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:

SEC. _____. TRANSNATIONAL REPRESSION ACCOUNTABILITY AND PREVENTION.

(a) FINDINGS.—Congress makes the following findings:

(1) The International Criminal Police Organization (INTERPOL) works to prevent and fight crime through enhanced cooperation and innovation on police and security matters, including kleptocracy, counterterrorism, cybercrime, counternarcotics, and transnational organized crime.

(2) United States membership and participation in INTERPOL advances the national security and law enforcement interests of the United States related to combating kleptocracy, terrorism, cybercrime, narcotics, and transnational organized crime.

(3) Article 2 of INTERPOL’s Constitution states that the organization aims “to ensure and
promote the widest possible mutual assistance between all criminal police authorities . . . in the spirit of the ‘Universal Declaration of Human Rights’”.

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

(5) These principles provide INTERPOL with a foundation based on respect for human rights and avoidance of politically motivated actions by the organization and its members.

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

(b) SENSE OF CONGRESS.—It is the sense of Congress that some INTERPOL member countries have repeatedly misused INTERPOL’s databases and processes, including Notice and Diffusion mechanisms, for activities of an overtly political or other unlawful character and in violation of international human rights standards, including making requests to harass or persecute political opponents, human rights defenders, or journalists.
(c) **Support for INTERPOL Institutional Reforms.**—The Attorney General and the Secretary of State shall—

(1) use the voice, vote, and influence of the United States, as appropriate, within INTERPOL’s General Assembly and Executive Committee to promote reforms aimed at improving the transparency of INTERPOL and ensuring its operation consistent with its Constitution, particularly articles 2 and 3, and Rules on the Processing of Data, including—

(A) supporting INTERPOL’s reforms enhancing the screening process for Notices, Diffusions, and other INTERPOL communications to ensure they comply with INTERPOL’s Constitution and Rules on the Processing of Data (RPD);

(B) supporting and strengthening INTERPOL’s coordination with the Commission for Control of INTERPOL’s Files (CCF) in cases in which INTERPOL or the CCF has determined that a member country issued a Notice, Diffusion, or other INTERPOL communication against an individual in violation of articles 2 or 3 of the INTERPOL Constitution, or the RPD, to prohibit such member country
from seeking the publication or issuance of any subsequent Notices, Diffusions, or other INTERPOL communication against the same individual based on the same set of claims or facts;

(C) increasing, to the extent practicable, dedicated funding to the CCF and the Notices and Diffusions Task Force in order to further expand operations related to the review of requests for red notices and red diffusions;

(D) supporting candidates for positions within INTERPOL’s structures, including the Presidency, Executive Committee, General Secretariat, and CCF who have demonstrated experience relating to and respect for the rule of law;

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

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

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

(iii) the category of violation identified in each instance of a rejected Notice;
(iv) the number of Diffusions that it cancelled without reference to decisions by the CCF; and

(v) the sources of all INTERPOL income during the reporting period; and

(F) supporting greater transparency by the CCF in its annual report by providing a detailed account, disaggregated by country, of—

(i) the number of admissible requests for correction or deletion of data received by the CCF regarding issued Notices, Diffusions, and other INTERPOL communications; and

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

(2) inform the INTERPOL General Secretariat about incidents in which member countries abuse INTERPOL communications for politically motivated or other unlawful purposes so that, as appropriate, action can be taken by INTERPOL; and

(3) request to censure member countries that repeatedly abuse and misuse INTERPOL’s red notice and red diffusion mechanisms, including restricting the access of those countries to INTERPOL’s data and information systems.
(d) REPORT ON INTERPOL.—

   (1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and biannually thereafter for a period of 4 years, the Attorney General and the Secretary of State, in consultation with the heads of other relevant United States Government departments or agencies, shall submit to the appropriate committees of Congress a report containing an assessment of how INTERPOL member countries abuse INTERPOL Red Notices, Diffusions, and other INTERPOL communications for political motives and other unlawful purposes within the past three years.

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

   (A) A list of countries that the Attorney General and the Secretary determine have repeatedly abused and misused the red notice and red diffusion mechanisms for political purposes.

   (B) A description of the most common tactics employed by member countries in conducting such abuse, including the crimes most commonly alleged and the INTERPOL communications most commonly exploited.
(C) An assessment of the adequacy of INTERPOL mechanisms for challenging abusive requests, including the Commission for the Control of INTERPOL’s Files (CCF), an assessment of the CCF’s March 2017 Operating Rules, and any shortcoming the United States believes should be addressed.

(D) A description of how INTERPOL’s General Secretariat identifies requests for red notice or red diffusions that are politically motivated or are otherwise in violation of INTERPOL’s rules and how INTERPOL reviews and addresses cases in which a member country has abused or misused the red notice and red diffusion mechanisms for overtly political purposes.

(E) A description of any incidents in which the Department of Justice assesses that United States courts and executive departments or agencies have relied on INTERPOL communications in contravention of existing law or policy to seek the detention of individuals or render judgments concerning their immigration status or requests for asylum, with holding of removal, or convention against torture claims.
and any measures the Department of Justice or other executive departments or agencies took in response to these incidents.

(F) A description of how the United States monitors and responds to likely instances of abuse of INTERPOL communications by member countries that could affect the interests of the United States, including citizens and nationals of the United States, employees of the United States Government, aliens lawfully admitted for permanent residence in the United States, aliens who are lawfully present in the United States, or aliens with pending asylum, withholding of removal, or convention against torture claims, though they may be unlawfully present in the United States.

(G) A description of what actions the United States takes in response to credible information it receives concerning likely abuse of INTERPOL communications targeting employees of the United States Government for activities they undertook in an official capacity.

(H) A description of United States advocacy for reform and good governance within INTERPOL.
(I) A strategy for improving interagency coordination to identify and address instances of INTERPOL abuse that affect the interests of the United States, including international respect for human rights and fundamental freedoms, citizens and nationals of the United States, employees of the United States Government, aliens lawfully admitted for permanent residence in the United States, aliens who are lawfully present in the United States, or aliens with pending asylum, withholding of removal, or convention against torture claims, though they may be unlawfully present in the United States.

(3) Form of Report.—Each report required under this subsection shall be submitted in unclassified form, but may include a classified annex, as appropriate. The unclassified portion of the report shall be posted on a publicly available website of the Department of State and of the Department of Justice.

(4) Briefing.—Not later than 30 days after the submission of each report under paragraph (1), the Department of Justice and the Department of State, in coordination with other relevant United States Government departments and agencies, shall
brief the appropriate committees of Congress on the
content of the reports and recent instances of
INTERPOL abuse by member countries and United
States efforts to identify and challenge such abuse,
including efforts to promote reform and good gov-
ernance within INTERPOL.

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

(f) DEFINITIONS.—In this section:

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

(A) the Committee on Foreign Relations

and the Committee on the Judiciary of the Sen-
ate; and

(B) the Committee on Foreign Affairs and

the Committee on the Judiciary of the House of

Representatives.

(2) INTERPOL COMMUNICATIONS.—The term

“INTERPOL communications” means any
INTERPOL Notice or Diffusion or any entry into
any INTERPOL database or other communications system maintained by INTERPOL.

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

“SEC. 5337 INTERPOL RED NOTICES.

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

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

SEC. ______. COMBATING GLOBAL CORRUPTION.

(a) DEFINITIONS.—In this section:

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

(A) any foreign person or entity that is a government official or government entity responsible for, or complicit in, an act of corruption; and
(B) any company, in which a person or entity described in subparagraph (A) has a significant stake, which is responsible for, or complicit in, an act of corruption.

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

(3) SIGNIFICANT CORRUPTION.—The term “significant corruption” means corruption committed at a high level of government that has some or all of the following characteristics:

(A) Illegitimately distorts major decision-making, such as policy or resource determinations, or other fundamental functions of governance.

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

(b) PUBLICATION OF TIERED RANKING LIST.—

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

(2) TIER 1 COUNTRIES.—A country shall be ranked as a tier 1 country in the ranking published under paragraph (1) if the government of such coun-
try is complying with the minimum standards set forth in section 4.

(3) Tier 2 Countries.—A country shall be ranked as a tier 2 country in the ranking published under paragraph (1) if the government of such country is making efforts to comply with the minimum standards set forth in section 4, but is not achieving the requisite level of compliance to be ranked as a tier 1 country.

(4) Tier 3 Countries.—A country shall be ranked as a tier 3 country in the ranking published under paragraph (1) if the government of such country is making de minimis or no efforts to comply with the minimum standards set forth in subsection (c).

(e) Minimum Standards for the Elimination of Corruption and Assessment of Efforts to Combat Corruption.—

(1) In General.—The government of a country is complying with the minimum standards for the elimination of corruption if the government—

(A) has enacted and implemented laws and established government structures, policies, and practices that prohibit corruption, including significant corruption;
(B) enforces the laws described in subparagraph (A) by punishing any person who is found, through a fair judicial process, to have violated such laws;

(C) prescribes punishment for significant corruption that is commensurate with the punishment prescribed for serious crimes; and

(D) is making serious and sustained efforts to address corruption, including through prevention.

(2) FACTORS FOR ASSESSING GOVERNMENT EFFORTS TO COMBAT CORRUPTION.—In determining whether a government is making serious and sustained efforts to address corruption, the Secretary of State shall consider, to the extent relevant or appropriate, factors such as—

(A) whether the government of the country has criminalized corruption, investigates and prosecutes acts of corruption, and convicts and sentences persons responsible for such acts over which it has jurisdiction, including, as appropriate, incarcerating individuals convicted of such acts;

(B) whether the government of the country vigorously investigates, prosecutes, convicts,
and sentences public officials who participate in
or facilitate corruption, including nationals of
the country who are deployed in foreign military
assignments, trade delegations abroad, or other
similar missions, who engage in or facilitate sig-
nificant corruption;

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

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

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

(F) whether an independent judiciary or
judicial body in the country is responsible for,
and effectively capable of, deciding corruption
cases impartially, on the basis of facts and in
accordance with the law, without any improper
restrictions, influences, inducements, pressures,
threats, or interferences (direct or indirect);

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

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

(I) whether the government of the country
protects victims of corruption or whistleblowers
from reprisal due to such persons having as-
sisted in exposing corruption, and refrains from
other discriminatory treatment of such persons;
(J) whether the government of the country is willing and able to recover and, as appropriate, return the proceeds of corruption;

(K) whether the government of the country is taking steps to implement financial transparency measures in line with the Financial Action Task Force recommendations, including due diligence and beneficial ownership transparency requirements;

(L) whether the government of the country is facilitating corruption in other countries in connection with state-directed investment, loans or grants for major infrastructure, or other initiatives; and

(M) such other information relating to corruption as the Secretary of State considers appropriate.

(3) ASSESSING GOVERNMENT EFFORTS TO COMBAT CORRUPTION IN RELATION TO RELEVANT INTERNATIONAL COMMITMENTS.—In determining whether a government is making serious and sustained efforts to address corruption, the Secretary of State shall consider the government of a country’s compliance with the following, as relevant:
(A) The Inter-American Convention against Corruption of the Organization of American States, done at Caracas March 29, 1996.


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

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

(1) IN GENERAL.—The Secretary of State, in coordination with the Secretary of the Treasury, should evaluate whether there are foreign persons engaged in significant corruption for the purposes of
potential imposition of sanctions under the Global Magnitsky Human Rights Accountability Act (sub-
title F of title XII of Public Law 114–328; 22 U.S.C. 2656 note)—

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

(B) in relation to the planning or construction or any operation of the Nord Stream 2 pipeline.

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

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

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

(C) the reasons for imposing such sanctions; and

(D) a list of all foreign persons found to have been engaged in significant corruption in relation to the planning, construction, or operation of the Nord Stream 2 pipeline.
(3) FORM OF REPORT.—Each report required by paragraph (2) shall be submitted in unclassified form but may include a classified annex.

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

(5) TERMINATION OF REQUIREMENTS RELATING TO NORD STREAM 2.—The requirements under paragraphs (1)(B) and (2)(D) shall terminate on the date that is 5 years after the date of the enactment of this Act.

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

(A) the Committee on Foreign Relations,

the Committee on Appropriations, the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate; and
(B) the Committee on Foreign Affairs, the Committee on Appropriations, the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives.

(e) Designation of Embassy Anti-Corruption Points of Contact.—

(1) In general.—The Secretary of State shall annually designate an anti-corruption point of contact at the United States diplomatic post to each country identified as tier 2 or tier 3 under section 3, or which the Secretary otherwise determines is in need of such a point of contact. The point of contact shall be the chief of mission or the chief of mission’s designee.

(2) Responsibilities.—Each anti-corruption point of contact designated under subsection (a) shall be responsible for enhancing coordination and promoting the implementation of a whole-of-government approach among the relevant Federal departments and agencies undertaking efforts to—

(A) promote good governance in foreign countries; and

(B) enhance the ability of such countries—

(i) to combat public corruption; and
(ii) to develop and implement corruption risk assessment tools and mitigation strategies.

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