

Calendar No. 88

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, Mr. YOUNG, Mr. MERKLEY, Mr. DURBIN, Mr. WYDEN, Mr. COONS, Mr. WHITEHOUSE, Ms. SINEMA, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

JUNE 24, 2021

Reported by Mr. MENENDEZ, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ~~APPROPRIATE CONGRESSIONAL COMMIT-~~
 9 ~~TEES.~~—The term “appropriate congressional com-
 10 mittees” means—

11 (A) the Committee on Foreign Relations of
 12 the Senate;

13 (B) the Committee on Armed Services of
 14 the Senate;

15 (C) the Committee on Appropriations of
 16 the Senate;

17 (D) the Committee on Foreign Affairs of
 18 the House of Representatives;

19 (E) the Committee on Armed Services of
 20 the House of Representatives; and

21 (F) the Committee on Appropriations of
 22 the House of Representatives.

23 (2) ~~CORRUPT ACTOR.~~—The term “corrupt
 24 actor” means—

1 (A) any foreign person or entity that is a
 2 government official or government entity re-
 3 sponsible for, or complicit in, an act of corrup-
 4 tion; and

5 (B) any company, in which a person or en-
 6 tity described in subparagraph (A) has a sig-
 7 nificant stake, which is responsible for, or
 8 complicit in, an act of corruption.

9 ~~(3)~~ CORRUPTION.—The term “corruption”
 10 means the exercise of public power for private gain;
 11 including by bribery, nepotism, fraud, or embezzle-
 12 ment.

13 ~~(4)~~ GRAND CORRUPTION.—The term “grand
 14 corruption” means corruption committed at a high
 15 level of government that—

16 (A) distorts policies or the central func-
 17 tioning of the country; and

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

20 ~~(5)~~ PETTY CORRUPTION.—The term “petty cor-
 21 ruption” means the abuse of entrusted power by
 22 low- or mid-level public officials in their interactions
 23 with ordinary citizens.

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

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

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

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

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

20 **SEC. 4. MINIMUM STANDARDS FOR THE ELIMINATION OF**
21 **CORRUPTION AND ASSESSMENT OF EFFORTS**
22 **TO COMBAT CORRUPTION.**

23 (a) IN GENERAL.—The government of a country is
24 complying with the minimum standards for the elimi-
25 nation of corruption if the government—

1 (1) has enacted laws and established govern-
 2 ment structures, policies, and practices that prohibit
 3 corruption, including grand corruption and petty
 4 corruption;

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

8 (3) prescribes punishment for grand corruption
 9 that is commensurate with the punishment pre-
 10 scribed for serious crimes;

11 (4) prescribes punishment for petty corruption
 12 that—

13 (A) provides a sufficiently stringent deter-
 14 rent; and

15 (B) adequately reflects the nature of the
 16 offense; and

17 (5) is making serious and sustained efforts to
 18 eliminate corruption.

19 (b) FACTORS FOR ASSESSING GOVERNMENT EF-
 20 FORTS TO COMBAT CORRUPTION.—In determining wheth-
 21 er a government is making serious and sustained efforts
 22 to eliminate corruption, the Secretary of State shall con-
 23 sider—

24 (1) whether the government of the country vig-
 25 orously investigates and prosecutes acts of corrup-

tion and convicts and sentences persons responsible for such acts that take place wholly or partly within such country, including, as appropriate, requiring incarceration of individuals convicted of such acts;

(2) whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials who participate in or facilitate corruption, including nationals of the country who are deployed in foreign military assignments, trade delegations abroad, or other similar missions, who engage in or facilitate severe forms of corruption;

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

(4) what steps the government of the country has taken to prohibit government officials from participating in, facilitating, or condoning corruption, including the investigation, prosecution, and conviction of such officials;

(5) the extent to which the country provides access, or, as appropriate, makes adequate resources available, to civil society organizations and other in-

1 stitutions to combat corruption, including reporting;
2 investigating, and monitoring;

3 (6) whether an independent judiciary or judicial
4 body in the country responsible for, and effectively
5 capable of, deciding corruption cases impartially, on
6 the basis of facts and in accordance with the law,
7 without any restrictions, improper influences, in-
8 ducements, pressures, threats, or interferences (di-
9 rect or indirect) from any quarter or for any reason;

10 (7) whether the government of the country is
11 assisting in international investigations of transna-
12 tional corruption networks and in other cooperative
13 efforts to combat grand corruption, including co-
14 operating with the governments of other countries to
15 extradite corrupt actors;

16 (8) whether the government of the country rec-
17 ognizes the rights of victims of corruption, ensures
18 their access to justice, and takes steps to prevent
19 victims from being further victimized or persecuted
20 by corrupt actors, government officials, or others;

21 (9) whether the government of the country re-
22 frains from prosecuting victims of corruption or
23 whistleblowers due to such persons having assisted
24 in exposing corruption, and refrains from other dis-
25 criminatory treatment of such persons; and

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

3 **SEC. 5. IMPOSITION OF SANCTIONS UNDER GLOBAL**
 4 **MAGNITSKY HUMAN RIGHTS ACCOUNT-**
 5 **ABILITY ACT.**

6 (a) **IN GENERAL.**—The Secretary of State, in coordi-
 7 nation with the Secretary of the Treasury, shall evaluate
 8 foreign persons engaged in grand corruption in all coun-
 9 tries identified as tier 3 countries under section 3 for the
 10 imposition of sanctions under the Global Magnitsky
 11 Human Rights Accountability Act (subtitle F of title XII
 12 of Public Law 114–328; 22 U.S.C. 2656 note).

13 (b) **REPORT REQUIRED.**—Not later than 60 days
 14 after publishing the list required by section 3(a), the Sec-
 15 retary of State shall submit to the committees specified
 16 in subsection (c) a report that includes—

17 (1) a list of foreign persons evaluated under
 18 subsection (a);

19 (2) a list of foreign persons with respect to
 20 which the President imposed sanctions pursuant to
 21 that evaluation;

22 (3) the dates on which such sanctions were im-
 23 posed; and

24 (4) the reasons for imposing such sanctions.

25 (c) **FORM OF REPORT.**—

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

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

8 (A) determines that it is vital for the na-
 9 tional security interests of the United States to
 10 do so;

11 (B) uses the annex in a manner consistent
 12 with congressional intent and the purposes of
 13 this Act; and

14 (C) not later than 15 days before submit-
 15 ting the name in the classified annex, provides
 16 to the committees specified in subsection (c) no-
 17 tice of, and a justification for, including the
 18 name in the classified annex despite any pub-
 19 licly available credible information indicating
 20 that the person engaged in an activity that
 21 would subject the person to the imposition of
 22 sanctions under the Global Magnitsky Human
 23 Rights Accountability Act.

24 (d) PUBLIC AVAILABILITY OF REPORT.—

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

5 (2) NONAPPLICABILITY OF CONFIDENTIALITY
 6 REQUIREMENT WITH RESPECT TO VISA RECORDS.—
 7 The President shall publish the list required by sub-
 8 section (b)(1) without regard to the requirements of
 9 section 222(f) of the Immigration and Nationality
 10 Act (8 U.S.C. 1202(f)) with respect to confiden-
 11 tiality of records pertaining to the issuance or re-
 12 fusal of visas or permits to enter the United States.

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

15 (1) the Committee on Appropriations, the Com-
 16 mittee on Banking, Housing, and Urban Affairs, the
 17 Committee on Foreign Relations, and the Committee
 18 on the Judiciary of the Senate; and

19 (2) the Committee on Appropriations, the Com-
 20 mittee on Financial Services, the Committee on For-
 21 eign Affairs, and the Committee on the Judiciary of
 22 the House of Representatives.

1 **SEC. 6. DESIGNATION OF EMBASSY ANTI-CORRUPTION**
2 **POINTS OF CONTACT.**

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

10 (b) **RESPONSIBILITIES.**—Each anti-corruption point
11 of contact designated under subsection (a) shall be respon-
12 sible for coordinating and overseeing the implementation
13 of a whole-of-government approach among the relevant
14 Federal departments and agencies operating programs
15 that—

16 (1) promote good governance in foreign coun-
17 tries; and

18 (2) enhance the ability of such countries—

19 (A) to combat public corruption; and

20 (B) to develop and implement corruption
21 risk assessment tools and mitigation strategies.

22 (c) **TRAINING.**—The Secretary of State shall imple-
23 ment appropriate training for anti-corruption points of
24 contact designated under subsection (a).

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Combating Global Cor-*
 3 *ruption Act of 2021”.*

4 **SEC. 2. DEFINITIONS.**

5 *In this Act:*

6 (1) *CORRUPT ACTOR.*—*The term “corrupt actor”*
 7 *means—*

8 (A) *any foreign person or entity that is a*
 9 *government official or government entity respon-*
 10 *sible for, or complicit in, an act of corruption;*
 11 *and*

12 (B) *any company, in which a person or en-*
 13 *tity described in subparagraph (A) has a signifi-*
 14 *cant stake, which is responsible for, or complicit*
 15 *in, an act of corruption.*

16 (2) *CORRUPTION.*—*The term “corruption” means*
 17 *the unlawful exercise of entrusted public power for*
 18 *private gain, including by bribery, nepotism, fraud,*
 19 *or embezzlement.*

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

24 (A) *Illegitimately distorts major decision-*
 25 *making, such as policy or resource determina-*

1 *tions, or other fundamental functions of govern-*
 2 *ance.*

3 *(B) Involves economically or socially large-*
 4 *scale government activities.*

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

6 *(a) IN GENERAL.—The Secretary of State shall annu-*
 7 *ally publish, on a publicly accessible website, a tiered rank-*
 8 *ing of all foreign countries.*

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

13 *(c) TIER 2 COUNTRIES.—A country shall be ranked*
 14 *as a tier 2 country in the ranking published under sub-*
 15 *section (a) if the government of such country is making ef-*
 16 *forts to comply with the minimum standards set forth in*
 17 *section 4, but is not achieving the requisite level of compli-*
 18 *ance to be ranked as a tier 1 country.*

19 *(d) TIER 3 COUNTRIES.—A country shall be ranked*
 20 *as a tier 3 country in the ranking published under sub-*
 21 *section (a) if the government of such country is making de*
 22 *minimis or no efforts to comply with the minimum stand-*
 23 *ards set forth in section 4.*

1 **SEC. 4. MINIMUM STANDARDS FOR THE ELIMINATION OF**
 2 **CORRUPTION AND ASSESSMENT OF EFFORTS**
 3 **TO COMBAT CORRUPTION.**

4 (a) *IN GENERAL.*—*The government of a country is*
 5 *complying with the minimum standards for the elimination*
 6 *of corruption if the government—*

7 (1) *has enacted and implemented laws and es-*
 8 *tablished government structures, policies, and prac-*
 9 *tices that prohibit corruption, including significant*
 10 *corruption;*

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

14 (3) *prescribes punishment for significant corrup-*
 15 *tion that is commensurate with the punishment pre-*
 16 *scribed for serious crimes; and*

17 (4) *is making serious and sustained efforts to ad-*
 18 *dress corruption, including through prevention.*

19 (b) *FACTORS FOR ASSESSING GOVERNMENT EFFORTS*
 20 *TO COMBAT CORRUPTION.*—*In determining whether a gov-*
 21 *ernment is making serious and sustained efforts to address*
 22 *corruption, the Secretary of State shall consider, to the ex-*
 23 *tent relevant or appropriate, factors such as—*

24 (1) *whether the government of the country has*
 25 *criminalized corruption, investigates and prosecutes*
 26 *acts of corruption, and convicts and sentences persons*

1 *responsible for such acts over which it has jurisdic-*
2 *tion, including, as appropriate, incarcerating indi-*
3 *viduals convicted of such acts;*

4 *(2) whether the government of the country vigor-*
5 *ously investigates, prosecutes, convicts, and sentences*
6 *public officials who participate in or facilitate cor-*
7 *ruption, including nationals of the country who are*
8 *deployed in foreign military assignments, trade dele-*
9 *gations abroad, or other similar missions, who engage*
10 *in or facilitate significant corruption;*

11 *(3) whether the government of the country has*
12 *adopted measures to prevent corruption, such as*
13 *measures to inform and educate the public, including*
14 *potential victims, about the causes and consequences*
15 *of corruption;*

16 *(4) what steps the government of the country has*
17 *taken to prohibit government officials from partici-*
18 *pating in, facilitating, or condoning corruption, in-*
19 *cluding the investigation, prosecution, and conviction*
20 *of such officials;*

21 *(5) the extent to which the country provides ac-*
22 *cess, or, as appropriate, makes adequate resources*
23 *available, to civil society organizations and other in-*
24 *stitutions to combat corruption, including reporting,*
25 *investigating, and monitoring;*

1 (6) *whether an independent judiciary or judicial*
2 *body in the country is responsible for, and effectively*
3 *capable of, deciding corruption cases impartially, on*
4 *the basis of facts and in accordance with the law,*
5 *without any improper restrictions, influences, induce-*
6 *ments, pressures, threats, or interferences (direct or*
7 *indirect);*

8 (7) *whether the government of the country is as-*
9 *sisting in international investigations of*
10 *transnational corruption networks and in other coop-*
11 *erative efforts to combat significant corruption, in-*
12 *cluding, as appropriate, cooperating with the govern-*
13 *ments of other countries to extradite corrupt actors;*

14 (8) *whether the government of the country recog-*
15 *nizes the rights of victims of corruption, ensures their*
16 *access to justice, and takes steps to prevent victims*
17 *from being further victimized or persecuted by corrupt*
18 *actors, government officials, or others;*

19 (9) *whether the government of the country pro-*
20 *TECTS victims of corruption or whistleblowers from re-*
21 *prisal due to such persons having assisted in exposing*
22 *corruption, and refrains from other discriminatory*
23 *treatment of such persons;*

1 (10) *whether the government of the country is*
 2 *willing and able to recover and, as appropriate, re-*
 3 *turn the proceeds of corruption;*

4 (11) *whether the government of the country is*
 5 *taking steps to implement financial transparency*
 6 *measures in line with the Financial Action Task*
 7 *Force recommendations, including due diligence and*
 8 *beneficial ownership transparency requirements;*

9 (12) *whether the government of the country is fa-*
 10 *cilitating corruption in other countries in connection*
 11 *with state-directed investment, loans or grants for*
 12 *major infrastructure, or other initiatives; and*

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

15 (c) *ASSESSING GOVERNMENT EFFORTS TO COMBAT*
 16 *CORRUPTION IN RELATION TO RELEVANT INTERNATIONAL*
 17 *COMMITMENTS.—In determining whether a government is*
 18 *making serious and sustained efforts to address corruption,*
 19 *the Secretary of State shall consider the government of a*
 20 *country’s compliance with the following, as relevant:*

21 (1) *The Inter-American Convention against Cor-*
 22 *ruption of the Organization of American States, done*
 23 *at Caracas March 29, 1996.*

24 (2) *The Convention on Combating Bribery of*
 25 *Foreign Public Officials in International Business*

1 *Transactions of the Organisation of Economic Co-op-*
 2 *eration and Development, done at Paris December 21,*
 3 *1997 (commonly referred to as the “Anti-Bribery*
 4 *Convention”).*

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

8 *(4) The United Nations Convention against Cor-*
 9 *ruption, done at New York October 31, 2003.*

10 *(5) Such other treaties, agreements, and inter-*
 11 *national standards as the Secretary of State considers*
 12 *appropriate.*

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

16 *(a) IN GENERAL.—The Secretary of State, in coordi-*
 17 *nation with the Secretary of the Treasury, should evaluate*
 18 *whether there are foreign persons engaged in significant*
 19 *corruption for the purposes of potential imposition of sanc-*
 20 *tions under the Global Magnitsky Human Rights Account-*
 21 *ability Act (subtitle F of title XII of Public Law 114–328;*
 22 *22 U.S.C. 2656 note)—*

23 *(1) in all countries identified as tier 3 countries*
 24 *under section 3; or*

1 (2) *in relation to the planning or construction or*
 2 *any operation of the Nord Stream 2 pipeline.*

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

8 (1) *a list of foreign persons with respect to which*
 9 *the President imposed sanctions pursuant to the eval-*
 10 *uation under subsection (a);*

11 (2) *the dates on which such sanctions were im-*
 12 *posed;*

13 (3) *the reasons for imposing such sanctions; and*

14 (4) *a list of all foreign persons found to have*
 15 *been engaged in significant corruption in relation to*
 16 *the planning, construction, or operation of the Nord*
 17 *Stream 2 pipeline.*

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

21 (d) *BRIEFING IN LIEU OF REPORT.*—*The Secretary of*
 22 *State, in coordination with the Secretary of the Treasury,*
 23 *may (except with respect to the list required by subsection*
 24 *(b)(4)) provide a briefing to the committees specified in sub-*
 25 *section (f) instead of submitting a written report required*

1 *under subsection (b), if doing so would better serve existing*
 2 *United States anti-corruption efforts or the national inter-*
 3 *ests of the United States.*

4 *(e) TERMINATION OF REQUIREMENTS RELATING TO*
 5 *NORD STREAM 2.—The requirements under subsections*
 6 *(a)(2) and (b)(4) shall terminate on the date that is 5 years*
 7 *after the date of the enactment of this Act.*

8 *(f) COMMITTEES SPECIFIED.—The committees speci-*
 9 *fied in this subsection are—*

10 *(1) the Committee on Foreign Relations, the*
 11 *Committee on Appropriations, the Committee on*
 12 *Banking, Housing, and Urban Affairs, and the Com-*
 13 *mittee on the Judiciary of the Senate; and*

14 *(2) the Committee on Foreign Affairs, the Com-*
 15 *mittee on Appropriations, the Committee on Finan-*
 16 *cial Services, and the Committee on the Judiciary of*
 17 *the House of Representatives.*

18 **SEC. 6. DESIGNATION OF EMBASSY ANTI-CORRUPTION**
 19 **POINTS OF CONTACT.**

20 *(a) IN GENERAL.—The Secretary of State shall annu-*
 21 *ally designate an anti-corruption point of contact at the*
 22 *United States diplomatic post to each country identified as*
 23 *tier 2 or tier 3 under section 3, or which the Secretary oth-*
 24 *erwise determines is in need of such a point of contact. The*

1 *point of contact shall be the chief of mission or the chief*
 2 *of mission's designee.*

3 (b) *RESPONSIBILITIES.—Each anti-corruption point*
 4 *of contact designated under subsection (a) shall be respon-*
 5 *sible for enhancing coordination and promoting the imple-*
 6 *mentation of a whole-of-government approach among the*
 7 *relevant Federal departments and agencies undertaking ef-*
 8 *forts to—*

9 (1) *promote good governance in foreign coun-*
 10 *tries; and*

11 (2) *enhance the ability of such countries—*

12 (A) *to combat public corruption; and*

13 (B) *to develop and implement corruption*
 14 *risk assessment tools and mitigation strategies.*

15 (c) *TRAINING.—The Secretary of State shall imple-*
 16 *ment appropriate training for anti-corruption points of*
 17 *contact designated under subsection (a).*

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117TH CONGRESS
1ST Session

S. 14

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.

JUNE 24, 2021

Reported with an amendment