

118TH CONGRESS
2D SESSION

S. 5110

To clarify the country of origin of certain articles imported into the United States for purposes of certain trade enforcement actions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 19, 2024

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To clarify the country of origin of certain articles imported into the United States for purposes of certain trade enforcement actions.

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 “Stopping Adversarial
5 Tariff Evasion Act”.

1 **SEC. 2. CLARIFICATION OF COUNTRY OF ORIGIN CRITERIA**
2 **FOR ENFORCEMENT ACTION UNDER TRADE**
3 **AGREEMENTS OR IN RESPONSE TO CERTAIN**
4 **FOREIGN TRADE PRACTICES.**

5 Section 301(d) of the Trade Act of 1974 (19 U.S.C.
6 2411(d)) is amended by adding at the end the following:

7 “(10)(A) Any action taken by the Trade Rep-
8 resentative under this section, with respect to a for-
9 eign adversary country, shall apply to any article
10 that is produced, manufactured, or that underwent
11 final assembly by a foreign adversary party or an
12 entity owned, controlled, directed, or operated by a
13 foreign adversary party, as if such article originated
14 in the foreign adversary country.

15 “(B) In this paragraph:

16 “(i) The term ‘control’ has the meaning
17 given that term in section 800.208 of title 31,
18 Code of Federal Regulations (as in effect on the
19 date of the enactment of the Stopping Adver-
20 sarial Tariff Evasion Act).

21 “(ii) The term ‘entity owned, controlled,
22 directed, or operated by a foreign adversary
23 party’ includes any entity for which, on any
24 date during the most recent 12-month period,
25 not less than 25 percent of the equity interests
26 in such entity are held directly or indirectly by

1 1 or more foreign adversary parties including
2 through—

3 “(I) interests in co-investment vehi-
4 cles, joint ventures, or similar arrange-
5 ments; or

6 “(II) a derivative financial instrument
7 or contractual arrangement between the
8 entity and a foreign adversary party, in-
9 cluding any such instrument or contract
10 that seeks to replicate any financial return
11 with respect to such entity or interest in
12 such entity.

13 “(iii) The term ‘foreign adversary country’
14 means any of the following:

15 “(I) The People’s Republic of China.

16 “(II) The Russian Federation.

17 “(III) The Islamic Republic of Iran.

18 “(IV) The Democratic People’s Re-
19 public of Korea.

20 “(V) The Republic of Cuba.

21 “(VI) The Bolivarian Republic of Ven-
22 ezuela during any period of time during
23 which Nicolás Maduro is President of the
24 Republic.

25 “(VII) The Syrian Arab Republic.

1 “(iv) The term ‘foreign adversary party’
 2 means any of the following:

3 “(I) The government of a foreign ad-
 4 versary country, including any agency, gov-
 5 ernment instrumentality, official, or agent
 6 of such a government.

7 “(II) Any entity organized under the
 8 laws of a foreign adversary country (or any
 9 political subdivision thereof).

10 “(III) Any entity the headquarters of
 11 which is located within a foreign adversary
 12 country.

13 “(IV) Any entity substantively in-
 14 volved in the industrial policies or military-
 15 civil fusion strategy of the People’s Repub-
 16 lic of China, including by accepting fund-
 17 ing from, performing a service for, or re-
 18 ceiving a subsidy from the People’s Repub-
 19 lic of China related to such policies or
 20 strategy.”.

21 **SEC. 3. CLARIFICATION OF COUNTRY OF ORIGIN CRITERIA**
 22 **FOR ENFORCEMENT ACTION BY PRESIDENT**
 23 **AFTER DETERMINATION OF IMPORT INJURY.**

24 Section 203 of the Trade Act of 1974 (19 U.S.C.
 25 2253) is amended by adding at the end the following:

1 “(h) APPLICATION OF ACTION TO FOREIGN ADVER-
 2 SARY PARTIES.—(1) Any action taken under this section
 3 shall apply to any article that is produced, manufactured,
 4 or that underwent final assembly by a foreign adversary
 5 party or an entity owned, controlled, directed, or operated
 6 by a foreign adversary party, as if such article originated
 7 in a foreign adversary country.

8 “(2) In this subsection:

9 “(A) The term ‘control’ has the meaning given
 10 that term in section 800.208 of title 31, Code of
 11 Federal Regulations (as in effect on the date of the
 12 enactment of the Stopping Adversarial Tariff Eva-
 13 sion Act).

14 “(B) The term ‘entity owned, controlled, di-
 15 rected, or operated by a foreign adversary party’ in-
 16 cludes any entity for which, on any date during the
 17 most recent 12-month period, not less than 25 per-
 18 cent of the equity interests in such entity are held
 19 directly or indirectly by 1 or more foreign adversary
 20 parties including through—

21 “(i) interests in co-investment vehicles,
 22 joint ventures, or similar arrangements; or

23 “(ii) a derivative financial instrument or
 24 contractual arrangement between the entity and
 25 a foreign adversary party, including any such

1 instrument or contract that seeks to replicate
2 any financial return with respect to such entity
3 or interest in such entity.

4 “(C) The term ‘foreign adversary country’
5 means any of the following:

6 “(i) The People’s Republic of China.

7 “(ii) The Russian Federation.

8 “(iii) The Islamic Republic of Iran.

9 “(iv) The Democratic People’s Republic of
10 Korea.

11 “(v) The Republic of Cuba.

12 “(vi) The Bolivarian Republic of Venezuela
13 during any period of time during which
14 Nicolás Maduro is President of the Republic.

15 “(vii) The Syrian Arab Republic.

16 “(D) The term ‘foreign adversary party’ means
17 any of the following:

18 “(i) The government of a foreign adversary
19 country, including any agency, government in-
20 strumentality, official, or agent of such a gov-
21 ernment.

22 “(ii) Any entity organized under the laws
23 of a foreign adversary country (or any political
24 subdivision thereof).

1 “(iii) Any entity the headquarters of which
2 is located within a foreign adversary country.

3 “(iv) Any entity substantively involved in
4 the industrial policies or military-civil fusion
5 strategy of the People’s Republic of China, in-
6 cluding by accepting funding from, performing
7 a service for, or receiving a subsidy from the
8 People’s Republic of China related to such poli-
9 cies or strategy.”.

10 **SEC. 4. CLARIFICATION OF COUNTRY OF ORIGIN CRITERIA**
11 **FOR ENFORCEMENT ACTION TO SAFEGUARD**
12 **NATIONAL SECURITY.**

13 Section 232(c) of the Trade Expansion Act of 1962
14 (19 U.S.C. 1862(c)) is amended by adding at the end the
15 following:

16 “(4)(A) Any action taken by the President
17 under paragraph (1) shall apply to any article that
18 is produced, manufactured, or that underwent final
19 assembly by a foreign adversary party or an entity
20 owned, controlled, directed, or operated by a foreign
21 adversary party, as if such article originated in a
22 foreign adversary country.

23 “(B) For the purposes of this paragraph the
24 following definitions apply:

1 “(i) The term ‘control’ has the meaning
2 given that term in section 800.208 of title 31,
3 Code of Federal Regulations (as in effect on the
4 date of the enactment of the Stopping Adver-
5 sarial Tariff Evasion Act).

6 “(ii) The term ‘entity owned, controlled,
7 directed, or operated by a foreign adversary
8 party’ includes any entity for which, on any
9 date during the most recent 12-month period,
10 not less than 25 percent of the equity interests
11 in such entity are held directly or indirectly by
12 1 or more foreign adversary parties including
13 through—

14 “(I) interests in co-investment vehi-
15 cles, joint ventures, or similar arrange-
16 ments; or

17 “(II) a derivative financial instrument
18 or contractual arrangement between the
19 entity and a foreign adversary party, in-
20 cluding any such instrument or contract
21 that seeks to replicate any financial return
22 with respect to such entity or interest in
23 such entity.

24 “(iii) The term ‘foreign adversary country’
25 means any of the following:

1 “(I) The People’s Republic of China.

2 “(II) The Russian Federation.

3 “(III) The Islamic Republic of Iran.

4 “(IV) The Democratic People’s Re-
5 public of Korea.

6 “(V) The Republic of Cuba.

7 “(VI) The Bolivarian Republic of Ven-
8 ezuela during any period of time during
9 which Nicolás Maduro is President of the
10 Republic.

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12 “(iv) The term ‘foreign adversary party’
13 means any of the following:

14 “(I) The government of a foreign ad-
15 versary country, including any agency, gov-
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17 of such a government.

18 “(II) Any entity organized under the
19 laws of a foreign adversary country (or any
20 political subdivision thereof).

21 “(III) Any entity the headquarters of
22 which is located within a foreign adversary
23 country.

24 “(IV) Any entity substantively in-
25 volved in the industrial policies or military-

1 civil fusion strategy of the People’s Repub-
2 lic of China, including by accepting fund-
3 ing from, performing a service for, or re-
4 ceiving a subsidy from the People’s Repub-
5 lic of China related to such policies or
6 strategy.”.

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