

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 1389 Taiwan Memorial
SPONSOR(S): Local and Federal Affairs Committee, Diaz, J
TIED BILLS: **IDEN./SIM. BILLS:** SM 1432

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	14 Y, 0 N, As CS	Baker	Rojas
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The memorial expresses to the federal government the Legislature's support for specific meetings on trade and investment between the United States and Taiwan. The memorial encourages general developments in trade between Florida and Taiwan. The memorial welcomes the Taiwanese peace initiative regarding the East China Sea.

Taiwan is in a strategic location according to the U.S. government. From 1949 to 1979, the U.S. government recognized the authorities in Taiwan as the only legitimate government of China. From 1979 to the present, the U.S. government has instead recognized the People's Republic of China as the only legitimate government of China, while maintaining informal communications and trade with the people of Taiwan. Congress' enactment of the Taiwan Relations Act established the guidelines by which the U.S. government conducts affairs with Taiwan in the absence of formal recognition.

Some nations have excluded Taiwan from participating in international trade agreements. Recently, the United States Trade Representative met in Taipei with Taiwan's authorized representatives to discuss particular trade conditions between the parties.

Taiwan has issued a peace initiative in the current dispute with Japan and the People's Republic of China over the sovereignty of certain islands located nearby.

The memorial has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background and History

Taiwan is an island smaller than the combined area of Maryland and Delaware.¹ The U.S. government states Taiwan is in a “strategic location” between both China and the Philippines.² Taiwan operates in a capitalist economy, and it primarily imports electronics, machinery, crude petroleum, precision instruments and metals.³ Ten percent of Taiwan’s imports are from the United States.⁴

In 1895, Japan acquired control of Taiwan by military victory.⁵ At the conclusion of World War II, Chinese Nationalists took control of Taiwan.⁶ After the Communist victory on the Chinese mainland in 1949, Chinese Nationalists were forced to seek refuge on Taiwan (Formosa) away from the Chinese mainland. At this point, the United States moved its U.S. Embassy from mainland China onto the island of Taiwan.⁷

Beginning in 1949, the United States recognized the Republic of China located in Taiwan as the government of China; the communist government located in mainland China was instead known as the People’s Republic of China (PRC).⁸ Shortly thereafter, the authorities in Taiwan began establishing a government based on the 1947 constitution which was drafted before the communist victory.⁹

In 1979, the United States removed its official recognition of the Republic of China (in Taiwan) as the government of China.¹⁰ On that day, the U.S. President recognized the PRC as the government of China while Congress responded by passing the Taiwan Relations Act (Act).¹¹

Taiwan Relations Act

Among other things, the Act states the United States’ policy that its recognition of the PRC is based on the assumption that Taiwan’s diplomatic and political status will be determined in a peaceful manner.¹² Further, the Act states that its provisions are necessary to “to promote . . . the continuation of commercial . . . relations between the people of the United States and the people on Taiwan [and] to provide Taiwan with arms of a defensive character.”¹³

¹ Taiwan, East & Southeast Asia, The World Factbook, Publications, Central Intelligence Agency, United States, *available at* <https://www.cia.gov/library/publications/the-world-factbook/geos/tw.html> (last visited Mar. 14, 2013) (hereinafter “CIA Factbook”).

² *Id.*

³ *Id.*

⁴ *Id.* (Taiwan’s leading imports are from Japan at 20.7% and China at 14.2%).

⁵ *Id.*

⁶ *Id.*

⁷ A Guide to the United States’ History of Recognition, Diplomatic and Consular Relations, by Country, Since 1776: China, Diplomatic Relations, Office of the Historian, U.S. Dep’t of State, *available at* <http://history.state.gov/countries/china> (last visited Mar. 14, 2013) (hereinafter “Office of the Historian”).

⁸ Office of the Historian, *supra* n. 7.

⁹ CIA Factbook, *supra* n. 1.

¹⁰ Office of the Historian, *supra* n. 7.

¹¹ Office of the Historian, *supra* n. 7; Public Law 96-8, 96th Congress, Jan. 1, 1979.

¹² 22 U.S.C. § 3301(b)(3).

¹³ 22 U.S.C. § 3301(a)(2).

According to the Act, the United States government must make available the amount of defensive articles and services necessary for the people of Taiwan to sufficiently defend themselves.¹⁴ The Act provides that both Congress and the President must decide the necessary type and amount of those defense articles and services, and both are required to review the recommendations of the U.S. military.¹⁵

Taiwan Instrumentality

The Act provides that when the President conducts foreign affairs with Taiwan, the President must communicate through an instrumentality created by Taiwan.¹⁶ This instrumentality substitutes for a Taiwanese department of state that represents the people of Taiwan in dealings with the United States. To this end, the Act requires U.S. agencies to accept any communication, assurance, undertaking, or other action from that Taiwanese instrumentality.¹⁷ Today, this instrumentality is the Taipei Economic and Cultural Representative Office in the United States (TECRO).¹⁸ TECRO has an office in Miami, Florida among its other U.S.-based offices.

American Institute of Taiwan

The Act provides that when the President formally interacts with the people of Taiwan, it must be through the American Institute of Taiwan (AIT) or its successor.¹⁹ The AIT is a non-profit corporation organized in the District of Columbia.²⁰ The AIT performs on behalf of the United States many consular functions for U.S. citizens in Taiwan.²¹ In the absence of formal diplomatic relations, the AIT seeks to continue the United States' commercial and cultural relationship with Taiwan. In 1996, the U.S. President delegated some of his authority provided by the Act regarding the AIT to the U.S. Secretary of State.²² The AIT has an office in Taipei, Taiwan, and has its headquarters in Rosslyn, Virginia.

Taiwan and international trade

In the 2000s, although numerous free trade agreements arose in east Asia, the people of Taiwan were not permitted to enter them.²³ The exception is the Economic Cooperation Framework Agreement (ECFA) signed with the PRC in 2010; however supplementary deals to the ECFA have yet to occur.²⁴

Current U.S. relations with Taiwan

Recently, in March 2013, the AIT and TECRO met at the U.S.-Taiwan Trade and Investment Framework Agreement (TIFA) Council in Taipei.²⁵ The U.S. Trade Representative was also present. After that meeting, the parties issued joint statements on investments and information technology, as well as establishing new groups to discuss trade barriers.²⁶ There was no formal trade agreement reached.

¹⁴ 22 U.S.C. § 3302(a).

¹⁵ 22 U.S.C. § 3302(b).

¹⁶ 22 U.S.C. § 3309.

¹⁷ 22 U.S.C. § 3309.

¹⁸ CIA Factbook, *supra* n. 1.

¹⁹ 22 U.S.C. §3305(a).

²⁰ *Id.*

²¹ *See* 22 U.S.C. 3306.

²² Executive Order No. 13014, 61 F.R. 42963 (Aug. 15, 1996).

²³ CIA Factbook, *supra* n. 1.

²⁴ *Id.*

²⁵ Deputy U.S. Trade Representative Demetrios Marantis Welcomes Hard Work, Productive Outcomes in Revived U.S.-Taiwan Talks, Office of the U.S. Trade Representative, Executive Office of the President, Mar. 10, 2013, *available at* <http://www.ustr.gov/about-us/press-office/press-releases/2013/march/amb-marantis-Taiwan-TIFA> (last visited Mar. 20, 2013) (hereinafter "U.S.-Taiwan Trade Talks").

²⁶ *Id.*

Despite the lack of a free trade agreement between the United States and Taiwan, in 2012, Taiwan was the United States' 11th largest two-way trade partner.²⁷ Further, Taiwan was the United States' seventh largest export market for U.S. food and agricultural products in 2012.²⁸

The U.S. Department of State supports Taiwan's membership in international organizations when statehood is not a requirement of membership.²⁹ Taiwan is a member of the World Trade Organization (WTO), and the Asia-Pacific Economic Cooperation forum, two organizations which do not require statehood for membership.³⁰ Taiwan is not a member of the World Health Assembly (WHA).³¹

Taiwan's peace initiative

Taiwan, Japan and the PRC each claim sovereignty to the uninhabited Diaoyu Islands (also known as the Senkaku or Diaoyutai Islands) in the East China Sea.³² Taiwan has chosen a peaceful stance toward resolving its claim to those islands, which it calls the East China Sea Peace Initiative.³³ In January 2013, the PRC and Japan scrambled their aircraft against each other in regards to the dispute.³⁴

Taiwan's stance, as expressed in its East China Sea Peace Initiative (Initiative), recognizes the air and sea transportation importance of those islands and the potential for disputes arising from those islands to disturb the peace.³⁵ The Initiative calls on all concerned parties to:

- 1) abstain from antagonistic actions,
- 2) postpone disputes and not forsake discussions,
- 3) abide by international law and peacefully determine disputes,
- 4) seek consensus on rules of conduct in the East China Sea, and
- 5) set guidelines for cooperating in the exploration and development of resources in the East China Sea.³⁶

Taiwan alleges that those islands were returned to Taiwan based on several international instruments, including the Instrument of Surrender of Japan.³⁷ In September 2012, Secretary of Defense Panetta confirmed that treaty obligations govern the sovereignty of the islands, while abstaining from taking a position on the status of the islands.³⁸ The U.S. Secretary of State calls on the parties to discuss their issues.³⁹

²⁷ In 2012, the total value of imports and exports between the United States and Taiwan was approximately \$63.23 billion. Table 14: Exports, Imports, and Balance of Goods By Selected Countries and Areas for 2012, U.S. International Trade in Goods and Services, U.S. Bureau of Economic Analysis, U.S. Census Bureau, U.S. Department of Commerce (Feb. 8, 2013), *available at* <http://www.bea.gov/newsreleases/international/trade/2013/trad1212.htm> (click excel file at "Tables Only"; select Table 14) (last visited Mar. 20, 2013).

²⁸ Confirmed by email conversation with Office of Country & Regional Affairs-Asia, Foreign Agriculture Service, U.S. Dep't of Agriculture (Mar. 22, 2013).

²⁹ Fact Sheet, U.S. Relations with Taiwan, Bureau of East Asian and Pacific Affairs, U.S. Department of State, *available at* <http://www.state.gov/r/pa/ei/bgn/35855.htm> (last visited Mar. 20, 2013) (hereinafter "Department of State Fact Sheet").

³⁰ *Id.*

³¹ *Id.*

³² Transnational Disputes, China, The World Factbook, Central Intelligence Agency (Feb. 14, 2013) *available at* <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> (last visited Mar. 19, 2013) (hereinafter "CIA on China").

³³ East China Sea Peace Initiative, Ministry of Foreign Affairs, Taiwan, Nov. 14, 2012, *available at* <http://www.mofa.gov.tw/EnOfficial#seeAll> (scroll to "Policies and Issues" at bottom of page; select "East China Sea Peace Initiative") (last visited Mar. 19, 2013) (hereinafter "Taiwan Peace Initiative").

³⁴ Jane Perlez, "Japan Makes Overture to China in Islands Dispute," N.Y. Times, Jan. 22, 2013, *available at* http://www.nytimes.com/2013/01/23/world/asia/japan-china-island-dispute.html?_r=0 (last visited Mar. 19, 2013).

³⁵ Taiwan Peace Initiative, *supra* n. 33.

³⁶ *Id.*; the area is highly explored and exploited for hydrocarbons. CIA on China, *supra* n. 32.

³⁷ Taiwan Peace Initiative, *supra* n. 33.

³⁸ Karen Parrish, "Panetta Addresses Osprey, Territory Disputes in Japan Visit," American Forces Press Service, Department of Defense, Sept. 17, 2012, *available at* <http://www.defense.gov/news/newsarticle.aspx?id=117891> (last visited Mar. 19, 2013).

³⁹ Victoria Nuland, Daily Press Briefing, U.S. Department of State, Dec. 13, 2012, *available at* <http://www.state.gov/r/pa/prs/dpb/2012/12/202021.htm> (last visited Mar. 19, 2013).

Effect of Proposed Changes

The memorial conveys to the President and Congress the Legislature's support for a particular trade meeting between the United States and Taiwan, as well as future international trade developments between the two. That meeting is the Trade and Investment Framework Agreement Joint Council in Taipei.

The memorial states that Florida welcomes Taiwan's Initiative to maintain peace in the East China Sea.

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.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 27, 2013, the Local and Federal Affairs Committee adopted one amendment. That amendment was technical in nature and replaced "Florida House" with references to the Legislature. The amendment also removed "Government" in reference to Taiwan. This analysis has been updated to reflect the amendment.