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**China Analysis**  
Les Nouvelles de Chine

# What Impact will the Opening of Two-way Investments in the Service Sector have on Cross-strait Cultural Exchanges?

**Analysis by Tanguy Le Pesant based on the following sources:**

- Wu Mei-Hui and Yang Shao-Chiang,<sup>(1)</sup> “我的老闆會變大陸人?一次搞懂兩岸服務貿易協議” (Could my boss soon be a mainland? Understanding the cross-strait service trade agreement), *Shangye zhoukan* - Business Weekly (special feature), No. 1336, July 2013, pp. 57-62.
- Rex How (Hao Ming-Yi),<sup>(2)</sup> “兩岸服務貿易協議:我看到的與我相信的” (The cross-strait service trade agreement: What I see and what I believe), *Tianxia zazhi* - CommonWealth, 10 July 2013.
- Editorial, “台灣的服務業被徹底出賣了” (The entire Taiwanese service sector has been put on sale), *Ziyou shibao* - Liberty Times, 6 July 2013.
- Jang Show-Ling,<sup>(3)</sup> “服貿協議重傷經濟應立即中止” (The service trade agreement is a threat to the economy, and needs to be repealed), *Ziyou shibao* - Liberty Times, 1 July 2013.

The cross-strait service trade agreement (兩岸服務貿易協議 *liang'an fuwu maoyi xieyi*) signed on 21 June by the para-governmental organisations responsible for negotiations between Taipei and Beijing immediately gave rise to a wave of protest and criticism in Taiwan, including in circles close to the government. In particular, many Taiwanese publishers and film-makers have rallied to defend their sectors of activity and oppose this agreement, which they feel could endanger entire swathes of the Taiwanese economy and have a considerable impact on cultural exchanges between the two shores.

After briefly detailing these criticisms, *Business Weekly* takes up the arguments put forward by the government to defend the agreement from the point of view of the benefits it will bring to Taiwan. The articles making up this special feature seek to show that, contrary to the claims of its detractors, the agreement is not a “poisoned sweet” (包著糖衣的毒藥 *baozhu tangyi de duyao*). The Taiwanese people should not waste time worrying about the sectoral problems to which it could give rise, but should rather focus on the overall positive consequences. The weekly newspaper bases its position on the commonly-held liberal view that by opening up 64 sectors of activity to Chinese investors (finance, tourism, the hotel industry, health, printing, the film industry, hairdressing, etc.), the agreement on services will help intensify competition in Taiwan in these areas, which will result in the provision of more extensive, less costly, and better quality services. Consumers will therefore be the winners, regardless of the sector in question. It is interesting to note that the typology implemented by the Economics Ministry, and reproduced in the feature, categorises concepts that could be considered cultural property (books, cinema, and music) in the “entertainment” category, along with online gaming and theme parks. *Business Weekly* also approaches these goods from a purely economic perspective of undif-

ferentiated consumer goods. No consideration whatsoever is given to the idea of a “cultural exception.”

Moreover, the publication emphasises that the arrival of Chinese competition in Taiwan should not be seen as a threat for two reasons. Firstly, Taiwanese consumers will always have the last word. Companies crossing over from the Chinese mainland will therefore need to adapt to the conditions of the Taiwanese market, and they will not necessarily enjoy success to such a degree that their Taiwanese competitors are squeezed out of the sectors opened up by the agreement. The magazine cites as an example the failures of two Chinese restaurant chains that recently attempted to establish themselves in Taiwan (譚魚頭 *Tanyutou* and 小肥羊 *Xiaofeiayang*). Secondly, the arrival of Chinese companies will lead to a growth in job offers, which will automatically result in an increase in salaries.

*Business Weekly* then focuses on the cultural impact of the agreement. It argues that concerns that Taiwanese culture will die out have no basis, firstly because Ma Ying-Jeou's government has taken care to protect the nerve centres of Taiwanese cultural production, such as publishing, which was not included in the agreement, and secondly because the cultural industries of Taiwan and China have already been working together for a long time. Taking cinema as an example, the weekly newspaper cites the film producer Yeh Ju-Feng (葉如芬), who points out that directors from Taiwan and China have been filming together for years and that the agreement does nothing more than confirm existing cooperation while

1. Both are journalists for *Shangye Zhoukan* - Business Weekly.

2. Hao Ming-Yi (Rex How) is one of the most influential figures in the Taiwanese publishing world. He manages the Locus Publishing (大塊文化 *dakuai wenhua*) publishing house.

3. Jang Show-Ling is director of the economics department of National Taiwan University (Taida) in Taipei.

offering Taiwanese cinema the opportunity to cross the strait and expand its market.

Jang Show-Ling is far more critical. She argues that the government does not understand the economic situation in Taiwan and has shown a complete lack of judgement, because it has negotiated a global agreement on services that applies the same liberal reasoning to sectors that are nevertheless very different. It has also committed a serious error in negotiating behind closed doors, without providing the population with explanations or consulting experts in the fields concerned. The consequences could be devastating for Taiwan. Jang Show-Ling even feels that the negotiators of Ma's administration have fallen into a trap set by the Chinese authorities. Indeed, the latter have opened up sectors (80 sectors in total are open to Taiwanese investment) in which China needs a transfer of expertise, skills, and know-how. For this reason, the agreement forces Taiwanese companies that wish to invest in China in the sectors covered by the agreement to do so within the context of joint ventures with Chinese partners. The economist believes this will force Taiwanese investors to share their technical know-how and intellectual property rights with Chinese companies and risk being divested of both.

Jang Show-Ling also identifies three other major risks facing Taiwanese society. First of all, by opening the door to Chinese investors, the agreement gives them the opportunity to control content production in the cultural and media fields. Secondly, it will result in an influx of Chinese workers into Taiwan. Under the terms of the agreement, three categories of employee will be able to work in Taiwan for a renewable three-year period: "leaders" (負責人 *fuzeren*), "managers" (高級經理人員 *goaji jingli ren yuan*), and "experts" (專家 *zhuanjia*). However, since the definitions of these categories are very vague, they are open to a number of potential abuses. Jang Show-Ling illustrates this point with the example of a Chinese "leader" opening a restaurant in Taiwan, before bringing his wife over as the "manager" and his sons as "experts." Should such a phenomenon come to pass, it would have negative consequences on the job market and salaries in Taiwan. Finally, as those living on the island are attracted by demand in China for their expertise, the agreement is likely to accelerate the Taiwanese brain drain, which will not be offset by the arrival of less qualified Chinese labour. Jang Show-Ling concludes that the government has only taken into account the economic aspects of this agreement, while agreements of this kind need to be thought through and negotiated in terms of the social and political dimensions as well.

This point is the focus of the *Liberty Times* editorial. In order to illustrate the fact that the liberalisation of exchanges could have consequences on Taiwan's security, but that Ma's government is not taking the measures necessary to incorporate this factor into his mainland policy, the newspaper returns to the scandal provoked by the director Niu Chen-Zer (鈕承澤) who, while shooting his latest film (軍中樂園 *jun zhong leyuan*), was able to bring a Chinese film-maker into a military base of the Taiwanese marines under a false identity. When the military finally got wind of this deception, elected representatives demanded that legal proceedings be brought against Niu Chen-Zer and that he resign from his seat on the board of directors of the public television channel (公視 *gongshi*). The newspaper, however, denounces the lack of firmness in the government's reaction, with Culture Minister Lung Ying-Tai even standing up for Niu Chen-Zer against those who felt that the director had threatened national security and that the government should not entrust him with responsibilities, and explaining that the offense of which he was accused was unrelated to his role in the public channel.

Hao Ming-Yi, an advisor of president Ma Ying-Jeou, expresses criticisms similar to those of Jang Show-Ling, arguing that the government was at fault three times over. Firstly, it was guilty of having kept the entire population in the dark during the negotiations and until the agreement was signed. Secondly, these negotiations were not based on a complete view of the whole, which should have included not only the development and security of the country, but would have also taken into consideration the impact on each sector individually. Instead, the government contented itself with negotiating as though it was an everyday trade agreement, and taking cover behind vague slogans such as "the benefits outweigh the drawbacks" (利大於弊 *li da yu bi*). This meant it ignored the specific nature of each sector and carried out the negotiations without consulting the main interested parties, and therefore without understanding the deeper issues.

Hao Ming-Yi then shows that this is also the case for the publishing industry, in which a number of problems are likely to arise because of the considerable asymmetry on either side of the strait. In Taiwan, the four sectors of the publishing world have not been integrated; there are 15,000 independent publishing houses, 7,600 printing houses, 40 distribution companies, and 800 chains of retail bookshops. This division translates into the presence and collaboration of a multitude of SMEs with a small amount of capital (between a few million and tens of millions of Taiwanese dollars)<sup>4</sup> in the overall publishing chain. In China, on the other hand, the sector is characterised by a strong horizontal and vertical concentration, motivated by the slogan "build a large ship to sail the high seas" (造大船, 出大海 *zao da chuan, chu da hai*). There are therefore 585 "publishing houses" (出版社 *chubanshe*), three large "national publishing groups" (國家級出版集團 *guojiaji chuban jituan*), and 27 "provincial publishing groups" (省級出版集團 *shengji chuban jituan*) in mainland China. These groups include the four sectors of the industry – publishing (出版 *chuban*), printing (印刷 *yinshua*), distribution (書刊發行 *shukan faxing*), and retail (書刊零售 *shukan lingshou*) – and have huge amounts of capital. For example, the capital of the Fenghuang publishing group of Jiangsu (江蘇鳳凰出版集團 *jiangsu fenghuang chuban jituan*) is 2 billion yuan (or nearly 9.7 billion Taiwanese dollars).

The Chinese groups therefore have immeasurable means compared with small Taiwanese companies. Moreover, Hao Ming-Yi thinks there is nothing to stop them from using this capital to enter publishing (content production) once they have gained a footing in printing or distribution. Indeed, he thinks that Ma Ying-Jeou's government is lying to the Taiwanese when it claims that it has not opened publishing up to Chinese investors and that they will only be able to gain access to the printing, distribution, and retail sectors. Since the setting up of publishing houses and book publishing is not currently subject to any registration and control mechanism, a Chinese printer or distributor established in Taiwan could very easily start publishing books without the government being able to prevent it from doing so. As the agreement has been signed, the Taiwanese publishing world should therefore prepare to confront these threats. Hao Ming-Yi estimates that Taiwan's main advantages over Chinese competition lie in its democratic culture and freedom of expression, and the creativity to which these give rise. However, confronted by the Chinese giants and the price war that they will most probably trigger, publishing also needs to be supported by the state, which could, for example, legislate to set the price of books.

Hao Ming-Yi concludes on the question of access to the Chinese market. From his point of view, China is not the El Dorado the government would

4. One euro equals approximately 40 Taiwanese dollars.

like people to believe it is, and Taiwanese publishers have never succeeded in exploiting the common language that unites them with the mainland. They have always come up against barriers put in place by the Chinese authorities, and which the agreement has only partially lifted.<sup>(5)</sup> The opening did not take place based on a spirit of reciprocity, and the future of Taiwanese publishing is not to be found on the other side of the strait, but lies in its internationalisation, in particular through making the most of the digital revolution. It is with this aim in mind that Hao Ming-Yi says he turned to New

York in 2012. In other words, Hao Ming-Yi is calling on his compatriots to free themselves of the blinkers of Chinese "tropism" hampering Ma Ying-Jeou and his entourage, who are unable to see beyond Taiwan-China relations.

■ Translated by Will Thornely.

5. For more on this subject, see "Publishing Industry Laments 'Unfair' Pact," *Taipei Times*, 15 July 2013.

# Risking one's Life to Petition the Authorities: The black jail industry in China

Analysis by Hugo Winckler based on the following sources:

- Xin Shengzhi,<sup>(1)</sup> "全国政协提出建立健全非正常上访终结机制" (The Chinese People's Political Consultative Conference proposes the establishment of a robust system for resolving unauthorised petitions), *Nanfang Dushi Bao* - Southern Metropolitan Weekly, 4 March 2013.
- Liu Xiangang,<sup>(2)</sup> "非正常上访终结机制：法治还是反法治" (Does the mechanism for resolving unauthorised petitions run contrary to the workings of a constitutional state?), *Gongshi Wang*, 4 March 2013.
- Tian Cheng,<sup>(3)</sup> "河南截访干部参股黑保安公司" (The officers responsible for intercepting the petitioners from Henan had shares in an illegal public security company), *Nanfang Zhoumo* - Southern Weekend, 22 February 2013.

In order to pave the way for the reporting of complaints from civil society, China has set up the "Bureau of Letters and Calls" system (信访局 *xinfangju*). Chinese citizens can bring disputes they are having with the public authorities to be heard by this institution, and cases may even be heard in Beijing at the National Bureau of Letters and Calls, where hundreds of petitioners from all over the country present their grievances on a daily basis. It is clearly a complex situation, because the comings and goings of unhappy petitioners – often in a procession – creates a risk to social stability. This being the case, ingenious entrepreneurs have developed an illegal industry that involves intercepting the petitioners. One recent case saw the sentencing of a number of criminals who were found guilty of having set up illegal practices concerning these activities. Press articles commenting on the case help provide an understanding as to how this new economic activity operates.

## Unauthorised petitions

The Chinese government classifies the petitions it receives into two separate categories: "authorised petitions" (正常上访 *zhengchang shangfang*) and "unauthorised petitions" (非正常上访 *feizhengchang shangfang*), the first being allowed by law while the second are not. Di Yingqi,<sup>(4)</sup> law professor at the Henan University of Finance, Economics, and Law, explains that local governments have identified three types of unauthorised petitions, which are described as "disturbing, disruptive, or illegal" (缠访、闹访、非法上访 *chanfang, naofang, feifa shangfang*). Yet none of these descriptions meets specific legal criteria, creating a vagueness that gives the government a great deal of discretionary power. Consequently, the public authorities can contest the legitimacy of a petition, and there is no legal route of appeal against the administrative decision reached. However, as Di Yingqi notes, the right of petition is important to the development of China, and should,

on the contrary, be subject to increased protection. What makes this discretionary power more dangerous still is the fact that unauthorised petitions are, in certain cases, punishable by re-education through labour.<sup>(5)</sup>

## The Wang Gaowei case

The Wang Gaowei case recently caused much ink to flow in China, because it shed light on the practices of an illegal industry linked to the petitioning system. As Tian Cheng reported in *Nanfang Zhoumo*, Wang Gaowei, a peasant originally from Henan Province, opened a services company in Beijing whose business was to apprehend petitioners from his province of origin. The Beijing police broke up his network in December 2012, and Wang and his accomplices were handed prison terms in March 2013.

According to Tian Cheng, Wang Gaowei had entered into business with Bai Rongxing, an official from the Bureau of Letters and Calls of his city, who had been sent to Beijing by his employers to stop petitioners there. The trial of Wang and Bai produced a great deal of commentary, and offers unique insight into the operation of this activity, with its quite distinctive Chinese flavour.

Examining the workings of this company in greater detail, Tian Chen reports on the existence of an official document held by Wang Gaowei, which explained the procedure to follow in the event of "unauthorised and dis-

1. Journalist for *Nanfang Dushi Bao*.
2. Law professor at the Inner Mongolia Agricultural University.
3. Journalist for *Nanfang Zhoumo*.
4. Cited by Xin Shengzhi.
5. For further information on this subject, see Hugo Winckler, "Vers l'abolition des camps de rééducation par le travail" (Towards the abolition of the re-education through labour camps), *China Analysis*, No. 42, April 2013.