

118TH CONGRESS  
1ST SESSION

# S. 2761

To deter conflict in the Taiwan Strait by establishing conditions for suspending normal trade relations with the People’s Republic of China, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2023

Mr. LANKFORD introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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## A BILL

To deter conflict in the Taiwan Strait by establishing conditions for suspending normal trade relations with the People’s Republic of China, 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 “Deterring Escalation  
5 Through Economic Retaliation Act of 2023” or the  
6 “DETER Act of 2023”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress makes the following find-  
9 ings:

1           (1) The People’s Republic of China has enjoyed  
2 normal trade relations with the United States since  
3 its approval to join the World Trade Organization  
4 on November 10, 2001, and formal accession on De-  
5 cember 10, 2001.

6           (2) The aggression of the People’s Republic of  
7 China toward Taiwan has increased in recent years,  
8 as incursions into Taiwan’s Air Defense Identifica-  
9 tion Zone by aircraft of the People’s Liberation  
10 Army increased 178 percent from 2021 to 2022.

11           (3) The economic coercion of the People’s Re-  
12 public of China toward Taiwan has also increased in  
13 recent years, as the People’s Republic of China has  
14 banned the import of more than 2,000 food products  
15 from Taiwan since August 2022.

16           (4) The United States has a long-standing com-  
17 mitment to the security of Taiwan and stability of  
18 cross-strait relations as outlined in the Six Assur-  
19 ances, the three United States-People’s Republic of  
20 China Joint Communiqués, and the Taiwan Rela-  
21 tions Act (22 U.S.C. 3301 et seq.).

22           (5) In response to the unprovoked invasion of  
23 Ukraine by the Russian Federation, the United  
24 States revoked nondiscriminatory treatment for im-

1 ports from the Russian Federation and Belarus on  
2 April 8, 2022.

3 (b) SENSE OF CONGRESS.—It is the sense of Con-  
4 gress that—

5 (1) the United States has a strong interest in  
6 deterring the People’s Republic of China from invad-  
7 ing and seizing control of Taiwan and should employ  
8 economic levers of influence to promote and preserve  
9 a free and open Indo-Pacific, including prevention of  
10 aggression by the People’s Republic of China toward  
11 Taiwan;

12 (2) aggression by the People’s Republic of  
13 China toward Taiwan would be a violation of inter-  
14 national norms and inconsistent with standards of  
15 conduct required for countries enjoying normal trade  
16 relations in the United States market; and

17 (3) the policies of the People’s Republic of  
18 China violate its obligations under the Protocol on  
19 the Accession of the People’s Republic of China, in-  
20 cluding nonmarket practices, intellectual property  
21 theft, use of forced labor, and civil-military fusion.

1 **SEC. 3. ANNUAL CERTIFICATION REGARDING MILITARY**  
2 **FORCE AGAINST TAIWAN BY THE PEOPLE'S**  
3 **REPUBLIC OF CHINA.**

4 (a) **IN GENERAL.**—Not later than one year after the  
5 date of the enactment of this Act, and annually thereafter,  
6 the President shall submit to the appropriate congress-  
7 sional committees a report that includes a certification  
8 with respect to whether or not any entity of the People's  
9 Republic of China, including the People's Liberation  
10 Army, engaged in an act of coercion or military aggression  
11 that violated the sovereignty or territorial integrity of Tai-  
12 wan during the one-year period preceding submission of  
13 the report.

14 (b) **REQUESTS FROM CONGRESS.**—

15 (1) **REQUESTS.**—At any point during the one-  
16 year period after submission of a report required by  
17 subsection (a) and before submission of the next  
18 such report, any Member of Congress may inquire in  
19 writing of the President with respect to whether the  
20 certification included in the most recent such report  
21 is still accurate.

22 (2) **RESPONSES.**—Upon receiving an inquiry  
23 from a Member of Congress under paragraph (1),  
24 the President shall respond in writing with respect  
25 to whether the certification included in the most re-

1 cent report submitted under subsection (a) is still  
2 accurate.

3 **SEC. 4. SUSPENSION OF NORMAL TRADE RELATIONS WITH**  
4 **THE PEOPLE'S REPUBLIC OF CHINA.**

5 (a) SUSPENSION.—

6 (1) IN GENERAL.—Notwithstanding title I of  
7 the Act entitled, “An Act to authorize extension of  
8 nondiscriminatory treatment (normal trade relations  
9 treatment) to the People’s Republic of China, and to  
10 establish a framework for relations between the  
11 United States and the People’s Republic of China”,  
12 approved October 10, 2000 (Public Law 106–286;  
13 114 Stat. 881), or any other provision of law, if, in  
14 a report submitted under section 3(a), the President  
15 is unable to certify that no entity of the People’s Re-  
16 public of China, including the People’s Liberation  
17 Army, engaged in an act of coercion or military ag-  
18 gression that violated the sovereignty or territorial  
19 integrity of Taiwan during the one-year period pre-  
20 ceding submission of the report—

21 (A) on and after the date that is 30 days  
22 after submission of the report, the rates of duty  
23 set forth in column 2 of the Harmonized Tariff  
24 Schedule of the United States shall apply to all  
25 products of the People’s Republic of China; and

1 (B) not later than the date described in  
2 subparagraph (A), the President shall proclaim  
3 increases in such rates of duty with respect to  
4 such products.

5 (2) PRIOR CONSULTATION.—The President  
6 shall, not later than 5 calendar days before issuing  
7 any proclamation under paragraph (1)(B), consult  
8 with the appropriate congressional committees re-  
9 garding the basis for and anticipated impact of the  
10 proposed increases to rates of duty under that para-  
11 graph.

12 (b) RESTORATION OF NORMAL TRADE RELATIONS  
13 TREATMENT.—The President may resume the application  
14 of the rates of duty set forth in column 1 of the Har-  
15 monized Tariff Schedule of the United States to the prod-  
16 ucts of the People’s Republic of China on or after the date  
17 on which the President submits a report under section  
18 3(a) that includes a certification that no entity of the Peo-  
19 ple’s Republic of China, including the People’s Liberation  
20 Army, engaged in an act of coercion or military aggression  
21 that violated the sovereignty or territorial integrity of Tai-  
22 wan during the one-year period preceding submission of  
23 the report.

1 **SEC. 5. ASSESSMENT OF SUPPLY CHAIN SECURITY.**

2 (a) **ASSESSMENT REQUIRED.**—The Secretary of  
3 Commerce, in consultation with the United States Trade  
4 Representative, the Secretary of State, the Secretary of  
5 Defense, and the Chief Executive Officer of the United  
6 States International Development Finance Corporation,  
7 shall—

8 (1) conduct an assessment of United States  
9 supply chain vulnerabilities and risk exposure to the  
10 People’s Republic of China; and

11 (2) submit to the appropriate congressional  
12 committees, with each report required by section  
13 3(a), a report on the assessment.

14 (b) **ELEMENTS.**—The report required by subsection  
15 (a)(2) shall include—

16 (1) identification of goods—

17 (A) for which the United States is signifi-  
18 cantly reliant on imports from the People’s Re-  
19 public of China; and

20 (B) that are critical to the economic sta-  
21 bility, health interests, and national security of  
22 the people of the United States;

23 (2) an assessment of the economic impact that  
24 revocation of normal trade relations with the Peo-  
25 ple’s Republic of China would have on the price and

1 supply of imports of goods identified under para-  
2 graph (1); and

3 (3) proposals to mitigate the economic impact  
4 described in paragraph (2) by diversifying sourcing  
5 and supply chains for imports of such goods, includ-  
6 ing the use of development financing tools in coordi-  
7 nation with allies of the United States and countries  
8 with which the United States has a free trade agree-  
9 ment in effect.

10 (c) FORM; PUBLIC AVAILABILITY.—

11 (1) FORM.—The report required by subsection  
12 (a)(2) shall be submitted in unclassified form, but  
13 may include a classified annex.

14 (2) PUBLIC AVAILABILITY.—The unclassified  
15 portion of the report required by subsection (a)(2)  
16 shall be posted on a publicly accessible website of the  
17 Department of Commerce.

18 **SEC. 6. NATIONAL INTEREST WAIVER AND CONGRES-**  
19 **SIONAL REVIEW.**

20 (a) WAIVER.—The President may waive the require-  
21 ment under section 4(a)(1) for a one-year period if—

22 (1) the President—

23 (A) determines that such a waiver is in the  
24 national interest of the United States; and



1 (B) submits to the appropriate congress-  
2 sional committees a notice of and justification  
3 for the waiver; and

4 (2) a joint resolution of approval is enacted into  
5 law under subsection (b) during the period of 60 cal-  
6 endar days beginning on the date on which the  
7 President submits the notice required by paragraph  
8 (1)(B).

9 (b) CONGRESSIONAL APPROVAL.—

10 (1) JOINT RESOLUTION OF APPROVAL DE-  
11 FINED.—In this subsection, the term “joint resolu-  
12 tion” means only a joint resolution—

13 (A) that is introduced not later than 10  
14 calendar days after the date on which Congress  
15 receives the notice required by subsection  
16 (a)(1)(B);

17 (B) that does not have a preamble;

18 (C) the title of which is as follows: “Joint  
19 resolution relating to the approval of continuing  
20 normal trade relations with the People’s Repub-  
21 lic of China.”; and

22 (D) the matter after the resolving clause of  
23 which is as follows: “Congress approves of the  
24 waiver for a one-year period of the requirement  
25 under section 4(a)(1) of the Deterring Escalation

1           lation Through Economic Retaliation Act of  
2           2023 to suspend normal trade relations with  
3           the People’s Republic of China, with respect to  
4           which notice was submitted to Congress on  
5           \_\_\_\_\_.”, with the blank space being filled  
6           with the appropriate date.

7           (2) FAST TRACK CONSIDERATION IN HOUSE OF  
8           REPRESENTATIVES.—

9                   (A) RECONVENING.—Upon receipt of a no-  
10           tice under subsection (a)(1)(B), the Speaker of  
11           the House of Representatives, if the House  
12           would otherwise be adjourned, shall notify the  
13           Members of the House that, pursuant to this  
14           paragraph, the House shall convene not later  
15           than 10 calendar day after receipt of such no-  
16           tice.

17                   (B) COMMITTEE REFERRAL.—A joint reso-  
18           lution of approval introduced in the House of  
19           Representatives shall be referred to the Com-  
20           mittee on Ways and Means.

21                   (C) REPORTING AND DISCHARGE.—If the  
22           Committee on Ways and Means has not re-  
23           ported a joint resolution of approval within 10  
24           calendar days after the date of referral, the  
25           Committee shall be discharged from further

1 consideration of the joint resolution and the  
2 joint resolution shall be referred to the appro-  
3 priate calendar.

4 (D) PROCEEDING TO CONSIDERATION.—  
5 After the Committee on Ways and Means has  
6 considered a joint resolution and reports it to  
7 the House, or has been discharged from its con-  
8 sideration, it shall be in order, not later than  
9 60 calendar days after Congress receives the  
10 notice described in subsection (a)(1)(B) to move  
11 to proceed to consider the joint resolution in the  
12 House. All points of order against the motion  
13 are waived. Such a motion shall not be in order  
14 after the House has disposed of a motion to  
15 proceed on the joint resolution. The previous  
16 question shall be considered as ordered on the  
17 motion to its adoption without intervening mo-  
18 tion. The motion shall not be debatable. A mo-  
19 tion to reconsider the vote by which the motion  
20 is disposed of shall not be in order.

21 (E) CONSIDERATION.—The joint resolution  
22 shall be considered as read. All points of order  
23 against the joint resolution and against its con-  
24 sideration are waived. The previous question  
25 shall be considered as ordered on the joint reso-

1 lution to its passage without intervening motion  
2 except not more than 10 hours of debate equal-  
3 ly divided and controlled by the proponent and  
4 an opponent. A motion to reconsider the vote  
5 on passage of the joint resolution shall not be  
6 in order.

7 (3) FAST TRACK CONSIDERATION IN SENATE.—

8 (A) RECONVENING.—Upon receipt of a no-  
9 tice under subsection (a)(1)(B), if the Senate  
10 has adjourned or recessed for more than 2  
11 days, the majority leader of the Senate, after  
12 consultation with the minority leader of the  
13 Senate, shall notify the Members of the Senate  
14 that, pursuant to this paragraph, the Senate  
15 shall convene not later than 10 calendar days  
16 after receipt of such notice.

17 (B) COMMITTEE REFERRAL.—A joint reso-  
18 lution of approval introduced in the Senate  
19 shall be referred to the Committee on Finance.

20 (C) REPORTING AND DISCHARGE.—If the  
21 Committee on Finance has not reported a joint  
22 resolution of approval within 10 calendar days  
23 after the date of referral, the Committee shall  
24 be discharged from further consideration of the

1 joint resolution and the joint resolution shall be  
2 placed immediately on the calendar.

3 (D) FLOOR CONSIDERATION.—

4 (i) IN GENERAL.—Notwithstanding  
5 Rule XXII of the Standing Rules of the  
6 Senate, it is in order at any time after the  
7 joint resolution has been placed on the cal-  
8 endar, and before the date that is 60 cal-  
9 endar days after Congress receives the no-  
10 tice described in subsection (a)(1)(B), to  
11 move to proceed to the consideration of the  
12 joint resolution. All points of order against  
13 the joint resolution (and against consider-  
14 ation of the joint resolution) are waived.  
15 The motion to proceed is not debatable.  
16 The motion is not subject to a motion to  
17 postpone. A motion to reconsider the vote  
18 by which the motion is agreed to or dis-  
19 agreed to shall not be in order. If a motion  
20 to proceed to the consideration of the reso-  
21 lution is agreed to, the joint resolution  
22 shall remain the unfinished business until  
23 disposed of.

24 (ii) DEBATE.—Debate on the joint  
25 resolution, and on all debatable motions

1 and appeals in connection therewith, shall  
2 be limited to not more than 10 hours,  
3 which shall be divided equally between the  
4 majority and minority leaders or their des-  
5 ignees. A motion further to limit debate is  
6 in order and not debatable. An amendment  
7 to, or a motion to postpone, or a motion to  
8 proceed to the consideration of other busi-  
9 ness, or a motion to recommit the joint  
10 resolution is not in order.

11 (iii) VOTE ON PASSAGE.—The vote on  
12 passage on a joint resolution of approval  
13 shall occur immediately following the con-  
14 clusion of the debate on a joint resolution,  
15 and a single quorum call at the conclusion  
16 of the debate if requested in accordance  
17 with the rules of the Senate.

18 (iv) RULINGS OF THE CHAIR ON PRO-  
19 CEDURE.—Appeals from the decisions of  
20 the Chair relating to the application of the  
21 rules of the Senate, as the case may be, to  
22 the procedure relating to a joint resolution  
23 of approval shall be decided without de-  
24 bate.

1 (4) RULES RELATING TO SENATE AND HOUSE  
2 OF REPRESENTATIVES.—

3 (A) COORDINATION WITH ACTION BY  
4 OTHER HOUSE.—If, before the passage by one  
5 House of a joint resolution of approval of that  
6 House, that House receives from the other  
7 House a joint resolution of approval, then the  
8 following procedures shall apply:

9 (i) The joint resolution of the other  
10 House shall not be referred to a com-  
11 mittee.

12 (ii) With respect to a joint resolution  
13 of the House receiving the resolution—

14 (I) the procedure in that House  
15 shall be the same as if no joint resolu-  
16 tion had been received from the other  
17 House; but

18 (II) the vote on passage shall be  
19 on the joint resolution of the other  
20 House.

21 (B) TREATMENT OF JOINT RESOLUTION  
22 OF OTHER HOUSE.—If one House fails to intro-  
23 duce or consider a joint resolution of approval  
24 under this subsection, the joint resolution of the

1 other House shall be entitled to expedited floor  
2 procedures under this subsection.

3 (5) RULES OF HOUSE OF REPRESENTATIVES  
4 AND SENATE.—This subsection is enacted by Con-  
5 gress—

6 (A) as an exercise of the rulemaking power  
7 of the Senate and the House of Representa-  
8 tives, respectively, and as such is deemed a part  
9 of the rules of each House, respectively, and su-  
10 persedes other rules only to the extent that it  
11 is inconsistent with such rules; and

12 (B) with full recognition of the constitu-  
13 tional right of either House to change the rules  
14 (so far as relating to the procedure of that  
15 House) at any time, in the same manner, and  
16 to the same extent as in the case of any other  
17 rule of that House.

18 **SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES DE-**

19 **FINED.**

20 In this Act, unless otherwise specified, the term “ap-  
21 propriate congressional committees” means—

22 (1) the Committee on Finance and the Com-  
23 mittee on Foreign Relations of the Senate; and



1           (2) the Committee on Ways and Means and the  
2           Committee on Foreign Affairs of the House of Rep-  
3           resentatives.

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