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European Trade Unions and EU-China policy

von Tom Jenkins¹

European trade union organisations have followed the development of EU-China policy closely, particularly in the context of the Commission's 2006 strategic review of trade and economic relations with China, and subsequently. The European Trade Union Confederation first responded to that review in June 2006.² European Industry Federations (EIFs) affiliated to the ETUC have also carried out work on the subject, notably the European Metalworkers' Federation.³

Speaking at a major EU-China conference on trade and investment organised by the Commission in that context, John Monks, ETUC General Secretary, set down a central concern:

*"China is presented as the inescapable face of globalisation. But, in this debate, globalisation sometimes becomes an argument that social Europe is no longer affordable and is a barrier to necessary reforms and to competitiveness. That conclusion is simplistic and counterproductive. The natural reaction will be inward-looking. That will lead to economic nationalism, be it European or country-specific, up a dead-end road."*⁴

A coherent approach to decent work worldwide

To help meet the challenges, the ETUC has argued for coherent EU trade, employment, external and development policies to advance the decent work agenda in Europe and worldwide. For the ETUC:

"We need to invest in employment and quality of work as part of an integrated approach covering productive and freely chosen work; rights at work including full respect of ILO conventions; social protection; social dialogue; and the inclusion of the

gender dimension. That is what decent work is about.

*"It is incumbent on the European Union to use all the tools available to it, through aid and through trade, bilaterally and multilaterally, to advance the decent work agenda in a coherent manner. We welcome its stated intention to include sustainable development chapters – including labour standards as well as environmental protection objectives – in all the partnership, cooperation and trade agreements it is negotiating. A number of those negotiations are with countries or sub-regions that are components of ASEM. We would insist that the dynamic frameworks for cooperation and dialogue, the strong monitoring mechanisms and the transparency provisions that are envisaged be backed up with enforcement mechanisms that provide real incentives for their application."*⁵

There has been recognition of that aspiration by all EU institutions, although there is no consensus

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on the question of enforcement mechanisms despite the ETUC's persistent pressures.

The latest relevant text -the Commission Report on the EU contribution to the promotion of decent work in the world issued in conjunction with the Renewed Social Agenda in July 2008⁶

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² The ETUC response to the Commission's public consultation is at: <http://www.etuc.org/a/2493>

³ See EMF Project at:

http://www.emf-fem.org/projects/emf_china

⁴ Full text of the speech at: <http://www.etuc.org/a/2612>

⁵ John Monks' speech to the 1st ASEM (Asia-Europe Meeting) Social Partners Forum, 1 July 2008, at:

<http://www.etuc.org/a/5188>

⁶ Commission Staff Working Document: Report on the EU contribution to the promotion of decent work in the world

- reviews EU positions and makes some welcome proposals to advance the agenda particularly in its bilateral and inter-regional relations. This provides the ETUC with an opportunity to continue to press its case, in particular in the context of EU-China policy.

There has been no progress at the multilateral level in the context of WTO negotiations. In April 2008, the ETUC and EIFs wrote jointly to Commission President José Manuel Barroso:

“We fully reaffirm our support for multilateral approaches, while insisting that trade liberalisation should be carried out in an equitable, fair and sustainable perspective. Trade promotion cannot be an objective in itself, but should be a part of a strategy oriented towards the growth and development of the developed economies as well as in the developing countries. The interests of the Least Developed Countries should be fully protected in what is, after all, meant to be a development round.

“A central concern of ours is employment. The Lisbon strategy, aiming at the specialisation of the EU in the export of products with high added value, should also be reflected in trade policy. Europe disposes of highly competitive industrial enterprises – providing services and constituting the core of the Union’s growth – which would welcome an opportunity to develop their export to the emerging countries on an equitable basis. (...)

“We are specifically concerned that China, already particularly competitive in a whole series of sectors (more than 60% of the world market in pharmacy, cameras, computers, textile clothing and footwear, toys...) will continue to benefit from a special treatment as a “new member”.”

The collapse of the WTO Doha round will lead to an increased focus on bilateral or inter-regional agreements.

EU-China Agreement

The EU’s lack of real competence in foreign and security policy (which the ETUC deplores) and its ‘soft-power’ approach (which the ETUC supports) leads China not to take EU views seriously unless backed with trade measures, in which the EU has competence.

The EU is currently negotiating a ‘trade plus’ agreement with China aimed at widening the previous 1985 trade agreement. The EU wishes it to be a Partnership and Cooperation Agreement,

(SEC(2008) 2184) at: <http://register.consilium.europa.eu/pdf/en/08/st11/st11588-ad01.en08.pdf>

although it is not clear that China will agree to that description. The ETUC has participated in civil society meetings to discuss the PCA’s Trade Sustainability Impact Assessment.⁷ The ETUC believes that no agreement should contradict the Charter of Fundamental Rights of the European Union.

While the negotiations are confidential, it has been made clear that the Commission aims for the inclusion in the agreement of a strong sustainable development chapter.⁸ This should include reference to the ILO Declaration on Fundamental Principles and Rights at Work⁹, which covers core labour standards relating to freedom of association and collective bargaining, non-discrimination, child and forced labour. The adoption by the 97th Session of the International Labour Conference in June 2008 of the ILO Declaration on Social Justice for a Fair Globalization should reinforce that approach.¹⁰

The ETUC has warned that any assumption that China is operating a fairly transparent internal market should be treated with deep caution in the SIA. China’s objective to be extended Market Economy Status highlights that concern. The Commission has been reluctant to extend MES to China particularly because of ‘state interference’ - but that refers to discrimination against private or foreign-owned companies vis-à-vis state enterprises; interference in the allocation of raw materials; export or other sales restrictions; and price fixing. Interference in trade union affairs and the lack of free collective bargaining has not been considered in this context and the ETUC has pressed the Trade Commissioner at least to consider the US approach to MES based on that remit. The Commission said that under the criterion of state influence they did check whether workers could be recruited freely from the labour market and if wages were arbitrarily influenced by the state. This issue should be reviewed further and outcomes made subject to public scrutiny.

⁷ SIA documentation is at:

http://ec.europa.eu/trade/issues/global/sia/studies_geo.htm#china

⁸ For an (relatively advanced) example of a sustainable development chapter, see the EU-CAFIFORUM EPA, in particular articles 191-196 and 232, at:

http://trade.ec.europa.eu/doclib/docs/2008/february/tradoc_137971.pdf

⁹ http://www.ilo.org/dyn/declaris/DECLARATIONWEB.stat ic_jump?var_language=EN&var_pagename=DECLARATION TEXT

¹⁰ http://www.ilo.org/wcmsp5/groups/public/--ed_norm/--relconf/documents/meetingdocument/wcms_094042.pdf

Other areas that require deeper investigation include substantial inflows of Chinese workers officially encouraged in certain European countries on minimal conditions below the 'rate for the job'. This issue has been of particular concern for ETUC affiliates in Romania. The ETUC would be deeply concerned at any concessions on labour standards in the context of GATS Mode 4.

Horizontal ETUC approaches i.a. on trade defense, the social dimension of external energy policy and industrial policy are also particularly relevant to the EU-China relationship.¹¹

Some wider considerations

At the strategic level, the EU has had a degree of success in developing industrial standards that have been adopted worldwide, despite its weak industrial policy overall. Up to now, competition has been mainly with the US. REACH is an important landmark in this respect. This will be challenged increasingly by China, boosted by intellectual property obtained through various means including investments in Europe by sovereign wealth funds, the activities of which China wishes to protect from the proper scrutiny advocated by some European governments but which remains inadequate.

The telecoms sector is a key example where 'champion' companies concentrated by the Chinese government will be challenging for worldwide markets – with additional security implications for Europe. A good example is the recent case of Poland opening its telecoms market to the Huawei group, financed by the China Development Bank, which could contribute to the introduction of a Chinese G4 standard in Europe and elsewhere.

The EU has recently focused on the Chinese challenge in Africa, and issues have been the subject of joint discussions.¹² The ETUC shares concerns in the Commission that China's non-interventionist, business first approach undermines EU policies aimed at improving sustainability and governance. At the same time, the EU's perceived hard-line approach to Economic Partnership Agreements with African regions has undermined that 'high road' stance

¹¹ See for example:

<http://www.etuc.org/a/4226> ; <http://www.etuc.org/a/5039>

¹² Conclusions of 10th China-EU Summit, Beijing, 28 November 2007

<http://register.consilium.europa.eu/pdf/en/07/st16/st16070.en07.pdf>

and, once more, the ETUC would plead for more coherent EU trade and development policies in this context.¹³

Human Rights Dialogue

The EU and China are engaged in a human rights dialogue, including discussion of freedom of association. The ETUC has not been included in this process, although the International Trade Union Confederation (ITUC, or under the previous configuration as ICFTU) has been involved on occasion, together with NGOs.

China ratified the UN Covenant on Economic, Social and Cultural Rights¹⁴ in February 2001. The EU welcomed the decision but expressed concern at China's reservation to the effect that Chinese legislation took precedence over article 8:1 (a) of the Covenant, which guarantees the right to form and join a trade union of one's choice. The EU expressed the hope that China would "as a matter of priority, bring its legislation into line with the provisions of the Covenant". The ETUC has pressed the Commission to remind the Chinese Government of that position and to accept provisions relating to freedom of association in Article 22 of the International Covenant on Civil and Political Rights¹⁵ which the EU is encouraging China to ratify.

Workers' rights

The ETUC shares the appreciation of the international trade union Movement, well summarised in its submission to the G8 2007 economic summit meeting in Heiligendamm:

The spectacular growth of the Chinese economy over the last decade is often credited with lifting 200 million people out of poverty. However, the Chinese growth model is threatened by serious risks – imbalances between regions, growing inequality and social unrest, capital inefficiency, as well as resource depletion and environmental degradation and damage. A generation of migrant workers within China constitute an exploited underclass. The model of export-led growth and the insertion in global supply chains of foreign companies accounting for 60 percent of China's trade, has increased competitive pressures on workers in the rest of the world with an adverse impact on labour standards in developing countries. The export orientation of

¹³ See speech by Maria Helena André, ETUC Deputy General Secretary at the first EU-Africa Trade Union Summit, Lisbon, 26-27 October 2007: <http://www.etuc.org/a/4167>

¹⁴ <http://www.hrweb.org/legal/escr.html>

¹⁵ <http://www.hrweb.org/legal/cpr.html>

growth is based on the suppression of workers' core rights, all in order to obtain labour-cost advantages linked to an undervalued foreign exchange rate.

The priority for China is to evolve from being an outlier in terms of respect for internationally recognised standards and to shift to better balanced and qualitative growth that is sustainable both socially and environmentally. With the growth of the private sector, state authorities should introduce and enforce decent labour-market regulation and social protection to protect workers against the extremes of the market system and to manage change in a socially acceptable way. Enforcing regulation requires a vibrant civil society, fundamental civil and political liberties plus strong and effective unions operating under ILO standards of freedom of association and the right to collective bargaining including the right to strike. The transfer of clean energy technology, enforcement of the OECD MNE Guidelines and assistance to stop the catalogue of mining disasters should focus the attention of the G8 in their cooperation with China.¹⁶

Violations of trade union rights are chronicled in the annual ITUC report on the application of internationally-recognised Core Labour Standards, notably in the People's Republic of China¹⁷ and in the 2008 ITUC report to the WTO on the application of Core Labour standards in the PRC.¹⁸ Such reports are brought to the attention of the Commission which raises employment and labour issues in the context of the WTO Trade Policy Review Mechanism.

The lack of independence from the Chinese Communist Party of the All-China Federation of Trade Unions (ACFTU) and its at best patchy defence of workers engaged in disputes has been an obstacle to the ETUC seeking to establish direct bilateral relations with that organisation. At the same time, a number of its national affiliates have ongoing relations. Following a major debate in December 2007, the ITUC General Council agreed to engage with the ACFTU on concrete trade union issues, in the first instance in relation to MNEs operating in China as well as Chinese-

based companies operating elsewhere. The ETUC is following this process very closely.

Dialogue within a multilateral institutional framework - ASEM

The ETUC has consistently sought to have included an institutionalised social dimension to all EU trade, development and external relations initiatives, including social partners' structures. That is already the case in relation to African, Caribbean and Pacific countries in the context of the Cotonou convention and, it is to be hoped, the various Economic Partnership Agreements with ACP regions; with Mercosur, the Andean region, and Central American countries where trade union representatives and/or social partners from each region maintain structured contacts. Similar arrangements are being sought in the context of Euromed, and ASEAN¹⁹; of bilateral relationships with South Korea and India where FTAs are being negotiated; and the US in the context of the Trans-Atlantic Dialogue. The Commission has facilitated contacts with Japan and Canada. A range of arrangements exist within the European continent. But China leaves a yawning gap, barely breached by initiatives of the European Economic and Social Committee in its relations with its corresponding organisation in China.²⁰

The ASEM (Asia-Europe Meetings) process is currently the only inter-regional focal point accessible to the ETUC that includes China. Following protracted trade union pressures, the first ASEM Social Partners Forum was held in Brussels on 30 June - 1 July 2008. Unfortunately the ACFTU, who had been invited, was not represented although the Chinese Government was. The ASEM process nevertheless currently remains, for the ETUC, the main institutional site where meetings with the ACFTU should take place, particularly so in the context of China's ASEM presidency, and the ETUC hopes that the ACFTU will participate in trade union meetings planned around the second ASEM Labour Ministers' Meeting in Bali in October 2008.

¹⁶ Trade Union Statement to the Heiligendamm G8 Economic Summit "Towards Fair Globalisation"
http://www.tuac.org/en/public/e-docs/00/00/00/75/document_doc.phtml

¹⁷ ITUC Annual Survey of violations of trade union rights, 2007, at: <http://survey07.ituc-csi.org/getcountry.php?IDCountry=CHN&IDLang=EN>

¹⁸ ITUC Report for the WTO General Council Review of the Trade Policies of the People's Republic of China (Geneva 21-23 May 2008) at: http://www.ituc-csi.org/IMG/pdf/China_report_16_May.1330.FINAL.pdf

¹⁹ It might be noted that the ASEAN Trade Union Council, with which the ETUC maintains excellent relations, includes some non-ITUC affiliates, notably from Viet-Nam whose representatives also regularly attend ASEM-related meetings.

²⁰ See http://eesc.europa.eu/sections/rex/asia/china/index_en.asp?id=6150rexen

Bilateral relations in the employment and social field – the MoUs

As part of the EU-China summit in September 2005, a Memorandum of Understanding (MoU) was agreed in the labour, employment and social sector.²¹ Key points are that:

- *the parties "agree to set up a structured EU-China dialogue on labour, employment, and social affairs. This dialogue includes labour, employment, human resources development, social protection, labour legislation, labour relations and social dialogue."*
- *and that "it is understood that the Parties will call upon relevant stakeholders to participate in the dialogue, both horizontal and sectoral as well as in the specific events. In particular, the Parties may invite contribution from the representatives of workers and employers through the respective appropriate mechanisms."*

A further MoU was signed in January 2008 setting up a structured dialogue with the Chinese Academy of Social Sciences on future policy challenges in areas such as employment, social security, demography, social dialogue and labour relations. It was intended to launch a policy discussion which is "prospective" in nature, with a focus on long-term trends and challenges.²² Linked to this is the proposed establishment of a China Academic Council which, it is hoped, will include European trade union input.

Formal EU-China policy dialogue in relation to occupational health and safety, notably in the coal mines sector, is also being developed, encouraged by the ETUC.

A series of meetings and seminars have been held under the broad umbrella of the MoUs covering issues such as vocational training, Corporate Social Responsibility, mobility and aspects of labour law. The ETUC is not automatically invited and, to our knowledge, the ACFTU even less. Nominees of the ETUC and/or the European Trade Union Institute REHS have nevertheless been involved in a number of related meetings.

The ETUC believes that the EU social partners should be fully involved in the MoU processes, including the setting of agendas. This may

²¹http://ec.europa.eu/employment_social/international_cooperation/docs/china_mou_final_signed.pdf

²²See: <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/08/30&format=HTML&aged=0&language=EN&guiLanguage=en>

provide a platform for them to elaborate joint positions about how to approach i.a. investment in China. The development of free collective bargaining should be a priority issue to be tackled under the MoUs, rather than discussion of CSR approaches which appear to be the soft, non-union, industrial relations option preferred by the Chinese authorities. It might be noted that the Chinese authorities have shown interest in aspects of labour law in Europe and sought to incorporate them piecemeal in Chinese law, excluding trade union rights.

Social dialogue approaches in the EU-China relationship are hindered on the Chinese side by the lack of autonomy of the ACFTU. It is clear that economic liberalisation is creating growing inequalities and internal tensions in China, manifested in particular by increasing industrial unrest. The hope, reflected in the ITUC's approach described above, is that this would encourage the ACFTU to act increasingly as an independent bargaining agent. This could also help develop a relationship in the EU-China MoU context. It should be noted that the EU and Chinese authorities appear to place great store in the views of their business communities²³, an unbalanced approach that has been questioned by trade unions.

Activities at company level

The ACFTU has launched some high profile recognition campaigns in foreign-based companies. A notable case is Wal-Mart with which, it was reported in July 2008, agreements including pay rises, minimum rates, paid leave, overtime pay and social security benefits were reached with local ACFTU unions in three out of 100 stores. It can be expected that more similar deals will be concluded. These, however, are exceptional agreements with a foreign-based, high profile and, for Western trade unions, notorious target. Few agreements, where they exist at all particularly with national companies, cover wages and conditions in such a manner.

²³ for example the 2007 business summit, the conclusions of which were greeted in the joint statement of the 10th EU-China Summit as follows: "Leaders welcomed the China-EU Business Summit held in Beijing on 27-28 November 2007. Both sides underlined the importance of involving more actively stakeholders in China-EU trade and investment-related dialogues, and expressed their commitment to continue to support the cooperation between the two business communities, with a view to creating more business opportunities and expanding the scope of development for enterprises." Site at: <http://www.summits.aip.pt/China/index.asp>

Encouraging the development of autonomous collective bargaining, starting in MNEs operating in China, is an avenue being pursued by a number of European and international trade union organisations.

The ETUC and EIFs have been studying the role of the 500 or so European Works Councils in firms with a strong Chinese connection, in the form of a Chinese subsidiary, a joint venture with a Chinese partner, a Chinese co-shareholder or Chinese subcontractors. A major conference was held on the subject in Brussels in June 2008 organised in conjunction with the ITUC and CEDAC, with Commission support.²⁴

As part of the renewed social agenda, the Commission published a working document in July 2008, on the role of transnational company agreements in the context of increasing international integration that offers a further avenue to be pursued.²⁵ The ETUC has proposed to conduct a project covering International Framework Agreements, of which there are currently about 60, the vast majority of which are with European companies, negotiated by the Global Union Federations.²⁶ National trade unions in Europe are involved in other GUFs activities in relation to China, which are beyond the scope of this paper.

European trade unions insist that companies should respect the OECD MNE Guidelines, and work on China is being carried out jointly by TUAC and BIAC in the framework of Encouraging Responsible Business Approaches.²⁷

Further, they ask Europe-based companies to act in China as they would expect them to act at home in relation to basic workers' rights. The ETUC reacted strongly in June 2006 at reports that the European Chambers of Commerce in Beijing

were threatening to reconsider new investment or continuing their activities in China in response to proposals to improve labour contract laws.²⁸ Following an active ETUC campaign, the Chambers issued a statement 'clarifying' their position – in fact retracting it – the following December. The law was adopted in July 2007, and the ETUC welcomed a statement by the Chambers that it drew on EU law and was not considered as a break on competitiveness.²⁹ Bringing the law into effect, however, has been fraught with difficulties, as detailed in the ITUC Report for the WTO General Council Review of the Trade Policies of the People's Republic of China in May 2008, cited above.

This reinforces the point that, while European trade unions can and do seek to influence European MNEs, the bulk of the work needs to be carried out by proactive and independent trade unions in China itself.

Further Links

Organising activities and collective bargaining in companies in Europe, are mainly carried out at national level. The ETUC provides some coordination of collective bargaining at the horizontal level. Our work in this area is at <http://www.etuc.org/r/792>. The EIFs (listed at <http://www.etuc.org/a/17>) deal with trans-European company issues, for example here is the EMF page on aerospace http://www.emf-fem.org/industrial_sectors/aerospace. There is also activity in the context of European Works Councils. See <http://www.etuc.org/r/57>

At international level, organising and campaigning activities are organised by the GUFs. For example, the Wal-Mart campaign is dealt-with by UNI. See http://www.union-network.org/UNISite/Sectors/Commerce/Multi_nationals/wal_mart_campaign_index_page.htm:

Wal-Mart strenuously resists trade union organisation, although there are a few exceptions in some countries (mainly where Wal-Mart took over an already organised company such as ASDA in the UK). Unlike the ACFTU, European trade unions do not have the weight of the State brought to bear on the company to recognise them.

²⁴ See <http://www.ewcandchina.com/index.php> with links to working papers

²⁵ SEC(2008) 2155 at: <http://register.consilium.europa.eu/pdf/en/08/st11/st11555-ad04.en08.pdf>

²⁶ see for example : <http://www.global-unions.org/spip.php?rubrique25>
<http://www.imfmetal.org/main/index.cfm?n=47&l=2&c=10266>
http://www.uniglobalunion.org/UNISite/In_Depth/Multinationals/GFAs.html
<http://www.bwint.org/default.asp?Issue=Multinationals&Language=EN>
<http://www.icem.org/en/69-Global-Framework-Agreements>
<http://www.itglwf.org/DisplayDocument.aspx?idarticle=63&langue=2>

²⁷ See for example: http://www.tuac.org/en/public/e-docs/00/00/02/E0/document_doc.phtml

²⁸ Press Release at: <http://www.etuc.org/a/2514>

²⁹ Press Release at: <http://www.etuc.org/a/3792>

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