

'ONE CHINA' SECOND THOUGHTS

Why Canada must support Taiwan's resilience

Scott E. Simon

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Executive summary | *sommaire*

The People's Republic of China (PRC) is an increasingly disruptive global power and a growing challenge to Canada. One substantial risk is that the PRC intends to annex Taiwan, which it has never controlled, and it does not rule out the option of military force. China's increasing rate of military exercises around Taiwan indicate that it is preparing for aggression. Even limited conflict in the region would inevitably disrupt international trade and supply chains, thus triggering economic disruption on a scale not seen since the Second World War. Moreover, a Chinese takeover through coercion or force would violate the human rights of the Taiwanese people. Canada needs clarity about the international status of Taiwan in order to recalibrate policies in changing circumstances.

China's strategy begins with international lawfare – trying to convince the world that Taiwan has always been an integral part of China and that no external powers can legally intervene in the event of a conflict. China's most recent lawfare strategy is its argument that the United Nations General Assembly Resolution 2758 (GA 2758), which gave China a seat in the UN, recognized that Taiwan is part of China. This is blatant misinformation. A study of UN debates at the time shows that UN member states expressed strong reservations about formulations that would justify transferring Taiwan to China without the consent of its people. This is why the resolution does not even mention Taiwan. China nowadays tries to coerce states, especially developing countries that need Chinese assistance, to declare that GA 2758 made Taiwan part of the PRC. This lawfare is intended to set the stage for a conflict by minimizing the possibility that the General Assembly would support Taiwan the way that it supported Ukraine after the Russian invasion. To push back, democratic states, including Canada, have passed motions recognizing that GA 2758 did not establish China's sovereignty over Taiwan and does not determine its future status.

Canada has always been clear about the fact that Taiwan is not part of the PRC. In 1970, when Canada established diplomatic relations with the PRC, Canada refused China's requests to recognize Chinese sovereignty over Taiwan. Canada only agreed to "take note" of China's position, while calling it inappropriate either to endorse or challenge China's claims. This means that Canada's own "One-China Policy," recognizing the

PRC as the sole government of China, remains silent about Taiwan's status for reasons of diplomatic expediency. Part of the difficulty was that Taiwan was then occupied by a government (the Republic of China) that had moved to Taiwan after losing the 1949 Chinese Civil War, still claimed to represent all of China, and suppressed the Taiwanese people under martial law. Canadian leaders hoped that eventually the people of Taiwan would have a say in their own future and kept open the possibility of establishing relations with Taiwan when circumstances changed.

Since the 1970s, Taiwan has democratized. The Taiwanese people now elect a president and a legislative body who have exclusive jurisdiction over Taiwan. Because of PRC pressure, no state can have diplomatic relations with both China and Taiwan and Taiwan is excluded from the UN. Nonetheless, Taiwan joins trade organizations as a "customs territory," has substantive relations with most countries, and its passport is one of the strongest in the world. Taiwan, even if it is still called the Republic of China, meets all of the criteria for statehood in the Montevideo Convention. Canadian courts have even judged that Taiwan must be treated as a state in their jurisdictions, even if the government denies formal recognition of Taiwan for the sake of diplomacy with China.

Canadian policy is already based on the knowledge that Taiwan is completely autonomous from PRC rule, which is why Canada promised in its Indo-Pacific Strategy to protect Taiwan's resilience. This requires clarity within Canada, including making a clear public distinction between the "One-China Principle" that China wants to impose on the world and our own "One-China Policy." As a sovereign state, Canada has the right to define that policy and determine our own relationship with Taiwan without external interference. There are many actions that Canada can take in the short-, intermediate-, and long-term to strengthen Taiwan's resilience, prepare for unwanted contingencies, and lay the groundwork for the people of Taiwan to eventually fully exercise their right to self-determination as promised in international law.

The goal is to preserve the status quo of peace and security in the Taiwan Strait in protection of Canada's interests. Key actions include:

- With our allies, continue naval transits of the Taiwan Strait and diplomatic efforts promoting peace and stability. These actions need to be accompanied by public diplomacy clearly stating that the Taiwan Strait constitutes international waters under international law, and that stability and freedom of navigation in the region is a global public good.
- Make it clear to the Canadian public that there is a difference between Canada's own "One-China Policy" and the "One-China Principle" promoted by the PRC. The Canadian public must know about the importance of Taiwan to Canada, and understand that our actions are intended to protect Canadian interests. This can help us counter disinformation from China and its enablers in Canada.
- Convey to the Taiwanese people through public diplomacy that the international community supports their democracy. Signs of external support can help the

Taiwanese people avoid the sense of isolation that makes them vulnerable to PRC cognitive warfare.

- Deepen co-operation with Taiwan, as well as neighbouring states of Japan, the Republic of Korea, and the Philippines, on defence, security, law enforcement, and intelligence sharing, in ways that collectively deter Chinese aggressive actions.
- Expand bilateral trade and investment with Taiwan in ways that enhance supply chain resilience. This includes tightening collaboration on semiconductors and AI, as well as the supply of Canadian minerals and energy solutions to Taiwan. **MLI**

La République populaire de Chine (RPC) se positionne comme une force mondiale de plus en plus perturbante, un problème croissant pour le Canada. L'un des risques majeurs posés tient à son projet d'annexer Taïwan, qui n'a jamais été sous son contrôle – sans écarter la possibilité d'une intervention militaire. L'intensification de ses manœuvres autour de l'État insulaire suggère qu'elle se prépare à une attaque. Même limité, un conflit dans cette région nuirait forcément au commerce international et aux chaînes d'approvisionnement, provoquant des difficultés économiques à une échelle jamais vue depuis la Seconde Guerre mondiale. De plus, une prise de contrôle par la force porterait atteinte aux droits de la personne du peuple taïwanais. Pour pouvoir adapter ses politiques en fonction des circonstances, le Canada a besoin d'éclaircissements sur le statut international de Taïwan.

La stratégie de la Chine repose en tout premier lieu sur l'instrumentalisation du droit international : elle tente de convaincre le monde que Taïwan a toujours fait partie intégrante de son territoire et qu'aucune puissance étrangère ne peut intervenir légalement en cas de conflit. Sa tactique juridique la plus récente consiste à affirmer que la résolution 2758 de l'Assemblée générale des Nations Unies, qui octroie à la Chine un siège à l'ONU, reconnaît que Taïwan fait partie de la Chine. Cette affirmation est pour le moins fallacieuse. En effet, une étude des discussions tenues à l'ONU à l'époque révèle que les États membres ont émis de fortes objections quant aux termes susceptibles de légitimer le transfert de Taïwan à la Chine sans l'accord de sa population, et c'est pourquoi la résolution omet toute référence à Taïwan. À présent, la Chine tente de contraindre d'autres États, en particulier les pays en développement dépendant de son soutien, à affirmer que la résolution 2758 fait de Taïwan un territoire chinois. Cette guerre juridique a pour objectif de créer les conditions propices à un conflit en minimisant la probabilité que l'Assemblée générale appuie Taïwan comme elle l'a fait pour l'Ukraine à la suite de l'invasion russe. En guise de riposte, certains pays démocratiques, dont le Canada, ont adopté des motions affirmant que la résolution 2758 ne confère pas la souveraineté de la Chine sur Taïwan et ne détermine pas son statut futur.

Le Canada a toujours été explicite : Taïwan ne fait pas partie de la RPC. Quand le Canada a noué des liens diplomatiques avec la RPC, en 1970, il a catégoriquement refusé

de reconnaître, à sa demande, la souveraineté chinoise sur Taïwan. Le Canada s'est alors contenté de « prendre note » de la position de la Chine, affirmant qu'il serait inapproprié d'approuver ou de contester ses revendications. Sa propre politique d'une seule Chine, qui reconnaît la RPC comme le seul gouvernement de la Chine, doit donc demeurer silencieuse sur la question du statut de Taïwan par opportunisme diplomatique. Il en est ainsi parce que Taïwan était gouvernée à l'époque par un régime (République de Chine) qui s'était replié sur son territoire à la suite de sa défaite (guerre civile chinoise de 1949). Ce régime prétendait toujours représenter l'ensemble de la Chine, tout en maintenant le peuple taïwanais sous la loi martiale. Les dirigeants canadiens espéraient que le peuple taïwanais pourrait un jour décider de son propre destin et gardaient donc la porte ouverte à l'établissement de relations avec Taïwan en fonction des circonstances.

Taïwan a adopté un régime démocratique au cours des années 1970. Le peuple taïwanais élit désormais un président et des organes représentatifs qui détiennent une compétence exclusive sur Taïwan. Du fait des contraintes imposées par la RPC, aucun pays ne peut établir de relations diplomatiques simultanément avec la Chine et Taïwan, et Taïwan n'est pas représentée au sein des Nations Unies. Néanmoins, Taïwan est membre d'institutions internationales en tant que « territoire douanier », maintient d'excellentes relations avec la majorité des pays et émet l'un des passeports parmi les plus puissants au monde. Taïwan, même si on la désigne encore sous le nom de République de Chine, satisfait à tous les critères établis par la Convention de Montevideo concernant l'accession à l'indépendance. Les tribunaux canadiens ont même statué que Taïwan devait être considérée comme un État dans leurs domaines de compétence, malgré le refus du gouvernement de reconnaître officiellement Taïwan en raison de ses relations diplomatiques avec la Chine.

Pour résumer, la politique canadienne est déjà fondée sur la notion que Taïwan est totalement indépendante du régime communiste, raison pour laquelle le pays s'est engagé, dans sa stratégie indopacifique, à préserver sa résilience. Cela exige de définir clairement la distinction entre le « principe d'une seule Chine » que la Chine souhaite imposer à l'échelle mondiale et notre propre politique d'une seule Chine. Comme nation souveraine, le Canada a le droit de définir cette politique et de gérer ses propres relations avec Taïwan sans intervention extérieure. Le Canada dispose d'options diverses à court, moyen et long terme pour renforcer la résilience de Taïwan, se préparer à toute éventualité et instaurer un environnement favorable permettant au peuple taïwanais d'exercer intégralement son droit à l'autodétermination, comme stipulé par le droit international.

L'objectif est de maintenir le statu quo en matière de paix et de sécurité dans le détroit de Taïwan pour sauvegarder les intérêts canadiens. Voici les principales actions à mener :

- Poursuivre les traversées du détroit de Taïwan et les efforts diplomatiques en faveur de la paix et de la stabilité, conjointement avec nos partenaires. Il est impératif que ces mesures soient soutenues par une diplomatie qui déclare

publiquement que le détroit de Taïwan fait partie des eaux internationales selon le droit international, et que la stabilité et la liberté de navigation dans la région constituent un bien commun mondial.

- *Expliquer clairement au public canadien qu'il y a une distinction entre la politique canadienne dite d'« Une seule Chine » et le principe d'une seule Chine défendu par la RPC. Il doit comprendre l'importance de Taïwan pour le Canada et savoir que nos initiatives sont destinées à défendre les intérêts canadiens. Cela pourrait nous aider à combattre la désinformation provenant de la Chine et de ses partisans au Canada.*
- *Témoigner au peuple taïwanais du soutien de la communauté internationale pour sa démocratie par le biais de la diplomatie publique. Les signes d'appui international peuvent aider les Taïwanais à réprimer le sentiment d'isolement qui les rend vulnérables face à la guerre cognitive menée par la RPC.*
- *Renforcer la coopération avec Taïwan, ainsi qu'avec les pays voisins – le Japon, la République de Corée et les Philippines – en matière de défense, de sécurité, d'application de la loi et d'échange de renseignements, de manière à repousser collectivement les actions agressives de la Chine.*
- *Accroître le commerce et les investissements bilatéraux avec Taïwan pour fortifier la résilience de la chaîne d'approvisionnement. Il s'agit notamment de resserrer la collaboration dans les domaines des semi-conducteurs et de l'IA, ainsi que l'approvisionnement de Taïwan en minéraux et en solutions énergétiques canadiennes. **MLI***

Introduction

Conflict in the Taiwan Strait could lead to mass casualties and economic turmoil not seen since the Second World War, but fortunately it is neither imminent nor inevitable. Since the People's Republic of China (hereafter, simply China) is the only party threatening to use military force, war can still be prevented through a combination of military deterrence, diplomacy, and economic leverage. The sole problem is that China seeks to annex Taiwan, a territory it has never ruled, and if needed, without the consent of its 23.5 million people.

China is rapidly building the military capacity to make it possible to absorb Taiwan through force and coercion. In preparation for such an eventuality, and to obstruct or stall international involvement, China has for decades used diplomatic coercion and international lawfare to try to convince the international community that Taiwan is purely a domestic matter that brooks no external interference. Since Canada is already part of a coalition of states seeking to prevent war in the region, it is important for Canadians to have a clear understanding of Taiwan's status, China's tactics, Canada's attempts to stabilize the status quo based on rule of law and respect of human rights, as well as the importance of Taiwan to Canada's own security and prosperity. Peace and stability in the region have underwritten Canada's way of life for 80 years. Public support is necessary if Ottawa is to make the difficult and vitally important decisions to increase our own military capacity and make an all-of-society investment in deterrence of Chinese aggression in Taiwan and beyond.

A reappraisal of Taiwan's situation had become urgent due to three important geopolitical shifts. First, as China emerged as the world's second-largest economy, it used its wealth for historically unprecedented military modernization, which it plans to complete by 2035. China's non-transparent

military build-up, actual military activities in the Indo-Pacific, and refusal to renounce the use of force to achieve its territorial ambitions have become such a serious threat that Japan, in one of its 2022 “Three Documents” on national strategy and defence, called it “an unprecedented and the greatest strategic threat” to Japan and the international community (Japan 2022, 9). Second, Taiwan has evolved into a vibrant democracy, with a social and political identity distinct from China. Third, ever since Russia in 2022 announced a “no limits” strategic partnership with China and subsequently invaded Ukraine, these powers seem willing to use military force to realize their goals. Europe is especially alarmed that China has been an enabler of war in Europe. As revealed in an MLI report, China and Russia also have designs on the Arctic, thus threatening Canada’s security (Dalziel 2024). Maintaining the peaceful status quo in the Taiwan Strait is more urgent than ever. In the new context, legal clarity about Taiwan’s status is essential.¹

“ *Maintaining the peaceful status quo in the Taiwan Strait is more urgent than ever.* ”

This paper consists of five sections. The first section examines China’s ambitions toward, and their legal argument about, the sovereignty of Taiwan. The second section examines more closely the common misconception that the conflict between China and Taiwan is merely an extension of the Chinese Civil War. This misconception arose because the Republic of China (ROC), the government of the losing party in the Chinese civil war, moved to Taiwan in 1949 and claimed to represent all of China from there until its removal from the United Nations in 1971. Taiwan’s conundrum is more accurately understood as the unsatisfactory result of how territories of Japan, without any consultation with their populations, were dismembered as spoils of war after 1945. The next section analyzes how Canada and the United Nations eventually realigned their relations with the reality of the People’s Republic of China, while leaving space for eventual political evolution in Taiwan. The fourth section explains the political evolution in Taiwan since 1971, as democratization allowed the

people of Taiwan to exercise sovereignty over their own territory and effectively domesticate the ROC. The final section looks at the legal status of this state in the absence of formal diplomatic recognition. This analysis is the basis of the policy suggestions in the conclusion.

This paper thus addresses the following questions: What is the status quo across the Taiwan Strait? What remains unsaid in Canada’s diplomatic formulation that “we take note” of China’s claims to Taiwan? How have changing geopolitics and domestic politics affected the status of the country? What can Canada do to effectively support Taiwan’s resilience and, by extension, peace in the Indo-Pacific?

Part 1: China’s ambitions

This section examines the PRC’s arguments about Taiwan; and how it tries to coerce countries into adopting its “One-China Principle” – that Taiwan is a province of the People’s Republic of China. It is important to keep in mind that this is *the PRC’s* proposal; and that it is aspirational rather than factual. It is distinct from *Canada’s* One-China Policy, which has kept our relations with both China and Taiwan on an even keel since 1972. Since Canada is a sovereign country, Canadians are always free to discuss our own policies and even adjust them as necessary according to changing circumstances. Canada is not bound by any “One-China Principle” advocated by China.

China’s argument about Taiwan

China’s most authoritative international statements on Taiwan are the three white papers issued in 1993, 2000, and 2022. The 2022 version, released after US House Speaker Nancy Pelosi visited Taiwan and two months before the Communist Party of China’s (CPC) 20th Party Congress, defined “reunification” as the realization of China’s rejuvenation in the “new era” and as a historic mission of the party (China 2022).

China’s argument is based on the following elements. First, it declares that “Taiwan has belonged to China since ancient times.” Second, it claims

TABLE 1: Fact-checking PRC arguments on Taiwan

The PRC argument	Fact-checking
Taiwan has belonged to China since ancient times.	Permanent Chinese settlement on the island began during the Dutch colonial period in the 17th century. It was occupied by Austronesian-speaking peoples for millennia without Chinese interference. Most of those Austronesians, ancestors of today's Indigenous peoples, were never governed by a Chinese government before 1945.
Taiwan was lost to Japan in a war of aggression in 1894.	The Treaty of Shimonoseki did not give all of Taiwan to Japan. Japan still had to use military force to pacify the aboriginal populations. Moreover, it was not merely “lost” to Japan. It was transferred to Japan upon mutual agreement between Japan and the Qing Dynasty in accordance with international law.
Pronouncements during the Second World War returned sovereignty of Taiwan to China.	The wartime declarations were legally non-binding promises, but circumstances changed. The only post-war international treaty dealing with Taiwan's status (the <i>San Francisco Peace Treaty</i>) merely said that Japan renounces it.
The establishment of the PRC in 1949 extinguished the ROC and its claims to Taiwan.	The Taipei Treaty of 1952 conferred ROC citizenship on the people of Taiwan. The fact that Japan could conclude a treaty with the ROC in 1952 proves that it was still a viable state three years after the founding of the PRC. The ROC has never been extinguished.
GA 2758 settled once and for all China's UN representation and Taiwan's Status.	GA 2758 settled China's status in the UN, while intentionally bracketing out the issue of Taiwan's status. Other states made clear their reservations about the PRC position.
All states establish diplomatic relations with the PRC on the basis of the One-China Principle.	Many states, in one way or another, bracket out the issue of Taiwan's status, unless they are coerced by PRC negotiators to do otherwise.
PRC law declares that Taiwan is part of the PRC, unalterably part of China's sovereignty, and territorial integrity.	Chinese law cannot unilaterally settle territorial disputes, nor can it unilaterally invalidate the SFPT.

that China lost Taiwan to Japan in a war of aggression in 1894. Third, it recalls that the wartime Cairo Declaration, the Potsdam Proclamation, and a 1945 pronouncement by the ROC “returned” the sovereignty over Taiwan to China. Fourth, it argues that the PRC became the successor to the ROC upon its founding and automatically acquired sovereignty over Taiwan. Fifth, in 1971, GA 2758 settled “once and for all” the legal issue of China’s UN representation

and Taiwan's status. Sixth, all states establish diplomatic relations with the PRC on the basis of the "One-China Principle." Seventh, the Constitution of the PRC, the 2005 *Anti-Secession Law*, and the 2015 *National Security Law* all declare that Taiwan is part of the PRC, unalterably part of China's sovereignty and territorial integrity. All of these arguments can be refuted by fact-checking, as shown in Table 1.

China's claims are a threat to international rule of law and human rights. The White Paper explicitly rejects as "illegal and invalid" the San Francisco Peace Treaty (SFPT) that ended the war with Japan. Ignoring the cornerstone of the international order that enabled China's own prosperity, the Communist Party has committed China to changing the status quo. The White Paper marks as a "serious crime" the Democratic Progressive Party (DPP) "separatist stance" and collusion with external forces. Ominously, it concludes that "the journey ahead cannot be all smooth sailing." PRC Chairman Xi Jinping's framing of geopolitics as "struggle" highlights the urgency he sees in resolving this issue (Kim and Prytherch 2023). China's leaders themselves know that the status of Taiwan remains undetermined, and legal documents like GA 2758 alone do not resolve territorial disputes. This is why the CPC begins with claims about ancient history to support its case and prepare for the struggle ahead. China's argument is based on historical arguments of doubtful veracity, but ultimately rests on political coercion and threats of force, in violation of the UN Charter.

Lobbying for a "One-China Principle"

China is accelerating efforts to make its aspirational "One-China Principle" – the notion that Taiwan is an inalienable part of its territory – into customary international law. This strategy is an attempt to obscure the fact that China is only one party in an unresolved dispute over a densely populated territory. International law has never defined the boundaries of individual countries or the limits of their sovereignty, which would make a "One-China Principle" a complete anomaly. The suggestion that it should be a universal legal principle is as absurd as proposing a "One-Canada Principle." Accepting the One-China Principle also sets a dangerous precedent if other states also try to use similar lawfare, coercion, and force to pursue their own territorial ambitions.

China has made it a diplomatic priority to get states and multilateral or unilateral institutions, and in fact even corporations and tiny non-

governmental organizations, to endorse its stance. As states and other parties seek to establish and advance bilateral diplomatic relations with China, most have employed some language of “One China” in agreements with China as a precondition for having any relations at all. Actors in stronger positions usually have chosen non-committal declarations, whereas weaker actors usually acquiesce to Chinese coercion. In Canada’s case, as I discuss below, Canada refused China’s demand to state that Taiwan is part of China. Each state, to satisfy the demands of Chinese negotiators, has been coerced to formulate its own “One-China Policy.” The only reason that no state even considers a “One China, One Taiwan” policy, which should be as normal as “One China, One Japan,” is because of Chinese coercion. The irony is that China would not even feel compelled to get states to make such statements if they were descriptions of reality. China does not ask states to recognize that Shandong is part of China. China’s own behaviour is the strongest proof that Taiwan is not part of the People’s Republic of China.

Because Taiwan’s status is unsettled, it is an issue on which different states take different positions (Hsia 2000). States are free to define their own One-China policies and determine their own relations with Taiwan. When Chinese diplomats coerce third states to employ a vocabulary of “One China,” those states acquiesce to the degree needed to obtain and maintain immediate economic benefits from China, especially when China can offer needed loans or other incentives. Since bilateral statements do not immediately change empirical reality, third states probably do not perceive the risk of pretending that Taiwan is part of the PRC. This coercion is not limited to relations between states. In 2018, China coerced Air Canada and other international carriers to change their websites to say “Taipei, China” rather than “Taipei, Taiwan.” Most airlines, unless they had the unequivocal support of their own governments, acquiesced to Chinese demands in order to preserve their landing rights in China. Nonetheless, there could come a time when any talk of “One China” ceases to be a diplomatic nicety intended to assuage Chinese diplomats. It becomes a security risk if the appearance of international acceptance emboldens Chinese leaders to seize their “renegade province” by non-peaceful means. The facts remain that Taiwan has never been a part of the PRC and, since most Taiwanese do not wish to sacrifice their freedom to join that authoritarian state, its annexation is unlikely to occur without military action or other violations of human rights.

In preparation for eventual military action, the PRC seeks to make its territorial claim over Taiwan into part of customary international law. The goal is to coerce states to the point where they would feel obliged to vote with China if a Taiwan-related motion came to the UN Security Council or General Assembly, as happened to Russia after its invasion of Ukraine. China could also obtain votes in opposition to international interference in the Taiwan Strait. This is why, since 2003, China has sought to obtain support for the new interpretation that the 1971 UN resolution 2758 recognized its sovereignty over Taiwan. In January 2024, the Republic of Nauru became the most recent state to use GA 2758 as a justification for switching diplomatic recognition from the Republic of China (ROC) to the PRC.² China is rewriting history to construct Taiwan as purely a domestic affair and to define any military action against the island as an internal “special operation” that brooks no external interference. China is also actively trying to convince the international community that the Taiwan Strait is “internal waters” rather than an international waterway. This is why China protests every time a foreign military, including Canada’s, makes legal use of the Taiwan Strait or conducts a Freedom of Navigation Operation (FONOP). If China succeeds in these lawfare efforts, they could even accuse any state that came to the aid of Taiwan as illegally invading China.

China’s lawfare has gone global. In September 2024, China convinced 53 African states to make a joint declaration that “firmly supports all efforts by the Chinese government to achieve national reunification” (China 2024) – apparently not ruling out non-peaceful means. Aware of the risks to peace, the 39 state members (and the European Union) of the International Parliamentary Alliance on China (IPAC) in 2024 decided to push back against China’s campaign by passing motions in their respective legislatures. In July 2024, IPAC members endorsed a model resolution recalling that GA 2758 did not mention Taiwan or address its political sovereignty, which means that the PRC is distorting its meaning. Therefore, nothing in international law prevents Taiwan from participating in international organizations or other sovereign nations from making their own choices about relations with Taiwan. Furthermore, the exclusion of 23.5 million Taiwanese from the UN must be remedied (IPAC 2024). GA 2758 will be discussed in greater detail below.

Despite all of China’s efforts, the fact remains that the ROC continues to exist on Taiwan and adjacent islands. Even in the absence of widespread diplomatic recognition, this state exercises sovereignty and territorial integrity

more successfully than many UN members. As we examine China's arguments, we need to consider the history of how Taiwan came into the crossfires of the Chinese Civil War, how Canada and other countries have dealt with the reality of two states across the Taiwan Strait both bilaterally and at the UN, how courts internationally deal with the question of Taiwan's statehood, and how Taiwan has evolved since the 1970s.

Part 2: Colonial history and two thorny issues of the post-war era

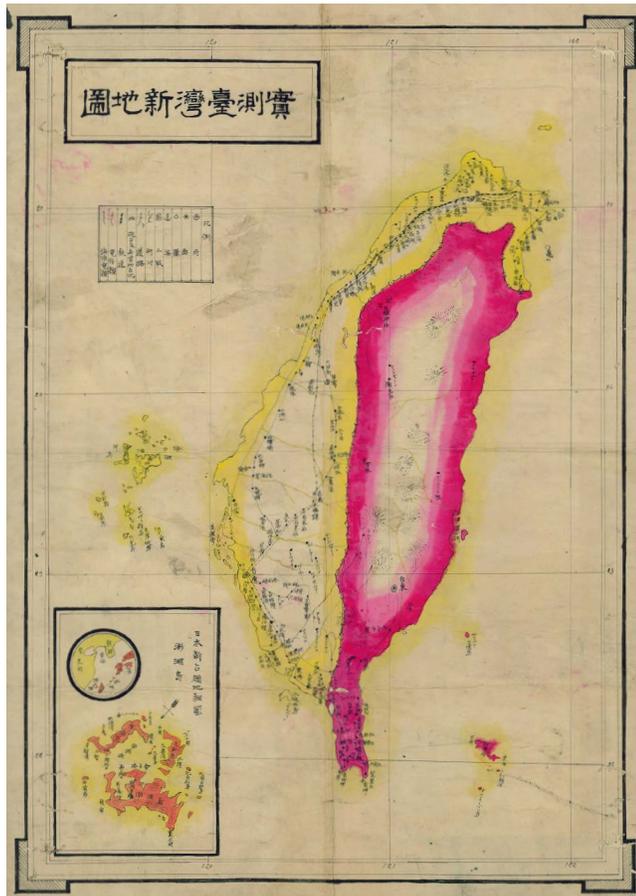
This section examines the false historical claims made by China.

The first waves of colonialism

The PRC claim that Taiwan has been part of China since ancient times is not substantiated by historical research. First, it ignores the fact that it was controlled by stateless Austronesian peoples for thousands of years. Second, it was only in the 17th century that permanent settlement from China began on the island, enabled only by the Dutch East India Company that pacified aboriginal groups around Tainan and invited Chinese settlers in a process of "co-colonization" (Andrade 2008, 118). It is true that Chinese political institutions and ideas entered Taiwan with Ming Dynasty loyalist Koxinga in 1662, and then gradually spread across the island's fertile western plains during the Qing Dynasty administration from 1683 to 1895. Nonetheless, the mere arrival of Qing settlers and military in 1683 did not make the entire territory Chinese, any more than the 16th century declaration by French explorer Jacques Cartier could magically transform all of Canada into France. The aboriginal peoples still thrived in both places under their own political and legal institutions.

During the centuries when Canada expanded westward by signing treaties with the original inhabitants of the continent, the Qing left the aboriginal peoples in Taiwan's mountainous regions in complete political autonomy, even constructing fortified borders to prevent Chinese settlers from entering the

FIGURE 1: Japanese colonial map of Taiwan, 1896



This map, from the beginning of Japanese rule, shows in yellow the areas populated by the Chinese groups who accepted the Treaty of Shimonoseki relatively easily, and in red the areas under aboriginal occupation that were not included in the treaty. Japan eventually conquered the areas in red.

Source: Public domain.

mountains. It was as recently as 1885 that the Qing declared Taiwan to be a province, appointed Liu Ming-chuan as governor, and set the goal of governing the entire island. Qing inability to secure those regions is probably one of the reasons why, following the First Sino-Japanese War, Qing negotiators were willing to transfer Taiwan to Japan in the 1895 Treaty of Shimonoseki. By 1895, Chinese settlers had only taken over the fertile coastal areas, leaving the central mountains and most of the East coast under effective aboriginal autonomy. The Japanese quickly realized that the Treaty of Shimonoseki only applied to those populations, mostly Han Chinese, who had accepted Qing jurisdiction (Roy 2022, 29).

As can be seen in a Japanese colonial map from 1896 (Figure 1), Japan had to conquer by military means more than half of the island that was inhabited by stateless aboriginal peoples and thus treated as *terra nullius*. The conquest was

by no means easy. It took nearly 20 years to accomplish, only to be followed by the last anti-colonial aboriginal uprising as late as 1930. Japan set up a system in which the descendants of Han settlers, many of whom were also descended from aboriginal women in a form of *métissage*, were accorded private property rights. Simultaneously, Japan claimed aboriginal territory as Japanese state property and organized the people into tribes with reserve land, chiefs, and tribal councils. Historian Paul Barclay called this system, in which Indigenous peoples and territories are administered by different rules, “bifurcated sovereignty” (Barclay 2018, 18). Especially as Japan tried to convince the population to adopt Japanese identity, people began to develop a consciousness of being Taiwanese and even demand new political arrangements with Japan (Ching 2001). This part of the history is important because it demonstrates that Taiwan itself, as a society covering the entire island, is a product of Japanese administration. The peoples of Taiwan are by no means a population that is unequivocally Chinese, and much of the territory was never under Chinese administration until 1945. This history cannot settle territorial disputes, but it does disprove the CPC claim that the entire territory was undisputedly part of China for millennia. At any rate, if history alone could justify occupation of territory today, the world would be engulfed in irredentist conflict and international law would lose credibility.

The post-war dilemma

The status of Taiwan remained undetermined after World War II because the island found itself at the confluence of two major political changes. First, and most importantly for the Taiwanese people, the Allies won the war and had to dispose of Japan’s colonies. The Allies had already promised President Chiang Kai-shek in the 1943 Cairo Declaration that the Japanese territories of Formosa (Taiwan’s main island) and the Pescadores would be “restored” to the Republic of China. The Allies did not consult the peoples on Formosa about their desires; and, indeed, many of them had visions for their own future that were never taken into consideration. Some aboriginal leaders, for example, proposed that half the island be designated for aboriginal self-government. Immediately after Japan surrendered, Chiang took over administration of Formosa under the supervision of General Douglas MacArthur as Supreme Commander for the Allied Powers (SCAP). There is no way to know what the Taiwanese would have chosen if they had been consulted in a plebiscite. They may very well have

preferred to become a Japanese prefecture than to join China, which was in the throes of civil war. Especially after the Chiang regime suppressed local movements for democracy and autonomy in 1947, many Taiwanese people perceived the imposition of ROC rule as a new wave of colonialism rather than as any form of liberation. We do know, however, that some Taiwanese people started expressing their desire for self-determination, immediately to SCAP and eventually to the United Nations. When the ROC imposed martial law on the island, some sought exile in Japan, the United States, and Canada.

The second major political change happened on October 1, 1949, when the Chinese Communist Party won the Chinese Civil War. Over one million Chinese citizens fled to Taiwan, followed by the entire ROC administration. From one Chinese perspective, Taiwan became the remaining fortress of the losing camp. Armed combat may have been suspended but – for the Chinese Communists – the continuing existence of the ROC on the island still remains an intolerable form of unfinished business. The Communist argument, as exemplified in the White Paper, is that the establishment of the PRC extinguished the ROC on that day and made Taiwan into a territory to be liberated or reunified at all costs. From the perspective of the Chinese Nationalist Party (KMT), the ROC has never ceased to exist. Because the United States continued to support the ROC in the Cold War, the ROC retained its seat in the UN. It was a founding member of the UN and has only ever been recognized by states that maintained diplomatic relations with it, as representing the sovereignty of China. When it was in the UN, it never claimed to be the government of Taiwan. It claimed to represent China.

The peace treaties failed to determine Taiwan's status

The post-war treaties failed to settle the dilemmas caused by these two political changes. The San Francisco Peace Treaty (SFPT 1951), between Japan and 48 Allies of World War II (including Canada), excluded China from deliberations because of disagreement about whether the ROC or the PRC represented the Chinese people. In the absence of agreement on the future of Taiwan, Article 2 merely stated that “Japan renounces all right, title and claim to Formosa and the Pescadores.” This was followed immediately by the Treaty of Taipei (1952), which established diplomatic relations between Japan and the ROC, and deemed all inhabitants of Taiwan and Penghu of Chinese nationality to be

ROC nationals. The failure to consult the people of Taiwan led El Salvador to sign the SFPT with the reservation that it does not accept or ratify decisions where “the freely expressed will of the affected populations was not consulted and respected.” The fact that the ROC could establish diplomatic relations with Japan in 1952, remain in the UN until 1971, and enter into a mutual defence treaty with the US from 1954 to 1979 demonstrated that it still enjoyed international legal sovereignty years after the foundation of the PRC. Contrary to China’s arguments, the foundation of the PRC in 1949 did not extinguish the sovereignty of the ROC. It only circumscribed its effective jurisdiction to Taiwan and nearby islands. ROC rule even continued on the Kinmen and Matsu Islands near the Mainland that had not been under Japanese rule and thus not included in the treaties.

“ *Contrary to China’s arguments, the foundation of the PRC in 1949 did not extinguish the sovereignty of the Republic of China.* ”

Canadian leaders remained concerned about the difficult circumstances of the people of Taiwan during the Cross-Straits crises of the 1950s and were clear-eyed about the risks of the Cold War. On March 24, 1955, Secretary of State for External Affairs Lester Pearson made a speech in Parliament in which he recognized the existence of two different peoples in Taiwan with different interests. He had learned from Canadian missionaries about the interests of Taiwanese and aboriginal peoples who resented the imposition of martial law on their society by the ROC and experienced the ROC as an occupying force. He also recognized that the island hosted Chinese in exile who continued to dream of a democratic and republican China, while treating “Taiwanese Independence” as if it were as dangerous as communism.

Pearson said, “The people of Formosa, about whom we do not hear very much, unfortunately, in connection with these matters, and those Chinese from the mainland who have fled there from communism, have a claim to

consideration, both in respect of proposals to hand them over to a communist regime against their will, and in respect of proposals to involve them in a Chinese civil war without regard to their own wishes” (Canada 1955, 2342).

On January 31, 1956, Pearson reported the results of Cabinet deliberations when he announced to Parliament that “the legal status of Formosa is still undecided and no step taken vis-à-vis the communist regime should prejudice that issue” (Canada 1956, 710) This was an understanding shared by Commonwealth nations, as expressed by UK Prime Minister Winston Churchill on February 1, 1955, that: “The problem of Formosa has become an international problem in which a number of other nations are closely concerned. The question of future sovereignty over Formosa was left undetermined by the Japanese Peace Treaty” (United Kingdom 1955).

This legal understanding persists. In November 2024, Ryan Hass at the Brookings Institute encouraged incoming President Donald Trump to hold firmly to the unchanged American position that Taiwan’s legal and territorial status is unresolved (Hass 2024). This means that it is not an undeniable fact that the PRC extinguished ROC sovereignty over Taiwan in 1949. If anything, events since 1949 suggest that the ROC does have a continuing existence of some kind. It does not suffice to assert, as does PRC discourse, that post-war history constitutes “continued unlawful intervention in the domestic affairs and disruption of the sovereignty and territorial integrity of the State of China” (Chan 2009, 465). Instead, it is a firm historical reality that, in terms of domestic and interdependence sovereignty, the PRC has ruled only on the Chinese Mainland and that the ROC has ruled only on Taiwan (including the outer islands of the Pescadores, Kinmen, Matsu, etc.) since 1949.

Since 1949, there are two states on both sides of the Taiwan Strait, and it is profitable for third parties to trade with both. Canada, beginning with wheat sales to the PRC while still having official relations with the ROC, has always looked for a way to bracket off disagreements. Such compromise was the most expedient way to maintain the flow of people and goods among these territories. The hope in the democratic world was that the PRC would accept the situation indefinitely as a *modus vivendi* and that, eventually perhaps, democratic evolution would also allow the people of Taiwan to determine their own fate.

Part 3: Canada and the world recognize the PRC, with reservations

This section examines how Canada and the UN recognized the reality of the PRC, while expressing reservations about China's claims over Taiwan.

Canada

Canada approached recognition of the PRC with prudence. Immediately after 1949, Canada had concerns about whether the PRC regime would be effective, permanent, independent of external control, and supported by its own people. After the Korean War, there were debates about Taiwan's international status and whether to support the US Mutual Defense Treaty with the ROC. A significant breakthrough happened with Prime Minister John Diefenbaker broke the US-led trade embargo by allowing wheat sales to the PRC. This established a precedent in which Canada could have official diplomatic relations with one side of the Taiwan Strait, while doing trade with both sides. After 1963, both Prime Minister Lester Pearson and Foreign Minister Paul Martin Sr. started to express a greater desire to break the isolation of the PRC, but were concerned about both the fate of Taiwan and the willingness of the PRC to assume the obligations and responsibilities created by the ROC. After their efforts to get a UN seat for the PRC met with US obstructionism, Pearson floated the idea to Cabinet that Canada might eventually have to take the lead with unilateral recognition (Canada 1966).

Canada finally negotiated diplomatic relations with the PRC during the government of Pierre Trudeau. From the beginning, Prime Minister Trudeau's goal was three-fold: to recognize the PRC, to enable the PRC to occupy the seat of China in the UN, and to take into account the existence of a separate government in Taiwan. In early 1969, negotiations for Canada-PRC relations began in Stockholm, with China's insistence that Canada recognize that Taiwan is part of the PRC and an equal Canadian resolve to refuse any commitment that precluded eventual recognition of an independent state of Taiwan. Foreign Minister Mitchell Sharp began making the argument that Canada did not ask China to endorse its claim to its Arctic islands so, similarly, China should not ask Canada to endorse its claim to an offshore island (Edmonds 1999, 207). Trudeau made that point very clear. At a press conference in Washington, DC,

in 1969, he stated, “The act of recognition of a country does not carry with it necessarily a recognition of that country’s territorial claims” (Trudeau 1969, cited in Deans 1970).

Canadian and Chinese negotiators finally agreed on a common formulation, which Sharp presented to the House of Commons on October 13, 1970. Regarding Taiwan, the text of the Joint Communiqué is:

2. The Chinese government reaffirms that Taiwan is an inalienable part of the territory of the People’s Republic of China. The Canadian government takes note of this position of the Chinese government.

In his announcement to Parliament, Sharp explained, “the Canadian government does not consider it appropriate either to endorse or to challenge the Chinese government’s position on the status of Taiwan” (Canada 1970, 50). Canadian negotiators had shared this statement with the Chinese, making it clear that the statement to “neither challenge nor endorse” was an integral part of the formula (Edmonds 1999, 212). The Joint Communiqué, including Sharp’s explanation to Parliament, is the legal basis for Canada’s diplomatic relationship with the PRC. It is also the legal basis for the substantive relations that continued between Canada and Taiwan. This joint communiqué did not decide the status of Taiwan, but it created a framework in which Canada maintains trade and people-to-people exchanges with both sides.

Sharp was very clear that the only issue at stake was which government represented China in Ottawa. After Sharp announced Canada’s new relations with the PRC, Opposition Leader Robert L. Stanfield rebutted by saying that, while supporting relations with Beijing, “I still believe that it is not appropriate to accept as a condition the withdrawal of recognition of the government of Taiwan.” Sharp replied, “There is no government of Taiwan.” NDP leader Tommy Douglas clearly understood the implications of this, by proposing: “when the government in Taiwan is prepared to state that it is the government of that area, and of that area only, it will be time for the Canadian government to negotiate with that government for diplomatic recognition” (Canada 1970, 51). Canada hoped that the people of Taiwan would eventually be in a position to exercise their right to self-determination. Trade with Taiwan would continue under Most Favoured Nation treatment,

the model being how Canada had also extended that status to Beijing when it recognized the ROC as the Government of China (Canada 1971, 11–12).

The consensus about Canada’s recognition of the PRC was three-fold. First, Canada was only interested in establishing diplomatic relations and steadfastly refused to endorse China’s territorial claims to places outside its jurisdiction. Second, Canada acknowledged that a government continued to exist on Taiwan, and Canadian people would continue to trade with the people there as before. Third, Canada remained open to the possibility of establishing relations with Taiwan *as Taiwan*, if future circumstances permitted so. In 1970, the main obstacle to recognizing Taiwan as Taiwan was Chiang Kai-shek’s obstinate claim to represent China.

Canada was not alone in seeking ambiguity about Taiwan in the joint communiqués that established relations with the PRC. Cross-Strait expert and China analyst Jessica Drun classified these bilateral statements into three groups: those that recognize Taiwan as part of the PRC, those that remain ambiguous, and those that do not mention Taiwan at all. Between 2003 and 2024, the number of states that recognized the ROC declined from 27 to 12. The PRC could not allow any alternative that would set a precedent for dual recognition. In a 2025 study by the International Institute for Strategic Studies, China’s lawfare had led 120 states to “recognize” Taiwan as part of China. Twenty-three states had intentionally ambiguous wording such as “to take note of” or “to acknowledge” China’s claims. Thirty-nine made no explicit mention of Taiwan (IISS 2025). Similar to Canada’s formulation, the United States said that they “acknowledge” the PRC claim, and Japan “fully understands and respects this stand of the Government of the People’s Republic of China.” An example of a state that accepted the PRC view is Israel. Its 1992 statement reads, “The government of the State of Israel recognizes that the Government of the People’s Republic of China is the sole legal government representing the whole of China and Taiwan is an inalienable part of the territory of the People’s Republic of China” (Drun 2017). And yet, Israel, like a great majority of countries, continues to have a representative office in Taipei that carries out most of the functions of an embassy and Taiwan does the same in Israel.

Considering the difficulty that the PRC has had in gaining full recognition of its claims in bilateral relations, it is not surprising that it has resorted to a legal argument about GA 2758. This thus also merits a close examination of the context of its drafting.

The UN recognition of the PRC

By the 1960s, Canadian leaders had come to the realization that the exclusion of China from the international system was dangerous. Two Taiwan Straits crises, China's aggression in Korea, invasion of Tibet, war with India, nuclear testing, and its role in the Vietnam conflict all were sufficient evidence that China's isolation contributed to global tensions (Edwards 2009, 300). Moreover, on the principle of universality, the UN General Assembly was rapidly accepting as new members the states of the emergent Global South after decolonization. The exclusion of the PRC clearly violated UN Charter principles of equal rights and self-determination of peoples. In 1966, still seeking compromise, Canada proposed that as an interim solution both parties take a place in the UN. In 1967, Paul Martin Sr., summarized the Canadian position, saying:

When I say that we would welcome, because of our conviction on the validity of the principle of universality, the membership of continental China, I should like to emphasize, of course, that if one supports that membership, one likewise must as a supporter of the principle of universality, recognize the right of Formosa to a place in this Organization (United Nations 1967, 14).

After Canada recognized the PRC, however, Canada lobbied in the UN for the expedient solution that the PRC be admitted and the ROC be expelled.

Study of debates in the UN General Assembly on October 25, 1971, reveal that, while there was nearly unanimous support for the entry of the PRC into the UN, there was less consensus about the exclusion of the ROC or Taiwan, and there were important reservations about ignoring the rights of the people of Taiwan. On that fateful day, the General Assembly debated three different resolutions. The "23-power" or Albanian resolution had been drafted in collaboration with the PRC. It admitted the PRC to the UN and expelled the ROC. The "19-power" resolution favoured dual representation. The United States, concerned that the 23-power resolution might prevail, submitted a proposal (the "22-power" resolution) that the resolution be accorded "important question" status that would require a two-thirds majority of voting states (United Nations 1972). Canada's priority was to get the PRC into the UN.

During the debate, Saudi Arabia made a proposal to amend the 23-power resolution to permit dual representation; and Tunisia made three proposals in the same spirit. Saudi representative Jamil Baroody made a passionate appeal for self-determination. His proposal began with, “considering that the Republic of China, i.e. the people of the island of Taiwan, constitutes a separate political entity whose population totals about 14 million.” He explained, “I have used the wording ‘the people of the island of Taiwan’ because they do not want to recognize the Republic of China... can anyone refute the fact that there is such a people, which would like to call itself ‘Taiwanese’?” He repudiated arguments that the Taiwanese are part of China on the basis that China formerly ruled them; saying this was like claiming that Turkey had rights over the Arab countries because the Ottoman Empire had once ruled them. He thus proposed that the PRC take its “rightful place,” and that the ROC also remain in the UN until a referendum or plebiscite allowed the people of Taiwan to determine their future status. He appealed to the “magnanimity” of both the PRC and ROC to accept this compromise (United Nations 1971, 2–7). UN members rejected his proposal to delay voting until the following day, voting 56 against to 53 for, with 19 abstentions.

The subsequent voting happened in the following order. First, the Assembly rejected the US Important Question resolution with a vote of 59 against to 55 in favour, with 15 abstentions. Canada was among those who voted against the US proposal. Tunisia withdrew its proposals, and the Saudi amendments were rejected in a vote. The United States made last-minute efforts to delete the expulsion clause or have it voted upon separately but failed. After these efforts failed, the ROC announced that it would no longer take part in proceedings. The General Assembly then adopted the Albanian proposal with

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: United Nations, UN Resolution 2758 – October 25, 1971.

76 votes for, 35 against, and 17 abstentions. Canada voted for the Albanian resolution. Although both made separate proposals in favour of the right of the Taiwanese to self-determination, Tunisia voted for, and Saudi Arabia voted against. Ironically, both Ukraine and Byelorussia, which themselves had representation in the UN despite being part of the Soviet Union, voted in ways that denied representation to Taiwan.

The reservations expressed by states demonstrated significant concern for the rights of the people of Taiwan. For example, Senegal, which would vote for the resolution, expressed reservations. Opposed to the notion that PRC authority would be extended to Formosa, Medoune Fall stated:

The people of Senegal, which for almost three centuries knew the constraints of colonization, would certainly find it paradoxical if its Government were to consider itself justified in giving its unreserved endorsement to the proposition that Formosa would be considered as an integral part of the territory of China without the indigenous population of that island being given an opportunity to exercise its right to self-determination (United Nations 1971, 26).

The debates around GA 2758 in the General Assembly make it clear that it was not intended to solve, once and for all, the status of Taiwan. The resolution only made it possible for the PRC to replace the ROC in the United Nations and affiliated organizations. In 1971, states could argue that the Taiwanese people had never been given the opportunity to exercise self-determination. After the resolution passed, the ROC continued to exercise full jurisdiction in Taiwan, although keeping the Taiwanese people under martial law and still claiming counter-factually to rule all of China. The petitions that Taiwanese people, often from exile, made to SCAP and to the UN after 1947 should suffice to prove that the Taiwanese are a people and did not accept the ROC without protest. During martial law in Taiwan, anyone accused of sympathy to either Communism or Taiwan independence was subject to long-term imprisonment and even execution. Ordinary people learned to fear both of those possible futures.

The important transformation happened as Taiwan democratized. Since 1992, it can be argued that every election is indeed an exercise of self-determination.

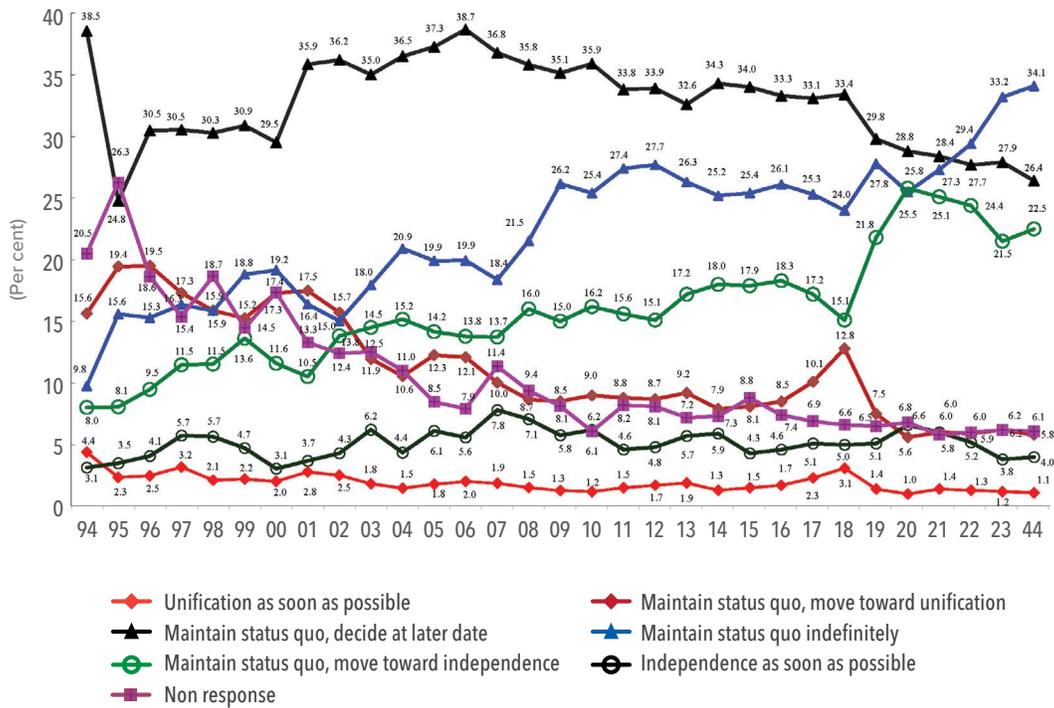
Part 4: The evolution of Taiwan

Beginning with the lifting of martial law in 1987, political change began. In April 1991, the National Assembly in Taipei repealed the *Temporary Provisions against the Communist Rebellion*, thus unilaterally declaring the end of the Chinese Civil War. It immediately replaced the Provisions with the Additional Articles of the Constitution of the ROC, which established the political institutions for the “free area of the Republic of China,” including direct election of the President and Legislature (ROC 2005). Taiwan held its first full and free direct election for the Legislative Yuan in 1992. These changes effectively ended the ROC claim to rule the Chinese mainland, recognizing that there are two governments. It was not a declaration of independence, and did not create an independent state of Taiwan. Arguably, democratization means that the Taiwanese people exercise their right to self-determination through regular free elections, but they are doing so as citizens of the ROC. Although a minority of Taiwanese seek statehood independent of the ROC legacy, they are hemmed in by pressure from both within and beyond Taiwanese society.

Taiwan’s democracy has been tested through eight democratic elections since 1996, transferring the presidency from the KMT to the DPP in 2000, back to the KMT from 2008 to 2016, and to the DPP ever since. There have also been many other expressions of democracy in local elections and referenda, and even the right for citizens to recall elected politicians. Taiwan’s democracy includes a very vibrant civil society, protest movements, and freedom of expression. Taiwan’s political spectrum, rather than ranging from left to right, tends to vary on a spectrum from the tiny minority that seeks rapid unification with China, the vast majority who prefer to maintain the de facto independence that is called the “status quo,” and another minority who seek formal de jure independence as the Republic of Taiwan (Election Study Center 2024). Since most voters have tended toward a pragmatic middle ground, the president and most legislators have been centrists. The following graph (Figure 2) shows the evolution of Taiwanese public opinion about the future of Taiwan. Unification with the PRC (known as “unification as soon as possible”) has never been a popular option.

In his May 2024 inauguration address, incoming President Lai Ching-te (DPP) sought public consensus by saying, “Some call this land the Republic

FIGURE 2: Independence stances of Taiwanese as tracked by surveys by the Election Study Center, NCCU, 1994–2024



Source: Election Study Center, NCCU

of China, some call it the Republic of China Taiwan, and some, Taiwan; but whichever of these names we ourselves or our international friends choose to call our nation, we will resonate and shine all the same” (Lai 2024). The PRC decried this as “separatism,” and announced in the following days military exercises that PRC spokespersons described as “punishment” (Davidson and Lin 2024). It should be noted that China has conducted large-scale military activities and exponentially ramped up regular activity in Taiwan’s ADIZ (air defence identification zone) since 2022 when Lai’s predecessor Tsai Ing-wen was in office. Lai has followed Tsai’s cautious stance by using language of the ROC and Taiwan interchangeably and avoiding language that clearly affirms independence and statehood. China has responded to the continuing restraint of Taiwan’s leaders even by crossing the Median Line in the Taiwan Strait that has served as a de facto boundary and prevented military conflict since the 1950s. The legal question of whether Taiwan is a state remains important, and courts have, in fact, deliberated on this issue.

Part 5: Is Taiwan a state?

International law promises to regulate the inevitable conflicts between competing political and ideological projects in an impassioned manner. The preamble of the United Nations Charter (1945) boldly promises to save future generations from the scourge of war, and to recognize the equal rights “of nations large and small.” Article 1 establishes the principle of developing friendly relations based on the “principle of equal rights and self-determination of peoples.” Article 2 obliges UN members to settle international disputes by peaceful means and to refrain from the threat or use of force against the territorial integrity or political independence of any state and does not authorize the UN to intervene in domestic jurisdiction of any state. The UN Charter does not limit statehood to UN membership. In fact, Article 35 even declares that states that are not members of the UN may bring disputes to the UN Security Council or General Assembly. The legal salience of statehood is why China makes all efforts to convince the international community that the ROC (Taiwan) is not a state, and that the Taiwanese do not constitute a people with rights to self-determination. If Taiwan is a state (by one name or another), threat or use of force against it is contrary to international law, even in the absence of recognition.

The Montevideo Convention (1933) remains a touchstone reference in international law for its definition of a state. Article 1 defines a state as a person of international law if it possesses: “(a) a permanent population; (b) a defined territory; (c) government; and (4) capacity to enter into relations with the other States.” Yet, article 3 further stipulates that “the political existence of the State is independent of recognition by the other States.”

In 2003, the Superior Court of Quebec relied on the Montevideo definition to determine whether or not Taiwan is a state for the purposes of *Parent c. Singapore Airlines Ltd., 2003*. This case concerned Quebec citizen François Parent, who was injured in a plane crash on Singapore Airlines in Taipei. When Singapore Airlines argued that Taiwan’s Civil Aeronautics Administration (CAA) was at fault, the Court had to determine if Taiwan is a state and thus immune to Canadian legal jurisdiction under the *State Immunity Act*. Canada’s foreign ministry failed to provide the court with a certificate declaring that Taiwan is a state, thus requiring the court to make its own judgement. After a study of the evidence presented by both the CAA and Singapore Airlines, the court determined that it is an incontestable fact that (a)

Taiwan is a clearly defined territory; (b) that it has a permanent population; (c) that it has an effective government with a head of state; and (d) that it enters into relations with other states, including 27 states with diplomatic relations and, directly or indirectly, other forms of relations with many other states. The court thus determined that, *for the purposes of the present case*, Taiwan is a state and that the CAA in consequence has the right to state immunity in Canadian law. The court concluded its ruling with an only slightly veiled critique of the federal government:

In pursuing this course, the courts may find themselves granting a degree of respect or even immunity for a foreign regime that superficially may seem wholly out of accord with the government's declarations of diplomatic distance. But the illusion will be in the *denials of recognition by the government for diplomacy's sake* and no longer in the *fictions of the courts* (emphasis added).³

Taiwan is clearly a state and has rights in international law. The irrefractable problem, of course, is that China has already demonstrated its willingness to ignore international law when needed to act on its own claims, as it did in the South China Sea when the Permanent Court of Arbitration in the Hague ruled in favour of the Philippines in 2016. International law has limited ability to prevent China from making aggressive moves, but that does not mean that other states should abandon rule-of-law as a moral compass. Most of all, subsequent state practice since the PRC entered the UN demonstrates that most states already treat Taiwan as if it were a fully independent state.

Taiwan's real existence and diplomatic strength

Despite Taiwan's exclusion from the UN, the strength of its economy and manufacturing base requires its participation in international trade and economic mechanisms. Taiwan thus has membership in the Forum for Asia-Pacific Economic Cooperation (APEC) and in the World Trade Organization (WTO), albeit under the respective names of "Chinese Taipei" and the "Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu." Taiwan operates under these names, which constitute a *modus vivendi* with the PRC, while making it possible for other economies to negotiate and settle conflicts with their counterparts in Taipei.

The fact that only 12 countries have formal diplomatic relations with the ROC provides only a slim veneer for the otherwise strong diplomatic ties that Taiwan maintains with far more consequential states. The Lowy Institute Global Diplomacy ranks Taiwan as 33rd in the world and 9th in Asia in terms of the number of overseas posts. Only 12 embassies, one consulate, and the WTO mission are officially accredited as diplomatic missions, but the remaining 96 fulfill the functions of embassies or consulates, including the issuance of visas (Lowy Institute 2024). Taiwan's 23.5 million people travel with ROC passports issued in Taipei, using a cover embossed as ROC in Chinese and Taiwan in English. According to the Passport Index, Taiwan's passport is accepted for visa-free entry in 75 countries, visa on arrival in 50, an ETA in 8, and a required visa in 65. This gives it a mobility score of 133, a passport power rank of 34, and a world reach of 67 per cent. By contrast, the PRC passport enjoys visa-free entry in 40 countries, visa on arrival in 53, an ETA in 4, and a required visa in 101. This gives it a mobility score of 97, a passport power rank of 52, and a world reach of 49 per cent. The Taiwan passport is thus stronger than its PRC equivalent (Arton Capital 2025). There are no compelling reasons for any state to risk PRC reprisals by unilaterally attempting dual representation if substantive relations can still be carried out effectively with the existing arrangements. The *modus vivendi* holds as long as these practices remain unchallenged. The problem is that China is increasingly challenging these longstanding compromises and altering the status quo in the Taiwan Strait.

“ *Taiwan's clout is now reinforced by its economic strength, not least in the provision of semiconductor chips to the world.* ”

Taiwan's clout is now reinforced by its economic strength, not least in the provision of semiconductor chips to the world and, especially in the West, by its commitment to democracy, human rights, and rule-of-law. The threat is that PRC coercion appears to be eroding Taiwan's international legal status,

especially in the Global South. By the end of 2024, 70 states explicitly backed unification, even pursuing “all” measures needed without specifying that such efforts should be peaceful (*The Economist* 2025). If China succeeds in obtaining such global support, there are unlikely to be UN resolutions against an invasion, as happened in support of Ukraine; and the West is unlikely to gain UN compliance on any possible sanctions. This is why international push-back against Chinese aggression is more likely to come through a small group of significant economies formed around the G-7. Canada’s leadership counts there.

If the most important principle, based in the UN Charter, is that disputes should be managed peacefully and in respect for human rights, the Taiwan Strait needs an international solution that allows the people of Taiwan to finally determine their own future. The main obstacle to Taiwanese people exercising their right to self-determination is the threat of use of force by China. Like-minded states must be prepared for a possible scenario like Kosovo when external aggression demands international, including Canadian, assistance to help protect the birth of a new Taiwanese state.

It is in Canada’s interests to maintain peace in the region, to uphold international rule-of-law, to protect the interests of smaller states against larger ones, and to keep Taiwan as a reliable member of global supply chains. This means, above all, deterring PRC aggression. Any non-peaceful action would constitute a situation “likely to endanger the maintenance of international peace and security” under Article 33 of the UN Charter. It is thus important to insist on a cross-strait boundary to limit use of force (Crawford 2007, 221). Canada’s long-standing policy on Taiwan, which “takes note” of China’s claim without endorsing it nor challenging it, leaves room for flexibility, but it is important to consider the meaning of these terms in changing geopolitical circumstances. Canada does not endorse China’s claims because we know those claims to be counterfactual. The promise to refrain from challenging China’s claim, however, rests on China’s commitment to peaceful coexistence. This can no longer be taken for granted.

Conclusion: Policy recommendations

Canada laid out the broad lines of its Taiwan policy in the 2022 Indo-Pacific Strategy (IPS), in which it identified China as “an increasingly disruptive global power” (Canada 2022: 7). The IPS promises: “While remaining consistent with our One China Policy, Canada will continue our multifaceted engagement with Taiwan.... Canada will oppose unilateral actions that threaten the status quo in the Taiwan Strait” (Canada 2022, 9). In that line of thought, Canada will “continue to grow its economic and people-to-people ties with Taiwan while supporting its resilience” (Canada 2022, 22). International support and coalition building is required to show support for Taiwan and send credible warning signals to China, as highlighted in a 2024 report by the US-based Center for Strategic and International Studies (Blanchette, Hass, and McElwee 2024). This aligned with US policy to increase the diplomatic costs of precipitous action against Taiwan by strengthening the international coalition willing to contribute to the maintenance of peace and stability in the region (United States 2024).

The Canada-Taiwan relationship is strong and is intensifying in accordance with the IPS. There has been an Avoidance of Double Taxation Arrangement since 2016. Since the IPS was implemented, the two sides have concluded a Collaborative Framework on Supply Chains Resilience and a Science, Technology, and Innovation Agreement. In 2023, Canada and Taiwan signed a Foreign Investment Promotion and Protection Agreement. In 2023, Taiwan was Canada’s 15th-largest trading power and the 6th in Asia. In 2023, Canadian direct investment in Taiwan was \$870 million and Taiwanese direct investment in Canada stood at \$483 million (Canada 2024a). Canada and Taiwan are founding members of the Indigenous Peoples Economic and Trade Co-operation Agreement. Taiwan is already a top supplier of semiconductors and integrated circuits, contributing to Canada’s goals to innovate in AI, automotive, defence, and low-carbon technologies (Hui 2025). Canada provides Taiwan and the semiconductor industry with critical minerals and clean energy expertise, and there is room from this co-operation to grow exponentially. These are all important for Canada’s security and supply chain resilience, but that depends on the continuing existence of Taiwan as an independent state.

Political support for Taiwan in Ottawa has continued to grow. On December 16, 2024, the Parliamentary Special Committee on the Canada – People’s Republic of China Relationship (CACN) issued the recommendation that the Government of Canada, in an update of the Indo-Pacific Strategy (IPS), “indicate that Taiwan’s future must be determined peacefully and in accordance to the wishes of the Taiwanese people” (Canada 2024b). This reiterated the CACN’s 2023 recommendation that “the Government of Canada offer and declare its clear and unwavering commitment that the future of Taiwan must only be the decision of the people of Taiwan” (Canada 2023).

On November 6, 2024, Canada’s Parliament unanimously passed a motion that:

the House recognize that the United Nations Resolution 2758 of October 25, 1971, does not establish the People’s Republic of China’s sovereignty over Taiwan and does not determine the future status of Taiwan in the United Nations, nor Taiwanese participation in UN agencies or international organizations (Canada 2024c).

Although a motion is legally non-binding on the Government of Canada, it aligns Canada with international attempts to push back against Chinese lawfare. It is a necessary challenge to China, in the face of China’s own provocations. With this motion, Canada joins the United States and European democracies that challenge China’s disinformation campaign on GA 2758. The German Marshall Fund has a comprehensive study of the issue with policy recommendations for states (deLisle and Glaser 2024).

Canada’s position aligns with our most important allies and diplomatic partners, as most recently exemplified in the G-7 Foreign Ministers’ Statement made in Charlevoix, Quebec, on March 14, 2025:

We emphasized the importance of maintaining peace and stability across the Taiwan Strait. We encouraged the peaceful resolution of cross-Strait issues and reiterated our opposition to any unilateral attempts to change the status quo by force or coercion. We also expressed support for Taiwan’s meaningful participation in appropriate international organizations (Canada 2025).

This joint statement is the first G-7 declaration about Taiwan that does not refer to “One China.” That concept, at least in discussions of Taiwan, may have outlived its usefulness. In fact, it may be dangerous if Beijing interprets it as acquiescence to their demands.

Within the constraints detailed in this essay, strategies that would protect Taiwan’s resilience include the following. All of them can be done without altering Canada’s long-standing One China Policy. This list is suggestive only and not intended to be exhaustive.

Near-term

Canada needs to:

- Continue initiatives currently underway, such as the G-7 statement, with democratic partners to collectively support Taiwan.
- To deter PRC aggression, continue naval transits of the Taiwan Strait with our allies. To show our independence, Canada needs to make transits alone and in the presence of states other than the United States.
- These transits need to be accompanied by public diplomacy in concert with other states clearly stating that the Taiwan Strait constitutes international waters under international law, notwithstanding China’s claims to the contrary. The Canadian public must know that these transits to protect our own interests and are not part of a US-led conspiracy to “contain” China.
- Make it clear to the Canadian public that there is a difference between Canada’s own One-China Policy and the One-China Principle promoted by the PRC. Since Canada has its own policy, it is legitimate to adapt it to changing circumstances and resist third-party interference.
- Increase official and civil society dialogue (so-called Track 2 and Track 1.5 diplomacy) with Taiwan, as well as the US and the closest democratic neighbours of Taiwan (Japan, the Republic of Korea, and the Philippines), on how to maintain stability and peace in the region. An example of this is the Global Co-operation and Training Framework that promotes dialogue between Taiwan, the United States, Japan, Australia, and Canada.

- Convey to the Taiwanese people through public diplomacy that international society supports their democracy. Signs of external support can help the Taiwanese people avoid the sense of isolation that makes them vulnerable to PRC cognitive warfare.

Intermediate-term

- Invest more in Canada's representative presence in Taiwan in order to conduct public diplomacy in Taiwan at levels similar to France or the UK. It is important to let the Taiwanese public know that they are an integral part of international democratic society.
- Invest more in diplomacy with the remaining states that have formal diplomatic relations with the ROC, because they provide stability.
- Make development assistance to these countries conditional on their continuing support of Taiwan; and find ways to co-operate with Taiwan on development and other issues.
- Increase Canada's credibility in the region by making necessary investment in the military, especially naval forces.
- Upgrade our defence and security relationship with neighbouring states (first Japan, but also the Republic of Korea and the Philippines) to enhance collaboration on Taiwan issues and avoid the appearance that Canada merely follows the US lead in competition with China.
- Seek creative ways to improve defence and security relations with Taiwan's military and coast guard.
- Improve Canada's own domestic security by enhancing law enforcement and security intelligence co-operation with Taiwan. This is especially important because Taiwan is excluded from Interpol.
- Expand bilateral trade and investment with Taiwan, in ways that enhance supply chain resilience. Taiwan, for example, needs Canadian LNG. Canada could benefit from Taiwanese investment in rare earth minerals needed for semi-conductor manufacturing. Canada can also supply Taiwan's needs in defence and security.
- Study the necessity and possibility of drafting legislation similar to the US's *Taiwan Relations Act* to better protect Canadian businesses and individuals working with and in Taiwan.

Long-term

- Prepare for unwanted contingencies. We need to envision scenarios in which non-peaceful Chinese actions, even short of kinetic warfare, make the cost of non-recognition of Taiwan higher than the current modus vivendi. We need to prepare contingencies for the economic and financial impact of any conflict; as well as how to evacuate Canadian citizens from both sides of the Taiwan Strait and accept refugees.
- Work towards the goal in which an international solution based on the right of the people of Taiwan to determine their own future is possible. [MLI](#)

About the author



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Endnotes

- 1 There is already a strong body of literature in law on Taiwan’s legal status (e.g. Antonowicz 2019; Chen and Reisman 1972; Chiang 2000; Huang 2003; Kirkham 1968; Somers 2023; Williams 1998, etc.). Fuller exploration of that literature is beyond the scope of this report, but only Chinese legal scholars argue that Taiwan is a province of the PRC.
- 2 Nauru announced in a media release on Facebook on January 15, 2024, that the move is “in line with UN Resolution 2758” (Nauru 2024). The American Institute in Taipei immediately expressed that GA 2758 was “distorted” to justify Nauru’s decision (Blanchard 2024). GA 2758 was not included in the full text of the Joint Communiqué issued on January 24, 2024 (Xinhua 2024).
- 3 For more on how courts must treat Taiwan, see Hsieh 2007.

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