

Human rights in Trade and Co-operation Agreements with Asia

by John Quigley

A recent proposal from the European Commission seems to herald a new chapter in the EU's human rights policy with third countries. The newly adopted draft development co-operation regulation speaks of promoting the EU's internal values abroad, notions which include democracy, human rights, the rule of law and good governance. This is to be welcomed but we must ask ourselves whether there is any substance to these good intentions? Is the EU turning over a new leaf or will it be business as usual?

In May 1995, the Council adopted a Decision standardising the human rights clause in Trade and Co-operation Agreements with third countries. Since then, some twenty Agreements have been signed, although a low number of these are with Asian countries. Article 1 of such Agreements refers to "respect for human rights and democratic principles" as an "essential element" to the operation of the Agreement, either domestically or internationally. This is defined not as "European values" but are derived from the Universal Declaration on Human Rights.

Between 1995 and 2003, not one such Agreement was completely suspended for violation of the terms of Article 1. In 2004, the first ever suspension occurred over Zimbabwe. Is the EU to be taken seriously when it maintains that promoting respect for human rights in third countries is both "sensible and inevitable" or that human rights is an integral part of EU external policy? The answer seems to have two strands. Firstly, in September, the Commission published the details of the new development co-operation and economic co-operation regulation. Within this instrument, a provision for the suspension of EU development or economic aid is provided for. EU aid may be suspended "where a partner country fails to observe the principles" set out in this regulation. These principles include "respect for human dignity, liberty, democracy, equality, the rule of law and human rights".

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This seems to signal shift away from relying on the terms of Article 1 of Trade and Co-operation Agreements towards the terms outlined in the draft regulation which speak of “promoting commitment to [EU] values in partner countries through dialogue and co-operation”. The suspension of development or economic aid is not the same as continuing to permit third countries to benefit from trade preferences.

The second part to the answer also seems to circumvent Article 1. With regard to those Asian countries that have signed Co-operation Agreements with the EU, the Commission now favours establishing Working Groups on “good governance and human rights”. These working groups can be set up under the auspices of the Joint Commission, which effectively runs the Agreement. Such groups have been established for Bangladesh in 2001, in 2003 for Vietnam and in 2004 for Laos. It is expected that a similar working group will be established with Pakistan. When the then Commissioner for External Relations, Chris Patten, said in July 2003 that he wanted Article 1 to be a “dynamic tool to advance human rights in a positive mode” he had working groups in mind.

What is the EU’s red line, over which, if a country crosses, the agreement would be immediately suspended? Is it any wonder third countries get mixed messages when the European Parliament holds up signing a Co-operation Agreement over human rights concerns but the Council implements the trade terms anyway. What message does Iran receive when the EU links progress with the nuclear issue, but not human rights, to resuming negotiations to conclude an Agreement? EU NGO’s are demanding that the link between trade preferences or negotiations with respect for human rights needs to be more explicit.

By focussing on the worse-case scenario, that of suspension of the Agreement or sanctions, the EU is missing a step. If clear criteria existed to clarify what would constitute a violation of Article 1, then the EU would have another lever with which to pressure third countries. It is disingenuous to maintain that Article 1 is integral to EU Agreements but then seek to dilute its potency by circumventing its terms. The latest Annual Report on Human Rights, published in September, states the EU may invoke “the ultimate possibility” and suspend an Agreement but qualifies this by saying that the clause is meant to promote “dialogue and persuasion”.

Trade and Co-operation Agreements could be seen as a contract. All contracts contain notions of rights and of responsibilities. It is not unreasonable that the EU seeks to promote notions of human rights in those third countries with whom it has a relationship. As long as these values are those defined by the United Nations, an organisation that includes China, North Korea,

Burma *et al* that is, some of the worst human rights violators, but who have signed up to the principle of respect for values identified by the UN, then, the attempt by some Asian governments to criticise the EU as promoting “European” values is badly misplaced. The EU is not seeking to promote ‘one man one vote’. The EU has relations with many countries that are either notional democracies or are not democracies at all. However, the trade-off between seeking to promote human rights or promote economic links seems to be too high.

One element of a solution must be to establish clear criteria through official guidelines. The EU has guidelines *inter alia* on torture, on the death penalty, on human rights defenders, children and armed conflict, land policy reform - why not for Article 1 violations? Yet, it is not at all clear that the Commission or, more importantly, the Council, is thinking along these lines. Would a military coup against an elected government be sufficient to invoke Article 1 and suspend the Agreement? Against this background, the European Parliament recommended the entry into force of the Co-operation Agreement with Pakistan, contrary to the opinion of the author of the report in the Foreign Affairs Committee. The Council was already implementing the trade terms, in effect subsuming human rights and good governance concerns to political and strategic interests.

The European Parliament has a legislative role in adopting Trade and Co-operation Agreements with the Council but no role in implementing or scrutinising Agreements once they have entered into force. The Commission should begin a process of consultation with Parliament and the Council to start compiling guidelines that make clear under what conditions the EU is prepared to suspend immediately the privileges granted under an Agreement. This does not preclude a case-by-case assessment but at least it would be clear to third countries what exactly the EU is expecting of them.

Elsewhere in this issue on p26, Dr Georg Wiessala outlines how the EU’s efforts at promoting human rights in China, Burma and Indonesia fit into international relations theory. To complement this, I have followed it with an examination of the human rights dialogues the EU currently pursues with China and Iran. I look forward to readers’ responses. ■

Arms embargo: a necessary lever for political reform

by Graham Watson, MEP

The EU-China summit earlier this month discussed, amongst other items, the lifting of the EU's existing ban on selling arms to China which was imposed in 1989 after the Tiananmen Square massacre and has remained in place as a clear gesture of Europe's ongoing dissatisfaction with the pace of political reform in China and the continuing repression of dissent by its authoritarian government. Predictably, China reiterated its demand for immediate lifting of the ban at the same time as holding out the carrot of lucrative defence and aeronautic contracts if it gets its way.

Recent pressure also from within the EU to lift the ban reflects not political change in China, but a new willingness by some in Europe to ignore the lack of it. Chancellor Schroeder, mindful that Germany builds stealth submarines that China keenly wants, has expressed his support for the end of the embargo. President Jacques Chirac of France, rarely squeamish in such matters, has also signalled that he would like to see the ban lifted. The fact that China would also like to buy French-made Mirage jets will no doubt have encouraged his line of reasoning.

The European Commission too has done much to suggest that it foresees an end to the ban and linking it to a strengthening of the Code of Conduct on arms exports in 2005. The Commission was also one of the strongest advocates of making China part of Europe's Galileo global positioning system, a move that will ensure that China shops in the EU when it is looking for modern military hardware that operates with the assistance of GPS technology. The new Commission now has the opportunity, in establishing its political priorities for the next 5 years, to place Human Rights above such mundane considerations.

European arms manufacturers are eager to supply China's modernising military and are tired of watching Russia take advantage of Europe's reticence. They seem to have succeeded in passing this restlessness on to some of their governments. Beijing has been given plenty of cause to think that the end of the ban is in the cards when the EU and China hold a summit meeting in December. There are also those who would like to keep the ban in place, most notably the United States.

Washington has little patience with the idea of European weapons being pointed at Taiwan, as they undoubtedly would be. The Netherlands, Denmark and Sweden have all spoken in favour of keeping the ban,

and because the lifting of the ban would require a unanimous vote by the European Council, their dissent would be enough to keep the embargo in place. But France and Germany know how to throw their weight around. And the British, previously aligned with the U.S. position, have shown signs of changing their minds.

For Taiwan, the lifting of the arms ban could only send one signal. Taiwan lives with the daily intimidation of its democratic institutions by the People's Republic of China. It is too early to tell whether the less independent-minded government in Taiwan now will result in a lessening of tension across the Taiwanese straits but even the prospect of EU-made submarines and missiles being the tools of intimidation should be out of the question. China has changed in the last decade, but no human rights advocacy organisation would say that China meets the standards of political and civil freedom that Europe expects of its friends.

China continues to persecute Christians and pro-democracy activists. Amnesty International says that not only are many of the original Tiananmen protesters still in jail, but Beijing is also still imprisoning those who call for an independent inquiry into the massacre. Lifting the ban would mean saying to those people, and to all those in China pressing for democratic reform, that Europe would rather arm those who would repress them.

The guiding logic of the ban is ethical: It is a statement of revulsion. The pressure to lift it is commercial, pure and simple. Arms manufacturers have succeeded in passing on to their governments a degree of detachment that has no place in the EU's relationship with China. Those who argue that trade with China encourages an economic development that will ultimately force political change are badly mistaken. This is not the same as the US blanket trade embargo on the Cuban regime.

There is already a flourishing and still growing trade in goods with China - especially since it joined the WTO. Guns are a different matter. We will not hurry the arrival of democracy in China by lifting the arms embargo unless it were preceded by significant opening and democratic reform in the People's Republic. Until the respect for human rights and civil and political freedoms in China advances by a quantum leap, the position of the EU should remain firm - to do otherwise would leave any semblance of an ethical external relations policy in tatters. ■

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Killing KEDO: Nuclear energy in North Korea

by Glyn Ford, MEP

Rather than take the opportunity to lead in providing an alternative vision for North East Asia, the EU is bickering over 'small change' while US neo-conservatives are determined to drive North Korea into a corner. One of the last best hopes of securing a solution to the current crisis of the Korean Peninsula is being killed by US politicking and EU penny-pinching.

The Korean Peninsula Energy Development Organisation (KEDO) was a product of the 1994 Framework Agreement reached between North Korea and the United States whereby, in exchange for North Korea freezing its Yongbyon Heavy Water reactor, capable of producing weapons grade plutonium, the US agreed that it would: normalise diplomatic relations with North Korea. This would include lifting the 50 year old trade embargo and organising the construction of two nuclear Light Water Reactors (LWR) which are proliferation resistant, with an estimated cost of US\$4.5bn. In the interim, before the two nuclear reactors came online, the US would organise the provision of 500,000 tonnes of Heavy Fuel Oil (HFO) *per annum* until 2003, when the first reactor was due to go online.

In order to achieve this, a KEDO Consortium was established whose executive members were the three founders, Republic of Korea, Japan and the United States, plus the European Union. The EU initially contributed €15 million *per annum* and, since 2000, €20 million *per annum*.

By the summer of 2002, the LWR project was already running nine years late, while the projected costs had more than doubled to around US\$10bn. If things were going badly it was about to get a lot worse. The October 2002 nuclear crisis on the Korean Peninsula was triggered when the US claimed that during a meeting in Pyongyang the North Korean First Vice Foreign Minister, Kang Suk Ju, had confessed that North Korea was contravening the 1994 Framework Agreement by clandestinely pursuing an alternative Highly Enriched Uranium (HEU) route to nuclear weapons production. The result was the cutting-off of HFO deliveries by the US and a suspension of construction thus leaving the North Koreans no alternative but to re-open their Yongbyon plant, particularly as none of the US's other promises had been kept.

It now turns out that the US was on very shaky ground. There was neither a transcript of Kang Suk Ju's statement nor any recordings of the meeting. The North

Koreans claim that the Vice Foreign Minister was misinterpreted, claiming he said they had the right to such a programme rather than they had such a programme. In Korean the difference is subtle, but rather than ask for clarification the Joint Chiefs of Staff representative on the Delegation, General North, who outranked the notional leader of the delegation, led an immediate walkout.

More important than what Kang Suk Ju said is the current status of Pyongyang's HEU programme. Pakistan's Foreign Minister has studiously failed to deny that A Q Khan, the head of Pakistan's nuclear programme, provided North Korea with the blueprints for a HEU plant - a prudent stance in view of the fact that Khan showered them on Iran, Libya and others. Khan may have added some sample gas centrifuges. Yet, now, some voices in the US State Department are increasingly sceptical of the programme's ongoing existence. North Korea has neither obtained the aluminium to construct the thousands of gas centrifuges necessary for producing HEU, nor - most tellingly - does it have the necessary reliable power station capable of providing enough electricity to power a medium-sized city with a constant current.

However, the result of the US crying wolf is a cascade of events threatening regional stability. The inevitable re-opening of the Yongbyon plant, enabled North Korea to reprocess the fuel rods and, according to reports, extract enough weapons grade plutonium for the production of five or six nuclear weapons, with the potential for continued production of one every few months.

The knock-on effects of a nuclear North Korea threaten to destabilise the whole region. In the meantime the US has refused to engage in bilateral talks with Pyongyang and instead has used China to convene Six Party Talks with North and South Korea, Japan and Russia. The new Bush Administration is tightening the screws, with talk in Washington of setting a fixed deadline for the talks to conclude, even though North Korea would almost certainly accept a new freeze in exchange for a restoration of HFO deliveries. This would prevent the crisis deteriorating further, while a comprehensive step-by-step solution is arrived at.

As for KEDO, the US seems determined to kill it. The Executive Board has endorsed a further year's suspension, but the US has already announced it will not provide any funding even for administration, let alone suspension costs. They have now made a unilateral declaration that as far as they are concerned the KEDO project is dead and refuse to contribute anything further, because they cannot see the future in using LWR's. South Korea and Japan want it to continue, but Japan under pressure from public opinion has said it will only fund suspension costs if someone other than South Korea makes a contribution.



This only leaves the EU. Since the original suspension, the EU has paid administration costs, while initially the European Commission was reluctant to contribute to the suspension. However, in the Summer they, and the Parliament, agreed to propose €4m to the Council of Ministers.

Self-interest and parsimony will put the final nail in KEDO's coffin. In the Council, the German Finance Ministry, against advice from their own Foreign Ministry, are saying 'no', to save money, while the French have joined them because the French nuclear industry did not receive the orders they expected from KEDO. For the cost of half a dozen London semi-detached houses, Europe loses the opportunity to enhance its status in North-East Asia and lets the US neo-cons run amok in global diplomacy.

North Korea is an unlovable regime, but it is changing. The introduction of the market reforms for the first time two years ago and the recent liberation of industry from state control bode well for those who see North Korea following a Vietnamese-style evolution. More recent rumours of North Korea wanting to follow Iraq and apply for observer status at the WTO and the reports that the Kim Jung Il cult is being toned down with the removal of his portrait from some public buildings, all suggest that it is time to augment engagement rather than abandon it. Here Europe should lead rather than follow. ■

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ASEM Task Force for Closer Economic Partnership

by Toyoo Gyohten

It is my great pleasure and honour to be invited to the ASEM Summit Meetings to present the final report and recommendations of the ASEM Task Force for Closer Economic Partnership between Asia and Europe.

Since the end of the Cold War Age the world economy has been built upon Three-Pillar structure, that is, North America, European Union and East Asia. The hegemonic role of the US, however, has been predominant. The US, as the champion of democracy and market economy, has exercised the leading economic, military, diplomatic and technological power in the world affair. Even in the field of pop-culture the American influence is pervasive worldwide. The source of the American power is not difficult to

identify. The first factor is in its demographics. American population is young and still growing. Thanks to higher birth rate and immigration American population will exceed 400 million by 2030 adding more young labour force. The second is the strength of its market. As long as the American market remains open and competitive as it is now it will maintain a strong ability of regeneration and self-correction. It will continue to be the most dynamic and powerful market. The third is that its overwhelming superiority of military power will still be there.

The most serious challenge for the US in coming years is how to restore the tainted image of the global leader. During the process of the war against terrorism the approval and the trust bestowed by the world to the US as the global leader was critically reduced. If the US fails to repair the damage the global situation, including the economy, will bound to become less stable.

Unfortunately, neither EU nor East Asia is ready to compensate the loss of American leadership. Indeed, the EU is enlarging and deepening. Yet there are many unfinished jobs waiting let alone the need to narrow the economic gap and to carry out structural reforms. Although the single currency was born there seems to be no firm consensus yet to make the Euro the global key currency replacing the dollar. The military capability of EU as a whole is no match to that of the US. Thus, for the time being, the EU has to focus on the internal consolidation and will not be ready to consider seriously and practically to assume the role of a global leader.

What about East Asia? Indeed, East Asia is by all means the growth centre of the world today. Intra-regional trade and investment have soared in the past two decades. Variety of initiatives toward the economic integration such as FTA, Financial Collaboration Arrangement, Regional Capital Market, *et cetera*. are now being studied and negotiated. These developments clearly indicate the strong vitality of East Asia. It also reflects the East Asia's anxiety about the steady progress of the regional integration in North America and in Europe. East Asia is afraid of being left behind and losing the global presence. It is, therefore, a genuine aspiration of East Asia to solidify the regional integration and become one of the three pillars tantamount to two others. Nevertheless, East Asia today is too diverse. There is yet no clear leadership structure. There is yet no strong political consensus to lead the integration.

Thus, while one may call it a tri-polar world the reality is that the world is still governed by American hegemony, which is becoming increasingly unstable. Two things need to be done without delay. One is for both Europe and East Asia to develop as a solid centre of economic and political power so that it can play a



global leadership role comparable to that of the United States. The other is to strengthen the tie between Europe and East Asia. Among three pillars today the link between Europe and East Asia is much weaker than trans-Atlantic and trans-Pacific link. Europe has been overburdened by its internal agenda and East Asia has been occupied with its dealing with the United States who was the most important economic and security partner.

This must have the background when ASEM Summit leaders at their meeting in Copenhagen in 2002 tasked ASEM co-ordinators to set up an action-oriented Task Force. The Task Force was commissioned to consider three areas: Trade, Investment and Finance, and come up with concrete proposals to foster closer economic partnership between Asia and Europe. The Task Force, consisting of ten Asian and seven European members, co-chaired by myself and Mr Alfredo Pastor, met five times and completed its final report, a copy of which is distributed to you. This report presents to ASEM leaders the Task Force's vision for closer economic partnership between Asia and Europe, its general recommendation for the future of the ASEM process, and its concrete, action-oriented proposals.

Below are the five concrete proposals of the ASEM Task Force.

(1) We recommend the creation of a virtual ASEM Secretariat, designed to integrate the organisation, tracking and articulation of ASEM activity in the future. Such a step would be consistent with the upgrade of the ASEM process from dialogue to co-operation. In the short run, the Secretariat should remain "virtual" taking the form of a new ASEM website, but we underline the likelihood that sometime in the middle-term future there may be a need to convert it into a physical ASEM Secretariat, complete with staff, facilities and budget.

(2) We recommend the creation of an ASEM Bond Market and an ASEM Bond Fund, based on a basket currency incorporating the Yen, Euro and the US dollar. The creation of such a market would serve a number of mutually held objectives: to accelerate the development of an Asian bond market, thereby reducing the risks caused by an excessive dependence of Asian countries on bank lending and external financing; to help facilitate a more rational and beneficial channelling of Asian savings; to gradually reduce a potentially destabilising over-dependence on the US dollar. In addition, such measures would enhance the international use of the Euro. The ASEM Bond Fund will facilitate this process by playing the role of a catalyst.

(3) We recommend that ASEM formally incorporate regular consultations on energy issues into its Economic Pillar. Given the common interests held by

most ASEM members as net energy consumers and importers, we also recommend that ASEM members facilitate progress toward further ASEM collaboration on a number of common energy objectives. This proposal is meant to complement our vision that ASEM should contribute to the prosperity and stability of the territories of the Euro-Asian land bridge through ASEM collaboration on transportation, communications, water and energy infrastructure in these areas.

(4) We recommend the creation of an ASEM virtual Promotion Centre for Trade, Investment and Tourism, designed to stimulate primarily, but not exclusively, the activity of ASEM Small and Medium Enterprises, and to integrate and co-ordinate the activity of a ASEM Senior Executive Advisory Network. This proposal recognises the need for ASEM to make a renewed, concerted and coherent effort to improve the essential flows of information and resources that can facilitate Small and Medium Enterprises activity both within and between ASEM's regional partners.

(5) We recommend the creation of an ASEM Business Advisory Council. Such a proposal is aimed at supplementing the activities of the AEBF by creating a more powerful and lasting link between ASEM business communities and the policies of ASEM leaders, both within and beyond the context of the ASEM dialogue.

We conclude that ASEM is of central strategic importance for both Asia and Europe, and that a new concerted effort to create a meaningful closer economic partnership is a key prerequisite for strengthening the ASEM process. We believe our recommendations could serve as useful and necessary steps to that objective. It is our sincere hope that the ASEM leaders would render the support to the realisation of our recommendations. Without your strong political commitment nothing will happen. ■

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Asia and the EU – back to the future

by Malcolm Subhan

“In future, ideas are dreamed up in the United States, they are interpreted in different ways in Europe, and they’re turned into consumer items in China”

W. Brian Arthur

The American economist, quoted above, was wrong: the process is underway already, for not just China but Asia as a whole. What is more, it is a two-way process. It is being driven by the hundreds of thousands of Asian students, enrolled in American universities, with Chinese students perhaps the most numerous. It is also being driven by the Asians who are working for established American companies, or have set up companies of their own in the United States. They have helped propel the US into the front rank of many leading edge technologies, and more particularly the information and communication technologies.

But Asians are also returning home, to interpret in a hundred different ways ideas picked up in the U.S., often turning them into products for the American market, using business strategies learned in American business schools. They are striking out on their own, or have persuaded the companies they work for, including companies in the Fortune 500 list, to set up manufacturing or research units – in India’s Silicon Valley, Bangalore, for example. They are inspiring home-grown Asian companies to invest in the US. The latest, most high profile example of this is the controlling stake in IBM’s PC business which the Beijing-based Lenovo Group Ltd. has just bought for US\$1.75 billion.

Ideas are being generated in the European Union also, but in a closed circuit, within the 25-nation bloc, or with American help. Only now is the door being opened to Asians, and as yet timidly, and on a temporary basis, in order to make sure that they do not take away jobs from Europeans. The EU is more concerned to conclude the so-called “re-admission agreements” with China and India, in order to combat illegal immigration, when it should be boldly proclaiming how Asians can emigrate legally to the EU. This, rather than the much-advertised European Neighbourhood Policy, will enable the EU to realise the Lisbon strategy, of turning itself into the most competitive, knowledge-based economy by 2010.

Trade, too, must be a key element of the Lisbon strategy, trade not only within the Wider Europe but also with Asia. What David Ricardo failed to recognise is that international trade is a powerful vehicle for the

distribution not only of goods but also of ideas, and that a country’s comparative advantage lies in the production of goods *and* ideas. And while a country may develop a temporary monopoly on goods, no country can develop a monopoly on ideas. The EU can never become *the* most competitive, knowledge-based economy, because knowledge develops only when it is shared as widely as possible. This is self-evident, not only as regards knowledge in the abstract but also products, which by their very design and manufacture incorporate knowledge.

But why Asia in particular as a preferred partner for the EU? One answer is to be found in a study on world trade in the 21st century, carried out in 2002 by the Paris-based *Institut Français de Relations Internationales* (IFRI). It envisages two scenarios. In the first, the centre of gravity of the world economy has shifted to the Asia-Pacific region by 2050. Greater China now accounts for nearly 25% of world GDP and Asia for just under 50% of it. This corresponds, the study notes, to the situation that existed at the start of the 18th century.

The second scenario is Eurocentric, and corresponds largely to the implementation of the European Neighbourhood Policy. The EU embarks on a major policy of “integrated development” involving the southern Mediterranean countries and Russia. Key elements of this policy are a large-scale EU programme of technical assistance to the scientific and technical elites of these countries; economic and social reforms undertaken by them, and funded mainly through domestic savings, and a policy aimed at raising the EU birth rate to the point where the population renews itself at the very least, thus eliminating the need for further immigration.

Of the two scenarios the second depends on a large number of imponderables, while the first is already coming true. There is no need to wait until 2050 for Asia to assume a dominant role in the world economy, including world trade. The Indian *diaspora* has already begun to emulate the Chinese, in that it is making an important contribution to the emergence of India as a regional economic power. Significantly, Indian manufacturers and traders are reaching out economically and commercially to their counterparts in not only the countries of South-East Asia but also in China and South Korea.

In his assessment of EU trade policy during his time as Trade Commissioner (1999-2004), Pascal Lamy noted that “the past five years have been marked by a sea-change in the world economy,” where “a more efficient division of world labour is evolving.” International trade is now “structured around four, rather than three, industrial ‘poles,’” according to him. The EU “is building on its strengths in chemicals, pharmaceuticals, cars and non-electrical machinery.” The US, “where



manufacturing continues to decline, is holding out well on non-electrical machinery and plastics.”

Japan “is holding on to its position in electrical and non-electrical machinery, cars and plastics, but has lost some ground to China on office equipment and telecommunications.” China, meanwhile, “has confirmed its position” these two product groups, and in electrical machinery and equipment, if to a lesser extent, even while “strengthening its dominant position in textiles and clothing and various manufactured items (games, shoes, sports goods),” according to Pascal Lamy.

This assessment of the main strengths of the four key players in international trade is far too static, of course. It ignores the fact that in a global economy production moves to countries in which cars and computer chips can be produced more cheaply, or which have a large domestic market, like China and, increasingly, India. A high proportion of Chinese exports to the EU and the US is from the Chinese subsidiaries of European and American companies, but their focus is now shifting to China’s domestic market. At the same time, Chinese companies are acquiring American and European brand names, in order to compete even more effectively on global markets.

EU trade policy during Pascal Lamy’s tenure as the EU’s trade supremo failed to deal effectively with the challenges posed by economic globalisation and strong external competition. While his colleagues in enterprise, the information society, competition policy, and science and technology were trying to make a success of the Lisbon strategy, and to shift resources to 21st century manufacturing and service industries, he was resorting to anti-dumping and anti-subsidy measures to safeguard the output of 19th and 20th century industries.

An independent high-level group of economists, set up by Romano Prodi, reported in July 2003 that “a system built around the assimilation of existing technologies, mass production generating economies of scale and an industrial structure dominated by large firms with stable markets and long-term employment patterns no longer delivers in the world of today, which is characterised by economic globalisation and strong external competition***”. What is needed is “a massive and urgent change in economic policies in Europe.”

This is what the Lisbon strategy seeks to achieve. The Wim Kok report on implementing the Lisbon strategy maintains that in its external relations the EU must meet the two-fold challenge presented by Asia and the US. To this end, it must develop its own areas of specialisation, in order to excel in them and beat the competition***. But the success of the Lisbon strategy depends on the EU’s ability to be open to other economies, and Asian economies in particular.

But the emerging global, knowledge-based economy requires co-operation as much as competition, simply because no one, whether Europeans nor Americans nor Asians, can have a monopoly on knowledge. Asia presents itself as the natural partner at the start of the 21st century. It has already demonstrated its ability to collaborate successfully with the US, in the development of ideas and products. And with its rapid economic growth, fuelled this time by technology and globalisation, it looks set to assume, in the not-too-distant future, the position it held two centuries ago. ■

* Trade Policy in the Prodi Commission, 1999-2004: An Assessment, Pascal Lamy, Brussels, November 2004

** An Agenda for a Growing Europe: Making the EU economic system deliver, report of an Independent High-Level Study Group established on the initiative of the President of the European Commission, July 2003

*** Meeting the Challenge: The Lisbon strategy for growth and employment, report of the High-Level Group presided by Wim Kok, November 2004

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EU Human Rights Dialogues with Asia

by John Quigley

The European Union is making slow progress in its official human rights negotiations with China and Iran, the only two Asian countries to engage with the EU at this level. Since January 1995, with China (18 sessions), and since October 2002, with Iran (4 sessions), the EU has operated a series of formal Human Rights Dialogues at EU Presidency level. Human rights organisations are concerned that the negotiations are leading nowhere and may only provide a fig leaf to cover the EU's more important political and trade concerns with these countries.

In 2004, the EU conducted two rounds of its Human Rights Dialogue (HRD) with China, in Dublin in February and in Beijing in September and one round of the Iran HRD, in Tehran in June. Later, a delegation from the European Commission visited Tehran in mid-September to discuss technical and judicial co-operation within the human rights framework. One of the cornerstones of the dialogues is that the EU believes the HRDs are only viable if Beijing and Tehran make acceptable progress on the ground to address EU concerns about human rights violations. It is not clear at what stage the EU will become dissatisfied with the noises emanating from either China or Iran about the difficulties they face in implementing the EU's demands. Indeed, both countries now avail of the opportunity the negotiations afford to raise their concerns about human rights violations in the EU.

An evaluation of the effectiveness of the HRD process, undertaken by the European Commission, which is not publicly available, suggests that the dialogues are valuable as a means of promoting the EU's human rights policy agenda but that progress is mixed. This conclusion was echoed by the President of the External Relations Council, Bernard Bot, the Dutch Minister for Foreign Affairs who said that the HRD are useful instruments for promoting human rights "provided both parties are sincerely committed to it". It has been suggested to *EurAsia Bulletin* that the Commission evaluation has shown that the EU has had some success in demonstrating to China the value of signing up to international conventions but less success in seeing the EU's concerns implemented on the ground. The Commission believes that the HRD with China is a useful mechanism both for communication and to expose China to international standards.

The Dialogue with Iran is at a different stage of development and progress is less impressive. In Brussels, the Executive Director of Human Rights

Watch for the Middle East, Ms Sarah Leah Whitson, stated that a "timid dialogue with Tehran would send the wrong message" about the importance the EU attaches to human rights concerns. However, this is what appears to be happening in practice, as the EU does not want to risk losing contact with the Iranians by forcing the issue. Actually, as the younger of the two dialogues, the EU should be in a stronger position to link progress with human rights to other areas, including trade preferences and WTO membership, for example.

In mid October in Luxembourg, EU Foreign Ministers adopted Conclusion on both Dialogues. After calling China a "strategic partner" in the EU Security Strategy it can be hard to criticise Beijing. So, although China continues to apply the death penalty, trample upon the rights of minorities and conduct torture, the Council believes that from a "long term perspective, a positive trend can be seen". The Ministers were firmer with regard to Iran saying "little progress has been achieved" since the start of the Dialogue. The Commission evaluation found that little progress has been made on EU priority concerns and that there has been "little or no progress on the ground". Speaking to *EurAsia Bulletin*, Dirk Sterckx, a Belgian Liberal MEP and Chair of the Parliament Delegation for Relations with China, said that the Dialogue process is valuable but that while the EU must take account of Chinese sensitivities, some basic preconditions are necessary. He suggested that, as a minimum, China must proceed quickly to ratify the International Covenant on Civil and Political Rights.

In December, the Foreign Affairs Council was due to adopt a report on the implementation of existing EU guidelines on human rights dialogues with third countries. A Council official suggested that the report, which remains confidential, might address the current state of the dialogues and offer an overall strategic approach to be followed by the EU, as opposed to a country-by-country approach. The report would also have a bearing on the creation of an EU Human Rights Agency, which was promised in December 2003.

The dialogues with China and Iran are at different stages in their evolution so it is not possible to measure their progress equally. However, the fact remains that after 8 years with the China HRD, the EU has only minor successes to point to and China continues to suppress human rights, even under its current President Hu Jintao. Although the HRD with Iran is much younger, the Iranians have in the past objected to the presence of non-governmental organisations as part of the EU delegation and postponed further rounds of talks. The EU must send unequivocal measures to both Beijing and Tehran that more substantial progress with implementing international human rights standards is essential if these countries are to continue to benefit from a preferential relationship with the EU. ■

Trade Relations

Plywood exports from China

On 19th October, the European Commission adopted a proposal for a Council Regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of okoumé plywood originating in the People's Republic of China. Following a complaint by EU manufacturers, the Commission launched an investigation into alleged dumping by Chinese exporting producers onto the EU market. The investigation covered the period July 2002 to June 2003. Against the wishes of the exporting producers, the Commission investigation covered both full okoumé and faced okoumé, as the Chinese had argued that the two different products had significant differences in price and use. The investigation did not cover film-faced okoumé.

According to the Commission, there was substantial non-co-operation from most Chinese exporters during the investigation. After imposing provisional anti-dumping duties in May 2004, the Commission believed that given the wide difference in duties imposed, ranging from 6.5% to 23.5% for named companies, versus a rate of 66.7% for all other exporters, there was a substantial risk of circumvention. It was established that producers in China were charging 50% less than equivalent exporting producers from the Gabon and Morocco. In the future, the Commission may launch an interim review if it is believed that exporting producers are trying to evade higher duties by operating through companies that benefit from the lower rates. Okoumé plywood can be used inside or outside for furniture and construction.

Generalised System of Preferences

The European Parliament, on 14th October, adopted a Resolution on the Communication from the European Commission on Developing countries, international trade and sustainable development: the function of the EU's Generalised System of Preferences (GSP) for 2006-2015. Although Parliament welcomes the objectives set out in the Commission's Communication regarding the future of the GSP, the new guidelines were not based upon a "prior thorough evaluation of the functioning or impact" of the existing system. Neither were stakeholders, such as beneficiary developing countries, consulted. Nevertheless, the simplification of the existing five GSP sectors to three, new market share criteria and a simplification of the rules of origin, will stand to benefit those developing countries that need EU aid the most.

In the past, the Least Developed Countries (LDC's) have been able to benefit from partial regional cumulation of origin, under GSP arrangement. Parliament would like this to be extended to cross-

regional cumulation or global cumulation; a process whereby goods can be manufactured in one country and receive added-value in another and continue to qualify for export preferences. One of the criticisms of developing countries of the GSP scheme is that the arrangements are complicated and that they lack the regulatory know-how to benefit fully from what is on offer. The Resolution calls on the EU to provide greater technical assistance to developing countries in order to allow them benefit from these international trade and preferential arrangements. While the guidelines cover the period 2006-15, the Commission will adopt legislative regulations implementing the terms of the new system on a three-yearly basis.

Speaking in the European Parliament, on 12th October, the Sri Lankan Minister for Industry, Tourism and Investment promotion, Mr Anura Bandaranaike, said that the Commission Communication had several positive features including the emphasis on sustainable development. However, the phasing out of the Multi-fibre Agreement could lead to major problems for the Sri Lankan textile industry. As a developing country, Minister Bandaranaike said, Sri Lanka has had a poor GSP utilisation rate, around 38%. He called on the EU to re-address the issue of whether the GSP should place such significant emphasis on industrialisation rather than allowing countries such as Sri Lanka to avail of the obvious labour advantage they possess.

Fibre rope exports from India

The Council adopted a Regulation EC/1736/2004, on 4th October, imposing a definitive anti-dumping duty on imports of synthetic fibre ropes originating in India.

In June 1998, the Council adopted anti-dumping duties on Indian exports to the EU following a complaint by the Liaison Committee of EU Twine, Cordage and Netting Industries (EuroCord). These measures were due to expire in 2003. In response to a Commission Notice, EuroCord maintained that if the measures were allowed to expire, Indian exporters would resume dumping on the EU market. To investigate these claims, the Commission held an inquiry studying the period July 2002 to June 2003. This review into export prices and volume established that Indian producers had the capacity to increase significantly their levels of production and they continued to sell below Community prices on third markets. The Commission therefore concluded that existing anti-dumping duties should be maintained at 53% for one named Indian company and 82% for all other manufacturers.

Asia Trust Fund

On 21st September, the European Commission launched the Asia Trust Fund with a budget of €5m. The Fund will provide developing countries with immediate access to short-term trade-related technical



assistance and, as such, will be complementary to existing EU programmes. The Fund will be administered by the International Trade Centre (ITC), which is based in Geneva. The ITC is an agency of the World Trade Organisation and the UN Conference on Trade and Development. Existing EU programmes on trade-related technical assistance cover issues including barriers to trade, standardisation and intellectual property rights. Support through the Asia Trust Fund will take place within the context of Poverty Reduction Strategy Papers or regional development policies.

Political and Institutional Relations

New Development Commissioner Louis Michel

On 6th October, the new Commissioner for Development and Humanitarian Aid, the former Belgian Foreign Affairs Minister, Louis Michel, appeared before the European Parliament Committee on Development Co-operation to answer questions related to his mandate. Mr Michel told the Committee that the EU's external assistance to developing and low income countries was inextricably linked to other foreign policy considerations. However, he would endeavour to keep development policy separate from the portfolio of the new Commissioner for External Relations, the Austrian, Benita Ferrero-Waldner. European non-governmental organisations (NGOs) are worried that linking development aid to foreign policy issues such as security, drugs and counter-terrorism will undermine its independence and could place development aid workers in the field in jeopardy.

The backdrop to the fears expressed both in the European Parliament and by NGO's rests in proposed changes to the structure of the financial instruments that govern how the EU spends development aid. Under the guise of plans to reform the management procedures for external aid spending, the European Commission, in late September, published details of a "simplified political and administrative structure" for co-operation programmes. These plans propose one instrument that will encompass both development and economic co-operation. This runs contrary to Parliament's stated wishes and could represent a potential downgrading of the EU's assistance to Asia.

Responding to criticisms from Development Committee members, Louis Michel, who took office on 1st November, said development policy will retain its own objectives and principles and that he expects a strong input from Parliament. Michel is known to favour providing EU aid directly to governments in a process known as "conditionality", rather than spend the aid through projects run jointly by governments and NGO's. The conditionality principle ties EU aid to stated objectives for improvement in good governance, anti-corruption and respect for human rights by

developing countries. Nirj Deva (UK-PPE-ED) suggested that if the Commission's proposals are intended to limit the Parliament's powers or divert its intentions he will recommend shelving the plan.

Iran

The European Parliament adopted a Resolution, by urgency procedure, on Iran on 28th October. The Resolution deals with three main issues including the application of the death penalty, the freedom of the press and international pressure on Iran to improve the general human rights situation. Parliament states that since the general election in Iran, in February 2004, the freedom to exercise key civil and political rights has deteriorated.

In light of reports of the continued use of the death penalty, including for minors, Parliament calls on the authorities in Tehran to stop issuing sentences resulting in stoning and to stop the execution of juvenile offenders. The Resolution reports that 25 minors were sentenced to death in 2003. Iran did declare a moratorium on stoning although, in practice, the practice is reportedly still in use. A sixteen year old female, Ateqeh Rajabi, was hanged in August in Northern Iran for "acts incompatible with chastity" according to Amnesty International. Attacks on the freedom of the press have increased with family members of journalists also being held. One journalist and human rights activist was refused permission to travel abroad to collect an award. In June 2003, a Canadian photographer, Mrs Zahra Kazemi was arrested and subsequently died in custody. In July 2004, an Iranian intelligence office was acquitted of the killing. However, a United Nations Special Rapporteur declared that the trial did not meet internationally accepted standards of justice.

Parliament's Resolution also addressed issues surrounding international pressure on Iran. The Resolution calls on the Council of Ministers to sponsor a Resolution against Iran and United Nations- level, through the UN General Assembly. At EU-level, the last EU-Iran Human Rights Dialogue took place in Tehran in June 2004. At these talks, Iran committed itself to strengthening respect for human rights and the rule of law. The Resolution calls on the Commission and Council to raise violations of human rights within this framework and monitor the country more closely. Following the elections in June 2004, Parliament established a new Inter-parliamentary Delegation for relations with Iran. The Delegation is chaired by a German Green, Angelika Beer. It is expected that the delegation will visit Iran to meet Iranian parliamentarians and civil society.



Tibet

On 18th November, Parliament adopted a Resolution, by urgency procedure, addressing the case of Tenzin Delek Rinpoche. In December 2002, the People's Court in Sichuan Province sentenced Tenzin Delek Rinpoche, an outspoken Buddhist Lama, and Lobsang Dhondup, an aide, to death. The sentence against Tenzin was suspended for two years but Lobsang was executed in January 2003. The period of suspension against Tenzin expires in December. Parliament calls for the abolition of the death penalty in China and the immediate commuting of the sentence against Tenzin. Although China has signed up to the International Covenant on Civil and Political Rights, to date, the agreement has not been ratified into Chinese law. The Resolution calls on the Council not to end the current arms embargo in place against China until such time as Beijing ratifies the Covenant. The Resolution also highlights the violation of the religious rights and freedoms of the Tibetan people in general. The Dutch Presidency of the Council went to Tibet in late September to assess the human rights situation. The delegation visited the capital Lhasa but did not have access to prisons.

EU-China nuclear energy co-operation

The European Commission adopted a Communication, on 16th November, concerning the conclusion of an agreement for R&D co-operation in the peaceful uses of nuclear energy between the European Atomic Energy Community (EURATOM) and the government of the People's Republic of China. The draft Agreement, which has been under negotiation for just over one year, provides access to and co-operation with the research facilities for either party under the terms of the Sixth Research Framework Programme. The draft Agreement includes scientific and technological research within the field of controlled thermonuclear fusion. At the moment, China supports Europe's bid to host the site of International Thermonuclear Experimental Reactor (ITER) in the face of competition from Japan.

The draft Agreement would provide a legal framework to allow Chinese research institutes participate in EU research programmes that focus on the peaceful, non-explosive and non-military uses of nuclear energy and vice versa. It is suggested that China has newer and more advanced research facilities than the EU. It is envisaged that the EU and China would co-operate on nuclear safeguards, nuclear medicine, decommissioning, controlled nuclear fusion and the management of radioactive waste. On the latter point, the preamble refers to the objective of protecting the environment.

To manage the Agreement, a Steering R&D Co-operation Committee, composed of representatives

from the Commission and the Chinese Ministry of Science and Technology, will be established. The Committee would be responsible for identifying priority sectors for R&D co-operation on an annual basis and for compiling a report after three years on the effectiveness of the implementation of the Agreement. The Agreement provides that R&D activities would normally take place in the EU and China but does not preclude initiatives in outer space or in third countries.

Under the terms of the negotiating mandate given to the European Commission by the Council, the EU sought to include the trade in nuclear materials as part of this Agreement. However, the Chinese only wished to include scientific and technological co-operation. The draft Agreement must be adopted by the Council of Ministers before entering into force for a period of thirty years. After this period, the Agreement could be renewed at five-yearly intervals.

EU-India relations

Parliament adopted a Recommendation to the Council, on 28th October, on EU-India relations. The Recommendation supports the Council goal of upgrading the EU-India relationship to a strategic partnership, as outlined in Javier Solana's EU Security Strategy from December 2003. It is recognised that India has geo-strategic interest for the EU, not least in South Asia but, also, as an advocate of a multilateral rule-based world order. Although the EU-India relationship is largely based on trade, Parliament calls for the development of ties at the cultural and social level. This would include established an EU-India Centre for Indian Studies to strengthen academic and cultural exchanges. It is suggested that cultural weeks could be held to coincide with EU-India summits, which take place once annually. One of the major problems in the EU-India relationship, as it stands today, is the poor visibility the EU receives in India. The Recommendation suggests that the Council of Ministers should adopt a strategy to improve awareness of the EU in India and vice versa but does not elaborate further.

Land reform in developing countries

On 19th October, the European Commission adopted a Communication on EU Guidelines to support land policy design and reform processes in developing countries. The aim of the Guidelines are to support land policy reform in developing countries by assisting any national strategy in place and by co-ordinating the roles of the EU with any Member State action.

The Guidelines will be available through developing countries Poverty Reduction Strategy Papers and initiatives could receive funding under the EU's development co-operation budget. The Commission paper sees land reform as essential to poverty reduction



and would have knock-on effects on good governance, decentralisation and promoting democracy at the local level. If governments in developing countries can be convinced to adopt sustainable land policies there would be advantages for rural development, in economic terms, and for food security, possibly reducing the need for international donor intervention.

According to the Commission Guidelines, land reform touch on many different areas including land tenure problems, weak administration, equality for men and women, protection of human rights and agricultural and economic policy. The Guidelines identify two broad types of land policy reform, land tenure reform and agrarian reform. In the first case, the Commission recommends that land redistribution should only take place within the context of a sustainable agricultural policy that supports family farming. If the reform of land tenure involves breaking up large estates to benefit small farmers then reasonable compensation must be paid.

In the second case, the government finds willing buyers/sellers for market assisted land reform. This has the benefit of avoiding forced acquisition but is dependent upon land being available for sale and governments having the means to pay. The Guidelines recognise that, in the past, the role of donors, both the EU and the Member States, has been unco-ordinated and possibly ineffective. The Commission urges now that donors “can make a major contribution if they play a cautious role”. The new role for donors will require the firm political commitment of the State, tailor-made solutions by country, long term outlook from donors, “gender aware legislative reforms”, transparency and research. The Guidelines also require a monitoring and evaluation role to measure the impact of reforms but does not suggest a structure whereby donors can link failure by the State to make progress with possible effects on donor intervention.

External Assistance

Asia Pro Eco

On 15th November, the European Commission held a meeting to review one of the projects financed under Asia Pro Eco, a development co-operation programme. The Indian partner of one such Commission funded project on renewable energy partnerships between European and Asian cities said in Brussels that the project was making a difference to the quality of the urban environment and would lead to their participation in future EU programmes.

The co-ordinator from Rajkot Municipal Corporation, Gujarat, Mrs Alpana Mitra, said that the city's links since 1996 with Leicester City in the UK, as the lead partner in the project, was instrumental in ensuring Rajkot's participation. The “Renewable energy

partnership support project” brings together Leicester City Council, Energaia (the municipal energy association of the Portuguese city of Gaia) with Rajkot Municipal Corporation. The Brussels meeting showcased the initiatives running in the three countries and will lead to a technical and financial evaluation report on the value of the renewable energy project.

Mrs Mitra explained that through Leicester as the lead partner, Rajkot is eligible for EU funding for workshops, publications and training. Rajkot uses the project to tackle growing power shortages by developing non-traditional energy sources including solar lamps for rural households and biomass electricity generators for small industries. Two problems identified in the meeting included the high cost of renewable energy technology and the lack of leadership shown by governments on the issue.

Ms Ceri Lewis, the Project Officer in the European Commission responsible for the renewable energy project, said that the project was one of the first to be funded under the Asia Pro Eco programme. The Commission is satisfied that it has been implemented well and that there is potential for future initiatives, *inter alia*, by exploiting Rajkot's interest in solar street lights and traffic light systems. Asia Pro Eco funds partnerships between European and selected Asian countries promoting environmentally-sound practices and the integration of environmental concerns into decision making structures. The Asia Pro Eco programme runs between 2002 and 2006 with an EU contribution of €31.5m. A second phase of Asia Pro Eco begins in 2005.

Humanitarian Aid

On 25th October, the European Commission adopted a Commission Decision granting €3.5m in humanitarian aid to the vulnerable population of Cambodia. As a developing country, the government has invested insufficient resources in health and education, access to safe water or basic infrastructure, particularly in rural areas. Cambodia is estimated to have the highest under-five years child mortality rates in South-East Asia. The World Health Organisation calls this a child survival crisis. Further, some 33% of children are moderately malnourished and some 13.4% severely malnourished. The Commission Decision will target over 200,000 people in Cambodia's rural areas, inside provinces that traditionally had been under the control of the Khmer Rouge and thus may not have received international donor support. The Decision has a timeframe of 18 months beginning in November 2004 and grants aid worth €2.5m to projects targeting access to safe water, better sanitary conditions and mine clearance. A further €1m is allocated to actions to reduce child mortality for immunisation of children and the training of health care workers. ■

Bhutan-Nepal refugee crisis: No end in sight

by John Quigley

The worsening political, security and economic situation in Nepal is undermining efforts by the Kathmandu government to address the fate of the 100,000 Bhutanese refugees still living in camps inside Eastern Nepal. With so many problems on the domestic front, the government, now led by Prime Minister Sher Bahadur Deuba, has failed to provoke the monarchy government in Bhutan towards a final bilateral resolution of the issue. Whatever halting progress is achieved is the result of international attention and the growing sophistication of the leaders of the refugee movement in getting their message across to Western donors.

In early October in Geneva, one of the leaders of the refugee movement, Mr Tek Nath Rizal, published an appeal to Bhutan's bilateral donors concerning both the refugees currently in Nepal and highlighting ongoing discrimination against the remaining ethnic Nepalese in Southern Bhutan. Following the failure of the 15 rounds of ministerial-level meetings since 1993 to produce any tangible progress, Rizal's statement says there is an "urgent and genuine need to explore other viable alternatives to the bilateral process".

The bilateral process has been stalled ever since the attack on Bhutanese officials in the Khundunabari refugee camp in December 2003. Despite an investigation and report from the Nepalese Ministry of Foreign Affairs, the Bhutanese have used the incident to prevent any repatriation of verified refugees. Problems inside Nepal have diverted the attention of the government to more pressing concerns with the ongoing Maoist rebellion which is reducing the ability of Kathmandu to govern rural areas and threatens the rule of law across whole swathes of the country. The violence has also created large numbers of internally displaced people fleeing the insurgency and may force the government to divert resources away from the refugee camps towards its own citizens. A parliamentary election is also long overdue.

Also in October, Ruud Lubbers, UN High Commissioner for Refugees, spoke at the 55th session of the UNHCR Executive Committee. Controversially, Lubbers had previously announced that the UN would withdraw support for the seven refugee camps by the end of December 2006. At the 55th session he suggested that all possible alternatives towards finding a solution must be considered. The international donor community, Lubbers said, may have to contemplate allowing voluntary repatriation to proceed even if the

UNHCR is not present inside Bhutan. This represents a major change in policy and could prove very dangerous for those refugees who do decide to return by themselves. Without international assistance and protection, the returnees could be open to coercion or abuse by the authorities, particularly those who must re-apply for citizenship and who may have to wait in camps until their applications are processed.

Speaking in Brussels to this writer, Tek Nath Rizal, a former member of Bhutan's National Assembly, said that only strong pressure from the EU on either Bhutan or India will help provoke movement in Thimphu. This could be achieved through an international conference comprising representatives from the two governments, UN agencies, refugee leaders, non-governmental organisations, academics and international politicians. However, it is hard to see the outcome of such a conference having any significant impact unless there is a high-level representation from India or that both Bhutan and Nepal agree to be bound by the outcome. None of these scenarios are likely.

Yet, one international aid organisation, which has volunteers based in the camps, the Jesuit Refugee Service (JRS), suggest that the Indian government led by Prime Minister Manmohan Singh may be more open to finding a comprehensive solution to the 14 year old problem. The JRS also support the idea of an international conference as a form of pressure on international donors to Bhutan and Nepal.

The Chair of the European Parliament Delegation for relations with the countries of South Asia, Mrs Neena Gill, does not rule out Parliament support for such a conference. In general, the EU continues to remain involved in the refugee situation and in August, the European Commission granted €2m in humanitarian aid to the World Food Programme to assist the refugees in the camps. The WFP spends the aid through the Nepalese Red Cross.

The deadline of December 2006 set by Ruud Lubbers is approaching relentlessly. The decision reached by the government of Bhutan and accepted by Nepal to divide the refugees into four categories, Bhutanese who were evicted, Bhutanese who emigrated voluntarily, non-Bhutanese and, fourthly, Bhutanese criminals, needs to be re-examined. The verification of the identity of the Khundunabari camp refugees confirms that the vast majority is indeed from Bhutan. For the verification of the remaining six camps, an estimated 85-90,000 people, two categories - Bhutanese and non-Bhutanese - should be sufficient. The Joint Verification Team (JVT) should be expanded allowing JVT personnel to work in more than one camp simultaneously and should operate under UN supervision. ■



Hong Kong's Legislative Elections 2004

by Caroline Horekens

The outcome of the legislative elections of 12th September in Hong Kong were a disappointment for the pro-democracy camp. Although voter turnout was unexpectedly high as a record 1.78 million voters out of the 3.2 million eligible went to the polls, pro-democracy representatives received fewer votes than expected. The limited gains of the democrats were to the benefit of the pro-Beijing camp that fared better than predicted.

The election of Hong Kong's Legislative Council (LegCo), composed of 60 representatives, was essentially symbolic; the elections were regarded as a test of public opinion towards the Beijing-backed government. The perception was that democratic parties that favoured more freedom from mainland China would win a symbolic number of seats, thereby showing Beijing that the people of Hong Kong were serious in their campaign for accountable democracy and full universal suffrage. The fact that only 3 additional seats were won (25 out of 60) came as a blow for the democratic camp, a victory for Beijing and a surprise for international observers.

The 12th September was one of the rare opportunities for Hong Kong's people to go to the polls since the former British colony was handed back to China in 1997. Although it was never unlikely that the pro-democracy candidates would win enough votes to gain a majority in LegCo, many believed they would win at least five new seats. This would have sent a crucial signal to Beijing and reinforced the drive towards democracy.

A Year of Political Unrest

Supporters of democracy may have the right to worry as, in addition to the slow pace of political reform, recent actions taken by the Chinese Central People's Government (CPG) have further hindered the freedom of the people of Hong Kong.

China's attempt in 2003 to amend the Basic Law brought a record number of pro-democracy protesters to the streets in June 2003. The march was organised after pro-Beijing authorities' proposed amending Article 23 of the Basic Law, an action which would have suppressed basic freedoms in favour of national security concerns. International observers including the European Union expressed concern over the proposed legislation and welcomed its withdrawal in September 2003.

On 26th April 2004, Beijing again tried to dampen the people's enthusiasm for democracy by unexpectedly deciding to reverse a promise to institute direct elections and universal suffrage in the next round of elections. This decision came as a blow to pro-democracy supporters who had lobbied extensively for the Chief Executive and LegCo Representatives to be directly elected by the people of Hong Kong respectively in 2007 and 2008.

Although massive peaceful protests followed both Beijing's controversial actions the real protest was meant to take place at the polling stations on 12th September by securing the maximum number of seats for the pro-democracy camp. The symbolic value of these direct elections was paramount. Some qualified them as a "contest between patriotism and reform" others as a "referendum on the aspirations of Hong Kong residents for more democracy".

A Fair Electoral System?

In the aftermath of the surprise outcome of these elections politicians from the pro-democracy camp, including former democrat leader Martin Lee, denounced the complexity of LegCo's voting system as giving an unfair advantage to pro-Beijing candidates. Although the 6.3 million people of Hong Kong have had more voting power since becoming a Special Administrative Region (SAR) of China, than under the 156 years of British colonial rule, this voting power remains relatively limited.

At the time of the handover, China pledged to stick to the "one country, two systems", and "Hong Kong people ruling Hong Kong", concepts enshrined in the Basic Law, which came into effect in July 1997. Under the Basic Law, Hong Kong is to move towards full democracy and, in the meantime, is to have a high degree of autonomy and enjoy executive, legislative and independent judicial power from the CPG. However, in practice it seems that the CPG wields much more power than its meant to in principle.

The leader of Hong Kong since 1997, Chief Executive Tung Chee-hwa, was selected by an election committee largely handpicked by Beijing. In turn, the Chief Executive appoints his own government to lead the province; voters have no say over his choices. The decision taken in April overruling direct elections until further notice implies that Mr Tung's successor will be chosen in the same way, in two years time.

As for the legislators, under the current election system, only half their seats are chosen by popular vote. These thirty seats are divided among geographical constituencies that are decided by a complex system of proportional representation; more than 3.2 million voters are eligible to go to the polls.



The remaining thirty seats are chosen by functional constituencies that represent various corporate and professional interest groups. In other words, half of Hong Kong's legislators are elected by less than 200,000 people. It is commonly perceived that the interest groups supporting the functional constituencies tend to favour pro-Beijing politicians.

Dirty Politics?

In addition to a seemingly unjust electoral system, the run up to the 12th September elections was marred by allegations of "dirty politics". International observers joined Hong Kong pro-democracy supporters and politicians in claiming that an atmosphere of intimidation had compromised the elections. On 13th September, the day following the elections, the US House of Representatives declared that the people of Hong Kong should be free to determine the pace and scope of constitutional developments citing a continued lack of fully democratically elected legislature in Hong Kong.

Three days before the elections, Human Rights Watch released a report detailing how politicians, journalists and voters had faced political intimidation and criminal threats, "much of it apparently emanating from Beijing with the aim of skewing election results to favour pro-Beijing candidates".

In a statement, Brad Adams of Human Rights Watch said that attacks on free expression and association appear to be a direct result of Beijing's desire to control the political situation in Hong Kong".

Beijing was accused of working behind the scenes to undermine the democratic opposition. Voters denounced Beijing's influence in the bout of scandals that tainted the Democratic Party in the run-up to the election. The case of Alex Ho, a popular democratic LegCo candidate who was arrested on charges of solicitation on the mainland a couple of weeks before the election, is one such scandal that made waves.

The expected success of the Democratic camp at the polls on 12th September would have sent a clear message to the mainland of the need for political reform and democracy in Hong Kong. The results, however unexpected, should be seen as a disappointment rather than a defeat. Despite the unfair advantages they may have had, pro-democracy candidates did win 60% of the direct vote giving them more seats than ever before. The international community should be alert to any developments that risk impeding Hong Kong peoples' freedom. However, the people of Hong Kong have in the past year shown that they were very serious about democracy;. ■

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EIAS POLICY BRIEFS

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Analysing topical issues in Asia and
recommending appropriate EU responses

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Democracy and the rule of law in Bangladesh

by John Quigley

Speaking at the European Institute for Asian Studies in Brussels on 28th September 2004, Mr Amir-Ul Islam said that while Bangladesh has a long history of constitutional democracy, a growing culture of impunity and a lack of accountability threatens the rule of law. This culture must be countered by protecting the rights of all citizens and improving the administration of justice in Bangladesh.

Mr Amir-Ul Islam, lawyer and legal adviser to the leader of the opposition party, Mrs Sheikh Hasina, stated that the Bangladeshi people have had long-held aspirations for democracy and even though this has brought uneven development in the country, people are happy to continue to fight for the right to be governed democratically. Historically, the greatest weakness Bangladesh faced was the military intervention. The fundamental requirement for the governing of a State is that it adheres to the rule of law, however, in relation to the imposition of martial law, this is missing.

The failure to bring violators of the rule of law over a long period of time has led to a decline in the quality and performance of Bangladesh's democratic institutions. This lack of accountability and culture of impunity now threatens to engulf the entire society. It began with the failure to try the war criminals and perpetrators of genocide from 1971, Mr Amir-Ul Islam said. The manipulation of the judiciary threatens to destroy all credibility in the criminal justice system. The absence of an investigation or trial into the killing of President Ziaur Rahman reinforces the culture of impunity. The democratic environment for tolerance and bi-partisanship will be destroyed if attempts to muzzle the opposition parties and the minority community are allowed to succeed.

The general breakdown in law and order compounds the problems facing Bangladesh. The present pattern of violence includes bombing, grenade attacks and a sophisticated attempt on the life of the leader of the opposition and top members of the Awami League. The corruption of police and political power, terror attacks and the failure to investigate properly attacks on the opposition combine to destroy democratic institutions and the rule of law.

An analysis of the chronology of events since the birth of Bangladesh clearly shows planned attempts to suppress pro-liberation forces and represents a continuation of an earlier plan to destroy the secular and democratic fabric of Bangladesh. Attacks against

Awami League leaders, intellectuals, activists, voters and NGO's are all part of an orchestrated campaign to strike at the root of democracy, secularism and the rule of law. These forces commit atrocities and perpetuate violence leading to the criminalisation of politics. The pattern of terror and persecution poses a serious threat to the working of the Constitution and the institutions established to protect fundamental rights.

Before it is too late, certain steps must be taken. Police power must be separated from political power, Mr Amir-Ul Islam said. The judiciary should be restructured and imbued with values of independence, right and justice. Perpetrators of crime must be tried and punished wherever they are found and whatever party they belong to. Unless Bangladesh can move in unity irrespective of political affiliation and religious denomination, the forces of darkness and fanaticism will gain the upper hand.

To reverse an inexorable process of mayhem, Bangladesh needs a credible, transparent and fair investigation into the assassination attempt on Sheikh Hasina, as stated by the Dutch Presidency on the European Council. This investigation, Mr Amir-Ul Islam said, must look at the methods, causes and perpetration of unexplained bomb explosions and arms trafficking. This might expose cross-border and international links that threaten all peace-loving nations. Inside Bangladesh, all citizens opposed to anarchy must unite to oppose terrorism and extremism and to regain a democratic environment where the rule of law, secularism, economic co-operation and equality between communities can be ensured.

H.E. Maudad Ali, Embassy of Bangladesh to the EU, concurred with Mr Amir-Ul Islam saying that the tradition of democracy in Bangladesh is deep-rooted. Since 1991, all major political parties have adhered to the rule of law. It can be expected that there will be occasional hiccups in a democracy that is only fourteen years old. The progress of democracy can be seen even in remote villages where the level of political consciousness is growing. Today, the people of Bangladesh would never accept a Pakistan-style democratic system. The achievements Bangladeshis have made since 1991 means that the government will never allow terrorists to destroy what has been hard won. Their small successes will never succeed in destroying the roots of democracy.

The promise of Bangladesh's current government at the last election was to restore law and order, which had been suffering in recent years. The new administration's poverty alleviation campaign was threatened by terrorism so the government committed itself to making tremendous efforts to restore law and order. Unfortunately, in the first year in office, the system for administering justice was unable to cope with the heavy burden placed upon it. Incidents of



police incompetence, extortion, rape, assault and acid throwing presented a bleak picture to the international donor community. Some donors threatened to withdraw unless progress was made. This led the government to launch Operation Clean House, which required the army to support the civil administration. The Operation brought about a tremendous improvement in the law and order situation.

As a least developed country, Bangladesh faces significant resources constraints. The government wants to tread a fine line between restoring law and order thus preventing a slide into chaos and protect the rights of all citizens under the constitution. The international donor community needs a well run country in order to continue with its development work. As a Muslim-majority country, with 85% of people living in rural areas, the government can point to the free media, freedom of association, a functioning civil society and progress with the education of girl-children as evidence of the benefits democracy has brought to Bangladesh. The tremendous empowerment of women has brought about a social revolution in household decision making and in terms of family planning.

Following the bombing incident of 21st August, the government was the first to condemn the act of cowardice. In the immediate aftermath, the government established an independent judicial commission to investigate the attack. The US Federal Bureau of Investigations (FBI) and Interpol will collaborate on an inquiry to help ensure the credibility and independence of the investigation. The government has offered a reward of US\$166,000 for information and, to date, some arrests have been made. This comprehensive response has garnered international support and praise. The calls for the resignation of the government, in light of the attack, are misplaced. With the co-operation of the democratic opposition parties, the government will do its utmost to resolve the situation.

Mrs Ana Beatriz Martins, European Commission, agreed with the assessment of Mr Amir-UI that the law and order situation in Bangladesh is sliding into chaos. There is clear evidence of fundamentalism and probable links of extremists to international terrorism. Democracy in Bangladesh is fragile and the events of 21st August highlight that the country is at a crossroads.

The European Union has a longstanding relationship with Bangladesh and has been a development partner since the 1970's. The relationship was improved significantly in 2001 with the signature of a Trade and Co-operation Agreement, which includes Article 1 on respect for the rule of law and democratic principles. The Agreement offers a new dimension to the EU-Bangladesh relationship with dialogues on trade and development aid issues and, more recently, on governance and human rights issues also. The Joint

Commission established under the terms of the Agreement provided for a Working Group on human rights issues. Discussions in the Group have been helpful, Mrs Beatriz Martins said, and the EU is keen for them to continue.

The main focus of EU development assistance is towards the social sector including health and education initiatives. The EU would like to be more engaged on governance issues leading to institutional reforms that can underpin the process of democracy in Bangladesh. This will be a key priority for the EU in the future. Specifically, the EU welcomed the creation of an anti-corruption commission in early 2004 but, the commission has yet to make any significant progress. The government needs to speed up reform in the police service and address the related concerns of human rights abuses and the culture of impunity in civil institutions. The election manifesto of the current government promised measures to promote judicial reform but, to date, nothing has been forthcoming. The separation between government and judiciary remains unclear.

The situation in Bangladesh today is even more critical than before the launch of Operation Clean House. The opposition political parties are the subject of sectarian and fundamentalist violence with journalists, women and children also suffering. These events need urgent investigation leading to prosecutions. The role of parliament has become dysfunctional and its power is effectively marginalised. This has unfortunately become the standard practice. Unless the two major political parties overcome their differences and engage in constructive dialogue, the motor of democracy will not run smoothly.

In reply to questions, Mr Amir-UI Islam said that an international investigation, as suggested by the EU, is necessary in light of the absence of any investigation into previous attacks and the question-mark over the possible involvement of elements of the army in the 21st August attack. Once a fair and transparent investigation into the assassination attempt has taken place, the way would become open for greater links between the political parties and the involvement of the Awami League in day-to-day politics.

Mrs Ana Beatriz Martins, European Commission, said that the priority must be to conduct any investigation urgently, before evidence is lost. The EU is ready to assist Bangladesh if the government requests international co-operation.

H.E. Maudad Ali, Embassy of Bangladesh to the EU, pleaded for an end to the politics of confrontation and suggested that the political parties should co-operate to help alleviate Bangladesh's resource and political constraints. ■



EU-INDIA-USA Triologue

A unique EU-INDIA-US Triologue on Inter-regional Security was co-organised by the Konrad Adenauer Stiftung, the Hanns Seidel Stiftung and the European Institute for Asian Studies on the 30th September 2004 in Brussels, ahead of the EU-India Summit taking place in 2004. Speakers at the Triologue represented the EU institutions (European Commission, the Council of the European Union and the European Parliament) while India was represented by her Ambassador to the European Union. Speakers also included leading analysts drawn from prominent think tanks in the US, India and Europe. The track-two Triologue was attended by 150 participants from the diplomatic, official and academic communities in Brussels.

The Triologue was organised in recognition of the need to develop a comparative perspective between EU-India and US-India relations with a focus on commonalities and differences of perceptions within the EU-INDIA-USA. It was noted that EU-India relations are to a very considerable extent co-determined by events outside this relationship, most significantly the 11th September 2001 attacks on the US as well as regional security issues within the wider Asia. The Triologue analysed the state of play in EU-India and US-India co-operation, the progress on working together on non-proliferation and peace building, on defining and addressing the common security threat and promoting trilateral co-operation in global governance. Main themes throughout the Triologue were the commonalities and differences of objectives, interests, values and strategies between the EU, India and the US.

Below, *EurAsia Bulletin* reproduces two of the papers presented at the conference, from Maj-Gen Dipankar Banerjee and Armin Laschet, MEP. A comprehensive report of the conference was compiled by Dr Willem van der Geest. A full list of speakers and the conference programme can be found at www.eias.org.

Working together on Non-Proliferation and peace-building

by Maj Gen Dipankar Banerjee

By any account, a conference bringing together the EU, India and the United States is a unique event. Coming as we do from three separate continents, with our different perspectives, yet to share our common concerns and find constructive solutions. What brings us together is the realisation that only through a frank exchange of views that the challenges of our times can effectively be addressed.

The world today is at the cusp of change. Three years after the horrendous attack on the World Trade Centre, the War against terror is facing a crisis. The initial coming together of the free world in spontaneous support of the United States in its hour of tragedy, has largely dissipated. This has made this necessary war, a very complex and a divisive one, whose end is not in sight. The War against Terrorism has indeed begun to acquire the characteristics of a war between civilisations. If it indeed develops in to one, its duration will be measured in decades and not years.

The modified objective of the war in Iraq, to end a brutal dictatorship and bring peace and democracy in a troubled part of the world, may well have an opposite outcome at least in the short term. The policy of targeting rogue regimes has made some of them turn towards developing weapons of mass destruction in the hope of acquiring a deterrence against attack. The ultimate horror of our times, the possibility of the mating of terror and weapons of mass destruction seems to be more likely than ever. This fusion may already have taken place a short distance to the west of my country. Its consequences are likely to be felt around the world.

Meanwhile poverty, destitution and disease proceeds apace around the globe. This state itself is the cause of many other instabilities and conflicts that threaten large parts of the world. The UN Millennium Goals announced so hopefully just a few years ago have floundered and in the absence of resources, their fulfilment seem a distant dream. Yet, there are positive developments as well and opportunities for change perhaps in the horizon. Impending elections in major countries of the world may provide opportunities for introspection and reflection and perhaps an opportunity for course correction. Winds of democracy are indeed beginning to flow in many regions of the world, particularly in the Islamic world; though there remain major exceptions and the pace of progress, where they are taking place, remains far too slow.

Even though the global disarmament scene is dismal,



with no forward movement anywhere, the nuclear non-proliferation treaty is due for review in May next year. Does it provide an opportunity? Finally, is the work of the UN High Level Panel of sixteen independent eminent persons appointed by the Secretary General in September last year. Tasked to analyse new threats confronting the world today and recommend measures for collective international action to counter them, it will submit its report on 1st December 2004. The Report is expected to make major recommendations, which after further deliberations around the world can provide the basis for substantive changes in the international system as well as identify measures that are necessary to implement.

I have been asked to address briefly two issues; the question of preventing weapons proliferation and peace building and try to identify areas for co-operation.

Non-Proliferation

The global non-proliferation process is in effect on hold with virtually no progress anywhere. The Conference on Disarmament is unable to agree on a Decalogue and its deliberations remain on hold. An *ad hoc* committee was established on Prevention of an Arms Race in Outer Space, in Sep 2001 but no progress has been made. The Biological and Toxin Weapons Convention remain without an effective verification clause. There is no agreement on beginning a dialogue on cutting off fissile material production. The United Nations Disarmament Commission at New York addressed two issues recently; one on ways and means to achieve nuclear disarmament and the other on confidence building measures in the area of conventional arms.

On both questions it failed to arrive at any consensus. The First Committee of the UN General Assembly deliberated on a number of issues and passed some resolutions, but as it is bereft of any executive authority, could produce no substantive action. Finally, on the NPT Review Conference due in May 2005. In the last Preparatory Committee held this May, there was no agreement even on a common Chairman's draft. The prospect of any constructive development is remote. Several review conferences in the past could also not come out with an agreed statement. Will this be different next year?

Before proceeding further, let me identify what I consider the three most pressing proliferation challenges facing the world. First, is the elimination of weapons of mass destruction, through universal, non-discriminate global action incorporating effective verification procedures. Second, prevent deployment of weapons in outer space, which can in turn only lead to an extremely costly arms race in the future. And, thirdly, address questions of conventional force reductions through transparent confidence building

measures. In this regard, the prevention of proliferation of small arms and light weapons needs to be given a high priority.

Before proceeding further let me narrate very briefly Indian views on non-proliferation: India is the only country with nuclear weapons which genuinely believes that its security interests will be best served in a nuclear weapons free world. Hence it has without hesitation consistently supported efforts towards a nuclear free world. It was India that first proposed an end to nuclear testing as far back as 1954. The principles for a nuclear non-proliferation treaty were first proposed by India in 1965. In 1982, India proposed a convention to ban nuclear weapons. This was followed up at the third UN Special Session on Disarmament in 1988 by Rajiv Gandhi's call for a world without nuclear weapons. On fissile material cut-off, India has supported an early conclusion of a non-discriminatory treaty that will tackle the issue of future production of all fissile material in its totality. This should also be within the wider context of nuclear disarmament.

May I briefly suggest a common approach which we might pursue together? First, is concerted action to delegitimise weapons of mass destruction, particularly nuclear weapons, through collective international action by governments and civil society. The idea that nuclear weapons is necessary for security of some and that new uses should be found for their use and then ask the rest of the world to give up acquiring them, is immoral and unrealistic. It will simply not happen.

I would like to call for a Nuclear Weapons Convention to address seriously a time bound plan of action for their elimination. The time frame need not be near term. A small number may be held under international control. Accepting the notion that these weapons are really not necessary may actually allow for their eventual elimination.

Finally, on a near term basis speedily address non-proliferation measures as adopted by the Security Council on April 28 this year under Chapter VII provisions. Effective collective action should continue to be a high priority for the international community.

Peace Making and Peace Building

The decade and a half after the Cold War has witnessed many armed conflicts both within and outside states. The challenges to the world are numerous. Some have been addressed effectively while many others have not. What has emerged in recent years is a clear demonstration of the centrality of the UN in establishing global peace.

It is not my intention to discuss the mechanics and the modalities of international peacekeeping or peace



building. Our concern is with issues of policy and how to strengthen the United Nations and keep it relevant in order to fulfil this important role. While decisions for peace making often rests with the developed nations, troops are provided by the developing countries, particularly those from South Asia. Often their views are not sufficiently heard. Even where capabilities exist, co-operation suffers. Even in cases of urgent humanitarian aid quite often there is a fear that decisions may be made more because of major power interests rather than genuine desire to ameliorate suffering.

Today, the UN has the authority and legitimacy for maintaining international peace. Again today, the US is the sole super power with overwhelming military capability to win wars across continents. It is vital that these capabilities merge and reinforce each other to ensure global order. When it comes to establishing peace, the UN enjoys a clear advantage. This is because it is still seen as a representative world body, though this image too is fraying and its representative nature is under question.

This is where the constitution of the UN Security Council become vital. To be effective and ensure that its authority has global support, its composition has to be more representative of the global power equation of today rather than of the immediate era of the post World War II. It must also represent the global poor. Existing norms of democracy and representation must be respected. So should a nation's contribution to international peacekeeping. Once such a restructuring is undertaken the UN will have greater relevance, legitimacy and effectiveness.

In conclusion, may I suggest that the extra-ordinary circumstances facing all of us today, call for exceptional measures. We need to think beyond existing norms and develop new responses, based on current realities and the challenges all of us face. A genuine co-operation across continents alone will help meet these challenges. ■

Major-General (Retd) Dipankar Banerjee is the Director of the Institute for Peace and Conflict Studies in New Delhi, India.

Promoting trilateral co-operation in global governance

by Armin Laschet, MEP

The EU is both India's main trading partner and biggest foreign inward investor. The EU accounted for 32.2% of India's exports and 21.2% of total imports. Trade between India and the EU has grown constantly over the past decade, nearly trebling to today's volume of €27 billion. The EU and its Member States collectively make the biggest bilateral contribution to India's development programmes. The EU will be devoting some €225 million to development and economic co-operation with India over the next 5 years. EU-India relations are structured through a 1993 Co-operation Agreement and a political dialogue conducted at both ministerial and official level.

India is a strategic partner of the EU with regards to its geo-strategic importance and its potential role in a multilateral world order. EU-India relations have been intensified in the last years through regular EU-India summits, regular Business Summits which bring together Indian and European business leaders and through the EU-India Round Table, which brings together leading members of Indian and EU civil society. In June, the Commission adopted its Communication on an EU-India Strategic Partnership which led to parliament adopting its proposals for a recommendation to the Council in September 2004.

Separately, the newly elected Parliament has decided to draw up an own-initiative report on an EU-India Strategic Partnership. Shortly, the 5th EU-India Summit is due to take place in The Hague, under the Dutch Presidency of Prime Minister Jan Peter Balkenende, in November 2004. India is one of the few developing countries which has stayed stable and democratic since its independence. With India Europe shares not only common interests but also common values. This is a very important basis for a strategic partnership. In its relations with India Europe has gone beyond trade or economic relations, it assuming responsibilities in the field of security and defence policy.

What is global governance? It is not a government but minimum framework of rules necessary to tackle global problems guaranteed by a set of institutions including both international organisations and national governments. In promoting global governance the United Nations has a vital role to play. India and EU as global actors in the multipolar world always express their commitment to strengthen the UN and equip it to respond to the challenges of the 21st century. The reform of the UN and especially its Security Council is a necessary prerequisite for a successful and effective United Nations in a fast-changing world order.



The geographical and geopolitical representation of the Security Council, which reflects the geopolitical situation after the Second World War and is not representative for a current world situation, should be improved through permanent seats for each of the following regions: Africa, Asia and Latin America. India is a country of a 1.2 billion people and the largest democracy of the world. With its geopolitical importance, India is a natural candidate for a permanent seat in the Security Council. Some reasons why India should become a permanent Member of UN Security Council: India is the world's largest, liberal and secular democracy. India is the world's 4th largest economy (larger than that of the UK and France combined and larger than that of Russia) and one of the fastest growing. Today, India is an acknowledged technology superpower.

India is a responsible and peace-loving nation with powerful armed forces firmly under civilian control. India is a responsible nuclear power with a strong record of non-proliferation and contributes to UN peacekeeping operations. Prime Minister Manmohan Singh has recently expressed his "strong claims" for a permanent seat in the Security Council. Three of the five permanent members -Russia, France and Britain - support India. The United States has remained noncommittal on the issue. China, the other member, has said it favours a larger role for India in the United Nations but not a permanent seat.

Three other countries have recently built a "pressure group" of four nations that includes India, Japan, Germany and Brazil eager to get a permanent place in the top UN body. Whereas these claims are really reasonable, Germany's ambitions are not only inappropriate at a time when Europe is growing more and more together, but also not in line with the spirit of the European Constitution giving the EU its legal personality and creating the post of the European Foreign Minister. If we take the ambitions of the EU in the field of foreign and security policy seriously, we should advocate a permanent seat for the EU as soon as its legal personality is recognised, rather than a seat for one more national state. The EU seat would not replace the permanent seats of the UK and France, but will be an additional one. I am deeply convinced that having one EU seat in the Security Council will force the Europeans to co-ordinate better their positions and find compromises.

The Europeans should put their efforts to lobby the European seat and support the reform of the United Nation as a whole. In contrast, support for a permanent seat for India could be a very important contribution for a successful reform of the United Nations. ■

Mr Armin Laschet is a German Christian Democrat and recently wrote Parliament's opinion on the EU's relations with the UN.

EU-INDIA-USA Triologue

by Dr Willen van der Geest

State of Play: EU-India and US-India Co-operation

EU-India relations have been growing closer since the initiation of annual summits in Lisbon 2000, placing India amongst the top-priorities of the EU's common foreign and security policy. The EU and India share global vision on the importance of 'effective multi-lateralism'. Also the EU has come to realise that India's economic capabilities will place it as one of the largest economies along with the US, EU, China and Japan by the end of this decade. The EU seeks to intensify its political dialogue with India, engage in a wide range of sector-specific dialogues and develop new instruments to institutionalise the co-operation. The EU pledges to help India achieve the Millennium Development Goals and develop new forms of academic exchange, amongst others through the *Erasmus Mundus* scholarship system, enabling Indian students to come to Europe as well as European students to study in India.

USA-India bilateral relationships have undergone a sea-change transforming from one of 'estrangement' to one of 'engagement'. Nevertheless, many in India remain ambivalent about the US, fearing to be 'swallowed in the embrace'. The US interest in the relationship has focused on defence and security, while the trade and investment co-operation is still woefully underdeveloped. However, India's commitment to economic liberalisation has raised interest within the US. The end of the cold war and the collapse of the Soviet Union ushered in a new pragmatism in Indian foreign policy – less ideological, less anti-western and more accepting of globalisation. This pragmatic stance was reinforced during the NDA administration and is set to continue by the new Congress-led UPA administration. The role of the Indian-American community, their strong performance in Silicon valley and across US universities and business communities, has too been an important facilitating factor. In recognition of India's growing importance, the US has recently modified its regulations governing the export of dual-use high technology to India (September 2004).

Still, India's 'hard' security focus may have underplayed the importance of 'human' security, focusing on factors affecting security in people's daily lives. The list of intended arms purchases includes many big price-tag items for external security, even though internal security has been a more important cause of death in India. Moreover, the level of spending on defence and security, though approximately constant as a share of GDP, measures very large as compared with expenditures on e.g. health or social security. A shift of focus away from



hard-ware based external security towards improving internal and human security would be desirable.

Working together on Non-Proliferation and Peace Building

India, like to USA and EU, is fully committed to preventing the spread of weapons of mass destruction (WMD's), to prevent the deployment of weapons in outer-space and also to reduce conventional forces as well as small arms and light weapons. However, the global non-proliferation process is virtually without progress – with no agreement on the prevention of an arms race in outer space, no verification of biological and toxic weapon stocks and production and no dialogue on cutting off fissile material production. India's long-held view on the need for a nuclear free world was first articulated in 1965 and reinforced by its leaders on many occasions since. It cannot accept the inequities implied in the NPT-regime, but rather calls for concerted actions to de-legitimise WMDs through a time-bound world-wide plan of action for their elimination. India also notes the link between effective peace-keeping and reform of the UN Security Council and seeks a better representation of the global power equations which will characterise the 21st century.

With both EU and US articulating an intention to deepen their strategic interest in India, it is opportune for India to seek to act in concert with these major global players – especially as this does not necessarily require identical views on each and every issue. India's neighbourhood is extremely volatile and thus far India is not part of any military alliance. The post September 2001 world is acknowledging that failed states and systemic failures of governance can be a reason to intervene. EU-INDIA-US share the view that strong actions may be needed to combat terrorism and also share a belief in the importance of maintaining international security. India's commitment to this has been shown as it has never proliferated WMDs or their means of delivery. It attaches great importance to contributing towards a rule-based equitable global system, geared to ensure a confluence of civilisations, and avoid a clash.

Analysts emphasised the need for a fresh start in US and EU dialogues with India, especially because of the involvement of non-State actors in security. The enhanced dialogues should accept political realities – that India will remain a nuclear power and non-signatory to the NPT regime and that US will remain the sole superpower for decades to come. India should be closer involved in Asian security and be encouraged to join the general membership of the Proliferation Security Initiative. A world-wide effort should be undertaken to clarify the status of international law in the post 9/11 world, including a review of the issue of the permissibility of pre-emptive strikes. Finally, such

a global debate should also review the future role of nuclear weapon systems.

Analysts also noted that India continues to be seen as a threat to a stable NPT regime and that the present US administration has engaged into creative thinking towards a new regime. The US strategic interest in India is clearly reflected by its initiative on the Next Steps in Strategic Partnership, enhancing civil nuclear, space and high-tech co-operation. However, from its side India should take on some burdensome tasks in ensuring an enhanced non-proliferation regime, thus contributing towards its universal enforcement.

Defining and addressing the Common Security Threat

India supported the war on terrorism immediately after 11th September 2001 as it too perceives the threat of terrorism as an attack on the openness of its society. The new Congress-led Indian administration is committed to closely working together with the US, as shown by the recent meeting between President Bush and PM Manmohan Singh in New York, where they discussed, *inter alia*, the global fight against terrorism, WMD proliferation and Indo-Pak ties. The regional security situation in India's neighbourhood remains worrisome, with insurgency in Nepal, illegal migration from Bangladesh, unsettled border disputes with China, a stalled peace process in Sri Lanka, the continued use of Afghanistan as a hinterland for terrorism and, last but not least, the long standing differences with Pakistan, though recently defused through talks and contacts between the leaders.

The EU has recently re-examined and reformulated its security strategy, acknowledging that it faces common threats and that as an effective global actor it must be ready to share in global security. It circumvented the complex and divisive debate on the definition, nature and causes of terrorism, by asserting the importance of responding to terrorist *acts* – that is, any attack on innocent civilians. It acknowledges that failed States can give rise to regional conflicts, for example, in the Great Lakes region and that failed States can give rise to the proliferation of WMDs. State failures – in the sense of poor governance—too can be a source of regional or global insecurity. The EU's overriding objective remains to engender effective multi-lateralism, beyond the UN, but including other institutional arrangements such as International Criminal Court (ICC) and the ASEAN Regional Forum (ARF). Strategic bilateral relations will be intensified with the US, Russia, Canada, China and India. The EU does not only focus on conflict management and resolution, but also seeks to develop its agenda for conflict prevention as well as post-conflict assistance towards rehabilitation and reconstruction. It has been noted that at present no structure (even informal) exists to promote EU-India-USA co-operation. The EU is



partly to blame, with its weak visibility and low profile.

It was observed that the EU and USA security strategies were very similar and closely co-ordinated, especially through the consultation in the NATO-framework, comprising 26 nations and providing world-wide operations, including in Afghanistan and Iraq, although only for a training mission. Strikingly, despite simultaneous moves from the EU and USA identifying India as a strategic partner, NATO and India have not yet entered into informal consultations. Differences, for example, over Iraq between India and US may be expected to become less important, in the context of the transfer of sovereignty to an Iraqi government, forthcoming elections and a UN mandate for reconstruction.

Promoting Trilateral Co-operation in Global Governance

Analysts emphasised the unfairness of the present distribution of global power, noting a mismatch between countries' GDP contribution and their voting power in global governance institutions, especially across the UN system as well as within the Bretton Woods institutions. At the level of global governance, India's contribution in operations, finance and human resources was significant, while its role at the international decision-making tables had remained marginal.

It was observed that the EU-India co-operation has over recent years been given greater focus and institutional structure through regular political and business summits, an EU-India Round Table, the Commission's Communication on the EU-India Strategic Partnership, adopted in 2004, as well as the forthcoming European Parliament's own-initiative report on EU-India relations.

EU-India-USA co-operation in global governance will need to involve the UN. However, UN reform will be a necessary pre-requisite. India's candidature for permanent membership of the UN Security Council. The EU should support India's claim, whilst for itself advocating a permanent seat for the European Union in addition to the permanent seats of the UK and France. UN reform has to adopt a forward looking approach, reflecting the needs for the 21st century.

Recommendations and Conclusions

Both the US and the EU have "discovered" India over the past decade. This reflects, in part, a perception (which is shared by most Indians) of a "rising India." The EU, India and the US are simultaneously competitors and collaborators. Which of these two elements prevails at any particular moment will depend

on the issue at hand. Decision makers and the general populace in each of the three entities must act to ensure that the competitive elements in these relationships do not preclude co-operation in other areas. In the immediate future, trans-national issues – including energy, disease, criminality, and environmental degradation – may represent especially fruitful venues for collaboration among the three parties. It was recommended that energy security be considered the main theme for the next EU-INDIA-US Trilogue.

While not ignoring their continued non-proliferation differences, officials and opinion makers in the EU-INDIA-US ought to give greater attention to acting in tandem in pursuit of their shared non-proliferation objectives – most notably, a common desire to block the spread of dangerous technologies to terrorists or States supporting terrorism.

Despite evocations of "equal partnership" among the three, US power, in all its dimensions, will almost certainly overshadow that of either the EU or India for some decades. Each of the two less powerful parties (India and the EU), therefore, is likely to give precedence to its relationship with the US. On at least some occasions, however, these two less powerful parties may find themselves drawn together in their concerns about, or opposition to, the policies of the hegemon. The US, for instance, is not likely to accept the value placed on effective multi-lateralism that both the EU and India attach to it.

Efforts to promote serious tripartite discussion and, wherever feasible, co-operation among the three parties ought to receive higher priority at both official and non-official levels. Collectively, these three are home to one-third of humanity. This fact in itself suggests the necessity for more serious and sustained attention to the many ways in which their interests clash, coincide, and run along separate but parallel tracks.

It is crucial for the *European Union* to begin implementing its proposed dialogues with India in a timely and efficient manner. Two major weaknesses were identified: (i) that no structure exists to promote EU-India-USA co-operation; and (ii) that the EU suffers from weak visibility and a low profile in India. The EU should understand the importance of its role in global security. In turn, *India* should be closer involved in Asian security and be encouraged to join general membership of PSI in order to contribute to an enhanced non-proliferation regime. There is a need to shift India's security focus away from "hard-ware based" external security towards improving internal "human" security. Most immediately, India should seek to engage in, at least, an informal dialogue with the NATO. ■

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Asian studies in the new EU Member States

by John Quigley

Professor Jaroslav Vacek, Dean, Philosophical Faculty, Charles University in Prague, presented an overview of the current state and historical background of Asian studies in the Czech Republic, Poland and Hungary. Speaking at the European Institute for Asian Studies (EIAS) on 14th October, Prof Vacek said the countries of Central and Eastern Europe had a long tradition of Asian studies but membership of the EU might threaten the range of disciplines available. This was the first talk by an Asian scholar from the new Member States of the EU from the East and Prof Vacek was warmly welcomed by Dick Gupwell, Secretary General and Dr Willem van der Geest, Director of EIAS.

In Poland, Prof Vacek said, the main centres for Asian studies were Warsaw and Krakow. The Department of South Asian Studies, Oriental Institute at Warsaw University offered courses in Sanskrit, Bengali and Tamil studies. The Department of Indian Philology, Institute of Oriental Philology, Jagiellonian University in Krakow specialises in language teaching offering Sanskrit and Hindi.

Krakow University, as the oldest, was established in 1893 although, today, Warsaw is probably the biggest in terms of student numbers. The Centre for Cross Cultural Studies in Warsaw offers both undergraduate and postgraduate courses but without language tuition. These universities and centres have good relationships with Indian counterparts and the Indian embassies in central Europe. Asian studies in Warsaw benefits from the *Studia Indologiczne* Journal while Krakow publishes the *Cracow Indological Studies* Journal.

Scholars from central Europe increasingly make international links with academics from the EU and the United States. For example, the Polish Academy of Sciences has ties to its Austrian equivalent through a project on Hinduism. The first Sanskrit centre was established in 1893 in Krakow. For the 100th anniversary, an international conference was held in 1993. The centre has some 50 students following courses in Sanskrit literature and grammar, Hindi-Urdu grammar and language. Although the centre also teaches political studies, in practice this concerns the Middle East more than India. Buddhist studies in Poland centred around Stanislaw Schayer (†1941) who developed an institute before the second world war. With the outbreak of war, the scholars and students were dispersed. Teaching began again in the 1950's but not as systematically as before.

In Hungary, Indian studies began as an integral part of Indo-European studies, Prof Vacek said. After some years, the study of Sanskrit separated into its own department. Asian studies began in Hungary under Alexander Csoma de Körös (†1842) who specialised in Indian and Tibetan studies. Due to the uncertain political situation, between 1920-48, the department was closed down, although it re-opened after the war. The impact of both world wars on Asian studies in central Europe was significant. The post-war political situation and the resulting emigration also affected academic life. The nature of teaching shifted from classical studies towards modern Indian languages.

In the Czech Republic, the origins of the growing interest in Sanskrit study can be found in the movement for the revival of the use of the Czech language, in the 19th Century. Sanskrit has similarities to Slavonic languages, closer than the link to the Latin group. In 1850, August Schleicher (1821-1868), a German linguist, started the school of Sanskrit studies in Prague. After continued surveillance by the secret police, Schleicher was forced to leave! By 1882, Josef Zubaty (1855-1931) established a faculty for the teaching of the Czech language and comparative Slavonic studies. He was succeeded by one of his students Mr V Lesny in 1928, who led the department more towards Bengali studies. With a colleague, Mr O Pertold, they produced a post-war generation of students devoted to Indian studies.

Since the 1960's, Prague has offered courses in Tamil and Bengali to complement existing modules in Hindi and Sinhalese. Events in 1968-70 forced the closure of the department until the 1990's and most of the distinguished academics were dispersed to other faculties and universities. One of the major projects currently underway is "Pandanus", an initiative studying the impact of nature through literature. The Oriental Institute at the Academy of Sciences published the *Archív Orientální* Journal. The Institute is currently led by Mr S Vavroušková and conducts research on Islam, Buddhism and Hinduism. Asian studies in the Czech Republic is trying to marry the tradition of classical studies with contemporary studies.

Responding to questions, Prof Vacek said that Asian scholars in Central Europe recognised the need to publish both at home in the native language but at international level through English. This helps build and maintain links with international colleagues and can bridge the gap between technical academic publications and the general reader. The current conflict in Sri Lanka is an example of the extent to which ancient history, the distinction between the Tamils and Sinhalese, plays a role in modern society. East and South-East Asian studies are also underway in the Czech Republic although the focus is less on philology and more towards contemporary studies and history. ■



Human rights in the external relations of the EU

by John Quigley

On 21st October, Dr Georg Wiessala, Reader in International Relations, University of Central Lancashire, addressed the European Institute for Asian Studies (EIAS) on the promotion of human rights in the EU's external relations. He suggested there were three paradigms to explain the European Union's human rights policy and gave examples with reference to the People's Republic of China, Burma and Indonesia (including East Timor). The meeting was chaired by Dr Willem van der Geest, Director, EIAS.

Dr Wiessala proposed three pillars to explain the EU's role in promoting human rights in countries in Asia. Firstly, the EU has become an external actor and a promoter of human rights by adapting international relations theory to meet its goals. This is complemented by the increase in the legal competence of the EU through various treaties and, notably, also by stealth through the manipulation of existing powers. Over time, the EU has developed its own Asia strategy documents and institutionalised its brand of diplomacy which has helped build its profile in Asia.

The second pillar explains the dynamics of the EU's human rights diplomacy in Asia. This explores issues related to culture and identity in the West-East relationship. The role of "Asian" values also plays a role in light of the particular face of democracy in Asia. Dr Wiessala suggested that the EU's policy towards Asia was a mixed bag of enabling versus inhibitory aspects. The third pillar offers three paradigms including constructive engagement with China, co-ordinated coercion with Burma and constitutional cohesion with Indonesia and East Timor. These three approaches do not preclude other theories but represent the broadest range of the EU's policy options.

In general, Dr Wiessala said, the European Union should reconsider its policy towards human rights and, in particular, towards Asia. The current state of EU-Asia relations could fit into several theories of international relations including realism, neo-functionalism, inter-governmentalism or constructivism. However, the EU does not fit into any one theory completely as only some Member States have properly defined Asia policies. The constructivist theory may be best suited to the EU as Europe increasingly tries to promote its norms abroad and addresses questions related to identity.

As an external actor, the EU has moved from a civilian power towards becoming a normative power, including

in the human rights field. There has been a steady expansion in the constitutionalisation of human rights competencies through legislation and treaties and by exploiting links with other international organisations. The European parliament and the European Court of Justice have carved out judicial activism that is friendly to the development of human rights policy. Over time, the EU has moved from declaratory diplomacy to specific treaty commitments with an important role for the European Parliament as a voice of conscience for the EU.

The place of human rights in the EU polity has been secured through presence, opportunity, capability and rule-creation, Dr Wiessala said. The EU is increasingly part of the process of normative globalisation at the expense of the Member State-level. This value-driven approach to EU foreign policy is implemented through a mixture of persuasion and negotiation and is often expressed in the teeth of US opposition. Diffusing human rights is also linked to questions of culture and identity in foreign policy. Development policy represents one of the main aspects of Europe's relationship with third countries and its development as an external actor. Development co-operation is responsible for systematically advancing human rights awareness but with the caution that some regional groups in Asia, such as the Asia-Europe Meeting (ASEM) and the Association of South-East Asian Nations (ASEAN) resent the priority Europe places on respect for human rights.

The European Union's engagement in Asia can be identified through three paradigms. Firstly, the constructive engagement theory is represented in the EU's comprehensive dialogue with China. Both China and the EU work together as emerging powers and act partly as a check on US hegemony. The EU is seen to make progress with China but the EU can back up its policy with threats, if necessary. In general, the EU defines what 'progress' is being made. Second, with regard to Burma, the EU pursues a policy of co-ordinated coercion. The EU is keen to manoeuvre Burma away from the foreign policy of China but it is suggested that the sanctions the EU imposes do not really achieve very much and are unlikely to influence the decision making of the military junta. The third paradigm, constitutional consolidation is identified in Indonesia and East Timor. This focuses on democratisation, the rule of law, judicial reform and is generally a non-coercive relationship.

In conclusion, Dr Wiessala said, two elements of international relations theory helps explain how the EU acts internationally and promotes human rights - constructivism and normative theory. It can be seen that the EU deliberately constructs and propagates a value-based identity that is inclusive of a significant human rights dimension. New challenges, including terrorism and the unprecedented assault on civil



liberties will shift the tone and balance of EU-Asia dialogue in the future.

As Discussant, Philippe van Amersfoort, Human Rights and Democratisation Unit, European Commission, said that the promotion of human rights was an important aspect both of the EU's foreign policy and of its international image. The EU, Mr van Amersfoort said, believed that respect for human rights created stable and peaceful nations ensuring better partners for the EU. Greater accountability, transparency and good governance stemmed from this policy.

Europe's enlargement to include the ten States in Central and Eastern Europe has given the European Commission renewed interest in promoting human rights. This did not mean that the EU seeks to promote "European" values but, rather, universal human rights that comply with internationally accepted standards. In recent years, China has come to accept some core universal values. In principle, the EU has promoted the same human rights values in the countries described by Dr Wiessala. However, as a matter of pragmatism, the EU chooses to implement its policy objectives differently in different countries.

To promote human rights in third countries, the EU has a range of instruments available, Mr van Amersfoort said. All recent Trade and Co-operation Agreements now include a reference in the first Article to the rule of law and democratic principles. The link made by the EU between trade and human rights is unique in international relations. Should such an Agreement be concluded with China, it would be an opportunity for Beijing to demonstrate to the wider world the importance they place on respect for human rights. The EU currently seeks to include references to the International Criminal Court in such Agreements and is actively seeking the support of Asian governments for this policy.

Another instrument available to the EU to promote human rights includes political dialogue. At summits with third countries, the issue of human rights can be raised at officials and Heads of State/Government level, including with China and India. The EU has maintained a human rights dialogue with China since 1996, although in some Member States have mixed feelings on whether the mechanism is making any progress. Although the EU operates human rights and rule of law projects in China, there are certain issues about which China is not prepared to deliver. Another instrument is the EU *démarche*. This represents a more discreet diplomatic effort by EU officials in Asian countries and such *démarche* commonly express concern about torture and the use of the death penalty.

At international level, the EU is active in the United Nations General Assembly and the UN Commission on

Human Rights, with recent resolutions on Burma and North Korea. The EU sends election observation missions to third countries including, for example, Indonesia and Afghanistan. The EU can also impose sanctions for violations of EU or international law, although this, Mr van Amersfoort said, is the nuclear option. Sanctions are only imposed where it is understood that no other instrument available to the EU is likely to induce improvements in the third country.

In reply to questions, Dr Wiessala said that over the years, the EU has flirted with the issue of defining the question of identity or of European values, through its development co-operation policy. In recent years, the terms included in Article 1 of Trade and Co-operation Agreements has come to be accepted as the standard, although this does not mean that it is always beneficial. In effect, the EU uses the promotion of human rights as a foreign policy tool in different ways between several different third countries. The representation of identity and culture in EU values is different than in Asian values. This does not mean that the West is overtly neo-colonial in theory or practice in trying to promote values of human rights outside its borders.

With regard to sanctions, there has to be a role for some sort of coercion but, once applied, it generally is seen as the end of the relationship. Nevertheless, the EU-Asia relationship must have a tangible edge, Dr Wiessala said. The three main countries were chosen because they seemed to correspond best to common theories of international relations. Outside these three countries, Europe's relationship with Asia generally follows one or more of these elements. For example, in regard to Cambodia, the EU supports international efforts to establish a tribunal to investigate the Khmer Rouge. However, the EU's adherence to the one-China principle more or less influences the result the discussions the EU will have on Taiwan.

Philippe van Amersfoort, European Commission, replied that in light of the large trade the EU has with China, Brussels cannot treat Beijing the same way as it does Pyongyang. The tired and old argument that the EU is pursuing a neo-colonial agenda in trying to promote human rights in Asia surfaces mainly from certain Asian governments. Through the European Initiative for Democracy and Human Rights (EIDHR) programme the European Commission spends €100m annually, mainly through Non-governmental Organisations (NGO's), including China. Making assessments of the impact the EU has on promoting human rights is difficult. However, at international level, China seems to be making some progress through co-operation with the EU and the United Nations although, at domestic level, the progress in China appears to be mixed. ■