
The Taiwan Challenge Ahead

John K. T. Chao¹

I. INTRODUCTION

In late December 1995 to March 1996, an American aircraft carrier, the USS *Independence* was passed through the 125-mile-wide Taiwan Strait; American deemed it as an international waterway, dispatched to a location off the east coast of Taiwan, while a second carrier battle group the USS *Nimitz* was ordered to the region arriving in late March. On 2 March 1996, China deployed 150,000 troops in order to scare Taiwan into general election a pro-Chinese President. The U.S. deployment was a classic case of signaling and tactical deterrence, intended to underscore the U.S. commitment to Taiwan, to express concern over Chinese coercive measures, and to discourage any possible use of force by China against Taiwan. ²After the 1996 Taiwan Straits crisis, a Chinese general pointedly asked whether the U.S. would willingly trade Los Angeles for Taiwan in a future crisis. In the past, the U.S. had relied on nuclear deterrence to protect its citizens from Soviet nuclear-armed missiles, but the Chinese statement suggested that some potentially hostile governments that possessed long-range missiles did not believe the United States would ever use nuclear weapons in war.

This article is examined below by describing first to perceive different relations among Taiwan, China and the United States. Secondly to analyze some questions respect to the relations between Taiwan and other States. Thirdly a broad-ranging discuss Taiwan's legal status in international law, and Fourthly to assessment of Taiwan's future options.

II. RELATIONS AMONG TAIWAN, CHINA, AND THE U.S.

The island of Taiwan lies 145 kilometers off the coast of mainland China. Taiwan has long been a part of China's territory since antiquity. The original tribes of Malay origin were swamped by massive settlement of Chinese from the mainland in the 14th century. A brief spell of Dutch and Spanish settlement was ended by Chinese conquest in 1661 during the Ming Dynasty. 1663- 1885, Taiwan was a Prefecture of Fujian Province, in 1886, a separate Province of China, and remained under Chinese imperial rule until 1895, when it was cede to Japan by the Shimonoseki Treaty. In the Cairo Declaration, the United Kingdom and the United States promised that Taiwan, the Pescadores and all other territories taken by Japan from China should be restored to China. The 1945 Potsdam Proclamation have reaffirmed in unequivocal terms China's sovereignty over Taiwan as a matter of international law.

A. Some relevant historical facts on Taiwan (16 Century to 19 Century)

- 1582: the Portuguese arrived: Island of Formosa
- 1622: the Dutch established a military base in Penghu Island, moved to southern Taiwan in 1624 and established a colonial capital there.

¹ M.A. LL.B. LL.M. (Cantab.); Ph.D. (Edin.) Professor of International Law and Diplomacy, National Chengchi University, Taipei.

² Richard N. Haass, *Intervention*, Rev. ed. (Washington, DC: Brookings Institution Press, 1999), p. 164.

- 1626: the Spanish occupied northern Taiwan for trade and missionary purposes (until 1642)
- 1630's: Large Dutch-encouraged immigration of Han people from the mainland (agricultural development)
- 1644: the Ming dynasty replaced by the Qing dynasty
- 1661-1662: the Dutch were drove out of Taiwan and a Chinese administration was established
- 1663- 1885: Taiwan: a Prefecture of Fujian Province
- 1886: Taiwan: a separate Province of China
- 1894-1895: ceded to Japan
- 1943: Cairo Declaration and the
- 1945: Potsdam Proclamation have reaffirmed in unequivocal terms China's sovereignty over Taiwan

B. The Cold War Era

With Japan's defeat in 1945, then led by Chiang Kai-shek, was allowed to administer the island of Taiwan, and Taiwan returned to China.³ By the end of 1949, at one time the U.S. State Department decided to give no further support to Chiang administration, regarding his government as inefficient and corrupt. Both the U.S. and British governments regarded Taiwan as still forming part of Japan until the 1951 San Francisco Peace Treaty was signed.

In 1950 at the outset of the Korean War, President Truman ordered the U.S. navy to protect Taiwan from the Chinese communists, under Article 2 paragraph 2 of the San Francisco Peace Treaty and the 1952 Sino-Japanese Peace Treaty, Japan give up Taiwan, Pescadores, Spratly Island and Paracel Island. The People's Republic of China (hereinafter cited as PRC) stated repeatedly that Taiwan should be brought into the PRC, but President Eisenhower said that any invasion of the island or of nearby Pescadores would have to get past the U.S. Seventh Fleet,⁴ with its powerful carrier-based air arm and the possibility of land-based air support from Okinawa.

The two rival governments of the Republic of China (hereinafter cited as ROC) and the PRC were struggling for international legitimacy. At that time both Beijing and Taiwan governments claim to be the central government of the one State of China, Taiwan as a part of China. The United States, in part because of domestic pressure from the anti-Communist 'Taiwan lobby' at home, pursued a 'two-China' policy, recognizing the Taiwan regime as the legitimate voice of the Chinese people. In 1971, the United States opened a secret dialogue with the Chinese Communist regime in an attempt to bring mainland China into the mainstream nations.

³ Chiang Kai-shek 1887-1975, Chinese military and President of Nationalist China, was sent from China to Japan in 1907 to complete his military training but deserted in 1911. As chief staff to the revolutionary leader Sun Yat Sen, whose sister-in-law he married, Chiang studied Russian military methods in Moscow in 1923. He became the head of the Nanking government in 1928. Chiang commanded the Northern Expedition to unify China against the warlords and emerged victorious in 1928 as the overall leader of the Republic of China. In 1929, his forces fought local warlords, Japanese invaders, and the Communists. He led the Chinese government and the Kuomintang in Chungking during World War II. During the Chinese Civil War (1927-1949), Chiang attempted to eradicate the Chinese Communists, but in 1948 his forces were defeated, he took refuge in the island of Taiwan where he continued serving as the President of the Republic of China and Director-General of the KMT for the remainder of his life.

⁴ Dwight D. Eisenhower, *The White House Years: Mandate for Change 1953-1956* (New York: Doubleday Co., 1963), pp. 460-461.

In 1972, after President Nixon visited Beijing and, in the Shanghai communiqué was issued by the Governments of the PRC and the United States in which it was agreed that there was only one China and Taiwan was a part of China and that the question of the government of China was an internal affair, a position from which the Nationalist Government would not dissent. In December 1978, the United States announced that it would recognize the Government of the PRC as the sole legal government of China, and would withdraw its recognition of the Nationalist Government of the ROC, as from 1 January 1979. The two countries exchanged ambassadors. The United States withdrew its ambassador from Taipei but put in its place a non-governmental mission called the American Institute which carried out almost all normal ambassadorial functions and had privilege and immunity. The United States terminated its 1954 Mutual Defense Treaty with Taiwan and agreed to withdraw all military personnel in four months. The United States however promised gradually to reduce arms sales to Taiwan. So far as the formal diplomatic relations of the U.S. are concerned, a central government in Taiwan exists no longer. Nevertheless, this was not to affect the application of the U.S. laws to Taiwan in the context of U.S. domestic law.

C. Post Cold War era

In subsequent practice, after the Cold War, under a 1994 internal policy review, the Clinton Administration determined, *inter alia*, to oppose public activities by Taiwan leaders in transit in the United States, despite the fact that such a prohibition had no basis in U.S. law.⁵

Recent years, however, the Taiwanese ruling Democratic Progressive Party (hereinafter cited as DPP) has been agitating to declare Taiwan a sovereign and separate State. Beijing responded by increasing military pressure. The question is whether PRC's use of force against Taiwan constitutes violation of existed norm of non-use of force principle under international law. The PRC insists that the Cross-Strait situation under Article 2 (7) of the Charter of the United Nations (hereinafter cited as UN) is an internal affair of China, and thus upholds the position that using force against Taiwan is a legitimate exercise of sovereignty under international law.⁶

D. Post 911 era

After 911, relations between U.S.-China became warm; the U.S. does not worry about China's economic boom. China can execute a "Peaceful Rise" to Great-Power status. The war on terror changes the U.S. Asian strategy and confrontational relations between the U.S. and China for the sake of national interest. China's strategic thinking on security shifts its foreign policy in three ways. First, China's increasing wariness of traditional strategic alliances and growing support for community-based cooperation, including bilateral talks and informal regimes like the ASEAN Regional Forum,

⁵ Stephen J. Yates, "Restoring Perspective and Priorities in U.S. Relations with China," Stuart M. Butler & Kim R. Holmes, *Priorities for the President* (Washington, DC: The Heritage Foundation, 2001), pp. 257-274.

⁶ Ian Brownlie, *International Law and the Use of Force by State* (Oxford: Clarendon Press, 1963), pp. 362-363; Christine Gray, *International Law and the Use of Force by State*, 2nd ed. (Oxford: Oxford University Press, 1963), pp. 38-39; Ann Hsiu-An Hsiao, "Is China's Policy to Use Force against Taiwan a Violation of the Principle of Non-Use of Force under International Law?" *New England Law Review*, Vol. 32, No. 3 (Spring 1998), pp. 715-742; "Non-Use of Force Principle under International Law and the Cross Strait Relations," *Wenti Yu Yanjiu* (Issue and Studies), Vol. 41, No.1 (January / February 2007), pp. 145-166; Thomas Franck, *Resources to Force: State Action against Threats and Armed Attacks* (Cambridge: Cambridge University Press, 2002), pp.135-191.

nascent experiments in regional community building such as Shanghai Cooperation Organization, and more issue-specific groups such as the sporadic Six-Party Talks on Korean Peninsula. Second, China has shifted its stance to bring much more in favour of international disarmament, supporting the Nuclear Non-Proliferation Treaty (NPT)⁷ and criticizing U.S. defence schemes. Third, China's view on State sovereignty has evolved from staunch opposition to international intervention towards conditional support and greater flexibility. Part of the reason for this change stems from Beijing's increasing concerns about international terrorism.⁸ China remains concerned about the possibility of peaceful evolution that the U.S. with its political pressures, deepening global economic integration, human rights, and advocating regime change for governments hostile to American interests is weakening the Chinese Communist Party's paramount role in Chinese governance.

(A) Relations between U.S.-China became Warm

After 11 September, the U.S. sought China support for the war on terrorism and also requested Beijing's influence to bring the Democratic People's Republic of Korea (DPRK) into six party's talks on the latter's nuclear programs and missile development.⁹ At a meeting on the sidelines of the Asia-Pacific Economic Cooperation (APEC) summit in Bangkok, in October 2003, Chinese President Hu Jintao and the U.S. President George W. Bush reached a consensus on promoting the all-round development of a constructive and cooperative relationship. Since then, the two countries have engaged in close cooperation on anti-terrorism, Iraq, the nuclear issue on the Korean Peninsula. On 5 September 2003, Secretary of State Powell said that Sino-American relations are the best since former President Richard Nixon paid his first visit to China in 1972. Days later, at a hearing of the Senate Foreign Relations Committee, the U.S. Assistant Secretary of State James A. Kelly testified that the U.S.-China relationship is on some fronts the best it has been years. It is marked by complementary and sometimes common policies on a broad range of issues that are critical to U.S. interests, particularly in the areas of counterterrorism cooperation, homeland security, Iraq, trade, drug, critical regional security issues, and most of all, Taiwan are examples.

(B) U.S. does not worry about China's Economic Boom

Although China controls more of the world's exports than ever before, its high-tech industries are dominated by foreign companies. And Chinese firms will not displace them any time soon: Beijing's one-party politics have bred a timid business culture that prevents domestic firms from development key technologies and keeps them dependent on the West. Healthy U.S.-China relations owe much to the business community keeping the politicians in Washington on an even keel. Foreign investment has played an important role in fostering good relations. In 2003 China surpassed Japan and then

⁷ China has supported for international disarmament especially in dealings with non-proliferation regimes, including the UN Conference on Disarmament and the Comprehensive Test Ban Treaty. Jefferey Lewis, *The Minimum Means of Reprisal: China's Search for Security in the Nuclear Age* (Cambridge, Mass.: MIT Press, 2007).

⁸ Bates Gill, *Rising Star: China's New Security Diplomacy* (Washington, DC: Brookings, 2007); Russell Ong, *China's Security Interests in the Twenty-First Century* (Abingdon: Routledge, 2007).

⁹ Use Six-Party Talks to dismantle all North Korea's nuclear weapons and nuclear programs. Sang-Seek Park, "Moment of the Truth in the Six-Party Talks," *Korea Policy Review* (July 2007), pp. 36-37; Sun Ru, "Cooperation and Divergence over DPRK Nuclear Issue between China and the U.S.," *Xiandai Guoji Guanxi* (Modern International Relations), No. 10, 2007, pp. 12-16. .

became the third largest trading partner of the U.S. The bilateral relationship between China and the U.S. shows partners engaged in constructive relations, not strategic competition. China's success or failure to sustain its high-speed growth and remaining political stable affects its neighbouring countries and the global economic integration. It is therefore that Washington does not worry about China's economic boom.¹⁰

(C) China can execute a “Peaceful Rise” to “Great-Power status”

China can execute a “peaceful rise” to “great-power status” in large part because globalization forces developing countries competing for foreign investment to maintain peaceful, stable markets. In recent accession, China is the world's third largest economy in gross domestic product (GDP) in terms of “Purchasing Power Parity”, and Taiwan is the world's 17th largest economy in GDP. Economic growth in China has spurred political liberalization, legal reform, opening of the media and popular activism, and the positive developments in Chinese society, especially with respect to health, education, living standards and the general opening of minds of the Chinese people. China is developing a more sophisticated foreign policy towards Asians. Growing China-U.S. common ground in Asian affairs will help US-China relations develop in agreeable ways and reinforce China's overall moderate approach to the region. It wants to solve Taiwan's reunification with the mainland through a gradual process of economic integration and political convergence.

(D) The U.S.'s top priority is to avoid War over Taiwan

China and the U.S. are tightly interwoven in an increasingly globalize economy, and the economy has become a vital element in their bilateral relationship. Taiwan remains the most important and sensitive issue in Sino-American relations, as it bears on the sovereignty and territorial integrity of China. Under international law, the sovereignty of States must be respected. China and the U.S. share common interests in maintaining peace and stability in the Taiwan Strait area. At present few in Washington advocate a confrontational stance towards Beijing. President Bush was angry to rebuke President Chen over his plans for a referendum on secession from China. The Bush administration critics assume that democracy and independence are inseparable, that “one-China” policy is no longer useful, and that China would never go to war over Taiwan. But they were wrong on all three counts and fail to appreciate the dangers that may lie ahead. The PRC government's position on upholding the “one- China” principle is rock-firm and defies all challenges. China had been border clashed with the U.S. in Korean War of 1950, and with India in 1962, the Soviet Union in 1969 and Vietnam in 1979. For China, Taiwan is inextricably linked to national self-respect and regime survival. China will not sit by and do nothing faced with provocative activities aimed at splitting its country.

The growth of Chinese military power changing the regional balance, increased strategic and economic competition, the pace of China's economic development may generate a more coercive policy towards Taiwan. The combination of a surging sense of Taiwanese identity and growing Chinese military power focused on Taiwan could lead to a major armed conflict in the Taiwan Strait; the U.S.'s top priority is to avoid war over Taiwan.¹¹ . At the same time, the U.S. is reassuring China that it adheres to the

¹⁰ The coming decade could provide the opportunity for the U.S. to consolidate stable Sino-American relations and expand US-China cooperation on a wide range of global and regional issues. China will pursue a strategy of seeking cooperative ties with the US. Banning Garrett, “US-China Relations in the Era of Globalization and Terror: a framework for analysis,” *Journal of Contemporary China*, 15(48) (August 2006), pp. 389-415.

¹¹ John W. Garver, “The [former] Coming War with America,” *Journal of Contemporary China*, 12(36) (August 2003), pp. 578-585.

“one-China” policy. China could win a war against the United States over Taiwan. It would be best if Beijing, Taipei and Washington to the Taiwan dispute reject unequivocally and categorically the option of resort to war. The existing status quo offers a reasonable accommodation of the interests of the three parties.

(E) The Bush’s administration’s “Dual Clarity” or “Dual Deterrence” policy

The Bush’s administration’s “dual clarity” or “dual deterrence” policy, namely, no use of force from the mainland, no proclamation of independence from Taiwan; or deter the mainland from using force, deter Taiwan from independence. This dual deterrence policy seems balanced, but actually is not. With the rise of China, the U.S. has a role in the management of relations between two sides of Taiwan Strait. On one hand, when the Bush administration wants to deter the mainland from using force, it does a lot of things. The U.S. strengthens its military ties with Taiwan, sells advanced weapons to Taiwan, and even tries hard to persuade Taiwan to buy those weapons, shares information with Taiwan, trains Taiwan’s military officers at the military academies and other universities in the U.S., helps Taiwan expand its international space, and so on. The U.S. arms sale to Taiwan, a classic security dilemma is merging. China would need to offer Taiwan a very good deal to get Taiwan to give up its U.S. security guarantee. On the other hand, when it comes to deter Taiwan from independence, the U.S. basically uses lip service, and has done little of a practical nature. The Bush administration has been giving confusing signals that Taiwan’s authorities have interpreted as encouragement for Taiwan’s independence. President Chen is taking advantages of the U.S. policy for his utmost purpose of incremental independence. They insist that Taiwan is already an independent, sovereign State and reject “one-country, two-system”. Taiwan wants China to acknowledge Taiwan’s sovereignty, and China refuses to do so. The Chinese leadership continues to fear that the U.S. might eventually support Taiwan independence. That is the reason why China has over and over again warned the U.S. not to sent wrong signals to Taiwan.

E. China’s Anti-Secession Law

(A) Taiwan-identity creation is leading to unilateral secession

Taiwan-identity creation is non-totally devoid of local politicians’ self-interest. The Taiwan’s leaders disserved democracy by manufacturing a separate Taiwanese-identity that was divorced from the Chinese historical perspective.¹²The basic differences between the two sides of Taiwan Strait are due to the memory of historical events, political power struggle, politico-economic system and way of life rather than a racial, cultural and national identity difference. But the Taiwan’s leaders irresponsibly use their political power and influence to transform the memory of historical events, political power struggle, politico-economic system and way of life differences into a racial, cultural and national identity difference. By significantly shaping the Taiwanese-identity, Taiwan’s population will gradually move towards self-determination that is essential for secession. In advocating a new constitution and nation building, President Chen Shui-bian has virtually put forward a timetable and a road map leading to referendum on the new constitution in 2008, the year targeted for Taiwan’s independence.

¹² Shale Horowitz, UK Heo & Alexander C. Tan (eds.), *Identity and Chance in East Asian Conflicts: The Cases of China, Taiwan, and the Koreas* (Basingtoke, Hampshire: Palgrave Macmillan, 2007).

(B) Anti-Secession Law

Beijing aims to accomplish Taiwan's reunification with the mainland through a gradual process of economic integration and political convergence. China is therefore strongly opposed to Taiwan's independence and considers any move towards it will result in a major conflict that would be disruptive. China remains committed to a peaceful reunification of Taiwan as a first priority. The Standing Committee of the Chinese legislative body - the National People's Congress - has begun a review of the proposed anti-secession law, which aims at preventing Taiwan from declaring *de jure* independence. Anti-secession law reflects common will of all Chinese people. Chinese top legislator Wu Bangguo promised that the national legislature would do its best to fully reflect the common will of all Chinese people in making the anti-secession law. Respect for State sovereignty and territorial integrity and non-interference in the internal affairs of a State are important principles of the Charter of the United Nations cherished by all States in the world. The anti-secession law has followed this principle in international relations, which is assuming two sides of the Taiwan Strait combines Taiwan and Mainland China is deemed to be one China. Secession any province of China is not prohibited. It uses foundational principle of international law to encounter the U.S. Taiwan Relations Act, and uses Chinese nationalism to guard against the will of secessionist of Taiwan.

It is generally accepted that in international law a State is entitled to exercise jurisdiction over persons and event within its territory, and over its nationals, group, or organizations even when they are outside its territory by virtue of principles of nationality and territoriality, although in that case enforcement may not be feasible so long as they remain abroad unless by way of extradition on crime of secession under treaty obligation. A State may require its nationals abroad to act in a way which may contrary to the law of the State in which they reside; and by an extension of the accepted territorial basis for jurisdiction, a State purports to enforce its laws in respect of conduct outside its territory by non-nationals, on the basis that their conduct, although taking place abroad, has "effects" within the State.

In light of supremacy of sovereignty, China will consider such an act as an act of secession, calls for devolution by a plebiscite, calls for a referendum of a new constitution, or calls for foreign intervention the matters, which are essentially within the domestic jurisdiction. China will adopt any means or reserve all its right to use force, as it deems necessary to prevent any secession within its territory. Where Chinese anti-secession law will impose requirements on Chinese nationals abroad should not commit such an act of secession. The courts of China will thus entitle to exercise its criminal jurisdiction over individuals, group, or organizations that involved in such acts of secession.

F. One China Policy

On one hand, PRC asserts "One-China" policy, which means that non-recognition of the government of Taiwan is a prerequisite for conducting formal diplomatic relations with the PRC, both China and Taiwan combine as "One-China," and Taiwan is a part of China. The anti-secession law has followed this principle in international relations, which is assuming two sides of the Taiwan Strait combines Taiwan and Mainland China is deemed to be one China. Taiwan, on the other hand, insisted that it is an independent sovereign State, and claimed that there is one- State- on- each- side of the Taiwan Strait. The two rival governments of China and Taiwan are struggling for international legitimacy.

The U.S. “one China” policy is embodied in the three joint communiqués between the U.S. and China as well as the 1979 Taiwan Relations Act (TRA). In the 1972 Shanghai Communiqué, the United States “acknowledges that all Chinese on either side of the Taiwan Strait maintain that there is but one China and that Taiwan is a part of China.” This is the origin of the “one-China” policy, and vowed within this context to maintain only “unofficial relations with the people of Taiwan.” “one-China” policy is good for the U.S., China, Taiwan and the entire Asian-Pacific region. It would be best if Beijing, Taipei and Washington to the Taiwan dispute reject unequivocally and categorically the option of resort to war.

G. U.S. Defensive arms sales to Taiwan

Under the terms of the 1979 Taiwan Relations Act (TRA), the United States legally required to assist Taiwan in providing for its self-defense. The 17 August 1982 Sino-U.S. Joint Arms Communiqué to reduce U.S. arm sales to Taiwan was based on the premise that the Chinese government would make every effort to adopt measures and create conditions conducive to the settlement on this issue. Considering China’s provocative military exercises and nuclear-capable missile tests near Taiwan in 1995 and 1996, a policy of continuing U.S. defensive arms sales to Taiwan is appropriate and consistent with both the TRA and the joint communiqués with China. Taiwan’s relative military strength will promote peace through deterrence, while its weakness will only invite aggression and invasion.¹³

III. RELATIONS BETWEEN TAIWAN AND OTHER STATES

A. U.K. acknowledges Taiwan as a Province of China

Since 1950 the British government has given *de jure* recognition to the government of the PRC as the sole legal government of China. Under the 1972 PRC-U.K. Joint Communiqué, the United Kingdom has recognized the government of the PRC as the sole legal government of China and acknowledges the position of the Chinese government that Taiwan is a province of China.¹⁴ In 1980s the British government no longer accord recognition to government but continue to recognize States in accordance with common international doctrine. Britain neither recognize Taiwan as a State nor regard the authorities in effective control there as a government. The British government has not official contact with authorities in Taiwan. The Anglo-Taiwan Trade Committee is a private organization set up to promote British exports to Taiwan. Accordingly, the majority of States of international community have also recognized that Taiwan is a part of China by their conduct.

B. Bilateral Diplomatic Relations

Currently there are 170 States establishing diplomatic relations with the People’s Republic of China (PRC), only 24 States in the world *inter alia*. Paraguay, Guatemala, El Salvador, Nicaragua, Honduras, Panama, Belize, the Dominican Republic, Haiti, St. Vincent & the Grenadines, St. Kitts & Nevis, Gambia, Burkina Faso, Malawi,

¹³ Xiao Kangkang, “New Moves of U.S.-Japan-Taiwan Military Relations,” *Guo Ji Zi Liao Xin Xi* (International Data Information), Monthly Chinese Edition, No.9, 2007, pp. 15-19.

¹⁴ Under the 1972 PRC-U.K. Joint Communiqué, the U.K. acknowledges the position of the Chinese government that Taiwan is a province of the PRC. Ian Brownlie, *Principles of Public International Law*, 5th ed. (Oxford: Oxford University Press, 1999), p. 65.

Swaziland, Sao Tome and Principe, Tuvalu, the Solomon Islands, Nauru, Kiribati, Palau, the Marshall Islands, St. Lucia and the Vatican, are recognizing Taiwan; more than half of these are located in the Western Hemisphere.¹⁵

(A) China money making and get hold of African resources.

There are only five African States- Gambia, Burkina Faso, Malawi, Swaziland, Sao Tome and Principe which recognize Taiwan, and the rest of the African States recognize China. China is the leader of the third countries that gets 30% of its crude oil from Africa, mainly from Sudan, Angola and Congo-Brazzaville, Nigeria, Gabon. Chinese state firms have built a refinery and are getting involved in production. China's political, economic link, military co-operation, construction and financial aid, energy, loans, technical assistance, trade tie with them of mutual benefit are rising fast.¹⁶ China in Africa is mainly money making and get hold of African natural resources. In the long term, a stable and prosperous Africa is in Beijing's interest.

(B) Two rival governments struggle for international legitimacy in Latin America

A fierce contest for diplomatic recognition in Central America and the Caribbean¹⁷ is being fought by the two rival governments of China and Taiwan as part of their struggle for international legitimacy. In 1985, Sandinista leader Daniel Ortega swept into the presidency and unceremoniously broke off diplomatic relations with Taiwan officially realigning the country with the People's Republic of China (PRC).¹⁸ Though Nicaragua's formal diplomatic alliance with China ended abruptly when Ortega was voted out of office in 1990, Ortega later returned to power providing a fresh opportunity for China to usurp one of Taiwan's precious remaining allies. The re-establishment of a Chinese embassy in Managua could potentially serve as a valuable beachhead for China to facilitate diplomatic inroads into Central American States that are friendly to Taiwan thereby taking China's enforcement of global recognition of the "One China" policy one step closer to reality. In November 2006, when Ortega triumphed in Nicaragua's presidential election, the shockwaves from his historic victory extended to China and Taiwan. While increasing economic and political ties between China and

¹⁵ States with diplomatic relations with Taiwan are: Paraguay, Guatemala, El Salvador, Nicaragua, Honduras, Panama, Belize, the Dominican Republic, Haiti, St. Vincent & the Grenadines, St. Kitts & Nevis, Gambia, Burkina Faso, Malawi, Swaziland, Sao Tome and Principe, Tuvalu, the Solomon Islands, Nauru, Kiribati, Palau, the Marshall Islands, St. Lucia and the Vatican.

¹⁶ China is Africa's third most important trading partner, behind the U.S. and France but ahead of the U.K. It through group entities of the African Development Bank (ADB) Group, the Africa Development Fund (ADF), and the Nigeria Trust Fund (NTF) by means of subscription, loans, and donate money to set up a Forum on China-Africa Cooperation. Ian Taylor, "China's Oil Diplomacy in Africa," *International Affairs*, Vol. 82, No.5 (September 2006), pp. 937-959.

¹⁷ Taiwan was the largest aid donor to many Caribbean States. Taiwan's alliances in the Caribbean have been whittled down to just four countries, the Dominican Republic, Haiti, St. Kitts & Nevis, and St. Vincent & the Grenadines and St Lucia.

¹⁸ Nicaragua's President-elected Daniel Ortega, leader of the Sandinista National Liberation Front (FSLN), is one of the five left-wing leaders in Latin America in 2006, and on the campaign trail he bore a much stronger resemblance to modern progressives. In the 1980s the U. S. President Reagan spent millions to topple the Sandinistas, who were ultimately voted out of power in 1990. In exchange for governing in a democratic manner and complying with that Nicaragua approved in 2006. To avoid repeating his past mistakes, under the terms of a U. S.-backed regional trade agreement, Ortega would be rewarded with annual \$42 million U.S. foreign-aid package plus an additional \$175 million in grant funding under a specially economic-assistance program. All signs suggest the chastened Sandinista leader Ortega will embrace moderation this time around.

Central America, the Caribbean is also shaped to isolate Taiwan internationally. China's foreign policy has an increasing influence in Central America and the Caribbean and the swing States among them face growing pressures to abandon their longstanding relationships with Taiwan in favour of cementing diplomatic ties with China. Taiwan is trying to save its ties with Latin American States, namely, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Panama, and Paraguay. Potential repercussions for U.S. national interest have attracted significant attention from U.S. policymakers. If the United States was not playing a much-needed role in advising the burgeoning democracies and economies in its own backyard, Latin American States could fall victim to cross-Strait competing interests.¹⁹

IV. TAIWAN'S LEGAL STATUS IN INTERNATIONAL LAW

A. Whether Taiwan is a sovereign State within particular legal context?

In international law Taiwan is a *de facto* government in a civil war situation.²⁰ In 1949 the Government of the People's Republic of China (PRC) proclaimed itself the Central Government of China, and conducted a civil war against the existing Nationalist Government of the Republic of China (ROC). The Nationalist Government was eventually driven on to Taiwan, the Government of the PRC taking effective control of the mainland of China. Many States including the United States nevertheless refused to recognize that Communist Government and continued to recognize the Nationalist Government of Chiang Kai-shek as the Government of China.²¹ During the cold war era, the U.S. support Taiwan in two ways: First, bilaterally recognized the Nationalist Government of Chiang Kai-shek as the Government of China signed a mutual defense treaty with Taiwan. Second, multilaterally recognized Taiwan represented China sit in the China seat of the United Nations. *De Jure* recognized Taiwan and *de facto* pursued a "two-China" policy.

While U.S. foreign policy changes, first of all, it withdraw bilaterally its recognition of the Chinese Nationalist Government; pursued a "one-China" policy instead of a "two-China" policy. Secondly, multilaterally support China replaced Taiwan in the United Nations. The U.S. recognized the PRC as the sole legitimate government of China, and the U.K. acknowledges the position of the Chinese government that Taiwan is a province of the PRC. Thirdly, the majority of States of international community have also recognized that Taiwan is a part of China by their conduct.

Both governments of Beijing and Taiwan have claimed to represent the central government of the whole China. No claim of separate statehood for Taiwan has been made. Taiwan did not claim its statehood but claimed to represent the central government of an existing State called China. It nevertheless qualifies as a *de facto* independent political and legal entity governed by international law, but most probably *de jure* part of China. Recently, however, the Taiwanese ruling Democratic Progressive Party (hereinafter cited as DPP) has been agitating to declare Taiwan a sovereign and separate State. Beijing responded by increasing military pressure.

¹⁹ Daniel P. Erikson & Janice Chen, "China, Taiwan, and the Battle for Latin America," *Fletcher Forum of World Affairs*, 31 (Summer 2007), pp.69-89.

²⁰ Taiwan may be deemed as a consolidated local *de facto* government in a civil war situation. James Crawford, *Creation of States in International Law*, 2nd ed. (Oxford: Oxford University Press, 1998), pp. 61, 159-160.

²¹ Sir Robert Jennings & Sir Arthur Watts, *Oppenheim's International Law*, 9th ed. (Essex, England: Longman, 1992), Vol. 1, p. 149. Chiang agreed not to invade the mainland without U.S. consent.

B. Taiwan's application for Admission to the United Nations

Whether Taiwan is qualifying to a U.N. Membership? In the eyes of the law of international institutions, it is the State, not the government, is a member of the U.N.. China is and always has been an original member of the U. N.²² Taiwan itself never has been an international legal person and enjoys no international personality. Under Article 4 of the Charter, the admission of a new member will be affected by a decision of the General Assembly upon the recommendation of the Security Council.²³ As the PRC is one of the permanent members of the Security Council, without PRC's approval, it will be unrealistic for Taiwan to seek its admission.

(A) Chinese Representation Questions in the United Nations

- 1945 The Republic of China (ROC) gains membership to the UN under the Article 3 of the Charter; as well as to the UN Security Council (UNSC) under Articles 23 and 110 of the Charter
- 1949 Communists take over mainland China; representatives of the ROC government escape to Taiwan
- 1949-1971 ROC represents the Chinese people as the legitimate government of China at the UN (the Cold War, the Korean War, China's attack against India)
- 1971 The UN adopts Resolution 2758 which officially expels the ROC and recognizes the PRC.

In the eyes of law of international institutions, it is the State, not the government, is a member of the United Nations. China is and always has been an original member of the United Nations. At the end of 1949, the communist's regime seized power in China, but until October 1971 China was represented at the United Nations by the Nationalist government of Chiang Kai-shek based on Taiwan. During that period it was arguing that communist China should be admitted to the United Nations. The question is which government should represent it at the United Nations? The Chinese representation questions is treated as one of representation, the arrival of PRC representatives must inevitably be accompanied by the departure of the ROC representatives from General Assembly and all the organ of the United Nations because a State cannot be represented simultaneously by two rival governments in the United Nations. The Government of the PRC did not receive general recognition until October 1971, when Taiwan was ousted from the United Nations and the PRC's representatives were admitted as the representatives of China in the United Nations as one of the permanent members of the Security Council.²⁴

(B) Interpretation of the G.A. Resolution 2758

On 25 October 1971, at the 1976th Plenary Meeting, the G.A. Resolution 2758 was passed in order to

²² The original members include either those States which were members of the organization to which the new organization is the successor or those States which drafted the United Nations Charter. D.W. Bowett, *The Law of International Institutions*, 4th ed. (London: Stevens & Sons, 1982), pp. 118-119.

²³ *Conditions of Administration of a State to membership in the United Nations*, International Court of Justice Reports 1947-1948, pp. 57-119; *Competence of the General Assembly for the Admission of a State to the United Nations*, International Court of Justice Reports 1950, pp. 4-57.

²⁴ Chinese representation questions concerning the admission of new members or the suspension or expulsion of existing members are treated as non-procedural matters, which means that the veto applies in the Security Council, questions concerning representation are treated as procedural matters which means that the veto does not apply. Peter Malanczuk ed., *Akehurst's Modern Introduction to International Law*, 7th Rev. ed. (London & New York: Routledge, 1997), pp. 371-372.

- restore all its rights to the People's Republic of China, and
- recognize the representatives of its government as the only legitimate representatives of China to the United Nations, and
- Expel forthwith the representatives of Chiang Kai-shek from the place that they unlawfully occupy at the United Nations and in all the organizations related to it.²⁵

The G.A. Resolution 2758 merely settled the question which regime was the legitimate representative of China. Taiwan's status is thus unaffected and needs to be resolved on the basis of the Principle of Self-determination, as decided at the San Francisco Peace Conference. It may recall that the Principles of the Charter of the United Nations, considering that the restoration of the lawful rights of the PRC is essential both for the protection of the U.N. Charter and for the cause that U.N. must serve; recognizing that the representative of the Government of the PRC are the only lawful representatives of China to the U.N. and the PRC is one of the five permanent members of the Security Council. Decide to restore all its rights and recognize the representative of its government as the only legitimate representatives of China to the U.N. and expel forthwith the representatives of Chiang Kai-shek from the place which unlawfully occupy at the U.N. One must know that bilateral diplomatic relations is the base of international relations, without the strengthening of bilateral relations and the support of the U.N. member States, Taiwan's application for admission to the U.N. is unfeasible. Moreover, under Article 4 of the Charter, the admission of a new member will be affected by a decision of the General Assembly upon the recommendation of the Security Council. As the PRC is one of the permanent members of the Security Council and the leader of Group 77 which has more than 130 votes in the U. N., without PRC's approval, it will be unrealistic for Taiwan to seek its admission.²⁶ Furthermore, If China used military force against Taiwan; the U.S. could not hope to get U.N. Security Council to act, given China's veto. Instead, the U.S. would have to take a lead in fashioning a coalition of countries inter alia Taiwan, several other States in the region, India, and some European States with power-projection capabilities to convince China not to use force, and to come to Taiwan's assistance if it did.²⁷

(C) Taiwan's application for admission to the United Nations

In 1994, several members States made an attempt to restore the U.N. membership of Taiwan by instituting a research committee to study the issue of Taiwan, which failed. In the evening of 7 September 2000, the United Nations Steering Committee for upcoming General Assembly decided not to put the issue of Taiwan's membership on agenda of the General Assembly. The measure had been proposed by 14 of Taiwan's allies in the U.N. on August 2000. The ROC Foreign Ministry called Beijing's action an attempt at "hegemony" which hurt Taiwanese feelings. "Communist China still cannot depart from the hegemonic mentality in blocking again the proposal to discuss U.N. membership for Taiwan by the General Assembly. Taiwan claimed that it's participation in the U.N. is not a legal request but a political activities.

(D) Taiwan's admission to the United Nations

Entering the U.N. as a new member State requires

²⁵ Resolution 2758 on Restoring the Rights of the PRC, 25 October 1971.

²⁶ John K.T. Chao, "On Chinese Representation Question and the Problem of Taiwan's Participation in the United Nations," *Chinese International Law & Transnational Law Review*, Vol.1, No. 1 (2005), pp. 89-184.

²⁷ Richard N. Haass, *The Reluctant Sheriff: The United States After the Cold War* (New York: Council of Foreign Relations, 1997), p.96.

- *de jure* and *de facto* international recognition of Taiwan as a State, that means Taiwan must first proclaim its independence as a State.

- Security Council recommendation.
- Two-third majority positive vote of the General Assembly.
- Alternatively, an agreement with the PRC.

As long as the veto yielding members of the SC and the 2/3 majority of the GA are not on board, the admission of Taiwan to membership in the U.N. will not accept.

C. Taiwan use non-State names in various Governmental International Organizations.

(A) International Criminal Police Organization (Interpol)

It is noteworthy that China was attempt to replacing Taiwan in as many international organizations as possible. Taiwan use non-State names in various International Organizations.

“Taiwan, China” as a distract Member of the International Criminal Police Organization. Not until 1984 PRC was remaining one of the two States (the other was the USSR) outside the International Criminal Police Organization (Interpol) and bringing China in was an important step towards universal membership. The approval of its membership in 1984 was involved exclusion of Taiwan, downgrade Taiwan membership to become a distract branch, compulsory name change of “China” was replaced by “Taiwan, China,” and enjoy no vote nor allow use name tape while participate to the Assembly. Name tape may be use when attending regional meeting. Any correspondences with the Interpol a copy may send to the China’s headquarter branch.²⁸

(B) World Trade Organization (WTO)

In early 1990 Taiwan sought accession to the General Agreement on Tariffs and Trade (GATT), Taipei did so by requesting entry for the “customs territory of Taiwan, Penghu, Kinmen and Matsu,” thus avoiding an assertion of statehood. The acceptance of “Chinese Taipei” to the World Trade Organization (WTO) was approved by the Ministerial Conference in November 2001.²⁹ As China and Taiwan are WTO members, both sides of the Taiwan Strait should promote economic development and draw closer together as partners in a positive-sum enterprise.³⁰

(C) Regional Fisheries Organizations

Taiwan is a leading deep-sea fishing nation in the world. Due to the evolution of international fisheries legal regime - International Code of Conduct for Responsible Fishing, and the rising of regional fisheries management organization (RFMOs), Taiwanese deep-sea fisheries are facing more limitations than ever. The changes of international fisheries legal regime not only affects State behaviors in international fisheries, but also make RFMOs become the most important actors for the conservation and management of high seas fisheries

²⁸ Malcolm Anderson, *Policing the World: Interpol and the Politics of International Police Co-operation* (Oxford: Clarendon Press, 1989), p. 46.

²⁹ Malcolm N. Shaw, *International Law*, 5th ed. (Cambridge: Cambridge University Press, 2003), pp. 211-212.

³⁰ China’s accession to the WTO is one of the most important policy changes in China’s long process of liberalizing its foreign trade and foreign direct investment. It is also a major world economic event with profound repercussions. Tianshu Chu & Kar-yiu Wong eds., *China’s Accession to the WTO: Impacts on China and the Asia-Pacific Region* (Northampton, MA: Edward Elgar, 2007).

resources. With it a much more significant catcher of tunas than China, international fishing community faced with a choice between including Taiwan at the cost of excluding China and *vice versa*, any fisheries commission would opt for the former. International fishing organization would like to include Taiwan, so multilateral inter-governmental organization in the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA), incorporated “fishing entity” into Articles 1-4 where defines “whose vessels fish on the high sea” that is an attempted to include Taiwan in order to promote compliance with international conservation and management measures by fishing vessels on the high seas. Taiwan, a “fishing entity,” is similar to an international actor or quasi-political entity capable to fulfill international obligations.³¹ Taiwan appears to have fastened on the concept of “fishing entity” as a model for its campaign for wider acceptance in other international organizations, such as its recent attempt to join the World Health Organization as a “health entity.”

(D) Taiwan’s Application for World Health Organization (WHA)

The WHO, an inter-governmental international organization with 192 member States, is global legal framework for infectious disease control. Since 1997, Taiwan has launched an annual campaign to become an observer at the WHA. It has met with failure each time due to strong opposition from Beijing. Taiwan’s bid has little legal basis as the International Health Regulation (IHR), GA Resolution 2758 of and WHA Resolution 251 has long affirmed explicitly that the government of the PRC is the sole legitimate government representing China at the UN and the WHO. The WHO constitution and WHA rules stipulate clearly that WHO membership is open only to sovereign States, and only sovereign States and relevant international organizations can attend the WHA as observers at the invitation of the WHO director-general. China’s viewpoints, Taiwan as a “health entity” in application for attends the WHA as observer is not qualified to be a full or associate member of the WHO.

On 23 May 2005 the 58th annual session of the WHA, the supreme decision-making body of the WHO, adopted a new set of regulations on national and international responses to disease outbreaks. Issues at this WHA included pandemic influenza preparedness and response, progress on the health-related Millennium Development Goals, polio eradication, malaria, cancer prevention and control and health action in crises.³² Taiwan through its allies in the WHO has been pushing the principle of “universal application” of the International Health Regulation (IHR). Some Taiwanese officials claim the principle of “universal application” will be the legal basis for Taiwan’s attempt to join the WHO, and will thus boost its chances of winning that bid. But this claim has apparently resulted from a “deliberate misunderstanding” of the new IHR, which stipulates that provisions will only be applied to sovereign member States. Moreover, the newly-adopted four principles are equally important and interconnected. The principle of “universal application” should not override the other three principles to undermine the sovereignty of member States of the WHO.

The U.S. President George W. Bush signed a motion in 2003 adopted by the US Congress in support of Taiwan’s participation in the WHO, but at the same time alleged the United States had not changed its “one-China” policy.

The Chinese Government, however, considers that Taiwan, as a part of China, is not eligible to join the WHO as a member or a quasi-member. Taiwan is not allowed to par-

³¹ Andrew Serdy, “Bringing Taiwan into the International Fisheries Fold: The Legal Personality of a Fishing Entity,” *British Year Book of International Law*, 75 (2004), pp. 183-221.

³² It took place at the Palais des Nations, Geneva, Switzerland.

ticipate in any WHO activity as an observer, according to the relevant resolutions of the United Nations and the regulations of the WHO. The Chinese Government has been always concerned about the health of Taiwan compatriots and actively promotes exchanges and cooperation in the health sector across the Taiwan Straits. In the event of acute public health emergencies in Taiwan, the WHO can send experts to Taiwan for field visits or provide technical assistance, or it can invite Taiwan medical and public health experts to participate in relevant technical activities. Otherwise, any further attempt by Taiwan to enter the WHO will only expose its real political intention of pursuing independence for the island.

Judged from the above-mentioned facts, there are little legal bases for allowing Taiwan to join WHO. Lack of international recognition was the main reason why the WHA has rejected Taiwan's nine annual applications for observer status, which were apparently aimed at promoting "two Chinas" or "one China, one Taiwan" in this international organization.

D. Taiwan use non-State names in various Non-Governmental Organizations.

(A) Formosan Association for Public Affairs (FAPA)

The Formosan Association for Public Affairs (FAPA) is formed at the local level in the US. The Organization mobilized its local resources in the US through grassroots informal diplomacy to promote Taiwan's visibility in the US, to influence the US government policy on Taiwan-related issues. 33

(B) Democratic Pacific Union

In 2005, Vice President Annette Lu launched the Democratic Pacific Union; a group of States consisting of 26 member States from around the Pacific Rim committed to promoting democracy, peace, and prosperity.

(C) Taiwanese nongovernmental organizations

The role of the Taiwanese nongovernmental organizations is also expanding globally. Perhaps most notable is the Tzu Chi Buddhist Foundation that performs humanitarian aid work throughout the developing world.

(D) Nongovernmental Organizations (NGOs) Section at the Foreign Ministry

Taiwan's Foreign Ministry and its foreign service officers have found it difficult to engage other foreign diplomats; they therefore established a new Nongovernmental Organizations (NGOs) Section at the Ministry in order to develop unofficial friendly relations with non-recognized States and their diplomats. The problem is that since the first track officers in Taiwan occupied and took over the posts of the second track unofficially, they do the tasks they should not even do. Since Taiwan's official handling of nongovernmental organizations (NGOs), China deems Taiwan's second track officers as the first track and has blocked their activities all the way.

In the meantime, the policymakers should seek mid-and long-term cooperation to prevent possible conflicts and created better opportunities for the official Cross-Strait dialogues that could lessen tension.

E. Bilateral and Regional Free Trade Agreements

Regional Trade Agreements (RTAs) in the Asia-Pacific significantly impact on the

³³ Catherine Kai-Ping Lin, "Taiwan's Overseas Opposition Movement and Grassroots Diplomacy in the United States: the case of the Formosan Association for Public Affairs," *Journal of Contemporary China*, 15(46) (February 2006), pp. 133-159.

material progress of the peoples of this region. ³⁴Economic globalization and regional integration of the Association of Southeast Asian Nations (ASEAN) plus 1 or ASEAN plus 3 will exert great pressure on Taiwan government for a closer economic relationship to avoid self-imposed isolation and marginalization.³⁵ Chen administration has sought to broaden and diversify the avenues for interaction between Taiwan and its Central American and Caribbean partners. Taiwan is pursuing bilateral free trade agreements with member States of the Central American Free Trade Agreement (CAFTA) in order to reduce Taiwanese manufacturers too dependent on Mainland China's market by using Central America as gateway to the United States. However, so far only three States with which Taiwan has Free Trade Agreements (FTAs) are Panama in 2003, Guatemala in 2005, and Nicaragua in 2006, and finalized with El Salvador and Honduras. Taiwan is currently in negotiations with Dominican Republic and Paraguay. China thus bullies any States engaging in any agreement with Taiwan. This, combined with Taiwan's insistence on calling itself by its proper name "Taiwan" instead of using the name "Chinese Taipei," scupper an FTA with Singapore in 2002, and deterred other ASEAN countries. Taiwan wishes to sign a FTA with the United States, Japan, Singapore and New Zealand.³⁶

F. Diplomatic interactions through Multilateral Channel

The Chen administration has increased diplomatic interactions through multilateral channels. Taiwan holds observer status in the Central American Integration System and the Forum of Central American Presidents and Legislators. Taiwan's foreign service personnel in Washington, D.C. are in regular contact with the Inter-American Development Bank and have lobbied hard to gain the same observer status that China now holds. Similar efforts to become an observer at the Organization of American States have not unsuccessful, though China won this status in 2004.

VI. TAIWAN'S FUTURE OPTIONS

No matter who is in power in Taiwan, two important factors must consider: first, American factor that concerns Taiwan's peace and security; and second, the China factor that concerns Taiwan's stability and prosperity. There are only a few options for Taiwan's leader. The U.S., Japan and the KMT would like to keep the status quo in the Taiwan Strait permanently. China at the moment seems to acquiescence; but in the long run would like to incorporate Taiwan into the motherland. Taiwan's options will discuss as follow:

A. Status Quo

The United States has a clear national interest in preserving the status quo of Taiwan that is neither independence nor unification with China. It has emphasized to both Taiwan and China the importance of avoiding provocative actions or unilateral measures that would alter the status quo. For this reason, the U.S. reaffirm that it has no intention of

³⁴ M.A.B. Siddique (ed.), *Regionalism, Trade and Economic Development in the Asia-Pacific Region* (Northampton, MA: Edward Elgar Publishing, 2007).

³⁵ Lin-jun Wu, "ASEAN and the East Asia Economic Integration: From 'ASEAN plus Three' to 'East Asia Summit,'" *Wenti Yu Yanjiu* (Issue and Studies) 46, NO.2 (April/May/June 2007), pp. 117-136.

³⁶ There have been so many Regional Trade Agreements (RTAs) or Free Trade Agreements (FTAs) in the world. The World Trade Organization (WTO) even has difficulty to clearly state the exact number of RTAs or FTAs. Asian scholars of international law and international trade shall form an FTA forum to conduct researches and on the features of greater Asian trade arrangement. Chang-fa Lo, "Factors Affecting Asian FTA Practice," *Journal of International Law and Diplomacy*, Vol.105, No. 3 (November 2006), pp.390-411.

supporting a policy of secession and must evaluate the behavior of Taiwan's leaders and not shirk from shaping it ways that support U.S. interest. It is indeed a danger for which none has a good solution: calls to maintain the status quo by either side are not very helpful because both China and Taiwan are far too dynamic to be frozen in such a static mode. China hopes that the U.S. will work to achieve a win-win situation that benefits all three parties concerned. It would be best if Beijing, Taipei and Washington to the Taiwan dispute reject unequivocally and categorically the option of resort to war. The existing status quo offers a reasonable accommodation of the interests of the three parties.

B. Independence

The emergence of a strong pro-independence opposition party, the DPP and later became the ruling party in Taiwan it led Taiwan to cease claiming to represent Chinese on the mainland and instead to concentrate on developing from *de facto* independence towards *de jure* independence for Taiwan. China responded by increasing military pressure, including the missiles test in the Taiwan Strait in 1995 and 1996. Taiwan's independence will has tremendous impact to international community.

The United States responded by bringing in two aircraft carriers in order to defend Taiwan's right to make a democratic choice. Taiwan's unification with mainland will challenge the U.S. Navy, Russian, and Japanese Interests. Currently the one serious danger of war comes from Taiwan's independence. The international community is therefore opposed to Taiwan independence. The U.S.'s top priority is to avoid war over Taiwan.

(A) One serious danger of war comes from Taiwan's independence.

Taiwan became concerned that time for independence was not on its side. President Chen Shiu-bian's first inaugural speech of 20 March 2000 was moderate, calling for an avoidance of any unilateral action to alter the status quo and confining constitutional changes to technical matters, not raising issues of sovereignty or territory to be conducted without a referendum. But as he approached the prospect of reelection in March 2004, Chen moved closer to his "fundamentalist" base in the DPP and came up with the slogan "one-country-on-each-side" of the Taiwan Strait. In advocating a new constitution and nation building, Chen has virtually but put forward a timetable and a road map leading to a referendum on it in 2008, the year targeted for Taiwan's independence, constitutes a real drive for secession, where significantly shape the island's sense of self-identity and its population's moves towards self-determination which is tantamount to actual territory. President Chen does not have a free hand to put through a new constitution via referendum. The current referendum law does not allow this and would have to be changed as he is not in control of the Legislative Yuan.³⁷

(B) International Community is opposed to Taiwan independence

The international community is supportive of the "one China" formula to tackle the Taiwan question and is opposed to "Taiwan independence" of its damage and disruptive consequences. Neither the U.S. nor the international community has ever validated the notion that the majority views of a given people by a referendum or other means, justify an

³⁷ If President Chen were not moved towards a new constitution, one problem may well be that the U.S. and China will have divergent views on this process. China will worry about any new constitution, whilst the U.S. will want to know whether the new constitution focuses on a change of domestic political institutions in Taiwan or seek to cut the core with Beijing. The U.S. goals will be to shape Taiwan's revision of the constitution in such a way that will narrowed to a reform of domestic political institutions and to shape China's perceptions of this process. Interview: Richard Bush, Head of the Northeast Asia project at Brooking, in 2006.

inherent right to secession. Territories such as Chechnya, Kashmir, Xinjiang³⁸ and Tibet are not recognized by the international community as independent States, despite the fact that a majority of their inhabitants likely support independence. The international community is supportive of the “one-China” formula to tackle the Taiwan question and is opposed to “Taiwan independence” of its damage and disruptive consequences. Neither China nor the U.S. wants war with each other. Beijing has no trust in President Chen, regarding him as supporter of “creeping to speeding independence,” and their views will not be easily altered.

C. Unification

Taiwan’s Unification with mainland will challenge the U.S. Navy, Russian, and Japanese. China could win a war against the United States over Taiwan. Incorporate Taiwan into mainland, the U.S., Russia, Japan, and many States of Southeast Asia would feel gravely threatened. Once Taiwan became an integral part of China, Taiwan would assure Beijing control of the Taiwan Strait and ability to challenge the U.S. Navy, Russian and Japanese interests. China is Russia’s principal “partner” and its main gateway to the Asia-Pacific region, yet also major strategic competitor and potential threat.

V. CONCLUSION

In advocating a new constitution and nation building, President Chen has virtually put forward a timetable and a road map leading to a referendum on it in 2008, the year targeted for Taiwan’s independence, constitutes a real drive for secession, where significantly shape the Taiwanese-identity and its population’s moves towards self-determination which is tantamount to actual secession.

China potentially has territorial intention to unification meanwhile concentrating for the 2008 Olympic Games. China’s foreign policy has an increasing influence in Africa, Central America and the Caribbean. Beijing wants to solve Taiwan’s reunification with the mainland through a gradual process of economic integration and political convergence. Economic globalization and regional integration of the ASEAN plus 1 or ASEAN plus 3 will exert great pressure on Taiwan government for a closer economic relationship to avoid self-imposed isolation and marginalization.

The U.S. (as well as Japan) has a clear national interest in preserving the status quo in Taiwan. It has emphasized to both Taiwan and mainland the importance of avoiding provocative actions or unilateral measures that would alter the status quo. Taiwan’s political leaders must evaluate their behavior and not shirk from shaping it ways that support American interest.

Neither China nor the U.S. wants war with each other. The combination of a surging sense of Taiwanese identity and growing Chinese military power focused on Taiwan could lead to a major armed conflict in the Taiwan Strait; Washington’s top priority is to avoid war over Taiwan. International community is supportive of the “one China” formula by their conduct to tackle the Taiwan question and is opposed to “Taiwan independence” of its damage and disruptive consequences.

At all time, the U.S. is reassuring China that it adheres to its “one-China” policy. China, in the meantime, is worried Taiwan through the U.S. support from *de facto* independence towards *de jure* independence it will respond positively to that move. For this reason, the U.S. reaffirm that it has no intention of supporting a policy of secession. The policymakers should seek mid-and long-term cooperation to prevent possible confrontations and created better opportunities for the official Cross-Strait dialogues that could lessen tension.

³⁸ Up to 2001, the Al Qaeda (or the Taliban) regime tended to encourage and had persisted in supporting Muslim Uighur insurgency in Xinjiang. The Chinese government tried to buy off the Afghans by selling them army weapons, but to little avail. Facing the threat of Islamic terror in the Xinjiang region, China willingly supported the US to deal with the Taliban which would be part of a larger strategy of encirclement, and also supported the international coalition’s activity against Islamic terror.