

**AMENDMENT TO RULES COMMITTEE PRINT FOR  
H.R. 6395  
OFFERED BY MR. MALINOWSKI OF NEW JERSEY**

At the end of title XII, add the following:

1     **Subtitle H—Protecting Security**  
2     **Assistance From Corruption Act**

3     **SEC. 1281. SHORT TITLE.**

4             This subtitle may be cited as the “Protecting Security  
5 Assistance from Corruption Act”.

6     **SEC. 1282. FINDINGS.**

7             Congress finds the following:

8                     (1) Over the past 15 years, the United States  
9 has provided more than \$200 billion in military and  
10 security assistance to over 100 countries around the  
11 world to address shared international security  
12 threats.

13                    (2) In countries such as Afghanistan, Iraq,  
14 Mali, Yemen, and Somalia, corruption has been a  
15 significant factor behind the failure of United  
16 States-supported national security forces to effec-  
17 tively and legitimately respond to terrorist threats.

18                    (3) Abusive and corrupt security forces are a  
19 key determinant of support for extremism. In fragile

1 partners, corrupt and predatory behavior by local of-  
2 ficials generates resentment and resistance against  
3 the central government and security forces.

4 (4) Inspectors General have frequently pointed  
5 to key avenues through which corruption can nega-  
6 tively impact United States security objectives and  
7 end-states, such as buying and selling senior na-  
8 tional security force positions, selling United States-  
9 provided equipment and fuel on the black market or  
10 to criminal groups, and creating ghost soldiers.

11 (5) In the past, United States military assist-  
12 ance has inadvertently found its way directly into  
13 the hands of terrorists. In Afghanistan, the Special  
14 Inspector General for Afghanistan Reconstruction  
15 found that the use of shell companies allowed  
16 Taliban-supporting persons to contract with the  
17 United States military for food, construction, and  
18 cleaning services.

19 (6) The Special Inspector General for Afghani-  
20 stan Reconstruction also found that billions of dol-  
21 lars of United States reconstruction funds were si-  
22 phoned out of Afghanistan by corrupt officials, fuel-  
23 ing resentment of central government authorities.

24 (7) Several United States partners have system-  
25 atically supported certain units of their national se-

1 security forces while marginalizing others in order to  
2 bolster their power, generating factional divisions  
3 within these forces, undermining overall security sec-  
4 tor effectiveness, and at times fueled mutinies, mili-  
5 tary coups, and instability.

6 (8) Failure to conduct due diligence prior to  
7 contract disbursements in support of cooperative  
8 military programs and exercises in fragile states  
9 could reinforce the control of predatory and abusive  
10 governance structures, fueling extremism and anti-  
11 government contestation.

12 (9) While not always a sign of corruption, in-  
13 dustrial offsets are also sometimes used to reinforce  
14 abusive governance structures in corrupt, extremism-  
15 prone countries by requiring foreign defense sup-  
16 pliers to provide specific kickbacks into companies  
17 owned by regime officials, their families, and associ-  
18 ates.

19 (10) Achieving the objectives of military assist-  
20 ance and security programs requires meaningful due  
21 diligence to ensure that United States funds are not  
22 benefiting corrupt officials, reinforcing repressive  
23 governance structures, or indirectly benefiting ter-  
24 rorists, extremists, transnational criminal organiza-  
25 tions, and other bad actors.

1           (11) As a result of these risks, Congress ap-  
2           proved language in the National Defense Authoriza-  
3           tion Act for Fiscal Year 2016 that called on the De-  
4           partment of Defense to create a strategic framework  
5           for United States security cooperation and identify  
6           challenges, including related to corruption, to  
7           achieve United States security cooperation’s primary  
8           objectives, priorities, and desired end-states.

9           (12) In the National Defense Authorization Act  
10          for Fiscal Year 2017, Congress also urged the De-  
11          partment of Defense to develop and maintain “an  
12          assessment, monitoring, and evaluation framework  
13          for security cooperation with foreign countries to en-  
14          sure accountability. . .”.

15          (13) During the same time, the Department of  
16          State created a “Framework for Policy Review and  
17          Risk Assessment of Proposed SSA Activities”, which  
18          called on the Department to ask key corruption-re-  
19          lated questions about the proposed recipient of  
20          United States security assistance prior to providing  
21          that assistance, such as “is the security force known  
22          to be or reported to be. . .permitting illicit traf-  
23          ficking across borders, buying and selling positions  
24          or professional opportunities, stealing government  
25          assets and resources, engaging in bribery, or main-

1 taining rolls of ghost personnel. . .”, among other  
2 questions.

3 (14) However, the Department of Defense and  
4 the Department of State have yet to fully incor-  
5 porate many of these key assessments needed to ef-  
6 fectively identify and mitigate corruption-related  
7 risks that continue to undermine United States secu-  
8 rity cooperation activities around the world.

9 **SEC. 1283. DEFINITIONS.**

10 In this subtitle:

11 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
12 TEES.—The term “appropriate congressional com-  
13 mittees” means—

14 (A) the Committee on Armed Services and  
15 the Committee on Foreign Affairs of the House  
16 of Representatives; and

17 (B) the Committee on Armed Services and  
18 the Committee on Foreign Relations of the Sen-  
19 ate.

20 (2) COVERED SECURITY ASSISTANCE.—

21 (A) PART I.—For purposes of part I, the  
22 term “covered security assistance” means a  
23 program or activity of the Department of De-  
24 fense that—

1 (i) is carried out under the authority  
2 of chapter 16 of title 10, United States  
3 Code; and

4 (ii) is valued at more than \$1,000,000  
5 on a fiscal year basis.

6 (B) PART II.—For purposes of part II, the  
7 term “covered security assistance” means—

8 (i) a program or activity of the De-  
9 partment of State or the Department of  
10 Commerce that—

11 (I) is carried out under the au-  
12 thority of part II of the Foreign As-  
13 sistance Act of 1961 (22 U.S.C. 2151  
14 et seq.) or the Arms Export Control  
15 Act (22 U.S.C. 2751 et seq.) to pro-  
16 vide military or civilian security as-  
17 sistance to a foreign country; and

18 (II) is valued at more than  
19 \$1,000,000 on a fiscal year basis; and

20 (ii) a program or activity of the De-  
21 partment of Defense that meets the re-  
22 quirements described in subclauses (I) and  
23 (II) of clause (i) and is carried out with  
24 the concurrence of the Secretary of State.

1           (3) COVERED FOREIGN COUNTRY.—The term  
2           “covered foreign country” means a country that—

3                   (A) is receiving covered security assistance,  
4                   as such term is defined in subparagraph (A) or  
5                   (B) of paragraph (1), as the case may be, with  
6                   an aggregate value of not less than \$4,000,000;  
7                   and

8                   (B)(i) is ranked E or F on the Trans-  
9                   parency International Defense Corruption  
10                  Index, or a successor to such index;

11                  (ii) is ranked at an equivalent level of cor-  
12                  ruption for the security sector under any inde-  
13                  pendent index funded by the Department of  
14                  State of any other Federal agency; or

15                  (iii) is determined and reported by the Sec-  
16                  retary of State in the Federal Register as ex-  
17                  hibiting elevated risks of public corruption in  
18                  the security sector, if such determination is ac-  
19                  companied in the Federal Register by a defini-  
20                  tion of the methodology and factors used in  
21                  such determination, including—

22                           (I) ethnic or religious favoritism in re-  
23                           cruitment and retention practices of secu-  
24                           rity forces;

1 (II) merit-based promotion practices  
2 in security services;

3 (III) bribery, extortion, and predatory  
4 practices by security forces;

5 (IV) corruption within security forces;

6 (V) civilian control and parliamentary  
7 oversight of security services;

8 (VI) involvement of security forces in  
9 political decision-making;

10 (VII) human rights abuses and vio-  
11 lence by the state-sanctioned security serv-  
12 ices;

13 (VIII) efficacy of delivery of public  
14 justice services; and

15 (IX) violent deaths by geography and  
16 cause.

17 (4) COVERED GOVERNMENT OFFICIALS.—The  
18 term “covered government officials”, with respect to  
19 a covered foreign country, means—

20 (A) officials of the government, military, or  
21 security services;

22 (B) individuals who assume unofficial lead-  
23 ership functions, such as tribal officials, heads  
24 of informal courts, or other unelected or  
25 unappointed leadership;



1 (C) advisors or associates of senior govern-  
2 ment officials;

3 (D) individuals involved, directly or indi-  
4 rectly, in security assistance activities; or

5 (E) family members or associates of indi-  
6 viduals described in subparagraphs (A) through  
7 (D).

8 (5) EXPORT ADMINISTRATION REGULATIONS.—  
9 The term “Export Administration Regulations”  
10 means subchapter C of chapter VII of title 15, Code  
11 of Federal Regulations, or successor regulations.

12 (6) INTERNATIONAL TRAFFIC IN ARMS REGULA-  
13 TIONS.—The term “International Traffic in Arms  
14 Regulations” means subchapter M of chapter I of  
15 title 22, Code of Federal Regulations, or successor  
16 regulations.

17 (7) OFFSET AGREEMENT.—The term “offset  
18 agreement” has the meaning given that term in sec-  
19 tion 36(e)(1) of the Arms Export Control Act (22  
20 U.S.C. 2776(e)(1)).

1 **PART I—MATTERS RELATING TO SECURITY AS-**  
2 **SISTANCE ADMINISTERED BY THE DEPART-**  
3 **MENT OF DEFENSE**

4 **SEC. 1291. ANTI-CORRUPTION RISK ASSESSMENT.**

5 The Secretary of Defense, in coordination with the  
6 Secretary of State and the heads of other relevant Federal  
7 departments and agencies, shall ensure that any due dili-  
8 gence review conducted prior to the provision of covered  
9 security assistance to a covered foreign country includes  
10 an assessment of the risks that such assistance could fos-  
11 ter public corruption in the country, including specifically  
12 and individually by—

13 (1) indirectly or directly financially or materi-  
14 ally benefitting covered government officials of the  
15 country;

16 (2) empowering officials or units of the security  
17 forces documented or suspected of corruption, brib-  
18 ery, or political repression;

19 (3) contracting or subcontracting for delivery,  
20 logistics, contracting, or other services related to  
21 covered security assistance that are owned, in whole  
22 or in part, by covered government officials; and

23 (4) failing to provide for effective civilian gov-  
24 ernment, parliamentary, and public oversight.

1 **SEC. 1292. BENEFICIAL OWNERSHIP INFORMATION OF CON-**  
2 **TRACTORS AND SUBCONTRACTORS PRO-**  
3 **VIDING COVERED SECURITY ASSISTANCE.**

4 (a) IN GENERAL.—Not later than 1 year after the  
5 date of the enactment of this Act, the Secretary of Defense  
6 shall issue regulations to require each contract for the pro-  
7 vision of covered security assistance in a covered foreign  
8 country to identify the beneficial owner of each contractor  
9 and subcontractor providing such assistance under the  
10 contract, including—

11 (1) each advisor, broker, and consultant pro-  
12 viding services in connection with the contract; and

13 (2) each individual and entity providing train-  
14 ing, advice, or support services, construction serv-  
15 ices, or logistical, shipping, storage, or customs-proc-  
16 essing services in connection with the contract.

17 (b) DELAY FOR PROVISION OF INFORMATION.—The  
18 information required under subsection (a) may be ap-  
19 pended to a contract not later than 30 days after the date  
20 of completion of the contract.

21 (c) ACCESS TO INFORMATION.—The information re-  
22 quired under subsection (a)—

23 (1) shall be included or appended to a contract  
24 in unclassified form; and

25 (2) shall be made available upon request to—

1 (A) other Federal departments and agen-  
2 cies; and

3 (B) the appropriate congressional commit-  
4 tees.

5 **SEC. 1293. ENSURING COVERED SECURITY ASSISTANCE IS**  
6 **NOT USED TO ENRICH FOREIGN GOVERN-**  
7 **MENT OFFICIALS.**

8 (a) IN GENERAL.—Not later than 1 year after the  
9 date of the enactment of this Act, the Secretary of Defense  
10 shall issue regulations to prohibit disbursement of funds  
11 under a contract for the provision of covered security as-  
12 sistance in a covered foreign country to any foreign entity  
13 that is owned in part or in whole by a covered government  
14 official of the country.

15 (b) WAIVER IN THE INTEREST OF NATIONAL SECU-  
16 RITY.—The Secretary of Defense may waive the applica-  
17 tion of subsection (a) with respect to a foreign entity if  
18 the Secretary determines and submits to the appropriate  
19 congressional committees written notice and justification  
20 not later than 30 days before granting the waiver that the  
21 waiver is in the national security interests of the United  
22 States.

23 (c) OTHER WAIVER AUTHORITIES.—The Secretary  
24 of Defense may waive the application of subsection (a)  
25 with respect to a foreign entity if the Secretary determines

1 and submits to the appropriate congressional committees  
2 written notice and justification not later than 30 days be-  
3 fore granting the waiver that the ownership of such enti-  
4 ty—

5 (1) is through stock ownership of a publicly  
6 traded company and whose share of such stocks is—

7 (A) less than five percent of such foreign  
8 entity's traded shares; or

9 (B) valued at less than \$5,000,000; or

10 (2) is through blind investment in mutual funds  
11 or other composite investment vehicles that would  
12 render a shareholder's control over fund-owned com-  
13 panies negligible.

14 **SEC. 1294. INDEPENDENT DATA ON GOVERNANCE AND**  
15 **CORRUPTION OF UNITED STATES PARTNERS.**

16 (a) IN GENERAL.—Of the amounts made available to  
17 the Department of Defense for security cooperation and  
18 capacity-building activities, the Secretary of Defense, in  
19 coordination with the Secretary of State, shall provide  
20 funding for the research and publication by independent  
21 institutions of indexed data on the internal governance ca-  
22 pacities and professionalism of military and civilian secu-  
23 rity sectors of United States partners that receive United  
24 States security assistance, in such a way as to facilitate  
25 the United States Government's ability to effectively

1 measure and assess the effectiveness of security coopera-  
2 tion and security sector capacity-building programs.

3 (b) MATTERS TO BE INCLUDED.—The indexed data  
4 described in subsection (a) shall include quantifiable, year-  
5 ly-updated, by-country metrics on—

6 (1) ethnic or religious favoritism in recruitment  
7 and retention practices of security forces;

8 (2) merit-based promotion practices in security  
9 services;

10 (3) bribery, extortion, and predatory practices  
11 by security forces;

12 (4) corruption within security forces;

13 (5) civilian control and parliamentary oversight  
14 of security services;

15 (6) involvement of security forces in political  
16 decision-making;

17 (7) human rights abuses and violence by the  
18 state-sanctioned security services;

19 (8) efficacy of delivery of public justice services;  
20 and

21 (9) violent deaths by geography and cause.

22 **SEC. 1295. REPORT ON IMPLEMENTATION.**

23 (a) IN GENERAL.—Not later than 120 days after the  
24 date of the enactment of this Act, the Secretary of Defense  
25 shall submit to the appropriate congressional committees

1 a report on plans of the Department of Defense to imple-  
2 ment sections 1291, 1292, and 1293.

3 (b) MATTERS TO BE INCLUDED.—The report re-  
4 quired by subsection (a) shall include—

5 (1) a description of how such assessments and  
6 regulations will be incorporated with ongoing De-  
7 partment of Defense initiatives to assess, monitor,  
8 and evaluate covered security assistance;

9 (2) the names of the offices in the Department  
10 of Defense, the Department of State, and any other  
11 relevant Federal department or agency that will par-  
12 ticipate in any such assessments and regulatory im-  
13 plementation;

14 (3) an identification of planned resource alloca-  
15 tion for implementation of these sections; and

16 (4) a description of financial, personnel, re-  
17 sources, and external limitations on conducting such  
18 assessments and regulations and any likely impacts  
19 on the integrity of such assessments.

20 (c) FORM.—The report required by subsection (a)  
21 shall be submitted in unclassified form.

1 **PART II—MATTERS RELATING TO SECURITY AS-**  
2 **SISTANCE ADMINISTERED BY THE DEPART-**  
3 **MENT OF STATE AND THE DEPARTMENT OF**  
4 **COMMERCE**

5 **SEC. 1296. ANTI-CORRUPTION RISK ASSESSMENT.**

6 The Secretary of State, in coordination with the Sec-  
7 retary of Defense and the heads of other relevant Federal  
8 departments and agencies, shall ensure that any due dili-  
9 gence review conducted prior to the provision of covered  
10 security assistance to a covered foreign country includes  
11 an assessment of the risks that such assistance could fos-  
12 ter public corruption in such country, including specifically  
13 and individually by—

14 (1) indirectly or directly financially or materi-  
15 ally benefitting covered government officials of the  
16 country;

17 (2) empowering officials or units of the security  
18 forces documented or suspected of corruption, brib-  
19 ery, or political repression;

20 (3) contracting or subcontracting for delivery,  
21 logistics, contracting, or other services related to  
22 covered security assistance that are owned, in whole  
23 or in part, by covered government officials; and

24 (4) failing to provide for effective civilian gov-  
25 ernment, parliamentary, and public oversight.



1 **SEC. 1297. BENEFICIAL OWNERSHIP INFORMATION OF CON-**  
2 **TRACTORS AND SUBCONTRACTORS PRO-**  
3 **VIDING COVERED SECURITY ASSISTANCE.**

4 (a) IN GENERAL.—Not later than 1 year after the  
5 date of the enactment of this Act, the Secretary of State  
6 shall issue regulations to require each contract for the pro-  
7 vision of covered security assistance in a covered foreign  
8 country to identify the beneficial owner of each contractor  
9 and subcontractor providing such assistance under the  
10 contract, including—

11 (1) each advisor, broker, and consultant pro-  
12 viding services in connection with the contract; and

13 (2) each individual and entity providing train-  
14 ing, advice, or support services, construction serv-  
15 ices, or logistical, shipping, storage, or customs-proc-  
16 essing services in connection with the contract.

17 (b) DELAY FOR PROVISION OF INFORMATION.—The  
18 information required under subsection (a) may be ap-  
19 pended to a contract not later than 30 days after the date  
20 of completion of the contract.

21 (c) ACCESS TO INFORMATION.—The information re-  
22 quired under subsection (a)—

23 (1) shall be included or appended to a contract  
24 in unclassified form; and

25 (2) shall be made available upon request to—

1 (A) other Federal departments and agen-  
2 cies; and

3 (B) the appropriate congressional commit-  
4 tees.

5 **SEC. 1298. ENSURING COVERED SECURITY ASSISTANCE IS**  
6 **NOT USED TO ENRICH FOREIGN GOVERN-**  
7 **MENT OFFICIALS.**

8 (a) IN GENERAL.—Not later than 1 year after the  
9 date of the enactment of this Act, the Secretary of State  
10 shall issue regulations to prohibit disbursement of funds  
11 under a contract for the provision of covered security as-  
12 sistance in a covered foreign country to any foreign entity  
13 that is owned in part or in whole by a covered government  
14 official of the country.

15 (b) WAIVER IN THE INTEREST OF NATIONAL SECU-  
16 RITY.—The Secretary of State may waive the application  
17 of subsection (a) with respect to a foreign entity if the  
18 Secretary determines and submits to the appropriate con-  
19 gressional committees written notice and justification not  
20 later than 30 days before granting the waiver that the  
21 waiver is in the national security interests of the United  
22 States.

23 (c) OTHER WAIVER AUTHORITIES.—The Secretary  
24 of State may waive the application of subsection (a) with  
25 respect to a foreign entity if the Secretary determines and

1 submits to the appropriate congressional committees writ-  
2 ten notice and justification not later than 30 days before  
3 granting the waiver that the ownership of such entity is—

4 (1) through stock ownership of a publicly trad-  
5 ed company and whose share of such stocks is—

6 (A) less than five percent of such foreign  
7 entity's traded shares; or

8 (B) valued at less than \$5,000,000; or

9 (2) is through blind investment in mutual funds  
10 or other composite investment vehicles that would  
11 render a shareholder's control over fund-owned com-  
12 panies negligible.

13 **SEC. 1299. TRANSPARENCY RELATING TO OFFSET AGREE-**  
14 **MENTS.**

15 (a) **IN GENERAL.**—Not later than 1 year after the  
16 date of the enactment of this Act, the Secretary of State  
17 shall issue regulations under the International Traffic in  
18 Arms Regulations and the Secretary of Commerce shall  
19 issue regulations under the Export Administration Regu-  
20 lations to require a United States person that is an appli-  
21 cant for a license to export an item controlled under either  
22 such Regulation which includes an offset agreement to  
23 meet the requirements described in subsection (b).

24 (b) **REQUIREMENTS.**—The requirements described in  
25 this subsection are the following:

1           (1) The applicant agrees to provide on a public,  
2 text-searchable website comprehensive information  
3 on—

4           (A) beneficial ownership of foreign persons  
5 involved in the offset agreement, including advi-  
6 sors, brokers, and marketing entities; and

7           (B) beneficial ownership of foreign persons  
8 benefiting from the offset agreement.

9           (2) The applicant agrees to provide an assess-  
10 ment of corruption risks of the offset agreement,  
11 which shall include information on each of the fol-  
12 lowing:

13           (A) The recipients, deliverables, contract  
14 value, and offset credits of the offset agree-  
15 ment.

16           (B) The beneficial ownership of foreign  
17 persons involved in the offset agreement and  
18 the benefits that will be received under the off-  
19 set agreement.

20           (C) Conflicts of interest or connections of  
21 such beneficial ownership with the political  
22 leadership of the country in which the offset  
23 agreement will be carried out.

1 (D) Prior work or expertise of such bene-  
2 ficial ownership in the fields in which they will  
3 carry out activities under the offset agreement.

4 (E) Requirements or inducements imposed  
5 on the applicant to use any specific brokers in  
6 the recipient country to find individuals or enti-  
7 ties to perform requirements under the offset  
8 agreement.

9 (F) The affiliation of any broker used as  
10 part of the offset agreement with the political  
11 leadership of the country in which the offset  
12 agreement will be carried out.

13 (G) Due diligence efforts conducted to  
14 verify that no shell companies are involved in  
15 the offset agreement.

16 (c) ASSESSMENT OF CORRUPTION RISKS FROM OFF-  
17 SET AGREEMENTS.—Not later than 1 year after the date  
18 of the enactment of this Act, the Secretary of State shall  
19 issue regulations under the International Traffic in Arms  
20 Regulation and the Secretary of Commerce shall issue reg-  
21 ulations under the Export Administration Regulations to  
22 require that each notification to Congress required under  
23 any provision of law with respect to a sale or export of  
24 major defense articles or major defense equipment include,

1 if applicable, an assessment of corruption risks from offset  
2 agreements described in subsection (b).

3 **SEC. 1299A. CONSIDERATIONS IN FURNISHING MILITARY**  
4 **ASSISTANCE.**

5 Section 511 of the Foreign Assistance Act of 1961  
6 (22 U.S.C. 2321d) is amended—

7 (1) in paragraph (2), by striking “or” at the  
8 end;

9 (2) in paragraph (3), by striking the period at  
10 the end and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(4) contribute to corruption in the destination  
13 country or provide financial benefit to covered gov-  
14 ernment officials (as such term is defined in section  
15 1283 of the Protecting Security Assistance from  
16 Corruption Act) of that country.”.

17 **SEC. 1299B. REPORT ON IMPLEMENTATION.**

18 (a) IN GENERAL.—Not later than 120 days after the  
19 date of the enactment of this Act—

20 (1) the Secretary of State shall submit to the  
21 appropriate congressional committees a report on  
22 plans of the Department of State to implement sec-  
23 tions 1296, 1297, and 1298; and

24 (2) the Secretary of State and the Secretary of  
25 Commerce shall jointly submit to the appropriate

1 congressional committees a report on plans of the  
2 Department of State and the Department of Com-  
3 merce to implement section 1299.

4 (b) MATTERS TO BE INCLUDED.—The report re-  
5 quired by subsection (a) shall include—

6 (1) a description of how such assessments and  
7 regulations will be incorporated with ongoing De-  
8 partment of State initiatives to assess, monitor, and  
9 evaluate covered security assistance;

10 (2) the names of the offices within the Depart-  
11 ment of State, the Department of Defense, and any  
12 other relevant Federal department or agency that  
13 will participate in any such assessments and regu-  
14 latory implementation;

15 (3) an identification of planned resource alloca-  
16 tion for implementation of these sections; and

17 (4) a description of financial, personnel, re-  
18 sources, and external limitations on conducting such  
19 assessments and regulations and any likely impacts  
20 on the integrity of such assessments.

21 (c) FORM.—The report required by subsection (a)  
22 shall be submitted in unclassified form.

