

## THE UNITED STATES, THE EUROPEAN UNION, AND LIFTING THE ARMS EMBARGO ON CHINA

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- The next big push to lift the EU arms embargo on China will come during the EU summit this December. Whether the decision is taken then or not, the eventual repeal of the embargo is inevitable.
- European leaders are driven fundamentally by the desire to build a strategic partnership with China over the long-term.
- The decision to lift the embargo could have dire consequences for the transatlantic relationship. U.S. and EU leaders must place the issue at the top of their bilateral agenda and work to develop a more coordinated transatlantic military export control regime.

### *Opening a New Front in Transatlantic Relations*

Since last fall, a worrying new front has emerged in the still tense relationship between the United States and Europe. This front lies not in the Middle East, but in China.

During separate visits to China in the fall of 2003, President Jacques Chirac of France and Chancellor Gerhard Schroeder of Germany called into question publicly the wisdom of sustaining the EU's arms embargo on China, which EU governments imposed in 1989 in the wake of the Chinese government's brutal repression of the Tiananmen Square demonstrations. They and other European leaders pressed the case for lifting the embargo at the EU summit in June. However, with Europe distracted during the first half of the year by the extended search for agreement on an EU constitution, advocates of lifting the embargo have focused their attention on the upcoming EU summit in December 2004 as the next target for a decision. President Chirac's planned visit to China October 8 through 12 and the next China-EU summit earlier in December will increase pressure for a decision to be made.

The idea that EU leaders might lift their arms embargo on China in December is a deep source of

concern, not only for U.S. policy makers, but also for many of their European counterparts. Managing China's ongoing rise as one of the world's leading economic, political, and military powers is perhaps the greatest challenge for international order in the first half of this century. That the United States and Europe should take divergent approaches to this challenge will insert a dangerous element of uncertainty into regional and international stability and would pose a difficult problem for transatlantic relations at the start of a new U.S. administration.

On balance, it is unlikely that EU governments will reach the necessary unanimous decision to lift the embargo this December. However, if this is the case, it will merely postpone the inevitable. The EU arms embargo on China is not sustainable in the long-term, and transatlantic discussion (and, ideally, agreement) on a way forward is indispensable.

### *Comparing the U.S. and EU Embargoes*

The differences between the U.S. and EU arms embargoes on China are significant. The U.S. embargo is enacted into law. It bans the sale to China of all military items, lethal and non-lethal, on the U.S. Munitions List. The only exceptions to the law are by Presidential waiver if the president determines it to be

in the national interest. This was the case when the Clinton administration permitted the sale of commercial satellites, encryption systems, and other dual-use items to China worth some \$350 million during the 1990s.

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The EU embargo does not have the same legal precision. It is based upon a one sentence bullet point in the EU's June 1989 political declaration responding to China's repression of pro-democracy demonstrators. The bullet point (one of six) simply states that EU members will embargo the "trade in arms" with China. The declaration is not a legally binding agreement. Nor does it specify exactly what "arms" means. Instead, responsibility for interpreting and implementing the embargo lies with each individual EU member state. The UK, for example, has interpreted the embargo to cover lethal military items, such as bombs, torpedoes, ammunition, and military platforms that could be used for war and for internal repression. The UK has continued to supply non-lethal items to China such as avionics and radars. During the 1990s, despite the embargo, the EU relationship with China deepened significantly in the area of space technology, especially satellites, with Europe allowing China to contribute to and participate in the GALILEO navigation satellite project. New partnerships with a number of EU states are in the works in the aerospace field, including the joint development, manufacturing, and modernization of helicopters, regional aircraft, and training aircraft.

The EU embargo is precise in one way. It can only be repealed by a unanimous vote of EU member states. On the one hand, this imposes a serious hurdle for those wanting to lift the embargo. On the other hand, if a critical mass of EU members publicly starts campaigning to lift the embargo, few of the remaining members will want to be singled out as the active opponents. Once that critical mass starts to take shape, a decision could come quickly.

The formal impetus for a decision to lift the EU embargo should come from noticeable progress in

China toward a greater respect for human rights, since it was China's actions on human rights that led to the imposition of the embargo in the first place. In 1996, China and the EU established a bilateral dialogue on human rights, which now forms a formal and regular component of the expanding EU-China political dialogue. One of the EU's priorities in this area is for China to ratify the UN's 1976 International Covenant on Civil and Political Rights. Other priority areas for the European Union include China's extensive use of the death penalty, re-education through labor, limits on freedom of expression, religion, and association, and the rights of ethnic minorities in places such as Tibet and Xinjiang.

***The EU Code of Conduct on Arms Exports***

Although the focus in Washington is on the EU's arms embargo, it is important to note that it is not the only, nor necessarily the principal mechanism that EU members possess for coordinating the control of their military exports to China. In 1998, EU member states signed the EU Code of Conduct on Arms Exports. Again, this is not a legally binding document, but rather a political agreement among the EU's member states about the conditions under which they will authorize arms exports to third countries. While it does impose a requirement for coordination and consultation, the legal framework on export decisions remains at the national level.

The Code is important because it is already used to supervise, and sometimes block, high-tech and dual-use exports to China, precisely the exports that are currently of greatest concern to the United States. It is also important because it specifies eight criteria that member states should take into account before authorizing arms export licenses, several of which are relevant for exports to China. These include the recipient country's respect for human rights; the likelihood of its re-exporting the product or technology; the danger that the sale might negatively affect regional peace, security, and stability (a serious consideration for exports to China in the context of Taiwan); and the risk that the export might negatively affect the security of other EU member states or allied and friendly countries (which includes the United States as a potential defender of Taiwan).

For advocates of lifting the embargo, decisions on authorizing EU military exports to China should now be governed by the Code of Conduct rather than by a vague declaration that singles China out for a blanket embargo because of “circumstances” that pertained over fifteen years ago.

### ***What Might the Next Few Months Bring?***

For its part, the Chinese government has placed a premium on lifting the EU’s arms embargo at the earliest opportunity. This is not only because of the opportunities the EU might provide in the long-term to diversify China’s sources of supply, but, perhaps more importantly at this time, because the government desperately wants to remove what it sees as a punitive reminder of its past international isolation. Lifting the embargo would be another positive, public step toward recognizing China’s status as an accepted power within the international system of states.

However, despite sustained Chinese pressure and the favorable statements of some European leaders in recent months, it seems unlikely, although not impossible, that European leaders will muster the necessary unanimous vote among its now twenty-five members to repeal the arms embargo this December. There are a number of factors at play.

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First, EU leaders are well aware that taking such a decision in December 2004, just one month after the U.S. Presidential election, could set the transatlantic relationship immediately onto the wrong track either with a second Bush or first Kerry administration. A number of the more pro-U.S. European governments, such as the UK, Italy, and the Netherlands, are conflicted on the embargo, since they, as much as the Germans and the French, see the embargo as an anachronism and an obstacle to rekindling profitable past military trading relationships with the Chinese.

However, the future of the broader transatlantic relationship will weigh heavily on their minds, and, with the transatlantically-minded Dutch government holding the EU Presidency through December, it may prove difficult to place this item high on the next European Council agenda.

Second, the new, east European members of the EU are also likely to be cautious about approving a decision that would so infuriate the United States. In this context, among the new entrants as well as some other EU members, Franco-German leadership of the push to lift the embargo will count against it. With Iraq still fresh in their minds, they will be cautious about a new Franco-German initiative that, despite its potential near-term commercial gains, could carry further serious negative political consequences for the transatlantic relationship.

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Beyond the unpredictable dynamics of intra-EU decision-making, the reality of China’s human rights record also counts against a quick lifting of the embargo. One recent setback was the Chinese government’s decision, acting through the National People’s Congress, to block the expected expansion of direct elections for Hong Kong’s legislature. The government’s refusal to negotiate with the Dalai Lama on the future of Tibet is another source of continuing concern. And, although China has adopted some positive measures on human rights at and since the March 2004 National People’s Congress, they have taken the shape more of internal reviews and commissions of existing practices than proactive implementation of new laws and policies. While China argues that the social and economic benefits have improved for its citizens, the fact remains that political and civil rights remain under tight control, and the Chinese Communist Party does not tolerate any challenges to its authority.

All in all, with a newly elected European Parliament and new Commissioners taking their positions in November, there will be great pressure to allow further time to debate the issue.

## ***Why Do the Europeans Want to Act Now?***

**B**ut the obstacles to immediate EU action are no reason for complacency. From the European perspective, the status quo is not tenable.

### *Strategic Considerations*

On one level, whatever their near-term concerns, most European policy-makers believe that lifting the embargo makes strategic sense. The European Commission's September 2003 report on EU-China relations argued that China's actions will have a direct effect on the key challenges facing the world in the coming decades, from proliferation of WMD, to global health epidemics, environmental degradation, respect for intellectual property, and the overall health of a growing global economy. The report concluded, therefore, that "it is in the clear interest of the EU and China to work as strategic partners on the international scene."

Europeans believe that they can make progress with the Chinese on these topics because the Chinese appear to share Europe's interest in building up multilateral systems for global governance. This includes a shared desire to strengthen the UN's lead role in regional and global conflict resolution. It is not so much, as some fear, that France and others simply want to build up China so as to counterbalance U.S. power. It is more the case that the preference of the majority in the EU for a world governed by strong multilateral rules and institutions (as well as the vision of a few in Europe for an explicitly multi-polar world order) will not be possible without a more confident and engaged China.

Two other factors enter into the strategic equation. One is that European leaders feel they need to compensate for Washington's more suspicious and competitive approach to China, notwithstanding the current good state of Sino-U.S. relations, lest the U.S. stance push China into a reactive, hostile state of mind. The last factor is that EU leaders respond positively to the impression that their Chinese counterparts regard Europe as a world player in its own right, one worthy of a genuine strategic dialogue. This stands in contrast to many in the United States, who take a more skeptical attitude toward the EU and deride its efforts to promote a global, multilateral agenda.

With a new Chinese leadership having taken over in the spring of 2003 and apparently playing a constructive role in regional security through its participation in the multi-party dialogue on North Korea, European leaders are keen to find ways to reward China for its increasingly positive political as well as economic role on the international scene. In this context, lifting the arms embargo would be an important step toward demonstrating that the EU does indeed see China as a reliable strategic partner.

### *Economic Considerations*

The second central driver in the EU-China relationship and one that inevitably colors European thinking on the wisdom of sustaining the arms embargo is the bilateral economic relationship. The good news for the EU is that the volume of bilateral trade has grown exponentially in recent years and China is now the EU's second largest external trading partner behind the United States. European companies have also taken advantage of the Euro's recent strength to finance direct investment in China, especially since China's hunger for infrastructure investment plays to the strengths of European companies.

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At the same time, however, the EU's merchandise trade balance with China has worsened steadily over the past three years. According to the European Commission, merchandise imports from China to the EU have grown from €2 billion in 1999 (7.4% of the EU total) to €105 billion in 2003 (12% of the EU total). However, EU exports to China have expanded modestly from €19.6 billion to €40.9 billion over the same period. The EU's merchandise trade imbalance with China now stands at €64 billion, although the two-way trade in services is roughly in balance (the EU imported €4.6 billion and exported €5.2 billion in 2002).

Exacerbating the situation in the last year has been the Euro's rise by some 30% against the dollar. China's currency peg with the dollar has meant that EU products

have become far less competitive relative to U.S. products in the Chinese market. To make matters worse, China and its East Asian neighbors have sought to maintain their competitiveness in the U.S. market by limiting the rise of their own currencies through massive purchases of dollars into their reserves. This means that, in the past year, the price competitiveness of EU exporters has been eroded not only against U.S. exporters in Asian markets, but also against Asian exporters in the United States.

EU manufacturers and politicians are increasingly frustrated by the way that the power of the U.S. domestic market allows the United States to obtain seemingly limitless amounts of low interest credit with which to run up its large trade deficits and government debt. This compounds the sense within the EU that the United States has long held an unfair advantage in the world economy and that the EU is justified in finding ways to compensate.

Although never publicly stated, European leaders clearly hope that a decision to lift the arms embargo on China would open up opportunities for large scale, politically-influenced procurement decisions by Chinese authorities, thus expanding the opportunity for the EU to deepen its foreign investment profile and start to close its trading deficit with China. Commercial aircraft are the most obvious case, but opportunities for European companies exist also in civil engineering, transportation, and technology-driven infrastructure.

### *A New Defense Market*

A third factor that may influence Europe's decision on the arms embargo concerns the health of the European defense industry and the state of transatlantic defense industrial cooperation. European defense companies rely on arms exports to a far greater degree than their U.S. counterparts. The connection with the arms embargo, however, is not simply one of European leaders hoping to open up a lucrative new market. After all, it is uncertain whether lifting the embargo would lead to a sudden surge in demand for European defense exports, given China's extensive existing arms importing relationship with Russia and a likely European preference not to flout the EU Code of Conduct after the lifting of the embargo.

Rather, an indirect, but potentially important influencing factor could be European frustration with

the continuing difficulties that European defense companies face in penetrating the U.S. defense market – except, to a limited extent, as sub-contractors to U.S. primes. This frustration cuts across major European countries, and includes the United Kingdom. Geoff Hoon, the UK Defense Minister, recently sent a strongly-worded letter to Secretary Rumsfeld protesting U.S. foot-dragging on awarding U.K. companies a long-expected waiver from U.S. technology transfer restrictions. As U.S. policy makers struggle with parochial resistance to purchasing European arms imports and a mixture of ideological and bureaucratic resistance to sharing defense technologies with their European allies, their ability to argue that Europe should completely deny itself exports to a growing defense market like China is diminished.

### *The Danger of Uncoordinated Action*

Europeans who support lifting the embargo argue that it will not change the status quo. They point to the existence of European national arms export restrictions, the EU Code of Conduct, and Chinese statements that they have no plans to seek massive arms purchases from Europe if the embargo is lifted. But beneath these assertions, the fact is that few Europeans can envisage outright war between the United States and China in the future, whether over Taiwan or any other regional contingency. The specter of U.S. soldiers being targeted or killed by European-made or designed weapons is often viewed as implausible and a “strawman” to delay European action.

European supporters of lifting the embargo should disabuse themselves of the notion that this will be seen in Washington simply as a “symbolic” or “normalizing” act and one that will quickly be forgotten. Democrats and Republicans are united in the view that a Chinese assault on Taiwan in the event of a perceived push by the Taiwanese for independence is one of the few plausible scenarios for major conflict involving U.S. forces in the coming decade. They view with concern China's steady military modernization and build-up alongside the Taiwan Strait. If European governments decide to lift the arms embargo on China without taking U.S. concerns seriously into account, U.S. policy makers will view this as a stark admission that Europeans are no longer willing to support America in facing its primary global security concerns. Coming so

soon after the transatlantic falling-out over the nature of the threat posed to America and the world by Saddam Hussein, this new transatlantic conflict would have dire effects for all aspects of transatlantic defense cooperation, whether at the political, institutional, or industrial and technological levels.

### **Conclusion and Next Steps**

**T**he EU will lift its arms embargo; if not this December, then most likely within the next twelve to eighteen months. As things stand today, the U.S. reaction to such a decision would be starkly and unequivocally negative. What can be done to prevent the question of arms exports to China further poisoning the transatlantic relationship?

At the most basic level, the European Union and the U.S. administration need to place the issue immediately at the top of their bilateral agenda. European leaders should take every opportunity to explain their thinking to their U.S. counterparts and discuss the safeguards against unchecked exports that will remain in place. EU leaders must also realize that this is not a decision that they should take simply by following their own counsel. The United States should be invited, quietly and informally, to offer its opinion. For its part, the United States cannot simply expect European followership on this issue. The ultimate decision may not be to U.S. liking, but that does not mean that its ramifications cannot be attenuated through dialogue and some concrete, coordinated steps.

Second, therefore, the United States and the EU should use the imminent lifting of the embargo as an opportunity to deepen their dialogue on developing a more coordinated transatlantic military export control regime. The EU Code of Conduct on Arms Exports

offers a framework for Europe to negotiate with the United States on this topic. U.S. and European experts could work, for example, on developing a common list of critical military and dual-use technologies whose export to third countries, including China, would constitute a threat to their future collective security as friends and allies. There are numerous other practical options under this rubric that would benefit from deeper transatlantic dialogue, and that will be vital if the U.S. Congress is not to take matters into its own hands.

Third, in order to avoid charges of expediency, either in European capitals or in Washington, EU leaders should make clear publicly before lifting the embargo the basic criteria that will drive their decision. These could include some specific, achievable steps that would be required of the Chinese in the area of human rights, commitments on strengthening their military export controls, and on maintaining regional peace and stability. European leaders could also use the lifting of the embargo as an opportunity to communicate publicly some specific ways in which the EU Code of Conduct would influence the authorization of future EU military exports to China, so as to make it harder for EU governments simply to follow short-term national interests and take an arbitrary approach to the Code as time goes by.

A Euro-Atlantic dialogue on China that takes on the arms export issue as a first agenda item could then expand into other dimensions of this increasingly important triangular relationship. A failure to manage the lifting of the EU arms embargo, however, could cut such a dialogue short from the outset.

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