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A new EU Structural Rebalancing Instrument to respond to China's export surge

Pascal Lamy, Coordinator of the Jacques Delors think tank network, Founder and Vice President of the Jacques Delors Friends of Europe Foundation

Nicolas Köhler-Suzuki, Advisor for Trade and Economic Security, Jacques Delors Institute

Victor do Prado, Associate researcher, Europe Jacques Delors

I . Ducks and helium

Amid growing trade tensions, the European Commission in July fired a warning shot at China by launching an anti-dumping investigation into imports of Pekin duck.[1] The following day China announced a temporary ban on all exports of helium, a gas that European semiconductor manufacturing cannot do without.[2] Beijing cited supply disruption from the war in Iran, and that may well have been the reason. But the contrast is instructive: Europe's trade defence works product by product, after due process and on a months-long timetable. China plans in sectors and acts in days. The EU's Pekin duck investigation is still ongoing (in similar investigations it takes 7-8 months even for provisional measures to be applied). As the Helium example shows, China's ordinary administrative instruments reach an entire industry much more quickly.

Behind these frictions are serious bilateral imbalances. The EU's trade deficit with China was 360 billion euros in 2025, equivalent to almost one billion euros per day.[3] Jens Eskelund, President of the European Union Chamber of Commerce in China, describes the current economic relationship as 'a 400-metre-long giant container ship loaded with 24,000 containers going to Europe and coming back almost empty.'[4] Chinese exports to the US in the first half of 2026 were also 23 per cent lower than in the first half of 2025, while exports to the EU increased by 5 per cent during the same period.[5] Meanwhile, EU exports to China fell by 2 per cent. As a

1 European Commission, 'Notice of initiation of an anti-dumping proceeding concerning imports of Pekin duck originating in the People's Republic of China', OJ C/2026/3584, 9 July 2026.
2 Sylvia Ma and Mia Nurmamat, 'China issues temporary ban on helium exports as Iran war weighs on chip supply chain', South China Morning Post, 10 July 2026.
3 Eurostat, 'Trade in goods with China in 2025', 10 April 2026.
4 Delegation of the European Union to China (@EUdelChina), post on X, 27 May 2026.
5 US Bureau of Economic Analysis, 'International trade in goods and services'; Eurostat, 'International trade in goods' database.

result, the EU's bilateral trade deficit with China is widening even faster.

It is thus unsurprising that the tone in Europe has been shifting rapidly, and many, if not most, consider the current trajectory unsustainable. Volkswagen's CEO, whose company was amongst the carmakers that rallied against European CVD measures in 2024, is now asking for duties on plug-in hybrid vehicles imported from China.[6] At the Franco-German council of ministers in July, German Chancellor Merz said it 'goes without saying that we have to address this imbalance, because it comes at the expense of our industry', and French President Macron called for the Commission to be able to act with emergency measures rather than lengthy investigations: 'We want to protect our companies and our industries. We've seen it in chemicals, we see it in machine tools, in the automotive sector and in many others.'[7] The two governments consequently committed to a joint roadmap on China. The European Council asked the Commission to provide options for addressing the growing imbalance. Simultaneously, the European Commission and China's Ministry of Commerce launched consultations to prepare for Maroš Šefčovič's travels to Beijing in October. EU member states expect he will return with results, or they would need to consider alternatives.

The diagnosis of a problematic imbalance is thus widely shared in Europe today. What remains unresolved is the design of the response, which has so far been constrained by Europe's attachment to WTO rules. The EU may impose anti-dumping and anti-subsidy duties only product by product, and the rule of non-discrimination prevents it from imposing a safeguard against a single country.

In this paper, we argue that China's surge results from policy rather than comparative advantage; that trade remedies inherited from the Uruguay Round cannot tackle a systemic distortion; and that Europe should therefore build an instrument whose cost does not rise with the number of cases. We show that two routes are now open to the EU: negotiated restraint and a targeted instrument. We propose a legal route that avoids the security exception, seeks consistency with multilateral rules, and defines the conditions under which the measures should end.

II • Competitive, yes. Comparative advantage, no.

China's position on the issue is most clearly laid out in a paper by its Ministry of Commerce.[8] Export growth, it says, reflects economies of scale, innovation and the world's demand for the green transition. A current account surplus that it puts at 3.7 per cent of GDP is 'within an internationally recognised appropriate range'. And the argument that inadequate domestic demand gives rise to excess capacity 'runs counter to facts'.

This message has been carried far and wide. In June, China's Premier Li Qiang told the Dalian Forum that China's competitiveness comes from its commitment to innovation.[9] According to Henry Huiyao Wang of the Centre for China and Globalisation, China's export juggernaut is comparative advantage at work; therefore, other countries' appropriate response is simple: just compete.[10]

This narrative is only partly true. Chinese firms in many sectors do have real cost and engineering advantages built on expertise, scale and competition in a fierce home market.

What is in dispute, however, is how China builds expertise and economies of scale in the first place, and whether the trade

6 Nick Gibbs, 'VW Group CEO Oliver Blume calls for swift EU tariffs on Chinese plug-in hybrids', Automotive News Europe, 26 July 2026.
7 Célia Gueuti and Greta Ruffino, 'Macron and Merz agree to deepen defence ties and push for tougher stance on China', Euronews, 17 July 2026.
8 Ministry of Commerce of the People's Republic of China, 'China's position on the so-called excess capacity issue', 28 July 2026.
9 Thomas Hale and Eleanor Olcott, 'China's premier says competitiveness not down to subsidies', Financial Times, 24 June 2026.
10 Henry Huiyao Wang, 'Anxious West seeks to rewrite global trade rules to counter China', South China Morning Post, 23 June 2026, republished in The East is Read, 24 June 2026.

patterns it produces can be absorbed by the rest of the world.

As a share of GDP, China's surplus is, indeed, not unprecedented; Germany ran current account surpluses above 7 per cent of GDP for most of the 2010s. But Germany accounted for 4.6 per cent of world output when its surplus peaked in 2016. China, the world's second-largest economy, accounts for 16.5 per cent,[11] and in absolute terms a goods surplus of 1.2 trillion dollars in 2025 has no precedent.

The claim that China's export performance is based on comparative advantage conveniently ignores three stubborn facts.

The first fact is the extent of Chinese state support. The OECD's MAGIC database shows that between 2005 and 2024 firms based in China received, on average, 3 to 8 times more government support relative to their total revenue than firms in OECD economies.[12] The Franco-German Council of Economic Experts finds that China spends five to six times more on subsidies than the EU or the United States as a share of GDP.[13] The OECD attributes around 60 per cent of Chinese firms' global market-share gains since 2005 to state support, against about 22 per cent for firms in general.[14] The IMF puts the fiscal cost of China's industrial policy at about 4 per cent of GDP a year.[15] BYD is the emblem of the competitive-advantage story, yet even BYD received 2.1 billion euros in direct subsidies in 2022, 3.5 per cent of its revenue, according to the Kiel Institute.[16] Behind BYD stands an army of state-owned and state-financed producers whose support relative to revenue is larger still and whose survival does not depend on profit. Nearly 30 per cent of Chinese industrial firms were operating at a loss (as of August 2025), up from about 20 per cent before the pandemic, and 34 per cent in the sectors that expanded fastest after the property bust, which are the sectors Made in China 2025 targeted.[17]

The second fact is currency undervaluation. A trade surplus the size of China's should drive the value of the Renminbi up. Instead, the real effective exchange rate has depreciated by about 14 per cent since March 2021.[18] Other serious estimates of Renminbi undervaluation range from 16 per cent to 30 per cent.[19] The mechanism is not mysterious: state banks are accumulating foreign assets to hold the currency down.[20] Even those who regard the exchange rate as a symptom of China's savings surplus rather than a mercantilist policy accept this premise. Gita Gopinath, Pierre-Olivier Gourinchas and Hélène Rey, arguing against a revaluation-first strategy, begin: 'the Chinese yuan is no doubt undervalued.'[21]

Irrespective of whether this is the result of a deliberate policy choice for export promotion or a function of Chinese monetary authorities controlling the domestic price level, it is evident that the exchange rate depreciation confers a significant cost advantage on Chinese producers.[22]

11 World Bank, World Development Indicators, 'GDP (current US$)' (NY.GDP.MKTP.CD) and 'Current account balance (% of GDP)' (BN.CAB.XOKA.GD.ZS); shares of world GDP for 2016 and 2025 calculated by the authors.
12 OECD, MAnufacturing Groups and Industrial Corporations (MAGIC) database on industrial subsidies.
13 Conseil d'analyse économique and German Council of Economic Experts, 'EU-China economic relations and global imbalances', joint statement of the Franco-German Council of Economic Experts, August 2025.
14 OECD, 'Industrial subsidies reach highest levels since the global financial crisis, says OECD', press release, June 2026.
15 Daniel Garcia-Macia, Siddharth Kothari and Yifan Tao, 'Industrial policy in China: quantification and impact on misallocation', IMF Working Paper 2025/155, August 2025.
16 Frank Bickenbach, Dirk Dohse, Rolf J. Langhammer and Wan-Hsin Liu, 'Foul play? On the scale and scope of industrial subsidies in China', Kiel Policy Brief 173, Kiel Institute for the World Economy, April 2024.
17 Scott Davis and Brendan Kelly, 'China manufacturing overcapacity boosts output, stagnation fears', Dallas Fed Economics, Federal Reserve Bank of Dallas, 30 December 2025.
18 The IMF's 2025 Article IV report (IMF Country Report No. 26/44, February 2026) puts the depreciation at about 14 per cent since 2021.
19 Arthur Leichthammer, 'Use what you have: why the EU must stop kicking the trade can down the road', Jacques Delors Centre, 17 June 2026.
20 Brad Setser and Shahin Vallée, 'The real problem with global trade', Foreign Affairs, 11 June 2026.
21 Gita Gopinath, Pierre-Olivier Gourinchas and Hélène Rey, 'Don't blame global imbalances on the undervalued yuan', The Economist, 28 July 2026.
22 The distinction matters, however, to the law, as international rules that address the exchange rate often rely on intent.

The third fact is the persistent lack of domestic demand. China has promised to rebalance its investment-driven economic model towards domestic consumption since Wen Jiabao made his 'four uns' remarks in early 2007, where he described Chinese growth as 'unstable, unbalanced, uncoordinated and unsustainable.'[23] The rebalancing commitment has been restated in various official documents, such as the 12th Five-Year Plan Outline (2011), the Third Plenum Decision (2013), the 14th Five-Year Plan Outline (2021), the Outline of the Strategic Plan for Expanding Domestic Demand 2022-2035 (2022) and the Third Plenum Resolution (2024).

In spite of these repeated signals, household consumption was 39.8 per cent of GDP in 2005 and 40.0 per cent in 2024.[24] (In the EU and the United States, household consumption in 2024 was 53 and 68 per cent of GDP, respectively.)[25] The 15th Five-Year Plan Outline (2025) once again includes a reference to increasing domestic demand, but simultaneously commits to unleashing 'new quality productive forces', i.e., a doubling down on China's investment- and export-driven model.[26] President Xi Jinping's 2021 warning against the 'idleness-breeding trap of welfarism' may therefore better describe China's intentions than other official Chinese documents.[27]

This shortfall in domestic consumption is also not merely a matter of political will. The housing bubble destroyed household wealth on a scale from which Chinese families are still trying to recover today. As a consequence, cash overtook housing as the largest family asset this year. Car sales fell for ten consecutive months through July, while car exports rose by nearly 90 per cent.[28] With total debt above 300 per cent of GDP, Beijing is trying to deleverage to anticipate future crises and an ageing population. A consumption-led model would require taxes or borrowing that China is unwilling to take on, and net exports are the one source of growth that adds no debt.[29]

The combined result of state support, currency undervaluation and underconsumption is undeniable: China produces 28 per cent of the world's manufacturing value added, but accounts for only about 12 per cent of the world's household consumption. The United States is the mirror image, with 17 per cent of manufacturing and 31 per cent of consumption. The EU, at about 17 per cent of manufacturing and 16 per cent of consumption, produces roughly what it consumes.[30] An economy that produces more than a quarter of the world's manufactures and buys only an eighth of its overall consumption must invest or export the difference, and the rest of the world must absorb it. Europe, as the last large open market, now imports the largest single share, and its deficit with China is close to a third of China's record goods surplus of 1.2 trillion dollars in 2025.

This is also where Beijing's argument fails. In the Ricardian model, a country that is more productive across the board pays for it in higher wages and a stronger currency, until it exports what it does relatively best and imports the rest. China has suppressed that adjustment. State banks and a managed exchange rate keep the renminbi from appreciating, while falling domestic prices cheapen it in real terms. Household income has grown more slowly than output and the state channels the resulting savings into industrial capacity. Yes, China is competitive, and much of that is hard-earned through ingenuity

23 Wen Jiabao, press conference, 16 March 2007, Embassy of the People's Republic of China in Jamaica.
24 World Bank, World Development Indicators, 'Households and NPISHs final consumption expenditure (% of GDP)'.
25 Ibid.
26 Bert Hofman, 'Deciphering the 15th Five-Year Plan', MERICS, 19 March 2026.
27 Xi Jinping, 'Making solid progress toward common prosperity', Qiushi, no. 20, 2021; English translation published 18 January 2022.
28 Reuters Breakingviews, 'China's unplanned surpluses put EU in trade bind', 17 August 2026.
29 Dinny McMahon and David Tingxuan Zhang, 'China's export strategy abroad is aimed at a problem at home', Hinrich Foundation, 22 September 2026.
30 World Bank, World Development Indicators, 'Manufacturing, value added (current US$)' (NV.IND.MANF.CD) and 'Households and NPISHs final consumption expenditure (current US$)' (NE.CON.PRVT.CD), 2024 data; shares calculated by the authors. The two measures are not like for like, since household consumption includes services and exports such as agricultural, energy and mineral goods are not counted.

and fierce domestic competition. But its productivity lead has been taken as market share when it should have shown up as purchasing power, and China now exports well beyond the range of goods in which it would otherwise maintain comparative advantage. The counterpart is a surging goods surplus, which the rest of the world can absorb only by shrinking its own industry. Is comparative advantage, then, still the right lens for ordering global economic relations?

III • What the old critique got right, and what is new

David Ricardo's model of comparative advantage is silent on three issues. First, advantage can be made rather than found. Alexander Hamilton and Friedrich List argued for shielding young industries because capability can be built, and Paul Krugman's new trade theory later showed that returns increase with scale and learning, whoever moves first tends to stay ahead. Second is distribution. The gains from trade are real but fall unevenly, and the model promises only that the winners could compensate the losers. Third is security. Economics counts absolute gains; states also count their relative position in the system. Trade creates dependence, and dependence, as Albert Hirschman showed, is itself a form of power, which the larger and less dependent partner can exploit.[31]

The post-war multilateral trading system bound (for the most part) market economies allied with the United States, which underwrote the arrangement with its security guarantee, its currency, and its market. Comparative advantage operated inside that order and on its margins. Security externalities from the gains from trade were largely internalised. The system never contemplated a member of China's scale outside that community.

But the multilateral trading system was built on the intellectual foundations of the Ricardian model. Participating countries were expected to specialise, continue producing and trading some goods, and, when distortions causing injury needed correction, use remedies intended to address a specific product from a specific origin. The preamble of the General Agreement on Tariffs and Trade stated its purpose as follows: trade conducted 'with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand'. The 'flying geese' phenomenon of East Asian development, whereby Japan abandoned textiles for Korea and Taiwan, which then abandoned them for Southeast Asia, appeared to confirm that comparative advantage moves on, and that countries vacate sectors as they climb the economic ladder. But few contemplated a member whose scale would leave the others with nothing to exchange.

This view was also evident in how the West handled China's entry into the WTO. (One of the authors, Pascal Lamy, negotiated the EU's bilateral accession agreement with China in 2000.) Letting China into the WTO was supposed to extend the exchange of comparative advantage that the system was built to deliver. China paid a real price for it, binding its average industrial tariff at 8.9 per cent, whereas large developing members such as Brazil and India remain bound at three to five times that level even today.[32] The mistake lay with the United States, the EU and Japan, which failed to reinforce WTO disciplines on subsidies even before China joined, out of a wish to protect their own national champions, such as Boeing or Airbus. At the end of 1999, WTO members had already allowed one of the sharpest provisions of the Subsidies Agreement, the presumption of serious prejudice for subsidies above 5 per cent of a product's value, to lapse rather than extend it. The disciplines China signed up to were weaker than those of 1995, and then never caught up with the scale and scope that China's state support would reach after 2010

At the time, the extent of China's industrial subsidies was underestimated, as was China's growth trajectory and its future weight in the global economy. China has continued to

31 Albert O. Hirschman, National Power and the Structure of Foreign Trade (Berkeley: University of California Press, 1945).

32 WTO, 'WTO successfully concludes negotiations on China's entry', Press/243, 17 September 2001; WTO, World Tariff Profiles 2025.

produce textiles and toys while also expanding production in steel, chemical products, solar panels, batteries, automobiles, machine tools, semiconductors and pharmaceuticals. In so doing, China's share of global manufacturing value added rose from 8.5 per cent in 2004 to 28 per cent in 2024, while the EU's fell from 25 per cent to 17 per cent.[33] Unlike the flying-geese pattern where sectors are left empty by countries moving up to more value-added segments of the supply chain, China, which basically produces everything, does not leave those lower-level sectors vacant. China's entry into the higher-value-added sectors on which the European economy relies, in particular machinery, chemical products, automotive and clean technologies, creates two problems, one economic and one legal.

The economic problem is that competition with Chinese firms is not on a level playing field. A machinery maker in Europe is no longer facing a Chinese rival using similar tools to compete against it. Nor does it only face different production costs. Instead, it faces a national government planning over the long term; a local government committed to keeping a factory operating to preserve jobs; and a state-owned bank committed to continuing to lend money to support that rival, irrespective of market considerations. According to Schumpeter, allowing creative destruction to occur provides useful signals about efficiency, since exit tells us how badly a given firm used resources, as compared to surviving firms. When the survivor persists mainly because of access to deeper governmental pockets, rather than superior efficiency, exit no longer signals which firm truly used resources better. The welfare case for letting such adjustments run their course disappears.

In 2007 Europe made close to 30 per cent of the world's solar cells; it now makes about 1 per cent, no longer produces wafers at all, and has one polysilicon plant left.[34] Kevin Rudd describes the calculus from Beijing's side: subsidies on this scale are temporary and only sustained until global competitors fold, after which prices can be restored to a level that makes sense for Chinese producers, by which time the alternative sources of production have gone.[35] Competition lawyers have a word for the second stage: *recoupment*. Regardless of whether *recoupment* is the result of a grand design or merely from the incentives faced by provincial governments or state-owned banks, the fact remains that damage occurs to others. Unfortunately, that damage appears likely to be permanent, since building a supply chain takes years or even decades and capital tends to flee markets that appear predatory.

The legal problem is that the WTO trade remedies were built for a different kind of distortion. Anti-dumping needs a normal value (price comparison) and a like product, plus injury and a causal link. Countervailing duties require an identifiable, specific subsidy, a benefit, and a causal link to injury. Safeguards need an unforeseen surge and must apply to all sources alike. Each presumes that distortion is the exception and balance is the rule. Each applies to one product at a time. But when distortion is the rule, spread across a hundred tariff lines and financed through the currency and the banking system rather than through subsidy programmes an investigator can find, correcting it product by product is a category error.

The currency channel is even more intractable, and it tends to be beyond the reach of trade remedies. The United States tried in 2020 to treat undervaluation as a countervailable subsidy, but failed.[36] Existing multilateral rules that do address the

33 World Bank, World Development Indicators, 'Manufacturing, value added (current US$)' (NV.IND.MANF.CD), China, European Union and World aggregates; shares calculated by the authors

34 Fraunhofer ISE, Photovoltaics Report, 14 July 2026

35 Kevin Rudd, 'What Americans need to understand about China', Substack, 30 August 2026

36 In February 2020 the US Department of Commerce amended its countervailing duty regulations to allow currency undervaluation to be treated as a countervailable subsidy (Modification of Regulations Regarding Benefit and Specificity in Countervailing Duty Proceedings, 85 Fed. Reg. 6031, 4 February 2020), first applied against tyres from Vietnam in 2021. Its consistency with the ASCM is doubtful, above all on specificity: undervaluation benefits every holder of foreign currency, and the interpretative note to GATT Article VI covers only multiple currency practices.

exchange rate are also insufficient. The IMF's surveillance decisions of 2007 and 2012 define manipulation as policy pursued 'for the purpose of' securing an undervalued currency in order to increase net exports. In eighty years, the IMF has never found a member in breach.[37] However, Article GATT Art. XV:2 obliges the WTO to accept the Fund's determination and, as such, has never been used.

IV • Why more of the same trade defence is not the answer

Brussels' first instinct in responding to China's export surge has been to do more of the same, but faster. The Commission opened 33 trade defence investigations in 2024, the most since 2006, and 32 in 2025, compared with a historical average of 12 a year. Chemicals drove the increase: 12 of the 2024 cases, all against China, and over a third again in 2025, after one a year from 2018 to 2021 and none in 2022. The number of trade defence measures in force rose from 199 to 232 in a single year, and the Commission concedes that the pace 'continues to exert pressure on the trade defence services'. By July 2026, four investigations had already been delayed for lack of staff, and the time needed simply to approve a complaint had stretched to nine months. A non-paper from Spain, Italy, the Netherlands, France and Lithuania, circulated in May, proposes a sensible fix: more staff for the trade defence directorate and strategic prioritisation in place of a first-come, first-served queue. This is a step in the right direction, but it addresses a symptom, not the disease.[38]

The underlying flaw is that the cost of the response rises with the number of cases. A credible instrument is one whose cost does not. A tool that requires a fresh investigation, a fresh injury determination and a fresh causality test for every product will always lose a race against a distortion and injury that affect an entire value chain or economic sector.

Two proposals circulating in Brussels would go beyond the existing toolbox. The first is a European equivalent of the US Section 301. Sander Tordoir and Brad Setser have made the case most fully: a China-specific instrument letting the Commission answer 'systemic distortions', above all the undervalued renminbi, with tariffs across autos, machinery, chemicals, batteries, clean tech and semiconductors, kept in place 'for as long as the China shock endures', with the revenue compensating the member states that Beijing retaliates against, and withdrawn if Beijing revalues.[39] Much of this we share: the sectoral scope, the compensation fund, the currency at the centre of the diagnosis, a negotiated exit. Our disagreement is about the mechanism, and it is not a technicality.

A Section 301 works by unilateral determination. The authority finds another member's practices unreasonable and retaliates. That is what Article 23 of the Dispute Settlement Understanding forbids; the provision was the price Washington paid for the single undertaking in 1994, and the EU litigated it against the United States in 1998.[40] Tordoir and Setser do not say how their instrument would square with WTO rules, because it cannot. The Structural Rebalancing Instrument we propose below differs on four counts. It triggers on conduct that can be read in trade and financial data (import surges, price suppression, state-support intensity, currency intervention) rather than on a verdict about the legality of another member's policies. It works on quantities, through a tariff-rate quota. It rests on a renegotiation of the Union's tariff concessions under Article XXVIII of the GATT, with compensation to principal suppliers, so that non-discrimination survives in law and third countries maintain their historical trade volumes. And it carries published exit criteria. Becoming judge, jury and executioner would forfeit the

37 IMF, Decision on Bilateral Surveillance over Members' Policies, Decision No. 13919-(07/51), 15 June 2007, Annex, para 2(b); IMF, Decision on Bilateral and Multilateral Surveillance, Decision No. 15203-(12/72), 18 July 2012, Annex, para 2(b).
38 Spain, Italy, the Netherlands, France and Lithuania, 'TDI reform propositions', non-paper, May 2026.
39 Sander Tordoir and Brad Setser, 'China shock 2.0: the cost of Germany's complacency', Centre for European Reform, 20 May 2026.
40 The EU requested consultations in November 1998 and the panel reported in December 1999. WTO, United States: Sections 301-310 of the Trade Act of 1974 (DS152), panel report WT/DS152/R, 22 December 1999.

one advantage Europe still holds when cooperating with international partners–that it plays by the rules it asks others to respect.

The American record also counsels against a unilateral currency instrument. Washington rejected several opportunities to open a Section 301 case on the renminbi, each time on the ground that it would not be effective, and when the Treasury finally designated China a currency manipulator in August 2019, it withdrew the label five months later as the price of the so-called Phase One deal.

Time matters as much. A European 301 would be a new power with no precedent in Union law; the much narrower anti-coercion instrument took two years from proposal to entry into force. The instrument proposed here combines powers the Union has already used: provisional safeguard measures within 200 days, an Article XXVIII notification, and a standalone regulation modelled on the updated steel safeguards, which cleared Parliament and Council in eight months.

The second option, championed, for example, by the German mechanical engineering association VDMA, is to apply countervailing duties at the level of entire product groups and to reverse the burden of proof onto exporters. The instinct is right — individual product cases cannot keep pace with systemic distortions — but the mechanics are wrong. A product-group countervailing duty with a reversed burden of proof has no legal home: the Subsidies Agreement requires the investigating authority to establish the existence of a subsidy and injury on positive evidence before any duty is imposed. A quantitative measure has several homes. Quotas are an authorised form of safeguard and may be allocated among suppliers; a tariff-rate quota can be bound through renegotiation of the European Union's schedule, as the steel regulation shows. The questions a tariff quota raises, its justification and its allocation, are arguable inside the system (cf. section 7 below). The question a reversed burden of proof raises is whether to violate the agreement. In any case, it does not remove the underlying problem: every exporter rebuttal still generates more casework, and every duty invites a new circumvention case, as the May non-paper has also warned.[41]

There is a further, more basic reason why price-based remedies — anti-dumping and countervailing duties — are reaching their limits. They assume exporters behave as profit-maximising firms that will raise prices or exit the market once a duty erodes their margin. That assumption does not necessarily hold for state-backed national champions that answer to employment and strategic targets rather than to shareholders, as they can and often do absorb a duty indefinitely to defend market share rather than profitability. Where the exporter does not maximise profit, a price-based remedy has nothing to bite on, so the trade remedy has to work on quantity instead.

Finally, there is a gap in the EU's institutional architecture that no trade instrument can close on its own: exchange rates. Currency intervention that holds a currency down confers exactly the kind of cost advantage that trade defence instruments are meant to offset, yet it currently falls outside anyone's mandate. Under Article 219 TFEU, exchange-rate policy sits between the Council, which may formulate general orientations, and the ECB, which has not treated a trade-driven undervaluation as its concern. DG Trade has no instrument at all to deal with it.

So what is to be done? Two routes remain. Plan A is to negotiate with China. Plan B is a new instrument built for the problem. Europe needs both so it can speak softly while carrying a sizeable stick.

V • The soft option: negotiated restraint, and its limits

The Trade and Investment Consultations that the EU and China launched on 29 June have four workstreams: trade and investment balancing, export controls, intellectual property and WTO reform, and a joint mechanism to monitor trade flows. The first test came in September. The import of plug-in hybrid cars from China rose from 3,800 a month in October 2024 to 50,000 in July 2026, and

41 Spain, Italy, the Netherlands, France and Lithuania, 'TDI reform propositions', non-paper, May 2026.

the Commission asked Beijing to cap them voluntarily, with countervailing duties on the horizon as an alternative, similar to what the EU has already applied to battery electric vehicles (BEVs).

Europe has clearly reached a moment of truth with China: either Beijing can be convinced to rebalance the relationship, or else the EU will have to go further down the road of protecting its companies. Plan A deserves a genuine chance — but a genuine Plan A requires a credible Plan B standing behind it, as China is already betting that Europe will fold.[42]

Maroš Šefčovič's formula is to increase European exports to China and 'to better manage the Chinese exports to the European Union'. In practice, that means sector-by-sector restraint. Automobiles are one segment where Beijing can likely control volumes, and Brussels can count them. The rest of China's export surge is spread across thousands of tariff lines that are difficult to track.

Any negotiated arrangement has to be built carefully. Article 11 of the Safeguards Agreement prohibits voluntary export restraints (VERs), a rule agreed during the Uruguay Round because the United States and the European Community had made a habit of extracting VERs from Japan in the 1980s. What can survive is restraint on the importing side: quantity undertakings under the anti-dumping rules, product by product; or a safeguard quota, *erga omnes* but allocated among all suppliers. Most relevant is the model the Union has already legislated for steel, whose quota distribution takes account of historical market shares, FTA partners and 'any international agreement or non-binding international understanding addressing the levels of global overcapacity'.[43] A country that accepts restraint gets a larger quota; one that refuses gets the residual.

Expectations for what Plan A can deliver remain modest. Beijing's own position paper concedes nothing on the diagnosis, and as we showed above, it cannot easily concede on substance, as net exports are the one source of growth that adds no debt. What Beijing can offer is purchases. So far, it has only signalled interest in buying more semiconductor manufacturing equipment, a European export large enough to move the balance, but increasingly restricted for economic security reasons. The realistic outcome is an offer that is too small and arrives too late.

The Commission should ask for three things: (1) verified volume restraint in the sectors where injury is documented, counted through the joint monitoring mechanism the two sides have already built; (2) capacity commitments in the sectors Beijing's own campaign against 'involution' has named; and (3) the exchange rate issue to be placed on the agenda in the IMF and the G20.

Another under-used lever should also be on the table. The Industrial Accelerator Act proposed in March already provides the conditions for majority European ownership, technology transfer and local content as the price of public support. This will not by itself close an annual 360 billion euros deficit, but it gives Chinese capital a stake in European industrial capacity, rather than only in its export markets.

Any durable settlement of the EU-China relationship will eventually be written down in some form of agreement, so it is worth doing some testing now. And if the negotiation fails, despite a genuine, good-faith effort, that failure will itself legitimise the harder option for those EU member states that are currently the most reluctant to act, out of fear of Chinese retaliation. What remains is to build the instrument that gives failure a consequence.

42 Ryan Hass et al., 'Europe's China shock 2.0: where does it go from here?', Brookings Institution, 8 September 2026.

43 Regulation (EU) 2026/1384 of the European Parliament and of the Council of 17 June 2026 addressing the negative trade-related effects of global overcapacity on the Union steel market and amending Regulation (EU) 2020/2170, recital 24.

VI • The hard option: a new Structural Rebalancing Instrument

A template already exists for a hard option. Regulation (EU) 2026/1384, which entered into force on 1 July, replaced earlier steel safeguards from 2018. It was adopted as a standalone act in just eight months – record speed by Brussels standards.

To justify the arrangement under multilateral rules, the Commission did not invoke the 'nuclear option', i.e. the GATT's national security exception, which is sometimes floated in the current policy discussion. Instead, in October 2025 the Commission announced that it would renegotiate the Union's bound tariffs on steel under GATT Article XXVIII, the provision that lets a member modify its concessions in exchange for compensation to principal suppliers, and it offered affected partners country-specific quota shares. That is why the regulation asserts its WTO compliance, why no member has so far requested consultations, and why the measure has no expiry date: a renegotiated binding is permanent by nature, subject to review by mid-2029 and every two years thereafter. Duty-free volumes were cut by roughly 47 per cent from the market share imports held in 2013, the out-of-quota duty was doubled to 50 per cent, and from October importers must show where the steel was melted and poured.

The steel regulation could serve as a template for what Europe now needs across sectors facing similar structural distortion: a new Structural Rebalancing Instrument (SRI), built around seven features.

1. **Justification.** The instrument would rest on the adverse effects of structural imbalances, exactly as the steel regulation does; the legal category already exists in the EU and does not need to be reinvented.

2. **Trigger.** Investigations would open on conduct observed at the level of an entire value chain rather than individual tariff lines: a sustained increase in imports, prices below any recognised cost benchmark, capacity growth beyond domestic demand, state-aid intensity, and evidence of action taken to hold a currency down. The tests could include: production and export growth, price suppression, state-support intensity and currency intervention. The Commission's import surveillance tool, which has tracked surges and diversion at product level since 2025, could supply such data. Once a tariff-rate quota is in place, the trigger would apply mechanically: the out-of-quota duty applies when the volume is exhausted, without a further finding. Investigations decide only which value chains fall under the instrument, not whether it bites.

3. **Remedy.** The remedy would work on quantities, but through a tariff-rate quota, because a quantitative restriction is inconsistent with Article XI of the GATT and cannot be written into the Union's schedule under Article XXVIII, whereas a tariff-rate quota, with a lower duty up to a volume and a prohibitive duty above it, could be. Volumes would be allocated by country against a baseline predating the surge, as the steel regulation does with a 2013 baseline, preserving the traditional shares of suppliers not responsible for the surge and giving Beijing a published ceiling. A tariff-rate quota could also be read as an olive branch. Beijing has told Washington that it regards 20 per cent as the ceiling for American 'replacement' tariffs and reserves the right to respond above it. A European measure that leaves in-quota trade at existing duties and affects only the increment could signal to Beijing the willingness for (conditional) cooperation.[44]

4. **Origin.** Rules of origin in the concerned sectors should be defined by ownership rather than by the last substantial transformation, so that a Chinese-owned, Chinese-supplied plant based in Morocco or Turkey could not be used to circumvent the measure. This would be a de facto shift from 'rules of origin' to 'rules of ownership'.[45]

44 GATT 1994, Articles XI and XXVIII; Bloomberg, 'China says US pledged to cap replacement tariffs at 20%', 27 July 2026.

45 Further reflections are needed to think through the current and future consistency of 'rules of ownership' with multilateral rules.

5. **Time-bound.** The binding within the multilateral system would be permanent, but the restriction for the EU would not. The regulation could set a liberalisation path for in-quota volumes and an exit ramp: a negotiated capacity or volume understanding could be rewarded by quota distribution criteria. Moreover, a bound ceiling is a ceiling; nothing prevents the European Union from permitting more.

6. **Speed.** Provisional measures could be introduced within the 200 days allowed under existing safeguard regulations while the permanent Structural Rebalancing Instrument is legislated. They would apply to all origins, as a safeguard must; the targeting would come from in-quota volumes set at pre-surge levels, which tax only the increment, and from an Article XXVIII notification made the same day. A first package spanning several sectors, chemicals, machinery and wind-turbine components for instance, would spread adjustment costs across member states and help secure the qualified majority needed in Council.

7. **Solidarity.** A solidarity fund, built into the same legislative act and financed from revenue raised by out-of-quota duties, would compensate member states and sectors exposed to Chinese retaliation, which is to be expected. The Commission is reportedly preparing such a mechanism. It should be built into the same act, because retaliation will be aimed at whichever member states can break a qualified majority: before the Commission's May deliberations, a Chinese state broadcaster listed cosmetics, alcohol, meat and luxury goods–essentially a list of French, Spanish and Italian exports. Unless the cost is shared in advance, Beijing will very likely not take the threat behind Plan A seriously and aim to divide and conquer, as it has in the past.

Two further design choices matter as much as the instrument's substance. First, measures should target sectors and quantities, not companies. Company-based measures would draw the EU into a fight on the ground where Beijing is strongest — retaliating against individual, politically identifiable European firms — whereas sector-level quantities with a stated limit and a stated expiry date read as exactly what they are: a demand with clear terms, not a target list. Since 2020, Beijing has codified that ground: an unreliable entity list, blocking rules, an anti-foreign sanctions law with 2025 implementing regulations, and this year regulations on supply-chain security and on countering foreign extraterritorial jurisdiction. These are administrative powers exercised against named firms at short notice; Europe's equivalents require legislation and judicial review.

Second, Europe should be realistic about what this instrument can and cannot do. It cannot win a bottleneck exchange: an export ban on helium or a licensing restriction on rare earths can stall European production lines within weeks, and no change to EU trade regulation will alter that asymmetry in the short term. The Structural Rebalancing Instrument is narrower and more achievable — to give European negotiators in current discussions with China greater leverage through additional outside options.

VII • Getting there while maintaining the multilateral system

Three legal routes are on the table in Brussels and Geneva. The first is a non-paper from five member states that was circulated in May, which proposed a cross-sectoral resilience tool activated through the WTO's security exception where supply is dangerously concentrated in a single country; a Franco-German summit statement in July also called for a 'new resilience instrument' without specifying its legal basis. The second is the route the steel regulation has already taken: renegotiating the Union's bound tariffs under Article XXVIII of the GATT, with country quotas offered as compensation. The third is the EU's communication to the WTO dated 13 July 2026, which reaffirms that most-favoured-nation treatment 'remains indispensable,' but proposes reviewing the exceptions to it and sectoral agreements that pair liberalisation with disciplines, 'reserving

the benefits of those agreements to participating Members'.[46]

In our view, the security-exception route should be set aside for now. The EU started a dispute with the United States when Washington invoked national security to justify its steel and aluminium tariffs in 2018, and in Geneva it has consistently argued that Article XXI is subject to review by a panel rather than a matter for each member's own say-so – this is the reading the panel adopted in the Russia transit case in 2019. Its sanctions on Russia fit that reading: a war is an emergency in international relations. Excess capacity in chemicals is not. Invoking the exception for overcapacity would give every other WTO member the same argument and put Europe on the side it has spent a decade opposing.[47]

The real aim is to revisit the grand bargain that concluded the Uruguay Round in 1994, and the GATT provides for exactly that. Article XXVIII lets a member raise a bound tariff provided it compensates the principal suppliers, who may otherwise withdraw equivalent concessions of their own. The Commission used it for steel in October 2025, and the price was paid in country quotas rather than in litigation. Two features make the route more powerful for Europe than for anyone else. The first is the EU's network of trade agreements. A higher MFN tariff does not touch a partner that trades with Europe under a free trade agreement, so once the agreements with Mercosur, Indonesia and India are in force, a bound-tariff increase bites in practice on a short list of countries, notably China and the United States. Non-discrimination is preserved in law and targeted in effect. Second, a renegotiated binding is a ceiling, not a floor. Nothing stops the Union from legislating, in Brussels, a time-bound path back down towards the old rate, so that the instrument is permanent in Geneva and temporary in Europe. The cost is real and should be stated: the United States is a principal supplier in several of the sectors concerned and would acquire compensation rights alongside China. That is a reason to renegotiate sector by sector, as the steel case did, and to settle any American claim within the wider transatlantic tariff discussion.

The EU's July communication proposes sectoral agreements that combine liberalisation with disciplines and reserve their benefits to participants.[48] The natural coalition for such an agreement would bring the EU together with Australia, Canada, Japan, South Korea, the United Kingdom and other trusted partners to write disciplines on capacity and state support that are closed to non-joiners, and to incorporate them into the WTO as a plurilateral agreement. It would be the first such agreement negotiated without either the United States or China at the table.

This direction already has support beyond Brussels. Aaditya Mattoo, Michele Ruta and Robert Staiger have argued for a 'geopolitical exemption' from MFN, conditional on leaving third countries' terms of trade unchanged. Bai, Gopinath, Rey and Weber, in their memorandum to the G7, describe safeguards as the trading system's 'safety valve' and propose broadening them beyond single products. And the EU's own submission to the WTO in January describes the 'increasing number of non-compliant autonomous measures' as a symptom of an outdated rulebook and calls for 'more agile adjustment of tariff levels'.[49]

46 European Union, 'WTO reform: further reflections on foundational issues following the Fourteenth Session of the Ministerial Conference', WT/GC/REFORM/W/6, 13 July 2026.

47 WTO, United States: Certain measures on steel and aluminium products (DS548), request for consultations by the European Union, 1 June 2018; WTO, Russia: Measures concerning traffic in transit (DS512), panel report WT/DS512/R, 5 April 2019, paras 7.53-7.102.

48 European Union, 'WTO reform: further reflections on foundational issues following the Fourteenth Session of the Ministerial Conference', WT/GC/REFORM/W/6, 13 July 2026.

49 Aaditya Mattoo, Michele Ruta and Robert Staiger, 'Trade Cooperation in an Age of Geopolitics', Finance & Development, IMF, June 2026; Chong-En Bai, Gita Gopinath, Hélène Rey and Axel Weber, 'G7 economists memo on global imbalances', 28 March 2026; European Union, 'EU submission on WTO reform', WT/GC/W/986, January 2026.

Pending any such rewrite, the interim discipline Mattoo, Ruta and Staiger propose, that unilateral measures should leave third countries' terms of trade unchanged, is a fair standard to hold Europe's own instrument to. Country-specific tariff-rate quotas meet it more easily than a blanket tariff would, because they preserve volumes from unaffected suppliers rather than taxing them.

But we need to be realistic about the timelines. The WTO Ministerial Conference in Yaoundé produced no reform work plan, only an agreement to keep talking under the General Council. The next ministerial conference is not expected before 2028. A multilateral fix, if one comes, is years away. That argues for an interim instrument adopted now under Article XXVIII and designed from the outset to fold into sectoral agreements once they exist, rather than waiting longer.

Realism about the rest of Asia matters just as much. In real terms the Japanese yen has not been this weak since the early 1970s, and the Korean won has fallen back to its 2008 crisis level against the dollar and the euro. Asia as a whole runs a trade surplus of 1.5 trillion dollars. That is a larger share of world output than at any time since 1945, and it is the only large surplus left in the world economy. Yet neither the IMF, in its March proposals on imbalances, nor the G7 at Évian called for Asian currencies to appreciate.[50] A China-only instrument would therefore under-include some of the imbalance.

The answer is to build the trigger around conduct, with consultation required before any measure applies: Japan and South Korea would likely fail a state-support and price-suppression test built into a Structural Rebalancing Instrument, but on the rare occasions they do not, the same instrument should apply to them too. Japan and South Korea should also play an important role in writing the disciplines of a sectoral agreement, turning a purely defensive instrument into an exercise in coalition-building.

Currency undervaluation should be treated the same way, and with the same realism. The IMF's 2007 and 2012 decisions frame currency manipulation around purpose, and no member has ever been found in breach. A WTO case built on GATT Article XV:4 would stake the outcome on an institution unwilling to make a determination. Currency intervention, however, is a form of conduct. It is measurable, reportable and documented.[51] As such, it can trigger the Structural Rebalancing Instrument, and the real exchange rate as a criterion for lifting it, without anyone having to prove Beijing's intentions.

The multilateral track should run alongside, with modest aims and expectations. Article XV:2 allows the Union to request formal WTO-IMF consultations that would put the Fund's findings on China's exchange arrangements on the record. A joint declaration, in country-neutral terms, could clarify how 'exchange action' and 'frustrate' in Article XV:4 apply to persistent, policy-induced misalignment. A non-violation complaint under Article XXIII:1(b) remains a fallback that does not require proving a breach. None of this will move the renminbi on its own. Its purpose is to build the record against which exit criteria are judged.

The sequence matters. The Council should first use its power under Article 219(2) TFEU, never yet exercised, to formulate general orientations for exchange-rate policy towards third-country currencies, on a recommendation from the Commission after consulting the ECB, without prejudice to price stability and with only euro-area members voting. Europe should then take that position to the IMF and the G20. The G7 at Évian asked the IMF to monitor imbalances and passed the subject to the G20, but said nothing about exchange rates. Europe cannot credibly invite others into a conversation about currency that it is not yet prepared to hold itself.[52]

50 Brad Setser and Shahin Vallée, 'The real problem with global trade', Foreign Affairs, 11 June 2026.
51 Cf. Section 3 above
52 Élysée, 'The outcomes of the Évian G7 summit', 17 June 2026.

VIII . Back to balance

The overall objective of these suggestions is to restore balance. Measures should stay in force until that objective is met and no longer, which requires making it explicit and measurable from day one. This also answers the objection that a country-targeted instrument breaks with non-discrimination: the Article XXVIII route keeps the tariff non-discriminatory in law, and published exit criteria make the departure in effect temporary.

A rules-based actor owes its trading partners published exit criteria, not open-ended discretion. Reasonable benchmarks could include: China's surplus in manufactured goods returning to about a tenth of the rest of the world's imports, where it stood before the property-market crash, from about 15 per cent today; a current-account surplus below 2 per cent of GDP, from 3.8 per cent in 2025, which was a record 735 billion dollars; a real appreciation of the renminbi on the scale seen between 2005 and 2014, when it rose by about 40 per cent and China's surplus fell to under 2 per cent of GDP; household consumption rising durably above 45 per cent of GDP, from the 40 per cent at which it has been stuck for two decades;[53] and, sector by sector, verified capacity limits or a sectoral agreement signed in Geneva, the same condition on which the steel regulation already rewards partners that have reached an understanding with the Union on excess capacity.[54]

These criteria should not be set naively. China was a net importer of cars in 2019, and the world's largest exporter of them by 2023. An instrument built around rebalancing should therefore track outcomes. The exit criteria require verified movement in the data, not another round of stated intent.

Defined exit criteria are the opposite of a fortress. Publishing them in advance is what a rules-based actor does when it uses the flexibilities the rules provide: it tells its partners what it is doing, why, and when it will stop. The steel regulation has a review date; the Structural Rebalancing Instrument proposed here should also have a destination.

Europe is now the only large market with high purchasing power that remains open to Chinese products, which is why Beijing needs continued access to it and why it has answered every European move with a threat rather than an offer. Europe is also the largest economy still committed to a rules-based trading order, which is why other open economies are closely watching.

The Structural Rebalancing Instrument proposed here is built for three audiences. Trading partners not caught by its conduct-based scope would see their traditional volumes protected and would have a clear route into a future sectoral agreement, rather than being penalised alongside China. European manufacturers that depend on Chinese intermediates would keep them: a tariff-rate quota leaves historical volumes duty-free and puts the cost on the recent surge.[55] Washington and Beijing, meanwhile, would both be nudged back towards a multilateral system that does not need extraordinary measures to function, which remains preferable for Europe to a world in which such measures become the norm.

The GATT of 1947 rested on three rules: most-favoured-nation treatment, national treatment and bound tariffs, and on a long list of exceptions. The WTO of 1995 inverted that balance, embedding far more discipline and leaving the exceptions to be used sparingly. The drafters of the 1995 agreement assumed the adjustment they were disciplining would take place: that a country that produced too much would see its prices, wages, and

53 Brad Setser and Shahin Vallée, 'The real problem with global trade', Foreign Affairs, 11 June 2026.

54 Sébastien Jean, 'Global imbalances, industrial policies, and the challenge of surging Chinese trade surpluses', chapter 12 in Hélène Rey, Beatrice Weder di Mauro and Jeromin Zettelmeyer (eds), Paris Report 4: The New Global Imbalances, CEPR, April 2026; BOFIT, 'China's current account surplus hit an all-time high last year; net outflow of capital from China gathered strength', BOFIT Weekly 16/2026, 17 April 2026; World Bank, World Development Indicators; Regulation (EU) 2026/1384, Article 5(1)(g).

55 The objection that Europe would be taxing the exports from its own companies from China has also lost most of its force, since foreign-invested firms accounted for less than 30 per cent of China's trade in 2024, down from more than half in the mid-2000s.

currency rise until it produced less. That mechanism has been switched off in the largest manufacturing economy on earth, but the rules have not kept pace. Europe should now use the provisions the system already contains, deliberately and openly, and work together with those willing to sign up and update the disciplines. Otherwise, the rules will be written by others, or might will make right.

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Institut Jacques Delors
Penser l'Europe • Thinking Europe • Europa Denken
17 rue d'Antin, 75002 Paris, France
www.delorsinstitute.eu • info@delorsinstitute.eu

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