://www.worldbank.org/en/country/china/overview>

⁴² See <http://nationalinterest.org/feature/american-primacy-multiplex-world-17841> (“Whether the United States could lead in each of three areas — military, economic, and soft power — is questionable. China by some measures is set to overtake the United States as the world’s leading economic power. A recent estimate in [Bloomberg](#) shows that in 2001, America’s GDP (\$10.6 trillion) was eight times that of China’s. By 2015, the American GDP was only 1.6 times China’s — \$18 trillion to China’s \$11.4 trillion.”).

⁴³ World Development Indicators database, World Bank, August 2002. available at <http://www.worldbank.org/data/countrydata/countrydata.html> (“GDP growth has averaged nearly 10 percent a year—the fastest sustained expansion by a major economy in history—and has lifted more than 800 million people out of poverty. China reached all the Millennium Development Goals (MDGs) by 2015 and made a major contribution to the achievement of the MDGs globally.”).

thirty years to become the largest and most important economy.⁴⁴ On a PPP basis, the astounding fact is China's GDP has already surpassed the United States.⁴⁵

China's remarkable economic juggernaut has been fueled by an opening of markets, globalization and booming free trade which has provided immense financial benefit to Chinese companies.⁴⁶ The free market open rules trading system "led to the establishment of China as a major global exporter. It eventually allowed for the reopening of the Shanghai stock exchange in December 1990 for the first time in over 40 years and, ultimately, to China's accession to the World Trade Organisation".⁴⁷ China has also benefited from large state-owned enterprises ("SOEs") which have received preferential financing and market access as well as protected domestic markets.⁴⁸

OBOR is a planned strategic framework further propelling China's economic hegemony in Asia focusing on economic integration focusing on large-scale infrastructure projects, cultural exchanges, and broadening trade. OBOR will link China and the rest of Eurasia and consists of the land-based "Silk Road Economic Belt" (SREB) (linking China to Central Asia, West Asia, the Middle East, and Europe), and the ocean-based "Maritime Silk Road" (MSR), (linking China to the South China Sea, the South Pacific Ocean, and the wider Indian Ocean and Red Sea areas). Dozens of countries will be included within OBOR's "territorial jurisdiction" covering nearly half the world's economy and over 4 Billion people.⁴⁹

As China's economy has boomed, China has looked increasingly abroad for investment opportunities to both employ its cash hoard as well as to provide long-term growth for its citizens. Chinese outbound FDI has increased reaching almost \$140 billion in 2015.⁵⁰ This torrid growth is expected to be substantially strengthened by OBOR infrastructure projects which will require tremendous amounts of capital.⁵¹ Outbound Chinese FDI into infrastructure projects anticipated to reach well-over \$1 Trillion by 2025.⁵² Out of dozens of announced transactions,

⁴⁴ <http://www.pwc.com/gx/en/issues/economy/the-world-in-2050.html>

⁴⁵ http://databank.worldbank.org/data/download/GDP_PPP.pdf

⁴⁶ As will be discussed infra, Chinese companies differ markedly from the structures of many Western companies.

⁴⁷ See <https://www.weforum.org/agenda/2015/07/brief-history-of-china-economic-growth/> ("China's meteoric rise over the past

⁴⁸ See Sean Miner, Commitments on State-Owned Enterprises https://piie.com/publications/chapters_preview/7137/19iie7137.pdf (noting SOEs receive favorable treatment, lax enforcement of regulations and close ties to the government).

⁴⁹ <https://www.bloomberg.com/news/articles/2016-08-07/china-s-marshall-plan>

⁵⁰ Id. ("China's outward FDI grew by 13.3% in 2015, hitting a historical high of USD 139.5 billion")

⁵¹ [http://www.ey.com/Publication/vwLUAssets/EY-navigating-the-belt-and-road-en/\\$FILE/EY-navigating-the-belt-and-road-en.pdf](http://www.ey.com/Publication/vwLUAssets/EY-navigating-the-belt-and-road-en/$FILE/EY-navigating-the-belt-and-road-en.pdf) ("It is estimated that the infrastructure construction investment of the "One Belt, One Road" initiative will total US\$6t.")

⁵² [http://www.ey.com/Publication/vwLUAssets/EY-navigating-the-belt-and-road-en/\\$FILE/EY-navigating-the-belt-and-road-en.pdf](http://www.ey.com/Publication/vwLUAssets/EY-navigating-the-belt-and-road-en/$FILE/EY-navigating-the-belt-and-road-en.pdf) ("China's outward FDI is expected to continue to be about 10% in the next five years; and by 2025, China's accumulated outward FDI is projected to have increased nearly three-fold to US\$1.25t.")

the following five serve as exemplars of the enormity of the outbound infrastructure investments.⁵³

Tanzania (Bagamoyo—\$10 billion); Sri Lanka (Colombo and Habamtota—\$3 billion); Burma [Myanmar] (Maday Island—\$2.5 billion); Australia (Darwin, Newcastle, and Melbourne—\$2.2 billion) and Israel (Ashdod and Haifa—\$2.9 billion).⁵⁴

Chinese OBOR-driven outbound FDI will be invested in mergers and acquisitions, cross-border deals and joint-ventures. The unique OBOR context is that these investments will be primarily channeled through companies dominated or controlled by the Chinese government.⁵⁵ As will be discussed later, China's SOEs have decision-making structures and motivations that can be based in part (or largely) by governmental influence.⁵⁶ Since such non-financial motivations are inherently opaque, concerns exists that geo-political motivations may be present which potentially raise national security concerns. The next sub-section will briefly raise these potential apprehensions in the OBOR specific context.

B. OBOR – The Strategic and Political Context

OBOR is not simply a large-scale economic endeavor but “leverage[s] commercial actors to drive economic and military modernization, advance foreign policy objectives, and enhance Beijing's power projection abroad.”⁵⁷ Moreover, success breeds success and OBOR's success would mean China will naturally “win friends and influence nations” by the exercise of massive soft-power and therefore has far-reaching strategic significance with a global impact. One, the sheer economic size of the hub of alliances would involve over 4 billion people with a collective

⁵³ See David Bewster, China's Pakistan project: a geopolitical game-changer,

<http://www.eastasiaforum.org/2016/12/15/chinas-pakistan-project-a-geopolitical-game-changer/> December 15, 2016 (“These projects come with huge price tags and would involve the construction of roads, railways, pipelines and other major infrastructure in corridors stretching for hundreds and even thousands of kilometres.”)

⁵⁴ See Mercy A. Kuo, The Power of Ports: China's Maritime March, <http://thediplomat.com/2017/03/the-power-of-ports-chinas-maritime-march/> March 8, 2017.

⁵⁵ <http://www.economist.com/news/china/21701505-chinas-foreign-policy-could-reshape-good-part-world-economy-our-bulldozers-our-rules> (“Many big state-owned enterprises (SOEs) have an OBOR department, if only in the hope of getting money for their projects.”)

⁵⁶ Greg Levesque, China's Evolving Economic Statecraft

<http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/> April 12, 2017 (discussing the concerns that Chinese SOEs make investments based upon political factors advancing CCP strategic objectives).

⁵⁷ Greg Levesque, China's Evolving Economic Statecraft

<http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/> April 12, 2017

GDP of over 2 Trillion USD.⁵⁸ Second, OBOR envisions OBOR members benefitting from an interconnected transport network by land, sea and air. Third, OBOR will create numerous free-trade zones and hubs which will support the production and marketing within OBOR as well as export. Indeed it would be naïve to expect that a large powerful nation wielding titanic economic soft power⁵⁹ will not gravitate towards exercising legitimate self-advantage in the geo-political context.⁶⁰

A critical element of Xi's strategy to realize the Chinese dream is the "one belt, one road" (OBOR) initiative, whereby China will invest in infrastructure projects abroad, with the goal of bringing countries from Central Asia to Europe firmly into China's orbit.⁶¹

One likely advantage will arise from the likely increased use of the Chinese dominated AIIB as well as the NDB,⁶² a parallel to United States advantage stemming from post WW2 United States influence over the IMF and World Bank.⁶³ The likely increasing importance of the AIIB and NDB in OBOR will significantly raise these international financial institutions' profile and strategic influence.

[China] set up the AIIB with \$100 billion of initial capital. The bank is not formally part of OBOR but the loans approved at its first general meeting—roads in Pakistan, Tajikistan and Uzbekistan, for example—are all in Silk Road countries.⁶⁴

This aspect alone will enhance prospects for a Chinese-led governance order and is by definition an important geo-political factor advancing China's ascendancy.⁶⁵

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⁵⁹ See Justina Crabtree and Cheang Ming, Why soft power could be the real value of China's massive Belt and Road project, [http://www.cnbc.com/2017/05/22/one-belt-one-road-why-the-real-value-of-chinas-project-could-like-in-](http://www.cnbc.com/2017/05/22/one-belt-one-road-why-the-real-value-of-chinas-project-could-like-in-soft-power.html)

[soft-power.html](http://www.cnbc.com/2017/05/22/one-belt-one-road-why-the-real-value-of-chinas-project-could-like-in-soft-power.html) May 2, 2017 ("noting the potential increase in soft power attributable to OBOR).

⁶⁰ "One Belt, One Road" Will Define China's Role as a World Leader," South China Morning Post, April 2, 2015, <http://www.scmp.com/comment/insight-opinion/article/1753773/one-belt-one-road-initiative-will-define-chinas-role-world>. See also **See David Bewster, China's Pakistan project: a geopolitical game-changer**, <http://www.eastasiaforum.org/2016/12/15/chinas-pakistan-project-a-geopolitical-game-changer/> **December 15, 2016** ("China's virtual remoteness allowed it to keep its hands clean of domestic political and security problems...But China's role in the region may be about to fundamentally change." Indeed, OBOR has "the potential to fundamentally alter China's role in South Asia and the entire strategic make-up of the region.")

⁶¹ Brahma Chellaney, China's Imperial Overreach, <https://www.project-syndicate.org/commentary/one-belt-one-road-china-imperialism-by-brahma-chellaney-2017-05?referrer=/TBsa5FyEfB> May 24, 2017

⁶² "Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road," PRC Ministry of Foreign Affairs, March 28, 2015, http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1249618.shtml

⁶³ See use of USD and US ability to control lending

⁶⁴ <http://www.economist.com/news/china/21701505-chinas-foreign-policy-could-reshape-good-part-world-economy-our-bulldozers-our-rules>

In addition, as an important global economic actor, China will likely benefit as did the United States with respect to sway over allied nations – since enlightened financial self-interest is a proximate shaper of foreign policy.⁶⁶

Most strikingly, following the Permanent Court of Arbitration’s finding against China’s position on the South China Sea, the European Union failed to adopt a common position toward the ruling, as two of the EU members, Hungary and Greece, both OBOR partners, were cited in media reports as wary of upsetting their economic relations with Beijing.⁶⁷

Military and strategic benefits exist as well which can help propel China into a hegemonic global power rivalling and/or surpassing the United States.

There is plausibility in the argument that developing routes, naval support and securing assets, supply lines, and political and economic ties in the Middle East, Africa, and Indian Ocean littoral are a parallel objective for China strategically and defensively in the OBOR project, in addition to the grand and benign objectives promoted in the OBOR rhetoric.⁶⁸

Indeed, China’s OBOR may very well constitute a manifestation of nationalism empowered by the economic power of SOEs.⁶⁹ Inevitably, a successful OBOR will bring enormous advantage to China in the geo-political and military theatres.⁷⁰ This is not a critique of OBOR or of China – the United States has also exploited to full advantage the U.S. led post WW2 global governance architecture such as the IMF and World Bank and dozens of U.S. military bases are embedded in strategic locations throughout Europe, the Persian Gulf and Asia.

⁶⁵ See Andrew Hammond, The TPP gives the U.S. — rather than China — the power to influence global trade <http://news.nationalpost.com/full-comment/andrew-hammond-the-tpp-gives-the-u-s-rather-than-china-the-power-to-influence-global-trade> Oct 6, 2015 (“As former President Obama argued with respect to the TPP: the treaty will enable Washington, *rather than Beijing*, to create the foundation for “21st-century trade rules,” including standards on trade, investment, data flows and intellectual property.”)

⁶⁶ See Steven Liao and Daniel McDowell, “No Reservations: International Order and Demand for the Renminbi as a Reserve Currency,” *International Studies Quarterly* (2016) (“Research has shown that countries that receive more Chinese aid and investment or that sign bilateral currency swap agreements (BSAs) to exchange RMB are more likely to side with China on votes at the United Nations.”)

⁶⁷ See Robin Emmott, “EU’s statement on South China Sea reflects divisions,” Reuters, July 15, 2016, <http://www.reuters.com/article/southchinasea-ruling-eu-idUSL8N1A130Y>

⁶⁸ See Mercy A. Kuo, The Power of Ports: China’s Maritime March, <http://thediplomat.com/2017/03/the-power-of-ports-chinas-maritime-march/> March 8, 2017.

⁶⁹ Larry Backer, Vanderbilt (“The other is China, where its project of outbound nationalism—the One Belt One Road policy, relies to some extent on the projection of commercial power through Chinese SOEs.”)

⁷⁰ See Mercy A. Kuo, The Power of Ports: China’s Maritime March, <http://thediplomat.com/2017/03/the-power-of-ports-chinas-maritime-march/> March 8, 2017 (“China’s expanding naval presence does not only have strategic implications for the United States, it has implications for all countries using international sea lanes to conduct business.”).

Another dimension to the strategic issue is that a successful OBOR will enable China to establish itself as a dynamic global leader and equal to the United States.

OBOR matters because it is a challenge to the United States and its traditional way of thinking about world trade. In that view, there are two main trading blocs, the trans-Atlantic one and the trans-Pacific one, with Europe in the first, Asia in the second *and America the focal point of each*. Two proposed regional trade deals, the Trans-Pacific Partnership and the Transatlantic Trade and Investment Partnership, embody this approach. But OBOR treats Asia and Europe as a single space, *and China, not the United States, is its focal point*.⁷¹

OBOR investment will be a central factor in determining China's ultimate success in both economic and strategic spheres. By definition, an ascendant China is a national security issue for the United States and coupled with the unique nature of Chinese corporate governance (and the CCP's dominant role in Chinese corporate conduct), the possible non-financially motivated investment is an important aspect of OBOR. As a close military ally of the United States, this rivalry impinges on the self-interest the UAE and is a calculus the UAE should take into account.

C. Evaluating Chinese SOE Investment

In China, many large companies are SOEs, and are the most common form of entity that will be involved in OBOR investment. Chinese SOEs receive preferential treatment in terms of access to capital and obtaining regulatory approvals⁷² and are employed in the advancement of Chinese governmental aims "serv[ing] political goals, including fostering indigenous innovation, supporting social stability and crisis response in China, and advancing economic initiatives abroad such as 'One Belt, One Road.'"⁷³

By definition, all SOEs raise national security concerns because of their connection to their home states. Investments made by states trigger different regulatory sensitivities compared to considerations raised by private companies because of the possibility that in conducting business government owned or controlled entities may utilize non-profit motivations and substitute political ambitions instead of (or in addition to) profit-making.⁷⁴

⁷¹ <http://www.economist.com/news/china/21701505-chinas-foreign-policy-could-reshape-good-part-world-economy-our-bulldozers-our-rules> (emphasis added).

⁷² See Wendy Leutert, China's Reform of State-Owned Enterprises, 21 ASIA POLICY 83, 86 (2016), available at <https://www.brookings.edu/wp-content/uploads/2016/07/Wendy-Leutert-Challenges-ahead-in-Chinas-reform-of-stateowned-enterprises.pdf> ("State firms continue to enjoy advantages in obtaining bank loans and regulatory approvals, even if their privileged capital access has gradually declined. The central government currently owns 106 companies, out of which 47 firms ranked in the 2014 Fortune Global 500.")

⁷³ Wendy Leutert, China's Reform of State-Owned Enterprises, 21 ASIA POLICY 83, 86 (2016), available at <https://www.brookings.edu/wp-content/uploads/2016/07/Wendy-Leutert-Challenges-ahead-in-Chinas-reform-of-stateowned-enterprises.pdf>

⁷⁴ Joel Slawotsky, Sovereign Wealth Funds as Emerging Financial Superstars: How U.S. Regulators Should Respond, 40 Geo. J. Int'l L. 1239 (2009).

These anxieties over state-owned businesses are not unique to China and relate to all SOEs in general.

[H]ost countries cannot summarily assume that [SOE] investments will never be guided by political objectives or that the management of [SOEs] will never be motivated by 'nationalistic considerations' deviating from conventional wealth maximization....Russia and China are regularly singled out as countries with major strategic and political interests shown in their SWF usage. These countries also have strategies to control critical assets, such as infrastructure, and this raises issues of market integrity as well as concerns over national security.⁷⁵

Thus, these concerns are tied to any government-owned business which potentially subjugates (or at a minimum is an additional motivation) private market interests to the political interests of the state.⁷⁶ Indeed, such concerns are not entirely new. As an illustration of prior concerns with respect to government-owned businesses and their investment decisions was the opposition over Dubai Ports' attempt to invest in the United States. In 2007, the Dubai government-owned Dubai Ports World sought to acquire port terminals located in the United States. Members of the U.S. Congress, concerned about a foreign government controlling the flow of goods and people into the United States voiced strenuous opposition on national security grounds.⁷⁷ In this respect, Chinese SOEs are no different than other state-owned businesses.

However, there are additional factors with respect to China's SOEs which increase national security concerns of FDI recipient nations; China's political structure and unique state dominance/control of SOEs presents a "different" type of investor. China is a communist economic order and the state is purposely directly involved in all critical economic sectors. "The way that the Chinese government exercises 'state capitalism' is that it directly or indirectly controls a large number of powerful SOEs, especially in the strategic and key sectors."⁷⁸

⁷⁵ Julien Chaisse, *Demystifying Public Security exception and Limitations on Capital Movement: Hard Law, Soft Law and Sovereign Investments in the EU Internal Market*, 37 U. Pa. J. Int'l L. 594-95.

⁷⁶ See *Sovereign Wealth Fund Acquisitions and Other Foreign Government Investments in the United States: Assessing the Economic and National Security Implications: Testimony Before the Comm. on Banking, Housing, and Urban Affairs*, 110th Cong. 4 (2007) [hereinafter *Sovereign Wealth Fund Testimony*] (testimony of Edwin M. Truman, Senior Fellow, Peterson Institute for International Economics), available at http://banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=e4fe589e-90aa-46e0-afe9-1efb57fcd69c ("[T]hese trends [in the growth of state-owned businesses and their investment activities] involve a dramatic increase in the role of governments in the ownership and management of national assets. This characteristic is unnerving and disquieting. It calls into question our most basic assumptions about the structure and functioning of our economies and the international financial system.")

⁷⁷ See Bashar H. Malkawi, 'The Dubai Ports World Deal and U.S. Trade and Investment Policy in an Era of National Security', 7 *The Journal of World Investment & Trade* 443 (2006)

⁷⁸ Julien Chaisse, *Demystifying Public Security exception and Limitations on Capital Movement: Hard Law, Soft Law and Sovereign Investments in the EU Internal Market*, 37 U. Pa. J. Int'l L. 583

[W]hen governments undertake commercial activities, they remain answerable to a wide range of societal pressures that their governance structures are designed to take into account. For this reason, governments may encounter difficulties in making credible commitments to pursue only “commercial” objectives, since their *raison d'être* involves being sensitive to political pressures and to pursuing non-commercial objectives.⁷⁹

The *raison d'être* of the Chinese SOE is the advancement of the CCP's objectives thus amplifying the general “state-ownership” concerns. China is ruled by one political party, the CCP, and its domination of Chinese SOEs is of critical importance. The CCP wields near total non-financial control over its citizenry; singularly legislates the law of the land and CCP appointed judges rule on the interpretation of law in courts. In China, pro-Western reformers [are accused] of “worshipping Western ways,” “glorifying Western models” or “caving in to Western pressures.”⁸⁰ The CCP views Western democracy as flawed, proclaiming the “ultimate defeat of capitalism would enable Communism to emerge victorious.”⁸¹ Clearly the freedom and ability to freely create wealth and retain it for private purposes is a UAE national interest which would be incompatible in a Communist global order. These facts are not meant as a criticism of China which has expressed no intent (nor is there any evidence) of aggressively advancing such goals. Nevertheless, Chinese SOEs may have motivations that align with CCP goals and those aims may not necessarily correlate with UAE national security interests. At a minimum, the question is whether Chinese governmental aims – expressed potentially via Chinese SOE investments into the UAE – raise national security concerns with a Western looking UAE.

While the United States government also wishes to advance its geo-political goals, the key distinction is that the United States government's pursuit of policies is not part of private U.S. company investment decision making. In evaluating FDI from United States companies, the presumption is the decision to invest is 100 percent profit motivated; but the same cannot innately be said of Chinese SOE investment.

China's state-owned enterprises (SOEs), as well as ostensibly private entities, serve on the front lines of Beijing's economic statecraft. These companies' activities increasingly signal political, not commercial, goals and are directed by the Communist Party of China (CPC), which rules China's one-party state.⁸²

⁷⁹ Kathryn Gordon & April Tash, “Foreign Government-Controlled Investors and Recipient Country Investment Policies: A Scoping Paper” OECD Investment Division, January 2009 at 10, online: www.oecd.org/dataoecd/1/21/42022469.pdf

⁸⁰ Robert Lawrence Kuhn, Xi Jinping's Chinese Dream, <http://www.nytimes.com/2013/06/05/opinion/global/xi-jinpings-chinese-dream.html> June 4, 2013

⁸¹ <https://www.bloomberg.com/politics/articles/2017-01-22/china-slams-western-democracy-as-flawed-as-trump-takes-office> (“Democracy has reached its limits, and deterioration is the inevitable future of capitalism, according to the People's Daily, the flagship paper of China's Communist Party.”).

⁸² Greg Levesque, China's Evolving Economic Statecraft

<http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/> April 12, 2017

It is thus crucial to internalize that Chinese SOEs OBOR-related investments in the UAE may very well harbor an agenda to advance geo-political and strategic goals in the political interests of the CCP. Chinese SOEs constitute “important forces to implement” the decisions of the Party to “enhance overall national power, economic and social development, and people’s wellbeing.”⁸³ Furthermore, these concerns can be expected to grow. The CCP is apparently strengthening its control over SOEs.

In October 2016, Xi effectively defined the corporate missions of China’s SOEs, declaring that they should “become important forces to implement” the decisions of the Party to “enhance overall national power, economic and social development, and people’s wellbeing.” Xi’s pronouncement is having an immediate effect as the CPC moves to consolidate power over SOEs corporate operations. For example, a number of state-owned firms, including FAW Car Co. and Sinoma Science & Technology Co., are amending their articles of association to provide internal Party Committees a “central role” in corporate management. This includes requiring the board of directors to seek direction from the Party Committee before making “major decisions.” Many SOEs are also combining the role of company chairman and Party secretary, a policy reversal dashing any notion of separation between CPC and SOE corporate affairs. These policies and the elevation of Party Committees within SOEs reflect a coordinated and gradual reorientation of SOE reforms consolidating CPC control over core industries deemed vital to future prosperity and power.⁸⁴

The potential motivation to further the goals of an alternative vision of global governance by a private entity investing and buying companies is a very different context for review than traditional corporate acquirers.

In addition, investments and joint ventures from SOEs may not be an efficient allocation of resources or be a profit-generator.⁸⁵ If investments are not based upon pure economic motivations, the investments may prove to be less than stellar performers or at a minimum, fail to achieve the potential return. Crucially, such motivations bring potential economic risk/loss of potential into the calculus for a recipient nation.

⁸³ Greg Levesque, China’s Evolving Economic Statecraft

<http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/> April 12, 2017

⁸⁴ Greg Levesque, China’s Evolving Economic Statecraft

<http://thediplomat.com/2017/04/chinas-evolving-economic-statecraft/> April 12, 2017

⁸⁵ See, e.g., Debt risk for main state-owned enterprises is controllable: China, THE ECONOMIC TIMES (India) (Jan. 27, 2017), http://economictimes.indiatimes.com/articleshow/56806126.cms?utm_source=contentofinterest&utm_medium=ext&utm_campaign=cppst (“While many state companies are bloated and inefficient, China has relied on them more heavily over the past year to generate economic growth in the face of cooling private investment.”)

Given China's insistence on government-to-government deals on projects and loans, the risks to lenders and borrowers have continued to grow. Concessionary financing may help China's state-owned companies bag huge overseas contracts; but, by spawning new asset-quality risks, it also exacerbates the challenges faced by the Chinese banking system.

The risk of non-performing loans at state-owned banks is already clouding China's future economic prospects. Since reaching a peak of \$4 trillion in 2014, the country's foreign-exchange reserves have fallen by about a [quarter](#). The ratings agency Fitch has [warned](#) that many OBOR projects – most of which are being pursued in vulnerable countries with speculative-grade credit ratings – face high execution risks, and could prove unprofitable.⁸⁶

China has acknowledged the crucial need to reform its inefficient SOEs and doing so would lend confidence to recipient nations and lower national security concerns.⁸⁷ However, economic considerations have not trumped political considerations. Rather than utilizing pure economic factors as the benchmark for SOE reform, political factors are considered which may impinge on the profit-making calculus private sector companies engage in.⁸⁸ In terms of enacting reforms to China's SOEs, economic performance is surely a factor but not the controlling factor as it would be in a private sector business.

Yet such performance concerns are a lesser priority for SOEs in strategic industries, where political rather than market logic remains paramount.⁸⁹

This demonstrates that SOE investment into the UAE may potentially be made based at least in part upon non-economic factors. The fact that some OBOR investments into the UAE may not have pure economic profit as the driving factor may constitute an inefficient allocation of financial resources and economic potential in addition to raising national security concerns.

D. The USA-China Rivalry

Another unique aspect UAE review should consider is the incipient rivalry for global hegemony currently underway. The existing political and economic mechanics of the global financial governance order – trading, lending, development - has been dominated by the United

⁸⁶ Brahma Chellaney, China's Imperial Overreach, <https://www.project-syndicate.org/commentary/one-belt-one-road-china-imperialism-by-brahma-chellaney-2017-05?referrer=/TBsa5FyE#B May 24, 2017>

⁸⁷ For an excellent discussion of SOE reforms see Wendy Leutert, China's Reform of State-Owned Enterprises, 21 ASIA POLICY 83, 86 (2016), available at <https://www.brookings.edu/wp-content/uploads/2016/07/Wendy-Leutert-Challenges-ahead-in-Chinas-reform-ofstateowned-enterprises.pdf>.

⁸⁸ See id. Wendy Leutert, China's Reform of State-Owned Enterprises, 21 ASIA POLICY 83, 86 (2016), available at <https://www.brookings.edu/wp-content/uploads/2016/07/Wendy-Leutert-Challenges-ahead-in-Chinas-reform-ofstateowned-enterprises.pdf>.

⁸⁹ Wendy Leutert, China's Reform of State-Owned Enterprises, 21 ASIA POLICY 83, 86 (2016), available at <https://www.brookings.edu/wp-content/uploads/2016/07/Wendy-Leutert-Challenges-ahead-in-Chinas-reform-ofstateowned-enterprises.pdf>

States and U.S. led international financial institutions such as the IMF, the World Bank and the ICSID – which are all based in Washington D.C.⁹⁰ In addition, the United States Dollar – the currency of the world’s largest economy - has reigned supreme as the most desired currency of international business and global trade⁹¹ and forms the principle reserve currency of the world’s central banks.⁹² Moreover, American military power has been vigorously projected to enforce the existing architecture; dozens of United States land, sea and air military bases are embedded strategically in a large number of nations and powerful American warships and aircraft carriers sail throughout the strategic waterways of the globe.⁹³

However, China’s ascent presents an opportunity for developing a complementary – or potentially alternative – governance architecture. For example, as a counter balance to the IMF, World Bank and ADB, China has launched a Chinese dominated institution – the AIIB⁹⁴ and will likely leverage the AIIB to extract strategic benefits⁹⁵ as the United States did with the existing

⁹⁰ See Larry C. Backer, International Financial Institutions (IFIs) and Sovereign Wealth Funds (SWFs) as instruments to combat corruption and enhance fiscal discipline in Developing States <http://www.qscience.com/doi/pdf/10.5339/irl.2015.swf.5> (discussing the IMF and World Bank as international financial institutions and discussing their influence in shaping SWF conduct and policy).

⁹¹ See M.J. Stephey, A BRIEF HISTORY OF BRETTON WOODS SYSTEM <http://content.time.com/time/business/article/0,8599,1852254,00.html> Oct 21, 2008 (“Since the end of World War II, the U.S. dollar has enjoyed a unique and powerful position in international trade.”)

⁹² Indeed, the World Bank ranks global central bank reserves in gold and US Dollars.

<http://data.worldbank.org/indicator/FI.RES.TOTL.CD?end=2015&start=2015&view=bar>

⁹³ VIJAY PRASHAD End of exceptionalism <http://www.frontline.in/world-affairs/end-of-exceptionalism/article8811042.ece> (“U.S. military bases litter the continents of the world, and U.S. warships move from ocean to ocean, bearing terrifying arsenals.”). The United States maintains a large number of air, land and sea bases in the UK, Germany, Italy, Turkey, South Korea, Saudi Arabia, Bahrain, Qatar, Japan, Australia, etc. See List of US military bases world-wide. See List of U.S. Bases https://www.google.com/maps/d/viewer?mid=zOzzuQ7-jtRM.k7KCFP1zgCAw&hl=en_US

⁹⁴ See S.R. Why China is creating a new "World Bank" for Asia <http://www.economist.com/blogs/economist-explains/2014/11/economist-explains-6> Nov 11, 2014 (“[T]he AIIB has stoked controversy because Asia already has a multilateral lender, the Asian Development Bank (ADB). Why is China creating a new development bank for Asia?”)

⁹⁵ Brahma Chellaney, China’s Imperial Overreach, <https://www.project-syndicate.org/commentary/one-belt-one-road-china-imperialism-by-brahma-chellaney-2017-05?referrer=/TBsa5FyEfB> May 24, 2017 (“So, repeating a mantra of connectivity, China dangles low-interest loans in front of countries in urgent need of

infrastructure banks.⁹⁶ The Chinese led OBOR clearly is part of this potential re-orientation of the global power structure which will naturally lend itself to geo-strategic intrigues.⁹⁷ Moreover, with capital investment, the role of the AIIB (and NDB) may become significant. “Although China tends to impose fewer conditions for development assistance, it still has a clear political agenda in its lending, though perhaps not as transparent as its Western counterparts.”⁹⁸

Referring to China’s move to establish the AIIB, former U.S. Treasury Secretary Summers called 2015 “the moment the United States lost its role as the underwriter of the global economic system.”⁹⁹

I can think of no event since Bretton Woods comparable to the combination of China’s effort to establish a major new institution and the failure of the US to persuade dozens of its traditional allies, starting with Britain, to stay out of it.¹⁰⁰

China acknowledges that its rise had global implications. Chinese President Xi has called for “a regional order that is more favorable to Asia and the world”, noting that China, “[b]eing a big country means shouldering greater responsibilities for regional and world peace and development.”¹⁰¹ China’s leadership believes:

infrastructure, thereby pulling those countries into its economic and security sphere. China stunned the world by [buying](#) the Greek port of Piraeus for \$420 million. From there to the Seychelles, Djibouti, and Pakistan, port projects that China insisted were purely commercial have acquired military dimensions.”)

⁹⁶ Michael Schuman Whose Money Will the World Follow? <http://www.bloomberg.com/news/articles/2015-05-14/u-s-china-rivalry-whose-money-will-the-world-follow->

May 14, 2015 (“The AIIB has come to represent those ambitions. Since the bank would be steered by China, Beijing could use it to draw other emerging nations into its orbit and advance its own political and economic interests. That was made clear when the mainland rejected Taiwan’s application to join, apparently over what to call the island. China still considers it a runaway province.”).

⁹⁷ Subedi at page 62 (“It is natural that when nations become more prosperous and more powerful, they try to find their own independent role and place in the galaxy of nations.”)

⁹⁸ See Simon Chesterman,

⁹⁹ Time US leadership woke up to new economic era <http://larrysummers.com/2015/04/05/time-us-leadership-woke-up-to-new-economic-era/> Apr 5, 2015

¹⁰⁰ Time US leadership woke up to new economic era <http://larrysummers.com/2015/04/05/time-us-leadership-woke-up-to-new-economic-era/> Apr 5, 2015

¹⁰¹ Michael Schuman Whose Money Will the World Follow? <http://www.bloomberg.com/news/articles/2015-05-14/u-s-china-rivalry-whose-money-will-the-world-follow-> May 14, 2015 (“The scuffle over the AIIB “is about the U.S. trying to retain political power, and it is about the Chinese challenging it,” says Gerald Curtis, an Asia specialist at Columbia University.”)

China should take the lead in shaping the “new world order” and safeguarding international security, one of the latest moves putting him in stark contrast to Donald Trump and the US president’s “America First” policy.¹⁰²

While President Trump is well-known to perceive China as an adversary,¹⁰³ former President Obama also shared this view. This underscores the long-term American perception - regardless of political affiliation- that China’s ascent poses a challenge to American dominance.

The first [upcoming challenge] is contested norms, in which increasingly powerful revisionist states and select non-state actors will use any and all elements of power to establish their own sets of rules in ways unfavorable to the United States and its interests.¹⁰⁴

China has already advanced the prospect of a reduced global American role to a far greater extent by masterfully integrating – and immensely benefiting from – globalization and free trade. Indeed, an impressive array of metrics indicates that China is a bonafide rival “of equals” as compared to the United States. China is the lone nation that can wield enough military power to openly confront the United States¹⁰⁵ and a recent comprehensive report¹⁰⁶ indicates that China’s military is close to reaching parity with the Western powers.¹⁰⁷ Aside from military empowerment, China is also investing substantially in education¹⁰⁸ and is attempting to rival Western academic institutions.¹⁰⁹ In the important technological spheres of the coming decades, robotics, space exploration and artificial intelligence, Chinese aspirational hegemony is self-evident. A Chinese White Paper envisions China as the most powerful space nation¹¹⁰ and China is indeed on course to achieve a relative parity or perhaps superiority to the United States exploration.¹¹¹ NASA concedes China is a serious contender for global leadership in space.¹¹²

¹⁰² <http://finance.yahoo.com/news/chinese-president-xi-jinping-vowed-084654413.html>

¹⁰³ <https://www.brookings.edu/blog/order-from-chaos/2017/01/19/trumps-adversarial-view-of-china-is-out-of-line-with-the-american-public/> (“The Trump administration enters office with an undisguised antipathy towards China.”).

¹⁰⁴ Defense Technical Information Center (DTIC), http://www.dtic.mil/doctrine/concepts/joe/joe_2035_july16.pdf at page 4

¹⁰⁵ <http://thediplomat.com/2017/01/international-law-is-under-siege-in-the-south-china-sea/>

¹⁰⁶ <http://www.iiss.org/en/publications/military-s-balance>

¹⁰⁷ <http://www.japantimes.co.jp/news/2017/02/15/asia-pacific/chinese-weapons-warplanes-reaching-near-parity-west-study/>

¹⁰⁸ <http://www.nytimes.com/2013/01/17/business/chinas-ambitious-goal-for-boom-in-college-graduates.html>

¹⁰⁹ <https://www.theguardian.com/education/2010/feb/02/chinese-universities-will-rival-oxbridge>

¹¹⁰ <http://www.spaceref.com/news/viewsr.html?pid=49722>

¹¹¹ <http://nationalinterest.org/blog/the-buzz/parity-beginning-emerge-between-america-china-space-16844>

¹¹² <https://www.bloomberg.com/graphics/2016-asia-space-race/china.html>. Another potential new architect, India is also rapidly expanding its technological prowess. See <http://timesofindia.indiatimes.com/india/indias-record-satellite-launch-ramps-up-space-race-chinese-media/articleshow/57248903.cms>

Chinese economic clout, its projection to become the biggest economy,¹¹³ OBOR, AIIB and the fact it represents a military the U.S. must respect all signal China has developed into a great international power and is positioned to influence the global governance architecture.¹¹⁴ OBOR will play a crucial role in enabling China to realize its grand objectives with China's ambition hinging greatly on the ability to dominate and to profit from the trading routes – the “Silk Road” (OBOR).¹¹⁵ Chinese prowess in Asia and beyond is presently almost inextricably linked upon the success of OBOR. Built on the same rationale as the “ancient Silk Road,”¹¹⁶ Chinese companies and workers stand to gain tremendously from the massive infrastructure program.¹¹⁷ This ambition certainly represents a conflicts of interest with the United States. The issue of the US-Chinese rivalry is not whether but how this impacts UAE review of inbound FDI since the UAE is presently a close defense ally of the United States.¹¹⁸ The next section will discuss the context of Chinese investment in the GCC and the UAE.

¹¹³ See Malcolm Scott and Cedric Sam <http://www.bloomberg.com/graphics/2016-us-vs-china-economy/> China and the United States: Tale of Two Giant Economies May 12, 2016 (“China wants to overtake the U.S. to become the world’s biggest economy. That could happen in about 10 years if China can pull off the tricky transition from a government-run, centralized growth model to a more market-driven one where services and consumption play a greater part.”).

¹¹⁴ See David Arase, China’s Two Silk Roads Initiative – What It Means for Southeast Asia, Southeast Asian Affairs, (2015) 25 at 28 (A major international actor has “the ability to determine the nature of international order”.)

¹¹⁵ See Giorgio Cafiero and Daniel Wagner, What the Gulf States Think of 'One Belt, One Road' <http://thediplomat.com/2017/05/what-the-gulf-states-think-of-one-belt-one-road/> May 24, 2017 (“Some of China’s geopolitical adversaries such as the United States, Japan, and India are concerned about such strategic implications and, in India’s case, [sovereignty issues](#).”)

¹¹⁶ See <http://draconia.jp/blog/wp-content/uploads/2013/10/SilkRoadMapOKS.jpg>

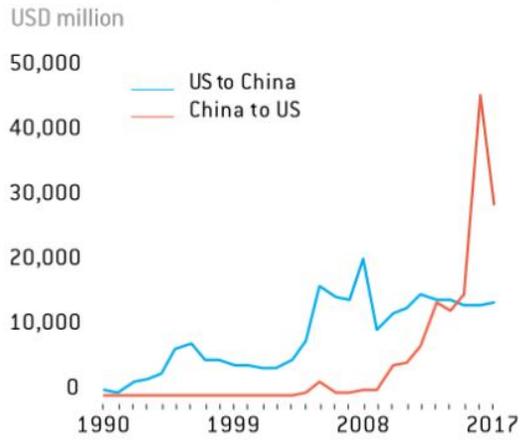
¹¹⁷ See David Bewster, China’s Pakistan project: a geopolitical game-changer, <http://www.eastasiaforum.org/2016/12/15/chinas-pakistan-project-a-geopolitical-game-changer/> December 15, 2016 (“Beijing has many motivations for these ambitious undertakings. Most immediately, they put to work Chinese infrastructure companies that are facing a tough domestic market. They also promise the development of new regional production chains with China at the centre.”)

¹¹⁸ See Alex Capri, China's Growing Influence On Middle East Shouldn't Be Lost On An Impulsive Trump Administration <https://www.forbes.com/sites/alexcapri/2017/06/21/china-obor-qatar-middle-east-america/#5ecb2bc770e8> June 21, 2017 (“Now try and imagine a scenario where China has become a resident power in the Middle East. How much would the geopolitical calculus have changed between Saudi Arabia, Iran, Qatar and the Americans? It's a fair question: The Chinese have been buying and building their way into the international landscape at a pace never before seen in history. And now China is rolling out One-Belt-One Road (OBOR), the mother of all infrastructure master plans.”)

Conclusion

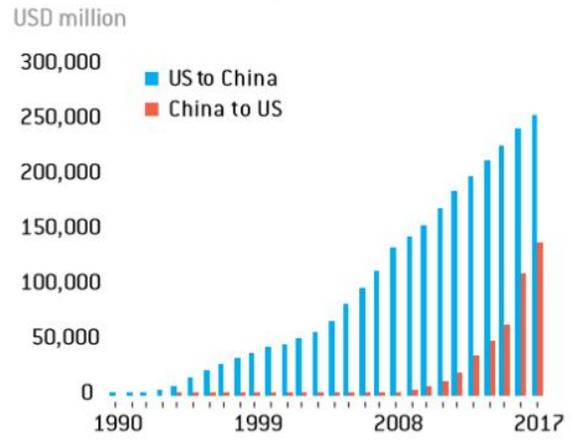
Chinese OBOR-driven FDI presents immense opportunity – and potential risk – to host states. While both China and the U.S. stand to gain tremendously from vigorous profit-motivated cross-border investment, national security factors cannot – and should not – be ignored. Particularly in the context of the China-US rivalry, it is not unreasonable to presume that Chinese SOEs will seek to obtain non-financial benefits in the context of the broad China-U.S. competition. These concerns over state-owned investors are heightened since the CCP has extensive control over the SOEs who will be investing in the U.S..

FIG ES-1: Annual Value of FDI Transactions between the US and China, 1990-2017



Source: Rhodium Group.

FIG ES-2: Cumulative Value of FDI Transactions between the US and China, 1990-2017



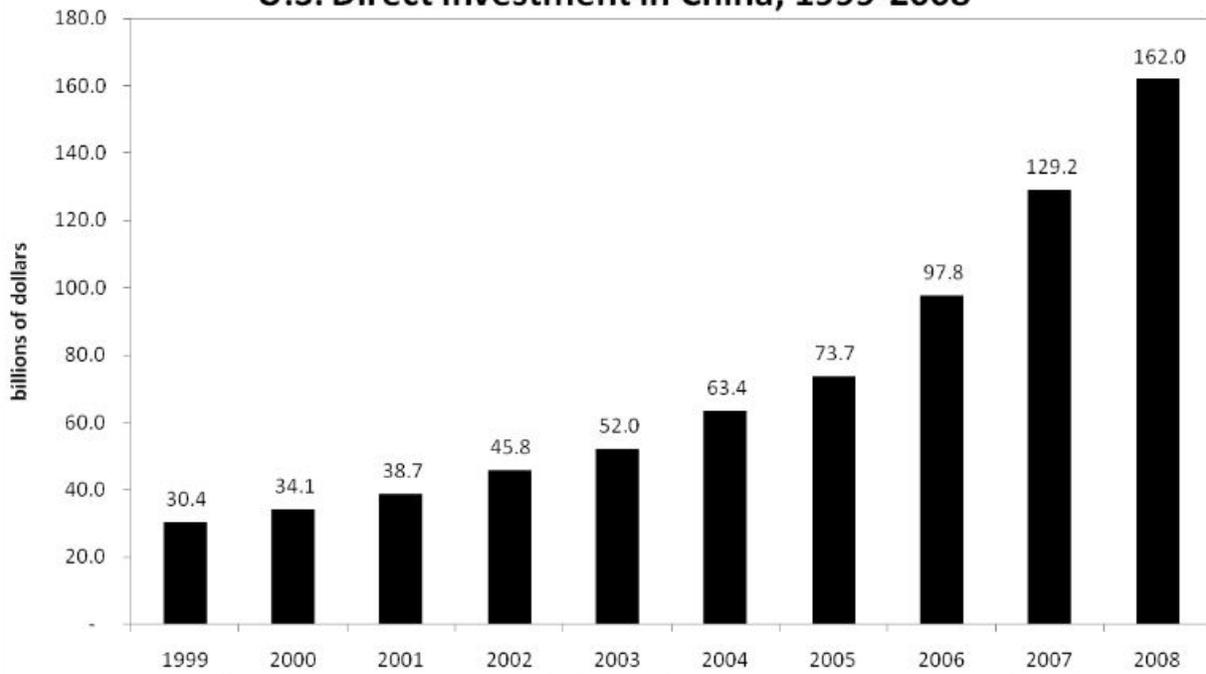
Source: Rhodium Group.

Table 3: Major Sources of FDI in China, 1985-2008

Sources	Major Sources of FDI in China, 1985-2008							
	1985-1990		1991-2000		2001-2008		1985-2008	
	Value (Billion USD)	Share (%)	Value (Billion USD)	Share (%)	Value (Billion USD)	Share (%)	Value (Billion USD)	Share (%)
The World	15.9	100.0	327.7	100.0	510.7	100.0	854.3	100.0
Hong Kong	9.7	60.9	159.0	48.5	178.2	34.9	346.9	40.6
Taiwan	0.0	0.0	25.8	7.9	21.4	4.2	47.2	5.5
Japan	2.2	13.6	25.2	7.7	37.4	7.3	64.7	7.6
Korea	0.0	0.0	10.5	3.2	31.5	6.2	42.0	4.9
Singapore	0.2	1.3	16.8	5.1	20.6	4.0	37.6	4.4
USA	1.9	12.1	27.6	8.4	29.5	5.8	55.1	6.4
Germany	0.2	1.3	6.1	1.9	9.2	1.8	15.5	1.8
UK	0.2	1.2	8.4	2.6	6.9	1.4	15.5	1.8
France	0.1	0.9	4.0	1.2	4.4	0.9	8.6	1.0

Source: table from: Yuqing Xing, "Facts About and Impacts of FDI on China and the World Economy," China, an International Journal, Volume 8, Number 2, September 2010; Table 1, page 7, Economic Policy Institute.

U.S. Direct Investment in China, 1999-2008



Source: Bureau of Economic Analysis, "Operations of Multinational Companies, U.S. Direct Investment Abroad," and Economic Policy Institute. See <http://bea.gov/international/index.htm#iip>.