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To provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 25, 2000

Mr. THOMPSON (for himself, Mr. TORRICELLI, Ms. COLLINS, Mr. KYL, Mr. INHOFE, Mr. SANTORUM, Mr. DEWINE, and Mr. SPECTER) introduced the following bill; which was read the first time

JUNE 6, 2000

Read the second time and placed on the calendar

A BILL

To provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, 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 “China Nonproliferation
5 Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ADVANCED CONVENTIONAL WEAPONS.**—The
4 term “advanced conventional weapons” includes—

5 (A) long-range precision-guided munitions,
6 fuel air explosives, cruise missiles, low observ-
7 ability aircraft or vessels, other radar evading
8 aircraft or vessels, advanced military aircraft,
9 military satellites, electromagnetic weapons, and
10 laser weapons;

11 (B) advanced command, control, and com-
12 munications systems, electronic warfare sys-
13 tems, and intelligence collection systems; and

14 (C) such other items or systems as the
15 President may, by regulation, determine nec-
16 essary for purposes of this title.

17 (2) **GOODS AND TECHNOLOGY.**—The terms
18 “goods” and “technology” mean—

19 (A) any article, natural or manmade sub-
20 stance, material, supply, or manufactured prod-
21 uct, including inspection and test equipment;
22 and

23 (B) any information and know-how (wheth-
24 er in tangible form, such as models, prototypes,
25 drawings, sketches, diagrams, blueprints, or
26 manuals, or in intangible form, such as training

1 or technical services) that can be used to de-
2 sign, produce, manufacture, utilize, improve the
3 performance of or reconstruct goods, including
4 computer software and technical data.

5 (3) PERSON.—The term “person” means—

6 (A) any United States or People’s Republic
7 of China individual, partnership, corporation, or
8 other form of association, or any of their suc-
9 cessor entities, parents, or subsidiaries;

10 (B) any other nongovernmental entity, or-
11 ganization, or group, that is organized under
12 the laws of the United States or the People’s
13 Republic of China or has its principal place of
14 business in the United States or the People’s
15 Republic of China;

16 (C) any governmental entity of the Peo-
17 ple’s Republic of China operating as a business
18 enterprise; and

19 (D) any successor, subunit, or subsidiary
20 of any entity described in subparagraphs (A)
21 through (C).

22 (4) PROLIFERATION ACTIVITY.—The term
23 “proliferation activity” means the activity described
24 in section 3(a)(1).

1 (5) STATE-OWNED ENTERPRISE OF THE PEO-
2 PLE'S REPUBLIC OF CHINA.—

3 (A) IN GENERAL.—The term “state-owned
4 enterprise of the People’s Republic of China”
5 means a person who is affiliated with or wholly
6 owned, controlled, or subsidized by the Govern-
7 ment of the People’s Republic of China or the
8 People’s Liberation Army and whose means of
9 production, products, and revenues are owned
10 or controlled by a central or provincial govern-
11 ment authority. A person shall be considered to
12 be state-owned if—

13 (i) the person’s assets are primarily
14 owned by a central or provincial govern-
15 ment authority;

16 (ii) a substantial proportion of the
17 person’s profits are required to be sub-
18 mitted to a central or provincial govern-
19 ment authority;

20 (iii) the person’s production, pur-
21 chases of inputs, and sales of output, in
22 whole or in part, are subject to state, sec-
23 toral, or regional plans; or

1 (iv) a license issued by a government
2 authority classifies the person as state-
3 owned.

4 (B) EXCEPTION.—Any person that—

5 (i) is a qualified foreign joint venture
6 or is licensed by a governmental authority
7 as a collective, cooperative, or private en-
8 terprise; or

9 (ii) is wholly owned by a foreign per-
10 son,

11 shall not be considered to be state-owned.

12 (C) QUALIFIED FOREIGN JOINT VEN-
13 TURE.—The term “qualified foreign joint ven-
14 ture” means any person—

15 (i) which is registered and licensed in
16 the agency or department of the Govern-
17 ment of the People’s Republic of China
18 concerned with foreign economic relations
19 and trade as an equity, cooperative, con-
20 tractual joint venture, or joint stock com-
21 pany with foreign investment;

22 (ii) in which the foreign investor part-
23 ner and a person of the People’s Republic
24 of China share profits and losses and joint-
25 ly manage the venture;

1 (iii) in which the foreign investor
2 partner holds or controls at least 25 per-
3 cent of the investment and the foreign in-
4 vestor partner is not substantially owned
5 or controlled by a state-owned enterprise of
6 the People’s Republic of China;

7 (iv) in which the foreign investor part-
8 ner is not a person of a country the gov-
9 ernment of which the Secretary of State
10 has determined under section 6(j) of the
11 Export Administration Act of 1979 (50
12 U.S.C. App. 2405(j)) to have repeatedly
13 provided support for acts of international
14 terrorism; and

15 (v) which does not use state-owned
16 enterprises of the People’s Republic of
17 China to export its goods or services.

18 (6) UNITED STATES ASSISTANCE.—The term
19 “United States assistance” means—

20 (A) any assistance under the Foreign As-
21 sistance Act of 1961, other than urgent human-
22 itarian assistance or medicine;

23 (B) sales and assistance under the Arms
24 Export Control Act;

1 (C) financing by the Commodity Credit
2 Corporation for export sales of agricultural
3 commodities; and

4 (D) financing under the Export-Import
5 Bank Act.

6 **SEC. 3. REPORTS ON PROLIFERATION BY PEOPLE'S REPUB-**
7 **LIC OF CHINA.**

8 (a) REPORTS.—

9 (1) IN GENERAL.—The President shall, at the
10 times specified in subsection (b), submit to the Com-
11 mittee on International Relations of the House of
12 Representatives, the Committee on Foreign Rela-
13 tions of the Senate, the Committee on Armed Serv-
14 ices of the Senate, the Select Committee on Intel-
15 ligence of the Senate, and the Committee on Govern-
16 mental Affairs of the Senate, a report identifying
17 every person with respect to whom there is credible
18 information indicating that that person, on or after
19 January 1, 2000, transferred, retransferred, sold,
20 misused, or diverted from, or within, the People's
21 Republic of China to a foreign person or national of
22 the People's Republic of China involved in the devel-
23 opment or acquisition of nuclear, chemical, or bio-
24 logical weapons or ballistic or cruise missiles—

1 (A) goods, services, or technology listed
2 on—

3 (i) the Nuclear Suppliers Group
4 Guidelines for the Export of Nuclear Mate-
5 rial, Equipment and Technology (published
6 by the International Atomic Energy Agen-
7 cy as Information Circular INFCIRC/254/
8 Rev. 3/Part 1, and subsequent revisions)
9 and Guidelines for Transfers of Nuclear-
10 Related Dual-Use Equipment, Material,
11 and Related Technology (published by the
12 International Atomic Energy Agency as In-
13 formation Circular INFCIRC/254/Rev. 3/
14 Part 2, and subsequent revisions);

15 (ii) the Missile Technology Control
16 Regime Equipment and Technology Annex
17 of June 11, 1996, and subsequent revi-
18 sions;

19 (iii) the lists of items and substances
20 relating to biological and chemical weapons
21 the export of which is controlled by the
22 Australia Group;

23 (iv) the Schedules of the Convention
24 on the Prohibition of the Development,
25 Production, Stockpiling and Use of Chem-

1 ical Weapons and on Their Destruction, in-
2 cluding chemicals, precursors, and other
3 substances; or

4 (v) the Wassenaar Arrangement list of
5 Dual Use Goods and Technologies and
6 Munitions list of July 12, 1996, and subse-
7 quent revisions; or

8 (B) goods, services, or technology not list-
9 ed on any list identified in subparagraph (A)
10 but which nevertheless would be, if the goods,
11 services, or technology were United States
12 goods, services, or technology, prohibited or
13 controlled for export to the People's Republic of
14 China, or any tier IV countries as defined by
15 the Bureau of Export Administration of the De-
16 partment of Commerce, and that have the po-
17 tential to make a contribution to the develop-
18 ment, improvement, or production of nuclear,
19 biological, or chemical weapons, or of ballistic
20 or cruise missile systems, or advanced conven-
21 tional weapons or munitions.

22 (2) ACTION BY PERSONS IDENTIFIED.—The
23 President shall include in the report information on
24 any action taken by a person identified in a prior
25 annual report under this subsection that establishes

1 that the person has discontinued, rectified, or miti-
2 gated a prior proliferation activity identified under
3 this Act.

4 (3) ACTION BY PRESIDENT.—The President
5 shall include in the report information on actions
6 taken by the President under sections 4 and 5, in
7 response to proliferation activities conducted by per-
8 sons identified in this section. The President shall
9 include in the report information on any determina-
10 tions made under section 7. If the President fails to
11 exercise the authority under sections 4 and 5, or if
12 the President makes a determination under section
13 7, with respect to a person identified in a report
14 submitted pursuant to this section, the President
15 shall include that information and the reasons there-
16 fore in the report required under this section.

17 (4) OTHER INFORMATION.—In addition to the
18 information required by paragraphs (1) through (3),
19 the President shall include in the report information
20 on—

21 (A) noncompliance with any international
22 nonproliferation treaties, agreements, arrange-
23 ments, or commitments (verbal, written, or oth-
24 erwise) by the People’s Republic of China, in-

1 including the Missile Technology Control Regime
2 and the annexes to that Regime;

3 (B) noncompliance with United States ex-
4 port control laws, Executive orders, regulations,
5 or export license conditions by the People's Re-
6 public of China;

7 (C) the performance of the Department of
8 Commerce in licensing, regulating, and control-
9 ling the export of dual-use technology to the
10 People's Republic of China, including the num-
11 ber and type of post-shipment verifications con-
12 ducted and enforcement actions taken;

13 (D) the threats to the security interests of
14 the United States, or the security interests of
15 its allies resulting from—

16 (i) proliferation activities on the part
17 of the People's Republic of China or per-
18 sons identified in reports submitted under
19 this section;

20 (ii) the transfer or sale to the Govern-
21 ment of, or persons within the People's Re-
22 public of China of dual-use technologies
23 and goods listed on the Commerce Control
24 List;

1 (iii) the misuse or diversion by the
2 People's Republic of China of dual-use
3 technology; and

4 (iv) the transfer or sale of goods, serv-
5 ices, or technology identified by the Direc-
6 tor of Central Intelligence as having a sig-
7 nificant potential to make a contribution to
8 the development, improvement, or produc-
9 tion of nuclear, biological, or chemical
10 weapons, or of ballistic or cruise missile
11 systems, or advanced conventional weapons
12 or munitions; and

13 (E) transfers to persons of the People's
14 Republic of China of technology under arms
15 control and nonproliferation agreements and
16 opportunities for the People's Republic of China
17 to engage in proliferation activities under agree-
18 ments such as Nuclear Nonproliferation Treaty,
19 Chemical Weapons Convention, Comprehensive
20 Test Ban Treaty, and Biological Weapons Con-
21 vention.

22 (b) TIMING OF REPORTS.—The reports required
23 under subsection (a) shall be submitted no later than 90
24 days after the date of enactment of this Act, and on June
25 1 of each year thereafter.

1 (c) EXCEPTIONS.—Any person who—

2 (1) has engaged in the transfer, sale, or misuse
3 of any goods, services, or technology on behalf of, or
4 in concert with, the Government of the United
5 States; or

6 (2) has transferred, retransferred, or sold such
7 goods, services, or technology in a manner fully con-
8 sistent with all applicable international nonprolifera-
9 tion treaties, agreements, and commitments with re-
10 spect to which the People’s Republic of China is a
11 party,

12 is not required to be identified on account of that transfer
13 in any report submitted under this section, except to the
14 degree that credible information indicates that the par-
15 ticular transfer, sale, or misuse may have continued, or
16 been larger, more significant, or different in nature than
17 permitted on behalf of the Government of the United
18 States or under such international nonproliferation treaty
19 or agreement.

20 (d) SUBMISSION IN CLASSIFIED FORM.—Reports
21 shall be submitted in unclassified form, with classified an-
22 nexes as necessary.

1 **SEC. 4. APPLICATION OF MANDATORY MEASURES TO CER-**
2 **TAIN PERSONS.**

3 (a) APPLICATION OF MEASURES.—Subject to section
4 7, the President shall apply with respect to each person
5 identified in a report submitted pursuant to section 3(a),
6 for such period of time as the President may determine
7 but not less than one year, all of the measures described
8 in subsection (b).

9 (b) DESCRIPTION OF MEASURES.—The measures re-
10 ferred to in subsection (a) are the following:

11 (1) EXECUTIVE ORDER NO. 12938 PROHIBI-
12 TIONS.—Imposition of the measures set forth in sub-
13 sections (b) and (c) of section 4 of Executive Order
14 No. 12938.

15 (2) ARMS EXPORT.—Prohibition on United
16 States Government transfers or sales to such person
17 of any item on the United States Munitions List as
18 in effect on August 8, 1995, and termination of all
19 sales and after-sale servicing to such person of any
20 defense articles, defense services, or design and con-
21 struction services under the Arms Export Control
22 Act.

23 (3) DUAL-USE EXPORT PROHIBITION.—Denial
24 of licenses, suspension of existing licenses, and ter-
25 mination of all transfers or sales and after-sale serv-
26 icing for the transfer to such person of any item the

1 export of which is controlled under the Export Ad-
2 ministration Act of 1979 (as extended pursuant to
3 the International Emergency Economic Powers Act)
4 or the Export Administration regulations.

5 (4) PROCUREMENT SANCTION.—Prohibition on
6 the United States Government procuring, or enter-
7 ing into any contract for the procurement of, any
8 goods or services from such person.

9 (5) UNITED STATES ASSISTANCE PROHIBI-
10 TION.—Prohibition on the provision of United States
11 assistance in the form of grants, loans, credits, guar-
12 antees, or otherwise, to such person.

13 (6) SUSPENSION OF AGREEMENTS.—Immediate
14 suspension of any agreements or efforts for the co-
15 development or co-production with such person of
16 any item on the United States Munitions List.

17 (c) EFFECTIVE DATE OF MEASURES.—Each meas-
18 ure imposed pursuant to subsection (a) shall take effect
19 with respect to such person 30 days after the date that
20 the report identifying the person is submitted to Congress.

21 (d) PUBLICATION IN FEDERAL REGISTER.—Notice
22 of the imposition of the measure described in subsection
23 (b) to a person identified pursuant to section 3(a) shall
24 be published in the Federal Register, unless the President

1 determines that doing so would threaten the national secu-
2 rity or intelligence interests of the United States.

3 (e) DURATION OF MEASURES.—Each measure im-
4 posed under this section shall apply for a period of at least
5 12 months following the imposition of the measure and
6 shall cease to apply only if the President determines and
7 certifies to Congress that—

8 (1) credible information indicates that the per-
9 son with respect to whom the determination was
10 made under section 3(a) has ceased the activities for
11 which the measure was imposed;

12 (2) credible information indicates that the per-
13 son has taken reasonable steps to rectify the viola-
14 tion; and

15 (3) the President has received reasonable assur-
16 ances from the person that such person will not en-
17 engage in similar activities in the future.

18 **SEC. 5. APPLICATION OF ADDITIONAL MEASURES DI-**
19 **RECTED AT THE GOVERNMENT OF THE PEO-**
20 **PLE’S REPUBLIC OF CHINA.**

21 (a) IN GENERAL.—In addition to the mandatory
22 measures described in section 4 applied against persons
23 identified pursuant to section 3(a), the President shall
24 apply additional measures as follows against the People’s
25 Republic of China:

1 (1) TIER 1 MEASURES.—The President shall
2 apply one or more of the measures listed in tier 1
3 that are not in effect under this or any other Act
4 or Executive order with respect to the People’s Re-
5 public of China in conjunction with, and at the same
6 time, as the mandatory measures applied against the
7 person under section 4.

8 (2) TIER 2 MEASURES.—If, one year after the
9 measures described in section 4 are imposed, the
10 proliferation activities upon which the measures were
11 based are not rectified as described in section 4(e),
12 or the person has engaged in additional proliferation
13 activities, the President shall continue to apply the
14 measures described in section 4, any tier 1 measure
15 in effect, and shall also impose one or more tier 2
16 measures not in effect under this or any other Act
17 or Executive order with respect to the People’s Re-
18 public of China.

19 (3) TIER 3 MEASURES.—If 2 years after the
20 measures described in section 4 are imposed, the
21 proliferation activities upon which the measures were
22 based are not rectified as described in section 4(e),
23 or the person has engaged in additional proliferation
24 activities, the President shall continue to apply the
25 measures described in section 4, any tier 1 or tier

1 2 measures in effect, and shall also impose one or
2 more tier 3 measures not in effect under this or any
3 other Act or Executive order with respect to the
4 People’s Republic of China.

5 (b) DEFINITION OF TIER 1, TIER 2, AND TIER 3
6 MEASURES.—

7 (1) TIER 1 MEASURE.—The term “tier 1 meas-
8 ure” includes any or all of the following:

9 (A) Suspension of all military-to-military
10 contacts and exchanges between the People’s
11 Republic of China and the United States.

12 (B) Suspension of all United States assist-
13 ance to the People’s Republic of China by the
14 United States Government.

15 (C) Prohibition on United States bank
16 loans or bond offerings in United States mar-
17 kets on the part of any national of the People’s
18 Republic of China or any state-owned enterprise
19 of the People’s Republic of China.

20 (D) Prohibition on the transfer or sale or
21 after-sale servicing, including the provision of
22 replacement parts, to the People’s Republic of
23 China or any national of the People’s Republic
24 of China of any item on the United States Mu-
25 nitions List and suspension of any agreement

1 with the People’s Republic of China or any na-
2 tional of the People’s Republic of China or any
3 state-owned enterprise of the People’s Republic
4 of China for the co-development or co-produc-
5 tion of any item on the United States Muni-
6 tions List.

7 (2) TIER 2 MEASURE.—The term “tier 2 meas-
8 ure” includes any or all of the following:

9 (A) Suspension of all scientific, academic,
10 and technical exchanges between the People’s
11 Republic of China and the United States.

12 (B) Direction of the Export-Import Bank
13 of the United States not to approve the
14 issuance of any guarantees, insurance, exten-
15 sion of credit, or participation in the extension
16 of credit to the People’s Republic of China.

17 (C) Denial of access to the capital markets
18 of the United States by all state-owned enter-
19 prises of the People’s Republic of China.

20 (D) Prohibition on the transfer or sale to
21 the People’s Republic of China or any national
22 of the People’s Republic of China of any item
23 on the Commerce Control List that is controlled
24 for national security purposes and prohibition

1 of after-sale servicing, including the provision of
2 replacement parts for such items.

3 (3) TIER 3 MEASURE.—The term “tier 3 meas-
4 ure” includes any or all of the following:

5 (A) Prohibition on procurement by the
6 United States Government or entering into any
7 contract for the procurement of, any goods or
8 services from the People’s Republic of China or
9 any national of the People’s Republic of China.

10 (B) Designation of the People’s Republic
11 of China in a country tier under the Export Ad-
12 ministration Regulations that is higher than the
13 country tier in effect.

14 (C) Denial of access to the capital markets
15 of the United States by any company owned or
16 controlled by nationals of the People’s Republic
17 of China.

18 (D) Prohibition on the transfer or sale to
19 the People’s Republic of China or any national
20 of the People’s Republic of China of any item
21 on the Commerce Control List and prohibition
22 of after-sale servicing, including replacement
23 parts for such items.

1 **SEC. 6. PROCEDURES FOR CONGRESSIONAL REVIEW.**

2 (a) WRITTEN JUSTIFICATION.—Any notification sub-
3 mitted by the President under section 3 indicating that
4 the President is not imposing a measure or exercising au-
5 thority under section 4 or 5 or that the President is mak-
6 ing a determination under section 7 shall include a written
7 justification describing in detail the facts and cir-
8 cumstances relating specifically to the person identified in
9 a report submitted pursuant to section 3(a) that supports
10 the President’s decision not to exercise the authority of
11 section 4 or section 5 or the President’s decision to make
12 a determination under section 7 with respect to that per-
13 son.

14 (b) CONGRESSIONAL ACTION.—If Congress receives
15 a notification described in section 3 and does not agree
16 with the justification described in subsection (a), the ap-
17 propriate measure shall be imposed with respect to the
18 person identified in the notification if a joint resolution
19 described in this section is enacted into law.

20 (c) JOINT RESOLUTION.—

21 (1) DEFINITION.—For purposes of this section,
22 a joint resolution means a resolution introduced by
23 any Member of Congress after the date the notifica-
24 tion described in section 3 is received, the resolving
25 clause of which contains only the following: “That
26 Congress does not agree with the justification con-

1 tained in the notification submitted by the President
2 pursuant to the China Nonproliferation Act on
3 and that the President shall exer-
4 cise the mandatory measures under section 4 of the
5 Act and one or all of the tier measures under
6 that Act.”; with the first blank space being filled
7 with the appropriate date and the second blank
8 space being filled with the appropriate tier.

9 (2) REFERRAL TO COMMITTEE.—

10 (A) SENATE.—A joint resolution intro-
11 duced in the Senate shall be referred to the
12 Committee on Foreign Relations of the Senate.

13 (B) HOUSE OF REPRESENTATIVES.—A
14 joint resolution introduced in the House of Rep-
15 resentatives shall be referred to the Committee
16 on International Relations of the House of Rep-
17 resentatives.

18 (C) REPORTING.—A joint resolution may
19 not be reported before the 8th day after the
20 date on which the joint resolution is introduced.

21 (3) DISCHARGE OF COMMITTEE.—If the com-
22 mittee to which a joint resolution is referred in ei-
23 ther House has not reported the joint resolution (or
24 an identical joint resolution) at the end of 15 cal-
25 endar days during which that House is in session

1 after the date on which the joint resolution is
2 introduced—

3 (A) the committee shall be deemed to be
4 discharged from further consideration of the
5 joint resolution; and

6 (B) the joint resolution shall be placed on
7 the appropriate calendar of that House.

8 (4) FLOOR CONSIDERATION.—

9 (A) IN GENERAL.—

10 (i) MOTION TO PROCEED TO CONSID-
11 ERATION.—When the committee to which a
12 joint resolution is referred in either House
13 has reported, or has been deemed to be
14 discharged (under paragraph (3)) from
15 further consideration of, a joint
16 resolution—

17 (I) it is at any time thereafter in
18 order (even though a previous motion
19 to the same effect has been disagreed
20 to) for any Member of that House to
21 move to proceed to the consideration
22 of the joint resolution; and

23 (II) all points of order against
24 the joint resolution (and against con-

1 sideration of the joint resolution) are
2 waived.

3 (ii) TREATMENT OF MOTION.—A mo-
4 tion under clause (i)—

5 (I) is privileged in the Senate
6 and is highly privileged in the House
7 of Representatives;

8 (II) is not debatable; and

9 (III) is not subject to amend-
10 ment, a motion to postpone, or a mo-
11 tion to proceed to the consideration of
12 other business.

13 (iii) NO MOTION TO RECONSIDER.—A
14 motion to reconsider the vote by which a
15 motion under clause (i) is agreed to or dis-
16 agreed to shall not be in order.

17 (iv) AGREEMENT TO MOTION.—If a
18 motion under clause (i) is agreed to, the
19 joint resolution shall remain the unfinished
20 business of the House until the House dis-
21 poses of the joint resolution.

22 (B) DEBATE.—

23 (i) TIME.—Debate on a joint resolu-
24 tion, and on all debatable motions and ap-
25 peals in connection with consideration of a

1 joint resolution, shall be limited to not
2 more than 10 hours, which shall be divided
3 equally between those favoring and those
4 opposing the joint resolution. A motion
5 further to limit debate is in order and not
6 debatable.

7 (ii) AMENDMENTS AND MOTIONS OUT
8 OF ORDER.—An amendment to a joint res-
9 olution, a motion to postpone, to proceed
10 to the consideration of other business, or
11 to recommit such a joint resolution, or a
12 motion to reconsider the vote by which
13 such a joint resolution is agreed to or dis-
14 agreed to is not in order.

15 (C) VOTE ON FINAL PASSAGE.—A vote on
16 final passage of the joint resolution shall be
17 taken in each House on or before the close of
18 the 15th calendar day during which that House
19 is in session after the resolution is reported by
20 the committee of that House to which it was re-
21 ferred, or after the committee has been dis-
22 charged from further consideration of the reso-
23 lution.

24 (D) RULINGS OF THE CHAIR OF PROCE-
25 DURE.—Appeals from the decisions of the Chair

1 relating to the application of the rules of either
2 House to the procedure relating to a joint reso-
3 lution shall be decided without debate.

4 (5) COORDINATION WITH ACTION BY OTHER
5 HOUSE.—

6 (A) IN GENERAL.—If, before the passage
7 by 1 House of a joint resolution of that House,
8 that House receives from the other House a
9 joint resolution, the procedures stated in this
10 paragraph shall apply.

11 (B) NO REFERRAL.—The joint resolution
12 of the other House shall not be referred to a
13 committee.

14 (C) PROCEDURE.—With respect to a joint
15 resolution of the House receiving the joint
16 resolution—

17 (i) the procedure in that House shall
18 be the same as if no joint resolution had
19 been received from the other House; but

20 (ii) the vote on final passage shall be
21 on the joint resolution of the other House.

22 (6) RULES OF THE SENATE AND THE HOUSE
23 OF REPRESENTATIVES.—This subsection is enacted
24 by Congress—

1 (A) as an exercise of the rulemaking power
2 of the Senate and the House of Representa-
3 tives, respectively; and

4 (i) is deemed a part of the rules of
5 each House, respectively, but applicable
6 only with respect to the procedure to be
7 followed in that House in the case of a
8 joint resolution; and

9 (ii) supersedes other rules only to the
10 extent that the subsection is inconsistent
11 with those rules; and

12 (B) with full recognition of the constitu-
13 tional right of either House to change the rules
14 (so far as the rules relate to the procedure of
15 that House) at any time, in the same manner
16 and to the same extent as in the case of any
17 other rule of that House.

18 **SEC. 7. DETERMINATION EXEMPTING PERSON OR THE PEO-**
19 **PLE'S REPUBLIC OF CHINA FROM SECTIONS 4**
20 **AND 5.**

21 (a) IN GENERAL.—Sections 4 and 5 shall not apply
22 to a person or to the People's Republic of China 15 days
23 after the President reports to the Committee on Inter-
24 national Relations of the House of Representatives, the
25 Committee on Foreign Relations of the Senate, the Com-

1 mittee on Armed Services of the Senate, the Select Com-
2 mittee on Intelligence of the Senate, and the Committee
3 on Governmental Affairs of the Senate, that the President
4 has determined, on the basis of information provided by
5 that person, or otherwise obtained by the President,
6 that—

7 (1) the person did not, on or after January 1,
8 2000, knowingly transfer to or export from the Peo-
9 ple’s Republic of China the goods, services, or tech-
10 nology the apparent transfer or export of which
11 caused that person to be identified in a report sub-
12 mitted pursuant to section 3(a);

13 (2) the person is subject to the primary juris-
14 diction of a government that is an adherent to one
15 or more relevant nonproliferation regimes, the per-
16 son was identified in a report submitted pursuant to
17 section 3(a) with respect to a transfer of goods,
18 services, or technology described in section 3(a)(1),
19 and such transfer was made consistent with the
20 guidelines and parameters of all such relevant re-
21 gimes of which such government is an adherent; or

22 (3) it is important to the national security of
23 the United States not to apply the provisions of sec-
24 tion 4 or 5.

1 (b) OPPORTUNITY TO PROVIDE INFORMATION.—

2 Congress urges the President—

3 (1) in every appropriate case, to contact in a
4 timely fashion each person identified in each report
5 submitted pursuant to section 3(a), or the govern-
6 ment with primary jurisdiction over such person, in
7 order to afford such person or government, the op-
8 portunity to provide explanatory, exculpatory, or
9 other additional information with respect to the
10 transfer that caused such person to be identified in
11 a report submitted pursuant to section 3(a); and

12 (2) to exercise the authority in subsection (a) in
13 all cases where information obtained from a foreign
14 person identified in a report submitted pursuant to
15 section 3(a), or from the government with primary
16 jurisdiction over such person, establishes that the ex-
17 ercise of such authority is warranted.

18 (c) SUBMISSION IN CLASSIFIED FORM.—The deter-
19 mination and report of the President under subsection (a)
20 should be submitted in unclassified form, with classified
21 annexes as necessary.

22 **SEC. 8. NOTIFICATION TO SECURITIES COMMISSION OF IN-**
23 **CLUSION IN REPORT.**

24 (a) DEFINITIONS.—In this section, the following defi-
25 nitions shall apply:

1 (1) COMMISSION.—The term “Commission”
2 means the Securities and Exchange Commission.

3 (2) REGISTERED NATIONAL SECURITIES ASSO-
4 CIATION.—The term “registered national securities
5 association” means an association registered under
6 section 15A(b) of the Securities Exchange Act of
7 1934 (15 U.S.C. 78o–3(b)).

8 (3) REGISTERED NATIONAL SECURITIES EX-
9 CHANGE.—The term “registered national securities
10 exchange” means a national securities exchange reg-
11 istered under 6 of the Securities Exchange Act of
12 1934 (15 U.S.C. 78f).

13 (4) REGISTRATION STATEMENT.—The term
14 “registration statement” has the same meaning as
15 in section 2 of the Securities Act of 1933 (15 U.S.C.
16 77b).

17 (5) SECURITIES LAWS.—The terms “securities
18 laws” and “security” have the same meanings as in
19 section 3 of the Securities Exchange Act of 1934
20 (15 U.S.C. 78e).

21 (b) NOTIFICATION TO THE COMMISSION.—Each re-
22 port prepared by the President under section 3 shall be
23 transmitted to the Commission at the times specified in
24 section 3(b).

1 (c) REGULATIONS.—Not later than 6 months after
2 the date of enactment of this Act, the Commission shall
3 promulgate regulations—

4 (1) to ensure that securities investors are noti-
5 fied of the identity of any person included in a re-
6 port prepared by the President under section 3, the
7 securities of which are listed, or authorized for list-
8 ing, on a registered national securities exchange (or
9 tier or segment thereof) or by a registered national
10 securities association; and

11 (2) to require each person included in a report
12 of the President under section 3 to provide notice of
13 such inclusion in each written report, statement, or
14 other filing or notice required from that person
15 under the securities laws, including—

16 (A) any registration statement;

17 (B) any annual or quarterly report, state-
18 ment, or other filing or notice;

19 (C) any proxy, consent, authorization, in-
20 formation statement, or other notice required to
21 be sent to shareholders with respect to any se-
22 curity registered pursuant to the securities
23 laws;

1 (D) any report, statement, or other filing
2 or notice required in connection with an initial
3 public offering; and

4 (E) any report, statement, or other filing
5 required in connection with a merger, acquisi-
6 tion, tender offer, or similar transaction.

Calendar No. 583

106TH CONGRESS
2D SESSION

S. 2645

A BILL

To provide for the application of certain measures to the People's Republic of China in response to the illegal sale, transfer, or misuse of certain controlled goods, services, or technology, and for other purposes.

JUNE 6, 2000

Read the second time and placed on the calendar