To amend the Trade Expansion Act of 1962 to impose limitations on the authority of the President to adjust imports that are determined to threaten to impair national security, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GALLAGHER introduced the following bill; which was referred to the Committee on ________________

A BILL

To amend the Trade Expansion Act of 1962 to impose limitations on the authority of the President to adjust imports that are determined to threaten to impair national security, 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 “Congressional Trade
5 Authority Act of 2023”.
SEC. 2. LIMITATIONS ON AUTHORITY OF PRESIDENT TO ADJUST IMPORTS DETERMINED TO THREATEN TO IMPAIR NATIONAL SECURITY.

(a) LIMITATION ON ARTICLES FOR WHICH ACTION MAY BE TAKEN.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended—

(1) by striking “an article” each place it appears and inserting “a covered article”;

(2) by striking “any article” each place it appears and inserting “any covered article”;

(3) by striking “the article” each place it appears and inserting “the covered article”;

(4) in the first subsection (d), by striking “In the administration” and all that follow through “national security.”; and

(5) by adding at the end the following:

“(i) DEFINITIONS.—In this section:

“(1) COVERED ARTICLE.—The term ‘covered article’ means an article related to the development, maintenance, or protection of military equipment, energy resources, or critical infrastructure essential to national security.

“(2) NATIONAL SECURITY.—The term ‘national security’—

“(A) means the protection of the United States from foreign aggression; and
“(B) does not otherwise include the protection of the general welfare of the United States.”.

(b) RESPONSIBILITY OF SECRETARY OF DEFENSE FOR INVESTIGATIONS.—Section 232(b) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking “the Secretary of Commerce (hereafter in the section referred to as the ‘Secretary’)” and inserting “the Secretary of Defense”; and

(B) in subparagraph (B)—

(i) by striking “The Secretary” and inserting “The Secretary of Defense”; and

(ii) by striking “the Secretary of Defense” and inserting “the Secretary of Commerce”;

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking “the Secretary” and inserting “the Secretary of Defense”; and

(ii) in clause (i), by striking “the Secretary of Defense” and inserting “the Secretary of Commerce”; and
(B) by amending subparagraph (B) to read as follows:

“(B) Upon the request of the Secretary of Defense, the Secretary of Commerce shall provide to the Secretary of Defense an assessment of the quantity of imports of any covered article that is the subject of an investigation conducted under this subsection and the circumstances under which the covered article is imported.”;

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the first sentence, by striking “the Secretary shall submit” and all that follows through “recommendations of the Secretary” and inserting “the Secretary of Defense and the Secretary of Commerce shall jointly submit to the President a report on the findings of the investigation and, based on such findings, the recommendations of the Secretary of Commerce”; and

(ii) in the second sentence, by striking “Secretary finds” and all that follows through “Secretary shall” and inserting “Secretaries find that the covered article is
being imported into the United States in such quantities or under such circumstances as to be a substantial cause of a threat to impair the national security, the Secretaries shall”; and

(B) in subparagraph (B), by striking “by the Secretary”; and

(4) in paragraph (4), by striking “Secretary” and inserting “Secretary of Defense”.

(c) Determinations of President.—Section 232(c) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(c)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (B);

(B) in the matter preceding clause (i)—

(i) by striking “(A) Within” and inserting “Within”; and

(ii) by striking “in which the Secretary” and inserting “that”;

(C) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively;

(D) in subparagraph (A), as redesignated by subparagraph (C), by striking “of the Secretary”; and
(E) by amending subparagraph (B), as redesignated by subparagraph (C), to read as follows:

“(B) if the President concurs, submit to Congress, not later than 15 days after making that determination, a proposal regarding the nature and duration of the action that, in the judgment of the President, should be taken to adjust the imports of the covered article and its derivatives so that such imports will not be a substantial cause of a threat to impair the national security.”; and

(2) by striking paragraphs (2) and (3) and inserting the following:

“(2) The President shall submit to Congress for review under subsection (f) a report describing the action proposed to be taken under paragraph (1) and specifying the reasons for such proposal. Such report shall be included in the report published under subsection (e).”

(d) CONGRESSIONAL APPROVAL OF PRESIDENTIAL ADJUSTMENT OF IMPORTS.—Section 232(f) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(f)) is amended to read as follows:
“(f) Congressional Approval of Presidential Adjustment of Imports; Joint Resolution of Approval.—

“(1) In general.—An action to adjust imports proposed by the President in a report submitted to Congress under subsection (c)(2) shall have force and effect only if, during the period of 60 calendar days beginning on the date on which the report is submitted, a joint resolution of approval is enacted pursuant to paragraph (2).

“(2) Joint resolutions of approval.—

“(A) Joint resolution of approval defined.—In this subsection, the term ‘joint resolution of approval’ means only a joint resolution of either House of Congress—

“(i) the title of which is as follows: ‘A joint resolution approving the proposal of the President to take an action relating to the adjustment of imports entering into the United States in such quantities or under such circumstances as to threaten or impair the national security.’; and

“(ii) the sole matter after the resolving clause of which is the following: ‘Congress approves of the proposal of the Presi-
dent relating to the adjustment of imports
to protect the national security as de-
scribed in the report submitted to Con-
gress under section 232(c)(2) of the Trade
1862(c)(2)) on _________ relating to
_________.', with the first blank space
being filled with the appropriate date and
the second blank space being filled with a
short description of the proposed action.

"(B) INTRODUCTION.—During the period
of 60 calendar days provided for under para-
graph (1), a joint resolution of approval may be
introduced in either House by any Member.

"(C) CONSIDERATION IN HOUSE OF REP-
RESENTATIVES.—

"(i) COMMITTEE REFERRAL.—A joint
resolution of approval introduced in the
House of Representatives shall be referred
to the Committee on Ways and Means.

"(ii) REPORTING AND DISCHARGE.—
If the Committee on Ways and Means has
not reported the joint resolution of ap-
proval within 10 calendar days after the
date of referral, the Committee shall be
discharged from further consideration of
the joint resolution.

“(iii) PROCEEDING TO CONSIDER-
ATION.—Beginning on the third legislative
day after the Committee on Ways and
Means reports the joint resolution of ap-
proval to the House or has been discharged
from further consideration thereof, it shall
be in order to move to proceed to consider
the joint resolution in the House. All
points of order against the motion are
waived. Such a motion shall not be in
order after the House has disposed of a
motion to proceed on the joint resolution.
The previous question shall be considered
as ordered on the motion to its adoption
without intervening motion. The motion
shall not be debatable. A motion to recon-
sider the vote by which the motion is dis-
posed of shall not be in order.

“(iv) FLOOR CONSIDERATION.—The
joint resolution of approval shall be consid-
ered as read. All points of order against
the joint resolution and against its consid-
eration are waived. The previous question
shall be considered as ordered on the joint resolution to final passage without intervening motion except 2 hours of debate equally divided and controlled by the sponsor of the joint resolution (or a designee) and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

“(D) CONSIDERATION IN THE SENATE.—

“(i) COMMITTEE REFERRAL.—A joint resolution of approval introduced in the Senate shall be referred to the Committee on Finance.

“(ii) REPORTING AND DISCHARGE.—If the Committee on Finance has not reported the joint resolution of approval within 10 calendar days after the date of referral of the joint resolution, the Committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be placed on the appropriate calendar.

“(iii) PROCEEDING TO CONSIDERATION.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in
order at any time after the Committee on Finance reports a joint resolution of approval or has been discharged from consideration of such a joint resolution to move to proceed to the consideration of the joint resolution. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

“(iv) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a joint resolution of approval shall be decided by the Senate without debate.

“(E) TREATMENT OF HOUSE JOINT RESOLUTION IN SENATE.—

“(i) COMMITTEE REFERRAL.—Except as provided in clause (ii), a joint resolution of approval that has passed the House of Representatives shall, when received in the Senate, be referred to the Committee on
Finance for consideration in accordance with subparagraph (D).

“(ii) CONSIDERATION OF HOUSE RESOLUTION.—If a joint resolution of approval was introduced in the Senate before receipt of a joint resolution of approval that has passed the House of Representatives—

“(I) the joint resolution from the House of Representatives shall, when received in the Senate, be placed on the calendar; and

“(II) the procedures in the Senate with respect to a joint resolution of approval introduced in the Senate shall be the same as if no joint resolution of approval had been received from the House of Representatives, except that the vote on passage in the Senate shall be on the joint resolution that passed the House of Representatives.

“(iii) HOUSE RESOLUTION RECEIVED AFTER PASSAGE BY SENATE.—If the Senate passes a joint resolution of approval before receiving a joint resolution of ap-
proval from the House of Representatives, the joint resolution of the Senate shall be
held at the desk pending receipt of the joint resolution from the House of Rep-
representatives. Upon receipt of the joint reso-
lution of approval from the House of Rep-
resentatives, such joint resolution shall be
deemed to be read twice, considered, read
the third time, and passed.

“(iv) Consideration of House res-
olution if no resolution introduced
in Senate.—If the Senate receives a joint
resolution of approval from the House of
Representatives, and no joint resolution of
approval has been introduced in the Sen-
ate, the procedures described in subpara-
graph (D) shall apply to consideration of
the joint resolution of the House.

“(F) Rules of House of Representa-
tives and Senate.—This paragraph is en-
acted by Congress—

“(i) as an exercise of the rulemaking
power of the Senate and the House of Rep-
resentatives, respectively, and as such is
deemed a part of the rules of each House,
respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

“(ii) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.”.

(e) EXCLUSION PROCESS; REPORT.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended by inserting after subsection (f) the following:

“(g) ADMINISTRATION OF EXCLUSION PROCESS.—

“(1) IN GENERAL.—The United States International Trade Commission shall administer a process for granting requests for the exclusion of covered articles from any actions, including actions to impose duties or quotas, taken by the President under subsection (c).

“(2) REQUIREMENTS.—In administering the process required by paragraph (1), the International Trade Commission shall—

“(A) consider, when determining whether to grant an exclusion with respect to a covered article, if—
“(i) the covered article is produced in
the United States and is of sufficient qual-
ity, available in sufficient quantities, and
available on a reasonable timeframe;
“(ii) the failure to grant the exclusion
would result in severe economic harm; and
“(iii) the failure to grant the exclusion
would impair the ability of the United
States to maintain effective pressure to re-
move an unreasonable or discriminatory
practice burdening United States com-
merce, and further if the International
Trade Commission determines that—
“(I) the article or a reasonable
substitute is not commercially avail-
able to person requesting an exclusion
under paragraph (1) with respect to a
covered article;
“(II) the imposition of the duty
with respect to the article would un-
reasonably increase consumer prices
for day-to-day items consumed by low-
or middle-income families in the
United States;
“(III) the imposition of the duty would have an unreasonable impact on manufacturing output of the United States;

“(IV) the imposition of the duty would have an unreasonable impact on the ability of an entity to fulfill contracts or to build critical infrastructure; or

“(V) the failure to grant the exclusion is likely to result in a particular entity or entities having the ability to abuse a dominant market position; and

“(B) ensure that an exclusion granted with respect to a covered article is available to any person that imports the covered article;

“(C) not disclose business proprietary information; and

“(D) establish guidelines to provide for—

“(i) the maximum period of time that an exclusion will be in effect;

“(ii) applications for renewal of an exclusion; and
“(iii) written reasoning to a person that has requested an exclusion that the International Trade Commission has denied.

“(3) Publication of procedures.—The International Trade Commission shall publish in the Federal Register and make available on a publicly available internet website of the Commission a description of the procedures to be followed by a person requesting an exclusion under paragraph (1) with respect to a covered article.

“(h) Report by International Trade Commission.—Not later than 18 months after the President takes action under subsection (c) to adjust imports of a covered article, the International Trade Commission shall submit to Congress a report assessing the effects of the action on—

“(1) the industry to which the covered article relates; and

“(2) the overall economy of the United States.

“(i) Audit.—The Comptroller General of the United States shall conduct an audit on an annual basis of the exclusion process established under subsection (g)(1).”.

(f) SUNSET.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as amended by this section, is further amended by adding at the end the following:

“(i) SUNSET.—Notwithstanding any other provision of this section, an action to adjust imports by the President in a report submitted to Congress under subsection (c)(2) with respect to a covered article shall terminate not later than the date that is three years after the date of the enactment of a joint resolution required by subsection (f) with respect to such action.”.

(g) CONFORMING AMENDMENTS.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as amended by this section, is further amended—

(1) in the first subsection (d), by striking “the Secretary and the President” each place it appears and inserting “the Secretary of Defense, the Secretary of Commerce, and the President”;

(2) by redesignating the second subsection (d) as subsection (e); and

(3) in paragraph (1) of subsection (e), as redesignated by paragraph (2), by striking “the Secretary” and inserting “the Secretary of Defense”.

(h) EFFECTIVE DATE.—Except as provided by subsection (h), the amendments made by this section shall apply with respect to any proposed action under section
232(c) of the Trade Expansion Act of 1962 (19 U.S.C. 1862(c)) on or after the date that is 6 years before the date of the enactment of this Act.

(i) Transition Rules.—

(1) Approval process for actions taken before date of enactment.—

(A) In general.—If, during the period specified in paragraph (2), the President makes a determination described in subsection (c) of section 232 of the Trade Expansion Act of 1962, as in effect on the day before the date of the enactment of this Act, to take action with respect to an article—

(i) not later than 15 days after such date of enactment, the President shall resubmit to Congress the report required under that section with respect to the action; and

(ii) the action shall have force and effect after the day that is 75 days after such date of enactment only if, during the period of 60 calendar days beginning on the date on which the report is resubmitted under clause (i), a joint resolution of approval is enacted pursuant to subsection
(f)(2) of the Trade Expansion Act of 1962, as amended by this section, with respect to the action.

(B) Nonapplicability of definitions.—Subparagraph (A) shall apply with respect to an action without regard to whether the article to which the action relates is a covered article (as defined in subsection (i) of section 232 of the Trade Expansion Act of 1962, as added by this section).

(2) Period specified.—The period specified in this paragraph is the period beginning on the date that is 7 years before the date of the enactment of this Act and ending on the day before such date of enactment.

(3) Administration of exclusion process.—In the case of an action with respect to which a resolution of approval is enacted as required by paragraph (1)(A)(ii), the Secretary of Commerce shall continue to administer the process established before the date of the enactment of this Act for granting requests for the exclusion of articles from the action.

(4) International trade commission report.—Not later than 180 days after the date of
the enactment of this Act, the United States International Trade Commission shall submit to Congress a report described in subsection (h) of section 232 of the Trade Expansion Act of 1962, as added by this section, relating to each action taken under subsection (c) of section 232 of the Trade Expansion Act of 1962, as in effect on the day before such date of enactment, during the period specified in paragraph (2).

(5) TERMINATION OF ACTIONS NOT APPROVED.—

(A) IN GENERAL.—An action described in subparagraph (B) shall terminate on the day that is 75 days after the date of the enactment of this Act.

(B) ACTION DESCRIBED.—An action described in this subparagraph is an action with respect to which—

(i) the President made a determination described in subsection (c) of section 232 of the Trade Expansion Act of 1962, as in effect on the day before the date of the enactment of this Act, during the period specified in paragraph (2); and
(ii) a joint resolution of approval is not enacted as required by paragraph (1)(A)(ii).

(C) Modification of Duty Rate Amounts.—

(i) In General.—Any rate of duty modified under section 232(c) of the Trade Expansion Act of 1962, as in effect on the day before the date of the enactment of this Act, pursuant to an action described in subparagraph (B) shall, on the day that is 75 days after the date of the enactment of this Act, revert to the rate of duty in effect before such modification.

(ii) Retroactive Application for Certain Liquidations and Reliquidations.—

(I) In General.—Subject to subclause (II), an entry of an article shall be liquidated or reliquidated as though such entry occurred on the date that is 75 days after the date of the enactment of this Act if—

(aa) the rate of duty applicable to the article was modified
pursuant to an action described in subparagraph (B); and
(bb) a lower rate of duty would be applicable due to the application of clause (i).

(II) REQUESTS.—A liquidation or reliquidation may be made under subclause (I) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 255 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

(aa) to locate the entry; or
(bb) to reconstruct the entry if it cannot be located.

(III) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of an entry of an article under subclause (I) shall be paid, without interest, not later than 90 days after the date of the liquida-
tion or reliquidation (as the case may be).

(iii) **ENTRY DEFINED.**—In this paragraph, the terms “entry” includes a withdrawal from warehouse for consumption.