

117TH CONGRESS
1ST SESSION

S. 158

To promote international efforts in combating corruption, kleptocracy, and illicit finance by foreign officials and other foreign persons, including through a new anti-corruption action fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2021

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

A BILL

To promote international efforts in combating corruption, kleptocracy, and illicit finance by foreign officials and other foreign persons, including through a new anti-corruption action fund, and for other purposes.

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 TITLES; TABLE OF CONTENTS.**

4 (a) SHORT TITLES.—This Act may be cited as the
5 “Countering Russian and Other Overseas Kleptocracy
6 Act” or the “CROOK Act”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short titles; table of contents.
 Sec. 2. Findings.
 Sec. 3. Definitions.
 Sec. 4. Statement of policy.
 Sec. 5. Anti-Corruption Action Fund.
 Sec. 6. Interagency Anti-Corruption Task Force.
 Sec. 7. Designation of embassy anti-corruption points of contact.
 Sec. 8. Reporting requirements.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Authoritarian leaders in foreign countries
 4 abuse their power to steal assets from state institu-
 5 tions, enrich themselves at the expense of their coun-
 6 tries' economic development, and use corruption as
 7 a strategic tool both to solidify their grip on power
 8 and to undermine democratic institutions abroad.

9 (2) Global corruption harms the competitiveness
 10 of United States businesses, weakens democratic
 11 governance, feeds terrorist recruitment and
 12 transnational organized crime, enables drug smug-
 13 gling and human trafficking, and stymies economic
 14 growth.

15 (3) Illicit financial flows often penetrate coun-
 16 tries through what appear to be legitimate financial
 17 transactions, as kleptocrats launder money, use shell
 18 companies, amass offshore wealth, and participate in
 19 a global shadow economy.

20 (4) The Government of the Russian Federation
 21 is a leading model of this type of kleptocratic sys-

1 tem, using state-sanctioned corruption to both erode
 2 democratic governance from within and discredit de-
 3 mocracy abroad, thereby strengthening the authori-
 4 tarian rule of Vladimir Putin.

5 (5) Corrupt individuals and entities in the Rus-
 6 sian Federation, often with the backing and encour-
 7 agement of political leadership, use stolen money—

8 (A) to purchase key assets in other coun-
 9 tries, often with a goal of attaining monopolistic
 10 control of a sector;

11 (B) to gain access to and influence the
 12 policies of other countries; and

13 (C) to advance Russian interests in other
 14 countries, particularly those that undermine
 15 confidence and trust in democratic systems.

16 (6) Systemic corruption in the People’s Repub-
 17 lic of China, often tied to, directed by, or backed by
 18 the leadership of the Chinese Communist Party and
 19 the Chinese Government is used—

20 (A) to provide unfair advantage to certain
 21 People’s Republic of China economic entities;

22 (B) to increase other countries’ economic
 23 dependence on the People’s Republic of China
 24 to secure greater deference to the People’s Re-

1 public of China's diplomatic and strategic goals;
2 and

3 (C) to exploit corruption in foreign govern-
4 ments and among other political elites to enable
5 People's Republic of China state-backed firms
6 to pursue predatory and exploitative economic
7 practices.

8 (7) Thwarting these tactics by Russian, Chi-
9 nese, and other kleptocratic actors requires the
10 international community to strengthen democratic
11 governance and the rule of law. International co-
12 operation in combating corruption and illicit finance
13 is vital to such efforts, especially by empowering re-
14 formers in foreign countries during historic political
15 openings for the establishment of the rule of law in
16 those countries.

17 (8) Technical assistance programs that combat
18 corruption and strengthen the rule of law, including
19 through assistance provided by the Department of
20 State's Bureau of International Narcotics and Law
21 Enforcement Affairs and the United States Agency
22 for International Development, and through pro-
23 grams like the Department of Justice's Office of
24 Overseas Prosecutorial Development, Assistance and
25 Training and the International Criminal Investiga-

1 tive Training Assistance Program, can have lasting
2 and significant impacts for both foreign and United
3 States interests.

4 (9) There currently exist numerous inter-
5 national instruments to combat corruption,
6 kleptocracy, and illicit finance, including—

7 (A) the Inter-American Convention against
8 Corruption of the Organization of American
9 States, done at Caracas March 29, 1996;

10 (B) the Convention on Combating Bribery
11 of Foreign Public Officials in International
12 Business Transactions of the Organisation of
13 Economic Co-operation and Development, done
14 at Paris December 21, 1997 (commonly re-
15 ferred to as the “Anti-Bribery Convention”);

16 (C) the United Nations Convention against
17 Transnational Organized Crime, done at New
18 York November 15, 2000;

19 (D) the United Nations Convention against
20 Corruption, done at New York October 31,
21 2003;

22 (E) Recommendation of the Council for
23 Further Combating Bribery of Foreign Public
24 Officials in International Business Trans-
25 actions, adopted November 26, 2009; and

1 (F) recommendations of the Financial Ac-
2 tion Task Force comprising the International
3 Standards on Combating Money Laundering
4 and the Financing of Terrorism and Prolifera-
5 tion.

6 **SEC. 3. 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 Banking, Housing,
14 and Urban Affairs of the Senate;

15 (C) the Committee on Finance of the Sen-
16 ate;

17 (D) the Committee on the Judiciary of the
18 Senate;

19 (E) the Committee on Foreign Affairs of
20 the House of Representatives;

21 (F) the Committee on Financial Services
22 of the House of Representatives;

23 (G) the Committee on Ways and Means of
24 the House of Representatives; and

1 (H) the Committee on the Judiciary of the
2 House of Representatives.

3 (2) FOREIGN ASSISTANCE.—The term “foreign
4 assistance” means foreign assistance authorized
5 under the Foreign Assistance Act of 1961 (22
6 U.S.C. 2251 et seq.).

7 (3) FOREIGN STATE.—The term “foreign state”
8 has the meaning given such term in section 1603(a)
9 of title 28, United States Code.

10 (4) INTELLIGENCE COMMUNITY.—The term
11 “intelligence community” has the meaning given
12 such term in section 3(4) of the National Security
13 Act of 1947 (50 U.S.C. 3003(4)).

14 (5) PUBLIC CORRUPTION.—The term “public
15 corruption” includes the unlawful exercise of en-
16 trusted public power for private gain, such as
17 through bribery, nepotism, fraud, extortion, or em-
18 bezzlement.

19 (6) RULE OF LAW.—The term “rule of law”
20 means the principle of governance in which all per-
21 sons, institutions, and entities, whether public or
22 private, including the state, are accountable to laws
23 that are—

24 (A) publicly promulgated;

25 (B) equally enforced;

1 (C) independently adjudicated; and

2 (D) consistent with international human
3 rights norms and standards.

4 **SEC. 4. STATEMENT OF POLICY.**

5 It is the policy of the United States—

6 (1) to leverage United States diplomatic en-
7 gagement and foreign assistance to promote the rule
8 of law;

9 (2)(A) to promote international instruments to
10 combat corruption, kleptocracy, and illicit finance,
11 including instruments referred to in section 2(9),
12 and other relevant international standards and best
13 practices, as such standards and practices develop;
14 and

15 (B) to promote the adoption and implementa-
16 tion of such laws, standards, and practices by for-
17 eign states;

18 (3) to support foreign states in promoting good
19 governance and combating public corruption;

20 (4) to encourage and assist foreign partner
21 countries to identify and close loopholes in their
22 legal and financial architecture, including the misuse
23 of anonymous shell companies, free trade zones, and
24 other legal structures, that are enabling illicit fi-
25 nance to penetrate their financial systems;

1 (5) to help foreign partner countries to inves-
2 tigate, prosecute, adjudicate, and more generally
3 combat the use of corruption by malign actors, in-
4 cluding authoritarian governments, particularly the
5 Government of the Russian Federation and the Gov-
6 ernment of the People’s Republic of China, as a tool
7 of malign influence worldwide;

8 (6) to assist in the recovery of kleptocracy-re-
9 lated stolen assets for victims, including through the
10 use of appropriate bilateral arrangements and inter-
11 national agreements, such as the United Nations
12 Convention against Corruption, done at New York
13 October 31, 2003, and the United Nations Conven-
14 tion against Transnational Organized Crime, done at
15 New York November 15, 2000;

16 (7) to use sanctions authorities, such as the
17 Global Magnitsky Human Rights Accountability Act
18 (subtitle F of title XII of the National Defense Au-
19 thorization Act for Fiscal Year 2017 (Public Law
20 114–328; 22 U.S.C. 2656 note)) and section
21 7031(c) of the Department of State, Foreign Oper-
22 ations, and Related Programs Appropriations Act,
23 2020 (division G of Public Law 116–94), to identify
24 and take action against corrupt foreign actors;

1 (8) to ensure coordination between relevant
2 Federal departments and agencies with jurisdiction
3 over the advancement of good governance in foreign
4 states; and

5 (9) to lead the creation of a formal grouping of
6 like-minded states—

7 (A) to coordinate efforts to counter corrup-
8 tion, kleptocracy, and illicit finance; and

9 (B) to strengthen collective financial de-
10 fense.

11 **SEC. 5. ANTI-CORRUPTION ACTION FUND.**

12 (a) **ESTABLISHMENT.**—There is established in the
13 United States Treasury a fund, to be known as the “Anti-
14 Corruption Action Fund”, only for the purposes of—

15 (1) strengthening the capacity of foreign states
16 to prevent and fight public corruption;

17 (2) assisting foreign states to develop rule of
18 law-based governance structures, including account-
19 able civilian police, prosecutorial, and judicial insti-
20 tutions;

21 (3) supporting foreign states to strengthen do-
22 mestic legal and regulatory frameworks to combat
23 public corruption, including the adoption of best
24 practices under international law; and

1 (4) supplementing existing foreign assistance
2 and diplomacy with respect to efforts described in
3 paragraphs (1), (2), and (3).

4 (b) FUNDING.—

5 (1) TRANSFERS.—Beginning on or after the
6 date of the enactment of this Act, if total criminal
7 fines and penalties in excess of \$50,000,000 are im-
8 posed against a person under the Foreign Corrupt
9 Practices Act of 1977 (Public Law 95–213) or sec-
10 tion 13, 30A, or 32 of the Securities Exchange Act
11 of 1934 (15 U.S.C. 78m, 78dd–1, and 78ff), wheth-
12 er pursuant to a criminal prosecution, enforcement
13 proceeding, deferred prosecution agreement, non-
14 prosecution agreement, a declination to prosecute or
15 enforce, or any other resolution, the court (in the
16 case of a conviction) or the Attorney General shall
17 impose an additional prevention payment equal to
18 \$5,000,000 against such person, which shall be de-
19 posited in the Anti-Corruption Action Fund estab-
20 lished under subsection (a).

21 (2) AVAILABILITY OF FUNDS.—Amounts depos-
22 ited into the Anti-Corruption Action Fund pursuant
23 to paragraph (1) shall be available to the Secretary
24 of State only for the purposes described in sub-

1 section (a), without fiscal year limitation or need for
2 subsequent appropriation.

3 (3) LIMITATION.—None of the amounts made
4 available to the Secretary of State from the Anti-
5 Corruption Action Fund may be used inside the
6 United States, except for administrative costs re-
7 lated to overseas program implementation pursuant
8 to subsection (a).

9 (c) SUPPORT.—The Anti-Corruption Action Fund—
10 (1) may support governmental and nongovern-
11 mental parties in advancing the purposes described
12 in subsection (a); and

13 (2) shall be allocated in a manner complemen-
14 tary to existing United States foreign assistance, di-
15 plomacy, and anti-corruption activities.

16 (d) ALLOCATION AND PRIORITIZATION.—In pro-
17 gramming foreign assistance made available through the
18 Anti-Corruption Action Fund, the Secretary of State, in
19 coordination with the Attorney General, shall prioritize
20 projects that—

21 (1) assist countries that are undergoing historic
22 opportunities for democratic transition, combating
23 corruption, and the establishment of the rule of law;
24 and

1 (2) are important to United States national in-
2 terests.

3 (e) TECHNICAL ASSISTANCE PROVIDERS.—For any
4 technical assistance to a foreign governmental party under
5 this section, the Secretary of State, in coordination with
6 the Attorney General, shall prioritize United States Gov-
7 ernment technical assistance providers as implementers, in
8 particular the Office of Overseas Prosecutorial Develop-
9 ment, Assistance and Training and the International
10 Criminal Investigative Training Assistance Program at
11 the Department of Justice.

12 (f) PUBLIC DIPLOMACY.—The Secretary of State
13 shall announce that funds deposited in the Anti-Corrup-
14 tion Action Fund are derived from actions brought under
15 the Foreign Corrupt Practices Act to demonstrate that the
16 use of such funds are—

17 (1) contributing to international anti-corruption
18 work; and

19 (2) reducing the pressure that United States
20 businesses face to pay bribes overseas, thereby con-
21 tributing to greater competitiveness of United States
22 companies.

23 (g) REPORTING.—Not later than 1 year after the
24 date of the enactment of this Act and not less frequently
25 than annually thereafter, the Secretary of State shall sub-

1 mit a report to the appropriate congressional committees
2 that contains—

3 (1) the balance of the funding remaining in the
4 Anti-Corruption Action Fund;

5 (2) the amount of funds that have been depos-
6 ited into the Anti-Corruption Action Fund; and

7 (3) a summary of the obligation and expendi-
8 ture of such funds.

9 (h) NOTIFICATION REQUIREMENTS.—None of the
10 amounts made available to the Secretary of State from
11 the Anti-Corruption Action Fund pursuant to this section
12 shall be available for obligation, or for transfer to other
13 departments, agencies, or entities, unless the Secretary of
14 State notifies the Committee on Foreign Relations of the
15 Senate, the Committee on Appropriations of the Senate,
16 the Committee on Foreign Affairs of the House of Rep-
17 resentatives, and the Committee on Appropriations of the
18 House of Representatives, not later than 15 days in ad-
19 vance of such obligation or transfer.

20 **SEC. 6. INTERAGENCY ANTI-CORRUPTION TASK FORCE.**

21 (a) IN GENERAL.—The Secretary of State, in co-
22 operation with the Interagency Anti-Corruption Task
23 Force established pursuant to subsection (b), shall man-
24 age a whole-of-government effort to improve coordination

1 among Federal departments and agencies and donor orga-
2 nizations with a role in—

3 (1) promoting good governance in foreign
4 states; and

5 (2) enhancing the ability of foreign states to
6 combat public corruption.

7 (b) INTERAGENCY ANTI-CORRUPTION TASK
8 FORCE.—Not later than 180 days after the date of the
9 enactment of this Act, the Secretary of State shall estab-
10 lish and convene the Interagency Anti-Corruption Task
11 Force (referred to in this section as the “Task Force”),
12 which shall be composed of representatives appointed by
13 the President from appropriate departments and agencies,
14 including the Department of State, the United States
15 Agency for International Development, the Department of
16 Justice, the Department of the Treasury, the Department
17 of Homeland Security, the Department of Defense, the
18 Department of Commerce, the Millennium Challenge Cor-
19 poration, and the intelligence community.

20 (c) ADDITIONAL MEETINGS.—The Task Force shall
21 meet not less frequently than twice per year.

22 (d) DUTIES.—The Task Force shall—

23 (1) evaluate, on a general basis, the effective-
24 ness of existing foreign assistance programs, includ-

1 ing programs funded by the Anti-Corruption Action
2 Fund, that have an impact on—

3 (A) promoting good governance in foreign
4 states; and

5 (B) enhancing the ability of foreign states
6 to combat public corruption;

7 (2) assist the Secretary of State in managing
8 the whole-of-government effort described in sub-
9 section (a);

10 (3) identify general areas in which such whole-
11 of-government effort could be enhanced; and

12 (4) recommend specific programs for foreign
13 states that may be used to enhance such whole-of-
14 government effort.

15 (e) BRIEFING REQUIREMENT.—Not later than 1 year
16 after the date of the enactment of this Act and not less
17 frequently than annually thereafter through the end of fis-
18 cal year 2026, the Secretary of State shall provide a brief-
19 ing to the appropriate congressional committees regarding
20 the ongoing work of the Task Force. The briefing shall
21 include the participation of a representative of each of the
22 departments and agencies described in subsection (b), to
23 the extent feasible.

1 **SEC. 7. DESIGNATION OF EMBASSY ANTI-CORRUPTION**
2 **POINTS OF CONTACT.**

3 (a) EMBASSY ANTI-CORRUPTION POINT OF CON-
4 TACT.—The chief of mission of each United States em-
5 bassy shall designate an anti-corruption point of contact
6 for each such embassy.

7 (b) DUTIES.—The designated anti-corruption points
8 of contact designated pursuant to subsection (a) shall—

9 (1) coordinate, in accordance with guidance
10 from the Interagency Anti-Corruption Task Force
11 established pursuant to section 6(b), an interagency
12 approach within United States embassies to combat
13 public corruption in the foreign states in which such
14 embassies are located that is tailored to the needs of
15 such foreign states, including all relevant Federal
16 departments and agencies with a presence in such
17 foreign states, such as the Department of State, the
18 United States Agency for International Develop-
19 ment, the Department of Justice, the Department of
20 the Treasury, the Department of Homeland Secu-
21 rity, the Department of Defense, the Millennium
22 Challenge Corporation, and the intelligence commu-
23 nity;

24 (2) make recommendations regarding the use of
25 the Anti-Corruption Action Fund and other foreign
26 assistance funding related to anti-corruption efforts

1 in their respective countries of responsibility that
2 aligns with United States diplomatic engagement;
3 and

4 (3) ensure that anti-corruption activities carried
5 out within their respective countries of responsibility
6 are included in regular reporting to the Secretary of
7 State and the Interagency Anti-Corruption Task
8 Force, including United States embassy strategic
9 planning documents and foreign assistance-related
10 reporting, as appropriate.

11 (c) TRAINING.—The Secretary of State shall develop
12 and implement appropriate training for the designated
13 anti-corruption points of contact.

14 **SEC. 8. REPORTING REQUIREMENTS.**

15 (a) REPORT OR BRIEFING ON PROGRESS TOWARD
16 IMPLEMENTATION.—Not later than 180 days after the
17 date of the enactment of this Act, and annually thereafter
18 for the following 3 years, the Secretary of State, in con-
19 sultation with the Administrator of the United States
20 Agency for International Development, the Attorney Gen-
21 eral, and the Secretary of the Treasury, shall submit a
22 report or provide a briefing to the appropriate congres-
23 sional committees that summarizes progress made in com-
24 bating public corruption and in implementing this Act, in-
25 cluding—

1 (1) identifying opportunities and priorities for
2 outreach with respect to promoting the adoption and
3 implementation of relevant international law and
4 standards in combating public corruption,
5 kleptocracy, and illicit finance;

6 (2) describing—

7 (A) the bureaucratic structure of the of-
8 fices within the Department of State and the
9 United States Agency for International Devel-
10 opment that are engaged in activities to combat
11 public corruption, kleptocracy, and illicit fi-
12 nance; and

13 (B) how such offices coordinate their ef-
14 forts with each other and with other relevant
15 Federal departments and agencies;

16 (3) providing a description of how the provi-
17 sions under subsections (d) and (e) of section 5 have
18 been applied to each project funded by the Anti-Cor-
19 ruption Action Fund;

20 (4) providing an explanation as to why a United
21 States Government technical assistance provider was
22 not used if technical assistance to a foreign govern-
23 mental entity is not implemented by a United States
24 Government technical assistance provider;

1 (5) describing the activities of the Interagency
2 Anti-Corruption Task Force established pursuant to
3 section 6(b);

4 (6) identifying—

5 (A) the designated anti-corruption points
6 of contact for foreign states; and

7 (B) any training provided to such points of
8 contact; and

9 (7) recommending additional measures that
10 would enhance the ability of the United States Gov-
11 ernment to combat public corruption, kleptocracy,
12 and illicit finance overseas.

13 (b) ONLINE PLATFORM.—The Secretary of State, in
14 conjunction with the Administrator of the United States
15 Agency for International Development, should consolidate
16 existing reports with anti-corruption components into a
17 single online, public platform that includes—

18 (1) the Annual Country Reports on Human
19 Rights Practices required under section 116 of the
20 Foreign Assistance Act of 1961 (22 U.S.C. 2151n);

21 (2) the Fiscal Transparency Report required
22 under section 7031(b) of the Department of State,
23 Foreign Operations and Related Programs Appro-
24 priations Act, 2019 (division F of Public Law 116–
25 6);

- 1 (3) the Investment Climate Statement reports;
- 2 (4) the International Narcotics Control Strat-
- 3 egy Report;
- 4 (5) any other relevant public reports; and
- 5 (6) links to third-party indicators and compli-
- 6 ance mechanisms used by the United States Govern-
- 7 ment to inform policy and programming, as appro-
- 8 priate, such as—
- 9 (A) the International Finance Corpora-
- 10 tion's Doing Business surveys;
- 11 (B) the International Budget Partnership's
- 12 Open Budget Index; and
- 13 (C) multilateral peer review anti-corruption
- 14 compliance mechanisms, such as—
- 15 (i) the Organisation for Economic Co-
- 16 operation and Development's Working
- 17 Group on Bribery in International Busi-
- 18 ness Transactions;
- 19 (ii) the Follow-Up Mechanism for the
- 20 Inter-American Convention Against Cor-
- 21 ruption; and
- 22 (iii) the United Nations Convention
- 23 Against Corruption, done at New York Oc-
- 24 tober 31, 2003.

