

117TH CONGRESS  
2D SESSION

# H. R. 8666

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.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 2022

Mr. KIND (for himself, Mr. GALLAGHER, Mr. BEYER, Mr. COHEN, Mr. COOPER, and Mr. SUOZZI) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Rules, 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

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## 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 “Bicameral Congres-  
5 sional Trade Authority Act of 2022”.

1 **SEC. 2. LIMITATIONS ON AUTHORITY OF PRESIDENT TO AD-**  
2 **JUST IMPORTS DETERMINED TO THREATEN**  
3 **TO IMPAIR NATIONAL SECURITY.**

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

7 (1) by striking “an article” each place it ap-  
8 pears and inserting “a covered article”;

9 (2) by striking “any article” each place it ap-  
10 pears and inserting “any covered article”;

11 (3) by striking “the article” each place it ap-  
12 pears and inserting “the covered article”;

13 (4) in the first subsection (d), by striking “In  
14 the administration” and all that follow through “na-  
15 tional security.”; and

16 (5) by adding at the end the following:

17 “(i) DEFINITIONS.—In this section:

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

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

25 “(A) means the protection of the United  
26 States from foreign aggression; and

1 “(B) does not otherwise include the protec-  
2 tion of the general welfare of the United  
3 States.”.

4 (b) RESPONSIBILITY OF SECRETARY OF DEFENSE  
5 FOR INVESTIGATIONS.—Section 232(b) of the Trade Ex-  
6 pansion Act of 1962 (19 U.S.C. 1862(b)) is amended—

7 (1) in paragraph (1)—

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

12 (B) in subparagraph (B)—

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

15 (ii) by striking “the Secretary of De-  
16 fense” and inserting “the Secretary of  
17 Commerce”;

18 (2) in paragraph (2)—

19 (A) in subparagraph (A)—

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

23 (ii) in clause (i), by striking “the Sec-  
24 retary of Defense” and inserting “the Sec-  
25 retary of Commerce”; and

1 (B) by amending subparagraph (B) to read  
2 as follows:

3 “(B) Upon the request of the Secretary of  
4 Defense, the Secretary of Commerce shall pro-  
5 vide to the Secretary of Defense an assessment  
6 of the quantity of imports of any covered article  
7 that is the subject of an investigation conducted  
8 under this subsection and the circumstances  
9 under which the covered article is imported.”;

10 (3) in paragraph (3)—

11 (A) in subparagraph (A)—

12 (i) in the first sentence, by striking  
13 “the Secretary shall submit” and all that  
14 follows through “recommendations of the  
15 Secretary” and inserting “the Secretary of  
16 Defense and the Secretary of Commerce  
17 shall jointly submit to the President a re-  
18 port on the findings of the investigation  
19 and, based on such findings, the rec-  
20 ommendations of the Secretary of Com-  
21 merce”; and

22 (ii) in the second sentence, by striking  
23 “Secretary finds” and all that follows  
24 through “Secretary shall” and inserting  
25 “Secretaries find that the covered article is

1           being imported into the United States in  
2           such quantities or under such cir-  
3           cumstances as to be a substantial cause of  
4           a threat to impair the national security,  
5           the Secretaries shall”; and

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

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

10          (c) DETERMINATIONS OF PRESIDENT.—Section  
11          232(c) of the Trade Expansion Act of 1962 (19 U.S.C.  
12          1862(c)) is amended—

13               (1) in paragraph (1)—

14                       (A) by striking subparagraph (B);

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

16                               (i) by striking “(A) Within” and in-  
17                               serting “Within”; and

18                               (ii) by striking “in which the Sec-  
19                               retary” and inserting “that”;

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

22                       (D) in subparagraph (A), as redesignated  
23                       by subparagraph (C), by striking “of the Sec-  
24                       retary”; and

1 (E) by amending subparagraph (B), as re-  
2 designated by subparagraph (C), to read as fol-  
3 lows:

4 “(B) if the President concurs, submit to  
5 Congress, not later than 15 days after making  
6 that determination, a proposal regarding the  
7 nature and duration of the action that, in the  
8 judgment of the President, should be taken to  
9 adjust the imports of the covered article and its  
10 derivatives so that such imports will not be a  
11 substantial cause of a threat to impair the na-  
12 tional security.”; and

13 (2) by striking paragraphs (2) and (3) and in-  
14 serting the following:

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

21 (d) CONGRESSIONAL APPROVAL OF PRESIDENTIAL  
22 ADJUSTMENT OF IMPORTS.—Section 232(f) of the Trade  
23 Expansion Act of 1962 (19 U.S.C. 1862(f)) is amended  
24 to read as follows:

1       “(f) CONGRESSIONAL APPROVAL OF PRESIDENTIAL  
2 ADJUSTMENT OF IMPORTS; JOINT RESOLUTION OF AP-  
3 PROVAL.—

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

11       “(2) JOINT RESOLUTIONS OF APPROVAL.—

12           “(A) JOINT RESOLUTION OF APPROVAL  
13 DEFINED.—In this subsection, the term ‘joint  
14 resolution of approval’ means only a joint reso-  
15 lution of either House of Congress—

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

23           “(ii) the sole matter after the resolv-  
24 ing clause of which is the following: ‘Con-  
25 gress approves of the proposal of the Presi-

1 dent relating to the adjustment of imports  
2 to protect the national security as de-  
3 scribed in the report submitted to Con-  
4 gress under section 232(c)(2) of the Trade  
5 Expansion Act of 1962 (19 U.S.C.  
6 1862(c)(2)) on \_\_\_\_\_ relating to  
7 \_\_\_\_\_.’, with the first blank space  
8 being filled with the appropriate date and  
9 the second blank space being filled with a  
10 short description of the proposed action.

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

15 “(C) CONSIDERATION IN HOUSE OF REP-  
16 REPRESENTATIVES.—

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

21 “(ii) REPORTING AND DISCHARGE.—  
22 If the Committee on Ways and Means has  
23 not reported the joint resolution of ap-  
24 proval within 10 calendar days after the  
25 date of referral, the Committee shall be



1 discharged from further consideration of  
2 the joint resolution.

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

21 “(iv) FLOOR CONSIDERATION.—The  
22 joint resolution of approval shall be consid-  
23 ered as read. All points of order against  
24 the joint resolution and against its consid-  
25 eration are waived. The previous question

1 shall be considered as ordered on the joint  
2 resolution to final passage without inter-  
3 vening motion except 2 hours of debate  
4 equally divided and controlled by the spon-  
5 sor of the joint resolution (or a designee)  
6 and an opponent. A motion to reconsider  
7 the vote on passage of the joint resolution  
8 shall not be in order.

9 “(D) CONSIDERATION IN THE SENATE.—

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

14 “(ii) REPORTING AND DISCHARGE.—  
15 If the Committee on Finance has not re-  
16 ported the joint resolution of approval  
17 within 10 calendar days after the date of  
18 referral of the joint resolution, the Com-  
19 mittee shall be discharged from further  
20 consideration of the joint resolution and  
21 the joint resolution shall be placed on the  
22 appropriate calendar.

23 “(iii) PROCEEDING TO CONSIDER-  
24 ATION.—Notwithstanding Rule XXII of  
25 the Standing Rules of the Senate, it is in

1 order at any time after the Committee on  
2 Finance reports a joint resolution of ap-  
3 proval or has been discharged from consid-  
4 eration of such a joint resolution to move  
5 to proceed to the consideration of the joint  
6 resolution. The motion to proceed is not  
7 debatable. The motion is not subject to a  
8 motion to postpone. A motion to reconsider  
9 the vote by which the motion is agreed to  
10 or disagreed to shall not be in order.

11 “(iv) RULINGS OF THE CHAIR ON  
12 PROCEDURE.—Appeals from the decisions  
13 of the Chair relating to the application of  
14 the rules of the Senate to the procedure re-  
15 lating to a joint resolution of approval  
16 shall be decided by the Senate without de-  
17 bate.

18 “(E) TREATMENT OF HOUSE JOINT RESO-  
19 LUTION IN SENATE.—

20 “(i) COMMITTEE REFERRAL.—Except  
21 as provided in clause (ii), a joint resolution  
22 of approval that has passed the House of  
23 Representatives shall, when received in the  
24 Senate, be referred to the Committee on

1 Finance for consideration in accordance  
2 with subparagraph (D).

3 “(ii) CONSIDERATION OF HOUSE RES-  
4 OLUTION.—If a joint resolution of approval  
5 was introduced in the Senate before receipt  
6 of a joint resolution of approval that has  
7 passed the House of Representatives—

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

12 “(II) the procedures in the Sen-  
13 ate with respect to a joint resolution  
14 of approval introduced in the Senate  
15 shall be the same as if no joint resolu-  
16 tion of approval had been received  
17 from the House of Representatives,  
18 except that the vote on passage in the  
19 Senate shall be on the joint resolution  
20 that passed the House of Representa-  
21 tives.

22 “(iii) HOUSE RESOLUTION RECEIVED  
23 AFTER PASSAGE BY SENATE.—If the Sen-  
24 ate passes a joint resolution of approval  
25 before receiving a joint resolution of ap-

1           proval from the House of Representatives,  
2           the joint resolution of the Senate shall be  
3           held at the desk pending receipt of the  
4           joint resolution from the House of Rep-  
5           resentatives. Upon receipt of the joint reso-  
6           lution of approval from the House of Rep-  
7           resentatives, such joint resolution shall be  
8           deemed to be read twice, considered, read  
9           the third time, and passed.

10           “(iv) CONSIDERATION OF HOUSE RES-  
11           OLUTION IF NO RESOLUTION INTRODUCED  
12           IN SENATE.—If the Senate receives a joint  
13           resolution of approval from the House of  
14           Representatives, and no joint resolution of  
15           approval has been introduced in the Sen-  
16           ate, the procedures described in subpara-  
17           graph (D) shall apply to consideration of  
18           the joint resolution of the House.

19           “(F) RULES OF HOUSE OF REPRESENTA-  
20           TIVES AND SENATE.—This paragraph is en-  
21           acted by Congress—

22           “(i) as an exercise of the rulemaking  
23           power of the Senate and the House of Rep-  
24           resentatives, respectively, and as such is  
25           deemed a part of the rules of each House,

1                   respectively, and supersedes other rules  
2                   only to the extent that it is inconsistent  
3                   with such rules; and

4                   “(ii) with full recognition of the con-  
5                   stitutional right of either House to change  
6                   the rules (so far as relating to the proce-  
7                   dure of that House) at any time, in the  
8                   same manner, and to the same extent as in  
9                   the case of any other rule of that House.”.

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

13           “(g) ADMINISTRATION OF EXCLUSION PROCESS.—

14                   “(1) IN GENERAL.—The United States Inter-  
15                   national Trade Commission shall administer a proc-  
16                   ess for granting requests for the exclusion of covered  
17                   articles from any actions, including actions to im-  
18                   pose duties or quotas, taken by the President under  
19                   subsection (c).

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

23                           “(A) consider, when determining whether  
24                   to grant an exclusion with respect to a covered  
25                   article, if the covered article is produced in the

1 United States and is of sufficient quality, avail-  
2 able in sufficient quantities, and available on a  
3 reasonable timeframe;

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

7 “(C) not disclose business proprietary in-  
8 formation.

9 “(3) PUBLICATION OF PROCEDURES.—The  
10 International Trade Commission shall publish in the  
11 Federal Register and make available on a publicly  
12 available internet website of the Commission a de-  
13 scription of the procedures to be followed by a per-  
14 son requesting an exclusion under paragraph (1)  
15 with respect to a covered article.

16 “(h) REPORT BY INTERNATIONAL TRADE COMMIS-  
17 SION.—Not later than 18 months after the President  
18 takes action under subsection (c) to adjust imports of a  
19 covered article, the International Trade Commission shall  
20 submit to Congress a report assessing the effects of the  
21 action on—

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

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

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

4 (1) in the first subsection (d), by striking “the  
5 Secretary and the President” each place it appears  
6 and inserting “the Secretary of Defense, the Sec-  
7 retary of Commerce, and the President”;

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

10 (3) in paragraph (1) of subsection (e), as redes-  
11 ignated by paragraph (2), by striking “the Sec-  
12 retary” and inserting “the Secretary of Defense”.

13 (g) EFFECTIVE DATE.—Except as provided by sub-  
14 section (h), the amendments made by this section shall  
15 apply with respect to any proposed action under section  
16 232(c) of the Trade Expansion Act of 1962 (19 U.S.C.  
17 1862(c)) on or after the date that is 4 years before the  
18 date of the enactment of this Act.

19 (h) TRANSITION RULES.—

20 (1) APPROVAL PROCESS FOR ACTIONS TAKE BE-  
21 FORE DATE OF ENACTMENT.—

22 (A) IN GENERAL.—If, during the period  
23 specified in paragraph (2), the President makes  
24 a determination described in subsection (c) of  
25 section 232 of the Trade Expansion Act of



1 1962, as in effect on the day before the date of  
2 the enactment of this Act, to take action with  
3 respect to an article—

4 (i) not later than 15 days after such  
5 date of enactment, the President shall re-  
6 submit to Congress the report required  
7 under that section with respect to the ac-  
8 tion; and

9 (ii) the action shall have force and ef-  
10 fect after the day that is 75 days after  
11 such date of enactment only if, during the  
12 period of 60 calendar days beginning on  
13 the date on which the report is resubmitted  
14 under clause (i), a joint resolution of ap-  
15 proval is enacted pursuant to subsection  
16 (f)(2) of the Trade Expansion Act of 1962,  
17 as amended by this section, with respect to  
18 the action.

19 (B) NONAPPLICABILITY OF DEFINI-  
20 TIONS.—Subparagraph (A) shall apply with re-  
21 spect to an action without regard to whether  
22 the article to which the action relates is a cov-  
23 ered article (as defined in subsection (i) of sec-  
24 tion 232 of the Trade Expansion Act of 1962,  
25 as added by this section).

1           (2) PERIOD SPECIFIED.—The period specified  
2           in this paragraph is the period beginning on the date  
3           that is 6 years before the date of the enactment of  
4           this Act and ending on the day before such date of  
5           enactment.

6           (3) ADMINISTRATION OF EXCLUSION PROC-  
7           ESS.—In the case of an action with respect to which  
8           a resolution of approval is enacted as required by  
9           paragraph (1)(A)(ii), the Secretary of Commerce  
10          shall continue to administer the process established  
11          before the date of the enactment of this Act for  
12          granting requests for the exclusion of articles from  
13          the action.

14          (4) INTERNATIONAL TRADE COMMISSION RE-  
15          PORT.—Not later than 180 days after the date of  
16          the enactment of this Act, the United States Inter-  
17          national Trade Commission shall submit to Congress  
18          a report described in subsection (h) of section 232  
19          of the Trade Expansion Act of 1962, as added by  
20          this section, relating to each action taken under sub-  
21          section (c) of section 232 of the Trade Expansion  
22          Act of 1962, as in effect on the day before such date  
23          of enactment, during the period specified in para-  
24          graph (2).

1           (5) TERMINATION OF ACTIONS NOT AP-  
2       PROVED.—

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

7           (B) ACTION DESCRIBED.—An action de-  
8       scribed in this subparagraph is an action with  
9       respect to which—

10           (i) the President made a determina-  
11       tion described in subsection (c) of section  
12       232 of the Trade Expansion Act of 1962,  
13       as in effect on the day before the date of  
14       the enactment of this Act, during the pe-  
15       riod specified in paragraph (2); and

16           (ii) a joint resolution of approval is  
17       not enacted as required by paragraph  
18       (1)(A)(ii).

19           (C) MODIFICATION OF DUTY RATE  
20       AMOUNTS.—

21           (i) IN GENERAL.—Any rate of duty  
22       modified under section 232(c) of the Trade  
23       Expansion Act of 1962, as in effect on the  
24       day before the date of the enactment of  
25       this Act, pursuant to an action described

1 in subparagraph (B) shall, on the day that  
2 is 75 days after the date of the enactment  
3 of this Act, revert to the rate of duty in ef-  
4 fect before such modification.

5 (ii) RETROACTIVE APPLICATION FOR  
6 CERTAIN LIQUIDATIONS AND RELIQUIDA-  
7 TIONS.—

8 (I) IN GENERAL.—Subject to  
9 subclause (II), an entry of an article  
10 shall be liquidated or reliquidated as  
11 though such entry occurred on the  
12 date that is 75 days after the date of  
13 the enactment of this Act if—

14 (aa) the rate of duty appli-  
15 cable to the article was modified  
16 pursuant to an action described  
17 in subparagraph (B); and

18 (bb) a lower rate of duty  
19 would be applicable due to the  
20 application of clause (i).

21 (II) REQUESTS.—A liquidation  
22 or reliquidation may be made under  
23 subclause (I) with respect to an entry  
24 only if a request therefor is filed with  
25 U.S. Customs and Border Protection

1 not later than 255 days after the date  
2 of the enactment of this Act that con-  
3 tains sufficient information to enable  
4 U.S. Customs and Border Protec-  
5 tion—

6 (aa) to locate the entry; or

7 (bb) to reconstruct the entry

8 if it cannot be located.

9 (III) PAYMENT OF AMOUNTS

10 OWED.—Any amounts owed by the  
11 United States pursuant to the liquida-  
12 tion or reliquidation of an entry of an  
13 article under subclause (I) shall be  
14 paid, without interest, not later than  
15 90 days after the date of the liquida-  
16 tion or reliquidation (as the case may  
17 be).

18 (iii) ENTRY DEFINED.—In this para-  
19 graph, the terms “entry” includes a with-  
20 drawal from warehouse for consumption.

○