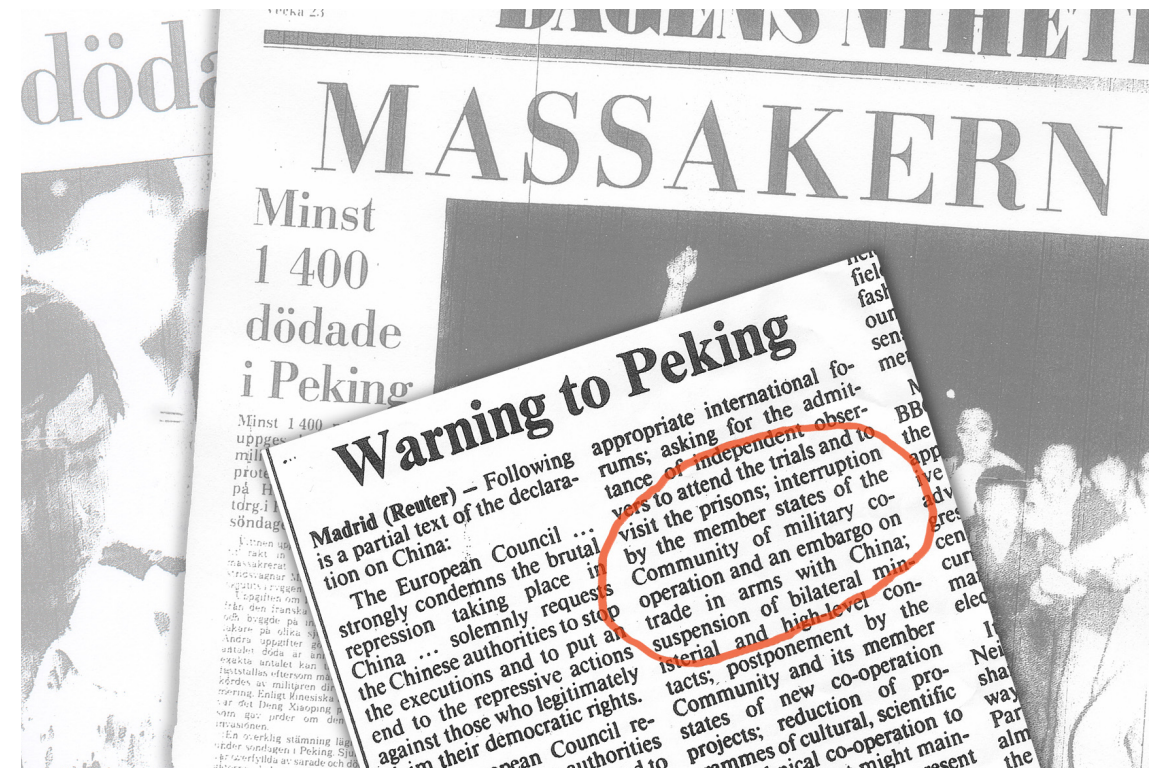


JERKER HELLSTRÖM



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Jerker Hellström

The EU Arms Embargo on China: a Swedish Perspective

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Summary

This report highlights the background of the EU arms embargo on China; how the issues of the design and the possible lifting of the embargo have been handled in Brussels; and in what respect political interpretations and economic interests have influenced exports of military equipment to China from EU member states.

Keywords: China, EU, USA, Sweden, EC, embargo, sanctions, human rights, arms trade, export controls

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Programme Manager's Remarks

The Asia Security Studies programme at the Swedish Defence Research Agency's (FOI) Department of Defence Analysis conducts research and policy-relevant analysis on defence- and security-related issues. Its primary focus is on East and South Asia as well as the Persian Gulf region. The programme strikes a balance between studying issues directly affecting Swedish foreign and defence policy as well as research on topics with wider regional and global implications.

In response to the Tiananmen Square massacre in 1989, the European Economic Community adopted an arms embargo. However, the politically motivated arms embargo was not included in the legal framework of the European Union. Moreover, the interpretations of the 20-year-old embargo on arms sales to China differ between the European countries. Hence it is difficult to define the arms embargo, and as a result the implementation of the embargo differs substantially between the European countries. This has made the arms embargo ineffective as an export control instrument. Still, the political signal that is sent by keeping the embargo serves a purpose.

Among the EU member states there are different interpretations of the scope of arms embargo and hence uncertainties regarding its implementation. In a European context, this study illustrates how Sweden has interpreted the arms embargo. Research into the matter is complicated as it is an integral part of the political process. A study based on literature and official documents would not have been sufficient. The project therefore wishes to thank those people who have been interviewed but chosen to remain anonymous. They have provided information which has been vital to this study. The project also wishes to thank the reviewer Mikael Eriksson for valuable comments and Kristina Atarodi for her contribution to the translation of the report.

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Executive Summary

The European Union (EU) arms embargo on China consists of a short forms of words in a declaration on the country, issued by the twelve EEC countries in June 1989 as a reaction to the repression of the protests at the Tiananmen Square in Beijing. The 20-year-old embargo on China is the only EU embargo that was adopted before the Maastricht Treaty, signed in 1992, which means that in shape it is completely different from other EU embargoes. In contrast to these embargoes, which are included in the EU Common Foreign and Security Policy, this embargo is merely a recommendation and not a legally binding act.

The declaration from 1989 lacks references to what type of military equipment it comprises. This means that the embargo on China of today consists of various national interpretations. France and the United Kingdom (U.K.), which have continued to export military equipment to China, consider e.g. that the embargo does not cover non-lethal arms. Such interpretations have contributed to an increase of arms exports to China since 1989. During 2006 the EU countries exported arms to China worth at least 134 million euros, of which France accounted for 130 million, according to official EU statistics. Sweden does not allow any export of military equipment to China.

In addition, the embargo on China is not subject to annual revision, unlike the EU arms embargoes on e.g. Myanmar and Zimbabwe. It should be possible for the EU to make a new decision on the embargo on China in order to make it more concrete and consistent with other embargoes. A prerequisite for this to happen is that there is the political will in the Council of the European Union.

Given the extensive arms export control mechanisms that are being used today within the EU, the arms embargo on China is mainly a symbolic issue for all parties involved. The predominant reason why the EU keeps the embargo is that Washington puts pressure on the EU not to contribute to China's increasing its regional and global influence. The advocates of the embargo refer to China's lack of respect for human rights and believe that Beijing might put security in East Asia at risk, particularly in regard to the Taiwan issue. The opponents of the embargo, including the Chinese government and representatives of European trade and industry, see the embargo as an anomaly. They consider that the embargo is an obstacle to equal bilateral trade relations between the EU and China, which launched a strategic partnership in 2003. The opponents of the embargo also point out that China has made substantial social improvements since 1989.

At the beginning of 2005, the EU was close to lifting the embargo, after France and Germany in particular had raised the issue. This was however prevented by pressure from the U.S. to keep the embargo. Another important factor for not lifting the embargo was that in March 2005 China adopted a law which stipulated

that the Chinese military should attack Taiwan, should the country declare its independence.

Since then the embargo issue has almost vanished from the agenda in Brussels. As the issue is regarded as very sensitive, none of the EU member states wishes to bring up its view of the embargo and they only comment on the embargo issue if it is raised by China. Statements on the embargo risk leading to immediate reactions from both Beijing and Washington, which very effectively prevents any attempts to discuss the embargo in Brussels. It is not very likely that the embargo issue will be pursued by the new EU leadership – the European Commission, which was nominated on 19 November 2009. However, the EU stresses that it has the political will to work towards a lifting the embargo.

A fundamental problem with the EU's handling of the embargo issue is that representatives of member states have made independent statements, while the EU has been unable to deliver a common message. This has also been the case for some other issues with relevance to the EU and China, and has led to China preferring to negotiate bilaterally with member states rather than with the EU as a whole. When it seemed as if the embargo would be lifted in 2005, China felt that the EU did a U-turn on the issue. This taught Beijing a lesson – not to overestimate the Union's ability to reach common decisions.

The EU is asking China to show greater respect for human rights, which is a fundamental precondition for the arms embargo being lifted. China must, among other things, release those who were imprisoned in connection to the Tiananmen protests and ratify the U.N. International Covenant on Civil and Political Rights (ICCPR). There are many indications that the Communist Party is on track to live up to the demands made by the EU. The question is, however, how united the Council of the European Union is in its view of what demands should be made on China. A widespread perception is that there are no clear criteria which China must live up to for the embargo to be lifted. Furthermore, other events lately, e.g. China's handling of protests in Tibet in 2008 and in Xinjiang in 2009, have probably decreased the possibility of the embargo being lifted in the near future.

1 Introduction

To show their discontent with China's rough handling the protests at Tiananmen Square in May/June 1989, the twelve European Economic Community (EEC) countries adopted an embargo on arms exports to China on 27 June the same year. The U.S. had already adopted an embargo on arms exports to China on 7 June. Twenty years on, the EU embargo is still in place despite repeated calls from a handful of states for it to be lifted.

The embargo limits the export of high-technology defence equipment to China, but it is not comprehensive. The European Union (EU) countries wish to enhance their trade relations with China and they can evade the embargo through selling dual-use products¹ as well as support systems.² The effectiveness of the arms embargo is also undermined by the fact that it is merely a recommendation and not a legally binding act, and by the varying interpretations of the embargo by EU member states.³ This means that the so-called embargo on China consists of several national embargoes. In this respect, the embargo on China differs from subsequent, legally binding EU embargoes that are based on the European political cooperation and are a part of the EU Common Foreign and Security Policy (CFSP).⁴

While the embargo is based on respect for human rights, China's military build-up, and perceptions of threats related to this expansion, are being used as arguments against lifting it. EU relations with China are dominated by political and economic issues. The U.S., which has great interest in China not expanding militarist military strength and putting stability in East Asia at risk, also attaches great importance to security issues. The EU however lacks a common strategic

¹ *Dual-use technology* refers to products which can be used for both peaceful and military means.

² Stumbaum, May-Britt (2008) *The invisible ban: EU maintains weapons embargo on China*, Jane's Intelligence Review, December 2008

³ As the embargo was adopted before the 1992 Maastricht Treaty, it formally constituted a "political declaration" and was only politically binding. In this sense it differs from the U.S. ban on arms sales to China, which was enacted into law. See Stumbaum, May-Britt (2009) *The European Union and China*, Berlin: Nomos

⁴ Vennesson, Pascal (2007) *Lifting the EU Arms Embargo on China: Symbols and Strategy*, *EurAmerica*, Vol. 37, No. 3 (September 2007). As of 3 August 2009, the EU applies arms embargoes on 14 countries: Myanmar, Democratic Republic of Congo, Ivory Coast, Iran, Iraq, China, North Korea, Lebanon, Liberia, Sierra Leone, Somalia, Sudan, Uzbekistan and Zimbabwe. See European Commission, Common Foreign & Security Policy

assessment of China's intentions and potential as a growing global political, economic and military force.⁵

Since the year 2000, Beijing has put pressure on the EU to lift the embargo. China requires high-technology products from Europe in order to be able to better develop and modernise its armed forces. China lacks technology e.g. to develop fighter engines developed by Boeing and others. There is also a need for satellite technology.⁶

The EU claims to have the political will to work towards lifting the embargo, but it is not clear how it shall be done and it is not very likely that the embargo will be lifted in a foreseeable future.⁷ This is mainly due to strong resistance from Washington. Hence, the EU is handling the issue of the arms embargo with great caution. Individual statements on the matter risk provoking reactions from both the U.S. and China. For this reason, a number of anonymous sources are quoted in this study.

⁵ Stumbaum, May-Britt (2008) *The invisible ban...*

⁶ Interview with May-Britt Stumbaum, Weatherhead Center for International Affairs of Harvard University, 2 November 2009

⁷ Council of the European Union (2004) *Presidency Conclusions – Brussels, 16/17 December 2004*

2 Historical background: China's Relations with Sweden, the EU and the U.S. with Relevance to the Embargo

2.1 Relations before 1989

Sweden established diplomatic relations with the People's Republic of China (PRC) in May 1950, a good half-year after the country was founded. Consequently, Sweden was the first western country to sever ties with the Republic of China, whose government and army had fled to Taiwan, and establish relations with Mao's China.⁸ Beijing did not have sufficient international support to be accepted into the U.N. until 1971, when China replaced Taiwan as one of the Security Council's five permanent members. As a result of Sweden's recognition of the PRC, the country has no diplomatic relations with Taiwan.

The bilateral relations between Sweden and China were rather limited during the decades following the foundation of the People's Republic. Deng Xiaoping emerged as the leader of the Communist Party after the death of Mao Zedong in 1976 and introduced a policy of reform and opening up by the end of the 1970s. The policy shift resulted in an increase in overall international trade. Both the Swedish royal couple and the country's Prime Minister at the time, Thorbjörn Fälldin, visited China as early as 1981, and China's Prime Minister Zhao Ziyang made an official return visit to Sweden in 1984. Prime Minister Ingvar Carlsson visited China in 1987.⁹ In the initial phase of the protests in Beijing, Sweden's Minister of Foreign Trade, Anita Gradin, also travelled to China. In April 1989 she headed a delegation with delegates from 15 Swedish companies including Sandvik, Skanska and Atlas Copco.¹⁰

The EU established diplomatic relations with China in 1975 and signed an agreement on trade and economic cooperation ten years later. In October 1988, a

⁸ Ljunggren, Börje (2009) *Kina - vår tids drama [China – the Drama of our Time]*, Stockholm: Hjalmarson & Högberg

⁹ Ibid.

¹⁰ Lerner, Thomas (1989) *Pekingmassakern skadar ekonomin; oro i svenska företag [The Beijing Massacre hurts the economy; Swedish companies concerned]*, Dagens Nyheter, 6 June 1989

good half-year before the Tiananmen Square protests, the European Commission's delegation to Peking was opened.

The U.S. and China established diplomatic relations in January 1979. In a joint communiqué Washington vowed to have only unofficial ties to Taiwan. In April the same year the U.S. Congress adopted the *Taiwan Relations Act*, in which the U.S. affirmed its commitments to Taiwan and pledged to continue arms exports to the country. The decision led to harsh criticism from China, and in August 1982 the U.S. promised to gradually reduce arms deliveries to Taiwan.¹¹

Between 1985 and 1987 the U.S. signed agreements with China on so-called *Foreign Military Sales* (FMS). The agreement was made possible by President Ronald Reagan, who in 1984 declared that the sale of American arms to China would "strengthen the security of the United States and promote world peace".¹² The U.S. would modernise China's artillery ammunition production facilities and the avionics in the F-8 fighters, and sell China four Mark-46 anti-submarine torpedoes and four AN/TPQ-37 artillery-locating radars.¹³

2.2 The Protests in 1989: the Effect on Bilateral Relations

On 15 April 1989, people began to gather in Tiananmen Square to mourn the death of the reform-minded former party Chairman Hu Yaobang. This marked the start of peaceful protests against corruption and in support of democracy, which also spread to other Chinese cities.

On the night of 3 and 4 June, troops from the People's Liberation Army opened fire on demonstrators and their supporters. The Chinese government claims that 241 people, including soldiers, were killed, and 7,000 were injured.¹⁴ International estimates of the fatalities vary from a few hundred to thousands.¹⁵

¹¹ BBC (2002) *Timeline: US-China relations*, 29 October 2002

¹² Lasater, Martin L. (1986) *Arming the Dragon: How Much U.S. Military Aid to China?* The Heritage Foundation, 14 March 1986

¹³ Archick, Kristin et al. (2005) *European Union's Arms Embargo on China: Implications and Options for U.S. Policy*, CRS Report for Congress, 27 May 2005, p. 4

¹⁴ PBS Frontline (2006) *The Memory of Tiananmen 1989*, 11 April 2006

¹⁵ Amnesty International (2004) *Document – China: 15 years after Tiananmen, calls for justice continue and the arrests go on*, 3 June 2004; TIME (1990) *How Many Really Died? Tiananmen Square Fatalities*, 4 June 1990

Swedish Prime Minister Ingvar Carlsson was one among the few European heads of state who condemned the violence in Beijing at an early stage.¹⁶ As early as 4 June, Carlsson made the following statement: "This shocking use of military violence must be unequivocally condemned [...] The expressions of opinion in Tiananmen Square have been met with naked violence. Demands for peaceful reforms have been suppressed with great brutality in what can best be compared with a blood-bath."¹⁷ One of the first concrete reactions from Sweden was to cancel the scheduled visit to China by Defence Minister Roine Carlsson as well as the visit to Sweden by China's President Li Xiannian.¹⁸

Sweden, like France and the Netherlands, froze its diplomatic relations with China in response to the events in Beijing, while the U.K. cancelled ministerial visits and suspended all military contacts. The U.S. arms embargo on China was adopted on 7 June and even Switzerland and the U.K. banned military exports to China.¹⁹ The U.S. embargo encompassed licences and approvals of defence articles and defence services.²⁰ Three weeks later, on 27 June, the twelve members of the European Council met in Spain where they agreed on a declaration on China.²¹ In the declaration, the Council stated that it was necessary for it to adopt certain political and economic measures against China, e.g. to cancel military cooperation and introduce an arms embargo.²² Other measures included a suspension of all bilateral ministerial and high-level contacts; the postponement of new cooperation projects with the EEC and its member states; the reduction of programmes of cultural, scientific and technical cooperation; and the prolongation by EEC member states of Chinese students' visas. In addition, the human rights issue should be raised in appropriate international forums, asking for independent observers to be admitted to attend trials in China and to visit Chinese prisons. Finally, the council advocated the postponement of the examination of new requests by China for credit insurance and the postponement of the examination of new credits of the World Bank.

¹⁶ The U.K., West Germany, Austria, Norway, Belgium, Italy and the Netherlands also condemned the events. See e.g. San Francisco Chronicle, *World Denounces Beijing Massacre*, 5 June 1989

¹⁷ TT (1989) *Ingvar Carlsson fördömer våldet i Peking [Ingvar Carlsson condemns the violence in Beijing]*, 4 June 1989

¹⁸ Southerland, Daniel (1989) *Chinese Army Units Seen Near Conflict; Military Maneuvers in Beijing Raise Prospect of Civil War*, Washington Post, 6 June 1989; Reuters (1989) *Cuba, Vietnam lone supporters of violent crackdown*, 6 June 1989

¹⁹ The Economist (1989) *Turmoil in Beijing as armies march*, 10 June 1989

²⁰ See U.S. Department of State Directorate of Defense Trade Controls, Country Policies and Embargoes, URL: http://www.pmddtc.state.gov/embargoed_countries/index.html

²¹ The countries of the European Council at the time were West Germany, France, Italy, the Netherlands, Belgium, Luxembourg, Denmark, Ireland, the U.K., Greece, Spain and Portugal.

²² Council of the European Union (1989) *European Union Factsheet (on the EU and China)*

There was a general aversion and indignation towards China among Swedish decision-makers, and it was fairly obvious that what had happened in Beijing would cause a strong counter-reaction. As a result, Sweden and China entered a phase of limited bilateral relations. Trade between the countries decreased during 1989 and 1990. However, even if Swedish companies such as Atlas Copco and Volvo evacuated parts of their staff during the summer of 1989, the firms “hibernated” by keeping some key personnel in the country. The business community was concerned that the political dissociation should not affect the companies that supported maintaining contacts with China. Sweden’s moderate trade with China continued, which meant that China was politically but not economically isolated.²³

The U.S. suspended both military relations with the People’s Liberation Army (PLA) and arms sales to China in June 1989. The ban on arms exports to China was subsequently included among sanctions passed in the U.S. Foreign Relations Authorization Act of 1990 and 1991. As a result, China cancelled the F-8 fighter cooperation programme in 1990. In 1992, President Bush decided to close the remaining FMS programmes.²⁴

Even if the Tiananmen Square protests had not been suppressed, the Swedish government at the time saw China as a questionable market for arms exports. Tensions in Asia, especially in terms of China’s relations with Taiwan and India, prevented exports of Swedish military equipment to Beijing.²⁵

2.3 Developments in the 1990s

Following the virtual isolation of China by Europe and the U.S. during 1989, relations with China were gradually and formally normalised in the beginning of the 1990s, when exchange and contacts increased. The main cause of this development was China’s great economic and political importance. Swedish companies started to return to the country towards the end of 1990.

In October 1990, the European Council and Parliament decided to gradually re-establish bilateral links with China. Bilateral relations were fully normalised in 1992, although the embargo was still in place.²⁶ The distrust of the regime remained for at least five years, during which the Tiananmen issue was brought

²³ Interview with a Swedish diplomat, 28 August 2009

²⁴ Archick, Kristin et al. *European Union’s Arms Embargo on China...*, p. 4

²⁵ Interview with a Swedish diplomat, 28 August 2009

²⁶ European Commission External Relations (2009) *EU-China Relations: Chronology*

up several times a year in various situations.²⁷ All measures in the 1989 Madrid Declaration, except for the arms embargo, were suspended before Sweden entered the EU in 1995.²⁸

During the autumn of 1996, Göran Persson travelled to China, marking the first visit to China made by a Swedish Prime Minister since 1987. Persson's comments on his impression from the visit – about the importance of “political stability” in the country – led to massive criticism in Sweden and a motion of censure against Persson. For nearly ten years this incident constituted a barrier to the development of Sweden's relations with China. Unlike other EU countries, Sweden had no exchange of visits between the respective heads of government. Not until 2007 did current Prime Minister Fredrik Reinfeldt receive President Hu Jintao in Stockholm and Reinfeldt himself made two trips to Beijing in April and October the following year.²⁹

The first critical statement on the arms embargo from the Chinese came in 1997. Shen Guofang, spokesperson for the Chinese Foreign Ministry, said that the embargo reflected an “incorrect attitude” among EU member states. “We hope the European Union will lift all its unreasonable criticisms of the Chinese government,” Shen added.³⁰

2.4 The Debate on Lifting the EU Embargo: 2000-2005

In 2000 China made its first official and formal request to the EU to lift the arms embargo. This demand was reiterated in China's first policy paper on the country's relations with the EU in 2003.³¹ The Chinese EU Policy was published by China's Foreign Ministry shortly before the sixth annual bilateral summit in Beijing in October 2003, when the EU and China signed a strategic partnership.

²⁷ Interview with a Swedish diplomat, 28 August 2009

²⁸ Sveriges Riksdag [Swedish Parliament], *Konstitutionsutskottets betänkande 2004/05:KU20* [*Constitutional Committee's Report 2004/05:KU20*]

²⁹ Ljunggren, Börje (2009) *Kina – vår tids drama*

³⁰ See Stockholm International Peace Research Institute (SIPRI), *EU arms embargo on China*, retrieved 4 October 2009. URL: http://www.sipri.org/research/armaments/transfers/controlling/arms_embargoes/eu_arms_embargoes/china/china/?searchterm=EU%20arms%20embargo%20on%20China

³¹ Feng Zhongping (2008) *A New Approach Needed in Developing China-EU Relations*, Chinese People's Institute of Foreign Affairs, 23 December 2008; China Ministry of Foreign Affairs (2003) *China's EU Policy Paper*, 13 October 2003

Beijing regarded a lifting of the embargo as a way to eliminate obstacles to bilateral defence industrial and technological cooperation.

Imposing an embargo on a strategic partner was seen by many in China and within the EU as an anomaly.³² Furthermore, many people considered that the embargo would impair opportunities to increase exports to China. During 2003, German Chancellor Gerhard Schröder and French President Jacques Chirac stated that they were positive towards a lifting of the embargo. Italy's Prime Minister Silvio Berlusconi also attempted to have the embargo lifted during the Italian EU presidency in the second half of 2003.³³ These actions triggered the first discussion on a possible lifting of the embargo since it had been adopted in 1989.³⁴ The European Council meeting on 12-13 December 2003 resulted in a decision to review the embargo. At the meeting, Swedish Foreign Minister Laila Freivalds stated that Sweden would be able to consider a lifting of the embargo. However, a precondition, according to Freivalds, was that the human rights situation in China was developing in a positive direction and that China would take "further positive measures".³⁵

The embargo issue was discussed by the EU foreign ministers in January 2004, but they failed to reach an agreement. After the ministerial meeting, Chirac announced that he supported a lifting. Washington responded by pointing out that Beijing had yet to deal with the main reason for the adoption of the embargo. The U.S., being a declared opponent of a lifting of the EU embargo, argued that China had not improved the human rights situation in the country.³⁶

In the debate that followed during 2004, an increasing number of EU member states supported efforts to lift the embargo. Many put forward the argument that China – a strategic partner – ought not to be included in the category of countries that were subjected to EU arms embargoes, such as Myanmar, Sudan and Zimbabwe.³⁷ The increasing support for a lifting was partly the result of intensive Chinese lobbying.³⁸ Although there was a clear political opinion

³² Stumbaum, May-Britt (2009) *The European Union and China*, Nomos, pp. 174-175; Interview with Börje Ljunggren, Swedish Ambassador to Beijing 2002-2006, 3 September 2009

³³ Interview with Börje Ljunggren

³⁴ Ching, Frank (2004) *Changing Dynamics In EU-China Arms Relations*, Jamestown Foundation China Brief, 7 March 2004.

³⁵ Sveriges Riksdag [Swedish Parliament], *Konstitutionsutskottets betänkande... [Constitutional Committee's Report...]*

³⁶ Ching, Frank, *Changing Dynamics...* See also Shambaugh, David (2005) *Don't lift the arms embargo on China* (2005), International Herald Tribune, 23 February 2005

³⁷ Ching, Frank (2004) *Changing Dynamics...*

³⁸ Fox, John and Godement, François (2009) *A Power Audit of EU-China Relations*, European Council on Foreign Relations (ECFR), April 2009, p. 29

against lifting the embargo in the Swedish Parliamentary Committee on European Union Affairs, Sweden indicated that it would support a common EU decision on lifting the embargo.³⁹

In December 2004, the EU countries jointly stated that they were willing to work towards a lifting of the embargo in 2005. In the statement, they added that this would not lead to an increase in arms exports to China, whether in quantitative or in qualitative terms.⁴⁰ They also emphasised the importance of the 1998 (non-legally binding) EU Code of Conduct on Arms Exports, in particular the criteria concerning human rights, stability and security in the region.⁴¹ Shortly thereafter, Chirac affirmed that the embargo would be lifted in mid-2005.⁴²

Towards the end of 2004, the member states started to discuss the adoption of a “toolbox” which would complement and strengthen the Code of Conduct on Arms Exports in the event of a lifting of an EU arms embargo. This “toolbox” would consist of various short-term measures.⁴³ One such measure would be to increase exchange of information within the EU in order to ensure that the member countries would not increase arms exports to the country in question.⁴⁴

2.5 Developments since 2004

The plans to lift the embargo fell through in March 2005, when the Chinese People’s Congress adopted the “anti-secession law”. The law stated that the Chinese army should use military force against Taiwan if the latter tried to establish de jure independence from China. In a draft resolution in the European Parliament against a lifting of the embargo, the “increasing military build-up in

³⁹ Sveriges Riksdag [Swedish Parliament], *Konstitutionsutskottets betänkande... [Constitutional Committee’s Report...]*; Stumbaum, May-Britt (2009) *The European Union and China*, p. 178

⁴⁰ Council of the European Union (2004) *7th EU-China Summit; Joint Statement*, 8 December 2004; Council of the European Union (2004) *Presidency Conclusions – Brussels, 16/17 December 2004*

⁴¹ Regeringskansliet [Government Offices of Sweden] (2005) *Regeringens skrivelse Skr. 2004/05:114 Strategisk exportkontroll 2004 - Krigsmateriel och produkter med dubbla användningsområden [Government Communication 2004/05:114 Strategic Export Control in 2004 – Military Equipment and Dual-Use Products]*

⁴² Crossick, Stanley and Reuter, Etienne (Eds.) (2007) *China-EU: A Common Future* World Scientific Publishing, p. 190

⁴³ European Parliament (2005) Report on the Council's Sixth Annual Report according to Operative Provision 8 of the European Union Code of Conduct on Arms Exports, 12 October 2005.

⁴⁴ *SIPRI Yearbook 2005: Armaments, Disarmament and International Security*, Oxford University Press, p. 718.

the Taiwan Straits” was described as “deeply” worrying, because it “might lead to the destabilisation of the whole region.”⁴⁵

Meanwhile, Washington made great efforts to prevent a lifting of the embargo. This came about partly through public statements, which noted that the security of both U.S. allies in East Asia and for American personnel would be put at risk if the EU decided to overturn the embargo.⁴⁶ The EU received indications from the U.S. that the EU risked harsh sanctions should the China embargo be lifted: for example, the U.S. Congress could suspend all exports of U.S. military technology to Europe.⁴⁷ U.K. Prime Minister Tony Blair announced in March 2005 that the embargo would not be lifted before the EU had adopted a solid, binding code of conduct on arms exports. During 2004, Blair had seemed inclined to support a lifting, but backed down in response to pressure from Washington.⁴⁸

This development gave the embargo opposition increasing support within the EU. In April 2005, the European Parliament, by 431 votes in favour to 85 votes against, decided not to support a lifting. Moreover, the Parliament called for the Council of the European Union to adopt a binding Code of Conduct on Arms Exports.⁴⁹ The Council, which has to reach consensus in order for the embargo to be lifted, was divided on the issue. The number of those supporting a lifting has since fallen. In the autumn of 2005, Gerhard Schröder was replaced as German Chancellor by Angela Merkel, who is a pronounced opponent of lifting the embargo. Moreover the President of the European Commission, José Manuel Barroso, announced during the summer of 2005 that he was sceptical of the idea of lifting the embargo.⁵⁰ In February the same year, Barroso had said that the EU

⁴⁵ European Parliament (2005) MOTION FOR A RESOLUTION; European Parliament resolution on relations between the European Union, China and Taiwan, B6-0394/2005

⁴⁶ A number of these statements are available via the website of the United States Mission to the European Union, URL: http://useu.usmission.gov/Dossiers/Chinese_Arms_Embargo/default.asp

⁴⁷ Svenska Dagbladet (2005) *EU-ländernas plan att i vår lyfta vapenembargot mot Kina verkar nu skjutas på framtiden* [Plan by EU countries to lift the embargo this spring seems to be delayed], 11 April 2005.

⁴⁸ MacAskill, Ewen and Watts, Jonathan (2004) *Blair caught in middle over China arms ban*, The Guardian, 2 August 2004; Johnson, Ed (2005) *Blair says China arms ban will not be lifted*, AP, 25 March 2005

⁴⁹ European Parliament (2005) *MEPs reject lifting arms embargo on China*, 14 April 2005

⁵⁰ Crossick, Stanley and Reuter, Etienne (Eds.) (2007) *China-EU: A Common Future*, World Scientific Publishing, p. 191

should lift the embargo, despite resistance from the U.S.⁵¹ Chirac among others continued to pursue an embargo-sceptical agenda.

Former Swedish PM Carl Bildt said in September 2005 that the handling of the arms embargo on China had been one of six major failures for the EU in the preceding six months. This neglect had, according to Bildt, led to a loss of credibility in both Washington and Beijing.⁵²

Benita Ferrero-Waldner, then European Commissioner for External Relations, in January 2007 told Premier Wen Jiabao that three conditions needed to be met before the EU could lift the embargo.⁵³ China had to

- 1) ratify the UN International Covenant on Civil and Political Rights (ICCPR);
- 2) free those jailed for their involvement in the Tiananmen Square events; and
- 3) abolish the “re-education through labour” system of imprisonment without trial (*laojiao* in Chinese).

At the end of that year Ferrero-Waldner praised China for its attempts to reform the *laojiao* system (see point 3 above). The clear message was, however, that the human rights situation in China was still a concern for the European Commission.⁵⁴

The issue of the arms embargo was again brought to the fore in November 2008, in deliberations by the Council of the European Union on transforming the EU Code of Conduct on Arms Exports into a legally binding Common Position.⁵⁵ Since 2005, the Council had endeavoured to reach consensus on a legally binding Code of Conduct, but this work was prevented by France which linked the issue to a lifting of the arms embargo on China.⁵⁶ Efforts to reach an agreement on the Common Position in December 2008 were again complicated by France’s request that the Council should concurrently make a statement on a review of the arms embargo on China.⁵⁷ In spite of this, however, the Council on 8 December

⁵¹ Mahony, Honor (2005) *EU set to lift China arms embargo despite US concerns*, euobserver.com, 10 February 2005.

⁵² Bildt, Carl (2005) *Can we overcome the European crisis?* Annual Conference of the EU Institute for Security Studies, 26 September, 2005

⁵³ Fautre, Willy (2009) *EU arms embargo against China and human rights*, euobserver.com, 17 June 2009

⁵⁴ Ferrero-Waldner, Benita (2007) *Speech/07/817 at the EU-China Human Rights Dialogue*, European Parliament, Strasbourg, 12 December.

⁵⁵ According to the Maastricht Treaty the member states “shall ensure that their national policies conform to the common positions”. See Eur-Lex, *Treaty on European Union, Official Journal C 191, 29 July 1992*, Article J.2

⁵⁶ Stumbaum, May-Britt (2008) *The invisible ban...*

⁵⁷ See eg European Parliament (2008) *Debates, Wednesday 3 December 2008 – Brussels*.

2008 reached an agreement and adopted the 1998 Code of Conduct as a Common Position on arms exports.⁵⁸ No statements were made on the embargo.

The Common Position is a somewhat extended and clarified version of the Code of Conduct, and consists of eight criteria which the member states should use when assessing whether to allow exports to another country. Several of the criteria, e.g. to what degree a recipient country respects human rights and the existence of armed conflict, correspond to the Swedish guidelines (see the appendix section IV). Unlike the 1998 Code of Conduct, a proposed recipient country's respect for international humanitarian law shall also be taken into consideration when a decision on arms exports is being made.⁵⁹

The content of the Position is for the most part the same as that of the Code of Conduct, an important difference being that the criteria are legally binding and should therefore be introduced into the national legislation of each member state.⁶⁰ Hence, the Common Position has replaced the 1998 Code of Conduct.⁶¹ EU member states have undertaken to abide by the criteria of the Common Position. However, there are currently no systems in place at the EU level to hold member states accountable for exports that appear to contradict the criteria of the Common Position.⁶²

Since then the embargo debate has been discreet, if indeed there has been a debate at all. When the issue of the embargo is raised, EU representatives refer to the common statement made at the summit between the EU and China in 2004. In the statement the EU declares that there is a "political will to continue work towards lifting the embargo".⁶³ This wording was included in the common statement at the 10th EU-China summit in November 2007, but it was not mentioned in the communiqué from the 11th summit.⁶⁴

⁵⁸ Official Journal of the European Union (2008) *Council Common Position 2008/944/CFSP defining common rules governing the control of exports of military technology and equipment*

⁵⁹ Interview with Swedish government official, 2 September 2009

⁶⁰ Regeringskansliet [Government Offices of Sweden] (2004) *Exportkontroll av krigsmateriel [Export control of military equipment]*, published 29 April 2004, updated 21 August 2009

⁶¹ Official Journal of the European Union (2008) *European Code of Conduct on Arms Exports P6_TA(2008)0101*, 13 March 2008

⁶² Interview with Mark Bromley, researcher at SIPRI Arms Transfers Programme, 17 September 2009

⁶³ Council of the European Union (2004) *7th EU-China Summit; Joint Statement*, 8 December 2004

⁶⁴ Council of the European Union (2007) *10th China-EU Summit Beijing, 28 November 2007 Joint Statement*; Czech Presidency of the European Union (2009) *Joint Press Communiqué of the 11th EU-China Summit*, 20 May 2009

One of few public statements made on this issue came from China's ambassador to the EU, Song Zhe, who in June 2009 referred to the embargo as "an absurd political discrimination against a strategic partner".⁶⁵ The following month U.K. Business Secretary Peter Mandelson said that the arguments in favour of the embargo had been exaggerated.⁶⁶ The statement made by Mandelson, a former EU Trade Commissioner, was received in Beijing as a "positive sign".⁶⁷

At a visit to Beijing in September, Mandelson stated that it was reasonable for the EU to demand improvements in the human rights situation in China in order for the embargo to be lifted.⁶⁸ China has consistently opposed European attempts to link the arms embargo to demands for improved human rights. Shortly before Mandelson's trip, the U.K. Defence Ministry had given its permission for a Chinese military delegation to be invited to the country's largest arms fair, Defence Systems & Equipment International (DSEi).⁶⁹ In an interview in Beijing, Mandelson said that he did not see this as a problem. Instead he stated that the DSEi should be seen as an "equipment fair" rather than an arms fair.⁷⁰

According to Swedish observers, it is not likely that Sweden will start exporting arms to China in a foreseeable future.⁷¹ While several Chinese officials make the same assessment of the situation, they believe that resistance from Washington is the main reason why the EU is not able to reach consensus on the embargo issue.⁷²

⁶⁵ Willis, Andrew (2009) *EU arms embargo against China "absurd", says ambassador*, EU Observer, 12 June 2009

⁶⁶ Reuters (2009) *Mandelson says EU should ease China arms embargo*, 9 July 2009

⁶⁷ Jiefang Ribao (2009) *Wo maocutuan fu Ou zhuoli touzi kaikuo shichang* [Chinese delegation for trade promotion visiting Europe encourages investments and an open market], 15 July 2009

⁶⁸ Buckley, Chris (2009) *Mandelson urges China to step up global role*, 8 September 2009

⁶⁹ Lemer, Jeremy (2009) *China invited to arms fair despite embargo*, Financial Times, 6 September 2009

⁷⁰ Hughes, Mark (2009) *Deputy PM defends bomber's release*, China Daily, 9 September 2009

⁷¹ Interview with a Swedish diplomat, 28 August 2009

⁷² Jiefang Ribao [PLA Daily] (2009) *Shige bannian chongkai fenghui, Zhong Ou guanxi jiang kaiqi zenyangde xinju?* [Summit reopened after six-month break, what new phase have Sino-EU relations entered?], 20 May 2009

3 Political Interpretations and Real Arms Exports

Since the arms embargo on China is not legally binding and offers room for various interpretations, it is being handled in different ways by EU member states. Thus, the embargo should be seen as a series of national embargoes that to a varying degree accept exports of dual-use items and defence equipment to China. Due to political interests and business interests, from the defence industry in particular, exports of military equipment from the EU to China have increased since 1989, despite the embargo. The national interpretations made by the three largest EU member states – Germany, France and the U.K. – and by Sweden and the Czech Republic are outlined below. The Czech Republic, which joined the EU in 2004, has been selected to represent new EU member states. Export-related consequences of these interpretations are presented in section 3.2.

3.1 Political Interpretations

According to the European Council's Declaration on 27 June 1989, the EU embargo on China comprises "trade in arms", but the declaration does not define what is meant by "arms" and is not legally binding. Nor is there any statement regarding penalties imposed by member states in the event of a breach of the embargo. Most subsequent EU arms embargoes form part of broader sanctions regimes on countries, organisations and groups. Since 1992, legal acts on these sanctions regimes have been adopted by the Council of the European Union as common positions, which are binding under public international law. Consequently, EU member states have an obligation under public international law not to breach these arms embargoes. Moreover, bans on technical and financial assistance related to products covered by the EU's autonomous arms embargoes are specified in EU regulations that are directly applicable. The arms embargo on China, on the other hand, is only politically binding, due to the fact that it is based on a declaration and is neither included in a Common Position nor in a complementary ban.⁷³

Due to the obscurity surrounding the so-called embargo, EU member states have interpreted the types of equipment that the declaration covers in different ways.⁷⁴

⁷³ Interview with Ambassador Per Saland, Sanctions Coordinator at the Swedish Ministry for Foreign Affairs, 11 November 2009

⁷⁴ Gill, Bates and Murphy, Melissa (2008) *China-Europe Relations: Implications and Policy Responses for the United States*, CSIS, May 2008

The interpretation of many EU states is that the embargo only covers lethal arms.⁷⁵ In this respect, the EU embargo differs from the U.S. ban on arms exports to China. The U.S. arms embargo, which has been legally binding since 1990, limits exports of both lethal and non-lethal military items on the U.S. munitions list.⁷⁶ EU arms embargoes cover, at a minimum, items specified on the EU Common Military List.⁷⁷

3.1.1 France

France's approach is that the EU arms embargo covers lethal military equipment and major weapon platforms. However, exports of non-lethal systems and dual-use items are permitted, e.g. naval and aircraft electronics and platforms, optoelectronics, transmitters, radar and other equipment for non-combat use.⁷⁸

3.1.2 The United Kingdom

The U.K. interprets the embargo as merely including "lethal weapons that are likely to be used for internal repression". According to the British interpretation, the embargo includes the export of (for example) machine guns, military aircraft and military helicopters as well as any other equipment that could potentially be used for internal repression.⁷⁹ It can be worth noting that the EU Common Position on Arms Exports (criterion two) prevents exports of military technology if there is a "clear risk" that it would be used for internal repression.⁸⁰

3.1.3 Germany

Germany has included the embargo in its national legislation, which implies that exports of a purely military nature are strictly limited. Consequently, German sales of products for potential military use have been limited to diesel engines.⁸¹

⁷⁵ Archick, Kristin et al. *European Union's Arms Embargo on China...*, p. 3

⁷⁶ United States General Accounting Office (1998) *Testimony*, 04/28/98, GAO/T-NSIAD-98-171: *China: U.S. and European Union Arms Sales Since the 1989 Embargoes*, 28 April 1998

⁷⁷ European Commission – External Relations (2009) *Sanctions*, 15 September 2009; Official Journal of the European Union (2008) *Common Military List of the European Union*, 18 April 2008

⁷⁸ Stumbaum, May-Britt (2009) *The European Union and China*, p. 171

⁷⁹ For details on the interpretations of the embargo made by the British government, see SIPRI, *UK interpretation of the arms embargo against China*.

⁸⁰ Official Journal of the European Union (2008) *Council Common Position 2008/944/CFSP*

⁸¹ Stumbaum, May-Britt (2009) *The European Union and China*, p. 172-173

3.1.4 The Czech Republic

The Czech Republic, one of the EU's newcomers, does not permit exports of lethal weapons to China or any deliveries that may contribute to strengthening China's military power. This position applies, in particular, to advanced technology. The Czech government, however, allows limited exports of "some categories" of military equipment to China.⁸²

3.1.5 Sweden

Sweden, which applied embargoes on 16 countries in 2008, does not allow any exports of military equipment to the People's Republic of China.⁸³ The embargo is interpreted as a total prohibition on arms exports to the country, including Taiwan.⁸⁴ Hong Kong has been given special treatment due to its unique historical position, meaning that some exports of Swedish military equipment have been permitted. The Swedish Agency for Non-Proliferation and Export Controls (Inspektionen för strategiska produkter, ISP) has approved licences to deliver gyros and scope mounts used for attaching telescopic sights to automatic firearms to the Hong Kong police force.

According to the Common Position on Arms Exports, sales of services shall also be examined by the export control authorities of the member states. However, the Swedish regulations fall short in this respect, i.e. the government does not require the ISP to control exports of services.⁸⁵ Services, support and other technical assistance are not mentioned among the 37 categories in the Swedish munitions list. The Swedish government-appointed Military Equipment Inquiry of 2005 recommends the introduction of a regulation on technical assistance. The inquiry also states that "countries deemed by Sweden to be unacceptable recipients of military equipment should naturally not come into consideration as recipients of

⁸² Ministry of Foreign Affairs of the Czech Republic (2005) *Annual Report on Export Control of Military Equipment and Small Arms for Civilian Use in the Czech Republic in 2004*

⁸³ Regeringskansliet [Government Offices of Sweden] (2009) *Regeringens skrivelse Skr. 2008/09:114 Strategisk exportkontroll 2008 - Krigsmateriel och produkter med dubbla användningsområden* [Government Communication 2008/09:114 Strategic Export Control in 2008 – Military Equipment and Dual-Use Products]. The 16 countries are Armenia, Azerbaijan, Myanmar, Democratic Republic of Congo, Ivory Coast, Iran, Iraq, China, North Korea, Lebanon, Liberia, Sierra Leone, Somalia, Sudan, Uzbekistan and Zimbabwe

⁸⁴ For the Swedish definition of military equipment, see ISP (1992) *Bilaga 1 (till Förordningen (1992:1303) om Krigsmateriel* [Appendix 1 (to Regulation (1992:1303) on military equipment)]

⁸⁵ Interview with government agency official, 3 September 2009

technical assistance.”⁸⁶ The Swedish Ministry for Foreign Affairs in 2009 appointed an inquiry in order to assess the appropriate adjustment of national legislation.⁸⁷ The inquiry is examining to what extent Sweden may have to adjust its legislation and guidance documents to accord with the ICT Directive⁸⁸ and the Common Position on Arms Exports. The inquiry is expected to be completed during the first quarter of 2010.

3.2 Military Cooperation despite the Embargo: Real Arms Exports

The EU bloc became China's main trading partner in 2004, underlining the importance of trade in the relations between the two parties. Bilateral trade was worth 326 billion euros in 2008.⁸⁹ China's trade with the United States, its second-most important trade partner, was valued at 300 billion euros in the same year.⁹⁰ EU member states' imports from China have increased by roughly 18 percent annually during the last five years, leading to an EU trade deficit of 169 billion euros in 2008.⁹¹

There are hopes within the EU that a lifting of the embargo would result in increased European exports to China, i.e. a smaller trade deficit. This does not inevitably imply that exports of military equipment to China would increase without the embargo. However, some observers argue that trade in the

⁸⁶ See Sveriges Riksdag [Swedish Parliament] (2005) *Krigsmaterielutredningen SOU 2005:9, 9.3 [Military Equipment Inquiry SOU 2005:9, 9.3]*. According to the *Act on Controls over Dual-Use Products and Technical Assistance*, “technical assistance” refers to “all forms of technical assistance that are related to repair, development, manufacture, assembly, testing, maintenance or any other technical service that may take forms such as training, transfer of knowledge and skills or consulting services”

⁸⁷ Sveriges Exportkontrollförening [Swedish Export Control Society] (2009) *Möte mellan Sveriges Exportkontrollförening och ISP [Meeting between the Swedish Export Control Society and ISP]*, 18 May 2009

⁸⁸ The ICT Directive (Intra-Community Transfer Directive) is a directive on a harmonised system of transfer of defence-related products between EU member states. It was adopted by the Council of Ministers in May 2009

⁸⁹ EUROPA (2009) *EU-China trade in facts and figures*, 4 September 2009

⁹⁰ US-China Business Council (2009) *US-China Trade Statistics and China's World Trade Statistics*, retrieved 20 October 2009; calculation based on 1 USD = 0.72 euro

⁹¹ EUROPA (2009) *EU-China trade in facts and figures*

technology, transport and engineering sectors, as well as the aviation industry, would be facilitated by a lifting of the embargo.⁹²

There has been a clear trend of increasing arms exports from EU member states to China since 1989. The U.S. Congressional Research Service (CRS), for example, cites data showing that Europe's exports of military equipment to China multiplied from approximately 55 million euros at the beginning of the 1990s to 400 million euros in 2003. In comparison, Russian arms exports to China doubled between the 1990s and the early 2000s, to roughly 2.5 billion U.S. dollars.⁹³ Due to significant difficulties surrounding the collection of data on the arms trade, these numbers should be regarded as estimates rather than official statistics.

EU countries' military exports to China, excluding Hong Kong and Macao, reached a total of 134 million euros in 2006, according to the EU Annual Report on Arms Exports. However, the real export figure is higher, since certain countries do not provide data. On top of actual exports, EU member states in 2006 issued licences for arms exports to China worth 292 million euros.⁹⁴ During 2007 reported exports were somewhat lower, at 92 million euros, and the value of licences issued was 210 million euros.⁹⁵ In 2007, France accounted for 94 percent of licences and 99 percent of exports to China. Europe's main exporters of military equipment to China also include the U.K., Austria, Italy and Germany.

Thus, contrary to what could be expected, EU countries' arms exports to China have increased since the embargo was adopted in 1989. An important reason for this is that since 1999 China has intensified its efforts to modernise its military, which has led to an increased demand for advanced technology from overseas.⁹⁶ According to calculations made by the Stockholm International Peace Research Institute (SIPRI), Russia and France have been the two largest suppliers of military equipment to China since 1989. However, it should be pointed out that Russia accounted for 89 percent of the value of these deliveries while France's

⁹² Soto, Augusto (2004) *China's military modernisation and the possible end to the EU arms embargo*, Real Instituto Elcano, 1 December 2004

⁹³ Archick, Kristin et al. (2005) *European Union's Arms Embargo on China: Implications and Options for U.S. Policy*, CRS Report for Congress, 27 May 2005, p. 14

⁹⁴ Council of the European Union, *Security-related export controls II - Military equipment*, updated 1 September 2009

⁹⁵ Official Journal of the European Union (2008) *Tenth Annual Report According to Operative Provision 8 of the European Union Code of Conduct on Arms Exports*, 22 November 2008

⁹⁶ Blasko, Dennis J. (2005) *Chinese Army Modernization: An Overview Military Review*, September/October 2005

share was some 4 percent. Roughly 65 percent of total arms exports from EU countries to China since 1989 have been from French companies.⁹⁷ The U.K., Germany, Italy and the U.S., as well as other countries, can also be found on the list of the ten biggest arms exporters to China during this 20-year period.⁹⁸

Due to the varying national interpretations of the embargo, it has been possible for the European industry to export different types of support systems to China. For example, China acquired the U.K.'s Searchwater radar system in 1996 and French AS-365N Dauphin-2 helicopters between 1992 and 2000. Chinese 039A Song-A attack submarines are reportedly also equipped with marine diesel engines from the German company MTU. The deliveries of military equipment to China have, at least from the second half of the 1990s, taken place under agreements that were outlined prior to June 1989.⁹⁹

China's aviation industry began licensed production of the Eurocopter Dauphin-2 in the early 1980s and is now capable of producing most or all components for the Dauphin-2. China needs to develop its military aviation production capabilities. Due to the lack of technological expertise, China produces no long-range heavy bombers or true attack helicopters. The Eurocopter has however been modified to function as an attack helicopter.¹⁰⁰

Sweden in 2008 exported military equipment worth 12.7 billion crowns, an increase of more than 30 percent on 2007.¹⁰¹ Sweden does not allow any military exports to China, but has delivered certain dual-use items to the country. For example in 2005, BAE Systems Hägglunds received a licence to sell five Bandvagn 206 all-terrain vehicles that had been modified to suit civil purposes.¹⁰² Sweden has also exported explosives for civilian use to China. Applications for the export of dual-use items to China's armed forces or the Chinese security forces are examined in the light of the Common Position.¹⁰³

Since 2003, China has been participating in the EU's Galileo satellite navigation programme, and it was the first non-European country to join the programme.

⁹⁷ Stumbaum, May-Britt (2009) *The European Union and China*, p. 171

⁹⁸ SIPRI Arms Transfers Database: TIV of arms exports to China, 1990-2008, retrieved 26 May 2009

⁹⁹ United States General Accounting Office (1998) *Testimony*, 04/28/98, GAO/T-NSIAD-98-171: *China: U.S. and European Union Arms Sales Since the 1989 Embargoes*, 28 April 1998

¹⁰⁰ Crane, Keith et al. (2005) *Modernizing China's Military: Opportunities and Constraints*, RAND Project Air Force, pp. 176-177

¹⁰¹ Regeringskansliet [Government Offices of Sweden] (2004) *Exportkontroll av krigsmateriel [Export control of military equipment]*, published 29 April 2004, updated 21 August 2009

¹⁰² Interview with government agency official, 3 September 2009

¹⁰³ Ibid.

When the Council of the European Union had approved the cooperation with Beijing in October 2003, China committed itself to invest over 200 million euros in Galileo, which had an estimated total cost of 3-4 billion euros.¹⁰⁴ As of August 2008 China had invested 65 million euros. In 2004, the Galileo Joint Undertaking signed a follow-up agreement with the National Remote Sensing Center of China (NRSCC), after which the parties were to review the cooperation in satellite navigation as the Galileo programme moved to the implementation phase.¹⁰⁵ China's role within Galileo has been questioned by Washington, which is concerned that Beijing's participation may give the Chinese military access to technology that will contribute to its military modernisation and make the country independent from the American GPS (Global Positioning System).¹⁰⁶ China is also developing its own satellite navigation system, Beidou/Compass. Moreover, Russia is developing the GLONASS satellite navigation system.

Despite U.S. restrictions on arms sales to China, there have been some American exports of military equipment to Chinese customers. In many cases, such sales have been harshly criticised, e.g. in March 2007 when the defence contractor ITT Corp was sentenced to pay a 100 million U.S. dollars fine for having sold night-vision technology to China. ITT had not obtained a licence to carry out the deal. In 2003, Hughes Electronics and Boeing Satellite Systems were fined for having shared satellite technology with China.¹⁰⁷ The U.S. is by far the biggest arms exporter to Taiwan, which has also received substantial arms deliveries from France since 1990 and, to a lesser extent, from Germany.¹⁰⁸

There is great interest within the European defence industry in a lifting of the embargo on China, although this factor is very seldom brought up officially. That said, the EU decided in December 2004 that "the result of any decision should not be an increase of arms exports from EU member states to China, neither in quantitative nor qualitative terms."¹⁰⁹ While the EU has agreed that a lifting of the embargo must not lead to an increase in arms sales to China, there are still substantial interests among the business community in its being lifted. Critical statements have been made about the embargo, e.g. by the Chief Executive of

¹⁰⁴ European Commission External Relations, *EU China Strategy Paper 2007-2013*

¹⁰⁵ European Commission, *An overview of the sectoral dialogues between China and the EU*, retrieved 27 October 2009

¹⁰⁶ Tkacik, John J., Jr. and Gardiner, Nile (2004) *Blair Could Make a Strategic Error on China*, The Heritage Foundation, 7 June 2004

¹⁰⁷ Klein, Alec (2007) *ITT to pay \$100 million export fine*, Washington Post, 28 March 2007

¹⁰⁸ SIPRI Arms Transfers Database: TIV of arms imports to Taiwan, 1990-2008

¹⁰⁹ Crossick, Stanley and Reuter, Etienne (Eds.) (2007) *China-EU: A Common Future World Scientific Publishing*, p. 190

Italian industrial conglomerate Finmeccanica in 2006. Reportedly, Sweden's Ericsson unofficially joined the critics of the embargo in 2004.¹¹⁰

Several EU countries have been involved in military exchange with China and have participated in military exercises with the country during the twenty years since the arms embargo was adopted. These exercises are reported in China's National Defence White Papers, which are published biennially. In 2007 and 2008, the Czech Chief of General Staff, the French, German and Finnish defence ministers and the Chief of Staff of the U.K.'s Royal Air Force visited China. The Supreme Commander of Sweden's armed forces, Håkan Syrén, paid an official visit to China in October 2008, as had the U.S. Secretary of Defense in November 2007. During these two years China participated in military exercises with EU members such as France and the U.K. but also with the U.S.¹¹¹ It is worth noting that France, a major opponent of a continued embargo, held its first naval exercise with China as early as in 2004. Moreover, the exercise took place at a sensitive point in time – merely four days ahead of the Taiwanese presidential election.¹¹²

¹¹⁰ Wolf, Jim (2006) *Finmeccanica CEO for easing rules on China sales*, Reuters, 6 December 2006; Melzer, Herman and Nilsson, Kalle (2004) *Ericsson påverkade regeringen häva vapenembargot mot Kina [Ericsson influenced the government to lift the embargo]*, Ekot/Sveriges Radio, 23 December 2004

¹¹¹ Information Office of the State Council of the People's Republic of China (2009) *China's National Defense in 2008*, January 2009

¹¹² Umbach, Frank (2004) *EU's Links with China Pose New Threat to Transatlantic Relations*, European Affairs, Spring 2004

4 China's Military Expansion and Security in the Region

One of the main tasks of China's armed forces, according to the country's leaders, is to safeguard continued Communist Party rule. At a meeting in Washington in July 2009, State Councillor Dai Bingguo stated that the People's Republic needs to protect three core interests. Most important is to uphold the basic Chinese system and national security, i.e. the survival of the Communist Party and national unity. Second, China's sovereignty and territorial integrity must be protected. Finally, China needs to ensure sustained economic and social development.¹¹³

The great uncertainties surrounding China's path ahead, in particular the question of how China will use its growing military power, are leading to concerns in the East Asian region. The U.S. has consistently criticised what it sees as a lack of transparency that characterises China's military ambitions, arguing that this increases the risk of misunderstandings, which may in turn lead to an arms race and increased tension in the region. In particular, this relates to the occasionally fragile relations between China and Taiwan.

Due to its alliance with Taiwan, the U.S. is greatly concerned about China's military modernisation, which includes a substantial development of naval capabilities.¹¹⁴ The EU also has considerable interests in East Asia, and in China in particular, but lacks a common assessment of the regional security situation. The Taiwan issue is not even mentioned in the EU Security Strategy of 2003.¹¹⁵ The EU has, however, complained about the lack of transparency of China's military budget.¹¹⁶ China's official defence budget has been characterised by double-digit percentage growth on an annual basis. The official budget, of more than 70 billion U.S. dollars in 2009, does not, however, include (for example)

¹¹³ State Department Press Releases And Documents (2009) *Closing Remarks for U.S.-China Strategic and Economic Dialogue - Officials discuss economic recovery, stability and nuclear proliferation*, 28 July 2009

¹¹⁴ See, e.g. Pentagon (2009) *Military Power of the People's Republic of China 2009*

¹¹⁵ European Council (2003) *A Secure Europe in a Better World; European Security Strategy*, 12 December 2003

¹¹⁶ The EU China policy of 2006 focuses mainly on four goals: 1) to deepen the dialogue involving global challenges such as climate change, 2) to support China's social development towards greater transparency, rule of law and human rights, 3) encourage the integration of China into the international community and its economic and social reforms, and 4) to raise the profile of the EU in China in order to support mutual understanding.

costs for arms purchases from abroad.¹¹⁷ According to calculations made by SIPRI, China's military budget amounted to approximately 85 billion U.S. dollars in 2008. This can be compared with the official Chinese figure of some 60 billion U.S. dollars and the Pentagon's estimate of 105–150 billion U.S. dollars.¹¹⁸ Beijing for its part tries to respond to such criticism and makes great effort to counter the negative image of its military modernisation. China's ambitions to promote peace are emphasised in official statements and diplomatic moves as Beijing attempts to downplay the image of its military as a potential threat to the outside world.¹¹⁹

Since 1998, China has published a biennial White Paper on its defence policy, with the latest issue outlining developments in 2007 and 2008.¹²⁰ This defence policy document constitutes a tool in Beijing's efforts to strengthen the image of China as a responsible great power. Among other things, China wants to show that its military ambitions are becoming more transparent. Moreover, the white papers constitute an important source of information on Chinese strategic thinking and Beijing's perceived threats.

The efforts mentioned above also form part of China's endeavour to have the arms embargoes imposed on the country by the EU and the U.S. lifted. China is set to create an independent, indigenous defence industry that can compete internationally and support the country's military modernisation.¹²¹

Russia is China's premier arms supplier, but the Russian influence is decreasing in the sphere of high-technology products. Because of China's dependence on Russian military equipment, the country has fallen behind in terms of equipment and arms. There is currently a military technology gap between China and NATO of more than two decades, and China is even further behind the U.S., according to some experts.¹²²

While some parts of the European defence industry are likely to overestimate the potential demand from China for military equipment, there is a clear Chinese

¹¹⁷ The official budget figure for 2009 is presented in Xinhua (2009) *Liang hui shuzi [Figures from the two meetings]*, 4 March 2009.

¹¹⁸ Hellström, Jerker (2009) *Kinas utrikes-, säkerhets- och försvarspolitik i ett 10- till 20-årsperspektiv [China's Foreign, Security and Defence Policy in a 10-20-Year Perspective]*, Stockholm: Swedish Defence Research Agency (FOI), November 2009

¹¹⁹ The Chinese military consists of three different components: (1) the PLA: Army, Navy and Air Force, (2) the Second Artillery Force, and (3) the People's Armed Police

¹²⁰ Information Office of the State Council of the People's Republic of China (2009) *China's National Defense in 2008*, January 2009

¹²¹ Hellström, Jerker (2009) *Kinas utrikes-, säkerhets- och försvarspolitik...*

¹²² Soto, Augusto (2004) *China's military modernisation...*

need for niche technologies and weapons systems such as radar, air-to-air missiles, sonar equipment and torpedoes.¹²³

Comprehensive National Power (CNP) is a term used by Beijing which is crucial for China's view of its own strategic military potential and development.¹²⁴ CNP consists of qualitative and quantitative variables on *soft power* and *hard power*, combined to evaluate and measure China's standing in comparison to other states and regions. The Chinese Defence White Paper published in 2009 asserts that the country's CNP had increased substantially, but according to a study published by the Chinese Academy of Social Sciences in 2006, China lags far behind the U.S. and Russia in terms of CNP. This motivates China to strengthen its political, economic and military power in order to achieve a more multipolar global balance of power.¹²⁵

¹²³ Umbach, Frank (2004) *EU's Links with China Pose New Threat to Transatlantic Relations*, European Affairs

¹²⁴ CNP is a translation of the Chinese term 综合国力 (*zonghe guoli*), which has also been officially translated into "overall national strength".

¹²⁵ Hellström, Jerker (2009) *Kinas utrikes-, säkerhets- och försvarspolitik...*

5 Future Outlook and Challenges

As this study has established, the EU arms embargo on China is merely a politically binding sanction that does not effectively prevent exports of military equipment to China. While the European Council had no trouble in reaching an agreement on the embargo in 1989, the 27 members of the Council today are very much divided as to what conditions should apply in order for the embargo to be lifted. No EU country has exported lethal arms to China since the embargo was adopted, but the differences of interpretation of the scope of the embargo have resulted in a situation where European military equipment is still being delivered to the country.

The debate on the arms embargo is limited by two important factors.¹²⁶ First, the Council of the European Union has not been able to agree on a common interpretation of the embargo. Having been adopted as a reaction to the repression of the democracy movement in 1989, the scope of the embargo has widened and become ever more abstract. Today, it has been linked both to the overall situation of human rights in China and to the security situation in East Asia. Second, the Council has not clarified to what extent the U.S. should be allowed to influence the EU debate on the embargo. The U.S. exerts considerable influence in EU member states, which has been of crucial importance for the continued existence of the embargo and has led to a limited interest in discussing the issue.

A number of statements, from the Chinese side as well as the European side, in favour of lifting the embargo were made in 2009. Statements critical of the embargo were made, for example, by China's ambassador to the EU, Song Zhe, and by U.K. Business Secretary Peter Mandelson. Crescenzo Rivellini, who was elected Chairman of the European Parliament's China Delegation in the autumn of 2009, also recommends a lifting of the embargo.¹²⁷ In a policy report published in the spring of 2009, the European Council on Foreign Relations, a think-tank, suggested that the EU should use the embargo as a tool in negotiations with China. According to the authors of the report, China could be influenced to work for stronger sanctions against Iran and other potential nuclear proliferators, in exchange for a lifting of the EU embargo.¹²⁸

¹²⁶ See van der Putten, Frans (2007) *The EU Arms Embargo, Taiwan, and Security Interdependence between China, Europe and the United States*, Indian Journal of Asian Affairs

¹²⁷ UPI (2009) EU trade rep suggests arms sales to China, 30 September 2009, downloaded 21 October 2009

¹²⁸ Fox, John and Godement, François (2009) *A Power Audit of EU-China Relations*

These statements should be seen as individual moves, which do not represent EU policies. At the time of writing, everything pointed to the embargo issue being avoided to a great extent at the twelfth EU-China summit on 30 November 2009 in Nanjing. Since it is considered a sensitive issue, none of the EU member countries wishes to raise the European Union's view of the embargo, and member states refrain from commenting on the embargo issue unless it is brought up by China. According to a government official in one of the EU member countries, there is a risk that any such statements risk will be over-interpreted by the Chinese side.¹²⁹ Government representatives in the EU are aware that immediate reactions from Beijing and Washington are to be expected, should they comment on the issue. Hence there is no political will in Brussels to discuss the embargo,¹³⁰ which is not seen as a matter as urgent for the EU (or for China) as, for example, the issue of China's market economy status.¹³¹

That the EU and the U.S. should award China market economy status without delay is a recurrent demand from Beijing. According to the European Commission, however, China must live up to five technical criteria before market economy status can be discussed. The EU is concerned, for example, about the lack of effective intellectual property rights in China, which might harm foreign companies operating in the country. Catherine Ashton, who was appointed EU High Representative for Foreign Affairs and Security Policy in November 2009, discussed the issue at a visit to Beijing in September the same year. At that time, Ashton was the EU's Trade Commissioner.¹³²

As previously mentioned in this study, the EU has presented three key conditions that China must live up to before the EU can even discuss lifting the embargo¹³³ (see section 2.5). China has made certain progress in terms of these conditions, as seen in the examples below.

1) *ratifying the ICCPR*. The Communist Party announced in March 2008 that China would ratify the ICCPR at an early date.¹³⁴

2) *freeing those jailed for their involvement in the Tiananmen Square events*. Most of the people who were detained for their involvement in the 1989

¹²⁹ Interview with government official, 26 October 2009

¹³⁰ Interview with May-Britt Stumbaum

¹³¹ Interview with Wang Yiwei, Second Secretary, Mission of the PRC to the European Communities, 2 November 2009

¹³² EUobserver (2009) *Chinese students grill EU trade commissioner*, 10 September 2009

¹³³ Fautre, Willy (2009) *EU arms embargo against China and human rights*, euobserver.com, 17 June 2009

¹³⁴ Xinhua (2008) *Premier: China to ratify UN Covenant on Civil and Political Rights at early date*, 18 March 2008

Tiananmen Square protests have been released. In May 2009, around 30 persons were still imprisoned, as compared with 213 persons still imprisoned in 2000.¹³⁵

3) *abolishing the “re-education through labour” system of imprisonment without trial (Chinese: laojiao)*. China is trying to reform the *laojiao* system and was praised for these efforts at the end of 2007 by EU Commissioner Benita Ferrero-Waldner.¹³⁶

If China continues on this path, it seems that it will be able to meet the above conditions above in the near future. At the same time, the U.S. argues that any improvements on human rights should not lead to the EU lifting the embargo, as it regards such an action as having a destabilising effect in China’s immediate surroundings.¹³⁷ It would also be much more difficult for Washington to keep the U.S. ban on arms exports to China if the EU decided to lift its embargo.¹³⁸

The question is to what the extent the Council of the European Union has a common understanding of what it should demand from China. There is a widespread perception that there are no unambiguous criteria that China must live up to in order for the embargo to be lifted.¹³⁹ The embargo is currently related both to the overall human rights situation in China and to China’s effect on the security situation in East Asia. As with the anti-secession law in 2005, which stated that the Chinese army should use military force against Taiwan if Taiwan tried to establish de jure independence from China, China’s actions have continuously constituted an obstacle to the lifting of the embargo. An example is the frequent use of the death penalty in China, which carries out the greatest number of executions worldwide, even though the number of executions recently may have decreased slightly.¹⁴⁰ Moreover, it became more difficult to argue for a

¹³⁵ Duihua Foundation, *Known or suspected “June Fourth” prisoners still imprisoned as of May 2009*; Amnesty International (2000) *Tiananmen Square – expanding the circle of victims after 11 years*, 31 May 2000

¹³⁶ Ferrero-Waldner, Benita (2007) *Speech/07/817 at the EU-China Human Rights Dialogue*, European Parliament, Strasbourg, 12 December

¹³⁷ U.S. Department of Commerce, Bureau of Industry and Security (2005) *Testimony of The Honourable Peter Lichtenbaum Acting Under Secretary for Industry and Security United States Department of Commerce Before the House Armed Services Committee and the House International Relations Committee on the “EU Arms Embargo Against China”*, 14 April 2005

¹³⁸ Umbach, Frank (2004) *EU's Links with China Pose New Threat to Transatlantic Relations*, European Affairs

¹³⁹ Interview with government official, 26 October 2009

¹⁴⁰ An overview of human rights issues in China that have led to concerns in the EU can be found in e.g. European Parliament (2009) *Report on the Annual Report on Human Rights in the World*

lifting of the embargo after China suppressed protests in Tibet in early 2008 and in Xinjiang during the summer of 2009.¹⁴¹ Due to the lack of transparency in China's bureaucracy, it is also difficult for the EU to evaluate how much progress has actually been made in the sphere of human rights in the country since 1989.

In contrast to the embargo on China, the EU arms embargo on Uzbekistan has been subject to annual review, and should in its current form have come to an end on 13 November 2009.¹⁴² The Council of the European Union decided on 27 October 2009 to lift it. The embargo was adopted shortly after the massacre in Andijan in May 2005, when government forces opened fire against demonstrators and killed at least 187 people.¹⁴³ The decision to lift the embargo was justified with the statement that the Uzbek authorities should be encouraged "to take further substantive steps to improve the rule of law and the human rights situation on the ground, and taking into account their commitments". The Council had acknowledged that Uzbekistan had, for example, abolished the death penalty and released a number of political prisoners.¹⁴⁴ Chinese media reported on the lifting of the embargo on Uzbekistan and the news was published on the website of the Chinese Embassy in the country.¹⁴⁵ The EU arms embargoes on Uzbekistan and China have in common that they were adopted by the Council as a reaction to internal repression. The decision to lift the embargo on Uzbekistan might lead to a renewed debate on the China embargo.¹⁴⁶ During late 2009, however, such a debate was conspicuous by its absence.

It is not likely that the embargo issue will be pursued by the new EU leadership duo that was chosen on 19 November 2009. The newly elected President of the European Council, Herman van Rompuy, has been personally engaged in support of Taiwan and has also visited Taiwan's former President Chen Shui-bian, who

2008 and the European Union's policy on the matter, 14 April 2009; Jacobs, Andrew (2009) *China Pledges Fewer Death Sentences*, New York Times, 29 July 2009

¹⁴¹ Bromley, Mark (2008) *10 years down the track – The EU Code of Conduct on Arms Exports* ISIS Europe – European Security Review no. 39, July 2008; Interview with Swedish diplomat, 28 August 2009

¹⁴² Official Journal of the European Union, *Council Common Position 2008/843/CFSP of 10 November 2008 amending and extending Common Position 2007/734/CFSP concerning restrictive measures against Uzbekistan*, 11 November 2008

¹⁴³ Human Rights Watch (2005) *Burying the Truth*, 18 September 2005

¹⁴⁴ Council of the European Union (2009) *Press release, 2971st Council meeting*, 27 October 2009.

¹⁴⁵ See Embassy of the People's Republic of China in the Republic of Uzbekistan (2009) *Oumeng jiechu dui Wuzhibiekistan wuqi jinyun [The EU is lifting the arms embargo on Uzbekistan]*, 28 October 2009

¹⁴⁶ Yusupov, Farruh (2009) *EU Faces Decision on Uzbek Arms Embargo*, Radio Free Europe/Radio Liberty, 15 October 2009

is an advocate of Taiwanese independence.¹⁴⁷ Catherine Ashton, the new High Representative of the Union for Foreign Affairs and Security Policy, did not address the embargo issue during her time as European Commissioner for Trade. In this respect, she differs from Peter Mandelson, the former Commissioner for Trade, who pursued the line that the arms embargo on China hinders the development of trade with the EU. During her visit to Beijing in September 2009, Ashton preferred to discuss the considerably more burning issue of China's market economy status.¹⁴⁸

¹⁴⁷ Office of the President, Republic of China, Taiwan (2005) *President Chen Receives Mr. and Mrs. Herman Van Rompuy of the Taiwan-Belgium Parliamentary Friendship Group*, 2 November 2005

¹⁴⁸ EUobserver (2009) *Chinese students grill EU trade commissioner*, 10 September 2009

6 Conclusion

Since 2005, when the debate within the EU on a possible lifting of the now 20-year-old arms embargo on China came to a standstill, the issue has not been discussed to any extent worth mentioning. The EU, however, sticks to a statement from 2004 in which it says that the Union is willing to continue working for the embargo to be lifted.¹⁴⁹ That said, the embargo still allows exports of military equipment from certain EU countries to China, and the EU Common Position on Arms Exports that was adopted at the end of 2008 is the only legally binding EU document that limits arms transfers to China. There is no EU Regulation on arms exports in place. While EU member states are themselves responsible for ensuring that national legislation takes the criteria of the Common Position into consideration, the EU cannot hold member states accountable for exports that appear to contradict the criteria. Nor are there any requirements as to when these criteria should be incorporated into the national legislation of member states.¹⁵⁰ However, by adopting the Code of Conduct, and subsequently the Common Position, the Council of the European Union has taken an important step towards increased transparency of EU arms exports. Since 1999, the EU annual reports on arms exports have included relatively detailed statistics covering exporting countries and recipients, based on information provided by the member states.¹⁵¹

There are significant differences between the two arms embargoes on China adopted by the EU and by the U.S. While the scope of the U.S. embargo is clear, there are basically as many interpretations of the EU embargo as there are member states in the EU. This underlines a fundamental weakness in Brussels' handling of the embargo: the EU lacks the ability to deliver a unified message. Due to this fact, China has come to prefer to negotiate bilaterally with individual member states rather than with the EU as a whole. When it seemed as if the embargo would be lifted in 2005, China felt that the EU did a U-turn on the embargo issue due to pressure from the U.S. This taught Beijing a lesson – not to overestimate the Union's ability to reach common decisions. The U.S. is not faced with such problems.

¹⁴⁹ Council of the European Union (2004) *7th EU-China Summit; Joint Statement*, 8 December 2004; Council of the European Union (2004) *Presidency Conclusions – Brussels, 16/17 December 2004*

¹⁵⁰ House of Commons (2009) *Scrutiny of Arms Export Controls (2009) UK Strategic Export Controls Annual Report 2007, Quarterly Reports for 2008, licensing policy and review of export control legislation*, 19 August 2009

¹⁵¹ Official Journal of the European Union (2008) *Tenth Annual Report...*

Since there are control mechanisms for arms exports in place within the EU, the arms embargo on China is mainly a symbolic issue for all parties involved. By lifting the embargo, the EU would signal that it fully accepts China's behaviour in the international community and China's actions towards its own people. However, Beijing, Brussels and Washington all realise that the impact of political and economic interests is more effective than the embargo or the EU Code of Conduct in limiting arms exports to China. Or, to put it differently, the predominant reason for the EU keeping the embargo is that Washington puts pressure on the EU not to contribute to China's increasing its regional and global influence.

A number of complex circumstances effectively prevent any attempts either to lift the embargo on China or to make it more stringent. It is the only EU embargo that was adopted ahead of the 1992 Maastricht Treaty, which means that it is entirely different from the EU's other embargoes. While the embargo on China was adopted as a Declaration by the European Council, subsequent embargoes have for the most part been adopted as common positions within the EU Common Foreign and Security Policy. An important shortcoming is that the embargo on China does not specify what type of military equipment it covers. Furthermore, it is not subject to annual review. In this respect, the embargo on China differs from the EU arms embargoes on (for example) Myanmar, Zimbabwe and Uzbekistan (the embargo on the latter having been lifted in October 2009). It should be possible for the EU to make a new decision on the China embargo in order to make it more precise and more consistent with other embargoes. However, in order for this to happen, there has to be a political will in the Council of the European Union to discuss the issue.

In terms of its China embargo, the EU has positioned itself between two competing interests with clear agendas. One side is made up of the Chinese government, EU politicians and representatives for the European business community, who insist that the embargo should be lifted. This group emphasises the importance of equal bilateral trade relations and draws attention to the social progress that is being made in China. On the other side are the U.S., its allies in Northeast Asia – Taiwan and Japan – and human rights organisations. This group highlights two main issues: China's military ambitions in the region and Beijing's lack of respect for human rights. The arguments used by both sides are outlined below.

In the Common Position of 2008 there are restrictions for arms exports that can be applied to China, for example, arms should not be sold to countries that might use them to repress their population or to act "aggressively against another country or to assert by force a territorial claim".

Since 2005, the embargo issue has virtually disappeared from the agenda in Brussels. As the issue is regarded as very sensitive, none of the EU member states wishes to comment on its view of the embargo, and they only discuss the

embargo issue if it is raised by China. Statements on the embargo risk leading to immediate reactions from both Beijing and Washington, a fact which very effectively prevents any attempts to discuss the embargo in Brussels.

The EU asks China to show greater respect for human rights, which is a fundamental precondition for the arms embargo being lifted. China must, among other things, release those who were imprisoned in connection to the Tiananmen protests and ratify the ICCPR. There are many indications that the Communist Party is on track to live up to the demands made by the EU. The question is, however, how united the Council of the European Union is in its view of what demands should be made on China. There is a widespread perception that there are no clear criteria which China must live up to for the embargo to be lifted. Furthermore, other recent events, such as China's handling of protests in Tibet in 2008 and in Xinjiang in 2009, have probably decreased possibilities for a lifting of the embargo in the near future.

6.1 Arguments in Favour of a Lifting of the Embargo

Advocates for a lifting of the embargo refer to a number of circumstances that are outlined below.

- The EU has clearly stated that a lifting of the embargo will not lead to an increase of European arms exports to China, either in quantitative or in qualitative terms. Hence, by lifting the embargo, the EU will not contribute to changes in the military balance in the Taiwan Strait.¹⁵²
- The embargo should be lifted since it is a less efficient tool than the Common Position on Arms Exports, which was adopted in December 2008, in limiting arms exports to China. Unlike the embargo, the Common Position takes human rights and aspects such as regional peace and stability into consideration. Moreover, it covers such things as dual-use technology, which is not mentioned in the embargo. The short form of words on the embargo in the 1989 Declaration is too vague and thus ineffective.¹⁵³

¹⁵² Vennesson, Pascal (2007) *Lifting the EU Arms Embargo on China...*, p. 423

¹⁵³ The arms embargo is mentioned in the declaration as one of seven necessary measures to be adopted, as a reaction to the "brutal repression taking place in China". The short wording is: "interruption by the Member States of the Community of military cooperation and an embargo on trade in arms with China". European Council in Madrid, 26-27 June 1989, Annex 2: Declaration on China

- There are signs that the human rights situation has improved in the country.¹⁵⁴
- The embargo limits the possibilities opportunities of improving relations with China – trade relations in particular. By not lifting the embargo, the EU signals that it does not see China as an adequate member of the international community or as an equal trade partner.
- China is making a major effort to deal with international problems such as terrorism and the proliferation of weapons of mass destruction. Europe should therefore cooperate with China on security issues, but the embargo prevents this from happening.¹⁵⁵

The U.S. has made great efforts to counter the above arguments, especially at the time when the debate on lifting the arms embargo was at its most active, i.e. during 2004-2005. European observers have linked Washington's resistance to a lifting of the EU embargo with its own objectives to protect American economic interests in China, especially within the aviation industry. According to their view, the U.S. realises that the competitive advantages for European firms would increase at the expense of American companies if the embargo were lifted.¹⁵⁶

Beijing has several reasons to work for a lifting of the embargo. Officially, China has referred to the embargo as being a form of political discrimination which shows that trade relations are unequal and have yet to be normalised. Premier Wen Jiabao calls the embargo "a product of the Cold War era and completely outdated".¹⁵⁷ A recurring argument against the embargo is that the situation in China cannot be compared with the state of affairs in other countries that are under EU embargoes, such as Zimbabwe, Sudan and Myanmar.¹⁵⁸

China hopes to get better access to arms and sophisticated defence-related technology from Europe. Beijing would like to buy weapon systems, but would also be interested in technology transfer, co-development and co-production.

¹⁵⁴ Vennesson, Pascal (2007) *Lifting the EU Arms Embargo on China...*

¹⁵⁵ Caijing Magazine (2005) *Talking Trade: An Interview with the EU Commissioner for Trade, Peter Mandelson*, 21 February 2005

¹⁵⁶ Vennesson, Pascal (2007) *Lifting the EU Arms Embargo on China...*

¹⁵⁷ Xinhua (2004) *Wen Jiabao cheng jiechu dui hua wuqi jinyun jue bu shi jiyu goumai wuqi [Wen Jiabao: A lifting of the arms embargo on China is absolutely not (related to) an eagerness to buy arms]*, 6 December 2004

¹⁵⁸ News.eastday.com (2004) *Junshou jiejin de qishi (Zheng Ruolin) [Information regarding lifting of bans on military sales (Zheng Ruolin)]*, 9 December 2004

This especially applies to French missile technology, German submarine technology and British engine technology.¹⁵⁹

Moreover, China's bargaining power with other suppliers of military equipment, such as Russia and Israel, would be increased if the embargo were lifted. Beijing also hopes that European defence companies will be persuaded to stop selling arms to Taiwan in exchange for Chinese contracts. Furthermore, China sees a prospect that a lifting of the EU embargo would also put pressure on the U.S. to lift its arms embargo.¹⁶⁰

6.2 Arguments against a Lifting of the Embargo

At present, a majority of EU member states believe that the EU should keep the arms embargo. Some of the most common arguments in support of the embargo are outlined below.

- China does not live up to the EU's demands in terms of respect for human rights – the situation in the country may even have deteriorated. Lifting the embargo would send the wrong signals to China.
- Before a lifting of the embargo can be discussed, China must ratify the ICCPR and release those who were imprisoned for their participation in the Tiananmen Square protests in 1989.¹⁶¹
- In spite of the fact that the embargo allows exports to China of dual-use items and non-lethal military equipment, the embargo has in fact prevented the sale of weapons systems, such as fighter aircraft and submarines.¹⁶²
- The EU Code of Conduct on Arms Exports needs to be revised in order to replace the embargo.¹⁶³
- A lifting of the embargo would contribute to an accelerating of Chinese military modernisation, which would change the military balance in Northeast Asia, China–Taiwan relations in particular. The EU will not gain anything from contributing to such a development.

¹⁵⁹ Vennesson, Pascal (2007) *Lifting the EU Arms Embargo on China...*, p. 424

¹⁶⁰ Ibid.

¹⁶¹ Crossick, Stanley and Reuter, Etienne (Eds.) (2007) *China-EU: A Common Future* World Scientific Publishing, p. 190

¹⁶² Archick, Kristin et al. *European Union's Arms Embargo on China...*, p. 21

¹⁶³ This argument was put forward before the Common Position, which is binding under international law, replaced the Code of Conduct in December 2008.

- There is no prospect of the embargo being lifted until China has removed the approximately 1,500 missiles that are targeting Taiwan and formally renounces its claims to use violence against Taiwan.¹⁶⁴
- Lifting the EU embargo could lead to a situation where U.S. soldiers are confronted with weapons of NATO allies, e.g. in a conflict over Taiwan.¹⁶⁵
- The EU and the U.S. embargoes are complementary, and Brussels should not break out of the common front with Washington on this issue.¹⁶⁶
- Since China's export control system is very inefficient, the country might transfer European military high-technology products to states that are subject to EU embargoes.¹⁶⁷
- A lifting of the embargo might lead to Russia discarding restrictions on arms sales to China in order to meet increased competition from Europe.¹⁶⁸ In general, countries that already export arms to China would be encouraged to offer more advanced products in order to maintain their competitiveness.¹⁶⁹
- Without the embargo, defence industrial cooperation between the EU and China is likely to increase. In such a situation there is a risk that sensitive American and European technology could be transferred to the Chinese military. In turn, this would undermine U.S. export controls and sanctions.¹⁷⁰
- The EU does not get anything in return from China by lifting the embargo, which constitutes a powerful negotiating tool vis-à-vis Beijing.¹⁷¹

Even if the embargo stays in place, there is great concern within the U.S. political establishment that continued exports of non-lethal equipment, such as communication and command technologies, will boost China's military capabilities.¹⁷²

¹⁶⁴ The Parliament.com (2009) *EU urged to maintain arms embargo against China*, 13 July 2009

¹⁶⁵ Wacker, Gudun (2005) *Lifting the EU Arms Embargo against China. U.S. and EU positions, Presentation at the 1st colloquium of the TFPD-Working Group "China's Rise"*, 17 February 2005, p. 3

¹⁶⁶ Ibid.

¹⁶⁷ International Relations and Security Network (2008) *EU: Rethinking the Arms Exports Code*, 6 June, 2008

¹⁶⁸ Wacker, Gudun *Lifting the EU Arms Embargo against China...*

¹⁶⁹ Vennesson, Pascal *Lifting the EU Arms Embargo on China...*

¹⁷⁰ Wacker, Gudun *Lifting the EU Arms Embargo against China...*

¹⁷¹ Vennesson, Pascal *Lifting the EU Arms Embargo on China...*

¹⁷² Archick, Kristin et al. *European Union's Arms Embargo on China...*, p. 16

Washington is also concerned that the competitiveness of the EU defence industry might be improved by selling arms to China, thus endangering the dominant position held by their U.S. counterparts.¹⁷³

¹⁷³ Vennesson, Pascal (2007) *Lifting the EU Arms Embargo on China...*

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8 Appendix: Official Documents

I. Excerpt from the Swedish Government Communication on Strategic Export Control 2008¹⁷⁴

What are arms embargoes and when are they imposed?

Sometimes events in a country or region make it necessary for the international community to take measures to show that the actions of a government are unacceptable and to persuade it to desist from these actions. One measure that can be taken is to impose an embargo on a country, meaning that trade with a certain country is prohibited. An embargo can apply to all types of military equipment and related services, or to specific categories. There may often be exemptions for deliveries of specific military equipment, which is to be used for humanitarian purposes or for protection, or which is for international peacekeeping forces in the country in question. At regular intervals, the embargo is reassessed to determine whether it should continue to apply, whether the conditions should be changed or whether the embargo should be lifted altogether.

An embargo is usually applied when other international forms of applying pressure have failed. Embargoes should be clearly defined and of a temporary nature. Their purpose is therefore not to permanently regulate exports of military equipment to a particular country. The lifting of an embargo does not necessarily mean that arms can be exported to the country concerned. The national laws and rules of each exporting country determine the terms on which exports can be approved.

II. Excerpt from the EU's China Policy, 2006¹⁷⁵

Arms embargo. The arms embargo was put in place as a result of events in Tiananmen Square in 1989. The EU has agreed to continue to work towards embargo lift, but further work will be necessary by both sides:

¹⁷⁴ Government Offices of Sweden (2009) *Government Communication 2008/09:114 Strategic Export Control in 2008 – Military Equipment and Dual-Use Products*, p. 24. URL: <http://www.sweden.gov.se/content/1/c6/12/81/76/0dbde594.pdf>.

¹⁷⁵ Eur-Lex (2006) *Message from the Commission to the Council and the European Parliament - EU – China: Closer partners, growing responsibilities*. URL: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006DC0631:EN:NOT>

- Current and incoming Presidencies should finalise technical preparations to ensure lift would not lead to a qualitative or quantitative increase in arms sales, and continue to explore possibilities for building a consensus for lift. The EU should work with China to improve the atmosphere for lift, making progress on China's human rights situation; working to improve cross-straits relations; and by improving the transparency of its military expenditure.

III. European Council Declaration on China, 1989¹⁷⁶

EUROPEAN COUNCIL
(Madrid 27 June 1989)

[excerpts]

Declaration on China

The European Council, recalling the Declaration of the Twelve of June 6, strongly condemns the brutal repression taking place in China. It expresses its dismay at the pursuit of executions in spite of all the appeals of the international community.

It solemnly requests the Chinese authorities to stop the executions and to put an end to the repressive actions against those who legitimately claim their democratic rights.

The European Council requests the Chinese authorities to respect human rights and to take into account the hopes for freedom and democracy deeply felt by the population. It underlines that this, is an essential element for the pursuit of the policy of reforms and openness that has been supported by the European Community and its Member States.

The Twelve are aware that the recent events have caused great anxiety in Hong Kong.

In the present circumstances, the European Council thinks it necessary to adopt the following measures:

raising of the issue of human rights in China in the appropriate international for a asking for the admittance of independent observers to attend the trials and to visit the prisons,

¹⁷⁶ Council of the European Union (1989) *European Union Factsheet* (on the EU and China)

interruption by the Member States of the Community of military cooperation and an embargo on trade in arms with China,

suspension of bilateral ministerial and high level contacts,

postponement by the Community and its Member States of new cooperation projects,

reduction of programmes of cultural, scientific and technical cooperation to only those activities that might maintain a meaning in the present circumstances,

prolongation by the Member States of visas to the Chinese students who wish it.

Taking into account the climate of uncertainty created in the economic field by the present policy of the Chinese authorities,

the European Council advocates the postponement of the examination of new requests for credit insurance and the postponement of the examination of new credits of the World Bank.

IV. Documents on Arms Export and Export Control

EU:

Arms Embargo on China (27 June declaration), 1989¹⁷⁷

EU Code of Conduct on Arms Exports, 1998¹⁷⁸

Council Common Position on Exports of Military Technology and Equipment, 2008¹⁷⁹

EU Common Military List, 2008¹⁸⁰

EU Annual Reports on Arms Exports¹⁸¹

Council Regulation on Exports, Transfer, Brokering and Transit of Dual-Use Items, 2009¹⁸²

National reports on defence exports (EU member states)¹⁸³

¹⁷⁷http://www.consilium.europa.eu/uedocs/cmsUpload/FACTSHEET_ON_THE_EU_AND_CHINA.pdf

¹⁷⁸<http://www.consilium.europa.eu/uedocs/cmsUpload/08675r2en8.pdf>

¹⁷⁹<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:335:0099:0103:EN:PDF>

¹⁸⁰<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:098:0001:0032:EN:PDF>

¹⁸¹<http://www.consilium.europa.eu/showPage.aspx?id=1484&lang=En>

¹⁸²<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:134:0001:0269:EN:PDF>

¹⁸³http://www.sipri.org/research/armaments/transfers/transparency/national_reports

Sweden (in Swedish):

Swedish munitions list¹⁸⁴

Act (2000:1064) on Controls over Dual-Use Products and Technical Assistance¹⁸⁵

Government Communication on Strategic Export Control in 2008 – Military Equipment and Dual-Use Products¹⁸⁶

¹⁸⁴ <http://www.isp.se/documents/public/se/pdf/lagar/kmlistan.pdf>

¹⁸⁵ http://www.isp.se/documents/Regelverk/PDA/00_1064.pdf

¹⁸⁶ <http://www.regeringen.se/content/1/c6/10/09/69/3b66fb07.pdf>

9 Acronyms and Abbreviations

EEC	European Economic Community
EU	European Union
FMS	Foreign Military Sales (U.S.)
ICCPR	International Covenant on Civil and Political Rights
ICT	Intra-Community Transfer (Directive)
ISP	Inspektionen för strategiska produkter (Swedish Agency for Non-Proliferation and Export Controls)
PLA	People's Liberation Army
PRC	People's Republic of China
SIPRI	Stockholm International Peace Research Institute
U.K.	United Kingdom
U.S.	United States of America

