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China's Anti-Secession Law: An opportunity to Reverse Taiwan's Weak Strategic Position

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I happened to be on a visit to Shanghai and Beijing when the Chinese government announced the draft anti-secession law. The belief of Chinese scholars and officials is that Taiwanese President Chen Shui-bian has compelled the Chinese government to make this move. The decision to draft the law reflects China's resolute opposition to Taiwanese independence, as well as the displeasure felt towards the intervention of the United States on cross-Strait affairs. Nevertheless, it is quite possible that China's decision to draft the law may have a similar counterproductive effect on Taiwan-US-China relations as did China's 2002 White Paper on Taiwan Policy, which did much to improve Taiwan's strategic position in Taiwan-US-China trilateral relations.

The United States became rather unsympathetic toward Taiwan after former President Lee Teng-hui announced the 'special state-to-state relation statement' on July 9, 1999. The United States repeatedly assured China that it did not accept the statement, and demanded that Taiwan appropriately clarify its stance on this matter. It was also for the first time that the United States voiced its disapproval of Taiwan's drive for United Nations membership.

Despite all of this, Taiwan's weak strategic position in Taiwan-US-China relations reversed after the release of China's 'Taiwan Policy' White Paper. In the White Paper, China listed three scenarios in which it would consider

employing military force against Taiwan. The third scenario was if Taiwan indefinitely refused to peacefully resolve the cross-Strait unification issue through negotiations. The threatening wording of the White Paper was immediately condemned by the United States, which was concerned that China could be liable to attack Taiwan at any time. At the same time, former US President Bill Clinton warned China that the United States was strongly opposed to China using military force as a means of resolving the cross-Strait dispute, and that any proposed solution to the dispute must have the consent of the Taiwanese people. This eased the pressure that the United States had been laying on Taiwan since President Lee Teng-hui's 'special state-to-state statement'.

Just as the 'special state-to-state statement' weakened Taiwan's strategic position in Taiwan-US-China relations, Taiwan's strategic position has worsened since announcements were made in late 2003 that Taiwan intended to speed up moves towards a new constitution and constitutional amendments through referenda. The United States have asked Taiwan to avoid changing the *status quo* and, at one point, even stated that Taiwan was not a sovereign country, that the United States looked forward to the peaceful unification between Taiwan and China, that the United States was not obligated to defend Taiwan, and that Taiwan was a part of China.

Although the actual clauses of the anti-secession law have yet to be announced, its purpose is to show China's determination to fight against pro-independence forces. It is also a tool in negotiation with the United States over the Taiwan Strait issue, and serves as a counterbalance to the US' Taiwan Relations Act. However, in drafting the anti-secession law, China will need to define the *status quo* of cross-Strait relations, which necessarily involves the problem of defining the nature of the Republic of China. It will then be necessary to decide on how the law's 'red line' should be drawn, so that Taiwan does not cross it and provoke a cross-Strait conflict. This is a difficult task, and might in effect change the *status quo* of cross-Strait relations. Furthermore, if Taiwan was able to find a way of 'getting around' the red line drawn by the law, it would be ever more difficult to constrain Taiwan.

Second, if China wants to make it clear that it is against Taiwan independence, words need to be backed by real power. In April 2004, the US Deputy Secretary of State, James Kelly, testified in Congress, saying that “The U.S. does not support independence for Taiwan or unilateral moves that would change the status quo as we define it.” This means that the United States is the *only* party that is able to define the *status quo* - neither Taiwan, nor China. Suppose that Taiwan violated China’s anti-secession law but the United States considered that Taiwan had not changed the *status quo* in any way, would China still have grounds to attack Taiwan? If China was indeed unable to launch a full-scale military attack against Taiwan, would it still be able to put radical supporters of Taiwan independence, such as former President Lee-Teng-hui or current President Chen Shui-bian, on trial? If China was unable to carry out its threats, supporters of Taiwan independence would be emboldened by the cowardice of the Chinese government.

Third, if China plans to use an anti-secession law or public opinion as ammunition in negotiations with the United States, it is forgetting that the Taiwan Relations Act of the United States is backed by national power, and not just a domestic law or public opinion. If public opinion can really be utilized as a persuasive force in US-China negotiations, then would it not make more sense if China went the full mile and drew up a ‘Unification Law’? Why stop at anti-secession?

Taiwan should take this opportunity to emphasize to the United States government and academic circles how the anti-secession law would entail the risk of changing the *status quo* of the Taiwan Strait and that China’s unilateral definition of the status quo through its adoption of the anti-secession law is tantamount to give China a blank check to use the force in the Taiwan Strait any time. Taiwan should make it clear that it hopes to be able to enter dialogues with China, so that both sides can jointly maintain the *status quo*. In addition, Taiwan should assure the United States and China of the aims and extent of amending Taiwan’s constitution. Particularly, in order to avoid any cross-Strait misunderstandings, which might bring the risk of damaging cross-Strait relations in a vicious cycle, and even of igniting a cross-Strait war,

Taipei should emphasize that it hopes to be able to explain its plans for constitutional amendments to China in cross-Strait negotiations. By doing so, Taiwan can begin to rebuild mutual trust with the United States and thus reverse Taiwan's weak strategic position in Taiwan-US-China relations that has occurred over the past two years.

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