



No. 47

May 27, 1986

HONORING THE TAIWAN RELATIONS ACT STRENGTHENS EAST ASIAN STABILITY

INTRODUCTION

It has been more than seven years since President Jimmy Carter signed into law the Taiwan Relations Act (TRA) on April 10, 1979. Passed by more than two-thirds majority in both Houses of Congress, the TRA was designed to preserve the substance of U.S. relations with the Republic of China (ROC) on Taiwan. These relations had been severed precipitously by Carter the previous January in exchange for diplomatic recognition between the U.S. and the People's Republic of China (PRC) on the mainland.

The TRA is a carefully crafted document. In it, the U.S. promises to help the ROC's 19 million people preserve their way of life in the face of continued threats from the communist mainland. The U.S. also promises to sell the ROC the arms necessary for its self-defense and to uphold those commercial, cultural, and other regulations designed to sustain the traditionally friendly relations between the U.S. and the ROC.

To replace the U.S. and ROC embassies closed down by Carter's breaking relations with the ROC, the Taiwan Relations Act created an "instrumentality" to allow the two nations to carry on unofficial contact with each other. The U.S. calls its embassy replacement on Taiwan the American Institute in Taiwan (AIT), while the ROC calls its substitute the Coordination Council for North American Affairs (CCNAA).

Although Beijing insists that it views the Taiwan Relations Act as interference in its domestic affairs, arguing that Taiwan is a breakaway province of China, the TRA in fact contributes to East Asian peace and stability. Without the full and fair implementation of the

TRA, the ROC could become destabilized. This would have far-reaching and dangerous consequences. No country's interests, except perhaps those of the Soviet Union, would be served by that.

The TRA is also helpful in maintaining U.S. domestic consensus on its China policy. The ROC has many friends in the U.S., not only because of its outstanding economic performance based on free enterprise, but also because it is an evolving democratic society. The Nationalist Chinese were loyal allies to the U.S. in World War II, in Korea, and in Vietnam. And while the PRC rarely votes with the U.S. in the United Nations, Taipei consistently voted in support of Washington when the ROC occupied China's U.N. seat before 1972.

Congress's refusal to amend or repeal the TRA, despite constant pressure from Beijing, reflects the important U.S. political constituency that supports the ROC. This constituency is broad-based and is not identified with one political party or ideology.

In the seven years of its existence, the TRA has been adhered to fairly, particularly by the Reagan Administration. The ROC is the fifth largest trading partner of the U.S., and the annual volume of trade between the two has increased 250 percent since 1979. Over \$5 billion in arms has been sold to Taipei since 1979, and the Administration has reaffirmed on several occasions its determination to provide Taipei with adequate weapons for self-defense. Nearly a million U.S. citizens have visited Taiwan over the last seven years, and the ROC continues to send more students to study in the U.S. than does any other nation.

Yet there are a number of areas in which the TRA continues to be neglected or poorly enforced. To remedy this, a number of actions are necessary. Among them:

- o Congress should hold more frequent public oversight hearings on the TRA's implementation.

- o Taipei should be sold an advanced fighter for its self-defense.

- o The intent of the TRA should not be compromised by the August 17, 1982, Communique, in which the U.S. promised Beijing that it would limit arms sales to the ROC.

- o Representatives to the substitute embassy CCNAA in the U.S. should not be treated as second-class visitors and should be able to call upon U.S. officials in their offices.

- o U.S. officials should not be restricted in their meetings with ROC representatives and in travel to Taiwan.

o The ROC should be permitted to open CCNAA offices in a total of 15 U.S. cities permitted under the TRA.

o The State Department should not prevent CCNAA representatives from meeting Members of Congress to discuss trade and other bilateral issues.

Efforts also should be made to institutionalize U.S.-ROC relations so that they do not depend upon personalities. The Chinese on Taiwan need to be assured that the U.S. will remain their friend, regardless of who sits in the White House.

Most of these improvements in living up to the TRA involve lifting restrictions imposed during the Carter Administration, when fear of a negative Beijing reaction undermined every attempt to treat Taipei with the consideration due an old friend and faithful ally. Ronald Reagan long has vowed to eliminate these indignities. He should do so now.

WHAT THE TRA MEANS TO THE U.S.

Role of Congress

Under section 14 of the Taiwan Relations Act, the House Committee on Foreign Affairs and Senate Committee on Foreign Relations are given responsibility to "monitor the implementation of the provisions" of the TRA and to report to their respective Houses "the results of their monitoring." After a lapse of several years, the House Subcommittee on Asian and Pacific Affairs on May 7 held such an oversight hearing on the TRA, chaired by Steven Solarz, the New York Democrat. While prior hearings had focused almost exclusively on political developments on Taiwan and the status of human rights there, Solarz wisely directed the attention of this subcommittee to overall implementation of the TRA.

There are a number of reasons for Congress's reluctance to hold public oversight hearings. For one thing, the provisions of the TRA are being adhered to fairly by the Administration with little complaint from either Taipei or its supporters in the United States. For another, it would be imprudent to wave the TRA in the face of the PRC, which views the "Taiwan issue" as a domestic affair.

But unless Congress conducts periodic hearings on the TRA, fundamental issues of U.S. China policy cannot be fairly debated. And if these issues cannot be discussed openly before the Congress, consensus on China policy will begin to erode and the U.S. will return to the bitter debates of the 1978-1982 period. A consensus on U.S.-China policy requires the periodic airing of any grievances and concerns about the way the provisions of the TRA are being carried out.

The Administration's Mandate

It is of course not known how the Taiwan issue finally will be resolved, but the probability is high that the two Chinas eventually will work out a mutually acceptable arrangement. The process will be evolutionary, demanding time and patience by all concerned--including, of course, the U.S.

U.S. interests are served by a peaceful and fair resolution of the Taiwan issue. Of the policy options available to Washington, the most beneficial to U.S. interests is the creation of a framework of peace and stability in East Asia in which the two Chinas can accommodate each other's needs and interests. A key aspect of this framework is the good faith effort to maintain a friendly, cooperative relationship with the PRC. An equally important aspect is the maintenance of friendly, cooperative, although regrettably unofficial, relations with the ROC.

The Taiwan Relations Act is an integral part of the framework of peace and stability in East Asia. The TRA gives the citizens of the ROC a reasonable degree of confidence in their future. And this confidence in turn is critical not only to domestic and foreign investment in the ROC economy but also to social stability on the island and an orderly political evolution toward greater democracy.

On several occasions, the Reagan Administration has conveyed to Taipei six points which form the bedrock of U.S.-Taiwan relations. In them the U.S. pledges:

- 1) not to set a date for ending arms sales to Taipei;
- 2) not to hold prior consultations with Beijing on arms sales to the ROC;
- 3) not to play any mediation role between Taipei and Beijing;
- 4) not to revise the Taiwan Relations Act;
- 5) not to alter its position regarding sovereignty over Taiwan;
and
- 6) not to exert pressure on Taipei to enter into negotiations with the PRC.

These points should remain the firm commitment of every future U.S. Administration and should not be changed unless Taipei elects to change the status of Taiwan itself.

U.S.-ROC RELATIONS UNDER THE TRA

The U.S. relationship with Taiwan has improved and expanded since signing the TRA in 1979 (see Tables). Despite these impressive figures, several areas of the TRA need to be enforced more carefully.

Arms Sales Provisions

The TRA's backbone is the arms sales provisions. Without the ability to defend themselves, the citizens of the ROC will see their confidence erode, and their capital take flight. A mass exodus from the island would be almost certain; it is also likely that extremists from right or left would gain control of the island.

Washington clearly has to walk a fine line in selling arms to Taipei. On the one hand, the PRC's concerns must be taken into account. But on the other, the ROC's legitimate defense needs must be met.

The TRA is plain in its language and its legislative history. The TRA mandates absolutely that the level of arms sales to Taipei be determined by Taipei's needs, not by the level of PRC protests. The August 17 Communique, however, violates this by imposing qualitative and quantitative limitations on arms sales to the ROC, regardless of ROC needs.

In the August 17 Communique, which the U.S. signed to avoid a possible rupture of relations with Beijing, the Reagan Administration pledged "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 [since 1979], and that it intends to reduce gradually its sales of arms to Taiwan." Currently, the Administration is reducing arms sales by about \$20 million a year and refusing to sell Taipei weapons more advanced than those it now possesses.

And further, some Executive Branch officials seem motivated mainly by the fear of upsetting Beijing. Thus avoidance of problems with the PRC becomes the guiding principle for arms sales to the ROC rather than an honest assessment of Taipei's military needs.

Replacing the ROC's Advanced Fighter

For example, the ROC Air Force's inventory of 200 F-100 ground attack fighters and F-104 air superiority fighters are to be retired within the next two years. They comprise about 40 percent of the ROC's total fighter inventory. Replacing obsolete aircraft is a standard procedure for all countries of the world. The most appropriate replacement for the F-100s and F-104s probably would be

the F-20 Tigershark, designed by the Northrop Corporation under U.S. guidance specifically for the ROC. Yet the Reagan Administration has refused to permit the sale of the F-20 to Taipei. The reason: the Administration fears upsetting Beijing.

On January 11, 1982, the State Department turned down Taiwan's request for a replacement fighter (the so-called FX) on the grounds "that no sale of advanced fighter aircraft to Taiwan is required because no military need for such aircraft exists."¹ Elsewhere in the world, including the U.S., military needs are determined by evaluating the arsenal of the opposing side. This is not being done by the State Department in the case of the ROC. Ignoring the PRC's burgeoning offensive capabilities, which threaten the ROC, the State Department emphasizes almost completely Beijing's declaration of its peaceful intentions.

It has been more than four years since the initial veto of FX sales to Taipei. Since then, the need for a new fighter has increased. The PRC's own military modernization has been progressing--with substantial U.S. and Western assistance. And PRC leaders including Deng Xiaoping and Hu Yaobang have warned Taipei that force might be used against the island if its officials do not negotiate reunification.

Last year PRC General Secretary Hu Yaobang, for example, said: "...in 7, 8, or 10 years, we shall be in a position to modernize our national defense. If the broad masses of the Taiwan people wish to return and a small number of people do not wish to return, it will be necessary to use some force."²

Given these factors, it is now appropriate for the Administration and Congress to reconsider the ROC's warplane needs. U.S. responsibility for ensuring that Taipei maintains its self-defense capabilities is mandated by the TRA.

In the long run, the ROC may be able to produce its own fighter, as Israel is about to do. But Taipei's aircraft is still on the drawing boards, and the ROC has never built an advanced fighter. Even Japan is tentative about launching a similar project. At best, Taipei may be able to build and deploy a fighter by the late 1990s. For more than a decade, therefore, ROC air defense capabilities will be marginal. The FX fighter was intended to fill that gap.

1. "No Sale of Advanced Aircraft to Taiwan," Department of State Bulletin, 82, 2059 (February 1982), p. 39.

2. Pai Hsing, June 1, 1985, in FBIS-China, June 3, 1985, p. W7.

U.S. ARMS SALES TO PRC

A major factor contributing to ROC security concerns is the rapidly growing military relationship between the U.S. and the PRC. In early May, Congress permitted the Administration to sell \$550 million in radar and electronic weapons systems to the PRC for its high altitude fighter interceptor, the F-8. No public hearings were held, as no hearings have been held on Sino-American military relations in general. Yet the avionics sale has a number of implications for the Taiwan Relations Act.

The avionics package, the second weapons sale to China in less than a year, will give 50 F-8s an all-weather, day-night capability. Taipei lacks this. The Administration claims that because the PRC's F-8 is not an air superiority fighter, its modernization with U.S. assistance will pose no threat to ROC security.

The problem with this argument is that a battle for air superiority over Taiwan will not be determined by air-to-air dog fights--at which the ROC is admittedly superior to the PRC--but by long-range radar and missiles. These enable modern fighters to locate and attack their adversaries at beyond visual range distances.

The F-8 avionics package included an airborne pulse doppler radar system, Inertial Navigation System, Multiplex Data Bus, Fire Control Computer, Heads-Up Display, Air Data Computer, and Backup Control and Interface Units. These would contribute significantly to Beijing's ability to win a modern air engagement with Taipei.

By giving the PRC military capabilities that the ROC does not possess, the Administration may be undermining its own China policy. Unless equally advanced systems are sold to Taipei, the U.S. is violating the TRA. It is no wonder that the F-8 avionics sale may be destroying the U.S. domestic consensus on China policy. The sale also may threaten the interests of U.S. friends and allies in Asia, who universally oppose the sale, and East Asia's balance of power between China and its noncommunist neighbors.

Some Administration officials admit that the main reason for the avionics sale is to demonstrate friendship to the Chinese people and to draw the PRC into a more cooperative relationship with the pro-Western international community. These are legitimate goals. But those pursuing these goals must be sure that they understand Chinese history and motivations. Whether Beijing decides to open or close China's door to the West is a fundamental policy decision deeply rooted in China's past and in current ideological and political faction struggles within the communist leadership. U.S. arms sales have little impact on the outcome of this debate.

In fact, when asked about U.S. arms sales, Chinese officials discount their importance. On no occasion have U.S. arms sales to Beijing become a major issue in Sino-American relations. In fact, the PRC complains to U.S. friends in Southeast Asia that Washington is forcing arms sales down Beijing's throat.

It is time for the Administration or Congress to establish guidelines for U.S. military sales to the PRC. If the August 17 Communique is going to put restrictions on the defensive equipment sold to Taipei, then some sort of limitations have to be imposed on what the U.S. sells to the PRC. Congress should not be asked to pass a resolution of disapproval for a weapons transaction unless an overall framework has been set within which the proposed sale can be evaluated. If such guidelines are not set soon, the contradictions inherent between the TRA and August 17 Communique may become too apparent to ignore.

LIVING WITH THE STATUS QUO

Legal Status of TRA

At the time of the signing of the August 17 Communique, many Members of Congress asked whether the TRA or the Communique took legal precedence. In response, on September 27, 1982, State Department legal advisor Davis Robinson told the Senate Judiciary Committee that the Communique "is not an international agreement and thus imposes no obligations on either party under international law. Its status under domestic law is that of a statement by the President of a policy which he intends to pursue.... The Taiwan Relations Act is and will remain the law of the land unless amended by Congress."³

This statement was reassuring then, but it is less so in light of the Administration's proposal to sell modern arms to Beijing and its refusal to sell a modern warplane to Taipei. Congress thus may want a second opinion on the relative legal standing of the TRA and the August 17 Communique. The Congressional Research Service is well equipped to provide such interpretations, and the legislative history of the TRA will provide ample insight into congressional intent. As Senator John Glenn noted on August 17, 1982, the restrictions

3. Prepared statement of Davis R. Robinson, Legal Advisor, Department of State, given before U.S. Senate Committee on the Judiciary, Subcommittee on Separation of Powers, September 27, 1982, pp. 1-2.

contained in the August 17 Communique "contravene the spirit and purpose of the TRA" and "they are exactly the sort of PRC imposed conditions we sought to avoid when we drafted the Act."⁴

Lifting the Carter Restrictions

Congress never intended that the ROC be treated with the indignities imposed upon its representatives by the Carter Administration. Thus, there are a number of other areas in which the spirit of the TRA could be more faithfully observed. These mainly involve the lifting of restrictions carried over from the Carter days when the Executive Branch seemed less concerned about a balanced U.S. China policy than a tilt toward Beijing. These areas include:

- o ROC representatives to the Coordination Council for North American Affairs (CCNAA) are considered private individuals in the United States. As such, they should be able to meet U.S. officials in their offices as can any other private individual in the U.S.

- o Travel restrictions on U.S. officials needing to go to Taiwan in the course of their responsibilities should be relaxed.

- o Taipei should be able to increase the number of its CCNAA offices in the U.S. to the 15 permitted under the TRA. Offices currently are open in Washington, Kansas City, Boston, Atlanta, Chicago, Houston, New York, Honolulu, Los Angeles, San Francisco, and Seattle.

- o ROC representatives in the U.S. should be able to present their cases on trade and other bilateral issues directly to Members of Congress without restrictions from the Department of State.

- o Finally, efforts must be made to institutionalize the unofficial U.S.-ROC relationship and the manner in which its day-to-day business is conducted. At present, the harmonious relations that do exist have been carefully built because of good personal relationships between U.S. and ROC representatives. As important as these personal relationships are, the relationship between the two peoples is even more important. Over the centuries diplomacy has evolved as the means whereby two nations conduct their business. There is no reason why unofficial U.S.-ROC relations cannot be so conducted in Washington and in Taipei.

4. For excerpts from Senator Glenn's remarks, see Lester L. Wolff and David L. Simon, eds., Legislative History of the Taiwan Relations Act (Jamaica, NY: American Association for Chinese Studies, 1982), pp. 326-328.

CONCLUSION

The Taiwan Relations Act is the law of the land. As such, the Executive Branch is under legal obligation to comply with its provisions. To alleviate concerns that the TRA is not being fully enforced, the Congress should hold periodic oversight hearings on the TRA. These hearings should be wide ranging and not restricted to specific areas such as human rights.

More than a piece of U.S. domestic legislation, the TRA is one of the fundamental pillars of U.S. policy in the Far East, enabling the U.S. to maintain friendly relations with the PRC and close, unofficial relations with the ROC. The political, economic, security, and strategic interests of the U.S. are served by this dual-track China policy. It should be continued.

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This study is adapted from testimony before The Subcommittee on Asian and Pacific Affairs, Committee on Foreign Affairs, U.S. House of Representatives, May 7, 1986.

U.S.-TAIWAN TRADE

Year	U.S. Exports to Taiwan	Taiwan Exports to U.S.	Total
1975	1,652,129	1,822,737	3,474,866
1976	1,797,540	3,038,699	4,836,239
1977	1,963,852	3,636,250	5,603,102
1978	2,376,063	5,010,378	7,386,441
1979	3,380,797	5,652,243	9,033,040
1980	4,673,486	6,760,300	11,433,786
1981	4,765,671	8,163,099	12,928,770
1982	4,563,000	8,758,000	13,321,000
1983	4,646,000	11,333,000	15,979,000
1984*	5,003,000	16,088,000	21,091,000
1985*	4,700,000	17,761,000	22,461,000

*Due to different counting methods, Taiwan's trade figures differ considerably from those of the U.S. In 1984, for example, Taiwan's records show U.S. Exports to Taiwan to be \$5.042 billion and Taiwan Exports to U.S. to be \$14.868 billion. In 1985, these figures were \$4.746 billion and \$14.770 billion respectively.

Amount: U.S. \$1,000 not adjusted for inflation

ANNUAL U.S. MILITARY SALES TO TAIWAN

FY Year	Foreign Military Sales	Commercial Export Licensed	Total
1975	136,094	44,982	181,076
1976	344,662	42,531	387,193
1977	148,407	46,140	194,547
1978	353,154	73,637	426,791
1979	542,627	44,547	587,174
1980	486,756	57,770	544,526
1981	263,482	66,731	330,213
1982	504,412	75,000	579,412
1983	698,646	85,000	783,646
1984	707,407	70,000	777,407
1985	700,537	54,463	755,000
1986 est.	640,000	100,000	740,000
1987 est.	620,000	100,000	720,000

Amount: in U.S. \$1,000, not adjusted for inflation

U.S. VISITORS TO TAIWAN

1975	123,550
1976	137,488
1977	141,837
1978	150,432
1979	113,596
1980	122,673
1981	131,358
1982	137,531
1983	157,715
1984	171,476
1985	179,981

U.S.-TAIWAN CULTURAL/
EDUCATIONAL EXCHANGES

1. Total Students from Taiwan in U.S.: 23,000 in 1985 ranking no. 1 among all foreign countries.
2. U.S. Students Studying in Taiwan: 834 in school year 1984-85.
3. Cooperation Projects: Since 1971, a total of 44 Taiwan colleges have signed cultural/educational cooperation agreements with 128 U.S. colleges.

TAIWAN VISITORS/STUDENTS TO U.S.

Calendar Year	Total Visits	Newly Issued Visas	Students
1979	*	48,336	7,267
1980	*	57,646	5,885
1981	76,599	61,796	5,171
1982	98,995	84,921	5,736
1983	110,148	81,289	6,050
1984	119,163	97,073	*
1985	130,747	98,754	*