

**AMENDMENT TO RULES COMM. PRINT 117-13**  
**OFFERED BY MR. MALINOWSKI OF NEW JERSEY**

At the appropriate place in title LX of division E,  
insert the following:

1 **SEC. \_\_\_\_ . ANNUAL REPORT ON SURVEILLANCE SALES TO**  
2 **REPRESSIVE GOVERNMENTS.**

3 (a) IN GENERAL.—Not later than 180 days after the  
4 date of the enactment of this Act, and annually thereafter  
5 until 2040, the Secretary of State, in coordination with  
6 the Director of National Intelligence, shall submit to the  
7 Committee on Foreign Affairs and Permanent Select  
8 Committee on Intelligence of the House of Representatives  
9 and the Committee on Foreign Relations and the Select  
10 Committee on Intelligence of the Senate a report with re-  
11 spect to foreign persons that the Secretary determines—

12 (1) have operated, sold, leased, or otherwise  
13 provided, directly or indirectly, items or services re-  
14 lated to targeted digital surveillance to—

15 (A) a foreign government or entity located  
16 primarily inside a foreign country where a rea-  
17 sonable person would assess that such transfer  
18 could result in a use of the items or services in  
19 a manner contrary to human rights; or

1 (B) a country including any governmental  
2 unit thereof, entity, or other person determined  
3 by the Secretary of State in a notice published  
4 in the Federal Register to have used items or  
5 services for targeted digital surveillance in a  
6 manner contrary to human rights; or

7 (2) have materially assisted, sponsored, or pro-  
8 vided financial, material, or technological support  
9 for, or items or services to or in support of, the ac-  
10 tivities described in paragraph (1).

11 (b) MATTERS TO BE INCLUDED.—The report re-  
12 quired by subsection (a) shall include the following:

13 (1) The name of each foreign person that the  
14 Secretary determines meets the requirements of sub-  
15 section (a)(1) or (a)(2).

16 (2) The name of each intended and actual re-  
17 cipient of items or services described in subsection  
18 (a).

19 (3) A detailed description of such items or serv-  
20 ices.

21 (4) An analysis of the appropriateness of in-  
22 cluding the persons listed in (b)(1) on the entity list  
23 maintained by the Bureau of Industry and Security.

24 (c) CONSULTATION.—In compiling data and making  
25 assessments for the purposes of preparing the report re-

1 quired by subsection (a), the Secretary of State shall con-  
2 sult with a wide range of organizations, including with re-  
3 spect to—

4 (1) classified and unclassified information pro-  
5 vided by the Director of National Intelligence;

6 (2) information provided by the Bureau of De-  
7 mocracy, Human Rights, and Labor’s Internet Free-  
8 dom, Business and Human Rights section;

9 (3) information provided by the Department of  
10 Commerce, including the Bureau of Industry and  
11 Security;

12 (4) information provided by the advisory com-  
13 mittees established by the Secretary to advise the  
14 Under Secretary of Commerce for Industry and Se-  
15 curity on controls under the Export Administration  
16 Regulations, including the Emerging Technology and  
17 Research Advisory Committee; and

18 (5) information on human rights and tech-  
19 nology matters, as solicited from civil society and  
20 human rights organizations through regular consult-  
21 ative processes; and

22 (6) information contained in the Country Re-  
23 ports on Human Rights Practices published annually  
24 by the Department of State.

1 (d) FORM AND PUBLIC AVAILABILITY OF REPORT.—

2 The report required by subsection (a) shall be submitted  
3 in unclassified form. The report shall be posted by the  
4 President not later than 14 days after being submitted  
5 to Congress on a text-based, searchable, and publicly avail-  
6 able internet website.

7 (e) DEFINITIONS.—In this section:

8 (1) TARGETED DIGITAL SURVEILLANCE.—The  
9 term “targeted digital surveillance” means the use  
10 of items or services that enable an individual or enti-  
11 ty to detect, monitor, intercept, collect, exploit, pre-  
12 serve, protect, transmit, retain, or otherwise gain ac-  
13 cess to the communications, protected information,  
14 work product, browsing data, research, identifying  
15 information, location history, or online and offline  
16 activities of other individuals, organizations, or enti-  
17 ties, with or without the explicit authorization of  
18 such individuals, organizations, or entities.

19 (2) FOREIGN PERSON.—The term “foreign per-  
20 son” means an individual or entity that is not a  
21 United States person.

22 (3) IN A MANNER CONTRARY TO HUMAN  
23 RIGHTS.—The term “in a manner contrary to  
24 human rights”, with respect to targeted digital sur-

1       veillance, means engaging in targeted digital surveil-  
2       lance—

3               (A) in violation of basic human rights, in-  
4       cluding to silence dissent, sanction criticism,  
5       punish independent reporting (and sources for  
6       that reporting), manipulate or interfere with  
7       democratic or electoral processes, persecute mi-  
8       norities or vulnerable groups, or target advo-  
9       cates or practitioners of human rights and  
10      democratic rights (including activists, journal-  
11      ists, artists, minority communities, or opposi-  
12      tion politicians); or

13              (B) in a country in which there is lacking  
14      a minimum legal framework governing its use,  
15      including established—

16                      (i) authorization under laws that are  
17                      accessible, precise, and available to the  
18                      public;

19                      (ii) constraints limiting its use under  
20                      principles of necessity, proportionality, and  
21                      legitimacy;

22                      (iii) oversight by bodies independent  
23                      of the government's executive agencies;

- 1 (iv) involvement of an independent
- 2 and impartial judiciary branch in author-
- 3 izing its use; or
- 4 (v) legal remedies in case of abuse.

