

## Manager's Amendment

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:

8 (1) **CORRUPT ACTOR.**—The term “corrupt  
9 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           (2) CORRUPTION.—The term “corruption”  
10          means the unlawful exercise of entrusted public  
11          power for private gain, including by bribery, nepo-  
12          tism, fraud, or embezzlement.

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

17               (A) Illegitimately distorts major decision-  
18               making, such as policy or resource determina-  
19               tions, or other fundamental functions of govern-  
20               ance.

21               (B) Involves economically or socially large-  
22               scale government activities.

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 and implemented laws and es-  
2           tablished government structures, policies, and prac-  
3           tices that prohibit corruption, including significant  
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 significant cor-  
9           ruption that is commensurate with the punishment  
10          prescribed for serious crimes; and

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

13          (b) FACTORS FOR ASSESSING GOVERNMENT EF-  
14          FORTS TO COMBAT CORRUPTION.—In determining wheth-  
15          er a government is making serious and sustained efforts  
16          to address corruption, the Secretary of State shall con-  
17          sider, to the extent relevant or appropriate, factors such  
18          as—

19               (1) whether the government of the country has  
20               criminalized corruption, investigates and prosecutes  
21               acts of corruption, and convicts and sentences per-  
22               sons responsible for such acts over which it has ju-  
23               risdiction, including, as appropriate, incarcerating  
24               individuals convicted of such acts;

1           (2) whether the government of the country vig-  
2           orously investigates, prosecutes, convicts, and sen-  
3           tences public officials who participate in or facilitate  
4           corruption, including nationals of the country who  
5           are deployed in foreign military assignments, trade  
6           delegations abroad, or other similar missions, who  
7           engage in or facilitate significant corruption;

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

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

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

23          (6) whether an independent judiciary or judicial  
24          body in the country is responsible for, and effectively  
25          capable of, deciding corruption cases impartially, on

1 the basis of facts and in accordance with the law,  
2 without any improper restrictions, influences, in-  
3 ducements, pressures, threats, or interferences (di-  
4 rect or indirect);

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

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

16 (9) whether the government of the country pro-  
17 tects victims of corruption or whistleblowers from re-  
18 prisal due to such persons having assisted in expos-  
19 ing corruption, and refrains from other discrimina-  
20 tory treatment of such persons;

21 (10) whether the government of the country is  
22 willing and able to recover and, as appropriate, re-  
23 turn the proceeds of corruption;

24 (11) whether the government of the country is  
25 taking steps to implement financial transparency

1 measures in line with the Financial Action Task  
2 Force recommendations, including due diligence and  
3 beneficial ownership transparency requirements;

4 (12) whether the government of the country is  
5 facilitating corruption in other countries in connec-  
6 tion with state-directed investment, loans or grants  
7 for major infrastructure, or other initiatives; and

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

10 (c) ASSESSING GOVERNMENT EFFORTS TO COMBAT  
11 CORRUPTION IN RELATION TO RELEVANT INTER-  
12 NATIONAL COMMITMENTS.—In determining whether a  
13 government is making serious and sustained efforts to ad-  
14 dress corruption, the Secretary of State shall consider the  
15 government of a country’s compliance with the following,  
16 as relevant:

17 (1) The Inter-American Convention against  
18 Corruption of the Organization of American States,  
19 done at Caracas March 29, 1996.

20 (2) The Convention on Combating Bribery of  
21 Foreign Public Officials in International Business  
22 Transactions of the Organisation of Economic Co-  
23 operation and Development, done at Paris December  
24 21, 1997 (commonly referred to as the “Anti-Brib-  
25 ery Convention”).

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

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

6           (5) Such other treaties, agreements, and inter-  
7 national standards as the Secretary of State con-  
8 siders appropriate.

9 **SEC. 5. IMPOSITION OF SANCTIONS UNDER GLOBAL**  
10 **MAGNITSKY HUMAN RIGHTS ACCOUNT-**  
11 **ABILITY ACT.**

12       (a) IN GENERAL.—The Secretary of State, in coordi-  
13 nation with the Secretary of the Treasury, should evaluate  
14 whether there are foreign persons engaged in significant  
15 corruption for the purposes of potential imposition of  
16 sanctions under the Global Magnitsky Human Rights Ac-  
17 countability Act (subtitle F of title XII of Public Law  
18 114–328; 22 U.S.C. 2656 note)—

19           (1) in all countries identified as tier 3 countries  
20 under section 3; or

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

23       (b) REPORT REQUIRED.—Not later than 180 days  
24 after publishing the list required by section 3(a) and annu-  
25 ally thereafter, the Secretary of State shall submit to the



1 committees specified in subsection (f) a report that in-  
2 cludes—

3 (1) a list of foreign persons with respect to  
4 which the President imposed sanctions pursuant to  
5 the evaluation under subsection (a);

6 (2) the dates on which such sanctions were im-  
7 posed;

8 (3) the reasons for imposing such sanctions;  
9 and

10 (4) a list of all foreign persons found to have  
11 been engaged in significant corruption in relation to  
12 the planning, construction, or operation of the Nord  
13 Stream 2 pipeline.

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

17 (d) BRIEFING IN LIEU OF REPORT.—The Secretary  
18 of State, in coordination with the Secretary of the Treas-  
19 ury, may (except with respect to the list required by sub-  
20 section (b)(4)) provide a briefing to the committees speci-  
21 fied in subsection (f) instead of submitting a written re-  
22 port required under subsection (b), if doing so would bet-  
23 ter serve existing United States anti-corruption efforts or  
24 the national interests of the United States.

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

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

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

11 (2) the Committee on Foreign Affairs, the  
12 Committee on Appropriations, the Committee on Fi-  
13 nancial Services, and the Committee on the Judici-  
14 ary of 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 enhancing coordination and promoting the imple-  
2 mentation of a whole-of-government approach among the  
3 relevant Federal departments and agencies undertaking  
4 efforts to—

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).