To provide for the imposition of sanctions with respect to foreign persons responsible for or complicit in ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens of ALBA countries, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 23, 2013

Ms. ROS-LEHTINEN (for herself and Mr. SIRES) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services, Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the imposition of sanctions with respect to foreign persons responsible for or complicit in ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens of ALBA countries, 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,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Countering ALBA Act
5 of 2013”.
SEC. 2. DEFINITIONS.

In this Act:

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

(A) the Committee on Foreign Affairs of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) ALBA COUNTRIES.—The term “ALBA countries” means Venezuela, Nicaragua, Bolivia, and Ecuador.

(3) ALBA GOVERNMENTS.—The term “ALBA Governments” means the Governments of Venezuela, Nicaragua, Bolivia, and Ecuador.

(4) HUMAN RIGHTS.—The term “human rights” has the meaning given such term in the Inter-American Democratic Charter.

(5) SENSITIVE TECHNOLOGY.—

(A) IN GENERAL.—The term “sensitive technology” means hardware, software, telecommunications equipment, or any other technology that the President determines is to be used specifically to—

(i) restrict the free flow of unbiased information; or
(ii) disrupt, monitor, or otherwise restrict freedom of speech.

(B) Exception.—The term “sensitive technology” does not include information or informational materials the exportation of which the President does not have the authority to regulate.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The 2004 Venezuelan Law on Social Responsibility of Radio and Television gives the government the authority to control radio and television content.

(2) According to the Department of State’s annual Country Reports on Human Rights Practices for 2012 for Venezuela, “The following human rights problems were reported by nongovernmental organizations (NGOs), the media, and in some cases the government itself: unlawful killings, including summary killings by rogue police elements; torture and other cruel, inhuman, or degrading treatment; inadequate juvenile detention centers; arbitrary arrests and detentions; corruption and impunity in police forces; political prisoners; interference with privacy rights; corruption at all levels of government;
threats against domestic NGOs; violence against women; anti-Semitism in the official media; trafficking in persons; violence based on sexual orientation and gender identity; and restrictions on workers’ right of association.”.

(3) In December 2010, the Venezuelan Congress passed the Law on Political Sovereignty and National Self-Determination, which threatens sanctions against any “political organization” that receives foreign funding or hosts foreign visitors who criticize the government.

(4) According to Freedom House’s Freedom in the World Report of 2012 on Venezuela, “Politicization of the judicial branch has increased under Chávez, and high courts generally do not rule against the government.”.

(5) According to the Department of State’s Country Reports on Human Rights Practices for 2012 for Venezuela, “The principal human rights abuses reported during the year included corruption, inefficiency, and politicization in the judicial system; government actions to impede freedom of expression; and harsh and life-threatening prison conditions. The government harassed and intimidated privately owned television stations, other media outlets, and
journalists throughout the year, using threats, fines, property seizures, targeted regulations, and criminal investigations and prosecutions. The government did not respect judicial independence or permit judges to act according to the law without fear of retaliation. The government used the judiciary to intimidate and selectively prosecute political, union, business, and civil society leaders who were critical of government policies or actions. Failure to provide for due process rights, physical safety, and humane conditions for inmates contributed to widespread violence, riots, injuries, and deaths in prisons.”.

(6) According to Freedom House’s Freedom in the World Report of 2012 on Nicaragua, “The press has faced increased political and judicial harassment since 2007, as the Ortega administration engages in systematic efforts to obstruct and discredit media critics. Journalists have received death threats, and some have been killed in recent years, with a number of attacks attributed to FSLN sympathizers.”.

(7) According to Freedom House’s Freedom in the World Report of 2012 on Nicaragua, “Nicaragua’s political rights rating declined from 4 to 5 due to shortcomings regarding the constitutionality of Daniel Ortega’s presidential candidacy,
reported irregularities, and the absence of trans-
parency throughout the electoral process, and the
Supreme electoral Tribunal’s apparent lack of neu-
trality.”.

(8) According to the Department of State’s an-
nual Country Reports on Human Rights Practices
for 2012 for Nicaragua, “The principal human
rights abuses were restrictions on citizens’ right to
vote, including significantly biased policies to pro-
mote single party dominance, and withholding of ac-
creditation from election-monitoring nongovern-
mental organizations (NGOs); widespread corrup-
tion, including in the police, CSE, Supreme Court of
Justice (CSJ), and other government organs; and
societal violence, particularly against women and les-
bian, gay, bisexual, and transgender (LGBT) per-
sons. Additional significant human rights abuses in-
cluded police abuse of suspects during arrest and de-
tention; harsh and life-threatening prison conditions;
arbitrary and lengthy pretrial detention; erosion of
freedom of speech and press, including government
intimidation and harassment of journalists and inde-
dependent media; government harassment and intimi-
dation of NGOs; trafficking in persons; discrimina-
tion against ethnic minorities and indigenous per-
sons and communities; societal discrimination against persons with disabilities; discrimination against persons with HIV/AIDS; and violations of trade union rights.”

(9) According to Freedom House’s Freedom in the World Report of 2012 on Ecuador, “In February 2011, Guayaquil’s leading newspaper, El Universo, published an opinion column suggesting that Correa could be held accountable in the future for the use of lethal force during the rescue operation. In response, Correa lodged a lawsuit against the author and the owners of the newspaper. All four defendants were found guilty of aggravated defamation and sentenced in July to three-year prison sentences and an unprecedented fine of $40 million. International human rights and press freedom organizations, along with the Organization of American States (OAS) and the United Nations, denounced the court decision as a clear effort to intimidate the press.”

(10) Freedom House gave Ecuador a “downward trend arrow” in 2012 due to “the government’s intensified campaign against opposition leaders and intimidation of journalists, its excessive use of public resources to influence a national ref-
erendum, and the unconstitutional restructuring of
the judiciary.”.

(11) According to the Department of State’s
annual Country Reports on Human Rights Practices
for 2012 for Ecuador, “The main human rights
abuses were the use of excessive force by public se-
curity forces, restrictions on freedom of speech,
press, and association; and corruption by officials.
President Correa and his administration continued
verbal and legal attacks against the media and used
legal mechanisms such as libel laws and administra-
tive regulations to suppress freedom of the press.
Corruption was widespread, and questions continued
regarding transparency within the judicial sector, de-
spite attempts at procedural reform. The following
human rights problems continued: isolated unlawful
killings, poor prison conditions, arbitrary arrest and
detention, abuses by security forces, a high number
of pretrial detainees, and delays and denial of due
process within the judicial system. Societal problems
continued, including physical aggression against
journalists; violence against women; discrimination
against women, indigenous persons, Afro-Ecu-
dorians, and persons based on their sexual orienta-
tion; trafficking in persons and exploitation of minors; and child labor.”.

(12) According to the Department of State’s annual Country Reports on Human Rights Practices for 2012 for Bolivia, “The most serious human rights problems included arbitrary arrest or detention, denial of a fair and timely public trial, and violence against women. Additional human rights problems included harsh prison conditions, restrictions on freedom of speech and press, official corruption in the judiciary and elsewhere, lack of government transparency, trafficking in persons, and vigilante justice. Societal discrimination continued against women; members of racial and ethnic minority groups; indigenous persons; individuals with disabilities; lesbian, gay, bisexual and transgender (LGBT) persons; and those with HIV/AIDS.”.

(13) According to Freedom House’s Freedom in the World Report of 2012 on Bolivia, “Corruption remains a major problem in Bolivia, affecting a range of government entities and economic sectors, including extractive industries.”.

requiring that state-run media control 33 percent of all broadcast licenses. Press freedom advocates welcomed the idea of expanding media access to new groups, but expressed fears that local and indigenous outlets would lack the financial resources to operate independently and could fall under government control. The law also allows the government to access any private communication, including e-mail and telephone calls, for reasons of ‘national security’ or any other emergency.”.

(15) Mr. Jacob Ostreicher, who has been detained in the notorious Palmasola prison in Santa Cruz de la Sierra, Bolivia, since June 4, 2011, is one of the United States citizens who currently is enduring multiple, egregious, and continuous violations of his fundamental due process and human rights under both local and international law.

SEC. 4. ACTIONS AT THE ORGANIZATION OF AMERICAN STATES.

The Secretary of State shall direct the United States Permanent Representative to the Organization of American States to use the voice, vote, and influence of the United States at the Organization of American States to defend, protect, and strengthen the independent Inter-American Commission on Human Rights to advance the
protection of human rights throughout the Western Hemisphere.

SEC. 5. IMPOSITION OF SANCTIONS ON CERTAIN PERSONS WHO ARE RESPONSIBLE FOR OR COMPPLICIT IN HUMAN RIGHTS ABUSES COMMITTED AGAINST CITIZENS OF ALBA COUNTRIES OR THEIR FAMILY MEMBERS AFTER FEBRUARY 2, 1999.

(a) IN GENERAL.—The President shall impose sanctions described in subsection (c) with respect to each person on the list required by subsection (b).

(b) LIST OF PERSONS WHO ARE RESPONSIBLE FOR OR COMPPLICIT IN CERTAIN HUMAN RIGHTS ABUSES.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a list of persons who are officials of ALBA Governments or persons acting on behalf of ALBA Governments, who the President determines, based on credible evidence, are responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against citizens of ALBA countries or their family members on or after February 2, 1999.
(2) Updates of List.—The President shall transmit to the appropriate congressional committees an updated list under paragraph (1)—

(A) not later than 180 days after the date of the enactment of this Act; and

(B) as new information becomes available.

(3) Public Availability.—The list required under paragraph (1) shall be made available to the public and posted on the Web sites of the Department of the Treasury and the Department of State.

(4) Consideration of Data from Other Countries and Nongovernmental Organizations.—In preparing the list required under paragraph (1), the President may consider credible data already obtained by other countries and nongovernmental organizations, including organizations in ALBA countries, that monitor the human rights abuses of ALBA Governments.

(c) Sanctions Described.—The sanctions described in this subsection are ineligibility for a visa to enter the United States and sanctions pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), including blocking of property and restrictions or prohibitions on financial transactions and the exportation and importation of property, subject to
such regulations as the President may prescribe, including regulatory exceptions to permit the United States to comply with the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed June 26, 1947, and entered into force November 21, 1947, and other applicable international obligations.

(d) TERMINATION OF SANCTIONS.—The provisions of this section shall terminate on the date on which the President determines and certifies to the appropriate congressional committees that the ALBA Governments have—

(1) unconditionally released all political prisoners;

(2) ceased violence, unlawful detention, torture, and abuse of its citizens;

(3) conducted a transparent investigation into the killings, arrests, and abuse of peaceful political activists and prosecuted the individuals responsible for such killings, arrests, and abuse; and

(4) made public commitments to, and is making demonstrable progress toward—

(A) establishing an independent judiciary; and

...
respecting the human rights and basic freedoms recognized in the Universal Declaration of Human Rights.

SEC. 6. IMPOSITION OF SANCTIONS WITH RESPECT TO THE TRANSFER OF GOODS OR TECHNOLOGIES TO ALBA COUNTRIES THAT ARE LIKELY TO BE USED TO COMMIT HUMAN RIGHTS ABUSES.

(a) In general.—The President shall impose sanctions described in section 5(c) with respect to each person on the list required under subsection (b) of this section.

(b) List.—

(1) In general.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a list of persons who the President determines have knowingly engaged in an activity described in paragraph (2) on or after such date of enactment.

(2) Activity described.—

(A) In general.—A person engages in an activity described in this paragraph if the person—

(i) transfers, or facilitates the transfer of, goods or technologies described in subparagraph (C) to ALBA countries, any en-
tity organized under the laws of ALBA countries, or any national of ALBA countries, for use in or with respect to ALBA countries; or

(ii) provides services (including services relating to hardware, software, and specialized information, and professional consulting, engineering, and support services) with respect to goods or technologies described in subparagraph (C) after such goods or technologies are transferred to ALBA countries.

(B) APPLICABILITY TO CONTRACTS AND OTHER AGREEMENTS.—A person engages in an activity described in subparagraph (A) without regard to whether the activity is carried out pursuant to a contract or other agreement entered into before, on, or after the date of the enactment of this Act.

(C) GOODS OR TECHNOLOGIES DESCRIBED.—Goods or technologies described in this subparagraph are goods or technologies that the President determines are likely to be used by ALBA Governments or any of the agencies or instrumentalities of ALBA Govern-
ments (or by any other person on behalf of
ALBA Governments or any of such agencies or
instrumentalities) to commit serious human
rights abuses against the people of ALBA coun-
tries, including—

(i) firearms or ammunition (as such
terms are defined in section 921 of title
18, United States Code), rubber bullets,
police batons, pepper or chemical sprays,
stun grenades, electroshock weapons, tear
gas, water cannons, or surveillance tech-
nology; or

(ii) sensitive technology.

(3) SPECIAL RULE TO ALLOW FOR TERMIN-
ATION OF SANCTIONABLE ACTIVITY.—The Presi-
dent shall not be required to include a person on the
list required under paragraph (1) if the President
certifies in writing to the appropriate congressional
committees that—

(A) the person is no longer engaging in, or
has taken significant verifiable steps toward
stopping, the activity described in paragraph
(2) for which the President would otherwise
have included the person on the list; and
(B) the President has received reliable assurances that such person will not knowingly engage in any activity described in such paragraph (2) in the future.

(4) Updates of list.—The President shall transmit to the appropriate congressional committees an updated list under paragraph (1)—

(A) not later than 180 days after the date of the enactment of this Act; and

(B) as new information becomes available.

(5) Form of list; public availability.—

(A) Form.—The list required under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.

(B) Public availability.—The unclassified portion of the list required under paragraph (1) shall be made available to the public and posted on the Web sites of the Department of the Treasury and the Department of State.
SEC. 7. IMPOSITION OF SANCTIONS WITH RESPECT TO PERSONS WHO ENGAGE IN CENSORSHIP OR OTHER RELATED ACTIVITIES AGAINST CITIZENS OF ALBA COUNTRIES.

(a) In General.—The President shall impose sanctions described in section 5(c) with respect to each person on the list required under subsection (b) of this section.

(b) List of Persons Who Engage in Censorship.—

(1) In General.—Not later than 90 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a list of persons who the President determines have, on or after February 2, 1999, engaged in censorship or other activities with respect to ALBA countries that—

(A) prohibit, limit, or penalize the exercise of freedom of expression or assembly by citizens of ALBA countries; or

(B) limit access to print or broadcast media, including the facilitation or support of intentional frequency manipulation by the ALBA Governments or an entity owned or controlled by ALBA Governments that would jam or restrict an international signal.
(2) Updates of List.—The President shall transmit to the appropriate congressional committees an updated list under paragraph (1)—
   (A) not later than 180 days after the date of the enactment of this Act; and
   (B) as new information becomes available.

(3) Form of List; Public Availability.—
   (A) Form.—The list required under paragraph (1) shall be submitted in unclassified form but may contain a classified annex.
   (B) Public Availability.—The unclassified portion of the list required under paragraph (1) shall be made available to the public and posted on the Web sites of the Department of the Treasury and the Department of State.

SEC. 8. COMPREHENSIVE STRATEGY TO PROMOTE INTERNET FREEDOM AND ACCESS TO INFORMATION.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Secretary of the Treasury and the heads of other Federal departments and agencies, as appropriate, shall submit to the appropriate congressional committees a comprehensive strategy to—
(1) assist the people of ALBA countries to produce, access, and share information freely and safely via the Internet;

(2) increase the capabilities and availability of secure mobile and other communications through connective technology among human rights and democracy activists in ALBA countries;

(3) provide resources for digital safety training for media and academic and civil society organizations in ALBA countries;

(4) increase emergency resources for the most vulnerable human rights advocates seeking to organize, share information, and support human rights in ALBA countries;

(5) expand surrogate radio, television, live stream, and social network communications inside ALBA countries;

(6) expand activities to safely assist and train human rights, civil society, and democracy activists in ALBA countries to operate effectively and securely;

(7) expand access to proxy servers for democracy activists in ALBA countries; and
(8) discourage telecommunications and software companies from facilitating Internet censorship by ALBA Governments.

SEC. 9. COMPREHENSIVE STRATEGY TO ENSURE THAT ALBA GOVERNMENTS ARE DEMOCRATIC GOVERNMENTS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a comprehensive strategy to ensure that ALBA Governments are democratic governments that—

(1) result from free and fair elections—

(A) conducted under the supervision of internationally recognized observers; and

(B) in which—

(i) opposition parties were permitted ample time to organize and campaign for such elections; and

(ii) all candidates were permitted full access to the media;

(2) are showing respect for the basic civil liberties and human rights of the citizens of ALBA countries;
(3) are substantially moving toward a market-oriented economic systems based on the right to own and enjoy property;

(4) are committed to making constitutional changes that would ensure regular free and fair elections and the full enjoyment of basic civil liberties and human rights by the citizens of ALBA countries; and

(5) have made demonstrable progress in establishing independent judiciaries and electoral councils.

SEC. 10. STATEMENT OF POLICY ON POLITICAL PRISONERS.

It shall be the policy of the United States—

(1) to support efforts to research and identify prisoners of conscience and cases of human rights abuses in ALBA countries;

(2) to offer refugee status or political asylum in the United States to political dissidents in ALBA countries if requested and consistent with the laws and national security interests of the United States;

(3) to offer to assist, through the United Nations High Commissioner for Refugees, with the relocation of such political prisoners to other countries if requested, as appropriate and with appropriate
consideration for the national security interests of the United States; and

(4) to publicly call for the release of ALBA country dissidents by name and raise awareness with respect to individual cases of ALBA country dissidents and prisoners of conscience, as appropriate and if requested by the dissidents or prisoners themselves or their families.