To provide justice for victims of State misrepresentation to the World Health Organization, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2021

Mr. Smith of New Jersey (for himself and Mr. Van Drew) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide justice for victims of State misrepresentation to the World Health Organization, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Compensation for the
Victims of State Misrepresentations to the World Health
Organization Act of 2021”.

SEC. 2. FINDINGS.

(a) FINDINGS.—Congress finds the following:
(1) There is a role for an international organization to help mitigate infectious diseases that respect no boundaries.

(2) The United States depends on an effective WHO to make good and well informed public health decisions to contain infectious diseases.

(3) The WHO has played a critical role in addressing and mitigating infectious diseases, such as the 1979 eradication of smallpox, which eradication the WHO coordinated through a sustained global effort.

(4) Without accurate information, the WHO cannot advise Member States properly on the risks posed by infectious diseases.

(5) There are credible reports that in 2006, 2009, and 2011 the Government of Ethiopia misrepresented the nature and seriousness of cholera epidemics in that country to the WHO with a view towards minimizing the potential damage to their economy.

(A) Those misrepresentations diminished the WHO’s effectiveness and the WHO transmitted inaccurate and misleading information regarding the presence of cholera to participating states.
(B) Other Member States relied on the misleading and inaccurate information that the WHO communicated to them to formulate public health policy, resulting in loss of life, injury, and damage to property and commercial interests to citizens outside of Ethiopia as a consequence of that country’s misrepresentations to the WHO.

(6) There are credible reports that WHO Member States misrepresented facts concerning the Ebola outbreak to that organization with a view towards minimizing the commercial impact that a widely disseminated understanding of the risks posed by the Ebola epidemic may have caused in their individual economies.

(A) Those misrepresentations diminished the WHO’s effectiveness, and the WHO transmitted inaccurate and misleading information regarding the communicability of Ebola to participating States.

(B) Other Member States relied on the misleading and inaccurate information that the WHO communicated to them to formulate public health policy, resulting in loss of life, injury, and damage to property and commercial inter-
ests to citizens outside of the misrepresenting States as a consequence of those countries’ misrepresentations to the WHO.

(7) During the onset of the COVID–19 pandemic, China misrepresented the seriousness and nature of the novel coronavirus to the WHO, with a view towards minimizing the potential damage to their economy and international reputation.

(A) Those misrepresentations diminished the WHO’s effectiveness and the WHO transmitted inaccurate and misleading information regarding the communicability of the novel coronavirus to participating States.

(B) Other Member States relied on the misleading and inaccurate information that the WHO communicated to them to formulate public health policy, resulting in loss of life, injury, and damage to property and commercial interests to citizens outside of China as a consequence of that country’s misrepresentations to the WHO.

SEC. 3. PURPOSE.

The purpose of this Act is to provide civil litigants with the broadest possible basis, consistent with the Constitution of the United States, to seek relief against per-
sons, entities, and foreign countries, wherever acting and
wherever they may be found, that have sustained wrongful
death, injury, or damage to property or commercial inter-
ests as a result of the misrepresentations of an agent of
a sovereign State to the WHO concerning the nature, com-
municability, or seriousness of an infectious disease.

SEC. 4. STATEMENT OF POLICY.

It is the policy of the United States to facilitate the
ability of victims of state misrepresentations to the World
Health Organization (WHO) that result in death, injury,
and damage to property and business interests.

SEC. 5. RESPONSIBILITY OF FOREIGN STATES FOR LOSS OF
LIFE, INJURY, OR OTHER DAMAGES RESULT-
ing FROM CERTAIN MISREPRESENTATIONS
TO THE WORLD HEALTH ORGANIZATION.

(a) IN GENERAL.—Section 1605(a) of title 28,
United States Code, is amended by striking “in which
money damages are sought against a foreign state for per-
sonal injury or death, or damage to or loss of property,
occurring in the United States and caused by the tortious
act or omission of that foreign state or of any official or
employee of that foreign state while acting within the
scope of his office or employment;” and inserting “in
which money damages are sought against a foreign state,
for personal injury or death, or damage to or loss of prop-
erty, occurring in the United States as a result of a willful
or grossly negligent misrepresentation of information to
the World Health Organization of the nature, seriousness,
or communicability of an infectious disease or other
tortious act or omission of that foreign state or of any
official or employee of that foreign state while acting with-
in the scope of his office or employment’’.

(b) EFFECTIVE DATE.—The amendment made by
this section shall take effect 90 days after the date of the
enactment of this Act.