

The Relevance of the TRA at a Time of Changing US-China-Taiwan Relations

By Bonnie S. Glaser
Senior Fellow, Freeman Chair in China Studies, CSIS

In past years as the U.S. has marked various anniversaries of the signing of the Taiwan Relations Act, it has often been noted that the Act has stood the test of time. Neither major global changes such as the end of the Cold War or the onset of the war on terrorism, nor changes on Taiwan such as the emergence of democracy or the transfer of power from one political party to another has resulted in a perceived need to amend the TRA. The TRA endures because it serves American interests. The TRA doesn't decide every aspect of U.S. policy toward Taiwan, but it serves as the foundation for policy—a permanent requirement to preserve the long-term viability of the relationship between Washington and Taipei.

On March 24, a letter signed by thirty senators urged president Obama to speak out publicly in recognizing the 30th anniversary of the TRA. They expressed continued U.S. “support for freedom, security, and prosperity for the people of Taiwan.” This letter, and the unanimous vote by the U.S. House of Representatives to adopt a resolution recognizing the 30th anniversary of the Taiwan Relations Act on the same day, demonstrate clearly that the U.S. Congress remains concerned about Taiwan, its people, and their future. A key element of the TRA is the preservation of choice for the Taiwanese about their future and this remains important today.

Today the dynamics of U.S.-China-Taiwan relations are changing. In the past year, cross-Strait tensions have eased considerably; direct flights for cargo and passengers have been launched and expanded; and negotiations will soon begin on an economic cooperation framework agreement (ECFA). Other important changes that have taken place in the strategic context of the triangular relationship since the passage of the TRA include: 1) Growing Chinese economic power and its policy of peaceful rise; 2) Increased importance of U.S.-China relations, 3) Democratization of Taiwan and the growth of Taiwanese identity; 4) Weakening of Congressional support for Taiwan; and 5) A dramatic shift in the cross-Strait military balance in favor of China.

Some Americans are worried. They believe that the increase in Chinese power, the leverage that power advantage provides over Taipei, and the growing imbalance in China-Taiwan relations, pose new challenges to U.S. policy and interests.¹ Against this background, is the TRA still a sound basis for U.S. policy? And beyond the TRA, are adjustments in U.S. policy toward Taiwan needed?

¹ See, for example, Robert Sutter, “Cross-Strait Moderation and the United States – Policy Adjustments Needed,” PacNet #17, March 5, 2009.

The TRA Remains Both Relevant and Vital

It is my view that the TRA does not require amendment to adjust to new realities in Taiwan or to the changing situation in the Taiwan Strait. Because the TRA addresses U.S. policy interests, not outcomes, its efficacy has not been affected substantially by shifting U.S.-China-Taiwan dynamics. However, if Taiwan opts to fundamentally redefine its relationship with the U.S. and with China, then the TRA, and U.S. policy toward Taiwan, may need to be adjusted in the future.

Taiwan's Security

The nascent improvement in cross-Strait relations has not altered the need for a strong security commitment to Taiwan as provided in the TRA. To date, there has been no easing of the Chinese military threat to Taiwan and Beijing has yet to rule out the use of force. A fundamental change in cross-Strait security dynamics is likely to take years, if it occurs at all. The United States should therefore continue to abide by its commitments under the TRA to provide Taiwan with “arms of a defensive character sufficient for self-defense.”

In addition, the U.S. must remain committed to maintain the capacity to resist any resort to force or coercion against Taiwan as stipulated in the TRA. This task is far more challenging than it was a decade ago given the pace of PLA modernization. China's anti-access and area denial strategy has raised the cost considerably of U.S. intervention in the event of a cross-Strait conflict. As in 1979 when the TRA became U.S. law, peace in the Taiwan Strait remains a matter of international concern, and any non-peaceful action by China should be judged a threat to regional peace and security.

President Ma has indicated that topics covered in cross-Strait negotiations will move from the relatively easy to the more difficult; and from economic issues to political issues; followed by military/security issues. For Taiwan to proceed down the path of negotiations with the Mainland with confidence, Ma will want to ensure that ties with the United States are strong and that the U.S. commitment to Taiwan's security is steadfast, lest Taipei be vulnerable to Chinese pressure and coercion. To help Ma to sustain his policy of engagement toward the Mainland, the U.S. should uphold and strengthen U.S. security ties with Taiwan.

Participation in International Organizations

The TRA did not endorse Taiwan's membership in international organizations. It merely stated that nothing in the Act should be construed as supporting the expulsion or exclusion of Taiwan from any international organization. The legislative history, indicates, however, that Congress viewed Taiwan's inclusion in international organizations as conducive to Taiwan's economic security. When the TRA came to the House floor for a vote, Representative Eldon Rudd (R-AZ) expressed the view that “It is important that Taiwan's economic security not be threatened” by President Carter's decision to normalize diplomatic ties with China. He added that “Stability is crucial, and

this can be encouraged by U.S. insistence that Taiwan remain a member of . . . international organizations.”²

Sustaining Taiwan’s voice in international organizations remains critical to the island’s security and therefore of concern to the United States. Negotiations are already underway that, if successful, will enable Taiwan to participate in the World Health Assembly, the executive arm of the World Health Organization. This is an important test of Beijing’s intentions and its willingness to take concrete steps to address the concerns of the Taiwanese people. Should Taipei seek Washington’s support, the U.S. should speak out in favor of Taiwan’s participation in the WHA and urge Beijing to be flexible.

U.S. Policy has Ample Flexibility

Beyond the TRA, which I believe remains a sound framework and basis for U.S. policy, are adjustments needed in U.S. policy toward Taiwan as a result of changes that are taking place in cross-Strait relations?

The consistent objective of U.S. policy is to preserve cross-Strait peace and stability. That goal has been advanced by the initiatives that Ma Ying-jeou has taken toward the Mainland in his first year in office. The U.S. should therefore continue to support Ma’s approach, which has the support of a majority of the Taiwanese people.

Ample flexibility is built into the complex web of policies that the U.S. maintains toward Taiwan and Mainland China. There are various ways that the U.S. promotes cross-Strait peace and stability, and these are not static; they are formulated based on the evolving situation. When Chen Shui-bian was in power, adjustments were made in American policy to ensure the preservation of cross-Strait peace and stability. For example, Chen’s pursuit of policies that were judged by Washington as destabilizing resulted in strictly curtailed arrangements for transits, public criticism of Chen’s attempts to unilaterally change the status quo, and direct appeals to the Taiwan people to not vote for the referendum on whether Taiwan should join the United Nations under the name Taiwan.

In response to the nascent amelioration of cross-Strait relations, some minor adjustments in U.S. policies and practices have taken place. For example, in past years China was firmly opposed to allowing Taiwan to participate in international organizations and took advantage of every opportunity to squeeze Taiwan’s international space. This prompted U.S. policymakers to speak out clearly and publicly in support of Taiwan’s membership in international organizations that don’t require statehood as a precondition for joining, and participation in international organizations that are not sovereignty-based. The Bush administration explicitly supported Taiwan’s bid for observer status in the World Health Assembly (though U.S. backing ebbed when Chen Shui-bian opted to seek full membership under the name Taiwan).

² H. 1256, March 13, 1979, Lester L. Wolff and David L. Simon, eds., *A Legislative History of the Taiwan Relations Act with Supplement*, prepared by Touro College, Pacific Community Institute, August 1993, p. 76.

In the new situation, U.S. policy remains unchanged, but its practice has been modified. Taipei and Beijing have agreed to negotiate to find a solution to Taiwan's bid to participate in the World Health Assembly this year. The U.S. has refrained from public comment, presumably based on consultations with Taiwan and a calculation that speaking out on Taiwan's behalf could make it more difficult for the two sides to reach a compromise.

On the question of arms sales, it remains to be seen whether there will be any changes in the U.S. approach. As noted above, the U.S. will continue to sell weapons to Taiwan as provided for under the TRA. Changes in the security dynamics across the Strait should not affect whether or not the U.S. sells weapons to Taiwan, but it could have some impact on what arms the U.S. sells and the timing of weapons sales decisions. A challenge for the U.S. going forward is continuing to help Taiwan to defend itself while at the same time not hampering cross-Strait rapprochement.

In general, U.S. policy should seek to foster an environment in which cross-Strait dialogue and cooperation can continue on an equal footing and devoid of coercion. China's possible negative reaction to specific policies should be taken into account, but other factors should be accorded greater priority. Beijing should not have a veto or even a say in any U.S. policy toward Taiwan. In this regard, the six assurances remain an important part of U.S. policy. Yet, at the same time, those assurances should be interpreted with some flexibility if Taiwan's interests demand it. For example, if in the process of negotiations on a peace accord, both sides of the Strait request U.S. mediation or U.S. involvement as a guarantor of the agreement, Washington should offer its assistance.

Most importantly, the U.S. should continue to have faith in the Taiwanese people and in Taiwan's democracy. The Taiwanese people have two significant demands, which are not incompatible: 1) de facto independence and political autonomy; and 2) friendly relations with China both economically and politically. President Ma is striving to engage the Mainland to obtain economic, political, and security benefits for Taiwan, while not forfeiting its de facto independent status. U.S. policy should support this process. If some time in the future Taiwan chooses to alter the legal status of its government and integrate with the Mainland, the decision can only be made with a three-fourths vote in the Legislative Yuan and a super-majority in a referendum. I am confident that threshold can only be achieved if the PRC is free and democratic. In the meantime, Taiwan continues to serve as a beacon for democracy and an example from which the Mainland can learn lessons.