

*The views expressed within the Taiwan Perspective are that of the individual authors and are not intended to represent those of any other party, affiliation or organization.*

# 台灣觀點

ISSUE NO.72

Apr. 04, 2005

**Institute for National Policy Research**

## The Time is Ripe for Taiwan's Strategic Opportunity

By Chen-yuan Tung

Three months ago, I argued that China's anti-secession law (ASL) might reverse Taiwan's inferior strategic position in the triangular relationship between Taiwan, the United States, and China. Now that the passage of the ASL has provoked opposition from the United States, Japan, Europe and particularly, that the US Deputy Assistant Secretary of State Randy Schriver, has criticized the law as a mistake. Compared to US President George W. Bush's criticism of Taiwan's leader as changing the status quo, when he met with Chinese Premier Wen Jiabao back in December 8, 2003; Schriver's recent criticism of China's ASL is much more serious. Taiwan should not be satisfied with this achievement and passively criticize China's legislation and even boycott cross-Strait exchange, but should pursue a progressive strategy to push the peace and create a stable framework of cross-Strait interaction.

From the international perspective, prior to the ASL, China's Taiwan Affairs Office 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 and people of the United States and Japan expressed opposition to the ASL and sympathized with Taiwan for the military threat from China, and opposed China's use of non-peaceful means to solve the Taiwan Strait issue.

On March 8, when China revealed the ASL draft, 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 (WHA). He emphasized that the United States has always opposed the use of military force to solve the Taiwan Straits issue and that the ASL challenged the US bottom line on maintaining peace across the Taiwan Strait. US 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 addition, US scholars, whether regarded as pro-Taiwan or pro-China, all expressed their concern that the ASL was of no help in maintaining peace and stability across the Taiwan Strait. Even scholars who had previously been critical of the Taiwan government criticized the ASL as very unwise and bearing no relation to Taiwan's actual situation.

Japanese comments on the Taiwan Strait issue in the past 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.

The Japanese media also generally opposed the ASL. No matter from whichever point of view, the Japanese media expressed concern that the ASL would raise tensions across the Strait and clearly articulated that the Taiwan Strait issue was not just an issue of two sides, but was closely related to the peace and stability of the whole region, and as such negatively affected Japanese interests.

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

Overall, it could be said that in the international arena, Taiwan has scored a complete victory, reversing the trend of international strategic disadvantage for Taiwan which started in the second half of 2002. With this sort of international strategic background, there comes a deeper understanding of China’s ASL, because the two sides of the Straits were both reacting to each other in the international strategic framework.

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 the whole law of ten articles, only articles eight and nine are 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 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. This article does not succeed in achieving a goal of drawing up a clear red line on China’s Taiwan policy through legislative means.

Some says 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 and clarify her position 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 Straits. As US Assistant Secretary of State, James Kelly, said on April 21 last year in his testimony to the Congress, the status quo is in fact 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 softer towards Taiwan and avoiding a definition of Taiwan's status in the constitution that would lead to immediate tension across the Taiwan Straits.

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 Straits 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. Furthermore, based on this fact, China may not use military force against Taiwan. 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 conditions and procedure for the use of non-peaceful means, although the ASL does clearly set out three conditions which merit the

use of force, at the same time, it also 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 conditions and 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.

Last December, China hoped to use the ASL to show its determination against Taiwan independence and at the same time use it as leverage to oppose US intervention in the Taiwan Straits issue. It seems that these goals have not been achieved and, in fact, the ASL has produced the opposite effect. When China announced last December that it wanted to draft an anti-secession law, but was unwilling to publish the content, it was definitely a test of international community reaction, particularly of the United States and Taiwan. To date, the ASL has antagonized the Taiwan people and aroused criticism from the international community, so much so that China has had to adopt a softer version of the ASL.

It can be expected that China's belligerent threat of using "non-peaceful means" to solve the cross-Straits issue has antagonized the people of Taiwan. Nevertheless, the ASL has proved a turning point for Taiwan's international strategic position. Pressure from the international community on China proved successful and China had to adopt a softer version of the ASL. Taiwan should appreciate the results of this strategy and utilize this opportunity to actively implement more progressive strategy, which will lay the foundation for a new phase of peace and stability across the Strait.

First, although it is against the ASL and requests China to show goodwill towards Taiwan, the United States hopes that Taiwan won't overreact, to avoid creating a negative spiral cycle or deterioration of Taiwan-China relations. If Taiwan overreacts, the United States may change sides and show displeasure at Taiwan. For this reason, it is better for the Taiwanese government to react in a low key fashion, let the people express their discontent, but continue to condemn China through the United States, and request the United States to praise Taiwan's exercise of restraint and pressure China to make substantial concessions to Taiwan. For example, the United

States may request China not to boycott Taiwan in joining international functional organizations and to resume cross-Strait dialogues and negotiation without any preconditions.

Secondly, in Hu Jintao's four point speech on March 4, China's attitude was obviously softer than previously. Especially so with regard to the fourth point, Hu said that he hoped "Taiwan's leader will keep his promise of 'four no's, one not' reiterated on February 24, and will not achieve Taiwan de jure independence through constitutional reforms." This is completely different from the tone used on May 17 last year. At that time China severely criticized President Chen Shui-bian for deviating from his promise of the "four no's, one not," and even issued an ultimatum of either war or peace to Taiwan. This year President Hu has clearly hoped that President Chen keep his "four no's, one not" promise. This shows that President Hu has not ruled out the possibility of interacting with President Chen.

Thirdly, the motive of China's ASL was mainly due to worry that Taiwan's constitutional reform might result in the fact of Taiwan de jure independence. On March 4, the fourth point of Hu's speech mentioned that he hoped Taiwan would not use constitutional reforms to achieve Taiwan de jure independence. Explaining the legislation of the ASL on March 8, Vice Chairman of the National People's Congress, Wang Zhaoguo, emphasized that "the Taiwanese government plans to use a public referendum and constitutional reforms to secede Taiwan from China." Since China harbours such a drastic suspicion about Taiwan's constitutional reforms, and President Chen has promised not to undertake constitutional reforms to change national name, flag, territory or sovereignty, Taiwan could quite naturally express its willingness to send representatives to China to explain the necessity for, as well as process and content of, Taiwan's constitutional reforms in order to resolve China's suspicions and thus stabilize the cross-Strait relations and restart talks between the two sides.

Fourthly, on March 11, three days before the National People's Congress passed the ASL, China sent a missive to Taiwan, hoping to start discussions on passenger chartered flights for the tomb sweeping festival, showing that it hoped to dilute the negative reaction of Taiwan and the international community. Moreover, a US senior official said that if the ASL passed, China should show goodwill Taiwan to make up for it. When China shows willing to lower the tensions across the Taiwan Straits raised by the ASL and there is pressure put on it by the United States, Taiwan should use this opportunity to

request China to make a sufficient concession to Taiwan and then to open a new era for cross-Strait interaction through negotiation.

At the end of last year, the draft proposal of the ASL was the turning point which reversed Taiwan's international strategically disadvantageous position of the last two years. More importantly, the ASL was the starting point of Taiwan's strategic opportunity period. The support of the international community for Taiwan and the possible compromise of China could be positively used by Taiwan for its benefit. If Taiwan can adopt a progressive strategy in response, instead of adopting a passive approach in boycotting China, the prospects for cross-Strait relations would be completely different from the confrontational approach that has been adopted by both sides over the past four years. There is an opportunity for both sides to gradually construct a peaceful and stable framework for cross-Straits interaction that President Chen has proposed over the past three years.

Chen-yuan Tung is an assistant professor at the Sun Yat-Sen Graduate Institute of Social Sciences and Humanities, National Chengchi University (Taiwan).



**Institute for National Policy Research (INPR)**

5F, 238, Sungjiang Road, Taipei, TAIWAN TEL: 886-2-2511-5009

FAX: 886-2-2560-5536 Email : [webmaster@tp.org.tw](mailto:webmaster@tp.org.tw)

The INPR has long held the role of providing a forum for scholars both locally and overseas. Our purpose in publishing the Taiwan Perspective is to expand upon this aim and in turn, we hope to be able to present a variety of views relating to Taiwan. Of course, we welcome any contributions or comments, and encourage all who may find this site of interest to openly express their views.