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1ST SESSION

S. 1309

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.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2019

Mr. CARDIN (for himself, Mr. YOUNG, Mr. LEAHY, Mr. RUBIO, Mr. BLUMENTHAL, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

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 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Combating Global Cor-
3 ruption Act of 2019”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) **APPROPRIATE CONGRESSIONAL COMMIT-**
7 **TEES.**—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Foreign Relations of
10 the Senate;

11 (B) the Committee on Armed Services of
12 the Senate;

13 (C) the Committee on Appropriations of
14 the Senate;

15 (D) the Committee on Foreign Affairs of
16 the House of Representatives;

17 (E) the Committee on Armed Services of
18 the House of Representatives; and

19 (F) the Committee on Appropriations of
20 the House of Representatives.

21 (2) **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-
25 sponsible for, or complicit in, an act of corrup-
26 tion; and

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

5 (3) CORRUPTION.—The term “corruption”
6 means the exercise of public power for private gain,
7 including by bribery, nepotism, fraud, or embezzle-
8 ment.

9 (4) FOREIGN ASSISTANCE.—The term “foreign
10 assistance” means assistance made available
11 under—

12 (A) the Foreign Assistance Act of 1961
13 (22 U.S.C. 2151 et seq.);

14 (B) the Arms Export Control Act (22
15 U.S.C. 2751 et seq.); or

16 (C) title 10, United States Code.

17 (5) GRAND CORRUPTION.—The term “grand
18 corruption” means corruption committed at a high
19 level of government that—

20 (A) distorts policies or the central func-
21 tioning of the country; and

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

24 (6) PETTY CORRUPTION.—The term “petty cor-
25 ruption” means the abuse of entrusted power by

1 low- or mid-level public officials in their interactions
2 with ordinary citizens.

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

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

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

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

17 (d) TIER 3 COUNTRIES.—A country shall be ranked
18 as a tier 3 country in the ranking published under sub-
19 section (a) if the government of such country is making
20 de minimis or no efforts to comply with the minimum
21 standards 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 elimi-
6 nation of corruption if the government—

7 (1) has enacted laws and established govern-
8 ment structures, policies, and practices that prohibit
9 corruption, including grand corruption and petty
10 corruption;

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

14 (3) prescribes punishment for grand corruption
15 that is commensurate with the punishment pre-
16 scribed for serious crimes;

17 (4) prescribes punishment for petty corruption
18 that—

19 (A) provides a sufficiently stringent deter-
20 rent; and

21 (B) adequately reflects the nature of the
22 offense; and

23 (5) is making serious and sustained efforts to
24 eliminate corruption.

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

1 er a government is making serious and sustained efforts
2 to eliminate corruption, the Secretary of State shall con-
3 sider—

4 (1) whether the government of the country vig-
5 orously investigates and prosecutes acts of corrup-
6 tion and convicts and sentences persons responsible
7 for such acts that take place wholly or partly within
8 such country, including, as appropriate, requiring in-
9 carceration of individuals convicted of such acts;

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

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

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

1 including the investigation, prosecution, and conviction of such officials;
2

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

7
8 (6) whether an independent judiciary or judicial
9 body in the country 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 restrictions, improper influences, inducements, pressures, threats, or interferences (direct or indirect) from any quarter or for any reason;
13

14
15 (7) whether the government of the country is
16 assisting in international investigations of
17 transnational corruption networks and in other cooperative efforts to combat grand corruption, including
18 cooperating with the governments of other countries
19 to extradite corrupt actors;
20

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

1 (9) whether the government of the country re-
2 frains from prosecuting victims of corruption or
3 whistleblowers due to such persons having assisted
4 in exposing corruption, and refrains from other dis-
5 criminatory treatment of such persons; and

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

8 **SEC. 5. TRANSPARENCY AND ACCOUNTABILITY.**

9 (a) IN GENERAL.—Not later than 60 days after pub-
10 lishing the report required under section 3(a), and prior
11 to obligation by any United States agency of foreign as-
12 sistance to the government of a country ranked as a tier
13 3 country under section 3(d), the Secretary of State, in
14 coordination with the Administrator of the United States
15 Agency for International Development (referred to in this
16 Act as the “USAID Administrator”) and the Secretary
17 of Defense, as appropriate, shall—

18 (1) conduct a corruption risk assessment and
19 create a corruption mitigation strategy for all United
20 States foreign assistance programs to that country;

21 (2) require the inclusion of anti-corruption
22 clauses for all foreign assistance contracts, grants,
23 and cooperative agreements, which allow for the ter-
24 mination of the contract, grant, or cooperative

1 agreement without penalty if credible indicators of
2 corruption are discovered;

3 (3) require the inclusion of appropriate
4 clawback clauses for all foreign assistance contracts,
5 grants, and cooperative agreements to recover
6 United States taxpayer funds that have been mis-
7 appropriated from the prime contractor, grantee, or
8 cooperative agreement participant through corrup-
9 tion;

10 (4) require the disclosure of the beneficial own-
11 ership of all contractors, subcontractors, grantees,
12 cooperative agreement participants, and other orga-
13 nizations receiving funding from the United States
14 Government for foreign assistance programs; and

15 (5) establish a mechanism for investigating alle-
16 gations of misappropriated foreign assistance funds
17 or equipment.

18 (b) EXCEPTIONS AND WAIVER.—

19 (1) EXCEPTIONS.—Subsection (a) shall not
20 apply to humanitarian assistance, disaster assist-
21 ance, or assistance to combat corruption.

22 (2) WAIVER.—The Secretary of State, on a pro-
23 gram-by-program basis, may waive the requirement
24 to delay foreign assistance under subsection (a) if
25 the Secretary of State certifies to the appropriate

1 congressional committees that such waiver is impor-
2 tant to the national security interests of the United
3 States.

4 **SEC. 6. RESOURCES AND REPORTING REQUIREMENTS.**

5 (a) ANNUAL REPORT.—

6 (1) IN GENERAL.—The Secretary of State shall
7 submit an annual report to the appropriate congres-
8 sional committees that outlines the resources needed
9 to meet the objectives and reports under sections 3
10 through 5, including—

11 (A) intelligence data collection needs;

12 (B) personnel needs;

13 (C) information technology requirements;

14 and

15 (D) a description of the bureaucratic struc-
16 ture of the offices within the Department of
17 State and the United States Agency for Inter-
18 national Development (“USAID”) that are en-
19 gaged in anti-corruption activities.

20 (2) FORM.—The report submitted under para-
21 graph (1) shall be submitted in unclassified form,
22 but may include a classified annex.

23 (b) ONLINE PLATFORM.—The Secretary of State and
24 the USAID Administrator shall consolidate existing re-

1 ports with anti-corruption components into one online,
2 public platform, which shall—

3 (1) include—

4 (A) the Human Rights Report;

5 (B) the Fiscal Transparency Report;

6 (C) the Investment Climate Statement re-
7 ports;

8 (D) the International Narcotics Control
9 Strategy Report; and

10 (E) any other relevant public reports; and

11 (2) link to third-party indicators used by the
12 United States Government to inform policy and pro-
13 gramming, such as—

14 (A) the World Bank's Control of Corrup-
15 tion Indicator;

16 (B) the World Bank's Actionable Govern-
17 ance Index Data Portal;

18 (C) the International Finance Corpora-
19 tion's Doing Business surveys;

20 (D) the International Budget Partnership's
21 Open Budget Index;

22 (E) the Global Integrity Index; and

23 (F) multilateral peer review anti-corruption
24 compliance mechanisms, such as the
25 Organisation for Economic Co-operation and

1 Development’s Working Group on Bribery in
2 International Business Transactions and the
3 United Nations Convention Against Corruption,
4 done at New York October 31, 2003, to further
5 highlight expert international views on country
6 challenges and country efforts.

7 (c) TRAINING.—To increase the ability of Depart-
8 ment of State and USAID personnel to support anti-cor-
9 ruption as a foreign policy and development priority, and
10 strengthen their ability to design, implement, and evaluate
11 more effective anti-corruption programming around the
12 world, including enhancing skills to better evaluate and
13 mitigate corruption risks in assistance programs, the Sec-
14 retary of State and the USAID Administrator shall incor-
15 porate anti-corruption components into existing Foreign
16 Service and Civil Service training courses.

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