

China Analysis

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Foreword

On March 14th, apparently to the surprise of the Chinese security services who were slow to react, rioting broke out in Lhasa. Demonstrations and unrest spread quickly to other towns in Tibet, Qinghai, Gansu, and north-western Sichuan. The protests in Buddhist monasteries and rioting by sections of the Tibetan population constitute the largest political demonstration in the region since the events of 1959 when the Dalai Lama fled China. The intense scrutiny of the Olympic Games, and opportunity the international leg of the Olympic torch relay gave to Tibet sympathisers worldwide, turned this into a global issue for China's public image. Its vitriolic response and demonisation of the Dalai Lama were a public relations disaster, undermining the respectable image of soft power which China tries to present. While the informal May 3rd meeting with representatives of the Dalai Lama was a purely symbolic concession, it showed an awareness of the public relations disaster on that the Chinese government had brought down on itself.

These events are in marked contrast with developments on China's other main sensitivity, Taiwan.. Ma Ying-jeou's victory in the Presidential election on March 22nd had long been expected. The feeling of detente which followed was orchestrated with bravado at the Bo'ao forum. The symbolic handshake between Hu Jintao and the newly elected vice-President of Taiwan marked the first direct contact between mainland and Taiwan leaders since 1949.. In July, charter flights will link major Chinese cities to Taipei, Kaohsiung, and Taichung. There is a remarkable contrast between the handling of Taiwan and Tibet, both of which involve the legitimacy of the Chinese regime. The flexibility currently being shown towards Taiwan may seem just as perplexing as the inflexibility towards the Dalai Lama. A few months ago, China was still hurling insults at Ma Ying-jeou's predecessor..

The media storm around the international progress of the Olympic torch and anti-French protests have unfortunately concealed from the Chinese public the sudden deterioration of China's image because of Tibet in democratic countries. The anti-French wave, which was first encouraged and then reined back, like the Chinese patriotic demonstrations in the latter stages of the torch relay, serve the interests of the regime. This is not the first, nor even the most significant of the waves of nationalism in Chinese public opinion,. In this issue, *China Analysis* does not deal with Franco-Chinese relations, for these have been well covered by the French and the international press. Going beyond official pronouncements on Tibet, we have presented a surprising alternative view of the Tibet question by a leading Chinese weekly which published a thinly veiled attack on the Party's cultural policy in Tibet. Does this article, which has been endlessly quoted abroad, provide an alibi for the regime, or is it the sign of a genuine debate? Whatever the case may be, in early May the writer was expelled from the *Nanfang Zhoumou*.

Another side-effect of the attention on Tibet was that the five-yearly meeting of the National People's Congress went almost unnoticed. Yet major reforms were passed at the Congress. By withdrawing some powers from the National Reform Development Council, the government is trying to make the implementation of its public policies more efficient. China's search for a less environmentally destructive model for development has been strengthened, at least in its statements of intent. But the creation of a Ministry of the Environment does not by itself guarantee success.

Mathieu Duchâtel and François Godement

DOMESTIC POLICY

What should have been a domestic focus over the last couple of months on economic and political reforms, agreed by the National People's Congress and Chinese People's Political Consultative Committee, has been overshadowed by the Tibet riots, the Olympic Torch relay and now the Sichuan earthquake. . The show of irritation in Beijing, fuelled by the feeling that the West was unjustly blaming China, has damaged the respectable image which Chinese diplomacy was trying to cultivate.

Yet Chinese press coverage of these events has not been unanimous, with a surprising audacity in the analyses put out by the liberal press in the South of the country. In Beijing the trend has been towards fomenting nationalist feelings and tightening controls. But only about a month after the beginning of the crisis the authorities started calling for "patriotic zeal" to be "properly channelled" in the interests of economic development. This is a sign of Beijing's felt it needed to calm people down and to put an end to the call for a boycott of French goods, fearing that other Western leaders might agree to receive the Dalai Lama or boycott the Olympic Games opening ceremony.

The poor handling of the Tibetan question is in marked contrast with the positive way in which the new relations with Taiwan have been established. Yet the electoral victory of Ma Ying-jeou, and the historic meeting between his vice-President, Victor Siew, and Chairman Hu Jintao, are a small ray of hope in the darkening skies over Beijing.

1. The "Chinese miracle" and the challenge of Tibet

MATHIEU DUCHÂTEL

From:

– Li Ping, Li Yajie, "What lies underneath the orchestration by the Dalai-lama's of Tibet's great insurrection movement", Xinhua agency, 1st April 2008.

– Cao Xin, "An alternative view of the question of Tibet", *Nanfang zhoumo*, 2nd April 2008.

Can China ease its policy towards Tibet? An overview of the official Chinese press gives little cause for optimism. Since the beginning of the unrest on 14 March, Beijing has mobilised its propaganda machine to conduct a veritable information war. Beijing's official line – accusing the "Dalai Lama's clique" of sliding into violence and seeking independence despite the economic development that has been enabled by China's policies – is relentlessly hammered out in China and abroad. The closing off to outsiders of the Special Administrative Region prevents any alternative view being put forward, just as it does any measure of the scale of repression. The Chinese press has overwhelmingly rejected having any debate on the underlying causes of the riots. Our selection sets two contrasting pieces side by side. One is an article from the Xinhua agency, which sets out in detail for Chinese readers the government's arguments about a plot. This

piece is based on the core argument, often contested abroad, that the Dalai Lama and his government in exile directly control the pro-independence groups. Conversely, the article from *Nanfang zhoumo* is a notable exception, as it relates the Tibetan riots to China's cultural policy in the region. It is proof that this argument, which is accepted in many Western countries, has currency in Chinese liberal circles. However, Cao Xin, the writer, has been excluded from the *Nanfang Zhoumo* because of this piece on the beginning of May.

China's whole argument is based on a denunciation of the Dalai Lama's plans for independence, whereas he himself has continually repeated his demands for increased autonomy, in line with the Constitution of the People's Republic of China¹. According to the Xinhua agency, the Dalai Lama's government in exile decided at a meeting in Brussels in March 2007 to seize the occasion of the Olympic Games in order to bring about a crisis and draw the world's attention to the Tibetan cause. Concretely, the events in Tibet in March are said to be the result of an alliance between the Dalai Lama's forces and the most radical organisations calling for independence, that is, the congress of young Tibetans, the association of Tibetan

1. The principle of the autonomy of the Special Administrative Regions is laid down in section 6 of the Constitution of the PRC. The equality of nationalities in China is guaranteed by article 4 of the Constitution.

women, and the movement of free Tibetan students... These unveiled their plan for a “great movement of insurrection by the Tibetan people” (西藏人民大起义运动, *xizang renmin da qi yi yundong*). The plan began with the principle that 2008 is the “last chance for success” for the independence of Tibet. In India, pro-independence groups drew up a series of specific measures and obtained the backing of the government in exile. This was first of a whole series of political demands, which, from China’s perspective, went well beyond calls for autonomy. They included, for example, the Dalai Lama’s return to Tibet, the departure of the Chinese settlers, the freeing of political prisoners... In the case of China’s refusal to give in to its demands, the plan is said to make provision for resorting to violence. Its instigators are not concerned to cloak themselves in mystery or secrecy; indeed, seven pro-independence associations set out the main thrust of these plans at two press conferences in New Delhi in January 2008. The insurrection, to be launched in March 2008, was to constitute a “historic turning-point in Tibet’s struggle for freedom”.

Two dates were to mark the rise of Tibetan protest. Outside of China, on March 19th, the congress of young Tibetans launched a peaceful march planned to end up in the Special Administrative Region. Overseas Tibetans in other countries were asked to take a day off work to undertake various actions such as demonstrations, strikes and attacks against the Embassies of the People’s Republic of China (PRC). In “Greater Tibet” – the Special Administrative Region and those parts of historical Tibet that have been attached to the provinces of Gansu, Sichuan and Qinghai –, the riots began on March 14th. Still according to the official Chinese agency, the Security Ministry of the government in exile has been playing a key role in coordinating operations as well as being in charge of intelligence. In order to counter the deployment by China of effective security measures, it is thought to have decided on March 17th to repatriate to Dharamsala the most active elements in the riots. The rest of the article tries to prove the role of the government in exile, beginning with the arrest of an anonymous Tibetan, who was supposedly entrusted with clandestine missions by the Ministry of Security, notably the setting up in Tibet of a network of infor-

mants, collection of intelligence data and the distribution of tracts on the Dalai Lama’s activities abroad. According to the article, Chinese public security officials found compromising documents at his home, including reports and photos of the riots that he was preparing to send to the Tibetan security services.

Like all official sources, the Xinhua agency piece reveals a certain sense of amazement at the riots. How can the fact that Tibetans are not satisfied with the economic development of their region be explained? Given access to the outside by a railway line since July 2006, the region is benefiting from China’s growth. China’s public communication is based on a black-and-white opposition between the ideologues of the pro-independence movement and the pragmatists of development. The *Nanfang zhoumo* is quite alone in the media landscape in looking for a possible cause for the insurrection in the policies of China itself.

For the liberal weekly newspaper, the power of religion in daily life in Tibet and the population’s veneration of the Dalai Lama are two unavoidable realities. China would do better to face up to this, by referring to its Constitution. Instead of perceiving the Tibetan leader as a political threat and trying to deligitimise him, it should, however reluctantly, accept the need to treat him as a religious leader. The relative insolence of such a statement is attenuated by the call for strict respect for the PRC’s internal law. But the *Nanfang zhoumo* calls for a veritable strategic shift, by asking the Chinese government to distinguish between the foreign Tibetan groups rather than rejecting them wholesale. Thus, it would not be counter-productive for Beijing to adopt a policy of “smiling to dissipate antagonisms” (相逢一笑泯恩仇, *xiangfeng yixiao min enchou*) towards the Tibetans living in exile who followed the Dalai Lama when he fled to India in 1959. They are not all pro-independence supporters. In fact, they belong to a complex society that has undergone much change in the intervening period. Similarly, in the “*Dalai Lama’s clique*”, China would do better to make a distinction between those who support non-violence and are asking for autonomy and extremists advocating violence as a means to independence.

But the *Nanfang zhoumo* goes even further, since it implicitly denounces the policy of Zhang Qingli, the secretary-general of the Chinese Communist Party (CCP) in the region appointed in 2006. Accordingly, his policy provoked the March riots. China should perhaps draw inspiration from the management methods of Guo Jinlong, the Mayor of Beijing, who was the Party's secretary-general in Tibet from 2000 to 2004, and whose moderate policies had fostered stability. In particular, he had guaranteed religious freedom for all – Party members excepted – and drew a line between normal ethnic and religious activities and “separatist” actions. While many facets of Tibetan religious life are in tune with the Chinese dream to build a “harmonious society”, why not, as Chinese experts themselves say, build new relations with Tibetans on that basis? Buddhism, in Tibet, does not encourage “extremist” behaviour. According to the South China weekly, this means that Tibet must “be treated differently from the other regions dominated by ethnic minorities”. Without calling directly for dialogue, the *Nanfang zhoumo* proposes a reworking of China's political line with respect to Tibet. It recalls that the Dalai Lama published in the Western media on March 28th an “open letter to [his] Chinese brothers and sisters”, in which he undertook not to support independence and to oppose any boycott of the Beijing Olympics. These promises perfectly match the requirements set down by Hu Jintao and Wen Jiabao for a return to dialogue.

2. New ministries, at the expense of the NDRC?

MICHAL MEIDAN

From:

– Zuo Qingling, Ye Feng, Teng Xiaomeng, Wang Xiaoming, “Addition and Subtraction in the Super Ministries: five ministries, three definitions and six months”, *21 Shiji jingji baodao*, 1st April 2008.

– Zhang Fengan, “The bureaux responsible for the ‘Great Western Development Strategy’ and the policy of ‘Revitalising the North-East’ are being absorbed into a new regional management structure”, *21 Shiji jingji baodao*, 28 March 2008.

Following the establishment of five new ministries at the March session of the National People's Congress (NPC), the role of the National Development and Reform Commission (NDRC) (发改委, *fagaiwei*) has been redefined. Besides the Environment Ministry, whose creation, much debated in the Chinese and international press, elevates the State Environmental Protection Agency (SEPA) to the rank of Ministry, the four other “Super Ministries” are Industry and Information, Human Resources and Social Security, Housing and Rural and Urban Construction, and Transport. However, the emphasis given in the Chinese press to the “*contraction*” of the NDRC's functions implies that the ministerial reorganisation is as much designed to curtail the role of this all-powerful administration as it is to rationalise management practices in the areas concerned².

The creation of the five new ministries is also designed to send a message to public opinion, worried about the erosion of living standards. This is that the government is taking on board the needs of the population in terms of housing, education and health, and, above all, that it is striving to adopt more rational and transparent management practices. The definition of the responsibilities of each ministry has not yet been finalised. In fact, only the Ministry of Housing and Rural and Urban Construction, replacing the Ministry of Construction, is thought to have completed, at the end of March, the

2. For further details, see the following contribution by Thibaud Voita.

process of the “*three definitions*” (三定, *san ding*) - concerning the Ministry’s internal structure, its organisation and its areas of responsibility - and to have submitted these “definitions” for approval to the State Council and the Central Organisation Department of the Communist Party. The new Ministry should have more authority over questions of housing, including the formulation of housing policy, its financing and taxation, as well as the distribution of land. On the other hand, the planning and construction of new urban public transport facilities should be allocated to the new Ministry of Transport. However, the allocation of other responsibilities, such as the management of urban tourist sites, the administration of parks and woods and the management of water resources, is still to be settled. The management of towns and villages is currently in the hands of “*administrative work units*” (事业单位, *shiye danwei*), but it should eventually be transferred to the Ministry for Housing.

The other ministries, according to the information provided by 21 *Shiji jingji baodao*, have six months in which to present their “*three definitions*” to the State Council. The Environment Ministry should, unlike the SEPA, play an important role in the definition of policies to be adopted, and take an active part in research and decision-making, even if “*the question of how to take part remains unresolved*”. It should also have more authority over the implementation and enforcement of laws, which was until now SEPA’s primary function. Although the definition of roles is currently being worked out, according to “*well-informed sources*”, attempts to arrive at a clear definition of the Environment Ministry’s areas of responsibility face major difficulties and bureaucratic infighting. Should the management of water resources, both freshwater and seawater, come under the control of this Ministry? What supervisory and management mechanisms would have to be set up? Will it be independent – as advocated by “*certain analysts*” who are at ministerial level – and endowed with a vertical management system that takes account of all regions and industries? It would appear that the only point of agreement is to provide this Ministry with a more important role than the one SEPA had in terms of research and policy development.

The process involved in this reorganisation does not affect only the new ministries. According to the journalists cited, a number of ministries, including the Ministry of Trade, have set up internal working groups to re-examine their structures and areas of responsibility with a view to redefining them. There remains “*the question whether this reorganisation can bring about an effective power sharing and a clear definition of roles and responsibilities, with a devolution of power to local governments, businesses and middle organisations*”. The new internal organisation of the NDRC is thus the key. With a new Minister in charge, the NDRC should now confine itself to macroeconomic regulation. It should shed its microeconomic functions and, above all, its power to intervene in the process of granting approvals and licenses. Some of its functions should be transferred to the Ministry of Industry and Information; other responsibilities, including, in particular, the authority to approve projects, should be handed down to lower echelons. The issue of regulating prices has not, however, been broached. The NDRC will also be charged with the coordination of regional policies. Zhang Fengan points out that the bureaux affiliated to the leading groups within the State Council which are responsible for the so-called “*Great Western Development Strategy*” and the “*Revitalising the North-east*” policy will come under the NDRC’s portfolio. Although the details of this have not yet been worked out, all the people cited by the writers are promising that this change will not have any negative impact on the implementation of these regional initiatives and that, on the contrary, it will enable their more effective and integrated management.

But what will become the NDRC itself? Wei Jianing, the Deputy-Director of the Department of Macroeconomic Research in the Research Centre attached to the State Council, thinks that the fact that this body was intervening in such a great many issues, some of them involving a conflict of interests, was prejudicial to its operation. It remains to be seen, however, whether this new reform will lead to the rationalisation of institutions so longed for by China’s leaders.

3. Major changes within the central planning apparatus

THIBAUD VOÏTA

From:

- Luo Changpin *et al.*, “An outline starts to take shape”, *Caijing*, 17 March 2008.
- Zuo Qinglin, “The NDRC’s return to its original function”, 21 *Shiji jingji baodao*, 18 March 2008.
- Wang Dongming, “A new stage in the reform of administration and government institutions”, *Qiu shi*, 1st April 2008.

The National Development and Reform Commission (NDRC) is known by its nickname as the “Ministry of ministries” or “the first Chinese Super Ministry” (中国第一‘大部’, *zhongguo diyi ‘dabu’*). According to *Caijing*, the NDRC has been at the heart of the reform process ever since it was set up in 1998 (改革重点, *gaige zhongdian*). It was the successor to the State Planning Commission (国家计划委员会, *guojiajihuwaiyuanhui*) following the latter’s merger with the State Economic and Trade Commission (国家经委, *guojiajingwei*), and between 1993 and 1998, it played a role in regulating macroeconomic policy across. By the late 1990s it ended up becoming a “little State Council” (小国务院, *xiaogouwuyuan*).

The NDRC was given its present name in 2003, with increased responsibilities. It found itself in charge of matters as important as macroeconomic regulation, administrative reform, resource allocation and price control... Its functions even went as far as determining public holidays. At least 28 ministries and State Council institutions have daily exchanges with the NDRC.

At its last session, however, the National People’s Congress (NPC) decided on reforms which call into question a good many of the NDRC’s functions. Officially, this amounts to a refocus, whereby microeconomic activities and project approval responsibilities are removed from its portfolio to enable it to concentrate on macroeconomic policies. “*Our work will be more specific*” (作风细腻、踏实细致, *zuofengxini*

tashixizhi), is the euphemistic way in which NDRC cadres put it.

The career of the new Minister appointed to head up the NDRC, Zhang Ping (张平) reveals a good deal about the direction of the reforms. Born in the north of Anhui province in 1946, Zhang Ping knew all about the miserable lot of farm workers. Before making the move to Beijing he had spent his entire career in his native province, and was very active in trying to find solutions to the problems besetting the rural areas (the famous *sannong*, 三农). He is mainly associated with taxation reform; indeed, he is referred to in his native province as “*the first person to have concerned himself with reform of rural taxation*” (农村税费改革第一人, *nongcun shuifei gaige diyiren*).

He joined the NDRC in 2005, as a Deputy-Minister responsible for managing economic and trade matters as well as prices. As such, he was in charge of all questions pertaining to trade, price monitoring and the reform of the system of harmonious management of the economy. He also looked after a number of Centres and agencies: the Centre for Price Control, the Centre for Price Monitoring, Market Publications, the Centre for Medicine Price Setting and, finally, the State Grain Administration. He performed particularly well in these functions by controlling education-related costs, lowering prices for medical care, regulating real estate prices, reforming energy prices and stabilising agricultural prices. It would seem that the Departments which he ran will henceforth constitute the core of the NDRC, the others having for the most part been separated out from the Commission.

Caijing warmly welcomes these reforms. The NDRC was too cumbersome a structure, and the redistribution of powers should limit its responsibilities in terms of investment approvals by reallocating them to local administrations. As a consequence, the distribution of powers between the centre and local areas should become much clearer, with local governments gaining in responsibility. The detail of some of these rearrangements is also regarded as a positive development. *Caijing* underscores this development in the energy sector, concerning four institutions in particular:

1. The Energy Leading Group, led by Wen Jiabao.
2. The office of this Leading Group, within the NDRC itself, which is to handle operational matters.
3. The NDRC's Bureau of Energy.
4. The State Electricity Regulatory Commission, established in 2003.

In future, the Energy Bureau (国家能源局, *guojianengyuanju*) will enjoy a position in the hierarchy above that of the NDRC. Zhang Guobao (张国宝), a former Deputy-Minister of the NDRC in charge of energy, has a good chance of becoming its head.

What conclusions can be drawn from this reorganisation? First, Wang Dongming lays stress on the transition to a "service-oriented" government (服务型政府, *fuwuxing zhenfu*), which should enable the goal of a Chinese-style socialist society to be reached by 2020. These reforms need to be seen as a new stage in this process. It is noteworthy that Zhang Ping has been concerned with rural issues all through his career. He was also in charge of the various centres for price management when the measures for price control were adopted a few months ago. Central planning seems therefore to be moving towards a service platform. The goal would now be to secure a better sharing of the fruits of growth. By "services" we must therefore understand a better management of the range of social services provided by the public authorities. Secondly, the reduction of the NDRC's prerogatives does not necessarily signify a less interventionist approach to the economy on the part of the central authority. On the contrary, this rearrangement is designed to enable the NDRC to devote itself more wholeheartedly to macroeconomic control. One might say that, in the wake of the last session of the NPC, there seems to be a rationalisation of the interventionist role of the central authority.

The main reforms of China's administration since the opening up of the country.

Source: Caijing.

1982: a lightening of the administrative system; the number of institutions under the control of the State Council goes from 100 to 61.

1988: a further decrease in the number of institutions; a 19.2% reduction in administrative personnel.

1993: the objective of the edification of "market socialism" is announced; the setting up of the separation between the government and enterprises (政企分开, <i>zhengqi fenkai</i>). The institutions directly under State Council control go from 86 to 59, that is, a drop of 20%.

1998: a transition in the functions of the government, and the launch of the reform of enterprises. The number of institutions answering to the State Council goes from 40 to 29; some functions are transferred to businesses, local governments and the population at large. A reduction in personnel of fifty per cent. The establishment of the Commission of Science, Technology, and Industry for National Defence (Costind), and of the Ministries of Information, Social Protection and Workers, and Land and Resources.

2003: henceforth, the government is to be responsible for regulating the economy, the market, society and public affairs. Establishment of the Sasac (State Owned Assets Supervision and Administration Commission), the NDRC, the China Banking Regulatory Commission (CBRC); reorganisation of the Ministry of Trade, the State Food and Drug Administration. The State Administration of Work Safety is put under the direct control of the State Council.

ECONOMY

Two main factors stand out Chinese analysis of the National People's Congress (NPC). Firstly, Chinese intellectuals are not satisfied with the state of the public administration, considering it to be overblown, inefficient, and wasteful. The watchword is now the need for the government to become a supplier of services, particularly to the most needy. Secondly, environmental concerns are becoming noticeably more prominent in Chinese politics. Whether it is a matter of the need to clean up the major lakes or for buildings to be "clean", an awareness of the dangers and disruptions arising from environmental damage, is spreading throughout the political class at the centre of government. The issue of environmental protection is now being linked to the quality of public service provision. The Chinese government is now being judged on its performance in this area.

The institutional reforms announced at the end of the NPC session mark a crucial phase in Wen Jiabao's economic policy. In the coming months the operations of these renovated institutions will be put to the test, with particular focus on the concrete implementation of the lofty principles set out during the session.

4. Tax revenues and the standards of public service

THIBAUD VOÏTA

From:

– Li Junpeng, "Important points in the administrative reforms in China"; Zhang Qianfang, "We must first reform the system and open it up", *Caijing*, no. 204, February 4th 2008.

– Chen Zhiwu, "How big is the government?", *Jingji Guancha Bao* (The Economic Observer), February 25th 2008.

With the approaching meeting of the National People's Congress, a considerable number of debates on administration in China have found their way into the press. These articles focus on three criticisms. Chen Zhiwu, a professor of finance at Yale, takes a liberal view which is palpably influenced by the United States. He considers the question of "big government" and mounts his attack on the management of public funds in China. For his part, Li Junpeng, a professor at the Chinese National School of Administration, unleashes a diatribe against China's public services. Finally, Zhang Qianfan, a professor of Constitutional Law at Beijing University, emphasises the lack of transparency in China's administration. It is striking how many references Chen and Zhang make to the US administration.

Firstly, Chen highlights the size of China's tax revenues. In 2007, these amounted to 5,100 billion yuan (31% higher than the previous year), the equivalent of 21% of the country's GDP. To this source of income

should be added the government's other sources. The first of these is land, whose potential taxation value is reckoned to be 5,000 billion yuan. Next in line are the State enterprises, of which there are currently thought to be 119,000, with shares which should provide an overall tax income of 2,900 billion yuan³. If the revenue generated in 2007 by the State-owned assets is added to the public finances, this gives a global figure of 15,700 billion yuan. Finally, the total value of the State-owned shares is 88 billion yuan.

In Chen's view the situation is getting worse. Up until 1978, the government took care of everyone from the cradle to the grave. Then, from 1978 until 1995, China underwent a period of "small government, big society" (小政府大社会, *xiaozhengfu, dashehui*), which reached its height in 1995. After 1995, the tax reforms of 1993-1994 reversed the trend. These reforms consisted in sharing responsibilities for taxation with the local authorities (in this area power was devolved "downwards": 下放, *xiafang*). But the responsibilities were too loosely defined, and the local authorities were given too great a margin for manoeuvre.

3. This estimate was provided by the chairman of the State Owned Assets Supervision and Administration Commission, in an interview with the journal *Qiu Shi*, published in August 2007 and quoted in Chen's article.

Insert 1. Changes in the number of people subject to taxation in China, 1978-2004.

Year	Number of taxable rural inhabitants (in millions)	Number of taxable urban residents (in millions)
1978	850	330
1985	500	270
1995	390	146
2004	900	280

Between 1995 and 2007, the amount of inflation-adjusted tax revenue rose by 16% annually, which was more than the 10.2% increase in GDP for the same period. Moreover, Chen recognises that these figures do not take into account the income excluded from local government budgets. There is no doubt that this makes the situation considerably worse⁴.

This raises two problems. Firstly, out of the total number of Chinese shares, valued at 115,600 billion yuan (according to the National Development and Reform Commission), only 27.6% (roughly a third) are in the hands of the private sector. Secondly, the people do not get enough benefit from the services offered by the State, since expenditure on social service provision is very low, even in comparison with the United States (see Insert 2). Li stresses that in some cases it is even falling.

4. For these matters of local taxation, see the works of Christine C. P. Wong, and particularly the recent work by Christine C. P. Wong and Richard M. Bird, "China's Fiscal System: A Work in Progress", *International Tax Program Paper 0515*, Institute of International Business, Joseph L. Rotman School of Management, Toronto University, 2005, 42 pages.

Insert 2. A comparison of social services expenditure in China and the United States in the same year⁵ (in yuans and dollars: 100 yuan = 14.3 dollars; 1 dollar = appr. 7 yuan).

	China (in yuan)	The USA (in dollars)
Social services expenditure	600 billion yuan	1,500 billion dollars
Percentage of public expenditure	5%	61%
Percentage of GDP	2.4%	11.5%
Sum paid to each recipient	461 yuan	5,000 dollars
Percentage of average wage	3%	18%

Unlike Chen, Li does not focus on the size of the government. Just as Chen follows the American model, with its main objective of reducing the role of government, so Li follows the alternative, with its pursuit of improvements to existing institutions without questioning socialism with Chinese characteristics. As a result his article is full of ideologically loaded terms, whose connotations are frequently impossible to translate.

He identifies several so-called "contradictions". Despite a flourishing administration, the people harvest very little fruit from the public services. At the same time, their needs are constantly growing, while becoming more complex and demanding. But the social services reach only very few. Out of 764 million economically active people, only 24.56% will enjoy a pension from public funds, 14.64% can count on unemployment benefits, and 20.59% will receive state social security. The increase in revenue accruing to the administration has not been matched by investments which might benefit the population at large. On the contrary, the administration continues to thrive while its expenditure on social services is not increasing.

This situation is all the more fraught with problems because the expectations of those who use the public services are continually rising, and in addition there is a new factor:

5. "Social services expenditure" here means State expenditure on health-care, social security, and unemployment benefits. It should also be noted that Chen compares yuans with dollars.

they expect the services to be more democratic. They are demanding greater insight into their workings, plus higher levels of public participation, and speedier reforms. What is needed is a more rapid movement towards setting up an enlightened and responsible democratic government (民主政府 阳光政府和责任政府, *minzhu zhengfu, yuanguan zhengfu he zeren zhengfu*). Administrative reforms are seen to be unorganised. A consistent commitment to changing the way the Chinese government operates must lead on to improvements in the socialist market economy system and in the system of socialist public administration.

Li propose five reforms, along the following lines:

1. A redistribution of powers in favour of the National People's Congress, particularly in exercising control over administrative waste (here Li agrees with Chen).
2. Drawing up a plan for redistributing expenditure in favour of the public services (education, health, social security), with a yearly increase of 1% of their share of the GDP.
3. Administrative reforms, with some branches being cut back while others are given "*expanded responsibilities exercised by a small number of institutions*" (宽职能少机构, *kuanzhineng shaojigou*), the latter applying particularly to agriculture, transport, culture, and science and technology⁶.
4. Holding the administration to account through systems of assessment and incentive rewards.
5. A reform in the methods of reform. The principle of the administration reforming itself does not lead to efficiency. Political leaders, society at large, and government organisations must all take part.

Lastly, Zhang's view is that, in addition to all these problems, the administration is undermined by its own lack of transparency.

These are the general lines of debate which were advanced in the recent meeting of the National People's Congress, and the creation of large ministries is their practical application. But the Chinese administration still appears to be the inheritor of the centralised

6. This idea will crop up again a few weeks later, in the debate on the creation of "large ministries" during the meeting of the National People's Congress.

planning system, with its cadres who are often hostile to changes and local authorities who evade central control. It has not managed to adapt to the country's economic, social, and demographic changes. Apart from some formal changes to institutions, such an adaptation will probably take a good deal longer.

5. The invasion of the "green" buildings

THIBAUD VOÏTA

From:

– Wang Yichao, "The road towards low energy buildings", *Caijing*, March 17th 2008, p. 86-88.

At the present moment, buildings in China are major consumers of energy, and this trend is set to rise by 10% over the next thirty years. Chou Baoxing, the vice-minister for Construction, reminded us on February 26th that building in China accounts for half of the annual total for the whole planet.

The current price rises for raw materials and the growing demand for energy have made the issue of energy conservation in buildings particularly acute. The eleventh five-year plan (2006-2011) provides for saving 120 million tons of carbon emissions, thanks to efficiency measures in the buildings. Energy conservation in the building trade has become a priority in China.

Energy-efficient buildings (i.e. those which reduce energy waste) are not new. Western countries have been interested in them since the 19th century, and especially since the 1970s. In 1977, the USA set up a Department of Energy, one of whose main functions was concerned with energy saving in buildings. This initiative was followed by other countries, especially Germany and France. The idea met with a certain response in China during the 1980s but at first it was not widely accepted by the population at large. Nonetheless, the government has set energy reduction targets to be implemented in three stages: at first for 30%, followed by 50%, and then finally 65%. The process was begun in the North⁷ in 1986. In 1996, the government moved on to the second stage, which was launched in the South.

7. On several occasions the writer refers to the North and the South, without specifying which regions are concerned.

At first, these initiatives enjoyed little success. In 2001, according to a survey by the Ministry of Construction, in the northern regions only 5% of already completed buildings and 2% of those under construction made efficient use of energy. A further survey in 2004, covering a sample of 3,000 projects throughout the country, reported that 50% of completed buildings, but only 20% of those under construction, were energy efficient. In 2007, the respective figures amounted to 97% and 71%. The expected result for sites opened in 2008 is 80%

It should be noted that standards in China are less strict than in Germany and the USA. For example, in the North each square metre is not permitted more than 12.5 kilos of carbon, which is twice as much as the allowance in Germany.

In addition to applying the rules to new buildings, it is necessary to put a spotlight on buildings which already use large amounts of energy. But the country has inherited a large number of energy-wasting buildings. According to the experts, whether in the North, the South, or the remote areas, seven out of every ten buildings exceed the standards set. To take the example of the heating regulations in the North, those buildings which do not comply with them cover a total area of 6.5 billion square metres.

The article quotes the residents of a Beijing building whose conformity to the regulations this year made it more comfortable for them: *"Before, the walls in this building let the damp through, the outside windows were broken, and the walls were mouldy"*. But not everyone's experience has been so positive. The writer cites another building restoration project, set up in this instance by the German government as part of a development programme. Despite the investment of public funds, each household had to share in financing the work to the tune of 2,500 yuan. As a result, in the initial period only one third of the households will be able to take advantage of this renovation. But another German project, in the town of Tangshan (Hebei), has enjoyed greater success, which has meant a saving in heating costs, improvements in sound insulation, and greater protection against damp.

Between now and 2010, 4,000 square kilometres in Beijing will be covered by the new

standards which, according to projections, should save 18 million tons of carbon emissions. In the North it should be possible to lower the amount of land taken up by energy-inefficient buildings to just over 2.5 billion square metres, which gives a reduction equivalent of 20 million tons of carbon emissions.

The main obstacle to these renovation projects is their cost. This amounts to between 250 and 300 yuan per square metre, which means a required total investment of 700 billion yuan. In 2008-2009, the projected renovations financed by central government subsidies (amounting to about 50 yuan per square metre), by support from the local authorities, and by the residents' own private investments, would still only cover 150 million square metres.

Another problem is that of energy efficiency in government buildings, which account for some "energy black holes" (能耗黑洞, *nenghaoheidong*). The total are covered by these buildings is over 20,000 square kilometres, or just 4% of the built area in the country. Out of these buildings only 22% are energy-efficient. Their annual consumption of electricity averages at between 70 and 300 units per square metre, which is ten times higher than that of other buildings. The article cites the example of Bill Clinton's "green White House" which began in 1993 and since then has been saving \$300,000 annually in energy costs. Other American public institutions, such as the Departments of Defence and the Environment have followed suit. In China measures were introduced in 2007, together with provision for inspections, covering 24 provinces to remedy the situation. This year, these measures have been extended to the whole country. In cases on non-compliance, those responsible will face higher electricity bills.

But the question of energy-efficient buildings is linked to the problem of heating charges. Many consider that reforming these is the key to ensuring the construction of energy-efficient buildings. In the North at the present moment, heating bills are not based on the amount of energy consumed but on the size of the residence. So there is no incentive to reduce consumption. The World Bank reformed this kind of system in Warsaw from 1991 to 1999, and this enabled the use of energy to be reduced by 22%

In the coming years the reforms should follow the path of liberalising prices. But many consider heating to be a common good, not a market commodity. Reforming the system of charges could lead to serious social consequences. Moreover, it would require massive investments; for example, each household would have to be able to set the temperatures which it wanted, and this would require large-scale work on the supply lines.

It would seem, therefore, that a thoroughgoing reform is what is needed. Not only should new buildings meet the required standards, but also the old ones need renovation to bring them in line. Sooner or later this will raise the issue of how strict Chinese standards are in this area. Finally, energy efficiency will demand a general change in public attitudes, even though the article does not directly confront this problem.

Insert 3. Carbon reduction goals under the 11th five-year plan.

Source: Caijing, reporting figures from the Ministry of Construction.

Project	Proposed volume of reduction (in millions of tons)
New buildings	70
Old building renovations	18
Government building renovations	12
Green lighting	10
Renewable energy sources	10

DIPLOMATIC AND STRATEGIC AFFAIRS

This issue of China Analysis surveys trends in China's strategic thinking on developments in the international system and in its own neighbouring area. We focus on the intense interest with which Chinese academics are questioning the architecture of international relations, and about the new structures which they see forming on the horizon. They envisage arrangements which will better serve the regime's real power interests. Among these, is a model of a world jointly regulated by the United States and China at the summit of a structure dominating the world and making it more just, which reveals in some disbelief, in the desirability of a multi-polar world. In a more realistic vein, China continues to put its hopes in the gradualist reform of the international system through the UN. It welcomes Ban Ki-moon's approach, which may seem too soft to some but which China considers pragmatic and effective. China also claims to have played a positive role within the UN, injecting some progress into the major international security issues, such as Iran, North Korea, and Darfur. There is prestige in Beijing or Shanghai that it is the Chinese approach which has carried the day on these issues.

6. An international order based on joint US-China domination?

MATHIEU DUCHÂTEL

From:

– Huang He, Zhu Zao, "On the possibilities of joint China-US domination", *Xiandai guoji guanxi*, no. 2, February 2008.

Chinese specialists of international relations have long followed the policy of their government by repeatedly calling for the advent of a new international order based on multipolarity. However, for some time now, it has seemed obvious that the postulate on which this perspective rested is no longer valid. Rather than seeing the future of China as being equal to that of the European Union, Russia, Japan, Brazil or India, these scholars have begun to talk about China as a "virtual superpower" having already outstripped all other states to close the gap on the power of the United States⁸. It is on this postulate that Huang He and Zhu Zao base their approach in exploring a new possibility for a future international order, that of joint China-US domination (中美共主, *zhongmei gongzhu*). The question is whether China and the United States can share in the domination of the international system in a harmonious and cooperative way.

Without enquiring into the feasibility of this state of affairs, the two authors propose specific changes to adapt the concept of "hegemonic stability". In their view, regula-

tion of the international system by Washington and Beijing is justified for the good of the world. Indeed, without leadership the system is incapable of distributing and preserving "common goods" needed by all the world's states for their well-being and development, such as peace, a stable monetary environment and the opening up of markets, but also the essential goods of daily life. Their work is centred on the search for a middle way between the theories of neo-liberalism and neo-realism. On the one hand, they think that hegemony is positive from the viewpoint of common goods, but that their provision and distribution cannot bypass institutions and cooperation between states. On the other hand, their strategic culture is realistic, without a trace of ambiguity. The hegemony they have in mind for China is based on the search for power, and they call for an international system in line with Chinese interests.

The argument in favour of a new form of hegemonic stability is a smart one. Both authors are of the view that the United States has, in recent years, gradually gone from having a willingness to have a "hegemonic stability" (霸权稳定论, *baquan wending lun*) to an attempt to have "unilateral stability" (单极稳定, *danji wending*). This shift started by giving up all the views that had accompanied the emergence of the concept of hegemonic stability - the end of history, the end of world wars, peace through exchanges and democratic peace -. All that has remained of the initial theoretical proposals is the desire for increased stability by means of unilateral action, including war. In actual fact, the two authors critique the neo-realist version of the concept of hegemonic

8. Mathieu Duchâtel, "Should the European Union be taken seriously?", *China Analysis*, no. 17, January-February 2008.

stability according to which the international system and its institutions are defended by the dominant state only on condition that it is in its own interest to do so, which was not the case in the eyes of the Bush administration who preferred to undermine the international system.

According to their analysis, there is an incompatibility between unilateral means and a search for stability, as hegemony must serve a project that is beneficial for humanity. Furthermore, it must be grounded in institutions and cooperation. The United States, conscious of the fact that the Bush administration took the wrong path early on, is emphasising again the notion of “sharing responsibilities” in maintaining the international order. The awareness that American superiority could not last without partnerships has led Washington to rethink its foreign policy. In the future, therefore, American diplomatic initiatives should be driven more by neo-liberalism.

China must make the most of this opportunity, for the consolidation of the established order, in partnership with the United States, is in China’s interest. The present international system has ensured China that it has sufficient room for development, and it has been the condition *sine qua non* of this development. Maintaining the *status quo* by developing it in a way more favourable to China’s interests is the result of an “*internal need*” (内在需要, *neizai xuyao*), or, in other words, of the Chinese demand for a stable world in which it can become richer. It is interesting to note that the writers make this appeal for the building of a new order in the guise of a profoundly revisionist discourse. In order to strengthen the international system, China must first of all call upon rhetorical means. It must better promote the notion of “*harmonious world*” and construct a “*power of discourse*” (话语权, *huayu quan*), essential in the sphere of international relations.

This will not be enough, however, as the United States has the responsibility for taking the initiative in dealing with the world’s problems – the writers cite regulation of the financial system, contagious illnesses and climate change – that it cannot solve either unilaterally or through already existing partnerships. Furthermore, from the standpoint

of international security conceived in military terms, “*the new challenges in international relations cannot be met through classical alliances or coalitions*”. Indeed, by 2020, “*weapons of mass destruction will be more widespread than today*”, which will limit the possibility for the United States to deploy its military might unilaterally. In order to strengthen international stability, the United States needs another state capable of exercising real leadership (主导能力, *zhudao nengli*) on certain key issues.

In practice, the two Greats need to develop an institutional mechanism to manage world affairs together. The rationale for them to move forward should be realist: a strong incentive to avoid bilateral conflict and to stabilise their relations in a lasting way; above all, this alliance would be a way of averting the cycle of rise and decline of the great powers. With a bilateral institution, the relative power of the United States and China compared with the rest of the world would be consolidated, and for each of the two states this would avoid – or delay – the decline which, according to realist theories of the cyclical nature of power, is sooner or later the fate of any hegemonic power.

Once this bilateral structure is set up, its priority would be to prevent the “*profiteering*” behaviour (搭便车, *da bianche*) of certain states enjoying the *status quo* without contributing to its proper working. In order to ensure a fair distribution of common goods, Washington and Beijing would sign agreements with the other states setting out the responsibilities of each one, so that the costs and benefits can be better shared by all. The new system foresees an important role for the states with particular capabilities that would be of benefit to humanity. Different types of agreements can be imagined. For example, it is thought that the United States and China would themselves ensure the distribution of certain goods, whilst the contribution of other states to the production of this common wealth or to guaranteeing access to it could take diverse forms (capital, human resources, know-how, investment in infrastructure).

In order to raise the capital necessary for the organisation of this new system of distribution and guarantee of the common wealth of humanity, both writers propose to make si-

multaneous use of three methods. Besides applying the Tobin tax and redirecting the development aid of the richest countries to this cause, they foresee a specific role for the new China-US institution that they are calling for. It would mean persuading the states to behave in a way that is conducive to the production of goods for the whole of the international community. The writers give one example of this: to persuade the states who sign bilateral trade agreements to insert clauses in favour of the protection of the environment, for example by banning the sale of certain manures despite the lobbying of agricultural firms. To stay within international relations theory, the theory of structural realism provides that in case of a state or an alliance of states being tempted by hegemonic ambitions, a coalition of states would be formed to act as a counterbalance to it. Neither writer speculates further, however, about such a possibility.

7. The UN under Ban Ki-Moon, a positive turning point for Beijing?

MICHAL MEIDAN

From:

– Wu Miaofa, “Ban Ki-Moon’s record after a year in office and the importance of China’s role in the UN”, *Guoji wenti yanjiu*, no. 2, 2008, pp. 32-36.

Has the UN at last become an effective power on the international scene? Coming so shortly after China’s opposition to the reforms proposed by Kofi Annan, her change of tone with regard to the UN under Ban Ki-Moon is striking. One year after the South Korean became General Secretary of the UN, an analyst from the research centre attached to the Chinese Foreign Ministry presents a rosy assessment of the reforms to the organisation and its international activities.

His analysis makes two points very clearly. The Chinese welcome the UN’s assumption of a leading role in the conduct of international affairs, and they see it as giving legitimacy to China’s activities within the organisation. Leaving aside the question as to whether these reforms have strengthened the UN’s power and credibility at the international level, the new arrangements do allow China to take part more freely. But Wu

Miaofa sees all this in a different light. According to his argument, the UN’s new credibility is due to Ban Ki-Moon’s personality and to the constructive role played by China.

He highlights several positive aspects of Ban Ki-Moon’s actions since December 2006. Firstly, with regards to reforms of the institution itself, he praises the greater mobility of the UN’s employees - and Mr. Ban’s conflict-free handling of internal disagreements -, the better representation of developing countries in the organisation’s personnel⁹, the clean-up and greater transparency in its financial affairs, the reforms to its peace-keeping operations, and the creation of the Council of Human Rights. Secondly, Wu Miaofa praises Mr. Ban’s handling of several tricky issues: specifically, his refusal to consider Taiwan’s request for admission to the organisation, in accordance with the One-China principle; his approach to the problems of Darfur and Burma through diplomatic pressure and negotiation, in which he shows himself to have “a real understanding of those situations” in contrast with the version presented by the Western media and their “ill-intentioned speculation”. Thanks to the avoidance of military action, the question of Iran has also been kept within a “manageable framework”. In addition, Ban Ki-Moon has promoted peace efforts in the Middle East, particularly in his support for the Annapolis conference. Finally, on the question of the struggle against global climate change, he played a pivotal role by organising the Bali conference in December 2007.

It should be noted that Wu gives a positive assessment on points where he believes that the interests of developing countries have been safe-guarded (climate change), or where the Western position has been weakened (Darfur, reforms to the Council of Human Rights). In short, although reforms to the UN should indeed allow for better representation of the developing countries (and the protection of their interests, even if that would be to the detriment of the developed countries in certain matters), closer inspec-

9. For the actual figures, and a comparison between China and India, see Andrew S. Cooper and Thomas Fues, “Do the Asian Drivers Pull their Diplomatic Weight? China, India, and the United Nations”, *World Development*, vol. 36, no. 2, p. 293-307, 2008.

tion shows that his analysis is confined to the nation state, and his aim is to protect its national sovereignty and strategic interests.

Wu adds that the above gains were also made possible by the favourable circumstances in the international situation; these included the support of the developing countries, the convergence of interests between the latter and the developed countries, as well as between all five permanent members of the Security Council, and finally the United States' renewed interests in the UN. Although Wu asserts that the US only takes part in the UN opportunistically in pursuit of its own goals, nonetheless the Iraqi quagmire and the complexity of international affairs - which have shown up "*the failures of the Bush doctrine*" - have forced the United States to shift "*from a unilateral to a multilateral approach under American supervision*".

Does China have the same capacity as the United States to reanimate the UN? This question is not answered in this article, but in its sequel which expounds China's importance and her constructive role, the writer seems to give comparable weight to the attitudes of China and the US for the success of UN actions. He goes on to review the positive contribution made by China in a range of different activities, from the increasing numbers of Chinese troops in peace-keeping operations to the redefinition of the idea of "human rights". Wu Miaofa also believes that China participates actively in the fight against climate change, and he expresses the view that this change is the root cause behind the "humanitarian crisis" in Darfur. In this political area, as in others, he says that Beijing has made a fundamental contribution, because not only have Chairman Hu Jintao's efforts at mediation successfully persuaded the Sudanese government to accept the presence of African and international troops, but also China has "*contributed to clarifying the reality of the situation*". The activities of Liu Guijin, China's special representative in Darfur, have been essential in correcting the false image presented by the Western media with regard to both the situation itself and the role played by the Chinese government.

Chinese mediation on the North Korean issue¹⁰ is equally exemplary, in the sense that it shows the right attitude to be taken with Iran: namely, to pursue negotiations and rule out the military option.¹¹ The writer draws up a list of diplomatic issues in which he claims that China's contribution was positive and received a favourable response from the international community. But he does not examine in detail the motives behind the developments in China's position or the complex diplomatic problems confronting Beijing in these matters. Nor does he advance a critical assessment of the UN's more or less successful attempts to reach an international consensus in these areas, and to mount co-ordinated actions. Finally, he maintains complete silence over the reform of the Security Council - which was an essential aspect of Kofi Annan's reforms of the UN.

Does this long list of eulogies for the achievements of Ban Ki-Moon and China give an insight into how China envisages a democratic international order, or does it simply reflect a desire to reinforce an institution which still exercises very little constraint upon China herself?

8. Intellectual property: China has to defend its interests

VALÉRIE DEMEURE-VALLÉE

From:

– He Hua, "Discussions over the legal framework for the international protection of intellectual property rights, and the nature of China's response", *Guoji wenti yanjiu*, quarterly issue no.1, 2008.

Intellectual property, which is a subject right at the heart of international economic relations, has given rise to tensions in the World Trade Organisation (WTO) between China, the United States, and the European Union (EU). In his article, He Hua, a professor at the Zhongnan University of Law, Political

10. See François Godement, "What China is whispering about North Korea", *China Analysis - Les Nouvelles de Chine*, no. 9, October 2006, p. 16-18.

11. For an analysis of the developments in China's position on "pariah states", see Stephanie Kleine-Ahlbrandt and Andrew Small, "China's New Dictatorship Policy: Is Beijing parting with pariahs?", *Foreign Affairs*, vol. 87, no. 1, January-February 2008.

Science, and Finance, denounces the flaws in the international system for protecting intellectual property rights, which is covered by the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)¹². As a member of the WTO since December 11th 2001, China has modified her legal provisions for intellectual property in order to conform to international standards, and particularly to the TRIPS agreement¹³. She has thereby expanded the field covered by her legislation on industrial property and copyright, and has strengthened the prerogatives of registered owners (under the law of August 25th 2000) and of trade marks and copyright (under the law of October 27th 2001). According to He Hua, who casts himself as the spokesman for the majority of Chinese concerned with questions of intellectual property, the WTO-sponsored TRIPS agreement offers a flawed range of measures which often work against China's interests. Beijing is facing the challenge of seeking a better balance between the international system for the protection of intellectual property rights and China's domestic law and national interests.

He Hua argues that current international legislation overlooks three aspects which should be taken into account. Firstly he echoes the well-known Chinese complaint about the unfair Western dominance reflected in the international order constructed by the most powerful states. So the standards for protecting intellectual property rights laid down by the TRIPS agreement are just a series of restraints imposed by the devel-

oped countries, which block "*the economic, social, and technological development of the semi-developed countries*" like China. It is a system which puts them in an inferior position in relation to the developed countries, particularly in the area of technology transfers.

The writer also complains about the contradictions between the protection of the economic interests of the holders of intellectual property rights, and basic human rights such as the right to health and development championed by the UN. Finally, he criticises the fact that innovation and originality are the only criteria to be given any weight in the current system for the international protection of intellectual property rights. The latter extends no protection at all to cultural riches and traditional knowledge. This is detrimental to Chinese interests, and to those of most other developing countries. To remedy this problem, He Hua makes a series of recommendations for the improvement of China's protection of intellectual property without harming her national interests. For example, he believes that, in order not to obstruct her own development, China should enforce the strict minimum number of standards required by the TRIPS agreement, and no more. In addition, he calls for an improvement in Chinese law through the introduction of an anti-monopoly bill. This would put an end to certain abuses on the part of holders of intellectual property rights who take excessive advantage of their rights to engage in unfair competition and harm the competitive ability of Chinese enterprise. Lastly, the writer suggests that greater importance should be given to traditional resources, and that a legal framework should be established, at the national level, to afford them greater protection.

At the international level, the writer urges China to defend her interests by taking an active part in the multilateral negotiations in the forthcoming WTO round on intellectual property rights, to make her voice heard on her "*intellectual products*" (知识产品, *zhishi chanpin*), and to make these rights more flexible so as to include, for example, certain traditional medicines. In the same vein, he also believes that China should reduce the level of protection on products which she deems over-protected. He also emphasises the need for increased Chinese participation

12. The outcome of the Uruguay Round (1986-1994) of negotiations on the General Agreement on Tariffs and Trade (GATT), this agreement came into force on January 1st 1995, when the WTO was set up. It is still the most comprehensive multilateral agreement on intellectual property, and it covers seven areas: 1. Copyright and associated rights, 2. Trade marks and service marks, 3. Geographical indications, 4. Industrial designs and patents, 5. Registration, 6. Integrated circuit layout and designs, 7. Undisclosed information (commercial secrets, test results).

13. Cf. two texts from 2003 on the website for the *Henri-Desbois Institut de recherche en propriété intellectuelle (IRPI)*, <http://www.irpi.cci.fr/> One of these is a report by Catherine Druetz-Marie, "La Propriété intellectuelle en Chine: les conséquences de l'entrée dans l'OMC", and the other is an unsigned article entitled "La Propriété intellectuelle en Chine: pour un renforcement effectif de la législation en faveur des entreprises".

in the legislative work of UN agencies, and improved collaboration with the NGOs, to defend her position.

The offensive stance adopted by China on the question of the legal defence of intellectual property rights is not new. On the one hand, despite a satisfactory set of legal provisions which conform to international standards, the protection of intellectual property rights in China herself is not at all assured. Foreign firms establishing a business in China face real difficulties in getting their intellectual property rights respected, and complaints to the WTO about China are growing¹⁴. And on the other hand, China's willingness to give priority on the WTO agenda to negotiating new clauses favourable to the developing countries does not guarantee that changes in intellectual property rights favourable to Chinese interests would lay the ground for any reciprocal improvement by China of the way the laws are enforced on her own territory, so as to give greater weight to the economic interests of the Europeans or Americans operating there. Despite China's adaptation of her legal system to meet international norms, there is still a long road ahead before foreign investors can be assured of protection similar to that which they enjoy in the developed countries. In practice, this means that China must work towards greater transparency and improved co-ordination between the different administrative branches in charge of enforcing the laws. In addition, she will have to make recourse to legal avenues (whether penal or civil) more available to her foreign partners in the event of litigation or infringement of their intellectual property rights.

14. The latest was on March 3rd 2008: the European Union and the United States complained to the WTO in protest against Beijing's imposition of measures on foreign financial information agencies which, according to the plaintiffs, constitute the introduction of unfair competition.

TAIWAN

We are now at the end of an era. Starting in July, charter flights will directly link the major Chinese cities with Taipei, Taichung, and Kaohsiung. At first these will be week-end flights, and will later become daily. This is a symbolic gesture which says a great deal about the new strategy being played in the Taiwan strait. Ma Ying-jeou's victory in the Presidential elections on March 22nd holds out a real chance for detente, but will governments on either side grasp it? Behind the hand of friendship proffered by Ma Ying-jeou there is in fact a concealed condition which in the medium term is unacceptable to Beijing: setting aside political differences in the interests of economic exchange boils down to tacitly accepting the idea of Taiwanese sovereignty. So the modus vivendi across the strait is fragile and liable to crumble away at any moment, should China make any further demands. Such a move would be unwelcome for both Taiwan's economy and its social cohesion, since Ma's electoral victory has given the island the chance to overcome its divisions on the question of national identity and to refocus the debate on the effectiveness of different political programmes. At the same time, China could not hope for a better negotiating partner than a government capable of uniting its population around the prospect of growing economic integration with the Mainland. Any division in Taiwanese society over the acceptability of such a prospect could only delay its realisation, and perhaps even prevent it. From the point of view of Taiwan, it is to be hoped that the exchange of pleasantries between Hu Jintao and Vincent Siew at Bo'ao are not only motivated by the need for a measure of stability before the Olympic Games, and by the troubled situation surrounding the question of Tibet, but by a generally agreed strategic vision in Beijing.

9. A modus vivendi in the Taiwan strait?

MATHIEU DUCHATEL

From:

– Chang Wu-yue, "How to talk to the other side? First we need an internal agreement with the Green camp"¹⁵, *Lienhebao*, March 23rd 2008.

– Lin Cho-shui, "One China ... Can this really be interpreted in different ways?", *Lienhebao*, March 31st 2008.

There is every reason to believe that Beijing will accept, at least for the time being, the *modus vivendi* proposed by President Ma Ying-jeou. This entails a less politicised, pragmatic management of cross-strait relations, based on a win-win economic relationship. Beijing's only demand is that the Taiwan government should recognise "the 1992 consensus"¹⁶. For his part, Ma Ying-jeou

wishes to establish a framework for peaceful co-operation with China, without yielding any ground over Taiwanese sovereignty. His overtures to Beijing are clearly reminiscent of Taipei's mainland policy in the early 1990s¹⁷. At a minor cost – a formal commitment not to oppose unification on the condition that China became a democracy –, Taipei had been able to negotiate certain technical agreements and achieve an atmosphere of détente through "officially unofficial talks". The new government now wishes to revive these talks¹⁸. But how long

on August 1st 1992 (unlike Ma Ying-jeou who prefers to refer to the Constitution). 3. As for the Communist Party, the authorities on both sides of the strait maintain the principle of One China, but agree not to discuss its meaning when they consult each other on technical issues. Source: Su Chi and Cheng An-kuo, "Yige Zhongguo, gezi biaoshu, gongshi de shishi" ("One China, several interpretations: the historical truth of the consensus"), *National Policy Foundation*, Taipei, revised edition, September 2006.

17. Ma Ying-jeou, "A SMART Strategy for National Security", a speech to Taiwan's Association for the Promotion of National Security, February 26th 2006. Source: KMT News Network.

18. These "officially unofficial negotiations" were carried on by associations under the guidance of the two governments. In Taiwan it was the Straits Exchange Foundation (SEF), and in China, the Association for Relations Across the Taiwan Strait (ARATS). Ma Ying-jeou has announced that he wishes to return to this model. While it is now certain that the SEF will resume its key position in

15. This term refers to the alliance of pro-independence parties, currently represented by the Democratic Progressive Party (DPP).

16. Su Chi, who concedes that he invented the term "1992 consensus" to designate the negotiations conducted in Hong Kong in 1992, defines the consensus in question as follows: 1. With regard to the "one China" principle, each side may give oral expression to their own interpretation. 2. On Taipei's side, understanding the definition of one China refers to the resolution on "the meaning of One China" published by the National Unification Council

can this last? Academics and politicians writing for the Taiwan press argue that China's apparently soft approach is only tactical. So the durability of this *modus vivendi* is now the main question dominating future relations between the two sides.

Chang Wu-yue observes that Ma Ying-jeou enjoys a mandate to negotiate economic advantages with China, but that he needs to build up a domestic consensus in Taiwan, in order to retain sufficient political leeway to conduct such negotiations. The so-called 1992 consensus has a shaky foundation. Its only legal basis, on the Taiwanese side, is a resolution adopted in August 1992 by the National Unification Council, which is the only written text to use the formula of "*One China, different interpretations*" (一個中國各自表述, *yige Zhongguo gezi biaoshu*). But during his second term in office, Chen Shui-bian made a violent attack on the National Unification Council, and tried to abolish it on the grounds that it was a leftover from the period of authoritarian rule. So to reactivate it now is not a viable political option. Consequently, on the Taiwanese side, the resumption of the dialogue has to rely on a new text, capable of forging an agreement shared by the people as a whole and by the various political forces. Chang Wu-yue proposes setting up a committee, open to the opposition, and a framework document setting out "*directives for the peaceful development of cross-strait relations*" (兩岸關係和平發展綱領, *liang'an guanxi heping fazhan gangling*).

Chang Wu-yue argues that the success of these technical negotiations depends upon the right combination of circumstances, so both Beijing and Taipei should pick the right moments in the light of their respective agendas. Clearly, China gives priority to the establishment of direct air links with Taiwan and to finding the formula for opening tourism to its citizens. On the Taiwanese side, such an opening would also depend on a certain number of unilateral measures, such as lifting the quota which limits investment by Taiwanese firms in China, allowing finance companies to expand their activities on the mainland, opening certain sectors of the Taiwanese economy to Chinese invest-

ments, and inviting Chinese journalists to cover current events in Taiwan.

Yet Chang Wu-yue remains cautious over the prospect of concrete developments in cross-strait relations. He believes that there will be no major step forward during Ma Ying-jeou's period in office, because the two sides will not be able to avoid the issue of the island's status for long. Even within the context of the "officially unofficial" dialogue, the signing of bilateral documents will in all probability come up against the highly sensitive problem of the correct naming of Taiwan and China. In fact, every negotiation could well be seen as a "*postponement of the question of sovereignty*". In the course of the negotiations between the Straits Exchange Foundation (SEF) and the Association for Relations Across the Taiwan Strait (ARATS), the Chinese side will not fail to include formulae capable of being interpreted as Taiwan giving up its claims to sovereign status. In the same way the SEF will try to impose a wording which, if it were accepted by China, would amount to recognising Taiwanese sovereignty. Under these conditions, Ma Ying-jeou's formula of "*mutual non-denial*" is not tenable over the long term¹⁹.

This is because the detente between China and Taiwan depends upon an unuttered precondition: to use the 1992 consensus without defining it, and without officially recognising the "*One China, several interpretations*" formulation. Lin Cho-shui, the former deputy of the Democratic Progressive Party (DPP) and a well-known theoretician of the independence movement, shows that returning to the dialogue on the basis of the 1992 consensus represents a fake concession on China's part. He compares the way in which Beijing treats the sovereignty of the Republic of China to the penal code which, depending on the State in question, can limit the freedom of conscience (in the worst of totalitarian regimes), and the freedom of expression and of political activity. If Taipei limits itself to a freedom of political activity on the domestic scene, China can only patiently swallow its objections in a mixture of silence and, basically, of understanding the Taiwanese point of view. But on the other hand, "*One China, several interpretations*" does not

Taiwan's mainland policy, it is not yet possible to dispel all doubts over the nature of its future counterpart in China: whether ARATS or other arrangements.

19. "*Mutual non-denial*" consists precisely in avoiding any wording which openly questions the sovereign nature of the Republic of China in Taiwan, or likewise the One China principle as defined by Beijing.

commit China to anything on the international scene. Despite the supposed “consensus”, Taipei cannot freely express to other States its own interpretation of “*the nature of the One China*” without provoking a rhetorical counter-attack from China. Similarly, despite the wishes often expressed by the Kuomintang (KMT) to its Chinese counterparts, China is not bound by the 1992 consensus to stop its obstructions of Taiwanese diplomacy.

Under these circumstances, if Ma Ying-jeou has only gained from Beijing the right to tell his electorate that Taiwan is a sovereign State - a right which he already enjoyed -, that amounts to saying that he has gained nothing. Moreover, China may at any moment break its silence and shatter the virtuous circle of the “win-win” game. It would only have to provide a definition of the 1992 consensus in words unacceptable to Taiwan, and that would again divide the island’s population and political classes, putting Ma Ying-jeou in an awkward position.

In these conditions, despite the opportunities for detente provided by the new political direction in Taiwan, the *modus vivendi* should be seen as fragile, reversible at any moment, and limited to economic progress in certain areas. With regard to what can be positively achieved, the negotiators from the two sides may be able to finalise agreements on the common struggle against criminal activity or the rules for bilateral trade. But on the other hand, a peace treaty is still a distant goal. The same applies to the complete removal of every political and legal obstacle to the establishment of a true common market between the island and the mainland.

The press sources for this issue

21 世纪经济报道 , *21 Shiji jingji baodao*. A Guangzhou daily published by the *Nanfang* group. Since its launch in the earlier part of this decade it has established a reputation as one of the best economic publications in China, but as a result of political pressure it seems to have lost some of its independence.

财经 , *Caijing*. A fortnightly economic journal based in Beijing, it takes a liberal position on the major economic and financial questions of the day.

国际问题研究 , *Guoji wenti yanjiu*. A bi-monthly journal published by the Chinese Institute for International Studies (CIIS) attached to the Foreign Ministry, it contains articles on basic international issues and Chinese foreign policy.

环球时报 , *Huanqiu shibao - Global Times*. This daily is published in Beijing and belongs to the same publishing group as *The People's Daily*. It is well informed about international issues and puts forward original analyses.

经济观察报 , *Jingji guan cha bao*. An authoritative economic weekly, published in Beijing. Most Chinese economists have written analytical articles for it.

聯合報 , *Lienhebao - United Daily*. Launched in 1951, this is one of the four leading Taiwanese dailies in terms of circulation. It takes pro-Kuomintang positions in elegant and sometimes over-refined language.

明報 , *Mingbao*. A Hong Kong monthly which is now tending to move away from its past liberal tradition, to adopt more clearly pro-government positions.

南方周末 , *Nanfang zhoumou*. A Guangzhou weekly which gained notoriety in the 1990s for denouncing corruption scandals. Despite being muzzled to a certain extent by the authorities, it retains an independent voice of its own.

求实 , *Qiushi*. The official journal of the Central Committee of the Chinese Communist Party concerned with legal and institutional reforms. It also deals with the economy, and diplomatic and strategic matters.

现代国际关系 , *Xiandai guoji guanxi*. An academic monthly published by the Chinese Institute for Contemporary International Relations (CICIR), it deals with strategic and international questions.

中國時報 , *Zhongguo shibao - China Times*. Launched in 1950, this is one of the four leading Taiwanese dailies in terms of circulation. Taking a consistently centrist position, it was nonetheless very critical of the DPP during Chen Shui-bian's second term in office. Since Ma Ying-jeou's electoral victory, it has been calling for a thorough reform of the DPP.

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