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**A JOINT SYMPOSIUM:
CONSOLIDATING TAIWAN'S DEMOCRACY:
CHALLENGES, OPPORTUNITIES, AND PROSPECTS**

WEDNESDAY, MARCH 22, 2006

1:30-3:30 P.M. – KEY PILLARS OF DEMOCRATIC CONSOLIDATION (CON'T)

“JUDICIARY SYSTEM”

PROFESSOR JACQUES DE LISLE, UNIVERSITY OF PENNSYLVANIA

“ECONOMIC CONSEQUENCES”

**DR. RICHARD R. VUYLSTEKE, EXECUTIVE DIRECTOR,
AMERICAN CHAMBER OF COMMERCE IN TAIWAN**

“DEMOCRATIC CONSOLIDATION IN TAIWAN: DEFENSE AND MILITARY AFFAIRS”

**MR. MARK A. STOKES, PRESIDENT,
QUANTUM PACIFIC ENTERPRISES**

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DR. RICHARD BUSH: I think this panel will be very interesting. The panel this morning focused on core issues of the political system, but the ones this afternoon are equally important – the judiciary, the economy, and defense and military affairs.

Our first presenter this afternoon is Dr. Jacques de Lisle from the University of Pennsylvania. We're very pleased to have him down from Philadelphia, and he is going to talk about the judiciary, which is an important pillar of any consolidated democracy.

Thank you. Jacques?

JACQUES DE LISLE: Thank you, Richard, and thank you all for staying past lunch. It's always intimidating to be an after-lunch speaker; it's even more intimidating given the acts this morning that I have to follow. The one thing I've got going for me is a slightly different topic.

The role of courts in any democracy is of course a source of some controversy and ambivalence. A court's power is particularly the power of constitutional review. The power to strike down legislation inevitably raises questions about its democratic pedigree and propriety, and the role of courts is especially controversial, I think, in evolving or new democracies where there has not been decades or even centuries of experience to sort out a role and to make democratic institutions or democratic voters comfortable with courts playing that kind of function.

The power of constitutional and judicial review – that is, the power to strike down actions of democratically elected bodies on the grounds that the acts that are presumptively reflecting the will of the majority somehow can't pass constitutional muster – obviously is a democratic issue. It's called the "counter-majoritarian" difficulty, usually, in the American literature. And in many democracies, beyond the power of constitutional review there is the more general problem of course that judges generally are not elected. They may be indirectly accountable, they may be chosen by elected officials; nonetheless they don't face any direct electoral review and do not have that kind of accountability. So there is this tension. It's well recognized everywhere.

On the other hand, of course, it's equally widely accepted that courts and independent courts, independent judiciaries, are an important pillar for supporting democracy. And this idea has been particularly pronounced in newly emerging democracies, third-wave democracies and such, post-Soviet transitions and the roughly contemporaneous transitions in Taiwan and elsewhere in East Asia. They have produced constitutions that eschew parliamentary supremacy or even eschew parliamentary executive joint supremacy and really do give a role to courts, including constitutional courts often based on the German model of a separate constitutional court.

Although the U.S. model has not been much emulated, it's been much admired in various quarters. And you can't talk about the U.S. model of course without noticing its remarkably strong role for courts and power of judicial review. More broadly, strong courts, even of the ordinary non-constitutional type, are widely seen as supports for

democracy. It's part, of course, of the great post-Cold War conventional wisdom that democracy, markets, and the rule of law all go nicely together, and the courts are an important part of that triangle.

Then there have been attempts, which I think resonate with the situation in Taiwan, to explain how one can reconcile strong courts, independent courts, with democratic institutions. The classic American response to the counter-majoritarian difficulty has been the idea that courts are there to protect democracies from their own excesses, to keep institutions from going off the tracks, to keep, in the longer run, the democratic constitutional system going. One recent study of constitutional courts in East Asia has pointed to them as a form of political risk insurance. That is, especially when you see a top-down introduction of constitutional courts by the party in power that someday fears it might be about of power, they can be a nice hedging strategy.

(Laughter)

More broadly, courts can and do serve as simply another set of institutions – a sort of plural institutional structure that allows different voices, different perspectives, particularly an institution with a professional and power-based interest in promoting the rule of law and such that is part of the sort of complex vectors of a political system that keep it more or less balanced and going down the middle path, which is often associated with constitutional and democratic consolidation. Then I think all of these ideas have some resonance in the Taiwanese case, and let me now just work briefly through the role that courts have played in Taiwan's period of democratic transition and consolidation.

Much of the work has been done by the Council of Grand Justices, the constitutional court at the top of the Taiwanese system, and some of the major decisions issued by the Grand Justices have been directly about democratic process. So if you think particularly of the 1990 interpretation concerning the National Assembly, the idea that the old codgers elected many decades ago on the mainland can't rule indefinitely and need to be phased out and replaced, that obviously was a major breakthrough toward the consolidation of democratic institutions on Taiwan with the National Assembly and the Legislative Yuan, thereafter being elected by a Taiwanese electorate to represent people living on Taiwan.

A second Grand Justices decision relating to the National Assembly came almost a decade later in 1999, striking down constitutional amendments that would have prolonged the terms of the incumbents and striking them down on the grounds that the procedure for amending the constitution thereby adopted was insufficiently transparent – not sufficiently democratically kosher, as it were.

A third Grand Justices decision that dealt with the National Assembly peripherally but also deals with this question of, I think it's fair to say, democratic processes, was the one where the Justices ducked. They said it's a political question, how to interpret the national territory provision in the constitution. Well, in a sense that is ducking, but on the other hand, what it does say is, look, if you want to change the text

you've got to go to the National Assembly; you've got to go through the constitutionally prescribed and ultimately democratic process. We, the courts, aren't going to get into that.

Now, in a way that's also a bit of *Marbury v. Madison* moment, right? Courts most strengthen their powers when they say, oh, it's not for me to decide what the substance of the issue is, but it is for me to decide whether to decide and so we've claimed that power. So it was also a nice moment of upping the court's power. But that sort of – institutional politics aside, there is a plausible line of argument I think that looks to that case and to the other cases I've just mentioned that says this really matters for democratic consolidation, but in the obvious way of making some of these democratic institutions Taiwanese rather than pan-ROC with claims of a mainland route. But also on the idea that if you think democratic consolidation has something to do with political self-determination by residents of Taiwan, or the idea of aligning the reach of the polity with the reach of the constitution, then these kinds of decisions that help do that, that approve government decisions that move in that direct, that does advance democratic consolidation – again, if you think that alignment of space and people matter.

A second set of decisions by the Grand Justices deals not so much with democratic processes and national boundaries and such, but deals with the allocation of power within Taiwan's insufferably complex institutional structure. We've talked about the many problems created by the constitution. Well, that creates obvious issues of allocating power across the branches or across the various Yuan, and here we see a lot of Grand Justice decisions that deal with what Americans would call separation of powers, and occasionally federalism issues. It's a venerable thesis of American democracy – again, American constitutional democracy, where separation of powers is probably a more central concept than in most places – that judicial policing and protection of the division of authority, the division of state power among separate governmental units, is an important means of protecting liberty, including the democratic rights of citizens.

The Bill of Rights wasn't part of our constitution originally. The idea was that separation of powers was supposed to do the work of protecting liberty and in turn democracy. Well, if you buy that idea, then a lot of what the Grand Justices, the Constitutional Court, have been up to have dealt with that problem of avoiding an over-concentration of power in any one branch.

Often this has been a matter of checking executive power which is, I think, on many plausible accounts, the power that is most likely to be corrosive of democracy and democratic constitutionalism perhaps in any system; probably more so in a system that is more presidential than parliamentary, or at least substantially presidential, as I think Taiwan's can fairly in the end be described as being, and perhaps still more in a system which has the Republic of China's pre-democratization history of strongly centralized authority in the presidency.

So if you look at a bunch of the cases that deal with this area, what you see are the Justices, time and time again, reining in excessive delegation by the Legislative Yuan.

That is, they strike down government acts where the Legislative Yuan has given only very general guidance to executive branch agencies. The executives then go forth and issue decisions that aren't there in the statutes that regulate private behavior, and that's struck down as putting too much power, in effect, in the hands of the executive.

Perhaps the most notable development on the separation of powers side is of course the famous fourth nuclear power plant case where the decision is that Chen Shui-bian, the president, insufficiently consulted, in effect, with the legislature – another executive encroachment on legislative power. Perhaps even more famous than that is of course the case challenging Lien Chan simultaneously holding the vice presidency while retaining the premiership under Lee Teng-hui, and whether he should have resigned, whether this is an impermissible blurring of the lines between the executive and legislative branches and between the presidency and the executive. And here it was tolerated but criticized as certainly a bad idea because it would create a constitutional crisis under certain arrangements that the court discusses, particularly if the vice president were to have to become president.

The case that decides that the Taiwanese provincial-level government, although gutted, still exists and can be recreated or re-shrunk, whatever, at the whim of the Legislative Yuan in effect is another means of safeguarding legislative power and providing that that aspect of the separation of powers is protected. But not all of this has been about reigning in the executive or making sure the legislature doesn't give away too much, or reassuring the legislature that it does have some power, but many of the decisions on separation of powers grounds have looked to protect the judiciary against excessive assignment of judicial powers elsewhere.

So there have been cases striking down attempts to give prosecutors and police broad powers to detain and perhaps sentence in some circumstances without proper judicial review. The case striking down the aspects of the 3/19 shooting truth investigation special committee on the grounds that it was given too much power. It could tell the prosecutors whom to indict and it had the kind of investigatory powers that are not properly vested in something that isn't structured or nested within the separation of powers structure that the constitution provides, and in particular, the idea that there would be a commission that was really not accountable to anybody. Ultimately the court put it under the legislature, but one of the objections was it was an unaccountable free-floating concentration of powers that really should be allocated across – divided across branches.

A third set of cases that the grand justices have gotten involved in involve the protection of individual rights, and the notion that robust constitutional, and indeed judicial protection of citizens' civil and political liberties, is important to democracy is fairly uncontroversial in most circles, and these cases certainly play into that. So you have a series of cases which strike down laws and regulations that threaten to make it too easy to deploy certain tools that are reminiscent of the bad old days, largely detaining or locking up people without full judicial process or for expressing heterodox views of one sort or another.

The 3/19 commission case also has some of that flavor to it. So does the injunction against fingerprinting for the national identity cards, which is one of the more recent decisions, as well as decisions that invalidate provisions in the assembly and parade law that prohibit support of communism or territorial division, or laws that prohibit the use of Taiwan in the name of certain non-public associations.

That's the three sets of cases, the three types of cases where the Grand Justices have weighed in on ways that support democracy or democratic consolidation, whether it be through pushing democracy directly, protecting the separation of powers, or protecting individual liberties. So while the Council of Grand Justices has done a lot of this work, the constitutional court – and certainly other Taiwanese courts – have faced a fair amount of criticism for politicization, and, indeed, particularly for a pattern of deference to or perhaps undue influence by political factors and the politically powerful. If you look at most of the major structural cases that I've been talking about, there is a story to be told about how the party in power tends to win in most of those.

Lee Teng-hui's reforms were approved by some of the early – or facilitated or made possible by some of the earlier decisions. The 3/19 investigation decision gutted the powers of a body that the DPP – that Chen Shui-bian certainly didn't like all that much, the way it was structured. They had a very different view of how to handle that investigation. Really, the outlier among the big cases is the fourth nuclear power plant case, but there is even an argument to be made there that Chen was better off with that decision than the one he probably wanted. And so, too, the fusion of vice presidential and premiership powers was something that obviously the incumbent president wanted to see.

Beyond those Grand Justices-type decisions are obviously a lot of decisions in lower courts that have involved the politically powerful on one side or another, and they have won and lost in ways that certainly the highly suspicious would see as being problematic. So the courts rejected charges brought by losing presidential and vice presidential candidates Lien Chan and James Soong, the charge that voting irregularities had altered the outcome of the election, that it was improper to conjoin the referenda with the presidential election in 2004, and so on.

In other cases involving the politically powerful, you could map it out in such a way that it looks like the powerful do pretty well. Lee Teng-hui's wife won her suit against two New Party legislators for libel, and the prosecution of them for it as well. James Soong wound up in about the middle range one might expect for a middle-range politician – once powerful, somewhat declining. He got nailed for tax evasion but not for embezzlement. Frank Hsieh, one of the four on the list for DPP presidential candidates, has had several narrow brushes with humiliation that have been saved partly by the courts. The good news that cult leader Soong did not wind up getting labeled a fraud. That probably helped Hsieh, at least marginally. A lot of people around him have gotten in trouble in the Kaohsiung incident – not that Kaohsiung Incident; the Kaohsiung mass

transit incident. (Laughter) Sorry, I'm talking only democratic consolidation era. We don't go back to those.

So there is a pattern there which critics can certainly discern and criticize and go after. I think it requires a bit too conspiratorial or too over-reading of you to say this is all cooked up in that direction. At the margin, it's a plausible charge, but you can look through the cases and they are defensible on the merits, and there is a coherent, certainly constitutional, position coming out of the Grand Justices. Nonetheless, there is a pattern of success in the courtroom for the side that is or is favored by the politically powerful, and that's combined with other factors to make pretty popular rather cynical views of the judiciary at its quality of its neutrality. There are other factors that reinforce this. There is a rather unsavory history of the role of Taiwanese courts in the pre-democratic transition era of being a tool of a political repression. There has been a certain tepidness, or at least a plausibly argued tepidness in the willingness of courts and prosecutors to go after some corruption cases and how high those corruption investigations will reach.

Whatever you think of the substantive merits of that, there clearly is a perception problem, at the very least. There are lots of very juicy scandals about judges – you know, the judge who ran a brothel and various other things that sort of undermine the reputation of the judiciary. You look at more systematic studies, such as Transparency International, and Taiwan ranks about 32 out of 158 countries. It ranks at the bottom of the Western European and North Atlantic, above most of Asia except for typically Singapore, Japan, and Hong Kong. In that cluster, the World Bank's Rule of Law Index is similar.

So it does reasonably well but is not at the absolute upper reaches. You see within Taiwan actually in some ways a much harsher critique, and the partisan of party politics has certainly fed into this. Anytime a prosecution happens or doesn't happen in a political case, the other side of course cries foul. You know, most people in this room can come up with dozens of examples of that.

All of this has produced a lot of pressure for reform, and there have been some significant reforms. There are NGO watchdogs that now monitor the courts relatively closely and point out what they see as shortcomings. The Control Yuan of course has some authority to impeach and remove, which it occasionally uses. The appointment and promotion process has been made a little more insulated from political pressure within the Judicial Yuan, and the formal review of junior judges' decisions by senior judges' decisions is thought to have enhanced individual judge independence, but there still is some distance to go.

You still get polls that suggest not terribly high esteem for the judiciary. I sometimes think the best thing the judiciary has going for it in terms of public perception in Taiwan is that people think even less highly of the legislature, so it's not going to wind up on the bottom of those indices. But there clearly is a perception problem and you get surveys that say roughly 40-some percent thinking it's corrupt, and often 60-30 or 50-

something-30-something when you're asked, do you think you can get a fair hearing – do you think the courts are fair, and it tends to run against them.

But it's not just a political complaint. Much of the critique of the Taiwanese judiciary goes beyond these claims of improper political influence and instead looks to the question of the court's ability to provide prompt and fair adjudication in ordinary cases. The idea is that this is important to establishing a robust rule of law, which, again, is now seen a correlative at the very least and probably causal in the consolidation and extension of democracy. Whether that's on the theory that officials who operate in an environment of weak legality tend to have little regard for democracy, or whether you think that a broad popular culture of legality and rights consciousness supports democratic rights, or if you just think the rule of law makes for a wealthy country, which tends to correlate with democracy – doesn't matter – any of those theories will do and they all say you need courts that can do their basic job well, even in non-political cases.

And here Taiwan does have some issues. Access to justice is a problem. There aren't very many lawyers and they're rather expensive. Lots of people who bother to bring cases at all still proceed *pro se*. People who have close contact with the court system complain about delays and postponements and trials and hearings that go on at Dickensian paces with sometimes Kafkaesque results. And there are claims that judges are ill-equipped in many cases, especially at the basic level, to handle really complex economic cases which have proliferated as Taiwan's economy has transformed.

Again, if you look at the sort of systematic international rankings, Taiwan's court system – Taiwan's legal system as a whole – tends to come out reasonably well but below the very top tier of Asian states, including its biggest competitors in a way – Japan, Hong Kong, Singapore, places like that. There is sort of a general concern of quality and experience among judges – less than might be hoped for – sense of professional result, and critiques of a certain vulnerability to the broader political context, including things like the law and order wave – law and order concern several years ago that was seen as contributing to some corner cutting in criminal cases. So this is all there. There are views of whether the glass is more half-full than half-empty, but there is, at the very least, again, this perception problem.

I'll close with one final point because I can't ever resist returning to something I actually know something about – or at least a little bit about – which is that Taiwan's democracy, to the extent it is entwined with the rule of law and decent courts and such, is something that matters for Taiwan's international standing and ultimately its security. Taiwan's democratic consolidation is of course tied up with the question of its status. Taiwan's ability to secure and enhance its international status depends really on low politics and soft power, right? The low politics of its economic status internationally; this obviously depends on a healthy economy, and particularly one in which – and I'll leave this mostly to Richard – foreign businesses are happy thinking they can get good protection of intellectual property rights, get a hearing in court when they need to, and get a reasonably good-quality justice. WTO accession has multiplied the number of areas where this can come up.

On the soft-power side, of course, as Taiwanese leaders have understood for many years now, playing the democracy-human rights rule of law card, which includes having a good independent judiciary, is important to the soft values, the soft-power side that Taiwan has. That's the card to be played. An effective judiciary is part of that. That case needs to be made lots of places. It mostly needs to be made in this town where Americans like to hear about good, well-functioning court systems. It tends to raise one's status, and preserving that status, giving Taiwan some robust international space, obviously is the space Taiwan needs to further consolidate its democracy.

Thanks.

(Applause)

DR. BUSH: Thank you very much, Jacques. Those of you who were paying attention would have noticed that the panel before lunch was all ethnic Han and the panel after lunch was all Caucasians. (Laughter.) Actually, it's a little bit more complicated with that because Mark Stokes lives in Taipei half the year, and Richard Vuylsteke lives there most of the year – just about all the year. Also, Richard Vuylsteke's children are half Taiwanese, or they're half ethnic Han, right? You know, you could ask them the identity question – (laughter) – you know, are you American, are you Chinese, are you Taiwanese, and they're precocious enough that they could ask Emile Sheng's student's question: What do you mean by American? (Laughter) What do you mean by Taiwanese? What do you mean – so the segmentation is not as clear-cut as you might ask.

Richard Vuylsteke.

RICHARD VUYLSTEKE: I have asked that question of my children and they said, Dad, if we're intelligent, is that enough? (Laughter)

It's a real pleasure to be here for this conference today, for an assortment of reasons that I won't go into great detail besides seeing a lot of people with whom I've interacted over the years. In my position in a business organization which is not supposed to be political in any form or shape, it's important for me to make a certain opening statement about where I stand, and that is I stand in front of you to tell the truth. (Laughter)

Interestingly enough, the idea of democratic consolidation and institutional deepening, which have been at the core of many of the discussions today, are in fact also business issues. The people I represent – nearly 500 international companies – the CEOs all are worried about, in their corporate governance, things like transparency, rule of law, and leadership accountability. So there is a direct correlation between what corporations expect of their executives and what taxpayers expect of their leaders: transparency, follow the rule of law, accountability for their actions. So I would say today that the democratic consolidation of Taiwan in fact is critical to the quality of Taiwan's

competitiveness and the attractiveness of Taiwan to its investors – not just multinationals but also domestic investors.

I also say that despite the claim to the contrary by senior officials and leaders in Taiwan, that in fact Taiwan is not if not losing its competitive edge is certainly not maximizing it because of difficulties with democratic consolidation in Taiwan. Much needs to be done, and from a very practical point of view from the business community, the sooner the better.

Now, it's interesting from a business perspective to look at Taiwan over the years before martial law was lifted, including the democratic consolidation phase. Why were foreign businesses in Taiwan so early, and why have they stayed there for so many years? Why are the trade offices – really quasi-embassies – in Taiwan? The answer, I think, is that Taiwan has always wanted two things – face and space. They want to be recognized as an important international entity and they want the space to operate. Frankly, the core competence of Taiwan for getting space and face for so many decades has been its economy. Taiwan matters economically. It has mattered and it still matters. But that core competency is very similar to what you find in businesses. If you diversify your focal point in too many different areas, if you don't concentrate on your core values, then you lost it. What's so interesting – and you heard, I think, an example of this throughout today – is that 98 percent of the conversation seems to be about politics in Taiwan and very little about the economy. You know, it's the economy that is not only important to Taiwan's democratic survivability but also to its security.

Today I'm not going to talk about generalities. I'm in the trenches every day on democratic consolidation issues that are really serious for the membership I represent – 900 companies – 900 different members actually. The staying power of Taiwan's democracy is important to multinational investment and to domestic investors alike. I must say that one of the things I find most surprising in the discourse in Taiwan is the – is there a polite way to say this? No. (Laughter) Is that there is a certain self-congratulatory smugness in Taiwan that, we've got democracy; we don't have to worry about it; now we can move on to other things.

Well, one of the – I think Carl mentioned that this morning as an earlier attitude, but it still continues. There is an effort to promote Taiwan's democracy to the region on the government level. There is a – even some nongovernmental organizations in Taiwan – decided disinterest in looking at legal reform issues or structural institutional issues within Taiwan itself because those aren't problems: Taiwan has got it made; we need to help our neighbors in the region understand the democratic process better.

Why is this? Well, psychologically it makes sense. We've come a long way in a short time. We've got to cut them some slack on this. But on the other hand, democratic institution building is not something you ever complete, but it's also something that takes a lot of attention, and vigorous attention. From our perspective, from the American Chamber, the weakness of democratic institutions is also a weakening impact on the strength of the economy.

Let me give you some very practical examples. By the way, I'm driving toward some very practical ends, not to theoretical ends. I'm a retooled academic; I can't do that anymore. Now it's just on-the-ground sorts of things. Professor Hawang this morning addressed a number of things that I also covered in my paper on efficiency and effectiveness of government. I think when these papers become available, that in hers and mine you will see great Venn diagram-overlap as far as content.

We are concerned at the American Chamber about the lack of an effective committee system in the Legislative Yuan. That means that in the Finance Committee or the Defense Committee, for example, that there are no experts there that are committee staff that can back up that committee to make the right kinds of data-rich decisions that the place needs to make concerning financial reform, or about military defense, and that (inaudible) the changing chairs – 26th accession or so forth is extraordinary, and what it means is that no one is in charge. You know, they used to say that – when I was much briefer – in briefings about Taiwan they always said Taiwan is a consensus society. You have to come to group decisions, all these chops, and that's why it holds together so well.

From the Chamber's point of view, it's not a consensus society at all; it's a way to have so many chops on documents that no one is responsible if something's wrong. And that's the problem, that with the rotating conveners system, that if something goes wrong, it's nobody's fault, it's everybody's fault; you can't assign blame - in other words, no accountability.

The committee system reform, in a very practical sense, means the understanding that whatever happens at the leadership level, you've got to have professionals behind you to give backup to committee strength. If that doesn't happen in your key committees, you do not have a legislature; you have something else, but you don't have strength that makes the system work appropriately. And what does the system working appropriately mean? It means you pass coherent laws that are consistent within themselves and that drive towards the goals for which they are stated.

The same thing with committee staff. My wife is in fact a staffer for one of the more prominent legislators in the LY. I will add that she is, as I am, critical across the lines of political parties, despite the fact that she's working for one of them, and she's about as pale Green as you can get. But the point is that when she became a chief of staff, there was no precedent. How do you divide the jobs up in an office? What's a scheduler do? There was no one to draw upon within the legislature who had much experience. So you have a legislator full of staffers who really have no senior people to draw upon on how to run a staff, how to do a scheduling, how to review laws and so forth. There is a lack of – you want to say lack of professionalism on one hand; there is a lack of experience. So the problem is how can you function as a legislature if you don't have intellectual backup? So it's committee staff, LY individual staffers, and then you don't have a Congressional Research Service or Library of Congress.

So where are the facts coming from? Who is doing the dispassionate assessment of information on behalf of the legislative decision-making and legislative debate? I mean, if you start thinking about these things not being present, it's no wonder there's so much grandstanding in the LY. If you don't have facts, all you have is rumor.
(Laughter)

I'd add one more thing that was touched on this morning but I think is very important not just for the people of Taiwan but for investors, and that is the lack of decorum on the floor of the legislature and in publicized and televised committee meetings. We all get a big laugh out of the fact that the Taiwan legislature is one of the best-know legislatures in the world because it's always on TV. (Laughter) Someone mentioned it's usually in the sports section of the news. But is this good? What it conveys is – I mean, as a former student of political philosophy, when you lose the public trust in institutions, you're in trouble. That's not just taxpayers. Taxpayers may vote a government out or in, but investors also look at that and they vote with their feet. If this place can't get its act together to pass a decent law, we'll go someplace it can. No decision is a decision sometimes. You can't pass anything, it's log-jammed, so we'll go to someplace where the legislature actually functions.

So there is a real dimension, practical dimension, that the efficiency and effectiveness of the things that were discussed this morning have direct economic consequences. Professionalism is an issue, fact and data-heavy support for debate, transparency, and accountability, the black hole so to speak – or the black box – excuse me – the black box where there is no congressional record, there's no debate record. Decisions that are made that are not transparent, even to people's own fellow party members, is an issue that is today another long-term one for Taiwan's democratic consolidation, and as long as that black box exists and people are not held accountable for their decision-making, the more you do not have a democracy. You've got some kind of temporary oligarchy working together for their own ends in the LY, and that's why the point that Professor Hawang said, this one is also important – the conflict of interest. Oh, yeah, of course I should make the law on hospitals; I own one. Conflict of interest is rampant in the legislature and yet the lack of public accountability is an issue.

So what is my action point on this? In the paper I say it's time for some tough love. Now, I've been watching Taiwan for 40 years. I've been there for more than 20. I'm still there because I'm optimistic about its future, but it's time to stop talking about light-hearted, congratulatory pats on the back, how great you've done since 1987. Elections have done a great job, quite frankly, but democracy is every day. Elections are periodic. Now I think it's time to refocus the debate away from the latest scandal, the latest political kind of non-fact based or kind of discussion to the real issues that give staying power to Taiwan's hard-earned democratic process to date. When that occurs, it will have a direct impact on economic consequences because the quality of law and the balance between political and economic activities will be much more in place. If it doesn't happen, then we see, I think, continued risk not only to political respectability and the international things that Jacques talked about, but also to the really sustainability of a political system which is, in many respects, dysfunctional.

Now, what is it that can be done on transparency and accountability and so forth? I think there's a lot. There's a lot already underway, quite frankly. Many of you in the room have been participatory in those things – think tank visits, joint conferences like this one, training of Taiwan Intellectual Property Office people. We have people from the States sharing programs on training judges and prosecutors. We have not had too much joint NGO administrative training as I would like to see, or people for example – I'm looking forward to the day when the Taiwan American Chamber of Commerce white paper is not the best act in town. I mean, it's done by a foreign organization. Our white paper is carefully edited, carefully researched, carefully presented, balanced, but it's from foreigners. Where are the local white papers from nongovernmental organizations that will complement or contradict the kinds of things we do, that will bring real, solid, fact-based discussion to the fore to say what kind of economy do we want to have here? What are the balances of social programs with fiscal responsibility?

There I think is the real challenge. It's very good to have a conference like this where we can assess and remind ourselves of progress made and goals to achieve, but the real issue, it seems to me, is what are we doing when we walk out the door? Do our organizations in the United States have something to offer either at the federal level, the state level, the city level or the NGO level to cooperate with Taiwan in sharing information on how to build a strong LY staff or how to put together a white paper as an NGO, or how to, as a consumer foundation, to really promote transparency of regulatory change. These are the sorts of things that involve us as a chamber every day, and yet what it really takes is to build, I think, on the long-term relationship between the United States and Taiwan on real institutional-building issues – the things that are on the ground that are going to have staying power and train the people to understand what democracy really means. It's not just a reified term; that it means certain kinds of attitudes, mindsets and actions that are going to build a country that has got staying power and a selling power for – no matter how small it may be or how isolated it may be, it is a model of what can be done when people put their mind to building institutions with durability in light of the basic principles of real law transparency and accountability. When those basic principles become instantiated throughout the system, then we're going to see not only a Taiwan that's got face and space, but a Taiwan that is a model, and then we export it to other places or to other places in the region.

So my call is to remind you of these three things: Democratic consolidation in fact has an impact on democratic sustainability. It does have impact on the economy. Bad laws make for bad investment environment. As Jacques has pointed out, too, it has an impact on security. If you don't have the wherewithal to buy weapons because your economy is weak, then you're going to be in a very weak security position as well.

Secondly, the role of the public, the taxpayer, is also important. The facts that have been presented in today's seminar have got to be made better understood by the person on the street, not just by those in the halls of academe. I mean, I'm a taxpayer. I get upset when I read in Professor Hawang's paper about how these laws are made without any kind of transparency whatsoever, or when I work with my companies, when

they see that the whim of a regulator can make or break a market overnight despite the fact of inconsistency with what the law may be.

These are the issues that have need, somehow with the media, to build – in the fourth estate, to build a better understanding of what democracy really means. I mean, we've had, for 15 years, a democratic environment. What impact – you ask a kid in school right now, what new classes do you have on democratic development; how do you understand democracy, I'm afraid you're not going to find out too much. So there is a deepening area there.

Finally, I'm a big believer in the power of one. That is, one person in an NGO, one person on the floor of the LY, one person in a university to stand up and be counted and say, here is what is good – these are national issues; these are not just constitutional reform because it may be good for the next election. Constitutions are good for a lifetime. You know, we're looking ahead for the good of the people, and the problem is – and I think Dr. Chu alluded to this in his paper – there is reluctance in the academic community to stand up and be counted because the media tears them apart. Somehow we've got to overcome that fear as academics, I think, and as movers and shakers in the political environment or the economic environment, to stand up and be counted and let the taxpayers know that what's at stake is their livelihood and their freedom in a democratic society. When that happens, you're going to – when there's that kind of power brought to bear, I think we'll see the good institutional developments underway already to move forward at a much brisker pace. Believe me, the American Chamber of Commerce will be there right with it, trying to make it happen because a good economy in Taiwan is good for the United States as well.

So that's the practical approach. It's a call to action really on things that I think goes far beyond a very good and delightful conference, for which I'm very happy to be invited. Thank you.

(Applause)

DR. BUSH: Thank you very much, Richard. Now we turn to Mark Stokes.

MARK STOKES: Thank you, Richard. I appreciate the opportunity to attend today's conference. It's an honor and a pleasure to be here. Actually, I agree with a lot of what Richard said.

DR. VUYLSTEKE: And you didn't expect to?

(Laughter)

MR. STOKES: As a matter of fact, I'm not sure if I should give my presentation because he's sort of encompassed some of the concepts that I have. Let me highlight, just to sort of start off, one of the points that he made, and it's a huge difference that it makes whenever one becomes a taxpayer in Taiwan. I passed, during the two years that I was

there, this magic 1 million NT mark. Among people who live in Taipei who are foreigners or ex-pats, the 1 million NT mark is sort of a magic number for investment. Say, for example, you want to invest in a restaurant or a pub or something; the 1 million NT mark is sort of standard amount. So I consider myself, to a certain extent, a stakeholder in Taiwan's government, and after I got my tax bill things change. (Laughter) Working as a defense contractor I was thinking, wow; M1A2 Abrams tanks? Are you sure they want to buy that? I'm not criticizing MND or anything. But in any case, it changes the way you think. You become much more aware of the value of democracy, the value of taxpayers, the value of stakeholders in Taiwan, and much more activist and concerned about how your money is being spent.

I spent seven years doing defense policy in the Office of the Secretary of Defense and traveled to Taiwan many, many times, but it wasn't until this critical moment with that tax bill that things changed. So with that in mind, what I'd like to give is sort of a pitch in what I call the role of the defense establishment in a modern democracy. I define "defense establishment" in a little bit of a different way than most, and I'll explain why this is the case later. Besides defining the defense establishment, I'm going to discuss what I call the four values and the four factors, or the four efficacies of a defense establishment in a democracy. And then I'll wrap it up with what I call the – in terms of sort of a scorecard – of the three positives and the three possible improvements.

So with that in mind, first let me define the defense establishment. What do I mean by the defense establishment? Well, it's more than just the military. The defense establishment is anything that aids in Taiwan's security. It does include the Ministry of National Defense, but it also includes things like elements of the Ministry of Interior – for example, the national police. It includes the Coast Guard. It includes parts of the National Science Council. It includes a range of organizations, and not just the military. There is a reason. I'll get to this reason later, why this is important. The Veterans Affairs Commission also, by the way, is a part of what I call the defense establishment.

But now I'm looking at what I call the four values of the defense establishment. First, deterrence; second, counter-coercion and then third, territorial defense – let me rephrase this. It's defense, internal security, economic development, and then thirdly, information; on the defense side, deterrence, counter-coercion, and then territorial defense. Why do I divide things up this way? It's just a way to sort of segment the way you think about defense.

Deterrence is inserting in the mind of an adversary – in this case, Beijing – the idea that the costs of use of force against Taiwan will outweigh any potential benefit. This is psychological and it involves a certain degree of perception management. Deterrence is much more than just military as well. It's economic and it's also political. I think people in Beijing, much more than many here in the U.S. acknowledge, understand very well the amount of the cost that Taiwan could occur upon Beijing if they try to use force. I think they understand that very well, not just military, but economically and politically. Deterrence involves signaling. It involves transparency. It involves an important role, for example, of the Political Warfare Bureau – used to be

Political Warfare Department, now Political Warfare Bureau – intelligence community, military exercises and a whole range of things.

Now, moving onto counter-coercion, coercion is basically the flip side of deterrence. It is again inserting in the mind of a potential adversary that the costs of taking use of force a step further would be higher than those costs are worth – than the benefits one gains from that. Again, in terms of segmenting how you think about use of force, coercion takes let's say for example three forms – punishment, denial, and decapitation or strategic paralysis. Punishment is basically using force against Taiwan's people to a point where they raise up and demand the political leadership change a particular policy that they have enacted. Denial is simply, for example, rapid establish of air superiority, basically to inject in the minds of leaders in Taipei that there is no longer – basically, it's having them give up hope and give into national will, basically give up. On the decapitation side, it's using sufficient amount – basically, it's using force to be able to cut communications, cut the leadership off from being able to communicate with forces underneath them. In Taiwan's defense structure, they are highly centralized, highly dependent on direction from above. Okay, so that's the first value, and Taiwan's defense establishment has done a good job. They get a high mark on the scorecard for this.

Internal security – this scares people, particularly in a transformational democracy. But nevertheless, internal security is an important function. Internal security involves, for example, law enforcement. It involves intelligence overseas, technical intelligence, human resource intelligence. It involves a whole range of things. It also involves martial law. It's a topic people don't like to talk about. It is in the constitution in terms of the presidential authority to enact martial law. Of course, it requires the consent of the Legislative Yuan and also requires some degree of coordination with the Executive Yuan. It's a little bit ambiguous when you look at the constitution, just alerting people to something to think about in the future.

Another benefit or a value of Taiwan's defense establishment is economy. People don't think about defense spending as having economic benefits, but I'm not sure this issue has really been studied in that much detail. The way the system is set up right now is, let's say for example, Taiwan's procurement. First of all, Taiwan, contrary to popular belief, still spends about a billion dollars a year in weapons – buys a billion dollars a year of weapons from the United States. People claim that Taiwan doesn't buy anything. That's not correct. That's not correct at all, give or take \$200 million, but they're buying a lot. It appears it's going down because of a shift in policy. Taiwan – in Article 22 of the National Defense Law – has made a decision to rely on a greater amount on indigenous production. Here in the U.S., people haven't quite caught on to this. The days of big arms sales, I think, are going to be rapidly going away, and there needs to be a mindset in the way we think about defense business in Taiwan less about sales and more about strategic partnerships. The company that catches onto this, I think is going to do pretty well.

But economic development – there is an impact that could be studied more. But let me ask a few questions here. They are rhetorical in nature. First, how much spending is necessary for an adequate defense? How do you define adequate? I don't have the answer. That's really up to Taiwan people. Number two – how much is Taiwan spending on defense? I think a lot of people think they know the answer when they just read the Defense Bureau of Statistics, the accounting of budgeting statistics, and they'll come up with U.S.\$7.8 billion I think. I'm not sure about that. I'll get to this in a second. Question number three – what is the impact, positive or negative, of Taiwan's defense spending? What impact does it have, for example, on localities, you know, bases in areas? What impact does, for example, the strategic partnership – what impact did that have, for example, on spin-offs? What impact does investment in research and development have on Taiwan's long-term economic development?

Let me focus a little bit more on question number two. People automatically assume that Taiwan's defense spending is about \$8 billion a year. It's not. It's \$12 billion a year. People think that Taiwan's defense spending is about 2.6 percent of GDP. It's not. It's about 3.6 percent GDP. The reason is most of your officer salaries, most of your pensions are not in the defense budget, not like in the United States. Most of those salaries are in the Veterans Affairs Commission. That in an of itself raises defense spending by about \$3 billion a year

How about research and development? That's also a significant portion that's not in the defense budget. That is in the National Science Council budget, and that's actually growing, which is not a bad thing. I'm just stating a fact. Let's look at, for example, special budget – special budget for housing – military housing. That's about a billion a year over the last four years. Let's look at, for example, the military share of the interest that's being paid on the national debt. I've come up with figures – or you can add in, for example, if you make enough of an effort into looking at Taiwan's real-level defense spending, as one does to PRC defense spending – for example, by adding purchasing-power parity that people like to do on China – and apply that to Taiwan, you can come up with a figure that's pretty significant, at least double what the stated figure is. I guess what I'm saying is that all these arguments about Taiwan not spending enough on defense really don't have a lot of base, because nobody has asked the question how much has Taiwan really spent on defense?

Nevertheless, there are other things in terms of looking at the possible impact of defense spending, for example, possible cooperative partnerships. There is also like an impact on economy at the local level in research and development spin-offs. So it's just something to sort of keep in the back of your mind about a possible value of defense spending.

The fourth value is information. Political leaderships in a democracy rely upon accurate and reliable flow of information in order to make decisions. The defense establishment is the number one provider of information to Taiwan's leadership, both in terms of external threats and opportunities, and also internally. And on the internal security line, let me follow up and pull a thread that Richard mentioned. One of the

reasons why many U.S. companies – and the U.S. government, for that matter -- are not as willing as they used to be to invest, for example, technology and resources in Taiwan is because of fear of third-party technology diversion. Now, a lot of people complain about this, but who has taken action? Has anybody actually said well, why don't we get a Department of Commerce Bureau of Industry and Security team to go over and work with Taiwan on export control laws and policies and enforcement mechanisms? Taiwan's defense establishment and the internal security can play a very, very important role and very positive role not just for its security but also for economic development.

Okay, so those are the four values. Now, let's look at sort of what I call the four factors in terms of measuring the efficacy of the defense establishment. First, civilian control. Over the last ten years – or actually six years – the level of change in Taiwan in the defense establishment is absolutely incredible, and the accomplishments and achievements that they've made are also incredible, and frankly, have not been acknowledged enough. Taiwan has made huge changes and huge contributions to the people of Taiwan. So on the civilian control of the military, they have taken some steps. It's not an easy process. Change in general in a military establishment is not easy, but there has been some progress. A second factor is an increased role of the legislature in Taiwan. It's still in a growing process, and there are some things that can be done. Some people complain about Taiwan's legislature, because you change members so often, or change committee chairmanships. That may have been true a couple years ago, but now you have four or five members of the defense committee, for example, Lee Wen-Chung, Lin Yu-Fang and Ting Shou-chung and some others who have been there now for at least four terms, and they're developing a significant amount of expertise. They have staffs that aren't apparent, but they're out there. These guys get some good advice.

Let's look at another factor – informal relations. There are two ways to look at this thing. Militaries, in terms of being able to respect civilian authority, need to have civilians who do understand defense issues. And I would give some credit to the DPP for actually going out of their way to learn a lot more about defense and develop relationships with the military. And this has not been acknowledged very often. People like Lee Wen-Chung and (inaudible) and there are several others, including Tsai Ming-hsien, who have gone out of their way to be able to understand defense issues in a better way.

The fourth factor is the military's relationship in the society. Sort of to cut this short, one issue that I want to sort of stomp on – and that's the issue of transparency. There is nothing more important in the military, in terms of effective contributions to society, than being transparent. It has made significant progress. Just go take one look at the Internet and go surf around on the MND web page. It is incredible in terms of the openness. There are other steps they could do. I would raise another question. Why is 16 percent of Taiwan's defense budget classified – 16 percent? And 25 percent of Taiwan's defense budget is for arms sales. About 16 percent of that budget generally covers U.S. arms sales with Taiwan. I'm just wondering why is it classified? I never quite understood this, and I'm happy if anybody has answers.

Okay, so with all this in mind, we can start with the scorecard. On the positive side, the high points – transformation. The positive progress that Taiwan’s defense establishment has made in terms of transforming itself has gone unnoticed. Transformation started in 1998 with a group of military mavericks working in conjunction with some key legislators to be able to begin to transform the military system. It ended up in the National Defense Law of 2000 that was enacted in 2002-2003. It’s still working itself out. One needs to be patient. These things – when you have a law that’s the equivalent of Goldwater-Nichols and the 1947 U.S. National Security Act combined – have a huge change, I mean, major, when you reshift whole bureaucracies from the General Staff to the Ministry of Defense. It’s big. So they’ve done a pretty good job, I think, on transformational management.

Number two, reorganization. It’s related, but they have tried to reorganize themselves, and I think are doing a pretty decent job. They’re experimenting, for example, in the doctrinal aspect of this, experimenting to see what works and what doesn’t work. And so I’d give them a high credit for beginning some experimentation.

Thirdly, commitment to defense. Many people claim Taiwan is not committed to its defense. I disagree wholeheartedly. Anybody with homes and families in Taiwan is committed to their defense. I sense it doesn’t matter if you’re KMT or DPP – I sense that if anybody from on the other side of the Taiwan Strait set foot on Taiwan, I think you’d – people claimed that Taiwan turned to a soft society. They like the KTVs and coffee shops and things. But it may be soft or one could be soft, but you try to take that away, I think you’re going to see a lot of pissed off people. And I’d hate to be the PLA guy on Chung Hsiao East Road running around there. You know, underneath this kinder, gentler shell of a Taiwan military, I think it’s a hardcore shell that would be willing to inflict significant physical destruction on anybody that tried to step foot on Taiwan that wasn’t invited.

So those are some areas in terms of positive things. Possible areas of improvement? Economic development. I mean, I would recommend maybe looking at doing a study on the possible impact of defense spending on the economy. There’s a lot of things that could be done. Taiwan has an absolutely fantastic array of small and medium-sized enterprises that have technological talent. Think about, for example, not just U.S. selling stuff to Taiwan, but what about some of these enterprises selling stuff to the Department of Defense? There are a lot of opportunities there if people just look at it.

Another possible area of improvement – “civilianization.” Again, there’s a lot of talent. The United States Department of Defense – we’ve had many secretaries of defense that have a lot of business experience. Could you imagine, for example, putting a Stan Shih or Morris Chang or a Wang Yung-ching or somebody in charge of the defense establishment for management? Or think about putting civilians – true civilians – you already have a civilian deputy minister of defense on the policy side. How about a civilian deputy minister of defense on the acquisition side that actually runs some of these defense business issues, defense economy?

Thirdly, transparency. One cannot overstate the negative effect the Lafayette case had on the image of Taiwan's government and Taiwan's military. They made a lot of positive steps, but more transparency would be a good thing. For example, answer that question – why is 16 percent classified? I'm not sure.

So with that, I will wrap it up and turn it back over to Richard.

(Applause)

DR. BUSH: Thank you very much, Mark, for a revisionist perspective on an important subject. I think we're gaining some refugees from AEI, which we're grateful for. Thank you to the rest of you for staying. We have about 35 minutes until the coffee break, and so the floor is open for questions. Please identify yourself and Wen-yen Chen in the back, please wait for the mic. The mic, please.

Q: Wen-yen Chen from Formosan Association for Public Affairs. In the previous session, Dr. Kuan John indicated that the KMT does not oppose to reasonable military defense. I just wonder, this question is for Mark, what is your assessment about this arms sale package? Is it unreasonable or it is reasonable?

(Laughter)

MR. STOKES: Well, first of all, I would leave that decision up to the people of Taiwan to decide for themselves in terms of what's reasonable and what's not reasonable.

MR. BUSH: Well, you are part of the people of Taiwan now.

(Laughter)

MR. STOKES: Okay. I won't hold back on my opinions. I would argue – I would not answer your question directly, but here's what I would say. If again, going along with my thesis that if there were a different approach to thinking about the way that we do defense business with Taiwan, for example, I would argue if we would have looked at doing some sort of co-production on the submarines three years ago, I think you may have a program already underway. I have a hard time seeing a legislator turning down a program that is going to create, let's say, 2,000 or 3,000 jobs –not in his district, but just in general – a transfer of technology that's involved that is a capital investment for Taiwan's long-term economic development. I just have a hard time seeing this. Same thing on missile defense, same thing on P-3s. I am fairly optimistic at least on P-3s passing, let's say, in the next six months or so. Maybe one reason is because there is a significant co-development, or significant package that's involved here. But so I guess I would skirt it by first saying it's up to Taiwan people to decide, and I'm not going to inject myself in that. But I would posit that if you do have more of a – less of a sales approach and more of a strategic partnership approach, I think there may be more of an incentive to invest more in some of these systems.

DR. BUSH: Harvey Feldman?

Q: Thank you. I am one of the refugees from AEI and I just heard Ma Ying-jeou, which you might be interested, say in an answer to a somewhat similar question that the KMT position is certainly that they want a reasonable and sufficient defense for Taiwan, no definition of what that might be. I would point out that you couldn't have had co-production three years ago because the supplemental budget was introduced only – not quite two years ago in the summer of 2004, right? That's one point I might make. The other on co-production is that it had been considered or talked of and the general consensus was it would raise the already-huge price on these non-existent submarines, were it to be a subject of co-production.

That's just comment. An additional comment on your presentation, Mark, I would simply point out as to adequacy of defense preparations that the indigenous defense fighter readiness rate is 63 percent, that the two Kidds, which left Charleston in November last, came with their missile lockers only half full because they couldn't afford to fill them, that Cobras exercise live-fire once a year. Whether this bespeaks an adequate defense budget, I leave to you.

MR. STOKES: Okay, let me go back to three years ago. In 2002 you had 225 legislators, right? One hundred and thirty legislators wrote a letter to President Chen Shui-bian, stating very clearly they would not support the submarine program if there was not a significant domestic element in the production. The reason why the cost figures went up had to do with the structuring of the program. For example, the CSBC [Taiwan's China Shipbuilding Corporation], when you have re-tool your production, that's certainly going to drive up production costs. Co-production does not mean actually investing in a production capability in Taiwan. It means an equitable work share. In other words, a work share in terms of, for example, outsourcing of – for example, materials – outsourcing of basically subsystem components. It's looking at Taiwan's comparative advantages in a major complex program, seeing where Taiwan could do things cheaper than the United States and making the effort to do something like this. This, whenever I think of reasonable and fair, this is what I tend to think of. Again, I would argue that if there would have been a more positive effort to try to work with Taiwan on some sort of collaborative effort on submarines that creates jobs and income, then CSBC – which, by the way, after that decision was made, they ended up having to lay off a significant number of workers that I think we probably could have seen more progress.

In terms of the readiness rate, there is a problem here. I am going off on a tangent a little bit, but it has to do with the proportion that is in the defense budget – 50 percent of the defense budget right now is in personnel, and that's just in the defense budget, let alone the pensions – 50 percent for personnel. There was some intention at one time to – under some of the downsizing programs to take some of those funds and dedicate them for force modernization. That didn't work, because you have a volunteer program in which the salaries of volunteers were three times as high as your conscripts. That took all those funds away. But the pressure for force modernization other investment in the new

weapons systems, there is a cost opportunity because it does reduce funds that are dedicated toward readiness – spare parts, things like this.

There's another problem is that spare parts – again, sort of detail here, but on spare parts, maybe think about instead of having to come back to the U.S. to get spare parts, maybe looking at establishing spare parts production capability in terms of logistics supply chain in Taiwan. That may make things a little bit better. I've heard a lot of the readiness issues, regarding the IDF. A lot of it has to do with some logistics problems. That's an area that needs some attention is logistics in general. I'll leave it at that.

Q: Hi, I'm Gerrit Van der Wees from the Formosan Association for Public Affairs. I have a question for Richard Vuylsteke. Thanks for your very down-to-earth and incisive analysis. There is increasing talk here in the United States about a free trade agreement with Taiwan. My question to you is – is Taiwan ready economically and with regard to issues like IPR? Is the U.S. ready politically?

MR. VUYLSTEKE: Dutch, right? (Laughter) My name was pronounced correctly – Vuylsteke.

The Board of the American Chamber has been discussing the FTA issue. I met with Minister Ho Mei-yueh a long yesterday ago on this very issue. And we'll be meeting this week with various people. The short answer to your question on FTA from the Chamber's point of view, and it was stated in our white paper and is still fairly consistent, is that an FTA should have economic content to it. The two studies that were made in the last couple years on FTA listed somewhat underwhelming economic consequences for the American side and the Taiwanese side for an FTA. It's been seen primarily as a political issue, I think, on the Taiwan side and it's been argued that way. We've been encouraging – in fact, we're looking forward to trying to find some economic content to it, although I don't think the foreign business community should be the main driver.

The one area, for those who follow the FTA issue – one of the interesting things about the two studies, one by Chung Hua Institution for Economic Research and one by IIE that Nick Lardy did, in both of those reports there was hardly any mention of the service industries. What's interesting in the economic transformation of Taiwan is that as manufacturing has moved offshore and what's remained has moved up to high tech is that the big growth area in Taiwan, at least as a percentage of GDP, is really in services. Yet if you look at the service industry sector in Taiwan, very little of it is world-class or first-world-class. There is a just a lot of economic opportunity there. So what we have been doing on the Chamber side is to encourage the minister of economic affairs and others who are looking at an FTA to really dig in to the service industry component, looking ahead at Taiwan's economy instead of the current status of things as maybe an area which there could be some increased interest on FTA.

Now, the real problem is, of course, as you know – and I was at a conference last week in Manila of my counterparts from around the region, executive directors of

American Chambers – is that Thailand, and South Korea, and Malaysia are all looking at FTAs. The authority runs out the middle of next year, and quite frankly, those three countries have had a cross-ministerial team working quite vigorously, not only in-country to prepare people for such things as agricultural issues, but also have developed a very strong business community support within the United States. That has not happened nearly as effectively so far in the Taiwan side; that is, identifying business sectors that would benefit from FTA. That doesn't say it can't be done. We encourage that to happen and of course will be willing to do so.

I don't think there is any political reason not to do it. The second part of your question – as far as I am concerned, as a spokesman for the Chamber, the real question is economic. Where is the beef, basically, on the bone of what we would see as a potential benefit to both sides?

MR. STOKES: Just to piggyback – this isn't my area of specialty, but that's never stopped me from commenting on things in the past – I think there is actually a U.S. strategic interest in moving forward on an FTA with Taiwan. The very good study done by Nicholas Lardy does describe in excruciating detail some of the costs and benefits of an FTA for the United States and for Taiwan, for that matter. To me, the real benefits of an FTA is – and I told myself I'm not going to get into a China threat speech here, but I can't help myself – to me, the greatest threat that the PRC poses to Taiwan today in many ways is economic in nature, shutting off Taiwan, marginalizing Taiwan to the regional economy in terms of Taiwan being able to expand its trade relations with Northeast Asia and Southeast Asia. One of the biggest benefits of an FTA could be to be able to encourage or provide other countries – for example, Korea, Japan, Southeast Asia, – an incentive to conclude an FTA with Taiwan that for them and for Taiwan could have significant benefit.

Number two – and this just is sort of an out-of-the-box thing – I think there are a lot of benefits for direct links. It's just a pain in the butt to fly from Taipei to Hong Kong up to Shanghai. It's much easier to go to some China airport and spend three hours and then head up to Shanghai. Why couldn't you look at some sort of a deal – FTA for three links, in terms of on the three links, provide DPP with a little bit more confidence that they're not going to get sucked into the Chinese economy by looking at an FTA to be able to offset that. I just throw that out for comment.

DR. VUYLSTEKE: I'd like to add to that. You know, the question that's not been asked, but I think it's an important one to address on FTA is will American companies support an FTA for Taiwan because they are also doing business in China? Do they see it as an unnecessary risk? In a sense, that is a legitimate question, but I would say it's also kind of the wrong question. The real strength of Taiwan – I mean, if you go back – I've been following the region – let's see APROC – the plan to make Taiwan an Asia Pacific Regional Operation Clan was clear back in the early '90s. It's been recast several times. Location, location, location – all the selling points of the government for Taiwan. Underpinning that was some kind of very strong economic relationship with the region, including China. As Mark has just pointed out, frankly, the

location of Taiwan is south of Jakarta, as far as flight time, or Frankfurt. I mean, there is no advantage to the location of Taiwan when you're dealing with China, because of the indirect routes.

Now, that used to be a CEO problem four, five years ago. Now, it's everybody's problem because of attorneys and maintenance people and staff training and all the integration of companies across the straits. Eighty-five percent of the companies I represent have operations on both sides of the Strait, and the Taiwanese companies, the local ones that are really internationalized do, too. So the real strength of a Taiwan FTA would be to leverage China, quite frankly, and say that, you know, it's not an either/or. The pie can get huge for everybody if there is an FTA with Taiwan that also is sold on the basis that there is better integration with China, not just direct links, but across the board on the financial services and so forth that will allow Taiwan with its better rule of law, with its better IPR protections, so forth, to differentiate itself effectively as a different location – a location for different aspects of investment than you have in China so that the supply chain things we already know about can be matched with the human supply chain and the HR issues of flow of people to develop between Silicon Valley to Taiwan to China where you've got different levels of IPR, different kinds of R&D centers, but the idea – the mindset – is an integration in the flat world. It is the idea that no, no, no, we don't want to invest in China. Go to India. Go to Southeast Asia to invest. This is so divorced from reality for businesspeople. They're doing both. You don't go to India instead of China. You expand into India, because that's the way the structures of corporations works. That's true of Taiwanese companies, too.

So the real selling point for an FTA, it seems to me, for Taiwan is to recognize that it has been a major player and a world economic player, and it's going to be even more so if it integrates economically effectively with China because it's got so many advantages to offer over/against China that it's not been able to implement because of this lack of prostrates and these other restrictions. I think with that kind of mindset, then the selling package for an FTA, which would be say that China wins, United States wins, Taiwan wins because we're all going to have a bigger economic pie and a better quality of life for our people, it just happens, is a much stronger argument. If it's a thumb in the eye to China because of this or whatever, it's not going to get off the ground.

DR. BUSH: Eric McVadon? Then I'll come here.

Q: Eric McVadon, the Institute for Foreign Policy Analysis. My question is both for Richard and Mark. I took note when Ambassador Feldman mentioned, for example, the idea of a readiness rate of only 62 percent and the kids without a full complement of missiles and so forth, but it reminded me that I view the Taiwan security issue as a much more complex problem than that, and probably the most difficult security dilemma of maybe any entity that I can imagine, maybe even more complex than ours even with our worldwide commitments as we see them and so forth. So my question to you as two people looking almost as insider: Are the Legislative Yuan, the Executive Yuan, the Taiwan public, and so forth, in any way engaged in comprehending the realistic aspects of what their security situation is and what it implies and their reliance on the U.S., what

the PLA is doing as far as modernization and so forth is concerned? Is there a sophisticated debate going on? Is this realistic or is it altogether politicized? Are we beginning to see the development of people, for example, within the DPP who truly have this sort of appreciation for how complex their security issues are and so forth? Would you reflect on those things for a moment for us, please?

MR. STOKES: First of all, my sense, and I have not been to the Legislative Yuan all that often – but one can go on the Legislative Yuan web page. I can't quote it but it's something like www.ly.gov.tw or whatever, but go in and take a look and you'll be surprised because there is a record on there – obviously not on the classified briefings, of which there are way too many because 16 percent – but anyway, there is a record of things that have been discussed on there. You can see comments made by legislators. Legislators will post some of the things they've had. The special budget issue, contrary to popular belief, actually has been discussed in some degree of substance for a couple of years among legislators. You just go on the website and take a look at it.

Yes, you have the pan-Blues who have blocked the special budget 46 times from being introduced out of the Secretariat or out of the Procedures Committee. But there has been some degree of debate on the systems. To me, in terms of Taiwan's domestic polity, it comes down to a couple of major issues. Number one is political power, not that different from here in Washington. It's winning the next election. It's thinking locally, to a certain extent. And again, I would say Taiwan is not that different from U.S. Congress. U.S. Congress also thinks locally.

Number two – economy. It's the economy. I mean, that's what's on. You can look. The Joe-Blow-on-the-street's mind is on the economy. You know, the college graduate that only gets an average 26,000 NT a month, not much hope of that rising over the next several years. At most, you know, the average salary is 43,000 NT. So salaries stay the same and inflation is going up, the cost of living is going up. This is what is on the minds of people. When you have these sorts of problems, there's not a lot of time to start thinking about the threat. I may be wrong, and I'm open to correction, but that's just my sense of things.

MR. VUYLSTEKE: I do just want to add a little bit. I think the second half of your question about the public debate and the quality of it is a very important one. I think one of the most –

Q: I'm, of course, asserting that it's been lacking in the past.

MR. VUYLSTEKE: Right, I think that's probably true. In some respects, it's still true. The kinds of things that we've discussed before like NCO training, NCO retention, the quality of the training of recruits, the maintaining especially of technical specialists and so forth are still issues. But the real issue, I think, when it comes to getting the public to understand some of the issues that you have raised, a positive sign is in fact over the last three or four years in particular, I think we have seen the rise of real think tanks in Taiwan.

In the first decade when you see the law on the civic organizations, which changed in 1988, a lot of the think tanks that became active were really personality-based, party interest-based kinds of organizations. Now, we've seen throughout Taiwan's society the rise of civic institutions that are really in the mode that we think more in the States. That is to say they cut across socioeconomic lines, whether they are *wai sheng* or *nei sheng*, age groups, you name it. They're quite complex and diverse in their structure. We're seeing much of the same thing in many think tanks that are emerging that try to be across the spectrum politically. That's still narrowly staged. Even some of the party tanks are this way, too, but we're seeing a greater sophistication of those people out of government who may be in soon if there is a change or if there is a rotation of people, and they're already informed on the issues. I think this is a very positive step.

What is missing so far, I think, of course, it's a matter of degree of development – what's still missing is that those think tanks are not driving the public debate and public awareness that you've raised in your question. The answer is because there are still an awful lot of gun-shy people because of the way the media tears into anybody who holds a rational opinion. As you know, if you read the Taiwanese newspapers, one of the biggest problems is that when reporters get it right, the editors put on a National Enquirer sort of headline on top of it, and that catches. That drives the debate instead of the content of the article. So we're looking at – one of the aspects of democratic consolidation, of course, is gradually increasing the level of public discourse. That's a constant issue. It's not just a one-off affair. But the direct answer to your question – it's not as good as it should be. The real questions, the debate is primarily on the sales and not on the whole strategic picture as it should be, and that worries me.

Q: My question is for Richard. I greatly enjoyed your presentation, particularly on the legislative capacity issues. I wanted to ask you first, what's standing in the way of fixing these problems? Is it a lack of awareness of what they're missing? If the awareness is there, is it a lack of political will? Are there budgetary or human resource constraints that they're facing? Second, kind of picking up on the political will aspect, what's the politics of the Legislative Yuan strengthening at this point? I mean obviously right now the KMT would have the most to gain from this because they control the majority, but if Mr. Kuan's predictions earlier are correct, then after 2008-2009, this may be one of the DPP's few sources of power, and so they may have a stake in strengthening this institution even before those elections. So my question really is do you see those two parties coming together at all and agreeing that yeah, we got to address some of these issues?

DR. BUSH: If I could just add to that, I would note that the point at which the United States Congress increased its institutional capacity in terms of a mammoth increase in the number of staff, improving the Congressional Research Service, all these things, came after the Vietnam War, and a recognition that the Congress had failed institutionally in its capacity to check the executive branch in the waging of war.

DR. VUYLSTEKE: That's why I'm kind of optimistic on the answer to this. The United States came at this very late ourselves. One of the great things about Taiwan's democratization is that they in fact have looked abroad at not only what has worked, but what has failed in other societies, and have telescoped their development of the institutions that they have already. That's really the basis of my optimism.

I wish I could answer why it hasn't happened yet. I think maybe it's just that when you have a party change after a long rule by a one-party government, you look elsewhere in the world, you see the same sorts of priorities. The priorities are always to get your history right, now. Let's get the indigenous languages better recognized, let's settle scores in one way or another and so forth, and that takes time to do. We're still in that stage in some respects on getting what I would call some kind of modus operandi for the political parties to say, okay, in certain areas, we're just going to agree to focus on national issues and we'll fight on other things. We haven't quite reached that point yet. I think we will.

I think the reason that the Chamber has been pushing these consolidation issues that I mentioned is that we see this as a way that in fact all parties benefit. There is a tendency to say, well, we changed the constitution. This is what happened, next election. Our point has been, as outside observers: the constitution's supposed to last you 100 years, 200 years. People are going to change; institutions are going to change; party leadership is going to change. Let's try to structure something that is best for all of us. I think the argument for LY change is to – on the staffing and so forth – is in fact advantageous to all parties, because then the debates on issues will shift to facts and material evidence and not on whims and impressions.

I want to add one quick thing, I'm sorry, but I don't want us to think that I'm just talking about the LY as far as institution-building. We see the same sort of issues in the Executive Yuan when it comes to regulators, that for whatever reason – isolation of Taiwan or non-participation in international organizations – that we have people regulating, say, the telecommunications sector of society who don't understand the basic terminologies. Same with logistics that there is a lag time in the court system as well as in the executive branch on the facts of modern – the way modern society, modern economies work. And that has a distinct disadvantage for the kinds of regulations that are being passed. So what we're looking at – and that's why I think the training programs are so important – that there is an acceptance. You know, we go through training all the time. It's not like we're patronizing to Taiwan. You know, join in on programs that we have running all the time in our branches of the executive and LY and judicial branches to keep on top of changes in technology and so forth. I think that concept has already been understood by Taiwan. Now what's lacking is how do you do it? We don't want to reinvent the wheel or just reinvent the flat tire for that matter. We want to move swiftly and decisively to doing things that are going to be more efficacious for the way we work in the LY and EY. I think that's where the sharing experiences with not only the United States, but other societies that are democratic would be very useful.

MR. STOKES: Just quickly, one of the questions that is out there with constitutional changes on how the LY is going to be selected next time around – the single-member district, the larger single-member district, was sold in part on the idea that it would make legislators more accountable to the local electorate and that it might actually break down the tendency to go to party discipline or ideological issues, which in a way is good for what Richard is saying, not only because you would worry about local issues rather than the ideological things – you get more down to facts. The other argument, of course, is that then you get legislators who are less dependent on party slate putting together, and that may break down the party alignment basis. That is, if the same party controls both the Executive and the Legislative Yuans, you might get some institutional conflict, as it were, looking out for institutional prerogatives rather than partisan prerogative, as you see in Washington sometimes when the same party controls both.

MR. BUSH: Dr. Kuan, did you have a comment? Could we have the mic, please? It's coming.

JOHN KUAN: I'd like to add two more points on the arms procurement problem. I think there are two factors, which are very important with regard to the arms sale. One is the professional judgment. When President Chen Shui-bian decided to present the bill to the Legislative Yuan, the total amount is U.S.\$18 billion. But then Defense Minister Tang Yiau-ming declined to countersign, and as a result, he resigned. So some of the professionals don't agree with this package.

The second point is, as Mark said, finally, you are up to the people – the people, whether they are accepting or not. Let me tell you, since the – this deal was presented to the Legislative Yuan, that's September 2004, up to now, to my knowledge there are 22 polls conducted on this problem; 17 of them strongly against it; only 5 in favor. These five were conducted by the government.

So you can see that the problems that the DPP has: so far, you know, it has failed to convince the people why we should put up for a single package deal. Now there is – you know, in Taiwan we were – everybody knows that the PRC (inaudible) military stance, and (inaudible) much better and I – you're an expert on this problem.

During the five year period from 2002 to 2005, the PRC also bought lots of arms from Russia. The total amount is only U.S.\$13 billion, so people in Taiwan didn't like to ask well, why are Soviet weapons so cheap, and the U.S. weapons so expensive? (Laughter) Five years' period, only \$13 billion, and this single package deal is \$18 billion. The submarine item alone is \$12 billion. This is something just ridiculous, so the people don't like to accept this.

Thank you.

Q: Just a very quick, rapid-fire point. On submarines, \$12 billion – the fact of the matter is that price that was quoted – nobody knows how much a submarine costs, and

frankly (inaudible) in terms of your comment on debates, what is there to debate? No responsible legislator in the world would appropriate \$12 billion for something that they don't know what they're getting, there's no definition. Nobody would. Nobody in the U.S. Congress would; nobody in Taiwan would, so there's really nothing to debate.

As soon as that thing came over with no definition, it died. There's no debate on it.

DR. BUSH: One final question before we break – anybody? Any takers?

Q: Not a question – I thought I'd simply repeat something else that Ma Ying-jeou said that you might enjoy. He was asked why the KMT doesn't support the government on any of these issues. He said, "Hey, we're the opposition." (Laughter)

DR. BUSH: On that note – (laughter) – hey, I'm a Democrat and I'm sticking to it – (laughter) – we'll break for coffee. Thank you very much.

(End of panel)