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2D SESSION

S. 3936

To maintain the ability of the United States Armed Forces to deny a fait accompli by the People's Republic of China against Taiwan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 10, 2020

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Armed Services

A BILL

To maintain the ability of the United States Armed Forces to deny a fait accompli by the People's Republic of China against Taiwan, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Taiwan Defense Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

7 (1) **DENY.**—The term “deny” means to use
8 combined joint operations to delay, degrade, and ul-
9 timately defeat an attempt by the People's Republic

of China to execute a fait accompli against Taiwan,
resulting in—

(A) the termination of hostilities or, at a
minimum, the termination of the attempted fait
accompli; or

(B) the neutralization of the ability of the
People's Republic of China to execute a fait
accompli against Taiwan.

(2) FAIT ACCOMPLI.—The term “fait accompli”
means the strategy of the People's Republic of
China designed to allow the People's Republic of
China to use military force to seize control of Tai-
wan before the United States Armed Forces are able
to respond effectively, while simultaneously deterring
an effective combined joint response by the United
States Armed Forces by convincing the United
States that mounting such a response would be pro-
hibitively difficult or costly.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Taiwan is—

(A) a beacon of democracy in Asia; and

(B) a steadfast partner of the United
States in the common pursuit of a free and
open Indo-Pacific region in which—

1 (i) all societies enjoy sovereign auton-
2 omy;

3 (ii) people live securely, prosperously,
4 and with dignity; and

5 (iii) the societies of the region rise
6 and fall not by coercion but on the basis
7 of peaceful competition.

8 (2) If the Government of the People's Republic
9 of China were to use military force to compel the
10 unification of Taiwan with the People's Republic of
11 China—

12 (A) the world would lose one of the great
13 champions of freedom and democracy;

14 (B) the United States and allies and part-
15 ners of the United States would face severe dif-
16 ficulty in maintaining favorable balances of
17 power relative to the People's Republic of China
18 in Northeast and Southeast Asia; and

19 (C) as the balance of power in the Indo-
20 Pacific region shifted in favor of the People's
21 Republic of China, the Government of the Peo-
22 ple's Republic of China would possess an in-
23 creasing ability—

24 (i) to impose its will throughout the
25 Indo-Pacific region; and

1 (ii) to prevent United States access to
2 key trade routes and markets in the Indo-
3 Pacific region, thereby imposing severe
4 economic hardship on middle-class and
5 working-class people of the United States
6 and undermining the American way of life.

7 (3) In January 2019, the Defense Intelligence
8 Agency assessed that the “longstanding” intent of
9 the Government of the People’s Republic of China to
10 compel the unification of Taiwan with the People’s
11 Republic of China, and deter any attempt by Taiwan
12 to declare independence, was the “primary driver for
13 China’s military modernization”.

14 (4) The Department of Defense Indo-Pacific
15 Strategy Report released in June 2019, states that
16 the Government of the People’s Republic of China is
17 “preparing for a contingency to unify Taiwan with
18 the mainland by force, while simultaneously deter-
19 ring, delaying, or denying any third-party interven-
20 tion on Taiwan’s behalf”.

21 (5) Department of Defense statements and pub-
22 lications indicate that the Government of the Peo-
23 ple’s Republic of China is developing the plans and
24 capabilities required to employ the fait accompli

1 strategy to compel the unification of Taiwan with
2 the People's Republic of China, including—

3 (A) the assessment by the Defense Science
4 Board in 2017 that the Government of the Peo-
5 ple's Republic of China had adopted a theory of
6 victory whereby once conflict with the United
7 States appeared inevitable, as might be the case
8 if the Government of the People's Republic of
9 China attempted to use military force to compel
10 the unification of Taiwan with the People's Re-
11 public of China, then the Government of the
12 People's Republic of China “will attempt to
13 achieve a decisive outcome very quickly, pre-
14 senting the United States and its allies with a
15 fait accompli” and “then seek to demonstrate
16 that the United States and its allies will incur
17 significant costs in seeking to reverse that out-
18 come”;

19 (B) the assessment in the Indo-Pacific
20 Strategy Report that, if the Government of the
21 People's Republic of China or another compet-
22 itor in the Indo-Pacific region decides “to ad-
23 vance their interests through force, they are
24 likely to enjoy a local military advantage at the
25 onset of conflict. In a fait accompli scenario,

1 competitors would seek to employ their capabilities
2 ties quickly to achieve limited objectives and
3 forestall a response from the United States and
4 its allies and partners”;

5 (C) testimony by then Acting Secretary of
6 Defense Patrick Shanahan in March 2019
7 that—

8 (i) the Government of the People’s
9 Republic of China “has made investments
10 specifically intended to offset U.S. advantages”; and
11

12 (ii) if deployed in the initial stages of
13 a conflict, “these capabilities could seek to
14 achieve a ‘fait accompli’ that would make
15 reversing Chinese gains more difficult,
16 militarily and politically”; and

17 (D) testimony by then Commanding General
18 of Marine Corps Combat Development
19 Command Lieutenant General David Berger in
20 April 2019 that peer adversaries of the United
21 States seek “to create strategic dilemmas
22 through fait accompli scenarios”.

23 (6) In March 2019, then Acting Secretary of
24 Defense Patrick Shanahan testified that the implementation
25 of the 2018 National Defense Strategy

1 would ensure the United States has “the capabilities,
2 ties, posture, and employment of forces” required to
3 prevent a fait accompli by the People’s Republic of
4 China.

5 (7) According to the Indo-Pacific Strategy Re-
6 port, “[t]he National Defense Strategy implicitly ac-
7 knowledges the most stressing potential scenarios
8 will occur along our competitors’ peripheries”. An
9 attempted fait accompli by the People’s Republic of
10 China against Taiwan should therefore be expected
11 to constitute a “most stressing” potential scenario
12 for the United States Armed Forces.

13 (8) The National Defense Strategy Commission
14 found that the United States Armed Forces must be
15 postured “to deter and prevent a fait accompli by an
16 agile opportunistic adversary” in order to compete
17 effectively in the Indo-Pacific region and stated that
18 “the United States must develop new operational
19 concepts to achieve strategic advantage, including by
20 addressing the ability of aggressive regimes to
21 achieve a fait accompli against states on their pe-
22 riphery,” in recognition of—

23 (A) the unique challenges to the United
24 States Armed Forces posed by the employment
25 of the fait accompli strategy by the Government

1 of the People’s Republic of China or another
2 strategic competitor; and

3 (B) the consequent urgent need for new
4 thinking and steady focus by the Department of
5 Defense on ensuring the ability of the United
6 States Armed Forces to prevent an adversary
7 from using the fait accompli strategy to ad-
8 vance its interests at the expense of those of the
9 United States.

10 (9) Department of Defense strategic guidance
11 and official statements underscore the essential role
12 that denial operations will play in preventing a fait
13 accompli by the People’s Republic of China against
14 Taiwan, including—

15 (A) the incorporation in the National De-
16 fense Strategy of the Global Operating Model
17 that includes a “blunt layer” of combat-credible
18 forward forces postured and employed to
19 “delay, degrade, or deny adversary aggression”;

20 (B) the conclusion by the National Defense
21 Strategy Commission that the Department of
22 Defense must position “substantial capability
23 forward” in the form of the “blunt layer” in-
24 cluded in the Global Operating Model to “deter
25 and prevent a fait accompli”;

1 (C) the statement for the record by the
2 Commander of the United States Indo-Pacific
3 Command, Admiral Phil Davidson, in April
4 2018 in which he concludes, “[d]ue to the dis-
5 tances involved in the Indo-Pacific, we cannot
6 rely solely on surge forces from the continental
7 United States to deter Chinese aggression or
8 prevent a fait accompli. PACOM must maintain
9 a robust blunt layer that effectively deters Chi-
10 nese aggression in the Indo-Pacific”;

11 (D) the Joint Operating Concept for De-
12 terrence Operations, which states that forward-
13 deployed forces, such as those included in the
14 blunt layer of the Global Operating Model and
15 referenced by the National Defense Strategy
16 Commission and the Commander of the United
17 States Indo-Pacific Command, contribute to
18 “denying benefits” and thereby reduce “the
19 likelihood of an adversary achieving strategic or
20 tactical surprise, thus helping to prevent adver-
21 sary decisionmakers from concluding they
22 might achieve a military fait accompli that
23 could be extremely costly for the [United
24 States] to reverse by force”;

1 (E) the United States Army Multi-Domain
 2 Operations concept document, which states that
 3 the Armed Forces must demonstrate the capa-
 4 bility “to immediately deny a fait accompli at-
 5 tack” in order to deter a near-peer adversary;
 6 and

7 (F) the Marine Corps Force Design 2030
 8 report, which states that forward-deployed
 9 forces “that can continue to operate inside an
 10 adversary’s long-range precision-fire weapons
 11 engagement zone (WEZ) are more operationally
 12 relevant than forces which must rapidly maneu-
 13 ver to positions outside the WEZ in order to re-
 14 main survivable,” and that such “stand-in”
 15 forces possess the capability to “attrite adver-
 16 sary forces, enable joint force access require-
 17 ments, complicate targeting and consume adver-
 18 sary [intelligence, surveillance, and reconnais-
 19 sance] resources, and prevent fait accompli sce-
 20 narios”.

21 **SEC. 4. SENSE OF CONGRESS.**

22 It is the sense of Congress that—

23 (1) the ability of the United States to uphold
 24 a free and open Indo-Pacific region would be se-
 25 verely compromised if the Government of the Peo-

1 ple's Republic of China were able to compel the uni-
2 fication of Taiwan with the People's Republic of
3 China, particularly if the People's Republic of China
4 were able to do so by military force;

5 (2) the loss by the United States of the ability
6 to maintain a free and open Indo-Pacific region
7 would result in the significantly increased vulner-
8 ability of the middle-class and working-class people
9 of the United States and the allies and partners of
10 the United States to economic coercion by the Gov-
11 ernment of the People's Republic of China;

12 (3) the fate of Taiwan is therefore crucially
13 linked to the fates of all countries in the Indo-Pa-
14 cific region, including to the fate of the United
15 States;

16 (4) under the Taiwan Relations Act (22 U.S.C.
17 3301 et seq.), it is the policy of the United States
18 to consider any effort to determine the future of
19 Taiwan by other than peaceful means to be of grave
20 concern to the United States;

21 (5) since 1979, the United States Government
22 has consistently upheld the commitments of the
23 United States under the Taiwan Relations Act (22
24 U.S.C. 3301 et seq.);

1 (6) the National Defense Authorization Act for
2 Fiscal Year 2020 (Public Law 116–92) reaffirms
3 that the Taiwan Relations Act (22 U.S.C. 3301 et
4 seq.) and the “Six Assurances” are the cornerstones
5 of United States relations with Taiwan;

6 (7) the Taiwan Relations Act (22 U.S.C. 3301
7 et seq.) further establishes the policy of the United
8 States “to maintain the capacity of the United
9 States to resist any resort to force or other forms
10 of coercion that would jeopardize the security, or the
11 social or economic system, of the people on Taiwan”;

12 (8) the Government of the People’s Republic of
13 China appears to be developing the plans and capa-
14 bilities required to use the fait accompli strategy to
15 compel the unification of Taiwan with the People’s
16 Republic of China, thereby jeopardizing the security
17 and the social and economic system of the people of
18 Taiwan;

19 (9) denial operations will have an essential role
20 in any strategy to prevent a fait accompli by the
21 People’s Republic of China against Taiwan; and

22 (10) implementation of the Taiwan Relations
23 Act (22 U.S.C. 3301 et seq.) therefore requires the
24 United States to maintain the ability to defeat a fait

1 accompli by the People’s Republic of China against
2 Taiwan, especially by denial operations.

3 **SEC. 5. STATEMENT OF POLICY.**

4 It shall be the policy of the United States to maintain
5 the ability of the United States Armed Forces to deny a
6 fait accompli by the People’s Republic of China against
7 Taiwan.

8 **SEC. 6. REPORT ON PROGRESS OF THE DEPARTMENT OF**
9 **DEFENSE WITH RESPECT TO DENYING A FAIT**
10 **ACCOMPLI BY THE PEOPLE’S REPUBLIC OF**
11 **CHINA AGAINST TAIWAN.**

12 (a) IN GENERAL.—Not later than April 30 each year,
13 beginning in 2021 and ending in 2026, the Secretary of
14 Defense shall submit to the congressional defense commit-
15 tees a report on the progress of the Department of De-
16 fense with respect to improving the ability of the United
17 States Armed Forces to conduct combined joint operations
18 to deny the ability of the People’s Republic of China to
19 execute a fait accompli against Taiwan.

20 (b) MATTERS TO BE INCLUDED.—Each report under
21 subsection (a) shall include the following:

22 (1) An explanation of the objectives for the
23 United States Armed Forces that would be nec-
24 essary to deny the fait accompli by the People’s Re-
25 public of China against Taiwan.

1 (2) An identification of joint warfighting capa-
2 bilities and current efforts to organize, train, and
3 equip the United States Armed Forces in support of
4 the objectives referred to in paragraph (1), includ-
5 ing—

6 (A) an assessment of whether the pro-
7 grams included in the most recent future-years
8 defense program submitted to Congress under
9 section 221 of title 10, United States Code, are
10 sufficient to enable the United States Armed
11 Forces to conduct joint combined operations to
12 achieve such objectives;

13 (B) a description of additional investments
14 or force posture adjustments required to main-
15 tain or improve the ability of the United States
16 Armed Forces to conduct joint combined oper-
17 ations to achieve such objectives;

18 (C) a description of the manner in which
19 the Secretary of Defense intends to develop and
20 integrate Army, Navy, Air Force, Marine
21 Corps, and Space Force operational concepts to
22 maintain or improve the ability of the United
23 States Armed Forces to conduct joint combined
24 operations to achieve such objectives; and

1 (D) an assessment of the manner in which
2 different options for pre-delegating authorities,
3 including authorities relating to kinetic strikes
4 against targets on the mainland of the People's
5 Republic of China, may improve the ability of
6 the United States Armed Forces to conduct
7 joint combined operations to achieve such objec-
8 tives.

9 (3) An assessment of the role of the nuclear
10 forces of the United States in deterring or defeating
11 a fait accompli by the People's Republic of China
12 against Taiwan, including concepts for—

13 (A) deterring limited use of nuclear weap-
14 ons by the People's Republic of China in the
15 Indo-Pacific region without undermining the
16 ability of the United States Armed Forces to
17 maintain nuclear deterrence at the strategic
18 and theater levels against the Russian Federa-
19 tion and the Democratic People's Republic of
20 Korea; and

21 (B) ensuring the United States Armed
22 Forces are able to continue combined joint op-
23 erations to defend Taiwan in a nuclear environ-
24 ment following nuclear weapons use by the Peo-
25 ple's Republic of China or the United States.

1 (c) FORM.—Each report required by subsection (a)
2 shall be submitted in classified form but may include an
3 unclassified executive summary.

4 (d) CONGRESSIONAL DEFENSE COMMITTEES DE-
5 FINED.—In this section, the term “congressional defense
6 committees” has the meaning given the term in section
7 101(a)(16) of title 10, United States Code.

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