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Commentary on “A Modest Proposal for a Basic Agreement on Peaceful Cross-Strait Development” by Chang Ya-chung

Jean-Pierre Cabestan

Abstract: The main question that Chang Ya-chung’s Modest Proposal triggers is whether a political and security agreement can realistically be reached today. The twelve agreements signed by Beijing and Taipei since 2008 should be saluted as conducive to constructing détente, non-military confidence-building measures and de facto government-to-government relations across the Strait. However, in the foreseeable future, is it realistic to ask for more? Actually, a temporary or long-term political agreement between Taipei and Beijing will not be reached if the People’s Republic of China (PRC) and the Republic of China (ROC) refuse to formally recognize each other’s separate existence and sovereignty in one way or another, at least tacitly, and if they do not agree to address security issues squarely with the assistance of the USA. Finally, no meaningful agreement can be reached either if the PRC Chinese and certain segments of the Kuomintang (KMT) (Guomindang) fail to recognize Taiwan’s specific history or realize that the Taiwanese have been developing a distinct identity since 1949 and even more so since the island’s democratization took place in the late 1980s.

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Keywords: China, Taiwan, United States of America, cross-Strait relations, Chang Ya-chung

Prof. Jean-Pierre Cabestan is a professor and Head of the Department of Government and International Studies at Hong Kong Baptist University. He is also an associate researcher at the Asia Centre at Sciences Po, Paris. His most recent publications include *La Chine en quête de ses frontières. La confrontation Chine-Taiwan*: Paris, Presses des Science-po, 2005 (written together with Benoît Vermander and translated and published in Chinese as a special issue of the journal *Renlai* (Taipei), January 2007) as well as *La Chine et la Russie : entre convergences et méfiance*, Paris: Unicomm, 2008 (co-author).

E-mail: <cabestan@hkbu.edu.hk>

Introduction

Chang Ya-chung is no stranger to the study of cross-Strait issues, nor to ideas aimed at solving the sixty-year old dispute between the People's Republic of China (PRC) and the Republic of China on Taiwan (ROC or ROCOT). In 2000, his book on "integration" (*tonghe*) across the Taiwan Strait made him famous, not so much for his long discussion of this fresh expression coined by Lee Teng-hui (Li Denghui) in 1999 in his "two-state theory" (*liangguolun*) interview and later recycled by Chen Shui-bian (Chen Shuibian), but for having put forward the new concept of "Whole China" (*zhengge Zhongguo*), a notion that he perceived to be the best possible compromise to bridge the political gap between Beijing and Taipei (Chang 2000a, 2000b). Chang has not changed his view in the last nine years in spite of the political changes that have occurred on the island, or perhaps precisely because of the most recent political developments, as this concept constitutes the foundation of the "Basic Agreement on Peaceful Cross-Strait Development" presented in this special issue.

This is an interesting notion because it acknowledges that China has been "in a state of separated governance since 1949" and asserts both sides' "equal status". However, the "Whole China" concept appears as a prerequisite, based on a presumed acceptance by all (or most) Taiwanese that they belong to the "same family" as mainland Chinese. In other words, while Chang Ya-chung's proposal reassures Beijing, it still needs to be approved by a large majority of the Taiwanese, or to be more legalistic, the citizens of the ROC. Although the growing interdependence between Taiwan's and China's economies and societies may help to build a new political consensus around the "Whole China" concept, this notion will remain unable to address – let alone solve – the three main issues at stake in the foreseeable future: 1) the political and identity divide on Taiwan, 2) the sovereignty issue that both Chinese states oppose, and 3) the growing security imbalance across the Strait, an imbalance that is increasing rather than diminishing the role of the United States of America in this equation.

The Pluses of Chang Ya-chung's "Modest Proposal"

First of all, it must be acknowledged that Chang has proposed a "Basic Agreement", i.e. a "temporary" or a kind of intermediary agreement between both sides, not a final accord. Moreover, this agreement is not about unification, but "peaceful cross-Strait development", echoing both PRC president Hu Jintao's Taiwan policy, which aims at giving priority to peaceful development (*heping fazhan*) over peaceful reunification (*heping tongyi*), and the shared goal of Beijing and Taipei since Ma Ying-jeou's (Ma Yingjiu) election in March 2008, namely to negotiate a peace agreement (*heping xieyi*) on the basis of the "one-China principle" and the "92 consensus" (*jiu'er gongsbi*).

In Chang's view, both sides should and can seal peace, renounce the use of force, commit themselves to not splitting up the "Whole China", develop "normal relations on the basis of cross-Strait equality" with each other under the names of "Beijing China" and "Taipei China", "agree to mutually establish permanent representative offices" in Beijing and Taipei, "respect the authority of the other party within the boundaries of its respective constitutional order and in all foreign affairs" and, as a consequence, not only be represented distinctively in international organizations, but also co-operate there, eventually allowing the creation of a third seat, symbolizing the "Whole China" in these organizations.

Many features of this proposed "temporary agreement" can be accepted on both sides of the Taiwan Strait. The word "unification" is not mentioned; the "reality of separate political rule" is pragmatically taken into account; the principle of equality is emphasized in such a way that it can both be acceptable to Beijing and reassure a large number of Taiwanese citizens, be they "blue" (with a Kuomintang (KMT) (Guomindang) leaning) or "green" (with a Democratic Progressive Party (DPP) leaning); expressions such as sovereignty, state, diplomacy or independence, all of which are associated with statehood, are carefully avoided in order to prevent Beijing from using its veto; based on the "one China" notion, both "constitutional orders" are to be mutually respected, implying that the governments in Beijing and Taipei – tactfully qualified as "the highest power in their own area" – "only possess complete jurisdiction (*guanxia*) on their own area" and only represent the areas under their jurisdiction on the international stage.

Although article 3 of the Basic Agreement does not explicitly use the concept of jurisdiction, it is founded on the silent distinction made in the preamble of this draft between, on the one hand, the sensitive and indivisible concept of sovereignty and, on the other hand, the more acceptable idea of “separate governance”. This distinction is a crucial one: although not yet fully endorsed by the Chinese authorities, it allowed both sides to open an unofficial dialogue in 1992 through Taipei’s Straits Exchange Foundation (SEF) and Beijing’s Association for Relations Across the Taiwan Straits (ARATS) and reach a number of law-abiding agreements, four in 1993 and twelve, more recently, in 2008 and 2009.¹ Of course, the opening of permanent representative offices (article 7) has been a more tricky issue. Nevertheless, intensely discussed since Ma Ying-jeou’s (Ma Yingjiu) election, this plan is not totally out of reach, in particular if the above-mentioned distinction is carefully played out.

There is an obvious *quid pro quo*, or bargaining offer, in Chang’s Basic Agreement between, on the one hand, Taiwan’s recognition of belonging to “Whole China” and its commitment not to split from it (article 3) and, on the other hand, Beijing’s agreement “not to use arms or the threat of force” to “resolve mutual disagreements” (article 5). This proposal is somewhat similar to Kenneth Lieberthal’s suggested interim but long-term (20- to 30-year) “framework agreement” according to which Taiwan should forgo full independence in exchange for China’s renunciation of the use of force (Lieberthal 2005). It also concurs with Linda Jakobson’s “Greater China Union” (International Crisis Group 2004; Jakobson 2005) or Steve Tsang’s confederation idea (Tsang 2002). The PRC’s enactment of an anti-secession law (*fan fenlie fa*) in March 2005 was obviously aimed at Taiwan’s pro-independence authorities as well as the People’s Liberation Army’s (PLA) growing capability to force the island into submission militarily even before the USA could inter-

1 In June 2008, the SEF and the ARATS signed two agreements: one on the launching of weekend cross-Straits passenger charter flights and the other on the admission of more mainland tourists to the ROC. In November 2008, both organisations signed another four agreements: 1) on air transport (passengers and cargo), 2) on direct shipping, 3) on direct postal services, and 4) on food safety. In April 2009, they signed another three agreements: 1) on cross-Straits air traffic supply, 2) on cross-Straits financial co-operation, and 3) on cross-Straits mutual assistance in cracking down on crime. In December 2009, the SEF and the ARATS also signed three more agreements: 1) on quarantining farm produce, 2) on co-operation in standards measuring, inspection and certification, and 3) on cross-Straits employment of fishermen (MAC 2009).

vene. It has obviously increased the need for such a deal, and in particular for Beijing's guarantee to Taipei not to use force.

At the same time, the anti-secession law pre-empts any commitment of that kind, indicating that China retains its right to use “non-peaceful means” to resolve the Taiwan issue, in several cases, and particularly if Taiwan shows signs of procrastinating *sine die* unification. As article 8 states:

In the event that the “Taiwan independence” secessionist forces should act under any name or by any means to cause the fact of Taiwan's secession from China, or that major incidents entailing Taiwan's secession from China should occur, *or that possibilities for a peaceful reunification should be completely exhausted*, the state shall employ non-peaceful means and other necessary measures to protect China's sovereignty and territorial integrity [italics added] (RMRB 2005).

Chang may argue that the anti-secession law does not apply if Taiwan accepts his Basic Agreement. However, the reason Beijing adopted this law was precisely that since 2000, it has been unable to force or convince Chen Shui-bian (Chen Shuibian) and the DPP to recognize the “one-China principle” and KMT leader Su Chi's “92 consensus”, according to which both sides' negotiators – the ARATS and the SEF – endorsed the “one-China principle” in November 1992, but either did not define it (Beijing) or had different interpretations of it (Taipei's “one China, respective interpretations” or *yi Zhong, ge biao*) (Su 2009). Actually, China felt it needed the anti-secession law because of what it perceived as Chen Shui-bian's (Chen Shuibian) repeated pro-independence initiatives, especially the 2003 constitutional reform plan aimed at revising the official boundaries of the ROC in order to make them coincide with the actual area under the ROC's jurisdiction and the referendum organized on the day of Taiwan's 2004 presidential election. In 2006, Chen's decision to freeze the National Unification Council (NUC), a body created by Lee Teng-hui (Li Denghui) in 1991, convinced Beijing that it was doing the right thing. Just after its establishment, the NUC had issued a definition of “one China” used as the foundation, on the Taiwanese side, of the compromise reached by SEF-ARATS negotiations in 1992, i.e. the “92 consensus”.

The relationship across the Taiwan Strait clearly improved after Ma Ying-jeou's election and the KMT's return to power, increasing the interest in Chang Ya-chung's Basic Agreement in Taiwan and elsewhere, especially the “Whole China” concept. After having promoted Su Chi

Secretary General of the National Security Council, Ma and his government endorsed the “92 consensus” and moved back to the pre-1999 definition of the ROC as part of the “Whole China” (which now excluded Outer Mongolia), totally identifying the ROC’s official territory and boundaries with those of the PRC. In other words, today the KMT and the Chinese Communist Party (CCP) share the fully overlapping sovereignty claims acknowledged by the USA and Nixon/ Kissinger in the Shanghai Communiqué (1972), which stated that:

The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position (Columbia University 1972: 2).

This reborn consensus is illusive to a large extent, however.

The Limits of Chang Ya-chung’s “Modest Proposal”

The major limitation of Chang’s Basic Agreement has already been suggested: Taiwan remains divided on the “one-China principle” and “92 consensus”. For the DPP and around 40 per cent of the electorate, “one China” can be accepted as long as it defines the PRC, Taiwan being out. More ambiguously, the “92 consensus”, in spite of Su Chi’s hope (Su 2009), has remained too closely associated with the old-fashioned (pre-Lee Teng-hui or pre-1995 Lee Teng-hui) KMT to be accepted by the DPP. In June 2000, Chen Shui-bian almost endorsed it, but Tsai Yingwen (Cai Yingwen), then Chairwoman of the Mainland Affairs Council, and Lee Teng-hui convinced him not to do so. Instead, they proposed to him to support the “spirit of 92” (*jiu’er jingsheng*). It should be added that the ROC’s definition of “one China” issued in 1992 by an NUC has never been endorsed by the DPP, which has never considered it to be legally binding or even legitimate. Indeed, it must be recognized that in spite of Kang Ning-hsiang’s (Kang Ningxiang) acceptance to sit in it (which led to his exclusion from the DPP), the NUC had no democratic legitimacy whatsoever: it was appointed by Lee, a president who had been elected in 1990 by a non-democratically elected National Assembly still dominated by the KMT’s “old thieves” (*lao zhi’e*) who had fled mainland China in 1949. It was precisely because of this lack of consensus on Taiwan that Lee Teng-hui (Li Denghui) put forward the idea – in

1999 – that relations across the Strait were (quasi) state-to-state relations (*liangguolun*), an initiative, it must be emphasized, that was then approved by a large majority of Taiwanese. As Lee indicated in 1999 and Chen Shui-bian (Chen Shuibian) repeated in 2002 (one country on each side, *yibian yiguo*), “one China” was actually a non-starter because it was perceived as a trap aimed at isolating Taiwan and preventing the ROC from reintegrating into the international community. However, Chang Ya-chung fails to factor in these historical developments and reality.

True, Chang puts forward a number of creative ideas that could help Taiwan to improve its international status if it accepts the “Whole China” prerequisite. And in many ways, the “diplomatic truce” decreed by Ma after his election has enabled the ROC to keep all of its 23 small diplomatic allies and, under the name of “Chinese Taipei”, to get admitted to the World Health Assembly (WHA) as an observer in spring 2009, if not the Organization itself (WHO).

Nevertheless, the three-seat option proposed by Chang does not seem to be viable because it is aimed at bridging the “separation between the inside and the outside” (*neiwai youbie*), a non-written principle on which the development of cross-Strait relations has been based and has been possible since 1992. How can the PRC agree to delegate part of its negotiating power to a supranational, European Union type of entity (the third seat) in the WHO or any other multilateral organization? How can the PRC agree to be relegated to the name and status of “Beijing China” and, in addition, to elevate “Taipei China” to the status of a party in every international treaty dealing with sovereignty (i.e. issues concerning territory and borders) that the Taiwanese authorities may sign and ratify? This proposal is not realistic as it takes the principle of equality and shared sovereignty too far.

Actually, ideas of forming a confederation (Tsang 2002) or union (Jacobson 2005) appear less out of reach, but similarly, they presuppose that a strong consensus has been built up on Taiwan, which is still far from the case today. Lieberthal’s interim agreement is probably easier to negotiate since, as proposed under Chen Shui-bian (Chen Shuibian), it does not impose any return to the “one China” principle on Taiwan. However, it was coldly received in Taipei at the time since it was perceived as narrowing the options for Taiwan’s future: in exchange of a renouncement of the use of force by Beijing, Taipei was supposed to commit itself to not declaring independence, an option that the DPP could not abandon at that point and cannot drop today either, in particu-

lar if the ROC/ Taiwan is not granted the status of a nation-state. Moreover, what value would a PRC government's commitment not to use force actually have if it were ever expressed? How can such a commitment make the Taiwanese feel more secure or less threatened if, simultaneously, the PLA's capacity to project forces across the Strait continues to grow steadily and impose an increasingly challenging military balance in the area on Taiwan and the USA, Taiwan's sole protector?

This is another major limitation of Chang Ya-chung's "Modest Proposal". Indeed, if the PRC abandons its threat to use force, this may ease the negotiation of military confidence-building measures (CBM) by both sides and diminish the risk of incidents or miscalculation occurring in the Strait. However, the strategic equation is changing rapidly and has compelled the USA – a major element in this equation – to adopt an increasingly "hands-on" policy regarding Taiwan's defence and external security.

Chang has deliberately excluded the USA from any cross-Strait agreement, thereby pushing a trend that is currently perceptible within the KMT to an extreme. Yet as Lieberthal and others have indicated, it seems hard not to involve Washington in any CBMs or security agreement between Taipei and Beijing. The USA's responsibilities unfolding from the 1979 Taiwan Relations Act can only convince it to try to facilitate and possibly influence the outcome of such discussions (International Crisis Group 2003a, 2003b, 2003c).

The deteriorating military balance in the Taiwan Strait has both enhanced the importance of CBM negotiations and narrowed the options Taipei and even Washington can contemplate. It has increased the cost of any arms conflict and may weaken Washington's determination to save Taiwan, in particular if the Taiwanese elites demonstrate less of an interest in defending themselves and tend to dismiss the PLA threat (Shlapak et al. 2009).

Associated as it is with Taiwan's economy and its society's growing dependence upon the PRC, this trend is prone to modify Taiwanese citizens' self-perception gradually and will probably contribute to weakening or at least moderating the Taiwanese identity and nationalism, giving more space for multiple and more accommodating identities (Cabestan and Le Pesant 2009). This evolution may strengthen Taiwanese support for the KMT's mainland-China policy and the "92 consensus", marginalizing the pro-independence or "dark green" factions within the DPP.

However, it remains to be seen whether the KMT and Ma Ying-jeou's (Ma Yingjiu) government will be able to genuinely improve the ROC's international status and security in spite of the concessions made to Beijing. Observers do witness the difficulties that both sides have in agreeing upon an Economic Cooperation Framework Agreement (ECFA), which is currently under review in Taiwan, a negotiation where sovereignty issues can still be left on the shelf. But any end to hostility, CBM or peace agreement will force both sides to address the sovereignty issue more directly. Can the SEF and the ARATS really negotiate these agreements? In other words, even if both sides could agree about the "Whole China" concept, as Chang suggests, this notion would rapidly demonstrate its limitations as soon as institutions (the armed forces, coastguards) and symbols (flags, national anthems) associated with sovereignty come to be involved.

Conclusion

Chang Ya-chung's initiative should be justly praised as an effort to bridge the gap across the Taiwan Strait, a gap that, in spite of the *détente* that we have witnessed since Ma's election, has remained quite deep.

The main question that Chang's "Modest Proposal" triggers is whether a political and security agreement can realistically be reached today. The twelve agreements signed by the SEF and the ARATS since 2008 should be saluted as conducive to constructing *détente*, non-military CBMs and *de facto* government-to-government relations across the Strait. However, in the foreseeable future, is it realistic to ask for more? Can both sides really embark on political and security negotiations? Is the Obama Administration available and ready to exert strong pressure on Hu Jintao and Ma Ying-jeou (Ma Yingjiu) to discuss CBMs and a peace treaty?

In the foreseeable future, Beijing, Taipei and Washington are likely to be happy to see the non-official and functional ARATS-SEF negotiations going on and multiplying the number of technical and pragmatic agreements between both sides of the Strait. In a sense, these negotiations and agreements are contributing to a gradual and quiet "normalization" of the relationship between the PRC on the mainland and the ROC on Taiwan.

Nevertheless, no temporary or long-term political agreement between Taipei and Beijing can be reached if the PRC and the ROC refuse

to recognize each other's separate existence in one way or another, at least tacitly, and do not agree to address security issues squarely with the assistance of the USA. Finally, no meaningful agreement will be reached if the PRC Chinese and certain segments of the KMT fail to recognize Taiwan's specific history and realize it has a distinct identity that the Taiwanese have been developing ever since 1949, and particularly since the island's democratization in the late 1980s. This is a very special Chinese identity or, as many Taiwanese would put it, a case of being both *Taiwanren* and *Huaren* as opposed to *Zhongguoren*.

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