

117TH CONGRESS
1ST SESSION

S. 14

To identify and combat corruption in countries, to establish a tiered system of countries with respect to levels of corruption by their governments and their efforts to combat such corruption, and to evaluate foreign persons engaged in grand corruption for inclusion as specially designated nationals under the Global Magnitsky Human Rights Accountability Act.

IN THE SENATE OF THE UNITED STATES

JANUARY 22, 2021

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

A BILL

To identify and combat corruption in countries, to establish a tiered system of countries with respect to levels of corruption by their governments and their efforts to combat such corruption, and to evaluate foreign persons engaged in grand corruption for inclusion as specially designated nationals under the Global Magnitsky Human Rights Accountability Act.

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 “Combating Global Cor-
5 ruption Act of 2021”.

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 Relations of
7 the Senate;

8 (B) the Committee on Armed Services of
9 the Senate;

10 (C) the Committee on Appropriations of
11 the Senate;

12 (D) the Committee on Foreign Affairs of
13 the House of Representatives;

14 (E) the Committee on Armed Services of
15 the House of Representatives; and

16 (F) the Committee on Appropriations of
17 the House of Representatives.

18 (2) CORRUPT ACTOR.—The term “corrupt
19 actor” means—

20 (A) any foreign person or entity that is a
21 government official or government entity re-
22 sponsible for, or complicit in, an act of corrup-
23 tion; and

24 (B) any company, in which a person or en-
25 tity described in subparagraph (A) has a sig-

1 nificant stake, which is responsible for, or
2 complicit in, an act of corruption.

3 (3) CORRUPTION.—The term “corruption”
4 means the exercise of public power for private gain,
5 including by bribery, nepotism, fraud, or embezzle-
6 ment.

7 (4) GRAND CORRUPTION.—The term “grand
8 corruption” means corruption committed at a high
9 level of government that—

10 (A) distorts policies or the central func-
11 tioning of the country; and

12 (B) enables leaders to benefit at the ex-
13 pense of the public good.

14 (5) PETTY CORRUPTION.—The term “petty cor-
15 ruption” means the abuse of entrusted power by
16 low- or mid-level public officials in their interactions
17 with ordinary citizens.

18 **SEC. 3. PUBLICATION OF TIERED RANKING LIST.**

19 (a) IN GENERAL.—The Secretary of State shall an-
20 nually publish, on a publicly accessible website, a tiered
21 ranking of all foreign countries.

22 (b) TIER 1 COUNTRIES.—A country shall be ranked
23 as a tier 1 country in the ranking published under sub-
24 section (a) if the government of such country is complying
25 with the minimum standards set forth in section 4.

1 (c) TIER 2 COUNTRIES.—A country shall be ranked
2 as a tier 2 country in the ranking published under sub-
3 section (a) if the government of such country is making
4 efforts to comply with the minimum standards set forth
5 in section 4, but is not achieving the requisite level of com-
6 pliance to be ranked as a tier 1 country.

7 (d) TIER 3 COUNTRIES.—A country shall be ranked
8 as a tier 3 country in the ranking published under sub-
9 section (a) if the government of such country is making
10 de minimis or no efforts to comply with the minimum
11 standards set forth in section 4.

12 **SEC. 4. MINIMUM STANDARDS FOR THE ELIMINATION OF**
13 **CORRUPTION AND ASSESSMENT OF EFFORTS**
14 **TO COMBAT CORRUPTION.**

15 (a) IN GENERAL.—The government of a country is
16 complying with the minimum standards for the elimi-
17 nation of corruption if the government—

18 (1) has enacted laws and established govern-
19 ment structures, policies, and practices that prohibit
20 corruption, including grand corruption and petty
21 corruption;

22 (2) enforces the laws described in paragraph (1)
23 by punishing any person who is found, through a
24 fair judicial process, to have violated such laws;

1 (3) prescribes punishment for grand corruption
2 that is commensurate with the punishment pre-
3 scribed for serious crimes;

4 (4) prescribes punishment for petty corruption
5 that—

6 (A) provides a sufficiently stringent deter-
7 rent; and

8 (B) adequately reflects the nature of the
9 offense; and

10 (5) is making serious and sustained efforts to
11 eliminate corruption.

12 (b) FACTORS FOR ASSESSING GOVERNMENT EF-
13 FORTS TO COMBAT CORRUPTION.—In determining wheth-
14 er a government is making serious and sustained efforts
15 to eliminate corruption, the Secretary of State shall con-
16 sider—

17 (1) whether the government of the country vig-
18 orously investigates and prosecutes acts of corrup-
19 tion and convicts and sentences persons responsible
20 for such acts that take place wholly or partly within
21 such country, including, as appropriate, requiring in-
22 carceration of individuals convicted of such acts;

23 (2) whether the government of the country vig-
24 orously investigates, prosecutes, convicts, and sen-
25 tences public officials who participate in or facilitate

1 corruption, including nationals of the country who
2 are deployed in foreign military assignments, trade
3 delegations abroad, or other similar missions, who
4 engage in or facilitate severe forms of corruption;

5 (3) whether the government of the country has
6 adopted measures to prevent corruption, such as
7 measures to inform and educate the public, including
8 potential victims, about the causes and consequences
9 of corruption;

10 (4) what steps the government of the country
11 has taken to prohibit government officials from par-
12 ticipating in, facilitating, or condoning corruption,
13 including the investigation, prosecution, and convic-
14 tion of such officials;

15 (5) the extent to which the country provides ac-
16 cess, or, as appropriate, makes adequate resources
17 available, to civil society organizations and other in-
18 stitutions to combat corruption, including reporting,
19 investigating, and monitoring;

20 (6) whether an independent judiciary or judicial
21 body in the country responsible for, and effectively
22 capable of, deciding corruption cases impartially, on
23 the basis of facts and in accordance with the law,
24 without any restrictions, improper influences, in-

1 duancements, pressures, threats, or interferences (di-
2 rect or indirect) from any quarter or for any reason;

3 (7) whether the government of the country is
4 assisting in international investigations of transna-
5 tional corruption networks and in other cooperative
6 efforts to combat grand corruption, including co-
7 operating with the governments of other countries to
8 extradite corrupt actors;

9 (8) whether the government of the country rec-
10 ognizes the rights of victims of corruption, ensures
11 their access to justice, and takes steps to prevent
12 victims from being further victimized or persecuted
13 by corrupt actors, government officials, or others;

14 (9) whether the government of the country re-
15 frains from prosecuting victims of corruption or
16 whistleblowers due to such persons having assisted
17 in exposing corruption, and refrains from other dis-
18 criminatory treatment of such persons; and

19 (10) such other information relating to corrup-
20 tion as the Secretary of State considers appropriate.

21 **SEC. 5. IMPOSITION OF SANCTIONS UNDER GLOBAL**
22 **MAGNITSKY HUMAN RIGHTS ACCOUNT-**
23 **ABILITY ACT.**

24 (a) IN GENERAL.—The Secretary of State, in coordi-
25 nation with the Secretary of the Treasury, shall evaluate

1 foreign persons engaged in grand corruption in all coun-
2 tries identified as tier 3 countries under section 3 for the
3 imposition of sanctions under the Global Magnitsky
4 Human Rights Accountability Act (subtitle F of title XII
5 of Public Law 114–328; 22 U.S.C. 2656 note).

6 (b) REPORT REQUIRED.—Not later than 60 days
7 after publishing the list required by section 3(a), the Sec-
8 retary of State shall submit to the committees specified
9 in subsection (e) a report that includes—

10 (1) a list of foreign persons evaluated under
11 subsection (a);

12 (2) a list of foreign persons with respect to
13 which the President imposed sanctions pursuant to
14 that evaluation;

15 (3) the dates on which such sanctions were im-
16 posed; and

17 (4) the reasons for imposing such sanctions.

18 (c) FORM OF REPORT.—

19 (1) IN GENERAL.—Each report required by
20 subsection (b) shall be submitted in unclassified
21 form but may include a classified annex.

22 (2) EXCEPTION.—The name of a foreign person
23 to be included in the list required by subsection
24 (b)(1) may be submitted in the classified annex au-
25 thorized by paragraph (1) only if the President—

1 (A) determines that it is vital for the na-
2 tional security interests of the United States to
3 do so;

4 (B) uses the annex in a manner consistent
5 with congressional intent and the purposes of
6 this Act; and

7 (C) not later than 15 days before submit-
8 ting the name in the classified annex, provides
9 to the committees specified in subsection (e) no-
10 tice of, and a justification for, including the
11 name in the classified annex despite any pub-
12 licly available credible information indicating
13 that the person engaged in an activity that
14 would subject the person to the imposition of
15 sanctions under the Global Magnitsky Human
16 Rights Accountability Act.

17 (d) PUBLIC AVAILABILITY OF REPORT.—

18 (1) IN GENERAL.—The unclassified portion of
19 the report required by subsection (b) shall be made
20 available to the public, including through publication
21 in the Federal Register.

22 (2) NONAPPLICABILITY OF CONFIDENTIALITY
23 REQUIREMENT WITH RESPECT TO VISA RECORDS.—

24 The President shall publish the list required by sub-
25 section (b)(1) without regard to the requirements of

1 section 222(f) of the Immigration and Nationality
2 Act (8 U.S.C. 1202(f)) with respect to confiden-
3 tiality of records pertaining to the issuance or re-
4 fusal of visas or permits to enter the United States.

5 (e) COMMITTEES SPECIFIED.—The committees speci-
6 fied in this subsection are—

7 (1) the Committee on Appropriations, the Com-
8 mittee on Banking, Housing, and Urban Affairs, the
9 Committee on Foreign Relations, and the Committee
10 on the Judiciary of the Senate; and

11 (2) the Committee on Appropriations, the Com-
12 mittee on Financial Services, the Committee on For-
13 eign Affairs, and the Committee on the Judiciary of
14 the House of Representatives.

15 **SEC. 6. DESIGNATION OF EMBASSY ANTI-CORRUPTION**
16 **POINTS OF CONTACT.**

17 (a) IN GENERAL.—The Secretary of State shall an-
18 nually designate an anti-corruption point of contact at the
19 United States diplomatic post to each country identified
20 as tier 2 or tier 3 under section 3, or which the Secretary
21 otherwise determines is in need of such a point of contact.
22 The point of contact shall be the chief of mission or the
23 chief of mission’s designee.

24 (b) RESPONSIBILITIES.—Each anti-corruption point
25 of contact designated under subsection (a) shall be respon-

1 sible for coordinating and overseeing the implementation
2 of a whole-of-government approach among the relevant
3 Federal departments and agencies operating programs
4 that—

5 (1) promote good governance in foreign coun-
6 tries; and

7 (2) enhance the ability of such countries—

8 (A) to combat public corruption; and

9 (B) to develop and implement corruption
10 risk assessment tools and mitigation strategies.

11 (c) TRAINING.—The Secretary of State shall imple-
12 ment appropriate training for anti-corruption points of
13 contact designated under subsection (a).

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