

THE EVOLUTION AND PROSPECTS OF CROSS-STRAIT RELATIONS  
IN THE CHEN SHUI-BIAN ADMINISTRATION

CHEN-YUAN TUNG

Assistant Professor

Sun Yat-Sen Graduate Institute of Social Sciences and Humanities

College of Social Sciences, National Chengchi University

E-mail: ctung@jhu.edu

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First of all, this paper analyzes both Taiwan's China policy and China's Taiwan policy in terms of major principles and prospects of their respective policy. Secondly, this paper discusses two major issues of the cross-Strait relations in the Chen Shui-bian administration: cross-Strait chartered flights arrangement and the impact of China's anti-secession law. Thirdly, it elaborates China's compensation and united front tactics against Taiwan after China's legislation of the anti-secession law. Finally, it concludes with prospects of cross-Strait relations over next few years.

## **I. Taiwan's China Policy**

### **A. The DPP Principle: Democracy, Peace, and Prosperity**

Ever since May 2000, Taiwan's China policy of the Chen Shui-bian administration could be characterized by three pillars, which can be abbreviated as the DPP principle: democracy, peace, and prosperity. The first pillar is democracy. In the resolution of the Democratic Progressive Party regarding Taiwan's future adopted in May 1999, the status quo of an independent sovereign Taiwan can only be changed through a democratic process with the Taiwanese explicit consent.

President Chen reiterated the democracy principle in the inaugural speech of his second term on May 20, 2004 as well as in his National Day speech on October 10, 2004: "Taiwan is a completely free and democratic society. Neither single individual nor political party can make the ultimate choice for the people. If both sides are willing, on the basis of goodwill, to create an environment engendered upon "peaceful development and freedom of choice," then in the future, the Republic of China and the People's Republic of China – or Taiwan and China – can seek to establish relations in any form whatsoever. We would not exclude any possibility, so long as

there is the consent of the 23 million people of Taiwan.”<sup>1</sup>

The second pillar is peace. Upon taking office, President Chen has consistently reiterated the position: in accordance with the principles of “goodwill reconciliation, active cooperation, and permanent peace,” both sides across the Taiwan Strait must mutually promote constructive development in cross-Strait relations. It was based on these premises of reconciliation, cooperation, and peace that President Chen proposed to the Chinese leaders in the inaugural speech of his first term on May 20, 2000: let us jointly deal with the question of a future “one China.”<sup>2</sup>

In addition, President Chen pledged that during his term in office, as long as China does not hold the intention of using military force against Taiwan, he would not declare independence, he would not change the national title, he would not push forth the inclusion of the so-called “state-to-state” description in the Constitution, and he would not promote a referendum to change the status quo in regard to the question of independence or unification. Furthermore, he added, there was no question of abolishing the Guidelines for National Unification and the National Unification Council. These pledges are known as the so-called “four noes, one have-not” or “five noes.”

During and after the 2004 presidential election, President Chen has reiterated his firm position on promoting peace by maintaining the status quo. Even though Taipei, Washington, and Beijing have quite different definition of the status quo across the Taiwan Strait, President Chen pledged not to change the status quo per se by means of changing its national name, national flag, and constitutional territory in order to

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<sup>1</sup> “President Chen’s Inaugural Address ‘Paving the Way for a Sustainable Taiwan’,” Office of the President, Republic of China, May 20, 2004. “President Chen’s Address to the National Day Rally,” Office of the President, Republic of China, October 10, 2004.

<sup>2</sup> “President Chen’s 520 Inaugural Speech: Taiwan Stands Up: Advancing to an Uplifting Era (Excerpt),” Mainland Affairs Council, <http://www.mac.gov.tw/english/english/macpolicy/cb0520e.htm>, accessed May 7, 2004.

maintain stability of trilateral relations among Taiwan, the United States, and China.<sup>3</sup>

In the inaugural speech of his second term on May 20, 2004, President Chen emphasized the peace principle as follows: “By 2008, a new version of the Taiwan Constitution would be introduced to the people of Taiwan. Issues related to national sovereignty, territory and the subject of unification/independence should be excluded from the present constitutional re-engineering project. Procedurally, we shall follow the rules set out in the existing Constitution and its amendments.”<sup>4</sup>

In addition, in his National Day speech on October 10, 2004, President Chen proposed that both sides across the Taiwan Strait use the basis of the 1992 meeting in Hong Kong, to seek possible schemes that are “not necessarily perfect but acceptable,” as preparation of a step forward in the resumption of dialogue and consultation. Furthermore, President Chen proposed that, in the long term, both sides should formally end the state of hostility across the Taiwan Strait and establish confidence-building measures and the “Code of Conduct across the Taiwan Strait” through consultations and dialogues.<sup>5</sup>

The third pillar is prosperity. Since May 2000, to better balance the needs of economic development and national security concerns, the Chen Shui-bian administration has discarded the long held “no haste, be patient” policy and adopted a new policy of “proactive liberalization with effective management.” Thereafter, Taiwan has gradually but surely come to relax its regulation on cross-Strait trade, investment, and other economic activities.

With respect to cross-Strait trade, for December 2000 only 53.9 percent of trade commodities were permitted as imports from China to Taiwan whereas these figures

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<sup>3</sup> Meeting notes with senior Taiwanese officials, March 26, 2004. Meeting notes with a senior Taiwanese official, April 19, 2004.

<sup>4</sup> “President Chen’s Inaugural Address ‘Paving the Way for a Sustainable Taiwan’,” Office of the President, Republic of China, May 20, 2004.

<sup>5</sup> “President Chen’s Address to the National Day Rally,” Office of the President, Republic of China, October 10, 2004.

had jumped to 77.5 percent by September 2003 and 78.2 percent by October 2004. Moreover, based on the estimates by Taiwan's Mainland Affairs Council (MAC), Taiwan's trade with China increased by 34 percent in 2002 and 24 percent in 2003, respectively. Accordingly, in 2003, Taiwan's exports to China accounted for 24.5 percent of Taiwan's total exports, while Taiwan's imports from China accounted for 8.6 percent of Taiwan's total imports. In fact, China has been Taiwan's largest export market since 2002 and largest trade partner since 2003.

In terms of regulating Taiwan's foreign direct investment (FDI) to China, the Taiwanese government relaxed restrictions on Taiwanese investment in China's high-tech industry, except for items like wafer and upstream petrochemical products. It also did away with the investment ceiling of US\$50 million. Instead, it established a review commission with clear standards on investment projects of over US\$20 million and Taiwanese investing an amount lower than US\$200,000 may register by declaration procedures. Furthermore, the government has opened the way for Taiwanese financial firms to establish branches in China. By August 2004, based on Taiwanese official statistics, Taiwan's cumulative outward FDI to China was US\$38.7 billion, or 48.9 percent of Taiwan's cumulative outward FDI.

Furthermore, Taiwan has put forward a three-stage schedule that allows for China's investment in Taiwan: Taiwan will allow China's investment in the real estate sector in first stage, in some service industries and the manufacturing industry in the second stage, and in the capital market in the third stage.

Finally, after the revision of the Statute Governing the Relations between the People of the Taiwan Area and the Mainland Area in October 2003, the Taiwanese government is reviewing and relaxing regulations regarding Taiwan's investment to China, introducing Chinese technology to Taiwan, cross-Strait financial exchange and

taxation issues, expanding mini three links<sup>6</sup>, China's investment to Taiwan, and issuing Chinese business visas to Taiwan.

In the inaugural speech of his second term on May 20, 2004, President Chen emphasized the prosperity principle as follows: Both sides across the Taiwan Strait must demonstrate a dedicated commitment to national development and promote cultural, economic and trade exchanges --- including three links (direct trade, postal, and transportation links between Taiwan and China).<sup>7</sup> On Taiwan's National Day of October 10, 2004, President Chen clarified that the Taiwanese government was formulating a plan that provides convenient and efficient means to facilitate chartered flights for passengers and cargo and hoped to seek further progress in the three-link policy.<sup>8</sup>

## **B. Constructing a Framework of Interaction for Peace and Stability**

The most important task for President Chen in his second term would be constructing a framework of interaction for peace and stability, starting from creating an environment of goodwill reconciliation and negotiation on concrete functional issues. Evidently, Taiwan has kept adopting very moderate stances and opening-up measures on cross-Strait exchanges in response to China's harsh rhetoric attacks and threats against Taiwan after the March 2004 election.

President Chen's proposal of the peace and stability framework has long history and policy consistency. In its resolution regarding Taiwan's future passed on May 8, 1999, the DPP asserts, "Taiwan and China should engage in comprehensive dialogue to seek mutual understanding and economic cooperation. Both sides should build a

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<sup>6</sup> Since January 2001, the "mini three links" have legalized trade and travel between Taiwan's offshore islands, Quemoy and Matzu, and adjacent ports in China.

<sup>7</sup> "President Chen's Inaugural Address 'Paving the Way for a Sustainable Taiwan'," Office of the President, Republic of China, May 20, 2004.

<sup>8</sup> "President Chen's Address to the National Day Rally," Office of the President, Republic of China, October 10, 2004.

framework for long-term stability and peace.”<sup>9</sup> On November 15, in his white paper on China policy, presidential candidate Chen Shui-bian called for “building up a stable interaction mechanism” and the establishment of a transitional system for cross-Strait dialogue in order to sign a bilateral peace agreement.<sup>10</sup>

On January 1, 2003, President Chen proposed for the first time the idea of building “a framework of interaction for peace and stability” across the Taiwan Strait. In the first two decades of the 21<sup>st</sup> century, he said, the two sides of the Taiwan Strait should begin crafting a common niche for economic development, thereby fostering an environment conducive to long-term cross-Strait engagement. He added, “Consultation and promotion of direct transportation links, as well as exchanges on other relevant economic issues, could constitute a first step forward and set the stage for future economic and cultural interaction. This will enable both sides to work together, abiding by the principle of ‘democracy, parity, and peace,’ in an effort to resolve long-term issues through existing foundations and with increasing confidence.”<sup>11</sup> As a matter of fact, President Chen’s suggestion was a positive response to China’s aspiration of the 20-year strategic opportunity period in its 16<sup>th</sup> Congress of the Chinese Communist Party held in November 2002.

In his international press conference on February 3, 2004, President Chen further elaborated main elements of the peace and stability framework. He stated, “After March 20 this year, we will invite Mainland China to appoint its special envoy to meet and to work with our special envoy toward the initiation of cross-Strait

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<sup>9</sup> Democratic Progressive Party, *Nianqing Guojia Guanxin Xianfa* [A Young Country, A New Constitution] (Taipei: Democratic Progressive Party, 2003), p. 19.

<sup>10</sup> Campaign Headquarter of Presidential Candidate Chen Shui-bian, “The White Paper of Cross-Century China Policy,” Mainland Affairs Council (ed.), *Zhengfu Dalu Zhengce Zhongyao Wenjian* [Important Documents of the Government’s Mainland Policy] (Taipei: Mainland Affairs Council, 2004), pp. 149-162.

<sup>11</sup> “President Chen’s New Year Day’s Message (excerpt: cross-strait relations),” Mainland Affairs Council, <http://www.mac.gov.tw/english/english/macpolicy/ch9211e.htm>, accessed May 7, 2004.

negotiation, in light of the ‘One Principle and the Four Major Issue Areas’.”<sup>12</sup>

The “One Principle” is to establish the principle of peace, President Chen said, adding that both sides must recognize that maintaining peace in the Taiwan Strait is the joint responsibility of both parties and should, therefore, work together to attain the objective of maintaining peace. In particular, he emphasized that both sides should not make unilateral change to the status quo in the Taiwan Strait area.

The “Four Issue Areas,” meanwhile, are: the establishment of a negotiation mechanism; exchanges based on equality and reciprocity; the establishment of a political relationship; and the prevention of military conflicts. President Chen advocated that both sides should have representatives stationed in Taipei and Beijing to facilitate negotiations. He suggested that expansion of cross-Strait exchanges and cooperation should include economic issues (direct transportation links, tourism, trade and economic cooperation), and cultural, as well as technology exchanges. He pointed out that the political relations across the Taiwan Strait should be based on mutual recognition of jurisdiction (not sovereignty) and non-interference of each other’s diplomatic affairs. Finally, he emphasized that Taiwan and China should prevent military conflicts through confidence-building measures.

In the inaugural speech of his second term on May 20, President Chen reaffirmed his commitment to establishing the peace and stability framework by establishing a bi-partisan Committee for Cross-Strait Peace and Development to draft “Guidelines for Cross-Strait Peace and Development.”<sup>13</sup> President Chen planned to form the Committee and began to work on the Guidelines after the Legislative Yuan election in December 2004. Nevertheless, due to the boycott of Taiwan’s opposition parties after the election, the Committee has not been formed as of June 2005.

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<sup>12</sup> “President Chen’s Press Conference,” Office of the President, Republic of China, February 3, 2004.

<sup>13</sup> “President Chen’s Inaugural Address ‘Paving the Way for a Sustainable Taiwan’,” Office of the President, Republic of China, May 20, 2004.



## **II. China's Taiwan Policy**

### **A. One Center and Two Pillars**

Prior to the 2000 presidential election in Taiwan, Beijing had hinted several times that if Chen Shui-bian were elected, Beijing might use military force against Taiwan. After the election, however, Beijing did not adopt a harsh response, but instead, followed a low-key and responsive approach of “listen to what he says, and watch what he does.”

Diverging from past practice, China began to implement a series of comparatively lenient policies towards Taiwan. First, after July 2000, China has taken up a more lax definition of the one-China principle. Second, after August 2000, Beijing ceased insisting that the one-China principle be a prerequisite for negotiation of direct three links. Third, Beijing began to accept the so-called 1992 consensus, which it objected before 2000, and asserted this consensus as the foundation of resumption of cross-Strait dialogue.<sup>14</sup> Fourth, after October 2002, Beijing began to define cross-Strait air and sea links as “cross-Strait routes.”

Why did China adjust its tactics towards Taiwan? China's Taiwan policy is focused primarily around “economic development” (one center), with the hope that the Taiwan Strait issue does not delay or undermine the progress of China's economic development. That is, stability of cross-Strait relations is one of major goals of China's Taiwan policy. In addition to this, China's Taiwan policy is essentially founded upon two pillars: “utilizing the United States to suppress Taiwan” and “appealing to the Taiwanese public.”<sup>15</sup>

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<sup>14</sup> Chi Su, “*Yige Zhongguo Gezi Biaoshu*” *Gongshi de Shishi* [The Historical Fact of “One China, Different Interpretation” Consensus] (Taipei: National Policy Foundation, 2003).

<sup>15</sup> Chen-yuan Tung, “The Assessment of China's Taiwan Policy of the Third Generation and Its Prospect,” *Asian Survey*, forthcoming. Meeting notes with a senior Chinese official, February 22,

In spite of the apparent leniency, China has not changed four elements of its overall approach towards Taiwan. First, China intentionally ignores the existence of the Republic of China on Taiwan, which continues to be an independent sovereign country as it has been since 1949.

Second, China has persisted in and even reinforced its military threats against Taiwan by deploying more missiles (about 725 missiles by April 2005)<sup>16</sup> targeting Taiwan across the Taiwan Strait.

Third, China continues to suppress Taiwan's international space. Not only does China object to Taiwan's participation in the World Health Organization (WHO) but also great effort is made to bar Taiwan from joining regional free trade areas in Asia.

Fourth, and most importantly, China has declined overtures to negotiate with Taiwan and resolve bilateral disputes peacefully. Based on Taiwan's Mainland Affairs Council statistics, between May 20, 2000 and June 30, 2004, Taiwanese senior officials urged the Chinese government to resume cross-Strait dialogue 172 times.<sup>17</sup>

Based on the principle of one center and two pillars, during the period of Taiwan's 2004 election campaign, China kept very low profile other than reiterating its existing position on cross-Strait relations because Beijing learned lessons from the previous elections in Taiwan that its intervention could be counter-productive.<sup>18</sup> Although President Chen was re-elected, from the Chinese perspective (self-justification), China's policy toward Taiwan was still successful in terms of U.S. non-support to Taiwan independence and the referendum, regarding Taiwan's election as a local election, and the invalidity of the referendum on March 20. That is, China

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<sup>16</sup> Rong-xing Ho and You-zhi Gao, "The LMT Lost Mainland in the Last Negotiation with the CCP," *Zhongguo Shibao* [China Times], April 17, 2005, p. A2.

<sup>17</sup> "Naixin yu Shanyi [Patience and Goodwill]," Mainland Affairs Council, <http://www.mac.gov.tw/big5/mlpolicy/891012.htm>, accessed July 24, 2004.

<sup>18</sup> Meeting notes with two senior scholars in Beijing, October 2003. Meeting notes with two senior scholars in Beijing, April 2004.

has no urgency or rationale to resort to military action against Taiwan in the near future.<sup>19</sup>

Nevertheless, China faces a serious dilemma on the cross-Strait relations after President Chen won his second term. On the one hand, China would like to avoid possible military conflicts in the Taiwan Strait for maintaining domestic economic development and social stability as well as facing possible intervention of the United States. On the other hand, the Chen Shui-bian administration would not accept the one-China principle and thus the Chinese government faces enormous public pressures to do something on the cross-Strait relations.<sup>20</sup>

With this dilemma, China will adopt a strategy of reinforcing both hands, i.e., a hard hand will become harder and a soft hand will become softer. On the one hand, China will show more clearly its resolution and credibility to deter Taiwan from declaring *de jure* independence. This will be the major focus of China's current Taiwan policy. On the other hand, China will adopt more measures to show its goodwill to the Taiwanese people, including reflecting the fact of growing Taiwan self-consciousness. This might be China's objective in the medium-long term, not in the short term.<sup>21</sup>

On May 17, 2004, three days before President's inaugural speech, China issued a statement on cross-Strait relations, reflecting its concerns and strategy of reinforcing both hands. The statement stressed that "To put a resolute check on the 'Taiwan independence' activities.... is the most pressing task." The statement pronounced that President Chen has put out a timetable to move Taiwan to independence through the

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<sup>19</sup> In my visit to Beijing and Shanghai in April-May 2004, although most Chinese scholars worried the current situation across the Taiwan Strait, only a senior Chinese scholar mentioned that China might use force against Taiwan by 2006.

<sup>20</sup> Meeting notes with seven senior scholars in Beijing and three senior scholars in Shanghai, April-May 2004. Meeting notes with a senior Chinese official, July 7, 2004.

<sup>21</sup> Meeting notes with two senior scholars in Beijing and two senior scholars in Shanghai, April-May, 2004. Meeting notes with a senior Chinese official, July 7, 2004.

making of a new constitution, thus pushing the cross-Strait relations to the brink of danger. Finally, the statement suggested two roads for Taiwanese president: one is to accept the one-China principle and cross-Strait relations can hold out a bright prospect of peace, stability and development. The other is to keep following their separatist agenda and, in the end, meet their own destruction by playing with fire.<sup>22</sup>

In March 2005, China's National People's Congress (NPC) Standing Committee passed the anti-secession law (ASL). China's intention to enact the ASL was mainly reflected its concerns over Taiwan's constitutional reforms and would specify China's position through legislation to deter Taiwan from declaring de jure independence.<sup>23</sup>

## **B. Relying More on the United States**

After the 2004 election, because of the convergence of Taiwan's public opinion on the Taiwan identity and the possible declining political strength of the pan-blue camp, Beijing would depend less on the pan-blue camp to pressure the Chen Shui-bian administration. Instead, Beijing would rely more on the United States to suppress Taiwan in the future. According to the past experience, Beijing argued that U.S. pressure on Taiwan was much more effective than China's rhetorical attacks and military threats against Taiwan, even much better or more feasible than its military attacks against Taiwan.<sup>24</sup>

For instance, in his meeting with Chinese Premier Wen Jiabao, U.S. President George W. Bush publicly criticized Taiwan that "the comments and actions made by the leader of Taiwan indicate that he may be willing to make decisions unilaterally to

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<sup>22</sup> "Office of State Council Are Authorized to Issue Statement on Current Cross-Straits Relations," Xinhua General News Service, May 17, 2004.

<sup>23</sup> Meeting notes with Chinese senior scholars and officials in Beijing and Shanghai, December 2004.

<sup>24</sup> Meeting notes with scholars in Shanghai, October 9, 2002. Meeting notes with a senior Chinese official, October 23, 2003. Meeting notes with five senior scholars in Beijing and a senior scholar in Shanghai, April-May 2004. Meeting notes with a senior Chinese official, July 7, 2004.

change the status quo, which we oppose.”<sup>25</sup> The Chinese government applauded President Bush’s statement and asserted their diplomatic efforts a “complete success” by maintaining the one-China principle in the international community.<sup>26</sup>

In fact, Chinese senior officials had heavily pressured the U.S. government several times to suppress Taiwan before President Bush’s public statement.<sup>27</sup> In early February 2004, Beijing sent another mission to Washington to urge the United States to take more concrete steps to rein in President Chen. China put pressure on the Bush administration to intervene more decisively to prevent Taiwan from holding the peace referendum on March 20.<sup>28</sup>

On February 11, Chinese spokesman of Foreign Ministry confirmed that Beijing hoped that the United States could play a more constructive role on the issue of China’s unification. On March 23, two days after the election, Chinese Foreign Minister Li Zhaoxing urged the United States to do more for peace and stability in the Taiwan Strait (i.e., opposing Taiwan independence) and for the development of relations across the Taiwan Strait (i.e., promoting cross-Strait unification) in a phone conversation with U.S. State Secretary Colin Powell.<sup>29</sup> In particular, Beijing wanted senior U.S. officials to express their disapproval of Taipei making a radical revision of the Taiwan Constitution.<sup>30</sup>

Nevertheless, given Beijing’s increasing reliance on the United States to suppress Taipei, the United States will have more leverage to influence China’s Taiwan policy.

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<sup>25</sup> Dana Milbank and Glenn Kessler, “President Warns Taiwan on Independence Efforts,” *Washington Post*, December 10, 2003, p. A1.

<sup>26</sup> John Pomfret, “China Lauds Bush for Comments on Taiwan,” *Washington Post*, December 12, 2003, p. A44.

<sup>27</sup> Meeting notes with a senior scholar in Shanghai, December 18, 2003. Meeting notes with a senior American official, January 15, 2004.

<sup>28</sup> Joseph Kahn, “Beijing Urges Bush to Act to Forestall Taiwan Vote,” *New York Times*, February 6, 2004, p. A3.

<sup>29</sup> “China Tells United States to Do More for Taiwan Stability,” Agence France Presse, March 23, 2004.

<sup>30</sup> Willy Lam, “Chen Shui-Bian after the Election: Lame Duck or Phoenix?,” *China Brief*, Vol. IV, No. 7 (April 1, 2004).

In particular, the cross-Strait policy of the United States is consistently to facilitate cross-Strait dialogue and promote peaceful resolution of cross-Strait disputes, not unification.<sup>31</sup> The United States argues that China's insistence that Taiwan accept the one-China principle as a condition of beginning talks was not helpful.<sup>32</sup> Thus, Beijing has strong suspicion on the role of the United States in the cross-Strait relations in the future.<sup>33</sup>

Parenthetically, President Chen also proposed a new, more central role for the United States in breaking the stalemate in the cross-Strait relations. "We hope the United States can play a more active, constructive role," he said, adding that America "could be a peace bridge, helping facilitate cross-Strait contact, dialogue and consultation."<sup>34</sup> In her meeting with top Chinese leaders, U.S. national security adviser Condoleezza Rice said that the United States was willing to help establish a dialogue between Beijing and Taipei.<sup>35</sup> Obviously, the United States would play a more important role in cross-Strait relations in the future.

### **III. Cross-Strait Chartered Flights Arrangement**

In late October 2002, Taiwanese legislators proposed lunar new-year chartered flights between Taiwan and China to both governments. In response, China's spokesman for the Taiwan Affairs Office (TAO) of the State Council said that China would consider the application of chartered flights based on the actual situation with a hope that airlines of both sides could participate in the business.

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<sup>31</sup> Meeting notes with a senior American official, January 15, 2004. Meeting notes with a senior American official, March 10, 2004. Meeting notes with a senior American official, April 7, 2004.

<sup>32</sup> Joseph Kahn, "In U.S.-China Talks, a Sharp and Enduring Focus on Taiwan," *New York Times*, July 9, 2004, p. A3.

<sup>33</sup> Meeting notes with five senior scholars in Beijing and a senior scholar in Shanghai, April-May 2004. Meeting notes with a senior scholars in Beijing, July 5, 2004.

<sup>34</sup> Jason Dean, "Taiwan's Chen Touts Peace, Bigger U.S. Role in Region," *Wall Street Journal*, April 1, 2004, p. A12.

<sup>35</sup> Philip P. Pan, "Rice Rebuffs China on Taiwan Arms Sales," *Washington Post*, July 9, 2004, p. A14.

On November 12, Taiwanese Premier Yu Shyi-kun said that the opening of cross-Straits direct air links, such as point-to-point chartered flight services, was technically feasible anytime and only required negotiations. MAC Vice Chairman Chen Ming-tong said that Taiwan welcomed cross-Straits negotiations and was ready to begin talks anytime on the chartered flights arrangement with China. Without bilateral official negotiations, Chen said, Taiwan would only allow its airlines to file applications with the Chinese government to obtain permission for indirect chartered flights between Taiwan and China by stopover in Hong Kong or Macao during lunar new-year holidays in early 2003.

However, China requested Taiwan negotiate with China through authorized private organizations on the details of chartered flights as well as reach an agreement that the arrangement should be reciprocal two-way flights the next year. In response, Taiwan emphasized that Taiwan was ready to send representatives of the Strait Exchange Foundation (SEF) to negotiate with their counterparts of the Association of Relations Across the Taiwan Strait (ARATS). But China refused to resume SEF-ARATS dialogues.

Without Taiwan's authorization of private organizations to negotiate with China, on January 7, 2003, China finally approved the first indirect chartered flights by six Taiwanese airlines to China. Nevertheless, China's TAO Director Chen Yunlin stressed that China reserved its right to have reciprocal flights from China to Taiwan the next time.

In mid-November 2003, Beijing announced that its position on the 2004 new-year chartered flights was "direct, nonstop and reciprocal." In response, Taipei said that official negotiations were necessary if Chinese air carriers wanted to operate chartered flights between Taiwan and China during lunar new-year holidays. Nevertheless, Beijing insisted that both sides authorize airline companies to negotiate

with each other.

Without Taiwan's agreement on the negotiation model and reciprocal flight arrangements from China to Taiwan, China even proposed to allow Taiwanese airlines to operate direct chartered flights to China in 2004 as long as Taiwan agreed to allow two-way chartered flights in 2005.<sup>36</sup> At the end, Taiwan did not agree upon China's proposal and thus there were no chartered flights across the Taiwan Strait during the 2004 lunar new-year holidays.

In early October 2004, Taiwan sharply changed its policy position toward China with respect to the 2005 chartered flights arrangement. Premier Yu instructed the MAC to actively promote the chartered flights arrangement based on the following principles -- "bilateral, reciprocal, and non-stop" with a flexible negotiation approach. In fact, Taiwan agreed upon all China's previous conditions on the arrangement.

However, China added one more political condition on the chartered flights arrangement that Taiwan had to obey the principle of internal affairs of one country and China accused that Taiwan did not follow the principle. Furthermore, Beijing asked Taipei to authorize a private organization to negotiate the chartered flights arrangement. In turn, Taipei reiterated its previous position and welcome China to authorize appropriate persons to negotiate with Taiwan.

On November 10, President Chen proposed a concrete negotiation model to China that both sides across the Taiwan Strait should follow the Taiwan-Hong Kong aviation right model to settle passenger and cargo chartered flights. The model meant that, without any precondition, Taiwan authorized a private association with official participation to negotiate with Hong Kong's counterpart on Taiwan-Hong Kong aviation right in 2002.

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<sup>36</sup> Ted Anthony, "China Offers Taiwan Unlimited Charter Flights to Mainland – With Conditions," Associated Press, December 31, 2003.



However, China's ARATS pointed out that functional talk across the Strait had to insist on the one-China principle. In addition, China's TAO accused that President Chen's statement "China is not our country, but an enemy" created tensions and thus China would not like to negotiate with Taiwan on the chartered flights. Finally, China defined chartered flights as internal affairs of one country. Generally speaking, China was very passive and not supportive regarding the chartered flights negotiation until the end of 2004.

Suddenly, on January 2, 2005, Beijing changed its policy position. In an interview by the Xinhua News Agency, the TAO spokesman emphasized that China would work hard to promote the launching of chartered flights across the Taiwan Strait during the lunar new-year holidays. Beijing suggested that airlines across the Strait communicate directly over technical and business details and make arrangements. In the interview, the TAO spokesman neither mentioned the one-China principle as a precondition of the talk, nor defined the chartered flights arrangement as internal affairs of one country.<sup>37</sup>

On January 4, Taipei immediately authorized the Taipei Air Transportation Association (TATA) to conduct talks on the chartered flights arrangement with Beijing. Three days later, the TATA president met in Macau with Pu Zhaozhou, a senior official of the General Administration of Civil Aviation of China and executive director of the China Civil Aviation Association. Nevertheless, China ruled out the participation of Taiwan's MAC officials and SEF people in the chartered flights negotiation, but was acceptable to other Taiwanese officials.

On January 15, within just two hours, both sides reached agreement on the chartered flight issue based on the two-way, reciprocal, and non-stop principle by

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<sup>37</sup> "Chinese Mainland to Work for Launching Charter Flights Across Straits," Xinhua General News Service, January 3, 2005.

Taiwan's Chang Kuo-cheng, director of Civil Aeronautic Administration, and China's Pu Zhaozhou. Forty-eight flights would connect Taipei and Kaohsiung on the Taiwan side with Beijing, Shanghai, and Guangzhou on the China side from January 29 to February 20, 2005.

Negotiation over the chartered flights serves a very good example for both sides to gradually work out a feasible negotiation model on bilateral economic issues. In the very beginning, Taipei wanted to exploit the negotiation on cross-Straits chartered flights arrangement as leverage to force Beijing to accept the resumption of SEF-ARATS dialogues. Despite wanting to reach an agreement on bilateral reciprocal flights arrangement, Beijing only accepted negotiation by "private" organizations authorized by both sides other than the SEF and the ARATS.

In early 2003, China conceded to accept Taiwan's unilateral chartered flights to China and hoped Taiwan would accept reciprocity of chartered flights from China to Taiwan the following year. However, Taiwan did not accept China's proposal and thus China declined to offer one more trial of chartered flights arrangement for 2004 lunar new-year holidays.

In late 2004, Taiwan accepted China's previous conditions on the chartered flight arrangements and a flexible negotiation model with official participation from both sides. Then, China set up two extra political conditions for the negotiation: the one-China principle and internal affairs of one country. At the end, Taipei did not concede and Beijing pragmatically accepted Taipei's proposal. Both sides swiftly reached the agreement on the chartered flights arrangement for 2005 lunar new-year holidays. Particularly, both sides gradually realized that additional political conditions for the negotiation on chartered flights arrangement would break down the bilateral agreement and so both sides adopted a very pragmatic approach to resolve the issue.

#### **IV. The Impact of China's Anti-Secession Law**

Prior to the passage of the ASL, China's TAO Director Chen Yunlin and Vice Director Sun Yafu respectively explained the content of the ASL to the United States and Japan, hoping for support from these two powers, or at least to diffuse any opposition they may have had to the ASL. However, both the governments of the United States and Japan expressed opposition to the ASL and opposed China's use of non-peaceful means to solve the Taiwan Strait issue.

On March 8, when China revealed the ASL draft, U.S. Deputy Assistant Secretary of State Randy Schriver immediately criticized it as a mistake and said that China has a responsibility to make amends and show goodwill towards Taiwan; for example, China should not oppose Taiwan's participation to the World Health Assembly. He emphasized that the United States has always opposed the use of military force to solve the Taiwan Strait issue and that the ASL challenged the U.S. bottom line on maintaining peace across the Taiwan Strait. U.S. Secretary of State Condoleezza Rice has also said that the ASL is no help in thawing relations across the Taiwan Strait. A White House spokesperson responded even more harshly to the ASL, saying that they would urge the Chinese government to consider afresh whether or not to pass the ASL.

In the past, Japanese comments on the Taiwan Strait issue have been rather ambiguous, but this time there has been clear opposition to the ASL. On March 11, a spokesperson of the Foreign Ministry officially announced opposition to the ASL, saying that the Japanese government opposed any means other than peaceful ones to solve the cross-Strait issue, and was very worried that the clause of the ASL citing "non-peaceful means" would have a negative effect on the Taiwan Strait.

In fact, before the ASL was passed, both the United States and Japan expressed strong concern and adopted counter measures. On February 19, when Secretary of

State Rice met with the Dutch foreign minister, it was the first time that she publicly addressed the cross-Straits issue after she took post as U.S. Secretary of State. She stressed, “the cross-Straits issue is an issue of concern in the Asia Pacific.....we have cautioned all parties that there should be no attempt to change the status quo unilaterally; that means no attempt by China to change the status quo unilaterally, and no attempt by Taiwan to change the status quo unilaterally.” When Rice elucidated the situation, she first mentioned China and then Taiwan, hinting that at the time the United States worried that the ASL would change the status quo.

On February 19, foreign and defense ministers from the United States and Japan issued the “Joint Statement of the U.S.-Japan Security Consultative Committee”. In the tenth article of the joint statement concerning common strategic objectives in the region, the United States and Japan expressed their desire to “encourage the peaceful solution of issues concerning the Taiwan Straits through dialogue.”<sup>38</sup> This was the first time in half a century that the two global powers had expressed a joint concern on the Taiwan Straits issue and this was due to the worrying nature of the ASL.

Objectively, the ASL is a legal manifestation of China’s previous policy statements towards Taiwan, and is a softer version of these policy statements. This may be compromise by China, due to the grave concern shown by Japan and the United States over the ASL. Firstly, of ten articles of the whole law, only article eight is related to Taiwan independence, and the others are descriptions of China’s view of cross-Straits relations. To a large extent, the ASL is not targeting anti-secession per se, but rather emphasizes positive means to progressing peaceful reunification. This is obviously against the main motive of the legislation.

Secondly, the eighth article of the ASL outlines three conditions under which

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<sup>38</sup> Richard Boucher, “Joint Statement of the U.S.-Japan Security Consultative Committee,” February 19, 2005, (<http://www.state.gov/r/pa/prs/ps/2005/42490.htm>), accessed May 25, 2005.

China may use non-peaceful means against Taiwan. These three conditions include the fact of Taiwan's separation from China, major incidents resulting in Taiwan's separation from China, and no hope of success for peaceful means of unification. In fact, these three conditions are very ambiguous, and are all political rhetoric.

Some say that this gives Chinese leaders huge room for interpretation of the ASL and consequentially is bad for Taiwan. Nevertheless, the original motive of the ASL was to clarify China's position on the cross-Straits issue or draw up a clear red line for Taiwan through legislative means so as to avoid any misjudgment that could lead to an outbreak of a war between Taiwan and China. In addition, neither China nor Taiwan has sufficient power to define the status quo of the Taiwan Strait. As U.S. Assistant Secretary of State James Kelly said on April 21, 2004, in his testimony to the Congress, the status quo was defined by the United States.

Moreover, the three conditions which may result in the use of force are more lenient than those conditions for military action cited in China's 2000 white paper on Taiwan. Particularly, the white paper stated that if Taiwan refused to negotiate on peaceful unification indefinitely, China did not rule out the possibility of using military force against Taiwan. In the ASL, China's conditions for the use of force are softer. To ease opposition from the United States and other countries, China didn't even dare to use the words "military force" in the ASL, but used the phrase "non-peaceful means."

In addition, theoretically, legislation should be within the framework of the constitution. The People's Republic of China's constitution stipulates that: "Taiwan is part of the territory of the People's Republic of China." However, the second article of the ASL regulates that: "There is only one China in all the world, Taiwan is part of China, and China's sovereignty and territorial integrity cannot be separated." This statement is far from that of the constitution, showing that China's government is

avoiding a definition of Taiwan's status in the constitution that would lead to immediate tension across the Taiwan Strait.

Both Chairman of the Chinese National People's Political Consultative Conference, Jia Qinglin, on January 28, and Chinese President Hu Jintao, on March 4, were recorded as saying that, "Since 1949 the two sides of the Taiwan Strait have not been unified, but the fact has never changed that the mainland and Taiwan both belong to one China. This is the status quo of cross-Straits relations. This is not only our stance, but also that of Taiwan in its regulations and documents." This is almost a change in China's political stance, acknowledging the fact that both sides of the Strait are ruled by separate governments, even implicitly acknowledging the existence of the Republic of China. Of course, until China clearly accepts the existence of the Republic of China, the two sides of the Taiwan Strait will be unable to resolve their conflict.

Thirdly, with regard to procedure for the use of non-peaceful means, the ASL states that the use of non-peaceful means needs the joint approval of the State Council and the Central Military Commission, as well as making a timely report to the National People's Congress Standing Committee. To China as an authoritarian country, the procedure required to use force against Taiwan are a binding force for its leaders, not just a simple endorsement. In the past, when political and military force was allowed, the Central Military Commission used military force against Taiwan without any sort of unanimous decision from the State Council and certainly didn't need to report to the National People's Congress Standing Committee.

Initially, China hoped to use the ASL to show its determination against Taiwan independence and at the same time use it as leverage to oppose U.S. intervention in the Taiwan Strait issue. It seems that these goals have not been achieved and, in fact, the ASL has produced the opposite effect. Despite China has had to adopt a softer

version, the ASL has antagonized the Taiwan people and aroused criticism from the international community because of China's belligerent threat of using "non-peaceful means" to solve the cross-Straits dispute.

## **V. China's Compensation and United Front Tactics Against Taiwan**

In order to control the damage done by the ASL legislation, China has made some compensation to Taiwan. In early March 2005, Chinese President Hu Jintao said that both sides could gradually develop cross-Straits passenger chartered flights during festivals into a regular practice as well as negotiate the issue of cross-Straits cargo chartered flights through private civil aviation organizations. Ten days later, Chinese Premier Wen Jiabao proposed negotiations with Taiwan over passenger chartered flights, Taiwan's agricultural exports to China, and China's fishery workers to Taiwan. By the end of April, the Chinese government has sent two invitation letters through an authorized private organization to the Taiwanese government seeking a quick resumption of talks on cross-Straits cargo and holiday chartered flights arrangements.

In addition, China utilized its united front tactics to isolate the Taiwanese government. China invited Chairman Lien Chan of the Kuomintang (KMT, Taiwan's biggest opposition party) and Chairman James Soong of the People First Party (PFP, Taiwan's second largest opposition party) to visit China in late April and early May. Through these visits, China further demonstrated its compensation to Taiwan and utilized these visits to reduce the tensions caused by the ASL. Particularly, these visits gave China a very good opportunity of propaganda to show its goodwill gestures toward Taiwanese people. Generally speaking, these visits have three major impacts on cross-Straits relations and China's ultimate goal was to pressure President Chen to accept the one-China principle.

First, China's exploitation of both visits of Lien and Soong to relieve its pressure

from international community was very clear. In late April, in explaining China's position to the American military, Chinese General Xiong Guangkai, deputy chief of the general staff of the Chinese People's Liberation Army, used the example of Lien's and Soong's visits to exemplify that the ASL had not created cross-Strait tensions.<sup>39</sup> On May 5, Chinese President Hu Jintao took the initiative to explain these visits to U.S. President George W. Bush. Accordingly, President Hu asked the United States to support China's policy toward Taiwan.<sup>40</sup>

Second, the so-called 1992 consensus did not create an opportunity for political dialogues between Taiwan and China. In September 1996 and April 2000, then ARATS Vice Chairman Tang Shubei denied twice that both sides reached the consensus of "one China but different interpretation" in 1992. During both visits of Lien Chan and James Soong, China has never accepted this interpretation of the 1992 consensus and insisted the one-China principle as its core of the 1992 consensus.

Third, China has been more flexible with respect to the cross-Strait economic issues, promising many unilateral opening measures and proposing cooperative measures. Clearly, Beijing has already become adept at manipulating economic issues as leverage to pressure Taipei into abandoning its opposition to China.

## **VI. Conclusion**

With respect to Taiwan's China policy, the Chen Shui-bian administration of the second term would uphold the DPP principle: democracy, peace, and prosperity. Taiwan's future constitutional reforms would not involve the change of the status quo by means of changing its national name, national flag, and constitutional territory. In addition, the major mission of the Chen Shui-bian administration would be

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<sup>39</sup> "China: The ASL Did Not Cause Tensions," *Zhongguo Shibao* [China Times], May 1, 2005, p. A4.

<sup>40</sup> "Bush and Hu Made a Phone Call," *Zhongguo Shibao* [China Times], May 6, 2005, p. A1.



“constructing a framework of interaction for peace and stability” in the Taiwan Strait with commencing negotiation over direct links and other economic issues as the first step.

In turn, China’s Taiwan policy is still focused primarily around “economic development,” and essentially founded upon two pillars: “utilizing the United States to suppress Taiwan” and “appealing to the Taiwanese public.” Although Beijing had strong suspicion on Taiwan’s future constitutional reforms, there is no urgency or rationale to resort to military action against Taiwan in the near future.

Despite current cross-Strait stalemates over the ASL, based on the experience of cross-Strait interactions over the past four years, it is highly possible that dialogue on chartered flights will resume after a certain period, as the negative impact of the ASL subsides. Taiwan has yet to respond to China’s invitation to negotiate on both passenger and cargo chartered flights, which Taiwan has been advocating since late 2003. Nevertheless, Taiwan has neither rejected China’s invitation nor changed its “proactive liberalization with effective management” policy. That is, Taiwan reserves its decision to resume dialogue on economic issues after the disruptive impact by the ASL.

As a matter of fact, since mid-2004, the MAC has proposed a long list of economic issues to negotiate with China: currency clearance, investment protection, financial supervision, avoidance of double taxation, product importation, protection of intellectual property rights, judicial assistance, commercial arbitration, fisheries dispute arbitration, personal security, chartered flights and direct transportation links, tourism, repatriation of illegal migrants, joint crime prevention, marine pollution, and fisheries labor negotiations.<sup>41</sup>

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<sup>41</sup> Jaushieh Joseph Wu, “The Opportunity for Cross-Strait Chartered Flights Talks: Reflections and Prospects on the Sixth Anniversary of the Koo-Wang Talks,” Mainland Affairs Council, Executive Yuan, Republic of China, October 14, 2005,

Overall, in spite of the uncertainties, perhaps the strongest likelihood is that cross-Strait relations will see a sustained peace and stability, while continuing to be deadlocked in terms of political reconciliation over sovereignty in the next couple years. In the near future, cross-Strait relations will focus on the negotiation of economic issues, which will be the only way to break the gridlock. As the negative impact of the ASL subsidies, cross-Strait relations will gradually return to a state at the beginning of this year during negotiations for cross-Strait lunar new-year chartered flights.