

AMENDMENT TO RULES COMMITTEE PRINT 117-

13

OFFERED BY MR. COHEN OF TENNESSEE

Add at the end of subtitle C of title XIII of division

A the following:

1 **SEC. ____ . TRANSNATIONAL REPRESSION ACCOUNT-**
2 **ABILITY AND PREVENTION.**

3 (a) FINDINGS.—Congress makes the following find-
4 ings:

5 (1) The International Criminal Police Organiza-
6 tion (INTERPOL) works to prevent and fight crime
7 through enhanced cooperation and innovation on po-
8 lice and security matters, including kleptocracy,
9 counterterrorism, cybercrime, counternarcotics, and
10 transnational organized crime.

11 (2) United States membership and participation
12 in INTERPOL advances the national security and
13 law enforcement interests of the United States re-
14 lated to combating kleptocracy, terrorism,
15 cybercrime, narcotics, and transnational organized
16 crime.

17 (3) Article 2 of INTERPOL’s Constitution
18 states that the organization aims “[to] ensure and

1 promote the widest possible mutual assistance be-
2 tween all criminal police authorities . . . in the spir-
3 it of the ‘Universal Declaration of Human Rights’”.

4 (4) Article 3 of INTERPOL’s Constitution
5 states that “[i]t is strictly forbidden for the Organi-
6 zation to undertake any intervention or activities of
7 a political, military, religious or racial character”.

8 (5) These principles provide INTERPOL with a
9 foundation based on respect for human rights and
10 avoidance of politically motivated actions by the or-
11 ganization and its members.

12 (6) According to the Justice Manual of the
13 United States Department of Justice, “[i]n the
14 United States, national law prohibits the arrest of
15 the subject of a Red Notice issued by another
16 INTERPOL member country, based upon the notice
17 alone”.

18 (b) SENSE OF CONGRESS.—It is the sense of Con-
19 gress that some INTERPOL member countries have re-
20 peatedly misused INTERPOL’s databases and processes,
21 including Notice and Diffusion mechanisms, for activities
22 of an overtly political or other unlawful character and in
23 violation of international human rights standards, includ-
24 ing making requests to harass or persecute political oppo-
25 nents, human rights defenders, or journalists.

1 (c) SUPPORT FOR INTERPOL INSTITUTIONAL RE-
2 FORMS.—The Attorney General and the Secretary of State
3 shall—

4 (1) use the voice, vote, and influence of the
5 United States, as appropriate, within INTERPOL's
6 General Assembly and Executive Committee to pro-
7 mote reforms aimed at improving the transparency
8 of INTERPOL and ensuring its operation consistent
9 with its Constitution, particularly articles 2 and 3,
10 and Rules on the Processing of Data, including—

11 (A) supporting INTERPOL's reforms en-
12 hancing the screening process for Notices, Dif-
13 fusions, and other INTERPOL communications
14 to ensure they comply with INTERPOL's Con-
15 stitution and Rules on the Processing of Data
16 (RPD);

17 (B) supporting and strengthening
18 INTERPOL's coordination with the Commis-
19 sion for Control of INTERPOL's Files (CCF)
20 in cases in which INTERPOL or the CCF has
21 determined that a member country issued a No-
22 tice, Diffusion, or other INTERPOL commu-
23 nication against an individual in violation of ar-
24 ticles 2 or 3 of the INTERPOL Constitution,
25 or the RPD, to prohibit such member country

1 from seeking the publication or issuance of any
2 subsequent Notices, Diffusions, or other
3 INTERPOL communication against the same
4 individual based on the same set of claims or
5 facts;

6 (C) increasing, to the extent practicable,
7 dedicated funding to the CCF and the Notices
8 and Diffusions Task Force in order to further
9 expand operations related to the review of re-
10 quests for red notices and red diffusions;

11 (D) supporting candidates for positions
12 within INTERPOL's structures, including the
13 Presidency, Executive Committee, General Sec-
14 retariat, and CCF who have demonstrated expe-
15 rience relating to and respect for the rule of
16 law;

17 (E) seeking to require INTERPOL in its
18 annual report to provide a detailed account,
19 disaggregated by member country or entity of—

20 (i) the number of Notice requests,
21 disaggregated by color, that it received;

22 (ii) the number of Notice requests,
23 disaggregated by color, that it rejected;

24 (iii) the category of violation identified
25 in each instance of a rejected Notice;

1 (iv) the number of Diffusions that it
2 cancelled without reference to decisions by
3 the CCF; and

4 (v) the sources of all INTERPOL in-
5 come during the reporting period; and

6 (F) supporting greater transparency by the
7 CCF in its annual report by providing a de-
8 tailed account, disaggregated by country, of—

9 (i) the number of admissible requests
10 for correction or deletion of data received
11 by the CCF regarding issued Notices, Dif-
12 fusions, and other INTERPOL commu-
13 nications; and

14 (ii) the category of violation alleged in
15 each such complaint;

16 (2) inform the INTERPOL General Secretariat
17 about incidents in which member countries abuse
18 INTERPOL communications for politically moti-
19 vated or other unlawful purposes so that, as appro-
20 priate, action can be taken by INTERPOL; and

21 (3) request to censure member countries that
22 repeatedly abuse and misuse INTERPOL's red no-
23 tice and red diffusion mechanisms, including re-
24 stricting the access of those countries to
25 INTERPOL's data and information systems.

1 (d) REPORT ON INTERPOL.—

2 (1) IN GENERAL.—Not later than 180 days
3 after the date of enactment of this Act, and bian-
4 nually thereafter for a period of 4 years, the Attor-
5 ney General and the Secretary of State, in consulta-
6 tion with the heads of other relevant United States
7 Government departments or agencies, shall submit
8 to the appropriate committees of Congress a report
9 containing an assessment of how INTERPOL mem-
10 ber countries abuse INTERPOL Red Notices, Diffu-
11 sions, and other INTERPOL communications for
12 political motives and other unlawful purposes within
13 the past three years.

14 (2) ELEMENTS.—The report required under
15 paragraph (1) shall include the following elements:

16 (A) A list of countries that the Attorney
17 General and the Secretary determine have re-
18 peatedly abused and misused the red notice and
19 red diffusion mechanisms for political purposes.

20 (B) A description of the most common tac-
21 tics employed by member countries in con-
22 ducting such abuse, including the crimes most
23 commonly alleged and the INTERPOL commu-
24 nications most commonly exploited.

1 (C) An assessment of the adequacy of
2 INTERPOL mechanisms for challenging abu-
3 sive requests, including the Commission for the
4 Control of INTERPOL's Files (CCF), an as-
5 sessment of the CCF's March 2017 Operating
6 Rules, and any shortcoming the United States
7 believes should be addressed.

8 (D) A description of how INTERPOL's
9 General Secretariat identifies requests for red
10 notice or red diffusions that are politically moti-
11 vated or are otherwise in violation of
12 INTERPOL's rules and how INTERPOL re-
13 views and addresses cases in which a member
14 country has abused or misused the red notice
15 and red diffusion mechanisms for overtly polit-
16 ical purposes.

17 (E) A description of any incidents in which
18 the Department of Justice assesses that United
19 States courts and executive departments or
20 agencies have relied on INTERPOL commu-
21 nications in contravention of existing law or
22 policy to seek the detention of individuals or
23 render judgments concerning their immigration
24 status or requests for asylum, with holding of
25 removal, or convention against torture claims

1 and any measures the Department of Justice or
2 other executive departments or agencies took in
3 response to these incidents.

4 (F) A description of how the United States
5 monitors and responds to likely instances of
6 abuse of INTERPOL communications by mem-
7 ber countries that could affect the interests of
8 the United States, including citizens and na-
9 tionals of the United States, employees of the
10 United States Government, aliens lawfully ad-
11 mitted for permanent residence in the United
12 States, aliens who are lawfully present in the
13 United States, or aliens with pending asylum,
14 withholding of removal, or convention against
15 torture claims, though they may be unlawfully
16 present in the United States.

17 (G) A description of what actions the
18 United States takes in response to credible in-
19 formation it receives concerning likely abuse of
20 INTERPOL communications targeting employ-
21 ees of the United States Government for activi-
22 ties they undertook in an official capacity.

23 (H) A description of United States advo-
24 cacy for reform and good governance within
25 INTERPOL.

1 (I) A strategy for improving interagency
2 coordination to identify and address instances
3 of INTERPOL abuse that affect the interests
4 of the United States, including international re-
5 spect for human rights and fundamental free-
6 doms, citizens and nationals of the United
7 States, employees of the United States Govern-
8 ment, aliens lawfully admitted for permanent
9 residence in the United States, aliens who are
10 lawfully present in the United States, or aliens
11 with pending asylum, withholding of removal, or
12 convention against torture claims, though they
13 may be unlawfully present in the United States.

14 (3) FORM OF REPORT.—Each report required
15 under this subsection shall be submitted in unclassi-
16 fied form, but may include a classified annex, as ap-
17 propriate. The unclassified portion of the report
18 shall be posted on a publicly available website of the
19 Department of State and of the Department of Jus-
20 tice.

21 (4) BRIEFING.—Not later than 30 days after
22 the submission of each report under paragraph (1),
23 the Department of Justice and the Department of
24 State, in coordination with other relevant United
25 States Government departments and agencies, shall

1 brief the appropriate committees of Congress on the
2 content of the reports and recent instances of
3 INTERPOL abuse by member countries and United
4 States efforts to identify and challenge such abuse,
5 including efforts to promote reform and good gov-
6 ernance within INTERPOL.

7 (e) PROHIBITION REGARDING BASIS FOR EXTRA-
8 DITION.—No United States Government department or
9 agency may extradite an individual based solely on an
10 INTERPOL Red Notice or Diffusion issued by another
11 INTERPOL member country for such individual.

12 (f) DEFINITIONS.—In this section:

13 (1) APPROPRIATE COMMITTEES OF CON-
14 GRESS.—The term “appropriate committees of Con-
15 gress” means—

16 (A) the Committee on Foreign Relations
17 and the Committee on the Judiciary of the Sen-
18 ate; and

19 (B) the Committee on Foreign Affairs and
20 the Committee on the Judiciary of the House of
21 Representatives.

22 (2) INTERPOL COMMUNICATIONS.—The term
23 “INTERPOL communications” means any
24 INTERPOL Notice or Diffusion or any entry into

1 any INTERPOL database or other communications
2 system maintained by INTERPOL.

3 (g) INTERPOL RED NOTICES.—Chapter 53 of title
4 31, United States Code, is amended by adding at the end
5 the following:

6 **“SEC. 5337 INTERPOL RED NOTICES.**

7 “(b) TERMINATION.—A financial institution may not
8 terminate any service such financial institution offers to
9 a person with respect to whom the International Criminal
10 Police Organization has issued a Red Notice solely on the
11 basis of the issuance of such Red Notice.

12 “(c) EXCLUSION.—A financial institution may not
13 exclude from any service offered by such financial institu-
14 tion a person with respect to whom the International
15 Criminal Police Organization issued a Red Notice solely
16 on the basis of the issuance of such Red Notice.”.

17 **SEC. ____ . COMBATING GLOBAL CORRUPTION.**

18 (a) DEFINITIONS.—In this section:

19 (1) CORRUPT ACTOR.—The term “corrupt
20 actor” means—

21 (A) any foreign person or entity that is a
22 government official or government entity re-
23 sponsible for, or complicit in, an act of corrup-
24 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 (2) CORRUPTION.—The term “corruption”
6 means the unlawful exercise of entrusted public
7 power for private gain, including by bribery, nepo-
8 tism, fraud, or embezzlement.

9 (3) SIGNIFICANT CORRUPTION.—The term “sig-
10 nificant corruption” means corruption committed at
11 a high level of government that has some or all of
12 the following characteristics:

13 (A) Illegitimately distorts major decision-
14 making, such as policy or resource determina-
15 tions, or other fundamental functions of govern-
16 ance.

17 (B) Involves economically or socially large-
18 scale government activities.

19 (b) PUBLICATION OF TIERED RANKING LIST.—

20 (1) IN GENERAL.—The Secretary of State shall
21 annually publish, on a publicly accessible website, a
22 tiered ranking of all foreign countries.

23 (2) TIER 1 COUNTRIES.—A country shall be
24 ranked as a tier 1 country in the ranking published
25 under paragraph (1) if the government of such coun-

1 try is complying with the minimum standards set
2 forth in section 4.

3 (3) TIER 2 COUNTRIES.—A country shall be
4 ranked as a tier 2 country in the ranking published
5 under paragraph (1) if the government of such coun-
6 try is making efforts to comply with the minimum
7 standards set forth in section 4, but is not achieving
8 the requisite level of compliance to be ranked as a
9 tier 1 country.

10 (4) TIER 3 COUNTRIES.—A country shall be
11 ranked as a tier 3 country in the ranking published
12 under paragraph (1) if the government of such coun-
13 try is making de minimis or no efforts to comply
14 with the minimum standards set forth in subsection
15 (c).

16 (c) MINIMUM STANDARDS FOR THE ELIMINATION OF
17 CORRUPTION AND ASSESSMENT OF EFFORTS TO COMBAT
18 CORRUPTION.—

19 (1) IN GENERAL.—The government of a coun-
20 try is complying with the minimum standards for
21 the elimination of corruption if the government—

22 (A) has enacted and implemented laws and
23 established government structures, policies, and
24 practices that prohibit corruption, including sig-
25 nificant corruption;

1 (B) enforces the laws described in subpara-
2 graph (A) by punishing any person who is
3 found, through a fair judicial process, to have
4 violated such laws;

5 (C) prescribes punishment for significant
6 corruption that is commensurate with the pun-
7 ishment prescribed for serious crimes; and

8 (D) is making serious and sustained ef-
9 forts to address corruption, including through
10 prevention.

11 (2) FACTORS FOR ASSESSING GOVERNMENT EF-
12 FORTS TO COMBAT CORRUPTION.—In determining
13 whether a government is making serious and sus-
14 tained efforts to address corruption, the Secretary of
15 State shall consider, to the extent relevant or appro-
16 priate, factors such as—

17 (A) whether the government of the country
18 has criminalized corruption, investigates and
19 prosecutes acts of corruption, and convicts and
20 sentences persons responsible for such acts over
21 which it has jurisdiction, including, as appro-
22 priate, incarcerating individuals convicted of
23 such acts;

24 (B) whether the government of the country
25 vigorously investigates, prosecutes, convicts,

1 and sentences public officials who participate in
2 or facilitate corruption, including nationals of
3 the country who are deployed in foreign military
4 assignments, trade delegations abroad, or other
5 similar missions, who engage in or facilitate sig-
6 nificant corruption;

7 (C) whether the government of the country
8 has adopted measures to prevent corruption,
9 such as measures to inform and educate the
10 public, including potential victims, about the
11 causes and consequences of corruption;

12 (D) what steps the government of the
13 country has taken to prohibit government offi-
14 cials from participating in, facilitating, or
15 condoning corruption, including the investiga-
16 tion, prosecution, and conviction of such offi-
17 cials;

18 (E) the extent to which the country pro-
19 vides access, or, as appropriate, makes adequate
20 resources available, to civil society organizations
21 and other institutions to combat corruption, in-
22 cluding reporting, investigating, and moni-
23 toring;

24 (F) whether an independent judiciary or
25 judicial body in the country is responsible for,

1 and effectively capable of, deciding corruption
2 cases impartially, on the basis of facts and in
3 accordance with the law, without any improper
4 restrictions, influences, inducements, pressures,
5 threats, or interferences (direct or indirect);

6 (G) whether the government of the country
7 is assisting in international investigations of
8 transnational corruption networks and in other
9 cooperative efforts to combat significant corrup-
10 tion, including, as appropriate, cooperating with
11 the governments of other countries to extradite
12 corrupt actors;

13 (H) whether the government of the country
14 recognizes the rights of victims of corruption,
15 ensures their access to justice, and takes steps
16 to prevent victims from being further victimized
17 or persecuted by corrupt actors, government of-
18 ficials, or others;

19 (I) whether the government of the country
20 protects victims of corruption or whistleblowers
21 from reprisal due to such persons having as-
22 sisted in exposing corruption, and refrains from
23 other discriminatory treatment of such persons;

1 (J) whether the government of the country
2 is willing and able to recover and, as appro-
3 priate, return the proceeds of corruption;

4 (K) whether the government of the country
5 is taking steps to implement financial trans-
6 parency measures in line with the Financial Ac-
7 tion Task Force recommendations, including
8 due diligence and beneficial ownership trans-
9 parency requirements;

10 (L) whether the government of the country
11 is facilitating corruption in other countries in
12 connection with state-directed investment, loans
13 or grants for major infrastructure, or other ini-
14 tiatives; and

15 (M) such other information relating to cor-
16 ruption as the Secretary of State considers ap-
17 propriate.

18 (3) ASSESSING GOVERNMENT EFFORTS TO COM-
19 BAT CORRUPTION IN RELATION TO RELEVANT
20 INTERNATIONAL COMMITMENTS.—In determining
21 whether a government is making serious and sus-
22 tained efforts to address corruption, the Secretary of
23 State shall consider the government of a country's
24 compliance with the following, as relevant:

1 (A) The Inter-American Convention
2 against Corruption of the Organization of
3 American States, done at Caracas March 29,
4 1996.

5 (B) The Convention on Combating Bribery
6 of Foreign Public Officials in International
7 Business Transactions of the Organisation of
8 Economic Co-operation and Development, done
9 at Paris December 21, 1997 (commonly re-
10ferred to as the “Anti-Bribery Convention”).

11 (C) The United Nations Convention
12 against Transnational Organized Crime, done
13 at New York November 15, 2000.

14 (D) The United Nations Convention
15 against Corruption, done at New York October
16 31, 2003.

17 (E) Such other treaties, agreements, and
18 international standards as the Secretary of
19 State considers appropriate.

20 (d) IMPOSITION OF SANCTIONS UNDER GLOBAL
21 MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT.—

22 (1) IN GENERAL.—The Secretary of State, in
23 coordination with the Secretary of the Treasury,
24 should evaluate whether there are foreign persons
25 engaged in significant corruption for the purposes of

1 potential imposition of sanctions under the Global
2 Magnitsky Human Rights Accountability Act (sub-
3 title F of title XII of Public Law 114–328; 22
4 U.S.C. 2656 note)—

5 (A) in all countries identified as tier 3
6 countries under subsection (b); or

7 (B) in relation to the planning or construc-
8 tion or any operation of the Nord Stream 2
9 pipeline.

10 (2) REPORT REQUIRED.—Not later than 180
11 days after publishing the list required by subsection
12 (b)(1) and annually thereafter, the Secretary of
13 State shall submit to the committees specified in
14 paragraph (6) a report that includes—

15 (A) a list of foreign persons with respect to
16 which the President imposed sanctions pursuant
17 to the evaluation under paragraph (1);

18 (B) the dates on which such sanctions
19 were imposed;

20 (C) the reasons for imposing such sanc-
21 tions; and

22 (D) a list of all foreign persons found to
23 have been engaged in significant corruption in
24 relation to the planning, construction, or oper-
25 ation of the Nord Stream 2 pipeline.

1 (3) FORM OF REPORT.—Each report required
2 by paragraph (2) shall be submitted in unclassified
3 form but may include a classified annex.

4 (4) BRIEFING IN LIEU OF REPORT.—The Sec-
5 retary of State, in coordination with the Secretary of
6 the Treasury, may (except with respect to the list re-
7 quired by paragraph (2)(D)) provide a briefing to
8 the committees specified in paragraph (6) instead of
9 submitting a written report required under para-
10 graph (2), if doing so would better serve existing
11 United States anti-corruption efforts or the national
12 interests of the United States.

13 (5) TERMINATION OF REQUIREMENTS RELAT-
14 ING TO NORD STREAM 2.—The requirements under
15 paragraphs (1)(B) and (2)(D) shall terminate on the
16 date that is 5 years after the date of the enactment
17 of this Act.

18 (6) COMMITTEES SPECIFIED.—The committees
19 specified in this subsection are—

20 (A) the Committee on Foreign Relations,
21 the Committee on Appropriations, the Com-
22 mittee on Banking, Housing, and Urban Af-
23 fairs, and the Committee on the Judiciary of
24 the Senate; and

1 (B) the Committee on Foreign Affairs, the
2 Committee on Appropriations, the Committee
3 on Financial Services, and the Committee on
4 the Judiciary of the House of Representatives.

5 (e) DESIGNATION OF EMBASSY ANTI-CORRUPTION
6 POINTS OF CONTACT.—

7 (1) IN GENERAL.—The Secretary of State shall
8 annually designate an anti-corruption point of con-
9 tact at the United States diplomatic post to each
10 country identified as tier 2 or tier 3 under section
11 3, or which the Secretary otherwise determines is in
12 need of such a point of contact. The point of contact
13 shall be the chief of mission or the chief of mission's
14 designee.

15 (2) RESPONSIBILITIES.—Each anti-corruption
16 point of contact designated under subsection (a)
17 shall be responsible for enhancing coordination and
18 promoting the implementation of a whole-of-govern-
19 ment approach among the relevant Federal depart-
20 ments and agencies undertaking efforts to—

21 (A) promote good governance in foreign
22 countries; and

23 (B) enhance the ability of such countries—
24 (i) to combat public corruption; and

1 (ii) to develop and implement corrup-
2 tion risk assessment tools and mitigation
3 strategies.

4 (3) TRAINING.—The Secretary of State shall
5 implement appropriate training for anti-corruption
6 points of contact designated under paragraph (1).

