

INTRODUCTORY NOTE TO THE REBUILDING ECONOMIC PROSPERITY AND OPPORTUNITY  
FOR UKRAINIANS ACT (PUBLIC LAW NO. 118-50) (U.S.)  
BY THOMAS WEATHERALL\*  
[April 24, 2024]

## Introduction

Following Russia's full-scale invasion of Ukraine in February 2022, a number of countries, including the United States, froze Russian sovereign assets (RSA) within their respective jurisdictions. It is estimated that some US\$300 billion of RSA are immobilized worldwide.<sup>1</sup> A fraction of those frozen assets, approximately US\$4–\$5 billion, are thought to be subject to the jurisdiction of the United States.<sup>2</sup> On April 24, 2024, President Biden signed H.R. 815 into law, which included the Rebuilding Economic Prosperity and Opportunity for Ukrainians Act (REPO Act).<sup>3</sup> The REPO Act broadly provides for the “repurposing” of RSA within the jurisdiction of the United States to facilitate assistance to Ukraine in response to Russia's unlawful invasion.

## Blocking and Seizure of Russian Sovereign Assets

The REPO Act, at section 103, provides that RSA in the United States subject to blocking or other immobilization must remain frozen until the cessation of hostilities between Russia and Ukraine, and Russia either has compensated Ukraine for its internationally wrongful act or is participating in a mechanism to that end.<sup>4</sup> The Act requires notification to Congress thirty days prior to the release of frozen RSA, which release may be blocked by a joint resolution of disapproval by Congress.<sup>5</sup>

The REPO Act directs the President to “require any financial institution at which Russian sovereign assets are located, and that knows or should know of such assets, to provide notice of such assets,” and to report the status of such RSA to Congress.<sup>6</sup>

The REPO Act further provides to the President, at section 104, the discretionary authority to seize RSA.<sup>7</sup> In particular,

the President may seize, confiscate, transfer, or vest any Russian aggressor state sovereign assets, in whole or in part, and including any interest or interests in such assets, subject to the jurisdiction of the United States for the purpose of transferring those funds to the Ukraine Support Fund established under subsection (d).<sup>8</sup>

Pursuant this authority, RSA may be seized, confiscated, transferred, or vested “through instructions or licenses or in such other manner as the President determines appropriate.”<sup>9</sup> The exercise of the authority under section 104 requires a detailed certification that, *inter alia*: (1) executive action against immobilized assets is in the national interest of the United States; (2) the President has meaningfully coordinated with the G7 regarding such action; and (3) either (a) the President has received a request from an international compensation mechanism, or (b) either (i) Russia has not ceased its aggression against Ukraine, or (ii) Russia has ceased its aggression but has not provided full compensation to Ukraine and is not participating in a process to that end.<sup>10</sup> Title to assets seized pursuant to section 104 vests in the U.S. Government, subject to their use consistent with the Act.<sup>11</sup>

The REPO Act limits judicial review over claims brought in relation to action under section 104 to those alleging a denial of rights under the U.S. Constitution.<sup>12</sup> Such claims must be brought within 60 days after such action.<sup>13</sup>

## Disposition of Seized Russian Sovereign Assets

The REPO Act directs the President to establish the “Ukraine Support Fund” (USF) to house seized RSA.<sup>14</sup> The permissible uses of such assets under the Act are, generally, to provide assistance to Ukraine for damage from the unlawful invasion, and specifically to: (a) make contributions to an international compensation mechanism; (b) support reconstruction; or (c) provide economic and humanitarian assistance.<sup>15</sup> Prior to transfer of USF funds,

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the Act requires notification to Congress at least fifteen days in advance,<sup>16</sup> which transfer may be blocked by a joint resolution of disapproval by Congress.<sup>17</sup> Transfer of USF funds is subject to certification by the President, in writing, that “a plan exists to ensure transparency and accountability for all funds transferred to and from any account receiving the funds.”<sup>18</sup> Section 104 requires periodic reporting on funds in the USF, disposition of funds transferred from the USF, and diplomatic engagement on the use of immobilized RSA.<sup>19</sup>

Section 105 of the REPO Act directs the President to undertake appropriate action in the area of multilateral diplomacy regarding the disposition of immobilized RSA worldwide, including “seeking to establish an international mechanism” to assist Ukraine.<sup>20</sup> Such action may include the establishment of a “Ukraine Compensation Fund” or comparable fund to house assets from the USF and RSA seized by foreign partners.<sup>21</sup> Transfer of funds to such an international fund is to be subject to notification, blocking, and reporting requirements corresponding to those imposed upon the USF under the Act.<sup>22</sup>

The REPO Act contains a periodic reporting requirement, which covers the amount and sources of RSA seized under section 104, the amount and sources of funds deposited into the USF, and an accounting of the use of such funds.<sup>23</sup> Finally, the REPO Act directs the Secretary of State and the USAID Administrator to provide “an assessment of the most pressing needs of Ukraine for reconstruction, rebuilding, and humanitarian aid.”<sup>24</sup>

### Comment

“Unlocking the value” of RSA for the benefit of Ukraine is a long-running objective of the United States and its foreign partners.<sup>25</sup> Seizing RSA to this end faces challenges in both domestic and international law. The REPO Act addresses each.

As a matter of domestic law, the REPO Act provides the discretionary authority to the President to seize RSA. In this way, the U.S. Government has a clear legal basis to seize RSA within the jurisdiction of the United States and to transfer such assets in support of Ukraine, eliminating any ambiguity in this regard. On July 22, 2024, President Biden delegated certain authorities under the REPO Act to the Secretary of State and Secretary of the Treasury.<sup>26</sup> On July 26, 2024, the Office of Foreign Assets Control (OFAC) of the Treasury Department promulgated reporting instructions pursuant to section 104(a)(1) of the REPO Act, implementing the requirement for all financial institutions at which RSA are located, and that know or should know of such assets, to provide notice of such assets to OFAC.<sup>27</sup> These regulations represent an initial phase of implementation of the REPO Act and a first step toward an accounting of the RSA subject to the jurisdiction of the United States.

The comparatively more complex challenges to seizing RSA lie in international law. The property of a state enjoys immunity from the enforcement jurisdiction of foreign states, unless an exception to such immunity consistent with the “restrictive” theory of sovereign immunity applies.<sup>28</sup> There is little question that the REPO Act reaches assets of a sovereign character: the definition of “Russian sovereign asset” in the Act refers to assets presumptively entitled to the protections of sovereign immunity, to include central bank assets.<sup>29</sup> The seizure of RSA also raises obvious questions about the lawfulness of such a taking of property under international law.

### Countermeasures

In response to these international law challenges, the REPO Act refers to the doctrine of countermeasures. Countermeasures are defined in the ILC Articles on State Responsibility, at Article 49, as acts by an injured state “against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations” under international law.<sup>30</sup> The Commentary to Article 49 explains that, “[i]n taking countermeasures, the injured State effectively withholds performance for the time being of one or more international obligations owed by it to the responsible State.”<sup>31</sup> The doctrine of countermeasures has received substantial attention in the context of the seizure of RSA, including the theory of collective countermeasures in relation to the breach of an obligation *erga omnes* owed to the international community as a whole.<sup>32</sup> The REPO Act explicitly sets out a theory of countermeasures as the legal justification for the authority to seize RSA:

The Russian Federation bears international legal responsibility for its aggression against Ukraine and, under international law, must cease its internationally wrongful acts. Because of this breach

of the prohibition on aggression under international law, the United States is legally entitled to take counter measures that are proportionate and aimed at inducing the Russian Federation to comply with its international obligations . . . The extreme illegal actions taken by the Russian Federation, including an act of aggression, present a unique situation, justifying the establishment of a legal authority for the United States Government and other countries to confiscate Russian sovereign assets in their respective jurisdictions.<sup>33</sup>

The REPO Act does not specify the precise basis upon which the United States is entitled to undertake counter-measures against Russia—for example, directly as an injured state, or as collective countermeasures in relation to breach of an obligation *erga omnes*.<sup>34</sup>

### Russia's Obligation of Reparation

While the REPO Act does not expressly explain the relationship between seizure of RSA as a countermeasure and their transfer to Ukraine, the focus of the Act on Russia's secondary obligation of reparation under the law of state responsibility suggests that Congress understood this obligation to be relevant to the seizure and transfer of RSA.<sup>35</sup> The Act refers to the entitlement of the United States to undertake countermeasures that are proportionate and aimed at inducing compliance with the obligations breached,<sup>36</sup> but is silent regarding the desirability that such countermeasures be reversible.<sup>37</sup> Instead, the Act appears to contemplate the application of RSA, seized as a countermeasure, toward the discharge of Russia's obligation of reparation toward Ukraine. The Act repeatedly refers to the obligation of Russia to make full compensation to Ukraine. Certain aspects of its authorities, and termination of the Act, are conditioned on the discharge of the obligation of Russia to compensate Ukraine.<sup>38</sup> And the authority to seize RSA under section 104 is styled as the "authority to ensure compensation to Ukraine using seized Russian sovereign assets and Russian aggressor State sovereign assets." In this way, under the Act, the obligation of Russia to make reparation—and Ukraine's corresponding entitlement to reparation for Russia's internationally wrongful act—link the seizure of RSA, as a countermeasure, to the transfer of such assets to Ukraine.<sup>39</sup>

### Concluding Remarks

The REPO Act represents a significant example of state practice in the field of countermeasures. As discussed at the outset, the vast majority of immobilized RSA are believed to be subject to jurisdictions other than the United States, predominantly in Europe.<sup>40</sup> The G7 recently announced a plan to provide significant assistance to Ukraine by leveraging interest from immobilized RSA.<sup>41</sup> Given the apparently more cautious views of some foreign partners regarding the legal basis to seize RSA, and ongoing debate surrounding different approaches to countermeasures in this context, the extent to which others will take steps commensurate with those contemplated by the REPO Act remains to be seen.<sup>42</sup>

### ENDNOTES

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| <p>1 P. L. No. 118-50, Div. F, Title I, § 101(a)(8) ("REPO Act").</p> <p>2 <i>Id.</i></p> <p>3 P. L. No. 118-50, Div. F.</p> <p>4 <i>Id.</i> § 103(a).</p> <p>5 <i>Id.</i> § 103(b)-(c).</p> <p>6 <i>Id.</i> § 104(a)(1)-(2). <i>See</i> 89 Fed. Reg. 60568 (July 26, 2024) (discussed <i>infra</i>).</p> <p>7 <i>Id.</i> § 104.</p> <p>8 <i>Id.</i> § 104(b)(1). The REPO Act defines "Russian aggressor state" to mean the Russian Federation and "Belarus, if the President determines Belarus has engaged in an act of war against Ukraine related to Russia's ongoing February 24, 2022, invasion of Ukraine." <i>Id.</i> § 2(1). "Russian aggressor</p> | <p>state sovereign asset" is defined to mean "Russian sovereign assets or any funds or property of another Russian aggressor state determined by the President to be of the same sovereign character as the assets described" at § 2(6). <i>Id.</i> § 2(2).</p> <p>9 <i>Id.</i> § 104(b)(4).</p> <p>10 <i>Id.</i> § 104(c).</p> <p>11 <i>Id.</i> § 104(b)(2).</p> <p>12 <i>Id.</i> § 104(k)(2)(A).</p> <p>13 <i>Id.</i> § 104(k)(2)(B).</p> <p>14 <i>Id.</i> § 104(d).</p> <p>15 <i>Id.</i> § 104(f).</p> <p>16 <i>Id.</i> § 104(f)(3).</p> |
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- 17 *Id.* § 104(h).
- 18 *Id.* § 104(g).
- 19 *Id.* § 104(i).
- 20 *Id.* § 105.
- 21 *Id.* § 105(a)–(d).
- 22 *Id.* § 105(e)–(g).
- 23 *Id.* § 106.
- 24 *Id.* § 107(a).
- 25 *See, e.g.*, Andrea Shalal, *Yellen: Moves to unlock value of frozen Russian assets 'necessary and urgent'* (Feb. 27, 2024), <https://www.reuters.com/world/europe/yellen-moves-unlock-value-frozen-russian-assets-necessary-urgent-2024-02-27/>; Hanna Ziady, *The West is tapping Russian money to arm Ukraine. Much more could follow* (May 25, 2024), <https://www.cnn.com/2024/05/24/business/russian-frozen-assets-g7-ukraine/index.html> (U.S. Treasury Secretary Yellen: It is “vital and urgent that we collectively find a way forward to unlock the value of Russian sovereign assets immobilized in our jurisdictions for the benefit of Ukraine[.]”);
- 26 Memorandum on Delegation of Certain Functions and Authorities Under the Rebuilding Economic Prosperity and Opportunity for Ukrainians Act, DCPD-202400635 (July 22, 2024).
- 27 89 Fed. Reg. 60568 (July 26, 2024).
- 28 *Jurisdictional Immunities of the State (Germany v. Italy: Greece Intervening)*, Judgment, I.C.J. Reports 2012, p. 99, ¶¶ 114–118, esp. ¶ 118 (“Indeed, it suffices for the Court to find that there is at least one condition that has to be satisfied before any measure of constraint may be taken against property belonging to a foreign State : that the property in question must be in use for an activity not pursuing government non-commercial purposes, or that the State which owns the property has expressly consented to the taking of a measure of constraint, or that that State has allocated the property in question for the satisfaction of a judicial claim.”). *See also* Hazel Fox and Phillipa Webb, *THE LAW OF STATE IMMUNITY* 479–508 (OUP 2013).
- 29 REPO Act, § 2(6). *See, e.g.*, UN Convention on Jurisdictional Immunities of States and Their Property art 21(c) (not yet in force).
- 30 ILC Articles on State Responsibility art. 49.
- 31 *Id.*, Commentary, ¶ 6.
- 32 ILC Articles on State Responsibility art. 54 (Measures taken by States other than an injured State). *See, in particular*, Miles Jackson and Federica I. Paddeu, *The Countermeasures of Others: When can States Collaborate in the Taking of Countermeasures*, 118(2) AJIL 231 (2024); Oona A. Hathaway, Maggie M. Mills & Thomas M. Poston, *War Reparations: The Case for Countermeasures*, 76 STANFORD L. REV. 971 (2024).
- 33 REPO Act, § 101(a)(7), (b).
- 34 *See* Lauren Dubois & Sam Fleming, *The Legal Case for Seizing Russia’s Assets*, FIN. TIMES (Dec. 20, 2023), <https://www.ft.com/content/adb09fd6-e5f7-4099-9994-806814b4c9b4> (reporting that the United States contemplates a theory of injury as a State “specially affected” by Russia’s aggression).
- 35 *See Factory at Chorzów (Merits)*, PCIJ, Series A No 17, Judgment No 13, 47 (Sept. 13, 1928).
- 36 *See* ILC Articles on State Responsibility arts. 49, 51.
- 37 *Gabčíkovo-Nagymaros Project (Hungary / Slovakia)*, Judgment, ICJ Rep 1997, 7, ¶ 87. *See* ILC Articles on State Responsibility art 49, Commentary, ¶ 9 (“However, the duty to choose measures that are reversible is not absolute.”).
- 38 REPO Act, §§ 103(a)(2)(B) (Prohibition on release), 104(1)(3) (Sunset).
- 39 It has been suggested that the strongest rationale under international law for the freezing and seizure of RSA is as a collective countermeasure to induce compliance with the secondary obligation of reparation arising from breach of an obligation *erga omnes*: *see* Oona A. Hathaway, Maggie M. Mills & Thomas M. Poston, *War Reparations: The Case for Countermeasures*, 76 STANFORD L. REV. 971, 1023–1037 (2024).
- 40 REPO Act, § 101(a)(8)–(9).
- 41 G7 Apulia Leaders’ Communiqué (June 14, 2024), <https://www.whitehouse.gov/briefing-room/statements-releases/2024/06/14/g7-leaders-statement-8>.
- 42 *Cf* Julia Payne & Jan Strupczewski, *EU Unlikely to Confiscate Russian Central Bank Assets – Officials*, REUTERS (Jan. 23, 2024), <https://www.reuters.com/world/europe/eu-unlikely-confiscate-russian-central-bank-assets-officials-2024-01-23/>; Lauren Dubois & Sam Fleming, *The Legal Case for Seizing Russia’s Assets*, FIN. TIMES (Dec. 20, 2023), <https://www.ft.com/content/adb09fd6-e5f7-4099-9994-806814b4c9b4>.

THE REBUILDING ECONOMIC PROSPERITY AND OPPORTUNITY FOR  
UKRAINIANS ACT (PUBLIC LAW NO. 118-50) (U.S.)\*  
[April 24, 2024]



H. R. 815

One Hundred Eighteenth Congress of the  
United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on  
Wednesday, the third day of January, two thousand  
and twenty-four*

An Act

Making emergency supplemental appropriations for the fiscal year  
ending September 30, 2024, and for other purposes.

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

[...]

**DIVISION F—REBUILDING ECONOMIC PROSPERITY AND OPPORTUNITY  
FOR UKRAINIANS ACT**

**TITLE I**

**SEC. 1. SHORT TITLE; TABLE OF CONTENTS.**

- (a) **SHORT TITLE.**—This division may be cited as the “Rebuilding Economic Prosperity and Opportunity for Ukrainians Act” or the “REPO for Ukrainians Act”.
- (b) **TABLE OF CONTENTS.**—The table of contents for this division is as follows:

**TITLE I**

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

**TITLE II—REPURPOSING OF RUSSIAN SOVEREIGN ASSETS**

Sec. 101. Findings; sense of Congress.

Sec. 102. Sense of Congress regarding importance of the Russian Federation providing compensation to Ukraine.

Sec. 103. Prohibition on release of blocked Russian sovereign assets.

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Sec. 104. Authority to ensure compensation to Ukraine using seized Russian sovereign assets and Russian aggressor state sovereign assets.

Sec. 105. International mechanism to use Russian sovereign assets and Russian aggressor state sovereign assets to provide for the reconstruction of Ukraine.

Sec. 106. Report on use of transferred Russian sovereign assets for reconstruction. Sec. 107. Assessment by Secretary of State and Administrator of USAID on reconstruction and rebuilding needs of Ukraine.

Sec. 108. Extensions.

## SEC. 2. DEFINITIONS.

In this division:

- (1) **RUSSIAN AGGRESSOR STATE.**—The term “Russian aggressor state” means—
  - (A) the Russian Federation; and
  - (B) Belarus, if the President determines Belarus has engaged in an act of war against Ukraine related to Russia’s ongoing February 24, 2022, invasion of Ukraine.
- (2) **RUSSIAN AGGRESSOR STATE SOVEREIGN ASSET.**—The term “Russian aggressor state sovereign asset” means any Russian sovereign assets or any funds or property of another Russian aggressor state determined by the President to be of the same sovereign character as the assets described in paragraph (7).
- (3) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means—
  - (A) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate; and
  - (B) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives.
- (4) **FINANCIAL INSTITUTION.**—The term “financial institution” means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (M), or (Z) of section 5312(a)(2) of title 31, United States Code.
- (5) **G7.**—The term “G7” means the countries that are member of the informal Group of 7, including Canada, France, Germany, Italy, Japan, the United Kingdom, and the United States.
- (6) **RUSSIAN SOVEREIGN ASSET.**—The term “Russian sovereign asset” means any of the following:
  - (A) Funds and other property of—
    - (i) the Central Bank of the Russian Federation;
    - (ii) the Russian National Wealth Fund; or
    - (iii) the Ministry of Finance of the Russian Federation.
  - (B) Any other funds or other property that are owned by the Government of the Russian Federation, including by any subdivision, agency, or instrumentality of that government.
- (7) **UNITED STATES.**—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the United States Virgin Islands, and any other territory or possession of the United States.



- (8) UNITED STATES FINANCIAL INSTITUTION.—The term “United States financial institution” means a financial institution organized under the laws of the United States or of any jurisdiction within the United States, including a foreign branch of such an institution.
- (9) SEIZE OR SEIZURE.—The term “seize” or “seizure” means confiscation of all right, title, and interest whatsoever in a Russian sovereign asset or a Russian aggressor state sovereign asset and vesting of the same in the United States.

## TITLE II—REPURPOSING OF RUSSIAN SOVEREIGN ASSETS

### SEC. 101. FINDINGS; SENSE OF CONGRESS.

- (a) FINDINGS.—Congress makes the following findings:
  - (1) On February 24, 2022, the Government of the Russian Federation violated the sovereignty and territorial integrity of Ukraine by engaging in a premeditated, second illegal invasion of Ukraine.
  - (2) The international community has condemned the illegal invasions of Ukraine by the Russian Federation, as well as the commission of the crime of aggression, war crimes, crimes against humanity, and genocide by officials of the Russian Federation, including through the deliberate targeting of civilians and civilian infrastructure, the forcible transfer of children, and the commission of sexual violence.
  - (3) The leaders of the G7 have called the Russian Federation’s “unprovoked and completely unjustified attack on the democratic state of Ukraine” a “serious violation of international law and a grave breach of the United Nations Charter and all commitments Russia entered in the Helsinki Final Act and the Charter of Paris and its commitments in the Budapest Memorandum”.
  - (4) On March 2, 2022, the United Nations General Assembly adopted Resolution ES–11/1, entitled “Aggression against Ukraine”, by a vote of 141 to 5. That resolution “deplore[d] in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2(4) of the [United Nations] Charter” and demanded that the Russian Federation “immediately cease its use of force against Ukraine” and “immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders”.
  - (5) On March 16, 2022, the International Court of Justice issued a provisional measures order requiring the Russian Federation to “immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine” and, in this regard, observed that “orders on provisional measures . . . have binding effect”.
  - (6) On November 14, 2022, the United Nations General Assembly adopted a resolution—
    - (A) recognizing that the Russian Federation has committed a serious breach of the most fundamental norms of international law and its gross and systematic refusal to obey its obligations has affected the entire international community;
    - (B) recognizing the need for the establishment, in cooperation with Ukraine, of an international mechanism for compensation for financially assessable damages caused by the Russian Federation’s internationally wrongful acts; and
    - (C) recommending “the creation . . . of an international register of damage to serve as a record . . . of evidence and claims information on damage, loss or injury to all natural

and legal persons concerned, as well as the State of Ukraine, caused by internationally wrongful acts of the Russian Federation in or against Ukraine ”.

- (7) The Russian Federation bears international legal responsibility for its aggression against Ukraine and, under international law, must cease its internationally wrongful acts. Because of this breach of the prohibition on aggression under international law, the United States is legally entitled to take counter measures that are proportionate and aimed at inducing the Russian Federation to comply with its international obligations.
  - (8) Approximately \$300,000,000,000 of Russian sovereign assets have been immobilized worldwide. Only a small fraction of those assets, 1 to 2 percent, or between \$4,000,000,000 and \$5,000,000,000, are reportedly subject to the jurisdiction of the United States.
  - (9) The vast majority of immobilized Russian sovereign assets, approximately \$190,000,000,000, are reportedly subject to the jurisdiction of Belgium. The Government of Belgium has publicly indicated that any action by that Government regarding those assets would be predicated on support by the G7.
- (b) **SENSE OF CONGRESS.**—It is the sense of Congress that, having committed an act of aggression, as recognized by the United Nations General Assembly on March 2, 2022, the Russian Federation is to be considered as an aggressor state. The extreme illegal actions taken by the Russian Federation, including an act of aggression, present a unique situation, justifying the establishment of a legal authority for the United States Government and other countries to confiscate Russian sovereign assets in their respective jurisdictions.

## **SEC. 102. SENSE OF CONGRESS REGARDING IMPORTANCE OF THE RUSSIAN FEDERATION PROVIDING COMPENSATION TO UKRAINE.**

It is the sense of Congress that—

- (1) the Russian Federation bears responsibility for the financial burden of the reconstruction of Ukraine and for countless other costs associated with the illegal invasion of Ukraine by the Russian Federation that began on February 24, 2022;
- (2) the most effective ways to provide compensation for the damages caused by the Russian Federation’s internationally wrongful acts should be assessed by an international mechanism charged with determining compensation and providing assistance to Ukraine;
- (3) at least since November 2022 the Russian Federation has been on notice of its opportunity to comply with its international obligations, including to make full compensation for injury, or, by agreement with Ukraine, to authorize an international mechanism to resolve issues regarding compensation to Ukraine;
- (4) the Russian Federation can, by negotiated agreement, participate in any international process to assess the damages caused by the Russian Federation’s internationally wrongful acts and make funds available to compensate for these damages, and if it fails to do so, the United States and other countries should explore all avenues for ensuring compensation to Ukraine;
- (5) the President should lead robust engagement on all bilateral and multilateral aspects of the response by the United States to acts by the Russian Federation that undermine the sovereignty and territorial integrity of Ukraine, including on any policy coordination and alignment regarding the repurposing or ordered transfer of Russian sovereign assets in the context of determining compensation and providing assistance to Ukraine;



- (6) as part of the robust engagement on bilateral and multilateral responses to acts by the Russian Federation that undermine the sovereignty and territorial integrity of Ukraine, the President should endeavor to facilitate creation of, and United States participation in, an international mechanism regarding the repurposing or seizure of sovereign assets of the Russian Federation for the benefit of Ukraine.
- (7) the repurposing of Russian sovereign assets is in the national interests of the United States and consistent with United States and international law;
- (8) the United States should work with international allies and partners on the repurposing of Russian sovereign assets as part of a coordinated, multilateral effort, including with G7 countries and other countries in which Russian sovereign assets are located; and
- (9) any effort by the United States to confiscate and repurpose Russian sovereign assets should be undertaken alongside international allies and partners as part of a coordinated, multilateral effort, including with G7 countries, the European Union, Australia, and other countries in which Russian sovereign assets are located.

### **SEC. 103. PROHIBITION ON RELEASE OF BLOCKED RUSSIAN SOVEREIGN ASSETS.**

- (a) **IN GENERAL.**—No Russian sovereign asset that is blocked or effectively immobilized by the Department of the Treasury before the date specified in section 104(j) may be released or mobilized, except as otherwise authorized by this division, until the date on which the President certifies to the appropriate congressional committees that—
  - (1) hostilities between the Russian Federation and Ukraine have ceased; and
  - (2) (A) full compensation has been made to Ukraine for harms resulting from the invasion of Ukraine by the Russian Federation; or (B) the Russian Federation is participating in a bona fide international mechanism that, by agreement, will discharge the obligations of the Russian Federation to compensate Ukraine for all amounts determined to be owed to Ukraine.
- (b) **NOTIFICATION.**—Not later than 30 days before the release or mobilization of a Russian sovereign asset that is blocked or effectively immobilized by the Department of the Treasury, the President shall submit to the appropriate congressional committees—
  - (1) a notification of the decision to take the action that releases or mobilizes the asset; and
  - (2) a justification in writing for such decision.
- (c) **JOINT RESOLUTION OF DISAPPROVAL.**—
  - (1) **IN GENERAL.**—No Russian sovereign asset that is blocked or effectively immobilized by the Department of the Treasury may be released or mobilized if, within 30 days of receipt of the notification and justification required under subsection (b), a joint resolution is enacted into law prohibiting the proposed release or mobilization.
  - (2) **EXPEDITED PROCEDURES.**—Any joint resolution described in paragraph (1) introduced in either House of Congress shall be considered in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94–329; 90 Stat. 765), except that any such resolution shall be subject to germane amendments. If such a joint resolution should be vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 20 hours in the Senate and in the House of Representatives shall be determined in accordance with the Rules of the House.

- (d) **COOPERATION ON PROHIBITION OF RELEASE OF CERTAIN RUSSIAN SOVEREIGN ASSETS.**—Notwithstanding subsection (a), the President may take such actions as may be necessary to seek to obtain an agreement or arrangement to which the Government of Ukraine is party that discharges the Russian Federation from further obligations to compensate Ukraine.

**SEC. 104. AUTHORITY TO ENSURE COMPENSATION TO UKRAINE USING SEIZED RUSSIAN SOVEREIGN ASSETS AND RUSSIAN AGGRESSOR STATE SOVEREIGN ASSETS.**

- (a) **REPORTING ON RUSSIAN ASSETS.**—
- (1) **NOTICE REQUIRED.**—Not later than 90 days after the date of the enactment of this division, the President shall, by means of such instructions or regulations as the President may prescribe, require any financial institution at which Russian sovereign assets are located, and that knows or should know of such assets, to provide notice of such assets, including relevant information required under section 501.603(b)(ii) of title 31, Code of Federal Regulations (or successor regulations), to the Secretary of the Treasury not later than 10 days after detection of such assets.
  - (2) **REPORT REQUIRED.**—
    - (A) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this division, and annually thereafter for 3 years, the President shall submit to the appropriate congressional committees a report detailing the status of Russian sovereign assets with respect to which notice has been provided to the Secretary of the Treasury under paragraph (1).
    - (B) **FORM.**—The report required by subparagraph (A) shall be submitted in unclassified form, but may include a classified annex.
- (b) **SEIZURE OR TRANSFER OF ASSETS.**—
- (1) **SEIZURE OF RUSSIAN AGGRESSOR STATE SOVEREIGN ASSETS.**—On and after the date that is 30 days after the President submits to the appropriate congressional committees the certification described in subsection (c), the President may seize, confiscate, transfer, or vest any Russian aggressor state sovereign assets, in whole or in part, and including any interest or interests in such assets, subject to the jurisdiction of the United States for the purpose of transferring those funds to the Ukraine Support Fund established under subsection (d).
  - (2) **VESTING.**—For funds confiscated under paragraph (1), all right, title, and interest shall vest in the United States Government, provided that no use of those funds other than the use of those funds consistent with subsection (f) shall be permitted.
  - (3) **LIQUIDATION AND DEPOSIT.**—The President shall—
    - (A) deposit any funds seized, transferred, or confiscated under paragraph (1) into the Ukraine Support Fund established under subsection (d);
    - (B) liquidate or sell any other property seized, transferred, or confiscated under paragraph (1) and deposit the funds resulting from such liquidation or sale into the Ukraine Support Fund; and
    - (C) make all such funds available for the purposes described in subsection (f).
  - (4) **METHOD OF SEIZURE, TRANSFER, OR CONFISCATION.**—The President may seize, transfer, confiscate or vest Russian aggressor state sovereign assets under paragraph (1) through instructions or licenses or in such other manner as the President determines appropriate.

- (c) CERTIFICATION.—The certification described in this subsection, with respect to Russian aggressor state sovereign assets, is a certification that—
- (1) seizing, confiscating, transferring, or vesting Russian aggressor state sovereign assets for the benefit of Ukraine is in the national interests of the United States;
  - (2) the President has meaningfully coordinated with G7 leaders to take multilateral action with regard to any seizure, confiscation, vesting, or transfer of Russian sovereign assets for the benefit of Ukraine; and
  - (3) either—
    - (A) the President has received an official and legitimate request from a properly constituted international mechanism that includes the participation of the Government of Ukraine and the United States and that has been established for the purpose of, or otherwise tasked with, compensating Ukraine for damages arising or resulting from the internationally wrongful acts of the Russian Federation regarding the repurposing of sovereign assets of the Russian Federation; or
    - (B) either—
      - (i) the Russian Federation has not ceased its unlawful aggression against Ukraine; or
      - (ii) the Russian Federation has ceased its unlawful aggression against Ukraine, but—
      - (iii) has not provided full compensation to Ukraine for harms resulting from the internationally wrongful acts of the Russian Federation; and
      - (iv) is not participating in a bona fide process to provide full compensation to Ukraine for harms resulting from Russian aggression.
- (d) ESTABLISHMENT OF THE UKRAINE SUPPORT FUND.—
- (1) UKRAINE SUPPORT FUND.—The President shall establish an account, to be known as the “Ukraine Support Fund”, to consist of any funds with respect to which a seizure is ordered pursuant to subsection (b).
  - (2) USE OF FUNDS.—The funds in the accounts established under paragraph (1) shall be available to be used only as specified in subsection (f).
- (e) RULE OF CONSTRUCTION.—Nothing in this section may be construed to provide the President with the authority to seize, transfer, confiscate, or vest title to foreign sovereign assets that are not Russian aggressor state sovereign assets in the United States or transfer any foreign sovereign assets to any recipient for any use other than the uses described in this division.
- (f) FURTHER TRANSFER AND USE OF FUNDS.—
- (1) IN GENERAL.—Subject to paragraphs (2) and (3), Funds in the Ukraine Support Fund shall be available to the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, for the purpose of providing assistance to Ukraine for the damage resulting from the unlawful invasion by the Russian Federation that began on February 24, 2022.
  - (2) SPECIFIC PERMISSIBLE USES.—Subject to paragraph (3), the following are permissible uses of the funds in the Ukraine Support Fund pursuant to paragraph (1):

- (A) Making contributions to an international body, fund, or mechanism established consistent with section 105(a) that is charged with determining and administering compensation or providing assistance to Ukraine.
  - (B) Supporting reconstruction, rebuilding, and recovery efforts in Ukraine.
  - (C) Providing economic and humanitarian assistance to the people of Ukraine.
- (3) NOTIFICATION.—
- (A) IN GENERAL.—The Secretary of State shall notify the appropriate congressional committees not fewer than 15 days before providing any funds from the Ukraine Support Fund to any other account for the purposes described in paragraph (1).
  - (B) ELEMENTS.—A notification under subparagraph (A) with respect to the transfer of funds to another account pursuant to paragraph (1) shall specify—
    - (i) the amount of funds to be provided;
    - (ii) the specific purpose for which such funds are provided; and
    - (iii) the recipient of those funds.
- (g) LIMITATION ON TRANSFER OF FUNDS.—No funds may be transferred or otherwise expended from the Ukraine Support Fund pursuant to subsection (f) unless the President certifies to the appropriate congressional committees that—
- (1) a plan exists to ensure transparency and accountability for all funds transferred to and from any account receiving the funds; and
  - (2) the President has transmitted the plan required under paragraph (1) to the appropriate congressional committees in writing.
- (h) JOINT RESOLUTION OF DISAPPROVAL.—No funds may be transferred pursuant to subsection (f) if, within 15 days of receipt of the notification required under subsection (f)(3), a joint resolution is enacted into law prohibiting such transfer.
- (i) REPORT.—Not later than 90 days after the date of the enactment of this division, and not less frequently than every 180 days thereafter, the President shall submit to the appropriate congressional committees a report that includes the following:
- (1) An accounting of funds in the Ukraine Support Fund.
  - (2) Any information regarding the disposition of funds in any account to which funds have been transferred pursuant to subsection (f) that has been transmitted to the President by the institution housing said account during the period covered by the report.
  - (3) A description of United States multilateral and bilateral diplomatic engagement with allies and partners of the United States that also have immobilized Russian sovereign assets to compensate for damages caused by the Russian Federation's internationally wrongful acts during the period covered by the report.
  - (4) An outline of steps taken to carry out the establishment of the international mechanism described by section 105(a) during the period covered by the report.
- (j) EXCEPTION FOR UNITED STATES OBLIGATIONS UNDER TREATIES.—The authorities provided by this section may not be exercised in a manner inconsistent with the obligations of the United States under—

- (1) the Convention on Diplomatic Relations, done at Vienna April 18, 1961, and entered into force April 24, 1964 (23 UST 3227);
  - (2) the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force on March 19, 1967 (21 UST 77);
  - (3) the Agreement Regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947 (TIAS 1676); or
  - (4) any other international agreement to which the United States is a state party on the day before the date of the enactment of this division.
- (k) JUDICIAL REVIEW.—
- (1) EXCLUSIVENESS OF REMEDY.—Notwithstanding any other provision of law, any action taken under this section shall not be subject to judicial review, except as provided in this subsection.
  - (2) LIMITATIONS FOR FILING CLAIMS.—A claim may only be brought with respect to an action under this section—
    - (A) that alleges that the action will deny rights under the Constitution of the United States; and
    - (B) if the claim is brought not later than 60 days after the date of such action.
  - (3) JURISDICTION.—
    - (A) IN GENERAL.—A claim under paragraph (2) of this subsection shall be barred unless a complaint is filed prior to the expiration of such time limits in the United States District Court for the District of Columbia.
    - (B) APPEAL.—An appeal of an order of the United States District Court for the District of Columbia issued pursuant to a claim brought under this subsection shall be taken by a notice of appeal filed with the United States Court of Appeals for the District of Columbia Circuit not later than 10 days after the date on which the order is entered.
    - (C) EXPEDITED CONSIDERATION.—It shall be the duty of the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia Circuit to advance on the docket and to expedite to the greatest possible extent the disposition of any claim brought under this subsection.
- (l) SUNSET.—The authorities conferred under this section shall terminate on the earlier of—
- (1) the date that is 5 years after the date of the enactment of this division; or
  - (2) the date that is 120 days after the date on which the President determines and certifies to the appropriate congressional committees that—
    - (A) the Russian Federation has reached an agreement relating to the respective withdrawal of Russian forces and cessation of military hostilities that is accepted by the free and independent Government of Ukraine; and
    - (B)
      - (i) full compensation has been made to Ukraine for harms resulting from the invasion of Ukraine by the Russian Federation;
      - (ii) the Russian Federation is participating in a bona fide international mechanism that, by agreement, will discharge the obligations of the Russian Federation to compensate Ukraine for all amounts determined to be owed to Ukraine; or

- (iii) the Russian Federation's obligation to compensate Ukraine for the damage caused by the Russian Federation's aggression has been resolved pursuant to an agreement between the Russian Federation and the Government of Ukraine.

**SEC. 105. INTERNATIONAL MECHANISM TO USE RUSSIAN SOVEREIGN ASSETS AND RUSSIAN AGGRESSOR STATE SOVEREIGN ASSETS TO PROVIDE FOR THE RECONSTRUCTION OF UKRAINE.**

- (a) **IN GENERAL.**—The President shall take such actions as the President determines appropriate to coordinate with the G7, the European Union, Australia, and other partners and allies of the United States regarding the disposition of immobilized Russian aggressor state sovereign assets, including seeking to establish an international mechanism with foreign partners, including Ukraine, the G7, the European Union, Australia, and other partners and allies of the United States, for the purpose of assisting Ukraine, which may include the establishment of an international fund to be known as the “Ukraine Compensation Fund”, that may receive and use assets in the Ukraine Support Fund established under section 104(c) and contributions from foreign partners that have also frozen or seized Russian aggressor state sovereign assets to assist Ukraine, including by—
  - (1) supporting a register of damage to serve as a record of evidence and for assessment of the financially assessable damages to Ukraine resulting from the invasions of Ukraine by the Russian Federation and operations or actions in support thereof;
  - (2) establishing a mechanism to compensate Ukraine for damages caused by Russia's internationally wrongful acts connected with the invasions of Ukraine;
  - (3) ensuring distribution of those assets or the proceeds of those assets based on determinations under that mechanism; and
  - (4) taking such other actions as may be necessary to carry out this section.
- (b) **AUTHORIZATION FOR DEPOSIT IN THE UKRAINE COMPENSATION FUND.**—Upon the President reaching an agreement or arrangement to establish a common international mechanism pursuant to subsection (a) or at any time thereafter, the Secretary of State may, pursuant to the authority conferred by and subject to the limitations described in section 104(f) and subject to the limitations described in subsection (e), transfer funds from the Ukraine Support Fund established under section 104(d) to a fund or mechanism established consistent with subsection (a).
- (c) **NOTIFICATION.**—The President shall notify the appropriate congressional committees not later than 30 days after entering into any new bilateral or multilateral agreement or arrangement under subsection (a).
- (d) **GOOD GOVERNANCE.**—The Secretary of State, in consultation with the Secretary of the Treasury, shall—
  - (1) seek to ensure that any fund or mechanism established consistent with subsection (a) operates in accordance with established international accounting principles;
  - (2) seek to ensure that any fund or mechanism established consistent with subsection (a) is—
    - (A) staffed, operated, and administered in accordance with established accounting rules and governance procedures, including providing for payment of reasonable expenses from the fund for the governance and operation of the fund and the tribunal;
    - (B) operated transparently as to all funds transfers, filings, and decisions; and



- (C) audited on a regular basis by an independent auditor, in accordance with internationally accepted accounting and auditing standards;
  - (3) seek to ensure that any audits of any fund or mechanism established consistent with subsection (a) shall be made available to the public; and
  - (4) ensure that any audits of any fund or mechanism established consistent with subsection (a) shall be reviewed and reported on by the Government Accountability Office to the appropriate congressional committees and the public.
- (e) **LIMITATION ON TRANSFER OF FUNDS.**—No funds may be transferred from the Ukraine Support Fund to a fund or mechanism established consistent with subsection (a) unless the President certifies to the appropriate congressional committees that—
- (1) the institution housing the fund or mechanism has a plan to ensure transparency and accountability for all funds transferred to and from the fund or mechanism established consistent with subsection (a); and
  - (2) the President has transmitted the plan required under paragraph (1) to the appropriate congressional committees in writing.
- (f) **JOINT RESOLUTION OF DISAPPROVAL.**—No funds may be transferred from the Ukraine Support Fund to a fund or mechanism established consistent with subsection (a) if, within 30 days of receipt of the notification required under subsection (c)(2), a joint resolution is enacted prohibiting the transfer.
- (g) **REPORT.**—Not later than 90 days after the date of the enactment of this division, and not less frequently than every 90 days thereafter, the President shall submit to the appropriate congressional committees a report that includes the following:
- (1) An accounting of funds in any fund or mechanism established consistent with subsection (a).
  - (2) Any information regarding the disposition of any such fund or mechanism that has been transmitted to the President by the institution housing the fund or mechanism during the period covered by the report.
  - (3) A description of United States multilateral and bilateral diplomatic engagement with allies and partners of the United States that also have immobilized Russian sovereign assets to allow for compensation for Ukraine during the period covered by the report.
  - (4) An outline of steps taken to carry out this section during the period covered by the report.

#### **SEC. 106. REPORT ON USE OF TRANSFERRED RUSSIAN SOVEREIGN ASSETS FOR RECONSTRUCTION.**

Not later than 90 days after the date of the enactment of this division, and every 180 days thereafter, the Secretary of State, in consultation with the Secretary of the Treasury, shall submit to the appropriate congressional committees a report that contains—

- (1) the amount and source of Russian sovereign assets seized, transferred, or confiscated pursuant to section 104(b);
- (2) the amount and source of funds deposited into the Ukraine Support Fund under section 104(b)(3); and
- (3) a detailed description and accounting of how such funds were used to meet the purposes described in section 104(f).

**SEC. 107. ASSESSMENT BY SECRETARY OF STATE AND ADMINISTRATOR OF USAID ON RECONSTRUCTION AND REBUILDING NEEDS OF UKRAINE.**

- (a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this division, the Secretary of State, in consultation with the Administrator of the United States Agency for International Development, shall submit to the appropriate congressional committees an assessment of the most pressing needs of Ukraine for reconstruction, rebuilding, and humanitarian aid.
- (b) **ELEMENTS.**—The assessment required by subsection (a) shall include the following:
- (1) An estimate of the rebuilding and reconstruction needs of Ukraine, as of the date of the assessment, resulting from the unlawful invasion of Ukraine by the Russian Federation, including—
    - (A) a description of the sources and methods for the estimate; and
    - (B) an identification of the locations or regions in Ukraine with the most pressing needs.
  - (2) An estimate of the humanitarian needs, as of the date of the assessment, of the people of Ukraine, including Ukrainians residing inside the internationally recognized borders of Ukraine or outside those borders, resulting from the unlawful invasion of Ukraine by the Russian Federation.
  - (3) An assessment of the extent to which the needs described in paragraphs (1) and (2) have been met or funded, by any source, as of the date of the assessment.
  - (4) A plan to engage in robust multilateral and bilateral diplomacy to ensure that allies and partners of the United States, particularly in the European Union as Ukraine seeks accession to the European Union, increase their commitment to Ukraine’s reconstruction.
  - (5) An identification of which such needs should be prioritized, including any assessment or request by the Government of Ukraine with respect to the prioritization of such needs.

**SEC. 108. EXTENSIONS.**

Section 5(a) of the Elie Wiesel Genocide and Atrocities Prevention Act of 2018 (Public Law 115–441; 132 Stat. 5587) is amended, in the matter preceding paragraph (1), by striking “six years” and inserting “12 years”.

[ . . . ]

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*