

Manager's Substitute Amendment

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.**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.

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. RUBIO

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This subtitle may be cited as the “South China Sea
5 and East China Sea Sanctions Act of 2021”.

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

7 **RESPONSIBLE FOR CHINA'S ACTIVITIES IN**

8 **THE SOUTH CHINA SEA AND THE EAST CHINA**

9 **SEA.**

10 (a) INITIAL IMPOSITION OF SANCTIONS.—On and
11 after the date that is 120 days after the date of the enact-

1 ment of this Act, the President may impose the sanctions
2 described in subsection (b) with respect to any Chinese
3 person, including any senior official of the Government of
4 the People's Republic of China, that the President deter-
5 mines—

6 (1) is responsible for or significantly contributes
7 to large-scale reclamation, construction, militariza-
8 tion, or ongoing supply of outposts in disputed areas
9 of the South China Sea;

10 (2) is responsible for or significantly contributes
11 to, or has engaged in, directly or indirectly, actions,
12 including the use of coercion, to inhibit another
13 country from protecting its sovereign rights to ac-
14 cess offshore resources in the South China Sea, in-
15 cluding in such country's exclusive economic zone,
16 consistent with such country's rights and obligations
17 under international law;

18 (3) is responsible for or complicit in, or has en-
19 gaged in, directly or indirectly, actions that signifi-
20 cantly threaten the peace, security, or stability of
21 disputed areas of the South China Sea or areas of
22 the East China Sea administered by Japan or the
23 Republic of Korea, including through the use of ves-
24 sels and aircraft by the People's Republic of China

1 to occupy or conduct extensive research or drilling
2 activity in those areas;

3 (4) has materially assisted, sponsored, or pro-
4 vided financial, material, or technological support
5 for, or goods or services to, or in support of, any
6 person subject to sanctions pursuant to paragraph
7 (1), (2), or (3); or

8 (5) is owned or controlled by, or has acted for
9 or on behalf of, directly or indirectly, any person
10 subject to sanctions pursuant to paragraph (1), (2),
11 or (3).

12 (b) SANCTIONS DESCRIBED.—The sanctions that
13 may be imposed with respect to a person described in sub-
14 section (a) are the following:

15 (1) BLOCKING OF PROPERTY.—The President
16 may, in accordance with the International Emer-
17 gency Economic Powers Act (50 U.S.C. 1701 et
18 seq.), block and prohibit all transactions in all prop-
19 erty and interests in property of the person if such
20 property and interests in property are in the United
21 States, come within the United States, or are or
22 come within the possession or control of a United
23 States person.

24 (2) INELIGIBILITY FOR VISAS, ADMISSION, OR
25 PAROLE.—

1 (A) VISAS, ADMISSION, OR PAROLE.—In
2 the case of an alien, the alien may be—

3 (i) inadmissible to the United States;

4 (ii) ineligible to receive a visa or other
5 documentation to enter the United States;

6 and

7 (iii) otherwise ineligible to be admitted
8 or paroled into the United States or to re-
9 ceive any other benefit under the Immigra-
10 tion and Nationality Act (8 U.S.C. 1101 et
11 seq.).

12 (B) CURRENT VISAS REVOKED.—

13 (i) IN GENERAL.—An alien described
14 in subparagraph (A) may be subject to rev-
15 ocation of any visa or other entry docu-
16 mentation regardless of when the visa or
17 other entry documentation is or was
18 issued.

19 (ii) IMMEDIATE EFFECT.—A revoca-
20 tion under clause (i) may—

21 (I) take effect immediately; and

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

1 (3) EXCLUSION OF CORPORATE OFFICERS.—

2 The President may direct the Secretary of State to
3 deny a visa to, and the Secretary of Homeland Secu-
4 rity to exclude from the United States, any alien
5 that the President determines is a corporate officer
6 or principal of, or a shareholder with a controlling
7 interest in, the person.

8 (4) EXPORT SANCTION.—The President may
9 order the United States Government not to issue
10 any specific license and not to grant any other spe-
11 cific permission or authority to export any goods or
12 technology to the person under—

13 (A) the Export Control Reform Act of
14 2018 (50 U.S.C. 4801 et seq.); or

15 (B) any other statute that requires the
16 prior review and approval of the United States
17 Government as a condition for the export or re-
18 export of goods or services.

19 (5) INCLUSION ON ENTITY LIST.—The Presi-
20 dent may include the entity on the entity list main-
21 tained by the Bureau of Industry and Security of
22 the Department of Commerce and set forth in Sup-
23 plement No. 4 to part 744 of the Export Adminis-
24 tration Regulations, for activities contrary to the na-

1 tional security or foreign policy interests of the
2 United States.

3 (6) BAN ON INVESTMENT IN EQUITY OR DEBT
4 OF SANCTIONED PERSON.—The President may, pur-
5 suant to such regulations or guidelines as the Presi-
6 dent may prescribe, prohibit any United States per-
7 son from investing in or purchasing equity or debt
8 instruments of the person.

9 (7) BANKING TRANSACTIONS.—The President
10 may, pursuant to such regulations as the President
11 may prescribe, prohibit any transfers of credit or
12 payments between financial institutions or by,
13 through, or to any financial institution, to the extent
14 that such transfers or payments are subject to the
15 jurisdiction of the United States and involve any in-
16 terest of the person.

17 (8) CORRESPONDENT AND PAYABLE-THROUGH
18 ACCOUNTS.—In the case of a foreign financial insti-
19 tution, the President may prohibit the opening, and
20 prohibit or impose strict conditions on the maintain-
21 ing, in the United States of a correspondent account
22 or a payable-through account by the foreign finan-
23 cial institution.

24 (c) EXCEPTIONS.—

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) EXCEPTION FOR INTELLIGENCE, LAW EN-
7 FORCEMENT, AND NATIONAL SECURITY ACTIVI-
8 TIES.—Sanctions under this section shall not apply
9 to any authorized intelligence, law enforcement, or
10 national security activities of the United States.

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

20 (4) EXCEPTION RELATING TO IMPORTATION OF
21 GOODS.—

22 (A) IN GENERAL.—The authority or a re-
23 quirement to impose sanctions under this sec-
24 tion shall not include the authority or a require-

1 ment to impose sanctions on the importation of
2 goods.

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

8 (d) IMPLEMENTATION; PENALTIES.—

9 (1) IMPLEMENTATION.—The President may ex-
10 ercise all authorities provided under sections 203
11 and 205 of the International Emergency Economic
12 Powers Act (50 U.S.C. 1702 and 1704) to carry out
13 this section.

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

23 (e) DEFINITIONS.—In this section:

24 (1) ACCOUNT; CORRESPONDENT ACCOUNT; PAY-
25 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) CHINESE PERSON.—The term “Chinese
8 person” means—

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

11 (B) an entity organized under the laws of
12 the People’s Republic of China or otherwise
13 subject to the jurisdiction of the Government of
14 the People’s Republic of China.

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

21 (5) FOREIGN FINANCIAL INSTITUTION.—The
22 term “foreign financial institution” has the meaning
23 given that term in section 1010.605 of title 31, Code
24 of Federal Regulations (or any corresponding similar
25 regulation or ruling).

1 (6) PERSON.—The term “person” means any
2 individual or entity.

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

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

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

12 (C) any person in the United States.

13 **SEC. 3. SENSE OF CONGRESS REGARDING PORTRAYALS OF**
14 **THE SOUTH CHINA SEA OR THE EAST CHINA**
15 **SEA AS PART OF CHINA.**

16 It is the sense of Congress that the Government Pub-
17 lishing Office should not publish any map, document,
18 record, electronic resource, or other paper of the United
19 States (other than materials relating to hearings held by
20 committees of Congress or internal work product of a Fed-
21 eral agency) portraying or otherwise indicating that it is
22 the position of the United States that the territory or air-
23 space in the South China Sea that is disputed among two
24 or more parties or the territory or airspace of areas ad-
25 ministered by Japan or the Republic of Korea, including

1 in the East China Sea, is part of the territory or airspace
2 of the People’s Republic of China.

3 **SEC. 4. SENSE OF CONGRESS ON 2016 PERMANENT COURT**
4 **OF ARBITRATION’S TRIBUNAL RULING ON AR-**
5 **BITRATION CASE BETWEEN PHILIPPINES**
6 **AND PEOPLE’S REPUBLIC OF CHINA.**

7 (a) FINDING.—Congress finds that on July 12, 2016,
8 a tribunal of the Permanent Court of Arbitration found
9 in the arbitration case between the Philippines and the
10 People’s Republic of China under the United Nations Con-
11 vention on the Law of the Sea that the People’s Republic
12 of China’s claims, including those to offshore resources
13 and “historic rights”, were unlawful, and that the tribu-
14 nal’s ruling is final and legally binding on both parties.

15 (b) SENSE OF CONGRESS.—It is the sense of Con-
16 gress that—

17 (1) the United States and the international
18 community should reject the unlawful claims of the
19 People’s Republic of China within the exclusive eco-
20 nomic zone or on the continental shelf of the Phil-
21 ippines, as well as the maritime claims of the Peo-
22 ple’s Republic of China beyond a 12-nautical-mile
23 territorial sea from the islands it claims in the South
24 China Sea;

1 (2) the provocative behavior of the People’s Re-
2 public of China, including coercing other countries
3 with claims in the South China Sea and preventing
4 those countries from accessing offshore resources,
5 undermines peace and stability in the South China
6 Sea;

7 (3) the international community should—

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

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

14 (4) all claimants in the South China Sea
15 should—

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

20 (B) ensure that disputes are managed
21 without intimidation, coercion, or force;

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

24 (D) uphold the principle that territorial
25 and maritime claims, including over territorial

1 waters or territorial seas, must be derived from
2 land features and otherwise comport with inter-
3 national law.

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

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

20 (b) FORM.—The report required by subsection (a)
21 shall be submitted in unclassified form, but may include
22 a classified annex if the Secretary of State determines it
23 is necessary for the national security interests of the
24 United States to do so.

1 (c) PUBLIC AVAILABILITY.—The Secretary of State
2 shall publish the unclassified part of the report required
3 by subsection (a) on a publicly available website of the
4 Department of State.