

**CHINA'S ANTI-SECESSION LAW AND
DEVELOPMENTS ACROSS THE TAIWAN STRAIT**

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WEDNESDAY, APRIL 6, 2005

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ASIA AND THE PACIFIC,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:06 a.m., room 2172, Rayburn House Office Building, Hon. James A. Leach (Chairman of the Subcommittee) presiding.

Mr. LEACH. The Subcommittee will come to order and on behalf of the Subcommittee, I would like to welcome our distinguished witnesses to the hearing today. I particularly want to thank Deputy Assistant Secretary Schriver and our panel of private experts for accommodating the change in time for proceedings this morning.

By way of explanation, we are obligated to begin a bit early because Victor Yushchenko, the newly-elected President of the Ukraine, will be speaking in a few hours before a joint session of Congress. In addition, I am obligated to attend a memorial service this morning for George F. Kennon, a mentor and, indeed hero, of mine. I can think of no greater public service role model.

The subject matter of our hearing this morning, relations across the Taiwan Strait and their implications for United States policy, involves a set of enormously complex and intertwined problems, the management of which is central to the preservation of peace and stability in Asia and the Pacific.

Here, it is critical to review the history both of the breakthrough in United States-China relations that occurred during the Nixon Administration and the philosophical aspects of American history which relate to issues of a nature similar to mainland Taiwan divisions today.

United States' recognition of China was formally ensconced in a carefully negotiated communique and two subsequent understandings. The United States accepted a one-China framework for our relations with the most populous country in the world. At the same time, the three Executive Branch initiatives were complimented by the Taiwan Relations Act, which establishes a commitment of the United States that no change in the status of Taiwan be coercively accomplished through the use of force.

While anti-Communist, the party of Chaing Kai-shek in Taiwan had certain organizational attributes similar to the Communist

party on the mainland. And in one circumstance of philosophical consistency, both the Kuomintang of Chiang Kai-shek and the Communist party of Mao Zedong claimed to be the governing party of all of China, including Taiwan. Hence, the Nixon one-China approach did not contradict the Nationalist positions of the old Kuomintang or the old and new Communist party on the mainland.

The dilemma which comes to be accentuated with the passage of time is the question of whether Taiwan can legally seek today de jure independence on the basis of a referendum of the people. Here there are contrasting models and American philosophy in history, as well as security concerns for all parties to a potential rupture that must be prudently thought through.

Philosophically, Americans respect Jeffersonian individual rights approaches, which may implicitly countenance revolutionary societal objectives. We also respect Lincolnesque concerns for national unity. A house divided, he noted from Scripture, cannot stand. It is in this context that America delivered a split judgement. The three Executive initiatives affirmed one-China and the Taiwan Relations Act affirms de facto, but not de jure, relations with the government of a non-state, one which was authoritarian in the 1970s, but democratic today.

From the perspective of the American Government, there should be no doubt of the consistency of American policy. Under this President, as each of his predecessors—Presidents Nixon, Ford, Carter, Reagan, Bush and Clinton—the governing American position is the acknowledgement of the Chinese position that there is but one China of which Taiwan is a part. For United States or Taiwanese leaders to assert any other position would create an earthquake in world affairs.

The issue of Taiwan is unique but anything except abstract. It is conceivable that missteps in political judgment could, more readily than many suppose, lead to a catastrophe for Asia, the United States and the world.

The precepts of self-determination and independence may, in most political and historical contexts be conceptually almost synonymous. But these two precepts are juxtaposed on one place on the planet. Taiwan can have de facto self-determination—meaning the ability of a people to maintain a government accountable to its populace—only if it does not attempt to be recognized with de jure sovereignty by the international community. To be precise, the Taiwanese people can have self-determination as long as they do not seek independence. If they assert independence, their capacity for self-determination will collapse, with hundreds of thousands if not millions of lives becoming jeopardized. Hence, for the sake of peace and security for peoples on the island and the broader Asia-Pacific region, there is no credible option except to emphasize restraint.

Any unilateral attempt by either side to change the status quo across the Taiwan Strait is fraught with danger of the highest order.

As we make it clear to China that the United States is steadfastly committed to ensuring that the status of Taiwan not be altered by force, we also have an obligation not to entice Taiwan through ill-chosen rhetoric of “ours” on Capitol Hill or elsewhere in government into a sovereignty clash with China. Substantial Tai-

wanese self-determination can be maintained only if sovereign national abstinence is not trumpeted. The ambiguous, non-state status of Taiwan may be psychologically and aspirationally awkward for Chinese on both sides of the Taiwan Strait, but ambiguity is preferable to sovereign clarity, if the former implies peace and prosperity and the latter a ruinous war.

In this regard, there should be no doubt that Congress stands with the Administration in a common determination to fulfill our obligation under the Taiwan Relations Act. However, these obligations presuppose that Taiwanese leaders must understand the realities of mainland resolve and refrain from capricious actions that invite conflict or make constructive dialogue impossible. Just as a military effort by Beijing to unilaterally alter the status quo would necessarily precipitate an American reaction, a unilateral political effort by Taiwan to seek independence and dissolve all bonds with China would cause America's commitment under the Taiwan Relations Act to become inoperable.

Unusually but profoundly, foreign policy options for the two great powers whose inter-relationship will disproportionately determine the shape of the 21st century are constrained by discretionary statutes rather than negotiated treaties. That is why it is so imperative that we clarify our commitments and do nothing to invite decisions on Taiwan which may contribute to a societal suicide. Leaders in Taipei have heavy responsibilities to international order as well as their own people.

Beijing also has implicit obligations to world order, yet it is amazing how so-called realists in government circles and so many capitals underestimate the soft power of people-to-people and cultural relations.

While recent years have witnessed a new maturity and sophistication in many elements of Chinese foreign policy, more nuanced and pragmatic policy approaches have not generally been applied to Taiwan. For whatever reasons, perceptions of importance of the Taiwan issue to leadership legitimacy, growing Chinese nationalism, the role of the military in policymaking and internal Communist party politics, Beijing appears to be wedded to an uncompromising policy toward Taiwan, even though that approach has been demonstrably unproductive.

The passage last month by the National People's Congress of an anti-secession law, which, among other things, codifies China's threat to use force against Taiwan, is universally viewed in the island as a hostile, counterproductive act.

Instead of seeking to intimidate and isolate Taiwan, isn't it in Beijing's interest to be magnanimous toward the people of the island?

Should it not, for instance, shepherd Taiwanese membership in international organizations that do not imply sovereignty, such as helping Taiwan gain observer status in the World Health Organization?

Rather than setting deadlines for unification or continuing a counterproductive military buildup, would not Beijing be well-advised to emphasize culture and economics in its relations with Taipei?

And, on the military front, would it not be in both sides' interest to upgrade communications, widen professional exchanges and engage in confidence-building measures to reduce the likelihood of accidental conflict?

There is an assumption among students of Beijing politics that no one in or aspiring to power in China can afford to be "soft" on Taiwan. Hence, given the proclivity for independence rhetoric within the governing DPP party in Taiwan, the risk that an escalation of rhetoric could trigger an irrational confrontation is high. Likewise, mainland leadership may choose to precipitate a crisis. Singapore's leaders, who follow trends in Beijing, even suggest that China may be prepared to precipitate conflict over Taiwan in the next several years.

The greatest geo-strategic irony in world affairs is that the United States and China have a commonality of interest and are working well together to resolve or at least constrain challenges associated with North Korea, where the economics and politics of an isolated rogue regime may ultimately deteriorate to the point of potential implosion. By contrast, it is Taiwan, a severely isolated island in which economics and politics have conjoined to allow more progressive strides to take place than any place on earth over the past generation, where the greatest prospect of great power conflict may exist in Asia.

At the risk of overstatement, an alarming build-up of polarizing attitudes is occurring on both sides of the Taiwan Strait. Whether prospects of conflict are 50 percent or only 5 percent, they are too high. The human toll could be great, the rupture in trade and cultural relations devastating, causing impacts that could last decades after any conflict concluded.

In the final measure, all of us are acutely conscious that the 20th century was the bloodiest century in world history. It was marred by wars, ethnic hatreds, clashes of ideology and desire for conquest. Compounding these antagonisms have been the prideful miscalculation of various parties. Hence, it is in the vital interest of potential antagonists in the world, in this case those on each side of the Taiwan Strait, to recognize that caution must be the watchword in today's turbulent times. Political pride and philosophical passion must not blind peoples to the necessity of rational restraint. An emphasis on peaceful solutions to political differences is the only reasonable basis for future discourse between the mainland and the people of Taiwan.

Mr. Faleomavaega?

[The prepared statement of Mr. Leach follows:]

PREPARED STATEMENT OF THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC

On behalf of the Subcommittee, I would like to welcome our distinguished witnesses to our hearing today. I particularly want to thank Deputy Assistant Secretary Schriver and our panel of private experts for accommodating the change in time for our proceedings this morning.

By way of explanation, we were obligated to begin this hearing at an unusually early hour because Viktor Yushchenko, the newly elected President of Ukraine, will be speaking in a few hours before a Joint Session of Congress. In addition, I am obligated to attend a memorial service later this morning for George F. Kennan, a mentor, indeed hero, of mine. I can think of no greater public service role model.

The subject matter of our hearing this morning, relations across the Taiwan Strait and their implications for United States policy, involves a set of enormously complex and intertwined problems, the management of which is central to the preservation of peace and stability in Asia and the Pacific.

Here, it is critical to review the history both of the breakthrough in U.S.-China relations that occurred during the Nixon Administration and the philosophical aspects of American history which relate to issues of a nature similar to mainland-Taiwan divisions today.

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While anti-communist, the party of Chiang Kai-shek on Taiwan had certain organizational attributes similar to the Communist Party on the mainland. And in one circumstance of philosophical consistency, both the Kuomintang of Chiang Kai-shek and the Communist Party of Mao Zedong claimed to be the governing party of all of China, including Taiwan. Hence, the Nixon "one China" approach did not contradict the nationalist positions of the old Kuomintang or the old and new Communist Party on the mainland.

The dilemma which comes to be accentuated with the passage of time is the question of whether Taiwan can legally seek today *de jure* independence on the basis of a referendum of the people. Here, there are contrasting models in American philosophy and history as well as security concerns for all parties to a potential rupture that must be prudently thought through.

Philosophically, Americans respect Jeffersonian individual rights approaches which may implicitly countenance revolutionary societal objectives. We also respect Lincoln's concerns for national unity: a house divided, he noted from Scripture, cannot stand. It is in this context that America delivered a split judgment. The three Executive initiatives affirmed "one China" and the Taiwan Relations Act affirmed *de facto*, but not *de jure*, relations with a government of a non-state, one which was authoritarian in the 1970's but democratic today.

From the perspective of the American government, there should be no doubt of the consistency of American policy. Under this President, as each of his predecessors—Presidents Nixon, Ford, Carter, Reagan, Bush, and Clinton—the governing American position is the acknowledgment of the Chinese position that there is but one China of which Taiwan is a part. For U.S. or Taiwanese leaders to assert any other position would create an earthquake in world affairs.

The issue of Taiwan is unique but anything except abstract. It is conceivable that missteps of political judgment could, more readily than many suppose, lead to a catastrophe for Asia, the United States, and the world.

The precepts of "self-determination" and "independence" may in most political and historical contexts be conceptually almost synonymous. But these two precepts are juxtaposed on one place on the planet. Taiwan can have *de facto* self-determination—meaning the ability of a people to maintain a government accountable to its populace—only if it does not attempt to be recognized with *de jure* sovereignty by the international community. To be precise, the Taiwanese people can have self-determination as long as they do not seek independence; if they assert independence, their capacity for self-determination will collapse with hundreds of thousand if not millions of lives becoming jeopardized. Hence, for the sake of peace and security for peoples of the island and the broader Asia-Pacific region, there is no credible option except to emphasize restraint.

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In this regard, there should be no doubt that Congress stands with the Administration in a common determination to fulfill obligations under the Taiwan Relations Act. However, these obligations presuppose that Taiwanese leaders must under-

stand the realities of mainland resolve and refrain from capricious actions that invite conflict or make constructive dialogue impossible. Just as a military effort by Beijing to unilaterally alter the status quo would necessarily precipitate an American reaction, a unilateral political effort by Taiwan to seek independence and dissolve all bonds with China would cause America's commitments under the Taiwan Relations Act to become inoperable.

Unusually, but profoundly, foreign policy options for the two great powers whose interrelationship will disproportionately determine the shape of the twenty-first century are constrained by discretionary statutes rather than negotiated treaties. That is why it is so imperative that we clarify our commitments and do nothing to invite decisions on Taiwan which may contribute to a societal suicide. Leaders in Taipei have heavy responsibilities to international order as well as their own people.

Beijing also has implicit obligations to world order. Yet it is amazing how so-called realists in government circles in so many capitals underestimate the "soft power" of people-to-people and cultural relations.

While recent years have witnessed a new maturity and sophistication in many elements of Chinese foreign policy, more nuanced and pragmatic policy approaches have not generally been applied to Taiwan. For whatever reasons—perceptions of the importance of the Taiwan issue to leadership legitimacy, growing Chinese nationalism, the role of the military in policymaking and internal communist party politics—Beijing appears to be wedded to an uncompromising policy toward Taiwan, even though that approach has been demonstrably unproductive.

Passage last month by the National People's Congress of an anti-secession law, which among other things codifies China's threat to use force against Taiwan, is universally viewed on the island as a hostile, counterproductive act.

Instead of seeking to intimidate and isolate Taiwan, isn't it in Beijing's interest to be magnanimous toward the people of the island?

Shouldn't it, for instance, shepherd Taiwanese membership in international organizations that do not imply sovereignty—such as helping Taiwan gain observer status in the World Health Organization?

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And, on the military front, wouldn't it be in both side's interests to upgrade communications, widen professional exchanges, and engage in confidence building measures to reduce the likelihood of accidental conflict?

There is an assumption among students of Beijing politics that no one in or aspiring to power in China can afford to be "soft" on Taiwan. Hence, given the proclivity for independence rhetoric within the governing DPP party on Taiwan, the risk that an escalation of rhetoric could trigger an irrational confrontation is high. Likewise, mainland leadership may choose to precipitate a crisis. Singapore's leaders, who follow trends closely in Beijing, even suggest that China may be prepared to precipitate conflict over Taiwan in the next several years.

The greatest geo-strategic irony in world affairs is that the U.S. and China have a commonality of interest and are working well together to resolve or at least constrain challenges associated with North Korea where the economics and politics of an isolated, rogue regime may ultimately deteriorate to the point of potential implosion. By contrast, it is Taiwan, a severely isolated island on which economics and politics have conjoined to allow more progressive strides to take place than any place on earth over the past generation, where the greatest prospect of great power conflict may exist in Asia.

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In the final measure, all of us are acutely conscious that the 20th Century was the bloodiest century in world history. It was marred by wars, ethnic hatreds, clashes of ideology, and desire for conquest. Compounding these antagonisms has been the prideful miscalculation of various parties. Hence it is in the vital interests of potential antagonists in the world, in this case those on each side of the Taiwan Strait, to recognize that caution must be the watchword in today's turbulent times. Political pride and philosophical passion must not blind peoples to the necessity of rational restraint. An emphasis on peaceful solutions to political differences is the only reasonable basis of future discourse between the mainland and the people of Taiwan.

Mr. FALCOMA. Thank you, Mr. Chairman. Thank you for calling this hearing this morning. Not only is the subject matter timely, but certainly in the jurisdiction of the Subcommittee.

More importantly, thank you, Mr. Chairman, for your leadership and commitment to see that the Subcommittee and its Members become proactive in making sure that relevant issues that impact upon our diplomatic and strategic security interests in this important region of the world be given careful and appropriate attention.

In recent years, our Nation's policy toward Taiwan Straits has been at least consistent to the extent that we have adhered to the one-China, two-systems policy, with the expectation that China and the People's Republic of China worked out their differences. And that the question of Taiwan's future status again is a matter to be resolved peacefully between Taiwan and China.

As you are aware, Mr. Chairman, it is in only recent years that Taiwan has become a more pluralistic society, with a democratic form of Government since the passing of General Chiang Kai-shek, who ruled then Formosa Island for many years after the defeat of his army by the military forces of his arch enemy and rival, Mao Tse Tung.

It is within this newly found status as a democracy that certain top officials have advocated good or independence. There is seemingly also the idea that separation from mainland China is the best option to pursue, despite the understanding of the one-China, two-systems policy still in place, and especially as it is understood between China and our country.

I believe we should not be so presumptuous to suggest that we understand the mentality of the Chinese people and their leaders. So China passes an anti-secession law. President Chen of Taiwan suggested that a million Taiwanese should go to the streets and demonstrate against such a law, but at the same time, say nothing during the demonstration, which actually turned out to be only about 300,000 people.

But at the same time, Taiwan and China continues to conduct, as I speak, an unofficial \$100 billion trade relationship and just weeks ago allowed both their national airline carriers to operate freely between Taipei and Beijing. The Taiwan Straits issue is not as simple as some may think, Mr. Chairman. There is constant movement on events in recent pronouncements from leaders of other countries that have made the issue more complicated and certainly not easy to resolve.

Secretary Rice's recent trip to Asia reflects that. Her description of North Korea as an outpost of tyranny has not been a positive point, obviously, from the North Korean leadership. And our pressure on China to get the North Koreans to come back to the six-nation negotiation table puts China in the more difficult position to convince North Korea that it is in their best interest to do so.

Allies everywhere have decided to rescind its current policy of not selling arms to China, which we obviously objected to. And now with China passing an anti-secession law aimed at Taiwan and in no uncertain terms ruling the Taiwan leadership not able to push for separation and independence. Secretary Rice made an excellent presentation to our European allies on the consequences of their intention to sell arms to China and the potential problem that may

follow, as far as maintaining the strategic balance of power in this region of the world and the fact that it is the United States and not Europe that has defended the Pacific. It has now been a reason to our European allies to think again before selling arms to China.

But in a recent twist to all this, Mr. Chairman, appears to note from Secretary Schriver and our distinguished members of the panel of witnesses that will testify this morning, what is our justification now in our intention to conduct presumably a multi-billion dollar sales contract of United States jet fighters to Pakistan? I wonder what the reaction might be now from China, India and our European allies?

With that in mind, Mr. Chairman, the United States is not about to send another 2 million battle groups to Taiwan Straits to cause a lot of strain and tension between our two countries in recent years. I am looking forward to hearing from our Secretary Schriver and also our distinguished witnesses to hear about some of the issues that we discussed earlier today. Thank you, Mr. Chairman.

Mr. LEACH. Thank you very much. Did you have an opening statement, Mr. Ackerman?

Mr. ACKERMAN. I have a brief statement.

Mr. LEACH. Yes, please, you are recognized.

Mr. ACKERMAN. Thank you, Mr. Chairman. There can be absolutely no doubt that the intent of the anti-secession law was to create the legal justification for military attack against Taiwan. The law spelled out a range of activities which, if taken by the Taiwanese people and their democratically-elected leaders, would legally constitute secession to the Chinese mainland.

Many of these activities, such as constitutional reform and popular referenda, are the mainstay of any democracy, yet the Chinese would see them as an excuse for military attack on the 21 million freedom loving people on Taiwan. The United States fully understands Taiwan is in a very difficult bind. It is a flourishing democracy, one of the most vibrant in Asia, with freedoms of speech, the press and assembly, and intensely competitive free political parties. Yet it is claimed as a sovereign territory by the People's Republic of China, which is not a democracy, has no freedom of the press, speech, or assembly. And this neighbor now threatens to annex Taiwan by force.

Under the terms of the Taiwan Relations Act, which is the legal bedrock of our policy, the United States insists that the future of Taiwan must be determined by peaceful means. And we have stated that no action should be taken by either Taiwan or the People's Republic of China (PRC) that endangers the peace and stability that now exists across the Taiwan Strait.

During the past year, the Bush Administration cautioned Taiwan about actions which might appear to challenge this status quo. Now the PRC, through this provocative legislation, is challenging the status quo in a very big way. The State Department has previously said that this legislation is highly unhelpful. I strongly agree with that position and register my great concern over the enactment of the anti-secession law and look forward to hearing from our distinguished witnesses.

Mr. LEACH. Before turning to Secretary Schriver, let me note that there is a very high-ranking delegation of Taiwanese legisla-

tors with us today, led by C. Charles Chiang. I might ask you to stand. Also in this group is Mr. Trong-Rong Chai, Mr. Chung-mo Lin, Mr. Shui-Sheng Hou, Mr. Winston Dang, Ms. Sandy Ho Tzu Yen, Ms. Shun-Ni Hsieh, Mr. Wei-Cher Huang, Mr. Shih-Cho Huang and Mr. George K. Liu and we are honored with your presence. We appreciate your attendance. Thank you very much.

At this point, let me turn to Randall G. Schriver, who is Deputy Assistant Secretary of State for East Asian and Pacific Affairs, the United States Department of State. Mr. Schriver?

STATEMENT OF MR. RANDALL G. SCHRIVER, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Mr. SCHRIVER. Thank you. Good morning, Mr. Chairman and good morning, Congressman Faleomavaega and Congressman Ackerman and thank you for your statements. Thank you for the opportunity to appear here this morning and to discuss the anti-secession law and the impact on the cross-Strait environment.

Since the 17th of December, when the Chinese first began to publicly discuss their intention to move forward with such legislation, we have been very clear in registering our concern about these actions. We have been clear at the highest levels of our Administration, calling this an unhelpful step and a step in the wrong direction.

As an alternative, we counsel that China take advantage of other trends in the cross-Strait environment that are more positive and to try to promote peaceful steps and dialogue. To briefly review some of the major elements of our response to the anti-secession law, first of all, in January, China sent the Director of the Taiwan Affairs Office, Chen Yunlin, to Washington to explain the law to us. He had meetings that included then Deputy Secretary of State Rich Armitage and then Deputy National Security Advisor, Steve Hadley. In both those meetings, Mr. Armitage and Mr. Hadley respectively registered our strong concern and reservations about Chinese intentions.

In February, I accompanied the Senior Director for Asian Affairs of the National Security Council, Dr. Michael Green, to Beijing, where we met again with Mr. Chen Yunlin and other Chinese leaders and at that time, Dr. Green clearly stated to our Chinese interlocutors that this legislation would undermine cross-Strait stability.

In a letter to then Ambassador to the United States, Yang Jiechi, our then Under Secretary for Political Affairs, Marc Grossman, urged China to "not complicate the cross-Strait relationship and, rather than proceed with the law, to consider instead ways to resume dialogue with Taiwan."

And on the eve of the ratification vote within the NPC, our highest representative in Beijing made a very urgent demarche, urging the Chinese not to proceed with enactment of this law.

In addition to these private messages conveyed in our bilateral meetings with Chinese officials, we have also been very clear in our public statements registering concern and cautioning against any hardening of positions on either side, but in particular, the Chinese side, given their stated intent.

Beijing's leaders have claimed that this law is simply an enactment of longstanding policy. That said, we have deep concerns about this and we are particularly concerned about article 8, which makes explicit reference that China "shall employ non-peaceful means and other necessary measures to protect China's sovereignty and territorial integrity" under certain conditions. This statement, which is now, of course, codified in law, about non-peaceful response, raises questions and concerns about how China may respond to perceived provocations from the Taiwan side. And given the very aggressive military buildup opposite Taiwan and, in particular, the massive numbers of short-range ballistic missiles deployed and aimed at Taiwan, we have cause to register strong concern.

This legislation does run counter to some concurrent positive trends in the cross-Strait environment. These include the temporary resumption of direct charter flights across the Strait during the Chinese New Year period. Also, the Chinese decision to send a delegation to a memorial service for Mr. Ku Chen-foo. We regarded these as positive steps and we encourage such steps, and we welcome any measures that promote confidence and trust.

We have also seen some statements by China's senior leaders which appear designed to create room for political maneuver for both sides. However, this law, and particularly article 8 that I mentioned, is certainly not in the spirit of those statements and the other trends that we have seen unfold.

Upon the passage of the legislation and when we finally had the opportunity to review the actual text, we were unequivocal in expressing our concern. Our spokesman, Assistant Secretary Boucher, stated that the law was "unfortunate and did not serve the cause of peace and stability in the Taiwan Strait." And he reiterated our opposition to any attempt to determine the future of Taiwan by anything other than peaceful means.

At the White House, our spokesman there, Scott McClellan, said, "We don't want to see any unilateral attempt that would increase tensions in the region." And he went on to point out that, according to the Taiwan Relations Act, any effort to determine the future of Taiwan by anything other than peaceful means, is viewed by the United States as a threat to peace and security in the region.

And Secretary Rice, during her recent travels to Beijing, underscored our public disappointment that China had taken this unhelpful step and noted that it had raised tensions. And she called on Beijing to take positive steps to reassure Taiwan of its desire to engage in a peaceful dialogue.

In our view, the Chinese Government did have other options and they could have chosen another path and not proceeded with this legislation in the NPC. Despite the very best efforts of our Administration, despite the strong expressions of concern among Members of Congress and in the international press, they did proceed, of course, with enactment of this law. Passage of the legislation has undermined rather than raised confidence and trust across the Strait. It is a unilateral measure that has soured the atmosphere in the Taiwan Strait and, as Secretary Rice stated, "We are not pleased when either side does anything to change the status quo

or to increase tensions,” and it is in that context that we commented on the anti-secession law.

The Taiwan public and the Taiwan authorities have understandably focused on the legislation’s provisions for the use of non-peaceful means. We certainly understand and note Taiwan’s concerns. Nonetheless, we want both sides to seek affirmative means to rebuild trust. No one would be well served at this juncture by an enactment, reaction cycle that could lead to an increase in tensions.

Although the passage of this law is, of course, a new challenge for us in trying to manage the cross-Strait environment in our efforts to promote a peaceful resolution, we do not feel that it requires a major shift in our longstanding policy that you noted in your statement, Mr. Chairman. We oppose any unilateral attempts by either side to change the status quo, particularly with respect to the use of force. And we abide by our commitments under the joint communiqués and the Taiwan Relations Act. We continue to urge both sides to seek all opportunities for dialogue to contribute to a peaceful resolution of their differences and we also continue to make explicit our fundamental opposition to China’s acquisition of military capabilities and deployments targeted against Taiwan.

Thank you again, Mr. Chairman, and Congressman Faleomavaega and Ackerman, and I look forward to any questions you may have.

[The prepared statement of Mr. Schriver follows:]

PREPARED STATEMENT OF MR. RANDALL G. SCHRIVER, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Thank you Mr. Chairman for the opportunity to appear before you and other members of the Committee today to address the recent passage of anti-secession legislation by the National People’s Congress of the People’s Republic of China and its impact on cross-Strait and U.S.-China relations.

Since December 17 last year, when the Chinese began publicly discussing the likelihood that the legislation would be brought to the National People’s Congress for consideration at its annual March session, we have been very clear, including at the highest levels of the Administration—Secretary Rice and former Secretary Powell—that we believed such legislation would be unhelpful, and a step in the wrong direction. Instead, we have counseled taking advantage of warming trends in the cross-Strait relationship to further peaceful dialogue that would be in the interests of the people on both sides of the Strait.

Let me be a bit more specific about our efforts to let China know our views of the legislation:

- In January, former Deputy Secretary Armitage and then Deputy National Security Advisor Stephen Hadley met with State Council Taiwan Affairs Office Director Chen Yunlin, who was in Washington to convey China’s intentions with regard to the anti-secession Act, and expressed our reservations.
- In a February visit to Beijing, National Security Council Senior Director for Asian Affairs Michael Green told senior Chinese leaders that passage of the legislation would undermine cross-Strait stability.
- In a letter to former Chinese Ambassador Yang Jiechi, former Under Secretary for Political Affairs Marc Grossman urged China not to complicate the cross-Strait relationship and, rather than proceed with the law, to consider instead ways to resume dialogue with Taiwan.
- On the eve of the ratification vote by the National People’s Congress, the Charge at our Embassy in Beijing urged China not to pass the legislation.
- In our public statements as well we have also cautioned against any hardening of positions and urged instead that the two sides look to resume their dialogue.

While Beijing's leaders claim the law simply restates China's long-standing policy, we are deeply concerned about Article 8 of the legislation which states : "In the event that the 'Taiwan independence' secessionist forces should act under any name or by any means to cause the fact of Taiwan's secession from China, or that major incidents entailing Taiwan's secession from China should occur, or that possibilities for a peaceful reunification should be completely exhausted, the state shall employ non-peaceful means and other necessary measures to protect China's sovereignty and territorial integrity."

This statement, now codified in law, about a non-peaceful response raises additional questions regarding how China will respond to what it perceives as ongoing efforts in Taiwan to define itself with a separate identity, including steps that fall short of declaring de jure independence. Given the aggressive military build-up opposite Taiwan—particularly the deployment of massive numbers of short-range ballistic missiles—we have cause to register strong concern.

As I said, passage of the legislation clearly runs counter to concurrent positive trends in cross-Strait relations including the temporary implementation of direct charter flights, for the first time since 1949, between Taiwan and the mainland during Chinese New Year, and the mainland delegation that traveled to Taiwan for the funeral of former Straits Exchange Foundation Chairman Ku Chen-foo. We strongly encourage such steps and welcome any measures that promote greater confidence such as the above mentioned cross-Strait contacts and discussions.

We have been encouraged by some statements made by China's senior-most leaders that appear designed to allow room for maneuver on both sides. However, some elements of the law, particularly Article 8, are not in the spirit of these more hopeful signs.

Consequently, upon the passage of the legislation and on our finally having an opportunity to review the actual text passed by the NPC, we were unequivocal in our expression of concern.

- Assistant Secretary Boucher made clear that the law was unfortunate, did not serve the cause of peace and stability in the Taiwan Strait and he reiterated our opposition to any attempt to determine the future of Taiwan by other than peaceful means.
- At the White House, press spokesman Scott McClellan said that "we don't want to see a unilateral attempt that would increase tensions in the region" and pointed out that according to the Taiwan Relations Act any effort to determine the future of Taiwan by other than peaceful means is viewed by the U.S. as a threat to peace and security in the region.
- Secretary Rice, traveling to Beijing shortly after the legislation was passed, underscored our public disappointment that China had taken this unhelpful step, noted that it had raised tensions, and called on Beijing to take positive steps to reassure Taiwan of its desire to engage in peaceful dialogue.

In our view, the Chinese government clearly had options other than moving this legislation to the NPC for consideration. But it would seem that a combination of domestic political factors, an approval process too far advanced to allow the leadership to pull it back, and an urgency about the direction of a democratic Taiwan would take in the next few years led to the law's passage.

That's the situation we have to deal with now, despite the very best efforts of the Administration and the concerns that have been expressed by members of Congress in resolutions and by the American press.

Passage of the legislation has undermined, rather than raised, confidence and trust across the Strait. We continue to be concerned about an unhelpful cycle of action and reaction. The Taiwan public and Taiwan authorities have understandably focused on the legislation's provisions for the use of non-peaceful means. Statements by Taiwan leaders equating the legislation to a unilateral change of the status quo and the March 26 demonstration in Taipei reflect the perception by both Taiwan authorities and private citizens that the law does not serve the interests of the Taiwan people. We note those concerns, but urge both sides to exercise restraint and seek affirmative means to rebuild trust.

Although passage of the "anti-secession" law has brought a new challenge to our efforts to promote a peaceful resolution to cross-Strait differences, we do not believe it requires a shift in our approach to the issue.

- We remain committed to our longstanding one China policy, which has helped both sides to prosper and contributes to the peace. We are making clear that we do not support Taiwan independence, oppose unilateral changes by either side to the status quo—particularly with respect to the use of force—and

abide by our commitments under the joint communiqués and the Taiwan Relations Act.

- We continue to urge both sides to seek all opportunities for dialogue that contribute to a peaceful resolution of cross-Strait differences.
- And we will also continue to make explicit our fundamental opposition to China's acquisition of military capabilities and deployments targeted against Taiwan.

Thank you Mr. Chairman. I would be happy to answer any questions you or the Committee may have.

Mr. LEACH. Thank you, Mr. Secretary. Let me stress that I am in full agreement with the thrust of your comments and I think they are thoughtful in balance. I think what Mr. Faleomavaega and Mr. Ackerman mentioned on Taiwan reflect very much the feelings of many of us on the Hill.

Let me ask you from a perspective less of precision of events, but from the temper of the times, what you sense in Beijing as attitudes on this issue? Is there any sense that there is exclusively an attitude of hardening or is there any sense that there can be a more reasonable flexibility in Beijing today?

Mr. SCHRIEVER. Thank you, Mr. Chairman. As I mentioned, this decision to proceed with the law did come at a time when there were other actions taken that were more positive. The charter flights and the visit to the Ku Chen-foo memorial. I think at this juncture, Beijing is beginning to understand—if they have not fully understood already—that the decision to proceed with the law was a mistake. And that there is some burden on them now to try to improve the environment and improve the atmosphere.

We believe there is some consideration to steps that they could take to do so. Their traditional routes include courting the business community in Taiwan. We have seen them reach out to the opposition party, of course, and I think there are complications associated with that in terms of how that plays into Taiwan's domestic politics. But, nonetheless, it is a step in the direction of dialogue which, on the margins, is better than no dialogue.

So I think there is some thinking in leadership circles in Beijing as to what positive elements of a cross-Strait policy could look like. But I would add, just in closing, these remarks: That is drowned out by the very negative action of this law and by other statements from leaders in Beijing and by the very aggressive military posture that they have continued to take opposite Taiwan. So much more work needs to be done on the positive side of the ledger.

Mr. LEACH. *The Economist*, which is a very respected publication, has suggested that we have a fast evolving situation on Taiwan psychologically, in terms of the ways that people are identifying themselves with their island. And then China, economically, as well as a hardening politically, that could lead to attitudinal ruptures of a profound nature. Do you agree with this assessment or do you think that there is a steady pragmatism that can become the order of the day?

Mr. SCHRIEVER. Thank you. It is a difficult question, because I think there are different views and different ways that people identify themselves, think of themselves within Taiwan. But I think the trend line of a separate identity among the people of Taiwan and desire for some separate status is a trend line that is unfolding for quite some time and, I think, will be a permanent feature of do-

mestic politics in Taiwan and, of course, that plays out into the international arena as well.

So I think this will be a complicating factor in how the cross-Strait environment is managed for the foreseeable future. The counter trends are the growing economic ties and the commercial relations which continue to grow at very robust rates. The trade across the Strait continues to go in a positive direction and the interrelations between members of the commercial communities are stronger and stronger.

So I think when we look at the environment, it can be a complicated picture. There are trends that suggest we have complications and challenges such as the one you mentioned, sir, but also other trends that suggest there are opportunities if seized upon by the political leadership on both sides. And that requires the political will, but there are opportunities, nonetheless, to try to be on a more positive path and exploit things like the commercial contacts for the betterment of the political environment.

Mr. LEACH. Let me just ask one concluding assessment and let me ask if I am not defining Administration policy. It is my view that this Administration is consistent with past Administrations since President Nixon in upholding the precept that we do not want any change in the status of Taiwan, based on threat or use of force. Likewise, this Administration is not encouraging an independence move on Taiwan, is that correct?

Mr. SCHRIVER. Yes, sir.

Mr. LEACH. Thank you. Mr. Faleomavaega?

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman. Thank you, Secretary Schriver. You mentioned earlier that the People's Republic of China should have used other options. Could you elaborate a little bit in terms of what those options may be?

Mr. SCHRIVER. Yes, sir, thank you. I think what Beijing has lacked in its approach to Taiwan is a more positive agenda that could, in fact, make the right kind of impression on the 24 million of Taiwan. I think the face of China to too many people on Taiwan is harsh rhetoric, missiles, military posture, aggressive military posture. And what Beijing has lacked is the positive agenda.

I did mention a couple of the steps in my statement, the charter flights, the visit to the Ku memorial. There are a number of things we could imagine Beijing could do to try to make the right kind of impression on the people of Taiwan. I will mention one. We would like to see Beijing take a more compassionate view of Taiwan's interest in observorship in the World Health Organization. We think that Taiwan and the people of Taiwan deserve to be beneficiaries of the work of the WHO. We believe that Taiwan's medical and scientific communities could make contributions to the WHO. We have supported for quite some time Taiwan's observorship in that organization and we, along with other friends, have been unsuccessful in our attempt to promote Taiwan's candidacy, primarily because of Beijing's aggressive lobbying against Taiwan. I think this would be an excellent time for Beijing to try to facilitate some meaningful participation in the WHO for Taiwan. That is just one step, but you could imagine a whole range of things that could create a more positive impression among the people in Taiwan.

Mr. FALEOMAVAEGA. You mentioned that Taiwan is to be affiliated with WHO in the other aspects such as Taiwan's need to be a member of this international Civil Aviation Organization that provides for aircraft safety and travels in airports. And I sincerely hope that the State Department is pursuing that.

Mr. SCHRIVER. Yes, sir.

Mr. FALEOMAVAEGA. Our friends from Taiwan have given me indication that they really would appreciate any support from our country in doing that.

Do you think that perhaps the connection for this whole anti-secession law had anything to do with China's own political movements in terms of the newly-elected President, the Premier that now have consolidated their leadership roles, that this anti-secession law may have had some connection to China's own political developments within itself?

Mr. SCHRIVER. Yes, sir. I think that is a very reasonable theory. It is always difficult to speculate on what happens inside a political system that still remains very opaque to outside observers, but I think there probably was some pressure on the new leadership to do something, demonstrate leadership on an issue that is important and the issue of Taiwan is within their domestic circles. This certainly has the appearance of an attempt to do that.

Mr. FALEOMAVAEGA. You indicated also that we have a fundamental concerted opposition to China's recent military buildup in recent years. How does China's military buildup compare to Japan's military buildup? Can you provide for the record in terms of the budgetary allocations that these countries now have? Because I understand Japan is one of the highest budgetary allocations given for its defense system. Of course, if I were Chinese, I would be very concerned, too. So we are concerned about Chinese buildup, military buildup. Chinese are concerned about Japanese buildup, so how do we justify ourselves in telling China not to do this if it is okay with other countries to do otherwise?

Mr. SCHRIVER. Sir, while we can make the data available for the record, I would make just one brief comment. Japan is an important and strong ally of the United States and through its own constitution and its own policies, it is more oriented toward the self-defense of Japan.

China, on the other hand, while we have never questioned their desire or their right to arm themselves for self-defense, has adopted a very aggressive posture toward Taiwan, has never renounced the use of force and, worse than that, has used harsh rhetoric in this anti-secession law. So it is the combination of the military buildup and what is their own stated intent to preserve a military option over the democratic people of Taiwan that concerns us.

Mr. FALEOMAVAEGA. As it is our concern about providing regional stability of the region, both in Southeast Asia as well as South Asia, could you tell us, I am curious, how we are able to tell the Europeans not to sell arms to China, and yet, just within the last week and a half, we are about to provide a multi-billion dollar contract to sell jet fighter planes to Pakistan? Is that going to provide stability in the region? I just want to get a sense of consistency from the Administration.

Mr. SCHRIVER. Sir.

Mr. FALÉOMAVAEGA. How we justify telling others not to do it and yet, on the left hand, we are doing just the opposite? It seems to me that we are giving Pakistan just the trigger that will cause a lot of instability, in my humble opinion, in this region. So can you give us a comparison of what our policy is and why we are telling others not to do one thing and yet we are doing it on the other hand?

Mr. SCHRIVER. Well, let me first say the region of South Asia does fall outside my purview. So let me give a partial answer to a very good question and that is why we were concerned so much about the European consideration of lifting the embargo. Because its regional stability is certainly one factor that we looked at, but we remain very concerned about the human rights situation in China. The embargo was put in place after the crackdown in Tienanman Square in 1989. China has not made sufficient progress in the area of human rights to merit this kind of step in our view on the part of the Europeans or anyone else.

In fact, their recent performance indicates that they have in no way addressed those events in 1989. They are still imprisoning people who come out publicly about Tienanman Square. On the 15th anniversary of the Tienanman crackdown, they detained and locked up Tienanman mothers who were simply seeking an accounting of their children who were killed in the incident. So it is regional stability. It is also human rights. It is also a very poor record on proliferation—perhaps improving, we hope—but a poor record on proliferation among the Chinese.

So I take your point on regional stability, but I would only add that there are other factors that we presented to the Europeans and we felt made a very compelling case for them.

Mr. FALÉOMAVAEGA. I appreciate your comment on human rights and even though not related, I am very concerned about the human rights of the West Papuan people in Indonesia. Thank you, Mr. Chairman.

Mr. LEACH. Thank you, sir. Mr. Ackerman?

Mr. ACKERMAN. Thank you, Mr. Chairman. Early in his first Presidency, President Bush, instead of reiterating what has been and remains United States policy, that we will do what is necessary to provide for the defense of Taiwan, mismassaged that policy and stated with a different nuance, unfortunately, that we will do everything necessary to provide for the defense of Taiwan.

Did that misstatement embolden the Taiwanese to advance their desire to proceed along with the natural progression of how democracies usually progress, and that is, revise and amend their Constitution and do all those things that real democracies are genuinely entitled to do?

Mr. SCHRIVER. Thank you. That is, perhaps, a matter of some debate. I suspect that the decisions that are made on Taiwan are made not out of a reflection on what the United States is saying about their domestic politics, but they are made as a result of internal debate and very intense debate on such issues as constitutional reform and how to continue to perfect Taiwan's democracy.

The question of United States commitment to Taiwan and our support for Taiwan, I think, has never been in question. You correctly point out that the President had a different formulation from

the traditional formulation at that time, but the fundamental commitment has always been there and, I think, understood in Taiwan.

So I think the decisions on constitutional reform and other measures to assure the strength of Taiwan's democracy are less to do with what we say and more to do with what people in Taiwan genuinely feel and the outcome of their own internal debates.

Mr. ACKERMAN. In your judgment, but pro-independent steps that Taipei might take would cross the red lines that Beijing has set?

Mr. SCHRIVER. That is a question I cannot answer. Beijing has the ability to set their own red lines for themselves and sometimes that is opaque to us. One of the things we are concerned about with this law in article 8 is they started to be more explicit about some of the kinds of things that might lead them to employ non-peaceful means.

But this is subject to the interpretation in Beijing, behind closed doors among leaders, and it is difficult for us to speculate. We are much better off if the two sides are talking to one another and then there is an understanding between the two of them as to what kind of behaviors contribute to peace and what kind of behaviors are of concern, rather than for outside parties to try to pin that on Beijing.

Mr. ACKERMAN. I would assume that if Taiwan out and out declared its independence, that would be the most provocative step.

Mr. SCHRIVER. Traditionally, Beijing has talked about certain conditions in which they would use force. They made it explicit in their law, as well, and that is certainly a condition that they have identified.

Mr. ACKERMAN. In article 8 of the anti-secession law, does that also include changing the name of Taiwan?

Mr. SCHRIVER. It is less specific on that, but there is catchall language about any measures which move in the direction—I do not have it in front of me, so please do not take this as an exact quote. But very broad language about any steps or measures that move in the direction of independence. So there is a catchall that I think would give Beijing the latitude to interpret the main change in that matter if they chose to do so.

Mr. ACKERMAN. In article 9, they take great pains to specifically say that if they were required to invade Taiwan, that they would attempt to keep civilian casualties to a minimum. That is pretty provocative and basically totally unnecessary to state that, unless you were trying to impress somebody as to the seriousness of your intent, should you feel that you were going to take such action.

Some people would read that as to underscore the warning and others might read it as to just give additional voice to a bellicose situation. How do we read that?

Mr. SCHRIVER. Well, Beijing has always, in their public statements, gone to lengths to say that there are compatriots change, compatriots on Taiwan and those that support the reunification and those are their sort of natural allies and compatriots. And then there are those that are splitist and troublemakers, who have other views about Taiwan's future.

And they address this bifurcation in policy ways through a number of means. I think this legislation is probably trying to make

that kind of statement. But I will add, my understanding of the PLA deployments opposite Taiwan, particularly with the heavy emphasis on short-range ballistic missiles, it is very difficult to imagine being able to minimize civilian casualties or being able to discriminate against those loyal compatriots and others on Taiwan. It is almost like they were expecting different people to wear different uniforms on Taiwan the day that they might decide to do something, so they know who are the people who are friendly to them and who are not. You do not have to answer that.

To what extent does Beijing either implicitly or explicitly link its cooperation with the United States on North Korea with Washington's posture toward Taiwan?

Mr. SCHRIVER. In our official communications with Beijing leaders, they have never drawn an explicit linkage. And, in fact, our belief is that they have very strong interests in seeing North Korea, the nuclear issue, resolved there for their own reasons and have an interest in seeing a nuclear-free peninsula. We have heard speculation among Chinese academics and non-officials that perhaps Beijing should consider the leverage that may come from their cooperation on North Korea to try to promote a different set of actions or policies from the United States on Taiwan. We have not seen it in the official channels at all.

Mr. ACKERMAN. Thank you very much. I thank the Chairman for his generosity with the time.

Mr. LEACH. Well, thank you, Mr. Ackerman. Your great Chairmanship was one I appreciated serving under.

Mr. ACKERMAN. It is a mutual admiration society, I assure you, although I appreciated the former much more. [Laughter.]

Mr. LEACH. Let me assert, the only part of that observation I would like to make, I think, on the Taiwan issue: The Administration is proceeding quite thoughtfully and impressively in concert with past Administrations, so there is great consistency and likewise on this Committee on this issue, I think there is a great consistency.

Mr. ACKERMAN. I would concur with that, certainly, Mr. Chairman.

Mr. FALEOMAVAEGA. Would the Chairman yield?

Mr. LEACH. Yes.

Mr. FALEOMAVAEGA. I would also suggest that perhaps if our leaders would stop making any more name calling, it might be helpful in that cultural realm of misunderstandings and a mutual friendship that could be better created. Thank you, Mr. Chairman.

Mr. LEACH. Mr. Rohrabacher?

Mr. ROHRABACHER. Well, not being at all interested in having a cultural understanding with a bunch of gangsters who are threatening to kill innocent human beings on Taiwan, I guess I will just have to resort to name calling.

What we got out of this is the Administration has made it clear through this testimony today that the United States will militarily defend Taiwan if it is attacked militarily by the Government on the mainland?

Mr. SCHRIVER. Sir, we will obviously stand by the Taiwan Relations Act and the military commitments that are addressed in the act, absolutely.

Mr. ROHRABACHER. All right. If Taiwan were to be attacked and missiles were to be launched, it would not be just a military response, but there would be a huge economic consequence to this, would there not be?

Mr. SCHRIVER. Obviously, it would depend on the scenario, but it is hard to imagine a military response that would not result in severe economic repercussions for China.

Mr. ROHRABACHER. Yes. So Beijing should fully understand that if military force is used, they are facing military force in response and that they are also pushing the economic doomsday button for their whole economic prosperity?

Mr. SCHRIVER. I think a military move against Taiwan would come at tremendous cost for China, including economic costs, and their status in the international community, which I think they have worked hard to promote over the last couple of decades, I think they would risk near pariah status if they took aggressive action against Taiwan.

Mr. ROHRABACHER. Right, well, let us note that those of us who have a feel about what is going on in Congress would suggest that if military force is used by the unelected Government in Beijing against the democratic people of Taiwan, that there would be a huge economic backlash or counterattack that would be sanctioned by votes of this Congress. There would be a huge economic price to pay that would destabilize all of the mainland, so they would not be just attacking Taiwan, they would be attacking their own country in a big way.

Do we in any way expect the people of Taiwan, who have elected their free Government, to follow edicts issued by the Government in Beijing?

Mr. SCHRIVER. Well, I think the response to the anti-secession law is a good example, where it was universally received negatively by all parties. People took to the streets in large numbers on March 26th and people voiced their views on this very clearly. So I expect that the people of Taiwan will be more interested in what their leadership and what their elected legislature will have to say on these matters.

Mr. ROHRABACHER. But the United States is not suggesting that the people of Taiwan have any responsibility to follow an edict that is issued to direct their actions, if that edict is issued in Beijing and not by their own elected representatives?

Mr. SCHRIVER. We are more interested in what the President of Taiwan and what the legislature there have to say on these matters.

Mr. ROHRABACHER. Well, so Beijing should understand that it can issue all of its edicts and it can talk about anti-secession laws all they want, but they are free to follow those laws themselves, but they cannot expect us to seriously think that the people of Taiwan or the people anywhere else in the world have to follow their dictates.

If that is the case, is not declaring independence on the part of Taiwan nothing more than ink on a piece of paper or sound flowing through the air? Is it not the fact that the people of Taiwan are already acting as an independent entity?

Mr. SCHRIVER. There is certainly a de facto status in Taiwan. They are self governing. They are a free people, a democracy, a free economy, free press, free religion, etc. There is certainly a de facto status that the people of Taiwan should be proud of and that we support in the United States and we are proud of what they have accomplished.

Mr. ROHRABACHER. Right.

Mr. SCHRIVER. There are political implications, of course, of the formal de jure declaration of independence and that is why the President and the Secretary and others have said we do not support the formal independence of Taiwan.

Mr. ROHRABACHER. Well, declaring something and making it other than—if all we are talking about is writing pieces of paper that say certain words or say things that send sounds through the air as compared to setting up a policy in which people must base their actions on edicts or decisions or laws that are passed on the mainland, I would say that there is no doubt in my mind that Taiwan is already independent and I do not know what the big hoopla is all about.

I mean all we are talking about is what is going to be on a piece of paper, not the way people live their lives. And I would hate to think that the Government of Beijing, which is a non-elected Government run by people who are willing to suppress their opposition and throw Christians and felon gung members in jail, even when they are being raped and brutalized, not to step in to have a humane standard of activity there, that these same individuals have to understand that the people of Taiwan are not taking their orders now and are not going to take their orders in the future. And that instead, the people on the mainland should be pushing for democracy there, rather than trying to have the Beijing Government push the people of Taiwan into subjugation. Thank you very much, Mr. Chairman.

Mr. LEACH. Well, thank you very much. We are finished with questions. Do you have any closing comments you would like to make, Secretary Schriver?

Mr. SCHRIVER. No, sir. Thank you again for the opportunity to talk about these issues this morning.

Mr. LEACH. Well, thank you, sir. We appreciate your service.

Our next panel will be Dr. Shelley Rigger, who is the Brown Associate Professor of East Asian Politics, Department of Political Science, Davidson College; Dr. Thomas J. Christensen, who is Professor of Political and International Affairs at Princeton University; and Mr. John J. Tkacik, Jr., who is a Research Fellow in China Policy at the Asian Studies Center of the Heritage Foundation.

We will hold a minute for the sounds to cease. We will begin with you, Dr. Rigger. Let me say first, without objection, all of your testimony will be placed fully in the record. You may proceed informally or formally. If possible, we would like to limit statements to 5 minutes. Dr. Rigger.

STATEMENT OF SHELLEY RIGGER, PH.D., BROWN ASSOCIATE PROFESSOR OF EAST ASIAN POLITICS, DEPARTMENT OF POLITICAL SCIENCE, DAVIDSON COLLEGE

Ms. RIGGER. Thank you very much. It is——

Mr. LEACH. Excuse me, if I could ask you to pull the microphone a bit closer?

Ms. RIGGER. Now it is activated. That should work better.

Mr. LEACH. Thank you.

Ms. RIGGER. Thanks. It is a great honor and pleasure to be here. As a number of speakers have already pointed out, just a few weeks ago relations between Taipei and Beijing seemed to be improving, with direct flights and a number of other positive developments. And therefore it was doubly disappointing when cross-Strait relations took this sharp turn for the worse in March, with the passage of the anti-secession law. As I think also has been pointed out very successfully in the first panel, the destructive consequences of the law are obvious, but I do not think that the anti-secession law necessarily will signal a return of cross-Strait tension. If the two sides handle the issue wisely, it may be possible to set aside this unhappy episode and move forward in a more positive and constructive direction.

Still, reactions to the anti-secession law make it hard to avoid the judgment which also has been set forth already that the passage of this law was counterproductive. In Taiwan, it unified the public and political leaders across the spectrum in opposition to Beijing. On March 26th, hundreds of thousands of Taiwanese demonstrated for peace and against the law and pretty much all of Taiwan's political leaders have spoken out against the law.

So the anti-secession law, I think ultimately in Taiwan, fuels the perception that the PRC is hostile to the Government and to the people of Taiwan. And this will make it harder than ever for political leaders there to argue in favor of trusting Beijing and moving toward better cross-Strait relations, much less political unification.

Given that the anti-secession law damaged relations between Beijing and Taipei and also between Beijing and Washington and Beijing and Brussels, one might well ask why did the PRC take this action? And I think there are three reasons and I am going to allude to two quickly and then go into more detail on the third one, since that is my area of expertise.

The first reason for Beijing's decision to proceed with the anti-secession law was international politics. The anti-secession law underscores Beijing's determination to prevent Taiwan from giving up on unification. And it puts the international community on notice that any country that encourages Taiwan to pursue a more independent course is taking a heavy risk.

The second reason for the anti-secession law is PRC domestic politics. Hu Jintao, Wen Jiabao, and other CCP leaders, see the anti-secession law as a way to demonstrate to the Chinese people and to their colleagues in the leadership of the Communist Party that this generation of leaders will take a hard line on Taiwan.

The third reason for passing the anti-secession law was to send a message to Taiwan. And I think the message that was intended was a message of intimidation. Chinese leaders feel a need to intensify the pressure on Taiwan, both for long term and for short term reasons. In the long run, there is a perception in mainland China that Taiwan is moving away and the chances of unification are becoming slimmer all the time.

President Chen Shui-bian's re-election in March, 2004 quashed Beijing's hope that his victory in 2000 was merely a fluke and did not necessarily represent a sort of irreversible trend in Taiwan's public opinion.

Then, more recently, the retreat from a strong pro-unification stance by the conservative parties in Taiwan, the Kuomintang and the People First Party, reinforced Beijing's anxiety about where public opinion and state policy are headed. This anxiety, I think, to some extent is justified. Taiwan residents' desire for unification is at a very low ebb. Surveys consistently show that fewer than 5 percent of Taiwanese support immediate unification, but an even more worrying trend for Beijing is declining support for unification even in the distant future, a position that is now embraced by about 10 percent of Taiwanese.

But this is not to say that a conflict between Taiwan and the PRC is inevitable. Most Taiwanese are actually agnostic on the question of the island's long term future and ultimate relationship with mainland China. The percentage supporting independence in the short term is only a few percentage points higher than the percentage who support unification immediately, and only about 20 percent say they want independence in the long run. So most people in Taiwan are still open to a variety of possibilities in terms of the long term outcome.

However, Beijing's repeated threats against Taiwan are eroding support for eventual unification and support for improved cross-Strait relations. In the short run, I think Beijing's leaders were motivated by concern that the December legislative elections in Taiwan would give President Chen a legislative majority to implement his platform, which Chinese Communist Party leaders firmly believe is a platform that would ideally move Taiwan quickly toward formal independence. So the timing of the anti-secession law is best explained by Beijing's desire to have a weapon in place to use to prevent Chen from moving toward Taiwan independence, assuming he had gotten a legislative majority.

But Beijing's prediction turned out to be wrong. Not only did President Chen not get a majority, his opponents managed to hold onto their majority in the legislature. So instead of freeing Chen to act on his alleged radical ideas, which was what Beijing was worried about, the election actually forced President Chen to enter into a dialogue with his opponent. Chen's behavior immediately after the election—including reaching out to James Soong, the leader of one of the opposition parties, and appointing a moderate from within his own party, the Democratic Progressive Party, Frank Hsieh, as Premier—suggests that Chen interpreted the election result as a rejection of political polarization and antagonism, both in the domestic round and in cross-Strait relations.

So in view of these developments, the passage of the anti-secession law seems especially unnecessary and harmful. But the anti-secession law need not be the beginning of the end in cross-Strait relations. If Taiwan's Government handles this issue skillfully—and to date, I think it has—the law could become an opportunity to strengthen relations with the PRC. The key will be for Taiwan's leaders to resist the temptation to retaliate, while at the same time allowing Taiwan's citizens to vent their emotions of fear, anger and

injured pride. Resisting that temptation will require Taiwan's politicians to forego an opportunity to use the anti-secession law to drum up political support, so it is a good thing there is not another major election in Taiwan for another several years.

A second cause for cautious optimism, in my view, is the possibility that leaders in Beijing may be using the anti-secession law to pacify hardliners in their own Government in the hope of opening a space for a more relaxed approach to dialogue in negotiation with Taiwan. If the law buys the acquiescence of China's hardliners in a more relaxed strategy for cross-Strait dialogue, it could end up being the groundwork for a new dialogue in the Taiwan Strait. Thank you.

[The prepared statement of Ms. Rigger follows:]

PREPARED STATEMENT OF SHELLEY RIGGER, PH.D., BROWN ASSOCIATE PROFESSOR OF EAST ASIAN POLITICS, DEPARTMENT OF POLITICAL SCIENCE, DAVIDSON COLLEGE

Just a few weeks ago, in February 2005, relations between Taipei and Beijing seemed to be improving rapidly. China-watchers in the US saw evidence of progress unmatched since the early 1990s. Direct flights across the Taiwan Strait during the Chinese New Year holiday were the most visible of a number of positive developments in the Taiwan Strait. Other important events included the attendance of officials from the People's Republic of China at the funeral of Taiwan's long-time cross-strait negotiator, Koo Chen-fu, and a joint statement issued by Taiwan's president, Chen Shui-bian, and a leading pro-unification politician, James Soong (Soong Chu-yu), in which Chen reiterated a promise to eschew moves toward formal independence. Given these encouraging signs, observers in the US were disappointed when cross-strait relations took a sharp turn for the worse in March, after China's National People's Congress passed an anti-secession law aimed at Taiwan.

The destructive consequences of the anti-secession law are obvious; however, the law need not signal a permanent return of cross-strait tensions. Although signs of improvement may be hard to see in the next few weeks, especially given the strong emotions the law has unleashed in Taiwan, if the two sides handle the issue wisely, it may be possible to set aside this unhappy episode and move relations in a more positive direction. As of early April, there is some evidence to suggest that both sides will, in fact, strive to transcend the damage wrought by the anti-secession law and return to a more positive mode of interaction.

The reactions the anti-secession law has provoked outside the People's Republic of China make it hard to avoid the judgment that the law was counterproductive:

- In Taiwan, it has unified the public and political leaders in opposition to Beijing. On March 26, hundreds of thousands of Taiwanese demonstrated for peace and against the law—including many who had never participated in such protests before. All of Taiwan's leading politicians have criticized the law. In the long run, the anti-secession law will fuel the perception that China is hostile to Taiwan, which may make it harder than ever for leaders to argue in favor of trusting Beijing and moving toward better cross-strait relations—much less unification.
- In the US, the anti-secession law undermined Beijing's claim that it is Taiwan—not the PRC—that seeks to change unilaterally the status quo in the Strait.
- Even in Europe, where defending Taiwan has less political currency than in the US, the anti-secession law turned an almost-certain PRC victory into an embarrassing defeat. Before the law was passed, the European Union was poised to lift its arms sales embargo—in place since the Tiananmen Crisis of 1989—and begin allowing European weapons sales to the PRC. But the anti-secession law played into the hands of the embargo's defenders, who wondered how the EU could justify arming a country that was openly threatening to initiate military conflict against a neighbor. At least for the moment, opponents of weapons sales have won the day; further discussion of lifting the embargo has been postponed.

Given that the anti-secession law has damaged Beijing's relations with Taipei, the Washington and Brussels, one might well ask, why did the PRC take this action?

US analysts have suggested a number of explanations, each of which probably contributed to PRC leaders' decision to some degree:

- International politics: The anti-secession law underscores Beijing's determination to prevent Taiwan from giving up on unification entirely. In so doing, it indicates to the international community that any countries that encourage Taiwan to pursue a more independent course are taking a heavy risk. The world is put on notice that any government that assists Taiwan in improving its international status is encouraging a dangerous trend. Beijing also hopes that by using a legalistic process to signal its intentions, foreign governments—many of which have been urging China to pay more attention to law—will be compelled to respect its position.
- PRC domestic politics: Hu Jintao, Wen Jiabao and other top leaders in the Chinese Communist Party see the anti-secession law as a way to demonstrate to the Chinese people and to the rest of the political elite that this generation of leaders will take a hard line on the Taiwan issue. Among the CCP leadership, it is risky to appear too "soft" or flexible toward Taiwan. PRC politicians' credibility depends on showing their comrades and compatriots that they are resolved never to "lose" Taiwan. The anti-secession law is a concrete action that Hu's government can point to as proof that it is doing something about the issue.
- Cross-strait politics: Clearly, a central goal of the anti-secession law is to intimidate Taiwan. Chinese leaders feel a need to intensify the pressure on Taiwan for both short and long-term reasons:

In the long run, there is a perception in mainland China that Taiwan is moving away, and the chances of unification are becoming slimmer. President Chen Shui-bian's reelection quashed Beijing's hope that his victory in the 2000 election was a fluke. The result forced the mainland leadership to consider the possibility that Chen represented real and perhaps dominant preferences on the island. The retreat from a strong pro-unification stance by the Blue parties (the Kuomintang and People First Party) reinforced Beijing's anxiety about where public opinion and state policy are heading in Taiwan.

This anxiety is justified. Taiwan residents' desire for unification is at a low ebb. Surveys conducted over the past five years consistently show that fewer than five percent of Taiwanese support immediate unification. A more worrying trend for Beijing is the declining support for unification in the distant future—a position embraced by barely ten percent of Taiwanese. This is not to say that a conflict between Taiwan and the PRC is inevitable. Most Taiwanese are agnostic on the question of the island's long term future; the percentage supporting independence in the short term is only slightly higher than the percentage who support unification, and only about twenty percent say they want independence in the long term. However, Beijing's repeated threats against Taiwan are helping to erode support for eventual unification.

In the short run, Beijing's leaders were worried about the December legislative elections in Taiwan. Their greatest fear was that the Green parties—President Chen's Democratic Progressive Party and former President Lee Teng-hui's Taiwan Solidarity Union—would capture a legislative majority. That would give Chen legislative support to implement his preferred platform—which CCP leaders firmly believe includes strong action toward independence. Thus, the timing of the anti-secession law is best explained by Beijing's desire to have a weapon in place that would be able to prevent Chen and the Greens from taking Taiwan toward independence immediately after the election.

Beijing's predictions turned out to be wrong. Not only did the Greens not get a majority, they were not even able to deny the Blue parties a majority. Instead of freeing Chen to act on his (alleged) radical ideas, the election forced the president to enter into a dialogue with the Blues. Chen's behavior immediately after the election—including reaching out to appointing DPP moderate Frank Hsieh (Hsieh Chang-ting) as his premier and encouraging direct New Year flights—suggests that he interpreted the election as a rejection of political polarization and antagonism, both domestically and in the cross-strait realm. In view of these developments, which ultimately led Chen to work toward bridging the gaps between political parties in Taiwan and between Taiwan and the PRC in January and February, the passage of the anti-secession law in March seems especially unnecessary and injurious.

Reviewing this history, it is easy to conclude that passage of the anti-secession law is a wholly negative event. Some have suggested that cross-strait relations can

never recover from this blow. Is the anti-secession law another step on a downward spiral, leading inexorably toward military conflict? Or can something positive be salvaged from this episode?

The anti-secession law need not be “the beginning of the end” in cross-strait relations. First, if Taiwan’s government handles the issue skillfully—and to date, it has—the anti-secession law could become an opportunity to strengthen relations with the PRC and with the international community. The key will be for Taiwan’s leaders to resist the temptation to retaliate in ways that escalate the conflict, while at the same time allowing Taiwanese citizens to vent their feelings of fear, anger and injured pride. Resisting that temptation will require Taiwan’s politicians to set aside the opportunity to use the anti-secession law to drum up political support. Fortunately, there are no major elections in Taiwan for three years, which diminishes the likelihood that the anti-secession law will become a political football.

A second cause for cautious optimism is the possibility that leaders in Beijing may be using the anti-secession law to pacify hardliners in the PRC in the hope of opening a space for negotiations with Taiwan. For the past several years, cross-strait relations have been stymied by Beijing’s imposition of preconditions that President Chen refuses to meet—above all, the demand that Chen accept the “One China Principle.” Dialogue will begin when the two sides find a way to circumvent that roadblock. It may be that the anti-secession law is a fierce mask behind which a gentler face is lurking. If the law buys the acquiescence of China’s hardliners in a more relaxed strategy for cross-strait dialogue, it could go down in history as laying the groundwork for a new era in the Taiwan Strait.

Mr. LEACH. Thank you. Dr. Christensen?

**STATEMENT OF THOMAS J. CHRISTENSEN, PH.D., PROFESSOR
OF POLITICAL AND INTERNATIONAL AFFAIRS, PRINCETON
UNIVERSITY**

Mr. CHRISTENSEN. Mr. Chairman and other distinguished Members of the Subcommittee, thank you for inviting me to testify today. It is an honor to speak with you today about Beijing’s adoption in March, 2005 of an anti-secession law aimed at Taiwan and the implications of that law for relations across the Taiwan Strait.

My remarks today are based in part on my discussions with government officials and experts in Taipei, Shanghai and Beijing in January of this year. In my remarks, I will try to explain why Beijing adopted this law, a law which threatens Taiwan with “non-peaceful” measures if Taiwan takes actions that seem to permanently preclude the prospect of unification between mainland China and Taiwan.

Adoption of this law was understandably viewed as threatening and counterproductive in Taiwan, in the United States, and even in the European Union. What seems most puzzling about the law is its timing. The law occurred at a time when arguably Beijing’s diplomacy on issues related to Taiwan seemed relatively successful. For example, Beijing was satisfied with the results of Taiwan’s December, 2004 legislative elections. In those elections, traditionally pro-independence pan-Green candidates failed to achieve a majority in the legislature.

Beijing was also generally satisfied with United States policy on the Taiwan issue in the months before passing the anti-secession law. During the election campaign in Taiwan, the Bush Administration publicly and consistently distanced itself from campaign rhetoric and policy proposals that seemed to support Taiwan independence. Mainland analysts actually believed this had an impact on the election and helped prevent the pan-Green candidates from achieving a majority.

Finally, in cross-Strait relations, things seemed to be improving in the weeks after the Legislative Yuan elections in Taiwan. In January, the mainland and Taiwan were able to establish direct charter flights for celebration of the Chinese Lunar New Year. So why, at a time of reduced tension and relative success in Beijing's diplomacy, did Beijing pass a law that threatened the use of force against Taiwan? The answer to this puzzle apparently lies in two key factors.

One is long term strategic thinking in Beijing about trends in cross-Strait relations, dating back to late 2003 during President Chen's re-election campaign. The second factor is domestic politics on Taiwan policy within China, and within the Chinese Communist Party in particular.

In the year before the Legislative Yuan elections, there was severe pessimism in Beijing and growing pessimism in Beijing about political trends in Taiwan. In the eyes of mainland analysts, support for independence on the island seemed to be growing and President Chen Shui-bian seemed to have been re-elected on a platform that supported Taiwan independence. Mainland analysts feared that pro-independence parties would gain control of the legislature in the December, 2004 election. In a nutshell, existing mainland policy toward Taiwan seemed to be failing in China.

Chinese Communist Party elites fear failure on Taiwan policy for straightforward reasons of national security and national prestige, but they also fear such a failure in Taiwan policy for reasons of domestic stability and regime stability in China. In the reform era, nationalism is more important to the legitimacy of the Chinese Communist Party than ever before. And the Chinese Communist Party elites fear that failure on emotional nationalist policies like policies toward Taiwan or policies toward Japan could lead to domestic criticism of the State and protest against the State that the leadership would have difficulty controlling.

In this political atmosphere, individuals in the Chinese Communist Party, like President Hu Jintao and Premier Wen Jiabao, place a premium on protecting their image as defenders of Chinese national sovereignty and as tough proponents of effective policies toward Taiwan.

The push for an anti-secession law then occurred at a time when pessimism was growing on the mainland and momentum for that law increased in the year 2004 as that pessimism about trends in Taiwan grew. In the lead up to the Legislative Yuan election, according to my interlocutors, the idea of an anti-secession law was first proposed to the National People's Congress and some draft outline was distributed to the members of the National People's Congress in preparation for their March, 2005 session.

The expectation of many at the time in Beijing was that the pan-Green alliance would win a majority in the legislative election. In what was a surprise to many in Beijing, the pan-Green alliance failed to gain such a majority, failed to get major gains in the December, 2004 election. And given this welcome outcome in Beijing, some in Beijing recognized that the time did not seem right for raising and reiterating threats against Taiwan, threats of military force, in particular.

But all of my interlocutors in China, to a person, predicted that the law would pass in any case, regardless of the results of the Legislative Yuan elections in Taiwan. Their logic seemed to be that once the notion of an anti-secession law was floated in the National People's Congress, no individual leader would risk his reputation as a strong nationalist by proposing withdrawal of the bill from the desks of the legislators. So, as they predicted, in March, 2005, the National People's Congress passed the anti-secession law.

What are the implications of the anti-secession law? Well, first of all, I think the law does not say anything fundamentally new about mainland policy toward Taiwan. The law does not raise any fundamentally new threats against Taiwan that have not been raised by the Beijing leadership in the past, and the National People's Congress, the body that passed the law, lacks authority to make decisions about the use of force against Taiwan.

The law includes more than just threats. It also includes several moderate and constructive elements about increasing contacts across the Taiwan Strait and about promising equal status for Taiwan in political negotiations across the Taiwan Strait. Those constructive and moderate elements themselves are not particularly new.

Moreover, despite these moderate passages, it was natural for people in Taiwan and Washington and the European Union to focus on the threatening aspects of the law. Adoption of the law certainly put an end to a recent warming of relations across the Taiwan Strait in the period between the legislative elections and passage of the law but, as Dr. Rigger pointed out, adoption of the law has not yet led to a spiral in relations across the Taiwan Strait.

The large protest rally on March 26 in Taiwan, protesting the existence of the anti-secession law, was relatively low-key and very peaceful. At the rally, President Chen wisely resisted making public speeches that might increase tensions across the Taiwan Strait. I personally believe the United States has played an important role in preventing a downward spiral in relations across the Taiwan Strait, following the adoption of the anti-secession law.

Washington has appropriately criticized the law as unhelpful and as a source of tensions across the Strait. It has also encouraged Beijing to show more flexibility and accommodation toward Taiwan's Government in order to encourage cross-Strait dialogue and exchanges. But the Bush Administration was wise, in my opinion, to avoid exaggerating the novelty or the importance of the law itself. For example, to my knowledge, United States officials have avoided labelling the law itself as a "unilateral change in the status quo" across the Taiwan Strait. Such a label would be inaccurate in my opinion, but more important, it might be seen as a green light for people in Taiwan who wanted to use the anti-secession law as an opportunity to adopt provocative countermeasures such as an anti-annexation law proposed by certain government officials in Taiwan before the anti-secession law was passed.

Such countermeasures could increase tensions across the Taiwan Strait and could even spark a military conflict across the Taiwan Strait. So in my opinion, especially since Spring, 2002, the Bush Administration has consistently adopted a balanced approach to-

ward relations across the Taiwan Strait that has enhanced peace and stability. It has actively opposed the mainland's threat of force against Taiwan through offers of arms sales and increased defense coordination with the Taiwan military. At the same time, it has consistently opposed provocative policies on Taiwan that threaten the maintenance of peace and stability across the Taiwan Strait.

In my opinion, this balanced approach serves United States interests in both Taiwan and the mainland. Thank you again, Mr. Chairman.

Mr. LEACH. Thank you very much. Mr. Tkacik is a Research Fellow in China Policy, Asian Studies Center and the Heritage Foundation. Mr. Tkacik, you may proceed.

[The prepared statement of Mr. Christensen follows:]

PREPARED STATEMENT OF THOMAS J. CHRISTENSEN, PH.D., PROFESSOR OF POLITICAL AND INTERNATIONAL AFFAIRS, PRINCETON UNIVERSITY

Mr. Chairman and other distinguished members of the Subcommittee, thank you for inviting me to testify today. I am honored to have the opportunity to speak to you about Beijing's adoption of an anti-secession law aimed at Taiwan.

In my remarks I will offer my analysis of why the law was adopted in March 2005 despite recent improvements in relations across the Taiwan Strait. I will also discuss how the law might affect relations across the Taiwan Strait, and what challenges lie ahead for U.S. policy toward Taiwan and mainland China. Some of my comments will be based on interviews with government and academic experts on a research trip to Taiwan, Shanghai, and Beijing in January of this year.

A PUZZLE: WHY DID BEIJING ADOPT THE ANTI-SECESSION LAW WHEN RELATIONS ACROSS THE TAIWAN STRAIT APPEARED TO BE IMPROVING?

The adoption of the Anti-Secession law in March 2005, particularly its timing, provides a puzzle for analysis of relations between Taiwan and mainland China. The law added very little, if anything, new to Beijing's publicly stated policies toward Taiwan. So, it is not entirely clear what exactly Beijing gains by its passage. Moreover, passage of the law carried costs. The law created negative reactions in Taiwan, the United States, and the European Union, where observers understandably focused on the portions of the law that threatened Taiwan with "non-peaceful" measures if the government in Taipei were to move the island toward permanent political separation from the Chinese mainland. What is most puzzling of all, the law was passed at a time when Beijing seemed to be making some progress in its diplomacy toward Taiwan, the United States, and the European Union on issues related to cross-Strait relations. The law then seemed like the wrong measure at the wrong time.

The Law Offers Little that Is Fundamentally New

The anti-secession law threatens Taiwan with "non-peaceful" measures if Taipei takes actions that create either the trappings of legal independence or conditions that would permanently preclude peaceful unification across the Taiwan Strait. On this score, the anti-secession law says nothing new. Beijing has long held out the prospect of the use of force against Taiwan for these reasons. The Anti-Secession Law merely repeats these threats, albeit in a high profile manner.¹ The law, which was passed by the National People's Congress (NPC), explicitly states that decisions for the use of force will ultimately be made by the State Council and Central Military Commission.² So it is not clear how passage of the law in the NPC really makes the threat of force seem any more compelling than it would have been without the passage of such a law.

The law is not simply a series of threats. Indeed the law contains several moderate and potentially positive elements. These more accommodating sections them-

¹Article eight of the law offers three rather vaguely specified conditions that might trigger "non-peaceful measures" toward Taiwan. Those conditions all refer to pro-independence political activities on the island that would seem to create legal independence from China for the island, move Taiwan sharply in the direction of such legal independence, or permanently preclude any prospect of peaceful unification between the mainland and Taiwan.

²A full English translation of the law can be found in the March 14, 2005 edition of *China Daily*.

selves, however, are not fundamentally new. Rather, they repeat Beijing's oft-stated goal of "peaceful unification" across the Taiwan Strait. As Beijing has done in the past, the law encourages increased economic, cultural, and social contacts with Taiwan for the purpose of promoting such an outcome. Beijing continues to hold out the prospect of political talks across the Taiwan Strait but reiterates that peaceful unification is Beijing's ultimate goal in such talks and that this goal can only be accomplished through Taiwan's acceptance of the "one China" principle. In what might be its most moderate passage, the anti-secession law promises equal status for the mainland and Taiwan in negotiations. This promise reiterates a relatively flexible formulation offered by Vice-Premier Qian Qichen three years ago. Treating Taiwan and the mainland as equal parts of one China is preferred by many in Taiwan to the PRC's traditional "one country, two systems" formula. That formula is rejected across the political spectrum in Taiwan and is conspicuous in its absence in the anti-secession law.

Why the Anti-Secession Law is a source of tension, not stability

Regardless of these more moderate sections of the law, it is natural for people on Taiwan and elsewhere to focus on the threatening aspects of the law. This is particularly true given the apparent relaxation in cross-Strait relations in the weeks before the law's passage. In this sense, perhaps the most negative aspect of the anti-secession law is simply its adoption at a time when cross-Strait relations seemed to be thawing and political trend lines on the island seemed to be moving in the mainland's favor.

In the Legislative elections in Taiwan in December 2004 traditionally pro-independence or "pan-Green" parties failed to gain a majority in the Legislative Yuan. Many in Taiwan, the United States, and Beijing had predicted that the pan-Green alliance would prevail over the "pan-Blue" parties, who are proponents of more accommodating policies toward the mainland and who generally oppose constitutional changes that touch upon sovereignty issues. So the maintenance of a pan-Blue majority in the Legislative Yuan was a pleasant surprise for Beijing. The election results were considered particularly important in Beijing because constitutional revisions are scheduled for Taiwan in 2005–2008. Moreover, following the elections in Taiwan, in January 2005 the mainland and Taiwan reached agreement on direct cross-Strait charter flights for the Chinese New Year. So, it seemed that there was somewhat of a thaw in cross-Strait relations precisely when the offending law was passed.

The law was also passed at a time when it appeared that Washington was acting to restrain pro-independence forces on Taiwan. The United States had publicly distanced itself from various statements and actions of President Chen Shui-bian during the legislative election campaign in late 2004. This policy was apparently quite effective. One popular explanation in both Taiwan and the mainland for the pan-Green parties' difficulties in the Legislative Yuan election was that the Bush Administration publicly critiqued President Chen's actions during the campaign. The strain that President Chen's campaign rhetoric was putting on U.S.-Taiwan relations apparently alienated moderate swing voters in Taiwan from pan-Green candidates.³ So, Beijing had real reason to be pleased with recent developments not only in Taiwan politics but also in U.S.-PRC relations on the Taiwan issue. Despite these developments, Beijing adopted a law that CCP elites knew in advance would be seen in a very negative light in Washington and Taipei.⁴

Finally, before the anti-secession law was passed, the European Union seemed poised to end its embargo on arms sales to the People's Republic of China (PRC). Lifting of the embargo was already a controversial issue inside Europe, especially because of pressure by the Bush Administration and the United States Congress to maintain the embargo. Some Europeans apparently were prepared to lift the embargo in part because they did not treat seriously the prospect of cross-Strait military conflict. By publicly reminding the world of the PRC's willingness to adopt "non-peaceful" measures to prevent Taiwan's permanent separation from the mainland, Beijing tipped the political balance in Europe on the question of the embargo, thereby keeping it in place at least for the time being.

For all of these reasons, then, the anti-secession law seems like the wrong measure at the wrong time. This is true regardless of whether or not one finds the docu-

³ According to pan-Blue and pan-Green members alike in Taiwan, Washington's cold response to Chen's rhetoric from October through December 2004 dissuaded swing voters from supporting pan-Green candidates at the polls. Many, it is believed, simply refused to vote. Turnout was 6–7% lower than pan-Green campaign managers had anticipated.

⁴ The PRC floated the idea of an anti-secession law with Bush Administration leaders in early January 2005 during a trip by Director Chen Yunlin of the PRC State Council's Taiwan Affairs Office.

ment to be relatively moderate compared to previous threats against Taiwan. Why, then, did the Chinese Communists insist on adopting the law in March 2005?

SOLVING THE PUZZLE: BEIJING'S LONG-TERM STRATEGIC THINKING, DOMESTIC POLITICS, AND THE UNSTOPPABLE MOMENTUM BEHIND THE ANTI-SECESSION LAW IN EARLY 2005

Since late 2003 the new PRC leadership under President Hu Jintao has been searching for a more effective way to halt or reverse what they believed were long-term political trends on Taiwan moving in the direction of Taiwan independence. There was frustration in Beijing that President Chen Shui-bian, former President Lee Teng-hui, and their respective pro-independence parties seemed to be gaining in popularity in Taiwan despite an increase in cross-Strait economic interdependence and a fast-paced build-up in the coercive military options available to the PRC. It was feared that many in Taiwan saw the mainland as a "paper tiger" and that one reason was that the mainland under President Jiang Zemin had been insufficiently pro-active in trying to shape the political environment in cross-Strait relations. Since he accepted the Presidency in March 2003 President Hu Jintao has fostered an image of pragmatism and effectiveness. His lack of experience on national security issues and his weak links to the military make it all the more important that he appear pro-active and relatively tough on Taiwan policy.

Avoiding failure on the Taiwan issue is considered critically important in Beijing not only for reasons of straightforward national security but also for the domestic political stability of the regime. Since the founding of the PRC in 1949, the CCP has portrayed itself as the only modern government that has enabled China to stand up to both external invaders and domestic forces bent on dividing the nation. The relative importance of this nationalist message grew in the 1980s and 1990s as other ideological messages about Maoist class struggle fell by the wayside in the reform era. In China no one seems to believe in communism any longer. Problems of corruption, income gaps between rich and poor, and environmental degradation all exacerbate the CCP elites' concerns about domestic stability and regime legitimacy. In such a domestic environment, one major concern of top leaders in China is the potentially explosive nature of Chinese nationalism on certain emotional issues related to China's "century of humiliation." At the top of this list of emotional issues are the PRC's relations with Taiwan and Japan, two policy issues on which Chinese elites are loath to appear weak and overly accommodating.

The fear within the CCP is not simply of inciting a spontaneous nationalist outburst against the government if Taiwan policy fails, but also of providing a high-profile political opportunity to segments of society already upset with the government for purely domestic reasons. Perceived failure on Taiwan policy could allow such groups to mobilize themselves against the government for allegedly patriotic reasons. Such protests could provide real challenges to the government, especially if elements of the civilian and military leadership were sympathetic to the protestors and angry at the top leaders for failing to defend national sovereignty and honor. The government does not want to find itself cracking down on explicitly patriotic movements that employ nationalistic slogans originally fostered by the government itself. Having attended the Asian Cup Soccer Final between Japan and China in Beijing in August 2004 and having witnessed the incredibly large number of police and paramilitary forces sent preemptively to the stadium to keep the peace, I believe the stated concerns of Chinese elites regarding fears of popular nationalism are likely sincere. They are probably not just arguments tactically deployed for foreign consumption.

The political transition in China may only intensify the perceived need for a tough policy toward Taiwan. Since maintaining domestic stability and improving China's image abroad are core security goals of the Chinese Communist Party as a corporate whole, individual leaders will likely try to protect their reputations for vigilance and toughness on these issues within the Party, especially during the transition. Since Hu Jintao does not have a proven track record of dealing with national security issues, it is particularly important for him to demonstrate strength and effectiveness on this issue as he consolidates his power.

According to my Chinese interlocutors in my January 2005 interviews, the idea of passing an anti-secession Law or a pro-unification law first gained real momentum in late 2003, during President Chen Shui-bian's re-election campaign in Taiwan. During that campaign President Chen suggested that he would rewrite the Republic of China's constitution in his second term, perhaps gaining approval for the new constitution by popular referendum. Especially given President Chen's statements regarding Taiwan's sovereign independence from mainland China, there was concern in Beijing (and in Washington) that the constitutional revision process and

future referenda might touch upon issues related to Taiwan's sovereign status in relation to the mainland and, thereby, spark a cross-Strait conflict.

Mainland analysts became even more concerned when President Chen prevailed with just over 50% of the vote in that controversial March 2004 election. Although his majority was razor thin, it was still an improvement over the plurality that won him election in 2000 in a three-way race. Chen seemed to be getting more popular even as his platform seemingly became more oriented toward Taiwan independence. Despite a rather moderate and conciliatory inaugural speech in May, mainland analysts remained very wary of President Chen during summer 2004. Their concern would only grow later in the year when he seemed again to promote sovereign independence from mainland China in his public statements on the Republic of China's National Day (October 10). President Chen's statements in the weeks leading up to the December 11, 2004 Legislative Yuan elections were more pointed still. By stating energetically that "Taiwan is Taiwan" and proposing name changes for state-owned enterprises and Taipei's representative offices abroad, President Chen seemed dedicated to winning a "pan-Green" majority in the Legislative Yuan by appealing to pro-independence sentiments.

What was worse from their perspective, mainland analysts expected Chen to succeed in this campaign. The expectation of many analysts in Beijing in late 2004 was that the pan-Green candidates would likely gain many seats in the Legislative Yuan elections. It appeared that pro-independence sentiment in Taiwan was gaining momentum just as Taiwan moved into the process of revising the constitution in the period 2005–2008. Elites in Beijing believed, therefore, that they would need to make a political statement about their dedication to deterring Taiwan independence and promoting peaceful unification. According to my mainland interlocutors, it was in this strategic and domestic context in autumn 2004 that CCP leaders first circulated a draft outline for an anti-secession law to the thousands of National People's Congress (NPC) representatives.

The outcome of the December Legislative Yuan elections was a pleasant surprise for many PRC analysts. The Taiwan public showed more caution about President Chen's agenda than they had expected. As did many of their counterparts in Taiwan, mainland analysts credited as a major contributor to the electoral outcome the Bush Administration's public distancing of itself from President Chen's campaign rhetoric and policy proposals. For example, just days before the Legislative Yuan elections, the Bush Administration criticized the proposals for "rectifying" the names of Taipei's representative offices and state-owned enterprises as unwelcome "unilateral changes to the status quo."⁵ That term has become the Administration's catch-phrase for destabilizing provocations in cross-Strait relations.

Given the results of the Legislative Yuan elections and the perceived U.S. role in bringing that result to fruition, some Chinese interlocutors in January seemed to recognize that the situation across the Taiwan Strait was more relaxed and that the timing for an anti-secession Law was no longer right. In fact, some recognized that the law might prove to be counterproductive if adopted this year. To a person, however, the mainland analysts predicted correctly that a law would be passed anyway. Because the draft outlines had been distributed before the Legislative Yuan elections, for domestic political reasons, the anti-secession law's train had left the station. Mainland interlocutors posited that no CCP leader would want to be the one who proposed pulling the bill off the legislators' desks, regardless of the Taiwan election's outcome. Such a person would risk being seen as ineffective and weak on the Taiwan issue.

HOW WILL THE LAW AFFECT CROSS-STRAIT RELATIONS AND CHINA'S FOREIGN RELATIONS?

In addition to encouraging the European Union to maintain its arms embargo on China, the adoption of the law created negative reactions for Beijing in both the United States and Taiwan. The brief progress in relations between Taipei and Beijing symbolized by the direct charter flights for Spring Festival has apparently been halted. To date, however, there has been no intense spiral of tensions resulting from adoption of the law. In my opinion this is due in large part to the restraint shown by Washington and the moderation of President Chen himself in the face of domestic and international pressure to avoid escalating the conflict.

Washington was publicly quite critical of the law but remained relatively measured in its response. To the best of my knowledge, Bush Administration officials have avoided calling the passage of the law a "unilateral change in the status quo"

⁵ See "Daily Press Briefing," U.S. State Department, December 6, 2004, at <http://www.state.gov/r/pa/prs/dpb/2004/39460.htm>.

across the Taiwan Strait. Instead the Administration criticized Beijing for raising tensions and for failing to seize on clear near-term opportunities to deepen cross-Strait cooperation and contacts. By criticizing the law, Washington expressed its disappointment in what was clearly a setback in cross-Strait relations. It also made clear its hope that Beijing might adopt more positive actions to improve cross-Strait relations. By eschewing overly dramatic language in response to the law the Bush Administration avoided sending signals of encouragement to those on Taiwan who saw the passage of the anti-secession law as an opportunity to adopt provocative counter-measures that could ratchet up cross-Strait tensions. For example, in January and February some elites in Taipei had floated the idea of responding to an anti-secession law by adopting an “anti-annexation” law passed by popular referendum. Depending on its wording and the political context in which it was passed, an anti-annexation law might cross a mainland red-line regarding legal manifestations of independence or permanent legal impediments to peaceful unification. In my opinion, Washington was wise to avoid words and actions that might encourage such a response in Taipei.

To his own credit, President Chen has shown real moderation and leadership in his measured response to the law. Although Beijing predictably expressed its annoyance about the event, the protest march against the Anti-secession law in Taiwan on March 26 was peaceful and relatively low-key. Although he participated in the protest march, President Chen made no speech. He thereby resisted the temptation to make high-profile statements regarding Taiwan’s sovereignty that might have exacerbated cross-Strait tensions further.

Challenges remain on the near-term horizon, however. The visit to Beijing of a high-level entourage of the opposition KMT in the past week might seem a positive gesture toward Taiwan on Beijing’s part. However, the selective reaching out to one of the pan-Blue opposition parties and not to the members of President Chen’s government or his party might only increase tensions between Taipei and Beijing. Such an approach by Beijing might only further polarize Taiwan politics by encouraging President Chen and other members of the pan-Green parties to attack the KMT for selling out the country by appeasing the Chinese Communists. Such attacks could easily intensify as we approach the election of the National Assembly on May 14. At this early date it is still too soon to judge how the KMT–CCP meetings will affect politics in Taiwan and across the Taiwan Strait.

U.S. POLICY TOWARD CROSS-STRAIT RELATIONS IN THE FUTURE

Especially since early 2002 Washington’s policies toward cross-Strait relations have been quite constructive and quite successful in limiting the likelihood of conflict across the Taiwan Strait. The Bush Administration has found a balanced approach between deterring mainland aggression against Taiwan on the one hand and dissuading Taiwan’s leaders from adopting policies that might provoke an otherwise avoidable conflict on the other. Washington’s policies have apparently not only affected the thinking of elites in Beijing and Taipei, but also the domestic context in which leaders in Taiwan must operate.

Finding this balance in U.S. foreign policy is not always easy and there will likely be many new challenges in the near future. In my opinion, in response to the recent KMT–CCP meetings, the United States should encourage Beijing to expand its outreach to the Taiwan government and to the ruling party in Taiwan, rather than just opposition parties. At the same time, the United States should discourage President Chen from responding to the meetings between KMT and CCP officials by promoting provocative policies toward the mainland.

In deterring the PRC from the use of force against Taiwan, Washington faces a challenge in balancing the two necessary aspects of any deterrence policy: credible threats of effective intervention if the target of the deterrent threat acts belligerently and credible assurances that the target’s core interests will not be harmed if it refrains from belligerence. With a fast-paced increase in the military capacity of the PRC to coerce Taiwan, the United States has responded with offers of arms sales to Taiwan and increased defense coordination with the military in Taiwan. Such policies are generally appropriate, but they carry an unintended cost, especially given trends in Taiwan politics in the past several years. Many elites in Beijing tend to view these U.S. policies, especially increased defense coordination, as political signals that promote Taiwan independence by suggesting unconditional U.S. support to Taiwan. In other words these policies undercut the assurance part of the deterrence equation even as they bolster the credibility of threats of intervention. By publicly and repeatedly stating that the United States does not support Taiwan independence and by criticizing certain proposals by Taipei as unilateral changes in the status quo that are unwelcome in Washington, the United States

helps reduce the political controversy regarding its defense policies toward Taiwan and thereby bolsters assurances that the goal of those defense policies is not to promote Taiwan independence. By balancing threats and assurances as part of its deterrence policy, Washington helps enhance Taiwan's security, avoids an unnecessary and avoidable great power conflict in the Asia-Pacific, and furthers American interests in peace, stability, and democracy in East Asia.

**STATEMENT OF MR. JOHN J. TKACIK, JR., RESEARCH FELLOW
IN CHINA POLICY, ASIAN STUDIES CENTER, THE HERITAGE
FOUNDATION**

Mr. TKACIK. Thank you very much, Mr. Chairman, Members of the Committee. It is an honor and a privilege to be here. My name is John Tkacik and I am a former foreign service officer with 24 years in the government serving in Taipei, Peking, Hong Kong and Guanzhou.

I have been watching Taiwan affairs and China affairs for the last 30 years pretty consistently and this anti-secession law, I would say, it was a shock but it was more than that. It was, to me, proof positive that the Chinese Government is abandoning its so-called fundamental policy of striving for peaceful reunification. Article 8, in particular, simply outlines a vague "casus belli" for taking "non-peaceful" action against Taiwan. It does not define any of the red lines to me, and I think to anybody that looks at the text of the law, it fails to define for anybody what the red lines are for Taiwan.

In effect, this means that the Chinese Government reserves unto itself the privilege of deciding when and where it should attack Taiwan without notification, without any warning, without provocation. To me, the anti-secession law also reveals a dangerous weakness in our current China policy in America's China policy. The reason is because our policy is based on a pretense. Very early in the United States-China relationship, both sides realized that they could not sustain a cooperative strategic partnership against the Soviet Union if each side insisted that the other side forswear core tenets of its foreign policy.

From 1971 through 1989, United States-China relations had been built on an unspoken but very real understanding that enabled both sides to ignore the paramount conflict in their essential interests.

And it was an understanding based on pretense: China pretends to have a policy of peaceful reunification with Taiwan, and in return, the United States pretends to have a one-China policy.

Since 1989, however, the Chinese have steadily dropped their pretense, but have suffered no consequences. The lack of a substantial reaction from the United States commensurate with China's behavior, I think, has encouraged China to continue and, indeed, ratchet up both military preparations, their bellicose rhetoric and their political, economic and social pressures against Taiwan.

The Congress of the United States, I think, was clearly frustrated early on by the fact that this understanding was unspoken, and Congress insisted in a very profound and direct way in the Taiwan Relations Act that it be clarified. Section 2b, subsection 3 says:

"It is the policy of the United States to make clear that the United States' decision to establish diplomatic relations with

the People's Republic of China rests on the expectation that the future of Taiwan will be determined by peaceful means."

President Reagan was equally perplexed by the bureaucracy's aversion to spelling out this linkage and, in August 1982, he issued a confidential Presidential Directive to the bureaucracy which stated, and I quote:

"The U.S. willingness to reduce its arms sales to Taiwan"—that is, under the terms of the August 1982 communique—"is conditioned absolutely upon the continued commitment of China to a peaceful solution of Taiwan PRC differences. It should be clearly understood that the linkage between these two matters is a permanent imperative of U.S. foreign policy."

Mr. Chairman, let me spell out here one of the problems that I have with our policy. For the 20 years from 1972 to 1992, the grand organizing principle of the United States-China relationship had been an alignment against the Soviet Union and basically nothing more. Unfortunately, our China policy since 1993 has not reflected the reality of the collapse of the Soviet Union, nor has anyone attempted to insist that it be based on at least some kind of definable core elements.

Let me repeat to you the core elements of U.S. foreign policy that Assistant Secretary of State James Kelly presented to this House a year ago on April 21, 2004. Three of his core elements were "our one-China policy," and I put that in quotes, "our one-China policy." The second one was our opposition to unilateral change in the Taiwan Strait, "the status quo as we define it." And finally, our non-support of Taiwan independence.

Unfortunately, these three core elements have literally no substance in the sense that none of them is defined. Let me read to you how Secretary Kelly defined our one-China policy last year. He said:

"The definition of one-China is something that we could go on for much too long for this event. In my testimony, I made the point of our one-China and I did not really define it. I am not sure I could easily define it."

But then he went on to say:

"I will tell you what it is not. It is not the one-China principle that Beijing suggests."

The second core element is "the status quo as we define it." Well, the fact is that we have never defined the status quo in the Taiwan Strait.

And finally, the third core element is our non-support for Taiwan independence. Well, I am not sure exactly what that means, but for 33 years, since 1972, the United States has sold tens of billions of dollars in defense articles and services to Taiwan. And if it is not for helping Taiwan maintain its separation from Communist China, I do not know what it is.

Unfortunately, if you have a policy that is based on no substance, you do not have a policy that can work. It is to the Bush Administration's credit, however, that it is finally doing something to confront the challenge of the anti-secession law.

I will not go into my whole presentation on this. Let me just say that there are several ways that Congress could remedy the flaws in our U.S. policy.

One, I think, is to require our policy to be defined, recognizing that a problem exists, that we do not have a defined policy, is a first step toward finding a solution. I think in its oversight role, Congress should insist that the Administration actually define its Taiwan policy. This does not necessarily mean that Congress should force the Administration into a public enunciation of the policy toward Taiwan that directly antagonizes Beijing. But at the very least, the Administration should be required to develop internal terms of reference for Taiwan.

For instance, what exactly is the "status quo" in the Taiwan Strait that we do not want changed? What is "our one-China policy"? And again, if we do not support Taiwan's continued separation from China, a separation that has already lasted for 107 of the last 110 years, then why has Congress mandated in the Taiwan Relations Act that it is our policy to maintain the capacity of the United States to resist the use of force against Taiwan?

The second thing that Congress should do is insist that the linkage be maintained. President Ronald Reagan's "permanent imperative" of a linkage between China's peaceful policy toward Taiwan and our support for Taiwan's defense, and hence, its continued separation from China, is clearly in America's interest. Therefore, any step Beijing takes that casts a cloud over its so-called peaceful policy must be matched by a concomitant United States step in support of Taiwan's democracy.

I agree with my colleagues here that it probably makes little sense for Taiwan to overreact to China's anti-separation law. But it certainly makes eminent sense for the United States to react to it.

The Congress itself could take some action. How many of you have heard Chinese diplomats say, "Don't worry about the anti-secession law, because it only spells out existing policy"? Well, perhaps the time has come to resurrect the Taiwan Security Enhancement Act which passed this House 341 to 70 on February 1, 2000. Because, after all, that law only "summarized existing policy." I, myself, am personally fond of President Ronald Reagan's "Six Assurances" to Taiwan in 1982, because they were already a part of existing United States policy. I think a future House Resolution would be very effective in countering future Chinese actions that might challenge the stability and peace of the Taiwan Strait, a House Resolution that would enshrine the six assurances.

And finally, I think the House must demand a strategy from the Administration. It is the Cheshire Cat's first dictum that if you do not know where you are going, then any road will take you there. And if the United States has no idea what it wants from China or Taiwan or what kind of China or Taiwan it wants to see in 5 or 10 or 25 years, let alone 50 years, then it does not matter what policies the United States applies today.

But as Dr. Condoleezza Rice wrote in *Foreign Affairs* over 5 years ago, "China is not a status quo power, but one that would like to alter Asia's balance of power in its own favor." This assessment, I think, is valid today and it makes it absolutely essential

that the United States understand what its own strategic interests, goals and objectives are in Asia and define the strategy and a path on how to get there.

In 1946, President Truman instructed General Marshall that a strong, stable, unified and democratic China is in the interests of the United States and in the utmost interest of world peace. And I would submit that we now have three out of four. A strong, stable and unified China, but three out of four is not good enough. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Tkacik follows:]

PREPARED STATEMENT OF MR. JOHN J. TKACIK, JR., RESEARCH FELLOW IN CHINA
POLICY, ASIAN STUDIES CENTER, THE HERITAGE FOUNDATION

CHINA'S ANTI-SECESSION LAW AND DEVELOPMENTS ACROSS THE TAIWAN STRAIT

Mr. Chairman, Members of the Committee, it is an honor and privilege to appear before you today to discuss China's recently-enacted "Anti-Separation Law" (also called the "Anti-Secession Law"), its impact on relations between China and Taiwan, and implications for the United States. I apologize that my prepared remarks are so lengthy. I will try to keep my oral presentation short, but I ask that the written presentation be entered in the record.

I am testifying here today as an individual scholar and citizen, and my views do not necessarily reflect the views of my employer, The Heritage Foundation.

Introduction: Slogans of China Policy

The sudden emergence of China's "Anti-Separation Law" this past December was a surprise because, even by Chinese standards, it was unnecessary. Just six days before its announcement, legislative elections in Taiwan reflected waning political sentiment on the island for constitutional reforms affecting Taiwan's *de jure* status as the Republic of China. That China went ahead and initiated a "legislative" process to put this law on the books was a clear indication that China has moved away from its "fundamental policy of striving for peaceful reunification" and toward a posture of military threat to Taiwan. It is a development that reveals a dangerous weakness in our current China policy—it rests on slogans that have no substance.

Let me explain. Three core elements of America's China policy are:

- 1) "Our One China Policy";
- 2) our opposition to unilateral change in Taiwan Strait's "*status quo* as we define it," and
- 3) our "non-support" of Taiwan independence.

These three core elements *literally* have no substance in the sense that none of them is defined anywhere in the official lexicon of American diplomacy. And insofar as anyone has any idea about what they really mean—their meaning has no relationship to the actual words that U.S. policy-makers use to describe those elements.

Consequently, when confronted by actions, either by China or Taiwan that tend to annoy or upset the other, no American Administration has possessed a coherent policy framework within which to manage the controversy. Over the years, this lack of coherence has had the unfortunate effect of confusing both the President and the Congress. Our China policy has become an impressionistic fabric similar to Justice Potter Stewart's view of pornography, that is, ". . . I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description [of pornography]; and perhaps I could never succeed in intelligibly doing so. But I know it when I see it . . ."¹

In my testimony today, let me focus on the vaporous nature of our China policy, if one can indeed call it a "policy", for to do so would invest it with a level of thought that is entirely absent. And then let me discuss the reasons most people are upset by Beijing's Anti-Separation Law. Finally, let me propose some remedies to the situation that Congress might wish to pursue.

A Policy of Non-definition

Since the end of the Second World War, it has been the official policy of the United States Government that the post-World War II status of Taiwan is "an unsettled question subject to future international resolution". Taiwan was a former col-

¹See Mr. Justice Stewart, concurring in *Jacobellis v. Ohio* [378 US 184 (1964)]

ony of the Empire of Japan to which Japan abjured in the document of surrender all “right, title and claim” in perpetuity.² This remains the policy of the United States Government to this day, except that constant repetition of the phrase “one China policy” has given America’s political leaders, in both the Congress and the Executive, the vague impression that somehow the United States formally recognizes that Taiwan is a part of China.

Compounding the confusion is the Administration’s resolute refusal to be clear on the matter (and this is not just a problem with the present Administration, but with all previous ones dating back to President Nixon’s first term). For example, just one year ago, before this same committee, Assistant Secretary of State for East Asian and Pacific Affairs James Kelly had the following exchange, redolent of a certain Stewartesque syntax, with Representative Napolitano:

REP. NAPOLITANO: The next question, then, is can the evolution of full-fledged democracy on Taiwan and the clear emergence of a sense of Taiwanese identity meld with the principle of One China, or are they in stark contrast with each other?

MR. KELLY: There certainly is a degree of contrast. The definition of One China is something that we could go on for much too long for this event. In my testimony, I made the point “our One China,” and I didn’t really define it, and I’m not sure I very easily could define it.

I can tell you what it is not. It is not the One-China policy or the One-China principle that Beijing suggests, and it may not be the definition that some would have in Taiwan. But it does convey a meaning of solidarity of a kind among the people on both sides of the straits that has been our policy for a very long time.³

Indeed, Secretary Kelly was one of the few diplomats in the State Department who actually understood what our position on “One China” really was, and tried his best to differentiate it from Beijing’s “One China Principle” by calling it “Our One China”. But the net effect at the end of that day was to leave Rep. Napolitano and everyone else on the committee, I suspect, just as uninformed about U.S. policy as they were at the start of testimony.

In his testimony of April 21 last year, Secretary Kelly also listed another core element of our China policy—“The U.S. does not support independence for Taiwan or unilateral moves that would change the *status quo* as we define it.” No one on the committee had the presence of mind to ask Secretary Kelly just how the Administration defined the *status quo* in the Taiwan Strait, but six months later members of the press engaged his deputy, Randall G. Schriver, in the following exchange.

QUESTION: Randy, how do you define Taiwan independence? Would a change of the name of the country be—or change the national flag—be considered as independence? Thank you.

MR. SCHRIVER: I don’t think it’s useful for me to get into a variety of hypotheticals, and I think, actually, it’s fairly obvious and fairly clear what we mean by our non-support for Taiwan independence. I mean, you could throw out a range of things, and I just don’t want to address them one at a time about the implications, and “is this independence or is that independence?” I think the statement, and our intent behind it, is quite clear.⁴

In fact, it was not “quite clear.” Clarity was precisely the quality that Secretary Schriver hoped to avoid when he answered the question.

In general, a democracy cannot have a coherent foreign policy if it refuses to define the core elements of that policy. These two core elements—“One China” and “*status quo* in the Taiwan Strait”—are central to America’s China policy, yet they are undefined and internally contradictory. I consider our China Policy to be fatally flawed in the sense that the key terms used to describe it are precisely the opposite of what the words mean on their face. That is—“one China” does not mean that the United States recognizes that Taiwan is part of China, but only that the United States only recognizes one government of China at a time. And “*status quo* as we

²See Memorandum from the Department of State Legal Advisor [L/EA—Robert I. Starr] to the Director of the Office of Republic of China Affairs [Charles T. Sylvester], dated July 13, 1971, Subject: Legal Status of Taiwan. This memorandum is reprinted in John J. Tkacik, ed. *Rethinking One China*, The Heritage Foundation, Washington, D.C. November 2004, page 181.

³James Kelly, “The Taiwan Relations Act: The Next Twenty-Five Years,” testimony before the Committee on International Relations, U.S. House of Representatives, April 21, 2004, p. 40, at http://commdocs.house.gov/committees/intlrel/hfa93229.000/hfa93229_of.htm.

⁴Randy Schriver, Deputy Assistant Secretary for East Asian and Pacific Affairs, Briefing for the Foreign Press Center, U.S. State Department, Washington, DC, November 20, 2003, at <http://fpc.state.gov/fpc/26534.htm>.

define it” is nowhere defined either in public or within the confidential proceedings of the Executive Branch.

A third misconceived element of our China Policy, which Secretary James Kelly enumerated at his testimony here last year, is that “the U.S. does not support independence for Taiwan.” There is an obvious incongruity between this “non-support” for Taiwan’s independence and America’s devotion to the “expansion of democracy” in Taiwan and our sales of hundreds of millions, indeed billions of dollars in defense articles and services to Taiwan each year since 1979. What, pray tell, are we selling Taiwan the instruments to defend themselves with, if we do not support Taiwan’s continued separation from China—and hence Taiwan’s independence?

The reasons for this are historical but, truth be told, they are simply force of habit. Dr. Henry Kissinger apparently gave a secret assurance to Chinese Premier Zhou Enlai in 1971 that the State Department would no longer refer in public to the status of Taiwan as undetermined.⁵ Apparently through some misplaced loyalty to Dr. Kissinger’s secret assurances to Beijing 34 year ago, State Department officials still refuse to say in public that U.S. policy is that Taiwan’s legal status remains “unsettled.” Over the decades, on occasion, the State Department has actually hinted at this unsettled state of affairs on Taiwan’s legal status in its correspondence and responses to the Congress. However, rather than adhere to a rigorous and precise vagueness, executive branch spokesmen, and indeed the President himself, betray constant and pervasive befuddlement when it comes to matters of Taiwan and China. The President has on occasion referred to Taiwan as both a country in its own right⁶ and the Secretary of State has called Taiwan a “part of China”⁷. A scandalous lack of precision in our policy terminology has led to the confusion of otherwise intelligent policy-makers.

Policy of Pretense

Very early in the US-China relationship, both sides realized that they could not sustain a cooperative strategic partnership against the Soviet Union if each insisted that the other side foreswear core tenets of its foreign policy. From 1971 through 1989, US-China relations were built on an unspoken but very real understanding that enabled both sides to ignore the paramount conflict in their essential interests.

It was an understanding based on pretense: China *pretends* to have a “policy of peaceful unification with Taiwan”, in return for which the United States *pretends* to have a “one China policy.”

The Congress of the United States was clearly frustrated by the fact that this understanding was unspoken and insisted that it be made explicit. It did so in a profound and direct way in the Taiwan Relations Act (P.L. 96-8 of April 10, 1979) which declared it the “policy of the United States— . . . (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.”

President Ronald Reagan was equally perplexed by the bureaucracy’s aversion to spelling out this linkage. In August 1982, coincident with the announcement of the US-China Joint Communiqué of August 17, 1982 on the question of Taiwan Arms Sales, President Reagan issued a presidential statement that declared “the Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter *or prejudice the free choice of, or put pressure on, the people of Taiwan* in this matter.”⁸ But President Reagan went one step beyond this public statement to mandate this linkage a confidential presidential directive designed to guide executive branch dealings with China and Tai-

⁵ See Kissinger’s record of his conversation with Premier Zhou of October 21, 1971, classified TOP SECRET/SENSITIVE/EXCLUSIVELY EYES ONLY. White House, “Memorandum of Conversation,” October 21, 1971, p. 27.

⁶ During remarks on trade policy, President Bush said “And that’s good, that’s important to recognize and to welcome both countries, both the Republic of Taiwan, and of course China, into the World Trade Organization.” See “President Calls on Senate to Pass Trade Promotion Authority”, Remarks by the President on Trade Promotion Authority, Benjamin Franklin Room, the Department of State, April 4, 2002, at <http://www.whitehouse.gov/news/releases/2002/04/20020404-4.html>

⁷ Secretary Colin L. Powell, Interview With Mike Chinoy of CNN International TV, China World Hotel, Beijing, China, October 25, 2004, <http://www.state.gov/secretary/rm/37366.htm>.

⁸ See Presidential Statement on Issuance of Communiqué, August 17, 1982, in *China-Taiwan: United States Policy*, Hearing before the Committee on Foreign Affairs, House of Representatives, Ninety-Seventh Congress, Second Session, August 18, 1982, U.S. Government Printing Office, 1982. Page 33. Emphasis added.

wan. Indeed, President Reagan declared this linkage was to be a “permanent imperative of U.S. foreign policy.”

As you know, I have agreed to the issuance of a joint communiqué with the People’s Republic of China in which we express United States policy toward the matter of continuing arms sales to Taiwan.

The talks leading up to the signing of the communiqué were premised on the clear understanding that any reduction of such arms sales depends upon peace in the Taiwan Strait and the continuity of China’s declared “fundamental policy” of seeking a peaceful resolution of the Taiwan issue.

In short, the U.S. willingness to reduce its arms sales to Taiwan is *conditioned absolutely* upon the continued commitment of China to the peaceful solution of the Taiwan-PRC differences. It should be clearly understood that the linkage between these two matters is a *permanent imperative* of U.S. foreign policy.

In addition, it is essential that the quantity and quality of the arms provided Taiwan be conditioned entirely on the threat posed by the PRC. Both in quantitative and qualitative terms, Taiwan’s defense capability relative to that of the PRC *will* be maintained.⁹

The Challenge of the Anti-Separation Law

China’s its pretense of a “peaceful policy” toward Taiwan has eroded significantly since 1993. In August 1993, with the issuance of a “white paper” on Taiwan relations, reiterated that “any sovereign state is entitled to use any means it deems necessary, including military ones, to uphold its sovereignty and territorial integrity” and asserted flatly that “the Chinese Government is under no obligation to undertake any commitment to any foreign power or people intending to split China as to what means it might use to handle its own domestic affairs.”¹⁰ From 1992 to the present, China’s military spending has increased at double-digit rates, something one might not have expected following the collapse of the Soviet Union. Virtually every other country threatened by Soviet expansion cut its defense spending significantly in an effort to reap a “peace dividend.”

In July 1995, China’s hostile intentions toward Taiwan were manifest when Beijing closed the heavily-trafficked Taiwan Strait to commercial shipping for several days while it conducted unprecedented “missile tests”, generally viewed as an expression of anger at efforts by Taiwan’s President Lee Teng-hui to improve his country’s international standing. In March 1996, the Chinese People’s Liberation Army tested nuclear-capable short-range ballistic missiles in the Taiwan Strait, again closing that important sea-lane to international traffic, in an effort to intimidate Taiwan’s voters during their first-ever presidential elections. In August 1999, Chinese high-performance jet fighters, for the first time, began to patrol the Taiwan Strait at the “center line” challenging Taiwan jet fighters and raising tensions. And in February 2000, China issued another white paper which called for the use of “all drastic measures possible including the use of force” if Taiwan did not declare itself part of China and agree to negotiations by a certain date.¹¹

If the United States had possessed a coherent and consistent China policy, these separate Chinese challenges to the *status quo* would have been countered by calibrated “restatements” from Washington about our “one China” policy. But they were not.

China’s Anti-Separation Law and the U.S. Reaction

It is to the Bush Administration’s credit that it is finally doing so as it confronts the Anti-Separation Law. The ASL is a convincing indicator that China’s commit-

⁹Emphasis added. For the full text of this short memo, see James R. Lilley and Jeff Lilley, *China Hands: Nine Decades of Adventure, Espionage, and Diplomacy in Asia* (New York: PublicAffairs Books, 2004), p. 248. See also Jim Mann, *About Face: A History of America’s Curious Relationship with China, From Nixon to Clinton* (New York: Alfred A. Knopf, 1999), p. 127.

¹⁰Beijing’s August 30, 1993, white paper on *The Taiwan Question and the Reunification of China* reiterated that the PRC “is the sole legal government of China and Taiwan is a part of China”; declared that the United States was responsible for the “Taiwan Question”; and stated flatly that Taiwan membership in the United Nations was “out of the question.”

¹¹China State Council, Taiwan Affairs Office and the Information Office, “The One-China Principle and the Taiwan Issue,” February 21, 2000, at <http://english.peopledaily.com.cn/features/taiwanpaper/taiwana.html>. The white paper declared, among other things, that the “government of the ‘Republic of China’ . . . has long since completely forfeited its right to exercise state sovereignty on behalf of China and, in reality, has always remained only a local authority in Chinese territory,” and “if the Taiwan authorities refuse, *sine die*, the peaceful settlement of cross-Straits reunification through negotiations, then the Chinese government will only be forced to adopt all drastic measures possible, including the use of force, to . . . fulfill the great cause of reunification.”

ment to peace in the Taiwan Strait is weak at best. Early unofficial draft iterations of the ASL—which had initially been referred to as the “National Unification Law”—had been floating around on the internet at least since 2002, and included all sorts of strange stipulations. Dr. Yu Yuanzhou of Wuhan University, proposed legislation that would require the Chinese People’s Liberation Army to attack Taiwan as soon as it is able (no need to await any Taiwanese independence), beginning with bombardments of Quemoy and Matsu which—according to Article 27 of his draft—“would not be limited to conventional weapons.”

Understandably, the Bush Administration was dismayed when the ASL was announced on December 17, 2004. The Administration’s perplexity was heightened because if followed hard on elections in Taiwan that indicated sentiment for new constitutional revisions had cooled, and hence Beijing had no justification for stirring the pot with this new legislation.

At first, the Administration’s major worry was that China would try to “define” the *status quo* in the Strait beyond its existing vague guideline. State Department spokesman Richard Boucher told the press on February 15 that the “U.S. Government has been quite clear that we don’t think either side should take unilateral steps that try to define the situation further or push it in one direction or another.”¹² For consistency’s sake, the Department of State doesn’t want to confine just itself to avoiding definitions, but seems to extend its aversion to defining the *status quo* to all the players. Again, to the Administration’s credit, U.S. officials have maintained a consistent and tough line with all their Chinese interlocutors on the ASL.¹³

When the Chinese went ahead and passed the law on March 14, the week prior to Secretary of State Condoleezza Rice’s visit to Beijing, the Secretary was even tougher. “We’ve made very clear that the anti-secession law was not a welcome development because anything that is unilateral in this and that increases tensions, which clearly the anti-secession law did increase tensions, is not good.”¹⁴ I have been told that Secretary Rice was even more blunt in her private meetings with Chinese leaders.

The reason for her unhappiness is clear. The central mandate of Beijing’s new “Anti-National Separation Law” (*Fan Fenlie Guojia Fa*, or literally, “Law against Splitting the Nation”) is the declaration that that China “shall” use military force against Taiwan whenever the Chinese leadership decides that all possibilities for “peaceful reunification” with Taiwan have been exhausted.¹⁵ But the “Anti-Separation Law” (ASL) makes no pretense of defining either what would constitute an act “entailing” secession or what it might mean to exhaust “all possibilities” for peaceful reunification.

As such, the ASL serves as a free-standing, permanent *casus belli* against Taiwan and the United States. In short, the ASL is an open-ended declaration of war against Taiwan in which the Beijing authorities reserve the right to launch “non-peaceful” actions against the people of Taiwan whenever they wish and without forewarning.

This pre-legitimization of war is a very real change in China’s stance toward Taiwan—and indeed toward the United States which sees the preservation of Taiwan’s democracy and autonomy from Beijing as in both its political and strategic interests.

In presenting the draft ASL to the National People’s Congress on March 8, 2005, NPC Vice Chairman Wang Zhaoguo asserted that China’s constitution stipulates that “Taiwan is an unalienable part of the sacred territory of the People’s Republic of China.”¹⁶ In this context, it is ironic to note that the only piece of the world’s

¹²Department of State Daily Briefing, Richard Boucher, Spokesman, Washington, DC, February 15, 2005, at <http://www.state.gov/r/pa/prs/dpb/2005/42316.htm>. *Emphasis added.*

¹³See John J. Tkacik, “Secession Law Strains Ties”, *Asian Wall Street Journal*, March 9, 2005, p. 10, at <http://online.wsj.com/article/0,,SB111031906988273848,00.html>

¹⁴Secretary Condoleezza Rice, Remarks to the Press in China, China World Hotel, Beijing, China, March 21, 2005, at <http://www.state.gov/secretary/rm/2005/43678.htm>

¹⁵The text of the “Anti-Separation Law” (ASL) neither defines how China’s leadership would determine when “all possibilities” have been exhausted, nor defines a “major incident” that would “entail” Taiwan’s separation from China. See Article 8: In the event that the “Taiwan independence” secessionist forces should act under any name or by any means to cause the fact of Taiwan’s secession from China, or that major incidents entailing Taiwan’s secession from China should occur, or that possibilities for a peaceful reunification should be completely exhausted, the state shall employ non-peaceful means and other necessary measures to protect China’s sovereignty and territorial integrity. The English text of the ASL is available at the website of the official “Xinhua” news agency at http://news.xinhuanet.com/english/2005-03/14/content_2694180.htm, “Full text of Anti-Secession Law”; the Chinese text is at http://news.xinhuanet.com/newscenter/2005-03/14/content_2694168.htm

¹⁶Guanyu ‘fan fenlie guojia fa (cao’an)’ de shuoming [Explication regarding the ‘Law Against the Separation of the Nation (Draft)’, Xinhua News Agency, Beijing, March 8, 2005, at http://news.xinhuanet.com/newscenter/2005-03/08/content_2666011.htm

geography that the Chinese constitution declares is an unalienable part of the PRC is Taiwan. Not Beijing or Shanghai or Xinjiang or Tibet. It is also ironic that the Chinese government insists that the English-language rendering of *fan fenlie guojia fa* is “Anti Secession Law.” Of course, Taiwan has never been administered by the People’s Republic of China, and it seems an oxymoron to suggest that Taiwan could secede from a country to which it has never belonged in the first place.

How the U.S. Should React to the ASL

Let me suggest a few ways in which the Congress might remedy the flaws in U.S. policy.

Define our policy. Recognizing that a problem exists is the first step to finding a solution. In its oversight role, Congress should insist that the Administration actually define its Taiwan policy.

This does not necessarily mean that the Congress should force the Administration into a public enunciation of a policy toward Taiwan that directly antagonizes Beijing. But at the very least, the Administration should be required to develop internal “terms of reference” for Taiwan. What exactly is the “status quo” in the Taiwan Strait? What is “Our” one China policy? If we don’t support Taiwan’s continued separation from China, a separation that has already lasted for 107 of the last 110 years, then why has the Congress mandated in the Taiwan Relations Act that national policy is “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 of Taiwan”?

Maintain the Linkage. President Reagan’s “permanent imperative” of a linkage between China’s peaceful policy toward Taiwan and our support for Taiwan’s defense, and hence its continued separation from China, is clearly in America’s interests. Therefore, any step Beijing takes that casts a cloud over its so-called “peaceful policy” must be matched by a concomitant U.S. step in support of Taiwan’s democracy. If the Administration finds it diplomatically inopportune to react to some act of Chinese bellicosity in the Taiwan Strait, there may well be instances where a Congressional reaction would give the Administration leverage with Beijing. Beijing’s Anti Separation Law, which Chinese diplomats insist is merely a restatement of existing Chinese law and policy, could be balanced by new U.S. legislation—perhaps along the lines of the “Taiwan Security Enhancement Act” (HR 1838) which passed the House of Representatives with a veto-proof margin of 341–70 on February 1, 2000. The TSEA, after all, was also a restatement of existing U.S. policies toward Taiwan.

I myself am personally fond of President Reagan’s 1982 commitments to Taiwan’s President known as the “Six Assurances”.¹⁷ Because they are already a part of existing U.S. policy, enshrining the “Six Assurances” in a future House Resolution would also be a very effective counter to future Chinese actions that might challenge the stability and peace of the Taiwan Strait.

Demand a Strategy. The Cheshire Cat’s first dictum is that if you don’t know where you’re going, any road will get you there. If the United States has no idea what it wants China or Taiwan to look like in five years (let alone ten or twenty), then it doesn’t matter what policies it adopts. As Dr. Condoleezza Rice wrote in *Foreign Affairs* five years ago, “China is not a ‘status quo’ power but one that would like to alter Asia’s balance of power in its own favor.”¹⁸ This assessment makes it absolutely essential that the United States understand what its own strategic interests, goals and objectives are in Asia.

Sadly, there is no such vision guiding U.S. policy toward China or Taiwan. The Congress should therefore require one. In particular, the Administration must be attentive to America’s interests in Taiwan. Not only is Taiwan a thriving democracy, and not only is it America’s tenth largest export market, but Taiwan has also been an important security partner for the United States. The Executive branch must be required to conduct a strategic survey—confidential if necessary—of U.S. interests in the region, and to consider the possible ramifications to America’s strategic posture in the Western Pacific should Taiwan be forced into a relationship with China that would preclude continued U.S. strategic cooperation with Taiwan. Thereafter, policy decisions regarding China and Taiwan must be made to conform with U.S. goals.

¹⁷ John H. Holdridge, “China-Taiwan: United States Policy,” testimony before the Committee on Foreign Affairs, U.S. House of Representatives, August 18, 1982, pp. 15–16. Holdridge described the “Six Assurances” in his memoir, *Crossing the Divide*, p. 232. John H. Holdridge, *Crossing the Divide: An Insider’s Account of Normalization of U.S.-China Relations* (Lanham, Md.: Rowan and Littlefield, 1997), pp. 184–185.

¹⁸ Condoleezza Rice, “Promoting the National Interest”, *Foreign Affairs*, January February 2000, p. 56.

In conclusion, let me thank the Committee for this opportunity to express my views. I hope that they prove useful, or at the very least, thought-provoking.

Mr. ROHRABACHER [presiding]. Well, thank you very much. I am very happy to hear those many quotes from Ronald Reagan in your testimony, having worked with him in the White House at that time.

We are going to pay Mr. Faleomavaega his due here in holding down the fort on the Democratic side. We will have to adjourn in a few minutes because of the speech that is coming to the joint session, Mr. Yushchenko from the Ukraine. Mr. Faleomavaega, do you have some points you would like to bring out?

Mr. FALEOMAVAEGA. I just want to compliment our witnesses this morning for their presentations that I felt were very thought provoking. I certainly appreciate the insights that you raised about what are some of the motivating factors that cause the Chinese leadership to pass the anti-secession law.

I am very curious about Mr. Tkacik's observations. He suggests that our current policy was vague. But I suppose the bottomline is, it has helped us not to go to war with China or against China in that respect, over Taiwan. If there was anything that I would describe as a success of the current policy it is that it has prevented a serious conflict between our two countries, even though it may be undefined, as you had described it, Mr. Tkacik. But sometimes things that appear vague and ambiguous might do us more good than being too specific and cause us not to be flexible, as well as meeting the realities of the day. And I think the situation as it was in 50 years has changed, in terms of what we are now faced with today.

But the bottomline, in my humble opinion, is that I do not think there was ever any question about our commitment in defending Taiwan. The question here is, has the policy worked? In my opinion, it has worked so far. And with that observation, Mr. Chairman, I thank you.

Mr. LEACH. Thank you, Mr. Faleomavaega. Then we have Mr. Chabot?

Mr. CHABOT. Thank you, Mr. Chairman and I will be brief, because I know time is running out here. Mr. Tkacik, it is good to see you again. I know you are one of the leading scholars in this area and we are glad to have you, as well as our other witnesses here.

I think a quote that you stated in the past is the United States' one-China policy and this is maybe following a little of what my friend, Mr. Faleomavaega said, although I might differ with his opinion on this matter. But I think you said that the United States' one-China policy is dangerous. Could you elaborate on that a bit as to why you believe that, which I tend to agree with, but I would like to hear what you have to say?

Mr. TKACIK. Thank you, Mr. Congressman. The reason is because it gives, it sends a wrong message. I do not want to go all the way back into history, but suffice it to say that it is now, in 2005, the policy of the United States that the sovereignty issue, the question of sovereignty and the status of Taiwan is unsettled. It is an unsettled question left over from World War II.

The United States has never recognized China's claim to sovereignty over Taiwan and has never accepted it. In 1976, and I think you yourself have alluded to Henry Kissinger's meeting with his top foreign policy aides in the White House in October 1976, where he looked at his top aides and said if we recognize China's claim to Taiwan, there will be nothing to stop China. They can go ahead and use force and we cannot say anything about it. What will we do?

It is interesting that Secretary Kissinger's top East Asia hand, Arthur Hummel, piped up at that point and said: "Perhaps down the road, the only solution is an independent Taiwan." I happen to think that that may well be the only solution.

And I respectfully disagree with Mr. Faleomavaega's observation that the pretense is what has stopped a war from breaking out in the Taiwan Strait. In fact, what has stopped a war is Congress' Taiwan Relations Act, the expression of the people of the United States that defending a free and democratic nation in Taiwan is in the United States' interest and it is enshrined in the Taiwan Relations Act. It is that commitment that has prevented the Chinese from going to war. When that commitment slips, China will go to war, there is no question in my mind. Or if they do not go to war, they will force, through non-military means, Taiwan to join China.

This is what I mean about the one-China policy being dangerous. If you say Taiwan is part of China, if we recognize that, at the end of the day it means you have convinced the people of the United States, the leaders of the United States, the Congress of the United States, that China's claim to Taiwan is valid and that we support it.

Mr. CHABOT. Thank you. Before my time runs out, I have two other quick questions and I will put them as quickly as I can. Our colleague, Mr. Brown from Ohio, has been a leader on trying to get observer status at the WHO for some time now. We have joined with him on that, a number of us have. China has been able to block this and has been pretty intransigent about it. Do you think there is any chance that, in light of the anti-secession legislation that they recently passed, that the PLC leadership might want to look at spreading a little goodwill by backing off its longstanding abstinence on this issue? And the other question, yesterday the Taiwan delegation was their hope that we could finally get the legislation to improve Taiwan's military. The defense package that has been bandied about for years now was 20 billion and 18 billion. Now I think it is 13 billion or so.

And Trang Chai, yesterday, when I asked the question, said that he thought this week or next week should come up in committee and should be passed at that time. If there is any comment that any of the panel members might have on the need for Taiwan to make sure that it has modernized its forces so that it is not such an inviting target to the PRC, especially in light of 600 missiles being pointed in its direction. So the WHO and then the defense package.

Mr. TKACIK. Well, in the WHO, I think that the Chinese are continuing in their insistence that any Taiwan membership observer-ship be under the name of China. I am not sure that that, I mean, I think that Taiwan could have done that a long time ago. If it

wanted China to run its public health policy, it could have joined as Taiwan China under the sponsorship of China a long time ago. I am not sure that that is in our interest.

Number two, the issue Mr. Ackerman referred to earlier: What was the United States commitment to the defense of Taiwan when President Bush said we will do all it takes, we will do whatever it takes? What President Bush said on April 25 was, we will do whatever it takes to help Taiwan defend herself. This means that we do expect Taiwan to defend itself. The leader of the third largest party in the Legislative Yuan, James Soong, was here in Washington earlier this year and met with people in the Defense Department. My understanding from people at the Defense Department was that he had committed his party's support for the special budget, the special defense budget. But it remains to be seen, I think, in legislative activity next week whether that takes place.

Mr. ROHRABACHER. We actually have about 2 minutes left before we have to go over to Yushchenko's speech. So, Mr. Paul, do you have a couple of questions?

Mr. PAUL. Thank you, Mr. Chairman. Barely. Can I get a question in in 2 minutes? But I will try. I found the statement by Dr. Rigger very fascinating and that is the fact that half the people in Taiwan may well be supportive of unification with China and that sort of suggests that more consideration should be given to a more balanced approach to China, and that is one with less intervention rather than more intervention.

I cannot see how anybody can claim that our relationship with China makes any sense at all. First we have a one-China policy. At the same time, we have a military commitment to Taiwan that may one day secede. I mean, the two are incompatible.

But instead of demanding that we either have a total commitment to a one-China policy or a total military commitment and go one way or the other, why is it that we could not consider a less intervention, say, you know, self-determination is good, trade with China is good. A lot of trade is going on between Taiwan and China. Half the people there possibly are supportive of unification. Why can we not say we are not smart enough to know what is best for China? Why do we not let them sort this out?

One thing I would strongly suggest for us to butt out on is tremendous subsidies to China through the Export Import Bank. Why do we subsidize them at the same time we claim we are going to help Taiwan if they decide to secede? So I see that there is room, especially right now, where we could be friends with China and friends with Taiwan and trade with China and say, you know, self-determination is great and trade is great. Maybe, maybe our interference was making things worse rather than better.

Ms. RIGGER. May I respond? I think that the fact that a lot of Taiwanese are agnostic about the long term outcome suggests that they agree with you that, you know, we are not smart enough to resolve this right now and that they would prefer to sort of maintain the situation that they have until sometime in the future. Smarter people or younger people or future generations can figure out a solution.

The problem is that there are for many actors in the region feelings of urgency and necessity to do something now and that is true

in Taiwan of those who wish for, you know, immediate or near term independence. It is also true in Taiwan of people who fear that the trends are working against Taiwan. So to wait is to sort of play into Beijing's hand, to ripen and eventually fall.

So there are people in Taiwan who want to stabilize the current situation in more formal ways in order to prevent future developments from drifting against their preferences. But I think the bigger problem, frankly, is a sense of urgency in Beijing to do something about the Taiwan issue. For awhile, it seemed that Chinese leaders were more confident that the long term economic and political and social trends were in their favor. But now they seem once again to be kind of not panicking, but more intensely anxious about the possibility that Taiwan may pull up some kind of escape trick and that the current Chinese leadership will then face a huge crisis of legitimacy and credibility.

Mr. PAUL. May I interrupt you? Is there any room for consideration for us to do less?

Ms. RIGGER. Well, the most interesting proposal that has come forth recently is another in a series of proposals that Professor Ken Leiberthal has made for interim agreement, something that would sort of freeze the current situation for 50 years and China would promise no use of force and Taiwan would promise no declaration of independence.

In the past, Taiwanese leaders have rejected those interim agreement suggestions, but the most recent one was sort of endorsed or accepted as an interesting idea to think about by both the outgoing and the incoming mainland affairs counsel Chairs in Taiwan. So senior policy makers about cross-Strait policy have said maybe there is something to be said for just asking for the U.S. to assist us in stabilizing and bounding this problem, rather than trying to work it out on our own.

So in a way, that is both a more interventionist but also a less interventionist solution, because it does not seek to impose a solution simply to bounce the problem and create an opportunity for these long term trends to do their thing.

Mr. ROHRBACHER. Thank you very much. I would like to thank the panel today. Just a few notes that we should always remember the wonderful way, just the pleasantries and all of the, you know, all the goodwill and pleasant treatment that the people of Tibet have been experiencing while submitting themselves to Beijing, which we know is not. That was a joke, obviously.

The fact is that the people of Tibet are experiencing near genocide, cultural genocide, in their country. And the people of Taiwan should note very carefully what is going on in Tibet and other places in China with the Government in Beijing.

Let us also note, Mr. Paul, that the people of the United States, officially, we believe that government is legitimate if it has the consent of the governed. And in this situation, we are dealing with the people of Taiwan who have a legitimate Government and we have a group of thugs who hold power by violence and force on the mainland. It does not seem to be any question in my mind who the United States should be considering legitimate and who we should be siding with.

And finally, strategic ambiguity, Mr. Tkacik, I am sorry. Ronald Reagan is gone, he ended the Cold War. He defined things by tearing down the wall, which all of his senior advisors told him not to do. The policies he put in place he made the world a safer place, but he is gone and we cannot expect as much from a lot of other people, although that would be the right path.

Thank you very much. This hearing is adjourned.

[Whereupon, at 10:46 a.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

RESPONSE FROM MR. RANDALL G. SCHRIVER, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE, TO QUESTION SUBMITTED FOR THE RECORD BY THE HONORABLE ENI F.H. FALEOMAVAEGA, A REPRESENTATIVE IN CONGRESS FROM AMERICAN SAMOA

Question:

Please provide for the record information on Japan's military build up versus PRC's build up.

Response:

For FY2005 Japan's defense budget is 4.86 trillion yen, about \$45 billion at today's exchange rate. That is down in yen terms by 1% from the previous year—and is the fourth straight year of declining defense budgets. That is just above 1.0% of GDP (using World Bank GDP figures for 2003). Much of this spending, however, goes to support U.S. facilities in Japan in defense of our own regional interests.

On March 4, 2005 a PRC National People's Congress Spokesman announced that China would increase its annual defense spending by 12.6 percent to a total of \$29.9 billion. This followed a real increase of 11.6 percent in defense spending for 2004. However, the official budget figure does not include off-budget funding, notably for purchases of foreign technology. Current total spending for 2005 is estimated to be \$60–80 billion annually.

RESPONSES FROM MR. RANDALL G. SCHRIVER, DEPUTY ASSISTANT SECRETARY OF STATE, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE, TO QUESTIONS SUBMITTED FOR THE RECORD BY THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Question:

To the best of your knowledge, is there any desire on the part of either Beijing or Taipei for Washington to play a "facilitator" role that would be acceptable to both sides?

Response:

In addition to the three U.S.-China joint communiqués, U.S. cross-Strait policy is also informed by President Reagan's Six Assurances to Taiwan. The fourth of the six assurances states that the United States will not mediate between Taiwan and China. The United States is not a direct participant in the dispute between the PRC and Taiwan, but we have a strong interest in doing all we can to create an environment that is conducive to a peaceful resolution. Resuming the dialogue between the two sides is an important first step. A large part of that effort consists of our promoting a strong bilateral relationship between the United States and the PRC, and a strong unofficial relationship between the United States and Taiwan. We desire and need good relations with both, and believe this positions us best to assist the two sides in getting to the negotiating table on mutually agreeable terms. Indeed, we believe both sides desire and need good relations with one another.

Question:

Are there any provisions of the new law which suggest flexibility? For example, Article 6 of the law lays out a series of "measures to maintain peace and stability in the Taiwan Straits and promote cross-Strait relations." And Article 7 affirms that China seeks "the achievement of peaceful reunification through consultations and ne-

gotiations on an equal footing” between the two sides of the Taiwan Straits.” Please comment.

Similarly, does the law specify that Taipei accept the one-China principle as a precondition for starting the process of consultations and negotiations? If not, have authoritative PRC comments about the bill been consistent with its precise wording? Please comment.

Response:

The text of the law contains many elements of longstanding PRC cross-Strait policy including the goals of achieving “peaceful national reunification” and promotion of cross-Strait cultural and economic exchanges. These proposals are not new and have been articulated for some time by Chinese leaders, including by President Hu Jintao in his New Year address. However, the provisions of Article 8 of the law cannot be reconciled with these more conciliatory aspects of PRC policy and, given the aggressive military build-up opposite Taiwan, we remain very concerned.

Article 5 of the law states that “upholding the principle of one China is the basis of peaceful reunification of the country.” Although China has publicly stated it would be willing to engage in dialogue if Taiwan accepts Beijing’s interpretation of the “1992 Consensus,” there have been no authoritative comments from Chinese leaders regarding the conception of the one-China principle as specified in Article 5.

Question:

Let me turn for a moment to Taiwan’s threat perceptions and its arms procurement policy. Between 1995 and 2002, Taipei imported more than \$20 billion worth of foreign weaponry, making it the world’s second largest arms importer (after Saudi Arabia). In recent years, however, Taiwan’s arms purchases have fallen off sharply, and new orders for arms fell to less than \$2 billion over the past five years. How do you explain this trend? What does it mean for cross-Strait stability and U.S. policy?

Response:

Taiwan’s defense budget has declined to about 2.6% of GDP over the past ten years. A number of systems which represent key defense capabilities for Taiwan were approved for release in 2001 and continue to be unfunded. We urge Taiwan to acquire priority defensive capabilities in the areas of missile defense, Command/Control/Communication Systems, and Anti-Submarine Warfare. We will abide by our commitments under the Taiwan Relations Act to make available defense articles and services to enable Taiwan to maintain a sufficient self-defense capability.

Question:

Many U.S. observers are disappointed that Taiwan’s government has moved slowly to purchase the weapons systems the U.S. began offering in 2001. What are the prospects that Taipei will approve a special budget of more than \$15 billion to purchase the weapons systems the U.S. recommended in 2001?

Response:

Taiwan’s legislature continues to fail to pass an \$ (US) 18 billion special defense budget package to purchase a number of systems approved in 2001. These systems represent priority defensive capabilities for Taiwan. Taiwan’s Ministry of National Defense has resubmitted the package to the Legislature for reconsideration. The Legislature may approve a reduced amount, but the prospects for passage remain uncertain as the special budget is under intense domestic political debate. We urge Taiwan to pass this special budget to acquire the capabilities it needs for its own self-defense.

Question:

During the last few weeks of the Parliamentary election campaign in Taiwan President Chen played up some of the most controversial issues on the so-called “pan-Green” agenda, including asserting Taiwan’s identity is separate from China, reiterating the need for a radically new constitution, and calling for rectification of Taiwan’s name on the international stage. What has become of this proposed action agenda?

Please describe the likely agenda, process, and timetable for constitutional reform in Taiwan.

Response:

President Chen’s “action agenda.” Since the December 2004 Legislative Yuan election, in which the DPP and its Pan-Green allies failed to win a majority, President Chen Shui-bian has appeared to adjust course and move towards the Taiwan political center. President Chen and his government seldom raise constitutional reform

or the “pan-Green agenda” that were highlighted in the 2004 legislative campaign. When they do, it is in very general terms instead of the specific constitutional revision schedule Chen promised in his campaign speeches in late 2004. The issue of Taiwan name changes has also been de-emphasized. President Chen has been silent on the issue and the new Premier, Frank Hsieh, specifically pledged that the government would not push name change, but would leave this to the discretion of the affected organizations. However, President Chen and members of his government do continue to state that the “Republic of China” is a “sovereign, independent state” and has an identity separate from the Beijing government.

Agenda, Process and timetable for constitutional reform. The agenda for constitutional reform was decided by the Legislative Yuan in August 2004. The Legislative Yuan passed four proposed constitutional revisions, which will be voted on by a “National Assembly” to be chosen in 2005. The National Assembly will have only one clearly defined task: to approve or reject the legislature’s proposed revisions to the Constitution. The proposed changes, which the National Assembly reportedly will not be able to amend, are:

- Cut the number of Legislative Yuan seats from 225 to 113;
- Create a mixed single-member district/proportional list electoral system for the Legislative Yuan to replace the present multi-member district system;
- Extend the term of office for Legislative Yuan members from three to four years;
- Eliminate the National Assembly, which currently is the body empowered to approve changes to the Constitution approved by the Legislative Yuan and replace it with a constitutional process requiring the public, through referenda, to approve or reject changes to the Constitution approved by the legislature.

The process for constitutional change requires that the Legislative Yuan, in addition to approving an agenda of constitutional revisions, to pass implementing legislation for the selection of the members of National Assembly and a procedural law for National Assembly’s deliberations. In 2000, the law requiring the election of National Assembly members was replaced. Under current law, the National Assembly members are to be chosen by party and in proportion to party representation in the Legislative Yuan.

The Legislative Yuan has set the election of the National Assembly for May 14, but has not passed a procedural law for the National Assembly as yet. Political infighting between the Pan-Blue majority and the Pan-Green minority in the Legislative Yuan could delay approval of legislation on National Assembly procedure. There are different legal interpretations over whether the National Assembly can draft its own procedures if the Legislative Yuan fails to do so before May 14. Since Article 34 of the constitution gives the Legislative Yuan responsibility for creating procedural rules for the National Assembly, a political deadlock over the issue may require a formal interpretation by the Council of Grand Justices. In any case, if the National Assembly is selected as scheduled on May 14 and the problem of procedure for the National Assembly is worked out, it is likely its deliberations and the final decisions on revisions to Taiwan’s present constitution will be complete before the end of 2005.

PREPARED STATEMENT OF THE HONORABLE DAN BURTON, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF INDIANA

Mr. Chairman, thank you for holding this timely and important hearing regarding the People’s Republic of China’s (PRC) blatant and unilateral move to alter the status quo in the Taiwan Straits through the passage of its new Anti-Secession Law. For the past several months the PRC has taken a series of steps apparently designed to leave its “Good Neighbor” policy by the wayside and position itself to embark on a new campaign to promote its economic and military ambitions across the Straits and throughout the region.

Of course saber rattling by the PRC is nothing new, but the new Anti-Secession Law represents a dangerous dimension when put into the context of approximately 500 short-range ballistic missiles already aimed at Taiwan with more missiles and other offensive weapons being deployed by the PRC in areas adjacent to the Taiwan Strait on an almost daily basis.

The translations that I have read indicate that the new Law states: “Accomplishing the great task of reunifying the motherland is the sacred duty of all Chinese people including the Taiwan compatriots.” In short, the Anti-Secession Law obligates—and it’s important to stress that word—that the People’s Liberation Army

use military force to annex Taiwan if Beijing believes Taiwanese rhetoric or actions are moving the Island towards independence or if China considers Taiwanese leaders are engaging in so-called separatist activities.

In addition, the law creates the legal grounds for Beijing to punish anyone speaking or acting against reunification of Taiwan and China. So this law not only threatens the status quo in the Taiwan Straits, but it represents a broad new instrument of oppression; the same kind of blunt instrument Beijing has resorted to in the past, and with grave consequences.

Even before China publicly unveiled this law, many of us in the Congress as well as State Department and the White House officials had warned our Chinese friends that this new law, and its hardened militaristic approach to future dealings with Taiwan, would undermine the progress and goodwill that has spread across the Straits in recent years. Unfortunately, our warnings went unheeded and the predictable result has been an escalation in military tensions in the Taiwan Straits.

Chinese President Hu Jintao must believe that our need for Beijing's cooperation on the North Korean Nuclear threat outweighs our commitment to defend the 23 million inhabitants of democratic Taiwan. However, with American soldiers dying overseas in Afghanistan and Iraq in order to bring democracy and freedom to people who have long suffered under tyranny, to assume that the United States cares so little about Taiwan—a vibrant and pluralistic democracy that respects human rights and the rule of law, and has been an important ally of the United States for over half a century—is a grave miscalculation in my opinion, but perhaps part of Beijing's larger strategy to increasingly test the boundaries of America's power and influence throughout the Pacific.

Regarding China's influence throughout the World, later today Congressman Menendez and I will be convening a Subcommittee on the Western Hemisphere hearing to examine the opportunities and threats posed by China in the Western Hemisphere. Over the last few years, the PRC has been moving aggressively into Latin America with billions of dollars of investments, trade agreements and massive infrastructure development in the name of economic development. We intend to utilize the example of China's activities in the Hemisphere to highlight the fundamental debate over Beijing's official foreign policy.

If China's number-one priority is truly economic development, when push comes to shove, will Beijing pursue a policy that places an emphasis on stabilizing the international environment or will it seek to offset the status quo, and displace traditional trade frameworks and alliances, in order to create strategic openings for itself?

Should the stand-off over Taiwan flare into open violence, it will undoubtedly have repercussions far beyond the Taiwan Straits. So, I believe that we need to send a strong message to the People's Republic of China that a return to the status quo in Taiwan and the "Good Neighbor" policy, which has worked so effectively for so long, is in the best interests of all parties.

To that end, I was pleased to see Secretary of State Condoleezza Rice raise this issue and register our serious concerns in Beijing last month, and I was also pleased to co-sponsor Chairman Hyde's Concurrent Resolution 98 denouncing the Anti-Secession Law, which passed the House by a strong bipartisan vote of 424-4.

I was also heartened by the news that the European Union will likely choose not to lift the arms embargo imposed after the Tiananmen Square slaughter of thousands of students and freedom activists in 1989. Although the EU has not tied the issue of the Anti-Secession Law to the lifting of the arms embargo, I am skeptical that it is mere coincidence that the EU was considering the idea before the adoption of the Anti-Secession Law, yet it firmly rejected the notion after it was adopted.

We must not forget the sacrifices of those who died in Tiananmen Square and the freedoms they died for. Likewise, we must not let Beijing ratchet up tensions across the Taiwan Straits and intimidate into submission the free people of Taiwan. If we are serious about enhancing the spread of human rights, democracy and freedom across the globe, we must stand up for the rights of the people of Taiwan.

Thank you.

