

CRS Report for Congress

Taiwan-U.S. Relations: Recent Developments and Their Policy Implications

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Summary

U.S.-Taiwan relations have undergone important changes, sparked in part by the increasing complexity of Taiwan's democratic political environment and the continued insistence of Beijing that the separately ruled Taiwan is a part of the People's Republic of China (PRC). Taiwan President Ma Ying-jeou, elected on March 22, 2008, in a surprisingly broad electoral victory, has moved quickly to repair Taiwan's relations with the PRC. Since President Ma assumed office on May 20, 2008, Taiwan-PRC talks have resumed for the first time since 1998. The first set of talks resulted in establishment of regular direct weekend charter flights. Taiwan also has made other concessions, such as lifting long-standing caps on Taiwan investment in the PRC and giving a lower profile to Taiwan's bids for participation in U.N. specialized agencies. Opponents of the government's plans have said that President Ma's moves to improve cross-strait relations have been too rapid, too unilateral, and have placed Taiwan's economic security in jeopardy.

President Ma also has sought to address any annoyances in Taiwan-U.S. relations arising from the former Chen Administration. Throughout his tenure from 2000-2008, President Chen Shui-bian, a member of the Democratic Progressive Party (DPP), pursued the provocative position that Taiwan already "is an independent, sovereign country." This position was highly objectionable to Beijing and problematic for many aspects of U.S. policy, which is based on vague "one-China" policy formulations. Term-limited, Chen was required to step down in May 2008. Since then he has been fighting a growing financial scandal that erupted during his presidency involving allegations of money-laundering and corruption by his administration and members of his family.

In addition to its U.N. bid, the Taiwan government also is seeking to raise its international profile in other ways involving the United States. Taiwan is seeking to be removed from the U.S. Special 301 "Watch List" (its inclusion connotes problems with intellectual property rights, or IPR) by making significant IPR improvements. It also is seeking to qualify for the U.S. Visa Waiver Program (VWP), which eliminates some visa requirements for qualified countries. The Taiwan government also continues to place a high priority on obtaining a U.S.-Taiwan Free Trade Agreement (FTA); U.S.-Taiwan trade discussions to date have been held under a 1994 Trade and Investment Framework (TIFA).

The 110th Congress has been concerned with bolstering U.S. support for Taiwan and helping to improve Taiwan's international position. Relevant legislation on Taiwan includes: H.R. 2764 (P.L. 110-161); H.R. 1390; H.R. 3912/S. 1565; H.Con.Res. 73; H.Con.Res. 136; H.Con.Res. 137; H.Con.Res. 170; H.Con.Res. 250; S.Con.Res. 48; and S.Con.Res. 60. This report will be updated as events warrant.

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Most Recent Developments

September 22, 2008 — In the wake of the contaminated milk scandal in China, Taiwan's Health Ministry warned consumers against buying non-dairy creamers made in the mainland — the source of an estimated 29% of Taiwan's non-dairy creamer imports. According to Taiwan's Straits Exchange Foundation (SEF), Taiwan has imported no liquid milk from China.

September 19, 2008 — Facing PRC objections, a United Nations subcommittee decided not to include Taiwan's latest bid for "meaningful participation" in the U.N. on the agenda of the 63rd General Assembly.

September 8, 2008 — Taiwan announced that it would cancel the live-fire exercise portion of its annual five-day military exercises in deference to warming ties between Taiwan and the PRC.

August 27, 2008 — The Pentagon issued a memorandum announcing the sale to Taiwan of 58 Harpoon missiles as well as related support, logistics, and training equipment, worth an estimated \$101 million.

August 18, 2008 — Prosecutors in Taiwan named five members of former President Chen's family as suspects in an alleged money laundering scheme.

August 14, 2008 — Former Taiwan President Chen Shui-bian publicly admitted failing to fully declare campaign funds and said his wife had wired millions of dollars overseas without his knowledge.

Background and Analysis

Once a U.S. World War II ally, the Republic of China (ROC) government, now located on Taiwan, remains a key U.S. foreign policy issue. With sovereignty over the island also claimed by the People's Republic of China (PRC), official U.S. relations with Taiwan became a necessary casualty of the 1979 American decision to establish diplomatic relations with the communist PRC government as the sole legitimate government of all China. Since then, absent formal diplomatic relations, the United States still has maintained substantial economic and security relationships

with Taiwan, including the sale of defensive military weapons and services.¹ But continuing political transformations in both the PRC and Taiwan since 1979 mean that U.S. policymakers are facing a different set of complex policy choices with each new Taiwan government.

This report focuses on current developments in Taiwan, analyzing how those developments are affecting choices the United States makes about its policy toward Taiwan specifically and toward the PRC more broadly. Other CRS reports provide more details about the myriad historical complexities of Taiwan's current situation in U.S. policy, such as: historical background about how the ROC on Taiwan went from a U.S. ally to a government with no diplomatic U.S. relations, including the fundamentals governing U.S. policy toward Taiwan today (CRS Report RS22388, *Taiwan's Political Status: Historical Background and Ongoing Implications*); the increase in U.S.-Taiwan tensions under the former administration of President Chen Shui-bian (CRS Report RL33684, *Underlying Strains in U.S.-Taiwan Political Relations*); the 2008 elections in Taiwan (CRS Report RS22853, *Taiwan's 2008 Presidential Election*), all by Kerry Dumbaugh, and the subtle and complicated permutations of the "one-China" policy over three decades and its role in U.S. policy (CRS Report RL30341, *China/Taiwan: Evolution of the "One China" Policy—Key Statements from Washington, Beijing, and Taipei*), by Shirley A. Kan.

Brief Historical Background to Taiwan's Political Landscape

With the victory of Mao Tse-tung and his Communist Party military forces on mainland China in 1949, the remnants of the government of the Republic of China (ROC), America's former World War II ally led by Chiang Kai-shek, fled to the island of Taiwan off the south China coast. For the next thirty years, the United States continued officially to recognize Taiwan while both regimes — the ROC on Taiwan and the People's Republic of China (PRC) on the mainland — claimed legitimacy as the sole legal government of the Chinese people.

Official U.S. relations with Taiwan became a casualty of the American decision in 1979 to recognize the communist government of the People's Republic of China (PRC) as China's sole legitimate government. Since then, U.S. unofficial relations with Taiwan have been built on the framework of the Taiwan Relations Act (P.L. 96-8) and shaped by three U.S.-China communiques. Under these agreements, the United States maintains its official relations with the PRC while selling Taiwan military weapons and having extensive economic, political, and security interests there. But continuing transformations in both the PRC and Taiwan political systems mean U.S. officials have continued to face new and difficult policy choices.

Political Pluralization. Until the mid-1980s, Taiwan had a one-party system in which Chiang Kai-shek's authoritarian Nationalist Party (KMT) ruled under martial law. The KMT permitted no political opposition and held no democratic elections. In 1986, the party began to liberalize, allowing the formation of opposition parties, including the Democratic Progressive Party (DPP), a party whose platform

¹ U.S. weapons sales to Taiwan are governed by Section 2 and Section 3(b) of the Taiwan Relations Act, P.L. 96-8: 22 U.S.C., Chapter 48, Sections 3301-3316.

advocated Taiwan independence from China. The KMT government also ended martial law (in 1987), and for the first time opened government positions to native “Taiwanese” — the 85% of the island’s population who predated the influx of the two million “mainlanders” fleeing civil war in China. In the 1980s, members of the ROC legislature on Taiwan, elected on mainland China over 40 years earlier, were asked to retire, and a new, streamlined legislature was elected in 1992.

In 1996, Taiwan held its first direct presidential election, which was won by KMT leader Lee Teng-hui, himself a native Taiwanese. During his presidency, Lee increasingly distanced himself from his party’s long-standing position that there was only “one China” and that Taiwan was part of it. This posed complications for one of the fundamental tenets on which U.S. relations with the PRC were based — the statement that “The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain that there is but one China and that Taiwan is a part of China.”²

The uninterrupted KMT dynasty on Taiwan finally was broken on March 18, 2000, when DPP candidate Chen Shui-bian won the presidency with only 39% of the popular vote in a three-way race. The victory was a stunning defeat for the KMT and its unbroken 50-year tenure in power on Taiwan. By the narrowest of margins, President Chen was elected to a second (and final) term in March 2004, winning by only 29,518 votes out of a reported 13.25 million votes cast.³ The KMT’s fall from political dominance was compounded in two subsequent legislative elections in December 2001 and December 2004. By 2004, the struggling party saw its majority of 115 seats in the 225-member Legislative Yuan (LY) cut to just 79.⁴

With neither the DPP nor the KMT having a working majority, each formed coalitions with smaller parties to gain strength. As President, Chen Shui-bian presided over a “Pan-Green” coalition composed of his DPP party and the Taiwan Solidarity Union; it was opposed by the “pan-Blue” coalition of the KMT and the People First Party (PFP), which together retained the barest control of Taiwan’s 225-member legislature. Since the two opposing coalitions had very different political ideologies and roughly equal political strength, this split government created significant gridlock in Taiwan’s political arena and thus difficult political realities for U.S. policymakers throughout Chen’s tenure.

² This particular quote is from the 1972 Shanghai Communique issued at the conclusion of President Richard Nixon’s landmark trip to China. A somewhat vaguer formulation — “The [United States] acknowledges the Chinese position that there is but one China and Taiwan is part of China.” — was part of the 1979 communique normalizing U.S. relations with the PRC.

³ In this campaign, President Chen and his Vice-president, Annette Lu, were both shot and slightly wounded just before the election. KMT opponents, who believed they were on the verge of victory, called this the “shooting incident,” with some suggesting it was staged to give the DPP slate an edge in the 2004 election.

⁴ Elections for Taiwan’s Legislative Yuan (LY) are held every three years. The next LY elections are scheduled for December 2007.

Key Current Issues in Taiwan

Taiwan's political situation changed substantially in 2008 when political momentum swung back behind the KMT while the DPP, struggling with growing political scandal and low voter confidence, lost power in both presidential and legislative elections. While many had expected a victory on March 22, 2008, for KMT presidential candidate Ma Ying-jeou and his running mate, Vincent Siew, the size of the party's winning margin (2.2 million votes) was a surprise to most outside observers and even to some in the party itself.⁵ Emphasizing a platform of economic improvement and better relations with the PRC and the United States, Mr. Ma did respectably even in southern and rural districts heavily dominated by the DPP in the past. His ticket's wide margin of victory echoed a similarly dramatic KMT victory in the January 2008 legislative elections, where the party gained a majority of 81 seats in the new 113-seat body compared to the DPP's anemic 27 seats.⁶ When Ma assumed office on May 20, 2008, the KMT had regained solid control of the government.

The electoral fortunes of the DPP's presidential ticket — candidate Frank Hsieh and his running mate, Su Tseng-chang — were burdened by what was widely regarded as the poor performance of the DPP incumbent President Chen Shui-bian, particularly with respect to the economy; by corruption scandals in the DPP; and by Chen's increasing emphasis on a controversial pro-independence agenda. Some observers felt that the DPP had lost the opportunity to make critical adjustments in its policies after public dissatisfaction with its performance became clear in 2005. Instead of becoming more moderate and moving to where the voters were, according to this view, the DPP had tried to move the voters to it, a strategy that did not serve it well in the 2008 elections.⁷

Taiwan's new President, Ma Ying-jeou, of the KMT, has pursued a more conciliatory approach toward the PRC and has vowed to improve relations with the United States. Since his landslide election, however, Ma's popularity has fallen, plagued among other things by tumbling stock markets and rising energy prices as well as by concerns over his cross-strait policies and by residual domestic political tensions in Taiwan.

Under Taiwan's new KMT government, the United States will be faced with challenges familiar from past years. These include: decisions on new arms sales to Taiwan; the level of U.S. relations with Taiwan and the Ma government; and whether to pursue closer economic ties. Under the Ma Administration, Taiwan-U.S. relations also face new challenges — notably the implications for U.S. interests of closer and

⁵ Based on the author's conversations in Taiwan on March 23-24, 2008, with both KMT party officials and with foreign observers.

⁶ DPP candidates received 37% of the votes in the 2008 legislative elections, which were held under new rules that favored the KMT. See CRS Report RS22791, *Taiwan's Legislative Elections, January 2008: Implications for U.S. Policy*, by Kerry Dumbaugh.

⁷ Shelley Rigger, Brown Associate Professor of East Asian Politics, Davidson College, in a discussion roundtable on Taiwan, March 23, 2008.

more cordial ties between Taiwan and the PRC, and what role, if any, Washington should play in cross-strait relations.

Corruption Investigations: Former Chen Administration

The Taiwan government is conducting broadening investigations into allegations of corruption made since 2006 against then-President Chen Shui-bian, his family members, and officials in his administration. New allegations of money-laundering arose in August 2008 against Chen and his family, plunging the DPP further into crisis, according to current DPP chairwoman Tsai Ing-wen.⁸ The August 2008 allegations, which involve foreign government investigations and not just those of Taiwan's KMT-dominated government, also are the first in which former President Chen publicly has admitted even partial culpability, saying that the funds were from campaign contributions, legally acquired, that he failed to report. In a story first reported by a Taiwan magazine, President Chen's wife, former first lady Wu Shu-jen, was said to be under investigation for having secretly transferred an estimated \$21 million of unknown origin to overseas bank accounts in Switzerland and the Cayman Islands under the name of her daughter-in-law, Huang Jui-ching, and other family members. Taiwan officials were said to have been alerted to the suspected money-laundering by The Egmont Group, an international network that monitors suspected money-laundering and terrorism financing. Taiwan is a member of the Egmont Group.⁹ Later reports alleged that Wu had wired the money first to Singapore.¹⁰

Taiwan's Ministry of Foreign Affairs (MOFA) confirmed the allegations on August 14, 2008, saying that the Swiss Confederation's Department of Justice, suspecting money-laundering, had sought assistance from Taiwan to verify that the substantial sum deposited in a Swiss bank account held in Huang's name was obtained legally. The same day, former President Chen held a press conference in which he admitted he failed to fully declare campaign funds collected in 2000 and 2004, and that he was unaware until recently that his wife had transferred millions of dollars to overseas bank accounts.¹¹ On August 15, 2008, Chen apologized to the DPP for causing "humiliation" and "irreparable damage" to the party for his failure to declare the campaign funds. He announced his and his wife's immediate resignations from DPP party membership.¹²

⁸ DPP Chairwoman Tsai Ing-wen, quoted in "DPP chief 'shocked' by former President Chen's graft scandal," *The China Post* in English, August 17, 2008.

⁹ The story reported on August 13, 2008 in *Next Weekly*, a Taiwan tabloid, said that the Egmont Group of Financial Intelligence Units (FIUs) had alerted Taiwan authorities to the suspicions about the former First Lady's overseas accounts. Taiwan is a member through its Money Laundering Prevention Center, an Egmont Group FIU. The PRC is not a member.

¹⁰ "Taiwan investigates alleged money laundering," *AP*, August 25, 2008.

¹¹ "Chen apologizes for hiding funds," *The China Post* in English, August 15, 2008.

¹² "Former president quits DPP in disgrace," *Central News Agency* in English, August 15, 2008.

Among the details Taiwan prosecutors have provided are: that former President Chen had four undisclosed bank accounts for political donations in his 2000 and 2004 campaigns; that he had failed fully to declare campaign funds he had raised for mayoral and presidential campaigns between 1993 and 2004; and that his wife had transferred surplus campaign contributions of an estimated \$21 million to bank accounts in Switzerland and the Cayman Islands using the names of her son, daughter-in-law, and other family members. On August 19, 2008, Taiwan's Special Investigation Unit (SIU) announced it was inviting the Taipei-based Central Bank of China (CBC) and the cabinet-level Financial Supervisory Commission (FSC) to assist in investigating the source of the money. SIU investigators said they were looking into possible irregularities or kickbacks in President Chen's 2004 banking and financial reforms as a potential source of the funds.¹³

The August 2008 scandals are the latest in a series of legal problems for Chen, which surfaced first in 2006 when the Taipei district prosecutor's office began investigating allegations that president Chen's son-in-law had profited in an insider trading scheme.¹⁴ Related allegations were that President Chen's wife had participated in questionable insider transactions involving the Pacific Sogo Department store. At the time, Chen accused his political opponents of mounting a political "power struggle" against him.¹⁵ Nevertheless, the scandals helped worsen Chen's low approval rating late in his tenure — put at 16% in one survey on May 19, 2006.¹⁶ In an effort to save his presidency, Chen on June 1, 2006, delegated authority for "day-to-day control" of the government to Premier Su Tseng-chang and accepted the resignations of a number of his key advisors. In July 2006, KMT politicians additionally accused Chen of misusing funds and creating false invoices from a special "state affairs fund" available to the president. As a serving president in 2006 Chen could not be indicted; but he survived three recall votes by Taiwan's Legislative Yuan as a result of the growing scandals — in June, October, and November 2006.¹⁷

Shortly after Chen stepped down as president on May 20, 2008 (thereby losing his presidential immunity), Taiwan prosecutors announced they were starting an official investigation on his potential role in the 2006 corruption and malfeasance charges. In pursuit of these allegations, President Ma on August 6, 2008 announced

¹³ The "second-phase financial reform" of 2004 made substantial changes in banking and investment regulations in Taiwan, including the privatization of state-run banks. According to a KMT news account citing Finance Minister (MOF) Lee Shu-de, the Ministry will investigate details of the reforms, including the Taishin-Chang Hwa and the China Trust-Mega banks cases, to determine if there were irregularities, negligence, or malfeasance.

¹⁴ President Chen's son-in-law, Chao Chien-ming, was implicated in a scheme involving the Taiwan Development Corporation.

¹⁵ "Chen: campaign is a 'political struggle,'" *The China Post*, September 6, 2006.

¹⁶ This result was obtained in a survey by Shih Hsin University. According to two separate polls conducted by the Chinese language daily the *China Times* and by Taipei's *United Daily News* in late June 2006, Chen's approval rating hovered in a 19%-22% range.

¹⁷ Y. F. Low, "Legislature set to vote on second motion to recall president October 13," *Central News Agency English News*, September 29, 2006.

that he was declassifying documents, classified by Chen while he was president, that allegedly implicated Chen in the case of the special expenses fund. DPP members said that President Ma's unilateral action set a bad policy precedent; they hold that he should have convened a special non-partisan panel to review the materials prior to declassification. Taiwan prosecutors have questioned the former president on several occasions in investigating these allegations. Former President Chen has maintained that the funds wired to overseas accounts are undeclared campaign funds legally acquired, not government funds embezzled from the "special affairs" account while he was president or bribes associated with the 2004 financial reforms he initiated.¹⁸ He has called the current investigations a "political vendetta" by the KMT against him and his family.

Special Expense Accounts. Investigations and indictments for corruption have been a recurring feature of political life in Taiwan, particularly over the issue of how senior officials use and account for expenditures from so-called "special expense accounts." Such accounts are to be used for official expenses only, but give the controlling officials broad discretion on how the funds are spent; they operate generally with poor government oversight and are subject to vague rules that many Taiwan officials have said are confusing. Among those investigated and cleared of such charges in the past are: current President Ma Ying-jeou, former foreign minister James Huang, former economics minister Steve Chen, and current DPP chairwoman Tsai-Ing-wen (investigated when she was head of the Mainland Affairs Council). Other investigations for "special expense account" infractions include: former Vice President Annette Lu, former justice minister Shi Mao-lin, former education minister Tu Cheng-sheng, former interior minister Lee Yi-yang, and former civil service minister Chu Wu-hsien, among others.

Resumption of Cross-Strait Talks

Many observers believe that the election of President Ma has presented an opportunity to lay a new framework in Taiwan-PRC relations — one that moves toward cross-strait improvements and new understandings, and away from the more confrontational policies of the past. In the two months between his election and his inauguration on May 20, 2008, Ma spoke of his intentions to begin normalizing cross-strait ties in a "cross-strait common market," to establish direct air links with the PRC, and to ease other restrictions on cross-strait contacts. He sought to ease tensions with China by pledging adherence to a "three no's" approach: no unification, no independence, and no use of force — a pledge he repeated in his inaugural address. He called for a "diplomatic truce" with China and pledged to stop using "dollar diplomacy" to win foreign country recognition.¹⁹ These were notable

¹⁸ After questioning by prosecutors on August 12, 2008, former President Chen was quoted as saying "I have never put any illegal income in my own or in my family's pockets. I believe the judiciary will prove me innocent." "Former President Chen professes his innocence after questioning," *Taiwan News Online*, August 13, 2008.

¹⁹ "Dollar diplomacy" (or "checkbook diplomacy") refers to the situation in which both Taiwan and the PRC have competed for official diplomatic relations by promising to and investing huge sums in countries that may be wavering in their diplomatic allegiances.

departures from the policies of former President Chen, who antagonized Beijing by emphasizing Taiwan's separate identity and independent political status.

After his inauguration, Ma moved quickly to implement his new cross-strait approach. In a symbolic move, Taiwan in mid-May 2008 worked jointly with the PRC in providing disaster relief after the Sichuan earthquake. By late May, Taiwan had accepted a PRC invitation to resume official talks for the first time since October 1998.²⁰ The chairman of the KMT, Wu Poh-hsiung, met with PRC President Hu Jintao on May 28, 2008, the highest-level encounter between the two sides since 1949.²¹ Official talks reopened on June 11-12, 2008, in Beijing, resulting in groundbreaking new agreements to allow regular weekend direct charter flights, to open permanent offices in each other's territories, and to boost PRC tourism to Taiwan, among others. Since then, Taiwan also has undertaken a number of unilateral initiatives, including lifting caps on Taiwan investment in the PRC.

Other Taiwan initiatives appear still to be in the discussion stage. President Ma has suggested that Taiwan be more flexible on the names it uses in its international engagement efforts — suggesting, for instance, that Taiwan's negotiation of Free Trade Agreements (FTAs) would be less divisive if Taiwan used the same name it used when applying to the WTO — “separate customs territory of Taiwan, Penghu, Kinmen, and Matsu.” And Taiwan's SEF chairman, Chiang Pin-kung, was reported as having said he wants to study and promote the creation of a cross-strait comprehensive economic cooperation agreement (CECA) with the PRC.

In spite of this progress, controversies have continued to arise, such as an initial tussle, later smoothed over, about the name that the PRC would use to refer to Taiwan during the 2008 Olympic Games.²² Taiwan's Ministry of National Defense also has said that acquiring submarines — a move directed at the PRC — remains a top priority for Taiwan. Supporters of President Ma's new policies were critical that the June official talks did not include discussion of direct charter cargo flights or marine cargo. Taiwan officials say these subjects will be on the agenda of the second round of official talks after the 2008 Olympics.

DPP members also have criticized the new policy approach, saying that by not “properly analyzing the consequences” of easing cross-strait economic restrictions,

²⁰ The Taiwan and PRC government still do not negotiate directly. In Taiwan, cross-strait talks are handled by the Straits Exchange Foundation (SEF), a private organization authorized by the government to handle these exchanges. The corresponding body in the PRC is the Association for Relations Across the Taiwan Strait (ARATS). The June 13 talks were conducted by these two bodies.

²¹ On April 29, 2005, when the KMT was out of power, KMT Chairman Lien Chan met with PRC President Hu Jintao, the first time the leaders of the CCP and KMT had met since World War II.

²² Reportedly official PRC sources had been using “Zhongguo Taipei” — or “Taipei, China,” leading up to the Olympic Games. A 1989 agreement stipulated that Taiwan be called “Zhonghua Taipei” — or “Chinese Taipei,” a term suggesting a more ambiguous Chinese nationhood. After intervention by the PRC State Council's Taiwan Affairs Office on July 23, 2008, official PRC media began using the latter formulation.

the KMT government has jeopardized Taiwan's interests. The opposition party also criticized Ma's diplomatic overtures toward China as being "over-dependent on China's goodwill."²³ While President Ma himself reportedly has said that cross-strait talks should be accelerated, opponents of his new policies have criticized them as proceeding too rapidly.²⁴ Opponents also have leveled other charges, such as that the PRC negotiators at the June 2008 talks were more experienced than their Taiwan counterparts.

Bid for U.N. Membership

The new Ma Administration also has been more moderate and flexible than its predecessor concerning Taiwan's annual United Nations (U.N.) bid. On August 14, 2008, Taiwan submitted a proposal to the U.N. Secretariat via 17 countries with which it maintains diplomatic relationships, asking the U.N. to allow Taiwan to have "meaningful participation" in U.N. special organizations.²⁵ In spite of the new milder tone to Taiwan's bid, the PRC raised objections on August 18, 2008, saying that Taiwan is not qualified to participate in U.N. activities.²⁶ Because of these objections, on September 19, 2008, a U.N. subcommittee decided not to include Taiwan's request for "meaningful participation" in U.N. activities on the agenda for the 63rd General Assembly.

Taiwan has been unsuccessful in 15 previous attempts to gain either membership or non-member status in the U.N., particularly in the World Health Organization (WHO), a U.N. affiliate. Taiwan's efforts under the DPP Administration of President Chen included an application both for full U.N. membership as well as for use of either the name "Republic of China" or "Taiwan." These applications had been of particular concern to both China and the United States.

Taiwan's bid to participate in the United Nations is controversial. While there is support in the U.S. Congress for Taiwan's U.N. membership,²⁷ U.S. government officials, on record as supporting Taiwan's membership in organizations "where statehood is not an issue,"²⁸ have been unusually blunt and outspoken in opposition

²³ "Ma's cross-strait economic and trade policies are not ready," DPP News link, July 22, 2008, <http://www.dpp.org.tw/>

²⁴ Wu, Sofia, "Cross-strait talks should be accelerated: president," *Central News Agency* English, June 15, 2008.

²⁵ According to *The China Post* of August 16, 2008, the resolution was titled "The Need to Examine the Fundamental Rights of the 23 Million People of the Republic of China (Taiwan) to Participate Meaningfully in the Activities of the U.N. Specialized Agencies."

²⁶ The objection came from the PRC's U.N. Ambassador Wang Guangya, in an August 18, 2008 letter to U.N. Secretary-General Ban Ki-moon. Cited by Jenny Hsu, "MOFA unsurprised by PRC reaction to U.N. participation," *Taipei Times*, August 28, 2008, p. 1.

²⁷ Resolutions introduced in the 110th Congress in support of Taiwan's U.N. bid include H.Con.Res. 73 and H.Con.Res. 250.

²⁸ A State Department spokesman, in response to a press question at the State Department (continued...)

to some of Taiwan's past U.N. application efforts under President Chen. A strong succession of U.S. statements in 2007 includes:

- **June 19, 2007:** "We do not support Taiwan's membership in international organizations that require statehood [for membership].... This would include a referendum on whether to apply to the United Nations under 'Taiwan'." (State Department spokesman Sean McCormack reacting to President Chen's U.N. referendum announcement.)
- **August 27, 2007:** "...We strongly support Taiwan's democracy.... But when it comes to this issue of a referendum as to whether or not Taiwan joins the United Nations in the name of Taiwan, we do have great concerns. We oppose ... that kind of a referendum because we see that as a step towards the declaration — towards a declaration of independence of Taiwan, towards an alteration of the status quo." (Deputy Secretary of State John Negroponte, in an interview with Hong Kong's Phoenix TV.)
- **August 30, 2007:** "We are very supportive of Taiwan on many many fronts.... However, membership in the United Nations requires statehood. Taiwan, or the Republic of China, is not at this point a state in the international community. The position of the United States government is that the ROC ... is an issue undecided, and it has been left undecided ... for many, many years." (Dennis Wilder, National Security Council Senior Director for Asian Affairs, at a White House press briefing on the President's September APEC trip.)
- **September 11, 2007:** "... we do not support Taiwan's membership in international organizations that require statehood and therefore would not support such a [U.N.] referendum ... [the referendum's supporters] do not take seriously Taiwan's commitments to the United States and the international community [and] are willing to ignore the security interests of Taiwan's most steadfast friend ... we do not like having to express publicly our disagreement with the Chen Administration ... [and] I can assure you that we would not have done so had we not exhausted every private opportunity through consistent, unmistakable, and authoritative messages over an extended period of time." (Deputy Assistant Secretary of State Thomas J. Christensen, in a speech at the U.S.-Taiwan Defense Industry Conference.)
- **December 11, 2007:** "...the referendum...isn't going to accomplish anything in changing Taiwan's status. All it does is cause trouble." (AIT Chairman Raymond F. Burghardt, Press Roundtable, Taipei.)

The PRC vigorously opposes Taiwan's bid for U.N. participation because it suggests that Taiwan is a sovereign state separate from the mainland. Beijing argues that since Taiwan is not a state but a part of China, it cannot separately be admitted to U.N. entities for which sovereign status is a pre-requisite for membership. As noted above, U.S. officials similarly have opposed Taiwan's past bids for full U.N. membership. In a common U.S. practice, an official from the U.S. American

²⁸ (...continued)
press briefing of March 20, 2002.

Institute in Taiwan (AIT – the de-facto U.S. representative in Taiwan) refrained from commenting directly on the new 2008 Taiwan U.N. initiative, but instead reiterated generic U.S. policy that the U.S. supports Taiwan’s “meaningful participation” in international organizations in which statehood is not a requirement.²⁹

Taiwan has maintained that its “observer status” in U.N. bodies such as WHO would be an apolitical solution since other non-sovereign entities, like the Holy See and the Palestine Liberation Organization, have been given such status. Taipei also points out that it is a full member in other international organizations to which the PRC also belongs, such as the Asian Development Bank (ADB), the World Trade Organization (WTO), and the Asia Pacific Economic Cooperation forum (APEC).³⁰ In 2004, the 108th Congress enacted legislation (P.L. 108-235) requiring the Secretary of State to seek Taiwan’s observer status in WHO each year at its annual meeting, the World Health Assembly (WHA).

Economic and Trade Relations

Taiwan’s economy grew rapidly (around 10% a year) in the 1970s and 1980s. Growth declined to around 5-6% a year in the 1990s as the economy matured. During the first years of the 21st century, however, the Taiwan economy experienced a serious slowdown. GDP growth for 2001 contracted by 2.2% — Taiwan’s first economic contraction in 26 years — when exports dropped and the unemployment rate hovered at around 5%. Experts blamed these economic difficulties on the global economic downturn, reduced U.S. demand for Taiwan’s information technology exports, and the sizeable transfer of the island’s manufacturing base to the PRC. The economy began to recover in 2002, with economic growth in 2007 reaching 5.7%.³¹

Taiwan-U.S. Trade and Investment. Taiwan is the United States’ ninth-largest overall trading partner, with two-way trade in 2007 valued at \$64.9 billion, and the sixth-largest destination for U.S. agricultural exports, about \$2.5 billion annually. In addition to agricultural goods, Taiwan’s U.S. imports include industrial raw materials and machinery and equipment; its exports to the United States are largely electronics and consumer goods. Once Taiwan’s largest trading partner, the United States has been surpassed by China and Japan and is now Taiwan’s third-largest trading partner, supplying 11% of Taiwan’s imports and absorbing 14% of its exports. The U.S. trade deficit with Taiwan increased by 19% from 2005-2006, reaching \$15.2 billion in 2006.³²

²⁹ Comments attributed to AIT spokesman Thomas Hodges in Taiwan, August 15, 2008; Lu, Neil, “U.S. supports Taiwan’s meaningful international participation: AIT,” *Central News Agency* in English, August 15, 2008.

³⁰ Hong Kong also enjoys separate membership in these organizations from its sovereign, the PRC.

³¹ U.S. State Department, Bureau of East Asian and Pacific Affairs, *Background Note: Taiwan*, March 2008.

³² According to the American Institute in Taiwan (AIT) in 2008, <http://www.ait.org.tw/en/economics/>

Special 301 Watch List. Over the years, Taiwan has made progress in addressing U.S. concerns about the protection of intellectual property rights (IPR). The Taiwan government has passed more robust copyright legislation, enacted new laws targeting illegal Internet file sharing, and improved prosecution of IPR offenses through the establishment (July 1, 2008) of a specialized Intellectual Property Court.³³ In recognition of past improvements, the U.S. Trade Representative (USTR) removed Taiwan from the “Priority Watch List” in 2004. But Taiwan has remained on the U.S. Special 301 “Watch List” pursuant to provisions the Trade Act of 1974; the “Watch List” designates a less serious risk of IPR violations compared with the “Priority Watch List.”³⁴ The USTR in 2008 is conducting a “Special 301 Out-Of-Cycle Review” for Taiwan to determine whether its continued IPR enforcement improvement merits removal from the “Special 301” Watch List. The U.S. business community appears divided on whether Taiwan has made sufficient IPR improvements. For instance, in separate letters to USTR dated September 8, 2008, the U.S.-Taiwan Business Council said it “strongly supports” Taiwan’s removal from the Watch List, while the U.S.-based International Intellectual Property Alliance recommended that “Taiwan remain on the Watch List” pending further IPR improvements.

Free Trade Agreement (FTA). Taiwan for years has been seeking the economic and political benefits of a U.S.-Taiwan Free Trade Agreement (FTA), so far without success. Reportedly President Ma mentioned the subject again during his August 2008 transit visit through the United States.³⁵ To date, U.S.-Taiwan trade discussions have been held under a 1994 Trade and Investment Framework Agreement (TIFA), a non-binding consultative mechanism the United States employs for resolving trade and investment difficulties with countries still opening their economies.³⁶ In some instances, a TIFA may lead to economic liberalization that is significant enough to result in a U.S. FTA with the TIFA country. Taiwan has argued that its status as a major trading partner of the United States justifies an FTA on economic grounds. U.S. officials cite a number of obstacles to an FTA with Taiwan over the near term — not only trade matters, such as Taiwan’s record on intellectual property rights (IPR), but also complicated political issues involving both Taiwan’s and U.S. relations with the PRC. The PRC strongly opposed a U.S.-Taiwan FTA. Taiwan’s bid has its supporters in the 110th Congress, several of whom have introduced measures regarding an FTA for Taiwan.³⁷

³³ “2008 Special 301 Report,” Office of the United States Trade Representative, text at: http://www.ustr.gov/assets/Document_Library/Reports_Publications/2008/2008_Special_301_Report/asset_upload_file553_14869.pdf

³⁴ Special 301 Provisions of the Trade Act of 1974.

³⁵ Lin Yi-feng and Wu, Lilian, “President Ma arrives in San Francisco,” *Central News Agency* in English, August 18, 2008.

³⁶ Negotiations for the TIFA were conducted through the respective U.S. and Taiwan unofficial representative bodies at the time: the American Institute in Taiwan (AIT), and the Coordination Council for North American Affairs (CCNAA).

³⁷ S. Con. Res. 60 (Sen. Baucus), introduced on December 18, 2007; and H. Con. Res. 137 (Rep. Berkley), introduced on May 1, 2007, both express congressional support for the (continued...)

Taiwan-China Trade and Investment. Since 1949, Taiwan has maintained restrictions on trade and economic investment relations with China. These have included requirements that goods and articles be transhipped via third parties and not directly; restrictions on the kinds of goods and articles that can be traded; and caps on investment levels, among others. Even with the official restrictions that Taiwan has maintained in the past on investment and trade with mainland China, Taiwan businesses have invested increasingly across the strait, although the exact figures remain unclear. Taiwan-China trade has also increased dramatically, so that China (along with Hong Kong) now has surpassed the United States as Taiwan's most important trading partner. According to Taiwan's Central News Agency, Taiwan's total bilateral trade with the PRC for the year through November 2007 was U.S.\$92.68 billion — a 15.3% increase year-on-year over 2006.³⁸ Taiwan's exports to the PRC were up 12.6% over 2006. (By comparison, Taiwan's exports to the United States dropped by 0.9% over the previous year.)³⁹

Despite these restrictions on investment and official contacts, Taiwan-PRC economic ties have grown significantly, with Taiwan businesses increasingly invested across the strait (although the exact figures remained unclear). Taiwan-China trade also has increased dramatically, with China (along with Hong Kong) now ranking as Taiwan's most important trading partner. According to Taiwan's Bureau of Foreign Trade, Taiwan's total bilateral trade with the PRC reached \$64.44 billion from January-September 2006, accounting for 20.4% of Taiwan's total foreign trade.⁴⁰

This growing economic interconnectedness with the PRC has created increasing pressures on a succession of Taiwan governments to accommodate the Taiwan business community by easing its restrictions on direct travel and investment. Since 1987, Taiwan incrementally eased long-standing restrictions on contacts with the PRC. Initiatives under President Chen and the DPP, included the start in January 2005 of the first non-stop (limited to the Lunar New Year holiday that year) direct charter flights flown in 55 years between the two adversaries. On June 14, 2006, Taiwan and China simultaneously announced that they had reached agreement to establish up to 168 direct annual round-trip charter passenger flights between China and Taiwan, shared evenly between mainland and Taiwan airlines, during four public holidays and for other special occasions.⁴¹

³⁷ (...continued)

opening of FTA negotiations with Taiwan.

³⁸ Huang, Luis, "Cross-strait trade up 15.3 percent in 2007," *Central News Agency English*, January 29, 2008.

³⁹ Wu, Lilian, "Taiwan registers record trade surplus in 2007," *Central News Agency English*, January 8, 2008.

⁴⁰ According to the Foreign Board of Trade, cited by Agence-France Presse in *Taiwan News* online, March 3, 2005, [<http://www.etaiwannews.com>]. See also CRS Report RL31749, *Foreign Direct Investment in China*, by Dick Nanto and Radha Sinha.

⁴¹ The four holidays are: Lunar New Year, Tomb Sweeping Day, the Dragon Boat Festival, and the Mid-Autumn Festival.

President Ma's willingness to significantly expand such cross-strait exchanges has concerned many DPP members and pro-independence advocates in Taiwan, who see the Ma initiatives as having overly ambitious expectations and as moving far too rapidly. These DPP observers say that cross-strait overtures need to be calibrated carefully to avoid compromising Taiwan's economic security and political autonomy. They further point out that many of Ma's initiatives to date appear to be unilateral, without significant reciprocal overtures and concessions from Beijing.

Other Key Bilateral Issues

U.S. Arms Sales to Taiwan and Taiwan's Defense Budget. Under the Taiwan Relations Act (P.L. 96-8), the United States is obligated to provide Taiwan with defense articles and services for its self-defense — a commitment to which the PRC objects. On June 15, 2007, Taiwan's legislature passed a long-delayed national defense budget that for the first time included funds for purchasing some of the U.S. weapons systems that President George W. Bush offered for sale in 2001. The budget included funds to purchase P-3C anti-submarine reconnaissance; to upgrade the Patriot missile batteries that Taiwan already has; and to provide over \$450 million to fund the purchase of F-16 C/D fighters, a request still pending before the United States government as of this report. The budget passage subsequently was followed, on September 12, 2007, by a Pentagon announcement of \$2.2 billion in possible military sales to Taiwan, including 12 surplus Orion P3-C maritime patrol craft and 144 SM-2 Block 3A Standard anti-aircraft missiles, built by Raytheon; and by *Federal Register* publication of a U.S. announcement of a proposed arms sale to Taiwan for upgrade and refurbishment of PATRIOT Advanced Capability-3 (PAC-3) Guided Missiles.⁴²

U.S. official concerns about Taiwan defense spending were thought to be further eased in December 2007, when Taiwan's legislature passed a 2008 defense budget of \$10.5 billion, which officials said was a 12% increase over the 2007 budget. The new budget included an allocation for three sets of U.S. Patriot III missiles originally approved for sale by President Bush in 2001, as well as funds for P-3C planes, F-16 fighters, and other military equipment.

In spite of the apparent warming ties with Taiwan, the Bush Administration was seen to stall in 2008 on sending forward notifications to Congress concerning a number of U.S. arms sales to Taiwan, including the possible sale of F-16 fighters.⁴³ In June 2008, some Members of the U.S. Senate wrote to President Bush expressing concern about the reports and urging the White House to act swiftly on Taiwan's

⁴² DOD notice of a proposed Letter of Offer for an arms sale to the Taipei Economic and Cultural Representative Office (Taiwan) for upgrade and refurbishment of PATRIOT Advanced Capability-3 (PAC-3) Guided Missiles. [Transmittal No. 08-10, pursuant to section 36(b)(1) of the Arms Export Control Act.] *Federal Register*, November 20, 2007, p. 65306.

⁴³ For details on Taiwan's arms purchases, see RL30957, *Taiwan: Major U.S. Arms Sales Since 1990*, by Shirley Kan.

arms sales requests.⁴⁴ Some speculated that the delay in arms sales notifications was related to Beijing's hosting of the 2008 Summer Olympic Games from August 8-24, 2008. One Pentagon official hinted in a public forum that the United States may have imposed a freeze on weapons sales to Taiwan.⁴⁵ A State Department spokesman maintained that the pending arms sales still were being discussed in "an internal interagency process."⁴⁶

However, on August 25, 2008, the Pentagon announced that it was awarding the McDonnell-Douglas Corp. (owned by Boeing) a contract to provide Taiwan with 60 Harpoon missiles and associated hardware, worth \$89.8 million, that Taiwan requested in 2007.⁴⁷ The announcement raised expectations that U.S. arms sales to Taiwan would resume on a more regular basis.

Visa Waiver Program (VWP). Taiwan also has sought to qualify for coverage under the U.S. Visa Waiver Program, which eliminates some visa requirements for qualified countries, allowing their citizens to make temporary U.S. visits without first obtaining a valid visa. VWP countries must meet certain criteria — such as offering reciprocal privileges to U.S. citizens, having machine-readable passports, and having a low non-immigrant refusal rate — only some of which Taiwan has been able to meet.⁴⁸ Recently, Congress enacted amendments to the VWP which may provide for a waiver of the non-immigrant refusal rate. With a waiver, Taiwan may meet the requirements of the program.

Although Taiwan citizens would benefit from the facilitated travel that the U.S. Visa Waiver Program affords, another key Taiwan government motive is thought to be the international stature that Taiwan would gain from being among the VWP's group of participants. In addition, participation in the program is often seen as evidence of close ties with the United States. Apart from its failure to meet the program's current qualifications absent a non-immigrant refusal rate waiver, Taiwan's chances of participation in the VWP also are subject to the anticipated kinds of political difficulties involving the PRC that are aspects of other U.S.-Taiwan relations. The PRC does not qualify for the VWP.

⁴⁴ "Inhofe urges support of Taiwan," June 30, 2008 press release. For a full text, see: http://inhofe.senate.gov/public/index.cfm?FuseAction=PressRoom.PressReleases&ContentRecord_id=DAB422E7-802A-23AD-4101-32FFB910FFE4

⁴⁵ Admiral Timothy Keating hinted at a freeze during a briefing at the Heritage Foundation on July 16, 2008.

⁴⁶ State Department spokesman Sean McCormack, in response to a question at the Daily Briefing on July 17, 2008.

⁴⁷ U.S. Department of Defense, Office of the Assistant Secretary of Defense (Public Affairs), No. 717-08, August 25, 2008. [<http://www.defenselink.mil/contracts/contract.aspx?contractid=3848>]

⁴⁸ For additional information on the Visa Waiver Program, see CRS Report RL32221, *Visa Waiver Program*, by Alison Siskin.

Change in Taiwan's Political Direction in 2008

March 2008 President Election. Voters in the March 2008 presidential election also failed to pass a controversial referendum, a high priority for President Chen, asking whether Taiwan should apply for U.N. membership under the name "Taiwan." This referendum and a KMT alternative each failed to reach the threshold of 50% of the electorate turnout that was required for the measures even to be placed in contention for passage. Beijing had considered Chen's referendum in particular to be tantamount to a public poll on independence — a prospect the PRC has threatened to prevent by force if necessary. The referendum also had been problematic for the United States, which had called Chen's proposal "provocative."

Analysts attributed the DPP losses in part to its failure to make the kind of political adjustments to public sentiment that the KMT had made in recent years. Instead of focusing on Taiwan's faltering economy and appealing to the self-interests of the divided Taiwan electorate, analysts said, the DPP instead decided to stay close to the pro-independence interests of its core supporters, raising tensions with both the PRC and the United States in the process of doing so. In the wake of effectively having been crushed in two electoral outings in 2008, the DPP now is facing a period of reassessment and re-building as it considers how to broaden its electoral appeal and maintain its vitality in the face of KMT dominance.⁴⁹ The DPP's choice on May 19, 2008, of a new, moderate Party Chairwoman, Tsai Ing-wen, suggests that it is trying to make these adjustments to broaden its base. The party's task has been further complicated by new financial scandals that emerged in August 2008 involving former President Chen and his family, discussed later in this report.

January 2008 Legislative Elections. The KMT's March 2008 presidential victory was preceded on January 12, 2008, by a sweeping victory in which it swamped the DPP in elections for the Legislative Yuan, the national legislature. The DPP won only 27 seats in the new 113-member body, while the opposition KMT Party gained a hefty majority with 81 seats. President Chen Shui-bian stepped down as head of the DPP party after the January elections, saying he took full responsibility for his party's loss. Five additional seats went to independent and smaller party candidates who are expected to side often with KMT positions. Having won the presidency as well in March, the KMT assumed solid control of the Taiwan government in May 2008.

The 2008 legislative elections were the first held under new electoral rules adopted in 2005 under an amendment to Taiwan's constitution. The new rules halved the size of the legislature to 113 members from its former size of 225 and increased the term of office from three years to four. The rules also instituted a new single-member district system employing two ballots for voters, similar to systems used in Germany and Japan: one to be cast for a candidate and one to be cast for a political party. As demonstrated by the January 2008 electoral results, the new

⁴⁹ Frank Hsieh himself cited the need for a thorough party reassessment, saying "we must let the sound of reform ring out." (Reuters, "Taiwan's DPP chairman quits after election defeat," March 26, 2008.) See also a statement to this effect by Shelley Rigger, "Taiwan ruling party to retool after another defeat," *Reuters*, March 24, 2008.

system appears to favor larger, well-organized parties and to put smaller parties and fringe elements at a disadvantage.

The PFP and TSU, the former coalition partners of the two major parties, the DPP and KMT, were effectively wiped out under the new electoral rules, ending the previous brief era of coalition politics in Taiwan. The resulting Legislative Yuan, although still markedly polarized between the two major parties, emerged far less evenly split than its predecessor; its strong KMT majority likely will be able to muscle through many of its own legislative priorities. While a KMT legislative victory had been expected under the new electoral rules, the wide margin surprised most analysts and dealt a serious blow to lingering DPP aspirations to win the March 22, 2008 presidential election.

U.S. Policy Trends and Implications

When it first assumed office, the Administration of George W. Bush articulated policies in Asia that were more supportive of Taiwan and less solicitous of engagement with China than those of previous U.S. Administrations. That approach had changed by the 110th Congress as U.S.-PRC relations became smoother and U.S.-Taiwan relations became more troubled.

Trends in the George W. Bush Administration

Tilt Toward Taiwan. Many observers concluded in 2001 that the newly elected George W. Bush had abandoned the long-standing U.S. policy of “strategic ambiguity” in favor of “strategic clarity” that placed a clearer emphasis on Taiwan’s interests and showed less concern for PRC views. In addition to approving a major arms sales package for Taiwan in 2001, subsequent statements and actions by Bush Administration officials continued to appear more supportive of Taiwan than those of previous U.S. Administrations. This support was in keeping with growing concern in Congress in the late 1990s that the U.S. policy framework toward Taiwan may be outdated and that Taiwan’s self-defense capabilities had eroded while those of its chief antagonist, the PRC, had grown. These conclusions were supported by a series of congressionally mandated annual reports, first issued by the Pentagon in February 1999, assessing that the military balance in the Taiwan Strait was increasingly tilting in the PRC’s favor.

Taiwan the “Unhelpful”. During its tenure, however, the Bush Administration began reshaping its own policy articulations concerning both Taiwan and the PRC. Administration officials came to see smooth U.S.-PRC relations as an important tool in cooperating against terrorism and maintaining stability on the Korean peninsula. As articulated by Vice President Cheney during his visit to Shanghai in April 2004, the White House judged that “the areas of agreement [between the United States and the PRC] are far greater than those areas where we disagree...”⁵⁰

⁵⁰ From the Q & A session with Vice President Cheney following his speech at Fudan (continued...)

In addition, Taiwan's unpredictable political environment, along with then-President Chen Shui-bian's growing pro-independence statements and actions, began to pose special challenges for U.S. policy. U.S. officials claimed to have strong ties with Taiwan's DPP government and a considerable network of working economic and military ties with Taiwan under the Chen administration. But such problems of trust had developed between President Chen and U.S. officials that the bilateral atmosphere eroded significantly.⁵¹ The Bush Administration came to balance criticisms of China's military buildup opposite Taiwan with periodic warnings to the Taiwan government that U.S. support was not unconditional.⁵² The Chen Administration's continued willingness to employ the provocative gesture heightened the concerns and sharpened the criticism of many U.S. officials about its credibility and its commitments to the U.S. government. The uncharacteristically pointed language directed at Taiwan in the State Department's statements listed above — in the written statement of March 2, 2006; in its press briefing of June 19, 2007; and in subsequent blunt statements by Deputy Secretary of State John Negroponte (August 27, 2007), NSC Senior Director for Asian Affairs Dennis Wilder (August 30, 2007), and Deputy Assistant Secretary for East Asia Thomas Christensen (September 11, 2007) — reflected these U.S. concerns.

The Bush Administration sought to maintain a careful neutrality during Taiwan's 2008 electoral cycle. Nevertheless, Administration officials are thought to be optimistic that U.S.-Taiwan relations and Taiwan-PRC relations will be more cordial under Taiwan's new President, Ma Ying-jeou, who has promised to repair relations with both Washington and Beijing. In his first overseas trip to Latin America in August 2008, the United States permitted President Ma an overnight transit stop in Los Angeles and was given a dinner attended by the top U.S. official for Taiwan, Ray Burghardt.⁵³ This compares favorably with the U.S. treatment of President Chen on the way to his visit to Guatemala in January 2008: a re-fueling stop in Anchorage, Alaska and a conversation with Burghardt.

Implications

Many consider the continued success in 2008 of the democratic process in Taiwan to be a validation of U.S. goals for the spread of democratic values. It also further emphasizes the unique and delicate challenge for U.S. policy that Taiwan continues to pose: Taiwan is our ninth largest trading partner with a vibrant and free democratic government on an island claimed by the PRC, with which the United States has no diplomatic relations but does have defense commitments, and whose

⁵⁰ (...continued)

University in Shanghai, broadcast by Beijing CCTV in English, found in *FBIS*, April 15, 2004.

⁵¹ See CRS Report RL33684, *Underlying Strains in Taiwan-U.S. Political Relations*, by Kerry Dumbaugh.

⁵² "There are limitations with respect to what the United States will support as Taiwan considers possible changes to its constitution." Testimony of Assistant Secretary of State James A. Kelly before the House International Relations Committee, April 21, 2004.

⁵³ Burghardt is Chairman of the American Institute in Taiwan (AIT).

independence from China U.S. officials say they do not support. With Taiwan under the KMT government, then, the United States will be faced with challenges familiar from past years, including decisions on: new arms sales; how to accommodate requests for visits to the United States by President Ma and other senior Taiwan officials; the level of U.S. relations with the Ma government; and whether to pursue closer economic ties, such as through a Free Trade Agreement. In addition, Taiwan-U.S. relations under the KMT government face new challenges — notably the implications that President Ma’s initiatives toward the PRC have for U.S. interests; and what role, if any, Washington should play in Taiwan-PRC relations.

For Cross-Strait Relations. President Ma’s initiatives to improve relations with the PRC present a potentially new policy environment for the United States. U.S. policy had been stressed under the confrontational cross-strait policies of the former Chen Administration, with U.S. officials subjected to increasing pressure from both sides to become directly involved in some aspects of cross-strait ties. PRC officials began quietly urging the United States to pressure Chen Shui-bian into shelving plans for an island-wide referendum, and they pressed U.S. officials to avoid sending the “wrong signals” to Taiwan. Members of the Taiwan government urged U.S. officials to give more overt support for Taiwan’s democracy and to put more pressure on Beijing to lessen its hostility. U.S. officials were put in the position of continually seeking to re-balance the cross-strait relationship to achieve some sort of stasis.

The cross-strait policy of President Ma’s government presents the United States with a different set of challenges. Ma’s election presents an opportunity to lay a new framework in Taiwan-PRC relations — one that moves toward cross-strait improvements and understanding. U.S. officials in the past have urged both sides to move toward greater conciliation and less confrontation. In 2008, a U.S. State Department spokesman spoke favorably (if somewhat tepidly, in keeping with most U.S. policy pronouncements on Taiwan issues) of the resumption of cross-strait talks under the Ma Administration, responding to a reporter’s question with “...we believe it’s important for the two to work towards a peaceful resolution of the ... Cross-Strait issues.”⁵⁴ But while U.S. policy favors improvements in Taiwan-PRC relations, it has been silent on what should be the speed, depth, and degree of cross-strait conciliation. Some observers worry that the KMT government, driven by economic imperatives and pressures from the Taiwan business community, quickly could reach an accommodation with Beijing that may complicate U.S. regional interests.

The implication for U.S. interests is only one factor President Ma will have to consider in pursuing his PRC policy. Ma will be faced with multiple balancing acts. He will have to improve cross-strait relations — and Taiwan’s economic opportunities on the mainland — while not appearing overly eager to core DPP supporters who worry that he will sell out Taiwan’s political interests in pursuit of closer mainland economic ties. He also will have to strike a balance between those in the electorate who favor unification with China; those who argue for a strong

⁵⁴ Acting Deputy Spokesman Gonzalo R. Gallegos, State Department Daily Press Briefing, June 12, 2008.

defense for Taiwan and the continuation of U.S. weapons purchases; and those who urge significant improvements in Taiwan's relations with Beijing.

For U.S. Arms Sales. Relatedly, the question of U.S. arms sales to Taiwan takes on new shades of delicacy in an environment of improving Taiwan-PRC ties. While U.S. law mandating arms sales to Taiwan states that these sales shall be “based solely upon ... the needs of Taiwan,” such decisions can be and have been a useful U.S. policy lever in U.S.-Taiwan-PRC relations.⁵⁵ Either the approval of a major weapons package to Taiwan or an apparent “freeze” in weapons sales can have symbolic significance for either side of the strait. U.S. policymakers will be faced with decisions on what kind of signal a specific U.S. arms sale will send under current circumstances. The PRC objects to U.S. arms sales to Taiwan and has reacted punitively in some cases, so that future U.S. arms sales to Taiwan may have significant implications for cross-strait ties.

For PRC Policy and Credibility. Despite the challenges that Ma faces, many believe that the election results will be an important test of the PRC's stated intentions of approaching cross-strait problems by “putting aside differences and seeking a win-win result.”⁵⁶ Having railed against President Chen for eight years while wooing the KMT, the PRC now will be pressed to follow through with creative initiatives with the Ma regime if it is to capitalize on this opportunity. Rebuffing a new and, at least initially, a more conciliatory Taiwan government could damage the PRC's credibility that it wishes to pursue a peaceful and constructive solution for cross-strait ties. Any perceived PRC reluctance also could serve to revitalize U.S. and congressional opposition to the PRC's Taiwan policy — opposition which has remained muted in recent years in part because of mutual U.S.-PRC problems with former President Chen.

Observers suggest there are a number of options now for Beijing to make a meaningful gesture toward Taiwan that would not impinge on PRC sovereignty claims. Beijing's willingness to restart cross-strait talks on a mutually acceptable basis was one such step. Others could include a new willingness to entertain Taiwan's aspirations to be a “meaningful participant” in the World Health Organization (WHO); a halt to petulant posturing against Taiwan in APEC and other multilateral organizations; or a suspension of Taiwan-focused military exercises and other military maneuvers in the strait, among other acts. Unfortunately, past experience demonstrates that the PRC often is unwilling to adopt creative and flexible policy initiatives in times of tension — as is currently the case in the wake of the crackdown in Tibet and smoldering ethnic tensions in Xinjiang — or when there is intense pressure to be seen to be successful — as there is now in the year China is hosting the 2008 Summer Olympics (August) and the Paralympic Games (September). For instance, while appearing more conciliatory in a reported letter to U.N. Secretary-General Ban Ki-moon concerning Taiwan's more modest U.N. bid

⁵⁵ Arms sales to Taiwan are mandated in P.L. 96-8, the Taiwan Relations Act (TRA). Section 3302(b) of U.S.C. 22, Ch. 48, Sect. 3301-3316, enacted April 10, 1979.

⁵⁶ Reportedly language in a letter written to the U.N. Secretary General by the PRC's U.N. Ambassador Wang Guangya concerning Taiwan's current bid for “meaningful participation” in the U.N. “China gives U.N. bid cold shoulder,” *CNA*, September 10, 2008.

on August 15, 2008, the PRC's U.N. representative still objected to Taiwan's participation.⁵⁷

For Taiwan Democracy. Many Americans welcomed the March 2008 election results as a sign that Taiwan's democracy has continued to ripen and mature. They say Taiwan's democratic development has been validated by having passed the "Huntington test" for established democracies — having two successful, consecutive changes of government through a free and peaceful electoral process.⁵⁸ Those harboring concern about how the DPP's supporters would take such a defeat were reassured greatly by the gracious concession speech of Frank Hsieh and the widespread DPP acceptance of the results of the democratic process. To some watching the March 22 election, the Taiwan electorate also appeared to have attained a new level of maturity and sophistication, apparently motivated more in its election decisions by pragmatic calculations of governmental performance than by more emotional issues involving U.N. membership or sovereignty issues.⁵⁹

Some, however, suggest that functional political pluralism in Taiwan may be in trouble over the short term. An effective democracy requires a viable opposition, and the overwhelming KMT electoral victories in 2008 left Taiwan's polity lopsided, the opposition effectively crushed. The DPP has been demoralized and decimated further by the political scandals involving former President Chen, who brought the party from a fledgling opposition party to the pinnacle of power. The scandals, wrote DPP Chairwoman Tsai Ing-wen, have brought the DPP "a kind of sadness so painful it cannot be soothed, and a kind of disappointment so grave it cannot be overcome."⁶⁰ Despite the warming U.S.-Taiwan relationship under the KMT, then, many feel that U.S. interests in having Taiwan remain a full-fledged democracy may be compromised should the opposition remain too feeble effectively to monitor and hold accountable the majority party.

⁵⁷ Sentiment from a letter reportedly sent to U.N. Secretary-General Ban Ki-moon by PRC U.N. representative Wang Guangya on August 18, 2008. Chen, Rachel, "MOFA sees goodwill from China despite opposition to U.N. bid," *Central News Agency*, August 28, 2008.

⁵⁸ Samuel P. Huntington defined this process in his book *The Third Wave: Democratization in the Late Twentieth Century*, Norman and London, 1991. Taiwan qualifies by virtue of the DPP having wrested power from the KMT in 2000 and the KMT having regained power in 2008.

⁵⁹ Many U.S. and other foreign election observers were in Taiwan before and after the March 22 election, including this author. This report draws heavily on these personal observations and insights.

⁶⁰ DPP Chairwoman Tsai Ing-wen, "An open letter to DPP supporters," *Taipei Times*, August 27, 2008, p. 8.

Legislation

P.L. 110-161 (H.R. 2764)

Consolidated Appropriations Act, 2008. The Act provides \$15 million for democracy and rule of law programs in China, Hong Kong, and Taiwan, provided that money for Taiwan be matched from sources other than the U.S. government; Section 671 (b) of the Act allows the President to waive restrictions on Economic Support Funds for certain countries, including NATO countries, “major non-NATO allies,” and Taiwan, listing Taiwan separately. The bill was signed into law on December 26, 2007.

H.R. 1390 (Tancredo)

A bill requiring Senate confirmation for the position of Director of the American Institute in Taiwan (AIT). Introduced on March 7, 2007, and referred to the House Committee on Foreign Affairs.

H.R. 3912/S. 1565 (Lantos/Biden)

Naval Vessel Transfer Act of 2007. Among other actions, the bill transfers to TECRO (the Taiwan office in the United States) the OSPREY class minehunter coastal ships ORIOLE (MHC-55) and FALCON (MHC-59). H.R. 3912 was introduced on October 22, 2007, and referred to the Committee on Foreign Affairs, which held markup on October 23, 2007. S. 1565 was introduced on June 7, 2007, and referred to the Senate Foreign Relations Committee, which held markup and ordered the bill reported on June 27, 2007. (S.Rept. 110-139). The bill was placed on the Senate calendar on July 31, 2007.

H.R. 5916 (Berman)

Security Assistance and Arms Export Control Reform Act of 2008. The bill contains findings that security in the Taiwan strait will benefit from a more intensive U.S. dialogue with the EU on the beneficial effects of its continued arms embargo against the PRC. Introduced on April 29, 2008 and referred to House Foreign Affairs Committee, which ordered the bill to be reported amended on April 30, 2008 (House Report 110-626). The House passed the bill on the suspension calendar by voice vote on May 15, 2008, and the bill was referred to the Senate Foreign Relations Committee on May 19.

H.R. 6646 (Ros-Lehtinen)

Requiring the Secretary of State, in consultation with the Secretary of Defense, to provide detailed briefings to Congress on discussions between the United States and Taiwan about any transfer of military equipment or arms sales or on potential arms sales. Introduced on July 29, 2008, and referred to the House Foreign Affairs Committee. On September 23, 2008, the bill came to the full House on the suspension calendar. The House suspended the rules and passed the bill by voice vote.

H.R. 7059 (Tancredo)

Requiring the sale of certain defense articles and services to Taiwan, including F-16 C/D fighters and diesel submarines. Introduced on September 24, 2008, and referred to the House Foreign Affairs Committee.

H.Res. 676 (Ros-Lehtinen)

Resolution that the United States continue to sell defense articles and services to Taiwan “based solely” on Taiwan’s legitimate defense needs. Introduced September 25, 2007, and referred to the House Committee on Foreign Affairs. Passed by voice vote on the suspension calendar on October 2, 2007.

H.Con.Res. 73 (Tancredo)

Expressing the sense of Congress that the United States should resume diplomatic relations with Taiwan. Introduced February 16, 2007, and referred to the House Foreign Affairs Committee.

H.Con.Res. 136 (Chabot)

Expressing the sense of Congress that the United States should lift restrictions on visits by high-level Taiwan officials, including the Taiwan president. Introduced on May 1, 2007, and referred to the House Foreign Affairs Committee. The Committee marked the measure up on June 26, 2007, and passed it by unanimous consent under suspension of the rules. The House passed the measure by voice vote on July 30, 2007, and the measure was referred to the Senate Foreign Relations Committee on August 3, 2007.

H.Con.Res. 137 (Berkley)

Expressing the sense of Congress that the United States should initiate negotiations to enter into a free trade agreement with Taiwan. Introduced on May 1, 2007, and referred to the House Ways and Means Committee (May 1) and its Trade Subcommittee (May 15).

H.Con.Res. 170 (Tancredo)

Expressing the sense of Congress that the International Olympic Committee should allow Taiwan to participate in the 2008 Beijing Summer Olympics under the name and flag of its own choosing. Introduced June 15, 2007, referred to the House Foreign Affairs Committee.

H.Con.Res. 250 (Garrett)

Supporting Taiwan’s membership in international organizations such as the United Nations. Introduced on November 8, 2007, and referred to the House Foreign Affairs Committee.

H.Con.Res. 278 (Ros-Lehtinen)

A measure supporting Taiwan’s fourth direct presidential election on March 22, 2008. Introduced on December 19, 2007, and referred to the House Foreign Affairs Committee, which held mark-up on February 27, 2008. Passed the House on the suspension calendar on March 5, 2008 by a vote of 409-1. Received in the Senate on March 6 and referred to the Senate Foreign Relations Committee.

S.Con.Res. 48 (Johnson)

Expressing the sense of Congress that restrictions be lifted on U.S. visits by democratically elected high-level Taiwan officials. The measure was introduced on October 2, 2007, and referred to the Senate Foreign Relations Committee.

S.Con.Res. 60 (Baucus)

A sense of Congress resolution calling for negotiations on a Free Trade Agreement with Taiwan. Introduced December 18, 2007, and referred to the Senate Finance Committee.

Chronology

- 09/08/08** — Taiwan announced that it would cancel the live-fire exercise portion of its annual five-day military exercises, in deference to warming ties between Taiwan and the PRC.

- 09/08/08** — Taiwan's Foreign Ministry announced it would seek closer participation in the 16-member Pacific Islands Forum (PIF). Taiwan has taken part every year in the PIF since joining in 1993, but because of PRC objections has been restricted to dialoguing only with its 6 diplomatic South Pacific partners.

- 08/27/08** — The Pentagon announced the sale of 58 Harpoon missiles as well as related support, logistics, and training equipment to Taiwan worth about \$101 million.

- 08/20/08** — According to a KMT news account citing Taiwan's Finance Ministry will investigate details involving the privatization of state-run banks including the Taishin-Chang Hwa and the China Trust-Mega banks cases, to determine if there were procedural irregularities.

- 08/19/08** — John C. T. Feng, Taiwan's former ambassador to the Dominican Republic, was named the new representative to Japan.

- 08/19/08** — Taiwan former President Chen Shui-bian's long-time legal advisor, Wellington Koo, quit.

- 08/19/08** — Taiwan's Special Investigation Unit (SIU) announced it was inviting the Taipei-based Central Bank of China (CBC) and the cabinet-level Financial Supervisory Commission (FSC) to assist in investigating the source of \$21 million in a Swiss bank account in the name of former President Chen Shui-bian's daughter-in-law, Huang Jui-ching. SIU investigators said they were looking into possible irregularities in the second-phase financial reform initiated by President Chen in 2004 as a potential source of the funds.

- 08/18/08** — Prosecutors in Taiwan named five suspects in an alleged high-level money laundering scheme involving former President Chen Shui-bian. They included: Chen Shui-bian; his wife Wu Shu-jen; Chen's son Chen Chih-chung and his wife Huang Jui-ching; and Wu's brother Wu Ching-mao. Among the details prosecutors provided: that President Chen had four undisclosed bank accounts for political donations in his 2000 and 2004 campaigns; that he had failed fully to

declare campaign funds he had raised for mayoral and presidential campaigns between 1993 and 2004; and that his wife, unbeknownst to him, had transferred surplus campaign contributions of an estimated \$21 million to bank accounts in Switzerland and the Cayman Islands using names of her son, daughter-in-law, and other family members.

- 08/17/08** — Tsai Ing-wen, head of Taiwan’s DPP party, said the current political crisis had come about because the DPP put too much faith and trust in Chen Shui-bian.
- 08/14/08** — Former Taiwan President Chen Shui-bian held a press conference in which he admitted failing fully to declare campaign funds and for wiring millions of dollars overseas. He apologized for causing “humiliation” and “irreparable damage” to the party and announced he and his wife’s immediate resignation from party membership.
- 08/14/08** — Taiwan’s Ministry of Foreign Affairs (MOFA) confirmed that the Swiss Confederation’s Department of Justice sought assistance from Taiwan about suspected money laundering by Chen’s daughter-in-law, Huang Jui-ching.
- 08/14/08** — Taiwan submitted a proposal to the UN Secretariat via St. Vincent and the Solomon Islands (2 of Taiwan’s diplomatic relationships), asking the UN to consider permitting Taiwan to have “meaningful participation” in the organization’s specialized agencies.
- 08/13/08** — A spokesman for Taiwan’s presidential office said that this year’s UN bid would focus on “participation” in specialized UN agencies.
- 08/13/08** — Taiwan President Ma Ying-jeou arrived in Panama for a refueling stop; he was greeted by Panama’s President, Martin Torrijos.
- 08/12/08** — AIT Chairman Ray Burghardt gave a dinner for President Ma in Los Angeles. Ma also met with Members of Congress.
- 08/12/08** — Taiwan President Ma YJ left for state visits to Paraguay and the Dominican Republic, returning on the 19th. He flew a commercial flights to the U.S. — a first for a Taiwan president — and transited through LA (coming) and through San Francisco (returning home).
- 08/09/08** — Former President Chen Shui-bian’s son, Chen Shih-chung, his wife Huang Jui-ching, and their baby left Taiwan for the United States. The younger Chen reportedly went to begin a doctorate in law
- 07/27/08** — Taiwan’s Sports Affairs Council (SAC – a cabinet-level council) announced that several Taiwan Ministers would attend the 2008 Olympic Games at IOC invitation using National Olympic Committee ID cards. In the past, China’s protests had led to the issuance of the less prestigious “Guest Card” for Taiwan officials.

- 07/22/08** — Taiwan's SEF chairman, Chiang Pin-kung, was reported as having said he wants to study and promote the creation of a cross-strait comprehensive economic cooperation agreement (CECA).
- 07/17/08** — Taiwan's cabinet announced it would revise regulations limiting investment by Taiwan companies in China, and that new measures would be put into place August 1. Preliminary reports said that the current investment cap would be abolished for some companies and raised to 60% of net worth for other companies.
- 06/12/08** — The first cross-strait meetings in a decade began between China and Taiwan in Beijing at the Diaoyutai State Guest House, conducted by SEF and ARATS. In an unprecedented development, the two sides reportedly agreed to set up permanent offices in each other's territory and to begin regular weekend direct charter flights.
- 05/26/08** — KMT Chairman Wu Poh-hsiung visited China and met with PRC Party Secretary Hu Jintao at the latter's invitation in the highest-level contact between the two sides of the Taiwan Strait.
- 05/20/08** — Ma Ying-jeou was inaugurated President of Taiwan.
- 05/19/08** — Tsai Ing-wen, considered a moderate in the DPP Party and a former Vice-Premier, was elected chairwoman of the Party.
- 05/19/08** — The WHO rejected Taiwan's bid for observer status.
- 03/22/08** — KMT candidate Ma Ying-jeou was elected president of Taiwan, defeating the rival DPP ticket of Frank Hsieh.
- 01/12/08** — Taiwan's legislative elections were held under its newly reorganized system: 428 candidates fighting for membership in the new 113-seat body. The KMT crushed the DPP, winning 81 seats to the DPP's 27.
- 01/07/08** — According to the *International Herald Tribune*, Beijing plans to open a new commercial aviation route through the Taiwan Strait. Taiwan officials said they considered the move a threat to air safety.
- 12/28/07** — Taiwan's High Court acquitted Ma Ying-jeou of corruption charges, upholding the acquittal of a lower court.
- 11/20/07** — *The Federal Register* published a U.S. announcement of a proposed arms sale to Taiwan for upgrade and refurbishment of PATRIOT Advanced Capability-3 (PAC-3) Guided Missiles.
- 11/06/07** — Secretary of Defense Robert Gates, visiting in Beijing, reportedly told PRC President Hu Jintao that the United States is "categorically" opposed to any moves by Taiwan towards independence.

- 9/19/07** — For the 15th consecutive year, a U.N. General Assembly Committee rejected the recommendation that Taiwan’s formal application for U.N. membership be considered by the 62nd General Assembly.
- 09/16/07** — China’s Taiwan Affairs Office said that Beijing had “made necessary preparations” to “deal with serious conditions” as a result of Taiwan’s U.N. membership bid.
- 09/12/07** — The Pentagon announced \$2.2 billion in possible military sales to Taiwan, including 12 surplus Orion P3-C maritime patrol craft and 144 SM-2 Block 3A Standard anti-aircraft missiles, built by Raytheon.
- 09/10/07** — Taiwan Defense Minister Ko Cheng-heng said that Taiwan had an “urgent and legitimate need” to buy F-16s. Minister Ko made the statement while attending the Sixth U.S.-Taiwan Defense Industry Conference in the United States.
- 08/06/07** — According to the *United Daily News*, Taiwan wants to buy at least 6 Aegis-equipped U.S. destroyers for more than \$4.6 billion.
- 07/23/07** — The United Nations Legal Affairs Office rejected Taiwan’s application for U.N. membership on the grounds that it violated the agency’s “one China” policy.
- 07/20/07** — Taiwan announced it had applied for U.N. membership under the name “Taiwan.”
- 07/17/07** — The *Taipei Times* reported that KMT sources said the United States had postponed approval of the sale of 66 F16 C/D fighters to Taiwan because of President Chen’s U.N. referendum.

For Additional Reading

- CRS Report RS22853, *Taiwan’s 2008 President Election*, by Kerry Dumbaugh.
- CRS Report RS22791, *Taiwan’s Legislative Elections, January 2008: Implications for U.S. Policy*, by Kerry Dumbaugh.
- CRS Report RS22388, *Taiwan’s Political Status: Historical Background and Ongoing Implications*, by Kerry Dumbaugh.
- CRS Report RL30957, *Taiwan: Major U.S. Arms Sales Since 1990*, by Shirley Kan.