AMENDMENT TO RULES COMM. PRINT 118–10
OFFERED BY MR. HIMES OF CONNECTICUT

Add at the end of subtitle A of title XII the following:

SEC. 1210. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT ENGAGE IN THE USE OF SPYWARE TO TARGET UNITED STATES PERSONS.

Chapter 1 of part III (22 U.S.C. 2351 et seq.) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new section:

“SEC. 620N. PROHIBITION ON ASSISTANCE TO COUNTRIES THAT ENGAGE IN THE USE OF SPYWARE TO TARGET UNITED STATES PERSONS.

“(a) IN GENERAL.—Except as otherwise provided in this section, no assistance may be provided under this Act to the government of a country with respect to which a determination in accordance with subsection (e) has been made that such government engages in the use of spyware to target United States persons.

“(b) WAIVER.—If the President certifies in writing to the appropriate congressional committees that extraordinary circumstances or national security priorities exist warranting provision to a government of assistance other-
wise prohibited pursuant to subsection (a), the United States may provide to such government such assistance.

“(c) DETERMINATION.—In determining whether the government of a country engages in the use of spyware to target of United States persons, the President shall give particular consideration to whether such government—

“(1) has a record of acquiring commercial spyware;

“(2) has used spyware against its own citizens, particularly journalists, political opponents, or activists; and

“(3) has failed to undertake serious and sustained efforts to combat the use of spyware in undemocratic ways.

“(d) EXCEPTION.—The prohibition under subsection (a) does not apply to military assistance.

“(e) REPORT.—The Secretary of State shall annually submit to the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate as part of the presentation materials for assistance programs proposed for each fiscal year, a full and complete classified report, prepared in consultation with the intelligence community’s classified annex, required under sec-
tion 1102A of the National Security Act of 1947 (50 U.S.C. 3232a), with respect to governmental use of spyware to target United States persons in each country proposed as a recipient of assistance under this Act.

“(f) DEFINITIONS.—In this section:

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

“(2) UNITED STATES PERSON.—The term ‘United States person’ has the meaning given such term in section 560.314 of title 31, Code of Federal Regulations.”.