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Why UN General Assembly Resolution 2758 Does Not Establish Beijing's "One China" Principle: A Legal Perspective

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ACRONYMS

CEDAW	UN Convention on the Elimination of Discrimination Against Women
DPP	Democratic Progressive Party
KMT	Kuomintang (Nationalist Party)
MOU	Memorandum of Understanding
OLA	Office of Legal Affairs
PRC	People's Republic of China
ROC	Republic of China
UN	United Nations
UNDESA	United Nations Department of Economics and Social Affairs
UNGA	United Nations General Assembly
VNR	Voluntary National Reviews
WHA	World Health Assembly
WHO	World Health Organization

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EXECUTIVE SUMMARY

The People's Republic of China's strategy for pressing its claim that Taiwan is a part of China with no independent status increasingly relies on a claim that UN General Assembly (UNGA) Resolution 2758 establishes, as a matter of international law, the PRC's "One China" principle. This assertion is based on flawed legal assumptions and arguments. The PRC's agenda has benefitted from its sustained pressure and influence on UN entities and officials; a pattern of misinterpretation, acquiescence, and misunderstanding by those entities and officials; limited pushback from the United States, Taiwan's diplomatic allies, and other states (especially in high-profile forums); and structural features of the UN (including its one-state, one-vote format and the low salience of Taiwan issues for many members).

The PRC's account mischaracterizes the contents of Resolution 2758 (and authoritative UN legal interpretations of the resolution by the UN Office of Legal Affairs (OLA) and others) and ignores the limits to the UN's powers to make international law. Still, Beijing's position has made apparent gains in the UN in three areas: UN requirements that references to Taiwan use the nomenclature "Taiwan, province of China", UN statements that Taiwan is an "integral part" or "part" of China, and misconstruing UN statements concerning "recognition" of the PRC as indicating Taiwan's lack of international legal status.

If Beijing wins acceptance of its position, it could more credibly claim that the use of force or coercion to achieve unification of Taiwan would be lawful. The PRC could also more plausibly argue that some—but not all—measures by the United States and others to prevent or deter such an outcome would be unlawful. Acceptance of the PRC's views on Resolution 2758 also would weaken the UN's integrity and increase the challenges facing the rules-based international order.

Policy Recommendations:

- Coordinate efforts by the United States, Taiwan's diplomatic allies, and other like-minded states to counter the influence of the PRC and states that support its position. Call out the flaws in the PRC's legal arguments on Resolution 2758 and counter misinterpretations and acquiescence by the UN and the international community.
- Clarify that the US "One China" policy is not the same as Beijing's "One China" principle and encourage other countries to do the same.
- Explain that the PRC's position misrepresents Resolution 2758, OLA interpretations, and UN precedent and practices.
- Explain that UN acquiescence in the PRC's position disregards the rights of sovereign states to submit documents to the UN using terms of their choice for Taiwan, and to make decisions about recognizing other states and governments.
- Insist that acceptance of the PRC's position is inconsistent with key UN principles and undermines the global interest in addressing serious challenges facing humankind.
- Brand the PRC's efforts as an especially significant instance of its drive to destabilize established international rules and institutions.
- Make clear that accepting Beijing's interpretation of Resolution 2758 would not make all forms of international support for Taiwan's defense, or intervention in a cross-strait conflict, unlawful.

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INTRODUCTION

The People's Republic of China (PRC) is engaged in a persistent, multifaceted effort to secure international acceptance of its version of the "One China" principle. This principle asserts that Taiwan is part of a single China of which the PRC is the sole legitimate government, and that Taiwan has no independent international legal status. An increasingly prominent element in the PRC's strategy relies on a claim about international law: that UNGA Resolution 2758, which gave the PRC the "Chinese seat" at the UN (previously occupied by the Republic of China (ROC)), and UN interpretations of the resolution, establish the PRC's position on Taiwan as a settled matter of international law, binding on all states.

Box 1. Full Text of UN Resolution 2758

THE GENERAL ASSEMBLY.

Recalling the principles of the Charter of the United Nations.

Considering the restoration of the lawful rights of the People's Republic of China is essential both for the protection of the Charter of the United Nations and for the cause that the United Nations must serve under the Charter.

Recognizing that the representatives of the Government of the People's Republic of China are the only lawful representatives of China to the United Nations and that the People's Republic of China is one of the five permanent members of the Security Council.

Decides to restore all its rights to the People's Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy at the United Nations and in all the organizations related to it.

Source: American Institute in Taiwan, UN Resolution 2758 - Oct. 25 1971.

Behind this assertion lies a set of flawed assumptions and arguments, Beijing's sustained pressure and influence on UN entities and officials, and a pattern of acquiescence, misinterpretation, or misunderstanding by those entities and officials. The PRC's efforts have been more sustained and effective than the pushback they have faced, primarily from Taiwan's diplomatic partners and occasionally from the United States. Beijing's agenda has also benefited from its choice of a forum that advantages its cause. The UN system has been a favorable arena for the PRC for reasons that include its one-state, one-vote structure, the limited salience of the Taiwan issue for most member states, and the influence that the PRC and its nationals wield in the UN and related international institutions.

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The stakes are high. If Beijing wins acceptance of its position in the international community, Taiwan's security and the status quo in the Taiwan Strait are at increased risk. The PRC could more credibly claim, legally and politically, that the use of force or threats of force or other highly coercive measures to achieve unification of Taiwan would be lawful. The PRC could also more plausibly argue that measures by the United States or other states to prevent or deter such an outcome would be unlawful violations of PRC sovereignty or interference in its internal affairs. More broadly, acceptance of the PRC's views on the legal meaning and impact of Resolution 2758 would weaken the UN's integrity and increase the challenges facing the rules-based international order.

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CHINA'S INTERNATIONAL LAW CLAIMS AND UN ACTIONS AND STATEMENTS

UNGA Resolution 2758, adopted on October 25, 1971, transferred the “Chinese seat” at the UN from the ROC that governed Taiwan and offshore islands to the PRC that governed the Chinese mainland. The PRC now asserts that the resolution, or its later interpretation, has embedded its version of a “One China” principle in international law. This position reached a new level of clarity and assertiveness, and took on a sharper legal dimension, in the PRC’s August 2022 white paper on Taiwan, “The Taiwan Question and China’s Reunification in the New Era”:

“[UNGA Resolution 2758] settled once and for all the political, legal and procedural issues of China’s representation in the UN, and it covered the whole country, including Taiwan. ... Resolution 2758 is a political document encapsulating the one-China principle whose legal authority leaves no room for doubt and has been acknowledged worldwide.”¹

The white paper points to parallel measures by other major UN organs:

“The specialized agencies of the UN later adopted further resolutions. ... One of these is Resolution 25.1 adopted at the 25th World Health Assembly in May 1972.”

The white paper also invokes a 2010 opinion from the OLA, the UN’s principal legal advisory organ:

“It was clearly stated in the official legal opinions of the Office of Legal Affairs of the UN Secretariat that ‘the United Nations considers “Taiwan” as a province of China with no separate status,’ and the ‘authorities’ in ‘Taipei’ are not considered to ... enjoy any form of government status. At the UN the island is referred to as ‘Taiwan, Province of China.’ [citing a 2010 OLA memorandum]”.

The white paper further claims that when the United States and others characterize Taiwan’s status as undetermined or declare support for Taiwan’s meaningful participation in the UN system, they are “act[ing] in violation of Resolution 2758 and international law” and are “treat[ing] the basic principles of international law with contempt”.

Most of these claims have been echoed (and, earlier, foreshadowed) in other official PRC sources, including state media and statements by senior foreign ministry officials.²

Although Beijing’s claims are now framed in these sharpened terms, they are not new. A 2000 white paper, for example, declared that the long period of non-unification had “not imbued Taiwan with status and rights in international law” nor could it “change the legal status as a part of China ... under both domestic and international law”.³ A 2002 letter from the permanent mission of the PRC to the Office of the UN High Commissioner for Human Rights (OHCHR) asserted that Resolution 2758 “remains legally binding on member states” of the UN.⁴

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Aspects of the PRC's position on the implications of Resolution 2758 have taken apparent hold with some UN entities and officials. This has been most evident in two areas: requirements that references to Taiwan use the nomenclature "Taiwan, province of China", and statements that Taiwan is an "integral part" or "part" of China (sometimes expressed as being so "for all intents and purposes" or "for all purposes"). UN organs and officials often, but not always, assert that such pronouncements are required by Resolution 2758 itself or by binding legal opinions from within the UN (primarily ones that interpret Resolution 2758). The PRC has also made gains on a third, related front: misconstruing UN statements concerning "recognition" of the PRC as the government of China as an indication of Taiwan's lack of status, and doing so in the face of waning pushback from the UN. The PRC's claim that the resolution requires acceptance of Beijing's "One China" principle also has begun to appear in the official positions of non-UN international organizations and in one country's decision to switch diplomatic ties from Taipei to Beijing.

For these statements and actions to establish the PRC's claims about international law and the issue of Taiwan's status, it would have to be the case that the sources cited say what Beijing claims they say, and that they were produced by institutions or processes that have the authority to make the requisite determinations concerning international law. The PRC's arguments, and UN statements and actions that align with the PRC's views, fail on one or both of these fronts.

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WHAT RESOLUTION 2758 DOES, AND DOES NOT, SAY AND DO

The PRC's position that UNGA Resolution 2758 adopts its "One China" principle—that "there is only one China in the world" and that Taiwan is a part of China—relies on a text that does not contain any such language.⁵ The resolution does not use the words "Taiwan" or "Republic of China". Its only Taiwan-related statement is that the General Assembly has decided "to expel forthwith the representatives of Chiang Kai-shek from the place which they unlawfully occupy in the United Nations and in all the organizations related to it."

Concerning the PRC, Resolution 2758 declares that "the restoration of the lawful rights of the People's Republic of China is essential" for UN purposes, recognizes that "the representatives of the Government of the [PRC] are the only lawful representatives of China to the United Nations", and "[d]ecides to restore all its rights to the [PRC] and to recognize the representatives of its Government as the only legitimate representative of China to the [UN]".

The reference to the "representatives of Chiang Kai-shek" is fairly read as a somewhat oblique—and, as a matter of international law, sloppy—reference to "representatives of the Republic of China", which was then and still is the government in Taiwan. The resolution's references to the PRC are inexact in a way that might seem to add unwarranted heft to Beijing's claims about the resolution's implications for Taiwan. In fact, there could be no question of "restoring" the PRC's prior rights at the UN because the PRC had not previously held any seat at the UN.

The PRC's position that UNGA Resolution 2758 adopts its "One China" principle—that "there is only one China in the world" and that Taiwan is a part of China—relies on a text that does not contain any such language.⁵

None of this language, or the rest of the text of Resolution 2758, addresses, much less decides, the international legal question of Taiwan's status. In international law, the ROC and the PRC—in the sense in which those terms are used in the resolution—are not "states". They are "governments" of a "state" (or states) that were, at the time of the resolution's adoption, rival claimants to be the government of the state of China. Official PRC statements accept this distinction. For example, the 2022 white paper on Taiwan states that "the new [PRC] government replaced the previous KMT [Kuomintang] regime in a situation where China, as a subject of international law [i.e., as a state], did not change."⁶

The resolution does give the PRC, for the first time, the exclusive role of representing the Chinese member state in the UN and "related" organizations (including specialized agencies such as the World Health Organization (WHO)). The resolution thus had the effect of transferring the "Chinese seat" in the UN system from the ROC government (and its representatives) to the PRC government (and its representatives). Resolution 2758 does not purport to do more concerning the question of Taiwan's status.⁷

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Notably, when the resolution was adopted, the PRC did not understand it as having settled the legal question of Taiwan's status. In a conversation with US National Security Advisor Henry Kissinger preceding the General Assembly vote, PRC Premier (and previously Foreign Minister) Zhou Enlai complained that the so-called Albanian Resolution (which became Resolution 2758) fell short:

“The question is that in the other resolution [the Albanian Resolution] it calls for the restoration of all lawful rights of China in the United Nations, including its seat in the UN. In that resolution it is not possible to put in a clause concerning the status of Taiwan, and, if it is passed, the status of Taiwan is not yet decided. ... Of course, countries who support the Albanian Resolution haven't thought of this side of the question. ... [W]hat we are worried about is that if our legitimate rights in the United Nations are restored, while the status of Taiwan is left hanging in the air, we will have to consider this matter.”⁸

The records of General Assembly debates that led to the adoption of Resolution 2758 reflect a variety of views among members about what the resolution meant, with more than 30 states specifically indicating that they saw the issue addressed by the resolution as merely a question of credentials, determining whether the representatives of the PRC or of “Chiang Kai-shek” should occupy the Chinese seat at the UN.

Resolution 2758 did not purport to resolve the international legal question of Taiwan's status. On its own, it could not have done so. The General Assembly has the power, by majority vote, to determine who may represent a member state, including whether a purported representative has been accredited by a government in power in a member state. Resolution 2758 speaks to this question and, more broadly, to the question of what government can represent China, which was already a UN member. The General Assembly's authority to undertake in Resolution 2758 to decide the limited question of whether a particular government represents a particular member state (and thus may exercise the state's powers within the UN) appears to have been uncontroversial.⁹ In a decision that rejected a US proposal, the General Assembly, prior to adopting Resolution 2758, declined even to call the issue addressed an “important question” (which would have required a supermajority vote).

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The General Assembly has a role in deciding whether to admit new UN members, but only when acting in conjunction with the Security Council.¹⁰ Resolution 2758 does not address an issue of membership, and the process for admitting a member was rightly assumed to be unnecessary and was not invoked.

Taiwan and its diplomatic allies would later raise issues of membership or representation, particularly during the 1990s and 2000s. But when Resolution 2758 was adopted, a proposal for separate membership for Taiwan would have been rejected by Beijing and Taipei, which fully agreed at the time that there was one China that included Taiwan (although they disagreed about which entity, the ROC or the PRC, was the lawful government of that state).

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More fundamentally, the UN lacks independent power to decide the international legal status of Taiwan. The General Assembly is not an international legislature with general powers to make law for the international community or even for UN member states. The international legal system famously lacks such a plenary lawmaking institution, and its absence is a principal distinction between the international legal order and states' domestic legal orders. The General Assembly is even less an international court empowered to decide concrete legal questions, such as whether Taiwan is a part of the PRC.

The powers of the OLA (the issuer of the memorandum on which Beijing relies in its 2022 white paper), and the legal officials and organs within the UN more generally, similarly lack powers to resolve the question of Taiwan's status as a matter of international law. The OLA is part of the UN Secretariat, is headed by the legal counsel/under-secretary-general for legal affairs, and includes the Office of the Legal Counsel. These offices and officials serve as a source of legal advice for the secretary-general and other principal UN organs concerning interpretations of UN resolutions and a range of other UN matters. Their powers to make determinative legal decisions can, and do, sweep no more broadly than those of the Secretariat. In practice, their legal opinions and advice respond to specific requests from the secretary-general and other UN authorities.¹¹ (Analogous organs exist within UN Specialized Agencies, such as the WHO, and generally take positions in line with the OLA's determinations.)

Thus, the simplest form of the argument that Resolution 2758 settled the international legal status of Taiwan or adopted Beijing's "One China" principle as international law comes up short, both as a matter of substance (what it did not say about Taiwan's status) and process (the limits of UN powers to make international law or render international legal decisions).

The uses and abuses of the resolution and related UN statements and actions addressing the international legal question of Taiwan's status and Beijing's "One China" principle, however, do not stop with the resolution itself. The PRC also relies on overreaching readings of UN interpretations and practices. But despite Beijing's claims, and statements and actions by UN officials, which at times appear to align with the PRC's views, such glosses on Resolution 2758 do not support a conclusion that the resolution settled the question of Taiwan's status as a matter of international law.

The next sections of this report address the complicated, half-century-long story of contested and contestable interpretations of Resolution 2758 and its implications for Taiwan's international legal status in terms of three principal, overlapping areas that, in Beijing's account or in UN behavior, align or superficially appear to align with the PRC's positions. The PRC's gains, or apparent gains, in these areas reflect its concerted efforts and considerable influence, and UN actors' acquiescence, misinterpretations, or misunderstandings of Resolution 2758, all of which have faced only limited pushback—and rarely in an immediate, publicly visible form—within and beyond the UN system.¹²

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REFERENCES TO TAIWAN IN UN DOCUMENTS

How to refer to Taiwan in UN documents has been a focal point of the PRC's efforts to advance its argument that Resolution 2758 settled the issue of Taiwan's international legal status. A linchpin of this claim is an October 27, 2010, memorandum from the OLA, the only UN document other than Resolution 2758 that the PRC cites in connection with Taiwan's status in its 2022 white paper. The key passage for Beijing follows a quotation-heavy summary of the resolution:

“Since the adoption of that resolution the United Nations considers ‘Taiwan’ as a province of China with no separate status, and the Secretariat strictly abides by this decision in the exercise of its responsibilities. Thus, since the adoption of this resolution the established practice of the United Nations has been to use the term ‘Taiwan, Province of China’ when a reference to ‘Taiwan’ is required in United Nations Secretariat documents.”¹³

As with much else concerning the UN's positions on the implications of Resolution 2758, the OLA memorandum was issued in the shadow of the PRC's pressure and demands. It was also issued in response to representatives of “State 2” (China) having “strongly objected to publication of a national report” by “State 1” (Nauru, at the time a diplomatic partner of Taiwan) that includes a reference to the “Republic of China (Taiwan)” and having “argued that its publication by the Secretariat is in violation of General Assembly Resolution 2758”.

Like the resolution, the OLA memorandum stops well short of Beijing's favored interpretation. It speaks only to the position and actions of the UN and the nomenclature to be used in UN Secretariat documents, not to Taiwan's legal status beyond the UN system. Its operative language addresses only the terminology to be used in documents produced by certain UN entities. The broader language concerning the UN's views of Taiwan's status is what lawyers would call dictum in a judicial opinion, a proposition that is not an essential basis for the decision reached and thus lacking precedential value.

The memorandum also does not purport to excise all references to Taiwan that do not say “Taiwan Province” or “Taiwan, Province of China” from the UN system, or to claim that the use of other terms is unlawful in international affairs more generally.¹⁴ After stating the UN's “established practice” of using the term “Taiwan, Province of China”, the memorandum, which concerned the submission of a universal periodic review by a member state of its compliance with the principal UN human rights covenants, continues:

“However, the practice of the United Nations when circulating a document from a Member State has been to reproduce the document as it has been received and not to alter the terminology employed. The United Nations cannot change its contents as this would be tantamount to interfering in the official/national position of a Member State.”

The memorandum then rejects the proposal from the OHCHR, whose request prompted the memorandum, for the Secretariat to add a footnote to the national report.

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The footnote, which the OHCHR described as being still “unsatisfactory” to the PRC, would have said that “In accordance with United Nations terminology, reference to Taiwan in the present document should read Taiwan, Province of China.” The OLA determined that the proposed footnote’s “indicat[ion] that the reference to ‘Taiwan’ in the report ... is incorrect” was inappropriate because the submitting state “could object to the footnote on the grounds that this is inconsistent with its national position” and violated the Secretariat’s obligation “not [to] comment on terminology contained in the submission of a Member State”, which “would be interfering in the inter-governmental process”.

The memorandum recommends the addition of a more restrained footnote:

“The document has been reproduced as received. The designations employed do not imply the expression of any opinion whatsoever on the part of the Secretariat concerning the legal status of any country, territory or area, or of its authorities.”

This recommendation appears to have followed what was already well-established practice, including for handling requests by various diplomatic partners of Taiwan to consider placing Taiwan’s representation or membership on the General Assembly’s agenda. Such requests were circulated in the ordinary course of business, with references to “Republic of China in Taiwan” or other terminology not conforming to the “Taiwan, Province of China” template but with the addition of the type of disclaimer that the October 2010 OLA memorandum subsequently recommended. This practice dates back to the early 1990s, when, under President Lee Teng-hui, Taiwan began to seek greater engagement with the UN.¹⁵ Pressure from the PRC against such terminology also dates to the same period. In response to the PRC permanent representative’s “strong” objection to these requests, the secretary-general and senior staff explained that the Secretariat was required to circulate such documents when submitted by member states, that the disclaimer had been added, and that the Secretariat had “distanced itself from the content of the note”.¹⁶

Also in the memorandum’s background was an unusually strong intervention by the United States in response to the PRC’s then-mounting pressure in the UN about Taiwan’s status. Washington had issued, but not publicly disclosed, in 2007 a “non-paper” in response to the UN’s handling of an effort to put UN membership for Taiwan on the UN’s agenda. The US non-paper “noted” with concern Beijing’s insistence that the UN and member states “use nomenclature for Taiwan that suggests endorsement of China’s sovereignty” claims, expressed concern that “some UN organizations” had “recently asserted that UN precedent required that Taiwan ... be referred to by names in keeping with such status”, and warned that the United States “will be obliged to dissociate itself” from the Secretariat’s position if that office “insists on” using such “nomenclature for Taiwan”.¹⁷

The issues addressed in the memorandum are but one instance of a broader pattern. The WHO is another example, and one specifically noted in China’s 2022 white paper. Here, too, PRC demands concerning nomenclature and instances of acquiescence or drift by UN-affiliated officials have framed Beijing’s favored positions as mandated by higher-level formal sources.

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Shortly after the General Assembly passed Resolution 2758, the World Health Assembly (WHA) adopted WHA Resolution 25.1, which closely tracked Resolution 2758.¹⁸ In 2005, the WHO Secretariat entered into a memorandum of understanding (MOU) with the PRC (specifically, its Ministry of Health) concerning the world health body's interactions with Taiwan. A 2005 WHO document directing the MOU's implementation and invoking WHA Resolution 25.1 included directives on nomenclature: that invitations to Taiwanese experts could not be addressed to the "Republic of China" or "Taiwan"; such invitations should refer only to "the name of the city" from which Taiwanese experts came; the badges and the text in programs should refer to "Taiwan, China"; and any questions were to be directed to the WHO's Office of the Legal Counsel.¹⁹

Box 2. US Non-Paper on the Status of Taiwan, 2007

1. The United States reiterates its One China policy which is based on the three US–China Communiqués and the Taiwan Relations Act, to the effect that the United States acknowledges China's view that Taiwan is a part of China. We take no position on the status of Taiwan. We neither accept nor reject the claim that Taiwan is a part of China.
2. The United States has long urged that Taiwan's status be resolved peacefully to the satisfaction of people on both sides of the Taiwan Strait. Beyond that, we do not define Taiwan in political terms.
3. The United States noted that the PRC has become more active in international organizations and has called on the UN Secretariat and member states to accept its claim of sovereignty over Taiwan. In some cases, as a condition for the PRC's own participation in international organizations, Beijing has insisted the organization and its member states use nomenclature for Taiwan that suggests endorsement of China's sovereignty over the island.
4. The United States is concerned that some UN organizations have recently asserted that UN precedent required that Taiwan be treated as a part of the PRC and be referred to by names in keeping with such status.
5. The United States has become aware that the UN has promulgated documents asserting that the United Nations considers "Taiwan for all purposes to be an integral part of the PRC." While this assertion is consistent with the Chinese position, it is not universally held by UN member states, including the United States.
6. The United States noted that the UN General Assembly resolution 2758 adopted on 25 October 1971 does not in fact establish that Taiwan is a province of the PRC. The resolution merely recognized the representation of the government of the PRC as the only lawful representation of China to the UN, and expelled the representative of Chiang Kai-shek from the seats they occupied at the UN and all related organizations. There is no mention in Resolution 2758 of China's claim of sovereignty over Taiwan.
7. While the United States does not support Taiwan's membership in organizations such as the UN, for which statehood is a prerequisite, we do support meaningful participation by Taiwan's experts as appropriate in such organizations. We support membership as appropriate in organizations for which such statehood is not required.
8. The United States urged the UN Secretariat to review its policy on the status of Taiwan and to avoid taking sides in a sensitive matter on which UN members have agreed to disagree for over 35 years.
9. If the UN Secretariat insists on describing Taiwan as a part of the PRC, or on using nomenclature for Taiwan that implies such status, the United States will be obliged to disassociate itself on a national basis from such position.

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A 2010 WHO document concerning the application of the International Health Regulations to “the Taiwan Province of China” stated that the document’s directives reflected an “arrangement ... with respect to the Taiwan Province of China” that was “communicated to the [WHO] Director General” by the PRC’s permanent mission in Geneva. This apparently Beijing-crafted arrangement referenced WHA Resolution 25.1, declared that references in WHO documents “must use the terminology ‘the Taiwan Province of China’”, and must list information concerning Taiwan as “falling under China and not separately as if they referred to a State”. The document again directed that any questions or “case of doubt” be referred to the WHO Office of Legal Counsel.²⁰

In the last several years, UN officials’ practice has moved, without a corresponding change in the official position of the Secretariat’s legal organs, beyond much prior UN practice and the circumspect position endorsed in the October 2010 OLA memorandum. Despite the memorandum’s cautions, UN organs and staff have at times refused to follow procedures for receiving and posting member-state national reports that contain references to “Taiwan”, and they have cited the ostensible requirements of Resolution 2758 and their understanding of legal guidance from within the Secretariat as the basis for their decisions.

This happened, for example, with some of Taiwan’s diplomatic partners’ voluntary national reviews (VNR) on sustainable development submitted to the UN Department of Economic and Social Affairs (UNDESA).²¹ Some of these reports thanked “Taiwan” or the “Republic of China (Taiwan)” rather than “Taiwan, Province of China” for assistance with pursuing sustainable development goals. The UNDESA website for posting member state VNRs previously included a disclaimer that largely followed the position set forth in the memorandum:

“The document and reports submitted by States that are available on this website have been placed on the platform as received from those States. The designations employed do not imply the expression of any opinion whatsoever on the part of the Secretariat of the UN concerning the legal status of any country, territory or area, or of its authorities or concerning its frontiers or boundaries.”²²

Around 2018, UNDESA began to refuse to publish on its website VNRs that used terminology other than “Taiwan, Province of China”. The website also dropped the disclaimer. In 2023, a handbook on submitting one type of UNDESA VNR declared that “VNR reports need to use official UN country/designations in order to be posted on the UN website.”²³

Some member states declined to adopt the “Taiwan, Province of China” terminology or to eliminate references to Taiwan in their VNRs. Their reports were denied the circulation and posting that had been the established practice for VNRs, in some cases on the purported grounds that OLA legal opinions required this outcome. Such UNDESA behavior lacks a basis in publicly disclosed legal guidance from OLA or other known authoritative UN sources and constitutes an impermissible interference with the rights of member states that the 2010 OLA memorandum warned against.

Like other efforts to limit the use of terms other than “Taiwan, Province of China”, the refusal to post UNDESA VNRs triggered a range of reactions from the states that sought to file the reports using language of which Beijing disapproves. Responses have included leaving the reports unchanged and unposted, challenging the receiving agency’s action as lacking a legal basis (whether in Resolution 2758, OLA interpretations, or other sources),

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objecting to UN officials' refusal to post reports submitted by member states, and calls for UNDESA to revert to its earlier practice and thereby at least implicitly drop its recent misinterpretation of Resolution 2758 to preclude the posting of documents referencing Taiwan or the ROC with language other than "Taiwan, Province of China". Such pushback and discussions with senior UN staff appear to have prompted a reversal. By the 2023-24 cycle, new VNRs containing references to the "Republic of China (Taiwan)" were again being posted on the UNDESA website,²⁴ with a disclaimer similar to that recommended in the 2010 OLA memorandum:

"The documents and reports submitted by States that are available on this website have been placed on this website as received. The designations employed do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory or area, or of its authorities, or concerning its frontiers or boundaries. The Secretariat of the United Nations is guided by the resolutions of the principal organs of the United Nations."²⁵

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CALLING TAIWAN AN “INTEGRAL PART” OF CHINA/ ISSUES OF REPRESENTATION AND ACCESS

Apparent UN support for the PRC’s claims concerning the legal implications of Resolution 2758 for Taiwan’s status also stems from additional sources: statements by UN entities and officials made in connection with efforts to seek Taiwan’s membership or representation at the UN; statements from UN entities and officials about the related issue of Taiwan’s accession to UN-based treaties; and UN practices concerning the access of Taiwan/ROC passport holders to UN activities or facilities. In these contexts, UN officials and organs have stated that the organization considers Taiwan to be “an integral part” or “a part” of “China” or “the People’s Republic of China”. This characterization is often preceded by a phrase such as “for all purposes” or “for all intents and purposes”, and declared to be required by Resolution 2758 and/or legal guidance from within the UN Secretariat. At a recent press conference, a spokesperson for the secretary-general answered the question “For UN, Taiwan is part of China or not?” with a muddled “Our position on China is guided by the General Assembly resolution passed in [1971] on the ‘One China’ policy.”²⁶ In another recent example, the General Assembly president, in a meeting with the PRC’s permanent representative to the UN, “reaffirmed” that the body would “adhere to the one-China principle guided by GA resolution ... 2758.”²⁷

Perhaps the highest-profile and most controversial example of such UN characterizations of Taiwan came in the context of the effort in 2007 by several of its diplomatic allies to have the UN consider the question of membership for Taiwan. Taiwan pursued this ambitious and unattainable goal during the final years of Chen Shui-bian’s presidency, going beyond the then-recent pursuit of lesser forms of representation and inclusion. Unsurprisingly, it generated an especially high level of attention, contention, and controversy. In answering a reporter’s question about why the UN had refused to consider a proposal for Taiwan’s entry, UN Secretary-General Ban Ki-Moon said:

“The matter which you asked me was carefully considered by the Secretariat, and, in light of the resolution which I mentioned, 2758, it was not legally possible to receive the purported application for membership.”²⁸

Ban’s remarks echoed a more detailed statement by one of his spokespeople:

“[A]n application for UN membership by Taiwan was conveyed by the Permanent Representatives of two Member States. In keeping with resolution 2758 of the General Assembly, it could not be received and was, thus, returned by the United Nations Office of Legal Affairs. And as you know, resolution 2758, which was adopted in 1971, is the basis of the one-China policy of the United Nations.”²⁹

A similar view was set forth in a letter from the under-secretary-general for legal affairs (the UN legal counsel), approved by the secretary-general’s office, to the UN missions of states that had sought to put the issue of Taiwan’s membership on the General Assembly’s agenda. The letter concluded that “the application ... may not be received and is thus hereby returned.”³⁰ The point was reiterated in UN legal officials’ responses to letters from missions of Taiwan’s diplomatic partners criticizing the decision and calling for reconsideration.³¹

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In explaining the rejection of the 2007 effort, Ban and the legal counsel construed Resolution 2758 as establishing that the UN, as the legal counsel's letters stated, "considers Taiwan for all intents and purposes to be an integral part of the People's Republic of China"³² or that, as Ban said in a press conference, "the position of the United Nations is that Taiwan is part of China."³³

Box 3. TRANSCRIPT OF PRESS CONFERENCE BY SECRETARY GENERAL BAN KI-MOON AT UNITED NATIONS HEADQUARTERS, 18 SEPTEMBER 2007

Question: Taiwan has made fresh applications in the last couple of months to join the United Nations. A series of United Nations bodies, including your own Secretariat, has rejected its letters of application without being willing to consider them. They say that your interpretation of the General Assembly resolution that expelled Chang Kai-shek's representatives from the United Nations is incorrect and doesn't apply to present-day Taiwan. Why do you refuse even to allow their application to be considered?

The Secretary-General: First of all, by resolution 2758 (XXVI) of 1971, the General Assembly decided to recognize the representatives of the People's Republic of China as the only legitimate representatives of China to the United Nations. This has been the official position of the United Nations and has not changed since 1971. The matter which you asked me was very carefully considered by the Secretariat and, in light of the resolution which I mentioned, 2758, it was not legally possible to receive the purported application for membership. At the same time, I would just note that some Member States have submitted applications for consideration by the General Assembly of the membership of Taiwan. Accordingly, the question of membership of the United Nations, they want it to be included in a supplementary item of the sixty-second session of the General Assembly. I hope that, accordingly, this question will have to be discussed by the Member States.

The secretary-general and the OLA took a similar position after an effort by several of Taiwan's diplomatic partners to forward to the General Assembly president Taiwan's instruments of accession to the UN Convention on the Elimination of Discrimination Against Women (CEDAW). The Secretariat, following the advice of the legal counsel/OLA and working primarily through letters from the legal counsel to the member-state missions that forwarded the accession documents, declared that the documents were "not receivable" and were "returned" because Resolution 2758, by recognizing the PRC as the only legitimate representative of China to the UN, had determined that the organization "considers the Republic of China (Taiwan) for all intents and purposes to be an integral part of the People's Republic of China"³⁴.

Here again, however, there is less to support the PRC's construction of Resolution 2758 than such statements may seem to suggest. The secretary-general and the UN's legal offices have little authority to make definitive determinations of international law beyond the scope of the UN and its activities. Given the limits to Resolution

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2758's wording and the General Assembly's powers, the UN legal counsel's letter adopted something of a legal non sequitur in basing its conclusion on the resolution's recognition of the representatives of the PRC as the only legitimate representatives of China to the UN.

The same can be said of the legal counsel's letters and memo concerning the rejection of the instruments for CEDAW accession. These documents drew much the same inference and oddly eschewed a simpler legal basis for the decision.³⁵ Another letter from the secretary-general, following the legal counsel's advice and drawing on the ostensible CEDAW precedent, invoked Resolution 2758 to rebuff an effort to submit "Republic of China (Taiwan)" instruments of accession to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. But that letter characterized Resolution 2758 only as recognizing PRC representatives as the sole legitimate representatives of China to the UN, forgoing any reference to the UN's views on Taiwan as a part of China or the PRC. The legal counsel also advised the Secretariat that it would be permissible and, indeed, advisable to permit circulation of the document from member states with the instruments of ratification (which refer to Taiwan as the Republic of China) attached, albeit with a footnote indicating that the secretary-general had deemed the ratification instruments not receivable.³⁶

The issue that was decided in the 2007 membership application controversy was a relatively limited one about internal UN procedures: whether documents that would put Taiwan membership on the agenda would or could be received. The UN adopted a notably circumscribed position. When asked if the return of the application documents meant that Taiwan will "never be allowed" to "have other countries apply on its behalf for UN membership", the secretary-general's spokesperson replied that "it would be entirely up to the membership of the United Nations to decide on the future membership of the United Nations."³⁷

The secretary-general's office does not seem to have seen the conclusion that it was required to reject the 2007 submission as a simple or easy legal call. In internal UN discussions over responding to Taiwan's diplomatic partners' complaints and criticism about, and calls for reconsideration of, the application's rejection, the secretary-general's office demurred after the legal counsel's office suggested that the response come from the secretary-general. The secretary-general's office instead directed that the under-secretary-general for legal affairs and the assistant under-secretary respond, purportedly to keep the matter "as non-political as possible."³⁸ In an apparent after-the-fact effort to build confidence in the decision or find cover for it, OLA compiled and sent to the secretary-general's staff a selective collection of past Secretariat documents concerning issues related to Taiwan's status, essentially a "greatest hits" of Taiwan-minimizing UN actions. The documents contained references to Taiwan as a "part" or "integral part" of China for "all intents and purposes."³⁹

The 2007 decision came in the context of Beijing's insistent and relentless pressure for acceptance of its position. The PRC's UN mission reportedly pressed the secretary-general not to accept President Chen's 2007 letter seeking Taiwan's admission to the UN "since it did not come from a Government". This demand led to the passage in the letter from the under-secretary-general for legal affairs to the UN missions of Taiwan's diplomatic partners explaining the refusal to accept the application for Taiwan's membership.⁴⁰ The under-secretary-general promptly shared the contents of the letter orally with the PRC's deputy permanent representative, who reportedly expressed satisfaction and gratitude.⁴¹ The PRC's UN mission reportedly made similar arguments for rejecting consideration of Taiwan's application to the UN Security Council president, who supported Beijing's position.⁴²

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At the General Assembly's September 2007 floor discussion about putting the application on the agenda, the PRC's representative invoked Resolution 2758, declared that "no sovereign State in the room would allow one of its regions to apply for membership in the Assembly", and urged other members not to support Taiwan's "separatist interests" and to "abide by the Charter" of the UN, particularly concerning "respect for the sovereignty of States and noninterference in internal affairs". In an illustration of the PRC's comprehensive pressure, its permanent representative to the UN human rights organ in Geneva wrote to the UN High Commissioner for Human Rights to "inform" her that there would be "extremely serious consequences", including "major turbulences that may disrupt peace and stability across the Taiwan Straits and the Asia-Pacific", if efforts akin to the already-rejected application for Taiwan's UN membership were to succeed. The letter characterized the UN membership-seeking "activities of the Taiwan authorities" as "strongly and unanimously opposed" by "all justice-upholding countries and people across the world".⁴³

While such statements are consistent with Beijing's standard approach to Taiwan's participation and representation in the UN system, the positions taken by the ROC's diplomatic partners and, especially, the United States were unusually strong, particularly after Ban's and the UN legal counsel's characterization of the UN's views on Taiwan's status. Several of Taiwan's diplomatic partners that sought to put its membership application on the UN's agenda in 2007 sent letters to the secretary-general and the Security Council president that rejected the under-secretary-general/legal counsel's argument as "fallible" because the resolution "does not disqualify Taiwan from applying for UN membership".⁴⁴ Another letter from Taiwan's diplomatic partners stated that, "[w]ith the greatest respect" to the under-secretary-general/legal counsel, the OLA had "misadvised" the secretary-general and that it was "impossible to discern from resolution 2758 any such interpretation" that "the United Nations considers Taiwan for all intents and purposes to be an integral part of the People's Republic of China".⁴⁵ At least two allies also forwarded to the secretary-general correspondence from Taiwan's president and foreign minister that insisted on the principle—publicly acknowledged by the secretary-general's spokesperson—that only the Security Council and the General Assembly have the "authority to discuss and decide on UN membership applications" and that the Secretariat "does not have discretion to reject outright Taiwan's application".⁴⁶

The United States' 2007 non-paper, which was issued after the secretary-general's non-receipt of the application for Taiwan membership, took issue with UN "documents asserting that UN precedent required that Taiwan be treated as part of the PRC" and "that the United Nations considers 'Taiwan for all purposes to be an integral part of the PRC'". The non-paper also cautioned that the United States would be "obliged to disassociate itself" from the position of the UN secretariat if it "insists on describing Taiwan as part of the PRC".

Ban and the Secretariat faced additional pressure in a meeting between the secretary-general and US Ambassador to the UN Zalmay Khalilzad, from demarches from the United States and Canada, and from a meeting between Japan's UN mission and the OLA assistant secretary-general. Ban reportedly acknowledged that he had "gone too far" in his statements and "would no longer use the phrase 'Taiwan is a part of China'".⁴⁷

Taiwan's 2007 application for UN membership produced such especially fraught reactions in part because Taiwan sought full membership (and presaged the referendum that it would hold the following year on the question of whether to seek to enter the UN under the name "Taiwan"). What happened at the UN in connection with the 2007 bid was, however, only an exceptional, and exceptionally well-documented, instance of a pattern that began in the early 1990s when Taiwan sought greater access and engagement that fell short of full membership.

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Those efforts started with initiatives by the Lee Teng-hui administration that invoked models of “dual representation” akin to the two Germanys or the two Koreas. The initiatives have continued in more recent years, resulting in Taiwan’s achieving ad hoc participation in the WHA meeting during President Ma Ying-jeou’s tenure and unsuccessful calls during Tsai Ing-wen’s presidency by the ROC’s allies in the General Assembly for allowing Taiwan’s “participation” in the UN. In these other instances, Taiwan’s applications, advocacy by its diplomatic partners, objections from the PRC, and responses from the UN were all generally less intense than in 2007. But they fit with a broader dynamic of pressure from the PRC and acquiescence or questionable interpretations by UN officials of Resolution 2758 and UN precedent that created openings for Beijing to advance its agenda of using the UN as a forum to promote its version of the “One China” principle as accepted international law and as mandated by Resolution 2758.

An especially formal legal statement of UN positions similar to those expressed in the context of Taiwan’s 2007 bid for UN membership (and accession to UN treaties) is an OLA memorandum from March 2010. After summarizing the text of Resolution 2758, with extensive quotations, and characterizing it as “regulat[ing]” the “status of ‘Chinese Taipei/Taiwan’ in the United Nations”, the memorandum states:

“Since the adoption of this resolution and in accordance with the decision which it contains, the United Nations has considered ‘Taiwan’ for all purposes to be an integral part of the People’s Republic of China, without any separate status.”⁴⁸

Such a reversion to language that the secretary-general reportedly had promised to forgo after the Taiwan membership application controversy does not appear to have produced immediate pushback or public rebukes akin to the 2007 US non-paper and concurrent efforts by Taiwan’s diplomatic partners (or the US response to Nauru’s 2024 shift in diplomatic ties).

The reach of the substantive decision in the OLA memorandum is, again, limited. The operative language, like that in the other OLA memorandum of the same year, addresses only a relatively narrow, if important, operational issue: whether passports or another “form of official documentation issued by the ‘authorities’ in ‘Taiwan/Taipei’” can be accepted by the Secretariat and used to gain access to an official session of a UN organ, in this case the UN Commission on the Status of Women (under CEDAW).

The memorandum’s broader language concerning the UN’s views on Taiwan’s status is, like kindred language in the other 2010 OLA memorandum, the equivalent of dictum. The memorandum’s focus on Taiwan-issued passports undercuts its seeming implications for issues of Taiwan’s status and anchors its analysis in a long-running discourse and practice concerning those documents in the UN system. The backstory to the memorandum includes a 2009 OLA “Note” concerning “Access by Taiwan passport holders to UN premises”, which responded to an inquiry from the UN missions of three of Taiwan’s diplomatic allies asking why Taiwan passport holders had been denied access to the 2009 meeting of the Commission on the Status of Women (the same entity at issue in the memorandum). The OLA note followed the standard summary, including quotations, of Resolution 2758, with a statement that:

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“Since the adoption of this resolution and in accordance with the decision that it contains, the United Nations has not regarded Taiwan to be a government or to enjoy any form of governmental status or to exercise any governmental power. The Secretariat strictly abides by this decision, which in effect means that it cannot accept any form of official documentation issued by the authorities in Taiwan.”

There is no mention of whether the UN considers Taiwan to be a “part” of China or the PRC and no other language that addresses the issue of Taiwan’s international legal status or Beijing’s “One China” principle. The note clearly—and, as a matter of international law, sensibly—assumes that the question concerns the ROC’s status as a government vis-à-vis the UN, not Taiwan’s status or sovereignty. Simply put, and consistent with an uncontroversial reading of Resolution 2758, the ROC is not accepted at the UN as the government of a member state and, therefore, its passports need not necessarily (and, in the 2009 OLA note’s analysis, should not) receive the automatic acceptance accorded to passports issued by the governments of UN member states.⁴⁹

The note also piggybacked on earlier cases of UN deference to the PRC’s demands, commenting that “persons who are known to be officials of or to represent the authorities in Taiwan or Taipei” may not “participate in meetings of United Nations bodies, unless it is with the agreement of the PRC, as was the case with respect to the [2008] World Health Assembly”.⁵⁰ But, as the request that led to the 2009 note pointed out, UN positions and practices concerning access to UN facilities for those using Taiwan/ROC passports have been inconsistent, with holders of such passports sometimes gaining entry or participating without prior PRC approval.

On some occasions, member states have included Taiwan/ROC passport holders as experts in their delegations to UN conferences. In some cases, experts from Taiwan have participated without incident, with UN authorities deferring to the credentials issued by a UN member state that is among Taiwan’s diplomatic partners. Taiwan/ROC nationals have, however, sometimes faced rejection by credentials committees that acquiesced in the PRC’s preferences, or they have been dropped from the delegations to avoid disputes in the credentials committee that likely would lead to a formal determination to exclude the Taiwanese nationals—an outcome that would be more harmful to Taiwan’s interests.⁵¹

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QUESTIONS OF “RECOGNITION” AT THE UN

Resolution 2758 uses words related to recognition in two ways. The first is by “recognizing that the representatives of the Government of the [PRC] are the only lawful representatives of China to the United Nations”. The second is by undertaking “to recognize the representatives of [the PRC’s] Government as the only legitimate representative of China to the [UN]”. Such language is a focal point in Beijing’s long-running claims concerning the resolution’s implications for Taiwan’s legal status.

Here, too, the PRC has exerted pressure, and the UN has, at times, acquiesced. As the UN’s special rapporteur on “Unilateral Acts of States”—using the nomenclature for Taiwan required in UN documents—put it in 2004: “In fact, the ambiguous status of Taiwan Province of China tends to excite angry protests from China whenever third States act in a manner which can be construed as recognition, or a step towards it.”⁵² The 2010 WHO document concerning Taiwan and the International Health Regulations, which contains an explicit reference to the PRC’s influence on its contents, construed WHA Resolution 25.1 as imposing an “obligation for the Secretariat of refraining from actions which could constitute or be interpreted as recognition of a separate status of Taiwanese authorities and institutions from China.”⁵³ In a similar vein, a prominent PRC scholar, defending official views, asserted: “The four paragraphs of Resolution 2758 are an integral whole, with the one-China principle at the core: the United Nations only recognizes one China, and Taiwan is a part of China.”⁵⁴

The PRC’s legal claim appears to be an argument, not fully articulated, that Resolution 2758’s “recognition” implies recognition of China as a state that includes Taiwan and that the consequences extend beyond the UN system. It also appears to be entwined with another of Beijing’s claims concerning Taiwan’s international legal status, one that relies on the large number of states that recognize or, often more accurately, maintain diplomatic relations with the PRC compared to the few that do so with the ROC/Taiwan.

But here, too, Resolution 2758 and the UN have not done what Beijing today seems to infer or seeks to assert. The first use of a relevant term—“recognizing”—in the resolution is conventional preamble-like language for a UNGA resolution and cannot be read as using the term in its international legal sense of an act of recognition of a state or government or as a statement with international legal significance. The second use of a relevant term—“to recognize”—speaks only to the issue of which government, or representatives of which government, can represent the state of China (and does so only in the context of the UN, not more generally in the international system or as a matter of international law).

Resolution 2758 does not, in any broader sense, recognize a state or a government (much less address whether Taiwan is part of the state of China). The UN’s clearly stated position is that it has no role in recognizing, or refusing to recognize, a purported state or even a government of a state (much less resolving questions of disputed statehood as a matter of international law):

“The recognition of a new State or Government is an act that only other States and Governments may grant or withhold. ...The United Nations is neither a State nor a Government, and therefore does not possess any authority to recognize either a State or a Government.

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As an organization of independent States, it may admit a new State to its membership or accept the credentials of the representatives of a new Government.”⁵⁵

During the UN’s early days, a memorandum from the secretary-general, supported by an opinion from the UN legal counsel, adopted this position in the context of considering an argument that the PRC, as the government in control of the Chinese mainland, was the proper representative of China in the UN (when the ROC would still hold the Chinese seat at the UN for another two decades):

“From the standpoint of legal theory, the linkage of representation in an international organization and recognition of a government is a confusion of two institutions which have superficial similarities but are essentially different. The recognition of a new State, or of a new government of an existing State is a unilateral act which the recognizing government can grant or withhold. ... The fact remains ... that the States have refused to accept any such rule [that would give the UN the authority to grant recognition] and the United Nations does not possess any authority to recognize either a new State or a new government of an existing State. ... On the other hand, membership of a State in the United Nations and representation of a state in the organs is clearly determined by a collective act of the appropriate organs.”⁵⁶

Exclusion or expulsion from the UN and universal lack of recognition as a state by other states and the UN would not establish that an entity (such as Taiwan) is not a state or is part of another state (such as China) under international law. Non-membership or non-representation in the UN does not, as a matter of international law, establish that an entity is not a state. While it is generally accepted, and reflected in the UN Charter,⁵⁷ that statehood is a prerequisite to UN membership, non-membership does not mean a lack of statehood. Undisputed states have been long-term non-members,⁵⁸ and acquiring membership requires going through a process of votes in the Security Council and the General Assembly, wherein member states are, in practice, free to deny membership to an entity that is a state.⁵⁹

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Whether an entity is a state under international law depends on whether it does, or does not, possess, as an objective matter, the requisite attributes of statehood, not on whether other states do, or do not, recognize it as a state.⁶⁰ Those attributes are possession of a permanent population, a defined territory, an autonomously operating government, and the capacity to engage in relations with other states. These are attributes that Taiwan at least arguably possesses more clearly than do some entities that enjoy, or have enjoyed, widespread international acceptance as states and robust participation or membership in the UN system.⁶¹ Even a successful claim by Beijing that Taiwan is not a separate state under international law would stop short of establishing that Taiwan is a part of China or the PRC or that Beijing’s “One China” principle is part of international law.

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RESOLUTION 2758 BEYOND THE UN AND CUSTOMARY INTERNATIONAL LAW

Beijing seeks to extend the reach and implications of its reading of Resolution 2758 beyond the UN context into other international forums and into the realm of customary international law.

In one illustrative example of efforts to extend Resolution 2758's reach, the PRC objected when two designated UN human rights experts "in their official capacity" went to Taiwan and participated in its internal process for assessing its conformity with the two principal UN human rights covenants. This process approximated parts of the universal periodic review undertaken by parties to the two covenants and was unilaterally undertaken by Taiwan despite being denied accession. The letter from the PRC's permanent representative in Geneva complained that the two experts' presence in Taiwan was "a violation of the purposes and principles of the Charter of the United Nations and UN General Assembly Resolution 2758, as well as China's sovereignty and territorial integrity".⁶²

Chinese official sources suggest that Resolution 2758 provides a basis for excluding Taiwan from international organizations, including those beyond the UN system. For example, in the context of Beijing's withdrawal of what it characterized as its permission for Taiwan representatives to participate in the 2017 WHA annual meeting, the PRC's permanent mission in Geneva requested "all International Organizations" —a term that appears to extend to non-UN-affiliated bodies—in the city to continue their adherence to the "One China" principle by forgoing the sideline meetings that representatives from Taiwan, now barred from the WHA, likely would seek. The same document described the "One China" principle as having a legal basis in Resolution 2758 and WHA Resolution 25.1.⁶³

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Beijing's agenda has scored some recent notable successes with a multistate organization and a state that dropped diplomatic relations with Taipei and established them with Beijing. PARLACEN, the Central American parliament, voted in 2023 to strip Taiwan of its observer status, citing Resolution 2758 and its implication that Taiwan was a "province" of China and not an independent country.⁶⁴ In the aftermath of Democratic Progressive Party candidate Lai Ching-te's win in Taiwan's 2024 presidential election, Nauru shifted its diplomatic ties from Taipei to Beijing and stated "we will be moving to the One-China Principle that is in line with UN Resolution 2758."⁶⁵ The United States pushed back, with the American Institute in Taiwan chair, then in Taipei, saying that the resolution "did not make a determination on the status of Taiwan" and that it was "disappointing to see distorted narratives about U.N. resolution 2758 being used as a tool to pressure Taiwan, limit its voice on the international stage, and influence its diplomatic relationships".⁶⁶

Beijing also invokes Resolution 2758 in the service of another, more sweeping and, for Taiwan, potentially more threatening argument, namely that Taiwan's status as a part of China, or the PRC's "One China" principle,

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is an established proposition of international law, binding on all states. This claim rests in part on a misconstruction of the legal significance of tallies of diplomatic ties, and patterns of international relations more broadly, with the PRC and the ROC.

Beijing has sought to frame its “One China” principle as a “universal consensus” or “broad-based consensus” of “the international community” and as a “basic norm of international relations”.⁶⁷ Such statements sometimes invoke the fact that the vast majority of countries (now 182) maintain diplomatic relations with the PRC while only 12 have such links with Taiwan. Such statements also claim that relations with the PRC have been established “on the basis of the one-China principle.”⁶⁸ Such statements are sometimes adjacent to invocations of Resolution 2758 as a purported source of international law, as in the 2022 white paper’s claim that actions Beijing views as challenging its sovereignty over Taiwan and its “One China” principle—such as professing that the status of Taiwan is undetermined or supporting bids for Taiwan’s meaningful participation in the UN system—are “violations of Resolution 2758 and international law.”⁶⁹

Although generally not explicitly so framed, such assertions appear to be, or reflect, claims about customary international law,⁷⁰ which generally binds all states.⁷¹ A formulation by a PRC international legal scholar offers a hedged version of this line of argument: “[A]fter Resolution 2758 came out, the vast majority of [UN member states] adopted a position consistent with it by recognizing the one-China principle. ... [I]t is already considered by the academia as meeting the criteria for the formation of an international customary law, and showing the tendency toward developing into a customary international law. ... Resolution 2758 is a political document encapsulating the one-China principle whose legal authority leaves no room for doubt and has been recognized worldwide.”⁷²

But this apparent argument also falls short. Beijing’s “One China” principle is an exceedingly poor candidate for a rule of customary international law. Such rules are almost always of some generality. They include, for example, rules defining statehood, sovereign immunity, the validity of treaties, or self-determination rights of peoples. Determinations that a particular entity is, or is not, a state, or that a particular area is the sovereign territory of one state or another, or that the use of force to prevent secession, end a rebellion, or civil war is or is not legitimate in a particular instance are generally case-specific applications of rules of international law, including customary international law. They are not rules of international law in their own right. If not submitted to a binding international dispute resolution procedure, the application of customary international legal rules to address particular cases is, at best, a decentralized process left to the community of states (and other international actors) that often produces no definitive answer on contentious questions. A rule of customary international law must reflect the general and consistent (though not necessarily universal) practice of states, and states must act in conformity with that practice with a sense that such behavior is a legal obligation (*opinio juris*), rather than a mere policy choice.⁷³

Statements and actions at the UN by member states concerning Taiwan could constitute expressions of state views—the phenomena that matter for *opinio juris*—as well as a weak form of state practice. But even if they do, they do not reach the level of states’ general acceptance that they are obliged, as a matter of international law, to accept that Taiwan is a part of China or Beijing’s “One China” principle. The stances and statements of states’ representatives at the UN are at most the thinnest form of “state practice”, if they count as state practice at all.

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To accept such behavior as potentially establishing a proposition of customary international law would be to venture into the murky waters of purported “instant custom” and to assert that such statements, unsupported by substantial patterns of state behavior, are a mode of creating international law.

Moreover, as the debates over Taiwan’s UN admission bids, the 2007 US non-paper, Taiwan’s diplomatic allies’ extensive pushback against the Secretariat’s interpretations of Resolution 2758, and much else in the many iterations of proposals for Taiwan’s representation or participation in the UN system indicate, the practice and opinions of states is far from uniform, even in the UN context. On many occasions in the UN, the United States and Taiwan’s diplomatic partners have rejected the PRC’s and UN officials’ assertions concerning Resolution 2758 and the “One China” principle. The bases for most member states’ deference to the secretary-general or the UN General Committee or, on rarer occasions, their votes against Taiwan-related initiatives are vague or varied and far from expressing a prevalent or uniform view in support of Beijing’s “One China” principle as a part of international law.

The fact that the vast majority of states maintain diplomatic relations with the PRC and not with the ROC, a point much emphasized by Beijing, does little to support its claim that its “One China” principle is international law. To be sure, when one government recognizes another or establishes diplomatic relations, the action implies a view that the counterpart is a government of a state. (Otherwise, such recognition or relations would be unlawful.) But the absence of diplomatic relations, like the absence of recognition, does not imply a view that the entity denied such relations is not a government of a state. International law permits, and governments often undertake, severance of diplomatic relations for political or foreign policy reasons, and such acts alone do not challenge the targeted entity’s status as a government, much less its status as a state.

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Beijing claims that countries that “have established diplomatic relations with the PRC” have done so “on the basis of the ‘One China’ principle”, meaning Beijing’s “One China” principle. If this were true, those states would thereby arguably have expressed views on Taiwan’s international legal status. But the assertion is unfounded. The foundations of the United States’ establishment of diplomatic relations with the PRC (as well as its recognition of the PRC as the government of China) include Washington’s “One China” policy, which US sources consistently define as different from Beijing’s “One-China” principle. The 1979 US-PRC Joint Communiqué declares that the United States “acknowledges”—not “recognizes” or “accepts”—the PRC’s view that Taiwan is part of China.⁷⁴ Several other states have adopted similar views. Many more have taken a variety of positions that do not adopt Beijing’s “One China” principle.⁷⁵

Although those features of Taiwan’s international situation limit its ability to participate in the global community, here, too, there is less than may initially appear. Formal diplomatic ties are only one mode of engaging in international relations. Taiwan maintains with many states informal relations that are more robust in practice than those conducted by many states.

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If those relationships and roles are considered (as they should be under international law), Taiwan has strong claims to meet all criteria for statehood. The paucity of formal diplomatic relations and the absence of recognition of Taiwan as a state do not establish that it lacks state status.

Beijing's claims about Resolution 2758's significance for Taiwan's international legal status at times rely on an understanding that was shared by the PRC and the ROC when the resolution was adopted: that Taiwan was part of the state of China. This argument is, in effect, an expansive and highly problematic version of a claim of estoppel: that the ROC government's position in 1971 has locked that view in place and precluded Taiwan from later adopting a different position that would have any legal significance within or beyond the UN. Taiwan's position, of course, has changed, with Taiwan's presidents from Lee Teng-hui onward, and their governments, declaring (in a variety of formulations) that Taiwan and/or the ROC is an "independent" and "sovereign" country, and sometimes seeking representation or membership in the UN (where membership is generally understood to be limited to sovereign states).

Taiwan has strong claims to meet all criteria for statehood. The paucity of formal diplomatic relations and the absence of recognition of Taiwan as a state do not establish that it lacks state status.

To assert that Resolution 2758 so entrenched the "One China" notion, at the time shared by the PRC and the ROC, as enduringly binding international law would be an extraordinarily sweeping claim. Even if the PRC claims that Taiwan and all states were initially bound by the ROC's earlier agreement with a version of a "One China" principle were correct, international law permits profound changes of fact to alter legal obligations. This flexibility exists even when a party has agreed (for example, in a binding treaty) to a legal obligation, which the ROC did not do in the context of Resolution 2758 (which was adopted after the ROC's representatives left the General Assembly). Among the bases international law recognizes for changing rules or obligations without the consent of a state that benefits from them are several that resonate with the case of contemporary Taiwan: fundamental changes in circumstances as a basis for ending valid treaty obligations; the erosion, reform, or replacement of customary international legal rules through changes (often gradual) in state practice and opinion juris; and cases in which states have come into being without the consent of states from which they have broken away, including in some cases where separation has occurred through means of contested or questionable international legality.⁷⁶

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INTERNATIONAL LEGAL LOGIC AND POLITICAL CONSEQUENCES OF BEIJING'S STRATEGY

The PRC's focus on Resolution 2758 and related statements and actions of UN organs and officials have offered Beijing several advantages in promoting its claim that its "One China" principle is international law. The UN is a singularly universal and high-impact institution in the international legal order. Resolution 2758 is a long-standing, especially high-profile, and formal law-adjacent international action that has some apparent connection—even if a weak, oblique, and often-exaggerated one—to questions of Taiwan's international legal status. The resolution also predates the period when Taiwan's government began to articulate positions that challenged or qualified the idea of a single China that includes Taiwan.

In the years since the resolution's adoption, the UN has provided a congenial forum for the PRC to press its case for its "One China" principle. The UN's one-state, one-vote structure has played to Beijing's advantage. The PRC has been able to use carrots, sticks, ideological solidarity with the Global South, and Taiwan's exclusion from the UN arena to garner support or at least acquiescence from a majority of states on an issue that is of low salience to them but of great importance to Beijing. As developments discussed in this report illustrate, Beijing has had considerable ability to pressure or persuade UN officials and has been relentless in doing so. Although UN officials are required not to favor the interests of their home countries, and UN officials are obliged not to take instructions from member states,⁷⁷ PRC nationals in the UN and its specialized agencies (and other international organizations) are numerous, often high-ranking, and have drawn criticism or concern that they promote their country's preferred outcomes.⁷⁸ PRC nationals have headed relevant UN entities when Beijing has recorded some of its big gains in pressing, or laying the foundations, for its claims concerning Resolution 2758 and the legal status of its "One China" principle. Examples include the WHO under a director-general from Hong Kong from 2006 to 2017 and UNDESA under a PRC under-secretary-general for economic and social affairs since 2007.

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While Beijing has pushed hard at the UN, it seems often to have been pushing against a relatively open door, sometimes eliciting preemptive compliance with its agenda. Many of the examples addressed in this report show UN organs' and officials' statements going farther than Resolution 2758 or authoritative legal guidance required, often increasingly so over time. This pattern may reflect the existence or anticipation of pressure or complaints from Beijing (as some internal UN documents suggest), coupled with less robust counterpressure and attention from those holding contrary views (including from Taiwan itself, which has been largely banned from direct engagement with UN staff). Or it may show Taiwan's low salience for the leadership and staff of a vast set of international organizations that has almost entirely excluded Taiwan throughout their professional lifetimes. Or it may be a consequence of the influence of PRC nationals' holding relevant positions in the UN system.

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Or it may indicate a cumulative, accidental drift from circumspect formal legal interpretations and guidance to more sweeping, rigid, and unnuanced statements and actions that became more closely aligned with Beijing's views, especially from UN staff who are not legally trained and who operate downstream from the secretary-general's office and the legal interpretations it adopts.

Or the “over-reading” of Resolution 2758 may be a product of ambiguity, diffusion, and asymmetry of authority and responsibility in the UN system for legal advice. Secretaries-general and their spokespeople have said that their problematic positions are guided by advice from the OLA and the UN legal counsel, whether because they believed themselves bound by it or because it provided a convenient means for deflecting responsibility. Or it may reflect OLA's interpretation of the secretary-general's or the Secretariat's preferences. The view from OLA—typical of legal adviser's offices in large governmental institutions and often reflected in the tone of internal communications concerning Taiwan and Resolution 2758—is that its role is partly to provide legal justifications for the Secretariat's policy choices, and that it must be mindful of the secretary-general's discretion not to seek, to interpret narrowly, or even to disregard its legal advice. Or it may be the manifestation of clear, if legally questionable and not openly disclosed, directives from higher-level authorities in the Secretariat to staff in the UN's functional bodies. Or it may reflect some combination of these factors and others.

Whatever the mechanism, the arc from what Resolution 2758 says, did, and could do to UN statements and actions that the PRC can count as wins is a product of dynamics in the UN system that have been favorable to the PRC's agenda and have produced outcomes that greatly exceed what can be grounded in authoritative UN statements and actions. The PRC's gains within the UN system on seemingly abstruse issues of nomenclature, characterizations of Taiwan's status, recognition, and other matters linked to Resolution 2758 are of such interest to the PRC, Taiwan, and the international community because they could have significant broader international legal and, in turn, political implications.

If Beijing wins acceptance of its proposition that Taiwan is a part of China or the PRC or its “One China” principle is a settled issue in international law, it will be in a much-strengthened position to assert that its use or threat of force to achieve unification would be lawful, and that many measures by the United States and others seeking to prevent or deter coerced unification, including intervening in a conflict or providing military assistance to Taiwan, would be unlawful. While international law will not have the last word on such weighty issues, being on the right, or wrong, side of the law matters in international politics. It can strengthen or weaken deterrence and affect the likelihood of collective action by the international community to respond to Beijing's pressure, threats, or action.

The PRC has made no secret of its thinking here. The 2022 white paper, for example, invokes the “important principles of respecting state sovereignty and territorial integrity as enshrined in the Charter of the United Nations” and in “modern international law and the basic norms of international relations”. The white paper adds that “it is the sacred right of every sovereign state to safeguard ... territorial integrity. It goes without saying that the Chinese government is entitled to take all measures necessary to settle the Taiwan question and achieve national reunification, free of external interference.” The white paper also characterizes various US actions that suggest Taiwan's status is unresolved or that seek to bolster Taiwan's international stature and, in turn, “alter Taiwan's status as part of China” as “violation[s] of Resolution 2758 and international law” that “damage China's sovereignty ... and treat the basic principles of international law with contempt”.

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The PRC's letters to the secretary-general opposing consideration of proposals for Taiwan's membership, representation, or other participation in the UN system (including in the WHA) included similar criticisms: "playing up the Taiwan question at the United Nations is in essence an attempt to undermine China's state sovereignty"⁷⁹; "safeguarding national sovereignty and territorial integrity is a core tenet of the Charter of the United Nations and of the basic norms of international relations", which Taiwan's bid for inclusion in the UN challenges⁸⁰; and raising the "so-called issue of 'the representation of the Republic of China (Taiwan) in the United Nations'" has "encroached upon China's sovereignty and territorial integrity and grossly interfered in China's internal affairs."⁸¹

Such language, and similar statements found in many other official PRC statements, invoke the core international legal obligations that are set forth in key provisions of the UN Charter, including Article 2(4), which requires all members to refrain from the threat or use of force against the territorial integrity or political independence of any state, and Article 2(7), which stipulates noninterference (although explicitly only by the UN) in matters that are "essentially within the domestic jurisdiction of any state". These provisions are generally accepted as binding on all states as principles of customary international law or, at least in the case of Article 2(4), as peremptory norms of international law from which no derogation is permitted.

If Beijing wins acceptance of its proposition that Taiwan is a part of China or the PRC or its "One China" principle is a settled issue in international law, it will be in a much-strengthened position to assert that its use or threat of force to achieve unification would be lawful ...

If Beijing's "One China" principle and the idea that the Taiwan question is a domestic or internal issue are accepted, the international legal consequences are profound. Beijing's threat or use of force or other coercive measures against Taiwan to achieve unification would not run afoul of the core proscriptions set forth in Article 2(4), Article 2(7), or even the correlative obligation to resolve "international" disputes peacefully as set forth in Article 2(3).

Taiwan would definitively lack the rights that a sovereign state enjoys in international law to be free from the use or threat of force against its territorial integrity or political independence, or to seek assistance from the United States or others in exercising an "inherent right" to "individual or collective self-defense" against an armed attack (recognized in Article 51 of the UN Charter and accepted as customary international law). Taiwan would also lack the right that states have to receive arms and other military assistance from other states. The United States and other states would be broadly prohibited, with limited exceptions, from military intervention and some other forms of crucial assistance to Taiwan. Such actions, at least arguably, would be the equivalent of unlawful interventions to support a revolution, rebels in a civil war, or a secessionist movement inside a sovereign state.

But even if the PRC's preferred position were a settled matter of international law, it would not mean as much as Beijing appears to assume or assert. It would not make PRC actions toward Taiwan, especially moves to achieve unification by force, free from international legal constraints and immune to lawful responses by other states. Many PRC measures against Taiwan could contravene the broad obligation not to threaten or use force "in any ...

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manner inconsistent with the Purposes of the United Nations”, which is set forth in Article 2(4) of the UN Charter and is, therefore, a treaty obligation for the PRC and also arguably binding as customary international law. Even internal conflicts can be matters of international legal concern, including threats to international peace and security for which collective responses by states, potentially including the use of force, are lawful responses. The principal legal mechanism for addressing such threats is the UN Security Council.⁸² The PRC would surely veto any unfavorable resolutions in that body but, as the response to the Russian invasion of Ukraine demonstrates, a deadlocked or stymied Security Council does not end the effort, or ability, to hold an aggressor to account through, in part, invoking legal norms and principles in UN debates and in the international community more broadly.

In cases where the PRC’s use of force and other coercive measures against Taiwan would violate the PRC’s international legal obligations, robust responses by the United States and other states would be lawful. Beijing’s actions might well violate international humanitarian law and international human rights law (potentially through harm inflicted on people in Taiwan), the international law of the sea (concerning freedom of navigation and maritime commerce), and other international legal rules as well.

If Beijing were to use force, threats of force, or other highly coercive means to attempt unification, and invoke claims that its “One China” principle is international law as a justification, the effort could backfire. A shared sense that Beijing was acting unlawfully and attempting to distort international law might facilitate other states’ collective action to impose severe sanctions and perhaps use force, which might well be, under the circumstances, lawful. A cornered Taiwan might declare full and formal independent statehood, whether framed as a belated formal legal assertion of a long-existing state of affairs or as an exercise of the right of the people of Taiwan to self-determination. Taiwan would then likely assert an international legal right to seek military assistance and intervention from the United States and others as part of its right to self-defense, territorial integrity, and political independence. Such a move, of course, would create a more direct challenge to Beijing’s “One China” principle and would exacerbate the crisis by putting the United States and others in the fraught (and hitherto avoided) position of choosing how to respond to that scenario.

The dangers posed by acquiescence in the PRC’s claims concerning Resolution 2758 extend beyond these dire scenarios. Acceptance of China’s position that the resolution establishes the PRC’s “One China” principle as international law would mean significantly greater marginalization of Taiwan in the UN system and beyond, thereby denying the international community full access to Taiwan’s potential contributions to addressing global problems of public health, the environment, and more. It also would undermine the UN’s integrity. It would set a precedent for distorting the meaning and legal significance of major UN decisions and undermine UN principles of promoting the development of international law and universal representation. And it would be a powerful template and a significant step forward for the PRC’s agenda in shaping international law, often in ways that undermine the liberal, rules-based international order that the United States and like-minded countries have long supported.

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POLICY RECOMMENDATIONS

Concern about Beijing's distortion of the meaning of UN Resolution 2758 is increasing in Washington and capitals of many other like-minded states. To date, pushback has been limited and inconsistent, and publicly visible rebukes have been relatively rare, but officials are becoming more focused on actions that governments can take unilaterally, multilaterally, or in a coordinated fashion to counter the PRC's efforts to misrepresent the resolution and promote the ill-founded view that its "One China" principle is binding international law that the international community must accept.

The United States and other concerned governments can take several measures to expose and counter the PRC's flawed international legal arguments and to protect the integrity of the UN and international law.

- Coordinate efforts by the United States, Taiwan's diplomatic allies, and other like-minded UN member states, and exploit their diverse advantages and collective impact to counter the influence of the PRC and states that support its position on Resolution 2758 and related matters. Call out the flaws in the PRC's legal arguments on Resolution 2758 and Beijing's "One China" principle to counter misinterpretations and inadvertent acquiescence by the UN and the international community.
- Clarify that the US "One China" policy is not the same as Beijing's "One China" principle and encourage other countries to do the same.
 - Explain that the PRC's position misrepresents Resolution 2758's content, OLA interpretations of the resolution, and UN precedent and practices.
 - Explain that UN acquiescence in, or support for, the PRC position violates the UN-recognized rights of sovereign states to submit documents and bring issues to the organization using terms of their choice for describing Taiwan, and disregards the rights of sovereign states to recognize, as they choose, other states and governments.
 - Insist that UN and broader international acceptance of the PRC's position is inconsistent with key UN principles, including universal representation and support for international law. Such acceptance, and the resulting impediment to Taiwan's contributions, also undermines the protection of the global interest in addressing serious challenges facing humankind (for example, pandemics, climate change, and human rights).
 - Brand the PRC's efforts concerning Resolution 2758 as an especially visible and significant instance of Beijing's broader drive to destabilize established international rules and institutions while mischaracterizing its own agenda as consistent with status quo rules and norms.
 - Make clear that accepting Beijing's interpretation of Resolution 2758 and its "One China" principle would not make all forms of international support for Taiwan's defense, or their intervention in a cross-strait conflict, unlawful.
 - Demand transparency from the UN on MOUs and other agreements between the UN and its agencies, on one hand, and the PRC, on the other, concerning Taiwan nomenclature, participation, access, and other related issues.

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ENDNOTES

¹ Taiwan Affairs Office of the State Council, People's Republic of China, "The Taiwan Question and the Reunification of China in the New Era", Sec. I, Aug. 10, 2022 (emphasis added). http://us.china-embassy.gov.cn/eng/zgyw/202208/t20220810_10740168.htm

² See Foreign Ministry of the People's Republic of China, China's Comprehensive, Systematic and Elaborate Response to Secretary Antony Blinken's China Policy Speech—Reality Check: Falsehoods in US Perceptions of China, June 19, 2022. http://us.china-embassy.gov.cn/eng/zmgx/zxxx/202206/t20220619_10706097.htm ("Reality check" to "Falsehood 7": "In October 1971, the UN General Assembly adopted Resolution 2758 with an overwhelming majority, which decided to restore the lawful seat of the People's Republic of China at the UN. The resolution resolved the issue of China's UN representation in political, legal, and procedural terms once and for all. The official legal opinions of the Office of Legal Affairs of the UN Secretariat clearly stated that 'the United Nations considers "Taiwan" as a province of China with no separate status' and 'authorities in Taipei are not considered to ... enjoy any form of governmental status', and that the region should be referred to as 'Taiwan, Province of China'"); China-U.S. Presidential Meeting: Setting Directions and Providing Impetus for Bilateral Relations—Transcript of Vice Foreign Minister Xie Feng's Interview with the Press, Nov. 16, 2021. https://www.fmprc.gov.cn/eng/wjbxw/202111/t20211116_10449035.html (similar language concerning Resolution 2758 and referencing unspecified "number of legal opinions" by OLA "following the resolution" confirming that "the United Nations considered 'Taiwan' as a province of China with no separate status").

³ Taiwan Affairs Office and Information Office of the State Council, The One-China Principle and the Taiwan Issue, Feb. 21, 2000, Sec. V.

⁴ Letter from the Permanent Mission of the People's Republic of China to the United Nations Office and Geneva and other international organizations in Switzerland, May 3, 2002.

⁵ Official PRC formulations of the "One China" principle have varied somewhat but consistently include the elements of there being only one China and Taiwan being a part of China, which are the elements most relevant here. The 2000 white paper's formulation is "there is only one China in the world, Taiwan is a part of China and the government of the PRC is the sole legal government representing the whole of China." The One-China Principle and the Taiwan Issue (2000 white paper), Sec. III. The 2022 White Paper states: "We are one China and Taiwan is a part of China." It also quotes the PRC constitution, the 2005 Anti-Secession Law, and the 2015 National Security Law. The key parts of the quoted passages in these sources state, respectively: "Taiwan is part of the sacred territory of the People's Republic of China" and "There is only one China in the world. Both the mainland and Taiwan belong to one China. ... Taiwan is part of China." Taiwan Affairs Office, The Taiwan Question and the Reunification of China in the New Era, Sec. I.

⁶ Taiwan Affairs Office, The Taiwan Question and the Reunification of China in the New Era, Sec. I.

⁷ The US government expressed positions similar to some of those set forth in this section of this report in a "non-paper" on Taiwan's status issued in 2007.

⁸ US Department of State Office of the Historian, "41. Memorandum of Conversation, Beijing, October 21, 1971, 4:42-7:17 p.m.," <https://2001-2009.state.gov/r/pa/ho/frus/nixon/e13/72455.htm>

⁹ The General Assembly has the related, explicit power to receive and act upon reports from its Credentials Committee, which evaluates the credentials of representatives of member states. See Rules 27 and 28 of the Rules of Procedure of the General Assembly. The statement in Resolution 2758 that the "representatives of Chiang Kai-shek", or the ROC, "unlawfully" occupied a "place"—implicitly the seat reserved for representatives of the state of China—is consistent with the General Assembly's exercise of its powers under Rules 27 and 28 of its Rules of Procedure.

¹⁰ The process for admitting a new member to the UN requires an application from the aspiring member stating that it accepts the obligations of the UN Charter, approval by nine of the 15 members of the Security Council, no veto by any permanent member of the Security Council, and a two-thirds majority vote by the General Assembly. See United Nations, About UN Membership. <https://www.un.org/en/about-us/about-un-membership#:~:text=Any%20recommendation%20for%20admission%20must,America%20%E2%80%94%20have%20voted%20against%20the>

¹¹ See United Nations Secretariat, Secretary-General's bulletin: Organization of the Office of Legal Affairs, ST/SGB/2021/1, Jan. 18, 2021, Secs. 2-6; Hans Corell, The Role of the Legal Adviser in the United Nations: A Testimony, in Jan Wouters, ed., Legal Advisers in International Organizations, pp. 51-77.

¹² Assessing the PRC's efforts, and pushback from Taiwan's diplomatic allies and the United States, is challenging because many efforts are not publicly visible. UN archives, interviews, news reports, and sources such as Wikileaks reveal some non-public or not fully public efforts on all sides. Some patterns are relatively clear: Many non-public efforts are not widely known or available to the authors of this report, and the PRC's efforts are larger scale, more consistent, and have been effective. Whatever goes on through less transparent contacts with UN officials and entities, publicly visible, high-profile measures are a distinctive and important tool, and many of the policy recommendations in this report require such measures.

¹³ Interoffice memorandum to the Chief, Human Rights Council Branch, Office of the High Commissioner for Human Rights (OHCHR), concerning the publication of the national report of [State 1] with reference to "Republic of China (Taiwan)" in the report, United Nations Juridical Yearbook 2010, p. 516.

¹⁴ The term "Republic of China" remains in the most important of UN documents, the United Nations Charter, albeit in a somewhat vestigial historical context. The ROC is listed as one of the five members whose deposit of instruments of ratification of the Charter is a precondition to its coming into force. The ROC is also listed as holding one of the five permanent seats on the Security Council (now held by the PRC). See UN Charter, Arts. 23, 110. The term "Republic of China" is used here to refer to the state of China, then represented at the UN by the ROC.

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¹⁵ See, e.g., “Request for the Inclusion of a Supplementary Item in the Agenda of the Forty-Eighth Session, Consideration of the Exceptional Situation of the Republic of China in Taiwan in the International Context, Based on the Principle of Universality and in Accordance with the Established Model of Parallel Representation of Divided Countries at the United Nations, UN General Assembly”, UNGA Document A/48/191, Aug. 9, 1993 (submitted by Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama); Request for the Inclusion of a Supplementary Item in the Agenda of the Sixtieth Session, UNGA Document A/60/192, Aug. 11, 2005 (referring to “The Republic of China (Taiwan)” as a sovereign state); Request for the Inclusion of a Supplementary Item in the Agenda of the Sixty-second Session, UNGA Document A/62/193, Aug. 20, 2007.

¹⁶ Notes of the Meeting of the Secretary-General with the Permanent Representative of China, Held at United Nations Headquarters on 11 August 1993 at 12:00 p.m., UN Archives Document S-1086-0117-10-00002.

¹⁷ The non-paper was issued in the aftermath of, and appears to have been triggered by, Secretary-General Ban Ki-Moon’s characterization of Taiwan as a part of China in the context of a refusal to receive an application for Taiwan’s UN membership in 2007. This issue is discussed in greater detail later in this report.

¹⁸ World Health Assembly, WHA25.1 Representation of China in the World Health Organization, May 10, 1972, at the 25th World Health Assembly in Geneva, May 9–26, 1972, 1.

¹⁹ Implementation of the Memorandum of Understanding between the WHO Secretariat and China, July 12, 2005. https://goachronicle.com/wp-content/uploads/2020/05/Memorandum_on_implementation_of_the_2005_China-WHO_Taiwan_MOU.pdf

²⁰ Procedures Concerning an Arrangement to Facilitate Implementation of the International Health Regulations (2005) with respect to the Taiwan Province of China, Sept. 8, 2010. <https://www.scribd.com/document/57152017/WHO-Memo-on-Taiwan-Status>; see also Chris Horton, “Is China Running the UN?”, The China Project, Sept. 5, 2023. <https://thechinaproject.com/2023/09/05/is-china-running-the-un/>

²¹ Interviews with offices of the permanent representatives to the UN of several of Taiwan’s diplomatic partners, 2023–2024.

²² See <https://sustainabledevelopment.un.org/vnrs/> (earlier version of UN Sustainable Development Voluntary National Reviews website that is no longer updated).

²³ High-Level Political Forum on Sustainable Development, Handbook for the Preparation of Voluntary National Reviews, 2023 Edition.

²⁴ See, e.g., St. Kitts and Nevis Voluntary National Review of the 2030 Agenda for Sustainable Development” (2023), hlpf.un.org/sites/default/files/vnrs/2023/VNR_2023_Saint_Kitts_and_Nevis_Report_1.pdf

²⁵ “Countries who have presented their Voluntary National Reviews,” <https://hlpf.un.org/countries>.

²⁶ See Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, Mar. 27, 2023. <https://press.un.org/en/2023/db230327.doc.htm> 27 See Dennis Francis, https://twitter.com/UN_PGA/status/1747317267325452777; see also “China Plays Critical Role in Global Peace and Development”, CGTN, Jan. 29, 2024. <https://news.cgtn.com/news/2024-01-29/UNGA-president-China-plays-critical-role-in-global-peace-development-1qKfFrVAK88/p.html>

²⁸ Transcript of Press Conference by Secretary-General Ban Ki-Moon at United Nations Headquarters, September 18, 2007, GS/SM/11164 (emphasis added). <https://press.un.org/en/2007/sghsm11164.doc.htm>

²⁹ Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, July 23, 2007 (emphasis added). <https://press.un.org/en/2007/db070723.doc.htm>

³⁰ This position was stated in a letter from Nicholas Michel, Under-Secretary-General for Legal Affairs, the Legal Counsel to the Permanent Representatives of the Solomon Islands and Swaziland, UN Archives Document S-1953-0015-0001-00021, July 20, 2007. (Swaziland is now called Eswatini.)

³¹ See Note to Mr. Kim from Larry D. Johnson re: Application by the Republic of China (Taiwan) for membership in the United Nations, Aug. 1, 2007, UN Archives Doc S-1955-0001-0002-00013; Note to Mr. V. Nambiar, Letter transmitting the application for membership to the United Nations from the “Republic of China (Taiwan)” from Larry D. Johnson, Oct. 4, 2007, UN Archives Doc S-1955-0001-0002-00005.

³² Letter from Nicholas Michel, Under-Secretary-General for Legal Affairs, the Legal Counsel to the Permanent Representatives of the Solomon Islands and Swaziland, July 20, 2007.

³³ Secretary-General’s Press Encounter with California Governor Arnold Schwarzenegger, July 27, 2007. <https://web.archive.org/web/20140220053609/http://www.un.org/sg/offthecuff/?nid=1053>.

³⁴ Note to Mr. Shaaban from Nicolas Michel [UN legal counsel], Issuance of Letter Sent to the President of the General Assembly, June 26, 2007; Letter from Nicolas Michel to Permanent Representative of Nauru, May 17, 2007, UN Archives Document S-1953-0013-0004-00002 ; Letter from Nicolas Michel to Permanent Representatives to the UN of the Republic of Nauru and the Republic of Palau, UN Archives Document S-1956-0046-0005-000001, Mar. 28, 2008.

³⁵ CEDAW provides that the treaty is open to “all States”. A statement that the UN does not consider Taiwan a state would have sufficed, without addressing the question of whether Taiwan was an integral part of the PRC.

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³⁶ See Letter to Permanent Representatives of Republic of Palau, the Gambia, St. Vincent and the Grenadines, and the Republic of Belize from Patricia O'Brien, Under Secretary-General for Legal Affairs, June 11, 2009; Note to Mr. Nicholas Haysom re: Ratification by Taiwan of the International Covenants from Patricia O'Brien, June 11, 2009, UN Archives Document S-1953-0062-0006-00026.

³⁷ Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, July 23, 2007.

³⁸ See Note from Kim Won-soo to Mr. Larry Johnson [Assistant Under-Secretary] Re: Application by the Republic of China (Taiwan) for membership in the United Nations, Aug. 2, 2007; Note to Mr. Kim from Larry D. Johnson, Re: Application by the Republic of China (Taiwan) for membership in the United Nations, Aug. 1, 2007, UN Archives Document S-1955-0001-0002-00013; See also email from Christopher Coleman to Nicolas Michel [Under-Secretary-General for Legal Affairs], copying Wonsoo Kim [senior aide to the Secretary-General], Re: Application for UN Membership for Taiwan, July 7, 2007, UN Archives Document S-1953-0015-0001-00021.

³⁹ See Note to Mr. Kim re: Taiwan from Nicolas Michel, Sep. 28, 2007, UN Archives Document S-1955-0001-0002-00007.

⁴⁰ See Note to Mr. Kim from Nicolas Michel, re: Application for UN membership by Taiwan, July 20, 2007, UN Archives Doc S-1953-0015-0001-00021.

⁴¹ See email from Nicolas Michel to Christopher Coleman, copying Wonsoo Kim, Re: Application for UN Membership by Taiwan, July 20, 2007, UN Archives Document S-1953-0015-0001-00021.

⁴² See Note to Mr. Kim from Larry D. Johnson, Re: Application by the Republic of China (Taiwan) for membership in the United Nations, Aug. 1, 2007, UN Archives Document S-1955-0001-0002-00013.

⁴³ Letter from Li Baoding, Permanent Representative of the People's Republic of China in Geneva to Ms. Louise Arbour, United Nations High Commissioner for Human Rights, Aug. 6, 2007.

⁴⁴ Letter from Permanent Representatives to the UN of Saint Vincent and the Grenadines, Solomon Islands, Kingdom of Swaziland, El Salvador, and Republic of Palau to Secretary-General Ban Ki-moon, Aug. 2, 2007 (attaching letter to Pascal Gayama, President of the Security Council, Aug. 7, 2007), UN Archives Document S-1955-0001-0002-00014.

⁴⁵ Letter from Permanent Representatives to the UN of Saint Vincent and the Grenadines, the Gambia, Solomon Islands, Republic of Palau, Sao Tome and Principe, Kingdom of Swaziland, Tuvalu, Republic of the Marshall Islands, Belize, Republic of Nauru, St. Kitts and Nevis, and Honduras to Secretary-General Ban Ki-moon, Sept. 18, 2007, UN Archives Document S-1955-0001-0002-00005.

⁴⁶ Letter from Permanent Representatives to the UN of Solomon Islands and the Kingdom of Swaziland to Secretary-General Ban Ki-moon, July 19, 2007, UN Archives Document S-1955-0001-0002-00013 (attaching July 26, 2007 letter from ROC Foreign Minister James C.F. Huang and July 27, 2007 letter from President Chen Shui-bian to Secretary-General Ban Ki-moon).

⁴⁷ See "Update on UN References to Taiwan," Aug. 16, 2007, 07USUNNEWYORK679_a, https://wikileaks.org/plusd/cables/07USUNNEWYORK679_a.html

⁴⁸ "Interoffice memorandum to the Special Adviser on Gender Issues and Advancement of Women, Office of the Special Adviser on Gender Issues, Department of Economic and Social Affairs, concerning the registration of 'Taiwanese' representatives of non-governmental organizations (NGOs) at the forty-fifth session of the Commission on the Status of Women (1-12 March 2010)," United Nations Juridical Yearbook 2010, p. 539, (emphasis added).

⁴⁹ See Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, Mar. 27, 2023 (in response to a press question about why Taiwan passport holders who used to be allowed into UN headquarters were now banned, stating that "to come into this building, you need to show a government-issued ID from a Member State of the United Nations..."); see also, Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, Mar. 29, 2023 (stating that "individuals with a valid form of identification" such as a "national passport issued by States" could enter the UN headquarters, with determinations by the Secretariat of "which is a State" being "guided by the Security Council and the General Assembly" and Secretariat administrative instructions), <https://press.un.org/en/2023/db230329.doc.htm>

⁵⁰ Note to Mr. Nambiar, Access by Taiwan passport holders to UN premises, from Patricia O'Brien, June 25, 2009, UN Archives Document S-1956-0076-0002-00001; see also Permanent Mission of the People's Republic of China, Geneva, May 10, 2017.

⁵¹ A principal recent example is the UN Ocean Conference in Lisbon. See "Palau Slams U.N. for Blocking Taiwan Delegates from Attending Ocean Conference," Reuters, July 1, 2022. <https://www.reuters.com/world/asia-pacific/palau-slams-un-blocking-taiwan-delegates-attending-ocean-conference-2022-07-01/>; Pita Ligaiula, "Tuvalu Attend UN Oceans Conference Despite Diplomatic Spat with China," Pina Pacific News Service, July 1, 2022. <https://pina.com.fj/2022/07/01/tuvalu-attend-un-oceans-conference-despite-diplomatic-spat-with-china/>

⁵² "Unilateral Actions of States" ¶ 98. This passage also illustrates the occasionally absurd consequence of the UN Secretariat's nomenclature requirement. The text notes the "ambiguous status" of Taiwan and then uses the requisite term "Taiwan, Province of China" that indicates an unambiguous status and that is Beijing's preferred formulation for asserting its view of Taiwan's unambiguous status.

⁵³ Procedures Concerning an Arrangement to Facilitate Implementation of the International Health Regulations (2005) with respect to the Taiwan Province of China.

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⁵⁷ UN Charter, arts. 3, 4.

⁵⁸ Switzerland joined only in 2002.

⁵⁹ See UN Charter, Art. 4; see also About UN Membership, United Nations. Such a decision would be at odds with UN principles of openness to all “peace-loving” states and universal representation, but, as submissions by the UN missions of Taiwan’s diplomatic partners and official statements from Taiwan have argued, so, too, is the UN’s practice of barring or limiting Taiwan’s access and participation at the UN and its activities.

⁶⁰ In the argot of international law, state recognition is “declaratory” of a factual situation (that an entity is state) rather than “constitutive” of an entity’s statehood. See Restatement (Third) of Foreign Relations Law of the United States, § 202.

⁶¹ See Montevideo Convention on the Rights and Duties of States, Art. 1, 1933; Restatement (Third) of Foreign Relations Law of the United States, § 201; see also Jacques deLisle, “The Chinese Puzzle of Taiwan’s Status”, *Orbis*, Vol. 44, No. 1, Winter 2000, pp. 35-62; Pasha L. Hsieh, “An Unrecognized State in Foreign and International Courts: The Case of the Republic of China on Taiwan”, *Michigan Journal of International Law*, Vol. 28, 2007, pp. 765-814. The “State of Palestine” has observer status at the UN (as well recognition from a large majority of UN member states) and is a member of UNESCO, despite its limited self-governance, unsettled territory, and limited ability to engage in international relations. The Ukraine SSR and Byelorussian SSR were UN members during the time that they were clearly part of the Soviet Union. Kosovo is a member of the International Monetary Fund and the World Bank notwithstanding its disputed status as a state and its unsuccessful efforts to join the UN.

⁶² Letter from Liu Zhenmin, Permanent Mission of the PRC in Geneva to Ms. Navanethem Pillay, UN High Commissioner for Human Rights, Mar. 1, 2013.

⁶³ Permanent Mission of the People’s Republic of China, Geneva, May 10, 2017.

⁶⁴ See Ismael Lopez, “Central America Parliament Expels Taiwan, Makes China Permanent Observer”, Reuters, Aug. 22, 2023. <https://www.reuters.com/world/americas/central-america-parliament-expels-taiwan-makes-china-permanent-observer-2023-08-22/>; “NPC Appreciated Central American Parliament’s Taiwan-Related Move: Spokesperson”, Xinhua, Aug. 22, 2023. <https://english.news.cn/20230822/19acfb4b7bd54ee08843cac39853a11e/c.html>

⁶⁵ See Media Release: Nauru Follows N Resolution and Moves to One-China Principle, Jan. 15, 2024. <https://www.facebook.com/republicofnauru/posts/> The PRC’s Foreign Ministry spokesperson reacted by characterizing Nauru’s action as based on the “One China” principle that is affirmed in Resolution 2758. See Foreign Ministry Spokesperson’s Remarks on the Government of the Republic of Nauru’s Announcement to Break Diplomatic Ties with the Taiwan Region and Seek to Reestablish Diplomatic Ties with China, Jan. 25, 2024. https://www.mfa.gov.cn/eng/xwfw_665399/s2510_665401/202401/t20240115_11223838.html

⁶⁶ “AIT Chair Disappointed by U.N.-Resolution Distortion in Nauru Move”, Central News Agency (Taiwan), Jan. 16, 2024. <https://focustaiwan.tw/politics/202401160005>

⁶⁷ See, e.g., The One-China Principle and the Taiwan Issue (2000 white paper), Sec. I (“universal consensus of the international community” and “basic norms of international relations”); Ministry of Foreign Affairs Spokesperson Jiang Yu Statement on Rejection of Taiwan-Related Proposals at 60th World Health Assembly, May 15, 2007. http://nl.china-embassy.gov.cn/chn/fyrth/200705/t20070515_2752788.htm (普遍共识); Wang Yi Holds Talks with Foreign Minister Urbino Botelho of Sao Tome and Principe, Dec. 26, 2016. http://bw.china-embassy.gov.cn/eng/zfgx/201612/t20161228_5717933.htm#:~:text=Sao%20Tome%20and%20Principe%20stands,core%20interests%20and%20major%20concerns (“basic norm”); UN General Assembly Documents A/77/498 (“universal consensus” and “consistent with the basic norms”), A/76/498 (“basic fact” and “basic norm”), A/75/494, A/74/491, A/73/423, and A/72/530 (“broad-based consensus of the international community”).

⁶⁸ The One-China Principle and the Taiwan Issue (2000 white paper), Sec. I (“181 countries ... have established diplomatic relations with the PRC on the basis of the one-China principle”).

⁶⁹ The One-China Principle and the Taiwan Issue (2000 white paper) Sec. I; see also Speech by Huang Zheng, Ambassador to the Federated States of Micronesia at the 30th Anniversary of the Establishment of Diplomatic Relations Between China and Micronesia and the Groundbreaking Ceremony for the Federated States of Micronesia National Convention Center Project, Foreign Ministry of the PRC, Oct. 22, 2019. https://www.mfa.gov.cn/web/dszsjsjt_673036/201910/t20191022_5363205.shtml (declaring the “One China” principle to be a “sacred” (神圣) and fundamental principle of international law and international relations that all states are obliged to obey).

⁷⁰ Some observers have inferred that the PRC seeks to advance an even more radical claim—that Beijing’s “One China” principle is part of international law because it is among the “general principles of law recognized by civilized nations”. See Chien-Huei Wu, Ching-fu Lin, and Yun-Sheng Lin, “China’s Word Game: A New Narrative of the ‘One China Principle’”, *The Diplomat*, Aug. 16, 2023. <https://thediplomat.com/2023/08/chinas-word-game-a-new-narrative-of-the-one-china-principle/>; ICJ Statute, Art. 38(1). This is even less plausible than a claim that the principle is part of customary international law. General principles are those common to the major legal systems, understood to mean domestic legal systems. As a source of international law, they are generally seen as interstitial or filling gaps in treaties and customary international law. Accepted examples are principles of a high level of generality, such as good faith, impartial adjudication, and finality of judgments. Beijing’s “One China” principle has none of these characteristics.

⁷¹ There is, in principle but rarely, if ever, in practice, an exception for states that persistently object to a customary norm, beginning in the period of the norm’s formation.

⁷² Rao, “United Nations General Assembly Resolution 2758 and the One-China Principle”, p. 8.

⁷³ See ICJ Statute, Art. 38(1); Restatement (Third) of Foreign Relations Law of the United States § 102.

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⁷⁴ See US 2007 non-paper; Joint Communiqué of the United States of America and the People's Republic of China (Normalization Communiqué), Jan. 1, 1979 (“7. The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China”); US-PRC Joint Communiqué, Mar. 30, 2022 (“The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain that there is but one China and that Taiwan is part of China”); see also Steven M. Goldstein, Understanding the One China Policy, Brookings Institution, Aug. 31, 2023. <https://www.brookings.edu/articles/understanding-the-one-china-policy/> (contrasting US “One China” policy and the PRC’s “One China” principle); Nike Ching, “US Does Not Take a Position on Taiwan’s Sovereignty, State Department Says”, VOA, Sept. 26, 2022. <https://www.voanews.com/a/us-does-not-take-a-position-on-taiwan-s-sovereignty-state-department-says-/6764381.html> (statements by senior US officials that US “One China” policy is “distinct” from Beijing’s “One China” principle).

⁷⁵ For accounts and assessments of the United States’ and various states’ “One China” policies and bases for relations with the PRC that are not synonymous with Beijing’s “One China” principle, see, e.g., Richard Bush, A One-China Policy Primer, Brookings Institution, March 2017. <https://www.brookings.edu/wp-31content/uploads/2017/03/one-china-policy-primer-web-final.pdf>; Chong Ja Ian, The Many ‘One Chinas’: Multiple Approaches to Taiwan and China, Carnegie Endowment for International Peace, Feb. 9, 2023. <https://carnegieendowment.org/2023/02/09/many-one-chinas-multiple-approaches-to-taiwan-and-china-pub-89003>; Adam P. Liff and Dalton Lin, “The ‘One China’ Framework at 50 (1972-2022): The Myth of ‘Consensus’ and Its Evolving Policy Significance,” *China Quarterly*, No. 252, Dec. 2022, pp. 977-1000.

⁷⁶ Compare, e.g., Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo (Advisory Opinion), International Court of Justice, 2010.

⁷⁷ UN Charter, Art. 100: “In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. (2) Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.”

⁷⁸ See, e.g., Courtney J. Fung and Shing-Hom Lam, “China Already Leads 4 of 15 U.N. Specialized Agencies—and is Aiming for a 5th”, *The Washington Post*, Mar. 3, 2020 (noting concerns of “experts”); Morgan Lorraine Viña and Brett D. Schaefer, Personnel is Power: Why China is Winning at the United Nations, Heritage Foundation, July 6, 2023. <https://www.heritage.org/global-politics/commentary/personnel-power-why-china-winning-the-united-nations>; Jonathan E. Hillman, A “China Model” ? Beijing Promotion of Alternative Global Norms and Standards, Mar. 13, 2020. <https://www.csis.org/analysis/china-model-beijings-promotion-alternative-global-norms-and-standards> (“Chinese officials lead 4 of 15 UN agencies, and naturally use these positions to advance Chinese interests.”); see also U.S.-China Economic and Security Review Commission, PRC in International Organizations, Nov. 11, 2023. <https://www.uscc.gov/research/prc-international-organizations>

⁷⁹ UN General Assembly Documents A/75/494, A/74/491, A/72/530 (2017 and later).

⁸⁰ UN General Assembly Document A/77/498.

⁸¹ UN General Assembly Document A/57/298 (2002).

⁸² See UN Charter, Arts. 39-42.

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APPENDIX A. WHO DOCUMENTS CONCERNING THE MEMORANDUM OF UNDERSTANDING WITH THE PRC

The implementation memo for the 2005 memorandum of understanding between the WHO Secretariat and the PRC was publicly available on WikiSource until at least April 19, 2020.¹ The page was taken down sometime between then and May 16, 2020 and has been unavailable since. Its text is reproduced below.

IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE WHO SECRETARIAT AND CHINA

1. A Memorandum of Understanding Between the Ministry of Health of the People's Republic of China and the Secretariat of the World Health Organisation (MOU) was signed on 14 May 2005 by the Director-General and the Minister of Health of the PRC. The MOU establishes exceptional arrangements concerning (1) the participation of Taiwanese medical and public health experts in technical activities organized by the Secretariat, (2) the dispatch of staff members or experts to Taiwan, China to investigate the public health or epidemiological situation there; as well as (3) the provision of medical and public health technical assistance to Taiwan, China by the Secretariat.
2. The purpose of this memorandum is to set out clear procedures which the competent technical units both at Headquarters and in regional or country offices must follow in correctly implement the provisions of the MOU.
3. The following general points should be underscored at the outset:
 - (i) the implementation of the MOU must take place with full respect for resolution WHA 25.1 (copy attached) and the consequent obligation for the Secretariat of refraining from action which could constitute a recognition of a separate status of Taiwanese authorities and institutions;
 - (ii) As explained in more detail below, requests under the MOU must in all cases be channelled through a Focal Point at Headquarters, who will interact with the Permanent Mission of China in Geneva as well as with DGO and LEG, as necessary. That also applies to requests arising in regional or country offices. The Director General, Department of Governance has appointed Dr B.P. Kean (e-mail: keanb@who.int; tel 791 364). Should Dr Kean be absent, Ms C. Rose-Oduycrni (e-mail: roseoduyernni@who.int; tel 791 2554) and Mr P. Mertens (e-mail: mertensp@who.int; tel 791 2554) from the same Department will be acting on his behalf;
 - (iii) Please refer to Paragraphs 19-22 below for general Instructions on dealing with the Taiwanese authorities on issues unrelated to the Memorandum.

¹ World Health Organization, "Memorandum on implementation of the 2005 China-WHO Taiwan MOU," Wikisource, 19 April 2020; World Health Organization, "Memorandum on implementation of the 2005 China-WHO Taiwan MOU," Wikisource, 16 May 2020.

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4. The MOU addresses three broad areas, which will be revisited in turn: (a) Invitation of Taiwanese medical and public health experts to technical activities organized by the Secretariat; (b) Dispatch of staff members and experts to Taiwan, China, to investigate the health situation there and provision of medical and public health technical assistance, whether or not it entails dispatching WHO staff and experts to Taiwan, China; (c) Responses by the Secretariat in case of an acute public health emergency in Taiwan, China which can include any of the activities spelt out under a) and b) above. Invitation of Taiwanese and public health experts to technical activities organized by the Secretariat.

5. Invitations could either be generated by requests from Taiwanese experts or by competent technical unit in the Secretariat. Informal contacts between WHO technical staff and possible invitees (e.g. by e-mail or telephone) are allowed as long as it is made clear that they are only for the purpose of verifying their potential availability and interest and that those contacts do not imply a commitment on the part of the Secretariat. In either case, the participation of Taiwanese experts in WHO technical activities, involving meetings and conferences, has to be justified by the particular expertise of the person or persons to be invited as well as the nature of the event. Initiations are to be considered on a case-by-case basis. The MOU would not allow, for example, the inclusion of Taiwanese experts in WHO expert advisory panels.

6. The following procedures shall be observed:

- Requests to invite Taiwanese medical and public health experts shall be sent by the competent technical unit to the Focal Point (see 3(ii) above) as early as possible, and no later than five weeks before the beginning of the technical activity or meeting in question, giving all necessary details about the meeting or activity concerned, the reason for wishing to invite specific experts, and full contact details of the latter;
- The requests should as a rule identify the individual experts to be invited, with and indication note their affiliation, expertise and contact address, as well as an explanation of why the invitation is considered necessary or appropriate by the technical unit. It is anticipated, however, that situations may exceptionally arise in which it is either not possible to initially identify specific persons, or it is only possible to identify a group of experts among whom the participants would be chosen;
- The Focal Point shall, in consultation with DGO and LEG as necessary, make an assessment of the requests received from a policy point of view and may seek additional information from the technical unit concerned. Should the request not appear justified, the Focal Point will inform the technical unit accordingly;
- Those requests which appear justified from both a technical and policy point of view are sent to the Permanent Mission of China in Geneva (the Chinese Mission) for transmission to the Ministry of Health (MOH). The technical unit should fill for this purposes the model note contained in Annex 1 (Annex 1 is available on the “PubDept” drive Legal-All Legal Team level, and can be provided by LEG electronically upon request.) and send it to the Focal Point together with its request. The Chinese Mission shall inform the Secretariat of the MOH’s agreement or disagreement with the proposed invitation within two weeks from the receipt o the request from the Secretariat;

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- After obtaining the agreement of the Chinese MOH, the technical unit may issue a written intimation to the Taiwanese experts, with a copy to the Chinese Mission and the Focal Point. The technical unit should use for this purpose the model letter contained in Annex 2 (Annex 2 is available on the “PubDept” drive; Legal-All Legal-Team level, and can be provided by LE electronically upon request.), adapting it as necessary. Letters should be signed in principle by the responsible Director or Coordinator.
- After obtaining the agreement of the Chinese MOH, the technical unit may issue a written intimation to the Taiwanese experts, with a copy to the Chinese Mission and the Focal Point. The technical unit should use for this purpose the model letter contained in Annex 2 (Annex 2 is available on the “PubDept” drive; Legal-All Legal-Team level, and can be provided by LE electronically upon request.), adapting it as necessary. Letters should be signed in principle by the responsible Director or Coordinator.
- As to the geographic expression to be included in the mailing address for any correspondence with invited Taiwanese experts, the use of “Republic of China” or “Taiwan” is not acceptable. At the same time, the use of expression “Taiwan, China” could possibly discourage the participation of the invited experts. Consequently, technical units should only indicate the name of the city of the addressee, without indicating a “country” of destination, and invitations should as much as possible be sent by telefax to avoid problems with the regular mail. Any deviation from this practice should be cleared with the Focal Point;

7. Participation by Taiwanese medical and public health experts in technical activities is subject to the following conditions:

- The experts shall participate in their personal capacity. When designations are used (e.g. on conference badges or lists of participants), reference shall be made to “Taiwan, China”;
- Only experts under the level of “director-general” in their respective institutions or agencies may be invited;
- The Secretariat shall request the experts in question not to engage in political activities during their participation. If they do not comply with this requirement, the, the Secretariat should request them to stop any activity of a political nature and, if necessary, shall terminate their participation in the technical activities.
- The technical unit concerned should make efforts to also invite medical and public health experts from mainland China when inviting Taiwanese experts.

Dispatch of staff members and experts for investigating the public health or epidemiological situation or provisions of medical and public health technical assistance to Taiwan, China

8. Under the MOU, the Secretariat may dispatch staff members and experts to Taiwan, China to investigate the local health or epidemiological situation, as well as provide medical and public health technical assistance to Taiwan, China. Such assistance may be provided through the dispatch of WHO staff members and experts or through other means, such as seeking medical products and equipments or making available public health information publications.

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9. Technical units at Headquarters or regional offices may receive from Taiwanese agencies or institutions requests for technical assistance or for visits by WHO staff members and experts to investigate the public health or epidemiological situation on the island. In such a case, they should assess from a technical point of view whether or not they are justified before transmitting them to the Focal Point. Requests under this section may also be formulated by the technical units concerned.

10. The following procedures shall be observed:

- Requests shall be sent by the competent technical unit to the Focal Point as early as possible, preferably no later than five weeks before the intended visit or the provision of technical assistance. Requesting units should provide the Focal Point with all necessary details about the activity or assistance concerned, as well as of the staff members or experts they intend to dispatch to Taiwan, China. If the request is urgent, the submitting technical units should inform the Focal Point accordingly, with an indication of the reasons for the urgency;
- The requests should identify the staff members or experts to be dispatched, or indicate the technical assistance envisaged, its justification and purpose, its intended beneficiaries, and an estimate of its duration;
- The Focal Point shall, in consultation with DGO and LEG as necessary, make an assessment of the requests received from a policy point of view and may seek additional information from the technical unit concerned;
- The requests which appear justified from both a technical and policy point of view are sent to the Permanent Mission of China in Geneva (the Chinese Mission) for transmission to the Ministry of Health (MOH). The technical unit shall inform the Secretariat of the MOH's agreement or disagreement with the proposed invitation within two weeks from the receipt of the request from the Secretariat.
- After obtaining the agreement of the Chinese MOH through the Chinese Mission, the technical unit may make arrangements for the dispatch of staff members or experts or the provision of technical assistances. The Focal Point should be kept regularly informed of the outcome of the activities carried out under this section.

11. If WHO dispatches staff members to Taiwan, China, they shall be at Director level or below. consequently, no visits by staff members above that level may be envisaged under the MOU. WHO staff members may initiate and accept meetings and discussions with Taiwanese medical and public health officials under the level of "Director-General". More generally, WHO staff members should recall and abide by resolution WHA 25.1, mentioned above.

12. If WHO dispatches experts other than staff members (e.g. temporary advisers or persons holding an SSA or an APW), they should not have a profile due to either current or previous affiliations such that it may give rise to political implications. Current or former governmental or political personalities, for example, should in principle not be selected for expert assignments under this section.

13. Under the MOU, China agrees in case of an acute public health emergency in Taiwan, China, the Director-General, in consultation with the MOH of China through the Chinese Mission, may deem it necessary to dispatch staff members or experts to Taiwan, China for field visits, or provide technical assistance or to invite Taiwanese medical and public health experts to participate in relevant technical activities organized by the Secretariat.

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14. The MOU does not define what may constitute an acute public health emergency in Taiwan, China, the Director-General, in consultation with the MOH of China through the Chinese Mission, may deem it necessary to dispatch staff members or experts to Taiwan, China for field visits, or provide technical assistance or to invite Taiwanese medical and public health experts to participate in relevant technical activities organised by the Secretariat.

15. In view of the foregoing, it is very important that technical units which consider that the gravity of an event consult without delay with the Focal Point and provide as much information as possible. The Focal Point, with the assistance of the technical unit concerned if appropriate, shall consult with the Chinese Mission with a view to enable the Director-General to decide whether action by WHO is necessary. If the Director-General so decides, the technical unit or units concerned may take the necessary actions.

16. The Focal Point shall keep the Chinese Mission regularly informed of the development of the acute public health emergency and the response by WHO. No later than eight weeks after the decision to take action has been taken, the Focal Point shall, with the assistance of the technical unit concerned if appropriate, review in consultation with the Chinese Mission whether the emergency is still occurring. In the event of a continuing emergency, the Focal Point, with the assistance of the technical unit concerned if appropriate, shall consult periodically with the Chinese Mission.

17. The conditions spelt out in paragraphs 7, 11 and 12 apply to the implementation of activities in response to an acute public health emergency.

Other issues:

18. Other health issues not specifically covered by the MOU as described above, but falling within the general aim of facilitating technical contacts, shall be handled on a case-by-case basis through consultations between the Focal Point and the Chinese Mission.

Additional measures to avoid unauthorized interactions

19. Correspondence, proposals and requests other than those referred below from Taiwanese authorities, institutions or individuals, except those relating to implementation of the MOU on which guidance is provided in the preceding section of this note, must be forwarded to the Office of the Legal Counsel. The Office will advise, in consultation with the Office of the Director-General as necessary, as to whether and how to respond to them. No reply should be given before contacting the Office of the Legal Counsel.

20. Technical meetings open to any individual without pre-screening of participants should not be held. Particular care should be taken to ensure proper care of participants if invitations or registration forms are available online.

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21. Particular attention should be paid to ensure that NGOs participating in WHO meetings do not contain representatives of the Taiwanese authorities on their delegation.

22. Lists of participants for meetings should be checked in advance by the relevant Director to avoid the unintended inclusion of Taiwanese individuals.

12 July 2005²

² Ibid

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APPENDIX B. MEMORANDUM FROM WHO DIRECTOR, MARGARET CHAN, ON “APPLICATIONS OF THE INTERNATIONAL HEALTH REGULATIONS (2005) TO THE TAIWAN PROVINCE OF CHINA”

MEMORANDUM

From: Executive Director, DGO **To:** RDs and ADGs **Date:** 14 September 2010

Our ref: **Attention:**

Your ref: **Through:**

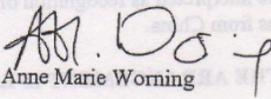
Originator: SAS **Subject:** Application of the International Health Regulations (2005) to the Taiwan Province of China

Please find attached a note on the procedures to be followed concerning the arrangement with China to facilitate implementation of the International Health Regulations (2005) (“IHR”) with respect to the Taiwan Province of China. The note explains the procedures for the implementation by the WHO Secretariat of the arrangement concerned.

The full knowledge and correct implementation by WHO staff concerned of the content of the abovementioned note is of high importance, in order to address technical issues concerning the application of the IHR to the Taiwan Province of China, while avoiding counterproductive situations with regard to the Secretariat’s compliance with resolution WHA25.1.

In view of the foregoing, you are kindly requested to circulate the attached note to all staff in your Region/cluster/office/programme whose work may be related to the implementation of the IHR, ensuring that senior management is fully aware of it and that it impresses upon all concerned staff the importance attached by the Director-General to the full and correct implementation of the measures and procedures laid out in the note.

Thank you for your continuing cooperation in this important matter. In case of questions, please contact the Legal Counsel.


 Anne Marie Worning

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MEMORANDUM

**PROCEDURES CONCERNING AN ARRANGEMENT TO
FACILITATE IMPLEMENTATION OF THE INTERNATIONAL
HEALTH REGULATIONS (2005) WITH RESPECT TO THE
TAIWAN PROVINCE OF CHINA**

1. Following the entry into force of the International Health Regulations (2005) ("IHR (2005)"), the Permanent Mission of China has communicated to the Director-General an arrangement to facilitate the implementation of the IHR (2005) with respect to the Taiwan Province of China. This IHR arrangement (hereinafter "the Arrangement") allows certain interactions and communications between the WHO Secretariat and technical health authorities in Taipei and clarifies the activities that the WHO Secretariat may undertake pursuant to the IHR (2005) with regard to the Taiwan Province of China.

PURPOSE OF THIS MEMORANDUM

2. This memorandum sets out procedures which the competent technical units both at Headquarters and in Regional and Country offices - in particular in the Western Pacific Region - must follow to correctly implement the Arrangement.

CIRCULATE ONLY "AS NEEDED"

3. This memorandum should be treated as a confidential document and should only be circulated on an "as needed" basis within WHO. It should not be circulated to non-WHO staff or outside WHO.

WHA/GOVERNANCE CONTEXT FOR THIS MEMORANDUM

4. The implementation of the Arrangement must take place with full respect for resolution WHA25.1 concerning the representation of China in WHO and the consequent obligation for the Secretariat of refraining from actions which could constitute or be interpreted as recognition of a separate status of Taiwanese authorities and institutions from China.

SCOPE OF THE ARRANGEMENT IS LIMITED TO IHR

5. The Arrangement deals with the implementation of the IHR. Matters involving Taiwanese authorities unrelated to the IHR may fall within the scope of the 2005 Memorandum of Understanding (MOU) that was concluded between China and WHO. The 2005 MOU addresses (1) the participation of Taiwanese medical and public health experts in technical activities organized by the Secretariat; (2) the dispatch of staff members or experts to the Taiwan Province to investigate the public health or epidemiological situation there; as well as (3) the provision of medical and public health technical assistance to the Taiwan Province by the Secretariat. Guidance concerning the implementation of the MOU by the Secretariat was provided in a note dated 12 July 2005 from the Executive Director, DGO (attached for ease of reference). If in doubt about whether a Taiwanese-related situation concerns the IHR, the unit concerned should contact the Office of the Legal Counsel.

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THE ARRANGEMENT ESTABLISHES A WHO CONTACT POINT FOR ALL IHR ISSUES INVOLVING THE TAIWAN PROVINCE OF CHINA

6. The key element of the Arrangement is that on matters relating to the IHR, there can be direct communications between the WHO Secretariat and technical health authorities in Taipei. However, such communications will take place between two designated officials referred to as the WHO Contact Point within the WHO Secretariat and the Point of Contact of the Taiwan Province.

7. All communications between WHO's technical units and the Point of Contact of the Taiwan Province will be channelled through the WHO Contact Point who will be responsible for ensuring that the procedures detailed in the arrangement are complied with. Such communications include a) all those directly referring to the IHR and those conveying or containing information about current public health risks or events relevant for the implementation of the IHR arising b) within the Taiwan Province of China, or c) where the source of the report comes from within the Taiwan Province of China.

8. The Contact Point in the WHO Secretariat will be Dr Max Hardiman, medical officer, IHR Coordination Department (tel. 791 2572, fax 791 4667, e-mail hardimanm@who.int) and E-mails from WHO's units to the WHO Contact Point under the present IHR arrangement must be copied to ihrtpc@who.int. In the event Dr Hardiman is unavailable, Mr Bruce Plotkin may be contacted (tel. 791 1280, e-mail plotkinb@who.int). Proposed communications to the Point of Contact of the Taiwan Province of China should be sent to the WHO Contact Point as soon as possible, considering that the WHO Contact Point may require several days to be in a position to send communications to the Point of Contact of the Taiwan Province. There are streamlined clearance procedures for information of an urgent nature, in particular with regard to events which have been declared or may constitute a public health emergency of international concern under the IHR (2005).

9. Any WHO unit receiving communications from Taiwanese entities involving the IHR, whether or not they refer to events occurring in the Taiwan Province of China, should immediately forward the communications to the Contact Point in the WHO Secretariat, without response or acknowledgement to the sender.

10. The WHO Contact Point will coordinate, as necessary, with the Secretariat Focal Point concerning the implementation of the 2005 MOU. The Focal Point is currently Mr Gian Luca Burci, Legal Counsel (burcig@who.int). The alternate Focal Point is Mr Steven Solomon (solomons@who.int), Principal Legal Officer.

11. WHO units which receive documents or information from the Point of Contact or other official sources in the Taiwan Province of China related to the implementation of the IHR and which intend to make use of such information or documents, must contact the WHO Contact Point to clear the use of such information in any WHO publication or document either printed, electronic or posted on the Internet. Such clearance involves coordination with the Permanent Mission of China in Geneva and timely internal communication is essential. Non-urgent IHR matters

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should be notified sufficiently in advance to allow at least 7 working days for clearance procedures.

OTHER ELEMENTS OF THE ARRANGEMENT

12. The IHR arrangement also includes procedures to facilitate IHR-related activities in a number of areas, including:

- The provision of on-site technical guidance and assistance by WHO to the Taiwan province of China or requests to Taiwanese authorities for verification, in the case of an event occurring in the Taiwan Province of China which may constitute a PHEIC, subject to specified procedures.
- The participation of experts from the Taiwan Province of China in the IHR Expert Roster and meetings of the IHR Emergency Committee or Review Committee. Invitations to Taiwanese experts to meetings of those Committees or other technical meetings related to the implementation of the IHR shall be cleared through the Focal Point for the 2005 MoU.
- Inviting the Taiwan Province of China to present its views to the Emergency Committee when the latter is considering an event in its territory.
- The Point of Contact of the Taiwan Province of China has been provided with access to the IHR Event Information Site.

✱ PROPER TERMINOLOGY FOR THE TAIWAN PROVINCE OF CHINA

13. Documents or information which is published, incorporated or referred to in WHO publications or documents, whether electronic or in hard copy, must use the terminology "the Taiwan Province of China". Information related to the Taiwan Province of China must be listed or shown as falling under China and not separately as if they referred to a State. The practical implementation of this requirement will depend to a large extent on the nature and format of each document or publication in question. In case of doubt, please contact the Office of the Legal Counsel in good time before finalizing the publication or document.

"IF ASKED" TALKING POINTS ABOUT THE ARRANGEMENT

14. The following bullets should be used in responding to questions raised from outside WHO about the arrangement:

- There has been no change in the status of Taiwan Province of China within the WHO.
- WHA resolution 25.1 remains the touchstone for such matters and, consistent with that resolution, Taiwan, as a province of China, cannot be party to the IHR.



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- This IHR arrangement does not, of course, prejudice or change, in any way, any rights or obligations under the IHR. Rather, it will help ensure the IHR's effective implementation for all concerned.

QUESTIONS?

15. Any questions related to the Arrangement should be directed to WHO Contact Point or the Office of Legal Counsel.

8 September 2010

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(d) Interoffice memorandum to the Chief, Human Rights Council Branch, Office of the High Commissioner for Human Rights (OHCHR), concerning the publication of the national report of [State 1] with reference to “Republic of China (Taiwan)” in the report

REFERENCE BY THE UNITED NATIONS TO “TAIWAN” SHOULD READ “TAIWAN, PROVINCE OF CHINA”—THE UNITED NATIONS CANNOT CHANGE THE CONTENT OF DOCUMENTS SUBMITTED FOR CIRCULATION BY MEMBER STATES—THE UNITED NATIONS CAN ADD EXPLANATORY FOOTNOTES TO DOCUMENTS SUBMITTED FOR CIRCULATION BY MEMBER STATES

1. I wish to refer to your memorandum to [name] of this Office of [date] in which you seek our advice concerning a national report submitted by [State 1] under the Universal Periodic Mechanism (“UPR”) of the Human Rights Council (“HRC”). You indicate that in paragraphs 45 and 76 of its report [State 1] refers to “assistance provided by and activities carried out with the ‘Republic of China (Taiwan).’” You indicate that representatives of [State 2] have strongly objected to publication of a national report that includes this reference and have argued that its publication by the Secretariat is in violation of General Assembly resolution 2758 (XXVI) of 25 October 1971. [State 1] has refused to change its report and you seek our advice in the matter.

2. The question of “Taiwan” in the United Nations is regulated by General Assembly resolution 2758 (XXVI) of 25 October 1971 [. . .], entitled, “Restoration of the lawful rights of the People’s Republic of China in the United Nations”. By that resolution, the General Assembly decided to recognize “the representatives of the Government of the People’s Republic of China [as] the only lawful representatives of China to the United Nations” and “to restore all its rights to the People’s Republic of China and to recognize the representatives of its Government as the only legitimate representatives of China to the United Nations.”

3. Since the adoption of that resolution the United Nations considers “Taiwan” as a province of China with no separate status, and the Secretariat strictly abides by this decision in the exercise of its responsibilities. Thus, since the adoption of this resolution the established practice of the United Nations has been to use the term “Taiwan, Province of China” when a reference to “Taiwan” is required in United Nations Secretariat documents.

4. However, the practice of the United Nations when circulating a document from a Member State has been to reproduce the document as it has been received and not to alter the terminology employed. The United Nations cannot change its contents as this would be tantamount to interfering in the official/national position of a Member State. Full responsibility for the substance of a communication remains with the Member State requesting its circulation.

5. We accordingly agree with the view expressed in your memorandum that OHCHR does not have the authority to change the content of a national report submitted by [State 1], notwithstanding the fact that the terminology used is not consistent with General Assembly resolution 2758 (XXVI) of 25 October 1971. Secondly, this is a national report submitted by [State 1] under the UPR established by the HRC. Thus, the Secretariat cannot refuse to circulate the document on the grounds that it falls outside the parameters of work of the HRC.

6. Nevertheless, we concur with you that a footnote can be added to [State 1's] national report in light of resolution 2758 (XXVI). We note that the footnote which you recommend reads as follows: "In accordance with United Nations terminology, reference to Taiwan in the present document should read Taiwan, Province of China." You indicate that, "this option, which remains unsatisfactory to [State 2], would allow the Secretariat to include a reference to the correct denomination of "Taiwan", without making substantive changes to the national report of [State 1]."

7. However, the footnote as it has been drafted indicates that the reference to "Taiwan" in the report submitted by [State 1] is incorrect. [State 1] could object to the footnote on the grounds that this is inconsistent with its national position. They could also point out that the Secretariat should not comment on terminology contained in the submission of a Member State as this would be interfering in the inter-governmental process.

8. We would therefore recommend the following footnote used in General Assembly documents [document symbol A], [document symbol B], [document symbol C] and [document symbol D] on "Taiwan" be followed:

"The document has been reproduced as received. The designations employed do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory or area, or of its authorities."

9. In communicating with both [State 2] and [State 1] on this matter you should point out that the Secretariat is merely following existing editorial practice in this regard and that the use of this footnote is without prejudice to the position of any Member State on "Taiwan".

27 October 2010

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6. Miscellaneous

(a) Interoffice memorandum to the Special Adviser on Gender Issues and Advancement of Women, Office of the Special Adviser on Gender Issues, Department of Economic and Social Affairs, concerning the registration of “Taiwanese” representatives of non-governmental organizations (NGOs) at the fifty-fourth session of the Commission on the Status of Women (1–12 March 2010)

THE UNITED NATIONS CONSIDERS “TAIWAN” FOR ALL PURPOSES TO BE AN INTEGRAL PART OF THE PEOPLE’S REPUBLIC OF CHINA—THE UNITED NATIONS CANNOT ACCEPT OFFICIAL DOCUMENTATION ISSUED BY THE “AUTHORITIES” IN “TAIWAN”, AS THEY ARE NOT CONSIDERED A GOVERNMENT

1. I wish to refer to your memorandum dated [date] to the Legal Counsel attaching a letter [date] from the Permanent Representatives of the [five States] to the Secretary-General drawing his attention to the fact that in March 2009, NGO representatives from “Taiwan” carrying “Republic of China (Taiwan)” passports, were denied United Nations passes to attend the fifty-third session of the Commission on the Status of Women (“CSW”). The Permanent Representatives seek the Secretary-General’s confirmation that NGO representatives carrying passports from “Taiwan” will be granted access to the upcoming CSW session in March 2010. In light of this letter you seek our advice as to whether the Department of Safety and Security (DSS) should continue to deny access to NGO representatives carrying official identification issued by the “authorities” in “Taiwan”.

2. The status of “Chinese Taipei/Taiwan” in the United Nations is regulated by General Assembly resolution 2758 (XXVI) of 25 October 1971, entitled “Restoration of the lawful rights of the People’s Republic of China in the United Nations”. By that resolution, the General Assembly decided “to recognize the representatives of [the People’s Republic of China] as the only legitimate representatives of China to the United Nations, and to expel forthwith the representatives of Chiang Kai-Shek. [. . .]”

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3. Since the adoption of this resolution and in accordance with the decision which it contains, the United Nations has considered “Taiwan” for all purposes to be an integral part of the People’s Republic of China, without any separate status. Thus, the “authorities” in “Taipei” are not considered to be a government, enjoy any form of governmental status or to exercise any governmental powers.

4. The Secretariat strictly abides by this decision which in effect means that it cannot accept any form of official documentation issued by the “authorities” in “Taiwan/Taipei”.

5. Consequently, the Secretariat cannot accept “Taiwanese” passports as a means of identification for purposes of issuing United Nations passes to delegates for the upcoming session of the CSW.

24 February 2010

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The views expressed in GMF publications and commentary are the views of the author(s) alone.

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