

Statement of

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Lifting the Arms Embargo on China:

A Shift in EU Priorities?

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On June 27th 1989 the European Council declared that “in the present circumstances it thinks it necessary to adopt (...) the interruption by the Member States of the Community of military cooperation and an embargo on trade in arms with China”¹.

It is probably the greatest recent success of China’s diplomacy that a lifting of the European arms embargo against the People’s Republic of China is now perceived in Europe as a symbol of the EU’s effort to deepen its relationship with China.

This perception differs by large from the one in the USA or the Asian region. US observers emphasize the concern that the EU should not do anything that improves China’s military capability and that – in the words of the US deputy secretary of state, Robert Zoellick, the Europeans have to “consider security”² when they wish to improve their commercial ties with China.

During the last EU-China summit in December last year the EU has officially declared its readiness not to retain the ban on weapons sales. While the Chinese side underscored that it views an uphold of the arms embargo as “political discrimination” which “was not acceptable and should be immediately removed” the EU “confirmed its political will to continue to work towards lifting the embargo”.³

Yesterday the Chinese Ambassador to Germany, Ma Canrong, underscored Beijing’s position when calling the arms embargo an “embarrassment” that hinders the normalization of EU-China relations. Furthermore he added that “China is not in the position to buy weapons”.

¹ <http://www.sipri.org/contents/expcon/euchidec.html>, download 08.05.2005.

²Bowly, Graham, ‘U.S. raises stakes for Europe on China ban’, in: International Herald Tribune, 06.04.05, p. 7.

³http://europa.eu.int/comm/external_relations/china/summit_1204/ip04_1440.htm, download 08.04.2005.

Because China doesn't "need to" buy weapons "the worry of the Europeans is unnecessary, superfluous."⁴

If the embargo is superfluous, then why are we here?

The main reason why we are discussing the arms embargo issue is probably that there is angst in Washington DC. As President Bush's sentimental journey to Europe, Condoleezza Rice's visit of Asia and Robert Zoellick's recent journey to Europe have demonstrated the US administration gradually realizes that a strategy of 'divide and rule' towards the EU and its member countries does not deliver the expected results. The China factor disturbs power perceptions on both sides of the Atlantic. This is because the EU expressed its willingness to side with Beijing's strategic interests against the strategic interests of the USA.

The lifting of the European arms embargo against China symbolizes that the Europeans are willing to support the modernization of China's People's Liberation Army. In the eyes of the overwhelming majority of the members of the US House of Representatives this decision places "European security policies in direct conflict with the United States security interests and with the security interests of United States friends and allies in the Asia and Pacific Region"⁵. To those observers a lift of the embargo provides evidence that Europe will sell more weapons to China once the new Code of Conduct is in place. The statement of the French defence minister that the Chinese might not build weapons if the

⁴Dempsey, Judy, 'China envoy calls EU arms embargo an 'embarrassment'', in: International Herald Tribune, 06.04.05, p. 7.

⁵For the complete text of the resolution 'Urging the European Union to maintain its embargo on the People's Republic of China' (109th Congress, 1st Session, House of Representatives 57, February 1, 2005) that has been passed by 411 to 3 see: <http://thomas.loc.gov/cgi-bin/query/D?c109:3:./temp/~c109w3ZrD7>, download 06.02.2005.

Europeans provide them⁶ was interpreted as verifying this assumption. During a recent hearing on The Lifting of the EU Arms Embargo on China of the Senate Committee on Foreign Relations the Chairman Richard Lugar, who calls the lifting of the embargo a “mistake”, stated that Congress and the President, Republicans and Democrats, have rarely been so united against a proposal made by our European friends.⁷

The Americans obviously don't regard the embargo as superfluous.

In fact, the real question is not the lifting of the arms embargo itself but the enforcement of the Code of Conduct on Arms exports and its legal status. Though the Code of Conduct is a formal document of the Common Foreign and Security Policy (CFSP) it is only a declaration of the political will and not an international treaty. The compliance to the Code of Conduct cannot be legally enforced.

Since at least France has expressed that it is determined to sell even more weapons to China once the arms embargo is lifted and a new legally non-binding Code of Conduct and the so called tool box “a set of temporary procedures” that shall be applied as well and “complement the Code of Conduct”⁸ as a transitional regime is set into place it is likely that the Code of Conduct will be violated by EU member countries.

Such a development is neither in the interest of the USA nor in the interest of EU member countries who want to abide to the Code of

⁶ In an interview with the Financial Times the French defence minister, Michèle Alliot-Marie, stated “Maybe if we can sell them arms, they will not make them”. See: Spiegel, Peter / Thornhill, John, ‘France urges end to China arms ban’, in: Financial Times, 16.03.05, p. 1.

⁷Senate Committee on Foreign Relations, Chairman Richard C. Lugar, Opening Statement for Hearing On The Lifting of the EU Arms Embargo on China, March 16, 2005, <http://foreign.senate.gov/hearing.html>, download 17.03.05.

⁸Sixth Annual Report According To Operative Provisions 8 Of The European Union Code Of Conduct On Arms Exports (2004/C316/01), in: Official Journal of the European Union, 21.12.2004, p. 2. http://www.sipri.org/contents/armstrad/atlinks_gov.html, download 01.01.2005.

Conduct. Against this background the EU and the USA share the common interest to start cooperation on China affairs.

President Bush's statement at a news conference at NATO in Brussels that the Europeans have "to sell [their new code of conduct] to the United States Congress"⁹ indicated what a bumpy and risky journey the transatlantic relations were facing. Zoellick's yesterdays' warning that "the EU should remember its responsibilities as an increasingly important world power and that any retaliations from the US would come in the area of trans-Atlantic defence cooperation"¹⁰ is another indicator that not all involved state actors regard the arms embargo as superfluous.

The costs of negative reciprocity through acts of retaliation by the US legislators can neither be in the interest of the US nor in the interests of the EU member countries. Nevertheless, the clash of US and EU interests over the lift of the embargo is only the first of a series if Americans and Europeans don't agree on the only sensible conclusion, i.e. to cooperate multilaterally on China affairs.

In so far a solution to the resulting dilemma lies with the Americans. The USA needs to align itself to the criteria and principles contained in the 'European Union Code of Conduct on Arms Exports', just like e.g. Canada, has already done. The advantage for the USA would be to gain leverage on the compliance of the Code of Conduct. This would strengthen the European arms export regime.

According to a European ambassador out of 25 EU member countries only France has opposed to make the Code of Conduct legally binding.

⁹Bumiller, Elisabeth, 'EU arms for China: Bush is sceptical', in: International Herald Tribune, 23.02.05, p. 1.

¹⁰Bowly, Graham, 'U.S. raises stakes for Europe on China ban', in: International Herald Tribune, 06.04.05, p. 1.

As an aligned member of the Code of Conduct the USA will be able to exert peer pressure on individual EU member countries not to violate the legally non-binding regime. As an aligned member the USA will be able to put pressure on the French government, if e.g. Paris was to decide to grant an export licence though another EU member country has already denied a licence “for an essentially identical transaction”¹¹.

In the process of the implementation of the Code of Conduct and the compliance to the regime all involved governments can make use of the opportunity to work for its effectiveness by making the Code of Conduct a legally binding instrument. The USA can bring in the critical mass for such a policy change on the European side.

The law makers on Capitol Hill should take under consideration that an escalation of transatlantic issues because of the lift of the arms embargo can be circumvented by using a multilateral approach as an answer to the EU’s unilateral behaviour. Furthermore, the Bush administration would help the EU to enforce the guiding principle of the EU’s Common Foreign and Security Policy, i.e. effective multilateralism, instead of having to accept EU’s unilateralism in China affairs.

Transatlantic institution building with regard to Asian affairs is a solution that would not only serve all transatlantic state interests that are involved. Moreover, it would send an as new as important signal to the Chinese government in Beijing: The US and the EU have started a strategic dialogue on China affairs.

¹¹European Union Code of Conduct on Arms Exports, p. 8, http://ue.eu.int/cms3_fo/showPage.asp?id=408&lang=en&mode=g#exp4, download 08.04.05.

The USA and a majority of EU member countries share the common interest of not violating the Code of Conduct by selling military equipment, dual use material or related technology to China. Transatlantic cooperation can make the arms embargo superfluous.