

TAIWAN NON-DISCRIMINATION ACT OF 2023

DECEMBER 1, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services,
submitted the following

R E P O R T

[To accompany H.R. 540]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 540) to require the Secretary of the Treasury to pursue more equitable treatment of Taiwan at the international financial institutions, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Taiwan Non-Discrimination Act of 2023”.

SEC. 2. FINDINGS.

Congress finds as follows:

(1) As enshrined in its Articles of Agreement, the International Monetary Fund (IMF) is devoted to promoting international monetary cooperation, facilitating the expansion and balanced growth of international trade, encouraging exchange stability, and avoiding competitive exchange depreciation.

(2) Taiwan is the 21st largest economy in the world and the 10th largest goods trading partner of the United States.

(3) Although Taiwan is not an IMF member, it is a member of the World Trade Organization, the Asian Development Bank, and the Asia-Pacific Economic Cooperation forum.

(4) According to the January 2020 Report on Macroeconomic and Foreign Exchange Policies of Major Trading Partners of the United States, published by the Department of the Treasury, Taiwan held \$471,900,000,000 in foreign exchange reserves, more than major economies such as India, South Korea, and Brazil.

(5) According to section 4(d) of the Taiwan Relations Act (Public Law 96–8), enacted on April 10, 1979, “Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership

in any international financial institution or any other international organization.”

(6) Taiwan held membership in the IMF for 9 years following the recognition of the People’s Republic of China (PRC) by the United Nations, and 16 Taiwan staff members at the Fund were allowed to continue their employment after the PRC was seated at the IMF in 1980. As James M. Boughton has noted in his *Silent Revolution: The International Monetary Fund 1979–1989*, even as the PRC was seated, the United States Executive Director to the IMF, Sam Y. Cross, expressed support on behalf of the United States Government for “some kind of association between Taiwan and the Fund”.

(7) On September 27, 1994, in testimony before the Senate Committee on Foreign Relations regarding the 1994 Taiwan Policy Review, then-Assistant Secretary of State for East Asian and Pacific Affairs Winston Lord stated: “Recognizing Taiwan’s important role in transnational issues, we will support its membership in organizations where statehood is not a prerequisite, and we will support opportunities for Taiwan’s voice to be heard in organizations where its membership is not possible.”

(8) The Congress has repeatedly reaffirmed support for this policy, including in Public Laws 107–10, 107–158, 108–28, 108–235, 113–17, and 114–139, and the unanimous House and Senate passage of the Taiwan Allies International Protection and Enhancement Initiative (TAIPEI) Act of 2019.

(9) In its fact sheet, entitled “U.S. Relations with Taiwan”, published on August 31, 2018, the Department of State asserts: “The United States supports Taiwan’s membership in international organizations that do not require statehood as a condition of membership and encourages Taiwan’s meaningful participation in international organizations where its membership is not possible.”

(10) According to the Articles of Agreement of the IMF, “membership shall be open to other countries”, subject to conditions prescribed by the Board of Governors of the IMF.

(11) In the IMF publication “Membership and Nonmembership in the International Monetary Fund: A Study in International Law and Organization”, Joseph Gold, the then-General Counsel and Director of the Legal Department of the IMF, elaborated on the differences between the terms “countries” and “states”, noting that “the word ‘country’ may have been adopted because of the absence of agreement on the definition of a ‘state’” and, with respect to the use of “countries” and applications for IMF membership, “the absence of any adjective in the Articles emphasizes the breadth of the discretion that the Fund may exercise in admitting countries to membership”. According to Mr. Gold, “the desire to give the Fund flexibility in dealing with applications may explain not only the absence of any adjective that qualifies ‘countries’ but also the choice of that word itself”.

(12) In his IMF study, Mr. Gold further observes, “in the practice of the Fund the concepts of independence and sovereignty have been avoided on the whole as a mode of expressing a criterion for membership in the Fund”. He continues, “Although the Fund usually takes into account the recognition or nonrecognition of an entity as a state, there are no rules or even informal understandings on the extent to which an applicant must have been recognized by members or other international organizations before the Fund will regard it as eligible for membership.”. In fact, when considering an application for membership where the status of an applicant may not be resolved, Mr. Gold writes “there have been occasions on which the Fund has made a finding before decisions had been taken by the United Nations or by most members or by members with a majority of the total voting power.” Mr. Gold concludes, “the Fund makes its own findings on whether an applicant is a ‘country’, and makes them solely for its own purposes.”

(13) Although not a member state of the United Nations, the Republic of Kosovo is a member of both the IMF and the World Bank, having joined both organizations on June 29, 2009.

(14) On October 26, 2021, Secretary of State Antony Blinken issued a statement in support of Taiwan’s “robust, meaningful participation” in the United Nations system, which includes the IMF, the World Bank, and other specialized United Nations agencies. Secretary of State Blinken noted, “As the international community faces an unprecedented number of complex and global issues, it is critical for all stakeholders to help address these problems. This includes the 24 million people who live in Taiwan. Taiwan’s meaningful participation in the UN system is not a political issue, but a pragmatic one.”. He continued, “Taiwan’s exclusion undermines the important work of the UN and its related bodies, all of which stand to benefit greatly from its contributions.”.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that—

- (1) the size, significance, and connectedness of the Taiwanese economy highlight the importance of greater participation by Taiwan in the International Monetary Fund, given the purposes of the Fund articulated in its Articles of Agreement; and
- (2) the experience of Taiwan in developing a vibrant and advanced economy under democratic governance and the rule of law should inform the work of the international financial institutions, including through increased participation by Taiwan in the institutions.

SEC. 4. SUPPORT FOR TAIWAN ADMISSION TO THE IMF.

(a) **IN GENERAL.**—The United States Governor of the International Monetary Fund (in this section referred to as the “Fund”) shall use the voice and vote of the United States to vigorously support—

- (1) the admission of Taiwan as a member of the Fund, to the extent that admission is sought by Taiwan;
- (2) participation by Taiwan in regular surveillance activities of the Fund with respect to the economic and financial policies of Taiwan, consistent with Article IV consultation procedures of the Fund;
- (3) employment opportunities for Taiwan nationals, without regard to any consideration that, in the determination of the United States Governor, does not generally restrict the employment of nationals of member countries of the Fund; and
- (4) the ability of Taiwan to receive appropriate technical assistance and training by the Fund.

(b) **UNITED STATES POLICY.**—It is the policy of the United States not to discourage or otherwise deter Taiwan from seeking admission as a member of the Fund.

(c) **WAIVER.**—The Secretary of the Treasury may waive any requirement of subsection (a) for up to 1 year at a time on reporting to Congress that providing the waiver will substantially promote the objective of securing the meaningful participation of Taiwan at each international financial institution (as defined in section 1701(c)(2) of the International Financial Institutions Act).

(d) **SUNSET.**—This section shall have no force or effect on the earlier of—

- (1) the date of approval by the Board of Governors of the Fund for the admission of Taiwan as a member of the Fund; or
- (2) the date that is 10 years after the date of the enactment of this Act.

SEC. 5. TESTIMONY REQUIREMENT.

In each of the next 7 years in which the Secretary of the Treasury is required by section 1705(b) of the International Financial Institutions Act to present testimony, the Secretary shall include in the testimony a description of the efforts of the United States to support the greatest participation practicable by Taiwan at each international financial institution (as defined in section 1701(c)(2) of such Act).

PURPOSE AND SUMMARY

Introduced on January 26, 2023, by Representative Young Kim, H.R. 540, the *Taiwan Non-Discrimination Act of 2023*, requires the U.S. to advocate for Taiwan’s membership and meaningful participation at the International Monetary Fund (IMF) and is essential for Department of the Treasury (Treasury) to implement U.S. policy towards Taiwan at the IMF. Under current practice, the IMF would only engage Taiwan through the consent of the People’s Republic of China, an unacceptable arrangement that Treasury does not appear to be challenging. Given how clear U.S. policy has been on Taiwan’s participation in institutions like the IMF, it is vital for Treasury to support Taiwan’s involvement without deferring to Beijing for authorization. IMF membership for Taiwan would also unlock the potential for membership in other international financial institutions, such as the World Bank and Inter-American Development Bank. (Taiwan is already a member of the Asian Development Bank.)

BACKGROUND AND NEED FOR LEGISLATION

United States policy towards Taiwan, as repeatedly reaffirmed in law, supports the island's membership in international organizations where statehood is not a prerequisite, as well as Taiwan's meaningful participation in organizations where membership is not possible. Under its rules and precedents, the IMF is open to membership by "countries," not "states." As the former General Counsel of the IMF, Joseph Gold, wrote in *Membership and Nonmembership in the International Monetary Fund: A Study in International Law and Organization*, "[. . .] in the practice of the Fund, the concepts of independence and sovereignty have been avoided on the whole as a mode of expressing a criterion for membership in the Fund." The IMF determines whether an applicant is a "country" for its own membership purposes. For example, Kosovo joined the IMF as a member country in 2009, despite not being a member state of the United Nations.

Although Taiwan is a major advanced economy, it neither enjoys membership in the IMF nor participates in any meaningful way in the Fund's activities. Given how clear U.S. policy has been on Taiwan's participation in institutions like the IMF, it is vital for Treasury to support Taiwan's involvement without deferring to Beijing for authorization. IMF membership for Taiwan would also unlock the potential for membership in other international financial institutions, such as the World Bank and Inter-American Development Bank (Taiwan is already a member of the Asian Development Bank).

HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 540: The Committee on Financial Services held a hearing February 7, 2023, titled "Combatting the Economic Threat from China."

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on February 28, 2023, and ordered H.R. 540 to be reported favorably to the House as amended by a recorded vote of 38 ayes to 0 nays (Record vote no. FC-18), a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mrs. Kim by voice vote.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the order to report legislation and amendments thereto. H.R. 540 was ordered reported favorably to the House as amended by a recorded vote of 38 ayes to 0 nays (Record vote no. FC-18), a quorum being present.

Record vote no. FC- 18

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. McHenry	X	—	—	Ms. Waters	X	—	—
Mr. Hill	X	—	—	Mrs. Velazquez	—	—	—
Mr. Lucas	—	—	—	Mr. Sherman	X	—	—
Mr. Sessions	—	—	—	Mr. Meeks	—	—	—
Mr. Posey	X	—	—	Mr. Scott	—	—	—
Mr. Luetkeneyer	X	—	—	Mr. Lynch	—	—	—
Mr. Huelskamp	X	—	—	Mr. Green	X	—	—
Mrs. Wagner	X	—	—	Mr. Cleaver	—	—	—
Mr. Barr	—	—	—	Mr. Himes	—	—	—
Mr. Williams (TX)	—	—	—	Mr. Foster	X	—	—
Mr. Emmer	—	—	—	Mrs. Beatty	X	—	—
Mr. Loudermilk	X	—	—	Mr. Vargas	X	—	—
Mr. Mooney	X	—	—	Mr. Gottheimer	X	—	—
Mr. Davidson	X	—	—	Mr. Gonzalez	X	—	—
Mr. Rose	X	—	—	Mr. Casten	X	—	—
Mr. Steel	—	—	—	Ms. Pressley	X	—	—
Mr. Timmons	X	—	—	Mr. Horsford	X	—	—
Mr. Norman	X	—	—	Ms. Tlaib	X	—	—
Mr. Meuser	X	—	—	Mr. Torres	X	—	—
Mr. Fitzgerald	X	—	—	Ms. Garcia	X	—	—
Mr. Garbarino	—	—	—	Ms. Williams (GA)	X	—	—
Mrs. Kum	X	—	—	Mr. Nickel	X	—	—
Mr. Donalds	—	—	—	Ms. Petersen	X	—	—
Mr. Flood	X	—	—				
Mr. Lawler	X	—	—				
Mr. Nunn	X	—	—				
Ms. De La Cruz	X	—	—				
Mrs. Houchin	X	—	—				
Mr. Ogles	X	—	—				

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 3(c) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 540 is to further the United States' policy on Taiwan by advocating for the country's inclusion in the IMF.

CONGRESSIONAL BUDGET OFFICE ESTIMATES

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 540, Taiwan Non-Discrimination Act of 2023

As ordered reported by the House Committee on Financial Services on February 28, 2023

By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and \$500,000.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

EARMARK IDENTIFICATION

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Sec. 1: Short title

This Act may be cited as the “Taiwan Non-Discrimination Act of 2023.”

Sec. 2: Findings

This section sets out several findings regarding Taiwan including but not limited to their global economic ranking, their current participation in international organizations such as the World Trade Organization, and their past participation in the IMF.

Sec. 3: Sense of Congress

This section establishes a sense of Congress that the size, significance and connectedness of Taiwan and its experience as an advanced economy all support its participation.

Sec. 4: Support for Taiwan admission to the IMF

The bill instructs the U.S. Governor of the IMF to use the voice and vote of the U.S. to vigorously support the following: Taiwan’s admission to the IMF and participation in the IMF’s activities; employment opportunities for Taiwan nationals; and provision of technical assistance and training for Taiwan by the IMF. The policies set forth in the bill sunset after 10 years or the date U.S. Governor approves Taiwan’s admission to the IMF.

Sec. 5: Testimony requirement

This bill requires the Secretary of the Treasury to testify each year, for the next 7 years, on efforts to support the participation of Taiwan at each international financial institution.

