

Opinion | May 2009

Taiwan in the World Health Assembly: A Victory, With Limits

Taiwan's participation—as an “observer” under the name “Chinese Taipei”—at the 62nd World Health Assembly this month marks a significant development in Taiwan's quest for international space, in rapidly warming cross-Straits relations, and for the World Health Organization and other international organizations. It may well provide a template for Taiwan's greater, but still limited, access to other global bodies and also may augment such institutions' universal reach and effectiveness. But the WHA deal does not yet provide an easily replicated precedent.

The WHA move is among the most striking of several breakthroughs in relations between Taipei and Beijing during the year since Ma Ying-jeou became president in Taiwan. Under negotiation for months, the bilateral understanding that led WHO Director General Margaret Chan to fax Taiwan's department of health the long-awaited invitation follows the establishment of regular cross-Straits transportation links, an apparent “diplomatic truce” suspending the PRC's quest for formal relations with the twenty-three states that have maintained ties with the ROC, the resumption—after a decade's hiatus—of the quasi-official negotiating process between the mainland's Association for Relations Across the Taiwan Strait and Taiwan's Straits Exchange Foundation, increasing cooperation on financial and investment matters and criminal law enforcement, and pursuit of a comprehensive accord to deepen economic ties.

After a dozen rebuffed efforts at the WHA and for the first time since the ROC left the UN after the PRC took the Chinese seat in 1971, Taiwan will participate in a UN-affiliated organization. This has moved far from the baseline of late 2007 and early 2008 when President Chen Shui-bian and his Democratic Progressive Party added to the presidential election ballot an unsuccessful referendum on whether Taiwan should become a member of the UN under the name Taiwan. The proposal had prompted Beijing to sharpen its long-standing assertion that Taiwan lacked the qualifications to join the UN (as well as UN specialized agencies such as the WHO), denounce the vote as a threat to peace and a gambit for Taiwan independence, and warn of “serious” consequences if the referendum were to pass. The measure also had driven Washington to a difficult and complex position: denouncing the referendum as a provocative and unwise attempt to change the status quo and a threat to American interests while reaffirming support for Taiwan's autonomous democracy, the forms of which the referendum exploited.

Taiwan's new relationship with the WHA is important—and has been so controversial and intractable—largely because of its implications for Taiwan's international stature. Within the much-quoted framework of “economics first, politics later; easy first, difficult later,” addressing the WHA issue has meant moving cross-Straits relations beyond the economic toward the political and from the easy toward the harder. Although the WHA and WHO focus on public health, questions of sovereignty and state-like status nonetheless permeated the wrangling over Taiwan's role, and both sides have shown some flexibility. For China, acquiescing in Taiwan's inclusion as an “observer” meant relaxing a long-held position that Taiwan was ineligible to participate (independently rather than under Beijing's mantle) in the states-member-only UN and affiliated organs—a position pressed strongly at the WHA in the aftermath of SARS in 2004. It also meant accepting a more state-like nomenclature at the WHO than the previous “Taiwan, China” or “Taiwan, province of

China.” For the Ma government, formal access to the WHA and attendant enhancement of Taiwan’s “international space” meant accepting a lesser status than the membership accorded sovereign states and tolerating a label—Chinese Taipei—that Ma characterized as third-best. For Taiwan’s opposition DPP, the outcome and the opaque process raised alarm that Ma had paid too high a price in Taiwan’s “sovereignty, security, democracy and economic leverage” for a dubious gain. All sides remained wary about what the WHA arrangement might mean for further developments that they saw as vital to achieve or avoid.

The plausibility of such assessments depends on what Taiwan has secured at the WHA and what it portends for organizations beyond the WHA. The relative merits remain unclear between the “observer” status that Taiwan has received and the “meaningful participation” that the U.S. and others supported at the WHO and that Taiwan has often sought in the UN system.

Differing interpretations

On expansive readings by the Ma administration, Taiwan had secured a status that differed from full membership only in the lack of voting rights. Although Taiwan’s future engagement might depend formally on annual invitations, that was technically true for all participants and there was every reason to expect that Taiwan would continue to attend, as the Deputy Foreign Minister put it, “almost as a matter of course.” “Chinese Taipei” was not an ideal name, but it was one that Taiwan lived with in other organizations including APEC, the Olympics and—colloquially if not officially—the WTO. There had been no sacrifice of Taiwan’s sovereignty or dignity. The WHA breakthrough and the improving cross-Straits relations that it reflected showed potential for expanding Taiwan’s international role, including in UN-affiliated bodies, provided Taiwan hewed to a pragmatic, flexible approach.

In the grimmer vision of DPP and other critics, Ma’s team had not clearly won more than a one-off invitation, fatally dependent on Beijing’s “goodwill” (for which Ma was publicly too thankful) and vulnerable to Beijing’s later reversal. The Ma administration was distressingly unclear about the negotiations that produced the deal and the status and effect of the secret 2005 WHO-PRC MOU that purportedly required all contacts with Taiwan to go through China. Taiwan might have been reduced to parity with the NGOs that are among the entities with observer status at the WHA. Worse yet, the critique continues, Taiwan could be seen as an informal, lesser analog of an “associate member”—a subordinate territory gaining access under China’s sponsorship in an arrangement consistent with Beijing’s One China Principle. Taiwan clearly was not being offered what other key non-NGO observers enjoyed, the “non-Member state” observer status that the Holy See held or observer status by special resolution of WHA member states (following on a UN General Assembly resolution) that the Palestinian Liberation Organization received. Despite the Ma government’s and its supporters’ invoking precedents of the Order of Malta and East Germany, and the Ma administration’s and a WHA spokesman’s claiming that the Director General has broad and plenary authority over invitations, skeptical observers argued that the Director General’s power to add Taiwan as a purported “health entity” observer (and perhaps to use means previously employed to admit some current observers) was thin, vague and contestable.

Beijing contributed to the ambiguity. Months before the deal was struck, China signaled flexibility on the WHA issue. Building on the 2005 joint statement with KMT leader Lien Chan, Party General Secretary and President Hu Jintao, in his turn-of-the-year Six Points proposal, endorsed Taiwan’s “reasonable participation” in international organizations, including the WHO, as possible fruit of improved cross-Straits relations. In March, Premier Wen Jiabao confirmed China’s willingness to talk about Taiwan’s WHA participation. Still, much from Beijing cautioned against reading the WHA deal broadly. When China backed away from insistence that Taiwan lacked requirements for

participation in any UN-linked organizations, it did not extend the analysis to organs beyond the WHA. Official media portrayed a case- and context-specific WHA deal, showing China's "goodwill to achieve practical benefits" for the "people" in Taiwan, and reflecting a process of "down to earth consultation," "building mutual trust" and finding a "win-win" outcome. Amidst the protracted WHA negotiations, China's Taiwan affairs officials carefully stressed that a WHA accord had no necessary application to other organizations, each of which would have to be addressed individually.

Possible implications

As this suggests, implications for other international organizations may be limited. Beijing's views of limits to the WHA arrangement's broader application can be a self-fulfilling prophecy. The last steps in Taiwan's gaining observer status—the Director General's issuing an invitation on the understanding that Beijing and Taipei accepted the arrangement—confirm China's role as gatekeeper to Taiwan's access to UN-related, and some other, international organizations. Moreover, the WHA setting presented exceptionally favorable conditions for Taiwan.

Structure matters. Although many UN specialized agencies have broadly similar structures of infrequently meeting membership conferences and standing functional organs, the international health regime's bifurcation into two such distinctly named, and separately discussed, entities is exceptional. Taiwan's new WHA access allowed China to avoid the troubling headline, "Taiwan in WHO"—one of the most widely recognized of UN-affiliated bodies and one more well-known than the WHA. Also, the WHA's annual session provides, at least for now, an occasion for reviewing and perhaps not renewing Taiwan's access. This puts Beijing in a stronger position than if it had to initiate steps to revise Taiwan's role in a standing, ongoing body such as the WHO (or WTO).

History and context matter. China's mishandling of SARS in 2003 created, from sympathetic outrage and alarmed self-interest, exceptional international support for Taiwan's bid for meaningful participation in the WHA/WHO. At the crisis's onset, China's secrecy and recalcitrance toward the WHO and other states and its intransigent opposition to direct WHO-Taiwan cooperation fostered an unusually close alignment between Taiwan and the world. Such behavior and China's subsequent rejection of Taiwan's bid for observership as an "inglorious farce" made credible and salient claims that Beijing put politics dangerously ahead of international public health and endangered people in Taiwan (a SARS hotspot) and around the world.

Although the SARS crisis passed, the U.S. and other countries that publicly backed greater WHA/WHO access for Taiwan have had good reasons to persist. Abandoning such positions would have seemed to concede to pressure from Beijing, whose bullying and non-cooperation had spawned support for Taiwan. More recent events have reemphasized the concerns of 2003. Margaret Chan's rise to the WHO Director General post owed much to her accomplishments as Hong Kong's top public health official during SARS. Swine flu emerged as the central focus for the 2009 WHA session. The outbreak centered on Mexico, but it conjured visions of SARS and concerns about threats emanating from China, the frequent epicenter of influenza viruses and potential pandemics. The PRC-flu connection was underscored by diplomatic tussles between China, which took aggressive steps—with disputed public health justification—to quarantine travelers and ban pork from Mexico, and Mexico, where officials denounced such measures and some branded China as the source of the virus.

Especially since 2007, dangerous exports have made China a still-greater focus of global public health concerns, including some that fall squarely within WHA/WHO mandates. The list is familiar and long: industrial chemical-tainted milk, related food and pet food products, toothpaste and drugs;

fake or adulterated pharmaceuticals; lead-laden toys and children's jewelry; carcinogen-laced fish; pork from ill pigs; and so on. As with SARS, Taiwan was especially at risk given the high and rising volume of cross-Strait trade. As with SARS, China proved unable or unwilling to take effective, near-term measures to address toxic export problems, and Chinese sources lapsed into too-familiar pointing to other countries' export safety inadequacies or declaring China's problems to be much smaller than foreigners claimed. Such moves fed views abroad that China was again not being a responsible stakeholder in an aspect of the international system vital to global wellbeing. In this setting, support for Taiwan's participation and resistance to Chinese pressure are especially high, and Taiwan has pointedly sought access to related WHO systems, adding the International Food Safety Authorities Network and the International Medical Products Anti-Counterfeiting Taskforce to an agenda that includes the Global Outbreak Alert and Response Network and the recently joined International Health Regulations regime.

As this suggests, the WHA/WHO's subject matter is significant too. Taiwan's prospects are brightest where Taiwan's exclusion is more damaging to an international organization's efficacy and legitimacy and where Taiwan's access is more convincingly portrayed as serving functional, not political, imperatives. Here, the WHA/WHO resembles the WTO, arguably the greatest institutional prize Taiwan has claimed in its pursuit of international stature. The WTO could not claim to be, or fully function as, a global trade regime if it excluded a top-twenty trading entity. Its credibility as a relatively apolitical protector of liberal trade would suffer if it snubbed a major trading entity that met or surpassed many members' compliance with WTO rules. Similarly, the WHA/WHO seemed to face diminished ability to fulfill its proclaimed mission of safeguarding the health of "all people" if it were greatly constrained in working directly with an entity that lay in the pathway of China-originating infectious diseases and astride dense international transportation networks that spread such illnesses. Even if a ban on direct contacts between Taiwan and the WHO was not as fatal to sharing vital information, avoiding a "gap" in global disease-prevention networks and protecting the "health rights" and "human rights" of Taiwanese as proponents of Taiwan's participation argued, Taiwan's exclusion still would tarnish the WHA/WHO's claim to universality and effectiveness.

Like the WTO, the WHA focuses on issues that do not immediately or inescapably implicate sovereignty. While the WTO has clearly non-state members (such as Hong Kong), the WHA has long accommodated non-state and not-clearly-state actors (including NGOs). Unlike the International Maritime Organization or the International Civil Aviation Organization, the WHA/WHO does not routinely engage issues of territorial jurisdiction that are only a step away from questions of statehood.

The peculiar politics of cross-Strait relations may pose additional challenges for extending the WHA approach to give Taiwan a place at other UN specialized agencies (or other international institutions) and, in turn, boosting those organizations' claims to universality and, possibly, their effectiveness. WHA observership remains toward the "easy" and "nonpolitical" ends of the spectra. The WHA accommodation, like the warming of cross-Strait relations more generally over the year since Ma took office, reflects a "pent up" supply. As many who served in Chen's government assert and some who serve in Ma's administration concede, rapid gains in Ma's first year have been made possible by groundwork quietly laid earlier. At home, Ma's already limited political room to maneuver, and to strike deals with Beijing on more contentious issues, may erode in the face of a struggling economy, weak popularity ratings and DPP arguments relentlessly insisting that current policies imperil Taiwan's sovereignty. On the mainland side of the Strait, some cast the WHA accord as an exigent move to bolster Ma's domestic standing. Whatever the merits of that assessment, the relatively accommodating or patient line forged by Hu Jintao has yet to be tested by the kinds of crises—often triggered or stoked by Taipei's or Beijing's pushing on issues concerning

Taiwan's status—that have periodically roiled cross-Strait relations during the last decade.

Still, there are good reasons to expect that the breakthrough on the WHA has helped build a foundation for further developments. Ma's approach to the mainland has been popular in Taiwan. Hu's approach to cross-Strait issues appears to be securely in place. Public cautions that the WHA model is not easily cloned may partly reflect sensible hedging strategies and efforts to manage expectations on both sides of the Strait. The pragmatic approach both sides took to the WHA issue, the mutually acceptable arrangement that approach produced, and the shared appreciation that progress on international space for Taiwan is politically important in Taiwan and necessary to sustain momentum in cross-Strait rapprochement suggest a method that both sides might apply, and surely will consider applying, elsewhere.

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