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:

SEC. 12. MODIFICATION TO REGULATIONS RELATING TO THE EXPORT OF DEFENSE SERVICES.

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

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

(2) The applicant certified in the application that a human rights due diligence review had been completed for the proposed export of defense services, and that, as a result of such review, it is highly
unlikely that such services will be used in manner contrary to internationally recognized human rights, such as to—

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

(B) manipulate or interfere with democratic or other electoral processes;

(C) target opponents of the government of a country (such as activists, journalists, artists, or opposition politicians) for exercising, defending, or promoting internationally recognized human rights and freedoms, such as the freedom of religion, expression, association, or assembly, or the rights to a fair trial and democratic elections; or

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

(3) The license includes a provision that it shall cease to be effective if the United States determines, and the Secretary of State informs the applicant in writing, that the export of the defense services authorized by such license has contributed to a violation of human rights.

(4) The applicant agrees as a condition of using the license to notify the Secretary of State if the ap-
Applicant has knowledge that services exported pursuant to the authorization provided by the license has contributed to the violation of human rights.

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

(A) the domestic legal authorities governing the use of such exported services are accessible, precise, and available to the public;

(B) such legal authorities impose constraints limiting the use of such services under principles of necessity, proportionality, and legitimacy;

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

(D) the domestic judicial system is involved in authorizing the use of such services; and

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

(b) ANNUAL REPORT.—The Secretary of State shall annually submit a report to the Committee on Foreign Affairs of the House of Representatives, the Permanent Select Committee on Intelligence of the House of Represent-
atives, the Committee on Foreign Relations of the Senate,
the Select Committee on Intelligence of the Senate, and
the Committee on Banking, Housing, and Urban Affairs
of the Senate on applications for export licenses subject
to the additional conditions described in subsection (a)
that lists—

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

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

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

(1) an employee, contractor, or subcontractor at
any tier of any element of the intelligence commu-
nity (as such term is defined in section 3 of the Na-
tional Security Act of 1947 (50 U.S.C. 3003)); or
(2) an employee, contractor, or subcontractor at any tier of the Federal Government with regular access to Federal intelligence products and reporting.