

113TH CONGRESS
1ST SESSION

H. R. 1687

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”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

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

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

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

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

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

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

19 (5) SENSITIVE TECHNOLOGY.—

20 (A) IN GENERAL.—The term “sensitive
21 technology” means hardware, software, tele-
22 communications equipment, or any other tech-
23 nology that the President determines is to be
24 used specifically to—

25 (i) restrict the free flow of unbiased
26 information; or

1 (ii) disrupt, monitor, or otherwise re-
2 strict freedom of speech.

3 (B) EXCEPTION.—The term “sensitive
4 technology” does not include information or in-
5 formational materials the exportation of which
6 the President does not have the authority to
7 regulate.

8 **SEC. 3. FINDINGS.**

9 Congress finds the following:

10 (1) The 2004 Venezuelan Law on Social Re-
11 sponsibility of Radio and Television gives the gov-
12 ernment the authority to control radio and television
13 content.

14 (2) According to the Department of State’s an-
15 nual Country Reports on Human Rights Practices
16 for 2012 for Venezuela, “The following human
17 rights problems were reported by nongovernmental
18 organizations (NGOs), the media, and in some cases
19 the government itself: unlawful killings, including
20 summary killings by rogue police elements; torture
21 and other cruel, inhuman, or degrading treatment;
22 inadequate juvenile detention centers; arbitrary ar-
23 rests and detentions; corruption and impunity in po-
24 lice forces; political prisoners; interference with pri-
25 vacy rights; corruption at all levels of government;

1 threats against domestic NGOs; violence against
2 women; anti-Semitism in the official media; traf-
3 ficking in persons; violence based on sexual orienta-
4 tion and gender identity; and restrictions on work-
5 ers' right of association.”.

6 (3) In December 2010, the Venezuelan Con-
7 gress passed the Law on Political Sovereignty and
8 National Self-Determination, which threatens sanc-
9 tions against any “political organization” that re-
10 ceives foreign funding or hosts foreign visitors who
11 criticize the government.

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

17 (5) According to the Department of State’s
18 Country Reports on Human Rights Practices for
19 2012 for Venezuela, “The principal human rights
20 abuses reported during the year included corruption,
21 inefficiency, and politicization in the judicial system;
22 government actions to impede freedom of expression;
23 and harsh and life-threatening prison conditions.
24 The government harassed and intimidated privately
25 owned television stations, other media outlets, and

1 journalists throughout the year, using threats, fines,
2 property seizures, targeted regulations, and criminal
3 investigations and prosecutions. The government did
4 not respect judicial independence or permit judges to
5 act according to the law without fear of retaliation.
6 The government used the judiciary to intimidate and
7 selectively prosecute political, union, business, and
8 civil society leaders who were critical of government
9 policies or actions. Failure to provide for due process
10 rights, physical safety, and humane conditions for
11 inmates contributed to widespread violence, riots, in-
12 juries, and deaths in prisons.”.

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

21 (7) According to Freedom House’s Freedom in
22 the World Report of 2012 on Nicaragua,
23 “Nicaragua’s political rights rating declined from 4
24 to 5 due to shortcomings regarding the constitu-
25 tionality of Daniel Ortega’s presidential candidacy,

1 reported irregularities, and the absence of trans-
2 parency throughout the electoral process, and the
3 Supreme electoral Tribunal's apparent lack of neu-
4 trality.”.

5 (8) According to the Department of State's an-
6 nual Country Reports on Human Rights Practices
7 for 2012 for Nicaragua, “The principal human
8 rights abuses were restrictions on citizens' right to
9 vote, including significantly biased policies to pro-
10 mote single party dominance, and withholding of ac-
11 creditation from election-monitoring nongovern-
12 mental organizations (NGOs); widespread corrup-
13 tion, including in the police, CSE, Supreme Court of
14 Justice (CSJ), and other government organs; and
15 societal violence, particularly against women and les-
16 bian, gay, bisexual, and transgender (LGBT) per-
17 sons. Additional significant human rights abuses in-
18 cluded police abuse of suspects during arrest and de-
19 tention; harsh and life-threatening prison conditions;
20 arbitrary and lengthy pretrial detention; erosion of
21 freedom of speech and press, including government
22 intimidation and harassment of journalists and inde-
23 pendent media; government harassment and intimi-
24 dation of NGOs; trafficking in persons; discrimina-
25 tion against ethnic minorities and indigenous per-

1 sons and communities; societal discrimination
2 against persons with disabilities; discrimination
3 against persons with HIV/AIDS; and violations of
4 trade union rights.”.

5 (9) According to Freedom House’s Freedom in
6 the World Report of 2012 on Ecuador, “In Feb-
7 ruary 2011, Guayaquil’s leading newspaper, El
8 Universo, published an opinion column suggesting
9 that Correa could be held accountable in the future
10 for the use of lethal force during the rescue oper-
11 ation. In response, Correa lodged a lawsuit against
12 the author and the owners of the newspaper. All
13 four defendants were found guilty of aggravated def-
14 amation and sentenced in July to three-year prison
15 sentences and an unprecedented fine of \$40 million.
16 International human rights and press freedom orga-
17 nizations, along with the Organization of American
18 States (OAS) and the United Nations, denounced
19 the court decision as a clear effort to intimidate the
20 press.”.

21 (10) Freedom House gave Ecuador a “down-
22 ward trend arrow” in 2012 due to “the govern-
23 ment’s intensified campaign against opposition lead-
24 ers and intimidation of journalists, its excessive use
25 of public resources to influence a national ref-

1 erendum, and the unconstitutional restructuring of
2 the judiciary.”.

3 (11) According to the Department of State’s
4 annual Country Reports on Human Rights Practices
5 for 2012 for Ecuador, “The main human rights
6 abuses were the use of excessive force by public se-
7 curity forces, restrictions on freedom of speech,
8 press, and association; and corruption by officials.
9 President Correa and his administration continued
10 verbal and legal attacks against the media and used
11 legal mechanisms such as libel laws and administra-
12 tive regulations to suppress freedom of the press.
13 Corruption was widespread, and questions continued
14 regarding transparency within the judicial sector, de-
15 spite attempts at procedural reform. The following
16 human rights problems continued: isolated unlawful
17 killings, poor prison conditions, arbitrary arrest and
18 detention, abuses by security forces, a high number
19 of pretrial detainees, and delays and denial of due
20 process within the judicial system. Societal problems
21 continued, including physical aggression against
22 journalists; violence against women; discrimination
23 against women, indigenous persons, Afro-Ecua-
24 dorians, and persons based on their sexual orienta-

1 tion; trafficking in persons and exploitation of mi-
2 nors; and child labor.”.

3 (12) According to the Department of State’s
4 annual Country Reports on Human Rights Practices
5 for 2012 for Bolivia, “The most serious human
6 rights problems included arbitrary arrest or deten-
7 tion, denial of a fair and timely public trial, and vio-
8 lence against women. Additional human rights prob-
9 lems included harsh prison conditions, restrictions
10 on freedom of speech and press, official corruption
11 in the judiciary and elsewhere, lack of government
12 transparency, trafficking in persons, and vigilante
13 justice. Societal discrimination continued against
14 women; members of racial and ethnic minority
15 groups; indigenous persons; individuals with disabil-
16 ities; lesbian, gay, bisexual and transgender (LGBT)
17 persons; and those with HIV/AIDS.”.

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

23 (14) According to Freedom House’s Freedom in
24 the World Report of 2012 on Bolivia, “In July
25 2011, Morales signed a new telecommunications law

1 requiring that state-run media control 33 percent of
2 all broadcast licenses. Press freedom advocates wel-
3 comed the idea of expanding media access to new
4 groups, but expressed fears that local and indige-
5 nous outlets would lack the financial resources to op-
6 erate independently and could fall under government
7 control. The law also allows the government to ac-
8 cess any private communication, including e-mail
9 and telephone calls, for reasons of ‘national security’
10 or any other emergency.”.

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

18 **SEC. 4. ACTIONS AT THE ORGANIZATION OF AMERICAN**
19 **STATES.**

20 The Secretary of State shall direct the United States
21 Permanent Representative to the Organization of Amer-
22 ican States to use the voice, vote, and influence of the
23 United States at the Organization of American States to
24 defend, protect, and strengthen the independent Inter-
25 American Commission on Human Rights to advance the

1 protection of human rights throughout the Western Hemi-
2 sphere.

3 **SEC. 5. IMPOSITION OF SANCTIONS ON CERTAIN PERSONS**
4 **WHO ARE RESPONSIBLE FOR OR COMPLICIT**
5 **IN HUMAN RIGHTS ABUSES COMMITTED**
6 **AGAINST CITIZENS OF ALBA COUNTRIES OR**
7 **THEIR FAMILY MEMBERS AFTER FEBRUARY**
8 **2, 1999.**

9 (a) IN GENERAL.—The President shall impose sanc-
10 tions described in subsection (c) with respect to each per-
11 son on the list required by subsection (b).

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

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of the enactment of this Act, the President
16 shall transmit to the appropriate congressional com-
17 mittees a list of persons who are officials of ALBA
18 Governments or persons acting on behalf of ALBA
19 Governments, who the President determines, based
20 on credible evidence, are responsible for or complicit
21 in, or responsible for ordering, controlling, or other-
22 wise directing, the commission of serious human
23 rights abuses against citizens of ALBA countries or
24 their family members on or after February 2, 1999.

1 (2) UPDATES OF LIST.—The President shall
2 transmit to the appropriate congressional commit-
3 tees an updated list under paragraph (1)—

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

6 (B) as new information becomes available.

7 (3) PUBLIC AVAILABILITY.—The list required
8 under paragraph (1) shall be made available to the
9 public and posted on the Web sites of the Depart-
10 ment of the Treasury and the Department of State.

11 (4) CONSIDERATION OF DATA FROM OTHER
12 COUNTRIES AND NONGOVERNMENTAL ORGANIZA-
13 TIONS.—In preparing the list required under para-
14 graph (1), the President may consider credible data
15 already obtained by other countries and nongovern-
16 mental organizations, including organizations in
17 ALBA countries, that monitor the human rights
18 abuses of ALBA Governments.

19 (c) SANCTIONS DESCRIBED.—The sanctions de-
20 scribed in this subsection are ineligibility for a visa to
21 enter the United States and sanctions pursuant to the
22 International Emergency Economic Powers Act (50
23 U.S.C. 1701 et seq.), including blocking of property and
24 restrictions or prohibitions on financial transactions and
25 the exportation and importation of property, subject to

1 such regulations as the President may prescribe, including
2 regulatory exceptions to permit the United States to com-
3 ply with the Agreement between the United Nations and
4 the United States of America regarding the Headquarters
5 of the United Nations, signed June 26, 1947, and entered
6 into force November 21, 1947, and other applicable inter-
7 national obligations.

8 (d) TERMINATION OF SANCTIONS.—The provisions of
9 this section shall terminate on the date on which the Presi-
10 dent determines and certifies to the appropriate congres-
11 sional committees that the ALBA Governments have—

12 (1) unconditionally released all political pris-
13 oners;

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

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

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

22 (A) establishing an independent judiciary;
23 and

1 (B) respecting the human rights and basic
2 freedoms recognized in the Universal Declara-
3 tion of Human Rights.

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

8 (a) IN GENERAL.—The President shall impose sanc-
9 tions described in section 5(c) with respect to each person
10 on the list required under subsection (b) of this section.

11 (b) LIST.—

12 (1) IN GENERAL.—Not later than 90 days after
13 the date of the enactment of this Act, the President
14 shall transmit to the appropriate congressional com-
15 mittees a list of persons who the President deter-
16 mines have knowingly engaged in an activity de-
17 scribed in paragraph (2) on or after such date of en-
18 actment.

19 (2) ACTIVITY DESCRIBED.—

20 (A) IN GENERAL.—A person engages in an
21 activity described in this paragraph if the per-
22 son—

23 (i) transfers, or facilitates the transfer
24 of, goods or technologies described in sub-
25 paragraph (C) to ALBA countries, any en-

1 tity organized under the laws of ALBA
2 countries, or any national of ALBA coun-
3 tries, for use in or with respect to ALBA
4 countries; or

5 (ii) provides services (including serv-
6 ices relating to hardware, software, and
7 specialized information, and professional
8 consulting, engineering, and support serv-
9 ices) with respect to goods or technologies
10 described in subparagraph (C) after such
11 goods or technologies are transferred to
12 ALBA countries.

13 (B) APPLICABILITY TO CONTRACTS AND
14 OTHER AGREEMENTS.—A person engages in an
15 activity described in subparagraph (A) without
16 regard to whether the activity is carried out
17 pursuant to a contract or other agreement en-
18 tered into before, on, or after the date of the
19 enactment of this Act.

20 (C) GOODS OR TECHNOLOGIES DE-
21 SCRIBED.—Goods or technologies described in
22 this subparagraph are goods or technologies
23 that the President determines are likely to be
24 used by ALBA Governments or any of the
25 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 countries, 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 technology; or

(ii) sensitive technology.

(3) SPECIAL RULE TO ALLOW FOR TERMINATION OF SANCTIONABLE ACTIVITY.—The President 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

1 (B) the President has received reliable as-
2 surances that such person will not knowingly
3 engage in any activity described in such para-
4 graph (2) in the future.

5 (4) UPDATES OF LIST.—The President shall
6 transmit to the appropriate congressional commit-
7 tees an updated list under paragraph (1)—

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

10 (B) as new information becomes available.

11 (5) FORM OF LIST; PUBLIC AVAILABILITY.—

12 (A) FORM.—The list required under para-
13 graph (1) shall be submitted in unclassified
14 form but may contain a classified annex.

15 (B) PUBLIC AVAILABILITY.—The unclassi-
16 fied portion of the list required under para-
17 graph (1) shall be made available to the public
18 and posted on the Web sites of the Department
19 of the Treasury and the Department of State.

1 **SEC. 7. IMPOSITION OF SANCTIONS WITH RESPECT TO PER-**
2 **SONS WHO ENGAGE IN CENSORSHIP OR**
3 **OTHER RELATED ACTIVITIES AGAINST CITI-**
4 **ZENS OF ALBA COUNTRIES.**

5 (a) IN GENERAL.—The President shall impose sanc-
6 tions described in section 5(c) with respect to each person
7 on the list required under subsection (b) of this section.

8 (b) LIST OF PERSONS WHO ENGAGE IN CENSOR-
9 SHIP.—

10 (1) IN GENERAL.—Not later than 90 days after
11 the date of the enactment of this Act, the President
12 shall transmit to the appropriate congressional com-
13 mittees a list of persons who the President deter-
14 mines have, on or after February 2, 1999, engaged
15 in censorship or other activities with respect to
16 ALBA countries that—

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

20 (B) limit access to print or broadcast
21 media, including the facilitation or support of
22 intentional frequency manipulation by the
23 ALBA Governments or an entity owned or con-
24 trolled by ALBA Governments that would jam
25 or restrict an international signal.

1 (2) UPDATES OF LIST.—The President shall
 2 transmit to the appropriate congressional commit-
 3 tees an updated list under paragraph (1)—

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

6 (B) as new information becomes available.

7 (3) FORM OF LIST; PUBLIC AVAILABILITY.—

8 (A) FORM.—The list required under para-
 9 graph (1) shall be submitted in unclassified
 10 form but may contain a classified annex.

11 (B) PUBLIC AVAILABILITY.—The unclassi-
 12 fied portion of the list required under para-
 13 graph (1) shall be made available to the public
 14 and posted on the Web sites of the Department
 15 of the Treasury and the Department of State.

16 **SEC. 8. COMPREHENSIVE STRATEGY TO PROMOTE INTER-**
 17 **NET FREEDOM AND ACCESS TO INFORMA-**
 18 **TION.**

19 Not later than 90 days after the date of the enact-
 20 ment of this Act, the Secretary of State, in consultation
 21 with the Secretary of the Treasury and the heads of other
 22 Federal departments and agencies, as appropriate, shall
 23 submit to the appropriate congressional committees a
 24 comprehensive strategy to—

1 (1) assist the people of ALBA countries to
2 produce, access, and share information freely and
3 safely via the Internet;

4 (2) increase the capabilities and availability of
5 secure mobile and other communications through
6 connective technology among human rights and de-
7 mocracy activists in ALBA countries;

8 (3) provide resources for digital safety training
9 for media and academic and civil society organiza-
10 tions in ALBA countries;

11 (4) increase emergency resources for the most
12 vulnerable human rights advocates seeking to orga-
13 nize, share information, and support human rights
14 in ALBA countries;

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

18 (6) expand activities to safely assist and train
19 human rights, civil society, and democracy activists
20 in ALBA countries to operate effectively and se-
21 curely;

22 (7) expand access to proxy servers for democ-
23 racy activists in ALBA countries; and

1 (8) discourage telecommunications and software
2 companies from facilitating Internet censorship by
3 ALBA Governments.

4 **SEC. 9. COMPREHENSIVE STRATEGY TO ENSURE THAT**
5 **ALBA GOVERNMENTS ARE DEMOCRATIC GOV-**
6 **ERNMENTS.**

7 Not later than 90 days after the date of the enact-
8 ment of this Act, the Secretary of State shall submit to
9 the appropriate congressional committees a comprehensive
10 strategy to ensure that ALBA Governments are demo-
11 cratic governments that—

12 (1) result from free and fair elections—

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

15 (B) in which—

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

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

21 (2) are showing respect for the basic civil lib-
22 erties and human rights of the citizens of ALBA
23 countries;

1 (3) are substantially moving toward a market-
2 oriented economic systems based on the right to own
3 and enjoy property;

4 (4) are committed to making constitutional
5 changes that would ensure regular free and fair elec-
6 tions and the full enjoyment of basic civil liberties
7 and human rights by the citizens of ALBA coun-
8 tries; and

9 (5) have made demonstrable progress in estab-
10 lishing independent judiciaries and electoral councils.

11 **SEC. 10. STATEMENT OF POLICY ON POLITICAL PRIS-**
12 **ONERS.**

13 It shall be the policy of the United States—

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

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

21 (3) to offer to assist, through the United Na-
22 tions High Commissioner for Refugees, with the re-
23 location of such political prisoners to other countries
24 if requested, as appropriate and with appropriate

1 consideration for the national security interests of
2 the United States; and

3 (4) to publicly call for the release of ALBA
4 country dissidents by name and raise awareness with
5 respect to individual cases of ALBA country dis-
6 sidents and prisoners of conscience, as appropriate
7 and if requested by the dissidents or prisoners them-
8 selves or their families.

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