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UNITED STATES-TAIWAN RELATIONS: TWENTY YEARS AFTER THE TAIWAN RELATIONS ACT

Edited by Jaw-Ling Joanne Chang and William W. Boyer

School of Law
University of Maryland
ANNOUNCEMENT

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* Jaw-Ling Joanne Chang is Research Fellow of the Institute of European and American Studies, Academia Sinica in Taipei, Taiwan.

William W. Boyer is Charles P. Messick Professor Emeritus of Public Administration, University of Delaware.
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INTRODUCTION

Jaw-Ling Joanne Chang and William W. Boyer

A series of events during the last year of the twentieth century, 1999, may in retrospect comprise a major turning point in the triangular relations of the United States (U.S.), the Republic of China (ROC) and the People's Republic of China (PRC).

Coinciding with the visit in April 1999 to the United States of the PRC's Premier Zhu Rongji, and the U.S. rejection at the time of China's concessions for joining the World Trade Organization, was the international conference at Taiwan's Academia Sinica on U.S.-Taiwan relations twenty years after the 1979 enactment of the Taiwan Relations Act (TRA). The subsequent May 1999 U.S./NATO bombing of the Chinese embassy in Belgrade was followed by ROC's President Lee Teng-Hui's July landmark statement that the cross-strait relationship is a "special state-to-state relationship."

Fallout from the U.S. and the PRC was ominous for Taiwan. Regardless of President Clinton's reassurances to the PRC that the U.S. remained steadfast in its one China policy of regarding Taiwan as part of China, the PRC rattled the saber and cut off its cross-strait dialogue with Taiwan. Meanwhile, the United States' relations with both the ROC and the PRC reached a new low and loomed as a major issue in the upcoming U.S. elections in the year 2000.

This then is the troubling and uncertain context that makes this book about U.S.-Taiwan relations so timely, based as it is on the wide-ranging and penetrating presentations at the April 1999 conference, held in Taipei twenty years after enactment of the TRA, together with subsequent developments.

The conference program listed 183 registered participants, featuring 16 major speakers from the United States and 28 from Taiwan. A total of 50 distinguished experts addressed the conference, including 13 paper presenters, 9 panelists, and 14 discussants. Contributors to this book are drawn from the paper presenters and the prepared remarks of the panelists. The book comprises five parts or themes as follow: I. U.S.-Taiwan Political and Military Relations; II. U.S. Congress and the TRA; III. U.S.-Taiwan Economic and Legal Relations; IV. Triangular and Cross-Strait Relations; and V. Future Prospects.

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As the reader may discern, the analyses from both sides of the Pacific, considered together, are comprehensive and penetrating. The contents of this book encompass diverse views of experience over the first twenty years of the Taiwan Relations Act and varied speculation about the future. While most presentations are mixtures of pluses and minuses, some are predominantly favorable or optimistic, whereas others are mainly unfavorable or pessimistic, depending on the perspectives of the contributors. Moreover, whereas most contributions are both backward looking and forward looking, some are predominantly retrospective, while some are mainly prospective. Accordingly, we may organize views herein expressed, by way of these introductory remarks, in terms of four categories — retrospective favorable; retrospective unfavorable; optimistic; and pessimistic.

**Retrospective Favorable Views**

Retrospective favorable views agree that the Taiwan Relations Act has proved an innovative and constructive response to unusual circumstances. It is unique because it has no parallel and because it has many unique features to regulate a unique relationship. It derives from the wisdom of many who have wished to maintain Taiwan’s security in the absence of diplomatic relations with the United States. Virtually everyone agrees that the TRA’s original goals of maintaining peace, stability and an equilibrium have prevailed. As Yann-Huei Song demonstrates, Congressional involvement and interest in the faithful implementation of the TRA has not diminished over the last decade.

Since the TRA became law in 1979, Taiwan’s economic development and modernization have been remarkable by any measure, as emphasized by Da-Nien Liu and Wen-Jung Lien. Between 1978 and 1998, Taiwan’s bilateral trade with the United States expanded beyond expectation, having increased almost seven times, from US $7.3 billion to US $49 billion and making Taiwan the seventh largest trading partner of the U.S. and hence a larger market for U.S. exports than Mainland China. In the meantime, Taiwan’s investment in China has become significant. Today, Taiwan represents a world-acclaimed development model.

Although the TRA does not constitute a mutual defense treaty, its implementation has helped maintain Taiwan’s security through U.S. arms sales and defense cooperation between the two countries. The U.S. intervention during the 1996 missile crisis, by
deploying two aircraft battle groups to the Taiwan Strait, underscored the U.S. commitment to uphold the spirit of the TRA.

Meanwhile, the TRA has helped provide an environment for Taiwan's democratization, marked by the development of a pluralistic society and multi-party democracy with the full realization of human rights and political freedoms and liberties. As Hsiu-Lien Lu emphasizes, Taiwan is now a free and democratic country. Accordingly, Taiwan now provides a model of consolidating democracy for Mainland China. Finally, the TRA has helped provide an atmosphere for ongoing cross-strait relations and dialogue and for Taiwan's drive toward international legitimacy whereby re-recognition is replacing de-recognition.

**Retrospective Unfavorable Views**

On the other hand, retrospective unfavorable views contend that the United States has not lived up to either the letter or the spirit of the TRA. Setbacks in its implementation, according to Jaw-Ling Joanne Chang, have included the U.S.-PRC August 17, 1982 Communiqué, the 1994 Taiwan Policy Review to ban visits to the U.S. of Taiwan's top political leaders, and President Clinton's 1997 and 1998 "three no's" pledge to the PRC. Regardless of unambiguous TRA language committing the U.S. to provide arms adequate for Taiwan's defense, the 1982 Communiqué declares the U.S. intention to reduce gradually over time its sales of arms to Taiwan. The 1994 policy change prohibited future visits to the U.S. by Taiwan's political leaders (clearly a step backward in light of the Taiwan Strait Crisis of 1995-1996 rooted in this policy change) which — from Taiwan's perspective — remains inequitable, humiliating, and unfair. Clinton's "three no's" pledge to the PRC promised no U.S. support for: Taiwan's independence; "Two Chinas" or "One China, One Taiwan"; and Taiwan's membership in any international organization based on statehood. Therefore, the TRA does not assure Taiwan's participation in international organizations. The "three no's" pledge represents a deceptive, overly simplistic, and subtle change that is clearly to Taiwan's disadvantage.

As Robert Sutter notes, ambiguities in the TRA — regarding shared decision making with respect to U.S. weapons transfers and "appropriate action" to safeguard Taiwan's security — have provoked a major ongoing debate between Congress and the President, whereby Congress (and interacting interest groups) has been more deferential to Taiwan while the President has remained more responsive to the PRC, with the President generally prevailing.
Regardless of the fact that measures adopted by the administration and actions taken by Congress were often in conflict, the U.S. Congress since 1979, according to Michael Pillsbury, has never taken any action that challenged U.S. Presidents with regard to military aspects of the TRA. Moreover, implementation of the TRA has not assured adequate arms for Taiwan's self-defense needs. Although much information about arms sales to Taiwan is shrouded in secrecy, even from the people of Taiwan and the U.S. Congress, Taiwan remains vulnerable to a blockade by the PRC. Pillsbury cautions that among Taiwan's major military weaknesses is its limited capacity to defend against the growing arsenal of Chinese ballistic missiles and Taiwan's inadequate number of submarines (now only four). Given its missile buildup since 1995, China has begun to focus its military resources for the first time mainly on Taiwan. In short, the TRA has not prevented a tilting in the balance of military power toward China.

**Optimistic Views**

Optimistic views, looking toward the future, argue that continuing the broadening and expanding of Taiwan's economic and trade relations constitutes the best assurance of the recognition or legitimacy of Taiwan's stature among the nations. Taiwan's trade with and investment in the mainland are a stronger card than many think. Surely the communist leadership understands that China needs this investment and trade to sustain its economic growth and political stability.

Harry Harding considers that tensions in the Taiwan Strait are significantly lower than they were in 1995-1996, during the controversy over President Lee Teng-Hui's visit to the United States in 1995. This is the result, according to Harding, of the following positive developments: (1) both the U.S. and Japan have reassured China that they do not seek to promote the formal independence of Taiwan; (2) Taiwan and the mainland have resumed their semi-official dialogue at the highest level which now includes both political and technical issues; (3) Taiwan's leading opposition party, the Democratic Progressive Party (DPP), no longer calls for independence, reflecting a majority Taiwanese preference to maintain the status quo; (4) not only has Hong Kong's return to Chinese sovereignty proceeded smoothly, but some PRC circles favor a more flexible formula for Taiwan's reunification; and (5) economic and societal relations across the Taiwan Strait continue to grow.
Continuing the status quo, according to Denny Roy, is the most realistic option and best hope for the future. This is to say that the U.S. interest in defending Taiwan, as provided by the TRA, creates a deterrence and balance of power that has prevailed over the past 20 years and is likely to prevail well into the 21st century. Although there is room for skepticism, maintaining peace and making progress toward possible reunification depend on the democratization of the mainland, which — albeit haltingly — is proceeding. For example, the PRC under Jiang Zemin’s leadership has recently signed the International Covenant on Civil and Political Rights. According to Hungdah Chiu, if the PRC ratifies and fully implements the Covenant’s provisions, there will be no reason for the majority of the people in Taiwan to reject reunification. All of the many short-term and long-term solutions proposed for reducing tensions depend on the renunciation or avoidance of the use of force. Continuing U.S. commitment to Taiwan under the TRA will make possible resolving the Taiwan question peacefully by negotiations between the PRC and the ROC.

Strategic ambiguity by the U.S., according to Nancy Bernkopf Tucker, will be safer than clarity and will serve as a deterrent; thus the ambiguous U.S. “constructive engagement” policy toward the PRC is positive. Meanwhile, the search for an interim mutually acceptable arrangement or “modus vivendi,” as Harry Harding terms it — especially a mainland commitment not to use force against Taiwan as long as Taiwan does not unilaterally declare independence — would make it easier to prevent future tension in the Taiwan Strait.

**Pessimistic Views**

Pessimistic views about the future predict, as Robert Sutter for example contends, that the United States will not soon be able to restore a broad consensus on its foreign policy toward China and Taiwan. Indeed, U.S.-China relations, already strained, are likely to become even more uncertain in the future, in the view of Gerrit Gong, in part because of three likely changes in U.S. perceptions of China: from China as an emerging economic power to an economically vulnerable country; from China as a possible strategic partner to a potential strategic competitor; and the reemergence of Taiwan as a major issue in U.S.-China relations and thereby in U.S. domestic politics.

Accordingly, maintaining the status quo is not a realistic possibility. Taiwan’s military needs will remain unfulfilled, and the mili-
tary balance of power in the Taiwan Strait area will create a new, complex and seemingly more dangerous environment in which — as Douglas Paal believes — the strategic context of U.S.-China relations is unlikely to be soon resolved. Escalation of military build-ups on both sides of the Taiwan Strait is an ominous possibility. According to Cheng-Yi Lin, the militarization buildup of the PRC will proceed and pose an ever-greater threat to Taiwan. We may see much movement in the next few years, but no progress. The return of Hong Kong and Macau to the mainland will increase the PRC's resolve to reunify Taiwan. The PRC will remain steadfast in applying the "one country, two systems" formula to Taiwan. Moreover, the PRC can not afford to relent on Taiwan for fear that other disunifying forces would be unleashed within the PRC. Meanwhile, within Taiwan, the pro-independence views will increase, which the PRC will regard as intolerable and provocative. Finally, democratization of the PRC will not necessarily change the PRC's posture toward Taiwan.

**Conclusion**

Regardless of the diverse views evident in the following pages — both favorable and unfavorable of the past and optimistic and pessimistic about the future — we, as responsible scholars, implore political leaders in Washington, Taipei and Beijing to be extraordinarily cautious in relating with each other as the twenty-first century unfolds. Specifically, we call upon them to examine the varied analyses herein expressed, to learn from the crises and lessons of the past, and thereby to craft decisions and policies that will maximize opportunities for avoiding tension and assuring lasting peace for the future.
PART I.

U.S.–TAIWAN POLITICAL AND MILITARY RELATIONS
Chapter 1

MANAGING U.S.-TAIWAN RELATIONS:
20 YEARS AFTER THE TAIWAN RELATIONS ACT*

Jaw-Ling Joanne Chang

The United States severed diplomatic relations with the Republic of China over twenty years ago. The Taiwan Relations Act (TRA) was therefore enacted in 1979 to preserve and promote commercial, cultural and other relations between the United States and Taiwan. It has been instrumental in maintaining peace, security, and stability in the Taiwan Strait since its enactment.

Joseph S. Nye, Jr., former Assistant Secretary for International Security Affairs of the U.S. Defense Department, has observed that historically the rise and fall of great powers are often accompanied by great instability in international state systems.\(^1\) The international power structure in East Asia today is marked by the rise and fall of great powers. The Soviet Union collapsed and North Korea’s future remains uncertain. Japan’s role is evolving and China’s power is rising.

The Taiwan-Strait Crises of 1995-1996 demonstrate that peace and stability in this region can no longer be taken for granted. According to a recent Pentagon report, the PRC now has 150-200 ballistic missiles aimed at Taiwan.\(^2\) Taiwan’s most significant vulnerability is its limited capacity to defend against the growing arsenal of Chinese ballistic missiles.

Beijing considers Taiwan a renegade province of China and, through its “One-China principle,” has denigrated the Republic of China on Taiwan as a local government. On July 9, 1999, President Lee Teng-Hui told a German radio station that the cross-strait relationship is a “special state-to-state relationship.”

Since July 9, the

* A shorter version of this article was published in *Orbis*, Vol. 44, No. 1 (Winter, 2000), pp. 63-77.


PRC press has kept up a barrage of attacks against President Lee. Beijing has also used the Hong Kong media to conduct psychological warfare against Taiwan. Within a month after President Lee’s remarks, PRC fighters flew more than 100 sorties along the middle of the 100-mile-wide Taiwan Strait.\(^3\) On July 25 and 30, 1999, Chinese fighter jets twice crossed the so-called center line, which had been generally respected by both sides as the limit of their military activities.\(^4\)

The Taiwan Relations Act states that it is the policy of the United States “to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.” The Act also explicitly states that the U.S. will make available defense articles and defense services in such quantities as may be necessary for Taiwan to maintain a sufficient self-defense capability. Now is the time to evaluate Taiwan’s self-defense needs.

This study reviews the ambiguities, implementation and the setbacks of the Taiwan Relations Act of 1979, followed by analysis of causes of the March 1996 crisis and lessons for future U.S.-Taiwan relations.

I. BACKGROUND OF THE TRA

On November 26, 1974, Secretary of State and Assistant to the President for National Security Affairs, Henry A. Kissinger, met with the PRC Vice Premier Deng Xiaoping on the normalization issue. Kissinger proposed that a liaison office in Taiwan be maintained after U.S.-China normalization. The United States would accept Beijing as the legal government of China, withdraw recognition from Taiwan, break diplomatic relations with Taiwan, and withdraw U.S. troops from Taiwan. But the U.S. would like to keep the defense treaty with Taiwan as assurances of peaceful reintegration; however, Kissinger acknowledged that the defense treaty would have no international status after the normalization of relations.\(^5\)

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Vice Premier Deng told Kissinger that "it would not be possible for us to accept this method of normalization. It still looks as if you need Taiwan." Secretary of State Kissinger replied: "No, we do not need Taiwan. That is not the issue. What we would like to achieve is the disassociation from Taiwan in steps, in the manner we have done until now."6

On December 15, 1978, President Jimmy Carter announced the establishment of full diplomatic relations with the PRC. The U.S. gave Taiwan one year's notice to terminate the Mutual Defense Treaty in accordance with Article 10 of the Treaty. The U.S.-ROC defense treaty expired at the end of December 1979. The U.S. was not allowed to establish a liaison office in Taiwan after normalization with the PRC. Nor did the Carter Administration receive a firm commitment from Beijing not to use military force to attack Taiwan.7 The Carter Administration considered China a "strategic imperative"; thus, it was not particularly concerned about the fate of Taiwan. It was generally believed at that time that Taiwan would soon be absorbed by the PRC.8 The Republic of China government would have no choice but to agree to reunification on PRC terms.9

Taiwan was only given seven hours' notice. The U.S. Congress was not consulted in the normalization agreement. In July 1978, the U.S. Senate had passed an amendment to the International Security Assistance Act by the unanimous 94-0 roll call vote that called on the President to consult with the Senate before taking any action to terminate the 1954 Mutual Defense Treaty with the Republic of China. The Dole-Stone amendment was later approved in a House-Senate conference meeting, making it a resolution of the full Congress.

Offended by the lack of a security guarantee for Taiwan in the normalization agreement, Congress took an active role in drafting the Taiwan Relations Act. On January 29, 1979, the Carter Admin-

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istration sent a bill (S. 245) to Congress providing for the conduct of unofficial U.S.-Taiwan relations. The bill contained a basic economic, cultural and functional framework, but did not have any provision on Taiwan's security guarantee, arms sales, or the privileges and immunities of unofficial organs. Congress found it unacceptable; Senator Frank Church, Chairman of the Foreign Relations Committee, believed that the bill was "woefully inadequate to the task, ambiguous in language, and uncertain in tone." The Taiwan Relations Act (Public Law 96-8) was adopted by Congress on March 29, 1979, and was signed into law by President Carter on April 10, 1979.

The Taiwan Relations Act is unique. The United States never broke relations with an ally, either before or after its passage. On December 19, 1978, President Carter stated in an interview that "Taiwan will no longer be a nation in the view of our own country." The Republic of China government was no longer formally recognized by the United States; however, the Taiwan Relations Act, providing a new and unprecedented legal arrangement, has managed to maintain virtually all U.S.-Taiwan relationships that had existed before its passage.

The so-called American Institute in Taiwan (AIT) was created to take over all functions of former U.S. embassy and consular services in Taiwan. The "Coordination Council for North American Affairs (CCNAA)" was established to serve as a counterpart of the AIT. All treaties and agreements between the U.S. and the ROC, except the Mutual Defense Treaty, have continued in force. Section 4 of the Taiwan Relations Act declares that "the absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan"; "whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with such respect to Taiwan." This section of the TRA, according to one authority, effectively wipes

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out all the international legal consequences of U.S. de-recognition of the Republic of China.\textsuperscript{12}

In order to continue providing Taiwan with enriched uranium for nuclear power reactors, the U.S. continued to consider the ROC a "friendly government." For purposes of the U.S. Immigration and Nationality Act, the ROC continued to be treated as a country separate from the PRC.\textsuperscript{13} U.S. investors in Taiwan continued to receive insurance protections under the U.S. Overseas Private Investment Council (OPIC). In addition, Washington and Taipei also reached an agreement to grant privileges and immunities to the CCNAA and the AIT for their personnel.\textsuperscript{14} The Taiwan Relations Act also confirmed Taiwan's continued eligibility under the U.S. Arms Export Control Act, the U.S. Export-Import Bank Act, the U.S. Foreign Assistance Act of 1961, and other U.S. legislation.\textsuperscript{15}

**Rocky Start: 1979-1980**

The Taiwan Relations Act, adopted by the Congress at the end of March, 1979, was very different from the original bill (S. 245) proposed by the Carter Administration. President Carter had considered vetoing the Act,\textsuperscript{16} but decided otherwise because the TRA had been approved by more than two-thirds of the Congress (339-50 in the House and 85-4 in the Senate) and thus his veto would have been overridden.

Beijing, of course, did not like the TRA. On April 19, 1979, Vice Premier Deng Xiaoping told a visiting delegation of the U.S. Senate Foreign Relations Committee that China was not satisfied


\textsuperscript{14} For details, see Chiu, "The Taiwan Relations Act and Sino-American Relations," *supra* note 12, p. 14.


\textsuperscript{16} President Carter instructed Secretary of State Cyrus Vance to hold firm on the Taiwan legislation. On March 7, 1979, Carter wrote in his diary: "If it is modified to my commitments to the PRC or if the security language with Taiwan exceeds that in the treaty itself, I will have to veto the legislation, therefore leaving it illegal to deal with Taiwan in any effective way." Jimmy Carter, *Keeping Faith*, New York: Bantam Books, 1982, pp. 210-211.
with the TRA. President Carter indicated that when he executed the TRA, he could comply with the U.S.-PRC normalization agreements; China was watching the future behavior of the United States.  

The PRC secretly protested to the United States on April 28, 1978. It was revealed by the Chinese source that the U.S. Embassy in Beijing replied to the Chinese protest on July 6, 1979, as follows:

The United States shall comply with various understandings reached with the People’s Republic of China on establishing diplomatic relations. The Taiwan Relations Act finally adopted by the Congress does not comply with the wishes of the [U.S.] government in every detail; however, it provides full discretionary authority to the President in dealing with [difficult] situations and enables the President to implement this Act in a manner fully consistent with the normalization formula. It is on that basis that the President signed this bill and made it law. The United States Government has ensured that the language used in this Act will not impair the understanding reached with your government or compel our government to take action deviating from such understanding.  

The process of adjustment to unofficial U.S.-Taiwan relations was rather complicated at the beginning. According to Charles T. Cross, the first Taipei Director of AIT (1979-1981), Deputy Secretary of State Warren Christopher had given him a brief instruction: “Taiwan shouldn’t do anything that would obstruct our relationship with the PRC.” Assistant Secretary for East Asian Affairs Richard Holbrooke, on the other hand, offered Cross an informal instruction: “try to make the new set-up work but don’t ask for anything (i.e., changes in the arrangements) because we can’t help.”

Cross relied on two basic principles to determine his own approach to AIT: first, productive and wide-ranging relations with the

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20. Ibid, p. 3.
PRC were important to the U.S. and the rest of East Asia including Taiwan and that these were of the first priority; second, the 1978 U.S.-PRC Normalization Agreements provided adequate arrangements for good relations.21 Cross's main challenge as AIT Director in Taipei was to avoid the appearance of doing "official" business while actually carrying it out in practice.22 AIT's staff of career diplomats were not fully prepared for the multiplying administrative complexities, the required subtleties, the circumspection, and the constant attention to the details of unofficiality.23

The Carter Administration unilaterally developed guidelines on how U.S. Government personnel, AIT, and the CCNAA were to interact with each other to conduct "unofficial" relationships. The guidelines contained matters that included meetings, contacts, travel, correspondence, and terminology, among others.24 Natale H. Bellocchi, Chairman of the AIT from 1990 to 1995, believed that these guidelines were costly and inefficient. They served the purpose of keeping the relationship, in appearance at least, as unofficial. None were mentioned in the TRA, but once established, they set a precedent, which, whenever one was changed, became an issue between Washington and Beijing.25

Charles T. Cross pointed out that initial problems derived from the natural irritations that Taiwan officials felt with respect to the symbolic character of the rules.26 Unfortunately, the people in Taiwan chafed at these symbols; the more publicity aroused by the symbolic details of unofficiality, the more strictly AIT had to apply them, and, consequently, the less chance there was to change them publicly.27

Director Cross had tried to persuade the Carter and Reagan Administrations to allow AIT to have some operating flexibility, but gained little support. Cross found that the Reagan Administration especially was responsive to PRC pressures over arms sales to Taiwan for what Secretary of State Alexander Haig, Jr. called the "Soviet Imperative."28

27. Ibid, p. 9.
II. ASSESSMENT OF THE TRA

The TRA has provided a legal framework for the continuation of commercial, cultural, and other relations between the U.S. and Taiwan. It has stood the test of time. Trade between the United States and Taiwan has grown spectacularly over the last 20 years. In 1979, bilateral trade stood at a mere US $9.2 billion. In 1998, the figure was US $51.2 billion.\(^{29}\) Taiwan is now America’s seventh largest trading partner. In 1998, Taiwan imported US $18.15 billion American goods and services; the PRC, on the other hand, has only imported US $14.25 billion.\(^{30}\)

Meanwhile, cultural relations between the U.S. and Taiwan have also been steadily expanding. In 1997, people in Taiwan made more than 588 thousand trips to the United States. More than 30 thousand students from Taiwan are currently studying in the United States. Scientific, technological and cultural exchanges have also been frequent. There are currently 117 bilateral treaties, agreements or memorandums of understanding between Taiwan and the United States.\(^{31}\)

Section 2(c) of the TRA reaffirms “the preservation and enhancement of the human rights of all the people on Taiwan.” After the U.S. severed diplomatic relations with the Republic of China, Taipei tightened up its security forces against political dissidents for fear of domestic instability.

The so-called 1979 Kaohsiung incident and trials, the murder of Lin Yi-Hsiung’s mother and twin daughters, Professor Chen Wen-Cheng’s death in 1981 and Henry Liu’s murder in 1984, combined to cause great concern within the U.S. government and Congress. Congress had conducted a series of hearings to examine human rights violations and political developments in Taiwan.\(^{32}\)


\(^{30}\) Ibid.


The ROC government was criticized for martial law, and the ban on new political parties and certain publications. Taiwan’s record on human rights has gradually improved since the mid-1980s. Martial law was lifted in July 1987. The ban on travel by residents of Taiwan to mainland China was abolished in November 1987. Restrictions on publishing newspapers and the ban on new political parties were removed in 1988 and 1989, respectively. The ROC has become a democratic country with the first direct election of the president in 1996. Taiwan is now a model of consolidating democracy with a free press, free elections, stable democratic institutions and human rights protections. Thus, Taiwan has gained more support and respect in the United States through its peaceful transformation to democracy. The main purpose of the TRA is to help maintain peace, security, and stability in the Western Pacific. Section 2(b)(4) of the TRA considers “any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.” The TRA asserts that it is the policy of the U.S. to maintain American capability “to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.” The TRA has provided a favorable and stable environment for the people on Taiwan to develop its economy and democracy.

Continuing U.S. arms sales to Taiwan also adds to Taiwan’s confidence in its dealing with the PRC. In September 1992, President George Bush decided to sell 150 F-16 aircraft to Taiwan. Seven months later, Dr. Koo Chen-Fu, Chairman of the Straits Exchange Foundation (SEF), had his first meeting with Mr. Wang Dao-han, Chairman of the Association for Relations across the Taiwan Straits (ARATS) in Singapore. U.S. arms sales have contributed to maintaining peace and stability in the Taiwan Strait and to creating an atmosphere conducive to the improvement of cross-strait relations, including dialogue.


III. SETBACKS OF THE TRA

In retrospect, the TRA undoubtedly has played a very important role in Taiwan's security and domestic political developments. There is room, however, for further improvements. Simply put, the U.S. has not lived up to either the letter or the spirit of the TRA. Indeed, during the past 20 years, there were several setbacks in the implementation of the TRA. Notable among them were: (1) the August 17, 1982 Communiqué; (2) the 1994 Policy Review to ban visits to the U.S. of Taiwan's top leadership; and (3) the recent "Three No's Pledge" by the U.S. to the PRC. Each setback merits brief analysis.

(1) The August 17, 1982 Communiqué

Sections 3(a) and 3(b) of the TRA set forth the provisions for implementing arms transfers by stating in 3(a) that the U.S. "will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain sufficient self-defense capability" (italics supplied). The ambiguity of the italicized words prompts the question of who decides what arms are necessary or sufficient for Taiwan’s security. Section 3(b) appears to supply the answer, as follows:

(b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with the procedures established by law. Such determination of Taiwan's defense needs shall include review by United States' military authorities in connection with recommendations to the President and the Congress.

The italicized sections in (a) and (b) above appear to unambiguously posit sole responsibility for determining Taiwan's security needs in the United States — namely U.S. military authorities, the President and the Congress — without any regard to participation by PRC authorities. However, at the behest of the PRC, the August 17, 1982 Communiqué stated the intention of "the United States Government . . . to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." The PRC interpreted this phrasing as implying the complete termination of
U.S. arms sales to Taiwan over a period of time, whereas President Ronald Reagan considered “final resolution” to apply to the Taiwan issue generally and not in particular to U.S. arms sales.

Senator John Glenn, Chairman of the East Asia and Pacific Affairs Committee when the TRA became law, flatly stated that in his opinion the August 17 Communiqué “does undermine the spirit and intent of the TRA.” He explained:

Now, because we anticipated the PRC would pressure us to end or limit Taiwan arms sales, we provided in the act a framework for the executive branch to resist such pressures. . . . The communiqué . . . discards that very carefully crafted framework, the heart of the TRA, in favor of an arms sale formulation negotiated under Chinese threats of retrogression of United States-PRC relations.

Beijing has continued to pressure Washington to reduce and eventually to terminate U.S. arms sales to Taiwan. Meanwhile, the August 17, 1982 Communiqué has failed to put the arms sales issue to rest; instead this issue remains a main core of tensions between Washington and Beijing. The conclusion is inescapable, therefore, that whatever stability and security of Taiwan provided by the TRA remains jeopardized by the August 17, 1982 Communiqué.

The Carter Administration insisted on continuing arms sales to Taiwan after the U.S.-PRC normalization in 1979 because: (1) arms sales to Taipei would give Taiwan more confidence in its defense capability against the People’s Republic of China. Thus, Taiwan would not need to panic or seek radical solutions, such as considering the nuclear option that would be contrary to United States interests; (2) continued arms sales to Taiwan could reduce suspicions and doubts from other U.S. allies about U.S. reliability in keeping its defense commitments in Asia; and (3) if Taiwan remained strong militarily, the PRC would be less likely to launch an attack on Taiwan.

Thus, continuing arms sales to Taiwan could provide the United States with more leverage in its conduct of foreign policy.

This equation has not changed; therefore, in compliance with the Taiwan Relations Act, the United States should continue to ensure Taiwan has adequate means of self-defense.

(2) The 1994 Ban of Visits to the U.S. of Taiwan’s Top Leadership

In September 1994, the U.S. State Department completed its first thorough review of U.S. policy toward Taiwan since 1979.\textsuperscript{38} The Clinton Administration made some policy adjustments toward Taiwan. Under the new Taiwan policy, visits to the U.S. by Taiwan’s top leaders (president, vice president, premier, and vice premier) would be forbidden, but they would be allowed to make transit stops in the U.S. when necessary. Between 1979 and 1994, Taiwan’s vice-president and premier had visited the U.S. in private capacities and had been treated with dignity by U.S. administrations. The 1994 policy adjustment clearly proved a step backward, in light of the Taiwan Strait Crisis of 1995-1996 that was actually rooted in this policy change.

From 1994 to 1995, the Clinton Administration repeatedly assured China that Taiwan President Lee Teng-Hui would not be admitted to the United States. However, responding to pressure from the Congress, Clinton reversed that decision in May 1995 and allowed President Lee to enter the United States. The Chinese authorities were enraged at what they saw as a broken U.S. promise, and the military exercises and missile “test firings” off Taiwan’s shores soon followed. Had Clinton made no such assurance to China, the crisis could have been avoided.

Another setback was the 1994 policy change that allows meetings between high-level Taiwan officials and U.S. officials to take place in U.S. government offices, excluding the White House, the State Department, and the Old Executive Office Building, whereas AIT or other U.S. officials who visit Taiwan are permitted to meet Taiwanese officials in Taiwan’s government offices. From Taiwan’s perspective, these new policy stipulations are manifestly inequitable and are tantamount to more loss of face and unfair treatment of Taiwan’s officials.

(3) Clinton’s Three No’s Pledge to the PRC

Another setback is represented by President Clinton’s October 1997 meeting with Jiang Zemin in Washington when Clinton made the so-called “Three No’s Pledge” to the PRC, promising (1) not to support Taiwan’s independence; (2) not to support “Two Chinas” or “One China, One Taiwan”; and (3) not to support Taiwan’s membership in any international organization based on statehood. These three pledges were repeated by Secretary of State Madeleine Albright during her visit to Beijing in April 1998. Clinton publicly reiterated this pledge in Shanghai on June 30, 1998.

A different tune was sounded by AIT Chairman Richard Bush’s immediate reassurance to the Taiwan people who unabashedly said: “the United States policy toward Taiwan, in all its elements, remains the same today as it was before the summit.” This was soon followed, in a Newsweek interview, by Secretary of State Madeleine Albright who reportedly asserted that “the president said exactly the kind of thing that previous presidents have said. I think there’s an over-interpretation here. We have been for peaceful dialogue. The authorities on Taiwan understand the one-China policy and the need for peaceful cross-strait dialogue.”

The wording of the Shanghai Communiqué of 1972 is clear: “The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and Taiwan is a part of China. The United States Government does not challenge that position.” The U.S. never recognized or endorsed Beijing’s position regarding Taiwan; it simply “acknowledged” it. This is a subtle but important distinction. In the two later communiqués, the U.S. continued to acknowledge “the Chinese position that there is but one China and Taiwan is part of China,” but it never supported this notion.

According to Natale H. Bellocci, from 1979 to 1995, “it was standard policy by all who dealt with the PRC and Taiwan, that the U.S. did not respond to questions of support or non-support of independence.” So, at least in this sense, Bellocci believed that Clinton’s Three No’s statement did represent a change of policy from the past.

40. Bellocci, supra note 24, p. 22.
41. Ibid.
Furthermore, there is no statement at all in the three communiqués about forbidding Taiwan’s participation in international organizations. In fact, Section 4(d) of the TRA specifically states: “Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.” Still, Clinton maintains that his public statement that the United States will not support Taiwan’s membership in any international organization based on statehood is nothing new. The Clinton Administration has conveniently “over-interpreted” the three communiqués with the PRC in an attempt to portray his statements as entirely harmless and inoffensive. The claim made by the Clinton Administration that nothing has changed is deceptive and overly simplistic. The U.S. policy toward Taiwan has changed, albeit subtly, clearly to Taiwan’s disadvantage.

The Clinton Administration may believe that stating acceptance of Beijing’s position on these issues somehow will discourage China’s leaders from acting rashly over Taiwan as they did in 1996. However, the opposite is more likely because the White House is allowing Beijing to drag it step by step into increasingly explicit support of China’s agenda toward Taiwan while reducing Washington’s room for maneuver in asserting its own long-range interests.

Kent Wiedemann, the Deputy Assistant Secretary of State for East Asian and Pacific Affairs, testified at a 1995 hearing before the House International Relations Committee that the United States should support Taiwan’s participation in the United Nations only if Taiwan and China reach an agreement on that issue. He stated, “we should not seek to insert the United States into the middle of this issue.”

However, the “Three No’s Pledge” changes this question. With the third pledge, the United States in a way forecloses the possibility of Taiwan’s membership in the United Nations and other international organizations comprised of sovereign states. By doing so, the United States has inserted itself into the issue at the expense of Taiwan’s interests.

Some U.S. policy-makers may believe that making these kinds of concessions to China will stabilize cross-strait relations. What

they fail to realize, however, is that the more rash promises the
United States makes to China, the greater the likelihood that one of
these promises will have to be broken when it clashes with other
policy considerations.

IV. LESSONS FOR FUTURE U.S.-TAIWAN RELATIONS

In his book *Why Nations Go to War*, John G. Stoessinger ob-
served that the most important single precipitating factor in the out-
break of war is misperception.43 Distorted views of the adversary's
intentions and character often help to precipitate a conflict. One of
the major causes of the Taiwan Strait Crisis of 1995-1996 was Be-
jing’s misperception of Washington’s and Taipei’s motives. In addi-
tion, Washington’s mismanagement of the decision to allow
President Lee’s private visit to the U.S. and Taipei’s miscalculation
of Beijing’s reactions also contributed to the outbreak of the

In order to maintain peace and prevent conflict in the Taiwan
Strait, it is appropriate here to draw some lessons from the past
twenty years.

Lesson 1: Taiwan should be aware that exploitation of TRA's
ambiguities by different U.S. administrations foster situational
and/or inconsistent applications of the TRA.

As we have observed, various divergent interpretations of the
TRA have greatly complicated the issue of U.S. arms sales to Tai-
wan, thus putting Taiwan security at risk. Two major ambiguities,
here discussed, concern different interpretations of the roles of the
President and Congress in implementing the TRA. The first ambi-
iguity arises from the TRA’s provision that “the President and the
Congress shall determine” weapons transfers to Taiwan, which sug-
gests a greater-than-normal congressional role. On the one hand,
the U.S. Supreme Court held in 1936, concerning the issue of U.S.
arms sales to South American countries, that the President had
sweping authority in the field of foreign affairs — that the Presi-
dent alone had the constitutional power to speak or listen as a rep-

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44. For details of the causes of the crisis, see Jaw-Ling Joanne Chang, “The Taiwan-
Strait Crisis of 1995-1996,” in Chun-Chieh Huang, ed., *Postwar Taiwan in Historical
resentative of the nation in its external relations.\textsuperscript{45} On the other hand, on November 8, 1979, Congressman Robert Lagomarsino told Deputy Secretary of State Warren Christopher, at a House Foreign Affairs Committee hearing, "As the [TRA] states . . . this body and specifically this committee take a direct interest in the nature and quantity of arms sold to Taiwan and intend to be a full partner in any decision made on this matter."\textsuperscript{46}

Regardless of the TRA language that imputes shared decision-making by Congress and the President over the issue of arms sales to Taiwan, the Carter Administration — by referring to the TRA language that decisions about arms sales to Taiwan be made "in accordance with procedures established by law" — proceeded to exclude Congress from the process altogether. According to Natale H. Bellocci, former AIT chairman, the Carter Administration established a process for considering and then either approving or rejecting specific requests from Taiwan. Congress was notified only after the process was complete and the U.S. commitment, or rejection, had already been conveyed to Taiwan. Congressional objections did not prevail, and decisions regarding U.S. arms sales to Taiwan thereafter have been exclusively made by the President.\textsuperscript{47}

The second TRA ambiguity, exploited by U.S. administrations to exclude Congressional participation, concerns Section 3(c) of the TRA which provides:

The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger. [italics supplied]

Over the past 20 years, the United States — according to Bellocci — has avoided ever using the TRA’s key operating word “threat” in describing any situation regarding activities in the Taiwan Strait.\textsuperscript{48}

During the 1995-1996 missile crisis, for example, the Clinton Administration labeled PRC’s missile tests as “irresponsible,” but

\textsuperscript{45} United States v. Curtiss-Wright Export Corporation, 299 U.S. 304 (1936).
\textsuperscript{46} Bellocci, "The Taiwan Relations Act—20 Years Experience," supra note 24, p. 17.
\textsuperscript{47} Ibid; see also Bush, supra note 36, p. 86.
\textsuperscript{48} Ibid.
the word “threat” was not used. Moreover, Assistant Secretary of State Winston Lord described the tests as constituting “psychological warfare” against Taiwan and as “risky and provocative,” but were not tantamount to a prelude to an attack on Taiwan. Although the Clinton Administration in March 1996 deployed two U.S. carriers to the waters near Taiwan “to monitor” the activities of Chinese forces, Secretary of Defense William Perry interposed: “We do not believe China plans to attack Taiwan. We do not expect military conflict there.” And he added: “Nevertheless, we are increasing our naval presence in the region as a precautionary measure.”

The word “threat” again was avoided, and hence the necessity to inform Congress thereby was obviated. Despite the U.S. dispatch of the two carriers, the U.S. set a precedent of handling a Taiwan Strait crisis that circumvented participation by the Congress as seemingly directed by Section 3(c) of the TRA.

Lesson 2: The United States should never make promises that contradict its fundamental values

In September 1994, the State Department announced the ban to the U.S. of Taiwan’s top leadership. Beijing argued that if someone visits, in whatever capacity, who is called the President of an entity, that would make an official visit. Unfortunately the Clinton Administration went along with Beijing’s position. In 1994-1995, senior U.S. officials had continued to assure the PRC that permitting a Lee visit would be inconsistent with U.S. unofficial ties with Taiwan. The administration’s position was reiterated on April 17, 1995 by Warren Christopher at a meeting in New York with Foreign Minister Qian Qichen.

Secretary of State Christopher also indirectly warned Qian that the administration had so far been unsuccessful in arguing its case to Congress. Christopher told Qian that “many people in Congress, including good friends of Beijing, do not understand why a visit to the alma mater to pick up an honorary degree would have to be seen as official in nature... The mood in the country was such that

52. Ibid.
the administration position was not receiving overwhelming accolades,” said Christopher.\(^\text{53}\) Christopher’s remark was intended as a veiled hint that a policy reversal was in the offing. But the hint was probably lost on Foreign Minister Qian.\(^\text{54}\)

In 1972 and 1975, Presidents Nixon and Ford visited Beijing officially while recognizing the Republic of China on Taiwan as the legal government of China. At that time the PRC leaders did not think these visits were violations of the one-China principle. If official visits of U.S. Presidents to Beijing did not violate unofficial U.S.-PRC relations, then why should a private visit of President Lee be charged as a violation of unofficial ties between Washington and Taipei?

As a leader of democratic countries, the United States has always treasured the freedom of travel. The Clinton Administration should never have made any promises to Beijing to ban visits to the U.S. by Taiwan’s top leadership. Any U.S. promise abroad, which is against its fundamental national values, would never enjoy the support of the American people. Without the support of the American public and Congress, the United States, like any other democratic nation, cannot long sustain its promises abroad. The Taiwan Strait Crisis was rooted in a broken promise. The U.S. decision-makers should avoid making the same mistake in the future.

**Lesson 3: The U.S. should slow down while making a U-turn**

In May 1995, the Clinton Administration’s way of handling President Lee’s visit suggests deep flaws. Leaders in Beijing were furious over Clinton’s reversal of Lee’s visit because Washington suddenly made a U-turn without giving any warning or prior preparation to the PRC.

In an interview with *Newsweek* in October 1995, President Jiang Zemin revealed that Beijing was stunned because Washington had flip-flopped on whether to grant a visa to President Lee. Jiang said:

After we got information that Lee Teng-Hui was going to visit Cornell University, we raised this issue officially before the State Department of the United States. Secretary of State [Warren] Christopher firmly replied that if Lee Teng-Hui’s visit took place, it would represent [a] vio-

\(^{53}\) Ibid.
lation of the joint U.S.-Sino communiqués. However, after seven or eight days, all of a sudden, the White House announced the decision allowing Lee Teng-Hui to make the visit, and they said that it was consistent with the principles enshrined in the communiqués. According to a Chinese proverb, with one turn of the hand you can produce clouds, with another turn of the hand you can produce rain. What I mean is, they always have a justification. They think they are always right... This is a hegemonic act. This is not the right way to treat others as equals.55

On May 9-11, 1995, President Clinton visited Moscow to commemorate the 50th anniversary of V-E Day. Clinton and Jiang met but did not hold formal talks. Jiang pointed out in another interview that he chatted with Clinton in Moscow, but did not sense that a drama was in store for Beijing, namely, the visit of Lee Teng-Hui to Cornell.56

Foreign Minister Qian Qichen felt betrayed by Clinton’s reversal and made similar remarks in a statement issued by the PRC on May 23, 1995:

The U.S. administration has stated on many occasions that to allow Lee Teng-Hui’s visit to the United States would be inconsistent with the unofficial nature of U.S.-Taiwan relations. Until recently, the spokesperson of the U.S. State Department has said that a visit by a person of Lee Teng-Hui’s title, whether or not the visit were termed “private,” would unavoidably be seen as changing the unofficial nature of U.S.-Taiwan relationship and would endanger one of the critical underpinnings of its unofficial relationship with Taiwan on the one hand and its official relationship with the PRC on the other. The sound of these remarks had barely subsided when the U.S. administration suddenly made a U-turn. Does the administration have any regard for its international credibility when it goes back on its own words on such a major issue of principle?57

In brief, leaders in Beijing felt humiliated by Clinton's U-turn decision. The dispute coincides with a period of uncertainty over the leadership succession in the PRC. Jiang, apparently under pressure from hard-liners, felt compelled to make a strong response to Clinton's turnaround on President Lee's visit. "The question of Taiwan is a highly sensitive issue for the Chinese people. If any Chinese leader yielded on this question, he could not face the 1.2 billion Chinese people," Jiang said.58

In 1992, President Bush had handled the reversal of F-16 sales to Taiwan very differently. President Bush made a U-turn; the PRC was very unhappy with Bush's decision. But it did not lead to a major political confrontation between Beijing and Washington, Why?

In June 1992, President Bush rejected Taipei's request to purchase the F-16 aircraft. On July 29, General Dynamics, the maker of the F-16, announced that it would have to lay off 5,800 workers by 1994. In a radio interview the following day, President Bush said he was taking "a new look" at the possibility of selling F-16s to Taiwan.59 On August 5, some 200 U.S. Congressmen signed a petition urging President Bush to approve F-16 sales to Taiwan to save American jobs.60

On September 2, 1992, President Bush announced the selling of 150 F-16A and F-16B aircraft to Taiwan. Domestic politics may have dictated the timing of Bush's announcement, but the sale was also the result of a careful policy review concerning the military balance between Beijing and Taipei. The Bush Administration was concerned about the PRC's growing military expenditures, its purchase of advanced Sukhoi-27 warplanes from Russia, and its expansive territorial claims in the South China Sea.61 The Bush Administration did not think the sale violated any of the existing bilateral agreements with the PRC because the U.S. could no longer provide the logistical support necessary to keep Taiwan's F-5E and F-104 aircraft flying. It was therefore necessary to support a somewhat newer fighter or provide none at all.62

60. Ibid.
62. Ibid., p. 82.
According to Douglas H. Paal, former Senior Director of Asian Affairs of the National Security Council (NSC), the Bush Administration handled the reversal of the F-16 sales to Taiwan very carefully so as to mute Beijing’s reaction. President Bush sent high-level personal diplomatic and military emissaries, led by Assistant Secretary for State for East Asian and Pacific Affairs William Clark, to Beijing to explain the bilateral justification and military implications of the sale. Bush also invited a well-placed Chinese official, who was visiting the U.S. before the decision’s announcement, to the White House and explained the decision to him. In addition, the Bush Administration decided to close out four cases of suspended Foreign Military Sales (FMS) to the PRC, which were part of the sanctions imposed by President Bush against China in June 1989. High-level visits to the PRC were resumed as well, with the trip of the U.S. Commerce Secretary Barbara Franklin.

The four suspended programs covered by this decision involved an avionics upgrade for the Chinese F-8 aircraft, equipment for a munition production line, four anti-submarine torpedoes, and two artillery-locating radars. The Bush Administration believed that “continuing to hold aging items after a 3½-year suspension hinders rather than helps U.S. efforts to promote cooperative PRC behavior in a range of areas.” The decision was formally announced by the State Department on December 22, 1992.

Beijing, of course, strongly opposed the F-16 sale. Vice Foreign Minister Liu Huaqui summoned Ambassador J. Stapleton Roy and lodged a strong protest, accusing Washington of violating the August 17, 1982 U.S.-China Joint Communiqué. The PRC press, on the other hand, denounced the F-16 sale decision with terms like “short-sighted,” “perfidious,” “lying,” and “treacherous,” and threatened a terrible setback and cooling in U.S.-PRC relations.

Beijing’s actual retaliation, however, was minimal. The PRC briefly delayed several import deals “notably for commercial aircraft” from the U.S., but that was about all. On September 28, 1992, President Bush vetoed a congressional bill (H.R. 5318) that put conditions on the renewal of China’s MFN status for 1993-

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66. Ibid.
1994.67 Beijing warmly welcomed Bush’s action. In spite of the F-16 sale to Taiwan, George Bush was still Beijing’s best friend in Washington.68

Later, under the Clinton Administration, Beijing began to link the non-proliferation issue with the F-16 sale. When the Clinton Administration asked the PRC for talks about its sale of M-11 missiles to Pakistan, Beijing replied that it would do so only if the U.S. agreed to discuss the F-16 sale.69 In a March 1, 1994 interview, Shen Guofeng, Deputy Director of the information department at the PRC Ministry of Foreign Affairs, said: “When the United States talks about non-proliferation, the U.S. should take note of its arms sales to Taiwan.”70 Nevertheless, the F-16 sale to Taiwan did not lead to a political crisis between Washington and Beijing during the Bush Administration.

The Clinton Administration should learn from the Taiwan Strait Crisis of 1995-1996. It should avoid making a fast U-turn in the future. It should slow down and give warnings to all passengers on board.

Lesson 4: Beijing’s military actions toward Taiwan increase fears of the “China threat” and thwart its unification goal

The Clinton Administration has repeatedly stated that the U.S. policy toward China is “comprehensive engagement.”71 Leaders in Beijing, however, believe Washington has a long-term strategy of containment. It holds that U.S. Government officials are basically opposed to the rising power of China and are taking a variety of

68. Jencks, supra note 59, p. 86.
measures in various policy areas, including Taiwan, in order to "hold back" and weaken China's power.72

Secretary of Defense William Perry stated in 1995 that containment would only provoke reflexive and intractable Chinese opposition to U.S.-led security initiatives in the U.N. and other multilateral bodies. If the United States were to adopt a containment policy toward the PRC, Perry believes that all of these results are not only possible, but they are probable.73 For the same reason, if the PRC believes the U.S. is containing her, she may react in reflexive and intractable ways — the "China threat" may become real.

Winston Lord pointed out in 1995 that there is a growing perception in some quarters of the PRC that the U.S. is trying to foster an independent Taiwan as part of an effort to "contain" China.74 The U.S. decision to allow President Lee Teng-Hui to visit Cornell University reinforced PRC suspicions that Washington had decided to "contain" China in a new cold war in Asia. Beijing's sharp reactions, including widely publicized military exercises and ballistic missile tests near Taiwan, have increased fears of the "China threat" and strengthened the hands of those U.S. officials who are deeply suspicious of, or hostile to, the PRC government.75

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73. Perry, "Engagement Is neither Containment nor Appeasement,“ supra note 71, p. 4.
China's reactions to President Lee's U.S. visit dampened the enthusiasm of some countries, including Japan and the European Community, to follow the U.S. lead in granting greater recognition to Taiwan's government and leaders. China's missile firings and ground, air, and naval exercises were supposed to make Taiwanese think twice about President Lee, but they did not intimidate voters in Taiwan. In March 1996, President Lee won 54% of the vote in a four-way race. In addition, the missile exercises off Taiwan's coast in March 1996 attracted more than 700 reporters from all over the world to Taiwan. The ROC's first Presidential election was thrust into the international spotlight, to Beijing's surprise.

Leaders in Beijing may believe military threats and diplomatic pressures are its best tools for dealing with pro-independence advocates in Taiwan. But according to public opinion polls, Beijing's missile threats had actually prompted more support for independence in Taiwan. In 1994-1995, before Beijing's missile threats, more of the Taiwanese public favored unification than independence (see Table 1). Since the PRC's first missile exercise in July 1995, support for unification has gradually decreased in Taiwan. In March 1996, for the first time, more Taiwanese favored independence (18%) than unification (15%), although the majority of those polled (more than 40%) still favored the status quo. Leaders of the PRC should learn that military threats against Taiwan are counterproductive, because they increase fears of the "China threat" and thwart the PRC's goal of unification.

Lesson 5: Agreements to resolve conflicts have no effect if they are not observed

Experience suggests that the United States' disposition has been to negotiate or support agreements to resolve major conflicts, regardless of their efficacy or consequences over time that nullified them. Thus, Henry Kissinger was lauded for the Paris Peace Accord between North and South Vietnam of 1973, then considered a major breakthrough; yet, thereafter this so-called agreement proved meaningless — the war continued, and North Vietnam won the war in 1975.

Similarly, the 1992 Basic Agreement between North and South Korea on Reconciliation, Nonaggression, and Exchange and Cooperation, declaring the "denuclearization" of the Korean Peninsula, though strongly supported by the United States, proved unavailing. As Kissinger, himself, was to warn after the Paris Agreement faltered:

No settlement is self-enforcing. It is not possible to write an agreement whose terms, in themselves, guarantee its performance. Any agreement will last if the hostility of the parties is thereby lessened, if the parties have an incentive to observe it, and/or if the parties pay a penalty for breaking it. If those three conditions are not met, no mat-

Table 1. Attitudes toward Independence or Unification in Taiwan, 1994-1999*

<table>
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<tr>
<th>Date</th>
<th>Status Quo (%)</th>
<th>Pro-Reunification (%)</th>
<th>Pro-Independence (%)</th>
<th>Don't Know (%)</th>
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<td>15.6</td>
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<td>22.6</td>
<td>11.7</td>
<td>16.4</td>
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<td>24.6</td>
<td>9.8</td>
<td>9.5</td>
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<tr>
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<td>13.1</td>
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<td>25.5</td>
<td>15.8</td>
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<tr>
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<td>12.2</td>
<td>5.8</td>
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<td>25.8</td>
<td>14</td>
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<td>1997.09 (d)</td>
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<td>24.6</td>
<td>19.7</td>
<td>7.6</td>
</tr>
<tr>
<td>1997.11 (c)</td>
<td>60.5</td>
<td>19.5</td>
<td>16.2</td>
<td>3.8</td>
</tr>
<tr>
<td>1998.04 (b)</td>
<td>55.2</td>
<td>20.9</td>
<td>19.1</td>
<td>4.6</td>
</tr>
<tr>
<td>1998.05 (d)</td>
<td>52.6</td>
<td>21.1</td>
<td>18.3</td>
<td>8</td>
</tr>
<tr>
<td>1998.07 (a)</td>
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<td>18.4</td>
<td>17.8</td>
<td>13.1</td>
</tr>
<tr>
<td>1998.08 (a)</td>
<td>45.8</td>
<td>15.7</td>
<td>20.3</td>
<td>18.3</td>
</tr>
<tr>
<td>1998.09 (c)</td>
<td>50.4</td>
<td>16.8</td>
<td>19.5</td>
<td>13.3</td>
</tr>
<tr>
<td>1998.10 (e)</td>
<td>53.1</td>
<td>15.9</td>
<td>19</td>
<td>12</td>
</tr>
<tr>
<td>1999.04 (e)</td>
<td>54.5</td>
<td>17.3</td>
<td>15.5</td>
<td>12.7</td>
</tr>
</tbody>
</table>

Source: Mainland Affairs Council, Executive Yuan, R.O.C.

* Survey Conducted by: (a) Election Study Center, National Chengchi University, Taipei; (b) Burke Marketing Research, Ltd., Taipei; (c) China Credit Information Service, Ltd., Taipei; (d) Center for Public Opinion and Election Studies, National Sun Yat-Sen University, Kaohsiung; and (e) Survey and Opinion Research Group, Department of Political Science, Chung-Cheng University, Chiayi.

Respondents: Taiwanese adults aged 20-69 accessible to telephone interviewers.
ter what the terms of the agreement, there is a tendency
toward erosion.\textsuperscript{76}

Regardless of U.S. disavowals of interference in the resolution
of differences between Taiwan and the PRC, a recent statement by
Assistant Secretary of State Stanley Roth that “thinking” about “in-
terim agreements” might contribute to cross-strait dialogue sug-
suggests a continuing U.S. disposition in support of agreements,
Kissinger’s caveats notwithstanding.\textsuperscript{77}

According to the Mainland Affairs Council of Taiwan’s Executive
Yuan, over 205 “relaxing measures” on cross-strait relations
since 1987 have resulted in cultural and educational exchanges, per-
sonal and SEF-ARATS personnel visits, and economic relations be-
tween Taiwan and the PRC. Nevertheless, the Council has charged
the PRC with breaking at least 25 promises from 1993 to 1997.\textsuperscript{78} In
view of current tensions and anxieties aroused by the menace of
PRC missile threats, now may be a time for developing more confi-
dence-building or peace-advancing measures as conditions prece-
dent to achieving any meaningful agreements.

\textbf{Lesson 6: The U.S.-Taiwan-PRC triangular relationship should be}
conditioned by regional and global strategic considerations

With the demise of the USSR, and the end of the Cold War,
the PRC’s regional and global strategy has been to foster a bal-
anced multipolar world in place of its perception of an unbalanced
unipolar world dominated by the U.S. as the sole global
superpower.

Regionally, for example, the PRC has initiated trade and diplo-
matic relations with South Korea while acting as a constraint on
North Korea bellicosity. Perhaps more important, the PRC has
sought to forge comprehensive partnerships or cooperative rela-

\textsuperscript{76} Allan E. Goodman, \textit{The Lost Peace}, Stanford, CA: Hoover Institution Press,
1978, p. 165.

\textsuperscript{77} Stanley O. Roth, Assistant Secretary of East Asian and Pacific Bureau,
“The Taiwan Relations Act at Twenty and Beyond,” a speech delivered at the International
Conference “Two Decades of U.S.-Taiwan Relations,” Jointly sponsored by the Wood-
row Wilson Center and American Institute in Taiwan, March 24, 1999, Washington,
D.C., p. 15.

\textsuperscript{78} “Broken Promises: Failure of the Chinese Communists in Honoring Cross-
Strait Commitments,” August 1993-October 1997, Mainland Affairs Council, Executive
Hard to Restart It?” May 1995-October 1998, Mainland Affairs Council, Executive
tions one-by-one with other important countries — as, for example, Britain, Germany and France in Europe, and Pakistan, Japan and all ASEAN countries in Asia — while engaging in constructive strategic relationships with the preeminently powerful Russia and the United States.

The essence of PRC’s “great power diplomacy” is apparent — namely, to reduce, if not to isolate, the influence of the United States in world affairs. To the extent that this PRC strategy becomes successful, the U.S. influence and dominance in East Asia is bound to be mitigated, thus vitally affecting Taiwan’s security.

Lesson 7: It is time the international community recognized that the ROC is a sovereign state

The Republic of China has always been a sovereign state since 1912. President Lee Teng-Hui’s “special state-to-state relationship” remarks merely clarify the political reality that has existed for half a century.

In 1979, President Jimmy Carter stated that in recognizing the PRC, the United States “is terminating a fiction and catching up with reality.” “The fiction has been that we recognized the authorities on Taiwan to be the legitimate government of 1 billion Chinese on the mainland. This has not been the case for 29 years,” Carter explained.79 The reality, however was not as simple as President Carter claimed. China has two governments, each of which has effectively controlled different parts of China since 1949. A realistic policy would be to recognize each government as competent in the territory it controls.

Taiwan is not a renegade province of the PRC. Under its “One-China principle,” Beijing has attempted to force Taipei to accept a politically inferior position in cross-strait negotiation. The international community has become accustomed to Beijing’s pronouncements and has disregarded the fact of separate and equal rule on the two sides of the Taiwan Strait. It is time for the U. S. as well as other countries to face reality and to end the illusion that Taiwan is part of the PRC.

The ROC government remains committed to the long-term goal of unification — one unified democratic China. Taipei’s policy toward Beijing remains unchanged. The purpose of clearly defining the cross-strait relationship according to reality is to ensure the

equal status of both sides of the Taiwan Strait. The international community should encourage Beijing to face the reality — coexistence of the ROC and the PRC, and to start meaningful cross-strait dialogue based on parity, not inferiority.

Lesson 8: Promotion of Taipei's international status always carries risks

Taiwan cannot expect the U.S. administration to take the initiative in upgrading relations; Taiwan must take a proactive stance. Examples of developments brought about by Taipei's pressure on Washington are abundant: U.S. support of Taiwan's standing in the Asian Development Bank (ADB); U.S. support for Taiwan in the Asia-Pacific Economic Cooperation (APEC) in 1991; U.S. support for Taiwan's observer status in the General Agreement on Tariffs and Trade (GATT) in 1992; the U.S. sale of 150 FX fighter planes to Taiwan in 1992; high-level interchanges between U.S. and Taiwan leaders, including U.S. Trade Representative Carla Hill's and Secretary of Transportation Federico F. Pena's visits to Taiwan in 1992 and 1994, respectively.

The PRC will always oppose attempts to upgrade relations between Washington and Taipei. Promotion of Taipei's international status, therefore, always carries risks. In 1981-1982, for example, Taiwan wanted to purchase FX fighter planes, and in return saw the United States-PRC Joint Communiqué issued on August 17, 1982, which restricted arms sales to Taiwan. In 1994, Taipei endeavored to win permission from Washington for President Lee's private visit to the U.S.; the State Department, instead, announced policy adjustments toward Taiwan in September 1994, which prohibited visits to the U.S. by Taiwan's top leadership. Taipei must bear in mind that any significant request is always discussed openly in Washington within the context of Beijing-Washington-Taipei triangular relationships, and such discussion always carries risks.

The Republic of China has become an emerging democracy, the people in Taiwan demand that their leaders take concrete actions to upgrade the ROC's international status. If U.S. interests are well served by supporting democracy and human rights abroad,

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as the Clinton Administration and most Americans believe, such support must entail treating the ROC and its leaders with respect and dignity. High-level communication channels between Washington and Taipei should be developed in order to promote better understanding and bridge gaps of misperception.

The United States should continue to play an active role in Asia and be willing to exercise leadership and develop a coherent policy to promote freedom and democracy in this region. The U.S. should send clear and unambiguous messages to the PRC that Washington will not tolerate Beijing's use of force against Taiwan. The U.S. should take concrete steps to improve U.S.-Taiwan military communication. The U.S. should also continue to implement the "Six Assurances" made to Taiwan in 1982. The time has come for the U.S. to take a truly balanced approach toward Beijing and Taipei.

CONCLUSION

Leaders in Beijing should realize that the use of force against Taiwan is counterproductive and will severely damage its own interests and thwart the PRC's unification goal. Disputes between Beijing and Taipei should be resolved through peaceful means. The Taiwan Strait Crisis of 1995-1996 has eased, but Washington-Beijing-Taipei relations remain in a very delicate state. In order to prevent future crises from happening, leaders in Washington, Beijing, and Taipei should reexamine their own roles in the crisis and draw the foregoing lessons from the events of the past twenty years.

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82. (1) The U.S. has not agreed to set a date for ending arms sales to the Republic of China; (2) The U.S. has not agreed to hold prior consultations with the Chinese Communists on arms sales to the Republic of China; (3) The U.S. will not play any mediation role between Taipei and Beijing; (4) The U.S. has not agreed to revise the Taiwan Relations Act; (5) The U.S. has not altered its position regarding sovereignty over Taiwan; and (6) The U.S. will not exert pressure on the Republic of China to enter into negotiations with the Chinese Communists.
Chapter 2

THE U.S. ROLE IN TAIWAN-CHINA SECURITY RELATIONS

Cheng-Yi Lin*

I. INTRODUCTION

Compared with Saudi Arabia, Japan, Egypt, Turkey and South Korea, Taiwan is the only one of the largest recipients of US military equipment that does not maintain diplomatic relations with the US.\(^1\) American arms sales and technological assistance, together with the implicit commitment in the Taiwan Relations Act (TRA), have helped augment the island's defense. For example, the US's non-recognition of the Republic of China (ROC) did not prevent the US in March 1996 from quickly responding to Taiwan-China military tensions. Since that time, the Clinton administration has constantly cited the sending of two aircraft carrier battle groups as an example of successful crisis management and an indication of the "U.S. commitment to peace and stability in the [Asia-Pacific] region."\(^2\)

Notwithstanding the fact that the March 1996 Taiwan Strait crisis came to a peaceful end, the US National Defense University regards Taiwan as "the most significant friction point" between the US and China in the coming decade, and the Chinese invasion of Taiwan scenarios have been widely discussed in fictional war games.\(^3\) The US also engages in intense debates over the best ways to prevent a future crisis in the Taiwan Strait. In addition to en-

\* A Research Fellow at the Academia Sinica's Institute of European and American Studies in Taipei, Taiwan.


courting Taipei and Beijing to resume a dialogue, Washington is considering other options, such as doing nothing, mediation, pressuring Taiwan, or supporting Taiwan, in order to prevent a future crisis in the Taiwan Strait.\(^4\)

This paper presents an analysis of the US role in Taiwan-China security relations. Section one deals with the US role as a military balancer in the Taiwan Strait and with its future challenges in this capacity. Section two analyzes the Clinton administration's involvement in the Taiwan Strait crisis against the backdrop of the nature and functions of the US-Taiwan tacit alliance as embodied in the TRA.

II. MILITARY BALANCER IN THE TAIWAN STRAIT

US arms sales to Taiwan have considerations that are: political (Taiwan has not been abandoned and it will have more confidence to increase dialogue with China); military (Taipei will not play wild cards counterbalancing China while Beijing will not use force against Taiwan); and economic (Taiwan is a lucrative market for US arms suppliers).\(^5\) In the TRA, the US pledges to “make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability,” and only “the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law.”

The validity of the US arms sales policy toward Taiwan was seriously challenged by the US-PRC Communiqué in August 1982, even though President Ronald Reagan declared that the joint Communiqué was “fully consistent with the Taiwan Relations Act.”\(^6\) On the premise that Beijing's leaders agreed to strive for a peaceful reunification policy toward the island, the Communiqué committed the US to reduce quantitatively and qualitatively its arms sales to Taiwan. The Communiqué dealt the Taiwan defense program a heavy blow, but the US government has tried to be flexible in its

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interpretation and implementation in favor of Taiwan. The State Department assured Congress in 1982 that it would take numerical, financial, and technological factors into consideration when forming policy on arms sales to Taiwan. The PRC's military deployment or capabilities and the situation on both sides of the Taiwan Strait would also come into play. The Communiqué stated that the US would not pursue a long-term policy of arms sales to Taiwan, but Washington did not set a specific date to terminate arms sales to Taiwan and did not agree to consult with Beijing in advance of US arms sales to Taiwan.7

After the signing of the 17 August 1982 Communiqué, the US annually reduced about US $20 million from its total arms sales to Taiwan (until it decided in 1992 to sell F-16 A/Bs) in order to fulfill its promise to keep reducing total sales until a "final resolution" could be worked out by the Chinese themselves8 (see Table 1). In spite of this, John H. Holdridge, former Assistant Secretary of State for East Asia and Pacific Affairs, has asserted that there was not

<table>
<thead>
<tr>
<th>Table 1. US Arms Deliveries to Taiwan: FY 1987-1996</th>
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<tbody>
<tr>
<td>(US $ in million)</td>
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<tr>
<td>FY</td>
</tr>
<tr>
<td>1987</td>
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<tr>
<td>1988</td>
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<tr>
<td>1989</td>
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<tr>
<td>1990</td>
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<td>1994</td>
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<td>1995</td>
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<tr>
<td>1996</td>
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</tbody>
</table>


Table 2. US Arms Deliveries to Taiwan: 1995-1998

1. Foreign Military Sales

<table>
<thead>
<tr>
<th>Item</th>
<th>Order Date</th>
<th>Delivery Date</th>
<th>Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>F-16</td>
<td>1992</td>
<td>1997</td>
<td>150</td>
</tr>
<tr>
<td>C130</td>
<td>1993</td>
<td>1995</td>
<td>12</td>
</tr>
<tr>
<td>E-2T</td>
<td>1993</td>
<td>1995</td>
<td>4</td>
</tr>
<tr>
<td>AH1W attack helicopter</td>
<td>1992</td>
<td>1995</td>
<td>21</td>
</tr>
<tr>
<td>TH-67 helicopter</td>
<td>1996</td>
<td>1998</td>
<td>30</td>
</tr>
<tr>
<td>Patriot SAM</td>
<td>1993</td>
<td>1997</td>
<td>6</td>
</tr>
<tr>
<td>Stinger SAM</td>
<td>1996</td>
<td>1998</td>
<td>465</td>
</tr>
<tr>
<td>Avenger SAM</td>
<td>1996</td>
<td>1998</td>
<td>74</td>
</tr>
</tbody>
</table>

2. Technology Transfers

- Ching-kuo IDF
  - Order Date: 1982
  - Delivery Date: 1997
  - Units: 130

- Perry-class frigate
  - Order Date: 1979
  - Delivery Date: 1998
  - Units: 7

3. Leased, Reduced Price or Free Excess Defense Article (EDA)

- Knox-class frigate
  - Order Date: 1992
  - Delivery Date: 1995
  - Units: 6

- Newport-class LST
  - Order Date: 1994
  - Delivery Date: 1995
  - Units: 2

- T-38 trainer aircraft
  - Order Date: 1993
  - Delivery Date: 1995
  - Units: 120

- Aggressive-class MSC
  - Order Date: 1994
  - Delivery Date: 1995
  - Units: 4

- M60A3 MBT
  - Order Date: 1995
  - Delivery Date: 1997
  - Units: 340


“any reference to an annual percentage of reductions” and that the US had rejected “the Chinese attempt to insert the words ‘progressive reduction’ into the Communique text.”

To upgrade Taiwan’s defense capabilities in a qualitative sense, the US reserved the right to sell Taiwan more advanced weapons as substitutes for similar obsolescent weapon systems. Other measures include technology transfer and commercial leasing at a friendly price (see Table 2). In September 1992, the Bush administration decided to sell 150 F-16 A/Bs to Taiwan, because spare parts for the obsolete F-104s and F-5Es were no longer carried in American inventories. Although the Reagan administration refused to sell the FXs to Taiwan, it tacitly licensed General Dynamics, the Garret Corporation and Lear Siegler to transfer technology, which had not been explicitly prohibited in the 17 August 1982 Communique, to help Taiwan to develop and produce the Ching-Kuo Indigenous Defense Fighter (IDF) jets. Further, in 1992, the Bush

administration agreed to lease three *Knox*-class frigates to Taiwan to replace some of its World War II vintage US-made destroyers. However, Taipei has been constantly complaining that the US has not provided Taiwan with militarily necessary state-of-art weapons systems, such as submarines, F-16 C/Ds, Advanced Medium Range Air-to-Air Missiles (AMRAAMs), shoulder-fired Stinger missiles, unmanned aerial vehicles, and that the US intentionally curtailing data link capability of E-2Ts with F-16 A/Bs. Since the August 1982 Communiqué, the US government has tried to explore room within which it can maneuver, but it has also resisted Congressional pressure to deem the TRA as having supremacy over the 17 August 1982 Communiqué.

The PRC regards US arms sales to Taiwan as an obstacle to the development of Sino-US relations and China's peaceful reunification. In the highly publicized article in *the Beijing Review* in August 1998, Beijing was reported to have stated clearly that it "opposes any country selling arms to Taiwan, which not only violates the basic norms of international law but also threatens China's security and regional peace and stability." The PRC even played linkage politics as President Clinton was in Beijing for the summit meeting in June 1998, when Beijing "expressed the hope that the US side would strictly abide by the principles set forth in the August 17 Joint Communiqué and create favorable conditions for the China-US nonproliferation dialogue and cooperation."

Taipei has been alarmed to discern certain arguments against US arms sales to Taiwan by a few US-China experts, particularly since the 1996 Taiwan Strait Crisis. While insisting that the US not consult with Beijing in advance on weaponry deals with Taiwan, Taipei also refutes the argument that Taiwan already has more in the pipeline than its military can absorb. For example, a report by the US National Defense University in 1998 stated "the Taiwanese Armed Forces are at the end of a procurement cycle, and time is needed to assimilate the new systems." According to these obser-

vations, an arms race in the Taiwan Strait is materializing and the 
US should reconsider its arms sales policy toward Taiwan. For ex-
ample, Chas W. Freeman, Jr., argues that US arms sales to Taiwan
“bolster the view that Taiwan can go its own way, regardless of his-
tory, geography, and the views of Chinese across the strait,” and it
does not make sense to attempt to sustain Taiwan’s current military
superiority or even a long-term military balance between Taipei and
Beijing. To do so would be to sponsor an arms race that Taiwan
cannot, in the long run, hope to win against a vastly larger and
equally dynamic society.16

To counter Freeman’s statement, the Pentagon cautions that
“[r]educing security assistance to Taiwan, . . . would be misread in
every capital in the region, making a Chinese attack more likely,”
while Taipei argues that “a militarily weakened Taiwan is only a
more inviting target for mainland adventurism,” and “a secure pop-
ulace makes rational decisions.”17 Washington and Taipei are also
increasingly focusing on diverting their attention from military
hardware to software initiatives programs to integrate Taiwan’s
weapons systems to make them more efficient.18 However, Taipei
is still concerned that the PRC has beefed up its defense capabili-
ties, [particularly in the area of Revolution in Military Affairs
(RMA)] such as information warfare (Command, Control, Commu-
nication, Computer, Intelligence, Surveillance, Reconnaissance,
C4ISR), ballistic and cruise missiles, and forces of rapid assault, and
this RMA school of Beijing’s leaders might tend to believe they
could win a war in the Taiwan Strait (see Table 3).19 China’s
purchase of Su-27 fighter jets and the project to produce 200 Su-27
SK aircraft in China have given Taiwan serious concerns. Beijing’s
purchase of Russian Kilo-class submarines and Sovremenny-class
destroyers, and its interest in acquiring aircraft carriers, indicate the

16. Chas W. Freeman, Jr., “Preventing War in the Taiwan Strait,” Foreign Affairs,
Vol. 77, No. 4 (July/August 1998), p. 11. See also James Shinn, ed., Weaving the Net:
Conditional Engagement with China, New York: Council on Foreign Relations Press,
1996, p. 75.
17. Letters to the Editor, Randall G. Schriver and Chien-jen Chien, respectively,
18. “Statement of Mr. Franklin Kramer, Assistant Secretary of Defense for Interna-
tional Affairs before the Senate Foreign Relations Committee,” March 25, 1999, cited in
19. Report to Congress Pursuant to Section 1226 of the FY98 National Defense
Authorization Act, U.S. Department of Defense, 1998; see also Zhongguo shibao
Table 3. PRC New Weapons Systems Might Challenge the Military Balance in the Taiwan Strait

1. Radar Satellites
2. A-50/Phalcon AWACS
3. Short-Range Ballistic Missiles (SRBMs): DF-15/M-9; M-11
4. Land-Attack Cruise Missiles (LACMs)
5. Antiship Cruise Missiles (ASCMs): SS-N-22/Sunburn; C-601/Kraken;
   C-801/Sardine; C-802/Saccade
6. Better Conventional and Nuclear Submarines


PRC navy’s intention to become a viable blue-water force. Moreover, hundreds of Russian scientists and technicians are currently stationed in China, helping to develop new defense technology.

Taipei is in full agreement with the observations made by the US Defense Department that the PRC is developing asymmetric abilities in certain niches such as cruise missiles and SRBMs to attack those vulnerabilities on the island, and with those by George J. Tenet, Director of Central Intelligence, that China is “developing and acquiring air and naval systems intended to deter the United States from involvement in a Taiwan Strait crisis and to extend China’s fighting capability beyond its coastline” and is continuing “to place its best new military equipment opposite the island.” As a result of this PRC military build-up, ROC President Lee Teng-

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Hui has expressed concern that the military balance in the Taiwan Strait might shift to the PRC's favor by the year 2005.\textsuperscript{23}

Taipei fully realizes the pressing need to enhance Taiwan's counter blockade capability and to continue to acquire submarines from the US and other countries. Although the US believes that "China's submarine fleet will constitute a substantial force capable of controlling sea lanes and mining approaches around Taiwan," the US still regards submarines as offensive weapons systems that it should neither sell to Taiwan nor to provide Taiwan with technical assistance to build submarines.\textsuperscript{24} Washington is only willing to provide Taiwan with S-2Ts, E-2Ts (early warning aircraft), P-3Cs, and ASW helicopters such as S-70Cs and SH-2Fs to upgrade the sophistication of Taiwan's ASW ability to defeat on its own any attempt by the PRC to blockade Taiwan.

After President Clinton made the so-called Three No's speech (that the US does not support independence for Taiwan, does not support two Chinas, or one Taiwan, one China, and that the US does not believe that Taiwan should be a member in any organization for which statehood is a requirement), the US Congress quickly responded by passing resolutions to rectify President Clinton's statement and to reassure the key role of the TRA in regulating US arms sales to Taiwan.\textsuperscript{25} Furthermore, in September 1998, two US Congressional resolutions required the Clinton administration to address the missile defense needs "not just for Taiwan but also for other key allies like Japan and the Republic of Korea," and to demand a Department of Defense report on the security situation in the Taiwan Strait by February 1999, right before the twentieth anniversary of the TRA, which would particularly evaluate "the PLA's capability for information dominance, air superiority, naval blockade, and amphibious invasion" against Taiwan.\textsuperscript{26} This report on "The Security Situation in the Taiwan Strait" concluded in February 1999 that by 2005 the PLA will retain the capability of blocking Taiwan and "will possess the capability to attack Taiwan with


air and missile strikes which would degrade key military facilities and damage the island's economic infrastructure."  

After two years of bill-pushing efforts, Representative Duncan Hunter's bill (HR 2386) to require the Defense Department and the President to consider "a plan for developing an anti-ballistic missile defense to help protect Taiwan" was finally passed in November 1997 in the House of Representatives, 301-116 (R 213-7; D 88-108). In February 1999, Taipei intelligence estimated that China had at least deployed 120 M-9 or M-11 missiles targeted at Taiwan, an estimate that was lower than that of the US Department of Defense, which stated that China "has stationed 150-200 M-9 and M-11 ballistic missiles in southern China and plans to raise the number to around 650 in the next several years." Although Taipei is much more concerned that China is developing cruise missiles, it has welcomed a US Congressional vote on Theater Missile Defense (TMD) coverage and a Pentagon report on Taiwan's TMD architecture options. Taipei intends to upgrade its low-tier missile defense from PAC II to PAC III and to acquire Ageis-class destroyers for the incorporation into its Navy Theater Wide System (NTWS). In comparison, Taipei indicates little enthusiasm for joining the Theater High Altitude Area Defense (THAAD).

Taiwan sees Beijing's response to these developments as outrageous and overreacting. Beijing argued that the US provision of TMD is "a serious infringement on the sovereignty and territorial integrity of China," and warned that TMD could create fresh trouble in the Taiwan Strait and could lead to a delay in China's joining the Missile Technology Control Regime (MTCR). How-

ever, China's refusal to renounce the use of force justifies Taipei's drive to seek a minimum military deterrence capability and US intervention in a time of crisis. Responding to Beijing's opposition to the possible inclusion of Taiwan in TMD, Secretary Albright told Beijing that "there have been no decisions to deploy a system that does not exist," but, she advised that "[n]othing would better serve China's interest than using its developing dialogue with Taiwan to build mutual confidence and reduce the perceived need for missiles or missile defense." White House Press Secretary Joe Lockhart was more specific to identify factors leading to Taiwan's inclusion in the TMD "based on the development of the technologies, Taiwan's defense needs, and how we [Americans] perceive the best way to maintain peace and stability in the Taiwan Strait." In testimony before the Senate Committee on Foreign Relations, Stanley Roth, Assistant Secretary of State for East Asian and Pacific Affairs, stated that the US does "not preclude the possibility of Taiwan having access to TMD," and the US decisions on TMD "will be guided by the same basic factors that have shaped our [Americans] decisions to date on the provision of defensive capabilities to Taiwan." In addition to providing Taiwan with sophisticated arms and asking the PRC to renounce the use of force against Taiwan, the US could reconsider its policy of not conducting substantive military dialogue with Taiwan. US military relations with Taiwan has been restricted to arms sales. Compared with other Asia-Pacific countries, there is hardly any degree of integration of the military forces of the US and Taiwan, including joint military exercises, or war plans agreed upon before any crisis occurs. The US strictly limits its officers visiting Taiwan to the rank of colonel and only allows visits connected with arms sales. The resulting lack of interoper-

ability and secure voice and data communication might "result in "friendly fire" incidents between US and ROC forces during future crises." To rectify this weakness, Senators Jesse Helms (R-North Carolina) and Robert Torricelli (D-New Jersey) introduced S. 693 on March 24, 1999 calling for establishing "secure direct communications between the United States Pacific military command and the Taiwan military command," and enhancing programs for operational training and exchanges of personnel to work "in threat analysis, doctrine, force planning and operational methods, etc."37

III. CRISIS PREVENTER AND MANAGER IN THE TAIWAN STRAIT

The US insists the Taiwan issue be solved peacefully by the Chinese themselves. From the US perspective, Taiwan's security is based upon five assumptions. First, improved and stable US-PRC relations could contribute to the security of Taiwan. Second, the PRC does not have the military capability nor the political intention to invade Taiwan, but the PRC might have the capability to blockade Taiwan. Third, trade, dialogue and human exchanges between Taiwan and China would help both sides build confidence in solving the Taiwan question peacefully. Fourth, Taiwan's transition to democracy would upgrade the island's ability to overcome external challenges but Taiwan independence would trigger tensions in the Taiwan Strait and complicate US-PRC relations.38 Fifth, any PRC coercive actions against Taiwan could endanger the interests of the US and force Washington to take appropriate actions in response to any such danger.

Since 1979, the PRC has adopted a series of peace initiatives toward Taiwan, but it has also refused to denounce the use of force against a de jure independent Taiwan. The US supported Taiwan's transition to democracy in the 1980s, but it believes that future crises would include Taiwan declaring de jure independence or going nuclear, particularly the former. Any ruling party decision to hold a plebiscite to determine the island's future status might be re-

38. The US Department of Defense believes that unless Taiwan declares de jure independence, "the chance of a large-scale unavoidable conflict is almost negligible over the next decade and a half;" see "Report to Congress Pursuant to Section 1226 of the FY98 National Defense Authorization Act," December 1998.
garded by Washington as a step toward this goal, which would place the US in an unprecedented dilemma. Constrained by the 17 August 1982 Communiqué, the US Three-No’s policy regarding Taiwan, and widely-identical think tank suggestions, Washington might exert pressure on Taipei to abandon further steps or take a wait-and-see attitude. If the PRC took no action, the US would probably keep silent. If the PRC decided to apply military sanctions against Taiwan, the US might deplore the violence and encourage Taiwan to rescind further provocations. It is highly possible that Beijing’s leaders would make a rational choice and apply a flexible response strategy to compel Taiwan to abandon the independence option. The timing and the context of an official US statement on confrontations in the Taiwan Strait arising from an independent Taiwan could be difficult for Washington decision makers.

Although rejecting the principle of self-determination would contradict the spirit of preserving and enhancing the human rights of people on the island as exemplified in the TRA, the US has been reluctant to support its application for Taiwan. Joseph S. Nye, Jr., former US Assistant Secretary of Defense, openly challenged this principle because “self-determination is neither a clear legal principle nor an overriding moral claim” and it has “often led to disaster.” Nye even proposed a three-part package to advise the US not to recognize or defend Taiwan independence and to “work hard to discourage other countries from recognizing Taiwan independence.” Nye also suggested that the PRC consider “more international living space for Taiwan in exchange for Taiwan’s forswearance of any steps toward Taiwan independence.”

The US policy of strategic ambiguity in the Taiwan Strait complicates the nature of the casus foederis (the situation in which mutual commitments are to become operational) and was put to a test in March 1996. The PRC conducted several rounds of military exercises near Taiwan to intimidate Taiwan’s voters as they chose a new legislature in December 1995 and a new president in March 1996. The Clinton administration’s low profile reactions to Beijing’s


grievances in July 1995 might have led the PRC to decide to launch a series of more provocative military exercises even closer to Taiwan in March 1996.\textsuperscript{41} Even after dispatching two aircraft carrier battle groups (CBGs), Assistant Secretary of State Winston Lord testified in the House that “[h]owever serious, the present situation does not constitute a threat to Taiwan of the magnitude contemplated by the drafters of the Taiwan Relations Act.” Lord went on to say that “the PRC pressure against Taiwan to date does not add up to a ‘threat to the security of the social or economic system’ of Taiwan.”\textsuperscript{42}

According to the TRA, it is the policy of the US “to consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States,” and “to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.” When Taiwan’s security is threatened, the US President, under the TRA, “is directed to inform the Congress promptly of any threat to the security of the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.”

Although the TRA provides the US only with an option to defend Taiwan, it does not necessarily commit the US to the island’s defense.\textsuperscript{43} US mutual defense treaties with Japan, South Korea, and the Philippines, are similar in both content and wording, and the parties undertake to consult each other in the event of a threat of, or in the event of an actual external armed attack “to meet the common danger in accordance with its constitutional processes.”\textsuperscript{44}

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meet the common danger and, therefore, can be categorized as a tacit alliance. Although the TRA differs little from other US-centered mutual defense treaties, an informal arrangement such as the TRA is less reliable and leaves “the parties a fairly easy out if necessary.”

The Clinton administration officials did not believe in 1996 that China would attack Taiwan, but they characterized Beijing’s missile test near Keelung and Kaohsiung as “unnecessarily risky and reckless.” Secretary Christopher went further to warn Beijing that the US’s “one China policy is predicated on the PRC’s pursuit of a peaceful resolution of issues between Taipei and Beijing.” In addition, National Security Adviser Anthony Lake said that if there were “accidents” in the military exercises, Beijing would “be held accountable.” Under the initiative of Secretary of Defense William Perry, President Clinton decided to send two CBGs to the region near Taiwan to avert any dangerous miscalculations on the part of either party. While sending only one CBG might have been regarded as “too weak,” Perry decided to dispatch two CBGs with the instruction that they “should not go into the exercise area” and to “send a message of capability and firmness, without undue provocation.” The Clinton administration’s decision to assemble the largest military deployment since the Vietnam War in the Asia-Pacific region surprised Beijing but defused criticism from the pro-Taiwan US Congress and won private supportive comments from countries in the region (see Table 4).


Table 4. Profile of USS Nimitz and Independence off Taiwan in 1996

Nimitz CBG
1. USS Nimitz
2. USS Port Royal: guided-missile Aegis cruiser
3. USS Callaghan: guided-missile destroyer
4. USS Oldendorf: destroyer
5. USS Ford: guided-missile frigate
6. USS Portsmouth: nuclear-powered attack submarine
7. USS Shasta: ammunition ship
8. USS Williamette: fleet oiler

Independence CBG
1. USS Independence
2. USS O’Brien: destroyer
3. USS Hewitt: destroyer
4. USS McClusky: guided-missile frigate
5. USS Columbus: nuclear-powered attack submarine
6. USS Bremerton: nuclear-powered attack submarine
7. USS Pecos: oiler
8. USS Bunker Hill: guided-missile Aegis cruiser


The US Congress passed two concurrent resolutions in the midst of the Taiwan Strait crisis of March 1996. The House of Representatives expressed the sense in Congress that “United States military forces should defend Taiwan in the event of invasion, missile attack, or blockade by the People’s Republic of China.” Meanwhile, the Senate called on China to “cease its bellicose actions directed at Taiwan” and urged President Clinton to “reexamine the nature and quantity of defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability in light of the heightened military threat.”

Taipei has consistently urged Washington to reassure it that the PRC will not be allowed to change the status quo in the Taiwan Strait by military means. In March 1996, both the Taiwan government and the Democratic Progressive Party (DPP) welcomed the presence of US naval forces and denied that such an action constituted an

interference in Chinese internal affairs. President Lee Teng-Hui reasoned that the Taiwan Strait crisis might have led to the issuance in April 1996 of the US-Japan Joint Declaration on Security Alliance for the 21st Century in April 1996, and a review of the 1978 Guidelines for US-Japan Defense Cooperation. Taipei believes that if Taiwan were specifically excluded from "areas surrounding Japan," it could not only undermine the US-Japan security pact, but also encourage the PRC to take military action in the Taiwan Strait. Taipei argues that a Taiwan Strait crisis is a matter of international concern rather than a purely Chinese internal affair, particularly considering the geographic proximity of Japanese and Philippine territories to Taiwan. The 125-mile-wide Taiwan Strait is an international waterway and a large percentage of Japan's and South Korea's petroleum and ordinary imports have to pass through the waters surrounding Taiwan. Even though Japan and the US have been intentionally vague about the area covered by the new guidelines, Taipei has seriously studied those 40 items or areas for cooperation in the event of emergencies near Japan.

A PRC amphibious invasion of Taiwan may currently be impossible, but a blockade is already on Beijing's list of alternatives. Such a coercive measure, rather than an outright invasion, is widely regarded by US civilian and military strategists as a possible means of bringing Taiwan to its knees. The basic US position is that the waters between Taiwan and the mainland are not inland waters but waters subject to the rules of international shipping. A PRC block-


ade of the Taiwan Strait would constitute an infringement on high seas freedom and the navigational rights of a third country; therefore, the US government would take appropriate actions in consultation with Congress and its allies. However, US fleet maneuverability in the Taiwan Strait might be curtailed by the signing of the Military Maritime Consultative Agreement between China and the US in January 1998. This agreement provides a framework for dialogue on military operations at sea.

Even though the US insists on its transit rights through international waterways, the geographic scope of the TRA is not extended to offshore islands such as Quemoy and Matsu, which are still under ROC control. After the normalization between Beijing and Washington, Deputy Secretary of State Warren Christopher and Secretary of Defense Harold Brown, testifying before the Senate Foreign Relations Committee in 1979, proclaimed that the US obligation would not extend to Quemoy and Matsu, but no geographical restrictions were drawn as to where arms sold to Taiwan were placed. As the offshore islands have gradually receded from American consciousness, it is difficult to imagine any future US administration risking, as the US did in the 1950s, an atomic war to keep those islands under ROC control. As the Formosa Resolution was repealed by the US Congress in 1974, it would be almost impossible for the US to escort an ROC supply fleet within a twelve nautical mile limit of those islands should they come under siege in the future.

In 1979, strong congressional pressure forced the Carter administration to explore all kinds of policy reactions to a PRC invasion of Taiwan, including breaking diplomatic relations with Beijing, discussing the issue in the UN, interposing the US Seventh Fleet into the region, and even going to war. The types of com-


57. Taiwan, Hearing, pp. 44, 62.


59. U.S. Congress, House of Representatives, Taiwan Legislation, Hearings before the Committee on Foreign Affairs, 96th Congress, 1st Session, Washington, D.C.: Gov-
mitments to be undertaken by the US in a Taiwan Strait crisis were not specified in the TRA. In his trip to China in 1984, President Reagan mentioned that a PRC military action against Taiwan “would damage” US-PRC relations “beyond repair.”\textsuperscript{60} Even when the PRC decided to crack down on dissidents in the Tiananmen square, what President Bush “certainly did not want to do was completely break the relationship” with China.\textsuperscript{61} It is less likely that the US would sever its diplomatic relations with the PRC in a Taiwan Strait crisis.

Even though Taiwan is not a UN member, it has every right to “complain to the Security Council in the event of PRC threat or use of force,” under international law or the UN Charter, so the chance that a Taiwan Strait crisis might be considered by the UN Security Council should not be ruled out.\textsuperscript{62} The UN could serve as a forum in which Taiwan and the US could directly appeal to international society to apply pressure on Beijing. In the 1954-1955 Taiwan Strait crisis, Secretary John Foster Dulles initiated the so-called Operation Oracle, through which New Zealand raised the issue in the UN Security Council, to seek a possible solution to defuse the crisis.\textsuperscript{63} During the missile crisis in 1996, German Defense Minister Volker Ruehe and US columnist A.M. Rosenthal proposed to bring the case to the UN, Rosenthal even argued that the “U.S. failure to bring the Chinese before the U.N. will destroy a basic purpose of the U.N.”\textsuperscript{64} In theory, collective UN security actions such as economic sanctions against the PRC, the stationing of UN peacekeeping forces on Taiwan, and suspension of the PRC’s UN membership, might be considered by Security Council members.\textsuperscript{65}


\textsuperscript{65} David J. Scheffer, “International Legal Implications of a PRC Use of Military Force Against Taiwan,” in Chang and Martin, eds., \textit{If China Crosses the Taiwan Strait}, pp. 62-63.
However, most UN members are not so willing to risk seeing their relations with China deteriorate, since they have recognized the PRC as the sole legal government of China and do not challenge the Chinese position that Taiwan is a part of China. What the US could do is to call for international cooperation outside the UN, particularly from those countries with a strong economic interest in Taiwan, such as Japan and the European Union, in seeking ways to pressure the PRC to drop its military actions.

Even though President Carter once considered going to war with the PRC if the People's Liberation Army (PLA) invaded Taiwan, he later had second thoughts on this option. It is difficult to imagine that the US government would risk a high number of American casualties to prevent Taiwan from being invaded by the PRC. According to public opinion polls conducted by the CNN and USA Today (March 1996), the Wall Street Journal (May 1997), and the Chicago Council on Foreign Relations (October-November 1998), if China were to attack Taiwan, 43% (1996), 18% (1997) and 28% (1998) of the American people thought the US “should use its military forces to help defend Taiwan,” and 46% (1996) and 68% (1998) answered no.66 However, in the latest survey, 51% of US opinion leaders tend to support the use of US force to help defend Taiwan. Due to the fluctuation of US domestic politics, Taipei believes that the US could better play a deterrent role in a PRC quarantine/blockade of Taiwan or in a low-intensity conflict. While the US would try to avoid direct military confrontation with the PRC, the US naval presence in the Taiwan Strait would force Beijing to guess what actions the US might take. In the meantime, the US might proclaim a “one China, but not now” policy to justify its dispatch of the Seventh Fleet into the region.

No one in Washington wants to see the worst case scenario take place. The Clinton administration has taken a preventive diplomacy approach to foreclose the option of Taiwan independence for the DPP. However, it is necessary from the very beginning for the US to take measures to prevent the PRC from taking any military action against Taiwan. The role of crisis preventer rather than crisis manager is much more desirable for US decision makers. In the past, the US tried to establish a linkage between improvement of US-PRC relations and the PRC's renunciation of force against

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Taiwan when deciding to phase out US troops on Taiwan, to establish diplomatic relations with the PRC, and to phase out US arms sales to Taiwan. Right before and after President Clinton's visit to China, the US Congress adopted a few concurrent resolutions urging President Clinton to seek "a public renunciation by the People's Republic of China of any use of force, or threat of use of force, against democratic Taiwan." Jim Hoagland, a columnist, even suggested that the Clinton administration "seek binding, verifiable commitments from Beijing not to use force to accomplish unification—thereby eliminating the need for such weapon systems [TMD] on Taiwan."

The possibility of US intervention in accordance with the TRA in a Taiwan Strait crisis could serve a deterrent whenever the PRC considers taking military actions against Taiwan. Therefore, Taipei argues that "strategic clarity" rather than "strategic ambiguity" is the right way to deter China from any military adventures in the Taiwan Strait. To achieve peace in the Taiwan Strait while not sacrificing its status as an independent political entity and not succumbing to Beijing's "one country, two systems" formula is always a difficult balancing act for Taipei. The Special Administrative Region status is not attractive to the people of Taiwan, but Taipei has to face pressure from the PRC and the US in reconsidering the Hong Kong formula particularly after Washington proposed the idea of cross-Strait interim agreements.

IV. CONCLUSION

Taipei, Beijing and Washington have identical interests in seeing both sides of the Taiwan Strait conduct direct contacts and talks leading to a reduction of tensions in the region. Before there is a final resolution of the future status of Taiwan with China, the US government believes it has every right to provide Taiwan with a sufficient defense capability. The US also argues that arms sales can help stabilize the situation in the Taiwan Strait and animate Taiwan and China to increase interaction. As Beijing has already achieved a US promise not to support Taiwan independence, it will

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focus pressure on forcing the US to discontinue arms sales to Taiwan. US arms sales policy toward Taiwan has become more complicated not only because of the future deployment of the TMD, but also because of the ability to absorb the RMA that might widen the gap of the military balance in the Taiwan Strait.

Taipei has long abandoned an offensive military policy toward China and has insisted on solving disputes with China peacefully. Taiwan welcomes the US in the role of balancer, stabilizer and crisis preventer in Taiwan-China military relations. While the US would try to avoid a direct military confrontation with the PRC, the US naval presence in the Taiwan Strait or in a region near Taiwan would force Beijing to guess what actions the US might take, as indicated in the US response to the 1996 Taiwan Strait crisis. In order to counterbalance the PRC's use of force, the US might proclaim freedom of navigation in the Taiwan Strait to justify dispatch of its 7th Fleet into the region.

As long as the PRC retains the option to use force against Taiwan and diplomatically isolates Taiwan in the international arena, leaders in Taiwan can hardly consider political negotiation leading to one unified China. If Taiwan does not provoke China by proclaiming independence and if the PRC initiates military confrontation, the US government would be forced to intervene according to the spirit of the TRA. It is difficult for Washington to tackle a legally justifiable Taiwan independence through the process of a plebiscite, but the US is ready to forestall any move which could be construed as promoting Taiwan independence. However, Washington should refrain from publicly endorsing China's reunification as a particular formula to determine Taiwan's future status with China, lest it be used by Beijing as justification for demanding a freeze in US arms sales to Taiwan and putting pressure on Taiwan's political development and flexible diplomacy.
PART II.

THE U.S. CONGRESS AND THE TRA
Chapter 3


Yann-Huei Song*

I. INTRODUCTION

The Taiwan Relations Act (TRA),1 signed into law (Public Law 96-8) by President Jimmy Carter on April 10, 1979, has been considered one of the most important, innovative, and unique pieces of legislation ever to become “the law of the land” of the United States. The TRA is important because it sets forth the terms of the relationship between the United States and Taiwan. The TRA is innovative because it represents a constructive response by the U.S. Congress to the unusual circumstances caused by the diplomatic de-recognition of the Republic of China. The TRA is unique because it embodies a congressionally mandated foreign policy toward a country — the Republic of China on Taiwan — with which the United States maintains no official relations.

Over the past two decades of the TRA, many twists and turns in U.S. policy toward Taiwan and the People’s Republic of China (PRC) have been recorded, mainly because the measures adopted by the administrations and the actions taken by Congress were often in conflict. Congress has served as a watchdog to ensure that the provisions of the TRA were adhered to in both letter and spirit by the presidential administrations when U.S.-Taiwan relations were at issue. The administrations, on the other hand, in order to stick to the “one China” policy embodied in the three U.S.-PRC joint communiqués, have taken policy measures, which were often challenged by many supporters of Taiwan in the United States as inconsistent with the TRA.

* Research Fellow, Institute of European and American Studies, Academia Sinica, Taipei, Taiwan.

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Since the passage of the TRA in 1979, many actions had been taken by Congress aiming at pressing the administration to faithfully implement the provisions of the TRA. Some taken were successful, while others were often ignored by the administrations. In 1995, for example, the Clinton Administration revised its policy position regarding the granting of a visa to R.O.C. President Lee Teng-Hui to enter the United States for a reunion at his alma mater, Cornell University, mainly because of the pressures arising from actions taken by Congress. On the other hand, actions taken by Congress to urge the administration failed to press the PRC to renounce the use of force against Taiwan in public. Shortly before President Clinton departed for Beijing to attend the U.S.-China summit in June 1998, the House of Representatives unanimously passed a resolution by a vote of 411-0, urging Clinton to seek a public renunciation by Beijing of any use of force against Taiwan. Instead of pressing the PRC to do so, President Clinton accepted Beijing’s position on Taiwan by making the so-called “Three No’s” statement in Shanghai on June 30, 1998, in which he said: “We do not support independence for Taiwan, or two Chinas, or one Taiwan, one China. And we do not believe that Taiwan should be a member of any international organizations for which statehood is a requirement.” Taiwan’s supporters in the United States considered this a violation of the TRA. In response, both the House of Representatives and the Senate passed concurrent resolutions to affirm Congress’ commitment to Taiwan under the TRA and according to Congressman Bereuter – “to repair the damage done by President Clinton’s comments on Taiwan during the recent U.S.-China summit.”

2. On March 6, 1995, H.Con.Res.53 was introduced by Congressman Lantos, expressing the sense of Congress regarding a private visit of President Lee Teng-Hui of the Republic of China on Taiwan to the United States. The resolution was reported favorably by the Committee on International Relations on April 5, 1995, and passed overwhelmingly in the House of Representatives on May 2, 1995 by a vote 396-0; passing in the Senate on May 9, 1995 by a vote 97-1.

3. H.Con.Res. 270 (U.S. Support for Taiwan) passed in the House of Representative on June 9, 1998 by a vote 411-0.


5. S.Con.Res. 107 (Affirming U.S. Commitments under the TRA) passed in the Senate by a vote of 92-0; H.Con.Res. 301 (Affirming the United States Commitment to Taiwan) passed in the House on July 20, 1998 by a vote 390-1.

6. Statement made by Mr. Bereuter, chairman of the Subcommittee on Asia and the Pacific, House of Representatives, in support of H.Con. Res. 301, affirming the U.S.
The purpose here is to analyze the U.S. Congress' involvement in the implementation of the TRA between April 1989 and April 1999 – the second ten years since the passage of the law. Before considering congressional actions taken to help implement the TRA, a brief discussion of the competing power between the Congress and the President in U.S. foreign affairs, especially the U.S. policy toward Taiwan and the Congress' role under the TRA is in order.

II. THE CONGRESS VS. THE PRESIDENT IN U.S. FOREIGN RELATIONS

In U.S. v. Curtiss-Wright Export Corp. (1936), the United States Supreme Court emphasized the "very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations."7 However, Justice Jackson of the United States Supreme Court, in Youngstown Sheet & Tube Co. v. Sawyer [The Steel Seizure Case], stated that the President's powers "are not fixed but fluctuate, depending upon their disjunction or conjunction with those of Congress."8 Judge Gasch of the United States District Court, in Goldwater v. Carter, said that "[w]hile the President may be the sole organ of communications with foreign governments, he is clearly not the sole maker of foreign policy."9

It must be borne in mind that the separation of governmental powers, as well as checks and balances, are two of the fundamental principles of the American political system. Accordingly, it should be noted that the conduct of foreign relations is not a plenary executive power.10 The President's exercise of that constitutional authority is subject to limitations. Not only is the power restrained by the President's obligations under the U.S. Constitution, but it is also limited by the Congress' constitutionally delegated powers. Under Article II of the U.S. Constitution, the President "shall take care


8. Youngstown Sheet & Tube Co. v. Sawyer [The Steel Seizure Case], 343 U.S. 579, 635 (1952).
that the Laws be faithfully executed." Under Article I, the Congress has the power "to pay the Debts and provide for the common Defense and general Welfare of the United States," "[to] regulate Commerce with foreign Nations," and to control Federal expenditures. Article I also provides that Congress may "make all Laws which shall be necessary and proper for carrying into Execution the . . . Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

The President's executive power to recognize and to negotiate with foreign governments, as Richard Stone stated in a congressional hearing, "has never been construed as having in any way narrowed or diminished the many powers of the Congress over foreign affairs matters." It is also stated in a report on the Taiwan Relations Act and the U.S.-PRC Joint Communiqué that, "it is the Congress, not the executive branch, that has the constitutional function of formulating U.S. foreign policy." Mainly because of this plenary power of making policy, "the Congress prescribes the specific policymaking functions of the Executive." While it is true that the Congress may delegate considerable discretion to the President in the area of foreign affairs, quite often it decides not to do so. In the absence of the expressed or implied will of Congress, the President's authority for the conduct of foreign relations, as Justice Jackson suggested, "is at its lowest ebb, for then he can rely only upon his own constitutional powers minus any constitutional powers of Congress over the matter."

A reading of the text of the TRA shows that Congress did not delegate discretion to the President for dealing with foreign relations between the United States and Taiwan. Accordingly, again, as

11. Art. II, Sec. 3 of the U.S. Constitution.
12. Art. I, Sec. 8, Col. 1 of the U.S. Constitution.
13. Art. I, Sec. 8, Col. 3 of the U.S. Constitution.
14. Art. I, Sec. 9, Col. 7 of the U.S. Constitution.
15. Art. I, Sec. 8, Col. 18 of the U.S. Constitution.
18. Ibid.
suggested by Justice Jackson, "[w]hen the President takes measures incompatible with the expressed or implied will of Congress, his power is at its lowest ebb." Then, the President can rely only upon his own constitutional powers for the conduct of foreign relations with Taiwan, minus any constitutional and statutory powers of Congress over foreign affairs matters concerning Taiwan.

III. THE TRA: U.S. POLICY TOWARD TAIWAN AND THE CONGRESS' ROLE

The TRA was fundamentally a creation of the Congress with two purposes in mind: (1) to help maintain peace, security, and stability in the Western Pacific; and (2) to promote U.S. foreign policy by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan. The TRA specifies U.S. policy toward Taiwan. Not only does it give the President the authority to facilitate the maintenance of commercial, cultural, and other relations between the U.S. and Taiwan without diplomatic relations, but it also bestows upon Congress a well-defined statutory role for the conduct of foreign affairs matters concerning Taiwan.

Section 2 (b) of the TRA states clearly that it is the policy of the United States: (1) to preserve and promote the extensive, close, and friendly commercial, cultural, and other relations between the people of the U.S. and the people of Taiwan; (2) to declare that peace and stability in the Western Pacific area are in the political, security, and economic interests of the U.S., and are matters of international concern; (3) to make clear that the U.S. decision to establish diplomatic relations with the PRC rests upon the expectation that the future of Taiwan will be determined by peaceful means; (4) to consider any effort to determine the future of Taiwan by other peaceful means a threat to the peace and security of the Western Pacific area and of grave concern to the U.S.; (5) to provide Taiwan with arms of a defensive character; and (6) to maintain the U.S. capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan.

The TRA calls for the President, together with Congress, to "make available to Taiwan such defense articles and defense services as may be necessary to enable Taiwan to maintain a sufficient

20. Ibid.
21. Section 2(a) of the TRA.
self-defense capability.” The TRA requires that the President “inform the Congress promptly of any threat to the security or the social or economic system of the people of Taiwan.” In the event of trouble in the Taiwan Strait area, the TRA also requires that the President, again together with the Congress, “shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.”24 The TRA gives the House Committee on International Relations, the Senate Foreign Relations Committee, and other appropriate committees of the Congress the legal authority to monitor the following matters: (1) the implementation of the provisions of the TRA; (2) the operation and procedures of the AIT; (3) the legal and technical aspects of the continuing relationship between the U.S. and Taiwan; and (4) the implementation of U.S. policies concerning security and cooperation in East Asia.25

On June 22, 1979, Executive Order 12143 was issued by President Carter to make necessary changes in the United States code, which was replaced by Executive Order No. 13014 of August 15, 1996, entitled “Maintaining Unofficial Relations with the People on Taiwan.”26 The enactment of the TRA did not ease the congressional-executive policy debates over U.S.-Taiwan relations. Members of Congress, for instance, registered their dissatisfaction when the United States and the PRC issued a joint communiqué on August 17, 1982 in which the United States pledged gradually to reduce the quantity and quality of arms sales to Taiwan.

IV. A TRANSCRIPT FOR THE CONGRESSIONAL ACTIONS TAKEN OVER THE PAST TEN YEARS

In total, approximately 204 legislative measures, either in the form of a bill, joint resolution, concurrent resolution, simple resolution, or amendment to a bill, were introduced in the House of Representatives or in the Senate to deal with different aspects of U.S.-Taiwan relations during the second decade of the TRA. 28 of the 204 legislative measures were introduced in the 101st Congress; 40 in the 102nd Congress; 34 in the 103rd Congress, 38 in the 104th Congress, 38 in the 104th Con-

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22. Section 3(b) of the TRA.
23. Section 3(c) of the TRA.
24. Ibid.
25. Section 14 of the TRA.
gress; 55 in the 105th Congress; and as of March 25, 1999, nine bills had been introduced in the 106th Congress. Some of these congressional actions were passed in the two houses and signed into law by the President. Some were voted in favor overwhelmingly or adopted without a vote in the Congress. Still some of them were voted down in Congress, and a few of them were vetoed by the President.

Most of the actions taken by Congress aimed at pressing the administration to rely more on the TRA, instead of the three US-PRC joint communiqués, for the conduct of U.S.-Taiwan relations. These congressional actions, quite often, had been criticized as moving U.S. policy in directions favored by Taiwan and therefore jeopardizing the administration’s efforts to improve U.S.-PRC relations. Accordingly, the actions taken by Congress, which favored Taiwan, were quite often either ignored or rejected by the President, who argued that the actions taken were considered inconsistent with or moving beyond the administration’s policy toward Taiwan and the PRC.

The 204 actions taken by Congress during the second decade of the TRA were sorted out in accordance with the policy concerns of the TRA, that is, U.S.-Taiwan economic relations, Taiwan’s democracy and human rights, U.S.-Taiwan political relations, Taiwan’s security/future, arms sales to Taiwan, Taiwan’s participation in international organizations, consultation between the President and the Congress, legal status of and amendment to the TRA, and instrumentality of the TRA. Accordingly, the effectiveness or failures of the 204 actions taken by the Congress during the second ten years of the TRA are here evaluated in accordance with this classification.

A. U.S.-Taiwan Economic Relations

Matters concerning trade or the trade deficit between the United States and Taiwan were proposed in 27 of the 195 bills introduced in the 101st-105th Congresses. Surprisingly, no bills dealing with U.S.-Taiwan economic relations were proposed in the 104th Congress. In addition, only one bill was introduced in the 103rd Congress; two in the 105th Congress. Indeed, very few bills regarding U.S.-Taiwan economic relations were proposed during the second ten years of the TRA. However, it is misleading to suggest that Congress paid less attention to the implementation of section 2(b) of the TRA, which states that it is the U.S. policy to preserve and promote commercial relations between the U.S. and Taiwan. On
the contrary, Congress wanted very much to enhance investment opportunities for U.S. companies in Taiwan and took steps to reduce the U.S. trade deficit with Taiwan. One of the main reasons for members of Congress to introduce fewer bills concerning U.S.-Taiwan economic relations is the continuing growth of bilateral trade between the two sides since the passage of the TRA in 1979. In fact, the relations between the United States and Taiwan have been running very well under the TRA and other relevant laws or regulations.

It must be suggested that the congressional actions taken during the second decade of the TRA were very successful. According to U.S. governmental trade statistics, in 1989, exports from the United States to Taiwan totaled US $11,335 million, while imports from Taiwan reached US $24,313 million. Exports from the United States to Taiwan increased to US $20,388 million in 1997, and US $16,485 million in 1998, respectively. Imports from Taiwan to the United States increased to US $32,624 million and US $30,292 million in 1997 and 1998, respectively. In 1989, the U.S. trade deficit with Taiwan was US $12,978 million. By 1995, the U.S. trade deficit with Taiwan went down to US $9,682 millions. However, the deficit went up again in 1996. By 1998, the U.S. trade deficit with Taiwan was US $13,807 million.\(^{27}\) This increase helps explain why S. 465 and H.R. 2651 were introduced in the Senate and the House respectively in 1997, aiming at ending the U.S. trade deficit with Taiwan and other countries. Taiwan is now the seventh largest trading partner of the United States, the fourteenth largest trade economy in the world, and has the seventh largest amount of foreign investment in the world.\(^{28}\) Since 1992, the Special 301 provisions of the U.S. trade law were used continuously to press Taiwan to improve its legislative framework available to protect intellectual property rights and the enforcement of those rights in Taiwan’s judicial system. In November 1996, the U.S. Trade Representative removed Taiwan from all Special 301 lists for the first time.\(^{29}\)


\(^{28}\) See “whereas clauses” of H.Con.Res. 338, introduced in the House by Representative Tom Campbell on October 8, 1998.

In addition, it should be noted that a number of agreements concerning commercial relations were concluded between AIT and CCNAA (TECRO)\(^{30}\) during the second decade of the TRA. On May 14 and June 4, 1991, for instance, the Agreement for Technical Assistance in Customs Operations and Management was signed between the two instrumentalities. On September 19, 1994, the Agreement concerning a Framework of Principles and Procedures for Consultations regarding Trade and Investment was concluded at Washington.\(^{31}\) In spring 1998, a bilateral "Open Skies" agreement to expand opportunities for American airlines going to Taiwan and beyond was signed.\(^{32}\) Under section 1(a) of the TRA, agreements between the AIT and the TECRO (CCNAA) are transmitted to the Congress, and according to Sections 6 and 10(a) of the TRA, such agreements have full force and effect under U.S. law.

**B. Taiwan’s Democracy and Human Rights**

In total, seven out of 204 bills introduced in Congress during the second ten years of the TRA expressed the U.S. concern over political democratization and conditions of human rights in Taiwan. Congress’ legal authority for taking actions to encourage political democratization and to enhance human rights in Taiwan is found in section 2 (c) of the TRA, which states that “[t]he preservation and enhancement of the human rights of all the people on Taiwan are. . . reaffirmed as objectives of the United States.”

Actions taken by the Congress in this regard have been extremely successful. In May 1991, President of the ROC, Dr. Lee Teng-Hui, ended the state of civil war with the PRC and the associated "temporary provisions" that had given the government "emergency" powers to deal with dissent. In December 1991, members of the National Assembly, elected in the mainland over 40 years previously, retired. An election was held on December 21, 1991 to fill 325 seats in a new National Assembly. On December 19, 1992, elec-

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30. The American Institute in Taiwan (AIT) is the American instrumentality designated pursuant to section 6 of the TRA; the Coordination Council for North American Affairs (CCNAA) is the Taiwan instrumentality designated pursuant to section 10(a) of the TRA, later replaced by the Taipei Economic and Cultural Representatives Office (TECRO) in 1996.

31. For the Agreements Between the American Institute in Taiwan and the Taipei Economic and Culture Representatives Office in the United States, see Federal Register, Vol. 61, No. 127, July 1, 1996.

32. See the statement of Susan L. Shirk, Deputy Assistant, East Asian and Pacific Bureau, Department of State, made in a hearing held before the House Asia and Pacific Subcommittee on May 20, 1998.
tions for the Legislative Yuan (legislative body) took place. On November 27, 1993, elections for county magistrates and other local officials were held. On January 29, 1994, elections for mayors of smaller cities, county assemblies, and city councils were held. On December 2, 1995, elections were held for the Legislative Yuan. On March 23, 1996, the first direct presidential elections were held. It is well recognized that the political system of the ROC on Taiwan has been successfully and peacefully transformed into a pluralist civic society, with a multi-party system. On May 26, 1996, H.Con.Res.154 passed in the House, congratulating the people of Taiwan on holding their first direct and democratic presidential election.

C. Taiwan’s Security and Future

Many actions were taken by Congress to address the TRA concern over Taiwan’s security and future during the second decade of the law. Most of them were successful, while others were less than successful. Members of Congress expressed their concern over Taiwan’s security and future in 46 of the 204 bills introduced either in the House or in the Senate over the past ten years. It is interesting to note that more bills were introduced in the 105th Congress than in the 104th Congress; the first session of the 104th Congress covered the PRC missile launch exercises conducted in the Taiwan Strait area in March 1996. It appears that the Congress has been uneasy about the Clinton administration’s constructive engagement policy with the PRC, initiated in late 1996. In particular, Congress has been worried about the negative effect of the administration’s policy toward the PRC on U.S. interests vis-à-vis Taiwan.

Under the TRA, the U.S. expects the differences between Taiwan and the PRC to be resolved by peaceful means. In addition, under the TRA, it is affirmed that the U.S. would maintain sufficient forces to deal with contingencies in the Taiwan Strait area. During the PRC military exercises near Taiwan in the summer of 1995 and in March 1996, actions were taken by Congress to press the administration to fulfill its commitment under the TRA to Taiwan’s security and future. In H.Con.Res.138, H.Con.Res.140, S.Con.Res.43, and H.Con.Res.148, which were introduced in the 104th Congress shortly before the PRC missile launch exercises in March 1996, members of Congress expressed their view that the PRC missile tests threatened the peace, security, and stability of Taiwan, and therefore urged the administration to take actions to defend Taiwan. As a result, the administration deployed two U.S.
carrier battle groups to the Taiwan Strait area to “observe” the situation. In addition, the administration postponed the visit of the PRC defense minister to the U.S. and suspended approval of Export-Import Bank financing for new projects in mainland China. In that regard, actions taken by Congress to address the TRA’s concern for Taiwan’s security and future should be recognized as having been successful.

However, actions taken by Congress to press the administration to faithfully implement the provisions of the TRA, in particular, regarding Taiwan’s future and to press the PRC to renounce the use of force against Taiwan, were not very successful. The PRC has not forsworn the use of force should Taiwan declare its independence from China. In 1989, H.R.1487 was introduced in the House, in which it was conditioned that the good relationship between the US and the PRC depended upon Beijing’s willingness to refrain from the use of force in resolving the future of Taiwan. Ten years later, as introduced in H.Con.Res.22, H.Con.Res.53, H.Con.Res.56, and S.Con.Res.17, the Congress still proposed to urge the President to seek a public renunciation by the PRC of any use of force against Taiwan.

Actions were taken by Congress to press the administration to faithfully implement the TRA’s concern over Taiwan’s future. Shortly before President Clinton’s trip to mainland China in late June 1998, bills were introduced in Congress urging him not to sign the so-called “fourth communiqué” with the PRC and reminding him of the U.S. commitment to Taiwan’s security and future under the TRA. Apparently congressional actions were not taken seriously by the administration. On June 30, 1998, the statement made by President Clinton in Shanghai marked the first time a U.S. President publicly affirmed the so-called “Three No’s” policy that had been proposed by the PRC since President Nixon’s trip to Shanghai roughly 26 years previously. However, in January, and March 1999, three bills (S.Con.Res.17, H.Con.Res.53, and H.Con.Res.56) were introduced in the 106th Congress, which, on the one hand, commemorated the 20th anniversary of the enactment of the TRA, and on the other hand, reminded the U.S. government of its commitments to the TRA. It is important to note that H.Con.Res.56 was passed in the House on March 23, 1999 by a vote 429 to one.

D. Arms Sales to Taiwan

Under Section 2 of the TRA, the U.S. is obliged “to provide Taiwan with arms of a defensive character.” Under Section 3, the
U.S. "will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." The arms sale provisions of the TRA were put to a test during the period 1980-1982, when the U.S. was considering whether Washington should sell Taiwan the FX advanced fighter planes to replace its aging inventory of F-104s and F-5Es. In the end, the U.S. decided not to sell the FXs to Taiwan. Moreover, on August 17, 1982, the U.S. and the PRC issued a joint communiqué on arms sales to Taiwan, in which the U.S. stated that it did not plan a long-term policy of arms sales to Taiwan. Despite the issue of the U.S.-PRC Joint Communiqué, the U.S. aided Taiwan's development of a new jet fighter IDF and continues to transfer defensive articles to Taiwan.

During the second decade of the TRA, 39 of the 204 bills proposed by members of Congress were either directed at pressuring the administration to fulfill its commitments under the TRA to provide defensive articles and services to Taiwan, or authorized the transfer of weaponry to Taiwan. A look at the items and total amounts of the U.S. arms sales to Taiwan between 1989 and 1996, suggests that actions taken by both the Congress and the administration were successful in implementing the arms sale provisions of the TRA. In addition, it should also be noted that actions taken by Congress to request that the administration examine the formidable PRC ballistic missile capability against Taiwan, and consider providing Taipei with a theater anti-missile defense system to guard against the growing ballistic missile threat from the PRC, were relatively effective. It was reported in *The Washington Post* on February 13, 1999 that the U.S. will fulfill its commitments under the TRA and continue to provide Taiwan with defense articles and services.33 Three bills — S.Con.Res.17, H.Con.Res.53, and H.Con.Res.56 — introduced in the 106th Congress, also expressed that it is the sense of the Congress that the U.S. should reaffirm its commitment to the specific guarantees for the provisions of legitimate defense articles to Taiwan contained in the TRA. On March 25, 1996, a bill was introduced by Senators Helms and Torricelli, which would have authorized the sale to Taiwan of a broad array of defense articles, including missile-defense systems and air-to-air missiles. It would also have required the U.S. President to report to Congress annu-

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ally on Taiwan's requests and justify any rejection regarding the sales.

However, actions taken by Congress to clarify that the arms sale provisions in the TRA supersede the U.S. joint communiqués, in particular the U.S.-PRC Joint Communiqué of August 17, 1982, were less than successful. Members of Congress proposed in eight of the 195 bills introduced during the 103rd - 105th Congresses that the provisions under section 3(a) and (b) of the TRA supersede any provisions of the U.S.-PRC Joint Communiqué of August 17, 1982. H.R.1561, introduced on May 3, 1995 and passed in the House on June 8, 1995 and in the Senate on December 14, 1995, came very close to becoming U.S. law. But President Clinton vetoed the bill on April 12, 1996, and the House failed to override the President's veto on April 30, 1996.

E. Upgrading U.S.-Taiwan Relations

Under Section 2(b) of the TRA, it is the policy of the U.S., *inter alia*, to preserve and promote extensive, close, and friendly relations between the people of the United States and the people of Taiwan. The provision specifies the commercial and cultural relations, but leaves "other relations" ambiguous. However, it was stated in a report prepared by the Senate Committee on the Judiciary that the term "other relations," used in the administration's proposed legislation, was intended to include military and security relations.34 From the perspective of Congress, the provision also gives Congressmen the legal authority, in addition to cultural, commercial, military, and security relations, to upgrade the political relations between the U.S. and Taiwan. Thus, many actions taken by Congress aimed at accomplishing that goal since the passage of the TRA.

Twenty-five of the 204 bills introduced during the second decade of the TRA addressed congressional efforts to improve the political relationship between the U.S. and Taiwan. All except one of the 21 legislative measures containing such congressional intent were introduced in the 103rd (fifteen bills) and 104th (six bills) Congresses. As a response to the congressional actions, the Clinton administration issued the 1994 Taiwan Policy Review that called for modest upgrading of U.S.-Taiwan relations.35

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34. *Taiwan Communiqué and Separation of Powers*, supra note 17, p. 2.
35. For more information about the policy review, see "Taiwan Policy Review," Winston Lord, Assistant Secretary for East Asian and Pacific Affairs, Statement made
In May 1995, President Clinton shifted policy and agreed to issue a visa for Dr. Lee Teng-Hui, the President of the ROC, to visit his alma mater, Cornell University, mainly because of the concurrent resolutions introduced in the House — H.Con.Res.53, which passed in the House on May 2, 1995 by a vote of 396-0 and passed in the Senate on May 9, 1995 by all senators except one (97-1). In October 1998, an unofficial meeting in Washington between Defense Secretary William Cohen and the head of Taiwan’s military Chief of Staff, Tang Fei, later Minister of National Defense of the R.O.C., was arranged.\textsuperscript{36} In November 1998, U.S. Energy Secretary Bill Richardson was sent to Taiwan with a letter from President Clinton to President Lee.\textsuperscript{37} In sum, actions taken by Congress during the second decade of the TRA to help implement TRA provisions regarding the promotion of extensive, close, and friendly “other relations,” between the people of the United States and the people on Taiwan, were successful.

\section{F. Taiwan’s Participation in International Organizations}

A mixed result is seen regarding the actions taken by Congress in support of Taiwan’s membership in international organizations during the second ten years of the TRA. Section 4(d) of the TRA was relied upon by Congress to express that support, which states that “[n]othing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organizations.”

A large number of legislative measures introduced in the 101\textsuperscript{st}-105\textsuperscript{th} Congresses expressed the sense of Congress that Taiwan should be admitted to international organizations, in particular, international economic organizations. In total, fifty-four of the 204 bills introduced over the second decade of the TRA concerned the issue of Taiwan’s membership in international organizations. Congress’ efforts to help Taiwan return to the UN or to join international economic organizations had been fairly consistent in the 101\textsuperscript{st}-105\textsuperscript{th} Congresses. The congressional actions were very successful in supporting Taiwan’s remaining in or joining international economic organizations such as ADB, APEC, and GATT/WTO. The

\begin{thebibliography}{99}
\bibitem{36} See United Daily (Taipei), November 4, 1998, p. 8.
\bibitem{37} See The China Post (Taipei), November 6, 1998, p. 4.
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strategy of using the occasion of the President's annual waiver of the Jackson-Vanik provisions on China's MFN status to press the administration to express support for Taiwan's membership in the WTO had been relatively effective. However, the actions taken by Congress to help Taiwan to return to the UN had so far failed.

In early 1998, members of Congress started to express their support for Taiwan's bid to join the World Health Organization, an UN-affiliated world body. In H.Con.Res.219, Congress expressed its view that it should be U.S. policy to support Taiwan's membership in the WHO. On May 7, 1998, 52 congressmen jointly urged U.S. Secretary of Health and Human Services Donna Shalala to back Taiwan's bid to enter the WHO. On May 11, 1998, Taiwan's bid to join the WHO even as an observer was rejected at the third plenary meeting of that organization's general assembly. On July 22, 1998, H.J.Res.126 was introduced in the House. It reiterated that it should be the U.S. policy to support Taiwan's representation in the WHO. On January 20, 1999, a resolution, S.Res.26, was introduced in the Senate by Senator Murkowski, which stated that it is the sense of the Senate that Taiwan and its 21,000,000 people should have appropriate and meaningful participation in the WHO. In addition, it is also the sense of the Senate that the Secretary of State should report to the Senate Foreign Relations Committee on the efforts of the Secretary to fulfill the commitment made in the 1994 Taiwan Policy Review to more actively support Taiwan's membership in international organizations. Moreover, it is the sense of the Senate that the Secretary of State should report to the Senate Foreign Relations Committee by April 1, 1999 on what actions the U.S. will take at the May 1999 WHO meeting in Geneva to support Taiwan's meaningful participation. On March 23, 1999, S.Res.26 was ordered to be reported favorably to the Senate floor for approval. Thus, the effectiveness of the congressional actions in this regard remained to be watched closely. In S.Con.Res.17, H.Con.Res.53, and H.Con.Res.56, introduced in the 106th Congress, Congress expressed its view that it should be the U.S. policy to publicly support Taiwan's admission to the WTO and encourage other countries to adopt similar policies.

39. Ibid.
G. Instrumentality under the TRA

Cultural, commercial and other unofficial relations between the U.S. and Taiwan are maintained on a non-governmental basis through AIT, a private non-profit corporation created under Section 6 of the TRA. The Coordination Council for North American Affairs (CCNAA) was established under section 10(a) as AIT's non-governmental counterpart for Taiwan. On October 10, 1994, the CCNAA was renamed the Taipei Economic and Cultural Representative Office (TECRO) in the U.S. A total of 39 of the 195 bills introduced in the 101st-105th Congresses touched upon the issue of instrumentality under the TRA, mainly concerning Congress' authorization to appropriate payment to AIT for necessary expenses to carry out the TRA. These actions constituted annual routine work of Congress. Five bills were introduced by members of Congress during the second decade of the TRA, in which Congress urged the administration to upgrade the status of AIT, to increase the number of visa processing consular personnel at AIT, or to establish the position of Coordinator of Taiwan Affairs within the Department of State. However, it appeared that these actions were not very successful.

V. IMPLICATIONS FOR THE U.S.-TAIWAN-PRC TRIANGULAR RELATIONSHIP

John F. Copper suggests that the U.S. has two China policies: one from Congress, and one from the Department of State. Congress' policy is based on the TRA and favors Taipei. The Department of State's policy is based on the three U.S.-PRC joint communiqués and favors Beijing. 40 Similarly, it is also suggested here that the U.S. has two Taiwan policies: one from Congress, and one from the administration. Furthermore, the "U.S. policy" toward Taiwan is not identical with the executive's Taiwan policy, since the "U.S. policy" is considered the outcome of the interactions between the Congress and the administration. As Judge Gasch stated in Goldwater v. Carter, "[w]hile the President may be the sole organ of communications with foreign governments, he is clearly not the sole maker of foreign policy." 41 The executive's and Congress' policies toward Taiwan are often at odds with each other.

41. Supra note 9.
However, whenever that conflicting situation occurs, the administration's policy will normally take precedence, given the fact that the U.S. Constitution indeed bestows upon the President significant authority for the conduct of U.S. foreign relations. In addition, the TRA indeed gives authority to the President to facilitate the maintenance of unofficial relations between the U.S. and Taiwan. Moreover, Congress' Taiwan policy quite often is expressed in "soft" congressional resolutions, using the term "the sense of the Congress," and therefore lack binding force.

Congress' policy toward Taiwan is based upon the provisions of the TRA, the "Six Assurances" of 1982, and the 1994 Taiwan Policy Review, which are considered to favor Taipei's position. The TRA was mainly the creation of Congress, which aimed at defending Taiwan's security and maintaining the relations between the U.S. and Taiwan after the severance of formal diplomatic relations in 1979. The "Six Assurances" to Taiwan, however, were proposed by Taipei during negotiations for the U.S.-PRC Joint Communiqué on arms sales to Taiwan in 1982 to be used as guidelines for the conduct of U.S.-Taiwan relations. The Reagan administration agreed to the "Six Assurances" and conveyed its assent to Taiwan. In late July 1982, the administration informed the Congress of the agreement. The "Six Assurances" to Taiwan are: (1) the U.S. would not set a date for termination of arms sales to Taiwan; (2) the U.S. would not alter the terms of the TRA; (3) the U.S. would not consult with the PRC in advance before making decisions about U.S. arms sales to Taiwan; (4) the U.S. would not mediate between Taiwan and the PRC; (5) the U.S. would not alter its position about the sovereignty of Taiwan, which was a question to be decided peacefully by the Chinese themselves and, would not pressure Taiwan to enter into negotiations with the PRC; and (6) the U.S. would not formally recognize Chinese sovereignty over Taiwan.

The policy principles governing U.S.-Taiwan relations provided for in the 1994 Taiwan Policy Review are: (1) consistent with the unofficial relationship between the U.S. and Taiwan; (2) while in transit, Taiwan's top officials shall conduct no public activities; (3) the Taiwan representatives are not permitted access to the U.S. State Department, Old Executive Office Building, or White House; (4) the U.S. will not support Taiwan's membership in organizations that admit only states; (5) the U.S. will actively support Taiwan's membership in international organizations which do not require statehood and will look for ways for Taiwan's voice to be heard in other organizations; (6) U.S. officials authorized to travel to Tai-
wan may meet with officials at whatever level necessary to achieve their objectives; (7) U.S. Cabinet officials from economic and technical departments may meet with Taiwan representatives in official settings; (8) U.S. State Department officials from economic and technical divisions must meet with Taiwan representatives in unofficial settings; (9) the U.S. and Taiwan will conduct sub-cabinet economic dialogue; and (10) the U.S. will send high-level officials from U.S. economic and technical agencies to visit Taiwan. The 1994 Taiwan Policy Review resulted from the actions taken by Congress in the 103rd Congress to press the administration to upgrade U.S.-Taiwan relations.

Based upon the three documents mentioned above, Congress’ policy toward Taiwan is that the U.S.: (1) ensures that the administration will take steps to faithfully implement the TRA; (2) continues to press the administration to provide Taiwan with sufficient defensive articles and services; (3) requests that the administration take steps to help maintain Taiwan’s democracy and free market economic system; (4) gives support for Taiwan’s membership in international organizations; and (5) upgrades U.S.-Taiwan relations.

The administration's policy toward Taiwan is based upon the TRA and the three U.S.-PRC joint communiqués; the latter are considered in favor of Beijing’s position on the Taiwan issue. The U.S. declared in the 1972 Shanghai Communiqué: “[t]he United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and 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.” In the 1979 Joint Communiqué on the Establishment of Diplomatic Relations, the United States “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 U.S. restates in the 1979 communiqué that the U.S. government “acknowledges the Chinese position that there is but one China and Taiwan is part of China.” In the 1982 U.S.-PRC Joint Communiqué, the U.S. government reiterates that “it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China’s internal affairs, or pursuing a policy of 'two Chinas' or 'one China, one Taiwan.'”

42. Supra note 35.
Based upon the three joint communiqués, the administration's policy toward Taiwan is that the U.S.: (1) remains committed to unofficial U.S. relations with Taiwan; (2) continues to support the peaceful resolution of the Taiwan issue; (3) continues to provide Taiwan with sufficient defensive articles and services; (4) encourages the two sides of the Taiwan Strait to improve relations through formal cross-strait dialogue; (5) takes steps to improve relations with the PRC, aiming at strengthening peace and stability in the Western Pacific which will benefit the region as a whole, including Taiwan; and (6) promises that the improvement of relations with the PRC will have no negative effect on U.S.-Taiwan relations.

Congress’ and the administration’s policies toward Taiwan are not necessarily in conflict all the time. The administration has the legal obligation to faithfully implement the TRA. The Congress has the legal authority to monitor the implementation of the TRA by the executive branch. When the administration takes steps to faithfully implement the provisions of the TRA, it is less likely to see the two branches of the U.S. government at odds with each other. However, if the implementation of the TRA would have a negative effect on the administration’s commitment under the three communiqués to carry out the “one China” policy, or if the policy measures taken by the administration would have a negative effect on the implementation of the TRA, conflicts between the Congress and the administration might occur. Quite often, the ways in which the administration has interpreted or implemented the provisions of the TRA and the actions taken by the President to foster good relations with Beijing have been criticized as “having an indirect but strong negative effect on U.S. interests vis-à-vis Taiwan.”

In addition, the two branches of the federal government assess the situation of U.S.-Taiwan relations differently. Many members of Congress take the view that U.S.-Taiwan relations are in need of being improved or upgraded. From the perspective of the administration, on the contrary, the relations between the U.S. and Taiwan twenty years after the enactment of the TRA are “stronger and more robust than ever before.”


The different assessments of U.S.-Taiwan relations help explain why different actions are taken by Congress and the administration to deal with foreign policy matters concerning Taiwan. While Congress tends to change the status quo of the U.S.-Taiwan relations, the administration tilts to maintaining the status quo. As a result, a pattern has developed, in which Congress takes an offensive or active position in handling U.S.-Taiwan relations, while the administration is forced to take a defensive or passive position. In particular, the administration had to respond to actions taken by Congress during the second decade of the TRA, which aimed at balancing U.S. policy toward Taiwan and the PRC. In that sense, Congress has been trying to help mold a U.S.-Taiwan-PRC equilateral triangle, which is often at odds with the administration's "one China" policy.

In September and October 1994, the Chinese People's Liberation Army conducted combined air, land, and sea exercises on Chou Shan Island, about 60 miles south of Quemoy, which is a Chinese offshore island but has been under Taiwan's control since 1949.45 Between July 21 and 26, 1995, the PRC conducted a series of ballistic missile tests firings in an area about 85 miles north of Taiwan. Six modern, mobile, and nuclear-capable missiles were fired. Taiwan's stock market and the local currency fell precipitously because of the Chinese missile tests.46 The PRC conducted a second round of missile tests between August 15 and 25, 1995. In conjunction with the missile tests, the Chinese People's Liberation Army-Air Force stepped up the practice of precision bombing and missile targeting.47 In November 1995, right before Taiwan's second legislative elections, the PRC conducted large-scale combined-arms, amphibious and airborne assault exercises designed to simulate an invasion of Taiwan.48 In the weeks before Taiwan's first di-


rect democratic presidential election in March 1996, the PRC resumed its missile firings.

On March 9, the PRC fired three M-9 guided ballistic surface-to-surface missiles, one in the “splash zone” near Keelung and two in the zone west of Kaohsiung. The PRC launched the fourth missile at the “splash zone” near Kaohsiung on March 13. The missile tests were followed by Beijing’s live ammunition war games between March 12 and 20 in a 2,390-square-mile area in the southern Taiwan Strait. Between March 18 and 25, the PRC conducted other live ammunition exercises in the area between the Chinese offshore islands of Matsu and Wuchu which have been under Taiwan’s control since 1949.

In response to the actions taken by the PRC that seriously threatened Taiwan’s security, the House of Representatives passed a resolution on March 19, 1996 urging that “the United States should assist in the defense of Taiwan in the event of an invasion, missile attack or blockade by the People’s Republic of China.” On March 23, the Clinton administration dispatched two aircraft carrier battle groups to the international waters near Taiwan to “underscore [U.S.] interests, deter the use of force and prevent any miscalculation.”

After the PRC missile test crisis, the Clinton administration began to revise its policy toward both Taiwan and the PRC. In particular, the administration moved to develop further the so-called “constructive engagement policy” with the PRC. On the one hand, the administration pressed Taiwan not to adopt policy measures that would provoke the PRC. The administration officials warned leaders of Taiwan that if tension in the Taiwan Strait area would increase as a result of provocative actions taken by Taiwan — in particular, moving toward declaring independence — the U.S. would not come to Taiwan’s defense. On the other hand, the administration warned Beijing that the U.S., just like it did in March 1996, would respond to PRC military actions taken against Taiwan.

Congress was very concerned about the administration’s policy of engagement with the PRC. Congress was particularly concerned

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about the likelihood that the administration would take steps to improve its relations with the PRC at the expense of Taiwan. As a result, actions were taken by Congress shortly before and after the first and second U.S.-PRC summits held in Washington in October 1997, and in Beijing in June 1998. Congress pressed the administration to fulfill its commitments under the TRA. In particular, Congress asked the administration to help defend Taiwan’s security and ensure that Taiwan’s future would be determined by peaceful means and by the people on the two sides of the Taiwan Strait. Congress also asked the administration to study the possibility of providing Taiwan with TMD capability. Congress took stronger actions after President Clinton made the “Three No’s” statement on June 30, 1998, since many members of Congress considered the statement to be inconsistent with U.S. policy toward Taiwan as provided in section 2 of the TRA. Taiwan’s supporters in Congress believed that the “Three No’s” statement was made under PRC pressure and was affecting and hurting Taiwan’s negotiating position vis-à-vis the PRC. As a result, bills, such as S.Con.Res.107, S.Con.Res.30, H.Con.Res.270, and H.Con.Res.301 were introduced in the 105th Congress in support of Taiwan.

VI. CONCLUSION

About ten years ago, J. Terry Emerson foretold that:

[е]ach year those Members of Congress who were present at the time of passage of the TRA become fewer because of retirement, election defeat or death. . . . As the makeup of Congress continues to alter, it is possible that legislative concern for the faithful implementation of the Act may diminish with the dwindling number of legislators who re-member and understand the law’s original design of con-tinuing U.S. activities and programs with Taiwan as if derecognition had not occurred.55

William B. Bade and Jeffrey T. Bergner also expressed a similar concern in 1989 that:

[t]he weakness of the TRA lies not within the legislation itself, but in its future implementation. The greatest threat

to the TRA is the ‘steady loss of institutional memory of the statute and its original purposes.\textsuperscript{56}

Bade and Bergner, therefore, concluded that:

[i]t is perhaps too much to expect that Congress would retain intensity of interest in the TRA which it displayed in 1979.\textsuperscript{57}

A study of congressional involvement in the implementation of the TRA during the second ten years of the Act shows that Emerson’s prediction was ill-founded and that Bade and Bergner were worrying too much. In fact, legislative concern for the faithful implementation of the TRA did not diminish with the shrinking number of legislators who were present at the time of enactment of the law. Members of Congress, junior or senior, still remained fully aware of the scope and intent of the TRA. They took active steps to ensure implementation of the TRA during its second decade. A total of 204 bills were introduced by members of Congress over the second decade of the TRA to address their concerns. Important actions were also taken by the administration, quite often under congressional pressure, to implement the provisions of the TRA. The Clinton administration’s decision to dispatch two carrier battle groups to the Taiwan Strait area in March 1996 was considered the most important example of those actions taken by the U.S. government to help defend Taiwan’s security in accordance with the security provisions of the law during the second decade of the TRA.

After examining the 204 legislative measures taken by Congress during the second ten years of the TRA, it is fair to conclude that most of the U.S. promises made under the TRA have been fulfilled. Taiwan is now considered one of the most successful stories in East Asia, or in the world, judging not only from its economic achievement, but also from its political development. Taiwan is emerging as a civic society, with a pluralist and multi-party system, in which human rights receive increasing respect. The U.S. government continues to provide Taiwan with defensive weapons. Both Congress and the administration continue to show their support for Taiwan’s participation in the TMD project. Also thanks to U.S. support, Taiwan was able to stay in the ADB, joined APEC and is likely to become a member of the WTO and other international organizations which do not require statehood as a require-

\textsuperscript{56} William B. Bader and Jeffrey T. Bergner, ed., \textit{The Taiwan Relations Act: A Decade of Implementation} (Hudson Institute/SRI international, 1989), p. 11.

\textsuperscript{57} \textit{Ibid.}, p. 148.
ment for membership. Taiwan’s high-ranking leaders and U.S. cabinet officials, in particular those from economic and technical agencies, can meet and exchange views in Washington, in Taipei, or in international meetings, without difficulty. Both AIT and TECRO have been functioning well. It is important to point out that Congress indeed has played a very important role in contributing to all of these satisfactory achievements, resulting from the faithful implementation of the TRA.

During the second decade of the TRA, however, Congress also responded strongly to the policy measures adopted by the administration which the Congress considered inconsistent with the letter and the spirit of the TRA. The strong congressional reactions to the administration’s decision not to issue President Lee a visa to enter the U.S. in 1994 and early 1995 and to the “Three No’s” statement made by President Clinton in Shanghai on June 30, 1998 are two major examples in this regard. It can be expected that actions will continuously be taken by Congress to press the administration to faithfully implement the provisions of the TRA, in particular, in the event that a future administration, compelled under PRC pressures, shifts the U.S. policy toward Taiwan as defined in the TRA.
Chapter 4

CONGRESS AND U.S. POLICY TOWARD TAIWAN

Robert Sutter*

U.S. policy in the triangular U.S.-People's Republic of China (PRC)-Taiwan relationship is complicated because:

— Taiwan is moving away from past advocacy of one China to positions favoring an official status for Taipei that would complicate the U.S. “one China” policy and challenge Beijing’s claim to sovereignty over the island;

— Beijing is strongly nationalistic and remains adamant about its claim to Taiwan; and

— Many in the U.S. Congress favor formal efforts including legislation that go beyond U.S. administration policy to strengthen U.S.-Taiwan relations in ways sure to antagonize the PRC.

Meanwhile, U.S. officials in Congress and elsewhere want to enhance investment opportunities for U.S. companies and ease trade issues, notably Taiwan’s large trade surplus. They also encourage political democratization even though it fosters separatist tendencies that complicate the official U.S. “one China” policy.

In the 105th Congress (1997-1998), legislation supported Taiwan’s entry into the World Trade Organization (WTO) (see P.L.105-277), its acquisition of missile defenses (see H.R. 2386), and other support (see notably H.Con.Res.270, and H.Con.Res.334). Some in Congress have also held hearings and sent letters to the administration to urge that the U.S. Government not sacrifice U.S. interests with Taiwan at a time of improvement in U.S. relations with Beijing. Amid considerable congressional criticism of President Clinton’s treatment of the Taiwan issue during a trip to China in late June, 1998, the Senate passed resolutions (S.Con.Res.107, S.Con.Res.30) in support of Taiwan on July 10, 1998; a resolution in support of Taiwan (H.Con.Res.301) passed the House on July 20, 1998.1


1. Reviewed in Taiwan: Recent Developments and U.S. Policy Choices, Congressional Research Service (CRS) Issue Brief 98034 (updated monthly).
The U.S. Defense Department on February 17, 1999 issued a congressionally mandated report on rising military strengths on both sides of the Taiwan Strait. The report intensified arguments on whether the United States should provide ballistic missile defense systems to Taiwan despite strenuous objections from Beijing. Proposed legislation in the 106th Congress focused on representational and defense issues for Taiwan.

U.S. congressional activism on policy toward Taiwan is nothing new. Congress has weighed in on these issues many times, since before the passage of the Taiwan Relations Act in 1979, generally endeavoring to move U.S. policy in directions favored by Taiwan and U.S. interests in Taiwan-U.S. relations.

Past episodes of controversy over appropriate U.S. policy toward Taiwan and mainland China, that involved the U.S. Congress, included:

- major debate in the Congress during the 1970s over the pros and cons of breaking all official U.S. ties with Taiwan for the sake of establishing normal diplomatic relations with Beijing;
- sharp and bipartisan congressional criticism of the Carter administration's handling of the normalization with Beijing in 1978 and 1979, leading notably to a total congressional rewrite of the draft legislation proposed by the administration that ultimately became law as the Taiwan Relations Act in April 1979; and
- controversy surrounding the Reagan administration's decision to sign the August 1982 Communiqué with the PRC, which restricted U.S. arms sales to Taiwan so long as Beijing followed a peaceful policy toward the territory.

The end of the Cold War and the 1989 Tiananmen crackdown in China coincided with Taiwan's rise as a newly emerging democracy with a vibrant free market economy, prompting many in the Congress, as well as the U.S. media and elsewhere, to press the administration to upgrade U.S. relations with Taiwan despite strong PRC opposition. Congress was almost unanimous in 1995 in urging President Clinton to reverse administration policy and allow Taiwan's President Lee Teng-Hui to make a private visit to Cornell University, his alma mater. President Clinton acceded; the visit took place. Beijing reacted strongly and with repeated shows of force in the Taiwan Strait. After several months of PRC military demonstrations in the Strait, the Clinton administration, with strong congressional support, deployed two aircraft carrier battle groups to the area. The potentially dangerous face-off of U.S. and PRC
forces ended quietly, but was widely seen to have added incentive to ongoing private Clinton administration efforts to reassure Chinese leaders of U.S. intentions while building an administration policy of U.S. “constructive engagement” with China. Statements by Clinton administration officials affirming the “three nos” regarding U.S. policy toward Taiwan were part of those Clinton administration efforts to reassure the PRC over American intentions and open the way to smoother U.S. relations with mainland China.²

The controversy over President Clinton’s public affirmation on June 30, 1998 of the so-called “three no’s” regarding U.S. policy toward Taiwan represented the latest round in a long series of arguments, often between the Administration and critics in the Congress, over appropriate U.S. policy in the U.S.-People’s Republic of China (PRC)-Taiwan relationship. During a roundtable discussion in Shanghai following his summit meeting with Chinese leaders in Beijing, President Clinton said that “we don’t support independence for Taiwan, or two Chinas, or one Taiwan-one China. And we don’t believe that Taiwan should be a member in any organization for which statehood is a requirement.”

This marked the first time a U.S. President had publicly affirmed the “three nos,” though Clinton administration officials have been saying them publicly and in private conversations with Chinese leaders publicized by Chinese media since at least 1996.³ Earlier U.S. statements, including some made privately by senior administration officials to Chinese counterparts going back as far as 1971 provide a basis for the current “three nos,” according to Clinton administration officials. In particular, the administration maintains that the “three nos” are consistent with the one China affirmations contained in the communiqués of 1972, 1979 and 1982 that provide the framework for U.S.-PRC relations.

Critics in Congress, the media and elsewhere have asserted that the administration is buckling in the face of PRC pressure, sacrificing Taiwan interests and U.S. interests in relations with Taiwan for the sake of assuring a smoother U.S. relationship with Beijing.


In particular, the critics underline Taiwan government claims that the "three nos" restrict Taiwan government efforts to seek a greater role in world affairs as a government separate from the PRC. Some also are sympathetic with non-government advocates of self determination in Taiwan, who charge that the "three no's" effectively curb the right of the people of Taiwan to decide whether or not they want to be independent of China.  

I. REASONS FOR EXECUTIVE-LEGISLATIVE FRICTION OVER U.S. POLICY TOWARD TAIWAN

The controversy between congressional critics and the administration over the "three no's" mirrored past episodes of Legislative-Executive friction over policy toward Taiwan. As in the past, the administration's priority appeared to focus on managing the U.S. relationship with Taiwan in ways that would not unduly complicate or upset the important U.S. relationship with the PRC on the mainland. From the perspective of congressional critics, this approach at times, including the most recent episode, has prompted the Administration to go too far in accommodating the PRC by cutting back, restricting, or otherwise defining U.S. interaction with Taiwan in ways favored by Beijing. More receptive to the entreaties of Taiwan representatives and their supporters in the United States, and sensitive to the many tangible U.S. benefits derived from relations with Taiwan, Congress has repeatedly taken steps at many junctures over the past decades to adjust U.S. policies in ways more supportive of Taiwan interests and less favorable to Beijing. From the administration's perspective, Congress can afford to lean in this direction, which complicates and sometimes endangers the relationship with Beijing. Because it does not bear primary responsibility for managing U.S. foreign policy. At times, Administration officials see congressional actions in support of Taiwan as irresponsible. In turn, congressional observers for their part sometimes see Administration officers as being so anxious to preserve a smooth relationship with Beijing that they are prepared to make unwarranted sacrifices of U.S. interests in relations with Taiwan.

PRC-Taiwan Rivalry: An underlying fact that defines the frequent Legislative-Executive struggle over U.S. policy toward Taiwan is the ongoing rivalry between Beijing and Taipei. Although

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the rivalry waxes and wanes, leaders in both capitals see their competition, especially for international support, largely in zero-sum terms. Thus, a gain for one side in international support is seen as a loss for the other. Both sides agree that by far the most important arena for their competition for international support is Washington, D.C. For Taiwan, U.S. support in arms sales, statements of strategic concern, political backing, and in other ways is critical — Taiwan would not survive as a separate entity without U.S. support. Thus, Taiwan officials work hard with many channels of influence in the United States — national and local governments; media; business; non-government, non-profit organizations; academic groups and universities; and others — to foster positive U.S. government approaches toward Taiwan. For Beijing, Chinese officials use their often strong importance in U.S. strategic, economic, or political calculus as leverage to persuade, pressure, or coerce the U.S. government to curb its support for Taiwan and thereby help smooth the way toward PRC efforts to reunify Taiwan with the mainland — a top goal of PRC leaders.6

*U.S. Policy Ambiguity:* The U.S. policy debate also is grounded in prevailing U.S. policy ambiguity about relations with Taiwan. On the one hand, U.S. governments, in the process of establishing and improving relations with Beijing, have issued three communiqués and other statements (most recently the "three no's") that often appear supportive of the PRC position on the Taiwan issue. The communiqués call for breaking all U.S. official ties with Taiwan; acknowledge the Chinese position that there is but one China and Taiwan is part of China; recognize the PRC as the government of China; and agree to limit U.S. arms sales to Taiwan provided Beijing pursues a peaceful approach toward the island.

Administration public statements in recent years explicitly rule out U.S. support for an independent Taiwan, or Taiwan's membership in the UN, or other such international organizations where statehood is a requirement. These two issues were not of primary importance in the 1970s and most of the 1980s when the authoritarian Taiwan government was ruled by Chiang Kai-Shek and his son Chiang Ching-Kuo, who strongly opposed Taiwan independence and largely eschewed Taiwan's participation in international organizations where Beijing was a member. The Chiungs maintained that the Republic of China on Taiwan was the legitimate government of

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all of China. Since democracy took hold in Taiwan in the late 1980s, the administration of Lee Teng-Hui has responded to popular pressure in Taiwan by soft-pedaling past commitments to reunify one China; it has asserted Taiwan's international legitimacy as one of two legitimate governments in China, and sought greater international recognition through membership in international organizations and high-level contacts with governments that already have relations with Beijing.7

On the other hand, U.S. leaders have repeatedly taken positions and policy actions designed to shore up important U.S. relationships with Taiwan.

- The Taiwan Relations Act is replete with expressions of U.S. concern with Taiwan's security and determination to continue to provide arms to the island government.
- The Reagan administration endeavored to balance its signing of the 1982 Communiqué restricting U.S. arms to Taiwan with six pledges to Taiwan leaders including assurances that the U.S. would not set a date to stop arms to Taiwan, would not amend the Taiwan Relations Act, and would not negotiate with Beijing over arms sales to Taiwan.
- The Bush administration resumed cabinet-level contacts with Taiwan in 1992, and also agreed to a US $5 billion transfer of 150 F-16 fighters, despite existing restrictions stemming from the 1982 Communiqué.
- The Clinton administration released in 1994 the results of a Taiwan policy review that called for modest upgrading of U.S. interchange with Taiwan. Taiwan media also have reported on five supposedly secret meetings held in the past few years between Taiwan's National Security Adviser and U.S. officials led by the Deputy National Security Adviser and the Under Secretary of State.8
- Meanwhile, following the U.S.-PRC summits of 1997 and 1998, the Clinton administration has taken steps to increase support for Taiwan despite PRC protests. They include sending Energy Secretary Bill Richardson to Taiwan in November 1998 with a letter from President Clinton to President Lee Teng-Hui, an unofficial meeting in Washington in Octo-

7. For background, see Steven Goldstein, Taiwan Faces the 21st Century, Foreign Policy Association, 1997.
8. For recent coverage of Taiwan developments, see among others the weekly coverage in the Free China Journal, published by Taiwan's Government Information Office.
ber 1998 between Defense Secretary William Cohen and the head of Taiwan's military chief of staff, and widespread reports that Taiwan and U.S. leaders are discussing ways to provide Taiwan with a means to defend against the growing ballistic missile threat from mainland China. 9

The U.S. government has also been ambiguous about the U.S. commitment to Taiwan's security. Following the termination of the U.S. defense treaty one year after the agreement to establish diplomatic relations with the PRC in 1979, U.S. officials have refused to say what actions the United States might take in the event of a PRC military threat to the island. The U.S. government made clear that arms sales would continue and that the United States expected the Taiwan issue to be dealt with peacefully. The Taiwan Relations Act affirmed that the United States would maintain sufficient forces to deal with contingencies in the Taiwan area.

After the U.S.-PRC military face-off in the Taiwan area in early 1996, the Clinton administration strongly and repeatedly affirmed U.S. interest in seeing the PRC and Taiwan ease cross-Strait tensions and resume cross-Strait negotiations. The latter were being carried out by ostensibly unofficial representatives of the PRC and Taiwan, but were suspended in the wake of the Lee Teng-Hui visit to the United States. The two sides agreed in early 1998 to resume the high level dialogue of their ostensibly unofficial representatives later in the year. The dialogue resumed in October 1998, though little concrete progress was evident. 10

Meanwhile, several former Clinton administration officials, including Secretary of Defense William Perry and Assistant Secretary of Defense Joseph Nye, Jr., were notably active in 1998 promoting cross-Strait dialogue; some have warned Taiwan that U.S. support might not be forthcoming if Taiwan were to provoke a PRC attack by declaring Taiwan to be independent; others have called for a possible settlement of the Taiwan issue which could involve Beijing disavowing the use of force, Taiwan disavowing the option to declare independence, and the U.S. curbing arms sales to the island. 11

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9. Reviewed in Taiwan, CRS Issue Brief 98034 (updated regularly).
In Congress, some Members have examined the formidable PRC ballistic missile capability against Taiwan to argue that the United States should work with Taiwan to provide a theater missile defense for the island.\textsuperscript{12}

\textbf{II. PROSPECTS FOR REDUCING: TENSION AND ENHANCING PEACE}

It appears unlikely that the United States will soon restore a broad consensus on its foreign policy in general or its policy toward China and Taiwan in particular. The fluidity of U.S. foreign policy concerns after the collapse of the USSR and end of the Cold War suggest that setting clear and sustainable foreign policy priorities will be difficult.

There has been a fairly widespread perception in the United States of a lack of clear direction in U.S. policy toward East Asia and the Pacific since the end of the Cold War.\textsuperscript{13} Some have argued that perhaps a more experienced foreign policy leader, with a clearer vision of Asia/Pacific policy and a greater election mandate than the 43 percent of the popular vote gained by Mr. Clinton in 1992 would have been more decisive in formulating policy toward the region. On the one hand, it is argued that such a President could have set a course of action and stuck to it — thereby avoiding the repeated tugs-of-war among competing interests. On the other hand, since the end of the Cold War, Americans have been deeply divided over foreign policy, and contending policy perspectives cannot easily be bridged to develop coherent policy toward this region or other important areas.\textsuperscript{14} For example, President Bush was a seasoned and attentive foreign and defense policy player; he notably had a clear view of China policy and stuck with it, but he found his policy assailed from various sides after the 1989 Tiananmen crackdown in the more fluid and pluralistic U.S. foreign policy debates after the Cold War.

Because security issues and opposition to Communist expansion no longer dominate U.S. foreign policy, economic interests, democratization abroad, and human rights have greater prominence in policymaking. Various pressure groups and other institutions interested in these and other subjects also have enhanced influence in

\begin{itemize}
\item \textsuperscript{12} Congressional action is reviewed in CRS Issue Brief 98033, \textit{op. cit.}
\item \textsuperscript{13} See, "East Asia and the Pacific. Issues at the end of the 105\textsuperscript{th} Congress," CRS Report 98-931, November 19, 1998, pp. 2-6.
\item \textsuperscript{14} See discussion in, among others, Robert Ross, ed., \textit{After the Cold War}, Armonk, NY, M.E. Sharpe, 1998.
\end{itemize}
policy making. Such fluidity and competition among priorities has more often than not been the norm in American foreign policy. Presidents Woodrow Wilson and Franklin Roosevelt both set forth comprehensive concepts of a well-integrated U.S. foreign policy, but neither framework lasted long. The requirements of the Cold War were much more effective in establishing rigor and order in U.S. foreign policy priorities, but that era is over.

The post-Cold War period has seen substantial changes in the way foreign policy is made in the United States. In general, there has been a shift away from the leadership of the foreign policy elite in the past and toward greater pluralism. This pluralism increases the opportunity for input by non-governmental or lobby groups with an interest in foreign policy, and it increases the importance of Congress. For example, it is characterized by:  

• A much greater range of agencies within the executive branch involved in foreign policy, with the rise of the economic agencies [Commerce, Treasury, and U.S. Trade Representative (USTR) of particular importance].

• A seeming reallocation of power within government, away from the executive branch and toward the Congress.

• Much greater participation by non-governmental organizations and lobby groups that attempt to shape foreign policy to conform with their interests.

• Much less consensus within Congress, and within the broader public, over foreign policy.

There is consensus, however, that foreign policy should not be expensive. The fate of the international affairs budget in the U.S. Congress in 1995 and 1996 indicates that Americans want foreign policy both to cost less and to give more domestic benefit. Unfortunately, Americans do not agree on how to accomplish this. Few Americans are aware that foreign policy spending accounts for less than one percent of the federal budget. There appear to be at least three different tendencies or schools of thought regarding post-cold war U.S. foreign policy. These approaches are not necessarily exclusive. In particular, a U.S. leader may demonstrate aspects of one tendency at some times and aspects of another at other times. An understanding of what these schools stand for suggests the difficulty

of gauging the direction of U.S. policy toward East Asia and the Pacific, or other key areas of international concern.\textsuperscript{16}

One prominent school stresses a relative decline in U.S. ability to affect decisions of many governments in the cacophony of conflicts that has emerged since 1990 and reduced U.S. ability to protect its interests. It calls for the United States to work harder to preserve its important interests while adjusting to its limited resources and influence. Advocates of this position expect continued international instability and limited U.S. ability to respond. They observe that there is no international framework to shape policy, that U.S. policy must use a complex mix of international, regional, and bilateral efforts to achieve policy goals, and that security, economic, and cultural-political issues will compete for priority in policymaking. They argue that with relative homeland safety in this uncertain environment, pressing domestic problems will take precedence over U.S. attention to international affairs and restrict the financial resources available for foreign policy, defense, and international security. They also believe that policy making will remain difficult because the executive branch may well remain in control of one political party and the Congress in control of the other party.

This school, seen reflected in the commentary of leaders like George Bush, Henry Kissinger, and others, argues that these circumstances require the United States to work closely with traditional allies and associates. Regarding East Asia and the Pacific, they argue that it is inconsistent with U.S. goals not to preserve longstanding good relations with Japan and with friends and allies in Asia whose security policies and political-cultural orientations complement U.S. interests. In policy toward other regional powers — Russia, China and India — they note that all three are preoccupied with internal political-development crises and do not appear to want regional instability. All seek closer economic and political relations with the West and with the advancing economies of the region. Washington would be well advised, they say, to work closely with these governments wherever there are common interests. In considering U.S. assets available to influence regional trends, they call on the United States to go slow in reducing its regional military presence. The economic savings of cutbacks would be small; the political costs could be high insofar as most countries in Asia encourage the United States to remain active in the region to offset the power of Japan and/or China.

\textsuperscript{16} For an analysis, see, among others, Robert Ross, \textit{op. cit.}, pp. 74-77.
A second school of thought argues for major cutbacks in U.S. international involvement, including military involvement, and a renewed focus on solving such domestic problems as crime, drug use, economic competitiveness and educational standards, homelessness, poverty, decaying cities, and transportation infrastructure. Variations of this view are seen in the writings of Patrick Buchanan and other well-known commentators, and in the political statements of Ross Perot. Often called an "America First" or "Neo-isolationist" school, they argue that the United States has become overextended in world affairs and has been taken advantage of in the current world security-economic system. They call for sweeping cuts in spending for international activities, favoring a U.S. pullback from foreign bases and major cuts in foreign assistance and foreign technical/information programs. They are skeptical of the utility of international financial institutions and the United Nations, and of international efforts to promote free trade through the World Trade Organization (WTO). They advocate termination of international economic talks that help to perpetuate a liberal world trading system that in practice increases U.S. economic dependence and injures some American workers and industries. Some favor trade measures that are seen as protectionist by U.S. trading partners.

A third position argues that U.S. policy needs to promote more actively U.S. interests in international political, military, and economic affairs, and to use U.S. influence to pressure countries that do not conform to the norms of an appropriate world order. Proponents, along with others, also see a growing convergence of domestic interests on foreign policy and vice versa. They see the United States unable to solve domestic problems on narcotics, crime and the environment, for example, without addressing these issues in a global context. Supporters of this position want the United States to maintain military forces with world-wide capabilities, to lead with strength in world affairs utilizing economic instruments when advantageous, and to minimize compromises and accommodations.

This school of thought has been present in American politics throughout this century. But for several reasons it is stronger today than at any time since the 1960s. During the Reagan administration, after a prolonged period of introspection and doubt following the Vietnam War, oil shocks, and the Iran hostage crisis, the American public became much more optimistic about the future of the United States. This trend was reinforced by the end of the Cold War, a victory for the U.S.-backed system of collective security and for U.S. political and economic values. The outcome of the 1991 Per-
sian Gulf War with Iraq further inspired confidence in U.S. military doctrine, equipment, and performance and in America's international leadership ability.

Those who support this view acknowledge that America faces serious economic challenges, but they are optimistic that the United States can succeed in a competitive world economy. They also insist that the United States is better positioned than any other country to exert leadership in the realm of ideas and values, political concepts, life-style, popular culture, and international organizations. They perceive a global power vacuum, caused notably by the collapse of the Soviet empire, which allows the United States to exert influence. They are not deterred by warnings of over extension of limited military and economic resources, by resistance to U.S. intervention into the affairs of others, and by future relative decline of U.S. government economic, military, and other resources. They argue that Russia, China and India will remain preoccupied with domestic problems. They acknowledge that Japan and Western Europe are economically powerful but also that they are uncertain how to use their new power, and that they lack American cultural attractiveness and influence.¹⁷

In recent years, advocates of this third tendency have been most vocal in pressing for strong policy in support of democracy and human rights. They have argued for a more active U.S. foreign policy, which has led some targeted countries to view U.S. policy as interference in their internal affairs. Advocates have opposed economic or trading policies of other countries seen as inequitable or predatory. They have pressed for strong policy against proliferation of weapons of mass destruction. Members of this school also argue variously for sanctions against countries that practice coercive birth control, seriously pollute the environment, harbor terrorists, and promote the drug trade. They believe the United States should be more assertive in promoting humanitarian relief and in recognizing the legitimacy of people's right to self-determination.

Against the background of sharply competing views and much greater pluralism in the making of U.S. foreign policy, it was not surprising that there were frequent disputes over U.S. policy on sensitive East Asian and Pacific issues, notably U.S. policy in the U.S.-PRC-Taiwan triangular relationship, and that those disputes

¹⁷. American proponents of this view often are focused on specific issues like human rights, trade policy, proliferation of weapons of mass destruction, or others. One articulation of this school is seen in the work by Joseph Nye entitled *Bound To Lead*, Harvard University Press, 1992.
often pitted congressional critics against Administration policy makers. Sometimes the disputes led to sharp turns in policy. In 1994, President Clinton — facing growing criticism from U.S. businesses and their congressional supporters — reversed policy on linking China's trading status with its human rights record; in 1995, the President shifted policy and agreed to allow Taiwan's President to visit the United States — a move urged on him by resolutions backed by all but one member of Congress.

Clinton Administration China policy was particularly prone to be influenced by a continuing tug-of-war among competing U.S. interests reflected in the Congress. 18 Congressional critics, backed by sympathetic U.S. groups, notably used the occasion of the President's annual waiver of the Jackson-Vanik provision on China's most-favored-nation (MFN), known after 1998 as "normal trade relations," status. They debated a broad range of U.S. concerns regarding Chinese government human rights practices and policies, trade issues, flagrant patent and copyright violations, weapons proliferation concerns, and the Chinese authorities' approach to salient domestic and foreign policy issues including Taiwan, Tibet and China's increasing military modernization. 19 Allegations of illegal Chinese government contributions to U.S. political campaigns, and allegations of illegal U.S. transfers of missile technology to China were focal points of heated congressional criticism in 1996-1997 and 1997-1998, respectively. The lobbying of strong U.S. business interests desiring a bigger stake in the China market helped to assure that normal trade relations continued despite strong congressional criticism. Notably, it was widely believed in Congress and the Administration that ending MFN was too extreme, as it would hurt U.S. consumers and traders along with U.S. enterprises engaged in China trade.

Because of the continued debate and fluidity in U.S. China policy, it seems appropriate to say that U.S. policy over the Taiwan issue appears likely to depend in considerable part on the policies of the PRC and Taiwan. Administration officials, by and large, can be expected to follow past practice and give pride of place to maintaining smooth relations with Beijing. As a result, they will be very

19. Presidential candidate Clinton had strongly supported these congressional debates in 1992, but gradually reversed his policy until he decided in 1994 to delink the annual waiver from China's human rights and other policy practices and behavior.
attentive to pressure from Beijing. By contrast, congressional representatives, more open to Taiwan lobbying and more sensitive to issues of values in U.S. foreign policy and less concerned with maintaining smooth diplomatic ties, can be expected to respond to requests from Taipei to counter perceived administration tilting toward Beijing and against Taipei.

Over the next few years, at least, it appears that PRC-Taiwan competition for international support will continue and perhaps intensify. Leaders in Taipei and Beijing have strong political and strategic reasons to maintain assertive policies. For Taiwan, the search for international space is central to efforts to seek to secure Taiwan's separate status at a time of growing PRC economic and military power. For their part, PRC leaders are said to recognize that China needs to control Taiwan's diplomatic posture if it expects to play a great power role in Asian and world affairs. A China preoccupied with an unfriendly or uncooperative Taiwan along its seaward periphery will be constrained in Asian and world politics. Taiwan under the influence of another great power can undermine PRC security.

As in the past, the main international arena for this competition will be Washington. Greater coherence in U.S. policy may ultimately allow U.S. leaders to deal more effectively with the tug-of-war for influence that has characterized U.S. policy on the U.S.-Taiwan-PRC triangular relationship in recent years. The President may be able to define a clear policy reflecting broadly accepted U.S. interests and stick to it. He may also be more willing to employ positive and negative incentives on interest groups, lobbyists, and others that might otherwise be prompted to push hard for change in the President's policy. But, if recent practice is any guide, U.S. policy could also be a muddled drift, moving in one direction or another depending on the shifting relative strength of international and domestic forces pushing U.S. policy.

White House policymakers and other administration leaders can be expected to continue to argue that China is an important country, that U.S.-China relations are at a delicate stage, and that U.S. policy should strive to keep relations "on track." In so doing, U.S. policy is said to foster tendencies in China toward economic, social and political change advantageous to the U.S., and to foster greater Chinese interdependence in world affairs. U.S. administration leaders add that Taiwan officials sometimes privately aver that Taiwan is dependent on the United States, so that the United States does not have to assuage feelings in Taiwan with actions sure to
antagonize the PRC. U.S. administration officials tend to argue that the United States should maintain the status quo in its relations with Taiwan and build relations with the PRC.

Opposed to this view will remain many members of Congress, the media and various interest groups who emphasize Taiwan's positive features. Close U.S. Taiwan relations provide trade and investment opportunities for U.S. businesses, and campaign contributions and votes of blocs of Taiwanese-Americans for American politicians. Taiwan's competitive economic system and its recent democratization have attracted American ideological and moral support. In contrast, members of this group tend to doubt that there will be any rapid PRC movement toward political pluralism or international interdependence. They also emphasize the asymmetry of power between the United States and China. China will press the United States on Taiwan or other questions only when it senses U.S. weakness. If the U.S. is strong and demonstrates negative consequences for Beijing if it adopts confrontational policies, PRC leaders will pull back to protect Chinese interest in stable relations with the United States.

Which side will win in this debate in U.S. policy? Since Richard Nixon's opening to the PRC, the PRC has won the big decisions. This was evident in the U.S. policy choices in Nixon's initial visit to China, U.S. inability to maintain Taiwan's seat at the U.N., the U.S. decision to break officials ties with Taiwan in order to normalize diplomatic relations with Beijing, and the U.S. decision to sign the 1982 Communiqué limiting U.S. arms sales to Taiwan. And yet, for the most part, these developments were heavily influenced by an overriding strategic rationale that drove U.S. policy toward the PRC and against The Soviet Union.

Even during the Cold War, when the PRC was winning the big U.S. decisions, Taiwan made important gains. Since 1978, when the U.S. broke relations with Taiwan to establish relations with the PRC, Americans have increased the breadth and scope of relations with Taiwan. The U.S. Taiwan Relations Act expressed support for Taiwan security. Washington protected Taiwan's membership in the Asian Development Bank and has supported its membership in the World Trade Organization (WTO). It aided Taiwan's development of a new jet fighter, and in 1992 sold it 150 F-16 fighters. In 1994, it upgraded the protocol level of exchanges and in 1995 it issued a visa for Lee Teng-Hui to visit Cornell University.

The end of the Cold War eliminated the strategic rationale for the pro-PRC decisions in U.S. policy in the 1970s and 1980s. A new
strategic rationale emerged, U.S. policymakers recognize that China is a growing power and possesses the strategic importance of a great power. But Chinese power does not guarantee that U.S. policy will tilt toward China. China’s importance, strength and assertiveness may also strengthen U.S. resolve to support Taiwan against Beijing’s threat.

This assessment of U.S. administration-congressional interaction on the Taiwan issue reveals that whatever administration exists in Washington, it is going to feel strong pressure from members of the media, Congress and interests groups who feel that Washington should do more to help Taiwan. If Taiwan maintains its close and cooperative relationship with the U.S., and avoids provocative actions that unnecessarily exacerbate cross-Strait relations, U.S. policy will likely tilt toward Taiwan.

If Taipei, Beijing and Washington pursue pragmatic and moderate policies as they did in the mid-late 1980s, this may encourage domestic convergence in all three capitals on policy concerning China and Taiwan, and allow policymakers to reinforce tendencies toward policy coherence, perhaps leading to U.S. policies that provide an appropriate balance between Taipei and Beijing. Moderation and pragmatism by one party can reinforce trends toward moderation and pragmatism by the other, leading to a pattern of realistic, but mutually beneficial, contacts and reduced tensions. U.S., PRC, and Taiwan actions would then focus on the common ground all three share in avoiding war and promoting regional development, goals shared by other East Asian nations and powers with an interest in the region. Past practice suggests that such pragmatism will not come from Beijing or Taipei. It will require U.S. leaders who are confident in U.S. power in the world, are able to build and sustain support for U.S. leadership in the world on the part of the American people, their representatives in Congress, and important U.S. allies, and thus can deal with China-Taiwan squabbles from a position of strength.
PART III.
U.S.–TAIWAN ECONOMIC AND LEGAL RELATIONS
Chapter 5

IMPROVING THE NATURE AND QUALITY OF BILATERAL TRADE RELATIONS BETWEEN TAIWAN AND THE UNITED STATES WITH THE TRA

Changfa Lo*

I. INTRODUCTION

The Taiwan Relations Act was enacted in an era of great change globally and regionally. Before the United States' diplomatic recognition of Mainland China, Taiwan (the "Republic of China") was considered by the most powerful country in the world as the only political regime representing the whole of China, regardless of the fact that most of China was effectively controlled by the Chinese Mainland government (the PRC). Meanwhile, U.S. recognition provided Taiwan with an opportunity to play a significant role in international politics; Taiwan was still an important player in the international arena. The subsequent switch of U.S. recognition from Taiwan to the PRC indicated that Taiwan had to face the situation that not only was it no longer a significant player in international politics, but also it had to struggle for the national identity essential for its continuing survival.

Before it earned recognition from the United States, the PRC in the late 1970s began its open door policy and started to establish normal relationships with the rest of the world. Increasingly, the PRC began to play a role commensurate with its geographical, economic and political significance. Diplomatic recognition by the United States marked a milestone of its international political success. But the enactment of the Taiwan Relations Act also marked a development to reverse the political de-recognition and produced long-term significance.

Although the existence and development of Taiwan do not and should not depend on the recognition of one particular country, the recognition or de-recognition of an important state still provides a

* Professor of Law at the National Taiwan University, Taipei, Taiwan.
1. The Taiwan Relations Act (22 U.S.C. Secs. 3301-3316) was signed into law on April 10, 1979.
guiding indicator of Taiwan’s legal status. Likewise, the “re-recognition” by the Taiwan Relations Act of Taiwan’s legal status in cultural, economic and other matters to a certain extent has influenced the policies of other countries toward Taiwan. Bilateral arrangements between Taiwan and the United States have been “learned” by many other countries which decided to carry on their economic relations with Taiwan, while maintaining diplomatic relations with the People’s Republic of China. This has been one of the reasons why Taiwan has been able to maintain and develop its full scale of economic relations with so many countries in the world. However, the Taiwan Relations Act could also have contributed to the situation that a number of countries decided to switch their diplomatic recognition from Taiwan to the PRC believing that Taiwan could still be satisfied with the maintenance of economic relations.

With this background in mind, the enactment of the Taiwan Relations Act was very significant not only in that, in the absence of diplomatic relations, it ensures the security of Taiwan, but also it preserves common interests and maintains the status of Taiwan in some aspects, in addition to the Act’s practical approaches toward Taiwan which have been “learned” by other countries.

The Act was passed by the U.S. Congress at a time when Taiwan faced its greatest difficulty regarding its political and legal status. The people of Taiwan have never ceased expressing their gratitude to the people of the United States, who still consider Taiwan as a close friend and intend to maintain a meaningful relationship with Taiwan.

During the last twenty years, since the Taiwan Relations Act was enacted, Taiwan has been afforded by the Act a great opportunity to develop a normal relationship with the United States and its people. Because of the Act, it can be claimed that the legal status of Taiwan was more a theoretical problem than a practical one. The Act stood as the cornerstone of securing Taiwan’s stability and prosperity. Observers and government officials of both sides generally consider the Act as a success.²

² United States Assistant Secretary East Asian and Pacific Bureau of the Department of State Stanley O. Roth’s presentation to The Woodrow Wilson Center and The American Institute in Taiwan, The Taiwan Relations Act at Twenty – and Beyond, cited at <http://www.usia.gov/regional/ea/uschina/rothtwn.htm> (visited on March 27, 1999): “I have no hesitation in declaring the TRA a resounding success. Over the past twenty years, the TRA has not only helped to preserve the substance of our relationship with Taiwan, it has contributed to the conditions which have enabled the U.S., the PRC, and Taiwan to achieve a great deal more.”
As far as the United States is concerned, the Taiwan government is still the authority that the United States has to deal with. The bilateral arrangement under the Act is carried on, mainly as it should be, in a rather smooth way. But from the perspective of Taiwan, it is apparent that some room for further improvement of the bilateral relations does exist, especially in the trade areas. This is the background making the topic worthy for our discussion. Note that the topic of the paper does not imply that the existing bilateral trade relationship is in any way defective. Rather, we would argue that, although the current bilateral relationship is managed and handled in an acceptable way, there is still room for improvement and the Taiwan Relations Act can provide a solid legal basis for such pursuit.

II. CONTOURS OF IMPORTANT DOCUMENTS OR ARRANGEMENTS GOVERNING BILATERAL TRADE RELATIONS

Before entering into discussions on the nature and quality of bilateral trade relations, let us briefly review the documents having great importance in governing trade ties. There are a number of legal documents and frameworks of this kind, some of which are bilateral arrangements or regional or multilateral frameworks whereas others are domestic laws enacted by one side. They complement each other for maintaining and shaping current trade relationships. Some are briefly discussed as follow.

1. Bilateral Treaties and Agreements

The Treaty of Friendship, Commerce and Navigation (the FCN Treaty)\(^3\) was of great importance in the early days of the ROC government's move to Taiwan, when there had not been many specialized treaties dealing with different areas. Trade flows were guaranteed by this treaty which deals with treatment not only on traded goods, but also on investment, access to courts and other matters. It is worthy to note that today's treaties and agreements mostly address specialized issues. The FCN Treaty plays less and less of a significant role in trade relations when more trade arrangements are concluded.

Another important bilateral arrangement is the bilateral trade agreement of 1978, which was concluded before the termination of diplomatic recognition by the United States. The agreement was to

allow the application of the outcomes of the GATT Tokyo Round negotiations to bilateral trade between Taiwan and the United States, arranged through the exchange of letters. Since Taiwan was not a contracting party to the GATT 1947, the agreement provided a legal basis that guarantees Taiwan's exports to the United States to be granted the most favored nation treatment by the United States. This agreement contributed greatly to the continuation of Taiwan's export performance and economic prosperity.

The Trade and Investment Framework Agreement (the "TIFA")\(^4\) was initially proposed by the United States in December 1992, which was implemented in April 1994. This Agreement provides a formal channel for both parties to conduct their consultation on a more regular basis. Until the present, three consultations have been held based on the Agreement—in 1995, 1996, and 1998, respectively. Any trade or investment issue of concern of either party may be brought into the agenda for consultation. For example, the 1998 consultation agenda covered a wide range of topics, including intellectual property protection, pricing practice on medical devices and pharmaceuticals, matters relating to Taiwan’s WTO accession, telecommunication and the EMC mutual recognition agreement, and arrangements for hazardous waste management. This agreement assures that both sides have a mutually reliable and confident channel to resolve their differences, and to establish some form of cooperation in a more efficient way.

2. Multilateral and Regional Frameworks

For both sides, all relations established and maintained under multilateral frameworks are under the World Trade Organization. Taiwan has yet to finish its accession process at the working party level. Bilateral trade negotiations conducted under the WTO framework had been in progress since the predecessor of the WTO (the GATT) decided to establish a working party to review the accession application to the organization submitted by Taiwan. Taiwan has completed most of the bilateral negotiations with those WTO members requesting such negotiations. With respect to the

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bilateral negotiations with the United States, most of the issues raised by the United States were settled and a formal agreement was concluded, with only a handful of minor residual matters to be resolved. Taiwan made substantial commitments in opening up its markets based on this bilateral agreement. As a matter of course, this commitment will be multilatralized after Taiwan joins the WTO. Notwithstanding this is only a bilateral arrangement, it clearly demonstrates the existence of intensive bilateral interactions between two sides under a multilateral framework.

The so-called “Information Technology Agreement” (ITA) was initiated mainly by the United States. It was concluded and put into effect in March 1997, covering a wide range of information technology products for an in-depth liberalization on tariffs. Some 39 countries and economies signed the agreement to participate in the liberalization process. In February 1998, the second phase of ITA was proposed and negotiated, hopefully to cover more products and to have wider coverage. Taiwan participated actively in the ITA negotiations with extensive dialogue with the United States.\(^5\) It could be considered as a mode of interaction between two sides in the ITA negotiations.

In terms of APEC, the United States also uses this forum as an important channel to carry out its foreign trade policy. In 1998, one of the most important proposals promoted by the United States was to accelerate the liberalization process for some products. Taiwan was very cooperative in this promotion, although accelerated liberalization is not an easy task for Taiwan. There were also active interactions between the two sides during the period when the proposal was considered. Although the proposal was not put into effect, due to some APEC members’ refusal to accept it, its consideration did provide both sides with a lesson in cooperating on particular topics in an international arena.

3. Domestic Laws of the United States

As a matter of international norm, domestic laws usually do not apply to matters beyond the national boundary. Prescriptive jurisdiction of a law enacted in one country normally can not have

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5. Under the Agreement, Taiwan was to phase out tariffs on information technology products with its first tranche tariff cuts implemented on July 1, 1997. A second tranche was implemented on January 1, 1998. Most of the information products covered in the Agreement will be phased out by the year 2000. A handful of products will be subject to tariff elimination in the year 2002.
extra-territorial reach. But it is a fact that the domestic laws enacted by one country with great political influence may have much effect on other countries' unilateral, bilateral, or even multilateral measures.

After the de-recognition of Taiwan by the U.S. during the Carter Administration, the Taiwan Relations Act continues to provide a legal basis to govern bilateral relations between Taiwan and the United States. Although this Act does not provide any power or legal basis for intervention in the domestic affairs of Taiwan, and although it is a domestic law governing practices and policies of the United States, it has become nevertheless one of the most important legal documents governing their bilateral relations. The TRA "re-recognition" the existence of Taiwan (although on a de facto basis); and this recognition has afforded trade and economic relations to be carried on as usual. Also through this Act, previous economic treaties remained effective and conclusions of more treaties were made possible. All these are essential to the further development and growth of bilateral trade relations.

A number of United States trade laws and practices also have great effect on interactions between the two sides. For instance, the so-called "special 301" provision of the Trade Act of 1974, as amended, is still a major topic in their bilateral trade relations and has been an important contributing factor in the shaping of Taiwan's current intellectual property rights laws. In May 1992, Taiwan was listed as a "priority country" facing the threat of U.S. retaliation—a decision that served as a catalyst for Taiwan to improve the protection of intellectual property rights. As a result of extensive reform, the United States dropped its retaliation threat. In 1993, the United States Trade Representative (the USTR) again identified Taiwan as one of the countries in the U.S. "priority watch list" and in 1994 and 1995, Taiwan was included in its "watch list". With the continuous progress to improve the protection of intellectual property rights, Taiwan was for the first time excluded from the list in 1996; this exclusion extended to 1997. However, since 1998, there were a number of intellectual property protection issues, including exportation of pirated TV games and CDs and the Taiwan Fair Trade Commission's approach on right holders' sending warning letters to potential infringers. Special 301 is one of the most important U.S. domestic measures having continuing effect on Taiwan government's measures and practices.
The United States enacted the Uruguay Round Agreements Act (the URAA)\(^6\) in 1994 for the purpose of implementing the Agreements entered into by the United States at the Uruguay Round Negotiations. The law is of importance for the reasons that it had made the establishment of the WTO possible and carries out the commitments made by the United States at the Uruguay Round Negotiations and thus further liberalizes the United States markets, which is essential to the world economy. Although Taiwan is still not a member of the WTO, the United States still grants Taiwan similar treatment that it grants to WTO members under the URAA.

III. NATURE OF BILATERAL TRADE RELATIONS ENVISAGED BY THE TRA AND POSSIBLE IMPROVEMENT

1. Particular Provisions Under the TRA Relating to Bilateral Trade Relations

There is no clear distinction between the provisions in the TRA governing trade relations and those governing diplomatic and other relations. Some provisions are more relevant to trade ties and other relations, while other provisions are more diplomatic or cultural in nature.\(^7\) Before we review the current trade relations, it would be useful for us to mention some of the important provisions that directly govern or have more direct effect on trade relations.

(I) General Policy: The Continuation of Trade Relations

The Taiwan Relations Act lays down its purposes as: “to help maintain peace, security, and stability in the Western Pacific”; “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 people on Taiwan”; and “to


\(^7\) For instance, Section 2(b)(3) provides that it is the policy of the United States “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.” This provision seems to be dealing with security and diplomatic problems. But similar provisions can also be enacted in a way that has great relevancy with trade issues. Section 2(b)(4) provides that the United States policy is also “to consider any effect to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States.” The words “boycotts” and “embargoes” have everything to do with trade problems.
preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area.” Most of these words are very neutral but constructive. The basic theme of the TRA in regard to trade relations is the maintenance and continuation of trade relations. There are no words indicating that such relations should be in any way “upgraded”; neither are there words to show that the United States executive branch has vested the power to “down-grade” the trade relations existing prior to de-recognition.

(2) Continuation of Existing International Agreements

Prior to the termination of diplomatic ties, a number of bilateral agreements had been established between Taiwan and the United States. Section 4(c) of the TRA provides a legal basis for the United States to continue the agreements. It states that for “all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with the law.”

(3) Application of Laws

Section 4(a) provides that the “absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.” It further provides in Sections 4(b)(1) and (3)(A) that “[w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan”; and that “[t]he absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.”
2. A Review of the Current Relations and Possible Improvement of the Quality

(1) Positive Aspects

It is apparent that it is intended by the TRA that the administrative branch of the United States deal with Taiwan "as if" it is dealing with a country, with the exception that political recognition is not accorded. Thus, as mentioned above, the TRA provides that even though there is no diplomatic recognition, the application of United States' laws with respect to Taiwan, and agreements and treaties effective between the two sides, are not affected.

It appears that after the United States made the decision to switch the recognition from Taiwan to the People's Republic of China, the United States executive branch avoided any appearance of a formal arrangement with Taiwan. The above-mentioned 1978 bilateral arrangement, through an exchange of letters, is a typical example of this kind. The Taiwan Relations Act changed this situation. After its enactment, formal-looking agreements were commonly concluded. The establishment of the bilateral Trade and Investment Frame Work Agreement (the TIFA) indicates that a formal agreement could be concluded through the channel of the Coordination Council for North American Affairs and the American Institute in Taiwan, as provided by the TRA. Although the title used in this agreement is not the same as those in other TIFA agreements concluded by the United States with other countries, the format and contents of both are basically the same. It has been the practice of the United States that there is nothing to hide from the PRC when entering into trade and economic agreements with Taiwan. This is a very positive development from any perspective.

(2) Aspects Needed to Be Improved

Unofficially, bilateral trade relations between the United States and Taiwan are considered by government officials of both sides as very positive. There are no contentious trade issues. Government officials usually use the volume of trade between the two sides and the decline of the trade deficit with Taiwan as indicators of such positive relations.8 However, it is apparent that Taiwan still prefers to have official relations with the United States.

8. Kent Wiedmann, the then Deputy Assistant Secretary for East Asian and Pacific Affairs, made a statement before the House International Relations Committee on August 3, 1995 indicating: "U.S. economic ties with Taiwan have grown stronger since 1979. Taiwan is our seventh-largest trading partner. It is the fifth-largest importer of
Most people characterize bilateral relations between Taiwan and the United States as "non-official ones." The most frequently cited authorities are Sections 6(a) and 10(a) of the Act, which provide respectively that "relations conducted or carried out by . . . any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through . . . The American Institute in Taiwan, a nonprofit organization incorporated under the laws of the District of Columbia. . ." and that whenever "any agency of the United States Government is authorized or requested by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall . . . be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people of Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act."

However, one could argue that diplomatic relations and official relations are legally different things. Two governments representing different territories can establish official relations by concluding agreements without diplomatic relations being established with each other. WTO members are illustrative. Two territories can be WTO members and thus establish treaty relations, while they may

U.S. agricultural products. We have a U.S. $10 billion trade deficit with Taiwan but they have declined from the high of U.S. $17 billion in 1987. Cumulative U.S. investment in Taiwan now stands at U.S. $5 billion, representing a quarter of all foreign investment there." Cited from the European and American Studies Institute of the Academia Sinica, Sino-American Relations, 1995-1997 at 268 (published in 1998).

Stanley O. Roth, Assistant Secretary East Asian and Pacific Bureau of the U.S. Department of State made a presentation to The Woodrow Wilson Center and The American Institute in Taiwan remarking: "On the economic front, the U.S. and Taiwan share a vibrant, mutually beneficial trade relationship. Taiwan is the 14th largest trading economy in the world and the seventh largest market for U.S. exports. It constitutes our fifth largest foreign agricultural market and a major market for U.S. automobiles. For our part, the U.S. absorbs one fourth of all Taiwan exports, and our annual bilateral trade exceeds $50 billion." "The economic partnership, moreover, continues to grow. Taiwan's sophisticated economy is the largest, withstanding the Asian Financial Crisis and acting as a support for the region. Taipei is now pursuing an ambitious, multi-billion dollar series of infrastructure projects — projects for which U.S. firms are helping to provide professional services and equipment. Taiwan and the U.S. passed a milestone in their economic relationship last year with the successful completion of bilateral negotiations concerning Taiwan's application to the World Trade Organization. All indications are that Taiwan will continue to be an important export market for the United States."
BILATERAL TRADE RELATIONS WITH THE TRA

not receive diplomatic recognition from each other. Members of the WTO would be required to assume treaty obligations in the territories under their effective control in respect to the trade and customs policies. These obligations can not be carried out without the support of the governmental authority. Thus, it can never be correct to say that such treaty relations are non-official ones.

It is clear that the diplomatic de-recognition by the United States is a deciding factor preventing the United States and Taiwan from establishing diplomatic relations. However, this is not to say that both sides can not have official relations, according to the above explanation. Section 6(a) of the TRA only requires that bilateral matters be conducted through the American Institute in Taiwan, in the manner and to the extent directed by the President. It does not prohibit government agencies of respective sides from having formal or ad hoc contacts for the purpose of managing or dealing with bilateral matters. In fact, the Act authorizes the administrative branch of the United States to decide whether there would be matters or areas for which direct contact would produce more fruitful outcomes. If, under administrative discretion, direct interactions between governmental agencies would be more appropriate, it would be anticipated by the Act that the President would allow such interactions.

Some might argue that the non-official arrangement did not harm the development of bilateral relations. However, even though the argument were true, we still have to say that if an official arrangement can be established, there could be even more vibrant and mutually beneficial interactions between the two sides. If there could be official relations, government officials handling trade and other economic issues would have more effective and direct channels to enter into dialogue to solve bilateral problems and to cooperate or coordinate with each other in a more efficient way. Unnecessary efforts in coping with or evading the principle of no official relations could be greatly reduced. In sum, this paper argues that the United States government does not treat Taiwan in a way envisaged by the TRA; official relations between two sides are expected by the law when situations practically require such interactions.

Moreover, Taiwan's membership in international economic organizations should not be restricted: The Taiwan Relations Act does not set forth any restriction on the joining of international trade or economic organizations. To the contrary, the Act implies that the United States should support Taiwan's accession to interna-
tional economic organizations. As mentioned above, Section 4(c) of the TRA states that for "all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with the law." Although no words in particular state that the U.S. government should support Taiwan's entry into economic organizations, it is still apparent that Taiwan's legal status should not be a problem with regard to its entry into any international economic organization. Otherwise, the law would not state that multilateral conventions entered into by both sides will still be carried on. In other words, the law implies that there should not be any problem from the perspective of the United States with regard to Taiwan's status acceding to international economic organizations.

However, President Clinton stated in late June 1998, when he was visiting the Chinese mainland, that the United States would not support Taiwan in joining organizations which require their members to be a state. Under the criteria set forth by President Clinton, Taiwan would virtually only be allowed to join the WTO and APEC, which do not require their members to be a state. Article XII, para. 1 of the Agreement Establishing the World Trade Organization explicitly states that: "Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto." APEC is another international forum allowing non-country economies to be members. In addition to these, there are very few international economic organizations which do not require their members to be a state. The OECD and IMF all require their members to be a nation. As a matter of law, Taiwan can be considered, and is considered by more than twenty countries, as a nation. But since most countries do not recognize this fact, Taiwan is not treated as it should be in regard to its legal identity. Thus, if the United States decides that Taiwan should not be a member of the organizations that require their members to be a nation, then Taiwan will be in an even more difficult situation to participate in those economic organizations.
Membership in these organizations is very important and essential for a country to exercise its functions in dealing with economic matters. If Taiwan is excluded from being a member of international economic organizations, it will not be able to carry out its duties and to receive economically equal treatment in the same way as other members of international society. For instance, Taiwan’s exclusion from the IMF has produced the effect that Taiwan is prevented from receiving information on international monetary matters essential for Taiwan to make proper and correct decisions on monetary affairs. It is also apparent that Taiwan as an outsider of the IMF has prevented Taiwan from entering into cooperative arrangements with its trading and economic partners and thus could have adverse effect on the attainment of the purposes set forth by the IMF agreement.

It is true that the participation in international economic organizations is not purely a bilateral matter. But the United States’ position toward Taiwan’s participation in international economic organizations is critical for other countries to follow; to establish sound bilateral relations on economic matters can not be fulfilled outside the context of the operation of multilateral arrangements for bilateral matters. This paper argues that: (1) it is implied in the TRA that Taiwan should not be excluded as a member of international economic organizations; (2) there is no sound basis in the TRA limiting Taiwan’s accession to international economic organizations which require an acceding party to be a nation; and (3) allowing Taiwan to participate in international organizations will further bilateral relationship on economic and trade matters.

Finally, the Chinese mainland’s attitude and position toward Taiwan should not dominate the policy making of the United States government regarding Taiwan-U.S. trade relations: There are a number of apparent examples showing that mainland China is the single most important factor influencing the United States policy regarding trade and economic matters toward Taiwan, which include such matters as whether the United States would support Taiwan’s accession to the WTO and the OECD. Although it has been made clear many times by U.S. government officials that Taiwan’s accession to the WTO would not be linked with mainland China’s accession, it is still a general perception that the United States never in fact supports the de-linkage between these two accession cases. It is understandable that the TRA does not prohibit the U.S. government from using Taiwan or mainland China as a leverage to further the interests of the United States. But it is also clear that the
TRA requires the U.S. government to conduct bilateral relations with Taiwan and mainland China separately. Any linkage established between its trade policies with Taiwan and those of mainland China could be considered as not in line with what the TRA projected. The TRA provides that Taiwan should have full status regarding the application of U.S. laws. It is a proper interpretation that Taiwan should also be considered as a separate international entity in regard to the exercise of U.S. trade policy conducted by the executive branch.

To state it more clearly, the Taiwan Relations Act does not provide any basis for the United States executive branch to make such conditionality. As a matter of course, the executive branch of any country would have more or less power in exercising its discretion in foreign affairs. But its discretion would have to be subject to legislation of the respective countries. In the case of the United States and the Taiwan Relations Act, it is stated clearly that the maintenance of peace and security is the goal and, to attain that goal, the United States would apply the law to Taiwan as it would have applied previously to ROC and other countries. It is also made clear that the United States would support the maintenance of Taiwan’s membership in some international organizations. The United States government does have the discretion to decide how to achieve the goal, with certain conditions to be followed. However, if an explicit linkage between the Taiwan case and the PRC case is established by the executive branch of the United States, there could be an issue of violating the spirit of the Taiwan Relations Act.

IV. QUALITY IMPROVEMENT OF BILATERAL TRADE RELATIONS

There may never be “ideal” trade relations, but one may still expect to establish relations with fewer problems. Bilateral trade relations between Taiwan and the United States are going in a positive direction. As mentioned above, bilateral trade ties are very close. Taiwan is the seventh largest trading partner of the United States with United States exports to Taiwan increased 10.7 percent from the previous year in 1997, while United States imports from Taiwan increased 9.1 percent.9 Having said this, a number of areas still exist in which both parties can consider to make improvement.

1. **More Bilateral Arrangements Need to Be Established**

Both sides can enhance their cooperation in several areas. In the past, there have been some suggestions that a bilateral free trade agreement could be established to enhance bilateral trade relationships. This proposal was not seriously discussed and in recent years, rarely mentioned. In turn, both parties expect to cooperate or interact on new trade topics emerging in recent years in which both sides have great interest. There are a number of these issues for which both parties have similar positions. Competition policy is one of such areas.

There is no restriction in the establishment of comprehensive and sound bilateral economic relations under the TRA. In fact, the Act not only sets no limit in terms of quantity or areas for the United States government to establish relations, but bilateral trade relations are anticipated to be comprehensive. The TRA thus provides that it is enacted “to . . . promote extensive, close, and friendly commercial . . . and other relations between the people of the United States and the people on Taiwan.”

There is an increasingly popular trend to conclude bilateral agreements for cooperation and coordination regarding competition laws and policies between countries having close trade relations. The United States had entered into such agreements with a number of countries or regions, including Canada, Australia and the European Community. Taiwan also feels that there is a need to have such agreements with its trading partners, and thus has concluded agreements with Australia and New Zealand. Under such agreements, the Fair Trade Commission of Taiwan, which is in charge of the enforcement of the Fair Trade Law (Taiwan’s competition law), regularly conducts bilateral consultations with its counterparts. Since Taiwan and the United States have very close trade ties, and because some potential areas for cooperation exist to facilitate law enforcement and coordinate policy making, it would be practical for both sides to conclude bilateral cooperation agreements on matters related to competition policy. Such agreements would contribute to more effective ways of dealing with an increasing number of mergers and acquisitions, international cartels, and multilevel selling, as well as some unfair trade practices that affect both parties. This should also be within the spirit of the TRA.
2. **Conflicts in Regard to Import Relief Can Be Reduced**

Anti-dumping measures adopted by the United States are one of the most frequently mentioned areas causing bilateral trade disputes. In 1998, there were at least nine cases involving either antidumping measures still in effect or the prospective issuance of anti-dumping orders. The following chart indicates the situation:  

<table>
<thead>
<tr>
<th>Depart of Commerce Case Number</th>
<th>Product</th>
<th>Investigation Initiated</th>
<th>Preliminary Result</th>
<th>Final Decision</th>
<th>Date of Order</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-583-824</td>
<td>Polyvinyl Alcohol</td>
<td>04/04/95</td>
<td>10/10/95</td>
<td>03/29/96</td>
<td>05/14/96</td>
</tr>
<tr>
<td>A-583-825</td>
<td>Melamine Institutional Dinnerware</td>
<td>03/01/96</td>
<td>08/22/96</td>
<td>01/13/97 (02/05/97 Amended)</td>
<td>02/25/97</td>
</tr>
<tr>
<td>A-583-826</td>
<td>Collated Roofing Nails</td>
<td>12/20/96</td>
<td>05/12/97</td>
<td>10/01/97 (11/19/97 Amended)</td>
<td>11/19/97</td>
</tr>
<tr>
<td>A-583-827</td>
<td>Static Random Access Memory Semiconductors</td>
<td>03/21/97</td>
<td>10/01/97</td>
<td>02/23/98 (04/16/98 Amended)</td>
<td>04/16/98</td>
</tr>
<tr>
<td>A-583-828</td>
<td>Stainless Steel Wire Rod</td>
<td>08/26/97</td>
<td>03/05/98</td>
<td>07/22/98 (09/15/98 Amended)</td>
<td>09/15/98</td>
</tr>
<tr>
<td>A-583-829</td>
<td>Stainless Steel Round Wire</td>
<td>05/12/98</td>
<td>11/18/98</td>
<td>(before 04/02/99)</td>
<td></td>
</tr>
<tr>
<td>A-583-830</td>
<td>Stainless Steel Plate in Coils</td>
<td>04/27/98</td>
<td>10/28/98</td>
<td>(before 03/19/99)</td>
<td></td>
</tr>
<tr>
<td>A-583-831</td>
<td>Stainless Steel Sheet and Strip in Coils</td>
<td>07/13/98</td>
<td>12/18/98</td>
<td>(before 05/07/99)</td>
<td></td>
</tr>
<tr>
<td>A-583-832</td>
<td>Dynamic Random Access Memory Semiconductors</td>
<td>12/13/98</td>
<td>(before 04/01/99)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

It is understandable that the adoption of anti-dumping measures is a right recognized by international agreements and practices. Thus, it is unrealistic to expect that any one particular country will automatically abandon the use of such measures. However, it is also apparent that the measures are in many situations misused. We understand that whether the measures are misused is an issue concerning the application of domestic trade law. But a bilateral

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10. This chart is cited from *Review and Prospective of 1998 ROC-US Economic and Trade Relationship*, prepared in Chinese language by the Economic Section of the Representative Office stationed in the United States.
framework should be able to provide a channel to prevent or reduce the misuse of anti-dumping. Excessive use of such measures might never promote a close and friendly commercial relationship as anticipated by the TRA. In this regard, the TIFA could have included the practice of anti-dumping as a priority topic in the agenda to allow both parties to conduct regular reviews.

3. More Substantive Works Could Be Put Forth onto the TIFA Framework

As indicated above, TIFA provides a very useful channel for both sides to interact. However, it should be noted that there is no substantive obligation to do so stipulated in TIFA. For this reason, TIFA can be used either to serve as an effective channel for bilateral interaction, or as an unnecessary arrangement with only a symbolic function. For the first two years after the signing of the TIFA agreement, there were two consecutive meetings held under this framework. But the third annual meeting was held two years after the second meeting (i.e. in 1998). It seems that the United States side did not intend to conduct their interaction under the TIFA framework on a regular basis. Neither side is necessarily to be blamed. However, it appears that TIFA is one of the most important frameworks established between Taiwan and the United States. If both sides do not value it, TIFA may become less and less utilized and could eventually become a redundant piece of paper.

It must be understood that the TRA itself can not be self-fulfilling in all situations. It needs a lot of supplements to carry out its stated goals. The TIFA is one of the most important supplementary legal documents to fulfill TRA's goals. Both parties need to use this framework in a more systematic way.

V. CONCLUSION

The TRA has played a very positive role in the field of bilateral trade. It provides a very solid basis for both sides to carry on their commercial relationships. As a matter of law, the TRA comprises a set of domestic rules governing the government activities of the United States. However, it is in fact a law with significant influence on bilateral relations and even on Taiwan's domestic practices. Basically, the Act has been very supportive of the development of Taiwan for the last twenty years. However, we found that there is still room for further improvement of trade relations under the framework established by the TRA. Some of the problems relate to the nature of the practices of the United States government, while
other problems concern the quality of relations. The preliminary research in this paper finds that the TRA allows and anticipates that the executive branch of the United States does more than what has been done. This paper offers suggestions for both sides to consider the enhancement of bilateral trade relations under the framework of the TRA. It also serves as a reminder that the nature and the quality of those relations deserve better management under the TRA.
Chapter 6

THE TRADE RELATIONSHIP BETWEEN TAIWAN AND THE U.S.

Da-Nien Liu and Wen-Jung Lien*

I. INTRODUCTION

In any international comparison of economic performance during the past four decades, Taiwan invariably stands out. Sustained high rates of economic growth transformed Taiwan from an agrarian and backward society to a thriving industrial economy. Along the way, Taiwan achieved a persistent reduction in poverty and inequality, low inflation and unemployment rates and significant improvement in almost all the social welfare indicators.

The development success story of Taiwan, which is not endowed with abundant natural resources, has drawn substantially increased attention in recent years from policy-makers and academicians in both advanced and less developed economies. Undoubtedly, the economic success is linked to the development policies followed by Taiwan. Recognizing the importance of promoting exports in the early stages of development, Taiwan switched from import substitution strategies to export-oriented strategies in the late 1950s, which have been a driving force for expansion in the decades since1.

In the global market, the U.S. was a major source of Taiwan’s exports. Under the leadership of the U.S., the multilateral trading system established after World War II has substantially reduced trade barriers, especially in the industrialized countries. Taiwan has taken full advantage of these reductions to achieve remarkable economic success through an expansion of exports, especially to the United States. In fact, the U.S. market was an indispensable factor in the success of its export-oriented strategies. Taiwan’s trade structure can be characterized by a high dependency upon the U.S. mar-

* Da-Nien Liu is the Director of International Division, Chuang-Hua Institute for Economic Research, Taipei, Taiwan. Wen-Jung Lien is the Associate Director of International Division, Chuang-Hua Institute for Economic Research, Taipei, Taiwan.

1. For more details regarding the contribution of exports to economic development in Taiwan, see Kuo (1983).
ket, and this fact has not been influenced by the bilateral political relationship between the two countries.

The diplomatic relationship between the U.S. and Taiwan was terminated in 1979 and the Taiwan Relations Act (TRA) was signed into law in the same year. The TRA has provided a legal basis to govern bilateral relations between the two countries. The essence of the TRA is political and diplomatic in nature. As far as Taiwan is concerned, the enactment of the TRA could ensure the security and stability of Taiwan in the absence of diplomatic relations. In addition, the TRA had made the bilateral trade relations possible to be carried on as usual. For the past two decades, the evolution of the bilateral trade between the U.S. and Taiwan was mainly driven by the industrial development of Taiwan. In particular, the accelerating growth of Taiwan's outward investment has profound impact on the trade pattern of Taiwan.

The objective here is to analyze the trade structure of Taiwan from an economic perspective. We focus on the bilateral trade relationship between the U.S. and Taiwan. Following the introductory section, Section II discusses the trade structure of Taiwan, while Section III examines the bilateral trade relationship between Taiwan and the U.S. The consequences of bilateral trade between the U.S. and Taiwan is analyzed in Section IV. Finally, some concluding remarks are presented in Section V.

II. THE TRADE STRUCTURE OF TAIWAN

Before analyzing the bilateral trade relationship between the U.S. and Taiwan, it is useful to have an understanding of the trade structure of Taiwan. This information can serve as a basis for understanding bilateral trade between these two economies. Hence, in this section we will first discuss the trade trends of Taiwan, and then follow it with a discussion of the bilateral trade relationship between the two countries.

Taiwan's remarkable performance in trade and the success of its export-oriented strategy are frequently cited as a model for other developing countries. The achievements can be seen from Table 1. Taiwan's exports and imports have grown much faster than gross national product (GNP), so the share of exports and imports in GNP has increased significantly. Table 1 also indicates that the growth rates of exports, imports and GNP in the export-oriented period (approximately from the 1960s to the present) have been much higher than those in the import substitution period (approximately from 1950 to 1960). It is tempting to conclude that the out-
standing trade performance during the export-oriented period has played a dominant role in the success of Taiwan's economic development.

The rapid growth of Taiwan's exports during the export-oriented period was led by industrial products. This can be observed from Table 2. In 1960, approximately the year when Taiwan started undertaking its export-oriented policy, exports of industrial products accounted for about one-third of total exports. Processed agricultural products were the major exports of Taiwan at that time. The success of the export-oriented policy changed the export composition noticeably. By 1985, industrial products were responsible for nearly 94% of total exports. On the other hand, the contribution of agricultural products to exports was trivial. The trend has changed very little since then.

Table 1. The Share of Trade and Growth Rates in Taiwan

<table>
<thead>
<tr>
<th>Period</th>
<th>Growth Rate of GNP</th>
<th>Growth Rate of Exports in GNP</th>
<th>Share of Exports in GNP</th>
<th>Growth Rate of Imports</th>
<th>Share of Imports in GNP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1971-1981</td>
<td>21.85</td>
<td>27.07</td>
<td>47.81 (in 1971)</td>
<td>27.66</td>
<td>44.83 (in 1971)</td>
</tr>
</tbody>
</table>


The structure of exports for Taiwan can be further broken down into ten SITC (Standard International Tariff Classification) categories. As Table 3 shows, we observe that the export concentration is significant. In 1980, miscellaneous manufactured articles (SITC 8), machinery and transport equipment (SITC 7) and manufactured goods classified by material (SITC 6) accounted for about 85% of total exports. The phenomenon of export concentration has even been prominent since then and the share of the three top principal products to total exports increased to almost 90% in 1997.
Table 2. Composition of Taiwan’s Exports

<table>
<thead>
<tr>
<th>Period</th>
<th>Agricultural Products</th>
<th>Processed Agricultural Products</th>
<th>Industrial Products</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>12.0</td>
<td>55.7</td>
<td>32.3</td>
</tr>
<tr>
<td>1965</td>
<td>23.6</td>
<td>30.4</td>
<td>46.0</td>
</tr>
<tr>
<td>1970</td>
<td>8.6</td>
<td>12.8</td>
<td>78.6</td>
</tr>
<tr>
<td>1975</td>
<td>5.6</td>
<td>10.8</td>
<td>83.6</td>
</tr>
<tr>
<td>1980</td>
<td>3.6</td>
<td>5.6</td>
<td>90.8</td>
</tr>
<tr>
<td>1985</td>
<td>1.6</td>
<td>4.5</td>
<td>93.9</td>
</tr>
<tr>
<td>1990</td>
<td>0.7</td>
<td>3.8</td>
<td>95.5</td>
</tr>
<tr>
<td>1995</td>
<td>0.4</td>
<td>3.4</td>
<td>96.2</td>
</tr>
<tr>
<td>1997</td>
<td>0.3</td>
<td>1.8</td>
<td>97.9</td>
</tr>
</tbody>
</table>

Source: as in Table 1.

In addition, Table 3 also reveals that machinery and transport equipment (SITC 7) have replaced miscellaneous manufactured articles (SITC 8) and have become the leading exports of Taiwan. In 1997, machinery and transport equipment’s share to total exports reached 52.42%, while the share of miscellaneous manufactured articles (SITC 8) dropped to only 14.09%. The changing trend of Taiwan’s exports also reflects the changing industrial structure of Taiwan. Textiles (mainly belonging to SITC 8) used to be the most important industry in Taiwan. In the early 1980s, however, through the inflow of foreign capital, the electronics industry (mainly belonging to SITC 7) quickly became Taiwan’s dominant industry and main exporter.

As for the composition of Taiwan’s imports, it can be seen from Table 4 that Taiwan’s imports are more diversified than its exports. Although capital goods, such as machinery and transport equipment (SITC 7), are the most important category of imports, Taiwan also relies upon other raw materials and consumption goods, such as food and live animals (SITC 0), crude materials (SITC 2), mineral fuels (SITC 3), chemicals and related products (SITC 5), and other miscellaneous manufactured articles (SITC 8).

Furthermore, it appears that we can observe a triangular trading structure in which Taiwan imports much of its needed producer and capital goods from Japan while exporting its final manufactured products to the U.S. market. As Table 5 and Table 6 illustrate, due to historical and geographical reasons, Japan was formerly the larg-
Table 3. Composition of Taiwan’s Exports (by SITC Classification)

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SITC 0</th>
<th>SITC 1</th>
<th>SITC 2</th>
<th>SITC 3</th>
<th>SITC 4</th>
<th>SITC 5</th>
<th>SITC 6</th>
<th>SITC 7</th>
<th>SITC 8</th>
<th>SITC 9</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>8.55</td>
<td>0.07</td>
<td>1.67</td>
<td>1.49</td>
<td>0.02</td>
<td>2.53</td>
<td>22.95</td>
<td>24.71</td>
<td>38.00</td>
<td>0.02</td>
</tr>
<tr>
<td>1985</td>
<td>5.60</td>
<td>0.04</td>
<td>1.86</td>
<td>1.78</td>
<td>0.01</td>
<td>2.52</td>
<td>21.57</td>
<td>27.86</td>
<td>38.76</td>
<td>0.01</td>
</tr>
<tr>
<td>1986</td>
<td>5.97</td>
<td>0.03</td>
<td>1.62</td>
<td>1.04</td>
<td>0.01</td>
<td>2.71</td>
<td>20.38</td>
<td>29.10</td>
<td>39.13</td>
<td>0.01</td>
</tr>
<tr>
<td>1987</td>
<td>5.51</td>
<td>0.03</td>
<td>1.45</td>
<td>0.81</td>
<td>0.01</td>
<td>2.64</td>
<td>20.12</td>
<td>32.28</td>
<td>37.15</td>
<td>0.01</td>
</tr>
<tr>
<td>1988</td>
<td>4.90</td>
<td>0.05</td>
<td>1.68</td>
<td>1.62</td>
<td>0.01</td>
<td>3.45</td>
<td>20.65</td>
<td>35.24</td>
<td>33.39</td>
<td>0.01</td>
</tr>
<tr>
<td>1989</td>
<td>4.09</td>
<td>0.04</td>
<td>1.84</td>
<td>0.60</td>
<td>0.01</td>
<td>3.64</td>
<td>20.78</td>
<td>37.08</td>
<td>31.76</td>
<td>0.15</td>
</tr>
<tr>
<td>1990</td>
<td>3.97</td>
<td>0.03</td>
<td>1.75</td>
<td>0.60</td>
<td>0.03</td>
<td>4.15</td>
<td>21.35</td>
<td>39.12</td>
<td>28.87</td>
<td>0.14</td>
</tr>
<tr>
<td>1991</td>
<td>4.14</td>
<td>0.06</td>
<td>1.63</td>
<td>0.58</td>
<td>0.02</td>
<td>4.59</td>
<td>21.51</td>
<td>39.17</td>
<td>28.16</td>
<td>0.14</td>
</tr>
<tr>
<td>1992</td>
<td>3.76</td>
<td>0.06</td>
<td>1.59</td>
<td>0.65</td>
<td>0.02</td>
<td>4.70</td>
<td>21.28</td>
<td>41.01</td>
<td>26.78</td>
<td>0.14</td>
</tr>
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<td>1993</td>
<td>3.65</td>
<td>0.06</td>
<td>1.49</td>
<td>0.68</td>
<td>0.02</td>
<td>5.08</td>
<td>21.80</td>
<td>44.20</td>
<td>22.90</td>
<td>0.12</td>
</tr>
<tr>
<td>1994</td>
<td>3.62</td>
<td>0.07</td>
<td>1.65</td>
<td>0.61</td>
<td>0.03</td>
<td>5.85</td>
<td>23.56</td>
<td>45.03</td>
<td>19.21</td>
<td>0.08</td>
</tr>
<tr>
<td>1995</td>
<td>3.35</td>
<td>0.06</td>
<td>1.81</td>
<td>1.70</td>
<td>0.03</td>
<td>6.76</td>
<td>23.22</td>
<td>48.10</td>
<td>15.89</td>
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<tr>
<td>1996</td>
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<td>1.64</td>
<td>0.90</td>
<td>0.04</td>
<td>6.13</td>
<td>22.77</td>
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<td>0.11</td>
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<td>1997</td>
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<td>1.62</td>
<td>0.95</td>
<td>0.03</td>
<td>5.77</td>
<td>23.30</td>
<td>52.42</td>
<td>14.09</td>
<td>0.10</td>
</tr>
</tbody>
</table>

Table 4. Composition of Taiwan’s Imports (by SITC Classification)

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SITC 0</th>
<th>SITC 1</th>
<th>SITC 2</th>
<th>SITC 3</th>
<th>SITC 4</th>
<th>SITC 5</th>
<th>SITC 6</th>
<th>SITC 7</th>
<th>SITC 8</th>
<th>SITC 9</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FOOD AND LIVE ANIMALS CHIEFLY FOR FOOD</td>
<td>BEVERAGES AND TOBACCO</td>
<td>CRUDE MATERIALS, INEDIBLES, EXCEPT FUELS</td>
<td>MINERAL FUELS, LUBRICANTS AND RELATED MATERIALS</td>
<td>MINERAL AND VEGETABLE OILS, FATS AND WAXES</td>
<td>CHEMICALS AND RELATED PRODUCTS, N.B.S.</td>
<td>MANUFACTURED GOODS CLASSIFIED CHIEFLY BY MATERIAL</td>
<td>MACHINERY AND TRANSPORT EQUIPMENT</td>
<td>MISCELLANEOUS MANUFACTURED ARTICLES</td>
<td>COMMODITIES AND TRANSACTIONS NOT CLASSIFIED ELSEWHERE</td>
</tr>
<tr>
<td>1980</td>
<td>6.10</td>
<td>0.52</td>
<td>13.69</td>
<td>25.49</td>
<td>0.24</td>
<td>9.45</td>
<td>12.25</td>
<td>27.92</td>
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<td>0.18</td>
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<tr>
<td>1985</td>
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<td>12.98</td>
<td>21.52</td>
<td>0.27</td>
<td>11.91</td>
<td>11.64</td>
<td>27.91</td>
<td>6.27</td>
<td>0.23</td>
</tr>
<tr>
<td>1986</td>
<td>5.51</td>
<td>0.43</td>
<td>13.19</td>
<td>13.01</td>
<td>0.23</td>
<td>14.51</td>
<td>14.21</td>
<td>32.40</td>
<td>6.30</td>
<td>0.22</td>
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<tr>
<td>1987</td>
<td>4.37</td>
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<td>11.78</td>
<td>10.58</td>
<td>0.17</td>
<td>13.38</td>
<td>14.51</td>
<td>34.68</td>
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<td>3.71</td>
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<td>1988</td>
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<td>7.95</td>
<td>0.14</td>
<td>12.71</td>
<td>14.46</td>
<td>32.92</td>
<td>6.58</td>
<td>10.61</td>
</tr>
<tr>
<td>1989</td>
<td>4.58</td>
<td>0.66</td>
<td>9.72</td>
<td>8.40</td>
<td>0.15</td>
<td>13.02</td>
<td>16.68</td>
<td>36.08</td>
<td>5.13</td>
<td>5.58</td>
</tr>
<tr>
<td>1990</td>
<td>4.62</td>
<td>0.54</td>
<td>8.12</td>
<td>10.88</td>
<td>0.18</td>
<td>12.64</td>
<td>15.45</td>
<td>36.96</td>
<td>5.83</td>
<td>4.78</td>
</tr>
<tr>
<td>1991</td>
<td>4.29</td>
<td>0.55</td>
<td>8.42</td>
<td>9.28</td>
<td>0.18</td>
<td>13.58</td>
<td>17.56</td>
<td>35.73</td>
<td>6.08</td>
<td>4.34</td>
</tr>
<tr>
<td>1992</td>
<td>4.15</td>
<td>0.66</td>
<td>7.08</td>
<td>7.79</td>
<td>0.18</td>
<td>11.95</td>
<td>17.16</td>
<td>39.32</td>
<td>6.42</td>
<td>5.32</td>
</tr>
<tr>
<td>1993</td>
<td>3.90</td>
<td>0.77</td>
<td>6.57</td>
<td>7.38</td>
<td>0.19</td>
<td>11.74</td>
<td>18.72</td>
<td>39.37</td>
<td>7.04</td>
<td>4.32</td>
</tr>
<tr>
<td>1994</td>
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<td>14.47</td>
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</table>

Source: as in Table 3.
est trade partner of Taiwan. Exports to the U.S. increased rapidly in the 1970s and the U.S. replaced Japan as Taiwan's largest export market. This change was accompanied by a concomitant increase in imports from Japan. However, this triangle has become modified in recent years. Such a triangular trading relationship was manifested in the 1970s and 1980s, when Japan and the U.S. were responsible for some 60% of the total trade of Taiwan. Europe and East Asia (Hong Kong and ASEAN5) have since emerged as major trade partners of Taiwan. The expansion of the European market was a result of the concerted efforts of the Taiwan government and entrepreneurs to diversify Taiwan's markets. The accelerating growth of exports to East Asia can be ascribed to the rapidly growing direct investment of Taiwan to this region. In 1992, Hong Kong surpassed Europe to become Taiwan's second largest export market.

**Table 5. Structure of Exports by Destination: Taiwan**

<table>
<thead>
<tr>
<th>Period</th>
<th>U.S.A.</th>
<th>Hong Kong</th>
<th>Japan</th>
<th>ASEAN 5*</th>
<th>Europe</th>
<th>Others</th>
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<td>15.5</td>
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* ASEAN 5 refers to Malaysia, Thailand, Indonesia, Singapore and the Philippines. Source: as in Table 1.
In summary, the export-oriented strategy led to a prosperous Taiwan economy, narrowing the gap between developed countries and Taiwan. As mentioned earlier, the trade structure of Taiwan has taken a triangular form. In the late 1980s, the triangular pattern shifted to a rectangular one in which East Asia had emerged as a new vertex. Moreover, significant industrial restructuring took place after 1987, changing Taiwan's export pattern further. In particular, direct foreign investment by Taiwan to Southeast Asia and mainland China has resulted in a reduction of exports to the United States and increased exports to Southeast Asia and mainland China. It is likely that such a transformation will continue as long as Taiwan's outward direct investment into these areas does not slow down.

### Table 6. Structure of Imports by Destination: Taiwan

<table>
<thead>
<tr>
<th>Period</th>
<th>U.S.A.</th>
<th>Hong Kong</th>
<th>Japan</th>
<th>ASEAN 5</th>
<th>Europe</th>
<th>Others</th>
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<td>18.9</td>
<td>22.4</td>
</tr>
</tbody>
</table>

ASEAN 5 refers to Malaysia, Thailand, Indonesia, Singapore and the Philippines. Source: as in Table 1.

III. BILATERAL TRADE BETWEEN THE U.S. AND TAIWAN

Table 7 shows the development of trade between the U.S. and Taiwan during the period 1961-1996. Bilateral trade has grown dramatically, from about US $132 million in 1960 to US $52,792 million in 1997, a nearly 400-fold increase over the period. This expeditious growth of total trade is due mainly to the sharp increase in exports from Taiwan to the U.S., which started to accelerate in the 1980s. On the other hand, Taiwan's imports from the U.S. did not expand as rapidly as its exports. According to Table 7, U.S. exports to Taiwan increased from US $113 million in 1960 to US $23,234 million in 1997, a 205-fold increase. During the same period, Taiwan's exports to the U.S. grew from US $19 million in 1960 to US $29,558 million in 1997, which represents a 6,556-fold increase. Likewise, Table 7 also shows that the U.S. has continued to record large trade deficits, and this imbalance was getting larger before 1987. It has been pointed out that some of this trade imbalance can be attributed to the trade restrictions imposed by the Taiwan government.

Taiwan's exports to the United States stagnated after 1987 because of the rapid and significant appreciation of its currency against the U.S. dollar. It was not until 1993 that Taiwan's exports to the United States regained their 1987 level. Taiwan imports from the United States, on the other hand, increased gradually during the same period. This resulted in a sharp decline in Taiwan's trade surplus against the United States, falling, in 1993, to US $6,864 million, or only about half of the 1987 level.

In the meantime, export market concentration has also shifted from the United States since the 1980s (see Table 5). The U.S. market share has increased steadily since the 1970s, reaching a peak of 48.8% in 1984, after which it started to decline. In 1990, the U.S. market share dropped to 32.4%, while in 1997 its share was lowered further to 24.2%.

Another interesting feature of the two counties' bilateral trading relationship is the decline of the U.S. share of Taiwan's imports (Table 6). In 1960, the U.S. share of Taiwan's imports was 38.1%, dropping to 23.9% in 1970, and remaining fairly stable ever since. On the other hand, the Japanese share in Taiwan's imports has gradually expanded since 1970, supplanting the U.S. as Taiwan's importer.

The composition of Taiwan's exports to the U.S. and of U.S. exports to Taiwan is listed in Tables 8 and 9, respectively. We can see that Taiwan's exports to the U.S. are concentrated mainly in the
Table 7. Bilateral Trade Between the U.S. and Taiwan

<table>
<thead>
<tr>
<th>Year</th>
<th>Exports to the U.S.</th>
<th>Imports from the U.S.</th>
<th>Total Trade Value</th>
<th>Trade Surplus of Taiwan</th>
</tr>
</thead>
<tbody>
<tr>
<td>1960</td>
<td>19</td>
<td>113</td>
<td>132</td>
<td>-94</td>
</tr>
<tr>
<td>1965</td>
<td>96</td>
<td>176</td>
<td>272</td>
<td>-80</td>
</tr>
<tr>
<td>1970</td>
<td>564</td>
<td>364</td>
<td>928</td>
<td>200</td>
</tr>
<tr>
<td>1975</td>
<td>1,823</td>
<td>1,652</td>
<td>3,475</td>
<td>171</td>
</tr>
<tr>
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<td>4,673</td>
<td>11,433</td>
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<tr>
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<td>4,746</td>
<td>19,519</td>
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<td>29,558</td>
<td>23,234</td>
<td>52,792</td>
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</table>

Source: as in Table 1.

area of machinery and transport equipment (SITC 7), miscellaneous manufactured articles (SITC 8) and commodities and transactions not classified elsewhere (SITC 9). As shown in Table 8, the degree of export concentration has been significant since the 1980s. Generally, Taiwan’s exports to the U.S. demonstrate a quite similar pattern as its overall exports. The share of the top three products made up about 95% of Taiwan’s total exports during the period. Among the top three products, machinery and transport equipment (SITC 7) has replaced miscellaneous manufactured articles (SITC 8) to become Taiwan’s number one export to the United States.

As for Taiwan’s imports from the United States, although machinery and transport equipment (SITC 7) is the dominant category, the concentration tendency is less significant. It should be noted that food and live animals chiefly for food (SITC 0) is also an important source of U.S. exports to Taiwan. This more or less re-
Trade Relationship Between Taiwan and the U.S. 137

reflects the fact that the Taiwan government has given preference to the United States in the area of the public procurement in agricultural products in an effort to reduce the U.S. trade surplus which has been growing since the 1980s.

IV. UNEVEN TRADE BARGAINING BETWEEN THE U.S. AND TAIWAN

Trade relations are of central importance to the U.S.-Taiwan relationship. As the sixth-largest trading partner of the United States, Taiwan represents the second largest market for the U.S. in Asia (next to Japan), and provides significant capital investments as well as an expanding market for future growth. However, the close trade connections between the U.S. and Taiwan have also generated some problems and friction. This is, of course, due to the trade imbalance between the two countries. Given the success of its export-oriented policy and high dependence on the U.S. market, Taiwan has accumulated a tremendous trade surplus against the U.S. The U.S. government believes that such a trade imbalance is the result of the relatively closed Taiwan market. Accordingly, the U.S. has, since the 1970s, pushed Taiwan to open up its trade regime. Based on its security reliance and for other political reasons, Taiwan often has to accept proposals from the U.S. to open its markets.

Taiwan, then, is not only one of the most heavily trade-dependent countries in the world, but also has a considerably high degree of trade dependence on a single market, that is, the United States. By contrast, the United States is one of the least trade-dependent countries in the world and its dependency on trade with Taiwan is relatively small. The less dependent partners in a two-way trade relationship can always extract special treatment from the more dependent trade partner through trade bargaining. A trade war between the United States and Taiwan, should it occur, would inflict substantially heavier costs on Taiwan than on the United States.

This asymmetric trade relationship is further intensified by Taiwan’s political reliance on the United States. The United States has long been the Taiwan’s security guarantor. Even though official diplomatic relations were terminated in 1979, Taiwan has always been and is still virtually completely dependent on the United States for deterring threats from mainland China. The significance of this particular situation with respect to trade issues lies with the
Table 8. The Structure of Taiwan’s Exports to the U.S.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SITE 0 FOOD AND LIVE ANIMALS CHIEFLY FOR FOOD</th>
<th>SITE 1 BEVERAGES AND TOBACCO</th>
<th>SITE 2 CRUDE MATERIALS, INEDIBLES, EXCEPT FUELS</th>
<th>SITE 3 MINERAL FUELS, LUBRICANTS AND RELATED MATERIALS</th>
<th>SITE 4 ANIMAL AND VEGETABLE OILS, FATS AND WAXES</th>
<th>SITE 5 CHEMICALS AND RELATED PRODUCTS, N.B.S.</th>
<th>SITE 6 MANUFACTURED GOODS CLASSIFIED CHIEFLY BY MATERIAL</th>
<th>SITE 7 MACHINERY AND TRANSPORT EQUIPMENT</th>
<th>SITE 8 MISCELLANEOUS MANUFACTURED ARTICLES</th>
<th>SITE 9 COMMODITIES AND TRANSACTIONS NOT CLASSIFIED ELSEWHERE</th>
<th>unit: %</th>
</tr>
</thead>
<tbody>
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<tr>
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<td>44.32</td>
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<tr>
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<td>0.38</td>
<td>0</td>
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<td>39.59</td>
<td>42.01</td>
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<tr>
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<td>13.77</td>
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<tr>
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<td>0.02</td>
<td>0.35</td>
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<td>1.68</td>
<td>13.93</td>
<td>43.85</td>
<td>37.7</td>
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<td>0.43</td>
<td>0</td>
<td>0.01</td>
<td>1.62</td>
<td>14.02</td>
<td>48.05</td>
<td>33.35</td>
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<td></td>
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<tr>
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<td>0</td>
<td>0.01</td>
<td>1.54</td>
<td>14.13</td>
<td>51.87</td>
<td>29.66</td>
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<td></td>
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<tr>
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<td>0.02</td>
<td>0.4</td>
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<td>0.01</td>
<td>1.41</td>
<td>13.26</td>
<td>57.12</td>
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</tr>
<tr>
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<td>0.97</td>
<td>0.02</td>
<td>0.36</td>
<td>0</td>
<td>0.01</td>
<td>1.38</td>
<td>12.78</td>
<td>59.89</td>
<td>23.04</td>
<td>1.54</td>
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Source: as in Table 3.
Table 9. The Structure of Taiwan's Imports from the U.S.  

<table>
<thead>
<tr>
<th>YEAR</th>
<th>SITC 0</th>
<th>SITC 1</th>
<th>SITC 2</th>
<th>SITC 3</th>
<th>SITC 4</th>
<th>SITC 5</th>
<th>SITC 6</th>
<th>SITC 7</th>
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<th>SITC 9</th>
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<tbody>
<tr>
<td>1961</td>
<td>18.39</td>
<td>1.87</td>
<td>34.3</td>
<td>1.6</td>
<td>2.14</td>
<td>6.38</td>
<td>9.52</td>
<td>22.01</td>
<td>2.34</td>
<td>1.45</td>
</tr>
<tr>
<td>1965</td>
<td>15.67</td>
<td>2.31</td>
<td>32.75</td>
<td>1.65</td>
<td>2.8</td>
<td>7.79</td>
<td>5.13</td>
<td>28.41</td>
<td>2.78</td>
<td>0.72</td>
</tr>
<tr>
<td>1970</td>
<td>10.54</td>
<td>2.59</td>
<td>29.2</td>
<td>0.69</td>
<td>1.69</td>
<td>8.41</td>
<td>7.46</td>
<td>34.51</td>
<td>4.17</td>
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</tr>
<tr>
<td>1975</td>
<td>11.71</td>
<td>1.79</td>
<td>26.36</td>
<td>0.48</td>
<td>0.65</td>
<td>8.1</td>
<td>9.16</td>
<td>37.73</td>
<td>3.62</td>
<td>0.41</td>
</tr>
<tr>
<td>1980</td>
<td>12.52</td>
<td>1.08</td>
<td>19.39</td>
<td>1.94</td>
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<td>13.59</td>
<td>6.8</td>
<td>39.22</td>
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<tr>
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<td>20.41</td>
<td>3.97</td>
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<td>13.07</td>
<td>4.35</td>
<td>36.75</td>
<td>4.38</td>
<td>1.5</td>
</tr>
<tr>
<td>1986</td>
<td>10.75</td>
<td>0.94</td>
<td>20.78</td>
<td>5.33</td>
<td>0.15</td>
<td>16.67</td>
<td>5.09</td>
<td>34.06</td>
<td>4.69</td>
<td>1.54</td>
</tr>
<tr>
<td>1987</td>
<td>8.57</td>
<td>2.27</td>
<td>18.95</td>
<td>4.94</td>
<td>0.11</td>
<td>17.22</td>
<td>4.8</td>
<td>36.33</td>
<td>4.88</td>
<td>1.94</td>
</tr>
<tr>
<td>1988</td>
<td>9.35</td>
<td>1.96</td>
<td>16.29</td>
<td>4.75</td>
<td>0.11</td>
<td>16.46</td>
<td>5.5</td>
<td>38.98</td>
<td>4.76</td>
<td>1.85</td>
</tr>
<tr>
<td>1989</td>
<td>9.2</td>
<td>1.58</td>
<td>12.34</td>
<td>4.77</td>
<td>0.11</td>
<td>15.88</td>
<td>7</td>
<td>40.55</td>
<td>4.84</td>
<td>3.73</td>
</tr>
<tr>
<td>1990</td>
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<td>1.49</td>
<td>11.34</td>
<td>4.41</td>
<td>0.05</td>
<td>13.73</td>
<td>7.37</td>
<td>43.24</td>
<td>7.13</td>
<td>2.24</td>
</tr>
<tr>
<td>1991</td>
<td>9.04</td>
<td>1.29</td>
<td>11.01</td>
<td>3.47</td>
<td>0.03</td>
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<td>8.31</td>
<td>43.15</td>
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<td>2.5</td>
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<tr>
<td>1992</td>
<td>8.25</td>
<td>0.94</td>
<td>8.43</td>
<td>2.79</td>
<td>0.06</td>
<td>13.68</td>
<td>5.92</td>
<td>47.25</td>
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<td>5.51</td>
</tr>
<tr>
<td>1993</td>
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<td>8.17</td>
<td>2.88</td>
<td>0.06</td>
<td>12.84</td>
<td>5.87</td>
<td>48.38</td>
<td>8.27</td>
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</tr>
<tr>
<td>1994</td>
<td>8.19</td>
<td>0.9</td>
<td>8.04</td>
<td>2.31</td>
<td>0.12</td>
<td>14.97</td>
<td>5.78</td>
<td>45.89</td>
<td>8.27</td>
<td>5.33</td>
</tr>
<tr>
<td>1995</td>
<td>8.65</td>
<td>0.71</td>
<td>9.23</td>
<td>1.63</td>
<td>0.15</td>
<td>15.93</td>
<td>7.09</td>
<td>45.62</td>
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<tr>
<td>1996</td>
<td>11.16</td>
<td>0.73</td>
<td>9.47</td>
<td>2.19</td>
<td>0.08</td>
<td>13.64</td>
<td>6.31</td>
<td>45.1</td>
<td>8.54</td>
<td>2.78</td>
</tr>
</tbody>
</table>

Source: as in Table 3.
trade imbalance between the two sides. Consequently, the development of the trade relationship between Taiwan and the U.S. can be characterized as a "proposer-follower" type, where Taiwan has to meet U.S. demands to some extent. In consideration of this situation, three issues come to light.

(i) Bilateral Trade Negotiations

In the second half of the 1970s, Taiwan's trade surplus against the U.S. expanded at an unprecedented level. This fact has drawn considerable attention from the U.S. Congress and U.S. administrative departments. It is generally believed that the relatively protected Taiwan market is the most responsible for the limited amount of imports from the U.S. to Taiwan. Moreover, Taiwan has benefited from the Generalized System of Preferences (GSP) granted by the U.S.\(^3\) The situation was clearly jarring against the principle of fair trade as advocated by the U.S. Consequently, the United States aggressively began to seek greater market access to Taiwan. Bilateral trade negotiations started in 1978 under a U.S. initiative, and were to become the most important force shaping Taiwan's trade policy in the 1980s.

The U.S. set the agenda for the negotiations, focusing on market liberalization in Taiwan. Taiwan therefore had to justify its reasons for maintaining a protected market. The bargaining process was always one-sided, however with the U.S. as the dominant power. The reason why Taiwan continued to participate in these no-win negotiations year after year is obvious: the country had to maintain close ties with the U.S., both politically and economically, and it was essential to make minimum concessions to keep the U.S. satisfied and, at the same time, to lessen the harm and the adjustment costs of the domestic economy resulting from liberalization.\(^4\)

The result of this uneven bargaining situation is clear: Taiwan has to accept most of the U.S. proposals. It can be seen from Table 10 that from 1978 to 1989, Taiwan and the U.S. undertook nine rounds of tariff negotiations. Overall, the U.S. has asked Taiwan to grant tariff concessions for 1,807 items, and Taiwan has granted concessions on 1,314 items in response. The overall ratio of acceptance was 73%. Particularly, in 1978, in the first round of negotiations, Taiwan has received all the U.S. requested products. While in

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3. In 1989, along with Korea, Hong Kong and Singapore, Taiwan graduated from the U.S. GSP.
1986 and 1987, Taiwan accepted tariffs on 80% of the products listed by the United States.

**Table 10. U.S.-Taiwan Tariff Negotiations**

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
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<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Items requested by the U.S.</td>
<td></td>
<td>339</td>
<td>49</td>
<td>109</td>
<td>174</td>
<td>71</td>
<td>66</td>
<td>267</td>
<td>174</td>
<td>558</td>
</tr>
<tr>
<td>Items accepted by Taiwan</td>
<td></td>
<td>339</td>
<td>28</td>
<td>59</td>
<td>112</td>
<td>58</td>
<td>62</td>
<td>239</td>
<td>51</td>
<td>336</td>
</tr>
<tr>
<td>Acceptance rate</td>
<td></td>
<td>100%</td>
<td>57%</td>
<td>54%</td>
<td>64%</td>
<td>82%</td>
<td>94%</td>
<td>90%</td>
<td>29%</td>
<td>66%</td>
</tr>
</tbody>
</table>

Source: Ministry of Finance.

Such extensive concessions have inevitably aroused the dissatisfaction and even anger of domestic interest groups. Three groups generally put pressure on the government through legislative channels or by organizing demonstrations. As a result, the Taiwan government has sometimes hesitated on concessions, leading to trade confrontations with the U.S. and at home. The most serious domestic trade confrontation occurred in 1988, when the Taiwan government agreed to repeal the newly imposed import licensing controls on turkey meat. This decision led to demonstrations by chicken farmers, which eventually turned into a bloody street riot on May 20, 1988. At this point, the Taiwan government wavered on its decision, and was immediately put on the 301 trade retaliation list by the United States, bringing the dispute into the international arena. In the end the Taiwan government was forced to meet U.S. demands and lifted the import restrictions.

**(ii) Intellectual Property Rights**

Intellectual Property Rights (IPR) is another important issue characterizing the U.S.-Taiwan trade relationship. Strengthening the protection of American intellectual property rights around the world through multilateral and bilateral negotiations has been at the forefront of the U.S. trade agenda since the 1980s. The importance of IPR was further increased after the enactment of the 1988 U.S. Omnibus Trade and Competitiveness Act, which included a special provision (the so-called Special 301) which would target trade partners failing to respect IPR.
Like other developing countries, Taiwan was notorious for commodity counterfeiting and other kinds of IPR abuse. Such violations of IPR were tolerated by the United States when Taiwan was an underdeveloped economy. However, the United States began to pay attention to Taiwan's infringement of IPR when Taiwan's trade surplus surged in the early 1980s. The United States perceived that the rapidly increasing trade surplus of Taiwan was in part attributable to the Taiwan's failure to protect IPR. The United States, therefore, began to pressure Taiwan to implement IPR protection measures.

The subjects covered in the U.S.-Taiwan IPR negotiations were wide-ranging. The U.S. first concern was commodity counterfeiting and patents, later shifting its attentions to textbook, computer software, motion picture, videotape and compact disk copyright issues. In response, the Taiwan government amended its relevant laws and regulations and also established the National Anti-counterfeiting Committee in order to protect IPR. The concerted efforts by the Taiwan government have considerably reduced the degree of IPR abuse in Taiwan. Given the complex nature of IPR, however, Taiwan has remained on the U.S. Special 301 list for most of the years between 1989 and 1998 (Table 11).

Table 11. The Status of Taiwan on the Special 301 List*

<table>
<thead>
<tr>
<th>Year</th>
<th>Status</th>
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</thead>
<tbody>
<tr>
<td>1989</td>
<td>Priority Watch List Country</td>
</tr>
<tr>
<td>1990</td>
<td>Watch List Country</td>
</tr>
<tr>
<td>1991</td>
<td>Watch List Country</td>
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<td>Priority Watch List Country</td>
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<td>Priority Watch List Country</td>
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<tr>
<td>1994</td>
<td>Watch List Country</td>
</tr>
<tr>
<td>1995</td>
<td>Watch List Country</td>
</tr>
<tr>
<td>1996</td>
<td>Removed from the List</td>
</tr>
<tr>
<td>1997</td>
<td>Removed from the List</td>
</tr>
<tr>
<td>1998</td>
<td>Watch List Country</td>
</tr>
</tbody>
</table>

Source: Compiled by the author.

* Special 301 list categories can be generally classified into priority foreign country, priority watch list country, watch list country and other observation country.
(iii) The Exchange Rate

The issue of the exchange rate has also played an important role in U.S.-Taiwan trade relations. Compared to tariffs and non-tariff barriers, the exchange rate was not designed for specific industries, but the volatility of the exchange rate has a profound impact on the domestic economy.

In the second half of the 1980s, Taiwan’s trade surplus with the U.S. increased significantly. In reaction, in addition to forcing Taiwan to open its markets, the U.S. government also expressed concern about Taiwan’s exchange rate policy. Several exchange rate negotiations have taken place. The U.S. government believes that the New Taiwan dollar is significantly undervalued and has urged monetary authorities to appreciate the value of the NT dollar accordingly. Taiwan’s monetary authorities responded to U.S. pressure, and the NT dollar consequently appreciated more than 40% from 1985 to 1987.

The sharp appreciation of the NT dollar, together with rapidly rising wages and land prices, environmental and labor disputes, and a severe shortage of blue-collar workers, caused Taiwan’s overseas direct investment to increase in leaps and bounds. Many labor-intensive industries have moved their production facilities abroad. Taiwan’s foreign direct investment has mainly been concentrated in Southeast Asian countries, later shifting to mainland China. As a result of these massive investments, Taiwan’s trade structure has shifted toward the Asian region, and this has in turn led to a change in Taiwan’s domestic industrial structure.

(iv) Financial Services Sector

Compared to the industrial sector, the financial service sector in Taiwan has more entry barriers and government regulations. Accordingly, pressuring Taiwan to open its financial services sector has been a high priority of U.S. trade negotiators. The liberalization of financial services in Taiwan has been prompted by the United States every year since trade consultations between the two countries began in 1978.

Faced with this continual and considerable pressure from the U.S., the Taiwan government eventually had to respond to appease the dissatisfaction of the U.S. Therefore, the banking and insurance sectors have been liberalized gradually. In the banking sector, prior to liberalization, all banks on the island were publicly-owned. The government restricted the establishment of private local banks as
well as the entry of foreign banks. The banking sector could be characterized as being highly oligopolistic, drawing intensive criticism for the resulting inefficiency of its operations. The government's first liberalization measures lifted restrictions on the domestic private sector, allowing it to participate in the banking business. The new openness has changed the environment of the banking sector noticeably, as public-owned banks started to feel competitive pressure from their local counterparts and undertook to adjust their operations accordingly. This transition was conducive to further liberalization in the banking sector. The government's next step was to permit the entry of American banks into the Taiwan market. At the inception of this measure, the activities that the U.S. banks could undertake were highly limited. For instance, the number of branches and lending and liability activities were subject to stringent regulations. National treatment status was not granted to foreign banks until the government was satisfied that the domestic banks were capable of competing with their foreign counterparts.

As for the liberalization of the insurance sector in Taiwan, it followed a pattern similar to that of banking sector liberalization. First, the government allowed the entry into the local insurance market of U.S. insurance companies, later granting them national treatment status. In addition to the banking and insurance sectors, the Taiwan government also liberalized the securities market, allowing foreign firms to participate in securities and stock market activities. Most recently, the Taiwan government has also been gradually liberalizing its telecommunication sector.

In summary, because of a decline in its hegemonic power, the United States has aggressively sought greater global market liberalization in order to reduce its huge trade deficit and to uphold the concept of fair trade. U.S.-Taiwan trade negotiations were initiated by the United States as a means of achieving this goal.

The nature of these negotiations is asymmetric. From the perspective of the United States, given its dominant bargaining position, it was able to fulfill most of its objectives through these negotiations. Taiwan's experience in negotiating with the United States, meanwhile, indicates that a small country with a weak bargaining position has great difficulty defending its domestic market. As a result, Taiwan was forced to open its domestic market to a considerable extent. This unexpected degree of liberalization has brought about several consequences.
First, the major accomplishment of U.S.-Taiwan negotiations is that the overall level of Taiwan’s tariffs has been substantially reduced. By 1990, Taiwan’s tariff rate levels were already close to those found in advanced industrialized countries, even though Taiwan had not undergone tariff negotiations through multilateral organizations (for example, GATT or WTO). In this regard, U.S. pressure helped improve the efficiency of Taiwan’s markets in the long run.

Secondly, U.S.-Taiwan bilateral trade negotiations strengthened Taiwan’s commitment to protecting intellectual property rights and also facilitated the modernization of the administration and enforcement of IPR. This progress has certainly led to an improvement in Taiwan’s international reputation on IPR.

Unfortunately, U.S.-Taiwan trade negotiations have also generated some negative side effects. The most noticeable of these is related to the favorable trade conditions offered to the U.S. but not to other countries. As we have discussed, during U.S.-Taiwan negotiations, certain concessions made by the Taiwan government were only applicable to the United States and were not applicable at a multilateral level. The United States therefore enjoys a preferential position in Taiwan’s import market. This phenomenon is particularly prevalent in the agricultural and financial sectors. When Taiwan entered into the multilateral level of negotiations (WTO and APEC) in the 1990s, U.S. preferential treatment appeared to be a problem for Taiwan. This is because concessions on a Most-Favored-Nation basis increase the adjustment costs of domestic industry, and this issue has become a major challenge for Taiwan trade negotiators.

V. CONCLUSION

This paper analyzes U.S.-Taiwan trade relations. It is generally assumed that Taiwan has benefited from the U.S. during the course of its development. In the early years of the development of the Taiwan economy, U.S. aid was an important source of disposable domestic savings. Subsequently, when Taiwan shifted from import substitution to an export promotion policy, the U.S. market served as a sponge for Taiwan’s exports. This high trade dependency of Taiwan on the U.S. has not been affected by the drastic change of the political relationship between the two countries. The enactment of the TRA was essential to secure Taiwan’s stability and

prosperity. It is apparent that economic reasons are the dominant factors in determining the bilateral trade relations between the U.S. and Taiwan. Actually, the trade relationship has intensified after the termination of diplomatic ties. As a result, Taiwan built up a massive trade surplus to the dissatisfaction of the U.S. The U.S. government therefore started to pressure Taiwan to allow greater market access and to undertake liberalization. Through bilateral negotiation, Taiwan's market was significantly liberalized, and this has, on occasion, led to trade disputes and even confrontations between the U.S. and Taiwan.

In recent years, as the mainland China economy has undergone substantial transformation and as the Taiwan government has gradually relaxed its policy toward mainland China, bilateral trade between these two regions has begun to flourish. The diversion of exports from the U.S. to mainland China has not undermined the importance of the U.S. to Taiwan's economy, however. Although Taiwanese firms have made massive investments in Southeast Asia and mainland China since the late 1980s, the U.S. market remains the most important export destination for these firms. In this regard, it is expected that the United States and Taiwan will continue to maintain an intensive trade as well as economic relationship in the future.

Moreover, Taiwan has over recent years made sterling efforts to join multilateral economic and trade organizations. In January 1990, Taiwan filed an application to join the GATT, and at present it enjoys observer status at the WTO. In November 1991, Taiwan was admitted to APEC. The main reason behind Taiwan's eagerness to join various multilateral international organizations is not only a desire to increase its political visibility in the international arena, but also a desire to forge trade initiatives and commitments on a multilateral basis in order that it may start to meet the standards of free and fair trade from the viewpoint of the international community.

REFERENCES


Chapter 7

NEW IDENTITY, OLD SYSTEM AND THE RELEVANCE OF LAW: TAIWAN AFTER TWO DECADES OF THE TAIWAN RELATIONS ACT

Lawrence S. Liu*

I. INTRODUCTION

When the Taiwan Relations Act (TRA) was enacted in 1979, Prof. Louis Henkin wrote in the beginning of his classic book on international law, How Nations Behave, “[I]n relations between nations, the progress of civilization may be seen as a movement from force to diplomacy, from diplomacy to law.” This seemingly succinct statement describes what is essentially not the post-war external relations of the Republic of China (ROC) on Taiwan. In modernizing herself and contributing her share to the progress of humanity and civilization, the ROC has not received legal treatment as a full-fledged nation in the last several decades by as many fellow nations as she deserves. This undesirable situation has significant ramifications for the collective self-identity of Taiwan’s citizens, the search for her international identity, and the developing political, economic and social system (way of life) of this rapidly modernizing Chinese state. Although not delivered in the most diplomatically and geo-politically acceptable way, statements made by outgoing President Lee Teng-Hui on July 9, 1999 and since — that Taiwan and China have a “special state-to-state relationship” — show both the frustrations of the Taiwanese people and the challenge they face.

A. TRA and Trilateral Discourse

While Taiwan does not always receive formal diplomatic and legal treatment by fellow nations, through trade and cultural exchanges she maintains quasi-legal and cordial, formidable substantive relations with most other nations. The most important — and

* Partner, Lee and Li, Attorneys at Law, and Professor of Law, Soochow University, Graduate School of Law and National Taiwan University, School of Management, Taipei, Taiwan.
unique — of these relations is that with the United States. The TRA forms the centerpiece of this relation. Enacted by the United States Congress in the wake of the U.S. shift of recognition from the ROC to the People’s Republic of China (PRC), the TRA is an amazingly unique legislation of American foreign policy that seeks to offer some commitment to the security and prosperity of Taiwan.

To be sure, it is difficult to legislate foreign policy. However, as the legislated foreign policy instrument of a superpowerful third party ultimately concerned with its own national interest, the TRA sought to preserve the bargaining position of an alternative system — an alternative way of life — for Taiwan in her ongoing cross-strait interactions with China. The substantive and symbolic significance of the TRA, however, transcends the solution of the Taiwan-China issue. Since the missile crisis of 1995-96 across the Taiwan Strait and President Bill Clinton’s 1998 visit in which he made the “new three no’s” announcement, the TRA’s continued vitality, Chinese and Taiwanese reactions to it, and related American foreign policy all have a profound impact on regional security.

The TRA’s aspiration for a peaceful solution to the Taiwan-China issue, a stated cornerstone of the American diplomatic shift in 1979, should be viewed in the totality of the triangular relationship between the U.S., ROC and PRC. Specifically, China has proposed the “one country, two systems” model to reunify Taiwan. Despite loosening controls over contacts with China since 1987 in preparation for a well-measured plan for ultimate reunification with China, the ROC on Taiwan has flatly rejected this model, which is taking shape now in Hong Kong and soon in Macau.

The “one country, two systems” formula calls for a single political identity as its centerpiece. The two alternative systems form a vertical relationship, with the dominant system granting the subsidiary system a high degree of local autonomy for an interim period (of, say, fifty years) before the latter’s assimilation into the former. In the case of Hong Kong, a separate but subsidiary international identity has been granted to make the “two systems” part of the formulation workable. Taiwan’s main opposition to this formulation lies in its centrist, dominant and monolithic nature.

The two decades after the TRA’s enactment and the “one country, two systems” formulation saw great changes around the world and across the Taiwan Strait. To cite a few examples, they include the fall of the Berlin Wall, disintegration of the former Soviet Union, and German reunification. In contrast with the “June 4” setback of the democratic movement in China, one observes the
emergence of multi-party democracy and rapid political and social changes in Taiwan. The gradual contacts and dialogue coupled with significant indirect investment and trade by Taiwanese businessmen, however, did not prevent the 1995-96 Chinese military exercise and missile tests across the Taiwan Strait. Such changes and their ramifications for the future of the Chinese reunification issue have been examined primarily in political terms. However, other perspectives may also enrich this discourse. This study, therefore, examines the relevance of law in understanding and hopefully resolving this thorny issue.

B. Relevance of Law

I am particularly interested in how Taiwan's legal development in the twenty years since the TRA's enactment has changed her society, and how such development could affect the intricacy and tension between identity and system, the two themes that dominate this trilateral discourse. To this end, this study presents a number of observations and tentative arguments. First, one observation is that law (including administrative practice, which for all practical purposes is equivalent to law) has been used to solidify and reinforce citizens' self-identities. If the essence of law is legitimacy and equality, it is profoundly relevant to the search by many in Taiwan for a new self-identity in the last twenty years. The many challenges brought on by globalization and modernization have diluted the importance of self-identities of individuals around the world. Examples of factors viewed as less important now are national origin, ascribed or inherited status, and even gender. But this is not necessarily the case for Taiwan where it is important to develop a cohesive self-identity among citizens to redress diplomatic isolation imposed by China.

Such solidarity is now also achieved in terms of the new identities of some Taiwanese citizens (such as the "New Taiwanese" touted in the 1994 Taiwan gubernatorial and 1998 Taipei mayoral elections). The social psychology of this self-identity in turn informs the receptiveness of various solutions to the China-Taiwan issue (such as one China, one China and one Taiwan, two Chinas, or one temporarily divided China).

Second, law is more frequently used to craft, refine and sustain a sophisticated set of public, economic and social institutions in a political system. This is why Taiwan's argument of placing the reunification issue on institutional terms deserves more following. And this is not merely an ethical or moral proposition, which has
not had much sympathy in foreign policy. Where enlightened and
effective systems embodied and reinforced by the rule of law are
allowed to evolve and integrate, the ultimate political arrangements
are more stable and rewarding than imposed identities.

Third, it appears that improving the system, solidifying collective self-identity, and exploring ways to gain a more prominent international identity are part and parcel of the same program. However, increasingly in Taiwan, the issue is framed as a new, modernized system in competition with the old, traditional system. In their search for modernity, the Taiwanese have irrevocably chosen the following model: a liberal democracy reinforced by the rule of law under a system of a market economy and a civil society enjoying pluralistic external relations. To be sure, Taiwan still has a long way to go to perfect the system she has embraced.

The old system, on the other hand, is identified as a centrist, authoritarian polity restricting private economic and social initiatives and monopolizing external relations. In a recent interview by the Far Eastern Economic Review, the former commander of American forces in the Asia-Pacific region, Adm. Joseph Prueher, thinks “the Chinese are seeking to revive the ancient concept of the Middle Kingdom.” “The Chinese believe they are the hub of the region,” he said. “At some point in the future, they would like to have everyone in the region have to have China’s approval for whatever they might want to do.” (Halloran, 1999) For ethnic Chinese across the Taiwan Strait, the ultimate task is whether and how the new system and way of life emerging from Taiwan would transform the traditional Chinese system and way of life.

In sum, by maintaining de facto recognition of Taiwan, the TRA thus subtly chips away the de jure international identity accorded China through diplomatic recognition. However, the TRA alone cannot maintain Taiwan’s bargaining power in conducting her relations with China. Realistically, Taiwan needs to sustain herself for an ultimate peaceful solution of the Taiwan-China issue, but prepare for any contingency in the interim. To this end, Taiwan needs to foster a cohesive self-identity that solidifies its citizens but does not provoke China. More important, Taiwan needs to improve her political, social and economic system to both strengthen her bargaining position and offer such a system as an important component of any possible political arrangement for the reunification issue. Law and legal change are highly relevant to this system of re-engineering and negotiations toward a mutually acceptable solution.
II. LAW AND COLLECTIVE SELF-IDENTITY

The ROC has had to deal with the self-identity issue since the relocation of the central government to Taiwan in 1949. Two related goals have to be met: sustain the prolonged co-existence and political competition with China, and maintain harmony among the different ethnic Chinese groups who constitute citizens of Taiwan (primarily between the earlier Fukienese-speaking settlers and the mainlander settlers, including their descendants). Public opinion polls in recent years consistently demonstrate a stronger preference for a new, indigenous Taiwanese identity over the traditional pan-Chinese identity. This is more so when the PRC heightens its rhetoric and campaign — military, diplomatic or otherwise — to force reunification on Taiwan.

Ethnic harmony became a concern since the February 28, 1947 (that is, “228”) incident, and has been a strong undercurrent of the democratization movement in Taiwan. This unfortunate local conflict was mismanaged into suppression of the Taiwanese elite immediately thereafter and, over time, a much deeper divide between earlier and post-1949 residents of Taiwan. It took decades of inter-marriage, political development, public apologies by government leaders like President Lee Teng-Hui in the 1990s, and the enactment of reparation legislation (including making “228” a memorial day to be observed by all) to begin to heal the internecine wounds.

Early on, the law was used to impose and reinforce a monolithic and rigid pan-Chinese self-identity, as the ROC was carried over from mainland China and all institutions had to be brought back intact. With the localization of the ruling Kuomintang (KMT) and the rise of local consciousness, the law has been used to emphasize both the Chinese identity and local Taiwanese identity. In other words, the law began as an instrument of the ruling class. But when the political thinking changed in response to the popular will and demand for a new, more pluralistic self-identity, new legislation and government practice obliged. These new rules will be a stronger reinforcement of the self-identity than their predecessors because of the broader-based public support. However, they also present a fuzzier collective portrait of national and individual identities because of the competing needs to retain a core identity, foster diversity and avoid provoking the PRC.

1. There is a debate among sociologists in Taiwan as to whether the term “ethnic” would be an appropriate characterization of such grouping.
One such example is Interpretation No. 31, a constitutional decision rendered by Taiwan's Council of Grand Justices in 1954, that led to the perpetuation of the first-term representatives of the Legislative Yuan, Control Yuan and National Assembly. This decision followed the logic of a pan-Chinese state and identity, and the Council ultimately overturned it in 1990, through Interpretation No. 261, by invoking the legal doctrine of changed circumstances in the midst of rising local consciousness and the democratization movement.

Other examples abound. Until 1993, the Television and Broadcast Law had restricted the use of local dialects to a low level of 8% of all programming, thereby suppressing cultural plurality. Before its amendment in 1992, the Household Registration Law had required that native place (that is, original ancestry) rather than birthplace be shown on the citizens' identification cards. Amendments to these laws to remove these requirements contributed to cultural diversity and the emergence of a new self-identity. Similarly, Taiwan is moving away from the traditional legal doctrine in the Civil Law system of *jus sanguin* for its Nationality Law. Even in Germany, the Schroeder government is now considering making a similar change to integrate the offspring of the Turkish "Gastarbeiter" (guest workers). (Economist, 1999) As yet another example, Taiwan's Law of Civic Groups still requires the name of nationwide civic groups be prefixed with "ROC" and the use of "Taiwan" as a prefix, or not using such prefix at all will not do. But this requirement has been under increasing challenge; on April 1, 1999 the Council held in Interpretation No. 479 that this rule was unconstitutional.

Self-identity is highly relevant to freedom of speech and expression. There have been very few cases interpreting the constitutionality of speech-restraining laws and regulations. In 1998, however, the Council rendered Interpretation No. 445 to strike down as unconstitutional a provision of the Law Governing Assemblies and Demonstrations which banned the advocacy of secession in such activities. Similarly, the Criminal Law prohibition of the act of preparing for sedition was repealed in mid-1990s for the same concern.

The constitutional amendments since 1991 also symbolize the emergence of a new, albeit more vague, self-identity. The American approach of adding new amendments, rather than rewriting the original text of the 1947 Constitution, was adopted to maintain the continuity from the mainland era and, hence, the pan-Chinese iden-
tity. More important, however, the Temporary Clause for Mobilization to Suppress Subversion (a de facto amendment added to the 1947 Constitution in 1948 to combat Chinese communism) was set aside, and a formal announcement to discontinue this prolonged temporary phase was made in 1991. Concurrent with this announcement, Taiwan declared that it would no longer assert jurisdiction over mainland China, and also formally recognized the PRC as a political entity.

Similarly, the Mainland Relations Act adopted in 1991 recognized Taiwan and mainland China as two districts subject to separate effective control by two regimes. In 1993, a group of Legislators of the Democratic Progressive Party (DPP) actually had sought unsuccessfully an interpretation from the Council on what constituted the territory of the ROC; in Interpretation No. 328 the Council for the first time invoked the “political question doctrine” to extricate itself from this morass. The Territorial Waters Law enacted in 1999 now essentially confines the ROC’s territorial claims to the area adjacent to Taiwan. Similarly, where recent legislation contemplates government fines, they are directly denominated in the New Taiwan Dollar instead of the national currency of silver dollar.

The Employment Services Act and similar legislation now also stress equality. While localization in the last thirty years has meant appointing more “native” Taiwanese to public office in the spirit of an affirmative action program, a clear political practice (rather than law) has developed to strike a proper balance, other factors being equal, of the ancestral origins among senior officials. The same concern for diversity, together with the KMT’s need to stay in power, have led to the creation of a ministry-level commission to oversee aboriginal affairs. Having found a new self-identity at home (albeit a hazy, pluralistic one), Taiwan’s citizens are now much less concerned with the legitimacy of laws of the land. What is more at stake, however, is how to adapt Taiwan’s international identity and internal political system to the need of maintaining her staying power over the reunification dialogue with China.

III. LAW AND INTERNATIONAL IDENTITY

Numerous examples can be cited for the relevance of law to international identities. However, international law principles are simply ill suited to deal with the prolonged co-existence of two international personalities, Taiwan/ROC and China/PRC, for half a century. Hence the diplomatic skirmishes between Taiwan and
China, and China’s threat to use force against *de jure* Taiwan independence.

A. Pragmatism, Statehood and Legal Concepts

But pragmatism also finds its way into international affairs, and increasingly is becoming the foundation of American foreign policy (Albright, 1998). The issue of the so-called international status of Taiwan, a former Japanese colony, after Japan’s defeat in World War II is one example of such pragmatism at work. The ROC and PRC were both excluded from the San Francisco peace process with Japan in 1951. According to the first exchange of notes in 1952 to clarify the territorial application of the peace treaty between Japan and the ROC, the treaty is applicable only to territories under the then and future effective control of the ROC, namely, Taiwan and its adjacent area. As such, this position was useful to the American administration and foreign policy directed by American Secretary of State John Foster Dulles in legitimizing the dispatch of the U.S. Seventh Fleet to peacekeeping, mutual defense missions around Taiwan.

The PRC has also exploited such pragmatism to advantage. To be sure, it has claimed that regaining Taiwan as a “renegade province” is the corollary of nationalism, has nothing to do with international law, and will not rule out the use of force. Despite such claims, the PRC has not insisted on sovereign integrity when it was convenient to acquiesce. In the mid-1970s, for example, the Portuguese government had actually asked China to take Macau back. China declined this invitation to regain sovereignty as “it would have created panic in Hong Kong, something Beijing did not want to see happen because Hong Kong under British colonial rule was of great economic and political value to China.” (Ching, 1999). The legalistic British approach to the expiration of the 99-year lease under the New Territories Treaty with China finally “forced China’s hand. . .Thus, reluctantly, the Chinese decided to take back Hong Kong.” (Ching, 1999) This explains in part why China’s “one country” proposal has not fared well with Taiwan; it is a Trojan horse to the extent China has not faithfully adhered to her own claim.

Positivism in law and its rigidity has to be softened to meet societal needs. In the historical development of the Common Law, the rise of trust law is such an example. It splits the monolithic concept of ownership into a dual structure of legal and beneficial ownership to enhance the use and value of property. The same principle is followed in international law, when a rigid view of inter-
national legal personality becomes a barrier, rather than an instrument, to the goal international law seeks to achieve. Therefore, Taiwan’s accession to the former General Agreement on Tariffs and Trade (GATT) and now the World Trade Organization (WTO) is not premised on statehood. Rather, her application was made in the name of the customs territories of Taiwan, Penghu, Kinmen and Matsu. Taiwan can follow this approach because international law instruments, such as the GATT and the WTO Charter, permit this arrangement. Taiwan is willing to follow this approach because it is persuaded in such a case by pragmatism: substance for now is more important than form, and integration with the global trading system is more important for now than the label over Taiwan’s international identity.

Another example is the Asia-Pacific Economic Cooperation (APEC), an informal, high-level forum in which Taiwan participates as “Chinese Taipei.” This informal designation of the ROC on Taiwan is used now where such informal use is the best possible solution to all concerned parties. Indeed, in Taiwan’s accession process in the WTO this term is also used. The origin of this informal designation actually lies in the settlement of a lawsuit between Taiwan and the International Olympics Committee over the use of the name ROC in the Montreal Winter Olympics. That settlement had led to the use of terms like “Chinese Taipei” and “Chinese Beijing.” The word “Chinese” here is non-political and ethnic in connotation. China, however, has not allowed the possibility of word play to slip by her. She translates “Chinese Taipei” into “China (that is, ‘Zhongguo’) Taipei” for internal documents and usage. Unless necessary under the circumstances to protest, Taiwan has not gone beyond monitoring this egoistic literary mischief.

Taiwan did protest at the change of its official name as founding member of the Asian Development Bank (ADB) to “Taiwan, China”. However, the same concern for pragmatism and participation counseled Taiwan’s senior officials to still attend the ADB annual meeting in Beijing in 1989; they grudgingly rose to the PRC’s anthem out of international protocol. In recent years, however, Taiwan has not actively participated in ADB activities, in part because she has graduated and has other channels of dialogue with other ADB members.

Undesirable as it is to Taiwan, her continuing participation in the ADB sets a different pattern of recognizing Taiwan’s international identity. Indeed, international law principles grant other international organizations an identity over and beyond that of their
member states, and individuals committing war crimes or similar atrocities can be prosecuted under international law. Membership in international economic organizations, such as the International Monetary Fund and the World Bank, is premised on statehood. But this position loses its legitimacy in the case of Taiwan.

B. Self-determination and Plebiscite

Self-determination is perhaps the most important international law principle to balance legitimacy with positivism over sovereign identities. Some Taiwanese scholars have advocated the administration of a plebiscite under international supervision to determine the future of Taiwan. To this end, they have advocated legislation to begin permitting referendums. Fraught with dire military risks, this internationally monitored plebiscite proposal is simply unacceptable to China because it could lead to formal Taiwan independence.

In Taiwan and abroad, therefore, substitutes have come about in the political arena. Some DPP strategists and leaders now argue that Taiwan is already independent, and there is no need to make a formal declaration. Public opinion polls in Taiwan essentially reject immediate reunification each time they were conducted; they are like "virtual plebiscites." Simulated plebiscites have been held on public policy issues such as whether the state-owned Taiwan Power Company should build another nuclear power plant, and whether Bayer Company of Germany should be permitted to build a chemical plant in the Taichung Harbor.

With the democratic hype in Taiwan, and dissatisfaction with the performance of elected representatives, it is possible that some legislation permitting referendums would pass. Indeed, there has been some suggestion to amend the 1947 Constitution further to permit such a measure. Even though referendums may be limited to only addressing public policy issues affecting a particular sector or community and exclude the Taiwan-China issue, this domestic legal development in Taiwan will have profound ramifications in refining her international role.

C. Principled Negotiations

At the heart of the issue of Taiwan's international identity is China's threat of the use of force should Taiwan seek separation. Admittedly, international politics and comparative military might have more to do with the solution of this issue. However, if we
follow Henkin's suggestion that the progress of civilization is premised on a legal order among nations, then legal principles do matter. The most recent and relevant development in this regard is the Supreme Court of Canada's 1998 advisory opinion on the subject of Quebec secession. The Government of Quebec, controlled by Parti Quebecois, argued that international law gave it the right to unilaterally decide to secede from Canada. It therefore referred three questions to the Supreme Court of Canada.

First, under the Constitution of Canada, can her National Assembly, legislature, or Government of Quebec make the decision to have Quebec secede from Canada unilaterally?

Second, does international law give her National Assembly, legislature, or Government of Quebec the right to decide the secession of Quebec from Canada unilaterally? In this regard, is there a right to self-determination under international law that would give the National Assembly, legislature, or Government of Quebec the right to decide the secession of Quebec from Canada unilaterally?

Third, in the event of a conflict between the provisions of domestic and international law regarding the right of her National Assembly, legislature, or Government of Quebec to decide the secession of Quebec from Canada unilaterally, which body of law would take precedence in Canada?

The Supreme Court of Canada first rejected the argument that the political question doctrine, an analogy to the U.S. Constitution, had any place in this reference. The three questions "are strictly limited to aspects of the legal framework in which that democratic decision is to be taken." The Court then answered the first question in the negative, placing its decision on four fundamental principles of Canada's Constitution: federalism, democracy, constitutionalism, and the rule of law. In sum, the Court held that "principled negotiations" with the rest of Canada would be required following a decision by a "clear majority" of the population of Quebec on a "clear question" to pursue secession.

Democracy is more than simple majority rule, said the Court. Those who remain and those who secede have to respect each other's right and avoid unilateral actions by conducting "principled negotiations" so as to honor federalism, constitutionalism, and the rule of law. Such negotiations would have to address issues like the terms, conditions and consequences of the proposed secession. The Court also held that international law does not grant component parts of sovereign states the right to secede unilaterally from their parent state. Under international law, the Court found, the right to
self-determination applies where a definable group is denied meaningful access to government to pursue its political, social, economic and cultural development. Examples cited by the Court include former colonies or peoples under foreign military occupation.

How would the context, reasoning and decision of the Supreme Court of Canada shed any light on the ongoing cross-strait discourse toward a political solution? Despite the many differences of the two contexts, one still finds the Court’s advisory opinion very helpful in thinking through the legal issues in the cross-strait political solution. The first lesson perhaps is whether the Council in Taiwan should make a decision to review the issue of international identity. The Court in Canada would not find a political question doctrine as a way out. In Taiwan, this issue has fared differently because the Council in Interpretation No. 328 discussed above has side stepped this issue perhaps for good.

Second, when would such a decision be justiciable? The Court in Canada emphasized the important precondition for its review of having a “majority decision” by the people of a “clear question.” As a court rendering an advisory opinion on an actual reference, the Court could not have been clearer or more judicious on the need to have a conscious, well thought out decision by the people first. Any thing less than this would not be ripe for review. Quebec has held plebiscites in the past on this issue. The current situation in Taiwan is different; most voters tell pollsters they are agnostic and would like to maintain the status quo, even though that means maintaining a gray area in terms of Taiwan’s international identity. It seems to me that Taiwan’s voters are very sensible with their persistent ambiguity, especially when the Council’s treatment of a similar issue as an unjusticiable political question in Interpretation No. 328 leaves it to the collective political wisdom of the citizenry in a democracy.

Third, what is the relevance of democracy, one of the foundations of the opinion of the Court in Canada? Another difference between Quebec/Canada and cross-strait contexts is that, technically, the two sides to the China-Taiwan issue are not over with their civil war; at least China does not think so. At the same time, each has her own constitution which does not contemplate any confederation. Indeed, it was the PRC which repudiated the ROC Constitution of 1947 in the spirit of a “new Chinese” (Xinhua) government. How would fundamental principles like democracy, federalism, constitutionalism and the rule of law inform the cross-strait discourse? Taiwan has decided to embrace these principles but is
still learning the craft. Chinese leadership is at best ambivalent about them. This contrast explains Taiwan’s insistence that China become more democratic as part of the political solution. It is only when there is an overall democracy will “principled negotiation” be meaningful.

Taiwan is not alone in following this logic. Chris Patten, the last Governor of Hong Kong, recounted in his memoirs a similar British thought during the negotiations for the Joint Declaration over Hong Kong. According to him, the British negotiators had toyed briefly with the idea of proposing to the Chinese to include a dispute resolution clause in the Declaration to deal with a possible breach by the Chinese. They soon decided not to raise it because the Chinese would never agree with it. Instead, the British negotiators thought strengthening democracy in Hong Kong would be the alternative solution.

The other fundamental principles such as constitutionalism, federalism and the rule of law announced by the Court in Canada are just as relevant in the cross-strait context. Take the rule of law, for example. The recent decision of Hong Kong’s Court of Final Appeal (CFA), arising out of a case involving the right of abode of children of PRC parents, is instructive. The CFA first affirmed its “duty” to declare invalid in Hong Kong any laws of the PRC which violate the Basic Law, Hong Kong’s de facto constitution. It then caved in to the request of the Government of the Hong Kong Special Administrative Region by making an extraordinary “clarification,” stating that it “cannot question the authority of the National People’s Congress... to do any act which is in accordance with the Basic Law.” This development in Hong Kong, only a year and a half after her reversion to Chinese sovereignty, highlights the importance of establishing these principles before any meaningful breakthrough in cross-strait relations can be achieved.

But the most relevant lesson is the conclusion of the Court in Canada that there cannot be any unilateral action, and that there shall be “principled negotiation.” One could infer that both unilateral separation and unilateral use of military actions would fall within the injunction suggested by the Court in Canada. It then reached a decision which is similar to the best short-term solution over the Taiwan-China issue.

IV. CONCLUSIONS — LAW AND SYSTEM

As indicated above, Taiwan will face considerable difficulty to establish her international identity, even though she is now more
successful at solidifying a new collective self-identity. Therefore, Taiwan needs to maintain the long-term competitiveness of her system during this long march toward gaining more widespread international recognition. For this reason, it is important to review how relevant and useful is the law as a system re-engineering tool. Unfortunately, the breadth and depth of a proper treatment of this aspect of the TRA’s aftermath require an examination elsewhere.\footnote{Readers interested in this further analysis may contact the contributor for the original conference paper of the same title.} Such further analysis should explore topics like the relevance of legal change and institutional reform in the twenty years after the TRA’s enactment to rebuild and strengthen a new political, social and economic system in Taiwan, and the relevance of efforts to build a system on the foundation of the rule of law to Taiwan’s ongoing struggle to settle its destiny with China.

What is the essence of the Taiwan story? It goes far more beyond mere economic achievement or even political liberalization. It is mainly the profound story of a checkered path toward modernity and open society, despite China’s threat, military or otherwise, to minimize Taiwan in the last half century. In the first part of the post-war development period, Taiwan chose to mobilize itself in a spartan way to counter China. Laws, be they of a political, economic or social nature, were enforced (or not enforced, as the case was) to ensure Taiwan’s “defense capability,” which was translated into stability, which in turn was translated into suppression. Such was the state of the law, and the law of the state, when the TRA was enacted.

The TRA may have been a catalyst of change, as the crisis it was called upon to address was indeed severe. But the TRA was only a necessary condition for security and protection, and even one subject to the popular will of another sovereign and another people. Taiwan still could have taken the wrong turn after the TRA’s enactment, but she did not. On the surface, there is nothing in this historical development that is relevant to law. However, the foundation of law is legitimacy. And this concept is painfully clear to the government and people of Taiwan, who have had to do much more to legitimize their collective self-identity to themselves and their international identity to the world. The drive to obtain legitimacy has led to long-term institutional changes in which positive laws do make much more of a difference than the era before the enactment of the TRA.
By reforming her political, economic and social legislation and legal system in general in the last twenty years, Taiwan has largely achieved modernity, openness and, hence, the necessary resilience for further competition with China. Co-operation with China will not be ruled out during such competition. Indeed, it would be welcome. This is the greatest difference with the pre-TRA era. The issue is: what price for co-operation? Taiwan will not give up her system, her way of life, to seek co-operation from China. Hence, the "one country, two systems" model would not work. Indeed, one may query why it is one country and just two systems. The diversity and richness of historical China should lend herself to more than two systems.

But why one country? How, if at all, is it to be achieved? Discussions above show how ill-suited traditional principles of international law are in dealing with the Taiwan-China issue. But even in the cross-strait dialogue between fellow Chinese, there is a legal perspective which is rich in cultural connotations. Law as a Chinese word came from two radicals: "water," which suggests a level playing field, and "riddance," which suggests getting rid of the unfair. Therefore, this one word encapsulates Taiwan's basic negotiating position with China over the "reunification" issue.

Much of this study dwells upon another aspect of the relevance of law in this discourse: how has Taiwan changed her laws to be competitive and stay competitive? The post-TRA development shows both promises and pitfalls. There are promises because, through voluntary commitments or democratization, or involuntary efforts such as bilateral and multilateral trade negotiations, Taiwan is opening herself to the world. This would be to her long-term benefit. If nothing else, Chinese history is a yardstick: each dynasty in China (the last one, the Qing Dynasty, being one example), that closed itself off, eventually perished.

But there are also pitfalls. While laws can be facilitative, they can also be restrictive and cartelistic. The two periods of Taiwan's post-war development, divided by the enactment of the TRA, reveal many examples of both types of law. The legal pitfalls for Taiwan, then, are institutionalized lobbying efforts by special interest groups (political parties and politicians in particular) adverse to her long-term welfare. In a non-political, non-legal analysis of the late Qing period and the early Taiwan period, economic historian Mancur Olson suggested that Taiwan's "fantastically high post-war growth rates" is related to her "nearly complete absence of special-
interest organization.” To him, the late Qing period shows the opposite situation.

The Taiwanese could reminisce about the period of such high growth rates. But they would probably hesitate to reinstate the old political system. Now that Taiwan has had her economic and political achievement, how will she maintain the economic and political liberties of her citizens? The rule of law, including enlightened principles of international law, suggested by Louis Henkin in the context of relations between nations and progress of civilization, appears to be the answer; adaptability free from special-interest politics suggested by Mancur Olson and Douglass North seems to be the challenge.

REFERENCES


Cooney, Sean, “Why Taiwan is Not Hong Kong: A Review of the PRC’s ‘One Country Two Systems’ Model for Reunification


Johnson, Darryl N., “Twenty Years of the Taiwan Relations Act,” American Institute in Taiwan Background Series BG-98-24, December 16, 1998, Taipei, Taiwan (address to the Annual Convention of the Association of American Studies, at the National Taiwan University, November 28, 1998).

Koo, Chen-fu, “To Pursue a Peaceful Relationship Across the Taiwan Straits” (speech delivered at the American Chamber of Commerce of Taipei Hsieh Nien Fan, February 4, 1999), Taipei, Taiwan.

Liu, Lawrence S., and Tain-ji Chen, The Role of Law and Legal Institutions in Asian Economic Development: The Case of Taiwan — Patterns of Change in the Legal System and Socio-Econ-


PART IV.

TRIANGULAR AND CROSS-STRAIT RELATIONS
Chapter 8

PEACE WITHOUT REUNIFICATION:
PROMISE AND PROBLEMS

Denny Roy*

Reunification of Taiwan with mainland China might be possible in the future, but as the 1995-96 Taiwan Strait crisis demonstrated, a means of reducing tensions is badly needed now, while the two entities are still separated. This chapter first discusses the prospects of attaining a stable, permanent peace across the Strait, arguing, unfortunately, that the preconditions for such a scenario are still distant. I then consider three possible strategies of reducing tensions short of real reunification: (1) a Taiwan-PRC peace accord; (2) a settlement in which Taiwan agrees to call itself a province of China while retaining virtually the same degree of autonomy it presently enjoys; and (3) a continuation of the status quo, but with greater circumspection. The first approach, I argue, is unfeasible. The second is appealing from the standpoint of foreign observers, but understandably objectionable from Taiwan's perspective, and perhaps unnecessarily dismissive of Taiwan's interests. The third approach is desirable if the three governments most closely involved in the dispute are willing to avoid the policies they have learned are most likely to heighten tensions in the Strait.

I. PROSPECTS FOR PEACE

A. Taiwan Strait Security Community?

In terms of security, leaving aside issues of identity and national self-image, the goal should be getting Taiwan and the PRC to be common members of a security community, whether it is theirs alone or includes other states as well. A security community exists when war among two or more particular states has become unthink-

* Visiting Professor in National Security Affairs Department, U.S. Naval Postgraduate School, Monterey, California.

1. I am using the term "accord" rather than "treaty," which might have a stronger connotation of a state-to-state relationship and thus raise objections on the PRC side from the very outset of the discussion.

(171)
able as a means of resolving disputes or pursuing political goals. Examples include the relationships between the USA and Canada, between Australia and New Zealand, among the states in Scandinavia, and perhaps among the states of Western Europe. Members of a security community have no expectation of being attacked, and no contingency plans to attack other members of the community, for the foreseeable future. This relationship is self-sustaining and not dependent on a third party (in contrast to a situation in which a hegemonic state enforces peace among its allies, such as the post-war Japan-South Korea relationship). In security communities, “assurance” has replaced “deterrence,” and trust has overcome the most dangerous effects of anarchy.³

A democratic PRC is not necessarily a prerequisite for the development of a cross-Strait security community. In theory, a security community is not dependent upon its members being democratic states. The so-called democratic “zone of peace” is a type of security community, and thus far the most successful. But the Association of Southeast Asian Nations, which is made up of a mixture of democratic and non-democratic states, represents another possible model.

What kind of potential exists for a cross-Strait security community? International relations scholars have identified three important potential impetui for the formation of security communities: a mutual security threat, a sense of shared identity, and the prospect of mutual gains through economic cooperation. In the PRC-Taiwan case, China is a major security threat to Taiwan, but Taiwan is not a military threat to China. The sense of security threat is one-way, not mutual, and therefore could serve as the motivation for only one side, not both, to explore the possibility of restructuring the bilateral relationship. Conversely, the sense of shared “Chinese” identity prevails on the PRC side, but the political ramifications of this shared identity, if not the idea itself, are rejected by a large number of Taiwan’s people. Identity is therefore a disunifying rather than a unifying factor, and no basis for building a security community. Only the third potential impetus for the emergence of a security community, a complementary economic relationship, is present in the Taiwan-China case. While cross-Strait economic in-

teraction is robust and growing, it is largely divorced from politics rather than acting as a vehicle for improved political relations. To the extent that economic ties have political ramifications, China is expected to enjoy the advantage. Taiwanese trade with and investment in the mainland developed in spite of the Taipei government's opposition, and the fear persists that China will be able to use Taiwan's reliance on the Chinese market as a means of wringing political concessions out of the ROC government. Thus, even the building blocks of a cross-Strait security community apparently have not yet emerged. A further complication is that it may be difficult for a state to respect the norms upon which a security community is based if the state's domestic political system and practices are inconsistent with these norms. This observation further weakens confidence that the use of force against Taiwan could become unthinkable to CCP leaders while threatened or actual military action remained integral to the governance of other parts of the Chinese empire.

B. Theories of War and Peace

The more specific and immediate problem here is how to avoid war in the Taiwan Strait. The main theories most commonly discussed in the current international relations literature suggest three major approaches to preventing interstate conflict. The first is realism, which holds that war stems from the structure of relative power among states. From this standpoint war is most likely to be prevented through alliances, deterrence, and maintaining balances of power. The second approach to preventing war is neo-liberalism, which is based on the premise that international institutions, laws and norms can restrain states from going to war. International institutions encourage cooperation and demonstrate to rational states that they have an economic interest in maintaining peace and avoiding violent conflict. International law and international norms create pressure on states to agree to resolve disputes peacefully, and exact a heavy price from violator states. The third approach is constructivism, which asserts that a state's perceived threats and interests are socially constructed based on inputs from both domestic politics and international norms. War is therefore precluded if states reinterpret their relationships from adversarial to non-violent.

4. Adler and Barnett, p. 76.
Unfortunately, none of these three approaches inspires confidence that Taiwan will be able to live in peace under the status quo. From a realist point of view, a weak state threatened by a strong state needs an alliance with another strong state to protect itself. America's interest in defending Taiwan, codified in the Taiwan Relations Act (TRA), creates a deterrent effect and a balance of power across the Taiwan Strait. The permanence of this balance, however, is uncertain. China's economic and military power relative to both Taiwan and the USA is expected to increase, as is its ability to prevent American military forces from establishing dominance over the Taiwan theater in the event of hostilities. American support for Taiwan is also subject to re-evaluation based on America's own interests. Without a sufficiently strong and willing protector, weak states in a realist world "suffer what they must." Even since committing itself to economic development through participation in the world capitalist economy, the PRC has frequently disappointed observers who hoped economic interdependence and global public opinion would deter Chinese foreign policies the international community considers undesirable. The CCP has shown it often prizes the values of sovereignty, political stability, and preserving the empire over economic rationalism. Examples include Beijing's policies in Tibet, the Tiananmen crackdown in 1989, negotiations with Britain leading up to the return of Hong Kong to Beijing's control, and China's activities in the disputed Spratly Islands. Thus China's increasing economic ties with Taiwan do not constrain PLA military action to prevent Taiwanese independence. As for the modern world's aversion toward warfare, Beijing has of course made it amply clear that this norm does not apply to a "domestic" territory such as Taiwan.

Constructivism helps explain the complex process by which the present government in China has decided Taiwanese must live under the threat of attack, but does not explain how Taipei, Washington or other outsiders might encourage Beijing to change its attitude. In the meantime, Beijing's Taiwan policy appears based on factors that are not likely to change anytime soon, giving Taiwan little prospect of relief in the medium term.

C. Lessons from Other Divided Nations

Other multi-state nations have faced some of the same problems plaguing the PRC-Taiwan relationship. We should consider whether their experiences are relevant. Unfortunately, the other recent cases that involve reconciling divided nations do not
yield many useful keys for finding a solution that would meet Taiwan’s satisfaction. If anything, past experience tends to highlight the vulnerability of states in a situation such as Taiwan’s.

In the case of Germany’s reunification, unlike the China-Taiwan case, most people on both sides of the Wall favored reunification. Like the China-Taiwan case, the stronger of the two governments was eager to reunify and the weaker sought to prevent it. There is no encouragement to Taiwan to be found in the fact that the East German government was forced to capitulate and allow its country to be subsumed by the West after its superpower sponsor, the Soviet Union, signaled its unwillingness to intervene. Similarly, North and South Vietnam were united by a military conquest of the weaker half after it was abandoned by its superpower patron.

In general, the governments and peoples of both North and South Korea have been more committed to reunification than are Taiwan’s current leadership and public. In recent years, the desire on both sides of the 38th Parallel for immediate reunification has decreased. As the North has grown weaker, it has become more insecure and defensive, turning its focus from fomenting revolution in the South to protecting itself from being swallowed up by the South. For their part, South Koreans realize that incorporating the North will impose upon them a massive, long-term economic burden, and most are willing to wait for reform and development to reduce the disparity between the two countries before they are reunited (as in Taipei’s official position on reunification with China). At any rate, the two Koreas have had no more success reducing their security tensions than Taiwan and China, and thus have few lessons to offer.

Most inhabitants of India’s Kashmir region are Muslim, and the evidence suggests most would also prefer to secede from India, either to join neighboring Pakistan or to form an independent Kashmiri state. India’s relationship to Kashmir has parallels with China’s relationship to Taiwan (although Tibet is an even closer analogy): it is necessary to assert sovereignty over the restive region not only because of the region’s intrinsic value, but also to preclude other regions from seeking independence. But once again, the case of Kashmir does not seem to suggest a way out of Taiwan’s predicament. On the contrary, India has demonstrated a remarkable determination to hang onto Kashmir against both domestic and foreign opposition, having battled a secessionist insurgency there with a brutality that has sullied its reputation as the world’s most
populous democracy, having fought three wars with Pakistan over control of the territory, and all this while refusing to hold a plebiscite for the Kashmiris. The ominous implication is that China, as well, may be prepared to pay a heavy price in both national resources and international prestige rather than give up its claim over Taiwan.

D. Democratization on the Mainland

One possible avenue to cross-Strait reconciliation is a liberalization of the mainland’s political system. This would not only help fulfill one of the very tough criteria set by Lee Teng-Hui’s government for reunification, but many observers hope that if both Taiwan and China were democracies, tensions would naturally abate even if reunification did not take place. The “peaceful democracies” theory, which the Clinton Administration has taken aboard as one of the bases of post-Cold War U.S. foreign policy, holds that states with democratic political systems find peaceful solutions to their disputes, rarely if ever go to war against each other (even if democracies still go to war regularly against non-democratic states), and end up on the same side in times of major war. If the theory’s logic is pushed to its ultimate conclusion, democratization throughout the globe should make war obsolete. In particular, democratization in China should remove security threats between Beijing and both Taiwan and the United States.

Unfortunately, there is reason for skepticism here. Indeed, the China-Taiwan case illustrates a potential weakness in the theory. Democracies are supposed to enjoy peaceful relations because democratic polities respect and trust each other. If two states are satisfied with the status quo and have no serious conflicts of interest between them, the establishment of mutual confidence that neither side desires to attack may be sufficient to remove any realistic possibility of war between them. Trust, however, may not be the solution in a case where two countries have a dispute over an issue involving what both sides consider to be a vital interest, especially if the dispute takes on the character of a zero-sum game (as is typical of disagreements over the ownership of territory). Democratization does not necessarily remove fundamental conflicts of interest between states. Nor is it certain that a state’s external behavior will be more peaceful once the mass public has greater input into foreign policy-making. A common liberal assumption is that common folks, who would generally rather trade than fight, are dragged into war by elites who enjoy a disproportionately large share of the ben-
efits of war and pay a disproportionately small share of the costs. In some cases, however, authoritarian states act to restrain public jingoism, while democratic regimes are forced to translate grassroots exuberance into policies that increase tensions with neighboring countries. During the 1990s, for example, it was Taiwan and Hong Kong that dispatched boatloads of activists to challenge Japan's claim to the Senkaku/Diaoyutai Islands, while Beijing chose a relatively low-key response and made sure its citizens did not exceed the bounds set by the authorities.

Owing largely to decades of inculcation in the CCP's chosen interpretation of the Taiwan issue, most of the PRC public evidently support the government's view that Taiwan must reunify with the mainland even if by force. The present policy of the Beijing leadership already reflects the preferences of the mainland Chinese public; indeed, to some extent the PRC government may feel that it is compelled by public opinion into taking a tough stand on Taiwan. It is hard to see, therefore, how democratization of mainland politics would by itself alleviate cross-Strait tensions. This is a dispute not just between governments, but between polities as well. Thus, unlikely as it is that the PRC will implement a democratic political system even in the medium term, it is uncertain that even this transformation by itself would remove cross-Strait tensions.

II. STRATEGIES FOR PEACE IN THE SHORT-TO MEDIUM TERM

A. Peace Accord

Since the CCP captured the seat of central government on the mainland, both the PRC and Taiwan have shown themselves capable of making satisfactory progress in the achievement of their respective national goals under the status quo. That status quo is defined by Taiwan as a de facto independent state, with both sides committed to the idea that Taiwan will be politically reunited with the mainland sometime in the indefinite future. For each side, however, a dangerous possibility hangs over the status quo. For the mainland, it is the chance that Taiwan will drift irretrievably toward permanent independence. For Taiwan, it is the threat of military attack by the PRC. Since each side has the agency to give something the other side wants, many observers have suggested a Beijing-Taipei peace accord in which the PRC renounces its claimed "right" to use force to prevent Taiwanese independence in exchange for a commitment from Taiwan not to formally declare independence.
Unfortunately, this proposal is politically unacceptable to both sides. Each side would object to its part of this proposed deal for the same reason: perceived affront to its sovereignty. Taiwan’s push for greater international diplomatic recognition is based on the premise that Taiwan should enjoy the rights and privileges of a sovereign state rather than be treated as a province of China. Taiwan’s government and people have already shown they are willing to take great risks to achieve this objective. To publicly give up their right to declare formal independence would be virtually equivalent to forsaking their aspiration to the privileges of statehood. Similarly, the PRC views the right of a state to govern its own territory, including using force, as integral to the concept of national sovereignty. Renouncing the right to use force against Taiwan would thus inescapably be interpreted by critics of the ruling regime both within and outside of the PRC as a serious weakening of Beijing’s claim that Taiwan belongs to China. The proposed peace accord thus immediately runs into difficulty not over some peripheral point of contention, but over the issue at the very heart of the Taiwan-PRC dispute. Without a political sea change, indications of which are not visible at the moment, a peace accord based on a trade of peace for unity will not be politically possible on either side of the Strait.

Another problem with the peace accord approach is that even if an agreement could be reached, the apparent peace might prove illusory or temporary. As the Taiwanese realize, a promise from the mainland not to use force against Taiwan does not mean the issue would never come up again. Future Chinese leaders might change the regime’s attitudes and policies toward Taiwan. Such fluctuations are more likely in an authoritarian system in which the mass public does not have direct input into foreign policy-making and the mass media complies with guidelines and interpretations dictated by state officials. Known for many cases of “disjuncture between words and deeds,” China might employ the tactic of violating its agreement with one hand while insisting with the other hand that it has kept its word. Whatever the exact wording of the accord, both Beijing’s and Taipei’s parts of the bargain would be subject to politically-motivated interpretation and re-interpretation. The Beijing leadership might argue that certain activities by Taiwan are tantamount to declaring independence, and that until those ac-

tivities cease the promise not to use force would be suspended. Similarly, the PRC government might argue that its commitment did not preclude the use of some forms of military coercion short of an invasion of Taiwan. Some indication of Beijing's capacity to wrest words is evident in Jiang's contradictory assertions that the PRC reserves the right to attack Taiwan but that "Chinese do not fight other Chinese." Thus, a commitment in writing by the PRC leadership not to use force to settle Taiwan's future might not solve Taiwan's security problem; indeed, it is not difficult to imagine a new crisis similar to that of 1995-1996 emerging even with such an accord in place.

Beijing has called Hong Kong's "one country, two systems" formula a model for Taiwan's political reintegration into the mainland. Taiwan has indirectly served as a guarantor that Beijing will respect its agreements with Hong Kong and Macau, but the reverse is not true. Once Taiwan followed the path of Hong Kong and Macau, the pressure on Beijing to maintain good behavior would be abated, and all three territories would be in danger of the PRC changing the terms of the deal *ex post facto*.

**B. Taiwan Makes A Deal**

It is easy for outsiders to conclude that the best solution to the problem of tensions in the Taiwan Strait is for Taiwan to submit to Beijing's will after negotiating the best terms it can get. The argument is that Taiwan's position relative to the mainland will inevitably grow weaker because of the latter's overwhelming size and potential power. The cross-Strait military balance will inevitably shift further in favor of the PRC. Taiwan's economic dependence on China will increase to the point where Beijing can manipulate these ties to pressure the ROC government for political concessions. In addition to the "one country, two systems" principle, the terms of reunification Beijing has offered Taiwan in the past have included letting Taiwan keep its own armed forces and allowing Taiwan to be ruled by local leaders rather than officials sent from the mainland. This suggests Beijing will accept *de jure* reunification with *de facto* continuation of the status quo. Of course there is deep distrust of the CCP regime among Taiwan's people, but what if the terms of reunification gave Taiwan enough autonomy that trust was not an issue? If Taiwan's government could obtain a deal that secured peace with its most dangerous potential adversary at the expense of little more than a cosmetic name change, would not its people be well served?
U.S. support for Taiwan has often been identified as a critical variable for the viability of Taiwan's independence movement. In the wake of the most recent Taiwan Strait crisis, many U.S. analysts have emphasized that America has far greater interests in avoiding a war with China over Taiwan than in supporting Taiwanese independence. It follows that America should refuse to defend Taiwan if it provokes a PLA attack by pushing too hard for the kind of diplomatic privileges that irritate Beijing. The Clinton Administration's recent concessions to Beijing over Taiwan could be understood to suggest that the zenith of U.S. support for the ROC has passed. If true, this development would seem to provide further reason for Taiwan to conclude that its long-term strategic prospects are deteriorating, and that Taipei should begin negotiating the terms of its reunification with the mainland now, before its position gets any weaker.

The argument that Taiwan should make a deal with Beijing is a strong one in the eyes of the world outside Taiwan. It is not, however, unassailable. First, the belief in China's irresistible gravitational pull is premised on the uncertain assumptions that the PRC will maintain political stability and healthy economic growth. Today's views of the PRC are based largely on its development during the 1990s. Two more decades of double-digit economic growth without a major domestic crisis would indeed make China a formidable, multi-faceted power. But to say the least, this outcome should not be taken for granted, given the many huge challenges China faces, some of which worsen as China's economy grows. If China turns out to be poorer and less stable than expected early in the 21st century, the pressure on Taiwan to reunify will be lessened.

Nor should the idea that China's military capabilities will soon overwhelm those of Taiwan be accepted uncritically. In the short term, the most spectacular single boost to the PLA's military strength in recent years, the purchase of 50 Russian Su-27 fighter-bombers plus a licensing deal under which the Chinese would produce more Su-27s themselves, was more than offset by Taiwan's acquisition of 150 U.S. F-16s and 60 French Mirages. Not only do Taiwan's imported aircraft beat China's in quantity and probably quality, but Taiwan figures to get more utility out of its aircraft because of superiority in training and maintenance procedures.

Analyst Solomon Karmel describes China's successes in military modernization to date as "oases" in a "vast desert of dispersed,
uneducated, and poorly-equipped personnel.” 6 The aspirations of proponents of PLA modernization are held back by the costs of maintaining China’s oversized ground force. Downsizing the army does not necessarily reduce these costs in the medium-term because of the expense of pensions and programs to find new jobs for retired PLA officers. In the event of a war, the cost of benefits paid to soldiers and their families would of course increase dramatically, and might well run over budget, 7 forcing the PLA to divert funds from other areas, or risk the outbreak within the ranks of serious discontent toward either the military high command or the paramount civilian leadership.

Although many PLA generals have demonstrated a keen interest in deploying high-tech weapons systems and implementing space-age tactics, as amply demonstrated by Michael Pillsbury’s book *Chinese Views of Future Warfare*, the fulfillment of these aspirations is another matter entirely. Informed observers such as Australian scholar and former defense official Paul Dibb point out that the PLA has profound deficiencies in maintenance, C4I, combined-arms operations, and the integration of high-tech combat systems. Dibb concludes that China will have great difficulty realizing the so-called “revolution in military affairs” and lags behind many of its neighbors in this area, including, significantly, Taiwan. 8

If it continues to maintain healthy economic growth and political stability and keeps its serious internal problems contained, the PRC can be expected to make significant progress in improving the quality of the PLA in the medium term. The sheer size of the mainland, of course, gives it a strategic military potential vastly greater than that of Taiwan. But when we talk about the cross-Strait military balance being a threat to Taiwan’s viability, we should distinguish between the ability to erase the Republic of China as a political entity and the ability to degrade the Republic of China’s prosperity. The PRC already has the means to create serious economic disruption on Taiwan, and its capabilities in this area will probably increase in the future. For the foreseeable future, however, the PLA will probably not attain capabilities that would give it reasonable expectation of being able to successfully invade and establish effective control over Taiwan, especially if the United States

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and other countries continue selective sales of advanced arms to the ROC with a view toward maintaining a rough balance in the PRC's offensive and Taiwan's defensive capacities. Missiles may cause stock markets to fall and capital to flee, but they do not occupy and hold territory. Outside analysts should not assume that Taiwan's surrender and absorption into the PRC inevitably follows from the PLA's capacity to make life on Taiwan miserable. It would be terribly difficult to choose to continue to resist Beijing's demands under these circumstances, but the right to make this choice belongs to the people on Taiwan.

Some analysts have argued that the onus is on the people of Taiwan to either reconstruct their self-identity into a form that does not demand independence from China or accept the fact that they will be more secure if they are willing to accept a political status that does not completely fulfill the identity they have chosen. Even more fundamental than sovereignty, identity is at the core of the tensions between Taiwan and the PRC. Thus democratization in Taiwan, which empowers ROC citizens to express their identity-based desire to have a state of their own with the global recognition it deserves, is identified as the root cause of PRC-Taiwan tensions, and indirectly of PRC-U.S. tensions. There may be much truth in this argument, but the same argument could be applied to the mainland.

Around the world, there are many cases of multi-state nations—a group of people with the same culture and ethnicity inhabiting, and even comprising the majority population of, more than one state. Yet in most of these cases one state does not insist on incorporating its kinsmen and their territory against their will. Mainland Chinese are committed to the notion of preserving the Chinese empire, which they perceive as inclusive of Taiwan, and the Chinese Communist Party has staked its legitimacy largely on its ability to restore the empire. The CCP has painted itself into a corner on Taiwan, and it is not realistic to expect Jiang's government to redefine the relationship in such a way that acquiesces to Taiwan's permanent political separation. The important point is that the PRC's Taiwan policy is the result of human choices, not natural or geographical destiny.

If we take Beijing at its word, the PRC leadership would be content with an arrangement that amounts to little more than a symbolic change. Military and economic benefits to the mainland would increase marginally, owing to a "peace dividend" from decreased tensions and greater opportunities for cross-Strait business,
but the principal benefit to the mainland would be psychological. One might argue that in a mirror-image of what is happening on Taiwan, the mainland's position jeopardizes enormous potential tangible gains for the sake of pursuing a superficial "feel good" policy. Should the onus be on Taiwan to conform to Beijing's rhetorical construction? Perhaps outsiders cannot escape the logic that it is easier to ask 20 million people to change than 1.2 billion people.

C. A Chastened Status Quo

Given that the political status quo will likely persist for the foreseeable future, the best hope to maintain peace in the Taiwan Strait is that all three parties have been chastened and enlightened by the 1995-96 crisis and will strive to avoid conflict while buying enough time for evolutionary changes that might reduce cross-Strait tensions. Each of the three players has the option of taking a hard-line position that will tend to provoke a strong counter-reaction from one of the other players and thus invite conflict.

A hard-line position for Taiwan is de jure independence or de facto political independence (as opposed to de facto economic, educational and cultural independence, toward which Beijing has been more tolerant). For the USA, a hard-line position involves support for Taiwanese independence and a commitment to defending Taiwan even if a PLA attack was triggered by a declaration of independence from Taipei. China's hard-line position means choosing to interpret ROC foreign policy as tantamount to independence and therefore requiring a hostile military response.

All three sides were close to their respective hard-line positions immediately prior to and during the most recent Taiwan Strait Crisis. In the wake of the crisis, the chances of peace are improved as the three parties step back from these hard-line positions. Any of the three sides can unilaterally decide to pursue a more conciliatory policy, and indeed each has a strong interest in avoiding conflict in the Strait, so the chances of progress are not necessarily obstructed by a Prisoner's Dilemma problem. As a result of the most recent crisis, each of the three governments now has a fairly clear understanding of which of its relevant policy options is likely to increase tensions in the Strait. If any one of the three parties chose to avoid such policies, this might be sufficient for tensions to be reduced to the pre-1995 level. If the United States government convinced Taiwan it would get no military assistance if it provoked an attack from the mainland, the ROC might in turn constrain its diplomatic activities within a range acceptable to Beijing. If the
Taiwanese determined on their own to ratchet down their drive for "international space," the PRC's fears of Taiwan drifting toward independence might be assuaged. And the problem would be well and truly solved if the ruling regime in Beijing ceased to interpret Taiwanese independence as a threat to core national and regime interests. The chances of peace would be maximized, of course, if all three governments stepped back from confrontational policies. There are signs that at least two, Taipei and Washington, are doing so.

Clinton's concessions represented an attempt to mollify Beijing and thus reduce tensions (although there is no guarantee that subsequent administrations will maintain Clinton's Taiwan policy). In Taiwan, opinion polls consistently demonstrate that most people favor a continuation of the status quo, which leaves open the possibility of reunification in the indefinite future, rather than a formal declaration of independence by their government. Furthermore, many pro-independence politicians have recently shifted their position from advocating an immediate declaration of independence to arguing that this move is not necessary because Taiwan already has de facto independence. Both the mainstream Taiwanese public and a large segment of the pro-independence camp have thus shown a willingness to compromise in the interest of containing cross-Strait tensions.

Stepping back from policies known to provoke the PRC in order to reduce the chances of cross-Strait conflict may also require Taiwan and the United States to relinquish the notion of deploying a theater missile defense (TMD) anti-ballistic missile system over Taiwan.9 The PLA's ballistic missile arsenal is perhaps its most threatening and potentially most effective arm in an anti-Taiwan scenario (the other contender being the PLA Navy's submarine fleet). The idea of negating the threat of Chinese missiles through a high-tech defensive system thus has a powerful appeal.

The disadvantages of a TMD system for Taiwan, however, outweigh the advantages. First, the deployment of such a system would badly damage Sino-U.S. and PRC-Taiwan relations. The mere discussion of this possibility by U.S. government officials has already drawn a strong negative reaction from Beijing, not surprising since this idea invokes three of the PRC's greatest fears: U.S.

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military containment of China, further military cooperation between the United States and Taiwan, and Taiwan’s preparation for a permanent separation from the mainland. Second, it is far from clear that TMD is technologically feasible, given the immense challenge posed by the objective and the results of TMD tests up to now. In the end, there may be no practical payoff to compensate for the political costs TMD is already incurring. Third, if TMD did prove workable and was deployed in the Taiwan Strait area, it is doubtful that it would improve Taiwan’s security. A ballistic missile defense system can be countered, and the Chinese would be sure to give this objective a high priority. The most obvious Chinese response to TMD would be to build many more missiles and warheads to give themselves the capability of overwhelming the system. Not only would this usher in an arms race, but it might push the Chinese to upgrade their basic nuclear strategy, which presently aims at the modest goal of a minimal, survivable second-strike capability to avoid nuclear blackmail by any of the other major powers. One might note also that the costs of countering TMD would almost certainly be much less than the costs of building and operating it, so China would come out ahead in the cost-exchange ratio. Considering how little Taiwan is likely to gain from TMD, it is not worth the additional aggravation TMD brings to cross-Strait relations. It would be ideal, of course, if during closed-door negotiations U.S. and/or ROC government negotiators could extract concessions from the PRC in return for dropping the proposal of TMD for Taiwan.

In terms of the players stepping back from the brink, China has been the most problematic point of the triangle. But even from the PRC’s point of view, it is hard to see how military action against Taiwan could be the preferred option for anyone except possibly a few upper-tier PLA generals who might be confident they and their troops would perform well and thus gain prestige. The regime clearly feels pressure from its citizenry to raise living standards, and as Beijing itself so often points out, a peaceful external political environment is vital to keep China’s economic development proceeding quickly enough to keep domestic discontent from overwhelming the state. The international environment is now perhaps more conducive than ever before to China’s economic development, with the campaign to withhold economic benefits from China to punish its human rights violations having lost momentum, probably for good, and with the president of the country that has the most to offer China committed to maximizing economic “engagement” even at
the risk of transferring advanced technologies adaptable to military use. Chinese military action against Taiwan, however, would disrupt this environment at three levels. The most immediate negative effects for the PRC would be the interruption of air and sea traffic in much of the East China Sea and financial losses suffered by the many Chinese who have partnerships with Taiwan-based businesses. More broadly, punitive sanctions would likely follow from many of the best suppliers of the advanced technology China covets. Finally, although many states in the region acquiesce to China’s position that Taiwan is an “internal” matter, the specter of a PLA attack on Taiwan could only contribute to anti-Chinese military cooperation among Beijing’s neighbors.

There have been unconfirmed reports of a deadline in Beijing for the recovery of Taiwan. In another sense, however, time is on the side of peace. As June Teufel Dreyer points out, the longer Taiwan remains a de facto independent state, the more accustomed the rest of the world (including citizens of the PRC) grows to thinking of Taiwan as a country deserving of the privileges usually associated with statehood. At the same time, the costs Beijing would pay internationally if it tried to forcibly recapture Taiwan will also rise.

In sum, hope for stability in the medium term lies in each of the three players drawing back slightly from the positions that created the Taiwan Strait Crisis of 1995-96. The U.S. policy of supporting Taiwan’s resistance against being forcibly reincorporated into the Chinese empire has promoted cross-Strait peace to the extent that it has helped deter the PRC from taking more deeply destabilizing actions that Beijing might have contemplated in the absence of this American commitment. Critics of American policy might argue that the TRA perpetuates a security flashpoint by encouraging Taiwan not to seriously consider a reunification deal with the mainland, something it must do sooner or later.

My position is that the TRA expresses the USA’s part in a delicate triangle of responsibilities that, if maintained with calm wisdom, could be sufficient to keep the peace in the Strait long enough for a new generation of leadership to fundamentally reinterpret the China-Taiwan relationship in a way that makes a real and permanent reconciliation possible.

Chapter 9

THE NATIONAL COMMITTEE ON AMERICAN FOREIGN POLICY'S PROJECT ON U.S.-CHINA POLICY AND CROSS-STRAIT RELATIONS

Donald S. Zagoria*

In the aftermath of the Cold War, the United States has a huge stake in the maintenance of peace and stability in the East Asia/Pacific region. Yet the unresolved "Taiwan problem," if not wisely managed on all sides could lead to a new cold war in the region and a growing danger of major military conflict between China and Taiwan that will almost certainly involve the United States and Japan as well. The dangers inherent in the situation were clearly revealed in the events of 1995-96 when, after a visit to the United States by Taiwan's president Lee Teng-Hui, a visit interpreted by Beijing as one of a series of steps taken by the United States that violated Washington's "one China" policy, Beijing launched a series of military exercises and missile tests in the waters off Taiwan. The United States responded by sending two aircraft carriers to the region, a development that led to the most serious military confrontation between the United States and China in a quarter century.

U.S.-China and China-Taiwan relations have improved somewhat in the four years that have passed since this crisis, but the underlying dangers and dilemmas remain. The future status of Taiwan still stands as the single most important most difficult and most dangerous issue in U.S.-China relations and there are as yet few signs that the PRC and Taiwan, even after a resumption of their quasi-official dialogue broken off in the aftermath of the crisis, are close to a mutual accommodation that would provide a basis for a new kind of political relationship that would reassociate Taiwan with the mainland on terms acceptable to both.

Although the U.S. government is extremely worried about the volatile relationship between Beijing and Taipei, it has made it clear that it has no intention of mediating the dispute between them and

* Professor of Government, Department of Political Science, Hunter College, New York.
that any arrangements concluded between the two parties should be on a mutually acceptable basis. Nevertheless, the United States has too much at stake in the dispute between Beijing and Taipei to simply stand by and remain passive about trends that could drift toward a dangerous new crisis.

It is for this reason that private organizations such as the National Committee on American Foreign Policy (NCAFP) can be quite helpful. The Committee has been sponsoring a roundtable on U.S.-China policy and Cross-Strait relations for the past two years. We believe that the NCAFP, as well as other private organizations and individuals in the United States, can play an important role in facilitating dialogue between Beijing and Taipei, and in encouraging some kind of *modus vivendi* between them.

The participants in the NCAFP's roundtable have been a small group of scholars, former government officials, and influential individuals from the United States, China and Taiwan. There have been four meetings of the roundtable, all in New York City, and a fifth meeting will take place in June 1999.

To encourage a candid exchange of views, the roundtable has not been open to the press and all the participants have been assured that the proceedings are not for attribution, unless otherwise indicated. A summary of the discussions has been made available to the participants and to a few policy makers in all three governments. In preparing for the roundtables, participants have been briefed by government officials and some government officials have been invited to address the roundtables and to answer questions. But the NCAFP is a private organization and it does not speak for the American government.

In sum, the roundtables have sought to encourage frank exchanges among the participants and to provide a sheltered arena in which ideas can be aired and through which trust can be nurtured. The NCAFP has no illusions about the difficulties involved in finding solutions to the problems, and it may not even be possible to find such solutions, but we believe that the act of seeking common ground is itself constructive and that such a dialogue is bound to clarify the situation and to keep all three sides well informed about the perspectives of the other two. We also believe that the roundtable proceedings are taken very seriously by all three governments and we have been told by one high-ranking American official that the NCAFP roundtable is "the most important (unofficial) forum for cross-strait dialogue."
Finally, it is our intention to make public an interim report on the cross-strait issue sometime in the fall of 1999. This report will analyze the policies and perceptions of all three sides — Beijing, Taipei and Washington — and it will offer some policy recommendations for easing tensions and increasing stability.

In the essay that follows, I will first discuss some of the recent developments in cross-strait relations; then I will highlight what seem to be the strategies of the two sides that have been developed to deal with each other. I will close with some comments on the U.S. role and some suggestions for policy makers. I would like to make clear that although I draw on the insights of all the participants in the roundtables the views that I express are my own and do not necessarily reflect the views of other participants or of the U.S. government.

I. RECENT DEVELOPMENTS IN CROSS-STRAIT RELATIONS

The two senior negotiators, Koo Chen-Fu from Taiwan and Wang Dao-Han from China, met in China in mid-October 1998 and Wang is scheduled to pay a return visit to Taipei sometime in the fall of 1999. As a result of the resumption of these talks, which were suspended following the crisis of 1995-96, the atmosphere of cross-strait relations has improved somewhat. But the two sides are still divided on fundamental political issues, especially the vexed issue of reunification. Nor can the two sides agree on how to define “one China” and there remains a deep and pervasive sense of mutual mistrust. Beijing believes that Taiwan is drifting towards independence. Taiwan believes that mainland China is seeking to strangle it diplomatically by seeking to cut off its remaining diplomatic ties and its entry into international organizations. Finally, the military situation in the Taiwan Strait is taking a turn for the worse. According to a recent Pentagon report, Beijing is stationing 150 to 200 missiles in southern China opposite Taiwan and it is planning to increase that number to 650 over the next few years. Beijing evidently believes that by threatening Taiwan with missiles, it is deterring Taiwan from moving toward independence. All this suggests that relations between China and Taiwan are unstable and that mainland China's political and strategic outlook is beginning to harden.

What accounts for this instability? The basic problem is that Beijing views Taiwan as a renegade province of China that, under the leadership of Taiwan's President Lee Teng-Hui, is moving in-
creasingly toward independence even while it continues to pay lip service to the principle of "one China." The PRC says that the eventual reunification of Taiwan with the mainland should take place in accordance with its "one country, two systems" formula, a formula that has virtually no takers in Taiwan. And China also condemns Taipei's activities at broadening its international recognition, including its bid to join the United Nations, as part and parcel of its campaign to establish its independence from the mainland. Beijing's suspicions that Taipei is moving towards separatism are reinforced by some of the statements of the tough-talking KMT president of Taiwan and other Taiwanese officials who assert that Taiwan is already an independent, sovereign state even though it has no intention of declaring de jure independence. Beijing's suspicions are also heightened by the fact that while the Taiwanese are keen to talk to the mainland about practical issues such as illegal immigration and investment, they are reluctant to enter into dialogue about the major political issues. The Kuomintang (KMT) government of Taiwan insists that it cannot enter such negotiations until the PRC accepts the reality that China is a divided nation under two separate political entities and begins to deal with Taiwan on an equal basis and not as a mere renegade province.

Lying at the heart of the matter is the basic issue of sovereignty. For Beijing there is no such issue. In Beijing's view, there is only one China, that China is the PRC, and Taiwan is part of the PRC. Taiwan, however, is reluctant to enter into any negotiations that will jeopardize its own claim to be a sovereign entity. On this basic matter, both the ruling KMT party and the main opposition Democratic Progressive Party (DPP) are in agreement. The DPP goes even further in the direction of independence than the KMT. The DPP charter calls for an independent "Republic of Taiwan" and the popular former mayor of Taipei, Chen Shui-Bian, who is likely to be the DPP candidate for president in the elections scheduled for the year 2000, has recently issued a three point program in which he says that Taiwan is "an independent, sovereign state independent of the PRC and not part of the PRC' and that Taiwan and the PRC are two "mutually exclusive and independent ethnic Chinese states." Moreover, says Chen, in a veiled warning to the KMT, any change in the status quo of Taiwan must be approved by the Taiwanese people and not decided by one political party or leader unilaterally. In short, the DPP will oppose any negotiations by the KMT with Beijing on reunification, even if the KMT were so inclined to enter into such negotiations.
In sum, Beijing and Taipei have taken up what would seem to be completely irreconcilable positions on the basic issues of sovereignty and reunification. Beijing insists that Taiwan is a part of China and that the matter of reunification cannot be postponed indefinitely, especially now that Hong Kong and Macau have been recovered. The KMT government of Taiwan, for its part, while not ruling out the eventual possibility of reunification, insists that this issue must await the day when China becomes a democracy and achieves a much higher standard of living than it has now. And the DPP opposition party in Taiwan insists that there is no question of reunification with mainland China because Taiwan and the PRC are two “mutually exclusive and independent states.”

These fundamental political differences, moreover, strike highly emotional chords on both sides. The PRC cannot accept a permanent separation of Taiwan that appears to violate China’s sovereignty and territorial integrity. China’s modern history of being victimized by imperialist powers, including Japan which seized Taiwan from China in the late nineteenth century, makes these issues ones of extraordinary sensitivity. But the majority of the people of Taiwan have a strong sense of Taiwanese identity; Taiwan’s government and opposition views its long history of independent rule since 1949 as justifying its claim to being a sovereign entity; and the majority of the people in Taiwan reject a posture of subordination to the PRC central government.

Under such circumstances, the potential for misunderstanding and miscalculation is very high. And there have already been serious miscalculations on both sides. On the Taiwan side, President Lee Teng-Hui and some of his advisors now concede that the PRC reaction to Lee’s visit to Cornell in 1995 — the visit that triggered the military crisis during the following year and a half — was stronger than they anticipated. On the Beijing side, many PRC leaders, especially in the military, appear to believe that increasing military pressure on Taiwan will deter the independence movement on the island. Yet while there may be a germ of truth in this idea, the fact is that public opinion polls on Taiwan show convincingly that, as a result of that pressure, few Taiwanese any longer have confidence and trust in the PRC. Given the absence of trust, it is difficult to imagine that a substantial number of Taiwanese would be in favor of reunification at any time in the foreseeable future.

The PRC’s recent missile buildup along the coast opposite Taiwan is likely to increase the potential for miscalculation. Taiwan may react to the PRC’s missile buildup by seeking technology and
weapons systems from the United States in order to improve its missile defense systems and Taiwan may seek to engage the United States closer in the defense of the island. If the United States goes along with these requests, at some point it is likely to convince the suspicious PRC that it is reactivating the U.S.-Taiwan defense relationship which was terminated when the United States recognized the PRC in 1979. Such developments in all likelihood would be met with an escalation in tension between the PRC and Taiwan and between the PRC and the United States.

II. PRC AND TAIWAN STRATEGIES FOR DEALING WITH CROSS-STRAIT RELATIONS

In recent years, both the PRC and Taiwan have developed what seem to be comprehensive strategies for dealing with each other and with the United States. The PRC strategy is designed to deter Taiwan from seeking independence, to enlist U.S. support in this effort and to encourage Taiwan to enter into negotiations with the mainland on reunification. The PRC strategy contains the following elements:

1) induce the United States, Japan and Russia to commit themselves to the PRC's "one China" policy in order to ensure that Taiwan cannot hope realistically to gain support for de jure independence;

2) gradually reduce the number of states that recognize Taipei (it is now 28) and exclude Taiwan from international organizations;

3) develop a military posture, including the deployment of mobile missiles opposite Taiwan, that reminds the Taiwanese people that China has the capabilities to inflict heavy costs on Taiwan for pursuing an independent course;

4) seek to increase trade and investment relations with Taiwan so that the Taiwan business community develops an ever larger stake in cooperative relations with the mainland;

5) increase Taiwan's sense of insecurity by working to exclude it from the region of coverage of the U.S.-Japan security relationship.

For its part, Taipei has also developed a comprehensive strategy for dealing with the PRC and Washington. That strategy includes the following elements:

1) seek practical talks with Beijing on issues such as trade and investment, illegal immigrants, fishing disputes, cultural exchanges, etc., while avoiding any discussion of basic political issues that involve the questions of sovereignty or reunification;
2) get Beijing to stop treating Taipei as a political subordinate and to recognize it as a political equal;
3) talk about eventual reunification but fashion preconditions such as democracy and equalization of wealth that are sufficiently remote so as to nullify any possibility for reunification for a very long time;
4) maintain a vigorous but limited economic relationship with the PRC so that China will be reluctant to antagonize the Taiwan business community, but at the same time ensure that Taiwan's economy does not become excessively dependent on trade with the mainland;
5) make it clear to the U.S. executive branch that if it goes too far in accommodating PRC concerns, Taipei can and will play the "Congress card";
6) use the PRC's missile buildup to justify more weapons purchases from the United States and to get the United States progressively more involved in the island's security;
7) continue to try to expand Taiwan's diplomatic relations and to enter international organizations, including the United Nations and the World Trade Organization.

In sum, the existing status quo is highly unstable. Although the cross-strait dialogue has resumed, there is no agreement on the fundamental issues that divide the two sides and there is a high degree of mutual suspicion.

III. THE ROLE OF THE UNITED STATES

As a result of history, the United States is inextricably involved in the dispute between Beijing and Taipei. Until 1979, when the United States officially recognized Beijing as the legitimate government of China and ceased recognition of Taiwan, the United States had a defense treaty with Taiwan and the island state was one of its most loyal allies during the Cold War against communism. After 1979, the United States developed an unofficial relationship with Taiwan that was codified in the Taiwan Relations Act, which was passed by the U.S. Congress and enshrined in U.S. domestic law. This unique piece of legislation dictates that the United States has a vital stake in the security of Taiwan and in a peaceful resolution of the impasse between the mainland and Taiwan. It also mandates that the United States continue to sell "defensive arms" to Taiwan. This legislation appears to conflict with the Communiqué of 1982 with the PRC which calls for a steady reduction in U.S. arms sales to Taiwan, but the contradictions in these documents have never
been reconciled. The United States now manages its relations with Taiwan through an “unofficial” organization called the American Institute on Taiwan which has offices both in Taipei and in Washington. Over the years while maneuvering in the framework which includes both the TRA and the Three Communiqués, the United States has managed to develop a relatively cooperative relationship with Beijing while continuing to maintain an equally cooperative relationship with Taiwan. U.S. trade with both mainland China and with Taiwan has flourished and Taiwan has shed its authoritarian past and become a thriving free-market democracy with a free press, a popularly elected president and legislature, and several opposition parties. Six American presidents have managed the ambiguities inherent in this triangular relationship to the considerable advantage of all three sides. Still, the uncertainties remain. Among the most prominent of these are the following. What will be the future status of Taiwan? Will it reunify with the mainland? Will it simply maintain its existing ambiguous status as a de facto state, which does not declare de jure independence? Or will it at some time in the future formally declare independence? The PRC has on numerous occasions declared that if Taiwan does formally declare independence, it will go to war. And the PRC has never given up the right to use force in order to recover what it regards as its rightful territory. Meanwhile, with U.S. assistance, Taiwan has developed a substantial modern army and air force designed to deter the PRC.

Although it is debatable whether Taiwan in and of itself is of vital strategic significance to the United States (the U.S. Joint Chiefs were prepared to abandon Taiwan in 1949 after the Chinese Communists took control of the mainland), there can be little doubt that the United States now has a substantial stake in a peaceful resolution of the differences between Beijing and Taipei. If Beijing were to forcefully subjugate Taiwan in contravention of U.S. insistence that the dispute must be resolved peacefully, this fact would have a disastrous impact on the U.S. alliance system in East Asia, especially the key security relationship with Japan.

To put it another way, all of America’s interests in East Asia — and they are substantial — would be promoted by a peaceful resolution of the differences between Taipei and Beijing. And all of America’s interests in East Asia would be jeopardized by a military conflict between the two. That is why, in recent years, the United States has seen its role in the cross-strait issue as: deterring the use of force by the PRC; warning Taiwan against moving toward de jure
independence; and urging both parties to enter into a meaningful dialogue that could eventually lead to a mutually acceptable settlement.

Although there has been much debate among American academics about whether or not President Clinton's recent statement on the "Three No's," when he visited China in late June 1998, constituted a change in policy on the cross-strait issue, subsequent developments suggest that this was not the case. The President's statement in China, along with other developments such as the beginning of visits by former Secretary of Defense William Perry to the PRC and Taiwan, have to be assessed against the background of the 1995-96 Taiwan Strait military confrontation. As a result of that crisis, during which the United States sent two aircraft carriers to the waters near Taiwan, many American academics, members of Congress, and some key policy makers concluded that the Taiwan Strait was one place in East Asia — along with the Korean peninsula — where events could easily spin out of control. There was also lingering resentment, especially in the U.S. State Department, that Taiwan had not been mindful of American interests in the first half of 1994 when it had gone around the executive branch and played the "Congress card" to obtain a visa for President Lee Teng-Hui to visit Cornell University.

Put bluntly, the U.S. administration, which initially said it was not going to grant a visa to President Lee and so informed Beijing, was pushed down a road it preferred not to have traveled. The sense of festering resentment fed into an increasing sense of danger. And many in the U.S. government were intent on reminding Taiwan that sending U.S. aircraft carriers to the seas off Taiwan in March 1996 was not intended to constitute a blank security check for Taipei to engage in provocative behavior toward Beijing that would destabilize the situation and draw in the United States unnecessarily. In sum, Taiwanese officials and politicians need to consider U.S. interests, as well as their own.

But it should be noted that President William J. Clinton, although he publicly endorsed the "Three No's" during his visit to China, did not give in to the most extensive set of Chinese demands vis-à-vis Taiwan. There was no "fourth communiqué," no joint statement, no agreement on a timetable for reducing arms sales to Taiwan, and no commitment as to whether the United States will eventually provide theater missile defense to Taiwan. Also the President specifically referred to the Taiwan Relations Act while in China, the first time that this has been done.
Also, in November 1998, Secretary of Energy Bill Richardson traveled to Taipei despite PRC objections to any cabinet level visit to the island. The trip had several objectives, one of which was to reassure those in Congress who wondered whether American policy was changing fundamentally following President Clinton’s visit to China. Richardson’s trip was a signal by the American government that American policy was not changing in any fundamental way.

In short, there has been no change in official U.S. policy on the cross-strait issue. The United States is committed to a peaceful resolution; it welcomes the resumption of the cross-strait dialogue; and it seeks to reconcile its commitments as contained in the three communiqués with the PRC and the legal requirements imposed by the Taiwan Relations Act. On the other hand, what has changed is the growing awareness in the U.S. administration, Congress and American policy circles that the cross-strait situation is inherently unstable and extremely dangerous and that it needs to be managed carefully.

IV. REDUCING TENSIONS: SOME SUGGESTIONS

Suggestions for reducing tension between the PRC and Taiwan and for bringing greater stability to cross-strait relations can be divided into five categories: “small steps” to build trust; military “confidence building measures (CBMs)” to reduce the risk of accidental conflict; exploiting economic interdependence; “interim agreements” of various kinds designed to freeze the status quo for a long period of time; and suggestions for reassociating mainland China and Taiwan in a “confederation” or “commonwealth.” I will discuss each of these in turn.

A. Small Steps

The “small step” approach would probably be the easiest way to begin easing tensions. According to this idea, there are now on the table between the mainland and Taiwan a number of “practical” issues which demand resolution. These include the problems of illegal immigrants, fisheries disputes and hijacking, and the potential for agricultural cooperation. The two sides are already close to agreement on an accord to stop hijacking and the PRC has responded positively to an overture by Taiwan to increase agricultural cooperation. Another area in which the mainland and Taiwan might find common ground is in the realm of institutionalizing cross-strait dialogue. Taiwan’s President Lee Teng-Hui, in a speech to the National Unification Council on April 8, called on the two sides of the Taiwan Strait to establish a “mechanism for peace and
stability through institutionalized consultations.” Some PRC analysts have expressed similar sentiments. At a recent meeting of the NCAFP Roundtable, one PRC analyst suggested that the Straits Exchange Foundation (SEF) and the Association for Relations Across the Taiwan Strait (ARATS) establish working subcommittees to explore difficult issues. How to institutionalize the cross-strait dialogue would seem to be a useful topic of discussion for the two sides when Wang Dao-Han visits Taiwan this fall.

B. Military CBMs

A number of analysts also have recently suggested a variety of military “confidence building measures” which would include establishing a “hot line” between Beijing and Taipei, prenotification of military exercises, invitations to the military on the other side of the Strait to attend military exercises, etc. Some believe that the United States should encourage the establishment of a military buffer zone between Taiwan and the PRC in order to avoid incidents in the air and at sea. Taiwan is reportedly now studying a variety of such ideas.

C. The Importance of Economic Interdependence

Yet another promising path toward easing tension between the two sides would be to exploit the growing economic interdependence between Taiwan and the PRC.

One of the most critical factors in Taiwan-PRC relations in future years is bound to be the growing trade and investment links between the two sides of the Taiwan Strait. Taiwan is mainland China’s third largest outside investor, having pumped around US $40 billion into the mainland economy. About half of Taiwan’s listed companies now have investments on the mainland and Taiwan businessmen are finding the mainland even more attractive after suffering huge losses in Southeast Asia due to the economic crisis of recent years. Trade relations are also growing despite the absence of direct trade links. Analysts attribute more than seventy percent of the growth in the U.S. trade deficit with mainland China to exports from mainland China by Taiwanese firms operating there.

But Taiwan’s increasingly intimate economic relations with the mainland are a cause of concern for the Taiwan government. Taipei officials fear that Beijing could use growing economic links between the two sides of the Strait as political leverage to force the opening of direct cross-strait trade and communication links which would
then increase even more the degree of Taiwanese dependence on the mainland economy. For Taipei, the limiting of direct cross-strait trade and communications links is an important bargaining chip in its struggle to attain equal political status at the negotiation table and is not to be abandoned lightly.

The Taipei government's "go slow" policy on economic relations with the mainland, however, has run into opposition from certain important sectors of the Taiwan business community. The chairman of the Formosa Plastics Group, Taiwan's largest business conglomerate, openly opposes the government's "go slow" policy. This is an indication that some sectors of the Taiwan business community find the huge potential of the mainland market an alluring and almost irresistible attraction if the Taiwan economy is to remain competitive and to transform itself into a technology-intensive island. (See King Rong-Yung, "New Models Eyed as Asia Struggles in Difficult Times," The Free China Journal, April 1, 1999).

All this raises the question of whether Taiwan might find it advantageous to ease restrictions on investment into the mainland, which are now limited to projects involving less than $50 million in capital, in exchange for some political quid pro quos from the mainland. For example, there have been intermittent proposals from both sides for an agreement on cessation of hostilities, and the mainland is very anxious to reach such an agreement. Might it not be in Taiwan's interest to trade an easing of restrictions on its "go slow" policy in exchange for a mutually acceptable agreement on cessation of hostilities?

D. Interim Arrangements

Some suggestions for stabilizing cross-strait relations are more ambitious. Recently, several American scholars have suggested a variety of interim agreements to stabilize the cross-strait situation for a long period of time. Joseph Nye, former Assistant Secretary of Defense for International Security Affairs, writing in the Washington Post of March 8, 1998, stressed three points which he claimed could bridge the gap between Beijing and Taipei. Nye said:

1) The United States should state plainly that its policy is "one China" and no use of force. In addition the United States should say that if Taiwan were to declare independence the United States would not recognize or defend it. Moreover the United States should work hard to discourage other countries from recognizing Taiwan's independence. At the same time the United States would repeat that it will not accept the use of
force, since nothing would change as the result of any abortive declaration of independence by Taiwan;

2) the PRC should say that if Taiwan decisively rejected the idea of declaring independence, Beijing would not oppose the idea of more international living space for Taiwan and would broaden the “one country, two systems” formula to “one country, three systems,” thereby recognizing the differences between Hong Kong and Taiwan.

3) Taipei would explicitly express its decision to foreswear any steps towards independence, intensify the cross-strait dialogue and stimulate greater flows of investment and exchanges of people across the Strait.

Still another proposal for an “interim agreement” between the two sides was advanced by Dr. Kenneth Lieberthal in February 1998. Dr. Lieberthal, who is now the National Security Council’s senior advisor on Asia, was a professor of government at the University of Michigan when he advanced his ideas publicly in Taiwan. These ideas included the following:

1) The two sides would agree to establish an interim arrangement to govern the cross-strait situation for a period of decades, at the end of which time, and on a negotiated date, formal talks to discuss political unification of the country would begin. The interim period might be about fifty years.

2) The two sides would agree that during this interim period both Taiwan and the PRC exist within “one China” but that the relationship between them would not be that between sovereign entities or between a central government and a province.

3) Taiwan would explicitly agree that it is a part of China and that it will not claim de jure independence.

4) The PRC would explicitly agree not to use force against Taiwan.

5) The two sides would agree that for the interim period each side will be in charge of its domestic affairs and foreign policy.

6) The two sides would agree to undertake regular talks at a high political level to reduce areas of conflict and to enhance mutual confidence.

7) The two sides could discuss the possibility of further reducing tension by changing the names of the PRC to “China” and changing the name of the Republic of China to “Taiwan, China.”

There are a number of problems with proposals such as Nye’s and Lieberthal’s. First, it seems unlikely that the Taiwan government will agree to a formulation that there is only one China and that Taiwan is part of it. Both the KMT and the DPP now say that
Taiwan is already an independent sovereign entity and that the sovereignty issue should not be part of any official negotiation with the PRC. It is highly unlikely that any Taiwanese government will renounce its claim to sovereignty. Second, domestic politics both in Taiwan and the PRC could seriously complicate any effort to reach such an agreement. On Taiwan, both the KMT and the DPP would have to agree to such an arrangement so that it would not become a political football during elections. And on the mainland, too, it might be extremely difficult for any Chinese leader to agree to put off a resolution of the Taiwan issue for fifty years, particularly now that President Jiang Zemin has said that this issue cannot be postponed indefinitely. Third, negotiations between the PRC and Taiwan are still in a very early stage and it is doubtful that those negotiations have reached the stage where the two sides could talk seriously about such fundamental issues. Finally, a number of Taiwanese academics and political analysts argue that such an agreement would be merely a “scrap of paper” unless there is some way of monitoring and enforcing it.

E. Confederation or Commonwealth

Other long-term solutions involve the idea of creating a “confederation” or a “commonwealth” which would link mainland China and Taiwan. David Dean, a former State Department official, advanced a proposal for a “confederation” in 1994. He argued that a compromise which will accommodate Beijing’s requirement for reunification while doing the same for Taiwan’s status as a political entity with international responsibilities is “not beyond reach.” A confederation would give Taiwan its own government, political, economic, military, and social system. It would also provide for two seats for China in the UN General Assembly, one for Beijing and one for Taipei, like the multiple representation of the former Soviet Union. Taipei also would have the right to conduct its own relations with other nations.

The confederation idea would have many advantages for both Beijing and Taipei. For Beijing it would mean an end to irritation and worry about Taiwan’s drift towards independence. Such an agreement would mean highly profitable direct cross-strait trade, more Taiwanese investment in China, and full use by the PRC of Taiwan’s large pool of technicians, managers, educators, scientists, and doctors. This approach would also lead to improve relations between China and the United States and between China and other countries in Asia and Western Europe.
For Taiwan, the benefits are equally clear: peace and stability, reduced military spending, direct travel and trade, international representation, and membership in the United Nations.

More recently, the “confederation” idea has been taken up by prominent individuals in Taiwan. In 1994 Mr. Yu Chi-Chung, publisher of the China Times, advocated the formation of a Chinese confederation. In early 1998, the former DPP Chairman, Mr. Shih Ming-teh, proposed the creation of a Greater Chinese Commonwealth similar to the British Commonwealth of nations.

Most advocates of confederation or commonwealth status envisage Taiwan as part of a Chinese Republic but keeping the separate, democratic government it now enjoys and its own military as well as membership in the UN (two seats for the Chinese Republic) and international representation.

A “confederation” or “commonwealth” solution to the Taiwan issue would also be very much in the U.S. interest. Many Americans have forged strong bonds of friendship with Chinese in Taiwan and are concerned about their future. The U.S. government is also committed to a peaceful solution and hopes that any agreement with Beijing will guarantee the political freedom and security of the Chinese people on Taiwan. At the same time, the United States has a strong interest in maintaining a stable, cooperative, and peaceful relationship with the PRC.

V. Conclusion

The United States is now at a critical juncture in its relationship with the PRC. According to former Secretary of Defense William J. Perry, there has never been a time in recent history when he was more concerned about the U.S.-China relationship based on what is going on in Washington today. As Perry says, if Washington insists on treating China as a future enemy, it will surely become one.

Since the 1996 Taiwan Strait crisis, when the United States and China came close to a military confrontation, the Clinton Administration has sought to develop a constructive relationship with China. Although the Administration had unrealistic expectations in seeking to build a “strategic partnership,” and despite the fact that the United States and China remain divided over numerous issues, significant progress is being made. After the recent visit to the United States of China’s Prime Minister, Zhu Rongji, China and the United States are very close to a final agreement on China’s entry into the World Trade Organization. Once China is admitted
to the WTO, Taiwan will follow. This very fact will greatly facilitate economic relationships between China and Taiwan and it will integrate China more closely into the global community.

The United States has several policy options vis-à-vis China and the cross-strait issue. First, it can abandon the policy of engagement with China, treat that policy as a failure, and upgrade its relations with Taiwan. This policy would be extremely dangerous. A new Cold War with China, which would likely follow such a course of action, would necessitate a substantial rise in the U.S. defense budget and — especially if such a new Cold War was widely believed to have been caused mainly by the United States — it would alienate most of America’s allies in Asia, including Japan. Few, if any, of those allies would join the United States in a premature effort to contain China.

A second policy option would be for the United States to try to broker a grand bargain between China and Taiwan along the lines suggested by Lieberthal, Nye, and others. Under present circumstances, however, such a policy is unlikely to be successful because of the enormous lack of trust between the two sides and because of domestic politics in Taipei, Beijing, and Washington.

The third policy option, which the NCAF endorses, is to continue with some adjustments, current U.S. policy on the cross-strait issue. The United States should continue to deter the use of force by Beijing, reject de jure independence for Taiwan, and encourage the two sides to continue, and to institutionalize, the cross-strait dialogue, and to increase economic and cultural relations.

The United States should not abandon the delicate framework it has developed during the past twenty years to manage the cross-strait issue. Over the longer run, the best hope is that as a result of increased contacts and trade, the two sides will themselves work out a mutually acceptable arrangement to govern the relationship for an extended period of time. The United States can best seek to ensure such an outcome by continuing to maintain a peaceful environment in the Taiwan Strait and in East Asia.

END NOTES

1. In this section I draw on the essay by David M. Lampton, “Recent U.S. Perspectives on Cross-Strait Relations,” American Foreign Policy Interests, April 1999. In that same issue, see also Samantha F. Ravich, “U.S. Policy Toward the Taiwan Strait: A Historical Perspective,” and Ralph N. Clough, “Cross-Strait Economic Relations,” American Foreign Policy Interests, April, 1999.
Chapter 10

CHINA'S ATTITUDE TOWARD THE TAIWAN RELATIONS ACT

June Teufel Dreyer*

I. BACKGROUND OF THE TAIWAN RELATIONS ACT

The Sino-American rapprochement began in the late 1960s, born of leaders of both countries' fear of the Soviet Union as well as a growing acceptance in the United States that Beijing rather than Taipei represented the de facto government of China. What to do about the Republic of China (ROC) on Taiwan, which had been a loyal ally of the United States, had been a vexing question in the minds of many Americans for some years. While civil rights in the ROC at that time left much to be desired, conditions there were unequivocally far superior to those in the People's Republic of China (PRC). And, whereas by 1971 the PRC's economy had recovered from the disasters caused by the Great Leap Forward and the Great Proletarian Cultural Revolution, it was nonetheless mired in poverty and making little progress. This, too, contrasted sharply with the vibrant and growing economy of Taiwan.

U.S. National Security Adviser and later Secretary of State Henry Kissinger made several secret trips to Beijing to discuss a formula for unification\(^1\) which would be acceptable to the PRC while yet maintaining the status quo on Taiwan. The compromise finally arrived at, the Shanghai Communiqué, which was signed by U.S. President Richard Nixon and Chinese Communist Party head Mao Zedong, stated that "all Chinese on either side of the Taiwan Strait maintain that there is but one China and that Taiwan is a part of China. The United States does not challenge that position." While this phraseology was a clever diplomatic fiction, it ignored the views of substantial numbers of native-born Taiwanese\(^2\) who,

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* Professor, Department of Political Science, University of Miami.

1. In recognition of the fact that the People's Republic of China has never exercised jurisdiction over Taiwan, the author uses the term "unification" rather than "reunification" unless directly quoting a source that uses the latter.

2. The original version said "all people"; according to a Kissinger aide and later Assistant Secretary of State for East Asia and the Pacific, John Holdridge, it was
though publicly voiceless at that time, were known to hold contrary views.\textsuperscript{3}

Also in the communiqué, the Chinese side stated that “Taiwan is a province of China which has long been returned to the motherland;\textsuperscript{4} the liberation of Taiwan is China’s internal affair in which no other country has the right to interfere. ... the Chinese government firmly opposes any activities which aim at the creating of ‘one China, one Taiwan,’ ‘one China, two governments,’ ‘two Chinas,’ an ‘independent Taiwan,’ or advocate that the status of Taiwan remains to be determined.”\textsuperscript{5}

It was made clear that the Shanghai Communiqué represented only the beginning of the Sino-American rapprochement, with the difficult question of what to do about Taiwan the major obstacle. Washington declared its interest in a peaceful solution to the Taiwan question; Beijing agreed that this would be best, but did not rule out the use of force. Hence, the matter of arms for Taiwan became the crucial issue. As revealed in recently declassified materials dating from 1974, Henry Kissinger noted the absurdity of a defense arrangement with part of a country, which is what Taiwan would become after American recognition of the Beijing government. However, he expressed concern that abandoning the defense of Taiwan would cause Sino-American relations to become a contentious issue in the United States. Conservative resistance was apt to be strong. It was in neither country’s best interest, Kissinger argued, to have a senator or senatorial group do to Sino-American relations what Senator Henry Jackson had attempted to do to U.S.-Soviet relations. Hence, he told Deng, the American government

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\textsuperscript{3} The Emergency Decrees, often misleadingly translated into English as “Martial Law,” prohibited the public assertion of such views at this time.

\textsuperscript{4} The phrase “Long been returned” implies that Taiwan was part of the motherland for a period of time, then was not, but came back at some point in the distant past. This presumably refers to Japan’s returning the sovereignty of Taiwan to China after World War II, though Japan did not say which China, Nationalist or Communist, it was being returned to. Taiwan has not been administered by the mainland during this period.

\textsuperscript{5} Text of the communiqué can be found in \textit{U.S. Department of State Bulletin}, Vol. 66 (1972), p. 435.
needed a formula that enabled it to say that, at least for some period of time, there are assurances of peaceful reintegration.\(^6\)

Kissinger’s statements can be interpreted in several different ways, including:

(a) he was tacitly agreeing that at some point in the future the PRC could take over the ROC by whatever means it chose, peaceful or otherwise;

(b) he was using the threat of a conservative backlash in his country as leverage against the Chinese to obtain a commitment for Taiwan that he actually favored;

(c) he was genuinely afraid of being the target of an angry congressional coalition;

(d) he was suggesting an interim arrangement for a US defense commitment to Taiwan in order to get an agreement with the PRC, in full knowledge of the fact that interim arrangements frequently become permanent;

(e) he simply wished to reach an agreement on full diplomatic recognition; how to deal with phasing out the US commitment to Taiwan could be deferred to an indeterminate date, and would be the responsibility of his successors.

Kissinger’s true intent is perhaps known only to Kissinger. However, these revelations do give credence to later Chinese claims that a U.S. defense commitment to Taiwan ran counter to the spirit of the negotiations between the PRC and the United States.

How to deal with the “one China” concept was another contentious point, particularly given the fact that the governments of both the PRC and ROC agreed with the concept. John King Fairbank, the acknowledged dean of China studies in the United States from the 1950s through the 1970s, was neither a conservative nor a friend of the Taiwan’s ruling Kuomintang government. Writing in 1976, Fairbank expressed contempt for the “ostensible agreement” that “there is but one China and Taiwan is part of China.” “Any teenager,” he observed, “can see that this is a nonfactual statement.”\(^7\) The “one China doctrine is one of those hoary Chinese de-

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vices for manipulating the unsophisticated barbarian.”° However, Fairbank continued, having once acknowledged a patent untruth, the United States needed to find a way to work around it. Correctly predicting that “the hardest bargaining with Peking...may come over the question of military supply to Taiwan's armed forces.” Fairbank suggested that there could be a “considerable growth of legal fictions,” including using third parties.

Kissinger failed to obtain an acceptable follow-on agreement to the Shanghai Communiqué, and the problem was passed to a Democratic administration under President Jimmy Carter. Although Carter, unlike Nixon and Ford, had a majority of his own party in Congress, his own electoral experience was confined to the state of Georgia, and he was often at loggerheads with both conservatives and liberals in both houses. Although many were surprised when, in mid-December 1978, the normalization agreement was announced, the signs seem clear in hindsight. The precise terms of normalization and how to maintain the security of Taiwan were regular features of newspapers and journals in the preceding year; several advocated that Washington assure Taipei that it would be protected against “violent takeover.” In February, the administration was reportedly leery of conservative reaction in Congress if it were to break relations with the ROC; Leonard Woodcock, head of the US liaison office in Beijing was quoted as saying he had no quarrel with President Carter’s decision to postpone further moves on recognition to avoid further alienating conservatives by severing relations with Taiwan. In June 1978, Carter decided to permit Western nations to sell military equipment to Beijing; in July, he vetoed a plan to sell 60 F-4 fighter-bombers to the ROC in what was interpreted as a move to gain favor with Beijing. Four months

8. Ibid., p. 6.
9. And even with the people of his home state. Billboards erected along the major traffic arteries through that state announced in huge letters “The people of Georgia apologize to the people of the United States for Jimmy Carter.”
later, Carter rejected Taiwan’s request for F-5G fighter planes, leaving Taiwan no way to upgrade its airforce. A *New York Times* editorial supported Carter’s decision, assuming that a peaceful solution to disagreements across the strait could be reached.

The joint communiqué, announced on 15 December, was short and direct. The two parties affirmed the principles of the Shanghai Communiqué and stated their desire to reduce the danger of international conflict. The United States “acknowledged” China’s position that there is but one China and Taiwan is part of China. More insight into the problems facing the negotiators can be gleaned by examining the accompanying statements issued by each side.

The U.S. statement said that the United States recognized the PRC as the sole legal government of China; would terminate its diplomatic relations with the ROC; abrogate the Mutual Defense Treaty between them; withdraw its remaining personnel within four months; and adjust its laws and regulations to permit the maintenance of commercial, cultural, and other non-governmental relationships under the new circumstances. The statement averred that “the United States is confident that the people of Taiwan face a peaceful and prosperous future. The United States continues to have an interest in the peaceful resolution of the Taiwan issue and expects that the Taiwan issue will be settled peacefully by the Chinese themselves.”

The Chinese statement was more blunt, stating *inter alia* that “As is known to all, the Government of the People’s Republic of China is the sole legal government of China and Taiwan is part of China. . . . As for the way of bringing Taiwan back to the embrace of the motherland and reunifying the country, it is entirely China’s internal affair.”

As was noted by critics at the time, the United States had conceded much; the PRC, nothing at all. However, according to unnamed diplomats in Hong Kong, the “vital breakthrough” had been Beijing’s “willingness to ignore future arms sales to Taiwan.”

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putative concession was not, however, expressed either in the communique or in either side's accompanying statement.

The normalization announcement was made just after Congress had adjourned for the Christmas holiday, though it was later revealed that the text had been agreed upon in October. As noted above, the administration had earlier expressed concerns about a conservative backlash. However, the timing of the normalization announcement plus the fact that, contrary to both established practice and prudent regard for inter-branch relationships within government, there had been no consultation with Congress, angered both liberals and conservatives. Only a week before, both houses of Congress had voted overwhelmingly that any formula for recognition of the PRC should not be detrimental to Taiwan. This began a pattern which continues to this day: Congress as the guarantor of the ROC's security and the executive branch as the dispenser of concessions to Beijing.

Public opinion polls also indicated dissatisfaction. A Gallup poll reported that a majority of Americans who expressed opinions thought it wrong to sever ties with Taiwan; a New York Times/CBS News survey found that 46 percent of those contacted, and a majority of those who held opinions, opposed the establishment of relations with China at Taiwan's expense.

Carter's belated admission that he had agreed that he would not, during 1979, sell arms to what was now officially referred to as Taiwan further inflamed feelings and complicated his dealings with Congress. So as well did Ambassador Woodcock when, questioned by members of Congress, he admitted that he had never raised the issue of sovereignty for Taiwan. While Woodcock explained that he had not done so because he was sure that the Chinese side would not agree, many legislators were loath to believe that the former head of a major labor union would not know how

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24. Woodcock had served as head of the United Auto Workers for many years before being appointed head of the U.S. Liaison Office (after normalization, the U.S.
to stake out a stronger bargaining position than he believed the other side might agree to. Legislators also pointed out that Deng Xiaoping had on several occasions, most recently on 5 January 1979, emphasized that the PRC had not and would not commit itself to “use no other means than peaceful means to achieve the reunification of the motherland. We cannot tie our hands in this matter. If we tied our hands, we would obstruct the realization of the good intention to solve the matter peacefully.”25 Several resentful senators urged selling advanced fighters to the ROC.26

On the very day that the New York Times published an article on the bipartisan nature of dissatisfaction, the PRC invaded Vietnam. This undermined Carter’s contention that the normalization represented a major step toward peace in Asia. The president had stated only a few days before that he had obtained China’s “maximum commitment” on the peaceful resolution of the Taiwan question.27 The PRC’s actions with regard to Vietnam indicated to many that this “maximum commitment” was woefully inadequate.28 Moreover, Deng Xiaoping had only just concluded a visit to the United States during which the administration had extravagantly praised his vision of benign communism.29

Nor, as it turned out, were the unnamed Hong Kong diplomats’ statement about China agreeing to ignore arms sales quite accurate. PRC Party Secretary and Premier Hua Guofeng, in a widely disseminated press conference, stated that:

In the course of negotiations, the U.S. side mentioned that it would continue to sell arms to Taiwan for defense purposes after the normalization. We can absolutely not agree to this. During the discussions, we made our position clearly [sic] on many occasions. On this question, con-

Embassy) in Beijing. While at the UAW, he was regarded as a tough and capable bargainer.


29. Or, as the media often referred to it, “cuddly communism,” perhaps in recognition of the panda bears that the PRC had given to the US, where they became instant crowd-drawers at any zoo fortunate enough to have obtained them.
tinued sale of arms to Taiwan after normalization does not conform to the principles of normalization, is detrimental to a peaceful settlement of the Taiwan question and will exercise unfavorable influence on peace and stability in the Asia-Pacific region and the rest of the world. The two sides had differing views, but nevertheless, the joint communiqué was reached.30

II. THE TAIWAN RELATIONS ACT

Since the normalization negotiations had been conducted in secrecy and without congressional input, the recognition communiqué left many questions unanswered. The mechanisms for the carrying out of the informal contacts between the U.S. and Taiwan and the disposition of existing treaties, defense ties, and commercial arrangements, was yet to be determined. Haste was imperative because the communiqué specified that normal U.S.-China relations were to begin on 1 March. The administration presented its effort to deal with these issues, called the Omnibus Bill. The legislative branch quickly rejected it as inadequate and set to work on its own document. Areas that were felt to be particularly deficient were:

1. there was no definition of the phrase “people of Taiwan,” although it appeared several times in the administration bill;
2. several matters such as the legal standing of the people of Taiwan to sue and be sued in U.S. courts, and the protection of property rights of entities and persons in both countries were implicit; congressional critics felt that they should be made explicit;
3. the bill contained no provisions for congressional oversight of the American Institute in Taiwan, the private entity established to conduct U.S. relations with the people of Taiwan;
4. it had no provisions for granting privileges and immunities to members of Taiwan’s counterpart organization in the United States;

5. the bill did not mention any American interest in the security of Taiwan, nor authorize the sale of defensive weapons to Taiwan.\footnote{31}

Administration officials warned that Carter would veto any plan that he felt jeopardized newly-developing relations with Beijing.\footnote{32} Extensive discussions took place over the exact wording of the language necessary to reassure Taiwan without undoing the recognition agreement. These involved discussions within Congress; between members of Congress and representatives of the administration; and with ROC officials. As for the last-named, according to the then-first secretary of the ROC embassy in Washington, there were 17 formal meetings, numerous public hearings, and informal negotiations to discuss the content of the TRA.\footnote{33} While it would seem obvious that there were consultations with the PRC as well, any consultations that may have been held have not been made public.

Most lawmakers did not want to undo normalization, believing that it had been the right thing to do, even if done in the wrong fashion. They were persuaded that good relations with the world's largest power were important, and that a Sino-American partnership would help to deter Soviet expansionism. Questions of how far they could go to protect the U.S.-Taiwan relationship without jeopardizing normalization were hotly debated. One representative noted that if the language of the TRA did not establish America's right to deal with Taiwan now, the time would have passed forever and any altercation between the mainland and Taiwan would have to be regarded as an internal matter.\footnote{34} Another Congressperson, however, opposed a defensive commitment on grounds that it would force the United States to send troops to defend the island which was "against, in my opinion, the public policy of this country and against the feeling of the majority of the American people."\footnote{35}

\begin{footnotes}
\item[33] Huang Chao-Ping and Victor Lai, "GIO Chief Speaks of TRA's Importance To ROC-US Relations (I)," \textit{Central News Agency} (hereafter CNA), Taipei, March 15, 1999.
\item[34] \textit{Congressional Record}, H. 1197. March 8, 1979.
\end{footnotes}
Beijing watched the congressional debate carefully. *Xinhua*, the country's official news agency, reported highlights of the deliberation that were favorable to the mainland's position; diplomatic protests were lodged at several junctures. For example, *Xinhua* publicized a press conference in which Carter stated "I could not accept any resolution or amendment to the legislation that would contradict the commitment that we made to the government of China, on which is predicated our new normal relationship. I think that any resolution or amendment that would go as far or further with the defense commitments to Taiwan would be unacceptable." It also cited Carter's response to a question on why he felt a congressional resolution on the security of Taiwan was unnecessary: "... because the legislation we proposed to the Congress, in my opinion, is adequate." Also cited with evident approval was Carter's response to whether he would go to war to protect Taiwan [a few days before, Carter had said that a future president had the option of going to war over Taiwan]. The president replied that he had "no intention of going to war. ...I wanted to point out that no future decisions by myself or my successor is prevented...and I have no anticipation that there will be any requirement for war in the western Pacific."36

All sides were constrained to some degree. Carter had to placate the PRC without further annoying his vocal bipartisan opposition in Congress. Congressional leaders were aware that it would be difficult to get the two-thirds majority necessary to override a presidential veto of any bill. The PRC did not wish to present too belligerent an image with regard to Taiwan, lest it undermine the thesis that peaceful unification was its ultimate goal. The ROC, in the weakest position of the three, could do little but appeal to moral and ethical beliefs.

In the end, the language decided upon established that the policy of the United States rested upon the expectation that the future of Taiwan would be determined by peaceful means; considered that any effort to determine it by other than peaceful means, including boycotts or embargoes, to be a threat to peace and security and "of grave concern" to the U.S.; promised to provide Taiwan with defensive arms, and asserted the right to resist any resort to force that

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would jeopardize the security or social and economic system of the people of Taiwan.\textsuperscript{37}

On March 16, then-Chinese foreign minister Huang Hua met with Ambassador Woodcock to protest that on a number of points the bill, passed three days before, contravened the normalization communiqué. He argued that, at the time of normalization, the U.S. side explicitly recognized the PRC as the sole government of China, acknowledged that Taiwan is part of China, agreed that only unofficial relations would be conducted between the American people and the people of Taiwan, and concurred that the return of Taiwan to the motherland was a matter within the scope of Taiwan’s sovereignty. However, the congressional bill was “in essence, an attempt to maintain to a certain extent the U.S.-Chiang joint defense treaty.” This, Huang continued, was interference in China’s internal affairs and gave official status to future U.S.-Taiwan relations. As such, it was unacceptable to the Chinese government. If signed into law, great harm would be done to the new relationship that had just been established between China and the United States.\textsuperscript{38}

Two days later, the pro-PRC Hong Kong newspaper \textit{Hsin Wan Pao} ran an angry commentary in its “New Talk” column. \textit{Hsin Wan Pao}, along with other pro-PRC Hong Kong newspapers, was believed to serve as a conduit for conveying official views in a less formal [and therefore, if the need should arise deniable] manner than direct communication from Beijing. The unsigned column observed that “After the normalization of Sino-U.S. relations, Washington is still dragging a tail. Moreover, it seems as if the tail will not fall off.”

Essentially reiterating the points made by Huang Hua, \textit{Hsin Wan Pao}’s columnist noted that while the normalization communiqué spoke of “the people in Taiwan,” the TRA spoke of “the governing authorities on Taiwan.”\textsuperscript{39} This, he implied, amounted to verbal smuggling. As for the TRA’s provisions for the sale of defensive arms to Taiwan and its assertion of a U.S. interest in the peaceful solution of the Taiwan issue, the American government had no right to take such positions. The decision of whether to attack or blockade belongs to the Chinese alone.

\textsuperscript{37} Taiwan Relations Act, Public Law 96-9, 96\textsuperscript{th} Congress, H.R. 2479, April 10, 1979.


\textsuperscript{39} Both section 12 (b) and section (2) of the TRA refer to “the governing authorities on Taiwan.”
That Taiwan should be allowed to maintain its consulates and embassy, and that its staff members be allowed to occupy seats in Congress reserved for diplomats, was unspeakable. Twin Oaks, property of the erstwhile ROC embassy, must be turned over to the PRC immediately.40 However, these were “minor concerns”: the acknowledgement that Taiwan’s return to the motherland is an internal affair of China was of major significance. Now was the time for President Carter to exercise his influence and power to ensure that this ugly tail to normalization was cut off: “the tail is by no means allowed to wag the dog.”41

Li Tieh-Cheng, a reporter for Ta Kung Pao, another pro-PRC Hong Kong newspaper that foreign analysts believed to speak for official Beijing, opined that the establishment of diplomatic relations between China and the United States did not mean that relations between the two had been normalized. He expressed outrage that the U.S. Congress wanted to apply legislative measures to restrain China from using force against Taiwan to preserve its “so-called security.” Li concluded that “everyone said that the establishment of diplomatic relations between China and the U.S. on New Year’s Day opened a new era. But I want to ask what is so new about it.”42

Radio Ba Yi (August 1st, the date of the founding of the People’s Liberation Army), a Chinese-language clandestine broadcasting station, denounced the TRA as U.S. imperialism’s “barbarous interference in our [i.e. Chinese] internal affairs.” How, the commentator continued, could this have happened?

The answer can only be one: This is the result of Vice Premier Deng’s erroneous policy and of his eagerness to approach U.S. imperialism. Deng Xiaoping tried to establish a united front at any cost. He asked Carter, Schlesinger [James Schlesinger, who had held several high-

ranking positions under the Nixon and Carter administrations], and other U.S. friends to forge Sino-U.S. friendship. For this, he bartered away our motherland’s interests to U.S. politicians and made broad concession to them.43

As American, and doubtless mainland Chinese, officials, were aware, Ba Yi was funded by the Soviet Union. The USSR correctly perceived that an important impetus for the Sino-American rapprochement was opposition to Moscow; it therefore wished to undermine the relationship. How many Chinese listened to its anti-Deng polemics and were influenced by them is not known.

Deng himself appeared to rise above this controversy. In the course of a two-hour meeting with a delegation from the U.S. Senate Foreign Relations Committee, he expressed “dissatisfaction” with U.S. plans to maintain relations with Taiwan, but said that he was even more concerned about the international situation. As reported by delegation leader Frank Church, Deng said he did not want his remarks quoted. Although the TRA included “elements of interference in relations between Washington and Beijing,” Deng urged the United States to sell arms to China and stressed the new strategic importance of strengthening China so as to make the USSR act “more prudently.”44 The vice premier and paramount leader thus indicated that, at least at that particular time, he had higher priorities than Taiwan.

The TRA was signed into law on 20 April, the day after Deng made these statements. For some time thereafter, Chinese officials and media essentially ignored the TRA. Deng paid a well-publicized two-week visit to Japan in mid-April. Other press coverage concerned the abrogation of the Sino-Soviet Treaty—which had been in practice defunct for two decades. Vietnam, with whom the PRC had fought a brief but bitter border war in February, was regularly pilloried by the Chinese media. Worries about the deteriorating regime of the Shah, and Soviet intentions in Iran should he fall, were strongly voiced. The discovery of a Soviet brigade in Cuba was cited as yet another instance of Soviet expansionism.

Domestic matters also seemed more pressed than the Taiwan matter. The successes and setbacks of Deng’s Four Modernizations program were reported in detail, as were the sentencings of Wei Jingsheng and other democracy activists. Deng met with numerous congressional groups. Judging from the published transcripts, he

confined his remarks to generalities on the bright future of relations between the two countries. The official announcement of a late-April 1979 meeting with Henry Kissinger said only that “their talk concerned issues in the present international situation.”

Meanwhile, the mainland set about courting Taiwan. As of 1 January 1979, it ceased its two-decades-long bombardment of the ROC’s offshore islands. Deng Xiaoping told a delegation of American senators led by Sam Nunn that there would be no requirement that Taiwan disarm in order to achieve reunification, and reaffirmed Beijing’s desire to avoid the use of force unless the island refused indefinitely to enter into negotiations or if the Soviet Union tried to interfere in cross-strait relations. He promised Taiwan would retain full autonomy within China for as long as the people of Taiwan desired, and that Taiwan authorities would possess the same powers they now enjoy. Apparently impressed, the senators construed these remarks as meaning that mainland leaders viewed reunification as “basically a matter of sovereignty and flag.”

The mainland’s ministry of foreign trade announced that no customs duties would be imposed on goods moving between the mainland and Taiwan. Japanese sources reported that Beijing’s leaders were debating whether to commemorate the 2-28 incident, a popular uprising against the KMT government that had occurred on 28 February 1947. Heretofore, the mainland government had remembered the incident each year with speeches urging Taiwan compatriots to liberate themselves from the reactionary Chiang brigade. After consultation with Taiwanese living in Beijing, they decided to ignore the date in 1979.

In May, Hsin Wan Pao reported Liao Chengzhi, president of the Sino-Japanese Friendship Society, as remarking that it was “presumptuous conceit” that “some countries,” for the sake of their own selfish interest, had armed Taiwan with guns and artillery. This, Liao stated, had made Taiwan’s government presumptuous and conceited, to the extent that it was ignoring the heartfelt desire of the people of Taiwan for the return to the motherland. It was even attempting to argue that Japan and other countries should adopt the American model in dealing with Taiwan. Should the thus-emboldened “Taiwan authorities” continue to ignore the wishes of

their own people, "we cannot guarantee that we will not adopt means other than peaceful ones." Liao made these remarks during a visit to Shimonoseki, where the treaty ending the Sino-Japanese war of 1894-95 and ceding Taiwan to Japan had been signed. Hence, his remarks may have been designed primarily to warn other countries not to supply arms to the ROC and secondarily to prod the Taipei government to initiate negotiations.

Since only a few days before, Liao had stressed Beijing's desire to reach a peaceful settlement of the Taiwan issue, and since his warning had come through a non-official source, it raised no particular concern. The TRA issue surfaced again in the fall, and this time by the official media. The impetus was a suit brought against the Carter administration by conservative senator Barry Goldwater. Goldwater charged that, since the U.S. constitution stipulates that no treaty shall become law unless agreed to by two-thirds vote of the Senate, the same procedure must be used to abrogate a treaty.

Realizing that there was a significant possibility that two-thirds of the Senate would not agree to this, Beijing was concerned. Anxieties were heightened when, on 17 October, U.S. District Court Judge Robert Gasch ruled in favor of Goldwater's contention. [The Supreme Court eventually vacated the issue, allowing Carter's decision to stand]. PRC media complained that the "old tune of 'two Chinas' was being played up again by a few people on Capitol Hill." Shortly thereafter, testimony at House Foreign Relations Committee hearing on the implementation of the TRA by Robert P. Parker, a lawyer and president of the American Chamber of Commerce in the ROC, caused a fresh outburst. Beijing Review complained:

The said "act", which betrays the principles that brought about the normalization of relations between China and the United States, was adopted by the U.S. Congress last March. Parker eulogized the "act" and urged the U.S. administration to "keep in force all existing treaties and other international agreement with Taiwan" and strongly opposed converting them into "unofficial agreements."

During the hearings, the term "Republic of China" was repeatedly used by members of the House Committee as if Washington's official policy of recognizing only the People's Republic of China meant nothing to them. All

this appears to be part of a coordinated effort to undermine the developing relationship between China and the United States. It serves the interests of a small group who feel uneasy over the normalization although the majority of the American people are happy about it. . . Are Goldwater and Parker's performances merely an anachronistic throwback? People are watching to see what their actions will lead to.  

For over a year after this outburst, both Beijing and its Hong Kong media surrogates maintained silence on the Taiwan Relations Act. The Chinese leadership was surely aware that it had effected normalization of relations with the United States on terms that were extremely favorable to the PRC. While clearly stating its dissatisfaction with certain provisions of the TRA that it felt contravened the spirit of normalization, Beijing did not wish to jeopardize those gains by taking too hard a line with regard to the U.S., whose arms and support it sought as a bulwark against Soviet expansionism. It is likely, therefore, that the leadership decided to mute its criticism of the TRA unless it felt that the gains achieved by the normalization agreement were being endangered, as exemplified by the issues presented above:

- Barry Goldwater's suit;
- the use of the term "ROC" by members of Congress and other persons with international standing;
- the possibility that provisions of the TRA such as its provision for the sale of defensive arms could be adopted by other countries.

The Deng leadership had many other challenges, both foreign and domestic, to address. When the time was favorable, the TRA could be dealt with again. Since a frontal attack at that point was unlikely to induce Congress to revoke the act, an easier and potentially more effective strategy would be to modify its offensive clauses, either by concluding new agreements with the U.S. or by persuading the American executive branch to re-interpret the TRA.

III. THE 1982 COMMUNIQUÉ

By 1981, conditions appeared favorable for a new démarche. Deng Xiaoping had eclipsed Hua Guofeng, whom the dying Mao

had allegedly designated as his heir. Deng had as well sidelined most of his other rivals for power. A consensus had been achieved on the legacy of the Great Helmsman; the ambitious Four Modernizations program had been launched. And relations with the Soviet Union had begun to improve. Across the Taiwan Strait, Beijing saw a popular but aging president and the rapid Taiwanization of the island's politics. Chiang Ching-Kuo, it realized, was apt to be the last mainlander to govern Taiwan. Unification would be much harder to achieve with native Taiwanese, most of whom felt little affinity with the mainland, in charge of the island's administration.

Moreover, there were worrisome developments in the United States that called for strong action by Beijing. Ronald Reagan, who had been critical of Carter's China policy, had been elected president. At one point in the campaign, Reagan had advocated re-recognition of the ROC, although an aide later said Reagan had been misquoted. Conservatives also advocated that the Republican party platform include a plank urging restoration of ties with the ROC. Beijing was irate.

There was disarray at the top level of the Republican party, with Reagan's vice-presidential choice, George Bush, opposed to bettering ties with Taiwan. ROC leaders quietly advised their conservative Republican friends that they did not wish their country to become an issue in the American election. In the end, the party platform committee decided to accept the status quo on the PRC and ROC while pledging priority for Taiwan's defense needs. Reagan's advisers explained that their candidate had meant only that he intended to tilt as far toward the ROC as was allowed by the Taiwan Relations Act. Chinese newspapers pointed out that the TRA, as domestic US legislation, could not be imposed on China, and representatives to its National People's Congress declared Reagan's remarks "intolerable and insulting."

Campaign rhetoric notwithstanding, Reagan appointed a Kissinger protégé, Alexander Haig, to be his secretary of state. Kissinger regarded the opening to China as one of the pinnacles of his

51. Dr. Ray S. Cline, personal communication to the author, June 1981. According to Cline, a former deputy director of the Central Intelligence Agency and long-time personal friend of ROC President Chiang Ching-kuo, the message was conveyed through himself and Dr. Richard L. Walker, University of South Carolina.


career, and did not wish to see relations with the PRC harmed. Haig was primarily concerned with containing Soviet aggression, and considered a strategic partnership with the PRC to be an essential component of his containment policy. Beijing quickly seized the opportunity to advance its interests with regard to Taiwan.

Then-premier Zhao Ziyang approached Reagan at a gathering of international leaders held in Cancun in October 1981. Foreign minister and concurrently vice premier Huang Hua then held discussions with Haig in Washington; vice president Bush visited Beijing in May for further talks. These formal interchanges were conducted against a chorus of invective on the Taiwan Relations Act and a backdrop of threats to suspend Sino-American relations.

A representative example of the invective was Zhongguo Xinwen She’s warning that:

> . . . the TRA is a serious obstacle to the development of Sino-U.S. relations. If the United States does not revise the act and continues to sell arms to Taiwan, grave consequences for Sino-U.S. relations will follow. . . . the TRA seriously infringes upon international law and seriously violates the principle of the agreement on the establishment of Sino-U.S. diplomatic relations. The act simply prepares so-called legal grounds for creating two Chinas.  

A spate of articles in the mainland press and in its Hong Kong surrogates, the latter taking a far more combative tone, called for the amendment of the TRA and a cessation of all arms sales to Taiwan. Senator Henry Jackson’s question as to what the U.S. would do if someone were to sell arms to Texas [stunningly inappropriate, considering that Texas has been under U.S. administration for more than a century and has expressed no desire to leave] and those of a mid-western U.S.-China Friendship Association received favorable mention, opposing views were castigated as “few and limited in influence. . . . but they are stirring up trouble with all their might.” The TRA was declared to be contrary to interna-

ional law.\textsuperscript{58}

The author, visiting the acting National Security Council adviser for Asia in his office in the spring of 1982, found the adviser in a gloomy mood, his muscular six-foot-plus frame slumped in his chair. On asking the reason, she was told that the PRC had threatened to withdraw its ambassador if its demands to essentially supersede the Taiwan Relations Act were not complied with. He seemed nonplussed at her rejoinder that the Chinese ambassador was due to return for consultations soon in any case, and that the United States, having managed to function nicely for several decades without a PRC ambassador in residence, could conceivably adjust to doing so again.

The PRC also used its American friends as conduits, hinting that were its conditions not accepted, Deng Xiaoping would be vulnerable to his domestic enemies and might be replaced with someone unfriendly to the United States.\textsuperscript{59} Others warned that Beijing might turn to Moscow.\textsuperscript{60} Subtly, the debate had changed from \textit{whether} to sell arms to China to how to get the PRC to take them.\textsuperscript{61} Haig considered it important to build the Chinese military into a bulwark against the Soviet arms forces.

In June 1982, Haig resigned under fire. His China policy was one, but not the only, factor in his undoing. PRC sources reacted with anger when, at confirmation hearings, his successor vowed to uphold the Taiwan Relations Act.\textsuperscript{62} The long-negotiated Sino-American communiqué, announced in mid-August, went far toward

\textsuperscript{58} (no author) "U.S. Arms Sale To Taiwan Violates International Law," \textit{Beijing Review}, No. 6, February 8, 1982, pp. 11-12.


\textsuperscript{60} Leslie Gelb, "Memorandum to the President," \textit{New York Times}, January 18, 1981, Sec. 6, pp. 15ff, at 58.

\textsuperscript{61} The author testified at 1981 Senate hearings on whether to sell arms sales to China. Her contention that this could prove the slippery slope to creating a dangerous situation for the PRC's neighbors, including Taiwan, was refuted by a witness from the State Department's Policy Planning Bureau, Roger Sullivan, who argued that the problem was not worrying about whether to sell US arms to China, but getting China to take them. The slope, he contended, was "uphill all the way." Contrast this with Deng's 1979 statement, quoted above, that he hoped the U.S. would sell China arms.

meeting the PRC's conditions. Many members of Congress reacted angrily. Of particular concern was the section in which

...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 of arms to Taiwan, leading over a period of years, to a final resolution.

As with the recognition issue, opposition to the administration's action was bipartisan. Several senators blamed the "perfidy" of the U.S. State Department, with one charging that as soon as "China threatened to downgrade relations if the question of arms sales were not resolved, we rushed to the negotiation table." Several others pointed out that nothing in the TRA says arms sales should be reduced either in quantity or in quality, and that the communiqué constituted a violation of section 3 of the TRA. The same section 3 gives the president and Congress together the duty to determine the nature and quantity of defensive sales, based on their judgment of Taiwan's needs. The communiqué, in contrast, says the president alone shall make that judgment. Moreover, the legislative branch was not consulted, as further stipulated in the TRA.

Yet another pointed out that, in negotiating the text of the communiqué with the PRC, the American side tried very hard to

63. The author asked then-National Security Council advisor for Asia Gaston Sigur how this could happen in a post-Haig Reagan administration. He assured her that the original had been much more detrimental to Taiwan, and was modified after Haig's resignation. Sigur did not elaborate. A definite date for cessation of arms sales would be one possibility that would fall under the "much worse" category from Sigur's and Taiwan's point of view. Another would be for the United States to agree to consult with Beijing before deciding what arms to sell.


66. Although, as Dr. Michael Pillsbury's contribution to this volume makes clear, Congress has not until recently sought to exercise this right. Nonetheless, Congress was concerned to maintain its prerogative.

67. Senator Barry Goldwater, Arizona, among others.
achieve agreement to include explicit reference to the US-PRC strategic partnership [against the USSR]. The PRC not only refused, but after the communiqué was signed, its media began to attack the United States as being "as great a threat to world peace as the USSR." Since concern with Soviet aggression had been Haig's motivation for negotiation, this undermined the basis for the agreement.

Assistant Secretary of State Holdridge argued that refusal to negotiate "would clearly have been the beginning of a process of deterioration in our relations" and that the Chinese had given assurances that their peaceful policy on the resolution of the Taiwan question was "fundamental," and also that the US had not agreed to a termination date for arms sales. He said there had been "no change in our long-standing position on the issue of sovereignty over Taiwan," and that, despite Chinese demands that had been reported in the press, there were no plans to seek revisions to the TRA. The new agreement, he and other administration officials insisted, was "completely consistent" with the Taiwan Relations Act.

Holdridge appears to have been one of the few who was satisfied with the communiqué. Although an editorial in the pro-Chinese Hong Kong Wen Wei Pao hailed the communiqué as "a victory for the Chinese people" that had eased the tension in Sino-U.S. relations, its equally pro-China counterpart Ta Kung Pao's editorial on the same day said that the relaxation was "temporary," and that there could be no concession on the Taiwan Relations Act. Ta Kung Pao had more correctly interpreted the party line. Beijing denied it had ever agreed to a peaceful resolution of the Taiwan problem, which was China's affair alone, and objected strenuously that the agreement was consistent with the TRA:

However, as soon as the dark clouds were dispersed, the cold wind began to blow. It is noticed that the U.S. leaders and some U.S. media, when talking of those points

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68. Senator Steven Symms, Idaho.
concerning the U.S. arms sales to Taiwan in the communiqué, have stated that they are “completely consistent with the Taiwan Relations Act,” that U.S. arms sales to Taiwan “will be carried on in accordance with the Taiwan Relations Act,” and so on.

This is a poor remark: It distorts the content of the joint communiqué and jeopardizes the development of Sino-U.S. relations. Obviously the nine points contained in the communiqué have nothing to do with the U.S. “Taiwan Relations Act.” . . . China has always resolutely opposed the U.S. “Taiwan Relations Act.” 72

And Chinese ambassador to the PRC Chai Zemin, in an interview with CBS-TV, said that the publication of the communiqué had been “a good thing. . . but only the first time. . . we are not to make any commitment to any country on the peaceful settlement of the Taiwan problem.” 73

The U.S. State Department’s legal adviser testified that the communiqué was not binding. 74 It was subsequently revealed that on 14 July 1982, a month before the communiqué was announced, let the ROC know “through appropriate channels” that it

1. had not agreed to set a date for ending arms sales to the ROC;
2. had not agreed to hold prior consultations with the Chinese communists on arms sales to the ROC;
3. would not play any mediation role between Taipei and Beijing;
4. had not agreed to revise the Taiwan Relations Act;
5. had not altered its position regarding sovereignty over Taiwan;
6. would not exert pressure on the ROC to enter negotiations with the Chinese communists. 75

75. Statement of the Ministry of Foreign Affairs of the ROC Regarding the U.S.-PRC Communiqué of August 18, 1982, in Lester L. Wolff and David L. Simon, Legislative-
IV. THE AFTERMATH

It may fairly be asked why the two sides agreed to a communiqué that each side felt was so flawed. A likely explanation is that each had gone so far with the process that to come out with no agreement would have been regarded as a loss of face; an imperfect agreement, even if not strictly adhered to, was better than nothing at all. While an immediate crisis in Sino-American relations may have been averted, the manner in which this was done must have increased the level of distrust between the two sides. The “considerable growth of legal fictions” envisioned by Fairbank had been substantially, and substantively, enlarged.

Weapons continued to be sold to the ROC within the strictures of the lessening quantity stipulated in the August 17 Communiqué. However, since this was calculated by total price, the unit cost of weapons could be reduced and/or adjusted for inflation, allowing more to be sold for less cost. Sometimes more advanced weapons were sold, despite the promise not to, it being explained that new copies of the original weapons sold were no longer available. The communiqué did not mention restrictions on the transfer of technology, and the designs for weapons and delivery systems were made available. The PRC protested each sale, though not especially vociferously, and relations across the Taiwan Strait were improving.

Although cross-strait relations were relatively cordial and trade between the two sides increased rapidly, the mainland made little progress toward democracy. By contrast, the pace of democratization on Taiwan picked up markedly after 1986. After Chiang Ching-Kuo’s death in January 1988, Lee Teng-Hui, a Taiwanese who evinced little interest in unification, became president. Nor did the ROC’s newly unfettered media and well-informed electorate wish to surrender the island’s de facto independence. These factors complicated the cross-strait equation.

There was a jolt in U.S.-China relations in 1992, when then-president George Bush announced an agreement to sell 150 F-16 fighter planes to the ROC, but the reaction was not sharp. Sources close to the administration alleged that the Chinese had been warned that if they bought Su-27s from Russia, Bush would have to agree to the sales under the terms of the TRA. This turned out to be yet another fiction. As the aides later admitted, the real reason had little to do with the TRA: Bush was running behind his Demo-
crat rival, Bill Clinton, in two electorally crucial states, Texas and California. The economies of both contain important aerospace contractors, where unemployment was high. The muted nature of the Chinese protest may be attributed to their shrewd reading of the PRC’s long term interests: Bush, a former envoy to Beijing, had treated the Beijing government leniently after Tiananmen. Clinton, meanwhile, had attacked Bush for “coddling dictators from Beijing to Baghdad.”

It has been argued that the TRA was responsible for Clinton’s 1996 decision to send two aircraft battle groups into the area near the Taiwan Strait to deter mainland aggression against Taiwan. This is a debatable point. Washington sources point out that Clinton’s decision was taken to prevent Congress from taking much more decisive action. However, the TRA definitely provides the legal basis for such an action, whether taken by a willing chief executive or by a reluctant one who is being prodded by a concerned Congress. In a country such as the United States, which attaches great significance to acting on the basis of laws, the existence of the TRA is of no small importance.

Clinton’s seeming reluctance to act became the topic of much speculation, given the large campaign donations, many of them illegal, he received from sources associated with the Chinese government. Despite being enmeshed in scandals of various sorts from the time he assumed office, and accused of coddling the very same leaders in Beijing and Baghdad he had criticized his Republican opponent for, Clinton easily won re-election later in 1996. It was expected that he would visit Beijing in the fall of 1998, exactly a year after Chinese leader Jiang Zemin had visited Washington.

Rather suddenly, the date was moved up to June. There were suspicions that this was because Clinton’s deposition in a lawsuit against him had been scheduled for late May. The motivation behind undertaking a high-profile foreign trip was, the skeptics believed, to divert attention from the extensive publicity surrounding Clinton’s legal problems.

Again, Beijing sought to press its advantage. News media reported that the PRC was seeking a “fourth communiqué.” While the contents thereof were not known, it presumably sought to build on the incremental gains the PRC had made in the first three communiqués, and to further weaken and undermine the TRA. China had done Clinton a favor by allowing him to move up the date of his trip. Some thought that the campaign contributions he had re-
ceived from mainland sources\textsuperscript{76} predisposed him to favor the PRC. The sanctions against China for the sale of nuclear components to Pakistan had struck some as unusually mild. There were charges that both the State Department and the White House had ignored for over a year evidence of these sales supplied to them by intelligence agencies.\textsuperscript{77} And an FBI sting operation against a mainland arms conglomerate seeking to smuggle large quantities of weapons into the U.S. had gone awry at the last moment. Newspapers and the well-regarded television program “60 Minutes” raised suspicions that American government sources had given prior warning to the Chinese.\textsuperscript{78}

In any event, there was no fourth communiqué, though Clinton did enunciate the “three no’s”: no support for Taiwan independence, no support for two Chinas or one Taiwan and one China and no support for Taiwan’s entry into international organizations whose members are sovereign states. Administration supporters explained, as administration supporters typically do, that there had been no change in policy.\textsuperscript{79} The “three no’s” had been privately conveyed to Beijing after the dispatch of the carrier battle groups in 1997. Administration detractors argued that if there had been no change in policy, then it should not have been necessary to state the three no’s. Others felt that there is a significant difference between privately conveying something and stating it publicly.

As in the past, there was sharp reaction from the Congress. The Senate by a vote of 92 to zero and the House by 390-1, passed resolutions reaffirming American support of Taiwan and of the Taiwan Relations Act, with Senate majority leader Trent Lott stating unequivocally that he believed Clinton had changed American policy.

Other sources pointed out that the third “no” was actually only one-third of what had been said before: although Washington would not support Taipei’s entry into international organizations for which sovereign status was a criterion, it had said it would sup-


port entry to organizations where sovereignty was not a prerequisite, and also that it would support the ROC’s right to have its voice heard in the international community. Critics also faulted Clinton for not having added a fourth “no”: no use of force.

The next PRC move would presumably be to have the three no’s put into writing. Interestingly, when the PRC, seeking to build on Clinton’s public endorsement of the “three no’s,” pressed Japan to do the same, Tokyo flatly refused. 80

V. THE FUTURE

Beijing has been consistent in claiming sovereignty over Taiwan, and in refusing to foreshadow the use of force in settling the Taiwan issue. To do so would seriously weaken its chances of ever recovering the island. The contentions of spokespersons for various U.S. administrations aside, it is inconceivable that the PRC would ever agree not to use force.

The mainland seeks to gain agreement on broad general principles relating to the Taiwan question, and then to press onward with its definition of these general principles. When unable to obtain precisely what it wants, China reserves the right to raise the issue at some future date. When it deems conditions appropriate—for example, U.S. desire for economic benefit, America’s need for an ally in some international dispute, or in the event that its president is in electoral difficulty—the PRC will press forward. It is generally successful in making some advance. This has been true whether Democrats or Republicans are in charge of the U.S. administration. While Congress has typically been supportive of continued de facto independence for Taiwan, it has at best been able to modify a fait accompli by the administration.

The Taiwan Relations Act has served the ROC well, though much depends on any U.S. administration’s interpretation of clauses such as “maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system of the people of Taiwan” and “the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.” Additionally, an administration confronted with a crisis and not prodded by an angry Congress can delay until it is too late

China's Attitude Toward the TRA

to do anything. Indeed, the most recent scenarios for a PRC attack on Taiwan involve precisely a lightning strike that could achieve victory in a very short time.

While ambiguity has the advantage of giving Washington flexibility, it also introduces an element of uncertainty about American behavior that the PRC might be tempted to test the limits of. This point was made in the aftermath of the Taiwan Strait crisis of 1995-96. When critics of the administration complained that “strategic ambiguity” had tempted the PRC to behave aggressively, its spokesperson replied that in fact there was “strategic clarity but tactical ambiguity.” Understandably, Washington does not want to run the risk of declaring it will defend Taiwan under any and all circumstances, lest this tempt Taipei into provocative actions that could pull the United States into a dangerous conflict. Just what constitutes provocative behavior is, however, difficult to operationalize. Clearly a declaration of independence would be provocative, but such a declaration is most unlikely.

Under more plausible scenarios, Beijing's behavior is less easy to predict. Although one might have expected that China would react sharply and even aggressively in 1992 in response to the sale of F-16 and Mirage fighter planes to Taiwan by the United States and France, this did not occur. On the other hand, the mainland did indulge in such behavior in 1995-96 in response to Lee Teng-Hui's visit to Cornell University. Knowing that the Taiwan government seeks to ensure the nation's continued existence by taking small steps—just below the threshold of what might be considered provocative—to reinforce awareness of the ROC's international persona, Beijing may see fit to react sharply to what might appear to outside observers as very minor actions. The accretion of legal fictions, as in the Shanghai and August 1982 Joint Communiqués, also complicates policymaking.

In short, there is no cause for complacency about the future. There are limitations to what the Taiwan Relations Act can do to protect the ROC. Efforts on the part of the ROC's friends to amend the TRA run the risk of opening a Pandora's box of conflicting motives which might result in diluting its provisions. They would also provide a precedent that the TRA could be modified further, perhaps in ways that would suit the PRC better.

Since 1982, the PRC has not publicly sought to amend the TRA and, from Taiwan's point of view, it might be safest not to raise the possibility. There has been virtually nothing openly said by
Beijing about the TRA for at least ten years.\textsuperscript{81} Even its Hong Kong surrogates have done so only rarely. A recent exception, a February 1999 \textit{Wen Wei Pao} article, was occasioned by a U.S. Defense Department annual report on weapons sales which showed Taiwan as America's fourth largest buyer of weapons. \textit{Wen Wei Pao}'s reporter began with a lengthy reiteration of previously-stated claims: these sales should not have occurred. Three Sino-U.S. joint declarations outweigh the TRA, which is:

\begin{quote}
\ldots indeed too insignificant to mention. \ldots the TRA is nothing but a framework for the unofficial US-Taiwan relationship after Sino-US relations were established. \ldots the Taiwan question is the most important and sensitive core issue in Sino-U.S. relations and therefore it is reasonable to demand that the U.S. abide by the principles of the three Sino-U.S. declarations and see to it that the Taiwan question will not adversely affect Sino-U.S. relations.
\end{quote}

The author closed, however, with something slightly different and obviously intended to capitalize on the latest concession the PRC had won from the United States:

Now that President Clinton has reiterated the "3 no's" policy toward Taiwan, it is hoped that U.S. congressmen will face up to reality, set great store by the immediate and fundamental interests of the Chinese people, and refrain from doing things harmful to Sino-U.S. relations in the future.\textsuperscript{82}

The PRC's words and actions indicate that it intends to progressively reduce the ROC's international living space through such measures as persuading the relatively few countries who recognize Taipei to switch recognition to Beijing, and to exert pressure to keep Taiwan out of international organizations. Efforts to break out of this isolation, such as President Lee Teng-Hui's visit to Cornell, result in diplomatic ire and hostile military maneuvers. For the ROC to do nothing, however, would be to risk slow strangulation. The best hope for the peaceful solution of the Taiwan question lies in peaceful change on the mainland itself. Noble as its intent is, this is not an issue that the Taiwan Relations Act can address.

\textsuperscript{81} And perhaps longer. The U.S. government internet data base consulted extends only as far back as 1989.

\textsuperscript{82} Pu Huang, "U.S. Should Not Continue Arms Sales To Taiwan," \textit{Wen Wei Pao}, February 27, 1999, p. 6, in FBIS-CHI, March 12, 1999.
PART V.

FUTURE PROSPECTS
Chapter 11

OLD QUESTIONS AND NEW CHALLENGES

Edward I-Hsin Chen*

On April 10, 1979, U.S. President Jimmy Carter signed the Taiwan Relations Act (TRA) into law as domestic legislation to regulate relations between Washington and Taipei. According to Stanley Roth, U.S. Assistant Secretary of State for East Asian and Pacific Affairs, the TRA has been very effective since its enactment.¹ For the past two decades, however, many old problems have remained unresolved, and some of them have been intertwined with new issues that challenge the spirit of the TRA as well as the political wisdom of Washington and Taipei.

There are some similarities and differences between the international climate of the late 1970s and that of the late 1990s. This helps explain why old problems have not been resolved and new issues have challenged the TRA.

Since the final version of the TRA was approved by the U.S. Congress to revise a draft bill hastily proposed by President Carter, it is not possible for the Congress to be responsible for the many expected and unexpected subsequent developments in the intertwined relationships among Washington, Taipei and Beijing. It is equally true that not all the credits should go to Capitol Hill, simply because the legislative branch contributed most to such a timely bill.

First of all, the security of Taiwan was the most important question facing the Congress in 1979 and it remains so today. In a sense, Carter should be at least partly responsible for what I call "an unpleasant continuity" in Washington’s relations with both Taipei and Beijing.

* Professor, Graduate Institute of American Studies, Tamkang University, Taipei, Taiwan.

¹ Stanley Roth, "The Taiwan Relations Act at Twenty and Beyond," a speech delivered at a TRA seminar held by Woodrow Wilson Center and American Institute in Taipei (AIT) in Washington, D. C. on March 24, 1999, see AIT FAX Message, March 25, 1999, p. 3.
In late 1978, the Carter administration failed to insist on the peaceful resolution of the so-called Taiwan problem in its negotiations with the People’s Republic of China (PRC).² As a result, Beijing has easily challenged the U.S. national will and tested the nerves of Washington with military threat against Taiwan.

Fortunately, the TRA provides U.S. presidents with a framework to address the historical question of Taiwan’s security. In testimony before the Congress in 1982, John Holdridge, then Assistant Secretary of State for Asian and Pacific Affairs, said that it would be inevitable for Washington to adjust its policy if Beijing were to change its policy.³

There were reasons why the U.S. Congress put special emphasis on security stipulations. In late January 1979, Carter sent a hastily drafted piece of legislation, known as the Taiwan Enabling Act, to Congress for deliberation and enactment so that the unofficial relationship between Washington and Taiwan could be regulated.⁴ Most members of Capitol Hill were not happy with the president because he had made his decision to establish diplomatic ties with Beijing without fully consulting them. They also thought that Carter had failed to give enough consideration to the question of security for Taiwan and its people. They thus decided to revise the draft bill by adding provisions to give Taiwan more defense guarantees.⁵

The act does not spell out actions a U.S. president should take when Taiwan’s security is threatened. After Beijing conducted a series of military maneuvers in late 1995, U.S. President Bill Clin-

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⁵. According to Prof. Michael Oksenberg, former U.S. National Security Council Official under the Carter administration, before President Carter submitted his drafted bill to Capital hill, Richard Nixon advised Carter not to include security provisions because Congress would surely include them in the bill. Oksenberg made such a remark at the TRA seminar sponsored by the Woodrow Wilson Center and AIT in Washington, D.C. on March 24, 1999. During the Q & A after Carter’s speech in Taipei on March 30, I asked him whether Oksenberg’s remark was correct. He pointed out that he never sought Nixon’s advice on the drafted proposal. The former U.S. president was invited by the Institute for National Policy Research and Ministry of Foreign Affairs to pay a 3-day visit to Taiwan.
ton sent an aircraft carrier battle group through the Taiwan Strait in December of that year, as a sign of U.S. concern over a potential cross-strait conflict. When the People's Liberation Army fired test missiles into the seas near Taiwan in March 1996, Clinton dispatched two aircraft carrier battle groups to waters near Taiwan to discourage Beijing from further actions.

The tensions between the two sides of the Taiwan Strait eased because of the U.S. move. The show of force sent a clear message to Beijing that Washington would not sit idly whenever Taiwan faces serious military threat. Clinton's move also set a precedent for his successors. Even so, it is expected that the PRC will continue to challenge the U.S. position on the peaceful resolution of cross-strait issues.

Twenty years ago, Beijing challenged the U.S. policy of selling defensive weapons to Taiwan and has since continued to test the political will of Washington. To be sure, the constant supply of defensive weapons to Taiwan supports the TRA's basic objectives of keeping peace and stability in the Taiwan Strait.

When Chinese leaders signed a communiqué with the Reagan administration on August 17, 1982, their goal was to limit the quantity and quality of American arms sales to Taiwan. Fortunately, subsequent U.S. administrations have upheld guarantees given in a memo by President Ronald Reagan that the United States will continue to supply Taiwan with adequate defensive weaponry.

U.S. President George Bush created a dramatic precedent by agreeing to sell Taiwan 150 F-16 jets in 1992. Beijing complained little when that decision was made, less than a year after the Soviet Union collapsed. Bush's move indicates that a U.S. president has full discretion to act when the internal and external environments change.

Today, even though plans to involve Taiwan in a U.S.-led Theater Missile Defense (TMD) system are still in the initial stages of paperwork, Beijing has launched an unprecedented offensive against the project. Beijing fears that while it is beginning to de-

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velop a strategic partnership with the United States, Washington is at the same time forming a substantial military alliance with Taipei and Tokyo.\textsuperscript{11}

The U.S. State Department has tended to postpone decisions on the TMD by encouraging a cross-strait dialogue to reach a compromise on related issues. In a speech on March 24, 1999, Assistant Secretary Stanley Roth said that whereas such things as missiles and missile defense systems ultimately cannot secure peace and prosperity, dialogue and difficult compromise can do so.\textsuperscript{12} How Washington, Beijing and Taipei will interact on these problems remain to be seen.

Political metamorphosis in Taiwan has changed the U.S. attitude about the island country. Today, it is more difficult for Washington to take a hands-off approach toward Taipei as it did in 1949 substantially and in 1978 symbolically.

Richard Bush, chairman of the American Institute in Taiwan, said that in 1979 “There was a segment in American political opinion that had a rather negative attitude about the Kuomintang regime.”\textsuperscript{13} But with democratization on Taiwan beginning in the mid-1980s, that division of opinions has disappeared and there is now “a broad-based consensus in support of Taiwan” within U.S. political circles, he said.\textsuperscript{14} Widespread support among the American public for Taiwan has helped the United States strengthen bilateral relations with the island without much hesitation in the post-Cold War era.

Paradoxically, while democratization on Taiwan has been a steady factor in maintaining a good relationship between Washington and Taipei, it has been accompanied by a rise in separatist sentiment in the island country. Supporters of independence assert that only Taiwan residents can decide Taiwan’s political future, arguing that their claim has won global support and that Washington will extend its helping hand to Taipei even if Taiwan becomes independent.\textsuperscript{15}

Such a position is justified under the doctrine of popular sovereignty and can be applied to many other areas in the world. However, those who are aware of cross-strait affairs know that Taiwan is

\textsuperscript{12} Roth, \textit{op.cit.}, p. 10.
\textsuperscript{14} Ibid.
\textsuperscript{15} Garver, \textit{op.cit.}, pp. 13-26.
an exception in terms of national self-determination because of its special and complicated relationship with Mainland China. From Washington’s standpoint, the rise of independence sentiment in Taiwan has not only endangered its relations with Beijing but has also threatened its vital interests in East Asia.

In a clear message to both sides of the Taiwan Strait, President Clinton stated during his visit to mainland China in June 1998 Washington’s interest in moving toward a strategic partnership with Beijing.16 He also declared a policy of “three no’s” toward Taipei, meaning that the United States will not support an independent Taiwan, “two Chinas” or “one China, one Taiwan,” and “Taiwan’s participation in international organizations which require statehood for membership.”17 By announcing a future strategic partnership with Beijing, Washington maintains that it does not intend to endanger their relations. And by announcing the “three nos,” Washington believes that the source of potential conflicts with Beijing can be rooted out.

Apparently, what the Clinton administration had done in mid-1998 failed to satisfy Beijing. Starting from late 1998, Beijing has made more and more demands by announcing that there must be political negotiations between the two sides of the Taiwan Strait and that a timetable for the cross-strait reunification must be set.18 It seems that Beijing is attempting to make good use of its strategic partnership with the United States to put Taiwan under pressure.

In his March 24 speech, Roth said “the future of cross-strait relations is a matter for Beijing and Taipei to resolve.” He suggested that “some interim agreements” could be reached, “perhaps in combination with specific confidence-building measures, on any number of difficult topics.”19 According to him, dialogue and difficult compromise can secure peace and prosperity, but they cannot be wedded to an imposed timetable.20

20. Ibid., p. 8.
Political democratization and economic success on Taiwan also led to U.S. policy adjustments toward the island country in 1994. The Clinton administration based these policy shifts on the incremental efforts made by the ROC government, while accommodating changing circumstances in ways that would advance fundamental U.S. interests in its interactions with both sides of the Taiwan Strait.

These adjustments have led to an upgraded name for the representative office of Taiwan in Washington and the institutionalization of high-level consultation between officials of the two countries' national security council. Other adjustments include a subcabinet-level economic dialogue between Washington and Taipei, mutual visits of cabinet-level officials on a case-by-case basis, and a framework agreement on trade and investment.21

In the wake of these adjustments, it was expected that Taiwan might make further progress in its relations with the United States. However, ties between Washington and Taipei deteriorated after President Lee Teng-Hui’s visit to the United States in June 1995. And Beijing soon made good use of its diplomatic clout to conduct a series of political negotiations with Washington.22

Fearing that the United States might be involved in a possible but unnecessary across-strait war, the Clinton administration announced the “three no’s” policy to safeguard the U.S. national interest on the one hand, and respond to the PRC’s demands of political negotiations on the other.

Economic prosperity and financial success in Taiwan have also led the U.S. to reassess the international status of the island country. The Reagan administration was able to keep Taiwan as an active but not fully privileged member of the Asian Development Bank (ADB).23 Equally importantly, the Bush administration in 1990 agreed to support Taiwan in its membership application for the General Agreement on Tariffs and Trade (GATT), which was superseded by the World Trade Organization (WTO) in 1996.24 President Bush and his Secretary of State, James Baker, also successfully exerted pressure on Beijing not to oppose the inclusion of

21. "Adjustments to U.S. Policy toward Taiwan Explained," Transcript: Background Briefing at the State Department on September 7, 1994, pp. 1-17 (hereinafter "adjustments").
Taiwan in the Asian Pacific Economic Cooperation (APEC) forum in 1991.\textsuperscript{25}

Based upon the policies initiated by President Reagan and President Bush, the Clinton administration in 1994 decided to support the membership of Taiwan in international organizations where statehood is not a membership prerequisite, and will support opportunities for its voice to be heard in such bodies where statehood is required.\textsuperscript{26}

In short, although ROC-U.S. relations entered some gray areas and encountered some tough times since 1979, the Reagan, Bush and Clinton administrations basically followed the spirit of the TRA and sometimes made creative breakthroughs.

Nevertheless, it is worth noting that a particular U.S. president may do one thing at a cost to Taiwan when he is put under pressure and do another thing that is in the interest of Taiwan when pressure is not put on him. President Reagan agreed to sign a communiqué with the PRC that would limit the quantity and quality of U.S. weapons sales to Taiwan. But he also wrote a memo to provide his successors with a guideline whereby future arms transfers to the island country would be based on the across-strait military balance.

As Vice President in 1982, Bush had instructed the director of the American Institute in Taiwan (AIT), James Lilley, to see if Taipei might be willing to set a date for ending U.S. arms sales to Taiwan.\textsuperscript{27} But as President in 1992, Bush decided to sell Taiwan 150 F-16s.

Whereas President Clinton decided to adjust policies toward Taiwan in 1994 and sent two aircraft carrier battle groups to waters near Taiwan in 1996, he publicly stated the "three no's" policy in 1998.

Although the TRA provides a general framework for safeguarding peace and stability in the Taiwan Strait, the U.S. presidents can carry it out at their discretion. That's the reason why the U.S.-ROC relations have progressed at some times and undergone turmoil at others.

This pattern suggests that it would be of little use to revise the TRA, as a U.S. president can implement the revised act at his own discretion. As the American colloquialism goes, "if it ain't broke, don't fix it."

\textsuperscript{25} Ibid, pp. 70-76.
\textsuperscript{26} "Adjustments," \textit{op. cit.}, pp. 10-12.
\textsuperscript{27} Mann, \textit{About Face, op.cit.}, p. 126.
Moreover, if the Congress were to revise the TRA in a certain year and make the act more favorable to Taiwan, the same legislative body could reverse itself in another year. Probably the best way to serve the needs of Taiwan is to create good precedents, as the Reagan, Bush and Clinton administrations have done, so that future U.S. presidents can follow suit.

Indeed, it is not easy to define the criterion of "sufficient defensive weapons" for Taiwan. Likewise, it is controversial as to whose criterion is in use. Therefore, it would be better for the U.S. State Department and the Defense Department to develop a consultative mechanism for settling disputes over the question of arms sales to Taiwan. If they fail to resolve the differences, they can submit a report to the president who, after consulting with the Congress, will have a final say.
Chapter 12

DRAWING LESSONS FROM THE PAST
FOR THE FUTURE

Robert A. Pastor*

Mark Twain, the great American humorist, once commented on Richard Wagner's music that it was "better than it sounds." If one listens to the three-sided argument between the United States, the People's Republic of China, and Taiwan, one is puzzled as to whether the relationships are better or worse than they sound.

The triangular relationship seems better than it sounds in the sense that there is no conflict, and all three countries have prospered in the last two decades. Indeed, since China opened to the world, there has been a dramatic expansion in trade and contacts among the three.

On the other hand, the relationship seems worse than it sounds in the sense that it almost went over the cliff in March 1996 when U.S. aircraft carriers sailed into the Taiwan Strait, and it still appears perched precariously on a precipice. Taiwan is proud and democratic yet feels pushed around by a big bully across the Strait, and it naturally wants to defend itself. The People's Republic of China feels that its natural destiny is to unify China, but that is impeded by a "renegade province" and its superpower ally. The United States would prefer to avoid the problem, and certainly doesn't want a war with China, but it finds itself drawn into its vortex during crises.

The point is that the three-sided relationship is awkward and potentially explosive. The status quo is not static, nor is it viable. The question is, how to change the status quo in a way that does not trigger a miscalculation? Which lessons should each of the three sides of the triangle draw from history to reduce the prospects that a misstep could lead to war?

* Professor of Political Science, Emory University, Atlanta, Georgia.
I. LESSONS FOR CHINA

Sometimes, the lessons that a country draws from its own history are the least applicable. More often, a paradigmatic shift is needed to break a country loose from a dysfunctional policy. Such a change can sometimes occur if one looks to other regions for lessons. There are two possible lessons from recent experiences in Latin America that seem relevant to the Straits and may help all sides recognize the importance of choosing the correct strategy. In both cases, Argentina and Panama tried to recover sovereign territory, but each pursued very different policies, and that made all the difference.

In 1833, Great Britain occupied several windy islands in the South Atlantic, hundreds of miles off the Argentine coast. The islands were called the Falklands by the British and the Malvinas by the Argentines. In 1982, after a long, “dirty war” against “radicals” in Argentina, the military regime tried to recapture its lost legitimacy by attacking the small British garrison on the islands. They miscalculated. The British government invaded and re-took the islands a few months later, humiliating the Argentines. The military government fell in utter disgrace, and the country’s hopes of persuading the British to transfer the islands sunk with the regime.

A very different strategy was pursued by Panama to regain effective control over a ten-mile wide strip of land down the middle of the country. That strip of land was administered exclusively by the United States since 1903, when Panama declared its independence from Colombia and accepted the Hay-Bunau-Varilla Treaty. The Treaty granted to the United States the unilateral right to build, operate and defend a Canal through the middle of Panama “in perpetuity.” The United States guaranteed the independence of Panama, but the price was a new dependence on the United States. The Panamanians had to accept the Treaty, but they never liked it, and often tried to amend it.

In the early 1970s, the government of Omar Torrijos embarked on a subtle diplomatic strategy to gather support among other Latin American governments and to seek to embarrass and isolate the United States in such forums as the United Nations. Shortly after Jimmy Carter was elected in November 1976, but before he was inaugurated, he received a letter from eight presidents of the Americas, including the Venezuelan and the Mexican Presidents, asking him to give the highest priority to negotiating a new Panama Canal Treaty. The Panamanians effectively tried every political and diplomatic effort to persuade the United States to negotiate a new treaty
that would modernize the U.S.-Panamanian relationship. They succeeded. In September 1977, Jimmy Carter and Omar Torrijos signed new Canal Treaties that erased the Canal Zone and granted increasing control over the Canal until they would have complete control on December 31, 1999.

These two cases were born of similar motives – trying to regain lost sovereignty – but produced very different outcomes. The Argentines tried to seize the Falklands in order to restore their lost prestige. Instead, they not only failed to secure the Falklands, the military regime lost its last thread of legitimacy and fell, utterly discredited. In contrast, the Panamanians relied on a political strategy, and won back their full sovereignty.

What lesson should China draw from these cases? The regime no longer depends on Communist ideology for its legitimacy. Instead, it relies on nationalism and its economic performance. If the economy should suffer, a call for a nationalist adventure might be very tempting. Like Argentina, China would not be the first country to try to divert a divided public from an internal crisis by seeking unity on behalf of a nationalist goal – the seizing of Taiwan.

China should calculate the costs and risks of such an action not just the potential benefits if it “succeeded.” In fact, many military strategists believe that China could cause great damage to Taiwan through its missile attacks, but it does not have the air or sea-lift capability to seize or occupy the island. In other words, it could lose the war. Whether the United States intervenes to defend the island or not, China would suffer serious international costs, and a loss could shake the political foundation of the regime. In brief, the lesson for China is to pursue a peaceful political strategy and not be tempted by the sirens of a quick victory.

II. TAIWAN’S LESSONS

Taiwan also should look abroad to extract a lesson of relevance. Ten years after 1.6 million mainlanders fled China for an island 90 miles off-shore, Cubans – eventually numbering nearly one million – also fled a Communist revolution to a city, Miami, 90 miles across the Florida Strait. The Cubans who fled to Miami have much in common with the Chinese who moved to Taiwan. Both arrived poor and saddened by their travail, but in a relatively brief period of time, both communities constructed powerful economies and vibrant democratic politics. Both communities, however, have failed to shake an inferiority complex, or rather a feeling that their success has not been adequately recognized.
There is an important difference, of course. China is a threat to Taiwan; Cuba is no threat to Miami. In fact, in the Cuban case, the opposite is more accurate. The Cuban-Americans have become very influential in the United States and have succeeded in shaping U.S. policy to Cuba more than the "Taiwan lobby" had ever influenced U.S. policy to China. President Bill Clinton himself acknowledged that "the hardest-line people in Miami... are basically responsible for the policy."

What is similar between the Cuban-Americans and the Taiwanese, however, is that both are prepared to go to great lengths to change the status quo. The Cuban-Americans cannot stomach the idea that Fidel Castro could remain in power for another decade or longer, and a large majority believe that U.S. military intervention is needed to change the regime. Most Americans do not agree with them, but when a crisis occurs – such as when two civilian aircraft were shot down by the Cuban Air Force in February 1996 - Cuban-Americans have an eloquent talking point, which they have and will continue to use to "prove" that only a military response would work. If there were significant instability in Cuba, the climate in America for dramatic action might increase.

In the case of Taiwan, the people have largely learned the lesson of their Presidential election in March 1996. The Chinese conducted missile tests off-shore Taiwan because they wanted to communicate as strongly and clearly as they could that any drift toward independence by the island would provoke military action by China. As a result, most Taiwanese prefer the status quo, but the polls also show a desire by Taiwanese to assert themselves internationally even at the cost of increasing tension with China. Given the declining legitimacy of the Chinese regime, actions by Taiwan to assert itself internationally are likely to be perceived by China as deliberately provocative steps toward independence. The result could be a dangerous collision.

So what lesson should Taiwan learn from Cubans in Miami and, I might add, should Miami learn from Taiwan? Like the Latin American lessons for China, Taiwan and Cuba should pursue a peaceful path, using their comparative advantages. Successful democratic capitalists have nothing to fear from an open relationship; the closed polity has more to fear. Therefore, both Miami and Taiwan should try to pursue as many contacts with Cuba and China as possible.

Surprisingly, both communities are doing the opposite. The Cuban-Americans are determined to block virtually all contact be-
tween the United States and Cuba, and while the Taiwanese have established a strong trade and investment relationship with the mainland, the government continues to try to limit contact and investment. Instead of allowing planes to fly from many places in China to many different airports in Taiwan, the Republic of China insists on limiting flights to Hong Kong and Taipei. Instead of encouraging Chinese to visit Taiwan, they limit the numbers.

III. LESSONS FOR THE UNITED STATES

The United States could draw its lesson from almost any part of the world. The United States, as the world's lone superpower, is faced with daily crises all over the world. That is one reason why its leaders do not focus on Taiwan and Cuba; another is that there aren't easy answers. At the same time, the political costs of changing the policy are high. Nonetheless, the worst outcome is for the U.S. President to wake up one morning, as he probably did in February and March 1996, and find himself without options other than some militant reaction in both Straits. In Taiwan, he was compelled to send two aircraft carrier battle groups. This was the first time that the United States had inserted its military between Taiwan and China since normalization of relations, and it had a profound effect on both sides, reassuring and perhaps emboldening the Taiwanese and enraging the Chinese.

The only way to avoid repeating such a crisis is to preempt it. This does not necessarily mean resolving the inherent ambiguity in Taiwan's current status as a stateless state. But it does mean recognizing that the status quo is not stable, and danger lurks barely below the surface. The United States should not mediate between Taiwan and China, but it also should not sit passively on the sidelines; it has a stake in a peaceful outcome. The United States should encourage both sides to expand contacts with each other. The United States should work with China and Taiwan within a framework of a China that will be unified in the long-term but only in a peaceful and voluntary way. In the long-term, the only solution is democracy in China. Instead of coercing Taiwan, China should aim to persuade Taiwanese of the benefits of becoming a part of a greater China. Of course, the best way to do that would be for China to become democratic.

Of course, Taiwan and Hong Kong have much that they could offer in the way of election administration and experience should China's leaders decide to move in that direction. This does not require a complete break from the past. In March 1998, Premier Zhu
Rongji asserted that he favored direct democratic elections in China including for the most senior posts of Premier and President. At the same time, he acknowledged that the Chinese government would have to study the issue and consider the proper legal mechanisms. This is certainly a task that would unite all Chinese.

While such an approach is improbable at a moment of tension, and as Taiwan begins another presidential election campaign, the idea of democracy is too compelling to disappear, and hopefully, someday, it will be embraced.

There is a deceptive security to the status quo in Taiwan. It is “deceptive” because it is so fragile, like thin ice. As a general rule, it is wise to remember that when skating on thin ice, it is best to stop wishing for a breakthrough.

Given the delicacy of the triangular relationship, we should neither expect nor wish for a breakthrough at the current time, but neglecting the problem would be even more dangerous. What is needed is a patient but realistic approach by all three sides to establish a framework of security with a substance of democracy.
Chapter 13

NORMALIZING DIPLOMATIC RELATIONS WITH TAIWAN

Hsiu-Lien Annette Lu*

OPENING REMARKS

There are many fallacies and much confusion in the debate about the China-Taiwan relationship. I would like to make one thing clear: this is not just an academic question. It is a matter of life and death for Taiwanese. It is a matter of our very survival.

Some have implied that Taiwan has provoked China. But I ask, What have we done? What have we done but develop into a free and democratic society? And who is the real troublemaker here, Taiwan or China?

People often speak of a “peaceful resolution” between Taiwan and China. But what exactly is the problem that needs resolving? And who really makes trouble, Taiwan or China? The answer is obvious. It is China who is always the troublemaker, not Taiwan.

Taiwan is now a free and democratic country, a model for the world. Taiwan has already been solving its own problems peacefully and quietly for a long time now. We do not need or want China to solve our problems. We simply desire peaceful co-existence, a peaceful, stable environment in which we can maintain our democracy and prosperity; an environment of peaceful cooperation that will foster substantial social, economic and political development on both sides of the Strait.

Meanwhile, China continues its military posturing and its threats, and refuses to renounce the use of force as a means to achieve its goals with Taiwan. Is it ready for the new era? Is it ready for a new global order? I do not think so. China’s leaders have been spoiled. And the more they are spoiled, the worse it is for the world.

While continually urging a “peaceful resolution” between Taiwan and China, the US pretends it will not interfere in this matter. But let us be honest. America is the leading nation in today’s world. It has more power and prerogatives than any other country.

* Governor, Taoyuan County, Taiwan.

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at present, and it also has a special responsibility to maintain the order and tranquility of the human family. It is not in the interests of any nation to see Taiwan invaded and taken over by China. In fact, this course of action would seriously destabilize the entire region and perhaps the world. Because of the international political significance of the “Taiwan question,” the US will not and cannot stay out of this issue. Even if it says it will not “interfere,” it will get involved. The United States should make this clear to the world.

China and Taiwan are like a divorced couple. China is like a bankrupt, bullying ex-husband who divorced his wife – without her having any say in the matter, I might add – back in 1895. It was in 1895 with the Treaty of Shimonoseki that China ceded Taiwan in perpetuity to Japan without any representatives from Taiwan participating in the negotiations. Now the ex-husband sees that his former wife has grown wealthy and attractive. He is regretful and jealous, and wants her back. But the wife has been living on her own for over one century. She has been emancipated, and she is quite sure she does not want to get back together with her domineering ex-husband. Any country that pressures Taiwan to reunite with China is like a marriage counselor pushing a wife to return to her bullying former husband. I must ask, “America, in the role of counselor, would you do this?”

Many people are worried that if a DPP candidate wins the presidency next year, he will destabilize the region by declaring Taiwan’s independence. This anxiety is unnecessary. There is no need to declare independence, since Taiwan is already independent in point of fact. Taiwan’s actual independence obviates the need to make any new declaration that might threaten the region’s stability.

Taiwan has been de facto independent for decades, but we can say that it has been de jure independent, as well, since May 20, 1996, when its first popularly elected president took office. Only sovereign nations elect presidents, not provinces or parts of a country. Taiwan’s independent and free presidential elections, symbolizing the full blossoming of her democracy, were enthusiastically observed and praised all around the world.

The PRC, however, was outraged to see these developments, and so it launched missiles into the waters off Taiwan’s coast prior to the elections. This was a clear effort to intimidate and threaten us. This effort failed completely, however, and Taiwan survived one of its worst nightmares. The US dispatched aircraft carrier battle groups to protect Taiwan, and thereby sent a clear message to China.

So we can see that despite Clinton’s declaring the “three no’s” policy during his visit to China, in action the US has supported Tai-
wan's independence. If not, why would Clinton send ships to the Strait to protect Taiwan during its presidential elections? I do not believe the US does not support Taiwan independence. Nor do I believe the US does not support the idea of "one China, one Taiwan." If it did not in fact support "one China, one Taiwan," why would the US Congress pass the Taiwan Relations Act immediately after Carter formally recognized the PRC? And in regard to the third "no", I would like to remind Clinton that this directly contradicts Sec. 4. (d) of the Taiwan Relations Act, which states "nothing in this Act shall be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization."

To move toward the goals of peaceful co-existence and normalization of ties, I have several recommendations for concrete steps Taiwan and the US can take.

1. AIT's Washington offices should be housed in a more suitable building, in a better location. The present offices had to be relocated in a very short time, during the rush when the US suddenly broke off relations with Taiwan. For the 20 years since then, AIT's office has remained the same, although Taiwan and her relationship with the US have changed and grown much. New offices in a better location would reflect the actual importance of US-Taiwan ties and symbolically enhance their status.

2. Taiwan's representative offices overseas should be more appropriately named. I suggest, for example, the "Taiwan Institute in America." The present "Taipei Economic and Cultural Office" is a cumbersome and somewhat inaccurate title.

3. The US should take a first and most important step toward easing the tension in the Taiwan Strait by inviting Jiang Zemin and Taiwan's next elected president to meet in Washington. The eventual goal would be the signing of a peace treaty between the PRC and Taiwan under the auspices of the international community. In this way the US could facilitate a real breakthrough in Taiwan-China relations, and make a great contribution to regional and world peace.

THE TIME FOR NORMALIZATION

The year 1999 not only marks 20 years since the Taiwan Relations Act went into effect. It also marks the last year of the 20th century, and the beginning of a new era in which the past global
order should be re-conceptualized and restructured. It is time to face the reality that Taiwan is, in point of fact, already an independent country, and to restore normalized diplomatic relations with her. Taiwan should no longer have to suffer the discrimination, exclusion and isolation it does as a result of its lack of diplomatic recognition.

The US should reestablish relations with Taiwan. It should also use all the tools at its disposal to encourage China to normalize cross-strait relations, as well. Taiwan, now a vibrant democracy, strives for a peaceful co-existence with all other countries in the world, including China, and should be given the freedom and recognition necessary to achieve this. Furthermore, in order to secure this peaceful co-existence, the governments of China and Taiwan should sign a treaty of peace under the supervision of the international community.

TAIWAN'S PREDICAMENT

Taiwan suffers great discrimination and humiliation as a result of the US and China's refusal to establish normal diplomatic relations with it. It has no seat in the United Nations. The United States and other nations that recognize the PRC generally will not allow high-level Taiwanese officials to travel to their countries, even when the visit is private in nature. Yet, the United States has warmly welcomed Jiang Zemin and other communist leaders for official visits to Washington. The US opens its arms to the authoritarian rulers from Beijing, but closes its door to the freely elected representatives of democratic Taiwan.

In addition, the PRC strives continually to isolate Taiwan from the world community. It severs diplomatic ties with any country that recognizes Taiwan. As a result, only 27 nations have formal diplomatic ties with Taiwan. Due to Beijing's pressure, Taiwan is also denied participation in many other important international groups, such as the World Health Organization. Taiwan's president is not even allowed to attend meetings of APEC (the Asia Pacific Economic Cooperation forum), of which Taiwan is an official member. The Taiwan Relations Act, Section 4 (d) states: "Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization." Yet the US has mostly turned a blind eye to, or even complied with, exactly this kind of exclusion.

Taiwan is in reality an independent nation, whether or not diplomatic rhetoric reflects this fact. It is a flourishing democracy with an open, free market economy. It has never been ruled by the com-
munist government of the People’s Republic of China. Looking at history, we see that Taiwan has existed politically, socially, even economically entirely independent and separate from mainland China for most of the past three centuries.

In the past decade, Taiwan has begun to reap the results of many long years of democratic struggle against the authoritarian KMT regime. We have a constitution that enshrines the principles of democratic governance. We have free elections. We control our own land and people, have our own constitution and laws, elect our own political leaders. Our sons and brothers serve in our own army. We pay taxes to Taipei, not Beijing, and Jiang Zemin was not on our presidential ballots at the last elections. The practical reality is that Taiwan is independent, and has had a long experience as such.

To oppose this independence – an independence that already exists in fact – is therefore to seek to destroy the status quo. It means destroying the present situation of democracy, prosperity, and stability in Taiwan and the region. Furthermore, continued refusal to acknowledge Taiwan’s de facto independence is tantamount to handing China an invitation to invade. The sensible alternative is therefore to recognize the present reality – the reality of almost 22 million Taiwanese people living in democracy, peace, and prosperity – and finally establish formal diplomatic relations with Taiwan.

**US-TAIWAN RELATIONS**

The US and Taiwan have a strong bilateral economic relationship. The US is Taiwan’s number one trading partner, and Taiwan is America’s sixth largest trading partner. The US-Taiwan relationship is important to the prosperity of both nations. Normalization of diplomatic ties between the two countries would enhance this mutually beneficial relationship by ensuring Taiwan’s continued stability and security.

In addition to strong economic ties, the US and Taiwan have deep social ties and share a similar value system. As Taiwan has become an increasingly mature and pluralistic democracy, it has come to hold most of the democratic principles that America exemplifies and says it seeks to promote through its foreign policy. This is yet another reason for the US to normalize diplomatic relations with Taiwan. It runs counter to all the values the United States claims to hold dear for it not to recognize a democratic, free country while at the same time recognizing an authoritarian, communist one.
The Taiwan Relations Act states that "peace and stability in the area are in the . . . interests of the United States." The Taiwan Relations Act also states that US policy is "to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system of the people on Taiwan." In other words, the US opposes reunification through violent means, and will maintain a capacity to protect Taiwan. The time may soon come when the US will need to make good on these promises.

TAIWAN-CHINA RELATIONS

China-Taiwan relations can be summarized in this way: while China threatens Taiwan with missiles, Taiwan frightens China most with its burgeoning democracy. Yet the key to a lasting peace across the Taiwan Strait is normalization of the Taiwan-China relationship.

Cross-strait relations have improved only slightly since China launched a series of missiles into the waters near Taiwan prior to our presidential elections in 1996. China has continued its military build-up, as well as its efforts to isolate Taiwan diplomatically.

In the meantime, Taiwan’s democracy has been maturing. Expanding support for the major opposition party, the Democratic Progressive Party – which propounds independence in its platform – makes it clear that a widening number of Taiwanese also desire independence. The DPP’s electoral success sends an important signal to China concerning the prospects for unification.

The ramifications of Taiwan’s democratic development, and of increasing levels of DPP support, are very important for cross-strait relations. As Taiwan becomes more strongly democratic, its government will be forced to respond more to the will of the people.

The will of the people can be understood by looking at polls. These indicate that roughly 90% of Taiwanese support either an outright declaration of independence, or the maintenance of the status quo – which is de facto independence. In addition, polls show that fully three quarters of Taiwanese do not accept the "One Country, Two Systems" formula which China has proposed as a method of determining cross-strait relations.

1. Public opinion polls conducted in Taiwan by the Election Study Center, National Chengchi University, Taipei; Burke Marketing Research, Ltd., Taipei; China Credit Information Service, Ltd., Taipei; Center for Public Opinion and Election Studies, National Sun Yat-Sen University, Kaohsiung; and the Survey and Opinion Research Group, Dept. of Political Science, National Chung-Cheng University, Chia-Yi.
Attempts at unification attained through military means would result in greatly increased resentment toward Chinese rule—a union of bodies but not souls. It would, furthermore, be disastrous both for Taiwan and China, because of the tremendous damage that would be done to their economies, relations with other countries, and regional and world stability. Surely, therefore, a far better option is peaceful co-existence.

In the next century, a nation’s competitiveness and success in the global arena will be built upon intellectual resources and skills, cooperation and the exchange of ideas, not military control. Focusing on national sovereignty over a rigidly defined geographic area is, therefore, an out-dated mode of thinking. Both Taiwan and China should focus on fostering social and economic development to prepare them for the 21st century and beyond, rather than focus on 20th century concepts of nationhood. Social, political and economic development is the only force that can effectively bring the two sides of the Taiwan Strait together.

**US-CHINA RELATIONS**

The US has the ability to bring about the normalization of relations on all sides of the Taiwan-China-US triangle, and it should act quickly to do so. The US should take the lead by recognizing Taiwan itself, and then convince other powerful nations of the world, especially Japan, to do the same. The US should use the leverage of access to its vast market to prod the PRC into normalizing relations with Taiwan.

The PRC’s military and economic strength is quickly growing, and it is becoming increasingly bold in asserting territorial and hegemonic ambitions. This trend will likely continue into the future. Behind-the-scenes power struggles within the upper echelons of the Chinese government are, furthermore, likely to exacerbate aggressive posturing and worsen tensions rather than ease them. Therefore, the US should act as soon as possible, before the PRC becomes even more powerful and less cooperative.
Chapter 14

FUTURE PROSPECTS OF U.S.-TAIWAN-CHINA RELATIONS

Hungdah Chiu*

On June 11, 1998, President William Jefferson Clinton delivered a speech at the National Geographic Society, Washington, D.C. on his China policy before President Jiang Zemin of the People's Republic of China (PRC) visited the United States. In the speech, President Clinton stated, among others, that:

Bringing China into the community of nations rather than trying to shut it out is plainly the best way to advance both our interests and our values. It is the best way to encourage China to follow the path of stability, openness, nonaggression; to embrace free markets, political pluralism, the rule of law; to join us in building a stable international order where free people can make the most of their lives and give vent to their children's dreams.

That kind of China, rather than one turned inward and confrontational, is profoundly in our interests. That kind of China can help to shape a 21st century that is the most peaceful and prosperous era the world has ever known.1

The PRC under Ziang’s leadership has signed the International Covenant on Civil and Political Rights,2 the United States should urge the PRC to ratify the Covenant as soon as possible. After its ratification, the PRC must be urged to fully implement the Covenant’s provisions. If this is done, the human rights issues between the PRC and the U.S. can be resolved according to the Covenant.

* Professor of Law and Director of East Asia Legal Studies Program, University of Maryland School of Law; President of International Law Association (1998-2000) and Ambassador-at-Large of the Republic of China.


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Moreover, after this Covenant is implemented in the Chinese mainland, there is no reason for the majority of the Chinese people in Taiwan to reject unification. The present policy of the Republic of China (ROC) on Taiwan, as announced by President Lee Teng-Hui, in his Guideline for National Unification on February 23, 1991, is to establish a democratic, free and equitable prosperous China. If the United States continues to support the Chinese Nationalist Party headed by President Lee and his successor, the Taiwan question can also be resolved peacefully by negotiations between the PRC and the ROC. However, at present the PRC has not ratified the International Covenant on Civil and Political Rights. It also refused to renounce the use of force to achieve the goal of Chinese unification. Under such circumstances, the United States has to continue to honor its commitment under the Taiwan Relations Act (TRA) of 1979.3

Section 2(6) (6) of the TRA provides that “to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.” In March 1996, the PRC conducted missile tests in the Taiwan Strait to scare the Chinese people in Taiwan. The tests were terminated only after President Clinton sent two aircraft carriers to international waters near Taiwan.4 Therefore, it is essential for the United States to make its commitment to the security of Taiwan very clear to the PRC to avoid the latter’s misjudgment and miscalculation in dealing with the ROC on Taiwan.

Moreover, the United States should make its position clear cut in dealing with any political party in Taiwan that it will not support any Taiwan independence movement as provided in the August 17, 1982 United States-China (i.e., PRC), Joint Communiqué on Taiwan arms sales, which in paragraph (5) states that the United States Government has no intention of pursuing a two Chinas or one China, one Taiwan policy.5


At the same time, the United States should remind the PRC on appropriate occasions when necessary the following statement made by John H. Holdridge, then Assistant Secretary of State for East Asian and Pacific Affairs, at the House hearing held on August, 18, 1982, in connection with the August 17, 1982, Taiwan arms sales Communiqué:

—First, the document must be read as a whole, since the policies it sets forth are interrelated.

—Second, . . . the communiqué contains a strong Chinese statement that its fundamental policy is to seek to resolve the Taiwan question by peaceful means (para 4). In this context, I would point out again that the reference to their “fundamental” policy carries the connotation in Chinese of “unchanging and long-term.”

—Third, the U.S. statement concerning future arms sales to Taiwan (para 6) are based on China’s statements as to its fundamental peaceful policy for seeking a resolution to the Taiwan question and on the “new situation” created by those statements (para 5). This situation is new because, for the first time, China has described its peaceful policy toward Taiwan in the terms I have outlined. Thus, our future actions concerning arms sales to Taiwan are premised on a continuation of China’s peaceful policy toward a resolution of its differences with Taiwan. This is indicated by the words at the beginning of para 5 that “Having in mind the foregoing statements by both sides, the United States Government states . . .”. We have no reason to think that the Chinese will change this fundamental policy, but if they should we would, of course, reexamine our position.

—Fourth, we did not agree to set a date certain for ending arms sales to Taiwan and the statements of future US arms sales policy embodied in the Comuniqué do not provide either a time frame for reductions of U.S. arms sales or for their termination. The U.S. statements are fully consistent with the Taiwan Relations Act, and we will continue to make appropriate arms sales to Taiwan based on our assessments of their defense needs, as specified by the Act.6

In view of the PRC’s 1996 missile test in the Taiwan strait and its recent deployment of missiles opposite Taiwan, the U.S. should warn the PRC that it seriously considers to include Taiwan in its Theater Missiles Defense (TMD) system.

Peace, stability and prosperity in East Asian can be effectively maintained only through the above stated clarification of U.S. policy.

Chapter 15

PRACTICAL STEPS IN A MORE DANGEROUS ENVIRONMENT

Douglas H. Paal*

Most historians pride themselves on their ability to evoke the context in which important events occurred and then to elucidate how the events in turn changed their context. In writing the brief but eventful history of Taiwan of the past twenty years, historians will record a rich interaction between context and action, between circumstance and policy.

At the outset, it was the contest between the U.S. administration’s strategic calculus of Cold War interests, leading to diplomatic recognition of the People’s Republic of China, and the Congressional desire not to abandon the people of Taiwan, which resulted in passage of the Taiwan Relations Act. In military terms, Beijing shifted forces away from the area opposite Taiwan, while Washington invoked the terms of its treaty with the Republic of China to terminate their mutual security pact.

With the Soviet invasion of Afghanistan, support of the Vietnamese invasion of Cambodia and continued build-up on the Sino-Soviet frontier, the context for U.S. relations with Taiwan produced seemingly contradictory results. On the one hand, Washington and Beijing became mutually accommodative, for their respective anti-Soviet purposes. In areas outside the writ of the TRA, U.S. officials bent over backward to erase evidence of “officiality” in dealings with Taiwan.

On the other hand, the sudden end to official ties with Taiwan left many military needs unfilled on the island. Pressure built to make available to Taiwan a modern aircraft, the F-5G or FX, opening a debate among American China specialists over whether or not to do so. China responded with its first public warning against the aircraft on June 15, 1980. This, too, occurred in a context: Ronald Reagan was campaigning for the presidency, complaining loudly about the de-recognition of Taiwan.

* President, Asia Pacific Policy Center, Washington, D.C.
The tension between these two directions in American policy remained unresolved until August 17, 1982, when Beijing and Washington issued their joint communiqué on arms sales to Taiwan, intended to diminish the quantity and arrest improvement in quality of U.S. arms sales to Taiwan.

Not unrelatedly, at roughly the time of the communiqué, George Shultz replaced Alexander Haig as Secretary of State. Convinced that Haig had been advised to take too much the role of demandeur with China, Shultz turned a cold shoulder to Beijing's enticements, arguing in a speech in San Francisco that China was only an important "regional power," not a global one. After about ten months, Beijing got the message, and began to accommodate Washington's needs. The U.S. reciprocated.

It was during the ensuing years that a context was established for what might be called a "positive sum game" in U.S.-Taiwan-China relations. As high-level exchanges increased between Washington and Beijing, Washington increased its efforts to find formulas to enhance Taiwan's international status.

Language was found for Taiwan to participate in the Olympics and the Asian Development Bank, after active promotion of Taiwan's membership by the U.S. administration. On the fifteenth anniversary of the Shanghai Communique, George Shultz, in a toast in Shanghai while on a viceregal tour of the country, called for the U.S. to "foster an environment" for increased interchange across the Taiwan Strait. This statement was a direct outgrowth of the experiences in U.S. support for Taiwan's status in international organizations.

The positive sum context of the Reagan-Bush years was shattered, however, by Tiananmen and the collapse of the Soviet empire. Moreover, the emergence of genuinely democratic institutions on Taiwan complicated the dealings of its leaders with the mainland, deepening communist suspicions of Taiwan's intentions regarding reunification.

The strategic foundation of U.S.-China relations was shaken. The common moral cause of resisting Soviet aggression transformed into intense moral vituperation over China's human rights situation. Taiwan's pariah status as a martial law dictatorship transmuted into a model of democracy and market economics. What had been a positive sum game had become a zero sum game.

The low point arrived in 1996, as everyone knows, when China used missiles to intimidate Taiwan's voters and the U.S. was forced to respond with deployments of two carrier battle groups. The par-
ties at all three corners of this triangular relationship contributed to the problem, and the lessons learned were mixed.

The principal upshot of this episode was again to change the context of U.S.-Taiwan-China dealings. Ordinary voters on Taiwan seemed to recognize that they should probably exercise greater restraint on cross-strait issues, while adhering to principle. The U.S. concluded that high tensions with China in an election year were not a good idea, and the Clinton team offered Jiang Zemin what China wanted most after Tiananmen, an exchange of state visits that would restore China's international "face." Partly in exchange, the U.S. pressed both Taipei and Beijing to resume talks, irrespective of their content, and reduce tensions.

A new round of discussions is on its way to being scheduled later this year between Mr. Wang Daohan and Mr. Koo Chen-Foo.

Today, however, much of the artificial warmth of the U.S. and P.R.C. state visits has cooled, and suspicions are abundant on both sides over bilateral and international issues, such as Kosovo. The Pentagon has issued a report on the military balance in the Taiwan Strait area, emphasizing the growth of P.R.C. missile capabilities. Beijing is snarling about the potential introduction of Theater Missile Defenses (TMD) in Taiwan or Japan.

**In This New, Complex and Seemingly More Dangerous Environment, What Should be the Agenda?**

What should Koo and Wang talk about when they meet? Obviously their agenda is the subject of considerable debate over whether it should be "political" or "practical."

To an outsider, the strategic context of U.S.-China relations is unlikely to be resolved soon. For the duration of the Clinton Administration, at least, the operating mode is likely to be one of damage control, as China-related issues are increasingly politicized in advance of the presidential elections.

Taiwan may well figure larger in American debate than many now anticipate because of the coincidence of the U.S. and Taiwan elections in late 2000. This will be especially so if China returns to the path of intimidation. There is a possibility, though no guarantee, that prominence of Taiwan-related issues in the American presidential campaign might gain Taipei marginal or better advantages. It is likely, however, that it would produce higher tensions in the Taiwan Strait region as well.
In these circumstances, it seems reasonable to argue the need
to try to shape the environment into which Taiwan is headed.
Taipei should want to: reduce the chances of accidental conflict; in-
crease the influence of moderates on the mainland; increase China’s
economic stake in good relations across the Strait; and prepare bet-
ter to defend the islands if deterrence fails.

Though China wants to focus on the “political” nature of the
upcoming talks, I believe that the Taiwan public is not ready for so
large a step. There will be substantial international support, how-
ever, for a practical agenda that is intended to reduce the potential
for conflict in the Strait. If this agenda is pressed vigorously and
with a clear intention to achieve positive results, Beijing will come
to accept it as the best available option.

Confidence Building

The U.S. Department of Defense has detailed, in its report to
Congress, the growth of military capabilities in the Taiwan Strait
area. Ever more capable missiles, aircraft, ships, and submarines
are operating opposite each other at higher rates of speed, with
greater ranges of detection and power projection.

Already, in recent months, enough close calls have been regis-
tered in the skies over the Strait to lead U.S. Government officials
to start calling for confidence building measures between the two
sides. Although many of the prevailing circumstances differ, it
nonetheless seems reasonable for Taiwan to draw on the experience
of Cold War Europe in devising means to avoid accidental conflict.

Taiwan might offer to respect certain voluntary limits on opera-
tions in the Strait, if Beijing is willing to reciprocate. Hotlines be-
tween commands might prove useful in the event of unanticipated
events. Rules to avoid maritime and airborne accidents might be
put forth for agreement.

Given the sensitivities involved, Taiwan should adopt flexibility
on the means of achieving these sorts of confidence building, or
accident avoiding, mechanisms. Perhaps the two sides can offer to
host groups of retired military officers, who could discuss the modal-
ties informally at first. Their delegations’ leaders might offer
their home phone numbers as the first form of hotlines.

The weapons systems of the future are not going to become
less capable, and the atmosphere may not remain conducive to such
conversations for long. It is therefore in Taiwan’s interest to con-
sider stealing the march on China and broaching these issues first,
earning international support.
Give China's Moderate Voices a Boost

Virtually all Chinese want Taiwan to reunify with the mainland, but among the Chinese there clearly are differences over the means, timeline, and price to be paid for reunification. It behooves Taipei to consider agreeing to arrangements that will strengthen the voices of those who resist the use of force, are willing to wait, and see benefit in current arrangements across the Strait.

The obvious candidate proposal is fulfillment of the "three links, or san-t'ung." Practically speaking, this would be a relatively small step, given how far Taiwan and the mainland have come in normalizing communications between the peoples on both sides.

Courteous and respectful treatment of Wang Daohan when he visits should go without mention.

Use Economics, Play to Taiwan's Strength

Taiwan's trade with and investment in the mainland are a stronger card than many think. For years, the issue has been framed in terms that suggested that investment should be limited lest Taiwan become hostage to P.R.C. pressure in times of crisis.

Today, and probably for at least the next two years, Taiwan—all things being equal—is in the stronger economic position. China needs the investment and trade to sustain its economic growth and political stability. Surely the communist leadership understands this, as they showed during the crisis in 1996, when officers of ERATS visited Taiwan investors to soothe their nerves.

Should politics heat up again as elections approach, growing trade and investment are a handy counterbalance influencing the limits to which Beijing will go in pursuit of its goals. This should, of course, not be overstated, given the ability of Beijing to hyperventilate about Taiwan. In any event, most such investments are profitable and necessary as Taiwan's economy grows. Why not make a virtue of necessity?

Better Deterrence

Finally, Taiwan should reinforce a trend, begun in the past two years, of integrating its military capabilities to achieve more effective deterrence. Minister Tang Fei is a leader in introducing combined arms exercises, better training, improved C-3I. But for all the recent effort, a great deal remains to be done.

With many young potential officers and enlisted men being enticed into a vibrant economy, better pay and conditions are inevita-
ble. Taiwan should build on its technological strengths to maximize the capabilities of the weapon systems in its possession and those it may obtain.

The United States will have to continue its unique role in helping Taiwan maintain an adequate self-defense capability. In the modern conditions of warfare prevailing in this region, long range radars – which are in essence defensive and cannot be construed in any way as offensive – should be made available to Taiwan’s people for early notification of and protective reaction to incoming missiles and aircraft. They have nothing to with TMD, since TMD is only a theoretical capability now and for the next few years at least.

In sum, Taiwan is not merely a passive hostage to the dealings of the U.S. and China. Moreover, during an uncertain passage in those relations, Taiwan has an interest in reducing the risks and increasing the benefits of its circumstances. Pragmatic talks on practical problems, plus well-prepared deterrence, offer an opportunity to shape Taiwan’s security environment for the better.
Chapter 16

FUTURE CHOICES AND SUGGESTIONS

Nancy Bernkopf Tucker*

1) The United States SHOULD NOT assume that unification is the appropriate outcome in the confrontation between China and Taiwan. The three communiqués do not commit Washington to it and democratic changes in Taiwan may preclude it. Although transcripts, recently declassified, of Henry Kissinger’s conversations with Mao Zedong show that American leaders sometimes gave Beijing greater assurances privately than publicly, the fact that they kept those assurances secret demonstrates that they understood that they had exceeded the parameters of formal policy and the tolerance of the Congress and public.

2) The United States SHOULD focus on peace as its central goal whether that entails reunification, maintenance of the status quo, or independence for Taiwan.

3) Strategic ambiguity regarding what actions the United States will take in the Taiwan Strait is safer and smarter, as well as more realistic, than attempts at reaching clarity. At the same time, a credible, deterrent American military presence must be maintained in the region and alliances should be strengthened. To whatever degree possible, the United States government should not go it alone in this tenuous situation. Indeed, the Taiwan issue bears directly upon US-Japan relations as well as upon how Washington and Tokyo each relate to Beijing in the 21st century.

4) The United States should not act as a mediator or take one side in the Taiwan-China standoff. It should resist the temptation to improve Sino-American relations by sacrificing Taiwan’s interests even as the Taiwan issue moves increasingly to the center of Chinese-American relations and looms larger as a barrier to closer ties. Americans value both self-determination and sovereignty; they should not try to choose between them.

* Professor of History, Georgetown University and Georgetown University School of Foreign Service, Washington, D.C.
At the same time, the United States should encourage confidence building measures between China and Taiwan. Were Beijing to demonstrate more self-assurance — for instance, allowing Taiwan to enter the World Trade Organization first — it would win friends in Taiwan and the world community. This would be a creative gesture yielding economic and political benefits to China as well as to Taiwan.

5) The United States should continue to apply pressure to both China and Taiwan, warning equally against the use of force by Beijing and the indulgence in irresponsible initiatives by Taipei. Internal political struggle, on the island and the mainland, must stop at the water’s edge.

6) Similarly the US Congress should arrest its destructive tendency to make China policy a vehicle for waging domestic political disputes. Despite the bipartisan nature of the Cox Report and the joint declaration of Senators Helms and Hollings that they would oppose WTO for China under present circumstances, the anti-China trend that is currently gaining momentum is fueled mostly by partisan electoral politics. In the 1940s and 50s, the “loss of China” furor proved devastating to the US government and American national interests. We cannot afford a new round of McCarthyism today. It is no more productive to demonize China than it is to stigmatize Taiwan as a troublemaker. Critics of administration China policy, moreover, should remember that any serious, prolonged downturn in US-China relations jeopardizes Taiwan’s future. At the same time, Congress should be very careful with revising, amending or supplementing the TRA. Once the process begins there may be no way to constrain it.

7) There should be sustained engagement with both China and Taiwan. The Clinton administration’s Taiwan Policy Review provided for cabinet level exchanges with Taipei. Bill Richardson’s recent trip was a positive sign — there ought to be others. On the military side, contacts with Taiwan also quietly appear to be growing. It would be dangerous not to expand on these contacts and establish a serious dialogue with the military establishments in both Taiwan and China. Transparency and confidence building are essential to both military relationships.

8) Regardless of the need for better relations with Beijing, the United States must continue arms sales to Taiwan. This will be increasingly vital as China pursues military modernization. Despite
Beijing’s demands, Washington should not consult with China on this issue. It should be attentive to Taiwan's software needs, like training and logistics, as well as providing adequate hardware. On the other hand, the introduction of theater missile defense would be highly destabilizing. The United States must avoid this step. To do so, Washington will need help from Beijing. China must accept responsibility for stimulating Taiwan’s interest in TMD and rethink missile installations that threaten Taiwan’s security. If China were not provocative, Taiwan’s leaders would have little excuse to try to involve the island in development and deployment of an enormously expensive and unproven system which the Taiwan military does not want and which, at best, could not protect the island from a Chinese missile barrage.

9) Engagement must be seen not just in economic terms, but also as a strategic priority. Thus, the Clinton administration, and its successors, must pay more attention to Asian affairs and do a better job of educating themselves and the public about the situation in the Taiwan Strait. This will require a relative shift of US attention away from European questions, It also demands sober policy initiatives, abandoning the kind of hyperbolic thinking that produced the expression “strategic partnership” for relations so fraught with misperceptions and disagreements.

10) Current US policy which encourages cross-strait dialogue can and should continue, but the objective should be better mutual understanding, not pushing Taiwan’s leaders into a settlement they do not want and cannot defend to their electorate. The United States spent decades promoting democracy in Taiwan. Now that it exists, Washington must deal with it rather than trying to bypass the will of the people. Although recent elections relieved immediate pressures surrounding the independence issue by demonstrating the fundamental prudence of Taiwan’s voters, there was no mandate for unification. The collapse of the New Party makes that clear. Unencumbered, the citizenry might well choose independence. Since that is not an option, the people emphatically want to sustain the status quo, not accommodate Beijing’s growing sense of urgency. The United States must help Chinese leaders understand that Taiwan’s democratization is not just a Lee Teng-Hui ploy to avoid national unity.

The events of the past few years make clear that confrontation over Taiwan will be a chronic problem and an inescapable source of future crisis. Contrary to the hopes of many observers, democracy in
China may not yield any greater willingness in Taiwan to reunify or in China to let Taiwan go. In any case, Washington must come to understand the conflict better, exercise greater care in negotiations with Beijing, prepare the American public for trouble ahead, and guard against errors born of ignorance, indifference and inattention.
Chapter 17

OPPORTUNITIES AND RISKS

Gerrit W. Gong*

From a Washington perspective, I focus on four main themes.

Theme #1: Sino-U.S. relations, already strained, are likely to become even more uncertain over the next 18 months, in part as three U.S. perceptions of mainland China change.

Theme #2: Moderate strains in Sino-U.S. relations offer opportunities to improve U.S.-Taiwan relations and Taipei-Beijing cross-strait relations. But major strains in Sino-U.S. relations, particularly if Taiwan reemerges as a major issue in Sino-U.S. and in domestic U.S. politics, will raise U.S. expectations for cross-strait dialogue, perhaps to unreasonable levels, creating at least four fundamental dilemmas for Taipei.

Theme #3: We should deal with current issues — WTO, TMD, and cross-strait relations — each on its own merits; for example, trade issues in terms of trade; security in terms of security; cross-strait relations on their own terms, for reasons I elaborate later.

Theme #4: Even while dealing with current issues on their merits, we should consider them — whether WTO, TMD, or cross-strait relations — within a larger context as means toward achieving strategic objectives with China, such as helping a modernizing and democratizing China see itself as a fully vested and responsible member of the international community, belonging to the major regional and global institutions, behaving according to the rule of law, including by making and keeping binding commitments according to bilateral and global standards.

Expanding on each of these main themes briefly, I begin with changing U.S. perceptions of China as both a cause and effect of already strained, and likely worsening, Sino-U.S. relations.

* Freeman Chair and Director, Asian Studies Program, Center for Strategic & International Studies (CSIS), Washington, D.C.

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A first U.S. perceptual change is from China as an emerging economic power to China as an economically vulnerable country. I call this a change from China as a “Goldilocks” economy to China as a three bears economy.

For twenty years, the U.S. has perceived China as having a Goldilocks economy. To be sure, China experienced three major boom-bust inflationary cycles from 1978-1992, and ongoing concern about center-region tensions, income inequality, etc. But especially by the mid-1990s, China appeared to engineer a Goldilocks not too fast, not too slow soft economic landing based on high but sustainable growth, deepening structural reform, and political and financial system stability.

Today, that is changing. Many in the U.S. see China’s Goldilocks growth, reform, and stability giving way to a three bears economy where growth slows, important reforms stall or stop, and political and financial system instability rise. China’s growth is slowing.

Growth is closer to 4-5% in 1999 than the 7.8% reported in 1998 or the 7% projected. China’s exports and FDI were flat in 1998 and FDI in particular could decline in 1999. Interest rate cuts, domestic fiscal stimulus particularly in infrastructure construction, export and FDI promotion, and other competitive incentives may be insufficient to sustain economic growth weakened by over-capacity and weak consumer confidence worried by rising unemployment (over 9% in the cities and 130 million redundant rural laborers).

Zhu Rongji was confronted by an untimely juxtaposition. The regional demand for China’s exports slowed due to the Asian crisis at the same time as China’s domestic demand slowed as unemployment rose, as consumer confidence declined, and as anticipated consumer caution due to domestic reforms in education, housing, and medicare boosted the domestic savings rate.

Specifically, ordinary citizens, who in the past depended on state subsidies in education, housing, and medicare, found themselves reducing consumption and increasing savings to meet anticipated needs, as a state compelled by rising governmental debt shifted the social contract by making individuals increasingly responsible for aspects of their own social welfare. No wonder mainland China’s domestic savings rate went from already high averages of 40-50% to today’s even higher 63%.

Important Chinese reforms have stalled or stopped. In March 1998, Zhu made two bold guarantees (8% GDP growth and cur-
rency stability) and five reform targets (SOE, grain circulation, housing, government organization, medicare). Yet, reform in the joint stock system, housing, and small and mid-sized enterprise privatization and government debt write-downs to SOEs, have been superseded by promises to continue subsidies to SOEs and laid-off workers.

In other words, China's need for immediate social stability has overtaken reform — just when Beijing is being pressed to make significant WTO commitments in agriculture, goods, and services. Deferred reforms and continued massive subsidies only increase the burdens of an already insolvent banking system, especially vulnerabilities in China’s stock markets and non-state banking financial institutions.

No wonder Zhu Rongji perceived he had no choice but to close the Guangdong International Trade and Investment Corporation (GITIC) and other ITICs to assert both central political and financial control.

If China's concerns were limited to the economic and financial spheres they would be serious enough. But with slowing growth and deferred reform, there is growing concern in Washington that potential political and social instability in China are rising.

This political and social discontent reflects two fundamental issues. First is the popular belief held by over 60% of China citizens that those who have gained wealth have done so illegally; this is the thrust of He Qinglian's Pitfalls of China's Modernization which questions the legitimacy of reform by seeing it as little more than the corrupt transfer of state assets to well-connected individuals.

The second issue is something Beijing's leaders know well from studying developments in Indonesia. They know a shift of governmental authority and legitimacy from ideology to rising living standards is sustainable only so long as those increased standards in living in fact meet public expectations. But, as in Indonesia, legitimacy based on living standards can be lost quickly if uncontrolled economic distress is combined with widespread public condemnation of graft and corruption.

During his April U.S. visit, Zhu Rongji subtly appealed for personal political support and support for China's reforms at a time of economic challenge. And he brought formidable assets: an appealingly direct, unscripted speaking style; a savvy willingness and ability to deal; a vision and brave personal commitment to the future of China's economic reform. (Remember his comment about the 100 coffins — 99 for corrupt officials, and the last one for him?)
But a second shifting Washington perception may limit Zhu's ability to do so successfully.

That second U.S. perceptual change is from China as a possible strategic partner to China as a potential strategic competitor.

To be sure, the U.S. debate about China as partner or competitor is longstanding. For this reason, both Presidents Clinton and Jiang portrayed the 1997 and 1998 Sino-U.S. summits as re-establishing contact at the highest official levels and thereby stabilizing Sino-U.S. relations, albeit within an ill-defined concept of constructive strategic partnership.

Both sides oversold the summits. By the end of 1998, whatever understanding Washington thought it achieved on human rights was lost with Beijing's crackdown on political dissidents. Whatever understanding Beijing thought it achieved regarding Taiwan was challenged by Secretary Bill Richardson's visit and talk of theater missile defense cooperation.

Reports from the bipartisan Cox committee about PRC espionage have created a public sensation. In a CSIS discussion on China policy, both Republicans and Democrats reported a flood of constituent calls and letters, reflecting public attention at the local newspaper and talk-radio grassroots level, focused on a general U.S. outrage that the PRC could and would potentially use U.S. technology, including satellite, missile, and nuclear weapons technology, against the U.S.

This U.S. public mood shift corresponds with increased political attention to foreign policy, including China, as the U.S. presidential campaigns take shape. It may also reflect a more fundamental recognition that U.S. and PRC regional security concepts may be divergent.

A third change in U.S. perceptions is that Taiwan is reemerging as a major issue in Sino-U.S. relations and thereby in U.S. domestic politics.

Jiang Zemin appears increasingly determined to define his legacy by making China strong, economically developed, and unified in the 21st century.

To give credence to the idea of a unified China including at least a framework or timetable (however distant) including Taiwan unification, Jiang's approach includes hard and soft versions of three elements.

First, China seeks to maintain minimal strategic deterrence with the U.S. This is not strategic parity, only the ability to deter U.S. strategic nuclear pressure. It is for the purpose of maintaining
its minimal strategic deterrence with the U.S. that Beijing has such strong misgivings about the U.S. establishing a national missile defense capability. Such a capability could degrade Beijing’s strategic deterrent and thereby require significant unplanned and unbudgeted strategic force modernization.

Second, China seeks to build regional military superiority in doctrine and deployments. The purpose of regional military superiority is in part to deter the U.S., Japan, or others from intervening should conflict arise with Taiwan. Particularly if the PRC can successfully deter external involvement, or if it can win decisive accommodations from Taiwan before external involvement can be mobilized, the PRC can if necessary exploit what it then conceives as local superiority in high-intensity and high-technology conditions.

Third, China seeks to establish a diplomatic strategy based on comprehensive national strength to persuade Taiwan and any of Taiwan’s friends and allies that a Taiwan unified with the PRC is inevitable and desirable. This effort to develop acceptance for a unification framework and timetable within Taiwan and among Taiwan’s external supporters is more in the spirit of Hsun Tzu than Clausewitz.

That is, Beijing’s strategy aims at Taiwan’s most important centers of strategic gravity — which are psychological and, over time, financial. This strategy will use irregular or asymmetric tactics across all the levers of hard and soft power, employing military force only when such maximizes the chance for decisive psychological victory.

So, to summarize thus far, changing U.S. perceptions of China as economically vulnerable, of China as potential strategic competitor, and of the reemergence of Taiwan as a Sino-U.S. and U.S. domestic issue, all underscore the possibility that already strained Sino-U.S. relations could become even more uncertain in the upcoming period, though even with heated U.S. election campaigns, I do not believe they will go into downward free fall.

This leads to my second main theme.

Moderate strains in Sino-U.S. relations offer opportunities to improve U.S.-Taiwan relations and cross-strait relations. But major strains in Sino-U.S. relations, particularly as Taiwan becomes a major Sino-U.S. and U.S. domestic political issue, will increase the responsibilities and expectations the U.S. assigns to cross-strait dialogue.

This creates at least four fundamental dilemmas for Taipei.
First dilemma: Beijing will seek to define constructive cross-strait dialogue as requiring purposeful direction on its terms. It will then define purposeful direction as political talks leading toward unification.

Such an approach plays on the feeling among some in Washington and elsewhere that Taipei seeks to engage in dialogue as an end in itself, focusing on specific, but not necessarily over-arching issues, in part because Taipei has not created consensus regarding its overall direction or end-purpose for cross-strait dialogue. In this manner, Beijing will seek to establish meaningful and constructive cross-strait dialogue as a choice for Taipei between peaceful unification by negotiation and unification by pressure if necessary should Beijing successfully convince others that cross-strait negotiations, as China defines their purpose, are otherwise unproductive.

Second dilemma: Some in Washington feel Taipei is too confident and needs to be shaken somewhat to encourage meaningful cross-strait dialogue. Taipei will not want its caution regarding cross-strait dialogue to create a negative feed-back cycle where its perceived over-confident reluctance to engage in meaningful and constructive (see dilemma #1 above) cross-strait dialogue leads to increased Washington "encouragement" regarding such talks.

Third dilemma: over time the U.S. Congress and others may see that cross-strait dialogues are indeed successful at increasing cross-strait understanding and decreasing cross-strait tensions, and thereafter conclude U.S. arms sales to Taiwan are no longer necessary or helpful.

Beijing’s and Taipei’s ability to raise or lower cross-strait tensions on both a short and mid-term basis complicate U.S. calculations of the interplay of intents and capabilities across the Taiwan Strait.

Fourth dilemma: unintended consequences could arise from efforts to establish new cross-strait initiatives.

For example, some current confidence-building measures include proposals for arms control talks. Cross-strait arms control initiatives which establish hotlines or appropriate military-to-military confidence-building measures (see dilemma #3 above) between Beijing and Taipei could be helpful. But arms control discussions involving Beijing, Taipei, and Washington could unwittingly result in de facto consultations or prior notification potentially giving Beijing a say if not a veto over Taiwan arms requests.

This paper’s third main theme is that we should deal with current issues such as WTO, TMD, or cross-strait relations each on its
own merits. For example, this means trade issues should be dealt with in terms of trade; security in terms of security; cross-strait relations on their own terms.

For example, it is time for China and Taiwan to join the WTO. Because trade can be a positive sum game, it is possible for Chinese Premier Zhu Rongji to sign a principal framework agreement on China's WTO accession this April, dependent on two factors.

First is whether the U.S. and China can agree on practical, and enforceable commitments to both end points and timetables in commercially meaningful terms on agriculture, on goods, and on services. This is challenging because the WTO disciplines, which offer market standards useful to guide the reforms Beijing needs, come at a time when China's economic and political vulnerabilities diminish its ability to fulfill such commitments.

Second is whether or not the WTO package Beijing offers can win Congressional approval. U.S. business support for China's WTO accession is necessary but insufficient by itself to guarantee Congressional support for China's permanent MFN or what is now called NTR (Normal Trading Rights) status.

Regarding missile defense, the recent overwhelming U.S. votes to move forward with national missile defense underscores the U.S. intent to protect itself from ballistic missile attack and to help allies and friends do so as well. Here we recognize three basic facts.

First, to the extent U.S. national missile defense undermines China's minimal strategic deterrent, U.S. and China should discuss how to maintain stable deterrence on both sides if the U.S. builds defensive capabilities.

Second, any anti-missile capability in Japan, South Korea, or Taiwan would be defensive, not threatening to China or any other country because none of them have nuclear offensive capability.

Third, the U.S. will pursue longstanding Asia-Pacific security commitments by deepening security ties with Japan, Korea, and others while promoting Sino-China security cooperation.

Regarding the U.S. role in cross-strait relations, Washington's interest centers on maintaining an equilibrium of confidence so those on both sides of the Taiwan Strait can determine the pace and scope of their mutual interaction peacefully. Equilibrium of confidence includes:

- each side has the defensive capabilities and thereby the minimal sense of security necessary to enter cross-strait dialogue free of intimidation or coercion;
• both sides feel confident the U.S. is taking an even-handed approach toward the other;
• neither side feels the U.S. is pressuring it into negotiations; and
• any arrangements concluded are mutually acceptable to both sides.

The U.S. interest in this cross-strait equilibrium of confidence does not mean the U.S. simply supports a status quo peace and stability, or even simply a dynamic status quo. The U.S. position should be to reject any challenge to the status quo by force, and to discourage Taiwan independence, while leaving it to Beijing and Taipei to create the positive conditions necessary to entice peaceful unification.

Beijing has already threatened non-compliance on proliferation matters if U.S. and Taiwan TMD cooperation advances. Given the juxtaposition of WTO, TMD, and cross-strait issues, Beijing could subtly offer future restraint on security matters (such as TMD and Taiwan) in exchange for Washington’s commitment to China’s WTO accession.

The hard sell on China’s WTO accession would thus come from the security side; the soft sell would be an appeal to Washington to support the political position of Zhu Rongji and others championing China’s economic reforms. The U.S. should resist the temptation to bargain trade (WTO) and security (missile) issues. The U.S. has equal interest in shaping the Asia-Pacific’s overall political, economic, and security architectures as part of its vision for a peaceful, stable, and prosperous Asia-Pacific.

From this U.S. interest to participate in shaping global and regional political, economic, and security architectures comes my fourth main theme.

Even while dealing with current issues on their merits, we should consider them — whether WTO, TMD, or cross-strait relations — within a larger context. Thus we should not deal with specific issues in simply an individual or disparate fashion, but as means toward achieving strategic objectives with China. As Mr. C.F. Koo recently reminded us, we should keep our eye on longer-term strategic goals with respect to mainland China. These include helping a modernizing and democratizing China make and keep binding commitments as a responsible member of the international community, a fully vested member of its main regional and global
institutions, adhering to bilateral and global standards in trade, non-proliferation, and human rights.

This will not be easy for Taipei, in part because of the challenge of linking the specifics of Taiwan's immediate cross-strait objectives of peace and increased understanding and its long-term objectives of unification with a democratized China. As Mr. Sun Ya-Fu noted in Washington recently, Beijing has broadening and deepening experiences with democratization according to its own circumstances; thus, Beijing considers Taipei's references to a democratic China as an excuse to postpone meaningful cross-strait discussions. Squaring immediate and long-term objectives for both Taipei and Beijing regarding cross-strait dialogue within the larger context of their respective strategic objectives will seemingly be easier for a more authoritarian than a more popularly democratic system. These tactical and strategic asymmetries across the Taiwan Strait will likewise make it important but difficult for Washington to help maintain the cross-strait equilibrium of confidence which defines its interests, as detailed above.

This paper considered four main themes.

First, it outlined underlying trends relating to three changing U.S. perceptions of China that reflect and are reflected by increasingly uncertain Sino-U.S. relations in which the Taiwan Strait issue reemerges as a major concern in Sino-U.S. relations and in U.S. domestic politics during the presidential campaign season.

Second, it considered the interplay of those changing perceptions in a forward-looking fashion, anticipating four fundamental cross-strait dilemmas for Taiwan these changing perceptions and circumstances might create for Taipei.

Third, it noted that the PRC in the form of Zhu Rongji's April U.S. visit would seek to use China's immediate security assets to leverage concessions necessary for its longer-term economic growth, arguing Washington should resist such linkages by dealing with current issues such as the WTO, TMD, and cross-strait relation concerns as much as possible each on its own merits.

And, finally, this paper underscored the challenge of relating individual issues to larger strategic objectives with respect to mainland China, namely the ongoing effort to facilitate the PRC's making and abiding binding commitments to bilateral and global standards as a fully responsible member of the international community.
Chapter 18

THE TRA AND U.S. TAIWAN-MILITARY RELATIONS

Michael Pillsbury*

(Disclaimer: Nothing in this paper should be construed to represent the views of the NDU, DOD, or the US Government.)

SCOPE

This paper describes US-Taiwan military relations as conducted under Presidents Jimmy Carter, Ronald Reagan, George Bush, and Bill Clinton on the American side and Presidents Chiang Ching-Kuo and Lee Teng-Hui on the Taiwan side. A fundamental stability in the military balance and a very low profile have been the key features of US-Taiwan military relations during the twenty years of the Taiwan Relations Act. Both these features are changing, however. The first decade [1979-1989] has been covered in a number of scholarly books. The second decade [1989-1999] has been less well understood, and requires an increase in scholarly attention, especially in light of recently declassified documents and personal recollections about the first decade. For reasons of space, this paper does not address the significant issue of Beijing’s shifting perceptions of US-Taiwan military relations, which have been a function of Beijing’s changing views not only of Taiwan, but also of the international security environment and US-China relations.1 The paper describes little known aspects of military relations by examining carefully both a March 1999 US legislative proposal and the February 1999 US Defense Department report on the security situation in the Taiwan Strait for the background these two docu-

* Visiting Research Fellow, National Defense University, Washington, D.C.


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ments provide about an area of US-Taiwan relations usually kept from public view.

RECENT BACKGROUND

Nearly three years after the People's Republic of China (PRC) conducted provocative military exercises opposite Taiwan on the eve of that island's first popular presidential election, the security situation in the Taiwan Strait remains calm with no threat of imminent hostilities. There has been little change in the military balance; Beijing has limited its military activity in the region to routine training; Taipei has reduced the size and scope of its military exercises and played down other activities which Beijing might misconstrue as provocative and destabilizing. Within the political arena, senior negotiators from the two quasi-official organizations responsible for managing cross-Strait relations—Taiwan's Straits Exchange Foundation (SEF) and China's Association for Relations Across the Taiwan Strait (ARATS)—met in China in mid-October 1998 and resumed direct contacts—suspended since 1995—aimed at reducing tensions and improving bilateral relations. Although they agreed on future SEF-ARATS dialogue, cooperation, and visits, there was little movement on resolving the more substantive political issues which divide the two sides.

PART ONE: WHAT ARE US-TAIWAN MILITARY RELATIONS?

No public document describes the purposes or the details of US-Taiwan military relations. The Taiwan Relations Act is extremely sparse about the matter. Indeed, the draft legislation sent to Congress by President Carter did not mention any security or military matters. The language about military matters was added at the initiative of Democratic Senators Frank Church and John Glenn, working with Republican Senators like Jacob Javits and others. The House of Representatives added parallel language. Vice Premier Deng Xiaoping, then visiting the United States, met with members of the Senate Foreign Relations Committee and

2. The Taiwan Relations Act (Public Law 96-8) is recapitulated in the Taiwan Security Enhancement Bill of March 24, 1999 as follows:
   (A) peace and stability in the Taiwan Strait area are in the political, security, and economic interests of the United States and are of international concern;
   (B) the decision of the United States 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;
warned that if the Taiwan Relations Act went too far about security issues, China would not agree to normalization.

The TRA language agreed to and signed by the President was much stronger than any President ever was willing to implement in the twenty years. The TRA stated that defense articles and services would be provided by the US to Taiwan to maintain its capability for self defense. Congress would play a role in determining what weapons and services would be provided. Yet Congress never did this. Almost immediately, the Senators who had authored the TRA publicly complained that President Carter was not implementing the TRA in its military aspects. The Congressional criticism was stronger of President Reagan in 1982, when he agreed to the August 1982 US-China Communiqué. However, in one of the strangest developments in US-Taiwan relations since 1979, the US Congress never took any action or passed any law that challenged Presidents Carter, Reagan, Bush or Clinton with regard to the military aspects of the Taiwan Relations Act; until March 24, 1999. On that date, three Senators introduced what they called the Taiwan Security Enhancement Act. Its text is a remarkable document that may be interpreted as a long list of steps and measures that the US has never taken in US-Taiwan military relations.

If the three Senators are correct in the lengthy analysis contained in their legislation [to be discussed below], then US-Taiwan military relations may never have been conducted as the original framers of the Taiwan Relations Act intended. However, one may ask why it took the US Congress twenty years to reach this conclusion. Several Congressional staff interviewed for this paper explained that until a few months ago, the government of Taiwan including the President, Vice President and the military leadership have been unwilling to tell the US Congress the details of the US-Taiwan military relationship for various reasons, including their perceptions that the executive branch of the US government did not want them to do so. Apparently, according to these Congressional staff, some officials in the government of Taiwan believe they

(C) the United States would consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific region and of grave concern to the United States;

(D) the United States will maintain the capacity to resist any form of coercion that jeopardizes the security, or the social or the economic system, of the people on Taiwan; and

(E) the preservation and enhancement of the human rights of all the people on Taiwan are objectives of the United States.
will be punished if they "behave like Israel" and lobby the US Congress to improve US-Taiwan military relations. Other Congressional staff interviewed stated that they believe some on Taiwan are "complacent" about defense issues, and cannot imagine that China will under any conceivable circumstances use force against Taiwan as long as Taiwan avoids an open or legal declaration of independence. One staff said that Taiwan is not like Israel in lobbying for a stronger defense, but more like Panama or a small African nation that is not really interested in self defense, and does not perceive a serious military threat.

The Nature of US-Taiwan Military Relations

As noted, there is no public document that describes the details of US-Taiwan military relations. It has been clear that ever since 1980, when the US security treaty with the former Republic of China was terminated, the US maintains no armed forces on Taiwan and no active duty military personnel. Lists of arms sold to Taiwan by the US as "Foreign Military Sales" have been made public annually, as are all arms exports covered under the US arms export law. However, the US does not seem to have a normal "military relationship" with Taiwan. For example, even symbolically, the US Defense Department appears to keeps its distance. When US military aircraft transport US Congressional delegations to Taiwan, the aircraft fly to Okinawa or Hong Kong to remain overnight, according to some published accounts.

The Taiwan Security Enhancement Act of March 24, 1999 appears to fill in some of the missing details about the military relationship. For example, it states that:

(9) The United States and Taiwan no longer conduct joint training missions, have no direct military lines of communication and have only limited military-to-military contacts. This lack of communication and interoperability between the United States and Taiwan hinders planning for the defense of Taiwan and could prove detrimental in the event of future aggression against Taiwan.

If correct, it would seem that the rather ordinary aspects of military ties [joint training, military communication lines, and interoperability of forces] have been missing from US-Taiwan relations for two decades. Surprisingly, both the US Congress and the Taiwan authorities have tolerated this situation.
The Taiwan Security Enhancement Act describes other problems in US-Taiwan military relations:

(10) Since 1979, the United States has continued to sell defensive weapons to Taiwan in accordance with the Taiwan Relations Act . . . However, pressures to delay, deny, and reduce arms sales to Taiwan have been prevalent since the signing of the August 17, 1982, communiqué with the People’s Republic of China. Over time, such delays, denials, and reductions could prevent Taiwan from maintaining a sufficient capability for self-defense.

(11) As has been affirmed on several occasions by the executive branch of Government, the provisions of the Taiwan Relations Act take legal precedence over any communiqué with the People’s Republic of China . . . The current defense relationship between the United States and Taiwan is deficient in terms of its capacity over the long term to counter and deter potential aggression against Taiwan by the People’s Republic of China.

The Senators who authored this new legislation appear to be drawing attention to “delays, denials and reductions” in US arms sales to Taiwan. What is especially interesting in the legislation is the impression that Taiwan and the executive branch have not consulted Congress about this issue. For that reason, the Taiwan Security Enhancement Act proposes an unusual remedy. It states:

ANNUAL REPORTS — Beginning 60 days after the next round of arms talks between the United States and Taiwan, and annually thereafter, the President shall submit a report to Congress—

(1) detailing each of Taiwan’s requests for purchase of defense articles and defense services during the one-year period ending on the date of the report;

(2) describing the defense needs asserted by Taiwan as justification for those requests; and

(3) describing any decision to reject, postpone, or modify any such request that was made during the one-year period ending on the date of the report, the level at which the final decision was made, and a justification for the decision.

This proposal would almost certainly invite the US Congress to become involved in the determination of Taiwan’s self-defense needs, as the language of the Taiwan Relations Act provided in 1979. The
legislation is silent on the question why the US Congress has not taken this step in the last twenty years. One possibility may be the fear of a Presidential veto of any effort to obtain this information. It is curious that Congress does not seem to believe it can obtain this information from the Taiwan authorities, but must pass a law to obtain it from the Defense Department. It may be true that Taiwan does not lobby like Israel and is unwilling to tell the US Congress about US decisions to “reject, postpone or modify” its arms requests.

We may learn more about the nature of US-Taiwan military relations since 1979 by examining several other provisions of the Taiwan Security Enhancement Act. It states:

(1) IN GENERAL — The Secretary of Defense, in consultation with the Secretary of State, shall develop a plan for the enhancement of programs and arrangements for operational training and exchanges of personnel between the armed forces of the United States and Taiwan for work in threat analysis, doctrine, force planning, operational methods, and other areas. The plan shall provide for exchanges of officers up to and including general and flag officers in the grade of O-10.

(2) REPORT — Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to Congress, in classified or unclassified form, containing the plan required under paragraph (1).

(3) IMPLEMENTATION — Not later than 30 days after the date on which the report described in paragraph (2) is submitted or required to be submitted, the Secretary of Defense shall implement the plan contained in the report.

This provision seems to suggest that the US government does not today have a plan for or even conduct operational training with Taiwan military personnel. Strangely, these words imply that Taiwan and the US may not have been working together since 1979 on “threat analysis, doctrine, force planning” and other normal military matters. If this is correct, it is difficult to understand how the US has been assisting Taiwan to maintain the kind of self defense capability that is mandated in the Taiwan Relations Act. Of course, there have been newspaper accounts that Taiwan Air Force Pilots are taught to fly US F-16s before they are delivered to Taiwan. But if the Senators are correct, there appears to be little other military interaction of the kind this legislation describes.
Four other provisions of the new legislation are very suggestive about other gaps in US-Taiwan military relations since 1979. It would be normal to have a US staff of experts in the American Institute on Taiwan familiar with Taiwan’s defense needs. Normally, Taiwan should be able to get prices and data about possible future weapons sales. Just as it would be ordinary to have Taiwan military students in US military training institutions. Finally, it would be routine for the US military to have some kind of a communications link with Taiwan’s military, in the event of some kind of military emergency, from search and rescue to an attack by China. Yet the legislation states that none of the these measures exists. It calls for all of them. It states:

(1) the Secretary of Defense and the Secretaries of the military departments should make every effort to reserve additional positions for Taiwan officers at the National Defense University, the senior war colleges, and the military academies; and

(2) the Secretary of State should, when considering foreign military sales to Taiwan—
   (A) take into account the special status of Taiwan; and
   
   (B) make every effort to ensure that Taiwan has full and timely access to price and availability data for defense articles and defense services.

(a) INCREASE IN TECHNICAL STAFF OF THE AMERICAN INSTITUTE IN TAIWAN — Upon the request of the Defense Security Cooperation Agency, the President shall use funds available to the Department of Defense under the Arms Export Control Act for the assignment or detail of additional technical staff to the American Institute in Taiwan.

(c) COMMUNICATIONS BETWEEN UNITED STATES AND TAIWAN MILITARY COMMANDS — Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall establish secure direct communications between the United States Pacific military command and the Taiwan military command.
Press accounts have been very detailed in the twenty years of the Taiwan Relations Act in describing arms sales requests from Taiwan after they have been granted by the United States. It has been almost impossible, however to get an idea of what future requests Taiwan may have, or how the US may deal with these future requests. Here, too, the draft legislation is helpful in suggesting ideas that these Senators believe will be the coming issues in the 2000-2005 period.

It states:

(d) MISSILE DEFENSE EQUIPMENT — Subject to subsection (h), the President is authorized to make available for sale to Taiwan, at reasonable cost, theater missile defense equipment and related items, including—

(1) ground-based and naval-based missile defense systems; and

(2) reconnaissance and communications systems, as may be necessary to target and cue missile defense systems sold to Taiwan.

(e) SATELLITE EARLY WARNING DATA — Subject to subsection (h), the President is authorized to make available for sale to Taiwan, at reasonable cost, satellite early warning data.

(f) AIR DEFENSE EQUIPMENT — Subject to subsection (h), the President is authorized to make available for sale to Taiwan, at reasonable cost, modern air-defense equipment, including the following:

(1) AIM-120 AMRAAM air-to-air missiles.

(2) Additional advanced fighters and airborne warning and control systems (AWACS).

(3) Equipment to better defense airfields from air and missile attack.

(4) Communications infrastructure that enables coordinated joint-force air defense of Taiwan.

(g) NAVAL DEFENSE SYSTEMS — Subject to subsection (h), the President is authorized to make available for sale to Taiwan, at reasonable cost, defensive systems that counter the development by the People's Republic of China of new naval capabilities, including defense systems such as—

(1) diesel-powered submarines;
(2) anti-submarine systems, including airborne systems, capable of detecting new Kilo and advanced Chinese nuclear submarines;

(3) naval anti-missile systems, including Aegis destroyers, capable of defeating Russian supersonic anti-ship missiles; and

(4) communications systems that better enable Taiwan to conduct joint-force naval defense operations.

PART TWO: THE DOD REPORT ON THE TAIWAN STRAIT SECURITY SITUATION

Senators Frank Murkowski, Robert Torricelli and Jesse Helms refer in their new legislation to the US Defense Department report on the security situation in the Taiwan Straits. The contents of this DOD report seem to have suggested to them what Taiwan's future defense needs may be. The report is a helpful source of detail on how the military balance has changed and what such change may mean for US-Taiwan military relations. The contents of the report about mainland China’s forces may not be relevant to this paper. However, the DOD has for the first time in public provided an extremely detailed assessment of Taiwan’s armed forces. Press attention has focused on what the DOD report said about growing military power in mainland China. Here, we examine the extensive list of shortcomings and weaknesses that the US Defense Department believes Taiwan suffers. This list was released in mid-February, 1999 and may have influenced the proposed Taiwan Security Enhancement Act, which was made public March 24, 1999.

Taiwan’s Ten Weaknesses

Despite anticipated improvements to Taiwan’s missile and air defense systems, the US Defense Department reports forecasts that the PLA by 2005 will “possess the capability to attack Taiwan with air and missile strikes” which would “degrade key military facilities and damage the island’s economic infrastructure.” Similarly, the report judges that despite improvements in Taiwan’s ability to conduct ASW operations, “China will retain the capability to interdict Taiwan’s SLOCs and blockade the island’s principal maritime ports.” The Taiwan Relations Act specifically states that the US must be able to counter such a blockade.
The DOD report describes ten key weaknesses Taiwan has. These all suggest areas that the US Congressional proposal may address, since these matters seem to have accumulated over the twenty years since the TRA was enacted.

1. **Missile Defense.** Taiwan's most significant vulnerability is its limited capacity to defend against the growing arsenal of Chinese ballistic missiles. These missiles pose a serious threat to non-hardened military targets, C2 nodes, and Taiwan's military infrastructure. As an initial response to this emerging threat, Taiwan has purchased the Modified Air Defense System (MADS), an improved variant of the PATRIOT surface-to-air missile (SAM) system which was used during DESERT STORM. The MADS, which began arriving on Taiwan in 1997, are expected to be deployed around heavily populated Taipei. Exclusive reliance on active missile defenses and associated BM/CSI, however, will not sufficiently offset the overwhelming advantage in offensive missiles which Beijing is projected to possess in 2005.

2. **Submarines.** Taiwan has four submarines: two relatively modern Dutch-built ZVAARDVIS Design boats (*Hai Lung-class*) acquired in the late 1980s and two obsolete, World War II-era GUPPY II boats provided by the United States in 1973 for ASW training. The two Dutch submarines reportedly are armed with wire-guided torpedoes. The U.S. boats are used primarily as training platforms with a secondary mission to lay mines. Acquisition of additional submarines remains one of Taiwan’s most important priorities.

3. **Information Warfare.** As one of the world's largest producers of computer components, Taiwan has all of the basic capabilities needed to carry out offensive and defensive IW-related activities, particularly computer network attacks and the introduction of malicious code. While information on formally integrating IW into warfighting doctrine is not available, there are indications that formal doctrine development to guide future employment of these capabilities may be in progress.

4. **Computer Warfare.** Taiwan has demonstrated a significant knowledge of viruses. A virus known as “Bloody” or “6/4” protesting the Tiananmen Square crackdown was first discovered in Taiwan in 1990. In 1992, personnel from The Hague—with support from INTERPOL—investigated the dissemination of the “Michelangelo” virus by a Taiwan firm. In 1996, Taiwan virus writers developed and distributed a computer virus pro-
testing Japanese claims to the Diaoyutai Islands. Trend Micro was the first company to develop a response to the "Michelangelo" virus; it currently dominates the anti-virus software market in Japan. Trend Micro also has led in the area of virus recognition technology. Taiwan's Academia Sinica also has made impacts in the area of anti-virus software development.

5. **Sensors for Detection and Targeting.** During the 1980s, Taiwan's reconnaissance capability and 1970s vintage photographic technology was adequate for the limited capabilities and low threat posture of the PLAAF. Taiwan's airborne reconnaissance capability, however, began to decline precipitously in the 1990s. Last year, the TAF retired the last of its RF-104G tactical reconnaissance aircraft and replaced them with reconnaissance-configured RF-5E aircraft. Taipei continues to seek a new imaging system capable of exploiting targets at greater distances from the coast, but without exposing its reconnaissance flights to China's increasingly more sophisticated air defenses.

6. **Psychological Operations.** Taiwan reportedly possesses a well-developed PSYOP capability, under the auspices of the General Political Warfare Department (GPWD). PLA troops also are not likely to be susceptible to Taiwan PSYOP.

7. **Military Leadership.** Balanced against these attributes, the officer corps functions within a culture that values caution over innovation and initiative. While Army officers continue to dominate the senior leadership positions within the defense hierarchy—the Army comprises more than 50 percent of the armed forces—the emphasis on the Air Force and Navy may lead to a corresponding rise in the influence of air and naval officers over matters such as defense procurement priorities and employment doctrine. Taiwan President Lee Teng-Hui strongly supports the promotion of native Taiwanese officers to senior military positions. Currently, the Chief of General Staff and commanders of the air force and marines are ethnic Taiwanese. This trend will continue and probably will have a positive effect on the morale and cohesion of the lower ranks of the armed forces, who themselves are overwhelmingly native Taiwanese.

8. **Training.** Taiwan's large-scale training normally takes place quarterly with the major training centers hosting limited maneuver and live-fire exercises. *Han Kuang 14*, conducted in mid-May 1998, was one of Taipei's more typical joint exercises to date. Primarily a C4I exercise, the training was of very short
duration and the scenario allowed for only limited exercise play.

9. Morale. Morale, especially among the enlisted ranks, is generally assessed as poor, amidst efforts to retain competent, educated service members in the face of stiff private sector competition. The military competes poorly with the civilian economy in attracting Taiwan’s youth, especially those who are technically-oriented. Continued personnel shortages stemming from low retention rates—especially among NCOs—will remain a serious problem affecting morale. The military also is hampered by systemic problems of poor, antiquated management and a traditional military culture with very rigid command structures which discourages lower-level risk-taking, decision-making, and innovation.

10. Logistics and Sustainability. Taiwan’s logistics capability will support some defensive operations on Taiwan, but its probability of success is highly dependent on the tempo of operations. The critical requirements are major equipment end items like engines and transmissions, ammunition, fuel and especially obsolete spare parts which no longer are being manufactured.

CONCLUSION

US-Taiwan military relations have been a neglected subject. On the Taiwan side, the 1998 National Defense Report of the Republic of China has very little to say about relations with the US. Indeed, many Taiwan observers believe that Taiwan is making great strides toward being able to produce all its defense needs domestically with little further need for aid from the US. This is wishful thinking. On the US side, the subject is not a convenient one. Raising it risks needlessly antagonizing China, where nationalistic authors continue to accuse the US of plotting to separate Taiwan from China, in part through arms sales to Taiwan. Journalistic accounts have focused on specific high profile arms sales, such as the sale of 150 F-16 fighters, agreed to after a delay of 15 years from Taiwan’s first request in 1977. This paper has suggested that recent information casts a new light on US-Taiwan military relations. The long list of weapons supplied by the US to Taiwan since the TRA was enacted in 1979 do not tell the whole story. Focusing on the list of arms transferred tends to show a glass half full. The observations found in the DOD Report of February 1999 about Taiwan’s military weaknesses, and the suggestions in the proposed Taiwan Security
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Enhancement Act tend to suggest a different image of US-Taiwan military relations — a glass half empty.

There is an important reason for the shift from half full to half empty. According to US government analysts like John Culver in the book Strategic Trends in China, published by National Defense University Press in 1998, China has begun since about 1995 to focus its military resources for the first time mainly on Taiwan. China’s defense spending remains at a low level, and its defense industrial base remains backward, but there is no doubt that China’s military focus has changed during the last few years. This is a sharp contrast to the first ten or fifteen years of the Taiwan Relations Act. During that period, Taiwan was relatively secure because of good US-China relations, China’s preoccupation with its northern and western borders, China’s focus on economic reform that included major defense cuts in manpower and spending, as well as Taiwan’s own natural advantages — only a few beaches that can be attacked — and a very small mainland amphibious landing force. The change in the military balance should not be overstated. China still deploys only one of its 24 or so group armies near Taiwan. It has not concentrated its forces, and would probably be detected if it did so. Chinese military authors admit frankly that they have many defects to remedy in their land, air and naval forces. They have but a few thousand marines, and have demonstrated a limited airborne or paratroop capability. But, as the DOD report in February 1999 on the Taiwan Strait makes clear, Beijing has begun to improve its capacity to attack Taiwan in significant ways. It is now up to the leaders of Taiwan and the US to decide if they will change their military approach as well, or seek a diplomatic solution of some kind, or both.
Chapter 19

TOWARD A MODUS VIVENDI

Harry Harding*

Tensions in the Taiwan Strait became significantly lower than they were in 1995-96, during the controversy over President Lee Teng-Hui's visit to the United States in 1995. This is the result of the following positive developments:

- The United States and Japan have both reassured China that they do not seek to promote the formal independence of Taiwan, that they would not support a unilateral declaration of independence by the island and that they would welcome unification if it were mutually agreeable to both sides.

- Taiwan and the mainland have resumed their semi-official dialogue at the highest level, with Koo Chen-Foo visiting the PRC in 1998 and Wang Daohan scheduled to visit Taiwan later. To a limited degree, the dialogue now includes political issues as well as technical questions.

- Taiwan's leading opposition party, the DPP, has moderated its position on cross-Strait relations. No longer does it call for a declaration of independence, or for an early referendum on the subject. This, in turn, reflects the fact that the majority of the Taiwanese public prefers to maintain the status quo rather than to engage in any precipitous or provocative actions toward the mainland.

- There is a growing realization in the PRC that the formula for Taiwan's reunification with the mainland must be significantly more flexible than the formulas developed for Hong Kong and Macau.

- And, of course, economic and societal relations across the Taiwan Strait continue to grow.

On the other hand, there are also some worrying developments that raise questions about the future of the cross-Strait relationship:

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* Dean, Elliott School of International Affairs, The George Washington University, Washington, D.C.

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• The mainland’s priority to resolving the Taiwan question may increase with the return of Macau to Chinese sovereignty at the end of 1999. At that point, Taiwan becomes the most important irredentist question on Beijing’s agenda. Jiang Zemin has reportedly said that reunification with Taiwan is one of his most important objectives during his presidential term of office.

• While public opinion on Taiwan does not support a formal declaration of independence, there is little interest in unification under present conditions. Rather, the plurality view is to preserve the status quo, and to decide Taiwan’s formal relations with the mainland later.

• The mainland has refused to abandon, or significantly modify, the “one-country, two-system” formula as applied to Taiwan.

• The Taiwan government has been reluctant to reduce its restrictions on cross-Strait transportation links, trade, and investment, for fear that higher levels of economic interaction will make Taiwan excessively dependent on the mainland. Taipei has been reluctant to begin political dialogue with Beijing.

• The PRC is developing the capability to place military pressure on Taiwan, not only through the deployment of ballistic missiles, but also through the development of conventional naval and amphibious forces. At the same time, it also seeks the capability to deter the United States from intervening in a crisis on Taiwan’s behalf.

• The U.S. is considering the deployment of theater missile defense systems (TMD) in the Western Pacific. Although the immediate concern is Japan’s vulnerability to North Korean missile attack, some believe that TMD should be provided to Taiwan as well. Beijing has said that it would regard the deployment of TMD to Taiwan to be intolerable.

• Mainland Chinese analysts have been probing their American counterparts to see whether it can obtain further “adjustments” in U.S. policy toward Taiwan. These would include assurances that the U.S. would not deploy TMD to Taiwan, a moratorium on American arms sales to Taiwan, exclusion of Taiwan from the scope of the U.S.-Japan Mutual Security Treaty, or an explicit American preference for the reunification of Taiwan with the mainland. Some Chinese analysts say that, in return for such adjustments, China
would be prepared to accept the American presence elsewhere in the Asia-Pacific region. But without greater American acknowledgement of Chinese interests with regard to Taiwan, Beijing might attempt to undermine the U.S. role in the Western Pacific.

Looking ahead from this baseline, what are the possibilities for the triangular relations among the U.S., Taiwan and the mainland?

**Status Quo**

One possibility would be that the present situation remains relatively unchanged. That is, the two sides would engage in an episodic quasi-official dialogue over largely technical issues, gradually expand their cultural and economic ties and preserve the present military balance in the Taiwan Strait.

Although theoretically possible, I believe that the dynamic situation outlined above will make this scenario highly unlikely. The elements of dynamism include: the pressure on Taipei from the Taiwan business community to expand commercial opportunities in the PRC; the rise of nationalism on the Chinese mainland and the growing impatience with the pace of unification; the emergence of a Taiwanese identity on Taiwan; the enhancement of Chinese military capabilities opposite Taiwan; and the possibility of a change of government on Taiwan as a result of normal democratic processes.

These dynamic elements will raise uncertainties on all sides, and may give rise to increasing suspicion and mistrust. In particular, Beijing may start to demand that Taiwan clarify its intentions, and that the United States adjust its policies, in ways that neither Washington nor Taipei will find acceptable. Conversely, Taiwan and the U.S. may begin to make decisions about arms sales and military deployments that Beijing will find intolerable.

Moreover, even if it could be sustained, the status quo is far from optimal for any of the three parties. Beijing still worries that Taiwan may be striving for independence. Taiwan still worries about the threat or use of force by the mainland, and chafes at its limited role in the international community. The United States faces regular pressures from Beijing to reduce — and from Taipei to increase — its commitment to Taiwan’s security.

Thus, as we enter the next century, I believe that maintaining the status quo in the Taiwan Strait will become increasingly difficult.
Renewed Tension

A second and, I believe, more likely possibility is for renewed tensions in the Taiwan Strait. This could be the result of the adoption of a more provocative policy by any party, especially moves by Taiwan toward formal independence, pressure from the mainland for more rapid progress toward reunification or a stated American or Japanese preference for an independent Taiwan. This might occur if any party misjudged the capabilities, objectives or will of another.

Renewed tensions in the Strait could also be the result of military deployments and counter-deployments in the area. For example, the further deployment of missiles on the mainland could lead to the counter-deployment of TMD on Taiwan, and Beijing's deployment of forces designed to blockade or invade Taiwan could lead Taipei to acquire enhanced defensive or retaliatory capabilities. Conversely, the deployment of TMD on Taiwan could encourage Beijing to retaliate by increasing its own export of missile technology to third countries, by further increasing its own deployment of missiles opposite Taiwan, or by developing countermeasures against Taiwan's missile defense system. Even if it did not lead to open conflict, the competitive development of such military capabilities would heighten mutual suspicion, raise the chances of accidental conflict, increase the prospects for diplomatic confrontation and reduce the prospects for cooperative relations among all parties.

At some point, as the costs and risks of confrontation with China grow, or if the U.S. judged that Taiwan's policy had been provocative, it is possible that the American commitment to Taiwan would begin to weaken.

Modus Vivendi

A far more promising scenario would be a more stable modus vivendi in the Taiwan Strait. This would be based on the twin premises that a final resolution of the Taiwan question is premature, but that an arms race in the region should be avoided. It would not be an attempt to preserve the present situation — impossible in so dynamic a situation — but rather an effort to find new arrangements that could provide greater stability and predictability pending a final resolution of the question by future generations.

This modus vivendi could involve explicit agreements between Taiwan and the mainland. It is more likely, however, that it would
entail more informal arrangements and understandings between the two sides.

Building on the resumption of quasi-official dialogue across the Taiwan Strait last year, a *modus vivendi* could include the following elements:

- A set of mutual reassurances, such that the mainland would commit itself not to use force against Taiwan as long as Taiwan did not declare independence, and that Taiwan would commit itself not to declare independence unilaterally as long as the mainland did not use force.

- More extensive cross-strait economic and cultural ties, including the establishment of direct communications and transportation links and the relaxation of barriers to trade and investment.

- The development of cross-strait dialogue, including the creation of unofficial Track Two channels for discussion that would include representatives of all major political parties on Taiwan. At first, the principal purpose of such dialogue would simply be to exchange views on cross-strait relations so as to enhance mutual understanding. Over time, the dialogue would evolve to explore the feasibility of eventual unification, including the preconditions that would have to be met for an agreement and the various formulas that might ultimately prove mutually acceptable.

- The expansion of Taiwan's role in the international community, on the premise that it has conditionally foreclosed a unilateral declaration of independence.

- The development of various confidence-building measures between the military establishments of Taiwan and the mainland.

The creation of such a *modus vivendi* — especially the mainland's commitment not to use force against Taiwan as long as Taiwan did not unilaterally declare independence — would make it far easier for the U.S. to show restraint in its arms sales to Taiwan, especially with regard to theater missile defense systems.

In my judgment, the search for a *modus vivendi* is by far the more desirable of these three possible futures. The aim would be to push off into the future the agreements that cannot be reached today, while attempting to find a mutually acceptable interim accommodation that can prevent tension in the Taiwan Strait. The question is whether the two sides have the will, and the wisdom, to create such a situation.
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