

116TH CONGRESS
1ST SESSION

S. 1309

AN ACT

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 assess United States assistance to designated countries in order to advance anti-corruption efforts in those countries and better serve United States taxpayers.

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. SENSE OF CONGRESS.**

4 It is the sense of Congress that—

5 (1) it is in the foreign policy interest of the
6 United States to help foreign countries promote
7 good governance and combat public corruption;

8 (2) multiple Federal departments and agencies
9 operate programs that promote good governance in
10 foreign countries and enhance such countries' ability
11 to combat public corruption; and

12 (3) the Department of State should—

13 (A) promote coordination among the Fed-
14 eral departments and agencies implementing
15 programs to promote good governance and com-
16 bat public corruption in foreign countries in
17 order to improve effectiveness and efficiency;
18 and

19 (B) identify areas in which United States
20 efforts to help other countries promote good
21 governance and combat public corruption could
22 be enhanced.

23 **SEC. 2. ANNUAL ASSESSMENT.**

24 (a) IN GENERAL.—For each of the fiscal years 2020
25 through 2026, the Secretary of State shall assess the ca-

1 pacity and commitment of foreign governments to which
2 the United States provides foreign assistance under the
3 Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.)
4 or the Arms Export Control Act (22 U.S.C. 2751 et seq.)
5 to combat public corruption. Each such assessment
6 shall—

7 (1) utilize independent, third party indicators
8 that measure transparency, accountability, and cor-
9 ruption in the public sector in such countries, includ-
10 ing the extent to which public power is exercised for
11 private gain, to identify those countries that are
12 most vulnerable to public corruption;

13 (2) consider, to the extent reliable information
14 is available, whether the government of a country
15 identified under paragraph (1)—

16 (A) has adopted measures to prevent pub-
17 lic corruption, such as measures to inform and
18 educate the public, including potential victims,
19 about the causes and consequences of public
20 corruption;

21 (B) has enacted laws and established gov-
22 ernment structures, policies, and practices that
23 prohibit public corruption;

24 (C) enforces such laws through a fair judi-
25 cial process;

1 (D) vigorously investigates, prosecutes,
2 convicts, and sentences public officials who par-
3 ticipate in or facilitate public corruption, includ-
4 ing nationals of such country who are deployed
5 in foreign military assignments, trade delega-
6 tions abroad, or other similar missions who en-
7 gage in or facilitate public corruption;

8 (E) prescribes appropriate punishment for
9 serious, significant corruption that is commen-
10 surate with the punishment prescribed for seri-
11 ous crimes;

12 (F) prescribes appropriate punishment for
13 significant corruption that provides a suffi-
14 ciently stringent deterrent and adequately re-
15 flects the nature of the offense;

16 (G) convicts and sentences persons respon-
17 sible for such acts that take place wholly or
18 partly within the country of such government,
19 including, as appropriate, requiring the incar-
20 ceration of individuals convicted of such acts;

21 (H) holds private sector representatives ac-
22 countable for their role in public corruption;
23 and

24 (I) addresses threats for civil society to
25 monitor anti-corruption efforts; and

1 (3) further consider—

2 (A) verifiable measures taken by the gov-
3 ernment of a country identified under para-
4 graph (1) to prohibit government officials from
5 participating in, facilitating, or condoning pub-
6 lic corruption, including the investigation, pros-
7 ecution, and conviction of such officials;

8 (B) the extent to which such government
9 provides access, or, as appropriate, makes ade-
10 quate resources available, to civil society organi-
11 zations and other institutions to combat public
12 corruption, including reporting, investigating,
13 and monitoring;

14 (C) the extent to which an independent ju-
15 diciary or judicial body in such country is re-
16 sponsible for, and effectively capable of, decid-
17 ing public corruption cases impartially, on the
18 basis of facts and in accordance with law, with-
19 out any improper restrictions, influences, in-
20 ducements, pressures, threats, or interferences,
21 whether direct or indirect, from any source or
22 for any reason;

23 (D) the extent to which such government
24 cooperates meaningfully with the United States
25 to strengthen government and judicial institu-

tions and the rule of law to prevent, prohibit,
and punish public corruption;

(E) the extent to which such government—

(i) is assisting in international investigations of transnational public corruption networks and in other cooperative efforts to combat serious, significant corruption, including cooperating with the governments of other countries to extradite corrupt actors;

(ii) recognizes the rights of victims of public corruption, ensures their access to justice, and takes steps to prevent such victims from being further victimized or persecuted by corrupt actors, government officials, or others; and

(iii) refrains from prosecuting legitimate victims of public corruption or whistleblowers due to such persons having assisted in exposing public corruption, and refrains from other discriminatory treatment of such persons; and

(F) contain such other information relating to public corruption as the Secretary of State considers appropriate.

1 (b) IDENTIFICATION.—After conducting each assess-
2 ment under subsection (a), the Secretary of State shall
3 identify, of the countries described in subsection (a)(1)—

4 (1) which countries are meeting minimum
5 standards to combat public corruption;

6 (2) which countries are not meeting such min-
7 imum standards, but are making significant efforts
8 to do so; and

9 (3) which countries are not meeting such min-
10 imum standards and are not making significant ef-
11 forts to do so.

12 (c) REPORT.—Except as provided in subsection (d),
13 not later than 180 days after the date of the enactment
14 of this Act, and annually thereafter through fiscal year
15 2026, the Secretary of State shall submit a report to the
16 appropriate congressional committees, and make such re-
17 port publicly available. Such report shall—

18 (1) identify the countries described in sub-
19 section (a)(1) and paragraphs (2) and (3) of sub-
20 section (b);

21 (2) describe the methodology and data utilized
22 in the assessments under subsection (a); and

23 (3) identify the reasons for the identifications
24 referred to in paragraph (1).

1 (d) BRIEFING IN LIEU OF REPORT.—The Secretary
2 of State may waive the requirement to submit and make
3 publicly available a written report under subsection (c) if
4 the Secretary—

5 (1) determines that publication of such report
6 would—

7 (A) undermine existing United States anti-
8 corruption efforts in 1 or more countries; or

9 (B) threaten the national interests of the
10 United States; and

11 (2) provides a briefing to the appropriate con-
12 gressional committees that—

13 (A) identifies the countries described in
14 subsection (a)(1) and paragraphs (2) and (3) of
15 subsection (b);

16 (B) describes the methodology and data
17 utilized in the assessment under subsection (a);
18 and

19 (C) identifies the reasons for such identi-
20 fications.

21 (e) APPROPRIATE CONGRESSIONAL COMMITTEE DE-
22 FINED.—In this section, the term “appropriate congres-
23 sional committees” means—

24 (1) the Committee on Foreign Relations of the
25 Senate;

1 (2) the Committee on Appropriations of the
2 Senate;

3 (3) the Committee on Foreign Affairs of the
4 House of Representatives; and

5 (4) the Committee on Appropriations of the
6 House of Representatives.

7 **SEC. 3. TRANSPARENCY AND ACCOUNTABILITY.**

8 For each country identified under paragraphs (2) and
9 (3) of section 2(b), the Secretary of State, in coordination
10 with the Administrator of the United States Agency for
11 International Development, as appropriate, shall—

12 (1) ensure that a corruption risk assessment
13 and mitigation strategy is included in the integrated
14 country strategy for such country; and

15 (2) utilize appropriate mechanisms to combat
16 corruption in such countries, including by ensur-
17 ing—

18 (A) the inclusion of anti-corruption clauses
19 in contracts, grants, and cooperative agree-
20 ments entered into by the Department of State
21 or the United States Agency for International
22 Development for or in such countries, which
23 allow for the termination of such contracts,
24 grants, or cooperative agreements, as the case

1 may be, without penalty if credible indicators of
2 public corruption are discovered;

3 (B) the inclusion of appropriate clawback
4 or flowdown clauses within the procurement in-
5 struments of the Department of State and the
6 United States Agency for International Devel-
7 opment that provide for the recovery of funds
8 misappropriated through corruption;

9 (C) the appropriate disclosure to the
10 United States Government, in confidential
11 form, if necessary, of the beneficial ownership
12 of contractors, subcontractors, grantees, cooper-
13 ative agreement participants, and other organi-
14 zations implementing programs on behalf of the
15 Department of State or the United States
16 Agency for International Development; and

17 (D) the establishment of mechanisms for
18 investigating allegations of misappropriated re-
19 sources and equipment.

20 **SEC. 4. DESIGNATION OF EMBASSY ANTI-CORRUPTION**
21 **POINTS OF CONTACT.**

22 (a) IN GENERAL.—The Secretary of State shall an-
23 nually designate an anti-corruption point of contact at the
24 United States diplomatic post to each country identified
25 under paragraphs (2) and (3) of section 2(b), or which

1 the Secretary otherwise determines is in need of such a
2 point of contact. The point of contact shall be the chief
3 of mission or the chief of mission’s designee.

4 (b) RESPONSIBILITIES.—Each anti-corruption point
5 of contact designated under subsection (a) shall be respon-
6 sible for coordinating and overseeing the implementation
7 of a whole-of-government approach among the relevant
8 Federal departments and agencies operating programs
9 that—

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

12 (2) enhance the ability of such countries—

13 (A) to combat public corruption; and

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

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

19 **SEC. 5. DEFINITIONS.**

20 In this Act:

21 (1) CORRUPT ACTOR.—The term “corrupt
22 actor” means—

23 (A) any foreign person or entity that is a
24 government official or government entity re-

1 sponsible for, or complicit in, an act of public
2 corruption; and

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

7 (2) FOREIGN ASSISTANCE.—The term “foreign
8 assistance” means assistance made available
9 under—

10 (A) the Foreign Assistance Act of 1961
11 (22 U.S.C. 2151 et seq.); or

12 (B) the Arms Export Control Act (22
13 U.S.C. 2751 et seq.).

14 (3) GRAND CORRUPTION.—The term “grand
15 corruption” means public corruption committed at a
16 high level of government that—

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

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

21 (4) PETTY CORRUPTION.—The term “petty cor-
22 ruption” means the unlawful exercise of entrusted
23 public power for private gain by low- or mid-level
24 public officials in their interactions with ordinary

1 citizens, including by bribery, nepotism, fraud, or
2 embezzlement.

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

Passed the Senate December 19, 2019.

Attest:

Secretary.

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