AMENDMENT TO RULES COMM. PRINT 117–31
OFFERED BY MR. FEENSTRA OF IOWA

At the end of division D, add the following:

TITLE VII—HOLDING COUNTRIES ACCOUNTABLE FOR NEGLIGENT CHEMICAL AND BIOLOGICAL PROGRAMS ACT

SEC. 30701. SHORT TITLE.

This title may be cited as the “Holding Countries Accountable for Negligent Chemical and Biological Programs Act”.

SEC. 30702. STATEMENT OF POLICY.

It shall be the policy of the United States to impose sanctions against governments of foreign states, and take other measures if the governments of such foreign states that engage in an act or acts of gross negligence with respect to state owned, operated, or directed chemical or biological programs.

SEC. 30703. AMENDMENTS TO THE CHEMICAL AND BIOLOGICAL WEAPONS CONTROL AND WARFARE ELIMINATION ACT OF 1991.

(a) PURPOSES AND DEFINITIONS.—Section 502 of the Chemical and Biological Weapons Control and War-
fare Elimination Act of 1991 (22 U.S.C. 5601) is amended—

(1) in the section heading, by adding at the end before the period the following: “AND DEFINITIONS”;

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

(3) in paragraph (1)—

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

(B) by inserting “, or engage in an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state” after “nationals”; and

(4) by adding at the end the following:

“(b) DEFINITIONS.—In this Act:

“(1) GROSS NEGLIGENCE.—The term ‘gross negligence’, with respect to an act or acts of a government of a foreign state, includes the government knew, or should have known, the act or acts would result in injury or damages to another foreign state or other such foreign states.
“(2) FOREIGN STATE.—The term ‘foreign state’—

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

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

“(B) includes an entity that is—

“(i)(I) directly or indirectly owned, controlled, or beneficially owned by, or in an official or unofficial capacity acting as an agent of or on behalf of, the government of a foreign state; or

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

“(ii) engaged in providing commercial services, shipping, manufacturing, producing, or exporting.”.

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

(1) in subsection (a)—
(A) by redesignating paragraph (3) as paragraph (4);
(B) by inserting after paragraph (2) the following:

“(3) ADDITIONAL DETERMINATION BY THE PRESIDENT.—

“(A) WHEN DETERMINATION REQUIRED;
NATURE OF DETERMINATION.—Whenever credible information becomes available to the executive branch indicating a substantial possibility that, on or after January 1, 2020, the government of a foreign country has engaged in an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state, the President shall, within 60 days after the receipt of such information by the executive branch, determine whether that government, on or after such date, has engaged in an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state. Section 507 applies if the President determines that that gov-
ernment has so engaged in such act or acts of gross negligence.

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

“(i) All physical and circumstantial evidence available bearing on the possibility that the government in question engaged in an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state.

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

“(iii) Whether the government in question attempted to conceal or otherwise withhold information from other governments or international organizations regarding an act or acts of gross negligence.

“(iv) Whether, and to what extent, the government in question is compliant with its obligations under the Biological and Toxin Weapons Convention or Conven-
tion on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as applicable.

“(v) Whether, and to what extent, the government in question is providing or otherwise voluntarily disclosing substantive information to relevant international organizations.”; and

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

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

(ii) in the second sentence, by inserting “under paragraph (1)” after “determination”; and

(iii) by adding at the end the following: “If the determination under paragraph (3) is that a foreign government had engaged in an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state, the report shall specify the sanctions to be imposed pursuant to section 507A.”; and
(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “whether a particular foreign government” and inserting the following: “whether—

“(A) a particular foreign government”;

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

(iii) by adding at the end the following:

“(B) a particular foreign government, on or after January 1, 2020, has engaged in an act of acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state.”; and

(B) in paragraph (2)—

(i) in the first sentence—

(I) by striking “whether the specified government” and inserting the following: “whether—

“(A) the specified government”;

(II) by striking the period at the end and inserting “; or”; and
(III) by adding at the end the following:

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

(ii) in the second sentence—

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

and

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

(c) Sanctions Against Foreign States With Respect to Chemical or Biological Programs.—The Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5601 et seq.) is amended by inserting after section 507 the following:
“SEC. 507A. SANCTIONS AGAINST FOREIGN STATES WITH RESPECT TO CHEMICAL OR BIOLOGICAL PROGRAMS.

“(a) Initial Sanctions.—

“(1) In general.—If the President makes a determination pursuant to section 506(a)(3) with respect to the government of a foreign state, the President shall, within 30 days of making such determination, impose the sanctions described in paragraph (2) with respect to the foreign state.

“(2) Sanctions described.—The sanctions described in this paragraph are the following:

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

“(B) The President shall prohibit the export to the foreign state of any goods, services or technology under Category 1 and Category 2 of the Commerce Control List.

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

“(b) Intermediate Application of Sanctions.—
(1) DETERMINATION.—Not later than 120 days after making a determination pursuant to section 506(a)(3) with respect to a government of a foreign state, the President shall submit to the appropriate congressional committees a determination as to whether—

(A) such government has adequately addressed an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state;

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

(C) such government is providing or otherwise voluntarily disclosing substantive information to the United States and relevant international organizations; and

(D) such government is compliant with its obligations under the Biological and Toxin Weapons Convention or the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as applicable.
“(2) Effect of Determination.—If the President is unable to certify that a government of a foreign state has taken the actions described in subparagraphs (A), (B), (C), and (D) of paragraph (1), the President shall impose 2 or more of the sanctions described in paragraph (3) with respect to the government of the foreign state.

“(3) Sanctions Described.—The sanctions described in this paragraph are the following:

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

“(B) No sales of any defense articles, defense services, or design and construction services under the Arms Export Control Act (22 U.S.C. 2751 et seq.) may be made to the government of the foreign state.

“(C) No licenses for export of any item on the United States Munitions List that include the government of the foreign state as a party to the license may be granted.
“(D) No exports of any goods or technologies controlled for national security reasons under the Export Administration Regulations may be made to the government of the foreign state, except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.; relating to congressional oversight of intelligence activities).

“(E) The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to the government of the foreign state under—

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

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

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

“(iv) any other statute that requires the prior review and approval of the United States Government as a condition
for the export or reexport of goods or services.

“(c) Final Application of Sanctions.—

“(1) Determination.—Not later than 210 days after making a determination pursuant to section 506(a)(3) with respect to a government of a foreign state, the President shall submit to the appropriate congressional committees a determination as to whether the government of the foreign state has taken the actions described in subparagraphs (A), (B), (C), and (D) of subsection (b)(1).

“(2) Effect of Determination.—If the President is unable to certify that a government of a foreign state has taken the actions described in subparagraphs (A), (B), (C), and (D) of subsection (b)(1), the President shall impose the sanctions described in paragraph (3) with respect to the government of the foreign state.

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

“(A) The President shall, pursuant to such regulations as the President may prescribe, prohibit any transactions in foreign exchange that are subject to the jurisdiction of the United
States and in which the government of the foreign state has any interest.

“(B) The President shall, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between one or more financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the government of the foreign state.

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

“(1) such government has adequately addressed an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state;
“(2) such government has developed or is developing necessary measures to prevent any future act or acts of gross negligence;

“(3) such government is providing or otherwise voluntarily disclosing substantive information to the United States and relevant international organizations; and

“(4) such government is compliant with its obligations under the Biological and Toxin Weapons Convention or Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, as applicable; and

“(5) such government is making restitution to those affected by an act or acts of gross negligence with respect to a chemical or biological program owned, controlled, or directed by, or subject to the jurisdiction of the government of a foreign state, including United States persons.

“(e) WAIVER.—

“(1) IN GENERAL.—The President may, for periods not to exceed 180 days, waive the imposition of sanctions under this section if the President certifies to the appropriate congressional committees
that such waiver is vital to the national security inter-
estests of the United States.

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

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

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

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

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

(a) IN GENERAL.—Not later than 180 days after the
date of the enactment of this Act, the President shall de-
termine whether reasonable grounds exist for concluding
that the Government of the People’s Republic of China
meets the criteria for engaging in an act or acts of gross
negligence with respect to a chemical or biological program
owned, controlled, or directed by, or subject to the juris-
diction of that government under section 506(a)(3) of the
Chemical and Biological Weapons Control and Warfare
Elimination Act of 1991, as amended by section 30703 of this Act.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 30 days after making a determination under subsection (a), the President shall submit to the appropriate congressional committees a report that includes the reasons for the determination.

(2) FORM.—A report required by paragraph (1) shall be submitted in unclassified form but may include a classified annex.

SEC. 30705. REGULATORY AUTHORITY.

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

(b) NOTIFICATION TO CONGRESS.—Not later than 10 days before the prescription of regulations under subsection (a), the President shall notify the appropriate congressional committees regarding the proposed regulations and the provisions of this title and the amendments made by this title that the regulations are implementing.
SEC. 30706. APPROPRIATE CONGRESSIONAL COMMITTEES

DEFINED.

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

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

(2) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.