

AMENDMENT NO. _____ Calendar No. _____

Purpose: To counter Saudi Arabia’s possible pursuit of weapons of mass destruction.

IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.

S. 2296

To authorize appropriations for fiscal year 2026 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MARKEY

Viz:

1 At the end of subtitle E of title XII, add the fol-
2 lowing:

3 **SEC. 1265. COUNTERING SAUDI ARABIA’S PURSUIT OF**
4 **WEAPONS OF MASS DESTRUCTION.**

5 (a) **SHORT TITLES.**—This section may be cited as the
6 “Stopping Activities Underpinning Development In Weap-
7 ons of Mass Destruction Act” or the “SAUDI WMD Act”.

8 (b) **FINDINGS.**—Congress makes the following find-
9 ings:

1 (1) The People’s Republic of China (referred to
2 in this section as “China”), became a full-partici-
3 pant of the Nuclear Suppliers Group in 2004, com-
4 mitting it to apply a strong presumption of denial in
5 exporting nuclear-related items that a foreign coun-
6 try could divert to a nuclear weapons program.

7 (2) China also committed to the United States,
8 in November 2000, to abide by the foundational
9 principles of the 1987 Missile Technology Control
10 Regime (referred to in this section as “MTCR”) to
11 not “assist, in any way, any country in the develop-
12 ment of ballistic missiles that can be used to deliver
13 nuclear weapons (i.e., missiles capable of delivering
14 a payload of at least 500 kilograms to a distance of
15 at least 300 kilometers)”.

16 (3) In the 1980s, China secretly sold the King-
17 dom of Saudi Arabia (referred to in this section as
18 “Saudi Arabia”) conventionally armed DF-3A bal-
19 listic missiles, and in 2007, reportedly sold Saudi
20 Arabia dual-use capable DF-21 medium-range bal-
21 listic missiles of a 300 kilometer, 500 kilogram
22 range and payload threshold which should have trig-
23 gered a denial of sale under the MTCR.

24 (4) The 2020 Department of State Report on
25 the Adherence to and Compliance with Arms Con-

1 trol, Nonproliferation, and Disarmament Agree-
2 ments and Commitments found that China “contin-
3 ued to supply MTCR-controlled goods to missile pro-
4 grams of proliferation concern in 2019” and that
5 the United States imposed sanctions on nine Chinese
6 entities for covered missile transfers to Iran.

7 (5) A June 5, 2019, press report indicated that
8 China allegedly provided assistance to Saudi Arabia
9 in the development of a ballistic missile facility,
10 which if confirmed, would violate the purpose of the
11 MTCR and run contrary to the longstanding United
12 States policy priority to prevent weapons of mass de-
13 struction proliferation in the Middle East.

14 (6) The Arms Export and Control Act of 1976
15 (Public Law 93–329) requires the President to sanc-
16 tion any foreign person or government who know-
17 ingly “exports, transfers, or otherwise engages in the
18 trade of any MTCR equipment or technology” to a
19 country that does not adhere to the MTCR.

20 (7) China concluded 2 nuclear cooperation
21 agreements with Saudi Arabia in 2012 and 2017, re-
22 spectively, which may facilitate China’s bid to build
23 2 reactors in Saudi Arabia to generate 2.9 Gigawatt-
24 electric (GWe) of electricity.

1 (8) On August 4, 2020, a press report revealed
2 the alleged existence of a previously undisclosed ura-
3 nium yellowcake extraction facility in Saudi Arabia
4 allegedly constructed with the assistance of China,
5 which if confirmed, would indicate significant
6 progress by Saudi Arabia in developing the early
7 stages of the nuclear fuel cycle that precede uranium
8 enrichment.

9 (9) Saudi Arabia's outdated Small Quantities
10 Protocol and its lack of an in force Additional Pro-
11 tocol to its International Atomic Energy Agency
12 (IAEA) Comprehensive Safeguards Agreement se-
13 verely curtails IAEA inspections, which has led the
14 Agency to call upon Saudi Arabia to either rescind
15 or update its Small Quantities Protocol.

16 (10) On January 19, 2021, in response to a
17 question about Saudi Arabia's reported ballistic mis-
18 sile cooperation with China, incoming Secretary of
19 State Antony J. Blinken stated that "we want to
20 make sure that to the best of our ability all of our
21 partners and allies are living up to their obligations
22 under various nonproliferation and arms control
23 agreements and, certainly, in the case of Saudi Ara-
24 bia that is something we will want to look at".

1 (11) On March 15, 2018, the Crown Prince of
2 Saudi Arabia, Mohammad bin-Salman, stated that
3 “if Iran developed a nuclear bomb, we would follow
4 suit as soon as possible,” raising questions about
5 whether a Saudi Arabian nuclear program would re-
6 main exclusively peaceful, particularly in the absence
7 of robust international IAEA safeguards.

8 (12) An August 9, 2019, study by the United
9 Nations High Commissioner for Human Rights
10 found that the Saudi Arabia-led military coalition
11 airstrikes in Yemen and its restrictions on the flow
12 of humanitarian assistance to the country, both of
13 which have disproportionately impacted civilians,
14 may be violations of international humanitarian law.

15 (c) DEFINITIONS.—In this section:

16 (1) APPROPRIATE COMMITTEES OF CON-
17 GRESS.—The term “appropriate committees of Con-
18 gress” means—

19 (A) the Select Committee on Intelligence of
20 the Senate;

21 (B) the Committee on Foreign Relations of
22 the Senate;

23 (C) the Permanent Select Committee on
24 Intelligence of the House of Representatives;
25 and

1 (D) the Committee on Foreign Affairs of
2 the House of Representatives.

3 (2) FOREIGN PERSON; PERSON.—The terms
4 “foreign person” and “‘person’” mean—

5 (A) a natural person that is an alien;

6 (B) a corporation, business association,
7 partnership, society, trust, or any other non-
8 governmental entity, organization, or group,
9 that is organized under the laws of a foreign
10 country or has its principal place of business in
11 a foreign country;

12 (C) any foreign governmental entity oper-
13 ating as a business enterprise; and

14 (D) any successor, subunit, or subsidiary
15 of any entity described in subparagraph (B) or
16 (C).

17 (3) MIDDLE EAST AND NORTH AFRICA.—The
18 term “Middle East and North Africa” means those
19 countries that are included in the Area of Responsi-
20 bility of the Assistant Secretary of State for Near
21 Eastern Affairs.

22 (d) DETERMINATION OF POSSIBLE MTCR TRANS-
23 FERS TO SAUDI ARABIA.—

24 (1) MTCR TRANSFERS.—Not later than 30
25 days after the date of the enactment of this Act, the

1 President shall submit to the appropriate commit-
2 tees of Congress a written determination, and any
3 documentation to support that determination detail-
4 ing—

5 (A) whether any foreign person knowingly
6 exported, transferred, or engaged in trade of
7 any item designated under Category I of the
8 MTCR Annex item with Saudi Arabia during
9 the previous 3 fiscal years; and

10 (B) the sanctions the President has im-
11 posed or intends to impose pursuant to section
12 11B(b) of the Export Administration Act of
13 1979 (50 U.S.C. 4612(b)) against any foreign
14 person who knowingly engaged in the export,
15 transfer, or trade of that item or items.

16 (2) WAIVER.—Notwithstanding any provision of
17 paragraphs (3) through (7) of section 11(B)(b) of
18 the Export Administration Act of 1979 (50 U.S.C.
19 4612(b)), the President may only waive the applica-
20 tion of sanctions under such section with respect to
21 Saudi Arabia if that country is verifiably determined
22 to no longer possess an item designated under Cat-
23 egory I of the MTCR Annex received during the pre-
24 vious 3 fiscal years.

1 (3) FORM OF REPORT.—The determination re-
2 quired under paragraph (1) shall be unclassified and
3 include a classified annex.

4 (e) PROHIBITION ON UNITED STATES ARMS SALES
5 TO SAUDI ARABIA IF IT IMPORTS NUCLEAR TECHNOLOGY
6 WITHOUT SAFEGUARDS.—

7 (1) IN GENERAL.—The United States shall not
8 sell, transfer, or authorize licenses for export of any
9 item designated under Category III, IV, VII, or VIII
10 on the United States Munitions List pursuant to
11 section 38(a)(1) of the Arms Export Control Act (22
12 U.S.C. 2778(a)(1)) to Saudi Arabia, other than
13 ground-based missile defense systems, if Saudi Ara-
14 bia has, during any of the previous 3 fiscal years—

15 (A) knowingly imported any item classified
16 as “plants for the separation of isotopes of ura-
17 nium” or “plants for the reprocessing of irradi-
18 ated nuclear reactor fuel elements” under Part
19 110 of the Nuclear Regulatory Commission ex-
20 port licensing authority; or

21 (B) engaged in nuclear cooperation related
22 to the construction of any nuclear-related fuel
23 cycle facility or activity that has not been noti-
24 fied to the IAEA and would be subject to com-

1 plementary access if an Additional Protocol was
2 in force.

3 (2) WAIVER.—The Secretary of State may
4 waive the prohibition under paragraph (1) with re-
5 spect to a foreign country if the Secretary submits
6 to the appropriate committees of Congress a written
7 certification that contains a determination, and any
8 relevant documentation on which the determination
9 is based, that Saudi Arabia—

10 (A) has brought into force an Additional
11 Protocol to the IAEA Comprehensive Safe-
12 guards Agreement based on the model described
13 in IAEA INFCIRC/540;

14 (B) has concluded a civilian nuclear co-
15 operation agreement with the United States
16 under section 123 of the Atomic Energy Act of
17 1954 (42 U.S.C. 2153) or another supplier that
18 prohibits the enrichment of uranium or separa-
19 tion of plutonium on its own territory; and

20 (C) has rescinded its Small Quantities Pro-
21 tocol and is not found by the IAEA Board of
22 Governors to be in noncompliance with its Com-
23 prehensive Safeguards Agreement.

24 (3) RULE OF CONSTRUCTION.—Nothing in this
25 section may be construed as superseding the obliga-

1 tion of the President under section 502B(a)(2) or
2 section 620I(a) of the Foreign Assistance Act of
3 1961 (22 U.S.C. 2304(a)(2), 22 U.S.C. 2378–1(a)),
4 respectively, to not furnish security assistance to
5 Saudi Arabia or any country if the Government of
6 Saudi Arabia—

7 (A) engages in a consistent pattern of
8 gross violations of internationally recognized
9 human rights; or

10 (B) prohibits or otherwise restricts, di-
11 rectly or indirectly, the transport or delivery of
12 United States humanitarian assistance.

13 (f) MIDDLE EAST NONPROLIFERATION STRATEGY.—

14 (1) IN GENERAL.—Beginning with the first re-
15 port published after the date of the enactment of
16 this Act, the Secretary of State and the Secretary of
17 Energy, in consultation with the Director of Na-
18 tional Intelligence, shall provide the appropriate
19 committees of Congress, as an appendix to the Re-
20 port on the Adherence to and Compliance with Arms
21 Control, Nonproliferation, and Disarmament Agree-
22 ments and Commitments, a report on MTCR compli-
23 ance and a United States strategy to prevent the
24 spread of nuclear weapons and missiles in the Mid-
25 dle East.

1 (2) ELEMENTS.—The report required under
2 paragraph (1) shall include the following elements:

3 (A) An assessment of China’s compliance,
4 during the previous fiscal year, with its Novem-
5 ber 2000 commitment to abide by the MTCR
6 and United States diplomatic efforts to address
7 noncompliance.

8 (B) A description of every foreign person
9 that, during the previous fiscal year, engaged in
10 the export, transfer, or trade of MTCR items to
11 a country that is a non-MTCR adherent, and a
12 description of the sanctions the President im-
13 posed pursuant to section 11B(b) of the Export
14 Administration Act of 1979 (50 U.S.C.
15 4612(b)).

16 (C) A detailed strategy to prevent the pro-
17 liferation of ballistic missile and sensitive nu-
18 clear technology in the Middle East and North
19 Africa from China and other foreign countries,
20 including the following elements:

21 (i) An assessment of the proliferation
22 risks associated with concluding or renew-
23 ing a civilian nuclear cooperation “123”
24 agreement with any country in the Middle-
25 East and North Africa and the risks of

1 such if that same equipment and tech-
2 nology is sourced from a foreign state.

3 (ii) An update on United States bilat-
4 eral and multilateral diplomatic actions to
5 commence negotiations on a Weapons of
6 Mass Destruction Free Zone (WMDFZ)
7 since the 2015 Nuclear Nonproliferation
8 Treaty Review Conference.

9 (iii) A description of United States
10 Government efforts to achieve global ad-
11 herence and compliance with the Nuclear
12 Suppliers Group, MTCR, and the 2002
13 International Code of Conduct against Bal-
14 listic Missile Proliferation guidelines.

15 (D) An account of the briefings to the ap-
16 propriate committees of Congress in the report-
17 ing period detailing negotiations on any new or
18 renewed civilian nuclear cooperation “123”
19 agreement with any country consistent with the
20 intent of the Atomic Energy Act of 1954 (42
21 U.S.C. 2011 et seq.).

22 (3) FORM OF REPORT.—The report required
23 under paragraph (1) shall be unclassified and in-
24 clude a classified annex.