

117TH CONGRESS
1ST SESSION

S. 2073

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 SENATE OF THE UNITED STATES

JUNE 16, 2021

Mr. HAWLEY (for himself, Mr. TILLIS, Mr. TUBERVILLE, Mr. DAINES, and Mr. CORNYN) 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.

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:

8 (1) DENY.—The term “deny” means to use
9 combined joint operations to delay, degrade, and ul-

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 least 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” refers to the strategy of the People’s Republic of China for invading and seizing control of Taiwan before the United States Armed Forces can 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 prohibitively difficult or costly.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Taiwan is a beacon of democracy in Asia and a steadfast partner of the United States in the common pursuit of a free and open Indo-Pacific region in which—

(A) all societies enjoy sovereign autonomy;

1 (B) the people of the region live securely,
2 prosperously, and with dignity; and

3 (C) the societies of the region rise and fall
4 not by coercion but on the basis of peaceful
5 competition.

6 (2) If the People's Republic of China were to
7 use military force to compel the unification of Tai-
8 wan with the People's Republic of China—

9 (A) the world would lose one of the great
10 exemplars of freedom and democracy;

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

16 (C) as the balance of power in the Indo-
17 Pacific region shifted in favor of the People's
18 Republic of China, the People's Republic of
19 China would possess an increasing ability to—

20 (i) impose its will throughout the
21 Indo-Pacific region, including by threat-
22 ening or using force against Japan, South
23 Korea, the Philippines, and other allies
24 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 economic
4 hardship on middle-class and working-class
5 Americans and increasing the ability of the
6 People's Republic of China to intrude into
7 political life in the United States.

8 (3) There is growing concern that the Govern-
9 ment of the People's Republic of China may con-
10 clude that the cross-Strait military balance has tilted
11 in its favor and launch an invasion of Taiwan sooner
12 than previously anticipated, including as follows:

13 (A) Former Assistant to the President for
14 National Security Affairs H.R. McMaster testi-
15 fied in March 2021 that Taiwan is "the most
16 significant flashpoint now" between the United
17 States and the People's Republic of China.

18 (B) Commander of United States Indo-Pa-
19 cific Command Admiral John Aquilino testified
20 in March 2021 that the threat of an invasion
21 by the People's Republic of China of Taiwan is
22 "much closer to us than most think" and could
23 materialize well before 2035.

24 (C) Former Commander of United States
25 Indo-Pacific Command Admiral Phil Davidson

1 testified in March 2021 that the threat of an
2 invasion by the People’s Republic of China of
3 Taiwan “is manifest during this decade, in fact
4 in the next six years”.

5 (4) Defense policymakers and analysts across
6 multiple administrations have found that, if the Peo-
7 ple’s Republic of China does invade Taiwan, the in-
8 vasion will likely take the form of a fait accompli,
9 including as follows:

10 (A) The Defense Science Board assessed in
11 June 2018 that the People’s Republic of China
12 “will attempt to achieve a decisive outcome very
13 quickly, presenting the United States and its al-
14 lies with a fait accompli,” in the event of con-
15 flict.

16 (B) The Department of Defense Indo-Pa-
17 cific Strategy Report released in June 2019
18 found that—

19 (i) if the People’s Republic of China
20 or another strategic competitor in the
21 Indo-Pacific region decides “to advance
22 their interests through force, they are like-
23 ly to enjoy a local military advantage at
24 the onset of conflict. In a fait accompli sce-
25 nario, competitors would seek to employ

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

5 (ii) an attempted *fait accompli* by the
6 People’s Republic of China or another
7 strategy competitor would constitute one of
8 the “most stressing potential scenarios”
9 facing the United States Armed Forces.

10 (C) The Tri-Service Maritime Strategy re-
11 leased by the United States Navy, United
12 States Marine Corps, and United States Coast
13 Guard in December 2020 stated, “In the event
14 of conflict, China . . . will likely attempt to
15 seize territory before the United States and its
16 allies can mount an effective response—leading
17 to a *fait accompli*.”.

18 (D) The Army Multi-Domain Trans-
19 formation strategic guidance released by Army
20 Chief of Staff General James McConville in
21 March 2021 stated that China and other adver-
22 saries of the United States will seek to “seize
23 their objectives quickly as a *fait accompli*,” if
24 the Joint Force “cannot present credible deter-
25 rent options”.

1 (E) Then-Acting Secretary of Defense Pat-
2 rick Shanahan testified in March 2019 that the
3 Government of the People’s Republic of China
4 is developing capabilities that could be used to
5 “achieve a ‘fait accompli’ that would make re-
6 versing Chinese gains more difficult, militarily
7 and politically”.

8 (F) Special Assistant to the Secretary of
9 Defense for China Ely Ratner assessed in Jan-
10 uary 2020 that “China has made significant in-
11 vestments in long-range ISR and strike assets”
12 and “China hopes the threat of these attacks
13 will deter U.S. intervention by negating a sub-
14 stantial portion of U.S. airpower early in a con-
15 flict, thereby creating time and space for a fait
16 accompli”.

17 (G) Former Under Secretary of Defense
18 for Policy Michèle Flournoy warned in June
19 2020 that the Government of the People’s Re-
20 public of China may believe the United States
21 “lack[s] the military capabilities that might be
22 effective in the face of A2/AD” and “conclude
23 that China should move on Taiwan sooner rath-
24 er than later, a fait accompli that a weakened

1 and distracted United States would have to ac-
2 cept”.

3 (5) There is broad agreement that the United
4 States should maintain the ability of the United
5 States Armed Forces to defeat a fait accompli by the
6 People’s Republic of China, including as follows:

7 (A) The National Defense Strategy Com-
8 mission assessed in November 2018 that com-
9 peting successfully in “the Indo-Pacific region,
10 while also managing escalation dynamics, re-
11 quires positioning substantial capability forward
12 . . . to deter and prevent a fait accompli by an
13 agile, opportunistic adversary”.

14 (B) Then-Acting Secretary of Defense Pat-
15 rick Shanahan testified in March 2019 that im-
16 plementation of the 2018 National Defense
17 Strategy was required to ensure the United
18 States had “the capabilities, posture, and em-
19 ployment of forces” necessary to prevent a fait
20 accompli by the People’s Republic of China.

21 (C) Assistant to the President for National
22 Security Affairs Jake Sullivan and Deputy As-
23 sistant to the President and Coordinator for
24 Indo-Pacific Affairs on the National Security
25 Council Kurt Campbell warned in September

1 2019 that “Beijing cannot be allowed to use the
2 threat of force to pursue a fait accompli in ter-
3 ritorial disputes”.

4 (D) Former Under Secretary of Defense
5 for Policy James Miller wrote in October 2020
6 that “U.S. defense planners must maintain a
7 laser focus on a scenario for which U.S. forces
8 are ill-prepared today, in which China . . .
9 see[s] the opportunity for a quick invasion of a
10 U.S. partner or ally and attempt[s] to impose
11 a fait accompli that would be costly and risky
12 to reverse”.

13 (E) In January 2021, Secretary of Defense
14 Lloyd Austin upheld the assessment by the
15 Indo-Pacific Strategy Report that Department
16 of Defense “initiatives on force employment,
17 crisis response, force and concept development,
18 and collaboration with allies and partners”
19 should be “aimed to help address this critical
20 challenge” of a potential fait accompli scenario
21 involving the People’s Republic of China.

22 (F) Deputy Secretary of Defense Kathleen
23 Hicks testified in February 2021 that the Peo-
24 ple’s Republic of China is “less likely” to at-
25 tempt a fait accompli against Taiwan if it

1 knows that the United States will be able to de-
2 feat such an attempt, and that the United
3 States should therefore maintain the ability to
4 defeat a fait accompli by the People's Republic
5 of China against Taiwan.

6 (G) Under Secretary of Defense for Policy
7 Colin Kahl, Admiral Aquilino, and Admiral Da-
8 vidson testified in March 2021 that they agreed
9 with the testimony by Deputy Secretary Hicks,
10 and that the United States should maintain the
11 ability to defeat a fait accompli by the People's
12 Republic of China against Taiwan in order to
13 strengthen deterrence against such a contin-
14 gency.

15 (H) Former Assistant to the President and
16 Deputy National Security Advisor Matt
17 Pottinger testified in June 2021 that "the De-
18 partment of Defense must ensure that it can
19 deny China's ability to forcibly subordinate Tai-
20 wan, including through a fait accompli at-
21 tempt," and that "time is running short" to do
22 so.

23 (I) Secretary Austin testified in June 2021
24 that the United States should maintain its abil-
25 ity to defeat a Chinese fait accompli against

1 Taiwan, including by maintaining a combat-
2 credible forward deterrent posture.

3 (6) There is likewise broad agreement that a
4 strategy of denial is essential to deter or defeat a
5 fait accompli by the People's Republic of China
6 against Taiwan, including as follows:

7 (A) The 2018 National Defense Strategy
8 tasked the Department of Defense with pos-
9 turing and employing forces to “delay, degrade,
10 or deny adversary aggression”.

11 (B) Secretary Austin argued in January
12 2021 that a “combat-credible, forward deter-
13 rent posture is instrumental to the United
14 States military's ability to deter, and if nec-
15 essary, deny a fait accompli scenario”.

16 (C) Deputy Secretary Hicks, Under Sec-
17 retary Kahl, Admiral Aquilino, and Admiral
18 Davidson reaffirmed the emphasis by Secretary
19 Austin on denial and testified that a strategy of
20 denial is essential for deterring Chinese aggres-
21 sion.

22 (D) The Joint Operating Concept for De-
23 terrence Operations released in December 2017
24 states that forward-deployed forces contribute
25 to “denying benefits” and thereby reduce “the

1 likelihood of an adversary achieving strategic or
2 tactical surprise, thus helping to prevent adver-
3 sary decision makers from concluding they
4 might achieve a military fait accompli that
5 could be extremely costly for the US to reverse
6 by force”.

7 (E) The United States Army’s Multi-Domain
8 Operations concept document released in
9 December 2018 states that Army forces must
10 demonstrate the capability “to immediately
11 deny a fait accompli” in order to deter a near-
12 peer adversary.

13 (F) The Marine Corps Force Design 2030
14 report released in March 2020 states that forward-
15 deployed forces possess the capability to
16 “attrite adversary forces, enable joint force access
17 requirements, complicate targeting and
18 consume adversary ISR resources, and prevent
19 fait accompli scenarios”.

20 (G) The Tri-Service Maritime Strategy directs
21 the United States Navy, United States
22 Marine Corps, and United States Coast Guard
23 to “deny adversaries their objectives, defeat adversary
24 forces while managing escalation, and

1 set the conditions for favorable conflict termi-
2 nation”.

3 (7) Under the Taiwan Relations Act (22 U.S.C.
4 3301 et seq.), it is the policy of the United States
5 to consider any effort to determine the future of
6 Taiwan by other than peaceful means to be of grave
7 concern to the United States, and—

8 (A) the Taiwan Relations Act further es-
9 tablishes it as the policy of the United States
10 “to maintain the capacity of the United States
11 to resist any resort to force or other forms of
12 coercion that would jeopardize the security, or
13 the social or economic system, of the people on
14 Taiwan”;

15 (B) implementation of the Taiwan Rela-
16 tions Act therefore requires the United States
17 to maintain the ability of the United States
18 Armed Forces to defeat a fait accompli by the
19 People’s Republic of China against Taiwan;

20 (C) since 1979, the United States Govern-
21 ment has consistently upheld the commitments
22 of the United States under the Taiwan Rela-
23 tions Act;

24 (D) section 1260 of the William M. (Mac)
25 Thornberry National Defense Authorization Act

1 for Fiscal Year 2021 (Public Law 116–283) re-
2 affirms that the Taiwan Relations Act and the
3 Six Assurances are the cornerstones of United
4 States relations with Taiwan;

5 (E) the Department of State reaffirmed in
6 January 2021 that “[t]he United States main-
7 tains its longstanding commitments as outlined
8 in the Three Communiques, the Taiwan Rela-
9 tions Act, and the Six Assurances,” and that
10 the commitment of the United States to Taiwan
11 is “rock-solid”;

12 (F) a failure by the United States to con-
13 tinue to uphold all of its obligations under the
14 Taiwan Relations Act, including by clearly
15 maintaining the ability of the United States
16 Armed Forces to defeat a fait accompli by the
17 People’s Republic of China against Taiwan,
18 could draw into question the willingness and
19 ability of the United States to uphold analogous
20 commitments elsewhere in the Indo-Pacific re-
21 gion; and

22 (G) any such loss of credibility could jeop-
23 ardize the ability of the United States to forge
24 and sustain the coalition of nations required to
25 maintain a favorable balance of power against

1 the People’s Republic of China, thereby denying
2 the hegemonic ambitions of the People’s Repub-
3 lic of China.

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

5 It is the sense of Congress that—

6 (1) the ability of the United States to maintain
7 a free and open Indo-Pacific region would be signifi-
8 cantly compromised if the People’s Republic of
9 China were able to invade and seize control of Tai-
10 wan, with severe implications for the lives, liveli-
11 hoods, and freedoms of working Americans and the
12 allies and partners of the United States in the Indo-
13 Pacific region;

14 (2) the most effective way for the People’s Re-
15 public of China to seize control of Taiwan is by way
16 of invasion, and an invasion of Taiwan by the Peo-
17 ple’s Republic of China is likely to take the form of
18 a fait accompli;

19 (3) implementation of the Taiwan Relations Act
20 requires the United States to maintain the ability of
21 the United States Armed Forces to defeat a fait
22 accompli by the People’s Republic of China against
23 Taiwan, and officials across multiple administrations
24 have affirmed that—

1 (A) the United States should maintain the
2 ability of the United States Armed Forces to
3 defeat a fait accompli by the People's Republic
4 of China against Taiwan, and

5 (B) a strategy of denial is the most effective
6 option for deterring or defeating a fait
7 accompli by the People's Republic of China
8 against Taiwan;

9 (4) the Department of Defense has nonetheless
10 struggled to consistently focus sufficient attention
11 and resources on maintaining the ability to deny a
12 fait accompli by the People's Republic of China
13 against Taiwan, and as a result—

14 (A) the Government of the People's Republic
15 of China may believe that it can launch a
16 successful fait accompli against Taiwan as soon
17 as 2027; and

18 (B) the governments of allies and partners
19 of the United States in the Indo-Pacific region
20 may question the will or ability of the United
21 States to lead efforts to prevent the People's
22 Republic of China from dominating the Indo-
23 Pacific region; and

24 (5) it should therefore be the policy of the
25 United States to maintain the ability of the United

1 States Armed Forces to deny a fait accompli by the
2 People's Republic of China against Taiwan in order
3 to—

4 (A) ensure the Department of Defense
5 adequately prioritizes maintaining the ability to
6 deny a fait accompli by the People's Republic of
7 China against Taiwan as it develops strategies
8 and plans and designs, postures, and employs
9 the United States Armed Forces; and

10 (B) by doing so, clarify for the Govern-
11 ment of the People's Republic of China and
12 other governments in the Indo-Pacific region
13 that the United States maintains and will con-
14 tinue to maintain the ability of the United
15 States Armed Forces to deny a fait accompli by
16 the People's Republic of China against Taiwan,
17 as required by the Taiwan Relations Act and in
18 order to strengthen deterrence in the Indo-Pa-
19 cific region.

20 **SEC. 5. STATEMENT OF POLICY.**

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

○