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H. R. 4914

To impose sanctions against foreign persons and foreign governments in response to certain clandestine attacks on United States personnel, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 3, 2021

Mr. McCAUL (for himself, Ms. SALAZAR, Mr. WILSON of South Carolina, Mr. MELJER, Mr. JACKSON, Mr. MAST, Mrs. KIM of California, Ms. TENNEY, Mr. GREEN of Tennessee, Ms. MALLIOTAKIS, Mr. FITZPATRICK, Mr. KINZINGER, Mr. CHABOT, Mr. BURCHETT, and Mr. BARR) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on the Judiciary, and Financial Services, 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 impose sanctions against foreign persons and foreign governments in response to certain clandestine attacks on United States personnel, 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 “Havana Syndrome At-
5 tacks Response Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) United States personnel have suffered per-
4 sistent brain injuries after being targeted in attacks
5 that have been increasing in number, geographic lo-
6 cation, and audacity.

7 (2) In December 2016, a number of United
8 States Embassy personnel in Havana, Cuba, began
9 to experience the acute and sudden onset of unusual
10 symptoms, usually concurrent with the perceived
11 onset of a loud, directional noise, often accompanied
12 by pain in the ears or the head and a sensation of
13 pressure or vibration.

14 (3) Symptoms, which have been chronic for
15 some personnel, have included dizziness, hearing loss
16 and tinnitus, vertigo, cognitive and motor impair-
17 ment, severe headaches, and insomnia.

18 (4) A panel of experts convened by the Depart-
19 ment of State's Bureau of Medical Services in July
20 2017 to review triage assessments of medically eval-
21 uated personnel from the United States Embassy in
22 Havana came to consensus that the findings were
23 most likely related to neurotrauma from a non-
24 natural source.

1 (5) On August 11, 2017, Secretary of State
2 Rex Tillerson characterized these episodes as “health
3 attacks” against United States personnel in Cuba.

4 (6) On September 29, 2017, the Department of
5 State ordered the departure of non-essential per-
6 sonnel from the United States Embassy in Havana
7 and issued a formal Cuba Travel Warning that stat-
8 ed: “Over the past several months, numerous U.S.
9 Embassy Havana employees have been targeted in
10 specific attacks. These employees have suffered sig-
11 nificant injuries as a consequence of these attacks.”.

12 (7) Other personnel at the United States Con-
13 sulate in Guangzhou, China, reported similar experi-
14 ences beginning in 2017.

15 (8) A 2018 report, published in the Journal of
16 the American Medical Association, based on clinical
17 evaluation of affected personnel from United States
18 Embassy, Havana, stated: “These individuals ap-
19 peared to have sustained injury to widespread brain
20 networks without an associated history of head trau-
21 ma.”.

22 (9) The number and locations of these attacks
23 have significantly expanded and, according to press
24 reporting, as of May 2021 there have been more
25 than 130 possible cases that have occurred in Asia,

1 in Europe, and in the Western Hemisphere, includ-
2 ing within the United States.

3 (10) According to press reporting, these attacks
4 have occurred, among other places, at the homes of
5 United States personnel, at hotels, and on public
6 streets, including in the immediate vicinity of the
7 White House, in Washington, DC.

8 (11) A 2020 report by the National Academy of
9 Sciences (NAS) found that “many of the distinctive
10 and acute signs, symptoms, and observations re-
11 ported by [affected] employees are consistent with
12 the effects of directed, pulsed radio frequency (RF)
13 energy” and that “directed pulsed RF energy . . .
14 appears to be the most plausible mechanism in ex-
15 plaining these cases”.

16 (12) According to the NAS report, “such a sce-
17 nario raises grave concerns about a world with
18 disinhibited malevolent actors and new tools for
19 causing harm to others”.

20 (13) The continuing and expanding scope of
21 these attacks has become a serious security concern
22 that is also undermining the morale of United States
23 personnel, especially those posted at overseas diplo-
24 matic missions.

1 (14) Article 22 of the Vienna Convention on
2 Diplomatic Relations states that “The receiving
3 State is under a special duty to take all appropriate
4 steps to protect the premises of [a foreign] mission
5 against any intrusion or damage and to prevent any
6 disturbance of the peace of the mission or impair-
7 ment of its dignity.”.

8 (15) The Convention on the Prevention and
9 Punishment of Crimes against Internationally Pro-
10 tected Persons, including Diplomatic Agents, to
11 which 180 countries are a party, protects diplomatic
12 personnel from attacks on their persons, accom-
13 modations, or means of transport, and requires all
14 state parties to punish and take measures to prevent
15 such grave crimes.

16 **SEC. 3. STATEMENT OF POLICY.**

17 It is the policy of the United States—

18 (1) to detect, deter, and punish clandestine at-
19 tacks that cause persistent brain injury in United
20 States personnel;

21 (2) to provide appropriate assistance to United
22 States personnel harmed by such attacks;

23 (3) to hold responsible any persons, entities, or
24 governments involved in ordering or carrying out

1 such attacks, including through appropriate sanc-
2 tions and criminal prosecutions;

3 (4) to prioritize research into effective counter-
4 measures to help protect United States personnel
5 from such attacks; and

6 (5) to convey to foreign governments through
7 official contact at the highest levels the gravity of
8 United States concern about such attacks and the
9 seriousness of consequences that may follow should
10 attacks continue.

11 **SEC. 4. IMPOSITION OF SANCTIONS AGAINST FOREIGN**
12 **PERSONS IN RESPONSE TO CERTAIN CLAN-**
13 **DESTINE ATTACKS ON UNITED STATES PER-**
14 **SONNEL.**

15 (a) IMPOSITION OF SANCTIONS.—The President shall
16 impose the sanctions described in subsection (b) with re-
17 spect to any foreign person that the President determines,
18 on or after the date of the enactment of this Act, know-
19 ingly has directed or carried out clandestine attacks on
20 United States personnel that have resulted in brain injury
21 to those personnel.

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

24 (1) BLOCKING OF PROPERTY.—The President
25 shall block, in accordance with the International

1 Emergency Economic Powers Act (50 U.S.C. 1701
2 et seq.), all transactions in all property and interests
3 in property of any person subject to subsection (a)
4 if such property and interests in property are in the
5 United States, come within the United States, or are
6 or come within the possession or control of a United
7 States person.

8 (2) EXCLUSION FROM THE UNITED STATES.—

9 The Secretary of State shall deny a visa to, and the
10 Secretary of Homeland Security shall exclude from
11 the United States, any person subject to subsection
12 (a) that is an alien.

13 (c) PENALTIES.—A person that violates, attempts to
14 violate, conspires to violate, or causes a violation of sub-
15 section (b)(1) or any regulation, license, or order issued
16 to carry out that subsection shall be subject to the pen-
17 alties set forth in subsections (b) and (c) of section 206
18 of the International Emergency Economic Powers Act (50
19 U.S.C. 1705) to the same extent as a person that commits
20 an unlawful act described in subsection (a) of that section.

21 (d) EXCEPTIONS.—

22 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-
23 TIES.—Sanctions under this section shall not apply
24 to any activity subject to the reporting requirements
25 under title V of the National Security Act of 1947

1 (50 U.S.C. 3091 et seq.) or any authorized intel-
2 ligence activities of the United States.

3 (2) EXCEPTION TO COMPLY WITH INTER-
4 NATIONAL OBLIGATIONS AND FOR LAW ENFORCE-
5 MENT ACTIVITIES.—Sanctions under subsection
6 (b)(2) shall not apply with respect to an alien if ad-
7 mitting or paroling the alien into the United States
8 is necessary—

9 (A) to permit the United States to comply
10 with the Agreement regarding the Head-
11 quarters of the United Nations, signed at Lake
12 Success June 26, 1947, and entered into force
13 November 21, 1947, between the United Na-
14 tions and the United States, or other applicable
15 international obligations; or

16 (B) to carry out or assist law enforcement
17 activity in the United States.

18 (3) EXCEPTION RELATING TO IMPORTATION OF
19 GOODS.—

20 (A) IN GENERAL.—The authorities and re-
21 quirements to impose sanctions under this sec-
22 tion shall not include the authority or require-
23 ment to impose sanctions on the importation of
24 goods.

1 (B) GOOD DEFINED.—In this paragraph,
2 the term “good” means any article, natural or
3 man-made substance, material, supply or manu-
4 factured product, including inspection and test
5 equipment, and excluding technical data.

6 (e) DEFINITIONS.—In this section:

7 (1) FOREIGN PERSON.—The term “foreign per-
8 son” means a person that is not a United States
9 person.

10 (2) KNOWINGLY.—The term “knowingly” has
11 the meaning given that term in section 14 of the
12 Iran Sanctions Act of 1996 (Public Law 104–172;
13 50 U.S.C. 1701 note).

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

16 (A) a United States citizen or an alien law-
17 fully admitted for permanent residence to the
18 United States; or

19 (B) an entity organized under the laws of
20 the United States or of any jurisdiction within
21 the United States, including a foreign branch of
22 such an entity.

1 **SEC. 5. IMPOSITION OF SANCTIONS AGAINST FOREIGN**
2 **GOVERNMENTS IN RESPONSE TO CERTAIN**
3 **CLANDESTINE ATTACKS ON UNITED STATES**
4 **PERSONNEL.**

5 (a) **PRESIDENTIAL DETERMINATION.**—Whenever
6 persuasive information becomes available to the executive
7 branch indicating the substantial possibility that the gov-
8 ernment of a foreign country has carried out clandestine
9 attacks on United States personnel that have resulted in
10 brain injury to such personnel, the President shall, within
11 60 days after the receipt of such information by the execu-
12 tive branch, determine and report to the appropriate con-
13 gressional committees and leadership whether that govern-
14 ment has carried out clandestine attacks on United States
15 personnel that have resulted in brain injury to such per-
16 sonnel.

17 (b) **IMPOSITION OF SANCTIONS.**—If at any time the
18 President makes a determination pursuant to subsection
19 (a) that a foreign government has carried out clandestine
20 attacks on United States personnel that have resulted in
21 brain injury to such personnel, the President shall impose
22 the following sanctions:

23 (1) **FOREIGN ASSISTANCE.**—The United States
24 Government shall terminate assistance to that coun-
25 try under the Foreign Assistance Act of 1961 (22
26 U.S.C. 2151 et seq.), except for urgent humani-

1 tarian assistance and food or other agricultural com-
2 modities or products.

3 (2) COMMERCIAL EXPORTS.—The United
4 States Government shall restrict—

5 (A) exports, re-exports, and in-country
6 transfers of items to that country pursuant to
7 the Export Control Reform Act of 2018 (50
8 U.S.C. 4801 et seq.); and

9 (B) licenses for a significant range of
10 goods, software, and technology to that country
11 subject to the Export Administration Regula-
12 tions.

13 (3) ARMS SALES.—The United States Govern-
14 ment shall terminate—

15 (A) sales to that country under the Arms
16 Export Control Act (22 U.S.C. 2751 et seq.) of
17 any defense articles, defense services, or design
18 and construction services; and

19 (B) licenses for the export to that country
20 of any item on the United States Munitions
21 List.

22 (4) ARMS SALES FINANCING.—The United
23 States Government shall terminate all foreign mili-
24 tary financing for that country under the Arms Ex-
25 port Control Act (22 U.S.C. 2751 et seq.).

1 (5) DENIAL OF UNITED STATES GOVERNMENT
2 CREDIT OR OTHER FINANCIAL ASSISTANCE.—The
3 United States Government shall deny to that coun-
4 try any credit, credit guarantees, or other financial
5 assistance by any department, agency, or instrumen-
6 tality of the United States Government, including
7 the Export-Import Bank of the United States.

8 (c) REMOVAL OF SANCTIONS.—The President shall
9 remove the sanctions imposed with respect to a country
10 pursuant to this section if the President determines and
11 so certifies to the Congress, after the end of the 12-month
12 period beginning on the date on which sanctions were ini-
13 tially imposed on that country pursuant to subsection (a),
14 that—

15 (1) the government of that country has pro-
16 vided reliable assurances that it will not conduct
17 clandestine attacks on United States personnel; and

18 (2) the executive branch does not have persua-
19 sive information indicating the substantial possibility
20 of a clandestine attack on United States personnel
21 that has resulted in brain injury to such personnel
22 during the preceding six months.

23 (d) DEFINITIONS.—In this section:

24 (1) EXPORT ADMINISTRATION REGULATIONS.—
25 The term “Export Administration Regulations”

1 means the regulations set forth in subchapter C of
2 chapter VII of title 15, Code of Federal Regulations,
3 or successor regulations.

4 (2) UNITED STATES MUNITIONS LIST.—The
5 term “United States Munitions List” means the list
6 of items established and maintained under section
7 38(a)(1) of the Arms Export Control Act (22 U.S.C.
8 2778(a)(1)).

9 **SEC. 6. BRIEFING AND REPORT TO CONGRESS.**

10 (a) BRIEFING.—Not later than 60 days after the date
11 of the enactment of this Act, the President shall provide
12 the appropriate congressional committees and leadership
13 with a briefing covering the contents described in sub-
14 section (c).

15 (b) REPORT.—Not later than 180 days after the date
16 of the enactment of this Act, the President shall provide
17 the appropriate congressional committees and leadership
18 with a written report covering the contents described in
19 subsection (c), which may include a classified annex.

20 (c) CONTENTS DESCRIBED.—The contents of the
21 briefing and written report described in this subsection in-
22 clude the following:

23 (1) The dates, numbers, and locations of sus-
24 pected clandestine attacks on United States per-
25 sonnel resulting in brain injury.

1 (2) A description of the official roles and re-
2 responsibilities of United States personnel targeted in
3 such suspected attacks.

4 (3) Information and working hypotheses re-
5 garding the identity of the perpetrators of any such
6 attacks, including an assessment of which foreign
7 states and non-state actors may have the technical
8 capacity to carry out such attacks.

9 (4) Information and working hypotheses re-
10 garding the technical method used to perpetrate
11 such attacks.

12 (5) A description of the process and diagnostic
13 criteria used to screen and identify personnel af-
14 fected by such suspected attacks.

15 (6) Current advisories and other information
16 provided to United States personnel regarding such
17 attacks, including any information about how to rec-
18 ognize, react to, or protect oneself from such at-
19 tacks.

20 (7) A list of foreign persons, entities, or govern-
21 ments sanctioned pursuant to or consistent with this
22 Act.

23 (8) A list of the foreign states that have been
24 démarched regarding such attacks, including the
25 date and the official title of the United States offi-

1 cial delivering, and the foreign official receiving, any
2 such démarche.

3 **SEC. 7. APPROPRIATE CONGRESSIONAL COMMITTEES AND**
4 **LEADERSHIP DEFINED.**

5 In this Act, the term “appropriate congressional com-
6 mittees and leadership” means—

7 (1) the Committee on Foreign Affairs, the Per-
8 manent Select Committee on Intelligence, and the
9 Speaker, the majority leader, and the minority lead-
10 er of the House of Representatives; and

11 (2) the Committee on Foreign Relations, the
12 Select Committee on Intelligence, and the majority
13 and minority leaders of the Senate.

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