

118TH CONGRESS
2D SESSION

S. 5137

To identify property located in the territory of certain foreign trade partners that is owned or controlled by United States persons, necessary to access a port, harbor, or marine terminal, and has been nationalized or expropriated, and to prohibit certain actions by vessels that have landed at such ports, harbors, or marine terminals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 23, 2024

Mr. HAGERTY (for himself, Mr. KAINE, Mr. TUBERVILLE, Mrs. BRITT, Mr. BUDD, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To identify property located in the territory of certain foreign trade partners that is owned or controlled by United States persons, necessary to access a port, harbor, or marine terminal, and has been nationalized or expropriated, and to prohibit certain actions by vessels that have landed at such ports, harbors, or marine terminals, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Defending American
3 Property Abroad Act of 2024”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Homeland Security
10 and Governmental Affairs, the Committee on
11 Foreign Relations, the Committee on Finance,
12 and the Select Committee on Intelligence of the
13 Senate; and

14 (B) the Committee on Homeland Security,
15 the Committee on Foreign Affairs, the Com-
16 mittee on Ways and Means, and the Permanent
17 Select Committee on Intelligence of the House
18 of Representatives.

19 (2) **COVERED FOREIGN TRADE PARTNER.**—The
20 term “covered foreign trade partner” means a coun-
21 try in the Western Hemisphere that has in effect a
22 free trade agreement with the United States.

23 (3) **PASSENGER VESSEL.**—The term “passenger
24 vessel” means a vessel that—

25 (A) is authorized to carry 149 or more
26 passengers;

1 (B) has onboard sleeping facilities for each
2 passenger;

3 (C) is on a voyage that embarks or dis-
4 embarks passengers; and

5 (D) is not engaged in a coastwise voyage
6 subject to chapter 105 of title 46, United
7 States Code.

8 (4) PROHIBITED PROPERTY.—The term “pro-
9 hibited property” means any port, harbor, or marine
10 terminal—

11 (A) that is located within the territory of
12 a covered foreign trade partner;

13 (B) that is accessible only through land
14 that is owned, held, or controlled, directly or in-
15 directly, by a United States person; and

16 (C) if an agency or official of the govern-
17 ment of the covered foreign trade partner has,
18 on or after January 1, 2024—

19 (i) nationalized, forcibly limited, or ex-
20 propriated the land described in subpara-
21 graph (B);

22 (ii) repudiated or nullified any con-
23 tract, permit, concession, easement, or
24 similar authorization with a United States
25 person related to that land; or

1 (iii) taken any other action that has
2 the effect of seizing ownership or control of
3 that land.

4 (5) RELEVANT PORT INFRASTRUCTURE.—The
5 term “relevant port infrastructure” means the fol-
6 lowing infrastructure at a port or harbor:

7 (A) Conveyors and other equipment used
8 to load or unload freight or passenger vessels.

9 (B) Roads and pathways used to load or
10 unload freight or passenger vessels.

11 (C) Docks and piers used to load or unload
12 freight or passenger vessels.

13 (D) Moorings, dolphins, or other structures
14 used for anchoring freight or passenger vessels.

15 (E) Silos, domes, or other structures used
16 for the storage of any good, ware, article, mer-
17 chandise, or other freight.

18 (F) Offices, facilities, and other buildings
19 used for the administration and security of the
20 port or harbor.

21 (6) UNITED STATES.—The term “United
22 States” includes the 50 States, the District of Co-
23 lumbia, and any territory or possession of the
24 United States.

1 (7) 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 not less than 50 percent of
7 the ownership interest in which is owned by
8 United States citizens.

9 **SEC. 3. DESIGNATION OF PROHIBITED PROPERTY.**

10 Not later than 60 days after the date of the enact-
11 ment of this Act, the Secretary of Homeland Security, in
12 consultation with and with the concurrence of the Sec-
13 retary of the Treasury and the Secretary of State, shall—

14 (1) identify and designate all prohibited prop-
15 erty;

16 (2) provide a list of all prohibited property des-
17 ignated under paragraph (1) to—

18 (A) the agencies and officials within the
19 Department of Homeland Security, the Depart-
20 ment of the Treasury, and the Department of
21 State responsible for the implementation of sec-
22 tion 4; and

23 (B) the appropriate congressional commit-
24 tees; and

1 (3) publish the list required under paragraph
2 (2) in the Federal Register.

3 **SEC. 4. PROHIBITIONS ON USE OF PROHIBITED PROPERTY.**

4 The President shall prohibit any vessel loaded or pre-
5 viously held at a port, harbor, or marine terminal that is
6 designated as prohibited property under section 3(1)
7 from—

8 (1) importing into the United States any good;

9 (2) releasing into the United States any good;

10 (3) docking any passenger vessel in the United
11 States;

12 (4) releasing into the United States any pas-
13 senger from a passenger vessel; or

14 (5) dry docking, completing repair work, refur-
15 bishing, victualing, refueling, or conducting any
16 other servicing or maintenance-related activities.

17 **SEC. 5. DIRECTING UNITED STATES TRADE REPRESENTA-**
18 **TIVE TO ADDRESS PROHIBITED PROPERTY IN**
19 **USMCA JOINT REVIEW.**

20 (a) IN GENERAL.—As part of the consultations re-
21 quired by section 611 of the United States-Mexico-Canada
22 Agreement Implementation Act (19 U.S.C. 4611) before
23 a joint review, the United States Trade Representative
24 shall submit to the appropriate congressional committees
25 a report on the objections the Trade Representative will

1 raise related to instances in which the government of a
 2 USMCA country has—

3 (1) nationalized, forcibly limited, or expropri-
 4 ated land described in section 2(4)(B);

5 (2) repudiated or nullified any contract, permit,
 6 concession, easement, or similar authorization with a
 7 United States person related to such land; or

8 (3) taken any other action that has the effect
 9 of seizing ownership or control of such land.

10 (b) DEFINITIONS.—In this section:

11 (1) JOINT REVIEW.—The term “joint review”
 12 means a review conducted under the process pro-
 13 vided for in article 34.7 of the USMCA relating to
 14 extension of the term of the USMCA.

15 (2) USMCA.—The term “USMCA” has the
 16 meaning given that term in section 3 of the United
 17 States-Mexico-Canada Agreement Implementation
 18 Act (19 U.S.C. 4502).

19 (3) USMCA COUNTRY.—The term “USMCA
 20 country” has the meaning given that term in section
 21 202(a) of the United States-Mexico-Canada Agree-
 22 ment Implementation Act (19 U.S.C. 4531(a)).

23 **SEC. 6. REPORTS TO CONGRESS.**

24 (a) REPORTS ON DESIGNATIONS OF PROHIBITED
 25 PROPERTY.—Not later than 1 year after the date of the

1 enactment of this Act, and annually thereafter until the
2 date that is 5 years after such date of enactment, the Sec-
3 retary of Homeland Security, in consultation with the Sec-
4 retary of the Treasury and the Secretary of State, shall
5 submit to the appropriate congressional committees a re-
6 port on—

7 (1) the number of designations of prohibited
8 property made under section 3(1);

9 (2) the number of freight vessels that were pre-
10 vented from importing or releasing any goods into
11 the United States under the prohibition under sec-
12 tion 4;

13 (3) the number of passenger vessels that were
14 prevented from docking or releasing passengers into
15 the United States under that prohibition; and

16 (4) the number of vessels that were prevented
17 from dry docking, completing repair work, refur-
18 bishing, victualling, refueling, or conducting any
19 other servicing or maintenance-related activities
20 under that prohibition.

21 (b) REPORTS ON ACTIONS BY COVERED FOREIGN
22 TRADE PARTNERS.—Not later than 1 year after the date
23 of the enactment of this Act, and annually thereafter until
24 the date that is 5 years after such date of enactment, the

1 United States Trade Representative shall submit to the
2 appropriate congressional committees a report on—

3 (1) the number of governments of covered for-
4 eign trade partners that have—

5 (A) nationalized, forcibly limited, or expro-
6 priated land described in section 2(4)(B);

7 (B) repudiated or nullified any contract,
8 permit, concession, easement, or similar author-
9 ization with a United States person related to
10 such land; or

11 (C) taken any other action that has the ef-
12 fect of seizing ownership or control of such
13 land; and

14 (2) the impact of the actions described in para-
15 graph (1) by the government of a covered foreign
16 trade partner on the trade relationship between the
17 United States and the covered foreign trade partner.

18 (c) REPORTS ON ECONOMIC IMPLICATIONS.—Not
19 later than 1 year after the date of the enactment of this
20 Act, and annually thereafter until the date that is 5 years
21 after such date of enactment, the Secretary of State shall
22 submit to the appropriate congressional committees a re-
23 port on—

1 (1) the economic implications of actions de-
2 scribed in subsection (b)(1) by the governments of
3 covered foreign trade partners; and

4 (2) the impact of such actions on the economic
5 assessment of the investment climate for the covered
6 foreign trade partners.

7 **SEC. 7. TERMINATION AND EXTENSION OF REQUIREMENTS.**

8 (a) IN GENERAL.—Except as provided by subsections
9 (b) and (c), the requirements of this Act, and any prohibi-
10 tion imposed under section 4, shall terminate on the date
11 that is 5 years after the date of the enactment of this
12 Act.

13 (b) TERMINATION FOR SPECIFIC COUNTRIES.—Be-
14 fore the termination date under subsection (a), the Presi-
15 dent may terminate the requirements of this Act with re-
16 spect to a covered foreign trade partner if the President
17 determines and reports to the appropriate congressional
18 committees, not later than 15 days before terminating
19 such requirements, that—

20 (1) the government of the covered foreign trade
21 partner has reversed or curtailed any actions de-
22 scribed in section 2(4)(C); or

23 (2) the termination of such requirements with
24 respect to the covered foreign trade partner is in the
25 vital national security interests of the United States.

1 (c) EXTENSION OF REQUIREMENTS.—After the ter-
2 mination date under subsection (a), the President may ex-
3 tend, for 1 or more 2-year periods, the requirements of
4 this Act (including the reports required by section 6) with
5 respect to a covered foreign trade partner if the President
6 certifies to the appropriate congressional committees that
7 the government of the covered foreign trade partner con-
8 tinues to engage in actions described in section 2(4)(C).

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