

In 25 years, EU-China relations have come far, further than many could have imagined – but how much further can these relations be taken? Today, their bilateral relations are at a crossroads. In effect, it has been 25 years since the EU and China agreed upon the legally binding Trade and Economic Cooperation Agreement, which sets the basis for their diplomatic relations. In an ever increasingly complex and globalised international environment, these actors have become mutually interdependent on a variety of levels. In 2007, they agreed to revise and update the 1985 accord and replace it with an all-encompassing Partnership and Cooperation Agreement. However, more than three years passed, and there are many points of contention which need to be negotiated. What obstacles are blocking this agreement? How can these obstacles be overcome? What concessions should be made and where?

This book will provide an up-to-date analysis of the problematic concerns, and the means to resolve these issues, that range from human rights, to international trade conflicts and climate change.

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Jing Men & Giuseppe Balducci (eds.)
Prospects and Challenges for EU-China Relations in the 21st Century

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The Partnership and Cooperation Agreement

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Abbreviations

AA	Association Agreement
ACP	Africa Caribbean Pacific
ADB	Asian Development Bank
ADS	Approved Destination States
APEC	Asia Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
ATC	Agreement on Textiles and Clothing
BAP	Bali Action Plan
BIT	Bilateral Investment Treaty
BRIC	Brazil Russia India China
CCP	Common Commercial Policy
CEEC	Central and Eastern European Countries
CEO	Chief Executive Officer
COHOM	Working Party on Human Rights
CoP15	Conference of Parties
CSO	Civil Society Organisation
CSR	Corporate Social Responsibility
DSU	Dispute Settlement Understanding
EC	European Community
ECCP	European Climate Change Programme
ECFR	European Council on Foreign Relations
ECJ	European Court of Justice
ECOSOC	Economic and Social Council
ECT	Energy Charter Treaty
ECU	European Currency Unit
EEC	European Economic Community
EIA	European Integration Agreements
EIB	European Investment Bank
EIIA	European Integration Investment Agreements
EP	European Parliament
ESDP	European Security and Defence Policy
ESS	European Security Strategy

ETS	European Emission Trading Scheme	MoU	Memorandum of Understanding
EU	European Union	MRV	Measuring, Reporting and Verifying
EUCTP	EU-China Trade Project	NATO	North Atlantic Treaty Organisation
FDI	Foreign Direct Investment	NBS	National Bureau of Statistics
FOCAC	Forum on China Africa Cooperation	NEF	New Economics Foundation
FTA	Free-Trade Agreement	NGO	Non-Governmental Organisation
G4	Group of Four	NIPS	National Intellectual Property Strategy
G7	Group of Seven	NLP	New Leading Powers
G8	Group of Eight	NT	National Treatment
G20	Group of Twenty	NTB	Non-Trade Barrier
G77	Group of Seventy-Seven	OECD	Organisation for Economic Cooperation and Development
GATS	General Agreement on Trade and Services	PCA	Partnership and Cooperation Agreement
GATT	General Agreement on Trade and Tariffs	PLA	People's Liberation Army
GDP	Gross Domestic Product	PRC	People's Republic of China
GE	General Electric	PSC	Political and Security Committee
GHG	Green House Gases	PTA	Preferential Trade Agreement
GLS	Global Labour Strategy	R&D	Research and Development
GNP	Gross National Product	RMB	Renminbi
GSP	General System of Preferences	RTD	Research and Technology Development
HED	High-Level Economic and Trade Dialogue	S&T	Science and Technology
ICC	International Criminal Court	SAIC	State Administration of Industry and Commerce
ICESCR	International Covenant on Economic, Social and Cultural Rights	SARS	Severe Acute Respiratory Syndrome
IEA	International Energy Agency	SCM	Supply Chain Management
ILO	International Labour Organisation	SIPO	State Intellectual Property Office
IMF	International Monetary Fund	SME	Small and Medium Enterprise
IPCC	Intergovernmental Panel on Climate Change	SPS	Sanitary and Phyto-Sanitary
IPR	Intellectual Property Rights	S&T	Science and Technology
KP	Kyoto Protocol	TBR	Trade Barrier Regulations
LDC	Least Developed Countries	TBT	Technical Barrier to Trade
MEF	Major Economies Forum	TCA	Trade and Cooperation Agreement
MES	Market Economy Status	TEC	Treaty of the European Community
MFA	Multi-Fibre Agreement	TECA	Trade and Economic Cooperation Agreement
MFA	Ministry of Foreign Affairs	TFEU	Treaty on the Functioning of the European Union
MFN	Most Favoured Nation	TRIMS	Trade Related Investment Measures
MIGA	Multilateral Investment Guarantee Agency	TRIPS	Trade Related Aspects of Intellectual Property
MNC	Multi-National Corporation	TRM	Transitional Review Mechanism

TSSC	Textile Specific Safeguard Clause
UK	United Kingdom
UN	United Nations
UNDP	United Nations Development Programme
UNFCCC	United Nations Framework Convention on Climate Change
US	United States
USSR	Union of Soviet Socialist Republics
WB	World Bank
WBCSD	World Business Council for Sustainable Development
WIPO	World Intellectual Property Organisation
WMD	Weapon of Mass Destruction
WTO	World Trade Organisation

Foreword

Pierre DEFRAIGNE

It is an honour for me to present this collection of papers, based on the International Workshop dedicated to the European Union (EU)-China Partnership and Cooperation Agreement (PCA), organised by the College of Europe on 3 April 2009. The College has indeed put China among its main fields of research and teaching, thanks also to the InBev-Baillet Latour Fund and to the holder of the InBev-Baillet Latour Chair, Professor Jing Men.

This workshop marked the second event within the framework of the College's extracurricular activities on EU-China Relations¹ and focused on the EU-China relationship with regard to the Strategic Partnership Agreement (SPA), and conducted in the context of the world economic crisis and its recovery process. In my view the most serious hurdle to building such a genuine Sino-European partnership is the very fact that the EU, for all its impressive accomplishments, is still not regarded as a true strategic player from the Chinese perspective. Put simply, for a genuine partnership to take shape both Europe and China need to take the EU seriously.

The current impasse has occurred for two reasons. On the one hand, the EU is not yet a unified international actor, nor is it a fully-fledged civilian power. At the latest G20 summit, President Obama was standing alone with a population of 350 millions and the world's largest Gross Domestic Product (GDP). President Hu Jintao was China's sole representative with 1.3 billion people and the world's third largest GDP (in PPP) – while the EU, with half a billion inhabitants and a GDP equivalent to the United States' (US) GDP, was represented by no less than 6 Heads of State and Government. In effect, there are simply too many individual European leaders and not enough EU leadership. On the other hand, Europe is still in limbo with regard to its hard power capabilities, which can be broken down into three segments: the EU-3 (the "Big Three"); the NATO rank and file; and the total EU-27 member

¹ Before the organisation of the international workshop on the EU-China PCA, Chinese Ambassador Song Zhe was invited to give a speech at the College of Europe in March 2009.

states working in the framework of the emerging foreign policy and security pillar, which undertakes peace-keeping and peace-enforcing missions in several theatres of operation.

Some circumstances might, however, change the Chinese perspective of the EU – for-better or for worse. First of all, the economic crisis is turning into a major opportunity for cooperation to overcome the first global recession for the last 60 years (1.5% global output in 2009) and the contraction of international trade (-11.9%).² Positive signs can be found in the international reaction to the crisis, starting with the successful G20 meeting in London,³ which secured the basis for a new system of governance, which should replace the Bretton-Woods order that emerged out of the Second World War.

Moreover, one could argue that the rise of China, since 1979, has been made possible by several dysfunctional elements of global economic governance. Several circumstances, such as the collapse of the Bretton-Woods system on August 15th 1971 – with the subsequent decoupling of the dollar and the gold standard and the shift to a floating exchange rate system – or the rapid liberalisation of capital flows in the space of a single decade, created the necessary conditions allowing for international capital to move to China. Coupled with these conditions were the monumental decisions taken by the Communist Party to adopt market capitalism under a new guise – a socialist market economy – epitomised by China's accession to the WTO after 14 years of negotiations, two decades after its conversion to a socialist market economy.

Another contributing factor was, of course, the building-up of massive structural external imbalances between America and Asia, due to the US' over-zealous consumption patterns, which are directly connected to the severe aggravation of income and wealth distribution in the US. The US accumulated excessive levels of public debt that poor American households, whose over-consumption has translated into a structural trade deficit for the US and an exponential trade surplus for China. What we have witnessed since September 15 with the collapse of Lehman Brothers – a “9/15” perhaps which might overshadow 9/11 in history books – is actually the beginning of the unscrambling of a global economic disorder which was neither fair nor sustainable, and eventually proved fundamentally unstable. This instability mainly derived from structural imbalances coupled with the drifting of global market

capitalism that eventually led to a situation of unregulated “hyper-financialisation.”

The abrupt turn taken by world economic globalisation after the Wall Street tsunami, means that since last September, regulatory policy-making has taken over from market-led policy-making – regulation is superseding deregulation. This might come as a relief for those who never put their faith in neo-classical economic theory or, *a fortiori*, in neo-liberal doctrines. The latter are from now on left orphaned by the most right-wing politicians in the West.

Yesterday, they praised the superiority of market solutions to almost any problem, but overnight they converted to neo or hyper-Keynesianism, coupled with a heavy-hand approach from governments in the banking sector and several key industrial sectors. The danger of this U-turn is all too blatant: swinging from global under-regulated markets to national interventions is exposing the global economy to the risk of protectionism and market fragmentation. A system based on global governance and on multilateral rules and cooperation is part of a sounder answer. Yet the structural changes that are required to deal with the abrupt fall in global demand are such that only governments can mobilise the resources required to complete them within a reasonable span of time. America and China are the countries which need to adjust the most: the USA will have to get rid of its propensity to fall into heavy debt, while China – whose export sector has been severely hit by the world recession – needs to progressively change its growth model in three areas: China needs to switch from export-driven to domestic demand-driven growth; it requires more egalitarian growth patterns; and also, more sustainable growth. Fortunately, China's prudent financial policy has spared the Chinese economy from the financial dire straits into which the EU was pulled. This spared China having to simultaneously clean-up banks' “cupboards” whilst also having to reallocate massive resources across sectors and regions.

The Chinese political system is thus being seriously tested in carrying out this Herculean task. If it proves successful, then its output/legitimacy will be strengthened and its international authority will be bolstered, not only in Asia and in the South, but also in the West, and particularly in Europe. This is despite the fact that Europeans, rightly or wrongly, have always put the legitimacy of the process, over the legitimacy of the outcome. With the design of its massive stimulus package, even as early as last autumn, the PRC's authorities clearly realised the need for these new orientations to the Chinese economy including, the gradual establishment of a social safety net, which will pave the way for an increase in household consumption; huge infrastructural programmes (that includes the impressive railroad plan) that will contribute to

² International Monetary Fund, ‘World Economic Outlook 2009,’ Washington, DC: International Monetary Fund, p. 184.

³ The G20 London Summit was held in London on 2 April 2009. More information about the outcomes of the Summit can be retrieved at <http://www.londonsummit.gov.uk/en/>.

strengthening the economic and political unity of China, as well as to the regional rebalancing of China from East to West and South to North – setting the foundations for the expansion of China’s potentially gigantic domestic consumption; important investments, which are contributing to the greening of China (e.g. in water treatment plants).

The challenge is enormous and has been made yet more difficult by the prospect of social unrest entailed by the severe strains imposed upon the workers, by bankruptcies and job losses in the export sector. But the Chinese leadership has proved its ability to cope under extremely difficult circumstances, if only because China’s development – with its very tough geographical and physical constraints – has always been a tremendous challenge. In parallel to the optimism felt for the EU’s future, one is also optimistic that China will be once again up to the job, no matter how difficult it may be. Therefore, it seems clear that this dramatic change of tack with respect to China’s development model, is transforming China’s relationship to the world – and to the EU – in both economic and political terms. China’s relative economic weight will increase further, as a result of the increase in the relative growth rate differentials between China and the West, while the global balance of power will be tilting further eastwards.

Furthermore, China’s success might become a global benchmark while the credibility of the Anglo-Saxon model might have been severely harmed by Wall Street’s meltdown. China will cease being a mainly powerful export house and become more and more an attractive market and a hub for further technology transfer and services, and other forms of advanced FDI. Regional integration in East Asia should deepen, subject to political developments nonetheless. China’s future energy and commodity needs will sharply increase its investments in the Southern Hemisphere, but first and foremost, China will have to deepen and widen its technological capacity, which is key to enjoying a more autonomous development, as well as to better its terms of trade with the rest of the world. China is becoming a fully-fledged economic power and is acting as a responsible player. China is a reliable WTO member and has played an important and very constructive role in the success of the London G20 Summit. It still has to make more of a commitment to the international climate negotiations, but the first seedlings of China’s green economy augur as a positive omen for the future.

I am sure you will enjoy reading this collection of papers. Initiatives of this kind are extremely useful and important for the consolidation of the EU-China relationship, especially after the financial and economic crisis. Indeed, academics have a key responsibility in this relationship: tearing down the Chinese Wall of European ignorance concerning the reality of the actual situation and unearthing China’s potential – therefore

highlighting the quality of the partnership that we have to develop together. All of this needs to occur without forgetting the fact that the EU has also some difficult internal tasks to complete.

INTRODUCTION

EU-China Relations in the 21st Century

Jing MEN & Giuseppe BALDUCCI

Over the last thirty years, EU-China relations have deepened and expanded significantly. This is indicated by the stunning growth of their economic interactions, which have made China into the EU's second most important commercial partner and the latter China's first trading partner as well as its largest source of advanced technology. Paralleling these economic changes, the EU and China have also developed their political relations through annual summits, Troika meetings and sectoral dialogues, which aim at addressing global issues as well as topics relevant to bilateral relations. In recent years, both the EU and China were interested in upgrading their relations from a Comprehensive to a Strategic Partnership. Against this background, the EU and China have at the beginning of 2007 launched negotiations on a Partnership and Cooperation Agreement (PCA), which will replace the Agreement on Trade and Economic Cooperation that dates back to 1985. The PCA is to provide a legal framework in which the two sides could further develop their cooperation.

Notwithstanding these remarkable achievements, the further development of EU-China relations is hampered by some problems. Particularly after 2005, the doubts about the strategic partnership between the two sides, the EU's rising trade deficit with China, and the suspension of the EU-China summit meeting at the end of 2008, reminded both the Europeans and the Chinese of the wisdom and efforts needed from both sides to further promote bilateral cooperation. The negotiations of the PCA are proceeding rather slowly due to the lack of breakthrough between the two sides on issues such as human rights, the Taiwan issue, market economy status and the lifting of the arms embargo.

Differences between the EU and China

The EU and China have different political systems based on different ideological origins. Such differences are compounded by the fact that the EU and China are at different stages of economic development. The EU

focuses on political freedom and attaches great importance to the political and civil rights of its citizens. In contrast, China concentrates on solving economic problems so that all the Chinese can have sufficient nutrition and basic material needs. China was lagging far behind the industrialised countries when the PRC was founded in 1949. The economic reform carried out since the end of the 1970s has brought dynamism to the Chinese economy. Some Chinese benefited from government policy and became rich. Nevertheless, the uneven development in China has led to a huge gap between the big cities such as Beijing, Shanghai and most of the vast land of the Chinese interior. As a result, China feels the need to emphasize more on the economic rights of its citizens. This fails to correspond to the EU's expectations. The EU expects to exert influence on China and to turn it into a liberal democratic regime, based on the rule of law. Since the 1990s, the EU has been keeping a close eye on the development of political rights of Chinese citizens. In order to promote an open society, the EU has financed many programs and projects in China including training programs for Chinese lawyers.

Both the EU and China agreed to establish a strategic partnership in 2004. However, the description of the relationship is so ambiguous that it is not clear whether they have already a strategic partnership or they are in the process of building one. The fact that the arms embargo is still maintained after twenty years of further development of bilateral relations indicates that EU-China relations are not as well developed as the phrases used by the leaders, on both sides, sometimes suggest. The first round of strategic dialogue was held between the EU and China in 2005, one year after the two sides agreed to establish a strategic partnership. David Scott has expressed the view that strategic dialogue and strategic partnership are somehow incoherent to each other. Strategic dialogue is used to overcome strategic divergences and differences, whereas strategic partnership indicates strategic convergence. The regularly held strategic dialogue between the EU and China seems to indicate that consensus and agreement still need to be established.¹ As a matter of fact, many problems exist between the EU and China that it may be premature to define the partnership as "strategic."²

¹ See David Scott, 'The EU-China "Strategic Dialogue": Pathways in the International System,' in David Kerr & Fei Liu (eds.), *The International Politics of EU-China Relations*, Oxford, Oxford University Press, 2007, pp. 13-37.

² See Liselotte Odgaard & Sven Biscop, 'The EU and China: Partners in Effective Multilateralism?,' in D. Kerr & F. Liu (eds.), *The International Politics of EU-China Relations*, pp. 54-77; Jean-Pierre Cabestan, 'The Role of France in Sino-European Relations: Central or Marginal?,' in D. Kerr & F. Liu (eds.), *The International Politics of EU-China Relations*, pp. 129-150; and Alison Bailes & Anna Wetter, 'EU-China

Furthermore, together with the impressive growth of two-way trade between the EU and China, the EU's trade deficit has also been rising rapidly. While China's exports to the EU grew from US\$19.83 bn in 1996 to US\$245.19 bn in 2007, China's imports from the EU only increased from US\$19.89 bn in 1996 to US\$110.96 bn in 2007. The EU faces much more pressure from the rising deficit in its trade with China. In its most recent China policy paper, the EU regards China as "the single most important challenge for EU trade policy."³ In 2008, the EU's deficit rose to 169 bn euros.⁴

EU-China relations encountered another challenge when China decided to postpone the 2008 summit meeting, due to French President Sarkozy's scheduled meeting with the Dalai Lama in Poland. Disappointment with China's decision was obvious in the EU. According to John Fox, who works for the European Council on Foreign Relations in London, "China doesn't place much value in Europe any more."⁵ Many Europeans believe that the Chinese "are really taking a stand, but what this is going to do is provoke European leaders to discuss China in a more critical way."⁶ Whereas in China, one day after the Chinese got to know that the EU-China summit meeting was postponed, the *Huaqiu shibao* (*Global Times*) produced a survey online among about 9,000 netizens, 91.77% of them expressed the view that the reception of the Dalai Lama by the Europeans will change their impression on the EU negatively. 96% of the netizens who participated in the survey supported the decision of the Chinese government to postpone the summit meeting.⁷

China, in its relations with the EU, has always called for equal partnership and mutual respect. In the view of the Chinese, cooperation with the EU should be mutually beneficial. Economically, as China has

Security Relations: The "Softer" Side,' in D. Kerr & F. Liu (eds.), *The International Politics of EU-China Relations*, pp. 153-183.

³ Commission of the European Communities, 'A Policy Paper on EU-China Trade and Investment: Competition and Partnership Brussels,' COM(2006) 632 final, Brussels, 24 October 2006, retrieved on 23 January 2009, http://trade.ec.europa.eu/doclib/docs/2006/october/tradoc_130791.pdf, p. 3.

⁴ Press Release of the EU, 'EU-China Trade in Facts and Figures,' 4 September 2009, retrieved on 23 September 2009, <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/09/375&format=HTML&aged=0&language=EN>.

⁵ C. Buckley, 'Dumped Summit Exposes China-Europe disenchantment,' *Reuters*, 1 December 2008, retrieved on 15 January 2009, http://ecfr.eu/content/entry/ecfr_john_fox_china_eu_summit_cancellation_reuters.

⁶ 'France heads into Chinese storm over Tibet,' *AFP*, 5 December 2008, retrieved on 15 January 2009, http://ecfr.eu/content/entry/ecfr_john_fox_france_china_tibet_afp/.

⁷ 'Ouzhou naonu Sarkozy jian Dalai dianran Zhongguoren nuhuo' (Sarkozy's meeting with Dalai fuelled China's ire), *Huaqiu shibao* (*Global Times*), 5 December 2008, retrieved on 15 January 2009, <http://world.huanqiu.com/roll/2008-12/303457.html>.

become the third largest economy in the world, a close cooperation between the EU and China is necessary to help find solutions to the international financial crisis. Politically, two of the member states of the EU are permanent members of the UN Security Council. The EU and China need to work together to maintain world peace and stability. The visit of Chinese Premier Wen to Europe in early 2009, after the cancellation of EU-China summit hosted by the French Presidency of the EU in December 2008, was described by the Chinese government as “a trip of confidence.” With this trip, China intended to remind the EU that the two remain important partners in spite of so many differences.⁸

Between the EU and China, apart from the above mentioned gaps in expectations, there are other issues for which consensus also needs to be reached. For example, European access to the Chinese market, the treatment of market economy status required by the Chinese, the huge European goods trade deficit with the Chinese, the piracy and intellectual property offences to European products in China, and etc. Currently, a major negotiation topic between the two sides is how to cope with global warming and how much responsibility each should take in reducing greenhouse gas emissions. Facing pressure from the EU and the US, Chinese Premier Wen said at the High-level Conference on Climate Change Technology Development and Technology Transfer in Beijing that “developed countries (should) shoulder the duty and responsibility to tackle climate change and should alter their unsustainable lifestyle.”⁹ The emissions per person in China are less than one-third of the average level of the developed countries.¹⁰ As a developing country, China’s top priority is economic growth. This position is not well received in the international community. Many Europeans attributed the failure of Copenhagen Conference in December 2009 to China’s insistence on its priority of development and its uncompromised attitude – that China should be treated as a developing country.

Whether China is a developing country or not is an issue in dispute. There is no doubt that China is rising rapidly since its reform policy was adopted at the end of the 1970s. China is now the third largest economy in the world, the largest trading partner of many countries in the world

including Japan, India, Brazil, Australia, and South Korea. It is the second largest trading partner of both the European Union and the United States. In the meantime, China has the largest foreign currency reserve and acts as the largest owner of American government debt. However, if China’s GDP is analysed at the per capita level, it is ranked after 100 among all the countries in the world. China’s GDP per capita in 2006 was around US\$2,100, whereas the GDP per capita of the fifteen members of the European Monetary Union had already reached more than US\$34,000 in the same year.¹¹ China has developed unevenly in its regions. The coastal areas in the east and southeast of China have benefited most from the reform policy whereas China’s vast inland is lagging much behind. Among the Chinese, the increasing income gap is worrisome. A report by the Chinese Academy of Social Sciences demonstrates that the disparity between the haves and have-nots has widened dramatically over the past 20 years. “The richest 10 percent of Chinese families now own more than 40 percent of all private assets, while the poorest 10 percent share less than two percent of the total wealth.”¹² The sharp contrast of these data indicates China’s uniqueness. “It has one foot in the developing world and another in the developed one.”¹³

Mutual Expectations and Challenges

Both the EU and China would like to maintain stability and peace in the world. They expect that via joint efforts, development is sustained and conflicts are avoided. As a rising power, the EU promotes multilateralism in international relations. Such a policy conforms to the EU’s interest. European integration is based on a group of well recognised rules and norms as well as effective multilateralism. The significant achievement of enlargement from the original six members to the current twenty-seven members is a result of rule-building and institutionalised multilateral cooperation between the members. In a world in search of multipolarity, the rule-based multilateral approach can allow the EU to give full play to its successful experience accumulated in the process of European integration and in the meantime, to enhance the EU’s influence in international affairs. In the EU’s design of world governance, multilateralism is

⁸ D. Wei, ‘Waijiaobu cheng Wen Jiabao Zongli fangwen Ouzhou siguo shi yici “xinxinzhili”’ (Foreign Ministry says that Premier Wen’s visit to Europe is ‘a trip of confidence’), *People’s Daily*, 23 January 2009, retrieved on 30 January 2009, <http://politics.people.com.cn/GB/1024/8715320.html>.

⁹ ‘Climate Technology Meeting Highlights Developed-Developing Country Divide,’ 14 November 2008, retrieved on 15 June 2009, <http://ictsd.net/it/news/biores/33669>.

¹⁰ ‘Premier Wen Jiabao Addressed at the Third East Asia Summit,’ *China Daily*, 22 November 2007, retrieved on 15 June 2009, <http://www.ccchina.gov.cn/en/NewsInfo.asp?NewsId=9886>.

¹¹ ‘Global income per capita,’ retrieved on 20 October 2008, <http://www.finfacts.com/biz10/globalworldincomepercapita.htm>.

¹² ‘China Suffers Widening Income Gap,’ *China Daily*, 17 January 2007, retrieved on 18 June 2009, http://www.chinadaily.com.cn/china/2007-01/07/content_776436.htm.

¹³ Domingos Jardo Muekalia, ‘Africa and China’s Strategic Partnerships,’ *African Security Review*, Vol. 13, No. 1, 2004, p. 5.

an indispensable element.¹⁴ However, effective multilateralism will not be realised without support from China. The multipolarity promoted by China is not the same as the multilateralism advocated by the Europeans. As China attaches great importance to the traditional concept of sovereignty, it is difficult for the two to achieve consensus on the strategic vision for international economics and politics.

As a normative/civilian/soft power, the EU intends to help China transform into a country based on the rule of law, with respect to human rights and democracy. The EU is eager to integrate China into the international community so that not only cooperation between the two sides will be improved but also the EU's role in the world will be strengthened. In order to realise this goal, the EU invested for its first China National Indicative Programme (2002-2006) €250 mn and committed in the current one (2007-2010) for €225 mn. However, China's progress in this aspect seems to be unsatisfactory. By far, although China has signed both of the UN Covenants on Economic, Social and Cultural Rights and on Political and Civil Rights, the Chinese National People's Congress has not ratified the second covenant twelve years after its signature. Due to lack of progress, the Europeans have become increasingly frustrated in the human rights dialogue with their Chinese counterparts.

China also has expectations from the EU. China-US relations used to be the top priority in China's external relations. After the EU and China came closer in their cooperation, the Chinese government attempted to juxtapose China-EU relations with China-US relations, hoping that the EU could help balance against the US hegemonic power. Both as rising powers, the EU and China seemed to be perfect partners in China's strategic design of the future world order. However, to China's disappointment, the US remains the EU's closest partner. The newly developed China-EU relations could in no way replace the importance of the US to the EU.¹⁵ The discussion of lifting the arms embargo in 2005 demonstrated to the Chinese that in China-EU relations, it is impossible to get rid of the shadow of the US. To cultivate relations with the EU will not help balance against the US.

¹⁴ See European Security Strategy: 'A Secure Europe in a Better World,' 12 December 2003, retrieved on 15 June 2009, <http://www.consilium.europa.eu/uedocs/cmsUpload/78367.pdf>.

¹⁵ See Jing Men, 'The EU-China Strategic Partnership: Achievements and Challenges,' *European Policy Paper Series*, No. 12 (November 2007), European Studies Centre (University of Pittsburgh), http://ucis.pitt.edu/euce/pub/policypapers/2007-EU-China_Partnership.pdf.

The differences between the EU member states in the making of the European Common Foreign and Security Policy is another problem that failed to live up to Beijing's expectations. Before 2005, the Chinese leadership believed that the EU institutions had considerable influence among its member states. If the green light had been given to the lifting of the arms embargo at the European level, the member states would not have presented much problem.¹⁶ With hindsight, such understanding obviously misjudged the decision-making mechanism of the CFSP. The discussion of the lifting of the arms embargo in the EU exposed the divergences among the member states and the limited role of the European institutions in promoting a common CFSP position, which obliged the Chinese to adjust its EU policy and to invest more energy in the individual capitals of the member states instead of simply relying on Brussels.

Needless to say, it is in the interest of both the EU and China that bilateral relations are developing stably and smoothly. In the meantime, it is more than natural that differences exist between the two since they have different political and social systems, economic levels, and cultural background. The idea of reaching a PCA between the EU and China is aimed at coordinating each other's goals and means so as to strengthen cooperation and partnership. However, as mentioned earlier, the negotiations are progressing slowly. Since the beginning of 2007, three years have passed, but there is no timetable yet for when the negotiations will be concluded.

Against such background, we organised an international workshop in April 2008 at the College of Europe in Bruges to examine the EU-China PCA from different perspectives. The PCA has the objective of providing a more appropriate and updated framework to "encompass the full scope of their bilateral relationship," which have significantly expanded and deepened in the last thirty years.¹⁷ The participants discussed together the prospects of the PCA, the influence that the PCA that will bring to EU-China relations, the divergence and convergence between the EU and China in their negotiations of the PCA, and the major concerns and core interests of both sides. Based on the successful organisation of the workshop, we selected 9 papers and edited them into this book so that our readers can share with us the research results of experts and scholars in the field of EU-China relations.

¹⁶ Author's interview with Chinese diplomats, July 2006.

¹⁷ Joint Statement of the 10th China-EU Summit, Beijing, 28 November 2007, retrieved on 15 July 2009, http://www.eu2007.pt/UE/vEN/Noticias_Documentos/20071202_CHINA.htm.References.

Chapter Outlines

In each chapter, the authors present the state of the art of EU-China relations in a specific field. At the same time, they critically address the main challenges, which confront the EU and China at present. Drawing from these analyses, the authors then elaborate on the prospects for EU-China relations and offer recommendations and policy suggestions. Therefore, this book presents a combination of academic research and policy proposals, which are valuable for university teachers and students in the fields of European and Chinese Studies, Political Science and International Relations as well as EU officials, policy practitioners and the wider public interested in EU-China relations.

In Chapter 1, Andrew Cottey and Joern-Carsten Gottwald examine the EU-China Partnership and Cooperation Agreement (PCA) in the context of the new global economic and political order created by the rise of Asia and the non-Western world, the (relative) decline of the West and the 2008 financial crisis. After briefly accounting for the evolution of EU-China relations and describing the major changes in the international order, the authors sketch five alternative future scenarios for EU-China relations: (i) status quo; (ii) Chinese assertion, European acquiescence; (iii) European assertion, Chinese acquiescence; (iv) confrontation; and (v) true partnership. Cottey and Gottwald also identify the policy choices facing the EU and China as they proceed in negotiation of the PCA. The authors conclude that the PCA may help address some bilateral issues and further institutionalise EU-China relations, but point out in the meantime that the PCA will not dramatically change EU-China relations, which in the foreseeable future are likely to maintain the present “status quo,” characterised by “extensive economic relations, a highly institutionalised diplomatic-political relationship and ongoing efforts to develop substantive cooperation in a range of areas.” For the time being, the EU-China partnership will remain “constrained by divergent political systems and limited convergence on many important bilateral and global issues.”

In Chapter 2, Kim Van Der Borgh and Lei Zhang analyse the institutionalisation of EU-China relations in the last thirty years and examine the shortcomings of the present legal framework. Van Der Borgh and Zhang point out that while EU-China relations grow out of the 1985 Trade and Economic Cooperation Agreement, the several legal instruments that have been set up to regulate the expansion of relations are presently too incoherent to provide an effective basis to build future relations. Therefore, the authors appreciate the importance of the ongoing negotiations for a comprehensive PCA and they provide interesting scenarios and suggestions as their conclusion. In particular, Van Der Borgh and Zhang suggest that for sensitive issues, “the two parties need mutual

trust and substantial communication to resolve conflicts. It is not wise to regulate these issues by hard legal clauses.” As for the less sensitive issues, the authors suggest that the two parties, on the basis of mutual respect and equal consultation, “may look for an effective and efficient means to settle down these matters in the form of clauses.”

In Chapter 3, Frauke Austermann analyses the significant issue of Corporate Social Responsibility (CSR) and how the European model of CSR can help improve labour standards in China, and thereby contribute to a sustainable development of the country’s economy. Austermann presents the three main characteristics of European CSR, namely its inherently stakeholder-focused model, its integrated strategies and its voluntary character. After briefly presenting the Chinese business context, she then elaborates on the two possible ways of transplanting European CSR to China: learning from European business practice in China and learning from European governments. In both cases, Austermann demonstrates that European CSR has the potential to contribute to improve labour standards in China, notwithstanding China’s different stage of economic development and its political system. Austermann suggests that in the ongoing PCA negotiations, the EU should use CSR as a strategic tool in order to “support China’s transition to an open society based on the [...] respect for human rights,” which is one of the EU’s main declared aims towards China.

In Chapter 4, Antoine Sautenet assesses the content and implementation of the PCA for EU-China trade. More specifically, Sautenet provides an insightful and technical discussion of two major issues under consideration in the PCA, (i.e. intellectual property rights and investments). The author contextualises the ongoing negotiations for the PCA within the Chinese economic environment and the evolving European approach towards China, which also involves political and economic dimensions. In this way, Sautenet highlights the major points of friction between the EU and China, the European *desiderata* in IPR protection and investments and the Chinese internal legal situation with regard to these two issues. Sautenet points out the inherent risks and opportunities for the conclusion of the PCA and suggests that the EU negotiators should try to find a balance between their political and economic ambitions in order to avoid a fragile agreement at the commercial level.

In Chapter 5, Nayia Pyridi deals with the issue of investments in EU-China relations and she reflects upon how the PCA could grant a mandate for the EU to negotiate a European bilateral investment treaty. Pyridi approaches the issue by discussing in detail the evolving legal competences of the EU in investment matters. In particular, she highlights the power that the EU will gain with the coming into force of the Lisbon Treaty. At present, 25 out of 27 EU member states have signed

bilateral investment treaties with China. As the latter grants different commitments to different member states, it creates a patchy and confusing situation. A European bilateral investment treaty with China could thus provide a clearer framework for European investors in China. In order to obtain such a goal, Pyridi explores from a legal viewpoint how the combination of the Lisbon Treaty and the possible conclusion of the PCA could provide a clear mandate to the EU to draft a European bilateral investment treaty with China. The author concludes by providing useful recommendations to European negotiators on how to include in the agenda of the ongoing negotiations for the PCA, the possibility to establish an investment mandate for an EU bilateral investment treaty with China.

In Chapter 6, Jappe Eckhardt deals with the evolution of EU-China trade relations and analyses a specific and significant sector, (i.e. the clothing and textile industry). Eckhardt distinguishes three major historical periods, namely 1978-1994, 1995-2005, 2005 to date, and for each period he provides an analysis of the European trade preferences and policy towards China. The author points out that in the clothing and textile sector until the mid-1990s, protectionist forces ruled the scene in Europe and they had enough political clout to impose very tough measures towards China's exports. However, in the ensuing two periods, the restructuring of the clothing and textile sector in Europe, the relocation of some European companies in China, and the increasing market concentration of retailers slowly allowed anti-protectionist forces in Europe to gain the upper hand. This determined a more balanced EU policy towards China on trade in clothing and textile. Eckhardt's findings from the case of textile and clothing can be generalised to other trade sectors in EU-China relations. However, as Eckhardt also maintains, this does not mean that European protectionism has disappeared. Although the quota system is already history, more subtle measures could still be put in place in the EU and legal battles over EU-China trade will resurface despite the establishment of the PCA.

In Chapter 7, Edward Cameron and Hilary McMahon investigate how the EU-China partnership can forge a new space for climate change policy. The authors study the environmental problems facing the EU and China at present, the differences and similarities between the EU and China in their environmental policies and the possibility to forge an effective partnership to fight climate change worldwide. Cameron and McMahon point out that the EU and China have recognised the effects and damages of climate change and both are aware of the need to construct a global framework on mitigation, adaptation, technology and finance to fight climate change. Considering the economic and political clout of both the EU and China in international affairs, Cameron and

McMahon maintain that the two partners have the potential to steer the global community from principle to practice. In order to translate rhetoric into practice Cameron and McMahon propose that the EU and China develop a common understanding of each other's needs and capacities, a common vision for new commitments, promote equity and enhance financing, build better governance both at international and internal level, and expand their practical collaboration.

In Chapter 8, Katrin Kinzelbach discusses the issue of human rights in EU-China relations and its relevance for the PCA. In order to do so, Kinzelbach offers analyses of one of the key instruments applied by the EU to promote human rights in China: the EU-China Dialogue on Human Rights. Few authors have attempted to do so, due to the high level of confidentiality that governs the Dialogue and the lack of transparency that characterises it. Kinzelbach provides a wealth of information and data on the Dialogue process, which are the fruit of extensive interviews among European and Chinese officials and of her active participation in several EU-China academic dialogues. Kinzelbach attempts to investigate whether the Dialogue represents "a normative partnership or antagonism in disguise." In the author's opinion, a normative partnership has to respond to three main criteria: equality of partners, good faith, and agreement on modality and goals. However, through the analysis of the Dialogue process, Kinzelbach points out that the Dialogue does not meet any of these three criteria yet. As a conclusion, the author puts forward some important suggestions for the ongoing negotiations on the PCA to substantially redesign the EU's approach to human rights in China and establish a genuine partnership on human rights.

In Chapter 9, Carmen Amado Mendes questions whether the PCA will represent a concrete and substantive step forward in EU-China relations, or will it instead represent just a more advanced institutional framework to regulate the ongoing relations. This question stems from the analysis of the Sino-Portuguese Comprehensive Partnership Agreement, which, according to the author, has been unable to provide any substance to Portugal-China relations. In order to answer this question, Amado Mendes provides an insightful review of EU-China relations and investigates three major contentious issues, namely, human rights, the arms embargo and the WTO. The author proves that although these issues show ideological differences and ongoing challenges, "Brussels and Beijing perceive themselves as partners and are willing to improve cooperation." However, to what extent such cooperation can be considered "strategic" remains doubtful for Amado Mendes. While the PCA could soon be reality, its strategic dimension may take some time to materialise.

CHAPTER 9

The Significance of the PCA in Sino-European Relations

A Step Forward or a Stumbling Block?

Carmen AMADO MENDES

Sino-European relations, shaken by the events of Tiananmen Square (1989) and the subsequent European imposition of economic sanctions and the arms embargo, have evolved since the mid-1990s in a very constructive way. Since 1998, EU-China annual summits assemble European heads of government and Chinese leaders to discuss bilateral and global issues. Sino-European relations also gained a new meaning in 2003, with the adoption by the European Commission of a policy paper towards China and the subsequent signature of a Strategic Partnership with that country. Since then, the idea of negotiating a new comprehensive framework agreement evolved with the need of finding joint responses to global challenges. During the 9th EU-China Summit in Helsinki, the two sides agreed to open negotiations for a PCA. This agreement is expected to go beyond the commercial area, framed by the 1985 TECA, and cover both political and economic relations. The final joint statement of the 10th EU-China Summit, held in Beijing under the auspices of the Portuguese Presidency in November 2007, announced the formal opening of PCA negotiations.¹

This chapter aims to contribute to the debate as to whether this agreement will merely constitute an institutional framework for the actual state of Sino-European relations or if it will be a step forward, opening doors to solve the main points of contention between both sides. After reviewing the evolution of Sino-European relations, this chapter will focus on the current PCA negotiations, from the EU's perspective. The chapter will take Portugal as a case study among EU member states, where the public opinion's protectionist desires became more noticeable after China's WTO accession. Finally, this chapter will analyse whether the PCA is perceived in the same way by the EU member states and

¹ Commission of the European Communities, Joint Statement, 10th *China-EU Summit*, Beijing, 28 November 2007.

Beijing, thus questioning the true meaning of “strategic partnership” for China.

The Evolution of Sino-European Relations

Until the beginning of the 1970s, countries from Western Europe played a very limited role in China’s foreign policy. Chinese leaders considered those countries as satellites of the US and perceived the European Economic Community (EEC) as an instrument of the North Atlantic Treaty Organisation (NATO). After its rapprochement with Washington and its entrance in the UN in 1971, Beijing made informal contacts with the EEC and official relations were established in 1975.² The relationship eventually evolved and was supported by both mutual trade interests, and the 1985 TECA. However, this period of growing contacts between China and the Community was interrupted by the Tiananmen Square incident in June 1989.

Since the establishment of the Open-Door Policy by Deng Xiaoping in 1978, the perception in Europe was that political issues, such as human rights, should not be an obstacle for trade, as China was moving in “the right direction,” as described in the next section. The Chinese authorities were therefore very surprised by the strong reactions provoked by the Tiananmen Square incident. In fact, Sino-European relations suffered a serious collapse after the events of June 1989: the EEC, along with other world powers, imposed a series of sanctions on China and embargoed the sale of military equipment. The European Council strongly condemned the crackdown by the Chinese authorities and expressed its dismay at the subsequent executions, despite the appeals of the international society. Besides, it formally asked Beijing to respect human rights and to take into account the hopes of freedom and democracy expressed by the population as an important aspect of the Chinese modernisation policy. The President of the European Commission, Jacques Delors, and the Vice-President, Frans Andriessen, refused to receive Minister Zheng Tuobin, expected to co-chair the EEC-China Joint Committee meeting on the day after the massacre; all high-level negotiations were cancelled and the Chinese delegation returned to Beijing.³ The Madrid European

Council of late June confirmed the previous national decisions and adopted a number of measures towards China.⁴

At the same time, the Group of Seven most industrialised countries (G7) unanimously condemned the massacre and confirmed the establishment of economic and political sanctions towards Beijing. This G7 decision had serious consequences for the Chinese leaders: the G7 decided to postpone the analysis of new World Bank loans⁵ and blocked all its credits to China. It was followed by other international institutions such as the Asian Development Bank (ADB) that suspended a US\$500 mn loan in progress. At the political level, the UN adopted, in September 1989, a resolution on the human rights situation in China, which clearly condemned the massacre.⁶

The restrictive measures adopted at the Madrid European Council in June 1989 affected EEC-China relations: high-level contacts between representatives of the Commission and the Chinese government and decisions on new cooperation projects were suspended.⁷ However, in October 1990, the EEC member states agreed to gradually normalise relations with Beijing,⁸ which evolved towards a new economic and political order. On the European side, the creation of the Single Market and the WTO changed the framework of trade and the Community aimed to become one of Asia’s major political and economic partners. On the Chinese side, with the end of the Cold War, Beijing had growing international ambitions. In 1990-91, the PRC returned to the international political arena, using the Gulf War crisis⁹ to settle the diplomatic consequences of the 1989 repression. In order to achieve normalisation with the West, China’s officials used their position as permanent member of the Security Council to support or abstain during crucial resolutions.¹⁰

² Carmen A. Mendes, ‘Relações Económicas Europa – China,’ in A. M. Amaro and C. Justino (eds.), *Estudos Sobre a China*, II, Lisbon, Instituto Superior de Ciências Sociais e Políticas (ISCSIP), 2000, pp. 439-440.

³ Mendes, ‘Relações Económicas Europa – China,’ *op. cit.*, pp. 442-443.

⁴ Commission of the European Communities, *Bulletin of the European Union*, point 1.1.24., Brussels, June 1989, p. 17 and *General Report on the Activities of the European Union*, No. 23, Brussels July 1989, p. 372.

⁵ Commission of the European Communities, *General Report on the Activities of the European Union*, *op. cit.*

⁶ François Joyaux, *La Tentation Impériale*, Imprimerie Nationale, Paris, 1994, pp. 79-82.

⁷ The programmes of scientific and technical cooperation agreed before 4 June 1989 were, however, maintained.

⁸ Commission of the European Communities, *General Report on the Activities of the European Union*, No. 24, Brussels 1990, p. 333.

⁹ The United Nations condemned Iraq for the invasion of Kuwait in August 1990 and authorised the employment of all necessary means to free this state.

¹⁰ Pierre Gentelle, ‘Chine. La Cage et l’Oiseau,’ *L’État du Monde*, 1992, pp. 77-78 and ‘Un Ordre International Insaisissable,’ *RAMSES*, 1992, p. 144.

Thus, although Sino-European relations cooled down, the consequences of the Tiananmen Square events were quickly forgotten, allowing for the resumption of the dialogue. China was becoming increasingly attractive for European businessmen and governments decided to adopt economic pragmatism, as Beijing benefited from a positive economic conjuncture. From 1994 onwards, trade, investments and bilateral cooperation were re-established and a new mechanism for political dialogue was created.¹¹ After having strongly condemned China, all Western countries followed the same line: the US and Europe, quickly forgot about the political quarantine, resumed negotiations, as trade remained the priority.

The idea that the Chinese political authoritarian regime would not change with sanctions but with the gradual evolution of society and its deeper integration into Western culture spread very conveniently among European decision-makers. Political and economic contacts would encourage the Chinese leaders to pursue the reforms (of the Open-Door Policy) and to respect human rights. Europe argued that China's accession to the WTO would encourage its reforms and would integrate it further into the multilateral trade system, pushing for the respect of international rules. In bilateral terms, it would abolish tariffs, opening the Chinese market to European business interests. By 1995, the Council of the European Union defined the EU's strategy towards the PRC, arguing that the relationship between both sides should reflect the Chinese weight and influence at the regional and international levels. The EU adopted, for the first time, a global approach to China, defined from a long-term perspective, covering different dimensions. This long-term strategy, based on several specific cooperation programs, aimed not only to encourage the development of Sino-European trade, but also to promote the emergence of civil society in the PRC, to eradicate poverty and protect the environment. According to the EU, these steps would contribute to implement trade liberalisation and democracy in China and to integrate it in the global system.¹²

By 2001, China considered the EU as a "strategic partner." China's entry into the WTO, after fifteen years of hard negotiations,¹³ and the US involvement in the "War on Terror" after the events of 11 September 2001, may have contributed to changing the Chinese perception of Europe's significance. The US' unilateral invasion of Iraq in 2003 further contributed to this and also challenged the transatlantic relationship,

¹¹ See Commission of the European Communities, *A Long Term Policy for China-Europe Relations*, COM(1995) 279, Brussels, 5 July 1995.

¹² *Ibid.*

¹³ See 'China Abre La Muralla,' *El Exportador*, January, 2001, p. 7.

prompting new effects on EU-China relations. Soon after the release of a European Commission policy paper in September 2003 updating its China policy,¹⁴ in October 2003, the PRC made public for the first time, its strategy. The *Policy Paper on the Relationship with the EU*¹⁵ outlined an optimistic scenario for the economic exchanges between the two sides and the absence of conflicts.¹⁶ These unilateral moves, inaugurated a "honeymoon" period in China-Europe relations,¹⁷ culminating with the announcement of a "comprehensive strategic partnership."

The role of the US in the Sino-European relationship, known as the "silent actor," frames the bilateral dynamics into a triangular architecture. As aforementioned, both China and Europe seem to accommodate the American strategy into their bilateral reactions. The Chinese pragmatic vision of balancing its relationships with the US and the EU is noticeable in a report produced by the Chinese Academy of Social Sciences: *China's Modernisation 2008*, introducing the "Peace Dove Strategy."¹⁸ This new concept represents the priorities of China's foreign policy in the body of a dove: the UN emerges as the top priority, at the head of the bird; Asia appears in the chest; Latin America, Africa and Oceania in the tail; Europe as a wing and the US as the other.¹⁹ By stressing the importance of representing the US and the EU as each of the bird's wings, the study highlights China's interest in finding a balance in its relationship with these blocs. Although Washington is far more important to Beijing than Europe, the EU is perceived as a precious alternative during bilateral negotiations with the US, increasing Chinese bargaining power.

¹⁴ Commission of the European Communities, *A Maturing Partnership – Shared Interests and Challenges in EU-China Relations*, COM(2003) 533 final, Brussels, 10 September 2003 (updating the European Commission's Communications on EU-China relations of 1998 and 2001).

¹⁵ Susanne Weigelin-Schwiedrzik and Nele Noesselt, 'Striving for Symmetry in Partnership: An Analysis of Sino-EU Relations Based on the Two Recently Published Policy Papers,' in S. Weigelin-Schwiedrzik et al., *As China Meets the World: China's Changing Position in the International Community*, Vienna, Austrian Academy of Sciences, 2006.

¹⁶ People's Republic of China, *China's EU Policy Paper*, Beijing, October 2003, pp. 7-8.

¹⁷ See David Shambaugh et al., 'From Honeymoon to Marriage: Prospects for the China-Europe Relationship,' as cited in D. Shambaugh et al., *China-Europe Relations: Perceptions, Policies and Prospects*, New York, Routledge, 2008, p. 314.

¹⁸ Chinese Academy of Social Sciences (CASS), 'China's Modernisation 2008,' Beijing, January 2008 and Xinhua News Agency, 'Chinese Think-Tank Initiates "Peace Dove Strategy,"' 29 January 2008, retrieved on 20 February 2009, http://news.net.com/english/2008-01/29/content_7515266.htm.

¹⁹ Carmen A. Mendes and Maria R. Freire, 'A Organização de Cooperação de Xangai como Instrumento Geopolítico Sino-Russo na Ásia Central,' *Geopolítica*, No. 2, Aveiro, June 2008, p. 211. See Xinhua News Agency, *loc. cit.*

The Partnership and Cooperation Agreement

From 1998 onwards, the EU-China political dialogue has been framed by annual summits, which assemble European Heads of State and Government and the Chinese leadership. One of the most important topics on the agenda has been, since its announcement at the 9th Summit in September 2006, the PCA, aiming at covering both political and economic bilateral relations. The 10th EU-China Annual Summit meeting, which took place in Beijing in January 2007 under the auspices of the EU's Portuguese Presidency, officially launched the beginning of the PCA negotiations.²⁰ Both sides were very optimistic at the time: the 17th Congress of the Chinese Communist Party, held in Beijing in the previous month, had been particularly successful, and the EU had just signed the Lisbon Treaty, after lengthy negotiations.²¹ Thus, the Summit enjoyed a particularly favourable context, being conducted within a very cordial and "politically correct" tone, giving little relevance to the most sensitive issues in Sino-European relations, thus delaying any step forward to sort out the main points of contention between both sides.²²

Instead, the meeting summarised the ten previous years of bilateral relations and emphasised common interests. The European leaders said they were willing to find solutions through cooperation, not protectionism.²³ In commercial terms, China is the EU's second largest trade partner (after the US) and the EU is China's largest trade partner.²⁴ Therefore, along with the political meeting, the 4th China-EU Business Summit was held in Beijing, encouraging dialogue between companies on both sides, focusing on the role of the financial sector and of Small and Medium Enterprises (SMEs) in sustainable development and resolution

²⁰ The summit assembled José Sócrates, President of the Council of the European Union, José Manuel Barroso, President of the European Commission, and Peter Mandelson, Former Commissioner for Trade. China was represented by its President, Hu Jintao, its Prime Minister, Wen Jiabao, and the Minister of Commerce, Bo Xilai.

²¹ 'EU Ambassador to China: Summit to Enhance Cooperation,' *People's Daily Online*, 13 November 2007.

²² Xulio Rios, 'El Desencuentro entre la UE y China: que Acerca y que Separa a Bruselas y Beijing,' 12 December 2007, retrieved on 20 February 2009, <http://spanish.safe-democracy.org/>.

²³ 'EU Ambassador to China: Summit to Enhance Cooperation,' *People's Daily Online*, 13 November 2007. See The Federal Government, *Europe – Succeeding Together*, German EU Presidency Program, 2007, pp. 22-23.

²⁴ Nicola Casarini, 'The Evolution of the EU-China Relationship: from Constructive Engagement to Strategic Partnership,' *Occasional Paper*, Institute for Security Studies, No. 64, October 2006, p. 7.

of environmental issues through usage of innovative technologies.²⁵ In the closing session, the EU announced a €500 mn loan from the European Investment Bank (EIB) to Chinese banks in the area of energy efficiency and environmental protection. In the education sector, €10 mn were invested in a programme to train managers in the *China-Europe International Business School* in Shanghai²⁶ and the creation of a *China-EU Law School* was announced. In fact, as part of the commercial and political pillars, cooperation represents an important dimension of Sino-European relations, as the EU is the most important Chinese partner in science and technology (S&T). For example, the agreements of the 6th EU-China Summit in 2003 enabled Beijing to participate in the Galileo Global Navigation Satellite System.

The political dimension of the 10th EU-China Summit focused on shared responsibility, leadership and joint response to international challenges, such as peace-keeping operations, security, stability and multilateral involvement. The EU asked for a more active role for the PRC in the establishment of the international agenda, reminding it of its interests and responsibilities. There was a clear strategy for pressing for cooperation and integration from China in the international system, requiring an active involvement in several areas. One of those areas concerned weapons proliferation, namely in the cases of North Korea, in which China has a crucial role in the six party talks, and Iran.²⁷ A second area was sustainable development and security in Africa, where Beijing has become a major player, given the dimension of its investment and interest in natural resources. A third area regarded energy issues, environment and climate change, where the EU identified common interests (security and sustainability of energy resources) and common responsibilities (environmental protection and alternative energy resources). Furthermore, the EU requested China's involvement in contentious regions, such as the Middle East and Burma/Myanmar, and with other global concerns, such as terrorism, organised crime and migration control.²⁸

²⁵ Carmen A. Mendes *et al.*, 'Председательство Португалии в Европейском союзе: шаг вперед или отражение тупика?,' *Espana*, Vol. 8, No. 1 (26), 2008, pp. 27-28.

²⁶ 'UE e China Encerram Cimeira com Promessas de Amizade,' *Diário Digital/Lusa*, 11 January 2008.

²⁷ See Council of the European Union, *18 Month Program of the German, Portuguese, and Slovenian Presidencies*, 17079/06, POLGEN 125, Brussels, 21 December 2006, p. 65.

²⁸ Portuguese Presidency of the EU, *Diálogo Estratégico UE-China Reúne em Lisboa*, Lisbon, 25 October 2007, retrieved on 20 February 2009, http://www.eu2007.pt/UE/vPT/Noticias_Documentos/20071026senec.htm.

As many analysts have noted, the Portuguese Presidency of the EU was rich in events but poor in results: some steps forward were taken in areas of increasing convergence, but the most controversial issues remained unsolved.²⁹ The annual Summit was a clear example of this, doing little to improve bilateral divergences. For the EU, these divergences mainly concerned issues such as the trade deficit, intellectual property rights (IPRs) and the devaluation of the RMB, in economic terms – and, from a political point of view, the issues covered human rights, relations with Taiwan and the international responsibility of the PRC, namely in Africa.³⁰ For the Chinese leaders, the EU should not force China to respect strict environmental regulations before it has reached a certain level of development, the EU should extend market economy status to China, and it should lift the embargo on arms sales.

The PCA, which is currently being negotiated, will probably summarise the ideas that were discussed in the previous summit instead of bringing new perspectives to those sensitive issues. From this viewpoint, it is difficult to understand why these two actors consider themselves “strategic partners.” The Chinese approach to the “strategic partnership” is that cooperation should be long-term and stable, bearing on the larger picture of China-EU relations. It transcends the differences in ideology and social systems and is not subjected to the impacts of individual events that occur from time to time. By “partnership,” it means that the cooperation should be equal-footed, mutually beneficial and win-win for all involved. The two sides should base this relationship on mutual respect and mutual trust, endeavour to expand converging interests and seek common ground on the major issues while shelving differences on the minor ones.³¹ Does Europe share this approach? The EU considers that “partnerships with key actors” are the best way to pursue its objectives, especially in Asia. With China, the partnership would ideally allow better access to its market than what is enforced by WTO regulations and should include a clause on human rights. By “strategic,” the EU does not mean “military” partnership, keeping a

cautious approach regarding the arms embargo.³² In fact, rather than having a substantive meaning, the EU-China “strategic partnership” in fact reveals the absence of a “strategic competition” between the two.

We may take Portugal as case study among the five EU member states considered by China as strategic partners. The signature of a comprehensive strategic partnership with the PRC, during the visit of the Chinese Prime Minister to Lisbon in December 2005, did not translate into any significant steps. It was the consequence of the good relationship maintained by the two countries, in part because of the history related to Macao and the positive tone of the Sino-Portuguese negotiations on the handover. It also revealed Chinese interests in using Lisbon and Macao as a platform for cooperation with previous Portuguese colonies, namely in Africa, where Beijing has growing energy interests. The *Forum for Economic and Trade Cooperation between China and Portuguese-speaking Countries*, known as the “Macao Forum” – because its Permanent Secretariat is based in Macao – was created in 2003, as a mechanism:

to reinforce the cooperation and the economic exchange between the People’s Republic of China and the Countries of Portuguese Language; to give dynamism to Macao as a platform of connection to these countries; and to promote the development of the links between the People’s Republic of China, Macao and the Countries of Portuguese Language.³³

But the official discourse reveals a very different perception. In February 2009, during the 30th anniversary of the establishment of diplomatic ties between the two countries, the congratulatory messages of Chinese President Hu Jintao and his Portuguese counterpart Aníbal Cavaco Silva mentioned the strategic partnership as an important chapter in bilateral relations. Cavaco Silva said that “the building of the China-Portugal comprehensive strategic partnership in 2005 creates conditions for their mutually beneficial cooperation on a broader range.” Hu pointed out that:

China attaches importance to Portugal’s role in the EU and international affairs and is willing to work together with the country in enhancing exchanges and cooperation, boosting trust and friendship, and constantly

²⁹ Mendes *et al.*, ‘Председательство Португалии в Европейском союзе: шаг вперед или отражение тупика?’, *op. cit.*, p. 34.

³⁰ Commission of the European Communities, *EU Troika Meets with New Chinese Foreign Minister*, Brussels, 28 May 2007, retrieved on 20 February 2009, http://ec.europa.eu/external_relations/china/intro/index.htm.

³¹ Wen Jiabao, Speech, *Vigorously Promoting Comprehensive Strategic Partnership Between China and the European Union*, Speech by the Premier of the State Council of the PRC at the China-EU Investment and Trade Forum, Brussels, 6 May 2004, retrieved on 20 February 2009, <http://www.fmprc.gov.cn/ce/cebe/eng/zt/t101949.htm>.

³² See Sebastian Bersick, ‘Europe in Asia,’ in D. Shambaugh and M. Yahuda (eds.), *International Relations in Asia: The New Regional System*, Roan & Littlefield, 2008.

³³ Forum for Economic and Trade Cooperation between China and Portuguese-Speaking Countries, ‘Sobre o Fórum,’ 2003, <http://www.forumchinaplp.org.mo/pt/aboutus.asp>. This Forum includes the PRC, Portugal, Brazil, East Timor, Mozambique, Angola, Cape Verde, Guinea-Bissau, and São Tomé & Príncipe as an observer (as it maintains diplomatic relations with Taiwan).

enriching the content of bilateral relations in order to push their comprehensive strategic partnership to a new high.³⁴

It should be noted that Hu's mention of the Portuguese intermediate role between China and the EU is recurrent in official speeches. For example, the Chinese Ambassador to Portugal Gao Kexiang said in a recent interview with the Xinhua News Agency that "China highly values its ties with Portugal and regards it as a reliable partner in the EU."³⁵ This idea, along with the Macao Forum, may count as one of strongest reasons why China signed the agreement with Portugal.

In this interview, Gao also said that the partnership "usher[ed] in a new era of friendly cooperation between the two countries [as they] have deepened political mutual trust through frequent exchanges of high-level visits."³⁶ The ambassador also highlighted that:

[b]oth countries have further enhanced their bilateral cooperation in trade, culture, education, science and technology, health care and judicial affairs system. As a result, the goal of doubling bilateral trade volume within three years set by the two heads of government was fulfilled a year ahead of schedule.³⁷

This increase of the volume of trade was only beneficial for China, and prompted a series of negative reactions against the proliferation of Chinese shops and restaurants in Portugal. Moreover, this trade volume was related to the impact of China's WTO accession (most noticeable in Portugal after 2005, as explained in the forthcoming section on trade), not to the signature of the partnership.

The ambassador referred to the fact that "two Confucius institutes have been opened in Portugal and more Chinese universities have started to offer Portuguese language courses," and concluded his interview by saying that "with joint efforts from both sides, comprehensive strategic partnership between the two countries will undoubtedly be able to advance further and bilateral cooperation will produce more fruits in the coming 30 years."³⁸ Those institutes are primarily designed to enhance China's culture and its image and status in the international community.

³⁴ 'Chinese, Portuguese Leaders Exchange Congratulatory Messages on 30th Anniversary of Diplomatic Ties,' *Xinhua News Agency*, 8 February 2009, retrieved on 20 February 2009, http://news.xinhuanet.com/english/2009-02/08/content_10781274.htm#.

³⁵ Gao Kexiang, Interview with *Xinhua News Agency*, 'Ambassador: China-Portugal Strategic Partnership will be More Fruitful,' 7 February 2009, retrieved on 20 February 2009, http://news.xinhuanet.com/english/2009-02/08/content_10781914.htm.

³⁶ *Ibid.*

³⁷ *Ibid.*

³⁸ Gao, *op. cit.*

Thus, they are used as an aspect of Chinese foreign policy to promote Chinese national interests in several EU countries. However, in Portugal this is not very noticeable. Besides, the creation of Confucius institutes in Braga and Lisbon resulted from personal efforts of professors from the respective University of Minho and the University of Lisbon and were not an outcome of the signature of the bilateral strategic partnership (although the inaugurating ceremony of the Minho institute took place during Wen Jiabao's visit to Portugal in December 2005).

Therefore, high level political contacts, growing bilateral trade or cultural and academic events can hardly be related to the existence of a Sino-Portuguese comprehensive strategic partnership. Will the EU-China PCA lack this kind of significance as well (i.e. will it make any difference in terms of the progress of the bilateral relationship)? In order to analyse the PCA negotiations, this chapter will now focus on the most important dimensions and problematic issues of Sino-European relations.

Different Human Rights Conceptions

Divergences over human rights have been constant in Sino-European relations. The concept of human rights and democracy, which originated from certain Western countries and that was further adopted by the US, is based on a "dynamic" interpretation of the UN Charter, which argues that an issue regulated by international law is not under national jurisdiction of a state.³⁹ On the contrary, the PRC, based on a narrow interpretation of the UN's competences, refuses all types of external regulations, considering them as "interference in China's internal affairs." Moreover, Beijing does not accept the notion of "universality of human rights," arguing that it should consider the historical, cultural and political constraints of each country. When the issue is approached by a foreign counterpart during an official meeting, Chinese leaders usually adopt an explicit posture of disapproval regarding their interlocutor.⁴⁰

Formally, Chinese law has many similarities with European laws. In 1979, the PRC promulgated a regulation on "arrest," limiting the undetermined detention of suspects, and the 1982 Constitution regulates basic rights and freedoms. Indeed, judicial organisation, according to the Chinese Constitution, respects the principles adopted in most Western countries: the judiciary is independent of the executive and legislative powers, and the judges and prosecutors are elected by popular assemblies. However, there is no real independence of the judiciary, and

³⁹ Elisabeth Fouquoire-Brillet, 'Chine: Droits de l'Homme et Démocratie,' *Défense Nationale*, October 1995, pp. 56-57.

⁴⁰ Claudie Joussé, 'La Chine et l'Union Européenne,' *Politique Étrangère*, No. 4, 1996, p. 875.

individual rights and freedoms are not observed.⁴¹ Although the introduction of the market economy in China prompted the emergence of new forms of social behaviour, it did not result in the adoption of a democratic political system based on Western characteristics.

European expectations regarding the reform of the Chinese legal system and its harmonisation with international standards, suffered a blow in June 1989 with the Tiananmen Square events.⁴² Although being an unavoidable trading partner, China had lost much of its sympathy for Western public opinion and its international image deteriorated.⁴³ In October 1989, during the celebration of the 40th anniversary of the PRC, Deng Xiaoping declared that social order had been restored. The Western diplomats based in Beijing agreed among themselves to participate in the banquet hosted by the Chinese prime minister but to boycott the subsequent festivities.⁴⁴ The Nobel Peace Prize in that year was attributed to the Dalai Lama for opposing the use of violence in his fight for the liberation of Tibet,⁴⁵ causing an “extreme indignation” and a feeling of “deep regret” in Beijing.⁴⁶ In the period of implementation of its economic and social reforms, China believed Western pressure, for the respect of human rights and Western support for the Tibetan people and Taiwan, exacerbated the emerging political opposition movements within

⁴¹ In practice, the judges and prosecutors apply the directives from the Chinese Communist Party. The role of lawyers is to “help” their client to recognise the facts in order to mitigate the sentences handed; and they have no guarantee of achieving the (required) annual renewal of their licenses. Michel Brasier, ‘Les Relations Franco-Chinoises,’ *Conseil Économique et Social*, 6 June 1995, pp. 15-16.

⁴² Brasier, *op. cit.*, p. 17.

⁴³ Patrice De Beer and Jean-Louis Rocca, *La Chine à la Fin de l'Ère Deng Xiaoping*, Brussels, Le Monde Éditions, 1995, p. 188.

⁴⁴ Commission of the European Communities, *Bulletin of the European Union*, 2 October 1989.

⁴⁵ Besides facing dissidents in the Tiananmen Square incident, the Chinese authorities were also confronted with Tibet's claims for independence. The more moderate reformist policy adopted by Deng Xiaoping from 1978 onwards, that ultimately inspired the demonstrations in Tiananmen Square, had also allowed for an increased expression of discontent in Tibet, often resulting in incidents witnessed by tourists and foreign journalists. In March 1989, while Tibetans called for the “independence of Tibet!” the rebellion was quickly silenced by the Chinese police and Beijing declared martial law in Lhasa. Valérie Niquet-Cabestan, ‘Chine. Rééquilibrages,’ *L'Etat du Monde*, 1988-1989, p. 76; Pierre-Antoine Donnet, *Tibet: Mort ou Vif*, Paris, Éditions Gallimard, 1990, pp. 126-127.

⁴⁶ Commission of the European Communities, *Bulletin of the European Union*, 10 November 1989.

a weakening domestic situation that already had a fragile foundation.⁴⁷ The reactions of the European Community to the Tiananmen Square incidents⁴⁸ were condemned by the PRC as “interference in its internal affairs,”⁴⁹ referring to the Western trend of imposing sanctions, China's unequal treatment and the persistent attacks on its sovereignty.⁵⁰ An editorial in the *People's Daily*, commenting on the *communiqué* published by the G7, considered it unacceptable that those countries refused to understand what had happened in China.⁵¹ The Chinese leaders regretted the Council of the European Union's declaration, arguing that, according to China's Constitution, the government had the sovereign right to put an end to the social unrest.⁵²

The Chinese international position regarding human rights evolved from a less hostile attitude in the early 1980s to a defensive posture after 1989 and to a more assertive approach from 1990 onwards. China's Open-Door Policy adopted in 1978 by Deng Xiaoping resulted in the signature of international agreements and in the participation of Chinese officials, from 1985 onwards, in the UN Commission on Human Rights' meetings in Geneva. In 1988, they said to be willing to sign the Universal Declaration of Human Rights and the two 1966 Covenants (the International Covenant of Civil Rights and the International Covenant on Economic, Social and Cultural Rights). Given the reactions to the crackdown, the Chinese leaders opted for a defensive policy, mainly asking for non-interference in domestic affairs and arguing that their priority was economic development and poverty eradication.

From the early 1990s onwards, the Chinese strategy evolved to promote a broader international debate, defending specific views on human rights and democracy.⁵³ Linking the political and commercial issues and stressing the importance of economic rights for achieving

⁴⁷ The Chinese leaders also feared that the human rights policy and democracy had become major instruments of American foreign policy. Fouquiere-Brillet, *op. cit.*, pp. 56-57.

⁴⁸ European Parliament, Resolution, *Tibet/Droits de l'Homme*, Strasbourg, 16 March 1989, as cited in *Documents d'Actualité Internationale*, No. 9, 1 May 1989, p. 191.

⁴⁹ National People's Congress of the People's Republic of China, ‘Déclaration de la Commission des Affaires étrangères de l'Assemblée Populaire Nationale de la République Populaire de Chine (Pékin, 19 mars 1988),’ *Documents d'Actualité Internationale*, No. 9, 1 May 1989.

⁵⁰ Alain Boublil, *Le Siècle des Chinois*, Monaco, Éditions du Rocher, 1997, p. 176.

⁵¹ Commission of the European Communities, *Bulletin of the European Union*, 17 July 1989.

⁵² Commission of the European Communities, *Bulletin of the European Union*, 29 June 1989.

⁵³ Fouquiere-Brillet, *op. cit.*, p. 58.

freedom, the official rhetoric was constantly repeated: “we could not isolate the political rights from other fundamental human rights as the level of awareness of individuals and nations, and thus its freedom, are directly related to their economic conditions.”⁵⁴ Countries at different stages of economic development, as was the case of the PRC and European states, could not concentrate on the same type of rights – for the Chinese, sufficient nutrition and basic material needs were far more important than political and civil rights.⁵⁵

During the first global debate on human rights,⁵⁶ Western countries were obliged to take into account the views of Asian countries, due to their demographic, economic and political weight, providing China with the opportunity to disclose its position on the subject: “the concept of human rights is very broad and includes individual and collective rights. No one should put their own rights and interests above those of the state and society.”⁵⁷ The words of then Vice Foreign Minister Liu Huaqing highlight the conceptual difference between China and the West. In short, the Chinese defensive approach, post-Tiananmen, became more offensive from the mid-1990s onwards, reflecting the support of other Asian countries against the Western agenda on human rights and democratisation.⁵⁸

Although China’s economic development was followed by improvements at the level of social and political freedoms, as suggested by the adoption of the 2007 Labour Contract Law and the attempts towards creating a more equal society,⁵⁹ this development is still far from fulfilling Western conceptions of respect for human rights and democracy. Religious movements in China are also affected by the Chinese approach to human rights: despite the spread of various forms of Christianity throughout the whole society (including the Chinese Communist Party), it is not easy for Christians to survive the persecution

⁵⁴ *Ibid.*, p. 59.

⁵⁵ Jing Men, ‘EU-China Relations Need More Mutual Understanding,’ *EU-China Observer*, No. 1, 2009, retrieved www.coleurop.be/template.asp?pagename=EUCO, p. 6.

⁵⁶ United Nations World Conference on Human Rights, Vienna, 14-25 June 1993.

⁵⁷ Liu Huaqing, Speech as cited in S. Marks, ‘Nightmare and Noble Dreams: The 1993 World Conference on Human Rights,’ *The Cambridge Law Journal*, Vol. 53, No. 1, 1994, pp. 54-62.

⁵⁸ Fouquoire-Brillet, *op. cit.*, p. 59.

⁵⁹ Giuseppe Balducci, ‘Prospects and Challenges for the European Promotion of Human Rights in China,’ *EU-China Observer*, No. 1, 2009, retrieved on 20 February 2009, www.coleurop.be/template.asp?pagename=EUCO, p. 12.

of an atheistic regime, with such a restrictive approach to human rights.⁶⁰ The China-Africa Seminars on Human Rights held by the Forum on China Africa Cooperation (FOCAC) is a more recent example of Beijing’s strategy to negotiate support for its own conceptions.⁶¹

Due to these differences, many argue that progress may rely more on dialogue than on the imposition of sanctions. The European Commission and governments, despite several initiatives undertaken regarding human rights in China, have the dilemma of choosing between economic interests and political censorship. Faced with the susceptible nature of Chinese leaders, Europe tends to avoid confrontation, opting for an economic and pragmatic approach.⁶² In fact, the European response to Tiananmen did not establish a causal link between granting economic benefits to China and its human rights respect, as the US did, in its reaction to this incident. Instead, the Commission’s line of conduct was inspired by principles of *realpolitik* – by not subordinating economic relations to any pre-conditions. European officials tried to avoid confrontation and pursued dialogue with their Chinese partners, by separating the human rights issue from economic negotiations.⁶³ This choice for political cooperation, in which criticism of human rights abuses was mostly made in private to Chinese leaders, was allegedly part of a comprehensive strategy for promoting the liberalisation and Open-Door Policy, eventually adopted by the Chinese government.⁶⁴ The difference of approaches between the EU and the US will be further developed in the next section.

In conclusion, due to dissensions in regards to human rights issues, the year 1989 was marked by a turning point in Sino-European relations. The months of international sanctions were quickly forgotten and the four years that followed the massacre were more positive than expected by the Chinese leaders: profiting from a favourable economic environment, they rapidly reduced China’s isolation in the international system. Some argue that the normalisation of relations between Beijing and the West promoted “social peace” and support for capitalist change in China.⁶⁵ The

⁶⁰ See David Aikman, *Jesus in Beijing: How Christianity Is Transforming China and Changing the Global Balance of Power*, Washington, Regnery Publishing, INC., 2003.

⁶¹ See Forum on China-Africa Cooperation, ‘FOCAC to hold China-Africa Seminar on Human Rights,’ 13 October 2004, retrieved on 20 February 2009, <http://www.focac.org/eng/z/zfrqyth/t164223.htm>.

⁶² Jossé, *op. cit.*, p. 876.

⁶³ Carmen A. Mendes, ‘A Concepção Chinesa de Direitos Humanos,’ *Via Latina*, No. 4, VI Series, March 2007, p. 120.

⁶⁴ Jossé, *op. cit.*, p. 875.

⁶⁵ *Le Monde Diplomatique*, July 1992.

fact is that Europe failed in conducting a coherent human rights policy towards China, mainly due to individual economic interests of its member states.⁶⁶ Only the arms embargo remained as a legacy of the Tiananmen Square incident.

EU Arms Embargo on China: Reasons for its Maintenance

Although the idea evolved in Europe that embargos are not the best way to change the Chinese leaders' perceptions on human rights, the embargo remains in force. Some argue that lifting the embargo should depend on progress for human rights in China. Others, based on strategic reasons, defend the view that the embargo guarantees the balance of power in East Asia, particularly in the Taiwan Strait. This is the US' official position, which has strongly encouraged the EU to maintain the arms ban.

The embargo, disrupting China's access to modern military technology, is perceived by Beijing as a shadow in its relations with Europe. In its 2003 EU policy paper, the Chinese government stated that:

China and the EU will maintain high-level military-to-military exchanges, develop and improve, step by step, a strategic security consultation mechanism, exchange more missions of military experts, and expand exchanges in respect of military officers' training and defence studies.⁶⁷

In line with the Chinese pressure on the EU for the lifting of the arms embargo, the paper argued that this would "remove barriers to greater bilateral cooperation on defence industry and technologies."⁶⁸

The Chinese leaders have two main goals to accomplish with the lifting of the embargo. The first one is of political symbolism: the absolution by the international community regarding the Tiananmen Square incident,⁶⁹ which would allow China to recover its legitimacy as a great power in the international system, instead of just belonging to a list of embargoed states. Moreover, the lifting of the embargo by the EU and the strategic partnership with the EU would limit Washington's attempts to contain Beijing.⁷⁰ Having the EU as an ally would be highly beneficial in this strategy of counterbalancing the US, for example, during potential confrontational debates within multilateral institutions. Besides, the

⁶⁶ Balducci, *op. cit.*, p. 10.

⁶⁷ People's Republic of China, *op. cit.*, pp. 7-8.

⁶⁸ *Ibid.*

⁶⁹ Peter Brookes, 'The Lifting of the EU Arms Embargo on China: An American Perspective,' *The Heritage Foundation*, 2 March 2005.

⁷⁰ Lora Saalman and Yuan Jing-Dong, 'The European Union and the Arms Ban on China,' Center for Nonproliferation Studies, July 2004, pp. 4-5.

European lifting of the arms ban would divide the transatlantic alliance, weakening the Western block on future anti-Chinese decisions. Regarding the Taiwan issue, the lifting of the embargo would be perceived in Europe as a defeat for Taipei, contributing to isolate the island from the international community, promoting Beijing's intentions for reunification.⁷¹

The second major objective is related to the Chinese military modernisation programs and the need to reduce dependence on Russian equipment, which is technologically inferior to that of NATO and of the EU. Beijing does not find in Russia the military technology it needs – systems of command and control, communications, computers, intelligence and surveillance.⁷² The lifting of the embargo would give the People's Liberation Army (PLA) access to foreign technology of dual use (civil and military). Furthermore, Beijing would gain advantages in future negotiations of military purchases from Russia and the Middle East⁷³ and the US government would be pressured by its weapon producing industry to follow the EU, granting the PLA access to American weapons.⁷⁴

As mentioned in the previous section, the US also imposed sanctions on China following the events of Tiananmen Square, including the arms embargo and the suspension of high-level meetings. The Public Law, adopted in February 1990, suspended:

the issuance of licenses for the export to China of any military article on the US Munitions List. It exempted from this prohibition US Munitions List items that are designated specifically for use in civil products [and barred] the export of US-origin satellites for launch on Chinese launch vehicles. Because the US Munitions List includes nonlethal military equipment (for example, radios and radars) in addition to lethal equipment (such as missiles), the US prohibition on arms sales to China covers a broader range of items than the EU embargo.⁷⁵

The US is the main opponent to a shift in EU policy regarding the arms ban. The American objections are of various kinds, but the main motive is related to China's refusal to renounce to the use of force against Taiwan –

⁷¹ Brookes, *op. cit.*

⁷² *Ibid.*

⁷³ Saalman, *op. cit.*, p. 4.

⁷⁴ Frank Ching, 'Changing Dynamics in EU-China Arms Relations,' *China Brief*, The Jamestown Foundation, Issue 5, March 2004, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=3631.

⁷⁵ Public Law 101-246, February 1990, 'Military Imports From the United States and the European Union Since the 1989 Embargoes,' *Report to the Chairman*, Joint Economic Committee, US Senate, General Accounting Office, GAO/NSIAD-98-176, 16 June 1998, p. 5.

this idea was reinforced by its adoption of the “Anti-Secession” Law.⁷⁶ In the event of a military incident in the Strait, the lifting of the embargo would allow the PLA to use European arms against American soldiers. Besides, it would endanger the balance of conventional military power across the Strait, giving Beijing the incentive of being able to resolve the conflict through the use of force.⁷⁷

A second aspect that worries the US regarding the lifting of the embargo is that it would increase Chinese military power, threatening American predominance in the Pacific.⁷⁸ In case of the deterioration of relations between Japan and Korea, the transfer of weapons to Beijing could put Washington in strategic disadvantage. Another American argument relates to the issue of proliferation of technology and equipment to third states: the laws controlling Chinese exports may allow the transfer of European technology to countries like Pakistan, Iran, Myanmar and North Korea, among others, with severe consequences for the balance of power in Asia and in the Middle East.⁷⁹ Finally, the US government argues that, with the end of the embargo, the EU could lose its ability to influence China on human rights issues and would send a wrong signal to other “repressive regimes.”⁸⁰

Unlike the US Public Law adopted for the imposition of the embargo on arms sales to China, the EU issued a vague, although legally binding, policy statement, which did not specify the duration of the embargo or measures of verification for the observance of the embargo, leading to different member states’ interpretations of this policy statement. While some nations embargoed all military items to China, others only banned lethal weapons.⁸¹ The clause called for the suspension of military cooperation and embargoed the sale of military items, allowing the member states to decide what cannot be sold.⁸² For this reason, the main instrument to regulate the European transfer of arms to Beijing is not the embargo, but the EU Code of Conduct for Arms Exports, which lists a

number of conditions to be fulfilled by a country before being allowed to import weapons from an EU member state – such as the country’s political system and potential threats to regional stability. This Code of Conduct, an agreement issued by the Council of the European Union that has more political than legal weight, could be strengthened in case the EU decided to lift the embargo.

By 2003, there was the widespread view within the European Commission that the end of the arms ban would not necessarily lead to an increase on military sales to China, being rather a symbolic gesture.⁸³ Many EU member states, especially France and Germany, were in favour of lifting the embargo (probably to favour their own weapons sales). While France considered it an anachronism,⁸⁴ Germany and Spain argued that lifting it would increase Sino-European trade. The UK assumed a dubious position and Belgium demanded China’s ratification of the UN’s International Covenant on Civil and Political Rights. The Netherlands, Finland, Portugal and Sweden, traditionally opponents of removing the arms ban accepted to reconsider, and Denmark was willing to align with the position of the majority of the member states.⁸⁵ Fearing a shift in EU policy, some members of the European Parliament submitted a resolution criticising the Commission for not reacting to the public declarations made by certain members of the Commission, that were cited in the media “as being in favour of the lifting of the embargo” and calling “on the EU to maintain the arms embargo until the human rights situation in China improves drastically.”⁸⁶ However, as the lifting of the embargo requires consensus at the Council of Ministers, the entry of ten new members in 2004 (many of them pro-American),⁸⁷ and another two in 2007, crushed any hope of reaching an agreement.

The official position of the European Commission and of the EP is that the arms ban should be maintained for human rights and strategic reasons: lifting it would reward the Chinese leaders for their controversial behaviour on human rights issues and cross Strait relations.⁸⁸ But is the embargo compatible with the emerging PCA? Lifting it would actually

⁷⁶ National People’s Congress of the People’s Republic of China, *Anti-Secession Law*, Adopted at the Third Session of the Tenth National People’s Congress (NPC), on 14 March 2005.

⁷⁷ Brookes, *op. cit.*

⁷⁸ *Ibid.*

⁷⁹ Saalman and Yuan, *op. cit.*, p. 4.

⁸⁰ Brookes, *op. cit.*

⁸¹ US Senate General Accounting Office Joint Economic Committee, ‘Military Imports From the United States and the European Union Since the 1989 Embargoes,’ *Report to the Chairman*, GAO/NSIAD-98-176, 16 June 1998, p. 3.

⁸² Richard C. D’Amato and Roger W. Robinson Jr., ‘US-Europe Paper Regarding China,’ *US-China Economic and Security Review Commission*, Washington, D.C., 19 January 2005.

⁸³ D’Amato and Robinson Jr., *op. cit.*

⁸⁴ Ching, *op. cit.*, p. 2.

⁸⁵ Saalman and Yuan, *op. cit.*, pp. 1-2. As for the Portuguese position, see the Joint Communiqué between the People’s Republic of China and the Portuguese Republic during the visit of the Portuguese President to China, Beijing, 12 January 2005: the lifting of the embargo would contribute to “the consolidation of bilateral political relations between the European Union and China.”

⁸⁶ European Parliament, Resolution, *On Lifting the EU Arms Embargo on China*, B5 0552/03, Strasbourg, 15 December 2003.

⁸⁷ Ching, *op. cit.*, p. 2.

⁸⁸ D’Amato and Robinson, *op. cit.*

have positive implications for EU-China relations. In economic terms, it would assure preferential treatment in bilateral trade and would open a new arms market for European companies, which face the reduction of European defence budgets. At the political level, it would help the EU to counterweight American hegemony and, from the point of view of individual member states, it would diminish their responsibility regarding the human rights situation in China.

But it would also bring some negative consequences for Europe, in its relationship with the US. The US lobbying against the lifting of the embargo is very strong,⁸⁹ as the sale of military or dual use technology to Beijing threatens American security interests in Asia. The fact that the US signed the *Taiwan Relations Act* represents a responsibility that Europe does not have to shoulder. Thus, security issues assume a different significance for Washington or Brussels in its relationship with China: the EU focuses on economic issues, while for the US the priority appear to be strategic issues.⁹⁰ Washington fears that European arms could be used against American soldiers in case of war in the Taiwan Strait and would blame the EU for changing the balance of power in East Asia, increasing the possibilities of a military conflict, without taking any responsibility for regional security. The US could react by penalising European companies involved in the arms sale to China and the gap in the transatlantic relationship would certainly grow wider.⁹¹

China's WTO Accession and EU Trade Policy

While Beijing tends to focus on the arms embargo as one of the main points of contention with Europe, the EU is much more worried about the deficit, due to its very negative performance in the balance of trade: China is its largest import supplier and Europe has become the main market for Chinese exports. The deficit drastically increased, especially after the PRC joined the WTO.

The Republic of China under Chiang Kai-shek was one of the 13 signatory countries of the General Agreement on Tariffs and Trade (GATT) in 1948. However, the Chinese nationalist government lost the civil war with the communists in 1949, moved to Taiwan and, soon after, decided to leave the GATT.⁹² In 1971, the PRC became the legal representative of China at the UN and formally asked to join the GATT in

1986.⁹³ The process for joining the GATT, WTO since 1995, took fifteen years of hard negotiations. On the one hand, this was due to political issues, as China claimed that her statute of founding member should not be affected by the withdrawal of the Taiwanese government in 1950, and that the island should not join the GATT before the PRC. On the other hand, from an economic point of view, it was problematic to integrate a communist country in an institution created for market economies.⁹⁴ After making several bilateral concessions, especially to the US – as the EU supported its accession – the PRC gained membership in December 2001.⁹⁵ The EU and the US agreed that it was easier to control the impact of the Chinese economy if it was included within the system.

This brought some costs in the short-term: the multilateral system had not been conceived with China's soon-to-be vastly expansive rise in mind.⁹⁶ The textile and clothing industry, relying on intensive labour force, was the sector in which the impact for Europe of China's WTO accession was most noticeable. The world textile and clothing market had been regulated by international agreements that went against the principles of the multilateral system: the *Short-Term Arrangement Regarding Cotton Textiles*⁹⁷ and the *Long-Term Agreement Regarding International Trade in Cotton Textiles*, signed in 1962 within the GATT, imposed limits on cotton trade. Several times re-negotiated, this long-term agreement was replaced in 1974 by the *Arrangement Regarding International Trade in Textiles*, which extended the restrictions of trade to other textiles. This agreement opposed GATT principles as it infringed the most favoured nation (MFN) principle; established quantitative restrictions instead of tariff restrictions; discriminated against developing countries; and was not a transparent agreement. Renegotiated four times, it expired in 1994 and was replaced by the *Agreement on Textiles and Clothing* that came into force with the creation of the WTO in 1995, establishing a transitory regime to the full integration of textiles and

⁸⁹ Ching, *op. cit.*, p. 2.

⁹⁰ D'Amato and Robinson, *op. cit.*

⁹¹ Brookes, *op. cit.*

⁹² Secretaría General de Comercio Exterior, 'La Adhesión de China a la Organización Mundial de Comercio,' *Boletín Económico de ICE*, No. 2713, 17 December 2001, p. 3.

⁹³ Jean-Pierre Cabestan and Leïla Choukroune, 'China's Accession to the WTO: A Historic Turning Point?,' Special Edition 'China – WTO,' *China Perspectives*, No. 40, March-April 2002, pp. 4-8.

⁹⁴ Nicholas R. Lardy, *A China na Economia Mundial*, Gabinete de Estudos e Planeamento, Lisbon, Ministério da Economia, 1995, pp. 67-69.

⁹⁵ Banning Garrett, 'China Faces Debates, The Contradictions of Globalization,' *Asian Survey*, Vol. XLI, No. 3, May-June 2001, p. 425.

⁹⁶ Nicolas Occis, 'Les Enjeux de l'Adhésion à l'OMC,' *Politique Étrangère*, No. 2746, 30 January 2002, p. 4.

⁹⁷ Yang Yongzheng, 'China's Textile and Clothing Exports: Changing International Comparative Advantage and its Policy Implications,' *Asia Pacific School of Economics and Management Working Papers*, Asia Pacific Press, Australian National University, 1999, p. 15.

clothing in the multilateral system.⁹⁸ The period of ten years foreseen by this agreement for the transition, meant that almost half of the products of this sector kept the restrictive quotas until 1 January 2005.⁹⁹ Therefore, the impact of China's WTO accession was most noticeable after this date.

China was the developing country gaining most advantage from this textile and clothing liberalisation as the majority of its exports are manufactured products, while others exports mainly concern raw-materials and primary products that are subject to higher tariffs.¹⁰⁰ The end of forty years of protectionism opened the door to the structural decline of the textile and clothing industries in the US, Canada and Europe.¹⁰¹ Portugal is a paradigmatic example of this, due to the traditional weight of the textile, clothing, ceramics and shoe sectors in the country's exports.¹⁰² These industries cannot compete with Chinese goods, based on the price level, due to the huge gap in social rights and salaries between China and Europe.¹⁰³ Therefore, especially from 2005 onwards, daily news articles on factories closing down (leaving a few more hundred people unemployed) created a strong feeling of dismay, amongst the Portuguese, against the liberalisation of imports from China, and the Chinese immigrants' facility in opening new shops and restaurants.

Nevertheless, the EU trade policy towards China, besides being perceived as a threat to this important sector of the national economy, also opened a window of opportunity. As previously mentioned the Portuguese textile industry may not succeed in medium range or cheap goods but in high quality products, with perfect finish and design. Its advantage relies on the knowledge of the European market and taste, in marketing and innovation (technical textiles).¹⁰⁴ Therefore, there are two types of companies in the Portuguese textile industry: those that compete in low ranges without any added-value, which are highly exposed to this liberalisation; and modern, competitive companies that had been prepared for the opening-up to Chinese competition during the ten years

⁹⁸ Hildegunn K. Nordås, 'The Global Textile and Clothing Industry Post the Agreement on Textiles and Clothing,' *World Trade Organization*, Geneva, 2004, p. 13.

⁹⁹ Yang, *op. cit.*, p. 15.

¹⁰⁰ Lardy, *op. cit.*, pp. 65-66.

¹⁰¹ Comtrade Database, as cited in Nordås, *op. cit.*

¹⁰² Luís Villalobos, 'Isto é que é Bom,' *Fortunas & Negócios*, September 2001, p. 43.

¹⁰³ Paulo Nunes Almeida, Interview held with the President of the Portuguese Textile and Clothing Association, Lisbon, *Expresso*, 8 January 2005.

¹⁰⁴ *Jornal Têxtil*, September 2004, pp. 3-4.

of transitory regime and are oriented towards industrial innovation.¹⁰⁵ These competitive companies even increased their exports with the opening of the Chinese market after its WTO accession.

From this perspective, China's entry into the WTO also brought some advantages to the EU, such as the removal of protectionist barriers to the Chinese market, through the reduction of tariffs and fulfillment of international trade regulations, such as the protection of IPRs. This facilitates European exports and acquisition of cheaper raw-materials and safeguards foreign companies that operate or de-localise production on the Chinese market.¹⁰⁶ Therefore, bringing China into the multilateral trade system, despite having a very negative short-term impact in the EU in general, and in Portugal in particular, also offers many opportunities. From the Chinese perspective, the suppression of custom-duties threatened many state companies¹⁰⁷ and exposed the old technology of the textile industry to competition with modern European factories, leading to unemployment in the sector,¹⁰⁸ but it also granted China access to European markets and to more FDI.

Conclusion

This chapter has analysed the most sensitive issues in Sino-European relations and the perspectives from both sides in terms of the need to resolve them. As a growing economic power, China is perceived as a major world market. The Chinese leaders use that power as an instrument of resistance to the adoption of universal human rights' values, which they consider as "Western" norms. A scheduled meeting between the Dalai Lama and the French President Nicolas Sarkozy, who held the presidency of the EU, was enough for Beijing to postpone the annual Summit in 2008.¹⁰⁹ Since the first EU-China Summit took place ten years ago, it was the first time that the annual meeting did not occur, highlighting the Chinese stance in its human rights conception and on the principle of non-interference in internal affairs.

¹⁰⁵ Findings of the fieldwork of my Post-Doctorate research, funded by the Portuguese Foundation for Science and Technology, on 'The Impact for the Portuguese Economy of China's Entry into the World Trade Organization,' Institute for Political Studies, Catholic University of Portugal, 2005-2006.

¹⁰⁶ Francisco Utrera Mora, 'La Entrada de China en la Organización Mundial de Comercio,' *Boletín Económico de ICE*, No. 2661, 31 July-3 September 2000, p. 4; Villalobos, *op. cit.*, p. 43; *Jornal Têxtil*, *op. cit.*, p. 4.

¹⁰⁷ Odile Cornet, 'Nouvelle Etape de la Longue Marche Vers l'OMC,' *Moniteur du Commerce International*, No. 1423, 6 January 2000, p. 72.

¹⁰⁸ Dorothy J. Solinger, 'Chinese Urban Jobs and the WTO,' *The China Journal*, Vol. 49, January 2003, pp. 78-79.

¹⁰⁹ Jing Men, *op. cit.*, p. 4.

From the sanctions imposed by the West in the wake of the Tiananmen Square incident, only the embargo on arms sales and military cooperation prevails. Imposed for reasons linked to human rights, they are now maintained mainly for strategic interests. Due to the conflict across the Taiwan Strait, lifting the embargo could lead to an arms race and regional instability. However, certain officials in the European Commission argue that the military build-up across the Strait will always take place and that tension will rise, despite the maintenance of the embargo. But others refer to the symbolic aspect of the embargo and worry that, by lifting it, the EU would send the wrong message to Beijing and to non-European suppliers of military technology, encouraging Chinese military strategists.

The issue of the arms embargo is thus far from being solved and Europe is at a crossroads. On the one hand, the EU is pressured by the Chinese leaders and is strongly attracted by offering a new market to its military industry. On the other hand, the EU is pressed in the opposite direction by the US, concerned about the strategic implications resulting from the end of the embargo, particularly in East Asia. Apart from American objections, other factors explain the postponement of a European decision, such as divergences among EU member states, issues on human rights and concerns in regards to technological proliferation.¹¹⁰ However, as argued above, this is an “intentionally permeable” embargo,¹¹¹ which has not prevented arms sales to China – and which has only limited the export of lethal weapons. Thus, the end of the arms embargo is inevitable: the issue is not whether it will be lifted but when and how will it be lifted.¹¹²

Following the economic dimension, the Sino-European relationship has been mainly driven by geopolitical dynamics and the EU will not put at risk its strategic interests in China. Some European leaders, such as the Germans and the French, see Beijing as a political partner in the project of achieving a multipolar world: a stronger China would help to create other centres of power, counterbalancing US hegemony. The Chinese leaders share this view of willing to contain the excesses of American power, mainly after the disintegration of the Soviet Union, and of looking forward to having China and Europe as two other poles of the

international system.¹¹³ The significant place occupied by the UN in the “Peace Dove Strategy,” as explained in the first section of this chapter, reveals Beijing’s commitment at the multilateral level, to achieving a multipolar world.¹¹⁴

Therefore, despite all the ideological differences between the two parties, and taking into account the economic challenges that China’s WTO accession brought to Europe, namely a growing trade deficit, Brussels and Beijing perceive themselves as partners and are willing to improve cooperation. Whether we can add the word “strategic” to this partnership or whether the strategic partnership is still under construction is another question.¹¹⁵ The PCA may be a reality, as it was reaffirmed by the two sides during Premier Wen Jiabao’s visit to the European Commission in January 2009¹¹⁶ and, last May, at the 11th EU-China Summit in Prague.

¹¹⁰ Saalman and Yuan, *op. cit.*, p. 6.

¹¹¹ Alexandre Carriço, ‘Um Jogo de Espelhos: Percepções em torno da Dimensão do Orçamento de Defesa da RP da China,’ *Revista Militar*, No. 2465/2466, June/July 2007.

¹¹² Alexandre Carriço, ‘O Embargo de Armas à China: Motivações e Vulnerabilidades,’ *Revista Militar*, No. 2443/2444, Lisbon, August/September, 2005.

¹¹³ D’Amato and Robinson, *op. cit.*; Brookes, *op. cit.*; Ching, *op. cit.*, p. 2.

¹¹⁴ See Carmen A. Mendes, ‘National Motives, Approaches and Goals of China’s Foreign Policy,’ in Luís Tomé (ed.), *East Asia Today*, Lisbon, Observatório de Relações Exteriores da UAL, 2008; Mendes and Freire, *op. cit.*, pp. 207-235.

¹¹⁵ See Jing Men, *op. cit.*, pp. 3-4.

¹¹⁶ See Commission of the European Communities, Joint Statement, *EU-China Joint Statement*, Brussels, 30 January 2009.

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