

112TH CONGRESS  
2D SESSION

# S. 2063

To prohibit the transfer of technology developed using funding provided by the United States Government to entities of certain countries, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2012

Mr. WEBB introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## A BILL

To prohibit the transfer of technology developed using funding provided by the United States Government to entities of certain countries, 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. PROHIBITION ON TRANSFER OF PROPRIETARY**  
4 **TECHNOLOGY AND INTELLECTUAL PROP-**  
5 **ERTY DEVELOPED WITH FUNDING PROVIDED**  
6 **BY THE UNITED STATES GOVERNMENT TO**  
7 **ENTITIES OF CERTAIN COUNTRIES.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, a United States commercial entity may not

1 transfer to any entity described in subsection (b) any pro-  
2 prietary technology or intellectual property that was re-  
3 searched, developed, or commercialized using a contract,  
4 grant, loan, loan guarantee, or other financial assistance  
5 provided or awarded by the United States Government.

6 (b) ENTITIES DESCRIBED.—

7 (1) IN GENERAL.—An entity described in this  
8 subsection is an entity—

9 (A) owned or controlled by the government  
10 of a country described in paragraph (2); or

11 (B) in which citizens of such a country  
12 hold interests representing at least 5 percent of  
13 the capital structure of the entity.

14 (2) COUNTRIES DESCRIBED.—A country de-  
15 scribed in this paragraph is a country in which, by  
16 law, practice, or policy, any United States commer-  
17 cial entity is required to transfer proprietary tech-  
18 nology or intellectual property as a condition of  
19 doing business in that country.

20 (c) WAIVER.—The Secretary of Commerce may waive  
21 the prohibition in subsection (a) with respect to a transfer  
22 of proprietary technology or intellectual property if the  
23 Secretary determines that the transfer would not com-  
24 promise the economic interests or competitiveness of the  
25 United States.

1 (d) APPLICABILITY.—This section applies with re-  
2 spect to the transfer on or after the date of the enactment  
3 of this Act of any proprietary technology or intellectual  
4 property developed before, on, or after such date of enact-  
5 ment.

6 (e) REGULATIONS.—The Secretary of Commerce, in  
7 consultation with other relevant Federal agencies, shall  
8 prescribe such regulations as may be necessary to carry  
9 out this section.

10 (f) UNITED STATES COMMERCIAL ENTITY DE-  
11 FINED.—In this section, the term “United States commer-  
12 cial entity” means a commercial entity organized under  
13 the laws of the United States or any jurisdiction within  
14 the United States.

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