

Huawei and BYD Meet Hong Kong: *Economic, Ethical, and Security Risks to the EU*

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EXECUTIVE SUMMARY

Despite the European Parliament previously questioning Huawei and protectionism,¹ as well as the European Commission launching an anti-subsidy probe on cheap Chinese battery electric vehicles (EVs) in October 2023, Build Your Dreams (BYD) and Huawei separately announced the establishment of their first European factories in Hungary and France, respectively, in November and December 2023.²³ These announcements coincided with the EU-China summit and the European Parliament's adoption of the Critical Raw Materials Act (CRMA)⁴, which aims to reduce European reliance on China for key products and minerals including EVs.

While Hungary is one of the friendliest European Union (EU) Member States towards China, France imposed restrictions on Huawei in July 2020, which will effectively phase Huawei out of France's mobile networks by 2028. These actions speak to the unease which already exists within the EU about engaging with Chinese companies.

Both Huawei and BYD have extensive links to the Chinese Communist Party (CCP) and the Government of the People's Republic of China (PRC), which, in addition to national security risks, raise concerns about the unfair economic practices deployed by the PRC to ensure its 'national champions' achieve monopolistic or dominant market share. The PRC has continually violated World Trade Organization (WTO) commitments and regulations on fair trade, through activities such as intellectual property breaches, violation of international sanctions and agreements, and dumping products in EU markets.

In addition, Huawei and BYD are both connected to Hong Kong, where the rule of law and political rights are quickly deteriorating. Huawei partnered with China Mobile Hong Kong to create a LTE-Advanced Pro network and Hong Kong's TPV Technology to manufacture its PCs.

¹ European Parliament, "Huawei and protectionism", 13 April 2021 – https://www.europarl.europa.eu/doceo/document/E-9-2021-001972_EN.html

² Reuters, "China EV maker BYD to build first Europe plant in Hungary, Frankfurter Allgemeine Sonntagszeitung reports", 4 November 2023, <https://www.reuters.com/business/autos-transportation/china-ev-maker-byd-build-first-europe-plant-hungary-fas-2023-11-04/>

³ Reuters, "Huawei to start building first European factory in France next year", 11 December 2023, <https://www.reuters.com/technology/huawei-start-building-first-european-factory-france-next-year-source-2023-12-11/>

⁴ European Critical Raw Materials Act, available here: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_1661

Huawei also established the Huawei Hong Kong Research Center, and equipped City University of Hong Kong to become the first 5G smart hospital in Hong Kong. Likewise, BYD maintains a subsidiary in Hong Kong, which serves as a platform from which BYD manufactures, imports and exports batteries and battery components for EVs. BYD is likely using Hong Kong as a platform from which to send needed EV components to China given that BYD's major manufacturing centres are in Shenzhen, Huizhou, Shaanxi, and Shanghai. BYD has also partnered with Kowloon Motor Bus, as well as the Hong Kong Productivity Council and Hong Kong Automotive Parts and Accessory Systems R&D, to establish a research and development centre in the Hong Kong Science Park.

Faced with this dual security and economic threat, the European Commission and EU Member States should take seriously the risks posed by Huawei and BYD and reconsider welcoming these Chinese giants with open arms.

As set out in the recommendations of this briefing, the European Commission should publish an official list of all technology and EV companies with ties to the CCP and their human rights abuses in Hong Kong or Xinjiang; employ its Anti-Coercion Instrument (ACI) on these companies; incorporate national security measures in its Import Control System 2 (ICS2); penalise BYD as part of the EU EV probe for violating Article 102 TFEU of the EU competition policy; increase the import tariff on BYD from 10 percent to 20 percent or more; and raise a formal dispute with the WTO regarding China's breach of Article VI in the General Agreement on Tariffs and Trade.

The European Parliament should adopt a resolution calling attention to the national security risks posed by Huawei, BYD, and similar companies. The European Parliament should also launch two separate thorough and independent reviews, and hold two separate parliamentary hearings, on Huawei and BYD's connections to human rights violations in Hong Kong, forced labour in Xinjiang, and the interests of the Chinese Communist Party. Together, the European Parliament and the Council of the European Union should adopt the European Commission's proposal of 'Prohibiting products made with forced labour on the Union market'⁵ to effectively ban Huawei and BYD products and factories from entering the EU market.

⁵ European Commission proposal on 'Prohibiting products made with forced labour on the Union market', available here: [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0269\(COD\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0269(COD))

RECOMMENDATIONS

Huawei and BYD's relationship to one another is not the first time there have been strategic partnerships between Chinese corporations who have links to the CCP and other Chinese or foreign corporations such as Ford and Baidu, Chang'an and Tencent, and Dongfeng and Huawei.

However, given Huawei and BYD's proposed plans to expand their manufacturing base into the EU at a time when the EU is already facing national security risks and threats to its domestic market due to a high dependence on Chinese technology and EVs, Huawei and BYD pose a unique threat to the EU's trade relationship with the PRC. In addition to the market and national security threats, these collaborations may also lead to EU complicity in very serious and well-documented human rights violations in the PRC.

Given the threat posed by Huawei and BYD to the EU, as well as their connection to one another and Hong Kong, we recommend that the European Union's Institutions take the following actions:

- The European Commission should publish an official list of all technology and EV companies, including Huawei and BYD, that have ties to the PRC's human rights violations in Hong Kong or Xinjiang.
- The European Commission should include an 'EU Commission Official Use Only' section in the EU customs form for ICS2, a new customs pre-arrival programme which intends to "increase protection of EU citizens and the internal market against security and safety threats,"⁶ that includes a checkbox to designate whether products imported to the EU pose a national security risk based on the proposed official list of all technology and EV companies that have ties to the PRC's human rights violations in Hong Kong or Xinjiang. If a product is designated as having ties to the PRC's human rights violations in Hong Kong or Xinjiang, the European Commission should implement a regulation to ban the product from entering the EU.
- The European Commission should conduct two separate thorough and independent reviews into the national security risks and human rights violations posed by Huawei and

⁶ European Commission Import Control System 2 (ICS2), information available here: https://taxation-customs.ec.europa.eu/customs-4/customs-security/import-control-system-2-ics2-0_en

BYD. The establishment of a Huawei factory in France and a BYD factory in Hungary should be paused until the reviews are complete.

- The European Parliament should hold two separate hearings with Huawei and BYD representatives, as well as expert witnesses, on Huawei and BYD’s connection to human rights violations in Hong Kong, forced labour in Xinjiang, and the interests of the Chinese Communist Party. The establishment of a Huawei factory in France and a BYD factory in Hungary should be paused until the hearings are complete.
- Given that the European Council adopted conclusions to restrict EU exports of “any equipment or technology that can be used for internal repression, interception of internal communications or cyber surveillance” to Hong Kong following Beijing imposing the National Security Law in the city,⁷ the European Council should adopt restrictions on Hong Kong exports to the EU that have been or may be used for internal repression, interception of internal communications or cyber surveillance in the EU.
- The European Parliament and European Council should adopt the European Commission’s proposal of ‘Prohibiting products made with forced labour on the Union market’⁸ to effectively ban Huawei and BYD products, and factories, from entering the EU market due to their connection to forced labour in Xinjiang.
- Given the European Parliament’s previous resolutions on Hong Kong which condemn the National Security Law and call on EU Member States to implement lifeboat schemes to allow Hong Kongers to flee from Hong Kong to the EU, the European Parliament should adopt a resolution calling attention to the national security risks posed by Huawei and BYD, as well as all technology and EV companies that have ties to the PRC’s human rights violations in Hong Kong or Xinjiang.
- The European Commission should publish a list of all technology and EV EU companies which are in direct competition with and suffering from Chinese technology and EV companies unfairly dominating the EU market, especially considering their human rights violations. The European Parliament should employ its Anti-Coercion Instrument (ACI)⁹

⁷ Council of the European Union Conclusions on Hong Kong, available here:

<https://www.consilium.europa.eu/media/45225/st09872-re01-en20.pdf>

⁸ European Commission’s legislative proposal of ‘Prohibiting products made with forced labour on the Union market’, available here:

[https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0269\(COD\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0269(COD))

⁹ European Parliament anti-coercion instrument, available here:

<https://www.europarl.europa.eu/news/en/headlines/world/20230915STO05214/anti-coercion-instrument-the-eu-s-new-weapon-to-protect-trade>

on these EU companies, and implement countermeasures including but not limited to restrictions on certain goods and services, foreign direct investment, and intellectual property rights, if coercion is found.

- Following the European Commission and the 10 EU Member States that have imposed restrictions or bans on Huawei products using the European Commission’s 5G toolbox, other EU Member States should immediately apply the 5G toolbox on the country-level to impose restrictions or bans on Huawei products to defend their national security interests.
- Given that BYD violates the EU competition policy under ‘Prohibition of abuse of a dominant position (Article 102 TFEU),’¹⁰ the European Commission should penalise BYD as part of its EV probe by compensating for the pull effect of BYD’s low EV import tariff by increasing the import tariff on all Chinese EVs from 10 percent to 20 percent or more to offset the fact that Chinese EVs are entering the EU market at a 20 percent lower price than similar EU products.¹¹ This should be enacted as a temporary measure while a thorough and independent review of BYD is conducted alongside the EV probe.
- The European Commission should raise a formal dispute with the WTO, of which the EU and China are members, regarding China breaching Article VI in the General Agreement on Tariffs and Trade, which details what classifies as ‘Anti-dumping and Countervailing Duties,’¹² by “price” dumping BYD EVs into the EU market.

¹⁰ Ibid.

¹¹ Ibid.

¹² Article VI in the General Agreement on Tariffs and Trade, available here: https://www.wto.org/english/res_e/booksp_e/gatt_ai_e/art6_e.pdf

THE EU AND HUAWEI

Huawei is a leading Chinese multinational technology company headquartered in Shenzhen, China, which was founded by former People’s Liberation Army (PLA) officer Ren Zhengfei in 1987. Huawei has expanded to over 170 countries to build telecommunications networks and manufacturing communications devices.

Although Huawei claims it is a private company that is fully owned by its employees, its exact ownership structure remains a mystery. In 2019, Chief Secretary of Huawei’s Board of Directors Jiang Xisheng told reporters questioning Huawei’s ownership, “Huawei is owned by a labor union that solicits donations from employees when their colleagues have health problems and the like.”¹³ However, the US and other democratic governments have questioned the ownership of Huawei on the basis that Huawei is required to abide by the National Intelligence Law of the PRC, which mandates that Huawei provides information to Chinese intelligence agencies.¹⁴ There is no existing mechanism of accountability by which the international community can access what is shared by Chinese companies under the National Intelligence Law, which seriously undermines the transparency of these companies.

In recent years, Huawei has come under much scrutiny due to national security concerns. The US and other countries view Huawei as deeply enmeshed within the CCP-state apparatus, and have found that Huawei has stolen intellectual property and violated international sanctions.¹⁵ In 2017, Huawei was found guilty of stealing intellectual property from T-Mobile in a US court, and in 2020, the US Department of Justice charged Huawei with conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (RICO) and conspiracy to steal trade secrets, which the indictment claimed provided Huawei with an unfair competitive advantage.¹⁶

In response to these cases and from fear that Huawei could use its networks to spy for the CCP, the US National Defense Authorization Act of 2018 included a clause to effectively ban US government agencies from using specific components or services from multiple Chinese

¹³ *The New York Times*, “Who Owns Huawei? The Company Tried to Explain. It Got Complicated.”, 25 April 2019, <https://www.nytimes.com/2019/04/25/technology/who-owns-huawei.html>

¹⁴ National Intelligence Law of the PRC, available here: <https://www.lawinfochina.com/display.aspx?id=23733&lib=law>

¹⁵ Council on Foreign Relations, “Is China’s Huawei a Threat to U.S. National Security?”, 8 February, 2023 – <https://www.cfr.org/background/chinas-huawei-threat-us-national-security>

¹⁶ US Department of Justice, “Chinese Telecommunications Conglomerate Huawei and Subsidiaries Charged in Racketeering Conspiracy and Conspiracy to Steal Trade Secrets”, 13 February 2020 – <https://www.justice.gov/opa/pr/chinese-telecommunications-conglomerate-huawei-and-subsidiaries-charged-racketeering>

technology firms, including Huawei.¹⁷ The US furthered its restrictions by adding Huawei to the Department of Commerce’s Entity List in May 2019. The Entity List includes foreign organisations considered a risk to national security and subjects them to licensing requirements and export restrictions for certain products. Huawei and its telecommunications equipment now regularly appear on the US Entity List, and the US continues to sanction and block the approval of Huawei equipment.¹⁸

In April 2019, just before the US imposed an effective ban on Huawei, the US Central Intelligence Agency (CIA) exposed that Huawei has received money from the PLA, China’s National Security Commission, and a branch of China’s intelligence network.¹⁹ Huawei has also worked with Chinese military personnel on research projects.²⁰ Huawei is clearly closely linked to key Chinese government institutions, not only financially, but also in interests and goals.

At the same time the CIA revealed new information on the links between Huawei and the CCP, former British Prime Minister Theresa May banned Huawei from supplying equipment to core parts of Britain’s future 5G network after a meeting with the UK National Security Council.²¹ Core parts include sensitive security, authentication, and aggregation of traffic features.

Following the US sanctions on Huawei, the UK National Cyber Security Centre (NCSC) said, “The NCSC has looked very closely at the impact of these [US sanctions] on the UK and no longer considers that the UK will be able to manage the security risks of using affected Huawei technology in our future 5G networks.”²² On 14 July 2020, the British Government issued a total ban on the purchase of new Huawei products after 31 December 2020, and ordered Huawei to be removed from Britain's 5G network by 2027. The UK also prevented the installation of “any Huawei equipment that has been affected by US sanctions in full fibre networks.”²³

Even HSBC and Standard Chartered, two UK-headquartered international financial services companies which have been complicit in the CCP’s human rights violations by withholding £2.2

¹⁷ 2018 National Defense Authorization Act, available here: <https://www.congress.gov/bill/115th-congress/house-bill/5515/text>

¹⁸ US Department of Commerce Entity List, available here:

<https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-C/part-744/appendix-Supplement%20No.%204%20to%20Part%20744>

¹⁹ *Forbes*, “CIA Claims It Has Proof Huawei Has Been Funded By China’s Military And Intelligence”, 20 April 2019,

<https://www.forbes.com/sites/zakdoffman/2019/04/20/cia-offers-proof-huawei-has-been-funded-by-chinas-military-and-intelligence/>

²⁰ *Bloomberg*, “Huawei Personnel Worked With China Military on Research Projects”, 27 June 2019,

<https://www.bloomberg.com/news/articles/2019-06-27/huawei-personnel-worked-with-china-military-on-research-projects>

²¹ *The Guardian*, “May to ban Huawei from providing ‘core’ parts of the UK 5G network”, 24 April 2019,

<https://www.theguardian.com/technology/2019/apr/24/may-to-ban-huawei-from-supplying-core-parts-of-uk-5g-network>

²² The National Cyber Security Centre, “Huawei advice: what you need to know”,

<https://www.ncsc.gov.uk/information/huawei-advice-what-you-need-to-know>

²³ UK Government, “Huawei to be removed from UK 5G networks by 2027”, 14 July 2020,

<https://www.gov.uk/government/news/huawei-to-be-removed-from-uk-5g-networks-by-2027>

billion (€2.56 billion) worth of Mandatory Provident Fund (MPF) pension savings from overseas Hong Kongers, cut ties with Huawei after deeming it “too high-risk.”²⁴ Usually, an individual who permanently leaves Hong Kong is entitled to withdraw their MPF savings, a required retirement savings scheme for Hong Kongers in which most employers and their employees contribute monthly. MPF is overseen by approved financial institutions, including HSBC and Standard Chartered. However, these institutions continue to reject MPF early withdrawal claims based on a retaliatory, unilateral declaration from the Chinese Ministry of Foreign Affairs which no longer recognises the British National (Overseas) passport as a valid document to allow Hong Kongers to access their MPF.²⁶ That HSBC and Standard Chartered, usually so quiescent in Chinese policy matters, would risk angering Beijing by cutting ties with Huawei, speaks to the seriousness of the national security risks involved.

Meanwhile, the stance on Huawei by EU Member States remains ambiguous and lacks unity. While EU Member States are aware of the risks posed by Huawei, only 10 EU Member States have placed bans or restrictions on Huawei.

In January 2020, the European Commission produced a plan to screen telecommunications equipment suppliers in response to fears of potential security breaches by Huawei. The plan included the European Commission’s 5G toolbox, which details an EU 5G cybersecurity policy aimed at mitigating risks and includes technical measures to be taken by the European Commission and all EU Member States.²⁷ At this time, EU Member States agreed to impose certification requirements, diversify suppliers, and implement controls on businesses deemed high-risk.²⁸

However, Huawei circumvented the new EU rules and announced its plans to build its first-ever European factory worth €200 million (£173,440 million) for wireless communications products in France just one month later. Huawei stated, “As one of the world's most advanced manufacturing centres, France has mature industrial infrastructure and a highly educated labour pool, and its geographic positioning is ideal for Huawei. This manufacturing plant will add to Huawei's integrated value chain within Europe, improving the timeliness and reliability of

²⁴ *The Wall Street Journal*, “Some Global Banks Break Ties With Huawei”, 20 December 2018, <https://www.wsj.com/articles/some-global-banks-break-ties-with-huawei-11545321306>

²⁵ Hong Kong Watch, “Hong Kongers who have fled to the UK are being denied access to over £2 billion in savings”, 16 April 2023, <https://www.hongkongwatch.org/all-posts/2023/4/16/hong-kongers-who-have-fled-to-the-uk-are-being-denied-access-to-over-2-billion-in-savings>

²⁶ Hong Kong Watch, “Hong Kongers who have fled to the UK are being denied access to over £2 billion in savings”, 16 April 2023, <https://www.hongkongwatch.org/all-posts/2023/4/16/hong-kongers-who-have-fled-to-the-uk-are-being-denied-access-to-over-2-billion-in-savings>

²⁷ European Commission 5G toolbox, available here: <https://digital-strategy.ec.europa.eu/en/library/eu-toolbox-5g-security>

²⁸ *The Financial Times*, “EU draws up 5G plan to screen security risks amid Huawei fears”, 28 January 2020, <https://www.ft.com/content/ee3f0764-41fc-11ea-bdb5-169ba7be433d>

Huawei's deliveries to European customers.” Huawei predicted that the factory would directly create 500 jobs and generate €1 billion per year, adding to Huawei’s current 12,000 employees as well as direct and indirect creation of 170,000 jobs in Europe.²⁹

However, the Covid-19 pandemic delayed Huawei’s plans to establish its first-ever factory in Europe, and since the onset of the Covid-19 pandemic, 10 EU Member States have implemented restrictions or bans against the use of Huawei products, citing national security concerns: Latvia, France, Sweden, Italy, Romania, Lithuania, Denmark, Estonia, Portugal, and Germany.³⁰ This followed the European Commission advising EU Member States in 2020 that they could choose to exclude or restrict high-risk 5G vendors, including Huawei, from the core parts of their 5G networks.³²

In 2020, Latvia, France, Sweden, and Italy were the first EU Member States to ban or restrict Huawei products. In February 2020, Latvia signed a joint declaration with the US on vetting 5G technology products by determining whether software suppliers, without independent judicial review, are controlled by a foreign government; ensuring software suppliers have transparent ownership; and confirming that software suppliers practise ethical corporate behaviour and are accountable to a legal regime with transparent corporate practises.³³ These measures were laid out to prevent interference by foreign governments, and quickly ruled out Huawei from Latvia’s 5G networks.

In October 2020, Sweden banned Huawei from selling 5G products in Sweden following assessments by the Swedish Security Service and Armed Forces. The Security Service referred to China as “one of the biggest threats against Sweden.”³⁴ Huawei responded by issuing a Notice of Dispute to the Prime Minister of Sweden in December 2020, claiming the ban breached the 1982 China-Sweden Bilateral Investment Treaty by favouring domestic companies without legitimate reason.³⁵ This prompted a legal case beginning in January 2020 in which Huawei attested that

²⁹ Huawei, “Huawei Wireless Product Plant in France Targets European Market”, 27 February 2020, <https://www.huawei.com/en/news/2020/2/huawei-wireless-product-plant-france>

³⁰ Reuters, “European countries who put curbs on Huawei 5G equipment”, 29 September 2023, <https://www.reuters.com/technology/european-countries-who-put-curbs-huawei-5g-equipment-2023-09-28/>

³¹ See Table 1

³² Ibid.

³³ US Department of State, “Joint Statement on United States-Latvia Joint Declaration on 5G Security”, 27 February 2020, <https://2017-2021.state.gov/joint-statement-on-united-states-latvia-joint-declaration-on-5g-security/>

³⁴ CNBC, “Sweden bans Huawei, ZTE from upcoming 5G networks”, 20 October 2020, <https://www.cnbc.com/2020/10/20/sweden-bans-huawei-zte-gear-from-5g-spectrum-auction.html>

³⁵ Huawei Notice of Dispute to the Kingdom of Sweden, available here: <https://www.italaw.com/sites/default/files/case-documents/italaw170044.pdf>

Sweden was liable to fully compensate Huawei’s losses.³⁶ However, a Swedish appeals court upheld Sweden’s ban of 5G products from Huawei in June 2020.³⁷ Since then, Huawei has continued to push back yet has failed to provide requested Mobile Network Operators (MNO) contracts under the courts’ four procedural orders.³⁸ The case remains open, and the hearing is expected to take place at the end of 2024.

Italy also placed restrictions on Huawei in October 2020 by preventing Huawei from signing a deal to supply products for its 5G network with Fastweb, the Italian unit of Swisscom which is one of Italy’s lead telecommunications operators. At the time, a senior Italian official said, “The government has vetoed the operation, asking Fastweb to diversify its suppliers.” Prior to the veto, Telecom Italia (TIM), the largest Italian telecommunications provider, also decided not to invite Huawei to tender for a contract on supplying 5G equipment to its core network, which processes sensitive data.³⁹

In 2021, Romania, Lithuania, Denmark, and Estonia placed bans or restrictions on Huawei. In April 2021, the Romanian Government approved a bill requiring companies to request the opinion of Romania’s Supreme Council of National Defence to supply equipment to Romania’s 5G network, which was signed into law by Romanian President Klaus Iohannis in July 2021,⁴⁰ effectively barring Huawei from participating in the development of Romania’s 5G network.⁴¹ This followed an August 2019 Memorandum of Understanding between the US and Romania on threats posed by untrusted 5G vendors. The Memorandum requires a complete evaluation of 5G vendors, including determining whether a company is liable to control from a foreign government, accountable to a legal regime that honours transparent corporate practises, and maintains a transparent ownership structure.⁴²

The Lithuanian Parliament passed amendments for Lithuania’s Law on Communications and

³⁶ Shearman & Sterling, “Huawei Technologies Co., Ltd. v. The Kingdom of Sweden: Request for Arbitration”, 7 January 2022, <https://jsumundi.com/en/document/pdf/other/en-huawei-technologies-co-ltd-v-kingdom-of-sweden-request-for-arbitration-friday-7th-january-2022>

³⁷ Reuters, “Swedish court upholds ban on Huawei sale of 5G gear”, 22 June 2022, <https://www.reuters.com/business/media-telecom/swedish-court-upholds-ban-huawei-sale-5g-gear-2022-06-22/>

³⁸ Huawei Technologies Co. Ltd. v. Kingdom of Sweden, ICSID Case No. ARB/22/2, available here: [Huawei v. Sweden Procedural Order No. 4, 21 July 2023 \(jsumundi.com\)](https://www.reuters.com/business/media-telecom/huawei-v-sweden-procedural-order-no-4-21-july-2023-jsumundi-com)

³⁹ Reuters, “Italy vetoes 5G deal between Fastweb and China’s Huawei: sources”, 23 October 2020, [https://www.reuters.com/article/idUSKBN2782A5/#:~:text=ROME%20\(Reuters\)%20%2D%20Italy%20has.stance%20against%20the%20Chinese%20group.](https://www.reuters.com/article/idUSKBN2782A5/#:~:text=ROME%20(Reuters)%20%2D%20Italy%20has.stance%20against%20the%20Chinese%20group.)

⁴⁰ Reuters, “Romanian president signs bill into law to ban Huawei from 5G”, 11 June 2021, <https://www.reuters.com/business/media-telecom/romanian-president-signs-bill-into-law-ban-huawei-5g-2021-06-11/>

⁴¹ Reuters, “Romania approves bill to bar China, Huawei from 5G networks”, 15 April 2021, <https://www.reuters.com/business/media-telecom/romanian-govt-approves-bill-bar-china-huawei-5g-networks-2021-04-15/>

⁴² U.S. Embassy in Romania, “Building a Secure 5G Future”, 17 February 2020, <https://ro.usembassy.gov/building-a-secure-5g-future/#:~:text=In%20August%202019%2C%20the%20United.critical%20parts%20of%205G%20networks.>

Law on the Protection of Objects of Importance to Ensuring National Security in May 2021 to ensure that only government-approved technology equipment could be used in Lithuania's next-generation 5G network, effectively banning Huawei.⁴³ In September 2021, the Ministry of National Defence of Lithuania went further by advising all consumers to “not buy new Chinese phones, and to get rid of those already purchased as fast as reasonably possible” after a Government report found built-in censorship capabilities in Chinese mobile devices.⁴⁴

In May 2021, the Danish Parliament adopted the Danish Investment Screening Act (DISA), which allows the screening of foreign investments to certify that they do not pose risks to national security. The DISA was passed partly to prevent a bid from Huawei to build Denmark's 5G network.⁴⁵

The Estonian Parliament approved legislation via amendments to the Estonian Electronic Communications Act, which bans Estonian telecommunications operators from choosing Chinese companies to supply its telecommunications products, in November 2021. This includes Huawei, and was an attempt by Estonia to align itself with the European Commission's 5G standards.⁴⁶

More recently, in May 2023, Portugal's Cybersecurity Council (CSSC) issued a resolution to bar high-risk telecommunications operators, or those which are headquartered in a nation where the government pressurises, controls, or interferes with its activities in other nations, from operating in Portugal's high-speed 5G and 4G networks. The resolution effectively bans Huawei from Portuguese networks.⁴⁷ Four months later, Huawei filed a lawsuit against the CSSC resolution. Huawei Portugal said it “seeks protection of its legitimate interests and legal rights under the law as a company duly established in Portugal.” CSSC said it had yet to receive notice of legal action, and that Portuguese telecommunications operators were already devising plans in line with the resolution.⁴⁸

⁴³ *LRT*, “Lithuania bans ‘unreliable’ technologies from its 5G network”, 25 May 2021, <https://www.lrt.lt/en/news-in-english/19/1417429/lithuania-bans-unreliable-technologies-from-its-5g-network>

⁴⁴ *Reuters*, “Lithuania says throw away Chinese phones due to censorship concerns”, 21 September 2021, <https://www.reuters.com/business/media-telecom/lithuania-says-throw-away-chinese-phones-due-censorship-concerns-2021-09-21/>

⁴⁵ *The Economic Times*, “Denmark passes law to screen foreign investments for security risks”, 6 May 2021, <https://economictimes.indiatimes.com/news/defence/denmark-passes-law-to-screen-foreign-investments-for-security-risks/articleshow/82428065.cms?from=mdr>

⁴⁶ *Developing Telecoms*, “Estonia aligning with Europe against Huawei”, 26 November 2021, <https://developingtelecoms.com/telecom-business/telecom-regulation/12394-estonia-aligning-with-europe-against-huawei.html>

⁴⁷ *The Economic Times*, “Ericsson: Portugal moves closer to banning Chinese suppliers from 5G, ET Telecom”, 27 May 2023, <https://telecom.economictimes.indiatimes.com/news/telecom-equipment/portugal-moves-closer-to-banning-chinese-suppliers-from-5g/100540704>

⁴⁸ *Reuters*, “Huawei files lawsuit in Portugal over ban on supplying 5G equipment”, 5 September 2023, <https://www.reuters.com/technology/huawei-files-lawsuit-portugal-over-ban-supplying-5g-equipment-2023-09-05/>

In September 2023, the Federal Ministry of the Interior of Germany proposed requiring telecommunications operators to remove critical components manufactured by Huawei and ZTE in their core 5G networks by 2026. This followed a review revealing Germany’s high reliance on these two Chinese suppliers.⁴⁹ In 2020, a former Huawei Germany manager took Huawei to court for refusing to allow him to view the data Huawei had kept on him. The manager said, “I simply asked them to tell me what data they had, what they had deleted, when they had deleted it and what data they still had on file.” In a German court, the judge ruled that Huawei had breached European privacy laws, and issued a minor fine of €5,000 (£4,299.4).⁵⁰

Given that Huawei intends to resume its plans to establish its first factory in Europe in France starting in 2024, it is worth emphasising that this is in tension with France’s current restrictions on Huawei. In August 2019, the French National Assembly, Senate, and President of the Republic of France passed a law “to preserve the interests of the defence and national security of France in the context of the operation of mobile radio networks,”⁵¹ which signalled that Huawei equipment was not welcome in France. France took it a step further in July 2020 by informing telecommunications operators that they would not be able to renew existing licences for Huawei products, effectively phasing Huawei out of its mobile networks by 2028. Although this did not completely ban Huawei antennas, it requires telecommunications providers to receive authorisation from the French National Cybersecurity Agency (ANSSI) in order to set up or extend their networks.⁵²

Still, Huawei is determined to proceed with the establishment of a factory in Brumath, near Strasbourg, France regardless of France’s de-facto Huawei ban and 5G Law.⁵³⁵⁴ Before France announced its first restrictions on Huawei in 2020, Huawei France’s Deputy Chief Executive Minggang Zhang said, “The plant will be built in France, whatever the French government’s decision, as it is part of our strategy.”⁵⁵ When French Economy and Finance Minister Bruno Le Maire and Chinese Vice Premier He Lifeng met at the China-France Economic and Financial Dialogue in July 2023, Le Maire shared that France would extend 5G licences for Huawei in

⁴⁹ Reuters, “German proposal for Huawei curbs triggers telecom operator backlash”, 20 September 2023, <https://www.reuters.com/business/media-telecom/german-interior-ministry-wants-force-5g-operators-slash-huawei-use-official-2023-09-19/>

⁵⁰ Politico, “Huawei data flows under fire in German court case”, 29 June 2020, <https://www.politico.eu/article/huawei-germany-court-case-privacy/>

⁵¹ Section 7 of France’s Post and Electronic Communications Code, available here: <https://bit.ly/41NRTEk>

⁵² Le Monde, “Huawei retains a presence in France, despite 5G ban”, 21 February 2023, https://www.lemonde.fr/en/economy/article/2023/02/21/huawei-retains-a-presence-in-france-despite-5g-ban_6016751_19.html

⁵³ Reuters, “Huawei forecasts 9% revenue growth in 2023 as smartphones surge”, 29 December 2023, <https://www.reuters.com/technology/huawei-forecasts-9-revenue-growth-2023-smartphones-surge-2023-12-29/>

⁵⁴ The Financial Times, “EU considers mandatory ban on using Huawei to build 5G”, 6 June 2023, <https://www.ft.com/content/a6900b0f-08d5-433d-bfb0-f57b6041e381>

⁵⁵ Reuters, “Huawei to build French factory regardless of 5G decision, executive says”, 4 March 2020, <https://www.reuters.com/article/france-huawei-idINKBN20R1OS/>

some cities.⁵⁶ This leeway is the gateway to the establishment of a Huawei factory in France, which is due to start construction in 2024 and open in 2025.⁵⁷

The European Commission itself considered imposing a mandatory ban on Huawei throughout EU Member States in June 2023. This followed EU Internal Market Commissioner Thierry Breton expressing concern that only one-third of EU Member States had imposed Huawei bans in critical areas, despite EU Commission guidance in 2020 allowing EU Member States to choose whether they would exclude or restrict Huawei from the core parts of their 5G networks.⁵⁸ EU Member States’ policies on Huawei remain uncoordinated today.

Together, the actions of France and other states aiming to reduce the influence of Huawei through bans and restrictions reduced Huawei’s total annual revenue by 29 percent or from €113.32 billion (£97.56 billion) in 2020 to €81.62 billion (£70.25 billion) in 2021.⁵⁹ However, despite the European Commission considering a Huawei ban in June 2023, Huawei expects its revenue to increase by nine percent or to €89.46 billion (£77.56 billion) in 2024.

France, and other EU Member States, must remain clear-eyed about the national security risks posed by Huawei, and be more consistent with their own policies and previous restrictions on Huawei which are inconsistent with allowing a Huawei factory to be built inside France itself.

Table 1: EU Member States’ Bans and Restrictions on Huawei

Country	Month/Year	Ban or Restriction
Latvia	February 2020	Signed joint declaration with US on vetting 5G technology products, including ones from Huawei, to ensure no interference by foreign governments. ⁶⁰
France	July 2020	Told telecommunications operators that they will not be able to renew licences for Huawei products once they expire, effectively phasing

⁵⁶ Reuters, “China hopes France can help take heat out of relations with EU”, 29 July 2023, <https://www.reuters.com/world/china-hopes-france-can-help-take-heat-out-relations-with-eu-2023-07-29/>

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ The Guardian, “Sanction-hit Huawei says revenues down 29% this year”, 31 December 2021, <https://www.theguardian.com/technology/2021/dec/31/sanction-hit-huawei-says-revenues-down-29-this-year>

⁶⁰ Ibid.

		Huawei out of its mobile networks by 2028.
Sweden	October 2020	Banned Huawei from selling 5G products in Sweden. ⁶¹
Italy	October 2020	Prevented telecommunications operator Fastweb from signing a deal with Huawei to supply products for its 5G network. ⁶²
Romania	April 2021	Approved a bill which effectively bars Huawei from participating in the development of Romania's 5G network. ⁶³
Lithuania	May 2021	Decreed that only government-approved technology equipment could be used in the country's next-generation 5G network. ⁶⁴
Denmark	May 2021	Passed the Investment Screening Act, which allows the screening of foreign investments to certify that they do not pose risks to national security. ⁶⁵
Estonia	November 2021	Approved legislation that banned Estonian telecommunications operators from choosing Chinese companies, including Huawei, for telecommunications products. ⁶⁶
Portugal	May 2023	Issued resolution to effectively bar telecommunications operators from using Huawei in Portugal's high-speed 5G and 4G networks. ⁶⁷
Germany	September 2023	Proposed requiring telecommunications operators to remove critical components manufactured by Huawei in their core 5G networks by 2026. ⁶⁸

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Ibid.

⁶⁸ Ibid.

THE EU AND BYD

At the same time Huawei is preparing to expand its horizons in Europe via France, BYD intends to do the same in Hungary. As early as March 2021, BYD began hiring engineers for its desired European EV plant, without disclosing location or further details.⁶⁹ In December 2023, BYD announced that its first European EV plant would be in Hungary.

BYD is a publicly listed, high-tech Chinese company that spans across over 70 countries and 400 cities worldwide.⁷⁰ Founded by Wang Chuanfu in 1995, BYD specialises in EVs and renewable energy solutions. BYD was included in the Fortune 500 in 2022, and in the last quarter of 2023, BYD surpassed Tesla sales by selling a record 520,000 EVs compared to Tesla's record 484,500 EVs in the final quarter of the year.⁷¹

However, BYD has been scrutinised for intellectual property infringement, data security, and economic espionage, accused of copying designs from established automobile manufacturers. BYD has also been criticised following numerous reports of quality control and safety issues, failing to have an eco-friendly ethos, and questionable labour practices in the BYD supply chain.⁷² BYD uses its private company status to acquire foreign technology, markets, and data, which it then passes on to Chinese state-owned and military enterprises. BYD also has research and development centres within Chinese military-affiliated zones that are focused on technology transfer. This allows Chinese state-owned companies to shape and produce the products needed for specific EV components.

BYD's leadership, including the founder Wang Chuanfu, maintain numerous direct ties to the Chinese Communist Party. In recent years, BYD jointly won the Chinese National State Council Progress Award with the State Administration for Science and Technology for National Defense (SASTIND) and a partner of the military Aviation Corporation of China (AVIC). The battery technology of BYD is also part of the CCP's 'Made in China 2025' and 'China Standards 2035' plans, which seek to make China the leader of global high-tech manufacturing and encourage standardisation among Chinese enterprises, respectively.⁷³

⁶⁹ *Automotive News Europe*, "BYD hires engineers for Europe EV battery plant", 17 March 2021, <https://europe.autonews.com/automakers/byd-hires-engineers-europe-ev-battery-plant>

⁷⁰ BYD Electronics, <https://electronics.byd.com/electen/index.html>

⁷¹ *BBC*, "China's BYD overtakes Tesla's electric car sales in last quarter of 2023", 2 January 2024, <https://www.bbc.co.uk/news/business-67860232>

⁷² TS2 Space, "What is the BYD controversy", 1 December 2023, https://ts2.pl/en/what-is-the-byd-controversy/#google_vignette&gsc.tab=0

⁷³ Radarlock, *Building the China Dream: BYD & China's Grand Strategic Offensive*, October 2019, <https://www.americanmanufacturing.org/wp-content/uploads/2020/03/BYD.pdf>

Like Huawei, BYD is also subject to the PRC's National Intelligence Law, meaning that BYD is required to provide information to Chinese intelligence agencies without transparency or accountability. In addition, the Alliance for American Manufacturing (AAMC) conducted research which found that BYD has received billions in subsidies from the Chinese government, far more than what is reported on public record.⁷⁴

In March 2020, during a US Senate Committee on Banking, Housing, and Urban Affairs hearing, President Scott Paul of the AAMC referred to BYD as one of three companies on the forefront of the CCP's global assault on manufacturing standards. Mr Paul said, "China's subsidies and other governmental support allow CRRC [a Chinese state-owned rolling stock manufacturer] and BYD to underbid the competition. Left unchecked, the toll on U.S. supply chains will be devastating. Because CRRC and BYD's U.S. assembly operations are a supply line for major rolling stock components produced in China, the jobs of American workers throughout our domestic supply chains are now at risk."⁷⁵

Mr Paul is right about the threats to the US, which also pose a risk to the EU. Should the EU allow BYD to establish a factory in Hungary, the EU will face similar risks to its domestic supply chains, as EVs and their components are manufactured in China, and Hong Kong, before being shipped to the EU. This would reduce the number of jobs within and undermine the EU's domestic supply chain.

Following European Commission President Ursula von der Leyen announcing an EU anti-subsidy investigation into EU imports of EVs from China in her State of the Union Address in September 2023, the European Parliament issued a notice to initiate the EU anti-subsidy investigation on 4 October 2023.⁷⁶ The European Commission launched the probe due to a surge of imported Chinese EVs flooding the EU market, which were outstripping other Chinese export markets and 20 percent lower in price than similar EU products.

Allianz, an international financial services provider, predicts that the EU car industry stands to lose more than €7 billion (£6.04 billion) in net profits each year due to Chinese competition. In 2022, China sold more than double the number of EVs compared to the EU and US combined, and three of the best selling EVs in the EU were Chinese imports.⁷⁷ China is expected to make

⁷⁴ Ibid.

⁷⁵ US Congress hearing transcript, available here: <https://www.govinfo.gov/content/pkg/CHRG-116shrg42246/pdf/CHRG-116shrg42246.pdf>

⁷⁶ *Reuters*, "Von der Leyen announces China car probe, paints herself as EU business champion", 13 September 2023, <https://www.reuters.com/world/europe/von-der-leyen-defends-track-record-ahead-eu-elections-2023-09-13/>

⁷⁷ Allianz, "The Chinese challenge to the European automotive industry", 9 May 2023, https://www.allianz.com/en/economic_research/publications/specials_fmo/european-automotive-industry.html

the highest revenue in the EV market in 2024, generating an estimated €290.6 billion (£249.98 billion).⁷⁸

The United Nations (UN) Comtrade database found that China's EV exports are landing in the EU region over other regions such as North America, Latin America, Africa, and the Asia-Pacific. The market share of EVs from China to the EU recently rose from less than one percent to eight percent. This increase may be a result of the EU's low EV import tariff of 10 percent, as well as the barriers to US market access, including the 27.5 percent tariff on Chinese EVs and recently introduced green policies.

To combat the flood of Chinese EVs into the EU market, the EU may decide to implement anti-subsidy measures, which are one of three EU trade defence instruments (TDIs) to offset international trade distortion. The notice of the EU EV probe states that after nine months of investigations, the EU Parliament may impose provisional tariffs and after 13 total months, the EU may impose countervailing tariffs for five years. Therefore, if substantiated, the EV probe may result in the European Commission levying countervailing tariffs on Chinese EV imports to level the playing field and offset Chinese state subsidies.⁷⁹

However, following the announcement of the EU EV probe, BYD stated that it still plans to continue expanding throughout the EU. BYD's Executive Vice President Stella Li said, "We are a publicly traded company that needs to be managed with transparency and open to sharing information. So we don't worry about any investigation going on in Europe."⁸⁰ Yet, BYD should be concerned about the EV probe, given that BYD violates EU competition policy under 'Prohibition of abuse of a dominant position (Article 102 TFEU)' for exhibiting "behaviours that would amount to abuse of a dominant position include setting prices at below cost level (predation), charging excessive prices, tying and bundling, and refusal to deal with certain counterparts."⁸¹ BYD is also a close ally of Huawei and increases direct competition with EU EV and semiconductor companies such as Germany's Infineon.⁸²

⁷⁸ Statista Market Forecast, <https://www.statista.com/outlook/mmo/electric-vehicles/china>

⁷⁹ European Parliament, "EU anti-subsidy probe into electric vehicle imports from China", October 2023, <https://bit.ly/3Sbt16G>

⁸⁰ Bloomberg, "BYD to Stick to Europe Growth Plans Despite Subsidies Probe", 7 October 2023, <https://bit.ly/48Britt>

⁸¹ European Parliament Competition policy, available here, <https://www.europarl.europa.eu/factsheets/en/sheet/82/competition-policy>

⁸² Power & Beyond, "China's BYD launches new automotive chip; competes with Infineon", 16 June 2021, <https://bit.ly/3NTSCVz>

HUAWEI AND BYD

Like many Chinese companies, Huawei and BYD have flourished within the complex nexus of political and commercial interests that govern business in China. While China's legal and regulatory systems remain opaque to outsiders, it will always remain difficult to ascertain the full extent of the interrelation between State interests, CCP interests, and private interests within these companies. However, given what we do know, a Huawei factory in France should be carefully considered given its known risks to national security and the need to abide by France's previous Huawei ban.

Likewise, BYD should be thoroughly examined as part of the EU's EV probe as BYD is not the publicly traded company it claims to be, and is not free from the influence of the Chinese Communist Party.

Huawei and BYD are closely intertwined. In March 2019, Huawei and BYD solidified their partnership by signing a comprehensive strategic cooperation agreement. According to Chinese news sources, this cooperation agreement promotes in-depth cooperation between Huawei and BYD to develop intelligent driving, smart monorails, smart campus solutions, and internet of vehicles (IoV), which collects and exchanges data between vehicles, cloud-based platforms, and infrastructure.⁸³ This cooperation agreement followed Huawei and BYD establishing a driverless monorail transit system in Yinchuan, the capital of Ningxia, China.⁸⁴

Huawei and BYD have also exported driverless transit systems to countries that are part of the CCP's Belt and Road Initiative (BRI).⁸⁵ The BRI is a transcontinental infrastructure development strategy that was established in 2013 by the Government of the PRC, outlined by the China State Council in 2015, and incorporated into the Constitution of the CCP in 2017. The BRI consists of thousands of projects, mostly focused on infrastructure, spanning across more than 150 countries.⁸⁶ However, the fact that Huawei and BYD are connected to the BRI poses a major risk for the EU market given that the BRI involves high levels of debt-trap diplomacy, corruption, poor risk management, and threats to domestic infrastructure plans, supply chains, and jobs.⁸⁷

⁸³ Ibid.

⁸⁴ *The Standard*, "'Driverless' monorail system debuts in Yinchuan", 11 January 2018, <https://www.thestandard.com.hk/breaking-news/section/2/101423/&>

⁸⁵ Ibid.

⁸⁶ Green Finance & Development Center, "Countries of the Belt and Road Initiative", December 2023, <https://greenfdc.org/countries-of-the-belt-and-road-initiative-bri/>

⁸⁷ Council on Foreign Relations, "The Rise and Fall of the BRI", 6 April 2023, <https://www.cfr.org/blog/rise-and-fall-bri>

According to Huawei’s website, BYD is the original equipment manufacturer of Huawei phones. In response to a question regarding whether BYD would consider manufacturing smartphones, BYD founder and President Wang Chuanfu said, “We manufacture many mobile phones and most of the Huawei smartphones are made by us.”⁸⁸ After Huawei released its flagship Huawei P60 and Mate X3 foldable phone in March 2023, it was reported that BYD created key components for the frame and rear cover of the phones.⁸⁹ BYD originally took over Huawei’s supply chain to compensate for the departure of US business partners.⁹⁰

In August 2023, Huawei and BYD deployed a joint smart factory solution which includes a high-quality 10 gigabytes per second campus network and high-capacity data centre networks. These networks are supported by artificial intelligence (AI) technologies and feature a simplified architecture capable of supporting ultra-fast web access for research and development projects requiring high bandwidth. Huawei and BYD said that they “are also working on developing digital production platforms and AI-powered quality inspection solutions together,” which threatens and competes with companies that are neither affiliated with the CCP nor wish to endorse the CCP’s national security, economic, and ethical risks.⁹¹

⁸⁸ Huawei, “BYD also OEM Huawei phones, says the car maker’s president”, 12 June 2021, https://consumer.huawei.com/ph/community/details/BYD-also-OEM-Huawei-phones-says-the-car-maker-s-president/topicId_132549/

⁸⁹ *Huawei Central*, “Huawei P60 series and Mate X3 frame is made by BYD”, 24 March 2023, <https://www.huaweicentral.com/huawei-p60-series-and-mate-x3-frame-is-made-by-byd/>

⁹⁰ *Ibid.*

⁹¹ Huawei, “BYD and Huawei Successfully Deploy Smart Factory Solution”, <https://e.huawei.com/en/case-studies/solutions/enterprise-network/byd>

HONG KONG

Both Huawei and BYD have established a strong presence in Hong Kong, part of a wider encroachment of mainland companies and associated subsidiaries into the city.⁹² Hong Kong is an important jurisdiction through which Chinese companies, such as Huawei and BYD, are able to access global capital, import technical components, and export finished products. Yet given the rapid deterioration of Hong Kong’s political rights, as marked in the EU’s statements and resolutions of 2020, 2022, and 2023 condemning the Hong Kong National Security Law, the EU must consider how Huawei and BYD’s increasingly extensive links with the Hong Kong Government further implicate both companies in the CCP’s designs on the formerly autonomous city-state.

After the Hong Kong Police Force brutally assaulted pro-democracy protesters in 2019, law and order in Hong Kong has only continued to deteriorate. The UK has repeatedly stated that Hong Kong is in a “state of ongoing noncompliance with the Sino-British Joint Declaration.”⁹³ After Beijing imposed the draconian National Security Law⁹⁴ in Hong Kong in June 2020, the US Department of Commerce stopped treating Hong Kong as separate from China under its export controls in a December 2020 Executive Order. This was followed by the US Commerce, State, Treasury, and Homeland Security Departments releasing a Hong Kong business advisory in 2021 on the risks posed to businesses operating in Hong Kong under the National Security Law.⁹⁵ Since then, politicians, journalists, and human rights activists and organisations, including Hong Kong Watch, have issued warnings on doing business in Hong Kong as Beijing and the agenda of the CCP increasingly infiltrate the city.

In June 2023, the European Parliament adopted a resolution which highlighted the alarming deterioration in fundamental freedoms, the rule of law, and judicial independence in Hong Kong since Beijing imposed the National Security Law, and determined that the National Security Law is “in clear breach of the so-called ‘One Country, Two Systems’ principle.”⁹⁶

⁹² Hong Kong Watch, *Red Capital: The invisible hand transforming the city’s politics*, 2 March 2021, https://static1.squarespace.com/static/58ecfa82e3df284d3a13dd41/t/603e4d7e32c6ef794312f6c6/1614695807988/HKW_report_v3+%281%29.pdf

⁹³ UK Government, “Radical changes to Hong Kong’s electoral system: Foreign Secretary’s statement, 13 March 2021,

<https://www.gov.uk/government/news/foreign-secretary-statement-on-radical-changes-to-hong-kongs-electoral-system>

⁹⁴ Hong Kong National Security Law, available here: [https://www.elegislation.gov.hk/fwddoc/hk/a406/eng_translation_\(a406\)_en.pdf](https://www.elegislation.gov.hk/fwddoc/hk/a406/eng_translation_(a406)_en.pdf)

⁹⁵ Atlantic Council, *Fractured foundations: Assessing risks to Hong Kong’s business environment*, 7 March 2023,

atlanticcouncil.org/wp-content/uploads/2023/03/Fractured-foundations-Assessing-risks-to-Hong-Kongs-business-environment.pdf

⁹⁶ European Parliament, European Parliament resolution of 15 June 2023 on the deterioration of fundamental freedoms in Hong Kong, notably the case of Jimmy Lai, 15 June 2023, https://www.europarl.europa.eu/doceo/document/TA-9-2023-0242_EN.html

This follows from the 2022 and 2020 European Parliament resolutions on Hong Kong which also called on Member States to prepare concrete responses to the National Security Law, implement lifeboat schemes for Hong Kongers, and to suspend extradition treaties with China, among other points.⁹⁷

The United Nations has repeatedly called for the repeal and suspension of the National Security Law, including at the 2022 review of Hong Kong's obligations to the International Covenant on Civil and Political Rights, where the UN Human Rights Committee was “deeply concerned about the overly broad interpretation” of the National Security Law and recommended that Hong Kong repeal the law and refrain from applying it in the meantime;⁹⁸ at the 2023 Committee on Economic, Social and Cultural Rights review which concluded that the National Security Law “has de facto abolished the independence of the judiciary” and raised concerns about independence of the judiciary,⁹⁹ the right to fair trial, academic freedom, and artistic freedom; and the 2023 Convention on the Elimination of All Forms of Discrimination against Women review which raised concerns about “over-prioritizing public order and security concerns when considering restrictions on democratic manifestations” which violate women's rights.¹⁰⁰

Huawei is headquartered in Shenzhen, China, but as far back as 2016, Huawei partnered with China Mobile Hong Kong (CMHK), which is owned by the Government of the People's Republic of China, to create a LTE-Advanced Pro network.¹⁰¹ This partnership continues as CMHK Director and Chief Executive Officer Sean Lee said in September 2023, “We are honored to collaborate with Huawei to create revolutionary ‘5G Advanced’ technology. ‘5G Advanced’ will bring digital transformation to a different level and promote a smart world in terms of connecting people, things, cars, homes, and enterprises.”¹⁰²

⁹⁷ European Parliament, “MOTION FOR A RESOLUTION on the arrest of Cardinal Zen and the trustees of the 612 relief fund in Hong Kong”, 5 July 2023, https://www.europarl.europa.eu/doceo/document/B-9-2022-0358_EN.html

⁹⁸ United Nations, “UN Human Rights Committee issues findings on Hong Kong, Macao, Georgia, Ireland, Luxembourg and Uruguay”, 27 July 2022, <https://www.ohchr.org/en/press-releases/2022/07/un-human-rights-committee-issues-findings-hong-kong-macao-georgia-ireland>

⁹⁹ United Nations, “Concluding observations on the third periodic report of China, including Hong Kong, China, and Macao, China *”, 22 March 2023, <https://doctest.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slO6OSmlBEDzFEovLCuW%2BALqOml1btoJd4YxREVf2UhnJqajOdf70Jna4zIZlttiWL2Gm56NxTNU%2B5uvm%2Bz8Ck3PyH5SB2c78KOhI%2FC1e9riHvZuzWKzpwTA2dNIMJy>

¹⁰⁰ Hong Kong Watch, “Hong Kong Watch Welcomes Concluding Observations of UN Committee on Women's Rights”, 31 May 2023, <https://www.hongkongwatch.org/all-posts/2023/5/31/hong-kong-watch-welcomes-concluding-observations-of-un-committee-on-womens-rights>

¹⁰¹ Huawei, “China Mobile Hong Kong and Huawei Announce Strategic Partnership for LTE-Advanced Pro Network”, 18 October 2016, <https://www.huawei.com/en/news/2016/10/China-Mobile-HK-Strategic-Partnership-LTE-Advanced-Pro-Network>

¹⁰² China Mobile, “China Mobile Hong Kong accomplishes new ‘5G Advanced’ technology standard Concurrently launching ultra-high-speed 10Gbps Home Broadband services”, 14 September 2023, https://eshop.hk.chinamobile.com/en/about_us/media_centre/NewsPDF/20230913pr.html

The components that make the curved displays on Huawei PCs, which entered the global market in 2017, are sourced by TPV Technology, which is headquartered in Hong Kong.¹⁰³ In 2018, Huawei established the Huawei Hong Kong Research Center, which is one of many Huawei research and development centres around the world. Huawei has also partnered with City University of Hong Kong (CityU) to deploy a converged network to service its whole hospital with 5G, Wi-Fi, and an Information of Things (IoT) database.¹⁰⁴ CityU Hospital was named the first 5G smart hospital in Hong Kong in August 2023.¹⁰⁵

In Hong Kong, BYD maintains its subsidiary, BYD (H.K.) Co. Limited, which was established in 1999 and is run by billionaire Lu Xiangyang, who is BYD founder and President Wang Chaunfu's cousin. This centre serves as a platform from which BYD manufactures, imports, and exports batteries and battery components for EVs including green cell, rechargeable cell, and dry cell. In 2022, Hong Kong exported €698,603.86 (£637,284.66) worth of electrical apparatus; parts for diodes, transistors, and similar semiconductor devices and photosensitive semiconductor devices to China.¹⁰⁶

Therefore, it is likely that BYD is using Hong Kong as a platform from which to send needed EV components to China given that BYD's major manufacturing centres are in Shenzhen, Huizhou, Shaanxi, and Shanghai. On top of this, Hong Kong is still being used as a base from which a CCP-affiliated car company is producing essential EV parts that are being exported to the EU. This may render the EU complicit in the CCP's human rights violations in Hong Kong, which the EU continues to condemn, as well as pose a risk to the EU given that Hong Kong can no longer be trusted to maintain transparent business practises in the international arena.

In April 2022, BYD deepened its ties in Hong Kong by entering into a contract with Kowloon Motor Bus to service 16 BYD electric buses and 52 BYD and ADL Technology electric-double-decker buses in Hong Kong.¹⁰⁷ BYD also established a research and development centre in the Hong Kong Science Park with the Hong Kong Productivity Council (HKPC) and the Hong Kong Automotive Parts and Accessory Systems R&D (APAS). The HKPC is led by Sunny Tan, a member of the Hong Kong Legislative Council. APAS was founded by the

¹⁰³ GSMarena, "Huawei looking to enter the PC and monitor markets", 22 September 2020,

https://www.gsmarena.com/huawei_looking_to_enter_the_pc_and_monitor_markets-news-45411.php

¹⁰⁴ Huawei, "How tech transforms healthcare at CUHK Medical Center in Hong Kong", December 2023,

<https://www.huawei.com/en/media-center/Multimedia/videos/2023/silverlinings-CUHK-medical>

¹⁰⁵ *The Standard*, "Right connection leads to first 5G hospital", 17 August 2023,

<https://www.thestandard.com.hk/section-news/section/4/255266/Right-connection-leads-to-first-5G-hospital>

¹⁰⁶ World Integrated Trade Solution, data available here:

<https://wits.worldbank.org/trade/comtrade/en/country/HKG/year/2022/tradeflow/Exports/partner/ALL/product/854190>

¹⁰⁷ electrive, "Hong Kong expands electric bus fleet", 27 April 2022,

<https://www.electrive.com/2022/04/27/hong-kong-expands-electric-bus-fleet/>

Innovation and Technology Commission of the Hong Kong Government in 2006, and now sits under the HKPC. Huawei also signed a Memorandum of Understanding with the HKPC in October 2022, pledging to collaborate on communication technology talent.¹⁰⁸

Huawei and BYD are both traded on the Stock Exchange of Hong Kong (HKEX). In September 2023, BYD was the most traded stock in value, gaining +6.89 percent after announcing that its 2023 third quarter net income was projected to dramatically increase from €1.46 billion (£1.26 billion) to €5.2 billion (£4.47 billion).¹⁰⁹ However, this does not mean Hong Kong is a safe place to invest, but demonstrates the increasing prominence of BYD and Huawei on the international market, despite being tied to governments which neither follow their own rule of law nor basic international legal standards.

After Hong Kong Chief Executive John Lee visited the Guangdong province in mainland China in April 2023, Chinese news sources reported, “The Hong Kong Special Administrative Region is likely to enter projects with tech giants including BYD and Huawei following the visit, and as part of efforts to build the city into a global innovation and technology hub.”¹¹⁰ This demonstrates that Hong Kong desires to deepen the investment of BYD and Huawei into the Hong Kong ecosystem.

In addition to Huawei and BYD’s alarming connections to Hong Kong, it is worth noting their connections to the mass and very severe human rights violations, including alleged genocide and crimes against humanity, in Xinjiang. In December 2021, *The Washington Post* exposed Huawei’s links to Xinjiang after reviewing Huawei marketing presentations, which clearly demonstrated Huawei’s interest in helping the PRC monitor individuals of interest, manage ideological reeducation, help retailers track customers using facial recognition, and create labour schedules for prisoners.¹¹¹

Similarly, the Australian Strategic Policy Institute and International Cyber Policy Centre’s report titled, *Uyghurs for sale: ‘Re-education’, forced labour and surveillance beyond Xinjiang*, lists BYD as one of 82 companies that benefits directly or indirectly from abusive labour transfer

¹⁰⁸ Hong Kong Productivity Council, “HKPC and Huawei Join Hands to Foster ICT Talent Training and Development”, 24 October 2022, <https://www.hkpc.org/en/about-us/media-centre/press-releases/2022/hkpc-huawei-mou-signing>

¹⁰⁹ *Forbes*, “BYD Runs Over Hong Kong Shorts As September Economic Data Beats”, 18 October 2023, <https://www.forbes.com/sites/brendanahern/2023/10/18/byd-runs-over-hong-kong-shorts-as-september-economic-data-beats/>

¹¹⁰ *China Daily*, “HK set to firm tech ties with mainland”, 24 April 2023, <https://global.chinadaily.com.cn/a/202304/24/WS6445bf78a310b6054facf4cd.html>

¹¹¹ *The Washington Post*, “Huawei documents show Chinese tech giant’s involvement in surveillance programs”, 14 December 2021, <https://www.washingtonpost.com/world/2021/12/14/huawei-surveillance-china/>

programs involving Uyghur workers outside Xinjiang.¹¹² Sheffield Hallam University's Helena Kennedy Centre for International Justice, Nomogaia, and a team of international scholars also found that BYD is sourcing aluminium from Shandong Nanshan Aluminum, which is a parent company of a Uyghur Region subsidiary.¹¹³

Huawei and BYD's links to Xinjiang place EU Member States at risk of being potentially complicit in the CCP's human rights violations including the use of forced labour in Xinjiang, which have been denounced by the European Parliament,¹¹⁴ United Nations Human Rights Office,¹¹⁵ US Government,¹¹⁶ UK Government,¹¹⁷ Canadian Government,¹¹⁸ and other democratic countries around the world.

Due to Huawei and BYD's extensive ties to the CCP, as well as its ongoing crackdown on freedoms in Hong Kong and rights of the Uyghur Muslims, the EU should strongly reconsider whether allowing Huawei and BYD to break ground on European soil is in the EU's best economic, security, and ethical interests.

¹¹² Australian Strategic Policy Institute, "Uyghurs for sale: 'Re-education', forced labour and surveillance beyond Xinjiang", 1 March 2020, <https://www.aspi.org.au/report/uyghurs-sale>

¹¹³ Sheffield Hallam University Helena Kennedy Centre for International Justice, data available here: <https://www.shuforcedlabour.org/drivingforce/c/140>

¹¹⁴ European Parliament resolution of 9 June 2022 on the human rights situation in Xinjiang, including the Xinjiang police files, available here: https://www.europarl.europa.eu/doceo/document/TA-9-2022-0237_EN.html

¹¹⁵ OHCHR, "China responsible for 'serious human rights violations' in Xinjiang province: UN human rights report", 31 August 2022, <https://news.un.org/en/story/2022/08/1125932>

¹¹⁶ US Department of State information on Xinjiang, available here: <https://www.state.gov/countries-areas-archive/xinjiang/>

¹¹⁷ UK Government, "Human rights violations in Xinjiang: joint statement at the UN Third Committee", 18 October 2023, <https://www.gov.uk/government/speeches/joint-statement-on-human-rights-violations-in-xinjiang-at-the-un-third-committee>

¹¹⁸ Government of Canada, "Statement by Minister Joly on UN report on human rights situation in Xinjiang", 1 September 2022, <https://www.canada.ca/en/global-affairs/news/2022/09/statement-by-minister-joly-on-un-report-on-human-rights-situation-in-xinjiang.html>

CONCLUSIONS

This briefing has shown that Huawei and BYD are interconnected and hold multiple links to the Chinese Communist Party, mainland China, and Hong Kong. Mainland China has a long track record of egregious human rights violations, and in Hong Kong, there are more than 1,000 political prisoners who are detained for peacefully advocating for basic civil liberties and businesses continue to flee due to national security concerns.

If the EU allows Huawei to build a factory in France and BYD to build a factory in Hungary, both companies will welcome the opportunity for Chinese technology and EV companies to flood the EU's 5G networks and EV markets. Allowing the establishment of these factories is also inconsistent with certain EU Member States' current policies on Huawei, and the EU's previous calls to repeal the Hong Kong National Security Law.

In response, the European Commission should swiftly publish an official list of all technology and EV companies with ties to the CCP's human rights abuses in Hong Kong or Xinjiang. The European Commission should also employ its Anti-Coercion Instrument (ACI) on these companies; incorporate national security measures in its Import control system 2; penalise BYD as part of the EU EV probe for violating Article 102 TFEU of the EU competition policy; increase the import tariff on all EV companies complicit in the CCP's human rights violations from 10 percent to 20 percent or more; and raise a formal dispute with the WTO regarding China's breach of Article VI in the General Agreement on Tariffs and Trade.

Finally, the European Parliament should adopt a resolution and hold parliamentary hearings calling attention to the national security risks posed by Huawei, BYD, and similar companies. Together, the European Parliament and the Council of the European Union should adopt the European Commission's proposal of 'Prohibiting products made with forced labour on the Union market'¹¹⁹ to effectively ban Huawei and BYD products and factories from entering the EU market.

¹¹⁹ European Commission proposal on 'Prohibiting products made with forced labour on the Union market', available here: [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0269\(COD\)](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?lang=en&reference=2022/0269(COD))