

118TH CONGRESS
1ST SESSION

S. 3040

To establish the principle of reciprocity in the relationship between the United States and the People’s Republic of China, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 16, 2023

Mr. SULLIVAN (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To establish the principle of reciprocity in the relationship between the United States and 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 “True Reciprocity Act
5 of 2023”.

6 **SEC. 2. RECIPROCITY IN THE RELATIONSHIP BETWEEN**
7 **THE UNITED STATES AND THE PEOPLE’S RE-**
8 **PUBLIC OF CHINA.**

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

1 (1) In a number of areas, the relationship be-
2 tween the United States and the People's Republic
3 of China is unacceptably nonreciprocal.

4 (2) The imbalance in the relationship creates
5 avenues of influence for the People's Republic of
6 China and the Chinese Communist Party in the
7 United States that the United States does not enjoy
8 in the People's Republic of China.

9 (3) Diplomats, Members of Congress, and other
10 officials of the United States are highly restricted
11 with respect to where they can travel and with whom
12 they can meet in the People's Republic of China.

13 (4) The Government of the United States re-
14 quires diplomats of the People's Republic of China
15 to notify the Department of State of some travel and
16 meeting plans, and the Government of the United
17 States requires such diplomats to obtain approval
18 from the Department of State for some travel within
19 the United States. However, when such approval is
20 required, it is almost always granted expeditiously,
21 and access and interactions are unimpeded.

22 (5) Diplomats of the People's Republic of China
23 based in the United States generally avail them-
24 selves of the freedom to travel within the United
25 States and lobby city councils, mayors, State legisla-

1 tors, and Governors to support initiatives of the Peo-
2 ple’s Republic of China and refrain from passing
3 resolutions, issuing proclamations, or making state-
4 ments critical of the Government of the People’s Re-
5 public of China.

6 (6) According to the Integrated Country Strat-
7 egy of the Department of State on the People’s Re-
8 public of China (approved May 3, 2022, and up-
9 dated February 2, 2023), “Local [PRC] law enforce-
10 ment and security services frequently employ
11 extrajudicial means against U.S. citizens without re-
12 gard to international norms, including the Vienna
13 Convention on Consular Relations and the 1980
14 U.S.-China Bilateral Consular Convention. These in-
15 clude broad travel prohibitions, known as ‘exit bans.’
16 These are sometimes used to prevent U.S. citizens,
17 who are not themselves suspected of a crime, from
18 leaving the PRC to pressure relatives or associates
19 in the United States who are wanted by PRC law
20 enforcement to return to the PRC. PRC officials
21 also arbitrarily detain and interrogate U.S. citizens
22 for reasons related to ‘state security’ . . . [and] the
23 PRC criminal justice system often subjects U.S. citi-
24 zens to overly lengthy pre-trial detention in ex-
25 tremely difficult conditions while investigations are

1 ongoing, and detention facilities arbitrarily prevent/
2 limit detainees' access to lawyers, medical treatment,
3 and mail.”

4 (7) The People's Republic of China is consid-
5 ered one of the least free countries to operate in as
6 a journalist, ranked 179 out of 180 in the 2023
7 World Press Freedom Index published by Reporters
8 Without Borders, above only North Korea. The
9 ranking of the People's Republic of China stems
10 from the country's near complete lack of inde-
11 pendent journalism.

12 (8) In 2022, Freedom House's "Freedom on
13 the Net" annual report ranked the People's Republic
14 of China as the world's worst abuser of internet
15 freedom for the eighth consecutive year, with censor-
16 ship intensifying during the 2022 Beijing Olympics.

17 (9) According to the Foreign Correspondents'
18 Club of China, the Government of the People's Re-
19 public of China restricts the activities of journalists
20 from the United States and journalists representing
21 United States media outlets by denying entry into
22 the People's Republic of China or restricting access
23 to people and places, attempting to censor their re-
24 porting, and harassing their colleagues and sources.

1 (10) The Government of the United States gen-
2 erally allows journalists not affiliated with publica-
3 tions designated as foreign missions under the For-
4 eign Missions Act (22 U.S.C. 4301 et seq.) and
5 other citizens of the People’s Republic of China to
6 travel freely within the United States, including on
7 college and university campuses and in the halls of
8 Congress.

9 (11) The Government of the People’s Republic
10 of China continues to either directly or indirectly
11 fund Confucius Institutes and Confucius Classrooms
12 operated on campuses of institutions of higher edu-
13 cation in the United States and in K–12 public
14 school districts, in many cases rebranding them to
15 avoid recent scrutiny, but similar institutes funded
16 by the Government of the United States in the Peo-
17 ple’s Republic of China have been forced to close.

18 (12) Under the Law of the People’s Republic of
19 China on the Management of the Activities of Over-
20 seas Non-Governmental Organizations in Mainland
21 China, since 2017, foreign nongovernmental organi-
22 zations operating in mainland China have been re-
23 quired to submit to supervision by the Government
24 of the People’s Republic of China.

1 (13) Since 2019, the People’s Republic of China
2 has imposed sanctions on employees of United
3 States nongovernmental organizations, including the
4 National Endowment for Democracy, Human Rights
5 Watch, Freedom House, the National Democratic
6 Institute, and the International Republican Insti-
7 tute.

8 (14) The Government of the People’s Republic
9 of China has failed to fulfill key commitments to the
10 World Trade Organization, including with respect to
11 forced transfers of intellectual property, joint ven-
12 ture requirements, subsidies, and nontariff barriers,
13 that would level opportunities for trade, investment,
14 and United States influence in the People’s Republic
15 of China.

16 (15) The Government of the People’s Republic
17 of China provides massive subsidies for agriculture,
18 fishery, aluminum and steel, and technology manu-
19 facturing and services that distort domestic and
20 global competition in favor of businesses of the Peo-
21 ple’s Republic of China and at the expense of mar-
22 ket access for United States companies. These dis-
23 criminatory and distortionary policies harm United
24 States security at home and give the Government of

1 the People’s Republic of China unfair advantage in
2 its global competition with the United States.

3 (16) The Government of the People’s Republic
4 of China uses multiple policy tools, including caps on
5 foreign equity ownership, data localization, and
6 other administrative procedures, to coerce foreign
7 companies to transfer technology as a precondition
8 for market access. These policies pose immediate
9 and far-reaching challenges for United States com-
10 panies and limit market access for United States
11 products and services in ways that Chinese counter-
12 parts do not face in the United States market.

13 (17) The internet and online restrictions im-
14 posed by the Government of the People’s Republic of
15 China hamper the operations of United States busi-
16 nesses in the People’s Republic of China, and certain
17 United States technology companies have been
18 pushed out and effectively banned from doing busi-
19 ness in the People’s Republic of China.

20 (18) Businesses of the People’s Republic of
21 China, both state- and party-owned businesses and
22 private businesses, are tied to representing state and
23 party interests, and the access of those businesses to
24 the United States furthers those interests.

1 (b) STATEMENT OF POLICY.—It is the policy of the
2 United States—

3 (1) to establish the principle of reciprocity in
4 the relationship between the United States and the
5 People’s Republic of China in order to expose the
6 full range of instruments of influence of the People’s
7 Republic of China and the Chinese Communist
8 Party in the United States;

9 (2) to clearly differentiate, in official state-
10 ments, media communications, and messaging, be-
11 tween the people of the People’s Republic of China
12 and the Chinese Communist Party;

13 (3) that any negotiations on trade restrictions
14 or investment with respect to the People’s Republic
15 of China should be concluded in a manner that ad-
16 dresses nonreciprocal arrangements between the two
17 countries;

18 (4) that any agreements resulting from such
19 negotiations should, to the extent possible—

20 (A) ensure that the People’s Republic of
21 China commits to structural changes in its
22 trade and economic policies;

23 (B) ensure that the People’s Republic of
24 China meets previously made bilateral and mul-
25 tilateral commitments;

1 (C) hold the People’s Republic of China ac-
2 countable to those commitments;

3 (D) address national security concerns re-
4 lated to the targets of Chinese investments in
5 the United States, United States investments in
6 the People’s Republic of China, and the export
7 and import of technology; and

8 (E) take into account ties of Chinese busi-
9 nesses to the People’s Republic of China, the
10 Chinese Communist Party, and the People’s
11 Liberation Army that enable those businesses to
12 influence United States business, government,
13 and society in ways closed to United States
14 businesses attempting to exercise the same in-
15 fluence in the People’s Republic of China;

16 (5) to seek a relationship with the People’s Re-
17 public of China that is founded on the principles of
18 basic reciprocity across sectors, including economic,
19 diplomatic, educational, and communications sectors;

20 (6) to prioritize the principle of reciprocity in
21 the relationship between the United States and the
22 People’s Republic of China as a goal in the Inte-
23 grated Country Strategy of the Department of State
24 on the People’s Republic of China;

1 (7) to recognize that engagement between the
2 United States and the People’s Republic of China
3 and the Chinese Communist Party can be useful,
4 but only in the context of reciprocity and when the
5 terms of such engagement advance United States in-
6 terests; and

7 (8) to coordinate with allies and partners on
8 policy approaches to reciprocity in the relationship
9 between the United States and the People’s Republic
10 of China and the Chinese Communist Party.

11 (c) REPORT AND STRATEGY REQUIRED.—

12 (1) IN GENERAL.—Not later than 180 days
13 after the date of the enactment of this Act, the Sec-
14 retary of State, in consultation with relevant Federal
15 departments and agencies, shall submit to the ap-
16 propriate congressional committees—

17 (A) a report comparing the manners in
18 which the United States Government and the
19 Government of the People’s Republic of China
20 treat one another’s diplomats and other offi-
21 cials, journalists, businesses, and nongovern-
22 mental organizations; and

23 (B) a strategy for addressing imbalances
24 in the treatment described in subparagraph (A).

1 (2) ELEMENTS OF REPORT.—The report re-
2 quired by paragraph (1)(A) shall include the fol-
3 lowing:

4 (A) A summary of obstacles that United
5 States diplomats and other officials, journalists,
6 businesses, and nongovernmental organizations
7 encounter in carrying out their work in the Peo-
8 ple’s Republic of China.

9 (B) A summary of United States Govern-
10 ment regulations and policies with regard to the
11 activities of diplomats and other officials, jour-
12 nalists, businesses, and nongovernmental orga-
13 nizations of the People’s Republic of China in
14 the United States.

15 (C) A description of the efforts that offi-
16 cials of the United States have made to rectify
17 any differences in the treatment of diplomats
18 and other officials, journalists, businesses, and
19 nongovernmental organizations by the United
20 States and by the People’s Republic of China,
21 and the results of those efforts.

22 (D) An assessment of the adherence of the
23 Government of the People’s Republic of China,
24 in its treatment of United States citizens, to
25 the requirements of—

1 (i) the Convention on Consular Rela-
2 tions, done at Vienna April 24, 1963, and
3 entered into force March 19, 1967 (21
4 U.S.T. 77); and

5 (ii) the Consular Convention, signed
6 at Washington September 17, 1980, and
7 entered into force February 19, 1982, be-
8 tween the United States and the People's
9 Republic of China.

10 (E) An assessment of any impacts of the
11 People's Republic of China's internet restric-
12 tions on reciprocity between the United States
13 and the People's Republic of China.

14 (F) A summary of other notable areas in
15 which the Government of the People's Republic
16 of China or entities affiliated with that Govern-
17 ment are able to conduct activities or invest-
18 ments in the United States but that are denied
19 to United States entities in the People's Repub-
20 lic of China.

21 (G) Recommendations for any changes in
22 law necessary to improve reciprocity in the rela-
23 tionship between the United States and the
24 People's Republic of China.

25 (3) FORM OF REPORT; AVAILABILITY.—

1 (A) FORM.—The report required by para-
2 graph (1)(A) shall be submitted in unclassified
3 form, but may include a classified index.

4 (B) AVAILABILITY.—The unclassified por-
5 tion of the report required by paragraph (1)(A)
6 shall be posted on a publicly available internet
7 website of the Department of State.

8 (d) DEFINITIONS.—In this section:

9 (1) APPROPRIATE CONGRESSIONAL COMMIT-
10 TEES.—The term “appropriate congressional com-
11 mittees” means the Committee on Foreign Relations
12 of the Senate and the Committee on Foreign Affairs
13 of the House of Representatives.

14 (2) RECIPROCITY.—The term “reciprocity”
15 means the mutual and equitable exchange of privi-
16 leges between governments, countries, businesses, or
17 individuals.

○