

**The *Taiwan Relations Act* at 45: Incremental Clarity of Intent**

Russell Hsiao

**The Enduring—If Troubled—Genius of the *Taiwan Relations Act*, 45 Years On**

Jacques deLisle

**The *Taiwan Relations Act* at 45: A Pillar of US Statecraft**

Alexander Gray

**The TRA's 45<sup>th</sup> Anniversary: Is Biden True to the Congressional Script on Taiwan's Self-Defense?**

Shirley Kan

**Taiwan and Congress: It's Not 1979 Anymore**

Ann Kowalewski

**A Personal Retrospective on the *Taiwan Relations Act* at 45: How the TRA Provided the Base for US-Taiwan Relations**

Amb. James F. Moriarty

**The *Taiwan Relations Act*: A Necessary but Not Sufficient Tool for Maintaining Cross-Strait Stability**

David Sacks

**The *Taiwan Relations Act* at 45: Incremental Clarity of Intent**

By: Russell Hsiao

*Russell Hsiao is the executive director of the Global Taiwan Institute and the editor-in-chief of the Global Taiwan Brief.*

This year marks the 45<sup>th</sup> anniversary of President Jimmy Carter's signing of the *Taiwan Relations Act* (TRA) as law of the land in the United States. An extraordinary legislation enacted by the US Congress to legally govern the informal relationship between the United States and Taiwan following the severance of official diplomatic ties, the [TRA](#) has provided both an enduring legal framework and a set of policy guidance that has helped to preserve peace and promote prosperity across the Strait for nearly half a century.

Following the normalization of relations between the United States and the People's Republic of China (PRC), the passage of the TRA codified *sui generis* American obligations and commitments to Taiwan. US policy toward Taiwan, however, was not created in a vacuum. In fact, the US normalization of relations with the PRC was predicated on severing diplomatic ties with the Republic of China (ROC)—Taiwan's official name—and abrogating the US-ROC Mutual Defense Treaty. While the normalization of ties was established on a set of clear expectations that formed the basic tenets for bilateral ties, the conditions under which these relationships have unfolded have evolved significantly. Simply put, 2024 is not 1979.

Notwithstanding the constantly changing geopolitical environment, the legal framework and policy guidance provided by the TRA afforded a high degree of flexibility, allowing Washington to maintain the "status quo" across the Taiwan Strait when either Taipei or Beijing tested the limits of its boundaries. In 1994, the US government released the results of its first and only formal and comprehensive review of its Taiwan policy. However, it has been 30 years since the United States has done something similar. Accordingly, in this special issue of the *Global Taiwan Brief* commemorating the 45<sup>th</sup> anniversary of the TRA, we asked six experts to provide their assessments of the legislation's bandwidth, durability, and applicability in the 21<sup>st</sup> century.

***Taiwan Policy Review at 30***

As cross-Strait relations began to thaw in the early 1990s, the US government conducted its first and

*The Global Taiwan Brief is a bi-weekly publication released every other Wednesday and provides insight into the latest news on Taiwan.*

**Editor-in-Chief**  
Russell Hsiao  
**Associate Editor**  
John Dotson  
**Staff Editor**  
Marshall Reid

*The views and opinions expressed in these articles are those of the authors and do not necessarily reflect the official policy or position of the Global Taiwan Institute.*

*To view web sources cited in the published papers (underlined in printed text), visit <https://global-taiwan.org/issues/vol-9-issue-7/>.*

Global Taiwan Institute  
1836 Jefferson Place NW,  
Washington DC 20036  
[contact@globaltaiwan.org](mailto:contact@globaltaiwan.org)

To subscribe, visit  
<http://globaltaiwan.org/subscribe/>.

© 2024 · Global Taiwan Institute

only official and comprehensive review of US policy toward Taiwan since the switch in diplomatic recognition. The [Taiwan Policy Review](#) (TPR, hereafter “Review”) recalibrated the policy approaches of the United States toward Taiwan while leaving the basic framework of policies toward the PRC and Taiwan fundamentally unchanged. Specifically, the TPR laid out—among other proposals—nine [policy adjustments](#) to the United States’ approach to its relations with Taiwan. The Review was a prescriptive list defining some of the parameters of existing policy and what the executive branch proposed to do to enhance the conduct of relations between the United States and Taiwan in light of changing circumstances.

Equally significant, however, the TPR was not a prohibitive list of what the executive branch cannot or will not do. As noted by [Winston Lord](#), who was then assistant secretary for East Asian and Pacific Affairs, the TPR was intended to “enhance our unofficial ties with Taiwan. Our goal is to reinforce the success of the fundamental policy approach [...] which has promoted peace and growth in the region while accommodating changing circumstances in ways that advance US interests.”

While the United States and Taiwan’s efforts at maintaining the status quo have helped to preserve peace and prosperity across the Taiwan Strait over the last 45 years, these policies appear increasingly untenable in the wake of China’s growing belligerence. Through both military and non-military means—employing both political and legal warfare—Beijing has unceasingly and aggressively sought to change the status quo. With both the TRA and TPR long past, it is worth asking a basic but essential question as to whether a new review is necessary to ensure that the policies and approaches undertaken by the TRA remain fit for their purpose of ensuring peace and security across the Taiwan Strait.

### ***Incremental Clarity of Taiwan Policy under Trump and Biden***

Over the past 30 years, China’s actions have grown increasingly aggressive *vis-à-vis* Taiwan and the world, forcing the [United States](#) to take a hard look at updating its policies and practices to better reflect objective reality.

#### ***Clarifying Policy and Updating Contact Guidelines***

In 2020, the US government declassified the Reagan Administration’s [Six Assurances](#), along with several internal memos and cables, which provided context behind the key policy decisions of the era. Indeed, as President Ronald Reagan made clear in a [1982 memo](#), the US commitment to Taiwan’s self-defense is “conditioned absolutely upon the continued commitment of

China to the peaceful solution of the Taiwan-PRC differences.” To further clarify the stance taken by the US government and to justify some of the adjustments in the US government’s approach to Taiwan policy over recent years, then-Assistant Secretary of State for East Asia and Pacific Affairs [David Stilwell](#) delivered a major Taiwan policy speech in late August 2020 that highlighted these points:

*“What we are doing [...] is making some important updates to our engagement with Taiwan to better reflect these policies and respond to changing circumstances. The adjustments are significant, but still well within the boundaries of our ‘One-China Policy.’ [...] We feel compelled to make these adjustments for two reasons. First, because of the increasing threat posed by Beijing to peace and stability in the region, which is a vital interest of the United States. [...] The second reason we have been focusing on our engagement with Taiwan is simply to reflect the growing and deepening ties of friendship, trade, and productivity between the United States and Taiwan.”*

Beijing’s actions, which have become increasingly coercive, unilateral, and detrimental to US interests, necessitated adjustments to the changing circumstances. Accordingly, Washington began to gradually remove the self-imposed restrictions on conducting its informal relations with Taiwan. In 2021, the Trump Administration lifted all “[contact guidelines](#)” with Taiwan. (The Biden Administration inevitably released new [guidelines of its own](#) in April 2021.) But, as the [invitation](#) for Taiwan’s representative to attend President Biden’s inauguration made clear, some of the self-imposed restrictions had stayed off the books.

#### ***Incremental Clarity on the Defense of Taiwan***

While the United States has not had a mutual defense treaty with Taiwan since 1979, provisions within the TRA—especially [Section 2\(b\)\(4-6\)](#)—can be read to indicate a broad commitment to Taiwan’s defense. Despite the political signal sent by President Biden’s statement of intent to come to Taiwan’s defense in the event of an unprovoked attack—a statement he has now made [four times](#)—his declarations have been erroneously labeled in binary terms of whether or not they indicated unconditional, explicit guarantees that the United States would defend Taiwan in the event of an invasion. The decision of whether, when, and how to commit military force is more accurately described as a [spectrum](#) rather than an either-or proposition.

The debate over ambiguity versus clarity is intrinsically intertwined with other issues. The key is whether there is a sufficient

level of clarity necessary to satisfy a minimum threshold of reciprocal commitments to establish a division of labor between the United States, Taiwan, and other potential coalition allies.

#### *Non-Position on Sovereignty of Taiwan and Affirming its Agency*

Moreover, the Biden Administration has made it clear that the United States does not take a position on the sovereignty of Taiwan. When asked if Taiwan is part of China under Washington's "One-China Policy," State Department Spokesman [Ned Price](#) responded: "We don't take a position on sovereignty, but the policy that has been at the crux of our approach to Taiwan since 1979 remains in effect today." Indeed, nothing in the *Taiwan Relations Act*, the Six Assurances, or the Three Communiqués could be read to indicate that Washington has ever accepted PRC claims of sovereignty over Taiwan. Those documents at most only acknowledged the Chinese position.

At the same time, not taking a position on sovereignty does not equate to US support for Taiwan's independence. The president himself has stated that he does not encourage Taiwan's independence and that the United States does not support the independence of Taiwan—refuting the views [expressed by some](#) that the United States is emboldening so-called secessionist sentiments in Taiwan. To be clear, President Biden [stated](#): "We have made very clear we support the *Taiwan [Relations] Act*, and that's it. It's independent. It makes its own decisions." He reiterated this position again when he [stated](#): "And that there's [the] 'One-China Policy,' and Taiwan makes their own judgments about their independence [...] we're not encouraging their being independent [...] that's their decision." Essentially, the president's acknowledgment of Taiwan's agency to make its own decisions concerning its status is commonsense and consistent with longstanding US policy to refrain from taking a position on sovereignty over Taiwan. This is a matter for the people of Taiwan to decide—a necessary but insufficient clarification of US policy.

#### ***Necessary but Insufficient: Looking Forward to the Next Decade***

While a [majority of Americans](#) believe that the US security relationship with Taiwan does more to strengthen than weaken US national security, a key question that remains is whether the United States should change how it executes, implements, and conducts its engagement with Taiwan in the face of the PRC's destabilizing efforts to change the status quo. Could this be done without a declaratory change in [US policy toward Taiwan](#) or a revision of the TRA? Should the United States embrace an explicit clarification of US commitments to Taiwan? While there

are merits to both approaches, there are also obvious risks.

It is worth noting that some [US scholars](#) now argue that the United States and Taiwan should offer "credible assurances" to Beijing to avert war. However, this proposal ignores the Congressional intent of the TRA, advances a critical strawman argument by framing deepening ties with Taiwan as so-called "unconditional commitment," and places undue emphasis on the "does not challenge" clause of the 1972 Shanghai Communiqué. It is doubtful whether Beijing can ever be credibly assured, as it was never assured to begin with. Instead, Beijing was weak and felt compelled to accept conditions that it could not change at the time. Furthermore, past attempts to "credibly assure" Beijing only led to policies that can only be described as creeping deference to the PRC's "One-China Principle," and self-imposed restrictions on the conduct of relations with Taiwan.

Measured caution toward a wholesale [declaratory change](#) in US policy as advanced by former Secretary of State Mike Pompeo is that it could ultimately weaken Washington's ability to influence cross-strait developments—assuming Beijing's behaviors could be modulated. Ryan Hass of the Brookings Institution noted with concern that explicit US support for Taiwan's independence would diminish US influence on cross-strait developments and could lead to more not less instability. This is a fair concern given the success Washington has had in maintaining peace in the Taiwan Strait under the current approach, but it raises the question of whether this strategy will be sustainable in deterring conflict in the mid- to long-term.

Whichever path the US government chooses, it is perhaps instructive to remember the words of the late Congressman Lester Wolff, a principal author of the TRA, who wrote the following in the pages of *The Legislative Intent of the Taiwan Relations Act: A Dilemma Wrapped in an Enigma*:

*"Countless times over the years the TRA has been called upon to render judgement over changing circumstances or events. It has met those demands and survived without serious amendment because of the ambiguity, which was built in, that provided for adaptation to current conditions [...] [I]t was conceived as a device to enhance peace in the region and protect the political integrity of a people's right to choose. Those people are the people of Taiwan."* [1]

A carefully calibrated [US policy](#) should actively create conditions for the resolution of political differences between the two sides of the Taiwan Strait in a manner that best advances US interests and furthers its values. Against the backdrop of Beijing's grow-

ing belligerence and Taipei's strategic importance as a reliable democratic ally in the Western Pacific, economic partner, and technological powerhouse, a serious rethink of practice and policy is in order. Whether it involves updating the Taiwan Relations Act, reconsidering the US "One-China Policy," or something else, it is in the interest of the United States to continue to gradually [adjust the practice of its policy](#) toward one that more accurately reflects the objective status quo in the Taiwan Strait with incremental clarity of intent.

**The main point:** For 45 years, the *Taiwan Relations Act* has served as the central pillar of US policy toward Taiwan. However, with Beijing continuing to grow in power and aggression, a comprehensive review of the US approach to Taiwan has become increasingly necessary.

---

[1] Lester L. Wolff, *The Legislative Intent of the Taiwan Relations Act: A Dilemma Wrapped in an Enigma* (Xlibris US, 2020): p. 537.

\*\*\*

## The Enduring—If Troubled—Genius of the *Taiwan Relations Act*, 45 Years On

By: Jacques deLisle

*Jacques deLisle is the Stephen A. Cozen Professor of Law, professor of political science, and director of the Center for the Study of Contemporary China at the University of Pennsylvania and chair of the Asia Program at the Foreign Policy Research Institute.*

The enduring, multifaceted, and partly accidental, genius of the *Taiwan Relations Act* lies in its somewhat Janus-faced qualities—its combinations of fixity and flexibility, boldness and reserve. In a time of fraught and rivalrous US-China relations and heightened concerns about the PRC's coercion of Taiwan and potential cross-Strait crises, it is perhaps too easy to understate the TRA's past and ongoing value. Adopted at a moment of apparent great peril for Taiwan, the TRA has been a significant and persisting pillar of US policies that have been critical to maintaining the status quo, avoiding conflict across the Taiwan Strait, and sustaining Taiwan's autonomy. These attributes have been key to the TRA's prior contributions and are still salient strengths in an increasingly difficult environment.

In its substantive content, the TRA had to accommodate the end of formal relations and the security pact between the United States and the Republic of China (ROC, Taiwan) that were neces-

sitated by the terms of the agreement with Beijing to normalize US-PRC relations. At the same time, it helped to bring about—by writing into legislation—a “second best” or “lite” version of what Taiwan had just lost. In lieu of diplomatic ties, the TRA established an institutional structure for highly robust informal relations (through the American Institute in Taiwan [AIT], staffed by personnel seconded by the State Department); conferred the equivalent of the sovereign and diplomatic immunities enjoyed under US law by recognized foreign states and their entities and officials; authorized the continuation of commercial, cultural, and other relations; and reaffirmed support for a significant degree of international participation (including continued membership in international organizations). In the absence of a mutual defense treaty, the TRA stated that US policy is to maintain the capacity to resist force or coercion by China that would jeopardize the security of “the people on Taiwan,” to provide “arms of a defensive character” consistent with Taiwan's needs, and to “make clear” the “expectation that the future of Taiwan will be determined by peaceful means.”

A pair of unchanged provisions in the TRA have evolved, with changing circumstances, into more compelling sources of US support for Taiwan and the status quo. As Taiwan became a vibrant, liberal democracy, the TRA statement of US opposition to determining Taiwan's future by “other than peaceful means,” and its expression of US interest in the human rights of the inhabitants of Taiwan (which was, at the time, ominous for the then-authoritarian regime in Taipei) came into alignment with the broad and lasting—if somewhat inconsistent—theme in US foreign policy of support for democracy, human rights, and kindred values.

### ***The TRA's Distinctive Role in US Policy***

Structurally, the TRA has held a [distinctive and valuable place](#) for the United States' “One-China Policy” and its approach to cross-Strait issues—and in turn, US-China relations more broadly. It is unique among the four (or five) pillars of US Taiwan policy: the TRA and the three US-PRC Joint Communiqués (and the Six Assurances which accompanied the Third Communiqué, but which joined the pantheon only during the last decade and a half and were not officially [declassified](#) until 2020). In contrast to the Six Assurances (and many other, generally lesser statements of US policy on Taiwan issues), the TRA is a long-public and highly authoritative—indeed, an act of Congress signed by the president—statement of US positions. In substance, it is more strongly “pro-Taiwan” than the communiqués, replete with provisions to which China would never agree (and which Beijing has regularly denounced). Moreover, it is devoid of



the acknowledgements of Beijing's (and, at the time, Taipei's) "One-China" positions on which the PRC has long insisted and which are partly reflected in the three canonical US-PRC bilateral statements.

Unlike the three communiqués, the TRA is a unilateral US creation and, indeed, a part of US domestic law. As such, it is better insulated from critique or pushback by the PRC. The PRC, unlike the US, [regards the communiqués as treaty-like documents](#) with international legal significance and, in turn, subject to the decentralized and multilateral rules of international legal interpretation. Although Beijing asserts that the TRA, like US Taiwan-related policies and practices more generally, violates US obligations under [international law](#), China's oft-repeated opposition to foreign meddling in another state's exercise of its [sovereign powers](#) to make its own [internal laws](#) diminishes the force of Beijing's TRA-targeting arguments.

In this respect, the TRA is an impressive feat of acoustical separation. It is formally an act of domestic law-making, entailing no international commitments. It eschews positions on the nettlesome and provocative international legal and policy questions of whether Taiwan is a state and whether it is proper to accord it the privileges and powers of a state—including opportunities for formal diplomatic relations, membership in a security pact, or entitlement to sovereign immunity. Instead, it provides (merely) that Taiwan be treated in US law and practice as if it had many or all of those attributes—an arrangement that, of course, has practical implications for US-Taiwan ties, cross-strait relations, and US policy toward China.

The TRA is, thus, formally modest (concerning international legal issues) but substantively bold (in terms of articulating and embedding US Taiwan policy). In this respect, the TRA resembles the [Anti-Secession Law](#) (ASL, 反分裂國家法), which the PRC enacted in 2005 and which reads as an attempt to [replicate](#) (wittingly or not) this virtue of the TRA. The ASL, too, is formally an act of domestic legislation, and one with significant external implications, including the assertion of a right to use force to achieve "unification" with Taiwan. But there the resemblance mostly ends, and the contrast between the two constitutes another relative strongpoint of the TRA. The TRA assumes and accepts the status quo that existed in the real world circa 1979, and casts that status quo in sufficiently vague terms that the present-day reality remains consistent with the TRA's framing and the asserted durable interest of the US in preventing coerced change.

With the TRA viewed in this way, the ASL looks like a funhouse

mirror reflection. It is operationally restrained. Its conditional threat to use force would be triggered if Taiwan were to attempt secession, something which the ASL assumes has not occurred. But the ASL is—unlike the TRA—conceptually highly immodest in asserting Taiwan's status as clearly a part of China or the PRC. This claim is, at minimum, in tension with the existing situation of a highly autonomous, arguably *de facto* independent, Taiwan. In this context, the ASL's asserted right to use force looms as a potential trigger for conflict and instability, even absent a change in the actual circumstance across the Strait.

### **Consistency amid Change**

While the text of the TRA has stood fundamentally unaltered since its enactment, it has been compatible with—and, indeed, facilitated—repeated adaptations of a largely stable US approach. This pattern has held amid circumstances that have been strikingly varied. Eight presidential administrations in the United States and five in Taiwan, as well as four different top leaders in Beijing, have brought significant shifts in each of the three parties' respective approaches to cross-strait issues. Behaviors by Beijing have ranged from once-seemingly-expansive offers of a now-discredited "one country, two systems" (一國兩制) model for Taiwan's unification, to the fraught cross-strait crisis of the middle 1990s, to seemingly open-ended tolerance for the status quo and support for peaceful development of cross-strait relations, to reaffirmations of Beijing's claims of rights to use force to achieve unification, to the adoption of escalating gray zone tactics, to an imperative to develop capabilities to take Taiwan by force. Taiwanese leaders' approaches have ranged from the apparent flirtation with formal independence at some points during Chen Shui-bian's (陳水扁) presidency and Lee Teng-hui's (李登輝) characterization of the relationship between Taiwan and the mainland as akin to "[state-to-state](#)" relations, to Ma Ying-jeou's (馬英九) agenda of rapprochement and "One-China, different interpretations," or Chiang Ching-kuo's (蔣經國) inherited commitment to a single China that included the mainland and Taiwan.

For the United States, the TRA's felicitous mix of limitation and entrenchment have been an important part of this story of adaptation in the service of enduring, broad aims. The TRA purports to impose only relatively modest constraints on the president and the US administration. Under the terms of the law, the president retains great discretion on the timing and scale of any arms sales, the substance of the quasi-diplomatic relations Washington conducts with Taipei, and the extent and form of US support for Taiwan's international participation and security. If the TRA had sought to do much more, it would have trans-

gressed the norms and practices—and, in relatively extreme cases, the constitutional law of separation of powers—that accord the executive branch extensive power, discretion, and deference in foreign and national security affairs.

At the same time, the TRA's stable content and its stature as federal law have been vital features as well. When US officials have strayed too far or too fast from the US' relatively capacious and evolving "One-China Policy," or have made statements that Beijing and other critics can cast as significant changes in US policy, they or their staff have been better able to walk back such missteps or rebut such characterizations because they could steer toward the "home base" or the "safe harbor" of the four (or five) venerable texts of the US' Taiwan policy, with the TRA first and foremost among them. The most recent of many examples over the years include President Joseph Biden's [repeated statements](#) that the United States would defend Taiwan with military force in the event of an unprovoked attack by Beijing, as well as the ensuing [statements of continuity](#) in US policy in response to charges that Biden had [scuttled](#) the hoary doctrine of "[strategic ambiguity](#)." An especially prominent, and broadly similar instance was the statement by President George W. Bush that he would "do [whatever it takes](#)" to defend Taiwan from a Chinese attack, and the assurances that soon followed, insisting that there had been [no change](#) in Washington's Taiwan policy.

The TRA also has helped enable US leaders and officials to play—if often only implicitly—a two-level game. In the face of pressure from Beijing to accommodate its demands or interests on Taiwan issues, the TRA provides a convenient constraint as a long-standing and legally binding act of Congress—more formidable than mere US foreign policy precedents, past practices, or even the three joint communiqués which, in the US view, the president would be legally free to cast aside.

### ***Recent Developments and Future Paths***

Given the TRA's history as the legislative foundation of US Taiwan policy, what are we to make of the surge since 2016 of laws addressing Taiwan policy, which has occurred after decades of frequently introduced but almost-never-passed legislation? Many of the laws from the last several years—including the [Taiwan Travel Act](#), the TAIPEI Act, the [Asian Reassurance Initiative Act](#), and provisions in several National Defense Authorization Acts (NDAA)—can be fairly characterized as "pro-Taiwan" in the sense of advocating continuing, and in some respects, strengthened US support for Taiwan, its security, and its participation in international affairs. Much of this legislation explicitly reaffirms the TRA and its aims. Much of it is consistent with the principal

policies and practices pursued by presidential administrations of both parties. Virtually all of it follows the TRA's template of not purporting to seriously constrain executive branch discretion in foreign affairs. These new laws rarely go beyond urging the administration to adopt policies or take actions that would be more supportive of Taiwan, or ostensibly authorizing the president to take steps the president is already empowered to take (such as increasing arms transfers, ordering port calls by US ships, allowing contacts between higher-level US and ROC officials, or pressing other states to maintain diplomatic ties with Taiwan or support its participation in international organizations), or requiring reports from executive branch officials that might trigger additional, likely similar, legislation.

Sharper or more inflexible commitments to Taiwan in legislation that revises or supplements the TRA can only do so much to address the mounting challenges for US policy that stem from the PRC's growing economic and military prowess, the US' waning relative power and correlative need to collaborate with [friends and partners](#) in [the region](#) and [beyond](#) who do not have uniform views of Taiwan's place in their own security, increased [skepticism in Taiwan](#) about US capacity and will, and China's expanding reliance on escalating gray zone tactics and misinformation targeting Taiwan's democracy as means to pressure Taiwan. Among other issues, the relative precision and fixedness of legislative language—or, at least, legislative language with any bite—is poorly suited to addressing such issues.

Moreover, the recent and possible future proliferation of "pro-Taiwan" lawmaking risks doing more harm than good. Such laws—even ones without substantial novel content—can imperil the TRA's stature as a lodestar and an anchor for US policy and a shield against pressures for unwelcome or unwise changes to policy. Some elements in the recent wave of legislation can be too easily, and sometimes persuasively, framed as heavy on [symbolism](#) and light on substance, needlessly provocative toward the PRC—or facilitating feigned outrage from Beijing—while doing little to protect Taiwan's security and the US' interests in Taiwan's security. Congressional statements of stronger commitments to Taiwan also can reinforce the [concern raised by critics](#) that US policy pays too little attention to the principle that deterring an adversary from undertaking unwanted actions requires not only the "stick" of credible threats of negative consequences, but also the "carrot" of assurances of better outcomes for the adversary if its behavior is compliant.

The TRA has never been more than one particularly important instrument in the US toolkit for seeking peace, stability, and deterrence of coerced change in the cross-Straits status quo. This

remains true in today's newly difficult environment. The understandable quest for effective means to achieve increasingly elusive or imperiled ends need not—and should not—lead us to discount either the past and continuing utility of the TRA, or the risks that would attend disregarding or undermining the benefits that derive from its singular place in US policy.

**The main point:** Despite major changes in Taiwan, cross-Strait, and US-China relations and global geopolitics, the *Taiwan Relations Act* has consistently served as a foundational element of US policy. Recent legislative efforts to reaffirm or strengthen the US-Taiwan relationship—while intended to be beneficial—could risk undermining the TRA's enduring strength and are not effective means to address current challenges.

\*\*\*

## The *Taiwan Relations Act* at 45: A Pillar of US Statecraft

By: Alexander Gray

*Alexander B. Gray is a senior nonresident fellow at the Global Taiwan Institute (GTI). He served as deputy assistant to the president and chief of staff of the White House National Security Council (NSC) from 2019 to 2021 and as NSC director for Oceania & Indo-Pacific security from 2018 to 2019.*

The [Taiwan Relations Act](#) (TRA) celebrates its 45<sup>th</sup> birthday on April 10, and few pieces of foreign affairs legislation passed by the US Congress have been as significant or as long-lasting. Designed as the congressional response to the executive branch's normalization of relations with the People's Republic of China (PRC) and concomitant diminishment of formal ties with Taiwan, the TRA has transformed over the decades into a pillar of US statecraft valued and wielded by presidents and Congresses of both political parties.

Originally intended to check the Carter Administration's [transfer](#) of diplomatic recognition from Taiwan to the PRC, the TRA has evolved into not simply the bipartisan benchmark for each successive US administration's approach to Taiwan. Rather, its near-universal acceptance in Washington and its subsequent executive branch corollaries have given the TRA extraordinary relevance in shaping the United States' evolving relationship with the PRC itself. With the TRA's evolution into an unquestioned pillar of America's strategic posture in the Indo-Pacific, every US-China interaction is directly or indirectly shaped by the legislation's imposition of guardrails, guaranteeing a modicum

of US support for Taiwan.

Despite the TRA's positive legacy—both for the US-Taiwan bilateral relationship and for the US strategic position regionally the rapidly changing security situation in the Indo-Pacific requires a reappraisal of the intellectual framework surrounding the TRA. As Taiwan's democracy, economy, and strategic significance have evolved, simply relying upon the TRA as a minimum protection against a theoretical US administration willing to trade Taiwan away on the geopolitical chessboard fails to appreciate the singularly important, self-governing island.

The next US president will need a forward-looking agenda that emphasizes the value of Taiwan to the United States—independent of the US-PRC strategic competition—and thus moves beyond seeing the TRA as simply a floor on the American relationship with Taipei. As has occurred in the past, the TRA can serve as a launching pad for dynamic executive and Congressional policy innovation that expands the US-Taiwan partnership across the economic, diplomatic, cultural, and military spheres.

### The *Taiwan Relations Act*

The TRA emerged as a response to the secret Cold War diplomacy of President Richard Nixon and his secretary of state, [Henry Kissinger](#). Nixon and Kissinger's travels to the PRC in the early 1970s paved the way for the normalization of relations between Washington and Beijing in a bid to outflank the Soviet Union and split the Communist world. In succeeding in this effort, Nixon and Kissinger consciously traded away the post-1949 US alliance with Taiwan. By the time President Jimmy Carter's Administration was implementing the "One-China Policy" and switching diplomatic recognition to the PRC, Taiwan was on the precipice of diplomatic and legal oblivion.

Yet the bipartisan coalition in Congress that had supported Taiwan since the end of the Chinese Civil War in 1949 responded to Carter's normalization march by introducing the TRA in February 1979. Authored by the liberal internationalist Chairman of the House Foreign Affairs Committee, Congressman [Clement J. Zablocki](#) (D-WI), the TRA compensated for the Carter Administration's unilateral abrogation of the [Sino-American Mutual Defense Treaty](#) (SAMD). Passed overwhelmingly by Congress and signed into law by President Carter—despite his State Department's unsuccessful advocacy for less robust language—the TRA established unofficial relations between the United States and Taiwan. Crucially, it also required Taiwan to be treated as a sovereign state equivalent for the purposes of US diplomatic engagement.

Most famously, the legislation requires the United States 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 notes that Washington “shall maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or social or economic system, of the people on Taiwan.” This language has served as the foundation for US Taiwan policy since President Carter signed the TRA, and it has been buttressed by several significant executive branch actions that built upon the Act’s essential purpose.

### ***Building Upon the TRA***

Part of the TRA’s enduring significance to US statecraft has been the effective expansion of its underlying premise—US support for Taiwan despite the lack of formal diplomatic recognition—by both Congressional and executive action across multiple US administrations of both political parties. For instance, President Ronald Reagan’s 1982 “[Six Assurances](#),” which sought to strengthen the American commitment to Taiwan through executive branch policy, remain a foundational element of the US-Taiwan relationship.

The Six Assurances have been reaffirmed consistently since 1982 by succeeding administrations and reinforced by acts of Congress, including the 2021 [National Defense Authorization Act](#) (NDAA) that declared the Six Assurances to be the foundation of US-Taiwan relations. American political leaders as diverse as former House Speaker [Nancy Pelosi](#) (D-CA) and former Secretary of State [Mike Pompeo](#) have consistently invoked the Six Assurances. The “floor” set by the TRA provided subsequent presidents and congresses with maneuvering room to expand and protect the US-Taiwan relationship from that starting point.

### ***The TRA: What’s Next?***

Despite the undeniable success of the TRA in both safeguarding the US-Taiwan partnership and spurring positive policy innovation based upon it, the Act has become something of a crutch that excuses policymakers’ from attempting to reimagine a US-Taiwan partnership more suited to 21<sup>st</sup> century geopolitical realities. Most concerning, the TRA traps the bilateral relationship firmly in the context of the broader US-China relationship and disincentivizes Washington from seeking a US-Taiwan partnership grounded in mutual interest and values, rather than simply serving as an adjunct of the Washington-Beijing competition.

So long as Washington’s mindset remains a defensive one that

imagines relations with Taipei as a subset of Sino-American ties, the US-Taiwan partnership will remain inherently limited. As important and innovative as the TRA and the follow-on policies it spawned are, the Act is fundamentally concerned with managing US-Taiwan ties in the context of Washington’s broader relationship with Beijing, both as a historical and practical matter. Instead, future US administrations and Congresses should pursue a multitrack approach to the intellectual framework behind relations with Taipei. Such an approach should honor the TRA and subsequent actions like the Six Assurances as foundational to the relationship, while explicitly acknowledging that the bilateral relationship is informed by the same calculations and considerations that underpin all US bilateral ties. This would benefit from the TRA’s political acceptance in Washington and its role as a bulwark against any future diminishment of US-Taiwan ties, while simultaneously emphasizing to the world that the relationship with Taiwan can function and expand outside of strictures primarily designed with Beijing in mind. Such a formulation would provide the United States with the space to truly innovate and develop policies toward Taiwan that reflect 21<sup>st</sup>-century realities rather than the geopolitical dynamics of the late 1970s.

### ***Mapping a 21<sup>st</sup> Century US-Taiwan Partnership***

As laid out by the Global Taiwan Institute’s Task Force on US-Taiwan Relations in its December 2023 report, “[Advancing the US-Taiwan Partnership in a Changing Global Landscape](#),” opportunities for expansion of the US-Taiwan partnership exist across the diplomatic political, economic, and military domains. In the Washington policy context, far too many of these potential opportunities are assumed to be impractical because of a set of self-imposed strictures that hobble American policymakers. From eliminating needless and self-defeating limits on Taiwan’s official engagement with the United States to more forthrightly arguing for Taiwan’s international space, Washington enjoys significant opportunities to enhance the bilateral partnership and establish it outside a purely US-China context.

The next US administration has a distinct opportunity to affirm its support for the TRA and its successor policies while making clear that this is simply the floor, not the ceiling, of the bilateral relationship. A new US doctrine that normalizes the management of the relationship and affirms that it exists outside of any other bilateral relationship would open the aperture for additional opportunities for policy innovation and make clear to Beijing and the broader international community that the United States will not allow its approach to one of the world’s most dynamic democracies to be dictated by either external threats



or bureaucratic inertia. Fittingly, such an approach would be in keeping with the 45-year history of the *Taiwan Relations Act* as a source for evolving approaches to US-Taiwan relations.

**The main point:** While the *Taiwan Relations Act* has successfully guided the US-Taiwan bilateral relationship for over four decades, its impact has long been limited by self-imposed bureaucratic strictures and a tendency to view it in the context of the broader US-PRC relationship. In light of rapidly evolving geopolitical conditions, the next US administration should work to develop a more modern, comprehensive approach to US-Taiwan relations, expanding upon the foundation set out in the TRA.

\*\*\*

## The TRA's 45<sup>th</sup> Anniversary: Is Biden True to the Congressional Script on Taiwan's Self-Defense?

By: Shirley Kan

*Shirley Kan is an independent specialist in Asian security affairs who retired from working for Congress at CRS and serves as a founding member of GTI's Advisory Board.*

It is more important to have clarity about the US Congressional intent than to argue about “strategic ambiguity” in marking 45 years since President and then-Senator Joseph Biden and other members of Congress passed the *Taiwan Relations Act* (TRA) ([Public Law 96-8](#)) in April 1979. As if uniquely cast as a main actor in the movie of the TRA's story, has Biden's delivery of his lines stayed true to the Congressional script that he also approved? Did he adlib? Knowing the vision behind the script, Biden has declared US support to help defend Taiwan against China. However, the strong delivery of policy lines also needs to convey to audiences the intent of congressional decision-making, sustained support for Taiwan (not abandonment), as well as strategic rationale, objective, and scope (covering coercion and force, while not covering Kinmen and Matsu). Upon inauguration on May 20, Republic of China (Taiwan)'s President-elect Lai Ching-te (賴清德) should be ready as another leading actor.

### Clarity about Intent

Clarity about the TRA's intent is important, because the People's Republic of China (PRC) continues to provoke tensions, while Taiwan, the US, and allies enhance their multilateral responses. Clarity disarms the PRC's political warfare that targets Taiwan's confidence, because the TRA reinforces that [there has not been abandonment](#). Clarity is key to ensure that policy has institu-

tional compliance with the TRA—not based on whims—no matter who is the US president. Even if authentically consistent with the TRA, Biden needs to add to his lines that go big in declaring US help for Taiwan's defense against the PRC.

Lester Wolff (D-NY) was a member of the House of Representatives who managed the legislation as Chairman of the House Foreign Affairs Subcommittee on Asian and Pacific Affairs. He explained in interviews with me up to 2019 that the intent of Congress remains important because of the TRA's [deliberate ambiguity](#).

### Biden was Later Cast as Key Actor

If the TRA is like a movie script, its Congressional writers did not know that then-Senator Biden, who approved the legislation, would be later cast as a key actor as president. Biden delivered lines in a scene in 2000, concerning [Senate Concurrent Resolution 99](#) to congratulate Taiwan's people on their presidential election held on March 18, 2000. He meaningfully conveyed that Taiwan is responsible for its conditions and well-being, while the US plays a supporting role. He stated, “Taiwan's people are responsible for the island's miraculous transformation from authoritarian rule and poverty to democracy and prosperity. [...] If Taiwan wins the Oscar for Best Actor, then we at least get a nomination for Best Supporting Actor. The United States commitment to Taiwan's security under the terms of the *Taiwan Relations Act* helped create the stable environment under which Taiwan has thrived.” [1]

This view of the US supporting role is consistent with the TRA's language on security, which has expected Taiwan to maintain its [self-defense](#). Section 3(a) stipulated that 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.

### Washington's Strong Supporting Role

Washington still plays a strong supporting role. First, Biden is not using the past broken presidential process of “[packages](#)” that delayed multiple pending arms sales by withholding notifications to Congress until one single day. The president has proposed regularly to Congress to offer to Taiwan some Foreign Military Sales (FMS) worth annual totals of USD \$750 million in 2021, USD \$2.137 billion in 2022, and USD \$1.859 billion in 2023. [2]

Second, Biden's strong delivery of lines about US help for Taiwan's self-defense is important for deterrence against China's threats. The PRC needs to know that its strategic goal of “na-

tional rejuvenation” will fail, if it attacks and attempts to annex Taiwan (not so-called “reunification”).

Despite the lack of a defense treaty with Taiwan, Biden compared it with allies in an interview in [August 2021](#). He said, “we made a sacred commitment to Article 5 that if in fact anyone were to invade or take action against our NATO allies, we would respond. Same with Japan, same with South Korea, same with Taiwan.”

At a *CNN* town hall in [October 2021](#), Biden answered a question about whether the US would come to Taiwan’s defense if it was attacked by China. He replied, “yes, we have a commitment to do that.”

[Visiting Tokyo on May 23, 2022](#), Biden remarked that the United States supports our “One-China Policy.” But he added, “it does not mean that China has [...] the jurisdiction to go in and use force to take over Taiwan. So we stand firmly with Japan and with other nations that—not to let that happen. And my expectation is it will not happen; it will not be attempted.” A reporter then asked about how Biden did not want to get involved in the Ukraine conflict militarily and whether he would be willing to get involved militarily to defend Taiwan. Biden clearly answered, “yes,” adding “that’s the commitment we made.”

Despite that strong statement, Biden did not explain on the [next day](#). A reporter asked, “is the policy of strategic ambiguity towards Taiwan dead?” Biden said “no,” and refused to explain.

On the *CBS* news program *60 Minutes* in [September 2022](#), a correspondent asked Biden whether US military forces would defend Taiwan? He replied, “yes, if in fact there was an unprecedented attack.” Following up, the correspondent asked, “so, unlike Ukraine, to be clear, sir, US forces, US men and women, would defend Taiwan in the event of a Chinese invasion?” The President answered unequivocally, “yes.” After the interview, *CBS* quoted an unnamed White House official as saying that policy has not changed. The *CBS* story asserted that the policy remains “strategic ambiguity” in regard to US forces defending Taiwan.

### **Gaps, Not Gaffes**

The issue is not whether the president did adlib or did change policy. Biden has the unique role as president—who voted for the TRA as a senator—to declare authoritatively that the US would help Taiwan’s defense against China’s attack. Nonetheless, he does need to explain.

Biden’s statements have gaps, not gaffes. As discussed below,

first, he should explain how presidential decisions still must have congressional approval. Second, he needs to convey the strategic rationale and objective to audiences in the US, Taiwan, US allies, and China. Third, he can note the TRA’s parameters.

### **Congressional Approval**

Three points are important to understand Congressional intent, based on Wolff’s view. First, the TRA was an act for Congress to re-assert its power amid an uproar after “President Carter, without warning, gave Congress and its relevant members just one hour of notification that he was establishing diplomatic relations with China [and] abrogating our long time alliance with Taiwan.” Second, members passed the TRA to overcome deficiencies in Carter’s legislative request to support Taiwan’s security. Third, the TRA has survived as a successful law because of its built-in ambiguity to adapt to current conditions. [3]

While the TRA provided for an obligation to assist Taiwan’s self-defense, the law did not require in advance that the United States “shall” help to defend Taiwan. Section 2(b)(6) stipulated that it is policy to maintain the US capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of people on Taiwan.

Nonetheless, Congress did not intend necessarily to avoid helping to defend Taiwan. [According to Wolff](#), the TRA is not a guarantee for Taiwan’s defense, because Congress intended to subject any future decision regarding war to action by Congress, not only by the president.

Section 3(c) stipulated that 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 Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger. However, President Clinton did not act under this section in [March 1996](#).

### **Strategic Objective**

Biden needs to explain a coherent strategic objective and rationale for his lines. Officials refer to the process (peaceful resolution) but avoid stating any preferred outcome. A goal would enable whole-of-government planning. Wolff explained that the congressional intent was to [protect Taiwan’s integrity](#) and its people’s ability to govern themselves.

A [strategic review](#) would help more than arguing about “strategic ambiguity.” The strategic goal should be a strong and demo-

cratic Taiwan, so that it deters the PRC, remains a force for freedom in the global balance of power, and survives as a legitimate member in the international community. Taiwan's geo-strategic position places it as the inter-locking piece to fortify US allies and to support US and allied interests in the Taiwan Strait, East China Sea, South China Sea, and Western Pacific.

### ***Intended Parameters***

Congress considered broad threats. Section 2(b)(6) cited coercion as well as force, because China could apply an embargo or other forms of coercion short of military force. While Congress intended the TRA to cover threats broader than use of force, Congress applied parameters for the geographical coverage of Taiwan's security.

Regardless of who won Taiwan's presidential election on January 13, the PRC was expected to continue to raise cross-strait tensions. An [incident on February 14](#) near Kinmen (a Taiwan-controlled island) involved a collision between a Taiwanese Coast Guard patrol boat and an unregistered PRC speedboat, resulting in the deaths of two crew members when that speedboat capsized. Since the incident, the PRC has [expanded its attempts to change the status quo](#) by sailing its Coast Guard and other vessels to not only Kinmen but also Matsu, another Taiwan-controlled island. The number of such PRC vessels sailing near the two islands increased to as many as 19 on February 21. [4] On February 19, personnel from two PRC Coast Guard ships even [boarded and inspected](#) a Taiwanese tour boat near Kinmen.

The TRA does not cover the offshore islands close to China. As Section 15(2) defined the term, "Taiwan" includes the islands of Taiwan and Pescadores (Penghu Islands) plus the people, entities, and governing authorities.

Representative Clement Zablocki, chairman of the House Foreign Affairs Committee, explained that his committee excluded Quemoy (Kinmen) and Matsu from the definition. He noted that these islands had been "deliberately left out of the mutual defense treaty," and "we should not be expanding the US security commitment beyond what was in the treaty." He concluded that "as far as the reference in the committee report is concerned, it does not extend our security commitment in its referral to Quemoy and Matsu." [5]

Nonetheless, the US Coast Guard could cooperate more with Taiwan's Coast Guard near those islands, based on a 2021 [memorandum of understanding](#). The top leader of the US Coast Guard knows about Taiwan's situation.

### ***President Lai as Leading Actor***

With the US supporting role, Taiwan has the lead in its story to strengthen diplomacy and defense. Upon taking the stage on May 20, Harvard-educated President-elect Lai should be ready to be a leading actor by delivering his inaugural lines in Taiwanese, Mandarin, and English; changing representatives at Taiwan's offices in the United States; fortifying Taiwan's deterrent capabilities; and securing a longer line of [presidential succession](#) for continuity of government and military command. As vice president, Lai should know the succession line's limitation.

**The main point:** Knowing the vision behind the TRA's script, Biden has delivered strong lines on US support to help Taiwan's self-defense. However, he needs to explain more in his unique role.

---

[1] Lester Wolff, Jon Holstine, and John Brady III (editors), *A Legislative History of the Taiwan Relations Act*, Vol. 4, Pacific Community Institute, March 2004, p. 208.

[2] Author's tracking of FMS to Taiwan, since writing CRS Report for Congress, [Taiwan: Major U.S. Arms Sales Since 1990](#) (regularly updated up to January 5, 2015).

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

[4] Author's interview with Taiwanese official, March 11, 2024.

[5] Shirley Kan, [China/Taiwan: Evolution of the "One China" Policy—Key Statements from Washington, Beijing, and Taipei](#) (regularly updated up to January 5, 2015); and Lester Wolff and David Simon, *Legislative History of the Taiwan Relations Act*, New York: American Association for Chinese Studies, 1982.

\*\*\*

## **Taiwan and Congress: It's Not 1979 Anymore**

By: Ann Kowalewski

*Ann Kowalewski has worked on Indo-Pacific issues for nearly a decade in think tanks and Congress. She most recently led the Indo-Pacific portfolio as senior professional staff member on the House Foreign Affairs Committee.*

Foreign policy is typically thought of as a function of the executive branch, of negotiated treaties and diplomatic summits. Yet Congress has an equally important role to play in US foreign policy decision-making and oversight through treaty ratification, nomination confirmations, money allocation, and legislation.

Yet nowhere is the importance of Congress' role in foreign policy more evident than in US policy towards Taiwan.

This year marks the 45<sup>th</sup> anniversary of the *Taiwan Relations Act* (TRA), which has served as the foundation of US policy toward Taiwan since 1979. The TRA intended to secure US ties with Taiwan after President Carter unilaterally terminated the US-Taiwan mutual defense treaty and switched diplomatic recognition to the People's Republic of China (PRC). President Carter did so with little consultation with Congress, prompting Congress to pass a prescriptive, bipartisan law detailing future US engagement with Taiwan and enshrining into US law that Taiwan's future must be resolved peacefully.

### ***The TRA in a Changing World***

But it's not 1979 anymore. In the past 45 years, Taiwan has grown into a successful democracy, while the PRC has [turned](#) into a techno-authoritarian state under the Chinese Communist Party (CCP). The CCP has also actively changed the status quo in the Taiwan Strait. Throughout the early 2000s, the PRC engaged in the general tenets of a peaceful resolution, [including](#) setting up official dialogues between China and Taiwan, respecting the median line in the Taiwan Strait, and establishing mail, telecommunications, shipping, and air travel linkages. Then, in 2016, after President Tsai Ing-wen (蔡英文) was elected in Taiwan's fourth peaceful democratic election, the PRC [abruptly cut off](#) all official dialogue and dialed up its military aggression.

By 2020, the PRC regularly sent warplanes and ships near and sometimes [across](#) the median line in the Taiwan Strait, and since 2022, the PRC has [conducted](#) "combat readiness patrols" around Taiwan. High-ranking PRC defense and party officials have employed increasingly inflammatory rhetoric to threaten Taiwan's future, while Communist Party General Secretary Xi Jinping (习近平) himself has stated that China will "[never](#) promise to give up the use force" against Taiwan. This is not to mention the PRC's massive military and nuclear buildup, one that has the capability to be "[ready to invade Taiwan by 2027](#)," and that [practices](#) "simulated attacks" on key Taiwanese landmarks and logistics nodes.

This change in the status quo is challenging the obligations that the United States adopted under the TRA. As eloquently stated by Nadia Shadlow in her recent *Wall Street Journal* [article](#), "policies to keep the status quo require constant recalibration to maintain deterrence." Nowhere is this recalibration more evident than in the flurry of legislation [introduced](#) and [passed](#) in Congress over the past five years. The intent behind this legislation is not to upend the TRA, but to ensure the United States is

implementing its commitments under the TRA in full. There are [three major prongs](#) in the TRA that confer obligations onto the United States:

- "To provide Taiwan with arms of a defensive character;"
- "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;" and
- "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."

In each of these prongs, the United States is unfortunately falling short. However, Congress is trying to rectify these shortcomings.

### ***Meeting the Obligations Set Forth in the TRA***

First, the United States has not provided Taiwan with the defense services and articles necessary to ensure its own self-defense. Under the TRA, the United States has an obligation to provide Taiwan with arms of a defensive character, though what exactly [constitutes](#) arms of a "defensive character" has been subject to robust debate [not limited](#) to Taiwan. Yet the TRA [sets](#) the determination of these arms as "in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability," and that "the President and Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgement of the needs of Taiwan." This makes clear that Congress has a role in determining what Taiwan needs for its defense—and by law, it is required to make those articles and services available.

Looking at the balance of power across the Taiwan Strait, it is clear that the United States has failed to live up to this obligation. The PRC's total military manpower dwarfs Taiwan's by more than 750 million, its defense [budget](#) is roughly equivalent to Taiwan's [entire GDP](#), and it has thousands more aircraft, artillery, missiles, and ships, not to mention a much wealthier and more dispersed logistics network to sustain that hard power. That is to say, if Taiwan were to spend its entire GDP on defense, it still would not match the military strength of the PRC due to its size and population.

Setting aside the [long delivery timelines](#) of weapons that have yet to make it into Taiwan due to US defense industrial base [delays](#), Congress has passed historic legislation to open [new path-](#)



[ways](#) for Taiwan to acquire goods more quickly, like authorizing Presidential Drawdown Authority and Foreign Military Financing for Taiwan. Congress has also freed up [authorities](#) for Taiwan to participate in US military education and training, and [urged](#) the executive branch to prioritize arms sales to Taiwan.

Second, the United States has not maintained the capacity to resist the use of coercion and force against the society, economy, and security of the people of Taiwan. The United States has not put into place the strong economic ties necessary to ensure Taiwan is resilient to PRC economic coercion, and its rollback of its military presence in Taiwan and the Indo-Pacific has left Taiwan vulnerable to the PRC's massive military.

The United States does [not](#) have a free trade agreement (FTA) with Taiwan, and unnecessary regulatory barriers like [double taxation](#) continue to limit the flow of investment between the United States and Taiwan. Without full access to the US market and international isolation, Taiwan was particularly vulnerable to economic dependency on the PRC. While Taiwan is [diversifying](#) its economy and its export reliance on the PRC has fallen [nearly](#) 40 percent—reaching the lowest point in two decades—its economy remains vulnerable to PRC coercion. Whether through [brain drain](#), technology transfer and intellectual property [theft](#), or cutting off Taiwanese [imports](#) at will, the PRC has the levers to send shockwaves through Taiwan's economy. Moreover, Beijing has demonstrated that it is increasingly willing to use these levers because it has faced little to no repercussion from the United States. To strengthen Taiwan against this economic coercion, members of Congress have [included](#) anti-double taxation measures in the latest tax bill, [asked](#) the Biden Administration to include Taiwan in regional trade and economic frameworks, and publicly [supported](#) beginning negotiations on a FTA with Taiwan.

Moreover, it is clear that the People's Liberation Army (PLA) is ramping up its aggressive military coercion – to the point where Taiwan and the United States cannot reasonably tell, in enough time, whether a military action is an exercise, an act of aggression, or a precursor to a kinetic attack. In addition to arming Taiwan with the necessary defensive capabilities through the pathways mentioned previously, the United States must also appropriately resource its own military assets and posture in the Indo-Pacific in order to maintain the capacity to resist force from the PRC. US generals have testified to Congress that the US Indo-Pacific Command (USINDOPACOM) [needs](#) resources to deter the PRC more than ever before – something [supported](#) by many members of Congress.

Third, the United States has not made clear to the PRC that the US-China bilateral relationship will depend on how the PRC treats Taiwan. The TRA plainly states that “the United States decision to establish diplomatic relations with the PRC *rests upon the expectation that the future of Taiwan will be determined by peaceful means*” (*emphasis added*). The CCP has challenged peace across the Taiwan Strait through economic coercion, inflammatory rhetoric, and military aggression, and yet the United States has imposed no costs on the PRC. Additionally, US officials have not warned PRC counterparts that, in accordance with US law, any means other than a peaceful resolution will call into question the US diplomatic relationship with the PRC. A key avenue of deterrence is credible threat – but in this case, no threat has been made.

Members of Congress have [questioned](#) how the executive branch has “prioritized the demands of Beijing over our support” of Taiwan, and introduced a series of bills to ensure our diplomats are not, contrary to US law, [restraining](#) themselves by not engaging with Taiwan or [selecting](#) to protect our relationship with the PRC at the expense of Taiwan's defense.

In these ways, the United States has failed to uphold its own law in the *Taiwan Relations Act*. These failures, coupled with the PRC's change in the status quo in the Taiwan Strait, have spurred Congress to seek additional legislation to detail how the TRA should be implemented. In doing so, they are working to ensure that the US government is providing arms for Taiwan's self-defense, maintaining the US capacity to resist coercion from the PRC, and preparing to impose costs on the PRC if it adopts non-peaceful means to unilaterally decide the future of Taiwan.

**The main point:** The United States has not lived up to the commitments it has made in the *Taiwan Relations Act*—to include ensuring that Taiwan possesses the necessary arms for its own defense, and that the US military maintains adequate capacity to resist the use of coercion against Taiwan. Congress has a significant role to play in ensuring that the United States lives up to its obligations as set forth in the TRA.

\*\*\*

## A Personal Retrospective on the Taiwan Relations Act at 45: How the TRA Provided the Base for US-Taiwan Relations

By: Amb. James F. Moriarty

*James F. Moriarty was the chairman of the American Institute in*

*Taiwan (AIT) from 2016 to 2023.*

The [Taiwan Relations Act](#) has proved to be a remarkably far-sighted and effective piece of US legislation. Enacted 45 years ago, the TRA has stood the test of time. It has provided the means to develop a broad and mutually beneficial bilateral relationship between the United States and Taiwan. Just as important, it has helped maintain regional stability when tensions across the Taiwan Strait have increased.

### **Goals of the TRA**

The world of the late 1970s differed greatly from the world of today. The Iron Curtain separated Eastern and Western Europe. The People's Republic of China (PRC) had just begun experimenting with economic reform and opening up; its economy was one-tenth the size of the US economy. Taiwan was under martial law. The United States viewed the Soviet Union as the biggest threat to global peace and stability, while the PRC saw Moscow both as its competitor for leadership of global communism and as a potential military threat.

Against this backdrop, the Carter Administration [broke diplomatic ties](#) with Taiwan in order to establish formal relations with the PRC. The US Congress then passed the *Taiwan Relations Act* (TRA), and President Jimmy Carter signed it into law on April 10, 1979.

With passage of the TRA, Congress sought to ensure that the United States would retain a strong relationship with Taiwan and oppose any attempts to change Taiwan's status by force. In support of a strong US-Taiwan relationship, the TRA stipulated that it was US policy "to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan." In practice, however, maintaining such a relationship with a Taiwan with which the United States no longer had diplomatic ties posed unique challenges. In response, the TRA outlined an imaginative and unprecedented approach: creating the American Institute in Taiwan (AIT).

AIT is a non-profit organization incorporated in the District of Columbia. The TRA entrusted AIT with conducting unofficial relations between the United States and Taiwan. The TRA specifically authorized AIT to work with a Taiwan counterpart organization to negotiate, sign, and implement agreements similar to the government-to-government agreements signed between the United States and its formal diplomatic partners.

With respect to Taiwan's future security, the TRA set out US expectations and established guidelines. The law declared "that

peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern and 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." The TRA went on to note that the United States would 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 further stated that "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." The law "directed" the president "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 First Decade of the TRA**

My own exposure to Taiwan and cross-Strait issues intensified in 1988, when I moved to Taiwan for intensive Chinese language training in preparation for an upcoming tour of duty at the US Embassy in Beijing. Taiwan had lifted martial law the year before, but the island's political future remained unclear. The media was still strictly controlled. The legislature consisted almost entirely of representatives elected in mainland China in 1947. There were no provisions for the popular election of the president.

On the other side of the Taiwan Strait, Deng Xiaoping's (邓小平) policy of opening up and reforming the Chinese economy had created great expectations inside the PRC. By the spring of 1989, over a million people had joined protests in Tiananmen Square demanding even greater freedoms. The Chinese Communist Party (CCP) viewed those demonstrations as a threat to its continued rule.

During this first decade of its existence, the TRA, as it was meant to do, had created arrangements between the United States and Taiwan that allowed people-to-people ties to flourish. Visa issuances soared. US-Taiwan trade more than doubled as commercial disputes were resolved through discussions between AIT and its counterpart Taiwan body. The TRA had also underscored US support for human rights in Taiwan, an issue which Congress continued to raise. Many members of Congress were pushing for greater democratization in Taiwan.

### ***The TRA and the First Taiwan Strait Missile Crisis***

In 1994, I returned to Taiwan to become head of AIT's political section.

Taiwan had changed dramatically in the five years since I had left. The media was wide open. A vibrant civil society was rapidly developing and demanding that its voice be heard. The Taiwan legislature was being chosen in free and fair elections, and all legislators elected from mainland China constituencies had retired. Taiwan was moving toward its first direct presidential election.

In China, after brutally suppressing the Tiananmen demonstrations, the CCP had moved back toward economic reform and opening up. In the run-up to Taiwan's March 1996 presidential election, however, Beijing became infuriated by the US decision to allow Taiwan President Lee Teng-hui (李登輝) to give a speech at his alma mater, Cornell University. In an apparent attempt to intimidate Taiwan's voters into rejecting Lee, the PRC conducted a series of missile and live ammunition tests near Taiwan's two major ports, including shortly before the election. These PRC attempts backfired. The United States sent two aircraft carrier battle groups to the region, underscoring the US commitment under the TRA to oppose attempts to change Taiwan's status through the use of force. Beijing ended the tests, and Lee became Taiwan's first popularly elected president, [winning](#) with a vote share more than 10 points higher than polls had forecast before the PRC began its attempts to affect the election.

### ***A Period of Rapid Change***

From 2001-2004, I served in the White House, first as National Security Council (NSC) director for China, Taiwan, and Hong Kong affairs and then as special assistant to the president and NSC senior director for Asia.

During the first two decades of the 21<sup>st</sup> century, the relationship between Taiwan and the PRC changed dramatically. Mainland China underwent an economic miracle, becoming the greatest industrial power in the world, while at the same time developing a formidable military. The TRA's provisions encouraging cooperation between AIT and its counterpart in Taiwan were also working as planned. By the end of 2012, the two organizations had signed some [150 agreements](#) in areas as diverse as agriculture, civil aviation, drug enforcement, and protection of intellectual property. These agreements not only benefitted the people of both the United States and Taiwan, but in several areas, including public health, led to significant global progress. The TRA also underpinned a USD \$6 billion US arms sale pack-

age to Taiwan to help it defend itself from attempts to change its status by force.

By the time I took over as the chair of AIT's Board of Trustees in 2016, Taiwan, the PRC, and cross-Strait relations were all vastly different from what they had been in 1979. Taiwan was a full-fledged, raucous democracy with a robust economy and a strong sense of self-identity. The PRC had become the second largest economy in the world and continued to rapidly develop its military strength. The United States and Taiwan had become two of the PRC's largest trade and investment partners, and Taiwan itself had become a high-tech powerhouse.

Under the leadership of Communist Party General Secretary Xi Jinping (習近平), the PRC abandoned its previous policy of biding its time while developing its strength. From the Himalayas to the South China Sea to the Taiwan Strait, Beijing began pursuing a more aggressive foreign policy. The PRC increasingly turned to tactics such as disinformation and economic coercion to undermine Taiwan's democracy, while simultaneously stepping up military exercises and maneuvers designed to intimidate Taiwan.

One thing had not changed, however: the importance of the *Taiwan Relations Act* in anchoring both the US-Taiwan relationship and peace and stability in the Western Pacific. In recent years, for example, the systems set up by the TRA allowed the United States and Taiwan to work together to meet the challenges of COVID-19, through both the sharing of vital supplies and cooperation on scientific research and innovation. As threats in the Western Pacific have continued to grow, the TRA has provided the legal and administrative framework for the United States to work with Taiwan to build an increasingly strong deterrent to aggression.

### ***The TRA and the Future***

Despite vast changes over the past 45 years, the TRA has provided a firm foundation for a continued strong relationship between the United States and Taiwan. In the face of increasing uncertainty in the region, the TRA will remain a linchpin for efforts by the United States to maintain peace and stability in the Western Pacific.

**The main point:** Over the 45 years since the *Taiwan Relations Act* was signed, the world has seen seismic economic, political, and military shifts. Despite these changes, the TRA remains a critical pillar of the US-Taiwan relationship, and will only grow in importance in the years to come.

\*\*\*

## The *Taiwan Relations Act*: A Necessary but Not Sufficient Tool for Maintaining Cross-Strait Stability

By: David Sacks

*David Sacks is a fellow for Asia studies at the Council on Foreign Relations (CFR), where his work focuses on Taiwan, cross-Strait relations, and US-China relations. He directed the recent CFR Independent Task Force on Taiwan, entitled US-Taiwan Relations in a New Era: Responding to a More Assertive China.*

Few relationships are guided by a single piece of legislation, much less one passed nearly half a century ago. The modern US-Taiwan relationship, however, is a notable exception. The [Taiwan Relations Act](#) (TRA) sets forth US commitments to Taiwan that have helped undergird cross-Strait stability for decades. The TRA's text sits on the desks of nearly everyone in the US government who works on Taiwan policy and is continually reaffirmed by senior US officials. Congress, which took the initiative in drafting the bill in 1979 and included far more robust language than the Carter Administration envisioned, carved out a leading role for itself on Taiwan policy, one that it has maintained ever since and that is hard to find elsewhere.

While the TRA provided the foundation for modern US-Taiwan relations, its underlying assumptions and conditions have dramatically changed since it was signed. As a result, while rightly celebrating the TRA's staying power, analysts and policymakers should think critically about whether it provides sufficient tools to maintain cross-Strait stability for the next 45 years.

### The Shifting Status Quo

When the United States terminated governmental relations with the Republic of China (Taiwan) in 1979, it was essentially trading the authoritarian dictatorship that claimed to represent mainland China with the authoritarian dictatorship that actually governed that area. Chiang Ching-kuo (蔣經國) and the Kuomintang (KMT, 國民黨) ruled Taiwan through martial law, relying on a feared secret police and a party-army to ensure that threats to the regime did not materialize. Even though the People's Republic of China (PRC) never renounced using force to achieve unification, the prospect that it would do so seemed remote. At the time, the People's Liberation Army (PLA), largely a ground-based force that lacked power projection capabilities, could not invade Taiwan or successfully blockade it. The politi-

cal leadership in Beijing, meanwhile, was focused above all on economic growth and needed US investment and support to achieve its development goals. Aggression against Taiwan, however, would take US economic support off the table.

Now, however, the context has radically changed. Taiwan has transitioned into a consolidated democracy, with [Freedom House](#) ranking it as the second-freest place in Asia (behind Japan) and the 22<sup>nd</sup> globally, the [Human Freedom Index](#) placing it 12<sup>th</sup> in the world and first in Asia, and the Economist Intelligence Unit's [Democracy Index](#) putting it 10<sup>th</sup> in the world. Taiwan is a like-minded partner of the United States that works with it on an array of issues, from democratic governance to climate change, public health, counterterrorism, and women's empowerment.

China, for its part, has embarked on a rapid military modernization, decisively shifting the balance of power in the Taiwan Strait in its favor. China's military budget has ballooned from USD [\\$9.9 billion](#) in 1990 to USD [\\$222 billion](#) in 2024. Notably, Beijing has consistently prioritized the capabilities it would need to subjugate Taiwan, including amphibious warfare ships, advanced fighter jets, and ballistic missiles. CIA Director William Burns [stated](#) in February 2023 that the United States knows "as a matter of intelligence" that Xi Jinping (習近平) has ordered the PLA to be ready to invade Taiwan by 2027, while Admiral John Aquilino, the commander of US Indo-Pacific Command (INDOPACOM), [noted](#) in March 2024 that "all indications point to the PLA meeting President Xi Jinping's directive to be ready to invade Taiwan by 2027."

While successive Chinese leaders oversaw a massive military buildup, Taiwan allowed its deterrent to atrophy, with defense spending largely [stagnant](#) during the Ma Ying-jeou (馬英九) Administration. The Tsai Ing-wen (蔡英文) Administration took important steps to reverse this worrying trend, nearly doubling defense spending so that it now equals [roughly 2.6 percent of GDP \(USD \\$19 billion\)](#). Moreover, her administration has increasingly invested in asymmetric capabilities such as an indigenous submarine program, missiles, and drones, while extending conscription from three months to one year. Still, the US Department of Defense [warns](#) that "The PRC's multi-decade military modernization effort continues to widen the capability gap compared to Taiwan's military."

Indications that Xi will seek to make unification with Taiwan a pillar of his legacy only add to fears about the durability of peace and stability in the Taiwan Strait. Xi has repeatedly [linked](#) unification to the "rejuvenation of the Chinese nation" and even [asserted](#) that achieving unification "is the essence of national



rejuvenation.” Xi has also [stated](#) that the Taiwan issue “cannot be passed from generation to generation,” which could mean that he will seek to annex Taiwan while in power. Xi and senior policymakers within the Chinese system also increasingly [speak](#) of unification as “inevitable.”

### ***Vital Interests at Stake***

As the status quo in the Taiwan Strait has grown more tenuous, an appreciation for the vital US interests at stake has emerged. If China were to seize Taiwan, it would severely undermine international order by demonstrating that countries can unilaterally redraw borders. Such an outcome, following Russia’s invasion of Ukraine, would set a dangerous pattern that other countries with territorial ambitions could seek to follow. If China were to station its military on the island, the United States would find it far more difficult to project power, defend its allies, and operate in international waters in the Western Pacific. US allies would come to question the wisdom of relying on the United States for their defense and either accommodate China or pursue strategic autonomy, which could include developing an independent nuclear deterrent. A war in the Taiwan Strait would also usher in a severe global economic crisis that [Bloomberg estimates](#) would shave USD \$10 trillion (roughly 10 percent) off global GDP, a greater shock than either the global financial crisis or the COVID-19 pandemic. Finally, if China were to take control of Taiwan, it would spell the end of a thriving, pluralistic democracy.

Reflecting this growing recognition of US interests in the Taiwan Strait, according to one [recent poll](#), two-thirds of Americans say that the US security relationship with Taiwan does more to strengthen than weaken US national security. Similarly, three-quarters of those surveyed voiced support for imposing sanctions on China in the event of a Chinese invasion of Taiwan, while 60 percent supported providing military assistance to Taiwan in the event of an attack.

### ***To The Future***

The TRA has provided a robust foundation for the US-Taiwan relationship for 45 years, but it would be difficult or even impossible for any piece of legislation to contend with such dramatically changed circumstances—principally an emboldened, assertive, and capable China and a Taiwan that has evolved into a close US partner and liberal democracy. US policy must adapt to align with this new reality.

First, the United States should replace its policy of strategic ambiguity with what [Richard Haass and I termed in 2020](#) “strategic clarity,” making explicit to Beijing that it would come to Taiwan’s

defense in the face of aggression. Washington should pursue this in a manner that is consistent with the US “One-China Policy.” The TRA asserts that it is the policy of the United States “to consider any effort to determine the future of Taiwan by other than peaceful means [...] of grave concern to the United States” and “to maintain the 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 on Taiwan.” In other words, the TRA states that the United States must be able to defend Taiwan, without committing the United States to doing so. Strategic ambiguity worked when China prioritized economic development over all else, could not seriously threaten Taiwan militarily, and pursued a strategy of hiding its capabilities and biding its time. Now, however, to contend with a China that is far more assertive, risk-acceptant, and that could be coming to doubt whether the United States would intervene on Taiwan’s behalf, a policy of strategic clarity is needed to bolster deterrence.

Second, the TRA commits the United States 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.” To date, however, the vast majority of time and effort has been dedicated to selling Taiwan weapons, while building Taiwan’s military capacity through training and exercises has been a secondary concern. Although this has begun to change in recent years, the United States should place much greater emphasis on ensuring that Taiwan’s military has access to cutting-edge training, can employ its military hardware proficiently and creatively, and can conduct complex operations in a degraded command and control environment. Congress can lead this effort and it has already taken steps in this direction; the 2022 National Defense Authorization Act (NDAA), for instance, [directs](#) the Department of Defense to “establish a comprehensive training, advising, and institutional capacity-building program for the military forces of Taiwan.” Congress should continue to codify into law programs and opportunities to build Taiwan’s capacity to resist PRC aggression.

Third, the TRA does not include provisions regarding a potential sanctions regime against Beijing if it were to use force against Taiwan. While the prospect of sanctions is unlikely to prove decisive, making clear the economic costs that China would incur if it were to attempt a blockade or invasion of Taiwan could nonetheless contribute to deterrence. The aim of such legislation should be to convince leaders in Beijing that attempting to forcefully unify Taiwan would be incompatible with their overarching modernization objectives. Congress could accomplish this

by passing some version of the [proposed](#) *Sanctions Targeting Aggressors of Neighboring Democracies (STAND) with Taiwan Act*.

Finally, while the TRA calls for the president to “inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan,” it leaves ambiguous the threshold of PRC actions that would require such consultations. Increasing PRC gray zone coercion, however, necessitates a conversation about actions that could fall short of a blockade or invasion but nonetheless threaten Taiwan’s security and should prompt the president to discuss such actions with Congress. Congress can and should hold hearings on this question.

The 45<sup>th</sup> anniversary of the TRA provides a ripe opportunity to take stock of all that has changed over the past four-plus decades, revisit the law’s underlying assumptions, and examine holes that should be filled. Few foreign policy issues are the same today as they were in 1979, and US policy must adjust in order to deter a far more capable and assertive China.

**The main point:** Though the *Taiwan Relations Act* has proven remarkably effective in guiding the US approach to Taiwan for over four decades, geopolitical realities have evolved significantly, potentially rendering the Act insufficient. To maintain cross-Strait peace and stability going forward, the United States will need to update and strengthen the legal frameworks undergirding the US-Taiwan relationship.