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Introduction

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NUMBER 1

**INTERNATIONAL
BUSINESS LAW CONFERENCE**

**INVESTMENT AND TRADE WITH
THE REPUBLIC OF CHINA**

Sponsored by:

Loyola Law School
1441 W. Olympic Boulevard
Los Angeles, California
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Introduction

JOHN T. McDERMOTT*

After successfully sponsoring a conference on trade and investment in the People's Republic of China ("PRC") in March 1989,¹ Loyola Law School decided to hold a second international business law conference on trade and investment with Taiwan, the Republic of China ("ROC"). The ROC was an obvious choice for our second conference. Although the ROC is not a member of the General Agreement on Tariffs and Trade ("GATT"), nor has it been recog-

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1. See *International Business Law Conference: Investment and Trade With the People's Republic of China*, 12 LOY. L.A. INT'L & COMP. L.J. 1 (1989).

nized as a sovereign nation by most of the world,² the ROC has rapidly become a world economic power, well on its way to becoming an economic superpower.³ The ROC's Gross National Product ("GNP") has nearly tripled during the past decade and now exceeds \$7,500 per capita, approximately equivalent to that of the United States just fifteen years ago. Its GNP growth is a robust 7.2% compared to Japan's 4.9% and the United States' 2.2%. Its exports—of which nearly half go to the United States—have more than tripled in the past ten years, resulting in a healthy \$11 billion trade surplus. With a population of over 20 million and a work force of about 8 million, unemployment is low and productivity high—all this with an inflation rate of only 4.7%.

Restrictions on political freedom have often accompanied rapid economic growth, especially in Asia. Although the ROC still has room to improve, recent changes have brought a greater level of democracy and personal freedom. In 1987, the government finally lifted fifty years of martial law. ROC citizens can now travel to the PRC, but direct trade is still banned. Furthermore, the ROC has eased restrictions on the press. These kinds of political and economic conditions in the ROC contrast sharply with those of the PRC, the focus of last year's trade conference. The PRC's economic growth has stalled, and the democracy movement has been crushed. On the other hand, the economy in the ROC continues to flourish, and dissident voices are now heard on the street and in the Legislative Yuan. The economic success of this little island nation is, by any measure, a modern economic miracle. Given the ROC's emergence in the world economic community, we at Loyola felt it was a timely and appropriate topic for our second international business conference.

The program for this conference paralleled the one used for the earlier PRC conference, notwithstanding the fact that the ROC has become a capital exporting country. The one-day program was divided into five panels: (1) Investment in the ROC, (2) Import and Export with the ROC, (3) Protection of Intellectual Property in the ROC, (4) Contract Management and Dispute Resolution, and (5) The Potential for a United States-ROC Free Trade Agreement.

An impressive array of nationally and internationally known speakers participated in the conference. From the United States we

2. The ROC is recognized by the Republic of Korea and a handful of countries in Latin America and Africa.

3. The ROC has become the twelfth-largest trading country in the world.

welcomed William F. Atkin, an attorney with Baker & McKenzie in San Francisco; Susan Liebeler, current managing partner of the Washington office of Irell & Manella and the former Chairperson of the United States International Trade Commission ("ITC");⁴ Ronald A. Cass, then Vice Chairperson, United States International Trade Commission and now the Dean of Boston University School of Law; Cheryl M. Friedman, Trademark Counsel for MCA, Inc.; Francis S. L. Wang, a sole practitioner with offices in San Francisco and Taipei; and Hungdah Chiu, Professor of Law, University of Maryland School of Law and an expert on international law.

Experts from the ROC included Dean Chiang, an attorney with Lee & Li in Taipei; Dr. Chung-Teh Lee, an attorney with Tsar & Tsai in Taipei; Josephine Wang Ho, an attorney in the Taipei office of Baker & McKenzie; K. C. Fan, senior partner of the Formosa Transnational Law Firm and former member of the ROC judiciary; and Douglas T. Hung, the Director of the General Chamber of Commerce of the Republic of China, Liaison Office in San Francisco.

We were especially privileged to have as our keynote speakers C.Y. Chang, Director General of the Coordination Council for North American Affairs ("CCNAA")⁵ and Linda F. Powers, Deputy Assistant Secretary for Services, United States Department of Commerce.

Special thanks go to the following members of the conference planning committee who provided guidance, suggestions, and moral support: Daniel M. Kolkey, of Gibson, Dunn & Crutcher; Frankie F. L. Leung, of Carlsmith, Wichman, Case, Mukai & Ichiki; Albert C. Lum, of Lewis, D'Amato, Brisbois & Bisgaard; Michael J. Maloney, of Kindel & Anderson; William Lew Tan, of Tan & Sakiyama; and Karen B. Wong, of Jones, Day, Reavis & Pogue. We are also grateful for the cooperation and assistance we received from the Los Angeles office of the CCNAA for the Republic of China. Last, but certainly not least, we acknowledge the dedicated work of Lynda Engel, who coordinated both the ROC and the PRC conferences; without her help, neither would have been such successful programs.

The selected papers which follow describe the economic strength of the ROC and its efforts to comply with internationally recognized

4. Ms. Liebeler was a member of the Loyola Law School faculty before her appointment by President Reagan to the ITC.

5. The CCNAA serves as the ROC government's representative in the United States. Although not formally an embassy or consulate, at least one federal court has accorded the CCNAA the same "sovereign immunity" as a foreign embassy or consulate.

principles of law, especially regarding intellectual property protection. The ROC has made great political and economic strides, and thus deserves world recognition as a full member of the international community. Membership in the GATT is a logical and necessary first step. The notion of two Chinas may be politically unacceptable in both Taipei and Beijing, but the reality is that there are two Chinas—although only one seems to be moving forward both economically and politically. My hope is that the ROC will remain economically strong, will continue to move toward true participatory democracy, and that the PRC will again begin the slow, painful, but essential journey toward political and economic freedom. Only then can there be “one China.”

Keynote Speech

LINDA F. POWERS*

In an effort to help United States firms increase their exports, the United States government is focusing heavily on trade and investment with the Republic of China (“ROC”). To describe this focus, I will first comment on the overall trade picture with the ROC, and then discuss the United States government’s concern over the persistent trade imbalance looming over the United States-ROC trade relationship. Finally, I will explore the actions taken by both United States and ROC authorities in an effort to address this persistent trade imbalance. Against this backdrop, I will identify the areas of major trade opportunities that United States government initiatives and programs have focused on to help increase United States exports to the ROC.

The ROC is an economic powerhouse. Its economy developed so rapidly that the ROC is now the United States’ fifth-largest trading partner. Unfortunately, the ROC trade surplus and corresponding United States trade deficit ranks second only to the United States’ bilateral deficit with Japan. As a result, the United States government places these initiatives to increase exports to the ROC at the top of its agenda.

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