

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. GLENN and Mr. LEAHY pertaining to the introduction of S. 1660 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Under the previous order, the Senator from Alaska is recognized to speak for up to 15 minutes.

THE FOREIGN RELATIONS REVITALIZATION ACT RELATING TO TAIWAN

Mr. MURKOWSKI. Mr. President, last night we had several hours of debate and that debate was around the issue of the Foreign Relations Revitalization Act relating to Taiwan. As we addressed the disposition of the conference report, this particular portion received a good deal of scrutiny. There were a lot of words spoken, a lot of technical interpretations. What I am going to do today is simplify that debate by referring to the Taiwan Relations Act as the law of the land. I will also give a brief explanation of the section that was the subject of the debate, but I will use the actual factual language, as well as definitions, not just personal interpretations.

I was surprised by the debate surrounding one provision in particular, and that was section 1601, which states that sections 3(a) and 3(b) of the Taiwan Relations Act supersede any provision of the 1982 joint communique between the United States and China.

I was surprised by the debate because, obviously, a number of people seem to be cloudy on just what "supersede" means. Allow me to clear up any misconceptions of that term. The Oxford dictionary refers to the term "supersede" specifically as "overrides, takes precedence over." That definition seems pretty clear to me, Mr. President.

The administration indicated it is going to veto the entire conference report, in part because of opposition to section 1601, even though that section only restates reality.

In order to enlighten some of my colleagues on this issue, I have a chart here. I would like to refer to the chart. This is April 10, 1979, section 3(a):

... [T]he United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

Section 3(b):

The President and the Congress shall determine the nature and quantity of such defense articles and defense services based solely upon their judgments of the needs of Taiwan. . . .

It could not be any clearer, "solely on their judgments of the needs of Taiwan." That is to say, the President and the Congress shall determine the nature, quantity of such defense articles, et cetera. It is crystal clear. The issue is the interpretation of the United

States-China joint communique. The previous reference was the law of the land. This is a communique. In the communique, August 17, 1982, the administration pledged, "to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." Paragraph 6.

This pledge to reduce arms sales over time, for those of us who have labored in this vineyard and those in the defense community, we recognize this as the "bucket," so to speak; that is, after the executive branch implemented the pledge by decreasing the amount of defensive goods and services that would be sold to Taiwan. That is readily understood. That was the specific intent.

This is the communique, the other is the law of the land. But you can see the difference. Congress, and the President, clearly have the authority under the law of the land to designate and determine the nature and quantity of defensive arms provided to Taiwan.

Yesterday in the debate, several of my colleagues claimed that section 1601 nullified the entire basis of United States-China policy.

This simply is not true, Mr. President. I should know, this was my legislation. I know what the legislative intent was. As the original author of this legislation, I know the intent of the legislation is simply to reassert the legal primacy of the Taiwan Relations Act as public law over a statement of policy, such as the joint communique.

It is this intent that so many of my colleagues on the other side, and evidently the State Department, are missing. It reasserts the legal primacy of the Taiwan Relations Act as public law over a statement of policy, such as the joint communique, if the two are in conflict. That puts the burden on the President and the Congress where it belongs.

For example, if the threat to Taiwan is increasing, defensive arms sales may need to go up, and this should not be arbitrarily limited by the bucket. It has not been in the past. The bucket is whether it is inside or outside, and we have seen sales outside. Prior administrations have followed the principle and practice, such as President Bush's decision to sell the F-16's to Taiwan, even though they were outside the dollar limits and, therefore, outside that bucket. It is referred to, basically, as decreasing in the amount of collective arms sales to Taiwan.

The point I want to make today is, more important, that Secretary Christopher, in a letter dated April 22, 1994, to me assured me that this administration's position is as previous administrations; the Taiwan Relations Act as public law takes legal precedent over the 1982 Joint United States-China Communique. That is the issue, does it take legal precedent or does it not? The Secretary of State said it did.

Let me make one more distinction, Mr. President. That communique I referred to, has never been ratified by

Congress. The Taiwan Relations Act is the law of the land.

In referring to this letter of April 26, 1994, the Secretary provided that letter and asked me not to release it for the RECORD. I am going to honor that commitment.

But now the administration seems to say it is ready to veto the entire conference report, and one of the reasons, in part, is because of a provision that simply acknowledges their prior position. If they are going to veto it, that is their own business, but let us be up front about the veto, if other rationale is the driving force.

Why is this being selected? I do not know. Has the administration been pressured to change some of its positions? I am sending a letter to Secretary Christopher today asking him to clarify his position: Does the administration stand by the April 22, 1994, letter or not? If not, then why not? It is my hope to share that answer with my colleagues.

This is important, because many on the other side are very uncomfortable now as they recognize what the law of the land says and the fact the law of the land supersedes the communique if the two are in conflict. Very few people seem to have picked up on that difference and its significance.

Some of my colleagues have asked why this provision was necessary and if it was. My response is simply this: it sets legal precedent. This is a reason I think my colleagues on both sides of the aisle will appreciate. Sometimes it is necessary to remind the executive branch that the Executive policies cannot ignore the law of the land, and that is where we are today. The Taiwan Relations Act is the law of the land.

So, Mr. President, this administration cannot ignore Taiwan's defensive needs nor the role of Congress in determining these needs, even if some in China demand it. That is what this legislation is really all about.

Some of my friends in this body may imply that this language somehow suggests that former President Reagan was wrong when he signed the communique. That is certainly not my interpretation, nor my intention. But the reality is, this is 1996, not 1982, and this language dictates that if the threat to Taiwan is greater now than in 1982, arms sales may go up accordingly.

So that is where we are, Mr. President. I hope that sheds some light on the debate over this language. I simply stated what was actually written, and hope my colleagues on the other side of the aisle will recognize this.

(Mr. CRAIG assumed the chair.)

THE BUDGET

Mr. MURKOWSKI. Mr. President, I would like to make reference, in my remaining time, to some facts on the budget.

It is rather curious, but in the last 13 months, President Clinton has sent up