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STATEMENT OF
J. KENNETH FASICK
DIRECTOR
INTERNATIONAL DIVISION
BEFORE THE
SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS
SENATE COMMITTEE ON FOREIGN RELATIONS
ON
[IMPLEMENTATION OF THE TAIWAN RELATIONS ACT]

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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to testify today on our review of the Implementation of the Taiwan Relations Act which was undertaken at the request of the Subcommittee Chairman. Although the Act has only been in effect about a year, enough experience has been gained for an assessment of successes and problems.

In our review we looked at how the Taiwan Relations Act is being implemented. We focused on the operations of the American Institute in Taiwan (AIT); the status of treaties and agreements; how Taiwan's military equipment needs will be determined; and how foreign military sales (FMS) to Taiwan are handled.

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In summary, we found that the Taiwan Relations Act is working. Although the form of U.S. relations with the people of Taiwan has changed, the substance has remained basically the same. After an uneasy start, including a brief interruption in some aspects of relations, the mechanism for unofficial contacts is functioning fairly smoothly.

BACKGROUND ON THE
TAIWAN RELATIONS ACT

After years of negotiations, the President announced on December 15, 1978, that the United States and the People's Republic of China (PRC) had agreed to establish full diplomatic relations. At the same time, the executive branch announced that the United States would break diplomatic relations with Taiwan but would continue commercial, cultural, and other relations through nongovernmental means.

To facilitate maintaining those relations without diplomatic representation, the President issued a memorandum on December 30, 1978, directing all U.S. Government departments and agencies to continue to conduct programs, transactions, and other relations with Taiwan.

One month after derecognition, on January 26, 1979, the President transmitted a draft bill to the Congress to provide a legal basis for continuing relations. The Congress believed that the bill did not clearly spell out the way in which Taiwan relations should be maintained. After significant revision by

the Congress, the President signed the "Taiwan Relations Act," Public Law 96-8, on April 10, 1979. About 2 months later the President issued Executive Order No. 12143.

Since passage of the Act, there have been many positive signs:

- trade and investment are up;
- the United States recently announced a \$280 million arms sale, after a 1-year moratorium;
- AIT has negotiated a number of agreements important to maintaining and expanding relations; and
- U.S. relations with the PRC are improving.

The dire predictions of U.S. abandonment of Taiwan and economic disaster have not materialized.

Despite these positive signs, two congressional concerns expressed during consideration of the Taiwan Relations Act remain valid:

- the degree to which PRC reaction influences U.S. decisions; and
- the degree of executive branch consultation with appropriate Members of Congress.

PRC INFLUENCE ON TAIWAN POLICY

Although the PRC has repeatedly asked that the U.S. Government keep its relations with Taiwan on a strictly unofficial basis, there has not been a serious formal PRC complaint about the substance of U.S.-Taiwan relations since derecognition. Nevertheless, the State Department approaches decisions

about Taiwan very cautiously. The State Department views even the smallest issue involving the form of our relations with Taiwan as having a potentially negative impact on U.S.-PRC relations. State Department officials told us that, although the PRC might not protest every individual decision involving the form of U.S. relations, cumulatively these decisions could have a serious impact on U.S. relations with the PRC.

The goal of improving U.S.-PRC relations has also affected more important areas of the continuing U.S. relationship with Taiwan. For example, State did not allow top management officials of the National Science Foundation to perform on-site evaluations in Taiwan. These evaluations are essential in continuing the U.S.-Taiwan Science Cooperation Agreement. Similarly, the State Department's decision that it would be inappropriate for AIT to use the computer facilities at the Regional Finance Center in Bangkok led to the use of a manual payroll and accounting system operated by untrained personnel. A year later, the AIT accounting system still has serious problems, and the search for a workable alternative is continuing. U.S. officials quickly point out that there was no material harm to Taiwan in any of these types of decisions. However, this may represent an overreaction on the part of the State Department in order to appear to adhere to the agreement to have no official relations with Taiwan.

Although the United States has scrupulously avoided any officiality in its relations with Taiwan pursuant to the U.S. commitment to the PRC, the PRC has, on at least one occasion, made formal relations an issue in negotiations with the United States. Just as the PRC made termination of the Mutual Defense Treaty a pre-condition for diplomatic relations, similarly they told U.S. negotiations during 1979 that there would be no Air Transport Agreement with the PRC until termination of the 1946 U.S.-Taiwan Air Transport Agreement. Accordingly, the existing Taiwan Air Transport Agreement was terminated, and a new agreement established between AIT and its Taiwan counterpart, the CCNAA. The State Department emphasized that simply amending the old outmoded agreement would have made a political statement for Taiwan at the expense of the new U.S. relationship with the PRC.

Other than pre-1979 treaties with Taiwan, the only major issue in the U.S.-PRC relationship is the continued sale of U.S. military equipment to Taiwan. For several years, the PRC had insisted on termination of U.S. military equipment sales to Taiwan as a pre-condition for formal relations. Although this demand was never dropped, diplomatic relations became possible when the United States and the PRC agreed to disagree about future U.S. arms sales to Taiwan. The PRC, however, made it clear that it remained opposed to continued sales. It is this opposition and the potentially disruptive impact on

improving PRC relations, that makes this a "delicate" problem for the United States. The non-controversial and self-defensive character of the equipment announced for sale in January, and the deferral, so far, of any decision either on Taiwan's other priorities or even on the remaining non-controversial items, underscores the cautious approach the executive branch is taking.

Whether the executive branch is giving too much weight to the possible reaction from the PRC and the impact on future U.S.-PRC relations, is a matter of judgment. The executive branch obviously has a valid concern that future sales to Taiwan not destabilize the regional military balance or be perceived as providing an offensive threat to the PRC as opposed to maintenance of a viable Taiwan defensive capability. The reaction of the PRC is an integral factor in any decision. As executive branch officials have pointed out, Taiwan would not benefit from the sale of weapons which increased hostility between the two parties. The PRC views the sale of some weapons to Taiwan as unacceptable. A PRC official told a U.S. congressional delegation in 1979 that there was a level of tolerance in arms sales to Taiwan and the United States should be prudent.

Uncertainty about the limits of PRC toleration contributes to the deliberateness of executive branch decisionmaking. We believe that the stretching out of Taiwan sales is designed to insure that these limits are not exceeded.

The executive branch, to date, has made little effort to explain what specific plans there may be for future Taiwan arms sales. The legislative history of the Act implies that the Congress expected to be closely consulted about Taiwan's defense needs, and U.S. plans to meet them. Appropriate consultation on arms sales plans would go a long way toward assuring the Congress that the PRC, while influencing, is not dictating what will or will not be sold to Taiwan.

LACK OF CONSULTATION

The Senate Foreign Relations Committee report on the Taiwan Relations Act noted that, although many Members of Congress were in favor of extending diplomatic relations to the PRC, they were concerned about the failure to consult with the Congress prior to the action. There was additional concern because a provision in the International Security Assistance Act of 1978 specifically states that the President should consult with the Congress before making policy changes which might affect the Mutual Defense Treaty with Taiwan.

Also, during the consideration of the Taiwan Relations Act, Members of the Senate Foreign Relations and House Foreign Affairs Committees indicated that they wanted to be consulted during the decisionmaking process and believed that the Congress should play an active role in maintaining the security and well-being of Taiwan through the unofficial relationship. Although the Congress was assured many times by the State

Department that close contacts with the Congress would be maintained, the "what" and "when" aspects of consultation regarding treaties, agreements, and military sales could be improved. For example, the Congress was not consulted prior to the termination of the Air Transport Agreement with Taiwan. Furthermore, no information was provided to the Congress on what items would be recommended or on what the executive branch's future arms strategy would be, even though the Congress was briefed on Taiwan's request for military equipment.

During oversight hearings before this Subcommittee on November 14, 1979, the Deputy Secretary of State said that in the future, close contact would be maintained on agreements.

One of the reasons for absent or inadequate consultation is that the executive branch's decisions on treaties, agreements and military sales are made, and closely held, by a small group of top-level U.S. officials. This is due to the importance attached to improving relations with the PRC and the sensitivity of the issues.

THE AMERICAN INSTITUTE IN TAIWAN

A number of administrative problems that confronted AIT during the early stages of its existence have been resolved. For the most part, these problems were the result of the uniqueness of AIT and the need within the State Department to invent procedures for using a privately incorporated, non-profit institute to administer and conduct informal relations

overseas. These administrative problems which had a negative impact on employee morale, included: late salary checks; confusion over re-employment rights; limited funds for travel and for storing household goods; and structural deficiencies affecting the security of the AIT facility.

The way in which a number of these and additional problems were resolved reflects the higher cost and inefficiency of the new procedures for conducting unofficial as contrasted with formal diplomatic relations. Some Government officials view these procedures, which were chosen in part to maintain the appearance of unofficial relations, as an overreaction. Although everyone agreed that the procedures are cumbersome and inconvenient, State Department officials believe they are essential if the United States is to live up to the spirit of its commitment to the PRC.

PHYSICAL CONDITION OF FACILITY

After derecognition, State Department officials did not consider it appropriate--for symbolic reasons--for AIT to occupy the former U.S. Embassy. Consequently, AIT is housed in a building previously used by the U.S. military. This facility had a number of structural deficiencies affecting security, safety, and sanitation. AIT personnel have taken action to bring the security of the building to an acceptable level, but any further improvements will depend on additional funding for this purpose.

COMMERCIAL AND CULTURAL
RELATIONS WITH TAIWAN

The breaking of diplomatic relations with Taiwan has had no measurable adverse effect on commercial and cultural relations between the United States and the people of Taiwan. In fact, the Taiwan Relations Act may have actually removed much of the uncertainty that existed prior to "normalization," resulting in an improved business environment and resumption of close and friendly cultural ties.

The Taiwan Relations Act requires the Secretary of State to report to the Congress biannually for a 2 year period on U.S. and Taiwan economic relations, highlighting any interferences with normal commercial relations. According to the March 1980 report:

" * * *there is no evidence that the severance of official ties between the United States and Taiwan has in any way interfered with commercial relations with Taiwan. On the contrary, U.S.-Taiwan bilateral trade and U.S. investment in Taiwan increased by 23 percent and 15 percent, respectively."

The report further states that, "Taiwan's robust economic performance in 1979 underlines the continuing foreign and domestic confidence in the stability of the island."

Our analysis of domestic and external economic indicators also demonstrates that Taiwan is showing positive economic progress both when compared to other developing areas and considering its heavy reliance on trade. In conclusion, Taiwan has not suffered economically from U.S. derecognition.

TRADE AND INVESTMENT

Taiwan is the eighth largest trading partner of the United States. Total two-way trade was \$9.1 billion for 1979, an increase of more than \$1.6 billion over 1978. U.S. exports were up approximately 40 percent and strong export sales growth to Taiwan is also forecast for 1980. Equally bright, is the outlook for U.S. investment, which increased more than 15 percent during 1979 over 1978. Taiwan has demonstrated amazing progress in the aftermath of normalization.

Parties on both sides are optimistic about future trade and investment. Prospects are that, for the foreseeable future, Taiwan will continue to rank second only to Japan as a U.S. trading partner in Asia.

During our discussions with Taiwan and AIT officials, and with business representatives both in the United States and Taiwan, all generally agreed that the current and future business climate between the two countries was "business as usual."

Mr. Chairman, this concludes our prepared testimony. We would be pleased to answer any questions from you or members of your Subcommittee at this time.