

German Foreign Policy in Dialogue

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German-Chinese Relations:
Trade Promotion Plus Something Else ?

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German Foreign Policy in Dialogue

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I. German-Chinese Relations: Trade Promotion Plus Something Else?

Editorial

By Hanns W. Maull

Is the German-Chinese relationship today more than “business as usual”? A rhetorical question, perhaps, except for those who work with it, and in it, as professionals on a daily basis. Moreover, what’s wrong with a relationship which basically aims at making both sides better off materially? Nothing, really, has to be the honest answer. Yet a nagging doubt persists – and not only just because officially generated expectations are so much larger than just “business as usual”. Given the relevance of China to international relations, which seems to be growing by the day, on the one side, and Germany’s ambitions (e.g., with regard to the UN Security Council) and its position at the core of the European Union on the other, one would hope to see more substance in this relationship than mutually rewarding commercial exchanges.

Yet for the time being the German-Chinese relationship is a relationship in search of a rationale, of meaning. Official diplomacy recognizes as much – and has reacted by projecting the desire to build a “strategic partnership”, both between the People’s Republic of China (PRC) and Germany and between the PRC and the European Union. This issue of “Foreign Policy in Dialogue” explores the German-Chinese relationship in this context of a search for a broader meaning. In other words, our contributors are trying to find out what exactly the meaning of “strategic” is, or could be, in that important bilateral relationship.

A first stab at this question does not throw up much of a response. As *Joern-Carsten Gottwald* demonstrates in his critical survey of the relationship, there really does not seem to be all that much more substance to it than commercial exchanges. But his analysis also suggests that this state of affairs should not necessarily be seen as “natural”. In fact, the absence of a broader meaning to the bi- and multilateral relationship between Beijing, on the one hand, and Berlin and the European Union, on the other, is the result of Berlin’s (and Europe’s, which does not yet have a capital in this sense) *inability* to explore the strategic significance of the relationship, and Beijing’s *unwillingness* to do so.

This is the core argument in the perspective on the European-Chinese relationship provided by *Axel Berkofsky*. One could argue, following his analysis, that Germany and the European Union as a whole are *unable* to provide strategic substance to the relationship. This refers to the double reality that Germany on its own no longer has enough weight to enter into a strategic relationship with China, while the European Union is not yet sufficiently organized to do so. China, on the other hand, could inject strategic substance into the relationship if it wanted to, but it does not seem very interested. From China's perspective on international relations, which still seems enamored to the chimera of a "multipolar" world, it is attractive to help Europe become a "pole" vis-à-vis the United States. But for this, it is quite sufficient to keep the EU as an economic power, without too much of a political profile. For it also suits Beijing to be able to play off the Europeans against the Americans, and Europeans against each other, over large commercial contracts and diplomatic influence; entering into a strategic partnership with a partner who is not even properly organized yet as a diplomatic, let alone a political and military power, from this perspective does not make much sense. Moreover, the common normative ground in the relationship is still, as Berkofsky rightly indicates, rather shaky: understandings of what is meant by protection of human rights, rule of law and multipolarity vs. multilateralism still differ widely between the two sides. Thus, by tacit agreement between one adult and one consenting minor, the professed claims to strategic partnership are allowed to remain just that: words.

This probably is a pity, as both sides could probably benefit quite significantly from a more substantive relationship. One reason why this is so is brought out implicitly in the analysis by *Andreas Blume*, which looks at the business side of the relationship. What he finds is a lack of political underpinning in an extremely dynamic commercial relationship – not just in the obvious sense that German firms would like to have fewer legal and political uncertainties in their efforts to do business in China, but also, and more importantly, in the sense that the rules of the game of doing business with China seem to be (despite China's membership in the WTO) disconcertingly unsettled. This uncertainty at present is still camouflaged by the WTO and, more broadly speaking, by a world economic order which has long been underpinned by America. If that hidden framework of stability were to start disintegrating in the future, then the lack of a strategic alternative would become painfully obvious to both China and Germany.

This, then, also is a first possible answer to the question what a “strategic” German and/ or European relationship with China could be about. A strategic partnership would need to be built on common or shared values and interests. While this notion is frequently paid tribute to in official communiqués, in reality it is not clear to what extent such a commonality or at least complementarity of basic norms and interests exists between the two sides. The assessment of Nicole Schulte-Kulmann of the German-Chinese/ European “Rule of Law Dialogue” shows that there still is a lot less than meets the eye in this Dialogue, and a long way to go. The second step of a strategic partnership would be to identify areas of cooperation on the basis of shared norms and interests. What kind of international economic order do the two sides want? What concrete policy needs flow from that? Where are there opportunities of serious, sustained cooperation? (Changing the composition of the UNSC clearly was no such an opportunity, at least not from Beijing’s perspective!) What should be the priorities?

The third step of working towards a strategic partnership would be to establish effective multilateral cooperation to realize shared objectives. This would have to start from the recognition (as yet not very deeply held in China) that national interests in the age and context of globalization can only be realized through serious and sustained international cooperation, through arrangements of regional *and* global order. Such cooperation will entail acceptance of being constrained by agreed rules and institutions, and it would have to try and move away from “us” vs. “them” perspectives on international relations, towards a notion of “we” vs. “the problems”.

This has, of course, been achieved within the European Union, but is still far from the way international relations are seen in Beijing or, for that matter, Washington. The fourth meaning of strategic partnership between Beijing and Berlin (or Brussels) therefore inevitably would involve clarifying the relationship between each side and America. This has been brought into sharp relief recently by the issue of lifting the European arms embargo against Beijing. Any relationship between Beijing and Berlin (or Brussels) worth the name “strategic” would have to be clear about this. And it should also be clear from the German and European perspective that any notion of a strategic partnership with China could only be entertained in the context of a firm resolve to move, together with China and America, towards a truly effective multilateral order. There could and should not be a strategic triangle between America, China and Europe.

The best chance to get to a constructive cooperation within a solid multilateral framework, and hence to a truly meaningful strategic partnership between China and Europe, would seem to lie in patient efforts to engage China critically but constructively. This could be seen as a fifth possible meaning of “strategic partnership” today: getting there, not least through means beyond official diplomacy. Political foundations can play a crucial role in this context, and it is here that Germany has developed a particularly useful and effective instrument of public diplomacy. The work of one of those foundations in providing the underpinnings for a more comprehensive German-Chinese and European-Chinese relationship is documented in the essay by *Stefan Friedrich* and *Christoph Polajner*. Perhaps the European Union should also start to think about setting up its own foundations.

Germany's China-Policy: Trade Promotion, Human Rights and European Disunity

By Joern-Carsten Gottwald

Since the 1990s, bilateral relations between the Federal Republic of Germany (FRG) and the People's Republic of China (PRC) have flourished despite the differences in their political systems, international role and economic power. From the German point of view, China is one of the most important political and economic powers to deal with while Beijing esteems the prominent role Germany plays within the European Union. Thus, an ever growing economic imperative and cultural interest constitutes the main characteristics in Germany's policy vis-à-vis the PRC and vice versa.

For several years now, Germany's China policy is a chancellor's task. Reducing the Foreign Ministry's influence and focusing on economic cooperation, Germany's China policy continues on the traditional path mapped out by earlier governments. Bilateral relations between democratic Berlin and authoritarian Beijing have thus reached an astonishing level of political and personal closeness. The Schroeder Administration established a certain division of labor between the chancellor as trade promoter and other members of the executive as occasional moral hawks, criticizing China's poor human rights record and its reluctance to introduce essential political reforms.

The chancellor's dominant position in Germany's China policy has only recently come under internal and external pressure. His unsuccessful drive to authorize the sale of modern nuclear equipment and his strong involvement in the German-Franco initiative to lift the EU weapons embargo has led to a serious confrontation with members of his own coalition, the majority of member states of the European Union, and, last but not least, with the government of the United States. As a result, Germany's China policy that used to be a rather odd combination of trade promotion, foreign aid – increasingly shaped as trade promotion, too – and a certain support for social modernization has turned into a delicate balancing act between piecemeal Europeanization and administrative infighting.

Path-Dependent Policy of the Schroeder Administration

Making the policy towards the PRC a chancellor's task follows the example of Schroeder's conservative predecessor. Under Helmut Kohl, the focus on economics and the neglect of

human rights or Beijing's policy vis-à-vis Taiwan had caused constant and harsh criticism from opposition leaders, among them today's Foreign Minister Joschka Fischer. Especially the so called "dialogue behind closed doors" on politically sensitive issues was interpreted as a dubious means to save the Chinese leadership from open criticism and to function as a fig leaf activity for the German public. Even after the 1989 Tiananmen crackdown, when the Communist Party ordered its soldiers and tanks to crush down the pro-democracy demonstrations, members of the German cabinet soon ignored the international ban on high-level contacts with the Communist leaders. In general, bilateral relations between Germany and the PRC had intensified during the government of Helmut Kohl.¹

Red-Green Policy Towards China

When coming to power in 1998, prominent members of the Red-Green coalition at first raised expectations to give social aspects more emphasis in dealing with China. In September 1998, designated Foreign Minister Joschka Fisher declared that there would be "no further kowtow towards the 'Beijing dictatorship'".² Chancellor Schroeder invited a prominent Chinese dissident to his office, seriously annoying the Beijing leadership. The appointment of a Human Rights Representative further emphasized the greater role human rights were supposed to play in dealing with the Chinese leadership.

But high-flying ambitions were soon crashed by bitter *realpolitik*. After NATO aircraft forces accidentally bombed the Chinese embassy in Belgrade during the Kosovo war in May 1999, it was Chancellor Schroeder who had to apologize formally to the Beijing leadership on behalf of the transatlantic alliance. A foreign policy novice at best, Schroeder managed the diplomatic rope-act surprisingly well. China's high-speed economic modernization and the personality of the then Chinese Prime Minister Zhu Rongji deeply impressed the German chancellor who soon established his chancellor's office as *the* strategic actor in Germany's policy vis-à-vis China. The Foreign Ministry came up with little resistance as Fischer himself was too glad to leave the problematic exchange with the economically important Beijing dictatorship to someone else.

¹ Heilmann, Sebastian (2002): Grundelemente deutscher Chinapolitik. In: China Analysis, 14, August 2002: http://www.chinapolitik.de/studien/china_analysis/no_14.pdf

² Kremb, Juergen (2002): China-Politik. Ende des deutschen Kotau. In: Der Spiegel (online edition), November 13, 2002: <http://www.spiegel.de/politik/ausland/0,1518,222622,00.html>

Under the chancellor's guidance, the priority in Germany's policy towards the PRC was firmly established: trade promotion first, foreign aid – meant to foster trade and investments, too – second and issues of human rights and democratization a distant third. Publishing its three regional concepts for East Asia, South East Asia and South Asia in May 2002, the government made it official that it had fallen in line with the tradition set by its predecessor. The global economic and political integration of the PRC gained highest priority while political change and social modernization were moved on to various arenas of bilateral and multilateral cooperation. Chancellor Schroeder himself became a regular guest in China's fast growing urban areas and developed a cordial personal relationship with then Prime Minister Zhu Rongji.

In addition to the ever growing governmental support for German enterprises, the Red-Green government in 1999 initiated a "Dialogue on the Rule of Law"³ and other programs of bilateral social exchange. Like his predecessor, Schroeder claimed that his government was conducting the Human Rights Dialogue with China behind closed doors, rather than in public. But this strategy seems to have had very limited success⁴ beyond the symbolic release of a small number of political prisoners by the Chinese leadership in advance of state visits. What kept intra-party critics within the Red-Green coalition government at bay was the "outsourcing" of this sensitive question to the then German president, Johannes Rau, and to the European level. The "Dialogue on the Rule of Law" has often been hailed as one of the major innovations of the Red-Green Asia policy, although there had been various similar programs in place under the Kohl administration. Designed as a cooperation process of broad scope and long duration, it consists of specific projects to improve legal and judicial practices in China. The Dialogue combines elements of careful public criticism⁵, open talk behind closed doors and pragmatic cooperation at the bilateral and the European-Chinese level.⁶ Remarkably, the 2003 to 2005 program includes a chapter concerning human rights. But its content is just old wine in new bottles as earlier projects have just been re-arranged.⁷

³ See Nicole Schulte-Kulmann's contribution to this volume.

⁴ Poppe, Gerd (2002): Es muss weiterhin deutliche Kritik an China geben. In: Die Welt (online edition), October 4, 2002: <http://www.welt.de/data/2002/04/10/412112.html>

⁵ See Rede von Bundeskanzler Schroeder (2002) anlaesslich der Verleihung der Ehrendoktorwuerde der Tongji-Universitaet am 30. Dezember 2002 in Shanghai: <http://www.bundestkanzler.de/Energieversorgung-9510.457033/Rede-von-Bundeskanzler-Schroeder-anlaesslich-der...htm>

⁶ Schulte-Kulmann, Nicole (2002): Der Einfluss westlicher Rechtsberatung auf die Rechtsreformen in der Volksrepublik China: Zur Rolle von Akteuren und Interessen in der chinesisch-westlichen Rechtsberatung. In: China Analysis, 13, July 2002: http://www.chinapolitik.de/studien/china_analysis/no_13.pdf

⁷ See Nicole Schulte-Kulmann's contribution to this volume.

Supporting European initiatives⁸ and having government officials occasionally confronting the Chinese government in public shows a twofold division of labor regarding Germany's China policy. While Chancellor Schroeder assumes the part of the never tiring trade promoter, Foreign Minister Fischer or then President Johannes Rau acted as the Red-Green human rights conscience: Rau held a remarkable speech on political reforms during his state visit in September 2003, Fischer openly criticized his Chinese counterparts during a press conference in Beijing in July 2004. While adding some urgently needed support to the Red-Green claims of fostering China's democratization and winning a few points with their disillusioned human rights clientele, they were by no means putting the bilateral relations at risk. The Chinese leadership has proven to be astoundingly firm in their focus on Chancellor Schroeder.

Re-Politicization of Germany's China Policy in 2004

Bilateral relations seemed completely at ease, when Schroeder on a state visit to China in December 2003 announced his support for a Chinese request to buy a nuclear plant from the Siemens AG in spite of the technology's military potential. Touching upon the nerves of a growing number of party members this initiative plus the subsequent chancellor's attempt to lift the EU ban on arms sales met considerable public opposition.

Ironically, the nuclear equipment to be exported was precisely the plant in the German city of Hanau that had been shut down after a yearlong quarrel by the provincial government of Hesse, whose minister for ecological affairs was Joschka Fischer at that time. The idea of exporting nuclear technology was a slap in the face of the Green Party with its strong anti-nuclear tradition. Exporting technology potentially usable for military purposes made things even worse and estranged members of both governing parties. Thus, in a rare case of successful involvement in foreign policy-making, the parliamentary fractions of the Social Democrats (SPD) and Bündnis 90/ Die GRÜNEN threatened to block the government's export permission. In the end, the Schroeder government managed to have the Siemens AG – whose former leading manager is one of the most influential actors in formulating Germany's China policy – withdraw its request.

⁸ See Axel Berkofsky's contribution to this volume.

Schroeder was hardly affected by his abortive Hanau plant initiative. Politically more sensitive was his “offensive”⁹ to lift the European Union’s weapons embargo towards China. The chancellor announced his initiative on the same visit to China in 2004. Apparently in close cooperation with the French president,¹⁰ Schroeder triggered a foreign policy debate with potentially far-reaching consequences.

The Problem of European and Transatlantic Cooperation

First off, this debate added new strains to Europe’s efforts to find a common approach towards the PRC in spite of Brussels’ ambitious China concept and the envisioned “strategic partnership” between the EU and the PRC. At first, Schroeder and Chirac were rather isolated among the European governments. Their initiative failed to gain support in 2003, but met heavy opposition from non-governmental organizations as well as the United States and Japan. The situation changed dramatically when the UK started to back the Franco-German position. Successive efforts by representatives of the European Commission to convince the Bush Administration of the European view – that lifting the embargo just meant to normalize the relations – failed. As other mechanism should prevent European companies from selling sensitive material to the PRC, the withdrawal of the embargo was even declared to improve the prevention of military usable goods being exported.¹¹

But opposition from Washington remained strong. While Bush, on his visit to major European countries, kept a diplomatic though clear language concerning this issue, Secretary of State Condoleezza Rice put it more bluntly. As the PRC first prepared and then confirmed a new law that enshrined the use of military force in case that a province (i.e. Taiwan) would declare independence, the German-French position looked even more offensive. Economic interests left aside, the transatlantic disagreements revealed deeper differences on China: While

⁹ Muscat, Sabine (2004): Bundesregierung tritt leise in der China-Politik. In: Financial Times Deutschland, March 16, 2004.

¹⁰ Interestingly, the initiatives of Chirac and Schroeder coincided with a shift of strategy of the Franco-German EADS group, a major producer of weaponry, declaring China one of its most important future markets. See Frankfurter Allgemeine Zeitung, February 26, 2004.

¹¹ For details see Berkofsky, Axel (2005): EU-China arms ban remains, for now. In: Atimes.com, February 3, 2005: <http://www.atimes.com/atimes/China/GB03Ad02.html> as well as his contribution to this volume;

Umbach, Frank (2005): Strategische Partnerschaft oder multilateraler Kotau? Die EU-China-Beziehungen und die Aufhebung des Embargos. In: Internationale Politik, March 2005, p. 70-89: <http://www.dgap.org/attachment/36292e5f08f727196eb4ca1f3d4df243/b85bd2c95d0e0e1640e1465db5faff6b/IP-03-05+EU-China-Final.pdf>;

Bersick, Sebastian (2005): EU arms embargo: a role for the United States? In: EurAsia Bulletin, 9(1/2), January/February 2005.

Washington tried to balance the engagement of the PRC with a policy of containing the possible next global superpower, Germany's government as well as the European Union clearly emphasized engagement. By bringing the PRC into the World Trade Organization in 1999/ 2000, Europeans and Americans had successfully and closely worked together, wrangling harsh concession from the Chinese government. But while the U.S. is the only power to limit the PRC's growing leverage on its regional neighbors, the EU neither harbors such ambitions nor possesses adequate means to do so.

Thus, Europeans traditionally supported efforts to integrate the PRC into multilateral arrangements, even at times when Beijing openly favored bilateralism. But this basic doctrine of the foreign policy of the PRC has been compromised by a new readiness to accept the principles of multilateralism.¹² Whether this change in Beijing's behavior is the result of a basic re-orientation or just another wile of war in the tradition of the ancient General Sun Zi remains to be seen. But in any case, the question of either engaging or containing the PRC has lost much of its substance as Beijing is one of the most important financiers of Washington's double deficit, a global catalyst for economic growth and the "key to peace in Asia".¹³

Its diplomatic consequences aside, the question of lifting the EU arms ban has turned into a crucial power struggle between the Schroeder government and members of the ruling parties. A dictatorship that executes more people than all other governments in the world combined and that openly threatens a small established democracy with military invasion hardly looks like a good choice for arm sales. The complete internalization of Beijing's line of arguments by Chancellor Schroeder, i.e. that lifting the embargo has nothing to do with selling weapons but a lot with normalizing relations 16 years after the Tiananmen crackdown, overstretches the willingness of quite a few Red-Green supporters to accept *realpolitik* in dealing with the Asian economic hotbed. Postponing the decision for one year as the EU did in March 2005 will do little to ease this growing internal opposition to Chancellor Schroeder's policy.

The Chirac-Schroeder initiative further increased the number of policy fields where the member states of the EU have hard times trying to find a common stance. National trade promotion and the question whether China should be criticized in the UN Human Rights Report have left little room for a true European approach. Disagreements on how to deal best with the PRC's abuse of elementary civic rights led member states to give up on seeking a

¹² Heilmann, Sebastian (2004): Das politische System der Volksrepublik China. Wiesbaden (2nd ed.), p. 250-253.

¹³ See cover story of the *The Economist*, March 26, 2005.

common position during the annual Geneva conference. In trade promotion, too, the Red-Green government continued to fine-tune the well-established system of public backing for commercial projects, even at the cost of weakening the EU Common Foreign and Security Policy. Like France, the UK and most member states of the EU, Berlin still tries to promote its “national champions”. As a result, European rivalry allows the Chinese side to play off European offers against one another in search for the richest public finance component for European-Chinese trade and investment deals. Lobbying for business with substantial financial support also makes it difficult for the German government to link foreign aid – which de facto often is used to promote German commercial interests – to issues of human rights and good governance, as called for by its own, and the EU’s, regional concepts.

Germany’s China Policy: Trade Promotion Plus Something Else

When analyzing Germany’s China policy it proves difficult to find any policy at all – except trade promotion. Important initiatives like the Dialogue on Human Rights and on the Rule of Law are not beyond doubt; even foreign cultural affairs are interpreted as contributing to the improvement of bilateral trade. The realities of German-Chinese relations often do not live up to the expectations created by the ambitious rhetoric of the German government. The broadened dialogue between human rights NGOs and the foreign ministry and the creation of the office of a Human Rights Representative has so far had little effect on actual policies. Only in the case of the Hanau nuclear plant and the arms embargo, the ruling parties had a clear impact on Schroeder’s ambitious trade promotion agenda.

But most of the time the division of labor within the government and between German and EU policies and claims to promote human rights and democracy in China through enhanced commercial ties (“*Wandel durch Handel*”) work effectively enough to keep critics at bay. This surprisingly smooth evolution of bilateral relations owes heavily to the groundwork laid by the predecessors of the Red-Green government which removed various traps and pitfalls. The question remains whether Germany as one of the leading powers in the European Union can continue to push national economic interests even at the price of alienating the U.S. or Japan.

EU-China Relations – Strategic Partnership or Partners of Convenience?

By Axel Berkofsky

The recent weapons embargo controversy and EU-China frictions over textile exports aside, EU-China relations have never been better. At least this is what officials and diplomats in both Brussels and Beijing have been telling each other and anyone who cares to listen, on a daily basis since the EU announced its plan to implement a full-fledged “strategic partnership” with China in the next five to ten years. This euphoria started when the EU called for the implementation of an EU-China strategic partnership in its December 2003 European Security Strategy (ESS), along with a similar initiative for the relationships with Japan, Russia, India and Canada. The ESS, however, remains vague on the concrete nature of this plan. Instead, implementation will be left to the 100 or so officials and policy makers from the EU Commission and the EU Council who are working on EU-China relations on a day-to-day basis. A truly strategic dimension of the partnership is as yet largely absent; what “strategic” seems to stand for hardly goes beyond joint declarations that the EU and China are committed to “global multilateralism”, the “promotion of democracy”, and “peace and stability.” Reality needs to catch up with political rhetoric over the next few years if the strategic partnership is to go beyond the expansion of trade relations. Meanwhile, China for its part is using the announced strategic partnership with the EU for its own purposes, urging Brussels to lift the EU weapons embargo imposed on China after the Tiananmen massacre in 1989.

Germany and above all German Chancellor Gerhard Schroeder, who is competing with French President Jacques Chirac to be China’s “best friend”, is eager to expand German-Chinese business relations, come what may. 40 to 50 German business leaders typically accompany Mr. Schroeder on his trips to China leaving hardly any room for discussing human, political, and civil rights. Whereas other EU member states are more cautious, France and Germany insist that the EU and China are already strategic partners with common values, common interests and a bright bilateral future. However, both Paris and Berlin (like the EU) still find themselves at a loss of words when asked to explain what exactly an EU-China strategic partnership beyond the expansion of trade and business relations will and should entail.

The Track Record of EU-China Relations

From the mid-1990s until the present, the EU Commission published an increasing number of communications (Brussels lingo for policy papers) and declarations outlining Brussels' China policy. The communication called „Long Term Policy for China-Europe Relations“ (1995) was followed by the 1998 „Building a Comprehensive Partnership with China“ and the 2001 „EU Strategy Towards China: Implementation of the 1998 Communication and Future Steps for a More Effective EU Policy“. Whereas the EU's China policy papers until 2001 above all emphasized the EU's support of China's „transition to an open society“, advocating China's global political engagement and global economic integration, the EU's most recent China Policy Paper („A Maturing Partnership – Shared Interests and Challenges in EU-China Relations“) from October 2003 advocates the implementation of a full-fledged EU-China “strategic partnership” as a consequence of expanding economic exchange, trade and political relations between Brussels and Beijing. The paper calls for EU-China cooperation on global governance issues and the promotion of sustainable development, global peace and stability and other „high politics“-issues. An important part (if not *the* most important part according to EU officials who are working on EU-China relations on a daily basis) of the 2003 communication are the so-called „EU-China Sectoral Dialogues“ covering a wide range of areas such as Intellectual Property Rights, environment, information society, energy & scientific cooperation, peaceful use of nuclear energy, maritime safety, space cooperation, WTO and others. The Dialogues take place at various levels, from working to ministerial level, at times involving business representatives.

Currently there are over twenty such exchanges and the number is likely to increase as relations continue to expand. What must come as a surprise to scholars in the field of international relations, the October 2003 communication claims that the EU and China share common concepts and visions of global governance, including the notion of “effective multilateralism”. There is hardly any evidence beyond EU communications (or political rhetoric coming from EU officials and Chinese government officials exchanging diplomatic “niceties” during EU-China summits) that the EU and China share common visions of multilateralism or global governance.

The Chinese government published its first EU Policy Paper in October 2003 which, like the EU's communications, calls for the implementation of a strategic dialogue with Brussels. The fact that the EU has no strategic interests (except on the Korean peninsular even though the

EU is not a partner in the so-called Six-Nation Talks seeking to convince North Korea to give up its nuclear weapons program) is seen as helpful in Beijing for the goal of implementing an EU-China strategic partnership going beyond the expansion of trade and economic relations. Chinese scholars and foreign policy commentators emphasize that the absence of a “strategic rivalry” between the EU and China provides the basis for a closer and expanded relationship. Beijing, it is being argued, will not lose any of its political and economic influence through a strategic partnership with the EU.

Obstacles to the Partnership – Perspectives from Brussels and Beijing

Officials and policy-makers from the EU frequently stress economic and trade related concerns when dealing with their Chinese counterparts.¹⁴ Although China has undertaken significant efforts to improve its law enforcement mechanisms and to make its customs and distribution system WTO-compliant, the EU remains very concerned about some aspects of China’s distribution system. European carmakers for example complain about China’s dual distribution system, one for domestic and one for foreign car manufacturers. Furthermore, the access of foreign construction companies, including European companies, to China is still significantly limited. It remains very difficult for foreign banks to enter the Chinese market and the foreign penetration of China’s banking sector amounts to a modest 1.5 per cent.

Intellectual Property Rights (IPR) protection too remains an area of serious concern for the EU. Official statistics indicate that between 50 per cent and 60 per cent of imported counterfeit products originate from China. Since the late 1990s, the Chinese government has developed copyright laws modeled on international standards seeking to implement effective protection of IPRs, but the EU (and the U.S.) claims that the Chinese authorities lack the political will and law enforcement mechanisms to tackle the problem of counterfeits effectively. The main problem areas are pharmaceuticals, automobiles, electronics, telecommunications, software and audio-visual products. In order to address these IPR and IPR-related issues, the EU and China have established a working group, including representatives of European and Chinese companies. The results through the dialogue, however, must still be described as very limited and EU officials complain that China’s enforcement mechanisms are still underdeveloped or at all absent.

¹⁴ See the contribution of Andreas Blume in this volume for more details on these issues from a German perspective.

The Chinese side, too, has raised economic and trade related concerns in the context of its relationship with the EU. Most notably, Beijing has criticized the EU's decision not to grant China market economy status for the time being (based on an EU Commission report from June 2004). The same holds true for the rising number of EU anti-dumping charges and cases against Chinese companies.

On the political level, an important factor that has prevented the emergence of a more substantial strategic partnership is related to differing notions of "multilateralism" and "multipolarity". There is hardly any evidence that China, like most EU member states, is committed to multilateralism as opposed to U.S.-style unilateralism in international politics and security. In fact, China's own foreign, economic and security policies in Asia demonstrate that it is, like the U.S., more comfortable dealing with neighboring countries on a bilateral basis making sure it is the dominant partner. Asian nations, with the notable exceptions of Japan and India, have chosen to pursue an explicit engagement course (avoiding sensitive issues such as territorial disputes) towards China seeking to strengthen political and economic relations in view of China's growing economic, political and military clout in Asia and beyond.

Chinese politicians in Beijing maintain that the EU-China partnership should also serve to promote "global multilateralism", the "democratization of international relations" and what is being referred to as the "global multipolarization." Especially the latter aspect of the envisioned EU-China strategic partnership (as China defines it) raises concerns in the U.S. and the fear that China and the EU are seeking to create another "pole" to counterbalance the U.S.. Observers in Brussels, however, agree that the EU is very unlikely to become overly enthusiastic about a Chinese-style concept of a "multipolar" world and it is widely acknowledged that the EU will not jeopardize its relations with Washington in favor of a yet ill-defined EU-China strategic partnership. Even if Beijing and Chinese scholars think so, the EU and China do not share a common definition of "multipolarity." Even if the EU is officially concerned about U.S. unilateralism, it does not seek to create a Chinese-style multipolar world seeking to limit U.S. global influence. China's (wrong) assumption that the EU shares Beijing's vision of a multipolar world was seemingly based on French President Jacques Chirac's rhetoric during the transatlantic crisis over the U.S.-military intervention in Iraq. China had to find out that France is not speaking for the entire EU when the formulation

and implementation of the EU's Common and Foreign Security Policies, including policies towards China, is on the agenda.

The Chinese leadership and Chinese scholars have specifically raised the challenge for China of finding the "right" balance of dealing with the EU as a whole versus dealing with the EU's individual member states. In the past, Beijing has complained that the EU is taking (unfair) advantage of this constellation. The EU can, from China's perspective, "hide" behind differing EU member states' policies and strategies on sensitive issues such as the embargo and the market economy status when explaining slow progress on these and other issues of importance to China. The leadership in Beijing and Chinese diplomats in Brussels seek to overcome these difficulties by referring to the German and French positions on sensitive issues (above all when the weapons embargo is on the agenda) as EU position. This "strategy", however, has proved to be counterproductive for China as the other 23 member states over the last years have become increasingly unwilling to let two countries alone formulate external EU policies. This problem will, at least for the foreseeable future, remain unresolved even if the EU will make progress in implementing its Common and Foreign Security Policy (CFSP). It should also be noted that China (and others) have in the past chosen to address the EU as an institution (versus addressing individual member states) when such an approach was likely to produce a joint EU-China position on a particular issue.

The Weapons Embargo, Human Rights and the Anti-Secession Law

China for its part is using the envisioned strategic partnership to get the EU arms embargo lifted imposed on Beijing in 1989 after crushing peaceful demonstrations on Tiananmen Square. Implementing an EU-China strategic partnership, Beijing and Brussels-based Chinese diplomats complain (admittedly not without logic), is hardly possible with an arms embargo in place. Judging by the number of times a decision on the embargo has been postponed at EU Council Summits, it indeed seems that the lifting of the embargo is far from imminent, as hoped in Beijing and feared in Washington. At the beginning of this year newspaper reports indicated that the lifting of the embargo will take place in June 2005, if not earlier. During the recent EU Council meeting at the end of March, however, the EU foreign ministers decided to postpone a decision on the lifting of the embargo yet another time, but "promised" that the EU's Luxemburg presidency would continue working on the issue.

The March 2005 EU Council resolutions “invite” the Luxembourg presidency to continue working towards a political solution of the embargo issue. This “invitation”, Chinese diplomats in Brussels are insisting, is a “political mandate” (or “obligation”) to get the embargo lifted until the UK takes over the EU presidency on July 1st. China has considered this promise to be legally-binding, but had to find out that Luxemburg decided to put the issue to the bottom of its agenda. London, under pressure from the White House and the Pentagon, has already announced that the lifting of the embargo is very unlikely to take place during Britain’s EU presidency (from July to December 2005) postponing a possible lifting of the embargo at least until the end of this year.

Negotiations on the embargo, Beijing seems to think, is a one way street. Whereas the EU is urged to lift the embargo immediately, China’s Brussels-based diplomats claim that Beijing is not at all obliged to give anything in return. Unlike the EU and many others, China does not (at least not officially) acknowledge its human rights problem and insists that the ratification of the International Convention of Political and Civil Rights will take place on China’s terms. Despite the EU’s repeated request, China has not yet given any timetable for the long overdue ratification of the convention. Signing the convention under EU pressure, Beijing insists, is out of the question too since it would lead to China “loosing its face”. Ironically, whereas China insists on “non-interference” in its own internal affairs (especially as Taiwan is concerned), it chooses to put pressure on EU bureaucrats and diplomats on the embargo issue. The argument that the EU might need as much time to lift the ban as China needs to ratify the International Convention on Political and Civil Rights is usually being dismissed as “irrelevant” by Beijing.

Observers in Brussels and the EU Commission itself suspect that internal struggles within China might partly explain the worst possible timing to bring the so-called Anti-Secession Law onto the agenda. Just when Beijing was convincing Britain to support the lifting of the embargo this February, London changed its mind when it surfaced that Beijing would go ahead with the enacting of the controversial anti-secession law. Whereas Beijing claims that the law prepares for a peaceful China-Taiwan reunification contingency, Taiwan (and almost everybody else too) takes the law for what it essentially is: the legal basis for invading Taiwan should it decide to change the current status quo and declare independence. Whereas one part of Beijing’s political leadership, the argument goes, wanted to concentrate on the lifting of the

embargo alone, more hawkish fractions within the Communist Party succeeded to push for the implementation of the Anti-Secession Law, come what may.

Beijing's hawkish Taiwan policies gave Brussels a good reason to postpone the decision of the embargo's lifting. Only a few days after the law got a rubber-stamp approval in China's National Assembly, Britain's Foreign Minister Jack Straw announced his government to change course and withdraw its support for the lifting of the embargo. After seemingly having disappeared from Britain's foreign policy agenda, human rights in China have become an issue for Britain once again.

Because of the lack of any significant progress of the EU-China Human Rights Dialogue (initiated in 1996), the EU has recently decided to complement it with a Dialogue on the Rule of Law. Discussing the rule of law, it is being hoped, would limit the number of deadlocks of the Dialogue and keep the human rights issue on the agenda. However, the EU and China still have fundamentally different perceptions of the concept of the rule of law. European officials insist that the "rule by law" is not necessarily synonymous to the "rule of law." Whether the Dialogue on the Rule of Law will achieve more results than the Dialogue on Human Rights still remains to be seen.

The New Code of Conduct – Old Wine in New Bottles?

Currently, the EU Council is in the process of revising its Code of Conduct for weapons export promising to make it more difficult for France, Germany, Italy and the UK to export weapons and weapons technology to China. The current Code of Conduct was implemented in 1998 to ensure that EU member states do not equip China with weapons and weapons technology that will be used for internal repression, human rights violations or the invasion of Taiwan. However, the Code is not legally-binding and has not kept European weapons exporters to double their weapons and weapons technology exports to China over the last two years, as the Financial Times reported earlier this year. It is being hoped that the Code's new version (not yet publicly available) will limit European weapons exports to China, especially if it is made legally-binding. However, the prospect of a legally-binding revised Code of Conduct is already meeting resistance from Paris and Berlin. Furthermore, the Code of Conduct (as the embargo) was never meant to limit the transfer of dual-use technology to

China and it can be taken for granted that European weapons manufacturers will continue to insist that their exports are meant for civilian (as opposed to military) use only.

What's Next?

The EU is requesting more patience from Beijing on the embargo and urges China (more or less strongly) to provide evidence that the human rights record in China has improved. Beijing, at least for now, has neither to offer and usually refers to the embargo as the EU's "problem" only. A real and full-fledged EU-China strategic partnership must be based on common values if it is to go beyond political rhetoric and wishful thinking. Leaving the enthusiasm and optimism voiced in EU-China joint declarations aside, a partnership between democratic states (EU) and a country with an authoritarian system seems awkward and will lack credibility. Indeed, it appears incoherent that the EU requires states applying for EU membership to establish democratic structures, while it has no problem to work towards a strategic partnership with a non-democratic authoritarian regime. "Selling" a strategic partnership with non-democratic China to the European public will remain very difficult (if not impossible) as long as China's human rights record remains very poor. Beijing's refusal to acknowledge its human rights problems and its refusal to ratify the UN Convention on Political and Civil Rights is another reason why the EU is well advised not to announce a strategic partnership that is not supported by a set of common values. In the absence of common values and a more democratic turn in China, the EU-China strategic relationship will, at least for the time being, be merely based on the common interest to expand business and economic relations beyond the current levels. The recent EU-China frictions over Chinese textile exports have shown that there is already a gap between political rhetoric and the realities of a growing EU-China trade imbalance in China's favor. This imbalance has without a doubt the potential to undermine any kind of partnership between the EU and China.

Promotion of democracy, human rights and the rule of law are three of the EU's main foreign and security policy goals. If the EU wants its foreign and security policies to be called "coherent", it needs to put these goals on top of its agenda. The EU Commission and the EU Council clearly find themselves under pressure from EU member states (above all from France and Germany) to discuss human rights and the rule of law with a level of "insistence" that does not spoil bilateral business relations. The EU's China policy is a clear example that EU policies "made in Brussels" are not yet the policies of 25 EU member states. Until the EU

institutions are being equipped with the legal instruments and authorities to formulate and implement the whole range of foreign and security policy instruments, its relations towards China will continue to lack coherence and at times international credibility.

The views expressed in this article are the author's alone and do not necessarily represent the views of the European Policy Centre (EPC).

German-Chinese Economic Relations from a Macro and Micro Perspective: A Practitioner's View

By Andreas Blume

In 2004 the boom of the past decade in the People's Republic of China (PRC) continued unabated. With about nine per cent annual growth of GNP, the PRC remains the undisputed star performer in East Asia (for comparison: Japan scored a growth rate of 2.6 per cent in 2004; South Korea 3.1 per cent; Thailand 6.4 per cent and Taiwan 3.2 per cent). In fact, the Chinese growth locomotive contributed twelve per cent of world economic growth in 2004 – a sign of just how quickly China has gained worldwide economic relevance within the last few years. The country has become the world's primary location for industrial production; one painful consequence of this trend has been a worldwide scarcity of raw materials and energy that induced enormous price rises.

In 1978 China, led by Deng Xiaoping, began to open its markets from the strict isolation of the 30 years since the foundation of the People's Republic of China. At that time (in 1978), China's share of world trade was only 1.7 per cent. By following Deng's motto "It doesn't matter if the mouse is white or black, as long as it catches mice", China's economy since has grown enormously, basically by more and more integrating itself into world markets. Thus, in 2004 China exported goods worth more than 600 billion U.S. Dollars and imported goods with a value of 500 billion U.S. Dollars, further pumping up its trade surplus. Today, the PRC is the third largest trading nation worldwide and accounts for about 14 per cent of the world trade. And as a result of its growing annual trade surpluses, China also possesses very large foreign currency reserves, worth today about 610 billion U.S. Dollars. According to reliable estimates, China will likely double its foreign trade volume until the year 2010.

The Chinese Market and German-Sino Trade

The PRC has increasingly become an important economic and trade partner for Germany. Since the second half of 2002, China has become Germany's most important trading partner in Asia and its second largest trading partner worldwide outside Europe. From the Chinese perspective, Germany has been its key trading partner in Europe for some 30 years now. In 2004, with exports to China worth 21 billion Euro and imports to Germany worth 32.5 billion Euro, Germany also contributed significantly to China's overall trade surplus: bilateral trade

was heavily in favor of China, whose exports exceeded imports from Germany by 26.4 per cent. The main goods Germany exports to China are machines tools, cars and other vehicles, car parts and power generating equipment, while Germany mainly imports office and data processing equipment, products related to the information and communications sector – and more and more textiles.

German Foreign Direct Investment in the PRC

In 2004, China attracted about eight per cent of overall Foreign Direct Investment (FDI) worldwide, and thus has become the number one destination for foreign capital, ahead even of the United States. Up to now, investment projects worth 54 billion U.S. Dollars have already been settled in China, with another 115 billion U.S. Dollars still in the pipeline. Today there operate about 250.000 enterprises with foreign capital share in China, representing an overall subscribed capital of almost 170 billion U.S. Dollars.

Roughly 1.700 German enterprises, with about 2.700 branches, have established a presence in China. More than 80 per cent have done this in the Yangtse river delta, the Pearl river delta or in the north eastern parts of China, surrounding Shenyang, Dalian and Changchun. About two thirds of German enterprises belong to production industries. It is reasonable to assume that in the future, due to the WTO-induced liberalization of service industries, professional services – including financial services – will be an increasingly important destination of German enterprises and capital. German industrial corporations like *Metro* (retail trade), *TUI* (travel), *Allianz* and *Gerling* (insurance) and almost all larger German banks have already stepped into the Chinese market.

In about half of all cases, German firms have moved into China in the shape of joint ventures. Every fourth German enterprise in China has established a representative office, and more and more German firms are convinced that it is better to launch a wholly foreign-owned enterprise in China than to enter a joint venture. It therefore has to be assumed that the share of German companies without a Chinese partner will increase distinctly in the near future because since December 2004 it has been legally possible (at least on paper) to establish a 100 per cent foreign-owned trading company in China. The Germans' main motive to invest in China is to supply Chinese domestic markets; the production for export is a secondary reason for investing in China. According to a 2002 survey of the German Chamber of Industry and

Commerce in China, 82 per cent of German firms consider their China investment to be a success, and only 18 per cent are not yet satisfied with their business activities. 72 per cent of the polled enterprises responded that they had already reached their sales and market share targets while 78 per cent stated they had fulfilled or even exceeded their profit targets.

Obstacles to Foreign Investment in China

The facts summarized above show that China is an important market for German business, and is likely to become even more important in the future. However, there are still numerous hurdles to overcome for German (and, in general, foreign) firms investing in China with the aim of gaining market access. Some of these hurdles have more to do with the specific characteristics of the Chinese market and with the (in)ability of foreign companies to adapt to those circumstances (e.g. unrealistic assumptions about Chinese market potential, inadequate market research, difficulties to find the right partners in the country, insufficient staff management and so forth). Other hurdles, which the following sections will focus on, have political roots and are thus to be addressed in the context of political relations between China and Germany. To this end, the German business community has already set up a “petition list” to help improve the situation by way of bilateral political negotiations, which has been forwarded to the German government. Among the most pressing items on this list are the protection of Intellectual Property Rights (IPR) and the abolishment of discriminating tender procedures. Shortcomings in the Chinese legal system related to foreign economic activity and the uncertainty this creates for German (and foreign) businesses is another important issue on the “petition list”.

Protection of Intellectual Property Rights

The abuse of IPR has many faces. Apart from the theft of business secrets and the violation of the law against unfair competition, most cases concern counterfeiting activities. China is the undisputable stronghold of the counterfeiting industry worldwide. Losses of western enterprises attributable to counterfeiting are estimated to fall between 20 billion and over 50 billion Euro per year.

The country has a ravenous appetite for new technologies and well-known trademarks. This appetite is not always satisfied legally: Nowhere else is foreign know-how abused and exploited as fast as in China – a process in which, incidentally, organized crime is heavily

involved. According to a survey of the Chamber of Industry and Commerce for the Palatinate carried out in November 2004, in which 52 German enterprises with business contacts to China participated, 77 per cent of the firms which responded reported considerable problems with the abuse of own Intellectual Property Rights by Chinese enterprises. 56 per cent reported violations of trademarks, 25 per cent related abuse of patents, 27 per cent had suffered design offences and 13 per cent reported copyright problems in or stemming from China. The survey also indicates that IPR concerns affect virtually all economic sectors, including consumer and high-tech investment goods, raw materials as well as end products.

The Chinese government has undertaken efforts to improve Chinese laws and enforcement mechanisms in line with the Trade-Related Intellectual Property Rights (TRIPS) norms of the WTO framework, and to fight counterfeiting activities. Yet, despite these efforts, the scale of the problem is still very much rising. Low legal penalties do not deter wrong-doers, especially when the risk of being caught is almost negligible. And on the local level, protectionism and nepotism also hinder effective enforcement of IPR. Thus, many German firms expect the counterfeit problems with China to grow even further in the future.

From a German perspective, there still exists a plurality of obstacles which prevent a more effective legal protection of IPRs. Design or product parts are insufficiently protected when the whole product is not copied. Law enforcement agencies and their regional and functional bureaucracies often lack the will to effectively support the owners of property rights. Against this background, the German business community has suggested that the Chinese government should take measures to a) better educate judges who handle intellectual property cases, b) prosecute IPR violations as official offences, c) establish a central state authority for the prosecution of economic crimes in order to curb the influence of local interests and protectionism, and d) abolish the so-called “case fee” that affected companies have to pay before authorities even are willing to turn to their duties.

The track record of German China policy in addressing the problem of IPR is modest. To be sure, the violation of intellectual property of German enterprises by Chinese firms has been placed on top of the German government’s agenda. Yet, the German side – contrary to the administration in Washington – has so far muted its criticism in order not to burden the overall political climate between Berlin and Beijing. Concrete steps beyond general political admonitions have been missing so far. In the spring of 2005, the Federal Ministry for

Economics and Labor established an ad-hoc working group on counterfeiting. However, the group is currently still in the process of being constituted.

Until recently, the German government has offered few concrete proposals to the central government in Beijing on how to tackle the IPR problem. Most of the time, Berlin has demanded legal improvements without, however, raising the need for more profound changes in those areas where problems originate in the political-economic system of the PRC. In this author's view, what is needed is a new attitude of German policy-makers and business elites. It does not help that counterfeiting is criticized only *sotto voce*. The damage to German investors, but also to the Chinese economy, caused by violations of IPR is sufficiently large to warrant more decisive action.

Legal Shortcomings, Loopholes in Legal Enforcement and Local Protectionism

China is still far from being a state of rule of law by western standards. As long as there is no meaningful separation of powers between the executive and the judiciary in China, consistent and reliable court rulings will remain the exception. Judges in the PRC are often not acting independently from political interference. Rather, they should be seen as government functionaries that owe their career to the Communist Party. Even among ordinary Chinese people, they have a reputation of being corrupt and incompetent.

Legal shortcomings have concrete negative consequences for German business. For example, in 1995 Germany and the PRC agreed upon a standard supply contract in both directions (from China to Germany and vice versa). This contract includes clauses for legal arbitration. However, German enterprises have had to learn that local Chinese courts have frequently declared such agreements null and void. The German business community demands that internationally recognized legal clauses must not be overridden by Chinese courts. Furthermore the Chinese anti-trust law must not be abused to discriminate against foreign enterprises. Moreover, the Chinese civil procedural law offers only limited provisional legal protection. The biggest problem in that context are former employees who abuse their inside knowledge and take with them commercial secrets of their former employer. So far, no legal mechanisms are in place to deal effectively with this phenomenon.

Local protectionism reinforces the legal uncertainties for German businesses. Whenever a German firm and a local Chinese firm are involved in a lawsuit, chances are that local party or

government officials will successfully manipulate the legal proceedings in favor of the local firm. One of the reasons is that any fines or other financial burdens to the local firm will also reduce the tax revenues of the local government. Thus, it is virtually impossible for foreign companies to defend their rights against an alliance of local entrepreneurs, functionaries and courts. In order to improve this situation, it would be necessary to reform the career system for judges: Decisions concerning appointments, promotions and salaries should be concentrated in the hands of the High Courts or the Ministry of Justice in Beijing. These changes seem very unlikely within the current political-economic system of the PRC. They would be necessary, however, to destroy the unholy alliances of local protectionism.

Discriminating Tender Procedures

Another important problem which impedes access to the Chinese market by foreign firms are discriminating tender procedures. Large infrastructure projects, especially in the sectors of transportation and energy supply are often classified as “projects of national interest”. Foreign companies are not allowed at all to participate in such tenders, or they are tolerated only if they cooperate with Chinese firms acting as prime contractors. German entrepreneurs urge the Chinese government to suppress such discriminatory practices and to sign the Government Procurement Agreement of WTO as soon as possible. Another concern are restrictions to market access in some specific industries, especially service industries (such as architecture, banks, insurance and media industry, tourism and legal counsel). In those areas China will have to prove that it is willing to comply with all its obligations under the agreements of entry into the World Trade Organization in December 2001.

Conclusion

Despite those, and other, obstacles to German investment in and market access to China, German-Sino business relations in recent years have prospered as never before. China is becoming a more and more important trade and investment partner. Seen from the Chinese point of view, Germany is a valued sources of capital and technology. Given political stability, German-Chinese economic exchanges are set to expand further quite rapidly, and it is only a question of time before German enterprises will face fierce Chinese competition in European markets, not only by exports from China, but also by Chinese-run production and service facilities within Europe.

In recent years, German business representatives have learned not only how to manage sourcing in China; they have also become better sellers. However, intense preparation and professional advice seems still indispensable to help to reduce market risks. Arguably, a large part of the problems which still exist today for German enterprises in China are homemade. Yet, these problems are also aggravated both by the rapid integration of the Chinese economy into world trade and by the political-economical system of the PRC. Neither of those two conditions seems likely to go away quickly. Thus, the widespread problems with the protection of Intellectual Property Rights will continue to haunt German enterprises for years to come, and corruption and local protectionism are unlikely to decrease significantly without a change of the political-economic system in China. This makes the task for the German government's China policy of helping to alleviate the specific problems for German enterprises both more difficult and more urgent.

The German-Chinese “Rule of Law Dialogue”: Substantial Interaction or Political Delusion?

By Nicole Schulte-Kulmann

Introduction

In March 2005 German Chancellor Gerhard Schroeder spoke decisively for abolishing the EU arms embargo that has been in place against the People’s Republic of China (PRC) since 1989. Economic considerations palpably were at the root of the chancellor’s initiative. The PRC is one of the most important economic partners of the Federal Republic of Germany (FRG). In 2003 Chinese imports from Germany amounted to goods and services worth more than 41 billion U.S. Dollars, and realized German Foreign Direct Investment (FDI) in the PRC reached 9.4 billion U.S. Dollars (1999-2003). Thus, amicable bilateral relations between the FRG and the PRC are of utmost importance for the prosperity of economic relations.¹⁵

Yet, to the detriment of not only the incumbent, but also previous German governments, FRG-PRC relations are not exclusively driven by economic considerations. German mass media and most prominently the Green Party, the smaller partner in the post-1998 coalition government, are equally concerned about human rights issues and political repression in the PRC. This concern is event-driven, blazing up in response to more dramatic events covered by the media, such as the adoption of the PRC’s Anti-Secession Law in March 2005 that many Western observers interpreted as a direct threat to Taiwan. Since the chancellor’s move to support the arms embargo’s abolition came only weeks after this controversial law had been passed, his demands fuelled suspicion even among the ruling coalition’s ranks that German China policy might be unacceptably one-sided and business oriented, compromising “morals” for “money”.

In response to criticism of his China policy, Chancellor Schroeder states that China has changed significantly during the last fifteen years and that today’s China no longer resembles the China of 1989. In the chancellor’s view, political and legal change within China continues to be positively promoted by the “German-Chinese Rule of Law Dialogue” (*henceforth: “the Dialogue”*) that was initiated in 1999. This Dialogue is presented as a substantial and

¹⁵ See also Andreas Blume’s contribution to this volume.

continuous effort at improving the human rights situation in China and as proof for the German government's political and moral dedication in its China policy.

But to what extent is the 'German-Chinese Rule of Law Dialogue' indeed influencing the rule of law and human rights situation in the PRC? This question proves difficult to answer since the main elements of the Dialogue – aims, program, activities and participants – are only partially disclosed to the public. This stands in stark contrast to the importance assigned to the Dialogue by the German government and, in particular, Chancellor Schroeder.

Therefore, this article aims at presenting some details on the "German-Chinese Rule of Law Dialogue", the political background to its initiation as well as an overview of the different activities encompassed, thereby providing a foundation upon which to assess the Dialogue's relevance to the improvement of the human rights situation in the PRC.

Genesis of the "German-Chinese Rule of Law Dialogue"

Dealing with human rights issues in the PRC has been a central concern to the coalition government of Social Democrats (SPD) and Greens from the very beginning. In 1998, the coalition treaty stated that respect for and implementation of international human rights standards as contained in the Universal Declaration of Human Rights constitutes the central guideline for German foreign policy. This commitment was reiterated by the 2002 coalition treaty which again proclaimed support for human rights and the rule of law as one of the foreign policy foundations. Thus, the initiation of the Dialogue in 1999 was meant as the new coalition government's first step to substantiate these claims as to the importance of human rights in German foreign policy.

The "Rule of Law Dialogue" 1999 to 2003

At the occasion of his state visit to the PRC, Chancellor Schroeder agreed with then Chinese Prime Minister Zhu Rongji on initiating cooperation in the area of law between Germany and the PRC. Premier Zhu was receptive to this proposal since the PRC needed more foreign support in restructuring her legal and judicial system in order to adopt successfully to international legal standards in the area of commercial and administrative law. Improvements in these areas are crucial to the imminent WTO accession of the PRC. Thus, legal cooperation with Germany was valued as a supplement to legal cooperation measures offered by

American private and governmental donors.¹⁶ However, according to the Schroeder-Zhu agreement, cooperation should not be limited to technical legal aspects but was intended to comprise human rights discussions as well.

On June 30, 2000, the German and Chinese ministers of Justice then signed a bilateral “German-Chinese Agreement on Exchange and Cooperation in the Legal Field”,¹⁷ detailing the specific areas of cooperation. These covered the areas of administrative law, civil and commercial law, labor and social security law, improvement of the implementation of existing laws and regulations, protection of citizens’ legal rights, and combating corruption and white-collar crime. One year later, on June 22, 2001, the more general proclamations of the agreement were substantiated by the first “Two-Year Program on the Implementation of the German-Chinese Agreement on Exchange and Cooperation in the Legal Field”,¹⁸ signed again by the German and Chinese ministers of justice. This program lists 18 projects to be implemented from 2001 to 2003 in the areas outlined by the agreement and denominates the respective German and Chinese institutions responsible for the implementation.

The “Rule of Law Dialogue” 2003 to 2005

The new Chinese leadership headed by President Hu Jintao and Prime Minister Wen Jiabao, too, values the Dialogue. During the state visit of Chancellor Schroeder to China in December 2003, the second “Two-Year Program on the Implementation of the German-Chinese

¹⁶ For a comparison of legal cooperations see: Schulte-Kulkmann, Nicole (2005): Rechtszusammenarbeit mit der Volksrepublik China. Deutsche und amerikanische Initiativen im Vergleich. Goettingen (forthcoming). See also: Schulte-Kulkmann, Nicole/ Heilmann, Sebastian (2005): U.S.-China Legal Cooperation – Part I: The Role of Actors and Actors’ Interests. In: China Analysis, 42, April 2005:

http://www.chinapolitik.de/studien/china_analysis/no_42.pdf;

Schulte-Kulkmann, Nicole/ Heilmann, Sebastian (2005). U.S.-China Legal Cooperation – Part II: An Overview of American Governmental Legal Cooperation Initiatives. In: China Analysis, 43, April 2005:

http://www.chinapolitik.de/studien/china_analysis/no_43.pdf;

Schulte-Kulkmann, Nicole/ Heilmann, Sebastian (2005): U.S.-China Legal Cooperation - Part III: An Overview of Private American-Chinese Legal Cooperation Programs. In: China Analysis , 44 (forthcoming).

¹⁷ German Federal Government (2000): Deutsch-Chinesische Vereinbarung zu dem Austausch und der Zusammenarbeit im Rechtsbereich/ German Chinese Agreement on Exchange and Cooperation in the Legal Field. Berlin, June 30, 2000:

[http://www.bundesregierung.de/Anlage254834/Deutsch-](http://www.bundesregierung.de/Anlage254834/Deutsch-Chinesische+Vereinbarung+zu+dem+Austausch+und+der+Zusammenarbeit+im+Rechtsbereich+.pdf)

[Chinesische+Vereinbarung+zu+dem+Austausch+und+der+Zusammenarbeit+im+Rechtsbereich+.pdf](http://www.bundesregierung.de/Anlage254834/Deutsch-Chinesische+Vereinbarung+zu+dem+Austausch+und+der+Zusammenarbeit+im+Rechtsbereich+.pdf)

¹⁸ German Federal Government (2001): Zweijahresprogramm zur Durchfuehrung der Deutsch-Chinesischen Vereinbarung zu dem Austausch und der Zusammenarbeit im Rechtsbereich/ Two-Year Program on the Implementation of the German-Chinese Agreement on Exchange and Cooperation in the Legal Field. Berlin, June 22, 2001:

<http://www.bundesregierung.de/Anlage254838/Zweijahresprogramm+zur+Durchfuehrung+der+Deutsch-Chinesischen+Vereinbarung+zu+dem+Austausch+und+der+Zusammenarbeit+im+Rechtsbereich+.pdf>

Agreement on Exchange and Cooperation in the Legal Field 2003-2005”¹⁹ was signed by the German and Chinese ministers of justice. Like its predecessor, the second Two-Year Program, too, lists the areas and projects of cooperation. In addition to the fields of law already covered by the first program, the second program broadens the cooperation by including projects explicitly concerned with recognition and protection of human rights as well as German-Chinese academic cooperation in the field of law. As far as future developments are concerned, the German and the Chinese side have already agreed upon signing a third Two-Year Program which is currently under preparation.

Organization of the “Rule of Law Dialogue”

The organization of German-Chinese cooperation in the field of law changed considerably with the initiation of the Dialogue. Indeed, as one specific form of development cooperation, German-Chinese governmental as well as private cooperation in the field of law already dates back to the early 1980s, when the German Patent Office (Munich) started a cooperation with its Chinese counterpart in order to support the drafting of the first patent law of the PRC. This cooperation was financed by the German Ministry for Economic Cooperation and Development (BMZ) via the *Deutsche Gesellschaft fuer Technische Zusammenarbeit* (German Corporation for Technical Cooperation – GTZ).²⁰ Since then, the bulk of German-Chinese legal cooperation measures has been financed and planned by the BMZ and implemented by the GTZ. In addition, partisan foundations²¹ such as the Friedrich Ebert Foundation, Konrad Adenauer Foundation, Heinrich Boell Foundation, and Friedrich Naumann Foundation (until 1996), as well as university law schools and research institutes (mainly the Max Planck Institutes) engaged in legal cooperation projects with different Chinese governmental as well as academic partners, amongst them the National People’s Congress, the State Council, the Chinese Academy of Social Sciences, the National School of Administration, the Supreme People’s Court, Beijing University, Chinese University of Political Science and Law etc..

With the initiation of the Dialogue annual two-day symposia which take place alternately in Beijing and in Berlin were introduced in addition to these substantial initiatives. Attendants to

¹⁹ Two-Year Program on the Implementation of the German-Chinese Agreement on Exchange and Cooperation in the Legal Field 2004-2005, Beijing, December 1, 2003: <http://www.bmj.bund.de/media/archive/614.pdf>

²⁰ Information on GTZ legal cooperation projects in the PRC is available at: <http://www.gtz-legal-reform.org.cn/>

²¹ See Stefan Friedrich’s and Christoph Polajner’s contribution to this volume.

these symposia comprise the German and Chinese ministers of justice, high ranking ministerial officials, ambassadors, members of the business community as well as selected renowned legal experts from both sides. Although these symposia are presented as the official “core” of the Dialogue, they can only superficially address the subjects agreed upon for discussion between the Chinese and German side. Hence, the symposia mainly fulfill protocolary functions, conveying the goodwill of the German and, more so, of the Chinese government to participate in discussions about legal reform and rule of law related questions.

Thus, as far as substantial work in the field of law is concerned, the initiation of the Dialogue, then, does not constitute a separate, additional venue for German-Chinese legal cooperation; instead, the Dialogue mainly tries to embrace the diverse German governmental and nongovernmental legal cooperation initiatives under one “heading”.²² Moreover, this also involved attempts to change the structure of responsibility for German-Chinese legal cooperation: Since the Dialogue is the brainchild of Chancellor Schroeder, more responsibility for negotiating the contents at least of the governmental legal cooperation projects was transferred to the Office of the Chancellor (at the expense of the BMZ), and the German Ministry of Justice (BMJ) was charged with formally coordinating the different activities as well as the symposia. Thus, the initiation of the Dialogue in essence constitutes an effort to centralize legal cooperation activities with the PRC under the aegis of the chancellor.

Main Focus of the “German-Chinese Rule of Law Dialogue”

As far as the content of the Dialogue is concerned, one has to differentiate between the “official” Dialogue and governmental legal cooperation initiatives on the one hand, and the diverse private programs on the other. Firstly, the symposia constituting the “official” Dialogue until today have dealt with the topics “Administration according to law and the protection of individual rights” (Beijing, June 12-13, 2000); “Establishment of a legal framework conducive to entrepreneurial activities under the conditions of a market economy – governmental regulation and protection of the interests of citizens and entrepreneurs” (Berlin, October 8-9, 2001); “Support for legal certainty in overall legal relations as well as with regard to assessing the creditworthiness of citizens and enterprises” (Beijing, May 20-21, 2002); “Legal and political issues relevant to the utilization of modern information technology

²² An overview of all German-Chinese private and governmental legal cooperation activities subsumed under the Dialogue is available at: <http://www.bmj.bund.de/media/archive/882.pdf>

on a global scale” (Berlin, November 10-11, 2003); “Protection of basic human rights through judicial procedures and state of emergency regulations reconcilable with the rule of law” (Beijing, May 17-18, 2004). In June 2005, a sixth symposium will deal with the topic “Disclosure of governmental and administrative decisions”. This overview illustrates that the focus of the symposia is laid on highly technical legal questions originating mainly in the area of commercial rule of law. Human rights related topics figure less prominently on the “official” Dialogue agenda and are treated more implicitly. This, however, should not be regarded as particularly astounding since the fact that the “official” Dialogue – the symposia – is conducted at a high political level does not allow for sensitive questions to be addressed openly and critically between the German and the Chinese side.

Secondly, the technical German-Chinese governmental legal cooperation projects implemented by the GTZ focus on support for legislative drafting in the area of commercial law (such as bankruptcy law, company law, investment fund law, law on foreign exchange, partnership law, law for the promotion of small and medium sized enterprises etc.) as well as on areas of administrative law which are of relevance to business activities (such as administrative enforcement law, administrative licensing law, administrative procedure law). Thus, these legal cooperation activities which, judged by the financial resources available to these projects, constitute the bulk of German-Chinese governmental legal cooperation, also are not explicitly concerned with human rights issues in the PRC.

Thirdly, private German-Chinese legal cooperation activities mainly involve university law schools in Germany and in the PRC as well as German and Chinese legal research institutes. The projects implemented by these actors mainly focus on the education of younger Chinese jurists and on the scholarly exchange between German and Chinese legal experts for the purpose of conducting collaborative research projects. As far as the contents of these projects are concerned, human rights and rule of law issues take up a more prominent position. For example, introduction to normative rule of law conceptions and human rights issues is part of the curriculum offered by the “German-Chinese Law Institute” (Universities Goettingen and Nanjing), and the Max Planck Institute for Foreign and International Criminal Law (Freiburg) also cooperates with Chinese legal experts on questions concerning the death penalty. However, even if these projects aim at introducing human rights and rule of law-related ideas more explicitly into the Chinese legal system via the education of Chinese jurists and research activities, their impact is likely to be only limited due to a significant lack of funding.

Finally, even if the second “Two-Year Program on the Implementation of the German-Chinese Agreement on Exchange and Cooperation in the Legal Field 2003-2005” now includes reference to cooperation projects concerned with recognition and protection of human rights, this only at first sight constitutes advancement in qualitative terms. Indeed, paragraph 5 of the ‘Two-Year Program 2003-2005’ lists “exchange on social, economic, cultural, and human rights developments” as well as the German-Chinese Human Rights Dialogue as the main activities in this area. However, the “Exchange” which is conducted since 1999 by the Friedrich Ebert Foundation, has already been part of the first “Two-Year Program” (paragraph 5). Furthermore, the German-Chinese *Human Rights* Dialogue also has been in existence before the initiation of the German-Chinese Rule of Law Dialogue in 1999. The Human Rights Dialogue is conducted at the bilateral level under the aegis of the German Foreign Office (*Auswaertiges Amt*). Thus, one has to conclude that although the second “Two-Year Program” explicitly mentions human rights as part of the German-Chinese cooperation in the field of law, no substance is added to German-Chinese cooperation in this field.

Summary

In assessing the function and the impact of the German-Chinese “Rule of Law Dialogue” the following aspects must be stressed. By initiating the Dialogue in 1999, the German federal government did not significantly intensify its efforts to improve the human rights and rule of law situation in the PRC. As has been demonstrated, most of the cooperation projects implemented by state actors as well as by private actors had already been under way *before* the establishment of the Dialogue. After setting up the dialogue framework, the German federal government did not increase funding or financial support for already existing private and governmental legal cooperation programs. Officially arranged symposia were the only new element introduced as an additional venue for German-Chinese cooperation in the field of law. However, the symposia do not provide an appropriate framework for discussing sensitive issues related to human rights and the rule of law since they are conducted in a formal, decidedly non-controversial atmosphere. In essence, the Dialogue thus only integrated already existing governmental and private legal cooperation initiatives under a common heading and a symbolic umbrella.

The bulk of legal cooperation projects merged under the umbrella of the Dialogue (particularly the programs implemented by the GTZ), however, is mainly concerned with rather technical economic law issues. Hence, these programs can hardly be seen as a direct contribution to improving the human rights situation in China. And what is more, private legal cooperation programs that deal more explicitly with normative rule of law and human rights questions were not given the resources necessary for broadening their activities.

Based on these findings, one can reach the conclusion that the main function of the Dialogue is not a practical, but a political-symbolic one. Prior to the initiation of the Dialogue, the official approach of the German federal government to discuss human rights problems in the PRC had consisted of articulating individual objections, handing over lists of political prisoners and asking for their release. In the course of the 1990s, this approach was increasingly felt to be humiliating to the Chinese side, politically ineffective and potentially damaging to economic exchanges. By initiating the Dialogue it became possible to delegate discussion of the PRC's human rights record from the official diplomatic sphere to the working level involved with legal cooperation programs. With a view to public sentiment in Germany, the German government could present the Dialogue as a comprehensive human rights strategy directed towards the Chinese government. The Dialogue thus became valuable symbolic capital in the hands of the German coalition government for deflecting human rights sensitivities among its electorate and preventing human rights controversies from disturbing the rapid expansion of economic relations with China.

Beyond Official Diplomacy: The Role of Political Foundations in German-Chinese Relations. The Case of the Konrad Adenauer Foundation

By Stefan Friedrich and Christoph Polajner

The relations between two countries should not be limited to inter-governmental contacts. However, these contacts are a necessary prerequisite for all other interactions. Following the establishment of official diplomatic relations between the Federal Republic of Germany (FRG) and the People's Republic of China (PRC) in 1972, the cultural and societal exchange between both countries also started to slowly develop. In 1973, for example, the German Academic Exchange Service (DAAD) was able to dispatch the first group of young German students to Chinese universities to study Chinese language and Chinese culture. It was not before the end of the so-called "Cultural Revolution" (officially 1966-76) and the beginning of the reform and opening-up policy under Deng Xiaoping in 1978 that these developments could be build on a broader basis. Especially in the cultural and societal sector there is a multiplicity of actors. Apart from the German Embassy and the Consulates General (in Shanghai, Hong Kong, Guangzhou, and, most recently, Chengdu), which also promote German-Chinese cultural relations, there are quite a number of German institutions and organizations active in this field. The Goethe Institute, the DAAD, the German Research Foundation (DFG) and the German political foundations are among the most important ones. This article will focus on the work of political foundations, which play a very special role in Germany's external contacts in general. In terms of the relationship with China, they managed to establish themselves as true partners of their Chinese counterparts in the quest to support the modernization process of Chinese society. Although several political foundations are active in China, this article will primarily focus on the work of the Konrad Adenauer Foundation.

German Political Foundations: General Background and the Situation in China

Germany currently has six political foundations. The two biggest foundations (in terms of staff and offices abroad) are the Konrad Adenauer Foundation (KAS) and the Friedrich Ebert Foundation (FES). The smaller ones are the Hanns Seidel Foundation (HSS), the Heinrich Boell Foundation (HBS), the Friedrich Naumann Foundation (FNS) and the Rosa Luxemburg Foundation (RLS). All of them are affiliated to political parties in Germany. Their work is guided by the values and principles of the parties they are affiliated to. However, they must

not work directly for a political party. In their international work, the foundations see it as their task to promote economic, political and social development in countries which are in a transformation process. They do so by offering expertise from within Germany, by supporting seminars and conferences as well as by sponsoring research projects on topics important to the future development of the host countries. Furthermore, they provide scholarships to talented students. Through their international work, political foundations want to contribute to international cooperation and understanding. The international work of the foundations is predominantly financed by the Ministry for Economic Cooperation and Development (BMZ) and the Federal Foreign Office. Although the funding comes from government agencies, it must be noted that German political foundations are not working as sub-organizations of these agencies. They are free to set their own priorities. The only restriction is that they have to account very strictly for how they spend the money. Thus, they have to prove that the money was spent according to the budget guidelines laid out by the government agencies. Among the major goals that the foundations pursue in many countries are the promotion of international understanding, the support of democratization of state and society, the increase of respect for human rights, the strengthening or establishment of a fair economic and legal framework, the support of gender equality, protection of the environment and the promotion of science, culture and art.

Only four of the above mentioned six political foundations (KAS, FES, HSS, and HBS) currently have official representatives in China. Although KAS, FES and HSS started activities in China right after the introduction of the reform policy in 1979, it was the Hanns Seidel Foundation that set up the first project office in China in 1983, when it established a vocational training centre in Nanjing. This presence was soon followed by the Friedrich Ebert Foundation, which first set up a coordination office in 1984 in Chengdu (Sichuan) and a Shanghai project office in 1985. For the Konrad Adenauer Foundation the preparation work took longer, but in 1992 the first project office was opened at the Northwest University in Xi'an. Nowadays, all political foundations represented in China have project offices in Beijing, some of them even have project offices in other Chinese cities.

The work of political foundations in China is not without problems as the example of the Friedrich Naumann Foundation (FNS) demonstrates. The liberal German foundation also had an office in China until 1996. In that year the Naumann Foundation organized the Second International Conference on Tibet in Bonn with the participation of the Dalai Lama. After

official Chinese protests the German government cancelled the funds previously reserved for the conference in order to distance itself from the event. The FNS did not follow this move of Germany's Foreign Ministry and the conference took place with the FNS' support nonetheless. Shortly afterwards the office of the Naumann Foundation in Beijing was forced to close. This, however, has remained an exception so far and it should be noted that the Chinese government's decision was not a reaction to the foundation's activities inside China.

All political foundations set their own priorities in their cooperation with China. For the HSS, as mentioned previously, this is vocational training. For the FES, major activities include the legal reform process, China's transformation towards a market economy – two areas, in which the KAS is also actively engaged. Apart from this, the FES also tries to strengthen the role of trade unions in China. All political foundations do have Chinese partner organizations.

The Work of the Konrad Adenauer Foundation in China

The overall goal of the work of the Konrad Adenauer Foundation in China is to support the Chinese reform process. As mentioned above, the work of the KAS in China is based on cooperation with a variety of local partners. The main partner of KAS in China is the Chinese Academy of Social Sciences (CASS) in Beijing. In the PRC, KAS has identified six major working areas which are seen as most pressing for the future development of China. These six working areas are: legal reform, social transformation, economic reform, regional development, integration of China into a dialogue with Germany on foreign and security policy and the development of the media. Apart from the project office in Beijing, since 2001 this work has also been conducted by the rather new project office in Shanghai. As for Xi'an, where the KAS started its activities as early as 1992, the foundation is still cooperating with the Northwest University and, since 1998, with the Shaanxi Women's Federation. The activities of the KAS' regional program mainly target high level professionals in China such as political decision makers, academic staff of think tanks and universities, as well as business and media managers. Since it will not be possible to present all the activities of KAS in China, I will present only very few examples of the work in different working areas.

Legal Reforms

The Konrad Adenauer Foundation supports the transition from a "rule by law" to a "rule of law" in China. The KAS tries to assist in clarifying the principles of the rule of law and

supports the day-to-day functioning of China's institutions. From 1997 on the KAS has mainly focused its attention on the reform of jurisdiction, administrative law and the laws governing ownership. Thus, even before the official initiation of the bilateral Dialogue on the Rule of Law (*Rechtsstaatsdialog*) in 1999, the KAS was already focusing on this very important issue.

One recent example of the work in the area of legal reforms is the German-Chinese symposium on the reform of Chinese company law, which was held in Shanghai in January 2005. The draft version of the revised law had been finished in August 2004. Subsequently, the Chinese side wanted to collect expertise from abroad on whether this draft could prevail or whether it has considerable flaws. For this end, the government approached the KAS and asked whether the foundation could provide partial financial support and help with the selection of experts on company law. Participants of the seminar came from the Legal Affairs Committee of the National People's Congress (NPC) in Beijing and from various universities and law offices in Shanghai, as well as from Germany. The discussions were very frank and open and will probably influence the finalizing of this important law in China. This, in turn, may eventually have a positive effect on the business activities of German companies in China. Other areas in which the Adenauer Foundation provided support to the Chinese side include the anti-trust legislation, the question of constitutionalism and others.

Economic and Social Reforms

Since the beginning of its reform process and the opening up of its economic system, China has seen unprecedented economic growth. Even though many economic key indicators show that the country has been very successful over the last 25 years, many people have not benefited from this economic growth, or have done so only marginally. A selected minority has become very rich, but the majority has, so far, been left behind. This has led to a vast economic disparity between rich and poor which may well endanger social stability in the future. The first indications of this can already be seen. There is growing discontent among the population about this form of economic growth which is perceived as unjust. An increasing number of protests have been reported in the western part of the country. The Chinese government is seeking measures to close the economic divide and to guarantee social stability. To accompany China in this effort is one of the KAS's main objectives.

One example is the support offered by the KAS for a major study on different models of social policy in Europe and the United States. In China, so far there is a strong sense that the increasing social disparities may cause serious problems in the future, if the government fails to provide measures to soften these developments. However, there is little understanding within the government on the different social policy models employed in western countries. Thus, the KAS supported a major research project with a group of leading academics from Beijing, Shanghai and elsewhere to research this issue. The results have been presented in a study which was divided into two parts: The first part was dedicated to the different models of social policy in Germany, France, the United Kingdom, the Nordic States and the U.S.; the second part deals with policy advice for the situation in China. Whether this advice will be acted upon remains to be seen. However, the important point is that after studying existing models, the Chinese experts are in a much better position to choose the most suitable solution for China. Thus, the overall aim of KAS' engagement is not to propagate a one-to-one transfer of German models to China, but rather to provide an insight into alternative models and to exchange experience.

Another KAS contribution to Chinese economic and social reform was the translation of the German standard book on social market economy "*Lexikon Soziale Marktwirtschaft*" into Chinese. The Chinese version of this encyclopedia was published in July 2004 and received huge interest in China because of the fear of the instability, as already mentioned above, that might result from a dramatic increase in the divide between rich and poor. Here again, Germany can offer some of its own experiences, which are, of course, not only positive.

Strengthening the International Dialogue on Foreign and Security Policy with China

This area of the KAS' work involves promoting a political dialogue between China and Germany. As a political foundation, KAS has the advantage of being able to conduct high level talks similar to the ones organized by the embassy, but without representing the official position of Germany. This is an exchange on a non-official level from which both sides benefit. In October 2004, KAS and its Chinese partners organized an international symposium on "NATO and global security", which in this form would have been unthinkable a few years ago. Against the background of non-traditional security threats German and Chinese security experts discussed current developments in the North Atlantic Alliance and possibilities for cooperation with China. The event showed that there are still differences of opinion on many issues, for example the tightrope walk between humanitarian intervention and the intervention

in internal affairs of sovereign states or the role of the United States within NATO. However, despite all of these different perspectives, it seems more unlikely today that more profound ideological differences may get in the way of cooperation over common security interests.

Another very important agent for stability in the region is the Shanghai Cooperation Organization (SCO), which was founded in Shanghai in 2001 and comprises China, Russia, Tajikistan, Kyrgyzstan, Kazakhstan and Uzbekistan. Security aspects have played a major role in the work of the organization in the past. But recently the idea of cooperation in other areas such as trade and culture has been discussed. The KAS and the Institute for International Strategic Studies therefore organized a conference to analyze these further possibilities of cooperation.

The Media

In China two parallel developments have led to significant changes in the media sector. Firstly, as in many other places in the world, new technologies in the media environment have developed, and secondly, the Chinese media market has been commercialized and partly opened up. China is currently looking for alternatives to complete control of the Chinese media sector by the Communist Party. The model of the broadcasting system under public law in Germany is seen by some Chinese scholars as a possible alternative. KAS lends its support to a study on the German public broadcasting system in order to make the idea more known in academic circles and to provide politicians with a solid basis for their decisions.

The Foundation also tries to enhance the scope of scientific analysis in the Chinese media sector and to cultivate contacts with journalists and media owners. Therefore, KAS currently offers training for economics and financial journalists. For example, these journalists are invited not only to learn more about the latest developments in China's adaptation process to WTO rules, but also to meet with regional representatives of German financial institutions, with whom they can exchange opinions on the developments of the Chinese and the world economy.

Outlook

Most of today's global challenges require international cooperation to be solved. Political foundations have the advantage of being able to conduct high level talks similar to the ones organized by embassies without representing an official point of view. Because of this informal status they can encourage dialogues which for governments in some cases might be more difficult to establish and thus create common ground on many issues of concern. With the help of their local partners and their long term commitment to their host countries they establish a network of contacts and important channels of communication. Thus, they are an indirect, yet quite valuable, feature of German foreign policy which has substantially helped to improve the German-Chinese relations in the last decades.

II. Book Review

Kerry Longhurst (2004): *Germany and the Use of Force*, Manchester University Press.

Reviewed by Marco Overhaus

As Europe commemorated the 60th anniversary of the Second World War's ending in May, German policy-makers held up the "lessons of the past" and assured their domestic public as well as the foreign audiences that the principle of "Never Again!" would continue to guide German policies now and well into the future. In the early years of the Federal Republic, an engrained commitment to multilateral institutions in foreign policy-making and a restrained approach to the use of military force became the most visible indicators of those lessons of history. Despite the most recent pledges to continuity, however, it is plain to see that German policies have evolved considerably after the Cold War. This has been underlined by Germany's military contribution to the international fight against terrorism since September 11, 2001.

Against this background, Kerry Longhurst's study is a timely contribution to the current debate. In the book, which is an up-dated and shortened version of her dissertation, Longhurst raises the question to what extend Germany's past before 1945 still has had a profound impact on the country's security and defense policy after the end of the Cold War. To this end, she considers Germany's rising contributions to multinational military operations outside the NATO territory ("out-of-area") after 1989, its reaction to the terrorist attacks in the United States on September 11, 2001, the German government's efforts to redesign the armed forces (Bundeswehr) and the endurance of conscription while most of Germany's neighbors have switched to a professional army.

Building upon culturalist accounts of German foreign policy (e.g. John Duffield, Thomas Banchoff and Thomas Berger), Longhurst starts with the observation that the country has by and large stuck to its post-World War II principles – commitment to multilateralism and antimilitarism – even after the collapse of the Soviet Union basically removed the former restrictions on German foreign and security policy. While she considers "rationalist" explanations of foreign policy behavior to be unable to account for the high degree of continuity, she advances her own "strategic culture approach" as a better alternative.

According to this approach, culture is the durable materialization of “history” which impacts on a collective’s behavior long after the original historical circumstances changed. Thus, strategic culture consists of world views, orientations, beliefs, and attitudes relating to the use of military force that were shaped by historical experience and are widely shared by a society. Usually, strategic cultures do not emerge out of the blue. Instead, they gradually evolve as internal and external circumstances change. Only “traumatic experiences” or profound historical disruptions can result in the creation of a new strategic culture, such as was the case for Germany after World War II. Longhurst specifically defines strategic culture as consisting of three interacting, yet distinct, elements:

1. *The foundational elements* which “comprise basic beliefs regarding the use of force that give a strategic culture its core characteristics” (p. 17). These elements are highly resistant to change.
2. *Regulatory practices*. These are the observable manifestations of a given strategic culture, meaning the longstanding policies and practices “that actively relate and apply the substance of the strategic culture’s core to the external environment.”
3. *Security policy standpoints* mediate between the first two elements as “the contemporary, widely accepted, interpretations as to how best core values are to be promoted through policy channels.”

The first of altogether three central research questions of Longhurst’s study is concerned with the *description* of German strategic culture. What is German strategic culture and how did it originate? To this end, the author devotes a substantive chapter on the “Stunde Null”, the formative period of West German Strategic culture in the immediate aftermath of World War II. Focusing on Germany’s first big debate relating to the use of military force, on the country’s rearmament (*Wiederbewaffnung*), Longhurst distils the empirical contents of Germany’s strategic culture. The experience of historical rupture (*Stunde Null*), the delegitimization of military force, the rejection of militarism and finally the exhaustion of statism and nationalism are identified as the foundational elements of (West) Germany’s strategic culture (p. 46). On this basis, the author identifies key relevant “security policy standpoints” in German security policy, e.g. the aversion to singularity and unilateralism, the propensity towards stability and consensual decision-making, the restraint on the use of armed force and political control over the military. Finally, the regulatory practices, such as

Germany's commitment to NATO and the European Union or the strong preference of a conscription army, spell out the observable implications of German strategic culture (p. 48).

In the remainder of the book, Longhurst studies the empirical record of Germany's policy regarding the use of military force, the structural reform of the German armed forces and the persistence of conscription. To this end, she raises two more research questions that are central to her study: To what extent and in what form has change in the external security environment after 1989 impacted on German strategic culture? How does German strategic culture affect the country's behavior? Concerning the latter aspect, the author juxtaposes the remarkable evolution of German policy towards multinational military deployments with the persistence of conscription. Longhurst convincingly argues that the interaction of German strategic culture's three elements (as summarized above) accounts both for the significant evolution in the former area and for the relative inertia in the latter, a phenomenon which is not easily explained by "rationalist" accounts of foreign policy behavior. The changing international context, new policies within NATO and the EU and thus new expectations of European and international partners, her argument goes, put pressure on Germany to increasingly contribute forces to the new tasks in military crisis management. This has in turn created incongruence between the foundational elements of Germany's security culture (antimilitarism) and its regulatory practices. German elites solved this dilemma by re-interpreting and re-emphasizing the mediating security policy standpoints. Policy-makers in Bonn and Berlin have stressed the quest to avoid singularity and unilateralism and the need for Germany to demonstrate its "international responsibility". The same kind of international pressure for change was not at work with respect to conscription. At least until now, Germany has been able to contribute to international crisis management without switching to a professional army. Longhurst acknowledges, however, that this becomes increasingly difficult in the face of tight defense budgets and the fact that a conscription army is not well suited to perform tasks beyond traditional collective defense.

Despite its ability to account for a phenomenon that must be a "puzzle" to more traditional foreign policy approaches, the book, from this reviewer's perspective, has at least one serious shortcoming. It displays a remarkable bias towards continuity which directly flows from the study's theoretical construction. As was stated above, culturalist approaches usually take the observation of continuity in foreign policy behavior as the starting point of their endeavor. Against this background, it comes as no surprise that Longhurst, too, concludes that it is

“clear that, despite changes, current German thinking about the use of force is pervaded still by significant continuities with the past, largely because of the enduring role and influence of Germany’s distinctive strategic culture” (p. 137). The bias towards continuity is most clearly reflected when the author discusses Berlin’s role during the Kosovo crisis in 1998/ 1999, to which Longhurst merely dedicates three pages in her whole book. In Kosovo, Germany for the first time actively participated with a combat role even without the blessing of the United Nations Security Council and against a country that had not at all attacked the territory of Germany or any other NATO country. Therefore it does not seem adequate to treat Kosovo as merely an “outlier” which can be explained in terms of the “humanitarian” motives and a “fragile domestic consensus” in Germany alone. Other more “traditional” factors that could possibly explain why Berlin “overruled” German strategic culture in Kosovo but not in Iraq four years later, such as geographical proximity or alliance politics, are more or less excluded from consideration. A bias towards continuity is also displayed (although to a lesser extent) in the chapter on Germany’s policy after September 11, 2001. In Afghanistan in 2001, Germany for the first time dispatched a contingent of its Special Operations Forces with a fighting mandate on the ground. Even though the numbers were modest (unofficial reports spoke of about 100 troops) this has to be seen as a qualitative step in German defense policy. The same is true for Berlin’s commitment to contribute troops to the NATO Response Force (and more recently the European Union’s “Battle Groups”). While Germany’s role in international crisis management is so far mainly geared towards peacekeeping activities, these commitments point to a growing readiness to take part in peace-enforcement and “high-intensity combat” as well. As with Kosovo, these developments seem to be underrepresented in Kerry Longhurst’s study.

The criticism does not challenge the core of the author’s argumentation that, 60 years after the end of World War II, the “past as prologue” still has a distinct impact on German attitudes towards the use of military force. Longhurst herself acknowledges, however, that the formative period in the late 40s and early 50s even for Germany moves further into the past and that new events and developments as well as a generational change leave their marks on German strategic thinking. It remains a challenging task for our profession to assess how well German strategic culture succeeds to reconcile an ever changing environment with the lessons of history.

III. Online and Offline Resources Related to the Documents

This section contains the relevant documents which our authors refer to in their respective contributions. The indicated internet sources (URLs) were checked on June 13, 2005. We do not claim to give a full compilation of all relevant sources on the issue at hand.

1. Official Resources and Documents

Council of the European Union (1998): European Union Code of Conduct on Arms Exports. Adopted on June 5, 1998. Brussels.

<http://ue.eu.int/uedocs/cmsUpload/08675r2en8.pdf>

German Federal Foreign Office (2004): Germany, Brazil, Japan and India launch a joint bid for permanent seats on the UN Security Council. New York, September 21, 2004.

http://www.auswaertiges-amt.de/www/en/aussenpolitik/vn/vereinte_nationen/d_im_sicherheitsrat/vier_html

German Federal Foreign Office (2002): Tasks of German Foreign Policy at the beginning of the 21st Century – East Asia: Japan, South and North Korea, Mongolia, China including Hong Kong and Macao, Taiwan. Berlin, May 2002.

<http://www.auswaertiges-amt.de/www/en/infoservice/download/pdf/asien/ostasien-en.pdf>

German Federal Foreign Office (2002): Tasks of German Foreign Policy at the beginning of the 21st Century – South Asia: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka. Berlin, May 2002.

<http://www.auswaertiges-amt.de/www/en/infoservice/download/pdf/asien/suedasien-en.pdf>

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<http://www.auswaertiges-amt.de/www/en/infoservice/download/pdf/asien/suedostasien-en.pdf>

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