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U.S. Taiwan Relations: A Study on the Taiwan Relations Act

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A Thesis

Presented to

the Faculty of the Josef Korbel School of International Studies

University of Denver

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In Partial Fulfillment

of the Requirements for the Degree

Master of Arts

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by

Jacqueline A. Vitello

June 2013

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Title: U.S-Taiwan Relations: A Study on the Taiwan Relations Act  
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### **Abstract**

The relationship between the United States and Taiwan is of great importance to both parties. Taiwan offers certain strategic opportunities for the promotion of American national security interests, and the U.S. accordingly provides Taiwan with support of both a defensive and diplomatic nature. The official U.S. policies regarding relations with Taiwan are enumerated in the Taiwan Relations Act (United States Code Title 22 Chapter 48 Sections 3301 – 3316). The act, approved by the U.S. Congress in 1967, stipulates the terms of the bilateral relationship with regard to national defense and diplomatic relations among other factors. This paper seeks to obtain a more developed picture of sentiments on both sides of this relationship in order to understand better the U.S.'s influence and power in Taiwan and in the region.

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## Chapter One: Introduction

Many of the conflicts that take place in the world of international affairs are due to a lack of complete information about other states and their intentions. States in the international system commonly project their own policies and opinions onto other states, and therefore make the mistake of assuming that they understand what these other states are thinking. To mitigate the risk of conflict, we must therefore obtain a more complete understanding of actors and their intentions. According to classical game theory, which attempts to determine how actors will act in any given conflict, “when there is uncertainty, expected utilities can be defined and computed only if all relevant uncertain events can be assigned probabilities.”<sup>1</sup> While actors’ intentions themselves are nearly always opaque, they are often driven by desire, and so it is that in the case of the U.S. relationship with Taiwan we must seek to understand Taiwanese desires, and thus assign the necessary probabilities. What is it that the Taiwanese want from their relationship with the U.S.? What are their priorities? Are they willing to give in some areas (i.e. participation in international organizations) for more influence in others (i.e. defense)?

This paper seeks to assess Taiwanese perceptions of the U.S.-Taiwan relationship through quantitative data analysis in the form of a survey. The survey will ultimately rely on the Taiwan Relations Act (TRA) as a basis with which to

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<sup>1</sup> Myerson, Roger B. *Game Theory: Analysis of Conflict*, Harvard University Press, 1997, 5.

determine which aspects of the U.S.-Taiwan relationship are of the most importance to the Taiwanese people. Most of the major aspects of the relationship are included in the TRA, and it is the best official measure of the relationship, as it specifically enumerates the different interactions that the U.S. may have with Taiwan. It is only through a true understanding of what each party expects and desires from the relationship that we can hope to improve our diplomatic standing with Taiwan, and also with her inseparable neighbor, China.

China's relationship with Taiwan presents a potentially large security threat for the United States. The mainland holds fast to their "one-China" policy, and considers the "Taiwan issue" to be one of their core national interests, from which they are unlikely to back down:

China's core interests are the issues that Beijing essentially considers nonnegotiable and is likely willing to use military force to protect against any change to the status quo...The country's core national interests unquestionably include Taiwan.<sup>2</sup>

China is currently attempting to assert a policy of neo-nationalism through careful diplomacy, which involves the inclusion of Taiwan in all national politics. In fact, when provoked regarding her core interests, as happened when the U.S. sold six billion dollars worth of arms to Taiwan, China reacted much more forcefully than anyone might have predicted. The mainland threatened sanctions on the companies that provided the weapons to Taiwan, and expressed a surprising anger toward the U.S. Their response may indicate a more forceful foreign policy toward the U.S.,

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<sup>2</sup> Carnegie Endowment for International Peace, 19 January 2011, available from <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=42332#interests>; Internet; accessed 22 February 2011.

which suggests their desire to assert themselves as a new world power. If the U.S. continues to anger the Chinese by supporting Taiwan, it could seriously threaten the U.S.-Chinese relationship, which would certainly prove a threat to U.S. national security.

In understanding what the Taiwanese desire from the bilateral relationship, the U.S. will be in a better position to exercise diplomatic control. If for example, it is determined that the Taiwanese care more about maintaining positive diplomatic relations with the U.S. than the continued sale of arms, the U.S. may be able to use this knowledge as a bargaining chip and avoid further troubles with China. Because the three countries' foreign, defense and economic policies are so intricately intertwined, it is important to be able to view these relations accurately from each vantage point. This study aims to accomplish a portion of that overarching goal that will contribute to the future of U.S.-Sino relations.



## **Chapter Two: Background on U.S.-Taiwan Relations**

The U.S.-Taiwan relationship has had its ups and downs since the official set up of the Republic of China (ROC) in 1911. The U.S. maintained its official recognition of the ROC (the formal name of Taiwan) until 1979, when the Nixon administration decided to acknowledge the People's Republic of China (PRC) as the official government of China. It was at this time that the U.S. Congress passed the Taiwan Relations Act (TRA) in order to:

(1) help maintain peace, security and stability in the Western Pacific; and, (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.<sup>3</sup>

Today, the U.S. claims an “unofficial” relationship with Taiwan, and abides by the “one-China” policy, which each side of the Taiwan Strait defines differently. While clearly stating support for the “one-China” policy, the U.S. consistently leaves their interpretation of it ambiguous. The U.S. has never recognized China's rule over Taiwan, nor do they recognize or officially support independence for the island. As stated above in the TRA, the country's main objective in this tense triangular relationship is to “maintain peace, security and stability.” According to Asian affairs specialists, Shirley A. Kan and Wayne M. Morrison:

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<sup>3</sup> *Taiwan Relations Act of 1979*. U.S. Code 22 sec. 3301 (1979).

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.<sup>4</sup>

The U.S. relationship with Taiwan is clearly complicated by its increasing dependence on China, which is now our second largest trading partner. China's growing economic, military and political power in the world make it progressively more difficult for the U.S. to support Taiwan in any meaningful way. For now, however, the U.S. continues to uphold her commitments stated in the TRA, and at times uses these commitments to balance the rising power of China. The TRA, therefore, remains a highly relevant and controversial document, which will be useful in determining Taiwanese opinions on their relationship with the U.S.

There is one important area within the bilateral relationship that is not explicitly covered in the TRA: trade. Bilateral trade is of great significance in any state-to-state relationship, and it is no less so in the U.S.-Taiwan relationship. "In 2011, Taiwan was the tenth-largest U.S. trading partner and the sixth-largest market for U.S. agriculture exports."<sup>5</sup> As will be explained in the methodology section, in chapter three, the lack of inclusion in the TRA also means that the survey will not address the issue of bilateral trade. To further complicate the issue of non-inclusion, trade concerns between the U.S. and Taiwan have caused significant controversy in recent years, and have been an important component of the relationship. Unable or unwilling to sign official Free Trade Agreements (FTAs) with Taiwan, the U.S.

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<sup>4</sup> U.S. Library of Congress, CRS, *U.S.-Taiwan Relationship: Overview of Policy Issues*, by Shirley A. Kan and Wayne M. Morrison, CRS Report R41592 (Washington, DC: Office of Congressional Information and Publishing, January 4, 2013).

<sup>5</sup> Ibid.

previously had a Trade and Investment Framework Agreement (TIFA). Taiwan has recently made attempts to resume trade talks under TIFA, but the U.S. has cited concerns over Taiwanese restrictions on hormone-fed U.S. beef. Indeed, this beef issue was one of the most talked-about issues in Taiwan at the time of survey distribution. According to Voice of America:

the decision (to allow U.S. beef imports) – which had grown so controversial that it shut down parliament in June – was not made because Taiwanese want more steak dinners. The government of the trade-dependent, diplomatically isolated island expects key favors in return from its strongest informal ally, Washington.<sup>6</sup>

The main “favor” that the Taiwanese expected from the U.S. in return for allowing beef imports was the resumption of trade talks under TIFA. It is clear that continued trade with the U.S. is of great importance to the Taiwanese people. Because trade issues will not be included in the survey, we will not know how important trade is to the Taiwanese people in comparison with the other issues at hand. We must therefore keep the trade issue in mind when discussing policy implications of survey results.

Beyond the TRA, there are several other key documents that guide U.S. policy towards Taiwan. They include the three U.S.-PRC Joint Communiqués of 1972, 1979, and 1982, and the “Six Assurances” of 1982. President Reagan’s “Six Assurances” stated that 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

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<sup>6</sup> Jennings, Ralph. “Taiwan Expects US Deals After Beef Import Concession,” *Voice of America*, August 2, 2012, News Section, Asia Section.

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.<sup>7</sup>

These documents, while important to the relationship, are less inclusive than the TRA. They symbolize bits and pieces of a whole relationship that is largely embodied in the TRA, and will not therefore be used in the survey.

Finally, it is of value to note the well-developed democratic form of government in Taiwan. With a two-party system that becomes more solidified with every passing election, highly salient issues such as the relationship with the U.S. and the relationship with China have a large impact on foreign policy. In the recent 2012 Presidential election, for example, the cross-Strait relationship was one of the most prominent issues. Many people consider the two major parties, the Kuomintang (KMT) and the Democratic Progressive Party (DPP), to be split along this very issue. Where the DPP has historically been more pro-independent, the KMT has, in recent years, been pushing to ease tensions across the Strait. As Ted Galen Carpenter of the CATO Institute put it:

Voters in Taiwan have certainly set the stage for progress. Mr. Ma's commitment to promoting stability and cooperation with the mainland is calibrated to reduce the cross-Strait tensions that reached alarming levels under former President Chen Shui-bian and his pro-independence Democratic Progressive Party. The conventional wisdom in both the U.S. and China is that

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<sup>7</sup> U.S. Library of Congress, CRS, *U.S.-Taiwan Relationship: Overview of Policy Issues*, by Shirley A. Kan and Wayne M. Morrison, CRS Report R41592 (Washington, DC: Office of Congressional Information and Publishing, January 4, 2013).

the KMT's electoral triumph was a repudiation of the DPP's assertive, pro-independence policies.<sup>8</sup>

The cross-Strait relationship and the U.S.-Taiwan relationship are arguably of equal importance to most Taiwanese citizens. Voter opinion on these issues serve to guide Taiwanese policy, and thereby create changes in the triangular relationship. The data collected in this paper will therefore be of use in identifying Taiwanese desires and possible future policy directions that will have an effect on the future of the U.S.-Taiwan relationship.

### **U.S. Beliefs Regarding the Bilateral Relationship**

Prior to undertaking the study it is important to note what current U.S. policymakers believe regarding the Taiwanese perceptions to be measured, so that we may later compare these beliefs to the research findings. Within the U.S. legislature, there are currently two bipartisan bodies, the Senate Taiwan Caucus and the Congressional Taiwan Caucus, with a combined 165 members, who proclaim their support for the island.<sup>9</sup> Prior to Chinese President Hu Jin Tao's January, 2010 visit to the U.S., the long dormant Senate Taiwan Caucus drafted a letter to President Obama stating their explicit support for Taiwan:

The PRC has engaged in a large scale military build-up over the past few years and has not abandoned the threat of force, with an estimated 1,000 active missiles pointed directly at Taiwan,' the letter stated. 'For these reasons, it is

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<sup>8</sup> CATO Institute, 30 October 2008, available from, [http://www.cato.org/pub\\_display.php?pub\\_id=9757&utm\\_source=feedburner&utm\\_medium=feed&utm\\_campaign=Feed+percent3A+CatoRecentOpeds+\(Cato+Recent+Op-eds\)](http://www.cato.org/pub_display.php?pub_id=9757&utm_source=feedburner&utm_medium=feed&utm_campaign=Feed+percent3A+CatoRecentOpeds+(Cato+Recent+Op-eds)); Internet; accessed 22 February 2011.

<sup>9</sup> Foreign Policy, 14 January 2011, available from, [http://thecable.foreignpolicy.com/posts/2011/01/14/senate\\_taiwan\\_caucus\\_resurfaces\\_in\\_time\\_for\\_hu\\_visit](http://thecable.foreignpolicy.com/posts/2011/01/14/senate_taiwan_caucus_resurfaces_in_time_for_hu_visit); Internet; accessed 19 February 2011.

of utmost importance that President Hu understands the United States' unwavering commitment to providing Taiwan with the tools necessary for its self-defense." They additionally expressed their wishes to President Obama that, "As faithful friends of Taiwan in the U.S. Senate, we ask that during President Hu's visit, you emphasize that the United States' position on Taiwan remains clear: the United States will support Taiwan's security, and continue to provide Taiwan with defensive arms."<sup>10</sup>

It is evident from their statements that the Senate Taiwan Caucus focused heavily on the defense-related aspects of the bilateral relationship when faced with the visit of a Chinese president.

Former Secretary of Defense, Robert Gates echoed these defense-centered sentiments when asked to comment on the U.S.'s Taiwan policy:

Again, this is not policy. This is law. We do not support independence for Taiwan, but at the same time we have certain obligations under that law (The Taiwan Relations Act),’ he said. ‘Under [former US] president [George W.] Bush and [US] President [Barack] Obama, we have been certainly cognizant of Chinese sensitivities [regarding Taiwan]. And I believe that the decisions that have been made have focused on defensive capabilities,’ Gates said.<sup>11</sup>

Additionally, despite President Obama’s slightly ambiguous comments on the U.S.-Taiwan defense policy during Hu’s visit, he approved a new arms sale package to the island following the visit, worth more than \$6 billion.<sup>12</sup> In a much less ambiguous statement made during his first presidential campaign, Wendy Morigi, national security spokesperson for Obama stated:

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<sup>10</sup> Ibid.

<sup>11</sup> Taipei Times, 13 January, 2011, available from, <http://www.taipeitimes.com/News/front/archives/2011/01/13/2003493357/1>; Internet; accessed 19 February 2011.

<sup>12</sup> For more information, see: New York Times, 30 January 2010, available from, <http://www.nytimes.com/2010/01/30/world/asia/30arms.html>; Internet; accessed 19 February 2011.

Senator Obama welcomes the Bush Administration's decision to notify Congress concerning the package of weapons systems for Taiwan. This package represents an important response to Taiwan's defense needs. This action is fully consistent with U.S. obligations under the Taiwan Relations Act. The sale helps to contribute to Taiwan's defense and the maintenance of a healthy balance in the Taiwan Strait.<sup>13</sup>

The opposition Republican candidate, influential Senator John McCain, interestingly believed that the administration had not gone far enough in their support for Taiwan: "The package will not include submarines or new F-16 aircraft. I urge the administration to reconsider this decision, in light of its previous commitment to provide submarines and America's previous sales of F-16s," McCain said."<sup>14</sup>

It is apparent from the above comments that what top policy makers are most concerned with is the defensive capabilities of Taiwan. They believe that the continued supply of such defense capabilities and services is essential to maintaining positive relations with the island, and to maintaining peace across the Taiwan Strait. Defense is apparently the highest-profile issue when it comes to Taiwan.

While it is difficult to find any record of top U.S. policymakers discussing Taiwan on issues other than defense, there are several instances of influential members of both government and the press speaking out on Taiwan's behalf. On March 12, 2013, for example, Representative Pete Sessions of Texas wrote to the

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<sup>13</sup> Kessler, Glen. "Obama commends Taiwan Arms Sale," *Washington Post*, October 8 2008, available from, <http://voices.washingtonpost.com/44/2008/10/obama-commends-taiwan-arms-sal.html>; Internet; accessed 19 February 2011.

<sup>14</sup> Kessler, Glen "Obama commends Taiwan Arms Sale."

Speaker of the House to state his support for the resumption of trade talks with Taiwan under TIFA. He stated:

Increased economic relations between the United States and Taiwan will provide significant economic advantages to both countries. I am proud to express my strong support for strengthening the bilateral relationship between the United States and Taiwan. Taiwan is an important ally and trading partner, and we must continue to further our relationship.<sup>15</sup>

As discussed above, these trade talks have been minimalized in recent years due to concerns over the import of beef. Since Taiwan has recently conceded, and agreed to allow the import of U.S. beef, Rep. Sessions's March 2013 statement was well-timed. If TIFA talks resume as expected, however, it is unlikely that the issue of trade will continue to cause this type of high-level chatter. Rather, it is much more likely that Taiwan will merely become a normalized trading partner.

There is additionally some talk regarding Taiwan's participation in international organizations. Academics tend to debate whether Taiwan can qualify for participation in such organizations, due to a lack of official statehood. As Richard Bush of the Brookings Institution puts it, however, "Taiwan can contribute to the solution of regional and global problems."<sup>16</sup> Bush's simply stated claim implies that by excluding Taiwan from the dialogue and work done in these international

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<sup>15</sup> Capitol Words, "Support of TIFA with Taiwan," Capitol Words, [http://capitolwords.org/date/2013/03/12/E274-2\\_support-of-tifa-with-taiwan/](http://capitolwords.org/date/2013/03/12/E274-2_support-of-tifa-with-taiwan/) (accessed April 8, 2013).

<sup>16</sup> Bush, Richard R. "International Organizations and Taiwan." Brookings Institution, <http://www.brookings.edu/events/2011/03/14-taiwan>.



organizations, the world is missing out on key contributions from a willing and able actor:

An international problem emerges that requires full global participation to solve. By any reasonable criteria, Taiwan, which is among the world's 25 largest economies and a demonstrably good international citizen, should be a participant. Yet Taiwan's participation is blocked by the mainland Chinese government, which exercises an effective veto power by threatening other governments with economic or political retaliation for any perceived "recognition" of Taiwan.<sup>17</sup>

Academics and journalists are clearly paying attention to important issues like Taiwan's participation in international organizations. Additionally, in 2011 the U.S. Senate passed Concurrent Resolution 17, a resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO). While a small step for a country with big ambitions, this resolution was nonetheless significant. It is a first step towards participation in larger, more significant international organizations.

Despite limited support for participation in international organizations and the resumption of trade talks under TIFA, defense is still clearly the most salient issue in U.S. policy circles when it comes to Taiwan. It is therefore the aim of this paper to determine whether the importance U.S. policymakers currently place on the continued defense of Taiwan is in fact reflected by what the Taiwanese people truly value. This knowledge may be of use to these same U.S. policymakers in determining diplomatic strategy across the Taiwan Strait.

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<sup>17</sup> Roy, Dennis. "Let Taiwan in (to International Organizations)," *New York Times*, October 28, 2011, Opinion Section, Asia Section.

This in-depth assessment of state-to-state relations will help to alleviate the projection-bias common in U.S. foreign policy. We cannot assume that we understand what is important to the Taiwanese people until we ask candidly. Armed with this deeper understanding of Taiwanese perceptions, the U.S. will have a stronger grounding on which to base diplomatic relations with both Taiwan and China, and to leverage that knowledge appropriately.

### **Chapter Three: Methodology**

In order to gauge current Taiwanese opinions on the bilateral relationship with the U.S., a survey of the Taiwanese people was conducted utilizing the Taiwan Relations Act (TRA) as an official source for the different aspects of the relationship. In the TRA, the U.S. stipulates the specific goods and services that it is willing to provide to Taiwan, and each section of the Act that is relevant to the needs of the Taiwanese people is easily separated in to one of six categories: defense relations, laws & international agreements, the American Institute in Taiwan (AIT), treaties, and participation in international organizations. There are several other sections in the TRA that concern either the employment of U.S. citizens or specific activities of U.S. government agencies, including, for example, section 3307, which exempts employees of U.S. government agencies operating in Taiwan from taxation. These sections are not related to the needs or desires of Taiwanese citizens, and as such have been excluded from the survey.

As previously discussed, the issue of bilateral trade was also excluded from the survey. This is due purely to its exclusion from the TRA. All survey questions were adapted from sections of the TRA, and trade's non-inclusion in the document necessitates its exclusion from the survey as well.

The survey was distributed to the Taiwanese people in an attempt to gather information based on personal beliefs of the relative importance of the six previously defined categories of the relationship. It is important to note that the average Taiwanese citizen has a high level of awareness of the TRA and its implications in the U.S.-Taiwan relationship. In addition, in order to ensure that all respondents are fully aware of the document and are therefore able to answer the questions appropriately, a copy of the TRA, in Chinese, was distributed along with the survey.

Responses to the survey take the form of a Likert Scale. All questions required the respondent to determine how important, according to personal beliefs, a specific section of the TRA is to the U.S.-Taiwan relationship. The survey consists of six questions – one to represent each of the categories (defense relations, laws & international agreements, AIT, treaties, and participation in international organizations). Each question was written to echo the applicable section of the TRA. For example, section 3302 (a) of the TRA discusses policy regarding “defense articles and defense services”. It states:

In furtherance of the policy set forth in section 3301 of this title, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.<sup>18</sup>

The survey question related to section 3302 (a) therefore reflects the most basic characteristics of the law, but ultimately uses simpler language. The modified language used was necessary in order to quickly and successfully communicate the purpose of the question to those taking the survey. In order to obtain significant and

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<sup>18</sup> *Taiwan Relations Act of 1979*. U.S. Code 22 sec. 3302 (1979).

comprehensible responses, questions were posed to determine how strongly the respondent agrees with a given statement. The “defense relations” question therefore reads:

“I believe that it is important for the United States to keep its promise to supply Taiwan with defense articles and defense services.”

1. Strongly Disagree
2. Disagree
3. Neither Agree nor Disagree
4. Agree
5. Strongly Agree

By beginning the question with the statement “I believe” and providing the possible answers listed above, it was determined how strongly that specific portion of the TRA affected the respondent.

After collected, results were tabulated for each question to determine the number of 1s (strongly disagree), 2s (disagree), etc. per question across all of the surveys. All results were then added up and averaged to acquire a final figure for each question. If a participant failed to answer every question, their survey was discarded in order to maintain comparable data across questions.

A low final score indicates a lack of importance to the Taiwanese for the aspect of the relationship in question. Conversely, a high score indicates a high degree of importance to the Taiwanese for the part of the relationship in question. When the scores were tallied and averaged, the questions (aspects of the relationship) were then

placed in numerical order, to determine which aspect of the bilateral relationship listed in the TRA is of the most importance to the Taiwanese people. In Chapter Four of this paper, each individual question will be analyzed in further detail.

In order to acquire statistically significant data in a survey, an adequate number of people need to be polled. To determine this number, a standard error calculation was completed based on the total population of Taiwan (23,024,956<sup>19</sup>), the generally accepted standard error in the social sciences (5 percent), and a relatively low confidence interval (4 percent). According to these calculations, 600 citizens constitute statistical representation for Taiwan. In order to ensure that distinct demographic subcategories were populated, people from three diverse parts of the country were polled. These regions (Taipei, Taichung County, and Taliao, a small town outside of Kaohsiung) are geographically spread out and demographically diverse. With the use of these different areas, the study accounts for an unacceptable bias that would otherwise be obtained if only residents of Taipei were polled. This also naturally adds to the variance in income levels and education levels, as urban and rural areas of Taiwan tend to contrast to a great degree in these respects. Within each of these areas, 2,000 surveys were distributed by mail in a random fashion based on lists assembled from publicly available tax records in order to account for the bias of the surveyor. With each copy of the survey, a pre-paid return envelope was included. No demographic information was collected from respondents. The survey is intended to give the people, who are responsible stakeholders in the decision making process in

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<sup>19</sup> CIA Factbook, 9, November 2010, available from <https://www.cia.gov/library/publications/the-world-factbook/geos/tw.html>; Internet; accessed 14, November 2010.

Taiwan, a say in the matter. It is likely that including demographic information in the survey would have lowered the response rate due to the controversy inherent in certain questions.

Once those surveys that were incomplete were discarded, a total of 635 responses were recorded, which leaves us with close to a 10.6 percent response rate. All surveys were distributed in traditional Mandarin Chinese, which this author personally translated and then had a native Chinese speaker confirm. The translations are included in Chapter Four.

## **Chapter Four: Survey Results**

The survey, along with a copy of the TRA was distributed in November 2012 to over 2,000 Taiwanese citizens in the three areas outlined above in Chapter Three. The timing of distribution proved significant, as concurrent policy discussions almost certainly had an effect on survey responses. These effects will be discussed more in depth in the analysis of responses below.

The following table shows both the mean and standard deviation of the results for each of the six questions in the survey. From these basic results, we see that “participation in international organizations” received the highest overall score, and that “defense relations” received the lowest overall score. Without any further analysis, we would assume that the Taiwanese people care comparatively little about defense relations. Defense relations, however, has a significantly higher standard deviation (1.4) than any of the other categories, suggesting that the responses for this question were quite varied. This deviation will be explored further in the analysis of individual questions below.



### Survey Questions by Mean & Standard Deviation

| Category                            | Mean   | Standard Deviation |
|-------------------------------------|--------|--------------------|
| 1. Defense Relations                | 3.2468 | 1.4017             |
| 2. Legal Relations                  | 3.6683 | 0.08926            |
| 3. Immigration Rights               | 4.0689 | 0.73879            |
| 4. Treaties                         | 3.6891 | 0.90804            |
| 5. The American Institute in Taiwan | 4.0673 | 1.1852             |
| 6. International Organizations      | 4.3045 | 1.1133             |

**Figure 1**

The categories (questions) are listed in rank order, by mean, below. This list is, ostensibly, indicative of the order of importance to the Taiwanese people.

1. Participation in International Organizations
2. Immigration Rights
3. The American Institute in Taiwan
4. Treaties
5. Legal Relations
6. Defense Relations

**Figure 2**

I will now examine each of the categories and their results individually in order to determine whether the above ranking is of real significance. Each question will be stated along with its translation, a short background will be given on the issue, and then the results will be discussed and analyzed. Following these individual analyses, a combined analysis will be completed across categories.

## Question One: Defense Relations

“I believe that it is important for the United States to keep its promise to supply Taiwan with defense articles and defense services.”

“我認為，美國應信守承諾，繼續向臺灣提供防衛物資與技術服務。”

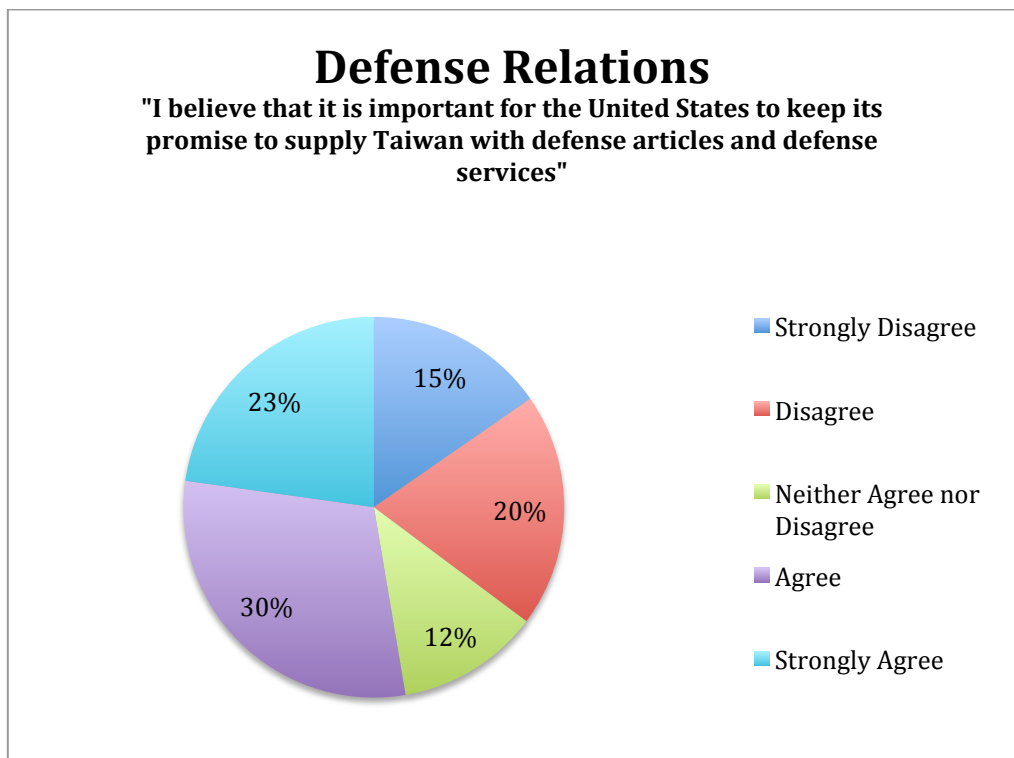
The issue of defense has always been contentious in the U.S.-Taiwan relationship. The U.S. promises to, when they deem it appropriate, provide Taiwan with arms and services of a defensive nature. China, however, has increasingly taken issue with U.S. arms sales to Taiwan. Of all of the portions of the TRA, it is the defense issue that garners the most attention, both in the U.S. and internationally. This is perhaps because the U.S. continues to sell Taiwan arms, despite progressively more forceful backlash from the mainland. On other issues, such as Taiwan’s participation in international organizations, the U.S. takes much more of a backseat role, passively supporting Taiwan, and doing little to actually increase her standing in these important international organizations<sup>20</sup>. Aid in defense, especially when it comes to arms sales, is also a more visible form of support than mere discourse. The issue of arms sales to Taiwan comes up every couple of years, and always puts stress on the three actors in the triangular relationship. Most recently, in May of 2012, the Economist commented on the complicated issue:

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<sup>20</sup> As stated earlier, the Senate recently passed a resolution supporting observer status for Taiwan in the International Civil Aviation Organization. This could be the first step towards more support in important international organizations.

America has unexpectedly raised the possibility that it might sell Taiwan the F-16 C/D fighter jets that it has been requesting since 2006. The move would infuriate China. Officials in Beijing have in the past voiced strenuous opposition to the sale of F-16 C/Ds, marking it as a line in the sand, of the kind that can't be crossed.<sup>21</sup>

Because this is one Taiwan's main foreign policy issues, and because it is so highly controversial, it is unlikely that there are many people on the island who are neutral on the issue. As we can see in the graph below, only 12 percent of respondents "neither agree nor disagree."



**Figure 3**

When we compare Figure 3 to Figures 2 – 6, we see that "defense" is a much more contentious issue than the rest, with lots of "agree" (A), "strongly agree" (SA), "disagree" (D), and "strongly disagree" (SD) responses, but a comparatively small

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<sup>21</sup> J.R. "Fighter-Fleet Response," *The Economist*, May 1, 2012.

number of “neither agree nor disagree” (N) responses. This corresponds to our earlier analysis of the high standard deviation in the defense category. It is clear from the listed response percentages that the Taiwanese have definite opinions when it comes to the continued supply of defensive arms and services. Such a high degree of subjectivity will possibly make it harder for outsiders to influence Taiwanese opinion on the issue.

While there may be a lack of neutrality on the defense question, there are still many more citizens who are clearly in favor of continued defense aid (53 percent - A & SA combined) than against it (35 percent - D & SD combined), a difference of 18 percent. With over half (53 percent) of the population in favor of continued defense aid, it seems that the Taiwanese still place a high value on it. It would likely prove very difficult for the U.S. to discontinue this aid and maintain the general positive status of the current relationship with Taiwan.

Furthermore, it is possible that those respondents that answered N, D or SD did so for reasons other than true disagreement or neutrality. Those who disagreed that the U.S. should continue the sale of arms may have done so not because of allegiance to China or because they believe Taiwan does not need weapons, but because they feel that the issue is simply too controversial to “agree” with. This is especially true of those who chose either D or N, which together compromise a significant 35 percent of responses. The takeaway from this question is therefore that the issue of defense remains highly controversial and that most Taiwanese have a definite opinion on it.

Despite the obvious controversy surrounding the defense issue, it is still a hugely important factor in the U.S.-Taiwan relationship, perhaps one of the most important. While we may not be able to have a large influence on what Taiwanese people think regarding the supply of defensive arms and services, we can surely use the fact that they care so much to our advantage. When U.S. policymakers decide to either sell or hold back the sale of arms to Taiwan, they are appealing anywhere from 1/3 to 1/2 of the population. Furthermore, the sale of weapons has historically been the U.S.'s main bargaining chip in the U.S.-China-Taiwan relationship. While the U.S. may want to rely on these weapons sales less in the future, it would be unwise to discount them entirely simply because of the last-place ranking for “defense relations” in Figure 2. Policymakers may want to note the considerable controversy on this issue among Taiwanese voters, and seek to utilize it when drafting policies concerning Taiwan.

### **Question Two: Application of Laws Generally**

“I believe it is important that the laws of the United States apply to Taiwan in the same manner that they applied prior to the creation of the Taiwan Relations Act in 1979.”

“我認為，美國法律應繼續適用於臺灣，正如 1979 年臺灣關係法制訂前之情況一般。”

The TRA is very specific when it comes to the application of laws to Taiwan.

It states:

The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.<sup>22</sup>

The survey question dealing with legal relations was modified somewhat to reflect only the more important aspects of the TRA section above. This simplified language allows respondents to better understand the purpose of the question. This specific portion of the TRA, section 3302(a), serves to guide most of the other sections in the Act. It is the overarching “general” application of laws, from which the Act then goes into specifics. The majority of questions in this survey are based on subsections of section 3302(a). Only the defense relations and AIT categories stand on their own. The “application of laws generally” is therefore a very important portion of the TRA. It allows for any law not specifically enumerated in the TRA to be treated in an internationally standard manner.

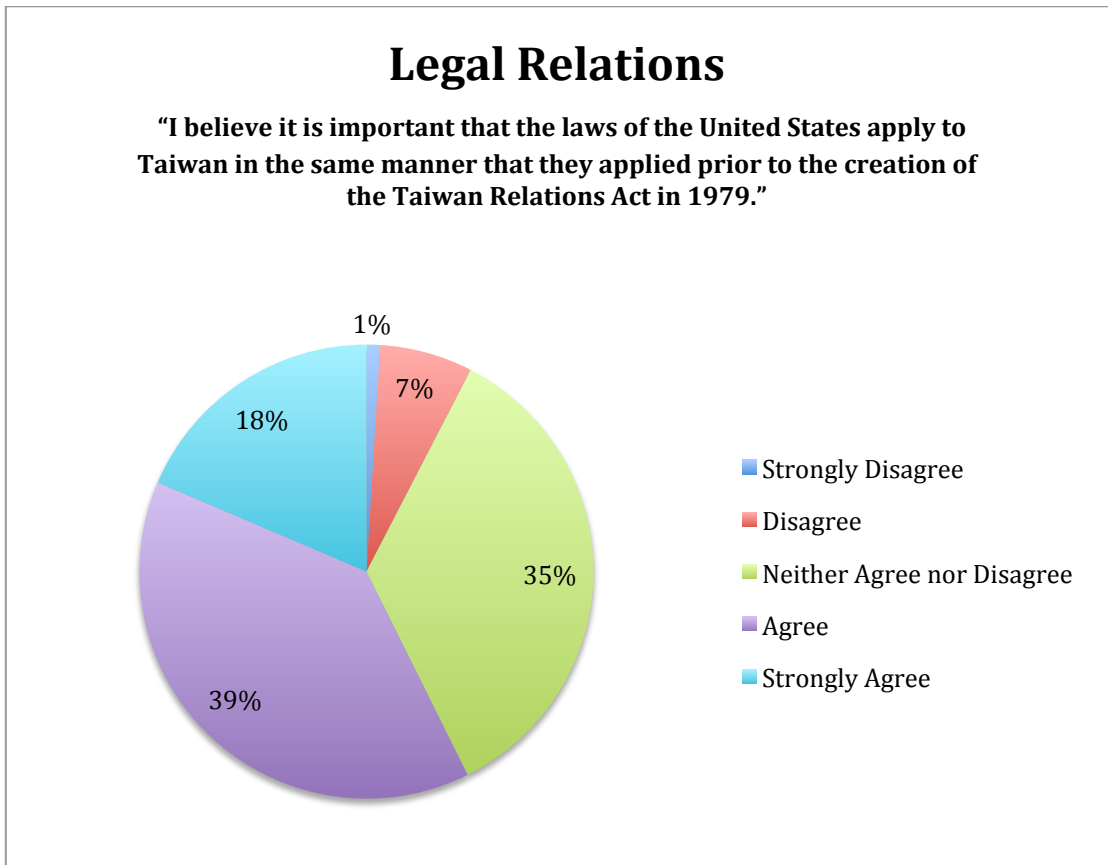
The statement requiring standard international legal treatment is actually quite remarkable. As Richard Bush of the Brookings Institute put it, “if the TRA had not issued an explicit mandate, bureaucrats in a variety of agencies might have inadvertently cancelled Taiwan’s participation in those programs. The result would have been confusion or worse.”<sup>23</sup> Taiwan could easily have been sidelined in many different legal contexts, but the writers of the TRA prevented this. This is one of the

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<sup>22</sup> *Taiwan Relations Act of 1979*. U.S. Code 22 sec. 3302 (1979).

<sup>23</sup> Bush, Richard C. III. “Thoughts on the Taiwan Relations Act.” Brookings Institution, <http://www.brookings.edu/research/opinions/2009/04/taiwan-bush>.

more important aspects of the TRA in terms of the bilateral relationship, and yet it receives very little attention. In fact, as stated earlier, the only aspect of the TRA that generally receives any attention is defense relations, via arms sales. It is perhaps because of this lack of awareness that so many survey respondents were neutral on the subject. This neutrality is demonstrated in Figure 4, below.



**Figure 4**

Legal relations between the U.S. and Taiwan have perhaps the least controversy among all of the categories in the survey. Indeed, 35 percent of respondents in the survey remain neutral on the subject, and a mere 8 percent (1 percent SD and 7 percent D) disagree with the above statement. Such a large

percentage of neutrality on the legal issue may be indicative of a lack of understanding. It is quite possible that the Taiwanese are unaware of which U.S. laws that apply to Taiwan existed prior to 1979, and whether these laws still apply. Such a misunderstood concept may have led respondents to choose the only answer which allowed them to demonstrate their lack of knowledge on the subject, neither agree nor disagree.

On the other hand, the extremely low response rates for the D and SD categories indicate that there is at least some degree of understanding and awareness of the issue. Legal relations has one of the lowest percentages of disagreement among the six categories in the survey. The only lower level of disagreement is found in the immigration rights category (3 percent), which will be presented next. This lack of disagreement, combined with the 57 percent of respondents who either agreed or strongly agreed, suggests that respondents may have had a good degree of understanding of the legal issues at hand.

However, the generally low level of disagreement across categories leads us to believe that respondents are simply more likely to agree with any given statement than to disagree with it. Defense relations, as discussed in the previous section, is the only category with any significant portion of D and SD responses. In fact, the AIT question received the next highest percent of disagreement (combined D and SD), with a mere 11 percent of the vote. Whether this low level of disagreement indicates a lack of awareness, or a decidedly resolved population it is difficult to tell. This author is inclined to believe several things: (1) The Taiwanese have a tendency to agree with statements rather than disagree, (2) the population is largely unaware of legal issues



with the U.S., and (3) where respondents did not fully understand this question, they were still inclined to agree due to a general predisposition towards continuity and standard treatment.

### **Question Three: Immigration Rights**

“I believe it is important that, despite the lack of formal diplomatic relations, Taiwanese citizens have the standard international rights to immigration and citizenship in the United States.”

“我認為，儘管缺乏正式外交關係，臺灣公民與其他國家公民同樣享有移居美國並取得該國公民資格之正當權利。”

With regards to immigration policies, the TRA states, “For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act (8 U.S.C. 1152(b)).”<sup>24</sup> Section 202(b) of the Immigration and Nationality Act states:

Each independent country, self-governing dominion, mandated territory, and territory under the international trusteeship system of the United Nations, other than the United States and its outlying possessions, shall be treated as a separate foreign state for the purposes of a numerical level established under subsection (a)(2) when approved by the Secretary of State.<sup>25</sup>

The assumption, therefore, is that Taiwan is to be treated as an independent state for the purposes of immigration to the United States. The immigration portion of the TRA is therefore highly significant, in that it sets up mechanisms to avoid

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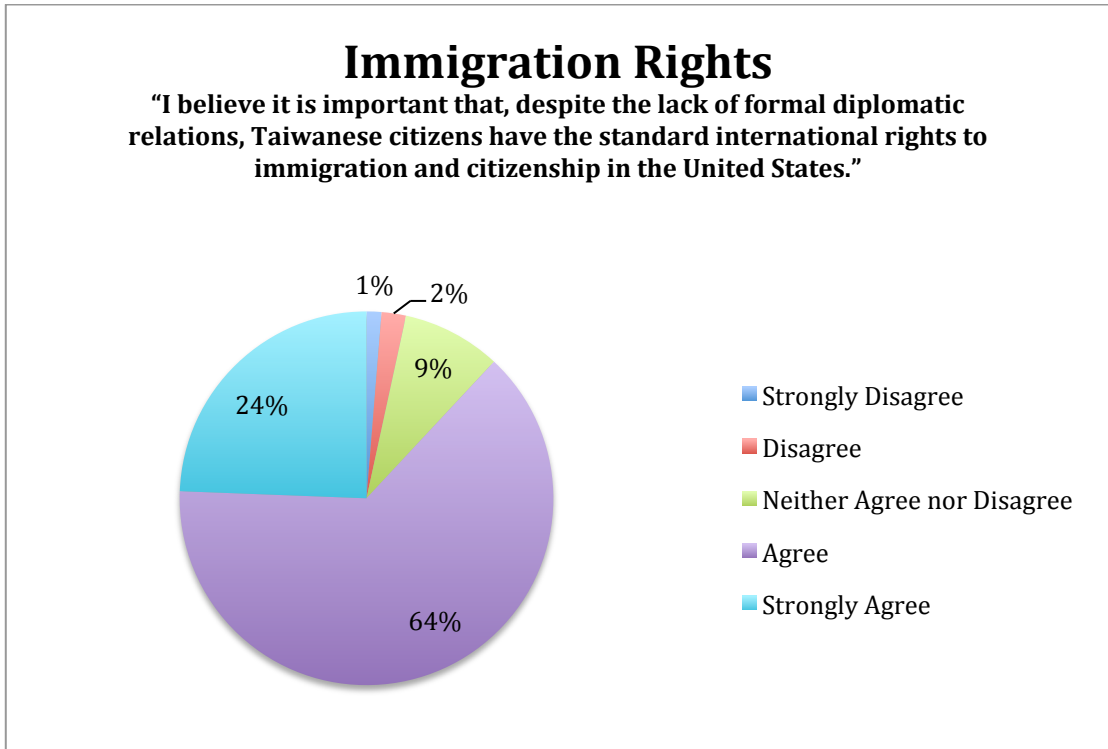
<sup>24</sup> *Taiwan Relations Act of 1979*, U.S. Code 22, sec. 3303 (1979).

<sup>25</sup> *Immigration and Nationality Act*, U.S. Code. Vol. 8, Sec 202 (1965).

controversy over the “one-China” policy entirely. Taiwan is simply treated in the same manner as every other state in the international system despite the complicated relationship with the mainland.

In order for the survey question on immigration rights to be easily understood, the phrasing needed to be re-worded significantly. It could not be assumed that Taiwanese citizens would be familiar with section 202(b) of the U.S.’s Immigration and Nationality Act. The question was therefore written, once again, to reflect the basic character of the relevant section of the TRA, stating simply that the Taiwanese should be treated as all other nations are treated.

This standard international treatment seems to have resonated with the Taiwanese people in a significant way. As can be seen in the chart below, an astonishing 64 percent of respondents “agree” with the third survey question, and another 24 percent “strongly agree”. Together, 88 percent of all respondents are in favor of standard international immigration rights. That leaves 9 percent who are neutral on the issue, and a mere 3 percent (2 percent D & 1 percent SD) who reacted negatively.



**Figure 5**

The response was overwhelmingly positive – more positive, in fact, than any of the other categories. Why might this be so? Is it because of the standard treatment itself? Or is it due to a general Taiwanese desire to immigrate to the United States? According to immigration statistics, “the United States is home to about 342,000 Taiwanese immigrants, making them the 24th-largest immigrant group in the United States, similar in size to the Japanese and Iranian immigrant populations.”<sup>26</sup> This is hardly indicative of a group that is desperate to immigrate to the U.S. How then, can we account for this hugely positive response? In the case of immigration rights, more

<sup>26</sup> Migration Information Source. “Taiwanese Immigrants in the United States,” Migration Information Source, <http://www.migrationinformation.org/usfocus/display.cfm?ID=790>, (accessed April 9, 2013).

than any other category, we must look to the political debate at the time of survey distribution for our answer.

In November 2012, when the survey was first distributed, the Taiwanese media was covering only a few international issues on a regular basis: controversy in the East and South China Seas, the U.S. “pivot” to Asia, rising Chinese tourism in Taiwan, and the U.S. Visa Waiver Program. According to the American Institute in Taiwan’s website, “the Visa Waiver Program (VWP) enables eligible travelers from 37 participating countries to travel to the United States for business or tourism...for 90 days or less without obtaining a visa.”<sup>27</sup>

Taiwan’s inclusion in the VWP was announced by then Secretary of State Hillary Clinton on October 2, 2012 and went into effect of November 1<sup>st</sup> of that same year. When the Taipei Times announced Taiwan’s inclusion in the VWP, the article’s subtitle was bolded in red-colored text and read: “AT LAST”.<sup>28</sup> The not-so-subtle text of the same article stated, “Washington’s approval comes after a lengthy screening process. Taiwan obtained VWP candidacy status in December last year (2011) after years of trying to join the program.”<sup>29</sup> It is evident that the Taiwanese were not only excited by the prospect of entering the VWP, but were proud of becoming only the fifth Asian country to participate in it. Immigration to the U.S. was therefore a very hot topic in Taiwanese circles in November 2012, when the surveys were distributed.

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<sup>27</sup> American Institute in Taiwan. “Visa Waiver Program,” American Institute in Taiwan, <http://www.ait.org.tw/en/vwp.html>, (accessed April 8, 2013).

<sup>28</sup> Shan, Shelly and Shih Hsiu-chuan. “US grants Taiwan visa-waiver status,” *Taipei Times*, October 3, 2012, Front Page.

<sup>29</sup> Ibid.

If respondents were reading or watching the news at the time, they were very aware of the issue, and may have been influenced by the issue's prominence in the media when answering this question on the survey.

In addition, the very fact that the U.S. had already approved Taiwan's participation in the VWP by the time of survey distribution made the issue much less controversial than some others on the table. This lack of controversy may have made it easier for respondents to answer A or SA. The only remaining question, therefore, is why a significantly higher portion of respondents chose "agree" (64 percent) than "strongly agree" (24 percent). We could attribute this to the fact that respondents are less likely, in general, to "strongly" agree or disagree with any given question than merely agree or disagree. Data from questions five and six on the American Institute in Taiwan and participation in international organizations, however, suggest that this is not the case (see Figure 7 and Figure 8). Both received more SA votes than A votes. While we cannot be sure, this somewhat weaker sense of agreement may be due to the fact that the immigration issue had largely been resolved. By the time of the survey, there was no longer any real need for advocacy on the issue of immigration rights. Respondents were still largely in favor of these rights, and probably wanted to agree with the general principle and show some support for a policy that had been successfully passed. Whatever the case, immigration rights has the highest overall percentage of respondents who answered positively (A and SA) at 88 percent, which is a highly significant percentage of overall votes. It is clear that the right to standard international immigration is important to the average Taiwanese citizen.

#### Question Four: Treaties

“I believe it is important that the United States continue to honor treaties and other international agreements signed by Taiwan, including those signed prior to the creation of the Taiwan Relations Act in 1979.”

“我認為，美國應繼續執行與臺灣所締結之條約與其他國際協定（包括於 1979 年臺灣關係法制訂前的條約與其他國際協定）。”

The TRA states:

For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.<sup>30</sup>

The section of the TRA dealing with treaties is very similar to the overarching general legal section discussed above. The TRA authors, however, found it necessary to specifically mention the continuing approval and enforcement of all treaties and other international agreements signed by the U.S. and Taiwan. These international agreements are clearly an important part of the bilateral relationship, and therefore must be taken into consideration when assessing that relationship.

The one major treaty that the two countries previously shared was a mutual defense treaty. “In the aftermath of the Korean War, given the continued strategic importance of the Taiwan Strait during the Cold War era, the ROC and the United States signed the Sino-American Mutual Defense Treaty in 1954 to consolidate their

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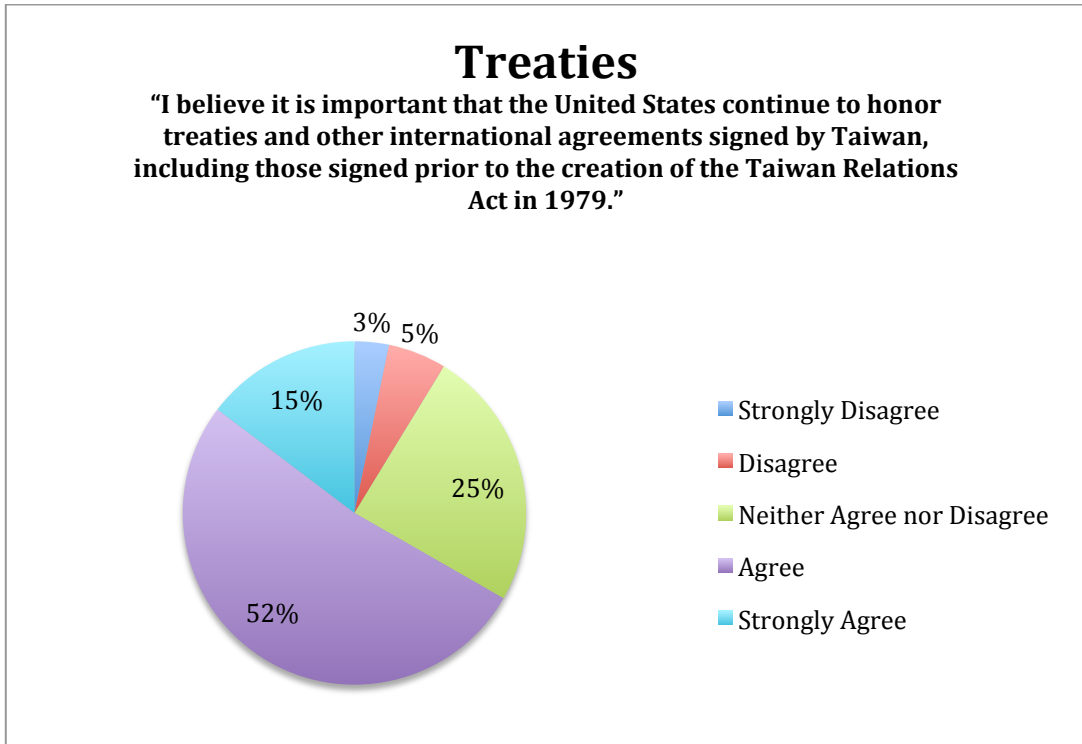
<sup>30</sup> *Taiwan Relations Act of 1979*. U.S. Code 22 sec. 3303 (1979).

military alliance.”<sup>31</sup> This treaty did not survive the switching of alliances from the ROC to the PRC in 1979. U.S. policymakers, however, were still concerned with the earlier quoted strategic importance of the Taiwan Strait. In fact, the repeal of the Sino-American Mutual Defense Treaty in 1979 was one of the major reasons that lawmakers decided to create the TRA, which now serves as a quasi-defense treaty between Taiwan and the U.S.

In the figure below, we can see that over half (52 percent) of respondents “agree” with the idea that the U.S. should continue to honor treaties and other international agreements made with Taiwan. This statement, requiring that the U.S. honor its agreements, unlike some of the previous questions, is not very controversial.

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<sup>31</sup> Taipei Economic and Cultural Representative Office in the U.S. “Taiwan-U.S. Relations,” Taipei Economic and Cultural Representative Office in the U.S., <http://www.taiwanembassy.org/US/ct.asp?xItem=266456&CtNode=2297&mp=12&xp1=12>, (accessed April 6, 2013).



**Figure 6**

This lack of controversy is easy to see in the absence of D and SD responses, which together comprise only 8 percent of the total responses. This could, as is possible in the case of legal relations, be due to a lack of understanding of the issue at hand. It is more likely, however, that respondents simply found the issue agreeable.

It is easy to imagine a Taiwanese citizen who has no idea of what treaties or other agreements with the U.S. exist now, or existed prior to 1979. It is also easy to imagine a scenario in which that same citizen believes that all international agreements entered into with the U.S. should be upheld regardless of the situation across the Taiwan Strait. Taiwan depends on the U.S. for her security – both physical and commercial – and if the U.S. were to start breaking promises or agreements,



Taiwan would surely be worse off for it. Whether or not the average citizen is aware of specific treaties and international agreements with Taiwan, he or she is likely to want the U.S. to uphold promises made in these treaties and agreements. It is a somewhat neutral statement that is relatively easy to agree with regardless of prior knowledge.

The 25 percent of respondents who answered this question neutrally are most probably those citizens who determined that they did not have enough information on the subject to make an informed decision. However, with 77 percent of respondents in agreement (52 percent A and 25 percent SA) and only 8 percent disagreeing (5 percent D and 3 percent SD), it is hard to argue anything other than the Taiwanese desire for the U.S. to continue honoring bilateral treaties.

#### **Question Five: The American Institute in Taiwan**

“I believe it is important that the U.S., through the American Institute in Taiwan (AIT), continue to support commercial, cultural and other relations between the people of the United States and the people on Taiwan.”

“我認為，美國應透過美國在臺協會繼續進行實施的各項商業方案、文化交往或其他關係。”

The TRA, in seeking to create a means for diplomatic and everyday interaction between the United States and Taiwan, sets up the American Institute in Taiwan:

Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through (1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or (2) such comparable successor nongovernmental entity as the President may designate, (hereafter in this chapter referred to as the "Institute").<sup>32</sup>

The question relating to the AIT section of the TRA takes more from the spirit and practice of AIT today than it does from the legal stipulations in the TRA. The TRA has allowed AIT to become what it is, and it is the present-day AIT that the Taiwanese people know and interact with. AIT operates in a manner nearly identical to any official embassy around the world, offering services such as: issuing visas, assisting with bilateral agriculture and commercial issues, and assisting U.S. citizens in Taiwan. Some believe this section of the TRA to be the most important. It is certainly remarkable that Taiwan and the U.S. have maintained what amounts to normal diplomatic relations despite the severance of such official relations in 1979. In fact, Richard Bush claims:

The most successful, unremarked element of the TRA is the authorization of the American Institute in Taiwan. Once the United States terminated diplomatic ties, the mechanisms created for sustaining substantive relations became vitally important in ensuring that the two countries could promote shared interests. Contact among senior officials and a common strategic outlook are needed, of course, but day-to-day diplomacy is vital.<sup>33</sup>

Bush's statement demonstrates the great importance of AIT as a functional entity in the U.S.-Taiwan relationship. Without the assurances included in the TRA of continuing cultural and commercial relations between the two countries, such

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<sup>32</sup> *Taiwan Relations Act of 1979*. U.S. Code 22 sec. 3305 (1979).

<sup>33</sup> Bush, Richard C. "Thoughts on the Taiwan Relations Act," *China Times*, April 2009, Opinion Section.

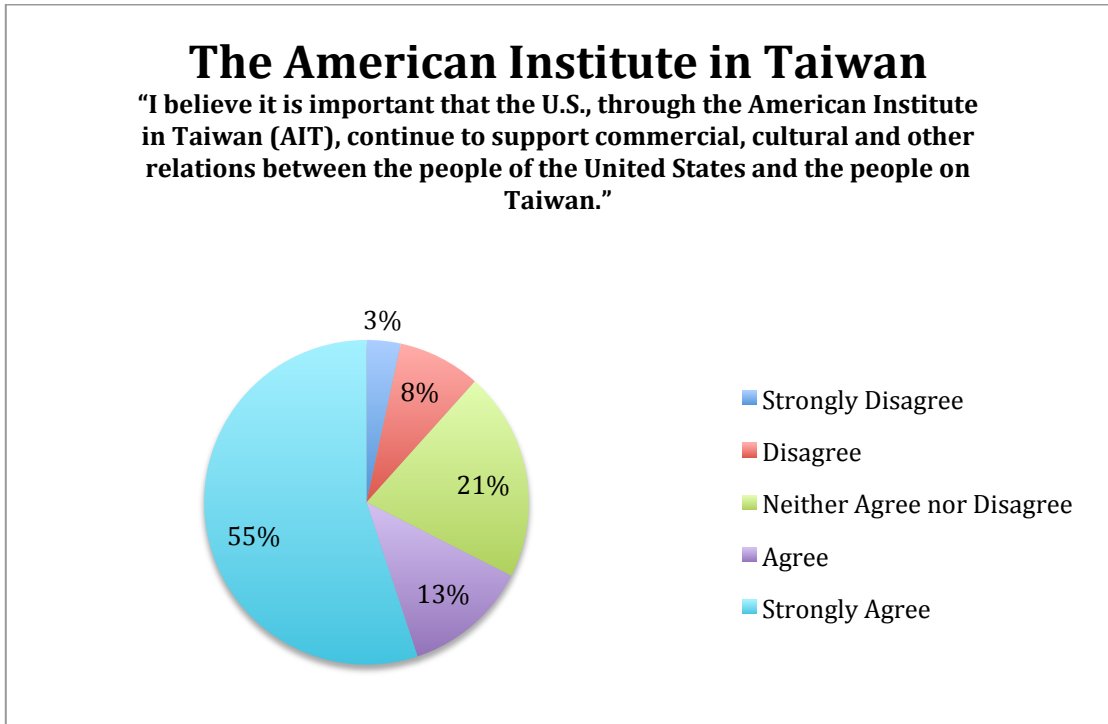
relations might have fallen to the wayside. The document provides legitimacy to these types of bilateral interactions, which the mainland would have surely opposed had they not been included in the TRA:

In 1979, there was no guarantee that AIT and Taiwan's counterpart organization (first the Coordination Council for North American Affairs, later renamed the Taipei Economic and Cultural Representative Office) would operate smoothly and effectively. Today, thirty years later, there is no question that the two institutions met the 1979 challenge and will continue to do so in the future.<sup>34</sup>

In meeting and exceeding the challenges that were inherent in the termination of official ties, the U.S.-Taiwan relationship has proven its ability to endure. The set up of AIT was one important component of this longevity. Whether or not the remarkable nature of this portion of the TRA is recognized by the international community, it seems that the Taiwanese people, at least, agree that it is vastly important. In Figure 7 below, we see that 55 percent of respondents strongly agree with the AIT question.

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<sup>34</sup> Ibid.



**Figure 7**

Respondents who strongly agree with the need for continuing bilateral relations via AIT comprise over half of all responses. The only category with more SA responses in the survey is participation in international organizations, which will be discussed next. AIT ranked third in the initial grading of overall averages in Figure 2, but as we will see in Chapter Five, there may be other ways to view the rankings.

Interestingly, the AIT question garnered the second most combined D and SD responses. With only 11 percent of the vote, however, this disagreement is not likely significant enough to lessen the importance of the 55 percent SA vote. Taiwanese citizens are generally aware of AIT and a large portion of these citizens have interacted with the agency in some manner in their lifetime. According to the Migration Policy Institute, “Taiwan was the fifth most common country of origin for international students studying at US institutions of higher learning in 2010...(and)

there were just over 8,800 admissions in 2010 involving temporary workers from Taiwan with H-1B visas.”<sup>35</sup> All of these immigrants to the U.S. would have interacted with AIT to obtain visas and other necessary documents. In fact, prior to 2012, when Taiwan was admitted to the Visa Waiver Program (VWP), any Taiwanese citizen coming to the U.S., even for tourism purposes, would have needed to go to AIT to obtain a visa. It is therefore likely that most Taiwanese citizens have a high degree of awareness of AIT, and at least some of its functions.

Interestingly, 21 percent of respondents remain neutral on the AIT issue. While this neutrality may seem to suggest the possibility that the Taiwanese are neutral on continued diplomatic ties with the U.S. through AIT, the reality is that continued relations with the U.S. are of utmost importance to nearly every Taiwanese citizen. According to the Taipei Times:

as Taiwan continues to carefully navigate its relationship with China, no friendly country is more crucial to Taiwan than the US and no relationship in the region is a more important bellwether of Washington’s commitment to its friends, allies and ideals than its relationship with Taiwan.<sup>36</sup>

The simple fact is that the U.S. is one of Taiwan’s two most important partners in the world. Every Taiwanese citizen is aware of this, and it is unlikely that they would be neutral on the question of continued bilateral relations with the U.S. It is possible that the neutral answers once again came from the controversy surrounding

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<sup>35</sup> Migration Information Source. “Taiwanese Immigrants in the United States,” Migration Information Source, <http://www.migrationinformation.org/usfocus/display.cfm?ID=790>, (accessed April 9, 2013).

<sup>36</sup> Pearson, Richard. “A Decline in U.S. Taiwan Relations,” *Taipei Times*, July 12, 2012, Editorials Section. <http://www.taipetimes.com/News/editorials/archives/2012/07/10/2003537366> (accessed April 17, 2013).

the issue. Controversy over AIT and the stated “cultural and commercial relations”, however, is slight. It is therefore most likely that the 21 percent of respondents who answered the question neutrally are simply those citizens who have never interacted with, nor plan to interact with AIT.

As stated earlier, AIT received the second highest number of votes in the SA category (55 percent), which demonstrates a clear sense of agreement with the statement that the U.S. should continue its cultural and commercial relations through AIT.

### **Question Six: Participation in International Organizations**

“I believe it is important that the United States support Taiwan in their membership in international organizations.”

“我認為，美國應支持臺灣其國際組織會員資格。”

The TRA itself is somewhat vague on the issue of support for Taiwan’s participation in international organizations. Rather than proclaiming actual support, it states, “nothing in this chapter may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.”<sup>37</sup> The law removes only the possibility that the TRA itself might support Taiwan’s non-participation in international organizations. Question six, therefore, was re-worded significantly in

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<sup>37</sup> *Taiwan Relations Act of 1979*. U.S. Code 22 sec. 3303 (1979).

order to gauge Taiwanese opinion on the importance of U.S. support on this issue, as well as to keep the question's form similar to the other five.

According to the Taiwanese Ministry of Foreign Affairs (MOFA)'s website, "The nation's broad participation in international organizations is of substantive benefit to the global community and also aids the nation's own progress in many areas."<sup>38</sup> The Taiwanese government, regardless of which party is in power, is consistently supportive of Taiwan's right to participate in international organizations. Traditionally, the Democratic Progressive Party (DPP) has pushed harder and stronger for full participation in larger, more substantive international organizations, including the United Nations. The Kuomintang (KMT), on the other hand, tends to lean more towards appeasing the mainland, and seeks observer status in much smaller and less controversial international organizations like the International Civil Aviation Organization (ICAO). According to a Taiwanese government website:

The nation enjoys membership in 27 intergovernmental organizations (IGO) and their subsidiary bodies. These include the Asian Development Bank; the World Trade Organization (WTO), which Taiwan joined under the name "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu"; and the Asia-Pacific Economic Cooperation (APEC) forum, in which it participates as "Chinese Taipei"—a name it also uses for its national Olympics committee and in the WHA. The ROC also has observer status or associate membership in 21 other IGOs and their subsidiary bodies.<sup>39</sup>

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<sup>38</sup> Republic of China (Taiwan) Government Entry Point, "International Organizations," Taiwan Government Entry Point, <http://www.taiwan.gov.tw/ct.asp?xItem=27190&ctNode=1922&mp=1001> (accessed April 8, 2013).

<sup>39</sup> Republic of China (Taiwan) Government Entry Point, "International Organizations," Taiwan Government Entry Point, <http://www.taiwan.gov.tw/ct.asp?xItem=27190&ctNode=1922&mp=1001> (accessed April 8, 2013).

As stated earlier, there are those in the U.S. media and government who have come out in support of Taiwan's increased participation in international organizations. In August 2011, the Council of State Governments Eastern Regional Conference formally expressed support for Taiwan's request to participate in the United Nations Framework Convention on Climate Change and the ICAO.<sup>40</sup> When combined with the support of the U.S. Senate for participation in the ICAO, the Taiwanese are likely to gain observer status, if not full membership in this organization. The question remains, however, whether observer status in organizations like the ICAO is enough. In the modern world, participation in international organizations is arguably quite important:

Confronted by common issues and concerns transcending their borders, states have realized that to satisfy the demands of their constituencies, international coordination and cooperation are essential for meaningful solutions to these problems. As a result, international organizations emerged as much-needed forums for states to achieve functional collaboration in their pursuit of common interests and welfare.<sup>41</sup>

Taiwan, however, has been continually pushed out of these opportunities to collaborate on important issues because of her relationship with the PRC. "China insisted that under the "One China" principle, Taiwan should either be ousted from the organizations China sought to join or remain out of any organizations of which

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<sup>40</sup> Council of State Governments, Eastern Regional Conference, "Resolution on Support for Taiwan's Participation in International Organizations," Council of State Governments, Eastern Regional Conference, <http://www.csgeast.org/2011annualmeeting/documents/TaiwansParticipationinInternationalOrganizations.pdf> (accessed April 8, 2013).

<sup>41</sup> Li, Chien-pin. "Taiwan's Participation in Inter-Governmental Organizations: An Overview of Its Initiatives," *Asian Survey*, Vol. 46, No. 4 (July/August 2006): 597-614.

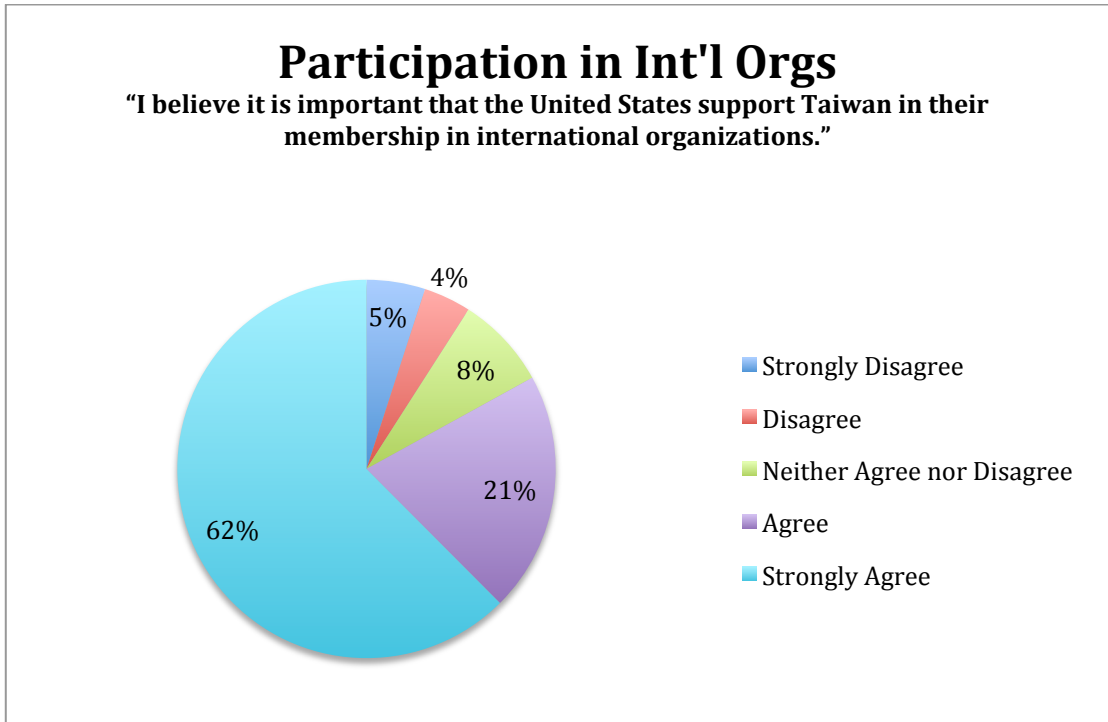


China was already a member.”<sup>42</sup> The Taiwanese argue that they have insight and experience to contribute, and that their participation would only serve to better the organizations that they join. They are likely justified in these statements, but this justification has had little effect on their membership status across the board. China’s growing power in the world only serves to weaken Taiwan’s position on the issue.

Despite Taiwan’s fragile position, it is clear from the figure below that they desire the U.S.’s support of their participation in international organizations. When we combine the A and SA categories, we discover that 83 percent of respondents are in favor of this support. This puts “international organizations” second only to “immigration rights”, which received a positive response of 88 percent. The important difference here is that participation in international organizations received a staggering 62 percent in the SA category, which is significantly higher than immigration rights, with only 24 percent SA.

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<sup>42</sup> Li, Chien-pin. “Taiwan's Participation in Inter-Governmental Organizations: An Overview of Its Initiatives.”



**Figure 8**

Neutrality on this issue is also extremely low, with only 8 percent of respondents answering N. This is in fact the category with the lowest percent of neutrality among all of the categories in the survey. With a combined 9 percent of respondents in disagreement (5 percent SD and 4 percent D), it is evident what the Taiwanese people believe about U.S. support for their participation in international organizations. While this participation is still somewhat controversial in the international community, the data on this question speaks for itself. The Taiwanese people believe it is important that the United States support Taiwan in their membership in international organizations.

## **Chapter Five: Collective Analysis**

Having discussed each individual question and their backgrounds, I will now conduct an analysis of them collectively. Several new rankings will be offered as alternatives to the initial ranking in Figure 2.

### **Weighted Averages**

In the original ranking, which can be found in Figure 2, the means were calculated with the typical Likert Scale weights: SD = 1, D = 2, N = 3, A = 4, and SA = 5. In this section, in order to determine how strongly respondents feel about the issues overall, regardless of the direction of their opinion (agree or disagree), the following weights will be given to each category: SD = 2, D = 1, N = 0, A = 1, and SA = 2. In this way, the more strongly an individual feels about a given statement, the more weight their answer is given. If the response is neutral, the answer will receive no weight at all. When these calculations are complete, the following means are achieved (placed in order):

1. Participation in International Organizations: 1.59
2. The American Institute in Taiwan: 1.37
3. Defense Relations: 1.26
4. Immigration Rights: 1.17
5. Treaties: 0.934

6. Legal Relations: 0.845

**Figure 9**

When compared with Figure 2, the ranking above is quite different. Defense relations falls right in the middle, as opposed to last place in the former ranking. Participation in international organizations remains in the top spot, but AIT has moved up one spot from third to second. Significantly, immigration rights has dropped two spots from second to fourth. These new rankings, as stated above, demonstrate how strongly individuals feel about the issues in question. Participation in international organizations received the top spot in both Figure 2 and Figure 9's rankings. It can therefore be determined that not only do the majority of Taiwanese want more U.S. support for their participation in international organizations, but that the Taiwanese people care deeply about this issue – more so, in fact, than any of the other issues at hand (regardless of whether they agree or disagree with the need for more U.S. support on the issue).

Legal relations moved down to the bottom spot in this new ranking, which is consistent with our earlier analysis that it is the least controversial of all the issues. Immigration rights moved down two spots to fourth place due to the lack of SA responses in this category. Perhaps most strikingly, defense relations moved up three spots, from last place to third. Once again, we must consider that despite defense's original last place ranking, it is nonetheless a very important factor in the bilateral relationship. Taiwanese citizens, while divided on the issue, care very much about it.

The same is true of AIT, which moved up one spot from third to second. The top three issues on this list (participation in international organizations, AIT, and defense relations) must all be taken quite seriously by both parties, for it is apparent that the Taiwanese are greatly concerned with them.

### **Degree of Agreement**

Each of the six categories in our initial survey rankings received a significant portion of A and SA votes. When the A and SA votes for each category are combined, we obtain the following percentages (in order, highest to lowest): Immigration Rights: 88 percent, Participation in International Organizations: 83 percent, The American Institute in Taiwan: 69 percent, Treaties: 67 percent, Legal Relations: 57 percent, Defense Relations: 53 percent.

As stated in the analyses in Chapter Four, however, AIT has significantly more SA votes than immigration rights (55 percent vs. 24 percent). It is possible therefore, that AIT should be ranked higher on the ordinal scale than immigration rights. In order to compare the levels of agreement among the categories, I will complete a ratio calculation of “strong agreement” to “agreement.” The resultant ratios are listed in the table below:

### Ratio of “Strongly Agree” to “Agree” Answers Across Categories

|   | <b>Strongly Agree</b> | <b>Agree</b> | <b>N*</b> | <b>Ratio, SA:A</b> |
|---|-----------------------|--------------|-----------|--------------------|
| <b>Immigration Rights</b>               | 151                   | 394          | 545       | 0.3832487          |
| <b>International Organizations</b>      | 386                   | 127          | 513       | 3.0393700          |
| <b>The American Institute in Taiwan</b> | 341                   | 77           | 418       | 4.4285714          |
| <b>Defense Relations</b>                | 141                   | 185          | 326       | 0.7621621          |
| <b>Legal Relations</b>                  | 115                   | 240          | 355       | 0.4791666          |
| <b>Treaties</b>                         | 91                    | 322          | 413       | 0.2826086          |
| <b>TOTAL</b>                            | 1225                  | 1345         | 2570      | 0.9107806          |

**Figure 10** **\*N = Total Number of SA and A Responses for Category**

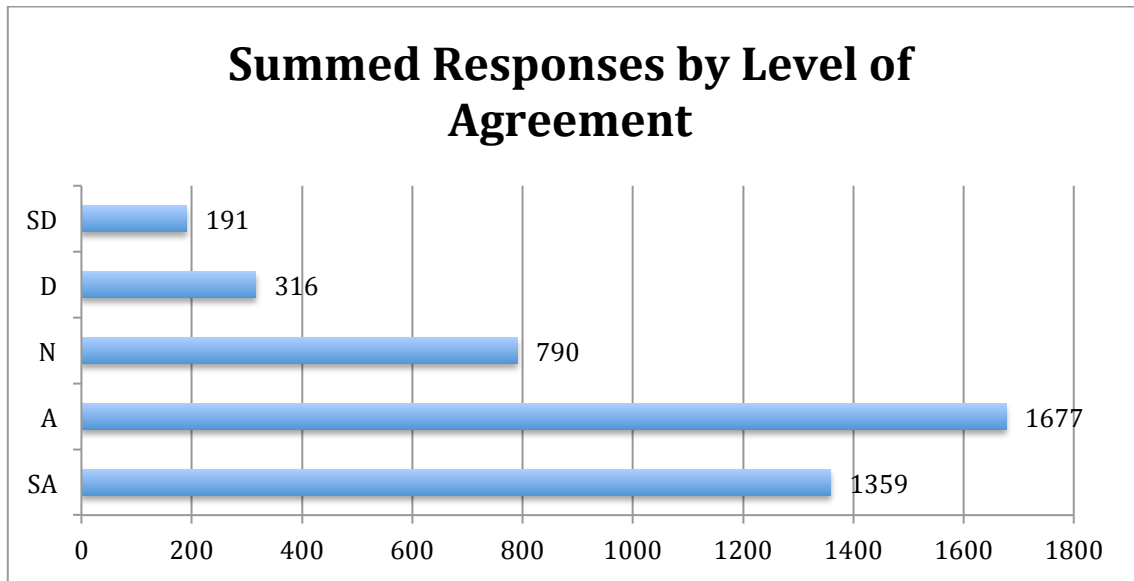
The American Institute in Taiwan and participation in international organizations are the only two categories in the entire survey which have a value higher than 1. They are, likewise, the only two categories that received more SA responses than A responses. With a ratio of 4.4:1, AIT leans heavily towards the SA

response category. Participation in international organizations has a SA:A ratio of around 3:1. Defense relations's new placement is also worthy of note. It becomes the third highest ranked category on the list with a ratio of 0.76:1. These ratios serve to demonstrate how strong the level of agreement is among those that agreed with any given statement. This is the first ranking that we have come across in which "participation in international organizations" was not placed first. It seems that, among those who agree across all six questions, they agree most strongly with the need for continuing commercial and cultural relations through AIT, and least strongly with the requirement that the U.S. continue to honor treaties and other international agreements.

We must take into account the fact that participation in international organizations received more overall votes of agreement than AIT (513 vs. 418). The ranking in Figure 10 \*N = Total Number of SA and A Responses for Category is therefore a simple representation of ratios. Of those who do agree with any of the statements in the survey, they agree more strongly with those questions with a higher ratio (AIT and participation in international organizations).

### **Response Types**

The figure below, which represents the summed values of each response-type (A, SA, etc) across issue-areas, easily demonstrates that respondents tend to agree with questions more than disagree. In fact, the defense relations category is the only category with significant D & SD response rates.



**Figure 11**

One thousand six hundred and seventy seven respondents, or 38.7 percent of all respondents across categories chose to “agree” with the given statement, whereas only 7.2 percent chose to “disagree.” The data in Figure 11 shows that, when it comes to the Taiwanese relationship with the United States, the typical Taiwanese citizen is more likely to agree with the importance of any given aspect of the relationship than dismiss it as unimportant. It also shows, as was demonstrated above, that respondents are most likely to “agree” with survey questions regarding this bilateral relationship, and least likely to “strongly disagree.”



## **Chapter Six: Conclusion and Policy Implications**

When the TRA was signed in 1979, no one could have predicted the enormous impact it would have on the future of both U.S.-Taiwan relations and the triangular relationship between the U.S., China and Taiwan. The sections of the act discussed in this paper have all developed in ways that have been largely positive for the U.S. and Taiwan. The importance of each of these regulations cannot be overstated. If the U.S. were to remove any of them from the TRA, the relationship with Taiwan would certainly suffer. That being said, certain sections are of more importance to the bilateral relationship than others.

While U.S. policymakers and most other international actors consider defense relations to be of primary importance, it is not clear that the Taiwanese feel the same way. Because of the controversy surrounding the sale of arms to Taiwan, the Taiwanese are very split on the issue. Indeed, defense relations was the only category in the survey to receive a significant portion (20 percent D and 15 percent SD) of

disagreement. Still, 53 percent of respondents ultimately agreed with the need for continued defensive aid to Taiwan.

Survey results showed that legal relations with Taiwan were far less controversial than defense relations. With far more neutral responses than any other category in the survey (35 percent), support for the standard application of laws was either misunderstood or simply not as important to the Taiwanese people.

The right to standard immigration practices was among the most important of the categories to the Taiwanese. With 88 percent of respondents in support of such rights, it is clear that they are both informed and passionate about the issue. This highly positive response rate, however, may have been due to the prominence of U.S.-Taiwan immigration policies in the news at the time of survey distribution.

When it came to deciding whether or not to support the claim that the U.S. should continue to honor treaties and other international agreements, Taiwanese citizens were again, largely in favor. The treaties category, however, received the lowest percent of SA votes, and the second highest percent of neutral votes. As with the legal relations question, it is possible that the treaties question was misunderstood, or that there was a general lack of awareness regarding the issue.

The AIT issue was among the most interesting in the survey. The question garnered by far the largest ratio of “strongly agree” to “agree” responses, which suggests that, those that do agree with the importance of continued commercial and

cultural ties through AIT, agree quite strongly. AIT, however, still received a vote of 21 percent neutrality. Despite the generally positive image that AIT has in Taiwan, and the high level of interaction that Taiwanese citizens have with the organization, many citizens remained on the fence about its importance. This might be due to a misunderstood controversy, or it could be attributed to the percent of Taiwanese who have no interaction with AIT. Either way, with 68 percent of respondents in support of continued commercial and cultural relations, it is clearly an important issue to the majority of Taiwanese.

Finally, we must address the issue of Taiwanese participation in international organizations, another controversial subject within the U.S.-China-Taiwan relationship. This category received the most “strongly agree” responses, and was consistently ranked highly in each of the different calculations completed in this paper. In Figure 2, the initial ranking of pure averages, participation in international organizations received the top spot. Again, in Figure 9, which sought to demonstrate how strongly respondents felt about a given category through weighted averages, this category was ranked number one. In fact, the only ranking in which participation in international organizations did not receive first place was the calculation of “strongly agree : agree” ratios. In this last ranking, participation in international organizations earned second place, next to AIT.

From the above statements, we can determine several important things. (1) U.S. support for Taiwanese participation in international organizations is very

important to the Taiwanese people. (2) A lack of neutrality and an extremely low level of disagreement (3 percent) on the issue of immigration rights makes this an almost equally important issue. However, having already allowed Taiwan into the VWP, the issue has been largely solved, and therefore no longer requires as much attention. (3) The treaties and legal relations categories both received generally positive responses, but may have been misunderstood by the general public who responded to the survey. This was due to a probable lack of awareness of what types of laws and/or treaties exist between Taiwan and the U.S. (4) The American Institute in Taiwan is important to the Taiwanese people. It provides an avenue for not only cultural and commercial ties, but for high-level dialogue, and most of the other issues within the survey (including immigration and legal issues). Over half of the population strongly agrees with the need for the continuance of these ties through AIT. (5) The issue of defense relations is the most contested issue at hand for the Taiwanese. They generally believe in the need for continued defensive aid from the U.S., but many citizens are likely wary of stating this belief.

So what does this all mean for U.S. policymakers, who currently place a high degree of importance on defense relations? In short, other issues should be given more importance in the bilateral relationship. Among these issues that require more attention is U.S. support for Taiwanese participation in international organizations. This support does not have to be support for full membership in the United Nations, nor does it require statements by the President of the United States. The Taiwanese are

clearly concerned with their ability to put their significant knowledge and resources to use in the larger world. And indeed, this is one area where it would behoove the U.S. and the international community to support Taiwan. The Taiwanese have decades of experience in dealing with disaster relief and health concerns (among other issues) that would be immeasurably useful to share with the world. The U.S. should therefore seriously consider increasing their support for membership, or at the very least, observer status in IGOs like the WHO.

Immigration policies, as stated above, do not need to be changed, but should be kept up. Support for treaties, international agreements and legal relations with Taiwan should be treated in a similar manner. Despite the support for these issues among Taiwanese citizens, they are less understood and equally less controversial than other issues in the survey.

The American Institute in Taiwan should likewise continue to promote cultural, commercial, and other types of cooperation between the two countries. As the Chairman of AIT, Raymond Burghardt put it, the relationship “is not just political and cultural and economic — it’s military, it’s people-to-people, it’s all kinds of things... There is intelligence exchange; there are mutual assessments of defense needs; there is training that goes on.”<sup>43</sup> All of these tasks are done through AIT, and its

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<sup>43</sup> Lowther, William. “US-Taiwan Relations Remain Robust: Burghardt,” *Taipei Times*, July 14, 2012, Front Page. <http://www.taipeitimes.com/News/front/archives/2012/07/14/2003537694> (accessed April 17, 2013). Myerson, Roger B. *Game Theory: Analysis of Conflict*, Harvard University Press, 1997.

importance to the relationship cannot be overstated. The U.S. must continue to support AIT and to develop new and meaningful dialogue through AIT into the future.

Finally, we come to the contentious issue of defense relations. Current U.S. policy on selling arms to Taiwan is unclear. In Chapter Two it was mentioned that the U.S. has recently been considering selling Taiwan the much-needed F16 C/D aircraft that they have been requesting for years. A move like this would surely incite great anger in China, and would stress the U.S.-China relationship and the Taiwan-China relationship. In the past, such moves have led to cross-Strait crises. The question here, however, is not whether the U.S. should increase the sale of arms to Taiwan, but whether policymakers should place such a high importance on these sales. The Taiwanese obviously care deeply about the issue, whether they agree or disagree with the need for continued defensive aid. Defense relations cannot, therefore, be pushed to the wayside. In the initial ranking of importance based on overall averages, however, defense relations came in last place. It is possible that the U.S. currently focuses too much on the defensive needs of Taiwan, and should place this focus elsewhere. If the U.S. can support Taiwanese observer status in the WHO (or other IGOs), and receive less of a negative reaction from China, is this not more worthy of our attention? If we take the survey results at face value, such support will be more appreciated by the Taiwanese than further weapons sales would be.

Ultimately, it will be up to the policymakers to decide where to put their efforts. Hopefully, in understanding better what the Taiwanese believe is of importance, they will be better informed, and therefore better able to make important and impactful decisions.

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## Appendix A

### Total Survey Responses by Number of Votes and Percentages

“I believe that X is important to U.S.-Taiwan Relations”

“X” = Defense, Legal, Immigration, etc.

|                                   | Defense Relations | Legal Relations | Immigration Rights | Treaties  | American Institute in Taiwan | International Organizations |
|-----------------------------------|-------------------|-----------------|--------------------|-----------|------------------------------|-----------------------------|
| <b>Strongly Disagree</b>          | 95 (15%)          | 6 (1%)          | 8 (1%)             | 20 (3%)   | 21 (3%)                      | 31 (5%)                     |
| <b>Disagree</b>                   | 123 (20%)         | 41 (7%)         | 13 (2%)            | 34 (5%)   | 51 (8%)                      | 25 (4%)                     |
| <b>Neither Agree nor Disagree</b> | 75 (12%)          | 217 (35%)       | 53 (9%)            | 152 (25%) | 129 (21%)                    | 49 (8%)                     |
| <b>Agree</b>                      | 185 (30%)         | 240 (39%)       | 394 (64%)          | 322 (52%) | 77 (13%)                     | 127 (21%)                   |
| <b>Strongly Agree</b>             | 141 (23%)         | 115 (18%)       | 151 (24%)          | 91 (15%)  | 341 (55%)                    | 386 (62%)                   |

Figure 12

## Appendix B

### The Taiwan Relations Act (In Full)

#### United States Code TITLE 22 - FOREIGN RELATIONS AND INTERCOURSE CHAPTER 48 - TAIWAN RELATIONS

##### Sec. 3301. Congressional findings and declaration of policy

###### (a) Findings

The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this chapter is necessary -

§ (1) to help maintain peace, security, and stability in the Western Pacific; and

§ (2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

###### (b) Policy It is the policy of the United States -

§ (1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

§ (2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

§ (3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

§ (4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

§ (5) to provide Taiwan with arms of a defensive character; and

§ (6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

(c) Human rights

Nothing contained in this chapter shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

**Sec. 3302. Implementation of United States policy with regard to Taiwan**

(a) Defense articles and services

In furtherance of the policy set forth in section 3301 of this title, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

(b) Determination of Taiwan's defense needs The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

(c) United States response to threats to Taiwan or dangers to United States interests The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States in response to any such danger.

**Sec. 3303. Application to Taiwan of laws and international agreements**

(a) Application of United States laws generally

The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

(b) Application of United States laws in specific and enumerated areas The application of subsection (a) of this section shall include, but shall not be limited to, the following:

§ (1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

§ (2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 3305 of this title, such programs, transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

§ (3) § (A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan. § (B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

§ (4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

§ (5) Nothing in this chapter, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relations between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 et seq.), to deny an export license application or to revoke an existing export license for nuclear exports to

Taiwan.

§ (6) For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act (8 U.S.C. 1152(b)).

§ (7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

§ (8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.

(c) Treaties and other international agreements For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered into by the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.

(d) Membership in international financial institutions and other international organizations

Nothing in this chapter may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.

#### **Sec. 3304. Overseas Private Investment Corporation**

(a) Removal of per capita income restriction on Corporation activities with respect to investment projects on Taiwan During the three-year period beginning on April 10, 1979, the \$1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 2191 of this title shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

(b) Application by Corporation of other criteria Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance <sup>[1]</sup> Corporation shall apply the same criteria as those applicable in other parts of the world.

*[1] Note: So in original. Probably should be "Investment".*

### **Sec. 3305. The American Institute in Taiwan**

#### (a) Conduct of programs, transactions, or other relations with respect to Taiwan

Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through -

§ (1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or

§ (2) such comparable successor nongovernmental entity as the President may designate, (hereafter in this chapter referred to as the "Institute").

#### (b) Agreements or transactions relative to Taiwan entered into, performed, and enforced

Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.

(c) Preemption of laws, rules, regulations, or ordinances of District of Columbia, States, or political subdivisions of States To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or of any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this chapter, such law, rule, regulation, or ordinance shall be deemed to be preempted by this chapter.

### **Sec. 3306. Services to United States citizens on Taiwan**

#### (a) Authorized services

The Institute may authorize any of its employees on Taiwan -

§ (1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

§ (2) To <sup>[1]</sup> act as provisional conservator of the personal estates of deceased United States citizens; and

[1] *Note: So in original. Probably should not be capitalized.*

§ (3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

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

### **Sec. 3307. Exemption from taxation**

(a) United States, State, or local taxes

The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 3310(a)(3) of this title requires the imposition of taxes imposed under chapter 21 of title 26, relating to the Federal Insurance Contributions Act) or by any State or local taxing authority of the United States.

(b) Charitable contributions; transfers for public, charitable, and religious uses; charitable and similar gifts For purposes of title 26, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055 (a), 2106(a)(2)(A), 2522(a), and 2522(b) of title 26.

### **Sec. 3308. Activities of United States Government agencies**

(a) Sale, loans, or lease of property; administrative and technical support functions and services Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Acquisition and acceptance of services Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this chapter, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.



(c) Institute books and records; access; audit Any agency of the United States Government making funds available to the Institute in accordance with this chapter shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

### **Sec. 3309. Taiwan instrumentality**

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

(b) Offices and personnel The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

(c) Privileges and immunities Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

### **Sec. 3310. Employment of United States Government agency personnel**

(a) Separation from Government service; reemployment or reinstatement upon termination of Institute employment; benefits

§ (1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

§ (2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon

termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits with <sup>[1]</sup> the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

*[1] Note: So in original. Probably should be "which".*

§ (3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; programs for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.

§ (4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to April 10, 1979, shall receive the benefits of this section for the period of such service.

(b) Employment of aliens on Taiwan Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Institute employees not deemed United States employees Employees of the

Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section of title 18.

(d) Tax treatment of amounts paid Institute employees

§ (1) For purposes of sections and 913 of title 26, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of title 26.

§ (2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of title 26 and title II of the Social Security Act (42 U.S.C. 401 et seq.).

**Sec. 3310a. Commercial personnel at American Institute of Taiwan** The American Institute of Taiwan shall employ personnel to perform duties similar to those performed by personnel of the United States and Foreign Commercial Service. The number of individuals employed shall be commensurate with the number of United States personnel of the Commercial Service who are permanently assigned to the United States diplomatic mission to South Korea.

**Sec. 3311. Reporting requirements**

(a) Texts of agreements to be transmitted to Congress; secret agreements to be transmitted to Senate Foreign Relations Committee and House Foreign Affairs Committee The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) Agreements For purposes of subsection (a) of this section, the term "agreement" includes -

§ (1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

§ (2) any agreement entered into between the Institute and an agency of the United States Government.

(c) Congressional notification, review, and approval requirements and procedures  
Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

**Sec. 3312. Rules and regulations** The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this chapter. During the three-year period beginning on January 1, 1979, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this chapter.

**Sec. 3313. Congressional oversight**

(a) Monitoring activities of Senate Foreign Relations Committee, House Foreign Affairs Committee, and other Congressional committees The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor -

§ (1) the implementation of the provisions of this chapter;

§ (2) the operation and procedures of the Institute;

§ (3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

§ (4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Committee reports to their respective Houses

Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring

**Sec. 3314. Definitions** For purposes of this chapter -

(1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and

(2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

**Sec. 3315. Authorization of appropriations** In addition to funds otherwise available to carry out the provisions of this chapter, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

**Sec. 3316. Severability** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to any other person or circumstance shall not be affected thereby.