

Appendix 108 – US Congress - Taiwan Security Enhancement Act (1999)

(H. R. 1838)

House International Relations Committee, October 26, 1999

H.R. 1838 was originally introduced on May 18, 1999, by Rep. Tom DeLay (R-Texas) and a bipartisan group of 14 co-sponsors. In the ensuing weeks, a total of 77 Members of Congress co-sponsored the bill. A substantially revised version, authored by Rep. Benjamin Gilman (R-N.Y.) and Rep. Sam Gejdensen (D-Conn.) was introduced as an amendment during the House International Relations Committee mark-up of the bill on October 26, 1999. The Committee approved the bill by a 32-6 vote, and it now awaits action by the full House of Representatives.

A BILL

To assist in the enhancement of the security of Taiwan, and for other purposes.

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 "Taiwan Security Enhancement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

- (1) Since 1949, the close relationship between the United States and Taiwan has been of enormous benefit to both societies.
- (2) In recent years, Taiwan has undergone a major political transformation, and Taiwan is today a true multiparty democracy with a political system separate from and totally unlike that of the People's Republic of China.
- (3) The economy of Taiwan is based upon free market principles and is separate and distinct from the People's Republic of China.
- (4) Although on January 1, 1979, the United States Government withdrew diplomatic recognition of the government on Taiwan as the legitimate government of China, neither at that time nor since has the United States Government adopted a formal position as to the ultimate status of Taiwan other than to state that status must be decided by peaceful means. Any determination of the ultimate status of Taiwan must have the express consent of the people on Taiwan.
- (5) The People's Republic of China refused to renounce the use of force against democratic Taiwan.
- (6) The Taiwan Relations Act has been instrumental in maintaining peace, security and stability in the Taiwan Strait and the Western Pacific since its enactment in 1979.
- (7) The Taiwan Relations Act (Public Law 96-8) states that--
 - (A) peace and stability in the Taiwan Strait area are in the political, security, and economic interests of the United States and are of international concern;
 - (B) the decision of the United States 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;
 - (C) the United States would consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes, a threat to the peace and security of the Western Pacific region and of grave concern to the United States;

(D) the United States will maintain the capacity to resist any form of coercion that jeopardizes the security, or the social or the economic system, of the people on Taiwan; and

(E) the preservation and enhancement of the human rights of all people on Taiwan are objectives of the United States.

(8) The Taiwan Relations Act establishes on the part of the United States a continuing connection with and concern for Taiwan, its people. Continued adherence to the Act will help Taiwan to maintain its democracy free of coercion and to safeguard its people from the use of force against them. Furthermore, the maintenance by Taiwan of forces adequate for defense is in the interest of the United States in that it helps to maintain peace in the Western Pacific region.

(9) The military modernization and weapons procurement efforts by the People's Republic of China, as documented in the February 1, 1999, report by the Secretary of Defense on "The Security Situation in the Taiwan Strait," could threaten cross-Strait stability and United States interests in the Asia-Pacific region.

(10) The Taiwan Relations Act provides explicit guarantees that the United States will make available defense articles and services necessary in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

(11) The Taiwan Relations Act requires timely reviews by United States military authorities of Taiwan's defense needs in connection with recommendations to the President and the Congress.

(12) Congress and the President are committed by the Taiwan Relations Act to determine the nature and quantity of Taiwan's legitimate self-defense needs.

(13) It is the policy of the United States to reject any attempt to curb the provision by the United States of defense articles and services legitimately needed for Taiwan's self-defense.

(14) In accordance with the Taiwan Relations Act, the United States has, since 1979, sold defensive weapons to Taiwan, and such sales have helped Taiwan maintain its autonomy and freedom. The Congress supports the continued provision of additional defense articles and defense services in accordance with the Taiwan Relations Act, including missile defense equipment; satellite early warning data; air defense equipment; and diesel-powered submarines, Aegis combat systems, and other naval defense systems.

(15) It is in the national interest of the United States to eliminate ambiguity and convey with clarity continued United States support for Taiwan, its people, and their ability to maintain their democracy free from coercion and their society free from the use of force against them. Lack of clarity could lead to unnecessary misunderstandings or confrontations between the United States and the People's Republic of China, with grave consequences for the security of the Western Pacific region.

(16) A consequence of such ambiguity and lack of clarity was the People's Republic of China's decision to conduct military exercises and live fire missile tests in the Taiwan Strait in March 1996, necessitating House Concurrent Resolution 148, approved by the House of Representatives by a vote of 369-14 on March 19, 1996, and by the Senate by a vote of 97-0 on March 21, 1996, which stated that "the United States, in accordance with the Taiwan Relations Act and the constitutional process of the United States, and consistent with its friendship with and commitment to the democratic government and people of Taiwan, should assist in defending them against invasion, missile attack, or blockade by the People's Republic of China". Immediately following Congressional passage of House Concurrent Resolution 148, the United States deployed on an emergency basis two aircraft carrier battle groups to the

Taiwan Strait, after which the People's Republic of China ceased further planned military exercises.

(17) An earlier consequence of such ambiguity and lack of clarity was the expressed surprise by the People's Republic of China that the United States fully support President Lee Teng-hui's private visit to his alma mater, Cornell University, necessitating House Concurrent Resolution 53, approved by the House of Representatives by a vote of 390-0 on May 2, 1995, and by the Senate by a vote of 97-1 on May 9, 1995, which stated such support explicitly.

SEC. 3. TRAINING OF TAIWAN MILITARY OFFICERS AND SALE OF DEFENSE ARTICLES AND SERVICES TO TAIWAN.

(a) TRAINING OF TAIWAN MILITARY OFFICERS -- The Secretary of Defense and the Secretaries of the military departments shall make every effort to provide sufficient positions for all eligible and interested Taiwan military officers at the National Defense University and other professional military education schools specified in section 2162(d) of title 10, United States Code, and for prospective Taiwan military officers at the United States Military Academy, the United States Naval Academy, and the Air Force Academy.

(b) FOREIGN MILITARY SALES -- The Secretary of State shall, when considering foreign military sales to Taiwan --

(1) take into account the special status of Taiwan, including the defense needs of Taiwan in response to the military modernization and weapons procurement efforts by the People's Republic of China; and

(2) make every effort to ensure that Taiwan has full and timely access to price and availability data for defense articles and defense services.

SEC. 4. DETERMINATIONS OF DEFENSE NEEDS OF TAIWAN.

(a) INCREASE IN TECHNICAL STAFF OF THE AMERICAN INSTITUTE IN TAIWAN -- Upon the request of the Defense Security Cooperation Agency, the President shall use funds available to the Department of Defense under the Arms Export Control Act for the employment of additional technical staff to the American Institute in Taiwan.

(b) ANNUAL REPORTS -- Beginning 60 days after the next round of arms talks between the United States and Taiwan, and annually thereafter, the President shall submit a report to Congress--

(1) detailing each of Taiwan's requests for purchase of defense articles and defense services during the one-year period ending on the date of the report;

(2) describing the defense needs asserted by Taiwan as justification for those requests; and

(3) describing the level at which any decision to reject, postpone, or modify any such request that was made.

SEC. 5. STRENGTHENING THE DEFENSE OF TAIWAN.

(a) MAINTENANCE OF SUFFICIENT SELF-DEFENSE CAPABILITIES OF TAIWAN -
- Congress finds that any determination of the nature or quantity of defense articles or defense services to be made available to Taiwan that is made on any basis other than the defense needs of Taiwan, whether pursuant to the August 17, 1982, communique signed with the People's Republic of China, or any similar executive agreement, order, or policy would violate the intent of Congress in the enactment of section 3(b) of the Taiwan Relations Act (22 U.S.C. 3302(b)).

(b) COMBINED TRAINING AND PERSONNEL EXCHANGE PROGRAMS -- Not later

than 210 days after the date of enactment of this Act, and annually thereafter, the Secretary of Defense shall implement a plan for the enhancement of programs and arrangements for operational training and exchanges of senior officers between the Armed Forces of the United States and the armed forces of Taiwan for work in threat analysis, doctrine, force planning, operational methods, and other areas. At least 30 days prior to such implementation, the Secretary of Defense shall submit the plan to Congress, in classified and unclassified form.

(c) **REPORT REGARDING MAINTENANCE OF SUFFICIENT SELF-DEFENSE CAPABILITIES** -- Not later than 45 days after the date of enactment of this Act, and annually thereafter, the Secretary of Defense shall submit a report to Congress, in classified or unclassified form, a report on the security situation in the Taiwan Strait. Such report shall include an analysis of the military forces facing Taiwan from the People's Republic of China, evaluating recent additions to the offensive military capability of the People's Republic of China. The report shall include, but not be limited to, an analysis of the surface and subsurface naval threats, the ballistic missile threat, the air threat, and the threat to military and civilian communications links in Taiwan. The report shall include a review of the steps taken by the armed forces of Taiwan to address its security situation.

(d) **COMMUNICATIONS BETWEEN UNITED STATES AND TAIWAN MILITARY COMMANDS** -- Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall have established contingent secure direct communications that the armed forces of the United States may choose to rely upon to coordinate with the armed forces of Taiwan in the event of an emergency.

(e) **RELATION TO ARMS EXPORT CONTROL ACT.** -- Nothing in this section supersedes or modifies the application of section 36 of the Arms Export Control Act to the sale of any defense article or defense service under this section.

SEC. 6. REPORT REGARDING THE ABILITY OF THE UNITED STATES TO RESPOND IN ASIA- PACIFIC CONTINGENCIES THAT INCLUDE TAIWAN.

(a) **REPORT.** -- Not later than 180 days after the date of enactment of this Act, and updated as appropriate, the Secretary of Defense shall prepare and submit to the chairmen and ranking minority members of the Committee on Foreign Relations and the Committee on Armed Services of the Senate and the Committee on International Relations and the Committee on Armed Services of the House of Representatives a report in classified form on the ability of the United States to successfully respond to a major contingency in the Asia-Pacific region where United States interests on Taiwan are at risk.

(b) **CONTENTS.** -- The report described in subsection (a) shall include --

(1) a description of planning on the national, operational, and tactical levels to respond to, prosecute, and achieve United States strategic objectives with respect to a major contingency described in subsection (a); and

(2) a description of the confidence level of the Secretary of Defense in the United States military capability to successfully respond to such a contingency.

(c) **PREPARATION OF REPORT.** -- In preparing the report under subsection (a), the Secretary of Defense shall use the resources and the expertise of the relevant unified commands, military departments, the combat support agencies, and the defense components of the intelligence community, as required, and other such entities within the Department of Defense as the Secretary considers necessary.

