To authorize the imposition of sanctions with respect to significant actions that exacerbate climate change, to reinforce comprehensive efforts to limit global average temperature rise, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To authorize the imposition of sanctions with respect to significant actions that exacerbate climate change, to reinforce comprehensive efforts to limit global average temperature rise, 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.

This Act may be cited as the “Targeting Environmental and Climate Recklessness Act of 2019”.

SEC. 2. FINDINGS.

Congress makes the following findings:
(1) There is strong global support for actions that limit the severity of climate change.

(2) On September 18, 2019, more than 200 representatives of environmental groups, human rights groups, indigenous peoples, workers, and academia adopted a declaration calling on governments to urgently address environmental damage, including by increasing the pressure on those most responsible for climate change.

(3) The United States Government has developed and implements targeted measures to restrict access to the United States financial system for specific individuals and entities involved in conduct including malicious cyber-enabled activity, transnational organized crime, narcotics trafficking, terrorism, proliferation of weapons of mass destruction, human rights abuse, and corruption. Those conduct-based measures apply globally and are not focused on any specific country.

(4) As of the date of the enactment of this Act, the United States Government seeks to apply existing sanctions authorities against individuals and entities engaged in wildlife trafficking. On January 30, 2018, the Office of Foreign Assets Control designated an organization for engaging in illicit activi-
ties including the trafficking of endangered and vulnerable animals such as black bears, pangolins, tigers, rhinoceroses, and elephants.

(5) Climate change has disproportionate impact on poorer communities and individuals in less developed countries. Targeted measures against individuals and entities most responsible for exacerbating climate change could help ensure that efforts to address climate change do not worsen global inequality.

(6) Development of carbon-intensive electrical power plants is continuing across the developing world through new foreign investments, despite broad awareness of the dangers.

(7) The current investment plans of countries likely to receive significant foreign energy investments may lead to an excess build-out of fossil fuel assets and create carbon “lock-in” absent urgent action.

(8) Governments that are investing in or directing foreign investment toward legacy fossil fuel energy generation often lack the incentive to formulate more efficient or sustainable national energy policies. Those governments are thus likely to default to established but harmful forms of energy generation.
(9) Alternatives to carbon-intensive electrical power generation are now available and technological advancements continue to strengthen the economic competitiveness of such alternatives.

(10) Corruption is especially harmful when individuals who abuse positions of influence for personal gain can simultaneously cause great damage to the global commons by facilitating significant increases in the emission of, or decreases in the absorption of, greenhouse gases.

(11) Deforestation is doubly damaging because it undercuts the absorption of carbon dioxide, while also raising greenhouse gas emissions.

(12) According to the Intergovernmental Panel on Climate Change, most pathways to limit warming to well below 2 degrees Celsius require reduced deforestation in concert with reforestation, afforestation, and bioenergy efforts.

(13) From 2013 to 2019, some of the largest financial institutions in the world provided tens of billions of dollars in financing to entities either directly or indirectly deforesting the largest rainforests in the world. Most financial institutions have no internal policy covering dealings in key forest-risk commodities.
(14) On September 22, 2019, 130 financial institutions worth $47,000,000,000,000 collectively, representing 1/3 of the global industry, signed on to the United Nations-backed Principles for Responsible Banking, committing to strategically align their businesses with the goals of the agreement of the parties to the United Nations Framework Convention on Climate Change, done at Paris December 12, 2015, and entered into force November 4, 2016 (in this Act referred to as the “Paris Climate Agreement”) and the Sustainable Development Goals adopted by all United Nations member countries in 2015.

(15) Illegal deforestation causes environmental harm while promoting criminal activity. In the Brazilian Amazon, criminal networks with the capacity to coordinate large-scale extraction, processing, and sale of timber deploy armed personnel to protect their interests. They regularly kill and threaten people who stand in the way of criminal activity, including members of indigenous communities and environmental enforcement officials. Perpetrators of violence are rarely brought to justice.

(16) Between 2002 and 2017, 1,558 people in 50 countries were killed for defending their environ-
ments and lands. Environmental defenders currently face a wave of violence that includes threats of physical harm, intimidation, and criminalization.

(17) Policies and measures to address climate change must also promote human rights, thereby advancing equality, justice, and dignity for all, in line with the Sustainable Development Goals of the United Nations.

SEC. 3. SENSE OF CONGRESS ON A COMPREHENSIVE APPROACH TO ADDRESSING CLIMATE CHANGE.

It is the sense of Congress that—

(1) the restrictive measures described in this Act are only one component of the comprehensive approach needed to address climate change and mitigate its effects;

(2) the United States Government must ensure through law and regulation that United States entities are not engaged in any of the egregious behaviors for which foreign persons may be targeted under this Act;

(3) the United States Government must recommit to the Paris Climate Agreement and commit to any successor agreement;

(4) the United States Government must fulfill its pledges to the Green Climate Fund and promote
international efforts to support climate change adaptation and mitigation;

(5) the United States Government must work proactively with foreign governments, including by offering positive incentives, to address climate change and to promote economic development in ways that do not needlessly increase carbon emissions or increase the risk of corruption;

(6) the restrictive measures described in this Act should be employed if engagement has failed to prevent significant actions that exacerbate climate change; and

(7) given broad international support for countering climate change, the Secretary of State should encourage the governments of other countries to implement restrictive measures that are similar to the provisions of this Act in order to increase the effectiveness of actions taken by the United States to combat significant actions that exacerbate climate change, including related corruption and human rights violations.

SEC. 4. SENSE OF CONGRESS ON ENGAGEMENT WITH THE PEOPLE’S REPUBLIC OF CHINA.

It is the sense of Congress that—
(1) the United States Government should encourage the People’s Republic of China to follow through on its stated intentions to reduce the negative environmental impacts of Chinese foreign investment, including investments provided through the Belt and Road Initiative;

(2) the United States Government should negotiate a binding agreement to end fossil fuel subsidies with major economies including the People’s Republic of China;

(3) the United States Government should build on the successes of existing engagement with the People’s Republic of China through the United States-China Clean Energy Research Center and other initiatives to launch new cooperative efforts;

(4) the United States Government should engage in expanded dialogue with the People’s Republic of China to ensure that development finance institutions do not undermine global decarbonization efforts; and

(5) the United States Government should work with the People’s Republic of China to develop and adopt safeguards to promote low-carbon, climate-resilient investments over high-carbon, climate risk-inducing investments, particularly in emerging and de-

SEC. 5. STATEMENT OF POLICY ON APPLICATION OF GLOBAL MAGNITSKY SANCTIONS TO CLIMATE-LINKED CORRUPTION AND HUMAN RIGHTS ABUSES.

(a) IN GENERAL.—It is the policy of the United States to consider—

(1) any act of corruption related to a covered activity (as defined in section 6(h)) to be corruption, as that term is used in Executive Order 13818 (50 U.S.C. 1701 note; relating to blocking the property of persons involved in serious human rights abuse or corruption); and

(2) any violation of internationally recognized human rights committed against an individual described in subsection (b) to be a serious human rights abuse, as that term is used in that Executive Order 13818.

(b) INDIVIDUALS DESCRIBED.—An individual described in this subsection is an individual—

(1) seeking to protect the environment, public health, or community land rights;

(2) seeking to expose, or raise awareness of, environmental damage; or
(3) obliged to leave the individual’s habitual home due, in whole or in part, to sudden or progressive change in the environment that adversely affects the individual’s life or living conditions.

SEC. 6. IMPOSITION OF SANCTIONS WITH RESPECT TO SIGNIFICANT ACTIONS THAT EXACERBATE CLIMATE CHANGE.

(a) Sense of Congress.—It is the sense of Congress that the President should employ the authorities provided by this section to prioritize action against, and deterrence of, egregious behaviors that undermine efforts to limit the increase in global average temperature to 1.5 degrees Celsius above pre-industrial levels.

(b) In General.—The President may impose one or more of the sanctions described in subsection (c) with respect to any foreign person the President determines, based on credible information—

(1) to be responsible for or complicit in, or to have directly or indirectly engaged in, a covered activity, including a government official who approves or implements policies or acts that serve to promote a covered activity;

(2) to have acted or purported to act for or on behalf of, directly or indirectly, any foreign person in a matter relating to a covered activity, including for
or on behalf of a government official described in paragraph (1);

(3) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, a covered activity; or

(4) to be owned or controlled by a foreign person described in paragraph (1).

(e) SANCTIONS DESCRIBED.—The sanctions that may be imposed with respect to a foreign person under subsection (b) are the following:

(1) INADMISSIBILITY TO UNITED STATES.—In the case of a foreign person who is an individual—

(A) ineligibility to receive a visa to enter the United States or to be admitted to the United States; or

(B) if the individual has been issued a visa or other documentation, revocation, in accordance with section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)), of the visa or other documentation.

(2) BLOCKING OF PROPERTY.—

(A) IN GENERAL.—The blocking, in accordance with the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.),
of all transactions in all property and interests in property of the foreign person 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.

(B) INAPPLICABILITY OF NATIONAL EMERGENCY REQUIREMENT.—The requirements of section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) shall not apply for purposes of this paragraph.

(3) OTHER SANCTIONS OPTIONS.—Any of the sanctions described in section 235 of the Countering America’s Adversaries Through Sanctions Act (22 U.S.C. 9529).

(d) CONSIDERATION OF CERTAIN INFORMATION IN IMPOSING SANCTIONS.—In determining whether to impose sanctions under subsection (b), the President shall consider—

(1) information provided jointly by the chairperson and ranking member of each of the appropriate congressional committees; and

(2) credible information obtained by other countries and nongovernmental organizations that mon-
itor environmental harm or violations of human rights.

(c) REQUESTS BY APPROPRIATE CONGRESSIONAL COMMITTEES.—

(1) IN GENERAL.—Not later than 120 days after receiving a request that meets the requirements of paragraph (2) with respect to whether a foreign person has engaged in an action described in subsection (a), the President shall—

(A) determine if that person has engaged in such an action; and

(B) submit a classified or unclassified report to the chairperson and ranking member of the committee or committees that submitted the request with respect to that determination that includes—

(i) a statement of whether or not the President imposed or intends to impose sanctions with respect to the person; and

(ii) if the President imposed or intends to impose sanctions, a description of those sanctions.

(2) REQUIREMENTS.—A request under paragraph (1) with respect to whether a foreign person has engaged in an action described in subsection (b)
shall be submitted to the President in writing jointly
by the chairperson and ranking member of one of
the appropriate congressional committees.

(f) EXCEPTIONS.—

(1) INTELLIGENCE AND LAW ENFORCEMENT
ACTIVITIES.—Sanctions under this section shall not
apply with respect to—

(A) any activity subject to the reporting
requirements under title V of the National Se-
curity Act of 1947 (50 U.S.C. 3091 et seq.); or

(B) any authorized intelligence or law en-
forcement activities of the United States.

(2) COMPLIANCE WITH UNITED NATIONS HEAD-
QUARTERS AGREEMENT.—This section shall not
apply with respect to the admission of an individual
to the United States if the admission of the indi-
vidual is necessary to comply with United States ob-
ligations under the Agreement between the United
Nations and the United States of America regarding
the Headquarters of the United Nations, signed at
Lake Success June 26, 1947, and entered into force
November 21, 1947, under the Convention on Cons-
sular Relations, done at Vienna April 24, 1963, and
entered into force March 19, 1967, or under other
international obligations of the United States.
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(3) Exception relating to importation of goods.—

(A) In general.—The authority to block and prohibit all transactions in all property and interests in property under this section shall not include the authority to impose sanctions on the importation of goods.

(B) Good defined.—In this paragraph, the term "good" means any article, natural or man-made substance, material, supply or manufactured product, including inspection and test equipment, and excluding technical data.

(g) Implementation; Penalties.—

(1) Implementation.—The President may exercise all authorities provided under sections 203 and 205 of the International Emergency Economic Powers Act (50 U.S.C. 1702 and 1704) to carry out this section.

(2) Penalties.—A person that violates, attempts to violate, conspires to violate, or causes a violation of this section or any regulation, license, or order issued to carry out this section shall be subject to the penalties set forth in subsections (b) and (e) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same ex-
tent as a person that commits an unlawful act de-
scribed in subsection (a) of that section.

(h) REPORT REQUIRED.—Not later than one year
after the date of the enactment of this Act, and annually
thereafter, the Secretary of Energy, in consultation with
the Secretary of State and the Administrator of the Envi-
ronmental Protection Agency, shall submit to the appro-
priate congressional committees a report that includes a
list of each activity in a foreign country that—

(1) is initiated or negotiated in the year pre-
ceding submission of the report; and

(2) the Secretary determines is a covered activ-
ity, regardless of whether sanctions have been im-
posed with respect to the activity.

(i) DEFINITIONS.—In this section:

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

(A) the Committee on Environment and
Public Works and the Committee on Foreign
Relations of the Senate; and

(B) the Committee on Energy and Com-
merce and the Committee on Foreign Affairs of
the House of Representatives.
(2) **Carbon Sink.**—The term “carbon sink” means a feature or process that absorbs more carbon from the atmosphere than it releases.

(3) **Covered Activity.**—The term “covered activity” means any activity in a foreign country that, on or after the date of the enactment of this Act—

(A) causes, or is likely to cause, significant excess greenhouse gas emissions associated with electrical power generation, including—

(i) construction, importation, or exportation of subcritical coal-fired power plants; or

(ii) any action that significantly undermines, as a result of timing or magnitude, adoption in the country of high-efficiency, low-carbon, or renewable energy technology or infrastructure;

(B) causes, or is likely to cause, significant or illegal deforestation or loss of natural carbon sinks, including—

(i) establishment of incentives for, or promotion of, systematic deforestation;

(ii) engagement in, or failure to combat, illegal logging, mining, or ranching; or
(iii) unjust actions that limit or circumvent opposition to deforestation by individuals seeking to protect the environment, public health, or community land rights; or

(C) knowingly misrepresents the environmental impact of a project, investment, or product, including misrepresenting the amount of greenhouse gas emissions associated with the project, investment, or product, in the context of—

(i) assessments conducted by multilateral organizations, national governments, or investors; or

(ii) public efforts to gain market advantage based on purported environmental advantages of a product.

(4) 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.

(5) FOREIGN PERSON.—The term “foreign person” means a person that is not a United States person.
(6) **Subcritical coal-fired power plant.**—
The term “subcritical coal-fired power plant” means a coal-fired power plant with carbon intensity equal to or greater than 880 kilograms of carbon dioxide per megawatt-hour.

(7) **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. 7. ADDITIONAL RESOURCES FOR THE OFFICE OF FOREIGN ASSETS CONTROL.**

There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to support the targeting by the Office of Foreign Assets Control of persons under this Act and to enhance the ability of that Office to target persons for the imposition of sanctions under the Global Magnitsky Human Rights Accountability Act (subtitle F of title XII of Public Law 114–328; 22 U.S.C. 2656 note).