

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

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.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. CARDIN

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Combating Global Cor-
5 ruption Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

4 (A) the Committee on Foreign Relations of
5 the Senate;

6 (B) the Committee on Appropriations of
7 the Senate;

8 (C) the Committee on Foreign Affairs of
9 the House of Representatives; and

10 (D) the Committee on Appropriations of
11 the House of Representatives.

12 (2) CORRUPT ACTOR.—The term “corrupt
13 actor” means—

14 (A) any foreign person or entity that is a
15 government official or government entity re-
16 sponsible for, or complicit in, an act of corrup-
17 tion; and

18 (B) any company, in which a person or en-
19 tity described in subparagraph (A) has a sig-
20 nificant stake, which is responsible for, or
21 complicit in, an act of corruption.

22 (3) CORRUPTION.—The term “corruption”
23 means the unlawful exercise of entrusted public
24 power for private gain, including by bribery, nepo-
25 tism, fraud, or embezzlement.

1 (4) SIGNIFICANT CORRUPTION.—The term “sig-
2 nificant corruption” means corruption committed at
3 a high level of government that has some or all of
4 the following characteristics:

5 (A) Illegitimately distorts major decision-
6 making, such as policy or resource determina-
7 tions, or other fundamental functions of govern-
8 ance.

9 (B) Involves economically or socially large-
10 scale government activities.

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

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

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

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

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

6 **SEC. 4. MINIMUM STANDARDS FOR THE ELIMINATION OF**
7 **CORRUPTION AND ASSESSMENT OF EFFORTS**
8 **TO COMBAT CORRUPTION.**

9 (a) IN GENERAL.—The government of a country is
10 complying with the minimum standards for the elimi-
11 nation of corruption if the government—

12 (1) has enacted and implemented laws and es-
13 tablished government structures, policies, and prac-
14 tices that prohibit corruption, including significant
15 corruption;

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

19 (3) prescribes punishment for significant cor-
20 ruption that is commensurate with the punishment
21 prescribed for serious crimes; and

22 (4) is making serious and sustained efforts to
23 address corruption, including through prevention.

24 (b) FACTORS FOR ASSESSING GOVERNMENT EF-
25 FORTS TO COMBAT CORRUPTION.—In determining wheth-

1 er a government is making serious and sustained efforts
2 to address corruption, the Secretary of State shall con-
3 sider, to the extent relevant or appropriate, factors such
4 as—

5 (1) whether the government of the country has
6 criminalized corruption, investigates and prosecutes
7 acts of corruption, and convicts and sentences per-
8 sons responsible for such acts over which it has ju-
9 risdiction, including, as appropriate, incarcerating
10 individuals convicted of such acts;

11 (2) whether the government of the country vig-
12 orously investigates, prosecutes, convicts, and sen-
13 tences public officials who participate in or facilitate
14 corruption, including nationals of the country who
15 are deployed in foreign military assignments, trade
16 delegations abroad, or other similar missions, who
17 engage in or facilitate significant corruption;

18 (3) whether the government of the country has
19 adopted measures to prevent corruption, such as
20 measures to inform and educate the public, including
21 potential victims, about the causes and consequences
22 of corruption;

23 (4) what steps the government of the country
24 has taken to prohibit government officials from par-
25 ticipating in, facilitating, or condoning corruption,

1 including the investigation, prosecution, and convic-
2 tion of such officials;

3 (5) the extent to which the country provides ac-
4 cess, or, as appropriate, makes adequate resources
5 available, to civil society organizations and other in-
6 stitutions to combat corruption, including reporting,
7 investigating, and monitoring;

8 (6) whether an independent judiciary or judicial
9 body in the country is responsible for, and effectively
10 capable of, deciding corruption cases impartially, on
11 the basis of facts and in accordance with the law,
12 without any improper restrictions, influences, in-
13 ducements, pressures, threats, or interferences (di-
14 rect or indirect);

15 (7) whether the government of the country is
16 assisting in international investigations of
17 transnational corruption networks and in other coop-
18 erative efforts to combat significant corruption, in-
19 cluding, as appropriate, cooperating with the govern-
20 ments of other countries to extradite corrupt actors;

21 (8) whether the government of the country rec-
22 ognizes the rights of victims of corruption, ensures
23 their access to justice, and takes steps to prevent
24 victims from being further victimized or persecuted
25 by corrupt actors, government officials, or others;

1 (9) whether the government of the country pro-
2 tects victims of corruption or whistleblowers from re-
3 prisal due to such persons having assisted in expos-
4 ing corruption, and refrains from other discrimina-
5 tory treatment of such persons;

6 (10) whether the government of the country is
7 willing and able to recover and, as appropriate, re-
8 turn the proceeds of corruption;

9 (11) whether the government of the country is
10 taking steps to implement financial transparency
11 measures in line with the Financial Action Task
12 Force recommendations, including due diligence and
13 beneficial ownership transparency requirements; and

14 (12) such other information relating to corrup-
15 tion as the Secretary of State considers appropriate.

16 (c) ASSESSING GOVERNMENT EFFORTS TO COMBAT
17 CORRUPTION IN RELATION TO RELEVANT INTER-
18 NATIONAL COMMITMENTS.—In determining whether a
19 government is making serious and sustained efforts to ad-
20 dress corruption, the Secretary of State shall consider the
21 government of a country's compliance with the following,
22 as relevant:

23 (1) The Inter-American Convention against
24 Corruption of the Organization of American States,
25 done at Caracas March 29, 1996.

1 (2) The Convention on Combating Bribery of
2 Foreign Public Officials in International Business
3 Transactions of the Organisation of Economic Co-
4 operation and Development, done at Paris December
5 21, 1997 (commonly referred to as the “Anti-Brib-
6 ery Convention”).

7 (3) The United Nations Convention against
8 Transnational Organized Crime, done at New York
9 November 15, 2000.

10 (4) The United Nations Convention against
11 Corruption, done at New York October 31, 2003.

12 (5) Such other treaties, agreements, and inter-
13 national standards as the Secretary of State con-
14 siders appropriate.

15 **SEC. 5. IMPOSITION OF SANCTIONS UNDER GLOBAL**
16 **MAGNITSKY HUMAN RIGHTS ACCOUNT-**
17 **ABILITY ACT.**

18 (a) IN GENERAL.—The Secretary of State, in coordi-
19 nation with the Secretary of the Treasury, should evaluate
20 whether there are foreign persons engaged in significant
21 corruption in all countries identified as tier 3 countries
22 under section 3 for potential imposition of sanctions under
23 the Global Magnitsky Human Rights Accountability Act
24 (subtitle F of title XII of Public Law 114–328; 22 U.S.C.
25 2656 note).

1 (b) REPORT REQUIRED.—Not later than 180 days
2 after publishing the list required by section 3(a) and annu-
3 ally thereafter, the Secretary of State shall submit to the
4 committees specified in subsection (e) a report that in-
5 cludes—

6 (1) a list of foreign persons with respect to
7 which the President imposed sanctions pursuant to
8 that evaluation;

9 (2) the dates on which such sanctions were im-
10 posed; and

11 (3) the reasons for imposing such sanctions.

12 (c) FORM OF REPORT.—Each report required by sub-
13 section (b) shall be submitted in unclassified form but may
14 include a classified annex.

15 (d) BRIEFING IN LIEU OF REPORT.—The Secretary
16 of State, in coordination with the Secretary of the Treas-
17 ury, may provide a briefing to the appropriate congres-
18 sional committees instead of submitting and making pub-
19 licly available a written report required under subsection
20 (b), if doing so would better serve existing United States
21 anti-corruption efforts or the national interests of the Un-
22 tied States.

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

1 (1) the Committee on Foreign Relations, the
2 Committee on Appropriations, the Committee on
3 Banking, Housing, and Urban Affairs, and the Com-
4 mittee on the Judiciary of the Senate; and

5 (2) the Committee on Foreign Affairs, the
6 Committee on Appropriations, the Committee on Fi-
7 nancial Services, and the Committee on the Judici-
8 ary of the House of Representatives.

9 **SEC. 6. DESIGNATION OF EMBASSY ANTI-CORRUPTION**

10 **POINTS OF CONTACT.**

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

18 (b) **RESPONSIBILITIES.**—Each anti-corruption point
19 of contact designated under subsection (a) shall be respon-
20 sible for enhancing coordination and promoting the imple-
21 mentation of a whole-of-government approach among the
22 relevant Federal departments and agencies undertaking
23 efforts to—

24 (1) promote good governance in foreign coun-
25 tries; and

- 1 (2) enhance the ability of such countries—
- 2 (A) to combat public corruption; and
- 3 (B) to develop and implement corruption
- 4 risk assessment tools and mitigation strategies.
- 5 (c) TRAINING.—The Secretary of State shall imple-
- 6 ment appropriate training for anti-corruption points of
- 7 contact designated under subsection (a).