

116TH CONGRESS
1ST SESSION

S. 3026

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

DECEMBER 11, 2019

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. Sense of Congress regarding international standards.
- Sec. 5. Statement of policy.
- Sec. 6. Anti-Corruption Action Fund.
- Sec. 7. Interagency Task Force.
- Sec. 8. Designation of embassy anti-corruption points of contact.
- Sec. 9. 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, feeds terrorist recruit-
 11 ment and transnational organized crime, enables
 12 drug smuggling and human trafficking, and stymies
 13 economic growth.

14 (3) Illicit financial flows often inconspicuously
 15 penetrate a country through what appears to be le-
 16 gitimate financial transactions, as kleptocrats laun-
 17 der money, use shell companies, amass offshore
 18 wealth, and participate in a global shadow economy.

19 (4) The government of Vladimir Putin in Rus-
 20 sia is the leading model of this type of foreign
 21 kleptocratic system, using corruption to erode demo-

1 cratic governance from within and discrediting de-
2 mocracy abroad, thereby strengthening his authori-
3 tarian rule.

4 (5) Russia uses stolen money—

5 (A) to purchase key assets in other coun-
6 tries, particularly with a goal of attaining mo-
7 nopolistic control of a sector;

8 (B) to gain access to and influence the
9 policies of democratic countries; and

10 (C) to directly fund political parties and
11 organizations that advance Russian interests in
12 other countries, particularly those that under-
13 mine confidence and trust in democratic sys-
14 tems.

15 (6) Thwarting these tactics by Russia and other
16 kleptocratic governments requires the international
17 community to strengthen democratic governance, the
18 rule of law, and international cooperation in com-
19 bating illicit finance, especially by empowering re-
20 formers in foreign countries during historic political
21 openings for the establishment of the rule of law in
22 those countries.

23 (7) New reformers in foreign countries must act
24 quickly to seize political openings for anti-corruption
25 reform. Since such reformers are often outsiders

1 with little government experience, they may need sig-
2 nificant technical assistance to root out deep-seated
3 corruption.

4 **SEC. 3. 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 Banking, Housing,
12 and Urban Affairs of the Senate;

13 (C) the Committee on Finance of the Sen-
14 ate;

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

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

19 (F) the Committee on Ways and Means of
20 the House of Representatives.

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

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

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

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

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

17 (A) publicly promulgated;

18 (B) equally enforced;

19 (C) independently adjudicated; and

20 (D) consistent with international human
21 rights norms and standards.

1 **SEC. 4. SENSE OF CONGRESS REGARDING INTERNATIONAL**
2 **STANDARDS.**

3 It is the sense of Congress that the foundation for
4 foreign states to fight corruption, kleptocracy, and illicit
5 finance includes—

6 (1) the United Nations Convention against Cor-
7 ruption, done at New York October 31, 2003;

8 (2) recommendations of the Financial Action
9 Task Force comprising the International Standards
10 on Combating Money Laundering and the Financing
11 of Terrorism & Proliferation;

12 (3)(A) the Convention on Combating Bribery of
13 Foreign Public Officials in International Business
14 Transactions of the Organisation for Economic Co-
15 operation and Development, done at Paris December
16 17, 1997 (commonly referred to as the “Anti-Brib-
17 ery Convention”);

18 (B) the Recommendation of the Council for
19 Further Combating Bribery of Foreign Public Offi-
20 cials in International Business Transactions, adopt-
21 ed November 26, 2009;

22 (C) the Recommendation of the Council on the
23 Tax Deductibility of Bribes to Foreign Public Offi-
24 cials, adopted on April 11, 1996; and

25 (D) other related instruments;

1 (4) legal instruments adopted by the Council of
2 Europe and monitored by the Group of States
3 against Corruption, including—

4 (A) the Criminal Law Convention on Cor-
5 ruption, done at Strasbourg January 27, 1999;

6 (B) the Civil Law Convention on Corrup-
7 tion, done at Strasbourg, November 4, 1999;

8 (C) the Additional Protocol to the Criminal
9 Law Convention on Corruption, done at
10 Strasbourg May 15, 2003;

11 (D) the Twenty Guiding Principles for the
12 Fight against Corruption, done at Strasbourg
13 November 6, 1997;

14 (E) the Recommendation on Codes of Con-
15 duct for Public Officials, done at Strasbourg
16 May 11, 2000; and

17 (F) the Recommendation on Common
18 Rules against Corruption in the Funding of Po-
19 litical Parties and Electoral Campaigns, done at
20 Strasbourg April 8, 2003;

21 (5) Second Dimension commitments of the Or-
22 ganization for Security and Cooperation in Europe
23 regarding good governance, anti-corruption, anti-
24 money laundering, and related issues; and

1 (6) the Inter-American Convention Against Cor-
2 ruption of the Organization of American States,
3 done at Caracas March 29, 1996.

4 **SEC. 5. 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 the international standards
10 referred to in section 4 and other relevant inter-
11 national standards and best practices, as such stand-
12 ards and practices develop; and

13 (B) to seek the universal adoption and imple-
14 mentation of such standards and practices by for-
15 eign states;

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

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

1 (5) to help foreign partner countries to inves-
2 tigate and combat the use of corruption by authori-
3 tarian governments, particularly the government of
4 Vladimir Putin in Russia, as a tool of malign influ-
5 ence worldwide;

6 (6) to assist in the recovery of kleptocracy-re-
7 lated stolen assets for victims, including through the
8 use of appropriate bilateral arrangements and inter-
9 national agreements, such as the United Nations
10 Convention against Corruption, done at New York
11 October 31, 2003;

12 (7) to use sanctions authorities, such as the
13 Global Magnitsky Human Rights Accountability Act
14 (subtitle F of title XII of the National Defense Au-
15 thorization Act for Fiscal Year 2017 (Public Law
16 114–328; 22 U.S.C. 2656 note)), to identify and
17 take action against corrupt foreign actors;

18 (8) to ensure coordination between departments
19 and agencies of the United States Government with
20 jurisdiction over the advancement of good govern-
21 ance in foreign states; and

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

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

1 (B) to strengthen collective financial de-
2 fense.

3 **SEC. 6. ANTI-CORRUPTION ACTION FUND.**

4 (a) ESTABLISHMENT.—There is established in the
5 United States Treasury a trust fund, to be known as the
6 “Anti-Corruption Action Fund”, for the purpose of aiding
7 foreign states—

8 (1) to prevent and fight public corruption;

9 (2) to develop rule of law-based governance
10 structures, including accountable investigation, pros-
11 ecutorial, and judicial bodies; and

12 (3) to supplement existing foreign assistance
13 and diplomacy with respect to efforts described in
14 paragraphs (1) and (2).

15 (b) FUNDING.—

16 (1) TRANSFERS.—Beginning on or after the
17 date of the enactment of this Act, if total criminal
18 fines and penalties in excess of \$50,000,000 are im-
19 posed against a person under the Foreign Corrupt
20 Practices Act of 1977 (Public Law 95–213) or sec-
21 tion 13, 30A, or 32 of the Securities Exchange Act
22 of 1934 (15 U.S.C. 78m, 78dd–1, and 78ff), wheth-
23 er pursuant to a criminal prosecution, enforcement
24 proceeding, deferred prosecution agreement, non-
25 prosecution agreement, a declination to prosecute or

1 enforce, or any other resolution, the court (in the
2 case of a conviction) or the Attorney General shall
3 impose an additional prevention payment equal to
4 \$5,000,000 against such person, which shall be de-
5 posited in the Anti-Corruption Action Fund estab-
6 lished under subsection (a).

7 (2) AVAILABILITY OF FUNDS.—Amounts depos-
8 ited into the Anti-Corruption Action Fund pursuant
9 to paragraph (1) shall be available to the Secretary
10 of State, without fiscal year limitation or need for
11 subsequent appropriation, for the purposes set forth
12 in this section.

13 (c) SUPPORT.—The Anti-Corruption Action Fund—

14 (1) may support governmental and nongovern-
15 mental parties in advancing the purposes described
16 in subsection (a); and

17 (2) shall be allocated in a manner complemen-
18 tary to existing United States foreign assistance, di-
19 plomacy, and the anti-corruption activities of other
20 international donors.

21 (d) PREFERENCE.—In deciding how funding from
22 the Anti-Corruption Action Fund will be allocated, the
23 Secretary of State shall give preference to projects that—

1 (1) assist countries that are undergoing historic
2 opportunities for democratic transition, combating
3 corruption, and the establishment of the rule of law;

4 (2) are important to United States national in-
5 terests; and

6 (3) could significantly increase the chance of a
7 successful transition described in paragraph (1).

8 (e) PUBLIC DIPLOMACY.—The Secretary of State
9 shall announce that funds deposited in the Anti-Corrup-
10 tion Action Fund are derived from actions brought under
11 the Foreign Corrupt Practices Act to demonstrate that the
12 use of such funds are—

13 (1) contributing to international anti-corruption
14 work; and

15 (2) reducing the pressure that United States
16 businesses face to pay bribes overseas, thereby con-
17 tributing to greater competitiveness of United States
18 companies.

19 **SEC. 7. INTERAGENCY TASK FORCE.**

20 (a) IN GENERAL.—The Secretary of State, in co-
21 operation with the Interagency Task Force established
22 pursuant to subsection (b), shall manage a whole-of-gov-
23 ernment effort to improve coordination among Federal de-
24 partments and agencies and donor organizations with a
25 role in—

1 (1) promoting good governance in foreign
2 states; and

3 (2) enhancing the ability of foreign states to
4 combat public corruption.

5 (b) INTERAGENCY TASK FORCE.—Not later than 180
6 days after the date of the enactment of this Act, the Sec-
7 retary of State shall establish and convene an Interagency
8 Task Force composed of—

9 (1) representatives appointed by the President
10 from appropriate departments and agencies, includ-
11 ing the Department of State, the United States
12 Agency for International Development, the Depart-
13 ment of Justice, the Department of the Treasury,
14 the Department of Homeland Security, the Depart-
15 ment of Defense, the Department of Commerce, the
16 Millennium Challenge Corporation, and the intel-
17 ligence community; and

18 (2) representatives appointed by the Secretary
19 of State from any Federal department or agency not
20 referred to in paragraph (1).

21 (c) ADDITIONAL MEETINGS.—The Interagency Task
22 Force established pursuant to subsection (b) shall meet
23 not less frequently than twice per year.

24 (d) DUTIES.—The Interagency Task Force estab-
25 lished pursuant to subsection (b) shall—

1 (1) evaluate, on a general basis, the effective-
2 ness of existing foreign assistance programs, includ-
3 ing programs funded by the Anti-Corruption Action
4 Fund, that have an impact on—

5 (A) promoting good governance in foreign
6 states; and

7 (B) enhancing the ability of foreign states
8 to combat public corruption;

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

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

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

17 **SEC. 8. DESIGNATION OF EMBASSY ANTI-CORRUPTION**
18 **POINTS OF CONTACT.**

19 (a) **EMBASSY ANTI-CORRUPTION POINT OF CON-**
20 **TACT.**—The chief of mission of each United States em-
21 bassy shall designate an anti-corruption point of contact
22 for each such embassy.

23 (b) **DUTIES.**—The designated anti-corruption points
24 of contact designated pursuant to subsection (a) shall—

1 (1) coordinate, in accordance with guidance
2 from the Interagency Task Force established pursu-
3 ant to section 7(b), an interagency approach within
4 United States embassies to combat public corruption
5 in the foreign states in which such embassies are lo-
6 cated that is tailored to the needs of such foreign
7 states, including all relevant Federal departments
8 and agencies with a presence in such foreign states,
9 such as the Department of State, the United States
10 Agency for International Development, the Depart-
11 ment of Justice, the Department of the Treasury,
12 the Department of Homeland Security, the Depart-
13 ment of Defense, the Millennium Challenge Corpora-
14 tion, and the intelligence community;

15 (2) make recommendations regarding the use of
16 the Anti-Corruption Action Fund and other foreign
17 assistance funding related to anti-corruption efforts
18 in their respective foreign states that aligns with
19 United States diplomatic engagement; and

20 (3) ensure that anti-corruption activities carried
21 out within their respective foreign states are in-
22 cluded in regular reporting to the Secretary of State
23 and the Interagency Task Force, including United
24 States embassy strategic planning documents and
25 foreign assistance-related reporting, as appropriate.

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

4 **SEC. 9. REPORTING REQUIREMENTS.**

5 (a) REPORT ON PROMOTING INTERNATIONAL
6 STANDARDS IN COMBATING CORRUPTION, KLEPTOCRACY,
7 AND ILLICIT FINANCE.—Not later than 180 days after the
8 date of the enactment of this Act, the Secretary of State,
9 in consultation with the Administrator of the United
10 States Agency for International Development and the Sec-
11 retary of the Treasury, shall submit a report to the appro-
12 priate congressional committees that—

13 (1) summarizes any progress made by foreign
14 states to adopt and implement each of the inter-
15 national standards in combating corruption,
16 kleptocracy, and illicit finance referred to in section
17 4;

18 (2) details the efforts of the United States Gov-
19 ernment to promote such international standards;

20 (3) identifies priority countries for outreach re-
21 garding such international standards; and

22 (4) outlines a plan to encourage the adoption
23 and implementation of such international standards,
24 including specific steps to take with the priority
25 countries identified pursuant to paragraph (3).

1 (b) REPORT OR BRIEFING ON PROGRESS TOWARD
2 IMPLEMENTATION.—Not later than 1 year after the date
3 of the enactment of this Act, and annually thereafter for
4 the following 3 years, the Secretary of State, in consulta-
5 tion with the Administrator of the United States Agency
6 for International Development, shall submit a report or
7 provide a briefing to the appropriate congressional com-
8 mittees that summarizes progress made in implementing
9 this Act, including—

10 (1) describing—

11 (A) the bureaucratic structure of the of-
12 fices within the Department of State and the
13 United States Agency for International Devel-
14 opment that are engaged in activities to combat
15 corruption, kleptocracy, and illicit finance; and

16 (B) how such offices coordinate their ef-
17 forts;

18 (2) identifying—

19 (A) the amount of funds that have been
20 deposited into the Anti-Corruption Action
21 Fund; and

22 (B) the obligation, expenditure, and impact
23 of such funds;

24 (3) describing the activities of the Interagency
25 Task Force established pursuant to section 7(b);

1 (4) identifying—

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

4 (B) any training provided to such points of
5 contact; and

6 (5) recommending additional resources or per-
7 sonnel that would enhance the ability of the Sec-
8 retary to combat corruption, kleptocracy, and illicit
9 finance overseas.

10 (c) ONLINE PLATFORM.—The Secretary of State, in
11 conjunction with the Administrator of the United States
12 Agency for International Development, shall consolidate
13 existing reports and briefings with anti-corruption compo-
14 nents into a single online, public platform, that includes—

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

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

23 (3) the Investment Climate Statement reports;

24 (4) the International Narcotics Control Strat-
25 egy Report;

1 (5) any other relevant public reports; and

2 (6) links to third-party indicators and compli-
3 ance mechanisms used by the United States Govern-
4 ment to inform policy and programming, such as—

5 (A) the International Finance Corpora-
6 tion's Doing Business surveys;

7 (B) the International Budget Partnership's
8 Open Budget Index; and

9 (C) multilateral peer review anti-corruption
10 compliance mechanisms, such as—

11 (i) the Organisation for Economic Co-
12 operation and Development's Working
13 Group on Bribery in International Busi-
14 ness Transactions;

15 (ii) the Follow-Up Mechanism for the
16 Inter-American Convention Against Cor-
17 ruption; and

18 (iii) the United Nations Convention
19 Against Corruption, done at New York Oc-
20 tober 31, 2003.

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