

Appendix 91 --U.S.-Taiwan Anti-Ballistic Missile Defense Cooperation Act (1997)

105th CONGRESS

1st Session H. R. 2386

Passed 6 November 1997 AN ACT

To implement the provisions of the Taiwan Relations Act concerning the stability and security of Taiwan and United States cooperation with Taiwan on the development and acquisition of defensive military articles.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'United States-Taiwan Anti-Ballistic Missile Defense Cooperation Act'.

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) The stability and security of Taiwan and the balance of power in the Taiwan Strait are key elements for the continued peace and stability of the greater Asia-Pacific region, and the indefinite continuation of such stability and security and balance of power is in the vital national security interest of the United States.
- (2) The People's Republic of China is currently engaged in a comprehensive military modernization campaign that is enhancing the power-projection capabilities of the People's Liberation Army, including the introduction of advanced ballistic and cruise missiles that could alter the current balance of power in the Taiwan Strait and in the greater Asia-Pacific region.
- (3) The current lack of transparency in the People's Republic of China military infrastructure and its associated defense establishment and the opaqueness of the comprehensive efforts of the People's Liberation Army to modernize its ballistic and cruise missile programs could spark a regional arms race that would destabilize the East Asia and Western Pacific regions and threaten vital United States national security interests.
- (4) In March 1996, the People's Liberation Army created a temporary, but de facto, blockade of both the international shipping lanes of the Taiwan Strait and the international airspace around Taiwan by conducting live-fire military exercises which included the launch of several advanced, nuclear-capable M-9 ballistic missiles to target areas close to major ports in both the northern and southern areas of Taiwan.
- (5) In March 1996, the locations of People's Liberation Army military activities and M-9 missile target areas nearby to Taiwan's two largest ports, Keelung and Kaohsiung, created a de facto blockade of the Taiwan Strait, international waters and airspace, interfered with United States and international shipping and aviation, and impinged upon the national security interests of the United States, requiring the immediate deployment of two United States aircraft carrier battle groups to the South China Sea.
- (6) The actions of the People's Liberation Army in such close proximity to Taiwan were deliberate attempts to disrupt Taiwan's social and economic stability and were carried out as attempts to intimidate the people of Taiwan during the period leading up to Taiwan's historic

first democratic presidential election.

(7) The early development and deployment of an effective United States theater missile defense system to the Asia-Pacific region, and the adjustment of United States policy to include Taiwan, including the Penghu Islands, Kinmen, and Matsu, under the protection of such defense system, would be prudent and appropriate responses to--

(A) the refusal by the People's Republic of China to renounce the use of force to determine the future of Taiwan;

(B) the nature of the military threat of the People's Republic of China posed by the increased focus of the People's Liberation Army on advanced missile development; and

(C) the demonstrated intent of the Government of the People's Republic of China to use live-fire military exercises and ballistic missile tests against the people and Government of Taiwan as tools of so-called coercive diplomacy.

(8) The early deployment of a United States theater anti-ballistic missile system in the Asia-Pacific region would maintain a balance of power in the Taiwan Strait and deter the People's Republic of China from resorting to military intimidation tactics to coerce or manipulate the people and freely elected Government of Taiwan in the future.

(9) While Taiwan is currently acquiring a local aircraft and ballistic and cruise missile defense capability in the form of the Modified Air Defense System (MADS), a larger portion of Taiwan's territory and population would be protected if this system were expanded to include a defense of the Taichung region, Kaohsiung, the Penghu Islands, Kinmen, and Matsu from limited ballistic missile attacks and a deterrent against the threat and use of force against Taiwan by the People's Liberation Army to achieve the political goals of the core leadership of the People's Republic of China.

(10) Taiwan has requested further United States cooperation on missile defense, including the conduct of a joint architecture study of the requirements for the establishment and operation of a missile defense system for Taiwan, including the Penghu Islands, Kinmen, and Matsu.

(11) On June 9, 1898, the 'Convention Respecting an Extension of Hong Kong Territory' was agreed to between representatives of the governments of Great Britain and China to lease the New Territories for the period of 99 years beginning on July 1, 1898.

(12) On December 19, 1984, the 'Sino-British Joint Declaration', agreed to between representatives of the governments of Great Britain and China, established the terms for the return to China on July 1, 1997, of the Hong Kong area (including the Hong Kong Island, Kowloon, and the New Territories (hereafter in this resolution referred to as 'Hong Kong')).

(13) No treaties exist between the People's Republic of China and Taiwan which determine the future status of Taiwan.

(14) The People's Republic of China attempts to apply to Taiwan the formula commonly known as 'one country, two systems' in an effort to annex Taiwan to China.

(15) The People's Republic of China has refused to renounce the use of force against Taiwan and held military exercises in the Taiwan Strait in March 1996 in an attempt to intimidate the people of Taiwan in their first presidential elections.

(16) The Taiwan Relations Act states that '[i]t is the policy of the United States . . . to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States'.

SEC. 3. STUDY AND REPORT RELATING TO ESTABLISHMENT AND OPERATION OF A THEATER BALLISTIC MISSILE DEFENSE SYSTEM IN THE ASIA-PACIFIC REGION.

(a) STUDY- The Secretary of Defense shall carry out a study of the architecture requirements for the establishment and operation of a theater ballistic missile defense system in the Asia-Pacific region that would have the capability to protect Taiwan from ballistic missile attacks. The study shall include a description of appropriate measures by which the United States would cooperate with Taiwan and provide Taiwan with an advanced local-area ballistic missile defense system.

(b) REPORT- Not later than July 1, 1998, the Secretary of Defense shall submit to the Committee on National Security of the House of Representatives and the Committee on Armed Services of the Senate a report containing--

- (1) the results of the study conducted under subsection (a);
- (2) the factors used to obtain such results;
- (3) a description of any existing United States missile defense system that could be transferred to Taiwan in accordance with the Taiwan Relations Act in order to allow Taiwan to provide for its self-defense against limited ballistic missile attacks.

(c) FORM OF REPORT- The report under subsection (b) shall be submitted in both classified and unclassified form.

SEC. 4. TRANSFER OF BALLISTIC MISSILE DEFENSE SYSTEMS TO TAIWAN.

It is the sense of the Congress that the President, if requested by the Government of Taiwan and in accordance with the results of the study conducted under section 3, should transfer to the Government of Taiwan appropriate defense articles or defense services under the foreign military sales program under chapter 2 of the Arms Export Control Act (22 U.S.C. 2761 et seq.) for the purpose of establishing and operating a local-area ballistic missile defense system to protect Taiwan, including the Penghu Islands, Kinmen, and Matsu, against limited ballistic missile attacks.

SEC. 5. STATEMENT OF POLICY RELATING TO UNITED STATES THEATER MISSILE DEFENSES FOR THE ASIA-PACIFIC REGION.

The Congress declares that it is in the national interest of the United States that Taiwan be included in any effort at ballistic missile defense cooperation, networking, or interoperability with friendly and allied nations in the Asia- Pacific region.

SEC. 6. SENSE OF THE CONGRESS URGING THE PRESIDENT TO MAKE CLEAR TO THE PEOPLE'S REPUBLIC OF CHINA THE COMMITMENT OF THE AMERICAN PEOPLE TO SECURITY AND DEMOCRACY IN TAIWAN.

It is the sense of the Congress that the Clinton Administration should make clear to the leadership of the People's Republic of China, the American people's firm commitment for security and democracy for the people of Taiwan and that the United States fully expects that the resolution of security issues on both sides of the Taiwan Strait will be resolved by peaceful means.

SEC. 7. ADDITIONAL SENSE OF THE CONGRESS REGARDING TAIWAN.

It is the sense of the Congress that--

- (1) the transfer of Hong Kong to the People's Republic of China does not alter the current and future status of Taiwan;
 - (2) the future of Taiwan should be determined by peaceful means through a democratic process; and
 - (3) the United States, in accordance with the Taiwan Relations Act and the constitutional processes of the United States, should assist in the defense of Taiwan in case of threats or military attack by the People's Republic of China against Taiwan.
- Passed the House of Representatives November 6, 1997.