

AMENDMENT TO H.R. 419
OFFERED BY MS. ROS-LEHTINEN OF FLORIDA

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Taiwan Policy Act of
3 2013”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) The Taiwan Relations Act (Public Law 96–
7 8; 22 U.S.C. 3301 et seq.), enacted in 1979, has
8 continued for 34 years to be the cornerstone of
9 United States–Taiwan relations and has served as
10 an anchor for peace and security in the Western Pa-
11 cific region.

12 (2) The Taiwan Relations Act, in furthering the
13 national interests of the United States in the West-
14 ern Pacific region, has mandated that the United
15 States will make available to Taiwan such defense
16 articles and defense services in such quantity as may
17 be necessary to enable Taiwan to maintain a suffi-
18 cient self-defense capability, thus allowing the people

1 of Taiwan to preserve a peaceful, democratic, and
2 prosperous way of life.

3 (3) The future of Taiwan must be determined
4 in a peaceful manner and with the assent of the peo-
5 ple of Taiwan.

6 (4) The Taiwan Relations Act declares that—

7 (A) peace and stability in the Western Pa-
8 cific area are in the political, security, and eco-
9 nomic interests of the United States, and are
10 matters of international concern;

11 (B) the United States decision to establish
12 diplomatic relations with the People's Republic
13 of China rests upon the expectation that the fu-
14 ture of Taiwan will be determined by peaceful
15 means;

16 (C) the United States considers any effort
17 to determine the future of Taiwan by other
18 than peaceful means, including by boycotts or
19 embargoes, a threat to the peace and security
20 of the Western Pacific area and of grave con-
21 cern to the United States;

22 (D) the United States will maintain the ca-
23 pacity to resist any resort to force or other
24 forms of coercion that would jeopardize the se-

1 curity, or the social or economic system, of the
2 people on Taiwan; and

3 (E) the preservation and enhancement of
4 the human rights of all the people on Taiwan
5 are reaffirmed as objectives of the United
6 States.

7 (5) United States–Taiwan relations have suf-
8 fered from inattention and lack of strategic vision,
9 thereby requiring the Congress to both clarify
10 United States policy toward Taiwan and enhance its
11 oversight role in the implementation of the Taiwan
12 Relations Act.

13 (6) In its China Military Power Report for
14 2012, Taiwan’s Ministry of National Defense
15 (MND) estimated that more than 1,600 ballistic and
16 cruise missiles are now being aimed at Taiwan by
17 the Second Artillery Corps of the People’s Republic
18 of China and other experts suggest that this number
19 could increase to 1,800 in the near future.

20 (7) The anti-secession law, passed by the Na-
21 tional People’s Congress of the People’s Republic of
22 China, was found by House Concurrent Resolution
23 98, passed in the House of Representatives on
24 March 16, 2005, by a vote of 424–4, “to create a
25 legal framework for possible use of force against

1 Taiwan” and “to provide a legal justification for the
2 use of force against Taiwan, altering the status quo
3 in the region, and thus is of grave concern to the
4 United States.”.

5 (8) The legislative requirement to make avail-
6 able defense articles and defense services should in-
7 clude the provision of new F-16 C/D aircraft and
8 upgrades of existing F-16 A/B aircraft essential to
9 Taiwan’s security.

10 (9) The 2012 Department of Defense’s Annual
11 Report to Congress on Military and Security Devel-
12 opments Involving the People’s Republic of China
13 noted that “preparing for contingencies in the Tai-
14 wan Strait remains the principal focus and driver of
15 much of China’s military investment. In this context,
16 over the past year, the [People’s Liberation Army]
17 continued to build the capabilities and develop the
18 doctrine it considers necessary to deter Taiwan from
19 declaring independence; to deter, delay, and deny ef-
20 fective U.S. intervention in a potential cross-Strait
21 conflict; and to defeat Taiwan forces in the event of
22 hostilities.”.

23 (10) The language contained in the Joint
24 Communiqué of the United States of America and
25 the People’s Republic of China, dated August 17,

1 1982, which states in part that “arms sales to Tai-
2 wan will not exceed, either in qualitative or in quan-
3 titative terms, the level of those supplied in recent
4 years” shall not, to any degree, diminish the respon-
5 sibility of the United States, as legislatively man-
6 dated in the Taiwan Relations Act, to “make avail-
7 able to Taiwan such defense articles and defense
8 services in such quantity as may be necessary to en-
9 able Taiwan to maintain a sufficient self-defense ca-
10 pability.”.

11 (11) The United States has sought diplomati-
12 cally to preserve Taiwan’s international space, de-
13 spite outside pressure and coercion, and has sought
14 to secure Taiwan’s meaningful participation in such
15 international organizations as the World Health Or-
16 ganization (WHO).

17 (12) Given the critical importance of airport se-
18 curity in a post-September 11th international envi-
19 ronment, the United States recognizes it is crucial
20 for Taiwan to be admitted to meaningful participa-
21 tion in the International Civil Aviation Organization
22 (ICAO) so that Taiwan may contribute to the suc-
23 cess of a global strategy to address aviation security
24 threats based on effective international cooperation.

1 (13) Recognizing that the Taiwan Relations Act
2 stated that it is the policy of the United States “to
3 preserve and promote extensive, close, and friendly
4 commercial, cultural, and other relations between
5 the people of the United States and the people on
6 Taiwan” the Secretary of Homeland Security an-
7 nounced on October 2, 2012, “the designation of
8 Taiwan into the Visa Waiver Program (VWP)” with
9 eligible Taiwan passport holders able to travel on the
10 VWP beginning November 1, 2012.

11 (14) The conclusion of the Economic Coopera-
12 tion Framework Agreement (ECFA) between Tai-
13 wan and the People’s Republic of China in June
14 2010 or the adoption of any other cross-Strait eco-
15 nomic measures shall not diminish in any degree the
16 requirement contained in the Taiwan Relations Act
17 to “maintain the capacity of the United States to re-
18 sist any resort to force or other forms of coercion
19 that would jeopardize the security, or the social or
20 economic system, of the people on Taiwan.”.

21 (15) Total United States–Taiwan trade in 2012
22 was \$63,200,000,000 and Taiwan was the 11th
23 largest United States trading partner and the 7th
24 largest market for United States agricultural ex-
25 ports.

1 (16) It is in the economic interests of the
2 United States and the national security interests of
3 Taiwan for our two peoples to strengthen our trade
4 and investment ties.

5 **SEC. 3. RULE OF CONSTRUCTION.**

6 Nothing in this Act shall be construed to amend or
7 supersede the Taiwan Relations Act.

8 **TITLE I—POLITICAL RELATIONS**

9 **SEC. 101. RELATIONS WITH THE PEOPLE OF TAIWAN.**

10 The following shall be the policies of the United
11 States:

12 (1) Supporting Taiwan, Taiwan’s democracy,
13 and the human rights of its people.

14 (2) As noted in the Taiwan Relations Act, “the
15 absence of diplomatic relations or recognition shall
16 not affect the application of the laws of the United
17 States with respect to Taiwan, and the laws of the
18 United States shall apply with respect to Taiwan in
19 the manner that the laws of the United States ap-
20 plied with respect to Taiwan prior to January 1,
21 1979.”.

22 (3) The United States Government shall respect
23 the right of the Taipei Economic and Cultural Rep-
24 resentative Office (TECRO) to display its flag on its
25 premises and the American Institute in Taiwan

1 (AIT) and the residence of its Director in Taipei
2 shall, correspondingly, publicly display the United
3 States flag in the same manner as United States
4 embassies, consulates, and official residences
5 throughout the world.

6 (4) The Taipei Economic and Cultural Rep-
7 resentative Office and all other instrumentalities es-
8 tablished by Taiwan, including the Twin Oaks Es-
9 tate, may conduct official business activities, includ-
10 ing activities which involve participation by Members
11 of the United States Congress and other representa-
12 tives of the Federal, State, and local governments,
13 without any impediment from the United States
14 Government or any foreign power.

15 **SEC. 102. VISITS BY CABINET LEVEL OFFICIALS.**

16 (a) FINDINGS.—Congress finds the following:

17 (1) Visits by United States cabinet officials and
18 other high-ranking visitors are an indicator of the
19 breadth and depth of ties between the United States
20 and Taiwan.

21 (2) In December 1992, United States Trade
22 Representative Carla Hills visited Taiwan, marking
23 the first cabinet-level visit since 1979.

24 (3) Over the next 8 years the Administrator of
25 the Small Business Administration, the Secretary of

1 Energy, and 2 Secretaries of Transportation visited
2 Taiwan.

3 (4) No United States cabinet secretary has vis-
4 ited Taiwan since July 2000.

5 (b) POLICY OF THE UNITED STATES.—It shall be the
6 policy of the United States to encourage visits by cabinet-
7 level officials between the United States and Taiwan to
8 foster commercial, technological, people-to-people, or other
9 exchanges.

10 **SEC. 103. REVISION OF GUIDELINES FOR CONTACTS WITH**
11 **TAIWAN.**

12 Notwithstanding the 1994 Taiwan policy review and
13 current mandatory guidance from the Department of
14 State regarding contacts with Taiwan, it shall be the pol-
15 icy of the United States to—

16 (1) permit senior leaders of Taiwan to enter the
17 United States under conditions which demonstrate
18 appropriate courtesy and respect for the dignity of
19 such leaders;

20 (2) permit meetings between high-level Tai-
21 wanese and United States officials in all United
22 States executive departments;

23 (3) allow official travel to Taiwan for Depart-
24 ment of State and Department of Defense personnel
25 above the rank of office director or, for uniformed

1 military personnel, above the level of 06 (Colonel,
2 Navy Captain); and

3 (4) support a decision by Taiwan to change the
4 name of the Taipei Economic and Cultural Rep-
5 resentative Office.

6 **SEC. 104. REQUIREMENT FOR SENATE CONFIRMATION OF**
7 **AN INDIVIDUAL APPOINTED TO SERVE AS**
8 **THE DIRECTOR OF THE AMERICAN INSTI-**
9 **TUTE IN TAIWAN.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law, the President shall appoint, by and with the
12 advice and consent of the Senate, an individual to serve
13 as the Director of the American Institute in Taiwan.

14 (b) TRANSITION.—The individual serving as the Di-
15 rector of the American Institute in Taiwan as of the date
16 of the enactment of this Act may continue to serve in such
17 capacity until such time as an individual is appointed and
18 confirmed in accordance with subsection (a).

19 **SEC. 105. EXTRADITION AGREEMENT.**

20 (a) IN GENERAL.—It shall be the policy of the United
21 States to enhance judicial cooperation with Taiwan, cur-
22 rently conducted on the basis of the 2002 Agreement on
23 Mutual Legal Assistance in Criminal Matters, by signing
24 a comprehensive extradition agreement.

1 (b) REPORT.—Not later than 180 days after the date
2 of enactment of this Act, the President shall transmit to
3 Congress a report that assesses whether a comprehensive
4 extradition agreement between the United States and Tai-
5 wan may be submitted to the Senate for advice and con-
6 sent as a treaty or whether, because of Taiwan’s unique
7 status, such agreement must be submitted to both the
8 House of Representatives and Senate for legislative ap-
9 proval.

10 **SEC. 106. CONTINUATION OF THE SIX ASSURANCES AS**
11 **GUIDELINES IN CONDUCTING UNITED**
12 **STATES-TAIWAN RELATIONS.**

13 Notwithstanding any communiqués entered into be-
14 tween the United States and the People’s Republic of
15 China, the United States continues to assent to the six
16 assurances provided to Taiwan in July, 1982, including
17 that the United States—

18 (1) has not agreed to set a date for ending
19 arms sales to Taiwan;

20 (2) has not agreed to hold prior consultations
21 with the People’s Republic of China on arms sales
22 to Taiwan;

23 (3) will not play any mediation role between
24 Taipei and Beijing;

1 (4) has not agreed to revise the Taiwan Rela-
2 tions Act;

3 (5) has not altered its position regarding sov-
4 ereignty over Taiwan; and

5 (6) will not exert pressure on Taiwan to nego-
6 tiate with the People's Republic of China.

7 **SEC. 107. INTERNATIONAL ORGANIZATIONS.**

8 (a) ANNUAL PROGRAM.—To provide Taiwan with the
9 international space it requires to function effectively in the
10 world community, the Secretary of State shall direct the
11 Department of State to continue its annual program to
12 ensure meaningful participation by Taiwan in the World
13 Health Assembly in Geneva, Switzerland, as well as mean-
14 ingful participation for Taiwan in other relevant inter-
15 national organizations.

16 (b) MEANINGFUL PARTICIPATION BY TAIWAN.—The
17 Secretary of State shall direct the United States Perma-
18 nent Representative to the United Nations to use the
19 voice, vote, and influence of the United States at the
20 United Nations to ensure meaningful participation for
21 Taiwan in relevant United Nations Entities in which Tai-
22 wan has expressed an interest in participating.

1 **TITLE II—SECURITY RELATIONS**

2 **SEC. 201. STRENGTHENING THE DEFENSE OF TAIWAN.**

3 (a) MAINTENANCE OF SUFFICIENT SELF-DEFENSE
4 CAPABILITIES OF TAIWAN.—Congress finds that any de-
5 termination of the nature and quantity of defense articles
6 and defense services to be made available to Taiwan that
7 is made on any basis other than the defense needs of Tai-
8 wan, whether pursuant to the August 17, 1982,
9 Communiqué signed with the People’s Republic of China,
10 or any similar executive agreement, order, or policy would
11 violate the intent of Congress specified in section 3(b) of
12 the Taiwan Relations Act (22 U.S.C. 3302(b)).

13 (b) FOREIGN MILITARY SALES AND LICENSED DE-
14 FENSE EXPORTS UNDER THE ARMS EXPORT CONTROL
15 ACT.—Congress finds that, in accordance with the Taiwan
16 Relations Act, the core purpose of foreign military sales
17 and licensed commercial exports under the Arms Export
18 Control Act should be to assist Taiwan in its ability to—

- 19 (1) deter coercion;
20 (2) defend against a strategy of coercive diplo-
21 macy employing threats or limited force;
22 (3) repel an invasion; and
23 (4) partner with civil responders and friendly
24 foreign militaries.

1 (c) DEFENSE TRANSFERS.—In order to accomplish
2 the purposes of this section, the President is authorized
3 to make available to Taiwan defense articles and defense
4 services, including the following:

5 (1) Air and air defense capabilities, including—

6 (A) low-cost, survivable sensors;

7 (B) command and control systems;

8 (C) modern surface to air missiles;

9 (D) upgrades to existing modern combat
10 aircraft as well as new combat aircraft, includ-
11 ing Vertical and Short Take-Off and Landing
12 Aircraft (V/STOL);

13 (E) radar, electronic warfare, and jamming
14 capabilities;

15 (F) passive defense measures (such as re-
16 dundancy, dispersal, camouflage/deception,
17 hardening, and rapid repair capabilities); and

18 (G) access to satellites for remote sensing
19 and communication.

20 (2) Maritime capabilities, including—

21 (A) additional sensor capacity for com-
22 prehensive maritime domain awareness;

23 (B) cost-effective submarines for anti-sur-
24 face, anti-submarine warfare, and other mis-
25 sions;

1 (C) mines and mine countermeasure ves-
2 sels; and

3 (D) anti-ship cruise missiles.

4 (3) Ground capabilities, including—

5 (A) layered, short-range air defense;

6 (B) critical infrastructure protection to en-
7 sure continuity of government;

8 (C) air mobility;

9 (D) unmanned air vehicles; and

10 (E) accurate, GPS-guided short-range
11 rockets.

12 (4) Capacity for partnership with friendly for-
13 eign militaries, including—

14 (A) command, control, communications,
15 computers, intelligence, surveillance, and recon-
16 naissance situational awareness systems;

17 (B) enhanced doctrine exchange; and

18 (C) enhanced senior-level training.

19 (d) **RULE OF CONSTRUCTION RELATING TO ARMS**
20 **EXPORT CONTROL ACT.**—Nothing in this section shall be
21 construed to supersede or modify section 36 of the Arms
22 Export Control Act (22 U.S.C. 2776).

23 **SEC. 202. ADVANCED COMBAT AIRCRAFT FOR TAIWAN.**

24 (a) **STATEMENT OF POLICY.**—Notwithstanding the
25 upgrade of Taiwan's F-16 A/B aircraft, Taiwan will expe-

1 rience a growing shortfall in fighter aircraft, particularly
2 as its F-5 aircraft are retired from service.

3 (b) **AUTHORITY TO ACCEPT LETTER OF REQUEST.**—

4 Pursuant to the foreign military sales program authorized
5 by the Arms Export Control Act, the President is author-
6 ized to accept a letter of request from Taiwan for price
7 and availability data or for a formal sales offer with re-
8 spect to the F-16C/D Fighting Falcon multirole fighter
9 aircraft or other aircraft of similar capability, as may be
10 necessary to enable Taiwan to maintain a sufficient self-
11 defense capability.

12 **SEC. 203. CONSULTATIONS ON TAIWAN ARMS SALES.**

13 (a) **BRIEFINGS.**—Not later than 90 days after the
14 date of the enactment of this Act and at least annually
15 thereafter, the Secretary of State, in consultation with the
16 Secretary of Defense, shall provide detailed briefings to
17 Congress on—

18 (1) any discussions on security matters con-
19 ducted between any executive branch agency and the
20 Government of Taiwan during a covered period; and

21 (2) any potential transfer to the Government of
22 Taiwan of defense articles or defense services, in-
23 cluding routine upgrades to or replacements of de-
24 fense articles previously transferred by the United
25 States to the Government of Taiwan.

1 (b) DEFINITIONS.—In this section and section 201:

2 (1) COVERED PERIOD.—The term “covered pe-
3 riod” means, with respect to—

4 (A) the initial briefing required under sub-
5 section (a), the period beginning on the date of
6 the enactment of this Act and ending on the
7 date of such initial briefing; and

8 (B) subsequent briefings required under
9 such subsection, the period beginning on the
10 day after the date of the most recent briefing
11 and ending on the date of any such subsequent
12 briefing.

13 (2) EXECUTIVE BRANCH AGENCY.—The term
14 “executive branch agency” has the meaning given
15 the term “agency” in section 551(1) of title 5,
16 United States Code.

17 (3) DEFENSE ARTICLE.—The term “defense ar-
18 ticle” has the meaning given such term in section 47
19 of the Arms Export Control Act (22 U.S.C. 2794).

20 (4) DEFENSE SERVICE.—The term “defense
21 service” has the meaning given such term in section
22 47 of the Arms Export Control Act (22 U.S.C.
23 2794).

1 **SEC. 204. ANNUAL REPORT ON DEFENSE TRANSFERS TO**
2 **TAIWAN.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act and annually thereafter,
5 the President shall transmit to Congress a report—

6 (1) detailing each of Taiwan's requests for pur-
7 chase of defense articles and defense services during
8 the immediately preceding one-year period, whether
9 submitted through a letter of request (LOR) or con-
10 veyed by other authoritative means, except that the
11 first report under this section shall cover the period
12 2006 through 2012;

13 (2) describing the defense needs asserted by
14 Taiwan as justification for such requests;

15 (3) describing the decisionmaking process used
16 to reject, postpone, or modify any such request, in-
17 cluding—

18 (A) with respect to significant military
19 equipment, the country team assessment and
20 recommendation as to whether the United
21 States should sell such equipment; and

22 (B) for each request, the elapse of time be-
23 tween the submission of such request and the
24 completion of the interagency review process by
25 the United States; and

1 since 2000 to implement section 2(b)(6) and sub-
2 sections (a), (b), and (c) of section 3 of the Taiwan
3 Relations Act, including the extent to which the
4 United States retains the capacity to resist any re-
5 sort to force or other forms of coercion that would
6 jeopardize the security, or the social or economic
7 system, of the people of Taiwan. Such review shall
8 take into account whether Taiwan's air and air de-
9 fense forces retain the ability to effectively defend
10 Taiwan against China's ballistic missile and air
11 threats, and the extent to which the absence of cred-
12 ible Taiwanese air defense forces may complicate the
13 ability of the United States to resist any resort to
14 force that jeopardizes the security of Taiwan.

15 (2) An evaluation of all gaps in relevant knowl-
16 edge about the capabilities and intentions of the
17 People's Republic of China as such capabilities and
18 intentions might affect the current and future mili-
19 tary balance between Taiwan and China, such as
20 anti-access and area denial capabilities as well as
21 anti-satellite and space warfare developments, in-
22 cluding both classified United States intelligence in-
23 formation and Chinese open source writing.

1 (c) FORM.—The report required under subsection (a)
2 shall be submitted in unclassified form, but may contain
3 a classified annex if necessary.

4 **SEC. 206. NAVAL VESSEL TRANSFER AUTHORITY.**

5 (a) TRANSFER BY SALE.—The President is author-
6 ized to transfer the OLIVER HAZARD PERRY class
7 guided missile frigates USS TAYLOR (FFG–50), USS
8 GARY (FFG–51), USS CARR (FFG–52), and USS
9 ELROD (FFG–55) to the Taipei Economic and Cultural
10 Representative Office of the United States (which is the
11 Taiwan instrumentality designated pursuant to section
12 10(a) of the Taiwan Relations Act (22 U.S.C. 3309(a)))
13 on a sale basis under section 21 of the Arms Export Con-
14 trol Act (22 U.S.C. 2761).

15 (b) COSTS OF TRANSFERS.—Any expense incurred by
16 the United States in connection with a transfer authorized
17 by this section shall be charged to the recipient notwith-
18 standing section 516(e) of the Foreign Assistance Act of
19 1961 (22 U.S.C. 2321j(e)).

20 (c) REPAIR AND REFURBISHMENT IN UNITED
21 STATES SHIPYARDS.—To the maximum extent prac-
22 ticable, the President shall require, as a condition of the
23 transfer of a vessel under this section, that the recipient
24 to which the vessel is transferred have such repair or re-
25 furbishment of the vessel as is needed, before the vessel

1 joins the naval forces of that recipient, performed at a
2 shipyard located in the United States, including a United
3 States Navy shipyard.

4 (d) EXPIRATION OF AUTHORITY.—The authority to
5 transfer a vessel under this section shall expire at the end
6 of the 3-year period beginning on the date of the enact-
7 ment of this Act.

8 **TITLE III—ECONOMIC AND**
9 **TRADE RELATIONS**

10 **SEC. 301. TRADE AND INVESTMENT FRAMEWORK AGREE-**
11 **MENT.**

12 It is the sense of Congress that the United States
13 Trade Representative should seek to fully utilize Trade
14 and Investment Framework Agreement (TIFA) talks with
15 Taiwan to address outstanding issues and restore con-
16 fidence in Taiwan's commitment to nondiscriminatory
17 treatment of United States exports.

18 **SEC. 302. FREE TRADE AGREEMENT.**

19 It is the sense of Congress that at an appropriate
20 time the United States should seek the negotiation of a
21 free trade agreement with Taiwan. As building blocks to-
22 ward that goal, the United States should study the feasi-
23 bility of negotiating with Taiwan a bilateral—

24 (1) investment agreement; and

1 (2) tax agreement.

