China's Global Investment in 2019: Going Out Goes Small

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Key Points

- Chinese investment and construction around the world contracted in 2019, regardless of Beijing's claims to the contrary. However, the decline is concentrated in large, headline-winning deals, and Chinese firms remain active on a smaller scale.
- A contraction in acquisitions in rich economies has boosted the relative importance of greenfield spending. The number of countries in the Belt and Road continues to expand, and power plant and transport construction continues to be preeminent.
- American policymakers were initially spurred to act by intense Chinese investment in 2016. This has dropped sharply, but there are challenges related to investment review that are more important, starting with strengthening export controls.

China's overseas investment and construction saw a crucial shift in 2019. The nature of that shift is in question.

The China Global Investment Tracker (CGIT) from the American Enterprise Institute and Heritage Foundation reasonably tracked official government investment levels from 2005 through 2018. In 2019, official figures proclaim stability, while the CGIT sees a dramatic fall. The main possibilities are (1) China is manipulating data and (2) the average size of transactions has dropped and the CGIT is missing more of them. These are not exclusive. Most likely there is an important slump beyond what Beijing reports, but still not the plunge seen in the CGIT.

Such a slump calls for explanation. It is well-documented by now that key host countries have grown suspicious of Chinese firms.[1] However, this does not also explain a simultaneous fade in the construction-led Belt and Road Initiative (BRI).

The best explanation for broad weakness is erosion of the previously abundant foreign exchange used to finance construction and investments. Since 2014, China has seen a large drain on its reserves.[2] There is no reversal on the horizon, which means neither investment nor construction can reach levels anticipated a few years ago.

The CGIT is the only fully public record of Chinese outbound investment and construction worldwide. All 3,600 transactions recorded since the start of 2005 are accessible in a public data set.[3] In 2019, with the same $100 million threshold as in previous years, spending plunged 40 percent to below $70 billion, on top of a similar drop in 2018. The 2019 investment results look similar to 2011, with Chinese investment returning to a local rather than global phenomenon.

Beyond lower investment, there were positive developments. Peak investment rested on financially and politically unsustainable large-scale acquisitions

in rich countries. In 2019, the proportion of greenfield spending as a share of the whole was three times higher than in 2016–17. Along the same lines, the ever-expanding BRI drew a larger spending share. Most of these countries still solicit firms from the People's Republic of China (PRC), even while richer countries are wary, making investment more politically durable.

Investment involves ownership and an indefinite presence in a host country. It is often conflated with the construction of port terminals, dams, public housing, and the like. The PRC's construction and associated loan financing can stretch many years but is not indefinite. The average construction transaction is smaller than the average investment, but there are more $100 million–plus construction contracts than investments since 2005.

Chinese investment has been exaggerated in its scope and potential, in the US and globally.

BRI expansion means it captures the vast majority of China's construction overseas. Since its inauguration in late 2013, and using the current set of 143 members,[4] total BRI construction exceeds $450 billion. Construction contracts are often reported with a lag, so the 2019 total will rise. Nonetheless, at less than $60 billion, the first estimate for 2019 is by far the lowest for a full year of the BRI. When it was launched, China was swimming in foreign exchange. As that tide has turned,[5] BRI construction has been constricted.

For the US in particular, the pace of Chinese investment in 2019 is the weakest since 2011. Spending of about $3.2 billion is just 6 percent of the 2016 peak. Chinese investment has been exaggerated in its scope and potential, in the US and globally.

Rather than focus on supposedly huge sums, American policymakers should identify PRC entities involved in dangerous technology acquisition or that violate American law, assist in human rights violations, or benefit from market distortions.[6] It is past time to move beyond unnecessary concern over generic Chinese investment and construction and toward punishing specific, harmful actors.

CGIT vs. MOFCOM

The CGIT contains investment and construction transactions worth $100 million (rounded) or more. There are no trade, lending, or bond transactions. It uses corporate sources, sometimes partners but more often the Chinese participants. Transactions are often disclosed by these firms then revised, requiring CGIT revisions, which occur biannually. Single-year results can thus be misleading, especially when investment or construction is low or in countries that have few corporate reporting requirements.

Data limits mean depreciation is not estimated. Disinvestment has been sporadically important since 2017, as private Chinese firms sold assets. When sales incur losses, they are captured in the CGIT as "troubled transactions," distinct from the investment series. Investment is thereby measured as gross outlay, matching the practice of China's Ministry of Commerce (MOFCOM).

From 2005 through 2019, the CGIT contains more than 1,600 investments worth $1.2 trillion. It includes 1,700 construction projects worth more than $800 billion. There are 300 troubled transactions valued at close to $400 billion, in which investment or construction was impaired or failed after a commercial agreement was finalized.

It is important to note that the average size of transactions recorded in the CGIT has been dropping since late 2018. The obvious interpretation is more transactions are falling below the $100 million threshold and not being measured.

MOFCOM does not publish individual investments, understandably, but does publish monthly and annual data. The major issue is the monthly and annual numbers are difficult to reconcile. First, annual revisions are always higher and mysterious in impact, thus enhancing confusion rather than accuracy. In 2018, for instance, MOFCOM initially reported outbound investment of $130 billion as a 4 percent rise. It later gave $143 billion as a 10 percent fall.[7] This is a consistent pattern, and it is strange to publish invariably wrong initial levels and changes.

Monthly figures can be ignored in favor of the (delayed) annual figure. There is a tougher, related issue, though: Annual revisions are driven by reinvestment. Monthly reinvestment was not published, then was, and now is not again. At all times, it has

been obviously too stable to reflect genuine corporate behavior. Annual reinvestment is much larger than cumulative monthly figures, causing the always-higher revision, but thankfully was not perfectly steady—until 2017, when reinvestment became so unsteady as to be unbelievable. MOFCOM reports annual reinvestment more than doubled in 2017 and then fell 40 percent in 2018.

There could be a simple, if unstated, explanation. China's largest outbound investment is the $43 billion acquisition of Syngenta. In direct communication, MOFCOM claimed only $3–$4 billion was financed inside the PRC, all but erasing the record deal. But the final investment total for 2017 was $38 billion higher than the cumulative monthly numbers, by far the biggest revision on record.[8] That year also saw a $39 billion increase in official reinvestment. If most of Syngenta were for some reason belatedly and wrongly counted as reinvestment, it would solve several arithmetic mysteries.

Starting in late 2017, these and other technical issues have made MOFCOM's headline figures difficult to assess. Starting in late 2018, the CGIT began to fall well short of MOFCOM's totals.

Tables 1 and 2 attempt to sort out the time trend of Chinese outbound investment. Table 1 is the CGIT contrasted to final MOFCOM data. Table 2 strips reinvestment from the ministry's series because those numbers are unreliable. Of course some reinvestment does occur, so the

Table 1. Two Views of Chinese Outward Investment Flow

	CGIT ($ Billion)	MOFCOM Headline ($ Billion)	CGIT Growth (Percentage)	MOFCOM Growth (Percentage)
2005	10.2	12.3	N/A	N/A
2006	20.3	21.2	+99	+72
2007	30.1	26.5	+48	+25
2008	56.3	55.9	+87	+111
2009	56.1	56.5	–1	+1
2010	66.0	68.8	+18	+22
2011	70.3	74.7	+7	+9
2012	78.5	87.8	+12	+18
2013	80.8	107.8	+3	+23
2014	102.5	123.1	+27	+14
2015	117.9	145.7	+15	+18
2016	158.2	198.2	+34	+36
2017	175.6	158.3	+11	–20
2018	115.2	143.0	–34	–10
2019	68.4	124.3*	–41	–4*
Total	**1,206.4**	**1,398.9**	**N/A**	**N/A**

Note: Numbers may not add due to rounding. The CGIT is revised with each update. *Extrapolated from official figures through November. Reinvestment will raise the total.

Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, http://www.aei.org/china-global-investment-tracker; Ministry of Commerce, National Bureau of Statistics of the People's Republic of China, State Administration of Foreign Exchange, "2018 Statistical Bulletin of China's Outward Foreign Direct Investment," September 2019; and Xinhua, "China's Outbound Investment Falls 1.2 Pct in First 11 Months," December 19, 2019, http://www.xinhuanet.com/english/2019-12/19/c_138643457.htm.

Table 2. A Modified View

	CGIT ($ Billion)	MOFCOM Base ($ Billion)	CGIT Growth (Percentage)	MOFCOM Growth (Percentage)
2006*	20.3	14.5	+99	N/A
2007	30.1	16.7	+48	+15
2008	56.3	46.0	+87	+175
2009	56.1	40.4	–1	–12
2010	66.0	44.8	+18	+11
2011	70.3	50.2	+7	+12
2012	78.5	65.3	+12	+30
2013	80.8	69.5	+3	+6
2014	102.5	78.7	+27	+13
2015	117.9	107.8	+15	+37
2016	158.2	165.5	+34	+54
2017	175.6	88.7	+11	–46
2018	115.2	100.5	–34	+13
Subtotal	**1,127.8**	**888.6**	**N/A**	**N/A**

Note: Numbers may not add due to rounding. The CGIT is revised with each update. *MOFCOM did not publish reinvestment data for 2005 and has not yet published reinvestment data for 2019.

Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, http://www.aei.org/china-global-investment-tracker; and Ministry of Commerce, National Bureau of Statistics of the People's Republic of China, State Administration of Foreign Exchange, "2018 Statistical Bulletin of China's Outward Foreign Direct Investment," September 2019.

MOFCOM numbers in Table 2 are too low. But they reflect more transparent spending and growth rates that are more difficult to manipulate.

CGIT dates transactions using real-time corporate disclosure, while MOFCOM uses quarterly reports of financial flow. Single-year differences may be a mere slip from Q4-2016 to Q1-2017. In that light, levels in all three series are roughly consistent over time, and trends in the series fit well. China worked up slowly to trying to buy the world, binged in 2015–16, and has been backing away since. Emerging differences were due initially to MOFCOM's questionable methods but most recently by limits to CGIT methodology.

From 2015 to 2017, MOFCOM's results are smoothed by reinvestment, compared to what is evident in publicly documented transactions. This is no surprise: There is now a consensus that Beijing smooths data for major indicators.[9] Here, a frantic rise in outbound capital caused the central government to explicitly seek a decline. But Beijing dislikes deep, durable declines, and totals were then massaged as needed. Through November 2019, "nonfinancial" investment is off only 1 percent on-year, though the CGIT and reports from major partners show a sharper fall.[10]

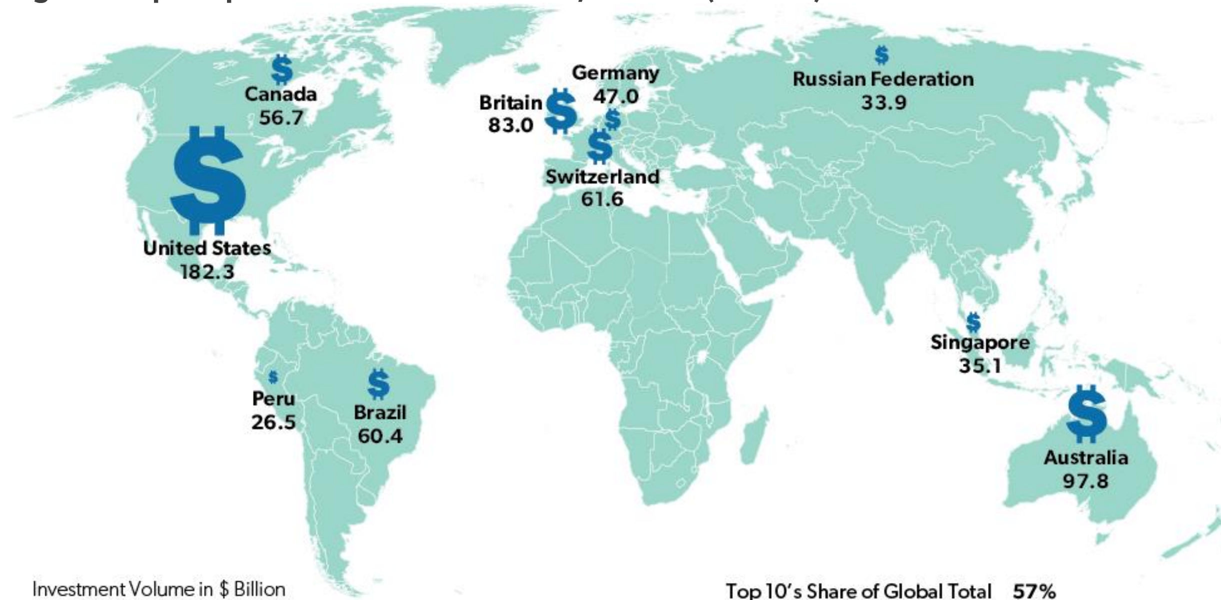
In late 2018, a CGIT flaw begins to cloud the picture. The CGIT appears to miss transactions at a greater rate, the problem perhaps peaking in mid-2019. The evidence is quarterly reports from major firms showing a larger discrepancy between totals and individually disclosed investments.

However, while the CGIT is too low, it may not be by much. Large transactions are the hardest to miss, and the number of $1 billion–plus investments drops far more sharply in 2019 than 2018. It is highly unlikely that the volume of Chinese spending fell only 1 percent, and the CGIT decline may be more accurate than what MOFCOM has disclosed to date.

From late 2018 through late 2019, the CGIT is only a subset of total Chinese investment overseas. Over time, though, it is close to the full set and has at least two crucial advantages over MOFCOM: Individual transactions are available, and Hong Kong is not treated as an external customs port. On the latter, Hong Kong is said by MOFCOM to receive well over half of Chinese outbound spending. Funds actually flow through Hong Kong to final destinations, but the ministry cannot follow them for legal reasons. Official bilateral figures, such as for India, are far too low. The CGIT follows money to the true recipient, providing superior bilateral results.

Either the role of Hong Kong or political interference also sabotages data on the BRI. MOFCOM has BRI investment comprising 12 percent of the total in 2019 and covering 56 countries. The share

Figure 1. Top Recipients of Chinese Investment, 2005–19 ($ Billion)



Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/china-global-investment-tracker.

matches 2018 (when the number of countries was not given).[11] The original BRI had 64 members and has more than doubled in size, yet MOFCOM never counts even 60.

The CGIT uses all 143 countries Beijing profiles in the BRI. That naturally generates a much larger BRI share of total investment. The CGIT's investment plunge for 2019 is exaggerated; elsewhere, the numbers are more sensible than Chinese data.

China's Global Footprint

The CGIT's far more accurate bilateral figures make clear neither Hong Kong nor the BRI attract most Chinese investment. Neither appears in the top seven recipients since 2005 (Figure 1). The US easily leads luring investment, but the lead is not impressive after adjusting for economic size, as American gross domestic product is also easily bigger than the rest of the top 10 combined.

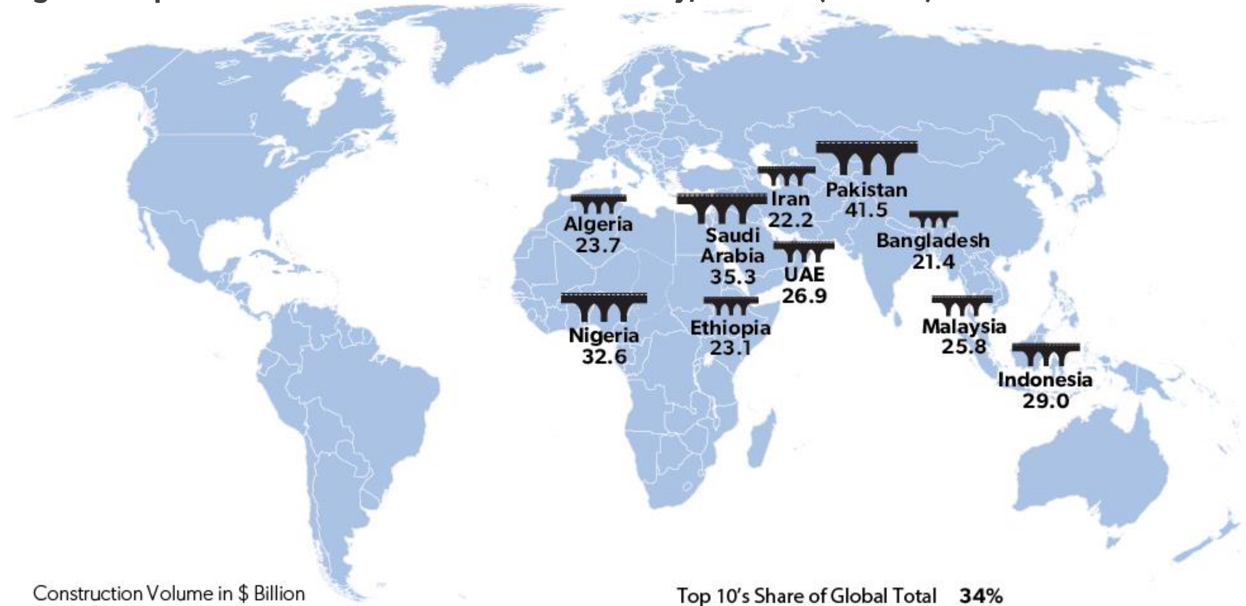
The dominance of rich countries in drawing investment could slowly be eroding. Among the top five investors of all time, only Brazil was in the top five in 2019 (joined by Russia and Peru). Moreover, the BRI accounted for about 50 percent of outbound investment in 2019. Beijing no longer has money to spend everywhere, and the US and Australia have become less enamored of Chinese companies while the BRI as a whole remains interested.[12]

Loan-financed construction looks quite different. The PRC may own few assets in a country yet sign contracts worth billions to build highways, coal plants, and other infrastructure, still owned locally. For example, in Africa, Chinese construction is far more pervasive than is investment. The CGIT's $800 billion-plus in construction underestimates activity. Early years are undercounted due to poor corporate disclosure, and new projects trickle in slowly. Moreover, construction is concentrated in poorer countries, where Chinese actions may not be well-documented.

For 2019 alone, average transaction size has dropped, so construction is also being missed. Indonesia and Saudi Arabia led recipient countries. The 2005–19 results are more accurate, and, using the full list of members, the CGIT shows all top 10 construction recipients now in the BRI (Figure 2). This maximal BRI captured 90 percent of construction volume from 2014 to 2019. Moreover, BRI construction since its launch is 60 percent larger than Chinese investment in these countries. (This is confirmed by MOFCOM.)[13] Observers of the BRI and developing economies broadly should recognize China as building rather than owning.

Another ownership distinction between PRC investment and construction concerns firms: The

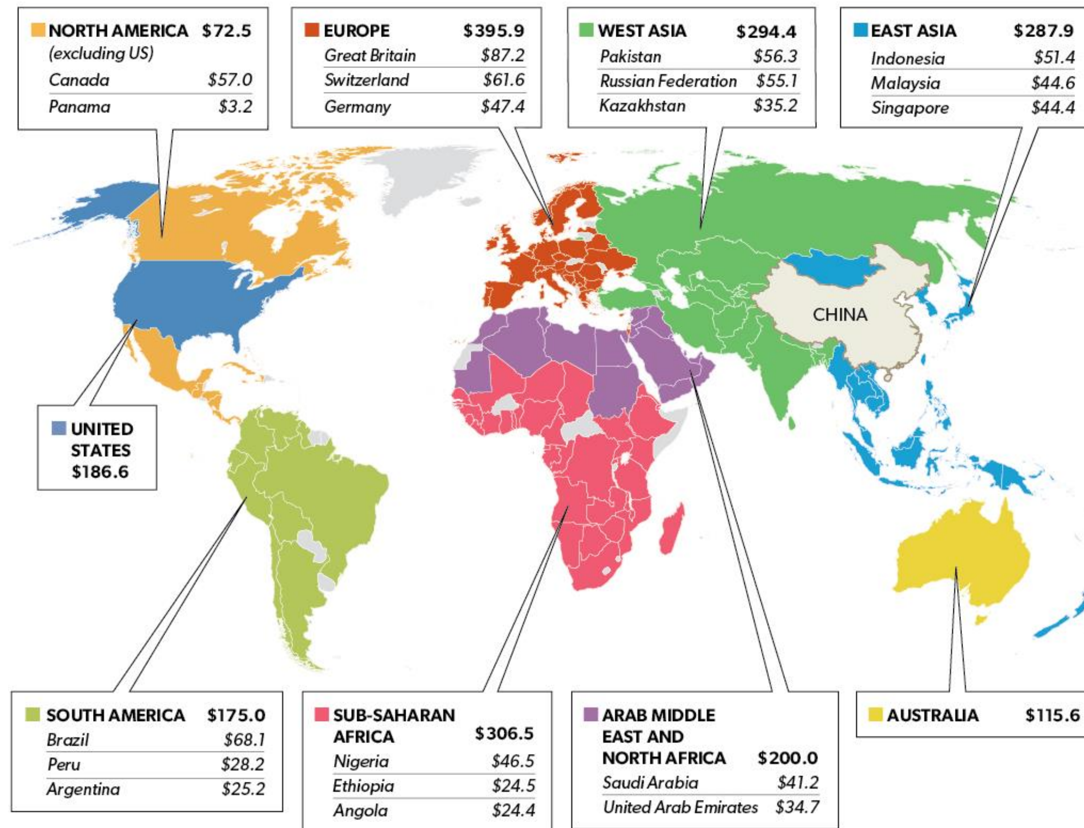
Figure 2. Top Countries for Chinese Construction Activity, 2005–19 ($ Billion)



Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/china-global-investment-tracker.

Figure 3. China's Worldwide Reach

Since 2005, the combined value of China's global investment and construction exceeds $2 trillion. Developed economies have now drawn the most investment, with Europe the leading region and America the leading country. Developing economies such as Pakistan and Nigeria see the bulk of construction activity.



Note: Figures are in billions of dollars.
Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/chinaglobal-investment-tracker.

private sector often plays a key investment role, but state-owned enterprises (SOEs) such as Sinomach utterly dominate construction. They have an established record of completing projects in difficult environments, first in China itself and then overseas, supported by concessionary finance from state-owned financials and with little regard for genuine profitability. Private enterprise in the US, Japan, and elsewhere will not on its own take on these projects; any effort to compete with the BRI will fall on the shoulders of taxpayers (or, to be cynical, bondholders).

A dollar invested and a dollar received for engineering and construction services do not have the same value. Among other things, engineering services are time bound, while the investment dollar can generate an indefinite stream of returns. Nonetheless, to see the PRC's global footprint requires seeing both investment and construction. The combined figure from 2005 through 2019 is just above $2 trillion (Figure 3).

Geographic diversification is plain. Other than the US, no country gets past 5 percent of the total, and the American share has dropped. And Chinese firms are present where other multinationals fear to tread. Each (inhabited) continent exceeds $100 billion in combined investment and construction, and, if Australia is grouped in East Asia, each identified region exceeds $175 billion.

Countries and regions are the conventional way to assess PRC investment and construction, but firms think first of sectors in which they have expertise or a need. Sector diversification is largely absent (Table 3). Power generation, topped by hydropower with coal also substantial, easily leads construction. Energy extraction, topped by oil,

dominates investment. Bauxite, copper, and iron mining and refining (metals) plus agriculture spending reinforce the continued centrality of commodities serving Chinese industry.

Transport construction, chiefly roads and rail, is a major element of China's footprint. Transport investment features auto plants. Property investment is understated due to home purchases of less than $100 million. Property construction includes commercial buildings but also low-income housing. Large-scale technology investment has been curbed by American actions, tentatively copied elsewhere. China itself curbed the 2016 rush of entertainment and tourism acquisitions, seeing them as dangerous capital flight. Despite the change in CGIT coverage in 2019, sector results for the year are consistent: Energy and transport, in order, lead both investment and construction.

Table 3. Sector Patterns, 2005–19 ($ Billion)

Sector	Investment	Construction	Troubled
Energy and Power	392.1	335.4	139.6
Metals	147.5	35.9	70.1
Transport	129.9	249.9	53.2
Real Estate	102.3	90.7	21.0
Agriculture	83.5	16.5	12.4
Finance	80.8	N/A	41.4
Technology	61.2	16.6	28.6
Entertainment	43.7	2.7	6.8
Tourism	42.8	8.7	7.5
Logistics	34.6	5.3	1.8
Health	22.4	3.4	0.5
Chemicals	12.6	20.8	2.0
Other*	52.1	43.6	5.9
Total	**1,206.4**	**829.2**	**390.7**

Note: *In other investment, the lead sector is consumer goods; in other construction, it is utilities.
Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/china-global-investment-tracker.

Going Out, Much More Cautiously

Impressive cumulative figures should not obscure the trend; fears that China is trying to corner many markets fly in the face of now three years of evidence of a fade. The CGIT and MOFCOM both place the investment peak between mid-2016 and early 2017. Construction volume peaked in 2016 (and loans may have peaked in 2015[14]). Even granting that more 2019 contracts will be disclosed, construction in 2019 looks most like it did in 2014, before the BRI ramped up.

At worst, 2019 investment looks like 2011, but even at best it looks like 2014. This is probably not a coincidence, as that is when capital flight started in earnest.[15] The main reason for dimming in both activities simultaneously is Beijing is not in the same financial situation as when its 20-year "Going Out" policy was building. (See next section.)

Investment in rich countries could support the PRC's balance of payments rather than draining it, more than paying for itself through yields over time. But rich countries are particularly suspicious of SOE acquisitions. Such acquisitions and the availability of financing for them depend in no small part on Beijing's industrial targets, stated or unstated. When the infamous Made in China 2025 plan was released, host countries found reason to doubt SOE acquisitions would really benefit both parties.[16]

Tighter limits on SOEs are reinforced in construction. The core economic benefit to overseas construction has narrowed, as the PRC's workforce is either shrinking now or will soon and employing surplus workers is no longer necessary.[17] SOEs undertake nearly all construction projects, typically in poorer countries using loans provided by state financials. Part of the appeal for recipients is hard currency at low cost, but this practice unavoidably strains Chinese foreign reserves, especially when loans are not commercially sound.[18]

Giant SOEs making and then not making big deals are hard to miss. Sure enough, such deals plummet in 2019 in investment and especially construction. Construction has always been utterly reliant on SOEs, and that will continue indefinitely. Combining that requirement with current financial and political conditions, stronger outbound investment must come from China's private sector, greenfield spending, or both.

Private companies are largely banned from "strategic" sectors in the PRC and thus more welcomed by hosts. With less influence over state lenders, they are less likely to drain state coffers. The challenge is not foreign politics or domestic

finance but domestic politics. Since frenetic private investment in 2016 prompted tighter capital controls, the Communist Party has punished private actors for genuine misdeeds or just pursuing their own interests.[19] Other than 2016, the private share of investment has not been able to escape the 30–37 percent range (Table 4). If the party wants a sustained re-expansion of investment, private firms should be unbound.

If this is unacceptable, another solution is to push SOEs away from acquisitions toward greenfield spending. The CGIT is cautious with the greenfield label, due to cases in developing countries in which Chinese firms join an existing project but the project's prior status is unclear. The greenfield share may be underestimated in Table 5. That notwithstanding, the wave of acquisitions in 2016 made greenfield projects an afterthought. There has been a rebound since. Greenfield investment does not involve unwanted technology transfer and creates jobs in host countries, rather than threatening them. It can therefore go much higher, if encouraged.

Their multiple advantages over SOE acquisitions mean more greenfield and private investment cut the risk of "troubled transactions," when a finalized commercial agreement is impaired or fails outright. In general, the indefinite ownership aspect of investment brings with it indefinite risk. Annual losses due to noncommercial impairment are thus nearly three times higher than in construction, and the top two recipients of the PRC's investment see the most trouble (Table 6).

It usually takes time for finalized commercial agreements to unravel, so many troubled transactions appear only with a lag. Nonetheless, the lower quantity of transactions in 2019 brought with it fewer dubious choices by Chinese firms. The initial estimate for losses due to troubled transactions dropped sharply (along with everything else). The most notable development was a late series of problems with energy deals, which is essentially unavoidable given the extent of the PRC's involvement in global energy.

Beijing can legitimately work around a host country's and its own financial limits to some extent by shifting support to greenfield and private transactions. Or it could court host countries by genuinely opening some of its own sensitive sectors, though Xi Jinping's track record as general secretary indicates this is unlikely. If Beijing does neither, the period of fully global Going Out is over.

Table 4. The Private Share of Investment Since 2010 (Percentage)

Year	Share
2010	9.5
2011	11.0
2012	14.2
2013	27.4
2014	29.6
2015	33.1
2016	46.3
2017	30.6
2018	36.8
2019	31.9

Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/china-global-investment-tracker.

Table 5. The Greenfield Share of Investment Since 2010 (Percentage)

Year	Share
2010	26.6
2011	35.5
2012	23.2
2013	30.6
2014	37.2
2015	26.7
2016	10.1
2017	12.3
2018	30.5
2019	33.7

Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/china-global-investment-tracker.

US Should Focus on Law, Not Dollars

In late 2015, a flood of Chinese money began heading toward the US, Europe, and a few other prized destinations. The waters have receded, leaving a creek. American decision makers should stop worrying about another flood; the quantity of the PRC's investment is unlikely to be a concern for the next few years at least. Instead, protecting

the rule of law should be the prime consideration for policy in 2020.

A foreign exchange squeeze has capped and will continue to cap China's overseas investment and construction. These rely on foreign exchange because no one wants the RMB. Its share in global reserves is 2 percent, less than half of the British pound.[20] As a consequence, Beijing's holdings of foreign currency are the world's largest. Yet they are still insecure: Reserves peaked at $4 trillion in June 2014 and then fell to $3.1 trillion by the end of 2019. This is why tight capital controls were imposed in late 2016 and remain in place.[21]

A steady $3 trillion is more than enough to cover basic import and investment needs but not enough for constant acquisitions in rich countries and new engineering projects in 140 developing countries. And reserves could go lower. From 1999 to 2018, China's cumulative goods and services surplus with the US was close to $4.6 trillion, more than foreign reserves at their peak. From July 2014 through September 2019, when reserves dropped by $900 billion, the PRC still ran a $1.75 trillion goods and services surplus with the US.[22] Without that, Beijing would have faced a balance of payments crisis.

Recent results see the January–November 2019 US-China goods trade imbalance down $60 billion from the same period of 2018. The "phase 1" deal involves an additional $200 billion in Chinese purchases in two years, over a 2017 base that is larger than 2019. Meanwhile, most American tariffs are retained for now.[23] The initial decline of SOEs' global activity in autumn 2018 occurred a few months after the first application of tariffs, and the sharpest drop in 2019 overlapped with the heaviest application of tariffs. Unless Beijing can swap imports from the US for imports from other suppliers, phase 1 implementation will drain reserves further.

In the PRC, a lack of pro-market reform triggered the start of capital flight, and reform efforts remain minor.[24] China's labor force is shrinking, so competitiveness is unlikely to improve, threatening export earnings and the balance of payments. American policymakers should assess the more austere China of today and tomorrow, not the manic one of 2016.

Table 6. Most Troublesome Countries, 2005–19 ($ Billion)

Country	Troubled Transactions
United States	69.9
Australia	53.1
Iran	25.9
Germany	19.0
Russian Federation	14.3
Libya	12.7
Nigeria	11.5
Venezuela	9.8
Britain	9.4
Canada	8.8
Top 10's Share of Global Total	**60%**

Source: American Enterprise Institute and Heritage Foundation, China Global Investment Tracker, January 2020, https://www.aei.org/china-global-investment-tracker.

It might therefore seem that changes to the Committee on Foreign Investment in the United States via the Foreign Investment Risk Review Modernization Act (FIRRMA) already constitute the needed policy step regarding Chinese investment.[25] But 2019 Chinese spending of barely $3 billion in the US means investment review is not an especially important tool at present.

PRC entities can still attempt to acquire advanced technology through acquisition, but a far more common path is acquiring technology from American firms operating overseas. Preventing American firms from selling sensitive technology directly from the US is worthless if they just do so in other countries. And the Department of Commerce's Entity List only addresses direct export from the US.[26]

What matters instead is strengthening and expanding export controls as a whole, actions also directed by Congress as part of FIRRMA. The Department of the Treasury published draft FIRRMA regulations in September 2019. In early 2020, the Department of Commerce has still published almost nothing and looks stuck 15 years in the past, when China was not a technological threat.[27] Weak export controls currently harm national security far more than inbound investment, and those in the government and business community who refuse to act should be held accountable.

Protecting technology is the most acute challenge for policy; the broadest is protecting rule of

law. Laws and implementing regulations cannot matter if the US then fails to punish violators. In technology itself, the PRC has overtly stolen from American companies, and intellectual property (IP) coercion and theft are far greater threats than inbound investment is.[28] Yet not one major Chinese entity has received meaningful sanctions for using stolen or coerced IP.

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The rule of law challenge extends further. Beijing's side of an antitrust suit acknowledged in court that, even for entities operating here, party orders trump US law. This is why Chinese companies listed on American stock exchanges do not adhere to routine financial disclosure requirements:[29] At any time they can be required to lie to shareholders at the party's will. Apologists for this practice value the income being generated over American law.

Two more issues regarding Chinese enterprises are market access and human rights. Beijing blocks competition with most SOEs while demanding other markets be open.[30] Reciprocity is a founding World Trade Organization principle and reasonable starting point for American action. Human rights are an enormous matter, but one aspect stands out economically: The US can choose whether to be a source of revenue for entities used by the party to harm its citizens. Sanctioning them would at least complicate Beijing's repression.

Tariffs and the phase 1 deal touch on reciprocity, but the focus on the trade balance has diluted progress on the far more difficult task of enforcing better technology behavior, where technology acquisition is a core part of the PRC's development model.[31] Here the US should have started months ago to powerfully upgrade export controls.

If that is ever done, next up are companies receiving stolen or coerced IP. These are a threat to the American economy and, potentially, national security. Existing tariffs do not single them out; they impose collective punishment extending to those doing nothing. The Entity List only limits exports from the US and should rarely be used.

To deter IP theft and coercion, repeat offenders should be forced out of business using global financial sanctions, if possible. If that cannot work—and it often will not—they should be banned from commercial activity of any kind with American entities, regardless of location.

Chinese firms breaking other laws, such as sending personal data back to Beijing, are criminal but generally less threatening. The most important policy response along these lines has yet to be undertaken—establishing a clear precedent that ignoring US law will always be punished. Financial disclosure would be the right start. Finally, the US cannot fix the party's treatment of Chinese citizens, but a valuable step would be to publicly name the enterprises most active in rights violations.

In all cases, enforcement is challenging because the PRC can easily disband and reform its firms.[32] Targeting only those caught stealing technology, for example, would be a damaging error. The Chinese state is behind IP coercion, market barriers, and political repression, and state arms can be legitimate targets even if they are not direct participants.

Chinese investment has benefits for the US and at this time poses little threat. But America has failed to act in anything like the needed fashion in directly related issues regarding law and technology. The challenges for American policy have shifted since 2016, and new responses are well overdue.

About the Author

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Notes

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