

118TH CONGRESS
1ST SESSION

H. R. 5522

To impose sanctions against certain persons engaged in the proliferation or use of foreign commercial spyware, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2023

Mr. HIMES introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, 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 certain persons engaged in the proliferation or use of foreign commercial spyware, 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 “Combating Foreign
5 Surveillance Spyware Sanctions Act”.

6 **SEC. 2. SANCTIONS FOR PROLIFERATION OR USE OF FOR-**
7 **EIGN COMMERCIAL SPYWARE.**

8 (a) **POLICY.**—It is the policy of the United States—

1 (1) to act decisively against counterintelligence
2 threats posed by foreign commercial spyware by de-
3 grading the ability of companies selling foreign com-
4 mercial spyware to provide their services to users
5 who act contrary to the national security or foreign
6 policy interests of the United States;

7 (2) to act decisively against the individuals who
8 lead entities selling foreign commercial spyware and
9 who are involved in activities contrary to the na-
10 tional security or foreign policy interests of the
11 United States; and

12 (3) to deter the use of foreign commercial
13 spyware for improper purposes, such as to—

14 (A) target and intimidate perceived oppo-
15 nents;

16 (B) curb dissent;

17 (C) limit freedoms of expression, peaceful
18 assembly, or association;

19 (D) enable other human rights abuses or
20 suppression of civil liberties; or

21 (E) track or target United States persons.

22 (b) DISCRETIONARY SANCTIONS.—In order to ad-
23 vance the policy objectives under subsection (a), the Presi-
24 dent may impose the sanctions described in subsection (c)
25 with respect to—

1 (1) a covered entity the President determines to
2 pose a risk to the national security of the United
3 States which knowingly develops, maintains, owns,
4 operates, brokers, markets, sells, leases, licenses, or
5 otherwise makes available spyware that has enabled
6 the targeting of United States Government officials,
7 or personnel of the intelligence community;

8 (2) any foreign person who—

9 (A) is a current or former senior officer of
10 an entity described in paragraph (1); and

11 (B) knowingly engages in, the sale of for-
12 eign commercial spyware, that allows for the
13 targeting of United States Government officials,
14 or personnel of the intelligence community; or

15 (3) any foreign person who—

16 (A) is an official of a foreign government
17 or is acting for or on behalf of such official; and

18 (B) knowingly engages in the targeting of
19 United States Government officials, or per-
20 sonnel of the intelligence community through
21 the use of foreign commercial spyware.

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

24 (1) BLOCKING OF PROPERTY.—The President
25 may exercise all of the powers granted to the Presi-

1 dent under the International Emergency Economic
2 Powers Act (50 U.S.C. 1701 et seq.) (except that
3 the requirements of section 202 of such Act (50
4 U.S.C. 1701) shall not apply) to the extent nec-
5 essary to block and prohibit all transactions in prop-
6 erty and interests in property of a person deter-
7 mined by the President to be subject to subsection
8 (b) if such property and interests in property are in
9 the United States, come within the United States, or
10 come within the possession or control of a United
11 States person.

12 (2) INADMISSIBILITY TO THE UNITED STATES
13 AND REVOCATION OF VISA OR OTHER DOCUMENTA-
14 TION.—

15 (A) INELIGIBILITY FOR VISA, ADMISSION,
16 OR PAROLE.—In the case of a foreign person
17 determined by the President to be subject to
18 subsection (b) who is an individual, the foreign
19 person is—

- 20 (i) inadmissible to the United States;
21 (ii) ineligible to receive a visa or other
22 documentation to enter the United States;
23 and
24 (iii) otherwise ineligible to be admitted
25 or paroled into the United States or to re-

1 ceive any other benefit under the Immigra-
2 tion and Nationality Act (8 U.S.C. 1101 et
3 seq.).

4 (B) CURRENT VISA REVOKED.—In the case
5 of a foreign person determined by the President
6 to be subject to subsection (b) who is an indi-
7 vidual, the visa or other entry documentation of
8 the person shall be revoked, regardless of when
9 such visa or other entry documentation is or
10 was issued. A revocation under this subpara-
11 graph shall take effect immediately and auto-
12 matically cancel any other valid visa or entry
13 documentation that is in the person's posses-
14 sion.

15 (C) EXCEPTION TO COMPLY WITH INTER-
16 NATIONAL OBLIGATIONS.—Sanctions under this
17 subsection shall not apply with respect to a for-
18 eign person if admitting or paroling the person
19 into the United States is necessary to permit
20 the United States to comply with the Agree-
21 ment regarding the Headquarters of the United
22 Nations, signed at Lake Success June 26,
23 1947, and entered into force November 21,
24 1947, between the United Nations and the

1 United States, or other applicable international
2 obligations.

3 (d) IMPLEMENTATION; PENALTIES.—

4 (1) IMPLEMENTATION.—The President may ex-
5 ercise all authorities provided under sections 203
6 and 205 of the International Emergency Economic
7 Powers Act (50 U.S.C. 1702 and 1704) to carry out
8 this subsection and shall issue such regulations, li-
9 censes, and orders as are necessary to carry out this
10 subsection.

11 (2) PENALTIES.—Any person that violates, at-
12 tempts to violate, conspires to violate, or causes a
13 violation of this subsection or any regulation, license,
14 or order issued to carry out paragraph (1) shall be
15 subject to the penalties provided for in subsections
16 (b) and (c) of section 206 of the International
17 Emergency Economic Powers Act (50 U.S.C. 1705)
18 to the same extent as a person that commits an un-
19 lawful act described in subsection (a) of that section.

20 (e) INTELLIGENCE AND LAW ENFORCEMENT ACTIVI-
21 TIES.—Sanctions under this section shall not apply with
22 respect to—

23 (1) any activity subject to the reporting require-
24 ments under title V of the National Security Act of
25 1947 (50 U.S.C. 3091 et seq.); or

1 (2) any authorized intelligence or law enforce-
2 ment activities of the United States.

3 (f) UNITED STATES GOVERNMENT ACTIVITIES.—

4 Nothing in this Act may be construed to prohibit trans-
5 actions associated with the official business of the Federal
6 Government as carried out by employees, grantees, or con-
7 tractors.

8 (g) HUMANITARIAN ACTIVITIES.—The President may
9 not impose sanctions under this section with respect to
10 any person for conducting or facilitating a transaction for
11 the sale of agricultural commodities, food, medicine, or
12 medical devices or for the provision of humanitarian as-
13 sistance.

14 (h) EXCEPTION RELATING TO IMPORTATION OF
15 GOODS.—

16 (1) IN GENERAL.—The authorities to impose
17 sanctions authorized under this section shall not in-
18 clude the authority to impose sanctions on the im-
19 portation of goods.

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

1 (i) SUNSET.—The authority to impose a new sanction
2 under subsection (b) shall terminate on the date that is
3 7 years after the date of the enactment of this Act.

4 (j) DEFINITIONS.—In this section:

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

8 (2) UNITED STATES PERSON.—The term
9 “United States person” means—

10 (A) a United States citizen or an alien law-
11 fully admitted for permanent residence to the
12 United States;

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

17 (C) a person in the United States

18 (3) FOREIGN COMMERCIAL SPYWARE; FOREIGN
19 COMPANY; SPYWARE; COVERED ENTITY.—The terms
20 “foreign commercial spyware”, “foreign company”,
21 “spyware”, and “covered entity” have the meanings
22 given those terms in section 1102A of the National
23 Security Act of 1947 (50 U.S.C. 3231 et seq.).

24 (4) KNOWINGLY.—The term “knowingly” with
25 respect to conduct, a circumstance, or a result,

1 means that a person has actual knowledge, or should
2 have known, of the conduct, the circumstance, or the
3 result.

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