

6 Case Study 3: The World Health Organization (WHO)

The WHO is the UN specialized agency for health and was formally established on April 7, 1948 (Lee 2009: 1-45; Burci and Vignes 2004: 15-19). Its ultimate goal is the “attainment by all peoples of the highest possible level of health” as stipulated in Article 1 of the WHO constitution. The broad definition of health as one of the fundamental human rights of all peoples and the principle of universality are key elements in the constitution of the WHO, which makes frequent reference to “all peoples”, stipulates that membership is open to “all states” and, in contrast to other UN organizations, allows membership based on a simple majority of votes in the WHA, instead of on a two-thirds majority. As of April 2012, the WHO had 193 member states and two associate members.

In order to fulfill its objective of attaining the highest possible level of health for all peoples, the WHO has set health standards and guidelines, supported governments, promoted health research and organized worldwide campaigns and numerous other meetings and activities. Many observers have noted that the growth in worldwide trade and travel and the increasing complexity of health issues have led to a shift from international to global health cooperation since the 1990s (Brown, Cueto and Fee 2006). Since 2000, in particular, various mechanisms have been established to deal with current health issues of global concern, including the Global Outbreak Alert and Response Network (GOARN), the International Food Safety Authorities Network (INFOSAN), the 2005 revision of the International Health Regulations (IHR), the International Medical Products Anti-Counterfeiting Taskforce (IMPACT), the Stop TB Partnership and the Framework Convention on Tobacco Control (FCTC).

The World Health Assembly is the highest decision-making body in the WHO. The Assembly determines the policies of the Organization, appoints the WHO Director-General, approves the budget of the organization, makes decisions on membership applications and has the authority to implement additional steps to further the objectives of the WHO. The WHA meets in Geneva in May every year and is mainly composed of the member states’ delegates with competence in health issues, usually health experts and officials from the Health Ministries and Foreign Ministries of the member states. It also includes representatives

of Associated States and observers. Recommendations to the WHO are usually adopted by the WHA in the form of Resolutions and Decisions. Each member state has equal rights in the WHA's decision-making processes and voting follows the principle of "one member – one vote". The provisional agenda of the WHA's Plenary Meeting is prepared and adopted by the WHO's Executive Board, which is composed of 34 delegates from WHO member states, and usually meets in January and, for a shorter meeting, after the WHA. In addition to the Plenary Meeting, which makes the most important decisions, there are three Committees that deal with related issues. The General Committee is the WHA's steering committee and plays a crucial role in preparing the agenda and resolutions. Committee A discusses programmatic issues while Committee B deals with administrative and financial matters.

The WHO, in contrast to the WTO and APEC, does not allow membership based on functional sovereignty, but stipulates in Article 3 of the constitution that membership "shall be open to all States". In general, there are two different procedures for states to accede to the WHO (Burci and Vignes 2004: 21-30). Firstly, UN members may submit applications for membership under Article 4 of the WHO constitution, by signing or accepting the constitution. This procedure has been followed by the vast majority of WHO members and does not create any particular difficulties since the qualification of UN member states for WHO membership is beyond dispute. Secondly, non UN-member states may apply under Article 6 of the WHO constitution which requires them to gain a simple majority of votes in the WHA. In this case, according to Rule 115 of the Rules of Procedure of the World Health Assembly, applicants are obliged to inform the WHO Director-General who usually transmits the application to other members and places it on the agenda of the next WHA.

Observership is not mentioned in any part of the WHO constitution (Burci and Vignes 2004: 36-38; Yang 2010: 336-339). Article 18 and 71 only make general reference to the possibility of inviting organizations to the WHA and to other forms of cooperation. Contrary to popular belief, the status of official WHO observer does not exist and is not mentioned in the constitution. Observers are only mentioned in the Rules of Procedure of the World Health Assembly. Rule 3 of the WHA Rules of Procedure names three different types of observers that can be invited by the Director-General:

"The Director-General may invite States having made application for membership, territories on whose behalf application for associate membership has been made, and States which have signed but not accepted the Constitution to send observers to sessions of the Health Assembly."

These criteria for observers are difficult for Taiwan to meet and they also present difficulties in that they do not provide a legal basis for other observers to be invited to the WHA who have regularly been invited in the past. However, although the WHO constitution does not provide a clearly defined legal basis for the *de jure* status of all observers currently attending the WHA, the organization has created a *de facto* WHA observer status through practice. In the past, the Director-General has responded to several requests for WHA observer status and has decided, on his own initiative, to issue an invitation, providing the consent of WHO members was assured.

Gian Luca Burci and Claude-Henri Vignes (2004: 36), current and former Legal Counsels of the WHO, distinguished between two different types of observers: “observers invited for a limited period” and “quasi-permanent observers”. While the first type refers to potential WHO members as well as non-member states that are usually invited under the provisions of Rule 3 of the Rules of Procedure, the second classification includes the remaining observers who are invited to the WHA by the Director-General on a regular basis. Only the observers invited for a limited period possess a status based on the Rules and Procedures of the WHA. Strictly speaking, for the second classification of quasi-permanent observers, it would be more precise to refer to observers than to observer status since their participation is based only on practice, as Burci and Vignes (2004: 38) pointed out:

“It is extremely significant that the Director-General, when issuing invitations, has deliberately avoided making any reference to ‘observer status’. These observers are invited on a regular basis, but *de jure* the status of permanent observers has never existed in the WHO, this status existing only *de facto*.”

The rights of the first type of observers, who are invited for a limited period, are stipulated in Article 47 of the Rules of Procedure. These observers

“may attend any open meetings of the Health Assembly or any of its main committees. They may, upon the invitation of the President, and with the consent of the Health Assembly or committee, make a statement on the subject under discussion. Such observers shall have access to non-confidential documents and to such other documents as the Director-General may see fit to make available. They may submit memoranda to the Director-General, who shall determine the nature and scope of their circulation.”

Observers do not have voting rights and are not entitled to put their own candidates forward for a post. The rights and obligations of the quasi-permanent observers are guided by practice, but are basically the same as those mentioned in

Article 47 (Yang 2010: 346-348). In addition, some WHA observers have occasionally also been included in the WHO's mechanisms, meetings such as the Executive Board Meeting, and other WHO activities.

In practice, WHA observers are generally placed in three categories, according to the WHA list of participants: (1) non-member state observers, (2) observers and (3) observers under the provisions of a WHA resolution. The first category contains sovereign states that are not members of the WHO, such as the Holy See. The second category includes a variety of different entities, such as the Order of Malta, the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies (IFRC), and the Inter-Parliamentary Union (IPU). Observers in the third category are those who are invited to the WHA in accordance with WHA Resolutions, such as Palestine. Thus, observers to the WHA consist of states (Holy See), quasi-states (Palestine), sovereign entities (Order of Malta) and NGOs (ICRC, IFRC and IPU).

6.1 Taiwan's WHO Campaign – Motives, Arguments and Strategies

The ROC was a founding member of the WHO, but was expelled in 1972 after the change in the representation of China at the UN. The wording of the UN Resolution 2758 was replicated in the World Health Assembly Resolution, WHA25.1, which enacted to recognize the representatives of the PRC as the only legitimate representatives of China to the WHO. After the expulsion, Taiwan's interactions with the organization declined to zero, but participation in the WHO still featured prominently in discussions during the democratization process in Taiwan. In 1997, Taipei launched the campaign to rejoin the WHO/WHA, requesting to "invite the Republic of China (Taiwan) to attend the WHA in the capacity of observer" (Chiu 2008: 351-415; Chang 2010a) (Table 7).

After 1997, Taiwan's WHO campaign followed various functional and political objectives at the same time. Three main motives can be identified:

(1) The international motive – the intention of joining the UN family through the WHO, enhancing Taiwan's international status and utilizing the WHO to gain international support: Taiwan, a *de facto* member of the international community with numerous quasi-diplomatic relations throughout the world, remained excluded from international political organizations and, in particular, the UN. The start of the campaign to apply for membership of the UN-specialized agency of the WHO in 1997 must be seen in close context to Taiwan's goal of re-joining the UN. It was highly unlikely that Taiwan would be able to gain full membership in the UN, given the position of the international community and China's veto power in the UN Security Council, but the WHO

provided an opportunity for Taiwan to gain a foothold in the UN through the backdoor of one of its specialized agencies.

Table 7: Taiwan's Bids to Join the WHO/WHA, 1997-2011

Year	Name	Proposed bid	Result
1997	Republic of China (Taiwan)	Inviting the Republic of China (Taiwan) to attend the WHA in the capacity of observer	Bid rejected
1998	Republic of China (Taiwan)	Inviting the Republic of China (Taiwan) to participate in the WHA as an observer	Bid rejected
1999	Republic of China (Taiwan)	Inviting the Republic of China (Taiwan) to participate in the WHA as an observer	Bid rejected
2000	Republic of China (Taiwan)	Inviting the Republic of China (Taiwan) to participate in the WHA as an observer	Bid rejected
2001	Republic of China (Taiwan)	Inviting the Republic of China (Taiwan) to participate in the WHA as an observer	Bid rejected
2002	Taiwan	Inviting Taiwan to participate in the WHA as an observer	Bid rejected
2003	Health authorities of Taiwan	Inviting the health authorities of Taiwan as an observer in the WHA	Bid rejected
2004	Taiwan	Inviting Taiwan to participate in the WHA as an observer	Bid rejected
2005	Taiwan	Inviting Taiwan to participate in the WHA as an observer	Bid rejected
2006	Taiwan	Inviting Taiwan to participate in the WHA as an observer	Bid rejected
2007	Taiwan	Request the Director-General to refer Taiwan's membership application to the Assembly for Consideration	Bid rejected
2008	Taiwan	Inviting Taiwan to participate in the WHA as an observer	Bid rejected
2009	Chinese Taipei	No bid, invitation to attend the WHA as observer received from the WHO Director-General before the WHA	WHA observer
2010	Chinese Taipei	No bid, invitation to attend the WHA as observer received from the WHO Director-General before the WHA	WHA observer
2011	Chinese Taipei	No bid, invitation to attend the WHA as observer received from the WHO Director-General before the WHA	WHA observer

A MOFA (2005a: 14) Concept Paper acknowledged that the flexible procedural requirements of the WHO, together with the absence of a veto power on memberships by members of the UN Security Council, “is the reason why the Organization has been the first choice for a number of countries wishing to enter the United Nations family.” The choice of organization was well-considered. The WHO was targeted because the essential need for global health cooperation could not be denied and served as the most appropriate means of convincing the international community of the necessity of including Taiwan in IGOs.

Health aspects played a minor role in the very beginning. Even without being able to participate in the WHO, the Taiwanese government had confidence in the efficiency of its own health policy and regarded its health system as one of the most advanced health systems in the world, as a Taiwanese diplomat (Interview 2010) explained:

“Let’s speak very frankly. What does Taiwan get out of the WHO? Nothing, really. We picked the WHO, because we think that the health issue is the most convincing issue for most people. Taiwan has the best health insurance policies in the world. Taiwan is very advanced in medicine and medicare. We may contribute funds, human resources and our experience to the WHO, but we won’t receive much from the organization. In order to be able to become fully involved with other states, we need to begin somewhere and getting into the UN system is our priority. The WHO is an entry ticket. The WHO, for us, is a way to gain people’s support, it’s a legitimate cause. Health should not have national boundaries. The health issue requires everyone to work together and Taiwan should be part of this.”

Taiwan was aware that being able to participate in the UN agency would enhance its international status. WHA observer status was never considered the ultimate goal, but only as a first step toward increasing functional WHO participation and, eventually, gaining WHO membership. Some Taiwanese diplomats (Interview 2010) even confessed that obtaining observer status would have a negative effect on Taiwan’s international support and visibility and preferred to campaign without resolving the issue of Taiwan’s participation in the WHO. Joseph Wu (Interview 2010) pointed out that in addition to the genuine need to consider health aspects, the WHO campaign under the DPP government was also aimed at drawing international attention to the issue of Taiwan’s IGO participation and gaining international support for Taiwan:

“We want to find a way to let the international community understand that Taiwan has been excluded from the international community and that this is not fair to the Taiwan people. This is politically motivated. We want to find an international organization that has full justification for our participation. So health is most appropriate, nobody can beat that.”

(2) The functional motive – the need for inclusion in the global health system to protect the health of the Taiwanese people: Although not the main motive at first, public health imperatives quickly moved to the center of Taiwan's WHO campaign after the population was exposed to acute health risks. In 1998, the outbreak of Type 71 enterovirus in Taiwan infected over 1.8 million Taiwanese people, among them 300,000 children, causing 80 deaths (MOFA 2005b: 5). On September 21, 1999, one of the most serious earthquakes in Taiwan, measured at 7.6 on the Richter Scale, killed over 2400 people, seriously injured more than 11,000 and left around 100,000 people homeless (Hickey 2000: 48). On the day of the so-called 921 earthquake, the Chinese President, Jiang Zemin, offered to "provide all possible assistance to reduce losses from the earthquake disaster" (Eckholm 1999) for Taiwan. However, by insisting that international help for Taiwan had to follow the one-China principle and go through Beijing first, China delayed the arrival of substantial assistance which evoked harsh criticism from Taiwan (Lin 1999). The UN Office of Coordination of Humanitarian Affairs in Geneva had to wait for China to give permission before responding to the disaster and being able to send a six-member relief mission to Taiwan. The Chinese Red Cross issued demands for other international chapters to contact Beijing before sending help to Taiwan, and China refused permission for a Russian earthquake relief mission to pass through Chinese airspace. In addition, the island was seriously hit by the spread of SARS in 2003 and had the highest death toll per capita worldwide, with 346 affected people and 73 deaths (MOFA 2005a: 20). In all these cases, the WHO was not able to provide direct assistance for Taiwan, which painfully demonstrated the negative impact of Taiwan's absence from the organization and the indispensable need to be included in the global health system in an independent capacity and with direct contacts to the WHO.

As a result of these incidents, many Taiwanese officials involved in Taiwan's WHO campaign realized that even with one of the best health systems in the world and excellent medical personnel, the island was on its own as far as global contagious diseases were concerned, deprived of access to essential real-time information, disease control supplies and vaccines. The acceleration of travel and trade and the disappearance of national boundaries confirmed Taipei's view that health cooperation was an indispensable functional necessity in the contemporary globalized world. Taipei was concerned that being excluded from the WHO posed a danger to public health, because "[n]o isolated group of people can possibly match the massive resources, technical expertise, and shared knowledge that the WHO provides" (MOFA 2005c: 9). Functional participation in WHO activities, obtaining direct access to health networks and first-hand information gained top priority over the years.

(3) The domestic motive – the WHO campaign in response to domestic public opinion and as a political tool for domestic elections: Taiwan's drive for inclusion in the WHO was an unavoidable outcome of Taiwan's democratization process and a direct response to the increasing public demand for international participation in health-related activities (Chang 2010d). The WHO campaign was mainly initiated and supported by Taiwanese NGOs, such as the Foundation of Medical Professionals Alliance in Taiwan (FMPAT), which has a political background close to the DPP. After the government officially launched Taiwan's WHO bid in 1997, domestic medical associations and NGOs continued to engage in the campaign, approached the WHO and other NGOs, and actively lobbied for Taiwan's inclusion in the global health system (Guilloux 2009: 67-68 and 74-75). Official WHO working groups in the DOH and the MOFA were established only after 2001, when interest groups and non-state actors were incorporated in its strategy.

Public opinion polls consistently showed high consensus among the Taiwanese in support of the government's campaign to join the WHO/WHA as observer or member. For example, a study commissioned by the MOFA (2004) revealed that 89.4% of the respondents supported Taiwan's efforts to join the WHO in order to upgrade the health and security of the people, 78.1% felt that participating in the WHO would help to improve the country's international status, 81.3% of respondents felt the PRC's opposition to Taiwan's joining the WHO was unreasonable, and 86.4 % stated that if Taiwan was prevented from joining the WHO that year because of opposition from the PRC, they would support the government's efforts to continue working to join the WHO the following year. The exclusion of Taiwan from the WHO became a highly emotional issue on the island, so that both the KMT and the DPP governments felt obliged to address the public's concerns. However, the respective governments did not only evaluate the WHO bid in terms of a reaction to domestic demands, but were also aware of the possibility of exploiting the campaign as a political tool to gain domestic support. Taiwan's desire to increase its international space in spite of China's blocking strategies was an issue that aroused people's emotions and could be used to unite the nation and influence elections. Its WHO policy was, more than any other IGO policy, a multi-level game involving numerous actors, interests and sentiments. While the DOH was generally most concerned about the health benefits accruing from Taiwan's inclusion in the WHO, many MOFA officials assigned priority to the goal of integrating Taiwan into the international community.

In the official rhetoric, however, Taipei focused solely on functional, health-related arguments to convince the international community of the essential need for Taiwan's inclusion in the WHO (MOFA 2005a, 2005b, 2005c;

DOH 2008). A flexible and moderate approach was employed, aimed at putting politics aside and applying a low-key strategy based on humanitarianism and health concerns. Taiwan's line of argumentation involved three main steps:

1. Convincing the international community that Taiwan's joining the WHO was legitimate with regard to political, legal and functional considerations;
2. Highlighting the contributions that Taiwan could and would like to make to the WHO; and
3. Presenting the costs of excluding Taiwan from the global health system for both Taiwan and the international community.

From a legal point of view, Taiwan argued that UN Resolution 2758 and WHA Resolution 25.1 only resolved the problem of China's representation at the UN and the WHO, but did not address the question of the representation of the 23 million Taiwanese. As a sovereign state, Taiwan considered itself qualified for WHO membership, but offered to put politics aside and applied only to become an observer as a goodwill gesture at the beginning of the campaign:

“[b]ased on the fundamental principles of the WHO, it is abundantly clear that the world community cannot afford to allow **political differences to endanger the health of all peoples**. Taiwan is willing to put aside the politically contentious issue of WHO **membership** and is instead seeking only to become an **observer** in this important global health institution in the capacity of a health entity” (MOFA 2005b: 13, emphasis in original).

Taipei argued that, in the past, the WHO had often been willing to allow a flexible interpretation of the constitution, in order to pursue the objective of health for all peoples, which had led to the admission of states that were not members of the UN, such as Switzerland in 1947, or of states that had unresolved sovereignty issues at the time of their application, such as the Federal Republic of Germany and Japan. Moreover, the existence of a variety of WHA observers proved that, in line with the organization's objectives, sovereignty was not a precondition for observer status and participation in the WHO. The principle of functionality was used as an argument to support Taiwan's request for WHA observer status as a health entity based on its unquestionable jurisdiction in the Taiwan area. The term “health entity” was an important element in Taiwan's WHO campaign between 2002 and 2006 and was used to highlight Taiwan's functional approach. Taking all these arguments into consideration, Taiwan regarded its admission as observer to the WHA in the capacity of a health entity as “consistent with WHO law, principles and practices” (MOFA 2005a: 1).

The fact that Taiwan and China have two independent governments with separate jurisdictions and health care systems was often cited to rebut China's claim that Beijing looked after the health and well-being of the Taiwanese compatriots. Taipei pointed to the consequences of the enterovirus outbreak in 1998 and the earthquake in 1999 as evidence that it was impossible for China to respond adequately to disease outbreaks and natural disasters on the island and also that Beijing's insistence on a procedure that amounted to presenting itself as the central government, was irresponsible politically because it hindered Taiwan's efforts to obtain help. Similar cases of China's handling of global diseases, such as SARS, emerged over the years which provided additional easy and eye-catching examples for use in Taiwan's lines of argumentation.

In order to convince the international community of the benefits of Taiwan's inclusion in the WHO, Taiwan presented the success story of its own health system and emphasized its willingness to share this experience with the world. Indeed, Taiwan had established an effective health care system that covered 99% of the Taiwanese population and enjoyed a high approval rate. Its successful health policy could serve as a role model for other countries, but Taipei claimed that the

“lack of WHO participation results in Taiwan's inability to effectively share its health-related experiences, manpower, and other resources with the international community. Subjecting the Taiwanese people to a form of **“health apartheid”** is not only morally wrong but also inconsistent with the ideals and commitment that are the very foundation of the entire WHO system. This de facto health care segregation seriously weakens the international disease prevention network” (MOFA: 2005b: 11, emphasis in original).

Taipei strongly promoted a “no gap policy”, arguing that being excluded from the WHO had created a gap or a “loophole” in the global health network that had come at a high cost for both Taiwan and the international community (Hickey 2006: 73-78). Disease outbreaks in the recent past had shown how quickly a snowball-effect could develop that had the potential to threaten countries on a global scale and slogans such as “diseases have no boundaries” were used to illustrate the necessity of putting health before politics.

Active participation in health-related activities, humanitarian aid and medical assistance formed a substantial part of Taiwan's strategy. Public and private organizations, such as the Buddhist Compassion Relief Tzu Chi Foundation, the Taiwan Red Cross and, particularly, the Taiwan International Health Operations Center (TIHOC), which was established in 2004 and after reorganization, better known as Taiwan International Health Action (TaiwanIHA), provided technical assistance, medical treatment and humanitarian aid for other countries, in order

to gain international support for Taiwan's WHO campaign (Guilloux 2009: 107-134 and 165-175; TaiwanIHA 2007). According to the DOH, the total amount of aid donated by Taiwan's public and private sectors amounted to USD 450 million in the first 10 years of the WHO campaign.

With a WHO-related budget of NTD 3 billion (USD 95.8 million) annually (Lai 2005), Taipei actively engaged in a broad, multifaceted campaign. In 2001, the DPP government took major steps toward multiplying and coordinating the efforts of the government agencies. The Premier, Chang Chun-hsiung, announced in April that the Executive Yuan, including the DOH, would intensify cooperation with relevant government agencies, such as the MOFA, MOEA, GIO, MAC, the Council for Cultural Affairs and the Overseas Compatriot Affairs Commission, non-governmental domestic medical associations and Chinese (Taiwanese) overseas associations, such as the Formosan Association for Public Affairs (FAPA) and the North American Taiwanese Medical Association (NATMA), and ambassadors-at-large, to establish a multidisciplinary working group that would work out a plan for the effective promotion of Taiwan's WHO campaign (Hsiao 2005: 5-6). This working group consisted of three teams with clearly defined areas of responsibility. Firstly, the team for strategic planning, headed by the MOFA, was instructed to:

- Take responsibility for policy planning and strategy;
- Increase efforts to establish contacts and lobbying; and
- Include campaign efforts in cross-strait negotiation issues in a timely manner.

Secondly, the team in charge of medical and health issues, headed by the DOH, would:

- Take part in international multilateral and bilateral medical aid plans;
- Organize international health conferences and cooperation in international research exchanges;
- Seek participation in all kinds of WHO meetings and activities; and
- Lobby for the support of major international organizations and multinational medical enterprises.

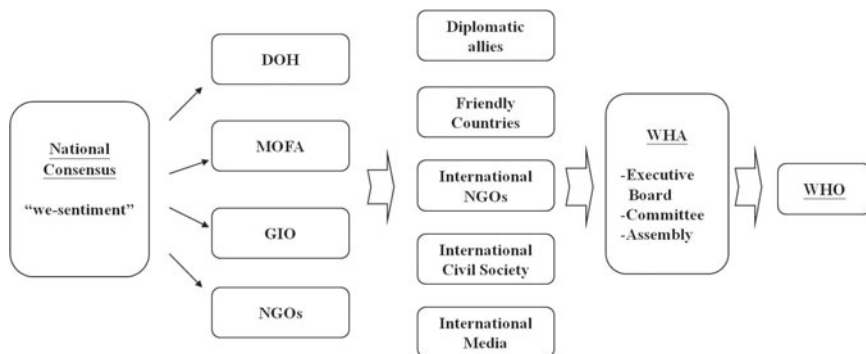
Thirdly, the group overlooking the propaganda activities, headed by the GIO, would:

- Approach international media, such as respected newspapers and medical journals to initiate public discussions on Taiwan and influence public opinion to gain support;

- Place advertisements in well-known magazines and outside locations to provide information on Taiwan's campaign;
- Publish WHO-related special editions and brochures; and
- Organize relevant cultural activities and utilize the overseas Chinese (Taiwanese) media.

As shown in Figure 13, numerous national and international actors were included in Taiwan's WHO campaign (MOFA 2002; Chiu 2008: 351-354) in order to increase national and international support for Taiwan's bids at the WHA.

Figure 13: Taiwan's WHO Campaign after 2002



Beijing refrained from any direct interactions with Taiwan in Geneva and tried to keep discussions as low-key as possible to avoid an international debate on the Taiwan issue in the WHO (Chiu 2008: 388-392; Chang 2010a: 479-494). Taiwan's WHO campaign was in the first place regarded as political in nature and following clear political goals that were cloaked as aspects of health. China argued that the issue of Taiwan's participation in the WHO had already been decided by UN Resolution 2758 and WHA Resolution 25.1 and rebuffed Taiwan's functional line of argumentation aimed at achieving inclusion in the WHO in the capacity of a health entity, pointing out that the WHO constitution did not include any reference to the term "health entity" and that Taiwan's request was without any basis in WHO law or practice. Functional health aspects were widely neglected by China in the early years of Taiwan's campaign, but then health concerns became the key aspect of Taiwan's campaign and of discussions within the WHO, and China also started to address health issues. After 2001, in particu-

lar, Chinese officials stated that the Taiwan compatriots are entitled to all services provided by the WHO just like all Chinese people in the rest of the country, quoted numerous examples of forms of domestic health exchanges between the Mainland and Taiwan and pointed to proposals and arrangements made by Beijing that were meant to facilitate Taiwan's participation in the WHO, for instance, when Chinese government officials offered Taiwan an opportunity to participate in the WHA as part of the Chinese delegation.

Taiwan's strategy at the annual WHA followed a general pattern. There are two different ways to become a WHA observer: through an invitation sent by the Director-General or through a WHA Resolution decided by a simple majority of votes. Taipei thus tried to approach the Director-General in various ways to present arguments illustrating the necessity and benefits of Taiwan's inclusion. The government actively lobbied its allies, other states, NGOs and individuals to express their support for Taiwan in letters to the Director-General to increase the pressure on him or her to issue such an invitation. In order to lobby for the support of other countries at the WHA, Taiwanese officials tried to establish contacts with other governments, held meetings with diplomatic allies and high-ranking officials of major WHO members, and took part in side events of the WHA that were open to the public. To achieve observer status through a WHA Resolution, Taipei drafted proposals for Taiwan to be invited as an observer to the WHA, which were then submitted by diplomatic allies and discussed at the WHA. The mobilization of Taiwan's allies was the principal task during the WHA. Taipei usually asked some of them to speak up for the island at the committee meetings and plenary meetings that they attended and regularly drafted their speeches and statements. Their actions were coordinated by the Taiwanese Ambassador and officials in the Public Gallery above the Assembly Hall, from which visitors can follow the course of events, by calling the delegates of allies in the Assembly by phone and suggesting them when to raise a hand or call for a vote.

The WHA follows a certain procedure that allowed Taiwan to raise proposals for WHA observership or WHO membership on several occasions. If the Taiwan-proposal was not included in the provisional WHA agenda adopted by the Executive Board, the General Committee meeting, which takes place on the morning of the first day of the WHA, provided another opportunity for Taiwan's allies to request that the proposal should be incorporated into the Plenary Meeting's agenda as a supplementary item. The discussion held in the General Committee usually follows one of two different procedures. Firstly, a 2 by 2 discussion can be arranged that includes statements made by two countries supporting the proposal and two countries objecting to it. The second, much more time-consuming procedure, allows an open discussion between all Committee mem-

bers. After the discussion, in both cases, the Chair of the Committee decides whether there is consensus on the proposal to be included as a supplementary item unless a formal request has been made for a vote to take place in the Committee.

The WHA's Plenary Meeting starts in the afternoon of the same day. When the Plenary Meeting addressed the decisions made by the General Committee, Taiwan's allies had a further opportunity to request the inclusion of the proposal on the agenda, which was again followed by either a 2 by 2 debate or an open discussion. After the discussion, if no request for a vote has been made, the Chair of the meeting can make a decision as to whether there is a majority in favor of including the proposal on the agenda. However, members can also request a vote. According to Article 74 of the Rules of Procedure of the World Health Assembly, any delegate can request a roll-call and cause every one of the more than 190 WHO members to vote in alphabetical order. Article 77 stipulates that "[a]fter the voting has been completed, a delegate may make a brief statement, consisting solely of an explanation of vote" (WHO 2007: 139) and thereby provides the basis for another round of time-consuming discussions after the voting.

6.2 Cross-Strait Relations in the WHO 2002-2008

6.2.1 2002: Increasing Support for Taiwan's Low-Key Bid

The main goal of Taiwan's campaign in 2002 was to gain observer status at the WHA in May. International support for Taiwan's low-key bid, particularly from the US, increased throughout the year. On May 28, 2001, the US President, George W. Bush, had signed Bill H.R. 428 that affirmed the US policy of supporting Taiwan's participation in appropriate international organizations and its intention of facilitating Taiwan's appropriate and meaningful participation in the WHO. This Bill served as the legal basis for the US government's policy of facilitating Taiwan's observer status in the WHA in 2001 and was extended to the WHA 2002 through Bill H.R. 2739, signed on April 4, 2002. The US public support for Taiwan served as a catalyst for Taiwan's WHO campaign and other democratic countries increasingly felt encouraged to follow the example of the US. Japan, for the first time, declared its support for Taiwan's WHA observer status and the EU Parliament adopted a Resolution on March 14, 2002, calling on the EU Commission and the member states to support the application for observer status to be granted to Taiwan at the forthcoming WHA.

The Executive Board meeting in January 2002 provided the first opportunity to make a request for the proposal to "Invite the Republic of China (Taiwan)

to participate in the WHA as an observer” to be included on the provisional WHA agenda (Chiu 2008: 360-362). In letters to the WHO Director-General, Gro Harlem Brundtland, five diplomatic allies of Taiwan, namely, Senegal, Grenada, Nicaragua, Guatemala and Chad, had proposed the inclusion of this item on the provisional WHA agenda. However, at the Executive Board meeting, Cuba requested that this proposal be deleted and was supported in a roll-call vote by 20-3 votes with 8 abstentions. The Taiwan-proposal was thus not placed on the provisional agenda. Neither in 2002, nor in the following years, did Taiwan achieve any successful responses to requests at the Executive Board meetings. However, since the Executive Board consisted of only 34 delegates and was not regarded as an important international forum for the discussion of its requests, Taiwan, in the following years, focused its strategy on the WHA itself.

Before the start of the WHA, nine diplomatic allies wrote another letter to the WHO Director-General to request the inclusion of the proposal “Inviting Taiwan to participate in the WHA as an observer” as a supplementary item on the agenda. The name “Republic of China (Taiwan)” used in earlier proposals was replaced by “Taiwan”. The proposal was discussed at the WHA, first of all, at the General Committee meeting, during which six countries expressed their support. They emphasized the fact that Taiwan had undertaken a low-key approach by applying as health entity and focused on health imperatives as an argument for Taiwan’s inclusion in the global health system. 17 countries objected to the proposal in their statements, referring to the WHO Constitution and the need to protect China’s sovereignty. The discussion lasted over an hour, but since it was not possible to achieve consensus, the Chairman decided not to include the item on the agenda. In the afternoon’s Plenary Meeting, Taipei decided to initiate a 2 by 2 discussion, which was held between Malawi and Grenada on one side and China and Pakistan on the other. Again, the Chairman did not find any evidence of consensus in favor of Taiwan’s proposal being included on the agenda.

Taiwan’s role in the global health system attracted more attention at the WHA in 2002 than it had in previous years and was addressed in the General Committee, the Plenary Meeting as well as in other Committees and meetings in or on the sidelines of the WHA. The US Secretary of Health and Human Services, Tommy Thompson, openly expressed his support for Taiwan’s being granted observer status at a lunch banquet and an increasing number of medical associations and NGOs raised their voices in support of Taiwan. While Taiwan’s WHO campaign was primarily restricted to the time period around the WHA in May from 1997 to 2002, the outbreak and spread of SARS after November 2002 served as a catalyst for Taiwan’s bid, causing Taipei to multiply its efforts and engage in a broader campaign.

6.2.2 2003: SARS as a Catalyst for Taiwan's Campaign

The year 2003 was overshadowed by the worldwide threat of the SARS pandemic. The Severe Acute Respiratory Syndrome (SARS) is a respiratory virus that leads to a serious weakening of the immune system and to a fever of over 38°C. SARS broke out in China's Guangdong province in November 2002 and then spread to Hong Kong, other Chinese provinces and different parts of the world. According to WHO statistics, 8422 people in over 30 countries were affected by the virus, which resulted in 916 deaths worldwide between November 2002 and August 2003 (WHO 2003). In China alone, a total number of 5327 SARS cases was identified with 349 deaths.

China, at first, underestimated the dimensions of the SARS outbreak, presenting it as an internal issue that was effectively under control and did not call for any extraordinary measures (Bo 2007: 203-240; Balasegaram and Schnur 2006). The Chinese authorities controlled the news coverage of SARS, failing to provide accurate figures with regard to cases of infection and downplaying the spread and risks of the virus. On April 3, 2003, about six months after the outbreak, the Health Minister, Zhang Wenkang, announced that travel in China was safe and reported the misleading figure of only 1190 cases of SARS infection in China, 1153 of which were in Guangdong, with 46 deaths. Most observers suspected that political motives were behind the cover-up of the real situation of SARS, the aim being not to endanger the smooth change in leadership from the Third Generation to the Fourth Generation during the Sixteenth Party Congress in November 2002 and the NPC in March 2003. The late response to the outbreak of the "China Virus", as it was described in the *Far Eastern Economic Review*, and Beijing's initial resistance to WHO teams being sent to investigate the situation in China, did not only place China at the center of the SARS pandemic, but also led to the general impression that China was an irresponsible international actor, with regard to global health issues (Lague, Lawrence and Murphy 2003).

In light of the fierce international criticism and the negative impact on its international image as well as on the domestic economy, trade and tourism, China's SARS policy changed, after the NPC, from being passive and secretive to being much more active and transparent. On April 20, 2003, Zhang Wenkang, and the Mayor of Beijing, Meng Xuenong, were removed from office. On the same day, the Chinese Executive Deputy Minister of Health, Gao Qiang, admitted the inaccuracy in the number of SARS cases that had been reported and confirmed the existence of 339 cases of SARS in Beijing alone on April 18, roughly ten times more than previously estimated (Bo 2007: 227-230). By April 24, the number of infected people in Beijing had increased to 877, making the capital

the most seriously affected area in China. Wen Jiabao and the new Health Minister, Wu Yi, actively implemented new policies, including body temperature checks for Chinese people leaving the Mainland and daily press conferences presenting transparent data on the Chinese SARS cases. The proactive approach of the new Hu government led to progress in dealing with the disease, which was eliminated successfully by June 2003.

Taiwan's geographical vicinity to China and the huge amount of cross-strait trade and travel resulted in the virus spreading from the Mainland to Taiwan (Maloney, Babatunde and Roth 2006; Hsueh and Yang 2003). When SARS was first identified on the island on March 14, 2003, Taiwan immediately contacted the WHO for assistance. However, the WHO faced difficulties in engaging in direct contacts with the Taiwanese government. It transmitted Taiwan's message to the US Centers for Disease Control and Prevention (US CDC) in Atlanta, a WHO Collaborating Centre, and asked the US CDC to dispatch experts to Taiwan to assist in handling the virus. A WHO Summary of Events regarding SARS in Taiwan argued that the WHO and its collaborating centers had placed field teams in Taiwan and that the WHO had informed Taiwan about this procedure on March 20, 2003 (Guilloux 2009: 87-88). Moreover, the WHO claimed to have sent an email with updated SARS information to Taiwan's Center for Disease Control (CDC), which is responsible for all policies regarding the prevention and control of public diseases and their implementation in Taiwan.

Taiwan, in contrast, strongly criticized the WHO for ignoring the SARS cases in Taiwan and for refraining from establishing direct contacts with the government (MOFA 2003a). The well-intentioned attempt to sidestep political hurdles set up by China, by authorizing the US CDC to assist with Taiwan, was hardly an appropriate way, in Taipei's view, to deal with an emerging pandemic. According to the former Health Minister and Commander-in-chief of the national anti-SARS task force, Lee Ming-liang (2007: 24), five letters requesting assistance were sent to the WHO but these failed to elicit any response or acknowledgment of receipt. Taiwan complained about a lack of vital in-time information and direct communication that left the island on its own to fight against SARS. However, even without the direct assistance of the WHO, Taiwan was able to control the virus efficiently in the beginning.

In mid-April, another much more serious outbreak of SARS occurred in Taipei's Heping Hospital, which confronted the doctors and the government with many problems. Taipei failed to react promptly. Medical personnel complained about a shortage of surgical masks and protective body gear. Taipei's late identification of SARS in the hospital and inadequate response to the outbreak resulted not only in the infection of medical personnel working in the Heping hospital, but also in the spread of the virus to the South of Taiwan.

The rapidly increasing number of SARS cases in Taiwan led to widespread fear that SARS was out of control. This was a major factor in the WHO's decision to reconsider its previous response and push for direct contact with Taiwan in order to investigate the SARS situation and provide assistance (Gao 2004). The WHO insisted on sending its experts to Taiwan and dispatched a two-person team of WHO officials to the island on May 3. China was forced to save face by officially giving permission to the WHO to send their teams to Taiwan, but still emphasized that this would not contradict the one-China principle. Taiwanese government officials complained that the WHO experts had played an observer role instead of providing active help and had even refused to exchange name cards with their Taiwanese counterparts (Winkler 2011: 272). According to an article in *The New York Times*, the WHO team was only allowed to interact with working doctors, not with Taiwanese senior officials or with the Minister of Health (McNeil 2003).

The SARS outbreak in the Heping Hospital in Taipei painfully demonstrated the risk posed by the lack of essential real-time information from the WHO, because Taiwan realized too late that the SARS case definitions published on the WHO webpage were lagging behind the latest developments (MOFA 2005d: 1). According to Hsiao Mei-ling (Interview 2010), a DOH official and since 2009, the Deputy Minister of Health, doctors in the hospital did not identify the first SARS case immediately, because not all the criteria for the identification of SARS that had been defined by the WHO had been made available to Taiwan: unaware that the WHO was going to revise these particular criteria very soon, the medical personnel did not classify the patient as a SARS case and thus did not institute sufficient measures to prevent the spread of the virus right from the beginning. Although certainly not the only reason for Taiwan's inadequate reaction to the SARS outbreak, government officials claimed that the lack of WHO assistance "made a bad situation worse" (Chinoy 2003). Although Taiwan reported its first SARS case to the WHO on March 14, more than seven weeks had to pass before a WHO team was able to travel to Taiwan on May 3. Moreover, considering Taiwan to be a Chinese province, the WHO also listed the Taiwanese SARS cases under either "Taiwan (China)" or "Taiwan, China" along with the Hong Kong and Macao Special Administrative Regions in its official statistics (WHO 2003).

The negative impact of SARS became a catalyst for Taiwan's WHO campaign, because the outbreak served to confirm the arguments put forward by Taiwan that pointed to the danger of having a gap in the global health system. For the international community, the SARS experience was a shock that illustrated the essential need for global health cooperation and, as a result, the functional need to include Taiwan in the fight against the disease became the focus of

international attention. SARS adduced clear evidence that not only did Taiwan need the WHO, but the WHO also needed Taiwan. Moreover, the outbreak of SARS led to China being identified as an apparently irresponsible international actor that was more concerned about domestic politics than international health and also disproved China's claim to be able to take care of the well-being of the Taiwanese people. To put it briefly, the negative consequences of SARS for Taiwan were easy to understand, highly visible and perfectly qualified to appeal to both the hearts and the minds of the international community.

The DPP government engaged in a broad PR campaign and utilized the obvious need for global health cooperation to gain international support and push forward its quest for gaining observer status at the WHA in 2003. International support for Taiwan's observer status, particularly from the US, increased tremendously during the SARS crisis. Just before the beginning of the WHA, on May 14, Tommy Thompson for the first time wrote a letter to the new WHO Director-General, Lee Jong-wook, requesting that Lee include Taiwan as one of the SARS-affected areas in the WHO's projects and activities against SARS and expressing his support for Taiwan's WHO participation and WHA observer status (Chang 2010b: 135-141). The EU Parliament also passed another resolution reiterating its position, as stated in the 2002 Resolution, and Japanese government officials affirmed their positions in favor of Taiwan's WHA observer status in direct talks with the Chinese Foreign Minister, Li Zhaoxing, on April 6 and with the Deputy Foreign Minister, Wang Yi, on May 12.

At the WHA in 2003, Taiwan followed two objectives. Firstly, Taipei again lobbied for support for its bid "Inviting the health authorities of Taiwan as an observer in the WHA", trying to maintain a low political profile by avoiding sovereignty disputes and simply asking for an invitation for its "health authorities". Secondly, the WHA was expected to adopt a resolution concerning the fight against SARS and Taiwan lobbied for this Resolution to be worded in a way that would be favorable to Taiwan's inclusion in relevant measures undertaken against SARS.

The WHA's General Committee meeting discussed Taiwan's proposal on May 19 (MOFA 2003b). While seven allies recommended the inclusion of the proposal on the agenda, the majority of the 35 countries speaking at the meeting registered their opposition. However, Taiwan's request encountered increasing support from the major powers, in particular the US and Japan, and furthermore, no EU country at the meeting opposed Taiwan's bid. The nearly two-hour discussion did not reach consensus on including the proposal as a supplementary item on the agenda. In the afternoon's Plenary Meeting, Taiwan initiated a 2 by 2 discussion, with Senegal and Panama vs. China and Pakistan. As expected, the proposal was again not accepted, but it was becoming increasingly visible that

Taiwan was gaining more and more international support. In his speech at the WHA, Thompson emphasized the need for effective public health services for all peoples, making it clear that the US was strongly in favor of Taiwan's inclusion in the fight against SARS and beyond.

With regard to the SARS Resolution, Taiwan lobbied for a wording that would open the door to direct contacts between Taiwan and the WHO. The draft resolution was discussed in Committee A on May 27 and later adopted by the Assembly. The resolution requested the Director-General, among others, "to respond appropriately to all requests for WHO's support for surveillance, prevention, and control of SARS in conformity with the WHO Constitution" (WHA56.29: 3). The reference to "all requests" was a codeword for Taiwan and was pushed through with the determined support of the US and other WHO members. In order to prevent direct interactions between Taiwan and the WHO without the consent of Beijing, China lobbied, in informal negotiations, for the inclusion of the phrase: "approval of the national government concerned" in the passage, but did not succeed (Chu 2003b). As a compromise, the term "in conformity with the WHO Constitution" was added at the end of the passage. This resolution marked an important breakthrough for Taiwan, because it did not only provide a legal basis for Taiwan to participate in WHO activities, but also marked the first of many behind-the-scenes negotiations between Taiwan, China, other members and the WHO.

Cross-strait relations degenerated in the course of the SARS crisis, with the two sides accusing each other of exploiting the outbreak of the disease for their own political ends. Taipei blamed China for politicizing the crisis and for delaying Taiwan from establishing direct contacts with the WHO, actions which had allowed the situation on the island to worsen. The Foreign Minister, Eugene Chien (2003), in an article in *The New York Times*, openly accused Beijing of making Taiwan a "loophole" in the global health network:

"We do not blame the WHO's professional experts; we welcome their assistance, however late in the day. But it is truly unfortunate that the People's Republic of China would rather see Taiwan's people and our foreign friends suffer than allow us to have unobstructed access to the WHO. Over the last six years, Taiwan has actively sought to gain observer status in the WHO, hoping both to contribute its own resources and to enhance the health security of its people. But Beijing has worked just as actively to block our participation, throwing up political obstacles that defy health logic".

During the SARS crisis, the DPP government actively tried to connect the spread of SARS with Beijing's politics, presenting China as the root of Taiwan's difficulties in dealing with the virus. In numerous statements, government officials openly accused Beijing of putting politics before humanitarian issues and criti-

cized Taiwan's exclusion from the WHO as "medical apartheid" (McNeil 2003). Chen Shui-bian, in March 2003, contended that "SARS broke out in mainland China, but they covered it up, and the result is the entire world, including Taiwan, has been seriously affected" (The China Post 2003). In an article in the Taipei Times, the Presidential Advisor, Huang Tien-lin (2003b), even accused China of bringing diseases, such as dengue fever, foot-and-mouth disease, anthrax, avian flu, hantavirus, sickness in Taiwanese abalones and cholera to the island and advocated cutting ties with the Mainland, for example, by banning Taiwanese people from travelling to China until Taiwan had acceded to the WHO. Huang argued:

"But who is to blame? China, of course. Were it not for China's SARS outbreak, Taiwan would never have had the virus. Were it not for China's intentional cover-up of the disease, SARS would not have become a global epidemic. Were it not for constant flow of people between Taiwan and China (...), the nation would not have become a seriously affected area."

These statements clearly illustrated the emotional level of the highly charged debate in Taiwan and fortified the perception of China as a direct threat to the safety and security of Taiwan. For China, however, these statements seemed to confirm its position that Taiwan was following political goals cloaked as health considerations. Beijing therefore continued to strongly reject Taiwan's WHO bid. The battle of words reached a peak when the Chinese Ambassador to the UN in Geneva, Sha Zukang, publicly commented on the problems that Taiwan had faced during the health crisis. Asked by a Taiwanese reporter why China had blocked the Taiwanese bid, Sha responded: "Who cares about you?". In Taiwan, this statement, widely seen and circulated as a video clip on the internet by the Taiwanese, outraged politicians and citizens. The immense impact this statement had on the Taiwanese people was revealed in a speech by Hsiao Bi-Khim, the Director of the Department of International Affairs of the DPP, at the Brookings Institution in Washington, in which she described the incident as follows:

"Most of you probably don't see this here in Washington, but in Taiwan, an image that has been really hitting on us has been Sha Zukang, the Chinese rep in Geneva -- some statements and remarks that he has made. He was with Wu Yi in the delegation, and he was asked by Taiwanese reporters to comment on, you know, the feelings of the Taiwanese people, and "Have you taken those into consideration?" And he turns around and says that they've been rejected -- you know, referring to the Taiwanese people. Then he takes two more steps and turns around again, with a snarl on his face -- and we see this image, a vivid image -- and he says, "Shei li nimen?"; you know, "Who cares about you?" (The Brookings Institution, Center for Northeast Asian Policy Studies 2003: 5-6).

For many in Taiwan, this statement supplied the proof that Beijing set a higher value on its own political goals than on the health of the Taiwanese and the defeat of global diseases and was regarded as a slap in the face of those Taiwanese who had suffered from the virus. The SARS crisis provided an outstanding example of the negative consequences of Taiwan's exclusion from international organizations, creating a we-sentiment among the Taiwanese population, increasing the distrust of Mainland China and widening the gap between the two sides even more.

The SARS crisis created a serious dilemma for Beijing. The experiences during the outbreak and spread of the disease increased international support for Taiwan's WHO inclusion as well as criticism of China's argument that Beijing was able to look after the well-being of the Taiwanese compatriots. Moreover, the policy of insisting on the one-China principle in the WHO gave rise to feelings of alienation among the Taiwanese people with regard to the Mainland and was conducive to the political agenda of the DPP government. China tried to regain control over the cross-strait debate on the handling of SARS and increasingly engaged in active cooperation and exchanges on health issues with Taiwan (Brown 2003; Shen 2004: 49-51). In April and May 2003, China received Taiwanese medical personnel, organized joint medical seminars and arranged two cross-strait video conferences. In addition, the Chinese Red Cross Society offered medical equipment to the Taiwan Red Cross on May 12, which was officially rejected by Taiwan the following day. All these actions undertaken by Beijing were aimed at promulgating the one-China principle and emphasizing the status of Taiwan as a non-sovereign Chinese entity, as Simon Shen (2004: 51) pointed out:

“The chief focus of Beijing's SARS diplomacy was the issue of sovereignty – the sovereignty of Beijing as the effective regime representing all Chinese territories. All gestures – or even concessions – to Taipei were made under the assumption that SARS was an internal Chinese affair.”

Taipei, in attributing responsibility to Beijing for the worsening of the SARS crisis, also aimed to serve domestic needs (Rich 2005; Brown 2003). Timothy S. Rich (2005) argued that the Chen administration, in order to improve its prospects of re-election in 2004, deliberately utilized the threat posed by the SARS pandemic to appeal to Taiwanese identity. The mobilization of the Taiwanese population during the SARS crisis indeed benefitted the DPP government in the 2004 elections. Rich employed a content analysis of Taiwanese media coverage during and after SARS to show how the public discourse shifted from economics, a topic generally perceived as benefitting the Pan-Blue camp, to the consequences of SARS and the threat that China posed to Taiwan's security in the run

up to the presidential elections. People were left with the impression that the island had been left on its own and were thus susceptible to the government's efforts to appeal to Taiwanese identity and nationalist sentiments.

In light of the national consensus on Taiwan's WHO participation, even the Pan-Blue Camp included the goal of joining the WHO in its presidential election campaign, but suffered from the fact that Chen Shui-bian and the DPP were identified much more strongly with the efforts to push for Taiwan's WHO inclusion than the opposition. Moreover, the DPP government tried to utilize the anti-Chinese momentum to push for dissociating Taiwan from China. After March 31, when the MAC had temporarily suspended the three mini-direct links to lower the risk of SARS transmissions, there were increasing demands for a reduction in the economic and personal contacts with the Mainland. Taipei also decided to add the term "Taiwan" to the cover of the Taiwanese passport and the MOFA referred to China as a foreign country when listing it as a Post-SARS Travel Warning Zone. As Simon Shen (2004: 60) pointed out, the Chen government regarded SARS as both a threat and an opportunity and successfully exploited the SARS crisis for its own political agenda:

"In fact, the response generated from the WHO defeat is already, ironically, more beneficial to the DPP than a success might have been. From the unfolding of SARS to the WHO entry proposal, the referendum, and the new passport, the DPP regime clearly had a strategy for guiding Taiwan into a non-Chinese orbit. Just as the friendliness of Beijing to Taipei was intended to convey China's "internal affairs" agenda, Taipei's unfriendliness was intended to convey its "external affairs" agenda. Its motive was to extend Taiwan's non-Chinese identity and self-sovereignty to the international arena, with the ultimate goal of achieving independence in a non-Chinese sphere of influence."

The year 2003 marked a breakthrough for Taiwan in many respects. Previously, the government had mobilized local and overseas Taiwanese to take part in street demonstrations in Geneva to make their voices heard and to be present in the Public Gallery. Spectators in the Public Gallery are not allowed to speak or applaud, but the Taiwanese regularly drew attention to themselves by making noises, shouting slogans or boing while the Chinese delegates were making their speeches and therefore often had to be forcibly removed from the Public Gallery by the security staff. After 2003, Taiwan's WHA policy became more professional. The Taiwanese Ambassador, Shen Lyu-shun (Interview 2010), pointed out that after assuming his position in Geneva in 2003, he advocated making better use of the WHO's regulations to increase Taiwan's bargaining power. Shen was well aware of the fact that although Taiwan was not officially included in the WHA, it had the power to influence the entire WHA agenda with its bid

for observer status. Taiwan was able to initiate discussions about the bid during the morning committee meetings as well as during the afternoon Plenary Meetings and, furthermore, if a vote were called on the issue, the discussion in the Assembly could paralyze the proceedings for an entire day. A vote was not in China's interests, nor in the interests of other states concerned with health issues, nor, finally, in the interests of the US, whose delegates did not want to be seen losing a vote against China (Wu 2011: 143).

However, for Taiwan, even being seen as a trouble-maker was better than being ignored. The WHO and its members realized that direct communication with Taiwan was needed to ensure that discussions on substantial issues would take place and tried to come to an arrangement with Taiwan in order to avoid the disruption of the entire WHA agenda. Later on, the WHO reserved seats for the Taiwanese Ambassador and other high-ranking officials in the Public Gallery, which only contained seating for about 140 persons and was usually occupied by visitors who stood in line for hours before the start of the WHA. For the Taiwanese Ambassador, having reserved seats in the Public Gallery was a major improvement since the actions of the Taiwanese allies were difficult to coordinate from the monitors in the TV room which only zoomed in on the podium during the WHA. The ambassadors of the major states and the Legal Counsel to the WHO also engaged in direct contacts with the Taiwanese diplomats. Shen Lyu-shun (Interview 2010) argued that Taiwan's strategy of using the WHO's rules and regulations to call for attention resulted in increased interactions between Taiwan and the WHO:

“By doing so we gained a lot of bargaining power, because the WHO found out that I could decide whether the whole day's agenda would be spent discussing something meaningful or not. I gained more access, I gained bargaining power, and we gained more respect. They found out that I know how to play this game. And I did not make noises, I played by the rules.”

Taiwan's bargaining power in conjunction with the increase in international support during the SARS crisis changed the WHO's perception of Taiwan and facilitated Taiwan's functional participation. The first direct interactions between Taiwan and the WHO occurred in May, when two WHO experts visited the island in the course of the SARS crisis. On June 17-18, 2003, four Taiwanese experts were invited to participate in a WHO-sponsored global conference on SARS that was held in Kuala Lumpur. Taiwan received the invitations for the conference from the WHO in two ways. The official letter of invitation to Chang Shan-chwen, Taiwan's leading expert on SARS, was addressed to “Dr. Chang, National Taiwan University Hospital, Taiwan, People's Republic of China. In the care of the Permanent Mission of the People's Republic of China” (Interview

with Shen Lyu-shun 2010). The WHO sent the letter of invitation to the Chinese Mission in Geneva, which forwarded the letter to Beijing. Taiwan finally received the invitation from the Chinese Medical Association (CMA), a Chinese NGO, together with a covering letter in Chinese saying that China had undertaken special efforts to ensure that Taiwan received an invitation “because of concerns about the well-being of our Taiwanese compatriots”. Another outcome of the procedure to deliver the letter of invitation through Beijing was the delay in the letter’s arrival in Taipei, which made it impossible for Chang Shan-chwen to attend the conference in Kuala Lumpur. Since a ten-day quarantine period was mandatory for every doctor dealing directly with SARS patients, there was not enough time for him to prepare for the meeting in Kuala Lumpur. In addition to the letter of invitation, Taiwan later received another invitation by email that avoided any mention of China. The name badge of Taiwan’s senior representative, Dr. Su Ih-jen, who made a panel presentation at the conference, referred to “Director, CDC, Taiwan” without mentioning China or the PRC (Brown 2003). However, in the list of participants, the Taiwanese officials were still listed under “Taiwan, China”.

By addressing the letter of invitation to the PRC and transferring it to Taiwan through a domestic NGO, China again intended to support its claim that Taiwan must be regarded as a province of China and that Taiwan’s participation in IGOs was conditional on the approval of Beijing. The format of the invitation marked a precedent that was not acceptable to Taiwan. After the conference in Kuala Lumpur, Shen Lyu-shun approached the WHO Secretariat and demanded that invitations be sent only by email directly to Taiwan in order to avoid the reference to the Permanent Mission of China as the addressee. The delivering of invitations to Taiwan by email then became common practice for subsequent conferences with Taiwanese participation.

After the SARS conference, Taiwanese experts started to take part in WHO technical meetings more regularly and Taiwan also became a recipient of the WHO’s Outbreak Verification List (OVL), a weekly compilation of worldwide disease outbreaks. Beijing faced serious problems in remaining at the wheel. Although firm in its position that Taiwan as a Chinese province did not have any right to participate in the WHO independently, “pressure from the international community compelled China to save face by expressing its “approval” in public for what the WHO had done” (Chang 2010b: 136). In fact, the dispatch of WHO officials to Taiwan, the wording of the SARS Resolution and Taiwan’s inclusion in WHO activities was the result of international pressure and could not be prevented by Beijing. However, by approving contacts between the WHO and Taiwan *ex post*, altering the wording of the Resolution, listing Taiwan’s participants under China and using numerous one-China gestures when dealing with Taiwan,

China tried to ensure that Taiwan would be perceived as a non-sovereign Chinese entity in the WHO.

The SARS crisis clearly demonstrated that political considerations dominated the actions of the governments on the two sides of the Strait. Liang and Mackey (2011), in their study on the health diplomacy of Taiwan and China during SARS, concluded:

“Most notably were cross-Strait relations and the resulting conflict between China’s policy goals of a One China framework, reunification, and authority over Taiwan, in contrast to Taiwan’s own claims of national independence and autonomy. These stark, mutually-exclusive conflicting positions and interests made cooperation and positive health diplomacy negotiation outcomes during the SARS outbreak elusive. Both China and Taiwan viewed SARS in very different ways, both from opposing views of political opportunity instead of mutual policy promotion in the context of health.”

The SARS crisis united Taiwan’s government, the opposition and the population in fighting for WHO participation, increased the negative image of China on the island, divided Taiwan and China even further and created plentiful sympathy for Taiwan’s health-centered bid to join the WHA as an observer. China lost a PR war that did not only damage its international image, but also confronted Beijing with new problems of how to deal with Taiwan’s growing support in the WHO.

6.2.3 2004: Calling for a Vote: Taiwan’s Quest Becomes Highly Visible

In 2004, the US continued to offer support and, in May, the US Congress passed Bill H.R.4019 that authorized the Secretary of State to take action to facilitate Taiwan’s WHA observer status. In contrast to earlier bills, the 2004 bill was not limited to one year, but extended the authorization to each following year. In addition, it authorized the Secretary of State to introduce a resolution at the WHA supporting Taiwan’s WHA observership. Taiwanese and US officials met in April to make arrangements for Taiwan’s WHO participation and discussed the strategy for the upcoming WHA (Chang 2010b: 136). Before the beginning of the WHA, Tommy Thompson again sent a letter to the WHO Director-General in support of Taiwan’s being granted WHA observer status and of increasing cooperation between Taiwan and the WHO to combat global diseases.

The strategic question as to whether Taiwan should call for a vote on its bid for WHA observership through its allies was discussed in internal meetings in Taipei before the start of the WHA (Interview with Michael Kau 2010). On the

last occasion a vote had been called for, in 1997, it had ended in a clear defeat for Taiwan's proposal, with 128 votes to 19 and a similar result could be anticipated for 2004. Taipei still regarded calling for a vote as conducive to increasing the visibility of the Taiwan issue in the WHA and decided to authorize the Deputy Foreign Minister, Michael Kau, to initiate a vote through its diplomatic allies on condition that Japan was committed to supporting the proposal. Although Taipei was anticipating defeat, a vote would entail a lengthy discussion and was intended to highlight the growing international support for the island not only from its allies, but also from the US and Japan, two major WHO members who, combined, contributed almost 50 percent of the WHO's budget.

Taiwan then initiated the first vote on a proposal to invite Taiwan as an observer to the WHA since 1997. The 80 minutes debate in the General Committee meeting on May 17 involved 48 countries, 16 of which spoke in favor of Taiwan's WHA observer status (Chiu 2008: 365). As expected, the meeting did not reach consensus over having the Taiwan-proposal placed on the agenda, but Taiwan's allies again requested the inclusion of the Taiwan-proposal on the agenda in the afternoon's Plenary Meeting and called for a vote. In the three-hour discussion prior to the voting, 42 countries delivered speeches for or against the proposal. The vote was conducted by roll-call and lasted another hour. While 25 countries voted in favor of having the proposal placed on the agenda, 133 voted against; Israel and the Philippines abstained. The discussion and voting lasted for over four hours and prevented the WHO Director-General from delivering his annual speech on the first day of the WHA.

Although clearly defeated, the strategy of calling for a vote was seen as a success by Taipei. Taiwan did not only obtain the votes of all 23 diplomatic allies that were able to vote in the WHA, but also gained the support of two major WHO members, the US and Japan. Moreover, Ireland, which was representing the EU in 2005, and six other countries, although they were not able to vote for Taiwan due to the one-China policy, expressed their support for Taiwan's meaningful participation in the WHO after the voting. China's supporters outnumbered Taiwan's allies by far, but the countries supporting Taiwan spoke for longer which created a feeling that the atmosphere was favorable to Taiwan. The strategy of balancing against China had borne fruit, since major WHO members had voted for Taiwan or had at least expressed support for Taiwan's request.

China had to react, and responded in two ways. Firstly, Beijing issued various statements that were intended to demonstrate that Beijing was looking after Taiwan's health needs and to emphasize the fact that Taiwan's WHO participation had to follow the one-China principle. The Deputy Health Minister, Gao Qiang, put forward four proposals regarding Taiwan's WHO participation at the WHA on May 17, 2004:

“First, we welcome Taiwan to send medical professionals to join the Chinese delegation in participating in WHA. Second, under the One-China principle, the Chinese Government is ready to discuss with Taiwan on how its professionals can participate in the relevant WHO activities in an appropriate manner. Third, for exceptional arrangement, before agreement is reached between the two sides of the Taiwan Straits, the Chinese Government is ready to work with the WHO Secretariat to facilitate participation by Taiwan medical professionals in WHO technical exchanges. Fourth, if Taiwan needs technical assistance from WHO and submits requests to us, we will readily consider them” (Ministry of Foreign Affairs of the People’s Republic of China 2005).

Secondly, China made arrangements for Taiwan to participate in the WHO in line with the one-China principle and started to negotiate a secret MOU with the WHO, to regulate Taiwan’s participation in technical WHO meetings, which was concluded in 2005.

6.2.4 2005: The Memorandum of Understanding and the International Health Regulations

In addition to lobbying for observer status in 2005, Taiwan primarily sought to be included in the IHR, which were scheduled to be adopted at the WHA in May. However, before the start of the WHA, the existence of a secret MOU between China and the WHO became public knowledge and this had a strong influence on cross-strait relations in the WHO.

This MOU, signed between the WHO Director-General, Lee Jong-wook, and China’s Minister of Health, Wu Yi, on May 14, 2005, regulated the forms of interaction between Taiwan and the WHO. However, since neither China nor the WHO publicized the details of the memorandum, the exact content was only known to a few insiders. Later on, a document entitled “Implementation of the Memorandum of Understanding between the WHO Secretariat and China”¹⁴ (hereafter: Implementation Guidelines) was leaked and this provided some information on the details of the agreements reached between the WHO and Beijing. The content of the MOU was roughly the same as the content of the Implementation Guidelines. The 22 Articles of the Implementation Guidelines, dated July 12, 2005, mainly established three arrangements for:

1. Inviting Taiwanese medical and public health experts to take part in technical activities organized by the Secretariat;

¹⁴ The Implementation Guidelines can be found in Appendix D.

2. Dispatching staff members or experts to Taiwan to investigate the public health or epidemiological situation and providing technical assistance for medical and public health services in Taiwan; and
3. Organizing the response of the WHO Secretariat, should an acute public health emergency occur in Taiwan.

For each of the three issues, the implementation guidelines offered detailed and clear procedures that the WHO was required to follow (Article 2). The MOU was to be implemented on the basis of WHA Resolution 25.1 and must not include any actions that could be seen as attributing a separate status to the Taiwanese authorities and institutions (Article 3i). The guidelines prohibited any unauthorized interactions with authorities, institutions or individuals in Taiwan, which were not covered by the MOU (Article 19) and required the pre-screening of individuals taking part in WHO meetings and of participating NGOs to prevent the unauthorized inclusion of Taiwanese participants (Articles 20-22). The MOU established a Focal Point at the WHO headquarters as the central unit for all interactions between Taiwan, the WHO and China (Article 3ii) and all requests made under the MOU – no matter whether these came from the WHO headquarters or from the regional and country offices – were obliged to go through the Focal Point, who would then contact the Permanent Mission of China in Geneva.

Regarding the three arrangements, the implementation guidelines provided detailed instructions on how interactions with Taiwan were to be carried out. To enable the participation of Taiwanese medical and public health experts in technical activities organized by the Secretariat, the first arrangement presented a detailed order of action. The participation of Taiwanese experts had to be justified by their particular expertise, could be requested by Taiwan or by the competent technical unit within the WHO secretariat and was to be decided on a case-by-case basis (Article 5). Informal contacts were allowed between the WHO and the potential participants from Taiwan for the purpose of verifying their availability. For invitations to Taiwanese experts to be considered, requests had to adhere to the following procedure, as mentioned in Article 6. First, requests had to be sent to the Focal Point by the technical unit concerned at least 5 weeks before the respective meeting started. These requests had to contain the details of the meeting, the reasons for the request for an invitation, and the details of the individual Taiwanese experts concerned, such as contact information, affiliation and field of expertise. In the second step, the Focal Point had to assess the validity of the request from both technical and political viewpoints. If the Focal Point considered the application justified, he would send the request to the Permanent Mission of China in Geneva, which would forward it to the Chinese Ministry of Health (MOH). After due consideration of the request and an additional note

from the technical unit, the MOH would agree or disagree on the participation of the Taiwanese experts and inform the WHO's Secretariat accordingly, through the Chinese Permanent Mission in Geneva, within 2 weeks. In the case of a positive notification by China, the technical unit would then issue invitations to the Taiwanese experts and send copies of the letters of invitation to the Focal Point and to the Chinese Mission.

With regard to the mailing address used to send invitations to Taiwan, the guidelines instructed the technical unit to include only the city of the addressee, but not the country, in order to avoid any indications that Taiwan had a state-like status, and the invitations should, if possible, be sent by fax. The inclusion of the names "Taiwan" and "Republic of China" was prohibited, but the designation "Taiwan, China" that was used in the guidelines was considered to have a discouraging effect that could possibly deter Taiwanese experts from participating in the activities. Nevertheless, for any WHO activities that required a designation, the term "Taiwan, China" was to be used (Article 7). Taiwanese experts were to hold a rank under the level of director-general and were not permitted to engage in political activities. Moreover, if Taiwanese experts were invited to take part in WHO activities, Chinese participants should also be invited.

The second arrangement concerned the dispatch of WHO staff members or experts to Taiwan to investigate the local health or epidemiological situation and the provision of technical assistance for the medical and public health services. Requests for technical assistance were to be made by Taiwan to the WHO headquarters or Regional Offices and these would be forwarded to the Focal Point if they were deemed justified (Article 9). If staff members were to be sent to Taiwan, the course of action basically followed the procedure mentioned above (Article 10). Requests, including all necessary information, were to be sent to the Focal Point five weeks in advance, revised according to technical and political points of view and then forwarded and agreed on by the MOH. According to Articles 11 and 12, WHO staff members dispatched to Taiwan also had to hold a rank under director-general level, were only allowed to interact with Taiwanese officials under the level of director-general and should not have a profile that might give rise to political implications.

The third arrangement, the provision of assistance to Taiwan by the Secretariat in the event that an acute public health emergency occurred, differed from the other two arrangements, because if there were an emergency, the extensive revision of a request would not be possible (Articles 13-16). Under these circumstances, the WHO Director-General would be able to dispatch staff members to Taiwan or invite Taiwanese health experts, after consulting the MOH through the Chinese Mission in Geneva. After a decision to interact with Taiwan had been made, the Chinese Mission was to be informed regularly about the devel-

opments by the Focal Point and a review of the actual need for the actions was to be undertaken with the Focal Point, not later than eight weeks after the decision had been agreed. The third arrangement included the same actions allowed in the first two arrangements, but attributed more power to the Director-General and enabled him to instigate interactions between the WHO and Taiwan at short notice. The regulations provided in Articles 7, 11 and 12, that related to the conditions imposed on Taiwanese participants and WHO staff members dispatched to Taiwan, would also apply in the event of an acute public health emergency occurring (Article 17).

The MOU was part of a four-part package to facilitate Taiwan's IHR inclusion that was secretly agreed, in principle, by Taiwan and China, in February 2005, following indirect negotiations conducted mainly between Taiwan, the US and China (AIT 2005b, 2005c). China offered to accept Taiwan's IHR participation on condition that no details of the package would be made public. The deal, however, included the signing of a MOU between China and the WHO and an agreement to notify the Chinese representative prior to the commencement of interactions with Taiwan. The MOU and the agreement formed an integral part of the package and, although viewed with great concern, were not rejected out of hand by Taipei. Direct discussions and an exchange of letters between the CDC and the WHO on how to deal with IHR-related matters were the third part of the package. A WHA Resolution calling upon the WHO Director-General to implement the IHR universally as its fourth part would then enable Taiwan's *de facto* IHR participation.

The MOU still came as surprise to most observers in Taiwan. While only a few Taiwanese officials knew about the talks on the four-part package, they were not informed about the progress in negotiations and the exact content of the MOU. Only one hour before the signing of the MOU, the WHO's Legal Counsel called the Taiwanese Ambassador, Shen Lyu-shun (Interview 2010), to inform him about the existence of the memorandum, but did not provide a copy of the document. Taiwan tried to obtain the text of the MOU, but to no avail, and even considered using the threat of calling for a vote on its observer status during the upcoming WHA to pressure the WHO into providing a copy of the memorandum (AIT 2005e). The DPP government, under political pressure to demonstrate to the domestic audience that the government was determined to protect Taiwan's dignity, fiercely rejected the MOU. Taipei protested against the MOU in various ways and officials often reiterated that the understanding could not serve as a legal basis for the WHO to interact with Taiwan (Legislative Yuan 2005: 160).

During recent months, Taipei had repeatedly emphasized the fact that the designation "Taiwan, China" and the notification of China would be unacceptable to Taiwan and had expressed these concerns directly to the WHO as well as

to the US (AIT 2005b, 2005c, 2005d). The US, however, was not favorably disposed toward Taiwan's quest for assistance to have the nomenclature modified and pointed out that the MOU was an integral part of an all-or-nothing four-part package and that it would be surprising if the WHO, as a UN sub-organization, did not use official UN terminology to refer to Taiwan. US officials urged Taiwan not to allow nomenclature in a confidential document to jeopardize its chances of substantially increasing functional participation and not to make the MOU public.

The MOU was the outcome of the apparent awareness of the risks resulting from Taiwan's exclusion from the WHO during the SARS crisis, the increase in international support for the island and the need for cooperation with Taiwan to ensure the smooth functioning of the WHA. The MOU was meant to open a window of opportunity for Taiwan. On the one hand, it provided the basis for contacts between the WHO and Taiwan in the event of an emergency and would facilitate the participation of Taiwanese experts in technical WHO meetings. On the other, it adhered to the one-China principle and ensured that interactions between Taiwan and the WHO followed the arrangements defined by Beijing. Facing exceptional pressure from the international community and the WHO, China realized that preventing interaction between Taiwan and the WHO in exceptional situations would not be possible and therefore decided to set basic conditions for Taiwan's WHO participation, including the need to obtain prior permission from Beijing and the specification of the nomenclature to be used when referring to Taiwan. Beijing changed its strategy from excluding Taiwan from the WHO to allowing limited functional participation in line with the one-China principle.

To gain WHA observer status, Taiwan continued to employ a pragmatic approach focused on health, humane concerns, functionality, and Taiwan's contributions to the global health system. By November 2004, the MOFA had established a WHO Working Group to improve the coordination of Taiwan's strategy and intensified its efforts to unite domestic actors and reach out to international actors through its foreign embassies, Taiwanese medical associations, international NGOs and non-diplomatic friends (Legislative Yuan 2005: 156-157). Until 2005, Taiwan had received support for its participation in the WHO from various international medical associations, including the World Health Professions Alliance; the International Pharmaceutical Federation; the International Congress of Nurses; the World Medical Association (WMA); the International Paediatric Association; the British Medical Association; *Lancet*, Britain's premier medical journal; the Standing Committee of European Doctors; the World Congress of Traditional Medicine; and the Philippine Medical Association (MOFA 2005b: 11-12). The legislative bodies of major states and unions that

had passed resolutions in favor of Taiwan's inclusion in the WHO included the US Congress; the European Parliament; the Canadian Parliament; the Central American Parliament; the Chilean Chamber of Deputies; the Belgium Chamber of Representatives; the Dominican Republic House of Representatives; the Italian Chamber of Deputies; the Uruguayan Chamber of Representatives; and the Philippine House of Representatives. Taiwan's efforts to encourage officials and individuals to write letters to the Director-General of the WHO in support of Taiwan's participation in the WHO/WHA also paid off. By May 23, 2005, the WHO Director-General had received 822 letters supporting Taiwan's inclusion in the WHO, including letters from 8 foreign ministers, 20 health ministers, 5 former (vice) presidents, 14 parliament (vice) presidents, 1 Nobel Prize winner and 23 parliaments with altogether 1033 legislators (Legislative Yuan 2005: 157).

The emergence of Avian Influenza, often referred to as Avian Flu or Bird Flu, raised concerns about a new worldwide pandemic similar to SARS and was at the center of the WHA discussions in 2005. Avian Flu kept alive the awareness of the international community with regard to the risks entailed by gaps in the global health system (McKee and Atun 2006) and was expected to be conducive to ensuring continued support for Taiwan's goals. Since Taiwan was surrounded by countries that had reported H5N1 cases to the WHO, the potential threat posed by Avian Flu for the island was obvious and Taipei's intention was to increase support for Taiwan's inclusion in the WHO by pointing to the analogy between SARS and Avian Flu.

At the WHA in 2005, Taiwan pursued a dual strategy, trying first of all to gain observer status in the WHA, as usual. Secondly, Taiwan had a clear objective for the IHR negotiations conducted at the Committee A meeting and lobbied for the inclusion of the phrase "universal application" in the IHR Resolution that was supposed to provide the legal basis for Taiwan's IHR participation.

The proposal of "Inviting Taiwan to participate in the World Health Assembly as an observer" was discussed at the General Committee Meeting on May 16, in which 21 countries, Taiwan's diplomatic allies, plus Fiji and Papua New Guinea, spoke in favor of Taiwan's proposal (WHA58/2005/REC/3: 5-14). 33 countries supported China's position. The two and a half hour long discussion accounted for 90 % of the meeting and caused the following meetings to be postponed until the afternoon, but the Committee was not able to achieve consensus on recommending the inclusion of the proposal as a supplementary item on the Assembly agenda. Taipei decided not to call for a vote in the afternoon's Plenary Meeting and avoided a discussion as time-consuming as the one in 2004 in order not to upset other countries that had participated in negotiations in the Intergovernmental Working Group (IGWG) over the IHR revision that had last-

ed until 3 am the previous day. The support of these countries was needed to push for the phrase “universal application” to be included in the IHR. Taiwan therefore simply initiated a 2 by 2 discussion with Chad and Malawi vs. China and Pakistan that ended with the Chair’s decision not to have the item included on the agenda.

The second goal at the WHA concerned the wording of the Assembly Resolution adopting the IHR, the fourth part of the IHR package. The IHR provide a global and legally binding health framework that aims to enhance public health security and provide a public health response to the international spread of disease (WHO 2008: 1-2, 10). The IHR were adopted by the Health Assembly, for the first time, in 1961 and were amended in the following decades in response to the current health problems. After the re-emergence of global diseases and health risks due to increasing trade and travel, the WHA in 1995 identified the need for a substantial revision of the IHR that led to the formulation of a new version of the IHR that was implemented in 2005 and came into effect on June 15, 2007. As of July 2011, this had been signed and implemented by 194 countries, including all members of the WHO. The IHR require countries to report disease outbreaks, define their obligations and establish procedures with the aim to avoid and minimize health crises. In order to facilitate direct contact to the WHO and the exchange of real-time information, the IHR requires every signatory to establish a National IHR Focal Point as a direct communication channel to the WHO’s IHR Contact Points.

Taipei actively lobbied for the inclusion of stipulations in the IHR that would serve as a legal basis for Taiwan’s participation and focused on the amendment of two Articles in the IHR (Yang 2010: 340-341). Firstly, Article 65, which concerned the qualifications of states that were not members of the WHO to participate in the IHR, should be formulated in such a way that it would provide a legal basis for Taiwan’s inclusion. In the second IGWG meeting, Nicaragua’s representative proposed the inclusion of a reference to areas that had independent systems of health. However, China threatened to withdraw the concessions that had been agreed in the four-part package to facilitate Taiwan’s inclusion in the IHR, if Article 65 was subjected to further negotiation (AIT 2004a). Secondly, Taiwan started lobbying for the phrase “universal application” to be included in Article 3. After three IGWG meetings, the negotiating parties came up with a draft of Article 3 that stipulated: “The implementation of these Regulations shall be guided by the goal of their universal application for the protection of all peoples of the world from the international spread of disease” (WHO 2008: 10). The increasing international support for Taiwan facilitated the inclusion of this so-called “universal application clause”, or, in short, “Taiwan-clause”, in the IHR. Taiwan had already been indirectly included in the 2003 SARS Resolution

with the phrase “all requests”; now the IHR referred to the principle of “universal application”, as another code word for Taiwan.

At the WHA, Taiwan lobbied to secure the Taiwan-clause in the Assembly Resolution adopting the IHR. In the IHR discussion at the Committee A Meeting on May 17, the principle of universal application was supported by all countries, including China, which stressed that “it was incumbent on sovereign States to implement them” (WHA58/2005/REC/3: 24). Negotiations centered on the question of whether the WHA Resolution adopting the IHR should include a reference to the principle of universal application and how such a reference might be worded. The draft resolution of the WHA Resolution specifically mentioned the principle in subparagraph 4 (6), which urged member states “to take all appropriate actions to facilitate the universal application of the revised International Health Regulations” (A58/4: 3). In the discussion at the Committee A meeting, many countries pointed to the principle of universality, but China, although supportive of the principle of universal application, opposed any such formulation being directly mentioned in the WHA Resolution.

Since there was no consensus on the wording of the Resolution, another IHR Working Group had to be established for further negotiations, during the course of which, the US and the EU supported the inclusion of the universal application clause in the WHA decision. A compromise was finally found when all parties agreed to a proposal made by Australia not to mention the wording “universal application” directly, but to refer indirectly to the principles in Article 3 of the IHR (Legislative Yuan 2005: 159). The IHR were adopted by the WHA on May 23 by Resolution WHA58.3 that stated:

“The Fifty-eighth World Health Assembly (...)

2. CALLS UPON Member States and the Director-General to implement fully the International Health Regulations (2005), in accordance with the purpose and scope set out in Article 2 and the principles embodied in Article 3 (...)” (WHA58/2005/REC/1: 7).

This formulation of the wording was regarded as a great achievement by Taipei. By means of international support and with the help of major WHO members, Taiwan had been able to resist the pressure brought to bear by China and had successfully lobbied in multilateral meetings to have a reference to the universal application clause included that was considered an important first step toward participation in the IHR. A formulation of the wording that referred to the consent of a national government had been avoided. By using the bargaining chip of not calling for a vote in the WHA, Taiwan had ensured that other countries would support its inclusion in the IHR and was optimistic that this would open the door for increased participation in the WHO.

China, nevertheless, made its position regarding Taiwan's IHR participation clear afterwards, by taking another step toward creating legal stipulations that lay claim to Taiwan as part of PRC territory. China submitted a declaration to the WHO in 2007, which emphasized that the IHR should also apply to the Taiwan Province and that the PRC's MOH was designated China's National IHR Focal Point (Xinhua News Agency 2007). In the section called "Declarations and Statements" in the Appendix to the IHR, China stated that the IHR "applies to the entire territory of the People's Republic of China, including the Hong Kong Special Administrative Region, the Macau Special Administrative Region and the Taiwan Province" (WHO 2008: 62).

The IHR were officially implemented in June 2007. In 2006, in an atmosphere that was fraught with tension over the threat posed by the spread of Avian Flu, the WHA adopted Resolution WHA59.2, urging member states to comply voluntarily with the IHR even before it had been officially implemented. Taiwan promptly declared its willingness to comply with all IHR provisions (CDC 2006). To avoid disputes over nomenclature, Taiwan abstained from using the designation "National IHR Focal Point" and offered to simply refer to "IHR Focal Point" for its contact window in the CDC. However, the letter sent to the WHO by the CDC Director, Steve Kuo, that informed the organization about Taiwan's voluntary compliance did not elicit any response.

Various factors contributed to the non-implementation of the four-part package on Taiwan's IHR inclusion. Firstly, the disclosure of the existence and content of the MOU evoked harsh criticism of China and made adherence to the secretly arranged deal difficult for Beijing. Secondly, the nomenclature used for Taiwan was hardly acceptable to Taipei and would again have resulted in emotional domestic debates. Government officials had repeatedly conveyed their fears to the US that the wording used in the MOU would give rise to accusations that the government was not sufficiently concerned to defend Taiwan's sovereignty and pointed out that the government was not willing to compromise Taiwan's dignity. Thirdly, cross-strait tensions rose after the adoption of the anti-secession law in March and made confidential agreements between Taiwan and China unlikely. The two sides were both unwilling to accept the compromise of functional IHR participation vs. acceptance and non-disclosure of the terms stipulated in a MOU that had been reached in February.

Functional WHO participation remained a major policy goal in Taiwan's WHO campaign and increased throughout 2005. Taiwan's contact channels to the WHO improved as a result of the island's inclusion in the INFOSAN network. INFOSAN is a joint initiative between the WHO and the FAO that was inaugurated in October 2004 to deal with the increasing likelihood of food contamination due to the rapid globalization of food production and trade (WHO

and FAO 2011: 6-18). As a global information network for the collection and distribution of real-time information related to food safety, INFOSAN had 177 members as of 2010. Members of the network are expected to establish one or more INFOSAN Focal Points and INFOSAN Emergency Points that have direct contact to the WHO INFOSAN Secretariat in Geneva. If an emergency related to food-safety should arise, parties are required to report to the network, which then may alert food safety authorities and provide essential details to the international community. After being notified by the WHO, Taiwan created an INFOSAN emergency contact point and thus established a contact channel for the direct exchange of information with the WHO (Interview with Taiwanese diplomats). This marked a significant improvement in Taiwan's functional participation, since food safety issues were beginning to attract more and more attention and, by 2010, more than 40 INFOSAN alerts had been issued by the Secretariat.

Taiwan also managed to attend ten WHO-related workshops, conferences and meetings between June and November 2005 (CDC 2005: 16-17). The first noteworthy case of Taiwanese participation in a WHO event, after the signing of the MOU, occurred at the "WHO Consultation on Good Agricultural and Collection Practices for *Artemisia annua* L." held in Nanning, China from July 5-7. The question of how to address the Taiwanese participant, Chang Yung-Hsien, was discussed in informal talks. In the end, the letter of invitation to Chang did not refer to any country, but was simply addressed to Dr. Chang, Vice President of China Medical University, Taichung. However, the published list of participants referred to Chang as "Dr Yung-Hsien Chang, Vice President, China Medical University, Taiwan, China" (WHO 2006: 33). The formula of using only the name, affiliation and city in the invitation, and having Taiwanese experts included under China in the list of participants, became common practice for Taiwanese experts attending technical WHO meetings. As stipulated in the MOU, the term "Taiwan" was avoided wherever possible by the WHO or was changed to "Taiwan, China" in official documents. From Taiwan's point of view, this procedure was certainly not ideal, but it was regarded as an improvement on the format used during the SARS conference in Kuala Lumpur in 2003.

Nevertheless, difficulties remained omnipresent. Taipei announced that since reporting the first SARS case to the WHO on March 14, 2003, two years had passed, during which the government had unsuccessfully requested to participate in 22 WHO meetings (Chen 2005b). While 14 requests were rejected, three were answered too late or with little practical effect, and five remained unanswered.

6.2.5 2006: Meaningful Participation and Growing Frustration over China

In 2006, the slogan of “meaningful participation” gained importance in Taiwan’s campaign and was stressed to increase Taiwan’s functional participation in selected WHO networks and activities. The Deputy Foreign Minister, Michael Kau (Interview 2010), pointed out that two aspects were given top priority: participation in all health-related professional meetings and access to WHO information and resources, such as networks, data, research and vaccines. Kau stressed that the level of actual participation should be more important than the level of appearance. The strategy of meaningful participation was intended to facilitate five main objectives (Chan 2006: 168):

1. Admission to GOARN and the other WHO mechanisms;
2. Participation in a greater number of technical and expert meetings;
3. IHR inclusion based on the principle of universal application and the establishing of a IHR Contact Point in the CDC;
4. Participation in the activities of the WHO’s Regional Offices, in particular, the Western Pacific Regional Office (WPRO); and
5. WHA attendance as an observer.

Before the start of the WHA, Taiwan was listed as an Avian Flu infected area on the WHO’s website on March 9, 2006, although no cases of Avian Flu had been confirmed on the island. After the virus had been detected on the Chinese Mainland, the WHO updated its H5N1 Avian Flu Global and Country Maps and included Taiwan as an infected area. The Taiwanese government strongly protested against this inclusion, fearing negative impacts on the island’s image, the economy and tourism and called on the WHO to clarify the issue (DOH 2006). After negotiations between the WHO and Taiwan’s Representation in Geneva, the WHO corrected the information on the website and Taiwan was listed on the map as a non-infected area after March 13 (Shan 2006).

When discussing Taiwan’s WHA strategy with the US, US officials asked Taipei to limit discussions at the WHA to a 2 by 2 debate, which would give Taiwan the opportunity to have its voice heard without endangering further progress in functional participation (AIT 2006b; 2006c). Michael Kau generally supported a 2 by 2 debate in talks with the AIT Deputy Director, David Keegan, but expressed concern that, without at least some symbolic achievements, a limited discussion that led to the rejection of Taiwan’s observer bid would be seen as a defeat, domestically, and would evoke critical public debates. On May 2, Kau requested US assistance to obtain a response from the WHO to Taiwan’s GOARN application and also asked the US to co-sponsor a WHA resolution on

Taiwan's observership with Japan. However, although generally supportive of Taiwan's policy, Keegan noted that Taiwan had put forward more requests each of the three times that the AIT had requested a response to the 2 by 2 proposal and pointed out that while Taiwan was looking for symbolic gestures, the US was more focused on taking practical steps forward. Already earlier in April, Keegan had noted that "[u]nder heavy political pressure, MOFA continues to push politics and symbolism, subtly trying to leverage WHO responses to Taiwan correspondence to imply some level of "recognition" for Taiwan" (AIT 2006a). The US identified an increasingly politicized MOFA-led campaign emphasizing symbolism over practicality and suggested closer cooperation with the DOH and the CDC.

Taiwan's WHA strategy followed the usual procedure, but in this particular year, 2006, the WHA was overshadowed by the death of the WHO Director-General, Lee Jong-wook, just 15 minutes before the start of the WHA. Taiwan then decided not to engage in time-consuming discussions, but to have only 2 by 2 discussions at both the General Committee Meeting and the Plenary Meeting in order to avoid causing irritation to other countries. In total, 21 countries, including five countries (US, Japan, Canada, Australia and Mongolia) without diplomatic ties to Taiwan, expressed their support for Taiwan 33 times at the Assembly meetings (Chiu 2008: 369-370).

In 2006, the WHA followed basically the same pattern as in the years before and did not lead to gains in terms of observer status or functional participation. However, the decision to reject Taiwan's proposal again caused great frustration in Taiwan and this led to a change in strategy for the years 2007 and 2008. Legislators submitted a proposal to request the Executive Yuan and relevant ministries to re-examine Taiwan's WHO strategy and promote full membership in the WHO. The resolution was unanimously passed by the Legislative Yuan on May 23, 2006 (DOH 2008: 16-18).

6.2.6 2007: Politicization of the WHO: Application for Full Membership under the Name "Taiwan"

In 2007, Taiwan simultaneously promoted WHO membership, WHA observership and meaningful participation and for the first time applied for full membership under the name "Taiwan". Taipei's change in strategy was mainly related to growing frustration over China's policy toward Taiwan in the WHO. After applying a functional approach that offered to put politics aside, and only pursuing observer status in the capacity of a health entity, Taiwan realized that even a low-key bid enjoying great international sympathy would not be sufficient

to change Beijing's position on Taiwan's participation in the WHO. From Taipei's point of view, China had increased pressure on Taiwan during recent months and the island was becoming increasingly isolated internationally. China's policy in the WHO clearly demonstrated, as the Resolution of the Legislative Yuan passed in 2006 pointed out, that "China's opposition and obstruction will not abate should Taiwan apply to become merely an observer in the organization" (DOH 2008: 18). In light of the apparent impossibility of becoming a WHA observer against China's will, the Resolution supported the implementation of a new strategy toward the WHO:

"Taiwan is a sovereign nation. That said, is it really necessary to downgrade Taiwan's WHO participation to observer status in the face of China's suppression and the difficulties that Taiwan has encountered concerning its participation? (...) Taiwan should change its present strategies and move beyond past conventional diplomatic actions (...). Taiwan could apply directly for WHO membership. In so doing, the Taiwan issue could be made known to the international community" (ibid: 17-18).

The resolution was endorsed by many government officials who had often complained about the diminishing opportunities to participate in the WHO during recent months. David Lin, the Director-General of the MOFA's department of international organizations, for example, stated in meetings with US officials on March 27, that Taiwan had lost ground in the WHO since Hong Kong born Margaret Chan, who became the new WHO Director-General on November 9, 2006 and was the first Chinese person to hold a high-level post in a UN organization, had taken office and that there was mounting frustration over the *ad hoc* way in which Taiwan was being treated as well over as the narrow interpretation of the concept of "meaningful participation" (AIT 2007a). The Foreign Minister, James Huang, similarly complained in talks with the US, that China "has objected to virtually every Taiwan effort to participate in international organizations, claiming these were moves towards achieving independence" (AIT 2007c). Chen Lung-chu (2006: 7-11), Chairman of the Taiwan New Century Foundation and former advisor to the President, Chen Shui-bian, pointed to the need for a new WHO strategy as a direct response to Beijing's strict enforcement of the one-China policy in cross-strait relations and IGOs and argued that since Taiwan's participation in many IGOs in the capacity of various entities might be seen as supporting China's claim that Taiwan was a non-sovereign actor, Taipei felt that there was an urgent need to reject China's claims by emphasizing that Taiwan was an independent sovereign state. Connie Guang-hwa Yang (Interview 2010) specifically referred to the frustration over China's strict policy toward Taiwan in the WHO as the main reason for Taipei's decision to consider a new strategy:

“Even if we had taken the same approach, I can tell you, there would have been no progress at all. And the situation of Taiwan, especially in this area, had already deteriorated. I kept receiving these complaints from our people in the medical area, they didn’t know whether they should participate in this meeting or not, because it seemed like, every time, even a purely medical discussion at a meeting had some political flavor. Since the memorandum had been signed, we were being treated worse and worse. If they hadn’t had these kinds of incidents accumulating one by one, Taiwan would not have gone in that kind of direction. Because if there was some progress, why couldn’t we move on, we certainly would have liked to do that. Toward China, I felt great frustration. We tried to be reasonable, but we couldn’t, because no matter how reasonable we were, China didn’t change. And the frustrating thing was, the economy and influence of China was becoming greater and greater”.

Similarly, another former high-ranking Taiwanese diplomat (Interview 2010) explained:

“One reason for the more radical policy of the DPP government was a feeling of frustration. Imagine during the first years as President, you submit your application very humbly, for example, after 2002, we applied as a health entity, but the outcome was always the same. As President, you have eight years, maximum. For the previous six or seven years, your frustration has been building up. Whatever you do, the answer is no. Don’t underestimate the frustration built up over the years. The change in strategy is not only a matter of domestic politics, it’s a combination of many things.”

Taiwan’s reconsideration of its WHO strategy was indeed affected by different variables. In addition to the current approach being perceived as not conducive to bringing Taiwan into the WHO, domestic incentives also played a major role in the government’s decision to abandon the pragmatic approach. Various opinion polls showed overwhelming domestic support, not only for the WHO campaign in general, but also for the government’s plan to apply for full membership under the name of “Taiwan” (DOH 2008: 16). In face of the upcoming elections for the Legislative Yuan in December 2007 and the presidential elections in March 2008, the new WHO strategy, in conjunction with the eye-catching campaign to join the UN under the name of “Taiwan”, also formed a major part of the DPP government’s campaign to help the party to win over the voters.

Another variable leading to the change in strategy is found in the personality of the President, Chen Shui-bian, himself. Michael Kau (Interview 2010) explained that, during his time as Deputy Foreign Minister between 2002 and 2006, it had been very difficult for him to persuade the President to support a low-key approach focused on meaningful participation for Taiwan as a health entity. While Kau argued that the pragmatic approach toward the WHO had already

resulted in a slow process of change, Chen generally took a more skeptical view of making concessions on Taiwan's status to participate in the WHO. After the political environment became increasingly difficult for the DPP government after 2006, Chen again decided to play the card of appealing to the Taiwanese identity by openly emphasizing Taiwan's international status as independent of China and seeking WHO membership under the name of "Taiwan".

On April 4, Taiwan officially decided to apply for WHO membership under the name of "Taiwan". On April 11, Chen Shui-bian sent an application letter, an official letter with "Republic of China (Taiwan)" in the letterhead, to the WHO Director-General, Margaret Chan. However, Chan decided not to circulate the application among the WHO members. The letter was returned secretly, pushed under the door of the Taiwanese Representation in Geneva without any further statement. Chen Shui-bian (2007) announced in an article in the Washington Post that the WHO Secretariat had responded on April 25, saying that Taiwan was not a sovereign state and was therefore not eligible for membership.

Although aware that the application for membership would almost certainly fail, Taipei intended to use the eye-catching bid as both a domestic political tool and an international bargaining chip. However, Taiwan's new strategy was received skeptically by the international community. US officials expressed concern that the new approach might undermine Taiwan's efforts to gain meaningful participation (AIT 2007b). In a meeting with the WHO Director-General, Margaret Chan, the Executive Director of the Director-General's Office, Bill Kean, and the Legal Counsel, Gian Luca Burci, on April 24, the US Ambassador, Tichenor, and the Japanese Ambassador, Fujisaki, stressed that they did not support membership for Taiwan, but were in favor of the island being granted observer status and meaningful participation (US Mission Geneva 2007). They emphasized the need for Taiwan's inclusion and urged the WHO to find better ways to implement the MOU and deal with Taiwan's functional participation. Chan acknowledged that the WHO did not adequately inform Taiwan about meetings and issued late responses to Taiwan's request for participation, but pointed out that Taiwan could not be given better treatment than WHO members, in the form of early notifications, and eventually promised to find ways to improve Taiwan's functional participation.

Further informal negotiations over Taiwan's IHR participation were held in Geneva before the start of the WHA at the beginning of May, and the German Ambassador, Michael Steiner, acted as mediator between Taiwan, China and the WHO (*ibid.*). In the first six months of 2007, Germany held the Presidency of the Council of the European Union and Steiner took the initiative to facilitate Taiwan's IHR inclusion after close consultations with the US and Japan. Steiner suggested an arrangement containing a neutral wording that did not specify any

nomenclature for Taiwan and did not include a reference to China's permission. On May 1, Steiner first proposed this arrangement to the Chinese Ambassador, Sha Zukang, who supported the proposal on condition that the WHO's letter of invitation sent to Taiwan's CDC included a statement that the arrangement had been made in accordance with WHO Resolutions, which would naturally also include Resolution WHA25.1 concerning China's representation in the WHO. On the next day, however, Sha insisted that there would be no direct interactions between Taiwan and the WHO. At a meeting between Tichenor and Sha on May 3, the US Ambassador reiterated his support for the proposal, but also expressed concern over Beijing's intentions, in particular, about a possible secret agreement between China and the WHO that would regulate Taiwan's participation. Sha attempted to dismiss this suggestion, but added that China would not agree to a deal that would jeopardize China's sovereignty. He suggested that China could make a public statement during the Assembly, demonstrating China's goodwill toward Taiwan's IHR participation under the one-China principle, which could be publicly acknowledged by the Director-General. Steiner met the Taiwanese Ambassador, Shen Lyu-shun, on May 4, to discuss the proposal, which was generally welcomed by Shen. However, Shen strongly rejected a public statement being made by China that would indicate the need for China's consent and suggested that the Director-General should make a moderate statement in the agenda item on applications for membership. This kind of shuttle diplomacy between the German Ambassador, Steiner, Taiwan and China continued through six rounds of talks until the parties had worked out a written proposal for Taiwan's inclusion in the IHR (Interview with Shen Lyu-shun 2010). However, the precondition stipulated that Taiwan and its diplomatic allies had to remain silent throughout the whole WHA. In other words, China demanded that Taiwan refrain from applying for either observership or membership and from initiating any discussion on this issue at the WHA in 2007. Taiwan would then receive the official IHR invitation after the WHA.

This proposal was eventually not accepted by the Chen government because of concerns that the deal would imply tacit agreement with the MOU and could be interpreted as conditional on the consent of Beijing (Interview with Chen Ming-tong 2011). Moreover, it did not match Taipei's new strategy of saying "no" to China through a highly politicized WHO campaign in 2007 (Chang 2010a: 453-454). Although functional IHR participation would certainly be welcomed by the government, the precondition was counterproductive for the primary goal of consolidating domestic support and increasing the visibility of the WHO campaign and was therefore not acceptable to Taipei.

Since Margaret Chan did not process Taiwan's membership application, the item of Taiwan's application was not placed on the WHA agenda. Twelve of

Taiwan's allies again submitted the proposal to "Request the Director-General to refer Taiwan's membership application to the Assembly for consideration" in a letter to the WHO Director-General. In the 2 by 2 discussion at the General Committee Meeting on May 14 that was held with Paraguay and Gambia vs. China and Cuba, China did not only strongly oppose the proposal, but also felt confirmed that Taiwan's WHO application had always followed purely political motives. The Chinese delegate stated that

"[s]uch proposals might have changed in content and appearance, but their essence remained the same: to insinuate Taiwan into WHO, or the Health Assembly, thereby creating "two Chinas" or "one China, one Taiwan" in the international arena. With its flagrant application for membership under the name of Taiwan, the latest proposal exposed its real intentions: to achieve political aims under cover of health issues" (WHA60/2007/REC/3: 4).

After the proposal was not placed on the agenda as a supplementary item, its inclusion was again demanded by Taiwan's allies in the afternoon's Plenary Meeting. The following discussion lasted for more than three hours and threatened to paralyze the whole agenda. Russia finally called for a decision on its own proposal to stop the discussions over Taiwan's WHO membership, which led to the third vote on Taiwan's WHO/WHA inclusion after 1997 and 2004. The vote ended with 148 to 17 in support of Russia's proposal and marked a clear defeat for Taiwan. Neither the US nor Japan voted for Taiwan. In their explanatory statements after the vote, both countries, as well as Canada, and Germany, representing the EU, expressed support for Taiwan's observer status at the WHA and for Taiwan's meaningful participation, but not for membership.

The international sympathy was largely the result of the low-key, health-related approach employed by Taiwan during previous years, but the application under the name of "Taiwan" revealed obvious political intentions and proved counterproductive to improving Taiwan's international space. Taiwan's self-constituted IHR Focal Point sent nearly sixty health-related communications to the WHO Contact Points between June 2007 and May 2008, which all remained unanswered by the WHO (WHA61/2008/REC/2: 19). Moreover, Taiwan was disconnected from the INFOSAN network, apparently because of the restructuring of the network within the WHO. While INFOSAN had previously enjoyed close relations with GOARN, food safety emergencies were transferred to a new department after the new IHR were implemented in 2007. Not being a member of the IHR, Taiwan was no longer able to use the INFOSAN communication channel to the WHO.

The consequent lack of food safety information impacted rapidly on Taiwan. In August 2007, infections linked to the consumption of imported raw baby

corn from Thailand had already been detected in Denmark and Australia. The WHO investigated the outbreak of the infections and suspected that Taiwan might also have received shipments of the corn exports from Thailand. However, the WHO only informed Beijing, which did not forward this news immediately, so that the CDC in Taiwan did not receive any information on the risks of the shipments until 10 days after the official notification from the WHO. Although in the end, it was revealed that no polluted corn had been imported to Taiwan, this case clearly showed the danger of Taiwan's non-membership in the WHO and was therefore used by Taiwan to demonstrate the need for the island's inclusion (MOFA 2007b; Wu 2008). Taipei claimed that out of 232 health-related communications sent by the WHO to focal points between June 2007 and May 2008, only 16 were passed on to Taiwan's CDC by Beijing (WHA61/2008/REC/2: 20). Emotional domestic discussions in Taiwan with harsh criticism of China's acts of oppression continued as part of the DPP's election campaign.

6.2.7 2008: From Chen to Ma: Conflicting Approaches

In 2008, the WHA overlapped with the change of government in Taiwan that was scheduled for May 20. As a result, the Chen government, still advocating a two-fold strategy of applying for both membership and observership, was responsible for Taiwan's strategy in the run up to the WHA and was still in charge on the first day, but the Ma government took power on the second day of the Assembly.

After the election, Ma Ying-jeou expressed his objection to the DPP government's WHO strategy in a letter to the NSC Secretary-General, Mark Chen, on May 4, and asked for the application for WHO membership to be dropped (Chiu 2008: 373). The Chen government, however, insisted on continuing with the original two-fold strategy. Chen Shui-bian wrote a letter to the WHO Director-General, Chan, in which he pointed out that although aiming for eventual WHO membership, Taiwan would also be willing to accept observer status as a first step toward full membership due to the international controversy over Taiwan's participation. However, the letter was not accepted by the WHO and was returned to Taiwan's Representation in Geneva.

Due to the change in government during the WHA, Taiwan was not able to pursue a coordinated strategy and basically followed the routine procedure in 2008. 17 allies proposed the inclusion of the supplementary agenda item: "Inviting Taiwan to participate in the World Health Assembly as an observer" (WHA61/2008/REC/3: 3-4). However, since none of Taiwan's allies was repre-

sented at the General Committee Meeting on May 19, the Chairman made a recommendation not to include the item on the agenda based on the rejections in the previous years, and this recommendation was accepted without prior discussion. A 2 by 2 discussion with Gambia and Palau vs. China and Pakistan was held in the Plenary Meeting in the afternoon, which lasted for 40 minutes and did not lead to the inclusion of Taiwan's proposal on the agenda (WHA61/2008/REC/2: 19-25).

The WHA in 2008 came too early for the Ma government to implement a new WHO strategy. However, Taiwan's observer status in the WHA continued to be a major foreign policy goal and became an important element in cross-strait rapprochement after 2008.

6.3 Cross-Strait Relations in the WHO after 2008

6.3.1 2008: Cross-Strait Relations: Slowly Working toward WHA Observership

Gaining observer status in the WHA became the priority goal of Taiwan's policy toward IGOs under the Ma government, which introduced a new WHO strategy. Instead of balancing against China, Taipei included China as important factor in its WHO strategy after 2008 and sought to come to an arrangement with Beijing over its WHA observer status that was based on improving cross-strait relations. This new low-key strategy, focused on health issues and functional participation and offering to set aside political controversies, showed considerable parallels to Taiwan's previous strategy for obtaining an invitation to join the WHA in the capacity of a health entity between 2002 and 2006, but with the distinction that Taipei now intended to use *the* opportunity offered by cross-strait rapprochement to address the issue in direct talks with Beijing. The Ma government therefore abolished the existing WHO campaign structure, which had included numerous domestic and international actors, and started to use cross-strait channels to achieve consensus on Taiwan's WHA inclusion.

Shortly after his inauguration in May 2008, Ma established a WHA task force headed by the NSC Secretary-General, Su Chi, and consisting of the DOH, MOFA and MAC (Office of the President 2009a). Taipei was optimistic that its goal would be achieved quickly since the groundwork had already been laid at the KMT-CCP meeting in Beijing in 2005, when both parties agreed to promote priority discussions on participation in WHO activities. The Ma government intended to use this agreement as a bargaining chip and presented the question of Taiwan's WHA participation as a litmus test for the normalization of cross-strait relations (Taipei Times 2009). Throughout the year, the issue of Taiwan's WHA

observership remained high on the cross-strait agenda and was discussed in numerous informal talks on different levels. In a meeting with the KMT chairman, Wu Poh-hsiung, on May 28 shortly after Ma's inauguration, Hu Jintao reiterated his commitment to the 2005 agreement and expressed optimism that with the "joint efforts of both sides to create conditions, a solution will be found to these issues through cross-Strait consultation" (Romberg 2008: 14). When Hu met with Lien Chan in May, the Chinese President proposed that, after the signing of cross-strait agreements, Taiwan and China should discuss the content of the 2005 agreement, including the question of Taiwan's international participation (Yang 2009c: 23). Hu again reassured Lien of China's general support for Taiwan's WHA participation at a meeting in August as well as on the sidelines of the APEC Summit in November (Hung 2009b). According to a US cable, Hu suggested sending someone to China for talks with PRC officials and pointed to the KMT-CCP forum held in December in Shanghai, which was not, however, approved by the NSC Secretary General, Su Chi (AIT 2008c). The KMT Deputy Chairman, John Chiang, stated that Taiwan was primarily using Su Chi's connections to establish contact with China and push for flexibility (c.f. Ko 2010). In 2008, both sides addressed this issue in unofficial talks, defined their positions and established the political will to find an acceptable solution as a basis for official cross-strait negotiations that were to take place in the following year.

6.3.2 2009: WHA Observer Status and IHR Inclusion

The year 2009 marked a breakthrough for Taiwan's WHO participation, because Taiwan was included in the IHR in January and invited to attend the WHA in May as an observer. On January 13, 2009, Bernard P. Kean, the Executive Director at the Office of the Director-General of the WHO, informed Taiwan, in a letter, about its official inclusion in the IHR and proposed arrangements for Taiwan's participation (CDC 2009). The WHO offered to:

1. Accept Taiwan's Point of Contact;
2. Allow direct communication and contact between the Contact Points of the WHO Secretariat and Taiwan;
3. Provide Taiwan with the password to the secured Event Information Site;
4. Dispatch experts to Taiwan and to invite Taiwan's representatives to attend related WHO emergency committees in the event of any Public Health Emergency of International Concern (PHEIC) in Taiwan; and
5. Invite Taiwan to propose a public health expert for the IHR Roster of Experts.

The IHR letter of invitation came as a surprise to Taiwan, but it contained elements that had already been negotiated under the DPP government. The proposed arrangements were along the lines of the proposal worked out during the IHR negotiations between Taiwan, China and the German Ambassador, Michael Steiner, in 2007. Taipei welcomed the invitation as a step toward more functional participation and accepted the offer in a written reply to the WHO. The letter from the WHO was addressed to the “CDC Director in Taipei”, Steven Kuo, and avoided the designation “Taiwan, China” by referring to the “Contact Point in Taipei”, which left room for interpretation and was acceptable to Taipei.

However, China again emphasized its firm position that arrangements regarding Taiwan had to be approved by the central government in Beijing, as pointed out by a TAO spokesman:

“We attach great importance to the implementation of the “Regulations” and have announced in 2007 that the “Regulations” is applicable in the entire territory of China (...). On this basis (...), the Chinese government has consulted with the Secretariat of the WHO and made some relevant arrangements (...) for the application of the “Regulations” in the Taiwan region” (cit. in Romberg 2009a: 11).

The implementation of the IHR arrangements involved Taiwan in difficulties. Taiwan had to write two letters to the WHO before the WHO contacted the CDC for the first time and eventually provided the password for the Event Information Site about two months after the letter of invitation had arrived (Interview with Shih Chin-shui and Perin Chen 2010). Moreover, after the IHR entered into force in 2007, eight Taiwanese ports were included in the IHR Authorized Ports List with the PRC’s ports under the entry of “China” (WHO 2010), which was not altered after Taiwan had officially been included in the IHR. Taiwan also did not appear on the list of State Parties to the IHR on the WHO webpage (WHO 2011b) and the Taiwanese expert, Chang Shan-Chwen, was listed on the WHO’s Roster of Experts List as being from “Taiwan, China”. The designation of “Contact Point in Taipei” instead of the official term for IHR member states “Focal Point”, the existence of the Chinese declaration to the IHR made in 2007 and the unresolved problem of the format of Taiwan’s participation were strongly criticized by the opposition parties, who argued that these factors created the impression of a tacit agreement that Taiwan was subject to Chinese authority and participating according to the one-China principle.

The KMT government opposed the unilateral declarations by China and the actions of the WHO regarding the format of Taiwan’s participation, and did not consider them to be binding upon Taiwan. Taipei regarded the exchange of letters between the WHO and the CDC in January 2009, which did not link Taiwan’s participation to China in any way, as the legal basis for Taiwan’s IHR

inclusion. The Ma government protested against the entry in the IHR ports list several times, but considered the increase in functional participation as valuable enough to outweigh the negative impact of being listed under China. In the context of Taiwan's new approach toward international organizations, changes in the format of Taiwan's treatment were more likely to be achieved from inside the organization. Taiwan also aimed to avoid cross-strait tension developing from any high-volume protests in order not to jeopardize the island's primary goal of being invited as an observer to the WHA in May or endanger the upcoming cross-strait negotiations.

The negotiations between Taiwan and China leading to Taiwan's observer status in the WHA were the first case of direct cross-strait negotiations over the issue of Taiwan's international space in IGOs. In March, Ma Ying-jeou announced that official cross-strait negotiations would be conducted in April in an overseas location, but did not provide any details regarding the precise location, the time or the participants in the talks which sparked furious speculation in Taiwan (Mo 2009). The DPP legislator, Kuan Bi-ling, claimed that the KMT Chairman, Wu Poh-hsiung, had secretly come to an agreement with China not to make any UN and WHA bids in the next four years (Hsu 2009c). Kuan further stated, in a press conference, that the KMT and the CCP had reached agreements on four points: firstly, that Taiwan would consult China and not the international community on the WHA bid; secondly, that Taiwan would join the WHA under the title of "Chinese Taipei" and not challenge the one-China framework; thirdly, that the WHA would review Taiwan's observer status annually; fourthly, that the letters from the WHO Secretariat to Taiwan would be delivered to Beijing (Ko and Chang 2009). The Presidential Office quickly rejected these allegations and government officials unceasingly stressed that the government would safeguard Taiwan's sovereignty in the WHA negotiations. The government did not release any information on the discussions with China, but justified the non-disclosure with reference to international practices and promised to provide information at an appropriate time.

On April 29, Ma Ying-jeou finally announced that Taiwan would attend the upcoming 62nd WHA as an observer under the name of "Chinese Taipei". The official letter of invitation sent by the WHO Director-General, Margaret Chan, to Taiwan's Health Minister, Yeh Ching-chuan, was addressed to the "Department of Health, Chinese Taipei" and received on April 28. Obviously, Taiwan's invitation to attend the WHA was first and foremost the outcome of the secret bilateral negotiations between Taipei and Beijing. The WHO spokesman, Thomas Abraham, pointed out that "[t]here's no negotiation with the WHO. The WHO was not involved at all" (Hsu 2009d). He explained that after agreements concerning Taiwan's WHA accession to the WHA had been negotiated by Taiwan

and China, the WHO was notified of the results and then the invitation was sent to Taiwan.

Since the details of the cross-strait talks were not disclosed, the issue of how exactly Taiwan's invitation to attend the WHA was negotiated remained highly speculative. Even government officials, including MOFA and DOH officials, who had been dealing with Taiwan's WHO campaign for years, acknowledged that they had not been informed about the details or the progress of the negotiations (Interviews with Taiwanese diplomats 2010 and 2011). After Ma Ying-jeou took office in 2008, politicians from both sides, by using unofficial channels and issuing numerous public statements, demonstrated their commitment to finding an arrangement which would allow Taiwan to participate in the WHA. After the political will had been established and approved at the highest level, the technical phase of the cross-strait negotiations could proceed. These negotiations, in fact, did not focus on health-related topics, but centered on political questions related to Taiwan's participation in the WHA, for instance, how to address Taiwan and Taiwan's delegates, who would be allowed to attend, the format of the letter of invitation and the kind of wording that would have to be avoided.

According to Dr. Mignonne Chan (Interview 2010), consultations were conducted with relevant key WHO members as expected. Since the DOH was the main agency responsible for Taiwan's WHA participation and contacts between health officials from both sides of the Strait had already been established, for instance, through the APEC Health Task Force, DOH officials may well have been the key coordinators for Taiwan's participation in WHA. Taipei insisted on not being listed in any lower category than the general category of "observers" in order to avoid any status or nomenclature that might prove harmful to Taiwan's sovereignty. Moreover, Taipei requested the designation "Minister" for the head of the delegation in order to show that they were on an equal footing with the other WHA participants. It seemed that both sides tried to set aside political differences and avoided questions regarding the legal basis of Taiwan's participation during the consultations. By intentionally avoiding any categorization of Taiwan's status in the WHA, the two sides were able to find an acceptable arrangement that left room for different interpretations.

Gaining accession to the WHA as an observer was an achievement of crucial significance for Taiwan. For the first time since 1971 and after 13 consecutive years of campaigning, Taiwan was able to attend the WHA, and to participate officially in an activity of an UN-affiliated organization. Many Taiwanese officials referred to the WHA accession as a breakthrough or, as Ma Ying-jeou put it, as an "important milestone for Taiwan" (Office of the President 2009b). Government officials expressed hope that as a result of acceding to the WHA, Taiwan would be able to increase its participation in WHO activities, WHO

disease control programs and networks, such as GOARN and INFOSAN (Shih 2009a; Kuo 2009).

Ma Ying-jeou referred to three key factors in the context of Taiwan's invitation to attend the WHA (Office of the President 2009a): (1) the domestic aspirations and the support of all sectors in Taiwan regardless of political affiliation, including political parties and the public; (2) the goodwill of Mainland China; and (3) the strong support of the international community, including major states, such as, the US, Japan and the EU, as well as countries with and without diplomatic relations with Taiwan. Ma Ying-jeou's statement provides a useful analytical framework that considers Taiwan's IGO policy as a three-level game. It is noteworthy that Ma specifically referred to China's goodwill, a move that was heavily criticized by the opposition as tantamount to accepting China's role as doorkeeper for any international participation. Whether described as goodwill (Ma Ying-jeou) or approval (DPP), Taipei deliberately used its quest for participation as a bargaining chip and linked the WHA issue to future cooperation and improvements in cross-strait relations to prevent China from blocking its quest (The China Post 2009a).

On the domestic level, however, the Ma government had to face severe criticism regarding the WHA deal. Opinion polls showed the strong support of the Taiwanese for the invitation to the WHA meeting and, therefore, the DPP therefore decided to generally welcome Taiwan's invitation to the WHA, but criticized three aspects of Taiwan's accession: first, the non-transparent decision-making process during the secret negotiations between Taipei and Beijing; second, the unclear status of Taiwan in the WHA; and third, the insufficient increase in functional WHO participation (Chen 2009; Huang 2008: 74-86; Kuan 2009; Romberg 2009b: 5-6; DeLisle 2009). Since Taiwan was not listed on the WHA List of Participants (A62/DIV/1 Rev.1: 60-61) as a "non-member state observer" like the Holy See, but in the general category of "observers" along with the Order of Malta, the ICRC, the IFRC and the IPU, the opposition was concerned that Taiwan was participating in the WHA as an NGO rather than as a sovereign state. Unable to find evidence that the MOU had been abandoned after Taiwan joined the WHA and the IHR, the opposition accused the KMT government of accepting arrangements under the one-China framework that made the WHO the only international organization in which Taipei was subordinated to Beijing. With regard to functional participation, many observers claimed that WHA observership would not help to increase functional participation or to gain WHO membership because observer status might have resolved the issue of Taiwan's participation in the WHO with a symbolic political success for the Ma government, but without a substantial increase in functional participation. The momentum of the campaign had been lost and Taiwan's WHO inclusion had

now become a non-issue that was no longer of any use for gaining health benefits and international support or for promoting Taiwan's international status independent of Beijing.

The Ma government rejected the criticism and countered that being included in all WHO networks and activities as a full member remained the ultimate goal, but that this was unlikely to be achieved immediately under the current international conditions. Instead of making lot of noise and demanding a holistic WHO inclusion, Taiwan, it was argued, now had the chance to back up its words with actions by participating meaningfully in the WHO, becoming familiarized with projects and mechanisms, expanding its network within the organization and creating opportunities by being included in WHO activities from inside the organization. Increasing direct interactions and communication channels with the WHO was regarded as essential, to show that the MOU did not apply to Taiwan and to present Taiwan as part of the international community. Chao Chien-min (Interview 2010), the Deputy Minister of the MAC, pointed out:

“If you don't participate, if you're not visible, you will be forgotten. If you cannot be present there, it means nothing in terms of sovereignty. Our representation now is entitled Chinese Taipei; that is not a one-China framework. I don't share the worries. Right now we have a chance to prove that Taiwan's or the ROC's sovereignty is more consolidated than before, because we attend the WHA and, for example, our Minister is addressed as the Minister of Health. We have been given the chance to talk and we have reconnected with this very important international organization. Taiwan is there.”

Taipei emphasized that no secret deals had been made with Beijing, that the participation of observers in the WHA was based on practice and that Taiwan had the same rights as any other observer in the WHA. Since the arrangement allows room for different interpretations, the Taiwanese government naturally considered itself to be representing a sovereign state at the WHA, as a Taiwanese diplomat (Interview 2010) pointed out:

“There is no specific legislation or rule that stipulates how a state can be invited as an observer. It's all about practice. Everybody takes what he wants. We think we are a state. We were invited and we went there as a state.”

Needless to say, China did not agree with Taiwan's interpretation. Government officials and analysts from the Mainland also viewed Taiwan's WHA participation as a milestone in cross-strait relations, but argued that Taiwan's WHA observer status was in line with the one-China principle and subject to the approval of Beijing (Interviews with Chinese scholars 2010, Jian 2009; Chen 2010: 81-

84). However, China, at the same time, was aware that Taiwan's WHA status allowed broad interpretations. The Chinese Deputy Foreign Minister, He Yafei, during a working lunch with the Chargé d'Affaires, Dan Piccuta, at the US Embassy in Beijing, on April 30, 2009, revealed that "Taiwan's participation as an observer at the upcoming May World Health Assembly (WHA) meetings demonstrated what could be achieved based on 'one China, very broadly interpreted'" (Fong 2010).

The occasion of Taiwan's first participation in the WHA since 1971 was widely considered a success. The Taiwanese 15-member delegation to the WHA, headed by the Health Minister, Yeh Ching-chuan, consisted solely of health experts. The Director-General of the MOFA's Department to International Organizations, Paul Chang, also accompanied the delegation. Yen delivered a five minute speech at the Assembly, which he concluded with the words "thank you" in Taiwanese, and another three minute speech at the luncheon at the WMA. Taiwan was able to obtain access to all WHA documents immediately and was addressed in all documents, meetings and bilateral talks, either as "Chinese Taipei" or "Taiwan". Members of the Taiwanese delegation reported that other countries were less cautious when interacting with Taiwan at the WHA (Interview with Shih Chen-shui and Perin Chen 2010). Moreover, Taiwanese journalists, who had previously been unable to enter the venue, received official entry passes for the WHA.

Yeh had a meeting with the Chinese Health Minister, Chen Zhu, on the sidelines of the WHA (Office of the President 2011b). The one-hour meeting marked the first official cross-strait interactions inside the WHO. Direct interactions with China formed an essential part of Taiwan's new strategy toward IGOs and were regarded as a way of influencing China. Taipei intended to increase the awareness of Taiwan's need for WHO inclusion and to convince the Chinese side that Taiwan's bid for greater WHO participation was not a political campaign, but followed health imperatives. Other bilateral talks were held, for example, with the US, the EU, Canada, and Japan.

The GIO Minister, Philip Yang, pointed to six important changes with regard to Taiwan's international space in the WHO through the invitation to join the IHR and WHA (Tseng and Chang 2011):

1. Taiwan's status in the IHR and WHA was not officially defined as part of China, but rather as a government without specifying whether it was the government of a sovereign state or a Chinese province. Thus the two sides could have different interpretations.
2. The name, "Chinese Taipei", was increasingly used as Taiwan's title. Taiwan participated in the WHA under this name and data on some related

- WHO websites used this name accordingly. The Health Minister was officially addressed as “Minister”.
3. Taiwan could attend higher level meetings than before. While, previously, Taiwanese experts had taken part in technical meetings, the government could now participate in the WHO’s highest decision-making body.
 4. High-ranking government officials were allowed to take part in WHO activities, for example, the Health Minister was able to attend the WHA. Previously, Taiwanese participants could only take part in the capacity of private persons or experts, and ministry officials had to observe the WHA from the public gallery.
 5. Communications with the WHO improved. Taiwan, for the first time, was able to establish official direct communication channels with the WHO as a result of being included in the IHR in 2009 and, by 2011, had made direct contact with the WHO over 200 times.
 6. Participation in the WHA meant that more health-related issues could be addressed and more information could be obtained. Taiwan also gained more opportunities to interact with other countries on health-related issues and to contribute to the global health system.

However, difficulties regarding Taiwan’s nomenclature and functional participation remained. First of all, confusion over Taiwan’s status in the WHO arose as a result of various items on the WHO’s webpage. In May 2009, shortly after Taiwan had been invited to attend the WHA, China, Hong Kong and Taiwan were colored red on the WHO’s “H1N1 influenza global outbreak map” although Taiwan, in contrast to China, was still H1N1 free. The MOFA announced plans to investigate the issue, but these quickly became irrelevant because, just a few days later, Taiwan also had a confirmed case of swine flu. However, this first confirmed case of H1N1 was initially listed under China on the WHO webpage, which gave rise to new discussions over Taiwan’s WHO status (WHO 2009a). On May 21, 2009, the numbers of confirmed cases in China shown on the webpage increased from 7 to 8 including the case in Taiwan. Taiwan’s Representative Office in Geneva lodged a complaint with the WHO Secretariat, and the DOH started a protest action by refusing to report Taiwanese cases to the WHO. The WHO spokeswoman, Aphaluck Bhatiasevi, confirmed that the Taiwanese case of swine flu was listed under China, but also emphasized the fact that the WHO had not yet reached a conclusion on how to deal with Taiwanese cases. On May 23, the WHO adjusted its website, separating Taiwanese and Chinese cases of swine flu by listing Taiwan in an appendix below the table (WHO 2009b). The attendant “map of the spread of Influenza (H1N1)” was adjusted accordingly, first with Chinese Taipei’s appendix linked to China

(WHO 2009c) and from May 25 onwards, without any connection to any other country (WHO 2009d). In July 2009, the statistics on the WHO webpage were changed to cumulative regional data, so that Taiwanese cases were included in the overall number of the WPRO. Nevertheless, although the WHO had found an acceptable solution to the H1N1 listings, it continued to treat Taiwan as part of China and presented Taiwan as part of China's territory in both the English and the Chinese WHO's country profile (WHO 2011a). The year 2009 marked a breakthrough in Taiwan's functional WHO participation in terms of Taiwan's inclusion in the IHR and the WHA, but controversy over the format of Taiwan's participation remained, both on the domestic front as well as within the WHO.

6.3.3 2010: The Descent of Taiwan's WHO Campaign: Inside WHA, outside WHO

Taiwan's WHA participation in 2010 basically followed the pattern set in 2009. Taiwan received the letter of invitation to attend the 63rd WHA at the same time as all the other members and observers at the end of March 2010 (The China Post 2010b). Unlike the previous year, when the WHO faxed the invitation roughly a month before the WHA started, this time, it was sent directly to the Taiwanese Representation in Geneva. The invitation was worded in the same way as in 2009, and addressed to the new Health Minister, Yaung Chih-liang. At the WHA, Taiwanese officials took part in 15 experts' meetings and had bilateral talks with countries. The Health Minister, Yaung, had a meeting with his Chinese counterpart, Chen Zhu, in the afternoon, to discuss current cross-strait health issues related to the increased exchanges in goods and persons across the Strait (Office of the President 2011b). The two sides agreed to cooperate on clinical trials for an enterovirus vaccine, food safety management and public health and also agreed to sign a deal on public health cooperation (The China Post 2010a).

Cooperation on cross-strait health issues and interactions between health officials outside the WHO increased rapidly. Public health and food safety issues were addressed in the Chiang-Chen Talks, which had already led to the signing of a "Cross-Strait Food Safety Agreement" between the SEF and ARATS on November 4, 2008, after imported milk powder from China contaminated with melamine was found in Taiwan in September 2008. As a result of the Sixth Chiang-Chen Talks, the two sides signed a Cross-Strait Agreement on Medical and Health Cooperation in December 2010. In addition to interactions under these agreements, frequent cross-strait exchanges and discussions were held between health officials at different levels. For instance, China's Deputy Health

Minister, Huang Jiefu, led a Chinese delegation to attend a Symposium on influenza A (H1N1) prevention that was held in Taipei on January 19, 2010 (China Times 2010). Huang attended the Symposium in his capacity as a CMA consultant and had meetings with various officials, including the Legislative Yuan Speaker, Wang Jin-pyng, the Health Minister, Yaung Chih-liang and the former Health Minister, Yeh Ching-chuan. These high-level meetings facilitated cross-strait health cooperation, and were also used by Taiwanese officials to address Taiwan's desire for more international space in health-related affairs in private talks with their counterparts.

The year 2010 proceeded rather uneventfully with little progress being made in increasing functional participation. The optimism expressed by Taiwan after the WHA in 2009 with regard to opportunities to expand its WHO participation and be included in additional meetings and networks proved unfounded. The bids to participate in prominent activities, such as the FCTC and the meeting of the Executive Board, which occasionally included WHA observers in its meetings, were not accepted (Lin 2010). Taiwanese officials reported that China's representatives had shown a surprisingly strong reaction to Taiwan's proposal to attend the Executive Board meeting as an observer by issuing a warning to other WHO members that Taiwan's efforts to increase its WHO participation might jeopardize its WHA observer status in 2010 (AIT 2009e). Taiwanese experts were invited by the Secretariat to participate in five WHO technical meetings in 2009 and in four WHO technical meetings in 2010 (Interviews with Taiwanese diplomats 2010). 16 applications for technical meetings were filed with the WHO Secretariat in 2010, and the rejection rate was 75%, similar to the rejection rate before 2008. One and a half years after Taiwan had acceded to the WHA, the island still remained excluded from a substantial number of WHO activities, including the meetings of the Executive Board, the WPRO and the IGWG as well as the WHO's major mechanisms. Moreover, the donation of 500,000 doses of H1N1 vaccines through the WHO to countries in need that Taiwan had promised at the WHA in 2009 could not be delivered, because Taiwan was not pre-qualified to donate vaccines (AIT 2009e). Taiwan first needed to submit paperwork asking the WHO to send inspectors to Taiwan to approve a "national regulatory authority". However, Taiwanese officials complained that Taiwan was unable to go through the pre-qualification process, because the WHO refused to work with DOH officials, and suspicion emerged that clear political intentions on the part of China were behind this move.

The difficulties in expanding functional participation were closely related to China's reluctance to allow Taiwan more space in the WHO, but the frequent reshuffling of government officials on the top and medium levels of the DOH after 2008 also prevented the development of any consistent and efficient policy

toward participating in different WHO activities. Between May 2008 and February 2011, the DOH was headed by four different Health Ministers: Lin Fang-yue (May – September 2008), Yeh Ching-chuan (September 2008 – August 2009), Yaung Chih-liang (August 2009 – February 2011), and Chiu Wen-ta (since February 2011). Moreover, some Taiwanese diplomats (Interviews 2010) complained that, after succeeding in joining the WHA, the DOH became over-occupied with preparing for WHA meetings instead of actively pushing for participation in other meetings, and, as a result, the WHO gained the impression that Taiwan was satisfied with “taking part in one five-day conference each year” (Chang 2011). Support from the international community abated after 2009 due to the fact that Taiwan had not only achieved its main objectives in the sense of being able to participate in the WHA and the IHR but had toned down its highly visible WHO campaign. Taiwanese government officials also reported that they had encountered problems when lobbying other countries, whose representatives oftentimes referred to China as the key to Taiwan’s international space and suggested following the successful model of direct cross-strait talks, in order to find a political solution to the problems of participation.

6.3.4 2011: The WHO’s Internal Memo: Controversies over Taiwan’s Status

Taiwan’s participation in the WHA in 2011 basically followed the pattern of the previous two years, but this year’s WHA attendance was overshadowed by an internal memorandum in the WHO, leaked roughly a week before the WHA started, that defined Taiwan’s status as “Taiwan, Province of China”.¹⁵ The internal memo entitled “Application of the International Health Regulations (2005) to the Taiwan Province of China” and issued by the Executive Director of the Director-General’s Office, Anne Marie Worning, in September 2010 regulated the way that the WHO was to deal with Taiwan’s inclusion in the IHR. The memorandum had an attachment, entitled the “Procedures Concerning an Arrangement to Facilitate Implementation of the International Health Regulations (2005) With Respect to the Taiwan Province of China”. It is particularly noteworthy that these procedures were based on an arrangement between the WHO and China that, according to Article 1 of the confidential memorandum, “allowed certain interactions and communications between the WHO Secretariat and technical health authorities in Taipei”.

The document regulated the implementation of the IHR in Taiwan, but also indicated in Article 6 that other issues with regard to Taiwan might fall within

¹⁵ The internal memo can be found in Appendix E.

the scope of the MOU signed between the WHO and China in 2005. It further stipulated in Article 14 that, although Taiwan had been included in the IHR, there had been no change in the status of Taiwan as a province of China in the WHO under the terms of WHA Resolution 25.1 and that Taiwan thus could not become a party to the IHR. With regard to the terminology used when referring to Taiwan, Article 13 instructed all WHO units to use the designation “the Taiwan Province of China” and indicated that information related to Taiwan was not to be shown separately as if this referred to a state, but listed under China.

The memorandum established a WHO Contact Point for IHR-related interactions between Taiwan and the WHO (Articles 6-11). Similar to the Focal Point in the MOU, the WHO Contact Point functions as the central unit for all communications between the IHR Contact Point in Taiwan and the WHO. Any WHO units receiving information from Taiwan were advised to forward this information to the WHO Contact Point without any response or acknowledgement being sent to the sender. The Contact Point was entitled to proceed according to the arrangement or, if necessary, could coordinate with the WHO Focal Point, which had been established by the MOU, or the Permanent Mission of China in Geneva. All these arrangements followed the objective of presenting Taiwan as a province of China and the WHO Secretariat was advised to refrain “from actions which could constitute or be interpreted as recognition of a separate status of Taiwanese authorities and institutions from China” (Article 4).

It seemed obvious that the earlier arrangements made between China and the WHO as well as Beijing’s constant pressure to regulate Taiwan’s participation in WHO activities, had paved the way for the WHO’s action. For China, the WHA model merely marked an exception with regard to Taiwan’s designation, and did not alter the fact that Taiwan’s participation in any WHO activities had to be in line with the one-China principle. After Taiwan had been included in the IHR and the WHA, the need arose for some adjustments to be made to the existing arrangements between China and the WHO.

Shortly after the revelation of the internal memo, further information was made public about internal WHO policies aimed at Taiwan. Passages related to the WHO’s publishing policies that had been found on an internal WHO website were disclosed, that instructed officials not to use the term “Taiwan”. The website further elaborated on the fact that the Taiwan area “is considered, within the United Nations system, as a province of China under the jurisdiction of the Chinese government in Beijing” and that the designation “Chinese Taipei” was to be used for “a list of participants, summary records and similar documents of World Health Assemblies to which that entity is invited as an observer” (Chao 2011).

Taiwan’s was outraged over the internal memo. Statements made by President Ma and other officials as well as actions taken to protest against the memo

were harsher than before. Taiwan protested against the internal memo in three ways. Firstly, the Minister of Health, Chiu Wen-Ta, wrote a letter of protest to the WHO Director-General, Margaret Chan, in which he expressed his utmost dissatisfaction with the “improper procedures and erroneous terminology of political nature”, which are “not only inconsistent with the reality, but also hinder the implementation of the IHR” (DOH 2011). He rejected the internal memo from both the political and legal perspectives by pointing to the DOH as the sole and highest health authority in Taiwan and referring to the legally binding exchange of letters between Taiwan and the WHO regarding Taiwan’s IHR inclusion as the legal basis for Taiwan’s status and participation. Similarly, the US Secretary of Health and Human Services, Kathleen Sebelius, backed Taiwan’s position in Geneva saying that the US “made it very clear to the WHO and I think the United States’ position is that no organization of the UN has a right to unilaterally determine the position of Taiwan” (Huang 2011b). Secondly, Chiu Wen-Ta used the opportunity offered by the WHA to express his protest during his speech at the Assembly on May 18, 2011 by urging the WHO to adopt the WHA model for Taiwan’s participation in the organization (MOFA 2011a). Thirdly, Ma Ying-jeou chose to use unusually strong wording when he criticized the WHO for double-dealing and for employing a two-sided approach toward Taiwan (Mo 2011). Ma also announced that the internal memo was clearly the result of pressure exerted by Beijing and that a serious protest had been lodged with the Chinese authorities (Office of the President 2011a). Beijing should not jeopardize cross-strait relations by hurting the feelings of the Taiwanese.

Similar to the debates that had taken place when Taiwan had first participated in the WHA in 2009, the different interpretations regarding the island’s WHO/WHA status again became evident and triggered another round of emotional debates, particularly in Taiwan (Chao, Shih and Huang 2011). The DPP acknowledged that Taiwan’s WHA participation allowed different interpretations, but found more than enough evidence in the format of Taiwan’s WHO activities to substantiate China’s claim that Taiwan was taking part in the WHO as a province of China. The Ma government called on the opposition to acknowledge the harsh international realities, pointing out that Taiwan had participated in WHO activities under the name of “Taiwan, China” 18 times under previous DPP governments and that Taiwan was able to receive better treatment and expand its functional participation and visibility in the WHO since 2009. The slow progress in Taiwan’s functional WHO participation and, in particular, the existence of the internal memo also provoked internal debates within the MOFA. Discussions dragged on until 2012 and delayed the completion of a new position paper on Taiwan’s future strategic approach toward the WHO.

6.4 Conclusion of the WHO Case Study

Taiwan's campaign to join the WHO provides the most eye-catching example of Taiwan's aspirations to gain more international space in IGOs. Taiwan's policy was determined by three important motives that were activated, stressed and reduced at different times. The functional, health-related motive appeared to be the main driver for Taiwan's WHO campaign between 2002 and 2006 and again after 2008, while the international motive to enhance Taiwan's international status and gain worldwide support was dominant between 2006 and 2008. The domestic motive of picking up and appealing to public opinion was omnipresent and particularly emphasized in the run up to the presidential elections in 2004 and 2008.

Between 2002 and 2006, Taiwan essentially tried to discover which strategy would be most effective with regard to improving participation in all kinds of WHO activities and therefore submitted applications for WHA observer status under different names and in different capacities. Low-key presentations of bids offering to put aside political contentions and a high-volume response to China's attempts at suppression formed part of the strategy. Taiwan was able to make its voice heard through various channels, including diplomatic allies, friendly countries, NGOs and media as well as through approaches to the WHO Director-General, the WHO Legal Counsel, and the various departments of the WHO. By improving coordination between government agencies, Taipei was able to bundle these different approaches into a proactive, multi-faceted strategy that exploited the rules and procedures of the WHO as well as global concerns over public health to promote, both domestically and internationally, a health-centered bid for improved opportunities to participate in the WHO. The outbreak of SARS at the end of 2002 proved to be a major catalyst for Taiwan's WHO campaign. Cross-strait tensions escalated and both Taipei and Beijing complained about the other side using the SARS crisis for political purposes. Their handling of SARS led to greater divisions between Taiwan and China, created a "we-sentiment" among the Taiwanese and united the Taiwanese government, opposition and population in the bid to join the WHO. As a result of Taiwan's efforts, functional participation as well as indirect interactions between Taiwan, China and the WHO increased remarkably, most prominently, in negotiations over the SARS Resolution in 2003, the IHR Decision in 2005 and Taiwan's possible IHR inclusion in 2007.

After 2006, political motives for enhancing Taiwan's international status and influencing domestic elections moved toward the center of the campaign. The new approach was, to a great extent, a direct reaction to the stricter policy employed by Beijing toward Taiwan in the WHO and frustration over the failure

of the earlier pragmatic approaches, which prompted the DPP government to employ a much more politicized strategy by applying for WHO membership under the name of “Taiwan” in order to avoid being absorbed into the Chinese orbit. In terms of functional participation, this strategy turned out to be counter-productive.

International support, particularly from the US, was of crucial importance. Global diseases, such as SARS and Avian Flu, led to increased awareness of global health issues, and cooperation between all international actors came to be seen as something that was in the fundamental self-interest of the entire international community. De Lisle (2009) rightly concluded with regard to Taiwan’s chances of joining IGOs, that “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.” The US Congress played a vital role in facilitating Taiwan’s WHO observership, submitting no less than six Resolutions in support of Taiwan, even during the Clinton era (Chang 2010a: 460–479). Between 1998 and 2004, five bills became public law that required the Secretary of State to actively support Taiwan’s efforts to participate in the WHO/WHA and to report the plans and progress achieved by US policy regularly to Congress. After the US government had openly indicated its support for Taiwan in international settings, other democratic countries felt more encouraged to resist China’s pressure and followed the US example. After 2002, Japan expressed its support for Taiwan at the WHA and in direct talks with Chinese officials and was the only country, apart from the US, that did not vote in line with its diplomatic ties but in favor of Taiwan at the WHA in 2004. The EU, although never able to reach consensus among its member states to vote for Taiwan’s proposals, expressed sympathy for Taiwan in official meetings many times and openly demanded Taiwan’s meaningful participation in WHO activities. WHA observer status and functional participation for Taiwan was also supported by many parliaments of democratic countries and numerous medical associations and international NGOs. The spread of contemporary global diseases, China’s own mishandling of the SARS crisis and food safety issues combined with Taiwan’s well-presented campaign focused on health and humanitarianism aroused substantial international support for Taiwan’s bid and this resulted in Beijing being placed under much more pressure in the WHO than in any other IGOs.

China’s position remained firm, but considerable changes began to appear in Beijing’s policy. China involuntarily became involved in a PR war and was forced to try to justify the policy that was used against Taiwan in the WHO. Forms of cross-strait health cooperation were increasingly addressed after 2001 in an effort to prove that China was looking after the well-being of the Taiwan-

ese compatriots. However, the stains on China's own public health record were counterproductive to China's efforts to gain sympathy for its Taiwan policy in the international community. Finally, unable to prevent Taiwanese participation in WHO activities, China was forced to approve Taiwan-WHO interactions *ex post*. The high visibility of Taiwan's WHO campaign created a dilemma for China. Beijing had to allow some forms of Taiwanese participation in the WHO, but was determined to use its political power by pushing for the signing of the MOU in 2005 to provide a legal framework for Taiwan's WHO participation, subject to the approval of Beijing. By means of various forms of one-China gestures, such as notifications and declarations related to Taiwan's WHO inclusion or invitations delivered to Taiwan through a Chinese NGO, Beijing demonstrated that Taiwan's participation in the WHO was in accordance with the one-China principle. The rapid growth in China's influence, strengthened by the election of Margaret Chan as WHO Director-General in 2006, and the increased politicization of Taiwan's WHO campaign contributed to the success of China's strategy.

The WHO found itself in a difficult position, caught between aspiring to achieve universality by including all areas, including Taiwan, in WHO activities and adhering to the one-China policy. Between 2003 and 2005, the organization facilitated interactions with Taiwan, for example, by issuing invitations to SARS meetings and conferences and by including Taiwan in WHO networks, such as INFOSAN and the OVL. However, after the signing of the MOU in 2005, the WHO's policy on any question related to Taiwan's participation in WHO activities shifted toward closer cooperation with China. The MOU was intended to have a two-way effect: while increasing Taiwan's functional participation and providing the basis for the WHO to interact with Taiwan in the event of an acute health emergency, it should also contribute to limiting the scope and format of Taiwan's participation according to China's demands. Even though, from a legal point of view, the MOU could not be considered as binding on Taiwan, it is an open secret that the memorandum became a guiding document for Taiwan's WHO participation and that the WHO consulted with China prior to interacting with Taiwan.

Taiwanese participation in WHO activities was almost non-existent before the spread of SARS, but after 2003, Taiwanese experts and officials managed to attend some selected WHO expert meetings and conferences. Peter Chang (Interview 2010), the DOH's representative in Geneva from 2002 until 2004 and Director-General of the DOH's Bureau of International Corporation from 2004 until 2007, claimed to have participated in about 60%-70% of the WHO meetings that were attended by Taiwanese experts after 2003, and pointed out that the format of his participation was decided on a case-by-case basis and was highly dependent on the attitude of the organizer of the respective event. After the sign-

ing of the MOU in 2005, invitations were usually sent to Taiwan by email without any mention of a country name, but Taiwanese experts were included under “China” in the list of participants.

Between the signing of the MOU in 2005 and the WHA in 2008, Taiwan applied for 51 WHO technical meetings¹⁶ and was given a green light by the WHO for 16 of them (WHA61/2008/REC/2: 23). The rejection rate stood therefore at approximately 70%. The processing of Taiwanese applications lasted between 20 days and six weeks (Winkler 2011: 287). In addition, some of Taiwan’s applications were approved just before the beginning of the meetings so that Taiwanese experts were unable to submit applications for visas in time and were effectively prevented from attending the meetings. Other WHO activities were announced only a few weeks before they started which also prevented a timely application being submitted. The time-consuming procedure of the MOU made substantial participation nearly impossible.

After 2005, Taipei had to realize that the strategy of balancing against China would only yield limited results since Beijing was not only able to prevent the island from gaining WHA observership, but could also actively regulate the format of Taiwan’s WHO participation according to the one-China principle. Taipei had to acknowledge that China’s growing influence and insistence on maintaining a firm position would make it almost impossible for Taiwan to increase its international space in the WHO against China’s will, which led the Chen government to counter China’s efforts with a more politicized campaign that was intended to emphasize Taiwan’s international legal sovereignty as independent of China. The Ma government responded differently to Beijing’s growing influence by adjusting its approach away from balancing against its powerful neighbor to considering China as an important factor in its three-way strategy. Ma Ying-jeou, after receiving the WHA invitation in 2009, announced that three key factors had played a crucial role in Taiwan’s achieving observer status in the WHA: domestic aspirations, the goodwill of Mainland China and strong international support. While the first and the third factors had already been established by the former government and had placed Beijing under pressure to find a solution on how to deal with Taiwan in the WHO, the Ma government managed to make use of the cross-strait rapprochement to reach consensus with China on Taiwan’s WHA observer status.

¹⁶ The available statistics on the number of WHO meetings attended by Taiwan differ according to the definition of the WHO meetings. Figures in this study refer to technical meetings officially organized by the WHO, in which Taiwan’s participation was approved by the WHO Secretariat. If statistics also included the participation of Taiwanese individuals through personal contacts with the organizer and other WHO activities, such as workshops and conferences, the figures would be slightly greater.

The fact that the invitation of observers to the WHA was based on practice and Taiwan's status did not need to be defined *de jure* certainly helped in the search for a model for Taiwan's WHA inclusion. By not specifying Taiwan's WHA status, both sides were able to avoid legal controversies and find a face-saving solution that did not contradict China's basic position that Taiwan's participation must fit into the one-China framework and Taiwan's bottom line that it would not accept being downgraded and described as part of the PRC. Taiwan accepted a status which might not be fully compatible with its self-image as an independent sovereign state, but while this arrangement was questionable for those who expected Taiwan's international participation to be accompanied by international recognition, it was evaluated as an appropriately pragmatic model by the Ma government to increase Taiwan's functional participation and visibility under the existing international circumstances.

China, which had consistently tried to establish clear legal stipulations to present Taiwan as a non-sovereign province of China, arguing that there was no legal and political basis for Taiwan to gain WHA observer status, modified its position toward Taiwan in the WHO and agreed on Taiwan's observer status in the WHA under the name of "Chinese Taipei" instead of "Taiwan, China". However, although China was ready to accept a vague model for Taiwan's WHA participation, it was able to lobby the WHO successfully to implement a framework for Taiwan's participation that defined the island as a part of China. While the contents of the MOU from 2005 and the internal IHR memorandum from 2010 were leaked, it is probable that another confidential arrangement regarding Taiwan's WHA inclusion also exists between China and the WHO. Moreover, Beijing remained extremely reluctant to allow Taiwan more international space in other cases, apart from the IHR and the WHA. Taiwan's inclusion in the IHR and WHA was good for Taipei, but even better for Beijing. China succeeded in removing the eye-catching and highly visible issue of Taiwan in the WHO from the agenda and to present itself as the doorkeeper for Taiwan's WHO participation. The pressure on China deriving from international support and the domestic momentum in Taiwan abated.

Cross-strait relations in the WHO had, to some extent, moved away from a zero-sum game to a win-win situation with, however, greater winnings for Beijing. Taiwan's international space in the WHO has improved in terms of both the level of appearance and the level of functional participation in the WHA and the IHR. Taiwan's attendance at the WHA has been institutionalized and the invitation to be included in the IHR employed a similar model. However, the format of Taiwan's IHR inclusion still presents problems for Taipei, for instance, the impact of the internal WHO memo and the listing of Taiwan's ports under China. The evaluation of Taiwan's space in other WHO activities except the WHA and

the IHR yields negative results. Taiwan still remained excluded from most WHO activities and mechanisms and continued to face numerous difficulties with regard to its status and nomenclature due to Beijing's efforts to present Taiwan as a province of China in the WHO. After initial progress, the cross-strait rapprochement did not result in Taiwan's achieving any further improvements in terms of its international space in the WHO.