

119TH CONGRESS
1ST SESSION

S. 63

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 SENATE OF THE UNITED STATES

JANUARY 9, 2025

Mr. BANKS (for himself, Mr. COTTON, and Mr. MORENO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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 the following: “that—

9 “(A) use chemical”;

10 (3) by striking “law or use” and inserting the
11 following: “law;

12 “(B) use”; and

13 (4) by striking “nationals, and to impose” and
14 inserting the following: “nationals; or

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

18 “(2) to impose”.

19 **SEC. 3. PRESIDENTIAL REPORTING REQUIREMENTS.**

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

23 (1) in the section heading, by inserting before
24 the period the following: “**OR ACTS CONCERNING**
25 **A CHEMICAL OR BIOLOGICAL PROGRAM**”;

26 (2) in subsection (a)—

1 (A) in paragraph (1)—

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

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

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

9 “(B) DETERMINATION REGARDING CHEM-
10 ICAL OR BIOLOGICAL PROGRAM.—Whenever
11 credible information becomes available to the
12 President indicating a substantial possibility
13 that, on or after the date of the enactment of
14 the Countering Beijing’s Weaponization of
15 Fentanyl Act, an individual who is an official,
16 employee, or agent of a foreign governmental
17 entity has committed a covered act, the Presi-
18 dent shall, not later than 60 days after the re-
19 ceipt of that information by the President, de-
20 termine whether the individual committed a
21 covered act. The President shall impose the
22 sanctions described in section 310 with respect
23 to the individual if the President determines
24 that the individual has committed a covered
25 act.”;

1 (B) in paragraph (2)—

2 (i) by redesignating subparagraphs
3 (A) through (E) as clauses (i) through (v),
4 respectively, and by moving such clauses,
5 as so redesignated, 2 ems to the right; and

6 (ii) by striking “In making the deter-
7 mination under paragraph (1)” and insert-
8 ing the following:

9 “(A) CONSIDERATIONS REGARDING CHEM-
10 ICAL OR BIOLOGICAL WEAPONS.—In making the
11 determination under paragraph (1)(A)”;

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

14 “(B) CONSIDERATIONS REGARDING CHEM-
15 ICAL OR BIOLOGICAL PROGRAM.—In making a
16 determination under paragraph (1)(B) with re-
17 spect to whether an individual who is an offi-
18 cial, employee, or agent of a foreign govern-
19 mental entity has committed a covered act, the
20 President shall consider the following:

21 “(i) Physical and circumstantial evi-
22 dence available relevant to the possibility
23 that the individual committed a covered
24 act.

1 “(ii) Whether evidence exists that the
2 chemical or biological program associated
3 with the covered act has a civilian or mili-
4 tary purpose or application.

5 “(iii) Whether the foreign govern-
6 mental entity attempted to conceal or with-
7 hold information regarding the covered act
8 from a relevant international organization
9 or the government of a foreign country
10 other than the foreign country most closely
11 associated with the entity.

12 “(iv) Whether, and to what extent,
13 the foreign governmental entity and the
14 government of the foreign country most
15 closely associated with the foreign govern-
16 mental entity have voluntarily disclosed
17 substantive information regarding the cov-
18 ered act to relevant international organiza-
19 tions.

20 “(v) Whether, and to what extent, the
21 government of that country is compliant
22 with the obligations of the country under
23 each covered treaty.”; and
24 (C) in paragraph (3)—

1 (i) by striking “Upon” and inserting
 2 the following:

3 “(A) IN GENERAL.—Upon”;

4 (ii) by striking “If the determination
 5 is” and inserting the following:

6 “(B) REPORT REQUIREMENTS.—

7 “(i) REQUIREMENTS FOR CHEMICAL
 8 OR BIOLOGICAL WEAPONS DETERMINA-
 9 TION.—If the determination is a deter-
 10 mination under paragraph (1)(A)”;

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

13 “(ii) REQUIREMENTS FOR CHEMICAL
 14 OR BIOLOGICAL PROGRAM DETERMINA-
 15 TION.—If the determination is a deter-
 16 mination under paragraph (1)(B) that an
 17 individual has committed a covered act, the
 18 report shall specify the sanctions to be im-
 19 posed pursuant to section 310.”; and

20 (3) in subsection (b)—

21 (A) in paragraph (1)—

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

24 “(A) a particular”; and

1 (ii) by striking the period and insert-
 2 ing the following: “; or

3 “(B) a particular individual, on or after
 4 the date of the enactment of the Countering
 5 Beijing’s Weaponization of Fentanyl Act, has
 6 committed a covered act.”; and

7 (B) in paragraph (2)—

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

10 “(A) IN GENERAL.—Not later”;

11 (ii) by striking “whether the speci-
 12 fied” and inserting the following: “wheth-
 13 er—

14 “(i) the specified”;

15 (iii) by striking “nationals. This re-
 16 port” and inserting the following: “nation-
 17 als; or

18 “(ii) the specified individual, on or
 19 after the date of the enactment of the
 20 Countering Beijing’s Weaponization of
 21 Fentanyl Act, has committed a covered
 22 act.

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

1 (iv) by striking “subsection (a)(2)”
 2 and inserting “subparagraph (A) or (B) of
 3 subsection (a)(2), as applicable”.

4 **SEC. 4. REQUIRED SANCTIONS ON FOREIGN COUNTRIES IN**
 5 **RESPONSE TO CERTAIN ACTS CONCERNING**
 6 **CHEMICAL OR BIOLOGICAL PROGRAM.**

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

10 **“SEC. 310. SANCTIONS ON FOREIGN COUNTRIES IN RE-**
 11 **SPONSE TO ACTS CONCERNING CHEMICAL**
 12 **OR BIOLOGICAL PROGRAMS.**

13 “(a) INITIAL SANCTIONS.—If the President makes a
 14 determination pursuant to section 306(a)(1)(B) with re-
 15 spect to an individual who is an official, employee, or
 16 agent of a foreign governmental entity, the President
 17 shall, not later than 30 days of making the determination,
 18 impose the following sanctions with respect to the foreign
 19 country most closely associated with that entity:

20 “(1) Suspension of all scientific cooperative pro-
 21 grams and agreements between the United States
 22 and that country.

23 “(2) A prohibition on the export, reexport, or
 24 in-country transfer of items classified under Cat-

1 egory 1 or Category 2 of the Commerce Control List
2 to or in that country.

3 “(3) A prohibition on the procurement of, or
4 entry into a contract to procure, a good or service
5 from a person operating in the chemical or biological
6 sectors of the economy of that country.

7 “(b) INTERMEDIATE APPLICATION OF SANCTIONS.—

8 “(1) REPORT TO CONGRESS.—Not later than
9 120 days after making a determination pursuant to
10 section 306(a)(1)(B) with respect to an individual
11 who is an official, employee, or agent of a foreign
12 governmental entity, the President shall submit to
13 the Committee on Foreign Affairs of the House of
14 Representatives and the Committee on Foreign Re-
15 lations of the Senate a report that states whether—

16 “(A) the foreign governmental entity or
17 the government of the foreign country most
18 closely associated with that entity—

19 “(i) has adequately addressed the cov-
20 ered act that was the basis for the deter-
21 mination;

22 “(ii) has voluntarily provided sub-
23 stantive information regarding the covered
24 act to the United States Government and
25 relevant international organizations; and

1 “(iii) has developed or is developing
2 measures to prevent the commission of
3 covered acts in the future; and

4 “(B) the government of that country is
5 compliant with the obligations of the country
6 under each covered treaty.

7 “(2) SANCTIONS REQUIRED.—If the report re-
8 quired by paragraph (1) states that any action de-
9 scribed in paragraph (1) has not been taken by the
10 foreign governmental entity or the government of
11 the foreign country, as applicable, the President
12 shall impose not fewer than 2 of the following sanc-
13 tions with respect to the foreign country:

14 “(A) Termination of assistance provided to
15 the country pursuant to the Foreign Assistance
16 Act of 1961 (22 U.S.C. 2151 et seq.), except
17 for urgent humanitarian assistance, food, or
18 other agricultural commodities or products.

19 “(B) A prohibition on the export, reexport,
20 or in-country transfer of items controlled under
21 the Export Control Reform Act of 2018 (50
22 U.S.C. 4801 et seq.) to or in the country, in-
23 cluding items controlled for reasons related to
24 the national security interests of the United
25 States under the Export Administration Regu-

lations, except that such prohibition shall not apply to a transaction subject to the reporting requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

“(C) A prohibition on the issuance of a license for the export, reexport, or retransfer of an item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act (22 U.S.C. 2778)) if the license includes the country as a party.

“(3) ADDITIONAL SANCTIONS AUTHORIZED.—

“(A) IN GENERAL.—The President may order the United States Government not to issue a license or grant a specific permission or authority under a provision of law described in subparagraph (B) to export a good or service to a foreign country subject to sanctions imposed under paragraph (2).

“(B) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this subparagraph are the following:

“(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.).

1 “(iii) The Atomic Energy Act of 1954
2 (42 U.S.C. 2011 et seq.).

3 “(iv) Any other statute that requires
4 the prior review and approval of the
5 United States Government as a condition
6 for the export of goods or services.

7 “(c) FINAL APPLICATION OF SANCTIONS.—

8 “(1) PRESIDENTIAL DETERMINATION.—Not
9 later than 210 days after making a determination
10 pursuant to section 306(a)(1)(B) with respect to an
11 individual who is an official, employee, or agent of
12 a foreign governmental entity, the President shall
13 submit to the Committee on Foreign Affairs of the
14 House of Representatives and the Committee on
15 Foreign Relations of the Senate a report that states
16 whether—

17 “(A) the foreign governmental entity or
18 the government of the foreign country most
19 closely associated with that entity—

20 “(i) has adequately addressed the cov-
21 ered act that was the basis for the deter-
22 mination;

23 “(ii) has voluntarily provided sub-
24 stantive information regarding the covered

1 act to the United States Government and
2 relevant international organizations; and

3 “(iii) has developed or is developing
4 measures to prevent the commission of
5 covered acts in the future; and

6 “(B) the government of the country is
7 compliant with the obligations of the country
8 under each covered treaty.

9 “(2) EFFECT OF DETERMINATION.—If the re-
10 port required by paragraph (1) states that any ac-
11 tion described in paragraph (1) has not been taken
12 by the foreign governmental entity or the govern-
13 ment of the foreign country, as applicable, the Presi-
14 dent shall prohibit any transaction that—

15 “(A) is—

16 “(i) in foreign commerce; or

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

19 “(B) is subject to the jurisdiction of the
20 United States; and

21 “(C) involves a financial interest of the
22 country.

23 “(d) TERMINATION OF SANCTIONS.—The President
24 shall terminate each sanction imposed with respect to a
25 foreign country pursuant to this section if, on or after the

1 date that is 1 year after the first date on which the sanc-
 2 tion was imposed, the President certifies to Congress
 3 that—

4 “(1) the government of the country, or the for-
 5 eign governmental entity of which the individual who
 6 committed the covered act that was the basis for the
 7 imposition of such sanctions was an official, em-
 8 ployee, or agent—

9 “(A) has adequately addressed the act;

10 “(B) has made or is making restitution to
 11 persons harmed by the covered act, including
 12 United States nationals;

13 “(C) has voluntarily provided substantive
 14 information regarding the covered act to the
 15 United States Government and relevant inter-
 16 national organizations; and

17 “(D) has developed or is developing meas-
 18 ures to prevent the commission of covered acts
 19 in the future; and

20 “(2) the government of the country is compliant
 21 with the obligations of the country under each cov-
 22 ered treaty.

23 “(e) WAIVER.—

24 “(1) IN GENERAL.—The President may, for pe-
 25 riods of not more than 180 days, waive the imposi-

1 tion of sanctions required under this section if the
 2 President certifies to the Committee on Foreign Af-
 3 fairs of the House of Representatives and the Com-
 4 mittee on Foreign Relations of the Senate that the
 5 waiver is vital to the national security interests of
 6 the United States.

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

12 **“SEC. 311. DEFINITIONS.**

13 “In this title:

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

17 “(A) a chemical or biological weapon;

18 “(B) benzylfentanyl;

19 “(C) 4-anilinopiperidine; or

20 “(D) norfentanyl precursors.

21 “(2) COMMERCE CONTROL LIST.—The term
 22 ‘Commerce Control List’ means the list maintained
 23 by the Bureau of Industry and Security of the De-
 24 partment of Commerce and set forth in Supplement

1 No. 1 to part 774 of the Export Administration
2 Regulations.

3 “(3) COVERED ACT.—The term ‘covered act’
4 means an act by an individual who is an official, em-
5 ployee, or agent of a foreign governmental entity,
6 if—

7 “(A) the individual knew or should have
8 known that the act would result in injury or
9 damages to a foreign country other than the
10 foreign country most closely associated with
11 that entity; and

12 “(B) the act concerns a chemical or bio-
13 logical program that is owned, controlled, or di-
14 rected by, or subject to the jurisdiction of, that
15 entity.

16 “(4) COVERED TREATY.—The term ‘covered
17 treaty’ means—

18 “(A) the Convention on the Prohibition of
19 the Development, Production and Stockpiling of
20 Bacteriological and Toxin Weapons and on
21 their Destruction, done at Washington, London,
22 and Moscow, April 10, 1972 (commonly re-
23 ferred to as the ‘Biological Weapons Conven-
24 tion’); and

“(B) the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Geneva September 3, 1992, and entered into force April 29, 1997 (commonly referred to as the ‘Chemical Weapons Convention’).

“(5) EXPORT ADMINISTRATION REGULATIONS.—The term ‘Export Administration Regulations’ means the regulations set forth in subchapter C of chapter VII of title 15, Code of Federal Regulations (or successor regulations).

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

“(A) the government of a foreign country;

“(B) the government of a political subdivision of a foreign country;

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

“(D) an entity that is directly or indirectly controlled or beneficially owned by a government described in subparagraph (A) or (B);

“(E) an entity that acts on behalf of or as an agent of such a government; or

1 “(F) an entity that—

2 “(i) receives significant material sup-
3 port from a such a government; and

4 “(ii) is engaged in—

5 “(I) the provision of commercial
6 services;

7 “(II) shipping;

8 “(III) manufacturing;

9 “(IV) producing; or

10 “(V) exporting.”.

11 **SEC. 5. CONFORMING AMENDMENT.**

12 Section 307(a) of the Chemical and Biological Weap-
13 ons Control and Warfare Elimination Act of 1991 (22
14 U.S.C. 5605(a)) is amended, in the matter preceding
15 paragraph (1), by striking “section 306(a)(1)” and insert-
16 ing “section 306(a)(1)(A)”.

○