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2D SESSION

H. R. 8329

To eliminate or substantially reduce the global availability of critical technologies to United States arms embargoed countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2020

Mr. McCAUL introduced the following bill; which was referred to the
Committee on Foreign Affairs

A BILL

To eliminate or substantially reduce the global availability of critical technologies to United States arms embargoed 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 “Revitalizing Multilat-
5 eral Export Control Diplomacy for Critical Technologies
6 Act”.

7 **SEC. 2. FINDINGS AND SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress finds the following:

1 (1) United States arms embargoed countries
2 are implementing malign and aggressive industrial
3 policies using non-market means and engaging in
4 predatory investment to gain control of critical tech-
5 nologies in order to achieve market dominance and
6 control supply chains.

7 (2) These countries integrate their industrial
8 policies into initiatives that break down the barriers
9 and distinctions between the commercial sector and
10 the military to ensure that critical technologies sup-
11 port the development of their military.

12 (3) These countries seek to obtain critical tech-
13 nologies from the United States and covered United
14 States allies and partners.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that—

17 (1) the fast-paced nature of technological inno-
18 vation and the systemic diversion of technological in-
19 novation and know-how by United States arms em-
20 bargoed countries for the benefit of developing and
21 enhancing their militaries, challenges the effective-
22 ness of existing multilateral fora established specifi-
23 cally to prevent such export control risks, such as
24 the Wassenaar Arrangement; and

1 (2) the ability of United States arms embargoed
2 countries to access critical technologies that affect
3 the national security of the United States should
4 spur the United States to work with covered United
5 States allies and partners to develop unified export
6 control policies to eliminate or substantially reduce
7 the global availability of critical technologies to
8 United States arms embargoed countries.

9 **SEC. 3. STRATEGY TO CONTROL THE AVAILABILITY OF**
10 **CRITICAL TECHNOLOGIES.**

11 (a) STATEMENT OF POLICY.—It is the policy of the
12 United States to—

13 (1) work with covered United States allies and
14 partners to develop unified export control policies to
15 eliminate or substantially reduce the global avail-
16 ability of critical technologies to United States arms
17 embargoed countries, including by—

18 (A) leading regular and rapid bilateral and
19 plurilateral negotiations with respect to specific
20 critical technologies with different groupings of
21 such allies and partners;

22 (B) using policy instruments, including
23 tax, investment, licensing, lending, and trade, to
24 provide incentives to such allies and partners;
25 and

1 (C) using, if necessary, existing authori-
2 ties, including trade remedies, the United
3 States Munitions List, the Entity List, eco-
4 nomic sanctions, and other authorities available
5 under the International Emergency Economic
6 Powers Act (50 U.S.C. 1701 et seq.);

7 (2) ensure critical technologies do not advance
8 the economic strategies, industrial policy goals, or
9 military capabilities of United States arms embar-
10 goed countries;

11 (3) carry out joint research and development
12 projects with covered United States allies and part-
13 ners, with adequate safeguards for the protection
14 and promotion of any resulting intellectual property,
15 to—

16 (A) advance a broad range of scientific and
17 technical disciplines, including with respect to
18 critical technologies that may be affected by the
19 implementation of the strategy required by sub-
20 section (b); and

21 (B) develop alternative markets to com-
22 pensate for lost sales opportunities; and

23 (4) enhance the sharing of information with
24 covered United States allies and partners that have

1 entered into a multilateral export control agreement
2 with the United States described in section 4(d).

3 (b) STRATEGY.—

4 (1) IN GENERAL.—The President, in consulta-
5 tion with the Secretary of Commerce, the Secretary
6 of Defense, the Secretary of State, the Director of
7 National Intelligence, the Secretary of the Treasury,
8 and the Secretary of Energy, shall develop a strat-
9 egy to work with covered United States allies and
10 partners to develop unified export control policies to
11 eliminate or substantially reduce the global avail-
12 ability of critical technologies to United States arms
13 embargoed countries.

14 (2) INDUSTRY CONSULTATION.—

15 (A) IN GENERAL.—The President shall—

16 (i) inform and solicit input in writing
17 from representatives of relevant United
18 States industries in developing the strategy
19 required by paragraph (1); and

20 (ii) submit to the appropriate congres-
21 sional committees input received pursuant
22 to clause (i).

23 (B) DISCLOSURE OF CONFIDENTIAL IN-
24 FORMATION PROHIBITED.—No such committee,
25 or member thereof, may disclose any informa-

tion made available under subparagraph (A)(ii) that is submitted on a confidential basis unless the committee determines that the withholding of that information is contrary to the national interest of the United States.

(3) MATTERS TO BE INCLUDED.—The strategy required by this subsection shall include the following:

(A) An identification of critical technologies that are priorities for—

(i) the national security and the defense industrial base of the United States; and

(ii) the economic strategies, industrial policies, and military development of United States arms embargoed countries.

(B) An identification of United States export control policies for critical technologies identified under subparagraph (A).

(C) An identification of covered United States allies and partners and their share of the global market with respect to critical technologies identified under subparagraph (A).

(D) A description of ongoing and future efforts to work with covered United States allies

1 and partners to develop unified export control
2 policies in accordance with the United States
3 policy described in subsection (a).

4 (E) An assessment of the effectiveness and
5 methods of past efforts by United States arms
6 embargoed countries to circumvent export con-
7 trol policies relating to critical technologies
8 identified under subparagraph (A).

9 (F) The establishment of a working group,
10 to include appropriate representatives from the
11 Department of Commerce, the Department of
12 Defense, the Department of State, the Office of
13 the Director of National Intelligence, the De-
14 partment of the Treasury, the Department of
15 Energy, and other relevant Federal agencies, to
16 implement the strategy.

17 (c) REPORT.—

18 (1) IN GENERAL.—Not later than 120 days
19 after the date of the enactment of this Act, and an-
20 nually thereafter for 4 years, the President shall
21 submit to the appropriate congressional committees
22 a report in writing that contains—

23 (A) the strategy required by subsection

24 (b); and

1 (B) a summary of input solicited and re-
2 ceived from representatives of relevant United
3 States industries in developing the strategy re-
4 quired by subsection (b).

5 (2) FORM.—The report required by this sub-
6 section shall—

7 (A) be submitted in unclassified form but
8 may contain a classified annex; and

9 (B) be made available on a publicly acces-
10 sible government website.

11 **SEC. 4. ACTIONS TO SECURE THE GLOBAL SEMICON-**
12 **DUCTOR SUPPLY CHAIN.**

13 (a) FINDING.—Congress finds that, according to the
14 Second Quarter Recommendations of the congressionally-
15 established National Security Commission on Artificial In-
16 telligence, high-end semiconductor chips with feature sizes
17 45 nanometers and below are the most useful for advanced
18 artificial intelligence capabilities.

19 (b) STATEMENT OF POLICY.—It is the policy of the
20 United States—

21 (1) to work with covered United States allies
22 and partners to secure the semiconductor supply
23 chain in a manner that eliminates or substantially
24 reduces its presence in or reliance on United States
25 arms embargoed countries;

1 (2) to ensure United States semiconductor
2 manufacturing equipment, design tools, and tech-
3 nical data are not made available to United States
4 arms embargoed countries in achieving their indus-
5 trial policy goals that threaten United States na-
6 tional security interests; and

7 (3) to proceed expeditiously in diplomatic ef-
8 forts with covered United States allies and partners
9 to develop unified export control policies to eliminate
10 or substantially reduce the global availability of crit-
11 ical technologies to United States arms embargoed
12 countries.

13 (c) IDENTIFICATION PROVISIONS.—

14 (1) IDENTIFICATION OF SEMICONDUCTOR MAN-
15 UFACTURING EQUIPMENT, DESIGN TOOLS, AND RE-
16 LATED TECHNICAL DATA.—Not later than 180 days
17 after the date of the enactment of this Act, and on
18 a periodic basis thereafter, the Secretary of Com-
19 merce shall identify semiconductor manufacturing
20 equipment, design tools, and related technical data
21 that—

22 (A) are not manufactured or produced in
23 United States arms embargoed countries; and

24 (B) are used to fabricate high-end semi-
25 conductor chips with feature sizes of 45 nano-

1 meters and below that the Secretary determines
2 threaten the national security and foreign policy
3 interests of the United States.

4 (2) IDENTIFICATION OF ENTITIES THAT FAB-
5 RICATE SEMICONDUCTOR CHIPS WITH FEATURE
6 SIZES OF 45 NANOMETERS AND BELOW.—Not later
7 than 180 days after the date of the enactment of
8 this Act, and on a periodic basis thereafter, the Sec-
9 retary of Commerce shall identify entities in United
10 States arms embargoed countries that—

11 (A) own or control semiconductor manu-
12 facturing equipment, design tools, and related
13 technical data that are identified pursuant to
14 paragraph (1); and

15 (B) are required under the laws of United
16 States arms embargoed countries to cooperate
17 with the militaries of such countries relating to
18 the use of such semiconductor manufacturing
19 equipment, design tools, and related technical
20 data to fabricate high-end semiconductor chips
21 described in paragraph (1)(B).

22 (3) INDUSTRY CONSULTATION.—

23 (A) IN GENERAL.—The President shall—

1 (i) inform and solicit input in writing
2 from representatives of relevant United
3 States industries in—

4 (I) identifying semiconductor
5 manufacturing equipment, design
6 tools, and related technical data pur-
7 suant to paragraph (1); and

8 (II) identifying entities pursuant
9 to paragraph (2); and

10 (ii) submit to the appropriate congres-
11 sional committees input received pursuant
12 to clause (i).

13 (B) DISCLOSURE OF CONFIDENTIAL IN-
14 FORMATION PROHIBITED.—No such committee,
15 or member thereof, may disclose any informa-
16 tion made available under subparagraph (A)(ii)
17 that is submitted on a confidential basis unless
18 the committee determines that the withholding
19 of that information is contrary to the national
20 interest of the United States.

21 (d) MULTILATERAL AGREEMENT.—

22 (1) IN GENERAL.—The working group estab-
23 lished pursuant to section 3(b)(3)(F) shall, as soon
24 as practicable after the date of the enactment of this
25 Act, seek to establish a multilateral agreement with

1 covered United States allies and partners to develop
2 unified export control policies to eliminate or sub-
3 stantially reduce the global availability of semicon-
4 ductor manufacturing equipment, design tools, and
5 related technical data identified pursuant to sub-
6 section (c)(1) to United States arms embargoed
7 countries, including entities in United States arms
8 embargoed countries identified pursuant to sub-
9 section (c)(2).

10 (2) ACTIONS AFTER AGREEMENT IMPLE-
11 MENTED.—

12 (A) IN GENERAL.—Not later than 30 days
13 after the date on which a multilateral agree-
14 ment described in paragraph (1) is imple-
15 mented, the Secretary of Commerce—

16 (i) shall exercise the authorities under
17 the Export Control Reform Act of 2018
18 (50 U.S.C. 4801 et seq.)—

19 (I) to include semiconductor
20 manufacturing equipment, design
21 tools, and related technical data with
22 respect to which the agreement ap-
23 plies on the Commerce Control List;
24 and

1 (II) to presumptively disapprove
2 any application for a license to export,
3 reexport, or provide for an in-country
4 transfer of such semiconductor manu-
5 facturing equipment, design tools, and
6 related technical data to a United
7 States arms embargoed country; and

8 (ii) shall include entities identified
9 pursuant to the agreement on the Entity
10 List.

11 (B) ANNUAL MEETINGS.—

12 (i) IN GENERAL.—The working group
13 shall seek to meet on an annual basis with
14 covered United States allies and partners
15 that are parties to the agreement to—

16 (I) exchange information to—

17 (aa) facilitate development
18 of unified export control policies
19 with respect to trends in tech-
20 nology that could pose risks to
21 the national security of the
22 United States and such other
23 parties to the agreement; and

24 (bb) provide for the sharing
25 of information with respect to

1 specific technologies and entities
2 acquiring such technologies as
3 appropriate to address such risks
4 to the national security of the
5 United States and such other
6 parties to the agreement;

7 (II) verify that all parties to the
8 agreement are adhering to a common
9 standard of controls and licensing and
10 are otherwise in compliance with the
11 terms of their commitments under the
12 agreement;

13 (III) review the technology con-
14 trols and licensing policies for semi-
15 conductor manufacturing equipment,
16 design tools, and related technical
17 data with respect to which the agree-
18 ment applies and as necessary update
19 such controls and licensing policies.

20 (ii) INDUSTRY CONSULTATION.—The
21 President shall inform and solicit input in
22 writing from representatives of relevant
23 United States industries in advance of the
24 meetings described in clause (i).

1 (3) CERTIFICATION IF AGREEMENT NOT IMPLE-
2 MENTED.—

3 (A) IN GENERAL.—If a multilateral agree-
4 ment described in paragraph (1) is not imple-
5 mented within 1 year after the date of the en-
6 actment of this Act, the President shall certify
7 to the appropriate congressional committees
8 that it is not in the national security interest of
9 the United States to—

10 (i) include semiconductor manufac-
11 turing equipment, design tools, and related
12 technical data identified pursuant to sub-
13 section (c)(1) on the Commerce Control
14 List; and

15 (ii) include entities identified pursuant
16 to subsection (c)(2) on the Entity List.

17 (B) ACTIONS IF CERTIFICATION NOT
18 MADE.—If the President is unable to make the
19 certification described in subparagraph (A), the
20 President shall direct the Secretary of Com-
21 merce—

22 (i) to include semiconductor manufac-
23 turing equipment, design tools, and related
24 technical data identified pursuant to sub-

1 section (c)(1) on the Commerce Control
2 List; and
3 (ii) to include entities identified pur-
4 suant to subsection (c)(2) on the Entity
5 List.

6 **SEC. 5. CRITICAL TECHNOLOGY EXPORT CONTROL FUND.**

7 (a) ESTABLISHMENT.—There is established in the
8 Treasury of the United States a trust fund, to be known
9 as the “Critical Technology Export Control Fund” (in this
10 section referred to as the “Fund”), consisting of—

11 (1) amounts deposited into the Fund under
12 subsection (b)(1); and

13 (2) amounts that may be credited to the Fund
14 under subsection (b)(2).

15 (b) AMOUNTS.—

16 (1) AUTHORIZATION OF APPROPRIATIONS.—

17 There are authorized to be appropriated
18 \$2,000,000,000 to be deposited in the Fund for fis-
19 cal year 2021.

20 (2) INVESTMENT OF AMOUNTS.—

21 (A) IN GENERAL.—The Secretary of the
22 Treasury shall invest such portion of the Fund
23 as is not required to meet current withdrawals
24 in interest-bearing obligations of the United

1 States or in obligations guaranteed as to both
2 principal and interest by the United States.

3 (B) INTEREST AND PROCEEDS.—The in-
4 terest on, and the proceeds from the sale or re-
5 demption of, any obligations held in the Fund
6 shall be credited to and form a part of the
7 Fund.

8 (3) AVAILABILITY OF AMOUNTS.—

9 (A) IN GENERAL.—Amounts in the Fund
10 shall remain available through the end of the
11 10th fiscal year beginning after the date of the
12 enactment of this Act.

13 (B) REMAINDER.—Any amounts remaining
14 in the Fund after the end of the fiscal year de-
15 scribed in subparagraph (A) shall be deposited
16 in the general fund of the Treasury.

17 (c) USE OF AMOUNTS.—

18 (1) IN GENERAL.—The Secretary of State, in
19 consultation with the working group established pur-
20 suant to section 3(b)(3)(F), shall use amounts in the
21 Fund to carry out projects described in paragraph
22 (2) with one or more covered United States allies
23 and partners that enter into an agreement with the
24 Secretary to develop a unified export control policy
25 to eliminate or substantially reduce the global avail-

1 ability of a critical technology identified under sec-
2 tion 3(b)(3)(A) to United States arms embargoed
3 countries.

4 (2) PROJECTS DESCRIBED.—The projects de-
5 scribed in this paragraph are joint research and de-
6 velopment projects carried out by the United States
7 and the covered United States allies and partners to
8 develop basic and applied research, develop regu-
9 latory and enforcement capacity building, expand
10 production capacity, and carry out other related ac-
11 tivities with respect to the critical technology.

12 (3) RULE OF CONSTRUCTION.—Nothing in this
13 section may be construed to authorize the use of
14 amounts in the Fund to carry out projects described
15 in paragraph (2) that may benefit directly or indi-
16 rectly entities in United States arms embargoed
17 countries

18 (d) REPORT BY SECRETARY OF STATE.—Not later
19 than 1 year after the date of the enactment of this Act,
20 and annually thereafter for each fiscal year during which
21 amounts in the Fund are available under subsection
22 (b)(3), the Secretary of State shall submit to the appro-
23 priate congressional committees a report on the implemen-
24 tation of this section.

1 (e) REPORT BY COMPTROLLER GENERAL.—Not later
2 than 2 years after the date of the enactment of this Act,
3 the Comptroller General of the United States shall submit
4 to the appropriate congressional committees a report eval-
5 uating the effectiveness of the Fund, including—

6 (1) the effectiveness of projects supported by
7 the Fund; and

8 (2) an assessment of the merits of continuation
9 of the Fund.

10 **SEC. 6. SENSE OF CONGRESS.**

11 It is the sense of Congress that the working group
12 established pursuant to section 3(b)(3)(F) should, as soon
13 as practicable after the date of the enactment of this Act,
14 seek to establish a multilateral agreement with covered
15 United States allies and partners to eliminate or substan-
16 tially reduce the global availability of other critical tech-
17 nologies identified under section 3(b)(3)(A) to United
18 States arms embargoed countries.

19 **SEC. 7. DEFINITIONS.**

20 In this Act:

21 (1) APPROPRIATE CONGRESSIONAL COMMIT-
22 TEES.—The term “appropriate congressional com-
23 mittees” means—

1 (A) the Committee on Foreign Affairs and
2 the Committee on Energy and Commerce of the
3 House of Representatives; and

4 (B) the Committee on Banking, Housing,
5 and Urban Affairs and the Committee on Com-
6 merce, Science, and Transportation of the Sen-
7 ate.

8 (2) COMMERCE CONTROL LIST.—The term
9 “Commerce Control List” means the list set forth in
10 Supplement No. 1 to part 774 of the Export Admin-
11 istration Regulations.

12 (3) COVERED UNITED STATES ALLY OR PART-
13 NER.—The term “covered United States ally or
14 partner” means a foreign country that—

15 (A) is an ally or partner of the United
16 States; and

17 (B)(i) produces, designs, tests, manufac-
18 tures, fabricates, or develops critical tech-
19 nologies; or

20 (ii) for purposes of section 4, produces or
21 manufactures semiconductor manufacturing
22 equipment, design tools, and related technical
23 data that—

1 (I) are not manufactured or produced
2 in United States arms embargoed coun-
3 tries; and

4 (II) are used to fabricate high-end
5 semiconductor chips with feature sizes of
6 45 nanometers and below that the Sec-
7 retary of Commerce determines threaten
8 the national security and foreign policy in-
9 terests of the United States; and

10 (4) CRITICAL TECHNOLOGIES.—The term “crit-
11 ical technologies” has the meaning given the term in
12 section 721(a)(6) of the Defense Production Act of
13 1950 (50 U.S.C. 4565(a)(6)); and

14 (5) ENTITY LIST.—The term “Entity List”
15 means the list maintained by the Bureau of Industry
16 and Security and set forth in Supplement No. 4 to
17 part 744 of the Export Administration Regulations.

18 (6) EXPORT ADMINISTRATION REGULATIONS.—
19 The term “Export Administration Regulations”
20 means subchapter C of chapter VII of title 15, Code
21 of Federal Regulations.

22 (7) UNITED STATES ARMS EMBARGOED COUN-
23 TRY.—The term “United States arms embargoed
24 country” means a country—

1 (A) identified in column D:5 of Country
2 Group D in Supplement No. 1 to part 740 of
3 the Export Administration Regulations; or

4 (B) determined to be a proscribed country
5 pursuant to section 126.1 of title 22, Code of
6 Federal Regulations.

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