Brazilian Journal of Political Economy, vol. 44, nº 2, pp. 261-279, April-June/2024

An analysis of the Chinese inward FDI development and regulation policy and the Five-Year Plans*

Uma análise da política chinesa de desenvolvimento e regulação do IDE interno e dos Planos Quinquenais

TOMÁS COSTA DE AZEVEDO MARQUES**
GIORGIO ROMANO SCHUTTE***

RESUMO: No final da década de 1970, a República Popular da China (RPC) promoveu políticas de atração de investimentos do mundo capitalista desenvolvido, visando à transferência tecnológica e oferecendo um ambiente lucrativo em troca. Embora o capital, o know-how e a tecnologia das ETN tenham sido fatores fundamentais para o desenvolvimento chinês, o Estado planejou e regulou esses investimentos, de modo que possam ser alinhados a um projeto autônomo de desenvolvimento, evitando a clássica relação de dependência centro-periferia. A análise deste trabalho centra-se nos Planos Quinquenais e nas leis de política de regulação para o investimento interno. Ao final analisamos os dados do IDE, que nos permitiram identificar as principais mudanças e distintas fases do desenvolvimento do IDE e da política de Estado.
PALAVRAS-CHAVE: IDE; política de desenvolvimento; estado e mercados; plano quinquenal.

ABSTRACT: At the end of the 1970s, the People's Republic of China (PRC) promoted policies to attract investments from the developed capitalist world, aiming for technological transfer and offering a profitable environment in exchange. Although the TNC capital, know-how, and technology have been key factors for Chinese development, the State has planned and

* We would like to thank Alfredo Saad-Filho, Dic-Lo, Sam Kee Cheng, Elias Jabbour, Demétrio Toledo Isabela Nogueira de Moraes and Eleonora Natale for their assistance with this research. Any mistakes here are ours.

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

This study was financed in part by the Coordenação de Aperfeiçoamento de Pessoal de Nível Superior – Brasil (CAPES) – Finance Code 001.

** Universidade Federal do ABC, São Bernardo do Campo/SP, Brasil. E-mail: tomas.marques@ufabc.edu.br, orcid: https://orcid.org/0000-0001-8713-7453.

*** Universidade Federal do ABC, São Bernardo do Campo/SP, Brasil. E-mail. giorgio.romano@uol.com.br. Orcid: https://orcid.org/0000-0002-5225-469X. Research fellow of the National Council of Technological and Scientific Development (CNPq). Thanks to Eleonora Natale. Submitted: 14/June/2023; Approved: 21/September/2023.

regulated those investments, so they can be aligned with an autonomous project of development, avoiding the classic centre-periphery dependency relationship. This paper analysis focuses on the Five-Year Plans, and the regulation policy laws for inward investment. At the end we analyse the FDI data, which allowed us to identify the main changes and distinct phases of the development of FDI and the State policy.
KEYWORDS: FDI; development policy; state and markets; five-years plan.
JEL Classification F63; N95; O19.

INTRODUCTION

In December 1964, Zhou Enlai announced Mao's proposal at the first session of the 3rd National People's Congress (NPC) as the strategic goals of the nation's development. Highlighting the need to promote the modernization of agriculture, industry, national defense, science, and technology[1]. The essential idea was the modernization inspired by Western practices, with the objective to improve economic development using foreign techniques and knowledge, strengthening the nation, its culture, and values, with emphasis on the military defense sector against a foreign threat. The People's Republic of China (PRC) succeeded in improving economic conditions and promoting development between 1949 and 1976, but even so, new techniques were needed to promote an improvement in both agrarian and urban productivity.

At 3rd Plenary of the XI Congress of the Chinese Communist Party (CCP), in December 1978, Deng Xiaoping ascended as the main leader and announced the defense of the 'Four Modernizations' program (四个现代化). This inaugurated a cycle of modernization policies based on the centrality of the State for the construction of 'socialism with Chinese characteristics' (Zhang, 1996, p. 13-20).

The key issue for modernization was the opening-up of the Chinese economy to the world to attract investment from capitalist economies. Nonetheless, what became known as the 'Open-Door'[2] policy did not aim to promote free trade, but to adopt advanced technology equipment, as the USSR did in the 1950s, to improve productivity together with new management techniques. According to the CCP leadership, this policy was central to Chinese development (Watson & Luolin, 1986, p. 96-98).

This paper will observe the evolution of modernization processes of the late 1970s, looking at the regulation policies adopted by the government. As transnational corporations (TNCs) make investments overseas to establish control and

[1] Communist Party of China News Network: Party History Channel. Available in http://cpc.people.com.cn/n/2014/0714/c69113-25279758.html.

[2] The 'Open-Door' policy was first proposed by the US Secretary of State John Hay in 1899 to Great Britain, Germany, France, Italy, Japan, and Russia defending its interest in access to Chinese harbours.

reallocate production chains, the government tries to manage those investments to extract benefits from them. In this sense, the paper will contribute to a deeper understanding of the FDI policy and State planning and regulation for development.

Most of the works that tried to understand the Inward Foreign Direct Investment (IFDI) regulation policy adopted by the PRC used institutional and transactional costs theories to explain the reform process in the country (Fu, 2000; Wang, 2008; Ng, 2013; Enright, 2016). A few studies have tried a more heterodox approach (Lin & Eso, 1998; Lin, 2007) and economic growth (Kamath, 1990; Lo et al., 2016; Carvalho & Nogueira, 2023). We propose an analysis of the Five-Year Plan (FYP) and the regulation policy for IFDI. Our hypothesis is that the IFDI flows have been regulated to fit into a broader development strategy of the PRC. Changes in this strategy set out by the FYP will reflect directly in changes in the regulation of IFDI.

For this purpose, after this introductory section, the paper is structured into four parts. The first reviews official documents and other publications from the 6th FYP to the 14th FYP[3] on the topics related to the opening-up reforms. Secondly, we analyze the evolution of the main policy regulations and laws issued from 1979 to 2022. Finally, we analyze the IFDI over those years, assessing its behavior and pattern as well the official Reports from the CCP leadership. In the conclusions, we show the crucial role of FYP in the regulation policy for IFDI as part of a broader development strategy that implements regulation, control, and guidance to promote development.

FIVE-YEARS PLAN AND OPEN-DOOR POLICY

The National People's Congress (NPC) is the highest State power with the authority to make laws, elect and depose State leaders, approve budgets and policies, and declare war against a foreign country. It is also responsible for the approval of the national five-year plan, formulated by the State Council[4]. According to Hu (2013, p. 629-630) the Five-Year Plan is a key part of China's development policy, guiding the governmental macro-regulation to promote what has been understood as the socialist market economy reform since 1978. The FYP combines both the market and the plan. The market mechanisms introduced by the government aim to promote better resource allocation, while reforming planning mechanisms facilitate the transition from economic planning itself to public affairs gov-

[3] The full version of the FYP is not officially publicised and the main source of the plans are secondary sources.

[4] 'The State Council, or the Central People's Government, is the executive body of the highest organ of State power and the highest organ of State administration'. Available at http://www.npc.gov.cn/zgrdw/englishnpc/stateStructure/2007-12/06/content_1382098.htm.

ernance (公共事务治理) planning[5]. This 'two hands' approach enables them to supplement and stimulate each other, as complementary and mutually reinforcing parts of the same mechanism.

After succeeding Mao in 1974, Hua Guofeng tried to introduce the Ten-Year Plan (1976-1985), which included the 5th Five Year Plan but was never seriously followed up for implementation. In March 1978, the Plan was amended. Nine months later, the 3rd Plenary Session of the 11th CCP Central Committee changed the focus of PRC development to economic reform and opening-up. In February 1980, the State Council redrafted the 5th FYP, and it was only in December 1982 that the fifth meeting of the 5th NPC officially ratified the Plan launched as the 6th FYP (1981-1985)[6]. This was the first Plan formulated during the new era of the reforms, projecting these ideas inside but also keeping the sequential order of the pre-reform plans. What shows that it was still connected with the previous ones.

The 6th FYP specific objectives included 'to assemble the country's scientific and technological for scientific and technological research and to promote the application of new technologies' and 'to strenuously develop trade, make effective use of foreign capital and actively introduce advanced technology to meet domestic needs. According to Wong (2012, p. 217-218), the growth target and economic reforms were emphasizing the agriculture reform, which was successful during this period. In March 1986, the 7th Five-Year Plan (1986-1990)[7] was lunched. In its introduction, the document pointed out that it should 'give priority to reform and make sure that reform and development are adapted to and promote each other'.

A key element is the recognition of the special economic zones (SEZ) as a strategic policy to attract foreign investment, boost international trade, and spread managerial knowledge and technological transfer. As expressed in the text snippet in Chapter 16 'These will gradually become our bases for conducting foreign trade, for training senior technical and managerial personnel and sending them to other parts of the country and disseminating new technologies'. Later, the document complements it is saying that the special zones will be used to build an export-oriented economy based on industries with advanced technology and earns foreign exchange through exports. It means these plans had a focus at attract new advanced technologies, the improvement of the domestic industry, promoting foreign companies to export, and import substitution.

The first FYP made after Deng Xiaoping's speech in the 14th Party Congress in 1992 was the 9th FYP (1996-2000)[8]. In its Part IV, the document says that be-

[5] The author's analysis shows there is a shift from a more quantitative (economic plan) to a more qualitative indicator (Public affair governance) from the 6th FYP to the 11th FYP.

[6] Available at http://www.china.org.cn/english/MATERIAL/157619.htm.

[7] Available at https://journals.sagepub.com/home/chr.

[8] Available at www.china.org.cn/95e/95-english1/2.htm.

sides opening 'wider to the outside world, [...] We should gradually open the domestic market as required by reform and development. We should open, step by step, such services as finance, commercial outlets, and tourism.' This suggests a new phase of openness to foreign capital not only for projecting the openness of different sectors but also the internal market for the foreign capital.

The 10th FYP (2001-2005)[9] was supposed to deal with issues related to adapting the national laws to join the WTO. The Report on the Outline of the Tenth Five-Year Plan for National Economic and Social Development (2001) puts emphasis on developing the services sector and again, it presents the SEZ as a tool of development, but now claiming that these zones should be expanded to other areas less developed on the West territory. There is also a new perspective for the national economy, in which the State should open space for private and foreign investors in sectors and companies that were State-owned but are not considered a strategic key asset anymore.

The Guidelines of the 11th FYP[10] (2006-2010) highlight some topics directly related to the so-called win-win opening strategy of the Chinese economy for the world. It claims for a wider openness in a way that promotes the acceleration of the trading growth pattern while optimizing the mix of import and export composition. As a result, it improves the quality of the utilization of foreign capital as it prioritizes high-tech industries and technology. According to Stiglitz (2008, p. 34-36), the focus on export became less important than in previous years. As the PRC has 'learned how to learn' by reducing the gap of technology and knowledge with the core capitalist nations, they prioritized their own companies and the internal market consumption over the exports.

Released in March 2011, the 12th FYP (2011-2015)[11] reinforced the idea of further enhancing the 'opening up' policies in the less developed areas of the PRC, such as the West and the border areas. For the inland areas, it prescribed to 'make use of natural resources and the comparative advantages of labor'. For the border areas, the plan predicted to 'use these areas' regional advantages and formulate and implement special opening-up policies', connecting with neighbor countries. On the other hand, the coastal areas should refocus 'from international manufacturing to research and development, advanced manufacturing, and services. This reaffirms the trend of opening and the expand the frontiers of development using SEZ to attract investment in the less developed regions. While looking for promoting the upgrade of industrial production in the coastal area.

This Plan has shifted from enumerating quantity measures to expressing broader principles such as long-term development, expansion of domestic demand, and

[9] Available at http://www.npc.gov.cn/.

[10] Available at http://www.chnsourcing.com/.

[11] Available at http://www.gov.cn/.

focus on domestic consumption. There are two main problems identified by the 12th FYP and the 11th FYP concerning Chinese integration in the world economy. The limitation of the export sector as a sustainable driver for economic growth in the long run, and the need for China to upgrade manufacturing in order to move up the value chains (Casey & Koleski, 2011, p. 1-3).

The 13th FYP (2016-2020)[12] has launched a new development concept of 'innovation, coordination, environmental sustainability, openness and shared development' (Li & Yang, 2020, p. 2). This new idea of openness with 'shared development' is associated with the Chinese outward direct investment (OFDI) but also the development of the Chinese border and the physical and economic integration with its neighbors such as the ASEAN countries.

China changed from the 'factory of the world' to become the 'market for the world' as it increasingly opened up to foreign companies, cutting tariffs and reducing the number of sectors and projects restricted for investments (Li & Yang, 2020, p. 20). In summary, in the 13th FYP, some topics are much clearer about the idea of promoting a deeper integration in the global economy and flexibilization of the restrictions for foreign investors in different sectors. Behind it, there is the win-win and mutual benefit idea of promoting the openness of the economy.

The 14th FYP (2021-2025) reinforces the objective of the previous FYP of deepening the opening-up policy, claiming that China will 'remove institutional barriers to (promote) high-quality development and high standards of living' by combining 'reform and opening-up". This Plan consolidates a view of the new stage of China's development and the outside world. Deepening what has been inaugurated on the previews Plan, now the PRC understand that they are already at a stage of the top industrial economy, productivity, and technology, in which they can compete for side by side with foreign companies and focus on the improvement of national standards of living.

[12] Available at https://www.uscc.gov/.

Table 1: Outlook of FYP (1978-2025) in topics related to FDI

Years	Plan	Political guideline	Main Guidelines for FDI
1978-1985	5th+ 6th	Deng Xiaoping 'It doesn't matter whether a cat is white or black, as long as it catches mice. (1978-1992)	I. Introducing the Open Door Policy; II. Regulating Foreign Invested Enterprises (FIE); III. Use foreign capital to meet domestic needs; IV. Targeting agricultural reforms.
1986-1990	7th		I. Reform and development are adapted to and promote each other; II. Produce some mid-technology products domestically following the developed countries norms and standards. III. SEZ as a development tool to spread managerial knowledge and technology; IV. Improve the capacity of export and to promote import substitution.
1991-1995	8th	Jiang Zemin's 'Three Represents' (1) advanced of social productive forces (Economic production); (2) progressive course of China's advanced culture (Cultural development) and (3) fundamental interests of the majority (Political consensus) (1993-2003)	
1996-2000	9th		I. Open wider to the outside world; II. **Gradually open the domestic market.**
2001-2005	10th	Hu Jintao 'Scientific Outlook Development', promote development putting people first (2003-2013)	I. Focus on the development of the service industry; II. Expand SEZ and use it as a development tool in the Western regions; III. **Share and sell State owned Enterprises that are not considered strategic**; IV. Prepare China for the entry in the WTO.
2006-2010	11th		I. Win-win strategy opening strategy; II. Focus on the development of the national High-tech industry; III. Formation of domestic leading and competitive industries; IV. **Guide the FDI** for national strategic interests.
2011-2015	12th	Xi Jinping (2013-2028)	I. Deeper opening-up; II. Promote FDI in less developed areas of West and bordering; III. Expand leading industries for foreign investors; IV. Opening-up' policies' connecting with neighbouring countries. V. **Integrate into global innovation and develop a new generation of IT.**
2016-2020	13th		I. **Improving developing socialism with Chinese characteristics**; II. Shared development; III. Development with door open; IV. Bringing in and going global.
2021-2025	14th		I. **Promote fair competition**; II. Open more sectors for FDI.

Source: Elaborated by the authors.

SPECIFIC REGULATIONS FOR INWARD FOREIGN DIRECT INVESTMENT (IFDI)

On 1st July 1979, the first law regulating IFDI was enacted. The *Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment* aimed to facilitate the introduction of new foreign technologies, knowledge, and equipment. Those investments were allowed if they were carried out in partnership with Chinese companies – through an Equity Joint Venture (EJV) – and previously authorized by the government (Shiao-Ming, 1980, p. 1183-1185).

The law required that at least 25% of the investment had to be made by the foreign party, and the investor should hold an account with the Bank of China to be able to operate the investments and make remittances of profit. Unlike other developing countries, which put strict upper limits for foreign ownership, foreign parties' share in EJVs in China should not be lower than 25 percent. The duration of the EJV contract was usually 10 to 25 years, but in 1991 the Chinese government allowed open-ended terms (Wang, 2008, p. 4).

The regulation did not specifically restrict sectors, but it conditioned investment to approval, prioritizing sectors that produce goods for export, potentially contributing to the collection of foreign exchange as well as the type and quality of technology involved as key factors for the approval of the investments (Hsia and Haun, 1980, p. 61-64).

On 20 September 1983, the State Council promulgated the *Implementing Regulations of the Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture*, 'formulated to facilitate the smooth implementation of the' EJV Law. The aim was to make regulations of joint ventures clearer and more transparent. The law is more detailed and contains 118 articles, where the EJV Law had only fifteen articles. Its content emphasizes the idea that the EJV should promote the development of modernization and construction of Chinese socialism with the improvement of scientific and technological conditions.

For this, they should meet at least one of the four requirements: (1) Adopt advanced technology and scientific methods; (2) promote technological upgrade; (3) expand the export of products by increasing foreign-exchange income; or (4) train technical and managerial personnel.

The Board of Directors should be composed by at least three members representing proportionally the investment share of the parties. The Board would appoint the chairman and vice-chairman of the joint venture. Both parties should be represented, the Chinese side as chairman or vice-chairman, and the foreign company in the other chair[13]. This was amended in 1990, when it was established that the chairman had to be Chinese, and it could have one or two vice-chairmen appointed by the foreign side.

Besides the EJV, there were two other possibilities to invest in the PRC. First,

[13] See Graaff (2020).

the Wholly Foreign-Owned Enterprise (WFOE) regulated by the *Law of the PRC on Enterprises Operated Exclusively with Foreign Capital*, adopted at the Fourth Session of the 6th NPC on 12 April 1986; and the *Detailed Rules for the Implementation of the Law of the PRC on Wholly Foreign-Owned Enterprises*, approved on 28 October 1990. On this case, the investor uses their own capital on the project and assumes the venture risk, gains, and losses (Wang & Wang, 1997, p. 60; Wang 2008, p. 2-5). There was no consensus within the government about allowing a WFOE, because of concerns that this would impose limits on technology transfer (Powell, 1987, p. 138-139).

The second possibility was the Cooperative or Contractual Joint Venture *(*CJV), regulated by the *Law of the People's Republic of China on Chinese-Foreign Cooperative Joint Ventures* adopted in the first Session of the 7th NPC on 13 April 1988. Unlike EJV with a separate legal entity, the CJV might take the form of a limited liability company or an economic entity without legal status. Their profit distributions were negotiated by the parts and were not necessarily related to the proportional amount of investment made by each part. Compared to EJV, CJV was more flexible and more popular among small and medium enterprises. The EJV Law, the CJV, and the WFOE were the 'The Three Foreign Investment Laws" representing the main core of the regulation policy for IFDI in PRC.

To attract those investments, the State Council created the Special Economic Zones (SEZ) initially in four regions of the Chinese territory in 1979, following the experience of the special export commodity production base promoted by Zhou Enlai in 1971 (Stoltenberg, 1984, p. 638). The SEZ do not belong to the same category as the free zones that emerged around the world in the same period. When it started to be conceptualized, it did so according to two different views. One was to implement in underdeveloped regions and would provide incentives for every kind of investment, such as commercial activities, real estate, and tourism. This model was implemented in Shenzhen and Zhuhai. The other designated small enclaves for modern export processing activities, and it was implemented in the Longhu District in Shantou and the Huli District in Xiamen. The first was the one adopted forward.

They were settled down in the provinces of Guangdong (Shenzhen, Zhuhai, and Shantou) and Fujian (Xiamen), all coastal areas close to Hong Kong, Macao, and Taiwan. Each one of these zones has its different incentives, but the key point is that they should all establish strong backward and forward linkages with the Chinese economy. Import, digest, and absorb advanced technologies, while spread knowledge and expertise with other parts. However, the transfer of technology is not a trivial process and as usual at the beginning of this policy, the activities still focused on labor intensive industry and faced reluctance from foreign investors (Wong, 1987, p. 27-34; Stoltenberg, 1984, p. 640-642).

With the success of the experience of attracting investments[14] the SEZ were

[14] In the period of 1983-1989, Guangdong and Fujian received 52,3% of all FDI realised in the PRC. See Sun (1998).

expanded to more than fourteen coastal cities (*Open Coastal Cities* – OCCs) in 1984. In 1985, the Economic and Technical Development Zones (ETDZ) were established, most of which fell within these OCCs offering tax incentives for foreign investment in the higher-technology industry (Ng, 2013, p. 9). The ETDZ aimed to attract higher technology content, in contrast with the low-technology and labor-intensive investments in Southern China, and they succeeded in attracting companies such as Nokia and Motorola (Yueh, 2011, p. 233).

The ETDZ spread over other regions of the country in the early 1990s and other special-purpose zones, such as Export Processing Zones, High Technology Development Zones, Free Trade Zones, and National Border and Economic Cooperation Zones were created (Ng, 2013, p. 9-10). Initially, the SEZ were established in the coastal area of the PRC as a strategy of development, geographical proximity with regions from the Chinese diaspora, and suitable for export. Nonetheless, the government has formulated new policies to redirect foreign investment to central and western zones, one of those policies is the creation in 2004 of the Catalogue of Priority Industries for Foreign Investment in the Midwest Region and the establishment of the Shanghai Free Trade Zone (Yu, 2018, p. 57).

Another important regulation was the preferential treatment given to Chinese cross-strait direct investment. On 3rd July 1988, the State Council adopted the *Regulation to Encourage Investments by Taiwanese Compatriots*, reaffirming that investments originating in the Island would get preferential treatment, like that applied to foreign investments. Moreover. And on 9th August 1990, similar conditions were also extended to HK and Macao (Wang & Wang, 1997, p. 21-22).

On 20th June 1995, the *Provisional Regulations on Direction Guide to Foreign Investment*, were promulgated[15]. These can be considered the main policy guidelines for IFDI. The guide was divided into four project categories: encouraged, permitted, restricted, and prohibited. 'Encouraged' and 'permitted' projects only required local-level approval, while 'restricted' projects were subject to a more demanding process by higher hierarchy level, and usually did not allow for foreign investors to have more than 50 percent of equity. The 'prohibited' projects were not allowed to have foreign investment. Only projects that did not appear in any of the three other lists were permitted.

Since then, it was revised seven times in 1997, 2001, 2004, 2011, 2017, 2019, and 2020, and it was divided between national investment and regional. In 2013, a negative-list approach was introduced in the Shanghai Free Trade Zone as a trial. This experience was extended to several other provinces and in 2017 a nationwide policy was implemented to simplify the guide for FDI, so that what did not fit in this negative list is now permitted without being subject to restrictive measures. In 2018, this list was presented under the name of *Special Administrative Measures on Access to Foreign Investment* (Yu, 2018, p. 56-57; Jakubczak, 2020, p. 23). There is also a regional list called *Special Administrative Measures for Foreign In-*

[15] Available at http://www.asianlii.org/.

vestment Access to Free Trade Pilot Zones, which is less restricted than the nationwide. The national list published in the 2019 editions has reduced the restricted and forbidden sectors from 63 sectors in 2017 to 40, and the regional list has moved from 190 in the first edition of 2013, to 37 in 2019 (Li & Yang, 2020, p. 20).

On March 15, 2019, *The Foreign Investment Law of the People's Republic of China* (The New Foreign Investment Law)[16] was adopted at the Second Session of the 13th NPC. The Law replaces 'The Three Foreign Investment Laws' passed between 1979 and 1990. The most important change is that the foreign investment would now receive national treatment and be regulated by the domestic Company Law and other national laws (Dalla Valle, 2021, p. 5). As per Article 28, 'Fields not included in the negative list shall be managed under the principle that domestic investment and foreign investment shall be treated uniformly'. The new version is much simpler, containing only 42 articles, but still unclear on how it will be implemented, only providing broad and generic guidelines (Li, 2021, p. 16-17).

Table 2: Outlook of Regulations Policy for IFDI (1979-2022)

Years	Key Laws	Main Guidelines	Main Objective
1979	Law of the People's Republic of China on Joint Ventures Using Chinese and Foreign Investment	I. Equity Joint Venture investment; II. At least 25% of foreign investment; III. At least 25% of Chinese participation; IV. Use of advanced technology; V. Encouraged to export.	Regulate IFDI, delimiting its form and conditions.
	Special Economic Zones (SEZ)	I. Implement areas in the mainland for the entrance of FDI; II. These areas have preferential treatment as tax incentives; III. It should establish strong backward and forward linkages.	Promote the development of underdevelopment regions, absorbing advanced technology and diffusing knowledge.
1983	Implementing Regulations of the Law of the People's Republic of China on Chinese-Foreign Equity Joint Venture	I. Obligation to adopt advanced technology and methods; II. Increase the variety of products and rise quantity and quality; III. Expand export and/or train technical and managerial personnel; IV. The Chairman must be Chinese.	Facilitate the implementation of the EJV Venture Law.
1984	Economic and Technical Development Zones (ETDZ)	Same as SEZ but with more tax incentives for the higher-technology industry.	Attract investments in the higher-technology industry.

[16] Available at https://en.ndrc.gov.cn/.

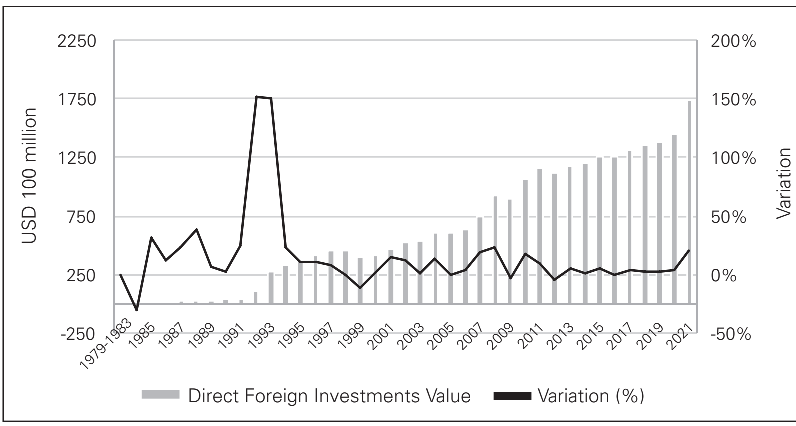
1986	Provisions of the State Council of the People's Republic of China for the Encouragement of Foreign Investment	I. Discriminate preferential tax; II. Exempt tax of import of machinery and equipment used in industries that produce to export; III. Allow remittance of profit without an income tax for industries using high technology.	Complement the EJV Law and the EJV Implementing Regulation Law.
	Law of the PRC on Enterprises Operated Exclusively with Foreign Capital	I. Must be conducive to the development of PRC; II. Use advanced technology; II. Equipment or market all or most of their production outside of PRC.	Expand economic cooperation and technological exchange with foreign countries.
1988	Regulation to Encourage Investments by Taiwanese Compatriots	I. Equal treatment for investments from Taiwan as those applied to foreign investments; II. More rights in acquisitions and investments compared to foreign investors.	Promote economic and technological exchanges benefiting mutual prosperity.
	Law of the People's Republic of China on Chinese-Foreign Cooperative Joint Ventures	I. Limited liability Company; II. Distributions of profit are negotiated between parts; III. Encourage export-oriented or technologically advanced industries.	Expand economically, cooperation and technological exchange with foreign countries.
1990	Detailed Rules for the Implementation of the Law of the PRC on Wholly Foreign-Owned Enterprises	I. Use of own capital; II. It must be shown to be beneficial to the development of the national economy using advanced technology or exporting most part of production.	Expand economic cooperation and technological exchange with foreign countries.
	Provisions of the State Council Concerning the Encouragement of Investments by Overseas Chinese and Compatriots from Hong Kong and Macao	Similar treatment as promulgated by the law for Taiwanese investments.	Promote economic and technological exchanges benefiting mutual prosperity.
1995	Provisional Regulations on Direction Guide to Foreign Investment	I. Guide for FDI, dividing them in four categories; II. Create priorities and restricted sectors for FDI; III. Constantly updated, changing sectors and categories of which sector.	Give directions and control the destiny of FDI in accordance with government planning and interest.
2003	Interim Provisions on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors	I. The M&A process shall be approved by the approval organ; II. In special cases that can be considered key economic issues, should be reported to MOFCOM and State Administration for Industry and Commerce.	Regulate M&A.
2008	Anti-Monopoly Law	I. Describes and characterises monopolistic conduct; II. It points out cases in which the responsible bodies take measures to intervene in the market.	Protect fair competition in the market promoting the healthy development of the socialist market economy.
2019	The Foreign Investment Law of the People's Republic of China (The New Foreign Investment Law)	I. Promote foreign investment; II. FIE receives national treatment under the Company Law.	Replace the EJV Law, WFOE Law, and the CJV Law.

Source: Elaborated by the authors.

DATA ANALYSIS

More than four decades of reforms have made the PRC the lead destiny of FDI side by side with the US in the 21st century. The trend of growth of investments is constant. Even during the years of the COVID-19 pandemic (2019-2021), the 'trade war' with the US, and the supposed difficulty of doing business in China, the flow has risen. In this session, we will analyze the foreign investment data and its evolution during different periods, seeking to understand the flows of investment and the change of pattern over the last four decades.

Figure 1: Total amount of FDI actually utilized



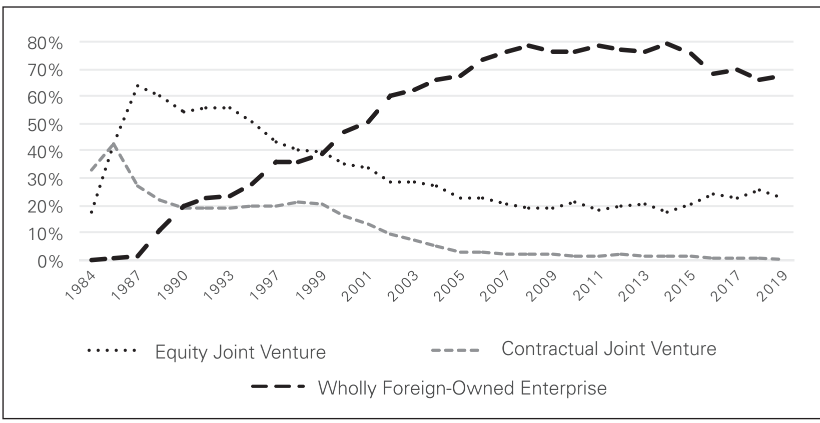
Source: China Statistical Yearbook (various issues).

The FDI was recorded in China's official statistical source for the first time in 1979, with joint ventures in hotel and tourism projects in Beijing and the newly established Shenzhen SEZ (Wang, 2008, p. 1). The majority of FDI was originally from HK and indirectly from Taiwan, mainly on labor-intensive manufacturing activities and tourism services in Southeast China, especially in the province of Guangdong (Ng, 2013, p. 8). From 1979 to 1983, Chinese foreign enterprises were less than two hundred. Moreover, Fenwick (1984, p. 841) pointed out the conflict between Beijing's view, which expected the FDI to be a component of national development strategy, and the foreign investors', who sought for a profit-making entree into the Chinese market. Nonetheless, in 1984 there were 741 EJV established in the country, due to the promulgation of the EJV *Implementing Regulation* and the issuance of the Model Contract by the Ministry of Foreign Economic Relations and Trade (MOFERT), a key issue to the rise of the investments (Powell, 1987, p. 133; Brickley, 1988, p. 259-260).

Analyzing the period 1980-1984 and the four SEZ, we realized most investments were made in the Xiamen SEZ (54%) and mainly in the form of EJV (46%)

and CJV (42%), with 88% coming from HK[17] and Macao in sectors of Manufacturing Industries and Transportation and Communication. By June of 1986, there were more than 6720 FIE in China, counting EJV and CJV, and 130 WFOE. In the mid-1980s, EJVs became the most important form of FDI in China. Between 1987 and 1995, EJVs accounted for more than 50%. There were two main advantages of choosing EJV as the entry mode into China. The complementary assets held by Chinese partners that were crucial to foreign investors and costly to acquire through the market. And superiority by passing institutional barriers, such as government restrictions (Wang, 2008, p. 4). From 1999 onwards the WFOE became the dominant form of FDI in China.

Figure 2: Amount of FDI by Form



Source: Chinese Statistical Yearbook (various issues)
and Wang (2008) for data before 1997.

Since the 1990s, the approval of projects and capital inflows began to increase, with the amount invested in the country in 1993 being equal to 1.45 times the accumulated value of the previous 12 years. In 1994, the small reduction in the total investment was due to the change of regions authorized to conduct investment in labor-intensive activities, specifically to inland regions into the PRC, while coastal areas began to change their investment profile to capital and technology-intensive (Wang & Wang, 1997, p. xv-xvi).

The IFDI increased after Deng Xiaoping made the Southern Journey, reinforcing the importance of the opening-up reforms. In mid-1997, approximately 200 of the world's 500 largest TNC had established operations in the PRC. These investors were of two types, those that were using cheap labor for an export platform, and those which were targeting the Chinese market itself. The first type were mainly

[17] Includes investments from Taiwan that used HK to circumvent restrictions imposed on the Island.

the small-scale investors from HK[18] and Macao, while the second were the TNC, resulting in a predominance of small-scale, labor-intensive projects concentrating on processing imported inputs for re-export (Henley *et al.*, 1999, p. 231-233).

The main sources of the FDI are related to the proximity between the SEZ and the Chinese diaspora. This was crucial in this first stage of the opening-up following the decision to make the investment based on a cultural and geographical position. After that, the network and productive chains with ASEAN countries became more strongly connected while HK has been consolidating as a financial center and a bridge to FDI in China[19].

In the 2000s we observe a growth in the service sector and a relative loss of participation in the manufacturing sector. The growth in the financial sector in the first decade of the century passed from 0,2% to 8,8% and the real estate from 11,4% to 20,8% in the total inward FDI. An important event was the accession of the PRC to the WTO in 2001, which required changes in the FDI law, with less restrictions. Such as removing foreign exchange balance requirements, the obligation to give priority to domestic raw materials and equipment sourcing, mandatory export requirements, and reporting of business plans (Chen, 2011, p. 86-89).

Furthermore, the economic structure of China changed as it improved material and wellbeing conditions by increasing wages, making less attractive for labor-intensive activities. As well the appreciation of the RMB in world market. At the same time, the TNC invested in services focused on the Chinese market, such as retail, which lived a golden age in the 2010s due to the country's new pattern of consumption (Zhang, 2022, p. 8-10).

From 2017 to 2021 the Guiding Catalogue in the form of the Negative List reduced the restriction from 63 in the National List and 95 in the Free Trade Zones to 31 and 27 respectively, showing more commitment of the PRC with the opening-up. The OECD FDI Regulatory Restrictiveness Index, which considers (i) Foreign equity limitations; (ii) Screening or approval mechanisms; (iii) Restrictions on the employment of foreigners as key personnel and (iv) Operational restrictions as measures have shown a significant improvement moving from 0,63 in 1997 to 0,21 in 2020[20].

The regulation policy had the objective to attract investments that would promote export growth. In Figure 3 it is possible to observe that there is a significant growth of export as participation in the GDP, which means that this goal was achieved. Interestingly, the importance of exports went down after 2006 as the country changed focus from requiring exports activities from FIE to claiming a more balanced relation and better quality of imports and exports since the 11th FYP.

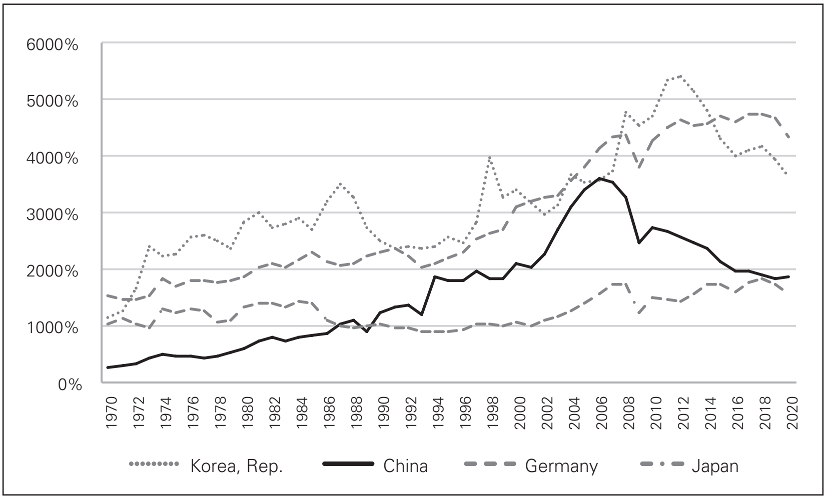
---

[18] A part of the flows from Hong Kong until 1991 was originally from Taiwan and mainland investors practising what is known as 'round-tripping', to take advantage of preferential rates on investments originating in HK.

[19] See Zhang (2005).

[20] Available at https://www.oecd.org/investment/fdiindex.htm.

Figure 3: Share of exports in GDP (%)



Source: World Bank Data (2022).

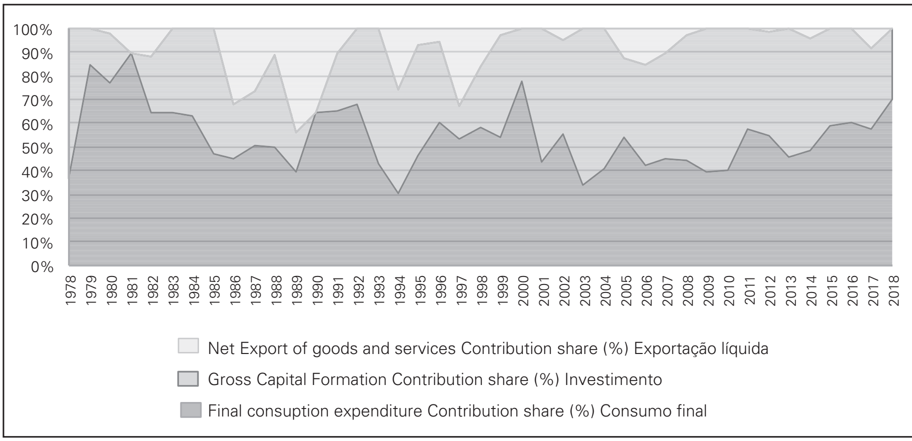
It is also important to remember that the FDI does not promote the economic growth of the country as pointed out by Lo *et al.* (2016). The Chinese economic growth was fundamentally based on consumption from 1978 to 1992 and from 2014 to 2019, and on investment between 2000 and 2014, with a mixed period between 1992 and 2000. Jabbour and Gabriele (2021, p. 146) point out that such characteristics resemble the developmental model of Japan and South Korea. It is based on high investment rates, reflected in exports with increasing greater added value, formation of large foreign exchange reserves, control of the flow of capital, exchange, and interest. But coordinated by a state of socialist formation planned by the CCP and controlled by the State.

As shown by Hung (2022, p. 25-26), the Chinese economy has not turned into a private market economy. When we look at the industrial assets of the Chinese economy in 2018, almost 39% were controlled by the State, while 26% and 20% were in Chinese private hands and foreign owners, respectively. Some sectors such as 'Manufacture of automobiles' and 'Manufacture of computers, communication equipment, and other electronic equipment' had 38% and 46% of sharing as the propriety of foreign enterprises. Those two sectors had many incentives for foreign investments because they involve advanced technology and exporting.

We can understand that the plan and development of FDI in China follow the characteristics of the New Developmentalism framework. Bresser-Pereira (2021, p. 503-504) explains that developmentalism combines market and state coordination in an open economy. Reject extensive privatizations of monopolistic sectors, avoid foreign indebtedness, and promote investment and industrial policy that regulate the market to promote the international competitiveness of companies. In that sense, the TNC are welcome to contribute to technology and open new markets (Bresser-

-Pereira; 2020, p. 643). The capital from TNC has not been the key issue, instead, the regulation which required technology transfer and export-oriented industry.

Figure 4: Contribution share of three components of GDP to the growth of GDP



Source: China Statistical Yearbook (various issues).

CONCLUSIONS

Since the beginning of the reforms of the 1970s, the Chinese political economy preserved its core strategy of attracting foreign investment with advanced technology. They used different tools, but the main core was the Equity or Contractual Joint Ventures and Wholly Foreign Owned Enterprises, managed by the Guide Catalogue that directs those investments. These mechanisms allowed more openness and less restrictions for foreign capital (which is different from no restrictions at all). The regulatory framework provides the TNC with conditions that make the investment attractive, such as tax incentives and the opportunity to exploit a relatively cheap and skilled labor force, while requiring the use and transfer of advanced technology.

Therefore, it was possible to identify the different periods associated with the changes in policy and regulation which were still following the same strategy of opening-up wider to promote modernization. These are the first phase focusing on the regulation of FDI to improve productivity in the domestic economy (1979-1992); the second phase building an export-oriented economy (1992-2001); and the third one developing competitive industries with high and independent technology (2001-2017), as the country adapts to the new environment following the access to WTOs. Lastly, a fourth phase (since 2017) seems to take place. This new phase looks back at the domestic economy to improve the quality of the market on another level, but from a different standard of the first stage.

In the Chinese case, the benefits of the FDI are tied to policies of planning and regulation, which include different combinations of mixed methods and tools. These are, for instance, requirements of use and transfer of advanced technology that improve the domestic economy by earning productivity and offering better quality and quantity of products to the internal market. The collection of foreign exchange through the TNC invests in the country but exports its productions. The SEZ and its other variant to promote the development of key areas for foreign investors (i.e., coastal areas) and underdeveloped regions (i.e., the west), offering a diversification of services, new industries, services, and infrastructure. Attracting companies and highly qualified people that transfer technology and foreign managerial skills into the domestic economy. The partnership between State and foreign companies sharing knowledge and technology in a perspective to build its own national companies aiming to compete in the international market with innovative and independent technology.

As Zhang (2022, p. 2) says, the PRC has not been a passive recipient of FDI. Since the beginning of reforms, the CCP has understood that when this capital is controlled and directed by national instruments aligned with national interests, a development plan could result in a beneficial outcome if well managed. In this case the regulation of FDI is part of a broader strategy of development, but it is at the core of it. A means of promoting modernization to improve the living standards of the People's Republic of China, aiming for the development of the first stage of socialism with Chinese characteristics.

REFERENCES

Bresser-Pereira, L. C. (2021). Brazil's quasi-stagnation and East-Asia growth: A new-developmental explanation. *Structural Change and Economic Dynamics, 58,* 500-508.

Bresser-Pereira, L. C. (2020). New Developmentalism: development macroeconomics for middle-income countries. *Cambridge Journal of Economics, 44(3)*, 629-646.

Brickley, L. C. (1988). Equity Joint Ventures in the People's Republic of China: The Promised Land is Not Yet in Sight for Foreign Investors. *U. Pa. J. Int'l. Bus. L., 10*, 257.

Casey, J., & Koleski, K. (2011). *Backgrounder: China's 12th five-year plan*. Washington, DC, USA: US-China Economic and Security Review Commission.

Carvalho, P., & Nogueira, I. (2023). The role of the State on foreign direct investment regulation in China. *Brazilian Journal of Political Economy*, 43, 256-274.

Chen, C. (2011). The Development of China's FDI Laws and Policies after WTO Accession. *Rising China: global challenges and opportunities*, 85-98, ANU E Press.

Dalla Valle, C. (2021). Foreign Invested Enterprises in China: evolution and revolution of the legal framework with Chinese-English terminological glossary. Master's degree thesis in Languages, Economics and Institutions of Asia and North Africa, Università Ca' Foscari Venezia.

Enright, M. J. (2016). *Developing China: The remarkable impact of foreign direct investment*. Routledge.

Fenwick, A. (1984). Equity Joint Ventures in the People's Republic of China: An Assessment of the First Five Years. *Bus. Law*., 40, 839.

Fu, J. (2000). *Institutions and investments: foreign direct investment in China during an era of reforms*. University of Michigan Press. https://doi.org/10.3998/mpub.16284

Gungwu, W. (1993). To Reform a Revolution: Under the Righteous Mandate. Daedalus, 122(2), 71–94.

Henley, J., Kirkpatrick, C., & Wilde, G. (1999). Foreign direct investment in China: Recent trends and current policy issues. *World Economy*, *22*(2), 223-243.

Hu, A. (2013). The distinctive transition of China's five-year plans. *Modern China*, 39(6), 629-639.

Hung, H. F. (2022). *Clash of Empires: From 'Chimerica' to the 'New Cold War'*. Cambridge University Press.

Jakubczak, J. (2020). China's Foreign Investment Encouraged Catalogue and Negative Lists as a Tool of Foreign Direct Investment Attraction. *Annales Universitatis Mariae Curie-Skłodowska, sectio H–Oeconomia*, 54(2).

Kamath, S. J. (1990). Foreign direct investment in a centrally planned developing economy: the Chinese case. *Economic Development and Cultural Change*, 39(1), 107-130.

Li, W., & Yang, L. (2020). China's 13th and 14th Five-Year Plans: Review and Advice. *China Economist*, 15(4), 2-36.

Li, X. (2021). The Durability of China's Lawmaking Process under Xi Jinping: A Tale of Two Foreign Investment Laws. *Issues & Studies*, 57(01), 2150001.

Lin, X. (2007). *An evaluation of the three periods of China's FDI development: 1978-2000* (Doctoral dissertation, University of Greenwich).

Lin, X., & Eso, A. (1998). General Concept of FDI and China's FDI. *China Report*, 34(1), 11-46.

Lo, D., Hong, F., & Li, G. (2016). Assessing the role of inward foreign direct investment in Chinese economic development, 1990–2007: Towards a synthesis of alternative views. *Structural Change and Economic Dynamics*, 37, 107-120.

De Graaff, N. (2020). China Inc. goes global. Transnational and national networks of China's globalizing business elite. *Review of international political economy*, 27(2), 208-233.

Ng, M. (2013). *Foreign Direct Investment in China: Theories and Practices*. Routledge.

Powell, Bryan (1987). 'The Wholly Foreign-Owned Enterprise in China: An Alternative to the Equity Joint Venture'. 11 Hastings Int'l & Comp.L. Rev. 129.

Schutte, G., & Reis, R. (2020). Investimentos externos diretos e o processo de catch-up: a experiência chinesa e as lições para o Brasil. *Cadernos do Desenvolvimento*, 15(27), 63-82.

Shiao-Ming, S. (1980). China's New Law on Joint Ventures Using Chinese and Foreign Investment. *Sw. LJ, 34*, 1183.

Stiglitz, J. E. (2008). China: Towards a new model of development. *China Economic Journal*, 1(1), 33-52.

Stoltenberg, C. D. (1984). China's special economic zones: their development and prospects. *Asian Survey*, 24(6), 637-654.

Sun, H. (1998). *Foreign Investment and Economic Development in China: 1979-1996* (1st ed.). Routledge.

Wang, Y. (2008). *Contractual joint ventures in China: formation, evolution and operation.* Nova Science Publishers.

Wang, Y., & Wang, Y. (1997). *Investment in China: A question and answer guide on how to do business.* AMACOM, American Management Association.

Watson, A., & Luolin, X. (1986). China's open door policy in historical perspective. *Australian Journal of International Affairs*, 40(2), 91-99.

Wong, J. (2012). China's 12th Five-Year Plan: a potential game changer for economic restructuring and socio-economic development. *Journal of Asian Public Policy*, *5*(2), 214-230.

Wong, K. Y. (1987). China's special economic zone experiment: an appraisal. *Geografiska Annaler: Series B, Human Geography*, 69(1), 27-40.

Yang, C. (2014). Market rebalancing of global production networks in the Post-Washington Consensus globalizing era: Transformation of export-oriented development in China. *Review of International Political Economy*, 21(1), 130-156.

Yu, D. (2018). Chinese business law. Springer.

Yueh, Linda. 2011. E*nterprising China: Business, economic and legal developments since 1979*. Oxford: Oxford University Press.

Zhang, K. H. (2005). Why does so much FDI from Hong Kong and Taiwan go to Mainland China?. China Economic Review, 16(3), 293-307.

Zhang, Q. (2022). Sectoral and Country-Origin Dynamics of FDI in China in 1997-2020. *The Chinese Economy*, 1-15.

Zhang, W. W. (1996). Ideology and economic reform under Deng Xiaoping, 1978-1993. Routledge. DOI 10.1590/0101-31572024-3567