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:

SEC. 111. ANNUAL REPORT ON SURVEILLANCE SALES TO REPRESSIVE GOVERNMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and annually thereafter until 2040, the Secretary of State, in coordination with the Director of National Intelligence, shall submit to the Committee on Foreign Affairs and 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 a report with respect to foreign persons that the Secretary determines—

(1) have operated, sold, leased, or otherwise provided, directly or indirectly, items or services related to targeted digital surveillance to—

(A) a foreign government or entity located primarily inside a foreign country where a reasonable person would assess that such transfer could result in a use of the items or services in a manner contrary to human rights; or
(B) a country including any governmental unit thereof, entity, or other person determined by the Secretary of State in a notice published in the Federal Register to have used items or services for targeted digital surveillance in a manner contrary to human rights; or

(2) have materially assisted, sponsored, or provided financial, material, or technological support for, or items or services to or in support of, the activities described in paragraph (1).

(b) MATTERS TO BE INCLUDED.—The report required by subsection (a) shall include the following:

(1) The name of each foreign person that the Secretary determines meets the requirements of subsection (a)(1) or (a)(2).

(2) The name of each intended and actual recipient of items or services described in subsection (a).

(3) A detailed description of such items or services.

(4) An analysis of the appropriateness of including the persons listed in (b)(1) on the entity list maintained by the Bureau of Industry and Security.

(c) CONSULTATION.—In compiling data and making assessments for the purposes of preparing the report re-
quired by subsection (a), the Secretary of State shall con-
sult with a wide range of organizations, including with re-
spect to—

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

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

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

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

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

(6) information contained in the Country Re-
ports on Human Rights Practices published annually
by the Department of State.
(d) **Form and Public Availability of Report.**—The report required by subsection (a) shall be submitted in unclassified form. The report shall be posted by the President not later than 14 days after being submitted to Congress on a text-based, searchable, and publicly available internet website.

(e) **Definitions.**—In this section:

1. **Targeted Digital Surveillance.**—The term “targeted digital surveillance” means the use of items or services that enable an individual or entity to detect, monitor, intercept, collect, exploit, preserve, protect, transmit, retain, or otherwise gain access to the communications, protected information, work product, browsing data, research, identifying information, location history, or online and offline activities of other individuals, organizations, or entities, with or without the explicit authorization of such individuals, organizations, or entities.

2. **Foreign Person.**—The term “foreign person” means an individual or entity that is not a United States person.

3. **In a Manner Contrary to Human Rights.**—The term “in a manner contrary to human rights”, with respect to targeted digital sur-
veillance, means engaging in targeted digital surveil-

lace—

(A) in violation of basic human rights, in-

cluding to silence dissent, sanction criticism,

punish independent reporting (and sources for

that reporting), manipulate or interfere with

democratic or electoral processes, persecute mi-

norities or vulnerable groups, or target advo-

ecates or practitioners of human rights and

democratic rights (including activists, journal-

ists, artists, minority communities, or opposi-

tion politicians); or

(B) in a country in which there is lacking

a minimum legal framework governing its use,

including established—

(i) authorization under laws that are

accessible, precise, and available to the

public;

(ii) constraints limiting its use under

principles of necessity, proportionality, and

legitimacy;

(iii) oversight by bodies independent

of the government’s executive agencies;
(iv) involvement of an independent and impartial judiciary branch in authorizing its use; or

(v) legal remedies in case of abuse.