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Rethinking non-recognition: Taiwan's new pivot to ASEAN and the one-China policy

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Abstract *The article examines the evolution of Taiwan's engagement in Southeast Asia since the 1990s as a unique case study in international law and international relations (IR). Under the one-China policy, the evolution of bilateral relations with Taiwan highlights the theoretical concept of recognition premised on identity and status in interstate affairs. The article argues that the states of the Association of Southeast Asian Nations (ASEAN) have established diverse forms of recognition of Taiwan in line with a policy of non-recognition. While such recognition has not amounted to recognition of statehood in international law, it demonstrates the IR concept of recognition as a gradual process in state practice. To substantiate the contention, the article examines the diplomatic privileges and immunities that ASEAN countries have accorded to Taiwan. The conclusion of bilateral trade and investment agreements has also galvanized various modes of recognizing Taiwan's treaty-making capacity and the legitimacy of official cooperation. Hence, the findings not only enrich the study of IR, but also contribute to a broader understanding of the role of China and contemporary Asia–Pacific politics.*

Introduction

The development of Taiwan's relations with the Association of Southeast Asian Nations (ASEAN) states provides a unique case study in international relations (IR) and international law. ASEAN countries uphold respective one-China policies that legally recognize the People's Republic of China (PRC) as the sole legitimate government of China. Nonetheless, their non-diplomatic relations with Taiwan reflect diverse forms of recognition in IR. Distinct from the legal view that clearly demarcates recognition and non-recognition, ASEAN–Taiwan interactions reinforce the IR notion of recognition as a gradual process (Geis 2015, 15–17). This practice is illustrated at the level of diplomatic privileges and immunities granted to Taiwan and in the conclusion of trade and investment agreements with it since the 1990s.

In 2016, Taiwan's new president, Tsai Ing-wen of the Democratic Progressive Party (DPP), announced the ASEAN-focused New Southbound Policy (NSP) (Jing 2016a, 204–206; Glaser et al 2018, 1–2). This article will critically assess Taiwan's evolving engagement with Southeast Asia. In doing so it will highlight the theoretical concept of recognition using an interdisciplinary IR and international law perspective, each of which perspectives has overlooked the other for decades (Agné et al 2013, 96). This research will also

enrich the understanding of China's escalating influence in the contemporary geopolitics of the Asia-Pacific.

Using emerging IR literature on recognition, this article sheds light on the tensions and compatibility between ASEAN states' one-China policies and their substantial relations with Taiwan. The article argues that ASEAN states have established diverse forms of recognizing Taiwan in bilateral relations. Such recognition underlines the IR concept of recognition, which is premised on identity and status, and functions in line with ASEAN's non-recognition policy that minimizes potential conflicts with China. The fact that these modes of recognition encompass legal consequences but do not amount to recognition of statehood in international law evidences the gradual process of recognition in IR.

Tellingly, international lawyers deem recognition of statehood to be a policy that gives rise to significant legal effects (Chen 1951, 118; Crawford 2006, 3–4; Damrosch and Murphy 2014, 282–288). To illustrate, the signing of treaties is mostly conditioned on recognition of statehood and an entity's entitlement to privileges and immunities in domestic law rests upon diplomatic relations that follow formal recognition (Crawford 2012, 129–130, 369–370; Von Glahn and Taulbee 2013, 366–375). Notwithstanding the absence of diplomatic recognition, ASEAN states have recognized Taiwan's legal capacity by conferring diverse privileges and immunities on its diplomats and *de facto* embassies, as well as by concluding bilateral economic agreements. This practice of recognition not only makes Taiwan a rare case under the international legal norm, but also crystallizes what can be 'recognized' within the space of ASEAN's non-recognition policy.

After this introduction, the article is divided into five sections. The first section introduces GWF Hegel's philosophical grounding of recognition theory and its impact on the concepts of recognition and non-recognition in international law and IR. It further elucidates the theoretical framework of the research on states' 'struggles for recognition', which has been developed by scholars such as Axel Honneth, Thomas Lindemann and Erik Ringmar (Wolf 2011, 105–116; Lindemann 2014, 483–484; Duncombe 2015, 625–626; Friedrich 2016, 65–66). The second section reviews Taiwan's former 'Go South' policy that underpins the current NSP. Despite the lack of diplomatic relations with Taiwan due to the one-China policy, ASEAN states' intensive economic ties with Taiwan have enhanced its identity and status.

The third section deciphers the degrees of diplomatic privileges and immunities that ASEAN countries have granted to Taiwan and analyses an intertwined issue of Taiwan's claims of sovereign immunity in judicial proceedings. These factors are critical to implementing the NSP. The following section assesses the impact of non-recognition on Taiwan's trade and investment agreements. By examining Taiwan's recent agreements with Singapore and the Philippines, it explores the challenges for potential accession to the new Trans-Pacific Partnership (TPP) and the ASEAN-based Regional Comprehensive Economic Partnership (RCEP).¹ Finally, the last section

¹ After the US withdrawal, the remaining 11 parties renamed the Trans-Pacific Partnership the Comprehensive and Progressive Agreement for Trans-Pacific Partnership and concluded it in 2018.

concludes by providing policy and legal implications of recognition theory with regard to Taiwan's relations with Southeast Asia and the rest of the Asia-Pacific.

The theory and policy on recognition and non-recognition

The following section deciphers ASEAN's non-recognition policy towards Taiwan, officially known as the Republic of China (ROC), as a logical corollary of the one-China policy that only recognizes the People's Republic of China as the 'real China'. Using Hegel's concept of recognition, I construct a theoretical framework to analyse the relationship between recognition and non-recognition in Taiwan's relations with ASEAN. Conventionally, recognition and non-recognition have been viewed as clear opposites in international law and politics. However, ASEAN states' distinct modes of recognition of Taiwan, as illustrated in its diplomatic privileges and immunities, as well as in the signing of trade and investment pacts, demonstrates the relative nature of the IR concept of recognition which international lawyers often neglect (Geis 2015, 16–17). This finding also fills a gap in IR literature because these forms of recognition, despite being distinguishable from recognition of statehood, are not informal and have salient legal repercussions. Hence, while tensions have emerged between recognition and non-recognition, the co-existence of these two concepts in interstate affairs is not inconceivable.

Since its founding in 1967, ASEAN has played an increasingly prominent role in the Asia-Pacific, particularly amid China-US (United States) conflicts. The diversity of the ten-country bloc in Southeast Asia and its rising economic and geopolitical significance provide an exceptional context in which to assess Taiwan's external relations. Following the Kuomintang (KMT)'s loss of control over Mainland China and the ROC government's relocation to Taiwan in 1949, several ASEAN countries (Cambodia, Laos, Myanmar and Vietnam) switched recognition to Beijing in the 1950s and 1960s.² In 1971, the United Nations (UN) General Assembly Resolution 2758 replaced the ROC with the PRC and in 1979 US President Jimmy Carter decided to recognize Beijing. These events aggravated the de-recognition of Taiwan among US allies, including Malaysia, the Philippines and Thailand. After Indonesian President Suharto's decision to normalize relations with the PRC in 1990, Singapore followed accordingly (Severino 2006, 277). In 1991, Brunei became the last ASEAN member to recognize Beijing.

The PRC's engagement with ASEAN as a bloc has accelerated since the 1990s when Beijing became a dialogue partner (Severino 2006, 277–278). To fulfil Beijing's core interests, the ASEAN-China joint statements often stress that 'ASEAN' or its 'member states' reaffirm adherence to the one-China policy.³ Article 41 of the ASEAN Charter mandates that ASEAN members 'develop

² For the list of dates when diplomatic relations with the PRC were established see (中华人民共和国与各国建立外交关系日期简表) (as of August 2018), <https://www.fmprc.gov.cn/web/ziliao_674904/2193_674977/>, accessed 10 April 2019.

³ See, for example, Joint Statement of the Meeting of Heads of State/Government of the Member States of ASEAN and the President of the People's Republic of China Kuala Lumpur, Malaysia (1997), para 9 and Joint Statement of the 14th ASEAN-China Summit to Commemorate the 20th Anniversary of Dialogue Relations (2011), para 34.

common positions and pursue joint actions' and the one-China policy arguably falls with the ambit of this coordination principle. Nevertheless, neither ASEAN as an organization nor its member states have clarified the permissible extent of non-diplomatic relations with Taiwan. Notably, ASEAN's policy on Taiwan is different from the legal principle of collective non-recognition, which denotes the illegality of unrecognized regimes because of egregious violations of international law (Crawford 2012, 155–156; Ker-Lindsay 2012, 12–15). ASEAN's non-recognition of the ROC denies the ROC's representation of 'China', but by no means regards the Taiwan government as illegal.

I now turn to the theoretical framework that I will use to assess ASEAN's non-recognition policy towards Taiwan and their bilateral engagement. In political theory, recognition and its negative counterpart, misrecognition, are rooted in Hegel's recognition theory. According to Hegel, human behaviour is motivated by seeking recognition from peers instead of pre-eminence (Hegel 1977, 111; Blunden 2007, 90–96). As elucidated in his master–slave dialectic, reciprocal recognition is critical to the establishment of self-consciousness (Ringmar 1995, 94; Hayden and Schick 2016, 3–4). The existence of the 'self' thus depends on and is defined by the acknowledgement of the 'other' (Fraser 2003, 23). Although Hegel focused predominantly on interpersonal relationships, he provided an account of interstate relations in which recognition of statehood is essential to gain an international legal personality (Kochi 2016, 95). Recognition by foreign states is thus a prerequisite for an entity to be a sovereign (Ringmar 1995, 94; Hutchings 2011, 133).

The non-recognition of states has also played a critical role in international law and IR (Kochi 2016, 95). Just as in Hegel's interpretation of the interpersonal relationship, non-recognition in interstate affairs implies a negation of the 'other' and establishes differences between states (Brincat 2014, 403; Lindemann 2014, 490–491). Although it is common for political scientists to refer to misrecognition and non-recognition interchangeably, they are conceptually different. Derived from political theory, misrecognition is a normative concept that stresses the mismatch between self-identity and the recognition of the other. Misrecognition is thus often perceived as an act of injustice and disrespect (Geis 2015, 7–9).

Non-recognition, which signifies a denial of recognition, may be seen as misrecognition from the view of states that quest for recognition. However, in essence, the IR concept of non-recognition denotes a relatively neutral stance that is used to balance geopolitical interests. A policy of non-recognition can be implemented in the form of collective sanctions pursuant to the legal principle of non-recognition (Crawford 2012, 155). The policy objective is to reduce the effectiveness of situations created by violations of peremptory norms of international law such as the forcible acquisition of territory. By contrast, particularly in the case of Taiwan, a policy of non-recognition represents a *modus vivendi* in which the legality of an entity is not judged (Lindemann 2014, 490; Newman and Visoka 2018, 773). The space of non-recognition allows for flexibility and engagement in the state-centric system (Richards and Smith 2015, 166–167). On the one hand, states' struggles for recognition in response to non-recognition can lead to interstate conflicts (Murray 2012, 134–135; Brincat 2014, 403–404; Geis 2015, 9–14). On the other hand, a policy of non-recognition helps facilitate stability in the international order (Oeter 2015, 134). This policy

mostly refers to non-recognition of statehood but can also extend to the scope of engagement that involves non-statehood or non-diplomatic arenas.

The study of recognition is rooted in Hegel's contribution to political theory in the post-1945 era. Critical theorists, such as Axel Honneth, Nancy Fraser and Charles Taylor, centred the struggles for recognition on the domestic realm and propelled social movements towards racial and sexual equality (Blunden 2007, 90–96; McBride 2013, 2–4). From the 2000s, the burgeoning literature on recognition began a new wave of the cross-disciplinary transfer from political science to IR and elevated recognition theory to international dimensions (Erman 2013, 130; Fehl 2015, 104–105; Friedrich 2016, 65–66). As Wendt contended, the neorealist assumption that states struggle for security in anarchy is insufficient to comprehend contemporary interstate affairs (Wendt 2003, 510–512; Greenhill 2008, 348–349). The Hegelian way of understanding national conflicts has therefore been extended to explain states' behaviour motivated by their desire for recognition.

This new perspective of recognition facilitates a re-examination of Taiwan's NSP and its new pivot to Southeast Asia in light of ASEAN's non-recognition policy. Along these lines, a dynamic group of IR scholars, including Lindemann, Ringmar and Wolf, have theoretically and empirically validated Wendt's hypothesis by crystallizing the IR concept of recognition (Lindemann 2012, 209–219; Erman 2013, 133–134; Fikencher et al 2015, 91–100). Based on Hegel's view that identity construction is developed through mutual recognition, the emerging IR concept of recognition was initially subscribed to constructivist ontology. This psychological approach to interpreting state behaviour is transplanted from 'identity politics' that clarifies individuals' search for recognition of their identities in an intersubjective social process (Fraser 2003, 23–24). Rather than maximizing its material power, a state's psychological desire for having its identity recognized on par with its self-image often prompts actions (Wendt 2003, 510–511; Geis 2015, 4–5).

The constructive turn in construing the IR concept of recognition soon encountered criticism that the identity-dominated interpretation of recognition 'runs the danger of suffering from too psychological an understanding of the term' (Iser 2015, 27–29). To provide a more balanced and comprehensive investigation, Wolf and other IR theorists propounded a concurrent element of recognition that emphasizes 'the status dimensions of recognition' (Wolf 2011, 107). This notion can be traced back to Fraser's justice-oriented 'principle of participatory parity', which aimed to mitigate inequality by assessing whether individuals and their peers were on equal footing (Fraser 2003, 101; Blunden 2007, 92–96; Fehl 2015, 108–109). Unlike identity construction, a status claim emphasizes the struggle for dignity (Wolf 2011, 106; Lindemann 2012, 210; Gustafsson 2016, 257). The desire for status galvanizes states to demand acknowledgement pursuant to the normative standards of respect in bilateral and multilateral ties. In state practice, identity and status dimensions may be intertwined because recognition of identity can also be motivated by the quest for dignity or respect.

Since the nineteenth century, the concept of recognition in international law has significantly diverged from its counterpart in IR. It is crucial that recognition not be confused with sovereignty or statehood, even though these ideas are conceptually interrelated. Sovereignty most commonly refers to an entity's

legal competence (Crawford 2012, 448). Recognition has been construed to represent a key dimension of sovereignty: international legal sovereignty (Krasner 1999, 14–15; Fanoulis and Musliu 2018, 72–73). However, neither sovereignty nor recognition is a precondition for statehood. The legal discourse on recognition of statehood predominantly centres on the constitutive–declaratory binary.

The constitutive theory built upon Hegel’s idea avers that the statehood of an entity hinges on recognition (Lauterpacht 1944, 419–422; Onuf 2013, 124). Lassa Oppenheim elaborated this positivist view that recognition completes statehood and is thus indispensable to the creation of a state as an international person (Oppenheim 1955, 125; Crawford 2006, 19–21). In contrast, the declaratory theory posits that recognition simply functions as a formal acknowledgement of statehood (Crawford 2012, 145–146). In this view, the existence of a state is a fact and cannot be influenced by recognition. It has been criticized that ‘the core of the constitutive theory is unacceptable’ because states cannot unilaterally decide their legal obligations towards other states by withholding recognition (Brownlie 1983, 206).

State and treaty practices established that the declaratory theory prevails over the constitutive theory in international law (Brownlie 1983, 205; Talmon 2005, 106–107; Montevideo Convention on the Rights and Duties of States 1933, article 3). IR scholars have taken note of this legal position, but contend that such legal recognition merely encompasses ‘a small parcel of the overall range of social practices of recognition’ (Oeter 2015, 125). To better understand state behaviour, they look beyond the pursuit of diplomatic recognition and urge a constitutive analysis of recognition via states’ identity construction and status claims (Ong 2012, 517–518; Bartelson 2013, 115–117; Erman 2013, 133; Iser 2015, 36–37). Interestingly, this stance reinforces some legal scholars’ argument that ‘[r]ecognition, while declaratory of an existing fact, is constitutive in its nature’ (Jennings and Watts 1996, 133). As international lawyers have recently found, the validity of the constitutive aspect cannot be ignored particularly in domestic legal proceedings (International Law Association 2018, 10).

A policy of non-recognition is not tantamount to rendering unrecognized states a nullity in law (Talmon 2005, 147; Coppieters 2018, 15). This is of significance to the evolution of ASEAN–Taiwan relations. IR scholars envision the absence of recognition as humiliating and provoking conflicts (Wolf 2011, 107–108; Murray 2012, 135). However, as this article demonstrates, certain forms of legal recognition do not imply recognition of statehood. These forms that accord Taiwan prestige and dignity in bilateral ties have avoided potential conflicts and made cooperation possible. One such form is recognition of privileges and immunities for Taiwan’s diplomatic premises and personnel. Despite the declaratory theory, the doctrine that the conferral of privileges and immunities hinges on diplomatic recognition fortifies the importance of constitutive analysis in domestic law. The rationale for according privileges and immunities is not just to respect sovereign equality, but also to allow foreign states and officials to effectively fulfil their diplomatic functions without interventions. Without providing diplomatic recognition and relations, certain ASEAN states exceptionally granted Taiwan legal rights ‘as if’ it was recognized.

Another form of recognition is the conclusion of free trade agreements (FTAs) and bilateral investment agreements (BIAs). Significantly, the 'capacity to enter into relations with other states' is a key criterion of statehood (Montevideo Convention on the Rights and Duties of States 1933, article 1). The inking of such agreements similarly guarantees the rights of Taiwanese investors. Unlike acknowledging Taiwan's statehood, ASEAN's non-recognition policy permits recognition of Taiwan's treaty-making capacity and the legitimacy of its law and regulations. Hence, these constitutive effects collectively corroborate the IR stance that recognition is not confined to recognition of statehood and a gradual view of recognition should be understood through the psychological and normative lenses of the identity and status dimensions.

ASEAN's non-recognition vis-à-vis Taiwan's engagement

Based on recognition theory, the article assesses Taiwan's approach to engaging with ASEAN within the space of non-diplomatic relations that are restricted by the one-China policy. Going beyond the realist assumption, the article explores Taipei's NSP based on its previous Go South policy and examines the Taiwanese government's success in breaking through the conventional practice of non-recognition. These policies have resulted in various forms of legal recognition, as evidenced by the recognition of privileges and immunities and the conclusion of FTAs and BIAs since the 1990s. The analysis therefore enhances the constitutive understanding of ASEAN-Taiwan relations and the convergence of IR and international law.

The DPP's victory over the KMT in Taiwan's presidential election in 2016 shifted former President Ma Ying-jeou's priority to improving cross-strait relations. Tsai introduced the Southeast-Asia-focused NSP as a presidential candidate at the DPP's 2015 diplomatic reception (Tsai 2015). In her inaugural address in 2016, Tsai elaborated that the NSP is meant 'to elevate the scope and diversity of our external economy, and to bid farewell to our past overreliance on a single market'. She thus implicitly criticized the KMT for worsening Taiwan's dependence on China.

Beijing interpreted Tsai's refusal to recognize the 1992 consensus on 'one China, different interpretations' as a pro-independence move. The situation was further aggravated by the unprecedented phone call between Tsai and US President-elect Donald Trump in 2016 (Blanchard 2016). China vigorously protested a Twitter post in which Trump referred to Tsai as 'The President of Taiwan' as a violation of the one-China policy (Chandran 2016). In response, Beijing has maximized its pressure on the DPP government by squeezing Taiwan's international space. The Xi Jinping administration has lured five of Taiwan's diplomatic allies to switch recognition to Beijing since 2016. The loss of Burkina Faso, the Dominican Republic and El Salvador in 2018 caused the number of countries that recognize the ROC to dwindle to 17, signifying the nadir of Taiwan's diplomatic relations since 1949 (Jiang 2018).

Against this backdrop, the NSP rose as a strategy to counter China's 'bullying' and a manifestation of Taiwan's 'struggles for recognition'. Importantly, rather than focusing on recognition of its statehood, Taiwan has sought reciprocal recognition of prestige and dignity in relations with ASEAN states. Many have perceived the NSP to be building upon the three waves of

the Go South policy implemented during the presidencies of Lee Teng-hui and Chen Shui-bian from 1994 to 2008 (Ngeow 2017, 114–119; Glaser et al 2018, 6–9).⁴ Lee's Go South policy commenced in 1994 with the Operation Outline for Strengthening Economic and Trade Relations with Southeast Asia. His political goal was to promote the 'pragmatic policy' to upgrade relations with ASEAN states, which had recognized Beijing. This stance marked a shift from the rigid one-China policy of the Chiang regime that essentially isolated Taiwan. As an 'Asian Tiger', Taiwan's soaring labour costs in the 1980s prompted companies in the manufacturing sector to move factories overseas (Ku 2005, 2). To curb the 'China fever' that escalated investments in China, Lee restricted the scope of West-bound investment under its 'no haste, be patient' policy and urged Taiwanese investments to focus on Southeast Asia instead (Liaw 2016, 453–454). After 2000, Chen largely followed Lee's Go South policy.

These initiatives made Taiwan a leading investor in ASEAN countries and provided a context for enhancing government-to-government interactions irrespective of ASEAN's non-recognition of Taiwan under the one-China policy. Yet, both Lee's and Chen's policies failed to alter the direction of Taiwan's out-bound investment. The disastrous impact of the 1997 Asian financial crisis and the 2008 global financial crisis on Southeast Asia, as well as investment incentives that China provided, actually increased China-bound investments (Jing 2016, 195; Ngeow 2017, 113–115). Unexpectedly, even though President Ma pushed to enhance cross-strait trade agreements, Taiwan's investment in China has decreased since 2010 (DBS Bank 2016, 1). In contrast, Taiwan's exports to Southeast Asia soared by more than 290 per cent from 2001 to 2013, making ASEAN Taiwan's second-largest trade partner (Yeh and Yi-Lan 2015). These trends are in part due to China's economic slowdown, increasing environmental costs and the rapid growth of the ASEAN market.

These new economic and geopolitical changes invigorated the Tsai administration to allocate the significant budget of US\$241 million to the NSP in 2018, a 63 per cent increase from the previous year (Marston and Bush 2018). Although China and Hong Kong still account for almost 40 per cent of Taiwan's external trade, the ten ASEAN states' collective share has increased to 15 per cent (Bureau of Foreign Trade 2018b). Presently, Taiwan is among the top four investors in Thailand, Vietnam and Malaysia (Yang 2017, 49). President Trump's imposition of tariffs on Chinese products as part of the US–China trade war will further prompt ASEAN-centred investments. Outbound investments to Southeast Asia are expected to grow to 24 per cent of Taiwan's total foreign investment (DBS Bank 2016, 4).

The NSP is different from the previous Go South policy in certain key aspects. According to the NSP's 2016 Guidelines and Promotion Plan, its primary goals are to 'forge a sense of economic community' by expanding bilateral exchanges with 18 target countries and to form 'a new model for economic development'. First, the NSP covers not only ASEAN states, but also

⁴ The first phase of the Go South policy (1994–1996) covered Brunei, Indonesia, Malaysia, the Philippines, Thailand, Singapore and Vietnam; the second phase (1997–1999) and the third phase of the policy (2002–2008) extended the scope to include Cambodia, Laos and Myanmar, as well as Australia and New Zealand. Therefore, the six South Asian countries (India, Sri Lanka, Bangladesh, Nepal, Bhutan and Pakistan) are new additions in the NSP.

Australia, New Zealand, India and other South Asian countries. However, based on economic growth rates, ASEAN is evidently the main driver and the most important target (Hsu and Ming-Hsun 2018, 11). Second, the Go South policy deemed Southeast Asia to be a 'cheaper' manufacturing base for products that would be exported to US and European markets, whereas the NSP focuses on the increasing purchasing capacity of ASEAN's emerging middle class. Finally, rather than seeking only to redirect Taiwan's outbound investments, the NSP encourages foreign investments in Taiwan and broadens the scope of exchanges to include education and tourism.

The NSP encompasses four main tasks: promoting economic collaboration, conducting talent exchange, sharing resources and forging regional links (NSP Promotion Plan 2016). The Taiwan cabinet subsequently outlined five flagship projects that centre on agriculture, innovative industries, medical cooperation, forums for policy and youth exchanges, and talent cultivation (Ministry of Foreign Affairs 2017). Six of 18 NSP countries, including Thailand, Indonesia, Vietnam, Malaysia, the Philippines and India, were also identified as priority nations for the new initiative (Li 2017). Initial steps include the establishment of the Taiwan-Asia Exchange Foundation, which initiated the annual Yushan Forum to facilitate semi-official talks, and the funding of infrastructure and development projects (Yang and Chiang 2018). In response to a more than 50 per cent decrease in Chinese tourists to Taiwan, the easing of visa requirements for citizens of Vietnam, Thailand and the Philippines has attracted additional ASEAN tourists (Everington 2017; Hsu and Ming-Hsun 2018, 16).

In 2018, additional efforts focused on medical and agricultural cooperation with ASEAN states. The government tasked Taiwan hospitals with establishing medical centres in Indonesia, Malaysia, the Philippines, Thailand and Vietnam to study healthcare conditions and train medical professionals (Lee 2018). Besides bilateral exchanges of agricultural professionals, Taiwan established an agricultural demonstration zone adjacent to Jakarta and assisted with the irrigation infrastructure and offered technical advice to local farmers (Han 2018). These capacity-building initiatives could also intensify Taiwan's cooperation with the US under its regional training framework (Yang 2017, 15). Furthermore, amid increasing Chinese influence owing to the One Belt, One Road initiative, the NSP is expected to provide a foundation for upgrading the status of Taiwan by signing trade and investment agreements (Hsu 2017, 82).

The recognition of diplomatic privileges and immunities

The implementation of the NSP is premised on the extent of ASEAN states' engagement with Taipei under the one-China policy that upholds the practice of non-recognition of Taipei. An important factor is the effectiveness of Taiwan's diplomatic missions and staff members based in ASEAN. Legally and practically, the various degrees of diplomatic treatment reflect a gradual view of recognition in IR. Notably, privileges and immunities are primarily granted to embassies and envoys from recognized states with the purpose of allowing them to carry out diplomatic duties. These legal rights include exemptions from local legal proceedings and taxes, as well as the protection of

official correspondences with home countries (Jennings and Watts 1996, 1087–1101; Vienna Convention on Diplomatic Relations 1961).⁵

The status of de facto embassies and diplomats

Taiwan's representative offices abroad are technically not 'embassies' and the heads of such offices are not called 'ambassadors'. However, they are deemed to be functional equivalents. Their status thus falls outside the normal legal framework due to the lack of diplomatic relations. Significantly, non-recognition policies of ASEAN countries do not prevent the conferral of privileges and immunities on Taiwan's representative offices and diplomats posted from the ministries in charge of foreign affairs, trade and defence. The significant upgrade in Taiwan's diplomatic privileges and immunities occurred during the Go South policy, the predecessor to the NSP, in the 1990s. The PRC, in relation to its position on Taiwan's external economic agreements, has been less cautious about imposing 'red lines' on the diplomatic treatment of Taipei. Presumably, the fact that the diplomatic status accorded to Taiwanese offices and envoys is based on practice rather than law has made it easy to change and difficult to challenge. This status can be interpreted as functional instead of political and thus can be justified as not contravening Beijing's one-China principle.

In line with their non-recognition policies, ASEAN states have two interrelated considerations. Granting better treatment to Taiwan will allow reciprocal status for their representative offices and diplomats based in Taipei. More importantly, increasing the degree of mutual recognition and exchanges will facilitate the inflow of Taiwan's investment and transfer of technology to Southeast Asia. Prior to the Go South policy, President Lee Teng-hui's visit to Singapore in 1989 was noteworthy. Although Singapore never had diplomatic relations with the ROC, its intensive military and trade cooperation made it Taiwan's closest friend in ASEAN. In Singapore, Lee was addressed as the 'President from Taiwan' rather than 'of the ROC' or 'of Taiwan', but he met with key political figures including Prime Minister Lee Kuan Yew. (Lee 2000, 628–629).

During a later trip in 1994, Lee met with Philippine President Fidel Ramos to discuss the development of Subic Bay, with Indonesian President Suharto to discuss projects on Batam Island and with Thai King Bhumibol Adulyadej in Bangkok (Leifer 2001, 179; Jing 2016b, 16–17). These meetings with heads of state helped transform the status of Taiwan's de facto embassies. Before 1990, Taiwan's offices had varied and confusing titles, ranging from the 'Far East Travel and Trade Centre' in Malaysia to the 'Chinese Chamber of Commerce' in Indonesia (Ku 1995, 286; Jing 2016b, 12). By September 1990, Taiwan had changed the titles of its institutions in six ASEAN states uniformly to the 'Taipei Economic and Cultural Office'. Since Taiwan established offices in Vietnam and Myanmar, Cambodia and Laos remain the only two ASEAN countries that lack Taiwan's presence.

⁵ Vienna Convention on Diplomatic Relations (1961); note that the Vienna Convention on Consular Relations (1963) stipulates a narrower scope of privileges and immunities in consular relations that are primarily for visa and commercial purposes.

The IR concept of recognition explains the legal significance and the extent of diplomatic privilege and immunities that ASEAN states have accorded to Taiwan's offices and envoys. Diplomatic privileges and immunities were developed partially as a consequence of sovereign immunity, but they are functionally distinguishable (Shaw 1986, 393). Based on judicial equality in international law, sovereign immunity prevents domestic courts from adjudicating in other states (Crawford 2012, 449; Krasner 1999, 14–19). Hence, sovereign immunity enables foreign governmental agencies and heads of state in foreign countries to be immune from local proceedings.

Recognition is critical to sovereign immunity claims. A seminal case involving Taiwan's Civil Aeronautics Administration (CAA) occurred in Singapore proceedings (Singapore Court of Appeals 2004). The case arose from a Singapore Airlines crash incident in Taiwan during a typhoon, resulting in the deaths of 83 passengers in 2000. The legal issue was whether Taiwan could be considered a 'state' for the CAA to be entitled to state immunity. Singapore's Ministry of Foreign Affairs refused to issue a certificate to provide clear guidance on this issue. Yet, the court concluded that 'recognition is vital' for sovereign immunity (Hwang and Cheng 2017, 16). Having interpreted the government's answer as negative and with Singapore's non-recognition of Taiwan or the ROC, the court denied the CAA's claim. This case illustrates that in domestic law the effects of recognition are more constitutive than declaratory.

From an IR perspective, diplomatic and sovereign immunities share the same theoretical premise based on the equality between states. However, unlike sovereign immunity, special diplomatic rights are granted to foreign embassies and diplomatic representatives in the host countries. In exceptional cases, diplomatic privileges and immunities can be granted to unrecognized entities. The special treatment granted to foreign offices and envoys is meant to respect the dignity of the countries they represent. Based on the principle of participatory parity, these rights reinforce the normative dimension of status recognition, thus ensuring the efficient performance of diplomatic functions in a way that is on par with that of peer countries (Blunden 2007, 92–95; Fehl 2015, 108–109; Vienna Convention on Diplomatic Relations 1961, preamble).

From a psychological perspective, it is presumably more critical to Taiwan because the degrees of privileges and immunities correspond with the self-identification as a sovereign state (Zuo 2012, 164–165). For instance, in Taipei's view, its representative offices should be treated as official delegations that represent the state rather than as private institutions. In essence, the privileges and immunities that ASEAN states have granted to Taiwan symbolize the recognition of rights under the Vienna Convention on Diplomatic Relations to which only recognized sovereign states are entitled. These forms of recognition reinforce Taiwan's international legal sovereignty because they demonstrate legal competence in the international sphere (Krasner 1999, 17).

Diverse practices of ASEAN states

Next, I will examine Taiwan's relations with various ASEAN states, including Cambodia, the Philippines, Singapore, Myanmar and Vietnam. As highlighted above, the case of diplomatic privileges and immunities indicates that

recognition is a gradual process (Geis 2015, 15–17). Unlike the zero-sum policy of recognition of statehood, different modes of recognition such as special rights are compatible with ASEAN's one-China policy. Tellingly, ASEAN states have diverse responses to the one-China policy. US allies that are pro-trade and do not border China, such as Singapore and the Philippines, have granted Taiwan the highest degrees of diplomatic privileges and immunities. In these countries, Taiwan's de facto embassies and diplomats effectively function in a similar manner to those of recognized states. The driving force behind such a practice is to benefit economically from Taipei and Beijing and to sustain an autonomous status between Beijing and Washington from a trade and security perspective. This stance also conditioned Vietnam's foreign policy towards Taiwan after its economic reform in the 1980s. Nevertheless, authoritarian and less-developed nations such as Cambodia and Laos have echoed Beijing's one-China principle by severely restricting engagement with Taiwan. These countries are highly dependent on China's economic and military aid and maintain only marginal trade links with Taiwan.

The legal status of Taiwan's representative offices is not clearly defined under domestic law and varies across ASEAN states. Apart from holding various degrees of privileges and immunities established through practice and reciprocity, these offices are uniformly granted consular functions such as the issuance of passports and visas. Significantly, despite their recognition of Beijing, Singapore and the Philippines have yet to change the substance of privileges and immunities accorded to Taiwan. The existing special rights include the use of diplomatic passports, diplomatic bags and airport privileges and an exemption from taxes and duties arising from salaries and vehicles (Executive Yuan 1993, 112–113; Lee 1993, 80; Ku 2005, 8). This wide spectrum of recognition of diplomatic rights has made cooperation possible and desirable. The Taipei Representative Office in Singapore is the most 'comprehensive' de facto embassy among the ASEAN states. In addition to officials from economic and foreign ministries, military personnel from the defence ministry are also posted to Singapore to facilitate military cooperation. Frequent visits by Taiwan's high-profile politicians, such as President Ma Ying-jeou and Kaohsiung Mayor Han Kuo-yu, have also made the office's close contact with the Singapore government essential (Hsieh 2019, 99–108; Kuo et al 2019). To reinforce its identity as Taiwan's official agency, the representative office has also followed the advice of the Ministry of Foreign Affairs to change the full title of the office to 'Taiwan in Singapore' on its Facebook page (Strong 2018). A similar move was followed by the office in Indonesia and other missions.

From a legal perspective, the case of the Philippines is unique. In 1988 and 1989, pro-Taiwan congressmen proposed the Philippines–Taiwan Relations Act and the Philippines–Taiwan Beneficial Relations Act, respectively (Lee 1993, 80). The acts were to be modelled after the US Taiwan Relations Act, which was enacted in response to President Carter's decision to recognize the PRC. The purpose of these acts was to ensure Taiwan's investment and to codify the diplomatic status of the 'Pacific Economic and Cultural Centre', Taiwan's mission in Manila, after the severance of diplomatic ties in 1975. These legislative attempts failed in the early 1990s due to opposition from the Philippine

Foreign Ministry. Yet, they reinforce bilateral relations on a non-recognition basis.

Despite its close communist ties with the PRC, Vietnam's engagement with Taiwan has been drastically different from that of Cambodia, Laos and Myanmar. Taiwan's Go South policy coincided with Vietnam's Doi Moi economic reforms. The fact that Taiwan was Vietnam's largest investor from 2006 to the early 2010s facilitated bilateral ministerial level visits (Tran 2011, 16; Yang 2017, 18). In turn, Vietnam expanded Taiwanese diplomats' privileges and immunities, such as tax immunity and the use of diplomatic licence plates (Ku 1999, 417; Chen 2015, 62). However, Hanoi also set a boundary in its one-China policy by requesting that Taiwan not display the ROC flag or use the official title 'Republic of China' as part of a National Day reception that was held in a hotel (Lin 2010). Notably, to implement the NSP, Taiwan's offices have strengthened efforts in Vietnam and Thailand to promote tourism and assist Taiwanese universities in attracting students.

Myanmar switched its recognition to Beijing in 1950 and its military junta adopted a hostile stance towards Taiwan. A 1994 law prevented Myanmar's enterprises from having trade and investment relations with countries in the absence of diplomatic ties, making direct Taiwanese investment in the country impossible (Chen 2004, 510–511). Nevertheless, Myanmar's democratic and economic reforms since the 2010s have altered its position on foreign investments. In 2016, a Taiwan office was established in Yangon (Ministry of Foreign Affairs 2016). As Taiwan's most recently established office in ASEAN, the representative office in Yangon has cautiously focused on trade and industrial promotions.

Among ASEAN countries, Cambodia holds the most rigid one-China policy. In 1997, the Cambodian government accused Taipei of intervening in Cambodia's coup d'état and ordered the Taiwan office to shut down (Chen 2012, 198). Moreover, Prime Minister Hun Sen recently declared a ban on the use of ROC flags and prevented the reopening of Taiwan's office (Phan 2017).

The cases above illustrate ASEAN states' diverse modes of recognition of Taiwan's diplomatic privileges and immunities. The overall trend shows that in most ASEAN states an increasing degree of diplomatic treatment has been accorded to Taipei, although this is mostly on a de facto basis and often not externally discernible. These cases also illustrate the potential scope of Taiwan's prospective engagement with ASEAN under the NSP.

The politics of trade and investment agreements

For Taiwan, one priority of the NSP is to conclude and update FTAs and BIAs with ASEAN countries so as to provide a foundation for joining mega-FTAs in the Asia-Pacific (Guidelines of the NSP 2016). As with diplomatic privileges and immunities, these pacts illustrate the various forms of recognition that are practised with Taiwan in spite of ASEAN's non-recognition of Taiwan under the one-China policy. The case of Taiwan shows how policies of recognition and non-recognition are practised by ASEAN states simultaneously. These forms of recognition, which reinforce recognition as a gradual process, help avoid conflicts due to misrecognition, which can be interpreted as unjust or humiliating (Geis 2015, 6–15). Although these modes of recognition do not

constitute recognition of statehood in international law, they have salient legal and political consequences. Beyond the neorealist assumption that economic agreements are designed to advance economic security and power, the IR concept of recognition, which focuses on identity and status, provides a more accurate analysis of economic agreements.

Forms of recognition under FTAs and BIAs

Grounded in Hegel's recognition theory, the world order can be seen as an intersubjective process where states struggle for the recognition of their identities (Ringmar 1995, 94; Kochi 2016, 95). Taiwan's quest for prestige is not simply for recognition of statehood, but for a unique identity independent of the PRC. For instance, Taiwan joined the Asia-Pacific Economic Cooperation as an 'economy' and the World Trade Organization (WTO) as a 'separate customs territory'. Although these memberships are not conditioned on statehood, through acknowledgement by the 'other' at the international level, they support the existence of 'self'.

The PRC's stance on Taiwan's participation in international organizations reflects its practice of either 'keeping silent' or opposing Taiwan's external agreements. Subject to Beijing's interpretation of the one-China principle, the 'red lines' are actually not fixed and can thus implicitly affect foreign states' trade negotiations with Taipei. There are two principal parameters. Firstly, Taipei's numerous diplomatic titles preclude statehood and recognition as Taiwan or the ROC. Secondly, cross-strait relations underpin the PRC's strategy. If Beijing deems that Taipei's external trade agreements facilitate cross-strait talks towards peaceful reunification, it will not explicitly obstruct those agreements, which can be seen as commercial pacts. Otherwise, Beijing will object to these agreements on the grounds that they purposely serve the political end of Taiwan's independence. Therefore, from Beijing's point of view, what matters most is the intention rather than the nature of the FTAs. This rationale explains China's contrasting positions on Taiwan's FTAs during the presidency of 'China-friendly' Ma Ying-jeou and the pro-independence administrations of Chen Shui-bian and Tsai Ing-wen.

Undoubtedly, geopolitical contexts have played a key role in Taiwan's economic agreements. Taiwan concluded the FTAs with Singapore and New Zealand during the Ma administration and these external pacts helped lessen Taiwan's domestic opposition to forming closer ties with Beijing. Most BIAs with ASEAN states in the 1990s were concluded due to Taiwan's stronger economic power and investment capacity compared with China's. In my view, the Philippines' newly updated BIA with Taiwan has incurred no retaliation from Beijing presumably because of the Rodrigo Duterte government's stance on the South China Sea Arbitration. Although these instances prompted by multifaceted factors may be perceived as exceptions to Taiwan's treaty-making capacity, these increasing exceptions have enhanced the country's identity and status from an IR perspective. Hence, the existing FTAs and the BIAs that formed part of the NSP helped reinvigorate the recognition of Taiwan, even though such recognition does not amount to recognition of statehood in international law.

Although ASEAN is the most established trade bloc in Asia, Taiwan's accession to the organization is infeasible because Article 6 of the ASEAN Charter requires 'recognition by all ASEAN Member States' as a prerequisite for membership. The one-China policy thus constitutes a legal obstacle for Taiwan's engagement with ASEAN. In the early 2000s, Taiwan intended to follow the approach of key Asia-Pacific economies, such as Japan and South Korea, by signing an 'ASEAN plus one' FTA with ASEAN as a group. Nevertheless, as both Lee Kuan Yew and Secretary-General of ASEAN Surin Pitsuwan suggested, an ASEAN-Taiwan FTA is unlikely because of the one-China policy (Jing 2016a, 201). Ma's escalated engagement with China facilitated Taiwan's bilateral FTA efforts. In addition to the Economic Cooperation Framework Agreement with Beijing, Taiwan secured seven FTAs primarily with diplomatic allies in Central America (Bureau of Foreign Trade 2018a).

Taiwan's signing of FTAs with Singapore and New Zealand in 2013 was significant, as both countries have diplomatic ties and FTAs with China (Magcamit and Tan 2015, 97–99). Diverging from his predecessor, President Chen of the DPP, who requested the use of 'Taiwan' as the country's official title in the FTA, Ma's acceptance of the World Trade Organization (WTO) nomenclature 'separate customs territory' resolved the political bottleneck (KMT 2010; Young 2014, 6–16). Since 2016, Beijing has adopted an increasingly assertive attitude towards the Tsai government and its NSP. It is evidenced by China's warning to Australia. PRC Foreign Minister Wang Yi asserted that, given the changes in cross-strait relations, Beijing now opposes Canberra's plan to follow the New Zealand model and sign an FTA with Taipei (Hunter 2018). China similarly increased pressure on ASEAN states with respect to their trade negotiations with Taiwan.

The strategy of Taiwan is not to focus on signing memoranda of understanding (MoUs), which can be concluded by non-state entities. The MoUs' non-legally binding nature and broadly defined terms also make them unenforceable. From the perspective of IR and international law, it is FTAs and BIAs that fortify identity construction. The status dimension of recognition further explains the signing of state-to-state contracts recognizing Taiwan's equality and dignity under the normative rules of international law (Krasner 1999, 17). Since sovereign states possess the capacity to conclude treaties, Taiwan's legal competence to sign comprehensive economic agreements demonstrates that it effectively exercises sovereign rights representing its territory and people (Vienna Convention on the Law of Treaties 1969, article 6; Crawford 2012, 448).

ASEAN states' policies of non-recognition of Taiwan allow for and coexist with diverse modes of recognition under multi-layered agreements. However, what do FTAs and BIA actually 'recognize' without amounting to recognition of statehood? As exemplified by the 2013 Singapore-Taiwan FTA and the 2017 Philippines-Taiwan BIA, the most important aspects of recognition are as follows. First, the pacts recognize the authority of Taiwan's central government and its effective jurisdiction over a defined territory. Although the agreements are often concluded between Taiwan's representative offices in ASEAN states and their counterparts in Taipei, their semi-official nature does not diminish the agreements' binding effect and recognition of equal status. Second, the agreements facilitate bilateral recognition of legal systems and statutes,

including the rules of origin and conformity assessment procedures for products. Professional licences and educational certificates are also mutually recognized. Third, BIAs and modern FTAs that incorporate investment chapters recognize the promotion and protection of investment against certain governmental measures such as illegal expropriation. Fourth, various sections in bilateral instruments authorize joint task forces to carry out economic cooperation tasks and conduct periodic reviews. These mechanisms thus recognize the legitimacy of government-to-government interactions at the ministerial level. Finally, the dispute settlement mechanisms that address state-to-state disputes and investor-state disputes recognize the legal equality and capacity of the respective governments.

Priorities of the NSP

To understand Taiwan's NSP, it is essential to assess the impact that the Go South policy had on Taiwan's BIAs. When FTA negotiations are unable to be launched, BIAs that focus on investment serve as a 'plan B' to advance Taiwan's trade strategy. ASEAN states concluded BIAs with Taiwan in the 1990s in order to attract much-needed foreign investment. The present NSP, however, exists in a rather different geopolitical context. By 2030, the combined ASEAN economy is expected to have ascended from the sixth largest to the fourth largest in the world (Wong 2018). Thus, in 2015, when the ASEAN Economic Community was founded and followed by a process of rapid integration, it became urgent for Taiwan to update existing BIAs and conclude additional FTAs with ASEAN states (Hsieh 2017, 341–342). Arguably, ASEAN governments have also used these agreements with Taipei as a display of the autonomy of their own foreign policy without succumbing to Beijing's demands.

Taiwan first signed BIAs with two ASEAN states, Singapore and Indonesia, in 1990 and subsequently concluded similar pacts with the Philippines, Malaysia, Vietnam and Thailand (Jing 2016b, 10). Aside from the Philippines, the other five ASEAN countries also concluded double taxation avoidance agreements with Taipei. Notably, Malaysia had initially declined to sign a BIA due to the one-China policy. In 1991, Taiwan's Legislative Yuan (Congress) passed a resolution that conditioned a US\$27 billion investment in Malaysia by Taiwan's China Steel Corporation on the signing of a BIA, which would guarantee the protection of Taiwanese investments (Chen 2012, 215). This resolution spurred the finalization of the Malaysia–Taiwan BIA in 1993.

Other than concluding new FTAs and BIAs, a key objective of Taiwan's NSP is to update existing BIAs. This is primarily because these pacts are outdated in terms of scope and protection and are unable to cover today's diverse investments. While BIAs' dispute resolution provisions imply recognition of sovereign equality and the legitimacy of legal systems, the lack of procedural guidance can render them futile. For instance, some BIA provisions only mandate that disputes 'be settled amicably through negotiations' and can hardly resolve disputes in practice. For most countries, it is common for BIAs to designate the International Centre for Settlement of Investment Disputes, as part of the World Bank, as a forum for investors to sue host states. Nevertheless, this option is unavailable to Taiwanese companies because of the country's

non-UN member status. A related problem surfaced after the protests in Vietnam against China's deployment of an oil rig in the South China Sea in 2014. The anti-China rioters indiscriminately damaged 224 Taiwanese factories (Flannery 2014). The absence of multiple arbitral options and detailed procedures has largely hindered the effectiveness of the 1993 BIA.

By contrast, new-style agreements have stronger protection mechanisms. The ability of ASEAN investors to challenge the Taiwanese government's measures before international forums also strengthens recognition of Taiwan's identity and status. For example, the 2013 Singapore–Taiwan FTA substantially improved the investor–state dispute settlement procedures under the 1990 BIA. This FTA was utilized as the legal basis for a claim that Singapore's Surfeit Harvest Investment Holding brought against Taiwan in 2017 (Perry 2017). As Taiwan's first-ever investor–state dispute, Surfeit initiated proceedings against the 'Republic of China (Taiwan)' before the Hague-based Permanent Court of Arbitration. Albeit as a defendant, the case demonstrates Taiwan's standing before international tribunals.

In addition to the necessity for including more detailed arbitral procedures, the widened scope of protected investment and the enhanced role of governments in negotiations fortified various forms of recognition of Taiwan. One notable achievement under the NSP is the conclusion of the Philippines–Taiwan BIA in 2017 (Marston and Bush 2018). This pact not only replaces the previous 1992 BIA, but also reflects Manila's flexible diplomacy. Despite Beijing's protests, the Duterte government adopted an assertive stance on economic diversification by attracting Taiwanese investments, thus showcasing its 'independent' status in foreign policy (Tiezzi 2017).

The updated Philippines–Taiwan BIA expands the ambit of investment protection from the manufacturing sector to other areas such as the services industry, real estate and intellectual property (Strong 2018). It also accords the respective government official roles in assisting enterprises in negotiations and provides investors with multiple legal remedies. In December 2018, New Delhi also signed an updated BIA with Taipei after the approval from the cabinet chaired by Prime Minister Narendra Modi (Hsu 2018). India is a critical RCEP country and the NSP's major target in South Asia. This BIA benefits Modi's 'Make in India' campaign. More significantly, it sent a signal that, like the Philippines', India's non-recognition of Taiwan does not preclude the conclusion of a BIA.

The next potential breakthrough may be a BIA with Indonesia. In 2012, government-funded think tanks in Taipei and Jakarta completed a feasibility study of an economic cooperation agreement and affirmed its positive trade impact (Elizabeth and Tu 2014, 125–130). A bilateral MoU on comprehensive economic cooperation concluded in 2018 will facilitate investment and industrial dialogues necessary for an investment pact (Chou and Huang 2018). A new feasibility study of an economic agreement, which is expected to be released in 2019, will also form the basis for potential negotiations.

Notably, the political aspects of the economic agreements that contribute to gradual recognition of Taiwan are more prominent on a multilateral basis. Beyond the neorealist trade benefits, these pacts will further strengthen Taiwan's identity and status in inter-state affairs. Hence, the NSP's objective is to facilitate Taiwan's participation in mega-regional agreements such as the

RCEP and the revised TPP, which is now known as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). After Trump's withdrawal from the original TPP, the remaining 11 parties led by Japan amended selected provisions and concluded the revised pact in 2018. Australia became the sixth nation to ratify the CPTPP in October 2018, and the pact became effective 60 days later (Greenfield 2018). The fact that China is not a party to the CPTPP and its provision open to 'any State or separate customs territory' removes major obstacles for Taiwan's accession. However, Taiwan's 2018 referendum that supported a continued ban on food imports from prefectures that were affected by the Fukushima nuclear disaster cast a shadow on Tokyo's support for Taipei's CPTPP membership (Ko 2018).

Also essential to the NSP and Taiwan's supply chain, the RCEP encompasses all of the ten ASEAN states. RCEP negotiations commenced in 2012 and are expected to be finalized in 2019 (Australian Department of Foreign Affairs and Trade 2018). When it is launched, the RCEP will be the world's largest FTA, as it will cover 30 per cent of the global gross domestic product, double that of the CPTPP (Hsieh 2018, 102–103). Nevertheless, Taiwan's entry into the RCEP is presently inconceivable because China is a key player in the pact. The RCEP allows 'any ASEAN partner' or 'other external economic partners' to accede to the agreement, but the conditions and procedures for accession are premised on the consensus of all parties. Although Hong Kong became an FTA partner of ASEAN, it is unlikely that Taiwan could follow the same approach. As it is far more complex than bilateral pacts, the RCEP exhibits the prospective limit of the NSP and Taiwan's accession to mega-regional agreements.

Conclusion

The evolution of Taiwan's engagement with Southeast Asia under the one-China policy is a notable yet underexplored research topic in international law and IR. Recognition and non-recognition are conventionally perceived as clear opposites. Nonetheless, distinct from the legal view of recognition, ASEAN states' substantive relations with Taiwan demonstrate the IR concept of recognition as a gradual process. Examining diplomatic relations and economic agreements, the article has argued that ASEAN countries have established diverse forms of practice that recognize Taipei. A constructive analysis of this practice revealed that this recognition is gradual and does not amount to recognition of statehood. These modes of recognition coexist with and are essential to decreasing conflicts owing to a policy of non-recognition.

The article has contributed to an evolving literature on the IR concept of recognition rooted in Hegel's 'struggle for recognition' argument and applied it to a modern notion premised on identity and status in interstate affairs. Using this theoretical framework, the article has found that a wide-ranging degree of diplomatic privileges and immunities are accorded to Taiwan's de facto embassies and envoys in the absence of diplomatic ties. Furthermore, the conclusion of several bilateral trade and investment pacts has galvanized various patterns of recognizing Taiwan's treaty-making capacity and its legitimacy in official cooperation. The cases collectively demonstrate the rarely analysed compatibility between recognition and a policy of non-recognition.

From a geopolitical perspective, these findings provided a fresh perspective on Taiwan's pivot to ASEAN, such as the Go South policy and the NSP, vis-à-vis the changing dynamics of relations between China and ASEAN. Significantly, the contribution of the NSP is not only to enhance the recognition of Taiwan from an IR perspective, but also to consolidate the regional supply chain. The NSP can be a new model for foreign aid and present an approach distinct from China's oft-criticized debt diplomacy. The next step of the initiative should link the transfer of Taiwan's technology and service industry expertise to the further entry into the Southeast Asian market. Although ASEAN countries' responses to the NSP have been largely positive, they are inevitably cautious about the impact on their respective ties with Beijing. The Taiwan government should be reminded that the extent of the NSP will develop in tandem with cross-strait relations. Furthermore, as ASEAN states refer to each other's international law practice, the modality and scope of recognition of Taiwan in either its diplomatic status or economic agreements could be extended to the rest of the bloc. Accordingly, the analysis of state practice in this article has enhanced the interdisciplinary understanding of recognition theory in IR and international law.

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No potential conflict of interest was reported by the author.

Notes on Contributor

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