

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 760
OFFERED BY MR. BARR OF KENTUCKY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Chinese Military and
3 Surveillance Company Sanctions Act of 2023”.

4 SEC. 2. FINDINGS AND SENSE OF CONGRESS.

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

6 (1) Under Executive Order 13959 (85 Fed.
7 Reg. 73185; relating to addressing the threat from
8 securities investments that finance Communist Chi-
9 nese military companies) of November 17, 2020, the
10 President found that the People’s Republic of China
11 “increases the size of the country’s military-indus-
12 trial complex by compelling civilian Chinese compa-
13 nies to support its military and intelligence activi-
14 ties. Those companies, though remaining ostensibly
15 private and civilian, directly support the PRC’s mili-
16 tary, intelligence, and security apparatuses and aid
17 in their development and modernization.”. The
18 President further determined that “the PRC exploits

1 United States investors to finance the development
2 and modernization of its military.”. As a result, Ex-
3 ecutive Order 13959 restricted transactions in pub-
4 licly traded securities of Communist Chinese military
5 companies listed pursuant to section 1237 of the
6 Strom Thurmond National Defense Authorization
7 Act for Fiscal Year 1999 (50 U.S.C. 1701 note).

8 (2) Although Executive Order 13959 targets
9 transactions in public securities, it does not address
10 financing options for Communist Chinese military
11 companies through other forms of equity financing
12 or debt financing, nor does it limit transactions with
13 United States persons that may generate earnings in
14 a manner that facilitates company growth.

15 (3) The Office of Foreign Assets Control
16 (OFAC) of the Department of the Treasury, by im-
17 posing asset blocking pursuant to certain specific
18 delegated authorities and identifying this action on
19 the Specially Designated Nationals (SDN) List, is
20 able to forbid virtually any transaction between
21 United States persons and a designated entity, in-
22 cluding debt and equity financing and the exchange
23 of goods and services. Conversely, restrictions lim-
24 ited to publicly traded securities are less comprehen-
25 sive, and in the case of certain Chinese companies

1 of concern, may be of limited impact if the compa-
2 nies do not issue such securities.

3 (4) While Executive Order 13959 applies only
4 to the purchase or sale of certain publicly traded se-
5 curities by United States persons, OFAC's inclusion
6 of a foreign entity on the SDN list imposes a broad-
7 er sanction by blocking the property and interest in
8 property of the entity, which may further deter
9 third-country persons from dealing with it, ampli-
10 fying the effects of United States sanctions globally.

11 (5) OFAC has long devoted significant re-
12 sources to compiling evidence in support of its sanc-
13 tions, which enhances the effectiveness of United
14 States sanctions, encourages allies to consider com-
15 parable measures, and strengthens national security.

16 (6) On June 3, 2021, the President issued Ex-
17 ecutive Order 14032, which amended Executive
18 Order 13959 by exclusively delegating authority for
19 naming Chinese military companies subject to in-
20 vestment restrictions to the Secretary of the Treas-
21 ury, in consultation with the Secretary of State and,
22 as appropriate, the Secretary of Defense, and ex-
23 panded restrictions to entities that operate or have
24 operated in the surveillance technology sector of the
25 Chinese economy.

1 (b) SENSE OF CONGRESS.—It is the sense of the
2 Congress that the national emergency declared under Ex-
3 ecutive Order 13959 calls for the United States to—

4 (1) more fully cut off financing avenues for
5 Communist Chinese military and surveillance compa-
6 nies;

7 (2) prevent adaptation by a company to partial
8 restrictions that limit themselves to publicly traded
9 securities;

10 (3) ensure that the United States assembles an
11 appropriate evidentiary basis to support the effec-
12 tiveness of sanctions;

13 (4) enhance the impact of economic sanctions
14 by deterring third-country persons from dealing with
15 the companies; and

16 (5) link the imposition of sanctions to clear ob-
17 jectives that serve to resolve the national emergency.

18 **SEC. 2. SANCTIONS WITH RESPECT TO COMMUNIST CHI-**
19 **NESE MILITARY AND SURVEILLANCE COMPA-**
20 **NIES.**

21 (a) IN GENERAL.—Not later than 180 days after the
22 date of the enactment of this Act, the President shall im-
23 pose the sanctions described in subsection (e) with respect
24 to any foreign person determined by the Secretary of the
25 Treasury, in consultation with the Secretary of State and,

1 as the Secretary of the Treasury determines appropriate,
2 the Secretary of Defense, to knowingly engage in signifi-
3 cant operations in the defense and related materiel sector
4 or the surveillance technology sector of the economy of the
5 People's Republic of China.

6 (b) ANNUAL DETERMINATION AND REPORT.—Not
7 less frequently than annually, the Secretary of the Treas-
8 ury shall—

9 (1) undertake the determination described
10 under subsection (a) with respect to foreign persons
11 listed in the Annex to Executive Order 14032 (as
12 amended by any revision to such Annex); and

13 (2) submit a report explaining the results of the
14 determination to the appropriate congressional com-
15 mittees.

16 (c) ASSESSMENT.—For the purpose of making the
17 determination described under subsection (a), the Sec-
18 retary of the Treasury, in consultation with the Secretary
19 of State, the Secretary of Commerce, and the Secretary
20 of Defense, shall—

21 (1) assess whether, under existing authorities,
22 sanctions should be imposed with respect to the ac-
23 tivities of—

24 (A) foreign persons listed on the Military
25 End User List (Supplement No. 7 to part 744

1 of the Export Administration Regulations) that
2 are located in the People's Republic of China;

3 (B) foreign persons listed by the Depart-
4 ment of Commerce on the Denied Persons List
5 or the Entity List (Supplement No. 4 to part
6 744 of the Export Administration Regulations)
7 that are located in the People's Republic of
8 China; or

9 (C) foreign persons listed pursuant to sec-
10 tion 1260H of the William M. (Mac) Thorn-
11 berry National Defense Authorization Act for
12 Fiscal Year 2021 (10 U.S.C. 113 note); and

13 (2) submit a report to the appropriate congres-
14 sional committees summarizing such assessment,
15 which shall include an explanation of why the sanc-
16 tions described under subsection (e) may not be ap-
17 plicable to foreign persons included on the lists de-
18 scribed under paragraph (1).

19 (d) CONSIDERATION OF CERTAIN ACTIVITIES.—For
20 the purpose of making the determination described under
21 subsection (a), the Secretary of the Treasury may, to the
22 extent practicable, focus particular attention on foreign
23 persons engaging in any of the following:

24 (1) Artificial intelligence, machine learning, au-
25 tonomy, and related advances.

1 (2) High-performance computing, semiconduc-
2 tors, and advanced computer hardware and software.

3 (3) Quantum information science and tech-
4 nology.

5 (4) Robotics, automation, and advanced manu-
6 facturing.

7 (5) Advanced communications technology and
8 immersive technology.

9 (6) Biotechnology, medical technology,
10 genomics, and synthetic biology.

11 (7) Data storage, data management, and cyber-
12 security, including biometrics.

13 (8) Advanced materials science, including com-
14 posites and 2D materials.

15 (e) SANCTIONS DESCRIBED.—The President shall ex-
16 ercise all of the powers granted to the President under
17 the International Emergency Economic Powers Act (50 1
18 U.S.C. 1701 et seq.) to the extent necessary to block and
19 prohibit all transactions in property and interests in prop-
20 erty of a foreign person if such property and interests in
21 property—

22 (1) are in the United States;

23 (2) come within the United States; or

24 (3) come within the possession or control of a
25 United States person.

1 (f) IMPLEMENTATION.—The President may exercise
2 all authorities provided under sections 203 and 205 of the
3 International Emergency Economic Powers Act (50
4 U.S.C. 1702 and 1704) to carry out this section.

5 (g) PENALTIES.—The penalties set forth in section
6 206 of the International Emergency Economic Powers Act
7 (50 U.S.C. 1705) apply to violations of any license, order,
8 or regulation issued under this section.

9 (h) WAIVER.—The President may waive the applica-
10 tion of sanctions with respect to a foreign person under
11 this section for a period of up to one year on a renewable
12 basis if the President reports to the appropriate congres-
13 sional committees that the waiver is in the national inter-
14 est of the United States, with an explanation of the rea-
15 sons therefor.

16 (i) EXCEPTIONS.—

17 (1) INTELLIGENCE AND LAW ENFORCEMENT
18 ACTIVITIES.—Sanctions under this section shall not
19 apply with respect to—

20 (A) any activity subject to the reporting
21 requirements under title V of the National Se-
22 curity Act of 1947 (50 U.S.C. 3091 et seq.); or

23 (B) any authorized intelligence or law en-
24 forcement activities of the United States.

1 (2) UNITED STATES GOVERNMENT ACTIVI-
2 TIES.—Nothing in this section shall prohibit trans-
3 actions for the conduct of the official business of the
4 Federal Government by employees, grantees, or con-
5 tractors thereof.

6 (3) HUMANITARIAN ACTIVITIES.—The Presi-
7 dent may not impose sanctions under this section
8 with respect to any person for conducting or facili-
9 tating a transaction for the sale of agricultural com-
10 modities, food, medicine, or medical devices or for
11 the provision of humanitarian assistance.

12 (j) EXCEPTION RELATING TO IMPORTATION OF
13 GOODS.—

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

18 (2) GOOD DEFINED.—In this subsection, the
19 term “good” means any article, natural or manmade
20 substance, material, supply, or manufactured prod-
21 uct, including inspection and test equipment, and ex-
22 cluding technical data.

23 (k) SUNSET.—The authority to impose sanctions
24 under this section shall terminate on the earlier of—

1 (1) the date that is 30 days after the date on
2 which the President repeals the national emergency
3 declared under Executive Order 13959 (85 Fed.
4 Reg. 73185); or

5 (2) the date that is 7 years after the date of the
6 enactment of this Act.

7 (1) DEFINITIONS.—In this section—

8 (1) the term “appropriate congressional com-
9 mittees” means—

10 (A) the Committee on Foreign Affairs and
11 the Committee on Financial Services of the
12 House of Representatives; and

13 (B) the Committee on Foreign Relations
14 and the Committee on Banking, Housing, and
15 Urban Affairs of the Senate;

16 (2) the term “foreign person” means an indi-
17 vidual or entity that is not a United States person;

18 (3) the term “United States person” means—

19 (A) a United States citizen or an alien law-
20 fully admitted for permanent residence to the
21 United States;

22 (B) an entity organized under the laws of
23 the United States or of any jurisdiction within
24 the United States, including a foreign branch of
25 such an entity; or

1 (C) a person in the United States; and
2 (4) the term “knowingly” with respect to con-
3 duct, a circumstance, or a result, means that a per-
4 son has actual knowledge, or should have known, of
5 the conduct, the circumstance, or the result.

