116TH CONGRESS  
1ST SESSION  

H. R.  

To prohibit United States persons from dealing in certain information and communications technology or services from foreign adversaries and to require the approval of Congress to terminate certain export controls in effect with respect to Huawei Technologies Co. Ltd., and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. GALLAGHER introduced the following bill; which was referred to the Committee on ______________________

A BILL

To prohibit United States persons from dealing in certain information and communications technology or services from foreign adversaries and to require the approval of Congress to terminate certain export controls in effect with respect to Huawei Technologies Co. Ltd., and for other purposes.

1  Be it enacted by the Senate and House of Represent-  
2 atives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Defending America’s 5G Future Act”.

SEC. 2. DEFINITIONS.

In this Act:


(2) FOREIGN ADVERSARY.—The term “foreign adversary” means any foreign government or foreign person engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security or foreign policy interests of the United States or security and safety of United States persons.

(3) FOREIGN PERSON.—The term “foreign person” means any person that is not a United States person.

(4) INFORMATION AND COMMUNICATIONS TECHNOLOGY OR SERVICES.—The term “information and communications technology or services” means any hardware, software, or other product or service primarily intended to fulfill or enable the function of information or data processing, storage,
retrieval, or communication by electronic means, including transmission, storage, and display.

(5) UNITED STATES PERSON.—The term “United States person” means—

(A) any United States citizen or alien lawfully admitted for permanent residence in the United States;

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

(C) any person in the United States.

SEC. 3. PROHIBITION ON DEALING IN INFORMATION AND COMMUNICATIONS TECHNOLOGY OR SERVICES FROM FOREIGN ADVERSARIES.

(a) IN GENERAL.—No United States person may engage in a transaction for the acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service by a United States person, or with respect to any property subject to the jurisdiction of the United States, if—

(1) the transaction involves any property in which any foreign country or foreign person has any interest (including through an interest in a contract for the provision of the technology or service);
(2) notwithstanding any contract entered into
or any license or permit issued before the date of the
enactment of this Act, the transaction is initiated or
pending on or after such date of enactment; and

(3) the Secretary of Commerce, in consultation
with the officials specified in subsection (b), deter-
mines that—

(A) the transaction involves information
and communications technology or services de-
dsigned, developed, manufactured, or supplied,
by persons owned by, controlled by, or subject
to the jurisdiction or direction of a foreign ad-
versary; and

(B) the transaction—

(i) poses an undue risk of sabotage to
or subversion of the design, integrity, man-
facturing, production, distribution, install-
ation, operation, or maintenance of infor-
mation and communications technology or
services in the United States;

(ii) poses an undue risk of cata-
strophic effects on the security or resil-
liency of United States critical infrastruc-
ture or the digital economy of the United
States; or
(iii) otherwise poses an unacceptable risk to the national security or foreign policy interests of the United States or the security and safety of United States persons.

(b) OFFICIALS SPECIFIED.—The officials specified in this subsection are the following:

(1) The Secretary of the Treasury.
(2) The Secretary of State.
(3) The Secretary of Defense.
(4) The Attorney General.
(6) The United States Trade Representative.
(7) The Director of National Intelligence.
(8) The Administrator of General Services.
(9) The Chairman of the Federal Communications Commission.
(10) The heads of such other Federal agencies as the Secretary of Commerce considers appropriate.

(c) MITIGATION MEASURES.—The Secretary of Commerce, in consultation with the officials specified in subsection (b), as appropriate, may establish or negotiate measures to mitigate concerns that are the basis for a determination under subsection (a)(3). Such measures may serve as a precondition to the approval of a transaction.
or of a class of transactions that would otherwise be prohibited by subsection (a).

(d) Regulations.—

(1) In general.—Not later than 150 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the officials specified in subsection (b), shall prescribe regulations to carry out this section.

(2) Inclusions.—The regulations prescribed under paragraph (1) may include regulations with respect to—

(A) determining that countries or persons are foreign adversaries for purposes of subsection (a)(3)(A);

(B) identifying persons owned by, controlled by, or subject to the jurisdiction or direction of foreign adversaries for purposes of subsection (a)(3)(A);

(C) identifying technologies or countries with respect to which transactions involving information and communications technology or services warrant particular scrutiny under subsection (a);
(D) establishing procedures to license transactions otherwise prohibited by subsection (a);

(E) establishing criteria, consistent with section 1 of this order, by which particular technologies or participants in the market for information and communications technology or services may be recognized as categorically included in or as categorically excluded from the prohibition under subsection (a); and

(F) identifying a mechanism and relevant factors for the negotiation of mitigation measures under subsection (e).

(e) IMPLEMENTATION; PENALTIES.—

(1) IMPLEMENTATION.—The Secretary of Commerce may exercise the authorities provided to the President under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to the extent necessary to carry out this section.

(2) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of subsection (a) or any regulation, license, or order issued to carry out that subsection shall be subject to the penalties set forth in subsections (b)
and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

SEC. 4. CONTINUATION IN EFFECT OF EXPORT CONTROLS WITH RESPECT TO HUAWEI TECHNOLOGIES CO. LTD.

(a) IN GENERAL.—The Secretary of Commerce may not remove Huawei Technologies Co. Ltd., and its subsidiaries and affiliates, from the entity list maintained by the Bureau of Industry and Security and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, unless—

(1) the Secretary submits to Congress a request for approval of such removal; and

(2) there is enacted into law a joint resolution of approval under subsection (b).

(b) JOINT RESOLUTIONS OF APPROVAL.—

(1) JOINT RESOLUTION OF APPROVAL DEFINED.—In this subsection, the term “joint resolution of approval” means a joint resolution of either House of Congress the sole matter after the resolving clause of which is as follows: “That Congress approves the removal of Huawei Technologies Co. Ltd., and its subsidiaries and affiliates, from the entity list maintained by the Bureau of Industry and Security and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, unless—

(1) the Secretary submits to Congress a request for approval of such removal; and

(2) there is enacted into law a joint resolution of approval under subsection (b).
list maintained by the Bureau of Industry and Security and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, pursuant to the request of the Secretary of Commerce for such removal submitted to Congress on ______.”, with the blank space being filled with the appropriate date.

(2) INTRODUCTION; COMMITTEE REFERRAL.—A joint resolution of approval—

(A) in the House of Representatives—

(i) may be introduced by the Speaker or the minority leader; and

(ii) shall be referred to the Committee on Financial Services; and

(B) in the Senate—

(i) may be introduced by the majority leader or the minority leader; and

(ii) shall be referred to the Committee on Banking, Housing, and Urban Affairs.

(3) COMMITTEE DISCHARGE AND FLOOR CONSIDERATION.—The provisions of paragraphs (4), (5) (other than subparagraph (A) of paragraph (5)), and (6) of section 216(c) of the Countering America’s Adversaries Through Sanctions Act (22 U.S.C. 9511(c)) apply to a joint resolution of approval
under this subsection to the same extent as such provisions apply to joint resolution of approval under such section 216(c).

(4) Rules of House of Representatives and Senate.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 5. CONGRESSIONAL DISAPPROVAL OF EXPORT LICENSES ISSUED TO HUAWEI TECHNOLOGIES CO. LTD., OR ITS SUBSIDIARIES OR AFFILIATES.

(a) Report Required.—Not later than 15 days after issuing a license to or with respect to Huawei Technologies Co. Ltd., or any of its subsidiaries or affiliates,
pursuant to the Export Administration Regulations, the Secretary of Commerce shall submit to Congress a report on the license and the reasons for issuing the license.

(b) CONGRESSIONAL DISAPPROVAL.—A license described in subsection (a) shall have no force or effect on or after the date of the enactment of a joint resolution of disapproval under subsection (c).

(c) JOINT RESOLUTIONS OF DISAPPROVAL.—

(1) JOINT RESOLUTION OF DISAPPROVAL DEFINED.—In this subsection, the term “joint resolution of disapproval” means a joint resolution of either House of Congress the sole matter after the resolving clause of which is as follows: “That Congress does not approve the license issued to or with respect to Huawei Technologies Co. Ltd., or one of its subsidiaries or affiliates, under the Export Administration Regulations, relating to ______, notice of which was submitted to Congress on ______.”, with the first blank space being filled with a brief description of the items covered by the license and the second blank space being filled with the appropriate date.

(2) INTRODUCTION; COMMITTEE REFERRAL.—A joint resolution of disapproval—

(A) in the House of Representatives—
(i) may be introduced by the Speaker
or the minority leader during the 30-day
period beginning on the date on which the
report is submitted under subsection (a);
and
(ii) shall be referred to the Committee
on Financial Services; and
(B) in the Senate—
(i) may be introduced by the majority
leader or the minority leader during the
30-day period beginning on the date on
which the report is submitted under sub-
section (a); and
(ii) shall be referred to the Committee
on Banking, Housing, and Urban Affairs.

(3) Committee discharge and floor con-
sideration.—The provisions of paragraphs (4), (5)
(other than subparagraph (A) of paragraph (5)),
and (6) of section 216(c) of the Countering Amer-
ica’s Adversaries Through Sanctions Act (22 U.S.C.
9511(c)) apply to a joint resolution of disapproval
under this subsection to the same extent as such
provisions apply to joint resolution of disapproval
under such section 216(c).
(4) Rules of House of Representatives and Senate.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.