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The China–U.S. Dispute on Huawei: A Challenge for the European Union

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Huawei is a symbol of the problems in relations between China and the United States. The U.S. accuses the Chinese corporation of industrial espionage and the Americans intend to use trade negotiations to bring an end to such practice. It is also attempting to persuade European partners to end cooperation with Huawei, for example, in 5G development. The company, meanwhile, is trying to persuade the EU Member States not to bow to U.S. pressure. For most EU governments (such as Germany and Sweden), the Chinese offer is favourable, but they wish to impose more restrictions on Huawei in light of the political and technological risks involved. This twin approach is one element of the EU's new, critical policy towards China.

Huawei's probable links to the Communist Party of China (CPC) and non-transparent ownership, as well as charges of intellectual property theft, made the company a symbol of Chinese fraudulent policy for U.S. President Donald Trump and his administration. In 2018, the U.S. Justice Department used these accusations to bring an indictment against Huawei. In March 2019, Canada responded to a U.S. complaint to begin extradition proceedings against Meng Wanzhou, vice-CEO of Huawei and daughter of the organization's founder, a former Chinese army officer. Under the National Defense Authorization Act (NDAA 2019) signed by Trump in March 2018, U.S. banned government institutions from using Huawei devices and working with partners which use the company's equipment. A Presidential Executive Order, currently in progress, would close the U.S. market to Huawei.

Huawei and Trade Negotiations between China and the United States. Industrial espionage, alleged to be committed by China through Huawei, is one of the topics raised by the U.S. during trade negotiations. Part of the expected deal between China and the U.S. would be a mechanism identifying these practices. If confirmed, the U.S. would have the right to unilaterally impose tariffs on Chinese imports. For China, acceptance of these terms would endanger modernisation of the economy (in which industrial espionage plays an important role). Furthermore, General Secretary Xi Jinping would consider the unilateral aspect of the U.S. demands to be unacceptably damaging to China's and his own prestige. Thus, China has instead offered to reinforce the protection of intellectual property rights, improve conditions for foreign investors (a new foreign investment law will come into force in 2020), and increase imports of American LNG, oil and soybeans, among other products.

For Trump, any agreement with China will be possible only after his meeting with Xi Jinping. This was originally scheduled for March but is now unlikely to take place before late April. The delay suggests that China may be trying to reach a compromise and that Beijing may be offering concessions including the reduction of Huawei`s activities in the United States. In February 2019, Trump suggested Meng`s case may be used in trade negotiations (a position earlier rejected by trade advisor Peter Navarro). In May 2018, the U.S. president also revoked restrictions on another Chinese enterprise, the telecommunications company ZTE. Meng`s release is a priority for Xi Jinping, supposedly because her position and family connections give her access to sensitive information. Meng`s imprisonment would confirm no only Huawei's illegal practices, but also the inefficiency of the Chinese authorities in securing influential citizens. The importance of the case is also confirmed by China`s pressure on Canada. In March, two Canadian citizens detained in China were formally accused of stealing state secrets and face life in prison The Chinese authorities have also cancelled the export licenses of large Canadian food enterprises.

China's response to U.S. pressure is to attempt to show that the allegations against Huawei are unfounded. On 7 March, the company filed a complaint in a U.S. court, calling for the NDAA 2019 to be ruled unconstitutional. It also accused the U.S. of hacking Huawei's servers. These actions were formerly supported by Wang Yi, China`s minister of foreign affairs. The legal complaint is part of Chinese pressure on the U.S. in trade negotiations. Should the parties reach a compromise in talks, the court case will be dropped to prevent evidence of cooperation between Huawei and the Chinese government being exposed. The Chinese company has also presented 5G deals with, for example, Switzerland, as proof of trust from other countries.

Huawei in the European Union. Most of the EU Member States (for example, Germany, Sweden and the United Kingdom) are ambivalent about U.S. pressure on excluding Huawei from the market. Some operators (Vodaphone and TMobile) underline that freezing out Huawei would result in rising 5G infrastructure construction costs and delayed network deployment. That argument is also raised by China, which says that 5G rollout in Poland would be delayed by two to three years at a cost to the economy of$10 billion. Huawei has also opened a cybersecurity centre in Brussels and offered to establish a similar institution in Warsaw, as proof of its transparency. Despite their reluctance to exclude Huawei from the market, EU Member States are aware of the dangers of working with this company. They have announced regulations which will reduce the technological risks (back doors in software or hardware allowing data to be gathered without user knowledge) and political challenges (subordination to a company which is a tool of China`s foreign policy). The United Kingdom suggests a limit on the percentage of Chinese devices used in the development of 5G infrastructure. The German Federal Network Agency has various requirements, including systems certification, cooperation with trusted equipment providers, and data monitoring.

The decision on Huawei's involvement in 5G network construction in Europe will be taken by the Member States, but EU institutions will have significant influence. In March, the European Commission published several recommendations including the need for the Member States to exchange information in the field of cybersecurity. It also highlighted the European Cybersecurity Act, which strengthened the competences of the European Agency for Network and Information Security (ENISA) in ICT product certification. EU Member States have until June to evaluate risks involved in cooperation with foreign telecommunications companies. On the basis of this assessment, the EC and ENISA will prepare an evaluation for the whole EU.

Prospects and Conclusions. The approach taken by the EC and most EU Member States in relation to cooperation with Huawei on 5G is pragmatic. It is based on risk evaluation and the introduction of safeguards and takes into account the potential effect of delays to the EU's technological development. European companies such as Nokia and Ericsson are capable of building 5G networks but need time (and EC support) to compete with Huawei on costs and hardware development. With no modern industrial policy in the EU, 5G is, like digitization and artificial intelligence, a sector in which the European Union could become reliant on cooperation with third countries.

That is why the Member States are seeking to accomplish two goals. By including protection against Chinese enterprises in any potential deal, they protect network security. And, by allowing cooperation with Huawei, they reduce 5G costs and do not risk delayed development in the telecommunications sector. In following this path, the EU makes China aware of its concerns while demonstrating independence in the face of U.S. pressure. At the same time, deliberations about Huawei show that the EU is developing a more critical policy towards China. This change, included in the EC recommendations in March, discussed during the European Council and expressed by the German chancellor and presidents of France and the EC during the last meeting with Xi Jinping, will see new policy direction in relation to the industrial sector, internal market protection, and WTO reform. These will be the main tasks for the new EC after the European Parliament elections in May. The EU's current position on Huawei's engagement in 5G development was also one of the bargaining chips during negotiations on a common statement following the EU—China summit on 9 April.

It is in Poland's interests to develop a pragmatic EU stance which takes into consideration reduced trust towards China and the need to verify Chinese declarations on cybersecurity. And the Polish situation is similar to that of other EU Member States: the costs and delays of excluding Huawei from 5G development make such a step unviable, but it remains necessary to maintain close cooperation with the U.S. and be aware of the dangers arising from Chinese policy, both of which require limitations to be imposed on Huawei's operational freedom in the EU. There may also be a need for additional supervision mechanisms with even the establishment of a national operator participating in 5G development, control of 5G frequencies, and diversification of suppliers.