Divide and Conquer or Unite to Trade

Trade Facilitation Along the China-Europe Railway Corridors

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1 Introduction and Background

During the past ten years, railway corridors linking different cities in China and the European Union (EU) have been showcased as a means to further bilateral trade and investments.[[1]](#footnote-1) While these corridors have been promoted as the success story of the Belt and Road Initiative (bri), a closer look at their formation reveals that they are simply natural prolongations of the ‘Develop the West’ strategy that was adopted by China three decades ago, when it joined the World Trade Organization (wto) in 2001. This strategy led to major investments in China’s central and western provinces,[[2]](#footnote-2) that covers almost seventy percent of its land area.[[3]](#footnote-3) The strategy guided the expansion and building of transport infrastructure such as river-ports, airports, roads and railway networks.[[4]](#footnote-4) Chongqing, Xi’an and Chengdu, the largest three cities covered under the strategy, emerged as inland multimodal transport hubs and generated new trade flows.[[5]](#footnote-5) In 2011, some of the businesses operating from these cities identified and responded to the demand for efficient freight services along pre-existing railway infrastructure, which finally led to the emergence of the China-Europe railway corridors.[[6]](#footnote-6)

In common parlance, a transport corridor is a ‘linear area that is defined by one or more modes of transportation like highways or public transit which share a common course.’[[7]](#footnote-7) Therefore, ‘development often occurs around transport corridors, creating linear agglomerations.’[[8]](#footnote-8) Evidently, such a definition is very narrow when compared with the immensity and diversity of the China-Europe railway corridors and the ambitions of the bri. A wider definition found in logistics literature, which defines a transport corridor as ‘a design based on using a high-density flow along an artery and short capillary services to nodes of the corridor’,[[9]](#footnote-9) adopts a more holistic view and is suitable to describe the China-Europe railway corridors. Notably, the wider definition distinguishes a corridor from a tunnel, as the ‘capillaries’ act as ‘doors’ that lead to new opportunities.[[10]](#footnote-10)

Interestingly, in just 10 years, the China-Europe railway corridors have opened many ‘doors’ for trade and transport for several businesses and landlocked countries.[[11]](#footnote-11) From that point of view, the bri undoubtedly has aided the rapid expansion of railway services and made the corridors a nebulous network of routes which are tied to a common geographical orientation.[[12]](#footnote-12) Such an approach is in line with the shift in production patterns, and the need to enable landlocked developing countries to participate more fully in global value chains, as recognized in the Vienna Programme of Action for Landlocked Developing Countries for the Decade 2014–2024.[[13]](#footnote-13) However, the bri linkage has also raised suspicion in the minds of many who perceive these corridors as a means to fulfil the geopolitical ambitions of China.[[14]](#footnote-14)

Be that as it may, so far, investment in hard infrastructure along the corridor has mostly been in facilities where change of gauge is necessary.[[15]](#footnote-15) Therefore, it is only logical to assume that the imminent role of the bri in the development of the corridor would be to further and support trade facilitation reforms. Such an assumption is reasonable because the investment needed in transport infrastructure to reduce transit time by one hour is substantially more than that needed to reduce border crossing processing time by an hour. In addition, experiences from other corridors show that trade facilitation at times is more important than the transport infrastructure itself.[[16]](#footnote-16) The bri Vision and Actions document[[17]](#footnote-17) lends policy support to expedite trade facilitation reforms[[18]](#footnote-18) by recommending establishment of single windows to reduce customs clearance costs along the corridors. Thus, from the above vantage point, this chapter utilizes the Chongqing-Duisburg railway link to highlight the ongoing trade facilitation reforms that are underway in the countries/regions along the New Eurasian Land Bridge (nelb),and present selected implementation related challenges.[[19]](#footnote-19) The focus of the chapter is on the digital aspects of trade facilitation measures, namely single windows that are established by customs authorities of countries or regional blocs, and single window interoperability which is crucial for the exchange of information between the different customs authorities along a corridor.

Following this introduction, section 2 makes an inventory of the various single window initiatives that have recently been undertaken in the countries situated along the Chongqing-Duisburg railway link. Here, the progress and implementation of single window reforms in China, Kazakhstan, Belarus, and Poland is reviewed in contextual detail to set the ground for discussion on single window interoperability and cross-border data flows. Section 3 of the paper then proceeds to identify and discuss the first challenge for single window interoperability, namely, the legal and regulatory fragmentation that exists due to the multiplicity of international and regional institutions and instruments that govern railway transport and customs procedures along the China-Europe railway corridors. Section 4 then highlights that countries along the corridor may adopt different approaches to handle data related issues which is fundamental to cross border interoperability of single windows. This section in particular utilises the issue of personal data protection as an example to demonstrate how the different approaches adopted by the EU and China may impair seamless movement of trade data across borders. While trade facilitation efforts are crucial for seamless connectivity, the political relationship between the countries of the corridor impacts the deepening of the trade facilitation efforts and long-term viability of a corridor. Therefore, section 5 elucidates the ongoing interactions between China, the Eurasian Economic Union (eaeu), and the EU, which point towards the efforts made to achieve single window interoperability along the railway corridors. While the ongoing Russia-Ukraine conflict have stalled progress of the Eurasian corridors and may witness several steps backwards in the near future, but the provisioning of digital infrastructure and the digitalization strategy along the railway corridors requires a long-term view. With that in mind, section 6 briefly considers the Digital Silk Road (dsr) component of bri, and then highlights the emergence of further legal and regulatory fragmentation, which if not managed effectively, may create hurdles in the future expansion of the railway corridors. Section 7 concludes the chapter by presenting a strategy for tripartite collaboration between China, the eaeu and the EU to manage legal and regulatory fragmentation along the railway corridors.

It is submitted that as the bri is premised primarily on the Chinese government’s policy objectives and not on demand from the private sector. Therefore, the quantum of trade that will flow along these corridors remains to be determined. In addition, economists are still examining whether the transport corridors will to a significant extent lead to trade creation or trade diversion. Therefore, the real demand for new trade routes and the balance in the trading relationship of China and the bri partner countries is beyond the scope of this chapter. Also excluded from the scope is the analysis of the suitability, sustainability and long-term viability of the physical infrastructure projects that are being built and funded by Chinese interests. In addition, unilateral sanctions and countermeasures imposed because of the Russia-Ukraine conflict is briefly touched upon without giving any detailed consideration in this chapter.

2 Single Window Initiatives Along the Chongqing-Duisburg Railway Link

If border control is organized in such a way that traders submit documentation and/or data requirements for the importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies, then it could offer specific benefits to all stakeholders involved in international trade carried through the railway corridors.[[20]](#footnote-20) For more than a decade, single window systems and their benefits have been widely recognized and promoted by several international and regional organizations concerned with trade facilitation.[[21]](#footnote-21) Single window systems enable carriers, logistics service providers and traders to submit standardized documents and data that is required for import, export and transit formalities in electronic form to the customs and other control authorities at the border crossing.[[22]](#footnote-22) Such a single window could be introduced at national and/or cross-border levels.[[23]](#footnote-23) Article 10.4 of the Trade Facilitation Agreement (tfa) requires wto member States to establish and maintain a single window.[[24]](#footnote-24)

A national single window that consolidates and processes regulatory information, usually covers different modes of transport. Therefore, linking railway information systems at border crossings with a national single window would reduce the need for resubmission of similar information across modes and maximize the opportunities for simplification of border crossing formalities. Moreover, information flowing through a single window is relevant for risk management which allow border agencies to separate legitimate traders from non-compliant ones, reduce random customs checks and permit low-risk consignments to clear faster. The main benefits from use of single window systems are trade facilitation, efficient electronic data exchange among stakeholders, and support for redesign and streamlined business processes.[[25]](#footnote-25)

For seamless sharing of information and better integration of systems in the China-Europe railway corridors, interoperability between all the national single windows is necessary. Interoperability is defined as the ability of two or more systems or components to exchange and use information across borders without additional effort on the part of the trader.[[26]](#footnote-26) Interoperability between the national single windows along the railway corridors would (potentially) allow seamless flow of G2G information, B2G/G2B and B2B information.[[27]](#footnote-27) However, maturity of interconnectivity and interoperability between customs and various border regulatory agencies, logistics service providers and other stakeholders within a country has to reach a certain threshold, for customs administrations to perform the cross-border flow of data or a digital handshake with other customs administrations in a bilateral or a multilateral arrangement. The remainder of this section makes an inventory of the single window initiatives that the countries along the Chongqing-Duisburg railway link have undertaken and the level of maturity they have achieved to strive for interoperability.[[28]](#footnote-28)

2.1 Single Window Reforms in China

For more than a decade, China has been proactive in developing its single window infrastructure and has coordinated its implementation efforts with related international developments and supporting initiatives at the wto,[[29]](#footnote-29) wco,[[30]](#footnote-30) un/cefact,[[31]](#footnote-31) unctad,[[32]](#footnote-32) and unescap.[[33]](#footnote-33) The Chinese General Administration of Customs (gac) led the creation of ‘China E-Port’ which functions as its national single window trading environment, harnessing information and communication technology to catalyse the transformation and modernization of its customs system into an integrated information platform focusing on clearance management and enforcement. The gac coordinated the legal reforms for single window implementation in three phases.[[34]](#footnote-34) The first phase included the preliminary work on a regulatory and legal framework for the customs organization; the second through the improvement of accountability, transparency and legislation for greater efficiency in trade; and the third included further regulatory reforms to comply with the obligations of the wto. Alongside that, the gac itself underwent transformation which is often informally referred to as five phases of China Customs reforms.[[35]](#footnote-35)

The establishment of the single window in China is backed by several regulations and Laws. The most important of them are the amended Customs Law of 2000[[36]](#footnote-36) and the Electronic Signature Law of 2004.[[37]](#footnote-37) The Electronic Signature Law, for example, governs the accuracy and completeness of the data in single window systems by provisioning for approval certificates for electronic signature. For cross-border application, article 26 of this Law stipulates that a certificate issued abroad can only be recognized if China has an agreement with the country of issuance. The provision mentions that according to the principle of reciprocity and after approval, the validity of the overseas certificate can be determined, but does not stipulate any clear approval procedures and/or methods. In view of the above, if China and a foreign country does not have a relevant agreement, or in the absence of applicable principle of reciprocity, the validity of a certificate of electronic signature may not be recognized. At present, China has not signed special treaties or bilateral agreements with other countries that explicitly mention the recognition of electronic signatures, but only in certain agreements a legal basis can be found. For example, article 6 in [chapter 12](#CBML_ch12_ch_001) of the Free Trade Agreement (fta) signed between China and Australia in 2015, provides for mutual recognition of digital certificates and electronic signatures, encourages the use of digital certificates, improves the acceptance of electronic texts, and encourages research and development cooperation between the two sides in the field of e-commerce.

The State Council Guidelines on E-Port, promulgated by the central government in 2006 and 2012, served as important policy documents to define the major institutional arrangements and to map the way forward.[[38]](#footnote-38) Two additional policy documents on single windows were promulgated by the State Council in 2014 and 2015, which contributed to the fulfilment of China’s obligations under the wto tfa.[[39]](#footnote-39) Based on the mandate set by the policy document from 2015, ports in 10 cities and 5 municipalities across China instituted their respective sub-national single window systems.[[40]](#footnote-40) Later, various inland transport hubs in central and western China were asked to implement sub-national single window systems as they connect different countries in Asia and Europe by railways, roads and inland waterways.[[41]](#footnote-41)

Data standardization is a foundational element of single window operation. Standardized data sets allow efficient exchange of information between government agencies, and between traders and trade regulators. Accurate and standardized data submissions make it possible to integrate and share trade data, promote efficient operation of international supply chains, enhance the ability and efficiency of national border management, and assist government authorities to increase tax revenue.[[42]](#footnote-42) Since 2015, China has revised its domestic standards on trade data, consistent with un/cefact recommendations.[[43]](#footnote-43) However, some data standards still remain to be coordinated due to uneven development level in different customs areas. To address this problem, China has set up 18 pftz s, and has pressed for coordination among these zones. Such a strategy is useful as the pftz s exploit the comparative advantages of each region; strengthen the interaction and cooperation among the eastern, western and central regions; and comprehensively improve the openness of the Chinese economy.[[44]](#footnote-44) Also, in November 2015, China’s State Port Office set up a single window data coordination and simplification (cargo declaration) project, which resulted in the implementation of some of the UN/cefact’s recommendations on single windows though formulation of the ‘Single Window Metadata Catalogue for International Trade’ and the ‘Single Window Metadata Set for International Trade’.[[45]](#footnote-45) Presently, the Chinese single window system serves as a one-stop customs clearance for the entire mainland, allowing companies to declare cargo and taxes with a single submission.[[46]](#footnote-46)

The implementation of single window in Chongqing is briefly discussed to trace the development of a sub-national single window system in a municipality that serves as a regional transport and logistics hub, and an important gateway for the train corridors connecting China and Europe. In October 2017, the Chongqing municipality inaugurated a standardized sub-national single window system called the ‘Chongqing International Trade Single Window’.[[47]](#footnote-47) The single window is built on the notion of the ‘three mutual’ reform plan, namely, mutual information-sharing across departments, mutual recognition of supervision, and mutual assistance in law enforcement at ports.[[48]](#footnote-48) Subsequently, in May 2018, the municipal government in Chongqing adopted the Measures for Promoting Cross-Border Trade Facilitation at Chongqing Port (Trial), mainly to reduce the overall customs clearance time and costs.[[49]](#footnote-49) The Measures are adopted to facilitate document processing, provide free electronic document exchange, facilitate the handling of import and export licenses; carry out ‘parallel operation’ of port logistics where various regulatory agencies would pursue border control activities concurrently; implement time-limited operations for port logistics;[[50]](#footnote-50) lower port operating fees; reduce trade finance cost;[[51]](#footnote-51) and establish publicity systems for port charges, port operation hours and methods of consultation and complaint.

The single window in Chongqing is still a work in progress as more functionalities are slated to be added to the system in due course. For example, the export tax rebate declaration function will be added in the near future.[[52]](#footnote-52) In addition, the Chongqing single window has connected and shared information with some of the bri participating countries on a pilot basis.[[53]](#footnote-53) One such pilot is the China-Singapore (Chongqing) Demonstration Initiative on Strategic Connectivity, which is envisaged to strengthen data and information integration between the Chongqing and the Singaporean single windows leading to cross-border connectivity in the near future.[[54]](#footnote-54)

2.2 Single Window Reforms in Kazakhstan and Belarus

Kazakhstan and Belarus are both members of the eaeu and therefore customs matters are mostly under the competence of the Union.[[55]](#footnote-55) The new eaeu Customs Code from 2018 lays down a substantial part the legislative framework for single window implementation in the Union.[[56]](#footnote-56) Through the Customs Code, several competencies were transferred from the national customs administrations of each eaeu member to the Eurasian Economic Commission (eec).[[57]](#footnote-57) Article 80 of the Customs Code recommends the creation of a single window for all customs operations by economic operators.[[58]](#footnote-58) Each eaeu member State develops its national single window on its own in accordance with approved plans and concepts.[[59]](#footnote-59) There are no plans for creation of one integrated regional mechanism single window for all eaeu member States.[[60]](#footnote-60)

As Kazakhstan is a landlocked country, trade facilitation reforms are imperative for expanding its own trade volumes, and also for supporting transit trade.[[61]](#footnote-61) Kazakhstan, as a member of the wto, implemented its national single window in 2019.[[62]](#footnote-62) Kazakhstan received assistance from unctad to apply the asycuda, which provides the basis for the single window portal.[[63]](#footnote-63) Kazakhstan is also a party to the revised Kyoto Convention of 1999, and at present its single window provides a single access point in the process for customs clearance of goods and for procuring necessary permits from government agencies.[[64]](#footnote-64) The implementation of the single window is also a part of the country’s wider digitalization strategy.[[65]](#footnote-65)

Belarus, as a member of the eaeu, *de-facto* has been fulfilling some of the wto obligations since 2012, but currently is not a member of the wto. Belarus is in the process of developing a single window based on article 10 of the tfa,[[66]](#footnote-66) but that is yet not operational.[[67]](#footnote-67)

2.3 Single Window in Poland

Poland, as a part of the EU, is integrated with the half-century old economic and customs union.[[68]](#footnote-68) The single window facility in Poland is part of the EU Single Window environment for customs, which is focused on customs formalities and involves stakeholders dealing with cross-border movement of goods. The objective of this single window is to enable economic operators to electronically lodge, on a one-time basis, all the information required under customs and non-customs legislation for EU cross-border movements of goods. The e-Customs Decision (Decision No 70/2008/ec) of the European Parliament and of the Council of 15 January 2008 on a paperless environment for customs and trade continues to provide the legal basis for the establishment and use of the EU Single Window environment for customs.[[69]](#footnote-69)

3 Efforts to Remove Legal and Regulatory Fragmentation in Railway Transport and Customs for Trade Facilitation Along Eurasian Corridors

The first challenge to achieve single window interoperability, as introduced in the foregoing section, is legal and regulatory fragmentation at border crossings. The century old physical railway infrastructure connecting China and Europe may be put to blame for such fragmentation. Several institutions and legal instruments already subsist at various levels and in different forms to cater to international transportation by railway.[[70]](#footnote-70) Some of these instruments govern border crossings because international transportation by railway involves several intermediate frontier formalities. When varying national legislation on two sides of a border is compounded with multiple border control requirements that are enforced separately by customs and various other government agencies, then border crossing becomes a long-drawn process, full of inordinate delays.

Before progressing with the discussion on fragmentation, it is important to note that in this chapter the expression ‘legal and regulatory’ is used in conjunction with one another as it is not always possible to draw a bright line between ‘legal’ and ‘regulatory’ questions. This is particularly relevant when legal concepts define an authority’s regulatory perimeter. For example, whether a railway consignment note is a negotiable document or not correspond to a legal concept (*i.e.*, document of title under property law), which would then determine the regulatory perimeter for capital adequacy for banks when extending trade finance to exporters/importers transporting their goods using the railway corridors (*i.e.*, a document of title offers security and lowers the risk for lenders as per banking procedures). In practice, ‘legal’ and ‘regulatory’ questions are often approached from the perspective of regulation before they are addressed at the level of legal concepts. This chapter does not separate ‘legal’ and ‘regulatory’ questions as that requires a more reflective and iterative process. It is also relevant to note that the expression ‘law’, from a common law perspective, encompasses both principal and subordinate legislation as well as customary and case law. It is thus a holistic term. Regulations invariably fall under the rubric of subordinate, secondary or subsidiary legislation as distinguished from Acts which are undoubtedly of the principal or primary variety. By contrast, in many civil law jurisdictions and the EU, Regulations have the status of principal or primary legislation. In China a ‘Law’ is the equivalent of the Act in common law jurisdictions and a Regulation has the status of principal or primary legislation but resides at a lower threshold compared with ‘Law’. The distinction is based on the level and status of the national promulgating authority.

[Figure 3.1](#CBML_ch03_fig_001) below depicts several overlapping legal and regulatory regimes on border crossings that applies to the China-Europe railway corridors. This chapter describes such a state as legal and regulatory fragmentation along the railway corridors, which is the result of increased proliferation of international institutions with overlapping jurisdictions and ambiguous boundaries creating overlapping instruments and sometimes inconsistency.[[71]](#footnote-71)

Figure 3.1 Here

The remainder of this section elucidates the fragmentation depicted in the diagram above through a discussion of various laws and regulations that govern border crossings, by broadly categorising them under railway and customs. The discussion also encompasses regional institutions and agreements that are connected to cross-border railway transport, that are ultimately relevant for trade facilitation along the Chongqing-Duisburg railway link.[[72]](#footnote-72)

3.1 International Railway Laws

International railway institutions and instruments are popularly referred to using acronyms of French or Russian names, as the case may be.[[73]](#footnote-73) The two international organizations, namely otif and osjd, play a key role in coordination and arrangement of transport along the China-Europe railway corridors.[[74]](#footnote-74) Both organizations coordinate railway laws, operating rules and key transport documents. Additionally, osjd coordinates policy, transit tariff, wagon use, train timetables, safety and technical standards for infrastructure and rolling stock.[[75]](#footnote-75) otif and osjd foster two different international legal regimes for freight transport, namely cotif/cim[[76]](#footnote-76) and smgs,[[77]](#footnote-77) respectively. While countries in Western Europe and Central Asia are party to cotif/cim,[[78]](#footnote-78) China, Russia and several countries in Eastern Europe follow smgs.[[79]](#footnote-79) There are some countries along the three corridors that participate in both cotif and smgs.[[80]](#footnote-80) The discussion below focuses primarily on issues related to contract of carriage and consignment notes under the two regimes.[[81]](#footnote-81)

cotif/cim, under articles 6 and 7, stipulates that the contract of international carriage of goods by railway is a consensual contract, with the consignment note being only a documentary proof. Under these articles, a great degree of contractual freedom is permitted in order to offer flexibility, enabling the parties to the contract of carriage to contractually agree certain conditions such as itinerary, transit periods and surcharges. The opportunity to have a single contract for carriage of goods and to have a single consignment note for railway freight traffic among contracting parties at the respective territories where cotif/cim rules are applicable, is provided as well. At the border stations between the cotif/cim countries, it is neither necessary to conclude a new contract, nor to issue a new consignment note. The single contract/consignment note identifies the contractual carrier with whom the consignor has concluded the contract of carriage, as well as successive carrier(s), if applicable, that shall take over the goods at specified border stations. Article 26 of cotif/cim provides that with acceptance of the goods and the consignment note at the border crossing, successive carriers(s) will become a party of the contract and be liable to continue with carriage of goods under the same contract/consignment note. The carrier may also entrust the performance of the carriage, in whole or in part, to a substitute carrier, nevertheless the carrier will remain liable in respect of the entire carriage. While article 7 of cotif/cim stipulates the mandatory particulars of the consignment note, the design of the consignment note is left within the competence of international associations of carriers, in practice the International Rail Transport Committee (cit), through model contracts. cotif/cim, through article 6(9), makes an electronic consignment note equal to a paper-based note from a functional point of view. This provision provides legal bases for introduction of electronic exchange of consignment notes data.[[82]](#footnote-82)

The other railway regime, smgs, through articles 7–8 and 14–16, requires carriers and shippers to enter into a formal contract for carriage and an obligation for carriers to set and publish transport tariffs.[[83]](#footnote-83) It is possible to issue a single contract for carriage and a single consignment note for railway transport among contracting parties at the respective territories where smgs apply. At the border stations between the smgs countries, it is not required to conclude a new contract or issue a new consignment note. Pursuant to article 14(5), the single consignment note identifies the contractual carrier with whom the consignor has concluded the contract of carriage as well as successive carrier(s) that would take over the goods at specified border stations. With acceptance of the goods and the contract/consignment note at the border crossing, successive carriers(s) would become a party of the contract and be liable to continue with carriage of goods under the same contract/consignment note. According to article 15(4), a consignment note may be produced in electronic form, based on agreement between the railway and the consignor. This provision also creates the legal bases for introduction of electronic exchange of consignment notes data.[[84]](#footnote-84)

Following the disintegration of the Soviet Union and the expansion of trade between cim and smgs countries, a stronger need to promote legal interoperability between the two regimes was felt both nationally and internationally. This led to the effectuation of the cim/smgs consignment note in 2006 which is used for block trains, wagon groups, single wagons or containers, in either paper or electronic format.[[85]](#footnote-85) The latest technical specifications for the electronic cim/smgs consignment note became available for use in July 2019.[[86]](#footnote-86) The cim/smgs consignment note is recognized as a customs transit document and is accepted by banks to secure loans.

The historical presence of the two international legal regimes in the China-Europe railway corridors creates inconvenience for both shippers and carriers. Therefore, a broader harmonization effort is currently advancing under the auspices of the United Nations Economic Commission for Europe (unece) to offer “railway undertakings and their customers the opportunity to conclude a single contract of carriage for specific international transport of goods by railway (in particular between Europe and Asia) and to agree in this contract to apply a single international legal regime (known as an opt-in)”.[[87]](#footnote-87) In November 2009, unece established a Group of Experts Towards Unified Railway Law (url) under its Working Party on Rail Transport (sc2) to develop an international railway instrument with active participation from otif, osjd, cit and several other important stakeholders in the railway sector.[[88]](#footnote-88) Since then the group of experts have held several meetings and developed a draft international railway instrument covering a wide range of substantive issues, including transport documents, obligations of the parties, liability for loss or damage and delivery of goods.[[89]](#footnote-89) Currently, the exact manners in which the url will operate in conjunction with the existing railway conventions is being considered by the group of experts.[[90]](#footnote-90) In 2019, China has also presented a proposal at the United Nations Commission on International Trade Law (uncitral) on possible future work towards the development of a negotiable transport document to facilitate multimodal carriage of goods, particularly along the China-Europe railway corridors.[[91]](#footnote-91) It is likely that uncitral will soon start preparatory work towards the development of a new international instrument on multimodal negotiable transport documents that could also be used for contracts involving carriage by railway.[[92]](#footnote-92) Also, a proposal to include provisions about negotiable transport document in the url is currently under consideration of the group of experts at unece.[[93]](#footnote-93) Overall, several international institutions and national governments are working in tandem to realize the possibility to perform carriage of goods along the China-Europe railway corridors under one legal system with one contract of carriage and one consignment note.

3.2 International Customs Laws

At the international level, the revised Kyoto Convention of 1999sponsored by the World Customs Organization (wco) is an important instrument that harmonizes and simplifies customs procedures.[[94]](#footnote-94) Although the Convention does not have provisions exclusively for railway transport, it is relevant for customs formalities at railway border crossings. The Convention includes standards, transitional standards and recommended practices, which are not directly applicable, but provide guidance on principles that the countries must use while adjusting their national customs legislation.

Another international instrument which does not address railway transport directly but is applicable for containerized cargo transport by railway is the Customs Convention on Containers of 1972. This Convention addresses the issues for standardized marking of containers; temporary admission of containers; and approval of containers for transport under Customs seal. The Annex 4 of the Convention details the regulations on technical conditions applicable to containers, which may be accepted for international transport under Customs seal.

There is also an international instrument which applies to free movement of goods across frontiers and their temporary admission into a Customs territory with relief from duties and taxes. The wco’s Customs Convention on Temporary Admission, known as the ‘Istanbul Convention’ of 1990 is designed to combine into a single instrument all the existing provisions on temporary admission which are found in a multitude of conventions and agreements, and also to harmonize procedures in pursuit of economic, humanitarian, cultural or touristic objectives. This Convention is relevant for international railway corridors as it prescribes the temporary admission procedure for railway rolling stock; together with their normal spare parts, accessories and equipment carried on board such as any special equipment for the loading, unloading, handling and protection of cargo. As per the Convention, temporary admission could be granted without a customs declaration or security being required. This Convention is fairly successful and many of the contracting parties to the revised Kyoto Convention subscribe to this instrument as well.[[95]](#footnote-95)

While the above international instruments provide an overarching framework on matters related to customs, the finer practical aspects related to railway transport can be found in two other international instruments, namely, the International Convention on the Harmonization of Frontier Controls of Goods of 1982, and the Intergovernmental Agreement on the Trans-Asian Railway Network of 2006.[[96]](#footnote-96) Interestingly, the groupings of countries that adhere to the above two customs instruments is similar to the groupings for cotif and smgs described above. The Convention from 1982 aims to facilitate international movement of goods through reduction of requirements, as well as the number and duration of border crossing controls by national and international co-ordination. The Annex 9 of the Convention targets the facilitation of border crossing procedures for international railway freight and introduces the guidelines and recommendations.[[97]](#footnote-97) The Intergovernmental Agreement from 2006 represents a coordinated plan for development of railway lines of international importance in the region that includes: existing lines currently in use; and railway lines under construction, or planned, that are intended to be used for regular international transport in the future. The Agreement also identifies the railway lines of international importance and sets guiding principles related to technical characteristics of the Trans-Asian Railway network such as providing adequate capacity for efficient international movements and technical interoperability of the railway lines of neighbouring countries.[[98]](#footnote-98)

3.3 Regional Institutions and Instruments

Regional institutions such as the eaeu,[[99]](#footnote-99) the Commonwealth of Independent States (cis),[[100]](#footnote-100) the Economic Cooperation Organization (eco)[[101]](#footnote-101) and the EU[[102]](#footnote-102) have created instruments that contribute to matters pertaining to border crossings along the China-Europe railway corridors. Recently, the Shanghai Cooperation Organisation (sco) has been spearheading efforts aimed at streamlining customs procedures as well.[[103]](#footnote-103) In addition, there is an agreement under the Transport Corridor Europe Caucasus Asia (traceca) transport programme that regulate railway transport.[[104]](#footnote-104) Moreover, with assistance from regional institutions, the railways and border control authorities often implement various programmes and projects that lead to development of various knowledge products such as, performance measurements methodologies, performance indicators and monitoring mechanisms.[[105]](#footnote-105) These knowledge products are of particular interest to policymakers as they assist in assessing and formulating trade facilitation reforms. The remainder of this sub-section briefly discusses selected eaeu instruments[[106]](#footnote-106) as they are relevant for the ongoing trade facilitation reforms along the Chongqing-Duisburg railway link.

In the eaeu, the the main legal instrument is the Treaty on the Eurasian Economic Union of 2014,[[107]](#footnote-107) which among all other issues addresses the Customs Union[[108]](#footnote-108) and transport.[[109]](#footnote-109) The Treaty also includes in Annex 24, the Protocol on Coordinated (Agreed) Transport Policy, concerning all modes of transport including railway transport in Part v; and Annex 2 to the above Protocol with regard to Procedure for Regulating Access to Rail Transport Services, including two related annexes.[[110]](#footnote-110) The provisions regarding principles of functioning of the Customs Union mandate application of common customs regulation, and in general free movement of goods between the territories of eaeu members, without the use of customs declarations and state control on transport, sanitary, veterinary-sanitary, and phytosanitary quarantine matters.[[111]](#footnote-111) The Treaty on the Customs Code of the Eurasian Economic Union has been developed within the framework of the provisions of Article 32 of the Treaty on the Eurasian Economic Union and is applied in the eaeu from 1 January 2018.[[112]](#footnote-112) The Customs Code, which is over 1,000 pages, synthesizes over 20 international treaties regarding the eaeu’s conduct of international trade.[[113]](#footnote-113) The Code includes several aspects relevant for railway freight border crossings. The Code also mandates the establishment and use of single window for purposes of e-customs declarations, customs clearance, and release of goods.[[114]](#footnote-114) The Code, among other provisions, includes new rules on customs valuation, rules of origin, and authorized economic operators (aeo). Notably, through the Joint Declaration on Cooperation on the Construction of Joint Eurasian Economic Union and the Silk Road Projects, signed on 8 May 2015, China and Russia pledged to support the bri through appropriate actions of the eaeu.[[115]](#footnote-115) Therefore, it may be reasonably concluded that to a great extent, the recent overhaul of the eaeu’s customs regime is in congruence with the bri.

In summary, this section has shown that the legal and regulatory framework on border crossing along the China-Europe railway corridors is fragmented. Such fragmentation poses a challenge to seamless transportation of goods as different rules, documentation and/or data requirements and practices are imposed by the countries along the corridors.

4 Single Window Interoperability Depends on Data Flows

Another important challenge that may hinder achieving single window interoperability is the legal and regulatory fragmentation surrounding data flows. In the recent past, States and/or institutions have adopted different approaches towards promulgating laws including regulations governing the submission, receiving, using, sharing, retaining and archiving of data. In addition, the responsibilities and obligations imposed on participating entities in a single window environment in regard to security of data, besides issues of privacy and data protection, may vary depending on local interpretations.[[116]](#footnote-116) Therefore, orchestration of the legal framework for interoperability envisaged for railway corridors extends beyond customs and freight bureaucracy and in a contemporary context is dependent on agreements related to data flows.

The implementation of single window interoperability would be possible when data can flow seamlessly across borders along the railway corridors while ensuring information security of the stakeholders.[[117]](#footnote-117) International institutions engaged in assisting governments to develop cross-border single window interoperability systems emphasize that both functionality and infrastructure of single window systems ‘must be designed, implemented and operated in compliance with security policy, security design principles, security services agreement and standard operational procedures that protect information at a level of information security risk and data privacy acceptable by the key stakeholders.’[[118]](#footnote-118) However, there are some teething challenges specifically related to data flows.[[119]](#footnote-119)

Data flows are regulated to varying extents across jurisdictions mainly to protect privacy of personal data; meet certain regulatory objectives; maintain national security; and promote domestic digital industrial policy.[[120]](#footnote-120) Although the data submitted through single windows are largely trade related, but some amount of personal data is also included in the submissions made by various supply chain participants. At present, there are no comprehensive binding multilateral rules, specifically with respect to cross-border flow of personal data and privacy.[[121]](#footnote-121) Interestingly, the debate about trade data mainly revolves around three types of data, namely, the movement of personal data or more specifically personally identifiable information; sector specific data such as business or financial data; and the more recent trend towards a more sweeping and not always well-defined category of data referred to as ‘important’ data.[[122]](#footnote-122) Several international organizations that have an economic mandate, including the oecd, G-20, and apec, have sought to develop best practice guidelines or principles related to cross-border data flows and privacy.[[123]](#footnote-123) These guidelines, although not legally binding, call for striking a balance between concerns over privacy with facilitating global data flows. In a single window environment, the challenge to strike such balance grows significantly as the obligations or policies in terms of data retention, open publication, or protection against personally identifiable information, *etc.* vary for each agency.[[124]](#footnote-124) Both the EU and China, the two important stakeholders in the China-Europe railway corridors, have established prescriptive rules on cross-border data flows from different perspectives. A brief discussion of the regimes is necessary to determine the future course of trade facilitation negotiations along the railway corridors.

The EU protects privacy and personal data of its citizens and residents as a matter of fundamental rights.[[125]](#footnote-125) The Privacy and Electronic Communications (ePrivacy) Directive,[[126]](#footnote-126) which concerns the processing of personal data and the protection of privacy in the electronic communications sector including single windows, established a general prohibition on the processing of electronic communications content and metadata. In addition, the General Data Protection Regulation (gdpr)[[127]](#footnote-127) maintains a high level of personal data protection in the EU and applies directly to cross-border trade involving personal data from the EU, even if an organization operates from outside the EU.[[128]](#footnote-128) According to the provisions in Chapter v of gdpr, cross-border transfer of data is possible when – pursuant to article 45 of the gdpr, permits transfers to countries that the ec has decided have an ‘adequate level of protection’ of personal data; or transfers falling under one of the so-called safeguard situations outlined in article 46 where a transfer of personal data is allowed without the need for prior authorization from the ec (*e.g*., the use of binding corporate rules or model clauses adopted by the ec); or in case where a transfer is covered by a range of specific derogations outlined in article 49.[[129]](#footnote-129) In 2016, the EU and the United States (US) negotiated the adequacy decision on EU-US Privacy Shield to allow for the transatlantic transfer of personal data by certified organizations.[[130]](#footnote-130) However, in July 2020, the Court of Justice of the European Union (cjeu) invalidated Decision 2016/1250 on the adequacy of the protection provided by the EU-US Data Protection Shield.[[131]](#footnote-131) The ec and the US have started negotiations on a successor arrangement to the EU-US Privacy Shield to comply with the judgement of the Court.[[132]](#footnote-132) Since 2017, the EU has actively engaged with some of its trading partners in Asia, Latin America and in the European neighbourhood to explore ways to develop and negotiate mutual adequacy decisions.[[133]](#footnote-133) The EU has so far recognized more than a dozen countries and currently holding adequacy talks with one, but none of the non-EU countries along the China-Europe railway corridors are recognized.[[134]](#footnote-134) Also, the EU is currently in the process of finalizing a Regulation to replace the ePrivacy Directive, which would be *lex specialis* to the gdpr and would particularize and complement the latter in respect of privacy-related topics.[[135]](#footnote-135)

At the other end of the railway corridors, China has been quickly building its legal framework on data protection.[[136]](#footnote-136) On 7 November 2016, the Standing Committee of the National People’s Congress of China issued the Cybersecurity Law (csl) (also referred to as the Network Security Law) that entered into force on 1 June 2017.[[137]](#footnote-137) The csl establishes an overarching regulatory framework to ensure network security and the law covers the construction, operation, maintenance and use of networks in China by international and domestic individuals and entities, as well as regulators’ administration and supervision of network security. The csl pays attention to the protection of personal information and individual privacy by standardising the collection and usage of such information.[[138]](#footnote-138) The csl defines security requirements for ‘network operators’, which are owners and administrators of networks and network service providers.[[139]](#footnote-139) It is submitted that in addition to telecom operators and internet firms, a single window system that collects personal information may also be defined as ‘network operator’ and fall within the ambit of this law.

Article 31 of the csl defines critical information infrastructure (cii) as infrastructure from important industries and sectors, such as transport and finance, that may pose severe threat to national security, people’s livelihood, and public interests if their data is damaged or disabled or leaked.[[140]](#footnote-140) Article 31 of the csl further delegates to the State Council the authority to formulate specific regulations on the cii.[[141]](#footnote-141) With that delegated authority, on 27 April 2021, the State Council passed the Security Protection Regulations on the Critical Information Infrastructure (cii Regulation), which took effect on 1 September 2021. cii Regulation offers an even broader definition of the cii and provide the methods and factors of designating the cii. Articles 8 and 9 of the cii Regulation further delegate the competent industry regulators the authority to: (1) formulate the implementing rules to designate the cii for their industries and sectors, and (2) take charge of the security protection of the cii s in their industries and sectors. Thus, if an industry regulator notifies a single window system to be ciio, then it has to comply with the strictures of the cii Regulation.

Interestingly, China started to implement a pilot policy on cross-border data transfer in Lin Gang Zone located in the Shanghai pftz. The pilot policy briefly mentions the implementation of security assessments for cross-border data transfer, setting up information security maturity models and the filing of cross-border data transfer for certain sectors such as integrated circuit, artificial intelligence and life sciences and pharmaceutical, and for multinational companies that register their headquarters in that Zone.[[142]](#footnote-142) It remains to be seen how various industry regulators define and identify cii and whether a single window system would actually be considered as a ciio.

5 Interactions for Cross-Border Single Window Interoperability – Exploring the Geopolitical Frame

Two pertinent observations that emerge from the discussion made in section 2 above are – that all countries except Belarus have an operational single window, and that the scope and extent of single window vary from one country/region to another. Given the above, if consensus is achieved on technical, legal and political matters, then it would be possible to have interoperable single window systems that allow secure cross-border exchange of G2G, B2G and B2B information between countries along the railway corridors.[[143]](#footnote-143) But, achieving such a consensus is not easy. Moreover, the business needs for developing interoperability have to exist as well.[[144]](#footnote-144) As this chapter follows a legalistic approach and the scope is cross-border in nature, this section scrutinizes various agreements, policy documents, and initiatives that are in place or may be promoted to strive for single window interoperability along the Chongqing-Duisburg railway link.

Currently, there are several ongoing interactions that involve China, the EU and the eaeu, in various possible combinations, that aspire to achieve single window interoperability. Some of these interactions are presented below to highlight that there could be the possibility for developing interoperability in the future; and that through such reciprocal influence, the development of a harmonized set of rules on interoperability for the railway corridors is being attempted.

5.1 Interactions between China and the eaeu

China and the eaeu entered into an agreement on trade and economic cooperation which contains provisions related to customs cooperation.[[145]](#footnote-145) The Agreement includes provisions on customs cooperation,[[146]](#footnote-146) single windows,[[147]](#footnote-147) coordinated border management,[[148]](#footnote-148) mutual recognition of aeo s,[[149]](#footnote-149) *etc*. The Agreement provides that the parties should develop their respective national single windows in accordance with international standards and best practices concerning trade facilitation and modernization of customs techniques and practices.[[150]](#footnote-150) The Agreement also prompts at interoperability of single windows between China and the eaeu.[[151]](#footnote-151) Furthermore, article 6.20 of the Agreement provides that the parties will seek to reach consensus on the data elements for information exchange, and after that will endeavour to conclude the Agreement on Electronic Information Exchange.[[152]](#footnote-152) The prospect of an Agreement on Electronic Information Exchange is of particular interest as it may potentially address issues related to e-signatures, identification, authentication and authorization procedures, that are necessary for supporting cross-border transactions through single windows.[[153]](#footnote-153) The presence of the above provisions in the eaeu–China Agreement reflects that the parties are aware of the importance of the digital complement to the physical infrastructure for the success of transport corridors.

Also, in recent years, the sco has been used as a platform for cooperation on trade facilitation between China and the eaeu. sco is generally perceived as an institution focused on regional security.[[154]](#footnote-154) However, Chinese scholars have always maintained that sco is like ‘a cart with two wheels’, referring to the equal degree of importance attached to both security and economic cooperation.[[155]](#footnote-155) The sco platform possesses optimal mechanisms for launching a broad negotiation process,[[156]](#footnote-156) and the fact that a number of countries participate in both the sco and the eaeu makes the prospects for such ~~a~~ dialogue more favourable.[[157]](#footnote-157) The sco has established mechanisms for political coordination that can ensure that negotiations can be held at the upper echelons of government and administration.[[158]](#footnote-158)

After the announcement of the bri, the sco has been particularly active in initiating customs cooperation between its members, observers and dialogue partners. In 2016, the sco instituted a joint task force to address streamlined customs and harmonized border control, inspection, quarantine as well as certification and accreditation.[[159]](#footnote-159) Subsequently, in November 2019, the sco adopted the ‘Concept of Cooperation between the Railway Administrations of the sco Member States’, which laid the legal foundation for development of cooperation for railway transport and interconnection in the sco region.[[160]](#footnote-160) Also, within the framework of the sco, China has signed several interaction procedures and roadmaps on mutual recognition of aeo s. For example, in 2018, the heads of customs departments of Belarus and China signed the ‘Procedure for cooperation on mutual recognition of the authorized economic operators’ and the ‘Roadmap for concluding an Agreement on mutual recognition of the status of an authorized economic operator’ during the sco Summit in Qingdao.[[161]](#footnote-161)

5.2 Interactions between the EU and China

China and the EU are major trading partners.[[162]](#footnote-162) At present there is no legal instrument in effect that provides specifically for single window interoperability between China and the EU. However, the Agreement between the EU and China on cooperation and mutual assistance in customs matters has certain provisions that may be useful when building interoperability in the future.[[163]](#footnote-163) Article 6 provides for the scope of customs cooperation which includes establishing and maintaining channels of communication between customs authorities to facilitate and secure the rapid exchange of information and facilitating effective coordination between the customs authorities. Article 7 provides that the ‘[c]ontracting [p]arties affirm their commitment to the facilitation of legitimate movement of goods and shall exchange information and expertise on measures to improve customs techniques and procedures and on computerized systems with a view towards implementing that commitment in accordance with the provisions of this Agreement’.

Also, in an effort to improve transport connectivity between China and Europe, the European Commission’s (ec) Directorate-General for Mobility and Transport (dg move) and the National Development and Reform Commission of China (ndrc) established the EU-China Connectivity Platform (cp)[[164]](#footnote-164) in 2015, which then successively featured in two documents of the ec, namely ‘Elements for a new EU strategy on China’ from 2016 and ‘EU-China – A strategic outlook document’ from 2019.[[165]](#footnote-165) The main objective of the cp, as agreed by both sides, was to explore opportunities for further cooperation in the area of transport with a view to enhance synergies between the EU’s approach to connectivity, including the Trans-European Transport Network (ten-t), and China’s bri.[[166]](#footnote-166) During the first working group meeting of the cp that took place in February 2016, the primary focus was on the EU-China coordinated infrastructure planning, *i.e.*, the bri and ten-t, including opportunities for project cooperation in bri third countries.[[167]](#footnote-167) Trade and transport facilitation in the areas of standards, customs, interoperability, logistics, and border crossing rules for transport corridors were also discussed.[[168]](#footnote-168)

In 2019, under the cp, a joint study on sustainable railway-based transport corridors between Europe and China has been proposed.[[169]](#footnote-169) The aim of the joint study to ‘define the most appropriate railway corridors between Europe and China, identify the bottlenecks, identify and prioritize the missing links to improve the capacity and efficiency of railway corridors’.[[170]](#footnote-170) The terms of reference of the joint study on transport corridors between Europe and China emphasize high level assessment of constraints that affect transport operations, and customs procedures has been identified as one area of work.[[171]](#footnote-171) In fact, enhancement of digital systems for efficient freight logistics, corridor data management or information management system has also been identified as key action areas.[[172]](#footnote-172) The ‘EU-China Connectivity Platform 2019 Action Plan’ states that both sides will promote the construction of the cp, enrich the cooperation content and produce pragmatic cooperation achievements.[[173]](#footnote-173)

The ‘Strategic Framework for Customs Cooperation 2018 – 2020’ is another important instrument for strengthening EU-China customs cooperation for trade facilitation.[[174]](#footnote-174) Even though the document does not mention single window expressly, it mentions implementation of automated data exchange, to ensure the stable exchange of data, and the establishment of a risk-related information exchange between the EU and China via the Customs Risk Management System in the context of implementation of phase 3 of the ‘Smart and Secure Trade Lanes Pilot’.[[175]](#footnote-175)

In December 2020, the EU and China agreed in principle on the negotiations for a Comprehensive Agreement on Investment (cai).[[176]](#footnote-176) Currently, both sides are working towards finalising the text of the agreement, which will be submitted for approval by the EU Council and for ratification once it is legally reviewed and translated. cai aims to establish a deeper economic partnership, level playing field for business, and to open new market opportunities for the EU Member States and China.[[177]](#footnote-177) While the cai may be seen as a stepping stone towards achieving a broader trade agreement, it may also serve as a basis for further trade related information exchange which could eventually call for single window interoperability. However, the question about the progression onto a trade agreement to establish deeper economic relationship will be determined by the success of the cai and to what extent both sides can hold each other to the agreed standards in various areas.

It should be noted that the EU perception of China has changed considerably in the last three years. In the past, the EU had prioritized deepening of trade and commercial relationship with a ‘realistic, assertive and multi-facetted approach’.[[178]](#footnote-178) However, this position now stands greatly altered in view of security concerns and geopolitical uncertainty. The question of security has become somewhat central in the EU-China relationship. The ambition of the cp described above was to explore the synergies between bri and EU connectivity initiatives such as ten-t. Until recently, the connectivity projects between the EU and China remained open and experimental. However, at present, such projects are a subject of the EU’s questions and concerns regarding level playing field, competition, and benefits for the EU industry. The EU currently seeks concrete progress on issues such as asymmetric market access, investment opportunities and state subsidies.[[179]](#footnote-179) To address these concerns the EU has undertaken some steps such as screening of foreign direct investments into the Union to address ‘potential risk to strategic industries’ and possible ‘loss of critical assets and technology’. Also, the proposal for a directive on corporate sustainability due diligence which is currently open for feedback until 23 May 2022, highlights the change in the EU posture towards supply chains.

More importantly, the EU’s engagement with China’s bri projects now operates under the shadows of its very own connectivity strategy, the Global Gateway. Within the frame of Global Gateway, the EU is investing in a study on railway corridors between the EU and China and the possibility of corridors through Iraq, Syria, India, Pakistan, Iran and Afghanistan. The Global Gateway project can be considered as a rival project and the question remains open if it is launched to curb China’s influence. The Global Gateway project to a great extent will redefine EU-China relationship and has the possibility of having a limiting effect on the bri projects. It is important to note that the EU’s relationship with China is dependent on the latter’s participation in global affairs, its relationship with Russia and the US. With the ongoing Russia-Ukraine conflict, the EU’s relationship with China will be determined by the extent of China’s association and political and economic support towards Russia.

5.3 The EU’s Interaction with Belarus, Russia and Kazakhstan

The EU has engaged independently with the constituent countries of the eaeu on matters relating to trade, development, *etc.*, but outside the framework of the eaeu.[[180]](#footnote-180) Belarus is a crucial transit point for the Chongqing-Duisburg railway link. In the past, the EU engaged meaningfully with Belarus and was in the process of negotiating the EU-Belarus Partnership Priorities, which would set the strategic framework for cooperation in the coming years. The EU also provided Belarusian companies with funding, training, and support to export to new markets through the EU4 Business initiative.[[181]](#footnote-181) The 2021 EU4 Business Report on sme Support in the Eastern Partnership revealed that €53.07 million was spent on active projects in Belarus. However, this was 60.4% less compared with 2019. The EU-Belarus Twinning Project[[182]](#footnote-182) also follows the same trend of scaled back engagement with Belarus. In fact, the Twinning project with Belarus has been suspended until conditions allow following the October Council conclusions on Belarus (11660/20).[[183]](#footnote-183)

In 2020, there were widespread protests Belarus against President Alexander Lukashenko’s re-election through a widely judged corrupt elections.[[184]](#footnote-184) Following the elections, there was considerable political unrest in Belarus which resulted in the EU’s withdrawal of its support for the central authorities to the maximum extent. In October 2020, the EU imposed sanctions on individuals and entities in response to the Belarusian authorities’ unacceptable violence against peaceful protesters, intimidation, arbitrary arrests and detentions, following the August 2020 presidential elections.[[185]](#footnote-185) In response to the restrictive measures adopted by the EU, the Belarusian regime instrumentalized migrants for political purposes and launched hybrid attacks along the EU border.[[186]](#footnote-186) Since December 2021, the EU has continued to progressively broaden the scope of sanctions. Moreover, following Belarus’s role in Russia-Ukraine conflict, the EU has imposed tougher sanctions on Belarus which includes individual and economic sanctions targeting 22 people, restrictions on trade, a swift ban for three Belarusian banks, prohibition on transactions with the Central Bank of Belarus, limits on the financial inflows from Belarus to the EU, prohibition on the provision of euro-denominated banknotes to Belarus.[[187]](#footnote-187)

EU-Russia relations are legally, hinged on the Partnership Cooperation Agreement, signed in June 1994, which sets the principal common objectives and establishes the institutional framework for bilateral contacts. In the past, the EU maintained a ‘selective engagement’ approach when engaging with Russia guided by the Foreign Affairs Council’s five guiding principles.[[188]](#footnote-188) There has also been an ambition of comprehensive agreement between Russia and the EU. However, following Crimea’s annexation the relationship between the EU and Russia experienced a negative shift and the EU imposed economic sanctions on Russia.[[189]](#footnote-189) The relationship has further soured with Russia’s invasion of Ukraine. The EU has imposed extensive sanctions on Russia that include individual sanctions, economic sanctions, restrictions on media, diplomatic measures, and restrictions on economic relations with the non-government-controlled areas of Donetsk and Luhansk Oblasts. EU currently has sanctions on Russia’s financial, trade, energy, transport, technology, and defence sectors. Sanctions that target the transport sector include closure of the EU airspace to all Russian-owned and Russian-registered aircraft, closure of the EU ports to Russian vessels, prohibition on Russian road transport operators from entering the EU and prohibition on exports to Russia of goods and technology in the aviation, maritime and space industry.[[190]](#footnote-190) Financial sanctions include prohibition on transactions with certain state-owned enterprises, prohibition on transactions with the Russian Central Bank, swift ban for certain Russian banks, prohibition on the provision of euro-denominated banknotes to Russia, prohibition on public financing or investment in Russia and prohibition on investment in and contribution to projects co-financed by the Russian Direct Investment Fund, deposits to crypto-wallets, prohibition on the provision of credit rating services to any Russian person or entity.[[191]](#footnote-191) It should be noted that the EU has coordinated sanction with its partners such as the US and the UK. In response, Russia currently maintains various economic, punitive countermeasures.

The EU adopted a strategy on Central Asia in 2019 with a view to strengthen regional cooperation, taking advantage of new opportunities in the region and addressing common challenges.[[192]](#footnote-192) The EU has the Enhanced Partnership and Cooperation Agreement (epca) that governs trade and economic relations with Kazakhstan, which entered into force on 1 March 2020.[[193]](#footnote-193) This agreement establishes a legal basis for a legal relationship for EU-Kazakhstan relationship. The EU in the recent past has engaged at a deeper level with Kazakhstan. Currently there are several projects between the EU and Kazakhstan that span across several areas of interest such as energy, environment, technology, finance, and culture.[[194]](#footnote-194) It is important to note that Kazakhstan’s has close economic and political ties with Russia and is also a member of the sco along with Russia, China and other countries. However, the question remains open about the way the Russia-Ukraine conflict will impact Kazakhstan’s long-term relationship with Russia. If Kazakhstan remains neutral in its position, it may emerge not only as an attractive destination for investments in the Central Asian region but also may continue to engage in the future with the EU.

To sum up, at present, there exist no instrument or any ongoing negotiation to suggest that the EU is building a digital relationship with these three countries for single window interaction. The EU’s relations with both Belarus and Russia now are defined mainly by unilateral sanctions and EU’s engagement with these countries is not expected to be meaningful any time soon in the future. This has major implications for the railway links under the bri. While the Russia-Ukraine conflict has disrupted selected supply chains, it is interesting to note that the Chongqing-Duisburg railway link is still operational. While block trains are still running between Chinese and European cities using the above route,[[195]](#footnote-195) this does not mean that all is well. The complex framework of sanctions, and in particular financial sanctions, along with political and social censure have dissuaded most EU based logistics companies from accepting business that has any ties with Russia. This recent development has major consequences for the long-term viability of the Chongqing-Duisburg link, which so far has been subsidised by China. More importantly, the complex interactions between the participating countries will determine if single window interoperability may eventually materialize.

6 Single Window Interoperability, Digitalization Strategy and Fragmentation

Cross-border single window interoperability is an advanced technology-based feature of trade facilitation, which requires prior investment in digital infrastructure. Therefore the level of trade facilitation is directly proportional to the availability of digital infrastructure, which is generally connected to the degree of economic development in the country.[[196]](#footnote-196) Outside support is available to finance trade facilitation including provisioning of digital infrastructure, for instance through the wto’s tfaf Grant Program as mandated by the tfa,[[197]](#footnote-197) or through multilateral financial assistance such as the adb, New Development Bank, and Aid for Trade, but they are not adequate.

In recent years, another source of financing that can be accessed by countries to establish digital infrastructure along the railway corridors is through the Digital Silk Road (dsr).[[198]](#footnote-198) The dsr, which was initially called the ‘Information Silk Road’ in the Vision and Actions document,[[199]](#footnote-199) promotes investments in sectors ranging from e-commerce and telecommunication to scientific cooperation and the digital economy. The dsr comprises four interrelated, technology-focused components with the following objectives: first, to promote Chinese investments in digital infrastructure abroad, including next-generation cellular networks, fibre optic cables, and data centres;[[200]](#footnote-200) second, domestic investment in China to develop advanced technologies, that includes satellite-navigation systems, artificial intelligence, and quantum computing;[[201]](#footnote-201) third, promotion of e-commerce through establishment of digital free trade zones and regional logistics centres, and reduction of cross-border trade barriers;[[202]](#footnote-202) and fourth, propagation of the Chinese notion of international digital environment through digital diplomacy and multilateral governance.[[203]](#footnote-203) Although the scope of the dsr is much bigger than creating interoperable single windows connecting China with the eaeu and the EU, it is reasonable to say that the dsr holds promise for a wider, more deeply textured digitalization strategy for the region.[[204]](#footnote-204) While the prospects of dsr are numerous, the largely undeveloped legal aspects are a major concern. Needless to mention, the dsr constitutes a trove of legal issues, such as internet governance, jurisdiction, conflict of laws, e-contracting, privacy, protection of personal data, cross-border and online dispute resolution, and the convergence of trade facilitation and e-commerce that require thorough investigation and development.[[205]](#footnote-205)

7 Conclusion and Way Forward

At present, railway transport is used to carry only a small share of China-EU trade, and the bri is not expected to change this in any substantial way.[[206]](#footnote-206) The growing interest in railway transport between Europe and China is understandable because the speed and reliability of transport is an important dimension of China-EU trade.[[207]](#footnote-207) Over the years, time-sensitive goods accounted for more than three-quarters of the value of China’s exports to the EU, and more than 60% of the EU’s exports to China.[[208]](#footnote-208) Therefore, trade facilitation reforms is vital for the continued development of the corridors.[[209]](#footnote-209) The formation of the eaeu has cut the journey time from China to Europe by around 5 days, which shows that political cooperation is necessary for reducing the number of border clearances, simplifying customs procedures, and harmonising technical standards to guarantee the required traffic capacity of the various transport corridors.[[210]](#footnote-210)

Currently there are no concrete legal provisions to support single window interoperability between all the countries in the Chongqing-Duisburg railway link. The change in political situation because of Russia-Ukraine conflict casts a long shadow on the political willingness to build seamless single window interoperability. Therefore, the question that remains is – what approach should be adopted to build interoperability? Interoperability is conceived between China and the eaeu at a regional level through an agreement on trade and economic cooperation.[[211]](#footnote-211) In the future, interoperability may eventually materialize organically between the EU and China, as the policy agenda on transport point in that direction.[[212]](#footnote-212) Therefore, one approach could be that the two separate interoperable single window environments may then serve as building blocks for a grand scheme for creation of interoperability along an entire corridor in the future.

While fragmentation in railway and customs laws including regulations along the corridors evolved over half-a-century and would require some time to get harmonized, the divergence in data protection law is of recent vintage. In the latter sphere, the EU is driven by privacy concerns and China is focused on security. Most of the other countries along the corridors have promulgated some sort of laws related to personal data protection, but nothing comprehensive like the EU or China.[[213]](#footnote-213) At any rate, divergent national or regional approaches would only cause hardship to share data and collaborate meaningfully for all. One may argue that China’s legislative approach towards data protection now leans towards the EU. That may be seen as a success for the EU in exporting its data protection standards to an important non-EU country like China, by incentivizing the adoption of an equivalent standard of protection to ensure easier transfer of data from the EU. However, China’s approach is not merely a transplantation of the EU rules. Cyber-sovereignty and the dichotomy between the perspectives of privacy from private actors and privacy from the state are the most salient elements of the model that China is building.[[214]](#footnote-214) Given China’s ambitions related to its cyber strategy and also the dsr, it’s voice on data flows will have an increasing impact generally, and also in developing single window interoperability in the railway corridors.

Given the economic and strategic realities as highlighted above, legal and regulatory fragmentation may soon pose as a serious risk for the further development of trade facilitation initiatives along the railway corridors. Fragmentation may sabotage the evolution of a more democratic and egalitarian international regulatory system in the Eurasian space, and in general undermine the normative integrity of international law.[[215]](#footnote-215) In this context the geopolitical dimension of fragmentation is particularly noteworthy because the lack of digital infrastructure may attract certain middle countries in the railway corridors to submit to investments and technology from powerful States.[[216]](#footnote-216) So, the question that arises is – could these powerful States influence the legislation related to data flows in these middle countries in a certain way? Based on the discussion on interactions related to cross-border single window interoperability made in section 5 above, it is likely that a multitude of competing institutions with overlapping responsibilities on transport and trade facilitation would provide the powerful States with an opportunity to abandon or threaten to abandon any given forum for a more sympathetic forum if their demands are not met. This may result in competition between institutions and can effectively marginalise the role of weaker States. To circumvent fragmentation, it is therefore necessary that States along the railway corridors –

(i) enter into broad and integrative agreements and avoid a large number of narrow agreements that are functionally defined as exemplified in section 5 above;

(ii) formulate agreements based on frequently convened multilateral negotiations; and

(iii) continue to engage with international and regional institutions even if they become more responsive to the interest of weaker States.

If a country or region along the railway corridors adopts a “divide and conquer” approach, where it would bargain with or compete on legal rules against those of other countries, or if it follows an intentional strategy of exploiting problems of coordination among multiple countries, then that may lead to uncertainty in the development of the corridors. Moreover, there is no straightforward way to determine whether the divide and conquer approach would reduce or enhance social welfare.[[217]](#footnote-217) However, if there is a call for the countries along the corridors to unite to trade, following that call would invariably lead to efficient movement of goods, support sustainable economic growth and improve social welfare.[[218]](#footnote-218) Therefore, countries along the China-Europe railway corridors should take decisive and definitive action in addressing the legal and regulatory fragmentation to ensure social and economic progress.

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figure 3.1 Fragmented Legal and Regulatory Regimes on Railway and Customs in Eurasia

Source: Adapted from unescap Study on Border Crossing Practices in International Railway Transport

Note: See “Study on Border Crossing Practices in International Railway Transport”, ibid 28.

1. The development of railway connections between China and Europe can be divided into three primary corridors. (1) The northern corridor has three prongs extending from China, all of which join the Trans-Siberian Railway routes that runs through Russia. (2) The middle corridor called the New Eurasian Land Bridge (nelb) spans from the Pacific port of Lianyungang in China running through China, Kazakhstan, Russia, Belarus to Rotterdam in the Netherlands. At present, most containers are transported using this middle corridor that crosses the Chinese-Kazakh border at either Alashankou/Dostyk or Khorgos/Altynkol. The north and the middle corridors meet in the Urals near Yekaterinburg. The goods continue to the European Union via Belarus and are unloaded onto standard European gauge flatcars in Małaszewicze on the Polish-Belarusian border. A small number of trains from China have their terminus in the Baltic States. (3) A nascent southern corridor called the Trans-Caspian International Transport Route is an intermodal land and sea connection running through the Caspian Sea, the Caucasus and the Black Sea stretching to Europe is currently under development. See X. Zhang, H-J. Schramm, “Assessing the Market Niche of Eurasian Rail Freight in the Belt and Road Era” (2020) *International Journal of Logistics Management*. [↑](#footnote-ref-1)
2. Formally inaugurated in 2000, the ‘Develop the West’ strategy contained a number of different policy objectives to develop the western regions, building on earlier efforts, and reflecting more of a policy realignment in China. For a comprehensive discussion on the topic, see Doris Ma, Tim Summers, “Is China’s Growth Moving Inland? A Decade of ‘Develop the West’” (2009) *Chatham House*, 3, online: Chatham House <www.chathamhouse.org/sites/default/files/public/Research/Asia/1009pp\_chinasgrowth.pdf> accessed 11 October 2021. [↑](#footnote-ref-2)
3. The strategy covered 6 provinces (Gansu, Guizhou, Qinghai, Shaanxi, Sichuan and Yunnan), 5 autonomous regions (Guangxi, Inner Mongolia, Ningxia, Tibet and Xinjiang), and 1 municipality (Chongqing). “Western development strategy” *Xinhua* (22 December 2009), online: Xinhua <www.chinadaily.com.cn/china/westdevelopment/2009-12/22/content\_9215054.htm> accessed 11 October 2021. [↑](#footnote-ref-3)
4. For discussion on transportation issues related to this strategy, see John W. GARVER, “Development of China’s Overland Transportation Links with Central, South-West and South Asia” (2006) *The China Quarterly*, No. 185, 1–22; also see, N. Yu, M. Jong, S. Storm, J. Mi, “The growth impact of transport infrastructure investment: A regional analysis for China (1978–2008)” (2012) *Policy and Society*, 31:1, 25–38, online: Taylor & Francis Online <www.tandfonline.com/doi/full/10.1016/j.polsoc.2012.01.004> accessed 11 October 2021. [↑](#footnote-ref-4)
5. J. Jakóbowski, M. Kaczmarski, K. Popławski, “The Silk Railroad. The EU-China rail connections: background, actors, interests” (2018) *Centre for Eastern Studies* *(OSW)* No. 72, 6, online: osw <www.osw.waw.pl/sites/default/files/studies\_72\_silk-railroad\_net.pdf> accessed 11 October 2021. [↑](#footnote-ref-5)
6. In 2011, the electronics and automotive sectors with support from leading logistics service providers started to experiment with various railway routes to connect their European and Asian supply chains. For example, Hewlett Packard (hp) started sending notebook computers from its factory in Chongqing through Kazakhstan, Russia, Belarus and Poland to Duisburg in Germany using block trains. Shipping one container by train costed hp about usd 10,000, which was about one-third the cost of air transit and twice the cost of shipping by sea. See C. Rastogi, J-F Arvis, *The Eurasian Connection: Supply-Chain Efficiency along the Modern Silk Route through Central Asia* 44–45, online: World Bank <https://elibrary.worldbank.org/doi/pdf/10.1596/978-0-8213-9912-5> accessed 11 October 2021. [↑](#footnote-ref-6)
7. “Transport corridor”, *Wikipedia*, online: Wikipedia <https://en.wikipedia.org/wiki/Transport\_corridor> accessed 11 October 2021. [↑](#footnote-ref-7)
8. ibid*.* [↑](#footnote-ref-8)
9. Johan Woxenius “Generic framework for transport network designs: Applications and treatment in intermodal freight transport literature”, (2007) *Transport Reviews* 27(6) 733–749. [↑](#footnote-ref-9)
10. There is mutual relationship between transport corridors and trade where one fosters the other. They are connected in the same way as the connection between economics and infrastructure. Corridors lead to increased productivity, lower transport costs, affects trade relationships and the location of production factors; see P. Rietveld, F. R. Bruinsma, *Is Transport Infrastructure Effective? Transport Infrastructure and Accessibility: Impacts on the Space Economy*, (Springer, 1998). A successful transport corridor is often being followed by an integration that goes deeper than the physical infrastructure; see P. Srivastava, “Regional Corridors Development in Regional Cooperation”, adb Economics Working Paper Series No. 258, Asian Development Bank, Mandaluyong City, Philippines, issn 1655–5252 (2011), online: Think-Asia <https://think-asia.org/bitstream/handle/11540/2029/EconomicsWP258.pdf?sequence=1>; also see, A. HOPE, J. COX, Development Corridors, Coffey International Development (2015), online: <https://assets.publishing.service.gov.uk/media/57a08995e5274a31e000016a/Topic\_Guide\_Development\_Corridors.pdf> accessed 11 October 2021. [↑](#footnote-ref-10)
11. Landlocked countries often lag behind their maritime neighbours in overall development and external trade. While the relatively poor performance of many landlocked countries can be attributed to distance from coast, it has been argued that several aspects of dependence on transit neighbours are also important. Four such types of dependence: 1) dependence on neighbours’ infrastructure; 2) dependence on sound cross-border political relations; 3) dependence on neighbours’ peace and stability; and 4) dependence on neighbours’ administrative practices. See, M.L. Faye, J.W., McArthur, J.D. Sachs, T. Snow, “The challenges facing landlocked developing countries” (2004) *Journal of Human Development*, 5(1) 31–68. [↑](#footnote-ref-11)
12. The China-Europe railway network connects 62 Chinese cities with 51 European cities in 15 countries. Jingxi Mo, “Customs clearance eased for international freight train users”, The State Council of the People’s Republic of China (3 March 2020), online: english.gov.cn <http://english.www.gov.cn/statecouncil/ministries/202003/03/content\_WS5e5daf62c6d0c201c2cbd64d.html> accessed 11 October 2021. [↑](#footnote-ref-12)
13. More information on the Vienna Programme of Action is available online: <www.un.org/ohrlls/content/vienna-programme-action> accessed 11 October 2021. [↑](#footnote-ref-13)
14. S. Olinga-Shannon, M. Barbesgaard, P. Vervest, “The Belt and Road Initiative (BRI): An Asia Europe People’s Forum (AEPF) Framing Paper” (November 2019) 7–8, online: <www.tni.org/files/publication-downloads/bri\_framing\_web\_en.pdf> accessed 11 October 2021. [↑](#footnote-ref-14)
15. See Bridging Borders: Infrastructure to Connect Asia and Beyond”, Asian Infrastructure Finance 2019 at 90, aiib available online: <www.aiib.org/en/news-events/asian-infrastructure-finance/common/base/download/AIIB-Asian-Infrastructure-Finance-2019-Report.pdf> accessed 11 October 2021. [↑](#footnote-ref-15)
16. This is exemplified by studies in the asean region by S. Stone, A. Strutt, “Transport Infrastructures and Trade Facilitation in the Greater Mekong Subregion”, *Trade Facilitation and Regional Cooperation in Asia* (2010) 156; also in Africa by S. Teravaninthorn, G. Raballand, “Transport prices and costs in Africa: a review of the main international corridors”, World Bank Publications (2009); and also in South East Asia by R. Banomyong, “Multimodal transport corridors in South East Asia: a case study approach”, Doctoral Thesis, Cardiff Business School, Cardiff University, UK (2000). [↑](#footnote-ref-16)
17. The bri policy document lists five key priority areas: policy coordination, facilities connectivity, unimpeded trade, financial integration and people-to-people bonds. See “Vision and Actions on Jointly Building Silk Road Economic Belt and 21st-Century Maritime Silk Road” (28 March 2015), issued by the National Development and Reform Commission (ndrc), Ministry of Foreign Affairs, and Ministry of Commerce with authorization of the State Council, online: Belt and Road Forum <http://2017.beltandroadforum.org/english/n100/2017/0410/c22-45.html> accessed 11 October 2021. [↑](#footnote-ref-17)
18. International institutions such as the wto, the United Nations Centre for Trade Facilitation and Electronic Business (un/cefact) and the Organisation for Economic Co-operation and Development (oecd) have adopted broad and progressive definitions of trade facilitation that include simplification and standardization of procedures, practices, formalities and associated information flows relevant for movement of goods. The various definitions proposed by these international institutions refer not only to the government agencies that are concerned with the transit of goods but also include entities that conduct business associated with trade. Both un/cefact and oecd include within the ambit of trade facilitation information flows for the purpose of movement of goods from seller to buyer and making payments. For a discussion on definitions and scope of trade facilitation refer to A. Basu Bal, T. Rajput, “Trade in Digital Era: Prospects and Challenges for an International Single Window Environment”, in F. Amtenbrink, D. Prévost, R. A. Wessel, eds., *Netherlands Yearbook of International Law 2017: Shifting Forms and Levels of Cooperation in International Economic Law: Structural Developments in Trade, Investment and Financial Regulation*, (Springer, 2017) 306–7. [↑](#footnote-ref-18)
19. There are daily train connections from Chongqing to Duisburg. Chongqing is located strategically in China’s central-western region and is part of the Yangtze Economic Belt. The Chongqing-Xinjiang-Europe International Railway (also known as Yuxinou, a name derived from a combination of its Chinese characters – Yu (Chongqing), Xin (Xinjiang) and Ou (Europe)), has played a pioneering role in the opening up of China-Europe railway corridors. Duisburg is a city in Germany that enjoys a strategic location and serves as a logistics hub for Germany, France and the Benelux region. See P. Oltermann, “Germany’s ‘China City’: how Duisburg became Xi Jinping’s gateway to Europe”, *The Guardian* (1 August 2018), online: The Guardian <www.theguardian.com/cities/2018/aug/01/germanys-china-city-duisburg-became-xi-jinping-gateway-europe>. According to Yuxinou (Chongqing) Logistics, the train journey from Chongqing to Duisburg takes 12–15 days and the frequency has increased from 17 runs in 2011 to more than 1000 runs in 2018. See “Chongqing: On Track for Europe via the Yuxinou Rail Route”, *hkdtc*, online: hkdtc < https://hkmb.hktdc.com/en/1X0ADYAW/hktdc-research/Chongqing-On-Track-for-Europe-via-the-Yuxinou-Rail-Route> accessed 11 October 2021. The Chongqing-Duisburg railway link, which is part of the nelb, is chosen as the focus of this chapter because of three main reasons: (1) consistency – it is one of the first link to open between China and Europe in 2011, it has a daily service since 2018, and it has turned out to be a profitable link for the carriers; (2) suitability to discuss trade facilitation issues – the northern Trans-Siberian Railway routes are long and not frequently used for China-Europe services, the southern Trans-Caspian International Transport Route is still under development, and most importantly trade facilitation initiatives have recently been undertaken at both China-Kazakhstan border and Belarus-Poland border; and (3) subject matter of joint research – the authors of this chapter have conducted joint research for the past three years as part of a collaboration arrangement between Chinese and Swedish universities, focusing on digital infrastructures that are being built as part of the bri, by visiting the Chongqing pftz and conducting interviews with Chinese government officials on various logistics and digital infrastructure projects that are being executed by the provincial government in Chongqing to facilitate the railway corridors. This chapter takes a forward-looking perspective to consider what more may be done to develop a regional agenda for trade facilitation along the China-Europe railway corridors. Note that some of the facets of the Chongqing-Duisburg railway link mentioned in reasons (1) and (2) above can also be gleaned from R. Pomfret, *China’s Belt And Road Initiative, The Eurasian Landbridge, And The New Mega-regionalism*, Series on China’s Belt and Road Initiative Series – Volume 10, 28–9. [↑](#footnote-ref-19)
20. Single window systems allow government authorities to save costs and increase revenue collection through streamlined processes. Also, the traders and transporters save the hassle of multiple submission of paper work and quicker clearing of goods. In addition, the transportation, banking and insurance industries chance to benefit due to reduced information asymmetry engendered through efficient exchange of information electronically. See Basu Bal, Rajput (n 18). [↑](#footnote-ref-20)
21. Among them are the United Nations Economic and Social Commission for Asia and the Pacific (unescap), the unece and its Centre for Trade Facilitation and Electronic Business (un/cefact), the wco, the United Nations Network of Experts for Paperless Trade and Transport in Asia and the Pacific (UNNExT), the Association of Southeast Asian Nations (asean), United Nations Conference on Trade and Development (unctad) and the wto. [↑](#footnote-ref-21)
22. Single window is defined by the wco as: ‘an intelligent facility that allows parties involved in trade and transport to lodge standardized information and documents with a single-entry point to fulfil all import, export and transit regulated regulatory requirements’, (wco 2008). This is largely in line with un/cefact Recommendation No. 33, “Recommendation and Guidelines on establishing a Single Window”, (2005), online: unece <www.unece.org/fileadmin/DAM/cefact/recommendations/rec33/rec33\_trd352e.pdf> accessed 11 October 2021. Single window is referred as ‘intelligent’ because it is a vehicle for providing shared services that include computation of duties/taxes, fees and charges administered by agencies at the border, coordinated risk management, shared operational controls and orchestration of interagency business processes and workflows. See, “Understanding Single window Environment”, Volume 1, wco, online: wco <www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/single-window/compendium/swcompendiumvol1parti.pdf> accessed 11 October 2021. [↑](#footnote-ref-22)
23. The international guidance on the legal framework related to national and cross-border exchange of trade data required for single window operations is provided in un/cefact Recommendation No. 35, “Establishment of Single Window Legal Framework for International Trade”, (2013), online: unece <www.unece.org/fileadmin/DAM/trade/Publications/ECE-TRADE-401E\_Rec35.pdf> accessed 11 October 2021. [↑](#footnote-ref-23)
24. wto, Agreement on Trade Facilitation, wt/l/931, 15 July 2014. The tfa entered into force on 22 February 2017 after obtaining two-thirds acceptance from wto’s 164 Members. The text of the tfa is available online: wto <www.wto.org/english/docs\_e/legal\_e/tfa-nov14\_e.htm> accessed 11 October 2021. Article 10.4 of the tfa calls for wto members ‘to endeavour to establish or maintain a single window, which enables traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.’ [↑](#footnote-ref-24)
25. For a comprehensive discussion on single windows, see “Understanding Single window Environment”, (n 22). [↑](#footnote-ref-25)
26. Interoperability standards are laid down in un/cefact Recommendation No. 36, “Single Window Interoperability”, (2017), online: unece <www.unece.org/fileadmin/DAM/trade/Publications/ECE-TRADE-431E\_Rec36.pdf> accessed 11 October 2021. [↑](#footnote-ref-26)
27. The acronyms refer to government-to-government (G2G), business-to-government (B2G), government-to-business (G2B) and business-to-business (B2B). [↑](#footnote-ref-27)
28. Single windows vary in scope and implementation modalities due to differences with respect to involved stakeholders, transactions covered, territorial coverage and other relevant aspects. This section of the chapter does not go into the technical details regarding the functioning of different single windows. Single window initiatives of China, Kazakhstan, Belarus and Poland are discussed as the border control takes place at these countries for trains using the Chongqing-Duisburg railway link. [↑](#footnote-ref-28)
29. See (n24). [↑](#footnote-ref-29)
30. The International Convention on the Simplification and Harmonization of Customs procedures (Kyoto Convention) (1973) (as amended on 26 June 1999) entered into force in 2006. The convention has 128 contracting parties as on 11 October 2021. For position as regards ratifications and accessions to the convention, a list is available online: wco <www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Conventions/pf\_revised\_kyoto\_conv/Instruments> accessed 11 October 2021. [↑](#footnote-ref-30)
31. un/cefact is a subsidiary, intergovernmental body of unece which serves as a focal point within the United Nations Economic and Social Council (ecosoc) for trade facilitation recommendations and electronic business standards. The various un/cefact recommendations related to single windows are discussed later in this section of the chapter. [↑](#footnote-ref-31)
32. unctad, through its Automated System for Customs Data (asycuda) programme has been involved with customs modernization and computerization for more than three decades. Kazakhstan uses asycuda for its national single window. See note 63 below for more information. [↑](#footnote-ref-32)
33. unescap prepared the “Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific”, 2016E/escap/res/72/4. China is a signatory to the Agreement and the text is available online: UN <www.un.org/ga/search/view\_doc.asp?symbol=E/ESCAP/ RES/72/4&Lang=E> accessed 11 October 2021. [↑](#footnote-ref-33)
34. United Nations Development Program (undp), (2006), “China Customs Modernization for Trade Facilitation and Equitable Development”, online: undp <https://info.undp.org/docs/pdc/Documents/CHN/00043936\_PRODOC.pdf> accessed 11 October 2021. [↑](#footnote-ref-34)
35. See “China E-Port Towards a Single Window Trading Environment”, UNNExT Brief No. 14 (June 2015), online: unescap <www.unescap.org/sites/default/files/brief14.pdf> accessed 11 October 2021. [↑](#footnote-ref-35)
36. An English translation of the Customs Law of the People’s Republic of China is available online: mofcom <https://english.mofcom.gov.cn/aarticle/policyrelease/internationalpolicy/200705/20070504715848.html> accessed 11 October 2021. [↑](#footnote-ref-36)
37. The Electronic Signature Law of the People’s Republic of China was passed at the 11thmeeting of the Standing Committee of the 10thNational People’s Congress on 28 August 2004. [↑](#footnote-ref-37)
38. The guidelines from 2006 focused on the basic coordination mechanism and responsibility of the stakeholders, while in 2012 the guidelines highlighted the strategic goal of E-Port for the next 5 years. [↑](#footnote-ref-38)
39. Document No. 68 of the State Council [2014] entitled “Notice of the State Council on Issuing and Implementing the ‘Three Mutual’ Reform Plan to Promote the Construction of Large Customs Clearance” and Document No. 16 of the State Council [2015] entitled “Several Opinions of the State Council on Improving Port Work to Support Foreign Trade Development”. These two policy documents steered the implementation of the provisions of the tfa on single windows in China. [↑](#footnote-ref-39)
40. Document No.16 of the State Council [2015], ibid., set the goal for establishment of a single window at all ports in China by 2017. Based on this document, the gac promoted single window systems in all sea ports and subsequently in inland transport hubs. For more information, see “Single Window System to be Promoted to All Sea Ports”, gac (16 February 2015), online: gac <https://english.customs.gov.cn/Statics/8fc6ce8b-65c3-4912-9e79-09255658d2f2.html> accessed 11 October 2021. [↑](#footnote-ref-40)
41. Based on the experience of implementing single windows in the port cities, in 2017, China rolled out a standardized single window for customs clearance throughout the country. See “Standard Edition of Single Window for Promoting International Trade” gac (10 March 2017) available in Chinese, online: gac <www.customs.gov.cn/customs/302249/hgzssldzj/jhls81/667820/index.html> accessed 11 October 2021. [↑](#footnote-ref-41)
42. See Danhong Liang, “Research on Establishment and Application of Single Window Data Element Set for International Trade”, (2014) *Customs and Economic and Trade Research*, Issue 6, 3. [↑](#footnote-ref-42)
43. un/cefact, Recommendation No. 34, “Data Simplification and Standardization for International Trade”, (2013), online: unece <www.unece.org/fileadmin/DAM/cefact/recommendations/rec34/ECE\_TRADE\_400\_DataSimplificationand\_Rec34E.pdf> accessed 11 October 2021. [↑](#footnote-ref-43)
44. The Shanghai pftz was launched in 2013, followed by several more in 2015, 2017, 2018 and 2019. For a comprehensive discussion on these zones see, X. Fan, J. Xu “Report on the Development of Pilot Free Trade Zones in China”, in: Y. Tao, Y. Yuan (eds) *Annual Report on the Development of China’s Special Economic Zones*, Research Series on the Chinese Dream and China’s Development Path (Springer, Singapore, 2018). [↑](#footnote-ref-44)
45. For a detailed discussion on the topic see Danhong Liang, “The Implementation and Enlightenment of ACE/ITDS in the United States”, (2016) *Customs and Economic and Trade Research*, Issue 5, 16. The China (Shanghai) International Trade Single Window remains the most sophisticated subnational Single Window system, which is organized as a public private partnership, and continues to serve as a beacon for the rest of the country. It is operated by Shanghai E&P International Inc. E&P International Inc. and provides enhanced single window capabilities, including both B2G and B2B functionalities. More information is available online: E&P International <www.easipass.com/en/index.html> accessed 11 October 2021. [↑](#footnote-ref-45)
46. “China’s one-stop customs clearance facilitates international trade”, *Xinhua* (30 November 2017), online: Xinhua <www.chinadaily.com.cn/business/2017-11/30/content\_35134431.htm> accessed 11 October 2021. [↑](#footnote-ref-46)
47. The establishment of the sub-national single windows is mandated through Document No. 16 of the State Council [2015] (n 93). [↑](#footnote-ref-47)
48. The wording ‘three mutual’ appears in the title of Document No. 68 of the State Council [2014] (n 39). [↑](#footnote-ref-48)
49. Yuling Chen, “Pioneer of Opening-up in Hinterland China: Chongqing Embraces the World”, i*Chongqing* (12 March 2019), online: iChongqing <www.ichongqing.info/2019/03/12/pioneer-of-opening-up-in-hinterland-china-chongqing-embraces-the-world/> accessed 11 October 2021. [↑](#footnote-ref-49)
50. For example, the Chongqing International Trade Single Window subscribes to customs clearance status information from the supervision department system and pushes it to airports, ports, railway systems and related enterprises in real time. In addition, goods circulation status information is subscribed from airports, ports and railway systems and sent to relevant units in real time. [↑](#footnote-ref-50)
51. The Chongqing Logistics Financing Service Co. Ltd. (clfs) was established by the local government in Chongqing on 25 December 2017 to serve as a one stop shop in the delivery of integrated financial services to traders operating in the Chongqing pftz. For more information on clfs see <https://cqlfn.com/index.html> accessed 11 October 2021. Also, for a wider discussion on how China is approaching trade finance matters along the railway corridors, see A. Basu Bal, T. Rajput, “Maritime Rules for Rail Carriage: China’s Initiative to Incorporate Rules from the Road to the Belt”, in P.K. Mukherjee, M. Mejia, J. Xu, eds., *Maritime Law in Motion* (Springer, 2019), 39, 39–58. China submitted a proposal to uncitral for preparing an instrument on railway consignment notes to facilitate use of letters of credit along the railway corridors, see “Possible future work regarding railway consignment notes” – Proposal by the Government of the People’s Republic of China, a/cn.9/998 (14 June 2019), online: UN <https://undocs.org/A/CN.9/998>. accessed 11 October 2021. [↑](#footnote-ref-51)
52. Overall Plan of China (Chongqing) Free Trade Zone. [↑](#footnote-ref-52)
53. Task Division of Chongqing to Implement Measures Supported by State Council for Deepening Reform and Innovation in Free Trade Zone, Chongqing Government [2019] No.3. [↑](#footnote-ref-53)
54. Article 21, Regulations of China (Chongqing) Free Trade Zone. [↑](#footnote-ref-54)
55. A discussion on Russia is excluded as there is free movement of goods between eaeu members. [↑](#footnote-ref-55)
56. In 2009, the Agreement on Customs Code of Customs Union was created under the auspices of the Eurasian Economic Community (EurAsEC). This Code introduced the common comprehensive legal framework in the Customs Union. The EurAsEC was subsequently terminated from 1 January 2015 after the launch of the eaeu. In April 2017, the Treaty on the Customs Code of the Eurasian Economic Union replaced the earlier Code and the new Code is applied in the eaeu from 1 January 2018. For a discussion on the new Code, see E.S. Smolina, R.N. Seryomina (2019), “Prospects for the Functioning of the New Customs Code of the Eurasian Economic Union” in S. Ashmarina, M. Vochozka eds., *Sustainable Growth and Development of Economic Systems*, (Contributions to Economics, Springer, 2019) 77–85. Also, an unofficial translation of the Code from Russian to English is available online: Eurasian Economic Commission (eec) <www.eurasiancommission.org/en/act/tam\_sotr/dep\_tamoj\_zak/SiteAssets/Customs Code of the EAEU.pdf> accessed 11 October 2021. [↑](#footnote-ref-56)
57. The eec is the executive body of the eaeu responsible for implementing decisions, upholding the eaeu treaties and managing the day-to-day business of the eaeu. [↑](#footnote-ref-57)
58. Factual Presentation on the Treaty of the Eurasian Economic Union (Goods and Services), wt/reg358/1 (13 July 2018) 49, online: wto <https://docs.wto.org/dol2fe/Pages/FE\_Search/FE\_S\_S009-DP.aspx?language=E&CatalogueIdList=247690,247198,247057,246747,246770,246600,246477,246375,246410,246363&CurrentCatalogueIdIndex=3&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True> accessed 11 October 2021. [↑](#footnote-ref-58)
59. In 2017 the Eurasian Economic Commission appraised the status of development of national single windows of the eaeu member States. The results of these estimates are available in English online: eec <www.eurasiancommission.org/ru/act/tam\_sotr/edinoe\_okno/Documents/9281012-en.pdf> accessed 11 October 2021. [↑](#footnote-ref-59)
60. In accordance with the main directions in development of the single window mechanism in the system of regulation of foreign trade activities (adopted by the decision of the Supreme Eurasian Economic Council No. 68 of 29 May 2014) and the plan of their realization (adopted by the decision of the Supreme Eurasian Economic Council No. 19 of 8 May 2015) the eaeu member States endeavour to coordinate their efforts in developing national single windows in order to ensure the interoperability between them and possibility of informational exchange. The above was submitted by the delegations of Belarus, Kazakhstan, and Russia at the wto, made in relation to queries on the “Factual Presentation on the Treaty of the Eurasian Economic Union (Goods and Services)” (n 58). The delegation of Ecuador raised queries on the modus operandi of the single window of each eaeu member state and interconnectivity of customs services through single window. See “Questions and Replies on Treaty of the Eurasian Economic Union (Goods and Services)”, wt/reg358/3/Rev.1 (22 November 2018) 6, online: wto <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/REG/358-3R1.pdf&Open=True> accessed 11 October 2021. [↑](#footnote-ref-60)
61. It is estimated that by the year 2030 the cargo turnover on Khorgos Gate bordering China will reach 35 million tonnes; see A. Gussarova, F. Aminjonov, Y. Khon, “The Eurasian Economic Union and the Silk Road Economic Belt: Competition or Convergence? Implications for Central Asia” (July 2017), online: Friedrich-Ebert-Stiftung <https://library.fes.de/pdf-files/bueros/kasachstan/13620.pdf> accessed 11 October 2021. Kazakhstan’s role is important in the bri because it supports the railway transport that connects Western part of China with Europe. The Khorgos gate connects China and Kazakhstan through rail, road and oil pipeline; see L. Watanabe, F. Merz, B. Zogg, “Kazakhstan: A Centerpiece in China’s Belt and Road”, *css Analyses*,No. 249 (September 2019) online: Center for Security Studies, Zurich <https://css.ethz.ch/content/dam/ethz/special-interest/gess/cis/center-for-securities-studies/pdfs/CSSAnalyse249-EN.pdf> accessed 11 October 2021. Kazakhstan is poised to become the largest transit hub of the Central Asian region for goods between China and Europe in the near future; see Malika Orazgaliyeva, “Kazakhstan has turned into ‘competitive transit hub’, Nazarbayev tells Belt and Road” *The Astana Times* (27 April 2019), online: The Astana Times <https://astanatimes.com/2019/04/kazakhstan-has-turned-into-competitive-transit-hub-nazarbayev-tells-belt-and-road-forum/> accessed 11 October 2021. [↑](#footnote-ref-61)
62. “Kazakhstan rolls out a single window to boost trade”, online: unctad <https://unctad.org/news/kazakhstan-rolls-out-single-window-boost-trade> accessed 11 October 2021. [↑](#footnote-ref-62)
63. asycuda is an integrated customs management system, designed and developed for customs administrations and the trade community to comply with international standards when fulfilling import, export and transit related procedures. For more information on asycuda, see “Automated System for Customs Data In Action: Compendium 2019”, online: unctad <https://unctad.org/en/PublicationsLibrary/dtlasycudamisc2019d2\_en.pdf> accessed 11 October 2021. [↑](#footnote-ref-63)
64. See “Regulatory and procedural barriers to trade in Kazakhstan”, ece/trade/407 (2014) 32, online: unece <www.unece.org/fileadmin/DAM/trade/Publications/ECE-TRADE\_407E-Kazakhstan.pdf> accessed 11 October 2021. [↑](#footnote-ref-64)
65. More information on digital strategy of Kazakhstan is available online: Digital Kazakhstan <https://digitalkz.kz/en/transition-to-digital-state/> accessed 11 October 2021. [↑](#footnote-ref-65)
66. Article 10.4 of tfa (n 24). [↑](#footnote-ref-66)
67. It is only a matter of time when Belarus will have an operational single window. [↑](#footnote-ref-67)
68. The EU’s Customs Union was first provided for in the Treaty of Rome and in 1968 it abolished the customs duties levied at the borders between members of the European Community. Today, it is a single trading area where all goods can circulate freely, whether produced in the EU or outside its borders. See “Celebrating the Customs Union: the world’s largest trading bloc turns 50”, online: ec <https://ec.europa.eu/commission/presscorner/detail/en/IP\_18\_4265> accessed 11 October 2021. [↑](#footnote-ref-68)
69. For more information see “The EU Single Window environment for customs”, online: ec <https://ec.europa.eu/taxation\_customs/general-information-customs/electronic-customs/eu-single-window-environment-for-customs\_en – heading\_5> accessed 11 October 2021. [↑](#footnote-ref-69)
70. Railway laws are formulated at international, regional, multilateral, bilateral or national levels. Depending on the level, the laws could be in the form of conventions, agreements, protocols, domestic legislation, and regulations. [↑](#footnote-ref-70)
71. For a discussion on fragmentation, see M. Koskenniemi & P. Leino, “Fragmentation of International Law? Postmodern. Anxieties”, 15 Leiden J. Int’l L. 553–579 (2002); see also, “Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law”; Report of the Study Group of the International Law Commission, Finalized by Martti Koskenniemi. UN Doc a/cn.4/l.682 and Add.1 and Corr. 1. New York: International Law Commission, 2006, online: UN <https://legal.un.org/ilc/documentation/english/a\_cn4\_l682.pdf> accessed 11 October 2021. [↑](#footnote-ref-71)
72. Bilateral agreements also address different aspects relevant for cross-border railway transport. While some of the bilateral agreements specifically regulate railway services and processes at border railway stations, the granular discussion is excluded from the scope of this chapter. For a non-exhaustive list of bilateral and tripartite agreements on railways and customs, which exist in some of the countries that are part of the China-Europe railway corridors, see Annex 5 of the “Study on Border Crossing Practices in International Railway Transport”, unescap, Bangkok (2018) 199–203, online: unescap <www.unescap.org/sites/default/files/Study%20on%20Railway%20Border%20crossings%2046218.pdf> accessed 11 October 2021. [↑](#footnote-ref-72)
73. In this sub-section of the chapter, the expanded names are provided in the footnotes to maintain continuity in the main text. [↑](#footnote-ref-73)
74. otif stands for the French abbreviation of Intergovernmental Organisation for International Carriage by Rail, and the EU plays a leading role in the organization. osjd stands for the Russian abbreviation of Organisation for Cooperation between Railways, and its membership has its history in the former Communist bloc. A comprehensive discussion about the two organizations can be found in Y. Zhu, V. Filimonov, “Comparative Study of International Carriage of Goods by Railway Between CIM and SMGS”, (2018) *Frontiers of Law in China* 13, 115–136. Also, see “Monograph Series on Transport Facilitation of International Railway Transport in Asia and the Pacific”, unescap, st/escap/2681, 18–22, online: unescap <www.unescap.org/sites/default/files/pub\_2681\_fulltext.pdf> accessed 11 October 2021. [↑](#footnote-ref-74)
75. See Zhu and others, ibid. [↑](#footnote-ref-75)
76. otif promulgated the cotif which is the French abbreviation for the Convention Concerning International Carriage by Rail, 1980. cotif is the ‘umbrella’ Convention that presented in a consolidated manner the regulations on contracts of international carriage of passengers and goods, use of vehicles, railway infrastructure, *etc*. For carriage of goods, Appendix B to the Convention, as amended by the 1999 Protocol, along with certain other subsequent amendments is relevant. This Appendix is generally referred to as cim and is the abbreviation of the Uniform Rules Concerning the Contract for International Carriage of Goods by Rail. The otif body of international legal rules has the character of an international treaty according to international law because it is subject to signatures, ratifications, acceptances, approvals and accessions from the member States in order to enter into force. Accordingly, cim in its member States has a formal status of a ratified convention. See ibid*.* [↑](#footnote-ref-76)
77. osjd created the smgs, which is the abbreviation for the Russian title of the Agreement on International Railway Freight Transportation, along with amendments in force from 1 July 2015. smgs by its nature is an interdepartmental agreement, as the signatories are ministries representing government transport authorities, railway companies, and affiliated enterprises. In a socialist setup these organizations were invariably related to the government and therefore the smgs was designed to produce an internal legal effect. However, with the disintegration of the Soviet Union and the transition of some members towards a market economy resulted in the smgs to have an external effect. For a more detailed discussion on this, see Zhu and others(n 32). [↑](#footnote-ref-77)
78. Currently the cotif/cim has more than 50 parties, including Germany, France, United Kingdom, Poland, Slovakia, Romania, Turkey, Iraq, Iran, Azerbaijan, and Pakistan, to name a few. The EU acceded to the cotif/cim in July 2011 by virtue of Council Decision 2013/103/EU. Russia participates in the cotif since 1 February 2010 only with regard to two short lines in the Baltic harbour areas. [↑](#footnote-ref-78)
79. Out of the 28 government transport authorities that are members to the smgs, notable for the discussion are Azerbaijan, Belarus, China, Georgia, Iran, Kazakhstan, Kyrgyzstan, Moldavia, Mongolia, Russia Tadzhikistan, Turkmenistan, Uzbekistan and Ukraine. The EU-member States, namely, Bulgaria, Hungary, Poland, Latvia, Lithuania, Romania, Slovakia and the Czech Republic are parties to the cotif and also participates in the smgs. [↑](#footnote-ref-79)
80. Azerbaijan, Iran and Georgia participate in both cotif and smgs. The EU-member States that participate in both the regimes are listed in note 80 above. [↑](#footnote-ref-80)
81. A discussion on wagons and railway infrastructure are excluded as they are not directly related to trade facilitation and single windows, which is the remit of the discussion in section 3 of this chapter. [↑](#footnote-ref-81)
82. For a comprehensive discussion on cotif/cim provisions on contract of carriage and consignment notes, see “UNESCAP Study on Border Crossing Practices” (n 73) 14–5. [↑](#footnote-ref-82)
83. Transport tariffs are regulated with osjd Agreement on the International Railway Transit Tariff (mtt) and Agreement on the Uniform Transit Tariff (ett). [↑](#footnote-ref-83)
84. See “UNESCAP Study on Border Crossing Practices” (n 73) 13–4. [↑](#footnote-ref-84)
85. The cim/smgs consignment note represents a bridge between the two legal regimes. At the border crossings between territories where smgs to cim or *vice versa* is applicable, re-consignment is no longer necessary and rewriting of data from one type of consignment note to other is no longer required. The use of cim/smgs consignment offers possibility to streamline railway processes at border crossings, which used to be compulsory reconsignment points. For a detailed discussion see Zhu and others (2018) (n 75) 121. [↑](#footnote-ref-85)
86. The technical specifications of the electronic cim/smgs consignment note are available online: cit <www.cit-rail.org/media/files/documentation/freight/cim/e-fb\_cim-smgs\_en\_2019-07-01.pdf?cid=120604> accessed 11 October 2021. [↑](#footnote-ref-86)
87. See unece, “Presenting the Unified Railway Law (URL) as a new UNECE statutory instrument for the international transport of goods by rail” (January 2019), online: unece <www.unece.org/fileadmin/DAM/trans/doc/2019/sc2/Information\_Note\_on\_URL-e.pdf> accessed 11 October 2021. [↑](#footnote-ref-87)
88. The meeting documents are available online: unece <www.unece.org/trans/main/sc2/sc2\_geurl\_22.html> accessed 11 October 2021. [↑](#footnote-ref-88)
89. The most recent version of the draft url is contained in: “Towards unified railway law in the pan-European region and along Euro-Asian transport: Draft of relevant legal provisions”, ece/trans/2016/15 (15 December 2015), online: UN <https://unece.org/transport/documents/2021/10/informal-documents/towards-unified-railway-law-pan-european-region-and> accessed 11 October 2021. [↑](#footnote-ref-89)
90. See unece, “Options available for converting URL into a legally binding instrument – URL as contract of carriage’s convention”, ece/trans/sc.2/geurl/2019/5 (1 April 2019), online: unece <www.unece.org/fileadmin/DAM/trans/doc/2019/sc2/ECE-TRANS-SC2-GEURL-2019-05e.pdf> accessed 11 October 2021. [↑](#footnote-ref-90)
91. See (n 51). [↑](#footnote-ref-91)
92. See “Possible future work regarding railway consignment notes” – Note by the Secretariat, a/cn.9/1034 (11 May 2020), online: UN <https://undocs.org/pdf?symbol=en/A/CN.9/1034> accessed 11 October 2021. [↑](#footnote-ref-92)
93. See “Proposal on provisions about a negotiable transport document in the Unified Railway Law” (15 April 2020), online: unece <www.unece.org/fileadmin/DAM/trans/doc/2020/sc2/ECE-TRANS-SC.2-GEURL-2020-03.pdf> accessed 11 October 2021. [↑](#footnote-ref-93)
94. The International Convention on the Simplification and Harmonization of Customs procedures (Kyoto Convention) (1973) (as amended on 26 June 1999) entered into force in 2006. The convention has 128 contracting parties as on 11 October 2021. For position as regards ratifications and accessions to the convention, a list is available online: wco <www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Conventions/pf\_revised\_kyoto\_conv/Instruments> accessed 11 October 2021. [↑](#footnote-ref-94)
95. The Istanbul Convention entered into force on 27 November 1993 and has 72 contracting parties as on 25 November 2020. For position as regards ratifications and accessions to the convention, a list is available online: wco <www.wcoomd.org/-/media/wco/public/global/pdf/about-us/legal-instruments/conventions-and-agreements/conventions/pg0302eb.pdf?la=en> accessed 11 October 2021. [↑](#footnote-ref-95)
96. The International Convention on the Harmonization of Frontier Controls of Goods of 1982, entered into force on 15 October 1985 and currently has 58 parties; the list of contracting parties is available online: unece <www.unece.org/trans/conventn/legalinst\_51\_BCF\_HFCG.html> accessed 11 October 2021. The Intergovernmental Agreement on the Trans-Asian Railway Network of 2006, entered into force on 11 June 2009 and currently has 20 parties; the list of contracting parties is available online: UN <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\_no=XI-C-5&chapter=11&clang=\_en> accessed 11 October 2021. Another instrument called the International Convention to Facilitate the Crossing of Frontiers for Goods Carried by Rail of 1952, advocates facilitation of crossing the frontiers for goods carried by railway. This convention has 12 parties and are subscribed by European countries only; the list of contracting parties are available online: UN <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\_no=XI-C-2&chapter=11&clang=\_en> accessed 11 October 2021. [↑](#footnote-ref-96)
97. See “Study on Border Crossing Practices in International Railway Transport” (n 73) 19–20. [↑](#footnote-ref-97)
98. ibid 20–1. [↑](#footnote-ref-98)
99. The eaeu comprises of Armenia, Belarus, Kazakhstan, Kyrgyzstan and Russia encourages free movement of goods, services and provides for common policies among other things on customs regulation. More information on the eaeu is available online: eaeu <www.eaeunion.org/?lang=en> accessed 11 October 2021. [↑](#footnote-ref-99)
100. Presently the Commonwealth of Independent States (cis) includes: Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine. More information on cis is available in Russian online: cis <www.cis.minsk.by/> accessed 11 October 2021. Several cis instruments regulate railway border crossing through railway transport coordination and customs cooperation between member countries. The regulatory framework related to railways is available online: cis <https://e-cis.info/cooperation/3334/> accessed 11 October 2021. Matters pertaining to customs is available online: cis <https://e-cis.info/cooperation/2880/> accessed 11 October 2021. [↑](#footnote-ref-100)
101. The members of eco are Afghanistan, Azerbaijan, Iran, Kazakhstan, Kyrgyzstan, Pakistan, Tajikistan, Turkey, Turkmenistan and Uzbekistan. The eco Transit Transport Framework Agreement (ttfa) of 1998 covers railway transport along with other modes of transport. This Agreement aims to facilitate the movement of goods and provides necessary facilities for transit through the territories of the Contracting Parties. More information on the eco is available online: eco <www.eco.int/> accessed 11 October 2021. [↑](#footnote-ref-101)
102. The Trans-European Transport Network (ten-t) policy of the EU addresses the implementation and development of a Europe-wide transport network which includes all modes of transport including railways. The current ten-t policy is based on Regulation (EU) No 1315/2013, which is available online: eur-Lex <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32013R1315> accessed 11 October 2021. In 2015, the EU-China Connectivity Platform was established to explore opportunities for further cooperation in the area of transport with a view to enhance synergies between the EU’s approach to connectivity, including the ten-T and China’s bri. More information is available online: ec <https://ec.europa.eu/transport/themes/international/eu-china-connectivity-platform\_en> accessed 11 October 2021. The EU-China Connectivity Platform is discussed in more detail in section 5 of this chapter. [↑](#footnote-ref-102)
103. The role of sco with respect to the railway corridors is discussed in section 5 of this chapter. [↑](#footnote-ref-103)
104. traceca was established in May 1993 in Brussels for the development of transport initiatives between the EU member States, the Caucasus and Central Asian countries. The EU and 12 States, namely Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Iran, Moldova, Turkey, Ukraine, Uzbekistan, Tajikistan, and Turkmenistan participate in this programme. The Basic Multilateral Agreement on International Transport for Development of the Europe-the Caucasus-Asia corridor of 1998 was agreed under the initiatives of the program for traceca. The Agreement regulates the international transport of goods and passengers under different modes of transport, including railway transport. With the Basic Agreement, the right for transit of international means of transport and goods is granted among contracting parties. An Inter-Governmental Commission is established to regulate the issues regarding the implementation and the application of the Basic Agreement. The technical annex on railways as part of the Basic Agreement promotes multilateral recognition of documents and cooperation at the level of competent authorities of the contracting parties in facilitation of border crossing operations. [↑](#footnote-ref-104)
105. For example, the Central Asia Regional Economic Cooperation (carec) Programme, supported by the Asian Development Bank (adb), runs a Corridor Performance Measurement and Monitoring (cpmm) regional study that collects and analyses data on road and railway transport in 11 member countries (Afghanistan, Azerbaijan, China, Georgia, Kazakhstan, Kyrgyz Republic, Mongolia, Pakistan, Tajikistan, Turkmenistan, Uzbekistan). For further information see “Railway Sector Development in CAREC Countries”, online: carec <www.carecprogram.org/?page\_id=6798> accessed 11 October 2021. [↑](#footnote-ref-105)
106. In the eaeu there are large number of agreements, decisions and recommendations that regulate various aspects of railway transport of goods, customs and other regulatory clearance such as, administrative assistance between customs authorities, exchange of advance information on goods and transport means, use of electronic transmission of customs documents, customs transit and transit declaration, equipment on checking posts, *etc*. These documents are available through the Law Portal of the eaeu, online: eaeu <https://docs.eaeunion.org/en-us/>. [↑](#footnote-ref-106)
107. The working language of the eaeu is Russian. An English translation of the treaty is available online: UN <www.un.org/en/ga/sixth/70/docs/treaty\_on\_eeu.pdf> accessed 11 October 2021. [↑](#footnote-ref-107)
108. Part Two Customs Union and particularly Section vi Functioning of the Customs Union. [↑](#footnote-ref-108)
109. Part Three Common Economic Space and particularly Section xxi Transport. [↑](#footnote-ref-109)
110. Annex 1: Rules for Access to Rail Transport Infrastructure within the Eurasian Economic Union and Annex 2 Rules for the Provision of Rail Infrastructure Services within the Eurasian Economic Union. [↑](#footnote-ref-110)
111. Treaty on the Eurasian Economic Union, article 25. [↑](#footnote-ref-111)
112. See (n 56). [↑](#footnote-ref-112)
113. ibid. [↑](#footnote-ref-113)
114. A more detailed discussion is made in section 2.2 of this chapter. [↑](#footnote-ref-114)
115. Donald J. Lewis, “China-CEE ties on new economic path” *China Daily* (7 November 2016), online: China Daily <www.chinadaily.com.cn/opinion/2016-11/07/content\_27298818.htm> accessed 11 October 2021. [↑](#footnote-ref-115)
116. For a discussion on legitimate use and sharing of data in a single window environment, see “Data: Ensuring Quality, Security & Privacy”, Part viii, Vol. 1, 18, online: wco <www.wcoomd.org/-/media/wco/public/global/pdf/topics/facilitation/instruments-and-tools/tools/single-window/compendium/swcompendiumvol1partviii.pdf> accessed 11 October 2021. [↑](#footnote-ref-116)
117. Some of the other important issues that are connected to cross-border single window interoperability but not discussed in detail in this chapter includes business process analysis, data harmonization, data quality, messaging structures, connectivity options, and legal issues related to dematerialized documents. [↑](#footnote-ref-117)
118. “Cross-border Single Window Interoperability: A Managerial Guide” (2018) 34, online: unescap <www.unescap.org/resources/cross-border-single-window-interoperability-managerial-guide> accessed 11 October 2021. [↑](#footnote-ref-118)
119. See “Trade and cross-border data flows”, tad/tc/wp(2018)19/final 12–13, online: oecd <www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP(2018)19/FINAL&docLanguage=En> accessed 11 October 2021. [↑](#footnote-ref-119)
120. ibid 14. [↑](#footnote-ref-120)
121. Multilaterally agreed trade rules ensure a certain level of predictability for trade in goods through the General Agreement on Tariffs and Trade (gatt), and for services through the General Agreement on Trade in Services (gats). However, there are little to no multilaterally agreed trade rules to ensure such predictability for cross-border data flows. [↑](#footnote-ref-121)
122. See “Trade and cross-border data flows” (n 120) 12–13. [↑](#footnote-ref-122)
123. The oecd Guidelines on the Protection of Privacy and Transborder Flows of Personal Data (2013) is available online: oecd <www.oecd.org/internet/ieconomy/oecdguidelinesontheprotectionofprivacyandtransborderflowsofpersonaldata.htm> accessed 11 October 2021. The Asia-Pacific Economic Cooperation (apec) Privacy Framework (2015) is available online: apec <www.apec.org/Publications/2017/08/APEC-Privacy-Framework-(2015)> accessed 11 October 2021. Under Japan’s leadership, the Group of Twenty (G20) launched the ‘Osaka Track’ and created the concept of ‘Data Free Flows with Trust’ (dfft); see “G20 Osaka Leaders’ Declaration”, online: Ministry of Foreign Affairs of Japan <www.mofa.go.jp/policy/economy/g20\_summit/osaka19/en/documents/final\_g20\_osaka\_leaders\_declaration.html> accessed 11 October 2021. [↑](#footnote-ref-123)
124. See “Data: Ensuring Quality, Security & Privacy” (n 117) 20. [↑](#footnote-ref-124)
125. Arts. 7 and 8 of the Charter of Fundamental Rights of the EU; article 6(1) of the Treaty on EU. [↑](#footnote-ref-125)
126. Privacy and Electronic Communications Directive 2002/58/ec of the European Parliament and of the Council of 12 July 2002, as amended by Directive 2006/24/ec and Directive 2009/136/ec. [↑](#footnote-ref-126)
127. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/ec () (2016) oj L119/1, hereinafter gdpr, entered into force in May 2018. [↑](#footnote-ref-127)
128. Art. 3(2) of gdpr. [↑](#footnote-ref-128)
129. For a simplified discussion on the topic, see “What rules apply if my organisation transfers data outside the EU?”, online: ec <https://ec.europa.eu/info/law/law-topic/data-protection/reform/rules-business-and-organisations/obligations/what-rules-apply-if-my-organisation-transfers-data-outside-eu\_en> accessed 11 October 2021. [↑](#footnote-ref-129)
130. “Commission Implementing Decision (EU) 2016/1250 of 12 July 2016 pursuant to Directive 95/46/ec of the European Parliament and of the Council on the adequacy of the protection provided by the EU-U.S. Privacy Shield” (notified under document C(2016) 4176) (Text with eea relevance), online: Eur-Lex <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\_.2016.207.01.0001.01.ENG> accessed 11 October 2021. [↑](#footnote-ref-130)
131. For more information see “Judgment in Case C-311/18 *Data Protection Commissioner* v. *Facebook Ireland and Maximillian Schrems*”, Press Release No 91/20, Luxembourg (16 July 2020) online: cjeu <https://curia.europa.eu/jcms/upload/docs/application/pdf/2020-07/cp200091en.pdf> accessed 11 October 2021. [↑](#footnote-ref-131)
132. See “EU-US data transfers: How personal data transferred between the EU and US is protected”, online: ec <https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/eu-us-data-transfers\_en> accessed 11 October 2021. [↑](#footnote-ref-132)
133. See Memo on “Digital Single Market – Communication on Exchanging and Protecting Personal Data in a Globalised World Questions and Answers”, (10 January 2017), online: ec <https://ec.europa.eu/commission/presscorner/detail/en/MEMO\_17\_15> accessed 11 October 2021. [↑](#footnote-ref-133)
134. EU have recognized Andorra, Argentina, Canada (commercial organizations), Faroe Islands, Guernsey, Israel, Isle of Man, Japan, Jersey, New Zealand, Switzerland, Uruguay and the US (to a limited extent (n 131 and 132) as providing adequate protection. Adequacy talks are ongoing with South Korea. See “Adequacy decisions: How the EU determines if a non-EU country has an adequate level of data protection”, online: ec <https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions\_en> accessed 11 October 2021. [↑](#footnote-ref-134)
135. See “Proposal for a Regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/ec (Regulation on Privacy and Electronic Communications)”, online: Eur-Lex <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52017PC0010> accessed 11 October 2021. [↑](#footnote-ref-135)
136. See generally, J. Xu, “Evolving Legal Frameworks for Protecting the Right to Internet Privacy in China”, in J.R. Lindsay, T.M. Cheung, D.S. Reveron, *China and Cybersecurity: Espionage, Strategy, and Politics in the Digital Domain* (Oxford, 2015) 242–255. [↑](#footnote-ref-136)
137. Recently, on 10 June 2021, the Standing Committee of China’s National People’s Congress passed the Data Security Law (dsl), which took effect on September 1, 2021. The primary purpose of the dsl is to regulate data activities, safeguard data security, promote data development and usage, protect individuals and entities’ legitimate rights and interests, and safeguard state sovereignty, state security, and development interests. The dsl, together with the csl and the upcoming Personal Information Protection Law, will form an increasingly comprehensive legal framework for information and data security. [↑](#footnote-ref-137)
138. csl, arts. 22, 41, 42, 43, 44 and 45 deals with collection of personal information. [↑](#footnote-ref-138)
139. csl, art. 76. [↑](#footnote-ref-139)
140. csl, art. 31. [↑](#footnote-ref-140)
141. See csl, art. 31. Also, for a general discussion on hierarchy of Chinese legislation, see D. Cao, *Chinese Law: A Language Perspective*, (London, Routledge, 2004). [↑](#footnote-ref-141)
142. See G. Zhang, K. Yin, “What you need to know about China’s new draft measures on cross-border data transfers” (27 August 2019), online: International Association of Privacy Professionals <https://iapp.org/news/a/what-you-need-to-know-about-chinas-new-draft-measures-on-cross-border-data-transfers/> accessed 11 October 2021. [↑](#footnote-ref-142)
143. un/cefact Recommendation 36 (n 26), mentions four critical areas for successful implementation of interoperability, namely, policy and legal interoperability, people and organizational interoperability, process and data interoperability, and platform and technical interoperability. [↑](#footnote-ref-143)
144. For example, see “Silk Road Transport Corridors”, which captures the growth potential of the railway corridors. In addition, the Logistics Performance Index (lpi) 2018 ranks countries on six dimensions of trade, including customs performance, infrastructure quality, and timeliness of shipments, see, “International LPI”, online: World Bank <https://lpi.worldbank.org/international> accessed 11 October 2021. [↑](#footnote-ref-144)
145. “Agreement on Economic and Trade Cooperation Between the Eurasian Economic Union and Its Member States, of the One Part, and the People’s Republic of China, of the Other Part”, (signed on 17 May 2018 and entered into force on 25 October 2019), online: eec <www.eurasiancommission.org/ru/ act/trade/dotp/sogl\_torg/ Documents /%D0%A1%D0%BE% D0%B3%D0%BB% D0%B0%D1%88%D0 %B5%D0%BD %D0%B8%D0%B5%20 %D1%81%20%D0%9A%D0 %B8 %D1%82%D0%B0%D0% B5%D0%BC/%D0%A2% D0%B 5%D0%BA%D1%81% D1%82%20%D0 %B0%D0%BD%D 0%B3%D0%B8%D0%B9 %D1%81%D0% BA%D0%B8> accessed 11 October 2021. [↑](#footnote-ref-145)
146. Art. 6.10. [↑](#footnote-ref-146)
147. Art.6.15. [↑](#footnote-ref-147)
148. Art. 6.16. [↑](#footnote-ref-148)
149. Art. 6.17. China also fostered customs connectivity with EU through mutual recognition of aeo s. The joint statement between the ec and the gac of China issued in 2015 is available online: ec <https://ec.europa.eu/taxation\_customs/system/files/2016-09/aeo\_joint-stat\_en.pdf> accessed 11 October 2021. For a critical discussion on the EU-China mutual recognition of aeo s, see Jason Chuah, “The EU-China Mutual Recognition Agreement of Authorised Economic Operators (AEOS) – A Paradigm of Customs Cooperation?”, [2014] Int.t.l.r., Issue 4. [↑](#footnote-ref-149)
150. Art. 6.15 (1). [↑](#footnote-ref-150)
151. Art. 6.15(2) stipulates that “[t]he Parties shall endeavor to promote the interoperability between National Single Windows allowing the creation of conditions for mutual recognition of electronic documents and data necessary to carry out foreign trade activities and results of customs control for integrated border management. For these purposes, the Parties shall endeavor to develop institutional, legal and technical basis to ensure information exchange between National Single Windows”. [↑](#footnote-ref-151)
152. Eurasia Economic Union–China Agreement Art. 6.20(1), (2). [↑](#footnote-ref-152)
153. See Basu Bal, Rajput (2017) (n 18). [↑](#footnote-ref-153)
154. The creation of sco was announced on 15 June 2001. Currently, sco has eight members (China, Russia, Tajikistan, Kyrgyzstan, Kazakhstan, Uzbekistan, Pakistan & India); four observer States (Afghanistan, Belarus, Iran and Mongolia), six dialogue partners (Armenia, Azerbaijan, Cambodia, Nepal, Sri Lanka and Turkey); and four guest attendants (asean, cis, Turkmenistan and the UN). For more information on sco see “About SCO”, online: sco Secretariat <https://eng.sectsco.org/about\_sco/> accessed 11 October 2021. [↑](#footnote-ref-154)
155. M.I. Qadir, S. Rehman, “Expansion of Shanghai Cooperation Organization (SCO) Harbinger of Regional Peace and Prosperity”, *Journal of Political Studies*, Vol. 23, Issue – 1 (2016) 117–132. [↑](#footnote-ref-155)
156. R. Alimov, “The Shanghai Cooperation Organisation: Its role and place in the development of Eurasia”, *Journal of Eurasian Studies*, 9 (2018) 114–124. [↑](#footnote-ref-156)
157. All members of the eaeu somehow connected to the sco either as members or observers or dialogue partners. [↑](#footnote-ref-157)
158. For more information on meetings of the Heads of State Council (hsc), Heads of Government Council (hgc) and other heads at various levels, see “About SCO” (n155). [↑](#footnote-ref-158)
159. Donald Lewis, “China-cee ties on new economic path”, *China Daily* (7 November 2016), online: China Daily <www.chinadaily.com.cn/opinion/2016-11/07/content\_27298818.htm> accessed 11 October 2021. [↑](#footnote-ref-159)
160. “Statement by Secretary-General of the Shanghai Cooperation Organisation Vladimir Norov at the 82nd session of the Inland Transport Committee of the UNECE”, Geneva (26 February 2020), online unece <www.unece.org/fileadmin/DAM/trans/events/2020/ITC/ppt/4c\_SCO\_speech\_.pdf> accessed 11 October 2021. [↑](#footnote-ref-160)
161. For more information see “Within the framework of Shanghai Cooperation Organization Summit, Heads of Customs Departments of Belarus and China signed Interaction Procedure and Roadmap” (11 June 2018) online: State Customs Authorities of the Republic of Belarus <www.customs.gov.by/en/news1-en/view/within-the-framework-of-shanghai-cooperation-organization-summit-heads-of-customs-departments-of-belarus-6984-2018/> accessed 11 October 2021. [↑](#footnote-ref-161)
162. “China-EU – international trade in goods statistics”, online: eurostat <https://ec.europa.eu/eurostat/statistics-explained/index.php/China-EU\_-\_international\_trade\_in\_goods\_statistics> accessed 11 October 2021. [↑](#footnote-ref-162)
163. “Agreement between the European Community and the Government of the People’s Republic of China on cooperation and mutual administrative assistance in customs matters”, oj l 375 (23 December 2004), online: Eur-Lex <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22004A1223(01)&from=EN> accessed 11 October 2021. [↑](#footnote-ref-163)
164. For policy and other related documents on this platform see “The EU-China Connectivity Platform”, online: ec <https://ec.europa.eu/transport/themes/international/eu-china-connectivity-platform\_en> accessed 11 October 2021. [↑](#footnote-ref-164)
165. “Elements for a new EU strategy on China”, Brussels, join(2016) 30 final (22 June 2016), online: <https://eeas.europa.eu/archives/docs/china/docs/joint\_communication\_to\_the\_european\_parliament\_and\_the\_council\_-\_elements\_for\_a\_new\_eu\_strategy\_on\_china.pdf> accessed 11 October 2021. “EU-China – A strategic outlook”, Strasbourg, join(2019) 5 final (12 March 2019), online: ec <https://ec.europa.eu/commission/sites/beta-political/files/communication-eu-china-a-strategic-outlook.pdf> accessed 11 October 2021. [↑](#footnote-ref-165)
166. “The EU-China Connectivity Platform” (n 165). [↑](#footnote-ref-166)
167. Francesco Saverio Montesano, Maaike Okano-Heijmans, “Economic Diplomacy in EU–China Relations: Why Europe Needs its Own ‘OBOR’” *Clingendael Policy Brief,* Netherlands Institute of International Relations (June 2016), online: Clingendael <www.clingendael.org/sites/default/files/pdfs/Policy%20Brief%20Economic%20Diplomacy%20in%20EU%E2%80%93China%20relations%20-%20June%202016.pdf> accessed 11 October 2021. [↑](#footnote-ref-167)
168. ibid*.* [↑](#footnote-ref-168)
169. “EU-China Summit Joint statement” Brussels, (9 April 2019) para. 17, online: ec <https://ec.europa.eu/transport/sites/transport/files/2019-eu-china-summit-joint-statement.pdf> accessed 11 October 2021. It may be of interest to note that the UN General Assembly adopted a resolution entitled “The Role of Transport and Transit Corridors in Ensuring International Cooperation for Sustainable Development”, a/res/69/213 (30 January 2015), online: UN <https://digitallibrary.un.org/record/790156?ln=en> accessed 11 October 2021 which calls for efforts to promote regional economic integration and cooperation, including by improving cross-border transportation infrastructure, enhancing regional connectivity and facilitating regional trade and investment. [↑](#footnote-ref-169)
170. “EU-China Summit Joint statement”, ibid. [↑](#footnote-ref-170)
171. “Terms of Reference of the Joint Study on Sustainable Railway-based Comprehensive Transport Corridors between Europe and China”, Annex to the Minutes of the 4th Chairs’ meeting, section 3.2.2, 3, online: ec <https://ec.europa.eu/transport/sites/transport/files/2019-tor-joint-study-sust-railway-based-transport-corridors-europe-china.pdf> accessed 11 October 2021. [↑](#footnote-ref-171)
172. ibid section 5, 4. [↑](#footnote-ref-172)
173. “China-EU Connectivity Platform 2019 Annual Action Plan”, online: ec <https://ec.europa.eu/transport/sites/transport/files/eu-china-connectivity-platform-2019-action-plan.pdf> accessed 11 October 2021. [↑](#footnote-ref-173)
174. “Enhancing EU-China Trade Security and Facilitation: Strategic Framework for Customs Cooperation 2018 – 2020 between the European Union and the Government of the People’s Republic of China”, Brussels, 9548/17 (22 May 2017), online: Council of the European Union <https://data.consilium.europa.eu/doc/document/ST-9548-2017-INIT/en/pdf> accessed 11 October 2021. [↑](#footnote-ref-174)
175. Customs Risk Management (crm), according to the wco Risk Management Guide, “is the systematic application of management procedures and practices which provide Customs with the necessary information to address movements or consignments which present a risk. The crm is a means of customs authorities to improve trade facilitation processes by replacing full physical examinations of documents and shipments with planned and targeted working method determining the level and type of inspections”. The objective of crm is the effective selection of high – risk shipments and traders for control while allowing lower or risk-free trade to pass freely and with minimum waiting times. See “WCO Customs Risk Management Compendium”, online: wco <www.wcoomd.org/en/Topics/Facilitation/Instrument%20and%20Tools/Tools/Risk%20Management%20Compendium> accessed 11 October 2021. [↑](#footnote-ref-175)
176. For more information see online: <https://ec.europa.eu/trade/policy/in-focus/eu-china-agreement/agreement-explained/> accessed 7 April 2022. [↑](#footnote-ref-176)
177. “EU-China summit, 9 April 2019”, online: Council of the European Union <www.consilium.europa.eu/en/meetings/international-summit/2019/04/09/> accessed 11 October 2021. affirms the high level of ambition will be reflected in substantially improved market access, the elimination of discriminatory requirements and practices affecting foreign investors, the establishment of a balanced investment protection framework and the inclusion of provisions on investment and sustainable development. Both sides agree to establish a political mechanism to continuously monitor the progress in the negotiations and to report to leaders by the end of the year on the progress made. [↑](#footnote-ref-177)
178. EU–China Connectivity Platform, Minutes of 4th chairs’ meeting, 8 Apr. 2019, p. 1. See also European Commission, ‘EU–China Summit: Rebalancing the strategic partnership’, Press release, 9 Apr. 2019. [↑](#footnote-ref-178)
179. Juncker, J.-C., President of the European Commission, Remarks at the joint press conference following the EU–China Summit, European Commission, 9 Apr. 2019. [↑](#footnote-ref-179)
180. See section 2.2 of this chapter above. [↑](#footnote-ref-180)
181. For EU4Business examples, see “EU Makes Businesses in Belarus Stronger”, online: European Union External Action <https://eeas.europa.eu/sites/eeas/files/eu4business\_belarus\_en.pdf> accessed 11 October 2021. [↑](#footnote-ref-181)
182. “New EU-Belarus Twinning Project Launched in Minsk” (12 March 2020), online: European Union External Action <https://eeas.europa.eu/headquarters/headquarters-Homepage/76014/new-eu-belarus-twinning-project-lauched-minsk\_en> accessed 11 October 2021. [↑](#footnote-ref-182)
183. “Belarus: EU adopts conclusions” available online:<https://www.consilium.europa.eu/en/press/press-releases/2020/10/12/belarus-eu-adopts-conclusions/>accessed on 12 April 2022. [↑](#footnote-ref-183)
184. A. Abdurasulov, “Belarus protesters battered, bruised but defiant after 100 days” available online: <https://www.bbc.com/news/world-europe-54961111> accessed on 12 April 2022. [↑](#footnote-ref-184)
185. “Restrictive measures following the 2020 Belarus presidential elections” available online: <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-belarus/> accessed on 12 April 2022. [↑](#footnote-ref-185)
186. “Belarus border crisis: How are migrants getting there?” available online: <https://www.bbc.com/news/59233244>accessed on 12 April 2022. [↑](#footnote-ref-186)
187. “Russia’s military aggression against Ukraine: EU agrees new sectoral measures targeting Belarus and Russia” available online: <https://www.consilium.europa.eu/en/press/press-releases/2022/03/09/russia-s-military-aggression-against-ukraine-eu-agrees-new-sectoral-measures-targeting-belarus-and-russia/ > accessed 12 April 2022. [↑](#footnote-ref-187)
188. The Foreign Affairs Council in March 2016 outlined five guiding principles underlying the EU’s relations with Russia: (1) implementation of the Minsk agreement as the key condition for any substantial change in the EU’s stance towards Russia; (2) strengthened relations with the EU’s Eastern Partners and other neighbours, including Central Asia; (3) strengthening the resilience of the EU (e.g. energy security, hybrid threats or strategic communication); (4) selective engagement with Russia on issues of interest to the EU; (5) need to engage in people-to-people contacts and support Russian civil society. The first principle implicitly links the duration of some of the EU sanctions to the progress made towards a peaceful resolution of the conflict in eastern Ukraine. See “Fact sheets on the European Union – Russia”, online: European Parliament <www.europarl.europa.eu/factsheets/en/sheet/177/russia> accessed 11 October 2021. [↑](#footnote-ref-188)
189. The EU has imposed unilateral economic sanctions to target exchanges with Russia in specific sectors: (1) Limited access to the EU’s primary and secondary capital markets for certain Russian banks and companies. (2) Export and import bans on the trade in arms and an export ban on dual-use goods for military use or military end-users in Russia. (3) No access to certain sensitive technologies and services that can be used for oil production and exploration. (4) Specific restrictions on economic relations with Crimea and Sevastopol apply, including an import ban on goods from the peninsula, an export ban on certain goods and technologies, restrictions on investment, and a prohibition on the supply of tourism services. (5) Measures concerning economic cooperation and suspension of any new financing operations in Russia by the European Investment Bank (eib) and European Bank for Reconstruction and Development (ebrd). (6) Individual restrictive measures apply to more than 150 individuals and 40 entities, which are subject to an asset freeze and a travel ban because their actions undermined Ukraine’s territorial integrity, sovereignty and independence. The list includes the speakers of the two chambers of the Russian Federal Assembly (the State Duma and the Federation Council), as well as the incumbent chair of the Russian Delegation to the EU-Russia Parliamentary Cooperation Committee. See Fact sheets on the EU, ibid; also see, “Russia: Council renews economic sanctions over Ukrainian crisis for six more months”, online: European Council, <www.consilium.europa.eu/en/press/press-releases/2020/06/29/russia-council-renews-economic-sanctions-over-ukrainian-crisis-for-six-more-months/> accessed 11 October 2021. [↑](#footnote-ref-189)
190. “EU sanctions in response to Russia’s invasion of Ukraine” available online: <https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/> accessed on 12 April 2022. [↑](#footnote-ref-190)
191. ibid. [↑](#footnote-ref-191)
192. “Council conclusions on the New EU Strategy on Central Asia” available online: <https://www.consilium.europa.eu/media/39778/st10221-en19.pdf> accessed on 12 April 2022. [↑](#footnote-ref-192)
193. More information is available online: ec <https://ec.europa.eu/trade/policy/countries-and-regions/countries/kazakhstan/> accessed 11 October 2021. [↑](#footnote-ref-193)
194. See online: <https://www.eeas.europa.eu/kazakhstan/eu-projects-kazakhstan\_en> accessed 11 October 2021. [↑](#footnote-ref-194)
195. S. Ji, “What is the China-Europe Railway Express, and how much pressure is it under from the Ukraine crisis?”, *South China Morning Post* (6 March 2022), online: The South China Morning Post <https://www.scmp.com/economy/global-economy/article/3169239/what-china-europe-railway-express-and-how-much-pressure-it> accessed 12 April 2022. [↑](#footnote-ref-195)
196. J. Waters, “Unimpeded Trade in Central Asia: A Trade facilitation Challenge”, *Transnational Dispute Management*, obor Special Edition (August 2017). [↑](#footnote-ref-196)
197. tfaf Assistance, online: wto: tfaf <www.tfafacility.org/tfaf-assistance> accessed 11 October 2021. [↑](#footnote-ref-197)
198. The Digital Silk Road was proposed during the China-EU Digital Cooperation Roundtable in Brussels in July 2015. See “China, EU to promote digital Silk Road”, *China Daily* (7 July 2015), online: China Daily <www.chinadaily.com.cn/world/2015-07/07/content\_21202745.htm> accessed 11 October 2021). [↑](#footnote-ref-198)
199. See “Vision and Actions document” (n17). [↑](#footnote-ref-199)
200. Chinese companies have been involved in upgrading internet connections in several bri countries in the form of new undersea cables linking east and west, and rolling out broadband in dozens of countries where such infrastructure is either underdeveloped or non-existent. See R. Deeks, “The Digital Silk Road – China’s $200 billion project”, *bbc* *Science Focus Magazine* (8 December 2018), online: Science Focus <www.sciencefocus.com/future-technology/the-digital-silk-road-chinas-200-billion-project/>; see also, S. Prasso, “China’s Digital Silk Road Is Looking More Like an Iron Curtain”, *Bloomberg* (10 January 2019), online: Bloomberg <www.bloomberg.com/news/features/2019-01-10/china-s-digital-silk-road-is-looking-more-like-an-iron-curtain >; see also, J. Hillman, “Fear will not stop China’s digital silk road”, *Financial Times* (11 July 2019), online: Financial Times <www.ft.com/content/1c8fbef2-a332-11e9-a282-2df48f366f7d>. All accessed 11 October 2021. [↑](#footnote-ref-200)
201. There has been a massive expansion of China’s BeiDou navigation satellite network to rival the US-owned Global Positioning System. See A. Halappanavar, “China’s Answer to GPS Is Now Fully Complete”, *The Diplomat* (26 June 2020), online: The Diplomat <https://thediplomat.com/2020/06/chinas-answer-to-gps-is-now-fully-complete/>; see also N. Goswami, “The Economic and Military Impact of China’s BeiDou Navigation System”, *The Diplomat* (1 July 2020), online: The Diplomat <https://thediplomat.com/2020/07/the-economic-and-military-impact-of-chinas-beidou-navigation-system/>. All accessed 11 October 2021. [↑](#footnote-ref-201)
202. Automation of custom procedures through dsr it projects has been piloted in Malaysia, together with China’s Alibaba, launched a Malaysian digital free trade zone. For more information see Malaysia Digital Economy Corporation (mdec), which is an agency under the Ministry of Communications and Multimedia Malaysia, online: mdec <https://mdec.my/> accessed 11 October 2021. [↑](#footnote-ref-202)
203. China has been active at multilateral institutions to establish technological standards related to telecommunications infrastructure. See A. BEATTIE, “Technology: how the US, EU and China compete to set industry standards”, *Financial Times* (24 July 2019), online: Financial Times <www.ft.com/content/0c91b884-92bb-11e9-aea1-2b1d33ac3271> accessed 11 October 2021. Also, China advocates the principle of cyber sovereignty at international forums. See, Y. Hong, G.T. Goodnight, (2020), “How to think about cyber sovereignty: the case of China”, *Chinese Journal of Communication*, 13:1, 8–26. [↑](#footnote-ref-203)
204. J. Blanchette, J. Hillman, “China’s Digital Silk Road after the Coronavirus”, *Centre for Strategic and International Studies* (*CSIS)* (13 April 2020), online: csis <www.csis.org/analysis/chinas-digital-silk-road-after-coronavirus>; see also R. Arcesati, “The Digital Silk Road is a development issue”, *Mercator Institute for China Studies (MERICS)*, online: merics <https://merics.org/en/analysis/digital-silk-road-development-issue>. All accessed 11 October 2021. [↑](#footnote-ref-204)
205. In November 2019, China expressed its intention to strengthen participation in un/cefact and to work on a digital Belt and Road based on open, international standards for sustainable trade and greater regional integration. See “UN/CEFACT standards can pave the ‘digital silk road’ and streamline trade for the Sustainable Development Goals”, online: unece <www.unece.org/info/media/news/trade/2019/uncefact-standards-can-pave-the-digital-silk-road-and-streamline-trade-for-the-sustainable-development-goals/doc.html> accessed 11 October 2021. [↑](#footnote-ref-205)
206. Rail transport is expected to grow in importance, taking more cargo out of the air, in relative terms, than off container ships. See Bianca Cosentino, Dick Dunmore, Simon Ellis, Alberto Preti, Davide Ranghetti, Clémence Routaboul, “Research for TRAN Committee: The new Silk Route – opportunities and challenges for EU transport” (2018), online: European Parliament, <www.europarl.europa.eu/RegData/etudes/STUD/2018/585907/IPOL\_STU(2018)585907\_EN.pdf> accessed 11 October 2021. [↑](#footnote-ref-206)
207. There are daily train connections from Chongqing to Duisburg. See (n19). [↑](#footnote-ref-207)
208. “Trade impacts of the Belt and Road Initiative” (June 2018), 8, online: ing <https://think.ing.com/uploads/reports/Tradebelt\_final2.pdf> accessed 11 October 2021. [↑](#footnote-ref-208)
209. At present, industry led initiatives has reduced the transport time between China and Europe. For example, only block trains ply the Chongqing-Duisburg railway link. Yuxinou (Chongqing) Logistics Co. Ltd. is a forwarding agent, which has been established using joint-funds from railway companies of China, Russia, Kazakhstan and Germany, and the Chongqing Municipal Government, to organize the cargo for the block trains. More information is available online: iChongqing <www.ichongqing.info/2019/06/25/yuxinou-a-railway-corridor-connecting-chongqing-with-the-world/> accessed 11 October 2021.In addition, the railway companies from Russia, China, Mongolia, Kazakhstan, Belarus, Germany and Poland signed an agreement to deepen cooperation on the organization of container trains between China and Europe during the Belt and Road Forum in Beijing 2017; more information is available online: Railway Pro <www.railwaypro.com/wp/seven-countries-sign-agreement-china-europe-rail-container-organisation/> accessed 11 October 2021. [↑](#footnote-ref-209)
210. See Jakóbowski and others (n 5) 33. [↑](#footnote-ref-210)
211. See (n 146). [↑](#footnote-ref-211)
212. See “EU-China Summit Joint statement” (n 170). [↑](#footnote-ref-212)
213. “Data Protection and Privacy Legislation Worldwide”, online: unctad <https://unctad.org/en/Pages/DTL/STI\_and\_ICTs/ICT4D-Legislation/eCom-Data-Protection-Laws.aspx> accessed 11 October 2021. [↑](#footnote-ref-213)
214. See generally, J. XU (n 137). [↑](#footnote-ref-214)
215. For a detailed discussion on ways in which fragmentation is accomplished, see E. Benvenisti and G. W. Downs, “The Empire’s New Clothes: Political Economy and the Fragmentation of International Law” (2007) 60 Stan L Rev 595. [↑](#footnote-ref-215)
216. See M. Guzdar, T.J. Jermalavicius, “Between the Chinese Dragon and American Eagle: 5G Development in the Baltic States”, International Centre for Defence and Security, Estonia (August 2020), online: icds <https://icds.ee/wp-content/uploads/2020/08/ICDS-Brief\_Between-the-Chinese-Dragon-and-American-Eagle-5G-development-in-the-Baltic-states\_August-2020.pdf>; C. SBEGLIA, “Tele2 selects Nokia for 5G core in Sweden, Baltics following Huawei ban”, RCR Wireless News (11 January 2021), online: rcr Wireless <www.rcrwireless.com/20210111/5g/tele2-selects-nokia-for-5g-core-in-sweden-baltics-following-huawei-ban>; “Baltics caught between superpowers in China’s 5G battle – Investigation”, lrt English (10 September 2019), online: lrt <www.lrt.lt/en/news-in-english/19/1095729/baltics-caught-between-superpowers-in-china-s-5g-battle-investigation>. All accessed 11 October 2021. [↑](#footnote-ref-216)
217. See generally, E. A. Posner, K. Spier, and A. Vermeule, “Divide and Conquer”, Discussion Paper No. 639, 5/2009, online: Harvard Law School <www.law.harvard.edu/programs/olin\_center/papers/pdf/Vermeule\_639.pdf> accessed 11 October 2021. [↑](#footnote-ref-217)
218. See in general (n 10). [↑](#footnote-ref-218)