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淡江大學歐盟資訊中心通訊

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2008 年 10 月 24~25 日兩天，歐盟與亞洲各國的政府元首於北京共同召開第七屆亞歐高峰會。此屆高峰會的討論重點包括促進歐亞間的政治對話、推動經濟合作、推動永續發展及深化社會文化交流四個面向。

2009 年 6 月 4~7 日歐洲議會將舉行新一屆的大選，本期針對歷年來歐洲議會大選投票率狀況進行評估，展望明年選舉概況。由於愛爾蘭公投否決了里斯本條約，因此對於 2009 年歐洲議會大選，也帶來了相對的不確定性。

歐盟 2009 年初步預算草案是 2007-2013 年第三個多年期財政框架，其推動重點在於落實與強化歐盟政策的一貫性。維持穩定成長及促進經濟趨勢以增加就業，仍是編列預算的首要目標。2009 年預算草案也包含了最後一輪的東擴相關事務，包括促進歐盟繁榮、團結與安全等計劃目標，不僅適用於聯盟之內，也必須由歐盟將其發揚至邊界以外的地區。在 2009 年，支持中東和平進程、柯索沃與更多巴爾幹地區的穩定仍將是政策最優先考慮的部分。

本期「學者專欄」邀請淡江大學歐洲研究所卓忠宏教授撰寫『從地中海聯盟成立解析歐盟與中共在非洲的衝突』一文，文中分析地中海聯盟成立的來龍去脈，探討歐盟推動南向政策的策略，同時爲讀者解析歐盟與中共在非洲大陸這塊大餅上，所產生的利益衝突。

「讀者專欄」部分，作者以法學觀點切入，評估歐盟與中國未來夥伴關係暨合作協定的內容與執行狀況。文中預測歐中未來合作關係之法律架構並考量亞洲區域配置及 WTO 法之因素。歐盟與中國在談判上的風險涉及政治層面，特別是於未來協定中加入民主條款之議題。因此，歐盟價值及其追求之利益兩者之間的衝突，將於雙方談判過程中更加突顯。

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第七屆亞歐高峰會於 10 月召開

2008年10月24~25日兩天，歐盟與亞洲各國的政府元首於北京共同召開第七屆亞歐高峰會(7th ASEM Summit)，由中國擔任東道主，雙方以“對話合作，互利共贏”的基礎針對一系列國際和地區問題進行深入討論。

首先，對近一年來，亞洲地區發生重大自然災害造成人員傷亡和財產損失，表示深切慰問，並強調應在發生自然災害時，能迅速有效地透過全球性合作提供人道主義援助和技術，承諾在基礎設施、農業、衛生、水利、環境、科技、教育等領域展開防災、災害管理和重建方面的務實合作，促進區域和國家在防災和災害管理方面的能力建設。

根據主席宣言，此次的會議重點包括促進政治對話、推動經濟合作、推動永續發展及深化社會文化交流四個面向：

一、促進政治對話

在促進政治對話方面，包括下列三項重點：

(一)持續在政治及外交上合作以解決國際爭端，並強烈譴責恐怖主義。對於 2007~2008 年間的《聯合國全球反恐戰略》以及在西班牙馬德里舉行的歷屆亞歐反恐會議之成果表示讚賞。

(二)支援東亞、東協以及南亞的整合，肯定《東協憲章》的簽署，包括倡議成立東協人權機構，以及發表《東協經濟共同體藍圖》；並就朝鮮半島形勢交換意見，積極肯定且支援六方會談進程，希望能落實第二階段行動所取得的進展。

(三)致力於促進阿富汗的和平、穩定與發展，支持阿富汗民族和解、團結與領土完整；因協助緬甸救災重建而組成的聯合國、東協以及緬甸三方之“核心小組”的工作上取得進展，並歡迎國際社會提供援助。也呼籲解除黨禁，早日釋放被羈押人士。最後，則是致力於透過談判解決伊朗核子問題及對伊朗核計畫的深切關注。

二、推動經濟合作

在推動經濟合作方面，此次會議論壇聚焦於探討如何解決國際金融危機以及加強經貿合作。第七屆的亞歐高峰會參與國較歷年來多，規模變得更大，其中有 6 個新成員國，包括印度、巴基斯坦、蒙古、羅馬尼亞、保加利亞以及東協秘書處，皆爲首次參加亞歐高峰會。此次高峰會的參與成員共計 43 個國家及歐盟執委會與東協秘書處等 2 個機構，前述國家占全球 GDP 的一半、擁有全球近 60%的人口、並佔全球貿易額的 60%。

針對金融危機，各國元首同意應採行負責任與穩健的貨幣、財政與金融監管政策、提高金

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融體系的透明度、強化監管與改善危機處理機制，並承諾採行必要與即時的措施來維持金融體系的穩定。各國元首支持於11月15日於美國華府舉行全球金融高峰會，針對當前危機、改革國際金融體系原則與維持全球經濟長期的穩定成長等議題進行討論。各國元首一致同意發表《關於國際金融形勢的聲明》，關注低度開發國家的發展，強調減免債務及債務可持續性的重要意義。重申2008 年6 月在韓國濟州舉行的第8 屆亞歐財長高峰會上達成的共識，即必須採取一致的、強而有力的政策因應近期經濟困境，加強亞歐高峰會成員在經濟整合、基礎設施融資、小額信貸等方面發揮互利合作，具體形式可包括資訊與知識交流、能力建設等。

在加強經貿合作方面，大會認爲WTO是亞歐高峰會成員間促進貿易自由化、拓展貿易關係和增加經濟合作機會最有效的方式。對杜哈回合談判現狀表示憂慮，重申堅定致力於推動杜哈回合談判實現一個全面、有雄心及平衡的結果，並實現此回合的重要目標，強調2008 年9 月在迦納首都阿克拉舉行的「第三屆援助效率高峰論壇」通過的《阿克拉行動議程》之重要性，致力於通過增加官方發展援助、免債及創新融資機制增加額外的發展資金，以推動聯合國千禧年發展目標的實現。

此外，透過《亞歐高峰會更緊密經濟夥伴關係河內宣言》，主席重申亞歐高峰會成員應加強合作，共同致力於深化亞歐經濟夥伴關係，呼籲經濟部長們及早舉行下一次會議，評估亞歐經貿活動及《亞歐高峰會更緊密經濟夥伴關係河內宣言》的實踐，確認今後開展實質性和有效合作的具體領域及活動。強調落實《貿易促進行動計畫》和《投資促進行動計畫》中之有關活動，並要求通過亞歐工商論壇等機制，使工商界更容易參與亞歐高峰會的進程，加強亞歐會議投資聯絡點之間的聯繫，以促進中小企業合作及經濟發展。

最後，歐亞雙邊也針對國際商品價格，特別是石油價格波動和糧食價格波動表示關注。呼籲增加糧食援助和社會保障以及促進貿易等措施，迅速平抑過高的糧價，也承諾共同採取綜合性中長期措施，增加永續農業生產投入，提高農業生產力，保障糧食供給。高度評價越南倡議於2009 年舉行的第一屆亞歐糧食安全論壇，並重申支持聯合國在其中發揮領導和協調作用，支持糧農組織在羅馬高峰會議通過的《糧食安全宣言》。

三、推動永續發展

在全球一片熱烈討論的永續發展議題上，此次會議也有廣泛且深入的討論，包括了實現千禧年發展目標以及約翰尼斯堡會議確定的永續發展目標、加強能源安全合作、因應氣候變遷挑戰、保護水資源、森林和大氣等環境保護、以及加強社會和諧等問題。除了已在2007年12月在印尼峇厘島舉行的氣候變遷高峰會取得的實質進展之外，他們重申2009年底在峇厘路線圖基礎上，確保就目前階段、2012年前與2012年後，應對氣候變遷達成一個有效及全面性的結果，並強調應在12月波茲南氣候變遷高峰會和明年的哥本哈根氣候變遷高峰會上，下定立即採取行動的決心。爲此，本次大會亞歐雙邊針對氣候變遷議題達成共識，共同簽署一項《永續發展北京宣言》，並同意遵守由聯合國領導的協商機制。

此份宣言中，計有落實千禧年發展目標、關注全球氣候變遷及能源安全以及提升社會和諧三大重點，這三大議題是實現永續發展時，需特別關注的問題。宣言中提及必須全面實施聯合國

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環境與發展大會通過的《里約宣言》和《21 世紀議程》、國際發展籌資大會確定的《蒙特雷共識》、《聯合國氣候變遷綱要公約》、峇厘島氣候變遷高峰會通過的“峇厘島路線圖”以及永續發展高峰會議通過的《約翰尼斯堡實施計畫》等一系列大會中確定的目標、原則和行動規劃。

聯合國千禧年發展目標和約翰尼斯堡目標是國際永續發展合作的基礎。世界各國應加強發展合作，從而促進農業生產、貿易便利化和技術轉讓。大會呼籲各國提高永續農業生產力和糧食生產，減少扭曲市場的農業補貼，增加對農業和農村發展投入，爲低收入者創造更多就業機會，提高其收入水準，從而有效減少饑餓和貧困問題，確保糧食安全。呼籲發達國家增加對發展的投入，落實2015年前官方發展援助占國民總收入0.7%的承諾目標。

對於目前最熱門的氣候變遷及能源安全議題，大會強調《聯合國氣候變遷綱要公約》和《京都議定書》是氣候變遷國際談判與合作的主要管道。強調已開發國家應繼續率先行動，包括進行量化的限制和減少排放量目標，並向發展中國家提供資金和轉讓技術。發展中國家則要在永續發展框架下採取適合本國國情的減緩行動，以實現減少排放量的結果。這些行動可爲減少溫室氣體排放和生物多樣性的保護做出重要貢獻，包括減少破壞森林與森林退化現象，通過促進造林和再造林增加碳信用額，實施森林永續管理，促進合理使用土地，採納永續生產和消費模式以及採取適當措施打擊非法採伐和相關貿易等;並強調能源安全與世界經濟的穩定發展和各國的永續發展緊密相關，各國應享有充分以及永續利用能源與資源促進自身發展的權利，呼籲實現能源供應多元化、永續性和安全性，也對當前國際油價及其變化趨勢表示強烈關切。

四、深化社會文化交流

在提昇社會和諧方面，亞歐會議成員面臨縮小貧富差距、保持多樣文化且同時維護社會和諧、增加就業、提供醫療和社會保障等挑戰。在勞工議題上，強調應有效實施1998年《國際勞工組織工作中的基本原則和權利宣言》和2008 年《國際勞工組織關於促進社會正義和實現公平全球化宣言》中提出的核心勞工標準。並支持2008 年10 月在印尼舉行的第二屆亞歐會議勞動及就業部長級會議通過的促進全球勞工市場活動及專案。此外，大會也針對國際移民、人口老化及企業社會責任等問題加以討論。

最後，在深化社會文化交流上，大會重申尊重文化多樣性，保護文化傳統，提倡不同社會制度、發展不同文化間的相互理解、寬容、尊重及和睦相處。鼓勵各成員國儘快批准和實施聯合國教科文組織《保護和促進文化表現形式多樣性公約》，並繼續致力於加強人力資源開發和能力建設合作，就基礎教育、高等教育、職業教育和終身教育等問題開展交流與對話。促進全球衛生安全，包括發展醫療系統和當地基礎設施，促進發展中國家公共衛生事業發展，也肯定亞歐基金在推動亞歐人員、文化和學術交流等方面做出的積極貢獻。

亞歐會議各層次的倡議和會議日益增多，預計在下次會期之前，各領域共計將有超過70場大小會議。對此，主席重申各成員有必要以有效方式進行溝通以促進未來合作，並讚賞亞歐會議機制建設方面取得的進展，包括第六屆高峰會提出的議題召集人倡議，即有關國家可在其感興趣和有專長的領域或問題上發揮帶頭作用。在現有合作方式基礎上，建立由數個會員國針對某一領域，開展專案或倡議的共同提案所組成的機制，議題或領域召集人應該由數個成員共同擔任，

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亞洲和歐洲各方可以在兩屆高峰會議間輪流擔任召集人，每屆任期一般不超過四年。大會也希望加強亞歐會議成員外交使團間的協調性。主席指示官員們，將繼續探討如何進一步提升亞歐高峰會的知名度，並對比利時將於2010年主辦第八屆亞歐高峰會，抱以高度期盼。

圖書館歐盟資訊中心 許琇媛、李成鈞編譯

資料來源：

http://ec.europa.eu/external_relations/asem/index_en.htm

http://www.asem7.cn/english/

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2009 年歐洲議會大選之展望

2009 年 6 月 4~7 日歐洲議會將舉行新一屆的大選，以下針對歷年來歐洲議會大選投票率狀況進行評估，展望明年選舉概況。

歐洲議會於 1952 年召開第一次大會，由會員國內 78 位議員組成，當時的歐洲議會是一個諮詢性的會議，並沒有實質的權力。到了於 1979 年，歐洲議會舉行了第一次的公民直選，擴張了新的權力，但到了 30 年後的今天來看，卻發現歐洲議會大選的投票率呈現持續性地下降，原先 1979 年 63%的投票率，到 2004 年剩下 45.6%，許多歐盟的政治家希望可以在 2009 年大選反轉這個趨勢。

歐洲議會是歐盟內唯一完全經由公民直選的機關，但其實歐盟一般政策的提案及執行權仍然掌握在執委會手中，歐洲議會並沒有太大的實權，這也是較讓一般人詬病的地方。歐盟的每個會員國都可以自行組織歐洲議會大選，但須符合同樣的民主原則，像是按照比例分配席次、投票者須滿 18 歲、投票無性別歧視及採無記名投票等。在席次的分配上，是以各國的人口數成比例地分配，例如德國擁有最多的 99 席，馬爾他則是只擁有了最少的 5 席，另外女性議員的比例則從 1979 年的 16.5%提升到 2004 年的 30.2%。

由於愛爾蘭公投否決了里斯本條約，因此對於 2009 年歐洲議會大選，帶來了額外的不確定性。如果在 2009 年 6 月大選前，里斯本條約仍然無法被所有會員國所批准，則將會繼續適用尼斯條約的規定。這對會員國在議會中的席次分配有直接的影響。現行的尼斯條約規定總席次在 2009 年選舉降至 736 席，但里斯本條約卻規定新的席次爲 751 席。席次的問題對於會員國來說非常地重要，所有會員國都希望可以透過得到最多可能的席次來發揮在議會中的影響力。在里斯本條約談判期間，除了德國成功維持原先的 99 席，其他像是英國、法國等大國的席次都爲了要讓出空間給新會員國而遭到縮減。

隨著歐盟歷年來五次的擴大，除了會員國數量增加外，議會的權限也在每一次的條約修改中得到實質的增加，但歐洲議會大選的投票率卻是持續下降。尤其在 2004 年創新低，只有 45.6%，許多執政黨遭受到很大的挫敗。

表一：歷屆歐洲議會大選會員國投票率（單位爲%）

國家/年	**1979**	**1984**	**1989**	**1994 (瑞典、奧地利、芬蘭於 95 年加入)**	**1999**	**2004**	**趨勢**
奧地利				67.7	49.4	41.8	下降
比利時	91.4	92.2	90.7	90.7	91.0	90.8	下降 (強制性投票)

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丹麥	47.8	52.2	47.4	52.9	50.5	47.8	下降
芬蘭	-	-	-	57.6	31.4	41.1	上升
法國	60.7	56.7	48.8	52.7	46.8	43.1	下降
德國	65.7	56.8	62.3	60.0	45.2	43	下降
希臘	78.6	77.2	80.1	80.4	75.3	62.8	下降(強制性投票)
愛爾蘭	63.6	47.6	68.3	44.0	50.2	59.7	上升
義大利	84.9	83.4	81.4	74.8	70.8	73.1	上升
盧森堡	88.9	87.0	96.2	88.5	87.3	90	上升(強制性投票)
荷蘭	58.1	50.6	47.5	35.6	30.0	39.1	上升
葡萄牙	-	72.4	51.2	35.5	40	38.7	下降
西班牙	-	68.9	54.7	59.1	63	45.9	下降
瑞典	-	-	-	41.6	38.8	37.2	下降
英國	32.2	31.8	36.6	36.4	24.0	38.9	上升
賽普勒斯	-	-	-	-	-	71.19	
捷克	-	-	-	-	-	27.9	
愛沙尼亞	-	-	-	-	-	26.89	

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匈牙利	-	-	-	-	-	38.47	
拉脫維亞	-	-	-	-	-	41.23	
立陶宛	-	-	-	-	-	48.2	
馬爾他	-	-	-	-	-	82.4	
波蘭	-	-	-	-	-	20.4	
斯洛伐克	-	-	-	-	-	16.7	
斯洛文尼亞	-	-	-	-	-	28.3	

資料來源：歐洲議會(2004-2009)

針對歐洲公民投票率下降的現象來看，外界存在著一些疑問，首先就是歐洲議會大選民主合法性的問題。整體來看，一個強大的議會要達到在歐盟裡“制衡”的民主使命，就應該要在自己本身以及整個歐盟增加民主的合法性。從 1979 年開始，歐洲議會就已經透過每一次的修改條約以及共同決定程序（歐洲議會在立法權上跟部長理事會有同等的權力）逐步且持續地在增加它的政治影響力，至今幾乎已經延伸到每一個歐盟政策制定的範圍。這代表歐洲議會角色的增強，可以深入到會員國內的法律層面，現今，大部分會員國內的新法律都源自於歐盟法（根據估計，有 60% ~80%的國家法律皆源自於歐盟層級的規定）。

其次，歐洲議會大選仍然是在國內的議題上爭論。因此大部分的學者或政治家本身都將此視爲是“次級的國家選舉”。事實上，大多數的選民對於歐盟內政策的焦點及爭論一無所知，因此國會就代替選民介入，也因此歐盟的政治領域變得不值得一提。更糟的是，在大部分的歐盟會員國中，選民們似乎利用歐洲議會大選來作爲懲罰中央政府的工具，政治家們因此趨向將競選活動以國內議題爲基礎，試著追求國內政黨及選民的認可。這也是因爲選舉制度及選舉名單都是由國內的政黨所決定的。

布魯塞爾「歐盟政策中心」研究員沙巴西安・柯帕（Sabatian Kurpas）近期就向歐盟綜合新聞網站 EurActiv 說道：「你可以是一個在歐盟層級勤奮工作且非常成功的歐洲議會議員，但最後也有可能不會在提名名單上，因此，與擬定名單的國內政黨保持良好關係便會更加重要。」

此外，選民冷淡看待歐洲議會大選的原因，就是他們的聲音與意見無法爲歐盟政策帶來多大的改變。多數人因爲無法立即見到對歐盟權力分配方面的直接影響而沒有投票的意願及動機。

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的確，在現今 785 位歐洲議會議員中，連占有 99 席的最大國德國也僅有相當受限的影響力，更別說是像盧森堡（占有 6 席）或馬爾他（占有 5 席）的這種小國家，甚至像占有 78 席的法國也對於失去了影響力而不平。這也是可以解釋，爲何這些國家不願更進一步擴大歐盟的原因之一。

取而代之，在歐洲議會中可以發揮影響力的則是政黨的政治聯合動作。例如擁有 288 位議員的歐洲人民黨－歐洲民主派聯盟（EPP－ED）就是議會中最有影響力的政治團體。但由於聯盟中各政黨的政治目標及國家利益還是有所不同，因此缺少透明化的權力競爭以及明確的計畫及目標。

另一個原因，則是媒體報導貧乏及缺少資訊。英國諾丁安大學的社會科學教授 Cees Van der Eijk 就提出媒體很少把注意力放在歐洲議會大選上，歐盟的各種動作往往是不易看見的，而大選甚至在還沒舉行前就被歸類爲無聊的新聞。他又說：當媒體不斷預言會出現低投票率時，它就會成真！

這在英國 1999 年對於歐洲議會大選的投票得到證明，當時僅有一千一百萬人去投票，遠遠不及幾年後當紅電視節目“Big brother”有兩千三百萬人去投票的紀錄。執委會民調報告（Eurobarometer）最近一期的調查報告指出，大部分的歐洲公民都認爲歐洲議會在歐盟中扮演的角色越來越重要，但他們還是無法充分了解歐洲議會的角色及功能。73%的人認爲他們對於歐盟活動資訊的了解少之又少，根據此份調查，只有 10%的人真正注意到下次的歐洲議會大選將於 2009 年舉行。

在一堆撻伐聲中，還是有一些正面思考被提出，第一，在尚未明確定義的歐盟政治領域下，並沒有阻礙歐洲議會發展成一個穩定且典型的政黨議會。第二，在選舉中，選民仍以國家背景爲基礎，但由於歐洲議會政黨團體有社會性的影響，所以他們在選舉過後成員間仍有凝聚力。根據 Van der Eijk 的說法，歐洲政黨在政策上出乎意料地團結，大致上與歐盟會員國內的左右派政治相符。雖然缺乏政治化的歐洲議題，但還是能看出選民廣泛的政治偏好。最後，雖然歐洲議會大選的投票率低於各會員國內選舉，但仍然比美國中期選舉的投票率高。早期的歐洲議會主席寇克斯（Pat Cox）就曾指出，1999 年的歐洲議會大選投票率比先前的美國總統選舉的投票率高。

從政黨的角度來看低投票率及選民的冷漠，他們提出了不同的解決之道。其中最有遠見的就是設立一個適當的泛歐競選活動，讓包括保守派、社會主義派、自由派等的每一個政治團體在各會員國內針對泛歐議題舉辦類似的競選活動，這能使選民在最接近聯邦的情形下直接投票給歐洲議會政黨的提名人以取代目前由國內政黨提名的狀況。歐洲綠黨的發言人菲利浦．蘭伯特（Philippe Lamberts）在與 Euractiv 的訪談中表示，在歐洲的政黨之中，綠黨（European Green Party，EGP）是最接近這條泛歐道路的政黨，在 2004 年的大選，綠黨是第一個透過文宣及海報來舉行公共競選活動的政治團體。對於 2009 年歐洲議會大選，綠黨有更多的計畫，他們將會在好幾個歐洲的首都，像是羅馬及布拉格等舉辦一連串的公共競選活動。蘭伯特說：“你將會真實感覺到綠黨的實際行動並非紙上談兵”。

在社會主義陣營方面，歐洲社會黨（Party of European Socialists，PES）已選擇順應左右派的政治界線來分化爭議。黨主席波爾．拉斯姆森（Paul Nyrup Rasmussen）最近表示：我

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們希望不只在左派右派上做出明確的選擇，也希望可以有計畫地磋商與討論。我們希望保守派跟社會民主派可以有不同的政見，而我們當然也是如此。此外，爲了銜接年輕的選民，歐洲社會黨投入了龐大的投資在網路工具上。它們針對 2009 年的歐洲議會大選開啓了一個泛歐網路諮商。但尚待分曉的是它們能否提出一個有意義的計畫來讓傳統的選民回籠。

中間偏右的歐洲人民黨（European People's Party，EPP）則將在 2009 年 4 月的黨代表大會中將選舉計畫公諸於世。他們發言人表示，歐洲人民黨的競選活動將會以“試圖在歐盟機構及民意的缺口上建立橋樑”爲目標，針對像是氣候變遷、人口變遷、確保歐洲更繁榮及安全，以及歐洲在全球的角色等實質性的議題及問題來討論。

歐洲人民黨在一些議題上，像是土耳其的入盟以及預算的改革上，也遇到無法在它們 72 個政黨成員中達成共識的困難，然而，在歐洲議會中的歐洲人民黨－歐洲民主派（EPP-ED）聯盟中，已試圖將廣泛且分歧的政策歸納爲以下的四個重點：1.建立歐洲價值、2.確保歐洲的經濟繁榮與成長、3.確保歐洲安全、4.讓整個歐洲更爲團結一致。

在上一屆 2004 年的歐洲議會大選之後，歐洲人民黨遭受到不少批評，他們爲了要在歐洲議會上贏得更多席次而接納了其他額外的政黨入會，也犧牲了政治上的一致性。位於布魯塞爾的智庫－歐洲政策中心（European Policy Centre，EPC）的名譽主席馬克思・柯恩斯塔曼（Max Kohnstamn）就批評議會政黨團體的組成，像是歐洲人民黨－歐洲民主派內就存在著“半聯邦歐洲”及希望歐洲整合是一種鬆散架構的“疑歐論者”兩種聲音。他又說：他們的結盟不是爲了政治上的目標，而是爲了人數的多寡，與其說這樣的團體是政黨的國會代表團體，倒不如說一場誤解選民的文字遊戲。

此外，歐洲議會的第三大聯盟：歐洲民主自由聯盟（European Liberals and Democrats，ELDR）最近也開始討論策略。黨施政方針圍繞在四個主題上，首先將是共同外交、安全與防禦政策。而未來起草的 2009 年 ELDR 選舉方針將取代自由歐洲及歐洲單一市場的主題。ELDR 最終的選舉計畫案會在 2008 年 10 月 30 及 31 這兩天，在瑞典斯德哥爾摩舉辦的黨大會中正式通過。

許多對於歐洲議會大選的批評都指向缺乏能見度這個方面，例如他們沒有公開從事歐盟高層工作的人選，像是執委會主席。若是這些政黨團體可以提早提名候選人，就能夠引起選民跟媒體的注意，進而促進與支持歐洲統合的腳步。

圖書館歐盟資訊中心 許琇媛、李成鈞編譯

相關資料如下：

http://www.euractiv.com/en/eu-elections/european-elections-outlook-2009/article-174694

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2009 年歐盟預算分配概況

一、簡介

2009年初步預算草案是2007-2013年第三個多年期財政框架，推動重點在於落實與強化歐盟政策的一貫性。維持聯盟境內的繁榮、團結、安全與對外關係等目標並未改變，預計將在2009年度政策計畫中予以強化。2009年底，歐盟將會看見里斯本條約的生效。在適當穩定的制度框架下，歐盟將可以專注於當前的挑戰。

維持穩定成長及促進經濟趨勢以增加就業，仍然是議程中的首要目標。支持改革是這項計畫重要的一環；2009年一個深化的歐洲研究區域將成形。確保如伽利略計畫與歐洲改革技術中心等一流計畫成功的努力，將不會間斷。增進競爭力與以上計畫互補，團結政策持續減少歐盟區域間的不平等。

歐盟在氣候變遷問題上扮演的角色非常重要，必須優先考慮將能源與氣候變遷問題分階段實行。歐盟進行中的能源政策發展對於經濟發展與氣候變遷策略來說都很重要，執委會將透過第七屆研究框架計劃，提倡探究無污染及有效的能源。其結果也將有助於能源獨立自主與安全。

歐洲公民必須是政策的重心，特別是關於改善社會融入、訓練機會、公共健康與安全、平等與反歧視方面。在力圖達成一個自由、安全與正義的歐洲地區，發展共同移民政策、創立共同法治區域將是關鍵要素，對於新成員國逐步引進的直接協助也將繼續。在羅馬尼亞與保加利亞的加盟後，2009年預算草案也包含了最後一輪的東擴相關事務，包括促進歐盟繁榮、團結與安全等計劃目標，並不僅適用於聯盟之內，也必須由歐盟將其發揚至邊界以外的地區。

在 2009 年，支持中東和平進程、柯索沃與更多巴爾幹地區的穩定仍將是政策最優先考慮部分。糧食的援助，在全球民生必需品市場價格上升的情況下，有著顯著的關鍵作用。爲符合峇厘島藍圖所制定的目標，執委會提議加強發展合作下的環境部分，以協助發展中國家處理氣候變遷的問題與挑戰。

二、財政框架

2009年歐盟預算分配，重點將爲激勵歐洲經濟復甦做準備

2009年歐盟預算的最大部份45%，計600億歐元將配置在研究、創新、刺激就業與區域發展等各項計畫上，同時結合長短期的相關配套措施來因應現階段所面臨的經濟危機，歐盟期盼以最快最有效的方式來恢復歐洲經濟狀況。

歐盟針對2009年研究與創新的計畫，分別增加11%與22%的預算經費，主要爲在艱困的經濟時期，提升歐盟整體的競爭力，同時也積極讓歐盟發展成低碳排放量的經濟體。預算中關於農業部份，仍維持占歐盟整體預算的40%，對於環境與鄉村地區發展，則提升2.9%。2009年預算中，

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運用在歐盟全球角色部份，也同時被提升了7%，如包括提撥6億歐元來協助開發中國家，因應糧食價格上漲的相關問題。

(一)2009年預算財政框架

2009年承諾撥款的各類項目與子項目如下:

Heading	In million EUR, at current prices
1. Sustainable Growth	**59 700**
1a Competitiveness for Growth and Employment	11 272
1b Cohesion for Growth and Employment	48 428
2. Preservation and Management of Natural Resources	**59 639**
of which: Market related expenditure and direct payments	46 679
3. Citizenship, Freedom, Security and Justice	**1 523**
3a Freedom, Security and Justice	872
3b Citizenship	651
4. EU as a global player	**7 440**
5. Administration	**7 699**
6. Compensation	**210**
TOTAL	136 211

歐盟撥款承諾限額呈現在國民收入總值的1.05%。支付撥款限額爲1,238億5千8百萬，爲國民收入總值的0.95%。

(二)承諾、支付與限度的發展

依據撥款承諾，2009年預算草案總額爲1343億9,490萬歐元，相當於國民收入總值的1.04%。這與最大限額之間留下了26億3,810萬歐元的差額。預算中的強制支出增加了4.7%，而非強制支出增加了2.4%。

在支付撥款方面，總額爲1,167億3,640萬歐元，相當於GNI的0.9%。相較於2008預算的支付來說減少了3.3%，離最大限額還有74億4,360萬歐元。2008年強制支出升增加了4.8%，而非強制性支出下降了7.6%。這個發展與多年期財政框架的計畫一致，2009年支付的限額正在降低，與2008年相比餘額有減少。成長與就業競爭增加了5.5%，留下了8,200萬歐元。支付也增加了5.3%。成長與就業結合設定在484億1,390萬歐元，增加了2.5%，支付則下降了13.9%。關於自然資源保護管理則承諾撥款575億2,570萬歐元，增加了3.5%，以致距最高限額有21億1,330萬的餘額。另外，支付提高3%，達到548億3,490萬歐元。這個項目下有一個數目是關於農業支出與直接援助的項目。在2009年財政預算草案中，承諾數目爲428億6,300萬歐元，支付額爲428億1,420萬歐元。

自由、安全與司法的撥款承諾增加15%，提高至8億3,910萬歐元，並保持剩下3,290萬歐元的空間。支付額也增加了11.7%至5億9,670萬歐元。公民權承諾撥款減少了28.8%，保留2,230萬歐元的空間。次項目的支出減少了31.4%，爲6億6,900百萬歐元。此項目的撥款減少與2008

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年2億6,040萬歐元的團結基金預算有關，若把這個因素和保加利亞與羅馬尼亞的轉型排除，撥款承諾與支出增加1%與0.7%。

歐盟全球角色項目則增加了1.8%、74億4,040萬歐元的承諾，並保留2億4,3 60萬歐元的差額。支出撥款減少6.6%至75億7,950萬歐元。

在行政支出項目上也設定了同樣的承諾與支付水平，增加了5%達到76億4,790萬歐元，差額總計1億2,910萬歐元。最後，對保加利亞與羅馬尼亞預算補償的承諾與支出，相較2008年增加了1.2%，留下了90萬歐元的差額。

(三)技術與行政協助預算

技術與行政協助預算是爲許多操作性計畫而設，提供管理部門技術與行政協助的資金，並配合特定行動、活動或計畫。執委會採取嚴厲手段，設定這些項目撥款的標準。與前一年相比，2009年預算草案對於這些項目的總撥款數幾乎沒有太大改變。

(四)不以財政規章第49條爲基礎的金融控管與行動

該類行動必須在撥款納入預算前，被共同體或歐盟所採納才可使用。然而，財政規章也提供了五項例外：1.試驗計畫，2.籌備行動，3.歐盟條約Ⅴ項目領域有關CFSP的準備措施，4.機構所提出專門的行動及條約賦予執委會的特定權利，及5.機構行政自治的運作。在此時節，執委會以工作文件的型式提出了試驗計畫與籌備行動的報告。範圍廣大將提供預算部門新行動的提案。

(五)專責的廳處機構

在2007年7月13日的共同宣言後，依照一般分權機構盈餘使用更透明化的要求，執委會校訂了對於共同體資助分權機構所做的計算方法。2009年，共同體對專責廳處機構總資助由兩項財政來源所組成：

- 如果可行，總額由2007年盈餘中取得；

- 2009年共同體預算撥款項目被納入重點，也就是總額進入2009年預算草案。

2009 年初步預算草案也等同執委會同意對機構的補助金，其已由 2007 年盈餘中扣除。理事會、歐洲議會與伽利略計劃委員會達成協議，在 2009-2013 年時重新調度次項目 1a 下專責廳處機構的 5,000 萬歐元。

圖書館歐盟資訊中心 許琇媛、李成鈞編譯

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學者專欄.....

本期學者專欄邀請淡江大學歐洲研究所卓忠宏教授撰寫『**從地中海聯盟成立解析歐盟與中共在非洲的衝突**』一文，文中分析地中海聯盟成立的來龍去脈，探討歐盟推動南向政策的策略，同時為讀者解析歐盟與中共在非洲大陸這塊大餅上，所產生的利益衝突。

從地中海聯盟成立解析歐盟與中共在非洲的衝突

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一、 背景說明

「地中海聯盟」(Union for the Mediterranean)是法國總統薩科奇於 2007 年初競選法國總統時提出的構想，希望建立一個涵蓋南歐、北非和部分中東國家的聯盟。「地中海聯盟」其實是延續歐盟與南地中海國家於 1995 年所簽訂的「巴塞隆納進程」(Barcelona Process)，其主軸植基於三項合作架構：政治安全、經貿合作與社會文化交流，成為 1990 年代中期至今歐盟地中海政策的主要指導方針：[1]首先，就政治及安全夥伴關係而言，包括在雙邊及多邊架構下建立政治對話機制以及制訂和平穩定方案；其次，就經濟及財政夥伴關係來說，歐盟將增加對南地中海國家直接投資，協助該區經濟轉型及自由化，達成在 2010 年成立泛地中海自由貿易區目標；最後，在社會及文化的夥伴關係方面，已著手進行合作項目如文化資產保護，促進電視、電影、電台等傳播媒體交流計畫，加強青年學子交流、職業技能訓練、公民素質培養，促進雙邊了解及社會融合。

「巴塞隆納進程」將歐盟與南地中海國家從以往母國與殖民地的貿易合作對象提升為平等的夥伴關係，但 13 年來該進程的功效卻十分有限。因此自薩科奇執政後就全力推動深化地中海南、北兩岸國家合作的這一政見，經過數次磋商，歐盟各國元首在 2008 年 3 月的歐盟春季峰會上正式通過了建立地中海聯盟的原則計畫，事後交付歐盟執委會制訂政策，作為 7 月 13 日在巴黎舉辦之「地中海聯盟」高峰會的政策依據。

二、「地中海聯盟」高峰會

2008 年 7 月 13 日在巴黎舉行之「地中海聯盟」高峰會，共有 43 個國家與會，包括：歐盟 27 個會員國；北非地區之阿爾及利亞、摩洛哥、突尼西亞、茅利塔尼亞；中東地區之埃及、約旦、黎巴嫩、敘利亞、以色列以及巴勒斯坦政體：土耳其、阿爾巴尼亞、克羅愛西亞、波士尼

[1] http://europa.eu.int/comm/external_relations/euromed/conf/naples/index.htm

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亞、蒙地內哥羅及摩納哥。此外，聯合國秘書長和歐盟執委會主席也應邀出席。其中唯一採取抵制行動的地中海國家爲利比亞，其領導人格達費指責「地中海聯盟」企圖破壞阿拉伯國家和非洲國家的團結。[2]

法國做爲「地中海聯盟」計畫的發起國，原先希望地中海沿岸國家建立一個政治、經濟和文化聯盟，作爲土耳其申請加入歐盟的替代方案，但此建議已遭土耳其拒絕。而法國提出「地中海聯盟」最初的成員原本僅限於 5 個南歐國家和 5 個北非國家組成的區域聯盟，之後又進一步囊括「巴塞隆納進程」的 11 個地中海南岸國家，排除掉包括德國在內的一些歐盟重要會員國，期望藉由法國與北非國家以及中東之黎巴嫩、敘利亞的歷史聯繫，能理所當然成爲聯盟領袖，擴大其在歐、非兩大洲的影響力，不但可抗衡 1992 年成立之「波羅的海理事會」(the Council of the Baltic Sea States) [3]，又可平衡歐盟東擴之後，德國在中歐逐漸增加的影響力。[4]

然而，高峰會決議卻與法國總統薩科奇當初提出的「地中海聯盟」構想大相徑庭：首先，在聯盟的組成方面，德國認爲薩科奇倡議之「地中海聯盟」有反制德國之意圖，且運用歐盟共有的資金，卻只造福少數歐盟會員和其前殖民地。因此歐盟執委會的提案將該聯盟成員擴展到歐盟所有會員國與南地中海國家，甚至包括亞得理亞海(the Adriatic Sea)沿岸國家；其次是改變「地中海聯盟」的主導權，原本法國希望由地中海南北岸的國家各選出一個領導人擔任聯盟主席，任期 2 年，首屆聯盟領導人由法國人和埃及人共同擔任。但執委會依照 2007 年之里斯本條約，認爲應由歐盟外交安全政策最高代表、執委會主席、以及地中海南岸國家代表分權負責「地中海聯盟」事宜，讓法國企圖主導該聯盟的設想落空。[5]

甫於 7 月在巴黎召開的「地中海聯盟」高峰會是參考歐盟執委會在 2008 年 5 月所制訂之政策文件。根據 43 國在巴黎峰會發表的聯合聲明，對「地中海聯盟」未來組織架構提出初步的構想，包括設置一個共同主席來處理高峰會事宜，由地中海南北兩岸各一個國家擔任，並成立聯合秘書處以及歐盟地中海常駐代表委員會(a permanent committee of Euro-Mediterranean representatives)。預計每兩年召開一次歐盟與地中海高峰會，每年定期舉行外交部長會議、相關議題部長級會議、資深官員委員會(Association Committee of senior officials)以及「歐盟-地中海議員代表大會」(Euro-Mediterranean Parliamentary Assembly)等。[6]

高峰會除延續對地中海區域政治與經濟方面原有承諾之外，另加強相關領域合作，第一階段的 6 個重點合作專案，分別涉及地中海污染處理、沿海和陸地公路建設、公民保護、發展地

[2] "Libya says Mediterranean Union will divide Africa", <http://euobserver.com/9/26581/?rk=1> , 2008/08/05.
[3] 成員包括德國、丹麥、挪威、瑞典、芬蘭、愛沙尼亞、拉脫維亞、立陶宛、波蘭、俄羅斯、冰島與歐盟執委會，其中除冰島與歐盟執委會，其餘國家皆屬於波羅的海國家。
[4] John Laughland, "What Is Really Behind the Mediterranean Union?", *The Brussels Journal,* <http://www.brusselsjournal.com/node/3083>, 2008/03/12.
[5] Honor Mahony, "Brussels to keep control of 'Mediterranean Union'", <http://euobserver.com/?aid=26184>, 2008/05/21; Elitsa Vucheva, "EU leaders agree to weakened Mediterranean Union plan", <http://euobserver.com/9/25835>, 2008/03/15.
[6] European Commission, "Barcelona Process: Union for the Mediterranean", Reference: IP/08/774, 2008/05/21.

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中海太陽能計劃、歐盟-地中海高等教育計畫與合作以及協助地中海國家中小企業發展倡議等。[7] 有關聯盟資金將由歐洲聯盟和參與國家及私人企業、參與夥伴和國際金融機構分攤支付。但細部資金分配、秘書處選址等具體事項，還需等到 11 月舉行的外長會議才能確定。

依據此次巴黎峰會決議，歐盟對「巴塞隆納進程」之原有承諾將轉向「地中海聯盟」，作爲地中海兩岸合作的新模式，其背後有多重原因：

地中海在政治、軍事和經濟上具有極爲重要的戰略地位，自古就是列強必爭之地，西歐輸入的石油總量的85%是通過這條航道運送的，南岸北非國家又是法國傳統勢力範圍。但二次大戰後中東地區成了蘇聯和美國爭鬥的焦點，蘇聯解體後又成爲美國獨霸的局面，歐盟雖然在經濟整合相當成功，但在政治外交方面還無法發揮與其經濟實力相稱的地位。冷戰結束至今，歐盟的戰略思維轉變以地緣性質爲主。隨著歐盟與北約雙雙東擴，歐盟成功地將其政經疆界推至俄國邊境。反觀地中海區域衝突與動亂，加上近年來恐怖主義興起、大規模毀滅性武器擴散與北非地區的非法移民等問題，地中海已取代東歐成爲影響歐洲安全穩定的主要變數。但單就軍事實力而言，地中海南岸國家入侵歐洲可能性甚低。換言之，地中海南岸對西歐並無立即且直接性的威脅，導致歐盟長期以來對地中海集體安全防衛缺乏危機意識，執行的成效也不佳。然而，中東問題牽涉國際多方角力的因素，歐盟在中東問題上與美國又存有明顯分歧，以中東問題複雜度，並非歐盟一己之力得以解決。[8]

就經濟方面的考量，地中海南北兩岸經濟水平差距過大，歐盟平均所得是南地中海國家十倍以上，但北非國家擁有豐富的石油和天然氣資源，這對能源短缺的歐盟國家來說具有莫大的吸引力。但目前中東北非地區動盪不安的局勢阻礙外資流入的意願，全球直接投資僅 1%流入該區域。以歐盟在地中海國家的投資而言，還不到其對外投資總額的 2%，相對美國在拉丁美洲和日本在亞洲周邊國家的比例分別達到了 17%和 20%。[9] 從地緣經濟角度來看，歐盟對其南邊鄰國的關注遠不如美、日兩國。

三、 地中海聯盟與中共：實質利益的衝突

法國是實力雄厚的歐洲國家與地中海大國，地中海聯盟對法國重要性其實是針對地緣的考量。薩科奇推動歐盟重返南地中海區域，希望利用這一計畫擴大法國在其前殖民地的商業利益，並提昇自身在歐盟內的影響力，重建其核心地位。歐盟/法國在推動「地中海聯盟」設定上，排除極具爭議的中東議題，而集中在比較軟性訴求，像移民問題、公民保護、基礎建設推動、地區經貿發展和高等教育合作等事務發揮作用，以確保能源輸入管道的穩定。這恰好反映出歐盟長期以來對南地中海區域所持的基本態度：捍衛其自身的利益，其他非經濟、文化面向的議題採取保留或切割的態度。

相較大陸在非洲的作法，中共爲因應其國內經濟急速成長所需，近年來在世界各地競逐能源及礦產，尤其包括胡錦濤、溫家寶等中共政府高層近年來密集出訪非洲及一連串強化與非洲國

[7] Mark Mardell, “A new Med voyage”, *BBC News*, 2008 /07/14.
[8] Bichara Khader, “Unión Mediterránea: ¿bonitas palabras o buena idea?”, Política Exterior, núm 122, Marzo-Abril 2008, pp. 66-67.
[9] *ibid*.

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家關係的做法，目的就在尋求穩定的能源供應。2006 年中共在北京召開中非論壇邀請非洲地區國家與會，不僅宣布免除相關國家外債，更提出經援、減免債務措施拉攏爭取非洲國家多邊合作關係[10]，甚至支持若干內政及人權紀錄欠佳的國家，諸如蘇丹、查德、剛果民主共和國、衣索匹亞等違反人權、涉入衝突或在戰爭邊緣的非洲國家，進行武器交易，間接幫助這些非洲政權對人權的壓迫，對歐盟在非洲的經援、投資設定的人權、民主條款產生進一步的衝擊，此點也引起歐洲議會關切。[11]

中共在非洲日益增長的勢力，儼然成爲歐盟在非洲的競爭者。因此，歐盟及歐盟國家對中共以取得石油及其它天然資源爲目的非洲政策，勢必做出調適或對抗，不論造成的衝擊是正面或負面，都或多或少影響歐盟南向政策的發展。至於「地中海聯盟」能否真正成爲推動地中海區域的和平與穩定、繁榮與發展的地區性組織，關鍵取決於歐盟會員國與南地中海國家之間的政治意願與實際行動：一方面「地中海聯盟」建立的超國家機制能否有效運行，另一方面要能整合來自 40 多個參與國不同意見與聲音，其過程亦隨著牽涉的領域與中東局勢發展而不同。「地中海聯盟」能否跳脫出「巴塞隆那進程」瓶頸，成爲歐盟南向政策一個新轉折點，尚待後續觀察與驗證。

以上爲學者論點，不代表本通訊立場！

[10] 遠景基金會，「中共非洲白皮書」，<http://www.pf.org.tw:8080/web_edit_adv/admin/temp_lib/temp2/temp2b2/template_view.jsp?pv=2&issue_id=91&chapter_id=9>

[11] 2008 年 4 月 24 日歐洲議會通過歐洲議會議員 Ana Maria Gomes 起草之有關中共非洲政策的決議案。決議案要求中共停止與諸如蘇丹、查德、剛果民主共和國、衣索比亞等違反人權、涉入衝突或在戰爭邊緣的非洲國家，進行任何武器交易。建議歐盟只要中共繼續出口武器給觸犯重大違反人權的國家，歐盟就維持對中武器出口禁令。資料引自：「歐議會促歐盟續對中武器禁運」，看雜誌，第 12 期，2008 年 5 月 22 日。

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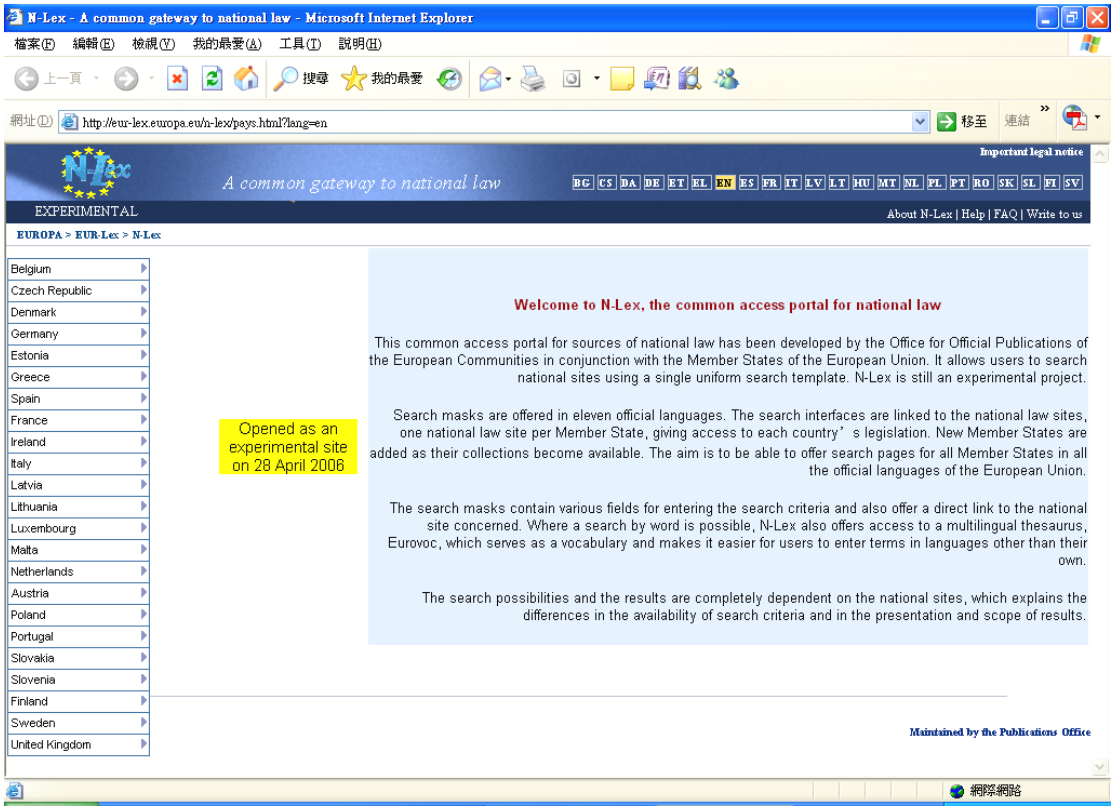

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讀者投稿文章

本期讀者文章由法國雷恩第一大學歐盟法博士生 Antoine SAUTENET 撰寫，Antoine 同時也擔任法國國際關係研究室的研究員。此篇文章爲其法學博士論文之部份摘要，將與讀者們分享其部分研究成果，作者以法學觀點切入，評估歐盟與中國未來伙伴關係暨合作協定的內容與執行狀況。

EU-China Partnership & Cooperation Agreement Negotiations: Time for Balance

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此篇論文研究之主旨在於，以法學觀點評估歐盟與中國未來夥伴關係暨合作協定(PCA)之內容與執行。國際經濟法中缺乏『新興國家』此一類別，歐盟的外交政策必須因具有強大經濟及商業貿易實力的中國而做調整。歐洲共同體與中國目前之合作關係規範於 1985 年第二代的協定。然而，自 2003 年開始，雙方之準備文件及每年高峰會依戰略夥伴關係之共同聲明爲這段關係注入了新的動力。以長期觀點來觀察，此夥伴關係結合硬法(hard law)及軟法(soft law)，爲雙方關係之發展提供可預期性。於歐盟及中國戰略夥伴關係中加入政治對話改變了歐盟對外政策之統一性，特別是在人權對話方面推動之困難。歐盟與中國伙伴關係之附加價值，主要建立於經濟及商業貿易方面，但不侷限於非約束性的經濟對話，也含括其他領域(如航海運輸及關稅合作等)之部門別協定。於去年高峰會，雙方持續性的互動有助於新架構協定之締結：此爲 2005 年 12 月歐盟執委會得到與中國締結夥伴關係及合作協定之授權。

此篇文章爲預測未來合作關係之法律架構並考量亞洲區域配置及 WTO 法之因素。雙方關係於商業貿易之可能風險涉及未來協定中的領域整合，也就是所謂的 WTO plus，包括投資及智慧財產權領域，因此此協定將涉及混合協定。歐盟與中國於談判上的風險涉及政治層面，特別是於未來協定中加入民主條款之議題。因此，歐盟價值及其追求之利益兩者之間的衝突將於雙方談判過程中更加突顯。

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Summary

This article aims to evaluate legal aspects of the content and implementation of the future Partnership and Cooperation Agreement (PCA). In the absence of a category of 'emerging countries' in international economic law, the Union must adapt its foreign policy with regard to this major economic and commercial power. Relations between the European Community and China are currently governed by a second-generation agreement from 1985. However, a new dynamic has been set in motion since 2003, by the drawing up of preparatory documents by both parties and joint declarations at annual summits bearing on the 'strategic partnership'. Seen in a long-term perspective, this partnership helps provide a measure of predictability in relations between the two partners, through combining elements of 'soft law' and 'hard law'. If the insertion of political dialogue into the strategic partnership seems to alter the coherence of the Union, notably with regard to the difficulties of implementing the dialogue on human rights, the added value of the partnership lies essentially in its economic and commercial aspects, through not only the putting into place of non-binding 'economic dialogues' which cover a large spectrum of the relationship, but also by the multiplication of sector-based accords in numerous areas (maritime transport, customs cooperation, etc.). This constant development has thus allowed parties, at the last annual summit, to envisage the conclusion of a new framework agreement: this is the origin of the mandate given to the Commission in December 2005 to conclude a partnership and cooperation agreement. This article will sketch out a forecast of the legal framework, measured against the yardsticks of Asiatic regional reconfigurations and the law of the World Trade Organization (WTO). The commercial risks of the relationship could imply the integration of the domains known as 'WTO plus' into the future agreement, notably in the field of investments and intellectual property rights, which would involve a mixed agreement. That being the case, the negotiations risk being equally fragile at the political level, in particular concerning the insertion of a clause of democratic conditionality in the future agreement. Also, any clash between the values and the interests of the EU would be uncomfortably highlighted during negotiations.

Introduction

The 1st December 2008, the European Union (EU) and China will celebrate the 11th anniversary of the annual summits between the two partners, in the context of international financial crisis. A real "global partnership"[1] has been set up during the 10th summit. But the negotiations between the two partners are difficult in concrete terms, especially because of the EU's trade deficit. The main problem for the EU is the necessity to adapt its policy to a partner who has two faces: a developing country but also a developed country. Father Jean-Baptiste

1 Joint Statement of the 10th EU-China Summit, available at <www.europa.eu.int/>, 28 November 2007, Beijing.

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du Halde, whose encyclopedia on China was to influence the favorable commentaries of Voltaire, noted in 1735 that the trade of the flourishing Chinese Empire was incomparably superior to that of Europe[2]. Seen through a long-term perspective, China is on track to renew its pre-colonial history, and gradually to regain the place which it held before 1800, when it was one of the powerhouses of the world economy and the premier manufacturing power on the planet[3]. Today we see not so much an 'emergence' of China as a first-rank economic player on the international scene, but rather a "retour au centre du monde""[4] in the words of the geographer Pierre Gentelle.

1. The "re-emergence" of China and the international legal order

Actually, the process of economic liberalization and political reform—started in 1978 by Deng Xiaoping and leading to the accession of China to the World Trade Organization in 2001[5]—has led to the 're-emergence' of China as a major economic and commercial power. Thus, the People's Republic of China experienced an average growth of almost 9, 5 % in the period 1980– 2005[6], becoming in 2006 the fourth economic power after the EU (seen as an integrated economic region), the USA and Japan[7]. Thanks to these reforms and to the growth which they engendered, China saw its gross domestic product (GDP) per person grow from 148 US dollars (US$) to 1 700 US$ between in 1978 and 2005[8], which led to—despite growing social inequalities, particularly in the countryside[9]—the emergence of a middle class of around 105 million consumers[10]. This growth in power has been particularly evident in the recent

2 J. B. Du Halde, Description géographique, historique, chronologique, politique et physique de l'empire de la Chine, Lemercier, BNF, 1735.
3 In 1800, China represented 40% of the world's gross national product.
4 « Return to the centre of the world », P. Gentelle, « Géo-histoire: de l'an mil à l'an 2000, un centre bousculé entre le continent et la mer », in M. Foucher (ed.), Asies nouvelles, Belin, 2002.
5 Protocol on the Accession of the People's Republic of China to the WTO, Decision of 10 November 2001, WT/L/432, 11 December 2001.
6 Organization for Economic Cooperation and Development, Synthesis, Economic Study of China, Paris, OECD, September 2005.
7 H. Siebert, China, Understanding a New Global Economic Player, Kiel Working Paper No. 1278, Kiel Institute for World Economics, June 2006) at 3. China represents 4.7% of global GNP, with a GNP of US$2.2 trillion.
8 National Office of Statistics (2005b). Nevertheless, according to the authorities, the GNP per person was still ranked 107th in the world in 2004. See "China Remains Largest Developing Country", available at <http://english.gov.cn/2005-12/20/content_132456.htm>, 20 December 2005.
9 The inequalities are in fact "deepened in that the distribution of revenue and jobs ends to favor urban and coastal zones at the expense of the rural and less developed regions". See Trade Policy Review Mechanism of the WTO (TPRM), People's Republic of China, Report of the Secretariat (WT/TPR/S/161, 28 February 2006), Economic Environment, General Survey, point 1.
10 See the evaluation of the French Mission to China, which uses the official statistics taking into account the under declaration of the incomes (30 % correction) and uses a specific criteria (an annual income more than 25 000 RMB), Mission économique - Chine, «La classe moyenne chinoise: évaluation et perspectives», available at <www.missioneco.org/Chine/documents_new.asp?V=1_PDF_127738>, December 2006.

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period, since real GDP has grown by 9% per annum between 1998 and 2005 and more than 11 % in 2006 and 2007[11]. Since 2001, this growth has rested essentially on manufacturing and commercial power integrated into the world trading system, and is founded principally upon exports and investments. Thus, China has become the third largest global exporter[12] and one of the principal destinations for foreign direct investment, a large part of which went into manufacturing industry, centered on exports[13]. The rapid growth of China is linked to a unique combination of factors, notably a plentiful supply of inexpensive labor, the low prices of abundant natural resources, the catalyst effect of accession to the World Trade Organization (WTO) on the domestic reforms concerning direct investment abroad, and export-centered growth. If one considers trade between the EU and China, it has grown by 70%, reaching 210 billion euros (€) and representing 9.4% of the entire external trade of the Union[14]. Nonetheless, trade between the EU and China is substantially out of balance, with Chinese exports to the EU of 158 billion € and EU exports to China of 52 billion €, a trade deficit of 106 billion €.

Having regard to all of these considerations, including at the political and social levels, China remains a developing country[15], although it can to a large extent be considered as coming under the category of “emerging countries” in economic terms. However, this category does not exist in international economic law, which institutes an expedient, particularly at the level of international trade negotiations, in the legal and economic treatment of the People’s Republic of China[16] by the industrialized countries.

2. The current Legal Framework of the relations between EU and China

The EU must equip itself with a foreign policy regarding the People’s Republic of China which is adapted to the economic characteristics of its partner. The economic and trading relations between the European Community and China are currently governed by an

11 World Bank, China: Key Indicators, Washington, World Bank, 2007.
12 The second largest global exporter if one includes Hong Kong. In 2005, the total amount of exported and imported goods represented some 63.9% of GNP, compared to less than 10% in 1978.
13 More than 50% of the external trade of China is conducted by enterprises with foreign participation which have set up in China (General Administration of Customs of the People’s Republic of China, Statistics 2005, available at <www.customs.gov.cn>).
14 China was thus the second largest trading partner of the EU, after the USA (18.5 % of the external trade of the Union).
15 The Human Development Indicator (HDI) is revealing in this regard, since China remains 85th in the world with a HDI of 0.755 (above the HDI average of 0.718). See United Nations Development Programme (UNDP), World Report on Human Development 2005 (Economica, 2005), at 236.
16 The categorization of developing countries poses a problem, to the extent that a certain number of rights are attached to this status by international organizations: system of aid and international cooperation (Organization for Economic Cooperation and Development, World Bank), application of specific provisions to developing countries in the General Agreement on Tariffs and Trade texts, delays on implementation, application of special and differentiated treatment (WTO).

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agreement for economic and commercial cooperation dating from 1985[17], a non-preferential agreement of the kind known as 'second generation' concluded on the basis of ex-Article 113 of the EEC Treaty (common commercial policy) and of Article 235 of the same treaty (subsidiary competences). The political dialogue takes place informally, on the basis of annual summits, meetings on the troika's model[18], and subject-specific meetings of experts, notably relative to non-proliferation and human rights. Apart from the Agreement of 1985, the legal framework of relations is completed by a certain number of sector-based agreements. With regard to the specific characteristics of China (developed country and developing country), China is also a subject of the "Development Policy" of the EU, in its unilateral aspect. Even if the 'Canada' clause[19] allowed contracting parties to enrich the material content of their relations, the conventional framework no longer seems adapted to the ambitions of the Community and China in the absence of an 'upgrade' clause[20].

Consequently, the European Commission drew up in 1995—signaling the return to political dialogue after the events in Tiananmen Square which had led to a suspension of bilateral contacts—an orientation document on a 'long-term policy for relations between China and Europe'[21] in line with the Asiatic strategy approved by the European Council at Essen[22] and taking into account the emergence of China as an economic and political power. The Community strategy has since been regularly updated and re-evaluated in 1998, 2000,47 2001, 2003 and in 2006[23], leading to an evolution of the semantic terms used by the

17 Agreement on Commercial and Economic Cooperation between the European Economic Community and the People's Republic of China [1985] OJ L250/1.
18 The troika is the form in which the Union is represented in terms of the Common Foreign and Security Policy. According to Article 18(4) of the Treaty on European Union (TEU), 'The Commission shall be fully associated in the tasks referred to in paragraphs 1 and 2. The Presidency shall be assisted in those tasks if need be by the next Member State to hold the Presidency'.
19 In terms of what is known (due to its origin) as a 'Canada' clause, the Member States can, in parallel with the Community, conduct bilateral activities, including the ability to conclude their own cooperation agreements. This possibility—which must not however impinge upon Community competences and which requires a consultation procedure to be respected (Decision No. 74/393/EEC of 22 July 1974 [1974] OJ L208/23)—reflects a realistic approach and stems from the principle of subsidiary.
20 The « upgrade clause » stipulates the parties are being on leave to examine the extension of the agreement to fields which are not included into the agreement.
21 Communication from the Commission relative to a Long-Term Policy for Relations with China, COM (95) 279.
22 Communication from the Commission to the Council, 13 July 1994, towards a New Asiatic Strategy, COM (94) 314.
23 Respectively : Commission Communication, Building a Comprehensive Partnership with China, COM (1998) 181 ; Report of the Commission to the Council and to the European Parliament on the implementation of the Communication 'Towards a Global Partnership with China', COM (2000) 552 final ; Commission Communication to the Council and the European Parliament, Strategy of the EU vis-à-vis China: Implementation of the 1998 Communication and Measures to Take to Strengthen Community Policy, COM (2001) 265 final ; Orientation Document from the Commission to forward to the Council and to the European Parliament, Common Interests and Challenges of the EU–China relationship—Towards a Mature Partnership, COM (2003) 533 final ; in 2006, two orientation documents were published : a

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Community: from a 'global partnership' in 1998 to a 'mature partnership' in 2003, the characterization of this partnership has been endowed with a strategic dimension. Following on from the attempt to elaborate an Asiatic strategy[24] and the implementation of 'strategic partnerships' with the other countries or emerging regional groupings of Asia, India[25] and South-East Asia[26], the Communication of 2003 insists for the first time on the fact that "the EU and China have never had so much common interest to collaborate in the framework of a strategic partnership to maintain and encourage sustainable development, peace and stability"[27].

There are a number of "partnership" forms, the legal nature of which varies: it can thus be the subject or the objective of a bilateral agreement,[28] but equally of orientation documents, or common declarations or action plans. Concerning China, in the absence of conventional formalization of the notion of partnership in the second-generation agreement, the partnership, in light of the formula 'towards a mature partnership'[29], is the objective of the updated communication of 2003, approved by the Council. The term 'strategic' returns to geopolitical vocabulary[30], Concerning the EU and China, it implies common outlooks on the world environment, as well as a long-term commitment to common action. This new dimension appeared simultaneously in the 2003 Communication, but equally in China's strategic document concerning the EU[31]. The combination of 'partnership' and 'strategic' introduces the idea of priority in the implementation of common actions for the two players, even if the banality of resorting to this terminology in the external action of the Union alters the scope of the concept[32].

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political one fixing the global framework, and the second document on trade and investments questions. Communication from the Commission to the Council and the European Parliament of 24 October 2006 entitled "EU-China: closer partners, growing responsibilities", COM(2006) 631 final, and Strategic document on EU-China trade and investments: competition and partnership ,COM(2006) 632 final.

24 Commission Communication, A Strategic Framework to Strengthen the Europe–Asia Partnership, COM (2001) 469 final.

25 Commission Communication to the Council, to the European Parliament and to the European Economic and Social Committee, An EU–India Strategic Partnership, COM (2004) 430 final.

26 Commission Communication, A New Partnership with South-East Asia, COM (2003) 399 final. We have to underline that this communication doesn't talk about a "strategic partnership", but includes references to a "strategic dialogue" between the EU and ASEAN.

27 Ibidem, at 3.

28 J. Raux, 'Association et perspectives partenariales', in C. Christophe-Tchakaloff (ed.), Le concept d'association dans les accords passés avec la Communauté: essai de clarification, Bruxelles, Bruylant, 1999, at 89–137.

29 2003 Communication, op. cit., at 1.

30 Etymologically designating a 'military government'. Dictionnaire historique de la langue française, tome 3 (Le Robert, 1998), at 3650.

31 Ministry of foreign affairs of China, China's EU Policy Paper (October 2003), available at <www.fmprc.gov.cn/eng/topics/ceupp/>

32 The term 'strategic partnership' is in fact often used with third countries, notably certain partners in Latin America, the Mediterranean countries, Canada, or even South Africa.

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Legally, the strategic partnership, as laid out in the orientation documents and developed in the course of annual summits, appears as an instrument of *soft law*[33] which helps to complete and re-evaluate the legal framework of relations between the EU and China. In order to establish a typology of the soft law instruments used by the EU in the relations with China, we can distinguish : unilateral global acts (communications, country strategy paper (CSP), multi-annual programs), bilateral global acts (joint declarations[34] during the annual summits), sectoral bilateral acts (Memorandum of Understanding [MoU], administrative agreements between the European Commission and China), and sectoral dialogues (economic dialogues largo sensu and political dialogues, including the Human Rights).

It is appropriate, therefore, to make an initial evaluation of the 'strategic partnership' since its elaboration in 2003, and to envisage a prospective study. Close analysis shows that the partnership has developed simultaneously as a *para-legal instrument*[35] which adds dynamism to economic dialogues, which assists to conclude sector-based agreements and to integrate the political dimension, and also as a *pre-legal* instrument which allows one to envisage the conclusion of a new framework agreement—an element of hard law indispensable to the reality of the challenges posed by the EU–China relationship, which implies difficult negotiations.

Actually, the challenges concerning the future PCA are sizeable. Normally, the term of partnership implies a situation of equal partners, a real reciprocity, especially in commercial matters. If the main objective is to obtain more open Chinese markets, the European Union has to adapt its economic and commercial policy. For the first time maybe, the EU is not more in position of force to influence the negotiations. But in any case, the EU must maintain the coherence between political and commercial dimensions of its relations with China. In this context, the political negotiation will be a "funambulist game". In fact, the asymmetry between Chinese and European pretensions could imply two separate agreements (a global one and a commercial one), with the risk to distend the link between trade and political clauses, or a worth scenario: no agreement.

33 The concept of 'soft law' can be defined as 'rules of conduct which lie in a sphere which is legally non-binding (in the sense of restrictions and sanctions), but which, according to the intention of their author, must be considered as being part of the legal sphere': K. C.Wellens and G. M. Borchardt, 'Soft Law in European Community Law', (1989) 14 European Law Review 267.

34 In terms of typology, the Joint declaration is less advanced than the Common Plan of Action (PoA), (more functional). See for instance the last PoA EU-India, India-EU Joint Action Plan: Implementation Report, India-EU Summit, New Delhi, 30 November 2007, available at <www.delind.ec.europa.eu/>, or the first PoA with ASEAN, To implement the Nuremberg Declaration on an EU-ASEAN Enhanced Partnership, available at <ec.europa.eu/>.

35 In other words, the strategic partnership developed during the annual summits implies new commitments for China and the EU, which are off the point of the 1985 agreement.

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3. Towards a New Partnership and Cooperation Agreement (PCA) between EU and China ?

It was during the 7th summit that the will to negotiate a new framework agreement manifested itself: "the two parties declare that the uninterrupted development of relations between the EU and China in recent years leads them to actively study the feasibility of a new EU–China framework-agreement"[36]. The partners then decided to "begin negotiations on a new framework-agreement... which will fully reflect the intensity of the strategic partnership between China and the EU"[37] at the 8th summit. A mandate of directives of negotiation was adopted by the Council on 12 December 2005 on a "Project of agreement of partnership and co-operation (PCA) between the European Union and China"[38]. This qualification refers back to the typology of agreements concluded between the European Community and its Member States and certain East European and Central Asian countries, principally the Russian Federation[39]. The qualification does not pre-judge the nature of the act in question, the legal basis defining often at the end of the negotiations.

Now, the negotiation balance is not in favor of the European Union. In conformity with the coherence requirement, the EU will opt for a horizontal approach, that is to say a single PCA integrating commercial and political dimensions of the relations. On the political level, the question is raised as to the insertion of a clause of democratic conditionality in the new framework agreement. The Human rights clause is considered as an "essential element"[40] clause, before being integrated *a priori* in all types of agreement[41]. Nonetheless, with regard to China's reservations and difficulties on the subject of human rights, doubts persist regarding formalization of that type of clause. In addition, a conventional insertion of a political dialogue and the integration of political clauses (non-proliferation of weapon mass destruction [WMD], counter-terrorism, International Criminal Court) should be demanded by the EU. Most of these clauses are called as "standard clauses"[42], but the EU wished to obtain the recognition of the

36 Joint Statement of the 7th Summit, La Haye, 8 December 2004, point 5.
37 Joint Statement of the 8th Summit, Brussels, 5 September 2005, point 6.
38 EU Bull.12-2005, point 1.6.71.
39 Partnership and Cooperation Agreement establishing a partnership between the European Communities and their Member States on one hand and the Russian Federation on the other [1997] OJ L327/1.
40 An "essential clause" (or clause as an essential element of the agreement) allows the EU to suspend in whole or in part the agreement in the conditions of the Vienna Convention. See article 60 (1) of the Vienna Convention on the Law of Treaties (VCLT): "A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part."
41 As such, the Commission considers 'the fact of including questions of human rights and democracy in the political dialogue more systematically would give a foundation to the clauses on the essential elements and would allow the two parties to list the most effective measures to establish political and economic stability'. See Commission Communication to the Council and the European Parliament, Role of the European Union in the promotion of human rights and democratization in third countries, COM (2001) 252, at 10.
42 Opposite to the "essential clauses", the "standard clauses" doesn't constitute an essential

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"essential" character of the WMD clause. On the economic level, the Communication from the Commission "Global Europe"[43] introduces the imperative to concentrate on the new growth sectors or "Singapore subjects": Intellectual property rights (IPR), services, investments, public procurement and competition. Therefore, the European negotiator should required the integration of commitments going beyond WTO rules ("WTO plus") in the future framework agreement. The Commission, in its "commercial" orientation document concerning the EU-China relations, clarifies that the new agreement should "focus on the trade exchanges and investments issues"[44]. In addition, the European negotiators wished to integrate a chapter on employment and social affairs, a dialogue on small and medium-sized enterprises (SME), and maybe a clause on tax system.

On the Chinese side, the Market Economy Status (MES) and the lift of arms embargo are at the heart of Chinese claims. In addition, the Chinese negotiator could require the integration of a "Taiwan clause" in the preamble of the agreement, stipulating that the Community and the Member States oppose Taiwan independence, including *de jure* independence of Taiwan and Taiwan's participation in any international or regional organization whose membership applies only to sovereign states.

That's why, with regard to the asymmetry of the pretensions, different scenarios are possible: a single PCA, a double agreement (commercial agreement and global agreement with a number of political provisions[45]), which would greatly call into question the political and institutional coherence of the Union, or no agreement. There is still a necessity for the Union to deepen trade and investment aspects of its relationship, in view of the current multilateral check of the Doha Agenda and regional restructurings underway in the field of free trade, in order to insert the 'WTO plus' domains into the new agreement.

3. 1. The Deepening of the Trade and Investment Aspects

Faced with the stalemate of multilateral negotiations, the EU must integrate elements of added value into the next agreement of partnership and cooperation with China—in order to prevent commercial tensions arising from the WTO and to guarantee Community operators a better presence on the Chinese market. It is interesting that after the failure of multilateral negotiations, the Commission, in its communication Global Europe of October 2006—while

element of the agreement. From a legal point of view, they are part of commitments of each of the parties, such as the other provisions of external agreements. The integration of theses clauses refer to a Council decision. The commitment is here purely political, and only the negotiation directives can force the Community negotiator to set them up.

43 Commission Communication to the Council, to the European Parliament, to the European Economic and Social Committee and to the Committee of the Regions, 'A Competitive Europe in a Globalized Economy', COM (2006) final, at 10.

44 Strategic document on EU-China trade and investments: competition and partnership, op. cit.

45 Corresponding to the content of the standard and essential clauses.

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wishing a priori to re-launch this international effort—also wishes to go down the bilateral route, envisaging free trade agreements [46] :

Concerning investments, it is undoubtedly the field where restrictions are the most sensitive, whether they manifest themselves in the industrial domain (cars, semiconductors, the naval sector) or in numerous local restrictions on investment (the problem of deregulation), or in the domain of manufacturing and services, or the requirement to establish joint ventures with Chinese operators, as well as requirements in terms of capital (telecommunications, financial services). The terms of the exchange are thus inequitable. The Chinese government practices a policy of aiding 'national champions' (through subsidies and privileged access to the banking sector)[47]. The protection of intellectual rights is also not assured[48], in the fields of innovation and high technology that European enterprises have a real added value. Despite the progress made by China, the EC underlines the lack of coordination between the principal bodies charged with ensuring respect for the laws protecting intellectual property rights, the local protectionism and corruption, as well as the insufficient dissuasive power of administrative, civil and criminal sanctions, and the lack of training for the personnel of enforcing agencies. In its "commercial" orientation document of 2006, the European Commission underlined that "the adequate protection of intellectual property rights such as patents, copyrights and trademarks is central to the exercise of Europe's comparative advantage in innovation, design and high-value production"[49].

The next agreement may in any case turn upon trade and investment, with a particular focus on intellectual property rights, that is to say, the 'new sectors of growth' as identified by the Commission in its 'Global Europe' communication of October 2006[50], with the aim of obtaining real added value with a framework agreement.

On the protection of intellectual property rights, it remains necessary to reinforce the existing mechanisms, like the 'IPR helpdesk' or the 'network' of information centres in Europe, otherwise known as the "increased sensitivity to IPR questions in the businesses of the EU"[51]. But "TRIPS plus" provisions [52] should be integrated in the future agreement in order to impose "European standards" to China. Provisions concerning global commitments in the field of IPR (stipulating for instance that «The Parties shall provide suitable and effective protection

46 It's here a breaking with the « Lamy doctrine ».
47 Trade Policy Review, WTO, China, WT/TPR/S/199/Rev.1, 12 August 2008.
48 That being so, the report of the Secretariat notes that: 'In recent years, China has brought in important modifications to its legal framework for IPR protection.
49 COM (2006) 632, op. cit.
50 2006 Commission Communication « Global Europe », op. cit.
51 COM (2006) 632, op. cit., at 12, point v.
52 It's necessary to note that the TRIPS (trade-related aspects of intellectual property rights) agreement of the WTO is today the more complete multilateral agreement on the protection of IPR. See A. Thillier, « Politique commerciale commune – Délimitation – Instruments – Contrôle », Jurisclasseur Europe, fasc. 2300, 2007.

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of intellectual, industrial and commercial property rights, in line with the highest international standards »[53], or « shall accede to the multilateral conventions on the protection of intellectual, industrial and commercial property, which the EC and its Member States are a part »[54]) or specific rules (copyright[55], patent's protection[56], dispute settlement[57]) could be inserted, following the models of associations agreements or Cotonou agreement.

In the field of investments, the European policy is in theory conducted in the line of the General Agreement on Trade in Services (GATS)[58] and of the OECD Guidelines for Multinational Enterprises [59]. Until a recent period, the EC didn't set up common provisions in the field of investments in the framework of its bilateral agreements. It's only since ten years ago that the European Commission wishes to introduce more and more deepen commitments. Notably, ambitious provisions were integrated into the EC-Chile agreement, concerning the "progressive liberalization of investments"[60] and stipulating the attribution of the "National

53 Art. 39 (1): The Parties shall provide suitable and effective protection of intellectual, industrial and commercial property rights, in line with the highest international standards. This shall encompass effective means of enforcing such rights". Council and Commission Decision of 24 January 2000 on the conclusion of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Kingdom of Morocco, of the other part OJ, n° L 70, 18 mars 2000, p. 1.
54 Annex 7 of the Euro-Mediterranean Agreement establishing an Association between the European Communities and their Member States, of the one part, and the Republic of Tunisia, of the other part, OJ, n° L 97, 30 March 1998.
55 Art. 12 : «Reaffirming the great importance they attach to the protection of intellectual property rights (copyright — including the copyright in computer programmes and databases — and neighbouring rights, the rights related to patents, industrial designs, geographical indications including designation of origins, trademarks, topographies of integrated circuits, as well as protection against unfair competition as referred to in Article 10a of the Paris Convention for the Protection of Industrial Property and protection of undisclosed information), the Parties undertake to establish the appropriate measures with a view to ensuring an adequate and effective protection in accordance with the highest international standards, including effective means to enforce such rights ». Council Decision of 28 September 2000 concerning the conclusion of the Economic Partnership, Political Coordination and Cooperation Agreement between the European Community and its Member States, of the one part, and the United Mexican States, of the other part, OJ, n° L 276, 28 October 2000, p. 44.
56 Council Decision 2005/599/EC of 21 June 2005 concerning the signing, on behalf of the European Community, of the Agreement amending the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States, of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000, OJ, n° L 209, 11 August 2005. Article 46 (Munich Convention).
57 EU-Marocco Agreement, op. cit., art. 39 (2).
58 See on the website of the European Commission, <trade.ec.europa.eu/>.
59 The Guidelines are recommendations addressed by governments to multinational enterprises operating in or from adhering countries. They provide voluntary principles and standards for responsible business conduct in a variety of areas including employment and industrial relations, human rights, environment, information disclosure, combating bribery, consumer interests, science and technology, competition, and taxation. See the OECD website, <www.oecd.org/>.
60 Article 164-2 of the association agreement between the EC and its Member States and Chile, op. cit. [253].

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Treatment" (NT) and the "Most-Favoured-Nation"[61] treatment (MFN) clause in the field of services and financial services, with an extension of the NT to the other sectors of the agreement[62]. The European Commission already possesses the political will[63] and could use the rules of its agreement with Chile as a template.

In addition, the set up of a minimal platform concerning investments, integrated in all the future FTA of the EU[64], could be potentially extended to China with regard to the commercial challenges of the relation. The idea of this platform is to establish a sort of "Bilateral Investments Treaty"[65] applicable for the whole of the European Community. In other words, the aim of the proposition (built on the basis of the GATS[66]) will be to cover pre-investments and post-investments[67] (to the question of a dispute settlement State/Investors), with an extension of the scope of the establishment provisions to other sectors than services. Now, the shared competences between the EC and the Member States are a major difficulty. The EC competence covers only the market access and the promotion of investments in the framework of the Common Commercial Policy (CCP). But it does not cover the reciprocal protection of investments, which refers to the Member States competences. It follows from the above that the Community's exclusive competence for the regulation of foreign investments is limited. To the extent that the Community has no explicit exclusive competence (such as the one based on Article 133(1) to (4) of the EC Treaty) and has not yet exercised its non-exclusive competence in all areas, the Member States remain competent with respect to the regulation of foreign investments. In accordance with the European Court of Justice (ECJ) Case law[68], the Community's non-exclusive powers can become exclusive as a result of

61 National treatment affords foreign individuals and firms the same competitive opportunities, including market access, as are available to domestic parties. "Most-Favoured-Nation treatment", which requires Members to accord the most favourable tariff and regulatory treatment given to the product of any one Member at the time of import or export of "like products" of all other Members, is one of the bedrock principles of the WTO.
62 Article 163 of the association agreement between the EC and its Member States and Chile, op. cit. [253].
63 Speech of Peter Mandelson, « Les échanges et les investissements de l'UE avec la Chine : changements, challenges et choix », Bruxelles, 7 juillet 2006, <<trade.ec.europa.eu/>.
64 Notably the future FTA with South-Korea, ASEAN and India.
65 The most of the Member States have concluded bilateral investments treaties (BIT), see <www.bilaterals.org/rubrique.php3?id_rubrique=59>.
66 Refers to the mode 3 of services furniture by a Member (a company from one country setting up subsidiaries or branches to provide services in another country, officially known as "commercial presence". See article I (2) (c) of the GATS.
67 The provisions of "pre-admission", define the rights of the foreign investors in entrance and in establishment in certain economic areas of the country guest (market access level). The dispositions of "post admission" correspond to the regulation regime applicable to the foreign investors after their establishment in the country guest. The principes of NT and MFN should be implemented (contrary to the EC-Chile agreement).
68 ECJ, Opinion 2/92, [1995] ECR I-521. The article 133 ECT can't confer an exclsuive competence to conclude the 3rd OECD decision on National Treatment which affect the CCP but also the intra-community trade (the internal market). Actually, other aspects of foreign investments can fall under the non-exclusive Community competence under the internal market legal bases of the EC Treaty (such as Articles 44, 47 and 95). This may in particular be

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internal harmonization. It would thus be necessary, in a concrete case, to ascertain whether the matters covered by the international treaty (free-trade agreement or BIT) are already the subject of internal legislation containing provisions on the treatment to be accorded to foreign-controlled undertakings, or empowering the institutions to negotiate with non-member countries, or effecting complete harmonization of the rules governing the right to take up an activity as a self-employed person.

As the provisions of the market access in non-service sectors, do not exclude the service sectors mentioned in Article 133(6) of the EC Treaty, and relate at least partially to post-establishment national and most-favoured-nation treatment, including in sectors where the Community has not yet exercised its internal powers, any agreement including these type of provisions would therefore need to be concluded, with China, by the Community and the Member States and would thus be a mixed agreement. This mixity will have a « vertical » nature (inside the EC pillar) and imply a double legal basis: article 133 (CCP) and 308 (subsidiary competences) of the EC Treaty[69]. In a prospective approach, we can't ignore the Lisbon Treaty (which complete and reinforce the CCP) as much as negotiation of the agreement should be spread out several years. The "foreign direct investments" are now expressly included in the scope of the CCP, defined by the article 207 of the Treaty on the Functioning of the EU (substitution to the article 133 EC Treaty), which imply the disappearing of the mixity aspect[70]. However, a new problem could appear: the new CCP (becomed an exclusive competence of the European Union[71]) open a struggle of influence between the new High Representative of the Union for Foreign Affairs and Security Policy and the EU Commissioner for external trade.

In any case, in exchange for Chinese concessions deemed crucial to EU balancing trade ties, China could impose the recognition of the Market Economy Status (MES) by the EU. At present, for the EU, the conditions for granting MES to China for Anti-Dumping investigations are not fulfilled. But the Chinese authorities believe that this treatment is unfair

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the case to the extent that post-establishment national treatment provisions relate also to the participation of foreign-controlled enterprises in intra-Community trade. According to the ECJ (Opinion 1/94, [1994] ECR I-5267), some provisions on foreign investments, which are covered by the GATT 1994 and the WTO Agreement on Trade-Related Investment Measures, fall under the exclusive Community competence under Article 133(1) to (4) of the EC Treaty. Only when internal legislation has provided for common rules in the sense of a complete harmonization does an implied exclusive external competence of the Community have to be recognized in order to avoid such common rules being affected if the Member States retained their individual freedom to negotiate with non-member countries.

69 See M. Dony, « Les accords mixtes », in M. Dony, J.-V. Louis (dir.), Commentaire Mégret, Relations extérieures, Bruxelles, Université de Bruxelles, vol. 12, 2005, at 167.

70 Apart of the ratification of the Reform Treaty, it will depend to the interpretation of the ECJ on the expression « foreign direct investments". But, its seems to fall under the exclusive Community competence.

71 Article 207 (1) of the TFEU : "The common commercial policy shall be conducted in the context of the principles and objectives of the Union's external action".

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for a number of reasons. First, increasing numbers of Chinese firms – especially those in the export sector – are operating within market environments with inputs purchased at their real cost and finance raised on a commercial basis. Secondly, Chinese trade officials point out that Russia, a country hardly known for its transparency and openness, is recognised by Europe as a market economy. For the EU, the MES is a technical question. The EU – unlike the United States – re-classified China as an 'economy in transition' in 1998. This means that it considers complaints on a case-by-case basis, using five tests to judge whether the Chinese firm against which the dumping complaint has been filed is operating within a market environment[72]. Now, the main problem is that more the negotiation last, more the relative value of the MES recognition for the negotiation "deal" goes down. [73]

Also, China could oppose to the whole of EU demands. In this case, the failure of European diplomacy would be flagrant, with regard to the commercial challenges of a new framework agreement. Following that, the EC Union must set up, as a central objective, a 'proactive' systematic surveillance of the implementation of WTO obligations, i.e. to use effectively the combinations of legal tools and political pressure which constitute the Dispute Settlement Understanding (DSU) of the WTO. Actually, they can be surprised due to the fact that the EC requests WTO consultations only once (3 April 2006) with China on auto parts tariffs[74]. The EU believes that Chinese tariff laws for spare auto parts are WTO-incompatible. Chinese rules apply the tariffs for "whole vehicles" to the import of spare parts making up 60% or more of the value of a final vehicle. The EU believes that this may contravene China's WTO obligations not to impose obligatory 'local content' rules: to avoid the 'whole car' tariff rates a car-maker has to source 40% or more of the spare parts by value in China[75]. The EU believes it may constitute an internal tax on imported goods - because the tariff is levied on a finished product constructed with imported parts and the same rates are not applied to cars produced with local spare parts. The World Trade Organization issued its first official condemnation of Chinese commercial practices, siding with the United States, the European Union and Canada in this dispute over car parts[76]. The recent wishes of the EC (with the US) to haul China before the World Trade Organization (WTO) over the country's refusal to allow financial news services to interact directly with customers[77], is maybe a change of the European strategy concerning the use of the DSU.

72 In fact, if some countries such as UK are for a status change, other countries (Spain, Italy), are fundamentally against the recognition of the MES.
73 In its WTO accession agreement, China agreed that other WTO members could treat it as a non-market economy until 2015 (appendix A of the Protocol).
74 China–Measures Affecting Imports of Automobile Parts, WT/DS339/1 (3 April 2006).
75 Chinese Measures for the Administration of Importation of Automotive Parts and Components for Complete Vehicles (Decree No. 125), which entered into force on 1 April 2005.
76 See on the Hong Kong Trade Council website, <http://marketinfo.tdctrade.com>.
77 See Europolitique, 7 February 2008.

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The European Union will anyway have to try to reach a compromise on a new agreement allowing a better access to markets for the European firms, notably in term of improvement of the situation of the direct investments in China. A bilateral dispute settlement on the EC-Chile System template could be integrated in the future framework agreement (The reform of the Trade Barriers Regulation [TBR] envisage besides an extension of the field of the regulation to the content of bilateral agreements).

But within the current treaties, the inclusion of the domain of investments is not the only domain which can imply a mixed agreement. In accordance with its traditional policy in external policy, the Union likes to include a political dimension in future agreement, domain which refers principally to the Common and Foreign Security Policy (CFSP). Intergovernmental policy was developed as part of the EU, CFSP does not dispossess the Member States of their diplomacy (principle of concerted diplomacy). In other words, the integration of a political dialogue and political clauses will imply an agreement concluded by the EC and its Member States. Actually, difficulty is fond of the distrust of China on numerous political questions, particularly on human rights, which are so many obstacles to the conclusion of an agreement.

3.2. Constraints on the political dimension of the negotiation

The mandate of negotiation refers to a "project for an agreement of partnership and cooperation"[78]. This terminology theoretically refers to a political and institutional framework, that is to say not only the insertion of a democratic conditionality clause, but equally the affirmation of core common values resting on democracy and respect for human rights as laid down in the preamble, and the institutionalisation of political dialogue at various levels (summits, meetings of the permanent Council on partnership, meetings of senior officials, mixed parliamentary commission)[79]. At this level, the contribution of such an agreement would be fundamental to the extent that the 1985 Agreement—as we have seen—does not cover the political part of the relationship. A political dialogue posed—as in the case of the fourth-generation agreements with certain Latin American countries[80]—as a 'top-of-the-range' political dialogue with shared values as its basis and a deepened institutional framework as its instrument, perhaps seems inadequate given the real sharing of values between the parties. However, with regard to the PCA mandate, we can imagine the installation of a veritable political cooperation, via a regular political dialogue[81] (which exists in EU–China relations

78 EU Bull 12-2005.
79 See, for an analysis of the EU–Russia partnership, see J. Raux et V. Korovkine (dir.), Le Partenariat entre l'Union européenne et la Fédération de Russie, Rennes, éditions Apogée, 1998.
80 For example Article 11 of the Association Agreement, op. cit.
81 See the nature and levels of dialogue instituted by the PCA with Russia, op. cit. [195], article 6.

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even without an agreement, see *supra*), proceeding solely from domains of the state apparatus, similar to the PCA with Russia. It is important to note that, in this case, the use of the assent procedure of the European Parliament could be required by virtue of Article 300 (ex-Article 228), section 3(2) TEC aimed at the agreements creating a specific institutional framework or organising procedures for cooperation[82]. This was the case with the Russian Federation by virtue of Article 228. The European Parliament—as we have seen—underlines the constant human rights violations[83] in its resolutions, which could call into question the whole framework agreement. But this remains only a possibility since, as Delcourt reminds us, with Russia, despite "unsatisfactory Russian political context"[84], it was by "near-unanimity of votes cast that the European Parliament voted to give a positive response to the conclusion of the partnership agreement"[85]. That being so, if the unacceptable—i.e. the constant violation of human rights—is not comparable, we cannot prejudge the behaviour of the European Parliament tomorrow. It remains the case that the institutionalisation of political dialogue will be equally—with the economic arena—a factor for mixing.

Another cute political problem concerns the insertion of a 'human rights' clause in the future PCA. The European Community inserted such a clause for the first time with the Lomé V agreements[86]. That was a simple programmatic clause, which has been progressively developed in practice to become more binding. In its conclusions of 29 May 1995, the General Affairs Council, on the basis of a Commission communication[87], established a model 'human rights clause' to be included in future agreements concluded by the EC with third States[88]. The communication of the Commission had the aim of standardising the wording of the 'human rights clause'. As is stated by De Wilde d'Estmael, "Until then, in fact, the explicit politicisation of positive economic measures was made step by step, without any overall coherence, according to whether circumstances were judged to be opportune"[89]. Now, the model is to include in the preambles of agreements a general reference with respect to human rights and

82 Applying here to agreements that, without forming a legal association, nonetheless organise tight cooperation. cf. V. A. de Walshe, « La procédure de conclusion des accords internationaux », in M. Dony, J.-V. Louis (dir.), op. cit., point 81.
83 See notably the Resolution of the European Parliament on Tibet (case of Tenzin Delek Rinpoché) [2005] OJ C247/158, and the Resolution of the European Parliament on the human rights violations in China, notably in the matter of freedom of religion, EU Bulletin 9-2005 Human Rights (3/6) (Doc. P6_TA (2005) 0339).
84 Ch. Delcourt, « Un partenariat subordonné à l'approbation du Parlement européen : la procédure de l'avis conforme », in J. Raux et V. Korovkine (dir.), op. cit., at 86. Particular reference is made to 'the escalating violence in Chechnya'.
85 Ibidem, at 88.
86 Article 5 of the Lomé Convention.
87 Commission Communication on taking account of democratic principles and human rights in agreements between the Community and third countries, COM (95) 216 final
88 EU Bulletin 05/1995, Human Rights (3/12).
89 T. de Wilde d'Estmael, La Dimension politique des relations économiques extérieures de la Communauté européenne. Sanctions et incitants économiques comme moyens de politique étrangère, Bruxelles, Bruylant, at. 380-381.

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democratic values, together with a reference to universal and regional instruments common to the two parties. In the agreement itself, it is anticipated to include, first of all, an Article reiterating the 'essential elements', implying that the respect of human rights constitutes a major element of the agreement in question. Der-Chin Horng underlines in this regard that "the essential element clause stipulates that respect of fundamental rights and democratic principles as laid down in Universal Declaration of Human Rights"[90].

Following on from that, another Article must be inserted: the 'non-execution clause' (declarations interpreting the Article and defining the terms 'case of special urgency' and 'appropriate measures').This part is also known as a 'Bulgarian clause', and includes the obligation to respect proportionality as a preliminary condition for the application of this clause [91]. This combination has become the typical clause, inserted in international agreements concluded by the Community since 1995[92]. In theory, the insertion of such clauses allows for the possibility of sanctions for breach of human rights, and thus provides for a certain influence over third countries to oblige them to respect human rights, in the framework of agreements which they conclude with the Community. That being so, the execution of these clauses is rare, as the European Parliament notes "there have been consultations on 14 occasions for non-execution of an "essential elements" clause and negative reactions to human rights and democracy clauses, all of which have arisen in the context of the Cotonou Agreement and its predecessor, the Lomé IV Convention"[93]. Beyond the question of its eventual implementation, it is the very insertion of this 'human rights' clause which risks giving rise to fresh debates. The negotiation can be particularly delicate with regard to the a priori desire of the EU to maintain the embargo on selling arms to China in a regional context marked by resurgent tension between China and Taiwan[94], and the problems of human rights violations in China denounced by certain elements of civil society, and outlined by the European Parliament. Above all, the Chinese Government seems particularly unenthusiastic about the insertion of such a clause, in that it will encounter "the sensitivity of third states to

90 D. C. Horng, « The Human rights Clause in the European Union's External Trade and in Development Agreements », European Law Journal, vol. 9, n° 5, December 2003, at. 677.
91 Ibidem, p. 678
92 The insertion of such clauses allows, in theory, the possibility of sanctions for non-respect of human rights, and thus allows a certain influence on third countries to oblige them to respect human rights, in the framework of agreements which they conclude with the Community.
93 See the European Parliament, General Direction of the External Policies of the Union, Clauses relating to human rights and democracy in the international agreements of the EU (EP 363.284, 29 September 2005), at 7–8.
94 Even though the EU reaffirmed in 2005 its attachment to the 'one China' policy; see, on the questions of China–Taiwan security and China's adoption of the anti-secession law, the Declaration of the European Union Presidency relative to the adoption of the 'anti-secession law' by the People's National Assembly of the People's Republic of China, Brussels, 18 March 2005 (7297/2/05 REV2 (Press 62)), and the Resolution of the European Parliament on relations between the European Union, China, and Taiwan, and security in the Far East (P6 TA(2005) 0297).

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what may seem an unacceptable interference in their internal affairs". However, this clause will be integrated in the future agreement, with regard to the public opinion and the symbolic role of this essential clause in the EC external relations.

Concerning the insertion of additional "standard" clauses, on migration and readmission topics, the declaration adopted by the European Council of Seville (21-22 June 2002), plan that all the future cooperation or association agreement will have to include a clause on migration control and a readmission mechanism in the case of illegal immigration[95]. However, the negotiation of a separate agreement on the specific topic of readmission is under consideration. The question of Weapon mass destruction (WMD) could be the object of a specific clause, even if it seems complicate to give to this clause an essential character[96]. Similarly, a clause concerning the counter-terrorism could be integrated, with regard to the constant insertion of this question in the framework of joint declarations bearing on the strategic partnership (see *supra*). This clause could be inspired by the EC-Chile association agreement, which was the first opportunity to develop a typical formula. The association agreement signed with Algeria (April 2002) has integrate exactly this formula[97]. China being a priori against the ICC (see *supra*), a clause on the obligations in the terms of the Statute of Rome on the International Criminal Court will certainly difficult to implement. If all these clauses are inserted and expressly refer, and in a deepened way, in the appropriate international legal instruments (see *supra*), they could either introduce a horizontal mixity in the future agreement, or, more indeed, assert the mixed nature of the agreement[98]. In any case, It is not nevertheless obvious that, today[99], China is ready to accept not only political requirements, but also requests in terms of market access of the EU in the negotiation …

Conclusion

Beyond the legal formalisations of the 'strategic partnership', it is the EU's ability to

95 European Council of Séville des 21-22 june 2002, point 33 of the declaration.
96 Since December, 2004 – following conclusions of the Council of November 17th, 2003 consisting in introducing into relations with the EU of elements linked to the non-proliferation of WMD - a clause of non-proliferation was inserted in the review of the agreement of Cotonou between the EU and ACP, such as in the EC-Tadjikistan PCA and the association agreement with Syria. In the framework of the Cotonou agreement, , the Union acquired the recognition of the essential element of this clause such as human rights and the good management of public affairs.
97 The clause on ICC in agreements of Cotonou constitutes this day the only case of obligatory clause in an agreement with a third country. However, it proved to be impossible to make an essential element and therefore to be able to suspend agreement in case of violation of this disposition.
98 Implicating so at any case (in the present state of treaties or with the treaty of Lisbon) a long process of ratification by the 27 Member States of the Union.
99 The situation would have been able to differ if they had entered in negociations in 2003. This year corresponds in effect to a "honeymoon" between the partners (two strategic documents produced by both parties, absence of major strategical conflicts because of the reduced geopolitical force of the EU), China having realized at the time of its accession to WTO that the European Union could count, at least on commercial plan.

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adapt to the commercial and political power of China as a ‘reemerging’ player on the international scene that is at the heart of these debates—and, consequently, the ‘European model’.

以上爲讀者論點，不代表本通訊立場！

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歐盟出版品訊息

本期選介下列五篇由國外智庫出版的學術論著：

1. Transatlantic Relations 2009: European Expectations for the Post-Bush Era

2009 年的大西洋關係：歐洲對於後布希時代的期望

作者：Jan Techau、 Alexander Skiba

研究領域：政策制度（Institutional Affairs）

書籍類別：歐盟政策協會網絡研究報告（EPIN Working Papers）

出版日期：2008 年 11 月 7 日

內容摘要：

本篇文章的作者 Jan Techau 爲德國柏林外交政治協會（DGAP）的歐盟研究中心主任，另一位 Alexander Skiba 則是歐盟研究中心美德夥伴關係之專案計畫負責人。

兩位作者在文中指出，美國新政府上台後，極有可能將美歐夥伴關係拓展至更廣的面向，包括全球及雙邊的相關議題。預料新任美國總統巴拉克．歐巴馬（Barack Obama）爲實質且明顯地促進雙邊關係，將會向歐洲盟邦提出多項關鍵計畫，例如維持阿富汗的穩定、反恐、策劃對於全球金融風暴的解決方案、面對崛起的中國及印度，提出因應對策，以及透過對伊朗的反擊促進北大西洋公約組織（NATO）在面對全球事務時，可進行更爲靈活的運作。

整體來看，此份研究報告點出歐盟及其會員國對後布希政府的期望，以及透過單一個案和具體的議題，解析歐盟試圖與美國尋求建構跨大西洋關係的形式。

全文連結

http://shop.ceps.eu/BookDetail.php?item_id=1754

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2. The Wider Black Sea Region in the 21st Century: Strategic, Economic, and Energy Perspectives

21 世紀廣大黑海地區：戰略、經濟及能源之透視

作者：Danial Hamilton、Gerhard Mangott

研究領域：高加索及黑海地區

書籍類別：歐盟對外出版品

出版日期：2008 年 7 月 16 日

內容摘要：

黑海這個區域，曾經是歐陸的邊緣地帶；但今日從能源安全、貿易以及移民等關鍵面向來看，黑海地區已經成爲下一個大西洋策略欲開發的目標。

在本書中，國際關係專家詳加檢視這個充滿新活力的地區，包括對此區的透視，以及探討跨區域的議題，例如能源安全、邊境衝突、民主政治、公民權利、法律規章，以及未來與俄羅斯、歐盟與北大西洋公約組織（NATO）互動等重要議題。

作者提出，本書的撰寫透過一些機構的合作，才得以完成，包括從事高等國際研究的約翰霍普金斯大學之大西洋關係研究中心、位於維也納的奧地利國際研究機構以及奧地利馬歇爾計畫基金會等。

全文連結

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3. Engaging Central Asia: The European Union's New Strategy in the Heart of Eurasia

歐盟與中亞關係：歐盟對於歐亞大陸中心地區的新戰略

作者：Neil J. Melvin

研究領域：其他區域之關係；歐盟鄰近區域之外交安全政策

書籍類別：歐洲政策研究中心（CEPS）出版品

內容摘要：

2007 年 7 月起，歐盟開始對位於中亞的國家進行新的接觸。此一外交戰略的開始，展現歐盟對外關係性質上的轉變:歐盟積極與目前世界上日顯重要的能源供應區以及地理位置上的政治敏感地區，建立了新的關係，對象包括中國、俄羅斯、伊朗、阿富汗和南高加索地區等，其中還包含一些世界上最獨裁的國家。

本書由來自歐洲、美國和中亞的專家所撰寫，探討歐盟現今面臨的主要挑戰，針對歐盟試圖在其中亞政策面向上，從增加歐盟的能源、商業和安全利益之間找到一個平衡點，同時政策中必須兼顧中亞地區的社會正義、民主化的成就以及保障人權。

本書同時專注於歐盟與哈薩克、烏茲別克、土庫曼以及塔吉克間的個別雙邊關係，以及安全、民主化等重要議題，是第一本針對歐盟與中亞這個快速興起區域，在戰略上提出綜合評析的書籍。

全文連結

http://shop.ceps.eu/BookDetail.php?item_id=1662

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4. EU Security and Defence: Core Documents 2007 (Vol. VIII)

歐盟安全與防衛：2007 年核心文件（第八卷）

作者：Catherine Glière

報告編號：Chaillot Paper - n°112, October 2008

內容摘要：

Chaillot 刊物已獲得讀者廣泛的支持與贊賞，爲延續優良的傳統，此次出版第八卷報告。由歐盟安全研究學院（EUISS）針對歐盟安全與防禦議題，收集核心文件彙整成一本年度文集，檢視 2007 年歐盟在共同外交與安全政策（CFSP）和安全與防衛政策（ESDP）這兩大領域的重要發展。

2007 年對歐盟多項政策來說，皆爲關鍵的一年，外交與安全方面的事務也不例外。是年 6 月歐洲憲法改革條約在柏林簽訂，經歷了艱苦的起草時期後，各國元首最後於 12 月 13 日共同簽署里斯本條約。里斯本條約規範在歐盟分歧的對外行動中，各會員國應形成一致的聲音與相同的觀點，就此對歐盟對外行動及外交政策這兩方面，產生了更大的影響。

從近來歐盟面對政治及安全的挑戰上可察覺，無論是對鄰近歐盟的區域或是更遠地區的政策中，機制及工具爲歐盟提供了一個強而有利的介入管道。這種機制的建立是緊急且必須的，特別是當我們在思考 ESDP 從 2007 年至今的發展或甚至在各會員國對軍事行動的義務承擔上，皆是如此。這也可從歐盟對黎巴嫩的維和行動以及阿富汗戰爭中得到證明。

全文連結

http://www.iss.europa.eu/uploads/media/cp112-English.pdf

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5. The Changing Dynamics of Security in an Enlarged European Union

探究歐盟擴大中，安全政策的動態變化

作者：Elspeth Guild, Sergio Carrera & Thierry Balzacq

研究領域：司法及內政事務

書籍類別：CHALLENGE Papers

出版日期：2008 年 10 月 24 日

內容摘要：

在歐盟整合的過程中，對於會員國的主權及安全性兩者間的關係，存有高度爭議性的問題已超過十年。隨著歐盟權限延伸至自由、安全及司法政策領域，會員國的主權和安全性也產生了新的爭議點。作者指出，法律的政治性暴力被貼上“恐怖主義”的標籤，在歐盟及國際中，人的變動性也印證了前述現象，由於法制化所建立的規範凌駕於傳統的政府結構上，也使得各會員國間安全性與主權的問題出現了基本上的困境。

全文連結

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歐盟重要日程

2008.12.15~12.18 Parliament plenary session

2008.12.17~12.19 Agriculture and Fisheries Council

2008.12.22 EU-Brazil Summit

2009.01.01~06.30 Czech Presidency of the EU

2009.01.07 Meeting of the Government of the Czech Republic with the European Commission

2009.01.07 Launch Conference of the European Year of Creativity and Innovation

2009.01.29~01.30 Conference 'In Search of Security of Energy Supply of the EU Member States on the Common Electricity Market'

2009.03.19~03.20 European Council

Happy New Year!

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