

118TH CONGRESS  
1ST SESSION

# H. R. 5188

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 11, 2023

Mr. GALLAGHER (for himself and Mr. BEYER) 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 “Congressional Trade  
5 Authority Act of 2023”.

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          RESENTATIVES.—

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—

1           “(i) the covered article is produced in  
2           the United States and is of sufficient qual-  
3           ity, available in sufficient quantities, and  
4           available on a reasonable timeframe;

5           “(ii) the failure to grant the exclusion  
6           would result in severe economic harm; and

7           “(iii) the failure to grant the exclusion  
8           would impair the ability of the United  
9           States to maintain effective pressure to re-  
10          move an unreasonable or discriminatory  
11          practice burdening United States com-  
12          merce, and further if the International  
13          Trade Commission determines that—

14               “(I) the article or a reasonable  
15               substitute is not commercially avail-  
16               able to person requesting an exclusion  
17               under paragraph (1) with respect to a  
18               covered article;

19               “(II) the imposition of the duty  
20               with respect to the article would un-  
21               reasonably increase consumer prices  
22               for day-to-day items consumed by low-  
23               or middle-income families in the  
24               United States;

1           “(III) the imposition of the duty  
2           would have an unreasonable impact on  
3           manufacturing output of the United  
4           States;

5           “(IV) the imposition of the duty  
6           would have an unreasonable impact on  
7           the ability of an entity to fulfill con-  
8           tracts or to build critical infrastruc-  
9           ture; or

10          “(V) the failure to grant the ex-  
11          clusion is likely to result in a par-  
12          ticular entity or entities having the  
13          ability to abuse a dominant market  
14          position; and

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

18          “(C) not disclose business proprietary in-  
19          formation; and

20          “(D) establish guidelines to provide for—

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

23                 “(ii) applications for renewal of an ex-  
24                 clusion; and



1                   “(iii) written reasoning to a person  
2                   that has requested an exclusion that the  
3                   International Trade Commission has de-  
4                   nied.

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

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

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

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

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

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

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

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

14 (1) in the first subsection (d), by striking “the  
15 Secretary and the President” each place it appears  
16 and inserting “the Secretary of Defense, the Sec-  
17 retary of Commerce, and the President”;

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

20 (3) in paragraph (1) of subsection (e), as redesi-  
21 gnated by paragraph (2), by striking “the Sec-  
22 retary” and inserting “the Secretary of Defense”.

23 (h) EFFECTIVE DATE.—Except as provided by sub-  
24 section (h), the amendments made by this section shall  
25 apply with respect to any proposed action under section

1 232(c) of the Trade Expansion Act of 1962 (19 U.S.C.  
2 1862(c)) on or after the date that is 6 years before the  
3 date of the enactment of this Act.

4 (i) TRANSITION RULES.—

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

7 (A) IN GENERAL.—If, during the period  
8 specified in paragraph (2), the President makes  
9 a determination described in subsection (c) of  
10 section 232 of the Trade Expansion Act of  
11 1962, as in effect on the day before the date of  
12 the enactment of this Act, to take action with  
13 respect to an article—

14 (i) not later than 15 days after such  
15 date of enactment, the President shall re-  
16 submit to Congress the report required  
17 under that section with respect to the ac-  
18 tion; and

19 (ii) the action shall have force and ef-  
20 fect after the day that is 75 days after  
21 such date of enactment only if, during the  
22 period of 60 calendar days beginning on  
23 the date on which the report is resubmitted  
24 under clause (i), a joint resolution of ap-  
25 proval is enacted pursuant to subsection

1 (f)(2) of the Trade Expansion Act of 1962,  
2 as amended by this section, with respect to  
3 the action.

4 (B) NONAPPLICABILITY OF DEFINI-  
5 TIONS.—Subparagraph (A) shall apply with re-  
6 spect to an action without regard to whether  
7 the article to which the action relates is a cov-  
8 ered article (as defined in subsection (i) of sec-  
9 tion 232 of the Trade Expansion Act of 1962,  
10 as added by this section).

11 (2) PERIOD SPECIFIED.—The period specified  
12 in this paragraph is the period beginning on the date  
13 that is 7 years before the date of the enactment of  
14 this Act and ending on the day before such date of  
15 enactment.

16 (3) ADMINISTRATION OF EXCLUSION PROC-  
17 ESS.—In the case of an action with respect to which  
18 a resolution of approval is enacted as required by  
19 paragraph (1)(A)(ii), the Secretary of Commerce  
20 shall continue to administer the process established  
21 before the date of the enactment of this Act for  
22 granting requests for the exclusion of articles from  
23 the action.

24 (4) INTERNATIONAL TRADE COMMISSION RE-  
25 PORT.—Not later than 180 days after the date of

1 the enactment of this Act, the United States Inter-  
2 national Trade Commission shall submit to Congress  
3 a report described in subsection (h) of section 232  
4 of the Trade Expansion Act of 1962, as added by  
5 this section, relating to each action taken under sub-  
6 section (c) of section 232 of the Trade Expansion  
7 Act of 1962, as in effect on the day before such date  
8 of enactment, during the period specified in para-  
9 graph (2).

10 (5) TERMINATION OF ACTIONS NOT AP-  
11 PROVED.—

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

16 (B) ACTION DESCRIBED.—An action de-  
17 scribed in this subparagraph is an action with  
18 respect to which—

19 (i) the President made a determina-  
20 tion described in subsection (c) of section  
21 232 of the Trade Expansion Act of 1962,  
22 as in effect on the day before the date of  
23 the enactment of this Act, during the pe-  
24 riod specified in paragraph (2); and

1 (ii) a joint resolution of approval is  
2 not enacted as required by paragraph  
3 (1)(A)(ii).

4 (C) MODIFICATION OF DUTY RATE  
5 AMOUNTS.—

6 (i) IN GENERAL.—Any rate of duty  
7 modified under section 232(c) of the Trade  
8 Expansion Act of 1962, as in effect on the  
9 day before the date of the enactment of  
10 this Act, pursuant to an action described  
11 in subparagraph (B) shall, on the day that  
12 is 75 days after the date of the enactment  
13 of this Act, revert to the rate of duty in ef-  
14 fect before such modification.

15 (ii) RETROACTIVE APPLICATION FOR  
16 CERTAIN LIQUIDATIONS AND RELIQUIDA-  
17 TIONS.—

18 (I) IN GENERAL.—Subject to  
19 subclause (II), an entry of an article  
20 shall be liquidated or reliquidated as  
21 though such entry occurred on the  
22 date that is 75 days after the date of  
23 the enactment of this Act if—

24 (aa) the rate of duty appli-  
25 cable to the article was modified

1                   pursuant to an action described  
2                   in subparagraph (B); and

3                   (bb) a lower rate of duty  
4                   would be applicable due to the  
5                   application of clause (i).

6                   (II) REQUESTS.—A liquidation  
7                   or reliquidation may be made under  
8                   subclause (I) with respect to an entry  
9                   only if a request therefor is filed with  
10                  U.S. Customs and Border Protection  
11                  not later than 255 days after the date  
12                  of the enactment of this Act that con-  
13                  tains sufficient information to enable  
14                  U.S. Customs and Border Protec-  
15                  tion—

16                   (aa) to locate the entry; or

17                   (bb) to reconstruct the entry  
18                  if it cannot be located.

19                  (III) PAYMENT OF AMOUNTS  
20                  OWED.—Any amounts owed by the  
21                  United States pursuant to the liquida-  
22                  tion or reliquidation of an entry of an  
23                  article under subclause (I) shall be  
24                  paid, without interest, not later than  
25                  90 days after the date of the liquida-

1                   tion or reliquidation (as the case may  
2                   be).

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

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