

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. RESCENTHALER, 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-
25 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.

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

14 (A) Former Assistant to the President for
15 National Security Affairs H.R. McMaster testi-
16 fied in March 2020 that Taiwan is “the most
17 significant flashpoint now” between the United
18 States and the People's Republic of China.

19 (B) Former Commander of United States
20 Indo-Pacific Command Admiral Phil Davidson
21 testified in March 2020 that the threat of an
22 invasion by the People's Republic of China of
23 Taiwan “is manifest during this decade, in fact
24 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

1 the onset of conflict. In a fait accompli sce-
2 nario, competitors would seek to employ
3 their capabilities quickly to achieve limited
4 objectives and forestall a response from the
5 United States, and its allies and partners”;
6 and

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

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

20 (D) The Army Multi-Domain Trans-
21 formation strategic guidance released by Army
22 Chief of Staff General James McConville in
23 March 2021 stated that China and other adver-
24 saries of the United States will seek to “seize
25 their objectives quickly as a fait accompli,” if

1 the Joint Force “cannot present credible deter-
2 rent options”.

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

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

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

1 er than later, a fait accompli that a weakened
2 and distracted United States would have to ac-
3 cept”.

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

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

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

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

1 September 2019 that “Beijing cannot be al-
2 lowed to use the threat of force to pursue a fait
3 accompli in territorial disputes”.

4 (D) In January 2020, Secretary of De-
5 fense Lloyd Austin upheld the assessment by
6 the Indo-Pacific Strategy Report that Depart-
7 ment of Defense “initiatives on force employ-
8 ment, crisis response, force and concept devel-
9 opment, and collaboration with allies and part-
10 ners” should be “aimed to help address this
11 critical challenge” of a potential fait accompli
12 scenario involving the People’s Republic of
13 China.

14 (E) Deputy Secretary of Defense Kathleen
15 Hicks testified in February 2020 that the Peo-
16 ple’s Republic of China is “less likely” to at-
17 tempt a fait accompli against Taiwan if it
18 knows that the United States will be able to de-
19 feat such an attempt, and that the United
20 States should therefore maintain the ability to
21 defeat a fait accompli by the People’s Republic
22 of China against Taiwan.

23 (F) Admiral Davidson and Admiral Aquil-
24 lino testified in March 2020 that they agreed
25 with Deputy Secretary Hicks’ statements, and

1 that the United States should maintain the
2 ability to defeat a fait accompli by the People’s
3 Republic of China against Taiwan in order to
4 strengthen deterrence against such a contin-
5 gency.

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

15 (6) There is likewise broad agreement that a
16 strategy of denial is essential to deter or defeat a
17 fait accompli by the People’s Republic of China
18 against Taiwan, including as follows:

19 (A) The 2018 National Defense Strategy
20 tasked the Department of Defense with pos-
21 turing and employing forces to “delay, degrade,
22 or deny adversary aggression”.

23 (B) Secretary of Defense Lloyd Austin ar-
24 gued in January 2020 that a “combat-credible,
25 forward deterrent posture is instrumental to the

1 United States military’s ability to deter, and if
2 necessary, deny a fait accompli scenario”.

3 (C) Deputy Secretary Hicks, Under Sec-
4 retary Kahl, Admiral Davidson, and Admiral
5 Aquilino reaffirmed the emphasis by Secretary
6 Austin on denial and testified that a strategy of
7 denial is essential for deterring Chinese aggres-
8 sion.

9 (D) The Joint Operating Concept for De-
10 terrence Operations released in December 2017
11 states that forward-deployed forces contribute
12 to “denying benefits” and thereby reduce “the
13 likelihood of an adversary achieving strategic or
14 tactical surprise, thus helping to prevent adver-
15 sary decision makers from concluding they
16 might achieve a military fait accompli that
17 could be extremely costly for the US to reverse
18 by force”.

19 (E) The United States Army’s Multi-Domain
20 Operations concept document released in
21 December 2018 states that Army forces must
22 demonstrate the capability “to immediately
23 deny a fait accompli” in order to deter a near-
24 peer adversary.

1 (F) The Marine Corps Force Design 2030
2 report released in March 2020 states that for-
3 ward-deployed forces possess the capability to
4 “attrite adversary forces, enable joint force ac-
5 cess requirements, complicate targeting and
6 consume adversary ISR resources, and prevent
7 fait accompli scenarios”.

8 (G) The Tri-Service Maritime Strategy di-
9 rects the United States Navy, United States
10 Marine Corps, and United States Coast Guard
11 to “deny adversaries their objectives, defeat ad-
12 versary forces while managing escalation, and
13 set the conditions for favorable conflict termi-
14 nation”.

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

20 (A) the Taiwan Relations Act further es-
21 tablishes it as the policy of the United States
22 “to maintain the capacity of the United States
23 to resist any resort to force or other forms of
24 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
23 the commitment of the United States to Taiwan
24 is “rock-solid”;

1 (F) a failure by the United States to con-
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

11 (G) any such loss of credibility could jeop-
12 ardize the ability of the United States to forge
13 and sustain the coalition of nations required to
14 maintain a favorable balance of power against
15 the People's Republic of China, thereby denying
16 the hegemonic ambitions of the People's Repub-
17 lic of China.

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

19 It is the sense of Congress that—

20 (1) the ability of the United States to maintain
21 a free and open Indo-Pacific region would be se-
22 verely compromised if the People's Republic of
23 China were able to invade and seize control of Tai-
24 wan, with severe implications for the lives, liveli-
25 hoods, 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
24 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

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

9 **SEC. 5. STATEMENT OF POLICY.**

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

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