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.

IN THE SENATE OF THE UNITED STATES

Mr. Rubio (for himself, Mr. Cardin, Mr. Cotton, Mr. Kaine, Mr. Young, Mr. Blumenthal, Mr. Hawley, Mrs. Gillibrand, Mr. Scott of Florida, Mr. Manchin, Mrs. Blackburn, Ms. Duckworth, Mr. Cornyn, Mr. Jones, and Mr. Romney) introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “South China Sea and East China Sea Sanctions Act of 2019”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:
Sec. 2. FINDINGS.

Congress makes the following findings:

(1) According to the Asia-Pacific Maritime Security Strategy issued by the Department of Defense in August 2015, “Although the United States takes no position on competing sovereignty claims to land features in the region, all such claims must be based upon land (which in the case of islands means naturally formed areas of land that are above water at high tide), and all maritime claims must derive from such land in accordance with international law.”.

(2) According to the annual report of the Department of Defense to Congress on the military power of the People’s Republic of China submitted in April 2016, “Throughout 2015, China continued to assert sovereignty claims over features in the
East and South China Seas. In the East China Sea, China continued to use maritime law enforcement ships and aircraft to patrol near the Senkaku (Diaoyu) Islands in order to challenge Japan’s claim. In the South China Sea, China paused its land reclamation effort in the Spratly Islands in late 2015 after adding more than 3,200 acres of land to the seven features it occupies in the archipelago. Although these artificial islands do not provide China with any additional territorial or maritime rights within the South China Sea, China will be able to use them as persistent civil-military bases to enhance its long-term presence in the South China Sea significantly.”.

(3) On May 30, 2015, at the Shangri-la Dialogue of the International Institute for Strategic Studies, Secretary of Defense Ashton Carter stated that “with its actions in the South China Sea, China is out of step with both the international rules and norms that underscore the Asia-Pacific’s security architecture, and the regional consensus that favors diplomacy and opposes coercion”.

(4) On July 24, 2015, Admiral Harry Harris, Jr., noted at a forum in Colorado that each year
more than $5,300,000,000,000 in global sea-based trade passes through the South China Sea.

(5) On June 4, 2016, at the Shangri-la Dialogue, Secretary of Defense Ashton Carter stated: “[T]he United States will stand with regional partners to uphold core principles, like freedom of navigation and overflight and the peaceful resolution of disputes through legal means and in accordance with international law. As I affirmed here last year, and America’s Freedom of Navigation Operations in the South China Sea have demonstrated, the United States will continue to fly, sail and operate wherever international law allows, so that everyone in the region can do the same.”

(6) On July 12, 2016, the Permanent Court of Arbitration’s Tribunal organized pursuant to the United Nations Convention on the Law of the Sea issued its unanimous award in the arbitration instituted by Republic of the Philippines against the People’s Republic of China. The Tribunal noted that its award is final and binding under that Convention.

(7) Also according to the award, the Tribunal “concluded that, to the extent China had historical rights to resources in the waters of the South China Sea, such rights were extinguished to the extent they
were incompatible with the exclusive economic zones provided for in the Convention. The Tribunal concluded that there was no legal basis for China to claim historic rights to resources within the sea areas falling within the ‘nine-dash line’.

(8) Also according to the award, the Tribunal “held that the Spratly Islands cannot generate maritime zones collectively as a unit. Having found that none of the features claimed by China was capable of generating an exclusive economic zone, the Tribunal found that it could—without delimiting a boundary—declare that certain sea areas are within the exclusive economic zone of the Philippines, because those areas are not overlapped by any possible entitlement of China.”

(9) Also according to the award, the Tribunal “found that China had violated the Philippines’ sovereign rights in its exclusive economic zone by (a) interfering with Philippine fishing and petroleum exploration, (b) constructing artificial islands and (c) failing to prevent Chinese fishermen from fishing in the zone. The Tribunal also held that fishermen from the Philippines (like those from China) had traditional fishing rights at Scarborough Shoal and that China had interfered with these rights in re-
stricting access. The Tribunal further held that Chinese law enforcement vessels had unlawfully created a serious risk of collision when they physically obstructed Philippine vessels.”.

(10) On July 12, 2016, the Ministry of Foreign Affairs of the People’s Republic of China issued a statement that China “declares that the [Tribunal] award is null and void and has no binding force. China neither accepts nor recognizes it. . . . China’s territorial sovereignty and maritime rights and interests in the South China Sea shall under no circumstances be affected by those awards. China opposes and will never accept any claim or action based on those awards.”.

(11) On July 12, 2016, the Government of the People’s Republic of China issued the fifth statement in the name of that Government since 1979 that—

(A) stated that the People’s Republic of China has sovereignty over the 4 rocks and shoals in the South China Sea;

(B) claims internal waters, territorial seas, contiguous zones, one or more exclusive economic zones, and a continental shelf based on that sovereignty claim; and
(C) continues to claim historic rights in the South China Sea.

(12) On July 12, 2016, Assistant Secretary of State and Department of State Spokesperson John Kirby noted that the “United States strongly supports the rule of law. We support efforts to resolve territorial and maritime disputes in the South China Sea peacefully, including through arbitration. . . . we urge all claimants to avoid provocative statements or actions. This decision can and should serve as a new opportunity to renew efforts to address maritime disputes peacefully.”.

(13) On July 13, 2016, the Vice Foreign Minister of the People’s Republic of China, Liu Zhenmin, said that declaring an air defense identification zone in the South China Sea would depend on the threat China faces and stated that “[i]f our security is threatened, we of course have the right to set it up”.

(14) On July 18, 2016, the People’s Liberation Army Air Force of the People’s Republic of China stated that it had conducted a “combat air patrol” over the South China Sea and that it would become “regular practice” in the future. A spokesperson stated that the People’s Liberation Army Air Force
“will firmly defend national sovereignty, security and maritime interests, safeguard regional peace and stability, and cope with various threats and challenges”.

(15) On August 2, 2016, the Supreme People’s Court of the People’s Republic of China issued a judicial interpretation that people caught illegally fishing in Chinese waters could be jailed for up to one year.

(16) In the Agreement concerning the Ryukyu Islands and the Daito Islands with Related Arrangements, signed at Washington and Tokyo June 17, 1971 (23 UST 446), between the United States and Japan (commonly referred to as the “Okinawa Reversion Treaty”), the United States agreed to apply the Treaty of Mutual Cooperation and Security, with Agreed Minute and Exchanges of Notes (11 UST 1632), signed at Washington January 19, 1961, between the United States and Japan, to the area covered by the Okinawa Reversion Treaty, including the Senkaku Islands.

(17) In April 2014, President Barack Obama stated, “The policy of the United States is clear—the Senkaku Islands are administered by Japan and therefore fall within the scope of Article 5 of the
U.S.-Japan Treaty of Mutual Cooperation and Security. And we oppose any unilateral attempts to undermine Japan’s administration of these islands.”.

(18) In February 2017, President Donald Trump and Japanese Prime Minister Shinzo Abe issued a joint statement that “affirmed that Article V of the U.S.-Japan Treaty of Mutual Cooperation and Security covers the Senkaku Islands”.

SEC. 3. DEFINITIONS.

In this Act:

(1) ACCOUNT; CORRESPONDENT ACCOUNT; PAYABLE-THROUGH ACCOUNT.—The terms “account”, “correspondent account”, and “payable-through account” have the meanings given those terms in section 5318A of title 31, United States Code.

(2) ALIEN.—The term “alien” has the meaning given that term in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)).

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Relations, the Committee on Armed Services, the Committee on Banking, Housing, and Urban Af-
fairs, and the Select Committee on Intelligence of the Senate; and

(B) the Committee on Foreign Affairs, the Committee on Armed Services, the Committee on Financial Services, and the Permanent Select Committee on Intelligence of the House of Representatives.

(4) Chinese person.—The term “Chinese person” means—

(A) an individual who is a citizen or national of the People’s Republic of China; or

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

(5) Financial institution.—The term “financial institution” means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (M), (N), (P), (R), (T), (Y), or (Z) of section 5312(a)(2) of title 31, United States Code.

(6) Foreign financial institution.—The term “foreign financial institution” has the meaning given that term in section 1010.605 of title 31, Code
of Federal Regulations (or any corresponding similar regulation or ruling).

(7) KNOWINGLY.—The term “knowingly”, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(8) PERSON.—The term “person” means any individual or entity.

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

(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

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

SEC. 4. POLICY OF THE UNITED STATES WITH RESPECT TO THE SOUTH CHINA SEA AND THE EAST CHINA SEA.

It is the policy of the United States—

(1) to support the principle that disputes between countries should be resolved peacefully consistent with international law;
(2) to reaffirm its unwavering commitment and support for allies and partners in the Asia-Pacific region, including longstanding United States policy—

(A) regarding Article V of the Mutual Defense Treaty, signed at Washington August 30, 1951 (3 UST 3947), between the United States and the Philippines; and

(B) that Article V of the Mutual Defense Assistance Agreement, with Annexes, signed at Tokyo March 8, 1954 (5 UST 661), between the United States and Japan, applies to the Senkaku Islands, which are administered by Japan; and

(3) to support the principle of freedom of navigation and overflight and to continue to use the sea and airspace wherever international law allows.

SEC. 5. SENSE OF CONGRESS WITH RESPECT TO THE SOUTH CHINA SEA AND THE EAST CHINA SEA.

It is the sense of Congress that—

(1) the United States—

(A) opposes all claims in the maritime domains that impinge on the rights, freedoms, and lawful use of the seas that belong to all countries;
(B) opposes unilateral actions by the government of any country seeking to change the status quo in the South China Sea through the use of coercion, intimidation, or military force;

(C) opposes actions by the government of any country to interfere in any way in the free use of waters and airspace in the South China Sea or East China Sea;

(D) opposes actions by the government of any country to prevent any other country from exercising its sovereign rights to the resources of the exclusive economic zone and continental shelf by making claims that have no support in international law; and

(E) upholds the principle that territorial and maritime claims, including with respect to territorial waters or territorial seas, must be derived from land features and otherwise comport with international law;

(2) the People’s Republic of China should not continue to pursue illegitimate claims and to militarize an area that is essential to global security;

(3) the United States should—

(A) continue and expand freedom of navigation operations and overflights;
(B) reconsider the traditional policy of not taking a position on individual claims; and

(C) respond to provocations by the People’s Republic of China with commensurate actions that impose costs on any attempts to undermine security in the region;

(4) the Senkaku Islands are covered by Article V of the Mutual Defense Assistance Agreement, with Annexes, signed at Tokyo March 8, 1954 (5 UST 661), between the United States and Japan; and

(5) the United States should firmly oppose any unilateral actions by the People’s Republic of China that seek to undermine Japan’s control of the Senkaku Islands.

SEC. 6. SANCTIONS WITH RESPECT TO CHINESE PERSONS RESPONSIBLE FOR CHINA’S ACTIVITIES IN THE SOUTH CHINA SEA AND THE EAST CHINA SEA.

(a) INITIAL IMPOSITION OF SANCTIONS.—On and after the date that is 60 days after the date of the enactment of this Act, the President shall impose the sanctions described in subsection (b) with respect to—

(1) any Chinese person that contributes to construction or development projects, including land reclamation, island-making, lighthouse construction,
building of base stations for mobile communications services, building of electricity and fuel supply facilities, or civil infrastructure projects, in areas of the South China Sea contested by one or more members of the Association of Southeast Asian Nations;

(2) any Chinese person that is responsible for or complicit in, or has engaged in, directly or indirectly, actions or policies that threaten the peace, security, or stability of areas of the South China Sea contested by one or more members of the Association of Southeast Asian Nations or areas of the East China Sea administered by Japan or the Republic of Korea, including through the use of vessels and aircraft to impose the sovereignty of the People’s Republic of China in those areas;

(3) any Chinese person that engages, or attempts to engage, in an activity or transaction that materially contributes to, or poses a risk of materially contributing to, an activity described in paragraph (1) or (2); and

(4) any person that—

(A) is owned or controlled by a person described in paragraph (1), (2), or (3); and

(B) is acting for or on behalf of such a person; or
(C) provides, or attempts to provide—

   (i) financial, material, technological, or other support to a person described in paragraph (1), (2), or (3); or

   (ii) goods or services in support of an activity described in paragraph (1), (2), or (3).

(b) SANCTIONS DESCRIBED.—

   (1) BLOCKING OF PROPERTY.—The President shall block and prohibit, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), all transactions in all property and interests in property of any person subject to subsection (a) if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

   (2) EXCLUSION FROM UNITED STATES.—The Secretary of State shall deny a visa to, and the Secretary of Homeland Security shall exclude from the United States, any person subject to subsection (a) that is an alien.

   (3) CURRENT VISA REVOKED.—The issuing consular officer, the Secretary of State, or the Secretary of Homeland Security (or a designee of one
of such Secretaries) shall revoke any visa or other
entry documentation issued to any person subject to
subsection (a) that is an alien, regardless of when
issued. The revocation shall take effect immediately
and shall automatically cancel any other valid visa or
entry documentation that is in the alien’s possession.

(c) EXCEPTIONS; PENALTIES.—

(1) INAPPLICABILITY OF NATIONAL EMER-
GENCY REQUIREMENT.—The requirements of section
202 of the International Emergency Economic Pow-
er Act (50 U.S.C. 1701) shall not apply for pur-
poses of subsection (b)(1).

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

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

(d) ADDITIONAL IMPOSITION OF SANCTIONS.—

(1) IN GENERAL.—The President shall prohibit
the opening, and prohibit or impose strict conditions
on the maintaining, in the United States of a cor-
respondent account or a payable-through account by
a foreign financial institution that the President de-
termines knowingly, on or after the date that is 60
days after the date of the enactment of this Act, con-
ducts or facilitates a significant financial trans-
action for a person subject to subsection (a) if the
Director of National Intelligence determines that the
Government of the People’s Republic of China has—

(A) declared an air defense identification
zone over any part of the South China Sea;

(B) initiated reclamation work at another
disputed location in the South China Sea, such
as at Scarborough Shoal;

(C) seized control of Second Thomas
Shoal;
(D) deployed surface-to-air missiles to any of the artificial islands the People’s Republic of China has built in the Spratly Island chain, including Fiery Cross, Mischief, or Subi Reefs;

(E) established territorial baselines around the Spratly Island chain;

(F) increased harassment of Philippine vessels; or

(G) increased provocative actions against the Japanese Coast Guard or Maritime Self-Defense Force or United States forces in the East China Sea.

(2) REPORT.—

(A) IN GENERAL.—The determination of the Director of National Intelligence referred to in paragraph (1) shall be submitted in a report to the President and the appropriate congressional committees.

(B) FORM OF REPORT.—The report required by subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.
SEC. 7. DETERMINATIONS AND REPORT ON CHINESE COMPANIES ACTIVE IN THE SOUTH CHINA SEA AND THE EAST CHINA SEA.

(a) In General.—The Secretary of State shall submit to the appropriate congressional committees a report that identifies each Chinese person the Secretary determines is engaged in the activities described in section 6(a).

(b) Consideration.—In preparing the report required under subsection (a), the Secretary shall make specific findings with respect to whether each of the following persons is involved in the activities described in section 6(a):

(1) CCCC Tianjin Dredging Co., Ltd.
(2) CCCC Dredging (Group) Company, Ltd.
(3) China Communications Construction Company (CCCC), Ltd.
(4) China Petroleum Corporation (Sinopec Group).
(5) China Mobile.
(6) China Telecom.
(7) China Southern Power Grid.
(8) CNFC Guangzhou Harbor Engineering Company.
(9) Zhanjiang South Project Construction Bureau.
(10) Hubei Jiangtian Construction Group.
(11) China Harbour Engineering Company (CHEC).


(13) Shanghai Leading Energy Shipping.

(14) China National Offshore Oil Corporation (CNOOC).

(15) China Oilfield Services Limited (COSL).

(16) China Precision Machinery Import/Export Corporation (CPMIEC).

(17) China Aerospace Science and Industry Corporation (CASIC).

(18) Aviation Industry Corporation of China (AVIC).

(19) Shenyang Aircraft Corporation.

(20) Shaanxi Aircraft Corporation.

(21) China Ocean Shipping (Group) Company (COSCO).

(22) China Southern Airlines.

(23) Zhan Chaoying.

(24) Sany Group.

(25) Chinese persons affiliated with any of the entities specified in paragraphs (1) through (24).

(c) SUBMISSION AND FORM.—
(1) SUBMISSION.—The report required by subsection (a) shall be submitted not later than 60 days after the date of the enactment of this Act and every 180 days thereafter until the date that is 3 years after such date of enactment.

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

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

SEC. 8. PROHIBITION AGAINST DOCUMENTS PORTRAYING THE SOUTH CHINA SEA OR THE EAST CHINA SEA AS PART OF CHINA.

The Government Publishing Office may not publish any map, document, record, electronic resource, or other paper of the United States (other than materials relating to hearings held by committees of Congress or internal work product of a Federal agency) portraying or otherwise indicating that it is the position of the United States that the territory or airspace in the South China Sea contested by one or more members of the Association of Southeast
Asian Nations or the territory or airspace of areas of the
East China Sea administered by Japan or the Republic
of Korea is part of the territory or airspace of the People’s
Republic of China.

SEC. 9. PROHIBITION ON FACILITATING CERTAIN INVEST-
MENTS IN THE SOUTH CHINA SEA OR THE
EAST CHINA SEA.

(a) IN GENERAL.—No United States person may
take any action to approve, facilitate, finance, or guar-
antee any investment, provide insurance, or underwriting
in the South China Sea or the East China Sea that in-
volves any person with respect to which sanctions are im-
posed under section 6(a).

(b) ENFORCEMENT.—The Secretary of the Treasury,
in consultation with the Secretary of State, is authorized
to take such actions, including the promulgation of such
rules and regulations, as may be necessary to carry out
the purposes of this section.

(c) PENALTIES.—The penalties provided for in sub-
sections (b) and (e) of section 206 of the International
apply to a person that violates, attempts to violate, con-
spires to violate, or causes a violation of regulations pre-
scribed under this section to the same extent that such
penalties apply to a person that commits an unlawful act
described in subsection (a) of such section 206.

(d) EXCEPTION.—Subsection (a) shall not apply with
respect to humanitarian assistance, disaster assistance, or
emergency food assistance.

SEC. 10. DEPARTMENT OF JUSTICE AFFIRMATION OF NON-RECOGNITION OF ANNEXATION.

In any matter before any United States court, upon request of the court or any party to the matter, the Attorney General shall affirm the United States policy of not recognizing the de jure or de facto sovereignty of the People’s Republic of China over territory or airspace contested by one or more members of the Association of Southeast Asian Nations in the South China Sea or the territory or airspace of areas of the East China Sea administered by Japan or the Republic of Korea.

SEC. 11. NON-RECOGNITION OF CHINESE SOVEREIGNTY OVER THE SOUTH CHINA SEA OR THE EAST CHINA SEA.

(a) UNITED STATES ARMED FORCES.—The Secretary of Defense may not take any action, including any movement of aircraft or vessels that implies recognition of the sovereignty of the People’s Republic of China over territory or airspace contested by one or more members of the Association of Southeast Asian Nations in the
(b) **United States Flagged Vessels.**—No vessel that is issued a certificate of documentation under chapter 121 of title 46, United States Code, may take any action that implies recognition of the sovereignty of the People’s Republic of China over territory or airspace contested by one or more members of the Association of Southeast Asian Nations in the South China Sea or the territory or airspace of areas of the East China Sea administered by Japan or the Republic of Korea.

(c) **United States Aircraft.**—No aircraft operated by an air carrier that holds an air carrier certificate issued under chapter 411 of title 49, United States Code, may take any action that implies recognition of the sovereignty of the People’s Republic of China over territory or airspace contested by one or more members of the Association of Southeast Asian Nations in the South China Sea or the territory or airspace of areas of the East China Sea administered by Japan or the Republic of Korea.
SEC. 12. PROHIBITION ON CERTAIN ASSISTANCE TO COUNTRIES THAT RECOGNIZE CHINESE SOVEREIGNTY OVER THE SOUTH CHINA SEA OR THE EAST CHINA SEA.

(a) Prohibition.—Except as provided by subsection (c) or (d), no amounts may be obligated or expended to provide foreign assistance to the government of any country identified in a report required by subsection (b).

(b) Report Required.—

(1) In general.—Not later than 60 days after the date of the enactment of this Act, and every 180 days thereafter until the date that is 3 years after such date of enactment, the Secretary of State shall submit to the appropriate congressional committees a report identifying each country that the Secretary determines recognizes, after such date of enactment, the sovereignty of the People’s Republic of China over territory or airspace contested by one or more members of the Association of Southeast Asian Nations in the South China Sea or the territory or airspace of areas of the East China Sea administered by Japan or the Republic of Korea.

(2) Form.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex if the Secretary of State
determines it is necessary for the national security interests of the United States to do so.

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

(e) **EXCEPTION.**—This section shall not apply with respect to Taiwan, humanitarian assistance, disaster assistance, emergency food assistance, or the Peace Corps.

(d) **WAIVER.**—The President may waive the application of subsection (a) with respect to the government of a country if the President determines that the waiver is in the national interests of the United States.