

118TH CONGRESS
1ST SESSION

H. R. 4725

To conduct oversight and accountability of the State Department's implementation of AUKUS, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2023

Mr. MCCAUL (for himself, Mrs. KIM of California, Mr. KEAN of New Jersey, and Mr. HUIZENGA) introduced the following bill; which was referred to the Committee on Foreign Affairs

A BILL

To conduct oversight and accountability of the State Department's implementation of AUKUS, 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 “AUKUS Oversight and
5 Accountability Act” or the “AOA Act”.

6 **SEC. 2. ESTABLISHMENT OF SENIOR ADVISOR.**

7 (a) SENIOR ADVISOR FOR AUKUS.—

8 (1) IN GENERAL.—The Secretary of State shall
9 appoint, from among the leadership of the Depart-

1 ment above the rank of Under Secretary, a senior
2 advisor at the Department of State (in this section
3 referred to as the “Senior Advisor”), who shall con-
4 currently oversee and coordinate the implementation
5 of the AUKUS partnership announced September
6 15, 2021. The Senior Advisor shall report directly to
7 the Secretary of State.

8 (2) USE OF EXISTING AUTHORIZATION.—No
9 additional amounts are authorized to be appro-
10 priated to establish the senior advisor described in
11 subsection (a).

12 (3) DUTIES.—It shall be the duty of the Senior
13 Advisor to—

14 (A) coordinate efforts to implement the
15 AUKUS agreement across relevant bureaus, di-
16 rectorates, and offices of the Department of
17 State;

18 (B) represent the Department of State on
19 matters relating to AUKUS in the interagency
20 process;

21 (C) engage with relevant governing bodies
22 in the United Kingdom and Australia; and

23 (D) issue guidance, including proposed reg-
24 ulations, to reduce barriers to defense collabora-
25 tion, innovation, trade, and production with the

1 Governments and industry partners of the
2 United States, United Kingdom, and Australia.

3 (b) AUKUS TASK FORCE.—

4 (1) ESTABLISHMENT.—The Secretary of State
5 shall establish a Task Force on AUKUS Governance
6 (in this section referred to as the “Task Force”), led
7 by the Senior Advisor appointed pursuant to sub-
8 section (a).

9 (2) USE OF EXISTING AUTHORIZATION.—No
10 additional amounts are authorized to be appro-
11 priated to establish the Task Force described in
12 paragraph (1).

13 (3) PERSONNEL TO SUPPORT THE SENIOR AD-
14 VISOR.—The Secretary of State shall ensure that the
15 Senior Advisor is adequately staffed through the as-
16 signment of existing Department employees and ap-
17 pointment of officials representing relevant bureaus.

18 (4) DUTIES.—It shall be the duty of the Task
19 Force to—

20 (A) meet at least once every 60 days to co-
21 ordinate on issues pertaining to the successful
22 implementation of the AUKUS agreement;

23 (B) coordinate an ongoing working group
24 among the interagency on the effectiveness of
25 arms export regulations and laws relevant to

1 implementation of the AUKUS agreement that
2 may be joined by appropriate officials of the
3 United Kingdom and Australia;

4 (C) create and maintain a unified list of all
5 defense-related transactions that have taken
6 place under any agreement between the United
7 States, Australia, and the United Kingdom;

8 (D) create and maintain a list of vendors
9 that commonly participate in defense-related
10 trade between United States, Australia, and the
11 United Kingdom;

12 (E) coordinate the design and implementa-
13 tion of an established pathway for United
14 States defense partners and treaty allies to ob-
15 tain exemptions from the licensing and other
16 approval requirements of section 38 of the
17 Arms Export Control Act of 1976 (22 U.S.C.
18 2778) for exports and transfers of defense arti-
19 cles and defense services;

20 (F) create a framework for gathering,
21 maintaining, and exchanging information per-
22 taining to companies, individuals, or entities en-
23 gaged in compromising technology security in
24 contravention to the AUKUS agreement; and

1 (G) establish an AUKUS industry forum
2 for industry stakeholders, including non-tradi-
3 tional defense contractors (as such term is de-
4 fined in section 3014 of title 10, United States
5 Code), that will be open for the participation of
6 foreign industry involved in the AUKUS part-
7 nership.

8 (5) REPORTS REQUIRED.—

9 (A) QUARTERLY REPORTING.—The Senior
10 Advisor shall submit to the appropriate congres-
11 sional committees a report every 90 days that
12 includes—

13 (i) a detailed description of the work
14 of the Senior Advisor and any meetings of
15 the Task Force that have taken place since
16 the preceding report was issued, including
17 meetings conducted with AUKUS partners,
18 industry representatives, or the inter-
19 agency;

20 (ii) a detailed description of any
21 issues that representatives of the United
22 Kingdom or Australia have brought to the
23 attention of the United States that threat-
24 en the stated goals of the AUKUS agree-

1 ment and any efforts within the Depart-
2 ment to resolve these issues;

3 (iii) any delays and the reasons for
4 these delays to defense-related transactions
5 between the United States, the United
6 Kingdom, and Australia, reflecting govern-
7 ment and industry input;

8 (iv) detailed description of Depart-
9 ment investigations into violations under
10 section 38 of the Arms Export Controls
11 Act (22 U.S.C. 2778) or related provisions
12 that involve AUKUS partners or entities in
13 the United States, the United Kingdom,
14 and Australia; and

15 (v) any violations of the Arms Export
16 Control Act (22 U.S.C. 2751 et seq.) or re-
17 lated regulations committed by United
18 States persons with respect to transactions
19 involving the United Kingdom or Australia.

20 (B) ANNUAL REPORTING.—The Senior Ad-
21 visor shall annually submit to the appropriate
22 congressional committees a report listing the
23 transactions that have taken place involving the
24 AUKUS partners and including—

1 (i) a description of programs author-
2 ized under the AUKUS agreement;

3 (ii) an identification of the AUKUS
4 entities involved;

5 (iii) a list of all exports and transfers
6 that would be subject to the requirements
7 of paragraph (1), (2), or (3) of section
8 3(d) of the Arms Export Control Act (22
9 U.S.C. 2753(d)), except for marketing or
10 brokering activities, temporary imports,
11 commodity jurisdiction determinations, or
12 amendments to existing marketing or
13 brokering licenses; and

14 (iv) a valuation of the reduction in
15 Department licensing review times elimi-
16 nated, including review times reduced
17 across the interagency.

18 (6) RESOURCES FOR THE TASK FORCE.—

19 (A) REGISTRATION AND OTHER FEES.—
20 Section 45 of the State Department Basic Au-
21 thorities Act of 1956 (22 U.S.C. 2717) is
22 amended—

23 (i) in the matter preceding paragraph
24 (1)—

1 (I) in the first sentence, by strik-
2 ing “100 percent of the registration
3 fees collected by the Office of Defense
4 Trade Controls of the Department of
5 State” and inserting “100 percent of
6 the defense trade control registration
7 fees collected by the Department of
8 State”; and

9 (II) in the second sentence, by
10 inserting “management, licensing,
11 compliance, or policy activities in the
12 defense trade controls function, in-
13 cluding” after “incurred for”;

14 (ii) in paragraph (1), by striking
15 “contract personnel to assist in”;

16 (iii) in paragraph (2), by striking “;
17 and” and inserting a semicolon;

18 (iv) in paragraph (3), by striking the
19 period at the end and inserting a semi-
20 colon; and

21 (v) by adding at the end the following
22 new paragraphs:

23 “(4) the facilitation of defense trade policy de-
24 velopment, implementation, and cooperation, includ-
25 ing implementation of the trilateral security partner-

1 ship between the United States, the United King-
2 dom, and Australia, review of commodity jurisdiction
3 determinations, outreach to United States industry
4 and foreign parties, and analysis of scientific and
5 technological developments as they relate to the ex-
6 ercise of defense trade control authorities; and

7 “(5) contract personnel to assist in such activi-
8 ties.”.

9 (B) USE OF FOREIGN MILITARY SALES AD-
10 MINISTRATIVE FUNDS.—Notwithstanding para-
11 graph (3) of section 43(b) of the Arms Export
12 Control Act (22 U.S.C. 2792(b)(3)), with re-
13 spect to sales under such Act for which a loan,
14 grant, or guaranty is not provided by the
15 United States, the President may authorize
16 charges for administrative services calculated
17 under section 21(e)(1)(A) of such Act (22
18 U.S.C. 2761(e)(1)(A)) to include resources nec-
19 essary to support the sustainment of the Task
20 Force.

21 (c) SUNSET.—The position of the Senior Advisor and
22 the Task Force shall terminate on the date that is 7 years
23 after the date of the enactment of this Act.

24 (d) RENEWAL.—The Secretary of State may renew
25 the position of the Senior Advisor for an additional period

1 of 4 years, following notification to the appropriate con-
2 gressional committees of the renewal.

3 **SEC. 3. MODIFICATIONS TO ARMS EXPORT CONTROL ACT**
4 **AND OTHER AUTHORITIES.**

5 (a) **EXPANSION OF AUTHORITIES TO CONTROL ARMS**
6 **EXPORTS AND IMPORTS.**—Section 38 of the Arms Export
7 Control Act of 1976 (22 U.S.C. 2778) is amended by add-
8 ing at the end the following new subsection:

9 “(1) **EXEMPTION FROM LICENSING AND APPROVAL**
10 **REQUIREMENTS.**—

11 “(1) **IN GENERAL.**—Subject to paragraph (2)
12 and notwithstanding any other provision of this sec-
13 tion, the President, acting through the Secretary of
14 State, may exempt from the licensing or other ap-
15 proval requirements of this section exports and
16 transfers (including reexports, retransfers, tem-
17 porary imports, and brokering activities) of defense
18 items with respect to one or more countries.

19 “(2) **REQUIRED STANDARDS OF EXPORT CON-**
20 **TROLS.**—The Secretary of State may only exercise
21 the authority under paragraph (1) after the Sec-
22 retary submits to Congress a certification that the
23 applicable country has implemented standards for a
24 systems of export controls—

1 “(A) that satisfies the elements of sub-
2 section (j)(2)(A) with respect to defense items;
3 and

4 “(B) that are at least comparable to those
5 administered by the United States with respect
6 to the provision of military training.

7 “(3) ADDITIONAL EXEMPTION FROM CERTAIN
8 CERTIFICATION REQUIREMENTS.—Paragraphs (1)
9 through (3) of section 3(d) shall not apply to trans-
10 fers (including transfers of United States Govern-
11 ment sales or grants, or commercial exports author-
12 ized under this Act) with respect to which the re-
13 quirements of this section are exempted pursuant to
14 paragraph (1).

15 “(4) REPORTING REQUIRED FOR EXEMPTED
16 TRANSFERS.—The Secretary of State shall require
17 any person transferring a defense item between or
18 among the United States and another country that
19 would be subject to the licensing requirements of
20 paragraphs (1) through (3) of section 3(d) but for
21 the application of paragraph (3) of this subsection
22 to report that transfer to the Secretary not later
23 than 90 days after the transfer occurs.”.

24 (b) UNITED STATES MUNITIONS LIST PERIODIC RE-
25 VIEW.—

1 (1) IN GENERAL.—The Secretary of State, act-
2 ing through authority delegated by the President to
3 carry out periodic reviews of items on the United
4 States Munitions List under section 38(f) of the
5 Arms Export Control Act (22 U.S.C. 2778(f)) and
6 in coordination with the Secretary of Defense, the
7 Secretary of Energy, the Secretary of Commerce,
8 and the Director of the Office of Management and
9 Budget, shall carry out such reviews not less fre-
10 quently than every 3 years.

11 (2) SCOPE.—The periodic reviews described in
12 paragraph (1) shall focus on matters including—

13 (A) interagency resources to address cur-
14 rent threats faced by the United States;

15 (B) the evolving technological and eco-
16 nomic landscape;

17 (C) the widespread availability of certain
18 technologies and items on the United States
19 Munitions List; and

20 (D) risks of misuse of United States-origin
21 defense articles.

22 (3) CONSULTATION.—The Department of State
23 may consult with the Defense Trade Advisory Group
24 and other interested parties, including nontraditional

1 defense contractors, in conducting the periodic re-
2 view described in paragraph (1).

3 **SEC. 4. DEFINITIONS.**

4 In this Act:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Foreign Affairs,
9 Committee on the Armed Services, and Com-
10 mittee on Appropriations of the House of Rep-
11 resentatives; and

12 (B) the Committee on Foreign Relations,
13 Committee on the Armed Services, and Com-
14 mittee on Appropriations of the Senate.

15 (2) AUKUS AGREEMENT.—The term “AUKUS
16 agreement” means the trilateral security partnership
17 between the United States, the United Kingdom,
18 and Australia that was announced on September 15,
19 2021.

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