

118TH CONGRESS
1ST SESSION

H. R. 638

To withdraw normal trade relations treatment from, and apply certain provisions of title IV of the Trade Act of 1974 to, products of the People's Republic of China, and to expand the eligibility requirements for products of the People's Republic of China to receive normal trade relations treatment in the future, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2023

Mr. SMITH of New Jersey (for himself and Mr. TIFFANY) 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

A BILL

To withdraw normal trade relations treatment from, and apply certain provisions of title IV of the Trade Act of 1974 to, products of the People's Republic of China, and to expand the eligibility requirements for products of the People's Republic of China to receive normal trade relations treatment in the future, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “China Trade Relations
3 Act of 2023”.

4 **SEC. 2. WITHDRAWAL OF NORMAL TRADE RELATIONS**
5 **TREATMENT FROM THE PEOPLE’S REPUBLIC**
6 **OF CHINA.**

7 Notwithstanding the provisions of title I of Public
8 Law 106–286 (114 Stat. 880) or any other provision of
9 law, effective on the date of the enactment of this Act—

10 (1) normal trade relations treatment shall not
11 apply pursuant to section 101 of that Act to the
12 products of the People’s Republic of China;

13 (2) normal trade relations treatment may there-
14 after be extended to the products of the People’s Re-
15 public of China only in accordance with the provi-
16 sions of chapter 1 of title IV of the Trade Act of
17 1974 (19 U.S.C. 2431 et seq.), as in effect with re-
18 spect to the products of the People’s Republic of
19 China on the day before the effective date of the ac-
20 cession of the People’s Republic of China to the
21 World Trade Organization; and

22 (3) the extension of waiver authority that was
23 in effect with respect to the People’s Republic of
24 China under section 402(d)(1) of the Trade Act of
25 1974 (19 U.S.C. 2432(d)(1)) on the day before the
26 effective date of the accession of the People’s Repub-

1 lic of China to the World Trade Organization shall,
 2 upon the enactment of this Act, be deemed not to
 3 have expired, and shall continue in effect until the
 4 date that is 90 days after the date of such enact-
 5 ment.

6 **SEC. 3. EXPANSION OF BASES OF INELIGIBILITY OF PEO-**
 7 **PLE’S REPUBLIC OF CHINA FOR NORMAL**
 8 **TRADE RELATIONS.**

9 (a) IN GENERAL.—Section 402 of the Trade Act of
 10 1974 (19 U.S.C. 2432) is amended—

11 (1) in the section heading, by striking “**FREE-**
 12 **DOM OF EMIGRATION IN EAST-WEST TRADE**”
 13 and inserting “**EAST-WEST TRADE AND HUMAN**
 14 **RIGHTS**”; and

15 (2) by adding at the end the following:

16 “(f) ADDITIONAL BASES OF INELIGIBILITY OF PEO-
 17 PLE’S REPUBLIC OF CHINA FOR NORMAL TRADE RELA-
 18 TIONS.—

19 “(1) IN GENERAL.—Products from the People’s
 20 Republic of China shall not be eligible to receive
 21 nondiscriminatory treatment (normal trade rela-
 22 tions), the People’s Republic of China shall not par-
 23 ticipate in any program of the Government of the
 24 United States which extends credits or credit guar-
 25 antees or investment guarantees, directly or indi-

1 rectly, and the President shall not conclude any
2 commercial agreement with the People’s Republic of
3 China, during the period—

4 “(A) beginning with the date on which the
5 President determines that the People’s Republic
6 of China—

7 “(i) is in violation of paragraph (1),
8 (2), or (3) of subsection (a);

9 “(ii) has not substantially promoted
10 the freedom of emigration objectives of this
11 section;

12 “(iii) has not complied with the
13 China-United States Memorandum of Un-
14 derstanding on Prohibiting Import and Ex-
15 port Trade in Prison Labor Products, done
16 at Washington, DC, on August 7, 1992;

17 “(iv) has not complied with Inter-
18 national Labour Organization standards;

19 “(v) operates ‘vocational training and
20 education centers’ or other concentration
21 camps where people are held against their
22 will;

23 “(vi) intimidates or harasses nationals
24 of the People’s Republic of China living
25 outside the People’s Republic of China;

1 “(vii) fails to protect Tibet’s distinc-
2 tive religious and cultural heritage;

3 “(viii) engages in systematic economic
4 espionage against the United States, in-
5 cluding theft of the intellectual property of
6 United States persons; and

7 “(ix) has not made significant
8 progress on—

9 “(I) taking steps to begin adher-
10 ing to the Universal Declaration of
11 Human Rights;

12 “(II) eliminating the use of tor-
13 ture;

14 “(III) releasing and providing an
15 acceptable accounting for Chinese citi-
16 zens imprisoned or detained for the
17 non-violent expression of their polit-
18 ical and religious beliefs, including
19 such expression of beliefs in connec-
20 tion with the independence of Hong
21 Kong and Taiwan;

22 “(IV) ensuring humane treat-
23 ment of prisoners, such as by allowing
24 access to prisons by international hu-

1 humanitarian and human rights organi-
2 zations;

3 “(V) permitting international
4 radio and television broadcasts into
5 China;

6 “(VI) humanely treating pris-
7 oners;

8 “(VII) allowing access to inter-
9 national humanitarian and human
10 rights organizations;

11 “(VIII) ceasing harvesting the
12 organs of prisoners without their con-
13 sent; or

14 “(IX) ceasing performing and
15 otherwise ordering forced abortion or
16 sterilization procedures; and

17 “(B) ending on the date on which the
18 President determines that the People’s Republic
19 of China is no longer in violation of any of
20 clauses (i) through (ix) of subparagraph (A).

21 “(2) REPORT REQUIRED.—

22 “(A) IN GENERAL.—After the date of the
23 enactment of this subsection, products of the
24 People’s Republic of China may be eligible to
25 receive nondiscriminatory treatment (normal

1 trade relations), the People’s Republic of China
2 may participate in any program of the Govern-
3 ment of the United States which extends credits
4 or credit guarantees or investment guarantees,
5 and the President may conclude a commercial
6 agreement with the People’s Republic of China,
7 only after the President has submitted to Con-
8 gress a report indicating that the People’s Re-
9 public of China is not in violation of any of
10 clauses (i) through (ix) of paragraph (1)(A).

11 “(B) ELEMENTS.—The report required by
12 subparagraph (A) shall include information as
13 to the nature and implementation of laws and
14 policies of the People’s Republic of China relat-
15 ing to the matters specified in clauses (i)
16 through (ix) of paragraph (1)(A).

17 “(C) DEADLINES.—The report required by
18 subparagraph (A) shall be submitted on or be-
19 fore each June 30 and December 31 of each
20 year for as long as products of the People’s Re-
21 public of China receive nondiscriminatory treat-
22 ment (normal trade relations), the People’s Re-
23 public of China participates in any program of
24 the Government of the United States which ex-
25 tends credits or credit guarantees or investment

1 guarantees, or a commercial agreement with the
2 People’s Republic of China is in effect.

3 “(3) WAIVER.—

4 “(A) IN GENERAL.—The President is au-
5 thorized to waive by Executive order the appli-
6 cation of paragraphs (1) and (2) for a 12-
7 month period if the President submits to Con-
8 gress a report that the President—

9 “(i) has determined that such waiver
10 will substantially promote the objectives of
11 this subsection; and

12 “(ii) has received assurances that the
13 practices of the People’s Republic of China
14 relating to the matters specified in clauses
15 (i) through (ix) of paragraph (1)(A) will in
16 the future lead substantially to the achieve-
17 ment of the objectives of this subsection.

18 “(B) TERMINATION OF WAIVER.—A waiver
19 under subparagraph (A) shall terminate on the
20 earlier of—

21 “(i) the day after the waiver authority
22 granted by this paragraph ceases to be ef-
23 fective under paragraph (4); or

1 “(ii) the effective date of an Executive
2 order providing for termination of the
3 waiver.

4 “(4) EXTENSION OF WAIVER AUTHORITY.—

5 “(A) RECOMMENDATIONS.—If the Presi-
6 dent determines that the further extension of
7 the waiver authority granted under paragraph
8 (3) will substantially promote the objectives of
9 this subsection, the President may recommend
10 further extensions of such authority for succes-
11 sive 12-month periods. Any such recommenda-
12 tions shall—

13 “(i) be made not later than 30 days
14 before the expiration of such authority;

15 “(ii) be made in a document sub-
16 mitted to the House of Representatives
17 and the Senate setting forth the reasons of
18 the President for recommending the exten-
19 sion of such authority; and

20 “(iii) include—

21 “(I) a determination that con-
22 tinuation of the waiver will substan-
23 tially promote the objectives of this
24 subsection; and

1 “(II) a statement setting forth
2 the reasons of the President for such
3 determination.

4 “(B) CONTINUATION IN EFFECT OF WAIV-
5 ER.—If the President recommends under sub-
6 paragraph (A) the further extension of the
7 waiver authority granted under paragraph (3),
8 such authority shall continue in effect until the
9 end of the 12-month period following the end of
10 the previous 12-month extension, unless—

11 “(i) Congress adopts and transmits to
12 the President a joint resolution of dis-
13 approval under paragraph (5) before the
14 end of the 60-day period beginning on the
15 date the waiver authority would expire but
16 for an extension under subparagraph (A);
17 and

18 “(ii) if the President vetoes the joint
19 resolution, each House of Congress votes
20 to override the veto on or before the later
21 of—

22 “(I) the last day of the 60-day
23 period referred to in clause (i); or

24 “(II) the last day of the 15-day
25 period (excluding any day described in

1 section 154(b)) beginning on the date
2 on which Congress receives the veto
3 message from the President.

4 “(C) TERMINATION OF WAIVER PURSUANT
5 TO JOINT RESOLUTION OF DISAPPROVAL.—If a
6 joint resolution of disapproval is enacted into
7 law pursuant to paragraph (5), the waiver au-
8 thority granted under paragraph (3) shall cease
9 to be effective as of the day after the 60-day
10 period beginning on the date of the enactment
11 of the joint resolution.

12 “(5) JOINT RESOLUTION OF DISAPPROVAL.—

13 “(A) JOINT RESOLUTION OF DISAPPROVAL
14 DEFINED.—In this paragraph, the term ‘joint
15 resolution of disapproval’ means a joint resolu-
16 tion the matter after the resolving clause of
17 which is as follows: ‘That Congress does not ap-
18 prove the extension of the authority contained
19 in paragraph (3) of section 402(f) of the Trade
20 Act of 1974 with respect to the People’s Repub-
21 lic of China recommended by the President to
22 Congress under paragraph (4) of that section
23 on _____.’, with the blank space being filled
24 with the appropriate date.

1 “(B) PROCEDURES IN HOUSE AND SEN-
2 ATE.—The provisions of subsections (b)
3 through (f) of section 152 shall apply with re-
4 spect to a joint resolution of approval to the
5 same extent and in the same manner as such
6 provisions apply with respect to a resolution de-
7 scribed in subsection (a) of that section, except
8 that subsection (e)(2) of that section shall be
9 applied and administered by substituting ‘Con-
10 sideration’ for ‘Debate’.

11 “(C) RULES OF THE HOUSE OF REP-
12 RESENTATIVES AND SENATE.—This paragraph
13 is enacted by Congress—

14 “(i) as an exercise of the rulemaking
15 power of the House of Representatives and
16 the Senate, respectively, and as such is
17 deemed a part of the rules of each House,
18 respectively, and supersedes other rules
19 only to the extent that it is inconsistent
20 with such other rules; and

21 “(ii) with full recognition of the con-
22 stitutional right of either House to change
23 the rules (so far as relating to the proce-
24 dure of that House) at any time, in the

1 same manner and to the same extent as in
2 the case of any other rule of that House.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Trade Act of 1974 is amended by striking the item
5 relating to section 402 and inserting the following:

“Sec. 402. East-West trade and human rights.”.

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