

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 540
OFFERED BY MRS. KIM OF CALIFORNIA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Taiwan Non-Discrimi-
3 nation Act of 2023”.

4 SEC. 2. FINDINGS.

5 Congress finds as follows:

6 (1) As enshrined in its Articles of Agreement,
7 the International Monetary Fund (IMF) is devoted
8 to promoting international monetary cooperation, fa-
9 cilitating the expansion and balanced growth of
10 international trade, encouraging exchange stability,
11 and avoiding competitive exchange depreciation.

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

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

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

8 (5) According to section 4(d) of the Taiwan Re-
9 lations Act (Public Law 96–8), enacted on April 10,
10 1979, “Nothing in this Act may be construed as a
11 basis for supporting the exclusion or expulsion of
12 Taiwan from continued membership in any inter-
13 national financial institution or any other inter-
14 national organization.”.

15 (6) Taiwan held membership in the IMF for 9
16 years following the recognition of the People’s Re-
17 public of China (PRC) by the United Nations, and
18 16 Taiwan staff members at the Fund were allowed
19 to continue their employment after the PRC was
20 seated at the IMF in 1980. As James M. Boughton
21 has noted in his *Silent Revolution: The International
22 Monetary Fund 1979–1989*, even as the PRC was
23 seated, the United States Executive Director to the
24 IMF, Sam Y. Cross, expressed support on behalf of

1 the United States Government for “some kind of as-
2 sociation between Taiwan and the Fund”.

3 (7) On September 27, 1994, in testimony be-
4 fore the Senate Committee on Foreign Relations re-
5 garding the 1994 Taiwan Policy Review, then-As-
6 sistant Secretary of State for East Asian and Pacific
7 Affairs Winston Lord stated: “Recognizing Taiwan’s
8 important role in transnational issues, we will sup-
9 port its membership in organizations where state-
10 hood is not a prerequisite, and we will support op-
11 portunities for Taiwan’s voice to be heard in organi-
12 zations where its membership is not possible.”.

13 (8) The Congress has repeatedly reaffirmed
14 support for this policy, including in Public Laws
15 107–10, 107–158, 108–28, 108–235, 113–17, and
16 114–139, and the unanimous House and Senate
17 passage of the Taiwan Allies International Protec-
18 tion and Enhancement Initiative (TAIPEI) Act of
19 2019.

20 (9) In its fact sheet, entitled “U.S. Relations
21 with Taiwan”, published on August 31, 2018, the
22 Department of State asserts: “The United States
23 supports Taiwan’s membership in international orga-
24 nizations that do not require statehood as a condi-
25 tion of membership and encourages Taiwan’s mean-

1 ingful participation in international organizations
2 where its membership is not possible.”.

3 (10) According to the Articles of Agreement of
4 the IMF, “membership shall be open to other coun-
5 tries”, subject to conditions prescribed by the Board
6 of Governors of the IMF.

7 (11) In the IMF publication “Membership and
8 Nonmembership in the International Monetary
9 Fund: A Study in International Law and Organiza-
10 tion”, Joseph Gold, the then-General Counsel and
11 Director of the Legal Department of the IMF, elabo-
12 rated on the differences between the terms “coun-
13 tries” and “states”, noting that “the word ‘country’
14 may have been adopted because of the absence of
15 agreement on the definition of a ‘state’” and, with
16 respect to the use of “countries” and applications
17 for IMF membership, “the absence of any adjective
18 in the Articles emphasizes the breadth of the discre-
19 tion that the Fund may exercise in admitting coun-
20 tries to membership”. According to Mr. Gold, “the
21 desire to give the Fund flexibility in dealing with ap-
22 plications may explain not only the absence of any
23 adjective that qualifies ‘countries’ but also the choice
24 of that word itself”.

1 (12) In his IMF study, Mr. Gold further ob-
2 serves, “in the practice of the Fund the concepts of
3 independence and sovereignty have been avoided on
4 the whole as a mode of expressing a criterion for
5 membership in the Fund”. He continues, “Although
6 the Fund usually takes into account the recognition
7 or nonrecognition of an entity as a state, there are
8 no rules or even informal understandings on the ex-
9 tent to which an applicant must have been recog-
10 nized by members or other international organiza-
11 tions before the Fund will regard it as eligible for
12 membership.”. In fact, when considering an applica-
13 tion for membership where the status of an appli-
14 cant may not be resolved, Mr. Gold writes “there
15 have been occasions on which the Fund has made a
16 finding before decisions had been taken by the
17 United Nations or by most members or by members
18 with a majority of the total voting power.” Mr. Gold
19 concludes, “the Fund makes its own findings on
20 whether an applicant is a ‘country’, and makes them
21 solely for its own purposes.”.

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

1 (14) On October 26, 2021, Secretary of State
2 Antony Blinken issued a statement in support of
3 Taiwan’s “robust, meaningful participation” in the
4 United Nations system, which includes the IMF, the
5 World Bank, and other specialized United Nations
6 agencies. Secretary of State Blinken noted, “As the
7 international community faces an unprecedented
8 number of complex and global issues, it is critical for
9 all stakeholders to help address these problems. This
10 includes the 24 million people who live in Taiwan.
11 Taiwan’s meaningful participation in the UN system
12 is not a political issue, but a pragmatic one.”. He
13 continued, “Taiwan’s exclusion undermines the im-
14 portant work of the UN and its related bodies, all
15 of which stand to benefit greatly from its contribu-
16 tions.”.

17 **SEC. 3. SENSE OF THE CONGRESS.**

18 It is the sense of the Congress that—

19 (1) the size, significance, and connectedness of
20 the Taiwanese economy highlight the importance of
21 greater participation by Taiwan in the International
22 Monetary Fund, given the purposes of the Fund ar-
23 ticulated in its Articles of Agreement; and

24 (2) the experience of Taiwan in developing a vi-
25 brant and advanced economy under democratic gov-

1 ernance and the rule of law should inform the work
2 of the international financial institutions, including
3 through increased participation by Taiwan in the in-
4 stitutions.

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

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

10 (1) the admission of Taiwan as a member of
11 the Fund, to the extent that admission is sought by
12 Taiwan;

13 (2) participation by Taiwan in regular surveil-
14 lance activities of the Fund with respect to the eco-
15 nomic and financial policies of Taiwan, consistent
16 with Article IV consultation procedures of the Fund;

17 (3) employment opportunities for Taiwan na-
18 tionals, without regard to any consideration that, in
19 the determination of the United States Governor,
20 does not generally restrict the employment of nation-
21 als of member countries of the Fund; and

22 (4) the ability of Taiwan to receive appropriate
23 technical assistance and training by the Fund.

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

4 (c) WAIVER.—The Secretary of the Treasury may
5 waive any requirement of subsection (a) for up to 1 year
6 at a time on reporting to Congress that providing the
7 waiver will substantially promote the objective of securing
8 the meaningful participation of Taiwan at each inter-
9 national financial institution (as defined in section
10 1701(c)(2) of the International Financial Institutions
11 Act).

12 (d) SUNSET.—This section shall have no force or ef-
13 fect on the earlier of—

14 (1) the date of approval by the Board of Gov-
15 ernors of the Fund for the admission of Taiwan as
16 a member of the Fund; or

17 (2) the date that is 10 years after the date of
18 the enactment of this Act.

19 **SEC. 5. TESTIMONY REQUIREMENT.**

20 In each of the next 7 years in which the Secretary
21 of the Treasury is required by section 1705(b) of the
22 International Financial Institutions Act to present testi-
23 mony, the Secretary shall include in the testimony a de-
24 scription of the efforts of the United States to support
25 the greatest participation practicable by Taiwan at each

- 1 international financial institution (as defined in section
- 2 1701(c)(2) of such Act).

