

118TH CONGRESS
1ST SESSION

S. 2170

To amend the Export Control Reform Act of 2018 to provide for a presumption of denial of licenses for the export, reexport, or in-country transfer of technology to end users in the People’s Republic of China or the Russian Federation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 22, 2023

Mr. RUBIO (for himself and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Export Control Reform Act of 2018 to provide for a presumption of denial of licenses for the export, reexport, or in-country transfer of technology to end users in the People’s Republic of China or the Russian Federation, 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 “Depriving Enemy Na-
5 tions of Integral Authorizations and Licenses Act of
6 2023” or the “DENIAL Act of 2023”.

1 **SEC. 2. PRESUMPTION OF DENIAL FOR LICENSES FOR EX-**
2 **PORT, REEXPORT, OR IN-COUNTRY TRANS-**
3 **FER OF TECHNOLOGY TO END USERS IN THE**
4 **PEOPLE’S REPUBLIC OF CHINA OR THE RUS-**
5 **SIAN FEDERATION.**

6 Section 1756 of the Export Control Reform Act of
7 2018 (50 U.S.C. 4815) is amended by adding at the end
8 the following:

9 “(e) PRESUMPTION OF DENIAL FOR LICENSES FOR
10 EXPORT, REEXPORT, OR IN-COUNTRY TRANSFER OF
11 TECHNOLOGY TO END USERS IN THE PEOPLE’S REPUB-
12 LIC OF CHINA OR THE RUSSIAN FEDERATION.—

13 “(1) IN GENERAL.—Except as provided by
14 paragraph (2), the Secretary shall deny an applica-
15 tion for a license or other authorization for the ex-
16 port, reexport, or in-country transfer of technology
17 if the end user of the technology is a covered person.

18 “(2) CONGRESSIONAL NOTIFICATION AND RE-
19 VIEW PROCESS.—

20 “(A) IN GENERAL.—Before approving an
21 application for a license or other authorization
22 described in paragraph (1), the Secretary shall
23 submit to the appropriate congressional com-
24 mittees a report—

1 “(i) specifying the intended end user
2 of the technology that is the subject of the
3 application;

4 “(ii) specifying the dollar value of the
5 technology;

6 “(iii) describing the technology;

7 “(iv) describing the proposed end use
8 of the technology;

9 “(v) describing how authorizing the
10 export, reexport, or in-country transfer of
11 the technology to the specific end user ad-
12 vances the national security interests of
13 the United States; and

14 “(vi) describing how authorizing the
15 export, reexport, or in-country transfer of
16 the technology to the specific user does not
17 advance the national security interests of a
18 covered country, including—

19 “(I) the Made in China 2025 in-
20 dustrial strategy of the People’s Re-
21 public of China;

22 “(II) the military-civil fusion na-
23 tional strategy of the People’s Repub-
24 lic of China, including transfer of

1 technology to any entity identified as
 2 part of that strategy, including—

3 “(aa) any college or univer-
 4 sity known as one of the ‘Seven
 5 Sons of National Defense’;

6 “(bb) any college or univer-
 7 sity that receives funding from—

8 “(AA) the People’s Lib-
 9 eration Army; or

10 “(BB) the Equipment
 11 Development Department,
 12 or the Science and Tech-
 13 nology Commission, of the
 14 Central Military Commission
 15 of the People’s Republic of
 16 China;

17 “(cc) any college or univer-
 18 sity in the People’s Republic of
 19 China involved in military train-
 20 ing and education, including any
 21 such college or university in part-
 22 nership with the People’s Libera-
 23 tion Army;

24 “(dd) any college or univer-
 25 sity in the People’s Republic of

1 China that conducts military re-
2 search or hosts dedicated military
3 initiatives or laboratories, includ-
4 ing such a college or university
5 designated under the ‘double
6 first-class university plan’;

7 “(ee) any college or univer-
8 sity in the People’s Republic of
9 China that is designated by the
10 State Administration for Science,
11 Technology, and Industry for the
12 National Defense to host ‘joint
13 construction’ programs;

14 “(ff) any college or univer-
15 sity in the People’s Republic of
16 China that has launched a plat-
17 form for military-civil fusion or
18 created national defense labora-
19 tories;

20 “(gg) any college or univer-
21 sity in the People’s Republic of
22 China that conducts research or
23 hosts dedicated initiatives or lab-
24 oratories for any other related se-
25 curity entity beyond the People’s

1 Liberation Army, including the
2 People's Armed Police, the Min-
3 istry of Public Security, and the
4 Ministry of State Security;

5 “(hh) any enterprise for
6 which the majority shareholder or
7 ultimate parent entity is the Gov-
8 ernment of the People's Republic
9 of China at any level of that gov-
10 ernment;

11 “(ii) any privately owned
12 company in the People's Republic
13 of China that—

14 “(AA) has received a
15 military production license,
16 such as the Weapons and
17 Equipment Research and
18 Production Certificate, the
19 Equipment Manufacturing
20 Unit Qualification, the
21 Weapons and Equipment
22 Quality Management System
23 Certificate, or the Weapons
24 and Equipment Research

1 and Production Unit Classi-
2 fied Qualification Permit;

3 “(BB) is otherwise
4 known to materially support
5 the military initiatives of the
6 People’s Republic of China;

7 “(CC) has a history of
8 subcontracting for the Peo-
9 ple’s Liberation Army or its
10 affiliates;

11 “(DD) is participating
12 in, or receiving benefits
13 under, a military-civil fusion
14 demonstration base; or

15 “(EE) has an owner,
16 director, or a senior man-
17 agement official who has
18 served as a delegate to the
19 National People’s Congress,
20 a member of the Chinese
21 People’s Political Consult-
22 ative Conference, or a mem-
23 ber of the Central Com-
24 mittee of the Chinese Com-
25 munist Party; or

1 “(III) the Science and Tech-
2 nology Foresight 2030 policy of the
3 Russian Federation, including trans-
4 fer of technology to any entity identi-
5 fied as part of that strategy, includ-
6 ing—

7 “(aa) the Advanced Re-
8 search Foundation;

9 “(bb) the Era Military Inno-
10 vation Technopolis;

11 “(cc) any college or univer-
12 sity that receives funding from
13 the Ministry of Defense of the
14 Russian Federation;

15 “(dd) any entity for which
16 the majority shareholder or ulti-
17 mate parent entity is the Govern-
18 ment of the Russian Federation
19 at any level of that government;
20 or

21 “(ee) any privately owned
22 company in the Russian Federa-
23 tion that—

24 “(AA) is otherwise
25 known to materially support

1 the military initiatives of the
2 Russian Federation; or
3 “(BB) has subcon-
4 tracted for the Ministry of
5 Defense of the Russian Fed-
6 eration or its affiliates.

7 “(B) LIMITATION ON APPROVAL DURING
8 REVIEW PERIOD.—The Secretary may not ap-
9 prove an application for a license or other au-
10 thorization described in paragraph (1) during
11 the 30-day period beginning on the date on
12 which the appropriate congressional committees
13 receive the report required by subparagraph (A)
14 unless the Secretary, in the report—

15 “(i) states that the Secretary has de-
16 termined that a pressing national security
17 imperative exists, such that the national
18 security interests of the United States ne-
19 cessitate the immediate approval of the li-
20 cense or other authorization; and

21 “(ii) provides a detailed justification
22 for that determination, including—

23 “(I) a description of the emer-
24 gency circumstances that necessitate

1 the immediate approval of the license
2 or other authorization; and

3 “(II) a discussion of the national
4 security interests involved.

5 “(C) PROHIBITION ON APPROVAL IF JOINT
6 RESOLUTION OF DISAPPROVAL ENACTED.—The
7 Secretary may not approve an application for a
8 license or other authorization described in para-
9 graph (1) if, during the 30-day period described
10 in subparagraph (B), there is enacted into law
11 a joint resolution prohibiting the approval of
12 the application.

13 “(D) CONSIDERATION OF JOINT RESOLU-
14 TION.—

15 “(i) SENATE.—Any joint resolution
16 under this paragraph shall be considered in
17 the Senate in accordance with the provi-
18 sions of section 601(b) of the International
19 Security Assistance and Arms Export Con-
20 trol Act of 1976 (Public Law 94–329; 90
21 Stat. 765).

22 “(ii) HOUSE OF REPRESENTATIVES.—
23 For the purpose of expediting the consider-
24 ation and enactment of joint resolutions
25 under this paragraph, a motion to proceed

1 to the consideration of any such joint reso-
 2 lution after it has been reported by the ap-
 3 propriate committee shall be treated as
 4 highly privileged in the House of Rep-
 5 resentatives.

6 “(iii) RULES OF HOUSE OF REP-
 7 RESENTATIVES AND SENATE.—This sub-
 8 paragraph is enacted by Congress—

9 “(I) as an exercise of the rule-
 10 making power of the Senate and the
 11 House of Representatives, respec-
 12 tively, and as such is deemed a part
 13 of the rules of each House, respec-
 14 tively, and supersedes other rules only
 15 to the extent that it is inconsistent
 16 with such rules; and

17 “(II) with full recognition of the
 18 constitutional right of either House to
 19 change the rules (so far as relating to
 20 the procedure of that House) at any
 21 time, in the same manner, and to the
 22 same extent as in the case of any
 23 other rule of that House.

24 “(3) DEFINITIONS.—In this subsection:

1 “(A) APPROPRIATE CONGRESSIONAL COM-
2 MITTEES.—The term ‘appropriate congressional
3 committees’ means—

4 “(i) the Committee on Banking,
5 Housing, and Urban Affairs, the Com-
6 mittee on Foreign Relations, and the Se-
7 lect Committee on Intelligence of the Sen-
8 ate; and

9 “(ii) the Committee on Financial
10 Services, the Committee on Foreign Af-
11 fairs, and the Permanent Select Committee
12 on Intelligence of the House of Represent-
13 atives.

14 “(B) COVERED COUNTRY.—The term ‘cov-
15 ered country’ means—

16 “(i) the People’s Republic of China
17 (including the Hong Kong Special Admin-
18 istrative Region and the Macau Special
19 Administrative Region); and

20 “(ii) the Russian Federation.

21 “(C) COVERED PERSON.—The term ‘cov-
22 ered person’ means—

23 “(i) an individual who is a citizen or
24 national of a covered country; or

1 “(ii) an entity organized under the
 2 laws of a covered country or otherwise sub-
 3 ject to the jurisdiction of the government
 4 of a covered country.”.

5 **SEC. 3. EXPORT CONTROL TREATMENT OF SUBSIDIARIES**
 6 **OF ENTITIES ON THE ENTITY LIST.**

7 (a) IN GENERAL.—Not later than 30 days after the
 8 date of the enactment of this Act, the Secretary of Com-
 9 merce shall revise part 744 of title 15, Code of Federal
 10 Regulations, to ensure that the same requirements and re-
 11 strictions that apply to an entity on the Entity List apply
 12 to an entity owned or controlled by an entity on the Entity
 13 List, including an entity—

14 (1) 50 percent or more of the ownership inter-
 15 est in which is held in the aggregate, directly or in-
 16 directly, by one or more entities on the Entity List;
 17 or

18 (2) that the Secretary of Commerce considers
 19 to have an interest in all property and interests in
 20 property of an entity in which 50 percent or more
 21 of the ownership interest is held in the aggregate,
 22 directly or indirectly, by one or more entities on the
 23 Entity List.

24 (b) ENTITY LIST DEFINED.—In this section, the
 25 term “Entity List” means the list maintained by the Bu-

1 reau of Industry and Security of the Department of Com-
2 merce and set forth in Supplement No. 4 to part 744 of
3 title 15, Code of Federal Regulations.

