

台灣的法律地位：一九七九年中共與美國 關係正常化年代前一個中國原則之研究

THE LEGAL STATUS OF TAIWAN : THE FORMATION OF “ONE CHINA” PRINCIPLE PRIOR TO THE NORMALIZATION OF US-PRC RELATIONS IN 1979

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目	次
I. FORWARD	(1) The Initial Standpoint Following the Retreat of the ROC Government
II. TWO DIVIDED STATES	(2) The Reverse Policy at the Outbreak of the Korean War
(1) The Two-China Formula	(3) The Impasse of US-PRC Talks at Geneva and Warsaw
(2) The Basic Claim of the PRC	(4) The Implication of the Shanghai Communique
(3) The Basic Claim of the ROC	(5) The Process towards the Normalization of Relations
III. INTERNATIONAL POSITIONS	(6) The One-China Clause under the 1979 Joint Communique
(1) The British Stand	V. SUMMARY AND CONCLUSION
(2) The Russian Stand	
(3) The Japanese Stand	
(4) The French Stand	
(5) The Canadian Stand	
(6) The Indian Stand	
IV. EVOLUTIONARY CHANGES OF THE AMERICAN ATTITUDE	

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中文摘要：

在二十世紀末年，自喻為現代摩西將帶領台灣子民「出埃及」的李登輝總統，終能從台灣之歷史、事實和法律等角度觀點，勇於向國際揭示現實的台海兩岸政治定位係「特殊的國與國關係（Special State-to-State Relations）」，企圖走出當代國際社會普遍奉行的「一個中國原則（One China Principle）」之國際實踐軌跡，完成其柏拉圖式的主權獨立國家。

回顧一九四九年國共內戰造成中國分裂，彼時宣稱其係代表中國唯一合法政府的中華民國，暫時播遷至台灣；惟彼岸的中共政權亦對國際社會宣示建立唯一合法代表中國政府之「中華人民共和國」，定都於北京。兩個政治實體，遂各自戮力為「唯一合法中國代表權」之國際政治競賽，起初各種混沌不明的政治定位：「兩個中國」、「一個中國」、「一中一台」及「獨立台灣」等模式相繼出現，渠等多樣性的政治模式如何擇一定位，端賴爾後發展的各國國際政治實踐，在嚴謹國際法「一個國家，一個政府」的法則規範暨大國國際政治現實壓力干擾的雙重影響下，一個中國原則遂於一九七〇年代逐漸形成，普遍為國際社會所接受，並可謂終於一九七九年中共與美國關係正常化時定型。職是之故，吾儕探討台灣的法律地位之範疇內，必要論述一個中國原則的形成。本文之研究方法係以政治與法律雙重角度研析，自一九四九年國共分治後至一九七九年「中」美建交時迄，逐一審論國際社會各重要成員國的國際法與國際政治實踐，以檢視一個中國原則的形成。

吾儕期待從二十一世紀千禧年起，國際社會重要大國及地緣上鄰近台灣的國家能站在當代國際法律立場考量，重新審究一個中國原則，得否給予「特殊兩國論」的國際政治實踐空間？俾符合國際人權法的國際法原則。

I . Forward

In December 1949, the ROC Government retreated to Taiwan because of its defeat in the Chinese Civil War against the Chinese Communist led by Chairman Mao Tse-tung who established the PRC. Thus, China was divided into two sovereignties by an unfinished civil war between KMT (Kuomintang) and CCP (Chinese Communist Party). China is different from divided states, such as Germany or Korea which were split by international compromises between foreign powers after the World War II. East and West Germany owned or South and North Korea individually occupy about the same size, while Taiwan has the diminutive size compared to mainland China .

The PRC's control of the enormous mainland and the majority of the population enable it to pressure many foreign states to recognize it as the legitimate government of China. It maintains the "One China" position and claims Taiwan has been a part of China for centuries. Prior to the normalization of US-PRC relations in 1979, the ROC rejected the "Two Chinas" or "One China, One Taiwan" formula, holding that it was the authentic representative of all China .It contended that the legitimacy of its government was based upon being the constitutional successor of the government that ruled mainland China prior to 1949.

On this subject, the attitudes of Taipei and Beijing towards each other have affected Taiwan's relations with the rest of the world. Therefore, the "One China" principle adopted by the governments in the two capitals will be considered. This research first identifies the PRC and the ROC positions on the one-China principle before 1979. Then it undertakes a review of international opinions on this principle at that time, particularly analyzing the United States' previous development and changes in this context since the American policy towards China is very important to Taiwan.

II . Two Divided States

(1). The Two-China Formula

The two different Chinese Governments prior to 1979, each possessing strong military forces and vivid political leadership, vehemently insisted that there is only one China, which was indivisible. The "Two Chinas" or "One China, One Taiwan" concept, although it had even been raised by some states such as Great Britain, Sri Lanka in order to solve the Taiwan issue, was totally rejected by both the PRC and the ROC. Both held that the solution of the Taiwan problem would tolerate no foreign interference .

In all communications and public statements, the Chinese Communists (or Chinese

Nationalists) have emphasized that Taiwan is an integral part of China and the “liberation of Taiwan” (or the recovery of the mainland) is a firm government policy. This emphasis was accompanied by the firm insistence that the government in Beijing (or Taipei) is the sole legal government of China, which alone has the right and authority to represent China.

The objective of either “Two Chinas” or “One China, One Taiwan” theory assumes that the legal existence of two Chinas, that is, one in Taiwan and the other on the mainland, resulted from the separation arising out of the unfinished civil war in 1949. The Nationalist Chinese in Taiwan and Communist Chinese in Mainland China should be individually and simultaneously recognized by the world states. According to the “Successor State Theory” in international law, the PRC has been the legitimate heir to the rights and obligations of the defeated ROC and a newly *de jure* state of China in Mainland China. On the other side, the ROC in Taiwan should be treated as an independent state, which is separated from the PRC.¹ Furthermore, it is argued that under the two-China idea, the PRC would occupy China’s seat in both the General Assembly and Security Council of the United Nations in place of the ROC, while the latter would be recognized as a new state and be named as the “Republic of Taiwan” which should be admitted to the United Nations but no seat in the Security Council.²

The “Two Chinas” or “One China, One Taiwan” model is different from the “German model” devised by Chancellor Willy Brandt, “one nation, two states,” meaning the formulation would merely recognize that there are in fact two governments each of which demonstrably controls a certain land area by retaining the one-nation formula. Such a solution leaves it open to each state the possibility that it could eventually reunite the nation.

The British Government publicly supported the two-China concept, holding that the United Nations has the right to deal with the question of Taiwan under the trusteeship or a plebiscite pursuant to the Chapter XII of the United Nations Charter.³ On 22 April, 1955, the Prime Minister of Sri Lanka, John Kotelawala, on behalf of the Colombo Powers in support of Great Britain’s two-China position, presented his “Colombian Plan” in the *New York Times*, calling for a five-year trusteeship by either the United Nations or the Colombo Powers (that is, India, Pakistan, Burma, Indonesia, and Sri Lanka) to replace the Nationalist administration at that time. Then, the people of Taiwan would hold a plebiscite to decide the form of their government after the trusteeship.⁴

¹ Lung-chu Chen and Herold D. Lasswell, *Formosa, China, and the United Nations: Formosa in the World Community* (New York : St Martin’s Press, 1967), pp.155-150.

² Arthur H. Dean, “International Law and Current Problem in the Far East,” *Proceedings of the American Society of International Law* (Washington ,D.C.: The American Society of International Law,1955), p.87.

³ J.P. Jain, “The Legal Status of Formosa: A Study of British, Chinese and Indian Views,” *American Journal of International Law*, Vol.57, No.1 (January 1963), p.30.

⁴ *New York Times*, 22 April, 1955 .

Nonetheless, a Chinese scholar, Tze-chung Li challenged the British proposal in the New York Times on 10 December, 1964, contending that the question of Taiwan is within the domestic jurisdiction of China and not the jurisdiction of the United Nations.⁵ Furthermore, F.P. Morello argued that the suggestion of a plebiscite through the United Nations would violate Article 2 (7) of the United Nations Charter:⁶

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters, which are essentially within the domestic jurisdiction of any state.

The “Conlon Report” is the most significant work published in connection with the two-China theory. The report was published on 1 November, 1957 by the Foreign Relations Committee of the United States Senate, which decided to undertake a full and complete study of the foreign policy of the United States. The study of policy towards Asia was assigned to the Conlon Associates. A regional section on Northeast Asia authored by Professor Robert Scalapino proposed a “One China, One Taiwan” solution to the question of Taiwan. According to the major suggestion in this report, the PRC would be admitted to the United Nations and the ROC Government would be changed to the name of “Republic of Formosa” in the General Assembly of the United Nations. The United States will continue to defend the Republic of Formosa, including Taiwan and Penghu except the offshore islands.⁷

Obviously, both the PRC and the ROC absolutely opposed the two-China overtures then. Some typical known instances are as follows:

The former President of the ROC Chiang Kai-shek condemned the two-China view in reviewing the World situation on 8 February, 1955:⁸

We have also heard about the ridiculous view of “two Chinas.” This is simply absurd. I would like to ask those people holding such views whether, if unhappily Soviet Russia should invade their countries and install Quisling regimes on their soil, they would still be prepared to swallow the reality of having their countries cut into halves.

James C. Shen, the former ROC Ambassador to the United States, interviewed by a reporter for U.S. News & World Report in July 1971, stated that:⁹

There is also the “two Chinas” formula, we have opposed this for many, many years

⁵ New York Times, 10 December 1964.

⁶ Frank P. Morello, *The International Legal Status of Formosa* (The Hague Martinus Nijhoff, 1966), pp.43-45.

⁷ U.S. Senate Committee on Foreign Relations, *United States Foreign Policy: Asia* (Washington, D.C.: U.S. Government Printing Office, 1959), p.119.

⁸ China News Service, “President Chiang Reviews World Situation, 8 February, 1955.”

⁹ U.S. News & World Report, 2 August 1971, p.45.

and we shall continue to oppose it.

Similarly, the PRC strongly rejected the arrangement of two Chinas. Former Premier Chou En-lai rebutted the concept of two-China as follows:¹⁰

All proposals to place Taiwan under United Nations trusteeship····· or to create a so-called independent Taiwan state, are attempts to carve up China's territory, enslave the Chinese people on Taiwan and legalize United States occupation of Taiwan. None of these will be tolerated by the Chinese people.

A Chinese Scholar Chin-fu Shao, wrote a lengthy article entitled “The Absurd theory of ‘two Chinas’ and principles of international law” in 1959. According to Shao, isolating Taiwan under the United Nations trusteeship is not in accord with the accepted principles of international law. He argued:¹¹

The United Nations has no right to settle the question of Taiwan. By the question of Taiwan, if it means settling the question “between” the Chinese Government and the Chiang Kai-shek clique, it amounts to the violation of Article 2, paragraph 7 of the Charter. If it means settling disputes “between China and the United States over the Taiwan area,” the United Nations is legally or morally not qualified to deal with such a question because the PRC’s right of representation in the United Nations has been “illegally deprived of and has not hitherto been restored.” As to the International Court of Justice, since China has never agreed to accept its jurisdiction, it has no right to handle cases concerning China.

In addition, after observing the Kennedy administration of the United States in pursuit of its two-China policy, the PRC released its views on 14 July, 1961 in an editorial of the Peoples Daily, the official Chinese Communist organ.¹²

It is true, of course, that there is a handful of extremely pro-U.S. traitors in Taiwan who overtly or covertly follow the U.S. policy of creating “two Chinas” in a vain attempt to sever Taiwan from the motherland. All those who participate in these conspiratorial activities and favor “two Chinas” will be condemned by posterity as arch criminals betraying their motherland. They can never escape the severe punishment that will be meted out to them by the Chinese people.

¹⁰ J.P.Jain, op.cit., p.36; Frank P. Morello, op. cit., p.49.

¹¹ Chinese People’s Institute of Foreign Affairs, Oppose the New U.S. Plots to Create “Two Chinas” (Peking: Foreign Language Press, 1962), pp.85-97; Jerome Alan Cohen and Hungdah Chiu, People’s China and International Law : A Documentary Study, Vo1.I (New Jersey: Princeton University Press, 1974), pp.362-70.

(2). The basic Claim of the PRC

Before he established the Central People's Government of the "People's Republic of China" in 1949, Mao Tse-tung was prepared to help the people of Taiwan in their struggle for independence from Japan. On 10 July, 1936, Edgar Snow conducted an interview with Mao at Yen-an, Mao presented the idea about the status of Taiwan:¹³

It is the immediate task of China to regain all our lost territories, not merely to defend our sovereignty below the Great Wall. This means that Manchuria must be regained. We do not, however, include Korea, formerly a Chinese colony, but when we have re-established the independence of the lost territories of China, and if the Koreans wish to break away from the chains of Japanese imperialism, we will extend them our enthusiastic help in their struggle for independence. The same thing applies for Formosa...

Beyond this, on 15 August, 1937, the Communist leader Mao stated the anti-Japanese foreign policy in the document entitled "The Ten Great Policies of the CCP for anti-Japanese Resistance and National Salvation."¹⁴

Fight against Japanese imperialism in alliance with the workers, peasants, and common people of Korea, Taiwan, and Japan.

It is evident that Mao's early idea by 1937 was considered that Taiwan could enjoy the status of an independent entity in order for the common people of Taiwan as alliance to fight against Japanese imperialism. However, due to the Nationalist Government, which retreated to Taiwan in December 1949 as a result of the Nationalist-Communist Civil War, the new PRC Government changed its original viewpoint and started a policy of "liberation of Taiwan." As to when and how the liberation is to be accomplished, the course of action at any given time is to be determined by circumstances and by the Communist evaluation of "objective conditions."

Since then, the fundamental claims of the PRC Government concerning Taiwan have stuck in the position of the China's territorial integrity. Under this position, the PRC advocated that there is only "One China," not "Two Chinas" or "One China, One Taiwan;" all schemes devised to "create Two Chinas (One China, One Taiwan; two successor states theory) or attempt to split Taiwan from China (a neutralization territory; a self-governing territory; a trusteeship territory or an international free city, etc.) can only be interpreted as conspiracy to violate China's territorial integrity and cannot

¹² Chinese People's Institute of Foreign Affairs, op. cit., pp.17-23.

¹³ Edgar Snow, Red Star Over China (New York : Grove Press,1961), p.96.

¹⁴ Conrad Brandt, A Documentary History of Chinese Communism (New York: Athenum, 1966), p.224.

be tolerated by the PRC.”¹⁵ For over five decades, the theory and practice of one-China principle has never been altered by Beijing. It is observed that whenever the PRC Government has been in favour of its claim of one China, it always rests on the following basic rationales.

The first claim was that Taiwan is an integral part of China. On 24 August, 1950, the United Nations received a cable from Chou En-lai, demanding that the Security Council should give an order for the United States to withdraw its forces from Taiwan:¹⁶

Taiwan is an integral part of China. This is not only a fact based on history, confirmed by the situation in the Cairo declaration of 1943 and the Potsdam communique of 1945 as binding international agreements which the United States Government has pledged itself to respect and observe.

Since then, the same position has repeatedly been put forward by the leaders of the PRC. The fundamental position of the PRC Government advanced in support of the claim that Taiwan is an integral part of China can be described along the following lines: (1) from historical, ethnic, cultural considerations, Taiwan is an inseparable part of China; (2) China resumed its *de jure* sovereignty by the unilateral abrogation of the Shimonoseki Treaty in 1941. This was confirmed by the Cairo Declaration and reaffirmed by the Potsdam Proclamation as well as the Instrument of Surrender by Japan, having the authoritative effect of restoring Taiwan as part of China; and (3) since the Nationalist regime retreated to Taiwan, the sovereignty of the Chinese Government, including the jurisdiction over Taiwan, have passed from the old ROC Government to the new PRC Government.¹⁷

The second rationale was that the “liberation of Taiwan,” peacefully or otherwise, is an internal affair of China.

On 6 September, 1958, Premier Chou issued a statement answering the U.S. Secretary of Department of State of the United States Dulles and charging the United States with “intervention and aggression.” The statement followed as broadcast in English by the Beijing radio:¹⁸

United States support of the Chiang Kai-shek clique entrenched on Taiwan and the Penghu Islands, which has long been repudiated by all the Chinese people, and its direct occupation of Taiwan and the Penghu Islands by armed force constitute unlawful interference in China’s internal affairs and infringement of China’s territorial integrity

¹⁵ Byron S. Weng, “The Legal Status of Taiwan,” in *Law in Chinese Foreign Policy: Communist China and Selected Problems of International Law*, Shao-chuan Leng and Hungdah Chiu eds. (New York: Oceana Publications, 1972), p.136 .

¹⁶ *Current History*, Vol.19, No.110 (October 1950), p.233.

¹⁷ Byron S. Weng, op. cit. p.135.

¹⁸ *Current History*, Vol. 35, No.208 (December 1958), pp.364-66.

and sovereignty, and are in direct conflict with the United Nations Charter and all codes of international law.

On 19 September, 1971, former Premier Chou En-lai stated again on this issue:¹⁹

The liberation of Taiwan by Chinese people is a domestic matter. The theory according to which the position of Taiwan is not yet settled is absurd. We would resolutely oppose any supposed movement for the independence of Taiwan. The United States must withdraw all its forces and military installations, which are actually in Taiwan and the States. The Treaty of Defense passed by the U.S.A. and Chiang Kai-shek in 1954 is illegal, null and void. That is our position and we will keep it.

Beijing's position was to be settled exclusively between the Nationalist government and the Communist government. No outside powers can intervene in this internal affair, that is, not only the United States, the United Kingdom or some other states, but also the United Nations. For example, Chen Yi, former Foreign Minister of the PRC even accepted an interview with a Canadian reporter in Beijing and said that "Quemoy, Matsu, Taiwan and Penghu must be liberated as a whole," the PRC Government neither allowed "the handing over of Quemoy in exchange for placing Taiwan under trusteeship" nor accepted "demilitarization or referring the matter to the United Nations or International Court of Justice."²⁰

The third rationale was that it was not appropriate for the people of Taiwan to insist on complete independence through a plebiscite in accordance with the principle of self-determination.

Part of the Taiwanese people maintained that the legal status remained undetermined and uncertain. They contended that they owned the right to self-determination based on long political separation from China and cite the provision of Article 1 (2) of the United Nations Charter: "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples" in support of this argument.²¹ Nevertheless, Beijing argued that the "inseparable relation" between Taiwan and mainland China by reference to historical, cultural, ethnic, geographical, and economic factors do not justify the principle of self-determination for Taiwan.²² Premier Chou En-lai remarked on 25 February, 1964.²³

With regard to this inalienable Chinese territory of Taiwan, there can simply be no such questions as whether it is of indeterminate status, whether there should be a plebiscite,

¹⁹ F. A. Lumley, *The Republic of China under Chiang Kai-shek: Taiwan Today* (London: Barrie & Jenkins Limited, 1976), pp.134-35.

²⁰ *China and U.S. Far East Policy, 1945-1966* (Washington, D.C.: Congressional Quarterly Service, 1967), p.90.

²¹ The United Nations Charter, Article 1(2).

²² Lung-Chu Chen and Herold D. Lasswell, op. cit., p.90.

and so on.

The final rationale was that the PRC claimed to be the sole legitimate government of China and its representatives should be recognized in place of those of the ROC in international organizations and conferences.

On 28 June, 1956, Chou En-lai's speech delivered at the Third Session of the First National People's Congress of the PRC.²⁴

Those who vainly seek to create "two Chinas" recognize that it is becoming more and more difficult to continue to exclude the PRC from international organizations and conferences. Therefore they are attempting to create beforehand a status of "two Chinas" in international organizations and conferences. Only one China exists in the world. Only the Government of the PRC can represent the Chinese People. We believe that sooner or later this fact will receive general recognition in the world. The sooner this day arrives, the sooner will normal international relations be restored.

It is Beijing's belief that the sovereignty of the Chinese Government was passed from the ROC to the PRC by virtue of the Nationalist defeat on the mainland. It held that the ROC Government was overthrown by the Chinese people in 1949 and thus it is a representative of nobody; therefore, foreign states should recognize the PRC Government as the sole legitimate government of China. There is a strong support for this argument under the so-called "Estrada Doctrine" named on 27 November, 1930 by the former Minister of Foreign Affairs of Mexico, Genaro Estrada. The Doctrine holds that any government in control of the bulk of a country's population and territory and in no immediate danger of being deposed, should be accepted and recognized no matter how it comes to power. Applicably, the principle may support the PRC's claim as the legitimate government of China.²⁵

(3). The Basic Claim of the ROC

In 1947, while the ROC Government acting on behalf of the Allied Powers in occupying Taiwan, it unilaterally declared Taiwan to be "one of the 35 provinces" of China. Therefore, on 8 February, 1955, President Chiang Kai-shek addressed the world situation.²⁶

When Japan surrendered, the Government of the Republic of China repossessed

²³ Peking Review, 6 March 1964, p.18.

²⁴ Byron S. Weng, "Peking's Participation in International Organizations," in *China's practice of International Law: Some Cases Studies*, Jerome Alan Cohen ed. (Cambridge, Mass.: Harvard University Press, 1972), pp.332-33.

²⁵ Edmond Jan Osmanczyk, *The Encyclopedia of the United Nations and International Agreements* (Philadelphia and London: Taylor and Francis, 1985), pp. 243-44.

²⁶ China News Services, "President Chiang Reviews World Situation, 8 February, 1955."

Taiwan and Penghu·····Since that time Taiwan and Penghu have regained their status as an integral unit of the territory of the Republic of China.

The ROC Government argued that when the Chinese Communists overran the mainland in 1949, the ROC temporarily moved its government to Taiwan and started carrying on the struggle for Chinese freedom. It also advocated that Taiwan, which consequently has come to be known as “free China” is a part of China. Whereas Beijing said that Taiwan will be liberated, Taipei declared that the ROC was the constitutional and rightful sovereign for all China and the Communists were rebels as well as usurpers who tyrannized the Chinese people so that its compatriots should be saved and its lost mainland should be recovered. The ROC was described by President Chiang Kai-shek as the magnetic pole to which the Chinese people everywhere would be drawn for the final struggle against Communist China.

Indeed, it has not yet appeared that there has been a cease-fire agreement or any treaty of peace effected between the Nationalist and the Communist. Legally, the state of hostilities, which has existed since 1928, continues to exist today. However, notwithstanding the fact that a number of states have recognized the PRC Government based on the premise that it is in de facto control of mainland China, the ROC insisted that the de facto control of mainland China by an insurgent belligerent group was not entitled to extended recognition. Thus, the PRC was nothing more than a rebellious group, while there is only one China and the ROC Government was the sole government of China. The myth formed the basis of the ROC’s claim to legitimacy. This argument might be supported by a widely held point of international law, that is, the so-called “Ethiopian Principle,” which dates from 1938 when Emperor Haile Selassie was in hiding from his country’s Italian invaders. Rome then sought international recognition of its sovereignty over Ethiopia but was rebuffed on the grounds that as long as a government retains any part of its territory, it is still the legal government of the whole country.²⁷

The ROC Government invented and clung to some doctrines and formulas in order to consolidate and perpetuate its power in Taiwan. Notable among these are in the following.

Firstly, there is only one China, and the Republic of China on Taiwan led by the Nationalist was the “authoritative” spokesman of all China, whose mission was to recover the mainland temporarily ruled by Communist China.

On 31 December, 1964, President Chiang Kai-shek Delivered a “counter-offensive and national recovery” speech to the Chinese people:²⁸

Our action of national recovery and reconstruction which concern our domestic affairs

²⁷ D. J. Harris, *Cases and Materials on International Law* (London: Sweet & Maxwell, 1979), pp.147,155-58.

²⁸ *Vital Speeches of the Day*, Vol. XXXI, No.1 (15 October, 1964).

are not to be linked to the fate of the United Nations which deals with international politics. To crush the Communist rebellion is our own undertaking. No one can deny or ignore the fact that the territory, sovereignty and the people of the mainland are Chinese and belong to the Republic of China.

On 29 September, 1972, President Chiang Ching-kuo reported to the First Meeting, 50th Session of the First Legislative Yuan of the ROC, announcing his four unchangeable principles:²⁹

(1) the state system of the ROC as established under Article 1 of the Constitution; (2) the overall goals of the defeat of the communism and the recovery of the mainland; (3) siding with the democratic bloc and upholding righteousness and justice in safeguarding the peace of the world; and (4) never compromising with the rebellious group of the Chinese communist.

In Taipei's viewpoint then, history and necessity have dictated the long-term goal of the ROC. In other words, the PRC under the Communist system, which has proven to be such an utter failure on the mainland, has invoked the anger and hatred of the people subjected to it. It declares that the roots of communism in mainland China were shallow; its base was weak; and the traditional Chinese culture should be the ultimate preventive to communism taking permanent root. It was the ROC's duty to launch a punitive expedition against the Communist rebels, to deliver its compatriots from under tyranny, and to recover the mainland. As for how to recover, the ROC leaders confessed that they did not actually believe they will militarily reconquer the mainland, or even that a Nationalist regime necessarily should govern there. They explained it was a dictum of President Chiang Kai-shek that the Nationalist should fight the Communist 70 percent by political means and 30 percent by military means. These ROC leaders said that their vows to recover the mainland were "political" and "economic" warfares.

Secondly, the ROC is the constitutional successor of the government that ruled whole of China before 1949, supported by the general public and committed to the ideal and practice of "democracy."

The ROC declared that the Chinese Communists violated Article 139 of the Chinese Constitution which states that "no political party and no individual shall make use of armed force as an instrument in a struggle for political power."³⁰

The Chinese Nationalists contended that they were the de jure representatives of all of China because they were the last to be chosen in freely contested elections, ending in 1948. Even though

²⁹ China News Service, "President Chiang's Report to the First Meeting, 50th Session of the First Legislative Yuan, 29 September, 1972."

³⁰ Frank P. Morello, *op. cit.*, p.75.

the expiration of terms and the total loss of their mainland constituencies, these representatives have continued to hold their positions and to exercise authority in Taiwan since 1949. In addition, Taiwan was also allowed to elect its own proportion of representatives. Therefore, the ROC Government were publicly pretending that nothing really has changed.

Moreover, the ROC Government claimed jurisdiction over the mainland and repeated the promise to recover the lost domain under the “Three principles of the people.” Taipei has been just the “temporary” capital of the ROC. It maintained that it is upholding the traditions of Dr. Sun Yat-sen and the Revolution of 1911 which overthrew the last Chinese dynasty and established the Republic. The ROC information brochures identified this state at that time as “first in population” among the states of the world, though it governed, in fact, only 20 million of China’s one billion people. The ROC official maps that showed its “state” territory including the mainland and Taiwan, with Nanking as the Capital.

Thirdly, Taipei had a long-standing policy of the “Three Nos”-- no contacts, no negotiations and no compromises towards Peking.

In 1972 New Year’s Day message, President Chiang Kai-shek stated:³¹

The only contacts between us and the enemy are those of blood and steel in the operations in front of and behind the enemy’s lines. There are absolutely no contacts of any other kind.

On 22 January, 1973, President Chiang Ching-kuo also asserted that “let me give you my word of honor that we will never enter into negotiations with the Chinese Communists.” In February 1977, he further declared that any accord, agreement or arrangement which any state might negotiate with the Chinese Communist regime never could be recognized as valid here and must be considered null and void.³²

Since the turn of the 1970s, the PRC has changed its policy of making public and private statements pledging tolerant and special treatment for Taiwan if Taipei agrees to a “peaceful talk” instead of its long-term military strategy. The PRC has repeatedly called for an end to military confrontation and urged the establishment of links in trade, transport as well as postal services, and the start of academic, cultural, sports exchanges, or visits by relatives and tourists between Taiwan and the mainland. Prior to 1989, the ROC’s official response to all of Beijing’s peaceful proposals could be summarized as follows: (1) “no contacts, no negotiations and no compromises” with the PRC at the present; (2) future reunification only under the Three Principles of the people, not communism; and (3) only when the conditions for peaceful reunification ripen as the political,

³¹ China News Service, “President Chiang Message for New Year’s Day of 1972.”

³² New York Times, 22 January, 1973.

economic, social and cultural gaps between the mainland and Taiwan narrow with the passage of time.³³ When President Chiang Ching-kuo met with Time Magazine's Hong Kong Bureau Chief Sandra Burton and Taipei reporter S. Shapiro in September 1985, he said.³⁴

Our position is unequivocal: as long as the Chinese Communists impose the Communist System on our people in the mainland. There is no possibility for the two sides to negotiate.

Therefore, since 1989 the ROC has gradually relaxed its mainland policy. While official contacts and negotiations between the ROC and the PRC were out of the question at this time, non-official contacts were permitted. People from Taiwan might visit mainland relatives and the two sides engage in indirect trade. Besides, reporters from Taiwan might cover news stories on the mainland; scholars might travel to attend international conferences and athletes might compete there; outstanding mainlanders might also be invited to visit Taiwan. Furthermore, a decisive turning point was with the announcement on the day of Mr. Lee's inauguration as Taiwan's first Taiwanese-born President. At his presidential inauguration ceremony on 20 May, 1990, President Lee Teng-hui broke with the ROC's 40-year-old policy and called for better relations with Beijing as a first step towards eventual reunification with mainland China. It was the first time a Taiwanese president had publicly indicated a desire to move away from the so-called "Three Nos" policy towards Peking. President Lee also announced that he would revoke his government's 40-year-old declaration of a "Communist Rebellion" on the Chinese Communist government.³⁵

It is obvious that the ROC Government in Taipei which had repeatedly challenged the legitimacy of the PRC Government by virtue of holding its one-China policy, has not only tied its own feet but also its allies hands, such as the United States or Japan. The continuing pursuit of this policy could lead to Taiwan becoming more isolated from not only international decision-making, but also much of the political discourse among nations. It is observed that the ROC's real weakness did not lie either in its armed forces or in its diplomatic isolation, but the complexity of the situation created by its one-China policy. Moreover, under the logic of the one-China policy, Beijing intends to bring about unification with Taiwan. As a matter of fact, the PRC leaders have repeatedly threatened Taiwan that Beijing is unwilling to rule out the military means.³⁶ In accordance with Chapter VII of the United Nations Charter, an armed attack by the PRC on Taiwan would be an act of aggression in international law. The United Nations Security Council may undertake further actions in order to contribute to the maintenance of international peace and security. However, the

³³ Byron S. Weng, "Taiwan's International Status Today," *The China Quarterly*, No.99 (September 1984), pp.468-69.

³⁴ *Time*, 16 September 1985, p.46.

³⁵ *Central Daily News*, 21 May 1990; *World Journal*, 28 December, 1989; *New York Times*, 21 May, 1990.

³⁶ For example, Meizho Huaqiao Rebao (China News Daily-New York), 22&23 June, 1984.

PRC is a permanent member of the Security Council and owns the absolute veto right. The above provisions would not seem to be workable for prevention of such an attack should the PRC decide to do so.³⁷ In this light, the final solution would be a takeover of Taiwan by the PRC. Clearly, given such a possibility, the one-China policy stuck by the ROC is highly hazardous to Taiwan itself.

In reality, the ROC Government has only exercised sovereign control over Taiwan, Penghu, and the offshore islands for over 5 decades. In the year of 1979 of the US-PRC normalization relations, Professor Parris H. Chang propounded that Taiwan has been an independent political entity, separate from China and should proclaim that it is the government of Taiwan.³⁸ The present policy of the ROC Government ruled by President Lee seems to choose for an escape one-China Clause.

III. International Positions

(1). The British Stand

Britain recognized the PRC as the de jure government of China on 6 January, 1950, three months after the PRC was proclaimed in Beijing. It simultaneously ceased to continue recognition of the ROC as the de jure government of all of China.

The traditional view accepted by the British Government was that when a government manifestly controlled a territory, official diplomatic relations should be established. The British press and public opinions generally approved the decision.³⁹ In November 1949, when the recognition issue of the new Chinese Government was discussed in the British Parliament, Sir Winston Churchill supported recognition of the new PRC Government.⁴⁰ This view was explained by Prime Minister Atlee, on the occasion of his visit to the United States in December 1950 on the grounds that the PRC had control of all of mainland China and commanded the obedience of its inhabitants. He emphasised that the United Kingdom was unwilling to cut itself off from one sixth of all the inhabitants of the world and declared that British recognition was a recognition of an obvious fact.⁴¹

Great Britain's China policy is independent of that of any of the Commonwealth states. It never attempted to influence or pressure the independent members of the Commonwealth to recognize the PRC. For instance, prior to 1 March, 1965, Canada, Australia, and South Africa refused to recognize

³⁷ The United Nations Charter, Chapter VII.

³⁸ Newsweek, 22 January 1979, p.13.

³⁹ Richard Harris, "Britain and China: Coexistence at Low Pressure," in Policies Toward China: Views from Six Continents, A. M. Halpern ed. (New York, Toronto and London: McGraw-Hill, 1965), pp. 17-19.

⁴⁰ Great Britain Parliament Debates, House of Commons, Official Report, Vol. 469 (17 November, 1949) (London: His Majesty's Stationery Office, 1949), cols. 2225-26.

⁴¹ New York Times, 7 December, 1950.

the PRC, while Burma, India, Pakistan, and Sri Lanka all recognized it; some, such as Malaysia, Nigeria, and Malta, recognized neither the PRC nor the ROC.

The position that the legal status of Taiwan remained undetermined and uncertain has been consistently expressed by the British Government. In 1955, the Secretary of State for Foreign Affairs of the United Kingdom, Anthony Eden, clarified the British position in the House of Commons that the de jure sovereignty over Taiwan and Penghu, in the view of Her Majesty's Government, is uncertain and undetermined.⁴² In 1961, Great Britain took up the question of Chinese representation in the United Nations. It withdrew support from the U.S. position which called for the postponement of any discussion of the China issue and voted for a Russian motion supporting Beijing's admission to the United Nations. It specifically asserted its position that the Japanese, in the San Francisco Peace Treaty, had renounced all rights, title and claims to Taiwan; but the treaty had not assigned sovereignty to any other power so that Great Britain did not exclude the possibility that Taiwan might become an independent entity.⁴³

The British standpoint is the fact that neither the PRC nor the ROC were signatories to the San Francisco Peace Treaty, the renunciation did not in itself transfer sovereignty to either the PRC or the ROC.⁴⁴ Moreover, the British Government contended that the parties to the San Francisco Peace Treaty were effectively exercising a "condominium" over Taiwan and the Nationalist government was merely exercising a delegated authority on Taiwan on behalf of the parties to the Peace Treaty. Professor Schwarzenberger, in "The Times" of 2 February, 1955, also supported the point of view that the parties to the Peace Treaty had become the co-sovereigns of Taiwan.⁴⁵

With respect to the future of Taiwan, the British Government believed that the question of Taiwan could not be solved merely by reference to the Cairo and Potsdam Declarations. They argued that the future of the island should be viewed as an international concern in scope, subject to discussion in the United Nations and settled by peaceful means.

In 1951, when the Conservatives came to power, they attempted to make the Chinese policy of Britain closer to the United States. The effort brought a slight shift on the question of Taiwan even though the fundamental differences on the Chinese issue still existed between the United Kingdom and the United States. In a speech to a joint session of the United States Congress, Prime Minister Churchill affirmed that Taiwan should stay in non-communist hands and away from the PRC. Also, in February 1961, the Labour Party published a pamphlet about China and the West, the major principles are as follows:

⁴² Great Britain Parliament Debates, House of Commons, Official Report, Vol. 536 (7 February, 1955) (London: Her Majesty's Stationery Office, 1955), cols. 1528-31.

⁴³ Richard Harris, *op. cit.*, p.21.

⁴⁴ Richard Harvey, "The Legal Status of Formosa," World Affairs Quarterly, Vol.30 (1959-1960), pp.413-14.

⁴⁵ The Times, 2 February, 1955.

1. That Washington will respect plain speaking from the United Kingdom.
2. That China (the PRC) must be thought of as a world power.
3. That, in light of point 2, British relations with China (the PRC) must be conceived as “on a similar level to” those with the Soviet Union and the United States.
4. That, in light of 3, China (the PRC) must be seated in the United Nations and brought into any world summit meetings.

Then Labour Party policy towards Taiwan favoured a neutralised status under the United Nations trusteeship (but different from a “Two Chinas” or “One China, One Taiwan” policy, which assumes that both government should be seated in the United Nations). The Party pamphlet suggested a withdrawal of power of the Nationalist government and a call for plebiscite on Taiwan: “not two Chinas but China and a freely chosen Formosan Government, if that should be the people’s wish.” If the people of Taiwan felt free to decide their future by virtue of a referendum, they, predictably, would choose for independence in accordance with the policy of the Labour Party.⁴⁶

(2). The Russian Stand

When the Chinese Communists established the Central People’s Government in Beijing on 1 October, 1949, the Soviet Union at once recognized it as the sole legitimate Chinese Government on 2 October, 1949 and officially established diplomatic relations on 3 October, 1949.

In light of this historical fact, the ROC Government usually charged the Soviet Union with intervention in the Chinese internal affairs. Mr. Tajibaev, the Russian representative for the United Nations refuted the charge in the United Nations on the ground that the Chinese Kuomintang did not represent the Chinese people. He went on to address the Soviet policy on China:⁴⁷

The Central People’s Government of the People’s Republic of China, is the only lawful government of China, which rules de jure and de facto.

That the PRC is the sole legitimate sovereign is the basic Soviet position on the Chinese policy. It has argued that Taiwan is an inalienable part of Communist China as well as a denial of “Two Chinas” or “One China, One Taiwan” concept. In stating the China representation question, Mr. Gromyko, the Soviet representative for the United Nations declared in the Thirteenth Session of the United Nations on 22 September, 1958:⁴⁸

However much the apologists for United States aggression against China may try to

⁴⁶ Richard Harris, op. cit., pp.26-29,40.

⁴⁷ U.N. General Assembly, Official Records, 5th Session (26 September,1950), pp.106-7.

⁴⁸ U.N. General Assembly, Official Records, 13th Session (22 September,1958), p.62.

underpin that aggression with some sort of “theoretical foundation” in the form of the spurious “two Chinas” formula they have invented, China always has been and still is China, while the island of Taiwan…… is an inalienable part of Chinese territory.

Consistently, because the Soviet Union supported the view that there is only one China and that is the PRC, it had made an effort to deprive the seat of the ROC in the United Nations in place of the PRC.

In identifying the controversy as an internal affair of China, the Soviet Union agreed that both the Chinese Communist and the Chinese Nationalist regimes took the same position that it is to be settled between themselves and is not subject to international dispute or interference. It was the Russian contention that the PRC Government as a sovereign state is free to control its own destiny and has the legal right to settle Taiwan by any means which it may choose that any international interference with its right to exercise this prerogative is contrary to the principles of international law. In contending that the question of Taiwan is an internal affair of China without resort to the international settlement, Andrei Vyshinsky addressed the General Assembly of the United Nations during the Sixth Session in 1951 and stated that:⁴⁹

To restrict the free exercise of this right by measures such as the decision which the General Committee is now trying to impose on us is …… contrary to the Charter of the United Nations Organization which specifically condemns all intervention in matters coming within the domestic jurisdiction of other states.

Again, at the Sixteenth Session of the General Assembly of the United Nations in 1961, Valerin asserted on this subject on behalf of the standpoint of the Russian Government as follows:⁵⁰

The United Nations has nothing whatever to do with internal developments in China …… It is not for the United Nations to discuss the internal problems which in a particular country nor to express views about them.

In April 1990, after the former PRC Premier Li Peng visited Moscow, the Soviet Union issued a unilateral communique announcing that it would consistently support the PRC Government’s position that Taiwan is an inalienable part of the territory of the PRC and that the PRC should strongly oppose any attempt to create “Two Chinas,” “One China, One Taiwan” or “Independent Taiwan.”⁵¹

⁴⁹ U.N. General Assembly, *Official Records*, 6th Session (13 November, 1951), p.82,100.

⁵⁰ U.N. General Assembly, *Official Records*, 16th Session (1 December, 1961), p.873.

⁵¹ *World Journal*, 27 April, 1990; 4 May, 1990.

(3). The Japanese Stand

Japan has played a significant role in China because Japan is close to China and important to it for long-standing historical reason. During the 1950s and 1960s, the Japanese Government had taken an anti-PRC policy dictated by Washington and established the very close relationship with the ROC Government. On 16 January, 1952, a letter from Japanese Premier Yoshida to U.S. Ambassador Dulles was made public. The essential commitments made therein are as follows:⁵²

At the present time it is, we hope possible to develop that kind of relationship with the National Government of the Republic of China, which has the seat, voice and vote of China in the United Nations, which exercises actual governmental authority over certain territory, and which maintains diplomatic relations with most of the members of the United Nations.

As regards the Chinese Communist regime, that regime stands actually condemned by the United Nations of being an aggressor and, in consequence, the United Nations has recommended certain measures against that regime, in which Japan is now concurring and expects to continue to concur.

Japan maintained diplomatic relations and concluded a peace treaty with the ROC Government valid until 1972. Naturally, the previous view of the Japanese Government on the status of Taiwan was to reject the Beijing's position that the PRC has legal right to sovereignty over Taiwan. At the Sixteenth Session of the General Assembly of the United Nations on 6 December, 1961, the Japanese Ambassador to the United Nations, Katsuo Okazaki, in making a direct reference to the status of Taiwan, stated:⁵³

By the Peace Treaty which was signed at San Francisco between Japan and the Allied Powers on September 8, 1951, Japan renounced all right, title and claim to Taiwan and the neighboring Pescadores Islands. At the present time, Taiwan, ··holds, of course, the seat of the Government of the Republic of China and the Central People's Republic of China has never extended its actual control over the area.

After 1960, the Japanese Government intended to establish closer relations with the PRC. It realized that the PRC has reemerged as a major political power in the world. In February 1961, the Japanese Prime Minister Ikeda announced that his country would seek better relations with the PRC, economically as well as diplomatically, because the world had reached a decisive turning point and better understanding between East and West had become a vital necessity. Three years later on 3

⁵² U.S. Department of State, "Press Release 37, on 16 January, 1952."

⁵³ U.S. General Assembly, Official Records, 16th Session (1 December, 1961), pp.943-46.

March, 1964, the Japanese foreign ministry released an official paper for Japanese Diet interpellations on the China issue published in Sankei Sinbun. In discussing its basic policy towards China, it reads as follow:⁵⁴

Japan's present China policy is based on two premises. First, Japan treats the Chinese Nationalist Government on Taiwan as representing China. It concluded a peace treaty with this government and maintains regular relations with it. Second, in view of its historical and geographical connections with mainland China, which has a population of over 600 million, Japan can not avoid having de facto relations of several kinds with mainland China.

So long as both the Nationalist Government and the Communist regime insist on claiming sovereignty over all of China, it is impossible in practice for Japan to have diplomatic relations with both at the same time...

These considerations led Japan and the PRC to establish formal diplomatic links. Premier Chou En-lai listed three conditions⁵⁵ that Japan must fulfill before a full diplomatic relations can be established. Japan decided to accept those preconditions in order to have diplomatic relations with the PRC in advance of the United States, because it felt isolated and humiliated that U.S. President Nixon visited China in February 1972 without consulting Tokyo. Prime Minister Tanaka visited Beijing in September 1972, and a full diplomatic relationship was established between two major Asian states after twenty-two years of cold war confrontation. In the PRC-Japan Joint Communiqué that established diplomatic relations on 29 September, 1972, the "Taiwan Clause" reads as follows:⁵⁶

The Government of the People's Republic of China reaffirms that Taiwan is an inalienable part of the territory of the People's Republic of China. The Government of Japan fully understands and respects this stand of the Government of China and adheres to its stand of complying with Article 8 of the Potsdam Proclamation.

In addition to an expression of a full understanding of China's stand on Taiwan as "an inalienable part of the territory of the PRC," Japan recognized the PRC as the sole legal government of China and the ROC-Japan Peace Treaty was declared invalid. It also concluded that the Japanese Government deeply reproached itself for Japan's aggression against China. Meanwhile, both sides proclaimed that the abnormal state of affairs -- the undeclared war -- between China and Japan was

⁵⁴ *Sankei Sinbun* (Tokyo), 3 March, 1964.

⁵⁵ Three preconditions are: (1) recognition of the PRC as the sole legitimate government of China; (2) acceptance of Taiwan as an integral part of China; and (3) abrogation of the ROC-Japan Peace Treaty, which China had always considered to be illegal.

⁵⁶ *Peking Review*, 6 October, 1972, pp.12-13.

terminated.⁵⁷

When diplomatic relations between Japan and the ROC were severed, the Japanese Government took the view that all existing government-to-government agreements were automatically terminated. By December 1972, three months after the relationship was severed, Tokyo and Taipei reached an agreement on the creation of an unofficial organization for conducting bilateral relations to ensure the continuation of trade, culture, and athletic activities. This is the so-called “the Japanese model,” that is, formally recognizing Beijing and formally breaking with Taipei, while informally maintaining economic ties with it.

Since then, the Japanese Government has established a private organization, known as Inter-Change Association, to carry out non-governmental relations with its Taiwan counterpart, the East Asian Relations Association, without enacting a domestic law that treats Taiwan as an independent political entity.⁵⁸ Conversely, after the severance of the diplomatic relationship between Taiwan and the United States, the United States continues its defense commitment to Taiwan and formally legalizes the latter’s status as an independent entity within its territorial entity under the U.S. domestic law – Taiwan Relations Act.⁵⁹

After the announcement of the Sino-American rapprochement, the Japanese Foreign Minister Sunao Sonoda declared that because of the treaty of peace and friendship with China, Taiwan was no longer part of the “Far East” Clause, although the Japanese Government would continue to seek a new definition for the clause after listening to both Chinese and American views on the subject.⁶⁰ Underlying the Japanese concern was not fear of a renewed conflict between China and the United States over the Taiwan issue, but the possible expansions of Soviet influence into the area at the invitation of the ROC Government.⁶¹

(4). The French Stand

France recognized the ROC Government as the de jure Chinese Government and had a diplomatic relationship with it in early 1964. In February 1964, the announcement of diplomatic recognition of the PRC Government by France was made by General de Gaulle.

The France Government’s increasing interest in China was that “if it dose not seem that establishment of diplomatic relations is to be expected in the immediate future, it is felt in France (1) that in the existing state of antagonism between Peking and Moscow, the West should treat both

⁵⁷ Library of Congress, Congressional Research Service, Recognizing the People’s Republic of China: The Experiences of Japan, Australia, France, and West Germany (Washington, D.C.: U.S. Government Printing Office, 1979), p.8.

⁵⁸ Ralph N. Clough, Island China (Cambridge, MA and London: Harvard University Press, 1978), pp.189-94.

⁵⁹ 22 U.S.C. 3301(b)(3)(6), 3302.

⁶⁰ Japan Times, 21 December, 1978.

⁶¹ Japan Times, 24 December, 1978.

parties in the same manner,” and (2) that the most effective method of regulating the difficulties in South Vietnam and Laos would be to make contact with Beijing.⁶²

General de Gaulle’s idea was that France would like to go ahead and recognize the PRC, but of it would rather maintain official relations with the ROC at the same time. He meant that France would recognize the PRC without accepting the any precondition from the PRC and without breaking with the ROC in Taiwan. However, His idea was rejected by the PRC and the ROC.

The Chinese leaders had insisted that severing diplomatic relations with Taiwan was the precondition for the PRC’s recognition by the French Government. The PRC never agreed to consider a solution which could have appeared to be a concession on its part to the two-Chinas idea. A statement issued by the Ministry of Foreign Affairs of the PRC on 28 January, 1964, maintained unyieldingly that “recognition of the new government of a state naturally implies ceasing to recognize the old ruling group overthrown by the people of that state and that it was with this understanding that the Government of the People’s Republic of China reached agreement with the Government of the French Republic on the establishment of diplomatic relations and the exchange of ambassadors between China and France.”⁶³

In the meantime, the ROC President Chiang Kai-shek was known to be no less hostile to the two-China formula than the PRC Government. It was conceivable that recognition of only one China would be pursued by the French Government. Therefore, this situation would undoubtedly step forward to drive the ROC into initiating the break with France.

In General De Gaulle’s press conference on 31 January, 1964, he made a farewell gesture of melancholic elegance towards President Chiang Kai-shek by paying homage to his “worth, patriotism, and nobility of spirit.” Then he perorated:⁶⁴

The weight of evidence and of reason increasing day by day, the French Republic estimated, for its part, that the time had come to place its relations with the People’s Republic of China on a normal, in other words a diplomatic basis. We have met with an identical intention in Peking, and therefore on this point, former Premier Edgar Faure, requested to make an unofficial sounding on the spot, returned to Paris with positive indications.

The attitude of the ROC Government, however, remained intransigent and announced the break with France on its own initiative on 10 February, 1964.

It is obvious that France failed to establish a position of recognizing both Chinese Governments. But it is worthy of note that France had proved that although one cannot get away

⁶² AFP Commentary for Provincial Newspapers, 19 October, 1963.

⁶³ Statement of the Ministry of Foreign Affairs on the PRC of 28 January, 1964.

with recognizing two Chinese Governments, one can recognize the PRC without having to accompany it by a formal acknowledgment of Beijing's claim to Taiwan by virtue of a declaration.

(5). The Canadian Stand

As with France, Canada originally recognized the ROC as the lawful Chinese Government. There had been official diplomatic relations between Ottawa and Taipei by October 1970.

An essential benefit, however, viewed by Canadians in recognition of the PRC was that it would enable Canada to deal directly with the Chinese on trade as well as consular affairs and to set up independent sources of information about China instead of American sources. In a statement in the House of Commons in November 1963, Former Secretary of State for External Affairs, P. Martin stated:⁶⁵

The increasing ostracism of Communist China from the world community may be self-defeating and a potential threat to international stability. ... for the West to begin to formulate realistic and far-sighted policies toward this Asian Giant.

The opposition leader, J. Diefenbaker, said in early 1964:⁶⁶

You cannot forever deny the existence of a nation of so many millions of people if the UN is to be the institution representative of all nations. The time has come when fullest consideration should be given to this question, keeping in mind the preservation of the existence and integrity of the Taiwan government.

Diefenbaker's expression about Taiwan, which accorded with the viewpoints of most Canadians, caused a Canadian dilemma on the China policy. After the meeting of Commonwealth Prime Ministers on 17 July, 1964, the former Canadian Prime Minister Pearson reported to the Canadian House of Commons:⁶⁷

There are many governments, including our own, that could not accept the extension of Communist rule from mainland China to Formosa without the approval and consent of the people of that island, and until that difficulty in some form was removed it was not going to be easy to recognize the right of a government in Peking to be the government of China in the United Nations and extend its authority over the island of Formosa.

On the status of Taiwan, the Canadian Government preferred to select the "Two Chinas" or

⁶⁴ De. Gaule Press Conference on 31 January, 1964.

⁶⁵ The Canadian House of Commons, November 1963.

⁶⁶ Montreal Star, 28 January, 1964.

“One China, One Taiwan” policy. If certain practicable could be worked out for recognizing both Beijing regime as the government of China and an independent government of Taiwan, there is little doubt that Canada would approve it.

To declare that Taiwan belongs to the Chinese Communist would be an act contrary to the Canadian standpoints. What the Canadian Government attempted to avoid was a situation in which the PRC would require Canada to accompany recognition with declarations on the status of Taiwan. Canada paid attention to the fact that PRC did not demand a declaration of this kind from France. Thus, Canada was unwilling to endorse this condition in order to prevent acceptance being employed by Beijing as a precedent in the world for the PRC’s claim to Taiwan.⁶⁸ In a speech reported to the House of Commons by the former Secretary of State for External Affairs M. Sharp in July 1967, he stated:⁶⁹

It would not be appropriate, nor would it be in accordance with international usage that Canada should be asked to endorse the position of the government of the People’s Republic of China on the extent of its territorial sovereignty.

Notwithstanding the fact that France had set an example which lots of Canadians would like to follow, the Canadian Government was not disposed to do so. The negotiation for diplomatic relations with the PRC lasted for almost 2 years from February 1969 to October 1970 and included 21 rounds of meeting between the PRC and the Canadian Ambassador in Stockholm in terms of Canadian acceptance of Beijing’s claim over Taiwan. The ultimate compromise was a semantic concession that Canada “takes note of” Beijing’s claim that Taiwan is an inalienable part of the territory of the PRC. The Joint Communique was released on 13 October, 1970, regarding the establishment of diplomatic relations between Ottawa and Beijing. It contains the words as is stated above. In addition, Canada withdrew recognition of the ROC and cut off all official relations with Taipei.⁷⁰

(6). The Indian Stand

The diplomatic relations with the PRC was established in 1949, when Indian independence was only a couple of years old and when Indian lacked experience and knowledge of international affairs. It was felt that having the PRC as a friendly neighbor instead of the ROC in Taiwan would be in the national interest of India. It was decided to seek a friendly China with whom there should be no active hostility. In terms of peaceful coexistence, India quickly recognized the PRC on 30

⁶⁷ The Canadian House of Commons, July 1963.

⁶⁸ John D. Harbron, *Canada Recognizes China* (Toronto: Canadian Institute of International Affairs, 1974), p.10.

⁶⁹ The Canadian House of Commons, July 1969.

⁷⁰ *Peking Review*, 16 October, 1970, p.12.

December, 1949 and established official diplomatic relations with it on 1 April, 1950. It was also hoped that China would respond to India's friendship and that a basis for avoiding conflict and misunderstandings would be established by virtue of this normalization of relations.

In accordance with its policy to appease the PRC, India advocated admitting the representatives of the PRC to the United Nations in place of the ROC. India's delegate to the United Nations, B. N. Rau, said on this subject in September 1950:⁷¹

Why did we recognize this new Government of China? For a variety of reasons, the main reason being that, according to the best of our knowledge and information, it is a sound and stable government······ As I have mentioned in my draft resolution, and as is well know, the ROC is a member of the UN and a permanent member of the Security Council and as such that Republic has a number of obligations laid upon it by the Charter of the UN. Who is to fulfill them? A State cannot fulfill obligations except through some government, and obviously only a government exercising effective control over the territory and the PRC can fulfill the obligations laid upon the ROC.

In support of the legitimacy of the PRC in the United Nations, the former Prime Minister J. Nehru delivered a speech to the Indian Parliament in September 1954:⁷²

No settlement in the Far East or South-east Asia······ till this major fact of the People's Government of China is recognized······ because if China came into picture, she would assume certain responsibilities in the United Nations.

India rejected the two-China formula and agreed that Taiwan belongs to the PRC. The status of Taiwan was even discussed in the Indian Parliament in support of the PRC's liberation action during the First Taiwan Straits Crisis in February 1955. Premier Nehru advocated that the PRC's claim to Taiwan was justified by the interpretation of the Cairo Declaration and the Potsdam Proclamation even though the ROC was the signatory of these agreements. He went on to say:⁷³

Chinese claims are justified. According to our thinking because we cannot recognize two Chinas because Formosa has been part of the Chinese state for hundreds of years······ except for a little less than half a century···· when the Japanese occupied it, and also because it was clearly stated in the Cairo and Potsdam Declarations that Formosa should go to China.

Moreover, before the Thirteenth Session of the General Assembly of the United Nations in

⁷¹ U.N. General Assembly, Official Records, 5th Session (27 September, 1950), pp.9-10.

⁷² Statesman (New Delhi), 30 September, 1954.

⁷³ J.P. Jain, *op. cit.*, p.41.

October 1958, the former Indian Ambassador to the United Nations V.K. Menon opposed placing Taiwan under trusteeship.⁷⁴ He also clarified the Indian position that the clash between Beijing and Taipei would be resolved by themselves without international involvement and other states cannot interfere in its domestic affairs. Menon asserted:⁷⁵

My Government····· pleads not for any intervention by the United Nations, because I do not see now that is possible. For one thing, the United Nations has tied its hands for a year by refusing to discuss it····· But over and over that, it is not an international problem.

IV. Evolutionary Changes of the American Attitude

(1). The Initial Standpoint Following the Retreat of the ROC Government

At the end of 1948, the National Security Council (NSC) of the United States undertook a secret policy study of Taiwan because of the defeat of the Nationalist government by the Chinese Communist, referred to as NSC 37.⁷⁶ The policy is revealed by this study as the original source of President Harry Truman's further steps towards China after the failure of the General Marshall Mission in 1946. At the request of Acting Secretary of State, Robert A. Lovett, the Joint Chiefs of Staff (JCS) presented a strategic appraisal on 24 November, 1948. According to the JCS, a domination of Taiwan and Penghu by Communist China would be seriously unfavourable to the United States for the reason that Communist China was likely to deny the United States access to such strategically valuable areas of mainland China as "air base sites, harbors and coastal railroad terminals" in case of war with the Soviet Union, so that from the strategic viewpoint, the United States should have Taiwan and Penghu in hand because it "would enhance····· the potential value to the United States of Formosa as a wartime base capable of use for staging of troops, strategic air operations and control of adjacent shipping routes."⁷⁷

Thus, an option had been chosen that it was highly desirable for Taiwan to remain under a local friendly, non-Communist regime in order to be in the U.S. national interest. A number of proposals were considered to achieve the goal, including U.N. trusteeship, U.S. support of a Taiwan autonomy movement, and the continuation of economic and military aid to the ROC Government. Finally, the JCS recommended extending military aid to Taiwan. Regretably, President Truman pursued a policy

⁷⁴ U.N. General Assembly, Official Records, 13th Session (7 October, 1958), p.369.

⁷⁵ *Ibid.*, p.370.

⁷⁶ U.S. Department of State, Foreign Relations of the United States 1949, The Far East: China, Vol. IX (Washington, D.C.: U.S. Government Printing Office, 1974), p.261.

of non-intervention, refusing to reinstitute military aid in Taiwan despite recommendations of the JCS and demands of Republican Congressmen.⁷⁸ Only a modest economic aid program was approved by the government of the United States.

On 5 January, 1950, President Truman issued the American policy on Chinese affairs. He presented the principle of respect for the Chinese territorial integrity, which had been reaffirmed in the General Assembly Resolution of 8 December, 1949. The Resolution had called on all states “to refrain from (1) seeking to acquire spheres of influence or to create foreign controlled regime within the territory of China, and (2) seeking to obtain special rights within the territory of China.” He said that the subsequent exercise of Chinese authority in Taiwan had been accepted by the United States and other Allied Powers. He then went on to say:⁷⁹

The United States has no desire to obtain special rights or privileges or to establish military bases on Formosa at this time. Nor dose it have any intention of utilizing its armed forces to interfere in the present situation. The United States Government will not pursue a course which will lead to involvement in the civil conflict in China. Similarly, the United States Government will not provide military aid or advice to Chinese forces on Formosa. In the view of the United States Government, the resources on Formosa are adequate to enable them to obtain the items which they consider necessary for the defense of the island. The United States Government proposes to continue under existing legislative authority the present ECA program of economic assistance.

Shortly after the statement of President Truman, Secretary of State Dean Acheson made an address to the National Press Club in which he expressed two basic guides for the formulation of the U.S. policy towards China on 12 January, 1950. He urged American to keep a pure and simple way to respect the Chinese territorial integrity. He explained:⁸⁰

Anyone who violates the integrity of China is the enemy of China and is acting contrary to our interest······ Keep our own purposes perfectly straight, perfectly pure, and perfectly above board and do not get them mixed up with legal quibbles or the attempt to do one thing and really achieve another.

Secretary Acheson then continued to discuss the U.S. security in the Pacific. He defined the defensive perimeter of the United States in those waters as running along the Aleutians to Japan,

⁷⁷ Ibid., p.262.

⁷⁸ Ibid., pp.262-82.

⁷⁹ U.S. Department of State, *Bulletin*, Vol.22 (16 January, 1950), p.79.

⁸⁰ Ibid., pp.111-18.

thence to Okinawa and the Philippines, excluding both Taiwan and Korea from the U.S. defense and holding that the United States would depend on the United Nations intervention should these areas be attacked. He went on to say:⁸¹

So far as the military security of other areas in the Pacific is concerned, it must be clear that no person can guarantee these areas against military attack…… should such an attack occur…… the initial reliance must be on the people attacked to resist it and then upon the commitments of the entire civilized world under the Charter of the United Nations.

On 1 June, 1951, Secretary Acheson testified before the United States Senate, Armed Services Committee on the foreign policy concerning Taiwan between October 1948 and 25 June, 1950. The testimony comprised two major decisions: (1) With the existing strength of the United States armed forces at that time it was not possible to commit any forces whatever to the defense of Taiwan; and (2) Department of State should do its best by diplomatic and economic means to keep Taiwan from falling into hostile hands.⁸²

In sum, before the North Korean Communists invaded South Korea, the government of United States had considered that U.S. interests in Taiwan were not important enough to justify an intervention to keep Taiwan out of the PRC and that the people of Taiwan would have to defend themselves in the event of war with the Chinese Communists. At that time, it was the American position that the conflict was an internal affair and that it would follow a “hands-off” policy to keep the United States clear by maintaining the principle of respecting the Chinese territorial integrity in order to have the expansion of the Soviet Union stand out.

(2). The Reverse Policy at the Outbreak of the Korean War

The key factor in the shift that occurred in the U.S. point of view concerning its relations with the ROC and its keeping Taiwan away from the PRC was the Korean War on 25 June, 1950. The United States policy towards Taiwan underwent an abrupt reversal of the hand-off policy and it decided to intervene with forces followed by a reassessment of U.S. interests in Taiwan.

On 25 June, 1950, the North Korean forces crossed the 38th parallel and invaded the Republic of Korea. For the sake of protecting the American defense perimeter, President Truman, two days after outbreak of the war, ordered that the United States Seventh Fleet enter and neutralise the Taiwan Straits. Meanwhile, he also issued a statement that intervened in the internal Chinese affairs and immediately made a radical shift in the American policy towards China. The statement reads as

⁸¹ Ibid.

⁸² *Military Situation in the Far East: Hearings before the Armed Services Committee, United States Senate* (Washington, D.C.: Government Printing Office, 1951), pp.1671-72, 1816.

follow.⁸³

The occupation of Formosa by Communist forces would be a direct threat to the security of the Pacific area and to the United States forces performing their lawful and necessary functions in that area. Accordingly I have ordered the Seventh Fleet to prevent any attack on Formosa. As a corollary of this action I am calling upon the Chinese Government on Formosa to cease all air and sea operations against the mainland. The Seventh Fleet will see that this is done. The determination of the future status of Formosa must await the restoration of security in the Pacific, a peace settlement with Japan, or consideration by the United Nations.

The American position was amplified by President Truman in a message to the Congress on 27 July, 1950. He expressed the view that the military neutralization of Taiwan was without prejudice to political questions involved. He even declared that Taiwan should not become embroiled in hostilities disturbing to the Pacific security and that "all questions affecting Taiwan should be settled by peaceful means as envisaged in the Charter of United Nations."⁸⁴

In defending the U.S. reversal policy against the PRC's charge of an intervention of the Chinese internal affairs on 25 August, 1950, the United States Representative to the United Nations E. Gross, said to the Security Council of the United Nations:⁸⁵

The actual status of the island is that it is territory taken from Japan by the victory of the Allied Forces in the Pacific. Like other such territories, its legal status cannot be fixed until there is international action to determine its future. The Chinese Government was asked by the Allies to take the surrender of the Japanese forces on the Island. That is the reason the Chinese are there now.

Accordingly, the complete shift of President Truman previous stand, that is, the involvement of the U.S. Armed Forces and the U.S. intrusion into the Chinese domestic affairs by means of an assertion that the status of Taiwan was undetermined, was not harmonious with the Cairo and Potsdam Declarations signed by the United States. Legally, both Declarations would be treated by the United States as international agreements and thus were of legal binding force in international law. The United States should be obliged to abide by its promise. The failure to reaffirm the territorial integrity of China and the seeking of a peace settlement with Japan for Taiwan's future status could be considered as a violation of international law.

The United States started to engage in its concrete relations with Taiwan since June 1950. On

⁸³ U.S. Department of State, Bulletin, Vol.23 (3 July, 1950),p.5.

⁸⁴ *Ibid.*, pp.165-66.

⁸⁵ U.N. Security Council, Official Records, 490th Session, U.N. Doc. S/1715 (2 August, 1950), p.7.

31 July, 1950, General Douglas MacArthur visited Taipei, where he stressed the importance of defending Taiwan, “an unsinkable aircraft carrier,” and held conferences with president Chiang Kai-shek. The ROC Government announced that the foundations had been laid for joint defense of Taiwan and for the US-Taiwan military cooperation.⁸⁶ By the middle of 1951, \$50 million had been allocated for military aid and \$42 million for economic aid. In early 1951, a Military Advisory Assistance Group was assigned to Taiwan for assistance in maintaining external defense and internal security. The Mutual Security Appropriations Act of October 1951, envisaged aid totaling about \$300 million in fiscal year 1952. By April, 1952, the U.S. charge D’affaires in Taiwan, K. L. Rankin, advocated the U.S. policy to support the ROC and informed his staff that the American policy in Taiwan was to provide minimal military and economic aid to it until its status can be decided by international settlement in the future.⁸⁷ The full extent of the U.S. commitments revealed by an address delivered before the China Institute on 18 May, 1951 by Dean Rusk, Assistant Secretary of State. His remarks that bore most directly on the U.S. policy in Taiwan reads:⁸⁸

We recognize the National Government of the Republic of China even though the territory under its control is severely restricted. We believe it more authentically represents the views of the great body of the people of China, particularly their historic demand for independence from foreign control. That government will continue to receive important aid and assistance from the United States. Under the circumstances, however, such aid in itself cannot be decisive to the future of China. The decision and the effort are for the Chinese people, pooling their efforts, wherever they are, on behalf of China.

On 2 February, 1953, President Dwight D. Eisenhower delivered a message that President Truman’s neutralization policy should be modified so that the ROC’s attack on mainland China would be allowed.⁸⁹ More significantly, these two governments had negotiated a military alliance in the shape of the Mutual Defense Treaty on 2 December, 1954, which came into effect with the exchange of ratifications on 3 March, 1955.⁹⁰

By the end of 1955, the PRC began a bombardment of the offshore islands, Quemoy and Matsu. President Eisenhower requested that U.S. Congress approve a resolution authorising the use of military force in the Taiwan Straits to protect Taiwan and the costal islands. The Congress passed

⁸⁶ *New York Times*, 2 August, 1950.

⁸⁷ Ralph N. Cough, *op. cit.*, p.10.

⁸⁸ U.S. Department of State, *Bulltin*, Vol.24 (7 and 28 May, 1951), pp.747,848-50.

⁸⁹ U.S. Department of State, *Bulltin*, Vol.28 (9 February, 1953), pp.207-11.

⁹⁰ *United States Treaties and Other International Agreements*, Vol.6 (Washington, D.C.: U.S. Government Printing Office, 1956), pp.433-54; *United Nations Treaties Series*, Vol.248 (New York: The United Nations, 1956), pp.213-33; *China*

a House Joint Resolution 159 to give extremely broad latitude of decision right to the President concerning taking action to defend Taiwan, Penghu, Quemoy and Matsu.⁹¹

It had been shown the policy of the United States has changed its views towards Taiwan since the eruption of the Korean War. The United States recognized the ROC as the de jure government of all China and refused to extend diplomatic recognition to the PRC, but it considered the PRC as being in de facto control of mainland China. However, the United States considered diplomatic recognition of the ROC Government and the legal status of Taiwan as a different issue. The ROC Government had simply been a government-in-exile in Taiwan in the eyes of the United States Government. As to the legal status of Taiwan, the United States did not agree that the San Francisco Peace Treaty or the ROC-Japan Peace Treaty transferred Taiwan from Japan to the ROC or the PRC. It pointed out that the “technical sovereignty” of the island was an unsettled question and hence Taiwan became an “ownerless” island subject to a future international resolution. Under its idea, the ROC’s de facto control of Taiwan was that it “possesses the inherent right of self-defense” according to Article 51 of the United Nations Charter. In addition, it also denied the actual existence of the Chinese Civil War between KMT and CCP according to Oppenheim’s definition of a civil war “that two opposing parties within a state have recourse to arms for the purpose of obtaining power in the state.”⁹² Therefore, in concluding the Mutual Defense Treaty with Taiwan, the United States committed itself to the defense of an “ownerless” island in the interest of the peace and security of the Western Pacific.⁹³ Nevertheless, in diplomatic recognition and political practice, Washington went on recognizing, Taipei went on announcing, that the ROC was a sovereign state in the World.

(3). The Impasse of US-PRC Talks at Geneva and Warsaw

The United States and the PRC issued a communique on 25 July, 1955, declaring that they would hold ambassadorial talks starting on 1 August, 1955 at Geneva, Switzerland. Before the opening of the Ambassadorial talks, Secretary of State Dulles proposed that the United States policy with respect to Taiwan should be pursued by “peaceful means.” He delivered a speech at a press conference held on 26 July, 1955 as follows:⁹⁴

To find out in the forthcoming talks whether the Chinese Communists accept the concept of a cease-fire in accordance with the United Nations principle of avoiding any

Handbook, 1955-56 (Taipei: China Publishing Co., 1955), pp.250-54.

⁹¹ Frank P. Morello, op. cit., p.37.

⁹² Laurence Oppenheim, International Law: A Treatise, Vol.2, 8th ed. Hersh Lauterpacht ed. (London and New York: Longmans, Green and Co., 1955), p.209.

⁹³ U.S. Department of State, Bulletin, Vol.31 (13 December 1954), pp.895-99.

⁹⁴ Kenneth T. Young, Negotiating with the Chinese Communists: The United States Experience, 1953-1963 (New York: McGraw-hill, 1968), pp.47-53.

use or threat of force which could disturb the peace of nations.

On the other side, the PRC's Premier Chou En-lai expressly reported its stand on Taiwan to the National People's Congress on 30 July, 1955. He stated that "United States occupation of China's territory of Taiwan and its interference with the liberation of China's coastal island" and "The liberation of Taiwan, however, is a matter of China's internal affairs" are two separate issues; "These two questions cannot be mixed up," and only the first question could be negotiated by the United States and the PRC. He continued to say that there were two ways for the PRC to liberate Taiwan, that is, by force or by peace and the PRC was ready to use peaceful means.⁹⁵

During the negotiations in Geneva, the United States proposed that the two states renounce the use of force in Taiwan. The PRC, however, argued that "this Chinese internal affair cannot possibly be a subject of the Sino-American talks" and it is unacceptable to the PRC in terms of the non-use of force in any declaration. As a result, the efforts of the United States to persuade the PRC to renounce the use of force were rebuffed. No agreement had been reached by them on the different position of drafts and the talks were suspended in December 1957.⁹⁶

On 30 June, 1958, the PRC issued a ultimatum that unless the talks were resumed within 15 days, it would "consider that the United States decides to break up the talks" and "the Chinese People are perfectly strong enough to liberate their territory Taiwan."⁹⁷ On 28 July, 1958, the United States informed the PRC that the United States was willing to resume at Warsaw in lieu of Geneva. But at that time, evidence showed that the PRC was prepared to "liberate Taiwan" by force. A state of emergency was thus proclaimed by the ROC. In support of the ROC, the United States, on 11 August, 1958, issued a memorandum of non-recognition of the PRC, that "communism's rule in China is not permanent and that it one day will pass" and simultaneously rejected the two-China formula.⁹⁸

Two weeks later on 23 August, 1958, the PRC's heavy artillery started a massive bombardment of Quemoy. Due to the support of President Eisenhower, the ROC fought back and Taiwan stood firm.⁹⁹ On 4 September, 1958, Secretary of State Dulles called on the PRC to resume talks and implied that the United States would not avoid the use of force in the Taiwan Straits if compelled.¹⁰⁰ Two days later, Premier Chou reaffirmed its claim to Taiwan and agreed to resume

⁹⁵ Chinese People's Institute of Foreign Affairs, Oppose U.S. Occupation of Taiwan and "Two Chinas" Plot, (Peking: Foreign Languages Press, 1958), pp.35-36.

⁹⁶ Kenneth T. Young, op. cit., pp.94-110.

⁹⁷ Peking Review, 8 July, 1958, pp.21-22.

⁹⁸ Kenneth T. Young, op. cit., pp.139-42.

⁹⁹ *Ibid.*, pp.143-44.

¹⁰⁰ U.S. Department of State, Bulletin, Vol.39 (22 September, 1958), pp.445-46.

talks. On 5 September, 1958, the ambassadorial talks were resumed at Warsaw.¹⁰¹ The United States had proposed a number of proposals, including some forms of neutralization, demilitarization, trusteeship, or judicial settlement, and expressed a scheme for separate treatment of Taiwan and the offshore islands, Quemoy and Matsu. But on 7 November, 1958, the PRC's Foreign Minister Chen Yi rejected the proposals that "Quemoy, Matsu, Taiwan and the Pescadores must be liberated as a whole. We will not allow the handing over of Quemoy in exchange for placing Taiwan under trusteeship..... Nor can we accept demilitarization or referring the matter to the United Nations or the International Court of Justice."¹⁰²

On 23 October, 1958, the United States and the ROC issued a Joint Communiqué which reaffirmed the U.S. support of the ROC and explained its position on Taiwan. The Joint Communiqué reads in part as follows:¹⁰³

The two governments reaffirmed their dedication to the principles of the Charter of the United Nations. They recalled that the [Mutual Defense] treaty which they are acting is defensive in character. The Government of the Republic of China considers that the restoration of freedom to its people on the mainland is its sacred mission. It believes that the foundation of this mission resides in the minds and the hearts of the Chinese people and that the principal means of successfully achieving its mission is the implementation of Dr. Sun Yat-sen's three people's principles and not the use of force.

The United States repeatedly denied the fact of "occupying" any Chinese territory and argued its "inherent right of individual and collective self-defense" according to the Mutual Defense treaty, International law, and the Charter of United Nations. It had built up the principle of "peaceful means" to negotiate with the PRC in solving the Taiwan issue during the ambassadorial talks at Geneva and Warsaw.¹⁰⁴ But the PRC held its negotiation stand that the "occupation of Taiwan" could be considered as an international issue and might be resolved by peaceful means according to the Charter of the United Nations, while the "liberation of Taiwan" was entirely a Chinese internal matter which no outside powers could be involved. Therefore, the deadlock of the talks is that the U.S. proposition of peaceful means was unacceptable to the PRC.

Obviously, in the Geneva and Warsaw talks, the United States and the PRC had made no progress in establishing a certain status for Taiwan. The status of Taiwan still remained unsolved until the Nixon Administration.

¹⁰¹ *Peking Review*, 9 September, 1958, pp.15-16.

¹⁰² *China and U.S. Far East Policy, 1945-1966* (Washington, D.C.: Congressional Quarterly Service, 1967), p.90.

¹⁰³ *American Foreign Policy, Current Documents, 1958* (Washington, D.C.: U.S. Government Printing Office, 1962), pp.1184-85.

¹⁰⁴ U.S. Department of State, *Bulletin*, Vol.34 (30 January, 1956), pp.164-67.

(4). The Implication of the Shanghai Communiqué

By 1970, there was no trade or social contacts between the United States and the PRC. There was only the military confrontation, that is, the U.S. Seventh Fleet in the Taiwan Straits to prevent any attack on Taiwan from the PRC and the political vituperation expressed in various international propagandas more than two decades between them except a diplomatic talks in Europe from 1955 to 1958. However, the two states were gradually feeling the military threat from the Soviet Union. It was necessary for them to reverse the US-PRC relations “from confrontation to negotiation,” in support of a certain level of collaboration on international issues. According to an analysis of world affairs by Professor D. N. Rowe, the major reasons for President Richard Nixon’s approach to Beijing are as follows:¹⁰⁵

1. The Sino-Russian quarrel was strong, deep and would last. It could not be settled on any basis of mutuality;
2. The Soviet Union was the prime threat to the security of the Free World. The United States defends itself against the Russian threat should and must be done (in cooperation with the PRC);
3. One thing the United States should and could do was to combine with the Chinese Communists for mutual protection against Russia’s threat to both. To do this the United States must move toward normalization of relations between Washington and Peking.

For the purpose of establishing less hazardous relationships with the Soviet Union, President Nixon and his National Security Advisor H. Kissinger proposed to abandon the previous policies of isolation of the PRC. They engaged in a reassessment of U.S. interests in Taiwan and then decided to link with the PRC against the Soviet Union and downgrade Taiwan from the international strategic viewpoint. As a result, the United States took practical actions, such as withdrawing the Seventh Fleet from periodic patrol in the Taiwan Straits in December 1969,¹⁰⁶ and removing some trade and travel restrictions applied to the PRC.¹⁰⁷ It publicly supported the PRC’s re-entry into the international community, such as membership of the United Nations. In addition, a series of statements were made in favour of the PRC for improving the further relations after early 1969.¹⁰⁸

The PRC’s response started an image of the so-called “Ping Pong diplomacy.”¹⁰⁹ Chairman Mao said that “for the time being, let it come after 100 years.” And “why such great hurry? The

¹⁰⁵ David Nelson Rowe, *U.S. China Policy Today* (Washington, D.C.: UPAO, 1979), p.9.

¹⁰⁶ *New York Times*, 25 December, 1969, p.8.

¹⁰⁷ U.S. Department of State, *Bulletin*, Vol.64 (12 April, 31 May and 28 June, 1971), p.510,702-4,815-17.

¹⁰⁸ U.S. Department of State, *Bulletin*, Vol.63 (19 October and 14 December, 1970), pp.438,447,734.

¹⁰⁹ *Peking Review*, 16 April, 1971, pp.11-12.

question of Taiwan is not an important one, The issue of the international situation is the important one.” Mao agreed to put the Taiwan issue to one side and to undertake a diplomatic linkage with the United States.

After Kissinger’s secret mission to Beijing on 15 July, 1971, President Nixon abruptly announced that he reached an agreement with Premier Chou and would visit the PRC by May 1972 in order to search for “the normalization of relations between the two countries and also to exchange views on questions of concern to the two sides.”¹¹⁰ He then visited the PRC at the invitation of Premier Chou from 21 February to 28 February, 1972. Before the end of this visit, a Joint Communiqué was issued by the two governments at Shanghai on 27 February, 1972, generally called “the Shanghai Communiqué.”¹¹¹

Unlike most joint communiqués, the Shanghai Communiqué mentioned the basic disagreements that existed between the United States and the PRC on bilateral issues. President Nixon particularly expressed the communiqué as “unique in honesty setting forth differences rather than trying to cover them with diplomatic doubletalk.” It was decided that each state could state its own position on issues, which bore more or less independent of the other.¹¹² Therefore, the communiqué contains three sections: The United States and the PRC versions and the mutual agreements.

With respect to the question of Taiwan, the communiqué produced both the PRC version which reflected no shift in its original stand, and the U.S. version which indicated significant changeovers in its position. President Nixon’s unilateral promise in this communiqué reads:

The United States acknowledges that all Chinese on either side of the Taiwan Straits maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position, It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. With this prospect in mind, it affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installation on Taiwan as the tension in the area diminishes.

In this communiqué, the language “does not challenge” is not equivalent to recognizing “one China and that Taiwan is a part of China.” Thus, it did not amount to an abandonment of U.S. commitments to the ROC. But this is still an indirect acceptance of the PRC’s position. Unequivocally, according to the communiqué, the status of Taiwan seems to become determined

¹¹⁰ *New York Times*, 17 July, 1971.

¹¹¹ U.S. Department of State, *Bulletin*, Vol.66 (20 March, 1972), pp.435-38.

¹¹² Richard P. Stebbins and Elaine P. Adam, *American Foreign Relations, 1972* (New York: New York University Press, 1976), pp.312,317.

and needlessly subject to international settlement long held by the United States. There is no more such a thing as “One China, One Taiwan” or “Two Chinas.” The “One China” formula has been fully formed.

Adviser Kissinger intended to comply with the PRC’s demand that Taiwan is a part of China and that there is one-China, but President Nixon insisted that the PRC had to promise not to take over Taiwan by military means. In consequence, a peaceful settlement of the “Taiwan question by the Chinese themselves” was put in this communique.¹¹³

The United States promised to withdraw forces and military installations as “tension in the area diminishes, but this was largely symbolic. The language implied that the United States has maximum flexibility to judge the “tension” situation. It had never shown any terms of “when” or “how long.” Moreover, the communique kept silent on the Mutual Defense Treaty. That the real defense of Taiwan still was dependent could be justified.

In the communique, the PRC reaffirmed its long standing position regarding the question of Taiwan which notes down as follows:

The Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the Government of the People’s Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China’s internal affair in which no other country has the right to interfere; and all US forces and military installations must be withdrawn from Taiwan. The Chinese Government firmly opposes any activities which aim at the creation of “one China, one Taiwan,” “one China, two governments,” “two Chinas,” and “independent Taiwan,” or advocate that “the status of Taiwan” remains to be determined.

The PRC said nothing in the communique about liberating Taiwan by force because it realized that any military action in Taiwan would destroy the U.S. interest at once. The PRC did not put the above words in the communique in return for the U.S. removal of its long-held caveat over Taiwan as an international issue. But even if the PRC remained silent on the subject of military means, it could still certainly argue that the question of Taiwan is a Chinese domestic matter which could tolerate no outside interference so that the PRC will liberate Taiwan by force in the future

As to the mutual agreements of the communique, the United States and the PRC agreed on certain general principles to govern their relations. These principles reads:

There are essential difference between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless

¹¹³ New York Times, 26 November, 1974.

of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, non-aggression against other states, non-interference in the internal affairs of other states, equity and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use on threat of force.

With these principles, the two governments hoped to open up the new prospect for the normalization of relations between China and the United States. In early 1973, the United States and the PRC agreed to exchange “Liaison offices” referred to as a semi-diplomatic relations, in handling trade and all other matters, which would cover the whole gamut of relationships.¹¹⁴ On 20 April, 1973, President Nixon approved an Act to extend diplomatic privileges and immunities to the liaison office. Since then, quasi-diplomatic relations in the shape of liaison missions in Washington and Beijing, headed by representatives with the rank of Ambassador, have existed.¹¹⁵ In addition, both states agreed to facilitate the further development of trade, contacts and exchanges in such fields as science, technology, culture, sports, and journalism.

Due to the implications of President Nixon’s visit to Beijing and the Shanghai Communique, a number of states had converted their recognition of the ROC into the PRC. From Nixon’s announcement of visiting Beijing on 15 July, 1971 until the establishment of diplomatic relations between two states on 1 January, 1979, 59 states had established diplomatic relations with the PRC. These states include Japan and eight NATO allies of the United States.

From the issue of the Shanghai Communique in 1972, the “Two Chinas” formula has been completely abandoned by the United States. The “One China” principle, with Taiwan begin part of that one-China, has been decisively formed in the Shanghai Communique by saying that the government of the United States “does not challenge” the position that “there is but one China and that Taiwan is a part of China.”

(5). The Process towards the Normalization of Relations

On 12 May, 1977, President Carter expressed his China policy in a press conference which affirmed the U.S. commitment to the Shanghai Communique of 1972 and to the normalization of US-PRC relations.¹¹⁶ Ten days later on 22 May, 1977, he visited the University of Notre Dame and delivered a speech. At the very end of this speech he dealt with the policy towards China that it was important for the United States to make progress in the normalization of US-PRC relations because

¹¹⁴ *New York Times*, 23 February, 1973.

¹¹⁵ *United States Statutes at Large*, Vol.87 (Washington, D.C.: U.S. Government Printing Office, 1973), p.24.

¹¹⁶ Paul Chan and James Reardon-anderson, “Documentation, Chronology and Bibliography,” *Contemporary China*, Vol.2, No.1 (Spring, 1978), p.64.

“we see the American-Chinese relationship as a central element of our global policy, and China as a key force for global peace... We hope to find a formula which can bridge some of the difficulties that still separate us.”¹¹⁷

Seven weeks before Secretary of State Cyrus Vance’s mission to Beijing on 29 June, 1977, he delivered a speech before the Asian Society in New York with regard to the Far Eastern policy of the Carter Administration entitled “American’s Role in Asia.” In the course of the analysis of the Asian policy, he clarified that the United State’s China policy should be guided by the Shanghai Communique. He went on to say:¹¹⁸

On that basis we shall seek to move toward full normalization of relations. We acknowledge the view expressed in the Shanghai Communique that there is but one China. We also place importance on the peaceful settlement of the Taiwan question by the Chinese themselves.

The mood of the Carter Administration was to accomplish the normalization of relations with the PRC as soon as possible. The next day after Vance’s speech, President Carter reaffirmed the U.S. position in a press conference in part:¹¹⁹

having full diplomatic relations with them (the PRC), and still make sure that the peaceful life of the Taiwanese, the Republic of China, is maintained.

Because diplomatic relations and the Mutual Defense Treaty with the ROC had been repeatedly ignored by President Carter and Secretary Vance, most people believed that the Carter Administration would accept the PRC’s preconditions. On 22 August, 1977, when Secretary Vance in Beijing opened his talks with former Foreign Minister of the PRC Huang Hua, he realised that the PRC’s three previous conditions “to sever diplomatic relations with the ROC; to abrogate Mutual Defense Treaty with Taiwan; and to withdraw the U.S. troops from Taiwan” for normalization with the United States had not changed by the PRC.¹²⁰ However, Secretary Vance did not accept the three conditions demanded by the PRC during his visit. In an interview, he refused to refer to whether the mission had made any progress in the Taiwan question and simply said that the talks were “candid and serious” and “had enhanced our mutual understanding.”¹²¹ On 27 August, 1977, President Carter optimistically illustrated that the PRC’s Chairman Hua Kuo-feng and Vice Premier Deng Xiaoping sent him words that the talks in Beijing were “very fruitful.” He also believed the mission was “a

¹¹⁷ *New York Times*, 23 May, 1977.

¹¹⁸ Paul Chan and James Reardon-anderson, op. cit., p.65.

¹¹⁹ Ibid.

¹²⁰ *New York Times*, 23 August, 1977.

¹²¹ *New York Times*, 26 August, 1977.

major step forward in our ultimate goal of normalizing relations with the PRC.”¹²²

Since the United States Congress and the public opinions strongly opposed to sacrifice Taiwan in order to achieve the normalization of relations with the PRC, the Carter Administration had not stepped forward until the National Security Advisor Brzezinski's visit to Beijing in May 1978. The Chinese had great admiration for Brzezinski since they acknowledged that he has a profound knowledge of Soviet Strategies and policies.

Brzezinski's visit to Beijing in May 1978 was highly significant and might be compared to President Nixon's first visit in 1972. In Beijing, he said to the Chinese officials that “a detailed review of the negotiations on limiting strategic arms is sure to rankle the Russians.” There was also given to them “A Presidential Review Memorandum 10,” which was the Administration's assessment of the world situation, a document which has not been made public for some time. In addition, “a review of Presidential Directive 18,” the President's orders putting his security policy into effect was also provided. The document has not been made public either for some time.¹²³ In an exclusive interview with a reporter of the New York Times on 27 May, 1978, he said that “the basic significance of the trip was to underline the long-term strategic nature of the United States relationship to China.”¹²⁴

On 27 June, 1978, President Carter, in a press conference, asserted that “we have bilateral relations that need to expand trade, exchange of science and technology, etc. At the same time, we want to have peace with the Chinese -- almost a billion people.”¹²⁵ Thus, he announced that a science mission, composed of a high-level delegation of government scientists, led by the President's science advisor, Frank Press, would make an official visit to Beijing in July 1978. That occasion marked the first government-to-government talks between the United States and the PRC. In the same month, the PRC's Vice Premier Deng Xiaoping repeatedly asserted that the primary interest for two states was to prevent Soviet hegemony, and that the organization of military and economic cooperation between the two countries need not wait on a solution of the Taiwan question.

Dramatically, President Carter and Chairman Hua stunned the world by announcing from Washington and Peking on 15 December, 1978, that the United States and the PRC would establish full diplomatic relations on 1 January, 1979. A Joint Communiqué was issued at the same time.¹²⁶ The Joint Communiqué regarding Taiwan can be summarized as follows:

1. The United States recognizes the PRC as the sole legal government of China.

¹²² *New York Times*, 28 August, 1977.

¹²³ *New York Times*, 28 May, 1978.

¹²⁴ *New York Times*, 27 May, 1978.

¹²⁵ *New York Times*, 8 June 1978.

¹²⁶ U.S. Department of State, *Bulletin*, Vol.79 (January 1979), p.25.

- 2.The people of the United States will maintain cultural, commercial and other unofficial relations with the people of Taiwan.
- 3.The government of the United States acknowledges the Chinese position that there is but one China and Taiwan is part of China.

President Carter simultaneously declared three conditions demanded by the PRC in the U.S. unilateral statement accompanying the Joint Communiqué, These are:¹²⁷

- 1.Termination of the U.S. diplomatic recognition of the ROC an Taiwan on the same day.
- 2.Withdrawal of all U.S. military personnel from Taiwan within four months.
- 3.Abrogation of the Mutual Defense treaty of 1954 between the U.S. and the ROC.

The Mutual Defense Treaty of 1954 was abrogated in accordance with the provision of this treaty that there should be a one year formal notice of termination so that the United States established full diplomatic relations with the PRC and maintained a defense pact with Taiwan for 1979.

With regard to the U.S. demand for Beijing's promise of non-use of military means in the Taiwan Straits. In the above statement, the United States unilaterally emphasised that it would continue to have an interest in the peaceful resolution of the question of Taiwan and expected that Taiwan could be peacefully settled by the Chinese themselves. The question of The PRC also released a statement accompanying the Joint Communiqué. Parallel with this U.S. statement, the PRC unilaterally expressed the reunification issue for a more accommodating position that "as for the way of bring Taiwan back to the embrace of the motherland and reunifying the country, it is entirely China's internal affair."¹²⁸ This was an explicit intention by the PRC to preclude any legal rationale for the United States' future possible interference with the question of Taiwan.

The PRC, however, had made a principal concession on the U.S. arm sales to Taiwan that the United States "would continue to sell limited amount of arms to Taiwan for defense purposes," even after the termination of the Mutual Defense Treaty.¹²⁹ Even so, such defense arms sales could be challenged at any time by Beijing according to the provisions of "Taiwan is part of China" and the PRC is the "sole legal China" acknowledged by the United States.

The United States move was welcomed by its allies in Europe and Asia. The NATO allies all agreed with the U.S. decision, as did the ASEAN states of Southeast Asia.¹³⁰ Nevertheless, on 16

¹²⁷ Ibid., p.26.

¹²⁸ Peking Review, 22 December, 1978, pp.8-9.

¹²⁹ Ibid., p.9-11.

¹³⁰ G. W. Choudhury, "China's Dynamic Foreign Policy," Asia-Pacific Community (Winter, 1978-1979), p.62.

December, 1978, the ROC's President Chiang Ching-kuo in Taipei charged that the United States cannot be expected to have the confidence in the free world in the future. He stated:

The United States in extending diplomatic recognition to the Chinese Communist regime which owes its very existence to terror and suppression is not in conformity with its professed position of safe-guarding human rights... Such a move is tantamount to denying the hundreds of millions of enslaved people early restoration of freedom. Under whatever circumstances, the ROC shall neither negotiate with the Chinese Communist regime nor compromise with communism.

(6). The One-China Clause under the 1979 Joint Communiqué

The Sino-American Joint Communiqué, it consists of four paragraphs, of which the second Provides: "The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan." The Recognition Clause (Beijing) and Unofficial Relations Clause (Taipei) have been included in the context of this paragraph.

In the Recognition Clause, it is undoubtable that the United States took cognizance of the existence of two Chinese regimes. The United States converted its recognition of the old regime in Taipei into the new regime in Beijing and led to the following legal consequences as a result of its action. The ROC Government derecognized by the United States is not represented as a "national government" of China any more but has become a local entity in a divided state; and meanwhile, the Nationalist regime has turned into a status of insurgence in the Chinese Civil war in place of the status of the Chinese Communist regime. But for the American strategic or economic interests, the United States does not define Taiwan's exact status but states that the United States would maintain "unofficial relations with the people of Taiwan." Furthermore, the United States enacted its "Taiwan Relations Act" to govern the affairs regarding Taiwan according to the Unofficial Clause. It has considered Taiwan as a *de facto* state in light of this domestic law after derecognition.

The accomplishment of the Joint Communiqué was a settlement of claims and counterclaims based on the grant of alleged reciprocal concessions by the PRC and the United States with regard to the means of compliance with the three Chinese conditions and U.S. demands. The Unofficial Clause, consequently, is a binding "treaty obligation" on the PRC. On the U.S. side, it has not only acquired the "legal right" to maintain those non-governmental relations with Taiwan but also has been bestowed with "compulsory responsibility" in carrying out these relations within the context of this paragraph in accordance with the Clause. In addition, the Unofficial Relations Clause could serve for the legislative source in enacting subsequent legislation relating to Taiwan for the

implementation of the Clause. In a Taiwan hearing of the United States House Committee on Foreign Affairs, the U.S. Department of State explained the fulfillment of this Clause as follows:¹³¹

An essential element of these relations is the ability of the people in Taiwan and the United States and other countries to exercise high seas freedoms and navigational and other rights guaranteeing free and full access to and from Taiwan for these and other purposes. A PRC blockade to isolate Taiwan and disrupt its trade would constitute an infringement of these freedoms and rights, to which the U.S. and others adversely affected could respond appropriately.

With regard to the legal status of Taiwan, the third paragraph of the Joint Communiqué reiterates: “The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.” The Clause of Sovereignty and Territorial Integrity was expressed after reaffirming the principles agreed upon by the PRC and the United States in the Shanghai Communiqué of 1972.

A comparison of the Shanghai Communiqué of 1972 and this Joint Communiqué reveals that the Chinese equivalent to the English word “acknowledges” is “jen-shih” in the Shanghai Communiqué and “ch’eng-jen” in the Joint Communiqué.

Shanghai Communiqué (1972)		Joint Communiqué (1979)
USA	acknowledge	acknowledge
PRC	認 識 (jen-shih)	承 認 (ch’eng-jen)

Jen-shih means “acknowledge or take note of,” while ch’eng-jen means “recognize or accept.” This is a linguistic discrepancy between the Chinese and English texts. The PRC wrongly translated the word “acknowledge” into “ch’eng-jen” in the Chinese text of the Joint Communiqué. In the legal sense, the word “acknowledge” provides the United States with an option to withdraw its acknowledgment and support a secessionist regime in Taiwan, whereas the word “recognize” implies acquiescence in a permanent change in the political status quo, support for China’s territorial claim to Taiwan and acceptance of all the legal consequence attached to it. Nevertheless, the government of the United States had not officially challenged the problem of ch’eng-jen employed

¹³¹ Taiwan Legislation: Hearing before the House Committee on Foreign Affairs, 96th Congress, 1st Session (Washington, D.C.: U.S. Government Printing Office, 1979).

by the PRC in the Chinese text of the Joint Communiqué.¹³² Logically, the United States seems to acquiesce in the Chinese stand. Hence the PRC announced that the question of Taiwan has been resolved and that the United States recognized the PRC's sovereignty over Taiwan in its subsequent statement accompanying the Joint Communiqué. The statement reads in part:¹³³

As is known to all, the Government of the People's Republic of China is the sole legal Government of China and Taiwan is a part of China. The question of Taiwan was the crucial issue obstructing the normalization of relations between China and the United States. It has now been resolved between the two countries in the spirit of the Shanghai Communiqué.

Finally, the former U.S. Deputy Assistant Secretary of State for East Asian Affairs Sullivan clarified that the United States did not recognize the PRC's sovereignty claim over Taiwan, because the word "Chinese Position," held by all Chinese on either side of the Taiwan straits, did not particularly refer to Beijing.¹³⁴ More valuably, the Carter Administration interpreted the Clause of Sovereignty and Territorial Integrity that it was simply a restatement of the "creative ambiguity" of the U.S. intention embodied in the acknowledgment of the one-China position held by both sides of the Taiwan Straits in the Shanghai Communiqué. Positively, the Carter Administration lacked an explicit intention to recognize the PRC's sovereignty over Taiwan. Thus, United States Congress could feel free to take any action in order to keep the people of Taiwan peaceful and safe.

V. Summary and Conclusion

Beijing and Taipei have followed separate and divergent roads for five decades, but both insisted that China is one and that Taiwan is a province of China. They rejected the "Two Chinas" or "One China, One Taiwan" concept. It was one of the few points that they agreed on. The PRC insists that foreign states recognize it as the sole legitimate government of China and refuses so far diplomatic relations to any government that maintains official relations with the ROC. Its goal is to incorporate Taiwan into China again. It also refuses to renounce the possible use of force to accomplish this objective.

As to international positions, the British position was that the legal status of Taiwan remained undetermined and uncertain. It contended that the parties to the San Francisco Peace Treaty were effectively exercising a "condominium" over Taiwan and the Nationalist government was merely

¹³² Hungdah Chiu, "The Question Of Taiwan in Sino-American Relations," in *China and the Taiwan Issue*, Hungdah Chiu ed. (New York: Praeger Publishers, 1979), p.185.

¹³³ *Peking Review*, 22 December, 1978.

¹³⁴ *Central Daily News*, 28 December, 1978.

exercising a delegated authority on Taiwan on behalf of the parties to the Peace Treaty. Therefore, the future of Taiwan should be intended to be viewed as an international concern in scope; the Russians argued that Taiwan is an inalienable part of the PRC as well as a denial of “Two Chinas” or “One China, One Taiwan” concept. It took the position that it is to be settled between Chinese themselves and is not subject to international dispute or interference; in the Japan-PRC Joint Communiqué, Japan has recognized the PRC as the sole legitimate government of China and accepted that Taiwan is an inalienable part of the PRC; France failed to attempt to establish a position of recognizing “One China, One Taiwan,” but it has established the first principle that although one cannot get away with recognizing “Two Chinas,” one can recognize the PRC without having to accompany it by a formal acknowledgment of Beijing’s claim to Taiwan; Canada also preferred to select two-China policy. Even if it recognized the PRC as the sole lawful government of China, it only “take notes of” Beijing’s claim that Taiwan is part of China; India followed the Russian suit, rejecting the two-China formula and agreeing that Taiwan belongs to the PRC.

The American position varied. The first standpoint following the retreat of the ROC was that the conflict between them was an internal affair and that it would follow a “hands off” policy to respect the Chinese territorial integrity. At the outbreak of the Korean War, the U.S. changed its policy that the island was unsettled and hence Taiwan became an “ownerless” island subject to future international resolution. It also denied the actual existence of the Chinese Civil War. During the US-PRC talks, it built up the principle of “peaceful means” in solving the Taiwan question. In the Shanghai Communiqué, the U.S. put the language that it “does not challenge” the one-China principle by saying that it “acknowledges” Chinese on both sides of the Taiwan Straits that maintain there is but one China and that Taiwan is a part of China. Thus the status of Taiwan seems to become determined and needlessly subject to international settlement. The Joint Communiqué of 1979 followed the idea of the Shanghai Communiqué. It provided the Recognition Clause as well as the Clause of Sovereignty and Territorial Integrity for Beijing and the Unofficial Relations Clause for Taipei. Nevertheless, the U.S. does not really “recognize” the PRC’s sovereignty claim over Taiwan. The Carter Administration interpreted that it was simply a restatement of the “creative ambiguity” of the U.S. intention embodied in the acknowledgment of the one-China position.