

AMENDMENT TO RULES COMMITTEE PRINT 115-

23

OFFERED BY MR. THORNBERRY OF TEXAS

At the end of subtitle F of title X, add the following:

1 **SEC. 1073. ADEQUACY OF THE REPORT ON THE**
2 **VULNERABILITIES OF THE DEFENSE INDUS-**
3 **TRIAL BASE.**

4 (a) COMPREHENSIVE REPORT ON VULNERABILITIES
5 OF, AND CONCENTRATION OF PURCHASES IN, THE DE-
6 FENSE INDUSTRIAL BASE.—

7 (1) REPORT.—Not later than 180 days after
8 the date of the enactment of this Act, and at least
9 annually until September 30, 2023, before March
10 31, thereafter the President shall issue to the appro-
11 priate congressional committees a comprehensive re-
12 port combining all of the elements of the reports de-
13 scribed in paragraph (4) and any other relevant re-
14 ports on the adequacy of, vulnerabilities of, and con-
15 centration of purchases in the defense industrial sec-
16 tor.

17 (2) CONSULTATION.—In preparing a report
18 under paragraph (1), the President shall consult
19 with the Secretary of State, the Secretary of the

1 Treasury, the Secretary of Defense, the Attorney
2 General, the Secretary of Homeland Security, the
3 Director of National Intelligence, the Director of the
4 National Security Agency and such other cabinet of-
5 ficials and heads of Federal departments and agen-
6 cies? as the President determines to be appropriate.

7 (3) FORM OF REPORT.—Each report issued
8 under paragraph (1) shall be in unclassified form,
9 but may contain a classified annex.

10 (4) LIST OF REPORTS.—Each report issued
11 under paragraph (1) shall contain all relevant infor-
12 mation and analysis from the following reports, as
13 well as such other relevant information as the Presi-
14 dent determines to be appropriate:

15 (A) The report described under section
16 721(m) of the Defense Production Act of 1950
17 (50 U.S.C. 4565(m)), relating to concentrations
18 of purchases of the defense industrial base.

19 (B) The report described under section
20 723(a) of the Defense Production Act of 1950
21 (50 U.S.C. 4568(a)), relating to offsets in de-
22 fense production.

23 (C) The report described under section
24 2504 of title 10, United States Code, relating
25 to annual industrial capabilities.

1 (D) The “Report on Defense Industrial
2 Base” described under section 842(c) of the
3 National Defense Authorization Act for Fiscal
4 Years 1990 and 1991.

5 (E) The “Study of Field Failures Involving
6 Counterfeit Electronic Parts” described under
7 section 238 of the National Defense Authoriza-
8 tion Act for Fiscal Year 2016.

9 (F) The “Report on Alternative Capabili-
10 ties to Procure and Sustain Nonstandard Ro-
11 tary Wing Aircraft Historically Procured
12 Through Rosoboronexport” described under sec-
13 tion 1249 of the National Defense Authoriza-
14 tion Act for Fiscal Year 2016.

15 (G) The report described under section
16 843 of the Ike Skelton National Defense Au-
17 thorization Act for Fiscal Year 2011, relating
18 to rare earth materials critical to national secu-
19 rity.

20 (H) The “Biennial Report on Nuclear
21 Triad” described under section 1054 of the Ike
22 Skelton National Defense Authorization Act for
23 Fiscal Year 2011.

24 (I) The “Report on Solid Rocket Motor In-
25 dustrial Base” described under section 1050 of

1 the National Defense Authorization Act for Fis-
2 cal Year 2008.

3 (J) The “Assessment of United States De-
4 fense Industrial Base Capabilities” described
5 under section 812 of the National Defense Au-
6 thorization Act for Fiscal Year 2004.

7 (K) The report related to “Monitoring and
8 Enforcement of Mitigation Agreements Related
9 to Foreign Investment in the United States”
10 described under House Report 113-102.

11 (L) The additive manufacturing rec-
12 ommendation described in House Report 113-
13 446.

14 (M) The “Assessment of the directed en-
15 ergy industrial base” described in House Report
16 114-102.

17 (b) COMPREHENSIVE DATABASE OF PROPOSED
18 TRANSACTIONS OR PURCHASES IN THE DEFENSE INDUS-
19 TRIAL BASE INVOLVING A FOREIGN PERSON.—

20 (1) ESTABLISHMENT AND MAINTENANCE OF
21 DATABASE.—

22 (A) IN GENERAL.—The President shall es-
23 tablish and keep current a database of proposed
24 transactions that would result in all of, a sub-
25 stantial part of, or a controlling interest in, a

1 U. S. corporation, or the U. S. assets of a for-
2 eign corporation, being owned or controlled by
3 a foreign person, in the defense industrial base
4 and any manufacturing or intellectual property
5 related to the defense industrial base.

6 (B) CONFIDENTIALITY OF INFORMA-
7 TION.—Except as provided under subparagraph
8 (C), the President shall ensure that the infor-
9 mation contained in the database is kept con-
10 fidential.

11 (C) ACCESS TO DATABASE.—The President
12 shall—

13 (i) ensure that access to information
14 in the database is strictly controlled;

15 (ii) make the database available to the
16 Secretary of State, the Secretary of the
17 Treasury, the Secretary of Defense, the
18 Attorney General, the Secretary of Home-
19 land Security, the Director of National In-
20 telligence, and the National Security Agen-
21 cy, with such limitations as the President
22 may determine appropriate;

23 (iii) require that records are kept each
24 time a person accesses information in the
25 database; and

1 (iv) require that any person receiving
2 information from the database continues to
3 preserve the confidentiality of the informa-
4 tion.

5 (2) MANDATORY FILING REQUIREMENT.—

6 (A) IN GENERAL.—With respect to any
7 proposed transaction described under paragraph
8 (1)(A), the proposed purchaser and proposed
9 seller in such proposed transaction shall file,
10 and keep current, a report with the database
11 containing a description of the proposed trans-
12 action.

13 (B) ADDITIONAL INFORMATION FOR PRO-
14 POSED TRANSACTIONS INVOLVING A FOREIGN
15 GOVERNMENT-CONTROLLED CORPORATION.—If,
16 with respect to proposed transaction described
17 in subparagraph (A), any foreign person is a
18 foreign government-controlled corporation, the
19 report required under subparagraph (A) shall
20 also disclose whether such foreign government-
21 controlled corporation is—

- 22 (i) a Chinese corporation;
23 (ii) a Russian corporation;
24 (iii) an Iranian corporation; or
25 (iv) a North Korean corporation.

1 (C) CIVIL PENALTY.—Any person who will-
2 fully violates a provision of this paragraph shall
3 be fined not more than \$100,000 per violation.

4 (c) DEFENSE INDUSTRIAL BASE TECHNOLOGIES
5 CONTROLLED.—

6 (1) SENSE OF CONGRESS.—It is the sense of
7 Congress that statutes and mechanisms to control
8 the export of critical technologies or related intellec-
9 tual property must be kept up-to-date, reflecting
10 changes in the defense industrial base, technology,
11 and the global market, in order to adequately pro-
12 tect United States national security.

13 (2) REPORT.—Annually, until September 30,
14 2023, before March 31, the President shall deliver to
15 the appropriate congressional committees a report
16 describing any need for reforms of policies governing
17 the export of technology or related intellectual prop-
18 erty, along with any proposed legislative changes the
19 President believes are necessary.

20 (d) SEPARATE REPORTS REQUIRED.—The reports
21 required under subsections (a)(1) and (c)(2) may be
22 issued concurrently, but shall be issued as separate re-
23 ports.

24 (e) DEFINITIONS.—For purposes of this section:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means the Committee on Armed Services,
4 the Committee on Financial Services, the Committee
5 on Foreign Affairs, and the Permanent Select Com-
6 mittee on Intelligence of the House of Representa-
7 tives and the Committee on Armed Services, the
8 Committee on Banking, Housing, and Urban Af-
9 fairs, the Committee on Foreign Relations, and the
10 Select Committee on Intelligence of the Senate.

11 (2) DATABASE.—The term “database” means
12 the database established pursuant to subsection
13 (b)(1)(A).

14 (3) DEFENSE INDUSTRIAL BASE.—The term
15 “defense industrial base” shall have the meaning
16 given the term “national technology and industrial
17 base” within the context of section 2503 of title 10,
18 United States Code.

19 (4) DEFINITIONS RELATED TO CORPORA-
20 TIONS.—

21 (A) CORPORATION.—The term “corpora-
22 tion” means a corporation, partnership, or
23 other organization.

1 (B) FOREIGN CORPORATION.—The term
2 “foreign corporation” means a corporation or-
3 ganized under the laws of a foreign country.

4 (C) U.S. CORPORATION.—The term “U.S.
5 corporation” means a corporation organized
6 under the laws of the United States.

