

## 117TH CONGRESS 1ST SESSION

# H. R. 3934

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

# IN THE HOUSE OF REPRESENTATIVES

June 16, 2021

Mr. Gallagher (for himself, Mr. Reschenthaler, Mr. Waltz, and Mrs. Hartzler) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

# 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.

- 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 of 2021".
- 6 SEC. 2. DEFINITIONS.
- 7 In this Act:

1	(1) Deny.—The term "deny" means to use
2	combined joint operations to delay, degrade, and ul-
3	timately defeat an attempt by the People's Republic
4	of China to execute a fait accompli against Taiwan,
5	resulting in—
6	(A) the termination of hostilities or at
7	least the attempted fait accompli; or
8	(B) the neutralization of the ability of the
9	People's Republic of China to execute a fait
10	accompli against Taiwan.
11	(2) Fait accompli.—The term "fait accompli"
12	refers to the strategy of the People's Republic of
13	China for invading and seizing control of Taiwan be-
14	fore the United States Armed Forces can respond
15	effectively, while simultaneously deterring an effec-
16	tive combined joint response by the United States
17	Armed Forces by convincing the United States that
18	mounting such a response would be prohibitively dif-
19	ficult or costly.
20	SEC. 3. FINDINGS.
21	Congress makes the following findings:
22	(1) Taiwan is a beacon of democracy in Asia
23	and a steadfast partner of the United States in the
24	common pursuit of a free and open Indo-Pacific re-

gion in which—

1	(A) all societies enjoy sovereign autonomy;
2	(B) the people of the region live securely,
3	prosperously, and with dignity; and
4	(C) the societies of the region rise and fall
5	not by coercion but on the basis of peaceful
6	competition.
7	(2) If the People's Republic of China were to
8	use military force to compel the unification of Tai-
9	wan with the People's Republic of China—
10	(A) the world would lose one of the great
11	exemplars of freedom and democracy;
12	(B) the United States and allies and part-
13	ners of the United States would face severe dif-
14	ficulty in maintaining favorable balances of
15	power relative to the People's Republic of China
16	in Northeast and Southeast Asia; and
17	(C) as the balance of power in the Indo-
18	Pacific region shifted in favor of the People's
19	Republic of China, the People's Republic of
20	China would possess an increasing ability—
21	(i) to impose its will throughout the
22	Indo-Pacific region, including by threat-
23	ening or using force against Japan, South
24	Korea, the Philippines, and other allies
25	and partners of the United States; and

1	(ii) restrict 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 Americans and increasing
6	the ability of the People's Republic of
7	China to intrude into political life in the
8	United States.

- (3) There is growing concern that the Government of the People's Republic of China may conclude that the cross-Strait military balance has tilted in its favor and launch an invasion of Taiwan sooner than previously anticipated, including as follows:
  - (A) Former Assistant to the President for National Security Affairs H.R. McMaster testified in March 2020 that Taiwan is "the most significant flashpoint now" between the United States and the People's Republic of China.
  - (B) Former Commander of United States Indo-Pacific Command Admiral Phil Davidson testified in March 2020 that the threat of an invasion by the People's Republic of China of Taiwan "is manifest during this decade, in fact in the next six years".

1	(C) Commander of United States Indo-Pa-
2	cific Command Admiral John Aquilino testified
3	in March 2020 that the threat of an invasion
4	by the People's Republic of China of Taiwan is
5	"much closer to us than most think" and could
6	materialize well before 2035.
7	(4) Defense policymakers and analysts across
8	multiple administrations have found that, if the Peo-
9	ple's Republic of China does invade Taiwan, the in-
10	vasion will likely take the form of a fait accompli,
11	including as follows:
12	(A) The Defense Science Board assessed in
13	June 2018 that the People's Republic of China
14	"will attempt to achieve a decisive outcome very
15	quickly, presenting the United States and its al-
16	lies with a fait accompli," in the event of con-
17	flict.
18	(B) The Department of Defense Indo-Pa-
19	cific Strategy Report released in June 2019
20	found that—
21	(i) if the People's Republic of China
22	or another strategic competitor in the
23	Indo-Pacific region decides "to advance
24	their interests through force, they are like-
25	ly to enjoy a local military advantage at

the onset of conflict. In a fait accompli scenario, competitors would seek to employ their capabilities quickly to achieve limited objectives and forestall a response from the United States, and its allies and partners"; and

- (ii) an attempted fait accompli by the People's Republic of China or another strategy competitor would constitute one of the "most stressing potential scenarios" facing the United States Armed Forces.
- (C) The Tri-Service Maritime Strategy released by the United States Navy, United States Marine Corps, and United States Coast Guard in December 2020 stated, "In the event of conflict, China . . . will likely attempt to seize territory before the United States and its allies can mount an effective response—leading to a fait accompli.".
- (D) The Army Multi-Domain Transformation strategic guidance released by Army Chief of Staff General James McConville in March 2021 stated that China and other adversaries of the United States will seek to "seize their objectives quickly as a fait accompli," if

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- the Joint Force "cannot present credible deterrent options".
  - (E) Then-Acting Secretary of Defense Patrick Shanahan testified in March 2019 that the Government of the People's Republic of China is developing capabilities that could be used "achieve a 'fait accompli' that would make reversing Chinese gains more difficult, militarily and politically".
  - (F) Special Assistant to the Secretary of Defense for China Ely Ratner assessed in January 2020 that "China has made significant investments in long-range ISR and strike assets" and "China hopes the threat of these attacks will deter U.S. intervention by negating a substantial portion of U.S. airpower early in a conflict, thereby creating time and space for a fait accompli".
  - (G) Former Under Secretary of Defense for Policy Michele Flournoy warned in June 2020 that the Government of the People's Republic of China may believe the United States "lack[s] the military capabilities that might be effective in the face of A2/AD" and "conclude that China should move on Taiwan sooner rath-

- er than later, a fait accompli that a weakened and distracted United States would have to accept".
  - (5) There is broad agreement that the United States should maintain the ability of the United States Armed Forces to defeat a fait accompli by the People's Republic of China, including as follows:
    - (A) The National Defense Strategy Commission assessed in November 2018 that competing successfully in "the Indo-Pacific region, while also managing escalation dynamics, requires positioning substantial capability forward . . . to deter and prevent a fait accompli by an agile, opportunistic adversary".
    - (B) Then-Acting Secretary of Defense Patrick Shanahan testified in March 2019 that implementation of the 2018 National Defense Strategy was required to ensure the United States had "the capabilities, posture, and employment of forces" necessary to prevent a fait accompli by the People's Republic of China.
    - (C) Assistant to the President for National Security Affairs Jake Sullivan and Deputy Assistant to the President and Coordinator for Indo-Pacific Affairs Kurt Campbell warned in

- September 2019 that "Beijing cannot be allowed to use the threat of force to pursue a fait accompli in territorial disputes".
  - (D) In January 2020, Secretary of Defense Lloyd Austin upheld the assessment by the Indo-Pacific Strategy Report that Department of Defense "initiatives on force employment, crisis response, force and concept development, and collaboration with allies and partners" should be "aimed to help address this critical challenge" of a potential fait accompliscenario involving the People's Republic of China.
  - (E) Deputy Secretary of Defense Kathleen Hicks testified in February 2020 that the People's Republic of China is "less likely" to attempt a fait accompli against Taiwan if it knows that the United States will be able to defeat such an attempt, and that the United States should therefore maintain the ability to defeat a fait accompli by the People's Republic of China against Taiwan.
  - (F) Admiral Davidson and Admiral Aquilino testified in March 2020 that they agreed with Deputy Secretary Hicks' statements, and

- that the United States should maintain the
  ability to defeat a fait accompli by the People's
  Republic of China against Taiwan in order to
  strengthen deterrence against such a contingency.
  - (G) Former Under Secretary of Defense for Policy James Miller wrote in October 2020 that "U.S. defense planners must maintain a laser focus on a scenario for which U.S. forces are ill-prepared today, in which China . . . see[s] the opportunity for a quick invasion of a U.S. partner or ally and attempt to impose a fait accompli that would be costly and risky to reverse".
  - (6) There is likewise broad agreement that a strategy of denial is essential to deter or defeat a fait accompli by the People's Republic of China against Taiwan, including as follows:
    - (A) The 2018 National Defense Strategy tasked the Department of Defense with posturing and employing forces to "delay, degrade, or deny adversary aggression".
    - (B) Secretary of Defense Lloyd Austin argued in January 2020 that a "combat-credible, forward deterrent posture is instrumental to the

- United States military's ability to deter, and if necessary, deny a fait accompli scenario".
  - (C) Deputy Secretary Hicks, Under Secretary Kahl, Admiral Davidson, and Admiral Aquilino reaffirmed the emphasis by Secretary Austin on denial and testified that a strategy of denial is essential for deterring Chinese aggression.
  - (D) The Joint Operating Concept for Deterrence Operations released in December 2017 states that forward-deployed forces contribute to "denying benefits" and thereby reduce "the likelihood of an adversary achieving strategic or tactical surprise, thus helping to prevent adversary decision makers from concluding they might achieve a military fait accompli that could be extremely costly for the US to reverse by force".
  - (E) The United States Army's Multi-Domain Operations concept document released in December 2018 states that Army forces must demonstrate the capability "to immediately deny a fait accompli" in order to deter a near-peer adversary.

- 1 (F) The Marine Corps Force Design 2030
  2 report released in March 2020 states that for3 ward-deployed forces possess the capability to
  4 "attrite adversary forces, enable joint force ac5 cess requirements, complicate targeting and
  6 consume adversary ISR resources, and prevent
  7 fait accompli scenarios".
  - (G) The Tri-Service Maritime Strategy directs the United States Navy, United States Marine Corps, and United States Coast Guard to "deny adversaries their objectives, defeat adversary forces while managing escalation, and set the conditions for favorable conflict termination".
  - (7) Under the Taiwan Relations Act (22 U.S.C. 3301 et seq.), it is the policy of the United States to consider any effort to determine the future of Taiwan by other than peaceful means to be of grave concern to the United States, and—
    - (A) the Taiwan Relations Act further establishes it as the policy of the United States "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

1 the social or economic system, of the people on 2 Taiwan"; 3 (B) implementation of the Taiwan Rela-4 tions Act therefore requires the United States 5 to maintain the ability of the United States 6 Armed Forces to defeat a fait accompli by the 7 People's Republic of China against Taiwan; 8 (C) since 1979, the United States Govern-9 ment has consistently upheld the commitments 10 of the United States under the Taiwan Rela-11 tions Act; 12 (D) section 1260 of the William M. (Mac) 13 Thornberry National Defense Authorization Act 14 for Fiscal Year 2021 (Public Law 116–283) re-15 affirms that the Taiwan Relations Act and the 16 Six Assurances are the cornerstones of United 17 States relations with Taiwan; 18 (E) the Department of State reaffirmed in 19 January 2021 that "[t]he United States main-20 tains its longstanding commitments as outlined 21 in the Three Communiques, the Taiwan Rela-22 tions Act, and the Six Assurances," and that

the commitment of the United States to Taiwan

is "rock-solid";

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(F) a failure by the United States to con-1 2 tinue to uphold all of its obligations under the 3 Taiwan Relations Act, including by clearly 4 maintaining the ability of the United States 5 Armed Forces to defeat a fait accompli by the 6 People's Republic of China against Taiwan, 7 could draw into question the willingness and 8 ability of the United States to uphold analogous 9 commitments elsewhere in the Indo-Pacific re-10 gion; and

(G) any such loss of credibility could jeopardize the ability of the United States to forge and sustain the coalition of nations required to maintain a favorable balance of power against the People's Republic of China, thereby denying the hegemonic ambitions of the People's Republic of China.

#### 18 SEC. 4. SENSE OF CONGRESS.

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It is the sense of Congress that—

(1) the ability of the United States to maintain a free and open Indo-Pacific region would be severely compromised if the People's Republic of China were able to invade and seize control of Taiwan, with severe implications for the lives, livelihoods, and freedoms of working Americans and the

1	allies and partners of the United States in the Indo-
2	Pacific region;
3	(2) the most effective way for the People's Re-
4	public of China to seize control of Taiwan is by way
5	of invasion, and an invasion of Taiwan by the Peo-
6	ple's Republic of China is likely to take the form of
7	a fait accompli;
8	(3) implementation of the Taiwan Relations Act
9	requires the United States to maintain the ability of
10	the United States Armed Forces to defeat a fait
11	accompli by the People's Republic of China against
12	Taiwan, and officials across multiple administrations
13	have affirmed that—
14	(A) the United States should maintain the
15	ability of the United States Armed Forces to
16	defeat a fait accompli by the People's Republic
17	of China against Taiwan; and
18	(B) a strategy of denial is the most effec-
19	tive option for deterring or defeating a fait
20	accompli by the People's Republic of China
21	against Taiwan;
22	(4) the Department of Defense has nonetheless
23	struggled to consistently focus sufficient attention

and resources on maintaining the ability to deny a

1	fait accompli by the People's Republic of China
2	against Taiwan, and as a result—
3	(A) the Government of the People's Repub-
4	lic of China increasingly believes that it may be
5	able to launch a successful fait accompli against
6	Taiwan as soon as 2027; and
7	(B) the governments of allies and partners
8	of the United States in the Indo-Pacific region
9	may question the will or ability of the United
10	States to lead efforts to prevent the People's
11	Republic of China from dominating the Indo-
12	Pacific region; and
13	(5) it should therefore be the policy of the
14	United States to maintain the ability of the United
15	States Armed Forces to deny a fait accompli by the
16	People's Republic of China against Taiwan in order
17	to—
18	(A) ensure the Department of Defense
19	adequately prioritizes maintaining the ability to
20	deny a fait accompli by the People's Republic of
21	China against Taiwan as it develops strategies
22	and plans and designs, postures, and employs
23	the United States Armed Forces; and
24	(B) by doing so, clarify for the Govern-
25	ment of the People's Republic of China and

other governments in the Indo-Pacific region 1 2 that the United States maintains and will con-3 tinue to maintain the ability of the United States Armed Forces to deny a fait accompli by 4 5 the People's Republic of China against Taiwan, as required by the Taiwan Relations Act and in 6 7 order to strengthen deterrence in the Indo-Pacific region. 8

## 9 SEC. 5. STATEMENT OF POLICY.

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

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