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1ST SESSION

S. 1657

To impose sanctions with respect to the People’s Republic of China in relation to activities in the South China Sea and the East China Sea, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 17, 2021

Mr. RUBIO (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions with respect to the People’s Republic of China in relation to activities in the South China Sea and the East China Sea, 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 “South China Sea and
5 East China Sea Sanctions Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ACCOUNT; CORRESPONDENT ACCOUNT; PAY-
9 ABLE-THROUGH ACCOUNT.—The terms “account”,

1 “correspondent account”, and “payable-through ac-
2 count” have the meanings given those terms in sec-
3 tion 5318A of title 31, United States Code.

4 (2) ALIEN.—The term “alien” has the meaning
5 given that term in section 101(a) of the Immigration
6 and Nationality Act (8 U.S.C. 1101(a)).

7 (3) APPROPRIATE COMMITTEES OF CON-
8 GRESS.—The term “appropriate committees of Con-
9 gress” means—

10 (A) the Committee on Foreign Relations,
11 the Committee on Armed Services, the Com-
12 mittee on Banking, Housing, and Urban Af-
13 fairs, and the Select Committee on Intelligence
14 of the Senate; and

15 (B) the Committee on Foreign Affairs, the
16 Committee on Armed Services, the Committee
17 on Financial Services, and the Permanent Se-
18 lect Committee on Intelligence of the House of
19 Representatives.

20 (4) CHINESE PERSON.—The term “Chinese
21 person” means—

22 (A) an individual who is a citizen or na-
23 tional of the People’s Republic of China; or

24 (B) an entity organized under the laws of
25 the People’s Republic of China or otherwise

1 subject to the jurisdiction of the Government of
2 the People’s Republic of China.

3 (5) FINANCIAL INSTITUTION.—The term “fi-
4 nancial institution” means a financial institution
5 specified in subparagraph (A), (B), (C), (D), (E),
6 (F), (G), (H), (I), (J), (K), (M), (N), (P), (R), (T),
7 (Y), or (Z) of section 5312(a)(2) of title 31, United
8 States Code.

9 (6) FOREIGN FINANCIAL INSTITUTION.—The
10 term “foreign financial institution” has the meaning
11 given that term in section 1010.605 of title 31, Code
12 of Federal Regulations (or any corresponding similar
13 regulation or ruling).

14 (7) KNOWINGLY.—The term “knowingly”, with
15 respect to conduct, a circumstance, or a result,
16 means that a person has actual knowledge, or should
17 have known, of the conduct, the circumstance, or the
18 result.

19 (8) PERSON.—The term “person” means any
20 individual or entity.

21 (9) UNITED STATES PERSON.—The term
22 “United States person” means—

23 (A) a United States citizen or an alien law-
24 fully admitted for permanent residence to the
25 United States; or

1 (B) an entity organized under the laws of
2 the United States or of any jurisdiction within
3 the United States, including a foreign branch of
4 such an entity.

5 **SEC. 3. SANCTIONS WITH RESPECT TO CHINESE PERSONS**
6 **RESPONSIBLE FOR CHINA'S ACTIVITIES IN**
7 **THE SOUTH CHINA SEA AND THE EAST CHINA**
8 **SEA.**

9 (a) INITIAL IMPOSITION OF SANCTIONS.—On and
10 after the date that is 60 days after the date of the enact-
11 ment of this Act, the President shall impose the sanctions
12 described in subsection (b) with respect to—

13 (1) any Chinese person that contributes to con-
14 struction or development projects, including land
15 reclamation, island-making, lighthouse construction,
16 building of base stations for mobile communications
17 services, building of electricity and fuel supply facili-
18 ties, or civil infrastructure projects, or contributes to
19 the ongoing supply of new settlements resulting from
20 such development projects, in areas of the South
21 China Sea contested by one or more members of the
22 Association of Southeast Asian Nations;

23 (2) any Chinese person that is responsible for
24 or complicit in, or has engaged in, directly or indi-
25 rectly, actions or policies that threaten the peace, se-

1 curity, or stability of areas of the South China Sea
 2 contested by one or more members of the Associa-
 3 tion of Southeast Asian Nations or areas of the East
 4 China Sea administered by Japan or the Republic of
 5 Korea, including through the use of vessels and air-
 6 craft to impose the sovereignty of the People's Re-
 7 public of China in those areas;

8 (3) any Chinese person that engages, or at-
 9 tempts to engage, in an activity or transaction that
 10 materially contributes to, or poses a risk of materi-
 11 ally contributing to, an activity described in para-
 12 graph (1) or (2); and

13 (4) any person that—

14 (A) is owned or controlled by a person de-
 15 scribed in paragraph (1), (2), or (3);

16 (B) is acting for or on behalf of such a
 17 person; or

18 (C) provides, or attempts to provide—

19 (i) financial, material, technological,
 20 or other support to a person described in
 21 paragraph (1), (2), or (3); or

22 (ii) goods or services in support of an
 23 activity described in paragraph (1), (2), or
 24 (3).

25 (b) SANCTIONS DESCRIBED.—

1 (1) BLOCKING OF PROPERTY.—The President
2 shall block and prohibit, in accordance with the
3 International Emergency Economic Powers Act (50
4 U.S.C. 1701 et seq.), all transactions in all property
5 and interests in property of any person subject to
6 subsection (a) if such property and interests in prop-
7 erty are in the United States, come within the
8 United States, or are or come within the possession
9 or control of a United States person.

10 (2) EXCLUSION FROM UNITED STATES.—The
11 Secretary of State shall deny a visa to, and the Sec-
12 retary of Homeland Security shall exclude from the
13 United States, any person subject to subsection (a)
14 that is an alien.

15 (3) CURRENT VISA REVOKED.—The issuing
16 consular officer, the Secretary of State, or the Sec-
17 retary of Homeland Security (or a designee of one
18 of such Secretaries) shall revoke any visa or other
19 entry documentation issued to any person subject to
20 subsection (a) that is an alien, regardless of when
21 issued. The revocation shall take effect immediately
22 and shall automatically cancel any other valid visa or
23 entry documentation that is in the alien's possession.

24 (c) EXCEPTIONS; PENALTIES.—

1 (1) INAPPLICABILITY OF NATIONAL EMER-
2 GENCY REQUIREMENT.—The requirements of section
3 202 of the International Emergency Economic Pow-
4 ers Act (50 U.S.C. 1701) shall not apply for pur-
5 poses of subsection (b)(1).

6 (2) COMPLIANCE WITH UNITED NATIONS HEAD-
7 QUARTERS AGREEMENT.—Paragraphs (2) and (3) of
8 subsection (b) shall not apply if admission of an
9 alien to the United States is necessary to permit the
10 United States to comply with the Agreement regard-
11 ing the Headquarters of the United Nations, signed
12 at Lake Success, June 26, 1947, and entered into
13 force, November 21, 1947, between the United Na-
14 tions and the United States.

15 (3) PENALTIES.—The penalties provided for in
16 subsections (b) and (c) of section 206 of the Inter-
17 national Emergency Economic Powers Act (50
18 U.S.C. 1705) shall apply to a person that violates,
19 attempts to violate, conspires to violate, or causes a
20 violation of regulations prescribed under subsection
21 (b)(1) to the same extent that such penalties apply
22 to a person that commits an unlawful act described
23 in subsection (a) of such section 206.

24 (d) ADDITIONAL IMPOSITION OF SANCTIONS.—

1 (1) IN GENERAL.—The President shall prohibit
2 the opening, and prohibit or impose strict conditions
3 on the maintaining, in the United States of a cor-
4 respondent account or a payable-through account by
5 a foreign financial institution that the President de-
6 termines knowingly, on or after the date that is 60
7 days after the date of the enactment of this Act,
8 conducts or facilitates a significant financial trans-
9 action for a person subject to subsection (a) if the
10 Director of National Intelligence determines that the
11 Government of the People’s Republic of China has—

12 (A) declared an air defense identification
13 zone over any part of the South China Sea;

14 (B) initiated reclamation work at another
15 disputed location in the South China Sea, such
16 as at Scarborough Shoal;

17 (C) seized control of Second Thomas
18 Shoal;

19 (D) deployed surface-to-air missiles to any
20 of the artificial islands the People’s Republic of
21 China has built in the Spratly Island chain, in-
22 cluding Fiery Cross, Mischief, or Subi Reefs;

23 (E) established territorial baselines around
24 the Spratly Island chain;

1 (F) repeated harassment of Philippine ves-
 2 sels; or

3 (G) repeated provocative actions against
 4 the Japanese Coast Guard or Maritime Self-De-
 5 fense Force or United States forces in the East
 6 China Sea.

7 (2) REPORT.—

8 (A) IN GENERAL.—The determination of
 9 the Director of National Intelligence referred to
 10 in paragraph (1) shall be submitted in a report
 11 to the President and the appropriate commit-
 12 tees of Congress.

13 (B) FORM OF REPORT.—The report re-
 14 quired by subparagraph (A) shall be submitted
 15 in unclassified form, but may include a classi-
 16 fied annex.

17 **SEC. 4. DETERMINATIONS AND REPORT ON CHINESE COM-**
 18 **PANIES ACTIVE IN THE SOUTH CHINA SEA**
 19 **AND THE EAST CHINA SEA.**

20 (a) IN GENERAL.—The Secretary of State shall sub-
 21 mit to the appropriate committees of Congress a report
 22 that identifies each Chinese person the Secretary deter-
 23 mines is engaged in the activities described in section 3(a).

24 (b) CONSIDERATION.—In preparing the report re-
 25 quired under subsection (a), the Secretary shall make spe-

1 cific findings with respect to whether each of the following
2 persons is involved in the activities described in section
3 3(a):

4 (1) CCCC Tianjin Dredging Co., Ltd.

5 (2) CCCC Dredging (Group) Company, Ltd.

6 (3) China Communications Construction Com-
7 pany (CCCC), Ltd.

8 (4) China Petroleum Corporation (Sinopec
9 Group).

10 (5) China Mobile.

11 (6) China Telecom.

12 (7) China Southern Power Grid.

13 (8) CNFC Guangzhou Harbor Engineering
14 Company.

15 (9) Zhanjiang South Project Construction Bu-
16 reau.

17 (10) Hubei Jiangtian Construction Group.

18 (11) China Harbour Engineering Company
19 (CHEC).

20 (12) Guangdong Navigation Group (GNG)
21 Ocean Shipping.

22 (13) Shanghai Leading Energy Shipping.

23 (14) China National Offshore Oil Corporation
24 (CNOOC).

25 (15) China Oilfield Services Limited (COSL).

1 (16) China Precision Machinery Import/Export
2 Corporation (CPMIEC).

3 (17) China Aerospace Science and Industry
4 Corporation (CASIC).

5 (18) Aviation Industry Corporation of China
6 (AVIC).

7 (19) Shenyang Aircraft Corporation.

8 (20) Shaanxi Aircraft Corporation.

9 (21) China Ocean Shipping (Group) Company
10 (COSCO).

11 (22) China Southern Airlines.

12 (23) Zhan Chaoying.

13 (24) Sany Group.

14 (25) Chinese persons affiliated with any of the
15 entities specified in paragraphs (1) through (24).

16 (c) SUBMISSION AND FORM.—

17 (1) SUBMISSION.—The report required by sub-
18 section (a) shall be submitted not later than 60 days
19 after the date of the enactment of this Act and every
20 180 days thereafter until the date that is 3 years
21 after such date of enactment.

22 (2) FORM.—The report required by subsection
23 (a) shall be submitted in unclassified form, but may
24 include a classified annex if the Secretary deter-

1 mines it is necessary for the national security inter-
2 ests of the United States to do so.

3 (3) PUBLIC AVAILABILITY.—The Secretary
4 shall publish the unclassified part of the report re-
5 quired by subsection (a) on a publicly available
6 website of the Department of State.

7 **SEC. 5. PROHIBITION AGAINST DOCUMENTS PORTRAYING**
8 **THE SOUTH CHINA SEA OR THE EAST CHINA**
9 **SEA AS PART OF CHINA.**

10 The Government Publishing Office may not publish
11 any map, document, record, electronic resource, or other
12 paper of the United States (other than materials relating
13 to hearings held by committees of Congress or internal
14 work product of a Federal agency) portraying or otherwise
15 indicating that it is the position of the United States that
16 the territory or airspace in the South China Sea contested
17 by one or more members of the Association of Southeast
18 Asian Nations or the territory or airspace of areas of the
19 East China Sea administered by Japan or the Republic
20 of Korea is part of the territory or airspace of the People's
21 Republic of China.

1 **SEC. 6. PROHIBITION ON FACILITATING CERTAIN INVEST-**
2 **MENTS IN THE SOUTH CHINA SEA OR THE**
3 **EAST CHINA SEA.**

4 (a) IN GENERAL.—No United States person may
5 take any action to approve, facilitate, finance, or guar-
6 antee any investment, provide insurance, or underwriting
7 in the South China Sea or the East China Sea that in-
8 volves any person with respect to which sanctions are im-
9 posed under section 3(a).

10 (b) ENFORCEMENT.—The Secretary of the Treasury,
11 in consultation with the Secretary of State, is authorized
12 to take such actions, including the promulgation of such
13 rules and regulations, as may be necessary to carry out
14 the purposes of this section.

15 (c) PENALTIES.—The penalties provided for in sub-
16 sections (b) and (c) of section 206 of the International
17 Emergency Economic Powers Act (50 U.S.C. 1705) shall
18 apply to a person that violates, attempts to violate, con-
19 spires to violate, or causes a violation of regulations pre-
20 scribed under this section to the same extent that such
21 penalties apply to a person that commits an unlawful act
22 described in subsection (a) of such section 206.

23 (d) EXCEPTION.—Subsection (a) shall not apply with
24 respect to humanitarian assistance, disaster assistance, or
25 emergency food assistance.

1 **SEC. 7. DEPARTMENT OF JUSTICE AFFIRMATION OF NON-**
2 **RECOGNITION OF ANNEXATION.**

3 In any matter before any United States court, upon
4 request of the court or any party to the matter, the Attor-
5 ney General shall affirm the United States policy of not
6 recognizing the de jure or de facto sovereignty of the Peo-
7 ple's Republic of China over territory or airspace contested
8 by one or more members of the Association of Southeast
9 Asian Nations in the South China Sea or the territory or
10 airspace of areas of the East China Sea administered by
11 Japan or the Republic of Korea.

12 **SEC. 8. NON-RECOGNITION OF CHINESE SOVEREIGNTY**
13 **OVER THE SOUTH CHINA SEA OR THE EAST**
14 **CHINA SEA.**

15 (a) UNITED STATES ARMED FORCES.—The Sec-
16 retary of Defense may not take any action, including any
17 movement of aircraft or vessels that implies recognition
18 of the sovereignty of the People's Republic of China over
19 territory or airspace contested by one or more members
20 of the Association of Southeast Asian Nations in the
21 South China Sea or the territory or airspace of areas of
22 the East China Sea administered by Japan or the Repub-
23 lic of Korea.

24 (b) UNITED STATES FLAGGED VESSELS.—No vessel
25 that is issued a certificate of documentation under chapter
26 121 of title 46, United States Code, may take any action

1 that implies recognition of the sovereignty of the People's
 2 Republic of China over territory or airspace contested by
 3 one or more members of the Association of Southeast
 4 Asian Nations in the South China Sea or the territory or
 5 airspace of areas of the East China Sea administered by
 6 Japan or the Republic of Korea.

7 (c) UNITED STATES AIRCRAFT.—No aircraft oper-
 8 ated by an air carrier that holds an air carrier certificate
 9 issued under chapter 411 of title 49, United States Code,
 10 may take any action that implies recognition of the sov-
 11 ereignty of the People's Republic of China over territory
 12 or airspace contested by one or more members of the Asso-
 13 ciation of Southeast Asian Nations in the South China Sea
 14 or the territory or airspace of areas of the East China
 15 Sea administered by Japan or the Republic of Korea.

16 **SEC. 9. PROHIBITION ON CERTAIN ASSISTANCE TO COUN-**
 17 **TRIES THAT RECOGNIZE CHINESE SOV-**
 18 **EREIGNTY OVER THE SOUTH CHINA SEA OR**
 19 **THE EAST CHINA SEA.**

20 (a) PROHIBITION.—Except as provided by subsection
 21 (c) or (d), no amounts may be obligated or expended to
 22 provide foreign assistance to the government of any coun-
 23 try identified in a report required by subsection (b).

24 (b) REPORT REQUIRED.—

1 (1) IN GENERAL.—Not later than 60 days after
2 the date of the enactment of this Act, and every 180
3 days thereafter until the date that is 3 years after
4 such date of enactment, the Secretary of State shall
5 submit to the appropriate committees of Congress a
6 report identifying each country that the Secretary
7 determines recognizes, after such date of enactment,
8 the sovereignty of the People’s Republic of China
9 over territory or airspace contested by one or more
10 members of the Association of Southeast Asian Na-
11 tions in the South China Sea or the territory or air-
12 space of areas of the East China Sea administered
13 by Japan or the Republic of Korea.

14 (2) FORM.—The report required by paragraph
15 (1) shall be submitted in unclassified form, but may
16 include a classified annex if the Secretary of State
17 determines it is necessary for the national security
18 interests of the United States to do so.

19 (3) PUBLIC AVAILABILITY.—The Secretary of
20 State shall publish the unclassified part of the report
21 required by paragraph (1) on a publicly available
22 website of the Department of State.

23 (c) EXCEPTION.—This section shall not apply with
24 respect to Taiwan, humanitarian assistance, disaster as-
25 sistance, emergency food assistance, or the Peace Corps.

1 (d) WAIVER.—The President may waive the applica-
2 tion of subsection (a) with respect to the government of
3 a country if the President determines that the waiver is
4 in the national interests of the United States.

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