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Outline of remarks on

"Taiwan's bid for membership or observer status in the WHO and the UN"

Two disclaimers at the outset: First, I have chosen to adopt an analytical rather than an argumentative and/or partisan approach in the following remarks. This doesn't mean that I don't have any personal preferences in this matter—I certainly do—but I will try to be as dispassionate as I can in my examination of what has become a very controversial issue. Nor, perhaps naively, have I bothered to weigh each and every word on a golden scale so as to avoid offending anyone's political or moral sensibilities. I ask your forbearance.)

I. *The Issues and how they have evolved* — a brief reminder of the historical background in terms of how the issues have changed over time.

A. *The ROC as historical losing contender for China's UN and WHO seat* -- The Republic of China, represented by its internationally recognized Nationalist government, was a founding member of both organizations, the latter a specialized agency of the former, which came into being in 1946 and 1948 respectively. After the Communist victory in 1949 and as new states came into being during the process of decolonization and were welcomed into the UN, support for the PRC grew until sufficient votes accumulated in the General Assembly to allow it to replace the ROC as China's acknowledged government in 1971-72. At the time there was some behind-the-scenes talk of some sort of compromise representation for the ROC, but owing to strong opposition from both governments the option was never seriously considered.

B. *Thus the ROC's exclusion from the UN and its agencies became the new status quo* -- Beginning in the 1990s however — coincidentally with Taiwan's democratization and the ROC's abandoning its claim to rule all of China — Taipei began attempting to gain or regain membership, or to achieve observer status, in both the UN and the WHO. Peking has succeeded in completely blocking these attempts, even preventing Taiwan's applications from coming to a vote: 2004 marked Taiwan's 12th successive failure to gain entrance into the UN and 8th successive failure to gain entrance into the WHO.

C. *Support for Taiwan's inclusion or participation has been slowly growing, but chiefly where it counts for very little*, e.g. in resolutions adopted by various international organizations and professional associations and primarily within the parliaments of Western governments. One senses however that this increasing support is probably not analogous to the inexorable trend of the 1960s that made the PRC's UN membership victory more or less a matter of time.

D. *The definition of the issue becomes the issue.*

1. Initially the issue was *who (i.e., what government) represents China?* This issue was settled in 1971 in the PRC's favor and is today in fact universally accepted. Peking insists that this *remains the sole issue*, and opposes all forms of Taiwanese representation, with only a few exceptions, on this basis alone.

2. In the past decade or so Taiwan and its supporters, *no longer contesting the who-represents-China issue*, have chosen to frame the membership issue in

terms of principles relating to institutional purposes and functions — ' universality' in the case of the UN, ' health issues' in the case of the WHO — and in terms of the rights of peoples, as well as of governments, to be represented and to participate fully and freely in the international community. In its official argumentation Taipei often maintains that this is the sole issue.

3. There is of course a third, basic underlying issue, which is in fact a morass of important sub-issues: *what is Taiwan?; what is (or should be, according to various criteria) the proper international status of its government?; how, eventually, will be its relationship to mainland China likely be settled, and what steps now would contribute to one or another of the alternatives?; and most importantly in the short to mid-term, the question of whether it is possible or even desirable to devise a mutually satisfactory transitional status for Taiwan that could serve to reduce tensions without pre-determining the final result?**
4. It is clear that each side regards the other' s arguments as spurious or at least disingenuous, and I think an absolutely impartial observer would have to agree with both sides, at least in part. But whether we are impartial or not regarding the conflict' s eventual solution, the need now is clearly for a workable, non-discriminatory tension-reducing modus vivendi.

II. *Precedents — what do they tell us? are they dangerous? to whose interests if so? Some historical instances:*

- A. *1945 -- The case of UN membership irregularly granted to two non-independent SSRs, Byelorussia (now Belarus) and the Ukraine, as a means of placating Stalin by granting the Soviet Union additional votes in the General Assembly. In retrospect? This was obviously to the advantage of the USSR since Moscow controlled the votes, but no significant harm seems to have been done to the interests of Moscow' s adversaries either, nor to the UN as such.*
- B. *1973 -- dual East and West German membership made possible by Bonn' s abandoning the Halstein Doctrine, analogous to Peking' s ' One China' doctrine. In retrospect? Seen in the long run as a wise move on the part of West Germany, but hardly as a key factor in the DDR' s eventual demise. Doubtful relevance to China-Taiwan. The same could be said of temporarily divided Yemen' s erstwhile dual membership.*
- C. *1991 -- dual North and South Korean membership, setting a more recent precedent of accommodating deeply mutually antagonistic regimes in a divided state. In retrospect? Has facilitated limited unofficial contacts; no real gains nor detrimental effects.*
- D. *Non-state members and other types of participant observers in the UN and WHO. The formal rules of both organizations, as well as practice, allow for many of these, so Peking' s contention that only recognized states can be admitted is unsupported by precedent. None of the observers, however, with the possible exception of the Palestinian Authority (and previously the PLO), are in any way analogous to Taiwan.*

E. *In sum*, these examples serve as a reminder that membership principles can be applied and have been applied in a flexible manner within the respective organizations. Major players have from time to time shown flexibility or simply bowed to the will of the majority, seemingly with few ill effects. It can be argued whether the causes of peaceful development, conflict avoidance and conflict resolution have been advanced or set back, and to what extent the overall functioning of the respective organizations has been affected, but in my judgment the consequences have in no case been extremely detrimental to anyone's interests.

III. *Principles of International Law vs. Political Motives*

- A. *Two distinctions*: Moving beyond the specific issue of Taiwanese participation in the UN and WHO but continuing in the role of impartial observer, I suggest that an understanding of the broader cross-strait relations issues requires us to make two distinctions. The first is the distinction between *what is* and what China very strongly believes *should be*. And the second is the distinction between legalistic arguments and political motives, keeping in mind that political grounds practically always count more than legal ones in decisions regarding formal state-to-state recognition and admission to international organizations.
- B. *In the present case*, Taiwan satisfies all of the accepted, applicable *international legal requirements* as to what constitutes a state. It possesses a duly constituted government accepted as legitimate by a clearly defined populace, and a clearly defined territory over which its government exercises exclusive jurisdiction. By these tests, Taiwan *is* a state in that it satisfies the principle legal and functional demands of statehood: it is regarded as a state by its own people and it functions as a state. (Which is not to say that there are no legalistic counter-arguments whatsoever in terms of historical or treaty-based sovereignty — of course there are.)
- C. *More importantly* however, Taiwan does not pass a *second, equally practical test: that of international recognition*, which is primarily determined by power politics and political economics. By this test Taiwan *does not* qualify as a state and will not be recognized as such unless and until many more countries once again find it politically possible, or expedient, to recognize it. China will naturally do everything in its power to prevent that from happening, unless even *China* one day comes to find it expedient to do otherwise. As other governments in China's position have done, historically.
- D. Here we might take a closer look at *the political considerations determining the stands taken by major actors*. Taking them one by one:
1. *Taiwan's arguments and apparent aims*— how reasonable are they? In my judgment they are eminently reasonable *if* one regards Taiwan as a *de facto* independent state, which a majority of its leaders and inhabitants clearly do. (The issue of whether it is prudent and wise for Taiwan's government to pursue such aims in the face of threats from the mainland and such weak support elsewhere in the international community is quite another matter.)

But at the same time, looking at the matter from China's point of view, the fact that the ROC government in 1991 explicitly renounced all pretensions of ever reasserting its rule over all of China and later dissolved the Taiwanese provincial government, leaves China waiting for the other shoe to drop, since these steps logically presage one of two options only — eventual reunification or eventual independence. No wonder Peking is nervous and distrustful.

2. *The PRC's arguments and apparent aims*— how reasonable are they? I see nothing inherently wrong in Peking's having elevated what it refers to as reunification to the level of a major national policy goal. But there are reprehensible aspects to the way in which China is pursuing that goal. To name what I regard as its most serious excesses (and here I am forced to abandon impartiality):
 - a. The notion that a country has the right to rectify territorial losses and other perceived historical injustices when the power balance shifts in its favor, especially if more than a century has passed, is antiquated and dangerous. As is threatening war if certain demands are not met. As is the practice of deliberately nurturing chauvinist-nationalistic sentiments at home, especially among young people. To me, it is remarkable that China's leaders have so quickly forgotten how easy it is to lose control over young people artificially fired-up by one-sided, uncontested propaganda.
 - b. To my mind it cannot be wise for China's leaders to fail to perform periodic reality tests on ideologically-determined views and policies. The charged, politicized atmosphere in China makes this almost impossible to do, but if it were done, I believe Peking would quickly come to a new understanding of the steadily deepening tide of Taiwanese self-identity, and of the utter unlikelihood of the 'one country, two systems'-formula finding advocates among any Taiwanese leaders, today or in the future. They might also be expected to understand the wisdom of placing far more stress on the enticements of economic opportunity rather than on the alienating effects of war threats. Nor are there convincing signs that China's leaders really appreciate the effects of more than a decade of democracy on the minds of the people of Taiwan.
 - c. Finally, with respect to China's high-handed treatment of foreign governments regarding the Taiwan issue, I personally find it utterly unreasonable that Peking demands that we pay lip service, and more, to the so-called 'One China' policy. One (unified) China is a legitimate foreign policy goal (as long as it is pursued through legitimate means) but One China is not an accurate description of present-day reality and we should not be forced or allow ourselves to be cajoled into pretending that we think it is.
3. *US commitments and the Bush Administration's apparent calculations on the cross-straits relations issue* — how tenable are they? I will have to more or less pass on this one for lack of time and space, but the question needs to be asked. What one can say with confidence is that the US is certain to continue to regard China as far more important than Taiwan and that it will continue to put pressure on Taiwan's leaders to prevent them from upsetting the US-PRC relationship. At the same time the long-standing United States' commitment

to protect Taiwan from invasion can not be jettisoned except at great cost to American credibility.

I would cautiously predict that the US may try to work out a way of reducing the risks involved while continuing for the time being to honor its historical commitment to protect Taiwan. What is not at all predictable is whether the second-term Bush Administration might try adopting a proactive policy to help reduce tensions across the straits or alternatively, simply remain in the bind events beyond its control have created for it.

4. *The Europeans' apparent calculations and policy choices*— how moral are they? how wise?
 - a. At the risk of sounding like an American neoconservative with the unhappy associations that now carries, I have to say that I consider it short-sighted, if not immoral, for Europe's democracies not to rally to a greater extent than they do in support of democratic Taiwan whenever it is threatened or bullied by the Chinese dictatorship. But even on strictly pragmatic grounds, continuing to allow China to push and cajole us along present policy lines on the China-Taiwan issue may end with our one day finding ourselves forced to stand by as helpless onlookers in a cross-straits military catastrophe.
 - b. Whether our present policies are wise will depend in the long run on whether developments across the Taiwan Strait remain peaceful or not. And although no one knows the answer to that, there is certainly no dearth of warning signs that they may not do so.

My original thought was to round off these remarks with a few comments on how European policy-makers might modify their countries' stance, or the EU's stance, on the cross-straits relations issue, of which Taiwan's attempt to gain admittance to the UN and the WHO are only a small part. But I have strayed far enough from my assigned topic, and will no doubt have exceeded my allotted time, so these matters will have to be the subject of a later paper.
