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Preface

Hungdah Chiu

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PREFACE

On December 15, 1978, President Carter dramatically announced to the world that the United States (U.S.) and the People's Republic of China (P.R.C.) would establish diplomatic relations on January 1, 1979. He also declared that he would terminate diplomatic relations with the Republic of China (R.O.C.) on that date, terminate the Mutual Defense Treaty with the R.O.C. a year from that date, and withdraw all U.S. forces from Taiwan within four months. There was neither a P.R.C. commitment to refrain from using force against Taiwan nor a unilateral U.S. commitment to the security of Taiwan. Since then, there have been many analyses and evaluations of the President's China move. However, almost all these studies have been focused on one or several issues in connection with recognizing the P.R.C., e.g., the Taiwan issue, trade prospects, playing the China card, etc. The Law Professor Workshop on Chinese Connection and Normalization, while also interested in these individual issues, tried to make an overall evaluation and analysis of the normalization of relations with the P.R.C. from a broader perspective. The remarks and comments made at the Workshop are now edited for publication in this volume. In editing the materials for this volume, I have not strictly followed the sequence of presentation by speakers at the Workshop because the program schedule had been adjusted to accommodate the needs of individual speakers and was not arranged in a strictly logical sequence of presentation.

In Chapter I, Professor Donald W. Treadgold puts the negotiation problem in a historical perspective, which is usually ignored in the voluminous writings on the subject in the post-normalization period. While normalization of relations between the U.S. and the P.R.C. is primarily a bilateral issue between the two countries, it is beyond doubt that such a move must have global and regional implications, especially in the Pacific area. These implications are ably analyzed by Professor Gaston J. Sigur in Chapter II.

Needless to say, the Taiwan issue is one of the most difficult aspects of the normalization process, because of the support of the American public for the R.O.C. on Taiwan and because of Taiwan's status as the eighth largest trading partner of the United States. Most opposition to the President's China move concentrated on the issue of Taiwan. Thus, a *New York Times-CBS* survey conducted the weekend after President Carter's December 15 announcement found that Americans opposed closer ties with China at the expense of Taiwan by a forty-five percent to twenty-seven percent margin.¹ Even after more than a month of publicity and explanation by the Carter

1. *Chinese Concession Reported*, The Baltimore Sun, January 5, 1979, p. A4.

administration, a substantial plurality of the American people still disapproved of recognizing Peking at the expense of relations with Taiwan by a forty-six percent to thirty-two percent margin, according to a survey conducted January 23–26, 1979.² This difficult issue of public support is the subject of Chapter III, by Professors Richard Walker and Yuan-li Wu, who emphasize that the issue remains unresolved and volatile.

Alfred Jenkins, a retired career Foreign Service Officer, whose last assignment was as Deputy Chief of the U.S. Liaison Office in Peking and who enjoys the distinction of being the only diplomat to have served on the mainland both before and after the Communist regime assumed power, enlightens us with his and his colleagues' experiences in dealing with the Chinese in Chapter IV, thus providing more insights in evaluating President Carter's China move.

In Chapter V, the Carter administration's view on the value of normalizing relations with the P.R.C. is presented by Deputy Assistant Secretary of State Roger Sullivan, a career Foreign Service Officer with extensive experience in East Asia. The Administration's view is commented on by two China specialists, Professors Yin-mao Kau and James C. Hsiung, and one economist, Professor Jan Y. Prybyla, thus providing analyses of normalization from different angles.

Because the United States is a constitutional democracy based on the separation of powers and on the checks and balances among the executive, the legislative and the judicial branches of the government, the normalization of relations with the P.R.C. necessarily involved certain domestic legal problems in the United States. These include the authority of the President to terminate the Mutual Defense Treaty with the R.O.C. without prior Congressional approval and the enactment of legislation necessary to continuing the substance of the mutually beneficial U.S.-Taiwan relations in the post-normalization period. These issues are discussed in Chapter VI by Mark Feldman, Deputy Legal Adviser of the State Department, and by representatives of two senators, the Honorable John Glenn and the Honorable Robert Dole, both of whom were actively involved in the normalization problem before and after its completion.

The domestic legal order of the P.R.C. should not be ignored in analyzing normalization because of its close relevance to such specific issues as trade, investment, scientific and cultural exchanges (which are expected to expand following normalization), and the Carter administration's linkage of foreign policy with human rights. In Chapter VII, Professor Jerome Alan Cohen provides a concise analysis of the status of law in the P.R.C. today and Mr.

2. *Poll Finds 46 Percent Still Oppose Ties with China at Taiwan's Expense*, N.Y. Times, January 29, 1979.

Daniel Kelly shares his personal experience of having served twenty years in a labor camp of the P.R.C. The last two chapters deal with trade (Chapter VIII, William Clarke) and scientific and cultural exchange with the P.R.C. (Chapter IX, Holsey G. Handyside and Pierre Shostal), both of which are important aspects of the normalization.

In editing the Workshop remarks and comments for publication, I have decided to include selected important documents concerning normalization (some of which were distributed at the Workshop) and to compile a selected bibliography. Moreover, in view of general interest in trade with China and the human rights situation there, I have also included two excellent government publications in the appendices of this volume: *Doing Business with China* (Department of Commerce 1979) and *Human Rights in the People's Republic of China (Mainland) and the Republic of China (Taiwan)*. Together these documents constitute a source of information on the complex issues surrounding normalization that will enable readers to draw their own conclusions and/or to carry on further research on the subject.

Finally, on behalf of the University of Maryland School of Law, the Maryland International Law Society and the *International Trade Law Journal*, I would like to express our sincere thanks to Mr. Morris I. Leibman, Chairman of the Standing Committee on Law and National Security of the American Bar Association, and to Dr. Bernard A. Ramundo, Consultant to the Committee, for inviting our Law School to co-sponsor the Workshop. We are also grateful to Governor Harry Hughes for proclaiming the Workshop Week, June 3-9, 1979 as International Law Week in Maryland and for his welcoming message to the participants of the Workshop. I wish to express my sincere thanks to Dean Michael J. Kelly, Associate Dean Everett F. Goldberg, Assistant Dean George Regan, Edward Paul Gibson, Karen Murphy, Charles Meade, Sheiw-chei Yin, Douglas Antonio, John Smallwood, Steve Talson, and Lu Ann Young for their assistance in the course of organizing the Workshop. Finally, my appreciation and thanks are extended to the able Editorial Board and Staff of the *International Trade Law Journal* whose tedious work of editing the Workshop speeches and comments made possible this publication.

Hungdah Chiu
Editor and Co-Moderator

January 1, 1980

The State of Maryland



Proclamation from the Office of the Governor

INTERNATIONAL LAW WEEK

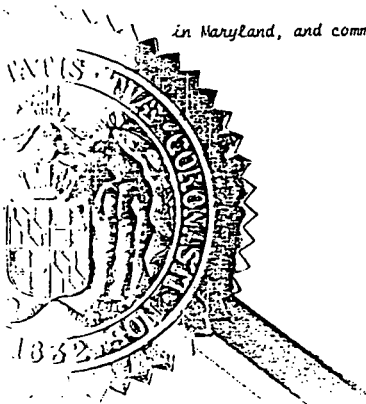
June 3-9, 1979

- WHEREAS, The history of Maryland and its proximity to the national capital have given its people an international outlook and cosmopolitan character; and
- WHEREAS, In observance of International Law Week, the American Bar Association and the Maryland International Law Society and the International Trade Law Journal of the University of Maryland School of Law are sponsoring the Law Professor Workshop - The Chinese Connection and Normalization - in Baltimore on June 8 and 9, 1979; and
- WHEREAS, The State of Maryland has announced its interest in cultural and commercial relations with China, which this conference will enhance;
- NOW, THEREFORE, I, HARRY HUGHES, Governor of the State of Maryland, do hereby proclaim June 3-9, 1979, as

INTERNATIONAL LAW WEEK

in Maryland, and commend this observance to all our citizens.

Given Under My Hand and the Great Seal of the State of Maryland
this 16th day of June, In the Year of Our Lord
One Thousand Nine Hundred and Seventy-Nine



Harry Hughes
Governor

Fred W. Wiseman
Secretary of State



STATE OF MARYLAND
EXECUTIVE DEPARTMENT
ANNAPOLIS, MARYLAND 21404

June 4, 1979

MESSAGE FROM GOVERNOR HARRY HUGHES

Although I cannot be with you as you begin your two-day discussion of "The Chinese Connection and Normalization," I do want to take this opportunity to officially welcome to Maryland members of the American Bar Association and others who are participating or assisting in the Law Professor Workshop co-sponsored by the ABA and the University of Maryland School of Law.

You are about to examine one of the most significant developments in international relations in recent history. What transpires in the next few years between the United States and the People's Republic of China is likely to affect the course of world events for decades to come.

In general, international relations do not come under a Governor's purview, but we are very pleased to have taken what we believe is a new initiative. I recently announced that this September Maryland will sponsor a visit by an official delegation from Anhui Province of the People's Republic of China and in turn I will head a delegation to China in October. The goal of these exchange visits is to further trade and cultural relations between the people of that province and the people of the State of Maryland.

As we in Maryland and the nation as a whole broaden relations with the People's Republic of China, it should be noted that the United States will continue to maintain existing cultural, commercial and other relations with the Taiwanese government and that the people of Taiwan will continue to enjoy the hospitality and good wishes of the State of Maryland. I am also confident that through various kinds of exchanges with Taiwan, the people of both governments will find mutual benefit and growth.

I trust that your workshop will prove both stimulating and fruitful and that you will return to your usual activities with the understanding of this complex issue. My best wishes to each of you.

Sincerely,

Harry Hughes
Governor