

117TH CONGRESS
2D SESSION

S. 3725

To withdraw normal trade relations treatment from products of countries that commit acts of aggression in violation of international law against other countries or territories and to amend the Global Magnitsky Human Rights Accountability Act to modify the foreign persons subject to sanctions and to remove the sunset for the imposition of sanctions.

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2022

Mr. PORTMAN (for himself and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To withdraw normal trade relations treatment from products of countries that commit acts of aggression in violation of international law against other countries or territories and to amend the Global Magnitsky Human Rights Accountability Act to modify the foreign persons subject to sanctions and to remove the sunset for the imposition of sanctions.

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 “No Trading with In-
5 vaders Act”.

1 **SEC. 2. WITHDRAWAL OF NORMAL TRADE RELATIONS**
2 **TREATMENT FOR COUNTRIES OR TERRI-**
3 **TORIES THAT COMMIT ACTS OF AGGRESSION.**

4 (a) WITHDRAWAL OF NORMAL TRADE RELATIONS
5 TREATMENT.—

6 (1) IN GENERAL.—Notwithstanding any other
7 provision of law, effective on the date of the enact-
8 ment of this Act, if the President determines that
9 the government of a subject country or territory has
10 committed an act of aggression in violation of inter-
11 national law, that the President does not consider to
12 be a legitimate act of self-defense, against a WTO
13 member, the President shall deny nondiscriminatory
14 treatment (normal trade relations) in accordance
15 with paragraph (2) to products of that country or
16 territory.

17 (2) DUTY RATES APPLICABLE.—If the Presi-
18 dent makes a determination of aggression under
19 paragraph (1) with respect to a subject country or
20 territory, not later than 15 days after that deter-
21 mination, the President shall, by proclamation, cause
22 all products of that country or territory to be duti-
23 able at the rates set forth in the column 2 rate of
24 duty column of the Harmonized Tariff Schedule of
25 the United States.

1 (3) REQUEST BY CONGRESS FOR DETERMINA-
2 TION.—If the President receives from a relevant
3 congressional committee a request to make a deter-
4 mination under paragraph (1) as to whether the gov-
5 ernment of a subject country or territory committed
6 an act of aggression in violation of international law
7 against a WTO member, the President shall make
8 such a determination not later than 15 days after
9 receiving the request.

10 (4) DETERMINATION OF NON-AGGRESSION.—If
11 the President determines that the government of a
12 subject country or territory has not committed an
13 act of aggression in violation of international law
14 against a WTO member, whether pursuant to a re-
15 quest by a relevant congressional committee under
16 paragraph (3) or otherwise, the President shall brief
17 each relevant congressional committee on the jus-
18 tification for such a determination.

19 (b) RESTORATION OF NORMAL TRADE RELATIONS
20 TREATMENT.—

21 (1) IN GENERAL.—The President may restore
22 nondiscriminatory treatment to products of a subject
23 country or territory with respect to which such treat-
24 ment has been withdrawn under subsection (a) on

1 and after the date that is 30 days after the date on
2 which the President certifies to Congress that—

3 (A) the subject country or territory has
4 ceased committing acts of aggression in viola-
5 tion of international law towards the WTO
6 member that led to the withdrawal of such
7 treatment and has fully removed its armed
8 forces or proxy forces from the WTO member;
9 and

10 (B) the WTO member has fully regained
11 its sovereignty and territorial integrity as in ex-
12 istence in that country before the commence-
13 ment of the acts of aggression in violation of
14 international law.

15 (2) CONSULTATION WITH CONGRESS.—Before
16 making a decision to restore nondiscriminatory
17 treatment under paragraph (1), the President shall
18 consult with each relevant congressional committee
19 to determine whether the conditions of that para-
20 graph have been satisfied.

21 (c) DETERMINATION OF ACTS OF AGGRESSION.—For
22 purposes of this section, the President shall consider an
23 act of aggression in violation of international law by a sub-
24 ject country or territory against a WTO member to in-
25 clude—

1 (1) an invasion of the territory of the WTO
2 member by the armed forces or proxy forces of the
3 subject country or territory;

4 (2) the occupation of the territory of the WTO
5 member by the armed forces or proxy forces of the
6 subject country or territory; or

7 (3) any other armed attack by the armed forces
8 or proxy forces of the subject country or territory on
9 the WTO member.

10 (d) DEFINITIONS.—In this section:

11 (1) RELEVANT CONGRESSIONAL COMMITTEE.—
12 The term “relevant congressional committee” means
13 any of the following committees:

14 (A) The Committee on Finance, the Com-
15 mittee on Foreign Relations, or the Committee
16 on Armed Services of the Senate.

17 (B) The Committee on Ways and Means,
18 the Committee on Foreign Affairs, or the Com-
19 mittee on Armed Services of the House of Rep-
20 resentatives.

21 (2) SOVEREIGNTY.—The term “sovereignty”
22 means the international independence of a state, in-
23 cluding its right to regulate its own internal and ex-
24 ternal affairs without foreign dictation, such as by
25 conducting free and fair elections.

1 (3) SUBJECT COUNTRY OR TERRITORY.—The
 2 term “subject country or territory” means a country
 3 or territory that is or was at any time subject to the
 4 provisions of chapter 1 of title IV of the Trade Act
 5 of 1974 (19 U.S.C. 2431 et seq.).

6 (4) WTO MEMBER.—The term “WTO mem-
 7 ber” has the meaning given that term in section 2
 8 of the Uruguay Round Agreements Act (19 U.S.C.
 9 3501).

10 **SEC. 3. MODIFICATIONS TO AND REAUTHORIZATION OF**
 11 **SANCTIONS WITH RESPECT TO HUMAN**
 12 **RIGHTS VIOLATIONS.**

13 (a) DEFINITIONS.—Section 1262 of the Global
 14 Magnitsky Human Rights Accountability Act (Subtitle F
 15 of title XII of Public Law 114–328; 22 U.S.C. 2656 note)
 16 is amended by striking paragraph (2) and inserting the
 17 following:

18 “(2) IMMEDIATE FAMILY MEMBER.—The term
 19 ‘immediate family member’, with respect to a foreign
 20 person, means the spouse, parent, sibling, or adult
 21 child of the person.”.

22 (b) SENSE OF CONGRESS.—The Global Magnitsky
 23 Human Rights Accountability Act (Subtitle F of title XII
 24 of Public Law 114–328; 22 U.S.C. 2656 note) is amended
 25 by inserting after section 1262 the following new section:

1 **“SEC. 1262A. SENSE OF CONGRESS.**

2 “It is the sense of Congress that the President should
3 establish and regularize information sharing and sanc-
4 tions-related decision making with like-minded govern-
5 ments possessing human rights and anti-corruption sanc-
6 tions programs similar in nature to those authorized under
7 this subtitle.”.

8 (c) IMPOSITION OF SANCTIONS.—

9 (1) IN GENERAL.—Subsection (a) of section
10 1263 of the Global Magnitsky Human Rights Ac-
11 countability Act (Subtitle F of title XII of Public
12 Law 114–328; 22 U.S.C. 2656 note) is amended to
13 read as follows:

14 “(a) IN GENERAL.—The President may impose the
15 sanctions described in subsection (b) with respect to—

16 “(1) any foreign person that the President de-
17 termines, based on credible information—

18 “(A) is responsible for or complicit in, or
19 has directly or indirectly engaged in, serious
20 human rights abuse;

21 “(B) is a current or former government of-
22 ficial, or a person acting for or on behalf of
23 such an official, who is responsible for or
24 complicit in, or has directly or indirectly en-
25 gaged in—

26 “(i) corruption, including—

1 “(I) the misappropriation of state
2 assets;

3 “(II) the expropriation of private
4 assets for personal gain;

5 “(III) corruption related to gov-
6 ernment contracts or the extraction of
7 natural resources; or

8 “(IV) bribery; or

9 “(ii) the transfer or facilitation of the
10 transfer of the proceeds of corruption;

11 “(C) is or has been a leader or official of—

12 “(i) an entity, including a government
13 entity, that has engaged in, or whose mem-
14 bers have engaged in, any of the activities
15 described in subparagraph (A) or (B) re-
16 lated to the tenure of the leader or official;
17 or

18 “(ii) an entity whose property and in-
19 terests in property are blocked pursuant to
20 this section as a result of activities related
21 to the tenure of the leader or official;

22 “(D) has materially assisted, sponsored, or
23 provided financial, material, or technological
24 support for, or goods or services to or in sup-
25 port of—

1 “(i) an activity described in subpara-
 2 graph (A) or (B) that is conducted by a
 3 foreign person;

4 “(ii) a person whose property and in-
 5 terests in property are blocked pursuant to
 6 this section; or

7 “(iii) an entity, including a govern-
 8 ment entity, that has engaged in, or whose
 9 members have engaged in, an activity de-
 10 scribed in subparagraph (A) or (B) con-
 11 ducted by a foreign person; or

12 “(E) is owned or controlled by, or has
 13 acted or been purported to act for or on behalf
 14 of, directly or indirectly, a person whose prop-
 15 erty and interests in property are blocked pur-
 16 suant to this section; and

17 “(2) any immediate family member of a person
 18 described in paragraph (1).”.

19 (2) CONSIDERATION OF CERTAIN INFORMA-
 20 TION.—Subsection (c)(2) of such section is amended
 21 by inserting “corruption and” after “monitor”.

22 (3) REQUESTS BY CONGRESS.—Subsection (d)
 23 of such section is amended—

24 (A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “subsection (a)” and inserting “subsection (a)(1)”; and

(ii) in subparagraph (B)(i), by inserting “or an immediate family member of the person”; and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) in the subparagraph heading, by striking “HUMAN RIGHTS VIOLATIONS” and inserting “SERIOUS HUMAN RIGHTS ABUSE”; and

(II) by striking “described in paragraph (1) or (2) of subsection (a)” and inserting “described in subsection (a)(1) relating to serious human rights abuse”; and

(ii) in subparagraph (B)—

(I) in the matter preceding clause (i), by striking “described in paragraph (3) or (4) of subsection (a)” and inserting “described in subsection (a)(1) relating to corruption or the transfer or facilitation of the transfer of the proceeds of corruption”; and

1 (II) by striking “ranking member
2 of” and all that follows through the
3 period at the end and inserting “rank-
4 ing member of one of the appropriate
5 congressional committees”.

6 (4) TERMINATION OF SANCTIONS.—Subsection
7 (g) of such section is amended, in the matter pre-
8 ceding paragraph (1), by inserting “and the imme-
9 diate family members of that person” after “a per-
10 son”.

11 (d) REPORTS TO CONGRESS.—Section 1264(a) of the
12 Global Magnitsky Human Rights Accountability Act (Sub-
13 title F of title XII of Public Law 114–328; 22 U.S.C.
14 2656 note) is amended—

15 (1) in paragraph (5), by striking “; and” and
16 inserting a semicolon;

17 (2) in paragraph (6), by striking the period at
18 the end and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(7) A description of additional steps taken by
21 the President through diplomacy, international en-
22 gagement, and assistance to foreign or security sec-
23 tors to address persistent underlying causes of seri-
24 ous human rights abuse and corruption in each
25 country in which foreign persons with respect to

1 which sanctions have been imposed under section
2 1263 are located.”.

3 (e) REPEAL OF SUNSET.—Section 1265 of the Global
4 Magnitsky Human Rights Accountability Act (Subtitle F
5 of title XII of Public Law 114–328; 22 U.S.C. 2656 note)
6 is repealed.

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