

to the Committee on Foreign Relations of the Senate and the Committee on International Relations [now Committee on Foreign Affairs] of the House of Representatives upon the issuance of the directives.”

CHAPTER 48—TAIWAN RELATIONS

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§ 3301. Congressional findings and declaration of policy

(a) Findings

The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this chapter is necessary—

- (1) to help maintain peace, security, and stability in the Western Pacific; and
- (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(b) Policy

It is the policy of the United States—

- (1) 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, as well as the people on the China mainland and all other peoples of the Western Pacific area;
- (2) to declare 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;
- (3) 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;
- (4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;
- (5) to provide Taiwan with arms of a defensive character; and

(6) 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.

(c) Human rights

Nothing contained in this chapter shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

(Pub. L. 96-8, § 2, Apr. 10, 1979, 93 Stat. 14.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 96-8, § 18, Apr. 10, 1979, 93 Stat. 21, provided that: “This Act [enacting this chapter] shall be effective as of January 1, 1979.”

SHORT TITLE OF 2020 AMENDMENT

Pub. L. 116-260, div. FF, title III, § 311, Dec. 27, 2020, 134 Stat. 3099, provided that: “This subtitle [subtitle B (§§ 311-315) of title III of div. FF of Pub. L. 116-260, enacting provisions set out as a note below] may be cited as the ‘Taiwan Assurance Act of 2020.’”

SHORT TITLE

Pub. L. 96-8, § 1, Apr. 10, 1979, 93 Stat. 14, provided that: “This Act [enacting this chapter] may be cited as the ‘Taiwan Relations Act.’”

STATEMENT OF POLICY AND SENSE OF CONGRESS ON THE TAIWAN RELATIONS ACT

Pub. L. 117-81, div. A, title XII, §§ 1246, 1247, Dec. 27, 2021, 135 Stat. 1986, 1987, provided that:

“SEC. 1246. SENSE OF CONGRESS ON TAIWAN DEFENSE RELATIONS.

“It is the sense of Congress that—

“(1) the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.) and the Six Assurances provided by the United States to Taiwan in July 1982 are the foundation for United States-Taiwan relations;

“(2) as set forth in the Taiwan Relations Act, 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, and that any effort to determine the future of Taiwan by other than peaceful means, including boycotts and embargoes, is of grave concern to the United States;

“(3) the increasingly coercive and aggressive behavior of the People's Republic of China towards Taiwan is contrary to the expectation of a peaceful resolution of the future of Taiwan;

“(4) as set forth in the Taiwan Relations Act, 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 the policy of the United States to make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability should be maintained; and

“(5) the United States should continue to support the development of capable, ready, and modern defense forces necessary for Taiwan to maintain a sufficient self-defense capability, including by—

“(A) supporting acquisition by Taiwan of defense articles and services through foreign military sales, direct commercial sales, and industrial cooperation, with an emphasis on capabilities that support the asymmetric defense strategy of Taiwan;

“(B) ensuring timely review of and response to requests by Taiwan for defense articles and services;

“(C) conducting practical training and military exercises with Taiwan, including, as appropriate, inviting Taiwan to participate in the Rim of the Pacific exercise conducted in 2022, that enable Taiwan to maintain a sufficient self-defense capability, as described in the Taiwan Relations Act;

“(D) deepening interoperability with Taiwan in defensive capabilities, including maritime and air domain awareness and integrated air and missile defense systems;

“(E) encouraging exchanges between defense officials and officers of the United States and Taiwan at the strategic, policy, and functional levels, consistent with the Taiwan Travel Act (Public Law 115-135; 132 Stat. 341), especially for the purposes of—

“(i) enhancing cooperation on defense planning;

“(ii) improving the interoperability of the military forces of the United States and Taiwan; and

“(iii) improving the reserve force of Taiwan;

“(F) identifying improvements in Taiwan’s ability to use asymmetric military capabilities to enhance its defensive capabilities, as described in the Taiwan Relations Act; and

“(G) expanding cooperation in humanitarian assistance and disaster relief.

“SEC. 1247. STATEMENT OF POLICY ON TAIWAN.

“(a) STATEMENT OF POLICY.—Consistent with the Taiwan Relations Act (22 U.S.C. 3301 et. seq.), it shall be the policy of the United States to maintain the capacity of the United States to resist a fait accompli that would jeopardize the security of the people on Taiwan.

“(b) DEFINITION.—In this section, the term ‘fait accompli’ refers to the resort to force by the People’s Republic of China to invade and seize control of Taiwan before the United States can respond effectively.”

Pub. L. 116-283, div. A, title XII, §1260, Jan. 1, 2021, 134 Stat. 3959, provided that:

“(a) STATEMENT OF POLICY.—It is the policy of the United States—

“(1) that the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.) and the Six Assurances provided by the United States to Taiwan in July 1982 are the foundation for United States-Taiwan relations;

“(2) to fully pursue the deepening of the extensive, close, and friendly relations of the United States and Taiwan pursuant to the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.), the intent of which is to facilitate greater cooperation and the broadening and deepening of United States-Taiwan relations;

“(3) that the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.) shall be implemented and executed, consistent with the Six Assurances, to address evolving political, security, and economic dynamics and circumstances;

“(4) that, as set forth in the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.), 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, and that any effort to determine the future of Taiwan by other than peaceful means, including boycotts and embargoes, is a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

“(5) that the increasingly coercive and aggressive behavior of the People’s Republic of China towards Taiwan is contrary to the expectation of the peaceful resolution of the future of Taiwan; and

“(6) as set forth in the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.), 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.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that—

“(1) the United States should continue to support the development of capable, ready, and modern defense forces necessary for Taiwan to maintain a sufficient self-defense capability, including by—

“(A) supporting acquisition by Taiwan of defense articles and services through foreign military sales, direct commercial sales, and industrial cooperation, with an emphasis on capabilities that support the asymmetric defense strategy of Taiwan, including anti-ship, coastal defense, anti-armor, air defense, undersea warfare, advanced command, control, communications, computers, intelligence, surveillance, and reconnaissance, and resilient command and control capabilities;

“(B) ensuring timely review of and response to requests of Taiwan for defense articles and services;

“(C) conducting practical training and military exercises with Taiwan that enable Taiwan to maintain a sufficient self-defense capability;

“(D) examining the potential for expanding professional military education and technical training opportunities in the United States for military personnel of Taiwan;

“(E) increasing exchanges between senior defense officials and general officers of the United States and Taiwan at the strategic, policy, and functional levels, consistent with the Taiwan Travel Act (Public Law 115-135; 132 Stat. 341), especially for the purposes of—

“(i) enhancing cooperation on defense planning;

“(ii) improving the interoperability of the military forces of the United States and Taiwan; and

“(iii) improving the reserve force of Taiwan;

and

“(F) expanding cooperation in humanitarian assistance and disaster relief;

“(2) the Secretary of State should ensure that any policy guidance related to United States-Taiwan relations is fully consistent with the statement of policy set forth in subsection (a);

“(3) the Secretary of Defense should ensure that policy guidance related to United States-Taiwan defense relations is fully consistent with the statement of policy set forth in subsection (a); and

“(4) the Secretary of State, the Secretary of Defense, and the heads of other Federal agencies and departments, as appropriate, should issue new guidance as required to carry out such policy.”

TAIWAN’S INCLUSION IN INTERNATIONAL ORGANIZATIONS

Pub. L. 116-260, div. FF, title III, §314, Dec. 27, 2020, 134 Stat. 3100, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that the People’s Republic of China’s attempts to dictate the terms of Taiwan’s participation in international organizations, has, in many cases, resulted in Taiwan’s exclusion from such organizations even when statehood is not a requirement, and that such exclusion—

“(1) is detrimental to global health, civilian air safety, and efforts to counter transnational crime;

“(2) negatively impacts the safety and security of citizens globally; and

“(3) negatively impacts the security of Taiwan and its democracy.

“(b) STATEMENT OF POLICY.—It is the policy of the United States to advocate for Taiwan’s meaningful participation in the United Nations, the World Health Assembly, the International Civil Aviation Organization, the International Criminal Police Organization, and other international bodies, as appropriate, and to advocate for Taiwan’s membership in the Food and Agriculture Organization, the United Nations Educational, Scientific and Cultural Organization, and other international organizations for which statehood is not a requirement for membership.”

COMMITMENT TO TAIWAN

Pub. L. 115-409, title II, §209, Dec. 31, 2018, 132 Stat. 5398, provided that:

“(a) UNITED STATES COMMITMENT TO TAIWAN.—It is the policy of the United States—

“(1) to support the close economic, political, and security relationship between Taiwan and the United States;

“(2) to faithfully enforce all existing United States Government commitments to Taiwan, consistent with the Taiwan Relations Act of 1979 (Public Law 96-8) [22 U.S.C. 3301 et seq.], the 3 joint communiques, and the Six Assurances agreed to by President Ronald Reagan in July 1982; and

“(3) to counter efforts to change the status quo and to support peaceful resolution acceptable to both sides of the Taiwan Strait.

“(b) ARMS SALES TO TAIWAN.—The President should conduct regular transfers of defense articles to Taiwan that are tailored to meet the existing and likely future threats from the People’s Republic of China, including supporting the efforts of Taiwan to develop and integrate asymmetric capabilities, as appropriate, including mobile, survivable, and cost-effective capabilities, into its military forces.

“(c) TRAVEL.—The President should encourage the travel of highlevel [sic] United States officials to Taiwan, in accordance with the Taiwan Travel Act (Public Law 115-135) [132 Stat. 341].”

[Nothing in section 209 of Pub. L. 115-409, set out above, to be construed as authorizing the use of military force, see section 412 of Pub. L. 115-409, set out as a note under section 2656 of this title.]

STRENGTHENING THE DEFENSE PARTNERSHIP BETWEEN THE UNITED STATES AND TAIWAN

Pub. L. 115-91, div. A, title XII, § 1259, Dec. 12, 2017, 131 Stat. 1685, provided that:

“(a) STATEMENT OF POLICY.—It is the policy of the United States to reinforce its commitments to Taiwan under the Taiwan Relations Act [Pub. L. 96-8, 22 U.S.C. 3301 et seq.] and consistent with the ‘Six Assurances’ as both governments work to improve Taiwan’s self-defense capability.

“(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should—

“(1) strengthen and enhance its longstanding partnership and cooperation with Taiwan;

“(2) conduct regular transfers of defense articles and defense services necessary to enable Taiwan to maintain a sufficient self-defense capability, based solely on the needs of Taiwan;

“(3) invite the military forces of Taiwan to participate in military exercises, such as the ‘Red Flag’ exercises;

“(4) carry out a program of exchanges of senior military officers and senior officials with Taiwan to improve military-to-military relations, as expressed in section 1284 of the National Defense Authorization Act for Fiscal Year 2017 (Public Law 114-328; 130 Stat. 2544);

“(5) support expanded exchanges focused on practical training for Taiwan personnel by and with United States military units, including exchanges among services;

“(6) conduct bilateral naval exercises, to include pre-sail conferences, in the western Pacific Ocean with the Taiwan navy; and

“(7) consider the advisability and feasibility of re-establishing port of call exchanges between the United States navy and the Taiwan navy.”

Executive Documents

EXECUTIVE ORDER NO. 12143

Ex. Ord. No. 12143, June 22, 1979, 44 F.R. 37191, which provided for facilitation of the maintenance of commercial, cultural, and other relations between the peoples of the United States and Taiwan, was superseded by Ex. Ord. No. 13014, Aug. 15, 1996, 61 F.R. 42963, set out below.

EX. ORD. NO. 13014. MAINTAINING UNOFFICIAL RELATIONS WITH THE PEOPLE ON TAIWAN

Ex. Ord. No. 13014, Aug. 15, 1996, 61 F.R. 42963, provided:

In light of the recognition of the People’s Republic of China by the United States of America as the sole legal government of China, and by the authority vested in me as President of the United States of America by the Taiwan Relations Act (Public Law 96-8, 22 U.S.C. 3301 et seq.) (“Act”), and section 301 of title 3, United States Code, in order to facilitate the maintenance of commercial, cultural, and other relations between the people of the United States and the people on Taiwan without official representation or diplomatic relations, it is hereby ordered as follows:

SECTION 1. *Delegation and Reservation of Functions.*

1-101. Exclusive of the functions otherwise delegated, or reserved to the President by this order, there are delegated to the Secretary of State (“Secretary”) all functions conferred upon the President by the Act, including the authority under section 7(a) of the Act [22 U.S.C. 3306(a)] to specify which laws of the United States relative to the provision of consular services may be administered by employees of the American Institute on Taiwan (“Institute”). In carrying out these functions, the Secretary may redelegate his authority, and shall consult with other departments and agencies as he deems appropriate.

1-102. There are delegated to the Director of the Office of Personnel Management the functions conferred upon the President by paragraphs (1) and (2) of section 11(a) of the Act [22 U.S.C. 3310(a)]. These functions shall be exercised in consultation with the Secretary.

1-103. There are reserved to the President the functions conferred upon the President by section 3 [22 U.S.C. 3302], the second sentence of section 9(b) [22 U.S.C. 3308(b)], and the determinations specified in section 10(a) of the Act [22 U.S.C. 3309(a)].

SEC. 2. *Specification of Laws and Determinations.*

2-201. Pursuant to section 9(b) of the Act [22 U.S.C. 3308(b)], and in furtherance of the purposes of the Act, the procurement of services may be effected by the Institute without regard to the following provisions of law and limitations of authority as they may be amended from time to time:

(a) Sections 1301(d) and 1341 of title 31, United States Code, and section 3732 of the Revised Statutes (41 U.S.C. 11) to the extent necessary to permit the indemnification of contractors against unusually hazardous risks, as defined in Institute contracts, consistent, to the extent practicable, with section 52.228-7 of the Federal Acquisition Regulations;

(b) Section 3324 of title 31, United States Code;

(c) Sections 3709, 3710, and 3735 of the Revised Statutes, as amended (41 U.S.C. 5, 8, and 13);

(d) Section 2 of title III of the Act of March 3, 1933 (41 U.S.C. 10a);

(e) Title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251-260);

(f) The Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613);

(g) [Former] Chapter 137 of title 10, United States Code (10 U.S.C. 2301-2316);

(h) The Act of May 11, 1954 (the “Anti-Wunderlich Act”) (41 U.S.C. 321, 322); and

(i) Section (f) of 41 U.S.C. 423.

2-202. (a) With respect to cost-type contracts with the Institute under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights that may have accrued under the contractor [contract] the amendments or modifications thereof.

(b) With respect to contracts heretofore or hereafter made under the Act, other than those described in sub-

section (a) of this section, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights that may have accrued under the contract or the amendments or modifications thereof, if the Secretary determines in each case that such action is necessary to protect the foreign policy interests of the United States.

2-203. Pursuant to section 10(a) of the Act [22 U.S.C. 3309(a)], the Taipei Economic and Cultural Representative Office in the United States (“TECRO”), formerly the Coordination Council for North America Affairs (“CCNAA”), is determined to be the instrumentality established by the people on Taiwan having the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with the Act. Nothing contained in this determination or order shall affect, or be construed to affect, the continued validity of agreements, contracts, or other undertakings, of whatever kind or nature, entered into previously by CCNAA.

SEC. 3. *President’s Memorandum of December 30, 1978.*

3-301. Agreements and arrangements referred to in paragraph (B) of President Carter’s memorandum of December 30, 1978, entitled “Relations With the People on Taiwan” (44 FR 1075) shall, unless otherwise terminated or modified in accordance with law, continue in force and be performed in accordance with the Act and this order.

SEC. 4. *General.* This order supersedes Executive Order No. 12143 of June 22, 1979.

WILLIAM J. CLINTON.

§ 3302. Implementation of United States policy with regard to Taiwan

(a) Defense articles and services

In furtherance of the policy set forth in section 3301 of this title, 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.

(b) Determination of Taiwan’s defense needs

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

(c) United States response to threats to Taiwan or dangers to United States interests

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

(Pub. L. 96-8, § 3, Apr. 10, 1979, 93 Stat. 15.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective as of January 1, 1979, see section 18 of Pub. L. 96-8, set out as a note under section 3301 of this title.

NORMALIZING THE TRANSFER OF DEFENSE ARTICLES AND DEFENSE SERVICES TO TAIWAN

Pub. L. 115-91, div. A, title XII, § 1259A, Dec. 12, 2017, 131 Stat. 1685, provided that:

“(a) SENSE OF CONGRESS.—It is the sense of Congress that any requests from the Government of Taiwan for defense articles and defense services should receive a case-by-case review by the Secretary of Defense, in consultation with the Secretary of State, that is consistent with the standard processes and procedures in an effort to normalize the arms sales process with Taiwan.

“(b) REPORT.—

“(1) IN GENERAL.—Not later than 120 days after the date on which the Secretary of Defense receives a Letter of Request from Taiwan with respect to the transfer of a defense article or defense service to Taiwan, the Secretary, in consultation with the Secretary of State, shall submit to the appropriate congressional committees a report that includes—

“(A) the status of such request;

“(B) if the transfer of such article or service would require a certification or report to Congress pursuant to any applicable provision of section 36 of the Arms Export Control Act (22 U.S.C. 2776), the status of any Letter of Offer and Acceptance the Secretary of Defense intends to issue with respect to such request; and

“(C) an assessment of whether the transfer of such article or service would be consistent with United States obligations under the Taiwan Relations Act (Public Law 96-8; 22 U.S.C. 3301 et seq.).

“(2) ELEMENTS.—Each report required under paragraph (1) shall specify the following:

“(A) The date the Secretary of Defense received the Letter of Request.

“(B) The value of the sale proposed by such Letter of Request.

“(C) A description of the defense article or defense service proposed to be transferred.

“(D) The view of the Secretary of Defense with respect to such proposed sale and whether such sale would be consistent with United States defense initiatives with Taiwan.

“(3) FORM.—Each report required under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

“(c) BRIEFING.—Not later than 180 days after the date of the enactment of this Act [Dec. 12, 2017], and every 180 days thereafter, the Secretary of Defense, in coordination with the Secretary of State, shall provide a briefing to the appropriate congressional committees with respect to the security challenges faced by Taiwan and the military cooperation between the United States and Taiwan, including a description of any requests from Taiwan for the transfer of defense articles or defense services and the status, whether signed or unsigned, of any Letters of Offer and Acceptance with respect to such requests.

“(d) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means—

“(A) the Committee on Armed Services and the Committee on Foreign Affairs of the House of Representatives; and

“(B) the Committee on Armed Services and the Committee on Foreign Relations of the Senate.

“(2) DEFENSE ARTICLE; DEFENSE SERVICE.—The terms ‘defense article’ and ‘defense service’ have the meanings given such terms in section 47 of the Arms Export Control Act (22 U.S.C. 2794).

“(3) LETTER OF REQUEST; LETTER OF OFFER AND ACCEPTANCE.—The terms ‘Letter of Request’ and ‘Letter of Offer and Acceptance’ have the meanings given such terms for purposes of Chapter 5 of the Security Assistance Management Manual of the Defense Security Cooperation Agency, as in effect on the date of the enactment of this Act.”