

AMENDMENT TO RULES COMM. PRINT 117-13
OFFERED BY MR. GALLAGHER OF WISCONSIN

After title LIII of division E, insert the following:

1 **TITLE LIV—DEFENDING**
2 **AMERICA’S 5G FUTURE ACT**

3 **SEC. 5401. SHORT TITLE.**

4 This title may be cited as the “Defending America’s
5 5G Future Act”.

6 **SEC. 5402. DEFINITIONS.**

7 In this title:

8 (1) EXPORT ADMINISTRATION REGULATIONS.—

9 The term “Export Administration Regulations”
10 means subchapter C of chapter VII of title 15, Code
11 of Federal Regulations.

12 (2) FOREIGN ADVERSARY.—The term “foreign
13 adversary” means any foreign government or foreign
14 person engaged in a long-term pattern or serious in-
15 stances of conduct significantly adverse to the na-
16 tional security or foreign policy interests of the
17 United States or security and safety of United
18 States persons.

1 (3) FOREIGN PERSON.—The term “foreign per-
2 son” means any person that is not a United States
3 person.

4 (4) INFORMATION AND COMMUNICATIONS
5 TECHNOLOGY OR SERVICES.—The term “informa-
6 tion and communications technology or services”
7 means any hardware, software, or other product or
8 service primarily intended to fulfill or enable the
9 function of information or data processing, storage,
10 retrieval, or communication by electronic means, in-
11 cluding transmission, storage, and display.

12 (5) UNITED STATES PERSON.—The term
13 “United States person” means—

14 (A) any United States citizen or alien law-
15 fully admitted for permanent residence in the
16 United States;

17 (B) any entity organized under the laws of
18 the United States or any jurisdiction within the
19 United States, including a foreign branch of
20 such an entity; or

21 (C) any person in the United States.

1 **SEC. 5403. PROHIBITION ON DEALING IN INFORMATION**
2 **AND COMMUNICATIONS TECHNOLOGY OR**
3 **SERVICES FROM FOREIGN ADVERSARIES.**

4 (a) IN GENERAL.—No United States person may en-
5 gage in a transaction for the acquisition, importation,
6 transfer, installation, dealing in, or use of any information
7 and communications technology or service by a United
8 States person, or with respect to any property subject to
9 the jurisdiction of the United States, if—

10 (1) the transaction involves any property in
11 which any foreign country or foreign person has any
12 interest (including through an interest in a contract
13 for the provision of the technology or service);

14 (2) notwithstanding any contract entered into
15 or any license or permit issued before the date of the
16 enactment of this Act, the transaction is initiated or
17 pending on or after such date of enactment; and

18 (3) the Secretary of Commerce, in consultation
19 with the officials specified in subsection (b), deter-
20 mines that—

21 (A) the transaction involves information
22 and communications technology or services de-
23 signed, developed, manufactured, or supplied by
24 persons owned by, controlled by, or subject to
25 the jurisdiction or direction of a foreign adver-
26 sary, or influenced by a foreign adversary; and

1 (B) the transaction—

2 (i) poses an undue risk of sabotage to
3 or subversion of the design, integrity, man-
4 ufacturing, production, distribution, instal-
5 lation, operation, or maintenance of infor-
6 mation and communications technology or
7 services in the United States;

8 (ii) poses an undue risk of cata-
9 strophic effects on the security or resil-
10 iency of United States critical infrastruc-
11 ture or the digital economy of the United
12 States;

13 (iii) poses an undue risk to the collec-
14 tion of data with respect to United States
15 persons, including personally identifiable
16 information and medical or health informa-
17 tion;

18 (iv) poses an undue risk to the collec-
19 tion of sector or industry information that
20 may be used for non-market industrial pol-
21 icy or national security purposes; or

22 (v) otherwise poses an unacceptable
23 risk to the national security or foreign pol-
24 icy interests of the United States or the se-
25 curity and safety of United States persons.

1 (b) OFFICIALS SPECIFIED.—The officials specified in
2 this subsection are the following:

3 (1) The Secretary of the Treasury.

4 (2) The Secretary of State.

5 (3) The Secretary of Defense.

6 (4) The Attorney General.

7 (5) The Secretary of Homeland Security.

8 (6) The United States Trade Representative.

9 (7) The Director of National Intelligence.

10 (8) The Administrator of General Services.

11 (9) The Chairman of the Federal Communica-
12 tions Commission.

13 (10) The heads of such other Federal agencies
14 as the Secretary of Commerce considers appropriate.

15 (c) MITIGATION MEASURES.—The Secretary of Com-
16 merce, in consultation with the officials specified in sub-
17 section (b), as appropriate, may establish or negotiate
18 measures to mitigate concerns that are the basis for a de-
19 termination under subsection (a)(3). Such measures may
20 serve as a precondition to the approval of a transaction
21 or of a class of transactions that would otherwise be pro-
22 hibited by subsection (a).

23 (d) REGULATIONS.—

24 (1) IN GENERAL.—Not later than 150 days
25 after the date of the enactment of this Act, the Sec-

1 retary of Commerce, in consultation with the offi-
2 cials specified in subsection (b), shall prescribe regu-
3 lations to carry out this section.

4 (2) INCLUSIONS.—The regulations prescribed
5 under paragraph (1) may include regulations with
6 respect to—

7 (A) determining that foreign governments
8 or foreign persons are foreign adversaries for
9 purposes of subsection (a)(3)(A);

10 (B) establishing procedures under which
11 persons described in subsection (a)(3)(A) may
12 prove that they are not otherwise directed or in-
13 fluenced by foreign adversaries for purposes of
14 subsection (a)(3)(A);

15 (C) identifying technologies or countries
16 with respect to which transactions involving in-
17 formation and communications technology or
18 services warrant particular scrutiny under sub-
19 section (a);

20 (D) establishing procedures to license
21 transactions otherwise prohibited by subsection
22 (a);

23 (E) establishing criteria, consistent with
24 section 1 of this order, by which particular
25 technologies or participants in the market for

1 information and communications technology or
2 services may be recognized as categorically in-
3 cluded in or as categorically excluded from the
4 prohibition under subsection (a); and

5 (F) identifying a mechanism and relevant
6 factors for the negotiation of mitigation meas-
7 ures under subsection (c).

8 (e) IMPLEMENTATION; PENALTIES.—

9 (1) IMPLEMENTATION.—The Secretary of Com-
10 merce may exercise the authorities provided to the
11 President under sections 203 and 205 of the Inter-
12 national Emergency Economic Powers Act (50
13 U.S.C. 1702 and 1704) to the extent necessary to
14 carry out this section.

15 (2) PENALTIES.—A person that violates, at-
16 tempts to violate, conspires to violate, or causes a
17 violation of subsection (a) or any regulation, license,
18 or order issued to carry out that subsection shall be
19 subject to the penalties set forth in subsections (b)
20 and (c) of section 206 of the International Emer-
21 gency Economic Powers Act (50 U.S.C. 1705) to the
22 same extent as a person that commits an unlawful
23 act described in subsection (a) of that section.

1 **SEC. 5404. CONTINUATION IN EFFECT OF EXPORT CON-**
2 **TROLS WITH RESPECT TO HUAWEI TECH-**
3 **NOLOGIES CO. LTD.**

4 (a) IN GENERAL.—The Secretary of Commerce may
5 not remove Huawei Technologies Co. Ltd., or its current
6 or former subsidiaries and affiliates, from the entity list
7 maintained by the Bureau of Industry and Security and
8 set forth in Supplement No. 4 to part 744 of the Export
9 Administration Regulations,) unless—

10 (1) the Secretary submits to Congress a request
11 for approval of such removal, which includes—

12 (A) a detailed justification for such re-
13 moval; and

14 (B) with respect to the decision of the
15 End-User Review Committee to seek such re-
16 moval—

17 (i) an identification of the Committee
18 member or members who sought such re-
19 moval;

20 (ii) whether the Committee's decision
21 was unanimous and if not which Com-
22 mittee member or members dissented and
23 why; and

24 (iii) whether the decision was referred
25 to the Advisory Committee on Export Pol-

1 icy or the Export Administration Review
2 Board; and

3 (2) there is enacted into law a joint resolution
4 of approval under subsection (b).

5 (b) JOINT RESOLUTIONS OF APPROVAL.—

6 (1) JOINT RESOLUTION OF APPROVAL DE-
7 FINED.—In this subsection, the term “joint resolu-
8 tion of approval” means a joint resolution of either
9 House of Congress the sole matter after the resolv-
10 ing clause of which is as follows: “That Congress ap-
11 proves the removal of _____, from the entity list
12 maintained by the Bureau of Industry and Security
13 and set forth in Supplement No. 4 to part 744 of
14 the Export Administration Regulations, pursuant to
15 the request of the Secretary of Commerce for such
16 removal submitted to Congress on _____.”, with
17 the first blank space being filled with the appro-
18 priate name and the second blank space being filled
19 with the appropriate date.

20 (2) INTRODUCTION; COMMITTEE REFERRAL.—A
21 joint resolution of approval—

22 (A) in the House of Representatives—

23 (i) may be introduced by the Speaker
24 or the minority leader; and

1 (ii) shall be referred to the Committee
2 on Foreign Affairs; and

3 (B) in the Senate—

4 (i) may be introduced by the majority
5 leader or the minority leader; and

6 (ii) shall be referred to the Committee
7 on Banking, Housing, and Urban Affairs.

8 (3) COMMITTEE DISCHARGE AND FLOOR CON-
9 sideration.—The provisions of paragraphs (4), (5)
10 (other than subparagraph (A) of paragraph (5)),
11 and (6) of section 216(c) of the Countering Amer-
12 ica’s Adversaries Through Sanctions Act (22 U.S.C.
13 9511(c)) apply to a joint resolution of approval
14 under this subsection to the same extent as such
15 provisions apply to joint resolution of approval under
16 such section 216(c).

17 (4) RULES OF HOUSE OF REPRESENTATIVES
18 AND SENATE.—This subsection is enacted by Con-
19 gress—

20 (A) as an exercise of the rulemaking power
21 of the Senate and the House of Representa-
22 tives, respectively, and as such is deemed a part
23 of the rules of each House, respectively, and su-
24 persedes other rules only to the extent that it
25 is inconsistent with such rules; and

1 (B) with full recognition of the constitu-
2 tional right of either House to change the rules
3 (so far as relating to the procedure of that
4 House) at any time, in the same manner, and
5 to the same extent as in the case of any other
6 rule of that House.

7 **SEC. 5405. CONGRESSIONAL DISAPPROVAL OF EXPORT LI-**
8 **CENSES ISSUED TO HUAWEI TECHNOLOGIES**
9 **CO. LTD., OR ITS SUBSIDIARIES OR AFFILI-**
10 **ATES.**

11 (a) IN GENERAL.—Not later than 15 days after ap-
12 proving, disapproving, or deferring a license to or with re-
13 spect to Huawei Technologies Co. Ltd., or its current or
14 former subsidiaries or affiliates, pursuant to the Export
15 Administration Regulations, the Secretary of Commerce
16 shall submit to Congress a report that contains—

17 (1) the name of the applicant seeking the li-
18 cense, including the name of the parent company
19 and subsidiaries or affiliates directly involved, if ap-
20 plicable, and the date of submission of the applica-
21 tion;

22 (2) a brief description of the items covered by
23 the license, including export control classification
24 number, if applicable;

1 (3) the name of the end-user of the items, the
2 end-user's location, and an estimate of the value of
3 the items; and

4 (4) the determination to approve, disapprove, or
5 defer the license, including—

6 (A) an identification of other agencies that
7 were consulted;

8 (B) information of the Commodity Classi-
9 fication Automated Tracking System deter-
10 mination;

11 (C) whether a determination was made
12 that a license was not required or a licensing
13 exception was available; and

14 (D) the level at which the determination
15 was made, including whether the determination
16 was made by the Operating Committee for Ex-
17 port Policy or a higher body and the reasons
18 therefor.

19 (b) CONGRESSIONAL DISAPPROVAL.—A license de-
20 scribed in subsection (a) that has been approved by the
21 Secretary of Commerce shall have no force or effect on
22 or after the date of the enactment of a joint resolution
23 of disapproval under subsection (c).

24 (c) JOINT RESOLUTIONS OF DISAPPROVAL.—

1 (1) JOINT RESOLUTION OF DISAPPROVAL DE-
2 FINED.—In this subsection, the term “joint resolu-
3 tion of disapproval” means a joint resolution of ei-
4 ther House of Congress the sole matter after the re-
5 solving clause of which is as follows: “That Congress
6 does not approve the license issued to or with re-
7 spect to _____ under the Export Administration
8 Regulations, relating to _____, notice of which was
9 submitted to Congress on _____.”, with the first
10 blank space being filled with the appropriate name,
11 the second blank space being filled with a brief de-
12 scription of the items covered by the license, the
13 third blank space being filled with the appropriate
14 date.

15 (2) INTRODUCTION; COMMITTEE REFERRAL.—A
16 joint resolution of disapproval—

17 (A) in the House of Representatives—

18 (i) may be introduced by the Speaker
19 or the minority leader during the 30-day
20 period beginning on the date on which the
21 report is submitted under subsection (a);
22 and

23 (ii) shall be referred to the Committee
24 on Foreign Affairs; and

25 (B) in the Senate—

1 (i) may be introduced by the majority
2 leader or the minority leader during the
3 30-day period beginning on the date on
4 which the report is submitted under sub-
5 section (a); and

6 (ii) shall be referred to the Committee
7 on Banking, Housing, and Urban Affairs.

8 (3) COMMITTEE DISCHARGE AND FLOOR CON-
9 sideration.—The provisions of paragraphs (4), (5)
10 (other than subparagraph (A) of paragraph (5)),
11 and (6) of section 216(c) of the Countering Amer-
12 ica’s Adversaries Through Sanctions Act (22 U.S.C.
13 9511(c)) apply to a joint resolution of disapproval
14 under this subsection to the same extent as such
15 provisions apply to joint resolution of disapproval
16 under such section 216(c).

17 (4) RULES OF HOUSE OF REPRESENTATIVES
18 AND SENATE.—This subsection is enacted by Con-
19 gress—

20 (A) as an exercise of the rulemaking power
21 of the Senate and the House of Representa-
22 tives, respectively, and as such is deemed a part
23 of the rules of each House, respectively, and su-
24 persedes other rules only to the extent that it
25 is inconsistent with such rules; and

1 (B) with full recognition of the constitu-
2 tional right of either House to change the rules
3 (so far as relating to the procedure of that
4 House) at any time, in the same manner, and
5 to the same extent as in the case of any other
6 rule of that House.

7 **SEC. 5406. CONTINUATION IN EFFECT OF FOREIGN-PRO-**
8 **DUCED DIRECT PRODUCT RULE WITH RE-**
9 **SPECT TO HUAWEI TECHNOLOGIES CO. LTD..**

10 (a) IN GENERAL.—The Secretary of Commerce may
11 not rescind or otherwise modify the application of section
12 736.2(b)(3) of the Export Administration Regulations (as
13 in effect on the day before the date of the enactment of
14 this Act) with respect to Huawei Technologies Co. Ltd.,
15 or its current or former subsidiaries and affiliates, un-
16 less—

17 (1) the Secretary submits to Congress a request
18 for approval of such rescission or modification,
19 which includes—

20 (A) a detailed justification for such rescis-
21 sion or modification; and

22 (B) with respect to the decision of the
23 End-User Review Committee to seek such re-
24 scission or modification—

1 (i) an identification of the Committee
2 member or members who sought such re-
3 scission or modification;

4 (ii) whether the Committee's decision
5 was unanimous and if not which Com-
6 mittee member or members dissented and
7 why; and

8 (iii) whether the decision was referred
9 to the Advisory Committee on Export Pol-
10 icy or the Export Administration Review
11 Board; and

12 (2) there is enacted into law a joint resolution
13 of approval under subsection (b).

14 (b) JOINT RESOLUTIONS OF APPROVAL.—

15 (1) JOINT RESOLUTION OF APPROVAL DE-
16 FINED.—In this subsection, the term “joint resolu-
17 tion of approval” means a joint resolution of either
18 House of Congress the sole matter after the resolv-
19 ing clause of which is as follows: “That Congress ap-
20 proves the rescission or modification of section
21 736.2(b)(3) of the Export Administration Regula-
22 tions with respect to _____ pursuant to the request
23 of the Secretary of Commerce for such rescission or
24 modification submitted to Congress on _____.”,
25 with the first blank space being filled in with the ap-

1 appropriate name and the second blank space being
2 filled with the appropriate date.

3 (2) INTRODUCTION; COMMITTEE REFERRAL.—A
4 joint resolution of approval—

5 (A) in the House of Representatives—

6 (i) may be introduced by the Speaker
7 or the minority leader; and

8 (ii) shall be referred to the Committee
9 on Foreign Affairs; and

10 (B) in the Senate—

11 (i) may be introduced by the majority
12 leader or the minority leader; and

13 (ii) shall be referred to the Committee
14 on Banking, Housing, and Urban Affairs.

15 (3) COMMITTEE DISCHARGE AND FLOOR CON-
16 SIDERATION.—The provisions of paragraphs (4), (5)
17 (other than subparagraph (A) of paragraph (5)),
18 and (6) of section 216(c) of the Countering Amer-
19 ica’s Adversaries Through Sanctions Act (22 U.S.C.
20 9511(c)) apply to a joint resolution of approval
21 under this subsection to the same extent as such
22 provisions apply to joint resolution of approval under
23 such section 216(c).

1 (4) RULES OF HOUSE OF REPRESENTATIVES
2 AND SENATE.—This subsection is enacted by Con-
3 gress—

4 (A) as an exercise of the rulemaking power
5 of the Senate and the House of Representa-
6 tives, respectively, and as such is deemed a part
7 of the rules of each House, respectively, and su-
8 persedes other rules only to the extent that it
9 is inconsistent with such rules; and

10 (B) with full recognition of the constitu-
11 tional right of either House to change the rules
12 (so far as relating to the procedure of that
13 House) at any time, in the same manner, and
14 to the same extent as in the case of any other
15 rule of that House.

