

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4004
OFFERED BY MR. SMITH OF MISSOURI

Strike all after the enacting clause and insert the following:

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.

1 (4) Since 2020, the United States and Taiwan,
2 under the auspices of the American Institute in Tai-
3 wan (AIT) and the Taipei Economic and Cultural
4 Representative Office in the United States
5 (TECRO), have held an economic prosperity part-
6 nership dialogue to enhance economic and commer-
7 cial ties between the United States and Taiwan, in-
8 cluding with respect to supply chain security and re-
9 siliency, investment screening, health, science, and
10 technology, and the digital economy.

11 (5) On June 1, 2022, the United States and
12 Taiwan launched the United States-Taiwan Initia-
13 tive on 21st-Century Trade to deepen our economic
14 and trade relationship, advance mutual trade prior-
15 ities based on shared values, promote innovation,
16 and support inclusive economic growth for workers
17 and businesses.

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

23 (7) Article I, section 8, clause 3 of the Con-
24 stitution of the United States grants Congress au-
25 thority over international trade. The President lacks

1 the authority to enter into binding trade agreements
2 absent approval from Congress.

3 (8) Congressional approval of the United
4 States-Taiwan Initiative on 21st-Century Trade
5 First Agreement will ensure that the agreement, and
6 the trade relationship between the United States and
7 Taiwan more broadly, will be durable. A durable
8 trade agreement will foster sustained economic
9 growth and give workers, consumers, businesses,
10 farmers, ranchers, and other stakeholders assurance
11 that commercial ties between the United States and
12 Taiwan will be long-lasting and reliable.

13 **SEC. 3. PURPOSE.**

14 The purpose of this Act is—

15 (1) to approve and implement the Agreement
16 between the American Institute in Taiwan and the
17 Taipei Economic and Cultural Representative Office
18 in the United States regarding Trade between the
19 United States of America and Taiwan, done on June
20 1, 2023;

21 (2) to strengthen and develop economic rela-
22 tions between the United States and Taiwan for our
23 mutual benefit;

1 (3) to lay the foundation for further coopera-
2 tion to expand and enhance the benefits of the
3 Agreement; and

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

6 **SEC. 4. DEFINITIONS.**

7 In this Act:

8 (1) **AGREEMENT.**—The term “Agreement”
9 means the Agreement between the American Insti-
10 tute in Taiwan and the Taipei Economic and Cul-
11 tural Representative Office in the United States re-
12 garding Trade between the United States of America
13 and Taiwan approved by Congress under section 5.

14 (2) **APPROPRIATE CONGRESSIONAL COMMIT-**
15 **TEES.**—The term “appropriate congressional com-
16 mittees” means—

17 (A) the Committee on Finance of the Sen-
18 ate; and

19 (B) the Committee on Ways and Means of
20 the House of Representatives.

21 (3) **FURTHER AGREEMENT.**—The term “Fur-
22 ther Agreement” means—

23 (A) any trade agreement, other than the
24 Agreement approved by Congress under section
25 5, arising from or relating to the August 17,

1 2022, negotiating mandate relating to the
2 United States-Taiwan Initiative on 21st-Cen-
3 tury Trade; or

4 (B) any nonministerial modification or
5 nonministerial amendment to the Agreement.

6 (4) **NEGOTIATING TEXT.**—The term “negoti-
7 ating text” means any document that proposes the
8 consideration, examination, or adoption of a par-
9 ticular element or language in an international in-
10 strument.

11 (5) **STATE LAW.**—The term “State law” in-
12 cludes—

13 (A) any law of a political subdivision of a
14 State; and

15 (B) any State law regulating or taxing the
16 business of insurance.

17 (6) **TRADE REPRESENTATIVE.**—The term
18 “Trade Representative” means the United States
19 Trade Representative.

20 **SEC. 5. APPROVAL OF AGREEMENT.**

21 Congress approves the Agreement between the Amer-
22 ican Institute in Taiwan and the Taipei Economic and
23 Cultural Representative Office in the United States re-
24 garding Trade between the United States of America and
25 Taiwan, done on June 1, 2023.

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

2 (a) CONDITIONS FOR ENTRY INTO FORCE OF
3 AGREEMENT.—The President may provide for the Agree-
4 ment to enter into force not earlier than 30 days after
5 the date on which the President submits to Congress a
6 certification under subsection (c).

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

10 (1) consult with the appropriate congressional
11 committees;

12 (2) submit to the appropriate congressional
13 committees a report that—

14 (A) explains the basis of the determination
15 of the President contained in that certification,
16 including by providing specific reference to the
17 measures the parties to the Agreement intend
18 to use to comply with the obligations in the
19 Agreement; and

20 (B) describes, including through the use of
21 economic estimates and analyses, how entry
22 into force of the Agreement will further trade
23 relations between the United States and Taiwan
24 and advance the interests of workers, con-
25 sumers, businesses, farmers, ranchers, and
26 other stakeholders in the United States; and

1 (3) answer in writing any questions that relate
2 to potential compliance and implementation of the
3 Agreement that are submitted by the appropriate
4 congressional committees during the 15-day period
5 beginning on the date of the submission of the re-
6 port under paragraph (2).

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

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

14 (2) identifies the anticipated date the President
15 intends to exchange notes or take any other action
16 to notify Taiwan that the United States has com-
17 pleted all procedures necessary to bring the Agree-
18 ment into force.

19 (d) REPORT ON IMPLEMENTATION.—

20 (1) IN GENERAL.—Not later than 180 days
21 after entry into force of the Agreement, the Trade
22 Representative shall submit to the appropriate con-
23 gressional committees a report providing an assess-
24 ment of the implementation of the Agreement, in-

1 including by identifying any provisions for which fur-
2 ther progress is necessary to secure compliance.

3 (2) FORM.—The report required by paragraph
4 (1) shall be submitted with any confidential business
5 information clearly identified or contained in a sepa-
6 rate annex.

7 (3) PUBLICATION.—Not later than 5 days after
8 the report required by paragraph (1) is submitted to
9 the appropriate congressional committees, the Trade
10 Representative shall publish the report, with any
11 confidential business information redacted, on a pub-
12 licly available website of the Office of the United
13 States Trade Representative.

14 **SEC. 7. TRANSPARENCY AND CONSULTATION WITH RE-**
15 **SPECT TO FURTHER AGREEMENTS.**

16 (a) SENSE OF CONGRESS ON DEEPENING RELATION-
17 SHIP WITH TAIWAN.—It is the sense of Congress that—

18 (1) the United States should continue to deepen
19 its relationship with Taiwan; and

20 (2) any Further Agreements should be high-
21 standard, enforceable, and meaningful to both the
22 United States and Taiwan, as well as subject to ro-
23 bust requirements on public transparency and con-
24 gressional consultation.

1 (b) ACCESS TO TEXTS OF FURTHER AGREE-
2 MENTS.—The Trade Representative shall provide to the
3 appropriate congressional committees the following with
4 respect to a Further Agreement:

5 (1) Negotiating text drafted by the United
6 States prior to sharing the negotiating text with Tai-
7 wan or otherwise sharing the text outside the execu-
8 tive branch.

9 (2) Negotiating text drafted by Taiwan not
10 later than 3 days after receiving the text from Tai-
11 wan.

12 (3) Any consolidated negotiating texts that the
13 United States and Taiwan are considering, which
14 shall include an attribution of the source of each
15 provision contained in those texts to either the
16 United States or Taiwan.

17 (4) The final text not later than 45 days before
18 the Trade Representative makes the text public or
19 otherwise shares the text outside the executive
20 branch.

21 (c) REVIEW OF TEXTS.—

22 (1) BRIEFING.—The Trade Representative shall
23 schedule a briefing with the appropriate congress-
24 sional committees to discuss the texts provided
25 under subsection (b).

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

3 (A) 2 business days prior to the briefing
4 under paragraph (1) to review the texts pro-
5 vided under subsection (b); and

6 (B) 4 business days after the briefing to
7 provide comments with respect to the texts be-
8 fore the Trade Representative transmits any
9 such texts to Taiwan.

10 (3) ADDITIONAL TIME TO REVIEW UNITED
11 STATES NEGOTIATING TEXT.—If, during the period
12 specified in paragraph (2)(B), two Members of Con-
13 gress who are not of the same political party and
14 each of whom is the Chair or Ranking Member of
15 one of the appropriate congressional committees
16 jointly request additional time to review the negoti-
17 ating text provided under subsection (b)(1), the
18 Trade Representative shall not transmit the text to
19 Taiwan for a period of 15 business days following
20 the request, unless the request indicates less time is
21 necessary or such Members issue a subsequent joint
22 notification to the Trade Representative that they
23 have concluded their review sooner.

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

1 (1) not later than one business day after sched-
2 uling any negotiating round with respect to a Fur-
3 ther Agreement, promptly notify the appropriate
4 congressional committees and provide those commit-
5 tees with the dates and locations for the negotiating
6 round;

7 (2) ensure that any individual described in sec-
8 tion 104(c)(2)(C) of the Bipartisan Congressional
9 Trade Priorities and Accountability Act of 2015 (19
10 U.S.C. 4203(c)(2)(C)) that attends a negotiating
11 round is accredited as a member of the United
12 States delegation during any such negotiating round;
13 and

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

19 (e) APPROVAL.—A Further Agreement shall not take
20 effect unless—

21 (1) the President, at least 60 days before the
22 day on which the President enters into the Further
23 Agreement, publishes the text of the Further Agree-
24 ment on a publicly available website of the Office of
25 the United States Trade Representative; and

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

4 **SEC. 8. RELATIONSHIP OF THE AGREEMENT TO UNITED**
5 **STATES AND STATE LAW.**

6 (a) RELATIONSHIP OF THE AGREEMENT TO UNITED
7 STATES LAW.—

8 (1) UNITED STATES LAW TO PREVAIL IN CON-
9 FLICT.—No provision of the Agreement, nor the ap-
10 plication of any such provision to any person or cir-
11 cumstance, which is inconsistent with any law of the
12 United States, shall have effect.

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

17 (3) CONSTRUCTION.—Unless specifically pro-
18 vided for in this Act, nothing in this Act shall be
19 construed—

20 (A) to amend or modify any law of the
21 United States; or

22 (B) to limit any authority conferred under
23 any law of the United States.

24 (b) RELATIONSHIP OF THE AGREEMENT TO STATE
25 LAW.—No State law, or the application thereof, may be

1 declared invalid as to any person or circumstance on the
2 ground that the provision or application is inconsistent
3 with the Agreement, except in an action brought by the
4 United States for the purpose of declaring such law or
5 application invalid.

6 (c) EFFECT OF THE AGREEMENT WITH RESPECT TO
7 PRIVATE REMEDIES.—No person other than the United
8 States—

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

12 (2) may challenge, in any action brought under
13 any provision of law, any action or inaction by any
14 department, agency, or other instrumentality of the
15 United States, any State, or any political subdivision
16 of a State, on the ground that such action or inac-
17 tion is inconsistent with the Agreement.

