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Chapter 13

Taiwan, China, and the United Nations

Lung-chu Chen

1. Introduction

The year 1995 was a very special one in the history of Taiwan. It marked the centennial of the Treaty of Shimonoseki, by which Taiwan was ceded in perpetuity to Japan by the Manchu Empire and thus formally severed its sovereign ties with China. 1995 also marked the fiftieth anniversary of the end of World War Two and of the establishment of the United Nations. During the first half (1895 to 1945) of the past one hundred years, Taiwan was a Japanese colony. In the second half (1945 to 1995), Taiwan experienced a post-World War Two military occupation by Nationalist Chinese authorities, four decades of Chiang Kai-shek and his son Chiang Ching-kuo's authoritarian Kuomintang rule under perpetual martial law, astonishing economic success and, more recently, a dramatic transformation into a full-fledged democratic state.

Recent events involving the triangular relations among Taiwan, China and the United States have escalated the tension in the Taiwan Strait area. Taiwanese President Lee Teng-hui's well-publicized "private" visit to the United States in June 1995 once again brought to world attention the problem of the international status of Taiwan. Since President Lee's visit, China has engaged in military exercises and missile tests on an unprecedented scale in order to intimidate the people of Taiwan and to bully the world into submission. China's actions are intended to make the world community play along with its claim that Taiwan is "an indivisible part of China."

Indeed, the rising demands of the Taiwanese people to enhance their international position and Taiwan's *pragmatic* diplomacy have met with the intensifying threats of the People's Republic of China. As the United Nations celebrated its fiftieth anniversary, it once again refused to include the question of Taiwan's membership in the agenda of its General Assembly because of China's vehement objection,¹ perpetuating an injustice done in 1971 when Taiwan was excluded from the United Nations.²

The leaders of China have good reasons to fear a formal debate over the status of Taiwan in the United Nations, for the facts speak for themselves. Taiwan is a sovereign, independent state in every sense of the word. The question today is to acknowledge Taiwan as an independent state in name as well as in fact. The fact of Taiwan's independent existence is well known in the world community; what is increasingly at issue is whether to call this sovereign, independent entity the Republic of China (ROC), the Republic of China on Taiwan, the Republic of Taiwan or simply Taiwan.

Taiwan is an island nation, not part of continental China. Taiwan is Taiwan and China is China. They are two separate, sovereign states, differing fundamentally in their political, economic and social systems. Taiwan is *not* a part of China. Taiwan's present and future destiny are *not* an internal affair of China.

Despite all its rhetoric of Taiwan being a part of China, the People's Republic of China, since its founding in 1949, has never extended its actual jurisdiction and effective control over Taiwan, not for a single day. China's often repeated territorial claim to Taiwan is as unfounded as Iraq's territorial claim to Kuwait.

¹ See Foreign Broadcast Information Service, *Daily Report: China*, 95-183, Sept. 25, 1995, at 77-79. See also Implementation of the Resolutions of the United Nations, Letter Dated 8 August 1995 from the Permanent Representative of China to the United Nations Addressed to the Secretary-General, U.N. Doc. A/50/338, Aug. 8, 1995; Implementation of the Resolutions of the United Nations, Letter Dated 13 October 1995 from the Permanent Representative of China to the United Nations Addressed to the Secretary-General, U.N. Doc. A/50/557, Oct. 13, 1995.

² G.A. Res. 2758 (XXVI), Oct. 25, 1971, 26 U.N. GAOR Supp. (No. 29) at 2, U.N. Doc. A/8429 (1972). For the relevant draft resolutions submitted before the General Assembly, see 26 U.N. GAOR Annex (Agenda Item 93) at 1-7, U.N. Doc. A/8392 (July 15, 1971), U.N. Doc. A/L.630 (Sept. 25, 1971) and Add.1 (Sept. 29, 1971) and Add.2 (Oct. 19, 1971), U.N. Doc. A/L.632 (Sept. 29, 1971) and Add.1 (Oct. 7, 1971) and Add.2 (Oct. 12, 1971), U.N. Doc. A/L.633 (Sept. 29, 1971) and Add.1 (Oct. 7, 1971) and Add.2 (Oct. 12, 1971), U.N. Doc. A/L.637 (Oct. 18, 1971), U.N. Doc. A/L.638 (Oct. 25, 1971), U.N. Doc. A/L.639 (Oct. 25, 1971), U.N. Doc. A/L.640 (Oct. 25, 1971), and U.N. Doc. A/L.641 (Oct. 25, 1971). On 25 October 1971, the General Assembly, by a vote of 76 to 35, with 17 abstentions, adopted draft resolution A/L.630.

2. Historical Background

Historically, Taiwan, once better known as Formosa, was populated over centuries by migrations of southern Chinese who crossed the 100-mile Taiwan Strait and pushed the indigenous peoples into the mountainous part of the island. For most of its history, Taiwan's relationship to the Chinese Empire was tenuous at best, while such Western powers as the Netherlands and Spain vied for colonial control of the island.

In 1895, Taiwan was ceded by treaty to Japan as a result of the Sino-Japanese War and Taiwan became a colony of Japan until 1945. At the end of World War Two, after the Japanese surrender, General MacArthur instructed Chiang Kai-shek, then Generalissimo of the Republic of China, to administer Taiwan pending the resolution of its ultimate disposition. Thus, Chiang's Kuomintang regime acquired *de facto* control of the island as a form of *military occupation* on behalf of the Allied Powers.

Several significant events ensued: the massacre of Taiwanese leaders from all walks of life during the 2-28 (February 28) uprising of 1947 against the atrocities of the Kuomintang occupation forces; Chiang's exile to Taiwan after being expelled from the Chinese mainland as a result of the establishment of the People's Republic of China in October 1949; and the drastic increase in strategic importance of Taiwan for the United States in the Western Pacific after the outbreak of the Korean War in June 1950.

To terminate the technical status of hostility toward Japan, the Allied Powers concluded the San Francisco Peace Treaty with Japan in September 1951.³ The Peace Treaty made Japan renounce all its "rights, title and claim" to Taiwan, but did not specify any beneficiary state. The Peace Treaty with Japan was the authoritative instrument that formally terminated Taiwan's status as a colony of Japan and delimited its new status. It superseded, under international law, the war-time declarations made by the Allied Powers at Cairo and Potsdam, insofar as the disposition of Taiwan (Formosa) was concerned. Thus, Taiwan was legally detached from Japan, but was not attached to China or any other country. The shared expectation of the parties to the Peace Treaty was that Taiwan's status, though temporarily left undetermined, would be decided at an opportune time in the future in accordance with the principles of the United Nations Charter, notably the principle of self-determination of peoples and the principle of non-use of force for acquisition of territory.

Such an opportune time came and went some twenty-four years ago, when the United Nations failed to adopt a "one China, one Taiwan" formula to resolve the Chinese representation question in the United Nations. According to the "one China, one Taiwan" formula, both China and Taiwan would have been seated as separate states in the United Nations, with the People's Republic of China occupying China's permanent seat in the Security Council. However, in October 1971, the United Nations General Assembly, by Resolution 2758, voted to seat the People's Republic of China and to "expel forthwith the representatives of Chiang Kai-shek."⁴

³ 3 U.S.T. 3169, T.I.A.S. No. 2490. The Treaty went into effect on 28 April 1952.

⁴ G.A. Res. 2758 (XXVI), *supra* note 2.

Thus, the tables were turned: China was in and Taiwan was out. In place of the old myth of "one China" represented by Chiang's Kuomintang, the General Assembly fostered a new myth: that the PRC represented Taiwan as well as China. It was not an injustice to include China in the United Nations, but it was an injustice to exclude Taiwan. The General Assembly's expulsion of Taiwan's representatives ignored the reality that neither China nor Taiwan could legitimately claim to represent the other's territory. The status of Taiwan (a colony of Japan from 1895 to 1945), which was the crux of the Chinese question in the United Nations, was not addressed at all. The seating of the PRC in the United Nations did not constitute recognition of China's territorial claim over Taiwan.

3. The Independent Nation of Taiwan

Although Taiwan has been kept outside the United Nations for the past 24 years, and its formal diplomatic relations with other countries have greatly shrunk, Taiwan has not ceased to exist as a state.

Thanks to the concerted efforts of its intelligent, hardworking people, Taiwan has become an economically prosperous country, earning the nickname of one of the four "small dragons" in Southeast Asia.

Judged by the international legal standards of statehood, Taiwan is a sovereign, independent state in every sense of the word. According to these standards, an independent state must have a permanent population, control over a defined territory and a government capable of governing effectively in internal processes and acting responsibly in external relations.⁵ Taiwan has more than fulfilled all of these requirements. Indeed, the sovereignty of Taiwan rests upon the people of Taiwan.

Humankind's sense of fair play and democracy should be shocked at Taiwan's continuing exclusion from the United Nations. Taiwan's population of 21 million is larger than that of three-quarters of the 185 United Nations Member States. Taiwan has more people than Australia or Venezuela; it has more people than Norway, Sweden, and Finland combined. With a GNP amounting to \$220 billion and an annual per capita income exceeding \$12,000, Taiwan is a prosperous trading state and has been a leading holder of foreign exchange reserves for years. Taiwan is the 14th largest trading nation in the world and the 6th largest trading partner of the United States.

In addition to economic development, Taiwan is an island nation that has undergone profound political transformation through the processes of democratization and Taiwanization. The tempo for democratization in Taiwan has greatly accelerated in recent years, beginning with the termination in 1987 of the 39-year martial law and the creation of a major opposition party, the Democratic Progressive Party (DPP). The Taiwanization process has been further enhanced by the forced retirement of the aged

⁵ See Convention on the Rights and Duties of States (Montevideo Convention), Dec. 26, 1933, 49 Stat. 3097, T.S. No. 881, Bevans 145, 165 L.N.T.S. 19, Article 1.

parliamentary members from the KMT's mainland days. With the subsequent election of all members of the National Assembly in 1991 and the election of all members of the Legislative Yuan in 1992, Taiwan at last has an equivalent of a parliament that represents its present population and political realities. This continuing process of Taiwanization and democratization reached a new milestone when the people of Taiwan, for the first time in their four-hundred-year history, directly elected their President in March 1996.

With all its shortcomings and tension, this remarkable political transformation toward democracy, along with impressive economic development, is what the *Taiwan experience* is all about. This I would call self-determination in action for the people of Taiwan. Both the International Covenant on Civil and Political Rights⁶ and the International Covenant on Economic, Social, and Cultural Rights,⁷ in their respective Paragraph one of Article 1, define the right of self-determination in these words: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Indeed, Taiwan's history has been marked by indigenous patterns of political, social and economic development stretching back for centuries. Thanks to their common efforts in recent decades, the people of Taiwan, both at home and abroad, have become the master of their own political destiny and have developed a distinctive economic, social and cultural system of their own, in pursuit of the shaping and sharing of democracy and other human dignity values.

Today, even more so than in 1971, it is evident that the peoples of Taiwan and China constitute two distinct societies. Taiwan has undergone a profound political transformation toward democratic institutions and practices and has made great progress in securing human rights, while also achieving remarkable levels of economic growth. China, in contrast, has fallen back upon authoritarian practices to silence political dissent. It routinely denies its citizens human rights and freedoms which are now taken for granted in Taiwan.

4. United Nations Membership for Taiwan

As a democratized and revitalized Taiwan looks toward the international arenas to share with others the *Taiwan experience*, it is time that Taiwan be made a member of the United Nations and of other international governmental organizations. Taiwan's active participation in various international arenas as *Taiwan, not as a truncated China*, would serve the common interests of all nations by affording the people of Taiwan justice, respect and participation, by serving the long-term interests of China and by meeting

⁶ International Covenant on Civil and Political Rights, G.A. Res. 2200 (XXI), Annex, Dec. 16, 1966, 999 U.N.T.S. 171, 6 I.L.M. 368 (1967).

⁷ International Covenant on Economic, Social and Cultural Rights, G.A. Res. 2200 (XXI), Annex, Dec. 16, 1966, 993 U.N.T.S. 3, 6 I.L.M. 360 (1967).

the interests of the world community in making the United Nations a more effective and representative body.

As an independent and peace-loving country, Taiwan should take the initiative to apply for admission as a new member of the United Nations, in accordance with Article 4 of the Charter of the United Nations.⁸

Article 4, paragraph 1, prescribes the substantive conditions for a new member in these terms: "Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations."⁹

In other words, the conditions of admission of a new member are: (1) the applicant must be a state (country); (2) it must be peace-loving; (3) it accepts the obligations of the United Nations Charter; and (4) it is able and willing to carry out the Charter obligations in the judgment of the United Nations.

Judged by these conditions, Taiwan, of course, is amply qualified to become a new member of the United Nations. As discussed above, Taiwan has *in fact* existed as a sovereign, independent state for quite some time. It will be deemed peace-loving insofar as it discontinues the lingering Kuomintang claim to represent China, to "unify" China or to retake mainland China.

In applying for a new membership under Article 4 of the United Nations Charter, Taiwan would encounter a formidable obstacle, that is, a potential veto by China (PRC). Article 4, paragraph 2, of the Charter stipulates that the admission of any new member in the United Nations will be "effected by a decision of the General Assembly upon the recommendation of the Security Council."¹⁰ As interpreted by the International Court of Justice, the recommendation of the Security Council must precede the General Assembly decision.¹¹ That means that under Article 27(3) of the Charter, China, as a permanent member, possesses a veto over Taiwan's application for admission to membership.

In the face of a potential veto by China, would it not be an exercise in futility for Taiwan ever to try and apply for a new United Nations membership? Definitely not. By applying for a new United Nations membership, Taiwan will clearly demonstrate its basic national character as a sovereign, independent state and assert emphatically the fundamental dignity and human rights of the people of Taiwan. It would help mobilize the efforts and resources of all Taiwanese, both at home and abroad, toward developing Taiwan's international and security position and toward playing a greater role in international arenas. It would facilitate the sharing of the *Taiwan experience*, both political and economic, with other members of the world community.

⁸ Charter of the United Nations, June 26, 1945, 1 U.N.T.S. xvi, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153, Article 4.

⁹ *Id.* Article 4(1).

¹⁰ *Id.* Article 4(2).

¹¹ Advisory Opinion on the Competence of the General Assembly for the Admission of a State to the United Nations, 1950 I.C.J. Reports 1.

Hence, it appears that Taiwan's application for admission to the United Nations as a new member under the Article 4 procedure is the right, yet difficult, way of entering the world organization.

5. Inappropriate Membership Formulas

Opponents of this straightforward approach to admission have suggested various alternative formulas in order to circumvent the potential veto by China or to serve other ulterior purposes. Notable among these alternative formulas are:

- (1) *The Chinese representation formula.* Proponents of this formula, inspired in part by the precedent of repealing the "Zionism is racism" resolution, seek to *replace* the People's Republic of China (PRC) with the Republic of China (ROC) by virtue of overturning General Assembly Resolution 2758 of 1971. Resolution 2758, it may be recalled, is the General Assembly resolution that seated the PRC and expelled Chiang Kai-shek's delegation from the United Nations in October 1971.¹²
- (2) *The formula of "one country, two seats" or "one country, with parallel representations".* This formula attempts to extend the so-called "one China" policy to the realm of United Nations membership by purporting to reflect "the present reality of China's division into two political entities."¹³

¹² See Should Taiwan be Admitted to the United Nations?, Joint Hearing Before the Subcommittees on International Security, International Organizations and Human Rights, and Asia and the Pacific of the House Comm. on Foreign Affairs, 103rd Cong., 2nd Sess. 44, 80-83 (1994) [hereinafter Hearing] (statement of Hon. John Bolton, former Assistant Secretary of State for International Organizations).

¹³ *Id.* at 44. See also Request for the Inclusion of a Supplementary Item in the Agenda of the Forty-Eighth Session: Consideration of the Exceptional Situation of the Republic of China in Taiwan in the International Context, Based on the Principle of Universality and in Accordance with the Established Model of Parallel Representation of Divided Countries at the United Nations, U.N. Doc. A/48/191 (Aug. 9, 1993), U.N. Doc. A/48/191/Add.1 (Sept. 21, 1993), U.N. Doc. A/48/191/Add.2 (Sept. 22, 1993), and U.N. Doc. A/48/191/Add.3 (Sept. 23, 1993); Request for the Inclusion of an Item in the Provisional Agenda of the Forty-Ninth Session: Consideration of the Exceptional Situation of the Republic of China in Taiwan in the International Context, Based on the Principle of Universality and in Accordance with the Established Model of Parallel Representation of Divided Countries at the United Nations, U.N. Doc. A/49/144 (July 19, 1994), U.N. Doc. A/49/144/Add.1 (July 29, 1994), U.N. Doc. A/49/144/Add.2 (Sept. 13, 1994), U.N. Doc. A/49/144/Add.3 (Sept. 19, 1994); and Request for the Inclusion of an Item in the Provisional Agenda of the Fiftieth Session: Consideration of the Exceptional Situation of the Republic of China in Taiwan in the International Context, Based on the Principle of Universality and in Accordance with the Established Model of Parallel Representation of Divided Countries at the United Nations, U.N. Doc. A/50/145 (July 18, 1995), U.N. Doc. A/50/145/Add.1 (Sept. 15, 1995). These requests are reprinted in Appendix 5.

- (3) *The observer formula.* Proponents of this formula counsel the Taiwanese people to be patient and be content as a United Nations observer for now.¹⁴
- (4) *The back-door formula.* Proponents of this formula urge Taiwan to obtain membership in various secondary international organizations, in the hope that eventually a "back door" to the United Nations would be open to Taiwan.¹⁵

These alternative formulas seem to be quite "clever" and "pragmatic" at first glance but they cannot withstand critical scrutiny.

The question of Taiwan's membership in the United Nations, as indicated above, is properly that of admission of a new member. It is *not* a re-opening of the Chinese representation question in the United Nations in the sense of "returning" the ROC to the United Nations. Any attempt to *replace the PRC with the ROC* by overturning General Assembly Resolution 2758 of 1971 would confuse the issue. The repeal of the "Zionism is racism" resolution is inapposite here. For Taiwan to present itself as Taiwan, representing the 21 million people of Taiwan and their aspirations and interests, would gain wide international support. On the other hand, posturing as the "authentic" China under the banner of the "Republic of China" in order to oust the PRC from the United Nations would make Taiwan a laughing-stock of the world.

Similarly, the formula of "one country, two seats" or "one country, with parallel representations" appears to be another desperate attempt at perpetuating the bankrupt and dangerous policy of "one China" without facing contemporary realities. The analogies of the simultaneous admission of two Germanys and two Koreas into the United Nations are not apposite here. When the two Germanys (West and East) and the two Koreas (South and North) joined the United Nations, they were admitted at the same time as two separate members on the basis of their separate statehood. The actual formula applied was "two countries, two seats" rather than "one country, two seats". Moreover, unlike the China-Taiwan situation, none of them had a prior presence in the United Nations as a permanent member of the Security Council capable of casting a veto to reject its rival.

The analogy to the Soviet Union, Ukraine and Byelorussia as three of the original 51 member states of the United Nations is equally inappropriate. The acceptance of both the Byelorussian SSR and the Ukrainian SSR in 1945 (then, two of the 15 Republics of the Soviet Union) was a unique concession extracted by Stalin, who demanded that all fifteen Republics of the Soviet Union be made original members of the United Nations at its founding. A comparable compromise for admission of new members today would, of course, be contrary to the letter and spirit of the United Nations Charter.

¹⁴ Hearing, *supra* note 12, at 30-31 (statement of James R. Lilley, Director of the Asian Studies Department at the America Enterprise Institute, former Ambassador to the People's Republic of China).

¹⁵ Hearing, *supra* note 12, at 31-32 (statements of James R. Lilley and Hungdah Chiu, Professor of Law and Director of East Asian Legal Studies Program, University of Maryland School of Law).

The observer formula and the back-door formula are extremely timid and round-about ways that can hardly do justice to the people of Taiwan and would postpone confronting the moment of truth. Moreover, they are contrary to the principle of universality for United Nations membership.

In any event, it is important to remember that the question of Taiwan's admission to the United Nations is a decision to be made by *all* of the United Nations member states in accordance with the purposes, principles and procedures of the United Nations Charter. It is not a matter for China to dictate, nor is it a matter merely for private negotiation between China and Taiwan.

6. A Straightforward Strategy of Action

At this critical moment, the best strategy for Taiwan is a grand strategy of simultaneity, a strategy of *action now*. Taiwan should simultaneously apply for membership in the United Nations and in other relevant international governmental organizations.

Undoubtedly, such an undertaking would encounter formidable difficulties but, in the ultimate sense, not many more than the task of seeking to get admitted, one by one, to some of the secondary international governmental organizations. It is an approach which is right, straightforward, and worth fighting for.

In this grand endeavor, it would appear that the name (title) of "Taiwan" is quite proper and fitting for the purposes of a membership application. The title of "Taiwan" signifies a *political* as well as a *geographical* entity. "Made in Taiwan" has a very familiar and natural ring to it. In fact, the names of such countries as Japan, Canada, Malaysia and New Zealand are used much in the same vein.

Taiwan must establish clearly its *national identity* as Taiwan, not as a truncated China. This is imperative if Taiwan is to obtain external support and to forge internal unity. The policy of the so-called "creative ambiguity" in fabricating all kinds of names for Taiwan and in echoing the outdated slogans of "one China" and "unification" has clearly hurt the Taiwanese cause. Such an ambiguous and confusing policy has led Winston Lord, United States Assistant Secretary of State for East Asian and Pacific Affairs, to say presumptuously that Taiwan does not want to be a free, independent country. To knowledgeable observers, ROC means "Republic of Confusion" rather than Republic of China. To obtain international understanding and support, the government and people of Taiwan must have the dignity and courage to call Taiwan "Taiwan", not some sort of Chinese creature. One who does not have *self-respect* will not be respected by others. If the Taiwanese government continues to indulge in calling its representative offices abroad "Taipei" Economic and Cultural Representative Offices, it is time that representatives to these offices be appointed by the Mayor of Taipei.

In case there is any quarrel as to whether the name of Taiwan, the Republic of China, the Republic of Taiwan or the Republic of China on Taiwan is more desirable, a referendum (plebiscite) by the people of Taiwan would be a helpful device. A referendum is meaningful only when conditions of genuine freedom of expression

prevail. In other words, it is essential that access to the media of mass communication, broadcasting media as well as print media, be genuinely open and fair. The KMT monopoly of television networks has to change. When Taiwan's application for United Nations membership, both in substance and in name, is based on the popular will of the people, as manifested through referendum processes, it would enhance both internal unity and external support.

7. Taiwanese Diplomacy

In its quest for membership in the United Nations and other international governmental organizations, Taiwan naturally will try to win the support of as many member states as possible.

Especially, Taiwan should, and will, make every effort to win the support of China in terms of long-term common interests. If China leaves Taiwan alone, Taiwan should stand ready to establish and maintain friendly relations with China as two independent, sovereign states on the basis of equality, brotherhood, mutual respect and benefits. Such ties could further be fortified by concluding a Sino-Taiwanese treaty of friendship, commerce and navigation according to international law and practice. The two "political entities" on both sides of the Taiwan Strait, as they are commonly called, are indeed two separate, independent states. Their relationship should be one of the equality of states, not that of domination and subordination or that of central and provincial governments. The relations between Taiwan and China are international relations, not internal affairs.

Both Taiwan and China have much to gain by cooperation in economic and trade relations. Politically, a Taiwan that harbors no pretension of "representing" or "unifying" China and devotes itself to the task of building a viable, island nation in pursuit of democracy, freedom and other human rights would not only serve the best interests of the people of Taiwan, but also the long term interests of the people of China. The people of China would be the real beneficiaries in the long run when their leaders draw meaningful lessons from the *Taiwan experience* in political as well as economic terms. The *Taiwan experience* means not only an "economic miracle" resulting from a free market economy, but also concomitant political developments toward democracy, freedom and human rights and toward a wider shaping and sharing of power, respect, wealth and other values.

Nevertheless, as long as China continues to threaten Taiwan by military and other coercive means, the Taiwanese people have no choice but to be prepared and determined in the defense of their political independence and territorial integrity. Such preparation and determination will be the most effective deterrent against Chinese aggression and the best safeguard for the security and survival of Taiwan. The PRC's refusal to renounce the threat or use of force against Taiwan has been a continuing source of insecurity, instability and anxiety in the Taiwan Strait area. China's actions in conducting a series of missile tests and military exercises targeting Taiwan in the

wake of Taiwanese President Lee Teng-hui's "private" visit to the United States in June 1995 and in the period of the presidential election of March 1996 have been in clear violation of the United Nations Charter principle of non-threat and non-use of force in settling *international* disputes.

Furthermore, resolution of Taiwan's future by peaceful means has been the cornerstone of the United States "one China" policy, as emphasized in the Taiwan Relations Act of 1979 and in the joint communiqués between the United States and the PRC. Declaring a major goal of helping maintain "peace, security, and stability in the Western Pacific," the Taiwan Relations Act asserts that "peace and stability in the [Taiwan] area are in the political, security, and economic interests of the United States, and are matters of international concern."¹⁶ Hence, whenever the United States reaffirms its "one China" policy, it should simultaneously reaffirm its policy for a *peaceful* solution. When Taiwan and China can interact within such a peaceful framework, with stability and peaceful expectations, it would serve the common interests of all parties concerned.

In addition to a Sino-Taiwanese treaty of friendship, commerce and navigation based on equality and mutual benefits, multilateral security arrangements within the larger Asian community context that embrace both Taiwan and China would be helpful to their peaceful interactions and to the maintenance of international peace and security.

Today, many countries seem unwilling to condemn China's belligerent actions toward Taiwan because they mistakenly believe that this is the necessary price for peace; or they are lured by the vast consumer market China represents. As Abraham M. Rosenthal has sharply put it:

Westerners have a way of thinking of Taiwan in relation only to China and their own interests. Mostly they think nervously of how furious Beijing will get if the West gives any acknowledgment or respect to this island that the Communists say is their own province, now and forever.

The West trembles to breathe a word about allowing Taiwan to take part in international activities--even helping refugees. Its skin crawls with fear that Beijing will reduce the West's right to take part in the China trade and the privilege of buying from China billions of dollars more in goods than the West has any hope of ever selling to China.

The worldwide diplomatic blockade that Beijing has created against Taiwan is not the worst of it. When Beijing thinks that the substantial movement toward an independent Taiwan is getting stronger, or sees the horror of democracy rising on this prosperous island so close to the mainland, the Chinese Communists mount menacing military operations. No pretense is made that the exercise and the ugly warnings by top

¹⁶ Taiwan Relations Act, Pub. L. No. 96-8, Apr. 10, 1979, Sec. 2, 93 Stat. 14 (1979), codified at 22 U.S.C. 3301 and reprinted at 18 I.L.M. 873 (1979).

military men are not aimed at intimidating Taiwan and aborting its growing fascination with democratic practice. Expect more threats.¹⁷

Recognition of Taiwan as a sovereign state, rather than appeasement of China, is the only lasting path to peace and security. A China which is condoned by the world community in its pursuit of an imperialistic goal for "one China" remains a danger not only to Taiwan but also to world peace and security. The missiles which China launched in the summer of 1995 and in the spring of 1996 in order to intimidate Taiwan are capable of carrying nuclear warheads. The regime in China which has ordered these bullying tactics is beyond any form of democratic accountability. The United States, the European countries, Taiwan's neighboring countries and other members of the world community must act together, in a timely and decisive fashion, to ensure that China will not embark on acts of aggression because of miscalculation, mixed signals or otherwise. Constructive engagement with China must be accompanied by acts of deterrence. Deal, but verify.

8. Debunking the Myth of "One China"

For too long, the slogan of "one China" has confused myth with reality and fostered a stereotypical thinking about China-Taiwan relations that ignores the existence of Taiwan as an independent nation. It is time that the myth of one China be unmasked.

Underlying the triangular relations among China, Taiwan and the United Nations is the myth of "one China". Yet, there are many different perceptions about what "one China" really means. One popular view holds that "China" means the People's Republic of China (PRC). Another view maintains that "China" refers to the Republic of China (ROC). A third view asserts that "China" refers neither to the PRC nor to the ROC, but to a China that is free, democratic and prosperous, which is to be created in a remote future. The fourth view maintains that "China" represents a long Chinese cultural heritage, not a particular political entity. Finally, there is a view stating simply "one China, but not now" without defining China. Thus, the so-called "one China" policy appears to be, at least, a "four Chinas" policy, full of ambiguity and confusion.

The "one China" policy was the product of the Cold War, gaining in popularity at a time when the Taiwanese people were denied their voice under the "white reign of terror" of perpetual martial law, as imposed by the authoritarian Kuomintang regime of the Chiang Kai-shek family. The United States and its allies then found it expedient, as part of their global Cold War strategy, to treat Chiang Kai-shek's Kuomintang regime, the ROC, as the only lawful government of China in the United Nations and other international arenas, while refusing to recognize the existence of the PRC. This

¹⁷ Abraham M. Rosenthal, *Yes, There Is a Taiwan*, NEW YORK TIMES, Nov. 28, 1995, at A23.

was the policy of the United States and its allies during the decades of the 1950s, 1960s and early 1970s.

The situation changed drastically in the 1970s. Many countries of the Free World severed diplomatic relations with Taiwan and established formal relations with China. Throughout most of the decade, the United States found and used the "China card", i.e. playing China against the Soviet Union. Consequently, the PRC was seated in the United Nations in the place of Taiwan and the United States recognized and established formal diplomatic relations with the PRC in 1979, treating the PRC as the only lawful government of China. At the same time, the United States de-recognized Taiwan and the Taiwan-United States relationship changed from official to non-official relations.

Today, in the mid-1990s, there has been a fundamental change in circumstances regarding the world community in general and Taiwan in particular. With the disintegration of the Soviet Union and the end of the Cold War, the United States, the European countries and other countries must come to grips with the realities of a new Taiwan that is both politically democratic and economically prosperous. They must reshape their policies toward Taiwan and China accordingly. The inherited myth of "one China" must not be continued without critical assessment.

As indicated above, the socio-economic and political development in Taiwan has been especially dramatic and profound. What has come to be known as the *Taiwan experience* refers not only to the "economic miracles" under a free market economy, but, more importantly, to the concomitant political transformation toward democratic institutions and practices. Taiwan has made great progress in securing human rights, while also achieving remarkable levels of economic growth. In contrast, the regime in China has fallen back upon authoritarian practices in order to silence political dissent and has denied its citizens human rights and freedoms which are now taken for granted in Taiwan. Witness Beijing's actions during the Fourth World Conference on Women.

In sum, the current reality is that there is one China, that is, the People's Republic of China. But the PRC, for its 46 years of existence, has never ruled Taiwan for a single day. Taiwan is *not* a part of the PRC; it is *not* "a renegade province of China." Meanwhile, there is one Taiwan. Taiwan exists, independent of China. The democratic, independent nation of Taiwan is seeking to enhance its international position and to play the part commensurate with its resources.

9. The First Step in a Continuing Journey

A journey of a thousand miles begins with the first step. It is time for Taiwan to take that first step.

The 1993 proposal by seven central American countries, asking the General Assembly to establish a special committee to consider ways and means of seating Taiwan in the United Nations, might signify such a first step. On August 6, 1993, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama jointly requested that the 48th session of the General Assembly include a new agenda item

entitled "consideration of the exceptional situation of the Republic of China in Taiwan in the international context, based on the principle of universality"¹⁸ In their note sent to Secretary-General Boutros Boutros-Ghali, the seven states pointed out that Taiwan is "a dynamic and progressive member of the international community and a peace-loving country" that deserves membership in the United Nations and its related agencies.¹⁹ Their proposal included a draft resolution that would establish a committee to study and then recommend an "equitable, rational, and practical solution which [would] enable the Republic of China in Taiwan to become a full member of the United Nations."²⁰ The committee was to be mandated to make its recommendations to the 49th session of the General Assembly which convened in September 1994.

Unfortunately, the United Nations General Assembly refused, in September 1993, to consider the matter because of China's pressure. It was a great injustice and a big disappointment to the people of Taiwan. The injustice was perpetuated when the General Assembly succumbed to China's growing bullying tactics and rejected the joint requests of 12²¹ and 15²² United Nations member states respectively, to have the question of Taiwan's membership in the United Nations included in its agendas of the 49th session (September 1994) and of the 50th session (September 1995).²³

It is hoped that serious efforts will be made to give effective expression to the principle of universality of United Nations membership. It is incumbent upon the members of the United Nations to do what is right in accordance with the letter and spirit of the United Nations Charter. It will be a decision for the member states of the United Nations to make, not for "the Chinese on both sides of the Taiwan Strait" to work out by themselves. Taiwan's membership in the United Nations and other international governmental organizations is a matter of fundamental human rights for 21 million Taiwanese people. It is a matter of *simple justice*. Supporting Taiwan's membership in the United Nations is the right and just thing to do.

¹⁸ U.N. Doc. A/48/191 (Aug. 9, 1993); U.N. Doc. A/48/191/Add. 1 (Sept. 21, 1993); U.N. Doc. A/48/191/Add. 2 (Sept. 22, 1993); and U.N. Doc. A/48/191/Add.3 (Sept. 23, 1993), *supra* note 13.

¹⁹ *Id.* at 3-4.

²⁰ *Id.* at 5.

²¹ Burkina Faso, the Central African Republic, Dominica, the Dominican Republic, Grenada, Nicaragua, Niger, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Solomon Islands, and Swaziland. U.N. Doc. A/49/144 (July 19, 1994); U.N. Doc. A/49/144/Add.1 (July 29, 1994); U.N. Doc. A/49/144/Add.2 (Sept. 13, 1994); U.N. Doc. A/49/144/Add.3 (Sept. 19, 1994), *supra* note 13.

²² Burkina Faso, the Central African Republic, Costa Rica, Dominica, the Dominican Republic, Grenada, Guinea-Bissau, Saint Lucia, Saint Vincent and the Grenadines, Guatemala, Nicaragua, Niger, Panama, Solomon Islands, and Swaziland. U.N. Doc. A/50/145 (July 18, 1995); U.N. Doc. A/50/145/Add.1 (Sept. 15, 1995), *supra* note 13.

²³ See *U.N. Turns Down Taiwan*, NEW YORK TIMES, Sept. 22, 1994, at A7; Foreign Broadcast Information Service, Daily Report: China, 94-184, Sept. 22, 1994, at 59-60; Foreign Broadcast Information Service: Daily Report: China, 95-183, Sept. 25, 1995, at 77-79.

10. Conclusion

It cannot be overemphasized that God helps those who help themselves. The initiative and the drive for Taiwan's membership in the United Nations and other international governmental organizations must come from all of the people of Taiwan. This is a non-partisan matter, requiring the cooperation of all, both officials and the rank and file, both the ruling party and the non-ruling parties, both Taiwanese at home and abroad.

Above all, the Kuomintang regime must rid itself of its dangerous, outdated policies, the same policies that 24 years ago squandered Taiwan's chances for its rightful representation in the United Nations and other international governmental organizations. The unthinking reflex of the so-called "one China" policy, inherited from the two Chiangs (father and son), is today so irresponsible and harmful to the people of Taiwan, so detrimental to the present and the future of Taiwan. Today, it is quite clear that any person of any consequence in the world understands "China" to mean the PRC, not the ROC. Thus, for the current political leaders of Taiwan to perpetuate (or echo) the myth that there is only one China and that Taiwan is part of China is the height of irresponsibility, malice and folly.

What China does is not within the control of the people of Taiwan. But the government of Taiwan should be held accountable to the Taiwanese people for what it says and does. In a democracy, a government is responsible to its people and when the government pursues a path of self-destruction by perpetuating a fantasy, the people must call a halt to it. The people of Taiwan must now work together to ensure that their government suffers no more self-inflicted wounds and that it bases its policies on present realities, not past myths.

Make no mistake about it, it will be a long, uphill fight for the people of Taiwan to become a member of the United Nations. It took China 22 years to be seated in the United Nations. The people of Taiwan must be prepared for a long struggle.

The Taiwanese people have a dream, a dream not only for Taiwan's proper place in the world community, but also for building a first-class island nation in the 21st century, a nation characterized by human dignity, democracy, prosperity and social justice, a nation that is an active and responsible member of the world community in furtherance of world peace and international cooperation. Toward this goal, the Taiwanese people must cultivate and express "the spirit of the great ocean", a spirit that is all inclusive and all embracing, a spirit that fosters unity among Taiwan's population groups in the quest for common goals.

It is high time for the people concerned with the future of Taiwan in the world community to work together, with vision, understanding and good will, to achieve the common good for all. The people of Taiwan are doing their best in their drive for admission to the United Nations. They deserve the strong support of every member of the world community.

Postscript

March 23, 1996 was a milestone for the people of Taiwan in their march toward democracy. It marked the first time in the history of Taiwan that the Taiwanese people directly elected their President on a one-person, one-vote basis. The Taiwanese people cast their votes under the shadow of China's military threats, but were not intimidated by the Chinese bully. It was a triumph of democracy for Taiwan and for the world.

Seventy-six percent of eligible voters went to the polls. They gave President Lee Teng-hui a strong mandate, a 54% majority in a four-way contest. Throughout the presidential election, President Lee was public enemy number one in China's military campaign of terror against Taiwan. The runner-up was Peng Min-ming, the DPP candidate, obtaining 21% of the votes. President Lee was supposed to represent *tacit independence* for Taiwan while Peng represented *explicit independence*. Together, 75% of the Taiwanese people favored independence for Taiwan and repudiated proposals for unification with China. The other two candidates, Lin Yan-kang (New Party) and Chen Liu-an (independent), gained 15% and 10% of the votes respectively. They favored more or less eventual unification with China. The Taiwanese people have courageously spoken: loud and clear for peace, democracy and independence.

What was China's reaction to the outcome of Taiwan's presidential election? China was the loser in the watchful eyes of the world, but the Chinese leaders proclaimed their own victory anyway. They said in effect that their military campaign against Taiwan was a success. Because of their threatened military intervention, they claimed, more Taiwanese voted in favor of "reunification" with China rather than for the independence of Taiwan: 25% for the pro-reunification candidates versus 21% for the pro-independence candidate of the DPP. The Chinese leaders simply ignored the 54% who voted for President Lee. In fact, the leadership in Beijing has accused President Lee for paying only lip service to the "eventual unification with China" and for pursuing his hidden agenda of independence for Taiwan by seeking to enhance Taiwan's international status and profile. Nor surprisingly, the people in China were not told there was a direct, popular presidential election in Taiwan, but only some sort of activities having to do with the change of top leadership in Taiwan.

Throughout the Taiwan Strait crisis in March 1996, China made no secret of its objective in conducting missile tests and military exercises in the waters off Taiwan's ports. It was to intimidate the Taiwanese people, to disrupt their first direct presidential election, to sabotage what was in effect a popular referendum on the future of Taiwan and to undermine Taiwan's democracy. China's terrorist acts not only were "provocative and reckless", as the United States put it, but also threats to the peace and breaches of the peace in violation of the United Nations Charter and international law. The acts created a grave situation requiring an unequivocal, firm international response.

Although the island nation of Taiwan has been excluded from the United Nations during the past 25 years, its territorial integrity and political independence are protected under the United Nations Charter and general international law.

Taiwan and China are two distinct, independent countries, separated not only by the hundred-mile-wide Taiwan Strait, but by centuries of distinctive political, economic, social and cultural development. The 21 million Taiwanese people have evolved their own identity, culture and destiny in the continuing process of nation-building. Simply put, the People's Republic of China has never governed Taiwan for a single day. Taiwan is a sovereign, independent country in every sense of the word; it is *not* "a renegade province of China" and is *not* "an internal affair of China".

China's recent military campaign of terror was not, as Beijing's leaders would have you believe, a continuation of a civil war. The Chinese civil war ended 47 years ago. Behind all the specious pretexts, the Chinese state terrorism is an act of blatant, imperial aggression. China's lawless acts of naked power, openly contemptuous of international law, morality and world public opinion, created a grave situation of international concern, threatening not only the security of Taiwan but also the peace and security in East Asia and Southeast Asia.

During the crisis, the United States acted firmly, in fulfillment of its legal commitments under the Taiwan Relations Act, in support of Taiwan against Chinese aggression by sending two aircraft carrier battle groups to waters near Taiwan.

However, the United Nations failed to uphold its responsibilities in maintaining international peace and security. In the days following Taiwan's presidential election of March 23, 1996, United Nations Secretary-General Boutros Boutros-Ghali visited China and stated that "Taiwan is an integral part of China" and that it is "China's internal affair".²⁴ The Secretary-General was indeed delinquent in not calling for the Security Council to meet to consider the recent Taiwan Strait crisis precipitated by China's coercive and aggressive acts. He was also delinquent in his obligation to make clear to the Chinese leaders their responsibility to refrain from the threat or use of force against Taiwan. By echoing Beijing's myth of "one China", rather than insisting that the Chinese leaders abide by the United Nations Charter and general international law in dealing with the issue of Taiwan, the Secretary-General only encouraged future aggression. Unless challenged, China's aggression against Taiwan, like that of Iraq against Kuwait, will lead to more acts of aggression, endanger world peace and security and erode the credibility of the United Nations as a defender of international peace and security and international law.

The failure of the United Nations to take a strong stand in support of Taiwan is, of course, largely a symptom of Taiwan's lack of membership and voice in the Organization. This recent lack of United Nations support should make it all the more clear to the people of Taiwan, as well as sympathetic members of the world community, that Taiwan's membership not only would benefit the people of Taiwan,

²⁴ See ASAHI SHIMBUN, March 25, 1996; TOKYO SHIMBUN, March 26, 1996, THE NIHON KEIZAI SHIMBUN, March 26, 1996; Agence France Presse, March 27, 1996; Reuters World Service, March 27, 1996; Reuters North American Wire, March 25, 1996; BBC Summary of World Broadcasts, March 25 and 26, 1996.

but also would be in the interest of all members of the world community who wish to live in a peaceful world among states committed to international law.

Taiwan's recent presidential election has reinforced the Taiwanese democratic national identity. This election has also strengthened the Taiwanese government's sense of self-respect, dignity and courage as it strives for recognition from other countries and international organization. Despite the obstacle of China's veto in the United Nations Security Council, which obstructs Taiwan's efforts to join the United Nations, members of the international community should work together to foster the involvement of Taiwan in the United Nations and support its aspirations for United Nations membership

(April 15, 1996)