

AMENDMENT TO RULES COMM. PRINT 117-31

OFFERED BY MR. FEENSTRA OF IOWA

At the end of division D, add the following:

1 **TITLE VII—HOLDING COUN-**
2 **TRIES ACCOUNTABLE FOR**
3 **NEGLIGENT CHEMICAL AND**
4 **BIOLOGICAL PROGRAMS ACT**

5 **SEC. 30701. SHORT TITLE.**

6 This title may be cited as the “Holding Countries Ac-
7 countable for Negligent Chemical and Biological Programs
8 Act”.

9 **SEC. 30702. STATEMENT OF POLICY.**

10 It shall be the policy of the United States to impose
11 sanctions against governments of foreign states, and take
12 other measures if the governments of such foreign states
13 that engage in an act or acts of gross negligence with re-
14 spect to state owned, operated, or directed chemical or bio-
15 logical programs.

16 **SEC. 30703. AMENDMENTS TO THE CHEMICAL AND BIO-**
17 **LOGICAL WEAPONS CONTROL AND WARFARE**
18 **ELIMINATION ACT OF 1991.**

19 (a) **PURPOSES AND DEFINITIONS.**—Section 502 of
20 the Chemical and Biological Weapons Control and War-

1 fare Elimination Act of 1991 (22 U.S.C. 5601) is amend-
2 ed—

3 (1) in the section heading, by adding at the end
4 before the period the following: “**AND DEFINI-**
5 **TIONS**”;

6 (2) by striking “The purposes” and inserting
7 “(a) PURPOSES.—The purposes”;

8 (3) in paragraph (1)—

9 (A) by striking “or use” and insert “use”;
10 and

11 (B) by inserting “, or engage in an act or
12 acts of gross negligence with respect to a chem-
13 ical or biological program owned, controlled, or
14 directed by, or subject to the jurisdiction of the
15 government of a foreign state” after “nation-
16 als”; and

17 (4) by adding at the end the following:

18 “(b) DEFINITIONS.—In this Act:

19 “(1) GROSS NEGLIGENCE.—The term ‘gross
20 negligence’, with respect to an act or acts of a gov-
21 ernment of a foreign state, includes the government
22 knew, or should have known, the act or acts would
23 result in injury or damages to another foreign state
24 or other such foreign states.

1 “(2) FOREIGN STATE.—The term ‘foreign
2 state’—

3 “(A)(i) has the meaning given that term in
4 subsection (a) of section 1603 of title 28,
5 United States Code; and

6 “(ii) includes an ‘agency or instrumentality
7 of a foreign state’ as that term is defined in
8 subsection (b) of such section; and

9 “(B) includes an entity that is—

10 “(i)(I) directly or indirectly owned,
11 controlled, or beneficially owned by, or in
12 an official or unofficial capacity acting as
13 an agent of or on behalf of, the govern-
14 ment of a foreign state; or

15 “(II) received significant material
16 support from the government of a foreign
17 state; and

18 “(ii) engaged in providing commercial
19 services, shipping, manufacturing, pro-
20 ducing, or exporting.”.

21 (b) DETERMINATIONS REGARDING USE OF CHEM-
22 ICAL OR BIOLOGICAL WEAPONS.—Section 506 of the
23 Chemical and Biological Weapons Control and Warfare
24 Elimination Act of 1991 (22 U.S.C. 5604) is amended—

25 (1) in subsection (a)—

1 (A) by redesignating paragraph (3) as
2 paragraph (4);

3 (B) by inserting after paragraph (2) the
4 following:

5 “(3) ADDITIONAL DETERMINATION BY THE
6 PRESIDENT.—

7 “(A) WHEN DETERMINATION REQUIRED;
8 NATURE OF DETERMINATION.—Whenever cred-
9 ible information becomes available to the execu-
10 tive branch indicating a substantial possibility
11 that, on or after January 1, 2020, the govern-
12 ment of a foreign country has engaged in an
13 act or acts of gross negligence with respect to
14 a chemical or biological program owned, con-
15 trolled, or directed by, or subject to the jurisdic-
16 tion of the government of a foreign state, the
17 President shall, within 60 days after the receipt
18 of such information by the executive branch, de-
19 termine whether that government, on or after
20 such date, has engaged in an act or acts of
21 gross negligence with respect to a chemical or
22 biological program owned, controlled, or di-
23 rected by, or subject to the jurisdiction of the
24 government of a foreign state. Section 507 ap-
25 plies if the President determines that that gov-

1 ernment has so engaged in such act or acts of
2 gross negligence.

3 “(B) MATTERS TO BE CONSIDERED.—In
4 making the determination under subparagraph
5 (A), the President shall consider the following:

6 “(i) All physical and circumstantial
7 evidence available bearing on the possibility
8 that the government in question engaged
9 in an act or acts of gross negligence with
10 respect to a chemical or biological program
11 owned, controlled, or directed by, or sub-
12 ject to the jurisdiction of the government
13 of a foreign state.

14 “(ii) Whether evidence exists that
15 such program or programs have civilian
16 and military purposes or applications.

17 “(iii) Whether the government in
18 question attempted to conceal or otherwise
19 withhold information from other govern-
20 ments or international organizations re-
21 garding an act or acts of gross negligence.

22 “(iv) Whether, and to what extent,
23 the government in question is compliant
24 with its obligations under the Biological
25 and Toxin Weapons Convention or Conven-

1 tion on the Prohibition of the Develop-
2 ment, Production, Stockpiling and Use of
3 Chemical Weapons and on their Destruc-
4 tion, as applicable.

5 “(v) Whether, and to what extent, the
6 government in question is providing or oth-
7 erwise voluntarily disclosing substantive in-
8 formation to relevant international organi-
9 zations.”; and

10 (C) in paragraph (4) (as redesignated)—

11 (i) in the first sentence, by inserting
12 “or (3)” after “paragraph (1)”;

13 (ii) in the second sentence, by insert-
14 ing “under paragraph (1)” after “deter-
15 mination”; and

16 (iii) by adding at the end the fol-
17 lowing: “If the determination under para-
18 graph (3) is that a foreign government had
19 engaged in an act or acts of gross neg-
20 ligence with respect to a chemical or bio-
21 logical program owned, controlled, or di-
22 rected by, or subject to the jurisdiction of
23 the government of a foreign state, the re-
24 port shall specify the sanctions to be im-
25 posed pursuant to section 507A.”; and

1 (2) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) by striking “whether a particular
4 foreign government” and inserting the fol-
5 lowing: “whether—

6 “(A) a particular foreign government”;

7 (ii) by striking the period at the end
8 and inserting “; or”; and

9 (iii) by adding at the end the fol-
10 lowing:

11 “(B) a particular foreign government, on
12 or after January 1, 2020, has engaged in an
13 act of acts of gross negligence with respect to
14 a chemical or biological program owned, con-
15 trolled, or directed by, or subject to the jurisdic-
16 tion of the government of a foreign state.”; and

17 (B) in paragraph (2)—

18 (i) in the first sentence—

19 (I) by striking “whether the spec-
20 ified government” and inserting the
21 following: “whether—

22 “(A) the specified government”;

23 (II) by striking the period at the
24 end and inserting “; or”; and

1 (III) by adding at the end the
2 following:

3 “(B) the specified government, on or after
4 January 1, 2020, has engaged in an act or acts
5 of gross negligence with respect to a chemical
6 or biological program owned, controlled, or di-
7 rected by, or subject to the jurisdiction of the
8 government of a foreign state.”; and

9 (ii) in the second sentence—

10 (I) by inserting “or (3)(B), as
11 applicable” after “subsection (a)(2)”;
12 and

13 (II) by moving the margin of the
14 second sentence so it has the same
15 level of indentation as margin of the
16 matter preceding subparagraph (A) of
17 the first sentence.

18 (c) SANCTIONS AGAINST FOREIGN STATES WITH RE-
19 SPECT TO CHEMICAL OR BIOLOGICAL PROGRAMS.—The
20 Chemical and Biological Weapons Control and Warfare
21 Elimination Act of 1991 (22 U.S.C. 5601 et seq.) is
22 amended by inserting after section 507 the following:

1 **“SEC. 507A. SANCTIONS AGAINST FOREIGN STATES WITH**
2 **RESPECT TO CHEMICAL OR BIOLOGICAL**
3 **PROGRAMS.**

4 “(a) INITIAL SANCTIONS.—

5 “(1) IN GENERAL.—If the President makes a
6 determination pursuant to section 506(a)(3) with re-
7 spect to the government of a foreign state, the Presi-
8 dent shall, within 30 days of making such deter-
9 mination, impose the sanctions described in para-
10 graph (2) with respect to the foreign state.

11 “(2) SANCTIONS DESCRIBED.—The sanctions
12 described in this paragraph are the following:

13 “(A) The United States Government shall
14 suspend all scientific cooperative programs and
15 efforts with the government of the foreign state.

16 “(B) The President shall prohibit the ex-
17 port to the foreign state of any goods, services
18 or technology under Category 1 and Category 2
19 of the Commerce Control List.

20 “(C) The United States Government may
21 not procure, or enter into any contract for the
22 procurement of, any goods or services from any
23 person operating in the chemical or biological
24 sectors of the foreign state.

25 “(b) INTERMEDIATE APPLICATION OF SANCTIONS.—

1 “(1) DETERMINATION.—Not later than 120
2 days after making a determination pursuant to sec-
3 tion 506(a)(3) with respect to a government of a for-
4 eign state, the President shall submit to the appro-
5 priate congressional committees a determination as
6 to whether—

7 “(A) such government has adequately ad-
8 dressed an act an act or acts of gross neg-
9 ligence with respect to a chemical or biological
10 program owned, controlled, or directed by, or
11 subject to the jurisdiction of the government of
12 a foreign state;

13 “(B) such government has developed or is
14 developing necessary measures to prevent any
15 future act or acts of gross negligence;

16 “(C) such government is providing or oth-
17 erwise voluntarily disclosing substantive infor-
18 mation to the United States and relevant inter-
19 national organizations; and

20 “(D) such government is compliant with
21 its obligations under the Biological and Toxin
22 Weapons Convention or the Convention on the
23 Prohibition of the Development, Production,
24 Stockpiling and Use of Chemical Weapons and
25 on their Destruction, as applicable.

1 “(2) EFFECT OF DETERMINATION.—If the
2 President is unable to certify that a government of
3 a foreign state has taken the actions described in
4 subparagraphs (A), (B), (C), and (D) of paragraph
5 (1), the President shall impose 2 or more of the
6 sanctions described in paragraph (3) with respect to
7 the government of the foreign state.

8 “(3) SANCTIONS DESCRIBED.—The sanctions
9 described in this paragraph are the following:

10 “(A) The United States Government shall
11 terminate assistance to the government of the
12 foreign state under the Foreign Assistance Act
13 of 1961 (22 U.S.C. 2151 et seq.), except for ur-
14 gent humanitarian assistance and food or other
15 agricultural commodities or products.

16 “(B) No sales of any defense articles, de-
17 fense services, or design and construction serv-
18 ices under the Arms Export Control Act (22
19 U.S.C. 2751 et seq.) may be made to the gov-
20 ernment of the foreign state.

21 “(C) No licenses for export of any item on
22 the United States Munitions List that include
23 the government of the foreign state as a party
24 to the license may be granted.

1 “(D) No exports of any goods or tech-
2 nologies controlled for national security reasons
3 under the Export Administration Regulations
4 may be made to the government of the foreign
5 state, except that such prohibition shall not
6 apply to any transaction subject to the report-
7 ing requirements of title V of the National Se-
8 curity Act of 1947 (50 U.S.C. 413 et seq.; re-
9 lating to congressional oversight of intelligence
10 activities).

11 “(E) The President may order the United
12 States Government not to issue any specific li-
13 cense and not to grant any other specific per-
14 mission or authority to export any goods or
15 technology to the government of the foreign
16 state under—

17 “(i) the Export Control Reform Act of
18 2018 (50 U.S.C. 4801 et seq.);

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

21 “(iii) the Atomic Energy Act of 1954
22 (42 U.S.C. 2011 et seq.); or

23 “(iv) any other statute that requires
24 the prior review and approval of the
25 United States Government as a condition

1 for the export or reexport of goods or serv-
2 ices.

3 “(c) FINAL APPLICATION OF SANCTIONS.—

4 “(1) DETERMINATION.—Not later than 210
5 days after making a determination pursuant to sec-
6 tion 506(a)(3) with respect to a government of a for-
7 eign state, the President shall submit to the appro-
8 priate congressional committees a determination as
9 to whether the government of the foreign state has
10 taken the actions described in subparagraphs (A),
11 (B), (C), and (D) of subsection (b)(1).

12 “(2) EFFECT OF DETERMINATION.—If the
13 President is unable to certify that a government of
14 a foreign state has taken the actions described in
15 subparagraphs (A), (B), (C), and (D) of subsection
16 (b)(1), the President shall impose the sanctions de-
17 scribed in paragraph (3) with respect to the govern-
18 ment of the foreign state.

19 “(3) SANCTIONS.—The sanctions described in
20 this paragraph are the following:

21 “(A) The President shall, pursuant to such
22 regulations as the President may prescribe, pro-
23 hibit any transactions in foreign exchange that
24 are subject to the jurisdiction of the United

1 States and in which the government of the for-
2 eign state has any interest.

3 “(B) The President shall, pursuant to such
4 regulations as the President may prescribe, pro-
5 hibit any transfers of credit or payments be-
6 tween one or more financial institutions or by,
7 through, or to any financial institution, to the
8 extent that such transfers or payments are sub-
9 ject to the jurisdiction of the United States and
10 involve any interest of the government of the
11 foreign state.

12 “(d) REMOVAL OF SANCTIONS.—The President shall
13 remove the sanctions imposed with respect to the govern-
14 ment of a foreign state pursuant to this section if the
15 President determines and so certifies to the Congress,
16 after the end of the 12-month period beginning on the date
17 on which sanctions were initially imposed on that govern-
18 ment of a foreign state pursuant to subsection (a), that—

19 “(1) such government has adequately addressed
20 an act an act or acts of gross negligence with re-
21 spect to a chemical or biological program owned,
22 controlled, or directed by, or subject to the jurisdic-
23 tion of the government of a foreign state;

1 “(2) such government has developed or is devel-
2 oping necessary measures to prevent any future act
3 or acts of gross negligence;

4 “(3) such government is providing or otherwise
5 voluntarily disclosing substantive information to the
6 United States and relevant international organiza-
7 tions; and

8 “(4) such government is compliant with its obli-
9 gations under the Biological and Toxin Weapons
10 Convention or Convention on the Prohibition of the
11 Development, Production, Stockpiling and Use of
12 Chemical Weapons and on their Destruction, as ap-
13 plicable; and

14 “(5) such government is making restitution to
15 those affected by an act or acts of gross negligence
16 with respect to a chemical or biological program
17 owned, controlled, or directed by, or subject to the
18 jurisdiction of the government of a foreign state, in-
19 cluding United States persons.

20 “(e) WAIVER.—

21 “(1) IN GENERAL.—The President may, for pe-
22 riods not to exceed 180 days, waive the imposition
23 of sanctions under this section if the President cer-
24 tifies to the appropriate congressional committees

1 that such waiver is vital to the national security in-
2 terests of the United States.

3 “(2) SUNSET.—The President may not exercise
4 the authority described in paragraph (1) beginning
5 on the date that is 4 years after the date of enact-
6 ment of this section.

7 “(f) APPROPRIATE CONGRESSIONAL COMMITTEES
8 DEFINED.—In this section, the term ‘appropriate congres-
9 sional committees’ means—

10 “(1) the Committee on Foreign Affairs and the
11 Committee on Financial Services of the House of
12 Representatives; and

13 “(2) the Committee on Foreign Relations and
14 the Committee on Banking, Housing, and Urban Af-
15 fairs of the Senate.”.

16 **SEC. 30704. DETERMINATION REGARDING THE PEOPLE’S**
17 **REPUBLIC OF CHINA.**

18 (a) IN GENERAL.—Not later than 180 days after the
19 date of the enactment of this Act, the President shall de-
20 termine whether reasonable grounds exist for concluding
21 that the Government of the People’s Republic of China
22 meets the criteria for engaging in an act or acts of gross
23 negligence with respect to a chemical or biological program
24 owned, controlled, or directed by, or subject to the juris-
25 diction of that government under section 506(a)(3) of the

1 Chemical and Biological Weapons Control and Warfare
2 Elimination Act of 1991, as amended by section 30703
3 of this Act.

4 (b) REPORT REQUIRED.—

5 (1) IN GENERAL.—Not later than 30 days after
6 making a determination under subsection (a), the
7 President shall submit to the appropriate congress-
8 sional committees a report that includes the reasons
9 for the determination.

10 (2) FORM.—A report required by paragraph (1)
11 shall be submitted in unclassified form but may in-
12 clude a classified annex.

13 **SEC. 30705. REGULATORY AUTHORITY.**

14 (a) IN GENERAL.—The President shall, not later
15 than 180 days after the date of the enactment of this Act,
16 prescribe regulations as necessary for the implementation
17 of this title and the amendments made by this title.

18 (b) NOTIFICATION TO CONGRESS.—Not later than 10
19 days before the prescription of regulations under sub-
20 section (a), the President shall notify the appropriate con-
21 gressional committees regarding the proposed regulations
22 and the provisions of this title and the amendments made
23 by this title that the regulations are implementing.

1 **SEC. 30706. APPROPRIATE CONGRESSIONAL COMMITTEES**

2 **DEFINED.**

3 In this title, the term “appropriate congressional
4 committees” means—

5 (1) the Committee on Foreign Affairs and the
6 Committee on Financial Services of the House of
7 Representatives; and

8 (2) the Committee on Foreign Relations and
9 the Committee on Banking, Housing, and Urban Af-
10 fairs of the Senate.

