

AMENDMENT TO RULES COMM. PRINT 116-57
OFFERED BY MR. MALINOWSKI OF NEW JERSEY

At the end of subtitle G of title XII, add the following:

1 **SEC. 12 ____ . MODIFICATION TO REGULATIONS RELATING**
2 **TO THE EXPORT OF DEFENSE SERVICES.**

3 (a) **IN GENERAL** .—Not later than 180 days after
4 the date of the enactment of this Act, the Secretary of
5 State, in consultation with the Secretary of Commerce,
6 shall issue regulations to require that the approval of any
7 license authorizing the export of defense services (as such
8 term is defined by section 47 of the Arms Export Control
9 Act (22 U.S.C. 2794)) that will, directly or indirectly, in-
10 volve the employment of one or more persons in a position
11 of trust shall require the following conditions to be met:

12 (1) The applicant certified in the application
13 the number of persons in a position of trust whose
14 employment would be involved by the export of such
15 services.

16 (2) The applicant certified in the application
17 that a human rights due diligence review had been
18 completed for the proposed export of defense serv-
19 ices, and that, as a result of such review, it is highly

1 unlikely that such services will be used in manner
2 contrary to internationally recognized human rights,
3 such as to—

4 (A) silence dissent or punish independent
5 reporting (or the sources for such reporting);

6 (B) manipulate or interfere with demo-
7 cratic or other electoral processes;

8 (C) target opponents of the government of
9 a country (such as activists, journalists, artists,
10 or opposition politicians) for exercising, defend-
11 ing, or promoting internationally recognized
12 human rights and freedoms, such as the free-
13 dom of religion, expression, association, or as-
14 sembly, or the rights to a fair trial and demo-
15 cratic elections; or

16 (D) target United States citizens or lawful
17 permanent residents.

18 (3) The license includes a provision that it shall
19 cease to be effective if the United States determines,
20 and the Secretary of State informs the applicant in
21 writing, that the export of the defense services au-
22 thorized by such license has contributed to a viola-
23 tion of human rights.

24 (4) The applicant agrees as a condition of using
25 the license to notify the Secretary of State if the ap-

1 plicant has knowledge that services exported pursu-
2 ant to the authorization provided by the license has
3 contributed to the violation of human rights.

4 (5) The Secretary of State determines that the
5 country to which such service is licensed to be ex-
6 ported has an appropriate legal framework governing
7 the use of such services, including that—

8 (A) the domestic legal authorities gov-
9 erning the use of such exported services are ac-
10 cessible, precise, and available to the public;

11 (B) such legal authorities impose con-
12 straints limiting the use of such services under
13 principles of necessity, proportionality, and le-
14 gitimacy;

15 (C) the use of such services is governed by
16 independent oversight;

17 (D) the domestic judicial system is in-
18 volved in authorizing the use of such services;
19 and

20 (E) such legal authorities provide effective
21 remedies in case of abuse.

22 (b) ANNUAL REPORT.—The Secretary of State shall
23 annually submit a report to the Committee on Foreign Af-
24 fairs of the House of Representatives, the Permanent Se-
25 lect Committee on Intelligence of the House of Represent-

1 atives, the Committee on Foreign Relations of the Senate,
2 the Select Committee on Intelligence of the Senate, and
3 the Committee on Banking, Housing, and Urban Affairs
4 of the Senate on applications for export licenses subject
5 to the additional conditions described in subsection (a)
6 that lists—

7 (1) the number of such licenses issued during
8 the prior year, disaggregated by country and value
9 of contract, and the number of persons in a position
10 of trust employed as a result of such licenses; and

11 (2) the number of licenses cancelled as a result
12 of credible information that the service exported pur-
13 suant to such license has contributed to the violation
14 of human rights, disaggregated by the type of viola-
15 tion and by country.

16 (c) PERSON IN A POSITION OF TRUST.—For pur-
17 poses of this section, a “person in a position of trust”
18 means a United States citizen or lawful permanent resi-
19 dent who has previously been, as of the date of the submis-
20 sion of the application for a license described in subsection
21 (a)—

22 (1) an employee, contractor, or subcontractor at
23 any tier of any element of the intelligence commu-
24 nity (as such term is defined in section 3 of the Na-
25 tional Security Act of 1947 (50 U.S.C. 3003)); or

1 (2) an employee, contractor, or subcontractor at
2 any tier of the Federal Government with regular ac-
3 cess to Federal intelligence products and reporting.

