

117TH CONGRESS
1ST SESSION

H. R. 3882

To initiate negotiations for a bilateral agreement on compensation between the United States and the People's Republic of China relating to the spread of the virus responsible for COVID–19, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 14, 2021

Mrs. WAGNER (for herself, Mr. GOODEN of Texas, Mr. DESJARLAIS, Mr. MURPHY of North Carolina, Mr. BABIN, Mr. WEBSTER of Florida, and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Oversight and Reform, the Judiciary, Financial Services, Energy and Commerce, Armed Services, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To initiate negotiations for a bilateral agreement on compensation between the United States and the People's Republic of China relating to the spread of the virus responsible for COVID–19, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Compensation for Americans Act of 2021”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Findings.
- Sec. 4. Sense of Congress.
- Sec. 5. Statement of policy.
- Sec. 6. Coronavirus compensation fund.
- Sec. 7. Bilateral agreement on compensation between the United States and China.
- Sec. 8. Authorization to freeze Chinese assets.
- Sec. 9. Encouraging developing nations to seek compensation from China.
- Sec. 10. Suspension of requests made by Chinese entities to acquire United States entities under certain circumstances.
- Sec. 11. Prohibition on procurement of certain products from a covered foreign entity, including products intended to be included in the Strategic National Stockpile.
- Sec. 12. Report on integrity of the United States supply chain.
- Sec. 13. Restriction on Federal funds to propose, finalize, implement, or enforce any rule that reconsiders or amends certain Bureau of Industry and Security rules.
- Sec. 14. Authorization of sanctions.
- Sec. 15. Export controls on certain telecommunication equipment.
- Sec. 16. Visa ban on researchers affiliated with the PLA.
- Sec. 17. Prohibition on investment of TSP I fund in China.
- Sec. 18. Protecting pharmaceutical access for Americans.
- Sec. 19. Removal of China’s designation as a developing country in international bodies.
- Sec. 20. Protecting America from cyberattacks.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) CHINA.—The term “China” means the Peo-
 6 ple’s Republic of China.

7 (2) COMPENSATION FUND.—The term “com-
 8 pensation fund” means the Coronavirus Compensa-
 9 tion Fund.

10 **SEC. 3. FINDINGS.**

11 Congress finds the following:

12 (1) In the early weeks of the spread of the virus
 13 responsible for COVID–19, the Government of

1 China systematically suppressed, misrepresented,
2 and falsified information concerning such spread.

3 (2) The first reported instance of such virus
4 may have occurred on November 17, 2019, in
5 Wuhan, China. The Government of China did not
6 notify the World Health Organization that it had de-
7 tected an unknown respiratory illness until Decem-
8 ber 31, 2019.

9 (3) The Government of China violated inter-
10 national law by covering up the origins and spread
11 of such virus.

12 (4) Articles 6 and 7 of the International Health
13 Regulations of 2005 require notification to the
14 World Health Organization within 24 hours of an
15 assessment of events that may constitute a public
16 health emergency of international concern.

17 (5) The International Health Regulations re-
18 quire the World Health Organization to be notified
19 of “all relevant public health information” regarding
20 public health events of international concern, and for
21 information to be shared in a “timely, accurate, and
22 sufficiently detailed manner”.

23 (6) The Government of China failed to share
24 information with the World Health Organization,
25 and embarked on a campaign to silence doctors, sci-

1 entists, and whistleblowers in an attempt to mislead
2 the Chinese people and the international community
3 concerning the spread of such virus.

4 (7) On December 27, 2019, samples of the
5 virus found in hospitals in Wuhan, China, were ana-
6 lyzed and determined to be a novel coronavirus.

7 (8) The Government of China did not share
8 with the World Health Organization such determina-
9 tion concerning the novel coronavirus.

10 (9) On January 3, 2020, the Government of
11 China ordered Chinese scientists working to se-
12 quence the genome of such virus to surrender or de-
13 stroy their samples and the Government of China
14 did not publicly share the genetic sequence until
15 January 12, 2020.

16 (10) In early January, the Government of
17 China jailed eight medical professionals who sought
18 to share information relating to such virus.

19 (11) A Chinese ophthalmologist, Doctor Li
20 Wenliang, tried to warn the medical community of
21 such virus. The Government of China forced Doctor
22 Li to sign a letter stating that he made “false state-
23 ments” concerning such virus. Doctor Li later be-
24 came infected with such virus and died on February
25 7, 2020.

1 (12) The Government of China insisted that no
2 evidence existed concerning the spread of such virus
3 through person-to-person transmission, and allowed
4 Chinese citizens to travel unimpeded, including dur-
5 ing the Lunar New Year, when travelers numbered
6 in the hundreds of millions.

7 (13) On December 31, 2019, the Government
8 of Taiwan noted the possibility that such virus could
9 spread through person-to-person transmission. Offi-
10 cials of the World Health Organization sent to
11 China did not announce that such virus could spread
12 through person-to-person transmission until January
13 22, 2020.

14 (14) The Government of China continues to
15 neutralize or eliminate actors who threaten to expose
16 the Government of China’s culpability in the spread
17 of such virus.

18 (15) Wuhan Central Hospital reprimanded Doc-
19 tor Ai Fen for sharing a picture of a patient report
20 labeled “SARS Coronavirus”. In an interview pub-
21 lished in the Chinese magazine Ren Wu on March
22 10, 2020, Doctor Ai said, “This incident has shown
23 that everyone needs to have their own thoughts be-
24 cause someone has to step up to speak the truth.”.

1 (16) The repeated violations of the Inter-
2 national Health Regulations by the Government of
3 China caused the spread of such virus first in
4 Wuhan, China, and then worldwide.

5 (17) As of June 8, 2021, such spread resulted
6 in 173,331,478 confirmed cases and 3,735,571
7 deaths.

8 (18) As of June 8, 2021, 33,193,680 Ameri-
9 cans had been infected by such virus and 594,802
10 of those people died.

11 (19) In an October 12, 2020, issue of the Jour-
12 nal of the American Medical Association, economists
13 Lawrence Summers and David Cutler calculated
14 that such spread would cost the United States at
15 least \$16 trillion.

16 (20) On October 13, 2020, the International
17 Monetary Fund estimated that such spread will cost
18 the global economy approximately \$28 trillion in lost
19 economic output.

20 (21) The World Bank estimated on December
21 14, 2020, that such spread added between 88 million
22 people and 115 million people to those living in ex-
23 treme poverty and caused between 83 million people
24 and 132 million people to become undernourished.

1 (22) The World Bank further predicted that
2 learning losses and higher dropout rates caused by
3 such spread would cost students an estimated \$10
4 trillion in future earnings, nearly 10 percent of glob-
5 al Gross Domestic Product.

6 (23) The International Labor Organization esti-
7 mated that the spread of such virus caused an 8.8
8 percent drop in working hours globally, which is
9 equivalent to 255 million full-time jobs.

10 (24) More than 60 million Americans filed un-
11 employment claims between March and October
12 2020.

13 (25) The United States unemployment rate
14 reached 14.8 percent in April 2020, the highest rate
15 observed since 1948.

16 (26) The Congressional Budget Office predicted
17 \$7.6 trillion in United States economic output would
18 be lost to the pandemic between 2021 and 2031.

19 (27) To mitigate the economic impact of such
20 spread and bolster response efforts, Congress appro-
21 priated nearly \$5.3 trillion in emergency spending.

22 (28) The Congressional Budget Office more
23 than tripled its Fiscal Year 2020 Federal budget
24 deficit projection from \$1 trillion in January 2020
25 to \$3.3 trillion.

1 (29) If China had acted in accordance with its
2 international obligations just three weeks earlier, the
3 number of early coronavirus cases may have been 95
4 percent lower.

5 **SEC. 4. SENSE OF CONGRESS.**

6 It is the sense of Congress that—

7 (1) in February 2020, the United States cor-
8 rectly designated Chinese state-owned media outlets
9 as foreign missions;

10 (2) the Secretary of State should limit to 100
11 or fewer people the total number of Chinese citizens
12 who may work for a Chinese state-owned media out-
13 let in the United States;

14 (3) such limitation may encourage China to
15 allow American journalists and other foreign inde-
16 pendent reporters to live and report in China with-
17 out threat or harassment by China; and

18 (4) United States entities should avoid sup-
19 porting or spreading propaganda from China by re-
20 viewing the policies of such entities relating to media
21 advertisements created by China or advertising in
22 media outlets owned or operated by China.

23 **SEC. 5. STATEMENT OF POLICY.**

24 It is the policy of the United States to seek com-
25 pensation from China for intentionally concealing and dis-

1 torting information concerning the spread of the virus re-
2 sponsible for COVID–19 resulting in—

3 (1) the avoidable loss of life, health, or property
4 of citizens of the United States; and

5 (2) the damage to the national economy of the
6 United States.

7 **SEC. 6. CORONAVIRUS COMPENSATION FUND.**

8 (a) ESTABLISHMENT.—There is established in the
9 Treasury a compensation fund to be known as the
10 Coronavirus Compensation Fund.

11 (b) DEPOSIT OF FUNDS.—There shall be deposited
12 into the compensation fund—

13 (1) the amount agreed upon, if any, between
14 China and the United States relating to the bilateral
15 agreement on compensation initiated under section
16 7(a) of this Act; and

17 (2) the amount, if any, collected from the freez-
18 ing of assets belonging to China under section 8.

19 **SEC. 7. BILATERAL AGREEMENT ON COMPENSATION BE-**
20 **TWEEN THE UNITED STATES AND CHINA.**

21 (a) NEGOTIATIONS.—

22 (1) IN GENERAL.—Not later than 30 days after
23 the date of the enactment of this Act, the Secretary
24 of State shall enter into negotiations with China
25 concerning a bilateral agreement on compensation.

1 (2) MATTERS INCLUDED.—The initiation of ne-
2 negotiations required under paragraph (1) shall relate
3 to—

4 (A) the efforts of China to intentionally
5 distort and conceal information concerning the
6 spread of the virus responsible for COVID–19;
7 and

8 (B) the avoidable loss of life, health, or
9 property of citizens of the United States and
10 the damage to the national economy of the
11 United States caused by the actions of China
12 described in subparagraph (A).

13 (b) DEPOSIT OF FUNDS.—Any money received relat-
14 ing to negotiations initiated under paragraph (1) shall be
15 deposited into the compensation fund established under
16 section 6(a).

17 **SEC. 8. AUTHORIZATION TO FREEZE CHINESE ASSETS.**

18 (a) IN GENERAL.—The President shall use his au-
19 thorities under the International Emergency Economic
20 Powers Act to freeze or block any Chinese asset subject
21 to the jurisdiction of the United States in order to reach
22 a bilateral agreement on compensation with China. With
23 the consent of China under the bilateral agreement on
24 compensation, the President may deposit all or some of

1 these frozen funds into the compensation fund established
2 under section 6(a).

3 (b) PUBLIC REPOSITORY OF CERTAIN ASSETS.—

4 (1) IN GENERAL.—Not later than 30 days after
5 the date of the enactment of this Act, the Secretary
6 of Treasury shall publish online a public repository
7 described in paragraph (2).

8 (2) MATTERS INCLUDED.—The public reposi-
9 tory described in this paragraph shall include infor-
10 mation relating to the following:

11 (A) Chinese state-owned entities in the
12 United States.

13 (B) Chinese entities financed, directed, or
14 controlled by the Government of China or the
15 Chinese Communist Party.

16 (C) United States entities financed, di-
17 rected, or controlled by the Government of
18 China or the Chinese Communist Party.

19 (3) SELF-REPORT.—

20 (A) IN GENERAL.—Subject to subpara-
21 graph (B), not later than 60 days after the date
22 of the enactment of this Act, a United States
23 entity employed by a Chinese entity, including
24 a firm in the United States financial, con-
25 sulting, or legal industries, shall self-report to

1 the Secretary of Treasury and be added to the
2 public repository described in paragraph (2).

3 (B) EXCEPTION.—Notwithstanding any
4 other provision of law, if a public report under
5 subparagraph (A) would disclose confidential
6 proprietary information, including business or
7 trade secrets, the information shall be provided
8 to the Committee on Foreign Affairs of the
9 House of Representatives and the Committee
10 on Foreign Relations of the Senate in a classi-
11 fied repository and shall not be subject to pub-
12 lic disclosure.

13 (C) REMOVAL FROM PUBLIC REPOSI-
14 TORY.—Not later than 30 days after a United
15 State entity reports to the Secretary of Treas-
16 ury that all contracts or agreements with a Chi-
17 nese entity have terminated, the Secretary of
18 Treasury shall remove all information relating
19 to the United States entity from the public re-
20 pository.

21 (c) DEPOSIT OF FUNDS.—Notwithstanding any other
22 provision of law, and requiring the consent of China, the
23 President may deposit all or some of the assets frozen pur-
24 suant to subsection (a) into the compensation fund estab-
25 lished under section 6(a).

1 **SEC. 9. ENCOURAGING DEVELOPING NATIONS TO SEEK**
2 **COMPENSATION FROM CHINA.**

3 (a) IN GENERAL.—Not earlier than 60 days after the
4 date that the Secretary of State enters into negotiations
5 with China concerning a bilateral agreement on compensa-
6 tion pursuant to section 7, if China did not enter into,
7 or abide by, a contract or agreement relating to such nego-
8 tiations, the Secretary of State shall submit to the appro-
9 priate congressional committees a report described in sub-
10 section (b).

11 (b) REPORT.—The report described in this subsection
12 shall include information concerning strategies to encour-
13 age and support developing countries that are facing a se-
14 vere health and economic crisis due to China’s actions dur-
15 ing the spread of the virus responsible for COVID–19 and
16 indebted to China to freeze, repossess, and seize Chinese
17 assets and holdings in each such country, renege on loans
18 or debt, and expropriate ports in order to fund response
19 efforts to the spread of the virus responsible for COVID–
20 19 if China does not provide compensation to such devel-
21 oping countries.

22 (c) DEFINITIONS.—In this section:

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

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

3 (B) the Committee on Foreign Relations of
4 the Senate.

5 (2) CHINESE ASSETS AND HOLDINGS.—The
6 term “Chinese assets and holdings” means the fol-
7 lowing entities in a developing country—

8 (A) Chinese state-owned entities;

9 (B) Chinese entities financed, directed, or
10 controlled by China or the Chinese Communist
11 Party; or

12 (C) entities organized under the laws of a
13 developing country that are financed, directed,
14 or controlled by China or the Chinese Com-
15 munist Party.

16 **SEC. 10. SUSPENSION OF REQUESTS MADE BY CHINESE EN-**
17 **TITIES TO ACQUIRE UNITED STATES ENTI-**
18 **TIES UNDER CERTAIN CIRCUMSTANCES.**

19 (a) IN GENERAL.—Not earlier than 60 days after the
20 date that the Secretary of State enters into negotiations
21 with China concerning a bilateral agreement on compensa-
22 tion pursuant to section 7, the President shall suspend re-
23 view of requests made by a Chinese entity to acquire a
24 United States entity to the Committee on Foreign Invest-
25 ment in the United States.

1 (b) APPLICATION.—Subsection (a) shall only apply if
2 China did not enter into, or abide by, a contract or agree-
3 ment relating to such negotiations pursuant to section 7,
4 and such suspension shall be lifted if such contract or
5 agreement is established.

6 **SEC. 11. PROHIBITION ON PROCUREMENT OF CERTAIN**
7 **PRODUCTS FROM A COVERED FOREIGN ENTI-**
8 **TY, INCLUDING PRODUCTS INTENDED TO BE**
9 **INCLUDED IN THE STRATEGIC NATIONAL**
10 **STOCKPILE.**

11 (a) PROHIBITION ON USE OF FEDERAL FUNDS FOR
12 FOREIGN PROCUREMENT.—No Federal funds may be
13 used to procure by contract, subcontract, grant, coopera-
14 tive agreement, or otherwise any product sourced, manu-
15 factured, or assembled in whole or in part by a covered
16 foreign entity that poses a supply chain risk to the na-
17 tional security of the United States, including products
18 identified in the report required under subsection (b).

19 (b) REPORT.—

20 (1) IN GENERAL.—Not later than 60 days after
21 the date of the enactment of this Act, the President
22 shall submit to the appropriate congressional com-
23 mittees a report concerning supply chain risks and
24 vulnerabilities posed by a covered foreign entity to
25 the national security, including health security, of

1 the United States, and methods to mitigate such
2 risks and vulnerabilities.

3 (2) MATTERS INCLUDED.—The report required
4 under paragraph (1) shall include information relat-
5 ing to such business sectors:

6 (A) Pharmaceutical.

7 (B) Medical.

8 (C) Rare earth material.

9 (D) Cybersecurity.

10 (E) Information security.

11 (F) Communication technology, including
12 fifth generation technology.

13 (G) Electronics.

14 (c) WAIVER.—The President may waive the prohibi-
15 tions under this section with respect to a product if the
16 President determines and reports to the appropriate con-
17 gressional committees that such waiver is in the national
18 security interests of the United States.

19 (d) TERMINATION.—The President may terminate
20 the prohibition with respect to a product if the President
21 determines and reports to the appropriate congressional
22 committees not less than 15 days before such termination
23 takes effect that China—

1 (1) acknowledges intentionally distorting and
2 concealing information concerning the spread of the
3 virus responsible for COVID–19; and

4 (2) provides compensation to the United States
5 for actions described in paragraph (1), which
6 caused—

7 (A) avoidable loss of life, health, or prop-
8 erty of citizens of the United States; and

9 (B) damage to the national economy of the
10 United States.

11 (e) DEFINITIONS.—In this section:

12 (1) APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—The term “appropriate congressional com-
14 mittees” means—

15 (A) the Committee on Foreign Affairs of
16 the House of Representatives;

17 (B) the Committee on Energy and Com-
18 merce of the House of Representatives;

19 (C) the Committee on Homeland Security
20 of the House of Representatives;

21 (D) the Committee on Armed Services of
22 the House of Representatives;

23 (E) the Committee on Veterans’ Affairs of
24 the House of Representatives;

1 (F) the Committee on Ways and Means of
2 the House of Representatives;

3 (G) the Committee on Foreign Relations of
4 the Senate;

5 (H) the Committee on Health, Education,
6 Labor, and Pensions of the Senate;

7 (I) the Committee on Homeland Security
8 and Governmental Affairs of the Senate;

9 (J) the Committee on Armed Services of
10 the Senate; and

11 (K) the Committee on Veterans' Affairs of
12 the Senate.

13 (2) COVERED FOREIGN ENTITY.—The term
14 “covered foreign entity” means any entity domiciled
15 in China or subject to influence or control by China
16 or the Communist Party of China, as determined by
17 the Secretary of State.

18 **SEC. 12. REPORT ON INTEGRITY OF THE UNITED STATES**

19 **SUPPLY CHAIN.**

20 (a) IN GENERAL.—Not later than 60 days after the
21 date of the enactment of this Act, the Secretary of Com-
22 merce shall submit to the appropriate congressional com-
23 mittees a report concerning strategies to incentivize, re-
24 quire, or compensate United States persons for relocating

1 or repatriating United States business activities and as-
2 sets from China to the United States.

3 (b) MATTERS INCLUDED.—The report required
4 under subsection (a) shall include information relating to
5 the following business sectors:

6 (1) Pharmaceutical.

7 (2) Medical.

8 (3) Electronics.

9 (4) Information and communications tech-
10 nology.

11 (5) Science.

12 (6) Defense industries.

13 (c) DEFINITIONS.—In this section:

14 (1) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term “appropriate congressional com-
16 mittees” means—

17 (A) the Committee on Foreign Affairs of
18 the House of Representatives;

19 (B) the Committee on Energy and Com-
20 merce of the House of Representatives;

21 (C) the Committee on Financial Services of
22 the House of Representatives;

23 (D) the Committee on Foreign Relations of
24 the Senate;

1 (E) the Committee on Commerce, Science,
2 and Transportation of the Senate; and

3 (F) the Committee on Finance of the Sen-
4 ate.

5 (2) PERSON.—The term “person” means—

6 (A) a natural person;

7 (B) a corporation, business association,
8 partnership, society, trust, financial institution,
9 insurer, underwriter, guarantor, and any other
10 business organization, any other nongovern-
11 mental entity, organization, or group, or any
12 government or agency thereof; and

13 (C) any successor to any entity described
14 in subparagraph (B).

15 (3) UNITED STATES PERSON.—The term
16 “United States person” means—

17 (A) any individual who is a citizen or na-
18 tional of the United States or who is an indi-
19 vidual described in subparagraph (B) of section
20 274B(a)(3) of the Immigration and Nationality
21 Act (8 U.S.C. 1324b(a)(3)); or

22 (B) a corporation or other legal entity
23 which is organized under the laws of the United
24 States, any State or territory thereof, or the
25 District of Columbia.

1 **SEC. 13. RESTRICTION ON FEDERAL FUNDS TO PROPOSE,**
2 **FINALIZE, IMPLEMENT, OR ENFORCE ANY**
3 **RULE THAT RECONSIDERS OR AMENDS CER-**
4 **TAIN BUREAU OF INDUSTRY AND SECURITY**
5 **RULES.**

6 No Federal funds may be used to propose, finalize,
7 implement, or enforce any rule that reconsiders or amends
8 Bureau of Industry and Security's—

9 (1) rule dated April 28, 2020, and titled,
10 “Elimination of License Exception Civil End Users
11 (CIV)” (85 Fed. Reg. 23470); or

12 (2) rule dated April 28, 2020, and titled, “Ex-
13 pansion of Export, Reexport, and Transfer (in-Coun-
14 try) Controls for Military End Use or Military End
15 Users in the People’s Republic of China, Russia, or
16 Venezuela” (85 Fed. Reg. 23459).

17 **SEC. 14. AUTHORIZATION OF SANCTIONS.**

18 (a) IN GENERAL.—The President shall impose the
19 sanctions described in subsection (b) with respect to a for-
20 eign person the President determines, based on credible
21 evidence, is one of the following:

22 (1) A government official, or a senior associate
23 of such an official, of China.

24 (2) A Chinese manufacturer or supplier, or a
25 corporate officer of, or a principal shareholder with

controlling interests in, such a manufacturer or supplier, in the following industries:

(A) Artificial intelligence.

(B) Genetic engineering technologies.

(C) Semiconductors.

(D) Lithium battery manufacturing.

(E) High-capacity computing.

(F) Quantum computing.

(G) Medical equipment.

(H) Pharmaceuticals.

(I) Robotics.

(J) Biotechnology.

(3) An individual, corporate officer, or principal shareholder with controlling interests in a medical equipment supplier or pharmaceutical manufacturer entity that profited from the global response to the spread of the virus responsible for COVID–19.

(4) A citizen of China who the President determines to—

(A) be responsible for or complicit in, or to have engaged in, the misappropriation, receipt, or use of intellectual property stolen from United States persons if that misappropriation, receipt, or use is reasonably likely to result in, or has materially contributed to, a significant

1 threat to the national security, foreign policy, or
2 economy of the United States;

3 (B) have materially assisted, sponsored, or
4 provided financial, material, or technological
5 support for, or goods or services to or in sup-
6 port of—

7 (i) any activity described in subpara-
8 graph (A); or

9 (ii) any person the property and inter-
10 ests in property of which are blocked pur-
11 suant to subsection (b)(1);

12 (C) be owned or controlled by, or to have
13 acted or purported to act for or on behalf of,
14 directly or indirectly, any person the property
15 and interests in property of which are blocked
16 pursuant to subsection (b)(1);

17 (D) have attempted to engage in any of
18 the activity described in subparagraph (A), (B),
19 or (C); or

20 (E) be a corporate officer of, or a principal
21 shareholder with controlling interests in, an en-
22 tity described in any of subparagraph (A), (B),
23 (C), or (D).

24 (5) A Chinese state-owned entity or a Chinese
25 entity financed, directed, or controlled by the Gov-

ernment of China or the Chinese Communist Party,
that the President determines to, on or after the
date of the enactment of this Act—

(A) be responsible for or complicit in, or to
have engaged in, censorship, surveillance, or
any other similar or related activity through
means of telecommunications, including the
internet;

(B) have materially assisted, sponsored, or
provided financial, material, or technological
support for, or goods or services to or in sup-
port of—

(i) any activity described in subpara-
graph (A); or

(ii) any person the property and inter-
ests in property of which are blocked pur-
suant to subsection (b)(1);

(C) be owned or controlled by, or to have
acted or purported to act for or on behalf of,
directly or indirectly, any person the property
and interests in property of which are blocked
pursuant to subsection (b)(1);

(D) have attempted to engage in any of
the activity described in subparagraph (A), (B),
or (C); or

1 (E) be a corporate officer of, or a principal
2 shareholder with controlling interests in, an en-
3 tity described in any of subparagraph (A), (B),
4 (C), or (D).

5 (b) SANCTIONS DESCRIBED.—The sanctions de-
6 scribed in this subsection are the following:

7 (1) ASSET BLOCKING.—The President shall ex-
8 ercise all of the powers granted to the President
9 under the International Emergency Economic Pow-
10 ers Act (50 U.S.C. 1701 et seq.) to the extent nec-
11 essary to block and prohibit all transactions in prop-
12 erty and interests in property of a foreign person
13 identified in the report required under subsection (a)
14 if such property and interests in property are in the
15 United States, come within the United States, or
16 come within the possession or control of a United
17 States person.

18 (2) INELIGIBILITY FOR VISAS, ADMISSION, OR
19 PAROLE.—

20 (A) VISAS, ADMISSION, OR PAROLE.—A
21 foreign person described in subsection (a) and
22 his or her immediate family members is—

23 (i) inadmissible to the United States;

(ii) ineligible to receive a visa or other documentation to enter the United States; and

(iii) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(B) CURRENT VISA REVOKED.—

(i) IN GENERAL.—A foreign person described in subsection (a) is subject to revocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

(ii) IMMEDIATE EFFECT.—A revocation under clause (i) shall—

(I) take effect immediately; and

(II) automatically cancel any other valid visa or entry documentation that is in the alien's possession.

(C) EXCEPTION TO COMPLY WITH INTERNATIONAL OBLIGATIONS.—Sanctions under this paragraph shall not apply with respect to a foreign person if admitting or paroling such per-

1 son into the United States is necessary to per-
2 mit the United States to comply with the
3 Agreement regarding the Headquarters of the
4 United Nations, signed at Lake Success June
5 26, 1947, and entered into force November 21,
6 1947, between the United Nations and the
7 United States, or other applicable international
8 obligations.

9 (c) IMPLEMENTATION.—The President may exercise
10 all authorities provided under sections 203 and 205 of the
11 International Emergency Economic Powers Act (50
12 U.S.C. 1702 and 1704) to carry out this section.

13 (d) WAIVER.—The President may waive the applica-
14 tion of sanctions under this section with respect to a for-
15 eign person identified in the report required under sub-
16 section (a) if the President determines and certifies to the
17 appropriate congressional committees that such a waiver
18 is in the national interest of the United States.

19 (e) TERMINATION OF SANCTIONS.—The President
20 may terminate the application of sanctions under this sec-
21 tion with respect to a foreign person if the President deter-
22 mines and reports to the appropriate congressional com-
23 mittees not less than 15 days before such termination
24 takes effect that China—

1 (1) acknowledges intentionally distorting and
2 concealing information concerning the spread of the
3 virus responsible for COVID–19; and

4 (2) provides compensation to the United States
5 for such actions described in paragraph (1), which
6 caused an avoidable injury to—

7 (A) the life, health, and property of the
8 citizens of the United States; and

9 (B) the national economy of the United
10 States.

11 (f) EXCEPTION RELATING TO THE IMPORTATION OF
12 GOODS.—

13 (1) IN GENERAL.—The authorities and require-
14 ments to impose sanctions under this section shall
15 not include the authority or requirement to impose
16 sanctions on the importation of goods.

17 (2) GOOD DEFINED.—In this subsection, the
18 term “good” means any article, natural or man-
19 made substance, material, supply or manufactured
20 product, including inspection and test equipment,
21 and excluding technical data.

22 (g) DEFINITIONS.—In this section:

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

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

3 (B) the Committee on Foreign Relations of
4 the Senate.

5 (2) FOREIGN PERSON.—The term “foreign per-
6 son” means—

7 (A) an individual who is not a citizen of
8 the United States or an alien admitted for per-
9 manent residence to the United States; or

10 (B) a corporation, partnership, or other
11 entity which is created or organized under the
12 laws of a foreign country or which has its prin-
13 cipal place of business outside the United
14 States.

15 **SEC. 15. EXPORT CONTROLS ON CERTAIN TELECOMMUNI-**
16 **CATION EQUIPMENT.**

17 (a) IN GENERAL.—Section 1754 of the John S.
18 McCain National Defense Authorization Act for Fiscal
19 Year 2019 (50 U.S.C. 4813) is amended by adding at the
20 end the following:

21 “(g) CERTAIN TELECOMMUNICATIONS EQUIP-
22 MENT.—

23 “(1) IN GENERAL.—The Secretary, in consulta-
24 tion with the Secretary of State, the Secretary of
25 Defense, and the heads of other appropriate Federal

1 departments and agencies, shall establish and main-
2 tain a list of goods and technology that would serve
3 the primary purpose of assisting, or be specifically
4 configured to assist, the People’s Republic of China
5 in acquiring the capability to carry out censorship,
6 surveillance, or any other similar or related activity
7 through means of telecommunications, including the
8 internet, the prohibition or licensing of which would
9 be effective in barring acquisition or enhancement of
10 such capability.

11 “(2) PROHIBITION.—Notwithstanding any other
12 provision of law, the Secretary shall prohibit the ex-
13 port of goods or technology on the list established
14 under paragraph (1) to Chinese state-owned entities
15 or Chinese entities financed, directed, or controlled
16 by the People’s Republic of China or the Chinese
17 Communist Party.

18 “(3) WAIVER.—The President may waive the
19 application of paragraph (2) with respect to export
20 of goods or technology on the list established under
21 paragraph (1) on a case-by-case basis if the Presi-
22 dent determines and certifies to Congress that it is
23 in the national interests of the United States to do
24 so.

1 “(4) DEFINITIONS.—In this subsection, the
2 term ‘Internet’ has the meaning given the term in
3 section 231(e)(3) of the Communications Act of
4 1934 (47 U.S.C. 231(e)(3)).”.

5 (b) REGULATIONS.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of the enactment of this Act, the President
8 shall revise the Export Administration Regulations
9 and any other regulations necessary to carry out the
10 amendment made by subsection (a).

11 (2) EXPORT ADMINISTRATION REGULATIONS
12 DEFINED.—In this subsection, the term “Export Ad-
13 ministration Regulations” means the Export Admin-
14 istration Regulations as maintained and amended
15 under the authority of the International Emergency
16 Economic Powers Act and codified, as of the date of
17 the enactment of this Act, in subchapter C of chap-
18 ter VII of title 15, Code of Federal Regulations.

19 (c) EFFECTIVE DATE.—Section 1754(g) of the John
20 S. McCain National Defense Authorization Act for Fiscal
21 Year 2019 (50 U.S.C. 4813(g)), as added by subsection
22 (a), shall take effect on the date of the enactment of this
23 Act.

1 **SEC. 16. VISA BAN ON RESEARCHERS AFFILIATED WITH**
2 **THE PLA.**

3 (a) IDENTIFICATION OF PLA-SUPPORTED INSTITU-
4 TIONS.—

5 (1) IN GENERAL.—Not later than 60 days after
6 the date of the enactment of this Act, and annually
7 thereafter, the Secretary of Homeland Security shall
8 publish a list identifying the research, engineering,
9 and scientific institutions that the Secretary of
10 Homeland Security determines are affiliated with, or
11 funded by, the Chinese People’s Liberation Army.

12 (2) FORM.—The list published under paragraph
13 (1) shall be unclassified and publicly accessible, but
14 may include a classified annex.

15 (b) EXCLUSION FROM UNITED STATES.—Except as
16 provided in subsections (d) and (e), the Secretary of State
17 may not issue a visa under subparagraph (F) or (J) of
18 section 101(a)(15) of the Immigration and Nationality Act
19 (8 U.S.C. 1101(a)(15)), and the Secretary of Homeland
20 Security may not admit, parole into the United States,
21 or otherwise provide nonimmigrant status under such sub-
22 paragraphs, to any alien who is, or has previously been,
23 employed, sponsored, or funded by any entity identified
24 on the most recently published list under subsection (a).

25 (c) INQUIRY.—Before issuing a visa described in sub-
26 section (b) to a national of China, the Secretary of State,

1 the Secretary of Homeland Security, a consular officer,
2 or a U.S. Customs and Border Protection officer shall ask
3 the alien seeking such visa if the alien is, or has previously
4 been, employed, funded, or otherwise sponsored by the
5 Chinese People's Liberation Army or any of the affiliated
6 institutions identified on the most recently published list
7 under subsection (a).

8 (d) EXCEPTION TO COMPLY WITH UNITED NATIONS
9 HEADQUARTERS AGREEMENT.—Subsection (b) shall not
10 apply to an individual if admitting the individual to the
11 United States is necessary to permit the United States
12 to comply with the Agreement between the United Nations
13 and the United States of America regarding the Head-
14 quarters of the United Nations, signed June 26, 1947,
15 and entered into force November 21, 1947, and other ap-
16 plicable international obligations.

17 (e) NATIONAL SECURITY WAIVER.—The President,
18 or a designee of the President, may waive subsection (b)
19 if the President or such designee certifies in writing to
20 the appropriate congressional committees that such waiver
21 is in the national security interest of the United States.

1 **SEC. 17. PROHIBITION ON INVESTMENT OF TSP I FUND IN**
2 **CHINA.**

3 (a) IN GENERAL.—Section 8438(b)(4) of title 5,
4 United States Code, is amended by adding at the end the
5 following:

6 “(C) The index selected by the Board
7 under subparagraph (A) may not include invest-
8 ments in any stock of an entity based in the
9 People’s Republic of China.”.

10 (b) DIVESTITURE OF ASSETS.—Not later than 60
11 days after the date of the enactment of this Act, the Fed-
12 eral Retirement Thrift Investment Board (as established
13 under section 8472(a) of title 5, United States Code), in
14 consultation with the manager of the Thrift Savings Fund,
15 shall—

16 (1) review whether any sums in the Thrift Sav-
17 ings Fund are invested in contravention of subpara-
18 graph (C) of section 8438(b)(4) of such title, as
19 added by subsection (a);

20 (2) if any sums are so invested, and consistent
21 with the legal and fiduciary duties provided under
22 chapter 84 of such title or any other provision of
23 law, divest such sums; and

24 (3) re-invest the divested sums in investments
25 that do not contradict such subparagraph.

1 **SEC. 18. PROTECTING PHARMACEUTICAL ACCESS FOR**
2 **AMERICANS.**

3 (a) LIST OF CRITICAL DRUGS PRODUCED EXCLU-
4 SIVELY IN CHINA.—

5 (1) IN GENERAL.—Not later than 30 days after
6 the date of enactment of this Act, the Commissioner
7 of Food and Drugs shall submit to the Congress a
8 list of all critical drugs and critical active pharma-
9 ceutical ingredients—

10 (A) that are produced in China; and

11 (B) the supply of which would be disrupted
12 for United States consumers if such production
13 were discontinued or interrupted.

14 (2) DEFINITIONS.—In this subsection:

15 (A) The term “critical active pharma-
16 ceutical ingredient” means an active pharma-
17 ceutical ingredient in a critical drug.

18 (B) The term “critical drug” means a
19 product that—

20 (i) is a drug (as defined in section
21 201 of the Federal Food, Drug, and Cos-
22 metic Act (21 U.S.C. 321)) for which the
23 approval of an application submitted under
24 subsection (b) or (j) of section 505 of such
25 Act (21 U.S.C. 355) or subsection (a) or
26 (k) of section 351 of the Public Health

1 Service Act (42 U.S.C. 352) remains in ef-
2 fect; and

3 (ii) is deemed by the Commissioner of
4 Food and Drugs to be critical to the health
5 and safety of United States consumers.

6 (C) The term “produce” means manufac-
7 tured, prepared, propagated, compounded, or
8 processed, in whole or in part.

9 (b) CERTIFICATION CONCERNING CHINESE PHARMA-
10 CEUTICAL REGULATION.—

11 (1) IN GENERAL.—Not later than 180 days
12 after the date of enactment of this Act, the Commis-
13 sioner of Food and Drugs (in this subsection re-
14 ferred to as the “Commissioner”) shall certify to the
15 Congress whether the Chinese pharmaceutical indus-
16 try is being regulated for safety (including regula-
17 tion of such industry by Chinese authorities and the
18 Food and Drug Administration) to substantially the
19 same degree as the United States pharmaceutical in-
20 dustry.

21 (2) INVESTIGATIONS.—The Commissioner—

22 (A) shall conduct such investigations as
23 may be necessary to make the certification re-
24 quired by paragraph (1); and

1 (B) in conducting such investigations, may
2 use unannounced inspections and demand all
3 necessary onsite access.

4 (3) PLAN.—If the Commissioner certifies pur-
5 suant to paragraph (1) that the Chinese pharma-
6 ceutical industry is not being regulated for safety to
7 substantially the same degree as the United States
8 pharmaceutical industry, the Commissioner shall,
9 not later than 60 days after the Commissioner sub-
10 mits the certification required by paragraph (1),
11 submit a plan to the Congress to protect United
12 States consumers from unsafe Chinese drugs.

13 (c) PURCHASING PLAN.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of the enactment of this Act, the Secretary
16 of Defense, in coordination with the Secretary of
17 Health and Human Services and the Commissioner
18 of Food and Drugs, shall submit to the Congress—

19 (A) a plan to ensure that by 2024 no phar-
20 maceutical products purchased for beneficiaries
21 of health care from the Department of Defense
22 or any associated program are made in part or
23 in whole in China; and

24 (B) an assessment of the resilience and ca-
25 pacity of the current supply chain and indus-

1 trial base to support national defense if no
2 pharmaceutical products purchased for bene-
3 ficiaries of health care from the Department of
4 Defense or any associated program are made in
5 part or in whole in China, including with re-
6 spect to—

7 (i) the manufacturing capacity of the
8 United States;

9 (ii) gaps in domestic manufacturing
10 capabilities, including non-existent, extinct,
11 threatened, and single-point-of-failure ca-
12 pabilities; and

13 (iii) supply chains with single points
14 of failure and limited resiliency.

15 (2) REQUIRED RECOMMENDATIONS.—The as-
16 sessment under paragraph (1)(B) shall include rec-
17 ommendations—

18 (A) to address critical bottlenecks in the
19 supply of pharmaceutical products in the
20 United States; and

21 (B) to mitigate single points of failure and
22 limited resilience of supply chains for pharma-
23 ceutical products in the United States.

1 **SEC. 19. REMOVAL OF CHINA'S DESIGNATION AS A DEVEL-**
2 **OPING COUNTRY IN INTERNATIONAL BODIES.**

3 (a) STATEMENT OF POLICY.—It is the policy of the
4 United States to oppose efforts by China to use its self-
5 declared status as a developing country to lessen its obli-
6 gations under international agreements, dispute settle-
7 ment proceedings, negotiations, rules, and regulations.

8 (b) WORLD BANK.—The Secretary of the Treasury
9 shall instruct the United States Executive Director at the
10 International Bank for Reconstruction and Development
11 to pursue the removal of China from eligibility for assist-
12 ance from the Bank.

13 (c) DESIGNATION OF CHINA AS A DEVELOPED COUN-
14 TRY.—

15 (1) UNITED STATES TRADE LAW.—Notwith-
16 standing any other provision of law, China shall be
17 treated as a developed country for the purposes of
18 United States trade law.

19 (2) WTO DESIGNATION.—The President shall
20 direct the United States Trade Representative to use
21 the voice, vote, and influence of the United States to
22 secure changes at the World Trade Organization
23 to—

24 (A) prevent China from receiving benefits
25 under the rules and regulations of the World

1 Trade Organization that are not justified by ap-
2 propriate economic and other indicators; and

3 (B) treat China as a developed country.

4 (d) UNITED NATIONS CLASSIFICATION SYSTEM.—

5 The President shall direct the United States Permanent
6 Representative to the United Nations to use the voice,
7 vote, and influence of the United States—

8 (1) to revise the classification system of the
9 United Nations Statistics Division necessary to en-
10 sure the classification of China reflects justifiable
11 economic and other indicators; and

12 (2) to treat China as a developed country for
13 purposes of the Standard Country or Area Codes for
14 Statistical Use (Series M, No. 49).

15 **SEC. 20. PROTECTING AMERICA FROM CYBERATTACKS.**

16 (a) EXEMPTIONS TO THE COMPUTER FRAUD AND
17 ABUSE ACT.—Section 1030 of title 18, United States
18 Code, is amended by adding at the end the following:

19 “(k) EXCEPTION FOR THE USE OF ATTRIBUTIONAL
20 TECHNOLOGY.—

21 “(1) IN GENERAL.—This section shall not apply
22 with respect to the use of attributional technology in
23 regard to a defender who uses a program, code, or
24 command for attributional purposes that beacons or
25 returns locational or attributional data in response

1 to a cyber intrusion in order to identify the source
2 of an intrusion; if—

3 “(A) the program, code, or command origi-
4 nated on the computer of the defender but is
5 copied or removed by an unauthorized user;

6 “(B) the program, code, or command does
7 not result in the destruction of data or result
8 in an impairment of the essential operating
9 functionality of the attacker’s computer system,
10 or intentionally create a backdoor enabling in-
11 trusive access into the attacker’s computer sys-
12 tem; and

13 “(C) the defender believes the attacker is
14 an agent or an affiliate of Chinese state com-
15 mercial actors in the United States, other Chi-
16 nese entities or individuals financed, directed,
17 or controlled by the Chinese State, Government
18 of China, or the Chinese Communist Party.

19 “(2) DEFINITION.—The term ‘attributional
20 data’ means any digital information such as log files,
21 text strings, time stamps, malware samples, identi-
22 fiers such as user names and Internet Protocol ad-
23 dresses and metadata or other digital artifacts gath-
24 ered through forensic analysis.”.

1 (b) EXCLUSION FROM PROSECUTION FOR CERTAIN
2 COMPUTER CRIMES FOR THOSE TAKING ACTIVE CYBER
3 DEFENSE MEASURES.—Section 1030 of title 18, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 “(1) ACTIVE CYBER DEFENSE MEASURES NOT A
7 VIOLATION.—

8 “(1) IN GENERAL.—It is a defense to a crimi-
9 nal prosecution under this section that the conduct
10 constituting the offense was an active cyber defense
11 measure if the defender believes the attacker was an
12 agent or an affiliate of Chinese state commercial ac-
13 tors in the United States, other Chinese entities or
14 individuals financed, directed, or controlled by the
15 Chinese State, the Government of China, or the Chi-
16 nese Communist Party.

17 “(2) DEFINITIONS.—In this subsection—

18 “(A) the term ‘defender’ means a person
19 or an entity that is a victim of a persistent un-
20 authorized intrusion of the individual entity’s
21 computer;

22 “(B) the term ‘active cyber defense meas-
23 ure’—

24 “(i) means any measure—

1 “(I) undertaken by, or at the di-
2 rection of, a defender; and

3 “(II) consisting of accessing
4 without authorization the computer of
5 the attacker to the defender’s own
6 network to gather information in
7 order to—

8 “(aa) establish attribution of
9 criminal activity to share with
10 law enforcement and other
11 United States Government agen-
12 cies responsible for cybersecurity;

13 “(bb) disrupt continued un-
14 authorized activity against the
15 defender’s own network; or

16 “(cc) monitor the behavior
17 of an attacker to assist in devel-
18 oping future intrusion prevention
19 or cyber defense techniques; but

20 “(ii) does not include conduct that—

21 “(I) intentionally destroys or ren-
22 ders inoperable information that does
23 not belong to the victim that is stored
24 on another person or entity’s com-
25 puter;

1 “(II) recklessly causes physical
2 injury or financial loss as described
3 under subsection (c)(4);

4 “(III) creates a threat to the
5 public health or safety;

6 “(IV) intentionally exceeds the
7 level of activity required to perform
8 reconnaissance on an intermediary
9 computer to allow for attribution of
10 the origin of the persistent cyber in-
11 trusion;

12 “(V) intentionally results in in-
13 trusive or remote access into an
14 intermediary’s computer;

15 “(VI) intentionally results in the
16 persistent disruption to a person or
17 entities internet connectivity resulting
18 in damages defined under subsection
19 (c)(4); or

20 “(VII) impacts any computer de-
21 scribed under subsection (a)(1) re-
22 garding access to national security in-
23 formation, subsection (a)(3) regarding
24 government computers, or to sub-
25 section (c)(4)(A)(i)(V) regarding a

1 computer system used by or for a
2 Government entity for the furtherance
3 of the administration of justice, na-
4 tional defense, or national security;

5 “(C) the term ‘attacker’ means a person or
6 an entity that is the source of the persistent un-
7 authorized intrusion into the victim’s computer;
8 and

9 “(D) the term ‘intermediary computer’
10 means a person or entity’s computer that is not
11 under the ownership or primary control of the
12 attacker but has been used to launch or obscure
13 the origin of the persistent cyber-attack.”.

14 (c) NOTIFICATION REQUIREMENT FOR THE USE OF
15 ACTIVE CYBER DEFENSE MEASURES.—Section 1030 of
16 title 18, United States Code, is amended by adding the
17 following:

18 “(m) NOTIFICATION REQUIREMENT FOR THE USE
19 OF ACTIVE CYBER DEFENSE MEASURES.—

20 “(1) IN GENERAL.—A defender who uses an ac-
21 tive cyber defense measure under the preceding sec-
22 tion must notify the FBI National Cyber Investiga-
23 tive Joint Task Force and either receive a response
24 from the FBI acknowledging receipt of the notifica-
25 tion or wait 48 hours prior to using the measure.

1 “(2) REQUIRED NOTIFICATION.—Notification
2 must include the type of cyber breach that the per-
3 son or entity was a victim of, the intended target of
4 the active cyber defense measure, the steps the de-
5 fender plans to take to preserve evidence of the
6 attacker’s criminal cyber intrusion, as well as the
7 steps they plan to prevent damage to intermediary
8 computers not under the ownership of the attacker
9 and other information requested by the FBI to as-
10 sist with oversight.”.

○