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China's Anti-Secession Law, the Taiwan Strait, and Regional Security¹

China's "anti-secession law" of 14 March 2005 consists of ten articles the eighth of which provides for the application of "non-peaceful means" in the event of "secession from China" or a "complete exhaustion of...possibilities for a peaceful reunification." Article 6 emphasises the importance of cross-Strait social, economic, scientific and cultural contacts, joint efforts to fight crime, and efforts to maintain peace and stability in the Strait. Article 7 states that the PRC shall support negotiations and consultations among both sides of the Strait with equal status, with different modalities, and in differing phases. In such talks, China offers to negotiate an ending of hostilities, rules for cross-Strait relations, means for promoting unification, Taiwan's political status, Taiwan's participation in international organisations etc. There is no mentioning of the Hong Kong formula "one country, two systems" or a deadline for unification. The "one-China-principle" is being emphasised without the "one China" being explicitly identified as the PRC.²

Six months earlier, the CCP's central committee had agreed on a combined approach of cross-Strait talks, preparation for war, and patience. According to this policy, force would be used in the event of the island's de iure-independence defined as the official limitation of the territory of the Republic of China to Taiwan and the islands of Penghu, Quemoy, and Matsu.³ The PRC's respective military modernisation has focused on technological niches in which the US 7th Fleet can supposedly be challenged. Nine years have passed since the last near-confrontation which proved Peking's ability to impose a partial sea blockade against Taiwan. Since then, the number of short range missiles deployed against the island has increased from 50 to over 700.⁴

Whereas the Bush administration has viewed Peking's preparations for war in the Taiwan Strait as an increasing challenge, it has characterised China's ability to project conventional military power beyond its periphery as limited,⁵ and independent American research has raised doubts about the PRC's capability of directly

1 Paper presented at the conference on "Peace, Stability, and Security in East Asia: The Question of China and Taiwan," The Hague, 25 November 2005.

2 *Anti-Secession Law* (Peking: 10th National People's Congress, 13 March 2005.)

3 Che Zhiguo, "Beijing's Authoritative Person Analyses Fine-Tuning of Policy on Taiwan," *Ta Kung Pao*, 25 September 2004, as quoted in *Foreign Broadcast Information Service* (CPP20040925000027.)

4 *The Military Power of the People's Republic of China 2005* (Washington: Office of the Secretary of Defence, 2005.)

5 *ibid.*

confronting the US in the Taiwan Strait or elsewhere.⁶ Bush himself had made it clear in a 2001 interview that Washington would come to Taipei's help in almost any contingency,⁷ and his administration has turned the unofficial relationship into a quasi-alliance including co-operation on virtually every aspect of the island's defence. In the same context, the administration has repeatedly urged Taiwan to increase its defence spending so as to prevent the cross-Strait military balance from tilting further in China's favour⁸ (a move thus far blocked by the Taiwan opposition.)

At the same time, George Bush Jr. much as his predecessors has tried to avoid war by even publicly urging President Chen Shuibian to refrain from moves towards *de iure*-independence.⁹ In 2004, Washington signalled a new interest in proposals made earlier by the Clinton administration for so-called interim agreements in which China would renounce the use of force and Taiwan would forego a declaration of independence for several decades.¹⁰ Depending on developments across the Strait, the US could find itself increasingly compelled to promote such an approach.

The Taiwan Problem and Asia-Pacific Security

Whereas Western responses to the passing of the "anti-secession law" ranged from muted (Bush administration, Japanese government, European Union¹¹) to grave concern (US Congress, European Parliament,) most regional middle powers refrained from explicit comments, with only Indonesia signalling "understanding,"¹² and Cambodia expressing "support."¹³ At the same time, Australia has been increasingly ambiguous with regard to its alliance commitments in Taiwan Strait scenarios,¹⁴ and

6 Harold Brown et al., *Chinese Military Power* (New York: Council on Foreign Relations, 2003.)

7 *American Broadcasting Corporation*, 25 April 2001 (online.)

8 "US Officials Urge Taiwan to Increase Its Defence Budget," *Central News Agency*, 14 September 2005 (online.)

9 "Bush Says He Opposes Referendum on Taiwan," *People's Daily Online*, 10 December 2003.

10 "Ex US Official Mulls Vote's Impact on Taiwan," *Taiwan News*, 3 November 2004 (online.)

11 Both France and Russia signalled "understanding of China's position on Taiwan," albeit not specifically of the "anti-secession law." "More Countries Support New Law," *Xinhua*, 16 March 2005, online; "Russia Understands China's Position on Taiwan Issue," *ibid.*, 15 March 2005 (online.)

12 "Indonesia Understands China's Adoption of Anti-Secession Law: Spokeswoman," *Xinhua*, 16 March 2005 (online.)

13 "Cambodia Backs China's Anti-Secession Law," *ibid.*, 16 March 2005 (online.)

14 In August 2004, Foreign Minister Alexander Downer had stated in Peking that Canberra's obligations under the Anzus Treaty could 'be invoked only in the event of a direct attack on the US or Australia. Some other activity elsewhere in the world...does not invoke it.' Following sharp US protests, Prime Minister John Howard corrected Downer who has since maintained a position of not commenting on respective scenarios. Mohan Malik, "The China Factor in Australia-US Relations," *China Brief*, Vol. 5, No. 8 (12 April 2005; online.) Earlier, Howard had identified a growing trilateral alliance with the US and Japan while offering Australia as an

Singapore's new prime minister Lee Hsien Loong has stated that in a conflict 'provoked by Taiwan, Singapore will not support Taiwan.'¹⁵ Speaking at the time of the passing of the "anti-secession law," although not mentioning the island republic, South Korean President Roh Moo-hyun insisted that Washington would not be allowed to use its Korean bases for a military intervention in other Asian countries¹⁶ (earlier, Peking had unsuccessfully tried to extract US concessions over Taiwan in exchange for a constructive role in Six Party talks over North Korea,¹⁷ and in 2005, Roh Moo-hyun offered his country as a mediator in Northeast Asian territorial disputes.¹⁸)

Not being drawn into a US-PRC conflict over Taiwan (and keeping sealanes open, an objective shared by Northeast Asian countries) remains the primary interest of Asean member states, four of which (five, if one includes Indonesia) have territorial disputes with both Peking and Taipei in the South China Sea. In 2002, Asean, by signing a non-binding "declaration on a code of conduct" with Peking rather than a binding code of conduct with geographical specifications, came close to acknowledging its own lack of unity on this issue.¹⁹ The Philippines and Vietnam subsequently entered into bilateral and trilateral agreements with China on the joint exploitation of oil and other resources in disputed areas that apparently remain limited to sectors under Southeast Asian control and has not prevented the PRC from erecting new markers on disputed islands.²⁰ Neither did it prevent Taiwan from building a "bird watching tower" on a reef claimed by Vietnam,²¹ but Taiwan is no party to the 2002 declaration. On this issue, Taipei in the past vacillated between cooperation with China and joint development offers made to other claimants.²²

honest regional broker who could help avoid conflict between the US and China. Graeme Dobell, "PM Sees Australia as Mediator in Asia Pacific," *Australian Broadcasting Corporation*, 1 April 2005 (online.)

15 Shi Yongming, "New Leader, New Mission," *The Beijing Review*, No. 35 (2004,) online. Lee made this statement following PRC sanctions in response to his "private" July 2004 visit to Taiwan.

16 Jefferson Morley, "Courting the Dragon," *The Washington Post*, 15 March 2005 (online.)

17 Willy Wo-Lap Lam, "Beijing's Delicate Stance on North Korea," *Cable News Network*, 15 January 2003 (online.)

18 "South Korea's 'Balancing Role'", *Vantage Point*, Vol. 28, No. 5 (May 2005,) pp. 20/1.

19 According to one analyst, 'disunity developed on the Asean side between Vietnam and Malaysia...In the end, you had the sad spectacle of China, which initially rejected the Asean approach to a code of conduct, being more enthusiastic about the final declaration than the Asean side.' Barry Wain quoted in Christopher Roberts, "China and the South China Sea: What Happened to Asean's Solidarity?", *IDSS Commentaries*, No. 20 (2005; online.)

20 Ronald A. Rodriguez, "Conduct Unbecoming in the South China Sea?" *PacNet*, 21 May 2004 (online.)

21 *Ibid.*

22 Mark J. Valencia, "Taiwan and the South China Sea," *The Taipei Times*, 20 April 2001 (online.)

During the 1990s, Taiwan used its participation in an informal workshop series on the South China Sea organised by Indonesia to unsuccessfully pursue its claim to statehood and inclusion in formal interstate mechanisms such as the Asean Regional Forum (ARF).²³

Neither has the island's considerable trade with and investment in Asean countries²⁴ led to the emergence of official bilateral or multilateral ties. In the broader region, membership in the Asian Development Bank and Apec are exemptions to this rule. In the case of Apec, there have been problems with China since members launched an annual summit process in 1993. At the same time, Peking has been trying to play a leading role in East Asian regionalism by agreeing on a free trade arrangement with Asean and by using the latter as a point of departure for an East Asian Community under its own implicit leadership. This ambition, however, has raised Asean concerns about being delegated to second rank while inspiring Japanese claims for a leading part to be played by Tokyo.

Japan also represents the one case of a regional state explicitly (and in anticipation of the "anti-secession law") naming Taiwan as a "strategic concern" shared with Washington.²⁵ This contrasts with late-1990s attempts not to antagonise China over a more visible Japanese alliance role (much as Australia more recently, Tokyo has cooperated with Washington on the development of an anti-missile system that China suspects has been devised to cover the island.²⁶) Recent incursions by Chinese military vessels into Japan's territorial waters have occasionally been related to Taiwan scenarios in Tokyo.²⁷ Traditionally, Japan's relationship with Taipei 'is not based singularly on economics but is a multifaceted one underpinned by the colonial legacy, shared values, social networks, and geopolitics.'²⁸ Under Chen Shuibian, Taiwan has downplayed a claim shared with China on the Diaoyu/Senkaku islands in the East China Sea.²⁹ Following the US-Japan joint declaration on the Taiwan Strait and the subsequent passing of the "anti-secession law," PRC authorities for several weeks tolerated anti-Japanese demonstrations some of which referred to the

23 Ibid.

24 In 2002, Taiwan's trade with Southeast Asia reached a volume of US\$ 32.47 billion. Accumulated Taiwanese investment stood at US\$ 42.169 billion. *Republic of China 2003 Yearbook* (online.)

25 James Brooke, "Japan's Ties to China: Strong Trade, Shaky Politics," *The New York Times*, 22 February 2005 (online.)

26 *China's Opposition to US Missile Defence Programmes* (Monetary: Centre for Non-Proliferation Studies, 2000; online.)

27 J. Sean Curtin, "Submarine Puts Japan-China Ties into A Dive," *Asia Times Online*, 17 November 2004.

28 Lam Peng-Er/Ja Ian Chong, "Japan-Taiwan Relations: Between Affinity and Reality," *Asian Affairs*, (1 January 2004,) p. 254.

29 Ibid., p. 262.

territorial issue (tensions on Chinese gas exploration activities in adjacent waters have been simmering since late 2003.)

A Fragile Status Quo

The Taiwan dispute is first of all a result of domestic dynamics on both sides. In Taiwan, this has meant the democratic consolidation of a distinct identity that is bound to proceed in the future. This political imperative tends to neutralise China's economic attraction that the PRC in other parts of the world has successfully used as a substitute for a lacking strategic reach. In recent months, Peking has hesitantly started addressing the democracy factor by offering incentives to Taiwanese farmers and students while entering into a dialogue with the island's opposition.³⁰

At home, the CCP would commit suicide if it reneged on its sovereign claim. However, neither Chinese nor Taiwanese nationalism need escalate if both sides exercise restraint and witness a basically peaceful domestic evolution. Prospects for such an evolution are clearly better in a democratic Taiwan than in an autocratic PRC confronted with growing socioeconomic problems. As a combination of cooperative and confrontative elements, the "anti-secession law" reflects this basic dilemma.

At the same time, the Chen Shuibian administration has exploited Peking's dilemma by resorting to systematic provocations ranging from the official use of the country designation "Taiwan" instead of "China" to an ongoing debate on amending the constitution. In this context, the "anti-secession law" can be viewed as a PRC attempt at regaining the offensive, although the price to be paid (e.g. in terms of a protracted EU debate on the lifting of a 1989 arms embargo) has been high.

If one includes a US presence "over the horizon", the military balance in both the Taiwan Strait and the wider Western Pacific can be considered stable over the long term. Whereas other regional players have not been preparing for armed conflict with China the way Japan has, and growing attraction of the Chinese market notwithstanding, they continue to view the 7th fleet as a reassurance against Peking uncertainties that no free trade arrangement or security dialogue would be able to disperse anytime soon. One could go as far as arguing that the US presence is a necessary condition for whatever emerges in terms of East Asian regionalism.

This status quo can be put at risk from two sides: (1) US impatience over North Korea and (2) Chinese nationalism as a result of failing growth and escalating

30 In a similar context, China has had to emphasise that the "anti-secession law did not apply to Hong Kongo or Macau. "Anti-Secession Law of the People's Republic of China," *Wikipedia* (March 2005; online.)

domestic tensions. Whereas Taiwan would play an obvious role in the second (and to me, more likely) scenario, there have been scenarios of a Korean conflict entailing conflict in the Taiwan Strait,³¹ with the 1950s experience to some extent pointing in the same direction. This is why South Korea recently has declared an interest in a new Northeast Asian security architecture, something Japan might wish to explore so as to minimise the risk of regional isolation.

In the meantime, the US remains the guarantor of what arguably has become a more delicate peace in the Taiwan Strait, a role that has recently required at least as many diplomatic as military skills. In a sense, this role is not easy to play for a superpower that has to accommodate not only competing interests in other parts of the world but also competing constituencies at home. In contrast, the one party-PRC could at least theoretically focus all its aggregate power on Taiwan (and one could indeed be tempted to interpret many of Peking's policy initiatives through such a lense.) In reality, though, structural problems resulting from one party rule have inspired a Chinese foreign policy that is basically defensive, even when it comes to the "renegade province." To some extent, a Sino-US "concert of powers" has thus been at work in the Taiwan Strait as it has over North Korea. However, concerts are no more than temporary solutions to deepseated problems the lasting solution of which would require a concordance in worldviews that remains largely absent between Peking and Washington.

31 *Scenarios for the Future of US-North Korean Relations: Engagement, Containment, or Rollback* (San Diego: Nautilus Institute, August 2002.)