

116TH CONGRESS
1ST SESSION

S. 2955

To authorize the imposition of sanctions with respect to significant actions that exacerbate climate change, to reinforce comprehensive efforts to limit global average temperature rise, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2019

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize the imposition of sanctions with respect to significant actions that exacerbate climate change, to reinforce comprehensive efforts to limit global average temperature rise, 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 “Targeting Environ-
5 mental and Climate Recklessness Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) There is strong global support for actions
2 that limit the severity of climate change.

3 (2) On September 18, 2019, more than 200
4 representatives of environmental groups, human
5 rights groups, indigenous peoples, workers, and aca-
6 demia adopted a declaration calling on governments
7 to urgently address environmental damage, including
8 by increasing the pressure on those most responsible
9 for climate change.

10 (3) The United States Government has devel-
11 oped and implements targeted measures to restrict
12 access to the United States financial system for spe-
13 cific individuals and entities involved in conduct in-
14 cluding malicious cyber-enabled activity, transnation-
15 al organized crime, narcotics trafficking, terrorism,
16 proliferation of weapons of mass destruction, human
17 rights abuse, and corruption. Those conduct-based
18 measures apply globally and are not focused on any
19 specific country.

20 (4) As of the date of the enactment of this Act,
21 the United States Government seeks to apply exist-
22 ing sanctions authorities against individuals and en-
23 tities engaged in wildlife trafficking. On January 30,
24 2018, the Office of Foreign Assets Control des-
25 ignated an organization for engaging in illicit activi-

1 ties including the trafficking of endangered and vul-
2 nerable animals such as black bears, pangolins, ti-
3 gers, rhinoceroses, and elephants.

4 (5) Climate change has disproportionate impact
5 on poorer communities and individuals in less devel-
6 oped countries. Targeted measures against individ-
7 uals and entities most responsible for exacerbating
8 climate change could help ensure that efforts to ad-
9 dress climate change do not worsen global inequal-
10 ity.

11 (6) Development of carbon-intensive electrical
12 power plants is continuing across the developing
13 world through new foreign investments, despite
14 broad awareness of the dangers.

15 (7) The current investment plans of countries
16 likely to receive significant foreign energy invest-
17 ments may lead to an excess build-out of fossil fuel
18 assets and create carbon “lock-in” absent urgent ac-
19 tion.

20 (8) Governments that are investing in or direct-
21 ing foreign investment toward legacy fossil fuel en-
22 ergy generation often lack the incentive to formulate
23 more efficient or sustainable national energy policies.
24 Those governments are thus likely to default to es-
25 tablished but harmful forms of energy generation.

1 (9) Alternatives to carbon-intensive electrical
2 power generation are now available and technological
3 advancements continue to strengthen the economic
4 competitiveness of such alternatives.

5 (10) Corruption is especially harmful when indi-
6 viduals who abuse positions of influence for personal
7 gain can simultaneously cause great damage to the
8 global commons by facilitating significant increases
9 in the emission of, or decreases in the absorption of,
10 greenhouse gases.

11 (11) Deforestation is doubly damaging because
12 it undercuts the absorption of carbon dioxide, while
13 also raising greenhouse gas emissions.

14 (12) According to the Intergovernmental Panel
15 on Climate Change, most pathways to limit warming
16 to well below 2 degrees Celsius require reduced de-
17 forestation in concert with reforestation, afforesta-
18 tion, and bioenergy efforts.

19 (13) From 2013 to 2019, some of the largest
20 financial institutions in the world provided tens of
21 billions of dollars in financing to entities either di-
22 rectly or indirectly deforesting the largest rainforests
23 in the world. Most financial institutions have no in-
24 ternal policy covering dealings in key forest-risk
25 commodities.

1 (14) On September 22, 2019, 130 financial in-
2 stitutions worth \$47,000,000,000,000 collectively,
3 representing $\frac{1}{3}$ of the global industry, signed on to
4 the United Nations-backed Principles for Respon-
5 sible Banking, committing to strategically align their
6 businesses with the goals of the agreement of the
7 parties to the United Nations Framework Conven-
8 tion on Climate Change, done at Paris December 12,
9 2015, and entered into force November 4, 2016 (in
10 this Act referred to as the “Paris Climate Agree-
11 ment”), and the Sustainable Development Goals
12 adopted by all United Nations member countries in
13 2015.

14 (15) Illegal deforestation causes environmental
15 harm while promoting criminal activity. In the Bra-
16 zilian Amazon, criminal networks with the capacity
17 to coordinate large-scale extraction, processing, and
18 sale of timber deploy armed personnel to protect
19 their interests. They regularly kill and threaten peo-
20 ple who stand in the way of criminal activity, includ-
21 ing members of indigenous communities and envi-
22 ronmental enforcement officials. Perpetrators of vio-
23 lence are rarely brought to justice.

24 (16) Between 2002 and 2017, 1,558 people in
25 50 countries were killed for defending their environ-

1 ments and lands. Environmental defenders currently
2 face a wave of violence that includes threats of phys-
3 ical harm, intimidation, and criminalization.

4 (17) Policies and measures to address climate
5 change must also promote human rights, thereby ad-
6 vancing equality, justice, and dignity for all, in line
7 with the Sustainable Development Goals of the
8 United Nations.

9 **SEC. 3. SENSE OF CONGRESS ON A COMPREHENSIVE AP-**
10 **PROACH TO ADDRESSING CLIMATE CHANGE.**

11 It is the sense of Congress that—

12 (1) the restrictive measures described in this
13 Act are only one component of the comprehensive
14 approach needed to address climate change and miti-
15 gate its effects;

16 (2) the United States Government must ensure
17 through law and regulation that United States enti-
18 ties are not engaged in any of the egregious behav-
19 iors for which foreign persons may be targeted
20 under this Act;

21 (3) the United States Government must recom-
22 mit to the Paris Climate Agreement and commit to
23 any successor agreement;

24 (4) the United States Government must fulfill
25 its pledges to the Green Climate Fund and promote

1 international efforts to support climate change adap-
2 tation and mitigation;

3 (5) the United States Government must work
4 proactively with foreign governments, including by
5 offering positive incentives, to address climate
6 change and to promote economic development in
7 ways that do not needlessly increase carbon emis-
8 sions or increase the risk of corruption;

9 (6) the restrictive measures described in this
10 Act should be employed if engagement has failed to
11 prevent significant actions that exacerbate climate
12 change; and

13 (7) given broad international support for coun-
14 tering climate change, the Secretary of State should
15 encourage the governments of other countries to im-
16 plement restrictive measures that are similar to the
17 provisions of this Act in order to increase the effec-
18 tiveness of actions taken by the United States to
19 combat significant actions that exacerbate climate
20 change, including related corruption and human
21 rights violations.

22 **SEC. 4. SENSE OF CONGRESS ON ENGAGEMENT WITH THE**
23 **PEOPLE'S REPUBLIC OF CHINA.**

24 It is the sense of Congress that—

1 (1) the United States Government should en-
2 encourage the People’s Republic of China to follow
3 through on its stated intentions to reduce the nega-
4 tive environmental impacts of Chinese foreign invest-
5 ment, including investments provided through the
6 Belt and Road Initiative;

7 (2) the United States Government should nego-
8 tiate a binding agreement to end fossil fuel subsidies
9 with major economies including the People’s Repub-
10 lic of China;

11 (3) the United States Government should build
12 on the successes of existing engagement with the
13 People’s Republic of China through the United
14 States-China Clean Energy Research Center and
15 other initiatives to launch new cooperative efforts;

16 (4) the United States Government should en-
17 gage in expanded dialogue with the People’s Repub-
18 lic of China to ensure that development finance in-
19 stitutions do not undermine global decarbonization
20 efforts; and

21 (5) the United States Government should work
22 with the People’s Republic of China to develop and
23 adopt safeguards to promote low-carbon, climate-re-
24 siliant investments over high-carbon, climate risk-in-
25 ducing investments, particularly in emerging and de-

1 veloping economies in the Indo-Pacific, Africa, and
2 Latin America.

3 **SEC. 5. STATEMENT OF POLICY ON APPLICATION OF GLOB-**
4 **AL MAGNITSKY SANCTIONS TO CLIMATE-**
5 **LINKED CORRUPTION AND HUMAN RIGHTS**
6 **ABUSES.**

7 (a) IN GENERAL.—It is the policy of the United
8 States to consider—

9 (1) any act of corruption related to a covered
10 activity (as defined in section 6(h)) to be corruption,
11 as that term is used in Executive Order 13818 (50
12 U.S.C. 1701 note; relating to blocking the property
13 of persons involved in serious human rights abuse or
14 corruption); and

15 (2) any violation of internationally recognized
16 human rights committed against an individual de-
17 scribed in subsection (b) to be a serious human
18 rights abuse, as that term is used in that Executive
19 Order 13818.

20 (b) INDIVIDUALS DESCRIBED.—An individual de-
21 scribed in this subsection is an individual—

22 (1) seeking to protect the environment, public
23 health, or community land rights;

24 (2) seeking to expose, or raise awareness of, en-
25 vironmental damage; or

1 (3) obliged to leave the individual’s habitual
2 home due, in whole or in part, to sudden or progres-
3 sive change in the environment that adversely affects
4 the individual’s life or living conditions.

5 **SEC. 6. IMPOSITION OF SANCTIONS WITH RESPECT TO SIG-**
6 **NIFICANT ACTIONS THAT EXACERBATE CLI-**
7 **MATE CHANGE.**

8 (a) SENSE OF CONGRESS.—It is the sense of Con-
9 gress that the President should employ the authorities
10 provided by this section to prioritize action against, and
11 deterrence of, egregious behaviors that undermine efforts
12 to limit the increase in global average temperature to 1.5
13 degrees Celsius above pre-industrial levels.

14 (b) IN GENERAL.—The President may impose one or
15 more of the sanctions described in subsection (c) with re-
16 spect to any foreign person the President determines,
17 based on credible information—

18 (1) to be responsible for or complicit in, or to
19 have directly or indirectly engaged in, a covered ac-
20 tivity, including a government official who approves
21 or implements policies or acts that serve to promote
22 a covered activity;

23 (2) to have acted or purported to act for or on
24 behalf of, directly or indirectly, any foreign person in
25 a matter relating to a covered activity, including for

1 or on behalf of a government official described in
2 paragraph (1);

3 (3) to have materially assisted, sponsored, or
4 provided financial, material, or technological support
5 for, or goods or services to or in support of, a cov-
6 ered activity; or

7 (4) to be owned or controlled by a foreign per-
8 son described in paragraph (1).

9 (c) SANCTIONS DESCRIBED.—The sanctions that
10 may be imposed with respect to a foreign person under
11 subsection (b) are the following:

12 (1) INADMISSIBILITY TO UNITED STATES.—In
13 the case of a foreign person who is an individual—

14 (A) ineligibility to receive a visa to enter
15 the United States or to be admitted to the
16 United States; or

17 (B) if the individual has been issued a visa
18 or other documentation, revocation, in accord-
19 ance with section 221(i) of the Immigration and
20 Nationality Act (8 U.S.C. 1201(i)), of the visa
21 or other documentation.

22 (2) BLOCKING OF PROPERTY.—

23 (A) IN GENERAL.—The blocking, in ac-
24 cordance with the International Emergency
25 Economic Powers Act (50 U.S.C. 1701 et seq.),

1 of all transactions in all property and interests
2 in property of the foreign person if such prop-
3 erty and interests in property are in the United
4 States, come within the United States, or are or
5 come within the possession or control of a
6 United States person.

7 (B) INAPPLICABILITY OF NATIONAL EMER-
8 GENCY REQUIREMENT.—The requirements of
9 section 202 of the International Emergency
10 Economic Powers Act (50 U.S.C. 1701) shall
11 not apply for purposes of this paragraph.

12 (3) OTHER SANCTIONS OPTIONS.—Any of the
13 sanctions described in section 235 of the Countering
14 America’s Adversaries Through Sanctions Act (22
15 U.S.C. 9529).

16 (d) CONSIDERATION OF CERTAIN INFORMATION IN
17 IMPOSING SANCTIONS.—In determining whether to im-
18 pose sanctions under subsection (b), the President shall
19 consider—

20 (1) information provided jointly by the chair-
21 person and ranking member of each of the appro-
22 priate congressional committees; and

23 (2) credible information obtained by other coun-
24 tries and nongovernmental organizations that mon-

1 itor environmental harm or violations of human
2 rights.

3 (e) REQUESTS BY APPROPRIATE CONGRESSIONAL
4 COMMITTEES.—

5 (1) IN GENERAL.—Not later than 120 days
6 after receiving a request that meets the require-
7 ments of paragraph (2) with respect to whether a
8 foreign person has engaged in an action described in
9 subsection (a), the President shall—

10 (A) determine if that person has engaged
11 in such an action; and

12 (B) submit a classified or unclassified re-
13 port to the chairperson and ranking member of
14 the committee or committees that submitted the
15 request with respect to that determination that
16 includes—

17 (i) a statement of whether or not the
18 President imposed or intends to impose
19 sanctions with respect to the person; and

20 (ii) if the President imposed or in-
21 tends to impose sanctions, a description of
22 those sanctions.

23 (2) REQUIREMENTS.—A request under para-
24 graph (1) with respect to whether a foreign person
25 has engaged in an action described in subsection (b)

1 shall be submitted to the President in writing jointly
2 by the chairperson and ranking member of one of
3 the appropriate congressional committees.

4 (f) EXCEPTIONS.—

5 (1) INTELLIGENCE AND LAW ENFORCEMENT
6 ACTIVITIES.—Sanctions under this section shall not
7 apply with respect to—

8 (A) any activity subject to the reporting
9 requirements under title V of the National Se-
10 curity Act of 1947 (50 U.S.C. 3091 et seq.); or

11 (B) any authorized intelligence or law en-
12 forcement activities of the United States.

13 (2) COMPLIANCE WITH UNITED NATIONS HEAD-
14 QUARTERS AGREEMENT.—This section shall not
15 apply with respect to the admission of an individual
16 to the United States if the admission of the indi-
17 vidual is necessary to comply with United States ob-
18 ligations under the Agreement between the United
19 Nations and the United States of America regarding
20 the Headquarters of the United Nations, signed at
21 Lake Success June 26, 1947, and entered into force
22 November 21, 1947, under the Convention on Con-
23 sular Relations, done at Vienna April 24, 1963, and
24 entered into force March 19, 1967, or under other
25 international obligations of the United States.

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

3 (A) IN GENERAL.—The authority to block
4 and prohibit all transactions in all property and
5 interests in property under this section shall not
6 include the authority to impose sanctions on the
7 importation of goods.

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

13 (g) IMPLEMENTATION; PENALTIES.—

14 (1) IMPLEMENTATION.—The President may ex-
15 ercise all authorities provided under sections 203
16 and 205 of the International Emergency Economic
17 Powers Act (50 U.S.C. 1702 and 1704) to carry out
18 this section.

19 (2) PENALTIES.—A person that violates, at-
20 tempts to violate, conspires to violate, or causes a
21 violation of this section or any regulation, license, or
22 order issued to carry out this section shall be subject
23 to the penalties set forth in subsections (b) and (c)
24 of section 206 of the International Emergency Eco-
25 nomic Powers Act (50 U.S.C. 1705) to the same ex-

1 tent as a person that commits an unlawful act de-
2 scribed in subsection (a) of that section.

3 (h) REPORT REQUIRED.—Not later than one year
4 after the date of the enactment of this Act, and annually
5 thereafter, the Secretary of Energy, in consultation with
6 the Secretary of State and the Administrator of the Envi-
7 ronmental Protection Agency, shall submit to the appro-
8 priate congressional committees a report that includes a
9 list of each activity in a foreign country that—

10 (1) is initiated or negotiated in the year pre-
11 ceding submission of the report; and

12 (2) the Secretary determines is a covered activ-
13 ity, regardless of whether sanctions have been im-
14 posed with respect to the activity.

15 (i) DEFINITIONS.—In this section:

16 (1) APPROPRIATE CONGRESSIONAL COMMIT-
17 TEES.—The term “appropriate congressional com-
18 mittees” means—

19 (A) the Committee on Environment and
20 Public Works and the Committee on Foreign
21 Relations of the Senate; and

22 (B) the Committee on Energy and Com-
23 merce and the Committee on Foreign Affairs of
24 the House of Representatives.

1 (2) CARBON SINK.—The term “carbon sink”
2 means a feature or process that absorbs more car-
3 bon from the atmosphere than it releases.

4 (3) COVERED ACTIVITY.—The term “covered
5 activity” means any activity in a foreign country
6 that, on or after the date of the enactment of this
7 Act—

8 (A) causes, or is likely to cause, significant
9 excess greenhouse gas emissions associated with
10 electrical power generation, including—

11 (i) construction, importation, or ex-
12 portation of subcritical coal-fired power
13 plants; or

14 (ii) any action that significantly un-
15 dermines, as a result of timing or mag-
16 nitude, adoption in the country of high-ef-
17 ficiency, low-carbon, or renewable energy
18 technology or infrastructure;

19 (B) causes, or is likely to cause, significant
20 or illegal deforestation or loss of natural carbon
21 sinks, including—

22 (i) establishment of incentives for, or
23 promotion of, systematic deforestation;

24 (ii) engagement in, or failure to com-
25 bat, illegal logging, mining, or ranching; or

1 (iii) unjust actions that limit or cir-
2 cumvent opposition to deforestation by in-
3 dividuals seeking to protect the environ-
4 ment, public health, or community land
5 rights; or

6 (C) knowingly misrepresents the environ-
7 mental impact of a project, investment, or prod-
8 uct, including misrepresenting the amount of
9 greenhouse gas emissions associated with the
10 project, investment, or product, in the context
11 of—

12 (i) assessments conducted by multilat-
13 eral organizations, national governments,
14 or investors; or

15 (ii) public efforts to gain market ad-
16 vantage based on purported environmental
17 advantages of a product.

18 (4) 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 (5) FOREIGN PERSON.—The term “foreign per-
24 son” means a person that is not a United States
25 person.

1 (6) SUBCRITICAL COAL-FIRED POWER PLANT.—
2 The term “subcritical coal-fired power plant” means
3 a coal-fired power plant with carbon intensity equal
4 to or greater than 880 kilograms of carbon dioxide
5 per megawatt-hour.

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

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

11 (B) an entity organized under the laws of
12 the United States or of any jurisdiction within
13 the United States, including a foreign branch of
14 such an entity.

15 **SEC. 7. ADDITIONAL RESOURCES FOR THE OFFICE OF FOR-**
16 **EIGN ASSETS CONTROL.**

17 There are authorized to be appropriated to the Sec-
18 retary of the Treasury such sums as may be necessary
19 to support the targeting by the Office of Foreign Assets
20 Control of persons under this Act and to enhance the abil-
21 ity of that Office to target persons for the imposition of
22 sanctions under the Global Magnitsky Human Rights Ac-
23 countability Act (subtitle F of title XII of Public Law
24 114–328; 22 U.S.C. 2656 note).

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