

House Foreign Affairs Subcommittee on Asia, the Pacific, and Nonproliferation
Taiwan and the United States: Enduring Bonds in the Face of Adversity
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Written Testimony of

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OVERVIEW: CONGRESSIONAL ROLE IS MORE CRITICAL

Chairman Bera, Ranking Member Yoho, all Members of Congress,

I appreciate the invitation to testify at this hearing today, appropriately on Human Rights Day. I have continued to be a champion of Congress, even after retiring from work for Congress at CRS. Members inherited a key legislative legacy. Congress was brilliant in passing the Taiwan Relations Act (TRA), P.L. 96-8, without the benefit of hindsight. Taiwan became a beacon of democracy and model in fighting this pandemic.

Now, the congressional role is even more critical.

- First, the Communist Party of China (CPC) is increasing threats.
- Second, we have uncertainty about the incoming Biden Administration.
- Third, Congress could protect and push its power to promote U.S. strategic interests, with clarity and consistency in communicating to the American people, the next administration, allies, adversaries, and partners like Taiwan.

I also offer some recommended options to address weaknesses in bilateral bonds.

End of "Packages" to Delay Notifications to Congress

How did our policy get to the current status? Where is our policy, and where is it going?

For this subcommittee's hearing on Taiwan in 2018, I submitted a Statement For the Record on reinforcing the partnership.¹ Since that hearing, the Congress and Trump Administration have carried out even closer cooperation with Taiwan.

First, contrary to certain claims, our policy on arms sales has not been consistent through successive administrations. Congress dealt with the issue of whether Presidents Bush and Obama adhered to the TRA. Starting in his first year, Obama did not propose major arms sales in 2009, 2012, 2013, 2014, and 2016.

The Trump Administration inherited a broken arms sales process and has repaired it in favor of regular notifications to Congress of major Foreign Military Sales (FMS). This

¹ Shirley Kan, "Recommendations of Options to Strengthen the U.S.-Taiwan Partnership," Statement For the Record, Hearing on Reinforcing the U.S.-Taiwan Relationship, House Foreign Affairs Subcommittee on Asia and the Pacific, April 17, 2018.

administration ended the use of "packages" to delay multiple pending FMS. The NSC and Departments of Defense and State have strategic, capable officials.

Congress approved the President's proposal to supplement Taiwan's upgrade of older F-16A/B fighters with a program of new F-16V fighters. The NSC declassified President Reagan's statements on arms sales and Six Assurances. In August, Assistant Secretary of State David Stilwell was the first official to reiterate the Six Assurances of 1982.²

Moreover, this administration allows flag and general military officers to visit Taiwan. After the previous Cabinet-rank visit in 2014, the Secretary of Health and Human Services visited earlier in 2020. President Tsai Ing-wen has enjoyed visit-like "transits."

Importance of Congress

Act Belies Abandonment. Congress has greater flexibility than the President to counter the CPC's distorted narratives about Taiwan. One mischaracterization is that U.S. policymakers "abandoned" Taiwan. Former Representative Lester Wolff, who chaired this subcommittee when Congress passed the TRA, just published his newest book. He discussed a key CODEL that talked with CPC ruler Deng Xiaoping in Beijing in 1978 before U.S. normalization with the People's Republic of China (PRC) in 1979. *Deng said to Wolff, "Taiwan will fall like a ripe apple from the tree."*³ However, the TRA has proven that the United States did not abandon Taiwan.

Bipartisanship Bolsters Support. Congress has shown staunch support because of bipartisanship. In the introduction to Wolff's book, Chairman Eliot Engel of the House Foreign Affairs Committee wrote,

Sometimes it can be hard to find issues on which both parties can wholeheartedly agree but that has never been the case for issues related to Taiwan: Congress stands united in our unwavering support for the people of Taiwan.

Ranking Member Mike McCaul also underscored bipartisanship by adding his remarks.

Congress is a Catalyst. Congress acts as a catalyst for clear and consistent messages to advance U.S. strategic interests and leadership in the world. The fact of holding this hearing is significant, by exercising the informational instrument of national power.

² Six Assurances: In negotiating the third Communique with the PRC, the United States has not agreed to set a date for ending arms sales to Taiwan; has not agreed to consult with the PRC on arms sales to Taiwan; will not play any mediation role between Taipei and Beijing; has not agreed to revise the Taiwan Relations Act; has not altered its position regarding sovereignty over Taiwan; and will not exert pressure on Taiwan to enter into negotiations with the PRC.

³ Lester Wolff, *The Legislative Intent of the Taiwan Relations Act: A Dilemma Wrapped in an Enigma* (Xlibris, 2020).

CHALLENGES FROM THE CPC

The first reason for the more critical congressional role is to counteract the CPC's growing challenge to peace and freedom. A false narrative pushed by its propaganda and parroted by some media is that Beijing is forced to "respond" to "provocations" from Washington or Taipei. In fact, the CPC had decided by 1993 on a Main Strategic Direction to target Taiwan in building up the People's Liberation Army (PLA).

Last September, the Pentagon's report to Congress on the military power of the PRC warned that its multi-decade military buildup has eroded or negated many of Taiwan's military advantages that it enjoyed historically. In short, since the *early* 1990s, the PLA has modernized to raise the threats of coercion and force.

The PLA's strategy has exploited incremental intimidation, perhaps as a safer bet than a traumatic threat that would trigger Taiwan, the United States, and other democratic countries to respond decisively and together. The PLA expands encroachment to change the status quo. This challenge raises concern about a *fait accompli*.

Let's look at developments only since the last U.S. presidential transition. In November 2016, the PLA Air Force flew aircraft around Taiwan just outside its air defense identification zone (ADIZ) for the first time. Then, the next month, PLA aircraft flew around Taiwan close to its ADIZ but remained in international airspace.

At that time, I wrote a warning that the PLA was operationalizing pressure against Taiwan up to its 12-nautical mile territorial sea or airspace and could be expected to follow with provocations at sea. Indeed, in January 2017, China sailed an aircraft carrier north from the South China Sea through the Taiwan Strait. The warship stayed in international waters but sailed in an area covered by Taiwan's ADIZ.⁴

Up through 2020, the PLA has further increased aggressive actions. Moves have included flying PLA aircraft across the median line of the strait and into the ADIZ of Taiwan, in the most frequent cases since 1990, reported its defense minister.

In short, the PLA's insidious intimidation to expand encroachment risks instability.

Also, the CPC has signaled an intent to further increase its threat. In January 2019, General-Secretary Xi Jinping spoke on the 40th anniversary of the CPC's message to "compatriots" with a more belligerent tone than that in 1979. Xi warned, "we do not renounce the use of force and reserve the option of taking all necessary measures." In October 2020, the CPC revealed its 14th Five-Year Plan for 2021-2025. Under this plan, the PLA will accelerate its buildup by 2027.

⁴ Shirley Kan, "Beijing's Sinister Long-term Goals," *Taipei Times*, December 22, 2016; "China's Military Provocations Against Taiwan Are Not Mere Responses to Trump," *AsiaEye*, Project 2049 Institute, January 10, 2017; and "China's Military Provocations Against Taiwan Are Not Mere Responses to Trump," *National Interest*, January 12, 2017.

UNCERTAINTY ABOUT BIDEN'S POLICY

The second reason for a more critical congressional role is uncertainty about the next president's policy, at this time of growing PLA power potentially to coerce and use force. Beijing could provoke tension and test Washington during the current transition and next administration. The question is whether Biden will reverse parts of the progress in the partnership and return to minimized contacts under Obama.

Nonetheless, I do not expect a major rollback. This administration's enhancement of engagement served really to repair the relationship and respond to the PRC. The repairs were restrained. The NSC, Pentagon, and State Department have been clear and strong, but not reckless or radical. Clear statements have rebutted Beijing's disinformation.

Moreover, clarity came with consistency. There is no overall paradigm change.

- First, the steps remain consistent with our "one China" policy and with President Reagan's Six Assurances and memo for the third U.S.-PRC Communique of 1982.
- Second, the administration has not changed our stance amid the resurrected debate over "strategic ambiguity." On October 21, Secretary of State Mike Pompeo responded to a question about "strategic clarity" by declining to add anything new.

Biden might be more consistent with allies. Still, congressional vigilance is needed to ensure that he will adhere to the legislative intent and letter of the TRA.

Indicators of any continuity of policy are whether the Biden Administration will:

- safeguard U.S. strategic interests by firmly counteracting the CPC and PLA;
- sustain arms sales with urgency, without delays that start in the first year of the term;
- engage Taiwan in the network of allies and partners, not in a Sino-centric approach;
- cooperate with Taiwan in its own right, not a sub-set of policy on the PRC.

STRATEGIC OBJECTIVE AND INTERESTS

The third reason for a more critical congressional role is the need for clarity and consistency in communicating strategic interests to Americans, the administration, adversaries, allies, and partners like Taiwan. It is a strategic imperative to work with allies and partners to keep a free and open Indo-Pacific. But it is crucial not only for the region. The CPC works to undermine American lives, freedom, and independence.

This administration's National Security Strategy (NSS) of 2017 includes one statement about Taiwan. The NSS stated: We will maintain our strong ties with Taiwan in accordance with our "One China" policy, including our commitments under the Taiwan Relations Act to provide for Taiwan's legitimate defense needs and deter coercion.

But a relationship is not the end. Our "one China" policy focuses on the *process*, not an *outcome*, of a peaceful resolution. Congress could fill in the strategic objective.

Since 2018, this administration has expressed expanded interests to include democracy in helping Taiwan's defense. In 2019, then-Assistant Secretary of Defense Randy Schriver said, "a strong and secure Taiwan can deter aggression, defend the Taiwan people and their hard-won democracy, and engage on its own terms with the PRC."

This reference is the closest to the Executive Branch stating a goal of helping Taiwan as a democratic country. I believe that we seek a strong and democratic Taiwan, so that it deters the PLA, remains a force for freedom in the global balance of power, and has a future with a peaceful solution -- without the U.S. military entering in a conflict.

Congress could update policy to recognize the reality of Taiwan. Normalized contacts with this partner bolster its legitimacy and counter the CPC's political warfare.

The U.S. has strategic interests in a robust relationship with Taiwan in its own right.

(1) The U.S. did not abandon Taiwan in 1979 or 1982. Our interests have endured since 1950 to deter the PLA's threat to Taiwan as a threat to regional peace and security.

(2) Taiwan's geo-strategic position places it as the inter-locking piece to fortify U.S. allies to the north and to the south, and to support U.S. and allied security interests in the Taiwan Strait, East China Sea, South China Sea, and the western Pacific.

(3) The U.S. and allies counteract the CPC's increasing threats to expand its global control. Taiwan is on the frontline in that fight to favor freedom and democracy.

(4) National interests compel us to strengthen Taiwan to deter aggression and coercion. Otherwise, weakness invites aggression, and our military might have to fight a war.

(5) Washington reassures Taipei so that it could talk with Beijing, confidently from a position of strength. Cross-strait engagement fosters prosperity, peace, and stability.

(6) A secure and democratic Taiwan is a force for freedom to shore up the U.S.-led, rules-based international order against the CPC's harm to that order.

(7) Taiwan has become a partner for peace and prosperity, so our democratic coalition would be hurt if Taiwan suffers the existential threat and falls under the PRC's control.

(8) The U.S. is more powerful, prosperous, and principled in alignment with democratic allies and partners that include Taiwan in proactive pursuit of shared interests.

(9) Adversaries and allies see our alliances as credible if we stay solid in backing Taiwan. In turn, its strength is an asset in our network of allies and partners.

(10) A survivable Taiwan dispels the CPC's narrative of the PLA's ultimate *fait accompli*, thus assuring and attracting other countries to assist Taiwan.

Nixon: "Dr. Kissinger and I had extensive discussions with Chairman Mao and Premier Chou En-lai on the Taiwan issue in 1972. We could not reach an agreement and consequently stated our positions separately in the Shanghai Communiqué. In that document, the U.S. 'reaffirmed' its support of a peaceful resolution of the Taiwan issue. I consider that to be an unequivocal moral commitment."

"Normalization of U.S. relations with the P.R.C. is indispensable in furthering our goal of building a structure of peace in Asia and the world. But at a time when U.S. credibility as a dependable ally and friend is being questioned in a number of countries, it is also vitally important that the Taiwan issue be handled in a way which will reassure other nations—whether old friends, new friends, potential friends, or wavering friends—that it is safe to rely on America's word and to be America's friend."

-- Richard Nixon's letter to Chairman Lester Wolff of the House Foreign Affairs Subcommittee on Asian and Pacific Affairs, February 14, 1979.

RECOMMENDED OPTIONS AND MUTUAL OBLIGATIONS

Thus, Congress plays a more critical role to preserve progress in ties with Taiwan to promote strategic interests and to counteract the CPC so that its insidious intimidation will fail. Congress has options to address weaknesses or divergences in cooperation. In addition, I emphasize that the TRA embodies mutual obligations, not U.S.-only ones.

(1) Strategy. Congress could fill in the strategic objective and interests in support of a stronger Taiwan. Congress could ensure clarity and consistency, as outlined above.

In the debate about "strategic ambiguity," Trump was not clear in an interview with *Fox News* on August 23, when he claimed that China knows what he would do if it invades Taiwan. He failed to explain to the Congress and American people about vital interests.

In our heartland and beyond, Members of Congress are key to explaining the U.S. strategic objective and interests in Taiwan's economic, military, and political security. At the same time, Taiwan needs a grassroots campaign to expand engagement.

(2) Co-Equal Branch. As a champion of Congress, I emphasize the imperative to preserve and assert legislative power and policy-making vis a vis any president. While the TRA provided for legal and political obligations to assist Taiwan's self-defense, the law did not commit in advance that the U.S. "shall" help to defend Taiwan. Moreover, one of the Six Assurances is not to revise the TRA.

The TRA has no absolute guarantee on defense. The legislative intent is to subject any future decision on an act of war to action by Congress, not only the President. The TRA embodies ambiguity for policy to be clear or flexible as needed for U.S. interests.

(3) Self-Defense. It follows that the TRA embodies an expectation of Taiwan's own defense. The TRA entails mutual obligations. The TRA does not mean a U.S.-only obligation but expects Taiwan to maintain its sufficient self-defense. Meanwhile, Congress could consider whether to add combined exercises and select interoperability to military assistance. Such improvements potentially add allies and proactive cooperation, instead of scrambling to react in a crisis (like in the 1995-1996 crisis).

Congress could convey the message of mutual obligations to Taiwan. For example, particularly since 2016, the Congress and Pentagon have placed priority on Taiwan's reserve force for a resilient society. Its reserves have been insufficient to deal with the PLA's increasing threat. However, Taiwan's Ministry of National Defense just announced that it will not start to reform its reserve force until 2022.

Congress could call for a re-set of military engagement to reduce divergence about Taiwan's Overall Defense Concept (ODC) for a credible, cost-effective deterrent. Taiwan's top military leaders ought to fund and implement the ODC for asymmetric advantage and engage with U.S. military commanders, including flag/general officers.

(4) Leadership. Congress is a catalyst for U.S. leadership in international support, so that the CPC fails to isolate and intimidate Taiwan. Congressional inputs include effects on policies of the Executive Branch and engagement with foreign legislators and other leaders. Joint actions with allied countries disarm the CPC's political warfare.

One option is to undercut the CPC's false narrative that impedes Taiwan's participation at the United Nations (UN) and other international organizations. Congress could rebut the PRC's big lie that UN General Assembly Resolution 2758 determined Taiwan as a part of the PRC. *Resolution 2758 did not address the status of or mention Taiwan.*⁵

(5) Oceania. Congress could sustain this administration's high-level attention to Pacific island countries and Taiwan's diplomacy. The Compacts of Free Association (COFA) govern U.S. ties with the Marshall Islands, Micronesia, and Palau -- called the Freely Associated States (FAS). The Republic of China (Taiwan) has diplomatic ties with four Pacific island countries: Marshall Islands, Nauru, Palau, and Tuvalu. *Congress could consider whether to renew the COFA that are to expire in 2023-2024.*

Meanwhile, Taiwan is re-establishing its office in the U.S. territory of Guam in 2020. Taiwan also could increase promotion of democracy and good governance, and invest in infrastructure projects, perhaps with a new sovereign wealth fund (SWF).

(6) Trade. The partnership has a weak economic component, although Taiwan is our 9th largest trading partner. Congress could urge the U.S. Trade Representative (USTR) to resume right away the talks under the bilateral Trade and Investment Framework Agreement (TIFA), or TIFA Talks, which have been suspended since 2016. Congress

⁵ UN Resolution 2758 of October 25, 1971, granted legal rights to the PRC in the UN and expelled "the representatives of Chiang Kai-shek" but did not even mention Taiwan.

also could urge the next administration to place priority on a bilateral trade agreement. A caution for Congress is that, instead of such a priority, the next president might wait until after setting his overall policy on trade. Meanwhile, Members could focus on potential benefits in each state to promote a state-by-state approach to an agreement.

However, while Washington mitigates the isolation of Taipei, it is responsible for self-isolation. *Taiwan needs to show reciprocity and reliability as a trading partner. Congress has not negatively targeted Taiwan's exports to the U.S.* It is time to remove irritants. Taiwan's consumers have a free market and are not forced to buy any product.

Taiwan's political parties should recognize that the PRC's economic coercion is part of the threat to security and should follow science and international rules on beef and pork. Since 2003, the two sides have dealt with this trade dispute, first over concern about bovine spongiform encephalopathy (BSE), or mad cow disease, then concern about ractopamine. Ironically, many Taiwanese people prefer to buy U.S. beef.

Also ironically, when the Kuomintang (KMT) was the ruling party, KMT President Ma Ying-jeou promised to open Taiwan's market to U.S. agricultural exports. In 2009, Ma agreed to conclude two years of negotiations on a bilateral agreement to relax restrictions (related to mad cow disease). But Taiwan abrogated it unilaterally.

(7) Supply Chains. Congressional oversight could see if the next administration will follow up on the broad topics in the new U.S.-Taiwan Economic Prosperity Partnership Dialogue. The Under Secretary of State for Economic Growth, Energy, and the Environment initiated this bilateral dialogue on November 20 in Washington, DC.

One of the many topics is how to restructure supply chains, learning lessons from this pandemic. *Taiwan, the U.S., and other countries are coordinating to reduce reliance on sourcing from the PRC and to increase investments domestically and among democracies that have shared values for secure supply chains.* Taiwan's diversification away from dependence on the PRC economy also would help to withstand its coercion. Taiwan could do its part by expanding English proficiency, tightening the protection of intellectual property and technology, and focusing on future products and partners.

CONCLUSION: SUSTAIN THE SHIFT IN ENGAGEMENT

The U.S.-Taiwan partnership is stronger in these past four years, advancing U.S. and allied strategic interests. Congress plays a more critical role to sustain that strength and to fill in gaps. To remain effective, engagement must continue to emphasize:

- deterrence as well as defense, to prevent conflict in the first place;
- proactive and not only reactive cooperation;
- urgency about Taiwan's economic and military security;
- clear, consistent communication to counter the PRC's distorted narratives;
- U.S. leadership to expand international support for Taiwan;
- Taiwan's reciprocity and mutual obligations in self-defense and trade.

Thank you all for the invitation to testify at this important hearing.