

Anexo IV

Taiwan Relations Act

Public Law 96-8
(effective January 1, 1979; approved April 10, 1979)

An Act

To help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Taiwan Relations Act".

FINDINGS AND DECLARATION OF POLICY

- SEC. 2. (a) The President- having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary--
 - (1) to help maintain peace, security, and stability in the Western Pacific; and
 - (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.
- (b) It is the policy of the United States--
 - (1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;
 - (2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;
 - (3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;
 - (4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;
 - (5) to provide Taiwan with arms of a defensive character; and

- (6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.
- (c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

- SEC. 3. (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.
- (b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.
- (c) The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

APPLICATION OF LAWS; INTERNATIONAL AGREEMENTS

- SEC. 4. (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.
- (b) The application of subsection (a) of this section shall include, but shall not be limited to, the following:
 - (1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with such respect to Taiwan.
 - (2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

- (3)(A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.
- (B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.
- (4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.
- (5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.
- (6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.
- (7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.
- (8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.
- (c) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.
- (d) Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

- SEC. 5. (a) During the three-year period beginning on the date of enactment of this Act, the \$1,000 per capita income restriction in insurance, clause (2) of the second undesignated paragraph of section 231 of the reinsurance, Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.
- (b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.

THE AMERICAN INSTITUTE OF TAIWAN

- SEC. 6. (a) Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through--
 - (1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or
 - (2) such comparable successor nongovernmental entity as the President may designate, (hereafter in this Act referred to as the "Institute").
- (b) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.
- (c) To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act; such law, rule, regulation, or ordinance shall be deemed to be preempted by this Act.

SERVICES BY THE INSTITUTE TO UNITED STATES CITIZENS ON TAIWAN

- SEC. 7. (a) The Institute may authorize any of its employees on Taiwan--
 - (1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;
 - (2) To act as provisional conservator of the personal estates of deceased United States citizens; and
 - (3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

- (b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

TAX EXEMPT STATUS OF THE INSTITUTE

- SEC. 8. (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by State or local taxing authority of the United States.
- (b) For purposes of the Internal Revenue Code of 1954, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE INSTITUTE

- SEC. 9. (a) Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.
- (b) Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.
- (c) Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the; books and records of the Institute and the opportunity to audit the operations of the Institute.

TAIWAN INSTRUMENTALITY

- SEC. 10. (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or Provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.

- (b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.
- (c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate; personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE INSTITUTE

- SEC. 11. (a)(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.
- (2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency(or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits with the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.
- (3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.
- (4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.
- (b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the

laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

- (c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.
- (d)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.
- (2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENT

- SEC. 12. (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.
- (b) For purposes of subsection (a), the term "agreement" includes-
 - (1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and
 - (2) any agreement entered into between the Institute and an agency of the United States Government.
- (c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.
- (d) During the two-year period beginning on the effective date of this Act, the Secretary of State shall transmit to the Speaker of the House and Senate House of Representatives and the Committee on Foreign Relations of Foreign Relations the Senate, every six months, a report describing and reviewing economic relations between the United States and Taiwan, noting any interference with normal commercial relations.

RULES AND REGULATIONS

- SEC. 13. The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date speaker of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.'

CONGRESSIONAL OVERSIGHT

- SEC. 14. (a) The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor-
 - (1) the implementation of the provisions of this Act;
 - (2) the operation and procedures of the Institute;
 - (3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and
 - (4) the implementation of the policies of the United States concerning security and cooperation in East Asia.
- (b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

- SEC. 15. For purposes of this Act-
 - (1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and
 - (2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

AUTHORIZATION OF APPROPRIATIONS

- SEC. 16. In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

- SEC. 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

- SEC. 18. This Act shall be effective as of January 1, 1979. Approved April 10, 1979.

Fuente: The Heritage Foundation. Policy Research and Analysis. Research Asia and the Pacific Taiwan Relations Act.

http://www.heritage.org/Research/AsiaandthePacific/asiabriefingroom_taiwan.cfm