

Chapter 9

The US “China Initiative” in the Face of Challenges in Scientific and Research Cooperation with the People’s Republic of China. Relevance to the EU

MARCIN PRZYCHODNIAK

The Polish Institute of International Affairs

ORCID: 0000-0002-9685-219X

Abstract: The article describes and analyses the “China Initiative” program by the US Department of Justice applied between 2018 and 2022 as an instrument to counter threats in academic cooperation with China. Introduced by the Trump administration and strongly politically motivated, it had, however, a limited impact on raising the security level of scientific research and the research community in the United States against threats originating from China. The article also focuses on an analysis of further policy in this area by the Biden administration, as well as possible plans after inauguration of Donald Trump’s second term. The subjects of the analysis are both “soft” threats (talent acquisition, influence on debate, promotion of political narratives) as well as “hard” threats (scientific espionage, intellectual property theft). The final part of the article is devoted to referring to similar challenges faced by actors in the European Union, with the inclusion of relevant recommendations for the EU and member states arising from the experience of the “China Initiative.”

Keywords: Trump, education, security, research, China, espionage, technology, soft power

The “China Initiative” was a US Department of Justice (DOJ) program launched by the Trump administration in 2018. It was intended to be an effective tool of the DOJ in the fight against Chinese activities in the illegal acquisition of trade secrets, research results—in general: the unfavorable influence of China from the point of view of US interests on scientific and research cooperation between the US and China. Underlying the establishment of the initiative were the findings of reports by the *US Trade Representative* published after investigations into Chinese trade practices under Section 301 of the Trade Act of 1974.¹ They found Chinese practices to be unjustifiable and concluded that a stronger US response was needed.²

The “China Initiative” was to focus on identifying and prosecuting those involved in the theft of trade secrets, hacking (obtaining illegal information from computer networks) and economic espionage, but also protecting critical infrastructure against threats from Chinese investment involvement. A separate thread was the compromises made by US-based companies in their supply chains, to the benefit of Chinese entities and China’s state interests, and inconsistent with US interests. Key from the DOJ’s perspective, however, was activity involving the scientific and academic community. Taking a leading role in implementing the initiative was the National Security Division, a body specially created within the DOJ after the September 11, 2001, terrorist attack,³ with the participation of a special prosecutor and the FBI.

The priorities of the “China Initiative” were as follows:

1. Identifying trade secret theft cases and supervision of their handling.
2. Developing a strategy that strengthens the protection of “non-traditional actors” (scientists in laboratories, universities, and industrial

¹ This gives the US Trade Representative the authority to conduct investigations and resulting decisions when partners violate existing trade agreements with the US “Section 301 of the Trade Act of 1974,” *Congressional Research Service*, May 13, 2024, <https://www.congress.gov/crs-product/IF11346>.

² “Information about the Department’s Justice China Initiative and a compilation of China-Related prosecutions since 2018,” February 19, 2021, <https://www.justice.gov/archives/nsd/information-about-department-justice-s-china-initiative-and-compilation-china-related> (access at “Information about the Department’s Justice China Initiative and a compilation of China-Related prosecutions since 2018,” February 19, 2021, <https://www.justice.gov/archives/nsd/information-about-department-justice-s-china-initiative-and-compilation-china-related>).

³ Ibid.

THE US “CHINA INITIATIVE” IN THE FACE OF CHALLENGES IN SCIENTIFIC AND RESEARCH...

security) from being co-opted by the Chinese in technology transfers inconsistent with US interests.

3. Educating university and college employees about threats to academic freedom and freedom of debate posed by Chinese influence, presence, and funding by PRC entities on campus.
4. Foreign Agent Registration Act reference⁴ to unregistered entities trying to promote China’s political agenda.
5. Equipping justice agencies with new tools and information to strengthen awareness of threats.
6. Implementing the Foreign Investment Risk Review Modernization Act⁵ in Justice Department activities.
7. Identifying risks to supply chains, particularly from the telecommunications sector’s perspective, ahead of the period of change associated with the implementation of the 5G standard.
8. Identifying Foreign Corrupt Practices Act⁶ (FCPA) cases involving Chinese companies’ competition with American companies.
9. Strengthening pressure on China to improve the quality of Chinese responses to US inquiries Mutual Legal Assistance Agreement⁷ or legal assistance.
10. Assessing the obligations of administrative and legislative bodies in the US to protect national resources from external economic aggression.⁸

Between the 2018 and 2021 the Department of Justice launched more than fifty investigations under the initiative. They covered a broad spectrum of

⁴ The Foreign Agent Registration Act is a 1983 law requiring registration in the US of entities whose activities are related to the operation of a foreign country.

⁵ The Foreign Investment Risk Review Modernization Act is a 2018 law that strengthens the authority of the Committee on Foreign Investment (led by the Treasury Secretary) to address risks from investments in the United States to US security.

⁶ The Foreign Corrupt Practices Act is a 1977 law prohibiting US citizens and entities from corrupting foreign politicians and officials.

⁷ The 2000 agreement between the US and China on legal cooperation and exchanging information on cases of interest to the legal authorities of both countries and conducted by the judiciary of the other country.

⁸ Information about the Departments of Justice China Initiative and a compilation of China-Related prosecutions since 2018.

issues, including the investigation of Huawei's vice president, the prosecution of a former CIA officer accused of spying for China,⁹ to engineers allegedly secretly exporting advanced semiconductors to China.¹⁰ Special activities under the initiative (in addition to investigations) were also undertaken by the FBI in an effort to persuade the US academic and scientific communities to cooperate more with justice authorities. One of the tools in this context was to be the Domestic Security Alliance Council, which, based on cooperation between public and private entities, was to improve cooperation between the FBI, the Department of Homeland Security, and academia, among others.

In February 2022, after Joe Biden's inauguration, the new leadership of the National Security Division at DOJ modified the operation of the "China Initiative."¹¹ China remained a key target, but investigations were to focus this time not on, as the new director of the division put it, "Chinese people, or people of Chinese descent," but activities conducted by Chinese government, or representatives of the Chinese Communist Party.¹² However, this was mainly a rhetorical change, in response to public criticism of previous DOJ actions. It marked the theoretical end of the "China Initiative," but in fact the new administration did not abandon countering threats from China related to research cooperation, industrial espionage, or the presence of Chinese entities and scientists in US academic centers, as well as US scientists collaborating in China. It upheld as guidance for the scientific community the guidance (US Presidential Memorandum) published at the end of Donald Trump's administration mandating stronger protection of the research and

⁹ "Former CIA Officer sentenced to prison for espionage," *Press Release, Department of Justice*, May 17, 2019, <https://www.justice.gov/archives/opa/pr/former-cia-officer-sentenced-10-years-prison-conspiracy-commit-espionage>.

¹⁰ "Electrical Engineer Convicted of Conspiring to Illegally Export to China Semiconductor Chips with Missile Guidance Applications," *Press Release, Department of Justice*, July 2, 2018, <https://www.justice.gov/archives/opa/pr/electrical-engineer-convicted-conspiring-illegally-export-china-semiconductor-chips-missile>.

¹¹ "Assistant Attorney General Matthew Olsen Delivers Remarks on Countering Nation-State Threats," *Speech, Department of Justice*, February 23, 2022, <https://www.justice.gov/archives/opa/speech/assistant-attorney-general-matthew-olsen-delivers-remarks-countering-nation-state-threats>.

¹² Mitch Ambrose, "Discarding 'China Initiative' Label, DOJ Pledges Prosecutorial Restraint on Research Security," AIP, February 25, 2022, <https://www.aip.org/fyi/2022/discarding-china-initiative-label-doj-pledges-prosecutorial-restraint-research-security>.

development sector from foreign influence.¹³ The memorandum had significant implications for the academic community by clarifying for scientific agencies and federal institutions the rules and procedures for reporting on cooperation with Chinese entities in situations of federally funded research. Previously, the DOJ, as part of the “China Initiative,” undertook several investigations of scientists who were alleged to have concealed such cooperation, and one investigation even resulted in a conviction.¹⁴ A large number of investigations started previously were also continued at the DOJ during the Biden administration. In this context, while there is continuity between administrations within US institutions, the differences are largely rhetorical. At the same time, the expected¹⁵ radicalization of policy toward China in Donald Trump’s second term, the announcements of upcoming appointments to the White House and State Department, as well as recent initiatives by Republicans in Congress signal that a return to earlier ideas, only of a broader nature, is possible from January 2025. This is indicated by the ready-made legislation already passed by Congress, where, also with the participation of Democrats, a majority was found for a bill postulating a return to the “China Initiative,” this time under the name “CCP Initiative.”¹⁶ According to its provisions, the DOJ and the National Security Division are to no longer only investigate the risks of scientific cooperation with PRC entities, but generally the course and fruits of cooperation with entities affiliated with, or originating from, the activities of Chinese Communist Party.

¹³ “Presidential Memorandum on United States Government-Supported Research and Development National Security Policy,” *White House*, January 14, 2021, <https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-united-states-government-supported-research-development-national-security-policy/>.

¹⁴ “Harvard University Professor Convicted of Making False Statements and Tax Offenses,” *Press Release, Department of Justice*, December 21, 2021, <https://www.justice.gov/usao-ma/pr/harvard-university-professor-convicted-making-false-statements-and-tax-offenses>.

¹⁵ This would be indicated not only by announcements during the election campaign (mainly concerning the need for more decisive action, mainly in the trade sphere), but also by preliminary announcements of future appointments to the positions of Secretary of State or National Security Advisor during Donald Trump’s second term in the White House. The transactional nature of the policy, the willingness to make concessions, as well as the presence among the advisors of people who are highly dependent on economic cooperation with the PRC, remain issues.

¹⁶ “H.R. 1398 - Protect America’s Innovation and Economic Security from CCP Act of 2024,” US Congress, September 16, 2024, <https://www.congress.gov/bill/118th-congress/house-bill/1398>.

Assessment and Outlook

The “China Initiative” was an example of a political response to a correctly diagnosed problem—China’s influence and information extraction in industrial espionage, trade secrets, and scientific research. It not so much concerned trade and the activity of the companies themselves, but an earlier stage, i.e., creation and research carried out within colleges, universities, and the cooperation of scientists. In China, the activity aimed at acquiring this kind of information has been inscribed for years in an organized and structured process managed by the institutions and bodies of the Chinese Communist Party, written into the state’s development plans,¹⁷ as one of the elements of supporting the development of the Chinese economy, both in terms of technical solutions, patents, but also building a positive image of cooperation with China.¹⁸ This includes military technologies, by virtue of the extensive cooperation between Chinese civilian universities and the People’s Liberation Army (PLA).¹⁹ It is undergoing development, embracing new fields and environments; it is also an important element of China’s foreign policy and the PRC’s relations with countries of the so-called Global South.²⁰ From this angle, China is also active in Central European countries using scholarships to build a positive atmosphere of cooperation (e.g., toward the management of universities²¹), convincing cooperation in

¹⁷ Among others, “Made in China 2025.”

¹⁸ Details of this cooperation related especially to the activities of the CCP’s various organs, as well as a list of Chinese universities permanently cooperating with the PRC armed forces can be found in: William C. Hannas and Didi Kirsten Tatlow (ed.), *China’s Quest for Foreign Technology*, Routledge, 2021.

¹⁹ This cooperation is the subject of the “China Defense Universities Tracker” project conducted by the Australian Strategic Policy Institute think tank. The PLA’s procedure of sending (secretly) officers on overseas scholarships is described in the report: Alex Joske, “Picking flowers, making honey,” Australian Strategic Policy Institute, October 30, 2018, <https://www.aspi.org.au/report/picking-flowers-making-honey/>.

²⁰ During the G20 summit in Brazil, in his speech, President Xi Jinping proposed (emphasizing cooperation with Brazil, South Africa, and the African Union), among other things, the establishment of an initiative for cooperation and open access to knowledge. This follows efforts by the Chinese side at the Forum on China–Africa Cooperation (FOCAC) summit in Beijing this year, among others.

²¹ Issues of continued cooperation with PRC entities are now of key importance in the framework of the election of a new chancellor of Oxford University (the current one is stepping down at the end of the current academic year), for which the share of international students (46% of all students overall) is an important component of the annual budget.

AI,²² pledging to finance certain infrastructure (e.g., buildings), and Chinese language courses. The priority of China’s actions in this context, of course, remains in the highly developed economies—the US, Germany, France, Italy, Japan, etc., although the presence of Chinese entities and the associated risks in those economies have a much longer history. A pillar of China’s “opening up to the world” policy has been precisely the search for and acquisition of talent, technology, and investment (as well as natural resources), as a tool for developing its own potential.

By modifying the operation of the “China Initiative,” the Biden administration sought to neutralize the main allegations of racial profiling and the lack of firm criteria (the general nature of priorities) for selecting the cases its investigations would cover. With its formal nature and the publicity of its actions by parts of the media, the initiative may indeed have resulted in discrimination against innocent scientists or workers of Chinese descent. It was also supposed to be ineffective, which was confirmed by some analyses indicating a small number of successful investigations (about a quarter of all investigations launched). According to the *MIT Technology Review*,²³ the main allegations against it dealt primarily with politics (90% of those investigated were American of Chinese descent), as well as the unspecific nature of the selection of cases.²⁴ US policy during the Biden administration responded to the same threats, but with slightly different instruments than the ones included in the “China Initiative,” although still, as some of the studies point out, most of the prosecutions cases launched earlier were continued. It also helped to establish some of the formal regulations (still however possibly insufficient) concerning the procedures in the research and science cooperation between the US and China institutions, such as *Presidential Memorandum on United States Government-Supported Research and Development National Security Policy* from 2021.

²² “Budapest university launching partnership with Chinese university with a focus on AI,” Daily News Hungary, October 25, 2024, <https://dailynewshungary.com/budapest-university-partnership-chinese/>.

²³ Eileen Guo, Jess Aloe and Karen Hao, “The US crackdown on Chinese economic espionage is a mess. We have the data to show it,” *MIT Technology Review*, December 2, 2021, <https://www.technologyreview.com/2021/12/02/1040656/china-initiative-us-justice-department/>.

²⁴ Ibid.

Conclusion

The evaluation of the “China Initiative” is not clear-cut. It has certainly reinforced awareness of the dangers of Chinese influence and information-gathering activities in dealing with the US research community. However, the manner in which it was conducted and the strong political focus stemming from both the peculiarities of the Trump administration’s actions during its first term and the breadth of issues it addressed worked against it, polarizing the research community and further accentuating the dominant role of the state in this context. The media campaign accompanying the initiative, carried out in the modern political reality of polarization and harsh reactions, repeatedly led to misleading accusations compromising the legitimate intentions of the initiative’s authors and implementers—inscribing it in political actions, instead of strengthening the US resistance to Chinese initiatives. The timeliness of similar initiatives (regardless of the name, calculated to counter PRC threats) will be a constant, linked to China’s activity in its rivalry with the US, and regardless of the declining number of Chinese students in the US, or the steady process of reducing development cooperation between US and Chinese big tech companies or other scientific entities.

From the point of view of the EU and member states, which are equally subject to the actions of Chinese institutions and attempts to illegally obtain information, the “China Initiative” experience argues for the need to accelerate the processes of implementing appropriate safeguards. Such has already become part of the derisking process with European Commission underlying the necessity of securing European research and development. There also are some regulations on threats and security of research (the “EU’s Global Approach to Research and Innovation” from 2021), although there is just one working-level oriented directly at China—”Tackling R&I foreign interference” (staff working document in the European Commission). Also convincing are the already known examples of ambiguous involvement of Chinese scientists in information gathering, or the participation of Chinese projects in research and cooperation relevant to, for example, EU security. Some of the risks have a somewhat different face from the realities of the US education system (where the bulk of the most

important and prestigious universities—from the point of view of Chinese needs—are private) and European (most but not all) systems, where higher education funding of science, research, and development is largely part of state involvement. Research cooperation with China, in addition to the important aspect of possible threats to the competitiveness of EU companies and the success of European industrial policy, has recently acquired an additional importance—the impact it has on the European security. China’s extensive and strategic cooperation with Russia, its participation in information and probably also sabotage operations, as well as its support for the Russian war economy (also in terms of technology and the substitution of Chinese for Western products in Russian supply chains) intensifies the problematic nature of cooperation with the EU. In addition to Chinese interest in technologies from modern economy sectors (genetics, medicine, robotics, artificial intelligence, electric automotive, ICT, semiconductors), or the acquisition of talent in these fields from EU member countries and soft-power activities are also an important element of Chinese activity that needs to be countered. This is again not so much about acquiring technological solutions, patents, or engineering, but about Foreign Information Manipulation & Interference (FIMI), information operations, building a positive image of China in the EU, not only within the scientific community, but also on a wider scale, shaping the views of entire societies of individual member states. China’s ideas are popularized through scientific debates, conferences, seminars, student exchanges or scientific internships, and publications that present specific perspectives on issues of importance to China in the international community, which have little to do with the principle of freedom of academic debate. In the context of Sino-Russian relations, China’s influence on the European security architecture (which includes cooperation with European research centers and the use of their effects for purposes contrary to the interests of Poland and the EU), it is advisable to prioritize security issues in research relations with China—even if this means a deficit and lack of access to technological solutions or scientific capabilities offered by Chinese entities.

Policy Recommendations

In this context, building on the experience of the “China Initiative,” but also taking into account the specific nature of the functioning of research and academic institutions in the EU in general and in the Member States in particular, and the somewhat different dimension of the challenges involved, it is worth considering the implementation of the following elements:

1. Including China in the set of risks for research and academic cooperation.
2. Redefining threats (not only in terms of technological solutions and patents, but also in terms of soft power and incentives for cooperation).
3. Improving the knowledge of academics and researchers about the different types of threats posed by Chinese actors, but also about China in general, how the Chinese power apparatus works and the nature of CCP policies, especially in the field of research and development.
4. Broadening the range of responses, including the establishment of “red lines” with clear restrictions.
5. Increasing the transparency of actions to reduce the possibility of accusations of biased approaches and motivations.

These basic elements could be implemented through a number of specific instruments, such as:

1. Registration by public authorities and monitoring of research contacts with Chinese entities in sectors sensitive from the point of view of national security, mainly related to high-tech or dual-use products.
2. Creating public bodies focused on strengthening the exchange of information and best practices based on public-private cooperation in research and development with China and Chinese entities.
3. Development by public bodies of guidelines for companies, research units, universities on the challenges and risks of cooperation with Chinese entities, both in terms of student exchanges, joint research, etc.
4. Restrictions by the EU and Member States on the funding of joint research projects with Chinese entities, especially in high-tech projects or dual-use products.

Bibliography

- Braun Střelcová, Andrea. “Guardians of Knowledge: Why the EU’s New Research Security Approach Puts European Universities in a Bind.” *CHOICE*, March 7, 2024, www.chinaobservers.eu.
- Hannas, William C. and Didi Kirsten Tatlow (ed.), *China’s Quest for Foreign Technology*, Routledge, 2021.
- Information about the Department’s Justice China Initiative and a compilation of China-Related prosecutions since 2018. February 19, 2021, www.justice.gov.
- Joske, Alex. “Picking flowers, making honey.” *Australian Strategic Policy Institute*, October 30, 2018, www.aspi.org.au.
- Karaskova, Ivana, Filip Sebok and Veronika Blablova. “How to do trusted research: China specific guidelines for European Stakeholders,” *AMO*, September 2022, www.amo.cz.
- “Presidential Memorandum on United States Government-Supported Research and Development National Security Policy.” *White House*, January 14, 2021, www.trumpwhitehousearchives.gov.
- “Proposal for a Council recommendation on enhancing research security.” *European Commission*, January 24, 2024, www.research-and-innovation.ec.europa.eu.
- “Recommended practices for strengthening the security and integrity of America’s science and technology research enterprise.” *National Science and Technology Council*, January 2021, www.trumpwhitehousearchives.gov.