

118TH CONGRESS
1ST SESSION

H. R. 5072

To promote peace through strength in Taiwan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2023

Mr. BANKS (for himself and Mr. PAPPAS) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Armed Services, 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 promote peace through strength in 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 “Taiwan Peace through
5 Strength Act of 2023”.

1 **SEC. 2. ANTICIPATORY POLICY PLANNING AND ANNUAL RE-**
2 **VIEW OF UNITED STATES WAR PLANS TO DE-**
3 **FEND TAIWAN.**

4 (a) IN GENERAL.—Not later than 180 days after the
5 date of the enactment of this Act, and annually thereafter,
6 the Secretary of Defense shall conduct a classified review
7 of United States war plans to defend Taiwan and share
8 the results of the review with the Chairman and Ranking
9 Member of the Committee on Armed Services of the Sen-
10 ate and the Committee on Armed Services of the House
11 of Representatives.

12 (b) ELEMENTS.—The review conducted under sub-
13 section (a) shall include the following elements:

14 (1) An assessment of Taiwan’s current and
15 near-term capabilities and United States force readi-
16 ness and the adequacy of United States conflict con-
17 tingency plans.

18 (2) A comprehensive assessment of risks to the
19 United States and United States interests, including
20 readiness shortfalls that pose strategic risk.

21 (3) A review of indicators of the near-term like-
22 lihood of the use of force by the People’s Liberation
23 Army against Taiwan.

24 (4) The compilation of a pre-approved list of
25 military capabilities, including both asymmetric and
26 traditional capabilities selected to suit the oper-

1 ational environment and to allow Taiwan to respond
2 effectively to a variety of contingencies across all
3 phases of conflict involving the People’s Liberation
4 Army, that the Secretary of Defense has pre-cleared
5 for Taiwan to acquire, and that would reduce the
6 threat of conflict, thwart an invasion, and mitigate
7 other risks to the United States and Taiwan.

8 **SEC. 3. FAST-TRACKING SALES TO TAIWAN UNDER FOR-**
9 **EIGN MILITARY SALES PROGRAM.**

10 (a) PRECLEARANCE OF CERTAIN FOREIGN MILITARY
11 SALES ITEMS.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date of the enactment of this Act, and annually
14 thereafter, the Secretary of State, in coordination
15 with the Secretary of Defense and in conjunction
16 with relevant coordinating entities, such as the Na-
17 tional Disclosure Policy Committee and the Arms
18 Transfer and Technology Release Senior Steering
19 Group, shall—

20 (A) compile and submit to the relevant
21 congressional committees a list of available and
22 emerging military platforms, technologies, and
23 equipment; and

24 (B) upon listing such platforms, tech-
25 nologies, and equipment, pre-clear and

1 prioritize for sale and release to Taiwan
2 through the Foreign Military Sales program
3 such platforms, technologies, and equipment.

4 (2) SELECTION OF ITEMS.—The items pre-
5 cleared for sale pursuant to paragraph (1)—

6 (A) shall represent a full-range of asym-
7 metric capabilities as well as the conventional
8 capabilities informed by United States readiness
9 and risk assessments and determined by Tai-
10 wan to be required for various wartime sce-
11 narios and peacetime duties; and

12 (B) shall include each item on the list of
13 approved items compiled by the Secretary of
14 Defense pursuant to section 2(b)(4).

15 (3) EXCEPTION.—The Secretary State may ex-
16 clude an item from the list described in paragraph
17 (1)(A) if the Secretary of State submits to the ap-
18 propriate congressional committees a determination
19 that the costs of providing such items, including the
20 potential costs of technology slippage, exceeds the
21 costs to the United States of failing to arm Taiwan
22 with such items, including the likelihood of being
23 drawn into conflict with the People’s Republic of
24 China.

1 (4) FINAL DETERMINATION OF DISPUTES.—

2 The Department of Defense shall serve as the lead
3 Federal agency for purposes of making final deter-
4 minations when disputes arise between agencies
5 about the appropriateness of specific items for sale
6 to Taiwan.

7 (5) RULE OF CONSTRUCTION.—The list com-

8 piled pursuant to section 2(b)(4) shall not be con-
9 strued as limiting the type, timing, or quantity of
10 items that may be requested by, or sold to, Taiwan
11 under the Foreign Military Sales program.

12 (b) PRIORITIZED PROCESSING OF FOREIGN MILI-
13 TARY SALES REQUESTS FROM TAIWAN.—

14 (1) REQUIREMENT.—The Secretary of Defense
15 and the Secretary of State shall prioritize and expe-
16 dite the processing of requests from Taiwan under
17 the Foreign Military Sales program, and may not
18 delay the processing of requests for bundling pur-
19 poses.

20 (2) DURATION.—The requirement under para-
21 graph (1) shall continue until the Secretary of De-
22 fense determines and certifies to the Committee on
23 Armed Services of the Senate and the Committee on
24 Armed Services of the House of Representatives that
25 the threat to Taiwan has significantly abated.

1 (3) ANNUAL REPORT.—Not later than 180 days
2 after the date of the enactment of this Act, and an-
3 nually thereafter for 10 years, the Secretary of De-
4 fense shall submit to the Committee on Armed Serv-
5 ices of the Senate and the Committee on Armed
6 Services of the House of Representatives a report
7 describing steps taken to implement the requirement
8 under paragraph (1).

9 (c) PRIORITY PRODUCTION.—

10 (1) REQUIREMENT.—The Secretary of Defense
11 shall require that contractors awarded Department
12 of Defense contracts to provide items for sale to Tai-
13 wan under the Foreign Military Sales program shall,
14 as a condition of receiving such contracts, expedite
15 and prioritize the production of such items above the
16 production of other Foreign Military Sales items re-
17 gardless of the order in which contracts were signed.

18 (2) DURATION.—The requirement under para-
19 graph (1) shall continue until the Secretary of De-
20 fense determines and certifies to the Committee on
21 Armed Services of the Senate and the Committee on
22 Armed Services of the House of Representatives that
23 the threat to Taiwan has significantly abated.

24 (3) ANNUAL REPORT.—Contractors covered
25 under paragraph (1) shall be required to report an-

1 nually to the Committee on Armed Services of the
2 Senate and the Committee on Armed Services of the
3 House of Representatives on efforts to expedite and
4 prioritize production as required under such para-
5 graph.

6 (d) INTERAGENCY POLICY.—The Secretary of State
7 and the Secretary of Defense shall jointly review and up-
8 date interagency policies and implementation guidance re-
9 lated to Foreign Military Sales requests from Taiwan, in-
10 cluding incorporating the preclearance and prioritization
11 provisions of this section.

12 **SEC. 4. AMENDMENTS TO TAIWAN RELATIONS ACT.**

13 (a) POLICY.—Section 2(b)(5) of the Taiwan Rela-
14 tions Act (22 U.S.C. 3301(b)(5)) is amended by striking
15 “arms of a defensive character” and inserting “arms con-
16 ducive to the deterrence of acts of aggression by the Peo-
17 ple’s Liberation Army”.

18 (b) PROVISION OF DEFENSE ARTICLES AND SERV-
19 ICES.—Section 3(a) of the Taiwan Relations Act (22
20 U.S.C. 3302(a)) is amended by striking “such defense ar-
21 ticles and defense services in such quantity as may be nec-
22 essary to enable Taiwan to maintain a sufficient self-de-
23 fense capability” and inserting “such defense articles and
24 defense services in such quantity as may be necessary to
25 enable Taiwan to implement a strategy to deter acts of

1 aggression by the People’s Liberation Army and to deny
2 an invasion of Taiwan by the People’s Liberation Army.”.

3 (c) RULE OF CONSTRUCTION.—Section 4 of the Tai-
4 wan Relations Act (22 U.S.C. 3303) is amended by adding
5 at the end the following new subsection:

6 “(a) SECURITY COOPERATION AND DETERRENCE OF
7 USE OF FORCE BY PEOPLE’S LIBERATION ARMY.—Noth-
8 ing in this Act, nor the facts of the President’s action in
9 extending diplomatic recognition to the People’s Republic
10 of China, the absence of diplomatic relations between the
11 people of Taiwan and the United States, or the lack of
12 formal recognition by the United States, and attendant
13 circumstances thereto, shall be construed to constitute a
14 legal or practical obstacle to any otherwise lawful action
15 of the President or of any United States Government
16 agency that is needed to advance or protect United States
17 interests pertaining to Taiwan, including actions intended
18 to strengthen security cooperation between the United
19 States and Taiwan or to otherwise deter the use of force
20 against Taiwan by the People’s Liberation Army.”.

21 **SEC. 5. MILITARY PLANNING MECHANISM.**

22 The Secretary of Defense shall establish a high-level
23 military planning mechanism between the United States
24 and Taiwan to oversee a Joint and Combined Exercise
25 Program and coordinate International Military Education

1 and Training assistance and professional exchanges aimed
2 at determining and coordinating the acquisition of capa-
3 bilities for both United States and Taiwan military forces
4 to address the needs of currently anticipated and future
5 contingencies. The mechanism may be modeled after the
6 Joint United States Military Advisory Group Thailand, or
7 any such similar existing arrangement, as determined by
8 the Secretary of Defense.

9 **SEC. 6. PROHIBITION ON DOING BUSINESS IN CHINA.**

10 (a) REQUIREMENT.—The Secretary of Defense shall
11 require any contractor awarded a Department of Defense
12 contract, as a condition of receiving such contract, not to
13 conduct any business in the People’s Republic of China,
14 with any entity that is owned by or controlled by the gov-
15 ernment of the People’s Republic of China or the Chinese
16 Communist Party, or any subsidiary of such a company.

17 (b) DETERMINATION OF NONCOMPLIANCE.—If the
18 Secretary of Defense determines that a contractor of the
19 Department of Defense is noncompliant with the require-
20 ment in subsection (a)—

21 (1) such noncompliance shall be considered
22 grounds for termination of the contract; and

23 (2) the Secretary of Defense shall terminate the
24 contract.

1 **SEC. 7. TAIWAN CRITICAL MUNITIONS ACQUISITION FUND.**

2 (a) ESTABLISHMENT.—There shall be established in
3 the Treasury of the United States a revolving fund to be
4 known as the “Taiwan Critical Munitions Acquisition
5 Fund” (in this section referred to as the “Fund”).

6 (b) PURPOSE.—Subject to the availability of appro-
7 priations, amounts in the Fund shall be made available
8 by the Secretary of Defense—

9 (1) to ensure that adequate stocks of critical
10 munitions necessary for a denial defense are avail-
11 able to allies and partners of the United States in
12 advance of a potential operation to defend the au-
13 tonomy and territory of Taiwan; and

14 (2) to finance the acquisition of critical muni-
15 tions necessary for a denial defense in advance of
16 the transfer of such munitions to foreign countries
17 for such a potential operation.

18 (c) ADDITIONAL AUTHORITY.—Subject to the avail-
19 ability of appropriations, the Secretary of Defense may
20 also use amounts made available to the Fund—

21 (1) to keep on continuous order munitions that
22 the Secretary of Defense considers critical due to a
23 reduction in current stocks as a result of the draw-
24 down of stocks provided to the government of one or
25 more foreign countries; or

1 (2) with the concurrence of the Secretary of
2 State, to procure munitions identified as having a
3 high-use rate.

4 (d) DEPOSITS.—

5 (1) IN GENERAL.—The Fund shall consist of
6 each of the following:

7 (A) Collections from sales made under let-
8 ters of offer (or transfers made under the For-
9 eign Assistance Act of 1961 (22 U.S.C. 2151 et
10 seq.)) of munitions acquired using amounts
11 made available from the Fund pursuant to this
12 section, representing the value of such items
13 calculated, as applicable, in accordance with—

14 (i) subparagraph (B) or (C) of section
15 21(a)(1) of the Arms Export Control Act
16 (22 U.S.C. 2761(a)(1));

17 (ii) section 22 of the Arms Export
18 Control Act (22 U.S.C. 2762); or

19 (iii) section 644(m) of the Foreign As-
20 sistance Act of 1961 (22 U.S.C. 2403(m)).

21 (B) Such amounts as may be appropriated
22 pursuant to the authorization under this section
23 or otherwise made available for the purposes of
24 the Fund.

1 (C) Not more than \$2,000,000,000 may be
2 transferred to the Fund for any fiscal year, in
3 accordance with subsection (e), from amounts
4 authorized to be appropriated for the Depart-
5 ment of Defense in such amounts as the Sec-
6 retary of Defense determines necessary to carry
7 out the purposes of this section, which shall re-
8 main available until expended. The transfer au-
9 thority provided under this subparagraph is in
10 addition to any other transfer authority avail-
11 able to the Secretary of Defense.

12 (2) CONTRIBUTIONS FROM FOREIGN GOVERN-
13 MENTS.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (B), the Secretary of Defense may accept
16 contributions of amounts to the Fund from any
17 foreign government or international organiza-
18 tion. Any amounts so accepted shall be credited
19 to the Taiwan Critical Munitions Acquisition
20 Fund and shall be available for use as author-
21 ized under subsection (b).

22 (B) LIMITATION.—The Secretary of De-
23 fense may not accept a contribution under this
24 paragraph if the acceptance of the contribution
25 would compromise, or appear to compromise,

1 the integrity of any program of the Department
2 of Defense.

3 (C) NOTIFICATION.—If the Secretary of
4 Defense accepts any contribution under this
5 paragraph, the Secretary shall notify the appro-
6 priate committees of Congress. The notice shall
7 specify the source and amount of any contribu-
8 tion so accepted and the use of any amount so
9 accepted.

10 (e) NOTIFICATION.—

11 (1) IN GENERAL.—No amount may be trans-
12 ferred pursuant to subsection (d)(1)(C) until the
13 date that is 15 days after the date on which the Sec-
14 retary of Defense submits to the appropriate com-
15 mittees of Congress—

16 (A) notice in writing of the amount and
17 purpose of the proposed transfer; and

18 (B) in the case of an authorization pursu-
19 ant to subsection (f)(1)(A), a description of the
20 manner in which the use of critical munitions is
21 necessary to meet national defense require-
22 ments.

23 (2) AMMUNITION PURCHASES.—No amounts in
24 the Fund may be used to purchase ammunition, as
25 authorized by this section, until the date that is 15

1 days after the date on which the Secretary of De-
2 fense notifies the appropriate committees of Con-
3 gress in writing of the amount and purpose of the
4 proposed purchase.

5 (3) FOREIGN TRANSFERS.—No munition pur-
6 chased using amounts in the Fund may be trans-
7 ferred to a foreign country until the date that is 15
8 days after the date on which the Secretary of De-
9 fense notifies the appropriate committees of Con-
10 gress in writing of the proposed transfer.

11 (f) LIMITATIONS.—

12 (1) LIMITATION ON TRANSFER.—No munition
13 acquired by the Secretary of Defense using amounts
14 made available from the Fund pursuant to this sec-
15 tion may be transferred to any foreign country un-
16 less such transfer is authorized by the Arms Export
17 Control Act (22 U.S.C. 2751 et seq.), the Foreign
18 Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or
19 other applicable law, except as follows:

20 (A) The Secretary of Defense, with the
21 concurrence of the Secretary of State, may au-
22 thorize the use by the Department of Defense
23 of munitions acquired under this section prior
24 to transfer to a foreign country, if such use is
25 necessary to meet national defense require-

1 ments and the Department bears the costs of
2 replacement and transport, maintenance, stor-
3 age, and other such associated costs of such
4 munitions.

5 (B) Except as required by subparagraph
6 (A), amounts made available to the Fund may
7 be used to pay for storage, maintenance, and
8 other costs related to the storage, preservation,
9 and preparation for transfer of munitions ac-
10 quired under this section prior to their transfer,
11 and the administrative costs of the Department
12 of Defense incurred in the acquisition of such
13 items, to the extent such costs are not eligible
14 for reimbursement pursuant to section 43(b) of
15 the Arms Export Control Act (22 U.S.C.
16 2792(b)).

17 (2) CERTIFICATION REQUIREMENT.—

18 (A) IN GENERAL.—No amounts in the
19 Fund may be used pursuant to this section un-
20 less the President—

21 (i) certifies to the appropriate com-
22 mittees of Congress that the Special De-
23 fense Acquisition Fund established pursu-
24 ant to chapter 5 of the Arms Export Con-
25 trol Act (22 U.S.C. 2795 et seq.) cannot

1 be used to fulfill the same functions and
2 objectives for which such amounts to be
3 made available from the Fund are to be
4 used; and

5 (ii) includes in such certification a
6 justification for the certification, which
7 may be included in a classified annex, if
8 necessary.

9 (B) NONDELEGATION.—The President
10 may not delegate any responsibility of the
11 President under subparagraph (A).

12 (g) TERMINATION.—The authority for the Fund
13 under this section shall expire on December 31, 2040.

14 (h) APPROPRIATE COMMITTEES OF CONGRESS DE-
15 FINED.—In this section, the term “appropriate commit-
16 tees of Congress” means—

17 (1) the Committee on Armed Services, the
18 Committee on Appropriations, and the Committee on
19 Foreign Relations of the Senate; and

20 (2) the Committee on Armed Services, the
21 Committee on Appropriations, and the Committee on
22 Foreign Affairs of the House of Representatives.

1 **SEC. 8. INCREASING PRODUCTION CAPACITY FOR WEAP-**
2 **ONS FOR UNITED STATES STOCKPILES.**

3 (a) REPORT REQUIREMENT RELATING TO INCREASE
4 IN CONTRACTED ENTITIES.—Section 222c(e) of title 10,
5 United States Code, as amended by section 1701(c) of the
6 James M. Inhofe National Defense Authorization Act for
7 Fiscal Year 2023 (Public Law 117–263), is further
8 amended by adding at the end the following new para-
9 graph:

10 “(1) Steps taken to increase the number of en-
11 tities contracted to supply each class of weapons de-
12 scribed in section 1705(c) of the James M. Inhofe
13 National Defense Authorization Act for Fiscal Year
14 2023 (Public Law 117–263) in order to produce re-
15 dundancy in the supply of such weapons.”.

16 (b) MODIFICATION TO QUARTERLY BRIEFINGS ON
17 REPLENISHMENT AND REVITALIZATION OF WEAPONS
18 PROVIDED TO UKRAINE AND TAIWAN.—Section 1703 of
19 the James M. Inhofe National Defense Authorization Act
20 for Fiscal Year 2023 (Public Law 117–263) is amended—

21 (1) in the section heading, by inserting “**AND**
22 **TAIWAN**” after “**UKRAINE**”;

23 (2) in subsection (a), by inserting “, the Com-
24 mittee on Foreign Relations of the Senate, and the
25 Committee on Foreign Affairs of the House of Rep-

1 representatives” after “congressional defense commit-
2 tees”;

3 (3) in subsection (d)(2), by inserting “or Tai-
4 wan” after “Ukraine”;

5 (4) in subsection (e), by striking “December 31,
6 2026” and inserting “December 31, 2040”; and

7 (5) by striking subsection (f) and inserting the
8 following:

9 “(a) COVERED SYSTEM.—In this section, the term
10 ‘covered system’ means—

11 “(1) any system provided to the Government of
12 Ukraine or the Government of Taiwan pursuant
13 to—

14 “(A) section 506 of the Foreign Assistance
15 Act of 1961 (22 U.S.C. 2318); or

16 “(B) section 614 of the Foreign Assistance
17 Act of 1961 (22 U.S.C. 2364);

18 “(2) any system provided to the Government of
19 Ukraine pursuant to the Ukraine Security Assist-
20 ance Initiative established under section 1250 of the
21 National Defense Authorization Act for Fiscal Year
22 2016 (Public Law 114–92), including as amended
23 by this Act, if such system was provided to Ukraine
24 after February 24, 2022; or

1 “(3) any system provided to the Government of
2 Taiwan—

3 “(A) pursuant to section 5502(b) of this
4 Act; or

5 “(B) that is necessary for a denial defense
6 of Taiwan.”.

7 (c) ASSESSMENT ON EXPANDING NATIONAL TECH-
8 NOLOGY AND INDUSTRIAL BASE.—Section 222d(b) of title
9 10, United States Code, as added by section 1701(d)(1)
10 of the James M. Inhofe National Defense Authorization
11 Act for Fiscal Year 2023 (Public Law 117–263), is
12 amended by adding at the end the following new para-
13 graph:

14 “(1) An assessment of the feasibility and advis-
15 ability of expanding the national technology and in-
16 dustrial base (as defined in section 4801 of this
17 title) to include entities outside of the United States,
18 Canada, the United Kingdom, New Zealand, Israel,
19 and Australia in order to increase the number of
20 suppliers of weapons described in section 1705(e) of
21 the James M. Inhofe National Defense Authoriza-
22 tion Act for Fiscal Year 2023 (Public Law 117–
23 263), with particular attention to member States of
24 the North Atlantic Treaty Organization, treaty allies

1 of the United States in the Indo-Pacific, and mem-
2 bers of the Quadrilateral Security Dialogue.”.

3 (d) **MINIMUM ANNUAL PRODUCTION LEVELS.**—The
4 Secretary of Defense shall include minimum annual pro-
5 duction levels for weapons described in section 1705(c) of
6 the James M. Inhofe National Defense Authorization Act
7 for Fiscal Year 2023 (Public Law 117–263) in any con-
8 tract for the procurement of such weapons entered into
9 on or after the date of the enactment of this Act.

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