UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. ROGER C.S. LIN No. 100-1, Yuanlinkeng Rd., Guishan Dist., Taoyuan City 333, Taiwan; JULIAN T.A. LIN No. 100-1, Yuanlinkeng Rd., Guishan Dist., Taoyuan City 333, Taiwan; and TAIWAN CIVIL GOVERNMENT No. 100-1, Yuanlinkeng Rd., Guishan Dist., Taoyuan City 333, Taiwan, Plaintiffs, v. UNITED STATES OF AMERICA; *et al.*, Defendants.	)	Civil Action No. 1:15-CV-295-CKK

DEFENDANT UNITED STATES OF AMERICA'S
MOTION TO DISMISS PLAINTIFFS' AMENDED COMPLAINT

Defendant United States of America, by and through its undersigned counsel, hereby moves this Court to dismiss this action with prejudice pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) for the reasons set forth in the accompanying memorandum.

Dated: July 15, 2015

Respectfully submitted,

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CERTIFICATION OF SERVICE

I hereby certify that on July 15, 2015, the foregoing motion was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ *Matthew A. Josephson*
Matthew A. Josephson

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DEFENDANT UNITED STATES OF AMERICA'S
MEMORANDUM IN SUPPORT OF ITS MOTION TO DISMISS
PLAINTIFFS' AMENDED COMPLAINT

INTRODUCTION

Plaintiffs are Taiwan residents and members of an advocacy group on Taiwan who allege that in 1946 the Republic of China – at that time recognized by the United States as the government of China – unlawfully denied the population of Taiwan of its Japanese nationality at the conclusion of World War II. Specifically, Plaintiffs allege that the Republic of China issued nationality decrees that unlawfully denied those residing on Taiwan of their Japanese nationality. They further allege that the United States shares legal responsibility for the denial of their Japanese nationality because the Republic of China, through Generalissimo Chiang Kai-shek and his Chinese Nationalist Party, was "acting as an agent of the United States" when the decrees were issued in 1946. For numerous independent reasons, the Court does not have jurisdiction over this lawsuit, and thus this case should be dismissed.

First, Plaintiffs fail to identify a cause of action against the United States. While they cite, without explanation, various international instruments and the Declaratory Judgment Act, none of these sources provides for a cause of action against the United States in this case.

Second, this case is barred by the statute of limitations. Plaintiffs' claim is that the Republic of China, while acting as an agent of the United States, issued decrees in 1946 that unlawfully denied Taiwan residents of their Japanese nationality in violation of international law. This claim has no legal basis, but in any event would have accrued upon the issuance of the decrees in 1946, and is well outside the six-year limitations period applicable to claims against the United States.

Third, this case should be dismissed because Plaintiffs cannot establish any of the constitutional elements of standing: Plaintiffs cannot establish injury-in-fact because their alleged injury – the deprivation of every Taiwan resident's Japanese nationality status – is not a

personal and particular injury for these Plaintiffs; they cannot establish causation because the alleged deprivation of one's Japanese nationality is not fairly traceable to any conduct of the United States; and they cannot establish redressability because their requested judicial declarations would not restore their Japanese nationality or otherwise redress their nationality status.

Finally, the political question doctrine provides yet another basis for dismissing this lawsuit. In fact, in a previous case involving several of these very same Plaintiffs, this Court and the D.C. Circuit specifically held that any request to issue declarations concerning the nationality status of residents on Taiwan presents a quintessential non-justiciable political question. *See Lin v. United States*, 561 F.3d 502 (2009); *Lin v. United States*, 539 F. Supp. 2d 173 (D.D.C. 2008).

BACKGROUND

I. FACTUAL BACKGROUND: THE POLITICAL STATUS OF TAIWAN

The status of Taiwan has long been a subject of dispute. At the close of the Sino-Japanese War in 1895, China ceded sovereignty over Taiwan (then called Formosa) to Japan. *See Lin v. United States*, 561 F.3d 502, 504 (D.C. Cir. 2009) (citing Treaty of Shimonoseki, China-Japan, art. 2(b), April 17, 1895, 181 Consol. TS 217). Japan retained control of the island until the conclusion of World War II in 1945. *Id.* Upon the surrender of Japan to the United States and its allies, General Douglas MacArthur issued an order instructing all Japanese forces on Taiwan to surrender to Generalissimo Chiang Kai-shek, leader of the Chinese Nationalist Party. *Id.* (citing 91 Cong. Rec. S8348-49 (1945)) (Text of Japanese Order). In 1949, China's civil war—a battle between Chinese nationalists and communists—ended; mainland China fell to the communists, who announced the establishment of the People's Republic of China ("PRC") and forced Chiang Kai-shek to flee to Taiwan. *See* U.S. Dep't of State, Office of the Historian,

Milestones: 1945–1952: The Chinese Revolution of 1949, https://history.state.gov/milestones/1945-1952/chinese-rev (last visited July 2, 2015).

In 1951, Japan and a number of the Allied Powers, including the United States, signed a peace treaty which provided that "Japan renounces all right, title and claim to Formosa and the Pescadores," but did not otherwise address Taiwan's status. Treaty of Peace with Japan, Article 2(b), Sept. 8, 1951, T.I.A.S. No. 2490, 3 U.S.T. 3169, 1952 WL 44661(1952).

In 1954, the United States and the Republic of China signed a mutual defense treaty defining the "Republic of China" to include Taiwan. *See* Mut. Def. Treaty Between the U.S. and the Republic of China, Dec. 2, 1954, T.I.A.S. No. 3178, 6 U.S.T. 433, Article VI (stating that "the terms 'territorial' and 'territories' shall mean in respect of the Republic of China, Taiwan and the Pescadores"). In the ensuing decades, the United States continued to recognize the Republic of China as the government of China.

However, in 1972, following high-level diplomacy by Henry Kissinger and President Nixon, the United States issued a joint communique with the PRC, in which the PRC stated its position that the "Taiwan question is the crucial question obstructing the normalization of relations between China and the United States." United States of America-People's Republic of China Joint Communique of Feb. 27, 1972 ("1972 Communique"), U.S. Dep't of State Bulletin, Vol. 66 (1972), No. 1708, at 437 (Exhibit 1). The United States "acknowledge[d] that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China," and confirmed that "[t]he United States government does not challenge that position." *Id.* at 438.

In December 1978, President Carter announced the United States' recognition of the PRC and the establishment of diplomatic relations.[1] The United States and the PRC issued a second joint communique, dated January 1, 1979, regarding the establishment of diplomatic relations between the two countries. *See* United States of America-People's Republic of China Joint Communique of January 1, 1979 on Establishment of Diplomatic Relations, U.S. Department of State Bulletin, Vol. 79 (1979), No. 2022, at 25 (Exhibit 2). In that Communique, the United States again acknowledged the "Chinese position that there is but one China and Taiwan is part of China." *Id.* The communique stated that the "people of the United States" would "maintain cultural, commercial, and other unofficial relations with the people of Taiwan." *Id.* President Carter made clear in a speech accompanying this communique that any relations with the current governing regime in Taiwan would be "nongovernmental." *Id.*[2]

Several months later, Congress passed, and the president signed, the Taiwan Relations Act of 1979, 22 U.S.C. § 3301. Congress found that the enactment of this statute was "necessary - (1) to help maintain peace, security, and stability in the Western Pacific; and (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan." *Id.*

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[1] Since the United States' recognition of the People's Republic of China as the government of China, it does not refer to the authorities on Taiwan as the "Republic of China."

[2] On December 30, 1978, President Carter issued a memorandum to executive agencies directing them to continue to conduct programs relating to Taiwan through a corporate instrumentality, despite the termination of diplomatic relations. 44 Fed. Reg. 1075 (Dec. 30, 1978); U.S. Department of State Bulletin, Vol. 79 (1979), No. 2023 at 25 (Exhibit 2). In his memorandum, President Carter also stressed that the "American people will maintain commercial, cultural and other relations with the people of Taiwan without official government representation and without diplomatic relations." 44 Fed. Reg. 1075. An executive order further detailed the manner in which the United States is to maintain unofficial relations with the people of Taiwan. *See* Exec. Order No. 12143 (June 22, 1979). This executive order was superseded in 1996 by a new order reflecting the same core principles. Exec. Order No. 13014 (August 15, 1996), 61 Fed. Reg. 42963.

§ 3301(a). Under the Taiwan Relations Act, the United States maintains unofficial relations with Taiwan through the American Institute in Taiwan, a "nonprofit corporation incorporated under the laws of the District of Columbia." *Id.* §§ 3305(a)(1). The Act provides that references in the laws of the United States to "foreign countries, nations, states, governments, or similar entities" should be considered also to cover Taiwan. *See* 22 U.S.C. § 3303(b)(1). Additionally, the Act provides that "[w]henever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out . . . such programs, transactions, and other relations with respect to Taiwan" – through the American Institute in Taiwan. *Id.* § 3303(b)(2).

In 1982, the United States and the PRC issued a third joint communique, in which the two governments acknowledged that "[r]espect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations." *See* United States of America-People's Republic of China Joint Communique of Aug. 17, 1982 Weekly Compilation of Presidential Documents (August 23, 1982), at 1039 (Exhibit 3). The United States and the PRC also "agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan." *Id.*

II. PROCEDURAL HISTORY

A. The Prior Lawsuit

This is the second lawsuit that Plaintiffs have filed seeking judicial declarations regarding the political status of Taiwan and the nationality of Taiwan residents. In *Lin v. United States*, 539 F. Supp. 2d 173 (D.D.C. 2008), Plaintiff Roger C.S. Lin and a group of Taiwan residents

sought a judicial declaration that they are nationals of the United States with all related rights and privileges, including the right to obtain U.S. passports. *Id.* at 176-77.

The district court, Rosemary M. Collyer, J., granted the government's motion to dismiss, concluding that plaintiffs' challenge involved "a quintessential political question" that required "trespass into the extremely delicate relationship between and among the United States, Taiwan and China." *Id.* at 178. The Court noted that plaintiffs were asking it to "catapult over" a decision by the political branches to "obviously and intentionally *not* recognize[] any power as sovereign over Taiwan." *Id.* at 179 (emphasis in original). Given the "years and years of diplomatic negotiations and delicate agreements" between the United States and China, the Court concluded it "would be foolhardy for a judge to believe that she had the jurisdiction to make a policy choice on the sovereignty of Taiwan." *Id.* at 181.

The D.C. Circuit affirmed the decision, holding that plaintiffs' request to be declared nationals of the United States was barred by the political question doctrine. *See Lin v. United States*, 561 F.3d 502, 508 (D.C. Cir. 2009). The Court explained that addressing plaintiffs' attempt to be declared U.S. nationals "would require us to trespass into a controversial area of U.S. foreign policy in order to resolve a question the Executive Branch intentionally left unanswered for over sixty years: who exercises sovereignty over Taiwan. This we cannot do." *Id.* at 503-04.

B. The Complaint And Amended Complaint In This Case

Plaintiffs Roger C.S. Lin, Julian T.A. Lin, and the Taiwan Civil Government (a political and educational organization on Taiwan) filed the Complaint in this case on February 27, 2015 against the United States of America and the "Republic of China." (ECF No. 1). After both Defendants filed motions to dismiss the Complaint (ECF Nos. 12 and 17), Plaintiffs filed an

Amended Complaint (ECF No. 18). On June 18, 2014, the Court issued a Minute Order requiring both Defendants to file a Notice indicating whether Defendants intend to file new motions to dismiss in light of Plaintiffs' Amended Complaint. Both Defendants thereafter filed Notices indicating that they intend to file renewed motions to dismiss and that their prior motions to dismiss should be denied without prejudice (ECF No. 20 and 22). The Court thereafter denied without prejudice Defendant United States' Motion to Dismiss (ECF No. 12) and Defendant Republic of China's Motion to Dismiss (ECF No. 17), and required both Defendants to file a motion to dismiss the Amended Complaint by no later than July 15, 2015. The United States now files its motion to dismiss the Amended Complaint.

Plaintiffs' Amended Complaint recycles many of the same allegations made in the first *Lin* case, with one notable difference: in this case, Plaintiffs contend that they are Japanese nationals rather than U.S. nationals, as previously claimed.

Specifically, Plaintiffs allege that the Republic of China "promulgated nationality decrees in 1946 that acted to illegally strip Japanese nationals living on Taiwan, as well as their descendants, of their Japanese nationality in violation of international law." Am. Compl. ¶ 6; *see also id.* ¶¶ 8, 13. Plaintiffs further allege that the United States is legally responsible for the deprivation of their Japanese nationality because the Republic of China was "acting as an agent of the United States" when it promulgated the nationality decrees in 1946 and thereafter. *Id.* ¶ 6; *see also* ¶¶ 5, 9, 45, 53, 60, 77.

The Amended Complaint alleges two counts. In Count One, Plaintiffs ask the Court to enter a declaratory judgment against both the "Republic of China" and the United States, declaring that:

(a) Promulgated while Taiwan was under the control of the United States as the occupying Allied Power, the 1946 Nationality Decrees stripping the entire population of Taiwan of their Japanese nationality, and causing the population to become stateless as they remain to this day, were promulgated without the appropriate authorization of the ROC's principal, the United States;

(b) The 1946 Nationality Decrees were promulgated by the ROC, acting as the agent of the United States, without the appropriate authorization of the United States, and allowed to remain in effect in violation of international law;

(c) Promulgated while Taiwan was under the control of the United States as the occupying Allied Power, the 1946 Nationality Decrees violated customary international law prohibiting the arbitrary deprivation of nationality and the creation of statelessness; and

(d) The 1946 Nationality Decrees are invalid because they violated customary international law prohibiting the arbitrary deprivation of nationality and the creation of statelessness.

Am. Compl., Prayer for Relief, ¶ 1(a)-(d); *see id.* ¶¶ 89-94.

In Count Two, Plaintiffs ask the Court to enter an award for monetary damages against Defendant Republic of China pursuant to the Alien Tort Statute, 28 U.S.C. § 1350, for the "tort of arbitrary denationalization." Am. Compl., Prayer for Relief, ¶ 2; *see id.* ¶¶ 95-97. This claim is brought against Defendant Republic of China only, and not against the United States.[3]

[3] Plaintiffs assert that this Court has jurisdiction as to their claims against the "Republic of China" under both the Alien Tort Statute, 28 U.S.C. § 1350, and the Foreign Sovereign Immunities Act of 1976 ("FSIA"), 28 U.S.C. §§ 1330, 1602 *et seq.*, citing the FSIA's "tort exception" in 28 U.S.C. § 1605(a)(5). This Memorandum of Law addresses only Plaintiffs' claims against the United States, and, while the United States notes the decision of the U.S. Supreme Court in *Argentine Republic v. Amerada Hess Shipping Corp.*, 488 U.S. 428 (1989), the United States is not expressing a view at this time as to whether either of the cited provisions could apply to provide the Court with jurisdiction as to the claims against the "Republic of China."

STANDARDS OF REVIEW

On a motion to dismiss for lack of subject matter jurisdiction pursuant to Rule 12(b)(1), the plaintiff bears the burden of establishing that the court has subject matter jurisdiction. *Gallucci v. Chao*, 374 F. Supp. 2d 121, 123 (D.D.C. 2005) (citing *McNutt v. Gen. Motors Acceptance Corp.*, 298 U.S. 178, 182–83 (1936)). Because subject matter jurisdiction focuses on the Court's power to hear the claim, the Court must give the plaintiff's factual allegations closer scrutiny when resolving a Rule 12(b)(1) motion than would be required for a Rule 12(b)(6) motion for failure to state a claim. *Macharia v. United States*, 334 F.3d 61, 64 (D.C. Cir. 2003). The Court is not limited to the allegations contained in the complaint in determining whether it has jurisdiction over the claim, and may consider materials outside the pleadings. *Herbert v. Nat'l Acad. of Scis.*, 974 F.2d 192, 197 (D.C. Cir. 1992).

A motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) challenges the adequacy of a complaint on its face, testing whether a plaintiff has properly stated a claim. *Browning v. Clinton*, 292 F.3d 235, 242 (D.C. Cir. 2002). Although a complaint "does not need detailed factual allegations, a plaintiff's obligation to provide the 'grounds' of his 'entitle [ment] to relief' requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citations omitted). The court must treat the complaint's factual allegations as true, drawing all reasonable inferences in the plaintiff's favor. *Macharia*, 334 F.3d at 64, 67; *Holy Land Found. for Relief & Dev. v. Ashcroft*, 333 F.3d 156, 165 (D.C. Cir. 2003). The facts alleged "must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. The Court need not accept as true inferences unsupported by facts set out in the complaint or legal conclusions cast as factual allegations. *Browning*, 292 F.3d at 242. In deciding a 12(b)(6)

motion, the Court "may only consider the facts alleged in the complaint, documents attached as exhibits or incorporated by reference in the complaint, and matters about which the Court may take judicial notice." *Gustave–Schmidt v. Chao,* 226 F. Supp. 2d 191, 196 (D.D.C. 2002) (citation omitted); *see also Lin*, 539 F. Supp. 2d at 177.

ARGUMENT

I. PLAINTIFFS FAIL TO ESTABLISH A PRIVATE CAUSE OF ACTION AGAINST THE UNITED STATES.

In their Amended Complaint, Plaintiffs do not clearly identify the cause of action they are attempting to bring against the United States. Plaintiffs cite various federal statutes and international instruments, but none of them provide a cause of action against the United States in this case.[4]

Plaintiffs allege that they have a cause of action under "[c]ustomary international law," that has been "incorporated into the domestic law of the United States," and over which the Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331. *See* Am. Compl. ¶¶ 19, 21. The D.C. Circuit has squarely rejected this contention. As the Circuit has explained, there is no cause of action for violations of customary international law under 28 U.S.C. § 1331. *See Mohamad v. Rajoub*, 634 F.3d 604, 609-10 (D.C. Cir. 2011) (holding that plaintiff had no cause

[4] Plaintiffs cite the following international instruments and federal statutes: (1) "[c]ustomary international law," over which Plaintiffs suggest the Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331 (Am. Compl. ¶¶ 19, 21, 24, 85, 86); (2) the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202 (Am. Compl. ¶ 26); (3) the Administrative Procedure Act, 5 U.S.C. § 702 (Am. Compl. ¶ 25); (4) Article 15 of the Universal Declaration of Human Rights (Am. Compl. ¶¶ 22-23, 81-82); (5) the United Nations Charter (Am. Compl. ¶ 80); (6) the 1961 Convention on the Reduction of Statelessness ("the 1961 Convention") (Am. Compl. ¶¶ 83-84); (7) Article 43 annexed to the Hague Convention (IV) of 1907 (Am. Compl. ¶ 12). Plaintiffs also cite the Alien Tort Statute, 28 U.S.C.§ 1350, as providing a cause of action against Defendant Republic of China (Am. Compl. ¶¶ 20, 24, 95-97), but that claim is not asserted against the United States.

of action for violation of customary international law pursuant to 28 U.S.C. § 1331) (citing *Sosa v. Alvarez–Machain*, 542 U.S. 692 (2004)); *Ali v. Rumsfeld*, 649 F.3d 762, 791 (D.C. Cir. 2011) (noting that, in the absence of jurisdiction under the Alien Tort Statute, 28 U.S.C. § 1350, which is not at issue for the claim brought against the United States, "federal courts . . . have no authority today to recognize common law causes of action for violations of customary international law . . . ."); *Princz v. Fed. Republic of Germany*, 26 F.3d 1166, 1174 n.1 (D.C. Cir. 1994) ("While it is true that 'international law is part of our law,' it is also our law that a federal court is not competent to hear a claim arising under international law absent a statute granting such jurisdiction." (citation omitted)) (overruled on other grounds); *Serra v. Lappin*, 600 F.3d 1191, 1197 (9th Cir. 2010) ("[C]ustomary international law is not a source of judicially enforceable private rights in the absence of a statute conferring jurisdiction over such claims."). Plaintiffs, accordingly, do not have a cause of action for an alleged violation of customary international law against the United States.

The Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 ("DJA"), does not provide a private right of action. *See, e.g.*, *Ali*, 649 F.3d at 778 ("Nor does the Declaratory Judgment Act . . . . provide a cause of action. It is a well-established rule that the Declaratory Judgment Act is not an independent source of federal jurisdiction. Rather, the availability of [declaratory] relief presupposes the existence of a judicially remediable right.") (internal quotation marks omitted) (citing *C & E Servs., Inc. of Washington v. D.C. Water & Sewer Auth.*, 310 F.3d 197, 201 (D.C. Cir. 2002)); *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 671 (1950) ("The operation of the Declaratory Judgment Act is procedural only. Congress enlarged the range of remedies available in the federal courts but did not extend their jurisdiction." (internal quotation marks and citation omitted)); *Citizens for Responsibility and Ethics in Wash. v. Cheney*, 593 F. Supp. 2d

194, 221-22 (D.D.C. 2009) (observing that the Act "presupposes the existence of a judicially remediable right" (internal quotation marks and citation omitted)).

The Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706, does not supply a cause of action for the claims in this case. Although the APA authorizes a court to "compel agency action unlawfully withheld or unreasonably delayed," 5 U.S.C. § 706(1), such a claim is not available here because Plaintiffs are not seeking to compel a discrete agency action that is required by law. *See Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 64 (2004) (stating that a claim under the APA to compel agency action unlawfully withheld or unreasonably delayed can proceed "only where a plaintiff asserts that an agency failed to take a *discrete* agency action that it is *required* to take.") (emphasis in original); *see also id.* (stating that, under § 706(1), agency action must be "ministerial or non-discretionary act") (internal quotation marks and citation omitted). Here, Plaintiffs do not seek to compel any discrete agency action of a United States agency but instead seek judicial declarations regarding the validity of the 1946 nationality decrees. *See* Am. Compl., Prayer for Relief, ¶ 1. The APA does not provide a cause of action in these circumstances.

The United Nations Universal Declaration of Human Rights ("UDHR") also does not provide a private cause of action for the claims here. As the Supreme Court has explained, the UDHR "does not of its own force impose obligations as a matter of international law" and thus cannot by itself create a cause of action that a federal district court has jurisdiction to hear. *See Sosa*, 542 U.S. at 734 (stating that the UDHR "does not of its own force impose obligations as a matter of international law."). Indeed, numerous federal courts, including the D.C. Circuit, have recognized that the UDHR is not a proper source of customary international law because it is merely aspirational and was never intended to be binding on member States of the United

Nations. *See Kiobel v. Royal Dutch Petroleum Co.*, 621 F.3d 111, 131 & n.34 (2d Cir. 2010); *Haitian Refugee Ctr. v. Gracey*, 809 F.2d 794, 816 n.17 (D.C. Cir. 1987) (noting that the UDHR "is merely a nonbinding resolution, not a treaty, adopted by the United Nations General Assembly"); *Igartúa–De La Rosa v. United States*, 417 F.3d 145, 150 (1st Cir. 2005) (en banc) ("The Universal Declaration of Human Rights is precatory: that is, it creates aspirational goals but not legal obligations, even as between states."); *Serra*, 600 F.3d at 1197 (holding that the UDHR does not create "a source of justiciable rights").

The United Nations Charter ("UN Charter") likewise does not provide a private cause of action. The D.C. Circuit has "rejected the proposition that the United Nations charter creates rights which private individuals may enforce in litigation against nation-signatories." *Nattah v. Bush*, 770 F. Supp. 2d 193, 206 (D.D.C. 2011) (citing *Comm. Of U.S. Citizens Living in Nicaragua v. Reagan*, 859 F.2d 929, 936 (D.C. Cir. 1988)); *see also Tel–Oren v. Libyan Arab Republic*, 726 F.2d 774, 809 (D.C. Cir. 1984) (Bork, J., concurring) (Articles 1 and 2 of the United Nations Charter "contain general purposes and principles, some of which state mere aspirations and none of which can be sensibly thought to have been intended to be judicially enforceable at the behest of the individual.") (internal quotation marks omitted).

The United Nations 1961 Convention on the Reduction of Statelessness does not provide a cause of action. As an initial matter, the United States is not even a signatory to the 1961 Convention, and thus this treaty cannot provide the basis for a cause of action against the United States. *See* United Nations, Treaty Collection, 1961 Convention on the Reduction of Statelessness, Chapter 5 (listing signatories), available at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&lang=en (last visited July 2, 2015). In addition, Plaintiffs have not provided any

basis for overcoming the "presumption" that "[i]nternational agreements, even those directly benefiting private persons, generally do not create private rights or provide for a private cause of action in domestic courts. " *McKesson Corp. v. Islamic Republic of Iran*, 539 F.3d 485, 489 (D.C. Cir. 2008) (internal quotation marks omitted) (citing *Medellin v. Texas*, 552 U.S. 491, 506 n.3 (2008)).

Finally, the Article 43 of the Regulations Respecting the Laws and Customs of War on Land, annexed to Hague Convention (IV) of 1907, does not provide a private right of action in this case. *Goldstar (Panama) S.A. v. United States*, 967 F.2d 965, 968 (4th Cir. 1992) ("The Hague Convention does not explicitly provide for a privately enforceable cause of action. Moreover, we find that a reasonable reading of the treaty as a whole does not lead to the conclusion that the signatories intended to provide such a right."); *Iwanowa v. Ford Motor Co.*, 67 F. Supp. 2d 424, 439 (D.N.J. 1999) (noting that Hague Convention is not enforceable by private parties because it is not a self-executing treaty) (collecting cases).

In sum, none of the statutes or international instruments cited in the Amended Complaint provide for a private cause of action against the United States, and thus all claims asserted against the United States should be dismissed.

II. PLAINTIFFS CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS.

Even if Plaintiffs could establish a cause of action, such a claim would be time barred. Under 28 U.S.C. § 2401(a), "every civil action commenced against the United States shall be barred unless the complaint is filed within six years after the right of action first accrues." A cause of action against the United States "first accrues," within the meaning of § 2401(a), as soon as a party can "institute and maintain a suit in court." *Spannaus v. U.S. Dep't of Justice*, 824 F.2d 52, 56–57 (D.C. Cir. 1987); *see also Hardin v. Jackson*, 625 F.3d 739, 743 (D.C. Cir.

2010) (stating that, under § 2401(a), the "right of action first accrues on the date of the final agency action") (internal quotation and citation omitted). Section 2401(a) "applies to all civil actions whether legal, equitable or mixed." *Spannaus*, 824 F.2d at 55. The D.C. Circuit, moreover, has "long held that section 2401(a) creates a jurisdictional condition attached to the government's waiver of sovereign immunity." *P & V Enters. v. U.S. Army Corps of Eng'rs*, 516 F.3d 1021, 1026 (D.C. Cir. 2008) (internal quotation marks and citation omitted); *see also Mendoza v. Perez*, 754 F.3d 1002, 1018 (D.C. Cir. 2014). Courts, therefore, lack subject matter jurisdiction to hear a claim time barred by section 2401(a). *Muwekma Ohlone Tribe v. Salazar*, 708 F.3d 209, 218 (D.C. Cir. 2013).[5]

Here, Plaintiffs allege that "[w]hile acting as an agent of the United States, the ROC promulgated nationality decrees *in 1946* that acted to illegally strip Japanese nationals living on Taiwan, as well as their descendants, of their Japanese nationality in violation of international law." Am. Compl. ¶ 6 (emphasis added). Thus, even if Plaintiffs could establish a cause of action, this cause would have accrued in 1946 upon the issuance of the nationality decrees, almost seventy years ago. Any claim arising from the 1946 nationality decrees is well outside the six-year limitations period in § 2401(a) and should be dismissed for lack of subject matter jurisdiction. *See Japanese War Notes Claimants Ass'n of Philippines, Inc. v. United States*, 373 F.2d 356, 358 (Ct. Cl. 1967) (finding an indemnification claim against United States, which was premised on the 1952 San Francisco Peace Treaty, barred by 28 U.S.C. § 2401(a)). Moreover, even if the claims raised in this case could be said to have arisen at some point after 1946, the

[5] The D.C. Circuit has questioned whether 28 U.S.C. § 2401(a) continues to be jurisdictional in nature given the Supreme Court's decision in *Irwin v. Department of Veterans Affair*s, 498 U.S. 89, 95-96 (1990). *See*, *e.g.*, *Mendoza*, 754 F.3d at 1018. Nonetheless, the D.C. Circuit continues to recognize the jurisdictional nature of § 2401(a), and, in any event, dismissal is appropriate regardless of whether the limitations issue is analyzed under Rule 12(b)(1) or Rule 12(b)(6).

basis for them would at least have been known to the Plaintiffs more than six years ago. Indeed, Plaintiffs filed their first lawsuit raising claims based on the same underlying circumstances in 2006. *See Lin*, 539 F. Supp. 2d at 173.

III. PLAINTIFFS LACK STANDING TO BRING THIS ACTION.

Even if Plaintiffs could establish a cause of action and show that such a claim is not time barred, this case still should be dismissed because Plaintiffs cannot establish standing.

The "[s]tanding doctrine functions to ensure . . . that the scarce resources of the federal courts are devoted to those disputes in which the parties have a concrete stake." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 191 (2000). The standing doctrine also is rooted in the fundamental concern for maintaining separation of powers. *See, e.g., Haitian Refugee Ctr.*, 809 F.2d at 801-05. In this sense, "the standing requirement acts as a gatekeeper, opening the courthouse doors to narrow disputes that can be resolved merely by reference to facts and laws, but barring entry to the broad disquiets that can be resolved only by an appeal to politics and policy." *Food & Water Watch, Inc. v. Vilsack*, No. 14-CV-1547(KBJ), 2015 WL 514389, at *6 (D.D.C. Feb. 9, 2015).

The "irreducible constitutional minimum of standing" contains three elements. First, the plaintiff must have suffered an "injury in fact" – an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of. Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. *See Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-611 (1992). Plaintiffs cannot establish any of the three standing elements.

A. Plaintiffs Cannot Demonstrate A Cognizable Injury-In-Fact.

To constitute injury-in-fact under Article III, the injury must be "particularized," which means that "the injury must affect the plaintiff in a personal and individual way." *Lujan*, 504 U.S. at 560 n.1; *see also Pub. Citizen, Inc. v. Nat'l Highway Traffic Safety Admin.*, 489 F.3d 1279, 1292 (D.C. Cir. 2007) ("injury must be particularized—which the [Supreme] Court has also described as personal, individual, distinct, and differentiated—not generalized or undifferentiated") (collecting cases); *Mass. v. Mellon*, 262 U.S. 447, 488-89 (1923) (holding that a "judicial controversy" requires the plaintiff to be able to show that he suffered a "direct injury," not merely that "he suffers in some indefinite way in common with people generally"). Here, Plaintiffs Roger C.S. Lin, Julian T.A. Lin, and the "Taiwan Civil Government" have not alleged facts showing that they have suffered a *personal* injury as a result of the 1946 nationality decrees.

Rather, Plaintiffs allege that they have been injured because "[t]he international community, including the United Nations and the United States, does not recognize Taiwan as a state." Am. Compl. ¶ 75; *see also id.* ¶ 10 (stating that the "people of Taiwan are 'without a state' and, to this day, in a circumstance of continually trying 'to concretely define their national identity'") (citing *Lin*, 561 F.3d at 503). But a general interest in obtaining a different international status for Taiwan and defining Taiwan's identity is not a personal injury particular to these Plaintiffs. Instead, these alleged injuries are shared by the millions of people who live on Taiwan. The Supreme Court has made clear that such allegations of general, abstract, and undifferentiated injuries do not establish injury-in-fact. *See Lujan*, 504 U.S. at 560 & n.1 (explaining that to be a "particularized" injury sufficient to confer standing, the injury "must affect the plaintiff in a personal and individual way"); *Mellon*, 262 U.S. at 488-89 (holding that a

"judicial controversy" requires the plaintiff to be able to show that he suffered a "direct injury," not merely that "he suffers in some indefinite way in common with people generally").

Plaintiffs' allegations that they, along with the millions of others who reside on Taiwan, are without an internationally accepted nationality presents the type of "abstract question of wide public significance which amount to generalized grievances, pervasively shared and most appropriately addressed in the representative branches." *Valley Forge Christian Coll. v. Ams. United for Separation of Church & State, Inc.*, 454 U.S. 464, 475 (1982) (internal alterations, quotation marks, and citation omitted); *see also Elk Grove Unified Sch. Dist. v. Newdow*, 542 U.S. 1, 12 (2004) (quoting *Warth v. Seldin*, 422 U.S. 490, 500 (1975)) (stating that courts should not be "'called upon to decide abstract questions of wide public significance even though other governmental institutions may be more competent to address the questions and even though judicial intervention may be unnecessary to protect individual rights.'").[6] Thus, because Plaintiffs fail to establish a personal and particular injury, they cannot establish standing.[7]

B. Plaintiffs' Alleged Injury Is Not Fairly Traceable To The United States.

Plaintiffs also lack standing because they cannot show that their alleged injury – the denial of their Japanese nationality in 1946 – is fairly traceable to the United States. The

[6] The principle barring adjudication of "generalized grievances" is a prudential one, although it is closely related to the constitutional standing requirement of "injury in fact." *See Apache Bend Apartments, Ltd. v. United States*, 987 F.2d 1174, 1176 (5th Cir. 1993); *Ctr. for Auto Safety v. Nat'l Highway Traffic Safety Admin.*, 793 F.2d 1322, 1324 (D.C. Cir. 1986). Nonetheless, whether the relevant standing principles are characterized as prudential or constitutional, Plaintiffs lack standing.

[7] In addition, Plaintiffs present no allegations indicating that they otherwise have suffered any personal injury as a result of the 1946 decree. For example, Plaintiffs provide no facts indicating that they were alive and residing on Taiwan in 1946, or explain whether or how they personally have lost their Japanese nationality "through their descendants" over the last sixty plus years. Am. Compl. ¶ 8. Nor do Plaintiffs allege whether or how the deprivation of a predecessor's Japanese nationality in 1946 has directly injured them at any point, let alone that it imposes a current injury to establish standing to obtain declaratory relief today.

causation prong of the standing inquiry asks whether "it is substantially probable that the challenged acts of the defendant, not some absent third party, will cause the particularized injury of the plaintiff." *Fla. Audubon Soc'y v. Bentsen*, 94 F.3d 658, 663 (D.C. Cir. 1996) (internal citations omitted). As the Supreme Court has recognized, an alleged injury has to be "fairly ... trace[able] to the challenged action of the defendant, and not ... th[e] result [of] the independent action of some third party not before the court." *See Lujan*, 504 U.S. at 560 (quoting *Simon v. Eastern Ky. Welfare Rights Organization*, 426 U.S. 26, 41-42 (1976)); *see also Lujan* at 504 U.S. at 560-62 (injury caused by choices made by independent actors not before the courts is insufficient to confer standing).

As an initial matter, Plaintiffs cannot establish that the United States caused their nationality injury through the 1946 decrees because the United States did not issue those decrees. In fact, Plaintiffs themselves allege that "the United States did not give the ROC the appropriate authority to issue the 1946 Nationality Decrees." Am. Compl. ¶ 41. If, by Plaintiffs' own allegations, the United States did not authorize the Republic of China to issue the nationality decrees in 1946, then any alleged injury arising from the decrees cannot be "fairly traceable" to the United States.

Nor can Plaintiffs establish causation by alleging the Republic of China was "acting as an agent of the United States" when it promulgated the nationality decrees in 1946. Am. Compl., ¶ 6; *see also* ¶¶ 5, 9, 45, 53, 60, 77. Even if one were to accept, *arguendo*, that such an agency relationship existed in 1946, almost seven decades have passed since then, with numerous events having occurred that are more directly relevant to Taiwan's political status, including the passage of U.N. General Assembly Resolution 2758, pursuant to which the Taiwan authorities ceased to represent China before the United Nations, and the decision by many countries, including the

United States, to switch diplomatic recognition from Taipei to Beijing. *See* Communique of 1979 (Exhibit 2). Given the lapse of time and the numerous intervening events involving a number of nonparty sovereign nations, it is completely speculative to conclude that the nationality of Taiwan residents was caused by decrees issued by the Republic of China in 1946.

C. This Court Cannot Redress Plaintiffs' Alleged Injuries.

Plaintiffs also fail to establish the third standing element: their alleged injuries cannot be redressed by their requested declaratory relief. To establish redressability, a plaintiff must demonstrate that it is "likely, as opposed to merely speculative that the injury will be redressed by a favorable decision." *Lujan*, 504 U.S. at 561 (internal quotations and citation omitted). Here, for the claim alleged against the United States, Plaintiffs request that the Court redress their alleged injuries – the deprivation of their Japanese nationality – by entering a series of declarations. *See* Am. Compl., Prayer for Relief, ¶ 1. In sum, they seek declarations that the Republic of China's nationality decrees of 1946 are legally invalid under various international instruments, and that the United States did not authorize the Republic of China to issue these decrees. *See id.*

But no declaratory judgment entered against the United States can restore Plaintiffs' alleged Japanese nationality. Regardless of the nature of the United States' relationship with the Republic of China in 1946 when the nationality decrees were issued, neither the Court nor the United States possesses authority today to restore Plaintiffs' alleged Japanese nationality or to resolve Plaintiffs' nationality. The United States does not control Taiwan or exercise sovereignty over Taiwan. The current unofficial relationship between the United States and the authorities on Taiwan derives from decisions made pursuant to the President's constitutional authority, Executive Order No. 13014 of August 15, 1996, 61 Fed. Reg. 42963, and the Taiwan

Relations Act of 1979, 22 U.S.C. 3301, *et seq.*, all of which make clear that whichever entity does possess sovereignty over Taiwan, the United States does not. *See also Lin*, 539 F. Supp. 2d at 179, *aff'd*, 561 F.3d 502 (D.C. Cir. 2009) ("[T]he Executive and Legislative Branches . . . have obviously and intentionally *not* recognized any power as sovereign over Taiwan.") (emphasis in original). Plaintiffs, therefore, cannot establish redressability because "a declaration with regard to [the United States'] conduct will have no controlling force. . . ." *Newdow v. Roberts*, 603 F.3d 1002, 1012 (D.C. Cir. 2010).

Further, Plaintiffs' nationality status cannot be resolved without first resolving the political status of Taiwan, resolution of which the United States has long favored through "a peaceful settlement . . . by the Chinese themselves" (Communique of 1972, Exhibit 1) – *i.e.*, both the PRC and the authorities on Taiwan. Accordingly, resolving the political status of Taiwan clearly involves "independent actors not before the court and whose exercise of broad and legitimate discretion the courts cannot presume either to control or to predict." *Lujan*, 504 U.S. at 562 (quoting *ASARCO, Inc. v. Kadish*, 490 U.S. 605, 615 (1989) (internal quotations omitted)); *see also U.S. Ecology, Inc. v. U.S. Dep't of Interior*, 231 F.3d 20, 24 (D.C. Cir. 2000) (noting that Courts have been "loath to find" redressability when alleged injuries depend on "policy decisions yet to be made by government officials"). Because this Court lacks authority to redress Plaintiffs' claim of Japanese nationality, Plaintiffs lack standing and this case should be dismissed.

IV. THE POLITICAL QUESTION DOCTRINE BARS ADJUDICATION OF PLAINTIFFS' CLAIMS.

This case also should be dismissed because it presents a non-justiciable political question. "The political question doctrine is one aspect of 'the concept of justiciability, which expresses the jurisdictional limitations imposed on the federal courts by the 'case or controversy'

requirement' of the Article III of the Constitution." *Bancoult v. McNamara*, 445 F.3d 427, 432 (D.C. Cir. 2006) (quoting *Schlesinger v. Reservists Comm. to Stop the War,* 418 U.S. 208, 215 (1974)). The doctrine is "primarily a function of the separation of powers," *id.* (quoting *Baker v. Carr,* 369 U.S. 186, 210 (1962)) (quotation marks omitted), and "excludes from judicial review those controversies which revolve around policy choices and value determinations constitutionally committed for resolution" to the legislative and executive branches. *Wilson v. Libby*, 535 F.3d 697, 704 (D.C. Cir. 2008) (internal quotation marks omitted).

In *Baker v. Carr*, the Supreme Court identified six factors that may render a case non-justiciable under the political question doctrine:

> [1] a textually demonstrable constitutional commitment of the issue to a coordinate political department; or [2] a lack of judicially discoverable and manageable standards for resolving it; or [3] the impossibility of deciding without an initial policy determination of a kind clearly for nonjudicial discretion; or [4] the impossibility of a court's undertaking independent resolution without expressing lack of respect due coordinate branches of government; or [5] an unusual need for unquestioning adherence to a political decision already made; or [6] the potentiality of embarrassment from multifarious pronouncements by various departments on one question.

369 U.S. at 217; *see also Zivotofsky v. Clinton*, 132 S. Ct. 1421, 1427 (2012) ("[A] controversy "involves a political question . . . where there is 'a textually demonstrable constitutional commitment of the issue to a coordinate political department; or a lack of judicially discoverable and manageable standards for resolving it.' ") (citing *Nixon v. United States*, 506 U.S. 224, 228 (1993)). The presence of any one of the six *Baker* factors can be sufficient for dismissal under the political question doctrine. *Bancoult,* 445 F.3d at 432 (citing *Schneider v. Kissinger,* 412 F.3d 190, 194 (D.C. Cir. 2005)).

Here, Plaintiffs ask this Court to address broad questions about the nationality of Taiwan residents under international instruments and to issue declarations regarding their nationality. *See* Am. Compl. ¶¶ 5, 6, 8, 9, 13, 45, 53, 50, 77; *id.*, Prayer for Relief, ¶ 1. Under settled D.C. Circuit precedent, however, the nationality of Taiwan residents presents a quintessential non-justiciable political question.

In *Lin v. United States*, 539 F. Supp. 2d 173 (D.D.C. 2008), Plaintiff Roger C.S. Lin and a group of Taiwan residents sought a judicial declaration that they are nationals of the United States with all related rights and privileges, including the right to obtain U.S. passports. *Id.* at 176-77. Judge Collyer granted the government's motion to dismiss, concluding that plaintiffs' challenge involved "a quintessential political question" that required "trespass into the extremely delicate relationship between and among the United States, Taiwan and China." *Id.* at 178. The court noted that plaintiffs were asking it to "catapult over" a decision by the political branches to "obviously and intentionally *not* recognize[] any power as sovereign over Taiwan." *Id.* at 179 (emphasis in original). Given the "years and years of diplomatic negotiations and delicate agreements" between the United States and China, the court concluded it "would be foolhardy for a judge to believe that she had the jurisdiction to make a policy choice on the sovereignty of Taiwan." *Id.* at 181.

The D.C. Circuit affirmed that decision, holding that plaintiffs' request to be declared nationals of the United States was barred by the political question doctrine. *See Lin v. United States*, 561 F.3d 502, 508 (D.C. Cir. 2009). The court explained that addressing plaintiffs' attempt to be declared U.S. nationals "would require us to trespass into a controversial area of U.S. foreign policy in order to resolve a question the Executive Branch intentionally left

unanswered for over sixty years: who exercises sovereignty over Taiwan. This we cannot do." *Id.* at 503-04.

Lin demonstrates that Plaintiffs' lawsuit is precluded by the political question doctrine. As in *Lin*, Plaintiffs ask this Court to address the nationality of Taiwan's residents. It makes no difference that Plaintiffs contend to be Japanese nationals in this case, instead of United States nationals, as they argued in *Lin*. Here, Plaintiffs seek to judicially resolve the nationality of Taiwan's residents, as they did in *Lin*, and that is a political question which this Court lacks jurisdiction to resolve.

The nationality of Taiwan's residents implicates numerous *Baker* factors, although the presence of even one factor is sufficient for the political question doctrine to apply. *Lin*, 539 F. Supp. 2d at 179 (citing *Schneider*, 412 F.3d at 194).

First, Plaintiffs' lawsuit raises policy questions that are textually committed to coordinate branches of government. *Baker*, 369 U.S. at 217. As in the first *Lin* case, Plaintiffs seek declarations regarding the nationality of Taiwan's residents, an issue which depends on the "antecedent question" of identifying Taiwan's political status, *Lin*, 561 F.3d at 506, and which if attempted to be resolved would interfere with the foreign policy of the United States. As the D.C. Circuit has observed, "[d]ecision-making in the fields of foreign policy and national security is textually committed to the political branches of government." *Lin*, 561 F.3d at 505 (internal quotations and citation omitted). Further, the determination of sovereignty over a territory is non-justiciable. *See Jones v. United States*, 137 U.S. 202, 212 (1890) ("Who is the sovereign, *de jure* or *de facto*, of a territory, is not a judicial, but a political [ ] question. . . .") (collecting cases); *Baker*, 369 U.S. at 212 ("[R]ecognition of foreign governments so strongly defies judicial treatment that without executive recognition a foreign state has been called 'a

republic of whose existence we know nothing...."); *Vermilya-Brown Co. v. Connell*, 335 U.S. 377, 380 (1948) ("the determination of sovereignty over an area is for the legislative and executive departments").

Second, this case is non-justiciable under the political question doctrine because there is a "lack of judicially discoverable and manageable standards" for resolving the suit. *Baker*, 369 U.S. at 217. Plaintiffs allege that the United States is legally responsible for the nationality decrees issued by the Republic of China in 1946 because the Republic of China was "acting as an agent of the United States" when it promulgated the decrees and thereafter. Am. Compl. ¶ 6; *see also* ¶¶ 5, 9, 45, 53, 60, 77. Plaintiffs' agency theory is primarily based on General Douglas MacArthur's Order No. 1, which ordered the Japanese commanders within China and Taiwan to surrender to Generalissimo Chiang Kai-shek, the leader of the Chinese Nationalist Party (Am. Compl. ¶ 2, 4, 35), and the San Francisco Peace Treaty, in which Japan renounced any claim to Taiwan (Am. Compl. ¶ 5, 9, 70).

No judicially manageable standards can be used to resolve the meaning of General Order No. 1. As Judge Collyer explained in *Lin*, "General Order No. 1 was entered very shortly after Japan signed the Instrument of Surrender and long before all Japanese soldiers actually laid down their arms." 539 F. Supp. 2d at 180. The court added: "the purpose, language, and intentions behind General Order No. 1 might have been entirely blunted by later events. What is clear is that the judiciary is not equipped to interpret and apply, 50 years later, a wartime military order entered at a time of great confusion and undoubted chaos." *Id.*

The San Francisco Peace Treaty likewise provides no judicially manageable standards for resolving this case. Am. Compl. ¶¶ 5, 66-67, 70-74. While federal courts have the "authority to construe treaties and executive agreements," *see, e.g., Japan Whaling Ass'n v. Am. Cetacean*

Soc'y, 478 U.S. 221, 230 (1986), the SFPT cannot be interpreted in any manner that would resolve sovereignty over Taiwan or Plaintiffs' nationality. *See Lin*, 539 F. Supp. 2d at 178.

Finally, application of the remaining four *Baker* factors further demonstrates that this case is barred by the political question doctrine. For the last six decades, Taiwan has been the subject of the most sensitive and complex diplomatic concerns. Over sixty years ago the United States made clear that it considered Taiwan to be part of the Republic of China. *See* Mutual Defense Treaty Between the United States and the Republic of China, Dec. 2, 1954, 6 U.S.T. 433, Article VI. President Nixon's 1972 visit to mainland China reopened communications with the People's Republic of China "after . . . many years without contact," 1972 Communique 436 (Exhibit 1), paving the way for a series of joint communiques between the United States and the PRC. *See* Communiques of 1972, 1979, 1982 (Exhibits 1, 2, 3). These communiques highlighted the crucial nature of the "Taiwan question" in the "normalization of relations between China and the United States," 1972 Communique 437, and led to the establishment of diplomatic relations between the PRC and the United States. *See* 1979 Communique (announcing that the United States recognized the PRC as "sole legal government of China"). Although President Carter decided that the "people of the United States" would "maintain cultural, commercial, and other unofficial relations with the people of Taiwan," 44 Fed. Reg. 1075, he also made it clear that any relations with the current authorities on Taiwan would be "nongovernmental." *Id.* The political branches have further explicated the nature of the United States' relationship with Taiwan in several executive orders and the Taiwan Relations Act. *See* Exec. Order No. 12143 (June 22, 1979) (regarding unofficial relations with Taiwan); Exec. Order No. 13014 (August 15, 1996), 61 Fed. Reg. 42963; 22 U.S.C. § 3301 (declaring that the policy of the United States is, *inter alia*, "to make clear that the United States decision to

establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means").

Plaintiffs' lawsuit asks the Court to interject itself into the sensitive and complex issue of Taiwan's political status. To adjudicate Plaintiffs' claims, the Court would have to review and opine on the foregoing policy determination of the United States not to take a position on the political status of Taiwan. In doing so, the Court would be interjecting itself into a matter that presents an "unusual need for unquestioning adherence to a political decision already made." *Baker*, 369 U.S. at 217. Further, any judicial pronouncement on the nationality of Taiwan's residents would require "an initial policy determination of a kind clearly for nonjudicial discretion"; demonstrate "lack of respect due coordinate branches of government"; and create "the potentiality of embarrassment from multifarious pronouncements by various departments on one question." *Id*. Thus, because this case implicates numerous *Baker* factors, it should be dismissed as non-justiciable under the political question doctrine.

CONCLUSION

For the reasons stated above, Defendant United States respectfully requests that the Court grant its motion to dismiss the Amended Complaint.

Dated: July 15, 2015

Respectfully submitted,

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rules of international conduct which will reduce the risk of confrontation and war in Asia and in the Pacific.

We agreed that we are opposed to domination of the Pacific area by any one power. We agreed that international disputes should be settled without the use of the threat of force and we agreed that we are prepared to apply this principle to our mutual relations.

With respect to Taiwan, we stated our established policy that our forces overseas will be reduced gradually as tensions ease, and that our ultimate objective is to withdraw our forces as a peaceful settlement is achieved.

We have agreed that we will not negotiate the fate of other nations behind their backs, and we did not do so at Peking. There were no secret deals of any kind. We have done all this without giving up any United States commitment to any other country.

In our talks, the talks that I had with the leaders of the People's Republic and that the Secretary of State had with the office of the Government of the People's Republic in the foreign affairs area, we both realized that a bridge of understanding that spans almost 12,000 miles and 22 years of hostility can't be built in 1 week of discussions. But we have agreed to begin to build that bridge, recognizing that our work will require years of patient effort. We made no attempt to pretend that major differences did not exist between our two governments, because they do exist.

This communique was unique in honestly setting forth differences rather than trying to cover them up with diplomatic doubletalk.

One of the gifts that we left behind in Hangchow was a planted sapling of the American redwood tree. As all Californians know, and as most Americans know, redwoods grow from saplings into the giants of the forest. But the process is not one of days or even years; it is a process of centuries.

Just as we hope that those saplings, those tiny saplings that we left in China, will grow one day into mighty redwoods, so we hope, too, that the seeds planted on this journey for peace will grow and prosper into a more enduring structure for peace and security in the Western Pacific.

But peace is too urgent to wait for centuries. We must seize the moment to move toward that goal now, and this is what we have done on this journey.

As I am sure you realize, it was a great experience for us to see the timeless wonders of ancient China, the changes that are being made in modern China. And one fact stands out, among many others, from my talks with the Chinese leaders. It is their total belief, their total dedication, to their system of government. That is their right, just as it is the right of any country to choose the kind of government it wants.

But as I return from this trip, just as has been the case on my return from other trips abroad which have taken me to over 80 countries, I come back to America with an even stronger faith in our system of government.

As I flew across America today, all the way from Alaska, over the Rockies, the Plains, and then on to Washington, I thought of the greatness of our country and, most of all, I thought of the freedom, the opportunity, the progress that 200 million Americans are privileged to enjoy. I realized again this is a beautiful country. And tonight my prayer and my hope is that as a result of this trip, our children will have a better chance to grow up in a peaceful world.

Thank you.

TEXT OF JOINT COMMUNIQUE, ISSUED AT SHANGHAI, FEBRUARY 27

President Richard Nixon of the United States of America visited the People's Republic of China at the invitation of Premier Chou En-lai of the People's Republic of China from February 21 to February 28, 1972. Accompanying the President were Mrs. Nixon, U.S. Secretary of State William Rogers, Assistant to the President Dr. Henry Kissinger, and other American officials.

President Nixon met with Chairman Mao

Tse-tung of the Communist Party of China on February 21. The two leaders had a serious and frank exchange of views on Sino-U.S. relations and world affairs.

During the visit, extensive, earnest and frank discussions were held between President Nixon and Premier Chou En-lai on the normalization of relations between the United States of America and the People's Republic of China, as well as on other matters of interest to both sides. In addition, Secretary of State William Rogers and Foreign Minister Chi Peng-fei held talks in the same spirit.

President Nixon and his party visited Peking and viewed cultural, industrial and agricultural sites, and they also toured Hangchow and Shanghai where, continuing discussions with Chinese leaders, they viewed similar places of interest.

The leaders of the People's Republic of China and the United States of America found it beneficial to have this opportunity, after so many years without contact, to present candidly to one another their views on a variety of issues. They reviewed the international situation in which important changes and great upheavals are taking place and expounded their respective positions and attitudes.

The U.S. side stated: Peace in Asia and peace in the world requires efforts both to reduce immediate tensions and to eliminate the basic causes of conflict. The United States will work for a just and secure peace: just, because it fulfills the aspirations of peoples and nations for freedom and progress; secure, because it removes the danger of foreign aggression. The United States supports individual freedom and social progress for all the peoples of the world, free of outside pressure or intervention. The United States believes that the effort to reduce tensions is served by improving communication between countries that have different ideologies so as to lessen the risks of confrontation through accident, miscalculation or misunderstanding. Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge. No country should claim infallibility and each country should be prepared to re-examine its own attitudes for the common good. The United States stressed that the peoples of Indochina should be allowed to determine their destiny without outside intervention; its constant primary objective has been a negotiated solution; the eight-point proposal put forward by the Republic of Vietnam and the United States on January 27, 1972 represents a basis for the attainment of that objective; in the absence of a negotiated settlement the United States envisages the ultimate withdrawal of all U.S. forces from the region consistent with the aim of self-determination for each country of Indochina. The United States will maintain its close ties with and support for the Republic of Korea; the United States will support efforts of the Republic of Korea to seek a relaxation of tension and increased communication in the Korean peninsula. The United States places the highest value on its friendly relations with Japan; it will continue to develop the existing close bonds. Consistent with the United Nations Security Council Resolution of December 21, 1971, the United States favors the continuation of the ceasefire between India and Pakistan and the withdrawal of all military forces to within their own territories and to their own sides of the ceasefire line in Jammu and Kashmir; the United States supports the right of the peoples of South Asia to shape their own future in peace, free of military threat, and without having the area become the subject of great power rivalry.

The Chinese side stated: Wherever there is oppression, there is resistance. Countries want independence, nations want liberation and the people want revolution—this has become the irresistible trend of history. All nations, big or small, should be equal; big nations should not bully the small and strong nations should not bully the weak. China will never be a superpower and it opposes hegemony and power politics of any kind. The Chinese side stated that it firmly supports the struggles of all the oppressed people and nations for freedom and liberation and that the people of all countries have the right to

choose their social systems according to their own wishes and the right to safeguard the independence, sovereignty and territorial integrity of their own countries and oppose foreign aggression, interference, control and subversion. All foreign troops should be withdrawn to their own countries.

The Chinese side expressed its firm support to the peoples of Vietnam, Laos and Cambodia in their efforts for the attainment of their goal and its firm support to the seven-point proposal of the Provisional Revolutionary Government of the Republic of South Vietnam and the elaboration of February this year on the two key problems in the proposal, and to the Joint Declaration of the Summit Conference of the Indochinese Peoples. It firmly supports the eight-point program for the peaceful unification of Korea put forward by the Government of the Democratic People's Republic of Korea on April 12, 1971, and the stand for the abolition of the "U.N. Commission for the Unification and Rehabilitation of Korea." It firmly opposes the revival and outward expansion of Japanese militarism and firmly supports the Japanese people's desire to build an independent, democratic, peaceful and neutral Japan. It firmly maintains that India and Pakistan should, in accordance with the United Nations resolutions on the India-Pakistan question, immediately withdraw all their forces to their respective territories and to their own sides of the ceasefire line in Jammu and Kashmir and firmly supports the Pakistan Government and people in their struggle to preserve their independence and sovereignty and the people of Jammu and Kashmir in their struggle for the right of self-determination.

There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, non-aggression against other states, non-interference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use or threat of force. The United States and the People's Republic of China are prepared to apply these principles to their mutual relations.

With these principles of international relations in mind the two sides stated that:

—progress toward the normalization of relations between China and the United States is in the interests of all countries;

—both wish to reduce the danger of international military conflict;

—neither should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony; and

—neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

Both sides are of the view that it would be against the interests of the peoples of the world for any major country to collude with another against other countries, or for major countries to divide up the world into spheres of interest.

The two sides reviewed the long-standing serious disputes between China and the United States. The Chinese side reaffirmed its position: The Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the Government of the People's Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China's internal affair in which no other country has the right to interfere; and all U.S. forces and military installations must be withdrawn from Taiwan. The Chinese Government firmly opposes any activities which aim at the creation of "one China, one Taiwan," "one China, two governments," "two Chinas," and "independent Taiwan" or advocate that "the status of Taiwan remains to be determined."

The U.S. side declared: The United States acknowledges that all Chinese on either side

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

The two sides agreed that it is desirable to broaden the understanding between the two peoples. To this end, they discussed specific areas in such fields as science, technology, culture, sports and journalism, in which people-to-people contacts and exchanges would be mutually beneficial. Each side undertakes to facilitate the further development of such contacts and exchanges.

Both sides view bilateral trade as another area from which mutual benefit can be derived, and agreed that economic relations based on equality and mutual benefit are in the interest of the peoples of the two countries. They agree to facilitate the progressive development of trade between their two countries.

The two sides agreed that they will stay in contact through various channels, including the sending of a senior U.S. representative to Peking from time to time for concrete consultations to further the normalization of relations between the two countries and continue to exchange views on issues of common interest.

The two sides expressed the hope that the gains achieved during this visit would open up new prospects for the relations between the two countries. They believe that the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world.

President Nixon, Mrs. Nixon and the American party expressed their appreciation for the gracious hospitality shown them by the Government and people of the People's Republic of China.

CHRONOLOGY OF EVENTS

Weekly Compilation of Presidential Documents dated February 28

Thursday, February 17

After a departure ceremony on the South Lawn of the White House, the President went by helicopter to Andrews Air Force Base for the flight to Hawaii, en route to the People's Republic of China.

Arriving at Kaneohe Marine Corps Air Station, Oahu, Hawaii, the President and Mrs. Nixon motored to the residence of the Commanding General, First Marine Brigade, where they remained until Saturday afternoon, February 19, reading and preparing for the China visit.

Saturday, February 19–Sunday, February 20

The President and Mrs. Nixon boarded the Spirit of '76 at Kaneohe Marine Corps Air Station for the 8-hour flight to Guam. Crossing the international date line en route, they arrived at Guam International Airport shortly after 5 p.m. on Sunday, February 20, Guam time. They spent the night at Nimitz Hill, the residence of the Commander, Naval Forces, Marianas.

Monday, February 21

At 7 a.m. Guam time, the President and Mrs. Nixon left Guam International Airport for Shanghai, their first stop in the People's Republic of China. They arrived, after a 4-hour flight, at Hung Chiao (Rainbow Bridge) Airport, Shanghai, at 9 a.m., China time, where they were greeted by officials of the People's Republic, headed by Vice Minister of Foreign Affairs Chiao Kuan-hua. After refreshments and a tour of the terminal, the Presidential party again boarded the Spirit of '76, accompanied by Vice Minister Chiao, Chang Wen-chin and Wang Hai-jung of the Foreign Ministry, a Chinese navigator, radio operator, and three interpreters, for the final leg of the flight to Peking.

At about 11:30 a.m., China time, the party arrived at Capital Airport near Peking. Premier Chou En-lai greeted the President and members of his party, stood with the President for the playing of the national anthems of the two countries, and accompanied the President in a review of the troops.

The Premier then accompanied the President in a motorcade to Peking, to Taio Yu Tai (Angling Terrace), the guesthouse where the President and Mrs. Nixon would stay during their visit.

In the afternoon, the President met for an hour

EAST ASIA: *U.S. Normalizes Relations With the People's Republic of China*

Following are the texts of December 15, 1978, of the joint communique between the United States and the People's Republic of China, President Carter's address to the nation and remarks to reporters following the address, and the U.S. statement on normalization.[1]

PRESIDENT'S ADDRESS[2]

I would like to read a joint communique which is being simultaneously issued in Peking at this very moment by the leaders of the People's Republic of China.

[At this point, the President read the text of the joint communique.]

Yesterday, our country and the People's Republic of China reached this final historic agreement. On January 1, 1979, a little more than 2 weeks from now, our two governments will implement full normalization of diplomatic relations.

As a nation of gifted people who comprise about one-fourth of the total population of the Earth, China plays, already, an important role in world affairs, a role that can only grow more important in the years ahead.

We do not undertake this important step for transient tactical or expedient reasons. In recognizing the People's Republic of China, that it is the single Government of China, we are recognizing simple reality. But far more is involved in this decision than just the recognition of a fact.

Before the estrangement of recent decades, the American and the Chinese people had a long history of friendship. We've already begun to rebuild some of those previous ties. Now our rapidly expanding relationship requires the kind of structure that only full diplomatic relations will make possible.

The change that I'm announcing tonight will be of great long-term benefit to the peoples of both our country and China—and, I believe, to all the peoples of the world. Normalization—and the expanded commercial and cultural relations that it will bring—will contribute to the well-being of our own nation, to our own national interest, and it will also enhance the stability of Asia. These more positive relations with China can beneficially affect the world in which we live and the world in which our children will live.

We have already begun to inform our allies and other nations and the Members of the Congress of the details of our intended action. But I wish also tonight to convey a special message to the people of Taiwan—I have already communicated with the leaders in Taiwan—with whom the American people have had and will have extensive, close, and friendly relations. This is important between our two peoples.

As the United States asserted in the Shanghai communique of 1972,[3] issued on President Nixon's historic visit, we will continue to have an interest in the peaceful resolution of the Taiwan issue. I have paid special attention to insuring that normalization of relations between our country and the People's Republic will not jeopardize the well-being of the people of Taiwan. The people of our country will maintain our current commercial, cultural, trade, and other relations with Taiwan through nongovernmental means. Many other countries in the world are already successfully doing this.

These decisions and these actions open a new and important chapter in our country's history and also in world affairs.

To strengthen and to expedite the benefits of this new relationship between China and the United States, I am pleased to announce that Vice Premier Teng has accepted my invitation and will visit Washington at the end of January. His visit will give our governments the opportunity to consult with each other on global issues and to begin working together to enhance the cause of world peace.

These events are the final result of long and serious negotiations begun by President Nixon in 1972 and continued under the leadership of President Ford. The results bear witness to the steady, determined, bipartisan effort of our own country to build a world in which peace will be the goal and the responsibility of all nations.

The normalization of relations between the United States and China has no other purpose than this: the advancement of peace. It is in this spirit, at this season of peace, that I take special pride in sharing this good news with you tonight.

PRESIDENT'S REMARKS[4]

I wanted to come by and let you know that I believe this to be an extremely important moment in the history of our nation. It's something that I and my two predecessors have sought

JOINT COMMUNIQUE, DEC. 15

JOINT COMMUNIQUE ON THE ESTABLISHMENT OF DIPLOMATIC RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA
JANUARY 1, 1979

The United States of America and the People's Republic of China have agreed to recognize each other and to establish diplomatic relations as of January 1, 1979.

The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

The United States of America and the People's Republic of China reaffirm the principles agreed on by the two sides in the Shanghai Communique and emphasize once again that:

- Both wish to reduce the danger of international military conflict.
- Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.
- Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.
- The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.
- Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American peoples but also contributes to the cause of peace in Asia and the world.

The United States of America and the People's Republic of China will exchange Ambassadors and establish Embassies on March 1, 1979.

which offers hope for millions of Americans at home, on the farm, and in the workplace?

Do we tell these Americans to give up hope, that their ship of state lies dead in the water because those entrusted with manning that ship can't agree on which sail to raise? We're within sight of the safe port of economic recovery. Do we make port or go aground on the shoals of selfishness, partisanship, and just plain bullheadedness?

The measure the Congress is about to vote on, while not perfect in the eyes of any one of us, will bring us closer to the goal of a balanced budget, restored industrial power, and employment for all who want to work. Together we can reach that goal.

Thank you. God bless you.

Note: The President spoke at 8:02 p.m. from the Oval Office at the White House. The address was broadcast live on nationwide radio and television.

United States Arms Sales to Taiwan

Joint Communique of the United States and the People's Republic of China. August 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October, 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972, and reaffirmed in the Joint Communique on the Establishment of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979, promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point Proposal put forward by China on September 30, 1981, represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

5. The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursing a policy of "Two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979, and the Nine-Point Proposal put forward by China on September 30,

1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over the question of United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales or arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and make strong, joint efforts for the continued development of relations between the governments and peoples of the United States and China.

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.

United States Arms Sales to Taiwan

Statement by the President.
August 17, 1982

The U.S.-China joint communique issued today embodies a mutually satisfactory means of dealing with the historical question of U.S. arms sales to Taiwan. This document preserves principles on both sides and will promote the further development of friendly relations between the governments and peoples of the United States and China. It will also contribute to the further reduction of tensions and to lasting peace in the Asia/Pacific region.

Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan.

In working toward this successful outcome we have paid particular attention to the needs and interests of the people of Taiwan. My longstanding personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial, and people-to-people contacts—which are compatible with our unofficial relationship. Such contacts will continue to grow and prosper and will be conducted with the dignity and honor befitting old friends.

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful. We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy, and it is clear from our statements that our

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. ROGER C.S. LIN No. 100-1, Yuanlinkeng Rd., Guishan Dist., Taoyuan City 333, Taiwan; JULIAN T.A. LIN No. 100-1, Yuanlinkeng Rd., Guishan Dist., Taoyuan City 333, Taiwan; and TAIWAN CIVIL GOVERNMENT No. 100-1, Yuanlinkeng Rd., Guishan Dist., Taoyuan City 333, Taiwan, Plaintiffs, v. UNITED STATES OF AMERICA; *et al.*, Defendants.	)	Civil Action No. 1:15-CV-295-CKK

[Proposed] ORDER

Upon consideration of Defendant's Motion to Dismiss Plaintiffs' Amended Complaint and the memorandum of law in support thereof, and responses thereto, it is this _____ day of _____, 2015, hereby ORDERED that Defendant's Motion to Dismiss is GRANTED, and this action is DISMISSED WITH PREJUDICE.

_____
Colleen Kollar-Kotelly
United States District Judge