

117TH CONGRESS  
2D SESSION

# H. R. 9700

To clarify the legal basis for the position of the United States on sovereignty over Taiwan and distinguish such position from the People's Republic of China's "one China" principle, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 30, 2022

Mr. CHABOT introduced the following bill; which was referred to the  
Committee on Foreign Affairs

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## A BILL

To clarify the legal basis for the position of the United States on sovereignty over Taiwan and distinguish such position from the People's Republic of China's "one China" principle, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

3        **SECTION 1. SHORT TITLE.**

4        This Act may be cited as the "Taiwan Status Diplo-  
5        macy Act".

6        **SEC. 2. FINDINGS.**

7        Congress finds the following:

1           (1) Taiwan’s indigenous peoples have inhabited  
2 the island for over 6,000 years, with various political  
3 entities exercising control over parts of it until colo-  
4 nial powers conquered increasingly large swaths of  
5 the island by force, beginning in the 17th century.

6           (2) Dutch Formosa (1636–1662) in southern  
7 Taiwan and Spanish Formosa (1626–1642) in  
8 northern Taiwan were the first colonial endeavors  
9 that exercised control over some parts of the island.

10          (3) In 1662, Ming loyalist general Zheng  
11 Chenggong (Koxinga) ended Dutch control in Tai-  
12 wan, and his independent Kingdom of Tungning  
13 ruled parts of the island until it was conquered by  
14 the Manchu Qing Empire in 1683.

15          (4) Qing rule in western Taiwan was undeni-  
16 ably colonial and Taiwan was not considered a tradi-  
17 tional province of China, becoming a province of the  
18 Qing Empire for merely 10 years beginning in 1885,  
19 and lasting until 1895.

20          (5) On April 17, 1895, the Manchu Qing Em-  
21 pire signed the Treaty of Shimonoseki with the Jap-  
22 anese Empire and agree to cede “to Japan in per-  
23 petuity and full sovereignty . . . the island of For-  
24 mosa, together with all islands appertaining or be-

1       longing to the said island of Formosa . . . [and] the  
2       Pescadores Group”.

3           (6) No colonial power can claim historical  
4       rights to sovereignty over Taiwan as several colonial  
5       powers have successively administered the island  
6       from the 17th through the 20th century.

7           (7) During the 1920s and 1930s, Chinese  
8       geographers and political figures generally consid-  
9       ered Taiwan to be outside of China’s national terri-  
10      tory, as is evidenced by the Chinese Communist Par-  
11      ty’s declaration of war against Japan in December  
12      1941, which listed the people of Taiwan separately  
13      from the Chinese.

14          (8) On July 16, 1936, in an interview with  
15      American journalist Edgar Snow, Mao Zedong stat-  
16      ed, “it is the immediate task of China to regain all  
17      our lost territories, not merely to defend our sov-  
18      ereignty below the Great Wall. This means that  
19      Manchuria must be regained. We do not, however,  
20      include Korea, formerly a Chinese colony, but when  
21      we have re-established the independence of the lost  
22      territories of China, and if the Koreans wish to  
23      break away from the chains of Japanese impe-  
24      rialism, we will extend them our enthusiastic help in

1 their struggle for independence. The same thing ap-  
2 plies to Formosa”.

3 (9) The Cairo and Potsdam Declarations are le-  
4 gally nonbinding statements of intent regarding  
5 postwar control over Taiwan by the Republic of  
6 China (ROC), that do not make any transfer of sov-  
7 ereignty over Taiwan.

8 (10) On August 17, 1945, Supreme Com-  
9 mander for the Allied Powers, General Douglas Mac-  
10 Arthur, issued General Order No. 1, listing the is-  
11 land of Formosa as a separate entity from China.

12 (11) On June 27, 1950, President Harry Tru-  
13 man declared that “the occupation of Formosa by  
14 Communist forces would be a direct threat to the se-  
15 curity of the Pacific area and to United States  
16 forces performing their lawful and necessary func-  
17 tions in that area” and added, “the determination of  
18 the future status of Formosa must await the res-  
19 toration of security in the Pacific, a peace settlement  
20 with Japan, or consideration by the United Na-  
21 tions”.

22 (12) The Treaty of Peace with Japan done in  
23 San Francisco, California, on September 8, 1951,  
24 and signed by Japan along with 48 nations, remains  
25 the only legally binding agreement on Taiwan’s ter-

1        ritorial disposition in force today and states that  
2        “Japan renounces all right, title, and claim to For-  
3        mosa and the Pescadores”, but did not transfer sov-  
4        ereignty to any other party or country.

5            (13) The Treaty of Peace between the ROC and  
6        Japan, done at Taipei, Taiwan, on April 28, 1952,  
7        “recognizes” Japan’s renunciation of its claims to  
8        Taiwan, but does not transfer sovereignty over the  
9        island to the ROC.

10           (14) On February 3, 1961, the State Depart-  
11        ment’s Legal Adviser for Far Eastern Affairs, John  
12        J. Czyzak, produced a legal memo which states, “the  
13        most tenable theory regarding the status of Formosa  
14        and the Pescadores is that sovereignty over the is-  
15        lands has not yet been finally determined . . . Be-  
16        cause of differences among the Allied Powers as to  
17        who represented China, no agreement on the dispo-  
18        sition of Formosa and the Pescadores could be  
19        reached in the Japanese Peace Treaty. That the San  
20        Francisco Peace Treaty was intended to divest  
21        Japan of its sovereignty over the islands without  
22        transferring that sovereignty to any other country is  
23        abundantly clear from the record. There does not  
24        appear to have occurred anything subsequent to the

1 Peace Treaty which can be said to have effected a  
2 transfer of that sovereignty”.

3 (15) The People’s Republic of China (PRC)  
4 claims sovereignty over Taiwan as flowing from its  
5 sovereignty over “China” and PRC officials rou-  
6 tinely state the PRC’s “one China” principle as,  
7 “There is only one China in the world. The Govern-  
8 ment of the People’s Republic of China is the sole  
9 legal government representing the whole of China,  
10 and Taiwan is an inalienable part of China’s terri-  
11 tory”.

12 (16) As the PRC has grown increasingly con-  
13 fident, it has increasingly sought to actively assert  
14 its “one China” principle over any other position on  
15 Taiwan’s legal status, including over the position of  
16 the United States, by waging a global campaign to  
17 persuade or force governments, international organi-  
18 zations, private corporations, and individuals to refer  
19 to Taiwan as a part of China.

20 (17) Since the PRC won the Chinese civil war,  
21 it has sought to delegatize Taiwan and isolate it  
22 from participation in the international community  
23 and international organizations.

24 (18) United Nations General Assembly Resolu-  
25 tion 2758 (1971) recognized the PRC as the rightful

1 Government of “China” without defining its geo-  
2 graphical boundaries or making mention of Taiwan  
3 under any name. However, due to PRC influence ef-  
4 forts, the United Nations has routinely and erro-  
5 neously interpreted the resolution by referring to  
6 Taiwan as “Taiwan, Province of China”, presuming  
7 resolution of Taiwan’s status.

8 (19) Taiwan has transitioned into a fully func-  
9 tioning democracy since 1996, when the island held  
10 its first direct Presidential election.

11 (20) In contrast, the Chinese Communist Party  
12 has prevented the people of the PRC from devel-  
13 oping a representative democracy.

14 (21) An overwhelming majority of the people of  
15 Taiwan favor the status quo in the Taiwan Strait,  
16 in which Taiwan is not part of the PRC.

17 (22) In the 3 Communiqués with the PRC  
18 issued in 1972, 1979, and 1982, the United States  
19 withheld recognition of the PRC’s territorial claims  
20 on Taiwan merely acknowledging, without affirming,  
21 the “Chinese” position that there is one China and  
22 Taiwan is part of China’s territory.

23 (23) A State Department memorandum titled  
24 “International Documents of a Non-Binding Char-  
25 acter” references the Shanghai Communiqué (1972)

1 as a statement of policy, not an international legally  
2 binding commitment.

3 (24) On January 1, 1979, the United States  
4 recognized the People’s Republic of China as the le-  
5 gitimate Government of “China” while leaving the  
6 country’s territory undefined.

7 (25) On April 10, 1979, the Taiwan Relations  
8 Act (Public Law 96–8) was enacted into law and es-  
9 tablished the policy of the United States to—

10 (A) “preserve and promote extensive, close,  
11 and friendly commercial, cultural, and other re-  
12 lations between the people of the United States  
13 and the people on Taiwan, as well as the people  
14 on the China mainland and all other peoples of  
15 the Western Pacific area”;

16 (B) “declare that peace and stability in the  
17 area are in the political, security, and economic  
18 interests of the United States, and are matters  
19 of international concern”;

20 (C) “make clear that the United States de-  
21 cision to establish diplomatic relations with the  
22 People’s Republic of China rests upon the ex-  
23 pectation that the future of Taiwan will be de-  
24 termined by peaceful means”;



1 (D) “consider any effort to determine the  
2 future of Taiwan by other than peaceful means,  
3 including by boycotts or embargoes, a threat to  
4 the peace and security of the Western Pacific  
5 area and of grave concern to the United  
6 States”;

7 (E) “provide Taiwan with arms of a defen-  
8 sive character”; and

9 (F) “maintain the capacity of the United  
10 States to resist any resort to force or other  
11 forms of coercion that would jeopardize the se-  
12 curity, or the social or economic system, of the  
13 people on Taiwan”.

14 (26) On July 14, 1982, President Ronald  
15 Reagan instructed his representative in Taiwan,  
16 American Institute in Taiwan Director James R.  
17 Lilley, to relay a set of assurances, which have be-  
18 come known as the Six Assurances, to Taiwan’s  
19 then-President Chiang Ching-kuo including the as-  
20 surance that the United States “has not altered its  
21 position regarding sovereignty over Taiwan”.

22 (27) In 2016, the House of Representatives and  
23 the Senate passed H. Con. Res. 88 and S. Con. Res.  
24 38, respectively, which reaffirm the Taiwan Rela-

1 tions Act and the Six Assurances as cornerstones of  
2 the United States-Taiwan relations.

3 (28) On authority of the President and without  
4 codified endorsement from Congress, the United  
5 States maintains a policy regarding the status of  
6 Taiwan, that is called its “one China” policy, under  
7 which the United States recognizes the People’s Re-  
8 public of China as the Government of “China” and  
9 under which the United States takes the position  
10 that Taiwan’s legal status has not been determined  
11 and takes no position on the future status of Tai-  
12 wan.

13 (29) The “one China” policy of the United  
14 States is not the PRC’s “one China” principle.

15 (30) The “one China” policy of the United  
16 States was originally developed in a Cold War con-  
17 text as an expedient to serve Cold War purposes and  
18 has not been updated to reflect changing conditions,  
19 the clear trend of history toward increasing democ-  
20 racy especially after the fall of the Soviet Union, or  
21 the democratic development of Taiwan’s polity.

22 (31) The PRC’s “one China” principle does not  
23 reflect the objective state of affairs that the Govern-  
24 ment of Taiwan represents a self-governing democ-  
25 racy of 23,600,000 people.

1           (32) Unlike other colonies held by imperial pow-  
2           ers, and against the clear historical trend to grant  
3           colonies independence, the universal right to self-de-  
4           termination of the people of Taiwan have not been  
5           broadly considered by the international community.

6           (33) Neither the PRC’s “one China” principle  
7           nor the “one China” policy of the United States re-  
8           flect the objective state of affairs that the Govern-  
9           ment of Taiwan has attained a high degree of legit-  
10          imacy and administers the territory under its control  
11          in the manner of a sovereign state and with the at-  
12          tributes of sovereignty such as exclusive legal juris-  
13          diction, the printing of currency, the maintenance of  
14          armed forces, customs administration, and the con-  
15          duct of foreign policy.

16          (34) The United States is a party to the Con-  
17          vention on the Rights and Duties of States done at  
18          Montevideo, Uruguay, on December 26, 1933, and  
19          Taiwan meets all 4 criteria of statehood laid down  
20          therein, namely a permanent population, a defined  
21          territory, a government, and the capacity to enter  
22          into relations with other states.

23 **SEC. 3. SENSE OF CONGRESS.**

24          It is the sense of Congress that—

1           (1) while the PRC claims sovereignty over Tai-  
2 wan, the “one China” policy of the United States  
3 does not recognize that Taiwan is part of China;

4           (2) persistent concerns regarding the impact on  
5 United States-China relations have prevented the  
6 United States from engaging in meaningful outreach  
7 to partners and allies with respect to the legal status  
8 of Taiwan, allowing the Chinese Communist Party  
9 to monopolize the information space and push its  
10 baseless “one China” principle;

11           (3) the effectiveness of the Chinese Communist  
12 Party’s information campaigns regarding sovereignty  
13 over Taiwan jeopardizes peace and stability in the  
14 Taiwan Strait by preparing the information environ-  
15 ment for the use of military force to annex Taiwan  
16 to the PRC;

17           (4) the position of the United States on the  
18 legal status of sovereignty over Taiwan is often pre-  
19 sented in a manner so nuanced as to be confusing  
20 in public discourse and prohibitive toward explaining  
21 the interests of the United States in Taiwan’s con-  
22 tinued peaceful evolution; and

23           (5) officials of the United States should seek to  
24 distinguish the “one China” policy from the PRC’s  
25 “one China” principle.

1 **SEC. 4. POLICY.**

2 It is the policy of the United States to—

3 (1) make clear through public and private diplo-  
4 macy the legal case for its position on Taiwan's sta-  
5 tus;

6 (2) call on the PRC Government to refrain  
7 from erroneously conflating the “one China” policy  
8 of the United States with its “one China” principle  
9 in public messaging; and

10 (3) call on the United Nations to accurately in-  
11 terpret United Nations General Assembly Resolution  
12 2758 and not erroneously infer resolution of Tai-  
13 wan's status.

14 **SEC. 5. LEGAL OPINION REGARDING TAIWAN'S STATUS.**

15 (a) IN GENERAL.—Not later than 180 days after the  
16 date of enactment of this Act, the Secretary of State shall  
17 issue a legal opinion detailing the reasoning supporting  
18 the position of the United States regarding the inter-  
19 national status of sovereignty over Taiwan and its non-  
20 recognition of the PRC's territorial claim over Taiwan.

21 (b) SUMMARY.—In addition to the legal opinion de-  
22 scribed in subsection (a), the Secretary shall issue a  
23 memorandum that summarizes such opinion in not more  
24 than 1,200 words.

25 (c) CONSULTATION.—Before issuing the legal opinion  
26 described in subsection (a), the Secretary of State shall

1 consult with the House Committee on Foreign Affairs and  
2 the Senate Committee on Foreign Relations on its con-  
3 tents.

4 (d) PUBLICATION.—The documents listed in sub-  
5 sections (a) and (b) shall be published on a publicly avail-  
6 able, Department of State internet website.

7 **SEC. 6. DIPLOMACY REGARDING TAIWAN'S STATUS.**

8 (a) IN GENERAL.—The Secretary of State, acting  
9 through subordinate officers as appropriate, shall conduct  
10 diplomatic efforts to inform and persuade countries of the  
11 legal reasoning supporting the position of the United  
12 States regarding—

13 (1) Taiwan's status;

14 (2) the nonrecognition of the PRC's territorial  
15 claim over Taiwan;

16 (3) where appropriate, the PRC's use of  
17 ethnonationalism to justify its claims to Taiwan; and

18 (4) the meaning and history of United Nations  
19 General Assembly Resolution 2758 and its subordi-  
20 nate resolutions throughout the system of the  
21 United Nations and the PRC's efforts to distort  
22 such meaning and history.

23 (b) REPORT.—

24 (1) IN GENERAL.—Not later than one year  
25 after the date of enactment of this Act, the Sec-

1       retary of State shall submit to the appropriate con-  
2       gressional committees a report describing the diplo-  
3       matic efforts carried out pursuant to subsection (a).

4               (2) ELEMENTS.—The report required by para-  
5       graph (1) shall include the following:

6               (A) A description of the lines of effort used  
7       to conduct the diplomatic activities carried out  
8       pursuant to subsection (a).

9               (B) A list of states contacted as part of  
10      such activities, with a special emphasis on coun-  
11      tries in the Indo-Pacific.

12              (C) An assessment of the effectiveness of  
13      such activities.

14              (3) FORM.—The report required by paragraph  
15      (1) shall be issued in a classified form, but may con-  
16      tain an unclassified annex, if appropriate.

17              (4) APPROPRIATE CONGRESSIONAL COMMIT-  
18      TEES DEFINED.—In this subsection, the term “ap-  
19      propriate congressional committees” includes the  
20      Committee on Foreign Affairs of the House of Rep-  
21      resentatives and the Committee on Foreign Rela-  
22      tions of the Senate.

23 **SEC. 7. MAPS DEPICTING TAIWAN.**

24       Not later than 15 days after the date of enactment  
25      of this Act, the Secretary of State, acting through the Ge-

1 ographer of the Department of State, shall issue guidance  
2 to reconcile with United States policy guidelines on the  
3 procurement and production of maps that depict Taiwan  
4 by prohibiting such procurement and production of maps  
5 which depict Taiwan to be sovereign territory of the Peo-  
6 ple's Republic of China.

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