

## **Appendix 158 -- Draft Anti-Secession Law Explained to NPC (2005)**

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The following is the full text of the translation of the explanations on the draft Anti-Secession Law, made by Wang Zhaoguo, vice-chairman of the Standing Committee of the National People's Congress (NPC), at the NPC session Tuesday, March 8, 2005.

Fellow Deputies,

I am now entrusted by the Standing Committee of the National People's Congress (NPC) to make explanations on the Anti-Secession Law (Draft).

### **I. The Necessity and Feasibility of Enacting this Law**

Resolving the Taiwan question and accomplishing China's complete reunification is one of the three historic tasks of our Party and our country. We have made unremitting efforts over the years to develop stronger relations between the two sides of the Taiwan Straits and promote a peaceful reunification of the motherland. In recent years, however, the Taiwan authorities have intensified their "Taiwan independence" activities aimed at separating Taiwan from China. Among their escalating secessionist activities of various types, we should be particularly watchful that the Taiwan authorities are trying to use so-called "constitutional" or "legal" means through "referendum" or "constitutional reengineering" to back up their secessionist attempt with so-called "legality" and change the fact that both the mainland and Taiwan belong to one and the same China by separating Taiwan from China. Facts have shown that the secessionist activities of the "Taiwan independence" forces gravely threaten China's sovereignty and territorial integrity, seriously endanger the prospects for a peaceful reunification and severely undermine the fundamental interests of the Chinese nation. They have posed a serious threat to peace and stability in the Taiwan Straits and the Asia-Pacific region as a whole. Formulating this Anti-Secession Law, therefore, is both necessary and timely.

In recent years, our cadres, people, personages from all walks of life and overseas Chinese communities have become increasingly vocal in their appeals for legal means to oppose and check the secessionist activities of the "Taiwan independence" forces and to achieve national reunification. Deputies to the NPC have put forward quite a few bills and recommendations on the Taiwan-related legislation and Members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC) have also made many proposals in this regard. All this shows that the legislative effort conforms with the will of our people. Now all necessary conditions for the legislation are in place. China's Constitution clearly stipulates, "Taiwan is part of the sacred territory of the People's Republic of China. It is the inviolable duty of all Chinese people, including our compatriots in Taiwan, to accomplish the great task of reunifying the motherland." This is the constitutional ground for this legislation. The thoughts of the three generations of Chinese central collective leadership, particularly those of Comrade Deng Xiaoping and Comrade Jiang Zemin, on resolving the Taiwan question and the

principles and policies adopted by China's central authorities have provided clear guidance and a policy basis for this legislation. The relevant research by jurists and Taiwan specialists has also created certain enabling conditions for this legislation.

## ii. The Principles for and Evolution of the Draft Legislation

The overarching principle for the legislation is to act under the guidance of the Deng Xiaoping Theory and the important thought of "Three Represents" and on the basis of the Constitution, implement the policy guideline of the central authorities on Taiwan, closely focus on the theme of opposing and checking the secessionist activities of the "Taiwan independence" forces and promoting a peaceful reunification of the motherland, give full expression to our consistent position of doing our utmost with maximum sincerity for a peaceful reunification and, at the same time, demonstrate the common will and strong resolve of the entire Chinese people to safeguard China's sovereignty and territorial integrity while never allowing the "Taiwan independence" forces to make Taiwan secede from China under any name or by any means.

In our legislative work, we must base ourselves on the above principles, heed the views from various quarters fully and follow the prescribed procedures strictly. In order to do a proper job, the drafting team carefully reviewed the comments and proposals on the Taiwan-related legislation made by Deputies to the NPC, Members of the National Committee of the CPPCC, people from all walks of life and overseas Chinese communities over the past few years. Chairman Wu Bangguo of the Standing Committee of the NPC convened four workshops to listen to the views of leading officials from certain provinces and municipalities, jurists and Taiwan specialists, heads of relevant central departments, compatriots from Taiwan, Hong Kong and Macao and representatives of overseas Chinese communities. After pooling and studying the opinions from the various quarters, a comment-seeking copy of the Anti-Secession Law (Draft) was prepared. General Secretary Hu Jintao then chaired a forum for the central leaders of the Democratic Parties and the All-China Federation of Industry and Commerce and personages with no party affiliations, and Chairman Wu Bangguo convened a discussion for legal experts and Taiwan specialists to listen to their views on the comment-seeking copy of the draft legislation. The draft was further revised on that basis to become the Anti-Secession Law (Draft) in its present form.

At its 13th meeting, the Standing Committee of the Tenth NPC carefully considered the draft legislation, unanimously passed the bill on the Anti-Secession Law (Draft) and decided to submit it to this NPC Session for deliberation.

## iii. The Main Contents of the Draft Legislation

### 1. Legislative Purpose and Scope of Application of this Legislation

Given the current state and future trend of the cross-Straits relations, it is imperative to resolutely oppose and check the secessionist activities of the "Taiwan independence" forces. Otherwise, the source of threat to peace and stability in the Taiwan Straits can not be uprooted, the historic opportunity for common development and common prosperity of the two sides of the Straits will be lost, the interests and welfare of the Taiwan compatriots will be ruined and the fundamental interests of the Chinese nation will suffer damage. Therefore, the legislation begins by making clear that this Law is formulated, in accordance with the Constitution, for

the purpose of opposing and checking Taiwan's secession from China by secessionists in the name of "Taiwan independence", promoting peaceful national reunification, maintaining peace and stability in the Taiwan Straits, preserving China's sovereignty and territorial integrity, and safeguarding the fundamental interests of the Chinese nation. Such a provision defines both the legislative purpose and the scope of application of this legislation.

## 2. The Nature of the Taiwan Question

Making clear the nature of the Taiwan question is the basis for its settlement.

The 16th Party National Congress of the Communist Party of China stated, "There is but one China in the world, and both the mainland and Taiwan belong to one China. China's sovereignty and territorial integrity brook no division." This is our principled position on the Taiwan question, a position that enjoys the support of the entire Chinese people. The Taiwan question is one that is left over from China's civil war of the late 1940s. Owing to many complex factors, the two sides of the Taiwan Straits are yet to be reunified. But the fact that Taiwan is part of China and both the mainland and Taiwan belong to one and the same China remains unchanged. Resolving the Taiwan question and accomplishing the great cause of national reunification is entirely an internal affair of China bearing on the fundamental interests of all Chinese people, the Taiwan compatriots included. Accordingly, the draft legislation provides for the following"

- 1) The legislation reaffirms the spirit of the 16th Party National Congress and further makes it clear that safeguarding China's sovereignty and territorial integrity is the common obligation of all Chinese people, the Taiwan compatriots included, Taiwan is part of China and the state shall never allow the "Taiwan independence" forces to make Taiwan secede from China under any name or by any means.
- 2) The Taiwan question is one that is left over from China's civil war of the late 1940s. Solving the Taiwan question and achieving China's complete reunification is China's internal affair. On this question, we will not submit to any interference by outside forces.
- 3) Accomplishing the great task of reunifying the motherland is the sacred duty of all Chinese people, the Taiwan compatriots included.

## 3. Achieving National Reunification Through Peaceful Means

Adhering to the one China principle is the unshakable basis for the settlement of the Taiwan question. The one China principle reflects the very fact that the mainland and Taiwan belong to one and the same China and highlights our goal of a peaceful reunification. "Peaceful reunification and one country, two systems" has been our basic policy in achieving a solution to the Taiwan question. A reunification by peaceful means best serves the fundamental interests of all Chinese people, the Taiwan compatriots included, as it is conducive to fostering a warm affection among compatriots on both sides, to peace and stability in the Taiwan Straits and the Asia-Pacific region as a whole and to the great rejuvenation of the Chinese nation. The "one country, two systems" formula not only embodies the principled position of achieving national reunification and safeguarding sovereignty and territorial integrity, but allows a high degree of flexibility by taking into full account Taiwan's past and present circumstances. The draft legislation, therefore, provides for upholding the principle of one China as the basis of peaceful reunification of the country, and reunifying the country through peaceful means as best serving the fundamental interests of the compatriots on both sides of the Taiwan Straits. The state shall do its utmost with maximum sincerity to achieve a peaceful reunification. And

after the country is reunified peacefully, Taiwan may practice systems different from those on the mainland and enjoy a high degree of autonomy.

Maintaining peace and stability in the Taiwan Straits and promoting common development and common prosperity is an aspiration shared by the compatriots on both sides of the Straits and serves their common interests.

In this connection, the draft legislation provides for the following measures by the state to maintain peace and stability in the Taiwan Straits and promote cross-Straits relations: 1) to encourage and facilitate personnel exchanges across the Straits for greater mutual understanding and mutual trust; 2) to encourage and facilitate economic exchanges and cooperation, realize direct links of trade, mail, and air and shipping services, and bring about closer economic ties between the two sides of the Straits to their mutual benefit; 3) to encourage and facilitate cross-Straits exchanges in education, science and technology, culture, health and sports, and work together to carry forward the proud Chinese cultural traditions; 4) to encourage and facilitate cross-Straits cooperation in combating crimes; and 5) to encourage and facilitate other activities that are conducive to peace and stability in the Taiwan Straits and stronger cross-Straits relations. The state protects the rights and interests of the Taiwan compatriots in accordance with law.

A peaceful reunification requires cross-Straits consultations and negotiations and a broader room be given to them. As long as the one China principle is adhered to, any issue can be put on the table for discussion. The draft legislation expressly provides: 1) The state stands for the achievement of peaceful reunification through consultations and negotiations on an equal footing between the two sides of the Taiwan Straits. These consultations and negotiations may be conducted in steps and phases and with flexible and varied modalities. 2) The two sides may consult and negotiate on officially ending the state of hostility between the two sides, mapping out the development of cross-Straits relations, steps and arrangements for a peaceful reunification, the political status of the Taiwan authorities, the Taiwan region's room of international operation that is compatible with its status, and other matters concerning the achievement of peaceful reunification.

#### 4. On Taking Non-Peaceful Means to Stop Taiwan's Secession from China by the "Taiwan independence" forces

We have consistently stood for reunifying the country through peaceful means. People on both sides of the Taiwan Straits are all Chinese and the Taiwan compatriots are our own brothers and sisters. No one is more desirous of achieving a peaceful reunification than we are. So long as there is a glimmer of hope for peaceful reunification, we will exert our utmost to make it happen rather than give it up. At the same time, let us be absolutely clear that safeguarding sovereignty and territorial integrity is the core interest of our country and our nation and the common obligation of all Chinese people, our Taiwan compatriots included. We have never forsworn the use of force. No sovereign state can tolerate secession and every sovereign state has the right to use necessary means to defend its sovereignty and territorial integrity.

Using non-peaceful means to stop secession in defense of our sovereignty and territorial integrity would be our last resort when all our efforts for a peaceful reunification should prove futile. The draft legislation provides that in the event that the "Taiwan independence" forces

should act under any name or by any means to cause the fact of Taiwan's secession from China, or that major incidents entailing Taiwan's secession from China should occur, or that possibilities for a peaceful reunification should be completely exhausted, the state shall employ non-peaceful means and other necessary measures to protect China's sovereignty and territorial integrity. The draft legislation also provides that the State Council and the Central Military Commission are authorized to decide on and execute non-peaceful means and other necessary measures, and promptly report to the Standing Committee of the NPC.

It needs to be stressed here that should the "Taiwan independence" forces insist on going their own way and leave us with no other option but to employ non-peaceful means and other necessary measures, such means and measures would be completely targeted against the "Taiwan independence" forces rather in any way against our Taiwan compatriots. The draft legislation clearly provides that in the event of employing and executing non-peaceful means and other necessary measures, the state shall exert its utmost to protect the lives, property and other legitimate rights and interests of Taiwan civilians and foreign nationals in Taiwan, and to minimize losses; at the same time, the state shall protect the rights and interests of the Taiwan compatriots in other parts of China in accordance with law.

I have hereby presented the Anti-Secession Law (Draft) and the foregoing explanations for your deliberation.