

S.L.C. *7/18*

*CRUZ
SUBSTITUTE
AMENDMENT
REVISED*

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1441

To impose sanctions with respect to the provision of certain vessels for the construction of Russian energy export pipelines, 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 IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. CRUZ

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Europe’s
5 Energy Security Act of 2019”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the United States and Europe share a common history, a common identity, and common values
9 built upon the principles of democracy, rule of law,
10 and individual freedoms;
11

1 (2) the United States has encouraged and ad-
2 mired the European project, which has resulted in a
3 common market and common policies, has achieved
4 unprecedented prosperity and stability on the con-
5 tinent, and serves as a model for other countries to
6 reform their institutions and prioritize
7 anticorruption measures;

8 (3) the relationships between the United States
9 and Europe and the United States and Germany are
10 critical to the national security interests of the
11 United States as well as to global prosperity and
12 peace, and Germany in particular is a crucial part-
13 ner for the United States in multilateral efforts
14 aimed at promoting global prosperity and peace;

15 (4) the United States should stand against any
16 effort designed to weaken those relationships; and

17 (5) Germany has demonstrated leadership with-
18 in the European Union and in international fora to
19 ensure that sanctions imposed with respect to the
20 Russian Federation for its malign activities are
21 maintained.

1 **SEC. 3. IMPOSITION OF SANCTIONS WITH RESPECT TO PRO-**
2 **VISION OF CERTAIN VESSELS FOR THE CON-**
3 **STRUCTION OF CERTAIN RUSSIAN ENERGY**
4 **EXPORT PIPELINES.**

5 (a) REPORT REQUIRED.—

6 (1) IN GENERAL.—Not later than 60 days after
7 the date of the enactment of this Act, and every 90
8 days thereafter, the Secretary of State, in consulta-
9 tion with the Secretary of the Treasury, shall submit
10 to the appropriate congressional committees a report
11 that identifies, for the period specified in paragraph
12 (2)—

13 (A) vessels that engaged in pipe-laying at
14 depths of 100 feet or more below sea level for
15 the construction of the Nord Stream 2 pipeline
16 project, the TurkStream pipeline project, or any
17 project that is a successor to either such
18 project; and

19 (B) foreign persons that have—

20 (i) knowingly sold, leased, or provided
21 those vessels for the construction of such a
22 project; or

23 (ii) intentionally facilitated deceptive
24 or structured transactions to provide those
25 vessels for the construction of such a
26 project.

1 (2) PERIOD SPECIFIED.—The period specified
2 in this paragraph is—

3 (A) in the case of the first report required
4 to be submitted by paragraph (1), the period
5 beginning on the date of the enactment of this
6 Act and ending on the date on which the report
7 is submitted; and

8 (B) in the case of any subsequent such re-
9 port, the 90-day period preceding submission of
10 the report.

11 (b) INADMISSIBILITY TO UNITED STATES OF IDENTI-
12 FIED PERSONS AND CORPORATE OFFICERS.—The Sec-
13 retary of State shall deny a visa to, and the Secretary of
14 Homeland Security shall exclude from the United States,
15 any alien who is—

16 (1) a foreign person identified under subsection
17 (a)(1)(B);

18 (2) a corporate officer of a person described in
19 paragraph (1); or

20 (3) a principal shareholder with a controlling
21 interest in a person described in paragraph (1).

22 (c) BLOCKING OF PROPERTY OF IDENTIFIED PER-
23 SONS.—The President shall exercise all powers granted to
24 the President by the International Emergency Economic
25 Powers Act (50 U.S.C. 1701 et seq.) to the extent nec-

1 essary to block and prohibit all transactions in all property
2 and interests in property of any person identified under
3 subsection (a)(1)(B) if such property and interests in
4 property are in the United States, come within the United
5 States, or are or come within the possession or control
6 of a United States person.

7 (d) SANCTIONS FOR PROVISION OF UNDERWRITING
8 SERVICES OR INSURANCE OR REINSURANCE FOR IDENTI-
9 FIED VESSELS.—

10 (1) IN GENERAL.—The President may impose 3
11 or more of the sanctions described in paragraph (2)
12 with respect to a foreign person if the President de-
13 termines that the person knowingly, on or after the
14 date of the enactment of this Act, provides signifi-
15 cant underwriting services or insurance or reinsur-
16 ance for a vessel identified under subsection
17 (a)(1)(A).

18 (2) SANCTIONS DESCRIBED.—The sanctions
19 that may be imposed with respect to a foreign per-
20 son under paragraph (1) are the following:

21 (A) EXPORT-IMPORT BANK ASSISTANCE
22 FOR EXPORTS TO SANCTIONED PERSONS.—The
23 President may direct the Export-Import Bank
24 of the United States not to give approval to the
25 issuance of any guarantee, insurance, extension

1 of credit, or participation in the extension of
2 credit in connection with the export of any
3 goods or services to the foreign person.

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

10 (i) the Export Control Reform Act of
11 2018 (50 U.S.C. 4801 et seq.);

12 (ii) the Arms Export Control Act (22
13 U.S.C. 2751 et seq.);

14 (iii) the Atomic Energy Act of 1954
15 (42 U.S.C. 2011 et seq.); or

16 (iv) any other statute that requires
17 the prior review and approval of the
18 United States Government as a condition
19 for the export or reexport of goods or serv-
20 ices.

21 (C) LOANS FROM UNITED STATES FINAN-
22 CIAL INSTITUTIONS.—The United States Gov-
23 ernment may prohibit any United States finan-
24 cial institution from making loans or providing
25 credits to the foreign person totaling more than

1 \$10,000,000 in any 12-month period unless
2 such person is engaged in activities to relieve
3 human suffering and the loans or credits are
4 provided for such activities.

5 (D) PROHIBITIONS ON FINANCIAL INSTI-
6 TUTIONS.—The following prohibitions may be
7 imposed with respect to the foreign person if
8 the foreign person is a financial institution:

9 (i) PROHIBITION ON DESIGNATION AS
10 PRIMARY DEALER.—Neither the Board of
11 Governors of the Federal Reserve System
12 nor the Federal Reserve Bank of New
13 York may designate, or permit the continu-
14 ation of any prior designation of, such fi-
15 nancial institution as a primary dealer in
16 United States Government debt instru-
17 ments.

18 (ii) PROHIBITION ON SERVICE AS A
19 REPOSITORY OF GOVERNMENT FUNDS.—
20 Such financial institution may not serve as
21 an agent of the United States Government
22 or serve as a repository for United States
23 Government funds.

24 The imposition of either sanction under clause
25 (i) or (ii) shall be treated as 1 sanction for pur-

1 poses of paragraph (1), and the imposition of
2 both such sanctions shall be treated as 2 sanc-
3 tions for purposes of paragraph (1).

4 (E) PROCUREMENT SANCTION.—The
5 United States Government may not procure, or
6 enter into any contract for the procurement of,
7 any goods or services from the foreign person.

8 (F) FOREIGN EXCHANGE.—The President
9 may, pursuant to such regulations as the Presi-
10 dent may prescribe, prohibit any transactions in
11 foreign exchange that are subject to the juris-
12 diction of the United States and in which the
13 foreign person has any interest.

14 (G) BANKING TRANSACTIONS.—The Presi-
15 dent may, pursuant to such regulations as the
16 President may prescribe, prohibit any transfers
17 of credit or payments between financial institu-
18 tions or by, through, or to any financial institu-
19 tion, to the extent that such transfers or pay-
20 ments are subject to the jurisdiction of the
21 United States and involve any interest of the
22 foreign person.

23 (H) PROPERTY TRANSACTIONS.—The
24 President may, pursuant to such regulations as

1 the President may prescribe, prohibit any per-
2 son from—

3 (i) acquiring, holding, withholding,
4 using, transferring, withdrawing, trans-
5 porting, importing, or exporting any prop-
6 erty that is subject to the jurisdiction of
7 the United States and with respect to
8 which the foreign person has any interest;

9 (ii) dealing in or exercising any right,
10 power, or privilege with respect to such
11 property; or

12 (iii) conducting any transaction in-
13 volving such property.

14 (I) BAN ON INVESTMENT IN EQUITY OR
15 DEBT OF SANCTIONED PERSON.—The President
16 may, pursuant to such regulations or guidelines
17 as the President may prescribe, prohibit any
18 United States person from investing in or pur-
19 chasing significant amounts of equity or debt
20 instruments of the foreign person.

21 (J) EXCLUSION OF CORPORATE OFFI-
22 CERS.—The President may direct the Secretary
23 of State to deny a visa to, and the Secretary of
24 Homeland Security to exclude from the United
25 States, any alien that the President determines

1 is a corporate officer or principal of, or a share-
2 holder with a controlling interest in, the foreign
3 person.

4 (K) SANCTIONS ON PRINCIPAL EXECUTIVE
5 OFFICERS.—The President may impose on the
6 principal executive officer or officers of the for-
7 eign person, or on persons performing similar
8 functions and with similar authorities as such
9 officer or officers, any of the sanctions under
10 this paragraph.

11 (e) WIND-DOWN PERIOD.—The President may not
12 impose sanctions under this section with respect to a per-
13 son identified in the first report submitted under sub-
14 section (a) if the President certifies in that report that
15 the person has, not later than 30 days after the date of
16 the enactment of this Act, engaged in good faith efforts
17 to wind down operations that would otherwise subject the
18 person to the imposition of sanctions under this section.

19 (f) EXCEPTIONS.—

20 (1) EXCEPTION FOR INTELLIGENCE, LAW EN-
21 FORCEMENT, AND NATIONAL SECURITY ACTIVI-
22 TIES.—Sanctions under this section shall not apply
23 to any authorized intelligence, law enforcement, or
24 national security activities of the United States.

1 (2) EXCEPTION TO COMPLY WITH UNITED NA-
2 TIONS HEADQUARTERS AGREEMENT.—Sanctions
3 under this section shall not apply with respect to the
4 admission of an alien to the United States if the ad-
5 mission of the alien is necessary to permit the
6 United States to comply with the Agreement regard-
7 ing the Headquarters of the United Nations, signed
8 at Lake Success June 26, 1947, and entered into
9 force November 21, 1947, between the United Na-
10 tions and the United States, the Convention on Con-
11 sular Relations, done at Vienna April 24, 1963, and
12 entered into force March 19, 1967, or other applica-
13 ble international obligations.

14 (3) EXCEPTION FOR SAFETY OF VESSELS AND
15 CREW.—Sanctions under this section shall not apply
16 with respect to a person providing provisions to a
17 vessel identified under subsection (a)(1)(A) if such
18 provisions are intended for the safety and care of
19 the crew aboard the vessel, the protection of human
20 life aboard the vessel, or the maintenance of the ves-
21 sel to avoid any environmental or other significant
22 damage.

23 (4) EXCEPTION FOR REPAIR OR MAINTENANCE
24 OF PIPELINES.—Sanctions under this section shall
25 not apply with respect to a person for engaging in

1 activities necessary for or related to the repair or
2 maintenance of, or environmental remediation with
3 respect to, a pipeline project described in subsection
4 (a)(1)(A).

5 (5) EXCEPTION RELATING TO IMPORTATION OF
6 GOODS.—

7 (A) IN GENERAL.—A requirement or the
8 authority to block and prohibit all transactions
9 in all property and interests in property under
10 this section shall not include the authority to
11 impose sanctions on the importation of goods.

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

17 (g) WAIVERS.—

18 (1) NATIONAL INTEREST WAIVER FOR VISA
19 BAN.—The President may waive the application of
20 sanctions under subsection (b) with respect to an
21 alien if the President—

22 (A) determines that the waiver is in the
23 national interests of the United States; and

1 (B) submits to the appropriate congres-
2 sional committees a report on the waiver and
3 the reasons for the waiver.

4 (2) NATIONAL SECURITY WAIVER FOR ECO-
5 NOMIC AND OTHER SANCTIONS.—The President may
6 waive the application of sanctions under subsection
7 (c) or (d) with respect to a person if the President—

8 (A) determines that the waiver is in the
9 national security interests of the United States;
10 and

11 (B) submits to the appropriate congres-
12 sional committees a report on the waiver and
13 the reasons for the waiver.

14 (h) IMPLEMENTATION; PENALTIES.—

15 (1) IMPLEMENTATION.—The President may ex-
16 ercise all authorities provided to the President under
17 sections 203 and 205 of the International Emer-
18 gency Economic Powers Act (50 U.S.C. 1702 and
19 1704) to carry out this section.

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

1 nomic Powers Act (50 U.S.C. 1705) to the same ex-
2 tent as a person that commits an unlawful act de-
3 scribed in subsection (a) of that section.

4 (i) TERMINATION AND SUNSET.—The authority to
5 impose sanctions under this section with respect to a per-
6 son involved in the construction of a pipeline project de-
7 scribed in subsection (a)(1)(A), and any sanctions imposed
8 under this section with respect to that project, shall termi-
9 nate on the date that is the earlier of—

10 (1) the date on which the President certifies to
11 the appropriate congressional committees that ap-
12 propriate safeguards have been put in place—

13 (A) to minimize the ability of the Govern-
14 ment of the Russian Federation to use that
15 project as a tool of coercion and political lever-
16 age, including by achieving—

17 (i) the unbundling of energy produc-
18 tion and transmission so that entities
19 owned or controlled by that Government do
20 not control the transmission network for
21 the pipeline;

22 (ii) transparency in the energy market
23 of the Russian Federation; and

24 (iii) effective regulatory oversight of
25 that market; and

1 (B) to ensure, barring unforeseen cir-
2 cumstances, that the project would not result in
3 a decrease of more than 25 percent in the vol-
4 ume of Russian energy exports transiting
5 through existing pipelines in other countries,
6 particularly Ukraine, relative to the average
7 monthly volume of Russian energy exports
8 transiting through such pipelines in 2018; or

9 (2) the date that is 10 years after the date of
10 the enactment of this Act.

11 (j) DEFINITIONS.—In this section:

12 (1) ADMISSION; ADMITTED; ALIEN.—The terms
13 “admission”, “admitted”, and “alien” have the
14 meanings given those terms in section 101 of the
15 Immigration and Nationality Act (8 U.S.C. 1101).

16 (2) APPROPRIATE CONGRESSIONAL COMMIT-
17 TEES.—The term “appropriate congressional com-
18 mittees” means the Committee on Foreign Relations
19 of the Senate and the Committee on Foreign Affairs
20 of the House of Representatives.

21 (3) FOREIGN PERSON.—The term “foreign per-
22 son” means an individual or entity that is not a
23 United States person.

24 (4) KNOWINGLY.—The term “knowingly”, with
25 respect to conduct, a circumstance, or a result,

1 means that a person has actual knowledge, or should
2 have known, of the conduct, the circumstance, or the
3 result.

4 (5) UNITED STATES PERSON.—The term
5 “United States person” means—

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

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

13 (C) any person within the United States.

14 **SEC. 4. LIST OF ENTITIES INVOLVED IN CONSTRUCTION OR**
15 **REPAIR OF THE NORD STREAM 2 PIPELINE.**

16 (a) IN GENERAL.—Not later than 180 days after the
17 date of the enactment of this Act, and annually thereafter
18 until the date that is 6 years after such date of enactment,
19 the Secretary of State, in consultation with the Secretary
20 of the Treasury, shall submit to the appropriate congres-
21 sional committees (as defined in section 3(j)) a list of all
22 entities, including financial institutions, directly or indi-
23 rectly providing significant goods, services, information, or
24 technology for the construction or repair of the Nord
25 Stream 2 pipeline project.

1 (b) FORM.—The list required by subsection (a) shall
2 be submitted in unclassified form but may include a classi-
3 fied annex.