H. R. ______

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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Bicameral Congressional Trade Authority Act of 2019”.

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SEC. 2. LIMITATIONS ON AUTHORITY OF PRESIDENT TO ADJUT 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 cir-
cumstances 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”.

(e) 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 in-
serting “Within”; and

(ii) by striking “in which the Sec-
retary” 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 Sec-
retary”; 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 President relating to the adjustment of imports to protect the national security as described in the report submitted to Con-
gress under section 232(c)(2) of the Trade Expansion Act of 1962 (19 U.S.C. 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 paragraph (1), a joint resolution of approval may be introduced in either House by any Member.

“(C) CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

“(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 approval within 10 calendar days after the date of referral, the Committee shall be discharged from further consideration of the joint resolution.
“(iii) PROCEEDING TO CONSIDERATION.—Beginning on the third legislative day after the Committee on Ways and Means reports the joint resolution of approval 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 reconsider the vote by which the motion is disposed of shall not be in order.

“(iv) FLOOR CONSIDERATION.—The joint resolution of approval shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to final passage without inter-
vening motion except 2 hours of debate equally divided and controlled by the spon-
sor 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 re-
ported the joint resolution of approval
within 10 calendar days after the date of
referral of the joint resolution, the Com-
mittee 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 ap-
proval or has been discharged from consid-
eration 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 re-
lating to a joint resolution of approval
shall be decided by the Senate without de-
bate.

“(E) Treatment of house joint reso-
lution 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 approval 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 Representatives. Upon receipt of the joint resolution of approval from the House of Representatives, such joint resolution shall be deemed to be read twice, considered, read the third time, and passed.

“(iv) Consideration of House Resolution 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 Senate, the procedures described in subparagraph (D) shall apply to consideration of the joint resolution of the House.

“(F) Rules of House of Representatives and Senate.—This paragraph is enacted by Congress—

“(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, 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 con-
stitutional right of either House to change
the rules (so far as relating to the proce-
dure 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 Inter-
national Trade Commission shall administer a proc-
есс for granting requests for the exclusion of covered
articles from any actions, including actions to im-
pose 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 the covered article is produced in the
United States and is of sufficient quality, avail-
able in sufficient quantities, and available on a reasonable timeframe;

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

“(C) not disclose business proprietary information.

“(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.”.
(f) 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 Sec-
retary of Commerce, and the President’’;

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

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

(g) EFFECTIVE DATE.—Except as provided by sub-
section (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 4 years before the
date of the enactment of this Act.

(h) TRANSITION RULES.—

(1) APPROVAL PROCESS FOR ACTIONS TAKE BE-
FORE 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 re-
submit to Congress the report required
under that section with respect to the ac-
tion; and

(ii) the action shall have force and ef-
fect 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 ap-
proval 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 re-
spect to an action without regard to whether
the article to which the action relates is a cov-
ered article (as defined in subsection (i) of sec-
tion 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 4 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 ef-
fect 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 appli-
cable 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 liquidation or reliquidation (as the case may be).

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