

# TAIWAN RELATIONS ACT: TIME FOR A CHANGE?

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## THE TAIWAN RELATIONS ACT: THE PAST AND THE FUTURE

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### Policy Recommendations

- U.S. policy makers should recognize that it is in the U.S. interest to maintain stable and constructive relationships with both Taipei and Beijing.
- Washington should undertake a comprehensive review of the Taiwan Relations Act for its possible contributions to advancing American interests in East Asia for decades to come.
- Washington should conduct a comprehensive review and cost-benefit analysis of potential unintended side effects that continuation of the TRA could bring to U.S.-China relations.
- Washington should carry out a comprehensive review of the strategic ambiguity in U.S. foreign policy toward Beijing and Taipei.
- The United States should have as a priority objective the promotion of peaceful relations across the Taiwan Strait.

April 10, 2014, marks the 35th anniversary of the Taiwan Relations Act, the U.S. legislation providing the legal underpinning for American ties with Taiwan. The Wilson Center's Asia Program is pleased to present this series of four policy briefs, each of which offers recommendations designed to ensure that the TRA remains relevant to the policy challenges of the 21st century.

At the 35th anniversary of the Taiwan Relations Act (TRA), this policy brief aims at assessing the legislation through a review of a world of changes over the past 35 years. In early 1979, as a response to normalization of the diplomatic relationship between the United States and the People's Republic of China (PRC), the TRA was introduced and passed in Congress within 15 days. This background and subsequent changes in U.S.-China relations and the world will help us to understand the impact and value of the TRA on the relationships among the United States, Taiwan, and the PRC in the past three and a half decades. This article asks the question of whether the TRA has promoted peace or reduced tension across the Taiwan Straits amidst vast world changes. By doing so, it will suggest a comprehensive review of the TRA against the needs of U.S. foreign policy in face of new global developments.

### **THE TRA AND THE THREE COMMUNIQUÉS**

The year 2014 also marks the 35th anniversary of normalization of the U.S.-China diplomatic relationship. Normalization started with the landmark visit of President Richard Nixon to the PRC in early 1972. As a result of that visit, the United States and China signed the Shanghai Communiqué, the first of three communiqués that have defined and helped guide the normalization of the relationship between the two countries. The second communiqué, or the Joint Communiqué on the Establishment of Diplomatic Relations, signed on January 1, 1979, formally announced the commencement of normal relations between the United States and the PRC. In these two communiqués, plus a third signed in 1982, the Taiwan issue occupied a prominent place in the normalization of the two countries' relationship.

In these three communiqués and subsequently on other occasions, China has made clear its position that "the Taiwan question is the crucial question obstructing the normalization of relations between China and the United States;

... Taiwan is a province of China." To China, the Taiwan issue is "an internal affair in which no other country has the right to interfere." On the same day as the second communiqué, China also issued the Message to Compatriots in Taiwan "promulgat[ing] a fundamental policy of striving for peaceful reunification of the motherland." In 1981, China put forward its Nine-Point Proposal seeking "a peaceful solution to the Taiwan question."

For its part, the United States always "acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China." The U.S. government always recognizes that there is only one China. In addition, the United States also "reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves."

When President Nixon and Chairman Mao started talks for normalization, world geopolitics was quite different. Taiwan and mainland China were different too, both under their respective Leninist type of single-party rule. The mainland was about to end its self-imposed isolation, and Taiwan enjoyed strong and influential lobbying in Washington, D.C. The United States was concerned about a potential PRC military attack on Taiwan; the issue of Taiwanese independence was not on the table. It was against this background that the Taiwan Relations Act was introduced and passed in Congress in two weeks. As the TRA goes against the spirit of the three communiqués and interferes with internal affairs that the PRC considers its own sovereignty, Beijing views the legislation as a thorn in normalization of the U.S.-China relationship.

### **THE TRA AND TENSION, STABILITY, AND PEACE**

Over the past 35 years, the TRA provided additional legal basis for the United States to maintain de facto diplomatic relations

with Taiwan. In all three communiqués, both the United States and China reached an understanding that it was important and mutually beneficial for the United States to “maintain cultural, commercial, and other unofficial relations with the people of Taiwan.”

The TRA also provides a legal basis for the U.S. government to provide Taiwan overtly with “arms of a defensive character.” In an incomplete estimate provided by the U.S. Congressional Research Service, U.S. arms sales to Taiwan totaled more than \$44.8 billion between 1990 and 2011. Indeed, for three recent years (2008, 2010, and 2011), when cross-strait relations were steadily improved under President Ma Ying-jeou, the United States sold \$18.7 billion worth of arms to Taiwan, or 41.7 percent of the entire arms sales to Taiwan during a period of 21 years between 1990 and 2011.

Although the TRA does not require the United States to intervene militarily in case the PRC attacks or invades Taiwan, various interpretations of the TRA commit the U.S. government to defend Taiwan militarily in such attacks. This—the three communiqués on the one hand and the TRA on the other—created policy contradictions. Such contradictions have in turn created “strategic ambiguity” that has guided U.S. policy toward Taipei and Beijing over the past 35 years. Such strategic ambiguity, some policy analysts argue, may have prevented aggression from the PRC, reduced tension across the Taiwan Strait, and protected the life style of the people in Taiwan.

When one assesses the strategic ambiguity as prompted by the TRA, it is important to review the profound changes in the international system since the late 1970s. The Cold War ended about a decade after the United States and China normalized their diplomatic relations. The end of the Cold War also accelerated globalization of the world economy. Nations have since moved away from defining their

national interests based on ideological prescriptions, and countries have traded and developed interdependent relations across different political and social systems.

In the late 1970s, China launched post-Mao economic reforms with a fundamentally new understanding that World War III was avoidable through cooperation with the United States and other major powers around the world. Different from Mao, Deng Xiaoping also reached out to the former Soviet Union in an attempt to reduce hostility and distrust and to achieve peace in the region. Beijing also accepted different political, economic, and military systems within a unified China, the so-called “one country, two systems.” All this, Deng believed, would bring about the peaceful environment necessary for what China should focus on—i.e., economic development.

With the emphasis on economic development, China’s goal of reunification becomes less time-sensitive. In the face of all the challenges of economic reform and social changes on the mainland, the PRC’s policy toward Taiwan appeared more reactive than proactive. In effect, the PRC has not called for immediate “liberation” of Taiwan. As the Chinese mainland benefits from a stable relationship with Taiwan for its own economic development, and since the PRC is not pursuing reunification recklessly, it becomes difficult to evaluate how successful the TRA was in preventing PRC aggression.

It is not only that the PRC lacks the will to “liberate” Taiwan in the very near future, but also the PRC lacks the military capacity to engage in such a war over Taiwan without major damage to its hard-earned economic development of the past 35 years. Even with double-digit annual growth rates in defense spending in the PRC, there is no report arguing that the mainland could militarily overpower the island. More importantly, there has been no clear evidence to show any systematic Chinese military buildup aimed at invading Taiwan. The tension is always there, though, and the

PRC military buildup has not stopped. So the question is whether the TRA has helped reduce the tension.

In “A Way Ahead with China: Steering the Right Course with the Middle Kingdom,” a recent report published by the Miller Center for Public Affairs at the University of Virginia, the 1996 Taiwan Strait crisis was identified as one of the two major crises between China and the United States. However, China’s decision to conduct missile tests in the international waters close to Taiwan was a reaction in protest against the U.S. Congress voting to allow then Taiwan President Lee Teng-hui to visit the United States, the first time a top incumbent Taiwan official had visited the United States since the termination of the formal relationship between the United States and Taiwan. In reaction to the PRC’s missile tests, the United States dispatched aircraft carriers to the international waters close to Taiwan. Nonetheless, it was not the TRA that reduced tension across the Taiwan Strait. On the contrary, cross-Strait tension was not reduced until the Nationalist candidate Ma Ying-jeou was elected Taiwan president in 2008. Since then, the tension has been reduced through dialogues across the Taiwan Strait, without any direct American participation. The three “direct links” have been achieved after President Ma’s administration adopted “three nos”—no reunification, no independence, and no war.

In recent remarks at the Wilson Center, scholar and former U.S. government official Richard C. Bush recognized that “whether Taipei is willing to negotiate with Beijing is a function of its confidence that those negotiations won’t hurt Taiwan’s fundamental interests.” There is a weak correlation at best between U.S. arms sales promised by the TRA and Taipei’s willingness to negotiate with Beijing.

Indeed, cross-Strait relations have gone from trust-building to trust-breaking, from tension built up as a result of Lee Teng-hui’s call for

“special state-to-state relationships” with the mainland to tension intensified due to provocative moves by the Chen Shui-bian administration, and then to a substantial warming since Ma Ying-jeou defeated the DPP’s presidential candidates in 2008 and 2012. In all this, there seems an internal dynamics that has helped shape cross-Strait relations through different political interest groups in Taiwan interacting with each other in the process of democratization. However, it is difficult to detect strong correlations between this internal dynamics and the TRA.

It is unclear whether the TRA has helped reduce the military threat posed by Beijing toward Taipei, particularly with regard to the latter’s potential move to independence. There have been surveys conducted in Taiwan that ask questions about whether the Taiwanese prefer independence. A majority replies affirmatively. When the survey participants are reminded of the PRC policy toward Taiwan, particularly its resolve to use force if Taiwan declares independence, the majority then replies negatively, with a preference for the status quo.

In a likely scenario where the mainland continues its arms buildup in Fujian across the Strait from Taiwan, U.S. reactions based on the TRA might only add oil to fire by increasing arms sales to Taipei. Invoking the TRA could lead to opposite results instead of reducing tension. The late U.S. Ambassador James R. Lilley once observed that, between Beijing and Taipei, moving U.S. policy closer to either side would invite complaints and pressures on the U.S. government to offer compromises to the other side. Such policy oscillation does not help achieve America’s national interests; neither does it help reduce tension across the Taiwan Strait—quite the contrary, in fact.

It is important to note that both sides of the Taiwan Strait, for the time being at any rate, might prefer the status quo. With no change to the political status of Taiwan, the two sides

continue to build economic and commercial ties with each other. This is clearly shown in Ma Ying-jeou's "three nos."

Beijing does not accept the first "no"—no reunification—but the second and third "nos"—no independence and no war—have provided the basis for the recent return to the "1992 consensus" across the Strait. Cross-Strait relations have recently warmed up and achieved a level of stability. It is unclear how and whether the TRA is relevant in this development. It would be difficult to make a convincing argument that either the TRA or increased arms sales to Taiwan have led either Beijing or Taipei to compromise with the other. In this respect, it is important to be reminded that the TRA was more concerned with potential military conflicts between the mainland and Taiwan than with promoting a warm relationship between the two.

There is a perceptible doubt that the United States would sacrifice its national interests to protect those of Taiwan, especially as China will likely offer a continually growing economy in the next few decades, possibly becoming the world's largest single market. The biggest contribution of the TRA might be its role in creating strategic ambiguity in Washington's China policy. That has helped restrain all sides, including the United States, from moving too far away from the equilibrium that all sides desire, based on their respective national interests.

### **BUILDING FOR THE NEXT 35 YEARS**

In the past 35 years, the world has changed much—the Cold War ended more than two decades ago. China has changed much—the Chinese economy has expanded 18 times its size in 1979, and is expected to become the world's largest economy within the next 35 years. U.S.-China relations have changed much—China is now the third largest destination of U.S. exports, following Canada and Mexico. The relationship between mainland China and Taiwan has also changed much—both enjoy

the three "direct links," and nearly three million mainland Chinese traveled to Taiwan last year—a huge influx for an island whose population is about 23 million. Beijing and Taipei signed a landmark trade agreement, the Economic Cooperation Framework Agreement, in 2010. Cross-Strait trade nearly doubled in the last six years, reaching \$197 billion last year. In February 2014, the two sides held their first official, government-to-government meetings since their civil war ended in 1949. In the words of Wang Yu-chi, head of Taiwan's Mainland Affairs Council, "it was hard to imagine that cross-Strait relations could get to this point."

Given all these profound changes in the past 35 years, it seems the following points warrant serious consideration for anyone interested in the TRA, which was originally passed to defend Taiwan from the threat of an invasion by mainland China:

- Recognition of the U.S. interest in maintaining stable and constructive relationships with both Taipei and Beijing. It is important to note that Beijing opposes the TRA in general and U.S. arms sales to Taiwan in particular. The TRA was concerned more with potential war across the Strait than with creating constructive relationships with both Taipei and Beijing at the same time.
- Comprehensive review of the TRA for its possible contributions to U.S. interests in East Asia in the next 35 years. As the world has changed so much since the inception of the TRA 35 years ago, a comprehensive review of the legislation is needed to provide guidance for U.S. policy toward both Taiwan and China. These two policies have become more inherently interconnected. Such a comprehensive review should address such questions as what the TRA can deliver in the new geopolitical environment, and whether it can achieve its stated goals without complicating U.S.

foreign policy priorities or overall U.S. interests in East Asia.

- Comprehensive review and cost-benefit analysis of potential unintended or undesirable side effects that continuation of the TRA could bring to U.S.-China relations. Starting from day one, the PRC has viewed the TRA as an obstacle in normalization of its relationship with the United States. As the Chinese mainland and Taiwan have developed closer economic and social ties, the question has become how to make the TRA relevant to the new relationship between Taipei and Beijing, and particularly how to help promote a peaceful resolution of cross-Strait tensions, as so desired by U.S. national interests. The PRC and Taiwan brought their political relationship to a new stage earlier this year with their first official meetings since 1949. Although further development of this new political relationship depends on various political parties as well as future administrations in Taiwan, a comprehensive review of the TRA should help to stabilize the political progress already achieved, which ultimately will benefit regional peace and U.S. interests in the region.
- Comprehensive review of the strategic ambiguity in U.S. foreign policy toward Beijing and Taipei. Specifically, Washington should consider whether such strategic ambiguity will continue to help restrain all parties from being too aggressive, and how credible such ambiguity will be in the new dynamic relationship among Washington, Beijing, and Taipei.
- Promotion of peaceful cooperation instead of military buildup across the Taiwan Strait. As the TRA does not require the United States to intervene militarily in cross-Strait conflicts, neither will the United States sacrifice its national interests by military involvement there. Accordingly, greater

political pressure on both parties rather than arms sales to one of the two parties needs to be applied to help them resolve their differences peacefully. Economic development and closer economic ties across the Taiwan Strait have already generated political pressures on both sides to work together peacefully. U.S. support for their economic development and cooperation would not only intensify these political pressures, but also ultimately benefit the United States strategically and economically.

In sum, it is in America's interest to maintain a stable and constructive relationship with both Taipei and Beijing. It is also in America's interest to promote peace and economic cooperation in the region. A comprehensive review of the TRA can lead to a better understanding of the best ways to pursue American interests in the changing relationships among Washington, Taipei, and Beijing. At its 35th anniversary, the Taiwan Relations Act deserves a comprehensive review.

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*This policy brief is the fourth in a series on the Taiwan Relations Act. All four briefs in the series can be accessed from the Asia Program webpage at <http://www.wilsoncenter.org/publication-series/taiwan-relations-act-time-for-change>.*