



# U.S.-Taiwan Relationship: Overview of Policy Issues

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## Summary

The purpose and scope of this CRS report is to provide a succinct overview with analysis of the issues in the U.S.-Taiwan relationship. This report will be updated as warranted. Taiwan formally calls itself the sovereign Republic of China (ROC), tracing its political lineage to the ROC set up after the revolution in 1911 in China. The ROC government retreated to Taipei in 1949. The United States recognized the ROC until the end of 1978 and has maintained a non-diplomatic relationship with Taiwan after recognition of the People's Republic of China (PRC) in Beijing in 1979. The State Department claims an "unofficial" U.S. relationship with Taiwan, despite official contacts that include arms sales. The Taiwan Relations Act (TRA) of 1979, P.L. 96-8, has governed policy in the absence of a diplomatic relationship or a defense treaty. Other key statements that guide policy are the three U.S.-PRC Joint Communiqués of 1972, 1979, and 1982; as well as the "Six Assurances" of 1982. (See also CRS Report RL30341, *China/Taiwan: Evolution of the "One China" Policy—Key Statements from Washington, Beijing, and Taipei.*)

For decades, Taiwan has been of significant security, economic, and political interest to the United States. In 2011, Taiwan was the 10<sup>th</sup>-largest U.S. trading partner and the 6<sup>th</sup>-largest market for U.S. agricultural exports. Taiwan is a major innovator of information technology (IT) products. Ties or tension across the Taiwan Strait affect international security (with potential U.S. intervention), the U.S.-Taiwan relationship, and U.S.-PRC cooperation. While the United States does not diplomatically recognize Taiwan, it is a significant autonomous actor in the world. Today, 23 countries including the Vatican have diplomatic relations with Taiwan as the ROC. Taiwan's 23 million people enjoy self-governance with free elections. After Taiwan's presidential election in 2008, the United States congratulated Taiwan as a "beacon of democracy." Taiwan's democracy has allowed its people a greater say in their status, given competing party politics about Taiwan's national political identity and priorities. Taiwan held presidential and legislative elections on January 14, 2012. Kuomintang (KMT) President Ma Ying-jeou won re-election against the candidate from the Democratic Progressive Party (DPP).

Since Taiwan and the PRC resumed their quasi-official dialogue in 2008 under President Ma and cross-strait tension decreased, some have stressed concerns about steps seen as needed to be taken by the United States and by Taiwan to strengthen their relationship. Another approach has viewed closer cross-strait engagement as allowing U.S. attention to shift to expand cooperation with a rising China, which opposes U.S. arms sales and other dealings with Taiwan. In any case, Washington and Taipei have put more efforts into their respective relations with Beijing, while contending that they have pursued a positive, parallel U.S.-Taiwan relationship.

Taiwan's President Ma Ying-jeou seeks U.S. support for his policies, including Taiwan's inclusion in the U.S. Visa Waiver Program (VWP). Other policy issues concern whether to approve arms sales, reach an extradition treaty, resume Cabinet-level visits, and resume trade talks under the Trade and Investment Framework Agreement (TIFA). The United States has concerns about Taiwan's restrictions on U.S. beef, even as Taiwan seeks support in international organizations.

Legislation in the 112<sup>th</sup> Congress include H.Con.Res. 39, H.Con.Res. 77, H.Con.Res. 122, H.R. 2583, H.R. 2918, H.R. 2992, H.R. 4310, H.R. 5902, H.R. 6313, H.Res. 352, H.Res. 616, S. 1539, S. 1545, S.Con.Res. 17, and S.Res. 542. Other congressional actions have focused on arms sales, particularly the issue of whether to sell F-16C/D fighters. (See CRS Report RL30957, *Taiwan: Major U.S. Arms Sales Since 1990.*)

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## Overview: Policy Interests and Issues

The purpose and scope of this CRS report is to provide a succinct overview with analysis of the issues in the U.S.-Taiwan relationship. Taiwan has been of significant security, economic, and political interest to the United States. Although the United States does not diplomatically recognize Taiwan, it is a de facto, significant autonomous actor in the world. Today, 23 countries including the Vatican have diplomatic relations with Taiwan as the Republic of China (ROC). In what many consider to be a model democracy, Taiwan's 23 million people enjoy self-governance with free elections. In 2011, Taiwan was the 10<sup>th</sup>-largest U.S. trading partner and the 6<sup>th</sup>-largest market for U.S. agricultural exports.

With active congressional involvement, the United States has played critical roles in Taiwan's economic development, political liberalization from an authoritarian dictatorship to a dynamic democracy, self-defense against the People's Republic of China (PRC's) military threats, and preservation of international space. Overall, U.S. policy seeks to support security, political, and economic interests that involve peace and stability, the status quo in the Taiwan Strait, Taiwan's efforts to maintain international space, democracy and human rights in Taiwan, and U.S. businesses in Taiwan. As a critical concern, the United States has interests in the ties or tension across the Taiwan Strait, which affect international security (with potential U.S. intervention), the U.S.-Taiwan relationship, and U.S.-PRC cooperation. The cross-strait relationship has grown closer since the 1980s. When James Lilley arrived as the U.S. representative in Taipei in 1982, he was one of the first officials to encourage cross-strait economic ties as the driver in a trend toward greater peace and security.<sup>1</sup> Indeed, closer economic engagement gradually has increased regular contacts and reduced tension across the Taiwan Strait.

U.S. support for Taiwan has posed challenges to U.S. engagement with the PRC, though Washington and Beijing have advanced an overall cooperative relationship since the 1970s. As Washington has engaged with both Taipei and Beijing, long-standing issues for policy have included how to balance U.S. relations with Taiwan and with the PRC, and also how to balance maintaining the relationship with Taipei in its own right as opposed to approaching Taiwan as part of Washington's relationship with Beijing. For decades, Taipei has harbored fears about whether Beijing's cooperation with Washington has occurred at the expense of Taiwan's interests. U.S. policy seeks a cooperative relationship with a rising PRC, which opposes U.S. arms sales and other official dealings with Taiwan as interference in its internal affairs in unifying with Taiwan as a part of China. In an apparent contradiction, Beijing also seeks its preferred U.S. policies to influence Taiwan. However, Taiwan considers itself a sovereign country. As Taiwan shifted from an authoritarian political system, U.S. policy has been mindful of respecting its democracy.

After the Kuomintang (KMT) Party's Ma Ying-jeou became president in Taiwan in May 2008, he promptly resumed the dialogue across the Taiwan Strait after its suspension for a decade. The PRC had accused his predecessor, the Democratic Progressive Party (DPP)'s Chen Shui-bian, of pushing for de jure independence of Taiwan. The resumption of the cross-strait dialogue resulted in even closer economic engagement between Taiwan and the PRC as well as a reduction of tension, which was welcomed by the United States. This situation afforded U.S. policy opportunities to strengthen the U.S.-Taiwan relationship and/or shift attention to seek greater cooperation from Beijing. President Ma Ying-jeou has sought U.S. support, including arms sales,

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<sup>1</sup> James Lilley with Jeffrey Lilley, *China Hands* (New York: Public Affairs, 2004).

for Taiwan's stronger position to sustain cross-strait talks. One view has stressed concerns that the United States and Taiwan have needed to strengthen their relationship to pursue U.S. interests. Another approach has stressed that the new era of cross-strait engagement allowed for improved U.S. ties with a rising China and that Taiwan has pursued its own interests in engaging with the PRC. In any case, Washington and Taipei have put more efforts into their respective relations with Beijing, while contending that they have pursued a parallel, positive U.S.-Taiwan relationship.

Overall, some salient issues for policy include

- How effectively is the Administration encouraging Taiwan to support U.S. interests in peace and prosperity, including in U.S. alliances and the cross-strait relationship? Is the Administration effectively influencing Taiwan to play a helpful, stabilizing role in maritime territorial disputes in East Asia?
- How should Congress exercise its roles in U.S. policy or engage with Taiwan?
- Should the United States sell more weapons and which ones, as requested by Taiwan for its self-defense? How should the United States encourage Taiwan to strengthen its self-defense, including by increasing the defense budget?
- Should the United States resume visits by Cabinet-level officials to Taiwan?
- Should the United States conclude an extradition treaty with Taiwan, and what would be the congressional role in concluding such a treaty or agreement?
- Should the United States also favor Taiwan's observership (if not membership) in supporting Taiwan's participation in international organizations, such as the World Health Organization (WHO), International Civil Aviation Organization (ICAO), and U.N. Framework Convention on Climate Change (UNFCCC)?
- Should U.S. policy allow or encourage more senior officials from Taiwan to visit and encourage expanded communication with Taiwan's president?
- Should policy allow U.S. flag and general military officers to visit Taiwan?
- How should the United States support transparent, fair, and impartial rule of law, elections, and freedoms in Taiwan, while respecting Taiwan's democracy?
- How should policy press Taiwan to contribute more in weapons nonproliferation, counter-piracy, foreign aid, and other areas of international security?
- What is Taiwan's role in the U.S. comprehensive strategy for rebalancing priorities toward the Asian-Pacific region (so-called "pivot" to the Pacific)?
- Should decisionmakers review policy on Taiwan, with the last review in 1994?
- How should U.S. policy encourage Taiwan to resolve the dispute over U.S. beef?
- Should the United States press Taiwan to notify the cross-strait Economic Cooperation Framework Agreement (ECFA) of 2010 to the World Trade Organization (WTO) and pay more attention to benefits for U.S. companies?
- Should the United States resume talks under the 1994 Trade and Investment Framework Agreement (TIFA), negotiate a free trade agreement (FTA) with Taiwan, and/or support Taiwan's inclusion in multilateral trade negotiations?

## Historical Background

Taiwan formally calls itself the Republic of China (ROC), tracing its political lineage to the ROC set up after the revolution in 1911 in China. The ROC does not recognize the PRC founded in Beijing by the Communist Party of China (CPC) in 1949. The PRC claims that the ROC ceased to exist in 1949 and that Taiwan is a province of “one China.” (The Qing Empire had incorporated Taiwan as a full province in 1885-1895, when more settlers moved from China to the island.) The PRC and ROC do not recognize each other or two Chinas. The ROC refers to the other side of the strait as the “mainland.” The PRC opposes recognition of the ROC and seeks unification of Taiwan with the mainland as a part of “one China,” without renouncing the use of force. Taiwan has stated an intention to set aside the dispute over sovereignty. In any case, since 1949, the ROC has governed only on Taiwan, and the PRC based in Beijing has ruled mainland China.

Previously called Formosa, Taiwan never has been ruled by the CPC or as a part of the PRC, and until 1945, had never been ruled by the ROC. In Taiwan after World War II, October 25, 1945, or “Retrosession Day,” marked the ROC’s claim of “recovering” Formosa from Japan. However, upon Japan’s surrender, that was the first time that the ROC’s military forces had occupied the island of Formosa. When the Qing Empire ceded in perpetuity Formosa to Japan under the Treaty of Shimonoseki of 1895, the ROC was not yet in existence. Moreover, the colony’s people did not have a say in self-determination of their status or identity. The Kuomintang (KMT), or Nationalist Party of China, has contended that the ROC claimed Formosa at Japan’s surrender in August 1945, with no country challenging the island’s status. The ROC under KMT forces led by Chiang Kai-shek retreated to Taiwan in 1949, when the Communist forces led by Mao Zedong took over mainland China. Taiwan’s people have faced a social, ethnic, linguistic, and political issue of whether to identify with Taiwan or China, with two major groups of local “Taiwanese” and “mainlanders” (folks who retreated to Taiwan with the KMT forces and their descendents). The KMT’s imposed authoritarian rule and martial law on Taiwan, including a massacre called the “228 Incident” of February 28, 1947, exacerbated difficulties between the groups.

## Bipartisan “One China” Policy

One of the first powers to support reforms and the new republic of progressive leaders in early 20<sup>th</sup> century China, the United States recognized the ROC government from 1913 until the end of 1978.<sup>2</sup> By the early 1970s, the United States looked to switch the diplomatic recognition to the PRC in Beijing while figuring out a framework to maintain the relationship with Taiwan. As a scholar on China and member of the National Security Council staff in 1977-1980 wrote,<sup>3</sup>

Many factors produced the change in U.S. policy toward China and Taiwan in the 1970s, some tactical, some strategic. The timing of the initial step was unquestionably related to the Vietnam War and the Sino-Soviet dispute. The second and third steps were facilitated by and partly a response to the Soviet expansion. But these were transitory considerations. From a longer-term perspective, America’s China policy of the 1950s and 1960s could not be sustained. It was based on American acknowledgment of an absurd claim. Taiwan was not, as it asserted, the government of mainland China. At the same time, China’s position was unrealistic. The People’s Republic was not the government of Taiwan. In fact, the two

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<sup>2</sup> Jonathan Spence, *The Search for Modern China* (New York: W. W. Norton & Company, 1990).

<sup>3</sup> Michel Oksenberg, “Taiwan, Tibet, and Hong Kong in Sino-American Relations,” in *Living with China*, edited by Ezra Vogel (New York: W. W. Norton & Company, 1997).

governments ruled different parts of Chinese territory, each asserting that it was the rightful authority for all of China, each denying the legitimacy of the other.

The United States has its own “one China” policy (vs. the PRC’s “one China” principle) and position on Taiwan’s status. Not recognizing the PRC’s claim over Taiwan nor Taiwan as a sovereign state, U.S. policy has considered Taiwan’s status as unsettled. Since a declaration by President Truman on June 27, 1950, during the Korean War, the United States has supported a future determination of the island’s status in a peaceful manner. The United States did not state a stance on the sovereign status of Taiwan in the three U.S.-PRC Joint Communiqués of 1972, 1979, and 1982. The United States simply “acknowledged” the “one China” position of both sides of the Taiwan Strait. Washington has not promised to end arms sales to Taiwan for its self-defense, although the Mutual Defense Treaty of 1954 terminated on December 31, 1979. U.S. policy does not support or oppose Taiwan’s independence; U.S. policy takes a neutral position of “non-support” for Taiwan’s independence. U.S. policy leaves the Taiwan question to be resolved by the people on both sides of the strait: a “peaceful resolution,” with the assent of Taiwan’s people in a democratic manner, and without unilateral changes. In short, U.S. policy focuses on the process of resolution of the Taiwan question, not any set outcome.

The United States has maintained a non-diplomatic relationship with Taiwan after recognition of the PRC in Beijing in 1979. The State Department claims an “unofficial” U.S. relationship with Taiwan, despite official contacts that include arms sales. Congress passed a law that did not describe the relationship as official or unofficial. The Taiwan Relations Act (TRA) of 1979, P.L. 96-8, has governed policy in the absence of a diplomatic relationship or a defense treaty. The TRA stipulates the expectation that the future of Taiwan “will be determined” by peaceful means. The TRA specifies that it is policy, inter alia, to consider any non-peaceful means to determine Taiwan’s future “a threat” to the peace and security of the Western Pacific and of “grave concern” to the United States; “to provide Taiwan with arms of a defensive character”; and “to maintain the capacity of the United States to resist any resort to force or other forms of coercion” jeopardizing the security, or social or economic system of Taiwan’s people. The TRA provides a congressional role in determining security assistance “necessary to enable Taiwan to maintain a sufficient self-defense capability.” The TRA set up the American Institute in Taiwan (AIT) to carry out the day-to-day matters of the relationship to sustain U.S. interests after the de-recognition of the ROC. Since 1979, the TRA has had bipartisan support in guiding policy with a firm foundation and flexible framework for the maintenance of the relationship with Taiwan.

In addition to the three Joint communiqués and the TRA, there is a fifth key statement that guides U.S. policy on Taiwan. President Reagan offered “Six Assurances” to Taipei on July 14, 1982, that in negotiating the third Joint Communiqué with the PRC, the United States: (1) has not agreed to set a date for ending arms sales to Taiwan; (2) has not agreed to hold prior consultations with the PRC on arms sales to Taiwan; (3) will not play any mediation role between Taipei and Beijing; (4) has not agreed to revise the Taiwan Relations Act; (5) has not altered its position regarding sovereignty over Taiwan; and (6) will not exert pressure on Taiwan to negotiate with the PRC. (Also see CRS Report RL30341, *China/Taiwan: Evolution of the “One China” Policy—Key Statements from Washington, Beijing, and Taipei*, by Shirley A. Kan.)

## **Democratic Politics**

Since those years when the United States dealt with the KMT authoritarian government in Taipei, the relationship has grown both more robust and more complex with Taiwan’s democratization and shared values about freedom. The United States supported Taiwan’s political liberalization

from an authoritarian dictatorship to a dynamic democracy. Democratization and electoral politics have allowed the people a greater say in Taiwan's identity (as part of China or a separate entity). In 1986, the KMT did not crack down against the formation of Taiwan's second major party, the Democratic Progressive Party (DPP), which has leaned toward Taiwan's independence. The KMT then lifted Martial Law in 1987.

At times, the PRC has reacted unfavorably to Taiwan's democratic politics and implications for sovereignty, particularly since its first democratic, direct presidential election in March 1996. The PRC's People's Liberation Army (PLA) "test-fired" missiles into sea areas close to Taiwan, which provoked the Taiwan Strait Crisis of 1995-1996. President Clinton deployed two aircraft carrier battle groups near Taiwan in March 1996. The PRC threatened Taiwan after President Lee Teng-hui characterized the cross-strait relationship as "special state-to-state ties" on July 9, 1999. On March 18, 2000, Chen Shui-bian of the DPP won the presidential election. Chen's DPP administration brought Taiwan's first democratic transfer of power from one party to another, after 55 years of KMT rule. In recognition of Taiwan's democracy, President Clinton declared in 2000 another condition that the resolution of the Taiwan question must be peaceful as well as with the "assent" of Taiwan's people. In 2003, President Bush expressed "opposition" to any unilateral decision to change the "status quo." On the TRA's 25<sup>th</sup> anniversary, Representative James Leach said at a hearing of the House International Relations Committee on April 21, 2004, that Taiwan has the unique situation in which it can have de facto self-determination only if it does not attempt to be recognized with de jure sovereignty. He urged Taiwan's people to recognize that they have greater security in "political ambiguity."

Cross-strait tension rose again when the PRC accused President Chen (2000-2008) of promoting Taiwan's de jure independence (e.g., with a referendum on Taiwan's membership in the U.N. during the presidential election on March 22, 2008). While opposing such referendums, President Bush positioned two aircraft carriers near Taiwan, as the largely symbolic referendums were still targets of the PRC's belligerent condemnation. The referendums failed to be valid. The victory of the KMT's Ma Ying-jeou ushered in Taiwan's second democratic transfer of power from one party to another. Bush congratulated Taiwan as a "beacon of democracy." Some have stressed Taiwan as a model democracy in a Chinese cultural context. (Also see CRS Report RL34441, *Security Implications of Taiwan's Presidential Election of March 2008*, by Shirley Kan.)

The KMT's March 2008 presidential victory was preceded on January 12, 2008, by a sweeping victory in which it swamped the DPP in elections for the Legislative Yuan (LY). Having won the presidency as well in March, the KMT assumed solid control of the government in May 2008. The 2008 legislative elections were the first held under new electoral rules adopted in 2005 under an amendment to Taiwan's constitution. The rules cut in half the size of the LY to 113 members from its former size of 225 and increased the term of office from three years to four years. The rules also instituted a new single-member district system employing two ballots for voters, similar to systems used in Germany and Japan: one to be cast for a candidate and one to be cast for a political party. As demonstrated by the electoral results, the new system favored larger, well-organized parties and put smaller parties at a disadvantage. Two smaller opposition parties have been the People's First Party (PFP), initially allied with the KMT as "Blue" parties, and the Taiwan Solidarity Union (TSU), siding with the DPP as "Green" parties. Compared to the KMT, the DPP and TSU have been more Taiwan-centric in their perspectives and wary of the PRC.

## **Major Developments in Cross-Strait Engagement**

Ties or tension across the Taiwan Strait affect international security (with potential U.S. intervention), the U.S.-Taiwan relationship, and U.S.-PRC cooperation. Congressional oversight has been concerned with support for U.S. interests, particularly respect for Taiwan's democracy. Since their first direct talks in 1992, Taiwan and the PRC have negotiated through quasi-official organizations: the Strait Exchange Foundation (SEF) in Taipei and the Association for Relations Across the Taiwan Strait (ARATS) in Beijing. In discussing practical issues in initial contact, the two sides agreed to disagree on the meaning of "one China" with the verbal formula of "One China, Different Interpretations." To Taipei, "China" is the ROC. To Beijing, "China" is the PRC. However, years later, the CPC in Beijing and KMT in Taipei shifted to contend that they reached a "1992 Consensus." The DPP has disputed that there was a "consensus" and has argued that any understanding was reached between two political parties without a democratic mandate.

### **Resumed Dialogue and Reduced Tension**

In the two months between his election and his inauguration on May 20, 2008, President Ma spoke of his intentions to begin normalizing cross-strait ties in a "cross-strait common market," to establish direct air links with the PRC, and to ease other restrictions on cross-strait contacts. In his inaugural address, President Ma announced his "Three Noes": "no unification, no independence, and no use of force" to maintain the "status quo" and set aside the sovereignty dispute. He called for a "diplomatic truce" with the PRC and pledged to stop using "dollar diplomacy" in a zero-sum game to win or preserve diplomatic recognition around the world.<sup>4</sup> After his inauguration, President Ma moved to improve cross-strait engagement, building on foundations laid by the previous President Chen.<sup>5</sup> KMT Chairman Wu Poh-hsiung met with CPC General Secretary Hu Jintao on May 28, 2008, the highest-level encounter between the two governments after 1949.<sup>6</sup>

Along with Washington's actions to maintain the relationship with Taipei, it has pursued closer engagement and reduced tension across the Taiwan Strait. Although the PRC objects to U.S. security assistance to Taiwan as harming cross-strait "peaceful development," economic integration and other engagement between Taiwan and the mainland have intensified. Taipei contends that U.S. support provides it with confidence and strength to engage with Beijing.

### **Economic Agreements and ECFA**

In June 2008, KMT President Ma Ying-jeou and the PRC leadership resumed the cross-strait dialogue (after a decade), beyond seeking détente. President Ma announced a priority of economic talks over political negotiations with Beijing. Taiwan's reality involved the PRC as Taiwan's largest trading partner by 2003 and as many as 2 million of its citizens already working

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<sup>4</sup> "Dollar diplomacy" (or "checkbook diplomacy") refers to both Taiwan and the PRC competing for diplomatic relations by promising to and investing huge sums in countries that may be wavering in their diplomatic allegiances.

<sup>5</sup> Among other initiatives during the Chen Administration, in January 2005, Taiwan and the PRC launched the first non-stop holiday direct charter flights flown in 55 years across the strait. These were expanded in 2006 with an agreement to allow up to 168 direct annual round-trip charter passenger flights between the PRC and Taiwan.

<sup>6</sup> On April 29, 2005, when the KMT was out of power, KMT Chairman Lien Chan met with CPC General Secretary Hu Jintao, the first time the leaders of the KMT and CPC had met since World War II.

and living on the mainland by 2008. By the end of 2009, Taiwan's companies had invested about \$150 billion in over 77,000 projects in the past 20 years there.<sup>7</sup> Since 2008, Taiwan has announced eight rounds of SEF-ARATS talks along with the conclusion of 18 cross-strait primarily economic agreements. Those agreements included the Economic Cooperation Framework Agreement (ECFA) to lower tariffs or relax access for 539 products and services from Taiwan. Though politically controversial, President Ma promoted the ECFA amid the opposition DPP's protests and quickly negotiated it from January 2010 until it was signed in June 2010. A range of government officials and their counterparts developed routine contacts across the strait, including through direct phone calls. In May 2010, the two sides opened the first quasi-official agencies (as tourism associations) in Beijing and Taipei. Two dramatic changes cited by Taiwan's people and foreign businesspeople have been direct flights across the strait and an increase in tourists from the mainland. In 2010, Taiwan depended on the PRC (including Hong Kong) as the source of 45% of visitors. From May 2008, when Taiwan allowed PRC tour groups, until the end of 2011, 3 million PRC tourists visited Taiwan.<sup>8</sup> In June 2011, Taiwan announced deals that allowed individual mainland tourists and increased direct flights from 370 to 560 a week.

Since 2009, Taiwan has looked to conclude an agreement on investment protection for Taiwan's business people, but negotiations have been difficult over issues that involve dispute resolution (whether to have an international mechanism). After postponing an investment protection agreement expected in June 2012, the two sides announced in August two agreements on investment protection (including some allowance for arbitration) and customs cooperation.

## Continuing Challenges

Despite the announcements of those agreements, the two sides did not sign an expected agreement on taxation in 2009, in a dispute over the PRC's proposal to tax income from stock trading. At the 7<sup>th</sup> round in October 2011, the two sides also announced a "consensus" (not agreement) on industrial cooperation. After failing to reach an agreement between banking regulators in April 2011, the two sides announced a "consensus" in November. Still, the Taiwan side believed it pragmatically negotiated benefits for its banks. Taiwan continues to face challenges in protecting its citizens from detentions in mainland China (including secret detentions in PRC "black jails"). From June 18, 2012, just before the investment protection agreement was expected, until August 11, the PRC's Ministry of State Security (MSS) detained Chung Ting-pang, a visitor from Taiwan, for sabotaging national and public security in alleged activities in association with Falun Gong (a banned group in the PRC). Representative Dana Rohrabacher wrote a letter on July 10 to urge President Ma to speak out strongly against Chung's detention. Taiwan said it got a separate "consensus" in August on protecting the safety of Taiwan's business people. However, questions remained about protections for visitors not doing business, not detained by the police but the MSS, held in national security-related cases, and denied prompt access by officials and lawyers (not just relatives). Other questions concerned Taiwan's enforcement of PRC promises and securing the release of other detained citizens. NYU's Jerome Cohen wrote a critique.<sup>9</sup> At the end of August, Taiwan and the PRC signed a memorandum of understanding (MOU) on an agreement for currency clearing.

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<sup>7</sup> Kathrin Hille, "Straitened Times," *Financial Times*, March 26, 2008; *CNA*, Taipei, December 23, 2009.

<sup>8</sup> *Central News Agency*, Taipei, January 4, 2012.

<sup>9</sup> Jerome Cohen and Yu-Jie Chen, "For Taiwanese, the Mainland Remains a Dangerous Place," *South China Morning Post*, Hong Kong, September 5, 2012.

The United States has welcomed the reduction in tension brought by economic and people-to-people engagement across the Taiwan Strait. Aside from increased stability and direct flights, however, it has been less clear how the agreements, especially ECFA, have benefitted U.S. and other foreign firms. Deputy Assistant Secretary of State David Shear said in July 2010 that “if ECFA is to be a truly successful arrangement, firms from the United States and other countries must also be able to benefit.” Taiwan announced that ECFA entered into force on September 12, 2010. However, some have concerns that Taiwan has not notified ECFA to the WTO, as required of its members. Taiwan’s officials have claimed that there was a notification, but Taiwan made only an early announcement. Moreover, even as Taipei quickly negotiated ECFA with Beijing from January to June 2010, Taipei did not devote a similar level of attention to resolving the dispute with Washington over beef (see discussion below). Further, in mid-2011, the American Chamber of Commerce (AmCham) in Taipei noted that 41.7% of Taiwan’s exports went to the PRC (including Hong Kong) and warned Taiwan against the risks of over-reliance on one market. AmCham urged Taiwan to pursue balanced relationships that include stronger ties with other countries, particularly the United States as part of a national security agenda. When asked in 2012 about the effect of ECFA on their businesses, 40.6% of AmCham’s members in Taiwan which answered its survey said that the effect was neutral, while 38.4% saw some positive effect. Some observers pointed out that Taiwan could increase substantive visits to the United States by its Minister of Economic Affairs. Questions also have arisen about Taiwan’s procedures for reviewing technology transfers to the PRC and any national security implications of increasing PRC investments in Taiwan, including how Taiwan’s security review of PRC investments compare with the U.S. security review by the Committee on Foreign Investment in the United States (CFIUS). Taiwan has tried to use ECFA as a springboard to negotiate bilateral free trade agreements (FTAs) with other countries. Taiwan has started to explore FTAs, including with Singapore in August 2010, with India in March 2011, and with New Zealand in October 2011. Taiwan also has continued to face challenges in joining multilateral trade negotiations, although it has the option of unilateral liberalization of trade and investment rules.

Observers might watch to see whether President Ma ensures greater transparency about future cross-strait talks for Taiwan domestically and for the United States and other countries internationally. Since 2005, the CPC and KMT have proposed a potential “peace agreement” and confidence building measures (CBMs). In running for re-election in October 2011, Ma raised a controversial idea of a cross-strait peace accord. Beijing took the results of Taiwan’s elections in January 2012 as validation of the “peaceful development” approach. On that basis, Beijing could continue patient engagement focused first on economics and refrain from pressuring Ma, given cross-party criticism of his leadership and his low approval ratings. Also, the CPC has preoccupations with its power transition in 2012 and 2013. Observers watch for the policy of the next CPC General-Secretary, expected to be Xi Jinping. In April 2010, Xi met with Taiwan’s representative to the Boao economic forum and stressed the fundamental principles of Beijing that both sides belong to one China and that “compatriots” in Taiwan share this national identity.

Further into Ma’s second term, however, Beijing could increase pressure on Taiwan, in preparing for if not pressing for political and military negotiations. In March 2012, two months before Ma’s second inaugural address, the CPC Taiwan Affairs Office (TAO) in Beijing called for a new phase of consolidating political mutual trust, negotiating economic benefits for both sides (not just for Taiwan), and shaping Taiwan’s cultural understanding of the “national identity” of “one China” (including “cleaning up” harmful thoughts about “Taiwan independence”). Moreover, KMT Honorary Chairman Wu Poh-hsiung met in Beijing with CPC General-Secretary Hu Jintao, who called for actions to build “political trust” with the insistence that “the mainland and Taiwan belong to one China.” On his part, the KMT’s Wu stressed the concept of “one country, two

areas.” The opposition DPP criticized the “one country, two areas” formula, stressing that Taiwan is a sovereign country and does not belong to the PRC. A month before Ma’s inaugural address, TAO Director Wang Yi visited Washington in April, where he met with Deputy Secretary of State William Burns. Wang indicated Beijing’s expectation of future political talks with Taipei.<sup>10</sup>

In his inaugural address on May 20, 2012, President Ma did not repeat either of those phrases. Ma apparently assured Beijing on his cross-strait policy but asserted limits in accommodating on sovereignty. While Ma upheld the “1992 Consensus” (explicitly defined as “One China, Different Interpretations”), he more explicitly and formally added that “one ROC, two areas” defines the two sides of the Taiwan Strait. Ma asserted that the two sides practice “mutual non-recognition of sovereignty and mutual non-denial of governing authority,” because the ROC’s sovereignty covers Taiwan and the mainland, but the ROC governs only the islands of Taiwan, Penghu, Kinmen, and Matsu. However, Ma reiterated the principle in the first inaugural address of maintaining the “status quo” of what he called “no unification, no independence, and no use of force.” Further, Ma seemed to agree with Beijing on cultural cooperation, saying that civic groups could expand exchanges across the strait based on what he called common Chinese ethnicity, ancestry, bloodline, history, culture, and founding father (Sun Yat-sen). Still, he also stressed democracy, human rights, rule of law, and civil society. While Ma noted that national security is the key to the ROC’s “survival,” he articulated an approach that relied on cross-strait engagement, diplomacy for international space, and defense. On his defense policy, Ma did not explicitly cite the PLA as the threat but called for continued U.S. arms sales in order to sustain the cross-strait engagement. While the English version of his speech called for a “strong national defense” to deter external threats, the original text in Chinese referred to the “national defense forces.” At a conference four days later, President Ma invoked the model of West Germany and East Germany on a distinction between sovereignty and governing authority. Just two weeks after Ma’s address, his Minister of Culture declined to remark on the anniversary of the Tiananmen Crackdown in Beijing of June 4, 1989, citing potential repercussions in cross-strait negotiations (for Taiwan’s publishing and entertainment industries).

It was unclear if Ma’s message was coordinated as part of parallel statements that involved control of Wu’s meeting with Hu, a counter to Hu’s position, or a compromise. On May 30, when asked about Ma’s “One ROC, Two Areas” formulation, the CPC TAO responded that it was not surprising and was consistent with the view that both sides of the strait belong to one China (rather than a “state-to-state relationship”) and beneficial to the peaceful development of the cross-strait ties. However, the TAO rejected use of the model of the two Germanys.

Despite the pronouncements of a “one China” by leaders in Taipei and Beijing and closer cross-strait ties, Taiwan’s people retain a strong Taiwan-centric identity after over a century of mostly separation from the government and society in mainland China. Still, Taiwan’s people pragmatically have pursued prosperity, security, and their democratic way of life and self-governance. Moderate voters generally have supported economic ties to the PRC amid political separation. In April 2012, only 1.5% of those surveyed in Taiwan wished for unification with mainland China as soon as possible, while 86% desired the status quo (at least indefinitely or with a later decision on unification or independence), 6% called for independence as soon as possible, and the remaining 6% had no opinion. The results were similar to that back in August 2008 (shortly after Ma became president), when 1.5% desired unification as soon as possible, 83%

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<sup>10</sup> TAO, Beijing, March 15; *Xinhua*, Beijing, and *CNA*, Taipei, March 22; *Taipei Times*, April 14, 2012.

opted for the status quo, 9% called for independence as soon as possible, and 7% had no opinion.<sup>11</sup>

In June 2012, Taiwan denied entry to ARATS Vice Chairman Wang Zaixi and others with official security-related affiliations to attend the “Taipei Talks” arranged by an academic in Taiwan to discuss political dialogue. On the eve of a KMT-CPC meeting, President Ma reiterated his principles that included “no unification, no independence, and no use of force” and “economic matters before political matters.” However, at that meeting on July 28 in Harbin, CPC Politburo Standing Committee Member Jia Qinglin countered with political points first and foremost and declared that the One China framework meant the mainland and Taiwan belong to “one country.”

Further, despite the cross-strait warming trend, concerns remain about the PLA’s challenges to Taiwan. At a hearing on Taiwan held by the House Foreign Affairs Committee on October 4, 2011, Acting Assistant Secretary of Defense Peter Lavoy expressed the U.S. concern that a Taiwan that is vulnerable, isolated, and under threat would not be in a position to discuss its future with the mainland and might invite the very aggression U.S. policy seeks to deter. He warned that if the PLA were to attack, it would be able to rapidly degrade Taiwan’s ability to resist. Lavoy testified that the Defense Department’s report to Congress on Taiwan’s air power concluded that Taiwan’s defense cannot match the PLA one-for-one. He reiterated the Pentagon’s view that Taiwan needs innovative and asymmetric approaches, not simply limited numbers of advanced weapons systems. The Defense Secretary reported to Congress in May 2012 that China has modernized its military with a continued focus on contingencies against Taiwan. The PLA has modernized with capabilities that could settle the dispute with Taiwan on the PRC’s terms, has not renounced the use of force, and has not reduced military forces facing Taiwan (including 1,000-1,200 short-range ballistic missiles, 32 attack submarines, and long-range surface-to-air missiles), while Taiwan has eroding advantages in defense.<sup>12</sup>

## **Issues in U.S. Policy Toward Taiwan**

### **Overview**

There has been consideration in the Administration and Congress of various options to pursue in the relationship with Taiwan. One issue has been whether to resume Cabinet-level visits, perhaps by the Secretaries of Veteran Affairs, Commerce, or Energy, or the U.S. Trade Representative (USTR). Cabinet-level officials visited Taiwan in 1992, 1994, 1996, 1998, and 2000. The United States and Taiwan have sought to resume trade talks under the Trade and Investment Framework Agreement (TIFA), last held in July 2007, but Taiwan’s restrictions on U.S. beef raised concerns.

In 2011, Taiwan’s political campaigning constrained U.S. influence on some U.S. policy priorities, particularly opening Taiwan’s market to U.S. beef. There was some expectation that after the elections in January 2012, Taiwan would pay greater attention to the relationship with the United States. Both Washington and Taipei describe the relationship as generally a positive one of an economic and security partnership based on shared values. On the U.S. side, the

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<sup>11</sup> Surveys conducted by the Election Study Center at the National Chengchi University in Taipei, Taiwan.

<sup>12</sup> Secretary of Defense, “Annual Report to Congress: Military and Security Developments Involving the People’s Republic of China, 2012,” May 17, 2012.

Legislative and Executive Branches took actions to strengthen the relationship. On September 14, 2011, Representative Ileana Ros-Lehtinen, Chair of the House Foreign Affairs Committee, introduced the Taiwan Policy Act (H.R. 2918) to enhance ties with Taiwan. The House Foreign Affairs Committee held hearings on Taiwan on June 16 and October 4, 2011. At the latter hearing, Assistant Secretary of State Kurt Campbell reaffirmed that the Six Assurances—along with the TRA and the three Joint Communiques—form the foundation of U.S. policy.

In September 2011, the Obama Administration met with visiting delegations from Taiwan’s presidential candidates, led by DPP candidate Tsai Ing-wen and a key advisor in KMT President Ma’s campaign (King Pu-tsung). There was a congressional reception for Tsai. However, the Administration promptly gave negative remarks to the *Financial Times*, saying that Tsai raised doubts about continuing cross-strait “stability,” despite professing U.S. neutrality in Taiwan’s democratic elections. The Administration then notified Congress on September 21 of three major arms sales programs with a total value of \$5.9 billion, including upgrades for Taiwan’s existing F-16A/B fighters. The Administration also increased senior visits to Taiwan, sending Assistant Secretary of Commerce Suresh Kumar in September and then Agency for International Development (AID) Administrator Rajiv Shah and Deputy Secretary of Energy Dan Poneman in December 2011. After not mentioning Taiwan in an article in *Foreign Policy* on “America’s Pacific Century” in October 2011, Secretary of State Hillary Clinton gave a speech on the same subject the next month and added that the United States has a strong relationship with Taiwan as an “important security and economic partner.” On December 22, the State Department nominated Taiwan as a candidate for the Visa Waiver Program (VWP), and Taiwan’s Foreign Ministry touted the long-awaited announcement as a “Christmas gift” in appreciation to the Ma Administration.

The Obama Administration argues that its efforts to intensify and expand cooperative engagement with the PRC in Beijing have not been at the expense of a stronger relationship with Taiwan. Washington officials contend that they have pursued parallel relationships with Beijing and Taipei. Nonetheless, policy issues have included whether the Administration actually has ambitious objectives to achieve in the relationship with Taipei, has timed arms sales and certain other actions out of concern about the relationship with Beijing, strengthened ties with Taiwan in the months before the presidential election in January 2012 to favor Ma, should resume U.S. Cabinet-level visits, has included Taiwan in the strategy to “rebalance” more weight in U.S. priorities to the Asia-Pacific (what some called a “pivot” to the Pacific), and has continued trade talks with Beijing despite many economic disputes but not with Taipei.

Representative Edward Royce delivered a speech on November 12, 2011, in which he stressed strengthening the U.S.-Taiwan relationship and lamented that Taiwan’s president could not attend that month’s APEC summit in Honolulu. Among Members who urged the Administration not to influence Taiwan’s elections in January 2012, Senator Sherrod Brown wrote a letter to Secretary of State Hillary Clinton on November 21. Chairman Ros-Lehtinen of the House Foreign Affairs Committee also wrote to Clinton on December 21, to caution against supporting any candidate (including by not announcing a nomination to the VWP until after the elections). On the occasion of President Ma’s second inauguration on May 20, 2012, Chairman Ros-Lehtinen led a Congressional Delegation to visit Taiwan (along with Representatives Dan Burton, Thad McCotter, Jim Gerlach, Brad Miller, and Jean Schmidt).

After Ma’s re-election in January 2012, the Administration’s visits to Taiwan entailed lower ranking officials, including an Associate Administrator of NASA and the State Department’s director of International Information Programs (in July) and the Assistant Secretary of State for Economic and Business Affairs (in August).

On Taiwan's side, President Ma has said he places priority on the relationship with the United States. However, some observers say that Taiwan needs to restore some trust lost in the relationship and reciprocate U.S. efforts to strengthen it. With the sensitive political season over in January 2012, Ma said that he will advance the U.S.-Taiwan relationship. Although President Ma is also the Chairman of the ruling KMT, it has been a challenge (even called a "crisis") for years for him to lead his administration and party to resolve the dispute over U.S. beef.

## **International Security**

The United States has watched Taiwan's contribution to international development and security. In response to Haiti's devastating earthquake in January 2010, Taiwan's air force delivered relief supplies on a C-130 transport plane, which received approval for refueling and repair at U.S. bases. However, there has been a question of whether Taiwan followed up with sustained major missions in Haiti (with which Taiwan has a diplomatic relationship), particularly as the Foreign Minister did not stop in Haiti during trips to Latin America in September 2010, November 2011, and January 2012 (the second anniversary). Though Taiwan completed in July 2012 a shelter for the homeless in Haiti at the cost of \$5.5 million, Taiwan's vice president visited the Dominican Republic on the island but not Haiti in August. After Japan's catastrophic earthquake, tsunami, and nuclear disaster in March 2011, President Ma led Taiwan to be the largest donor of official and private aid, including \$3.5 million from the government, though Taiwan's military and coast guard did not offer assistance to Japan. Although the AID Administrator's visit in 2011 highlighted Taiwan's role as an international aid donor, Taiwan's foreign aid amounted to US\$380 million in 2010 and in 2011, accounting for 0.1% of gross national income (compared to the international average of 0.5%). Taiwan could increase military and civilian participation in humanitarian assistance and disaster relief (HA/DR) missions, particularly in Pacific nations. On September 25, 2012, President Ma spoke at a conference on international aid in Taipei.

The United States could work with Taiwan to increase cooperation in international security. Taiwan could boost its defense and foreign aid spending, contribute more to security, fight cyber threats, and improve counter-espionage amid cases in Taiwan of alleged spying for Beijing. The United States has obtained counterterrorism cooperation at ports through Taiwan's agreements in 2005 and 2006 to participate in the Container Security Initiative (CSI) and Megaports Initiative (to detect nuclear and other radioactive materials in cargo). The United States also has sought Taiwan's cooperation in nuclear and missile non-proliferation efforts concerning Iran and North Korea. For example, in March 2009, the Shanghai-based Roc-Master Manufacture and Supply Company reportedly ordered 108 pressure gauges that could be used in centrifuges to enrich uranium for transfer to Iran from an agent in Taiwan (Heli-Ocean Technology Company) for Inficon Holding, the manufacturer in Switzerland. In July 2010, Taiwan reportedly raided Ho Li Enterprises which received orders since March 2007 from Dandong Fang Lian Trading Company in Dandong, PRC, which was allegedly associated with North Korea's military, for two dual-use, high-technology machine tools that ended up in North Korea earlier in 2010.

The United States enacted the Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) of 2010 (P.L. 111-195) on July 1, 2010, which followed the U.N. Security Council Resolution 1929 of June against Iran's nuclear program. Like others, Taiwan also is expected to comply with U.S. sanctions on Iran for nuclear proliferation in the National Defense Authorization Act (NDAA) for FY2012 (P.L. 112-81). Taiwan has not announced its own sanctions against dealings with Iran's oil and gas industry, though petroleum refiner CPC Corporation Taiwan is a state-owned enterprise. In any case, Taiwan cut the volume of imports of

oil from Iran by 49% from 2010 to 2011. In 2011, Taiwan imported \$1.2 billion worth of oil from Iran, the fifth-largest source of Taiwan's oil imports. On June 11, 2012, Secretary of State Hillary Clinton announced that Taiwan and six other countries significantly reduced oil purchases from Iran and would not be subject to the NDAA's sanctions for a renewable period of 180 days.

Taiwan could increase security for or restrict its ships to reduce the burden on international anti-piracy naval operations in the Gulf of Aden. A bilateral matter involved a U.S. Navy ship and the death of the captain (Wu Lai-yu) of one of Taiwan's fishing boats in a NATO anti-piracy operation off Somalia on May 10, 2011. On July 23, the U.S. government provided a report from the U.S. Fifth Fleet of the Naval Forces Central Command based in Bahrain on the frigate USS *Stephen W. Groves*' (SWG) interdiction of the Taiwan-flagged fishing boat that had been hijacked in March 2010 and then used as a pirate mother-ship along with pirate skiffs to attack other ships for more than a year off the Horn of Africa. The U.S. Navy operated under the NATO-led Combined Task Force 508 to conduct an operation on May 10 against the mother-ship to disrupt further attacks. After compelling the pirates to surrender and boarding the ship, the Navy's crew found Wu deceased in his cabin. An investigation found that ammunition fired from the U.S. naval ship during the operation "inadvertently" killed him and three pirates. The naval crew then buried the captain at sea, laid to rest in his ship, which was sunk to prevent it from becoming a hazard to other ships. The United States expressed "regret" that the ship and its captain were lost in the protection of shipping against piracy and sent condolences to Wu's family. The U.S. Navy maintained that it conducted the counter-piracy operation "in accordance with existing rules of engagement and in compliance with international law." However, Taiwan persisted in protests, including a call from Foreign Minister Timothy Yang for U.S. compensation to Wu's family, which demanded \$3 million. Taiwan's government could have been trying to deflect political criticism and demands for compensation from Wu's family, since the government, including the navy, apparently took few if any steps to rescue the boat's captives while they were held for over a year. Somali pirates captured another fishing ship from Taiwan in December 2010. A PLA Navy frigate sailing off Somalia took credit for the release of the ship's crew in July 2012, though Taiwan's foreign ministry attributed their release to a ransom and broad international assistance.

Concerning maritime territorial disputes in East Asia, there is an issue of whether Taiwan role serves as a helpful, stabilizing U.S. security partner. Taiwan has asserted itself as the ROC with sovereign claims and has sought international attention and inclusion in bilateral or multilateral discussions. The disputes in the South China Sea involve overlapping claims by Brunei, Malaysia, PRC, Philippines (a U.S. ally), Taiwan, and Vietnam. In the East China Sea, PRC and Taiwan claims conflict with those of Japan (another U.S. ally). U.S. concerns involve possible conflict between the PRC and Japan over their competing claims to the Senkaku islands (called Diaoyu islands by the PRC), which could bring U.S. involvement under the U.S.-Japan defense treaty. Taiwan, asserting itself as the ROC, also claims the islands as Diaoyutai (or Tiaoyutai). On June 13, 2012, Assistant Secretary of State Kurt Campbell confirmed at a public forum that the State Department has discussed with Taiwan U.S. concerns about whether it would work with the PRC in the South China Sea and that Taiwan assured that it would be careful. Nonetheless, an issue concerns any cross-strait coordination also in the East China Sea. On August 5, 2012, President Ma announced his "East China Sea Peace Initiative" that reiterated the ROC's claim over the islands as the Diaoyutai Islands and called for a code of conduct to address tension peacefully.

However, Taiwan has given mixed messages. On September 25, the very day that the PRC and Japan held diplomatic exchanges to try to cool tensions as the United States urged, Taiwan deployed 12 Coast Guard ships to escort about 60 fishing boats into the islands' territorial waters.

Reportedly, Japan's Coast Guard ships fired water cannons at Taiwan's fishing boats in the territorial waters, but Taiwan's Coast Guard ships fired water cannons toward Japan's official ships. The ships maneuvered in proximity, raising the risk of accidental collisions or endangerment of lives and property. However, while the media focused on the Coast Guard, Taiwan also deployed military assets. According to Taiwan's military news media, the military deployed two Knox-class frigates, one Perry-class frigate, F-16 fighters, Mirage fighters, E2-K Hawkeye airborne early warning aircraft, and S-70C ship-borne helicopters (a civilian version of the UH-60 Blackhawks). The United States sold to Taiwan such weapon systems (except for the Mirage fighters sold by France) for Taiwan's self-defense against the PRC. The next day, President Ma visited military units and praised the actions of the boats sailing close to the islands. Ma said that Japan "misappropriated" the islands for 117 years and never returned them.

While Taiwan has stressed institutionalized cross-strait engagement, such efforts with Japan have faltered in talks over fishing rights. In 1996, after Taiwan fishermen tried to send a 200-boat fleet to assert their right to fish near the Senkakus, Taiwan agreed with Japan to allow Taiwan's fishermen to fish near but not land on the islands. At their 16<sup>th</sup> round of talks on fishery disputes in February 2009, Taiwan agreed with Japan to set up a mechanism for mutual notification of emergencies, including disputes that occur near the Senkakus. Since then, however, Taiwan and Japan have not been able to schedule their next round of talks over fishing rights.

## International Organizations

Taipei is a full member in some international organizations to which the PRC also belongs, such as the Asian Development Bank (ADB) and the WTO. Taiwan also has been a full member of the Asian-Pacific Economic Cooperation (APEC) forum. For the second time since initiating APEC summits in Seattle in 1993, the United States hosted an APEC summit in November 2011 in Honolulu. However, Taiwan's president has not been able to attend the APEC summits.

The Clinton Administration's 1994 Taiwan Policy Review promised to support Taiwan's membership in organizations where statehood is not a prerequisite and to support opportunities for Taiwan's voice to be heard in organizations where its membership is not possible. The focus of Congressional action for many years was on Taiwan's international participation at the World Health Organization (WHO) and the annual meetings in Geneva of its governing body, the World Health Assembly (WHA). On April 21 and May 6, 2004, the House and Senate passed H.R. 4019 and S. 2092 in support of Taiwan's efforts to gain observer status in the WHO and to make it an annual requirement to have an unclassified report from the Secretary of State on the U.S. plan to help obtain that status for Taiwan. The implication of this legislative change was the end of annual congressional statements and votes on this issue. In signing S. 2092 into law (P.L. 108-235) on June 14, 2004, President Bush stated that the United States fully supported the participation of Taiwan in the work of the WHO, including observer status.

President Ma decided to be more flexible than his DPP predecessor in pressing Taiwan's bid to rejoin the United Nations (U.N.), which it left in 1971. On August 15, 2008, Taiwan submitted instead a proposal (via some countries with which Taiwan has diplomatic relations) to allow Taiwan to have "meaningful participation" in U.N. specialized organizations.<sup>13</sup>

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<sup>13</sup> According to the *China Post* of August 16, 2008, the resolution was titled "The Need to Examine the Fundamental Rights of the 23 Million People of the Republic of China (Taiwan) to Participate Meaningfully in the Activities of the (continued...)"

Only after Ma Ying-jeou was inaugurated as President in May 2008 did the WHO in January 2009 include Taiwan in the International Health Regulations (IHR). At the WHA in May 2009, Taiwan's Minister of Health participated, as an observer, for the first time since the ROC lost membership in the U.N. However, there have been concerns that the invitation had required the PRC's approval, came through a WHO-PRC memorandum of understanding (MOU), and was ad hoc (not routine for every year or only for a KMT President). Indeed, in its required report submitted to Congress in April 2010, the State Department reported that the WHO invited Taiwan to attend the 2009 WHA after the PRC "agreed to Taiwan's participation." Moreover, in May 2011, a secret WHO Memorandum (dated September 14, 2010) came to light in Taiwan, showing that the WHO had an "arrangement with China" to implement the IHR for the "Taiwan Province of China" (instead of "Chinese Taipei"). At the WHA on May 17, 2011, Secretary of Health and Human Services Kathleen Sebelius protested to the WHO, saying that no U.N. organization has a right to determine unilaterally the status of Taiwan. The interpretation of Taiwan as a "province of China" is contrary to the U.N.'s own General Assembly Resolution 2758 of 1971, which "restored" the legal rights of the PRC in the U.N. and expelled "the representatives of Chiang Kai-shek" but did not mention Taiwan. In its report to Congress for 2012, the State Department stressed that the unresolved issue of nomenclature continued to severely hamper Taiwan's effective participation in the IHR and communication with Taiwan was delayed by routing through PRC authorities in Beijing or Geneva. The report noted limited progress in 2011, when Taiwan's health experts were allowed to attend only 8 out of 21 requested WHO meetings.

Deputy Assistant Secretary of State David Shear stated in March 2010 that "the United States is a strong, consistent supporter of Taiwan's meaningful participation in international organizations." He also stated that "Taiwan should be able to participate in organizations where it cannot be a member, such as the World Health Organization, the International Civil Aviation Organization, and other important international bodies whose activities have a direct impact on the people of Taiwan." Taiwan has sought status as an "observer" in the International Civil Aviation Organization (ICAO) and U.N. Framework Convention on Climate Change (UNFCCC). Taiwan's Flight Safety Foundation provides indirect communication between domestic aviation authorities and airlines and the ICAO based in Montreal. In 2011, Taiwan joined the Civil Air Navigation Services Organization (CANSO), which is an observer in ICAO. Taiwan's challenges include justifying the practical gains and gaining PRC support. While the State Department stopped short of supporting Taiwan's observership in ICAO, Congress has supported this stance in legislation. In July 2010, the House passed (by voice vote) H.Con.Res. 266 (Berkley) to express the sense of Congress that Taiwan should be accorded observer status in ICAO. In September 2011, the Senate agreed (by voice vote) to S.Con.Res. 17 (Menendez) with the same sense of Congress. The House also agreed (by voice vote) to S.Con.Res. 17 in September 2012, after Representatives Ros-Lehtinen, Royce, and Berman spoke on the floor in support of the resolution.

## **U.S. Arms Sales to Taiwan**

The Defense Department has reported to Congress in annual reports on the PLA that the balance of forces across the Taiwan Strait has continued to shift to the PRC's favor. Moreover, the Secretary's report of March 2009 told Congress that it was no longer the case that Taiwan's Air Force enjoyed dominance of the airspace over the strait. Since 2001, Taiwan has discussed the

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(...continued)

U.N. Specialized Agencies." See also *Central News Agency*, August 15, 2008, and *Taipei Times*, August 16, 2008.

acquisition of diesel-electric submarines. Since 2006, Taiwan has been unsuccessful in trying to submit a formal request to procure new F-16C/D fighters. One policy issue concerns whether President Obama denied or delayed arms sales out of concern about the military and overall relationship with the PRC. The Administration maintains that it adheres to the TRA. While the PRC has not warned Taiwan of consequences in continuing to seek U.S. weapons, the PRC has claimed to “suspend” many military meetings with the United States. President Obama notified Congress on January 29, 2010, of major arms sales to Taiwan: five programs with a total value of \$6.4 billion. Again submitting notifications on one day, President Obama proposed on September 21, 2011, three major arms sales programs with a total value of \$5.9 billion, including upgrades for Taiwan’s existing F-16A/B fighters. Like Bush, President Obama has not notified Congress of the submarine design program (the only one pending from decisions in 2001) and has not accepted Taiwan’s formal request for new F-16C/D fighters. Meanwhile, the United States has concerns that Taiwan under President Ma cut its defense budget in 2009, 2010, and 2011 until an increase in 2012 and has failed to reach the promised defense spending at 3% of GDP. (Also see CRS Report RL30957, *Taiwan: Major U.S. Arms Sales Since 1990*, by Shirley A. Kan.)

## **Visa Waiver Program (VWP)**

As one of its top priorities, Taiwan has sought inclusion in the U.S. Visa Waiver Program (VWP), which eliminates some visa requirements for qualified countries, allowing their citizens to make temporary U.S. visits without first obtaining a valid visa. VWP countries must meet certain criteria, such as offering reciprocal privileges to U.S. citizens, having machine-readable passports, and having a low non-immigrant refusal rate. (Also see CRS Report RL32221, *Visa Waiver Program*, by Alison Siskin.)

The Ma Administration has stressed visa waiver status as a benefit for Taiwan’s travelers, a symbol of support for his policies, and a step to support Taiwan’s international stature. Mariko Silver, Acting Assistant Secretary of Homeland Security for International Policy, visited Taiwan in April 2010 and welcomed Taiwan’s adoption of e-passports and looked to Taiwan’s resolution of technical security and a new requirement for in-person applications for passports to prevent fraud. The refusal rate for Taiwan’s applicants of U.S. non-immigrant visas was at 2.2% in 2010, better than the 3% standard for the VWP. In late 2010, Taiwan announced that it sought to conclude three relevant agreements with the United States to exchange information on stolen or counterfeit passports, on terrorists, and on combating crime. Even without U.S. leadership in waiving visas for Taiwan’s travelers, President Ma announced in late June 2011 that Taiwan had secured offers from 116 countries and territories to grant its citizens visa-free or landing visa travel privileges. To prevent fraud, Taiwan did not start until July 1, 2011, the new system to require first-time applicants for passports to apply in person. If Taiwan were granted visa waiver status, approximately \$15 million would be needed to offset visa processing fees lost per year to the State Department (expected to start in FY2013). With potentially broader implications for more visitors, Assistant Secretary of Commerce Kumar said in Taiwan in September 2011 that almost 300,000 visitors from Taiwan contributed over \$1 billion to the U.S. economy in 2010. On December 22, the State Department announced the nomination of Taiwan as a candidate for the VWP. The Department of Homeland Security then reviewed Taiwan’s candidacy, including a visit to Taiwan in March 2012 (vs. the higher-profile announcement of candidacy). If Taiwan is designated in the VWP, only Taiwan’s e-passports would be eligible. Another issue concerns whether to accept Taiwan’s category of passports issued to “compatriots” whom Taiwan has not accepted for repatriation or given the right of residency (with questions about their citizenship). On October 2, 2012, the Secretary of Homeland Security designated Taiwan in the VWP.

## Extradition Treaty

Taiwan has asked for an extradition treaty, and negotiations started in 2010, involving the Departments of Justice and State. Taiwan has sought about 70 fugitives suspected of being in the United States. Taiwan had proposed an extradition treaty with the United States as early as 1979. In December 1992, the Senate Governmental Affairs Subcommittee on Investigations recommended negotiation of an extradition agreement with Taiwan as soon as possible. A precedent for congressional consideration could be the U.S.-Hong Kong extradition agreement.<sup>14</sup> Aside from an extradition treaty, another option could be authorizing statute passed by Congress. (Also see CRS Report 98-958, *Extradition To and From the United States: Overview of the Law and Recent Treaties*, by Michael John Garcia and Charles Doyle.)

## Human Rights and Rule of Law

The TRA reaffirmed that the preservation and enhancement of the human rights of all of Taiwan's people are U.S. objectives. President Ma has contended that he has valued democracy, freedoms, and human rights. However, in early November 2008, Taiwan's police allegedly used heavy-handed measures against protestors in providing security for an official from Beijing, ARATS Chairman Chen Yunlin. Freedom House called for an independent investigation. Taiwan sent officials to Washington to defend the police. On November 12, 2008, that happened to be the day that ex-president Chen Shui-bian was first detained on charges of corruption, AIT Director Stephen Young expressed the U.S. expectation that Taiwan's judicial process be "transparent, fair, and impartial." Concerned observers say that Taiwan under the KMT has not done enough to promote those values in the PRC or judicial reforms in Taiwan. Some have questioned whether the Ma Administration has downplayed democracy promotion by the Taiwan Foundation for Democracy (TFD) and has been less welcoming to those attacked by Beijing, such as Tibetan leader Dalai Lama, Uighur leader Rebiya Kadeer, and Falun Gong practitioners. (Also see CRS Report R41263, *Democratic Reforms in Taiwan: Issues for Congress*, by Shirley Kan.)

Jerome Cohen, a respected legal scholar at New York University's School of Law who was Ma's professor at Harvard, has written critiques of Taiwan's judicial system as well as commended Ma's signing of the instruments of ratification of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights. He wrote that the prosecution of former president Chen was not a political vendetta by the KMT but showed that no one is above the law in Taiwan. Still, Cohen criticized judicial officials for a skit on "Law Day" in 2009 that mocked the detained Chen and restraints on Chen's ability to defend himself. In a meeting with Professor Cohen in May 2010, President Ma said that judicial authorities took actions to reduce human rights concerns about Taiwan's detention system.<sup>15</sup> In his second inaugural address in May 2012, Ma acknowledged the continued need for judicial reform.

A number of U.S. and foreign former officials, activists, and academics have written several open letters to President Ma to express concerns. A letter of April 11, 2011, in the *Taipei Times* asked

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<sup>14</sup> Senate Governmental Affairs Subcommittee on Investigations, a report on "The New International Criminal and Asian Organized Crime," S. Prt. 102-129, December 1992; Senate Foreign Relations Committee, report on the "U.S.-Hong Kong Extradition Treaty," Exec. Rept. 105-2, August 19, 1997; Senate Foreign Relations Committee, report on the "Agreement with Hong Kong on the Transfer of Sentenced Persons," Exec. Rept. 105-24, October 14, 1998.

<sup>15</sup> Jerome Cohen's articles published in *South China Morning Post*, Hong Kong, May 28, 2009, June 11, 2009, September 17, 2009, October 15, 2009, January 20, 2010; and *Apple Daily*, October 9, 2009.

whether legal charges against 17 former DPP officials of the Chen Administration for allegedly failing to return about 36,000 documents were “politically motivated” in coming out three years after the transition in 2008 and during electoral campaigns. On June 30, 2011, prosecutors indicted Lee Teng-hui, who was president from 1988 to 2000, for allegedly diverting \$7.8 million in diplomatic funds for the establishment of the Taiwan Research Institute in the 1990s. Some foreign observers questioned whether the legal action was timed to affect Lee’s support for the DPP in the elections in January 2012 and noted the lack of prompt follow-up.<sup>16</sup> The first hearing on Lee’s case was on June 22, 2012, but he could not attend until another hearing on August 10.

The State Department’s human rights reports for 2011 on worldwide countries (issued on May 24, 2012) reported that Taiwan’s major human rights problems concerned corruption and violence against women and children. The State Department noted that advocates in Taiwan pressed for judicial reforms and questioned the impartiality of judges and prosecutors in high-profile and politically sensitive legal cases. Trials of former president Chen Shui-bian (who was sentenced to prison for corruption but also found not guilty of other charges) heightened public scrutiny of pre-indictment and pre-trial detentions, prosecutorial leaks, other misconduct, and judicial procedures. The report cited the situation of Chen, who asserted his right to free speech in writing a column for a news magazine against prison officials who first denied him permission. The State Department also reported evidence of forced labor and violations of maximum working hours.

In March-April 2012, some Members in Congress (including Representatives Steve Chabot, Dan Lungren, and Ed Royce) raised concerns about Chen’s prison conditions and health. In July, Representatives Robert Andrews and Lungren submitted a report by medical professors at the University of California at Davis to the Tom Lantos Human Rights Commission, raising questions about the conditions of ex-President Chen in prison and calling for his medical parole.<sup>17</sup> Also, Senator Sherrod Brown asked the State Department to look into Chen’s case. Chen’s conditions in prison reportedly improved starting in June. Concerns cover the former president’s treatment in prison, his medical condition, and the general conditions in Taiwan’s prisons. Starting in September, Chen’s medical condition deteriorated, requiring extended stays in hospitals. In that month, activists of the American Human Rights Action Center visited Chen, criticized the government’s treatment of him, and called for independent medical care for him. Taiwan’s Ministry of Justice denied that political bias influenced medical care for Chen.

## Democratic Elections

The United States has watched closely Taiwan’s presidential elections, because of the critical implications for U.S. interests in democracy and security. Taiwan held elections on January 14, 2012, with the first combined presidential and legislative elections on one day. Beijing seemed to favor incumbent President Ma Ying-jeou. The CPC and KMT oppose Taiwan’s independence and agree on what they call now the “1992 Consensus.” KMT President Ma won re-election with 51.6% of the votes, a victory of 6% points over DPP Chairwoman Tsai Ing-wen who won 45.6% of the votes. Voter turnout was lower than in previous elections but still considered high (74% out of 18 million eligible voters). Out of 113 seats in the Legislative Yuan (LY), the KMT won the majority with 64 (down from 72 seats), and the DPP won 40 seats (up from 32). Minor parties

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<sup>16</sup> For example, see another open letter to President Ma Ying-jeou in the *Taipei Times* on August 2, 2011.

<sup>17</sup> U.S. Citizen Medical Team (Joseph Lin, Ken Yoneda, and Charles Whitcomb), “The Effects of Incarceration on the Mental and Physical Health of Former President Chen Shui-bian of Taiwan,” July 12, 2012.

and an independent won the remaining 9 LY seats. The State Department congratulated Taiwan for another free and fair election.

Observers attributed DPP Chairwoman Tsai's loss to lack of clarity and certainty about how she would sustain the status quo and a stable cross-strait relationship. She tried to balance appeals to the pro-independence base and to moderate voters who support continued cross-strait economic engagement. While Tsai proposed a "Taiwan Consensus," the KMT touted "peaceful development" under the KMT-CPC's "1992 Consensus." Instead of a clearer stance on the ECFA signed in June 2010 amid a dwindling number of DPP-led protestors, Tsai said she would use "democratic procedures" to continue the policy.<sup>18</sup> In October 2011, Tsai said "Taiwan is the ROC, the ROC is Taiwan." Tsai focused on income inequality, but Taiwan's economic conditions have been tied to the PRC's economy. Rather than keeping distance from Taiwan's electoral politics, in August 2011, Beijing opposed the DPP's policy guidelines as "unacceptable." On December 16, 2011, CPC Politburo Standing Committee Member Jia Qinglin warned that cross-strait talks would not continue without accepting the "1992 Consensus." Taiwan's major businesses with interests in mainland China echoed support for the "1992 Consensus." The DPP also attributed its loss to the Obama Administration's actions seen as favoring Ma. As a close U.S. observer told the *Washington Post* after the election, "the administration liked the fact that tensions had been reduced across the Taiwan Strait ... and rewarded Ma."<sup>19</sup> While it was difficult to determine the impact of various factors, a poll taken after the elections indicated that the most cited concerns of voters were: the economy, income gap, cross-strait ties, and social welfare.<sup>20</sup>

The DPP continues as a viable party in Taiwan's electoral politics, with observers watching for potential party unity and rejuvenation in leadership. After Chen Shui-bian's eight years in office, the DPP had suffered a significant loss in the presidential election in 2008. Nonetheless, the DPP under Chairwoman Tsai Ing-wen rebuilt its strength and won a number of local and legislative elections in 2009-2011. The DPP then lost to the KMT in the presidential election in 2012 but with a smaller margin than that in 2008, and the DPP gained seats in the LY. Tsai stepped down as the chair. Some observers have concerns about the DPP in future elections and any reversal of the warming trend in cross-strait ties. Others have confidence about the DPP's evolution as a party that provides democratic checks and balance and about the voters' choices on their status. While the KMT stresses the ROC's legacy that includes "one China," the DPP pursues Taiwan-centric policies based on a legacy of fighting for freedoms and a stated priority of ties to democratic countries like the United States and Japan. In contrast to the KMT's touting of the "1992 Consensus," the DPP says that cross-strait talks cannot be simply KMT-CPC negotiations.

Nonetheless, both the KMT and DPP could continue to use political ambiguity, including the KMT's use of "1992 Consensus." The KMT and DPP could find areas of common ground concerning the ROC's name and constitution, forging a domestic consensus about Taiwan's relationships with the United States, Japan, and mainland China, and protecting the way of life in the democratic, security, and economic interests of Taiwan's people. No matter which party rules, Taiwan faces challenges from the PRC within the context of economic integration. The DPP could clarify or review its approach toward the United States and toward the PRC. In March 2012, Acting DPP Chairwoman and Kaohsiung Mayor Chen Chu sent a DPP spokesman to attend a conference in the PRC on cross-strait ties. After winning the election to be the DPP's chairman

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<sup>18</sup> Tsai Ing-wen's interview with *Apple Daily*, Taipei, September 20, 2010.

<sup>19</sup> Andrew Higgins, "Taiwan's Pro-China Chief Reelected," *Washington Post*, January 15, 2012, quoting Douglas Paal.

<sup>20</sup> *Chung-kuo Shih-pao (China Times)*, Taipei, January 16, 2012.

on May 27, former premier Su Tseng-chang (at age 64) announced restoration of the DPP's Department of "China Affairs." While such a move took cross-strait policy out of "international" policy, the approach differed from the KMT and CPC's use of "mainland China." In August, Su named an economist to head the department on China and set up one on defense policy. On October 4-8, former Premier Frank Hsieh became the most senior member of the DPP to visit the PRC, though on a private visit. He met with senior PRC officials (State Councilor Dai Bingguo, ARATS Chairman Chen Yunlin, and Taiwan Affairs Office Director Wang Yi). Hsieh proposed discussing a "constitutional consensus" instead of talking about the "1992 Consensus."

## **Restoring Trust and Resolving Disputes**

Taiwan has a window for greater attention to governance, before the mayoral elections in 2014 and presidential election in 2016. Taiwan's political seasons have constrained U.S. influence on some priorities, particularly to relax Taiwan's restrictions on U.S. beef. Taiwan banned U.S. beef in 2003 and 2005 out of concern about bovine spongiform encephalopathy (BSE), or mad cow disease. In 2006, Taiwan lifted the ban but imposed restrictions on U.S. beef. U.S. concerns include whether Taiwan abides by rules of the WTO and World Organization for Animal Health (OIE), of which Taiwan is a member, even as Taiwan seeks to participate in more international organizations. Taiwan has been a key market for U.S. beef exports, with values that increased from \$42 million in 2005 to \$216 million in 2010. The value dropped to \$200 million in 2011.

In April 2009, President Ma gave a speech directed at the Obama Administration, including a promise to open Taiwan's market to U.S. agricultural exports, alluding to the U.S. request conveyed to him since his inauguration day in May 2008 that Taiwan lift restrictions on U.S. beef. In October 2009, President Ma agreed to conclude two years of negotiations on an agreement to relax Taiwan's restrictions on imports of U.S. beef over Taiwan's concern about mad cow disease. The United States maintains that U.S. beef is safe. Under the U.S.-Taiwan agreement signed on October 22, 2009, Taiwan would allow bone-in beef, ground beef, and cow parts under 30 months of age without specified risk materials (skulls, spines, brains, etc.). However, both the ruling KMT and opposition DPP complained. In what the Ma Administration admitted as a "crisis," Taiwan raised tension with the Obama Administration and Congress over beef. Taiwan's Legislative Yuan passed in January 2010 a bill to ban ground beef, parts, and risky materials from areas with mad cow disease in the past 10 years. The USTR and others have concerns about Taiwan's political, unscientific restrictions and questions of safety concerning U.S. beef, unilateral abrogation of an agreement, and violations of key principles in international trade that harmed U.S. agricultural exports. However, the broader U.S. business community has questioned the freezing of TIFA talks because of one category of exports, and some observers have pointed out that the United States continues trade talks with the PRC in spite of many disputes.

Right before the resumption of TIFA talks expected in late January 2011, on January 15, Taiwan ordered the removal from sale of U.S. beef with a drug to promote leanness called ractopamine, although the United States maintains that the additive is safe. On February 17, the chairmen and ranking Members of the Senate Finance Committee and House Ways and Means Committee (Senators Max Baucus and Orrin Hatch, and Representatives Dave Camp and Sander Levin) wrote a letter to President Ma to express concern that U.S. beef exports to Taiwan stopped effectively, to urge a correction, and to seek confidence to resume the TIFA talks. On July 13, 2011, AIT expressed disappointment in Taiwan's apparently "political" decision to keep the ban by citing the lack of agreement at an international commission on acceptable, maximum residue levels (MRLs) for ractopamine. Representative Royce delivered a speech on November 12, in

which he lamented that only with Taiwan (not South Korea and Japan) has the Administration suspended overall economic talks over the “narrow, politically-charged” dispute about beef.

With expectation that Ma would resolve the dispute after the January 2012 elections, AmCham in Taipei urged Ma in February to put an end to the dispute before it “further damages” the relationship with the United States. In February and March, AIT issued Fact Sheets about the safety of U.S. beef and ractopamine, which also pointed out that Taiwan itself has established maximum residue levels (MRLs) for over 100 veterinary compounds. The Department of Commerce postponed the visit of Under Secretary Francisco Sanchez scheduled for March 4-6, amid protests, recalls of U.S. beef, and DPP and KMT proposals in the LY to stipulate zero-tolerance for ractopamine. President Ma held “national security” meetings over this “crisis.” The Ma Administration then issued four conditions for beef: safe levels of ractopamine, separate allowances for beef and pork (amid objections from hog farmers), labeling of meats, and no imports of organs. To counter the domestic political pressure, Ma has argued that a resolution is needed for U.S.-Taiwan ties and Taiwan’s international integration to avoid marginalization.

On March 6 and 15, Senator Chuck Grassley and Representative Denny Rehberg led 68 Members of the House to protest Taiwan’s restrictions against U.S. beef and pork. Then, on April 24, the Department of Agriculture found a cow with mad cow disease, stating that it posed no risk. In the LY, some lawmakers of the ruling KMT voted down attempts by lawmakers of opposition parties led by the DPP to ban U.S. beef (including on April 27 and May 4, 11, and 18). A committee in the LY defeated on May 7 the Cabinet’s proposal to allow beef with safe levels of ractopamine, leaving a potential vote in the full LY. Meanwhile, Taiwan sent agricultural officials who arrived on May 6 in Washington and then set up meetings with U.S. officials, associations, and beef processing sites. The officials visited several states over 23 days and found U.S. beef to be safe.

AmCham in Taipei lamented that the dispute over beef became “heavily politicized” but commended President Ma for doing the right thing in working on a resolution. Although the Speaker of the LY, Wang Jin-pyng of the KMT, negotiated an agreement between the KMT and DPP to extend the LY’s session for two weeks until June 15, 2012, in part to vote on the Cabinet’s, or Executive Yuan (EY)’s, amendment to the Act Governing Food Safety, the LY did not vote by then. As KMT Chairman, Ma met with the LY’s KMT Caucus on June 7 to forge party unity behind his proposal. Starting on June 11, DPP, TSU, and PFP opposition lawmakers occupied the Speaker’s podium in the LY’s chamber to prevent a vote all week, targeting what some called the “U.S. beef bill” as detrimental to food safety. The DPP’s new chairman, Su Tseng-chang, supported the DPP legislators in their obstruction. Some DPP politicians claimed that they were not opposing U.S. beef yet denounced “toxic” or “poisonous” beef.

On July 5, Representatives Edward Royce and Gerald Connolly led 10 Members of Congress to write to President Obama to urge a resumption of the TIFA talks, while “Taiwan must take steps to open its market to U.S. agriculture exports.”<sup>21</sup> On the same day, the international Codex Alimentarius Commission voted in Rome to adopt MRLs for ractopamine in beef and pork. The DPP cited that development to announce support for international standards and sought to rebuild trust with the United States. However, at a special session of the LY on July 25, all DPP legislators voted against the bill to end the ban on ractopamine in beef. In passing the KMT-supported bill (63-46), 40 DPP, 3 PFP, and 3 TSU legislators voted against it. While the DPP

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<sup>21</sup> Letter to Barack Obama from Representatives Edward Royce, Gerald Connolly, Donald Manzullo, Howard Berman, Gary Ackerman, Steve Chabot, Walter Jones, James Moran, Renee Ellmers, and Mike Kelly, July 5, 2012.

stopped obstructing the legislative process, its vote continued to raise questions about its political leadership and principles (professed to be in concert with Washington), when the elections were over in January and Taiwan's people commonly express satisfaction with U.S. products.

## Economic Relationship<sup>22</sup>

Taiwan is a major innovator and producer of information technology (IT), broadly defined as computer hardware and software; telecommunications; and other knowledge-based industries. According to the Taiwanese government, Taiwan is the world's second-largest producer of ICT goods.<sup>23</sup> In 2010, Taiwan's ICT industry generated \$424.6 billion in revenues.<sup>24</sup> Numerous surveys have identified Taiwan as a major leader in global technology. For example:

- A *BusinessWeek* survey of the 100 best performing global IT companies in 2009 listed 10 Taiwanese firms, 4 of which were among the world's top 10 IT firms.<sup>25</sup>
- According to the World Bank's *Knowledge Economy Index (KEI)*, which attempts to measure and rank a country's ability to generate, adopt, and diffuse knowledge, Taiwan ranked 13<sup>th</sup> out of 145 economies in 2012.<sup>26</sup>
- The World Economic Forum's *Global Information Technology Report* for 2012 ranked Taiwan 11<sup>th</sup> out of 142 economies in terms of preparedness to leverage ICT advances for increased competitiveness and development.<sup>27</sup>

Taiwan's economy is highly dependent on trade. In 2011, Taiwan's exports of goods and services were equal to 76% of gross domestic product (GDP). Since 2005, Taiwan's net exports (exports minus imports) have generally been the largest contributor to annual GDP growth.<sup>28</sup> Taiwan's 2011 merchandise exports and imports were \$308 billion and \$281 billion, respectively, making it the 17<sup>th</sup> largest exporter and importer. The global economic crisis (which began in 2008) sharply decreased Taiwan's trade in 2009. Exports and imports fell by 20.3% and 27.3%, respectively, and real GDP declined by 1.9% over the previous year. However, global economic recovery, especially in China, boosted Taiwan's exports and imports by 35.1% and 44.3%, respectively, in 2010, and real GDP grew by 10.8%. However, that growth slowed somewhat in 2011. Exports and imports increased by 12.3% and 12.0%, respectively, and GDP grew by 4.0%, due in part to economic slowdowns in some parts of Europe and Japan.

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<sup>22</sup> Written by Wayne Morrison, Specialist in Asian Trade and Finance.

<sup>23</sup> *The Republic of China Yearbook 2010*, p. 104.

<sup>24</sup> Taiwan Ministry of Economics and Digitimes, *Taiwan's ICT Industry Development and Outlook*, June 2011.

<sup>25</sup> Bloomberg Businessweek, *the InfoTech 100*, 2009, available at [http://www.businessweek.com/interactive\\_reports/it100\\_2009.html](http://www.businessweek.com/interactive_reports/it100_2009.html).

<sup>26</sup> The World Bank, *the Knowledge Economy Index*, 2012, at [http://info.worldbank.org/etools/kam2/KAM\\_page5.asp](http://info.worldbank.org/etools/kam2/KAM_page5.asp).

<sup>27</sup> See <http://www.weforum.org/reports/global-information-technology-report-2012>.

<sup>28</sup> For example, in 2011, Taiwan's real GDP grew by 4.0% over the previous year. The components of that growth were net exports (at 3.7 percentage points), private consumption (1.6%), and government consumption (0.2%), while stockbuilding and gross fixed investment declined by 0.8% and 0.7%, respectively.

## Cross-Strait Economic Ties

The importance of the PRC as a trading partner for Taiwan has increased significantly, especially since 2001.<sup>29</sup> Taiwan's total trade with China grew from \$31.5 billion in 2001 to \$134.7 billion in 2011 (a 327.6% increase). The PRC is Taiwan's largest trading partner (followed by Japan and the United States<sup>30</sup>), its largest export market, and its second largest source of imports (after Japan).<sup>31</sup> According to Taiwan's Mainland Affairs Council (MAC), the share of Taiwan's exports to mainland China rose from 3.2% in 1985 to 29.5% in 2011, while the share of its imports from mainland China rose from 0.6% to 15.5%.<sup>32</sup> Taiwan has enjoyed large annual trade surpluses with the mainland over the past several years, which totaled \$47.5 billion in 2011.<sup>33</sup> Taiwan is a major source of foreign direct investment (FDI) flows to the PRC. According to the MAC, Taiwan's FDI flows to China totaled \$13.1 billion in 2011, and its cumulative FDI in China through the end of 2011 was \$111.8 billion.<sup>34</sup>

Many of Taiwan's officials contend that projections that China will continue to experience rapid economic growth over the next few decades, along with recent efforts by the PRC government to boost domestic consumption, will make China an even more important trade and investment partner for Taiwan in the years ahead. As a result, the Ma administration has sought to liberalize cross-strait trade and investment barriers, including the lifting of restrictions on direct trade, transportation, and postal links.<sup>35</sup> The ECFA, signed in June 2010, is expected over time to significantly liberalize trade and investment barriers, hasten the pace of cross-strait economic integration, and boost economic growth on both sides.<sup>36</sup> Taiwan's willingness to sign the ECFA was in part motivated by a need to avoid being "marginalized" by the proliferation of FTAs that have been negotiated in recent years around the world, especially among Taiwan's major trading partners and competitors in Asia.<sup>37</sup> Up to now, China has sought to prevent Taiwan from being able to negotiate FTAs by putting pressure on Taiwan's trading partners. Taiwan's officials hope that the ECFA with mainland China will induce it to end its opposition to such FTAs, especially those to which China is already a party.<sup>38</sup> Taiwan officials have also expressed interest in eventually joining the Trans-Pacific Partnership (TPP).<sup>39</sup>

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<sup>29</sup> In 2001, Taiwan decided to relax restrictions on Taiwanese investment in the PRC and to sharply reduce the number of PRC products subject to import bans in order to boost Taiwan's economy (which was in recession), as well as to take advantage of new economic opportunities that were expected to occur following the PRC's accession to the World Trade Organization (WTO) in December 2001. Taiwan joined the WTO in January 2002.

<sup>30</sup> In 2011, the United States was Taiwan's second largest export market and third largest source of imports. The United States is the largest source of cumulative foreign direct investment (FDI) in Taiwan, estimated at \$21 billion.

<sup>31</sup> China replaced the United States as Taiwan's largest export market in 2002 and has remained so each year through 2012.

<sup>32</sup> Taiwan's exports to, and imports from, China in 2011 were \$91.1 billion and \$43.6 billion, respectively.

<sup>33</sup> PRC data indicate that its trade deficit with Taiwan in 2011 was the largest incurred with any of its trading partners.

<sup>34</sup> Note, China's data on FDI inflows from Taiwan (at \$85.8 billion) differ significantly from the MAC data.

<sup>35</sup> Until recently, most trade, transportation, and postal links with China occurred indirectly, mainly via Hong Kong. These constituted significant added time and money costs to cross-strait economic ties.

<sup>36</sup> Taiwan estimates the ECFA will boost Taiwan's GDP by 1.7%, exports by 5.0%, and employment by 263,000.

<sup>37</sup> Taiwan has FTAs with Panama, Nicaragua, El Salvador, Guatemala, and Honduras, but these together account for only a minor share of Taiwan's total trade.

<sup>38</sup> PRC officials have argued that only "sovereign nations" can enter into FTAs, which, they claim, Taiwan is not because it is "part of China." However, WTO rules allow its members to negotiate FTAs. Taiwan is a member of the WTO under the title: "the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei)."

<sup>39</sup> The TPP is a proposed regional FTA currently under negotiation between the United States, Australia, Brunei, Chile, (continued...)

## U.S.-Taiwan Trade and Investment

U.S. trade data appear to indicate that the relative importance of Taiwan as a U.S. trading partner has declined over the past 20 or so years, especially when compared with U.S. trade with China. For example:

- Total U.S. trade with Taiwan in 2011 was \$67.2 billion, making Taiwan the 10<sup>th</sup> largest U.S. trading partner—down from 6<sup>th</sup> in 1989.
- U.S imports from Taiwan were \$41.3 billion, making Taiwan the 10<sup>th</sup> largest source of U.S. imports—down from 5<sup>th</sup> in 1989.
- U.S. exports to Taiwan were \$26.0 billion, making Taiwan the 13<sup>th</sup> largest U.S. export market—down from 9<sup>th</sup> in 1989.
- Conversely, the importance of China as a U.S. trading partner has risen significantly between 1989 and 2011: from 10<sup>th</sup> to 2<sup>nd</sup> for total trade, from 15<sup>th</sup> to 3<sup>rd</sup> for exports, and from 9<sup>th</sup> to 1<sup>st</sup> for imports.

As indicated in **Figure 1**, U.S. trade with Taiwan has been relatively stagnant over the past 10 years. From 2002-2011, U.S. exports to, and imports from, Taiwan grew by 40.8% and 28.3%, respectively (while total U.S. exports and imports increased by 113.6% and 90.0%, respectively).

However, the trade data may not explain the whole picture. Taiwan's manufacturers and traders report data on the amount of export orders they receive from various countries. These data indicate that annual orders for products from U.S. buyers are much larger than the reported level of annual U.S. imports from Taiwan.<sup>40</sup> For example, Taiwan's Ministry of Economic Affairs (MOEA) reports that export orders originating from the United States for the entire year in 2011 totaled \$100.5 billion, while Taiwan's official trade data show its exports to the United States in at \$36.4 billion.<sup>41</sup> According to Taiwan's data, the United States accounted for 11.8% of its exports, but 23.0% of its export orders.

The disparity between the data on Taiwan's export orders and U.S. import data largely is explained by the fact that a significant level of products designed and sold by Taiwan's firms are actually built elsewhere, especially in mainland China, and then shipped globally, including to the United States. For example, from 2001 to 2008, the value of Taiwan's IT hardware (such as computers) production increased from \$42.8 billion to \$100.0 billion. However, the share of that production in Taiwan during this time declined from 47.1% to 1.3%, while the share in China increased from 36.9% to 90.6%. A significant level of Taiwan's IT hardware products manufactured in China are exported. U.S. trade data indicate that computer products and parts are the single largest category of U.S. imports from China. Thus, it is likely that a large share of U.S. imports of computers and computer parts from China originate from Taiwan-invested firms in China. In many cases, U.S. IT firms place orders for products with Taiwan's firms, which

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(...continued)

Malaysia, New Zealand, Peru, Singapore, and Vietnam (and could eventually include several other economies as well). See CRS Report R42344, *Trans-Pacific Partnership (TPP) Countries: Comparative Trade and Economic Analysis*, by Brock R. Williams.

<sup>40</sup> Taiwanese firms received export orders worth \$436.1 billion in 2011. Major categories for these orders included ICT products (25.0% of total), electronic products (23.4%), precision instruments (8.4%), and basic metal products (7.0%).

<sup>41</sup> The United States was the second largest source of Taiwan's export orders in 2011, after China.

manufacture the products in China, then ship them to the United States, where U.S. firms sell the products under their own brand name. According to MOEA, U.S. firms, such as Apple, Inc., Dell, Verizon, and HP are among the major global purchasers of ICT products made by Taiwanese firms. For example, many of Apple Inc.'s products (such as iPads, iPhones, and iPods), which were developed and engineered in the United States, are assembled by Taiwan's firms in China (using imported parts), many of which are shipped to the United States and sold by Apple.<sup>42</sup>

The bilateral economic relationship between the United States and Taiwan has been generally positive, although there are a few issues that have proved contentious. On the positive side, Taiwan has greatly improved its protection of intellectual property rights (IPR). Such improvements led the United States Trade Representative (USTR) in January 2009 to remove Taiwan from its annual "Special 301" list of countries whose IPR policies were of the greatest concern to the United States. In 2012, the USTR stated that Taiwan generally provides effective IPR protection and enforcement, although it noted that a number of problems remain, such as infringement of copyrighted material on the Internet.<sup>43</sup>

In July 2009, Taiwan joined the WTO's government procurement agreement (GPA), which gives U.S. firms access to a procurement market estimated at \$6 billion. The United States has raised concerns over Taiwan's barriers on certain agricultural products (such as rice), pharmaceuticals and medical devices, and various services. Taiwan's use of sanitary and phyto-sanitary (SPS) measures to block U.S. beef sales to Taiwan are of particular concern to U.S. officials.<sup>44</sup> U.S. officials charge that a bilateral protocol that provided for expanded market access for U.S. beef and beef products in Taiwan (signed in October 2009) has been significantly undermined by action taken by Taiwan's Legislative Yuan in January 2010 as well as other recent administrative measures.<sup>45</sup> Many observers saw Taiwan's restriction on U.S. beef as the main obstacle to the resumption of talks under the TIFA, the main forum used by Taiwan and the United States since 1994 to discuss major economic issues. The last TIFA talks were held in 2007.

According to the U.S. Bureau of Economic Affairs (BEA), Taiwan was the 24<sup>th</sup> largest source of cumulative FDI in the United States, at \$5.2 billion at the end of 2010 (compared to China's FDI in the United States, which totaled \$3.2 billion). The BEA estimates U.S. FDI in Taiwan through 2010 at \$21.0 billion. According to MOEA, the United States is the largest overall source of cumulative FDI in Taiwan through January 2012 (at 19.3% of total).

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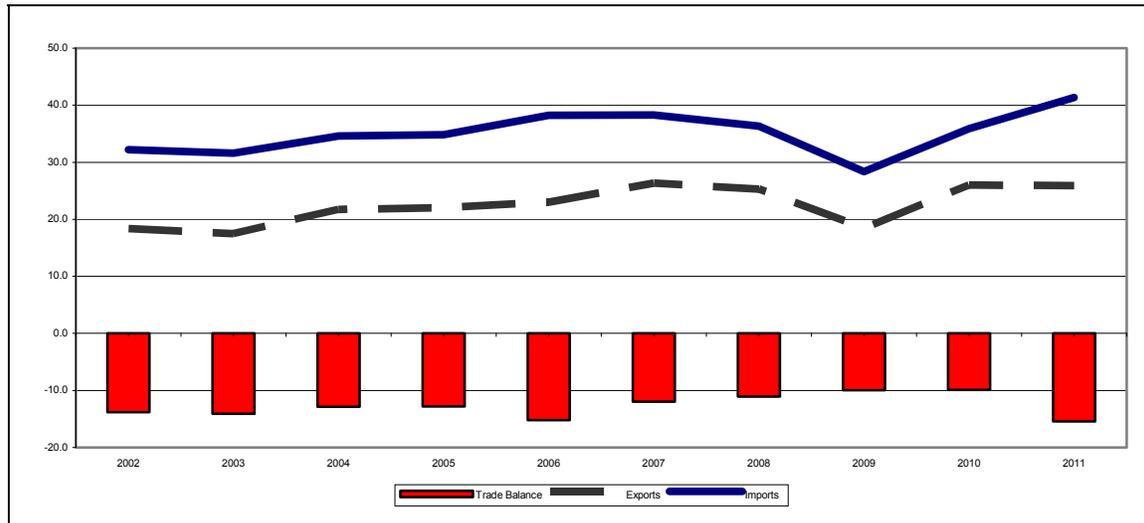
<sup>42</sup> Taiwan's Foxconn Technology Group is Apple's major supplier.

<sup>43</sup> USTR, *the 2012 National Trade Estimate Report on Foreign Trade Barriers (NTE)*, March 2012, p. 361.

<sup>44</sup> Taiwan banned beef imports from the United States in 2003 because of concerns over mad cow disease, but resumed certain types of beef imports in 2006. The United States contends that U.S. beef exports are safe, regardless of age, and that Taiwanese SPS restrictions are not scientifically-based.

<sup>45</sup> A joint statement issued by the USTR and the Department of Agriculture in January 2010 stated that the Legislative Yuan's actions to impose restrictions on certain beef products would "undermine Taiwan's credibility as a responsible trading partner and will make it more challenging for us to conclude future agreements to expand and strengthen bilateral trade and economic ties."

**Figure I. U.S.-Taiwan Merchandise Trade: 2002-2011**  
(in billions of dollars)



Source: U.S. International Trade Commission Dataweb.

## Legislation in the 112<sup>th</sup> Congress

**H.Con.Res. 39** (Andrews), expressing the sense of Congress regarding the freedom, security, and stability of Taiwan.

**H.Con.Res. 77** (Garrett), expressing the sense of Congress that Taiwan and its 23 million people deserve membership in the U.N.

**H.Con.Res. 122** (McCaul), expressing the sense of Congress that the United States should resume a normal diplomatic relationship with Taiwan.

**H.R. 2583** (Ros-Lehtinen), Foreign Relations Authorization Act for FY2012; included an amendment offered by Representatives Connolly, Berman, and Burton to express the sense of Congress that the President should sell and upgrade F-16 fighters as well as sell submarines.

**H.R. 2918** (Ros-Lehtinen), Taiwan Policy Act, to strengthen the U.S.-Taiwan relationship.

**H.R. 2992** (Granger), Taiwan Airpower Modernization Act, to sell F-16C/D fighters.

**H.R. 4310** (McKeon), National Defense Authorization Act for FY2013; House-passed bill included an amendment (Granger) to sell Taiwan F-16C/D fighters.

**H.R. 5902** (Andrews), to establish a congressional advisory commission on implementation of U.S. policy under the TRA.

**H.R. 6313** (Faleomavaega), to promote peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

**H.Res. 352** (Ros-Lehtinen), to call for a peaceful and collaborative resolution of maritime territorial disputes in the South China Sea and its environs and other maritime areas adjacent to the East Asian mainland.

**H.Res. 616** (Forbes), to express the sense of the House on a comprehensive strategic framework of U.S. objectives in the relationship with the PRC, including to treat Taiwan in accordance with the TRA, three U.S.-PRC Joint Communiques, and the Six Assurances.

**S. 1539** (Cornyn), Taiwan Airpower Modernization Act, to sell F-16C/D fighters.

**S. 1545** (Inhofe), to designate Taiwan in the Visa Waiver Program (VWP).

**S.Con.Res. 17** (Menendez), a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

**S.Res. 542** (Murkowski), to express the sense of the Senate that the U.S. government should continue to support democracy and human rights in Taiwan following the January 2012 presidential and legislative elections in Taiwan.

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