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IMPLEMENTATION OF THE TAIWAN RELATIONS ACT

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HEARINGS

BEFORE THE

COMMITTEE ON FOREIGN AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-SIXTH CONGRESS

FIRST SESSION

OCTOBER 23 AND NOVEMBER 8, 1979

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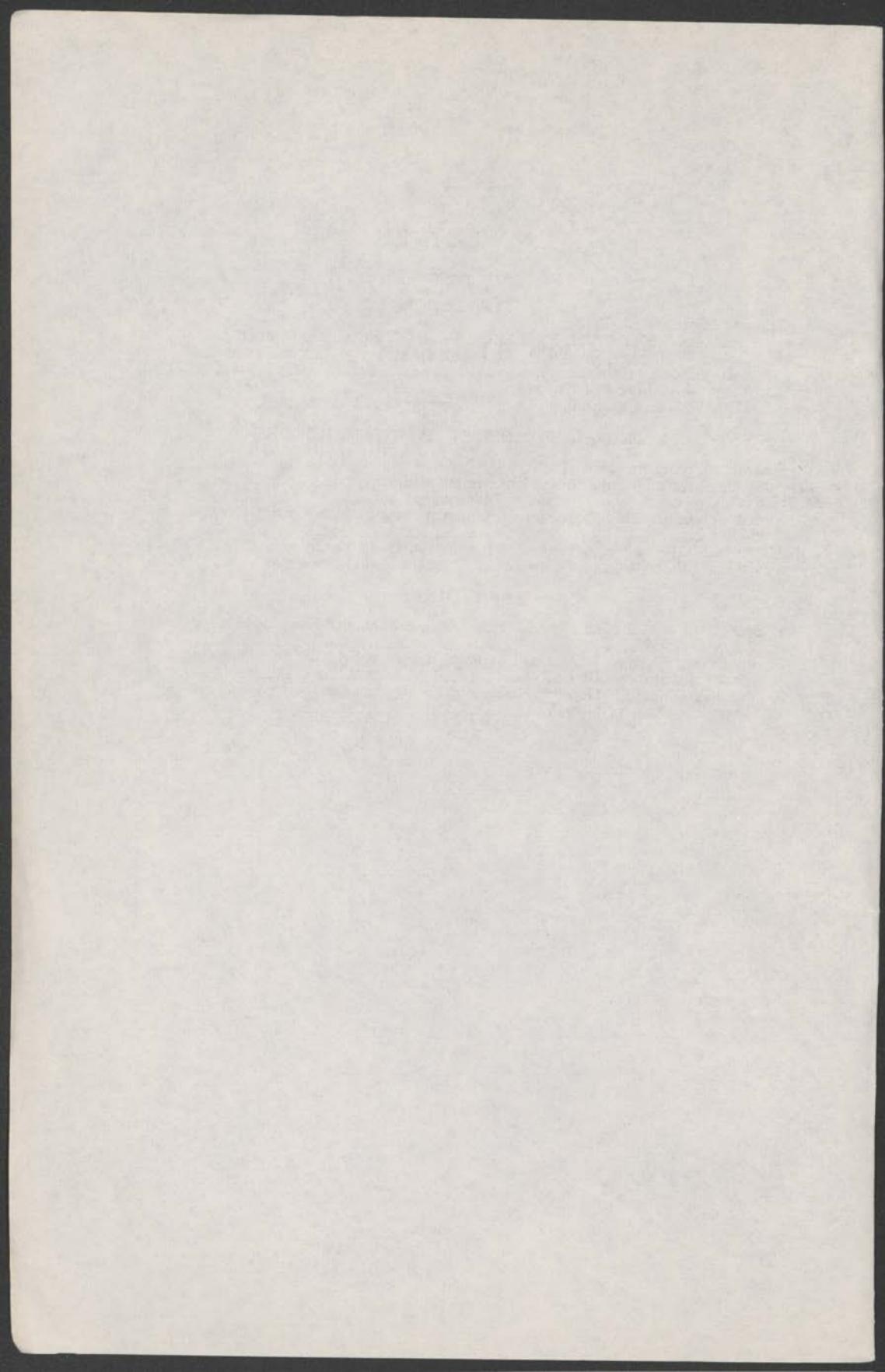
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IMPLEMENTATION OF THE TAIWAN RELATIONS ACT

TUESDAY, OCTOBER 23, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C.

The committee met at 2:20 p.m. in room 2172, Rayburn House Office Building, Hon. Clement J. Zablocki (chairman) presiding.

Chairman ZABLOCKI. The committee will please come to order.

We are meeting today to receive testimony in connection with implementation of the Taiwan Relations Act.

As members know, it is not only our general responsibility to oversee the implementation of laws which are under the jurisdiction of our committee but also, in the Taiwan Relations Act itself, in section 14, there is a provision for congressional oversight.

It is now approximately a half year since the Taiwan Relations Act has been signed into law. The law was fashioned in large part in this committee, and the Chair is pleased to say that we have received a number of compliments in relation to the drafting of this act, including compliments from the executive branch which don't come too often.

For our hearing today we have as witnesses William N. Morell, Jr., President of the USA-ROC Economic Council, and Robert P. Parker, President of the American Chamber of Commerce in Taiwan.

Gentlemen, may I suggest that you take the witness table together so that members will have the opportunity to question either or both of you at the same time. You may read your prepared statements or enter them in the record, as you wish.

Mr. DERWINSKI. Mr. Chairman.

Chairman ZABLOCKI. The gentleman from Illinois.

Mr. DERWINSKI. Mr. Chairman, subject to the manner in which you intend to conduct these hearings, I would like to ask unanimous consent that at the appropriate point I can have entered into the record a statement by Mr. Hungdah Chiu, professor of law, University of Maryland, on the subject of the hearing today.

Chairman ZABLOCKI. Is there objection? The Chair hears none. Without objection, the correspondence to which the gentleman referred will be made part of the record.¹

Mr. Morell, will you proceed.

¹ The statement referred to appears in appendix 1.

STATEMENT OF WILLIAM N. MORELL, JR., PRESIDENT, USA-ROC
ECONOMIC COUNCIL

Mr. MORELL. Thank you. Mr. Chairman, as you may well know, David Kennedy, who is chairman of our council, had hoped to be here today. Unfortunately he is in Asia, and he asked that I personally convey his regrets to this committee. If I may, I will read a prepared statement from David Kennedy, Mr. Chairman.

Chairman ZABLOCKI. Without objection, proceed, sir.

Mr. MORELL [reading statement of David M. Kennedy]: Mr. Chairman and distinguished members of the committee, I appreciate the opportunity you have afforded me and our council to make this presentation before you today. You, of course, know the background of the USA-ROC Economic Council and of my role as chairman from the hearings conducted by your committee in February of this year. I will not bother to review this again today except to say that our Council's membership and the scope of its activities have continued to expand.

I first want to thank your committee and the entire Congress for providing a strong Taiwan Relations Act. I firmly believe that this bill not only is of great assistance to the U.S. business community but, by extension, also benefits our national income and employment and, more broadly, our national interests. Significantly, it also enhances the future viability of Taiwan, which has long been a friend and ally and a valued economic partner of the United States.

The final bill approved by the Congress and signed by the President was an enormous improvement over the bill initially proposed, and for this your committee can take a large measure of the credit.

While I obviously cannot speak for all of the members of our council, most of those who have conveyed their views indicate that, since the act was signed in April, business relations with Taiwan have generally progressed satisfactorily. This, of course, has been a major goal of both the administration and the Congress.

As you may recall, our two-way trade with the Republic of China in 1978 stood at approximately \$7½ billion. At that time, Taiwan was our No. 8 trading partner in the world. This year we confidently expect that our trade volume will rise to \$10 billion, an increase of over 30 percent.

As we approach the eighties it is important to appreciate the significance of this relationship to our economy over the next decade. Even assuming a substantial reduction in the rate of growth of our trade with Taiwan during this period—which, incidentally, may not occur—we can conservatively expect the volume of trade for all of those 10 years combined—and that is the volume of trade with the United States—to exceed \$250 billion.

Our Council recently held its third joint business conference with Taiwan this past June in Los Angeles, where over 700 corporate representatives from both sides viewed future business opportunities and prospects for expanded trade under the new political ground rules.

This was the largest gathering of the year for United States and Chinese company officials concerned with business relations between our two countries. The mood was clearly optimistic, and I am confident that the meeting provided the Chinese representatives from Taiwan with a strong reassurance of United States business support for the future.

Just last month we arranged for representatives from all of the 50 States—and each State was represented there—and from the National Governors' Association in Washington, D.C., to participate in week-long discussions in Taipei on the Taiwan market. This trade and investment forum was supported by the ROC Board of Foreign Trade in line with its buy American policy, which is designed to help reduce Taiwan's large trade surplus with the United States.

I report this to the committee because, here again, there was little doubt among those senior State officials participating that under the Taiwan Relations Act there are impressive future opportunities for business with Taiwan. I also believe that this forum helped to dramatize the economic stake we have in Taiwan's future.

As for the Republic of China itself, there continues to be a rapid expansion in its economic relations not only with the United States but with other countries of the world as well. There is no doubt that Taiwan in the eighties will be one of the largest trading, banking and shipping centers in Asia.

Taiwan's world trade this year will probably exceed \$30 billion and, in the decade ahead, under the same conservative assumptions I mentioned earlier for U.S. trade, its total imports and exports for the 10-year period are expected to achieve the staggering total of \$800 billion.

Taiwan's gold and gross foreign exchange reserves are now in excess of \$7 billion, which is an exceptionally large reserve in relation to its annual imports, and it has one of the strongest international debt positions in the world. Its power production over the next decade will nearly triple and the value of its machinery production would well increase sevenfold.

This is pertinent to your hearings not only because it indicates the contribution we can expect to Taiwan's security and well-being from the future growth of its economy but it also reflects the optimism of the Republic of China Government, the business community there and the people generally. In fact, the Taiwan Relations Act as it was ultimately passed by the Congress has had a great deal to do with this optimism.

We can compare this, incidentally, with the general reaction during the period immediately after the Shanghai communique, when all indicators were bearish; real estate, investment, the value of the Taiwan dollar and the stock market were all down and only capital flight was up. By contrast, in the past 6 months these indicators have all reflected a quite bullish mood.

This is a bright picture, but it is important to understand that there are also problems on the horizon. In my previous testimony in February I stressed that the future of this relationship depends on the maintenance of business confidence not only in the United States but on Taiwan.

The psychological atmosphere is governed to a great extent by the attitudes of both governments not only toward our future business ties but toward our overall relationship as well. It would not be difficult to trigger the kind of uneasiness found in the business community prior to the Taiwan Relations Act if our businessmen or those on Taiwan sensed a developing erosion in the ties between the two countries either through neglect or from the assignment of a significantly lower priority to our relations with that country.

The recent decision to renegotiate our Civil Air Agreement with the Republic of China through the American Institute in Taiwan and the Coordination Council for North American Affairs, whatever the intention, has caused some uneasiness in the U.S. business community not merely for reasons related to this agreement but for the precedent it could set for all other treaties and agreements.

Prior to the passage of the Taiwan Relations Act, we and the Congress were assured that all treaties and agreements would remain in force. As you know, the law itself states this specifically in section 4(c). We did not take this to mean that there would be no changes or amendments to these treaties and agreements, but we did understand that the basic agreements themselves would be retained with whatever modifications seemed appropriate.

We now understand that the plan is to have the Civil Air Agreement renegotiated by the CCNAA and the AIT and to have the existing agreement terminated. In discussing these proposed changes, it has been said by at least one senior U.S. Government official that whatever new document is negotiated would not only be unofficial but would also be informal. Moreover, the new document is referred to not as an agreement but as an arrangement.

The American Institute in Taiwan has assured us, however, that the new agreement will be legally binding and enforceable, though we are not certain at this time whether the plan is to call it an agreement or an arrangement.

We also have been informed that much of the new agreement will be similar to civil air agreements being renegotiated with other nations around the world. We are told that the renegotiation of these agreements is prompted by a number of important new requirements in our international civil air policy.

The foregoing explanation suggests that there are certain unique considerations requiring the negotiation of a new civil air agreement with Taiwan and that these considerations would not apply in the case of other treaties and agreements when changes in them might be required in the future.

It would appear therefore that modifications of such treaties and agreements in the future could be handled simply by amendment rather than through renegotiation of an entirely new agreement. One senior State Department official has indicated that, in any case, all other agreements insofar as they require change would be handled *sui generis*.

We are not qualified to judge either the legal aspects of this issue or the assurances we have received. We do know that uncertainties have been created for some businessmen, and we believe that the Congress can perform a valuable service by consulting with legal authorities competent to speak to these questions and by soliciting the intentions and the assurances of senior officials from within the administration.

Other developments have added to this uncertainty. Even though the act became law April 10, 1979, the Executive order was not signed until late June. Moreover, an agreement on privileges and immunities and on protection of personnel and installations has not yet been signed. This adds further concern as to the priorities we are assigning to our relations with Taiwan.

Another area which is being watched closely by the business community is the manner in which we carry out those security provisions of the act calling for the United States to make available to Taiwan, "such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

There were disturbing reports some months ago that the 1-year moratorium on new commitments for military supplies to Taiwan would be extended beyond 1979. I am now personally assured that these reports were incorrect. However, as far as we are aware, there has been little progress regarding the sale of a modern defensive aircraft to replace the F5E on Taiwan.

Given the very long leadtime required to put new aircraft into operational squadrons and the possibility that the PRC's offensive capabilities may be strengthened by acquisitions from other countries, it would be helpful if there could be reassurances regarding our intentions to help modernize Taiwan's air force.

On the question of the access of CCNAA officials and officials from Taiwan to U.S. officials, there have been certain obstacles in this area which do not seem appropriate in light of the announced intention by the President and the Congress to continue friendly relations with Taiwan and to further the expansion of commercial ties with that country. Some of these problems may be part of a sorting-out process under the new relationship, and we are hopeful that recent improvements in handling these contacts will continue.

Finally, regarding the activities of the AIT, some businessmen have noted difficulties in obtaining assistance from that organization but most reports indicate that the AIT is improving its services to the business community. The Institute, as you know, is a private nonprofit organization with a contract from the State Department and does take policy instructions from that Department. Delays are inevitable in this arrangement, particularly in the formative period.

The AIT staff in Taipei is now smaller than those sections of the Embassy that provided similar services when we had official relations. We would urge that, with the rapid expansion in our business relations, the AIT be more adequately staffed to provide the required business services.

On a related point, we note that despite section 10(b) of the act, the number of offices and the complement of personnel operated in the United States by the governing authorities on Taiwan prior to January 1, 1979, has been significantly reduced. The loss of some of these offices has inconvenienced businessmen dependent on their services.

The net effect of all of the problems I have discussed today is that questions are beginning to arise, both within the United States and on Taiwan, as to whether the act, which provided such strong assurances when it was signed, will be carried out in the spirit intended by the Congress.

In conclusion, I want to express to you, Mr. Chairman, and to members of the committee our gratitude for your efforts in strengthening the Taiwan Relations Act and in exercising your oversight responsibilities through these hearings.

Thank you, Mr. Chairman.

Chairman ZABLOCKI. Thank you, Mr. Morell.

Mr. Parker.

STATEMENT OF ROBERT P. PARKER, PRESIDENT, AMERICAN
CHAMBER OF COMMERCE IN THE REPUBLIC OF CHINA

Mr. PARKER. Thank you, Mr. Chairman. I have a written statement of some 11 pages which I will ask to be inserted in the record. I won't take your time to read it at this point.

My name is Robert Parker. I am a lawyer; I am the managing partner of the Taipei office of Kirkwood, Kaplan, Russin, and Vecchi, which has eight offices in five countries, including Taiwan. This year I am also president of the American Chamber of Commerce in the Republic of China.

Our membership can be distinguished from the membership of the USA-ROC Economic Council, which Mr. Morell heads, in that his organization primarily represents the home offices of American investors in Taiwan, and my organization represents the actual subsidiaries and branch offices operating in Taiwan.

In the course of the last 8 or 9 months, I have had the opportunity to speak on many occasions, both in person and through articles and interviews, on conditions in Taiwan for American business. I have been able to report that conditions are very good and that a great deal of the credit for that belongs to the Congress and specifically to this committee.

I think that the work that was done by the Congress on the Taiwan Relations Act really was one of the finest hours of the Congress in the area of foreign policy and has gone a long way toward reassuring both the Chinese in the Republic of China on Taiwan and American businessmen who invest in Taiwan and trade with Taiwan that it is possible to continue business as usual in spite of the fact that diplomatic relations were withdrawn in a manner that many Americans felt was wrongful and unjustified.

In my statement today, concerned with implementation of the Taiwan Relations Act, I would like to focus on four points. They are: The continued existence of the treaties and executive agreements between the United States and the Republic of China, the number of consular offices maintained by Taiwan in the United States, the functioning of the American Institute in Taiwan, and the American commitment to provide defensive weapons to Taiwan.

On the first of the issues, having to do with treaties and international agreements, it appeared until very recently that there really was no issue. The administration stated very clearly at the time of normalization that all of the existing treaties and executive agreements other than the mutual defense treaty would remain in effect.

That was stated as early as December. It was contained in the Presidential memorandum of December 30. It was stated unequivocally by administration spokesmen at the time they testified before this committee and the Senate Foreign Relations Committee. It was stated very clearly in the briefing for businessmen which was held at the State Department January 15, and so on.

The Congress, of course, wrote that into the Taiwan Relations Act in section 4(c); and in every discussion that I know of, of the significance of the Taiwan Relations Act to American businessmen, great prominence and emphasis has always been given to the fact that the legal framework within which business is conducted was well provided

for in the Taiwan Relations Act, notably including section 4(c), providing for a continuation of the treaties and international agreements in effect between the United States and Taiwan on December 31, last year, excepting only the mutual defense treaty.

It was therefore with no small degree of concern that we learned on August 31, in an announcement by Vice President Mondale in Canton at a meeting which I happened to be attending, that in the course of beginning negotiations with the People's Republic of China [PRC] for a new aviation agreement between our country and mainland China, the United States intended to terminate the existing air transport agreement with Taiwan.

At that time, I posed a question to the Vice President and to Assistant Secretary Holbrooke why the administration considered it necessary to terminate the agreement with Taiwan in order to enter into a new agreement with the PRC. That question was never answered.

I also asked the question whether the termination of the air transport agreement was intended as a precedent in a policy which the administration intended to apply to other treaties and international agreements between the United States and Taiwan. I did not get a direct answer to that at the time I asked it.

I repeated the question later the same day to Assistant Secretary Holbrooke and was told at that time that yes, it was the policy of the administration eventually to convert all of these treaties and international agreements into unofficial agreements because, he maintained, that was consistent with the entire policy of normalization.

That is a matter of considerable concern to American business in Taiwan. It is also, I believe, contrary to the intent of Congress as expressed in the act and certainly is inconsistent with what we were assured by the administration at the time of normalization.

When I returned to Taipei from Canton I reexamined the record of the hearings before this committee and before the Senate Foreign Relations Committee on this point, expecting to find perhaps some artful ambiguity in the statements by the administration which might be used to justify that change in policy.

I found, instead, very clear statements to the effect that the treaties and international agreements would be continued in effect, without ambiguity and without qualification.

Certainly the administration knew, at the time of normalization, that new agreements would be entered into with the PRC in quite a number of areas. If they had meant to qualify the policy regarding treaties and international agreements by the fact that new agreements would be entered into with the PRC, they could have said so. They did not. If they had meant that the agreements would be continued in substance but changed in form, they could have said so, but they did not.

And I believe that, of all the things that have occurred since the time the Taiwan Relations Act was passed by the Congress which would cause concern to the American business community in Taiwan, this particular policy is the one which causes the greatest concern. I think that it is contrary to the spirit and the letter of the act, that the act quite clearly states that the agreements will be continued until terminated in accordance with law.

The air transport agreement, like all of the other agreements, has a termination provision. But it is my contention that, if the administration intended to terminate those agreements, it certainly did not clearly enunciate that at the time hearings were held on the act. Quite to the contrary. And I feel that to do so now is to inject an element of uncertainty where certainty and confidence existed before.

I hope that this committee will urge the administration to honor the pledges made and to adhere to congressional intent as expressed in the act by keeping the air transport agreement and all other existing treaties and international agreements with Taiwan in effect until they expire in accordance with their terms.

If circumstances require, as from time to time they will, that agreements be changed, I believe that our national interest can better be served through amendment of these agreements within their existing framework rather than by allowing them to be reduced to what the administration has called informal, unofficial arrangements.

On the question of consular offices, section 10(b) of the act requests the President to allow the Taiwanese instrumentality, the Coordination Council for North American Affairs, to maintain the same number of offices and complement of personnel in the United States as the Republic of China had maintained prior to normalization.

This request has not been honored. As of the end of last year Taiwan had 14 consular offices in the United States. After normalization they were permitted to maintain only eight. There is a clear need and there have been numerous requests from businessmen, from mayors, Governors, State legislatures, students, and many others to reopen those six consular offices which Taiwan was forced to close.

It is important to remember, I think, that consular offices have no government-to-government role to perform. They issue visas, they notarize documents, they perform functions which are intended to facilitate commercial, cultural and other relations between the people of the United States and the people of Taiwan—in other words, precisely the relations which the act says it is the policy of the United States to preserve and promote.

We hope that the Congress will again urge upon the President the desirability of allowing Taiwan to maintain all 14 of the consular offices to which it is entitled under the act.

With regard to the American Institute in Taiwan, American businessmen have on the whole been quite pleasantly surprised by the performance of AIT. There had been no marked deterioration in the services provided previously by the American Embassy and consulate in Taipei. AIT has a certain inherent awkwardness about it because it is charged with the responsibility of performing what are clearly governmental functions in an ostensibly unofficial role behind the facade of a private nonprofit corporation.

The fact that it has worked as well as it has can be attributed to several factors, including the practicality and soundness of the act, the fact that the Republic of China Government has cooperated with AIT in obvious good faith, and the fact that AIT has been staffed with some exceptionally capable people both here in Washington and in Taipei.

These individuals, headed by David Dean in Washington and Charles Cross in Taipei, have given full cooperation to the business

community and they have earned our respect. This is not to say that there are no problems with AIT. The Institute is almost certainly understaffed. In spite of the fact that our commercial relationship with Taiwan will expand by approximately 20 percent this year, as it has consistently for the last several years, the 65-man staff which was maintained by the Embassy at the end of last year was immediately cut to 50 following normalization.

And all three of the top-ranking officers in the Embassy at the time of normalization have now left Taiwan. Of course, it was understood that Ambassador Unger would depart but there was a significant loss in continuity with the departure of the No. 2 man, Bill Brown, and the No. 3 man, Mel Levine, as well.

The physical facilities of AIT are unimpressive, and I think that is putting it mildly. They ill-befit an institution which represents the United States abroad. The physical condition of AIT's premises almost seems difficult to justify when one considers that the U.S. Government owns several pieces of prime real estate in downtown Taipei, all of which today sit unused.

The manner of processing visas has caused some concern. The AIT staff has certainly labored hard to correct the problems that exist in this area and yet still today one can see long lines outside the travel services or consular area of AIT, and it is clear that they are understaffed.

This particular burden is handicapped by the fact that passport and visa applications must be transmitted to Hong Kong for approval before they can be returned to Taipei and actually issued.

We recommend to this committee and the Congress that it urge upon the administration more adequate staff and more suitable facilities for AIT in Taiwan and to insure that conditions for tenure at AIT are such as will attract and keep qualified Foreign Service officers in its service for a normal tenure.

Finally, the commitment in sections 2 and 3 of the act to provide Taiwan with modern defensive arms is important to American businessmen in Taiwan as perhaps the single most meaningful indication of Taiwan's ability to maintain the security upon which business confidence depends.

At present, of course, there is a 1-year moratorium on arms sales to Taiwan. When this moratorium ends on December 31, the United States must be prepared to respond ungrudgingly and in good faith to provide those defensive articles and services as the act directs, which is to say: Based solely upon Taiwan's needs as determined by the Congress and the President.

Taiwan, of course, suffers a numerical inferiority of great proportions when compared to the numbers of troops of the PRC in every service. So its security depends upon its ability to maintain an edge in technological superiority, especially air superiority.

For this reason our Government's early approval of a more-advanced fighter-interceptor airplane than the F-5E, which Taiwan now relies upon as the mainstay of its air force, will be a matter of particular importance, both symbolically in terms of how we intend to meet this commitment and in terms of Taiwan's immediate defense requirements.

In conclusion, the Taiwan Relations Act is well designed, but the history of its implementation, short as it is, already raises certain important questions. We submit that it is vital to our country's credibility and to maintaining the excellent relations that we have with Taiwan—in spite of normalization—that there be no doubt that the Taiwan Relations Act means in fact and in application what it appears to say on its face. Thank you very much.

Chairman ZABLOCKI. Thank you, Mr. Parker, Without objection, Mr. Parker's prepared statement will appear in the record as prepared and we will include the statements that you gave orally.

[Mr. Parker's prepared statement follows:]

PREPARED STATEMENT OF ROBERT P. PARKER, PRESIDENT, AMERICAN CHAMBER OF COMMERCE IN THE REPUBLIC OF CHINA

Mr. Chairman and members of the Committee, my name is Robert P. Parker. I am managing partner of the Taipei office of Kirkwood, Kaplan, Russin & Vecchi, an American law firm with eight offices in five countries including Taiwan. This year I am also President of the American Chamber of Commerce in the Republic of China.

The American Chamber of Commerce represents some 530 members, including all of the major U.S.-invested corporations in Taiwan. I thus speak on behalf of those American companies and individuals whose daily direct involvement in our country's commercial relationship with Taiwan gives them a uniquely close and knowledgeable perspective on the state of the relationship between Taiwan and the United States.

It is gratifying to be able to tell you today what I have said to others in many speeches and articles during the past seven months: that passage of the Taiwan Relations Act (the "Act") was one of Congress' finest hours in the field of foreign policy. The Act and its legislative history satisfactorily address virtually all of the major points raised by the American Chamber in our testimony last February, and we in the the American business community in Taiwan believe that it is an excellent piece of legislation. By virtue of the Act, Congress deserves the largest share of the credit on the American side for preserving our historically close ties with Taiwan and making possible the uninterrupted continuation of the important business relationships with our eighth largest trading partner.

IMPLEMENTATION OF THE ACT

With regard to the Act's implementation, of the several points which might be raised I will confine my remarks to four which I believe are of paramount importance at this time. These are: (1) the continuation in effect of existing treaties and other international agreements under Section 4(c) of the Act, (2) the number of consular-type offices Taiwan is permitted to maintain in the United States under Section 10(b) of the Act, (3) the functioning of the American Institute in Taiwan ("AIT") under Sections 6 and 7 of the Act, and (4) the commitment to provide Taiwan with defensive arms under Sections 2 and 3 of the Act.

As I will explain more fully in comments to follow, the administration's implementation of the Act has been unsatisfactory in the first two areas, surprisingly good (with some qualifications) in the third, and as yet unknown in the important fourth area.

TREATIES AND OTHER INTERNATIONAL AGREEMENTS

Until recently, it appeared that there was no issue regarding the continuation of the more than 50 treaties and other international agreements (other than the Mutual Defense Treaty) in effect between the U.S. and Taiwan as of the end of last year. Congress had clearly provided for their continuation in Section 4(c) of the Act, and even the administration had been explicitly reassuring on this point at the time of "normalization."

On August 31st, however, Vice President Mondale announced in Canton that one of these international agreements, the Air Transport Agreement governing civil aviation matters between the U.S. and Taiwan, would be terminated in connection with negotiations for a new air agreement with Peking. The Vice President added that the existing U.S.-Taiwan agreement would be replaced by

an "informal, unofficial arrangement." This announcement was made to the press at a meeting, which I attended, between the Vice President and representatives of each American Chamber of Commerce in the Asia-Pacific area.

Assistant Secretary of State Richard Holbrooke, who was travelling with the Vice President, later stated, in response to my question, that the administration intends eventually to convert all existing treaties and executive agreements with Taiwan into "unofficial agreements" because this allegedly would be "consistent with the whole policy of normalization." A United Press International dispatch written from Canton on August 31st and obviously based on State Department "background," also reported that "President Jimmy Carter's administration wants to terminate all the remaining formal agreements with Taiwan or put them on an unofficial basis." Subsequently, under questioning by Senator Jacob Javits, Assistant Secretary Holbrooke gave a slightly different version of the policy, telling the Senate Foreign Relations Committee that the administration now intends "selectively to transfer some" of the treaties and agreements into "unofficial" status.

In either version, such action is directly contrary to express representations made to American businessmen and to the Congress at the time of normalization. We were repeatedly assured, in the words of the State Department's Legal Advisor in his congressional testimony on the Taiwan Relations Act, that "treaties and other international agreements between the United States and Taiwan at the time of normalization will remain in force, except that the Mutual Defense Treaty and related agreements will terminate at the end of this year." Similar unequivocal assurances were given in the Presidential Memorandum of December 30, 1978, the joint State/Commerce/NSC briefing for businessmen and others on January 15, 1979, the congressional testimony of Under Secretary of State Warren Christopher, and numerous other instances. There was no artful ambiguity in these statements; the administration said flatly they would not do precisely what now they now are proposing to do. At the urging of our Chamber and others, the Congress underscored the importance of those earlier assurances by writing them into law in Section 4(c) of the Act.

The State Department has completely failed to justify its present intent to violate those assurances. Obviously the administration knew at the time of normalization that various agreements would be entered into with the PRC in the future, but they did not say or imply that continuation of our existing non-military agreements with Taiwan would be limited only until the time any such new agreements might be reached with Peking. Likewise, they did not say that the agreements would be continued "in substance" but changed in form. If they had, and if Congress agreed, Section 4(c) of the Act need have been written.

One is forced to conclude that the State Department either deliberately misled the Congress and the American people or has suddenly and ill-advisedly reversed a carefully considered policy on which great reliance has been placed. We do not oppose the contemplated air agreement with the PRC or other steps to improve U.S. relations with mainland China, provided they are not taken at the expense of Taiwan or of American business interests in Taiwan. Nor do we necessarily challenge the administration's power to terminate the Air Transport Agreement under Article 12 of the Agreement. We do submit that the administration's proposed action regarding the agreement with Taiwan contravenes the clear intent of Congress as expressed in one of the symbolically and substantively most important provisions of the Act and threatens to undermine confidence regarding our future relations with Taiwan which the Act did so much to inspire.

We believe that new agreements can be concluded between the U.S. and the PRC without jeopardizing our good relations with Taiwan. If, however, the State Department is allowed "selectively" to slice off yet another treaty or agreement with our historic ally on Taiwan each time efforts at cooperation with the PRC are pursued, we will not only damage our commercially more important relationship with Taiwan, but we will also injure our own national interest by again calling into question what it means to be a friend of the United States.

The American Chamber of Commerce urges this Committee and the Congress to insist that the administration honor its earlier pledges and congressional intent as expressed in the Taiwan Relations Act by keeping in force all existing treaties and other international agreements with Taiwan until they expire in accordance with their terms. If circumstances require changes in the agreements from time to time, our national interest can certainly be better served by amendments within the framework of the existing agreements than by allowing them to be reduced to what the administration calls "informal, unofficial arrangements."

"CONSULAR" OFFICES OF CCNAA

In Section 10(b) of the Act, Congress requested the President to allow Taiwan's "instrumentality," the Coordination Council for North American Affairs ("CCNAA"), the same number of offices and complement of personnel as the Republic of China had maintained in the U.S. prior to "normalization." The President has not honored this request, however.

As of the end of last year, Taiwan had 14 consular offices in the United States. After "normalization" they were only permitted to retain 8 of these. There is a clear need, and there have been numerous requests from businessmen, local officials, students and others, to reopen the six offices which Taiwan was forced to close.

These consular offices have no government-to-government role to perform. In the issuance of visas, notarization of documents, and similar functions which they carry out, they serve to facilitate "commercial, cultural, and other relations between the people of the United States and the people on Taiwan"—precisely the relations which the Act states that it is the policy of the United States to preserve and promote.

We hope that the Congress will again urge upon the President the desirability of allowing Taiwan to maintain all 14 of the consular offices to which it is entitled under the Act.

AMERICAN INSTITUTE IN TAIWAN

American businessmen in Taiwan have, on the whole, been pleasantly surprised by the performance of the American Institute in Taiwan ("AIT"). There has been no marked deterioration in the services previously provided by the U.S. Embassy and Consulate, which AIT succeeded.

There is, of course, an awkwardness inherent in AIT, due to the fact that it must perform what are clearly governmental functions while maintaining its ostensibly unofficial facade as a private, non-profit corporation. The fact that it has worked as well as it has can be attributed to the soundness and practicality of relevant provisions of the Act, to the good faith cooperation of the ROC Government, and to the fact that AIT has been staffed with some exceptionally capable personnel. Men like David Dean, Joseph Kyle and Arthur Pothouise in AIT's Washington office and Director Charles Cross and his staff in Taipei have first-hand knowledge of Taiwan, including the needs of American business. They have given us their full cooperation and have earned our respect.

This is not to say that there are no problems with AIT, of course. The Institute is almost certainly understaffed. In spite of the fact that our commercial relationship with Taiwan will expand by approximately 20 percent this year, the 65-man staff of the former embassy and consulate has been cut to 50 men for AIT.

Of the three top-ranking embassy officers in Taiwan at the time of "normalization," none is in AIT today. Ambassador Unger's departure was of course a natural concomitant of the change in diplomatic relations. More unfortunate is the loss in continuity during this important period due to departure of the number-two man, who was highly regarded in Taiwan and was pressured to leave by the State Department. Both he and the economic counsellor, who was number three, had been in Taipei for only one year.

The physical facilities of AIT are unprepossessing, to say the least, and ill befit an institution representing the United States abroad. This condition seems difficult to justify when the U.S. Government owns several pieces of prime real estate in downtown Taipei, which today sit unused.

Finally, there is the matter of delay in processing passport and visa applications due to the artifice of transmitting all such matters to the consulate in Hong Kong for approval. These delays are usually a matter of one to three days. AIT's staff has made a significant effort to keep delay to a minimum, but some such inconvenience is unavoidable in view of the procedure imposed.

We recommend that this Committee and the Congress urge the administration to provide more adequate staff and more suitable facilities for AIT in Taiwan and to insure that conditions for tenure at AIT are such as to attract and keep highly qualified foreign service officers in its service.

DEFENSIVE ARMS

The commitment in Sections 2 and 3 of the Act to provide Taiwan with arms for its defense is important to American businessmen in Taiwan as perhaps the single most meaningful indication of Taiwan's ability to maintain the security on which all business depends.

At present there is a one-year moratorium on arms sales to Taiwan, imposed by the administration in conjunction with normalization. When this moratorium ends on December 31st, the United States must be prepared to respond ungrudgingly and in good faith to provide such defense articles and services as the Act directs: based "solely upon Taiwan's needs," as determined by Congress and the President.

Taiwan's security turns on its ability to maintain technological superiority, especially in the air. America's early designation of a more advanced fighter-interceptor aircraft for sale to Taiwan will be a matter of particular importance, both symbolically and in terms of Taiwan's most urgent defense requirements.

CONCLUSION

As well designed as the Act clearly is, the history of its implementation to date raises certain important questions. It is vital to our country's credibility, and to maintaining the excellent relations which exist with Taiwan in spite of "normalization," that there be no doubt that the Act means in fact what it appears to say and will not be compromised in application by the executive branch.

CONGRESSIONAL OVERSIGHT OVER TAIWAN RELATIONS ACT

Chairman ZABLOCKI. As I stated in the opening statement, it is the intention; it is indeed the duty of this committee to continue oversight on the implementation of the provision of the Taiwan Relations Act, the operation and procedures of the Institute, the legal and technical aspects of the continuing relationship between the United States and Taiwan, and the implementation of the policy of the United States concerning security and cooperation in east Asia, provisions that are in section 14 of the act.

Further, section (b) of section 14 provides that "such committee shall report as appropriate to the respective Houses on the results of their monitoring". Further, we are awaiting the report from the executive branch as to what degree and how the act is implemented.

As you have stated, Mr. Morell, likewise we, in Congress, have been concerned about the rumors, at least that were arising both within the United States and in Taiwan, as to whether the act, which provided such strong assurances when it was signed, is indeed being carried out. Let me assure you that notwithstanding any views of an Under Secretary of State or even a Vice President of the United States we intend to see that the provisions of the act are implemented, particularly since the executive branch said this was a piece of legislation that was monumental, very important, timely. If they mean what they say, they had better live up to it. And, I am sure that this committee intends to see that they do.

TERMINATION OF INTERNATIONAL AGREEMENTS

Now, both of you gentlemen have referred to provisions in section 4 of the act, that is the Taiwan Relations Act, section 4, the Application of Laws, International Agreements. Section 4(c), referring to treaties and other international agreements and congressional approval, clearly states that there will be no termination of any agreement unless and until terminated in accordance with law.

In the other body, the Senate majority leader has reported that treaties perhaps will be revised in the other body, implying that only that body is going to act on such revision. I want to state clearly here that if there are going to be any changes in the agreements or

treaties, this House as well is going to act upon the changes of the laws of the United States.

Both of you have noted that international treaties and international agreements with Taiwan are continued in force unless terminated by law and have implied that if these treaties should be terminated, this would have an effect in Taiwan and on United States investment and trade by Taiwan with the United States if they should be renegotiated or redesigned as informal agreements.

Could you make a more specific case? What business, for example, have you learned would be not only, as you have stated, Mr. Morell, concerned, but probably would be hesitant in continuing its relations, its trade with the United States or with industries from the United States?

Mr. MORELL. At the moment, I think we are dealing primarily with atmospherics because it is not clear just what legal significance would follow from the kinds of changes which are presently contemplated by the State Department to be carried out by the AIT. The words that are being used are "unofficial, informal" and they are calling these agreements that they plan to renegotiate, Mr. Chairman, "arrangements."

All of this suggests that the agreements will have less force in law than the agreements that presently exist. And, our business people, the ones who have discussed this problem with us, are troubled by this not just because of the civil area agreement; they are troubled by the precedent. They feel that, for example, when the negotiations come up for the nuclear agreement, are they going to take the same attitude toward that and what will be the legal effect of it? We do not know what the legal effect will be. So, we are simply concerned about an uncertainty. And, that is where most of our businessmen are at the moment. And, they do not like the sound of the way things are moving.

Chairman ZABLOCKI. Well, as I understand it, the problem with the Civil Aviation Agreement, which was signed in Nanking in 1946, and is therefore referred to as the Nanking Agreement, is that this treaty will have to be renegotiated or amended. Perhaps merely an amendment would be satisfactory. But some change apparently is necessary because it is antiquated. It is expiring and will have to be renewed. And, because it involves routes on the mainland as well as Taiwan is the particular reason why it must be renegotiated. Do you agree?

Mr. MORELL. We agree.

Chairman ZABLOCKI. But your view is that if this one is renegotiated, the other treaties need not be renegotiated and changed from treaties to agreements or arrangements?

Mr. MORELL. That is correct.

Chairman ZABLOCKI. Let me state that there is on the statute books the Case-Zablocki law which requires that all international agreements must be reported to the Congress. I think we should amend that law to insure that all "arrangements" as this must likewise be reported to Congress. And, maybe we ought to go further and require that all agreements, or arrangements, particularly when they have an effect of a national commitment, must be ratified, that is approved, by both Houses of Congress.

I think we must give this signal to the executive branch so they will not toy around with the intent of Congress when we enacted this act at that time of the termination of diplomatic relations with Taiwan.

This Taiwan Relations Act was intended to be implemented as the Congress has spelled it out in the law and in its report. And we shall continue to oversee the implementation.

Thank you gentlemen.

Mr. Broomfield.

MODIFICATION OF AVIATION AGREEMENT

Mr. BROOMFIELD. Mr. Chairman, I want to compliment you and join you in your statement on your feelings toward any changes in any of the treaties that have been in effect for a long time between Taiwan and the United States. I also want to thank the two gentlemen who are testifying today. I find them extremely revealing. I think they point up the importance of oversight activities by our committee. And, frankly, I am quite shocked at the administration in view of what has transpired with respect to the mutual defense treaty, to be talking about casually changing some of these other agreements in this manner.

I am just wondering, Mr. Parker, you seem to have some reservations about what the chairman was saying as far as updating the Air Transport Treaty. Do you think it is necessary or would it be better to leave it in place?

Mr. PARKER. I think it is necessary. Obviously, under various of these agreements, there will be changed circumstances from time to time, but insofar as possible, I would prefer to see these handled by amendment to the existing agreements when there is an agreement in place covering the subject matter. I think that one of the most important things that the Congress did in the Taiwan Relations Act was to recognize the significance, both symbolically and legally, of the existing treaties and international agreements with Taiwan.

Now, under our Constitution, a treaty is the law of the land. And, we have a very full body of case law that defines quite precisely the legal effect of a treaty or an executive agreement.

Congress did its best in providing for the future when new agreements would be necessary to cover subjects that are not covered by the existing treaties and executive agreements as to what the effect of those arrangements, those agreements between AIT and CCNAA would be. But, I do not believe that any lawyer, outside of the State Department, is prepared to say that those agreements would have the same legal effect as a treaty, which under our Constitution is the law of the land.

INTERFERENCE BY PRC WITH TAIWAN TRADE

Mr. BROOMFIELD. I am wondering if the People's Republic of China has attempted to initiate any discrimination with respect to freedom of trade between Taiwan and other countries.

Mr. PARKER. In the past they did. There were several instances. Fortunately, they have not done so recently. There was an incident in which they refused to honor American Express traveler's checks because American Express maintains an operation in Taiwan. There were other instances, including a statement made to me by Ambassador Woodcock that when Pan American entered into its negotiations with the PRC, the PRC asked Pan American to discontinue its service to

Taiwan in order to obtain the agreement it was seeking with the PRC. In Ambassador Woodcock's terms, Pan American declined to do so, explaining that they could not under U.S. law; but terminated its service to Taiwan later for other reasons. Of course, within about 3 weeks after doing so, it concluded its hotel deal with the PRC.

MFN TO THE PRC

Mr. BROOMFIELD. Another matter that troubles me is the administration's plan to send to the Congress a trade agreement which, among other things, grants most favored nation status to China. Do you think MFN should be granted to the PRC?

Mr. PARKER. We do not oppose granting MFN to the PRC, but we feel that conditions should be attached to it. To make the language of the Taiwan Relations Act more meaningful, when it talks about protecting Taiwan against boycotts or embargoes or other threats from the PRC, we would like to see those things that the PRC wants from the United States such as MFN and access to our technology and so forth, made conditional. So that if they do use force, military or economic against Taiwan, then they will lose those things that they want from us. Under existing law, for example, under the antiboycott law, if there is a violation, all the penalties are aimed at American companies. We would like to see the penalties for that kind of action aimed at the real culprit, in this case the PRC.

CLOSING OF TAIWAN CONSULAR OFFICES IN THE UNITED STATES

Mr. BROOMFIELD. I wonder if you would also comment on why several of Taiwan's consular type offices were closed in the United States. I understand six were closed—Kansas City, Portland, American Samoa, Guam, Boston, and Portland. Can you tell us why these were closed down?

Mr. PARKER. Congressman, I wish I knew the answer. You would have to ask the administration. It certainly seems to me clearly consistent with the letter and spirit of the Taiwan Relations Act that those be maintained.

Chairman ZABLOCKI. Would the gentleman yield?

Mr. BROOMFIELD. Yes.

Chairman ZABLOCKI. If my memory serves me correctly, it was my understanding that prior to the termination of the relations, the Republic of China had intended to close some of those by agreement. Have you got information to the contrary?

Mr. PARKER. Mr. Chairman, I believe they reluctantly acquiesced under some pressure.

Mr. BROOMFIELD. It is my understanding that they were closed prior to the Taiwan Relations Act.

Mr. MORELL. Mr. Chairman. I believe that is right. I believe it was after January 1 and before the Taiwan Relations Act.

Chairman ZABLOCKI. The information is given to me, if the gentleman would yield further, that there were 14 consulates in the United States as of last December 31, and there are 9 at the present time, counting the office in Washington.

TAIWAN'S DEFENSE REQUIREMENTS

Mr. BROOMFIELD. Well, one other question I would like to ask you, Mr. Parker, concerns the defense needs of Taiwan. And, of course, the 1-year arms embargo, which ends soon is a part of it. You indicated very strongly they are going to have to modernize. What if the United States opposes modernizing the air force over there? Are they apt to go to some other country and buy their equipment?

Mr. PARKER. It is very difficult for them to do so. They have relied upon the United States for their sophisticated weapons. They have been, of course, historically and consistently an ally of this country, not of others. The alternative suppliers of really sophisticated weapons, people like the British, are negotiating with the PRC to sell advanced aircraft. Taiwan really has nowhere else to turn but to us.

Mr. BROOMFIELD. I want to compliment both of you for your excellent statements.

Chairman ZABLOCKI. Mr. Fascell.

LEGAL STATUS OF UNITED STATES-TAIWAN AGREEMENTS

Mr. FASCELL. Thank you, Mr. Chairman. Let me add my commendation to Mr. Morell and Mr. Parker for very clear and precise statements with respect to the implementation of the act. And, the operational matters are quite easy to grapple with, such as staff facilities, even weapons, frankly. The other is a little hairy. And, both of you raised the same issue: When is a treaty a treaty and an agreement not an agreement and all of that kind of stuff? And without having the benefit of the case law, but basically a treaty between two governments ratified by the Senate makes it the law of the land. And, if it is not called a treaty and not ratified by the Senate, it is not a treaty no matter what you call it. If you call it an executive agreement, it is not a treaty if it is not ratified by the Senate. It may be an international agreement, it may be an executive agreement, it may be an agreement, it may be an understanding, it may be an arrangement.

But if the parties do not exist to that original agreement, the question is whether or not pursuant to the law under the terms of that agreement, are they complying with the law when you seek to change it.

You have indicated that is the problem and obviously you are complying with the law if you meet their terms of the agreement with respect to the change. But, when one of the parties no longer exists and the Government then, you have a different problem. The question then is, would you be satisfied, pursuant to the agreement, if you changed the names of the parties? Now, I do not want you to answer that question because that is going to be a problem. And, yet, it is an obvious gap in the argument to say that if you follow the modality of the present agreement, which provides that the parties can negotiate to change the agreement, and you substitute the parties from two governments to two operational agencies that are now in existence under a new arrangement, do you have less of an agreement? I do not know whether you do or not.

Now, a treaty, I can see where you have the argument only because a treaty has the force of law once it is ratified by the Senate. But, if one of the parties no longer exists, do you really have a treaty? Where is it going to be enforceable? You know, is it simply by virtue of the good will of the two parties who entered into the treaty to start with that the treaty remains in effect, notwithstanding what the conditioning said in supporting the law. And, I supported this treaty and I want to see it properly implemented.

But, I think it behooves us to get past semantics and symbolics and politics of the issue and get down to the nitty-gritty. And, I think we are going to have to look very carefully at the substance and I think you are very right in raising the danger signal, that flies if this is going to be a long-term precedent, to shift the whole thing around. And, who knows what the dynamics of that are going to be as long as you have stability and understanding.

I think that is the key issue in the matter. In the meantime, the operational and functional matters are going to have to be dealt with specifically to satisfy, in my judgment, not only the business community, but the national interests of the United States.

Just for me, speaking just for me, I am going to be very interested not in the legalities of the thing as such, but what is the substance that we are dealing with here.

Chairman ZABLOCKI. Does the gentleman have further questions?

Mr. FASCELL. No, I want to thank them very much for raising these issues. I think they are very timely and important and we need to take a good hard look at it.

STAFF NEEDS OF AIT

Chairman ZABLOCKI. If the gentleman from Florida will yield, he has some time left and I did not have time to ask a question about staffing in implementation of the act. Mr. Parker in particular said there is a need for additional staff in Taipei as far as the U.S. staff is concerned. You remember that this committee and Congress urged the administration to provide more staff and suitable facilities for AIT in Taiwan.

Mr. FASCELL. Mr. Chairman, that did not go by me unnoticed.

Chairman ZABLOCKI. But, did Director Charles Cross request additional staff, Mr. Parker?

Mr. PARKER. I do not know, Mr. Chairman.

Mr. MORELL. My understanding is that AIT would like more staff. There has been a ceiling imposed. I am sorry I cannot tell you what the nature of that ceiling is.

Chairman ZABLOCKI. Is it a ceiling related to the amount of business they have?

Mr. MORELL. I don't believe so.

Mr. PARKER. Not at all. When they find it necessary to go out and hire American students who are in Taipei studying Chinese language and recruit them on a part-time basis to come in and help out a staff that is overworked to the point almost of exhaustion, especially in the consular area, then one suspects there must have been an additional request for staff.

Mr. MORELL. There has been.

Chairman ZABLOCKI. The only thing I see in your recommendation is that you request qualified foreign service officers be in the service. That is contrary to the provision of the act.

Mr. PARKER. We understand they are on leave status.

DIPLOMATIC PRIVILEGES AND IMMUNITIES

Chairman ZABLOCKI. Mr. Derwinski.

Mr. DERWINSKI. Thank you, Mr. Chairman. Mr. Morell, you point out in your concluding statement that you are concerned that the Taiwan Relations Act be carried out in the spirit intended by Congress.

I think that is the key that we have to focus on. It is my judgment that Congress, for example, did intend that the officials representing Taiwan have all of the privileges, the immunities, that other diplomatic personnel have, but yet, as you point out in your statement, this has not been signed.

Now, is this delay, deliberate or otherwise, one of your concerns when you referred to the possibility of the executive branch not living up to the intent of the law as passed by Congress?

Mr. MORELL. We are concerned about several things. We are concerned first by the delay. Second, we are concerned that AIT and the CCNAA apparently cannot come to terms with some of the principal provisions that would be embodied in a privileges and immunities agreement. And, because there has been that delay, as you probably know from the press, there have been problems with protection of facilities, there have been problems with protection of pouches and these things are not only an annoyance, but it prevents the effective operation of the CCNAA when they are trying to deal with the business community, which is our principal concern.

Mr. DERWINSKI. But, it was the intent of Congress that the passage of the Taiwan Relations Act not interfere in any way with the services available to our citizens or their citizens and that, in effect, this act became the vehicle for the continuation of normal relations in all but the name. That was the intent of Congress.

Mr. MORELL. The act is quite clear, I believe, on privileges and immunities.

INTENT OF STATE DEPARTMENT ON TERMINATION OF EXISTING TREATIES AND AGREEMENTS

Mr. DERWINSKI. And, you recall we also wanted to very specifically protect the ownership and property interest of the Republic of China, an action which was received with much dismay in the Department of State which promised to waive the properties to the Republic of China, yet obviously, the intent of Congress could not be denied at that point.

Mr. Parker, I appreciate your scholarly analysis of the situation. I would like to ask you a question about Secretary Holbrooke's statement, which I assume was in some public forum or at least documented in some way, and in which presumably we would selectively terminate treaties and agreements. Could you give me the background of his public or official views as you referred to them?

Mr. PARKER. That particular statement was made before the Senate Foreign Relations Committee. The subject of the hearing was on another matter, but at the conclusion of that hearing, I believe, he was requested by Senator Javits and, at that time, he used the phrase "selective termination."

Mr. DERWINSKI. He had earlier been quoted, as I understand, has been quoted as saying it was the intention of the State Department to terminate all existing treaties and agreements.

Mr. PARKER. That is what he said personally to me in Canton.

Mr. BROOMFIELD. Also, in February, I understand that Deputy Secretary of State Christopher said:

We have moved to assure that with the exception of the mutual defense treaty and related agreement, our many treaties with Taiwan, more than 55 in all, will remain in force.

Mr. PARKER. Yes, Mr. Christopher and Mr. Hansell, the legal adviser to the State Department, both testified to that effect before this committee and the Senate Foreign Relations Committee.

Mr. WOLFF. Would the gentleman yield?

Mr. DERWINSKI. Yes.

Mr. WOLFF. I thank you for yielding. Let me indicate that Secretary Holbrooke said the same thing before the Subcommittee on Asian and Pacific Affairs in February, exactly the same words at that time. So the question now is whether you are talking straight talk or State talk.

Mr. DERWINSKI. Gentlemen, is that a good quote? Probably State talk. Thank you.

Your statements have been very helpful. And, I think you have, for the most part, in this committee a very interested group of members, specifically interested in seeing that the intent of Congress as we saw it in passage of this act is carried out. We appreciate your practical, timely comments.

CONGRESSIONAL OVERSIGHT

Chairman ZABLOCKI. The Chair now will continue under the rule. There are two Republican members who were here at the beginning of the session. Mr. Lagomarsino?

Mr. LAGOMARSINO. Thank you, Mr. Chairman, I want to compliment you for calling this hearing. I know we will follow through and hear from the State Department as well about some of these allegations that have been brought up. I think that the oversight provision in the law is probably going to turn out to be the most important because the rest of it does not really make a heck of a lot of difference if it is not carried out. And, as the chairman said, I think this committee, and at least a substantial majority of its members, are going to see that that is indeed the case.

I have a little bit of interest in it. Beyond just being a member of the committee, as I recall I was the one who offered language that ultimately was in the bill. I originally proposed a commission. I think as it turned out it is probably better because it is a quicker way to react. It was very plain from the statements that were made to this committee and to other committees of the Congress that it was not our intention nor the intention of our Government to change any of

the treaties or agreements except for the defense treaty. Perhaps Judge Gasch's decision will play an important part in this story as it goes down the road.

I recall that one of the questions I asked when the State Department people were before us was about rumors we had heard as to some of the pressure that was being brought to bear on American businesses not to do business with Taiwan even before we started marking up the agreement, the legislation for the agreement.

And, two that were mentioned were American Express and Pan American. And as I recall the testimony we heard, that with regard to both of those the State Department had indicated there had been no such problem. From what you tell us, there either was such pressure or, at least, an amazing coincidence.

With regard to the consular offices, one of the consular offices that the Republic of China had, as you mentioned a while ago, was on American Samoa. And, the Governor of American Samoa had specifically asked me, and probably others as well, to see that that particular office remained open because there are large numbers of Taiwanese fishermen who come in and out of Samoa and who require such services. And, from what you told me, I understand that one is no longer open. I think that is something we ought to take a look at also.

Mr. Chairman, I think that we should, if it meets with the approval of the chairman, I think we should schedule another hearing soon with members of the State Department to find out exactly what is going on here.

Chairman ZABLOCKI. The gentleman suggests maybe that the committee hear Deputy Secretary Christopher and Assistant Secretary Holbrooke?

Mr. LAGOMARSINO. Well, if we need to be specific, that sounds like a good suggestion.

Chairman ZABLOCKI. I read your mind. But, if the gentleman would yield further, I wonder if the chairman of the Subcommittee on Asian and Pacific Affairs would have any objections since he already heard Holbrooke?

Mr. WOLFF. We constantly hear Mr. Holbrooke on a variety of matters. No, not only no objection, but I would like to inform the gentleman from California that, as the chairman of the full committee knows, the subcommittee has been not only holding hearings on the question of oversight but is maintaining a fairly close vigil on the whole question that is before the full committee now. And, it will continue to do so.

Chairman ZABLOCKI. I am sure what the gentleman from California is suggesting will be considered.

UNITED STATES DIPLOMATIC FACILITIES IN TAIWAN

Mr. LAGOMARSINO. Mr. Chairman, I have one further question and more for my own information than perhaps the committee's. What office is the American Institute in Taiwan using now?

Mr. PARKER. They are using the office that was previously occupied by the U.S. Military Assistance Advisory Group, the MAAG group.

Mr. LAGOMARSINO. What is happening in the old Embassy there?

Mr. PARKER. Nothing.

Mr. LAGOMARSINO. It is vacant?

Mr. PARKER. It sits vacant as does the Ambassador's former residence.

Mr. LAGOMARSINO. The Ambassador's former residence is vacant, also?

Mr. PARKER. And, they own a beautiful piece of property in a prime area of Taipei that was purchased years ago for the construction of a new Embassy, which was never built.

Chairman ZABLOCKI. Mr. Fountain?

RESPONSIBILITY OF CONGRESS TO OVERSEE IMPLEMENTATION OF THE
ACT

Mr. FOUNTAIN. Thank you, Mr. Chairman. I do not have any questions. I am sorry I was not here when the statements were made. Mr. Fascell has given me a briefing while I have been sitting here as to just what your statements were, however. I want to associate myself with the statements made by the chairman and say that while I did not agree with the action take by the President, I think the Taiwan Act was an attempt, as I construe it, on the part of the Congress to do indirectly, insofar as we could to reestablish relations with Taiwan. We could not do this directly by an agreement or a treaty inasmuch as they were no longer recognized as a country.

And, I think it is good for you and others to invite our attention if there are any potential flaws in the agreement or if the act is not being properly implemented or if we are not carrying out our responsibilities under the terms of the act. I think it is good to bring it to our attention just as some young people from the University of North Carolina, Chapel Hill, who were in my office today, were raising some questions which I think are most appropriate. We need to be kept on guard lest we make some mistakes and to keep us ever cautious that we do the right thing by those who have been our friends.

I want to commend the chairman for calling this hearing and hope that we will continue to the end that this act is fully implemented and that we restore insofar as humanly possible the best relations that we can with one of the five nations which was a founder of the United Nations.

But, thank you, Mr. Chairman.

ADMINISTRATION POSITION ON UNITED STATES-TAIWAN AGREEMENTS

Mr. WOLFF. First I think it would be wise at this time to compliment both the PRC and the Government of Taiwan for the strength they have shown during this transitional period. I think it important to mention it at this time because there was great consternation that both sides would resort to some kind of activity that would disturb this very delicate balance that has been maintained.

Second, I think that it is important to mention at this point that the recent decision by Judge Gasch goes contrary to the fact that we have a Taiwan Act in place that both parties of Congress voted upon. This vote thus affirms the fact that the Mutual Defense Treaty no longer exists since we were putting into place the Taiwan Act to replace it.

Now, I would like to read to the committee the point that the chairman was making before, Mr. Holbrooke's words before our subcommittee:

We also could not agree to declaring our treaties and agreements with Taiwan null and void

This is in relationship to the normalization procedure:

The President had determined that except for the ending of the formal diplomatic relations and the Defense Treaty relationship, we would maintain the broad range of substantive ties with Taiwan in commerce and investment, in travel and in tourism and in cultural interexchange.

These treaties and agreements were exceedingly important to that goal because without them we could not continue, for example, cooperation in the peaceful uses of atomic energy, the ending of the treaty of friendship, commerce and navigation, and the orderly marketing agreement. That would have a deleterious effect on our and Taiwan's essential business interests.

Let me tell you I in particular found the statements made by the administration and the State Department at that point one of the reasons for my strong support for the Taiwan Act, because it was understood at that time, indeed, we were led to believe that there would be no disturbing of existing arrangements and agreements with Taiwan.

I think for the administration to come along right now and talk about renegotiating all of these things is contrary to the original position that was taken with the Congress, and is in line with the fact that Congress was not informed about the procedures that were going forth in the first place.

I find that this position that has been taken by the State Department with regard to the Civil Aviation Act to be contrary, once again, to the position that was taken by the Congress because of the assurances we received last February. I think it very important that there is a history of the State Department acting upon its own in these things without regard to the effect on the Congress. The Congress clearly laid down certain lines of procedure for its relationships with both the PRC and with Taiwan.

On this basis, I think that it is important to understand that there are about 20 of these arrangements or agreements that have passed really out of existence but are still being continued in force. Now, if that is the case, if there are certain agreements, why are they being maintained and certain agreements being singled out?

Mr. Chairman, you have indicated that you are going to hold further hearings on this. Well, the subcommittee is also going to hold further hearings on this and we are going to read back the words to those who negotiated some of these agreements and find out whether or not they were talking and telling us the truth in the first instance, because they spoke to us under oath.

We do one thing in our subcommittee that you do not do here in the full committee; we put our witnesses under oath, and we take it that these two gentlemen who have appeared before us have spoken under oath.

But I do believe that it is important for us to maintain a position with the people on Taiwan and to maintain a very strong position with the People's Republic of China. It is in the best interest of the people of the United States to do both. Thus, I think that while we cannot harken back to the days where we looked to 900 million people

and say that they do not exist, similarly, we cannot now reverse the trends of the times and say that the millions of people on Taiwan do not exist.

Mr. Chairman, I have no questions. I am sorry to take your time but I think it required that our subcommittee had some voice in this situation.

Chairman ZABLOCKI. I would thank the gentleman, except I do not think we need to bring any of our executive branch witnesses to testify under oath. We can tell when they are not telling the truth.

Mr. Pritchard.

APPRAISAL OF UNITED STATES-TAIWAN RELATIONS UNDER THE ACT

Mr. PRITCHARD. Mr. Chairman, it is nice to welcome both of these gentlemen. It is nice to see Bob Parker again. I think there are two problems here. One is a matter of our dealing with the administration as a committee, and their laying out certain guidelines and procedures which you have said they will follow and then not doing it. This really focuses on the whole relationship between Congress and the administration, and one I believe the chairman is going to follow up closely, carefully, and with vigor.

The second problem is, I gather from what you gentlemen are saying, that so far you have gotten along pretty well with this arrangement. What you are concerned about is down the road a ways, and what looks like may be happening.

Is that a fair statement of your feeling on this one?

Mr. PARKER. It is a fair statement. I think that, speaking for myself, the arrangement has worked well. The act is well conceived. And we would hate to see the success that has been achieved thus far in its short history jeopardized by administrative actions, which we believe would be inconsistent with the intent of the Congress in the act.

Mr. PRITCHARD. I guess it is up to this committee to take a close look and see if we are following and doing what we said we would do. It appears that both governments have shown restraint in that they have tried to work under the scheme that has been arranged.

I gather from what you have said if we follow the rules we have laid down you feel that this arrangement can work down through the years; is that right?

Mr. PARKER. I do.

Mr. MORELL. If it is followed in the spirit of the act, I think it can.

Mr. PRITCHARD. I have no further questions.

Chairman ZABLOCKI. Mr. Mica.

DEFINITION OF UNITED STATES-TAIWAN RELATIONSHIP

Mr. MICA. Thank you, just one moment, if I may. With regard to the termination of agreements, my colleague from Florida struck an interesting chord, I think, in that we are talking about names and titles and agreements and procedures and relationships that heretofore did not exist.

And I think it is rather odd that really we now have a relationship, an Alice in Wonderland relationship, an unofficial relationship with Taiwan. And I supported this legislation. I supported it and I recognized the reality of the situation, but I think it is kind of silly that we are now worried about whether an agreement is really an agreement or a treaty or a procedure.

The way I understand it to be is they may cancel the agreement but make it an official procedure. So it seems to me that we are moving further and further into fantasyland by saying that what we have here is an unofficial-official relationship with agreements that have been terminated and will be followed up with what would be terminated procedures or unofficial-official procedures.

I just would hope that we do not get too far off course with what the titles are. For me, it has long since become meaningless. I know and you know what our relationship with Taiwan is and who every individual in that office works for. You know what this Congress sentiments are.

So if they do cancel these agreements, and I do not think they should—I think as our subcommittee chairman said, we have sufficient protection in this legislation or at least we thought we did that we should continue to improve our relations but we should not get hung up any more on terms.

I spent the first day of hearings here in absolute astonishment saying that we were going to have unofficial-official relationships. But I have come past that point. Now I hope if we move forward that we will not get hung up on the terms so much. And I do hope we will have additional hearings.

I would also follow up on my colleague from Florida's comments. I think it does need additional scrutiny.

Chairman ZABLOCKI. Thank you.

BUSINESSES DEALING WITH PRC

Mrs. Fenwick.

Mrs. FENWICK. I do have one question. It has three parts. You have told us about the problems of Pan American and American Express. Are those particular and limited to those two companies, or are they similar to the problems that many other companies are having? Or is it that you view them with alarm because they might be applied to other companies?

Mr. PARKER. I understand that American Express has overcome its problem. Of course, Pan Am no longer flies to Taiwan.

Mrs. FENWICK. What has happened to American Express?

Mr. PARKER. I believe that American Express is now able to get its traveler's checks negotiated in the PRC.

Mrs. FENWICK. How did that happen?

Mr. PARKER. Well, with the passage of time—you know, one reason that we do have a concern here is that while the PRC does not seem to be implementing a boycott policy now, they have done so in the past and their whole history in the last 20 years has been one of inconsistency and quick and drastic reversals of policy.

Mrs. FENWICK. And people?

Mr. PARKER. Yes.

Mrs. FENWICK. I suppose there is no guarantee in this world, because I do not know whether any of us will be here a year or two from now, but I suppose in China change is even more drastic. But in any case, they have solved their problem, have they?

Mr. PARKER. American Express has.

Mrs. FENWICK. But surely if that is true, if what you say is true, there is absolutely no way of our guaranteeing any businesses. If China is going to be capricious and the people and the policies are going to change so rapidly, there is no way we can guarantee that these boycotts will not be applied later, is there?

Mr. PARKER. No, we cannot guarantee it will not happen in that country but my suggestion is in granting MFN status and other things which the PRC seeks from our country, we will make it clear they will lose those advantages if they resort to such policies.

Mrs. FENWICK. I see. So regardless of who was in power, that would be part of the agreement or treaty or arrangement?

Mr. PARKER. Yes.

Mr. MORELL. I think their behavior is going to be inhibited by the situation they find themselves in and their own objectives to modernize their own economy.

Mrs. FENWICK. So it will be sort of a battle between prestige and economics, is that right?

Mr. MORELL. To some extent.

Mrs. FENWICK. I see. Thank you.

Chairman ZABLOCKI. Mr. Quayle.

MODIFICATION OF CERTAIN AGREEMENTS NECESSARY

Mr. QUAYLE. Thank you, Mr. Chairman.

Everyone before me, has referred to trying to maintain at least the spirit of what the Taiwan Act said which is that we are not going to significantly change any understandings or treaties, or whatever the legal or nonlegal definitions may be, between our country and Taiwan.

But you would not oppose any kind of, say, renegotiation or updating of any of the present arrangements that we have with Taiwan, in other words, the substance of those arrangements? For example, the Air Transport Treaty. It would have to be updated probably to modern day terminology with hijackings and this type of thing. The actual form and the treaty itself would not be changed?

For example, we would not terminate the treaty but we may have to change some of the substance to bring it up to speed. Is that correct?

Mr. MORELL. We have always understood that as circumstances change it will be necessary to modify, to amend agreements.

TERMINATION CLAUSE

Mr. QUAYLE. On the Air Transport Treaty itself, there is a termination clause in there, isn't there?

Mr. PARKER. There is.

Mr. QUAYLE. Has our Government, have our officials indicated that they will abuse that termination clause as they did with that Mutual Defense Treaty in terminating the relationship?

Mr. PARKER. Well, they have done two things. The Vice President in Canton used the word "terminate" with respect to that agreement. They have not given formal notice of termination of the Air Transport Agreement. The termination provision is article XII of the agreement. And it says that the agreement can be terminated on 1 year's notice after a 2-month period of consultation.

In August, I think on about August 23, AIT delivered a letter to CCNAA stating that it wanted to begin consultations on replacement of the Air Transport Agreement. So the 2-month consultation period would be up approximately today. So starting today, if you take a legalistic interpretation of that language, the U.S. Government would be in a position to give the 1-year notice of termination.

Mr. QUAYLE. And it is the impression that you have, am I not correct, that termination is a possibility or is inevitable as to the past statements that have been made by our officials, is that right or wrong?

Mr. PARKER. Of course, the termination clause refers to unilateral termination by one party. I suspect what the administration has in mind is by using the threat of termination, they would hope to force Taiwan into a negotiation of a subsequent agreement and that both parties would then agree to the immediate termination of the existing agreement and its replacement by something else.

ACCESS OF TAIWAN OFFICIALS TO U.S. GOVERNMENT AGENCIES

Mr. QUAYLE. Mr. Morell, in your statement you talked about access of Taiwan to U.S. officials. And if I quote you correctly, there have been certain obstacles in this area which do not seem appropriate in light of the announced intention by the President and Congress to continue friendly relations. Can you give us some specifics to illustrate that?

Mr. MORELL. Sure; the Department of Commerce, which is very important to our organization as an association of businessmen, no longer will meet with CCNAA personnel in the Department of Commerce Building. Now, almost any private citizen off the street can go into the Department of Commerce Building. We have said that the CCNAA is unofficial.

So no one could charge that there are officials from Taiwan going into the building, although that is a different question. I think that this is not only demeaning to a country with which we have friendly relations, but it interferes with the normal course of business. That is one example. Others could be cited.

Mr. QUAYLE. Have these officials met with the Secretary of State? I am sure obviously the President would probably not want to have them down at the White House. How about the Secretary of State, have any of these officials met with him?

Mr. MORELL. No, they have not met with the Secretary of State. My understanding is they have not met with any officials in State beyond the Deputy Assistant Secretary.

Mr. QUAYLE. That is pretty high down there.

Mr. MORELL. And they have not met with the Secretary of Commerce.

Mr. QUAYLE. And they are not even meeting in the Commerce Building either because that might give some sort of official implica-

tion. We wouldn't want to be doing that in this town. That would be terrible.

GOLDWATER SUIT REGARDING TERMINATION OF MUTUAL DEFENSE TREATY

Would you like to comment on Judge Gasch's decision, anybody? You do not want to comment on it? Being lawyers, you might say we will let the appellate process take its course.

Mr. MORELL. I am not a lawyer.

Mr. QUAYLE. Well, then you can comment.

Mr. MORELL. I know enough to know it is a very complex situation. I certainly would not presume to speak for our members because their opinions probably vary all over the lot. If you were to poll them, I suppose my judgment would be that most of them, certainly not all but most, would be supportive of Senator Goldwater's efforts probably for two reasons.

One, getting away from the substance, it would symbolize to them a further effort to strengthen Taiwanese security and, second, of course, it would mean that any change in the treaties we now have with Taiwan of course would have to come to the Congress but I presume this would decide a constitutional issue.

VISA PROCESS UNDER THE ACT

Mr. QUAYLE. Quickly, one more question. How is the visa process working? Is it being expedited as quickly as possible? Are there any problems? I mean, we had to go through this big arrangement over there that they cannot go through certain places to get visas. I was wondering how it is working.

Mr. PARKER. There are long lines; it is working slowly but it is working.

Mr. QUAYLE. And it could be improved?

Mr. PARKER. It could be and one way of improving it would be additional staff.

Mr. QUAYLE. I have heard that word around here before.

BENEFITS TO U.S. AIRLINES UNDER CIVIL AVIATION AGREEMENTS

Chairman ZABLOCKI. I would like to return briefly to the Civil Aviation Agreement. What do you think the prospects are for the United States to expand commercial air relations with both the mainland and Taiwan? If civil aviation agreements are negotiated with both the PRC and Taiwan, do you expect that American airlines will again benefit both ways? It has been suggested that the PRC for its part wishes to establish as many points of contact as possible with Taiwan and that, therefore, they may favor foreign companies dealing with Taiwan.

For example, according to reports, the Philippine airlines obtained PRC's agreement to inaugurate a Manila, Canton, Peking service and the agreement specifically allows the Philippine airlines to continue regular flights to Taiwan. If they did it in the case of the Philippines, would the United States not be able to negotiate a civil aviation agreement for our airlines to serve both Peking and Taiwan?

Mr. MORELL. My understanding is that our Government has stated very clearly to Peking in seeking to negotiate a civil air agreement with them that we intend to keep our civil air ties with Taiwan. It is apparently not an obstacle. It is, I think, very likely that U.S. airlines will gain both ways.

I think we will have expanded civil air connections with Taiwan once this is all over, once the negotiations are completed. And it seems to me, not being an expert on mainland China, that there is a great potential there also for American airlines. And it would seem reasonable that they would pursue—they being the State Department in its negotiations—would pursue both lines.

OVERTURES TOWARD TAIWAN BY PRC

Chairman ZABLOCKI. Given the situation in the PRC with some of the problems that country is involved in with its neighbors, it would behoove them to not rock the boat, so to speak. And I would like to ask your evaluation further of the overtures toward Taiwan that have reportedly been made by the People's Republic.

The PRC has apparently proposed the establishment of direct mail, of telecommunications service, visitor exchanges, and so forth between the mainland and Taiwan. Do you consider these overtures as designed to undermine Taiwan's status internationally or are they genuine attempts to establish points of contact between the PRC and Taiwan? I would hope it would be the latter. What is your assessment, Mr. Parker?

Mr. PARKER. The proposals to which you refer are generally regarded in the Republic of China as being insincere because they are usually coupled with phraseology, particularly in Chinese, which casts the offer or the proposal in terms of a national government dealing with a local government. And that, of course, is the essentially political content which the Republic of China on Taiwan finds offensive and unacceptable.

Chairman ZABLOCKI. But nevertheless, if this does create a further and better understanding and stability, I would hope that both would pursue efforts, so to speak, to normalize their relations between each other. Do you think that is a possibility?

Mr. PARKER. Well, I think there is a more relaxed attitude on both sides than there once was. Certainly I saw that when I traveled to Canton myself 6 or 7 weeks ago.

Chairman ZABLOCKI. But you do not sense that in Taipei that attitude prevails?

Mr. PARKER. Yes, as a matter of courtesy I called the Foreign Minister in Taipei and let him know that I was going to Canton. He was very relaxed about that.

Chairman ZABLOCKI. You didn't have a message to carry?

Mr. PARKER. Not at all.

Chairman ZABLOCKI. Mr. Gilman.

EFFECT OF INFORMAL AGREEMENTS AS OPPOSED TO TREATIES

Mr. GILMAN. Thank you, Mr. Chairman.

Gentlemen, I note that you expressed a concern with regard to the informal agreements as compared to the treaties. How do the informal

agreements affect your relationships with Taiwan as compared to having a formal treaty or a formal agreement?

Mr. MORELL. Well, as long as it is legally binding and enforceable it would not have really much effect in substance. What we are concerned about is that we are in a very uncertain situation here. We do not know what is intended. When the words "unofficial, informal and arrangement," are all being used to describe the new agreement that they intend to negotiate, the question is: What does that mean? What is the legal import of that? And we do not know.

We feel that this committee can perform a very valuable service by smoking that out and by talking with the lawyers who would have some opinions on this, and importantly to talk to the administration witnesses and find out from them what their intentions are and what assurances they can give on this. Because we are in the dark frankly.

Mr. GILMAN. Has it affected any of the business relationships in that community?

Mr. MORELL. Well, when the chairman of our board, David Kennedy, testified here and before the Senate Foreign Relations Committee he stressed one point and that is businessmen, as you well know, thrive when there is less uncertainty and less risk.

And we feel that we are creating an atmosphere of uncertainty here.

Mr. MICA. Would the gentleman yield?

Mr. GILMAN. Yes, I would be pleased to yield.

Mr. MICA. I was just going to say this has been a continuing concern of mine. And I hope that sometime we get a dictionary for a list of definitions that we can operate by. Thank you.

ACCESS OF BUSINESS ORGANIZATIONS TO AIT AND CCNAA

Mr. GILMAN. How would you describe your access to the American Institute in Taiwan and the Coordinating Council? Has that been available to the business community?

Mr. MORELL. Excellent. We have had excellent relations with the AIT in Taiwan, both there and here in Washington. When we had our joint business conference with businessmen from Taiwan, as I said earlier we had over 700 people there, the American Institute's headquarters here sent all three of their top people to that meeting and they were very, very cooperative and participated actively in the meeting. And we are on the phone with them all the time.

AIT AND CCNAA RELATIONS WITH GOVERNMENT OFFICIALS

Mr. GILMAN. Besides these formalities do you see any problem regarding our representation there at the present time?

Mr. PARKER. Yes, I think so. We have described some: the type of facilities that AIT has physically in Taipei, the size of their staff, the fact that both in Taipei and in Washington there is not direct contact between the AIT representatives and the ROC Government or between the CCNAA people here and the U.S. Government.

Mr. Morell gave an example a few moments ago of the inability of the CCNAA people in Washington to enter the Commerce Building to discuss commerce with officials here. In Taipei AIT representatives will not, although they could if they wished from the Chinese standpoint, will not go into a Government office in Taipei. They will only

deal with the Taipei office of CCNAA or meet outside for lunch or dinner or somewhere informally in order to transact what is pretty clearly Government business. It is an awkward state of affairs.

Mr. GILMAN. Thank you.

Thank you, Mr. Chairman.

Chairman ZABLOCKI. Are there any further questions? Mr. Morell, Mr. Parker, thank you very much. You were very generous with your time. We sincerely appreciate the responses to our questions.

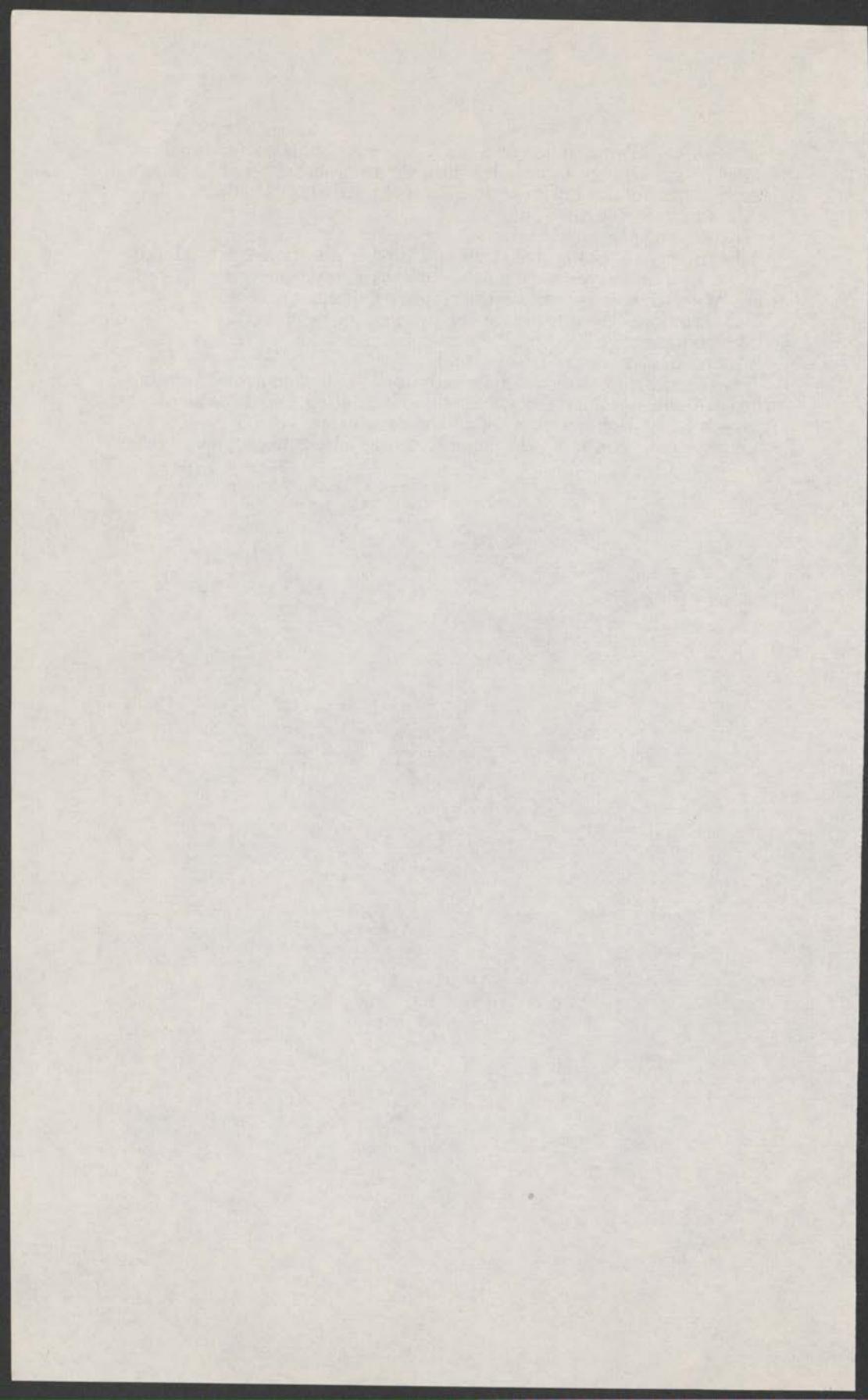
Mr. MORELL. We appreciate the privilege of being here.

Mr. PARKER. Thank you.

Chairman ZABLOCKI. It is mutual.

The committee stands adjourned until 9:30 tomorrow morning when we will consider the Cambodian legislation and several other pieces of legislation pending before the committee.

[Whereupon, at 4 p.m., the committee was adjourned subject to the call of the Chair.]



IMPLEMENTATION OF THE TAIWAN RELATIONS ACT

THURSDAY, NOVEMBER 8, 1979

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C.

The committee met at 10 a.m. in room 2172, Rayburn House Office Building, Hon. Clement J. Zablocki (chairman) presiding.

Chairman ZABLOCKI. The committee will please come to order.

The committee is meeting today for further review of the implementation of the Taiwan Relations Act. At our last meeting on this matter, on October 23, we heard testimony from non-Government witnesses.

Members have before them a copy of a State Department letter addressing certain issues which were raised at that hearing.

Today we have before us the Honorable Warren Christopher, Deputy Secretary of State, who will give us the views of the executive branch concerning implementation of the Taiwan Relations Act.

Mr. Secretary, we welcome you and you may proceed.

STATEMENT OF HON. WARREN CHRISTOPHER, DEPUTY SECRETARY OF STATE

Mr. CHRISTOPHER. Thank you, Mr. Chairman and members of the committee. I am happy to appear today to brief the committee on our experience with the unofficial arrangements that we have established with Taiwan.

For years the United States, alone among the major nations of the world, refused to accord recognition of the People's Republic of China. This anomaly hindered our diplomacy in Asia and thwarted the development of economic relations with a country that is the home of one-fourth of the world's population.

Following 6 months of intense discussions, both here and in Peking, President Carter announced almost 1 year ago that the United States would henceforth recognize the People's Republic of China as the sole legitimate Government of China. At the same time the President announced our intention to sever official relations with Taiwan.

The development of our relations with the People's Republic of China over the past year stands as testimony to the wisdom of the President's decision. As this committee is aware, the administration has recently submitted to the Congress the agreement on trade relations that would extend most-favored-nation status to the People's Republic of China.

While our improved relations with the People's Republic have been gratifying, I am equally pleased by the fact that the severing of our diplomatic relations with Taiwan has not adversely affected the welfare of the people. Nor, from a practical standpoint, has it breached the practical ties that exist between Taiwan and the United States.

Taiwan's economy is today even more vigorous than it was before we normalized relations with the People's Republic of China. Taiwan's GNP is growing robustly and industrial production is increasing at 9 percent per annum. Projected United States-Taiwan trade for 1979 is \$10 billion compared with \$7.5 billion in 1978. This represents an increase of 33 percent.

U.S. private investment in Taiwan, a prime indicator of confidence in the island's future, was \$68.7 million in the first half of this year compared to \$27.1 million during the same period in 1978.

I do not, of course, mean to suggest that we have navigated the transition from official to unofficial relations without problems. Nevertheless, the Taiwan Relations Act, the basis for our new relations, has afforded us the flexibility to deal with these problems cooperatively and imaginatively.

In particular, the unofficial instrumentalities of our new relationship, the American Institute in Taiwan [AIT], and the Coordination Council for North American Affairs [CCNAA], have proved their effectiveness during the transition.

In accordance with the Taiwan Relations Act, the President issued an Executive order that, among other things, delegates to the Secretary of State the authority to extend functional privileges and immunities on a reciprocal basis to the CCNAA.

AIT provided CCNAA a copy of a draft agreement on privileges and immunities on September 20, 1979, to which CCNAA has responded. Differences are minimal, and agreement between the parties should soon result. In the meantime, the two sides have extended functional privileges to allow for effective operations of the two organizations. To conduct its affairs, the CCNAA has opened nine offices in the United States, a number that is appropriate for our new relationship with Taiwan.

Although our unofficial relations with Taiwan are coordinated through the AIT, we have recognized that issues could arise which are beyond the technical competence of the AIT. We have made it clear that, to the extent necessary and appropriate, we would arrange for technical contacts through AIT. Such instances have, in fact, arisen and the appropriate contacts have been arranged.

I would now like to address for the record some of the issues that were raised at your hearings on October 23 in an attempt to clarify the administration's intentions and to dispel any misunderstandings. These remarks will augment the letter our Department sent to you, Mr. Chairman, on October 30 and which, with your permission, I would like to make a part of the official record.

Chairman ZABLOCKI. Without objection, it is so ordered.
[The letter referred to follows:]

DEPARTMENT OF STATE,
Washington, D.C., October 30, 1979.

HON. CLEMENT J. ZABLOCKI,
Chairman, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: This letter is intended to clarify certain issues which were raised during the House Foreign Affairs Committee hearings on the Taiwan Relations Act on October 23.

At the time of the normalization of relations with the People's Republic of China we made clear our intention to maintain, on an unofficial basis, trade, cultural and other relations with Taiwan. Since all other countries which had previously normalized relations with the PRC had without exception taken the position that all their bilateral agreements with Taiwan automatically became null and void simultaneously with the severance of their diplomatic relations with Taiwan, we believed it essential that we make clear that there would be no hiatus in relationships and that the agreements with Taiwan continued to have legal validity despite the withdrawal of recognition. The President therefore issued a Presidential Memorandum on December 30, 1978 which stated that "existing international agreements and arrangements in force between the United States and Taiwan shall continue in force." The Administration welcomed the addition of Section 4(c) of the Taiwan Relations Act (P.L. 96-8), which approved the continuation in force of such agreements "unless and until terminated in accordance with law," because that provision further removed any doubt about the continued legal validity of those agreements under U.S. law.

Although our relationship with Taiwan is unofficial, it is not static. Some of our agreements with Taiwan will expire, perhaps calling for replacement with new agreements, some will require changes or updating, and others, having completed their purposes, will become obsolete. As circumstances change, agreements on subjects not now covered by agreements may be required. As Assistant Secretary Holbrooke stated at a recent Senate hearing, we do not have a policy to convert or terminate all of the treaties and agreements we maintain with Taiwan. Each agreement, as the circumstances require, will be treated on its own merits on a case-by-case basis.

We have undertaken a review of agreements with Taiwan and I will share with you our preliminary views on them. There are five agreements which require current attention. There is an agreement on scientific cooperation which expires in January 1980, and since both sides are interested in maintaining the mutually beneficial programs carried out under this agreement, we are preparing to begin negotiations on an AIT/CCNAA agreement to replace this agreement when it expires. Under the Taiwan Relations Act, agreements concluded by the unofficial instrumentalities have full legal force and effect under U.S. law. With regard to our civil aviation agreement, it was concluded in Nanking in 1946 with the then Government of China. It is inappropriate and a hindrance to maintain with Taiwan an agreement which purports to provide us landing rights in Nanking and Shanghai at a time when we are about to begin talks with the Chinese Government on a PRC/U.S. aviation agreement. Vice President Mondale during his trip to China in August informed Peking that we planned to replace the Nanking agreement with a new agreement between the American Institute in Taiwan (AIT) and the Coordination Council for North American Affairs (CCNAA). A new agreement with Taiwan would be appropriate in any case in view of the need to improve U.S.-Taiwan air services and bring the current agreement into conformity with our international aviation policy. We have begun negotiations for an AIT/CCNAA civil air agreement to replace the old one. Our textile agreement with Taiwan requires some minor implementing modifications and these can be affected by AIT/CCNAA letters of understanding. Action will also have to be taken with respect to the nuclear cooperation agreement to fulfill the requirements of the Nuclear Non-proliferation Act of 1978. Finally, on October 24, CCNAA and AIT had an exchange of letters implementing MTN-related reductions in tariff and non-tariff barriers. Based on our review to date, no other agreements appear to require current attention.

A second group of 29 agreements relate to active programs or contain provisions of continuing value. These include agreements on such matters as education, fisheries, investment, postal affairs and the Treaty of Friendship, Commerce and Navigation. Many of the rest of these agreements appear relatively inactive, but do contain provisions which remain active. Two agricultural sales agreements relate to commodities previously furnished, but for which payment is still being received. Seven agreements relating to the provision or loan of military equipment contain provisions on reversionary rights or third party transfer limitations. We see no reason at this time for any action to be taken with respect to these agreements.

A third category includes the Mutual Defense Treaty and six agreements in the military field. One agreement relating to the status of U.S. armed forces in China is coterminous with the Mutual Defense Treaty. Three other agreements relate to the former U.S. military presence on Taiwan and two to the construction of communications facilities which has been completed. The President has given notice that the MDT will terminate on January 1, 1980 and we are committed to taking the necessary steps so that terminations will occur as scheduled.

Accordingly the related military agreements will also terminate with the MDT at the end of the year.

In addition, two non-military agreements have been rendered inoperative by normalization. These relate to entry-free privileges for consular officers and the status of the American Embassy Language School. We no longer have consular officers on Taiwan and the American Embassy School in Taiwan ceased to function on February 28. We plan to delete these agreements from the January, 1980 Treaties in Force.

In the final group are fourteen agreements which appear to be either fully executed or inactive. These include five agricultural agreements relating to commodities previously furnished and for which payment has been received in full, a fully executed agreement for provision of nuclear research and training equipment and two agreements relating to our economic aid program to Taiwan. (Two additional agreements relating to economic aid which were listed in the January, 1979 Treaties in Force terminated in March, 1979.) We wish to take more time to review these agreements and AIT will discuss them with Taiwan to assure that they contain no active provisions before deciding on their disposition.

After further review and as changing circumstances warrant, we may wish to take further action with respect to certain of our agreements. I wish to assure you that we intend to maintain close contact with Congress on this subject. We will, of course, notify Congress of any agreements concluded between the AIT and CCNAA as provided in Section 12(c) of the Taiwan Relations Act.

Let me address briefly some other issues which surfaced during the October 23 hearings. The Taiwan Relations Act was signed by the President on April 10, 1979. After coordination within the Executive Branch, Executive Order 12143 was issued by the President on June 22, 1979. The Executive Order delegated to the Secretary of State the functions conferred upon the President under Section 10(c) of the Act. This Section authorizes the extension to the Taiwan unofficial instrumentality designated by the President, and to its personnel, on a reciprocal basis, of appropriate privileges and immunities necessary for the performance of its functions. A draft agreement concerning the relationship of the AIT and the CCNAA was prepared and submitted to CCNAA on September 20, 1979 with the view to early discussions. AIT has not yet received a response from CCNAA to begin these discussions. Since January 1 the two sides have extended functional privileges on an interim basis to allow for effective operations of the two organizations.

There is no substance to the rumor that we are planning an additional one-year moratorium on new arms sales to Taiwan. We have said many times that we will continue to provide Taiwan access to selected defensive weapons when the Mutual Defense Treaty terminates at the end of the year. That remains our policy.

As you noted at the hearings, an agreement on the number of CCNAA offices in the United States was reached by the two sides prior to the passage of the Taiwan Relations Act. The number finally arrived at resulted from extensive negotiations and we believe it is adequate and appropriate to our new relationship with Taiwan.

On the question of access to U.S. government agencies, the U.S./PRC Joint Communique of December 15 made clear that we will maintain relations with Taiwan on an unofficial basis. To handle U.S. interests in this new relationship, we established the American Institute in Taiwan to conduct, with its Taiwan counterpart the Coordination Council for North American Affairs (the CCNNA), functions normally performed by governments. We recognized, and so testified at the hearings on the Taiwan Relations Act, that instances could arise where the issues involved were beyond the technical competence of AIT. In those cases, we made clear, the appropriate technical contacts would be arranged through AIT.

We believe the evidence, including the dramatic increase in U.S. trade and investment with Taiwan, clearly demonstrates that we have been able to make the transition to the new relationship with Taiwan in a way that is fully consistent with normalization with the PRC while maintaining the substance of our relations with Taiwan as provided in the Taiwan Relations Act.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for
Congressional Relations.

MR. CHRISTOPHER. When we normalized our relations with the People's Republic of China, we made crystal clear our intention to maintain, on an unofficial basis, trade, cultural and other relations with Taiwan. We believed it essential that our existing agreements with Taiwan would continue to have legal validity, despite the withdrawal of recognition.

The President, therefore, issued a Presidential memorandum on December 30, 1978, which stated that "existing international agreements and arrangements in force between the United States and Taiwan shall continue in force." The administration welcomed the addition of section 4(c) of the Taiwan Relations Act, which approved the continuation in force of such agreements "unless and until terminated in accordance with law," because that provision further removed any doubt about their continuing validity.

This treatment of existing agreements stands in contrast to that of most other nations, which abrogated their agreements with Taiwan upon recognizing the People's Republic of China.

Although our relationship with Taiwan is unofficial, it is not static. It has not been frozen in the status quo that existed when we recognized the People's Republic of China. Some of our agreements with Taiwan will expire, perhaps calling for replacement with new agreements; some will require changes or updating; and others, having completed their purposes, will become obsolete.

As circumstances change, agreements on subjects not now covered by agreements may be required. That would be new agreements between AIT and CCNAA.

What I want to emphasize is that we do not have a policy to convert or terminate all of the treaties and agreements we maintain with Taiwan. Each agreement, as the circumstances require, will be considered on its own merits, on a case-by-case basis.

In that context, we have undertaken a review of these agreements with Taiwan, and I will share with you our preliminary views on them. There are five agreements that require current attention.

First: Our agreement on scientific cooperation, which both sides have found beneficial, expires in January 1980. Negotiations for a new agreement will soon begin between the AIT and CCNAA. Under the Taiwan Relations Act, agreements concluded by these unofficial instrumentalities have full force and effect under U.S. law.

Second: The air transport agreement concluded in Nanking in 1946 has become a hindrance to development of aviation relations with the People's Republic of China. It was only after Vice President Mondale, during his trip to China in August, informed Peking that we planned to replace the Nanking agreement with a new agreement between the AIT and the CCNAA, that the Chinese Government agreed to begin negotiations for a United States-People's Republic of China civil aviation agreement.

In any event, a new basis for airlinks with Taiwan would be useful in improving United States-Taiwan air services. Negotiations are underway between AIT and CCNAA on a civil air agreement to replace the 1946 agreement. I am glad to be able to report to the committee that I had an early report this morning that negotiations were making very good progress. Yesterday was a particularly good day and we would expect to be able to complete such an agreement at a very early date.

A third agreement that requires particular notice, one that is of great importance to Congress, and that is our textile agreement which requires some implementing modifications. These modifications can be made, Mr. Chairman, through a letter of understanding between the two unofficial entities, and I think that will take care of the textile agreement rather than having to renegotiate the entire agreement.

Fourth: Under the Nuclear Nonproliferation Act of 1978, we are going to have to review the nuclear cooperation agreement and take some action.

Fifth: On October 24, CCNAA and AIT exchanged letters implementing MTN-related reductions in tariff and nontariff barriers. No other agreements appear to require current attention.

A second group of 29 agreements concerns active programs, such as agreements on education, fisheries, investment, postal affairs, and the Treaty of Friendship, Commerce and Navigation, or contains provisions of continuing relevance.

For example, two agricultural sales agreements relate to commodities which have previously been furnished, but for which payment is still being received by the United States. We see no reason at this time to take any action with respect to these agreements.

A third category includes the Mutual Defense Treaty and six agreements in the military field. The President has given notice that the Mutual Defense Treaty will terminate on January 1, 1980, and we are committed to taking the steps necessary so that the termination will occur as scheduled. Accordingly, all related military agreements will also terminate with the MDT at the end of the year.

In addition, two nonmilitary agreements have been rendered moot by normalization. One agreement calls for entry-free privileges for consular officers, and the other concerns the status of the American Embassy language school. We no longer have consular officers on Taiwan and the American Embassy school in Taiwan ceased to function on February 28. We plan to delete these agreements from the January 1980 Treaties in Force.

It is appropriate here to dispel a notion that arises from time to time. There is no substance to the rumor that we are planning an additional 1-year moratorium on new arms sales to Taiwan. When the Mutual Defense Treaty terminates at the end of this year, we shall continue to provide Taiwan access to selected defense weapons.

The final group concerns 14 agreements that appear to be either fully executed or inactive. These include five agricultural commodities agreements, a fully executed agreement for provision of nuclear research and training equipment, and two agreements relating to our economic aid program to Taiwan. We wish to take more time to review these agreements. AIT will discuss them with CCNAA to assure that they contain no active provisions before deciding on their disposition.

After further review and as changing circumstances warrant, we may wish to take further action with respect to certain of our agreements. I wish to assure you that we intend to maintain close contact with Congress on this subject. We will, of course, notify Congress of any agreements concluded between the AIT and CCNAA as provided in section 12(c) of the Taiwan Relations Act.

Although our new relationship with Taiwan has required creativity and flexibility on the part of officials on both sides, the experience of the past year has demonstrated the viability of that new relationship.

Recognition of the People's Republic of China has not resulted, as some feared, in the interruption of our relations with Taiwan. Avoiding a dogmatic approach, we have sought to promote those ties with Taiwan that are consistent with diplomatic relations with the People's Republic of China.

I believe that the evidence demonstrates the success of the transition. At the same time that U.S. trade and investment in Taiwan have increased dramatically, we have successfully preserved the terms upon which we normalized relations with the People's Republic of China.

Mr. Chairman, before I take questions, let me simply say informally that in going through the 59 different agreements that we had with Taiwan, it immediately becomes apparent that we faced a complicated situation in changing from an official to unofficial status.

We have done as well with it as we can. I assure you of our determination to review these matters on a case-by-case basis not to take any precipitous action, and I hope our record of consultation with your committee will be even better than it has been during the course of the last year as we deal with the remaining agreements that are in full force and effect.

Now, I will be glad to try to answer any questions that you or your colleagues may have.

U.S.-TAIWAN AGREEMENTS

Chairman ZABLOCKI. Thank you, Mr. Secretary. Your statement certainly adds clarity to the letter that was sent to us October 30, but it does not necessarily satisfy all our concerns, which you expected of course.

You did make a point in your statement that most other nations had abrogated their agreements with Taiwan upon recognizing the People's Republic of China. But no other nation had so many and so important agreements with Taiwan as the United States has had. Is that not true?

Mr. CHRISTOPHER. Mr. Chairman, I do not have a comparative judgment about that but there is no question that countries like Japan and Canada have very extensive trading relationships and I assume they may have had a fairly large number of agreements which under theory were abrogated at the time of normalization.

Chairman ZABLOCKI. Mr. Secretary, on page 11 of your prepared statement, in the second paragraph, you state: "After further review if changing circumstances warrant, we may wish to take further action with respect to certain of our agreements." Would you give an example of what you have in mind there? What action and what agreements?

Mr. CHRISTOPHER. Mr. Chairman, I cannot single out any one, but I can say that as time passes some of the agreements require updating or modification. We will approach that on a case-by-case basis. If you decide overall change is necessary, if it seems important or desirable from the standpoint of both the people of Taiwan and the United States that the entire arrangement be modified or adjusted, then I would say our preference would be to have a new agreement.

On the other hand, if it is only necessary to change a date or paragraph or a single provision, that can well be done by a letter agreement as in the case of the textile agreement.

One example which I gave you in connection with my testimony is the nuclear arrangements between the United States and Taiwan. Because of certain problems under that agreement, there will have to be in the near future some change in that agreement and we will approach that very pragmatically, trying to see whether the change is so extensive that there ought to be a new agreement or whether or not the change is modest enough so it can be done by a side letter.

I think that is a problem that lawyers frequently have, in whether or not they redraw completely an agreement or simply try to patch it up or amend it by side letter.

Chairman ZABLOCKI. Mr. Secretary, when you were speaking to the committee about modification of the agreements, if they need to be changed, did I understand you to say they would not be unofficial?

Mr. CHRISTOPHER. Mr. Chairman, what I meant to say and hopefully I said was that if a new agreement is drafted, that new agreement will be between AIT and CCNAA and that agreement, in accordance with the act and in accordance with our general policy, will be unofficial. But if, as in the case of the textile agreement, it is necessary only to make a relatively minor modification, that modification can be made on the basis of a letter agreement between the unofficial entities but that the underlying agreement will remain in force and effect.

Chairman ZABLOCKI. That does not clarify the situation in my mind as to what you are going to call it. I thought you did say that in the modification, it is not the intention of the Department to change it to unofficial status.

Mr. CHRISTOPHER. Mr. Chairman, perhaps you could point to where I may have said that.

Chairman ZABLOCKI. It was made in an aside in addition to your prepared statement. That is why I took hold of it.

Mr. CHRISTOPHER. Mr. Chairman, if it was unnecessary to make a major change in the agreement or to substitute a new agreement, then the underlying existing agreement could remain in force and effect. The modification would be made by a letter agreement between the unofficial entities so in that situation, you would have the old or underlying agreement, which had been modified by an exchange of letters between the unofficial entities.

Chairman ZABLOCKI. And you would not change the terminology of the agreement as to its officiality?

Mr. CHRISTOPHER. The former agreement would remain unchanged. The text of it would be unchanged in that hypothetical.

Chairman ZABLOCKI. Let me go to another subject. I am still not clear what you intend to do.

Mr. CHRISTOPHER. Mr. Chairman, maybe we should pursue this a little further. Any new agreement or arrangement between AIT and CCNAA is unofficial in character. It has full force and effect under our laws just as an executive agreement does, but it is unofficial in character.

But where there is a subsisting, an old agreement, put colloquially, it can continue in effect and indeed it is our view that it can be subject to minor modifications through a side letter without changing the character of the old agreement. But anything new between AIT and CCNAA would have to be unofficial in character, though of full force and effect.

STATUS OF UNOFFICIAL AGREEMENTS UNDER INTERNATIONAL LAW

Chairman ZABLOCKI. If I may pursue, with the permission of the committee, one further question, while I have many others. You said in your prepared statement on page 8: "the agreements * * * have full force and effect under U.S. law."

My question is: Will all agreements negotiated between AIT and CCNAA have full force under international law?

Mr. CHRISTOPHER. They have full force and effect under our laws. They will be honored between the two sides.

Chairman ZABLOCKI. We recognize Taiwan as a separate entity and a separate country?

Mr. CHRISTOPHER. Pardon me?

Chairman ZABLOCKI. You do recognize that Taiwan is a separate entity, a separate country with which we have an agreement?

Mr. CHRISTOPHER. We recognize that.

Chairman ZABLOCKI. I am trying to find out whether it is fish or fowl.

Mr. CHRISTOPHER. It is an unofficial agreement which is binding between the two instrumentalities. They affect domestic law and they are fully binding here in the United States.

Chairman ZABLOCKI. You are not answering my question. Would they be fully binding under international law as though they were negotiated between two parties that maintain diplomatic relations, if they did have diplomatic relations?

Mr. CHRISTOPHER. By this act, by entering into an unofficial agreement between AIT and CCNAA we are not changing the status of Taiwan. We no longer recognize Taiwan. We recognize People's Republic of China.

Chairman ZABLOCKI. Perhaps some lawyer wants to pursue this. I am befuddled.

Mr. Derwinski.

INTENT OF ACT ON RELATIONS WITH TAIWAN

Mr. DERWINSKI. Thank you, Mr. Chairman.

I will work off your statement, if I may, Secretary Christopher. As I read your statement it is a slight elaboration on the correspondence we received earlier. My first question is, I will refer specifically to your opening paragraph on page 6 where you state that: "We made crystal clear our intention to maintain, on an unofficial basis, trade, cultural and other relations with Taiwan."

Now, I presume this means you made this crystal clear to the authorities in Peking?

Mr. CHRISTOPHER. Yes, we made it crystal clear to the authorities in Peking. We made it crystal clear to the authorities in Taiwan and we made it as clear as we could by the public statements at the time of normalization.

Mr. DERWINSKI. Then do you acknowledge that it is the crystal clear intent of Congress that these trade, cultural and other relations be maintained? That was the intent of Congress, as I read the Taiwan Relations Act.

Mr. CHRISTOPHER. Yes, Congressman Derwinski, I was looking quickly at the findings and declaration of policy in that act and it

certainly has that purpose and effect. I notice in section 2(a)(2) that the act is necessary "to promote the foreign policy of the United States by authorizing the continuation of commerce, cultural and other relations between the people of the United States and the people of Taiwan." So the act is clear on that point.

ABROGATION VS. AMENDMENT OF EXISTING AGREEMENT

Mr. DERWINSKI. Now, let me skip for a moment. When Vice President Mondale was in China in August and made his announcement about the agreement, was this something you had prepared to do before he left or was this something he blurted out on the spot or is this something he was pressured into or was this something he stumbled into?

Mr. CHRISTOPHER. Congressman, it was one of the purposes of the trip of Vice President Mondale to People's Republic of China to explore the possibilities of having normal relations with the PRC. This seemed to be an opportunity for increased U.S. trade, increased opportunities for the U.S. aviation industry and that was part of the plans for his trip, and it was not anything that was thought up on the spur of the moment.

Mr. DERWINSKI. The existing agreement with the Republic of China could be amended. Why can't you just amend the existing agreement instead of evidently bowing to the pressure of the PRC and abrogating it? If they want U.S. flights into Peking—and they need these flights more than we need their flights to the United States—why in the blazes don't you force them to accommodate to reality?

We are dealing with realities and it will bring U.S. air carriers more legitimate traffic going to Taiwan over the years than we will to Peking.

Mr. CHRISTOPHER. Congressman Derwinski, this is one of those questions of judgment as to whether or not the changes are so extensive as to require or justify a new agreement.

In this case, I think an examination of that old agreement would make it clear that we do need a new basis. After all, that agreement was negotiated in 1946 and it purported to give us landing rights all through China, not just on Taiwan. It had a number of other outdated provisions. It was the judgment of the experts, and one in which I concur, that the right way to go about it was to negotiate a new agreement with the authorities on Taiwan and the unofficial entities that reflected modern-day realities of transportation.

That is what we are setting about to do. This fits into my framework of a case-by-case determination as to whether or not the changes are so extensive that we would be better off in our commercial relations to negotiate a new agreement rather than trying to patch up or modify an outdated agreement. This one certainly was an outdated agreement.

SECURITY FOR TAIWAN AT EXPIRATION OF MUTUAL DEFENSE TREATY

Mr. DERWINSKI. You understand, or course, that as an innocent Member of Congress I would not dare to try to match diplomatic words with you. But I understand that you diplomats often have words called linkage and I would like to link, if I may, the concluding sentence on page 10: "When the Mutual Defense Treaty terminates at

the end of this year, we shall continue to provide Taiwan access to selected defense weapons."

I would like to link that, if I may, to the concluding sentence in the first paragraph on page 12, where you say: "Avoiding a dogmatic approach we have sought to promote ties with Taiwan that are consistent with diplomatic relations with the PRC."

Are you trying to tell us that you are giving the PRC a voice or a veto over what we agree to provide Taiwan in defense articles?

Mr. CHRISTOPHER. No, I am not.

Mr. DERWINSKI. What are you trying to tell us?

Mr. CHRISTOPHER. I am trying to tell you, Congressman Derwinski, what we have said from the beginning and that is that we plan to continue to give Taiwan access to selected defensive weapons after the Mutual Defense Treaty expires. That is what we announced at the time of normalization and indeed that is what has been told the PRC.

Mr. DERWINSKI. This is my closing question, Mr. Chairman. There have been news reports that we have acquiesced to Western allies, providing certain military equipment to the PRC. If those reports are correct, may I then infer that we would have no hesitancy in providing Taiwan with equipment they deemed essential to their national defense?

Mr. CHRISTOPHER. Congressman, I do need to make a comment on your premise, if I may. The United States does not have a military relationship with the PRC. We have commented to our allies on their intentions but that really is a matter for their decision.

Our judgments with respect to sales to Taiwan will be made on a careful case-by-case basis and it will be based upon our own judgment here in this country, not affected by a veto from any other party.

We have never provided them a blank check. On the other hand, we have not set an arbitrary limit on the dollar value and we have never set an arbitrary limit on the nature of the weapons, but we will look at them carefully in light of the President's policy and we will take into account all the policies that we take into account in arms sales.

I want to assure you that we went to great effort to negotiate with the PRC. Their understanding that we would supply selective defense articles to Taiwan is not an empty gesture. We intend to carry that out when the Mutual Defense Treaty is terminated.

Chairman ZABLOCKI. We have received notice of a rollcall vote. The committee will stand in recess for approximately 10 minutes and we will come back.

[Whereupon, a brief recess was taken.]

Chairman ZABLOCKI. The committee will resume the hearing.

NUMBER OF TAIWAN CONSULAR OFFICES IN UNITED STATES

The gentleman from Kansas, Mr. Winn.

Mr. WINN. Thank you, Mr. Chairman.

Mr. Secretary, I was glad to see that on page 9 in your testimony you referred to the two agricultural sales agreements which relate to commodities which have previously been furnished but for which payment is still being received by the United States. You see no reason at this time to take any action with respect to these agreements or the other 27.

I would like to follow up on that final line of thinking, if I might, to point out that at the time that the diplomatic relations between the United States and Taiwan were severed in December 1978, Taiwan maintained a total of 40 consular offices in the United States.

Section 10(b) of the Taiwan Relations Act calls upon the President to permit Taiwan to maintain undiminished that same number of U.S. offices but despite this fact, six of those offices have been closed and remain closed today, leaving a total of only eight functioning consular offices.

What is the position of the administration on the consular question and does it intend to comply with section 10(b) of the TRA?

Mr. CHRISTOPHER. I wanted to look back, Congressman Winn, at section 10(b) to refresh my recollection of it. It indicates that the President is requested to extend to the instrumentality established by Taiwan the same number of offices that were previously operated in the United States.

I refer to that because it was not an explicit direction. You had said, Congressman Winn, that CCNAA has offices in eight cities and Washington. That was the number that was agreed on between the authorities on Taiwan and the U.S. Government prior to the passage of the act. The number resulted from fairly extensive negotiations and we believe that that is an adequate and appropriate number to carry out the business of Taiwan in the United States at the present time.

I would say that the present view of the administration is that nine is an adequate number of offices for handling the business of CCNAA in the United States and the number was developed in negotiations with the authorities on Taiwan.

Mr. WINN. I want to clarify it, if I said 40, I thought I said 14. The number originally was 14 that we had. Particularly, I am interested because one of those that has been closed is in Kansas City, and I think Kansas City is important because of the large volume of agricultural business that is conducted between Taiwan and the Midwest.

Obviously if you are keeping two agricultural agreements, the Department and the Taiwanese must think that agriculture is very important to both countries.

Mr. CHRISTOPHER. Congressman, I certainly think that Kansas City is important, and I would say that if the present offices make it impossible to carry out the unofficial relations between the two countries as was intended by the administration and Congress, then the matter can be reexamined.

I have not had any reports or any indication that we have been handicapped or that they have been handicapped in carrying out their relationships through the existing offices. Indeed the increase in trade would tend to be supporting evidence for the fact that the number of offices that now exist are satisfactory.

If they turn out not to be, there is nothing, Congressman, that is absolutely set in concrete and I would be glad to have my staff look into the questions as to whether or not the absence of an office in Kansas City was in some way handicapping or jeopardizing or complicating the trade that we all want.

Mr. WINN. I would appreciate that. I will also do some checking in the community to see if they feel that it is handicapping the agricultural trade situation out there.

I do not believe that I am notorious as a spokesman for the Boston community, but it is my understanding that the Boston consulate also has been closed and that it is important to Taiwan because of the large number of Chinese students they have in that city.

Would you care to comment on that before that light turns red?

Mr. CHRISTOPHER. Congressman, I would say, as I did about Kansas City, that obviously Boston is one of our most important cities and I would look at that situation again in the same light, to see if there is some severe jeopardy or handicap of the carrying out of our cultural relations because of the absence of a CCNAA office in Boston.

Mr. WINN. I am glad to hear your remarks about the Aviation Act. I think some of the other Members on this side of the aisle will ask questions regarding the agreements there and how they work.

Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

TERMINATION OF AGREEMENTS

Chairman ZABLOCKI. Mr. Gilman.

Mr. GILMAN. Thank you, Mr. Chairman.

I do want to welcome our Secretary before us this morning. I appreciate his bringing us up to date on the situation in Taiwan. Mr. Secretary, with regard to the current civil aviation agreement between our country and Taiwan, does the administration intend to give notice of the termination of the agreement? Is actual termination necessary or could the existing agreement simply be amended?

I understand that back in 1961 we amended the agreement specifically for Taiwan. During the hearings on the Taiwan Relations Act earlier this year, we were repeatedly assured by the administration that all treaties and agreements that were then in effect between our Government and Taiwan would continue in force.

I do not recall any mention having been made of any intention by our Government to terminate this specific agreement or any other agreement. Yet we are now informed that the civil aviation agreement may be the first of what is expected to be a number of other terminations.

Why wasn't this committee informed of the probability of such terminations when the subject of the continuity of agreements was before us last winter? Would you tell us how many and which other treaties and agreements with Taiwan do you expect to terminate within the next few years?

I would like to say I believe that such terminations, other than on a very selective scale, appear to be contrary to the spirit of the Act, the Taiwan Relations Act, as passed by this committee which envisaged effective continuity of our United States-Taiwan relationships unimpaired in all areas except the diplomatic and the military.

I think the action of the administration with reference to the civil aviation agreement does not comply with that intention, and I know that many of my colleagues on this committee expressed strong objection to it. I know I have asked quite a few questions, and I hope you could comment on them.

Mr. CHRISTOPHER. Perhaps I could choose the easy ones, Mr. Gilman, but there were not very many of that kind.

Let me first go back to the intention we had at the time or normalization, at the time I testified before this body and others. We had before us a choice as to whether or not to abrogate all the existing agreements with Taiwan as had been done by some other countries which recognized Taiwan, or to continue them in force and effect. Our decision was to continue the existing agreements in full force and effect with the sole exception of the Mutual Defense Treaty and the related agreements which we announced at that time would not be continued in force and effect.

But that was a snapshot, not a motion picture that would run continuously in the future. I think you would be quick to recognize, Congressman, that in a practical world, agreements do not exist in perpetuity nor is their purpose one that is necessarily continuing. So I think we carried out in good faith our obligation to continue them in force and effect and now there is a natural process of needing to consider what changes ought to be made because of the passage of time.

In the statement that I made perhaps before you came in, Congressman, I indicated that there were five agreements that I thought needed some prompt and concurrent work, and I outlined which five those were. I also referred to a group of 29 which I think do not require any present attention.

I think that is a fair balance. That ratio is a fair indication of the good faith with which we are approaching this matter and even within those five that require, because of the passage of time and other events, some current attention, my expectation is that at least one of those and perhaps two can be handled by a letter agreement which will maintain in force the underlying agreement but simply have an unofficial agreement bringing it up to date or making a minor adjustment that is necessary.

Picking up your own phrase, I think it is your own phrase, Congressman, let me assure you there is no intention to make any wholesale destruction or abrogation of these agreements. They will be approached on a case-by-case basis doing what is necessary, as events make it necessary, to address possible changes.

CIVIL AVIATION AGREEMENT

Mr. GILMAN. Mr. Secretary, since we have amended the aviation agreement in the past, wouldn't it be possible to amend this aviation agreement rather than to terminate it?

Mr. CHRISTOPHER. Yes, Congressman. I did not reply to that portion of your question. Let me first tell you what the technical status is.

We have not given a notice of termination but we have said to the CCNAA officials that unless we were able to conclude a replacement agreement by mid-November, we would give such a notice of termination, which does not take effect immediately. I believe it is a notice that it will be terminated within a 1-year period.

As I said earlier, it comes down, in part, to a matter of judgment as to whether one negotiates a new agreement or tries to patch up an old agreement. The existing agreement was sufficiently outdated and its geographical scope was sufficiently inappropriate. Its thrust in terms of open and free competition that we are trying to encourage was sufficiently inadequate that we felt it necessary and desirable to negotiate a new agreement.

I also want to be absolutely candid with you, Mr. Gilman, that it seems to me and it seems to our Department that it is in the best interest of the United States to have an aviation agreement with the People's Republic of China. That means trade and commerce for the United States in a situation where we badly need it.

It was essential in order to open negotiations for an aviation agreement with the People's Republic that this outdated agreement with Taiwan, which purported to cover all the People's Republic of China, be put behind us and we would be working on an unofficial agreement with Taiwan, so it had both practical and political reasons lying behind it.

Mr. GILMAN. Thank you, Mr. Chairman.
Chairman ZABLOCKI. Mr. Buchanan.

LIST OF 29 AGREEMENTS WHICH REQUIRE NO CURRENT CHANGE

Mr. BUCHANAN. Thank you, Mr. Chairman.

First of all, you indicate that there are 29 agreements, Mr. Secretary, that do not need to be changed. Is that correct?

Mr. CHRISTOPHER. Yes, there are 29 agreements, Congressman Buchanan, that apparently require no current change. Something could develop over the course of the next year that would require us to take a look at them, but our present view is they require no change.

Mr. BUCHANAN. What do you mean by something that could happen, could you give some illustration, but before that, could we have a list of the 29 agreements?

Mr. CHRISTOPHER. It will be promptly inserted in the record.

Mr. BUCHANAN. Thank you very much. You mentioned education, the Treaty of Friendship, Commerce, and Navigation. I assume there are 20-odd others as well so if we could have the complete list as soon as possible, I would appreciate it.

Mr. CHRISTOPHER. With the permission of the chairman, I will furnish that for the record.

Chairman ZABLOCKI. Without objection.

[The information, subsequently submitted, follows:]

AGREEMENTS WHICH DO NOT REQUIRE CURRENT ACTION

AGRICULTURAL COMMODITIES

Agricultural commodities agreement, with exchange of notes dated August 31, 1962 (TIAS 5151), as amended January 15, 1963 (TIAS 5282) and June 3, 1964 (TIAS 5588).

Agricultural commodities agreement, with exchange of notes dated December 31, 1964 (TIAS 5718), as amended February 11, 1966 (TIAS 5958).

These agreements relate to agricultural commodities previously furnished. We are still receiving payments under these two agreements. The last installment under the first is due April 4, 1985, and under the second, March 31, 1985.

AVIATION

Memorandum of agreement relating to the provision of flight inspection services, signed August 21 and October 1, 1978 (TIAS 9197).

This agreement is of continued relevance to our aviation relations.

DEFENSE AND MILITARY RELATED AGREEMENTS

Agreement relating to the furnishing of certain military material to China for the defense of Taiwan, exchange of notes signed January 30 and February 9, 1951 (TIAS 2293).

Agreement providing for the disposition of equipment and materials furnished under the preceding agreement, exchange of notes April 3, 1956 (TIAS 3571), as amended (TIAS 5607).

Agreement relating to assurances required by the Mutual Security Act of 1951, exchange of notes December 29, 1951 and January 2, 1952 (TIAS 2604).

Agreement relating to the sale of U.S. excess property in Taiwan by the Armed forces of the U.S., signed July 22, 1959 (TIAS 4312).

These agreements all cover material now on Taiwan. They include provisions respecting reversionary rights of the United States and the right of the United States to veto loans or transfers of the material to third countries. These reversionary and veto rights long have been required by United States statutes governing our military assistance programs.

Agreement relating to the loan of small naval craft to China, exchange of notes May 14, 1954 (TIAS 2979), as amended and extended March 22 and 31, 1955 (TIAS 3215), June 18, 1955 (TIAS 3346), May 16, 1957 (TIAS 3837), October 12, 1960 (TIAS 4597), August 15, 1962 (TIAS 5150), February 23, 1965 (TIAS 5771) and December 16, 1970 and January 14, 1971 (TIAS 7037).

Agreement for the loan of small craft to China, exchange of notes July 8, 1959 (TIAS 4274).

Agreement relating to the transfer of the USS Geronimo to the navy of China, exchange of notes December 12 and 16, 1968 (TIAS 6623).

These agreements contain provisions giving the United States rights to have the ships returned and to veto loans or transfers of the ships to third countries. Termination of these agreements would eliminate these rights. The International Security Assistance Act of 1979 provides the President authority to transfer U.S. residual rights to vessels on lease to Taiwan. Upon transfer the agreements would become obsolete.

ECONOMIC AND TECHNICAL COOPERATION

Agreement concerning the disposition of New Taiwan dollars generated as a consequence of economic assistance furnished to China, exchange of notes dated April 9, 1965 (TIAS 5782), as extended and amended (TIAS 6451, 6906, and 8184).

This agreement established a Sino-American fund for economic development (SAFED). The agreement will expire according to its terms on June 30, 1980, and will not need to be renewed.

Agreement on technological advancement in connection with water resources, land utilization and various fields of irrigated agriculture, signed May 12, 1972 (TIAS 7374).

Agreement relating to duty-free entry of relief supplies and packages, exchange of notes dated November 5 and 18, 1948 (TIAS 2749), as amended (TIAS 3151).

This agreement contains duty-free entry privileges for private voluntary organizations.

EDUCATION

Agreement for financing certain educational and cultural exchange programs, signed April 23, 1964 (TIAS 5572).

This agreement is outmoded in certain respects, e.g., an active role for the Ambassador, but is still of continuing relevance.

FISHERIES

Agreement concerning fisheries off the coast of the U.S. signed September 15, 1976 (TIAS 8529).

This agreement contains an expiration date of July 1, 1982.

HEALTH AND SANITATION

Agreement relating to the establishment and operation in Taipei of a U.S. Navy Medical Research Unit, exchange of notes, March 30, April 26 and October 14, 1955 (TIAS 3493), as amended and extended December 27, 1956 (TIAS 3720) and October 3 and 14, 1978.

This agreement governs the operation of a naval medical research unit which has been relocated. However, some experimental equipment remains in the Taiwan facility and experiments will continue there into 1980. Upon completion of these experiments, this agreement will become obsolete.

INVESTMENT GUARANTIES

Agreement relating to guaranties for projects in Taiwan, exchange of notes dated June 25, 1952 (TIAS 2657), as amended (TIAS 5509).

LEND-LEASE

Preliminary agreement regarding principles applying to mutual aid in the prosecution of the war against aggression, signed June 2, 1942 (6 Bevans 735).

Agreement under Section 3(c) of the Lend-Lease Act, signed June 28, 1946 (TIAS 1746).

Agreement on the disposition of lend-lease supplies in inventory of procurement in the United States, signed June 14, 1946 (TIAS 1533).

POSTAL MATTERS

Agreement for the exchange of international money orders, signed October 8 and November 15, 1957 (TIAS 3995).

Parcel post convention, signed May 29 and July 11, 1916 (39 Stat 1665).

Agreement for exchange of insured parcel post and regulations of execution, signed July 30 and August 19, 1957 (TIAS 3941).

International express mail agreement, signed September 11 and November 10, 1978 (TIAS).

TAXATION

Agreement for the relief from double taxation on earnings from operation of ships and aircraft, exchange of notes dated February 8 and 26, 1972 (TIAS 7282).

TRADE AND COMMERCE

Agreement relating to trade in textiles with letter dated April 10, 1974 (TIAS 7821).

Agreement relating to the export of non-rubber footwear, exchange of notes dated June 14, 1977 (TIAS 8884).

Treaty of friendship, commerce and navigation, with accompanying protocol, signed November 4, 1946 (TIAS 1871).

VISAS

Agreement prescribing nonimmigrant visa fees and validity of nonimmigrant visas, exchange of notes December 20, 1955 (TIAS 3539), as amended (TIAS 6410 and TIAS 6972).

POSSIBILITY OF FUTURE REVISIONS IN AGREEMENTS

Mr. BUCHANAN. I do not know what you mean by something that could happen that could cause that to change.

Mr. CHRISTOPHER. Take the textile agreement. There was perceived reason to change some of the limits in the textile agreement and that is one of the things that is causing the need for making revisions in the textile agreement. As I indicated earlier, it appears those can be made through a side letter between the AIT and the CCNAA.

But it is the desire on the part of both parties or the willingness of both parties to make adjustments in the agreements that might call for some change to take place. As I indicated earlier, we will look at them one by one to see if the change is so extensive that it justifies or requires a new agreement or if the change can be made in a simpler way.

EFFECT OF NEW AVIATION AGREEMENT ON UNITED STATES-TAIWAN
COMMERCIAL RELATIONS

Mr. BUCHANAN. I would like to add my own concern to that expressed by a number of my colleagues on the subject of the civil aviation agreements. You have answered various questions pertaining to this as to why you are doing it at this time. I would like to express my concern.

I understand if it is our desire to establish air service to various cities not under control of Taiwan that this might facilitate. I have some concerns, however, about what it means about the American-Taiwanese relations and whether or not and in what ways would this disturb the current air traffic between the two countries, the current rights in this country?

Mr. CHRISTOPHER. Congressman, my own feeling is that it will enhance relations between the United States and Taiwan in the aviation field providing better service from the United States to Taiwan for our citizens, hopefully by providing more flights and better fares and that it can also advantage people who want to go from Taiwan here by being a more modern and better agreement.

This is one of the areas in which the United States can rightfully take a great deal of pride in the aviation agreements that have been negotiated over the last 3 years. We have opened up new markets. We have provided for more charter flights. We have provided for more points and most important, we have provided for lower fares.

So I think the new agreement with Taiwan will enhance the commercial relations between the two countries or between the United States and Taiwan rather than inhibit them.

Mr. BUCHANAN. You have indicated more competition. Who is going to lose? More competition implies that unless there is a new establishment of a new air service between the United States and Taiwan, I assume somebody loses if we open this to become more competitive so that somebody else moves in.

Mr. CHRISTOPHER. This is one of the most rare areas of the world where there can be winners without losers. If more people travel at lower rates there can simply be an enhancement of the commercial relationship without, I think, anybody having to lose out.

Mr. James Atwood is here with me, who is Deputy Assistant who has been involved in these negotiations and perhaps I could ask Jim to comment more fully on the configuration the new agreement may take, with your permission.

Mr. ATWOOD.¹ Thank you, Mr. Chairman.

Our objectives in negotiations with Taiwan are similar to objectives we have had in a number of our other bilateral aviation agreements

¹ James Atwood, Legal Adviser, Office of the Legal Adviser, Department of State.

that we signed recently, agreements with a number of other Pacific aviation partners such as Singapore and Thailand, and we think that a new agreement with Taiwan would benefit both its airlines and U.S. airlines serving that part of the world.

The principal points we are looking toward in the agreement are providing the airlines that serve this market, including the Taiwanese carrier, with greater flexibility in terms of what fares they would like to set, how they will conduct their operations, the number of operations, and the number of points to be served in the United States.

China Airlines has indicated an interest to serve additional U.S. points and this seems to be one of the parts of the negotiations which is turning out quite satisfactorily. As Secretary Christopher said, yesterday was a very good day in the negotiations, substantial progress is being made and we are hopeful that the remaining issues can be resolved quite quickly.

Mr. BUCHANAN. Thank you.

Chairman ZABLOCKI. Mr. Lagomarsino.

CONTINUED PROVISION OF DEFENSIVE ARMS TO TAIWAN

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

Mr. Secretary, the current 1-year moratorium on United States arms sales to Taiwan will expire at the end of December. Certainly it can be anticipated Taiwan will soon be presenting new requests for the sale of high-performance aircraft, most particularly the F-16. What position does the administration expect to take with reference to these requests? Will it sell Taiwan the F-16?

Mr. CHRISTOPHER. Congressman, I would prefer not to try to speculate on exactly what arms we would be willing to sell Taiwan next year. I think it is only fair and in candor to tell you though we have turned down requests in the past for the F-16, knowing that it would violate the President's arms transfer policy.

The main thing I would like to say in answer to your question is, we will be considering their request and we will be providing them, as we have been in the past, a defense, defensive arms.

Mr. LAGOMARSINO. I would point out that sections 3 (a) and (b) of the Taiwan Relations Act states the United States will sell Taiwan defense articles necessary to enable Taiwan to maintain a sufficient civil defense capability, that the President and the Congress shall determine the nature of such defense articles based solely on the judgment of the needs of Taiwan.

As the act states, and as I am sure you know, this body and especially this committee takes a direct interest in the nature and quantity of arms sold to Taiwan and intends to be a full partner in any decision made on this matter. I would point out further such decisions are to be made solely on an independent United States determination of Taiwan's defense needs irrespective of any pressures or policies to the contrary coming from the People's Republic of China.

I expect, Mr. Chairman, that we in this committee in the exercise of our oversight functioning will continue to monitor developments in this area very closely.

Mr. Christopher, one of my colleagues a little while ago made a comment or asked a question about whether or not we had acceded, whether we had agreed to having our allies furnish modern weapons to the People's Republic of China and regardless of whether we have agreed with that or not, if they buy them, obviously it is going to put Taiwan in a more difficult spot than they already are, so I would hope we would keep that in mind in determining whether or not to sell F-16's or F-5G's or whatever it might be.

Mr. CHRISTOPHER. Congressman, you can be sure we are well aware of section 3 of the act and that we intend to follow it faithfully and we also intend to consult with this and other appropriate committees when we are ready to go forward with proposals for sales of arms to Taiwan. We are very conscious of the act.

AGREEMENT ON DIPLOMATIC IMMUNITIES AND PRIVILEGES

Mr. LAGOMARSINO. What is the status of the extension of diplomatic or diplomatic-type privileges, immunities to personnel of the coordinating council for authorities' American affairs in this country?

Mr. CHRISTOPHER. The United States has proposed to the CCNAA a form of functional diplomatic immunities. They have responded in a way that indicates we are very close to agreement and that we would expect to be able to agree with them on that in the very near future. In the meantime and so there is no hiatus, we have accorded them functional diplomatic immunities for the time being.

I look quite confidently to a satisfactory resolution of that problem in the relatively near future. By that, I mean within the next few months.

Mr. LAGOMARSINO. Are you saying at the present time they have those privileges and immunities as a practical matter?

Mr. CHRISTOPHER. Yes. I am saying they have functional privileges and immunities which they are operating under at the present time, roughly similar to—to make this analogy—not precisely, but roughly similar, to what international organizations have in this country.

Mr. LAGOMARSINO. One example. I am told their personnel are still driving here on a succession of temporary paper license plates despite assurances they would be granted permanent special plates. Why would such a thing that seems to be rather simple take so long?

Mr. CHRISTOPHER. Congressman, I do not know that particular matter, but you can be sure that I and my colleagues will look into it. [The information, subsequently submitted, follows.]

DIPLOMATIC LICENSE PLATES FOR CCNAA OFFICIALS

CCNAA officials are not entitled to diplomatic or special license plates. However, the agreement under negotiation between AIT and CCNAA on privileges and immunities would exempt CCNAA employees from license plate fees. Many CCNAA employees have chosen to obtain temporary plates until the agreement is signed, others have not and already have their permanent plates.

CCNAA CONTACTS WITH U.S. GOVERNMENT OFFICIALS

Mr. LAGOMARSINO. In previous testimony, Mr. Christopher, we were told that people of the CCNAA were not able to enter the Commerce Building to discuss commerce with officials.

Is that true?

Mr. CHRISTOPHER. The general format of the relationship is that officials of CCNAA deal with officials of AIT, American Institute in Taiwan, and the relationship takes place between the two. In neither country are representatives of the official agencies in contact with government officials. Where technical problems arise, we found ways to solve that problem, but it is correct that the unofficial representatives of CCNAA do not meet directly with our Government officials.

Mr. LAGOMARSINO. I understand on Taiwan the Government there would be very pleased to have our unofficial representatives meet with them.

Mr. CHRISTOPHER. Congressman, the basis of the Taiwan Relations Act, the basis of our recognition of People's Republic of China was that we would have unofficial, not official, relationships and it is carrying out that general theory which was the theory of recognition and which is the underlying philosophy of the Taiwan Relations Act which causes us to carry out the matters in the way we do.

We are going to continue to follow that philosophy.

Mr. LAGOMARSINO. My understanding is any American citizen or anybody else can walk into the Department of Commerce or any other U.S. Government building and talk to the people but for some reason these people cannot do that.

Mr. CHRISTOPHER. If they were walking in as citizens, that would be one thing, but the fact is that the relations between CCNAA and AIT are between the officials of those two organizations and ought to remain in that form.

Chairman ZABLOCKI. Mr. Wolff.

INTENT OF ADMINISTRATION REGARDING EXISTING UNITED STATES-TAIWAN AGREEMENTS

Mr. WOLFF. Thank you, Mr. Chairman.

Mr. Christopher, at the time the normalization agreement was proposed to the Congress, can you tell us whether or not it was the intent of the Department to alter in any fashion any of the agreements that were existing at that time between the Government of the United States and the newly structured people of Taiwan.

Mr. CHRISTOPHER. Congressman, I am worried about repeating myself but I am also worried about not answering my question.

Mr. WOLFF. That might be the case, about repeating yourself, because we have been getting different answers, so maybe we should go back and have the record read.

Mr. CHRISTOPHER. Why don't I say what my concept of the matter is and if you have questions, I am sure you will pursue them.

At the time of the recognition, at the time the act was before Congress, we had a choice to make and that was whether or not we would abrogate all the existing agreements between the United States and Taiwan as had been done by other countries, or whether we would provide that they remain in full force and effect.

We chose the latter course believing that that would be the best way to maintain commercial and cultural and other proper relations. We did indicate at that time and the President took prompt action

to terminate the Mutual Defense Treaty but as I said earlier, that statement that that would remain in force and effect did not mean that all 59 agreements would exist in perpetuity.

Times change. We are not dealing with a static relationship. We are dealing with a relationship that is very dynamic and in that dynamic relationship, there will have to be modifications and changes in the agreements between the United States and Taiwan. That is the process we are in.

CONGRESSIONAL INTERPRETATION OF STATUS OF UNITED STATES-TAIWAN AGREEMENTS

Mr. WOLFF. Could you tell us what changes have occurred now that would require the change in status?

One of the problems we are having here, Mr. Christopher, is the fact that the Congress was not consulted adequately before the normalization procedure, the issue is not that we disagreed with it, but we were not consulted before. The Congress does not read the fine print, as you are now indicating, that the contract agreements would continue in force until their termination date had been achieved. But we had understood that the agreements that were in force at that time would continue, period.

Therefore, what you are now doing is reinterpreting this particular area of statement that was made to us and perhaps it was because you sought to get the agreement of the Taiwan Act itself, that this fine print was not revealed, or the intent and purposes of the Department were not revealed to us at that time. We were led to believe that there would be a continuation of relationships with the people on Taiwan, not that there were relationships with the Republic of China which did no longer exist in our mind, but that relationships and existing relationships would continue.

Now, you are facing us with the idea of a complete change of circumstances. I believe that there was a serious intent upon the part of the Department to mislead the Congress in order to achieve the Taiwan Act.

Mr. CHRISTOPHER. I have never knowingly misled the Congress. I have not done it in connection with the Taiwan Act and I am not doing it today.

AGREEMENTS POSSIBLY SUBJECT TO RENEGOTIATION

Mr. WOLFF. Did anyone ever mention the fact that these treaties or agreements were to be renegotiated at any time? Can you provide for us any time you made this statement to Congress?

Mr. CHRISTOPHER. I would like to have an opportunity to furnish to Congress references to that effect but, Congressman Wolff, I also want to make the point that the fact that we said agreements would remain in force and effect at the time of normalization did not mean that there could never be a change in agreements.

As I say, we live in a dynamic world and I have in my statement candidly outlined the five agreements which seem to call for some current adjustment. Take the first one, the agreement on scientific cooperation. It expires in January 1980. Clearly, some change needs to be made in it.

Take the textile agreement. That is a very dynamic business. It is important for the textile industry that there be changes made in quota numbers.

[The information, subsequently submitted, follows:]

RENEGOTIATION OF TREATIES AND AGREEMENTS

At the time of the hearing on the Taiwan Relations Act in February 1979, the following reply was provided to a question submitted by Senator Stone:

Question. When treaties and agreements expire, will the renewal or extension be handled without any prejudice under the new situation. Who will sign? i.e. normally these are signed by government officials from both sides. Will this continue to be the case? Will they be issued visas etc.?

Answer. We have only one operational treaty with the Taiwan authority, a 1946 Friendship, Commerce and Navigation Treaty that has no expiration date. New agreements, including renewals and extensions of existing ones that may expire, will be concluded by the American Institute in Taiwan (AIT) and its Taiwan counterpart. They will not be signed by government officials but will be fully effective to enable relations to continue and prosper. Representatives of the Taiwan authorities will be issued visas through AIT.

STATUS OF AVIATION AGREEMENT AND NUCLEAR SUPPLY ARRANGEMENTS

Mr. WOLFF. May I refer you back to the section 4 of the application of laws in international agreements in the Taiwan Act. It says:

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

You did say before the committee, I believe:

The United States, I think, would find no difficulty if the legislation is passed in treating the people on Taiwan as a valid treaty partner for purposes of important treaties such as aviation agreements, nuclear supply arrangements which now exist.

That is part of your statement to the committee.

Mr. CHRISTOPHER. I think that was made in 1979. I think the same thing continues to be true. We are going to have a nuclear supplier relationship with Taiwan. Developments require some changes in the nuclear supply situation or agreement with Taiwan.

We are going to continue to have an aviation arrangement with Taiwan. As has just been testified to here, we think the new agreement between the unofficial entities will be better for both sides than the existing agreement.

Mr. WOLFF. I said the other day that there is straight talk and there is State talk. When you say, there are winners without losers, that may be good diplomatic language but if somebody wins, somebody has to lose. There just cannot be an equalization of everything.

I want you to know the thrust of my questions and my statements are not in any fashion to either jeopardize or to criticize or to in any fashion put questions on our normalization procedures with the People's Republic of China, which I think should be enhanced, but the one point that was made to us, they were not to be made at the expense of the people on Taiwan. I think that is the important element involved here.

When you say everybody is going to be a winner, that is great campaign talk, but I really do not think you reach the realities of what is happening here. Part of the problem we are having is that everyone points to the successes Taiwan has had economically.

How long do you think those successes are going to continue if there is this uncertainty created by the Department in coming into the Congress and saying, "Well these treaties that we said before are going to continue in force, we are now going to reexamine every one of them and they may not exist in the future." How long do you think there can be solidity and stability in an area under such circumstances?

Again we are not treating the question of our continued enhancement of relations with the People's Republic of China. I think that should proceed at a much more rapid pace than it is, but I think we have a two-track system here. You are trying to put two trains on the same track.

Mr. CHRISTOPHER. Congressman Wolff, private investment in Taiwan has gone up dramatically. It was \$68 million the first half of this year.

ADMINISTRATION'S POSITION ON AGREEMENTS

Mr. WOLFF. It has in the past but what about the future, as a result of the question of these treaties or agreements being changed?

Mr. CHRISTOPHER. I would venture the prediction with a good deal of confidence that the new aviation agreement between the United States and Taiwan, unofficial entities, will lead to increased travel and increased commercial opportunities for both countries. I think these are positive things, not negative things.

Mr. Chairman, with your permission, I would like to read a question and answer. It happens to have been given in the other body but I think it does tend to cast some light on the charge that has been made against me of misleading Congress, which I take most seriously.

Question. When treaties and agreements expire, will renewal or extension be handled without any prejudice under the new situation? Who will sign? Normally these are assigned by government officials from both sides. Will this continue to be the case? Will they be issued visas and so on?

Here was the answer.

Answer. We have only one operational treaty with the Taiwan authorities, the Treaty of Friendship, Commerce and Aviation. It has no expiration agreement.

I am coming to an important sentence.

New agreements, including renewals and extensions of existing ones that may expire, will be concluded by the American Institute in Taiwan and its Taiwan counterpart. They will not be signed by government officials but they will be fully effective to enable conditions to continue and prosper. Representatives of Taiwan authorities will be issued visas through the AIT.

I want to make the point, Mr. Chairman, that I think we are carrying out the intent of the act and the intent of that testimony of trying to preserve as many agreements as we can, not making changes except where they are necessary. It is possible we make an updating through a letter agreement but in some instances where the conditions require, it seems wise, sensible and practical to have a new agreement between the unofficial entities.

Mr. WOLFF. Mr. Chairman, if I might, was that the same meeting, Mr. Christopher, in February 1979 that you made that statement? The statement you made before the Foreign Relations Committee said, "The United States, I think, will find no difficulty, if the legislation is passed, in treating the people as a valid treaty partner in important matters such as aviation agreement." Is that in the same context as the statement you made before the Foreign Affairs Committee on February 1979, that said:

We have moved to assure that with exception of the Mutual Defense Treaty and related agreements with Taiwan, more than 59 in all will remain in force.

When I went to Taiwan in December I sought information from Taiwan authorities that they would regard all existing agreements as continuing in force after January 1, 1979. The Taiwan authorities did provide such information.

That is from your statement as well. Was that during the same period?

Mr. CHRISTOPHER. I cannot tell for certain, Congressman Wolff, but that was basically at the same time. I think though the matters are consistent. The treaties and agreements remained in force and effect at the time of normalization.

Now, we are 11 months beyond normalization and we are dealing with changed events. The act itself provided treaties would remain in force except those that were terminated in accordance with their provisions. That process will go on.

LEGISLATIVE HISTORY ON AGREEMENTS

Mr. WOLFF. I must say, Mr. Secretary, one of the basic reasons for my support of the Taiwan Relations Act was the legislative history that was created on the floor which specifically lead people in Congress to believe that these agreements would continue.

The only thing we were going to tamper with in any way was the Mutual Defense Treaty and that Mutual Defense Treaty was to be terminated at its end. But there was never any inclination on our part that there would be termination of other treaties.

What you just said to us came as somewhat of a shock to us. We were going to continue on with these other treaties and just take the Defense Treaty because this was objectionable to the People's Republic of China. It was with that in mind much of the support was given to this whole idea.

My time has expired, Mr. Chairman. I do not mean to infer that you personally misled the Congress, Mr. Christopher. What I am saying is that there was a general opinion by the Congress from the information that was given to us by various sources that these treaties and agreements would continue in force, period.

Thank you.

Chairman ZABLOCKI. Mr. Bingham.

MODIFICATION OF CERTAIN COMMERCIAL AGREEMENTS MAY BE NECESSARY

Mr. BINGHAM. Thank you, Mr. Chairman.

Mr. Secretary, I would like to say that I have no such understanding as Mr. Wolff has outlined about the significance of the Taiwan Act. I am looking right at the language we incorporated in the act

that you just referred to, that agreements remain in force until terminated in accordance with law.

If by their own provisions they called for termination, certainly we expected that would be done. Would it be true to say that in looking at the agreements that were in force as of the date of the change of relations with the Taiwanese, we look at them precisely in the same way that we look at agreements that are in force with other countries: Australia, or Japan, or Britain or any other country with whom we have any agreements?

Mr. CHRISTOPHER. Yes, Congressman Bingham, that is essentially correct. We look at the agreements in terms of what is in the best interests of the United States, whether changes have taken place that require modifications, as I mentioned earlier, as in the textile numbers or in some other way.

IMPACT OF COURT DECISION ON TERMINATION OF DEFENSE TREATY

Mr. BINGHAM. Surely we did not intend that agreements in force on that particular day would stay in effect in perpetuity. That would have been an absurd result and I am sure we did not intend that.

I would like to refer particularly to the reference in your letter—and I think in your testimony—to the renegotiation that will be required of our nuclear cooperation agreement. Those renegotiations were called for in the Nuclear Non-Proliferation Act and they are called for with every country, and there is no reason why Taiwan should be an exception.

I must say I am not too familiar with the situation with regard to the air rights agreement but I find it hard to understand why anyone should argue that we should seek to maintain in effect an agreement with Taiwan which purports to provide us landing rights in Nanking and Shanghai.

That is an absurdity and we have to work that out with them on the basis of give and take with new negotiations.

I would like to ask you on another front, what is the impact of the court decision so far on these negotiations dealing with the Mutual Defense Treaty and what plans have been made, what would be the impact if the Supreme Court should affirm that decision?

Mr. CHRISTOPHER. Congressman Bingham, before I get into that, may I say that I think the nuclear situation is a classic example of the point that I have been trying to support this morning. Congress itself in the 1978 Nuclear Non-Proliferation Act established certain ceilings with respect to the provision of low enriched fuels.

If we are going to follow the mandate of Congress, we have to take a look at the Taiwan agreements and make adjustments in it pursuant to the demands of Congress. It shows, I think, that Congress did not intend for us to cast in concrete for perpetuity the 59 agreements that existed last January 1 between Taiwan and the United States.

Now, with respect to the litigation, the court of appeals has taken the quite extraordinary step of setting an en banc hearing and setting it at an early date, namely, next Monday, November 13. We remain confident of our litigation position and we feel that the termination by the President in accordance with article 10 of the treaty will be upheld by the appellate courts.

We are very conscious of the time sequence. We hope that the court of appeals will act promptly and we hope, if necessary, to go to the Supreme Court of the United States before the end of the year. That will be possible as well.

Up to the present time, I would say that the decision of the district court has not impeded our planning. We have the matter very much in mind, but I think since the case is in litigation and will be argued next Monday, I should not comment further.

Mr. BINGHAM. Has there been any interference by the PRC with any of the negotiations that have been undertaken to date with Taiwan through the instrumentalities of negotiation with Taiwan?

Mr. CHRISTOPHER. None to my knowledge, Congressman.

Mr. BINGHAM. I would like to disassociate myself totally with the very harsh charge and I believe it is a harsh charge that my friend and colleague from New York made that the Department misled Congress at the time of the enactment of the Taiwan Relations Act. I do not feel I was misled at all.

Chairman ZABLOCKI. The Chair would like to call a recess for a few minutes in order to give the Secretary an opportunity to make a very important telephone call.

Mr. CHRISTOPHER. Thank you, Mr. Chairman.

[Whereupon, a brief recess was taken.]

ACCESS OF AIT AND CCNAA TO GOVERNMENTAL AGENCIES

Chairman ZABLOCKI. The committee will resume its sitting.

Mr. Secretary, to pursue the line of questioning of my colleague from California, Mr. Lagomarsino, as to the Institute, AIT, and the CCNAA and their operations, section 7 of the act, paragraph (b), provides that "acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect in the United States, as if performed by any other person authorized under the laws of the United States to perform such acts."

It would presume that employees of the institute would have access to all of our governmental agencies, such as the Commerce, State, and Defense Departments. Is that your interpretation of section 7(b)?

Mr. CHRISTOPHER. Mr. Chairman, I am afraid I cannot affirm that that is my interpretation of subsection (b) of section 7.

Chairman ZABLOCKI. What is your interpretation of "as if performed by any other persons authorized under the laws of the United States to perform such acts?" What is your interpretation of that?

Mr. CHRISTOPHER. My interpretation is that individuals in the Institute who are employed by the Institute may take some actions with respect to entering into agreements and that simply provides that if they do so, it shall have the same force and effect as if performed by persons authorized by the laws of the United States.

I do not think it has anything to do with the access of the individuals from Taiwan to the Secretary of Commerce or any other governmental official.

Chairman ZABLOCKI. Let's take negotiating an economic trade agreement. An official of the Commerce Department would not only have to have access to information necessary for him to negotiate a meaningful agreement with another country, he would have to have some contact with the country with whom the agreement would be made.

Mr. CHRISTOPHER. Mr. Chairman, I do not know that I apprehend the practical problem in this situation. Officials of CCNAA have had full access to their counterparts in AIT. I think they have been able to do the regular business that was intended.

The concept of the act was that relations would be maintained on an unofficial basis.

Chairman ZABLOCKI. What I am trying to establish, Mr. Secretary, is not the—I will come to the CCNAA—but I want to be clear as to what access do the employees of AIT have to our governmental agencies?

Mr. CHRISTOPHER. Well, AIT—I am sorry, I may have misunderstood, Mr. Chairman—I apologize. AIT would be able to obtain the technical information from our Government employees necessary for them to carry out their unofficial role.

Chairman ZABLOCKI. Therefore, it would be expected that employees of the CCNAA would also have access to information within the agencies.

Mr. CHRISTOPHER. I would think this is, of course, a matter for the Government of Taiwan, but I would think that the employees of CCNAA in Taiwan would be able to get the necessary technical information from their bureaus and departments just as our employees of AIT are able to get technical information from our agencies.

Chairman ZABLOCKI. And the next step would be that our employees of AIT would at times of necessity have to confer with the agencies on Taiwan.

Mr. CHRISTOPHER. That is a step that has not so far proved to be necessary. I think they have been able to carry out their duties by unofficial relations between the members of AIT and the members of CCNAA.

Chairman ZABLOCKI. As the gentleman from California has pointed out, representatives or members of the CCNAA who believed it was necessary to get some technical information from our Commerce Department were denied access to the Department. So this does not hold to your statement that thus far it was not necessary.

Mr. CHRISTOPHER. Mr. Chairman, if I understand your question correctly or your comment correctly, it related to the inability of somebody from CCNAA to go to our Commerce Department. The procedure would have been for them to have contacted the representative of AIT and use them as a conduit for obtaining the information from our departments and agencies.

Chairman ZABLOCKI. And likewise if an employee of the AIT wants some information that is necessary for the proper negotiation of an agreement, a trade agreement, they would have to go through the CCNAA to get it from the Taiwan agency.

Mr. CHRISTOPHER. Yes, that is what is contemplated under normalization and that is really what is contemplated under the act. If you look at section—I believe it is 4 of the act, AIT is designated as the agency through which the United States is to act with respect to Taiwan.

Chairman ZABLOCKI. I see a problem if you have to go through this cumbersome procedure that does not really expedite matters.

Mr. CHRISTOPHER. Mr. Chairman, I will look into the matter to see whether there has been any real frustration or any real inefficiency

that has arisen from this. I would have to speculate that some of the desire to contact directly may be an effort to maintain or to create an official relationship when the presumption of the statute and of our policy is that there will be an unofficial relationship.

SIZE OF CURRENT AIT STAFF IN TAIWAN

Chairman ZABLOCKI. Mr. Secretary, is the staff of the American Institute in Taiwan less than that of the former U.S. Embassy in Taiwan? I understand it is. What is the staff of the AIT in Taiwan at the present time in comparison to what it was?

Mr. CHRISTOPHER. Mr. Chairman, I will have to furnish the precise figures for the record but you will find it is only slightly smaller than it was in the past. I think that we have perhaps two or three fewer officers, but the AIT is operating effectively and well.

Let me add one further thing, Mr. Chairman. I would see no objection—and in practicality would probably justify and require it—if the CCNAA requires some technical information, to have arrangements made through AIT or CCNAA for CCNAA to get the information from the appropriate U.S. department.

The crucial thing is that the unofficial character of the relationship be maintained and that AIT be used as the conduit. This is a practical world and I think practicality would enable and dictate AIT to make arrangements for CCNAA to get the necessary technical information from our departments.

I intend to look into that. We do not want to have any artificial barriers to carrying out the purpose of Congress that commercial, trade and cultural matters would be maintained.

[The information, subsequently submitted, follows:]

COMPOSITION OF AIT'S TAIPEI OFFICE STAFF

AIT's Taipei office has about 50 American employees. To this should be added four personnel who staff AIT's branch office in Kaohsiung. The former U.S. Embassy in Taipei had approximately 91 American employees. The reduction in numbers, to a large extent, reflects the elimination of certain functions as a result of the change in the nature of the relationship from official to unofficial. For example, the functions of the former defense attache office included official representation and matters concerning U.S. military presence on the island. The embassy also included a military assistance group (MAAG). These requirements, of course, no longer exist, and all U.S. military have been withdrawn from the island.

In the important areas of economic/commercial work and travel services (formerly consular) there has been little change.

AIT believes the level and quality of its services is improving. Should additional personnel be required, we are certain AIT will ask for increased funds.

Chairman ZABLOCKI. That is very encouraging and I look forward to your report after you look into it.

As to the staff of the American Institute in Taiwan, nonmilitary, that is, you clearly stated there had been an increase of trade in 1979 and the expectation of increased trade with Taiwan in the future. This would certainly indicate that in regard to staff, it would be necessary to have more, not less.

Therefore, I must ask what is the justification of reduction of personnel?

Mr. CHRISTOPHER. All over the world we are reducing personnel in our embassies and consulates. We are now manning 131 embassies with the same number of people that we used to man 90, so I would state it would probably be an advantage if we were able to cut back our staff.

My understanding is that AIT has about 50 employees on Taiwan and that that number is sufficient for their duties. Once again, I will look into it. I have now found a notation here which gives some precision to my recollection. It says the only decrease has been of two commercial officers and one less economic officer than our former embassy had.

But we think that the personnel is adequate and if it does not seem to be adequate when I look into it, we will ask for some additional funds.

U.S. REACTION TO POSSIBLE PRC ACTION AGAINST TAIWAN

Chairman ZABLOCKI. One final question, an iffy question. Certainly it is pretty clear that the Congress, in enacting the Taiwan Relations Act, made it crystal clear that we want the future of Taiwan to be secure and the necessary defense articles to be available, and that if there is any change in the status of Taiwan, there will be a peaceful resolution. As the President in his statement of December 15 says: "As the United States asserted in the Shanghai communication of 1972 issued on President Nixon's historic visit, we will continue to have an interest in the peaceful resolution of the Taiwan issue."

Without the Mutual Defense Treaty, what do you suppose we would do if the PRC were to take offensive action, military action, against Taiwan?

Mr. CHRISTOPHER. Mr. Chairman, that action, which I do not anticipate, and which I think is highly unlikely, would have a destabilizing effect on the region and I think the United States would consult with its allies in that region and review that matter very carefully and determine what action was proper at the time.

I do not believe it is proper to go beyond that but it would be an occasion for the deepest consideration within the Government because it would be a destabilizing event.

Chairman ZABLOCKI. I agree with you, Mr. Secretary, but in the world we live in the unexpected sometimes happens.

Are there any further questions?

Mr. Lagomarsino.

NO U.S. POLICY TO CONVERT OR TERMINATE ALL EXISTING AGREEMENTS

Mr. LAGOMARSINO. Thank you, Mr. Chairman.

In previous testimony, Mr. Parker of the American Chamber of Commerce stated:

Assistant Secretary of State Holbrooke indicated the administration wants to terminate all remaining formal arrangements with Taiwan and that the replacement of the aviation treaty is merely the first step.

Would you comment on that? I might say he quoted here—what he says is:

Assistant Secretary of State Holbrooke, who was traveling with the visitors later stated in response to my question: "The administration intends eventually to convert all existing treaties and executive agreements with Taiwan into unofficial agreements because this allegedly would be consistent with the whole policy of normalization.

Mr. CHRISTOPHER. Congressman Lagomarsino, without commenting on whether Mr. Holbrooke actually said it or the context in which he said it, I am glad to have the opportunity to tell you that is not the

policy of the administration. We do not have a policy of converting or terminating all of the agreements.

In my testimony I indicated there were five that we thought required some rather early action or treatment because of the exigencies of time. There are 29 that we think do not require any action, either immediately or in the near future. But beyond that I want to tell you that unless there is some reason arising out of factual situations or changed circumstances to terminate or amend or modify an agreement, it will remain in effect.

We have no such policy as Mr. Parker attributed to Mr. Holbrooke.

Mr. LAGOMARSINO. You are not saying whether or not Mr. Holbrooke said that at the time.

Mr. CHRISTOPHER. I have not looked into that and I would not want to disavow my colleague, but if he said it, I would say it was not U.S. policy.

Mr. LAGOMARSINO. Or that it has been changed since?

Mr. CHRISTOPHER. I know Mr. Holbrooke well and we have talked about these matters frequently. I do not believe he ever thought that was U.S. policy, so I would thus be surprised if he said it.

ISSUANCE OF VISA TO TAIWAN VICE MINISTER OF FOREIGN AFFAIRS

Mr. LAGOMARSINO. I was advised this morning that Mr. Fred Chien, Vice Minister of Foreign Affairs in Taiwan, had applied for a visa to come to the United States and he was turned down. Do you have any knowledge of that?

Mr. CHRISTOPHER. To my knowledge, that is not true.

Mr. LAGOMARSINO. That is not true?

Mr. CHRISTOPHER. I do not believe that is true.

Mr. LAGOMARSINO. If he does apply, he would be given a visa?

Mr. CHRISTOPHER. I do not know any reason why he would not be given a visa. If the question is whether he is going to hold a particular position, we might have a point of view about that, but I know Mr. Fred Chien; I met him when I was on Taiwan and I do not know of any reason why he would not be given a visa if he wanted to come to the United States.

ACCESS OF TAIWAN PERSONNEL

Mr. LAGOMARSINO. I am glad to hear that.

Now, I understand, going back to what I asked previously and what the chairman followed up on, that the personnel of the CCNAA have not—let's take the Department of State—has Ambassador Shaw, head of CCNAA's Washington Office, been permitted to meet with Assistant Secretary Holbrooke?

Mr. CHRISTOPHER. I do not want to get beyond my facts, but I do not think he has met with him and I think it would be inconsistent with our policy if he were to meet with him. So I would have to say that I doubt if he has been permitted to meet, in the form of your question, to meet with him.

I probably also should say, Congressman, I am not in the business of issuing visas but from my own standpoint, I would have no objection to Fred Chien coming to the United States. He would not meet any policy resistance from me or from the Secretary. There may be a visa problem that I do not comprehend but I would be glad to have him.

Mr. LAGOMARSINO. I take it from what you say, Ambassador Shaw and other members of CCNAA are not permitted to meet with any level of State Department personnel.

Mr. CHRISTOPHER. As part of the concept of the unofficial arrangement, yes, they do not have official relations with members of the Department of State.

Mr. LAGOMARSINO. Or with any other Department of the Government.

Mr. CHRISTOPHER. Or with any other Department of the Government except as I was saying earlier, this is a practical world we live in; if they need some technical information from, say, the Commerce Department or the Energy Department then make the arrangements through AIT. I would not be at all surprised if they met with somebody in Energy or someone who had technical information that was necessary for them to carry out their task.

Mr. LAGOMARSINO. Would that same thing be true of technical information with the Department of State if such were required?

Mr. CHRISTOPHER. Yes. If such were required at the Department of State. Normally Department of State information, I think, could be furnished by the AIT personnel.

UNITED STATES-FUNDED SCHOOL IN TAIPEI TO SERVE AMERICAN
COMMUNITY

Mr. LAGOMARSINO. Now, in your testimony you talked—let me see if I can find it—you talk about, you say, "We no longer have consular offices on Taiwan and the American Embassy School in Taiwan ceased to function on February 28." I understand there is a different American school on Taiwan that did receive some kind of assistance from us. Is that school still in operation?

Mr. CHRISTOPHER. With your permission, Congressman, I will ask one of my colleagues who may know that fact. I do not.

I am told we have a school on Taipei that gets funds from our Office of Overseas Schools just as we do in many countries abroad. That may be what you are referring to.

Mr. LAGOMARSINO. It probably is.

Mr. CHRISTOPHER. There is a problem, as you well know, in many large cities abroad, the American community is large enough to desire to have their own school. Embassy officials particularly benefit from those schools. Many American businesses do a great public service by contributing to the maintenance of those schools, which, of course, helps their employees as well.

Our Office of Overseas Schools makes a contribution. I think that is probably what you are referring to.

Mr. LAGOMARSINO. What is the status of that school?

Mr. CHRISTOPHER. The status is the same as before, that it serves the children of American businessmen and it probably serves the children of those who are employees of our AIT office.

Mr. LAGOMARSINO. And as far as you know, it is still in operation.

Mr. CHRISTOPHER. Yes.

TREATIES AND AGREEMENTS WITH TAIWAN

Chairman ZABLOCKI. Mr. Wolf.

Mr. WOLFF. Thank you, Mr. Chairman.

Mr. Christopher, I want it clearly understood that I do not seek by any stretch of the imagination to reestablish official relations. I think the position that has been taken is one that is consistent with the normalization agreement, and I think this is most important to be observed, that unofficial relationships, that they be continued, because I do believe this.

I do believe in some cases the Department is trying to be more Chinese than the Chinese themselves. I think the idea of the People's Republic of China is to encourage, not to discourage, relationships between all peoples of China. I think this is most important and that is why I find that there is a problem in some of the things that are happening now.

I would like to insert in the record the testimony of Secretary Holbrooke and I quote from that testimony:

We * * * could not agree to declaring our treaties and agreements with Taiwan null and void. The President had determined that except for the ending of formal diplomatic relations and the Defense Treaty relationship, we would maintain the broad range of substantive ties with Taiwan in commerce and investment, in travel and tourism, and in cultural interchange.

These treaties and agreements were exceedingly important to that goal, because without them we could not continue, for example, cooperation in the peaceful uses of atomic energy; and the ending of the Treaty of Friendship, Commerce and Navigation, and the orderly marketing agreement would have a deleterious effect on our and Taiwan's essential business interests.

There is one point, Mr. Christopher, and I am sure you understand, it is not only what is said, but what is left unsaid. It is the image that is created. It is the tenor and whole theme of what is involved in a relationship.

The reason I stated what I did before is the fact I feel that there were many things that were left unsaid that are now starting to be talked about. That is why I feel strongly that we in the Congress were not taken into full consultation. I would like to, just as chairman of the Subcommittee on Asian Affairs, read to you the section 3 of the implementation of U.S. policy with regard to Taiwan.

The President is directed to inform the Congress promptly of any threat to the security or the social or economic system of the people on Taiwan and any dangers to the interest of the United States arising therefrom.

Now, I point to, beyond the security, to the social or economic system. A change of status in any of the agreements may or may not disrupt or be a threat to that system, the people on Taiwan. The President and the Congress, not the President or the State Department, but "the President and the Congress shall determine in accordance with constitutional processes an appropriate action by the United States in response to any such danger," meaning that in the future that the Congress, and in the past as well, it should have been under, in the future that any change of agreements that will be taken into consideration will have to be through the joint decisions made by both the Congress as well as the President and the State Department.

Unilateral decisions made by the State Department or by the President in this connection will be contrary to existing law. Therefore, any further changes of agreements will be in direct conflict with the Taiwan Relations Act as it has been created. I just think it is important that we understand each other in that connection.

U.S.-TAIWAN-PRC RELATIONS

Chairman ZABLOCKI. Mr. Pritchard.

Mr. PRITCHARD. Thank you. It is nice to see you again, Mr. Ambassador.

Your testimony here is really a report, a very strong report of a positive nature on the relations between Taiwan and the United States. Do you see any, or have any, evidence of any change in our relations out there that we have experienced in the last, say, 2 years? Do you see anything on the horizon that is going to change this relationship as it is going along today?

Mr. CHRISTOPHER. Speaking of the relationship between the United States and Taiwan, I think it is improving in the sense that it is showing a very dynamic capacity to operate in the unofficial mode just as well as it did in the official mode. Our commercial relations, our trade relations, our cultural relations are as vital and healthy as they were before, so I only see a continuation of an upward trend in that respect.

Our relations with the People's Republic of China—I do not know whether your question went to that subject as well—but as I said in my statement, I think we have moved beyond the formalities of normalization to the actualities and practicalities of normalization, and we are making good progress there as well to developing a sound relationship across the board with the People's Republic of China.

Now, with respect to relations between the People's Republic of China and Taiwan, the suggestions made by the People's Republic to Taiwan have not been received with great enthusiasm by Taiwan. That is really a problem between those two entities, and I am not sure we can play a very constructive role in that.

I think it is the judgment of the Department that tensions have decreased between People's Republic of China and Taiwan. Over the course of 1979, tensions have decreased rather than increased.

Mr. PRITCHARD. Would you say all indicators are that that trend will continue?

Mr. CHRISTOPHER. My crystal ball does not extend out very far, but I see a number of signs that the People's Republic are renewed in their determination to find a peaceful solution to the problem of Taiwan rather than another kind of a solution, and in that I find encouragement.

Mr. PRITCHARD. No other questions.

STATUS OF UNITED STATES-TAIWAN RELATIONS

Chairman ZABLOCKI. I have one observation to make and then a final question.

Throughout your testimony you use the term, "unofficial," and, of course, some of my colleagues have picked up the term. That term is not used at all in the Taiwan Relations Act. Nowhere. It was in the original version which the executive branch sent to us. We made a special effort to delete references to official or unofficial categories.

Indeed, in section 12(b)(4) of the act, for purposes of subsection (a), the term "agreement" includes any agreement entered into between the institute and the governing authorities on Taiwan or the instrumentality established by Taiwan.

Further, in section 15, definitions, paragraph 2, the term "Taiwan" includes, as the context may require, "Island of Taiwan, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof)."

So the act clearly, Mr. Secretary—and the legislative history has confirmed—that the purpose of this act was to deal with Taiwan on a quasi-official basis. That is merely an observation to remind you of what our intentions were when we wrote the act.

I am not telling you how to present your testimony, whether you want to refer to it as official or not. That is your prerogative. But we prefer not to have any reference to official or unofficial.

TAIWAN'S ARMS REQUESTS

As for my final question: We have been informed that the United States has turned down certain military sales requests on Taiwan, such as for harpoon missiles. These requests are for equipment that is viewed as necessary for Taiwan to meet its defense capability. Under the provision of security for Taiwan, section 3, it appears that such sales should be approved.

Can you verify or deny that such turndowns have occurred?

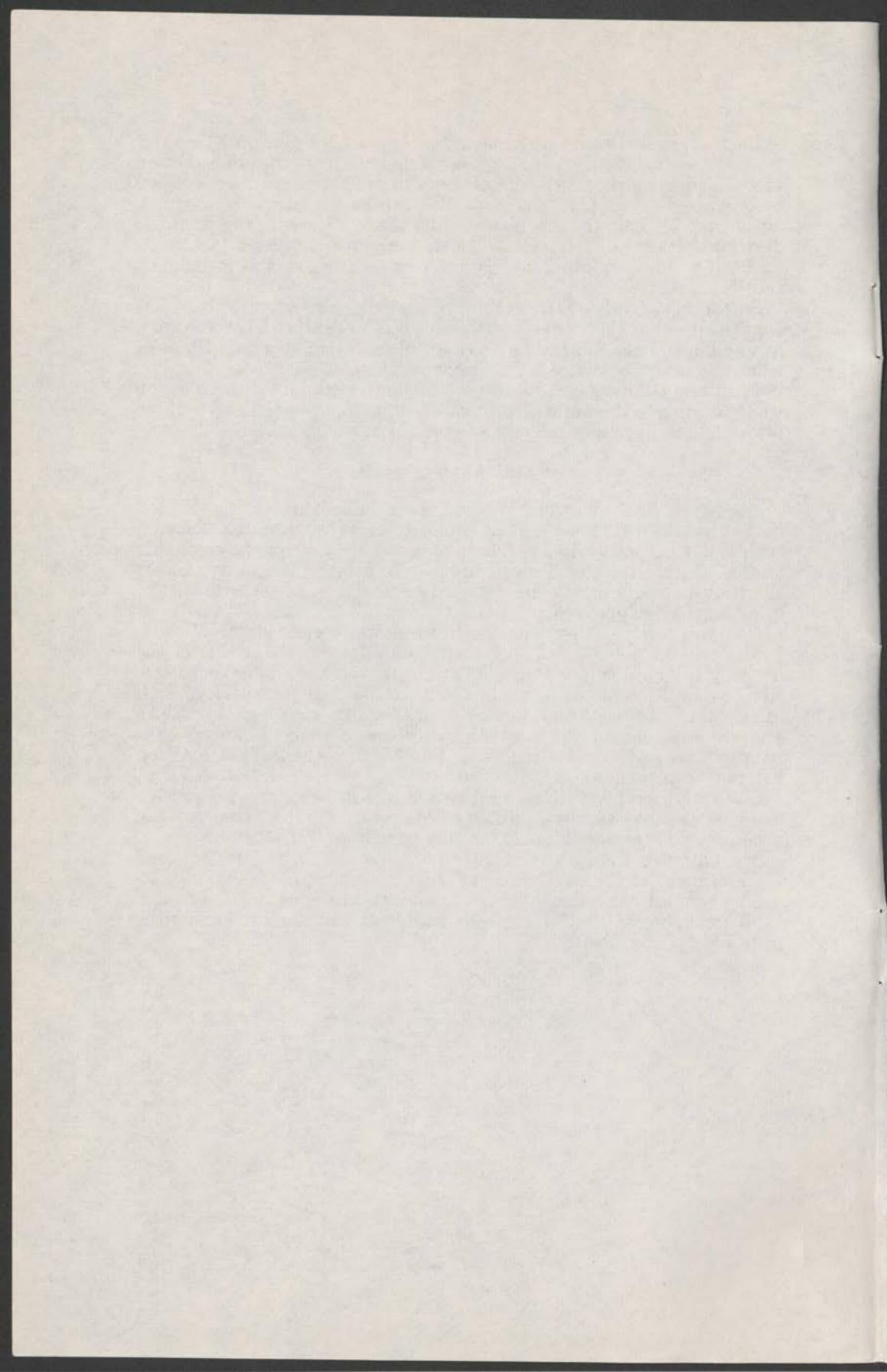
Mr. CHRISTOPHER. Mr. Chairman, I can deny that the sale of the harpoon has been turned down. That matter remains under consideration. No decision has been made about that. When you speak of such sales, that is a little broad for me to answer not knowing which ones you are referring to, but with respect to the harpoon, I can say that it is not accurate to say that that has been blocked. That decision has not been made.

Chairman ZABLOCKI. Can we be reassured in keeping with section 3, on a case-by-case basis, full consideration will be given for the necessary military equipment for the defense of Taiwan?

Mr. CHRISTOPHER. Absolutely.

Chairman ZABLOCKI. Thank you, Mr. Secretary.

The committee stands adjourned, subject to the call of the Chair. [Whereupon, at 12:25 p.m., the committee was adjourned, subject to the call of the Chair.]



APPENDIX 1

STATEMENT OF HUNGDAH CHIU, PROFESSOR OF LAW, SCHOOL OF LAW, UNIVERSITY OF MARYLAND

Since the passing of the Taiwan Relations Act of 1979 by both houses of the Congress in late March of this year, the Executive Branch's record for implementing the Act has been disappointing. This is especially true in the areas of arms sales and maintaining existing treaties or agreements with the Republic of China (ROC) on Taiwan. I will begin my paper with an analysis of the Executive Branch's assessment of the security problem of Taiwan.

The Carter Administration's public position on Taiwan's security problem has been that any PRC military attack against Taiwan is extremely unlikely for the foreseeable future, primarily because the PRC has limited amphibious capacities and because such an attack would reverse the PRC's political gains in the West and would jeopardize continued U.S. help for the PRC's modernization.

This view is unfortunately short-sighted. The assertion that the PRC lacks the amphibious capacity for a successful invasion of Taiwan may be partially true today, but the PRC is currently in the midst of an intensive modernization program for its military capability, including, of course, its amphibious capability. Moreover, an invasion of Taiwan could be undertaken without a large-scale amphibious landing on the island. The PRC's 5000-plane air force has an obvious numerical superiority over the 300-plus plane air force of the ROC. If the PRC decided to invade Taiwan, it could destroy the ROC air force, including its limited land-to-air missile air defense system, within a few days or at most a few weeks, thus ensuring air superiority in the Taiwan Strait. Once the Taiwan Strait was secured, the PRC could use a few marine divisions (the PRC has ten marine divisions) and send airborne divisions to occupy a port in Taiwan and then establish a safe air and maritime corridor between the occupied Taiwan port and a mainland port to ship an invading force to Taiwan. (The PRC navy, with its 50 submarines, is generally believed to be superior to that of the ROC.) Thus, the security of Taiwan is essentially dependent on the command over air superiority in the Taiwan Strait.

For Taiwan to survive, ideally it should have a limited strategic deterrent force to attack mainland air bases in Fukien, Kiangsi, Kuangtung and CheKiang provinces and some industrial complexes such as Shanghai area. However, the Carter Administration has apparently eliminated the possibility of providing even very limited strategic weapons to Taiwan. In this situation, the best Taiwan can hope for is that the Carter Administration will provide enough high performance military aircraft to enable Taiwan to maintain air superiority in the Taiwan Strait. Since it would never be possible for Taiwan's air force to achieve numerical equivalence with that of the PRC, the ROC must attempt to achieve tactical equivalent by maintaining sufficient number of high-performance military aircraft to counteract the numerical superiority of the PRC air force. However, the Carter Administration has so far been reluctant to sell high-performance military aircraft to the ROC. If future administrations also must follow this policy, Taiwan's defense capability will gradually deteriorate.

Technologically and economically Taiwan could in theory develop its own weapons industry, but the country is unlikely to reach the stage of integrated manufacturing, as opposed to assembling of sophisticated military aircraft. Even if Taiwan were technologically able to manufacture such aircraft, the high cost involved in such weapons development would severely strain the island's economic development, with ensuing social and political problems.

Taiwan cannot turn to the Soviet Union to get high-performance military aircraft, as it is doubtful that the Soviet Union would be willing to act as Taiwan's supplier at the risk of further deteriorating its relations with the PRC. Even if the Soviet Union were willing to take such a risk, Taiwan would face serious difficulties in retraining its pilots and maintenance personnel to use the Soviet aircraft. Countries other than the United States and the Soviet Union are not in a position to supply sophisticated weapons to Taiwan as they do not want to offend the PRC.

The further argument that the PRC is unlikely in the foreseeable future to take military action against Taiwan for fear of jeopardizing its developing relations with the United States and other Western countries may be true today. However, the current circumstances may change. As the U.S. Senate Foreign Relations Committee's Report on the Taiwan Enabling Act (later known as the Taiwan Relations Act) stated:

"Vice-Premier Teng is 74 years old and has twice been purged from office. Chinese foreign policy could again dramatically change. A Sino-Soviet detente would free large numbers of Chinese troops currently near the Soviet border. The Chinese may miscalculate U.S. resolve to continue providing security to Taiwan." (p. 11)

Furthermore, even without questioning the political stability in the PRC, there is the PRC's record of changing courses with bewildering speed. Only a few years ago, the PRC was accusing Japan of "militarism" and the United States of "imperialism." The rapid deterioration of relations between the PRC and Vietnam and Albania is further evidence of the PRC's volatile foreign policy.

In the Taiwan Relations Act of 1979, it is explicitly provided:

"It is the policy of the United States * * * to provide Taiwan with arms of a defensive character; and to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan."

If the Carter Administration and future U.S. administrations sincerely execute this Act by providing Taiwan with sufficient defensive weapons, Taiwan may be secure. However, the behavior of the Carter Administration indicates a propensity toward flattering the PRC at the expense of Taiwan, even in military sales and commercial matters. Time does not allow me to elaborate this point in detail, so I'll mention only a few recent cases.

On March 29, 1979, both houses of the Congress passed the Taiwan Relations Act, but President Carter waited until the last day to sign the Act, i.e., April 10. The President then waited for more than two months to issue an Executive Order on June 22 implementing the Act. The Order authorizes the Department of State to issue orders to grant privileges and immunities to Taiwan delegations in U.S. However, more than four months have passed, and such an order has not yet been issued. The whole process seems to indicate that the Carter Administration intends to provide minimal execution and enforcement under the Act.

The second case relates to the termination of the U.S.-ROC Air Transport Agreement of December 20, 1946 (61 Stat. 2799; TIAS 1609; 22 UNTS 870), and extended and amended on October 22, 1969 (20 UST 2985; TIAS 6773; 726 UNTS 320). When it recognized the PRC, the Carter Administration assured the Congress that with the exception of the 1954 U.S.-ROC Mutual Defense Treaty, all other treaties with the ROC would be maintained. In his February 5, 1979 testimony before the Senate Hearings on Taiwan, Deputy Secretary of State Warren Christopher said:

"First, we have moved to assure that with the exception of the mutual defense treaty and related agreements, our many treaties and other agreements with Taiwan—more than 55 in all—*will remain in force.*" (emphasis added) (Senate Foreign Relations Committee's Hearings on Taiwan, 96th Cong., 1st Sess., February 5, 6, 7, 8, 21 and 22, 1979, p. 15.)

Similarly, Senator Stone submitted the following question to the State Department for a written reply:

"*Question 17.* What specifically would the State Department plan to do, following 'normalization' with the (a) FCN (Friendship, Commerce and Navigation Treaty of 1946), (b) Air Transport Agreement * * *." (emphasis added).

The reply was: "*All international agreements will remain in force, except for the Mutual Defense Treaty and related agreements which will terminate on January 1, 1980.*" (emphasis added) (Senate Hearings, *supra* p. 77)

However, during Vice-President Mondale's visit to the PRC in August 1979, the Carter Administration announced that it had decided to terminate the 1946 Air Transport Agreement and to replace it with an "unofficial agreement." It also indicated that it would terminate some unspecified treaties or agreements with the ROC and to replace them with unofficial agreements.

The nightmare of the ROC people and government is that by continuing to downgrade its relations with Taiwan, the United States might implicitly invite the PRC to resort to force to take over Taiwan.

In view of the above stated analysis, it is essential that the Congress should carefully supervise the Executive Branch to faithfully implement the Taiwan Relations Act of 1979 so as to insure the future security of Taiwan and American economic interest there. In particular, Congress should urge the Executive Branch to sell sufficient numbers of high-performance aircraft, such as F-16, to Taiwan and also not to terminate the Air Transport Agreement with the ROC.

APPENDIX 2

STATEMENT OF HON. STEVEN D. SYMMS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IDAHO

Chairman Zablocki and Members of the Committee: I appreciate your giving me the opportunity to present my statement to your Committee regarding the oversight of the Taiwan Relations Act. There are several matters which I would like to discuss regarding provisions of that Act and other agreements which are still in existence between the United States and the Republic of China on Taiwan.

Mr. Chairman, I am extremely concerned about information I have received regarding attempts by the Carter Administration to terminate the 1946 Air Transport Agreement between the United States and the Republic of China on Taiwan and replace that agreement with an unofficial accord.

Any attempt by the Administration to terminate treaties between the United States and Taiwan which were in effect prior to December 31, 1978, with the exception of the Mutual Defense Treaty, would be a violation of the Taiwan Relations Act as enacted into law on April 10, 1979. According to Section 4.(c) of the Act:

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

And it now appears that the President's actions in attempting to unilaterally abrogate the Mutual Defense Treaty have raised serious Constitutional questions.

There is also substantial testimony both in the House Foreign Affairs Committee and the Senate Foreign Relations Committee hearings discussing the status of the other 55 treaties with Taiwan which would remain in effect despite normalization of relations with the People's Republic of China. In hearings conducted by your committee, Mr. Chairman, on February 7th and 8th of this year, Deputy Secretary of State Warren Christopher stated:

"First, we have moved to assure that with the exception of the Mutual Defense Treaty and related agreements, our many treaties and other agreements with Taiwan—more than 55 in all—will remain in force."

I think it is important that the House Foreign Affairs Committee look into this Administration proposal. This matter is a concern to many Members who worked closely with your Committee on the provisions of the Taiwan Relations Act to ensure continued strong security and commercial relations with the Republic of China on Taiwan. If any changes are to be made concerning the status of the treaties between the United States and Taiwan, the Congress, by law, must effect these changes.

Another matter of concern to me is the provision in the Taiwan Relations Act concerning Taiwan's consular offices in the United States. During the consideration of the Taiwan Relations Act, I introduced the amendment dealing with Taiwan's consular offices which would have enabled the United States to expand trade and cultural relations with Taiwan as prescribed by the Administration. The provision which was incorporated into the Act provided that Taiwan would be allowed to maintain the fourteen consular offices in the U.S. which existed prior to normalization of relations with the People's Republic of China, but the Administration has not complied with this provision even though it coincides with the Administration's stated intentions to increase trade and cultural ties.

Due to minor modification in the language of this amendment by the Senate conferees, there has been an unwillingness to fully implement this provision of the Act. Efforts to reopen some of the consular offices which have already been closed have been met with strong resistance by the Administration. It appears that the Administration has no intention of reopening these offices which are the prime vehicles of trade and commerce.

My main concern is that the United States has had an extremely unfavorable balance of trade with Taiwan over the years, because the United States imports a great deal more from Taiwan than it exports. Taiwan has been working quite diligently during the year to narrow that trade gap by sending special trade missions to this country, but it will be very hard pressed to increase its purchase from the U.S. if these consular offices are not kept in operation.

It would seem that by trying to terminate further official agreements with Taiwan and not allowing that country to maintain an adequate number of consular offices in the U.S., that the Administration is trying to isolate that country. I know this is not the intention of the Congress, as is evidenced by the passage of the Taiwan Relations Act. Therefore, I urge the Members of this Committee to investigate the matters I have discussed and press the Administration to comply with all provisions of the Taiwan Relations Act.

Thank you again for the opportunity to make my views known to your Committee.

APPENDIX 3

STATEMENT OF HON. GERALD B. SOLOMON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

I would like to commend Chairman Zablocki and the Members of the Foreign Affairs Committee for holding oversight hearings on the implementation of the Taiwan Relations Act, because I have become increasingly concerned by what appears to be an attempt by Administration officials to alter Congressional intent with regard to Taiwan. This Committee played a central role in the development of the Taiwan Relations Act, therefore it is fitting this committee investigate developing contradictions in the Administration's policies.

Before and during the enactment of the Taiwan Relations Act, President Carter labored to give the impression his China policy was designed to build positive bonds with the People's Republic of China rather than to negatively affect our relations with the Republic of China. Since the breaking of diplomatic relations with Taiwan and the abrogation of our Mutual Defense Treaty were PRC prerequisites the Administration agreed to these specific demands. However, President Carter and other Administration officials repeatedly went on record indicating existing international agreements in force—with the exception of the Mutual Defense Treaty—would remain in force. While I could easily belabor this very important point by offering repeated quotes from President Carter, and State Department officials Christopher and Holbrooke, these quotes are already in committee testimony so I will suffice it to state that the Administration emphatically denied to Congress and the American people that a precedent was being established with regard to the remaining treaties between the United States and Taiwan.

Congress made its collective decisions with regard to the Taiwan Relations Act given promises from the Administration that there would be a continued commitment on the part of the United States to uphold all remaining treaties in force (with the exception of the Mutual Defense Treaty.) But now that diplomatic, cultural, and economic ties have already been established with the PRC the Administration is clearly making light of earlier promises and has announced intentions to terminate the 1946 Air Transport Agreement. It is my understanding that an "informal, unofficial understanding" is the only alternative that has been offered to Taiwan and if that ally refuses Administration terms it will be left with no air agreement at all!

Needless to say, given the earlier Administration assurances I was shocked to learn from Robert Parker, President of the American Chamber of Commerce in Taiwan, that Assistance Secretary of State Holbrooke stated the Administration intends eventually to convert all existing treaties and executive agreements with Taiwan into "unofficial agreements" because this would be consistent with normalization.

This scenario is significant for several reasons. Of parochial concern is what obviously appears to be an executive branch effort to circumvent Congress. As it stands, it appears the President's promises and pledges were made for expediency. The President who told us he would never lie to us has acted in a manner that creates well-formed doubts as to his credibility.

On a broader scale, I am concerned that these ongoing efforts against our ally will harm American credibility throughout the world and serve notice to friend and enemy alike that U.S. credibility is in doubt.

The Administration has a responsibility that should not be cast aside casually. Needless to say, I am not surprised to learn that American businessmen in Taiwan are alarmed by the Administration's actions. It is a well documented fact that despite optimistic outlooks promoted by the State Department regarding long-range trade possibilities with the PRC, trade with Taiwan is seven times the size of our trade with the PRC. Therefore, I question the judgement of risking an air agreement with Taiwan.

And finally, I question the necessity of breaking off our 1946 Air Transport Agreement. This treaty has been amended in the past. It could be amended now. What purpose could be served by insisting on an "informal, unofficial agreement"? The answer is obvious—political purposes. The U.S. should not acquiesce to every PRC whim and demand. How far will we go unnecessarily to appease the communist Chinese? Why does the Administration continue to give, give, give * * * without negotiation?

It is my understanding the Senate Foreign Relations Committee will also be holding hearings on this important and timely issue. I hope the Administration realizes Congress clearly indicated Taiwan should not be relegated to a "non-country". Congress acted to ensure the independent survival of Taiwan. The Administration must be made aware of that intent.



