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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, Mr. CARDIN, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

OCTOBER 28, 2021

Reported by Mr. MENENDEZ, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ~~ACCOUNT, CORRESPONDENT ACCOUNT, PAY-~~
 4 ~~ABLE-THROUGH ACCOUNT.~~—The terms “account”,
 5 “correspondent account”, and “payable-through ac-
 6 count” have the meanings given those terms in sec-
 7 tion 5318A of title 31, United States Code.

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

11 (3) ~~APPROPRIATE COMMITTEES OF CON-~~
 12 ~~GRESS.~~—The term “appropriate committees of Con-
 13 gress” means—

14 (A) the Committee on Foreign Relations,
 15 the Committee on Armed Services, the Com-
 16 mittee on Banking, Housing, and Urban Af-
 17 fairs, and the Select Committee on Intelligence
 18 of the Senate; and

19 (B) the Committee on Foreign Affairs, the
 20 Committee on Armed Services, the Committee
 21 on Financial Services, and the Permanent Se-
 22 lect Committee on Intelligence of the House of
 23 Representatives.

24 (4) ~~CHINESE PERSON.~~—The term “Chinese
 25 person” means—

1 (A) an individual who is a citizen or na-
2 tional of the People's Republic of China; or

3 (B) an entity organized under the laws of
4 the People's Republic of China or otherwise
5 subject to the jurisdiction of the Government of
6 the People's Republic of China.

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

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

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

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

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

3 (A) a United States citizen or an alien law-
4 fully admitted for permanent residence to the
5 United States; or

6 (B) an entity organized under the laws of
7 the United States or of any jurisdiction within
8 the United States, including a foreign branch of
9 such an entity.

10 **SEC. 3. SANCTIONS WITH RESPECT TO CHINESE PERSONS**
11 **RESPONSIBLE FOR CHINA’S ACTIVITIES IN**
12 **THE SOUTH CHINA SEA AND THE EAST CHINA**
13 **SEA.**

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

18 (1) any Chinese person that contributes to con-
19 struction or development projects, including land
20 reclamation, island-making, lighthouse construction,
21 building of base stations for mobile communications
22 services, building of electricity and fuel supply facili-
23 ties, or civil infrastructure projects, or contributes to
24 the ongoing supply of new settlements resulting from
25 such development projects, in areas of the South

1 China Sea contested by one or more members of the
2 Association of Southeast Asian Nations;

3 ~~(2)~~ any Chinese person that is responsible for
4 or complicit in, or has engaged in, directly or indi-
5 rectly, actions or policies that threaten the peace, se-
6 curity, or stability of areas of the South China Sea
7 contested by one or more members of the Associa-
8 tion of Southeast Asian Nations or areas of the East
9 China Sea administered by Japan or the Republic of
10 Korea, including through the use of vessels and air-
11 craft to impose the sovereignty of the People's Re-
12 public of China in those areas;

13 ~~(3)~~ any Chinese person that engages, or at-
14 tempts to engage, in an activity or transaction that
15 materially contributes to, or poses a risk of materi-
16 ally contributing to, an activity described in para-
17 graph (1) or (2); and

18 ~~(4)~~ any person that—

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

21 ~~(B)~~ is acting for or on behalf of such a
22 person; or

23 ~~(C)~~ provides, or attempts to provide—

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

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

(b) SANCTIONS DESCRIBED.—

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

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

(3) CURRENT VISA REVOKED.—The issuing
consular officer, the Secretary of State, or the Sec-
retary of Homeland Security (or a designee of one
of such Secretaries) shall revoke any visa or other

entry documentation issued to any person subject to subsection (a) that is an alien, regardless of when issued. The revocation shall take effect immediately and shall automatically cancel any other valid visa or entry documentation that is in the alien's possession.

~~(c) EXCEPTIONS; PENALTIES.—~~

~~(1) INAPPLICABILITY OF NATIONAL EMERGENCY REQUIREMENT.—~~The requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) shall not apply for purposes of subsection (b)(1).

~~(2) COMPLIANCE WITH UNITED NATIONS HEADQUARTERS AGREEMENT.—~~Paragraphs (2) and (3) of subsection (b) shall not apply if admission of an alien to the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success, June 26, 1947, and entered into force, November 21, 1947, between the United Nations and the United States.

~~(3) PENALTIES.—~~The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a

1 violation of regulations prescribed under subsection
 2 (b)(1) to the same extent that such penalties apply
 3 to a person that commits an unlawful act described
 4 in subsection (a) of such section 206.

5 (d) ADDITIONAL IMPOSITION OF SANCTIONS.—

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

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

19 (B) initiated reclamation work at another
 20 disputed location in the South China Sea, such
 21 as at Scarborough Shoal;

22 (C) seized control of Second Thomas
 23 Shoal;

24 (D) deployed surface-to-air missiles to any
 25 of the artificial islands the People’s Republic of

1 China has built in the Spratly Island chain, in-
 2 cluding Fiery Cross, Mischief, or Subi Reefs;

3 ~~(E)~~ established territorial baselines around
 4 the Spratly Island chain;

5 ~~(F)~~ repeated harassment of Philippine ves-
 6 sels; or

7 ~~(G)~~ repeated provocative actions against
 8 the Japanese Coast Guard or Maritime Self-De-
 9 fense Force or United States forces in the East
 10 China Sea.

11 ~~(2) REPORT.—~~

12 ~~(A) IN GENERAL.—~~The determination of
 13 the Director of National Intelligence referred to
 14 in paragraph (1) shall be submitted in a report
 15 to the President and the appropriate commit-
 16 tees of Congress.

17 ~~(B) FORM OF REPORT.—~~The report re-
 18 quired by subparagraph (A) shall be submitted
 19 in unclassified form, but may include a classi-
 20 fied annex.

21 **SEC. 4. DETERMINATIONS AND REPORT ON CHINESE COM-**
 22 **PANIES ACTIVE IN THE SOUTH CHINA SEA**
 23 **AND THE EAST CHINA SEA.**

24 ~~(a) IN GENERAL.—~~The Secretary of State shall sub-
 25 mit to the appropriate committees of Congress a report

1 that identifies each Chinese person the Secretary deter-
 2 mines is engaged in the activities described in section 3(a).

3 (b) ~~CONSIDERATION.~~—In preparing the report re-
 4 quired under subsection (a), the Secretary shall make spe-
 5 cific findings with respect to whether each of the following
 6 persons is involved in the activities described in section
 7 3(a):

8 (1) ~~CCCC Tianjin Dredging Co., Ltd.~~

9 (2) ~~CCCC Dredging (Group) Company, Ltd.~~

10 (3) ~~China Communications Construction Com-~~
 11 ~~pany (CCCC), Ltd.~~

12 (4) ~~China Petroleum Corporation (Sinopee~~
 13 ~~Group).~~

14 (5) ~~China Mobile.~~

15 (6) ~~China Telecom.~~

16 (7) ~~China Southern Power Grid.~~

17 (8) ~~CNFC Guangzhou Harbor Engineering~~
 18 ~~Company.~~

19 (9) ~~Zhanjiang South Project Construction Bu-~~
 20 ~~reau.~~

21 (10) ~~Hubei Jiangtian Construction Group.~~

22 (11) ~~China Harbour Engineering Company~~
 23 ~~(CHEC).~~

24 (12) ~~Guangdong Navigation Group (GNG)~~
 25 ~~Ocean Shipping.~~

1 ~~(13) Shanghai Leading Energy Shipping.~~

2 ~~(14) China National Offshore Oil Corporation~~
 3 ~~(CNOOC).~~

4 ~~(15) China Oilfield Services Limited (COSL).~~

5 ~~(16) China Precision Machinery Import/Export~~
 6 ~~Corporation (CPMIEC).~~

7 ~~(17) China Aerospace Science and Industry~~
 8 ~~Corporation (CASIC).~~

9 ~~(18) Aviation Industry Corporation of China~~
 10 ~~(AVIC).~~

11 ~~(19) Shenyang Aircraft Corporation.~~

12 ~~(20) Shaanxi Aircraft Corporation.~~

13 ~~(21) China Ocean Shipping (Group) Company~~
 14 ~~(COSCO).~~

15 ~~(22) China Southern Airlines.~~

16 ~~(23) Zhan Chaoying.~~

17 ~~(24) Sany Group.~~

18 ~~(25) Chinese persons affiliated with any of the~~
 19 ~~entities specified in paragraphs (1) through (24).~~

20 ~~(c) SUBMISSION AND FORM.—~~

21 ~~(1) SUBMISSION.—The report required by sub-~~
 22 ~~section (a) shall be submitted not later than 60 days~~
 23 ~~after the date of the enactment of this Act and every~~
 24 ~~180 days thereafter until the date that is 3 years~~
 25 ~~after such date of enactment.~~

1 (2) FORM.—The report required by subsection
 2 (a) shall be submitted in unclassified form, but may
 3 include a classified annex if the Secretary deter-
 4 mines it is necessary for the national security inter-
 5 ests of the United States to do so.

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

10 **SEC. 5. PROHIBITION AGAINST DOCUMENTS PORTRAYING**
 11 **THE SOUTH CHINA SEA OR THE EAST CHINA**
 12 **SEA AS PART OF CHINA.**

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

5 **SECTION 1. SHORT TITLE.**

6 *This Act may be cited as the “South China Sea and*
 7 *East China Sea Sanctions Act of 2021”.*

8 **SEC. 2. SANCTIONS WITH RESPECT TO CHINESE PERSONS**

9 **RESPONSIBLE FOR CHINA’S ACTIVITIES IN**
 10 **THE SOUTH CHINA SEA AND THE EAST CHINA**
 11 **SEA.**

12 *(a) INITIAL IMPOSITION OF SANCTIONS.—On and after*
 13 *the date that is 120 days after the date of the enactment*
 14 *of this Act, the President may impose the sanctions de-*
 15 *scribed in subsection (b) with respect to any Chinese person,*
 16 *including any senior official of the Government of the Peo-*
 17 *ple’s Republic of China, that the President determines—*

18 *(1) is responsible for or significantly contributes*
 19 *to large-scale reclamation, construction, militariza-*
 20 *tion, or ongoing supply of outposts in disputed areas*
 21 *of the South China Sea;*

22 *(2) is responsible for or significantly contributes*
 23 *to, or has engaged in, directly or indirectly, actions,*
 24 *including the use of coercion, to inhibit another coun-*
 25 *try from protecting its sovereign rights to access off-*

1 *shore resources in the South China Sea, including in*
 2 *such country's exclusive economic zone, consistent*
 3 *with such country's rights and obligations under*
 4 *international law;*

5 *(3) is responsible for or complicit in, or has en-*
 6 *gaged in, directly or indirectly, actions that signifi-*
 7 *cantly threaten the peace, security, or stability of dis-*
 8 *puted areas of the South China Sea or areas of the*
 9 *East China Sea administered by Japan or the Repub-*
 10 *lic of Korea, including through the use of vessels and*
 11 *aircraft by the People's Republic of China to occupy*
 12 *or conduct extensive research or drilling activity in*
 13 *those areas;*

14 *(4) has materially assisted, sponsored, or pro-*
 15 *vided financial, material, or technological support*
 16 *for, or goods or services to, or in support of, any per-*
 17 *son subject to sanctions pursuant to paragraph (1),*
 18 *(2), or (3); or*

19 *(5) is owned or controlled by, or has acted for or*
 20 *on behalf of, directly or indirectly, any person subject*
 21 *to sanctions pursuant to paragraph (1), (2), or (3).*

22 *(b) SANCTIONS DESCRIBED.—The sanctions that may*
 23 *be imposed with respect to a person described in subsection*
 24 *(a) are the following:*

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

10 (2) *INELIGIBILITY FOR VISAS, ADMISSION, OR PA-*
 11 *ROLE.*—

12 (A) *VISAS, ADMISSION, OR PAROLE.*—*In the*
 13 *case of an alien, the alien may be—*

14 (i) *inadmissible to the United States;*

15 (ii) *ineligible to receive a visa or other*
 16 *documentation to enter the United States;*
 17 *and*

18 (iii) *otherwise ineligible to be admitted*
 19 *or paroled into the United States or to re-*
 20 *ceive any other benefit under the Immigra-*
 21 *tion and Nationality Act (8 U.S.C. 1101 et*
 22 *seq.).*

23 (B) *CURRENT VISAS REVOKED.*—

24 (i) *IN GENERAL.*—*An alien described*
 25 *in subparagraph (A) may be subject to rev-*

ocation of any visa or other entry documentation regardless of when the visa or other entry documentation is or was issued.

(ii) *IMMEDIATE EFFECT.*—A revocation under clause (i) may—

(I) take effect immediately; and

(II) cancel any other valid visa or entry documentation that is in the alien's possession.

(3) *EXCLUSION OF CORPORATE OFFICERS.*—The President may direct the Secretary of State to deny a visa to, and the Secretary of Homeland Security to exclude from the United States, any alien that the President determines is a corporate officer or principal of, or a shareholder with a controlling interest in, the person.

(4) *EXPORT SANCTION.*—The President may order the United States Government not to issue any specific license and not to grant any other specific permission or authority to export any goods or technology to the person under—

(A) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(B) any other statute that requires the prior review and approval of the United States Gov-

1 *ernment as a condition for the export or reexport*
 2 *of goods or services.*

3 (5) *INCLUSION ON ENTITY LIST.—The President*
 4 *may include the entity on the entity list maintained*
 5 *by the Bureau of Industry and Security of the De-*
 6 *partment of Commerce and set forth in Supplement*
 7 *No. 4 to part 744 of the Export Administration Regu-*
 8 *lations, for activities contrary to the national security*
 9 *or foreign policy interests of the United States.*

10 (6) *BAN ON INVESTMENT IN EQUITY OR DEBT OF*
 11 *SANCTIONED PERSON.—The President may, pursuant*
 12 *to such regulations or guidelines as the President may*
 13 *prescribe, prohibit any United States person from in-*
 14 *vesting in or purchasing equity or debt instruments*
 15 *of the person.*

16 (7) *BANKING TRANSACTIONS.—The President*
 17 *may, pursuant to such regulations as the President*
 18 *may prescribe, prohibit any transfers of credit or*
 19 *payments between financial institutions or by,*
 20 *through, or to any financial institution, to the extent*
 21 *that such transfers or payments are subject to the ju-*
 22 *risdiction of the United States and involve any inter-*
 23 *est of the person.*

24 (8) *CORRESPONDENT AND PAYABLE-THROUGH*
 25 *ACCOUNTS.—In the case of a foreign financial institu-*

tion, the President may prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by the foreign financial institution.

(c) *EXCEPTIONS.*—

(1) *INAPPLICABILITY OF NATIONAL EMERGENCY REQUIREMENT.*—The requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) shall not apply for purposes of subsection (b)(1).

(2) *EXCEPTION FOR INTELLIGENCE, LAW ENFORCEMENT, AND NATIONAL SECURITY ACTIVITIES.*—Sanctions under this section shall not apply to any authorized intelligence, law enforcement, or national security activities of the United States.

(3) *COMPLIANCE WITH UNITED NATIONS HEADQUARTERS AGREEMENT.*—Paragraphs (2) and (3) of subsection (b) shall not apply if admission of an alien to the United States is necessary to permit the United States to comply with the Agreement regarding the Headquarters of the United Nations, signed at Lake Success, June 26, 1947, and entered into force, November 21, 1947, between the United Nations and the United States.

1 (4) *EXCEPTION RELATING TO IMPORTATION OF*
2 *GOODS.—*

3 (A) *IN GENERAL.—The authority or a re-*
4 *quirement to impose sanctions under this section*
5 *shall not include the authority or a requirement*
6 *to impose sanctions on the importation of goods.*

7 (B) *GOOD DEFINED.—In this paragraph,*
8 *the term “good” means any article, natural or*
9 *manmade substance, material, supply, or manu-*
10 *factured product, including inspection and test*
11 *equipment, and excluding technical data.*

12 (d) *IMPLEMENTATION; PENALTIES.—*

13 (1) *IMPLEMENTATION.—The President may exer-*
14 *cise all authorities provided under sections 203 and*
15 *205 of the International Emergency Economic Powers*
16 *Act (50 U.S.C. 1702 and 1704) to carry out this sec-*
17 *tion.*

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

1 that commits an unlawful act described in subsection
2 (a) of such section 206.

3 (e) *DEFINITIONS.*—*In this section:*

4 (1) *ACCOUNT; CORRESPONDENT ACCOUNT; PAY-*
5 *ABLE-THROUGH ACCOUNT.*—*The terms “account”,*
6 *“correspondent account”, and “payable-through ac-*
7 *count” have the meanings given those terms in section*
8 *5318A of title 31, United States Code.*

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

12 (3) *CHINESE PERSON.*—*The term “Chinese per-*
13 *son” means—*

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

16 (B) *an entity organized under the laws of*
17 *the People’s Republic of China or otherwise sub-*
18 *ject to the jurisdiction of the Government of the*
19 *People’s Republic of China.*

20 (4) *FINANCIAL INSTITUTION.*—*The term “finan-*
21 *cial institution” means a financial institution speci-*
22 *fied in subparagraph (A), (B), (C), (D), (E), (F), (G),*
23 *(H), (I), (J), (K), (M), (N), (P), (R), (T), (Y), or (Z)*
24 *of section 5312(a)(2) of title 31, United States Code.*

1 (5) *FOREIGN FINANCIAL INSTITUTION*.—*The term*
 2 *“foreign financial institution” has the meaning given*
 3 *that term in section 1010.605 of title 31, Code of Fed-*
 4 *eral Regulations (or any corresponding similar regu-*
 5 *lation or ruling).*

6 (6) *PERSON*.—*The term “person” means any in-*
 7 *dividual or entity.*

8 (7) *UNITED STATES PERSON*.—*The term “United*
 9 *States person” means—*

10 (A) *a United States citizen or an alien law-*
 11 *fully admitted for permanent residence to the*
 12 *United States;*

13 (B) *an entity organized under the laws of*
 14 *the United States or of any jurisdiction within*
 15 *the United States, including a foreign branch of*
 16 *such an entity; or*

17 (C) *any person in the United States.*

18 **SEC. 3. SENSE OF CONGRESS REGARDING PORTRAYALS OF**
 19 **THE SOUTH CHINA SEA OR THE EAST CHINA**
 20 **SEA AS PART OF CHINA.**

21 *It is the sense of Congress that the Government Pub-*
 22 *lishing Office should not publish any map, document,*
 23 *record, electronic resource, or other paper of the United*
 24 *States (other than materials relating to hearings held by*
 25 *committees of Congress or internal work product of a Fed-*

1 eral agency) portraying or otherwise indicating that it is
 2 the position of the United States that the territory or air-
 3 space in the South China Sea that is disputed among two
 4 or more parties or the territory or airspace of areas admin-
 5 istered by Japan or the Republic of Korea, including in
 6 the East China Sea, is part of the territory or airspace of
 7 the People's Republic of China.

8 **SEC. 4. SENSE OF CONGRESS ON 2016 PERMANENT COURT**
 9 **OF ARBITRATION'S TRIBUNAL RULING ON AR-**
 10 **BITRATION CASE BETWEEN PHILIPPINES AND**
 11 **PEOPLE'S REPUBLIC OF CHINA.**

12 (a) *FINDING.*—Congress finds that on July 12, 2016,
 13 a tribunal of the Permanent Court of Arbitration found in
 14 the arbitration case between the Philippines and the Peo-
 15 ple's Republic of China under the United Nations Conven-
 16 tion on the Law of the Sea that the People's Republic of
 17 China's claims, including those to offshore resources and
 18 “historic rights”, were unlawful, and that the tribunal's
 19 ruling is final and legally binding on both parties.

20 (b) *SENSE OF CONGRESS.*—It is the sense of Congress
 21 that—

22 (1) the United States and the international com-
 23 munity should reject the unlawful claims of the Peo-
 24 ple's Republic of China within the exclusive economic
 25 zone or on the continental shelf of the Philippines, as

1 *well as the maritime claims of the People's Republic*
2 *of China beyond a 12-nautical-mile territorial sea*
3 *from the islands it claims in the South China Sea;*

4 *(2) the provocative behavior of the People's Re-*
5 *public of China, including coercing other countries*
6 *with claims in the South China Sea and preventing*
7 *those countries from accessing offshore resources, un-*
8 *dermines peace and stability in the South China Sea;*

9 *(3) the international community should—*

10 *(A) support and adhere to the ruling de-*
11 *scribed in subsection (a) in compliance with*
12 *international law; and*

13 *(B) take all necessary steps to support the*
14 *rules-based international order in the South*
15 *China Sea; and*

16 *(4) all claimants in the South China Sea*
17 *should—*

18 *(A) refrain from engaging in destabilizing*
19 *activities, including illegal occupation or efforts*
20 *to unlawfully assert control over disputed claims;*

21 *(B) ensure that disputes are managed with-*
22 *out intimidation, coercion, or force;*

23 *(C) clarify or adjust claims in accordance*
24 *with international law; and*

1 (D) uphold the principle that territorial
 2 and maritime claims, including over territorial
 3 waters or territorial seas, must be derived from
 4 land features and otherwise comport with inter-
 5 national law.

6 **SEC. 5. REPORT ON COUNTRIES THAT RECOGNIZE CHINESE**
 7 **SOVEREIGNTY OVER THE SOUTH CHINA SEA**
 8 **OR THE EAST CHINA SEA.**

9 (a) *IN GENERAL.*—Not later than 60 days after the
 10 date of the enactment of this Act, and annually thereafter
 11 until the date that is 3 years after such date of enactment,
 12 the Secretary of State shall submit to the Committee on For-
 13 eign Relations of the Senate and the Committee on Foreign
 14 Affairs of the House of Representatives a report identifying
 15 each country that the Secretary determines has taken an
 16 official and stated position to recognize, after such date of
 17 enactment, the sovereignty of the People’s Republic of China
 18 over territory or airspace disputed by one or more countries
 19 in the South China Sea or the territory or airspace of areas
 20 of the East China Sea administered by Japan or the Repub-
 21 lic of Korea.

22 (b) *FORM.*—The report required by subsection (a) shall
 23 be submitted in unclassified form, but may include a classi-
 24 fied annex if the Secretary of State determines it is nec-

1 *essary for the national security interests of the United*
2 *States to do so.*

3 *(c) PUBLIC AVAILABILITY.—The Secretary of State*
4 *shall publish the unclassified part of the report required by*
5 *subsection (a) on a publicly available website of the Depart-*
6 *ment of State.*

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117TH CONGRESS
1ST Session

S. 1657

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.

OCTOBER 28, 2021

Reported with an amendment