

Union Calendar No. 89

118TH CONGRESS
1ST SESSION

H. R. 4004

[Report No. 118–116]

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 DUYNE, 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

JUNE 21, 2023

Additional sponsors: Mr. LAHOOD, Mr. THOMPSON of California, Mr. PASCRELL, Ms. MOORE of Wisconsin, Mr. BEYER, Mr. MURPHY, Mr. STEUBE, Mr. WENSTRUP, Mr. BALDERSON, Ms. DELAURO, Mr. DIAZ-BALART, Mr. JOHNSON of Ohio, Ms. LEE of Nevada, and Ms. PLASKETT

JUNE 21, 2023

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on June 12, 2023]

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,*

3 **SECTION 1. SHORT TITLE.**

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

7 **SEC. 2. FINDINGS.**

8 *Congress finds the following:*

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

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

17 *(3) Taiwan is the eighth-largest trading partner*
18 *of the United States and the United States is the sec-*
19 *ond-largest trading partner of Taiwan.*

20 *(4) Since 2020, the United States and Taiwan,*
21 *under the auspices of the American Institute in Tai-*
22 *wan (AIT) and the Taipei Economic and Cultural*
23 *Representative Office in the United States (TECRO),*
24 *have held an economic prosperity partnership dia-*
25 *logue to enhance economic and commercial ties be-*

1 *tween the United States and Taiwan, including with*
2 *respect to supply chain security and resiliency, in-*
3 *vestment screening, health, science, and technology,*
4 *and the digital economy.*

5 *(5) On June 1, 2022, the United States and Tai-*
6 *wan launched the United States-Taiwan Initiative on*
7 *21st-Century Trade to deepen our economic and trade*
8 *relationship, advance mutual trade priorities based*
9 *on shared values, promote innovation, and support*
10 *inclusive economic growth for workers and businesses.*

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

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

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

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

6 **SEC. 3. PURPOSE.**

7 *The purpose of this Act is—*

8 *(1) to approve and implement the Agreement be-*
9 *tween the American Institute in Taiwan and the Tai-*
10 *pei Economic and Cultural Representative Office in*
11 *the United States regarding Trade between the United*
12 *States of America and Taiwan, done on June 1,*
13 *2023;*

14 *(2) to strengthen and develop economic relations*
15 *between the United States and Taiwan for our mu-*
16 *tual benefit;*

17 *(3) to lay the foundation for further cooperation*
18 *to expand and enhance the benefits of the Agreement;*
19 *and*

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

22 **SEC. 4. DEFINITIONS.**

23 *In this Act:*

24 *(1) AGREEMENT.—The term “Agreement” means*
25 *the Agreement between the American Institute in Tai-*

1 *wan and the Taipei Economic and Cultural Rep-*
2 *resentative Office in the United States regarding*
3 *Trade between the United States of America and Tai-*
4 *wan approved by Congress under section 5.*

5 (2) *APPROPRIATE CONGRESSIONAL COMMIT-*
6 *TEES.—The term “appropriate congressional commit-*
7 *tees” means—*

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

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

12 (3) *FURTHER AGREEMENT.—The term “Further*
13 *Agreement” means—*

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

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

22 (4) *NEGOTIATING TEXT.—The term “negotiating*
23 *text” means any document that proposes the consider-*
24 *ation, examination, or adoption of a particular ele-*
25 *ment or language in an international instrument.*

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 “Trade*
8 *Representative” means the United States Trade Rep-*
9 *resentative.*

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 regard-*
14 *ing Trade between the United States of America and Tai-*
15 *wan, done on June 1, 2023.*

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

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

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

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

3 (2) *submit to the appropriate congressional com-*
4 *mittees 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 to*
9 *use to comply with the obligations in the Agree-*
10 *ment; and*

11 (B) *describes, including through the use of*
12 *economic estimates and analyses, how entry into*
13 *force of the Agreement will further trade rela-*
14 *tions between the United States and Taiwan and*
15 *advance the interests of workers, consumers, busi-*
16 *nesses, farmers, ranchers, and other stakeholders*
17 *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 con-*
21 *gressional committees during the 15-day period begin-*
22 *ning on the date of the submission of the report under*
23 *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 the*
3 *provisions of the Agreement that are to take effect not*
4 *later than the date on which the Agreement enters*
5 *into force; and*

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

11 (d) *REPORT ON IMPLEMENTATION.—*

12 (1) *IN GENERAL.—Not later than 180 days after*
13 *entry into force of the Agreement, the Trade Rep-*
14 *resentative shall submit to the appropriate congres-*
15 *sional committees a report providing an assessment of*
16 *the implementation of the Agreement, including by*
17 *identifying any provisions for which further progress*
18 *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 con-*
 2 *fidential business information redacted, on a publicly*
 3 *available website of the Office of the United States*
 4 *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—*

9 *(1) the United States should continue to deepen*
 10 *its relationship with Taiwan; and*

11 *(2) any Further Agreements should be high-*
 12 *standard, enforceable, and meaningful to both the*
 13 *United States and Taiwan, as well as subject to ro-*
 14 *bust requirements on public transparency and con-*
 15 *gressional consultation.*

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

20 *(1) Negotiating text drafted by the United States*
 21 *prior to sharing the negotiating text with Taiwan or*
 22 *otherwise sharing the text outside the executive*
 23 *branch.*

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

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 pro-*
4 *vision contained in those texts to either the United*
5 *States or Taiwan.*

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

9 (c) *REVIEW OF TEXTS.—*

10 (1) *BRIEFING.—The Trade Representative shall*
11 *schedule a briefing with the appropriate congressional*
12 *committees to discuss the texts provided under sub-*
13 *section (b).*

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

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

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

23 (3) *ADDITIONAL TIME TO REVIEW UNITED*
24 *STATES NEGOTIATING TEXT.—If, during the period*
25 *specified in paragraph (2)(B), two Members of Con-*

1 gress who are not of the same political party and each
2 of whom is the Chair or Ranking Member of one of
3 the appropriate congressional committees jointly re-
4 quest additional time to review the negotiating text
5 provided under subsection (b)(1), the Trade Rep-
6 resentative shall not transmit the text to Taiwan for
7 a period of 15 business days following the request, un-
8 less the request indicates less time is necessary or such
9 Members issue a subsequent joint notification to the
10 Trade Representative that they have concluded their
11 review sooner.

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

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

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

1 (3) *provide daily briefings to the individuals de-*
 2 *scribed in paragraph (2) during any such negotiating*
 3 *round regarding the status of those negotiations, in-*
 4 *cluding any tentative agreement to accept any aspect*
 5 *of negotiating text.*

6 (e) *APPROVAL.—A Further Agreement shall not take*
 7 *effect unless—*

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

13 (2) *a bill is enacted into law expressly approving*
 14 *the Further Agreement and, if necessary, making any*
 15 *required changes to United States law.*

16 **SEC. 8. RELATIONSHIP OF THE AGREEMENT TO UNITED**
 17 **STATES AND STATE LAW.**

18 (a) *RELATIONSHIP OF THE AGREEMENT TO UNITED*
 19 *STATES LAW.—*

20 (1) *UNITED STATES LAW TO PREVAIL IN CON-*
 21 *FLICT.—No provision of the Agreement, nor the appli-*
 22 *cation of any such provision to any person or cir-*
 23 *cumstance, which is inconsistent with any law of the*
 24 *United States, shall have effect.*

1 (2) *INTERNAL REVENUE CODE.*—*The Agreement*
2 *does not constitute a free trade agreement for pur-*
3 *poses of section 30D(e)(1)(A)(i)(II) of the Internal*
4 *Revenue Code of 1986.*

5 (3) *CONSTRUCTION.*—*Unless specifically pro-*
6 *vided for in this Act, nothing in this Act shall be con-*
7 *strued—*

8 *(A) to amend or modify any law of the*
9 *United States; or*

10 *(B) to limit any authority conferred under*
11 *any law of the United States.*

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

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

22 *(1) shall have any cause of action or defense*
23 *under the Agreement or by virtue of congressional ap-*
24 *proval thereof; or*

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

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[Report No. 118-116]

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