

116TH CONGRESS
1ST SESSION

S. 716

To impose sanctions under the Global Magnitsky Human Rights Accountability Act to combat corruption, money laundering, and impunity in Guatemala, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2019

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

A BILL

To impose sanctions under the Global Magnitsky Human Rights Accountability Act to combat corruption, money laundering, and impunity in Guatemala, 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 TITLE.**

4 This Act may be cited as the “Guatemala Rule of
5 Law Accountability Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means—

4 (A) the Committee on Foreign Relations
5 and the Committee on Appropriations of the
6 Senate; and

7 (B) the Committee on Foreign Affairs and
8 the Committee on Appropriations of the House
9 of Representatives.

10 (2) FOREIGN PERSON.—The term “foreign per-
11 son” means a person that is not a United States
12 person.

13 (3) KNOWINGLY.—The term “knowingly”, with
14 respect to conduct, a circumstance, or a result,
15 means that a person has actual knowledge, or should
16 have known, of the conduct, the circumstance, or the
17 result.

18 (4) UNITED STATES PERSON.—The term
19 “United States person” means—

20 (A) a natural person who is a citizen or
21 resident of the United States or a national of
22 the United States (as defined in section 101(a)
23 of the Immigration and Nationality Act (8
24 U.S.C. 1101(a))); and

1 (B) an entity that is organized under the
2 laws of the United States or any jurisdiction
3 within the United States.

4 **SEC. 3. FINDINGS.**

5 Congress makes the following findings:

6 (1) The Department of State's 2018 Inter-
7 national Narcotics Control Strategy Report stated
8 that, in Guatemala, "widespread corruption per-
9 meates public and private institutions and exacer-
10 bates the country's security, governmental, and eco-
11 nomic challenges".

12 (2) The same report, discussing money laun-
13 dering in Guatemala, noted, "Drug trafficking is a
14 major source of illicit funds. Other sources include
15 corruption, extortion, human trafficking, commerce
16 of other illicit goods, and tax evasion. Money is
17 laundered primarily through real estate, ranching,
18 and the gaming industry. It is also laundered
19 through a series of small transactions below the U.S.
20 \$10,000 reporting requirement, either in small
21 banks along the Guatemala-Mexico border, or by
22 travelers carrying cash to other countries.".

23 (3) On August 10, 2018, Guatemala's Attorney
24 General filed a request before the Supreme Court of
25 Guatemala to remove the immunity of Guatemala's

1 President, Jimmy Morales, so that he could be
2 charged for the crime of illicit election financing,
3 based on investigations carried out jointly by the Of-
4 fice of the Attorney General and the International
5 Commission against Impunity in Guatemala (in this
6 Act referred to as “CICIG”).

7 (4) In August 2018, the Guatemalan Supreme
8 Court ruled that there was sufficient evidence for
9 the Guatemalan Congress to decide if President Mo-
10 rales should be investigated for illicit election financ-
11 ing.

12 (5) On September 4, 2018, the Government of
13 Guatemala announced that it would no longer allow
14 the Commissioner of CICIG to enter the country.

15 (6) On January 7, 2019, the Government of
16 Guatemala announced that it was terminating the
17 agreement establishing CICIG effective immediately.

18 (7) The United Nations responded that the Sec-
19 retary-General “strongly rejects” that announce-
20 ment, stating, “[T]he mandate of the Commission is
21 set to end on 3 September 2019. Until that date, we
22 expect the Government of Guatemala to entirely ful-
23 fill its legal obligations under the Agreement. The
24 Secretary-General expects the Government of Guate-
25 mala to abide by its international undertakings to

1 ensure the protection of the CICIG personnel, both
2 international and national.”.

3 **SEC. 4. GLOBAL MAGNITSKY SANCTIONS AGAINST FOREIGN**
4 **PERSONS THAT ENGAGE IN CORRUPTION**
5 **AND OTHER ACTIVITIES IN GUATEMALA.**

6 (a) IN GENERAL.—Not later than 90 days after the
7 date of the enactment of this Act, and as appropriate
8 thereafter, the President shall impose the sanctions de-
9 scribed in subsection (b) with respect to any foreign per-
10 son who is a current or former official of the Government
11 of Guatemala, or is acting on behalf of or in cooperation
12 with an official of that Government, if the President has
13 credible information that the foreign person has know-
14 ingly—

15 (1) committed or facilitated acts of significant
16 corruption, money laundering, narcotics trafficking,
17 or financing political campaigns with the proceeds of
18 narcotics trafficking;

19 (2) obstructed investigations or prosecutions of
20 such acts;

21 (3) used equipment transferred or licensed to
22 be transferred by the United States Government in
23 violation of an end-use agreement or otherwise for
24 purposes other than the purposes for which such

1 equipment was transferred or licensed to be trans-
2 ferred;

3 (4) disobeyed rulings of the Guatemalan Con-
4 stitutional Court, including rulings related to the
5 conduct of elections; or

6 (5) impeded or interfered with the work of any
7 United States Government agency or any institution
8 receiving contributions from the United States Gov-
9 ernment, including CICIG.

10 (b) SANCTIONS DESCRIBED.—The sanctions de-
11 scribed in this subsection are the sanctions described in
12 section 1263(b) of the Global Magnitsky Human Rights
13 Accountability Act (subtitle F of title XII of Public Law
14 114–328; 22 U.S.C. 2656 note).

15 (c) EXCEPTION FOR UNITED NATIONS HEAD-
16 QUARTERS AGREEMENT; ENFORCEMENT.—Subsections
17 (e) and (f) of section 1263 of the Global Magnitsky
18 Human Rights Accountability Act apply with respect to
19 the imposition of sanctions under this section to the same
20 extent as such subsections apply with respect to the im-
21 position of sanctions under such section 1263.

22 (d) REPORT ON IMPLEMENTATION.—Not later than
23 15 days after imposing sanctions under subsection (a), the
24 President shall submit to the appropriate congressional

1 committees a report regarding steps taken to implement
2 this section.

3 (e) REGULATORY AUTHORITY.—The President shall
4 issue such regulations, licenses, and orders as are nec-
5 essary to carry out this section.

6 (f) TERMINATION.—This section shall terminate on
7 the date that is 2 years after the date of the enactment
8 of this Act.

9 **SEC. 5. CONDITIONS ON THE TRANSFER OF EQUIPMENT TO**
10 **SECURITY FORCES OF GUATEMALA.**

11 (a) IN GENERAL.—The Secretary of State, in coordi-
12 nation with the Administrator of the United States Agen-
13 cy for International Development and the Secretary of De-
14 fense, as appropriate, shall include, in each contract,
15 grant, license, or other mechanism entered into on or after
16 the date that is 30 days after the date of the enactment
17 of this Act that provides for the transfer to, or the transfer
18 for use by, the military or national police of Guatemala
19 any United States equipment a provision that ensures that
20 the equipment may be recovered by the United States if
21 the equipment is used in violation of an end-use agreement
22 or otherwise for purposes other than the purposes for
23 which the equipment was transferred.

24 (b) DETERMINATION.—Not later than 90 days after
25 receiving a written request from the chairperson and rank-

1 ing member of any of the appropriate congressional com-
 2 mittees with respect to whether equipment transferred or
 3 licensed to be transferred to Guatemala by the United
 4 States Government has been used in violation of an end-
 5 use agreement or otherwise for purposes other than the
 6 purposes for which the equipment was transferred, the
 7 President shall—

8 (1) determine whether the equipment was so
 9 used; and

10 (2) submit to the chairperson and ranking
 11 member of that committee a report with respect to
 12 that determination that includes—

13 (A) a statement of whether or not the
 14 President has taken or intends to take remedial
 15 action, including as provided for under the
 16 Arms Export Control Act (22 U.S.C. 2751 et
 17 seq.); and

18 (B)(i) if the President has taken or intends
 19 to take remedial action, a description of that
 20 action; or

21 (ii) if the President will not take remedial
 22 action, a detailed justification for why not.

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