113TH CONGRESS  
1ST SESSION  
H. R. 419

To strengthen and clarify the commercial, cultural, and other relations between the people of the United States and the people of Taiwan, as codified in the Taiwan Relations Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES  
JANUARY 25, 2013  
Ms. ROS-LEHTINEN (for herself, Mr. SQUIRES, Mr. DIAZ-BALART, Mr. CONNOLLY, and Mr. CARTER) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned  

A BILL  
To strengthen and clarify the commercial, cultural, and other relations between the people of the United States and the people of Taiwan, as codified in the Taiwan Relations Act, 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 “Taiwan Policy Act of
5 2013”.


SEC. 2. FINDINGS.

Congress finds the following:

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

(2) The Taiwan Relations Act, in furthering the national interests of the United States in the Western Pacific region, has mandated that the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability, thus allowing the people of Taiwan to preserve a peaceful, democratic, and prosperous way of life.

(3) The future of Taiwan must be determined in a peaceful manner and with the assent of the people of Taiwan.

(4) The Taiwan Relations Act declares that—

(A) peace and stability in the Western Pacific area are in the political, security, and economic interests of the United States, and are matters of international concern;
(B) the United States decision to establish
diplomatic relations with the People’s Republic
of China rests upon the expectation that the fu-
ture of Taiwan will be determined by peaceful
means;

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

(D) the United States will maintain the ca-
pacity to resist any resort to force or other
forms of coercion that would jeopardize the se-
curity, or the social or economic system, of the
people on Taiwan; and

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

(5) In recent years United States–Taiwan rela-
tions have suffered from inattention and lack of
strategic vision, thereby requiring the Congress to
both clarify United States policy toward Taiwan and
enhance its oversight role in the implementation of the Taiwan Relations Act.

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

(7) The anti-secession law, passed by the National People’s Congress of the People’s Republic of China, was found by House Concurrent Resolution 98, passed in the House of Representatives on March 16, 2005, by a vote of 424–4, “to create a legal framework for possible use of force against Taiwan” and “to provide a legal justification for the use of force against Taiwan, altering the status quo in the region, and thus is of grave concern to the United States.”.

(8) The legislative requirement to make available defense articles and defense services should include the provision of new F–16 C/D aircraft and upgrades of existing F–16 A/B aircraft essential to Taiwan’s security.
(9) The 2012 Department of Defense’s Annual Report to Congress on Military and Security Developments Involving the People’s Republic of China noted that “preparing for contingencies in the Taiwan Strait remains the principal focus and driver of much of China’s military investment. In this context, over the past year, the [People’s Liberation Army] continued to build the capabilities and develop the doctrine it considers necessary to deter Taiwan from declaring independence; to deter, delay, and deny effective U.S. intervention in a potential cross-Strait conflict; and to defeat Taiwan forces in the event of hostilities.”.

(10) The language contained in the Joint Communiqué of the United States of America and the People’s Republic of China, dated August 17, 1982, which states in part that “arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years” shall not, to any degree, diminish the responsibility of the United States, as legislatively mandated in the Taiwan Relations Act, to “make available to Taiwan such defense articles and defense services in such quantity as may be necessary to en-
able Taiwan to maintain a sufficient self-defense capability.”

(11) The United States has sought diplomatically to preserve Taiwan’s international space, despite outside pressure and coercion, and has sought to secure Taiwan’s meaningful participation in such international organizations as the World Health Organization (WHO).

(12) Given the critical importance of airport security in a post-September 11th international environment, the United States recognizes it is crucial for Taiwan to be admitted to meaningful participation in the International Civil Aviation Organization (ICAO) so that Taiwan may contribute to the success of a global strategy to address aviation security threats based on effective international cooperation.

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

(14) The conclusion of the Economic Cooperation
Framework Agreement (ECFA) between Tai-
wan and the People’s Republic of China in June
2010 or the adoption of any other cross-Strait eco-

nomic measures shall not diminish in any degree the
requirement contained in the Act to “maintain the
capacity of the United States to resist any resort to
force or other forms of coercion that would jeop-
ardize the security, or the social or economic system,
of the people on Taiwan.”.

(15) The theory recently put forward in certain
academic circles that the United States should ac-
quiesce to China’s ascendancy in Asia and put aside
the commitments made in the Taiwan Relations Act
is based upon a false premise that ignores the exam-
ple of a democratic Taiwan, the historic ties of
friendship of the peoples of the United States and
Taiwan, and the determination of the United States
to remain as a Pacific power.

(16) Total United States–Taiwan trade in 2011
was $67,200,000,000 and Taiwan was the 10th
largest United States trading partner and the 6th
largest market for United States agricultural exports.

(17) It is in the economic interests of the United States and the national security interests of Taiwan for the peoples of the United States and Taiwan to further strengthen and revitalize their trade and investment ties, including through an expanded Trans-Pacific Partnership (TPP) Agreement or similar mechanism.

SEC. 3. RULE OF CONSTRUCTION.

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

TITLE I—POLITICAL RELATIONS

SEC. 101. RELATIONS WITH THE PEOPLE OF TAIWAN.

The following shall be the policies of the United States:

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

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

(3) The United States Government shall respect the right of the Taipei Economic and Cultural Representative Office (TECRO) to display its flag on its premises and the American Institute in Taiwan (AIT) and the residence of its Director in Taipei shall, correspondingly, publicly display the United States flag in the same manner as United States embassies, consulates, and official residences throughout the world.

(4) The Taipei Economic and Cultural Representative Office and all other instrumentalities established by Taiwan, including the Twin Oaks Estate, may conduct official business activities, including activities which involve participation by Members of the United States Congress and other representatives of the Federal, State, and local governments, without any impediment from the United States Government or any foreign power.

SEC. 102. VISITS BY CABINET LEVEL OFFICIALS.

(a) FINDINGS.—Congress finds the following:

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

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

(3) Over the next 8 years the Administrator of the Small Business Administration, the Secretary of Energy, and 2 Secretaries of Transportation visited Taiwan.

(4) No United States cabinet secretary has visited Taiwan since July 2000.

(5) In March 2008, candidate Barack Obama wrote in a message congratulating Ma Ying-jeou on his election victory that “[t]he U.S. should reopen blocked channels of communication with Taiwan officials”, however no Cabinet-level visits to Taiwan have yet taken place.

(b) POLICY OF THE UNITED STATES.—It shall be the policy of the United States to encourage visits by cabinet-level officials between the United States and Taiwan to foster commercial, technological, and people-to-people exchanges.
SEC. 103. REVISION OF GUIDELINES FOR CONTACTS WITH TAIWAN.

Notwithstanding the 1994 Taiwan policy review and current mandatory guidance from the Department of State regarding contacts with Taiwan, it shall be the policy of the United States to—

1. permit senior leaders of Taiwan to enter the United States under conditions which demonstrate appropriate courtesy and respect for the dignity of such leaders;

2. permit meetings between high-level Taiwanese and United States officials in all United States executive departments;

3. allow official travel to Taiwan for Department of State and Department of Defense personnel above the rank of office director or, for uniformed military personnel, above the level of 06 (Colonel, Navy Captain); and

4. support a decision by Taiwan to change the name of the Taipei Economic and Cultural Representative Office to that of the Taiwan Representative Office.
SEC. 104. REQUIREMENT FOR SENATE CONFIRMATION OF AN INDIVIDUAL APPOINTED TO SERVE AS THE DIRECTOR OF THE AMERICAN INSTITUTE IN TAIWAN.

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

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

SEC. 105. EXTRADITION AGREEMENT.

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

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to Congress a report that assesses whether a comprehensive extradition agreement between the United States and Taiwan may be submitted to the Senate for advice and consent as a treaty or whether, because of Taiwan’s unique status, such agreement must be submitted to both the
House of Representatives and Senate for legislative approval.

SEC. 106. CONTINUATION OF THE SIX ASSURANCES AS GUIDELINES IN CONDUCTING UNITED STATES–TAIWAN RELATIONS.

Notwithstanding any communique’s entered into between the United States and the People’s Republic of China, the United States continues to assent to the six assurances provided to Taiwan in July, 1982, including that the United States—

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

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

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

(4) has not agreed to revise the Taiwan Relations Act;

(5) has not altered its position regarding sovereignty over Taiwan; and

(6) will not exert pressure on Taiwan to negotiate with the People’s Republic of China.
SEC. 107. INTERNATIONAL ORGANIZATIONS.

(a) Annual Program.—To provide Taiwan with the international space it requires to function effectively in the world community, the Secretary of State shall direct the Department of State to continue its annual program to ensure meaningful participation by Taiwan in the World Health Assembly in Geneva, Switzerland, as well as meaningful participation for Taiwan in other relevant international organizations, such as the International Civil Aviation Organization (ICAO).

(b) Meaningful Participation by Taiwan.—The Secretary of State shall direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States at the United Nations to ensure meaningful participation for Taiwan in relevant United Nations Entities in which Taiwan has expressed an interest in participating.

SEC. 108. REPORT ON TAIWAN’S PARTICIPATION IN ICAO.

(a) In General.—The Secretary of State shall initiate a United States plan to endorse and obtain meaningful participation for Taiwan at the periodic Assemblies held by the International Civil Aviation Organization (ICAO) in Montreal, Canada, including the 38th Assembly to be held in September–October 2013, and in the meetings and activities of the ICAO and shall instruct the
United States delegation to Montreal to implement such plan.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of State shall submit to Congress a report containing the plan required under subsection (a).

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

(d) ANNUAL BRIEFING.—The Secretary of State should provide an annual briefing to or consult with Congress on any efforts conducted by the United States Government in support of Taiwan’s progress toward meaningful participation in the ICAO.

TITLE II—SECURITY RELATIONS

SEC. 201. STRENGTHENING THE DEFENSE OF TAIWAN.

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

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

(1) deter coercion;

(2) defend against a strategy of coercive diplo-
maey employing threats or limited force;

(3) repel an invasion; and

(4) partner with civil responders and friendly
foreign militaries.

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

(1) Air and air defense capabilities, including—

(A) low-cost, survivable sensors;

(B) command and control systems;

(C) modern surface to air missiles;

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

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

(F) passive defense measures (such as redundancy, dispersal, camouflage/deception, hardening, and rapid repair capabilities); and

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

(2) Maritime capabilities, including—

(A) additional sensor capacity for comprehensive maritime domain awareness;

(B) cost-effective submarines for anti-surface, anti-submarine warfare, and other missions;

(C) mines and mine countermeasure vessels; and

(D) anti-ship cruise missiles.

(3) Ground capabilities, including—

(A) layers, short-range air defense;

(B) critical infrastructure protection to ensure continuity of government;

(C) air mobility;

(D) unmanned air vehicles; and
(E) accurate, GPS-guided short-range rockets.

(4) Capacity for partnership with friendly foreign militaries, including—

(A) command, control, communications, computers, intelligence, surveillance, and reconnaissance situational awareness systems;

(B) enhanced doctrine exchange; and

(C) enhanced senior-level training.

(d) Rule of Construction Relating to Arms Export Control Act.—Nothing in this section shall be construed to supersede or modify section 36 of the Arms Export Control Act (22 U.S.C. 2776).

SEC. 202. ADVANCED COMBAT AIRCRAFT FOR TAIWAN.

(a) Statement of Policy.—Notwithstanding the upgrade of Taiwan’s F–16 A/B aircraft, Taiwan will experience a growing shortfall in fighter aircraft, particularly as its F–5 aircraft are retired from service.

(b) Authority To Accept Letter of Request.—Pursuant to the foreign military sales program authorized by the Arms Export Control Act, the President is authorized to accept a letter of request from Taiwan for price and availability data or for a formal sales offer with respect to the F–16C/D Fighting Falcon multirole fighter aircraft or other aircraft of similar capability, as may be
necessary to enable Taiwan to maintain a sufficient self-
defense capability.

SEC. 203. CONSULTATIONS ON TAIWAN ARMS SALES.

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

(1) any discussions conducted between any exe-
cutive branch agency and the Government of Tai-
wan during a covered period; and

(2) any potential transfer to the Government of
Taiwan of defense articles or defense services.

(b) Definitions.—In this section and section 201:

(1) Covered period.—The term “covered pe-
period” means, with respect to—

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

(B) subsequent briefings required under
such subsection, the period beginning on the
day after the date of the most recent briefing
and ending on the date of any such subsequent
briefing.
(2) EXECUTIVE BRANCH AGENCY.—The term “executive branch agency” has the meaning given the term “agency” in section 551(1) of title 5, United States Code.

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

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

SEC. 204. ANNUAL REPORT ON DEFENSE TRANSFERS TO TAIWAN.

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

(1) detailing each of Taiwan’s requests for purchase of defense articles and defense services during the immediately preceding one-year period, whether submitted through a letter of request (LOR) or conveyed by other authoritative means, except that the first report under this section shall cover the period 2006 through 2011;

(2) describing the defense needs asserted by Taiwan as justification for such requests;
(3) describing the decisionmaking process used to reject, postpone, or modify any such request, including—

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

(B) for each request, the elapse of time between the submission of such request and the completion of the interagency review process by the United States; and

(4) detailing those defense articles and defense services listed in the Arms Sale Proposal described in section 25 of the Arms Export Control Act (22 U.S.C. 2765), including a description of the rationale for including or not including in such Proposal, as the case may be, all sales and licensed exports to Taiwan under such Act of major weapons or weapons-related defense equipment for $7,000,000 or more, and the extent to which a decision to not include in such Proposal such sales to Taiwan is consistent with such section.

(b) FORM.—The report required under subsection (a) shall be submitted in unclassified form, but may contain a classified annex if necessary.
SEC. 205. REPORT ON IMPLEMENTATION OF TAIWAN RELATIONS ACT.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on implementation of United States security policy under the Taiwan Relations Act.

(b) MATTERS TO BE INCLUDED.—The report required under subsection (a) shall include, at a minimum, the following:

(1) A review of the operational planning, policy reviews, and other preparations of the United States since 2000 to implement section 2(b)(6) and subsections (a), (b), and (c) of section 3 of the Taiwan Relations Act, including the extent to which the United States retains the capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan. Such review shall take into account whether Taiwan’s air and air defense forces retain the ability to effectively defend Taiwan against China’s ballistic missile and air threats, and the extent to which the absence of credible Taiwanese air defense forces may complicate the ability of the United States to resist any resort to force that jeopardizes the security of Taiwan.
(2) An evaluation of all gaps in relevant knowledge about the capabilities and intentions of the People’s Republic of China as such capabilities and intentions might affect the current and future military balance between Taiwan and China, such as anti-access and area denial capabilities as well as anti-satellite and space warfare developments, including both classified United States intelligence information and Chinese open source writing.

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

SEC. 206. NAVAL VESSEL TRANSFER AUTHORITY.

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

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

(e) Repair and Refurbishment in United
States Shipyards.—To the maximum extent prac-
ticable, the President shall require, as a condition of the
transfer of a vessel under this section, that the recipient
to which the vessel is transferred have such repair or re-
furbishment of the vessel as is needed, before the vessel
joins the naval forces of that recipient, performed at a
shipyard located in the United States, including a United
States Navy shipyard.

(d) Expiration of Authority.—The authority to
transfer a vessel under this section shall expire at the end
of the 3-year period beginning on the date of the enact-
ment of this Act.

TITLE III—ECONOMIC AND
TRADE RELATIONS

SEC. 301. TRADE AND INVESTMENT FRAMEWORK AGRE-
EMENT.

It is the sense of Congress that, at the earliest oppor-
tunity, the United States Trade Representative should
seek to resume and successfully conclude negotiations of
economic issues in the Trade and Investment Framework
Agreement (TIFA) talks with Taiwan.
SEC. 302. FREE TRADE AGREEMENT.

(a) IN GENERAL.—It is the sense of Congress that the ultimate goal of trade negotiations with Taiwan should be the negotiation of a free trade agreement with Taiwan. As building blocks toward that goal, the United States should study the feasibility of negotiating with Taiwan a bilateral—

(1) investment agreement; and

(2) tax agreement.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the President shall transmit to Congress a report that assesses whether economic and trade agreements between the United States and Taiwan may be submitted to the Senate for advice and consent as a treaty or whether, because of Taiwan’s unique status, such agreements must be submitted to both the House of Representatives and Senate for legislative approval.