To amend the Arms Export Control Act in support of the United Kingdom and the AUKUS partnership.

IN THE HOUSE OF REPRESENTATIVES

JULY 18, 2023

Mr. KEAN of New Jersey (for himself, Mr. McCaul, Mrs. Kim of California, and Mr. Huizenga) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Rules, 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 amend the Arms Export Control Act in support of the United Kingdom and the AUKUS partnership.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Bilateral Resilience in Industry Trade Security Act” or the “BRITS Act”.
SEC. 2. EXCEPTIONS FOR THE UNITED KINGDOM RELATING TO LICENSING OF DEFENSE ARTICLES AND DEFENSE SERVICES FOR EXPORT UNDER THE ARMS EXPORT CONTROL ACT.

(a) In General.—Section 38(j)(1) of the Arms Export Control Act (22 U.S.C. 2778(j)(1)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) EXCEPTIONS FOR THE UNITED KINGDOM.—

“(i) In general.—Subject to clause (iii), the requirement to conclude a bilateral agreement in accordance with subparagraph (A) shall not apply with respect to an exemption for the United Kingdom from the licensing requirements of this Act for the export of defense articles or defense services that is issued in furtherance of or in connection with the multilateral cooperative partnership between Australia, the United Kingdom, and the United States announced on September 21, 2021.

“(ii) Relating to other licensing and approval requirements.—Notwith-
standing any other provision of this section (other than clause (iii)), the President shall exempt from the licensing or other approval requirements of this section exports and transfers (including reexports, retransfers, temporary imports, and brokering activities) of defense articles or defense services between the United States, Australia, and the United Kingdom.

"(iii) JOINT RESOLUTION OF DISAPPROVAL.—

"(I) IN GENERAL.—No exemption described in clause (i) or (ii) may be made if Congress enacts a joint resolution disapproving of the exemption.

"(II) CONSIDERATION IN SENATE.—Any joint resolution under this clause shall be considered in the Senate in accordance with the provision of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(III) CONSIDERATION IN THE HOUSE OF REPRESENTATIVES.—For
the purpose of expediting the consideration and enactment of any joint resolution under this clause, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

“(iv) INAPPLICABILITY OF CERTAIN CERTIFICATION REQUIREMENTS.—

“(I) IN GENERAL.—Paragraphs (1) through (3) of section 3(d) shall not apply to transfers (including transfers of United States Government sales or grants, or commercial exports authorized under this chapter) of defense articles or defense services to the United Kingdom.

“(II) REPORT.—The President shall submit to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate on a semiannual basis a
report on all transfers that would be subject to the requirements of paragraphs (1) and (2) of section 3(d) but for the application of subclause (I), except for marketing or brokering activities, temporary imports, or amendments to existing marketing or brokering licenses. Any such report shall contain all of the information required to be contained in certifications issued pursuant to section 3(d)(1) for each transfer identified.

“(v) AUKUS TRANSFER REPORTING REQUIREMENTS.—Any United States person transferring a defense item between or among the United States, the United Kingdom, and Australia that would have required a license under this section but for an exemption issued pursuant to clause (i) or (ii) of this subsection shall report that transfer to the Secretary no later than 90 days after the transfer occurs.”.

(b) MODIFICATION OF EXCEPTION FOR DEFENSE TRADE COOPERATION TREATIES.—Subparagraph (D) of section 38(j)(1) of the Arms Export Control Act (22
U.S.C. 2778(j)(1)), as so redesignated by subsection (a)(1), is further amended—

(1) by striking “(D) EXCEPTION” and all that follows through “(i) IN GENERAL.—The” and inserting “(D) EXCEPTION FOR DEFENSE TRADE CO-OPERATION TREATIES.—The”;

(2) by striking “(I) The Treaty” and inserting the following:

“(i) The Treaty”;

(3) by striking “(II) The Treaty” and inserting the following:

“(ii) The Treaty”; and

(4) by striking clause (ii) at the end.

(e) ADVANCE CERTIFICATION.—Paragraph (3) of section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)) is amended by inserting after “export of defense items” the following: “subject to the requirements of paragraph (1)(A)”.

SEC. 3. MODIFICATIONS OF CIVIL AND CRIMINAL PENALTIES UNDER SECTIONS 38 AND 39 OF THE ARMS EXPORT CONTROL ACT.

Subsection (c) of section 38 of the Arms Export Control Act (22 U.S.C. 2778(c)) is amended—

(1) by striking “$1,000,000” and inserting “$5,000,000”; and
(2) by striking “20 years” and inserting “25 years”.

SEC. 4. EFFECTIVE DATE.

The amendments made by sections 2 and 3 shall take effect on the date that is 180 days after the date of the enactment of this Act.