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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 to impose sanctions on foreign countries in response to acts concerning chemical or biological programs that cause injury to other foreign countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BANKS introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 to impose sanctions on foreign countries in response to acts concerning chemical or biological programs that cause injury to other foreign countries, 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 “Countering Beijing’s
5 Weaponization of Fentanyl Act” or the “CBW Fentanyl
6 Act”.

1 **SEC. 2. PURPOSES.**

2 Section 302 of the Chemical and Biological Weapons
3 Control and Warfare Elimination Act of 1991 (22 U.S.C.
4 5601) is amended—

5 (1) by redesignating paragraphs (2), (3), and
6 (4) as paragraphs (3), (4), and (5), respectively;

7 (2) by striking “that use chemical” and insert-
8 ing “that—

9 “(A) use chemical”;

10 (3) by striking “law or use” and inserting “law;

11 “(B) use”; and

12 (4) by striking “nationals, and to impose” and
13 inserting “nationals; or

14 “(C) commit an act concerning a chemical
15 or biological program that results in injury or
16 damages to another country;

17 “(2) to impose”.

18 **SEC. 3. PRESIDENTIAL REPORTING REQUIREMENTS.**

19 Section 306 of the Chemical and Biological Weapons
20 Control and Warfare Elimination Act of 1991 (22 U.S.C.
21 5604) is amended—

22 (1) in the heading, by striking the period and
23 inserting “**OR ACTS CONCERNING A CHEMICAL**
24 **OR BIOLOGICAL PROGRAM.**”;

25 (2) in subsection (a)—

26 (A) in paragraph (1)—

1 (i) by striking “Whenever” and insert-
2 ing the following:

3 “(A) DETERMINATION REGARDING CHEM-
4 ICAL OR BIOLOGICAL WEAPONS.—Whenever”;
5 and

6 (ii) by adding at the end the fol-
7 lowing:

8 “(B) DETERMINATION REGARDING CHEM-
9 ICAL OR BIOLOGICAL PROGRAM.—Whenever
10 credible information becomes available to the
11 President indicating a substantial possibility
12 that, on or after the date of the enactment of
13 the Countering Beijing’s Weaponization of
14 Fentanyl Act, an individual has committed a
15 covered act, the President shall, not later than
16 60 days after the receipt of such information by
17 the President, determine whether such indi-
18 vidual committed a covered act. The President
19 shall impose the sanctions described in section
20 310 with respect to an individual if the Presi-
21 dent determines that such individual has com-
22 mitted a covered act.”;

23 (B) in paragraph (2)—

1 (i) by striking “In making the deter-
2 mination under paragraph (1)” and insert-
3 ing:

4 “(A) CONSIDERATIONS REGARDING CHEM-
5 ICAL OR BIOLOGICAL WEAPONS.—In making the
6 determination under paragraph (1)(A)”;

7 (ii) by redesignating subparagraphs
8 (A) through (E) as clauses (i) through (v),
9 respectively, and by moving such redesi-
10 gnated clauses 2 ems to the right; and

11 (iii) by adding at the end the fol-
12 lowing:

13 “(B) CONSIDERATIONS REGARDING CHEM-
14 ICAL OR BIOLOGICAL PROGRAM.—In making a
15 determination under paragraph (1)(B), the
16 President shall consider the following:

17 “(i) Physical and circumstantial evi-
18 dence available relevant to the possibility
19 that the individual in question committed a
20 covered act.

21 “(ii) Whether evidence exists that the
22 chemical or biological program associated
23 with such covered act has a civilian or mili-
24 tary purpose or application.

1 “(iii) Whether the foreign govern-
2 mental entity of which such individual was
3 an official, employee, or agent attempted
4 to conceal or withhold information regard-
5 ing a covered act from a relevant inter-
6 national organization or a foreign country
7 other than the foreign country most closely
8 associated with such entity.

9 “(iv) Whether, and to what extent,
10 the foreign country most closely associated
11 with such entity is compliant with the obli-
12 gations of such country under a covered
13 treaty.

14 “(v) Whether, and to what extent,
15 such entity has voluntarily disclosed sub-
16 stantive information regarding such cov-
17 ered act to relevant international organiza-
18 tions.”; and

19 (C) in paragraph (3)—

20 (i) by striking “Upon” and inserting
21 the following:

22 “(A) IN GENERAL.—Upon”;

23 (ii) by striking “If the determination”
24 and inserting the following:

25 “(B) REPORT REQUIREMENTS.—

1 “(i) REQUIREMENTS FOR CHEMICAL
2 OR BIOLOGICAL WEAPONS DETERMINA-
3 TION.—If the determination under para-
4 graph (1)(A)”;

5 (iii) by adding at the end the fol-
6 lowing:

7 “(ii) REQUIREMENTS FOR CHEMICAL
8 OR BIOLOGICAL PROGRAM DETERMINA-
9 TION.—If the determination under para-
10 graph (1)(B) is that an individual has
11 committed a covered act, the report shall
12 specify the sanctions to be imposed pursu-
13 ant to section 310 of this title.”;

14 (3) in subsection (b)—

15 (A) in paragraph (1)—

16 (i) by striking “whether a” and in-
17 serting “whether—
18 “(A) a”;

19 (ii) by striking the period after “na-
20 tionals” and inserting “; or

21 “(B) a particular individual, on or after
22 January 1, 2023, has committed a covered
23 act.”;

24 (B) in paragraph (2)—

1 (i) by striking “Not later” and insert-
2 ing the following:

3 “(A) IN GENERAL.—Not later”;

4 (ii) by striking “whether the” and in-
5 sserting ; “whether—

6 “(i) the”;

7 (iii) by striking “nationals. This re-
8 port” and inserting “nationals; or

9 “(ii) the specified individual, on or
10 after January 1, 2023, has committed a
11 covered act.

12 “(B) REPORT CONTENTS.—Each report
13 provided under this paragraph”; and

14 (iv) by striking “subsection (a)(2)”
15 and inserting “subparagraphs (A) or (B)
16 of subsection (a)(2), as applicable”.

17 **SEC. 4. SANCTIONS ON USE OF CHEMICAL OR BIOLOGICAL**
18 **WEAPONS.**

19 Section 307(a) of the Chemical and Biological Weap-
20 ons Control and Warfare Elimination Act of 1991 (22
21 U.S.C. 5605) is amended by striking “306(a)(1)” and in-
22 sserting “306(a)(1)(A)”.

1 **SEC. 5. REQUIRED SANCTIONS ON FOREIGN COUNTRIES IN**
2 **RESPONSE TO CERTAIN ACTS CONCERNING**
3 **CHEMICAL OR BIOLOGICAL PROGRAM.**

4 The Chemical and Biological Weapons Control and
5 Warfare Elimination Act of 1991 (22 U.S.C. 5601 et seq.)
6 is amended by adding at the end the following:

7 **“SEC. 310. SANCTIONS ON FOREIGN COUNTRIES IN RE-**
8 **SPONSE TO ACTS CONCERNING CHEMICAL**
9 **OR BIOLOGICAL PROGRAM.**

10 “(a) INITIAL SANCTIONS.—If the President makes a
11 determination pursuant to section 306(a)(1)(B) with re-
12 spect to an individual, the President shall, not later than
13 30 days of making such determination, impose the fol-
14 lowing sanctions:

15 “(1) The United States Government shall sus-
16 pend scientific cooperative programs and agreements
17 with the foreign country most closely associated with
18 the foreign governmental entity of which such indi-
19 vidual was an official, employee, or agent.

20 “(2) The President shall prohibit the export of
21 goods, services, and technologies classified under
22 Category 1 or Category 2 of the Commerce Control
23 List to such foreign country.

24 “(3) The United States Government may not
25 procure, or enter into a contract to procure, a good
26 or service from a person operating in the chemical

1 or biological sectors of the economy of such foreign
2 country.

3 “(b) INTERMEDIATE APPLICATION OF SANCTIONS.—

4 “(1) REPORT TO CONGRESS.—Not later than
5 120 days after making a determination pursuant to
6 section 306(a)(1)(B) with respect to an individual,
7 the President shall submit to the Committee on For-
8 eign Affairs of the House of Representatives and the
9 Committee on Foreign Relations of the Senate a re-
10 port that states whether—

11 “(A) the foreign governmental entity of
12 which such individual was an official, employee,
13 or agent or the foreign country most closely as-
14 sociated with such entity has adequately ad-
15 dressed the covered act that was the basis for
16 such determination;

17 “(B) such entity or such country has devel-
18 oped or is developing measures to prevent a
19 covered act;

20 “(C) such entity or such country has vol-
21 untarily provided substantive information re-
22 garding such covered act to the United States
23 Government and relevant international organi-
24 zations; and

1 “(D) such country is compliant with the
2 obligations of such country under a covered
3 treaty.

4 “(2) SANCTIONS REQUIRED.—If the report de-
5 scribed in paragraph (1) states that an action de-
6 scribed in any of subparagraphs (A) through (D) of
7 paragraph (1) has not been taken, the President
8 shall impose sanctions on the foreign country most
9 closely associated with the foreign governmental en-
10 tity of which such individual was an official, em-
11 ployee, or agent not fewer than 2 of the following:

12 “(A) Termination of assistance provided to
13 such country pursuant to the Foreign Assist-
14 ance Act of 1961 (22 U.S.C. 2151 et seq.), ex-
15 cept for urgent humanitarian assistance, food,
16 or other agricultural commodities or products.

17 “(B) No sale of defense articles, defense
18 services, or design and construction services
19 under the Export Controls Act of 2018 (50
20 U.S.C. 4811 et seq.) may be made to such
21 country.

22 “(C) No license for export of an item listed
23 in the United States Munitions List (estab-
24 lished pursuant to section 38 of the Arms Ex-
25 port Control Act (22 U.S.C. 2778)) may be

1 granted if such license includes such country as
2 a party.

3 “(D) No export of a good or technology
4 controlled because of the national security inter-
5 ests of the United States under the Export Ad-
6 ministration Regulations may be made to such
7 country, except that such prohibition shall not
8 apply to a transaction subject to the reporting
9 requirements of title V of the National Security
10 Act of 1947 (50 U.S.C. 413 et seq.).

11 “(3) ADDITIONAL SANCTIONS PERMITTED.—
12 The President may order the United States Govern-
13 ment not to issue a license nor grant a specific per-
14 mission or authority to export a good or technology
15 to a foreign country sanctioned under paragraph (2)
16 under—

17 “(A) the Export Controls Act of 2018 (50
18 U.S.C. 4811 et seq.);

19 “(B) the Anti-Boycott Act of 2018 (50
20 U.S.C. 4841 et seq.);

21 “(C) the Arms Export Control Act (22
22 U.S.C. 2751 et seq.);

23 “(D) the Atomic Energy Act of 1954 (42
24 U.S.C. 2011 et seq.); or

1 “(E) any other statute that requires the
2 prior review and approval of the United States
3 Government as a condition for the export or re-
4 export of goods or services.

5 “(c) FINAL APPLICATION OF SANCTIONS.—

6 “(1) PRESIDENTIAL DETERMINATION.—Not
7 later than 210 days after making a determination
8 pursuant to section 306(a)(1)(B) with respect to an
9 individual, the President shall submit to the Com-
10 mittee on Foreign Affairs of the House of Rep-
11 resentatives and the Committee on Foreign Rela-
12 tions of the Senate a report that states whether—

13 “(A) the foreign governmental entity of
14 which such individual was an official, employee,
15 or agent or the foreign country most closely as-
16 sociated with such entity has adequately ad-
17 dressed the covered act that was the basis for
18 such determination;

19 “(B) such entity or such country has devel-
20 oped or is developing measures to prevent a
21 covered act;

22 “(C) such entity or such country has vol-
23 untarily provided substantive information re-
24 garding such covered act to the United States

1 Government and relevant international organi-
2 zations; and

3 “(D) such country is compliant with the
4 obligations of such country under a covered
5 treaty.

6 “(2) EFFECT OF DETERMINATION.—If the re-
7 port described in paragraph (1) states that an action
8 described in subparagraphs (A) through (D) of para-
9 graph (1) has not been taken by a foreign govern-
10 mental entity or a foreign country, as applicable, the
11 President shall prohibit any transaction that—

12 “(A) is—

13 “(i) in foreign commerce; or

14 “(ii) a transfer of credit or payment
15 by, through, or to a financial institution;

16 “(B) is subject to the jurisdiction of the
17 United States; and

18 “(C) involves a financial interest of such
19 country.

20 “(d) REMOVAL OF SANCTIONS.—The President shall
21 remove each sanction imposed on a foreign country pursu-
22 ant to this section if, on or after the date that is 12
23 months after the first date on which a sanction was im-
24 posed on such country pursuant to this section, the Presi-
25 dent certifies to Congress that—

1 “(1) such country or the foreign governmental
2 entity of which the individual who committed the
3 covered act that was the basis for the imposition of
4 such sanctions was an official, employee, or agent
5 has adequately addressed such act;

6 “(2) such country or such entity has developed
7 or is developing measures to prevent a covered act;

8 “(3) such country or such entity has voluntarily
9 provided substantive information regarding such cov-
10 ered act to the United States Government and rel-
11 evant international organizations;

12 “(4) such country is compliant with the obliga-
13 tions of such country under a covered treaty; and

14 “(5) such country or such entity has made or
15 is making restitution to persons harmed by the cov-
16 ered act that was the basis of such sanctions, includ-
17 ing United States nationals.

18 “(e) WAIVER.—

19 “(1) IN GENERAL.—The President may, for pe-
20 riods of not more than 180 days, waive the imposi-
21 tion of sanctions required under this section if the
22 President certifies to the Committee on Foreign Af-
23 fairs of the House of Representatives and the Com-
24 mittee on Foreign Relations of the Senate that such

1 waiver is vital to the national security interests of
2 the United States.

3 “(2) SUNSET.—The President may not exercise
4 the authority described in paragraph (1) on or after
5 the date that is 5 years after the date of the enact-
6 ment of the Countering Beijing’s Weaponization of
7 Fentanyl Act.

8 **“SEC. 311. DEFINITIONS.**

9 “In this title:

10 “(1) CHEMICAL OR BIOLOGICAL PROGRAM.—
11 The term ‘chemical or biological program’ means a
12 program to produce, develop or distribute—

13 “(A) a chemical or biological weapon;

14 “(B) benzylfentanyl;

15 “(C) 4-anilinopiperidine; or

16 “(D) norfentanyl precursors.

17 “(2) COMMERCE CONTROL LIST.—The term
18 ‘Commerce Control List’ means the list maintained
19 by the Bureau of Industry and Security of the De-
20 partment of Commerce and set forth in Supplement
21 No. 1 to part 774 of the Export Administration
22 Regulations.

23 “(3) COVERED ACT.—The term ‘covered act’
24 means an act by an individual who is an official, em-

1 ployee, or agent of a foreign governmental entity,
2 if—

3 “(A) such individual knew or should have
4 known that such act would result in injury or
5 damages to another foreign country; and

6 “(B) such act concerns a chemical or bio-
7 logical program that is owned, controlled, or di-
8 rected by, or subject to the jurisdiction of such
9 foreign governmental entity.

10 “(4) COVERED TREATY.—The term ‘covered
11 treaty’ means—

12 “(A) the Convention on the Prohibition of
13 the Development, Production and Stockpiling of
14 Bacteriological and Toxin Weapons and on
15 their Destruction, done at Washington, London,
16 and Moscow, April 10, 1972 (commonly re-
17 ferred to as the ‘Biological Weapons Conven-
18 tion’); and

19 “(B) the Convention on the Prohibition of
20 the Development, Production, Stockpiling and
21 Use of Chemical Weapons and on their De-
22 struction, done at Paris January 13, 1993, and
23 entered into force April 29, 1997 (commonly re-
24 ferred to as the ‘Chemical Weapons Conven-
25 tion’).

1 “(5) EXPORT ADMINISTRATION REGULA-
2 TIONS.—The term ‘Export Administration Regula-
3 tions’ means the regulations set forth in subchapter
4 C of chapter VII of title 15, Code of Federal Regu-
5 lations.

6 “(6) FOREIGN GOVERNMENTAL ENTITY.—The
7 term ‘foreign governmental entity’ means—

8 “(A) a foreign country;

9 “(B) a political subdivision of a foreign
10 country;

11 “(C) an ‘agency or instrumentality of a
12 foreign state’ as such term is defined in section
13 1603(b) of title 28, United States Code;

14 “(D) an entity that is directly or indirectly
15 controlled or beneficially owned by a foreign
16 country;

17 “(E) an entity that acts on behalf of or as
18 an agent of a foreign country; and

19 “(F) an entity that—

20 “(i) receives significant material sup-
21 port from a foreign country; and

22 “(ii) is engaged in—

23 “(I) the provision of commercial
24 services;

25 “(II) shipping;

- 1 “(III) manufacturing;
- 2 “(IV) producing; or
- 3 “(V) exporting.”.