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

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

SEC. 18. CHINA COUNTER-SURVEILLANCE.

(a) Statement of Policy.—It shall be the policy of the United States to target and degrade China’s domestic and international surveillance capabilities in general, and those activities that target American citizens, in particular.

(b) Prohibition on Contracting With Entities That Provide Surveillance Capabilities to the People’s Republic of China.—

(1) Prohibition.—

(A) In general.—Except as provided under paragraph (2), the head of an executive agency may not enter into, renew, or extend a contract for the procurement of goods or services with an entity described in subparagraph (B) unless the President provides a determination to the appropriate congressional committees at least 30 days in advance that the entity
has submitted to the relevant United States agencies a description of all bulk data that the entity has provided to agencies and instrumentalities of the People’s Republic of China in the previous 5 years.

(B) ENTITIES DESCRIBED.—An entity described in this subparagraph is an entity that directly or indirectly sells or otherwise provides to the agencies and instrumentalities of the People’s Republic of China (or any entity owned or controlled by such agencies or instrumentalities) any goods, services, or technology that may be used for or enables surveillance, including—

(i) network infrastructure, DNA analysis, countersurveillance, digital forensics, thermal imaging, criminal forensics, data storage, communications, optics, and cybersecurity; or

(ii) any other activity that the President determines and informs the appropriate congressional committees is important to the maintenance of such surveillance capabilities.

(2) EXCEPTIONS.—
(A) NATIONAL SECURITY.—The prohibition under paragraph (1) does not apply—

(i) to the procurement of defense articles or defense services under existing contracts or subcontracts, including the exercise of options, for production quantities to satisfy requirements essential to the national security of the United States;

(ii) if the President determines in writing that—

(I) the entity otherwise sanctioned pursuant to paragraph (1) is a sole source supplier of the defense articles or services;

(II) the defense articles or services are essential; and

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

(iii) if the President determines in writing that such articles or services are essential to the national security under defense production agreements; or

(iv) to the procurement of—
(I) spare parts that are essential to United States products or production;

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

(III) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available; or

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

(B) National Security Waiver.—The President may waive the application of paragraph (1) on a case-by-case basis for periods not to exceed 180 days if the President—

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

(ii) submits to the appropriate congressional committees a report on the determination and the reasons for the determination.

(C) Intelligence Waiver.—The President may waive the application of paragraph
(1) on a case-by-case basis for periods not to exceed 180 days if the President—

(i) determines that the waiver is necessary to prevent the disclosure of intelligence sources or methods; and

(ii) submits to the appropriate congressional committees a report, consistent with the protection of intelligence sources and methods, on the determination and the reasons for the determination.

(3) REQUIREMENT TO REVISE REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Federal Acquisition Regulation, the Defense Federal Acquisition Regulation Supplement, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall be revised to implement paragraph (1).

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

(A) the head of the executive agency shall terminate any contract awarded to such entity
as a result of such false information and debar or suspend such person from eligibility for Federal contracts for a period of not less than 4 years in accordance with the procedures that apply to debarment and suspension under the Federal Acquisition Regulation; and

(B) the Administrator of General Services shall include the entity on the List of Parties Excluded from Federal Procurement and Non-procurement Programs maintained by the Administrator under part 9 of the Federal Acquisition Regulation.

(c) IDENTIFICATION OF PERSONS OPERATING IN THE SURVEILLANCE TECHNOLOGY SECTOR OF THE PEOPLE’S REPUBLIC OF CHINA.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter for a period not to exceed 5 years, the President shall submit to the appropriate congressional committees a report identifying all significant persons known to be operating in the surveillance technology sector of the People’s Republic of China.
(2) FORM.—This report shall be transmitted in an unclassified form, and may include a classified annex.

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

(d) DEFINITIONS.—In this Act:

(1) AGENCIES AND INSTRUMENTALITIES.—The term “agencies and instrumentalities” has the meaning given the term “agency or instrumentality of a foreign state” in section 1603(b) of title 28, United States Code.

(2) AGENCIES AND INSTRUMENTALITIES OF THE PEOPLE’S REPUBLIC OF CHINA.—The term “agencies and instrumentalities of the People’s Republic of China” means agencies and instrumentalities under the jurisdiction of the People’s Republic of China, including the People Republic of China’s Ministry of Public Security, the People Republic of China’s Ministry of State Security, and any province-level public security departments, city-level public security bureaus, and other organizations the President determines are covered by the definition.

(3) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional com-
mittees” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

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

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

(B) a military department specified in section 102 of title 5, United States Code;

(C) an independent establishment as defined in section 104(1) of title 5, United States Code; and

(D) a wholly-owned Government corporation fully subject to chapter 91 of title 31, United States Code.