

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HR 1613 Taiwan

**SPONSOR(S):** Lopez-Cantera

**TIED BILLS:** **IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>General Government Policy Council</u>	<u></u>	<u>Marra</u>	<u>Hamby</u>
2)	<u>Rules &amp; Calendar Council</u>	<u></u>	<u></u>	<u></u>
3)	<u></u>	<u></u>	<u></u>	<u></u>
4)	<u></u>	<u></u>	<u></u>	<u></u>
5)	<u></u>	<u></u>	<u></u>	<u></u>

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**SUMMARY ANALYSIS**

The resolution expresses support for Taiwan’s meaningful participation in organizations and conventions of the United Nations and other international entities, including the World Health Organization, the International Civil Aviation Organization, and the United Nations Framework Convention on Climate Change.

The resolution also provides that a copy of the resolution will be presented to the Taipei Economic and Cultural Office in Miami.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Taiwan**

Taiwan is a nation of 23 million people with a combined area of approximately 13,900 square miles, slightly smaller than Delaware and Maryland combined. It is comprised of the main island of Taiwan, the archipelagoes of Penghu, Kinmen and Matsu, and a number of other islands.<sup>1</sup> It is GDP of \$717.7 billion ranks 20<sup>th</sup> in the world.<sup>2</sup>

Taiwan is governed by the Taipei-based Republic of China (ROC), but the Beijing-based People's Republic of China (PRC) claims sovereignty over Taiwan as a part of China.<sup>3</sup> Taiwan has never been actively ruled by the Chinese Communist Party (CCP) or as part of the PRC.<sup>4</sup> However, the PRC maintains an estimated 1,500 ballistic missiles on the Chinese mainland aimed at Taiwan.<sup>5</sup> Earlier this year, U.S. plans to aid Taiwan in building its military defense prompted China to suspend military exchanges with the U.S.<sup>6</sup>

There is significant legal uncertainty as to Taiwan's status in the international community.<sup>7</sup> Taiwan has adopted a new foreign policy of "flexible diplomacy" that stresses raising Taiwan's international profile and integrating its economy with the region instead of competing with the PRC for diplomatic allies.<sup>8</sup>

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<sup>1</sup> CIA World Factbook, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/tw.html>

<sup>2</sup> *Id.*

<sup>3</sup> KERRY DUMBAUGH, TAIWAN'S POLITICAL STATUS: HISTORICAL BACKGROUND AND ONGOING IMPLICATIONS, CONGRESSIONAL RESEARCH SERVICE REPORT RL30341 at 1, Jun. 4, 2009, available at <http://fpc.state.gov/documents/organization/110831.pdf>.

<sup>4</sup> SHIRLEY KAN, CHINA/TAIWAN: EVOLUTION OF THE 'ONE CHINA' POLICY, CONGRESSIONAL RESEARCH REPORT RS22388 at 4, Aug. 17, 2009.

<sup>5</sup> *China Increases Missiles Pointed at Taiwan to 1,500*, REUTERS, Feb. 15, 2009, available at <http://www.taipeitimes.com/News/front/archives/2009/02/15/2003436194>.

<sup>6</sup> *China Hits Back at U.S. over Taiwan Weapons Sale*, BBC NEWS, Jan. 30, 2010, available at <http://news.bbc.co.uk/2/hi/8488765.stm>; Cara Anna, *China Says Military Ties with US Still Suspended*, ASSOCIATED PRESS, Apr. 13, 2010, available at <http://www.google.com/hostednews/ap/article/ALeqM5h4kq-860fCB0J11y73pGafA7SMTwD9F23J580>.

<sup>7</sup> See Taiwan and the International Community, *infra* at p. 3.

<sup>8</sup> Republic of China Yearbook 2009, available at <http://www.gio.gov.tw/taiwan-website/5-gp/yearbook/ch06.html>.

## Governance

The ROC government is divided into central, provincial and municipal, as well as county and city, levels. The central government consists of the Office of the President and five branches (called “Yuan”)—the Executive Yuan, the Legislative Yuan, the Judicial Yuan, the Examination Yuan and the Control Yuan.<sup>9</sup>

The Constitution of the Republic of China<sup>10</sup> was adopted on December 25, 1946, based on three principles:

- The Principle of Nationalism asserts the ROC’s sovereign status and insists on its equal rights in international affairs, as well as equality among all ethnic groups within the country.
- The Principle of Democracy assures each citizen the right to exercise political and civil liberties, is the foundation of the organization and structure of the government.
- The Principle of Social Well-being states that the powers granted to the government must be used to serve the people through building a prosperous economy and a just society.

The Constitution guarantees various rights to all citizens, including equality before the law; the right to work, seek a livelihood and own property; and the powers of election, recall, initiative and referendum. The Constitution also ensures the freedoms of speech, choice of residence, movement, assembly, confidential communication, religion and association.

## History

During World War II, Taiwan was a Japanese colony. The ROC controlled continental China, but was in the midst of a civil war against the Chinese Communist Party. The ROC seized Taiwan on behalf of the Allies. Relying on the Cairo Declaration, the ROC government declared Taiwan a province of the ROC in 1945.<sup>11</sup>

Four years later, on the verge of defeat by communist forces, the ROC government fled the continent and relocated to the island of Taiwan. About 1.3 million people, primarily soldiers, civil servants and teachers, came to Taiwan from the Chinese mainland.<sup>12</sup>

Since then, the ROC government has exercised jurisdiction over Taiwan and a number of other islands, while the PRC has exercised jurisdiction over the Chinese mainland. The two societies have developed in radically different directions: Taiwan has joined the ranks of democracies while the mainland has remained under authoritarian rule.<sup>13</sup>

On March 14, 2005, Beijing enacted an anti-secession law calling for use of “non-peaceful means” to achieve unification should Taiwan’s people attempt to secede from the PRC.<sup>14</sup>

Upon President Ma Ying-jeou’s election in 2008, Taiwan has engaged in “flexible diplomacy.” As part of this policy, a truce has been reached between the ROC and PRC to end competition for diplomatic allies at the other side’s expense. Furthermore, efforts are being made to raise Taiwan’s international profile.<sup>15</sup>

After being suspended for nearly a decade, meetings between ROC’s Straits Exchange Foundation (SEF) and PRC’s Association for Relations Across the Taiwan Strait (ARATS) resumed in 2008. To date, the SEF-ARATS talks have resulted in the signing of several agreements concerning cross-strait

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<sup>9</sup> *Id.*

<sup>10</sup> Available at [http://www.servat.unibe.ch/icl/tw00000\\_.html](http://www.servat.unibe.ch/icl/tw00000_.html).

<sup>11</sup> CIA World Factbook, *supra* n. 1.

<sup>12</sup> Republic of China Yearbook 2009, *supra* n. 12.

<sup>13</sup> *Id.*

<sup>14</sup> Available at <http://www.china.org.cn/english/20051h/122724.htm>.

<sup>15</sup> Republic of China Yearbook 2009, *supra* n. 12.

tourism, direct shipping, air transportation, postal services, food safety, financial cooperation, and joint crime-fighting and mutual judicial assistance.<sup>16</sup>

## Taiwan and the International Community

### *Taiwan Relations Act*

The ROC and United States were allies during World War II, and maintained diplomatic ties until 1979, when the United States established diplomatic ties with the PRC. The Taiwan Relations Act<sup>17</sup> (TRA) of 1979 has governed the U.S. relationship with the “governing authorities on Taiwan,” in the absence of diplomatic recognition.

The TRA stipulates that it is the U.S. expectation that the future of Taiwan “will be determined” by peaceful means. It also establishes it is U.S. policy:

- to consider any non-peaceful means to determine Taiwan’s future “a threat” to the peace and security of the Western Pacific and of “grave concern” to the United States;
- “to provide Taiwan with arms of a defensive character;” and
- “to maintain the capacity of the United States to resist any resort to force or other forms of coercion” jeopardizing the security, or social or economic system of Taiwan’s people.

The TRA provides a congressional role in determining security assistance “necessary to enable Taiwan to maintain a sufficient self-defense capability.”

China has been firmly opposed to the unilateral enactment of the Taiwan Relations Act by the United States in 1979, regarding it as openly violating China’s sovereignty.<sup>18</sup>

### *Taipei Economic Cultural Office in Miami*

The Taipei Economic and Cultural Office in Miami (TECO-Miami) is one of 12 offices under the Washington D.C.-based Taipei Economic and Cultural Representative Office (TECRO), Taiwan’s de facto embassy in the United States in the absence of diplomatic ties. TECRO was established in 1979 to represent Taiwan’s interests in the US. Taipei-Washington relations.<sup>19</sup>

### *Participation in International Community*

From the beginning, both the ROC and PRC claimed to be the rightful government of *all* of China, including Taiwan. A consensus reached in 1992 between the ROC and PRC holds that there is only one China, and the definition of that China is to be determined separately by Taipei and Beijing.<sup>20</sup> The “one China” question has been left somewhat ambiguous and subject to different interpretations among Washington, Beijing, and Taipei.<sup>21</sup> As a result, there is legal uncertainty in the international community as to whether Taiwan is an independent state.

The ROC, a founding member of the United Nations (UN), was forced to withdraw as China’s representative in 1971. The UN General Assembly voted to replace it with the PRC as representative of the State of China for the *State’s* membership of the UN.<sup>22</sup> Until recently, the ROC had repeatedly

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<sup>16</sup> *Id.*

<sup>17</sup> 22 U.S.C. 48 §§ 3301-16.

<sup>18</sup> Press Release, Embassy of the People’s Republic of China, China opposes US congress’ resolution on Taiwan, (Jul. 17, 2004), available at <http://www.china-embassy.org/eng/xw/t143465.htm>.

<sup>19</sup> About Us. The Taipei Economic and Cultural Office in Miami. Available at <http://www.taiwanembassy.org/US/MIA>.

<sup>20</sup> KAN, *supra*, n. 4 at 44.

<sup>21</sup> *Id.* at 4.

<sup>22</sup> UNITED NATIONS GENERAL ASSEMBLY, RESOLUTION 2758, Oct. 25 1971. See also Phil Chan, *The Legal Status of Taiwan and the Legality of the Use of Force in a Cross-Taiwan Strait Conflict*, 8 CHINESE J. INT’L L. 455, 468 (2009).

attempted to gain admittance to the UN for Taiwan.<sup>23</sup> In 2009, the ROC changed course, instead seeking “meaningful participation” in UN activities and membership in two UN agencies: as an observer (like Palestine) at the International Civil Aviation Organisation and as a member of the United Nations Framework Convention on Climate Change.<sup>24</sup>

In May 2009, Taiwan became an observer at the World Health Assembly of the U.N.’s World Health Organization (W.H.O.) under the name “Chinese Taipei,” marking its first official participation in U.N. activity since 1971. Mainland China had blocked the W.H.O. from providing direct assistance to Taiwan during 2003’s SARS outbreak, but dropped objections to Taiwan’s participation shortly before it gained observer status.<sup>25</sup>

Taiwan also holds membership in 27 intergovernmental organizations and their subsidiary bodies, including the Asian Development Bank; the World Trade Organization (WTO), which Taiwan joined under the name “Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu”; and the Asia-Pacific Economic Cooperation (APEC) forum, in which it participates as “Chinese Taipei”. The ROC also has observer status or associate membership in 21 other intergovernmental organizations and their subsidiary bodies.<sup>26</sup>

### Proposed Changes

The resolution expresses support for Taiwan’s meaningful participation in organizations and conventions of the United Nations and other international entities, including the World Health Organization, the International Civil Aviation Organization, and the United Nations Framework Convention on Climate Change.

The resolution also provides that a copy of the resolution will be presented to the Taipei Economic and Cultural Office in Miami.

In Support of the resolution, the resolution provides the following “whereas clauses”:

- Whereas, April 10, 2010, will mark the 31st anniversary of the enactment of the Taiwan Relations Act, and
- Whereas, the Taiwan Relations Act continues to be instrumental in maintaining peace, security, and stability in the Taiwan Strait since its enactment in 1979, and
- Whereas, Florida maintains a vested interest in relations between the United States and Taiwan as a sister state of the Province of Taiwan, and
- Whereas, Taiwan is an active member in the international community with a long-standing commitment to international health and humanitarian aid, and
- Whereas, Taiwan is a key air transport hub that connects Northeast Asia and Southeast Asia, serves more than 1.3 million flights, and carries over 35 million passengers every year, and
- Whereas, as an island state in the Pacific Ocean, Taiwan faces the serious problem of rising sea levels and the ravages of extreme weather such as cyclones and has unique contributions to make in the discussion on climate change.

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<sup>23</sup> See, e.g., *UN Rejects Taiwan Membership Bid*, BBC NEWS, Jul. 24, 2007, available at <http://news.bbc.co.uk/2/hi/asia-pacific/6913020.stm>.

<sup>24</sup> *Not Even Asking: At the United Nations a Pragmatic Taiwan Changes Tack*, THE ECONOMIST, Sep. 24, 2009, available at [http://www.economist.com/displayStory.cfm?story\\_ID=14506556&source=login\\_payBarrier](http://www.economist.com/displayStory.cfm?story_ID=14506556&source=login_payBarrier)

<sup>25</sup> K. Bradsher, *Taiwan Takes Step Forward at U.N. Health Agency*, THE NEW YORK TIMES, Apr. 30, 2009, available at <http://www.nytimes.com/2009/04/30/world/asia/30taiwan.html>.

<sup>26</sup> Republic of China Yearbook 2009, *supra* n. 12.

- B. SECTION DIRECTORY:  
Not applicable.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
None.

2. Expenditures:  
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.

2. Expenditures:  
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this resolution does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:  
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES