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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

COMMITTEE ON FOREIGN AFFAIRS HOUSE OF REPRESENTATIVES

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STATEMENT OF HUNGDAH CHIU, PROFESSOR OF LAW AND DIRECTOR OF EAST ASIAN LEGAL STUDIES PROGRAM, SCHOOL OF LAW, UNIVERSITY OF MARYLAND (BALTIMORE)

Mr. CHIU. Thank you, Mr. Chairman, for giving me the opportunity to present my view. The exclusion of the Republic of China from the United Nations is a gross violation of the human rights of 21 million human beings.

Despite the unjustified exclusion of the Republic of China from the United Nations and its affiliated or specialized agencies in 1971 and 1972, the Republic of China continued to support the Resolution of the United Nations. The Republic of China implemented the United Nations Security Council resolutions against Iraq in 1990 and Yugoslavia in 1992. It provided international disaster relief for more than 40 countries of the members of the United Nations. It also provided technical assistance and developed funds to many developing countries who are members of the United Nations.

EXEMPTING TAIWAN VIOLATES HUMAN RIGHTS

In response to the popular demand of the people in the Republic of China in Taiwan, the Republic of China is making an effort to seek arrangement for the representation of the 21 million people of Taiwan in the United Nations and its affiliated agencies. However, the Republic of China's national goal of establishing a united, democratic, free and prosperous China, as repeatedly emphasized by its President, Lee Teng-hui, remained unchanged. However, before the unification can be achieved, the Republic of China on Taiwan must have an international status, which enabled it to participate in international organizations, to ensure that the human rights of the 21 million Chinese in Taiwan can be respected.

The PRC's attempt to exclude Taiwan from the United Nations and other intergovernment organizations ironically has undercut its goal for peaceful unification of China. The PRC's policy only pushes the Chinese people in Taiwan to seek Taiwan independence rather than unification of China. On the contrary, if all of China including Taiwan can be represented in the United Nations, interaction between Taiwan and the mainland in the neutral environments of international forum can enhance the prospect of peaceful unification of China, as recently pointed out by the Republic of China Prime Minister Lien Chan in an article, published in the *Strategic Review*.

In the United States, the Taiwan Relations Act provides that the preservation and enhancement of human rights of all people on Taiwan as reaffirmed as an objective of the U.S. policy. In Article 55 of the United Nations Charter, it provides that with a view toward the creation of conditions of stability, which are necessary for peaceful and friendly relations among nations based on the respect of the principle of equal right and self-determination of the people, the United Nations shall promote universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

Can we say that the continued denial of the fundamental rights of the 21 million Chinese people in Taiwan to be represented in the United Nations is consistent with the principle stated in Article 55 of the U.N. Charter?

Therefore, to support the wishes of 21 million Chinese people in Taiwan to have appropriate representation under the principle of one China in the United Nations, and its affiliate organizations, is not only consistent with the declared policy of the United States, but also with the charter of the United Nations.

EXEMPTING TAIWAN IS IMPRACTICAL

Moreover, the Republic of China on Taiwan represents a community that has risen from poverty to wealth and industrialization, whose developmental experience and capability to provide economic and technical assistance would certainly benefit many developing countries which both the United States and the United Nations are trying to help.

When the United Nations and its specialized agencies or affiliated agencies are beset by financial difficulties, it is unwise and impractical to deny membership status to the Republic of China in Taiwan, the country whose Gross National Product is the world's 20th largest and who is willing and able to make a significant contribution to these organizations through membership dues and donations, thus indirectly it will reduce the financial burden of the United States, who pays the largest share of dues and donations to these organizations.

As a first step to resolve the question of the Republic of China in Taiwan's participation in international organizations, especially the United Nations, I propose that the United States support the seven Central American countries' proposal last year at the United Nations General Assembly, which calls for establishing an ad hoc committee to analyze the exceptional situation of the 21 million people in Taiwan who are not represented in the U.N.

Unfortunately, last year it didn't get through the General Committee of the United Nations, it wasn't on the agenda of the General Assembly last session. I hope this year the United States can support the proposal.

Thank you.

[The prepared statement of Mr. Chiu appears in the appendix.]
Mr. LANTOS. Thank you very much.

Our next witness is Dr. James Seymour, Senior Research Scholar, East Asian Institute, Columbia University.

The United Nations Membership for Taiwan

Hearing of the Subcommittee on International Security
International Organizations and Human Rights
Committee on Foreign Affairs
U.S. House of Representatives
Washington, D.C.
July 14, 1994

(Testimony of Hungdah Chiu, Professor of Law and Director of East Asian Legal Studies Program, University of Maryland at Baltimore, Baltimore, Maryland 21201)

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1. Introduction

The Republic of China (ROC) on Taiwan is in effective control of an area of 14,000 square miles, which is approximately the combined size of Maryland, Delaware and Rhode Island in the United States.¹ It has a population of approximately 21 million, with a per capita income of approximately U.S. \$11,000 in 1993. Its GNP (Gross National Product) is the world's twentieth largest and its U.S. \$80 billion foreign exchange reserves are the world's second largest. It is the fourteenth largest trading nation in the world and is the world's seventh largest outbound investor. In terms of its political system, the Republic of China has a popularly-elected democratic government with a constitution² guaranteeing all human rights recognized in the 1948 Universal Declaration of Human Rights.³

However, such a viable, democratic and prosperous nation has not been allowed to participate in the United Nations and many inter-governmental organizations, especially the specialized agencies of the United Nations. In this paper, I will briefly analyze the origins of the exclusion of the Republic of China on Taiwan in 1971 from the United Nations; the relations between the Republic of China and the United Nations after 1971, the United Nations membership issue and the internal political development in Taiwan and its impact on Taiwan-mainland relations; and finally, the implication of this issue for United States-China policy and the United States national interests.

2. The Exclusion of the Republic of China on Taiwan from the United Nations and Its Specialized or Affiliated Agencies

On March 5, 1945, the Republic of China then on the Chinese mainland, the United States, the United Kingdom and the Soviet Union, as sponsoring countries, invited 46 countries to participate in the United Nations Conference on International Organization to be convened on April 25, 1945. At the plenary meeting held on June 26, 1945, the Charter of the United Nations was adopted. On October 24, 1945, the Charter entered into force upon the ratification by the Republic of China, the United States, the United Kingdom, the Soviet Union and the majority of other participants to the San Francisco Conference. On January 10, 1946, the inauguration meeting of

¹For general information on the Republic of China, see *The Republic of China Yearbook 1994*, Taipei: Government Information Office, 1993.

²Text of the Constitution in *ibid.*, pp. 693-704 (text), 705-708 (Additional Articles).

³United Nations General Assembly Resolution 217 (III). U.N. Doc. A/810 (December 10, 1948).

the United Nations was held in London.⁴

The Republic of China was a faithful member of the United Nations until it was unjustly deprived of its seat at the United Nations in 1971. It is not possible to give a detailed analysis of the Republic of China's participation in, and contribution to, the United Nations between 1946-1971. It is only necessary here to point out that when the United Nations General Assembly voted in October 1971 to deprive the Republic of China of its seat in the United Nations, none of the countries that voted for that unjust resolution were able to provide any facts showing that the Republic of China consistently violated any principles of the United Nations Charter, a requirement under Article 6 of the Charter to justify the expulsion of a member.

On the contrary, many countries at that time defended the right of the Republic of China to maintain its seat at the United Nations on the ground that the Republic of China was a faithful member of the United Nations in good standing. At that time, the representative of the United States specifically pointed out that the Republic of China was a member in good standing with no Charter violations and with a most constructive record.⁵ The representative of Japan also stated that the Republic of China was one of the original founders of the United Nations in 1945 and that it had faithfully carried out its responsibilities and obligations under the Charter, consistently upholding the authority and prestige of the Organization.⁶

Similarly, the representative of the Democratic Republic of the Congo emphasized that the Republic of China had always faithfully discharged its obligations, and that its conduct had remained beyond reproach in its relations with states.⁷

On October 26, 1971, the General Assembly of the United Nations adopted Resolution 2758 (XXVI)⁸ to give the Chinese seat to the People's Republic of China (PRC) and thus exclude the Republic of China from participation in the United Nations, despite the fact that many countries (led by the United States and others) proposed that arrangements should be made for representation of both the Republic of China

⁴Leland M. Goodrich, Edvard Hambro and Anne Patricia Simons, *Charter of the United Nations: Commentary and Documents*, 3rd rev. ed., New York and London: Columbia University Press, 1969, p. 9.

⁵*UN Monthly Chronicle*, Vol. VIII, No. 10 (November 1971), p. 41.

⁶*Ibid.*, p. 48.

⁷*Ibid.*, p. 50.

⁸Text in *Yearbook of the United Nations*, Vol. 25 (1971), New York: United Nations Office of Public Information, 1974, p. 136.

and the People's Republic of China in the United Nations.⁹ Other specialized or affiliated agencies of the United Nations, such as the International Labor Organization, United Nations Educational, Scientific and Cultural Organization, Universal Postal Union, International Telecommunication Union, World Meteorological Organization, Inter-Governmental Maritime Consultative Organization (now International Maritime Organization), International Atomic Energy Agency, General Agreement on Tariffs and Trade (observer status), World Health Organization, the International Civil Aviation Organization and the Food and Agriculture Organization, soon took similar measures to exclude the Republic of China.¹⁰ In 1980, the International Monetary Fund (April 17), the International Bank for Reconstruction and Development (World Bank) (May 15), the International Development Association (IDA) and the International Finance Corporation (IFC) also excluded the Republic of China.¹¹

The consequence of United Nations General Assembly Resolution 2758 (XXVII) was to deprive the Chinese people in the Taiwan area, then totalling 14 million and now totalling 21 million, of the right to participate in international activities sponsored by the United Nations and its specialized agencies.

These 21 million Chinese people in Taiwan were excluded from participation in the United Nations and its specialized or affiliated agencies not because they had done anything wrong, but because the People's Republic of China, which has never exercised effective control over Taiwan, demanded that the Republic of China on Taiwan be excluded. In the preamble of the Charter of the United Nations, it is stated that "We the people of the United Nations determined . . . to reaffirm faith in

⁹On September 29, 1971, a proposed resolution to have both the People's Republic of China (with permanent seat in the Security Council) and the Republic of China represented in the United Nations and its specialized agencies was submitted by 19 states, namely, Australia, Bolivia, Chad, Costa Rica, the Dominican Republic, Fiji, Gambia, Haiti, Honduras, Japan, Lesotho, Liberia, Mauritius, New Zealand, the Philippines, Swaziland, Thailand, the United States and Uruguay. With the adoption of the Resolution 2758 (XXVI) on October 26, 1971, this 19-power resolution was not put to vote. See *Yearbook of the United Nations*, Vol. 25, *supra* note 8, pp. 128, 132.

¹⁰See *Yearbook of the United Nations*, Vol. 25, *supra* note 8, pp. 132-135 and "Representation of China Within the United Nations System," *International Legal Materials*, Vol. XI (1972), pp. 561-570.

¹¹See "International Money Fund, China Admitted, Taiwan Removed," *Facts on File*, Vol. 40, No. 2059 (April 25, 1980), p. 302 C1 and "China, World Bank Membership Gained," *ibid.*, No. 2063 (May 23, 1980), p. 389 C1. IDA and IFC are both affiliated agencies of the World Bank, so the ROC also lost its membership in both organizations.

fundamental human rights in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small . . . have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations." Clearly, the exclusion of the Republic of China and its people from the United Nations and its specialized or affiliated agencies is contrary to the spirit and letter of the Charter.

3. The Republic of China's Support of the United Nations After Its Exclusion

Despite the great injustice done to the Republic of China and its people by the October 26, 1971 General Assembly resolution 2758 (XXVI), which compelled the Republic of China to withdraw from the United Nations before that unjust resolution was put to a formal vote, the government and people of the Republic of China have never lost their faith in the Charter of the United Nations. On the day the United Nations General Assembly adopted that unjust resolution, the late President Chiang Kai-shek delivered a message to the Chinese people in Taiwan, in which he stated:

The Chinese cultural tradition is to uphold justice and love peace. Although we have withdrawn from the United Nations, which we helped establish, we shall continue to be guided by the purposes and principles of the United Nations Charter in the international community and shall continue to fight courageously for international truth and justice and for world peace and security.¹²

The Republic of China, despite the fact that it has not been a member of the United Nations since 1971, has continued to support the activities and resolutions of the United Nations. Thus, on August 6, 1990, after the invasion of Kuwait by Iraq, the Security Council of the United Nations adopted Resolution 661¹³ to impose economic sanctions against Iraq. The Republic of China soon issued an order to implement this resolution by suspending the issuance of export licenses to Iraq.¹⁴

¹²*Chung-hua Min-kuo Ch'u-hsi Lien-ho-Kuo ta-hui ti erh-shih-liu-chieh ch'ang-hui tai-piao-t'uan pao-kuo-shu* (Report of the Delegation of the Republic of China to the Twenty-sixth Session of the General Assembly of the United Nations), Taipei: compiled and published by the International Department of the Ministry of Foreign Affairs, April 1972, pp. 121 (Chinese), 124 (English).

¹³Frederic L. Kirgis, Jr., *International Organizations in Their Legal Setting*, 2nd ed., St. Paul, Minn.: West Publishing Co., 1993, pp. 645-646.

¹⁴Public Notice of Mao (79) i No. 21592 of the Bureau of Foreign Trade of the Ministry of Economic Affairs, document not printed in published source.

On May 30, 1992, the Security Council of the United Nations adopted resolution 757,¹⁵ imposing economic sanctions on Yugoslavia (Serbia and Montenegro) for its intervention in the Republic of Bosnia and Herzegovina. On November 16, 1992, the Security Council adopted Resolution 788¹⁶ and on April 17, 1993 adopted Resolution 820¹⁷ to strengthen its economic sanctions against Yugoslavia. On June 10, 1993, the Republic of China's Ministry of Communications issued an order prohibiting the entry of Yugoslavian ships to ports in the Republic of China.¹⁸

Since 1981, the ROC has voluntarily participated in international disaster relief activities, and since 1990 the ROC set up a special fund for that purpose in its annual governmental budget. The fund has made grants to more than 40 countries,¹⁹ almost all of which are members of the United Nations. During the Persian Gulf War of 1990-1991, in response to the call of the United States, the Republic of China contributed U.S. \$20 million to Jordan, U.S. \$2 million to Turkey and U.S. \$10 million to the Kurds in Iraq.²⁰ During the 1989 San Francisco earthquake, the 1992 Florida hurricane, and the 1993 Los Angeles earthquake, the Republic of China contributed more than U.S. \$1.2 million to the disaster areas. In 1992, after the dissolution of the Soviet Union and in response to the call of the United States and other countries, the Republic of China donated more than U.S. \$60 million in funds, medicine and food to Russia, Ukraine, Belarus (formerly Byelorussia) and Latvia.²¹

In addition to making contribution in relief funds, the ROC has provided many developing countries, almost all of which are under United Nations technical assistance programs, with technical assistance and developmental funds. In 1992, a total of forty-four technical assistance teams in areas including agriculture, fisheries,

¹⁵Kirgis, *supra* note 13, pp. 692-695.

¹⁶*Ibid.*, pp. 696-698.

¹⁷U.N. Doc. S/RES/820 (April 17, 1993).

¹⁸Letter of Chiao-han (82) No. 016274 to the port authorities of Keelung, Taichung, Hualien, Kaohsiung and Suao. Documents not printed in published source.

¹⁹See Ministry of Foreign Affairs, ed., *Tui-wai kuan-hsi yu wai-chiao hsing-cheng* (External relations and foreign affairs administration) [Report on Foreign Affairs], Taipei: Distributed by Chen-chung Book Co., December 1992, pp. 320-326.

²⁰*Ibid.*, p. 329.

²¹*Ibid.*, p. 332.

medicine, handicrafts and industrial development, were sent to thirty-four countries,²² all of which are members of the United Nations. In 1988, the Republic of China set up an International Economic Cooperative Fund with the goal of providing up to U.S. \$1 billion of development funds for developing countries.²³ Special vocational training seminars have been organized for several thousand participants from more than eighty developing countries,²⁴ all of which are under the various United Nations technical assistance programs.

4. The United Nations Membership Issue and Internal Political Development in Taiwan

Through a series of political reforms since the late 1980's, the Republic of China is now a full-fledged democracy. All people's representative bodies, such as the National Assembly and the Legislative Yuan, are periodically elected in Taiwan under the principle of "one person, one vote." By any criteria of international law, the Republic of China on Taiwan, as a viable, democratic and prosperous state in the international community is entitled to be represented in the United Nations and its specialized or affiliated agencies. However, this is not the case.

The exclusion of the Republic of China has engendered great indignation among the 21 million Chinese people in Taiwan. They cannot believe or understand how an organization like the United Nations, with a principal goal of promoting the human rights of all people, can continue to disregard the basic human rights of the 21 million Chinese people in the Republic of China. Those 21 million people represent a population larger than that of two-thirds of the members of the United Nations. The Chinese people in Taiwan have since the early 1990's demanded the government of the Republic of China make efforts to restore their representation in the United Nations and its specialized or affiliated agencies which they were unjustly deprived in 1971-72 and 1980.

The feeling of the Chinese people in Taiwan was vividly described in a speech delivered by Premier Lien Chan of the Republic of China on September 2, 1993 at the 30th Anniversary meeting of the Chinese National Press Council in Taipei:

[I]n the 22 years since we were excluded from the United Nations, the 21 million citizens in the Taiwan area have been seriously discriminated against and their dignity and basic rights to participate in political,

²²*Ibid.*, pp. 304-305.

²³Prior to 1993, U.S. \$420 million had been set aside for this purpose, see *The Republic of China Yearbook 1994*, *supra* note 1, p. 171.

²⁴*Report on Foreign Affairs*, *supra* note 19, pp. 305-306.

economic, and cultural activities in the international community have been violated. This is a very immoral, unfair, and unreasonable situation. If the United Nations really values human rights, it must not continue to just sit by and watch. The United Nations should prove its esteem for human rights by promptly taking action to correct the situation. . . .

Members of the United Nations must realize that while the United Nations Assembly, in its 1971 resolution, accepted the Chinese communist authorities and barred us from its organizations, the United Nations, nevertheless, ignored the fact that the Chinese communists cannot and are not entitled to represent the 21 million people in the Republic of China on Taiwan. We are not represented in the United Nations today. Nor do we have anyone who can stand up for our rights or promise to take on our responsibilities. Is it normal for such an important international intergovernmental organization to ignore the existence of our 21 million people? Is it normal for our children, women, aged, and handicapped to be excluded from United Nations activities and deprived of their rights and the benefits which their counterparts in other countries around the world enjoy? Is it normal for our police to be deprived of full international cooperation in their mission to crack down on international crimes and drug trafficking?²⁵

5. The World Has Begun to Pay Attention to the Issue of the Republic of China's Participation in the United Nations

Recently, this great injustice to the Republic of China and its twenty-one million people in Taiwan has come to the attention of several states. Thus, on August 6, 1993, seven Central American states, namely, Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama, requested the 48th Session of the General Assembly of the United Nations to include in its agenda a draft resolution for establishing an *ad hoc* committee "to analyze comprehensively all aspects of the exceptional situation" of the 21 million Chinese on Taiwan who are not represented in the United Nations, and to make appropriate recommendations.²⁶ In the explanatory

²⁵Lien Chan, *Let the Cry for Justice Reach Far and Wide!* (Remarks on the 30th Anniversary of the National Press Council [September 2, 1993]), Taipei: Government Information Office, September 1993, pp. 6-7.

²⁶"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

memorandum attached to this draft resolution, it is noted that the Republic of China in Taiwan has adopted "the Guidelines for National Unification,"²⁷ which are consistent with the spirit of the Charter with regard to the peaceful settlement of disputes." However, "[b]efore reunification can be achieved, the Republic of China in Taiwan must secure recognition of its international status, enabling it to participate in the United Nations, so that the interests of the 21 million Chinese in the territory under its jurisdiction can enjoy proper and effective representation," the memorandum observed.

It also pointed out that the "precedent set by the former East and West Germanys and by North Korea and South Korea, which became members of the United Nations, shows clearly that parallel membership in the United Nations neither prevents the unification of a nation nor implies international support for its permanent division."

Moreover, the memorandum noted that both "the Republic of China and the People's Republic of China are members of the Asian Development Bank (ADB) and the Asia-Pacific Economic Cooperation Council (APEC), and both have observer status with the General Agreement on Tariffs and Trade (GATT), to which they are negotiating accession."

at the United Nations" (Letter dated August 6, 1993 from the representatives of Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama to the United Nations addressed to the Secretary-General), U.N. Doc. A/48/191 (August 9, 1993), reprinted in *Chinese Yearbook of International Law and Affairs*, Vol. 11 (1991-1992), pp. 261-262, Explanatory Memorandum in pp. 263-264, Draft Resolution in p. 265.

²⁷In October 1990, President Lee Teng-hui established a National Unification Council which adopted the Guidelines for National Unification on February 23, 1991. President Lee approved the Guidelines on March 5, 1991 and on March 14, 1991, the Executive Yuan (Cabinet) passed the Guidelines as the ROC's policy toward the mainland. The Guidelines confirm that "both the mainland and Taiwan areas are parts of Chinese territory" and calls upon the Chinese Communist regime "to end the state of hostility and, under the principle of one China, solve all disputes through peaceful means, and furthermore respect -- not reject -- each other in the international community." The Guidelines also reaffirm the ROC's national goal of establishing a democratic, free and equitably prosperous China," *The Free China Journal*, Vol. XIII, No. 18 (March 11, 1991). On May 1, 1991, President Lee announced the termination of the state of hostilities toward the Chinese Communist regime. "ROC terminates hostility toward Peking," *The Free China Journal*, Vol. XIII, no. 32 (May 2, 1991), p. 1. However, the Chinese Communist regime has not yet terminated its state of hostilities against the ROC on Taiwan.

This explanatory memorandum takes appropriate consideration of the Chinese Communist regime's concern on the issues of unification and "two Chinas." Thus, it specifically mentions inter-governmental organizations, in which both the mainland and Taiwan are members (ADB and APEC) or observers (GATT), implying that this may be a possible model for Taiwan's participation in the United Nations under the principle of "one China."

On August 11, 1993, the Permanent Representative of the People's Republic of China to the United Nations sent a note²⁸ to the United Nations, opposing the inclusion of the seven countries' proposed resolution in the agenda of the 48th Session of the General Assembly. The note claimed that the Chinese representation question has long been settled by 1971 General Assembly Resolution 2758 (XXVI) politically and procedurally and "parallel representation" is entirely out of the question. It likens Taiwan's "attempt to 'return' to the United Nations . . . [as] actually trying to split China, obstruct and sabotage the great undertaking of China's reunification" and notes that "[this] attempt has been and will continue to be resolutely opposed by the entire Chinese people, *including people in Taiwan*, and is, therefore, doomed to failure." (Emphasis added.)

The note's message that the people in Taiwan oppose the Republic of China's return to the United Nations is obviously contrary to fact. Moreover, this note ignores the main issue raised by the seven countries' proposed draft resolution, i.e., how to find an appropriate way to have the fundamental rights of 21 million Chinese in Taiwan properly represented in the United Nations.

6. The United Nations Membership Issue and Taiwan-Mainland Relations

The People's Republic of China has taken a totally negative attitude toward Taiwan's participation in the United Nations and other inter-governmental organizations such as the specialized or affiliated agencies of the United Nations, except the three organizations mentioned earlier (ADB, APEC and GATT). On August 31, 1993, the People's Republic of China released a White Paper, *The Taiwan Question and the Reunification of China*,²⁹ in which it is stated:

The sovereignty of each state is an integral whole which is indivisible and unsharable. The government of the People's Republic of China, as the sole legal government of China, has the right and obligation to exercise

²⁸U.N. Doc. A/48/306 (August 11, 1993).

²⁹"'White Paper' on Taiwan, Reunification Issued," *Foreign Broadcast Information Service, China*, September 1, 1993, pp. 43-51.

state sovereignty and represent the whole of China in international organizations. The Taiwan authorities' lobbying for a formula of "one country, two seats" in international organizations whose membership is confined to sovereign states is a manoeuvre to create "two Chinas." The Chinese Government is firmly opposed to such an attempt.³⁰

The *White Paper's* claim that the People's Republic of China exercise state sovereignty and represent the *whole* of China in international organizations is definitely not true as it has never exercised control over Taiwan. In a statement issued on September 16, 1993 by the Republic of China's Mainland Affairs Council concerning the *White Paper*, it was stated:

Since the establishment of the Chinese Communist regime, it has never extended its jurisdiction to Taiwan. It has no right to represent us in the international community and it has never asserted the rights or performed any obligation on behalf of people of the Taiwan region. The boycott and exclusion of the Republic of China in the international community by the Chinese Communists not only ignore the political reality, but also undermine the improvement of bicoastal relations.³¹

The PRC's policy to exclude Taiwan in the United Nations and its specialized or affiliated agencies and international community in general is, ironically, undercutting the PRC's attempts to achieve its goal of peaceful unification of China and in fact encouraging Chinese people in Taiwan to seek Taiwan independence rather than unification of China. Earlier, in a press conference held on April 30, 1991, President Lee Teng-hui already elaborated on this point as follows:

Why do so many people among us want to advocate independence for Taiwan? This is because Communist China blocks our various activities in the international community and leaves no way out for us. As a result, some youths and some people who are dissatisfied with what the Government has done went abroad and called for Taiwan independence. The call for Taiwan independence does not originate from within Taiwan. Rather, it is a result of Communist China's practice of isolating us from the international community. Personally, I believe that if Communist China understands this point, it would not want to hamper

³⁰*Ibid.*, pp. 49-50.

³¹Mainland Affairs Council of the Executive Yuan, "On 'The Taiwan Question and Unification of China,' -- There is only the 'China Question' and not 'Taiwan Question,'" *Chung-yang Jih-pao* (Central Daily News), Taipei: September 17, 1993, p. 3.

the various activities conducted by us in the international community. Letting the ROC have enough space in the international community is the way to truly promote the development of the ROC on Taiwan as well as reunification of our country. It is not a bad thing for all the Chinese people and will definitely be of great help to our country. Therefore, probably, I'll have to say that the leaders of Communist China are wrong in their thinking. They do not understand what gives rise to the call for Taiwan independence.³²

Recently, Premier Lien Chan of the Republic of China pointed out in an article that there is no credible evidence that the ROC's participation in the United Nations would do anything to impair the prospects for the ultimate reunification of China. He wrote:

In fact, experience would suggest the contrary. In 1973, both East and West Germany entered the United Nations as full participants. The Marxist German Democratic Republic and the Federal Republic of Germany normalized their relations with the treaty of December [21,] 1972.³³ This dual membership arrangement did not inhibit the ultimate reunification of the German nation divided since the Second World War. Similarly, in the fall of 1991, North and South Korea simultaneously entered the United Nations as full participants. Neither Pyongyang nor Seoul has expressed any fears that this would obstruct the ultimate reunification of the Korean peninsula.

A case could be made that the full representation of all of China [i.e., including the 21 million people in the Republic of China on Taiwan] in the U.N. would foster, rather than retard, reunification by enhancing contact and interaction between Taiwan and the mainland in the neutral environment of international forums. Contact between Taiwan and the mainland in circumstances of equity and mutual regard could only solidify

³²"[Lee] Addresses News Conference, Ends Mobilization," *Foreign Broadcast Information Service, China*, May 3, 1991, pp. 53-54.

³³Treaty on the Basis of Relations Between the Federal Republic of Germany and the German Democratic Republic, done at East Berlin, December 21, 1972. *International Legal Materials*, Vol. 12, No. 1 (January 1973), pp. 16-24. The Treaty entered into force on June 21, 1973. *International Legal Materials*, Vol. 12, No. 4 (July 1973), p. 1032. Both countries became members of the United Nations in 1973. Unification took place at midnight on October 2-3, 1990. Robert Jennings and Arthur Watts, *Oppenheim's International Law*, 9th ed., Vol. 1, Introduction and Part I, Harlow, Essex, England: Longman Group UK Limited, 1992, pp. 137, 138.

the foundation upon which a united, democratic and prosperous China might be built.³⁴

7. Implications for U.S. Policy Toward China (Taiwan and Mainland) and U.S. National Interests

When the United States established diplomatic relations with the People's Republic of China on January 1, 1979, and terminated diplomatic relations with the Republic of China on the same date, the United States did not expressly recognize Taiwan as a part of the PRC or as under PRC sovereignty.³⁵ On the contrary, in the Taiwan Relations Act (TRA) of 1979,³⁶ enacted by the Congress with overwhelming

³⁴Lien Chan, "The Republic of China and the United Nations," *Strategic Review*, Summer 1994, pp. 12-13.

³⁵In the joint communique establishing U.S.-PRC relations released on December 15, 1978 and entered into force on January 1, 1979, it is stated that "the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China," *Department of State Bulletin*, Vol. 79, No. 2022 (January 1979), p. 25. However, in the Chinese text, the word "acknowledge" was translated into *Cheng-jen*, which, if retranslated into English, would mean "recognize." *Renmin Ribao* (Jen-min jih-pao in Wade Giles transliteration system, People's Daily), December 17, 1978, p. 1.

Deputy Assistant Secretary of State for East Asian and Pacific Affairs Roger Sullivan told the Taiwan press on December 27, 1978, that in the Joint Communique of December 15, 1978, the United States did not recognize the People's Republic of China's sovereign claim to Taiwan. *Chung-yang jih-pao* (Central Daily News), December 28, 1978, p. 1. However, at that point no public statement on the status of Taiwan had been made by a high level American official to the American press. In the *Taiwan Enabling Act, Report of the Committee on Foreign Relations United States Senate Together with Additional Views on S.245*, March 1, 1979, Washington, D.C.: U.S. Government Printing Office, 1979, p. 7, it is clearly reported:

The Administration has stated that it recognizes the People's Republic of China (PRC) as the sole legal government of China. It has also acknowledged the Chinese position that Taiwan is a part of China, but the United States has *not* itself agreed to this position. The bill submitted by the Administration takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. *domestic* law. The bill assumes that any benefits to be conferred without regard to Taiwan's international legal identity.

³⁶93 STAT. 14, 22 USC 3301.

majority of both houses provides in Section 4(a) as follows:

Sec. 4.(a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.³⁷

The TRA also states in Section 2(c) that "[t]he preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States."³⁸

Article 55 of the United Nations Charter provides:

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of the people, the United Nations shall promote: . . . universal respect for, and observance of, human rights and fundamental freedoms for all *without distinction as to race, sex, language, or religion.* (Emphasis added.)

Article 56 provides that all members "pledge themselves to take joint and separate action in co-operation with the Organization [i.e., the United Nations] for the achievement of the purposes set forth in Article 55." Can we say that the continual denial of the fundamental rights of the 21 million Chinese in Taiwan to be represented in the United Nations is consistent with the above cited principles provided in Article 55 of the United Nations Charter?

Therefore, to support the wishes of the 21 million Chinese people in Taiwan to have an appropriate representation under the principle of "one China," in the United Nations and its specialized or affiliated agencies is not only fully consistent with the declared policy of the United States but also with the Charter of the United Nations.

Moreover, the Republic of China on Taiwan represents a community that has risen from poverty and industrial backwardness to wealth and industrialization, whose developmental experience and capability to provide economic and technical assistance would certainly benefit many developing countries which both the United Nations and the United States try to help. When the United Nations and its specialized or affiliated

³⁷22 USC 3303.

³⁸22 USC 3301.

agencies are beset by financial difficulties, it is unwise and impractical to deny membership status to the Republic of China on Taiwan, a country whose Gross National Product is the world's twentieth largest and who is willing and able to make significant contributions to these organizations through membership dues and donations,³⁹ thus indirectly reduce the financial burden of the United States who pays the largest share of dues and donations⁴⁰ to these organizations.

³⁹The People's Republic of China is among the largest recipients of the various United Nations' aid or technical assistance programs. The PRC has, however, made minimal contributions, even in membership dues, to the United Nations. When the Republic of China on Taiwan was represented at the United Nations, it paid four percent of the United Nations' regular budget. *Yearbook of the United Nations*, Vol. 24 (1970), New York: United Nations Office of Public Information, p. 861. The PRC's contribution to the United Nations' regular budget is only 0.77 percent in 1991, which is less than Mexico (0.88%). See *Yearbook of the United Nations*, Vol. 45 (1991), Dordrecht, Boston, London: Martinus Nijhoff Publishers, 1992, p. 880.

⁴⁰The United States pays twenty-five percent of the United Nations' budget.

HUNGDAH CHIU

LL.B., 1958, National Taiwan University; M.A., 1962, Long Island University; LL.M., 1962, S.J.D., 1965, Harvard University. Mr. Chiu, who has taught at National Taiwan University and at National Chengchi University in the Republic of China, was a research associate at Harvard Law School for six years. Between 1976 and 1982, Mr. Chiu annually attended the Third United Nations Conference on the Law of the Sea as an observer for the International Law Association. He was elected one of the 10 outstanding young men for 1971 by the Junior Chamber of Commerce of the Republic of China, and he received a Certificate of Merit, awarded by the American Society of International Law in 1976, a cultural award from the Institute of Chinese Culture, a National Reconstruction Award from the Chinese Academic Association in Mid-America in 1980, the Toulmin Medal for the best article in 1981 from the Society of American Military Engineers in 1982, and Outstanding Achievement Award from Mid-Atlantic Chinese Science and Technology Association in 1991. He was President of the Association of Chinese Social Scientists in North America (1984-1986); President of the American Association for Chinese Studies (1985-1987), and Chairperson of the Section on International Legal Exchange of the Association of American Law Schools (1986-1988); Chairperson of the Interest Group on the Law of Pacific Region of the American Society of International Law (1987-1993) and Minister without Portfolio [Minister of State] of the Executive Yuan (Cabinet) of the Republic of China on Taiwan (1993-1994). Currently, he is Professor of Law and Director of East Asian Legal Studies Program at the University of Maryland School of Law, President of the Chinese Society of International Law [Chinese (Taiwan) Branch of the International Law Association] (1993-present), Editor-in-Chief of the *Chinese Yearbook of International Law and Affairs* (both Chinese and English version) (1981-present), General Editor of the *Occasional Papers/Reprints Series in Contemporary Asian Studies* (1977-present), member of the Board of Directors, Straits Exchange Foundation (1993-present), and a Research Member of the National Unification Council of the Republic of China. He has written, edited and co-authored 22 books in English and in Chinese and more than 100 articles in the field of international law, comparative law, international relations and Chinese affairs. His books include *People's China and International Law* (with J. Cohen, 1974), *China and the Taiwan Issue* (1979), *Agreements of the People's Republic of China 1966-1980: A Calendar* (1981), *China: 70 Years After the 1911 Hsin-hai Revolution* (with S.C. Leng, 1984), *Criminal Justice in Post-Mao China: Analysis and Documents* (with S.C. Leng, 1985), *The Future of Hong Kong* (with Y.C. Jao and Y.L. Wu, 1987), *The Draft Basic Law of Hong Kong: Analysis and Documents* (1988), and *International Law of the Sea: Cases, Documents and Readings* (with Gary Knight, 1991).