

**AMENDMENT TO RULES COMMITTEE PRINT**  
**118–36**  
**OFFERED BY MR. GARAMENDI OF CALIFORNIA**

At the appropriate place in title VIII, insert the following:

1 **SEC. 8\_\_\_ . REQUIREMENTS RELATING TO DEFENSE MEMO-**  
2 **RANDA OF UNDERSTANDING AND RELATED**  
3 **AGREEMENTS.**

4 (a) MODIFICATIONS TO DEFENSE MEMORANDA OF  
5 UNDERSTANDING AND RELATED AGREEMENTS.—

6 (1) ADDITIONAL REQUIREMENTS FOR MEMO-  
7 RANDA OF UNDERSTANDING OR RELATED AGREE-  
8 MENT.—Section 4851 of title 10, United States  
9 Code, is amended by adding at the end the following  
10 new subsections:

11 “(d) SUSPENSION OF NONCOMPLIANT MOUS AND  
12 RELATED AGREEMENTS.—(1) If the Secretary of Defense  
13 determines that any foreign country (or any instrumen-  
14 tality of a foreign country) is not in compliance with a  
15 memorandum of understanding or related agreement in ef-  
16 fect on the date of the enactment of this subsection, or  
17 if adhering to the terms of such memorandum or agree-

1 ment is not in the best interest of the United States (as  
2 determined by the Secretary), the Secretary shall—

3 “(A) suspend such memorandum or agreement;

4 and

5 “(B) request an interagency review of such  
6 memorandum or agreement and make recommenda-  
7 tions to the President in accordance with the second  
8 sentence of subsection (b).

9 “(2) A suspension under paragraph (1) shall remain  
10 in effect until the completion of the interagency review and  
11 submission of recommendations under subparagraph (B)  
12 of such paragraph.

13 “(3) The Secretary shall publish in the Federal Reg-  
14 ister notice of a suspension under paragraph (1) or a re-  
15 quest for an interagency review pursuant to paragraph  
16 (2).

17 “(e) CONTRACTING RESOURCES AND TECHNICAL AS-  
18 SISTANCE.—The Secretary of Defense shall coordinate  
19 with the Under Secretary of Commerce for International  
20 Trade and the Office of International Trade of the Small  
21 Business Administration to provide resources and tech-  
22 nical assistance to the defense technology and industrial  
23 base of the United States for submitting bids on contracts  
24 with foreign countries (or any instrumentality of a foreign

1 country) that have entered into a memorandum of under-  
2 standing or related agreement described in this section.

3 “(f) PUBLICATION OF MOUS AND RELATED AGREE-  
4 MENTS.—The Secretary of Defense shall publish on a pub-  
5 licly available website, and shall periodically update, infor-  
6 mation describing memoranda of understanding or related  
7 agreements entered into, suspended, or renewed under this  
8 section, including a comparison of the following:

9 “(1) The dollar value of defense equipment or defense  
10 items procured by the Secretary of Defense pursuant to  
11 such a memorandum or agreement.

12 “(2) The dollar value of defense equipment or defense  
13 items produced (in whole or in part) by entities in the de-  
14 fense technology and industrial base of the United States  
15 procured by foreign defense trade partners.

16 “(g) FEDERAL REGISTER.—(1) Before entering into  
17 or renewing a memorandum of understanding or related  
18 agreement under this section, the Secretary of Defense  
19 shall publish in the Federal Register the following:

20 “(A) A description of any such memorandum or  
21 agreement.

22 “(B) An assessment of the application of  
23 metrics developed under section 3(a) of the Recip-  
24 rocal Defense Procurement Agreements Reform Act

1 to such memorandum of understanding or agree-  
2 ment.

3 “(2) The Secretary of Defense shall allow for a 90-  
4 day period of public notice and comment before any memo-  
5 randum or agreement described in subparagraph (A), or  
6 a renewal of such memorandum or agreement, takes ef-  
7 fect.

8 “(3) Nothing in this subsection shall be construed to  
9 require the Secretary of Defense to publish classified in-  
10 formation.”.

11 (2) MODIFICATIONS TO INTER-AGENCY RE-  
12 VIEWS.—Section 4851(b) of title 10, United States  
13 Code, is amended—

14 (A) by striking “may request” and insert-  
15 ing “shall request”; and

16 (B) by adding at the end the following new  
17 sentence: “The Secretary shall request periodic  
18 interagency reviews of memoranda of under-  
19 standing or related agreements to ensure that  
20 each such memoranda or agreement in effect is  
21 reviewed not less frequently than once every five  
22 years.”.

23 (3) PROHIBITION ON NEW MOUS AND RELATED  
24 AGREEMENTS.—The Secretary of Defense may not  
25 enter into a memorandum of understanding or re-

1       lated agreement with a foreign country (or any in-  
2       strumentality of a foreign country) until each inter-  
3       agency review of such memorandum or agreement  
4       described in section 4851(b) of title 10, United  
5       States Code, that is incomplete on the date of the  
6       enactment of this Act has been completed.

7       (b) METRICS AND REPORT ON RECIPROCAL DE-  
8 FENSE PROCUREMENT AGREEMENTS.—

9               (1) DEVELOPMENT OF METRICS.—The Sec-  
10       retary of Defense, in consultation with the Secretary  
11       of Commerce, shall jointly develop metrics to evalu-  
12       ate—

13               (A) the impact of memoranda of under-  
14       standing or related agreements on entities in  
15       the technology and industrial base sector of the  
16       United States, including such entities that are  
17       small business concerns (as defined under sec-  
18       tion 3 of the Small Business Act (15 U.S.C.  
19       632));

20               (B) the impact of such memoranda or  
21       agreements on potential foreign competition for  
22       entities in the defense technology and industrial  
23       base of the United States as a result of any  
24       wavier granted pursuant to chapter 83 of title

1 41, United States Code, or section 4862 or  
2 4863 of title 10, United States Code;

3 (C) the dollar value of defense equipment  
4 or defense items procured by the Secretary of  
5 Defense pursuant to such a memorandum or  
6 agreement; and

7 (D) the dollar value of defense equipment  
8 or defense items produced (in whole or in part)  
9 by entities in the defense technology and indus-  
10 trial base of the United States procured by for-  
11 eign defense trade partners.

12 (2) REPORT TO CONGRESS.—Not later than one  
13 year after developing the metrics described in para-  
14 graph (1), the Secretary of Defense, in consultation  
15 with the Administrator of the Small Business Ad-  
16 ministration, shall submit to Congress a report in-  
17 cluding—

18 (A) an assessment of the application of  
19 such metrics to memoranda of understanding or  
20 related agreements in effect during the year  
21 covered by the report;

22 (B) the extent to which entities in the  
23 technology and industrial base sector of the  
24 United States, including small business con-  
25 cerns (as defined under section 3 of the Small

1 Business Act (15 U.S.C. 632)), have lost or  
2 gained business opportunities in both foreign  
3 and domestic markets as a result of a memo-  
4 randum of understanding or related agreement;  
5 and

6 (C) any other relevant information, as de-  
7 termined by the Secretary.

8 (c) DEFINITIONS.—In this section:

9 (1) The terms “defense equipment” and “de-  
10 fense items” have the meanings described, respec-  
11 tively, in section 4851 of title 10, United States  
12 Code.

13 (2) The term “foreign defense trade partner”  
14 has the meaning given in section 831(d) of the Ron-  
15 ald W. Reagan National Defense Authorization Act  
16 for Fiscal Year 2005 (Public Law 108–375; 10  
17 U.S.C. 4851 note).

18 (3) The term “memorandum of understanding  
19 or related agreement” means a memorandum of un-  
20 derstanding or related agreement described in sec-  
21 tion 4851 of title 10, United States Code.

22 (4) The term “technology and industrial base  
23 sector” has the meaning given in section 4801 of  
24 title 10, United States Code.

