

# Key Takeaways for Foreign Investors From the 20th National Party Congress of the Communist Party of China

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Following the 20th National Congress of the Communist Party of China (the Congress) held in Beijing in October 2022, Skadden's London-China Desk reviewed the two-hour report given by Xi Jinping.<sup>1</sup> Below we detail the key takeaways regarding U.K. investments in China and Chinese investments in the U.K.

## Background

Every five years, approximately 2,300 delegates gather in Beijing at Tiananmen Square's Great Hall of the People for approximately a week to participate in the National Party Congress of the Communist Party of China. About 200 delegates are selected to join the party's central committee, with approximately 170 alternate members. The central committee will elect circa 25 people to the party's politburo (the Politburo) and will then elect members of the Politburo Standing Committee (the Standing Committee).

Prior to the Congress, the members of the Standing Committee were as follows:

- Xi Jinping, the general secretary of the Chinese Communist Party, president of the PRC and chairman of the Central Military Commission;
- Li Keqiang, the premier of the State Council (central government);
- Li Zhanshu, the chairman of the Standing Committee of the National People's Congress;
- Wang Yang, the chairman of the Political Consultative Conference;
- Wang Huning, the first secretary of the Communist Party's Secretariat;
- Han Zheng, the first vice premier; and
- Zhao Leji, the head of the Central Commission for Discipline Inspection.

The government uses the Congress to announce the direction that the government intends to take over the next five years, its policy priorities and the corresponding leadership.

Xi Jinping opened the Congress by providing an overview of the past five years and announced the strategies and changes that China can expect over the coming decade. He announced the theme of the Congress as "holding high the great banner of socialism with Chinese characteristics and striving in unity to build a modern socialist country in all respects".

<sup>1</sup> See the report [in Chinese](#) or [in English](#).

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## New Leadership

The Standing Committee was announced following the Congress. The new Standing Committee members and their pre-Congress titles are as follows:

- Xi Jinping, the general secretary of the Chinese Communist Party, president of the PRC and chairman of the Central Military Commission;
- Li Qiang, the party secretary of Shanghai;
- Zhao Leji, the head of the Central Commission for Discipline Inspection;
- Wang Huning, the first secretary of the Communist Party's Secretariat;
- Cai Qi, the party secretary of Beijing;
- Ding Xuexiang, the director of the Office of the General Secretary and director of the General Office of the Party Central Committee; and
- Li Xi, the party secretary of Guangdong province.

## Key Takeaways From Xi Jinping's Report

We set out below the key takeaways from the report that may be particularly relevant from a U.K./China investment perspective over the next few years. The following seven categories cover notable information:

- economic development;
- security;
- science and technology;
- advancing the rule of law;
- COVID-19;
- environmental goals; and
- common prosperity.

## Economic Development

Despite the recent slowdown in the global and Chinese economies, President Xi considered “significantly increas[ing] economic strength” by 2035 to be a priority in China’s overall development objectives, with aims to “substantially grow the per capita GDP to be on par with that of a mid-level developed country”. He plans to accomplish goal by “consolidate[ing] and develop[ing] the public sector”; “guid[ing] the development of the nonpublic sector”; “deepen[ing] reform of state-owned capital and state-owned enterprises”; and “provid[ing] an enabling environment for private enterprises, protect[ing] their property rights and the rights and interests of entrepreneurs in accordance with the law, and facilitate[ing] the growth of the private sector ... encourage[ing] entrepreneurship and mov[ing] faster to help Chinese companies become world-class outfits”.

The report also emphasised (or, as appropriate, reemphasised) the following goals:

- Reforming the financial sector, improving the “functions of the capital market and increasing the proportion of direct financing”.
- Making “development” the first priority, while increasing focus on “high-quality development”. This means that the Chinese government will measure development by other factors in addition to GDP figures, though GDP still needs to keep growing at a reasonable pace.
- Implementing a two-step modernization plan (first raised in 2017 then restated in 2020 and 2022) whereby:
  - From 2020 to 2035, China should establish the same levels as moderately developed countries and achieve basic socialist modernization; and
  - From 2035 to 2050, the Chinese government aims to build China into a great modern socialist country at the level of advanced countries.
- Maintaining the party’s and the government’s persistent support for the private sector.

The official figures, released by Beijing at the conclusion of the Congress showed that China’s economy grew 3.9% year-on-year in Q3, exceeding estimates. While these growth figures seem high compared to most Western economies, they are below the rate of expansion China has seen for decades and still below the 5.5% 2022 target set in March 2022. In July 2022, the Politburo signaled that it may miss its annual economic growth target because COVID-19 restrictions have slowed growth across many provinces.

In October 2022, the National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) released the updated Catalogue of Encouraged Industries for Foreign Investment (the Catalogue), which will come into force on 1 January 2023. The Catalogue features 1,474 items, among which 239 are new and 167 are modified from the 2020 version.

According to a MOFCOM statement,<sup>2</sup> the Catalogue is aimed at the following goals:

- Promoting foreign investment in manufacturing industries, which is the focus of encouraged foreign investment. To improve the quality of supply chains and to promote technology advancement, the newly added/modified items include new forestry biomass energy technology; development, production and application of pharmaceutical manufacturing-related consumables; production of high-tech non-ferrous metal materials; and development and production of high-performance photoresist and glow discharge mass spectrometers.

<sup>2</sup> MOFCOM statement (in Chinese).

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- Encouraging foreign investment in modern services, with a focus on improving the quality of service industries and promoting integration of manufacturing and service industries. The newly added/modified items include advanced system integration technology for low-carbon, environmentally friendly energy and water-saving design services, vocational colleges, human resources services, clean production evaluation certification and audit services.
- Encouraging foreign investment in China's central, western, and northeastern regions, with items added or expanded to cater to the specific advantages and industries of these regions.

Such changes of the Catalogue are in line with President Xi's comments about reducing the negative list for foreign investment, promoting the legal interests of foreign investors and promoting the opening up of the midwestern and northeastern regions.

## Security

While the Congress continued to emphasise the importance of economic growth, which is seen as a continuation of the long-standing policy since China's opening up, the Congress also highlighted increasing importance on "security". (The equivalent Chinese word was mentioned in the report 91 times — nearly twice the frequency of the 2017 report — and for the first time surpassed the frequency of the use of the word "economy" in the report.)

The context of the references varied, including references to national security, security of the political and military system, sovereign security, food security, energy security, people's sense of security, the security of industrial and supply chains and global security cooperation. Under the separate chapter on "Security", the Congress described "political security as our fundamental task, economic security as our foundation, [and] military, technological, cultural, and social security as important pillars".

Under the increased focus of "security", economic policies may be diverted to serve national security needs, especially regarding technology or industrial sectors that might be security-related.

## Science and Technology

References in the report to technology and talent ("人才") also increased from 25 mentions and 5 mentions respectively in 2017 to 55 mentions and 34 mentions respectively in 2022.<sup>3</sup> In particular, the report focused on China's strategic need to achieve greater "self-reliance and strength in science and technology", "accelerating the development of the digital economy" and "increasing technology innovation". President Xi provided numerous examples of both:

(i) areas in which China has already shown successes, such as space, lunar and Martian exploration; quantum information; nuclear power technology; and new energy technology; and (ii) areas identified as strategic emerging industries where China will work to develop "new growth engines", including, next-generation information technology, artificial intelligence and biotechnology. Overall, driving investment in technology will be a clear priority in China over the next five to ten years. In addition, in order to achieve such technological self-reliance and innovation, President Xi acknowledged that a corresponding investment in talent, including attracting international talent, would be critically important to the long-term development of the Chinese workforce.

This focus on technology and talent comes at a time when the U.S. is moving to reduce China's access to cutting-edge technologies such as computer chip capabilities. In October 2022, the U.S. Department of Commerce unveiled sweeping regulations that limit the sale of semiconductors and computer chip-making equipment to Chinese customers, targeting the foundation of China's efforts to build its own chip industry. U.S. export controls now also prohibit "U.S. persons" — both citizens and permanent residents — from supporting the development or production of certain high-end computer chips; this includes Chinese Americans with U.S. citizenship and Americans working for Chinese companies. The U.S. also added a number of organizations to its unverified list, severely limiting their ability to buy hardware from abroad. U.S. proposals to establish a "reverse CFIUS" process that will impose approval requirements on U.S. outbound investment into China in respect of certain "critical capabilities" further reflect potential policy-driven changes.

Similarly, in the U.K., the introduction of the National Security and Investment Act 2021 has impacted Chinese outbound investments into the U.K. (as detailed further below), including, for example, with the decision to unwind the acquisition by Dutch chipmaker Nexperia (ultimately owned by Wingtech, a partially Chinese state-backed semiconductor player listed in Shanghai) of Newport Wafer Fab, a Welsh semiconductor firm. The U.K. government has ordered Nexperia to sell its majority stake in Newport Wafer Fab.<sup>4</sup>

These new restrictions on tech exports and investments could undermine China's ability to develop broad sections of its economy, from semiconductors and supercomputers to surveillance systems and advanced weapons. President Xi's comments during the Congress illustrate a clear desire for China to move away from reliance on other countries in order to ensure that it can prosper independently, and how this will further impact the rate of Chinese investment and collaboration with companies in the U.K. and European technology markets remains to be seen.

<sup>3</sup> *The Diplomat*, "What the 20th Party Congress Report Tells Us About China's AI Ambitions" (5 November 2022).

<sup>4</sup> See the U.K. government's "[Acquisition of Newport Wafer Fab by Nexperia BV: Notice of Final Order](#)" (16 November 2022).

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## Advancing the Rule of Law

The report reemphasised that the party “must give better play to the role of the rule of law in consolidating foundations, ensuring stable expectations, and delivering long-term benefits, and we must strive to build a modern socialist country in all respects under the rule of law”. The context for this promotion of the rule of law is following a path of socialist rules of law with Chinese characteristics, which is a theme the Chinese government has previously presented. The report detailed four pillars it will follow to achieve this: (i) maintaining a legal system based on the Constitution of the PRC; (ii) advancing law-based government administration; (iii) ensuring the strict and impartial administration of justice; and (iv) increasing legal education and practice, allowing the rule of law to be established throughout society. Notably, the revised version of the Constitution of the party, which was published after the Congress, added the phrase “a path of socialist rule of law with Chinese characteristics” to highlight the importance of those dimensions in the furtherance of the rule of law.

## COVID-19

While the Congress included only brief mentions of the COVID-19 pandemic, President Xi did outline that China had “put the people and their lives above all else” and as a result has “protected people’s health and safety to the greatest extent possible”. This could indicate that the zero-tolerance strategy with respect to the pandemic is set to continue, with a priority to keep the virus-related death toll low.

Conflicting opinions have emerged regarding whether China will begin the incremental process of reopening and dropping the zero-COVID-19 policy or whether the policy will remain in place permanently. For example, Dan Wang from Hang Seng Bank stated that “for the Chinese government, there is pretty much no tolerance to see a higher-than-zero death rate that is directly caused by COVID”.<sup>5</sup> Nonetheless, the Congress provided no specific details regarding the future of the zero-COVID-19 policy, leaving room for potential changes and adjustments in the future. In the recent weeks following the Congress, new developments have already arisen in connection with a relaxing of certain COVID-19 policies, such as the reduction of the quarantine period required on arrival in China (from seven days in centralized quarantine (hotel) plus three days of home health monitoring to five days in centralized quarantine plus three days of home quarantine), cancellation of the “circuit breaker” mechanism for inbound flights and the easing of mass testing in areas that are not currently experiencing outbreak.<sup>6</sup>

As of the date of this article, we have seen many cities in China taking steps to gradually relax lockdown restrictions and the resulting social and medical challenges that have followed. In light of the “20-point pandemic guidelines” China released in late November 2022 to ease its zero-COVID-19 policy and the “10-point plan” released in early December 2022 that further softened restrictions, it appears likely that China is preparing to join the rest of the world in relaxing its approach to managing COVID-19. Ultimately, China will need to navigate the maintenance of its COVID-19 policy with its aims to further expand economic development, and it is clear that China’s response to the pandemic will continue to be dynamic, with any further easing of restrictions to occur in response to the evolving domestic situation.

## Environmental Goals

Green development and environmental issues have been a recurring focus of previous congresses. This Congress was no different, with President Xi listing the key focus areas as developing green practices and industries; preventing and controlling pollution; enhancing diversity, stability and sustainability in China’s ecosystems; and striving for carbon neutrality. We would expect China to continue to build its environmental policies and goals in line with global aims.

## Common Prosperity

Common prosperity is a term used to describe China’s aims to promote prosperity in equal measures to all citizens and it is the defining feature of socialism with Chinese characteristics. The report stated that China will continue to “endeavour to maintain and promote social fairness and justice, bring prosperity to all and prevent polarization. . . . [T]he system of income distribution is the foundational system for promoting common prosperity”. This characteristic will continue to underpin Chinese economic, commercial and investment relationships, and as a result we would expect China to use lawmaking to ensure it maintains such a policy.

## Impact on the Legal Sector and Inward Investment

All of the above topics, given their underlying relevance to and impact on Chinese society and in turn business, are likely to impact Chinese investment in the U.K. How the U.K. governing authorities, laws and regulations adapt to take into account China’s focus on security and internal growth will be interesting.

<sup>5</sup> BBC News, “What We Just Learned About China’s Economy” (24 October 2022).

<sup>6</sup> China Briefing from Denzan Shira & Associates, “China Travel Restrictions 2021/2022: An Explainer (Updated)” (14 November 2022).

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Chinese outbound investment can be expected to continue to attract robust scrutiny under the increasingly lengthy list of foreign investment screening regimes across Europe and the Anglosphere. Semiconductor sector targets represent the most acute challenge for Chinese acquirers, with transactions blocked across Europe, including in the U.K., Germany and Italy in the last 24 months. Other investments in advanced technology, such as in the U.K. aerospace technology sector, have been rejected or subjected to conditions.

As a clear indication of the focus on even early-stage technology, the U.K. also recently blocked a proposed licensing deal between the University of Manchester and a Chinese strategic player (Infinite Vision Technology Company Ltd) in relation to vision-sensing technology that has potential applications in robotics, virtual reality, automotive development and surveillance technology.

We expect that China's zero-COVID-19 policy will continue to have a negative impact on foreign-related economics, but the fact that economic development remains a priority for China should be reassuring. As described above, in the weeks since the Congress, we have already seen some areas open up, even amid further lockdowns in other areas. Time will reveal how companies react to this.

In any event, China's continued goal and plan to increase its international standing and influence is clear, which, if successful, would allow it to play a greater role in global governance.

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