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Chapter 8

All Dressed Up But Not Invited to the Party:
Can Taiwan Join the United Nations Now the Cold War Is Over?

Vincent Wei-cheng Wang

1. Introduction

History is full of ironies and surprises. The end of the Cold War has injected some new vitality to the once moribund United Nations. Originally formed to promote peace, security, and cooperation among the world’s nations, the United Nations, however, until recently was made alternately ineffective and irrelevant by the East-West and the North-South conflicts. But thanks to an increasing need for global governance in the post-Cold War era, the United Nations seems suddenly thrust back into limelight. It is entrusted to play an even more forceful role on a wide array of important issues in the future, from peace-keeping and humanitarian intervention to environmental protection, despite states’ safeguard of their sacred sovereignty.1 In considerable measures, the United Nations has contributed to world peace and development, by bringing countries and peoples under its wings in attempts to resolve their conflicts and attain their

common goals. The year 1995 marked the fiftieth anniversary of the founding of the United Nations. This milestone clearly shows that the United Nations has surpassed its predecessor, the League of Nations, in terms of both longevity and success.

Despite its lofty goals, however, the United Nations has been used as an instrument by certain countries against others. Consequently it has done injustice. One of its most cruel relics from the Cold War era is the exclusion of Taiwan, a nation of twenty-one million people, an increasingly important actor on the world stage and a founding member of this very world organ -- that makes the irony even more poignant. Currently Taiwan is the only known country that does not have a seat in the United Nations not by its own choice. Since 1971, Taiwan has actually suffered a singular "diplomatic apartheid" imposed by China in the United Nations and on the world stage in general. The Cold War may be over for most countries and the seeming resolution of major conflicts prompted one author to proclaim the "end of history". But it is hardly over for Taiwan, despite some prominent retorts. Taiwan, despite its admirable success story and considerable economic might, still finds itself "all dressed up, but not invited" to the big party of fellow nations.

This chapter reviews the history and examines the key issues related to Taiwan's efforts to enter the United Nations, as well as offers some practical suggestions. The next three sections juxtapose the United Nations idealist principle of universality (of all states and peoples) and realist power politics and they review the evolution of the once contentious China representation issue in light of the changing politics in the United Nations. Section 4 also examines how the United Nations has accommodated divided states by comparing two models: parallel representation and exclusive representation. Section 5 tests Taiwan's statehood, which is requisite of United Nations membership. Section 6 discusses the domestic and international reasons for Taiwan's United Nations bid. The final section analyzes several prerequisites, models, and approaches for Taiwan's re-entry into the United Nations. Although this chapter focuses on the United Nations issue, since admittance into the United Nations is a litmus test for Taiwan's

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2 The term "Taiwan" refers here to the Republic of China (ROC), whose capital is in Taipei, whereas "China" refers to the People's Republic of China (PRC), whose capital is in Beijing (Peking).

3 A few countries choose not to join the United Nations, because they espouse permanent neutrality (Switzerland), or they carry little international significance, or cannot afford membership dues (Tonga and Cook Islands). Although some African states had sought the expulsion of South Africa under apartheid and some Arab states had urged Israel's expulsion from the United Nations, in reality no action has ever been taken under Article 5 (suspension) or Article 6 (expulsion) of the United Nations Charter. A. LEROY BENNETT, INTERNATIONAL ORGANIZATIONS: PRINCIPLES AND ISSUES (Englewood Cliffs, New Jersey: Prentice Hall, 6th ed. 1995), at 82. From 1974 to 1994, the United Nations barred South Africa from participating by denying the credentials of the representatives sent by the white minority government.


5 Paul Tsongas, a former American presidential candidate, once declared: "The Cold War is over, and the winners are Germany, Japan, and Taiwan." Quoted from Edward Alden and Franz Schurman, Neo-Nationalist Fallacies, 87 FOREIGN POLICY 110-111 (Summer 1992).
diplomatic endeavors in the post-Cold War era, many issues explored here have implications for Taiwan’s attempts to join other international organizations in particular and to elevate its international stature in general.

2. The United Nations: Idealist Aspiration Versus Realist Verity

Envisaged during World War Two, the United Nations was created after the war to maintain global peace and security and to promote international cooperation. By evoking the idealist tradition in international relations, the United Nations strove to embrace all nations to work together in achieving their common goals, hence eliminating the sources of war. The United Nations’ idealism is most manifest in the principle of universality, the notion that the world body should be open to all nations.6

Today the United Nations is a nearly universal body in terms of its membership. There are currently 185 member states (see Table 1 below).7 Nearly all territories on earth are represented in this body. However, there are important exceptions such as Switzerland (voluntary neutrality) and Taiwan (involuntary exclusion).8

Given the increasing interdependence among states and peoples, and given the nature of many global problems such as the environment, population and resources that mandate transnational coordination, the United Nations is expected to play an even greater part in the years to come. So the United Nations has seemingly avoided the plight of its predecessor, the League of Nations, whose failure contributed to the outbreak of mankind’s last total war, World War Two.

Despite its moral overtones, the United Nations is an eminently political body. Occasional gaps between idealism and realism (hence the designation "nearly universal") have produced such glaring anomalies as Taiwan, whose 21 million inhabitants have not been properly represented in the United Nations since 1971. The tension between these two trends can often be found in the spirit and the deeds of the United Nations.

The United Nations was intended to be a universal organization. In fact, the word "universality" has two meanings: both all states and all persons should be properly represented in the United Nations. Article 4 of the United Nations Charter states that membership is "open to all other peace-loving states" willing to accept the obligations

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6 It is proper to draw an analogy to the theory of "popular sovereignty" of democracy at the global level. The United Nations (government) is made up by the states (the people or their representatives), governs with the consent of the states (the people) and should enhance their interests.

7 United Nations Department of Public Information, Press Release, ORG/1190, 15 December 1994. The latest state admitted as a Member was Palau.

of the Charter. Article 55 calls on the United Nations to "promote universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Furthermore, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights all emphasize that every person is entitled to participate in political, cultural and economic activities.

When states are represented in the United Nations, they are equally represented, at least formally speaking. No one state possesses a higher status than another state. Article 2 of the Charter points out that the United Nations is "based on the principle of sovereign equality of all its Members" and that all members shall "settle their international disputes by peaceful means." These moral principles are, however, sometimes subject to purely political considerations. For instance, which political entities constitute "states" and which ones are "peace-loving" or deemed "able and willing to carry out international obligations" are highly political decisions. In fact, whether an aspiring member can become a member of the international community has to be essentially "certified" by the United Nations. The very article that proclaims universal membership also provides that only those peace-loving states which, "in the judgment of the Organization, are able and willing to carry out [Charter] obligations" can become a member. In other words, if a peace-loving state cannot obtain a positive ruling from the United Nations on its peace-loving nature and capacity, it can be excluded.

In addition, such a verdict is rendered through a political process. Article 4(2) of the Charter stipulates that states can be admitted to the Organization only with "a decision of the General Assembly [by a two-thirds majority] upon the recommendation of the Security Council [where five states hold veto powers on non-procedural matters]."

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10 Id. Article 55.
14 All states are sovereign; they answer to no higher authority and they are formally equal among one another. This is why the United Nations is only an inter-national organization, the effectiveness of which depends upon the voluntary cooperation of egoistic states. It is not a supra-national world government that can dispense authoritative decisions above and sometimes against the will of a state. By contrast, the European Commission is closer to being a supranational body. The European Court of Justice has established its right to overrule national laws when in conflict with European Community laws.
15 Charter of the United Nations, supra note 9, Article 2(1) and 2(3).
16 Id. Article 4(1).
17 Id. Article 4(2); see also Articles 18 and 23. According to Article 23(1), the five permanent members of the Security Council are the Republic of China, France, the Soviet Union, the United Kingdom and the United States. The Chinese seat was held by the Nationalist government from 1945 to
This means that any one of the five great powers, should it so desire, can single-handedly keep an aspiring state out of the United Nations. In fact, this happened often in the infamous early history of the Organization. Bestowing the veto power on the five permanent members of the Security Council was a pragmatic recognition that achieving world peace would require the concert of great powers. However, such special status has also frequently handcuffed the United Nations and tarnished the image of the very international body created to promote peace and avoid another great war.

So on the one hand the United Nations advocates the moral principle of universality, while on the other hand politics has kept Taiwan out of the Organization. To understand why this anomaly has occurred is not only the first step toward a solution to the agony of a particular people, but also a necessary step of making the United Nations a truly universal organization. But first we have to understand the changing international politics of the United Nations since its founding and how those politics have largely shaped the evolution of the China representation issue.


In 1945, fifty-one "peace-loving" states founded the United Nations. Many of these founding members had fought against the Axis powers during World War Two. In those early days, the United States led an "automatic majority" in the Organization, which could then be used to further American foreign policy. This was a clear example of the political nature of the United Nations. During the first ten years, admission was granted grudgingly. As East-West lines hardened, the majority led by the United States denied the necessary votes to applicants from the Soviet bloc while the Soviet Union, leading a frustrated minority, used its veto to block the admission of most other applicants. The breakthrough in this stalemate came in 1955 when sixteen new members were admitted in the form of a package deal. Since then membership has been available virtually for the asking. Table 1 shows the present member states by years of admission.

With the entry of so many new member states, mostly poor former colonies from the Third World, the politics of the United Nations also changed. The East-West conflict was pushed aside by the North-South conflict. Third World states, which struggled with underdevelopment, over time grew into a "tyranny of the majority" as they constituted more than two-thirds of the membership. They saw the West, particularly the United

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1971 and by the Communist government since then. The Soviet Union seat has been taken over by its successor state, the Russian Federation, after the breakup of the former Soviet Union. Article 27 establishes the veto power of these five permanent members on non-procedural, i.e. substantive or important matters. An interesting question pertains to the issue of which China is really in the United Nations: the original ROC is now out, yet the "ROC" now in the United Nations is actually the PRC. However, amending the Charter ("to set the record straight") will require the approval and ratification of two-thirds of the members of the General Assembly, including all the permanent members of the Security Council (Article 108).
States, as the major impediment to their yearnings. They pushed for a New International Economic Order that would fundamentally redistribute global wealth and income at the expense of the North. Gradually the United States found itself in the minority, casting most vetos, including its support of Israel, in the 1970s and 1980s, when the Soviet Union was largely irrelevant on North-South issues. Table 2 shows the changing lot of the five permanent members of the Security Council. Figure 1 shows the percentage of issues either superpower voted with the majority.

These changing politics in the United Nations provide an excellent perspective to understand the changing lot of Taiwan within the Organization, as is explained below.

4. The China Representation Issue

The political nature of the United Nations was further demonstrated by how the Organization handled the admission of divided states: Germany, Korea, Vietnam and China, each a persisting legacy of the Cold War and domestic politics. Roughly speaking, two models have been used: parallel representation (Germany and Korea) and exclusive representation (Vietnam and China).

Both German republics were admitted in 1973 as a result of détente and intra-German rapprochement. After Germany was unified in 1990, the two separate German representations in the United Nations became one. Before they formally became a member of the United Nations in 1991, both North Korea and South Korea had also held observer status in the Organization. By contrast, neither North Vietnam nor South Vietnam was ever a member of the United Nations. However, a unified (communist) Vietnam was admitted in 1977. So the pattern for these divided states was a postponement of admission until an "internal" solution could be reached one way or the other: either the two sides of a divided state could be simultaneously or consecutively admitted (parallel representation as in the case of Germany, Korea and Yemen) or only the victor side could be admitted (exclusive representation as in the case of Vietnam).

In the cases of Germany and Yemen, when the two sides were unified, parallel representations became an exclusive one. In fact, as the German case indicated, formal separate international identities for the two German states had not prevented their eventual unification. A unified Korea in the future may also follow this model.

The case of China however was different. The ROC was a founding member of the United Nations. Hence, the issue could not be postponed. In fact, ever since the Communist regime was established on the mainland and the Nationalist government moved to Taiwan in 1949, the United Nations had to wrestle with this issue: which

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19 The case of Yemen was somewhat similar. Yemen was admitted to the United Nations in 1947 and Democratic Yemen in 1967. On 22 May 1990, the two countries merged and have since been represented as one Yemen.
China should represent China in the Organization? The issue was further exacerbated because neither China would officially admit the reality of two Chinas. Therefore, the issue was treated as one of representation rather than of admission to membership. The question was which China could exclusively represent all Chinese people in the United Nations rather than whether each China should represent only the people under its jurisdiction.\(^\text{20}\)

The zero-sum diplomatic struggle between the ROC and PRC defined the politics of the Chinese representation issue in the United Nations. Under the grand design of the Cold War, the United States contributed to that battle, by inflicting upon the United Nations what a critic has called "an ideological and a political test for membership."\(^\text{21}\) As it turned out, the ROC held that exclusive representation from 1945 to 1971 when the PRC was excluded and the PRC has held that post ever since while the ROC has been excluded. Either period of exclusive representation (and exclusion) created an unfortunate victim and the practice stood in stark contrast to the principle of universality.

From the outbreak of the Korean War in 1950 to Kissinger and Nixon’s "opening China" in 1971, the ROC was a major beneficiary of the Cold War when the United States sought to contain Russian-Chinese communism. On the contrary, Kissinger and Nixon’s "opening China" and the China–United States rapprochement changed Taiwan’s fortune overnight. Taiwan became a major victim of détente, trying to curb the uncontrollable decline of its international status.\(^\text{22}\) As a United States protégé, Taiwan’s fate waxed and waned with that of the United States in the United Nations.

The United States adopted two strategies to support the ROC in the United Nations: moratorium (1950-1961) and important question (1961-1971). The moratorium tactic was used when the United States controlled a majority of votes in the United Nations. Year after year, the United States used its influence to prevent proposals calling for admission of the PRC and expulsion of the ROC from being put on the agenda of the General Assembly. Starting from the early 1960s, however, an increasing number of Third World member states wanted to seat the government in Beijing. Because these

\(^{20}\) The PRC’s posture toward the United Nations before 1971 was one of "love me or leave me, but don’t leave me alone." \textit{Samuel S. Kim, China, the United Nations, and World Order} (Princeton, New Jersey: Princeton University Press, 1979), at 99.


\(^{22}\) Richard Nixon actually pursued two sets of détente: one between the United States and the Soviet Union and the other between the United States and the PRC. The latter détente was made possible by the Sino-Soviet split. See \textit{John Spanier and Steven W. Hook, American Foreign Policy Since World War II} (Washington, D.C.: Congressional Quarterly Press, 13th ed. 1995).
Third World states were anti-American, they saw the seat held by the ROC, supported by the United States, as unjust. 23

As a result, the United States had to adopt a new strategy by defining the China representation issue as an important issue, requiring a two-thirds majority vote in the General Assembly. 24 The string of United States and Nationalist voting victories, though impressive, was finally broken in 1971. On 25 October 1971, the Twenty-Sixth General Assembly rejected the "important question" draft resolution by a vote of 55 in favor, 59 against, 15 abstentions and 2 absent. Once this critical procedural protection was lost, General Assembly Resolution 2758 was adopted, upon a proposal of Albania, by a vote of 76 in favor, 35 against, 17 abstentions and 3 absent. Resolution 2758 gave the China seat to the PRC and in effect expelled the ROC. 25

The then United States Ambassador to the United Nations, George Bush, had worked to introduce a draft resolution for "dual representation" of both the PRC and the ROC, with the PRC being seated as a Permanent Member of the Security Council. But since Resolution 2758 was adopted and the ROC maintained that it had "withdrawn" from the United Nations, the draft "dual representation" resolution never came to a vote in the General Assembly. The zero-sum mentality of both Chiang Kai-shek and Mao Zedong and the United Nations politics at that time made it impossible. One has to wonder how different Taiwan’s international status would have been today if the scheme of dual representation had been adopted instead of Resolution 2758.

Resolution 2758 was an ugly piece of remanufactured history and probably an illegal document. 26 Its tone was completely one-sided. It sought to "restore the lawful rights of the People’s Republic of China" as if the PRC were a founding member of the United Nations. The ROC was in fact a founding member of the United Nations; the PRC was not established until 1949. It recognized the representatives of the PRC as "the only lawful representatives of China to the United Nations" and "the People’s

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23 Furthermore, China sided with the Third World Non-Aligned Movement, at least rhetorically. See King C. Chen (ed.), China and the Three Worlds (Armonk, New York: M.E. Sharpe, 1979).

24 According to Article 18(2) of the Charter, "the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, [and] the expulsion of Members" are important questions to be decided by a two-thirds majority. Article 18(3) adds that "the determination of additional categories of questions to be decided by a two-thirds majority" shall be made by simple majority. On 15 December 1961, the General Assembly adopted Resolution 1668 (XVI), which decided that "in accordance with Article 18 of the Charter, any proposal to change the representation of China is an important question." U.N. Doc. A/5100, at 66.

25 G.A. Res. 2758 (XXVI), 25 October 1971, U.N. Doc. A/8429, at 2, reprinted in Appendix 2. Technically the ROC was listed as not participating in United Nations activities even though Minister of Foreign Affairs Chow Shu-kai had announced the ROC's decision to withdraw from the United Nations prior to the vote. Note that the Charter deliberately made no provision for the withdrawal of member governments.

Republic of China is one of the five permanent members of the Security Council" notwithstanding the fact that Article 23(1) of the Charter provides that the ROC is a permanent member. It also decided to "expel the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and all the organizations related to it." This decision openly violated the spirit of universality which underlies the United Nations.

Most importantly, as John Bolton has pointed out, Resolution 2758 violated the United Nations Charter. It had de facto, but not de jure, the effect of admitting a new member (PRC), expelling a sitting member (ROC) and replacing a Permanent Member of the Security Council, all without Security Council action, as mandated by the Charter. The supporters of Resolution 2758 argued that none of these results was an "important question" under the United Nations Charter and ultimately a majority of the General Assembly even agreed with this.

It is true that if the PRC had applied for United Nations membership (Article 4), such strategy would have been foiled by a veto from the ROC and the United States. Similarly, had the PRC sought the suspension (Article 5) or expulsion (Article 6) of the ROC, the scheme would have been equally unsuccessful, because these are "important questions" requiring a two-thirds majority vote. The PRC's procedural approach was brilliantly executed amidst changing geopolitics and Resolution 2758 was adopted. Figure 2 traces the changing voting patterns on the China representation issue in the General Assembly.

The propitious change of wind that aided the PRC's entry strategy and undermined the ROC's fight for its United Nations seat was President Richard Nixon's announcement of his trip to China. With the United Nations example, countries quickly shifted recognition from Taipei to Beijing, including Japan (1972) and the United States (1979). At the immense pressure of Beijing, other United Nations organs quickly followed the lead of the General Assembly. After 1980 representatives of Taipei completely disappeared from the United Nations scene. Furthermore, the Chinese Communist government religiously and unfailingly imposed its "one China" policy upon each and every country that would establish formal ties with it. This policy holds that the PRC is the only legal government of China and that Taiwan is a part of China and so, by syllogism, Taiwan is a part of the PRC.

27 Id. at 47.
28 Charter of the United Nations, supra note 9, Articles 4(1), 6, 23(1) and 108.
29 G.A. Resolution 396 (V) of 1950 established a precedent that whenever more than one authority claims to be the government entitled to United Nations representation, other United Nations bodies should take into account the decisions of the General Assembly in deciding which delegation to seat within its halls. U.N. Doc. A/1775. Note, however, that the General Assembly can only recommend, but not instruct, other United Nations bodies what to do.
30 The exclusion of Taiwan from the United Nations is so complete that even data on Taiwan are expurgated from United Nations official publications. Given Taiwan's importance for the world economy, this practice infringes upon one's right to knowledge and information.
Due to China’s importance and sensitivity, the world is unwilling to challenge the PRC over Taiwan. The PRC’s suffocating diplomatic apartheid on Taiwan is thus complete. Although the Beijing government purports to speak for all of China, including Taiwan, that island and its 21 million people remain unrepresented in the United Nations. Resolution 2758 was clearly inadequate and unjust: the PRC indeed received a seat commensurate with its stature, yet Taiwan was left without representation in the United Nations. This is perhaps the most blatant breach of the United Nations principle of universality.

But why then does this injustice continue? It continues because the world’s key players, including the United States, have been unwilling to challenge the PRC on this and have even employed peculiar and inconsistent legal arguments, which often play into Beijing’s tunes, to deny the ROC its rightful place. They argue, for example, that Taiwan is not a state. Therefore, it does not deserve a seat in the United Nations. They also argue that because Taiwan does not consider itself separate from China, therefore Taiwan cannot be recognized or seated in the United Nations. Yet at the same time, they warn Taiwan not to seek independence as they will not recognize an independent Taiwan.31 This contravenes their own fundamental values such as freedom of expression and self-determination.

Nevertheless, is Taiwan not a state? Does Taiwan cease to be a state when a country shifts diplomatic recognition to Beijing? Is Taiwan not more state-like than many United Nations member states? The next section seeks to answer these questions.

5. Taiwan: State or Province?

Taiwan’s ambiguous identity, an artificial product of the world’s major players to serve their own political purposes, appears increasingly anachronistic.32 It is important to assess Taiwan’s intrinsic status, before diplomatic hot air such as "one China" confuses our understanding of the issue. What is Taiwan’s formal status: a state or a province? This is a critical question, since United Nations membership is only open to states, not to provinces.

Article 1 of the Convention on the Rights and Duties of States of 1933 lists the four qualifications of "the state as a person of international law: (a) a permanent population; (b) a defined territory; (c) government; and (d) capacity to enter into relations with the other states."33 According to these criteria, Taiwan clearly is a state. The exclusion of Taiwan from the United Nations cannot, therefore, be justified in international law.

31 See, for example, Deputy Assistant Secretary of State for East Asian and Pacific Affairs, Kent Wiedemann’s testimony in H. Con. Res. 63, supra note 26, at 29-46 and 66-72.
First, Taiwan has a permanent population. If mini-states such as Antigua and Barbuda, the Seychelles, Dominica, the Marshall Islands, Micronesia, Liechtenstein, San Marino and Andorra, each with less than 100,000 people can join the United Nations and more than thirty other United Nations member states have a population of less than one million, one can conclude that no state is too small to qualify for membership. In fact, Taiwan’s population of 21 million would place it in the top third of all United Nations members.

In terms of defined territory, the ROC has effectively and continuously ruled the islands of Taiwan, Pescadores (Penghu), Quemoy (Kinmen) and Matsu since 1949, with a total area of 36,000 km² (14,000 mi²), this is slightly larger than Massachusetts, Connecticut and Rhode Island combined or slightly smaller than the Netherlands but slightly larger than Belgium. In fact, the PRC has never ruled Taiwan. How can the PRC claim that Taiwan is a PRC province if it has never ruled it? Even the Palestinians, a people long without territory, have enjoyed observer status in the United Nations, through the Palestine Liberation Organization (PLO), now "Palestine" in the United Nations lexicon.

Regarding government, the ROC government moved from the mainland to Taiwan in 1949 and has remained there ever since. Although it lost most of the territory and people it previously controlled to the Communists, it nevertheless has effectively exercised on Taiwan all governing functions such as taxation, armed forces, elections, foreign relations and so forth. Furthermore, Taiwan’s rapid democratization since 1987 has a silent effect of rejecting PRC’s sovereignty claim over Taiwan. For instance, Taiwan’s democratization will culminate in the direct popular election of the ROC President in March 1996. How can a province elect a president? Only a state can. The

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34 For a list of these mini-states, see WORLD DEVELOPMENT REPORT 1992 (Washington, D.C.: World Bank, 1992), at 285.

35 A minor issue pertains to whether the ROC controls Taiwan. A minority of scholars and politicians argue that the international status of Taiwan remains undecided. They point out that President Truman, in ordering the Seventh Fleet to prevent the Communist attack on Taiwan in June 1950, also declared "the determination of the future status of Formosa (Taiwan) must await the restoration of the security in the Pacific, a peace settlement with Japan, or consideration by the United Nations." Department of State Bulletin, 3 July 1950, at 5. See RALPH CLOUGH, ISLAND CHINA (Cambridge, Massachusetts: Harvard University Press, 1978), at 8-9. They further point out that in the 1951 Japanese Peace Treaty signed at San Francisco, Japan merely renounced, in Article 2, "all right, title, and claim" to Taiwan (a Japanese colony from 1895 to 1945), but did not specify to whom the title was transferred. Nor did the 28 April 1952 ROC-Japan Peace Treaty explicitly provide for the return of Taiwan to China. These documents are reproduced in HUNGDAH CHIU (ED.), CHINA AND THE QUESTION OF TAIWAN: DOCUMENTS AND ANALYSIS (New York: Praeger Publishers, 1973). That Taiwan’s status is still undetermined is a peculiar argument to forestall PRC’s claim over Taiwan. However, it is also an insignificant one, since the ROC can still ascertain its control over Taiwan through the principle of effective occupation and control (for a long period of time). See 2 LASSA OPPENHEIM, INTERNATIONAL LAW: A TREATISE (London: Longman Greens, 7th ed. 1952), at 611: "the effect of a treaty of peace is that conditions remain as at the conclusion of peace .... Thus ... if nothing is stipulated regarding conquered territory, it remains in the hands of the possessor, who may annex it."
PRC claims to represent the people of Taiwan, but has it paid for these people’s share of membership fee in the United Nations? Do the people of Taiwan agree to let the PRC represent them? Judging from the fact that Taiwan’s bid to join the United Nations enjoys broad support in the Taiwanese society, the answer is a clear no.

The only controversy is the last qualification: the capacity to enter into relations with other states. But how does one interpret "foreign relations"? If it indicates formal diplomatic relations, then it is true that only some 30 states maintain formal ties with the ROC. This, nevertheless, proves that the capacity to enter into foreign relations is present. Measured in substantive terms, Taiwan has close ties with most states which are often even stronger and warmer than the formal ties enjoyed by the PRC.

The lack of formal diplomatic recognition hampers Taiwan’s international personality and it is unlikely that Taiwan can get the necessary votes for its entry in the United Nations in the immediate future, be it through the "representation" or "new member" formula. In fact, Taiwan’s bid to join the United Nations should be bolstered by a concomitant effort at increasing the number of states with which it maintains formal ties.

So the test is whether a political entity possessing all four conditions laid down in the Montevideo Convention qualifies as a state. There is a debate in conventional international law on this. The Declaratory School argues that any entity that possesses all the elements of a state is a state. The Constitutive School, however, argues that such entity must be recognized by other states to qualify as a state. In this latter view, recognition is actually used by states as a foreign policy tool. While the Montevideo Convention clearly embraces the Declaratory School, state practice, however, seems to follow the Constitutive School. The ROC definitely qualifies as a state under the first view and qualifies as a "state" within the meaning and practice of the United Nations Charter. Although some people invoke the second view and argue that the ROC is not a state, it really is.

Article 3 of the Montevideo Convention states: "The political existence of the state is independent of recognition by the other states." Just because the United States does not recognize Castro’s Cuba does not mean that Cuba is not a state. The same can be said about Libya. In fact, the United States even supported North Korea’s admission to the United Nations in 1991 (because it wanted to seat South Korea), when the United States had no diplomatic relations with it and did not recognize it. Furthermore,
Article 6 clarifies the nature of recognition: "The recognition of a state merely signifies that the state which recognizes it accepts the personality of the other with all the rights and duties determined by international law. Recognition is unconditional and irrevocable." Judging from the language and the spirit of the Montevideo Convention, those countries that have used recognition as a foreign policy weapon against others have in fact violated international law. However, it is not uncommon to find glaring gaps between international law (what ought to be) and international politics (what is) and the argument against Taiwan’s statehood is certainly one such dishonorable example.

The fact remains that no matter how various countries have used a denial of diplomatic recognition to Taiwan to serve their political convenience, Taiwan’s intrinsic statehood is well grounded, de facto and de jure. Taiwan’s ambiguous international personality is only caused by the major players’ political convenience, not by an intrinsic lack of statehood on the part of Taiwan. Despite the PRC’s persistent efforts at forcing international acceptance of Taiwan as a PRC province, through official records such as publications of international organizations and bilateral communiqués on establishing diplomatic relations, Taiwan is a state separate from China. Nevertheless, it is also true that Taiwan’s international personality has been seriously hampered by PRC’s actions.

Even the argument that statehood is a prerequisite for United Nations membership is not entirely accurate. India was a founding member of the United Nations in 1945 even though it was still a British colony. Ukraine and Belarus were also founding members, even though they were manifestly part of the Soviet Union. In other words, even if Taiwan were a PRC province, United Nations precedent would not bar separate membership for Taiwan.

Another confusion is that statehood is a prerequisite for diplomatic recognition. The PLO does not meet the customary international standards of "statehood", as described above, but is recognized by some 90 nations as "the State of Palestine", representing Palestinians in the Occupied Territories and the Gaza Strip. recognize the ROC up until midnight on 31 December 1979. At 12:01 a.m. on 1 January 1979, we no longer recognized it as a state. Does that mean it stopped being a state during these two minutes because we stopped recognizing it? Of course not. All that means is that we withdrew diplomatic recognition. It was a state. It is a state." Id. at 48.

39 Montevideo Convention, supra note 33, Article 6.

40 The United States Department of State has maintained that the so-called "one China" policy has been a successful policy and has served United States interests well. See Wiedemann’s testimony in H. Con. Res. 63, supra note 26, at 66-71. Criticizing the State Department’s bureaucratic inertia and self-congratulation, John Bolton, Assistant Secretary of State for International Organization in the Bush Administration, remarked: ‘For fifteen years at the State Department, it was also ‘inconvenient’ to the Middle East peace process to seek repeal of the General Assembly’s ‘Zionism is racism’ resolution .... The question of ROC representation in the United Nations will ... also be ‘inconvenient’ at State for fifteen years, or longer.” Id. at 84.

41 As the self-rule provided under the Israel-Palestine peace treaty expands and becomes more
So none of these legal arguments can provide a consistent case why Taiwan is not a state and why Taiwan should not have a seat in the United Nations. Taiwan is a state and it is a peace-loving state. Unlike the PRC, which was condemned as an aggressor in 1950 by the United Nations for its actions in the Korean War, the ROC has never been an aggressor. In fact, with its well-known economic development experience, the ROC has, in recent years, begun to provide humanitarian aid, economic and technical assistance, feedback to the international society.

Taiwan is a peace-loving state but was forced out of the United Nations due to political reasons and is facing an uphill battle to reenter the Organization. Why does Taiwan want a seat in the United Nations after it has been out for 24 years?

6. The Case for a United Nations Seat for Taiwan

Taiwan wants a seat in the United Nations for several international and domestic reasons. The first reason, and the most obvious one, is that Taiwan meets all qualifications of a peace-loving state and, therefore, it should be a member of the United Nations. But being a peace-loving state, able and willing to accept international obligations, is unfortunately only a necessary but not sufficient condition for United Nations membership. The reason for Taiwan's exclusion is not legal, but political.

The second reason is based on the United Nations ideal of universal representation and fundamental human rights for all. The fact that the rights of such a significant group of people (21 million) are disregarded is a disgrace to the United Nations. In some cases the interests and lives of these people may be jeopardized if they do not have a representative in the Organization. One only has to consider the case of the International Atomic Energy Agency, one of many specialized agencies of the United Nations. Taiwan is close to China, one of the world's five declared nuclear powers, and North Korea, a dangerous nuclear aspirant. It is unfair to the people of Taiwan that policies that literally could affect their very existence are being developed completely without their participation.

The third reason is that Taiwan has become an increasingly important global player. Excluding such a player from this comprehensive international organization will seriously impair the working of the international system. Taiwan produces the world's twentieth largest GNP ($244 billion); its personal income level (measured in GNP per capita) is the 25th highest in the world ($11,604); it is the world's fourteenth largest institutionalized, one expects the Palestinian Self-Rule Authority to gradually acquire statehood.

trading nation (with exports and imports over $178 billion); its foreign exchange reserves, nearing $100 billion, trail only that of Japan; it is the seventh largest investor in the world and second only to Japan in Asia. Yet such an important trading nation is not even a party to the General Agreement on Tariffs and Trade (GATT), nor is it a member of the International Maritime Organization or the World Intellectual Property Organization to name but a few.

Exclusionary politics sometimes get downright insane and inhumane. According to one account, Taiwan in 1994 donated $2 million to refugee relief in Rwanda, a purely humanitarian gesture, but it had to do that through the United States Committee of the United Nations Children’s Fund, because Taiwan is not a member of the United Nations. At one point in 1995, a senior foreign ministry official proposed a donation of $1 billion to the United Nations, if Taiwan were given a seat in the organization. The idea was censured as buying a United Nations admission ticket. That $1 billion would, nevertheless, have provided 81% of the annual budget. Clearly, the world community is not serving its own interests by refusing to accept such a willing donor.

Rights and obligations go hand in hand. Without according Taiwan its entitled rights and yet expecting it to honor the same duties as everyone else does, the international community can only hope, but not ensure, that this key player would "play by the same rules." To ensure this, what better way than to include Taiwan in these bodies. There are many functional areas which really know no boundaries, such as environmental pollution and ozone layer depletion. A solution has to be found to bring Taiwan into the international society. This is because global problems can best be solved by collaboration of all, not just some, players.

The fourth reason is that the United Nations has in the past accommodated the contending sides of divided states through the parallel representation scheme (Germany and Korea). As the German case illuminates, such an arrangement has not hindered the internal political evolution of Germany. In fact, other inter-governmental organizations such as the Asian Development Bank (ADB), the Asia-Pacific Economic Cooperation (APEC) forum have established various precedents, whereby Taipei and Beijing can

43 All statistics cited are 1994 figures, unless noted otherwise. The sources for these numbers include TAIWAN STATISTICAL DATA BOOK, 1995 (Taipei: Council for Economic Planning and Development, 1995); FAR EASTERN ECONOMIC REVIEW, Oct. 12, 1995; FAR EASTERN ECONOMIC REVIEW, Nov. 10, 1995; Should Taiwan be Admitted to the United Nations?, supra note 21; Winston Lord, U.S. Policy Toward East Asia and the Pacific, United States Department of State Dispatch, Vol. 6, No. 9 (Feb. 27, 1995); RAY S. CLINE, THE POWER OF NATIONS IN THE 1990S: A STRATEGIC ASSESSMENT (Lanham, Maryland: University Press of America for the United States Global Strategic Council, 1994).

44 Currently Taipei is negotiating with the World Trade Organization, GATT’s successor, about its accession. All GATT members will automatically become WTO members. The GATT/WTO case is interesting, because the ROC wisely applied as “Taiwan, Peng-hu, Kinmen, Matsu (Separate) Custom Territory” under Article XXXIII of GATT, thereby establishing an international identity separate from that of the PRC.

45 Yu-ming Shaw’s testimony in H. Con. Res. 63, supra note 26, at 106.

46 Calculation based on Image & Reality, supra note 36, at 72.
both participate, with the GATT/WTO likely to follow.\footnote{ADB official documents refer to the ROC as "Taipei, China" and to the PRC as "China, People's Republic of". The APEC summit meeting of November 1993 in Seattle established a precedent. Vincent Siew, chairman of Taiwan's Council of Economic Planning and Development, participated as "President Lee Teng-hui's representative" whereas the PRC was represented by President Jiang Zemin.} It is, therefore, not unrealistic to find a creative arrangement to accommodate Taiwan in the United Nations. It has to be pointed out, however, that the United Nations General Assembly is a consummate political body, where power sways. Furthermore, the PRC holds a veto in the Security Council. So it may be very difficult for Taiwan to return to the United Nations via its General Assembly. Formal representation in the United Nations is nevertheless the ultimate solution to Taiwan's current dwarfed diplomatic status.

The fifth reason is related to domestic politics. There is hardly any other case where the gap between a country's economic might and its diplomatic status is as outrageous as Taiwan's. The increasingly affluent people of Taiwan have become impatient with the unjust treatment they receive from the international society and demand more dignity. For the opposition Democratic Progressive Party (DPP), the issue of joining the United Nations is tantamount to a formal declaration of the independence of Taiwan. Seizing the popular discontent with Taiwan's international status, the DPP sought to put the ruling Kuomintang (KMT) on the defensive. The government responded by its own campaign but was rather ambivalent for fear of fueling independence aspirations. The KMT and the DPP, at least in rhetoric, both want Taiwan to return to the United Nations. They differ, however, on the means to achieve this goal. The DPP wants Taiwan to join the United Nations as a new member state, the Republic of Taiwan. The KMT, by contrast, would only avow that Taiwan should be allowed to participate in the United Nations, leaving important issues such as the name and methods of entry undecided. Although sometimes ambiguity permits creativity, it may also be politically costly, as the next section elaborates.


It is clear why Taiwan belongs in the United Nations, but the question is how to get there? The government's approach is an open-ended yet passive one. In 1993 it knocked on the United Nations' door for the first time, by requesting seven Central American states to ask the United Nations to create an ad hoc committee to report to the General Assembly about the special case of Taiwan. In 1994 and 1995, similar proposals were put forth, endorsed by 12 and 15 member states, respectively.\footnote{The draft resolutions and explanatory memorandums are reprinted in Appendix 5.} But each year the ad hoc committee proposal came before the General Committee, the PRC used its clout to keep the item off the agenda. This constitutes "a moratorium in reverse", namely the PRC can now just muffle the fight. But ironically the PRC's experience of entering the United Nations can provide some insights for Taiwan.
7.1. PREREQUISITES

Diplomatic Recognition

In fact, there are some prerequisites for Taiwan’s United Nations bid. First, Taiwan’s United Nations bid will have a much more realistic chance when more states have diplomatic relations with Taiwan. The bottom line is politics: the PRC got enough votes in 1971, so it was seated. When Taiwan has enough votes, it will be admitted. Informal, substantive diplomacy, though strong, is no substitute for formal diplomacy on such highly symbolic political issues. Taiwan’s departure from the United Nations in 1971 presaged many countries’ shift of recognition. Conversely, a resolution on Taiwan’s status by the United Nations will herald other states’ diplomatic reassessments. This is perhaps why the government’s stance is to hope that the United Nations will study a solution that is acceptable to most members. But this is not enough to satisfy the domestic constituencies.

Plebiscite

So instead of asking the United Nations to decide how Taiwan could join, Taiwan should first decide itself how it wants to join the United Nations. Therefore, a national debate, albeit divisive, is inevitable. The second prerequisite, therefore, is a plebiscite on this issue. Plebiscite, or the concept of national self-determination, is an exercise of the "elementary right" of a people to decide their legitimate ruler and has been a well-established democratic practice internationally. It is not enough for the government to proclaim a consensus for there is none. And because the United Nations issue is emotionally intertwined with Taiwan’s fundamental identity dilemma, unification or independence, eventually it must be resolved one way or the other. In fact, it may be beneficial for the government to conduct a plebiscite. Most opinion polls (and inferences from election results) show that a large majority of people in Taiwan

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50 See E.H. CARR, CONDITIONS OF PEACE (New York: Macmillan, 1942), at 39 ("Self-determination might indeed be regarded as implicit in the idea of democracy.") Woodrow Wilson, whose strong advocacy of national self-determination made it a key principle of the League of Nations, said the following: "No peace can last ... which does not ... accept the principle that governments derive all their just powers from the consent of the governed and that no right anywhere exists, to hand peoples about from sovereignty to sovereignty as if they were property." JOHANNES MATTEN, THE EMPLOYMENT OF THE PLEBISCITE IN THE DETERMINATION OF SOVEREIGNTY (Baltimore: The Johns Hopkins University Press, 1920), at 76. Both quotes are cited in FARLEY, supra note 49, at 4-5.
favors a *status quo*, i.e. neither open declaration of independence nor immediate reunification with the mainland. A formal plebiscite would presumably reflect this fact.

Such a plebiscite should further affirm that the ROC is the only legitimate government on Taiwan and the associated islands. This proclamation, albeit a seeming departure from the arcane "one China" policy, will provide a legal pretext to avert the PRC’s claim and will open the door for other states’ recognition (of this fact). The DPP has for years advocated a plebiscite (to legitimate independence), the government can in effect preempt and win on this issue. It seems that only a plebiscite, which allows all voters to decide on the name and approach of Taiwan’s United Nations participation, can form a genuine national consensus, a "pact" which neither party can further argue about.

More importantly, the results from a plebiscite will unambiguously inform the United Nations and the world about the real wishes of the people of Taiwan, so these wishes are less likely to be ignored. After all, the principle of national self-determination is not entirely moribund. If the United Nations can monitor an election in Eritrea (then part of Ethiopia), respect its people’s wishes and accept it as a member and if the United Nations can accept so many separate members resulting from the breakup of the former Soviet Union, Yugoslavia and Czechoslovakia, why can it not do the same in the case of Taiwan and its 21 million inhabitants? In fact, numerous plebiscites have been conducted in recent years: West Irian, the Cook Islands, Equatorial Guinea, Okinawa, and several of the United States Pacific Islands. Had the vote for Quebec to secede from Canada passed in 1995, Canada and the United Nations would probably have accepted it.

**The China Factor**

Taiwan’s bid to join the United Nations would be completely effortless if the PRC did not exist. In fact, the PRC has constantly forced states or international organizations to choose between Beijing and Taipei. Given Beijing’s veto power in the United Nations, its nuclear weapons and growing might, the choice has been "easy" -- Beijing. In recent years, Taipei started to pursue "dual recognition", this means that Taipei will exchange formal ties with a state as long as it recognizes Taipei, regardless of its ties with Beijing. But so far there has been no enduring precedent. So the third prerequisite for Taiwan’s United Nations bid is to improve relations with Beijing. It may be an

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51 In 1991, by abrogating the Temporary Decrees for the Period of Mobilization and Suppression of Rebellion, the ROC recognized the PRC as a political entity and it also recognized that the ROC’s governance does not extend to the mainland. In essence, it was an abandonment of the "one China" policy. However, such a declaration did not stipulate that only the ROC, not any other country including the PRC, has jurisdiction over Taiwan and the associated islands. This is why a plebiscite must establish this claim.

52 For a recent defense of national self-determination, see Michael Lind, *In Defense of Liberal Nationalism*, 73 FOREIGN AFFAIRS 87 (May/June 1994).
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exaggeration to say that "the road to the United Nations is through Beijing" but without Beijing's acquiescence Taipei's quest for international identity will continue to be hard.

Unfortunately, Beijing still clings to outmoded concepts of sovereignty. It has steadfastly maintained that the so-called "Taiwan issue" is a internal affair of China. This is a dangerous path for Taiwan, because in international law there is a long-established principle of non-interference in internal affairs. If Taiwan's future is an international issue, then it is protected by the principle of peaceful resolution of conflicts. However, if it is an internal matter, only the PRC's goodwill can guarantee Taiwan's security which is a situation that is hardly dependable. So the United Nations bid also has enormous security implications for Taiwan. It is no wonder why the PRC has strenuously opposed it.

The PRC equates Taiwan's United Nations bid (or President Lee Teng-hui's "pragmatic diplomacy") as a ploy to seek independence, hence a ground for using force against Taiwan. Since President Lee's private visit to the United States in June 1995, the PRC has greatly escalated military provocation and verbal assault, aimed at intimidating Taiwan and influence the island's important elections. No one fantasizes that Taiwan's United Nations bid will not face strong opposition from Beijing. However, Taipei must still be resolute in pursuing a goal that is crucial to its own security and prosperity. It will take education, patience, economic enticement and military preparedness on the part of Taipei to convince Beijing of the reality of a Taiwan separate from the mainland. The rise of independence sentiment in Taiwan is in large part contributed by Beijing's intransigence. By giving Taiwan more room internationally, Beijing can in fact expect a more confident Taiwan more willing to seek rapprochement and less compelled to seek independence.

The United States Factor

A final catalyst is the support of the United States. It was the policy of the Nixon Administration that led the "diplomatic stampede" of countries recognizing the PRC, which precipitated the ROC's rapid descent. In 1971, the ROC had diplomatic relations with 69 states, including the United States, Japan and most other major countries. Today, only some 30 countries have diplomatic ties with Taiwan. Following the

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53 This principle is laid down in the Charter of the United Nations, supra note 9, Article 2(7).
54 Chapter VI of the United Nations Charter mandates that parties to a dispute seek a pacific settlement thereof. One legal expert points out that action taken under Chapter VI can proceed unhindered by the PRC, because Article 27(3) stipulates that "in decisions under Chapter VI ... a party to a dispute shall abstain from voting." The Security Council can thus use a wide range of peaceful means (even stationing peace-keeping forces on Taiwan) in response to PRC aggression towards Taiwan. David Scheffer, International Legal Implications of a PRC Use of Military Force Against Taiwan, in PARK H. CHANG AND MARTIN L. LASATER (EDS.), IF CHINA CROSSES THE TAIWAN STRAIT: THE INTERNATIONAL RESPONSE (Lanham, Maryland: University Press of America, 1993), at 62.
55 South Africa is the only important international player. The African National Congress (ANC) has a long relationship with Beijing, dating back to the apartheid era. President Mandela has said that he lacks the "moral courage" to break diplomatic ties with Taiwan. This means he would if he could.
United States example, the world settled in a diplomatic complacency: maintaining formal ties with Beijing and informal ties with Taipei.

In fact, the world community faces a classic "collective action" problem in dealing with Taiwan. That is, if each country deals with the PRC bilaterally, it is always compelled to choose Beijing over Taipei because of the lure of a market of one billion people, a Security Council veto and nuclear power. It is thus compelled to go along with Beijing's "one China" policy which perpetuates Taiwan's plight. But if all countries collectively take a strong stand against Beijing over the Taiwan issue, they can succeed. The obvious issue is who that "political entrepreneur" willing to shoulder the costs of providing the public good will be. In other words, who will provide the leadership that is necessary to overcome Beijing's opposition? The answer is the United States. The United States has tremendous power and prestige in international organizations. The United States may have only one vote in the General Assembly, but it has a veto in the Security Council. In organs adopting weighted voting, like the World Bank, the United States has 33% of the vote. If the United States really wants, it can help seat Taiwan in international organizations, including the United Nations. In fact, the United States has done so in the case of the ADB, APEC and GATT/WTO.

An in-depth analysis on the United States role in Taiwan's United Nations efforts is beyond the scope of this chapter. The clear division of opinions on this issue will briefly be outlined here. An increasing number of people in Congress favors a more active role for the United States in trying to help Taiwan to get a seat in the United Nations. Understandably, the United States government does not support Taiwan's United Nations cause, arguing that it will harm United States-China relations. However, it pledges to support Taiwan's membership in international organizations that allow non-states to join. As the case of President Lee's visit suggests, if these congressional resolutions receive overwhelming support in Congress, the Administration feels more pressure to reverse its policy. Furthermore, the Taiwan Relations Act, the United States

56 The classic treatise on how collective action problems arise and how to overcome them is MANCOUR OLSON, THE LOGIC OF COLLECTIVE ACTION: PUBLIC GOODS AND THE THEORY OF GROUPS (Cambridge, Massachusetts: Harvard University Press, 1965); see also RUSSELL HARDIN, COLLECTIVE ACTION (Baltimore: Johns Hopkins University Press, 1982).

57 Various draft resolutions have been advanced, culminating in the Solomon-Torricelli-Lantos-Burton-Ackerman-Deutsch Resolution, H. Con. Res. 63, supra note 26. These resolutions, if passed, express a "sense of Congress" and have no binding force on the executive branch. In contrast, legislative acts do. See Should Taiwan be Admitted to the United Nations?, supra note 21; H. Con. Res. 63, supra note 26.

58 To supplement Wiedemann's testimony, the State Department submitted a statement saying that "[t]he Administration does not support H. Con. Res. 63 and does not support Taiwan's participation in the United Nations. The United States could accept any solution to this issue that is consistent with the United Nations Charter and is agreed upon by the people on both sides of the Taiwan Strait." Wiedemann argued that even the passage of H. Con. Res. 63 would prompt China to "react severely based on its conviction that this is a direct attack on its national sovereignty by pulling back entirely from its relationship with the United States; finding every possible way it could to see areas in which it could affect negatively United States interest." H. Con. Res. 63, supra note 26, at 39, 41, 45; Central News Agency News Wire, Dec. 18, 1995, accessible at internet site http://www.taipei.org.
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domestic law enacted in the aftermath of derecognition to maintain and enhance relations between the United States and Taiwan, mandates the United States government to support Taiwan’s membership in international organizations, especially financial ones.59

7.2. MODELS

Regarding the capacity of Taiwan in the United Nations, six models can be compared. Note, however, that these models are mainly heuristic devices, created to stimulate discourse and thinking.

The first model is the exclusive representation model: reversing Resolution 2758 and seeking to replace the PRC in the United Nations as the only representative of China. This is not only impossible but also undesirable, because it would unjustly exclude 1.17 billion people.

The second model is the new state model: applying to the United Nations as a new state, for example the Republic of Taiwan. As much as DPP idealists preach this, it is also impossible because (1) the PRC would veto it and (2) Taiwan cannot get two-thirds of the votes in the General Assembly.

The third model is the German and Korean model: parallel representations for both the PRC and the ROC. This is in essence a “two Chinas” formula. It is the ROC government’s preference.

The fourth model is the ADB and APEC model: coexistence of one “China, People’s Republic of” and one “Taipei, China” (in essence an “one China, one Taiwan” formula).60 Presently this may be Taiwan’s best hope. However, whether such an improvised arrangement can lead to a diplomatic breakthrough for Taiwan is a big question. For instance, how can other states recognize “Taipei, China” or “Chinese Taipei” as a state?

The fifth model is the Soviet Union model: multiple representations yet one central government. To forestall United States predominance in the United Nations at the time of founding, the Soviet Union insisted on having two more seats in the United Nations (Belarus and Ukraine who could not, however, conduct foreign policy). This model, in essence a “one country, two systems” model, may be Beijing’s eventual offer.

59 Section 4(d) of the Taiwan Relations Act stipulates: “Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institutions or any other international organizations.” Taiwan Relations Act, Pub. L. No. 96-8, Apr. 10, 1979, Sec. 4(d), 93 Stat. 14 (1979), codified at 22 U.S.C. 3301. The Taiwan Relations Act is reprinted at 18 I.L.M. 873 (1979) and in ROBERT L. DOWNEN, OF GRAVE CONCERN: U.S.-TAINAN RELATIONS ON THE THRESHOLD OF THE 1980s (Washington, D.C.: Center for Strategic and International Studies, Georgetown University, Significant Issues Series Vol. 3, No. 4, 1981), at 52-58.

60 When GATT/WTO does admit Beijing and Taipei, it will set a new precedent: one China and one “Taiwan, Penghu, Kinmen and Matsu Custom Territory.” But this is essentially a variation of the ADB/APEC model.
The last model is the Vietnam model: one seat for one unified country. Should one day the PRC rule Taiwan, it can indeed claim to represent the people on Taiwan. If such were the case there would be no need to have more than one system. This is the PRC’s current position, obviously an unpopular one in Taiwan.

At present time, the "bargaining set" or feasible outcomes are really between the fourth and the fifth model. The fourth model is not all bad, since it allows Taiwan to participate in the international society, albeit not quite equally. But even this narrow set contains much room for creativity. Furthermore, if international politics should continue to evolve in Taiwan's favor, then the third or even the second model may become possible. Hopefully, a solution can be found to simultaneously satisfy Taiwan's yearning for dignified international participation, China's concern about "face" and the international community's need to incorporate Taiwan.

7.3. APPROACHES

Three approaches of participation are discussed here, each with differing degrees of effectiveness and problems: (1) seeking membership in the United Nations, (2) seeking observer status in the United Nations, and (3) participating in United Nations programs and affiliated organs. These three approaches are not mutually exclusive; rather they should be used in tandem or in sequence.

Membership

This approach, namely knocking on the front door, has the advantage of driving home the issue. However, the current politics in the United Nations and Taiwan's setback in the last three years suggest that membership in the Organization may be the fruit, rather than the catalyst, of a long fortuitous process. In addition, repeated setbacks may further frustrate Taiwan's people and put more pressure on the government. Still, this approach is worth pursuing with care, since it keeps the issue alive. The more the international society knows about the problem (without solving it), the more it will feel ashamed and obliged. Time is on Taiwan's side.

An interesting strategy under the "front door" approach, namely repealing Resolution 2758, is suggested by John Bolton. Condemning 2758 as illegal, Bolton dispels the myth that resolutions adopted by one United Nations General Assembly cannot be repealed by another. He cites the repealing in 1991 of the 1975 Resolution 3379 ("Zionism is racism"). He argues that this strategy essentially means for the General Assembly to correct its own mistake. And because re-recognizing the representatives of the ROC is not an admission of a new state, it does not involve the Security Council.

61 On these game-theoretical concepts, see Howard Raiffa, The Art & Science of Negotiation (Cambridge, Massachusetts: Harvard University Press, 1982); Peter C. Ordeshook, Game Theory and Political Theory (Cambridge: Cambridge University Press, 1986).
or PRC veto power either. He argues that repealing 2758 is a prerequisite for reinstating the miscarried "dual representation" scheme of 1971. 62

Observer Status

Over the years, the United Nations has given "observer status" to four types of entities, which entitles them to participate in all plenary and other United Nations meetings without the right to vote, as well as in international conferences organized by the Organization: (1) states that are not United Nations members, such as Switzerland and the Holy See; (2) liberation movements, such as the PLO; (3) intergovernmental organizations, such as the Organization of African Unity; and (4) specialized agencies, such as the International Atomic Energy Agency. 63

Observer status has the advantage of giving Taiwan a (incomplete) representation while avoiding a challenge to Beijing’s sovereignty. Switzerland, Monaco, the Holy See, East Germany, West Germany, North Korea, South Korea and the PLO, at one time or another, have all enjoyed observer status at the United Nations. As an observer, Taiwan would gain the opportunity to address issues important to it without a right to vote. There is no doubt that when the Palestinians will one day have their own state, they will seek full membership, not just observer status. For Taiwan this would also be a transitional and unsatisfactory arrangement. But if such status is soon granted, Taiwan should not reject it.

Based on his study of sixteen United Nations observer cases, James C. Hsiung finds that the United Nations Secretary-General, upon an application for observer status, has an almost summary right to make a final decision. In all past cases, when the Secretary-General asked the General Assembly for a retroactive review following a decision he had made, the Assembly invariably accepted his decision. However, Hsiung argues that this route is now closed for Taiwan, because the PRC, following Taiwan’s aborted "study committee" endeavor in 1993, went straight to Boutros Boutros-Ghali and served him notice that the PRC would object, pre hoc to Taiwan's entry in any form, including observer status. 64

United Nations Programs and Specialized Agencies

In contrast to the "front door" approach described above, Taiwan can join the United Nations through the "back door", i.e. through United Nations programs or specialized agencies and autonomous organizations within the United Nations system. This incremental approach, though less flamboyant, should not be discounted. Figure 3 shows that the United Nations stands at the hub of a network of specialized international organizations and bodies. Some of these are operated directly by the United Nations

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62 See his prepared testimonies in Should Taiwan be Admitted to the United Nations?, supra note 21, at 75-85; H. Con. Res. 63, supra note 26, at 81-95.
63 Image & Reality, supra note 36, at 35-37.
General Assembly; some are formally affiliated with the United Nations but are autonomous; some are unconnected with the United Nations. Despite their publicity (or notoriety), the General Assembly and the Security Council are really not where the main action affecting our daily lives takes place. The bulk of the daily work is carried out in the numerous specialized functional agencies and organs that weave together people across national boundaries into a truly interdependent world.

The United Nations Programs are overseen by the General Assembly through the Economic and Social Council in order to advance economic development and social stability in poor Third World states. The funding of these programs comes partly from the General Assembly and partly from contributions of member states, businesses or even private charities. If the PRC objects to Taiwan’s proposal, for example, to donate $1 million every year to the United Nations International Children’s Emergency Fund (UNICEF) for vaccinating Third World children against diseases, a purely humanitarian measure, it will undoubtedly make enemies for the PRC and win friends for Taiwan.

Today Third World countries constitute more than two-thirds of the United Nations membership. Gaining support from this key "voting bloc" is, therefore, critical to Taiwan’s United Nations bid. As Section 4 points out, the decisions of the General Assembly on representation in the specialized agencies are only advisory and not binding. This is even more true for the autonomous agencies. They are masters of their own house and have different requirements for membership; some allow non-United Nations members or even non-states to join.

At least a dozen affiliated organizations permit non-United Nations members to join: the International Maritime Organization, the Food and Agriculture Organization, the International Civil Aviation Organization, the International Labor Organization, the International Telecommunications Union, the United Nations Industrial Development Organization, the Universal Postal Union, the World Health Organization, the World Intellectual Property Organization, the World Meteorological Organization, the International Atomic Energy Agency, the International Monetary Fund (IMF) and the World Bank. All except the IMF and the World Bank permit automatic membership for United Nations members who wish to join.65

In light of this, it is very appropriate for Taiwan, as a key economic power, after its accession to GATT/WTO, to join the World Bank and the IMF. It is also proper for the United States to support Taiwan’s entry into these international financial bodies. In fact, the weighted voting system in these bodies, as opposed to the "one state, one vote" system in the United Nations, can further augment Taiwan’s influence. Taiwan will be a major donor that will benefit many borrowing nations, including the PRC.

It is these "low profile" yet practical bodies where Taiwan should immediately start to seek positive participation. After all, Taiwan has been missing from the international scene for too long. And with its admirable economic success and political democratization, Taiwan will play a very influential role in these bodies, establish a

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65 See H. Con. Res. 63, supra note 26, at 36.
positive reputation, accumulate goodwill and support and coincidentally foster a separate identity (as perceived by others) from Beijing’s.

Aside from its permanent Security Council seat and veto, Beijing is really not a major player in the United Nations. It adopts a very low profile in the General Assembly and is hardly visible in the technical and specialized agencies. It is also the major recipient of loans and grants from the IMF and the World Bank. For the PRC to block Taiwan’s entry into the IMF and the World Bank is like for the borrower to dictate from whom the bank can receive money. The PRC contributed just 0.77% ($7.85 million) to the United Nations budget in 1993. This amount does not even include membership dues for the 21 million "compatriots" on Taiwan.

By taking this three-pronged strategy, emphasizing the third approach while also pursuing the other two, Taiwan should see its international stature greatly improve and the world more ready to embrace it in a few years. The way to the United Nations may be long and arduous. But at least there is not just one road and the end seems to be in sight. The Cold War is over and this last remnant of it must eventually be swept away also. It is time to invite Taiwan, a prosperous and democratic nation, to the big party of nations.

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66 Image & Reality, supra note 36, at 72. Contrast other countries: the United States (25%, $310 million), Japan (12.45%, $127 million), Germany (8.93%, $91 million), Russia (6.71%, $68 million), France (6%, $61 million), the United Kingdom (5%, $51 million). China, with a population of 1.17 billion, pays as much as Iran (population: 60 million) and only half as much as the Netherlands (1.5%, population: 15.2 million).
Table 1
United Nations Membership, by Years of Admission, 1945-1995 (N=185)

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<tr>
<th>Year</th>
<th>Member States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945</td>
<td>Founding members (N=51): Argentina, Australia, Belarus, Belgium, Bolivia, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Guatemala, Haiti, Honduras, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Russian Federation, Saudi Arabia, South Africa, Syria, Turkey, Ukraine, United Kingdom, United States, Uruguay, Venezuela, Yugoslavia</td>
</tr>
<tr>
<td>1946</td>
<td>Afghanistan, Iceland, Sweden, Thailand</td>
</tr>
<tr>
<td>1947</td>
<td>Pakistan, Yemen</td>
</tr>
<tr>
<td>1948</td>
<td>Myanmar</td>
</tr>
<tr>
<td>1949</td>
<td>Israel</td>
</tr>
<tr>
<td>1950</td>
<td>Indonesia</td>
</tr>
<tr>
<td>1955</td>
<td>Albania, Austria, Bulgaria, Cambodia, Finland, Hungary, Ireland, Italy, Jordan, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Nepal, Portugal, Romania, Spain, Sri Lanka</td>
</tr>
<tr>
<td>1956</td>
<td>Japan, Morocco, Sudan, Tunisia</td>
</tr>
<tr>
<td>1957</td>
<td>Ghana, Malaysia</td>
</tr>
<tr>
<td>1958</td>
<td>Guinea</td>
</tr>
<tr>
<td>1960</td>
<td>Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Cyprus, Gabon, Madagascar, Mali, Niger, Nigeria, Senegal, Somalia, Togo, Zaire</td>
</tr>
<tr>
<td>1961</td>
<td>Mauritania, Mongolia, Sierra Leone, United Republic of Tanzania</td>
</tr>
<tr>
<td>1962</td>
<td>Algeria, Burundi, Jamaica, Rwanda, Trinidad and Tobago, Uganda</td>
</tr>
<tr>
<td>1963</td>
<td>Kenya, Kuwait</td>
</tr>
<tr>
<td>1964</td>
<td>Malawi, Malta, Zambia</td>
</tr>
<tr>
<td>1965</td>
<td>Gambia, Maldives, Singapore</td>
</tr>
<tr>
<td>1966</td>
<td>Barbados, Botswana, Guyana, Lesotho</td>
</tr>
<tr>
<td>1968</td>
<td>Equatorial Guinea, Mauritius, Swaziland</td>
</tr>
<tr>
<td>1970</td>
<td>Fiji</td>
</tr>
<tr>
<td>1971</td>
<td>Bahrain, Bhutan, Oman, Qatar, United Arab Emirates</td>
</tr>
<tr>
<td>1973</td>
<td>Bahamas, Germany</td>
</tr>
<tr>
<td>1974</td>
<td>Bangladesh, Grenada, Guinea-Bissau</td>
</tr>
<tr>
<td>1975</td>
<td>Cape Verde, Comoros, Mozambique, Papua New Guinea, São Tomé and Príncipe, Suriname</td>
</tr>
<tr>
<td>1976</td>
<td>Angola, Samoa, Seychelles</td>
</tr>
<tr>
<td>1977</td>
<td>Djibouti, Vietnam</td>
</tr>
</tbody>
</table>
Table 1 (Continued)

<table>
<thead>
<tr>
<th>Year</th>
<th>Member States</th>
</tr>
</thead>
<tbody>
<tr>
<td>1978</td>
<td>Dominica, Solomon Islands</td>
</tr>
<tr>
<td>1979</td>
<td>Saint Lucia</td>
</tr>
<tr>
<td>1980</td>
<td>Saint Vincent and the Grenadines, Zimbabwe</td>
</tr>
<tr>
<td>1981</td>
<td>Antigua and Barbuda, Belize, Vanuatu</td>
</tr>
<tr>
<td>1983</td>
<td>Saint Kitts and Nevis</td>
</tr>
<tr>
<td>1984</td>
<td>Brunei Darussalam</td>
</tr>
<tr>
<td>1990</td>
<td>Liechtenstein, Namibia</td>
</tr>
<tr>
<td>1991</td>
<td>Democratic People’s Republic of Korea, Estonia, Latvia, Lithuania, Marshall Islands, Micronesia (Federates States of), Republic of Korea</td>
</tr>
<tr>
<td>1992</td>
<td>Armenia, Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, Kazakhstan, Kyrgyzstan, Moldova, San Marino, Slovenia, Tajikistan, Turkmenistan, Uzbekistan</td>
</tr>
<tr>
<td>1993</td>
<td>Andorra, Czech Republic, Eritrea, Former Yugoslav Republic of Macedonia, Monaco, Slovak Republic</td>
</tr>
<tr>
<td>1994</td>
<td>Palau</td>
</tr>
</tbody>
</table>

Notes:

a Despite a seat in the United Nations, it was a constituent part of the Soviet Union until 1991.
c A founding member in 1945, in 1993 it ceased to exist, so its former constituent parts received separate membership.
d The successor state to the Union of Soviet Socialist Republics.

Source:
Table 2

<table>
<thead>
<tr>
<th>Time Period</th>
<th>USA</th>
<th>USSR/Russia</th>
<th>China</th>
<th>UK</th>
<th>France</th>
</tr>
</thead>
<tbody>
<tr>
<td>1945-55</td>
<td>0</td>
<td>77</td>
<td>1</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>1956-65</td>
<td>0</td>
<td>26</td>
<td>0</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>1966-75</td>
<td>12</td>
<td>11</td>
<td>4</td>
<td>9</td>
<td>2</td>
</tr>
<tr>
<td>1976-85</td>
<td>37</td>
<td>7</td>
<td>17</td>
<td>11</td>
<td>9</td>
</tr>
<tr>
<td>1986-90</td>
<td>23</td>
<td>0</td>
<td>0</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>1991-94</td>
<td>0</td>
<td>1</td>
<td>0(^a)</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>72</td>
<td>122</td>
<td>22</td>
<td>31</td>
<td>18</td>
</tr>
</tbody>
</table>

Note:
\(^a\) In 1991 China abstained two times and in 1992, nine times. No other permanent members abstained.

Source:
Can Taiwan Join the United Nations?

Figure 1
United States and Soviet Union Percentage with the Majority of the General Assembly

Source:
Figure 2
Voting in the General Assembly on the Representation of China

Note:
No vote took place in 1964.

Source:
Can Taiwan Join the United Nations?

Figure 3
The United Nations System

Source: