



RESPONSE TO PACNET #8, “TAIWAN TRAVEL ACT: BAD IDEA?”

BY DENNIS V. HICKEY, JOSEPH BOSCO, LARRY OSBORN, AND ZHIQUN ZHU

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Joseph Bosco replies:

In PacNet #8, “Taiwan Travel Act: Bad Idea?” Professor Hickey removes the question mark and unreservedly criticizes the recent vote by the House of Representatives calling for the Executive Branch to upgrade exchanges of official visits between Taiwan and the United States. He urges the Senate to kill the measure because, he argues, “The TTA is flawed. It is frivolous, unnecessary, and provocative.” The reasoning underlying the three charges does not stand up to scrutiny.

The “frivolous” charge

First, Hickey states: “[T]he law does not *require* top-level exchanges, meaning it’s frivolous.” (my emphasis) He supports this *non-sequitur* by noting that the law passed by the House only “encourages” high-level visits by US officials to Taiwan rather than “mandat[ing] them and only says that Washington “*should*” allow ROC officials to visit the US” (his emphasis)

He likens the House measure to language in the 2018 National Defense Authorization Act signed into law in December and deems them both neither “meaningful [nor] significant.” That Act expressed “the sense” of Congress that the US should “consider the advisability and feasibility of reestablishing port of call exchanges between the United States navy and the Taiwan navy.”

Once again, Hickey asserts that since the NDAA did not “mandate” the port calls or even “require the Pentagon to study the matter,” it was a futile gesture and like the TTA, simply “feel good” legislation. He claims “This wasn’t the first time lawmakers pulled this trick,” noting that the Foreign Relations Authorization Act of Fiscal Year 2003 called on President George W. Bush to study the feasibility of “expanding US-Taiwan military ties.” Hickey reports that “an angry Bush signed the bill (permitting the foreign policy establishment to function), but declared that there was no change to America’s ‘one China’ policy.”

Then Hickey steps into a self-contradiction that substantially undercuts his argument. He notes with apparent approval that Bush lambasted Congress because he believed the language “impermissibly interferes with the President’s constitutional authority to conduct the nation’s foreign affairs” – and that was just for a *study* of the issue. According to Hickey’s logic, had the present Congress *mandated* top-level Taiwan-US exchanges – which he suggests would have been more responsible – it would have unconstitutionally transgressed on presidential prerogatives. But, on the other hand, avoiding that legislative overreach exposes Congress to charges of frivolousness. It appears that Hickey would prefer that the lawmakers just keep their mouths shut about Taiwan.

While that no-win Congressional posture would be applauded in Beijing, it would run counter to a long history of “sense of” resolutions in one or both Houses of Congress. A 2016 survey of such resolutions by the Congressional Research Service found that “many of them focused on foreign policy matters, particularly resolutions that express the sense of the Senate.” Moreover, the CRS Report concluded, they serve an important public function: “Although ‘sense of’ proposals have no force in law, *foreign governments pay close attention to them as evidence of shifts in U.S. foreign policy priorities.*” (my emphasis)

And so they should since Congress generally reflects and represents the views of the American people, who are called upon to support, sometimes at great personal sacrifice, the choices made in the formation of the nation’s foreign policy. It is important that both the US

president and foreign governments know where the country's head and heart are on a given subject.

In that regard, it is worth recalling another time Congress “pulled this trick” and passed a non-mandatory resolution on an important foreign policy question. The 99th Congress passed the Comprehensive Anti-Apartheid Act of 1986 addressing the situation in South Africa. The Act “Expresses the sense of the Congress that high-level U.S. officials should meet with leaders of opposition organizations in South Africa.” It was passed over President Reagan's veto (much as the Taiwan Relations Act was passed by veto-proof margins in both Houses over President Carter's opposition). Within a year, administration policy had begun to shift and the meetings called for in the Act did take place. The rest is history – so much for “frivolous” sense of Congress resolutions.

The “unnecessary” charge

Hickey writes of the TTA: “Top-level exchanges already occur on a regular basis (although not ballyhooed in the mainstream media), so, it's unnecessary.” He ridicules as “fake news” a Taiwan newspaper's statement that “senior US officials have not visited Taiwan since the US severed diplomatic ties with Taiwan in 1979.” He notes, correctly, that in 1992, President George H. W. Bush authorized Carla Hills, the US trade representative, to visit Taipei. “That was the first time that a Cabinet-level official from the US government had traveled to the island since 1979. In other words, Bush lifted the ban on Cabinet-level officials visiting Taiwan in 1992.”

That visit hardly ushered in a regular pattern of normal visits by US Cabinet officers; over the ensuing 26 years there were four more such visitations, or an average of one every five years — one every eight years since enactment of the TRA, and none by a national security or foreign policy official. This state of affairs is not only unseemly for America's fellow democracy, its 10th largest trading partner, a world economic power in its own right, and model international citizen.

Given the US-Taiwan security relationship under the TRA and Taiwan's geostrategic position in the First Island Chain (it was the launching platform for Imperial Japan's attack on the Philippines on Dec. 7, 1941) it is not only unfair to Taiwan but counter-productive to American security for US civilian and military officials not to interact regularly and openly with their Taiwan counterparts.

Rather than singling out the handful of ways US-Taiwan relations have improved in the TRA as Hickey does, it is critical to review the myriad actions to be taken to remove self-imposed limitations.

In addition to a clear, public US commitment to defend Taiwan, Washington needs to demonstrate that commitment through a range of civil and military measures upgrading the relationship and Taiwan's

rightful place in the world. Contrary to the Hickey thesis, actions like what Congress did with the TTA are very necessary.

The China provocation charge

The Hickey article is on target in making its third argument against the TTA: “[I]t will be viewed as a poke in the eye by China, making it provocative.” Yes, it will, like everything Washington does with or for Taiwan, and everything the US does to strengthen its alliance ties with Japan and South Korea, to protect freedom of navigation and overflight in the South China Sea, and to enforce international rules and norms on trade, proliferation, and human rights.

Taiwan's very existence as a democratic, *de facto* independent nation, and America's existence as its friend and protector and as guardian of the rules-based international order are constant provocations to the Chinese Communists (just as we were to the Soviet, North Korean, Cuban, and other Communist regimes.) Upsetting Beijing and its ideological soulmates is part of what the US is and does whenever it stands on its principles. China, of course, never worries about poking the US in the eye, or Japan, South Korea, the Philippines, India, or a range of smaller, weaker countries (especially them).

Professor Hickey seems concerned that the TRA today (unlike its neglect in earlier years, like 1995-96) is getting undue attention from US lawmakers and policy-makers as the principled guide to US-Taiwan relations: “The TRA is not the only document that guides US policy: the TRA and the three US-China Communiqués form the foundation of America's Taiwan policy.”

The Hickey article suggests that Congressional meddling in the Taiwan question threatens to upset the delicate balance struck by Richard Nixon, Mao Zedong, Henry Kissinger, and Zhou Enlai in negotiating the way to formal diplomatic relations – *i.e.*, by dumping Taiwan into the Taiwan Strait. But how balanced was the Shanghai Communiqué in determining Taiwan's future? The US “acknowledged” that authorities in both China and Taiwan believed in unification of “one China.” But it also “reaffirm[ed] its interest in a peaceful settlement of the Taiwan question by the Chinese themselves [and would] ... progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.”

Of course, tensions never really subsided because China listened to the Americans but said nothing in that communiqué about achieving unification only by peaceful means. The Chinese simply reiterated their position that Taiwan is China's internal affair “in which no other country has the right to interfere.”

In the joint communiqué establishing diplomatic relations, the only reference to the use of force was this statement:

“Both wish to reduce the danger of international military conflict.” But that was directed at the general global situation, since Beijing did not acknowledge that Taiwan is an “international” issue.

Separately, a “message to Compatriots in Taiwan issued by China on Jan. 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the motherland.” In the joint communiqué of Aug. 17, 1982, China quoted that language to affirm its peaceful intentions toward Taiwan. The US side stated that it “understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question.” On that basis, Washington committed to a gradual reduction of arms sales to Taiwan.

The Taiwan Strait crisis of 1995-96 demonstrated how seriously Beijing took its declaration of peaceful intent. Then, in 2005, China made it official in its Anti-Secession Law: if peaceful means to achieve unification failed, it reserved the right to use “non-peaceful” means. In effect, this Chinese legislation formally repudiated any earlier implied commitment to renounce the use of force against Taiwan. China’s massive military buildup and emplacement of 1600 ballistic missiles targeting Taiwan provide the exclamation points.

Hickey’s concern about who is provoking whom across the Taiwan Strait needs reassessment. The Senate would do well to follow the House action. The president should sign the legislation, and his administration should vigorously and forthrightly carry out other policies to protect and advance Taiwan’s international position.

Dennis V. Hickey replies to Joseph Bosco:

Mr. Bosco has penned a treatise outlining his objections to my essay. Unfortunately, it is as flawed as the legislation he champions. Let me explain.

First, Bosco criticizes my criticism of two Taiwan-related legislative initiatives as a “harsh indictment” of Congress. He claims that I “prefer that lawmakers just keep their mouths shut.” This is nonsense. The essay does not criticize the Taiwan Relations Act and/or measures that have upgraded our “unofficial” relationship. Moreover, I have a long track record supporting that law.

More perplexing is the fact that Bosco has missed an important point in the essay. In paragraph four, the first sentence applauds adjustments in US policy since 1979 as “meaningful and significant.” The second sentence, however, argues that “some recent legislative initiatives focusing on Taiwan are not.” The word “some” does not mean “all.” Those familiar with the Taiwan issue know that the two unsound initiatives discussed in my piece are not the only Taiwan-related measures that have surfaced recently. Bosco missed H.R.3320 which passed the House this month and has been referred to the Senate Committee on Foreign Relations. H.R. 3320 was not

included in my essay about frivolous legislation because it calls for concrete action. It will require (not wish for) an actual report on US strategies to figure out how Taiwan may once again attend WHO meetings as an “observer.” To be sure, some argue the legislation is ridiculous because everyone knows that Taipei’s return to the “1992 Consensus,” (an understanding that served as the foundation of cross-strait relations for eight years until it was junked by the current administration in Taiwan), is an easy path to instant observer status. But perhaps there is some other way back? In any event, this legislation is important because Taiwan’s exclusion from the WHO could impact global health. Health considerations should take precedence over political considerations.

Second, Bosco claims the TTA is necessary because top-level exchanges are vital to national security and Taiwan is a good global citizen. Of course, the TTA doesn’t really mandate such visits. But that’s not the only problem. If a president wants to send Cabinet-level officials to Taiwan, he or she will do so. Moreover, as directors of the AIT (our unofficial embassy in Taipei) have often observed, there are many things going on that are not in the newspapers. Ties are close. Officials in the State Department have observed that our “unofficial” relations with Taiwan are closer than our “official” relations with most governments. Several years ago, Daniel Russel, then US assistant secretary of State, testified that “US-Taiwan unofficial relations have never been better.” And as Ma Ying-jeou, then Taiwan’s president, observed in 2013, “our relations with the US are now closer than prior to the severance of or diplomatic ties in 1979.”

Finally, Bosco takes umbrage at the observation that US policy toward Taiwan is guided by the TRA and the three communiqués. He should review testimony of US officials whenever asked about US policy over the past 39 years. Alternatively, there is President Obama’s statement about his talks with President Xi Jinping in 2014. He said, “I reaffirmed my strong commitment to our One-China policy based on the Three Joint Communiqués and the TRA.” And while the Trump administration’s *National Security Strategy* does not specifically cite the Communiqués, it includes a commitment to the “one China policy.” Bosco’s dislike of the “one China policy” or the three Communiqués does not mean they are not part of US policy.

Finally, Bosco raises the issue of the 1995-96 Taiwan Strait crises. This is ironic because the very legislation he pushes might provoke a crisis. Does anyone honestly think the TTA will promote cross-strait reconciliation? More likely, it will make a bad situation worse.

Sensible Americans agree that it is in our national interest to have a stable and productive relationship with both Beijing and Taipei. Polls consistently show that a solid majority of Americans do not want to go war with mainland China to defend Taiwan. Rather than press

lawmakers to pass meaningless legislation undermining peace and stability in the Taiwan Strait, lobbyists and their friends pushing such laws might pressure Congress to do something constructive to give peace a chance.

Larry Osborn replies:

My observation is that a feckless president (Carter) made a very bad deal with Beijing, and some in our government are looking for a way out but know there will be hell to pay. If the DPRK suddenly became very powerful would we make a similar deal with them and abandon the ROK?

Dennis V. Hickey replies to Larry Osborn:

Thank you for the note. The premise of your question, however, is false. You imply that the US "abandoned" Taiwan. While it is true that declassified documents reveal that some – particularly President Nixon and Henry Kissinger – may have possessed such a hidden agenda, the US has never "abandoned" Taiwan. As US officials often observe, our "unofficial" relations with Taiwan are closer than our "official" relations with most countries, as did Taiwan President Ma Ying-jeou a few years ago (and is noted above). Jay Taylor notes that same claim was made in the 1980s in his biography of the late President Chiang Ching-kuo. The US has never "abandoned" Taiwan. Please don't worry about that happening.

Zhiqun Zhu replies:

Professor Hickey says the Taiwan Travel Act (TTA) is frivolous, unnecessary, and provocative. I fully agree and would like to add that it is a senseless act passed by the House at a wrong time. It will not only seriously damage US-China relations but may cost Taiwan dearly.

First, this act apparently violates the 1979 Taiwan Relations Act, which regulates the unofficial US-Taiwan relationship. The US-Taiwan relationship has been kept at the unofficial level since Washington shifted diplomatic recognition from Taipei to Beijing in 1979. Not everyone likes this arrangement, but it has helped ensure Taiwan's autonomy, prosperity and later democracy. If the TTA were to become law, US and Taiwanese officials "at all levels" will be able to visit each other, formally upgrading the US-Taiwan relationship to an official status, unraveling the foundation of US-China relations of the past four decades.

Second, this act could not have been passed at a worse time when the US and China need to work together closely to address two critical challenges for both countries: North Korea and trade. This act and other attempts to upgrade US-Taiwan relations will make US-China cooperation on North Korea, trade and other pressing issues extremely difficult if not impossible. It will harm US interests.

Third, this act is a clear provocation of China with no clear benefits for Taiwan. One wonders if this is a work by the DPP government in Taipei that is trying to shift attention from its dismal performance at home by lobbying lawmakers in Washington to produce an act that is not going to help Taiwan meaningfully. Those who argue that this is a US domestic bill that has nothing to do with China are deceiving themselves and others. Supporters of the act will shrug off China's opposition, but what can Taiwan really gain from it? A highly respected scholar in Taiwan privately asked: what is the price Taiwan has to pay for this act to become law? This is a question that everyone should ask now.

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