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***SPECIAL COMMENTARY:  
CURRENT STATUS OF U.S.-TAIWAN BILATERAL RELATIONS  
December 13, 2023***

***Rupert Hammond-Chambers  
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U.S.-Taiwan relations have remained at the forefront of American policy considerations throughout 2023. The U.S. relationship with Taiwan touches on many issues, including defense, technology policy, the defense and promotion of democracy, and the overall China de-risking process – now well underway. Over the last year, the Biden Administration has sought myriad ways to fortify bilateral ties while partnering with Taiwan to promote core U.S. goals.

***Momentum on Trade***

The launch of the Indo-Pacific Economic Framework (IPEF) in 2022 was likely as much ambition on trade as the present political environment in the U.S. will allow. Yet IPEF did not include Taiwan, so the Biden Administration had to be creative in including Taiwan in their efforts. That resulted in the *U.S.-Taiwan Initiative on 21st Century Trade*, launched in June 2022. The negotiations for this bilateral trade agreement are conducted through the American Institute in Taiwan (AIT) on behalf of the Office of the United States Trade Representative (USTR) for the U.S. and the Taipei Economic & Cultural Representative Office (TECRO) on behalf of the Office of Trade Negotiation (OTN) for Taiwan.

Work on the initiative has split into phases, and on June 1, 2023 – a mere year after the launch of negotiations – the two sides signed the Phase 1 agreement. This phase covered customs administration and trade facilitation, good regulatory practices, services domestic regulation, anticorruption, and small- and medium-sized enterprises. The U.S. and Taiwan are currently working through their respective internal processes to operationalize the Phase 1 agreement.

Phase 2 negotiations were launched on August 14, 2023, covering agriculture, labor, and the environment. There is no deadline given for concluding this portion of the negotiations. It is worth noting that it will likely take longer than the first phase, given the complexities of the subject matter.

There is strong bipartisan consensus in the U.S. Congress on supporting U.S.-Taiwan trade ties. However, Congress appears to feel that the executive branch got too far out front on trade with Taiwan. They responded by drafting and passing H.R. 4004, the *United States-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act* signed by President Biden on August 7, 2023. The Act sets a requirement for Congressional oversight of future negotiations.

The overall optics of U.S.-Taiwan trade and economic relations remain positive. The Economic Prosperity Partnership Dialogue (EPPD) at the U.S. Department of State, the Technology, Trade & Investment Collaboration (TTIC) platform at the U.S. Department of Commerce, and the Trade & Investment Framework Agreement (TIFA) at USTR all have momentum, albeit at different intensity levels.

***Avoidance of Double Taxation***

The biggest potential win for the U.S.-Taiwan economic partnership currently considered in Congress is the prospect of a bilateral tax agreement. The primary aim is to address double taxation, as avoidance of double taxation would encourage



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inbound investment from Taiwan – particularly in the semiconductor sector. Capitol Hill has been active on this issue, with several committees drafting legislation.

In late November, Congress combined two Senate bills – the *United States-Taiwan Expedited Double-Tax Relief Act* (S. 3084, Finance Committee) and the *Taiwan Tax Agreement Act of 2023* (S. 1457, Foreign Relations Committee). The House Ways & Means Committee passed the combined bill (as H.R. 5988, with the Senate language substituted into the original House double-taxation bill) on a 40-0 vote, demonstrating how deeply support for Taiwan and for America’s neo-industrial technology policy runs in Congress. The legislation received swift and immediate bipartisan support from the U.S. Senate Committee on Finance. It remains unclear, however, when this bill could pass, and it might be caught up in broader tax legislation under consideration.

If this bill becomes law, it would represent the most significant development in bilateral economic relations since Taiwan acceded to the World Trade Organization (WTO) in 2002. The Council remains engaged on this issue both publicly and with our members and others. The Council released a “[Special Commentary](#)” on this tax opportunity on October 25, 2023.

### ***Defense Relations – No Stone Left Unturned?***

There was an extraordinary array of efforts in 2023 to accelerate U.S. security assistance to Taiwan. The Biden Administration worked with Congress to exercise Presidential Drawdown Authority (PDA), allowing the U.S. to deliver materials to Taiwan at a far faster timeframe than available during the regular Foreign Military Sales (FMS) process. Congress approved up to US\$1 billion in PDA for Taiwan in the fiscal year, with an initial tranche of US\$345 million announced on July 28, 2023. While details for the first tranche are not available, the bulk of the money is likely to cover munitions already in U.S. inventories.

The U.S. is successfully using PDA to expedite delivery of critical weapons to Ukraine while refreshing stocks for the U.S. military. The elevation of Taiwan into the PDA-recipient category has resulted in practical deliverables supporting Taiwan defense. It also sends a political message from the President and Congress about the importance of the escalating threat toward Taiwan and the U.S. urgency to address that threat.

Four FMS cases were published in calendar year 2023, primarily covering sustainment and munitions. These two areas have been the primary focus of the Biden Administration’s material support for the island. In the spring of 2022, the Council wrote to the U.S. Department of State to raise our concerns over the narrow nature of U.S. material support – centered on a D-Day style attack and the so-called asymmetric approach in response. At the time, we were one of few voices raising concerns over the narrowness of this approach and the need to also consider blockade and grey zone activities. Thankfully, it appears the boundaries around U.S. material support for Taiwan are now on the move.

On August 23, 2023, the U.S. Department of State notified Congress of an arms sale of infrared search and track systems (IRST) for Taiwan’s F-16 fighter jets. This new capability for Taiwan will greatly help police grey-zone incursions. Additionally, at the Council’s 2023 Defense Industry Conference both the State Department speaker Mira Resnick and the Defense Department speaker Jed Royal framed a broader assessment of the threat to Taiwan, along with the consequent response by the U.S. necessary to meet that threat.

In the spring of 2023, recently retired Marine Corps General Steve Rudder led a Council delegation of 35 defense executives to Taiwan for four days of intense meetings and engagement on Taiwan’s domestic defense industry programs. Taiwan’s domestic defense industry is growing, and all political parties prioritize domestic development and production of weapons.



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That creates significant opportunities for small American defense and aerospace companies to provide subsystems and technology for Taiwan programs.

In the autumn of 2023, we hosted our 22<sup>nd</sup> annual *U.S.-Taiwan Defense Industry Conference* in Williamsburg, Virginia. It was the largest defense conference we have hosted to date, with over 200 attendees – including a Taiwan delegation of over 30 military officers and government officials. The Biden Administration offered strong support from the Departments of State and Defense, and our defense committee meeting on the sidelines of the event reaped important insights and new areas for cooperation.

### ***The Elections – Change is Afoot***

Taiwan will hold its Presidential and Legislative Yuan (LY) elections on January 13, 2024. After eight years of one-party rule in both, Taiwan voters will likely seek a different make-up of island-wide control in 2024.

Taiwan's Election Commission closed registrations on November 24, 2023, after approving three tickets for the Presidential election. Current Vice President Lai Ching-te, with his running mate the former U.S. Ambassador and Legislator Hsiao Bi-khim, stands for the incumbent Democratic Progressive Party (DPP). New Taipei City Mayor Hou You-yi, with his Vice Presidential candidate television personality and party activist Jaw Shaw-kong, represent the Kuomintang (KMT). Finally, the Taiwan People's Party (TPP) will field its founder and former Taipei City Mayor Ko Wen-je, with running mate Legislator Wu Hsin-ying (Cynthia Wu). Gou Tai-ming (Terry Guo), the former Foxconn founder and CEO, withdrew from the race after gaining enough signatures to run an independent campaign but ultimately deciding not to do so.

Throughout the summer and into the autumn of 2023, the KMT and TPP made significant efforts to run a unified ticket to oust the DPP from the presidency. After numerous meetings, the two parties only managed to commit to cooperating on legislative seats. Ultimately, the two sides abandoned the effort after final negotiations on Thursday, November 23, 2023 collapsed in finger-pointing and anger in front of the Taiwan political press corps during a live broadcast.

Lai is presently holding a steady lead over Hou in the polling, with Ko coming in third. The two major parties, the DPP and the KMT, have completed consolidation of their respective bases. The election is now poised to complete its final phase: addressing a series of issues that will include relations with China, relations with the U.S., energy policy, and the cost-of-living crisis – particularly the lack of access to affordable housing in metropolitan areas, which is hitting young people especially hard.

Lai's primary headwinds are twofold. First, he represents an incumbent party that is showing fatigue both when it comes to governance and to popular support, even though current leader President Tsai remains popular. Any action taken by Tsai's government, where Lai remains Vice President, will affect voter assessments of his candidacy. Second, the KMT and China are both mounting a campaign to lay responsibility for rising cross-Strait tensions at the feet of the DPP. The DPP's insistence on engagement with China without preconditions clashes with the KMT and Chinese Communist Party's view that there is only one China of which Taiwan is a part. China paints Lai as a troublemaker, and that message resonates in some quarters of Taiwan and in parts of the U.S. government.

For the KMT, a primary challenge remains persuading enough Taiwan voters that they are not an extension of China. While a majority of Taiwan citizens support the status quo, that position primarily rests on remaining separate from Chinese Communist Party (CCP) control. Couple that with China's coercive military, economic, and political attitudes toward Taiwan, and it is hard to argue that they would be a desirable partner. Hou is a moderate KMT politician, more in line with concerns



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over proximity to China both literally and politically. However, both party heavyweight former Taiwan President Ma Ying-jeou and Hou's Vice Presidential partner Jaw have aimed the party squarely toward rapid re-engagement with Beijing should the KMT take the presidency.

While the TPP's Ko has fallen away as a leading presidential candidate, he still aspires to establish his party as a viable third option in the long term. His chances of winning on January 13 are slim to none. However, the TPP may be able to garner enough legislative seats to play king-maker in a legislature without a majority party.

Taiwan's legislature has 113 seats, requiring 57 seats to control the chamber. Legislators are elected through two primary mechanisms 1) direct election from a district on the island and 2) the At-Large list based on the party vote that citizens make when selecting candidates. The higher the national party-vote, the more At-Large seats are allocated to your party. The DPP will likely remain the largest party in the LY, but they will probably fall short of a 57-seat majority. This puts control of the chamber into play.

Since the KMT and TPP have agreed to cooperate in pursuit of legislative seats, the KMT is in the pole position to work out a power-sharing agreement with the TPP. The only complication is how their presidential candidates' efforts to cooperate collapsed in public acrimony. The collapse left strains between the two parties, and could create an opening for the DPP to attempt cooperation with the TPP instead.

### ***Predictions & Impact on the United States***

The DPP's Lai will likely win the presidency, and the KMT and TPP will likely ally to run the legislature. We have not seen a split party rule like this since the DPP's Chen Shui-bian ran Taiwan from 2000-2008.

In many areas of Taiwan public policy, there are no major differences between the three main parties. We can expect domestic support for industry and businesses to remain consistent. We can also expect a continued focus on efforts to pull away from Taiwan's global competitors in leading-edge chip manufacturing. The U.S. relationship will remain of importance for Taiwan.

If the Presidency and the LY are split, however, there will likely be several areas of disagreement.

#### ***1. Energy Policy***

Taiwan's surplus energy capacity rate remains too low. With the economy barely growing and the technology cycle at its lowest growth pace, annual energy consumption is in a trough as Taiwan goes to the polls. This situation allows the DPP to state that their energy policy – growth in renewables, growth in LNG consumption, and closing the two remaining nuclear power plants – is allowing Taiwan to head in the right direction. However, the premature closing of Taiwan's nuclear power plants will deprive the grid of an important and reliable energy source – one that underpins the irregular production of renewables. The DPP wants the nuclear power stations closed in 2024 and 2025, while the KMT and TPP oppose this action. The ripple effect of this debate will likely impact Taiwan's overall energy policy.

#### ***2. China Trade Policy***

The 2011 Economic Cooperation Framework Agreement (ECFA) with China remains in place for several hundred goods that enjoy tariff-free passage across the Taiwan Strait. The DPP government does not support expanding ECFA, while the KMT



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and TPP do. When the then-KMT government of Ma Ying-jeou tried to pass an associated Trade in Services Agreement in 2014, it ultimately resulted in political upheaval and a month-long physical occupation of the LY by students and others opposed to closer economic ties with China. Ma's government never recovered to the end of his presidency in May 2016. The KMT and TPP have said that they are committed to re-considering the services agreement under ECFA, which could bring significant squabbling between them and the DPP over trade policy – both parochially and over the overall economic relationship with China.

### **3. Defense Spending**

The KMT and the TPP take the position that current tensions in the Taiwan Strait are partly the fault of the DPP. They say that the DPP's refusal to embrace the so-called 1992 consensus on one China has resulted in Beijing's refusal to talk to President Tsai throughout her presidency. The KMT has argued that deepened U.S.-Taiwan military relations can be a force for instability and that the primary path to better relations is to agree to the 1992 consensus and talk to China. The view is that if there is cross-Strait engagement, tensions would dissipate and there would be less need for increases in Taiwan's defense spending. The LY controls Taiwan's purse strings, and controlling the LY would give the KMT and TPP tremendous capacity to reduce the funds made available to the Taiwan Ministry of National Defense.

Any drops in Taiwan defense spending, or even just a flattening of the growth curve, will meet steely indignation from both Republicans and Democrats in the U.S. We have seen this dynamic before, in 2003-2005 when the KMT's legislative caucus blocked over 70 attempts to pass a special defense budget. At the Council's 2004 Defense Industry Conference, the then Deputy Under Secretary for Defense Richard Lawless questioned how the United States could take the defense of Taiwan more seriously than Taiwan itself.

In an era where U.S. policy in the Indo-Pacific centers on responding to China's destabilizing force modernization and military activity, the substance and optics of negligible or declining growth in Taiwan's defense spending can appear as a provocation by Washington. The only winner in this standoff is Beijing.

We are now in the final months of completing a remarkably stable, successful, and synergistic period in U.S.-Taiwan relations. President Tsai's leadership and the governments of Mr. Trump and Mr. Biden have re-calibrated Taiwan relations after years of accommodating China during the Bush and Obama presidencies. On the back of that re-calibration, we have built real momentum in all aspects of our relationship.

This status quo is expected to change after January 13 next year. A split in government on the island – along with China arguing that Taiwan's democratic political system and its outcomes are a provocation and then responding to that provocation – is likely to make for a bumpy ride.

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