

AMENDMENT TO
RULES COMMITTEE PRINT 118–10
OFFERED BY MR. MILLS OF FLORIDA

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

1 **SEC. 18** ____. **CHINA COUNTER-SURVEILLANCE.**

2 (a) STATEMENT OF POLICY.—It shall be the policy
3 of the United States to target and degrade China’s domes-
4 tic and international surveillance capabilities in general,
5 and those activities that target American citizens, in par-
6 ticular.

7 (b) PROHIBITION ON CONTRACTING WITH ENTITIES
8 THAT PROVIDE SURVEILLANCE CAPABILITIES TO THE
9 PEOPLE’S REPUBLIC OF CHINA.—

10 (1) PROHIBITION.—

11 (A) IN GENERAL.—Except as provided
12 under paragraph (2), the head of an executive
13 agency may not enter into, renew, or extend a
14 contract for the procurement of goods or serv-
15 ices with an entity described in subparagraph

16 (B) unless the President provides a determina-
17 tion to the appropriate congressional commit-
18 tees at least 30 days in advance that the entity

1 has submitted to the relevant United States
2 agencies a description of all bulk data that the
3 entity has provided to agencies and instrumen-
4 talities of the People’s Republic of China in the
5 previous 5 years.

6 (B) ENTITIES DESCRIBED.—An entity de-
7 scribed in this subparagraph is an entity that
8 directly or indirectly sells or otherwise provides
9 to the agencies and instrumentalities of the
10 People’s Republic of China (or any entity owned
11 or controlled by such agencies or instrumenta-
12 lities) any goods, services, or technology that
13 may be used for or enables surveillance, includ-
14 ing—

15 (i) network infrastructure, DNA anal-
16 ysis, countersurveillance, digital forensics,
17 thermal imaging, criminal forensics, data
18 storage, communications, optics, and cy-
19 bersecurity; or

20 (ii) any other activity that the Presi-
21 dent determines and informs the appro-
22 priate congressional committees is impor-
23 tant to the maintenance of such surveil-
24 lance capabilities.

25 (2) EXCEPTIONS.—

1 (A) NATIONAL SECURITY.—The prohibi-
2 tion under paragraph (1) does not apply—

3 (i) to the procurement of defense arti-
4 cles or defense services under existing con-
5 tracts or subcontracts, including the exer-
6 cise of options, for production quantities to
7 satisfy requirements essential to the na-
8 tional security of the United States;

9 (ii) if the President determines in
10 writing that—

11 (I) the entity otherwise sanc-
12 tioned pursuant to paragraph (1) is a
13 sole source supplier of the defense ar-
14 ticles or services;

15 (II) the defense articles or serv-
16 ices are essential; and

17 (III) alternative sources are not
18 readily or reasonably available;

19 (iii) if the President determines in
20 writing that such articles or services are
21 essential to the national security under de-
22 fense production agreements; or

23 (iv) to the procurement of—

1 (I) spare parts that are essential
2 to United States products or produc-
3 tion;

4 (II) component parts essential to
5 United States products or production;

6 (III) routine servicing and main-
7 tenance of products, to the extent that
8 alternative sources are not readily or
9 reasonably available; or

10 (IV) information and technology
11 essential to United States products or
12 production.

13 (B) NATIONAL SECURITY WAIVER.—The
14 President may waive the application of para-
15 graph (1) on a case-by-case basis for periods
16 not to exceed 180 days if the President—

17 (i) determines that the waiver is in
18 the vital national security interest of the
19 United States; and

20 (ii) submits to the appropriate con-
21 gressional committees a report on the de-
22 termination and the reasons for the deter-
23 mination.

24 (C) INTELLIGENCE WAIVER.—The Presi-
25 dent may waive the application of paragraph

1 (1) on a case-by-case basis for periods not to
2 exceed 180 days if the President—

3 (i) determines that the waiver is nec-
4 essary to prevent the disclosure of intel-
5 ligence sources or methods; and

6 (ii) submits to the appropriate con-
7 gressional committees a report, consistent
8 with the protection of intelligence sources
9 and methods, on the determination and the
10 reasons for the determination.

11 (3) REQUIREMENT TO REVISE REGULATIONS.—

12 Not later than 90 days after the date of enactment
13 of this Act, the Federal Acquisition Regulation, the
14 Defense Federal Acquisition Regulation Supplement,
15 and the Uniform Administrative Requirements, Cost
16 Principles, and Audit Requirements for Federal
17 Awards shall be revised to implement paragraph (1).

18 (4) REMEDIES FOR FALSE INFORMATION.—If
19 the head of an executive agency determines that an
20 entity has submitted false information pursuant to
21 the requirements of paragraph (1) on or after the
22 date on which the applicable revision of regulations
23 required under paragraph (3) becomes effective—

24 (A) the head of the executive agency shall
25 terminate any contract awarded to such entity

1 as a result of such false information and debar
2 or suspend such person from eligibility for Fed-
3 eral contracts for a period of not less than 4
4 years in accordance with the procedures that
5 apply to debarment and suspension under the
6 Federal Acquisition Regulation; and

7 (B) the Administrator of General Services
8 shall include the entity on the List of Parties
9 Excluded from Federal Procurement and Non-
10 procurement Programs maintained by the Ad-
11 ministrator under part 9 of the Federal Acqui-
12 sition Regulation.

13 (c) IDENTIFICATION OF PERSONS OPERATING IN
14 THE SURVEILLANCE TECHNOLOGY SECTOR OF THE PEOP-
15 LE'S REPUBLIC OF CHINA.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of enactment of this Act, and every
18 180 days thereafter for a period not to exceed 5
19 years, the President shall submit to the appropriate
20 congressional committees a report identifying all sig-
21 nificant persons known to be operating in the sur-
22 veillance technology sector of the People's Republic
23 of China.

1 (2) FORM.—This report shall be transmitted in
2 an unclassified form, and may include a classified
3 annex.

4 (3) DEFINITION OF SIGNIFICANT PERSONS.—In
5 this subsection, the term “significant persons”
6 means senior officials and corporate officers.

7 (d) DEFINITIONS.—In this Act:

8 (1) AGENCIES AND INSTRUMENTALITIES.—The
9 term “agencies and instrumentalities” has the mean-
10 ing given the term “agency or instrumentality of a
11 foreign state” in section 1603(b) of title 28, United
12 States Code.

13 (2) AGENCIES AND INSTRUMENTALITIES OF
14 THE PEOPLE’S REPUBLIC OF CHINA.—The term
15 “agencies and instrumentalities of the People’s Re-
16 public of China” means agencies and instrumentality-
17 ties under the jurisdiction of the People’s Republic
18 of China, including the People Republic of China’s
19 Ministry of Public Security, the People Republic of
20 China’s Ministry of State Security, and any prov-
21 ince-level public security departments, city-level pub-
22 lic security bureaus, and other organizations the
23 President determines are covered by the definition.

24 (3) APPROPRIATE CONGRESSIONAL COMMIT-
25 TEES.—The term “appropriate congressional com-

1 mittees” means the Committee on Commerce,
2 Science, and Transportation of the Senate and the
3 Committee on Energy and Commerce of the House
4 of Representatives.

5 (4) EXECUTIVE AGENCY.—The term “executive
6 agency” means—

7 (A) an Executive department specified in
8 section 101 of title 5, United States Code;

9 (B) a military department specified in sec-
10 tion 102 of title 5, United States Code;

11 (C) an independent establishment as de-
12 fined in section 104(1) of title 5, United States
13 Code; and

14 (D) a wholly-owned Government corpora-
15 tion fully subject to chapter 91 of title 31,
16 United States Code.

