

East is East and West is West and never the twain shall meet

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The battle for global dominance between China and the USA has resulted in two Cold Wars, one between China and the USA and one between Russia and the EU. China and Russia are closely linked, both politically and economically. These links have become integrated to such an extent that China must be considered a staunch ally and supporter of Russia in its Hot War with Ukraine and in its Cold War with the EU. As a unification of trading nations the EU relies on global seaborne trade. The article discusses the role EU antitrust law should play in addressing the challenges this trade faces as a result of current political and military conflicts.

Introduction

As energy transition gathers pace, economies become increasingly reliant on Critical Raw Materials (CRMs) and Rare Earth Elements (REEs). CRMs produce a broad range of goods and applications that are indispensable in everyday life. Smartphones, electronics and renewable energy are just a few examples. REEs often serve as essential components in CRMs used in energy technologies, such as wind turbines and electricity networks.

REEs are crucial to the defence industry. They are amongst others used for laser targeting, missile guidance systems, weapons in combat vehicles and nuclear weapons. Out of a global total of 114.6 million tons, with 44 million tons China has by far the largest reserves. Russia ranks fourth with 10 million and the USA seventh with 1.8 million tons.

Ukraine claims to dispose of a combined total of CRM and REE reserves up to 5 percent of global reserves. Shipping serves as the primary means for transporting CRMs and REEs. Once sourced, Ukraine's economic future depends to a large extent on the capability of its maritime industry to transport these minerals by sea.

Ukraine has 18 seaports and 12 sea terminals located at the Black Sea and the Sea of Azov. All are State Owned Enterprises (SOEs). Russia occupies 9 of these seaports including all those located at the Sea of Azov. Odessa is located at the Black Sea and Ukraine's largest seaport. Previous and current attacks by Russian drones and missiles render this port increasingly inoperable.

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Russia

The deplorable state of Russia's economy forced President Putin to switch to a war economy. The ensuing ever-growing impact of the military-industrial complex implies that its stand-still caused by termination of the Russia-Ukraine war, would threaten Russia's economy with collapse, with all the attendant consequences for Russia and for Putin himself. Both country and leader are thus increasingly forced to expansionist politics based on military force. This implies that armed conflicts aimed at extending Russia's zones of dominance, will not stop at the borders of Ukraine. Also other countries in Central and South East Europe, including EU Member States are in Putin's crosshairs. Their level of economic and political integration implies that China's support is indispensable for Russia's and Putin's survival.

The USA

The USA is involved in political battles at three different fronts: Ukraine, the Middle East and Taiwan. At all three fronts the USA meets China, Russia and Iran. Military cooperation between these three countries has been given form and content in the Triangular Alliance. Economic cooperation is based in China-led organisations in which all three of them participate. Examples are the Shanghai Cooperation Organisation, BRICS and the Belt and Road Initiative. All forms of cooperation aim at ending US hegemony in global affairs.

President Trump is not prepared to defend Western democracy and civilisation, not politically, not economically and not militarily. His only drive is to uphold and reinforce US dominance in global trade and global warfare. In this battle for global dominance, China is the USA's main if not only adversary. In order to fully concentrate on China, Trump tries to drive a wedge between Russia and China. This is the same tactic as used by Kissinger and Nixon in 1971. However, the differences between the political and economic state of global affairs in 1971 and in 2025 could not have been more marked.

In 1971, Russia was the super power and China its ideological ally who tried to acquire clear contours on the global stage. Kissinger and Nixon saw China's efforts fail and created a policy framework which enabled China to achieve its goal by means of global trade. Thanks to support by the USA and particularly to its membership of the World Trade Organisation (WTO) since December 11, 2001, China was successful.

In 2025, Russia is far from ready to play a role, let alone a major role in global trade. In order to drive a wedge between Russia and China, Trump is therefore obliged to silently endorse and, if necessary, verbally support Putin's rhetoric about Russia's right to annex Ukraine.

China

Also due to its organisation and functioning, the Chinese Communist Party (CCP) cannot afford to have China's Marxist-Leninist ideology being closely

neighbourhood by Russia adhering to or flirting with a democratic-capitalist ideology. The irreconcilable gap between these ideologies entails that close geographic proximity presents a danger to peaceful coexistence and, a fortiori, to bilateral trade. The ever-increasing pressure on reunification with Taiwan aimed at bringing this vibrant and competitive democracy under full control of China, offers a glaring example. In order to avoid a similar situation with regard to Russia the CCP feels compelled to support Putin's expansionist politics.

The overwhelming majority of Russia's reserves of CRMs and REEs is still to be sourced. In order to wage war in Ukraine and to extend expansionism towards Central and South East Europe, Putin has to import these minerals. Some two dozen Chinese companies, several of whom are partly state-owned, are the main suppliers. Their most important customer is Russia's SOE Rostec. This conglomerate provides nearly 80 percent of Russia's weaponry deployed in Ukraine.

Considering the above, it stands to reason that China's President Xi Jinping has made it clear that in case of a tangible and sustainable deal resulting in peace in Ukraine and in reinforcement of political and trade relations between Russia and the USA, China will terminate its supply of REEs, and CRMs, to Russia and urge China's (and Russia's) allies in the forms of cooperation referred to above, to do the same. Advantages emanating from links with China indicate that these allies will comply, or be forced to comply. This implies that for his expansionist politics to succeed, Putin depends on China for supply of REEs and CRMs that are critically important to his weaponry. Ignoring Xi Jinping's warning is not an option. Trump's divide and rule politics on Russia and China, are thus bound to fail.

Global seaborne trade

Introduction

Europe is China's second-largest trading partner, with bilateral trade reaching USD 762 billion in 2024. Chinese exports undermine productivity and employment in the EU, particularly by flooding the European market with primary and secondary necessities of life (hereinafter also referred to as "goods"). The impact on production and sales of competitive goods in the EU is massive. Import of China origin apparel for instance, amounted to USD 30.9 billion in 2023.

Increase of US rates of import tariffs causes a structural excess of unsold China origin goods. In order to uphold domestic production and global sales at a profitable level China must adapt its business strategies. This entails amongst others a more targeted focus on sales in countries located in Central and South East Europe, including EU Member States.

In his pursuit of zones of dominance Putin has these countries in the crosshairs. Economic and political links between China and Russia have been integrated to such an extent that China will align its sales strategy of goods in the countries concerned, with Putin's, and its own, interests in converting these into zones of dominance. Strategy and tactics are likely to be as follows.

Strategy

As of end August 2023, China controls significant shareholdings and/or has major investments in 31 container seaport terminals in the EU of which 23 are held by its SOEs COSCO and China Merchants while 8 are controlled by Hong Kong's privately owned Hutchison Ports.

In implementing its business strategies, COSCO relies on preferential access to credit provided by Chinese financial institutions. In 2016, this enabled gaining majority control of the container facilities of the Greek Port of Piraeus. It also enabled improvement and establishment of sea-rail intermodal services from Piraeus to Central and South East Europe. To that end, COSCO concluded a separate contract with Greece's state-owned rail firm Trainose.

COSCO converted the Port of Piraeus into the most important container hub port in Southern Europe for supply of China origin goods to Central and South East Europe, including EU Member States. As a result, it was not only Chinese multinationals like Huawei and ZTE who established major distribution centres in Piraeus; also non-Chinese multinationals such as Hewlett-Packard, Siemens, Deli and IKEA – to name just a few – followed suit.

On June 19, 2023, COSCO acquired 24,99 percent shareholding in the portion of the Port of Hamburg where freight flows between China and Europe are concentrated. COSCO will use its preferential credit facilities for converting this portion of the Port of Hamburg into the North European equivalent of the Port of Piraeus. Duisburg and Vienna are the main logistics hubs for rail transport to Central and South East Europe. COSCO will not fail to also use its preferential credit facilities for improving and establishing rail services from these hubs to final destinations outside the EU.

This economic and ensuing political embrace of Central and South East Europe allows China to reinforce its own, and Russia's, influence in countries located there, including EU Member States, by adopting tactics of the kind of, or similar to, those set out below.

Tactics

China will export part of its unsold surplus of primary and secondary necessities of life resulting from increased US import tariffs, through COSCO's portion of the Port of Hamburg. Under seal, vast quantities of these goods will be transported to consumers outside the EU thus avoiding EU import tariffs. Supported by preferential access to credit facilities COSCO will reduce the costs for handling and transporting these goods in order to make them affordable to end-consumers outside the EU. Thus, the latter consumers benefit from a twofold advantage compared to consumers who have not been supplied through COSCO's portion of the Port of Hamburg.

To all practical intents and purposes, COSCO's shareholding in the above portion of the Port of Hamburg equals its economic control of the Port of Piraeus. A parallel strategy may thus implemented there.

The EU

In preventing COSCO from dividing the market of Central and South East Europe for China origin primary and secondary necessities of life by means of EU laws and regulations, the EU is bound hand and foot by the fact that these legal provisions apply uniformly in the entire EU. Implementation aimed at preventing market division will thus be a hard act to follow. This may be illustrated in light of EU customs law.

- i) increase of the rates of EU import tariffs. This option brings prices for consumers in the EU who are being supplied through COSCO's portion of the Port of Hamburg, back to their previous level. However, re-export to EU Member States of quantities that have been legally imported in countries outside the EU, is not subject to the increased rates of EU import tariffs for goods directly imported in the EU from China. EU consumers relying on supply through the Port of Hamburg are confronted with price increases as a result of increased EU import tariffs. Their discontent will turn into anger if they are not able to benefit from re-exports from countries outside the EU. In addition, concerns about sustainability of the taxpayer-funded percentage of their country's GDP needed for improving domestic military defence capabilities on top of improvements provided by the EU, will increase. This holds all the more true in countries like Poland where this percentage is considerably higher than in Western EU Member States. Discontent of consumers relying on supply through other EU ports-of-call will turn into outrage as they face higher prices of goods for daily usage.
- ii) decrease of the rates of EU import tariffs. By using this option, the EU confers an advantage to EU consumers who do not rely on supplies through COSCO's portion of the Port of Hamburg. However, it also confers an extra advantage to consumers who do, and an even bigger advantage to consumers in countries outside the EU. Thus, this option unequally favours the living conditions of all three categories of consumers concerned. At the same time, it is likely to increase the financial burden of a vast number of EU companies involved in the production and/or sales of competitive goods, over the level they can withstand. The decline of the financial leeway needed for improving the EU's military defence capabilities resulting from ensuing bankruptcies, must be compensated. The most obvious way to do so is by increasing the taxpayer-funded percentage of the GDP Member States allocate for pursuit and achievement of improvements in the aforementioned military defence capabilities.

Irrespective of which of the above or other options the EU might consider in order to protect the interests of EU citizens and companies, each and every option must be examined in light of its compatibility with EU antitrust law. This law prohibits measures aimed at encouraging consumers to buy homemade EU goods and at subsidising national production and/or sales without approval by the Commission. In case of collisions EU antitrust law prevails. This raises the question whether EU antitrust law may be adapted so as to provide in situations of the kind referred

to above an independent and effective tool for achieving the same objective without creating aporia. I take the view that this question must be answered in the affirmative. My arguments are as follows.

EU antitrust law

Introduction

The framework for assessing distortions of competition under EU antitrust law, is called the relevant market. This is the market where undertakings capable of constraining their actual competitors' behaviour and preventing them from behaving independently of effective competitive pressure, must be identified and on which their conduct must be assessed. In other words, it must be determined whether the adoption of a certain course of conduct by an undertaking or group of undertakings on the relevant market, has the object or effect of preventing, restricting or distorting fair competition to such a degree that patterns of trade between EU Member States are substantially affected. In making an assessment, account must be taken of the legal and economic surroundings of the case at hand. It goes without saying that this latter condition is of overriding importance in cases where events such as the Hot and Cold War Russia wages in Europe, are involved.

The definition of the relevant market implies an extension of the applicability of EU antitrust law to territories outside the geographic scope of the EU. Conduct of entities that are neither nationals of an EU Member State nor physically or legally present in the Union, may produce distortions of fair competition which have immediate, substantial and foreseeable effects on patterns of trade between Member States. The situs of the anticompetitive conduct is irrelevant; it is the effect that must be accounted for. It is also irrelevant whether the conduct at issue is permitted by foreign jurisdictions. In cases where such conduct has the object of infringing EU antitrust law in the aforementioned way, this law prevails. Within this context, it is important to note that the ECJ and the General Court only deal with questions related to topical circumstances. Hypothetical issues are rejected as inadmissible.

The EU Commission is obliged to implement EU antitrust law out of its own accord. The obligation includes extraterritorial implementation of this law. In cases of the kind referred to above, refusal, or clear failure, by the Commission to meet its obligations may have (extremely) severe financial consequences for lines, seaports and other interested parties. Therefore, it is perfectly possible – and indeed probable – that sometime soon an interested party will submit a request to the Commission for extraterritorial implementation of EU antitrust law with regard to a specific case relating to global seaborne trade and involving anticompetitive conduct outside the EU that significantly affects patterns of trade between EU Member States.

The Commission must take action within two months after having received the request. Failure to act allows applicants to lodge an appeal with the European General Court, arguing and providing evidence that such failure directly affects their economic and commercial interests and leads to irreparable damage.

Interested parties may hold the Commission liable for damages resulting from its refusal, or clear failure, to apply EU antitrust law in the case underlying the request. European Courts of Justice take – and must take – considerable time for rendering judgement. Damages take immediate effect. Hence, injunctive relief aimed at avoiding irreparable damages c.q. keep these as small as possible in the interim, is crucial.

EU law provides that in global seaborne trade, fair competition and climate neutrality are core objectives that must be pursued and achieved simultaneously. This inextricable link implies that whilst examining a request for extraterritorial implementation of EU antitrust law the Commission must take account of its correlation with EU laws and regulations on climate neutrality. Both sets of law have an independent, non-related status. Priority given to the one may not lead to delays or shortcomings in implementing the other.

The Commission does not dispose of rules and discretionary powers suitable for a timely and effective award of injunctive relief in matters simultaneously relating to fair competition and climate neutrality. This follows from the fact that (i) the Commission is only entitled to assess cases from the perspective of the public interest of the entire EU, and (ii) fair competition not only focuses on public, but also on private interests and increasingly shifts its focus to the latter, whereas climate neutrality only focuses on public interests.

I take the view that in cases of the kind referred to above national courts of law are best placed to adjudicate on applications for injunctive relief submitted by interested parties. Recourse to national courts of law has the additional advantage that these courts have the best knowledge and understanding of the domestic issues at stake.

The traditional task of courts of law sitting in injunction proceedings is to weigh the private interests of the litigating parties, thereby taking account of irreparable damage emanating from delay. Usually, courts refrain from a provisional analysis of legal and economic issues related to surrounding circumstances. This interpretation of the role of the judiciary in injunction proceedings does not provide a shield against immediate and irreparable damages emanating from infringements of EU antitrust law in cases of the kind referred to above. Therefore, ways must be found to extend the traditional scope of injunction proceedings.

Injunction proceedings

Competence

In cases related to global seaborne trade, particularly if this trade is being affected by manifestations of wars such as the Hot and Cold War Russia wages in Europe, know-how and expertise of national courts of law are of vital importance. Therefore, each EU Member State should empower only one single court of law to deal with such cases, both in main and in injunction proceedings. Its judgement should only be appealable by bringing an action before the Supreme Court of the Member State concerned on the basis of an alleged erroneous application of applicable law.

With regard to legal and economic surroundings of the case at hand, the views and practices of National Competition Authorities (NCAs) are of importance for executing this task. These views and practices are being exchanged and developed within the European Competition Network (ECN). NCAs cooperate by

- a. informing each other of new cases and envisaged enforcement decisions;
- b. coordinating investigations, where necessary;
- c. helping each other with investigations;
- d. exchanging evidence and other information; and
- e. discussing various issues of common interest.

Member States should stimulate uniformity of antitrust judgements in the EU by appointing the designated court of law as an NCA.

Proceedings

Adaptation of current rules and practices in injunction proceedings must provide the designated court of law with all the key data related to the case at hand. The main legal and economic data pertains to:

- a. legal and economic surroundings;
- b. rules on evidence;
- c. rules on damages.

Legal and economic surroundings

Particularly when sitting in injunction proceedings, national courts of law considering that evidence on the legal and economic surroundings of the case submitted by the litigating parties, does not clearly provide any clear indication of how the dispute should be adjudicated upon, may refrain from turning to the EU Commission for assistance and may also refuse to apply its non-binding findings. This conclusion will probably also hold true in cases where a complaint has been lodged with the Commission and, parallel to this action, injunction proceedings have been started. This implies that national courts of law will most likely rule on the request for injunctive relief without taking account of the legal and economic surroundings submitted and without suspending judgement in attendance of the reaction of the Commission to the complaint.

The above approach cannot be upheld in cases related to seaborne trade between China and the EU, particularly if this trade is being affected by China's involvement in manifestations of the Hot and Cold War Russia wages in Europe. The risk of immediate and irreparable economic damages is simply too great. Hence, both in main and in injunction proceedings the designated court of law should be obliged not only to inform the Commission of the case at hand but also to request a binding opinion. After having heard the case, the court should therefore send the entire dossier to the Commission. Subsequently, it should suspend judgement until the

Commission has given a binding opinion. In accordance with the EU Merger Regulation, this opinion should be given within one month.

The Commission should send its opinion to both the designated court of law and the litigating parties. Even when deciding that an in-depth investigation and/or preliminary questions to the European Court of Justice (ECJ) on the interpretation of EU law are called for, both in main and in injunction proceedings the court must take account of the Commission's binding opinion. In injunction proceedings judgements should rely on the following parameters: (i) the conduct is or is likely to be in conflict with EU antitrust law; (ii) there is substantial likelihood that the allegations of the plaintiff will be sustained in main proceedings; (iii) irreversible harm will result if injunctive relief is denied; and (iv) the harm that is likely to result if injunctive relief is denied outweighs the harm if it is granted.

The rules on evidence

Current practice shows that national courts sitting in injunction proceedings do not conduct their own investigation but rely solely on evidence of facts and circumstances the parties place before them. The courts do not take account of facts and circumstances that have not been pleaded.

The party that has put forward the assertion that applicable law has been infringed is thus saddled with the burden of proof. It must present its case and submit all the facts and circumstances supporting the action. In response, the defendant must make objections and plead his defence. Thus, current practice implies that the party claiming a violation of applicable law carries the burden of presentation and proof of the constituent facts and circumstances. To that end, evidence is usually presented through documents, witnesses and/ or experts.

In all Member States, rules on evidence are less stringent in injunction proceedings than they would be in full trial. The party making the application must submit the facts and circumstances and furnish prima facie evidence in a conclusive fashion. The defendant is obliged to do the same in support of his defence. All forms of evidence are admissible as prima facie evidence. It is sufficient that the court is of the opinion that at least one of the parties will be able to prove his assertions.

The above rules on evidence make it impossible for the designated court of law to apply EU antitrust law related to China-EU seaborne trade, particularly if this trade is being affected by China's involvement in manifestations of the Hot and Cold War Russia wages in Europe. The size and risk of immediate and irreparable damages is much too great for relying on prima facie evidence. Therefore, in cases of the kind referred to above the rules of evidence should demand that the court disposes of all the facts and circumstances related to the legal and economic surroundings that are relevant to the case at hand. This implies that in injunction proceedings both the plaintiff and the defendant must observe the standards that apply in main proceedings.

In regard to legal surroundings, the opinion of the Commission and, if required, a preliminary ruling by the ECJ on the interpretation of EU law or on the validity

of an EU act, are crucial. Within this context, it should be noted that (i) in deciding whether EU antitrust law applies, there is no need to take account of actual effects of the conduct at issue once it is apparent that its object is to prevent, restrict or distort fair competition within the Union; (ii) exchange of information between competitors is tainted with an anticompetitive objective if the exchange is capable of removing uncertainties concerning the intended conduct of the participating undertakings; and (iii) preliminary rulings of the ECJ are declaratory, that is to say they lay down how an existing rule of EU law must be understood as from the day of its entry into force. Such rulings generally extend beyond the dispute with which they are immediately concerned. They ensure a uniform interpretation of the rule of law in question and bind all courts of law that have to interpret that rule of law. Thus, national courts must rely on a preliminary ruling as an *acte éclairé* and refrain from applying to the ECJ themselves.

The most crucial rule however, is that EU antitrust law produces direct effects in relations between individuals, thus creating rights which national courts must safeguard. According to established case law, it is a matter of public policy, essential for the accomplishment of the tasks entrusted to the EU, that EU antitrust law must be automatically applied by national courts out of their own accord. This implies that the designated court of law is obliged to apply this rule also in injunction proceedings. If the Supreme Court fails to rectify this omission injured litigants may sue the Member State concerned for damages.

The rules on damage

All EU Member States recognise the principle of compensation in concreto, i.e. most appropriate to the injury, and in full. The ECJ has laid the foundations for the right of any individual citizen or business to claim full compensation for the harm caused by an infringement of EU antitrust rules. This implies that the injured party is to be restored to the position he would have been in if the unlawful act had not been committed. Both the costs of restoring the injured party to his original position and the reproduction costs can be claimed.

In antitrust cases, claims for damages usually concern the payment of reproduction costs. These costs relate to economic loss and loss of profit. In addition, a reasonable amount may be claimed for costs that had to be incurred to prevent or limit damages, or to prove damages and liability. The plaintiff will have to establish proof of the damage and of the concerning amount on the balance of probabilities and in the same way as proof of any other relevant facts in the case. Therefore, the plaintiff must provide the court with a solid basis on which to make a precise and mathematically quantified assessment of the damage.

In cases where the value of such damages is or can be expressed in money, the refund must cover the entire sum related to the period from the date of occurrence of the damage until the date of refund. Furthermore, the refund should include compound interest over the sums of money due as well as over the costs of legal aid. To assist national courts and parties, the Commission has adopted various

guidelines on quantifying antitrust harm in damages actions. In the absence of a solid basis for assessing the damage, the designated court of law may determine the amount *ex aequo et bono*.

In all EU Member States final damages will be awarded only following a full trial on the claim. Although gaining ground, the idea of awarding provisional damages in injunction proceedings is still in its infancy. Implementation of this idea may be done in cases where there is no doubt about the existence of an unlawful act and its causal links with the alleged damages, nor about the assessment of the damages, or at least part of it, being certain, uncontested and quantifiable.

National courts sitting in injunction proceedings have almost never awarded provisional damages. The main reasons are (i) that this requires examination whether a provisional award of damages would make the possible annulment thereof in main proceedings impossible and, conversely, whether refusal of a provisional award of damages would disproportionately harm the interests of the injured party should his claim be upheld in the main proceedings; and (ii) that *prima facie* evidence must be conclusive, the rules of causation must be fully satisfied and the interests of the plaintiff would be irreparably harmed in the absence of such an award.

This procedural framework for awarding provisional damages in injunction proceedings is unsustainable in the case of immediate and irreparable damages occurring in China-EU seaborne trade, particularly if resulting from China's involvement in manifestations of the Hot and Cold War Russia wages in Europe. The ECJ attaches great value to the competence of national courts of law adopting injunctive relief in accordance with national rules of procedure. Therefore, in cases where proceedings provide evidence that there is substantial likelihood of the conduct at issue being caught by EU antitrust law, the designated court of law should award provisional damages. Failure to do so would deprive EU antitrust law of its function of protecting the interests of injured parties and of safeguarding reliability in business relations.

China and Russia are closely linked, both politically and economically. These links have become integrated to such an extent that China must be considered a staunch ally and supporter of Russia in its Hot War with Ukraine and in its Cold War with the EU. Therefore, the views and arguments with regard to primary and secondary necessities of life put forward above should apply *mutatis mutandis* to all China origin products that are imported into the EU through whichever EU port-of-call. I feel encouraged in this view by the fact that President Trump's decision on April 3, 2025, to significantly raise US import tariffs on imports from abroad and particularly from China, caused a Trade War between the USA and China.

The current Hot and Cold War Russia wages in Europe and the Trade War between the USA and China will inevitably lead to distortions of fair competition that seriously affect patterns of trade between EU Member States. Therefore, EU antitrust law will and must play a prominent role, not only in protecting EU citizens and businesses against unfair competition but also in protecting unity and cohesion in the Union.

Conclusion

The battle for global dominance between China and the USA has resulted in a Trade War between the two nations. In this War, the strategies adopted by the two combatants differ fundamentally. Its collectivistic founding ideology entails that China relies on a strategy that pursues economic and social prosperity in a pre-structured form and makes use of progress for gradual expansion of influence. The individualistic founding ideology of the USA entails that strategy is aligned with the way in which matters evolve and progress is used for instant exploitation of results.

In the 5th century BC Thucydides predicted that when a rising power threatens to displace the ruling power, military war can only be avoided by continuing business as usual. In 2025, the Trade War between the USA and China implies that return to business as usual is an illusion. So long as conditions have not substantially changed Thucydides trap is therefore likely to snap shut.

The ensuing Armageddon will accelerate the current remake of world order into the following zones of dominance: (i) the USA dominating the West; (ii) China dominating the Far East with the exception of Australia and, for now, Taiwan; (iii) Russia dominating the North East; and (iv) Russia and China together dominating Central and South East Europe.

Even in the event of a military war between the USA and China and the resulting Armageddon being prevented from happening, the current run-up towards a remake of world order will continue. In this process, the fate of the EU hangs in the balance. The all-decisive issue is the EU's dependence on the USA with regard to military defence capabilities needed to withstand Putin's rampant expansionist politics. This dependence prevents the EU from active participation in the run-up to a remake of world order. Therefore, it should come to an end as soon as possible. A vast military-industrial complex and targeted and effective communication and coordination related to underlying common strategies, both within and outside the framework of NATO, is thus urgently needed. This raises the question if, and, if so, within what time frame this objective may be achieved.

The EU divests from fossil fuels and turns to clean energy systems. The Commission reported that abundant access to REEs and CRMs is needed to address the corresponding demand. The EU will never be self-sufficient. It depends on REEs and CRMs that are sourced in and imported from non-EU countries. In 2023, 94% of EU imports of REEs came from China, Malaysia and Russia combined. For most of the CRMs, main suppliers accounted for 75% of total EU imports.

Supplies by Vietnam, Brazil and India are the most obvious if not the only possible options. However, production of REEs and CRMs in these countries is still a fraction of their potential. Moreover, links with Russia and China in forms of cooperation such as BRICS make it highly unlikely that Brazil and India will supply the EU with minerals destined for military rearmament aimed at defence against Putin's expansionism. The dozens of cooperation agreements China and Vietnam signed in April 2025 in reaction to increased US import tariffs, point in the same direction.

The above demonstrates that for the time being EU independence from the USA resulting from achievement and effective deployment of adequate military defence capabilities referred to above, is merely a beckoning perspective. Experts estimate that under the current circumstances this perspective might change within two to three years at the earliest. This, in my view rather optimistic, assessment gives the EU only a brief interval for solving its security problems and getting accepted as a full-fledged party to be taken into account in the process of remaking world order.

I take the view that the EU should try and survive the interval by adopting a more active role in this process. One of the options is to counterbalance the deficit at military defence capabilities by exploiting the EU's strong position in global seaborne trade. Such an approach depends on an effective and reliable functioning of the legal framework of this trade which allows interested parties to adopt sustainable business strategies. One of the most, if not the most prominent candidate for providing such a framework is a full and unabridged extraterritorial implementation of EU antitrust law.

Global developments are so swift and drastic that extraterritorial infringements of EU antitrust law may well turn out to be not only irreversible but also not punishable. It is therefore essential that legal tools of the kind promoted herein above are adopted and implemented as soon as possible. Particularly in global seaborne trade, the protective and unifying force of EU antitrust law must not loose out against the fragmenting force of the Trade War between the USA and China.

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