

The Politics and Economics of EU-China/Taiwan Relations: A European Perspective

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Inspiring Minds

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Abstract

In this paper we analyze recent issues in the relations between the European Union (EU) and Taiwan. We give some general background about the One China principle, which means that there are no diplomatic relations between the EU or its member states and Taiwan. On the other hand Taiwan is an important trading partner of the EU, so pragmatic means of communication about trade-related issues have been developed. The EU supported Taiwan's membership of the WTO and has opened a representative office in Taipei in 2003. The EU has a more formalized relationship with the People's Republic of China (PRC), which goes back to 1975. The EU has lately spoken out more often on cross-strait issues, occasionally criticizing both sides to the conflict. The EU would like to see increased cross-straits communications and a reduction of tensions between Taiwan and China. In the economic area the EU has some complaints about non-tariff-barriers (NTBs) to trade in Taiwan.

Introduction¹

Although the title talks about EU-China/Taiwan relations, this paper will focus upon EU-Taiwan relations. These relations are mainly economic. Given the One China policy adhered to by the EU and its member states there are no diplomatic relations between the EU and Taiwan.² But Taiwan is an important trade partner of the EU and the EU actively supported Taiwan's request for WTO membership as 'Chinese Taipei' through the 1990s until membership in 2002. Since March 2003 the EU Commission has a representative office in Taipei and a certain normalization of (non-

¹ This is a slightly revised version of a paper prepared for delivery at 23rd Taiwan-European Conference organized by the Institute of International Relations (IIR), National Chengchi University, Taipei, 19-20 December 2006. The paper has benefited from a number of off-record interviews with officials in the European Commission's DG Relex and DG Trade, as well as the Council Secretariat and the European Parliament in Brussels, 20-24 November 2006.

² Taiwan, still officially the Republic of China, is referred to as Taiwan in EU legislation and statements, a practice that will be followed in this paper.

diplomatic) relations has taken place.³ The name of the EU office in Taipei is European Economic and Trade Office.

Annual trade consultations have actually taken place between the European Community and Taiwan since the 1980s, starting in London in December 1981.⁴ The 18th consultation took place in Brussels on 26 June 2006. For many years these consultations were kept extremely secret.

In this paper we will look at the current state of affairs. What are the main issues in these relations? We will make a distinction between political and economic issues, even if the distinction can be difficult in practice. Concerning economic issues the European Commission is an important actor internationally and the so-called Community method is applied. When the Community method is applied the Commission takes initiative, negotiates with Third countries and some decisions in the Council of Ministers can be made by a qualified majority vote (QMV), even if in practice there is an effort to reach consensus. Political issues fall under the Union's second pillar, the Common Foreign and Security Policy (CFSP), which is more intergovernmental. Unanimity is the norm under CFSP. CFSP is represented externally through the member state holding the rotating Presidency as well as the High Representative of CFSP, currently Javier Solana.

Political issues in relations with China/Taiwan are closely linked with the question of statehood. The People's Republic of China (PRC) sees Taiwan as a renegade province of China and resists any step that may take Taiwan towards independence, statehood or sovereignty. Although the PRC accepted Taiwan's membership of the WTO as a customs territory, the PRC has been strongly against UN membership of Taiwan as well as membership in specialized agencies of the UN which require statehood, such as the World Health Organization (WHO). Given the EU support for the One China principle, the EU member states have not been able to support Taiwan's membership of the UN, WHO and other international organization where members have to be states.

Concerning political issues between the EU and Taiwan the latter is the main *demandeur*. Over the last couple of years the three issues most frequently mentioned have been:

1. Weapons embargo against China
2. Taiwan's participation in the WHO
3. Schengen visa for Taiwanese.

If we look at economic issues it is probably fair to say that it is the EU which is the main *demandeur*. A number of relatively technical issues concerning the perceived Taiwanese protectionism in the form of various Technical Barriers to Trade (TBTs) have stayed on the agenda over the years. Some were solved through the negotiations leading to Taiwan's membership in the WTO, but since Taiwan joined that organization it has been a question of implementation of the agreements as well as new issues emerging, where the perception in Brussels has been that the current DPP government in Taipei sometimes listens too much to lobbyists seeking protection against foreign competition.

³ *Agence Europe*, 14 March 2003.

⁴ Christopher M. Dent, *The European Union and East Asia: An Economic Relationship* (London: Routledge, 1999), p. 165.

The One China Policy and its implications⁵

Background on Political Relations

The current situation goes back to 1975, when the European Community (EC) established official relations with the PRC. This happened on the occasion of a visit to Beijing by EC Commission Vice-President Sir Christopher Soames.⁶

A number of the EC member states had trade agreements with the PRC and most of them had established official relations with the PRC by then. The UK, the Netherlands and Denmark had recognized the PRC in 1950 and diplomatic relations were established. France actually had decided to recognize the PRC at that time, too, but the PRC's recognition of the Ho Chi Minh regime hindered an implementation of the decision. France finally established relations with the PRC in 1964 under General de Gaulle. The French tried to maintain relations with Taiwan at the time, but Taiwan rejected the idea of "two Chinas." So France broke off relations with Taiwan in favour of the PRC. This was followed by Italy in 1970, Belgium in 1971, and Greece, Germany and Luxembourg in 1972. Spain also followed after the UN decision in 1971 to give the China seat to the PRC, and so did Portugal in 1974. (Ireland followed only in 1979).⁷ This left the Holy See as the only European state with diplomatic relations with Taiwan.⁸

Christopher Soames' trip to the PRC in May 1975 should be seen in the perspective of the EC's Common Commercial Policy, an important part of the original Treaty of Rome, forming the European Economic Community (EEC). As the EEC set out to develop commercial relations with the PRC the status of Taiwan (ROC) could not be kept off the agenda.⁹ The PRC insisted that the EC formally and publicly declare that Taiwan was an integral part of China, and Beijing the sole government entitled to represent China. Christopher Soames made the following statement at a press conference on 7 May 1975:

I confirmed to the Minister that the Community ... does not entertain any official relations or enter any agreements with Taiwan. I explained that matters such as recognition of states did not enter into the responsibility of the Community. But I pointed out to the Minister that all the member states of the Community recognized the Government of the People's Republic of

⁵ The historical part of the following background relies on Finn Laursen, "EC Trade Policy, GATT and the ROC," in Cen-chu Shen and Yann-huei Song (eds.), *EC Integration and EC-ROC Relations* (Taipei: Institute of European and American Studies, Academia Sinica, 1995), pp. 177-232.

⁶ Harish Kapur, *Distant Neighbours: China and Europe* (London: Pinter Publishers, 1990), p.123. Let us recall that the EC had nine members in 1975: France, Germany, Italy, Belgium, Netherlands, Luxembourg, United Kingdom, Denmark and Ireland. Greece joined in 1981, Spain and Portugal in 1986, Sweden, Finland and Austria in 1995. Then followed the big enlargement in May 2004 when eight Central and Eastern European Countries (Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary and Slovenia) as well as Cyprus and Malta joined. From 1 January 2007, when Bulgaria and Romania joins, the EU will have 27 member states.

⁷ Harish Kapur, *China and the EEC: The New Connection* (Dordrecht: Martinus Nijhoff Publishers, 1986), p. 32.

⁸ See also Cheng-wen Tsai and Chu-cheng Ming, "The Republic of China and Western Europe: Past and Future," in Yu San Wang, (ed.), *Foreign Policy of the Republic of China on Taiwan: An Unorthodox Approach* (New York: Praeger, 1990), pp. 123-143, esp. pp. 127-28.

⁹ Xiao Zhi Yue, *The EC and China* (London: Butterworths, 1993), pp. 6-7.

*China as the sole legal government of China and have taken positions with regard to the Taiwan question acceptable to the People's Republic.*¹⁰

This position was confirmed by Sir Christopher Soames, when he answered an oral question on EC-PRC relations in the European Parliament on 18 June 1975.¹¹

A trade agreement was concluded between the EC and the PRC in 1978 and a textile agreement was signed in 1979. Economic cooperation was increased further with the conclusion of a Trade and Economic Cooperation Agreement in 1985.¹² Finally, in 1988 the European Commission established a diplomatic representation in Beijing. In 1989 the relations cooled, first because of human rights problems in Tibet, later because of the Tiananmen Square events.¹³ On the latter occasion the Commission released a statement in which it said that it was 'dismayed and shocked.' It went on:

*It deplores the brutal repression of the people of Peking, so sorely tried. It would point out that cooperation between China and the Community can only suffer as a result and would risk being permanently affected if the policy of the Chinese Government were to start on a course which would put at risk the policy of openness and reform followed until now.*¹⁴

The Commission expressed the wish that 'peaceful conditions will very quickly return in China.'

Prior to establishing official relations with the PRC the EEC had actually concluded a textile agreement with Taiwan as late as October 1970.¹⁵ It expired on 1 October 1973. Since then and until Taiwan's WTO membership there were no official agreements between the EEC and Taiwan.

When the Trade and Economic Cooperation Agreement was concluded between the EEC and the PRC in 1985 the European Parliament was consulted, pursuant to article 235 of the EEC Treaty. The Parliament approved the Commission's proposal for a regulation concerning the agreement, having, *inter alia*, "regard to the enormous potential offered by China's economic policies and conscious of the need to compete effectively to exploit that potential."¹⁶ But on the same day the Parliament also adopted a resolution on trade with Taiwan, where it pointed to Taiwan's "important foreign trade relations with over 140 countries and its position amongst the 20 largest trading nations of the world." The European Parliament therefore believed that "the Community cannot neglect the economic importance of Taiwan and should take full advantage of

¹⁰ Quoted from Kapur, *China and the EEC*, p. 37 [the ref there: *FBIS Daily Report*, 9 May 1975, p. A-19.]. See also *Bull. EC 5-1975*, point 1201-1205.

¹¹ *Official Journal of the European Communities*, No. C 157, 14 July 1975.

¹² Council Regulation (EEC) No 2616/85 of 16 September 1985, *Official Journal of the European Communities* No L 250, 19 September 1985. See also 'Signing of the Community-China Cooperation Agreement', *Bull. EC 5-1985*, points 1.5.1-1.5.4.

¹³ Xiao Zhi Yue, *The EC and China*, pp. 7-9.

¹⁴ *Bull. EC 6-1989*, point 2.4.1.

¹⁵ *Ibid.*, p. 6.

¹⁶ Doc. A2-74/85, 11 July 1985. OJ No C 229, 9 September 1985.

developing commercial and economic relations." In line with this the European Parliament urged the Commission to "improve the existing commercial and economic relations with Taiwan and therefore to ensure that Taiwan is informed of planned trade measures and is treated in a comparable manner to other Far Eastern trading partners where EEC exports and imports are concerned."¹⁷

The Commission did not agree fully with the European Parliament in 1985. As a matter of fact during some years the Commission denied having contacts with representatives of Taiwan. No official contacts were allowed in Commission buildings in Brussels.

As late as October 1991 when Taiwan's semi-official Central News Agency announced that there would be formal talks between the EC and Taiwan on intellectual property rights on November 21 and 22, without naming the venue, a Commission spokesman said: "There are no formal negotiations between two entities which do not recognize each other." He admitted that there could be contacts, but there would be no negotiations.¹⁸

In April 1992 the Vice-President of the Commission, Martin Bangemann, visited Taiwan in private capacity, as Chairman of the Friedrich-Naumann Foundation. While he was there Bangemann stated that the EC favoured simultaneous admission of the PRC and Taiwan to GATT. He also discussed the participation of EC industries in the major infrastructure projects launched by Taiwan. Taiwan Premier Hau Pei-tsun lauded the visit of Bangemann as highly significant.¹⁹ In October 1992 a member of the European Parliament, Carlos Robles Piquer (PPE) asked a written question to the Commission about this trip. The answer given on behalf of the Commission on 5 February 1993 was the following:

Since the establishment of diplomatic relations between the Community and China in 1975, the Community does not maintain official relations with Taiwan. Despite the absence of diplomatic relations, technical discussions between the Community and Taiwan are required on a number of commercial questions. Furthermore, the Working Party on the accession of Taiwan to GATT was set up on 29 September 1992.

Bilateral trade between the EC and Taiwan has grown considerably in recent years....

Vice-President Bangemann paid a private visit to Taiwan last April. This does not modify the situation described above although private visits can play a useful role in improving relations.

Relations between Beijing and Taipei are an internal Chinese affair which does not involve the Community.²⁰

In December 1992 the deputy chief of cabinet of Commission Vice-President Martin Bangemann, Paul Weissenberg, also visited the ROC as head of a 7-member delegation, which called on the Chinese National Federation of Industries and delivered two speeches. Weissenberg

¹⁷ Doc. 2-1765/84, 11 July 1985, OJ No C 229, 9 September 1985.

¹⁸ Reuter News Service, 31 October 1991.

¹⁹ *Agence Europe* 3 June 1992; China Economic News Service, Reuter Textline, 11 April 1992.

²⁰ "Written Question No 2410/92," *Official Journal of the European Communities* No C 141 (19 May 1993), p. 30.

referred to the EC's single market, urging Taiwan businessmen to pay attention to unified product standards in order to gain easier access to the EC market. He expressed the hope that Taiwan would develop pragmatic bilateral ties with the EC.²¹

In reality, as mentioned earlier, there have been regular informal consultations between the EC and Taiwan since 1981. At first they did not take place in Taipei or Brussels. But the 9th ROC-EC Consultation took place in Taipei, 22-23 October, 1992. The agenda included multilateral issues, bilateral cooperation, and removal of trade barriers. Issues dealt with included Taiwan and the Montreal Protocol dealing with pollution by CFCs, Taiwan and the Customs Co-operation Council, exchange of information in the environmental area, cooperation of small and medium size enterprises, scientific and technological cooperation, removal of tariff and non-tariff barriers in the textiles sector, anti-dumping procedures, taxation of Scotch and Irish whiskies, national treatment of European banks in Taiwan, liberalization of Taiwan's insurance sector, liberalization of EC import of meat and dairy products in Taiwan, Taiwan's accession to GATT, mutual recognition of certificates, inspection of agricultural products, national measurement standards, patents and trademarks, the regulatory framework governing the European securities and future markets after the 1992 single market, customs cooperation, and income tax exemption on shipping enterprises. Taiwan invited the EC to consider establishing a representative office in Taipei, to allow young graduates from Taiwan to take part in the Commission's training and service programs, to abolish restrictions on officials' visits to Taiwan, and designate officials in charge of relations with Taiwan in the Commission's Directorate General responsible for external relations (known as DG I at the time).²²

The fact that the consultations took place in Taipei for the first time was seen as a "political breakthrough" on the Taiwan side.²³

Since the early 1990s these pragmatic relations between the Commission and Taiwan have continued and developed. Today the Commission does have officials responsible for relations with Taiwan in both DG Relex and DG Trade and there are regular contacts with the Taipei Representative Office in Brussels. Needless to say, there are also informal contacts between the Taipei Representative Office and the Council Secretariat.

Taiwan's relations with the European Parliament are particularly good. Since the 1980s the Parliament has on a number of occasions spoken up for improved relations with Taiwan. A number of Members of the European Parliament have formed a Taiwan Friendship group in 1991. The group is currently chaired by Dr Georg Jarzembowski, a German Christian Democrat.²⁴

Background on Economic Relations: WTO membership of Taiwan

China was one of the original contracting parties of the General Agreement on Tariffs and Trade (GATT) after the Second World War. China signed the GATT in 1947 and ratified the Protocol of

²¹ China Economic News Service, Reuter Textline, 10 December 1992.

²² Information kindly provided by the Taipei Economic and Cultural Office in Brussels.

²³ *Agence Europe*, 8 September 1992.

²⁴ On the role of the European Parliament see also Yuchun Lan, "The European Parliament and the China-Taiwan Issue: An Empirical Approach," *European Foreign Affairs Review*, Vol. 9 (2004), pp. 115-140.

Provisional Application in 1948. China also took part in the first two Rounds of multilateral tariff negotiations in Geneva in 1947 and in Annecy in 1949.²⁵

In October 1949 the PRC was founded on the mainland and the Chiang Kai-shek government fled to Taiwan, where it continued the Republic of China (ROC). Both the PRC and the ROC claimed to be the legitimate government of China. The ROC maintained China's seat in the UN until 1971, but decided to withdraw from GATT already on 6 March 1950. For many years the PRC showed no interest in GATT membership. In 1965 Taiwan requested observer status in GATT, which was granted despite objections from some contracting parties, which stated that the PRC was the sole lawful government of China. The objecting states included two EC member states at the time, namely France and the Netherlands, as well as two future EC member states, the UK and Denmark.²⁶

Taiwan continued its observer status at GATT until 1971, when it was expelled following the UN General Assembly Resolution 2758 (XXVI), which discontinued ROC membership in the UN and restored the rights of the PRC.

Taiwan formally submitted its application for accession to GATT on 1 January 1990. It did so under the name of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu. Originally the PRC strongly opposed GATT membership of Taiwan as "utterly illegal," but gradually its position became less negative. In September 1992 the GATT Council decided to establish a Working Party to consider the request from Taiwan to accede to GATT under article XXXIII.²⁷ The PRC has argued that accession must take place according to article XXVI(5) which implies the sponsorship of a responsible contracting party.

However, article XXXIII stipulated:

*A government not party to this Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in the Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the CONTRACTING PARTIES. Decisions of the CONTRACTING PARTIES under this paragraph shall be taken by a two-thirds majority.*²⁸

This article is flexible and facilitated Taiwan's membership. By applying as "The Customs Territory of Taiwan, Penghu, Kinmen and Matsu" Taiwan tried to avoid the issue of "two Chinas" or "One China, one Taiwan." that would complicate the matter politically.

Due to the PRC's original opposition to Taiwan's membership in GATT many GATT contracting parties hesitated to deal with the issue. However, in 1991 a group of US senators linked

²⁵ For background, see for instance Hungdah Chiu, "Taiwan's Membership in the General Agreement on Tariffs and Trade," *Chinese Yearbook of International Law and Affairs* Vol. 10 (1990-91), pp. 198-205.

²⁶ See also Ya Qin, "GATT Membership for Taiwan: An Analysis in International Law," *New York University Journal of International Law and Politics* Vol 24 (Spring 1992), pp. 1059-1105, at p. 1070.

²⁷ General Agreement on Tariffs and Trade, *GATT Activities 1992: An Annual Review of the work of GATT*, Geneva, June 1993, pp. 95-96.

²⁸ Quoted from Kenneth W. Dam, *The GATT: Law and the International Economic Organization* (Chicago and London: The University of Chicago Press, 1970), p. 441.

the renewal of the PRC's most-favoured-nation status to Taiwan's GATT membership. Despite opposition within the administration President George Bush sent a letter to Senator Max S. Baucus, Chairman of the Senate Subcommittee for International Trade on 19 July, 1991, in which he pledged his support for Taiwan's GATT membership.²⁹

Subsequently the EC and some other GATT members also expressed their positive attitude to Taiwan's GATT membership.³⁰

The EC Commission, which negotiated in the GATT on behalf of the EC, was in favour of Taiwan's membership in GATT on certain conditions.³¹ The timing of membership depended on accepting the obligations. The Commission welcomed the fact that Taiwan sought membership as a developed country, which meant that it could not claim the exemptions given to developing countries.

When negotiations started Taiwan was asking for derogations for certain sectors and transitional periods for some, including automobiles and civil aircraft. But the Commission noticed that the GDP per capita in Taiwan was higher than in three EC member countries at the time. So derogations were out of question. When Taiwan said that it had non-competitive sectors the Commission answered that GATT was about opening up and accepting competition.

The codes adopted by the Tokyo Round of GATT in the 1970s were one of the problems in the negotiations.³² The EC said that Taiwan had to accept all the codes. There were codes dealing with anti-dumping practices, subsidies and countervailing measures, import licensing procedures, customs valuation, technical barriers to trade (TBTs), trade in civil aircraft, and government procurement.³³

By mid-October 1993 Taiwan had agreed to sign five of the Tokyo codes, but asked for some transition periods, one and a half year for TBTs and three years for import licensing. In respect to the government procurement code Taiwan offered to start to negotiate accession as soon as it accedes to GATT. But Taiwan refused to sign the civil aircraft code.

The EC Commission also argued that there were important discriminatory import measures in Taiwan. The EC was mainly concerned about discrimination against tobacco and alcohol products from the EC. But there were also discriminatory measures in the agricultural area, as well as in the industrial area, including for automobiles and motor cycles.

The EC message to Taiwan was straight-forward: accept all obligations without derogations; sign all codes and end all discriminating measures on or before accession to GATT. The Commission also expected an across-board binding of tariffs followed by meaningful bilateral tariff negotiations for particular products.

²⁹ Quoted from Hungdah Chiu, "Taiwan's Membership," p. 204.

³⁰ Ya Qin, "GATT Membership for Taiwan," p. 1060. [With ref. to "EC Supporting Taiwan for GATT," *Free China Journal*, July 26, 1991, at 1.]

³¹ This section is based on interview material.

³² For the texts of these codes, see General Agreement on Tariffs and Trade, *The Texts of the Tokyo Round Agreements*, Geneva, August 1986.

³³ For a synopsis of the NTB codes, see Joseph M. Grieco, *Cooperation among Nations: Europe, America, and Non-Tariff Barriers to Trade* (Ithaca and London: Cornell University Press, 1990), pp. 57-64. On the Tokyo Round, see especially Gilbert R. Winham, *International Trade and the Tokyo Round Negotiation* (Princeton: Princeton University Press, 1986).

It was agreed that Taiwan would join as "Chinese-Taipei." It took a year to agree on that. All GATT Contracting Parties also confirmed in September 1992 that there is only one China, as expressed in the UN General Assembly Resolution 2758 of 25 October 1971. The question of timing of the accession of China and "Chinese Taipei" would depend on the reports of the respective Working Parties. It was agreed in September 1992, when the Working Party on "Chinese Taipei" was established, that the Council of GATT should give full consideration to the views expressed, including the view that the Council "should examine the report of the Working Party on China and adopt the Protocol for the PRC's accession before examining the report and adopting the Protocol for Chinese Taipei."³⁴ This in practice meant that Taiwan's membership in what became the WTO was closely linked with the membership of the PRC.

The EU's bilateral negotiations with Taiwan about accession finished in July 1998. The EU was one of the last among 26 contracting parties to reach a bilateral agreement with Taiwan before multilateral negotiations could conclude the accession agreement for Taiwan. The last sticking points in the negotiations with the EU were cars and spirits. In the end an agreement was reached. These were the main points in the agreement:

1. Taiwan would gradually lower customs duties on EU car imports from 30% to 17.5% by 2008 after entering the WTO. Taiwan also agreed to an EU car import quota of 159,220 vehicles in the first year of WTO membership with annual 20% increase in subsequent years until complete liberalization.
2. Taiwan agreed to reduce import duties on EU trucks and busses from 42% to 25% by 2008.
3. Taiwan agreed to cut its tax on imported European cognac from ECU 26.4 per litre to ECU 12.9, and on whisky from ECU 11.6 to 9.2 from 1 August 1998 and abolish tax discrimination on alcohol on 1 January 1999. This, according to the Commission, would mean a tax of ECU 5.2 per litre on cognac and Scottish and Irish whisky.
4. Taiwan agreed to remove foreign equity restrictions in all services sectors, opening the financial services market, allowing foreign shipping companies to set up wholly-owned subsidiaries, and joining the WTO Agreement on trade in civil aircraft.
5. Taiwan agreed to agriculture concessions in areas like pig meat, poultry, apples and citrus fruits. Import tariffs on 1,450 items of agricultural goods would be reduced. Average tariffs on agricultural products would be reduced from 21.19% to 19.48%.
6. Import tariffs of 6,814 items of industrial tariffs would be reduced. Average tariffs on industrial products would be reduced from 6.39% to 6.34%.³⁵

Taiwan eventually joined the WTO just after the PRC in 2002. Had the linkage with the PRC not been established Taiwan could have joined earlier. The WTO regimes for trade in goods, services and intellectual property rights now constitute the framework for economic relations between the EU and Taiwan.

³⁴ *GATT Activities 1992*, p. 96. The wording on this point in this GATT report makes it sound as if there was a consensus on the order expressed in the quoted part. This, however, was not the case (author's interview material).

³⁵ *Agence Europe*, 24 July 1998; "Taiwan agrees WTO pact with EU", *European Report*, July 25, 1998.

Current Political Issues

The current issues, which will be discussed in the following, fall under CFSP on the EU side, with the exception of the Schengen visa question, which will briefly be mentioned. The Schengen cooperation among EU member states started outside the EC treaties. The Maastricht Treaty on European Union created a third pillar dealing with Justice and Home Affairs (JHA), including question relating to external border control. The Maastricht Treaty, however, already included visa questions under the first Community pillar and since the Amsterdam Treaty of 1997 (in force since 1999) the Schengen *acquis* has gradually been integrated in the EU.

EU's policy on Cross-Straits Relations

The EU has so-called strategic dialogues with the USA, Japan and China. Although the United States is a much more important actor in East Asia than the EU it is known from earlier statements that the EU is concerned about developments in East Asia. In a Joint Action Plan from an EU-USA meeting in 1995 the two actors talked about sharing responsibility in other regions of the world and said that they would “work together to reduce the risk of regional conflict over the Korean peninsula, Taiwan and the South China Sea.”³⁶

Over the last couple of years the EU has clarified its strategic interests in East Asia. This has allowed the EU to respond a little more concretely and a little faster to issues of cross-strait relations. This clarification especially happened during the UK Presidency in the second half of 2005. The details of the new strategic guidelines are still confidential.

In the following we will look at Presidency statements from the EU from the last couple of years. These declarations are the most authoritative statements of EU policy.

The EU favours increased cross-strait communications, hoping these will help produce trust and confidence. This includes support for direct cross-strait flights. When such flights were established for the Lunar New Year the Luxembourg Presidency issued a declaration on 3 February 2005:

The EU welcomes the agreement to cross-strait direct charter flights over the Lunar New Year. It considers that this type of practical cooperation will help to promote dialogue and understanding between the parties and hopes that ways can be found to build upon it.

*The EU attaches indeed great importance to peace and stability in the Taiwan strait, which are of utmost importance for the whole region and beyond. Within its One China Policy, the EU continues to take the view that the Taiwan question should be settled peacefully through cross strait negotiations. We welcome any efforts by both sides to lower tensions and to find a mutually acceptable basis for a resumption of peaceful dialogue. We would appeal on both sides to avoid unilateral measures which might heighten tensions.*³⁷

The EU and its member states criticize both sides of the straits when they see behaviour they consider likely to increase tensions. When China passed the anti-secession law in the spring

³⁶ http://www.eu2006.at/en/The_Council_Presidency/EU-USSummit/ImportantDocuments/ActionPlan.pdf

³⁷ <http://www.eu2005.lu/en/actualites/pesc/2005/02/03taiwan/index.html?highlight=Taiwan>

of 2005 this was criticized in a Declaration by the EU issued through the Luxembourg Presidency:

The European Union has taken note of the adoption of an "anti-secession law" by the National People's Congress of the People's Republic of China.

In this context, the European Union wishes to recall the constant principles guiding its policy, i.e. its attachment to "One China" and to the peaceful resolution of disputes, which is the only means of maintaining stability in the Taiwan Straits, and its opposition to any use of force.

The European Union asks all parties to avoid any unilateral action which might rekindle tensions. It would be concerned if this adoption of legislation referring to the use of non-peaceful means were to invalidate the recent signs of reconciliation between the two shores. The European Union encourages them to develop initiatives which contribute to dialogue and to mutual understanding in the spirit of the agreement on the direct air links established at the time of the Chinese New Year.

The European Union considers that relations between the two shores must be based on constructive dialogue and the pursuit of concrete progress, and reiterates its conviction that this is the only approach likely to benefit both parties and to lead to a peaceful resolution of the Taiwan question.³⁸

During the UK Presidency in the second part of 2005 there was a debate in the European Parliament on relations between the EU, China and Taiwan and Security in the Far East. The debate was introduced by the President-in-Office, Douglas Alexander. On Taiwan he said:

The last 30 years have seen tremendous change in Taiwan too. Taiwan is one of the most successful Asian tigers, experiencing an enviable 5.9 % economic growth just last year. GDP per capita in real terms is considered to be on a par with Japan and Hong Kong. But change there has not just been economic, but also political. Thirty years ago Chiang Kai-Shek died and his son Chiang Ching-kuo continued in power thereafter. It was not until 1996 that Taiwan had its first democratic presidential election. Now Taiwan is a full democracy.

The European Union's Member States have no diplomatic relations with Taiwan. Nevertheless, its economic and commercial ties with Taiwan are strong. Taiwan is of course a member of the World Trade Organisation. Taiwan and the European Union also enjoy solid relations in other non-political areas, such as science, education, culture and various technical fields.³⁹

On cross-straits relations he said:

³⁸ <http://www.eu2005.lu/en/actualites/pesc/2005/03/14taiwan/index.html?highlight=Taiwan>

³⁹ <http://www.europarl.europa.eu/sides/getDoc.do;jsessionid=10C5D8599412327EC157F5F3EFFF9B8D.node2?pubRef=-//EP//TEXT+CRE+20050706+ITEM-027+DOC+XML+V0//EN&language=EN>

In March this year China introduced its 'anti-secession' legislation with the intention, it said, of halting or deterring Taiwanese moves towards independence. It was largely a codification of existing Chinese policy but it made reference to China's strong commitment to peaceful reunification and more disturbingly made reference to the use of non-peaceful means should circumstances warrant. The description of what those circumstances might be was rather vague. The European Union reacted by reaffirming its adherence to its one-China policy and its opposition to any use of force to resolve this issue.

The European Union's position has always been that the question of Taiwan should be resolved peacefully through constructive dialogue and it has urged both sides to avoid unilateral measures which might heighten tensions. In a statement at the beginning of this year, the European Union welcomed the agreement to cross-Strait charter flights over the Lunar New Year. It considered that this type of practical cooperation would help to promote dialogue and understanding between the parties and hoped that ways could be found to build upon it. We note the dialogue between the Mainland and visiting opposition Taiwanese leaders and hope that the Mainland will soon be able to commence similar dialogue with the elected leadership in Taiwan.⁴⁰

During the Austrian Presidency on 20 January 2006 the following declaration on direct cross-strait flights over the Chinese New Year was issued:

The European Union welcomes the resumption of direct cross-straits flights over the Chinese New Year. Such encouraging steps contribute to the promotion of dialogue and mutual understanding between the parties. The EU sincerely hopes that ways will be found to build upon this.

The European Union attaches great importance to peace and stability in the Taiwan Strait which are important for the region and beyond. Reiterating its One-China policy the European Union appeals once again to both sides to refrain from statements and unilateral actions which could increase tension and encourages them to find ways to engage in a meaningful and inclusive dialogue that would involve all parties concerned.

We support and welcome all efforts by the parties to seek a mutually acceptable basis for discussions. The European Union is of the firm conviction that the Taiwan question should be solved peacefully through cross-straits negotiations.⁴¹

On 1 March 2006 the Presidency on behalf of the EU criticized President Chen Shui-bian's abolishment of the National Unification Council:

The EU attaches great importance to peace and stability in the Taiwan Strait. This is important to the region and beyond and the EU has on previous occasions urged both sides to refrain from actions which could increase tensions.

⁴⁰ Ibid

⁴¹ http://www.eu2006.at/en/News/CFSP_Statements/January/2001TaiwanChina.html

The EU therefore takes note with concern of the announcement by the Taiwanese leader Chen Shui-bian that the National Unification Council would cease to function and its guidelines would no longer be applied. This decision is not helpful to maintain stability and peaceful development in the Taiwan Strait.

At the same time the EU is reassured by the reiteration of Taiwan's previous commitments and intention not to change the status quo. It encourages both sides to take initiatives aimed at promoting dialogue, practical cooperation and confidence-building. The EU is firmly convinced that the Taiwan question should be solved through cross-straits negotiations between all stakeholders concerned.⁴²

On June 15, 2006 the Austrian Presidency issued a declaration on behalf of the EU on additional cross-straits passenger flights during holiday periods:

The European Union welcomes the announcement on 14 June of agreement on additional direct Cross-Straits passenger flights during holiday periods, and also some direct cargo flights, building on the beneficial experience of direct charter flights over the Chinese New Year.

The European Union appreciates this positive measure to build confidence, since it attaches great importance to peace and stability in the Taiwan Strait which are important for the region and beyond.

Reiterating its One-China policy, the EU encourages both sides to take further initiatives aimed at promoting dialogue, practical cooperation and confidence-building. The EU is firmly convinced that the Taiwan question must be solved peacefully through cross-straits negotiations between all stakeholders concerned.⁴³

The interpretation we can give of these declarations is that the EU's cross-straits policy tries to encourage confidence building across the straits. The EU opposes steps that can lead to increased tensions. The EU is now willing to criticize both sides, the PRC and Taiwan. It is also clear that the EU policy is status quo oriented. Change in status quo can only come through agreement between the PRC and Taiwan. It cannot be imposed by external powers.

Another source on EU policy is joint statements and press releases from meetings between the EU and the PRC. In a press release dated 3 February 2006 issued after the meeting of the EU Troika, Austrian Foreign Minister Ursula Plassnik, CFSP High Representative Javier Solana and Commissioner for External Relations Benito Ferrero-Waldner with PRC foreign minister Li Zhaoxing, we find this section, which fit in with the above mentioned declarations:

Another topic of the discussions was the situation in Taiwan. The EU repeated its position that all questions ought to be resolved peacefully and that both sides should renounce unilateral actions and declarations that might increase tensions. "The latest remarks of

⁴² http://www.eu2006.at/en/News/CFSP_Statements/March/0101TaiwanStraits.html

⁴³ http://www.eu2006.at/en/News/CFSP_Statements/June/1506TaiwanStrait.html

the Taiwanese leader Chen Shui Bian send the wrong signals for progress in mutual relations,” said Plassnik.⁴⁴

To put the declarations from the Presidencies into perspective we finish this section with the section relating to Taiwan from the latest report from the European Parliament, the Bastian Belder report, adopted on 7 September 2006. This report is clearly more pro-Taiwan than the declarations issued by successive Presidencies. On cross-strait relations the report included the following two sections:

Observes that China's Anti-Secession Law of 14 March 2005 and the present stationing of more than 800 missiles on the south-east coast of the PRC facing Taiwan belie the principle of peaceful reunification; calls on China and Taiwan to establish mutual trust and respect and to seek common ground while setting aside differences, to put in place the necessary political basis for a peaceful and steady development of cross-Straits relations, to resume dialogue on those relations and to strengthen economic exchanges and cooperation, making progress in particular on the "three direct links" across the Taiwan Strait (mail, transport and trade);

Takes the view that, with regard to the possible option of a peaceful reunification process with the Chinese mainland, the will and approval of the 23 million citizens of Taiwan must surely be respected and taken into account, as must Taiwan's territorial sovereignty and integrity, in negotiations with China on Taiwan's status; points out that the beginning of a genuine democratic process in the PRC would help to ease tensions and pave the way for the resumption of a substantive dialogue between the two sides.⁴⁵

Talking about “the will and approval of the 23 million citizens of Taiwan” and “Taiwan’s territorial sovereignty and integrity” was a little too much for some socialist MEPs. But the resolution was adopted with three-fourths majority, with Socialists voting against. We notice also the explicit criticism of China’s 800 missiles facing Taiwan.⁴⁶

The latest Commission Communication on EU-China relations is from 24 October 2006. In the section on Taiwan it says:

The EU has a significant stake in the maintenance of cross-straits peace and stability. On the basis of its One China Policy, and taking account of the strategic balance in the region, the EU should continue to take an active interest, and to make its views known to both sides. Policy should take account of the EU's:

⁴⁴ http://www.eu2006.at/en/News/Press_Releases/February/0302TroikaChina.html

⁴⁵ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2006-0346+0+DOC+WORD+V0//EN&language=EN>

⁴⁶ On the question of sovereignty Dr Georg Jarzembowski, MEP and chairman of the Taiwan Friendship Group in the EP, wrote in a forthcoming book chapter: “Aus meiner völkerrechtlichen Sicht ist die R.O.C auf Taiwan ein souveräner Staat (siehe die geltende Drei Elemente-Lehre: Staatsgebiet, Staatsvolk und Staatsmacht). Taiwan ist zudem – im Gegensatz zur Volksrepublik China – ein demokratischer Rechtsstaat mit Mehrparteiensystem. Das EP ist offen für eine Wiedervereinigung, unterstützt aber gleichzeitig die Auffassung, dass diese nur unter den Bedingungen einer pluralistischen Demokratie, eines Rechtsstaats und der Anwendung der Menschenrechte sinnvoll wäre.”

- *opposition to any measure which would amount to a unilateral change of the status quo;*
- *strong opposition to the use of force;*
- *encouragement for pragmatic solutions and confidence building measures;*
- *support for dialogue between all parties; and*
- *continuing strong economic trade links with Taiwan.*⁴⁷

The ‘support for dialogue between all parties’ imply that the PRG should also have a dialogue with the government in Taiwan, not just the opposition. ‘Strong opposition to the use of force’ was of course directed towards threats from China should Taiwan declare its independence.

Finally, on 11 December 2006, the Council published conclusions on the EU-China Strategic Partnership. The following is what the Council had to say on cross-strait relations:

*The Council remains committed to its One China policy. The Council is convinced that stability across the Taiwan Straits is integral to the stability and prosperity of East Asia and the wider international community. The Council welcomes initiatives by both sides aimed at promoting dialogue, practical co-operation and increased confidence building, including agreement on direct cross-straits flights and reductions in barriers to trade, investment and people-to-people contacts. The Council encourages both sides to continue with such steps, to avoid provocation, and to take all possible measures to resolve differences peacefully through negotiations between all stakeholders concerned. The Council encourages both sides to jointly pursue pragmatic solutions related to expert participation in technical work in specialized multilateral fora.*⁴⁸

This then must be seen as the most authoritative statement of EU policy at the moment. The last point about expert participation in multilateral fora includes the World Health Organization to which we shall return later.

EU Policy on the Lifting of the Arms Embargo against the PRC

The EU arms embargo against China was part of the sanctions against China introduced by the EC after the Tiananmen Square protests in 1989.⁴⁹

Up through the 1990s China kept asking for a lifting of the ban. The Presidency Conclusions from the European Council meeting in December 2003 had had a relatively brief entry: “The European Council invites the General Affairs and External Relations Council to re-examine the question of the embargo on the sale of arms to China.”⁵⁰ The issue was now on the EU agenda.

In early 2004 the French President Jacques Chirac, with support by German Chancellor Gerhard Schröder, started pressing for a lifting of the ban, surprising some other European leaders as well as officials in Brussels. The issue became a hot potato in EU politics because a

⁴⁷ Commission of the European Communities, “Communication from the Commission to the Council and the European Parliament. EU – China: Closer partners, growing responsibilities,” COM(2006)631 final, Brussels, 24 October 2006.

⁴⁸ http://www.eu2006.fi/news_and_documents/conclusions/vko50/en_GB/1165865390817/

⁴⁹ http://en.wikipedia.org/wiki/Tiananmen_Square_protests_of_1989

⁵⁰ http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/78364.pdf

number of member states and the European Parliament were skeptical or opposed to the lifting. So did the United States – especially the US Congress - and Taiwan.

The issue was on the agenda of the 7th EU-China summit in December 2005. In the joint statement issued on 8 December “The EU side confirmed its political will to continue to work towards lifting the embargo. The Chinese side welcomed the positive signal, and considered it beneficial to the sound development of the comprehensive strategic partnership between China and the EU.” Further, we read that “China reaffirmed that political discrimination on this issue was not acceptable and should be immediately removed. The EU reaffirmed that work on strengthening the application of the European Union Code of Conduct on arms exports was continuing.”⁵¹

By the time of the December 2004 meeting of the European Council, about a week later than the EU-China summit, the Heads of State and Government had this to say:

... the European Council reaffirmed the political will to continue to work towards lifting the arms embargo. It invited the next Presidency to finalise the well-advanced work in order to allow for a decision. It underlined 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. In this regard the European Council recalled the importance of the criteria of the Code of Conduct on arms exports, in particular criteria regarding human rights, stability and security in the region and the national security of friendly and allied countries. The European Council also stressed the importance in this context of the early adoption of the revised Code of Conduct and the new instrument on measures pertaining to arms exports to post-embargo countries ('Toolbox').⁵²

Was the ‘well-advanced work’ really well advanced? Or did some of the member states start getting cold feet? Here at the end of 2006, two years later, the arms embargo is still in place!

The creative part of the internal politics of the EC was a linking of the lifting of the ban with an upgrading of the Code of Conduct on arms exports. Such upgrading should avoid an increase of arms exports ‘in quantitative (or) qualitative terms.’ The lifting was further linked with human rights, stability and security in the region.

China’s anti-secession law in the spring of 2005 did not help the Chinese case. Then Britain took over the Presidency in the second half of 2005, and Britain had reservations about lifting the embargo, especially Prime Minister Tony Blair, who is known to listen to Washington. Other member states with reservations included Sweden, Denmark, Poland and the Czech Republic.

The issue of the arms embargo was discussed in the European Parliament in July 2005. President-in-Office Douglas Alexander said on that occasion in his closing statement:

No decision has yet been taken on lifting the EU arms embargo in China. The review launched in December 2003 is ... ongoing. In its conclusions in December 2004, the Council recalled the importance of the criteria of the code of conduct, which have been referred to by a number of Members today, including the provisions regarding human

⁵¹ http://ec.europa.eu/comm/external_relations/china/docs/js_081204.pdf

⁵² http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/en/ec/83201.pdf

*rights, stability and security in the region and the national security of friendly and allied countries.*⁵³

Chancellor Schröder lost the federal elections in Germany in the fall of 2005. Angela Merkel, the new chancellor from November 2005 is against lifting the ban. President Chirac was weakened politically when he lost the referendum on the Constitutional Treaty on 29 May 2005.

The meeting between the EU Troika and the PRC foreign minister in February 2006 also discussed the issue of lifting the EU arms embargo against China. On this we read in the press statement:

*On the question of the arms embargo, Plassnik recalled the instruction of the European Council to work toward lifting the embargo, as well as the EU code of conduct on arms export controls in effect since last year. At the same time she pointed out that there was no consensus yet on this topic within the EU. Plassnik also referred to the feelings with regard to this topic in European parliaments*⁵⁴.

The issue was on the agenda of the 9th EU-China Summit in Helsinki, 9 September 2006. In the Joint Statement from the meeting we read:

*Leaders also discussed the EU arms embargo. The Chinese side reiterated its view that lifting the arms embargo would be conducive to the sound development of the EU-China relations and urged the EU to lift the arms embargo at an early date. The EU side recognized the importance of this issue and confirmed its willingness to carry forward work towards lifting the embargo on the basis of the Joint Statement of the 2004 EU-China Summit and subsequent European Council Conclusions.*⁵⁵

So this is where we are. In principle the arms embargo will be lifted. But there are conditions: (1) Upgrading of the Code of Conduct on arms exports, (2) improvements in the human rights situation in China, and (3) security in the region (read improved cross-straits relations). The Communication of 24 October 2006 from the Commission also mentioned “improving the transparency of [China’s] military expenditure” as a condition.⁵⁶ So it could take quite some time before the embargo is lifted.

EU Policy on Taiwan’s Participation in the WHO

After being expelled from the UN in 1971 Taiwan also had to leave the World Health Organization (WHO) in 1972.

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<http://www.eu2005.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1079979819948&a=KArticle&aid=1122477608160>

⁵⁴ http://www.eu2006.at/en/News/Press_Releases/February/0302TroikaChina.html

⁵⁵ http://www.eu2006.fi/news_and_documents/other_documents/vko36/en_GB/1157828673423/

⁵⁶ Commission of the European Communities, “Communication from the Commission to the Council and the European Parliament. EU – China: Closer partners, growing responsibilities,” COM(2006)631 final, Brussels, 24 October 2006.

Taiwan's participation in the WHO makes sense from a medical perspective, when the world confronts SARS, Avian Flu and other diseases.⁵⁷ But what makes sense from a pragmatic, functional perspective may not make sense politically for some actors. Since Taiwan started trying to join the WHO as an observer in 1997 the PRC has opposed such representation, arguing basically that Taiwan has a hidden political agenda.

In a resolution of 14 March 2002 the European Parliament came out in support of observer status for Taiwan at the forthcoming May 2002 annual meeting of the World Health Assembly (WHA) in Geneva. It called on "the Commission and the Member States to support the application for observer status to be granted to Taiwan at the forthcoming WHA."⁵⁸ On March 19 a spokeswoman for the Chinese Foreign Ministry opposed the EP's resolution saying that "Taiwan's 'entry' to the WHO, for any reason or in any way" would be "an infringement of Chinese sovereignty and territorial integrity, and an interference in China's internal affairs."⁵⁹

Again, in another resolution of 15 May 2003 the EP called for observer status for Taiwan at the 56th WHA.⁶⁰

During the 57th World Health Assembly (Geneva, 17 -22 May, 2004) the Irish Presidency gave the following Explanation of Vote on the request for the addition of a supplementary agenda item on "inviting the health authorities of Taiwan to participate in the World Health Assembly as an observer":

Mr President

I am speaking on behalf of the European Union.

The European Union maintains a 'One China' policy. We have voted against the inclusion of this item on the agenda.

However, the European Union strongly supports the principle enshrined in the WHO Constitution that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being.

To that end, the European Union welcomes the access by WHO experts to Taiwan during the SARS crisis. We hope to see this co-operation strengthened and deepened to ensure that the health concerns of the people of Taiwan are met and that proper account is taken of global efforts to safeguard public health.

We hope that the Secretariat, and others organising technical meetings and working groups under the WHO auspices, will show flexibility in finding mechanisms to allow Taiwanese medical and public health officials to participate in these activities.⁶¹

⁵⁷ <http://www.asiamedia.ucla.edu/article.asp?parentid=11216>

⁵⁸ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2002-0130+0+DOC+XML+V0//EN&language=EN>

⁵⁹ <http://ca.china-embassy.org/eng/xwdt/t37380.htm>

⁶⁰ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P5-TA-2003-0224+0+DOC+XML+V0//EN&language=EN>

⁶¹ Statement kindly provided by the European Commission.

The issue came up in the debate in the European Parliament in July 2005. In his closing statement President-in-Office Douglas Alexander stated:

There are difficulties over Taiwanese membership of the World Health Organisation. The WHO is a United Nations specialised agency where statehood is therefore a prerequisite of membership. The public health benefits to Taiwan from observer status appear limited, since the World Health Organisation and Taiwan already share information on an informal basis. The European Union made its position public on Taiwanese participation at the 2004 World Health Assembly. Ireland issued an EU Presidency statement that strongly supported the principle enshrined in the WHO Constitution that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being. It also expressed hopes that all parties will show flexibility in finding mechanisms to allow Taiwanese medical and public health officials to participate in these activities. At this year's World Health Assembly, the issue did not come up for vote in the General Committee, but we understand that the WHO secretariat and China recently signed a memorandum of understanding on WHO technical exchanges with Taiwan.⁶²

The situation then is that Taiwan has been able to take part in some technical meetings. The WHO also sent a team to Taiwan in 2003 supporting health officials in combating the SARS outbreak.⁶³ But observer status at the WHA has remained out of reach for Taiwan.

According to interview material, we understand that the Austrian Presidency sent a letter to Dr Lee Jong-wook, the Director-General of WHO, in February 2005 urging a pragmatic solution allowing Taiwanese participation in technical meetings. Since the answer was not very clear the Troika (Austria, Finland and the Commission) went and saw Dr Lee on 2 May. Dr Lee promised to try to improve Taiwan's possibilities of participation. However, Dr Lee died soon afterwards.⁶⁴

Prior to the 2006 meetings of the WHA Taiwan's President Chen Shui-bian stated: "We are taking a most pragmatic approach this year by seeking meaningful participation."⁶⁵ *Financial Times* had obtained a copy of a secret memorandum of understanding between the WHO and the PRC according to which the PRC agreed to limited participation of Taiwanese technical experts in some WHO meetings. Under the terms of the accord the WHO must seek PRC approval well in advance, which could impede a swift response in the case of a pandemic.⁶⁶

The European Parliament keeps supporting Taiwan in its quest for better representation in the WHO. In its latest report from September 7, 2006 it:

Calls on China to support the possibility of observer status for Taiwan within the World Health Assembly of the World Health Organization, in order to protect the health of the people of Taiwan, of international representatives and foreign employees on the island, and

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<http://www.eu2005.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1079979819948&a=KArticle&aid=1122477608160>

⁶³ http://www.who.int/csr/sars/archive/2003_05_03/en/index.html

⁶⁴ It is possible that the EU may approach the new Director-General Dr Margaret Chan.

⁶⁵ Quoted in Kathrin Hille, Andrew Jack and Frances Williams, "Taiwan seeks 'meaningful participation' in WHO," *Financial Times*, May 22, 2006.

⁶⁶ *Ibid.* See also "Tenth bid to join WHA commences," *Taipei Times* May 17, 2006.

<http://www.taipetimes.com/News/front/archives/2006/05/17/2003308570>

*of the entire population of the globe; recalls in this context that infectious diseases such as HIV/AIDS, tuberculosis, malaria, SARS and, recently, avian influenza know no borders and require world-wide cooperation – also, and especially, with Taiwan as one of the most important international hubs in the Western Pacific; reiterates its call for Taiwan to be better represented in international fora and organisations, so as to put an end to the ongoing unfair exclusion of 23 million people from the international community.*⁶⁷

*EU Policy on Schengen visa for Taiwan*⁶⁸

A Schengen visa is valid for the following 15 countries in Europe: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Spain and Sweden. People from Taiwan require such visa to visit a Schengen country. Taiwan now allows citizens from these countries a visa exempt stay in Taiwan up to 30 days. So there is a lack of reciprocity here.

Further, getting a Schengen visa is rather cumbersome. According to the web site of the Belgian Office in Taipei the applicant must not only submit an application form, photo, and original passport. The application must also include copy of ID card, itinerary and flight booking, confirmed return ticket when collecting the visa and copy of medical insurance. Depending on the purpose of the trip (business, family visit, tourism) there are other requirements. Tourists, for instance must have proof of financial resources (bank statement, traveler's cheques etc.) and hotel booking confirmation (sent directly from the hotel to the office).⁶⁹

In August 2003 a KMT legislator, Sun Kuo-wha, was surprised about the requirements when he wanted to go to Austria for a holiday. He decided to lodge a protest against what he considered “unfair and discriminate against Taiwanese tourists.” He called a press conference, where he stated: “Based on principles of equality and reciprocity, and for the purpose of promoting people-to-people exchanges, I, as a convener of the legislature’s Foreign and Overseas Chinese Affairs Committee, solemnly lodge this protest.”⁷⁰ On the same occasion a spokesman from the Foreign Ministry, Richard Shih, said that it had long been the ministry’s goal to simplify the visa-application process for Taiwanese. “The ministry has been trying,” Shih said. “The ultimate goal of the ministry is to gain visa-exempt stays for Taiwanese tourists in other countries.”⁷¹

According to officials in Brussels this question of Schengen visa for Taiwanese has become a political problem. Basically, what will the PRC say, if Taiwanese people will be visa-exempt in the Schengen countries? Technically it should not be a problem to abolish visas for Taiwanese. Taiwanese people are not trying to migrate illegally to Europe.

⁶⁷ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+TA+P6-TA-2006-0346+0+DOC+WORD+V0//EN&language=EN>

⁶⁸ This issue seems not to have been covered by the written press. A search on ProQuest at Dalhousie University found no documents on “Taiwan AND Schengen visa”.

⁶⁹ <http://www.beltrade.org.tw/english/schengen.php>

⁷⁰ <http://www.taipeitimes.com/News/front/archives/2003/08/21/2003064570>

⁷¹ Ibid.

Current Trade Policy Issues

Taiwan's membership of the WTO since 2002 has not solved all trade-related issues. As student of political economy expects, there will be pressures for protection from some economic actors, both in Taiwan and the EU. In the past such pressures in the EU have for instance led to a number on anti-dumping cases against Taiwan.

The EU has a number of recurrent demands to Taiwan, which has remained on the agenda for some time. The EU has not made this list public. Nor can the public get copies of the reports from the annual consultations with Taiwan. But EU official point to the published Position Papers by the European Chamber of Commerce in Taipei (ECCT). The latest report from the ECCT gives a detailed analysis of a number of NTBs that are said to affect trade and investments negatively. For the purpose of this paper it is sufficient to list the 2006-2007 priority issues:

1. Speed up Cross-Strait business normalization

“Major restrictions remain in place and obstruct the free flow of persons, goods and capital across the Taiwan Strait...

... apart from the holiday flights, no regular cross-Strait charter cargo and passenger are yet in operation.”

2. Eliminate overregulation

“... long and non-transparent product approval procedures in banking services; Taiwan-only safety type approval regulations for cars; multi-licensing requirements for mass retail stores; the necessity for double testing to certify products due to a lack of recognition of international standards and new auto parts marking requirements, are just some examples of over-regulation or Taiwan-only standards.”

3. Comply with WTO commitments

“Little progress has been made in resolving outstanding WTO non-compliance issues.... Key issues such as Taiwan's accession to the Government Procurement Agreement, the import ban on products from the PRC, the restrictions on PRC visitors of foreign companies with no presence in Taiwan, as well as a number of issues related to automotive and pharmaceutical relations remain unresolved.”

The ECCT also mentioned concern about “unnecessary sanitary and phytosanitary standards controls for the importing of food products, [and the ECCT is] monitoring the civil remedies and enforcement in criminal IPR cases ...”

4. Accelerate the development of the service industry

“The upgrading of key service sectors is lagging behind plans: the restructuring and consolidation of the banking sector has been slow and so far has attracted only a limited number of new foreign investors.”

5. Taxation

“... in the past year Taiwan has introduced more restrictive tax regulations and reduced certain tax incentives.”⁷²

The ECCT has also recently carried out a cross-strait business normalization impact study, trying to quantify some of the costs of restrictions on economic contacts with China. Four such major restrictions were mentioned: 1) No direct transport links; No easy access for PRC passport holders to get a visa or to work in Taiwan; 3) Limits on Taiwanese investment in China and Chinese investment in Taiwan; 4) Restrictions on the imports of good from China.⁷³

Talking with officials in Brussels one senses a certain feeling that Taiwan is becoming more protectionist and that the business climate in Taiwan has deteriorated. A number of regulatory concerns are mentioned: Intellectual Property Rights, health, environment and consumer protection. The mix of regulations in these and other areas make it difficult for European exporters to operate in Taiwan. There is a feeling that Taiwan has become very creative in creating new rules. An example is new anti-theft measures introduced for cars recently that European exporters do not consider manageable. There is a feeling that Taiwan is not doing enough about IPR. There are licensing issues, for instance for medicines. The way the reimbursement system works in clinics also favours domestic producers. When it comes to agricultural products there is a feeling that the US gets better treatment than the EU. Finally, the fact that Taiwan has still not acceded – or been able to accede – to the Government Procurement Agreement under the WTO is also seen as a problem in Brussels. When Taiwan joined the WTO in 2002 it was committed to join the GPA “as soon as possible.” But during 2002-2006 a battle of nomenclature took place between Taiwan and the PRC. Some clarification has finally been found in the GPA committee, but Taiwan has not reapplied. The EU fears a bilateral US-Taiwan GPA agreement which would exclude the EU.

Concluding Remarks

EU relations with Taiwan are not likely to change substantially in the near or medium term. The One China principle clearly limits the possibilities of mobility. The EUs interest in the Far East is mainly commercial. The spectacular rise of China has made the EU member states unwilling to upset China. Taiwan’s interests can only be defended at the margin. Taiwan has friends in the European Parliament and national parliaments in Europe, who have been impressed by the process of democratization in Taiwan. These politicians believe in national self-determination and the importance of human rights and the rule of law. On that account sympathy naturally goes to Taiwan. But it is probably fair to say that even these friends of Taiwan do council against Taiwan seeking independence by unilateral steps. Such strategy is considered too risky.

The EU hopes that China will also gradually become more democratic and start respecting human rights more. But some officials in Brussels are not too optimistic on this at the moment. But the dialogue with the PRC continues.

In the EU system the national governments remain the main actors within CFSP. And no consensus can be created for major departures from the current policy. Occasionally that can be

⁷² The European Chamber of Commerce Taipei, *2006-2007 Position Papers* (Taipei, 2006), pp. 14-16.

⁷³ *Cross-Strait Business Normalisation Impact Study*. Conducted by CLSA Asia-Pacific Markets in cooperation with the European Chamber of Commerce Taipei (Taipei, 2006).

an advantage for Taiwan, as when we see that no consensus can be created for lifting the arms embargo against China.

The Commission, while not going as far as the European Parliament in helping Taiwan internationally, has worked to avoid isolating Taiwan too much internationally. This includes also behind the scenes work to improve Taiwan's possibility for taking part in the technical work in the WHO. The Commission does want to develop pragmatic relations with Taiwan.

The main EU actors also feel that Taiwan can contribute to stability in the area by normalizing its cross-strait relations. This clearly would help both economically and politically.

The PRC can of course also contribute. The EU actors have all taken the view that China's anti-secession law and threats of the use of force are counterproductive and have cautioned against these.

The truth is that Taiwan's security today mainly depends on the United States. The EU, despite some progress in the area of the European Defence and Security Policy (EDSP) in recent years, cannot project power in the Far East. It does not have the military hard-ware. Nor does it have the decision-making capacity or political will. The EU remains a civilian power. It finds it easier to act in economic areas than areas of high politics. This being said, we should also say that the Council secretariat has upgraded its capacity to think strategically about East Asia after the arrival of Javier Solana as High Representative of CFSP in 1999 and the creation of a Policy Planning and Early Warning Unit.

There is now a realization in Brussels that East Asia is increasingly important for the EU. The situation there is based on a security balance to which the EU does not contribute. But EU actions could contribute to upsetting the balance. Thus it is not unimportant what the EU says and does.