

US should confirm the AIT director

Written by Mike Kuo 柯建雄

Friday, 27 September 2019 06:21

On Aug. 11, the *New York Times* crossword puzzle had a particularly easy clue for 18 across: “Most populous nation not in the UN.” The answer? Taiwan, of course. So, no wonder most of my fellow Americans are surprised to hear that the US and Taiwan, despite our long-standing and close alliance, do not have diplomatic relations.

The fact that the US Senate does not confirm the US’ top diplomat to Taiwan, as it does for all other countries, comes as a surprise as well. After all, US law recognizes Taiwan as an independent, sovereign country with its own territory, government and population.

Yet, without strong US backing for Asia’s freest democracy, China’s anaconda strategy in world diplomacy will fatally strangle Taiwan’s international space.

The Formosan Association for Public Affairs fears Taiwan might not be receiving the vital recognition and respect in Washington that the country needs to survive as a US partner in democratic Asia.

It therefore urges the legislature to reimpose the constitutional requirement for Senate advice and consent in the US president’s appointment of the director of the American Institution in Taiwan (AIT).

Article II, Section 2, of the constitution says that the president “shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for.”

The 1979 US Taiwan Relations Act, signed by then-US president Jimmy Carter on April 10, 1979, mandates that committees of the US Congress shall monitor the “operation and procedures” of the AIT.

The AIT’s Web site only admits that the US Department of State provides a “large part” of its

US should confirm the AIT director

Written by Mike Kuo 吳國光

Friday, 27 September 2019 06:21

funding “and guidance in its operations.”

Truth be told, the US secretary of state is the sole source of the AIT’s money, and is the sole selector of AIT’s “director” — the exact equivalent of an ambassador in every respect.

The AIT director supervises a large multiagency US mission with foreign service officers from the US departments of agriculture, commerce, defense and others, as well as the state department, exactly as a chief of mission would in any other US embassy.

The AIT’s Taipei office has also had a “consular section,” staffed with active-duty US consuls and vice consuls for several years.

Allowing the secretary of state to self-advise and self-consent, and then self-appoint the nation’s ambassador to Taiwan, arguably, is an unconstitutional delegation of the Senate’s legislative power to the US executive branch.

It seems indefensible for the executive branch to pretend that an official mission to a foreign country such as the AIT, staffed exclusively by executive branch officers, funded exclusively from the US Department of the Treasury, and operating solely at the direction of the secretary of state, is not an embassy.

It is also disingenuous in the extreme to say that the chief of that mission is not an ambassador, or a public minister or a consul, or even an “officer of the United States whose appointments are not ... otherwise provided for” in the constitution.

To this day, the official nature of high-level US-Taiwan interactions has remained unchanged. However, some recent moves on the US side bode well for a more normal bilateral relationship.

In May, the Coordination Council for North American Affairs, the Taiwanese counterpart of the AIT, was renamed less ambiguously the Taiwan Council for US Affairs.

US should confirm the AIT director

Written by Mike Kuo 郭明

Friday, 27 September 2019 06:21

In the Indo-Pacific Strategy Report published by the US Department of Defense in June, Taiwan is referred to as one of the four “countries” that are reliable, capable and natural partners of the US.

In a speech at the Heritage Foundation in late June, US Assistant Secretary of Defense for Asian and Pacific Security Affairs Randall Schriver made it clear that the US is going to treat Taiwan as a “normal security systems partner.”

There is ample precedent of a US ambassador being sent to Taiwan after Senate confirmation. From 1949 to 1979, six US ambassadors to the “Republic of China” (ROC) were confirmed by the Senate. Leonard Unger, the last one among the six, was confirmed after a Senate hearing in 1974.

When this hearing took place, the US recognized the ROC, rather than the People’s Republic of China, as the only representative of China. However, the questions for Unger were mostly about the Taiwan-US alliance, bilateral economic relations and Chiang Kai-shek’s (蔣介石) health.

If Senate confirmation of a US ambassador to Taiwan was indispensable in the face of the threat from communist China during the Cold War, more than ever, it is in the critical national interest of the US now to restore such procedure amid escalating US-China competition.

The absence of Senate confirmation of the AIT director is a side effect of cutting US diplomatic ties with the ROC. This should not be taken for granted, though.

Indeed, while Washington no longer recognized Taipei as the capital of “China,” Carter directed that the entire US government continue to treat “Taiwan” as it did all other “foreign countries, nations, states, governments or similar entities.”

The Taiwan Relations Act then defined “Taiwan” as “the islands of Taiwan and the Pescadores, the people on those islands ... and the governing authorities on Taiwan recognized by the

US should confirm the AIT director

Written by Mike Kuo 吳國光

Friday, 27 September 2019 06:21

United States as the ‘Republic of China’ prior to Jan. 1, 1979, and any successor governing authorities.”

Therefore, in law, the US recognizes Taiwan as a foreign nation state, with a defined territory and population, and a government that used to be called the “Republic of China,” but which might change that name in the future.

Simply calling the American mission in Taipei “AIT” does not alter the legal fact that it is an embassy, and the chief of its mission is an “officer of the United States whose appointments are not herein otherwise provided for.”

On Feb. 23, 1979, then-US secretary of state Cyrus Vance wrote a letter to then-US Senate Committee on Foreign Relations chairman Frank Church on the accountability of the proposed AIT.

In the letter, Vance said that it would not be appropriate for the Senate to advise and consent to the appointment of trustees or officers of the AIT due to the unofficial nature of the institute.

However, Vance also pledged that names of the prospective trustees and officers would be forwarded to the committee.

If the committee would express reservations about these nominations, the state department, according to Vance, would “undertake to discuss and resolve the matter fully with the committee before proceeding.”

However, such a promise has yet to be fulfilled.

Recent legislation highlights Taiwan as an indispensable ally to the US regardless of the change of administrations.

US should confirm the AIT director

Written by Mike Kuo 吳國光

Friday, 27 September 2019 06:21

The “six assurances” resolutions passed by former US president Barack Obama’s administration, the Taiwan Travel Act and the Asia Reassurance Initiative Act that US President Donald Trump signed into law, and the National Defense Authorization acts of past years all reflect the pivotal role Taiwan plays in Washington’s Indo-Pacific policies.

Facing growing Chinese diplomatic assertiveness and military aggressiveness against Taiwan, the Senate should retake its central role in selecting the US’ top diplomat in Taiwan.

Mike Kuo is president of the Formosan Association for Public Affairs.

Source: [Taipei Times - Editorials 2019/09/27](#)