

AMENDMENT TO RULES COMM. PRINT 118-36
OFFERED BY MR. HIMES OF CONNECTICUT

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

1 **SEC. 1214. PROHIBITION ON ASSISTANCE TO COUNTRIES**
2 **THAT ENGAGE IN THE USE OF SPYWARE TO**
3 **TARGET UNITED STATES PERSONS.**

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

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

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

16 “(b) WAIVER.—If the President certifies in writing
17 to the appropriate congressional committees that extraor-
18 dinary circumstances or national security priorities exist
19 warranting provision to a government of assistance other-

1 wise prohibited pursuant to subsection (a), the United
2 States may provide to such government such assistance.

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

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

9 “(2) has used spyware against its own citizens,
10 particularly journalists, political opponents, or activ-
11 ists; and

12 “(3) has failed to undertake serious and sus-
13 tained efforts to combat the use of spyware in un-
14 democratic ways.

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

17 “(e) REPORT.—The Secretary of State shall annually
18 submit to the Committee on Foreign Affairs and the Per-
19 manent Select Committee on Intelligence of the House of
20 Representatives and the Committee on Foreign Relations
21 and the Select Committee on Intelligence of the Senate
22 as part of the presentation materials for assistance pro-
23 grams proposed for each fiscal year, a full and complete
24 classified report, prepared in consultation with the intel-
25 ligence community’s classified annex, required under sec-

1 tion 1102A of the National Security Act of 1947 (50
2 U.S.C. 3232a), with respect to governmental use of
3 spyware to target United States persons in each country
4 proposed as a recipient of assistance under this Act.

5 “(f) DEFINITIONS.—In this section:

6 “(1) INTELLIGENCE COMMUNITY.—The term
7 ‘intelligence community’ has the meaning given such
8 term in section 3(4) of the National Security Act of
9 1947 (50 U.S.C. 3003(4)).

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

