

118TH CONGRESS
1ST SESSION

H. R. 4004

To approve and implement the Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States regarding Trade between the United States of America and Taiwan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2023

Mr. SMITH of Missouri (for himself, Mr. NEAL, Mr. SMITH of Nebraska, Ms. SEWELL, Mr. KELLY of Pennsylvania, Ms. DELBENE, Mr. FERGUSON, Ms. CHU, Mr. MOORE of Utah, Mr. PANETTA, Ms. VAN DUYN, Mr. FEENSTRA, Ms. MALLIOTAKIS, Mr. SCHNEIDER, Ms. TENNEY, Ms. SÁNCHEZ, Mr. KUSTOFF, Mr. DOGGETT, Mr. BLUMENAUER, Mr. DAVIS of Illinois, Mr. EVANS, Mr. KILDEE, Mrs. MILLER of West Virginia, Mr. LARSON of Connecticut, Mr. HIGGINS of New York, Mrs. FISCHBACH, Mrs. STEEL, Mr. SMUCKER, Mr. ARRINGTON, and Mr. ESTES) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To approve and implement the Agreement between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States regarding Trade between the United States of America and Taiwan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “United States-Taiwan
3 Initiative on 21st-Century Trade First Agreement Imple-
4 mentation Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) As a leading democracy, Taiwan is a key
8 partner of the United States in the Indo-Pacific re-
9 gion.

10 (2) The United States and Taiwan share demo-
11 cratic values, deep commercial and economic ties,
12 and strong people-to-people connections. Those links
13 serve as the impetus for expanding engagement by
14 the United States with Taiwan.

15 (3) Taiwan is the eighth-largest trading partner
16 of the United States and the United States is the
17 second-largest trading partner of Taiwan.

18 (4) Since 2020, the United States and Taiwan,
19 under the auspices of the American Institute in Tai-
20 wan (AIT) and the Taipei Economic and Cultural
21 Representative Office in the United States
22 (TECRO), have held an economic prosperity part-
23 nership dialogue to enhance economic and commer-
24 cial ties between the United States and Taiwan, in-
25 cluding with respect to supply chain security and re-

1 siliency, investment screening, health, science, and
2 technology, and the digital economy.

3 (5) On June 1, 2022, the United States and
4 Taiwan launched the United States-Taiwan Initia-
5 tive on 21st-Century Trade to deepen our economic
6 and trade relationship, advance mutual trade prior-
7 ities based on shared values, promote innovation,
8 and support inclusive economic growth for workers
9 and businesses.

10 (6) On August 17, 2022, the United States and
11 Taiwan announced the negotiating mandate for for-
12 mal trade negotiations under the United States-Tai-
13 wan Initiative on 21st-Century Trade and agreed to
14 seek high-standard commitments.

15 (7) Article I, section 8, clause 3 of the Con-
16 stitution of the United States grants Congress au-
17 thority over international trade. The President lacks
18 the authority to enter into binding trade agreements
19 absent approval from Congress.

20 (8) Congressional approval of the United
21 States-Taiwan Initiative on 21st-Century Trade
22 First Agreement will ensure that the agreement, and
23 the trade relationship between the United States and
24 Taiwan more broadly, will be durable. A durable
25 trade agreement will foster sustained economic

1 growth and give workers, consumers, businesses,
2 farmers, ranchers, and other stakeholders assurance
3 that commercial ties between the United States and
4 Taiwan will be long-lasting and reliable.

5 **SEC. 3. PURPOSE.**

6 The purpose of this Act is—

7 (1) to approve and implement the Agreement
8 between the American Institute in Taiwan and the
9 Taipei Economic and Cultural Representative Office
10 in the United States regarding Trade between the
11 United States of America and Taiwan, done on June
12 1, 2023;

13 (2) to strengthen and develop economic rela-
14 tions between the United States and Taiwan for our
15 mutual benefit;

16 (3) to lay the foundation for further coopera-
17 tion to expand and enhance the benefits of the
18 Agreement; and

19 (4) to establish transparency and consultation
20 requirements with respect to Further Agreements.

21 **SEC. 4. DEFINITIONS.**

22 In this Act:

23 (1) **AGREEMENT.**—The term “Agreement”
24 means the Agreement between the American Insti-
25 tute in Taiwan and the Taipei Economic and Cul-

1 tural Representative Office in the United States re-
2 garding Trade between the United States of America
3 and Taiwan approved by Congress under section 5.

4 (2) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on Finance of the Sen-
8 ate; and

9 (B) the Committee on Ways and Means of
10 the House of Representatives.

11 (3) FURTHER AGREEMENT.—The term “Fur-
12 ther Agreement” means—

13 (A) any trade agreement, other than the
14 Agreement approved by Congress under section
15 5, arising from or relating to the August 17,
16 2022, negotiating mandate relating to the
17 United States-Taiwan Initiative on 21st-Cen-
18 tury Trade; or

19 (B) any nonministerial modification or
20 nonministerial amendment to the Agreement.

21 (4) NEGOTIATING TEXT.—The term “negoti-
22 ating text” means any document that proposes the
23 consideration, examination, or adoption of a par-
24 ticular element or language in an international in-
25 strument.

1 (5) STATE LAW.—The term “State law” in-
2 cludes—

3 (A) any law of a political subdivision of a
4 State; and

5 (B) any State law regulating or taxing the
6 business of insurance.

7 (6) TRADE REPRESENTATIVE.—The term
8 “Trade Representative” means the United States
9 Trade Representative.

10 **SEC. 5. APPROVAL OF AGREEMENT.**

11 Congress approves the Agreement between the Amer-
12 ican Institute in Taiwan and the Taipei Economic and
13 Cultural Representative Office in the United States re-
14 garding Trade between the United States of America and
15 Taiwan, done on June 1, 2023.

16 **SEC. 6. ENTRY INTO FORCE OF AGREEMENT.**

17 (a) CONDITIONS FOR ENTRY INTO FORCE OF
18 AGREEMENT.—The President may provide for the Agree-
19 ment to enter into force not earlier than 30 days after
20 the date on which the President submits to Congress a
21 certification under section (c).

22 (b) CONSULTATION AND REPORT.—The President,
23 not later than 30 days before submitting a certification
24 under subsection (c), shall—

1 (1) consult with the appropriate congressional
2 committees;

3 (2) submit to the appropriate congressional
4 committees a report that—

5 (A) explains the basis of the determination
6 of the President contained in that certification,
7 including by providing specific reference to the
8 measures the parties to the Agreement intend
9 to use to comply with the obligations in the
10 Agreement; and

11 (B) describes, including through the use of
12 economic estimates and analyses, how entry
13 into force of the Agreement will further trade
14 relations between the United States and Taiwan
15 and advance the interests of workers, con-
16 sumers, businesses, farmers, ranchers, and
17 other stakeholders in the United States; and

18 (3) answer in writing any questions that relate
19 to potential compliance and implementation of the
20 Agreement that are submitted by the appropriate
21 congressional committees during the 15-day period
22 beginning on the date of the submission of the re-
23 port under paragraph (2).

24 (c) CERTIFICATION.—A certification under this sub-
25 section is a certification in writing that—

1 (1) indicates the President has determined Tai-
2 wan has taken measures necessary to comply with
3 the provisions of the Agreement that are to take ef-
4 fect not later than the date on which the Agreement
5 enters into force; and

6 (2) identifies the anticipated date the President
7 intends to exchange notes or take any other action
8 to notify Taiwan that the United States has com-
9 pleted all procedures necessary to bring the Agree-
10 ment into force.

11 (d) REPORT ON IMPLEMENTATION.—

12 (1) IN GENERAL.—Not later than 180 days
13 after entry into force of the Agreement, the Trade
14 Representative shall submit to the appropriate con-
15 gressional committees a report providing an assess-
16 ment of the implementation of the Agreement, in-
17 cluding by identifying any provisions for which fur-
18 ther progress is necessary to secure compliance.

19 (2) FORM.—The report required by paragraph
20 (1) shall be submitted with any confidential business
21 information clearly identified or contained in a sepa-
22 rate annex.

23 (3) PUBLICATION.—Not later than 5 days after
24 the report required by paragraph (1) is submitted to
25 the appropriate congressional committees, the Trade

1 Representative shall publish the report, with any
2 confidential business information redacted, on a pub-
3 licly available website of the Office of the United
4 States Trade Representative.

5 **SEC. 7. TRANSPARENCY AND CONSULTATION WITH RE-**
6 **SPECT TO FURTHER AGREEMENTS.**

7 (a) SENSE OF CONGRESS ON DEEPENING RELATION-
8 SHIP WITH TAIWAN.—It is the sense of Congress that the
9 United States should continue to deepen its relationship
10 with Taiwan. Any Further Agreements should be high-
11 standard, enforceable, and meaningful to both the United
12 States and Taiwan, as well as subject to robust require-
13 ments on public transparency and congressional consulta-
14 tion.

15 (b) ACCESS TO TEXTS OF FURTHER AGREE-
16 MENTS.—The Trade Representative shall provide to the
17 appropriate congressional committees the following with
18 respect to a Further Agreement:

19 (1) Negotiating text drafted by the United
20 States prior to sharing the negotiating text with Tai-
21 wan or otherwise sharing the text outside the execu-
22 tive branch.

23 (2) Negotiating text drafted by Taiwan not
24 later than 3 days after receiving the text from Tai-
25 wan.

1 (3) Any consolidated negotiating texts that the
2 United States and Taiwan are considering, which
3 shall include an attribution of the source of each
4 provision contained in those texts to either the
5 United States or Taiwan.

6 (4) The final text not later than 45 days before
7 the Trade Representative makes the text public or
8 otherwise shares the text outside the executive
9 branch.

10 (c) REVIEW OF TEXTS.—

11 (1) BRIEFING.—The Trade Representative shall
12 schedule a briefing with the appropriate congressional
13 committees to discuss the texts provided
14 under subsection (b).

15 (2) REVIEW.—The appropriate congressional
16 committees shall have not less than—

17 (A) 2 business days prior to the briefing
18 under paragraph (1) to review the texts provided
19 under subsection (b); and

20 (B) 4 business days after the briefing to
21 provide comments with respect to the texts before
22 the Trade Representative transmits any
23 such texts to Taiwan.

24 (3) ADDITIONAL TIME TO REVIEW UNITED
25 STATES NEGOTIATING TEXT.—If, during the period

1 specified in paragraph (2)(B), 2 members who are
2 not of the same political party and each of whom is
3 the Chair or Ranking Member of 1 of the appro-
4 priate congressional committees jointly request addi-
5 tional time to review the negotiating text provided
6 under subsection (b)(1), the Trade Representative
7 shall not transmit the text to Taiwan for a period
8 of 15 business days following the request, unless the
9 request indicates less time is necessary or the Chair
10 and Ranking Member issue a subsequent joint notifi-
11 cation to the Trade Representative that they have
12 concluded their review sooner.

13 (d) NOTIFICATION AND BRIEFING DURING NEGOTIA-
14 TIONS.—The Trade Representative shall—

15 (1) not later than one business day after sched-
16 uling any negotiating round with respect to a Fur-
17 ther Agreement, promptly notify the appropriate
18 congressional committees and provide those commit-
19 tees with the dates and locations for the negotiating
20 round;

21 (2) ensure that any individual described in sec-
22 tion 104(c)(2)(C) of the Bipartisan Congressional
23 Trade Priorities and Accountability Act of 2015 (19
24 U.S.C. 4203(c)(2)(C)) that attends a negotiating
25 round is accredited as a member of the United

1 States delegation during any such negotiating round;
2 and

3 (3) provide daily briefings to the individuals de-
4 scribed in paragraph (2) during any such negoti-
5 ating round regarding the status of those negotia-
6 tions, including any tentative agreement to accept
7 any aspect of negotiating text.

8 (e) APPROVAL.—A Further Agreement shall not take
9 effect unless—

10 (1) the President, at least 60 days before the
11 day on which the President enters into the Further
12 Agreement, publishes the text of the Further Agree-
13 ment on a publicly available website of the Office of
14 the United States Trade Representative; and

15 (2) a bill is enacted into law expressly approv-
16 ing the Further Agreement and, if necessary, mak-
17 ing any required changes to United States law.

18 **SEC. 8. RELATIONSHIP OF THE AGREEMENT TO UNITED**
19 **STATES AND STATE LAW.**

20 (a) RELATIONSHIP OF THE AGREEMENT TO UNITED
21 STATES LAW.—

22 (1) UNITED STATES LAW TO PREVAIL IN CON-
23 FFLICT.—No provision of the Agreement, nor the ap-
24 plication of any such provision to any person or cir-

1 cumstance, which is inconsistent with any law of the
2 United States, shall have effect.

3 (2) INTERNAL REVENUE CODE.—The Agree-
4 ment does not constitute a free trade agreement for
5 purposes of section 30D(e)(1)(A)(i)(II) of the Inter-
6 nal Revenue Code of 1986.

7 (3) CONSTRUCTION.—Unless specifically pro-
8 vided for in this Act, nothing in this Act shall be
9 construed—

10 (A) to amend or modify any law of the
11 United States; or

12 (B) to limit any authority conferred under
13 any law of the United States.

14 (b) RELATIONSHIP OF THE AGREEMENT TO STATE
15 LAW.—No State law, or the application thereof, may be
16 declared invalid as to any person or circumstance on the
17 ground that the provision or application is inconsistent
18 with the Agreement, except in an action brought by the
19 United States for the purpose of declaring such law or
20 application invalid.

21 (c) EFFECT OF THE AGREEMENT WITH RESPECT TO
22 PRIVATE REMEDIES.—No person other than the United
23 States—

1 (1) shall have any cause of action or defense
2 under the Agreement or by virtue of congressional
3 approval thereof; or

4 (2) may challenge, in any action brought under
5 any provision of law, any action or inaction by any
6 department, agency, or other instrumentality of the
7 United States, any State, or any political subdivision
8 of a State, on the ground that such action or inac-
9 tion is inconsistent with the Agreement.

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