

Challenges and Opportunities in the New Taiwan-U.S. Relationship: The Phone Call Between Tsai Ing-wen and Donald Trump

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Abstract

While the long-term impact of the Trump-Tsai phone call remains to be seen, on its own, the phone call changed little about the content of relations between the United States and Taiwan. In terms of conduct, however, the call was meaningful and signals a positive trajectory in future relations between United States and Taiwan.

Statements and actions taken by the People's Republic of China's (PRC) will likely continue to be directed against Taiwan. Beginning even before her inauguration in May, Beijing has been trying to pin the cooling down of cross-Strait relations on the incoming Tsai administration. If the PRC tries to further punish Taiwan through coercive means, it will likely further alienate the people of Taiwan.

The U.S. approach to the trilateral relationship between Washington, Taipei, and Beijing requires recalibration. A continuation of a passive approach by the United States that in effect defers to the PRC's irredentist claim over Taiwan will lead to a widening sovereignty

gap in the Taiwan Strait and greater instability. There is wide latitude or U.S. and Taiwan policymakers to work within the existing framework, but first it requires a clearly stated agenda of soft-balancing in the Taiwan Strait.

Keywords: Trump-Tsai Call, Taiwan Relations Act, Three Communiqués, U.S. “One China” Policy, Soft-Balancing

I. Introduction

On Friday, December 2, 2016 in the United States, President-elect Donald Trump received a phone call from President Tsai Ing-wen of Taiwan (Republic of China, ROC). In what was widely referred to in the American mainstream media as a significant policy shift, the two world leaders spoke on the phone for a little over ten minutes. During the brief phone call, President Tsai congratulated the president-elect on his election victory and exchanged views about the economy and regional issues.¹

While no U.S. president or president-elect has reportedly had a face-to-face or telephone conversation with the leader of Taiwan since 1979, nothing in the *Taiwan Relations Act* (TRA) of 1979—which *legally* governs both the content and conduct of relations between the United States and Taiwan—or the three Joint Communiqués prohibit the president-elect from receiving a congratulatory phone call from the democratically-elected leader of Taiwan.

1. Office of the President, ROC (Taiwan), 〈蔡總統與美國總統當選人唐納川普 (Donald J. Trump) 先生越洋電話談話〉, December 3, 2016, *Office of the President, ROC (Taiwan)*, <<http://mobile.president.gov.tw/NewsDetail.aspx?id=38402&UnID=cd0af709-b0d3-487b-85c0-20bc536e341f&page=1>>.

Notwithstanding this fact, the media and pundits sounded the alarm about how the phone call represented an earth-shattering break in U.S. policy. Yet, nothing in the president-elect's act of taking the phone call represents such a break in the policy *per se* of the United States. There is *nothing* explicit in the United States' "One China" policy that prohibits the president-elect from taking a congratulatory call from the democratically elected leader of Taiwan. The long-standing *practice* is a matter of conduct and not content, and a president or president-elect's decision to forego taking a call is not legally prescribed but rather a norm in how the executive branch carries out policy prescribed by law.

The former senior director for Asian affairs on the National Security Council in the Obama Administration, Jeff Bader, underscores the implicit and self-imposed nature of the restrictions by pointing out that "[t]here have been quiet, non-visible written communications between the top leaders of the United States (including presidents and presidents-elect) and Taiwan, but it has always been understood that direct conversations would cross a line not worth challenging."² So the concern is not that the two top leaders communicated but *how* they communicated. Hardly a dispute over substance.

After news about President-elect Trump's with Tsai broke, the White House correctly noted that there was "no change" to the United States' longstanding "One China" policy.³ This is an obvious statement

2. Jeffrey A. Bader, "Trump, Taiwan, and a break in a long tradition," December 3, 2016, *Brookings*, <https://www.brookings.edu/blog/order-from-chaos/2016/12/03/trump-taiwan-and-a-break-in-a-long-tradition/?utm_content=buffer41ce8&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer>.

of fact because the phone call changed nothing in terms of content prescribed by law in unofficial relations between the United States and Taiwan. Of course, this has not restrained Beijing's leaders from taking the opportunity to draw a line around the United States "One China" policy by asserting that, "the One China policy is the cornerstone of the sound development of China-U.S. relations and we don't want this political basis to be interfered with or damaged in any way."⁴

Yet, in the clearest articulation of the United States' "One China policy" to date, then-Assistant Secretary of State for East Asian and Pacific Affairs, James Kelly, made U.S. policy explicitly clear at a hearing in 2004:

*"I can tell you what it is not. It is not the One-China policy or the One-China principle that Beijing suggests, and it may not be the definition that some would have in Taiwan. But it does convey a meaning of solidarity of a kind among the people on both sides of the straits that has been our policy for a very long time."*⁵

The partisan clamors resulting from President-elect Donald

3. Stephen Collinson, Nicole Gaouette, Elise Labott, & Laura Smith-Spark, "China lodges complaint over Trump-Taiwan call," *CNN*, December 4, 2016, <<http://edition.cnn.com/2016/12/02/politics/donald-trump-taiwan/index.html>>.

4. Abigail Williams & Phil Helsel, "Trump Departs From U.S.-China Policy, Speaks With Taiwan's President," *NBC News*, December 3, 2016, <<http://www.nbcnews.com/news/us-news/trump-departs-one-china-policy-speaks-taiwan-president-n691391>>.

5. Committee On International Relations, House Of Representatives, "The Taiwan Relations Act: The Next Twenty-Five Years," April 21, 2004, *U.S. House of Representatives Committee Hearings*, <http://commdocs.house.gov/committees/intlrel/hfa93229.000/hfa93229_of.htm>.

Trump's 10 minutes phone call with President Tsai Ing-wen of Taiwan raise a troubling question of whether a longstanding "consensus" in American foreign policy has been broken. This consensus is the bipartisan support for Taiwan since President Jimmy Carter severed diplomatic relations with the nation on January 1, 1979 as a condition to normalize ties with the People's Republic of China.

President Carter's unilateral decision in 1978 to sever ties with Taiwan did not go unchallenged. Senator Barry Goldwater (R-AZ) along with six other members of the Senate and eight members of the House of Representatives filed a complaint in Federal Court challenging the constitutional authority of the President to abrogate the Mutual Defense Treaty between the United States of America and the Republic of China without the consent of the legislative branch. In a rapid chain of events (by legal standards), the case was propelled up to the Supreme Court (SCOTUS).

Although SCOTUS ultimately passed on the merits by dismissing the case in December 1979, on the basis that the issues at bar represented a "nonjusticiable political question," the fact that Congress took the President to court—and the Supreme Court no less—over Taiwan highlighted, in no small part, the unwavering support that it had in Congress among both Republicans and Democrats. Yet, senior policy planners at the time thought differently and believed that Washington needed Beijing. Taiwan's days were presumed numbered.

Yet, in spite of multiple changes in administrations, U.S.' Taiwan policy has remained relatively consistent. That is because U.S. policy towards Taiwan is enshrined within the TRA—which remains the cornerstone of preserving U.S. interests with Taiwan to this day. Successive U.S. presidents starting with Ronald Reagan (R; 1981-1989)—who issued the 1982 Six Assurances to Taiwan—to Bill Clinton

(D; 1993-2001)—who sailed two carrier battle groups toward the Taiwan Strait to deter PLA saber-rattling—and George W. Bush (R; 2001-2009)—who stated that if the island came under attack from China the United States would do “whatever it took to help Taiwan defend itself”—and Barack Obama (D; 2009-2016)—whose administration notified Congress of more than \$14 billion in arms sales to Taiwan between 2010-2016—all justified their actions by force of law on policies prescribed by the TRA. Accepting a congratulatory phone call pales in comparison to these previous actions.

II. Beijing’s Response

Speaking before reporters only hours after the phone call between President-elect Donald Trump and President Tsai Ing-wen,⁶ Chinese Foreign Minister, Wang Yi (王毅),—who previously served as director of the State Council’s Taiwan Affairs Office (TAO) from 2008 to 2013—blamed the Tsai government for orchestrating the 10-minute exchange between the two leaders: “This is just the Taiwan side engaging in a petty action [小動作], and cannot change the ‘One China’ structure already formed by the international community.”⁷ Acknowledging that the phone call did little to change U.S. policy, the Foreign Minister concluded: “I believe that it won’t change the longstanding ‘One China’ policy of the United States government.”⁸

On December 3, a day after the Foreign Minister Wang’s state-

6. Russell Hsiao, “A Phone Call Heard Around the World,” *Global Taiwan Brief*, Vol. 1, Issue 12, December 2016, *Global Taiwan Institute*, <<http://globaltaiwan.org/2016/12/7-gtb-1-12/>>.

7. Ben Blanchard, “China lodges protest after Trump call with Taiwan president,” *Reuters*, December 3, 2016, <<http://www.reuters.com/article/us-usa-trump-taiwan-idUSKBN13R2NT>>.

8. Ben Blanchard, “China lodges protest after Trump call with Taiwan president.”

ment, Beijing lodged a formal diplomatic protest and “solemn representation” with Washington that reiterated the importance of the “One-China” policy, urging the United States to, “cautiously, properly handle Taiwan issue to avoid unnecessary disturbance to China-U.S. relations.”⁹ The *People’s Daily*—the Communist Party’s official mouth-piece—was less diplomatic and printed a front-page commentary admonishing readers that: “Trump and his transition team ought to recognize that creating trouble for China-U.S. relations is just creating trouble for the U.S. itself.”¹⁰ The Party outlet criticized the president-elect for portraying the phone call as, “not a big deal” and warned that if such “petty tricks” are allowed to go unanswered, Beijing could expect to see more of these provocations once he’s in office.¹¹ *China Daily*, an English publication directed by the CCP’s Central Propaganda Department (中共中央宣傳部), took a calmer tone, saying there was no need to “over-interpret” the phone call, which it called a sign of President-elect Trump’s team’s “inexperience” and “lack of proper understanding” of China-U.S. and cross-Strait relations.¹²

The calibrated responses from the PRC are better understood in the context of Beijing’s longstanding efforts to shape and define the U.S. “One-China” policy through political warfare.¹³ The objective

9. “Trump-Taiwan call: China lodges protest,” *BBC*, December 3, 2016, <<http://www.bbc.com/news/world-asia-china-38194371>>.

10. “Trump call with Taiwan’s leader sparks anger in China,” *Fox News*, December 6, 2016, <<http://www.foxnews.com/politics/2016/12/06/trump-call-with-taiwan-leader-sparks-anger-in-china.html>>.

11. “Trump call with Taiwan’s leader sparks anger in China.”

12. “China plays down Trump’s phone call with Taiwan,” *Financial Times*, December 4, 2016, <<https://www.ft.com/content/4e3db91e-ba27-11e6-8b45-b8b81dd5d080>>.

13. Mark Stokes & Russell Hsiao, “The People’s Liberation Army General Political Department, Political Warfare with Chinese Characteristics,” October 14, 2013,

is to align U.S. “One-China” policy more closely with Beijing’s “One-China” principle. Towards that end, Beijing utilizes diplomatic, economic, and military tools of statecraft to influence Washington, and also Taipei, from taking policy positions that Beijing sees as detracting from its “One-China” principle. An example of this false equivalency is found in the TAO’s response to the phone call,¹⁴ which stated: “We [China] have firm will, full confidence and sufficient ability to curb any form of ‘Taiwan independence’ and will continue to advance the progress of national reunification.” In this case, Beijing appears to be attempting to characterize the phone call as a “trick” by Taiwanese leaders to get Washington to recognize Taiwan independence. Yet, any reasonable inference would never suggest that accepting a phone call could be considered an indicator of such a radical political signal. In this raw political environment still reeling from a divisive presidential election, however, there seems to be more receptivity to Beijing’s interpretation of the U.S. “One-China” policy.

According to Taiwan’s Ministry of Defense, the December 10 military exercise was a deliberate response to the Trump-Tsai phone call.¹⁵ While Beijing’s motive to intimidate Taiwan’s leaders seems plausible given past practices, why and how it expects to achieve its objectives are less clear. The PRC has a history of trying to use military tactics to achieve political results. An obvious demonstration can be found in the Third Taiwan Strait Crisis of 1995-1996, in which

pp. 1-80, *Project 2049 Institute*, <https://www.project2049.net/documents/PLA_General_Political_Department_Liaison_Stokes_Hsiao.pdf>.

14. “China plays down Trump’s phone call with Taiwan.”

15. Cheng-chung Wang & Y. F. Low “Chinese aircraft approach Taiwan airspace as ‘warning’: MND,” *Focus Taiwan*, December 12, 2016, <<http://focustaiwan.tw/news/aip/201612120015.aspx>>.

Beijing fired three sets of missiles over the Taiwan Strait in an effort to intimidate and coerce voters within Taiwan in the lead up to the country's first direct presidential election. However, the tests had the opposite effect and led to rallying Taiwan's electorate behind Lee Teng-hui; and, in the greatest show of force since the Vietnam War, the United States deployed two carrier strike groups towards the Taiwan Strait.

III. What is “One China”

In a transition process marked by no shortage of surprises, Trump stirred a hornet's nest when the president-elect stated on American television on December 11 that “I don't know why we [the United States] have to be bound by *a* One-China policy unless we make a deal with China having to do with other things, including trade.”¹⁶

Like reactions to the president-elect's brief phone conversation with the democratically-elected president of Taiwan, most pundits' comments ranged from fear, disbelief, and contempt. Some observers were shocked that Donald Trump had the audacity to question the sacrosanct “One China” policy. Others scornfully mocked the president-elect for waddling into a destructive change of U.S. policy that risks igniting World War III. While some expressed concern that the president-elect was using Taiwan as a “bargaining chip.”

Yet, the “One China” *policy* is neither static nor should anything in the president-elect's statement be conclusively read as a shift in the U.S. “One China” policy in one direction or another—not yet at least. The prevailing misperceptions throws into sharp relief an in-

16. “Exclusive: Donald Trump on Cabinet picks, transition process,” *Fox News*, December 11, 2016, <<http://www.foxnews.com/transcript/2016/12/11/exclusive-donald-trump-on-cabinet-picks-transition-process/>>.

creasing liability that exists within the U.S. “One China” policy: No one really knows what it is.

The overwhelming reactions to the president-elect’s comments referred to the “One China” policy as if it came from the pages of the Bible. Every U.S. president (except Teddy Roosevelt and John Quincy Adams)¹⁷ swore their oath of office on the holy book, and even the Bible is open to interpretation. Similarly, and yet, the “One China” policy is neither law nor was it ever clearly defined.

As former State Department official and Global Taiwan Institute (GTI) Adviser John Tkacik astutely observed: “Our [U.S.] China policy has become an impressionistic fabric similar to Justice Potter Stewart’s view of pornography; that is, ‘I shall not today attempt further to define the kinds of material I understand to be embraced within that shorthand description [of pornography]; and perhaps I could never succeed in intelligibly doing so. But I know it when I see it.....’”¹⁸

Seemingly too taboo to even touch, the confusion is understandable because the U.S.’ “One China” policy is ambiguous at best and indecipherable at worst. That the policy continues to be shrouded in mystery creates dangerous myths that make it susceptible to manipulation and misapplication.¹⁹ The U.S. “One China” policy, at the very

17. Dean Obeidallah, “Presidents should not swear in on a Bible,” *CNN*, January 20, 2013, <<http://www.cnn.com/2013/01/17/opinion/obeidallah-bible/>>.

18. John Tkacik, “America’s ‘China Policy’ Is in Urgent Need of Definition,” April 19, 2005, *The Heritage Foundation*, <<http://www.heritage.org/research/lecture/americas-china-policy-is-in-urgent-need-of-definition>>.

19. John Tkacik, “Five myths about ‘one China,’” *Washington Times*, December 12, 2016, <<http://www.washingtontimes.com/news/2016/dec/12/one-china-policy->

least, is due for a recalibration.

While highlighting the risks from a departure or abandonment of the current U.S.’ “One China” policy, expert guidance and more measured analyses such as those by Brookings scholar Richard Bush²⁰ and RAND researchers Michael Chase and Derek Grossman acknowledge the elasticity of the U.S.’ “One China” policy.²¹

Yet, even these experts tend to *underemphasize* the evolutionary quality of the U.S. “One China” policy and *overemphasize* Beijing’s reactions. An important point that Asia specialist and GTI adviser Shirley Kan highlights: “the U.S.’ ‘One China’ policy consists of an *evolution* in how Washington conducts its policy, which is not bound by Beijing’s dictates to other countries.”²²

Amongst the partisanship that is now consuming the U.S. policy ecosystem, the current polarized political environment within the United States presents a power-play opportunity that will not be lost on the PRC. Beijing will try—as it has since 1971—to define the U.S.’ “One China” policy in closer alignment with its own anachronistic definitions.²³ While U.S.’ Taiwan policy does not exist within a

is-flawed/>.

20. Richard C. Bush, “An open letter to Donald Trump on the One-China policy,” December 13, 2016, *Brookings*, <<https://www.brookings.edu/blog/order-from-chaos/2016/12/13/an-open-letter-to-donald-trump-on-the-one-china-policy/>>.

21. Michael S. Chase & Derek Grossman, “Walking Away from One-China Policy Imperils Taiwan,” December 22, 2016, *The National Interest*, <<http://national-interest.org/print/blog/the-buzz/walking-away-one-china-policy-imperils-taiwan-18825>>.

22. Shirley Kan, “Beijing’s sinister long-term goals,” *Taipei Times*, December 22, 2016, <<http://www.taipeitimes.com/News/editorials/archives/2016/12/22/2003661685/3>>.

vacuum, conducting policy by creeping deference to how Beijing ‘sees’ “One China” is dangerous.

The official U.S. position has tried to be purposely flexible when addressing the relationship between the PRC and Taiwan. To directly quote the Shanghai Communiqué of 1972: “The U.S. side declared: The United States *acknowledges* that all Chinese on either side of the Taiwan Strait maintain there is but One China” (emphasis added).²⁴ As former U.S. State Department Deputy Assistant Secretary Randy Schriver and former Vice Chairman of the congressionally-mandated U.S.-China Economic and Security Review Commission Dan Blumenthal reminded everyone, to “acknowledge” does not mean the United States *accepts* that position.²⁵

Yet, how Washington conducts its policy towards Taiwan is being manipulated by a fallacy of false choices due in part to gradual and excessive—public and private—deference to Beijing’s “One-China” principle.²⁶ Beijing’s discursive warfare rests on the power

23. Russell Hsiao, “Is Taiwan No Longer a Bipartisan Issue?” December 19, 2016, *The National Interest*, <<http://nationalinterest.org/feature/taiwan-no-longer-bipartisan-issue-18793>>.

24. “Joint Statement Following Discussions With Leaders of the People’s Republic of China,” *Foreign Relations of the United States, 1969-1976*, Volume XVII, February 27, 1972, *Office of the Historian, U.S.A.*, <<https://history.state.gov/historicaldocuments/frus1969-76v17/d203>>.

25. Dan Blumenthal & Randall Schriver, “Reality Check: Trump’s Taiwan Call Was a Step Toward Balanced Relations,” December 5, 2016, *The National Interest*, <<http://nationalinterest.org/print/feature/reality-check-trumps-taiwan-call-was-step-toward-balanced-18612>>.

26. Russell Hsiao, “U.S.-Taiwan Relations: Hobson’s Choice and the False Dilemma,” in Ashley J. Tellis, Abraham M. Denmark, & Greg Chaffin, eds., *Strategic Asia 2014-15: U.S. Alliances and Partnerships at the Center of Global Power* (Washington, D.C.: National Bureau of Asian Research, 2014), p. 256.

of definitions and, more generally, broadening the applications of its “One China” principle,²⁷ while narrowly limiting the applicability of core elements of Taiwan policy such as the TRA, Six Assurances, and the 1994 Taiwan Policy Review in both the public mind and in how policymakers’ conduct policy.

The reactions to the president-elect’s comment have cast a spotlight on the increasing dangers associated with the lack of clarity about the U.S. “One China” policy, especially if it is not distinguished from the PRC’s “One China” principle, which has led to a gradual encroachment of the latter on U.S.’ policy towards Taiwan.

IV. PRC’s “One China” Principle and Taiwan’s International Space

On balance, the phone call between the two world leaders in early December set the precedent for a dignified protocol between two democracies and key security partners.

Since Tsai Ing-wen was elected president, however, Beijing has ratcheted up political pressure on Taiwan’s international space by attempting to limit the democratically-elected leader’s contact with foreign leaders and peeling off the nation’s remaining diplomatic allies. The small African nation, São Tomé and Príncipe, flipped on December 20, 2016,²⁸ and Nigeria announced that it was degrading its unofficial relations with Taiwan on January 11, 2017.²⁹ Taiwan

27. Mark Stokes & Russell Hsiao, “The People’s Liberation Army General Political Department, Political Warfare with Chinese Characteristics,” pp. 1-80.

28. J. R. Wu & Ben Blanchard, “Taiwan loses another ally, says won’t help China ties,” *Reuters*, December 21, 2016, <<http://www.reuters.com/article/us-china-taiwan-saotome-idUSKBN1492SO>>.

now has 21 diplomatic allies compared to more than 170 that recognize the People's Republic of China.³⁰

President Tsai has made two overseas trips since becoming head of state. Both were to Latin America. Her first overseas trip in June 2016 was to Panama,³¹ which—according to leaked U.S. diplomatic cables—eagerly wished to establish diplomatic relations with the PRC since 2008, but was apparently told by Chinese diplomats to “remain calm.”³² Her second overseas trip took her through Nicaragua, Guatemala, and Honduras.

Beijing's assault on Taiwan's international space is nothing new. Instead, it represents the latest in a series of escalatory steps in the PRC's enhanced pressure tactics that have included economic threats, military exercises, and a pattern of diplomatic coercion that marks a return to an old playbook that Beijing used during the previous Democratic Progressive Party (DPP) government (2000-2008).

Beijing's most recent salvos appears to be an attempt to bait the

29. Brendan Scott, Ting Shi, & Yinka Ibukun, “Nigeria Snubs Taiwan as China Pledges \$40 Billion Investment,” *Bloomberg*, January 12, 2017, <<https://www.bloomberg.com/politics/articles/2017-01-12/nigeria-closes-taiwan-office-in-capital-abuja-china-says>>.

30. Ministry of Foreign Affairs, ROC(Taiwan), “Diplomatic Allies,” January 11, 2017, Accessed, *Ministry of Foreign Affairs, ROC (Taiwan)*, <<http://www.mofa.gov.tw/en/AlliesIndex.aspx?n=DF6F8F246049F8D6&sms=A76B7230ADF29736>>.

31. Iok-sin Loa, “Tsai Ing-wen welcomed in Panama,” *Taipei Times*, June 27, 2016, <<http://www.taipeitimes.com/News/front/archives/2016/06/27/2003649555>>.

32. Hsiu-chuan Shih, “China signaled to Panama to remain ROC ally: cable,” *Taipei Times*, March 11, 2011, <<http://www.taipeitimes.com/News/front/archives/2011/05/11/2003502937>>.

Tsai government into engaging in checkbook diplomacy, in which the two sides offered foreign aid in exchange for diplomatic recognition. Beijing's desired effect would be to delegitimize the Taiwan government and lower the confidence of the U.S. government in the ruling party's ability to maintain stable cross-Strait relations.³³ If so, the Tsai administration is not taking the bait. In response to questions about the diplomatic switch by São Tomé, Taiwan's Foreign Minister David Lee stated that: "Taiwan is unwilling to play money games."³⁴

After President-elect Trump broke with old conventions and spoke with President Tsai over the phone in early December 2016, the international community's eyes were on Beijing to see how it would respond. While it would be analytically convenient to characterize Beijing's actions simply as a response to the Trump-Tsai phone call—which Beijing blames on Tsai's "petty trick"³⁵—this overly simplistic assertion belies the PRC's longstanding Taiwan policy, which has remained obstinately unchanged since 1981.

Indeed, Beijing was already engaging in a full court diplomatic press on Taiwan before Tsai even gave her inaugural speech—in which she laid out the basis of her cross-Strait policies and pledges to maintain the "status quo"—and involved a blitzkrieg of extraditions of Taiwan nationals to the PRC.³⁶ In each of these instances, Beijing

33. Russell Hsiao, "U.S.-Taiwan Relations: Hobson's Choice and the False Dilemma," pp. 268-269.

34. Hsin-hui Lu & Elizabeth Hsu, "Taiwan unwilling to engage in checkbook diplomacy: MOFA," *Focus Taiwan*, December 21, 2016, <<http://focustaiwan.tw/news/aip/201612210010.aspx>>.

35. Teddy Ng & Lawrence Chung, "Chinese foreign minister brushes off Trump call with Tsai as 'petty trick' by Taiwan," *South China Morning Post*, December 3, 2016, <<http://www.scmp.com/news/china/policies-politics/article/2051455/chinese-foreign-minister-brushes-trump-call-tsai-petty>>.

asserted that the extradition of Taiwan nationals to China is in accordance with its “One China” principle and implied that any country with a “One China” policy must therefore recognize PRC sovereignty over Taiwan and its people.

Despite Beijing’s ever-growing pressure, U.S.-Taiwan relations appear on a positive trajectory. Part of it has to do with Tsai’s low-key approach; some of it because of President-elect Trump’s unconventional ways; and most of it because of Beijing’s penchant for shooting itself in its own foot by either acting too aggressively or prematurely, or both. An example of Beijing’s overzealousness is Gambia. Although Gambia broke diplomatic ties with Taiwan in 2013, Beijing only normalized relations with Banjul in March 2016—before Tsai was even inaugurated and laid out her cross-Strait policy. This was done arguably to use as a diplomatic card against Taiwan.

Furthermore, Beijing diplomats’ predilection for rhetorical flourish was on clear display by the PRC Consul General of Houston’s attempt to equate the phone call and meeting with the democratically elected of Taiwan as somehow conferring *de jure* independence on Taiwan: “For U.S. leaders in administration and legislature, not to make any contact with Taiwan leaders nor send any implication of support of ‘Taiwan Independence’ are in the interests of China, the U.S. and the international community.” The continued emphasis on “Taiwan independence,” however, belies Beijing’s long-standing strategy to impose its definition of “One China” and subjugate Taiwan under the PRC, which is counter to the U.S. “One China” policy.³⁷

³⁶“Full text of President Tsai’s inaugural address,” *Focus Taiwan*, May 20, 2016, <<http://focustaiwan.tw/news/aip/201605200008.aspx>>.

When the PRC consul sent a letter to U.S. lawmakers discouraging them from meeting with the leader of Taiwan, Senator Ted Cruz (R-TX), a former Supreme Court law clerk and 2016 Republican presidential candidate, sounded a defiant tone: “The People’s Republic of China needs to understand that in America we make decisions about meeting with visitors for ourselves.”³⁸ Senator Cruz added, “This is not about the PRC. This is about the U.S. relationship with Taiwan, an ally we are legally bound to defend. The Chinese do not give us veto power over those with whom they meet. We will continue to meet with anyone, including the Taiwanese, as we see fit.”³⁹

V. Trump-Xi Call

After becoming president of the United States, Trump had a phone conversation with PRC President Xi Jinping on February 9, 2017. The White House readout of the call described it as “lengthy,” specifically, it stated that “President Trump agreed, at the request of President Xi, to honor our ‘One China’ policy.”⁴⁰ So what?

During a transition that did not shy from controversy, the

37. Amy B. Wang, “Against China’s objections, Ted Cruz and Texas governor meet with Taiwanese president,” *Washington Post*, January 9, 2017, <https://www.washingtonpost.com/news/powerpost/wp/2017/01/09/against-chinas-objections-ted-cruz-and-texas-governor-meet-with-taiwanese-president/?utm_term=.27e8782dcecf>.

38. Amy B. Wang, “Against China’s objections, Ted Cruz and Texas governor meet with Taiwanese president.”

39. Amy B. Wang, “Against China’s objections, Ted Cruz and Texas governor meet with Taiwanese president.”

40. The White House, “Readout of the President’s Call with President Xi Jinping of China,” February 9, 2017, *The White House*, <<https://www.whitehouse.gov/the-press-office/2017/02/09/readout-presidents-call-president-xi-jinping-china>>.

president-elect ignited several media firestorms that quickly conflated when during a television interview Trump stated: “I fully understand the ‘One China’ policy, but I don’t know why we have to be bound by a ‘One China’ policy unless we make a deal with China having to do with other things, including trade.”⁴¹ The president-elect appeared to double down on this statement when he followed up with: “Everything is under negotiation including One China.”⁴² Many analysts took these comments to mean that the 45th president was ready to discard the longstanding U.S. “One China” policy. Once again collective hysteria was unleashed on mainstream media.

Yet, it may be a surprise to many observers who watch the news to know that nothing that Trump said or did as president-elect actually changed U.S. policy.⁴³ The phone call between Trump and Xi is no different. Yet, reactions to the call with Xi and the readout in particular was wide ranging. Critics of the phone call with Tsai believed that the statement was “wise”;⁴⁴ other analysts saw the statement as a “capitulation.”⁴⁵ Reasonable people can disagree, but both these de-

41. Eric Bradner, “Trump: US doesn’t ‘have to be bound’ by ‘one China’ policy,” *CNN*, December 12, 2016, <<http://www.cnn.com/2016/12/11/politics/donald-trump-china-taiwan/>>.

42. Peter Nicholas, Paul Beckett, & Gerald F. Seib, “Trump Open to Shift on Russia Sanctions, ‘One China’ Policy,” *Wall Street Journal*, January 13, 2017, <<https://www.wsj.com/articles/donald-trump-sets-a-bar-for-russia-and-china-1484360380>>.

43. Russell Hsiao, “Trump Was Within His Rights to Talk to Taiwan,” December 5, 2016, *The National Interest*, <<http://nationalinterest.org/blog/the-buzz/trump-was-within-his-rights-talk-taiwan-18618>>.

44. Demetri Sevastopulo, “Trump backs ‘One China’ policy in first presidential call with Xi,” *Financial Times*, February 9, 2017, <<https://www.ft.com/content/40825e36-ef3f-11e6-930f-061b01e23655>>.

45. Gordon G. Chang, “China Hangs Tough. Trump Folds. China Ups the Ante,”

scriptions, however, miss an important point. The seemingly polarized responses throws into sharp relief how perceptions of Trump's policy are so far removed from political reality. The fact of the matter is that the readout indicates absolutely nothing in terms of a policy change or shift in the Trump administration because there was never a shift to begin with.

The business of reading tea leaves is a messy one. Drawing inference from disparate or unrelated statements can lead to bad conclusions. With such an unconventional president that does not come up from any particular political institution, the best approach is perhaps to infer from the man himself. As a business tycoon, President Trump must be acutely aware of the nature of deal-making. As he noted in his book, *The Art of the Deal*, "My style of deal-making is quite simple and straightforward. I aim very high, and then I just keep pushing and pushing and pushing to get what I'm after."⁴⁶ In part contributed by excessive media hyperventilation, the public became concerned that Taiwan may be used a bargaining chip. However, the statement that Trump made about "One China" would be better understood in the context of whether it was meant as a ceiling or the floor of such negotiations. One reasonable inference is that the "One China" statement represents the ceiling of negotiations, which reflects the desire for Beijing to offer more concessions for Washington to maintain the status quo. On the other hand, if the statement was intended as the floor of negotiations, then the range of possibilities is much more diverse.

The Daily Beast, February 10, 2017, <<http://www.thedailybeast.com/articles/2017/02/10/china-hangs-tough-trump-folds-china-ups-the-ante.html>>.

46. Donald J. Trump & Tony Schwartz, *Trump: The Art of the Deal* (New York: Random House Publishing, 2009), p. 45.

Despite no changes in policy, more troubling perhaps are reports that Beijing may be considering amending the already ambiguous “*Anti-secession Law, ASL*” which was passed in 2005, to broaden the applicable scenarios in which the PRC would be justified to use non-peaceful means to exact its political objective of unification with Taiwan. It will be interesting to see if the report of amending the ASL pans out, especially in the aftermath of the Trump-Xi call.

What further actions Beijing will take to retaliate for the Trump-Tsai call remain to be seen, but it appears from the statements and actions taken thus far that the PRC’s response will likely be directed against Taiwan. Beginning even before her inauguration in May, Beijing has been trying to pin the cooling down of cross-Strait relations on the incoming Tsai administration. Yet, if Beijing continues to escalate its pressure tactics in light of the call with President-elect Trump, it will probably only elicit more support for President Tsai, given that the phone call enjoys overwhelming support within Taiwan. If the PRC tries to further punish Taiwan through coercive means, it will suggest that their objective is not to discredit Tsai Ing-wen or the ruling DPP, but to further alienate the people of Taiwan. Beijing seems to have forgotten its lesson from 1996.

The U.S. approach to the trilateral relationship between Washington, Taipei, and Beijing requires recalibration. At the very least, it behooves the incoming administration to restate the longstanding U.S. “One China” policy as articulated by Assistant Secretary of State for East Asian and Pacific Affairs James Kelly mentioned more than a decade ago: “I can tell you what it is not. It is not the One-China policy or the One-China principle that Beijing suggests.” The president-elect could take a page out of Beijing’s playbook by drawing a line around Beijing’s “One China” principle.⁴⁷

A continuation of a passive approach that in effect defers to the PRC's irredentist claim over Taiwan will lead to a widening sovereignty gap in the Taiwan Strait and greater instability. There is wide latitude for U.S. policymakers to work within the existing framework, but first it requires a clearly stated agenda of soft-balancing in the Taiwan Strait.

VI. Conclusion

Despite the public outcry, nothing that Trump has said or done while as president-elect actually changed U.S. policy—much less the law—also, Trump was completely within his legal rights to take a phone call and “question” the former administration’s policies (then President Obama said so as much when he stated: “I think all of our foreign policy should be subject to fresh eyes.”);⁴⁸ and, even if President Trump changes U.S. policy, there is nothing that legally stops him from doing so.⁴⁹

While much has been made about the policies in question, there has been little to no discussion about the dangerous logic behind the apparent fear over the president’s questioning of policy. Lost in the polemic discourse following the President’s comments is a recognition of the legal underpinnings of U.S. policies toward Taiwan, which

47. Committee On International Relations, House Of Representatives, “The Taiwan Relations Act: The Next Twenty-Five Years.”

48. The White House, “Press Conference by the President,” December 16, 2016, *The White House*, <<https://obamawhitehouse.archives.gov/the-press-office/2016/12/16/press-conference-president>>.

49. Julian Ku, “President Trump Can Legally End the One China Policy and Station U.S. Troops in Taiwan,” January 17, 2017, *LawFare*, <<https://www.lawfareblog.com/president-trump-can-legally-end-one-china-policy-and-station-us-troops-taiwan>>.

remain ever constant, and the elasticity of the U.S. “One China” policy itself.

The reaction, even among experts, was telling and laid bare a critical blind spot in the U.S. approach to cross-Strait relations. To be sure, U.S. policy towards Taiwan has operated over the past 45 years on the premise that America’s primary interest is in the *process*—as opposed to the *outcome*—in resolving differences between the two sides of the Taiwan Strait.⁵⁰

What by design was inherently a passive policy, the emphasis on *process* intentionally ceded the initiative of shaping the outcome to the two other parties: Taiwan (ROC) and the PRC. It was an approach that *some* senior policymakers at the time expected would create a *fait accompli*, yet provided Washington with the flexibility to adapt and respond to broader geopolitical challenges while maintaining stability in the Taiwan Straits.

Despite expectations to the contrary,⁵¹ Taiwan thrived in the ensuing four decades. The government liberalized from the top down while an active civil society fervently pushed for political reforms from the bottom up. Taiwan evolved from an authoritarian government to a vibrant democracy. Support for Taiwan and its democracy grew within the United States as well. As the power disparity between the two sides widens, however, the policy focused on the *process* is increasingly under strain, leaving Taiwan more susceptible to coercion and Beijing more emboldened to use military force. Indeed, the PRC

⁵⁰. Shirley A. Kan & Wayne M. Morrison, “U.S.-Taiwan Relationship: Overview of Policy Issues,” *Congressional Research Service*, 7-5700, December 11, 2014, p. 4, *Federation of American Scientists*, <<https://fas.org/sgp/crs/row/R41952.pdf>>.

⁵¹. Russell Hsiao, “Is Taiwan No Longer a Bipartisan Issue?”

is gradually and unceasingly pushing toward its own desired *outcome* for Taiwan. All the while, America's focus on *process* is drawing it towards China's objectives at the expense of its values and strategic interests.

Some American scholars and former policymakers have sounded the alarm about the need to accommodate China⁵² by reaching a new *modus vivendi* with Beijing,⁵³ which will effectively abandon Taiwan. Yet, a debate over a Hobson's choice obscures a much-needed discussion about a Taiwan strategy that not only focuses on ensuring a peaceful process but also a vision for a desired outcome.⁵⁴

As the two sides of the Taiwan Strait struggle to engage in dialogue, the scope of this process-based approach to policymaking has barred U.S. policymakers from actively shaping conditions in the Taiwan Strait that will be more conducive to long-term peace and stability. This outdated and partly flawed premise of the approach is based on a Washington tendency to construct events in the Taiwan Strait in binary terms: independence or unification: a false dilemma that Beijing has framed as a Hobson's choice.⁵⁵

52. Charles Glaser, "Will China's Rise Lead to War?" *Foreign Affairs*, Vol. 90, No. 2, March/April 2011, *Foreign Affairs*, <<https://www.foreignaffairs.com/articles/asia/2011-03-01/will-chinas-rise-lead-war>>.

53. Michael D. Swaine, Wenyan Deng, & Aube Rey Lescure, *Creating a Stable Asia: An Agenda for a U.S.-China Balance of Power* (Washington, D.C.: Carnegie Endowment for International Peace, 2016), pp. 1-212, *Carnegie Endowment for International Peace*, <http://carnegieendowment.org/files/CEIP_Swaine_U.S.-Asia_Final.pdf>.

54. Russell Hsiao, "U.S.-Taiwan Relations: Hobson's Choice and the False Dilemma," pp. 258-287.

55. Russell Hsiao, "U.S.-Taiwan Relations: Hobson's Choice and the False Dilemma," p. 286.

On ensuring a peaceful process, the TRA—which legally governs relations between the United States and Taiwan—sets out the primary goal of U.S. policy towards cross-Strait relations as ensuring that the resolution is “not coercive, unilateral, or detrimental to U.S. interests.”⁵⁶ Towards that end, the new president has a lot of tools and legal authority at his disposal to recalibrate Taiwan policy.

Five provisions within the TRA deserve to be highlighted:

1. The future of Taiwan will be determined by peaceful means;
2. Consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;
3. Provide Taiwan with arms of a defensive character;
4. 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;
5. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

On the second prong, former Pentagon official and Air Force (ret.) Lieutenant Colonel Mark Stokes mapped out possible future policy options in the Taiwan Strait. The report, “The United States and Future Policy Options in the Taiwan Strait,” outlines four school

⁵⁶ Mark Stokes & Sabrina Tsai, “The United States and Future Policy Options in the Taiwan Strait: Driving Forces and Implications for U.S. Security Interests,” February 1, 2016, p. 3, *Project 2049 Institute*, <http://www.project2049.net/documents/Future_US%20Policy%20Options%20in%20the%20Taiwan%20Strait_Project%202049.pdf>.

of thought on the future of Taiwan policy:⁵⁷ The Accommodation School; The Status Quo School; The Normalization School; and Soft Balancing School.⁵⁸ As Stokes astutely observed in a recent follow-up article: “U.S. policy has yet to catch up with the changes that have taken place on Taiwan since 1996, especially since the first peaceful transfer of power in 2000.”⁵⁹

Despite all the uproar, the new U.S. president—with his iconoclastic persona—has not changed U.S. policy. Rather, his administration has raised an important and fundamental question about the long-term viability of the current approach to policy. To be sure, the previous ambiguous approach has outlived its utility and the effects have been an emboldened Beijing and a Taiwan that is now being gradually pushed into a corner (see, e.g., Beijing’s diplomatic offensive⁶⁰).

Alternatives to a gradual change in policy present equally de-

57. Mark Stokes & Sabrina Tsai, “The United States and Future Policy Options in the Taiwan Strait: Driving Forces and Implications for U.S. Security Interests,” pp. 63-67.

58. While Stokes attaches a particular formula to the “Soft Balancing School,” the term soft-balancing is used *broadly* in this article to describe an approach of moving towards a more normal relationship between the United States and Taiwan, and as a contrast to hard-balancing.

59. Mark Stokes, “The United States and Future Policy Options in the Taiwan Strait,” January 17, 2017, *Project 2049 Institute*, <http://blog.project2049.net/2017/01/the-united-states-and-future-policy.html?utm_source=AsiaEye+Blog+The+United+States+and+Future+Policy+Options+in+the+Taiwan+Strait&utm_campaign=Reaching+the+limits%3A+China+as+a+responsible+stakeholder+&utm_medium=email>.

60. Russell Hsiao, “China’s Latest Plan to Squeeze Taiwan: Steal Its Allies,” January 12, 2017, *The National Interest*, <<http://nationalinterest.org/feature/beijings-latest-plansqueeze-taiwan-steal-its-allies-19039>>.

stabilizing propositions, and there is a great deal of uncertainty that comes with any change. However, a fear of even thinking about change could lead to state of paralysis that is equally disruptive in the Taiwan Strait. A one-sided focus on the *process* has left U.S. interests increasingly susceptible to the vagaries of cross-Strait relations and Beijing's increasing leverages. Indeed, policy towards Taiwan has operated over the past 45 years on the premise that America's primary interest is in the *process*—as opposed to the *outcome*—it is time for U.S. policymakers to refocus on a desired outcome.

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